

To:	Cabinet Member for Strategic Planning and Infrastructure
From:	Gudrun Andrews Planning Policy Manager
Director:	Eleanor Hoyle Planning, Housing and Environmental Health

BRIEFING NOTE: CABINET MEMBER - NON-KEY DECISION

UPDATE ON SELF BUILD AND CUSTOM HOUSING REGISTER

1. Summary

- 1.1 This report updates Members in respect of the Council's Self-Build and Custom Housebuilding Register and progress on the local eligibility, fees and financial solvency tests, in accordance with the Self-Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) and subsequent Self-Build and Custom Housebuilding Regulations 2016 (updated February 2021).
- 1.2 The report concludes with the recommendation that the Cabinet Member for Strategic Planning and Infrastructure agrees that the Council introduces the eligibility criteria, including local connections test and financial solvency test for Self-Build and Custom Housing register applicants, plus related administrative fees. These measures were previously approved by Members at the Planning and Transport Advisory Board (PTAB) held on 13 November 2019 but were not subsequently implemented.

2. Background

- 2.1 The Self-Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) and subsequent Self-Build and Custom Housebuilding Regulations 2016 (updated February 2021) require 'Relevant Authorities', including Tonbridge and Malling Borough Council, to have established and publicised a Self-Build and Custom Housebuilding Register by 1st April 2016. The registers are intended to identify the demand for self-build and custom housebuilding within each Relevant Authority's area. To meet this requirement, officers in the Council's Planning Policy Team created a Register starting from the 1st of April 2016. This Register is ongoing and continually updated.

- 2.2 One of the duties on Relevant Authorities is to give suitable development permission to enough suitable serviced plots of land to meet the demand for self and custom housebuilding in their area based on the number of entries within a 'base period' – the first base period begins on the day on which the register (which meets the requirement of the 2015 Act) is established and ends on 30 October, rolling forward yearly. This could for example include allocating sites or setting out policies to support custom-or self-build housing in our Local Plan, the Act however does not specify this in detail. However, it is not the duty of the Council to provide land or serviced plots, but to give suitable development permission to enough serviced plots to meet the demand for self-build and custom building in the borough,
- 2.3 Data for the last 2 years has been obtained (see Appendix B) to demonstrate that we are already meeting some of our need. A search has been carried out via Uniform, for any approved application for 5 dwellings or under (self-build is not a recorded or searchable term). How the Council monitors this going forward will need to change to reflect the recent (17th November 2022) Written Ministerial Statement to Parliament which brings forward a new clause stating that planning permission only qualifies towards meeting the demand for self-build and custom housebuilding under section 2A(2) of the Self-build and Custom Housebuilding Act 2015 if it is actually recorded as self-build and custom housebuilding.

Criteria and 2019 PTAB Decision

- 2.4 The 2016 Regulations specify that in addition to complying with the eligibility criteria set out above, Relevant Authorities can introduce eligibility criteria for entry onto their register in the form of a local connection test (LCT) and a financial solvency test (an assessment of an applicant's ability to purchase land and finance their own self-build project). These were taken to PTAB on the 13th November 2019 and approved at that time.
- 2.5 Relevant Authorities are also able to introduce an entry fee and an annual charge for applicants wanting to remain on the register.
- 2.6 The updated 2016 regulations specify that if a Local Connections test is implemented, the register must be split into two parts. All those applicants who meet all the eligibility criteria (including a local connections test, financial solvency test and pay the required fee), will be in Part 1 of the register. Those applicants who fail to meet the local connections test, but otherwise meet the eligibility criteria, will be placed into Part 2 of the register.
- 2.7 The following tests were approved at the PTAB meeting. Implementation has been delayed due to the Covid pandemic.

Local Connections Test (LCT):

Applicants must demonstrate that:

- They have been a permanent resident of the Borough for three consecutive years, prior to application or;
- They are currently employed within the Borough and have been for a minimum of the past twelve months (consecutively) or;
- They are current self-employed, with an ongoing viable venture where the work is within the Borough, and has been for a minimum of twelve months (consecutively) or;
- They are in the service of the regular armed forces of the Crown (defined within the meaning of section 374 of the Armed Forces Act 2006) or have left regular service within the past 5 years immediately preceding their application on the Self-Build Register.

2.8 In respect of the second bullet point, employment must be over 16 hours per week, and where working hours fluctuate, an average will be taken over the prior 12 months. For the third bullet point self-employment must be more than 16 hours a week, and where working hours fluctuate, an average will be taken over the 12 months.

2.9 Regarding the fourth bullet point, those who have retired from the armed forces are eligible for a period of 5 years after leaving active service. In these circumstances the Council would require evidence of current or past service. This would include the date of leaving service, if relevant.

Financial Viability Test (FVT)

2.10 The FVT is designed to ensure that people can afford to buy and build a self-build home in the borough. The recommended course of action is to request evidence from applicants, which demonstrates that they have sufficient funds to purchase a plot of land and to fund the construction of their self-build project. The data used to determine costs in 2019 is now considered out of date (2018 Viability Study). The Council has therefore used data from BCIS (<https://bcis.co.uk/>) and the Government's own Land Value estimates [Land value estimates - GOV.UK \(www.gov.uk\)](http://www.gov.uk) to determine the most up to date financial data.

2.11 Based on the data sets above, it is estimated that the cost of land per hectare in the borough is £4,250,000. It is projected that the average cost per square metre for a self-build project, built to a good standard, using builders and subcontractors in the South-East, is £2415 per square metre (m²). When applying these cost estimates to an average three bed semi-detached (as previously applied in 2019), a two-storey house, with a floor area of 100

square metres the cost would be in the region of £241,500. The requirements of associations on the Register may be different in order to suit different needs of those within the association.

Administrative Fee

2.12 The approved fees are £30 for processing new applications to be included on the register, and an annual administration fee of £15. The fee must only be at a level to which it is remedying the costs incurred by processing the application. It should however be noted that from the 1st of April 2023 there is proposed to be a 10% uplift in Council charges and fees which will also apply to the costs set out above. This will increase the fees to £33 and £16.50 respectively.

2.13 The registration fee will not be charged to those on the existing register. However, the annual administration fee for remaining on the register will apply, to be charged yearly, from the end of each base period (31st of October). In terms of managing the annual renewal fee, this can be built into the IT portal system outlined below, with an auto-generated email sent to users on a certain date to remind them that payment is required. There will be a 6 week period for payment to be made before the customer is removed from the Register.

3. IT Solution

3.1 There are two options in respect of coordinating the information that will be requested from those on the Register and new applicants. The first is to collect the requested information in house, via our website, the second is to use an external company to process data.

3.2 Having discussed the latter option with our IT department, officers have agreed that this can be achieved via the TMBC.gov website, as the council has the required IT and payment processing capability. There is a potential benefit in terms of trust from customers if our own web site is utilised for this service. Using an external company represents an unnecessary cost to the Council and provides less control of customer data. Information can be held securely under the 'My Account' section of the website, which is password protected.

3.3 The intention is to update the Council's self-build web page to create a 'portal' experience, where customers can apply to be added to the register, pay fees, upload the requested information, and search a GIS map for potential sites. This will improve both the experience for the customer and the efficiency for the planning policy team.

3.4 Some other Kent Authorities do collect related data via their websites, using a form/proforma, with an option to upload required documents. This includes Folkestone & Hythe District who offer a similar experience using their own Salesforce software.

3.5 The legalities of collecting financial information in respect of GDPR have been considered and discussed with Legal Services. In order to comply with our obligations under GDPR/ Data Protection Act 2018, we must be able to identify a lawful basis for processing (which in this case will be that the processing is necessary for the performance of a task carried out in the public interest) and we must also provide certain privacy information to all persons who provide information to the Council e.g., the purposes for processing their personal data, retention periods, who it will be shared with. This information will be contained within a privacy notice, which will be drafted in due course and shared with Legal Services for comment.

4. Work Programme and Timeframes

Draft letter/email to all applicants on the Register Draft guidance notes prepared for the website	March/April 2023
IT to design online portal for applicants to apply, pay and upload information	Currently ongoing
Portal to go live and letters/emails sent out – start charging	May 2023
Obtain information on existing approvals suitable to self-build set against base periods	See table in Appendix B for last 2 years data

5. Legal Implications

5.1 The Council is required to keep and publicise a Self-Build and Custom House Building Register. There are also duties relating to meeting the needs of those on the Register.

5.2 The application of eligibility criteria and charges is an optional requirement but has previously been approved by Members. Advice has been sought from the Council's legal department in terms of handling of sensitive data and compliance with the UK GDPR information, and this report has also been checked by them. The Council will need to be clear as to how the data will be processed (ie for the purposes of the self-build register). Information can be

held securely under the 'My Account' section of the website, which is password protected.

6. Financial and Value for Money implications

6.1 There are financial implications for maintaining the Register, which can be offset by the application of the proposed administrative fees. The cost of providing suitable residential plots will be negotiated between eligible prospective purchasers and vendors, subject to availability. recovered from the successful self-build and custom housebuilder.

6.2 The operation of the Register proposal does not result in saving or expenditure of more than 100K, nor will it or will be significant in terms of its effects upon residents. communities living or working in the area comprising two or more wards in the borough. The budget implications have already been approved in principle following resolution of the matter as discussed at the set by the recommendations in the PTAB of the 13th of November 2019 PTAB (although not implemented) and the decision has already been made to implement the eligibility and financial solvency elements.

7. Risk Assessment

7.1 The introduction of eligibility criteria and administrative charges will have the effect of reducing the potential financial burdens on the Council.

8. Public Sector Equality Duty

8.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

9. Communications

9.1 As set out in the work programme above, correspondence will be issued to all parties currently on the register, to inform them of the changes and how to respond to these. None. Information available on TMBC.gov.uk will be updated in a timely manner to correspond with this.

10. Recommendations

10.1 It is recommended that the Cabinet Member for Strategic Planning and Infrastructure agrees and approves that:

a) the Council introduces the eligibility criteria, including local connections test and financial solvency test for Self-Build and Custom Housing register applicants, plus related administrative fees. These measures were previously approved by Members at the Planning and Transport Advisory Board (PTAB) held on 13 November 2019 but were not subsequently implemented.

Annexes

•Annex A -- Types of Evidence required by TMBC from applicants

- Annex B - Information on extant listing approved planning applications, that are approvals suitable for self-build and custom housebuilding, set against base periods (last 2 years data).