

WELWYN HATFIELD BOROUGH COUNCIL
CABINET PLANNING AND PARKING PANEL – 5 OCTOBER 2017
REPORT OF THE EXECUTIVE DIRECTOR (PUBLIC PROTECTION, PLANNING AND
GOVERNANCE)

SELF-BUILD AND CUSTOM HOUSEBUILDING REGISTER

1 Executive Summary

- 1.1 Since 1 April 2016 and consistent with its legal duty, the Council has publicised and maintained a Register of individuals and association of individuals who wish to acquire serviced plots of land for Self-build and Custom Housebuilding in the borough.
- 1.2 This is part of the Government's strategy to increase housing delivery and is referred to in the Housing White Paper as a means of providing more choice in the market.
- 1.3 A legal duty to grant development permission for enough serviced plots to meet the demand for Self-build and Custom Housebuilding in the borough has come into force. Regulations set out the time for compliance with the duty and provide relevant authorities with the option of introducing new local eligibility conditions (subject to consultation) and a fee to enter into and remain on the Register.
- 1.4 This report explains how the Council's Register currently operates and summarises the current level of demand.
- 1.5 The report also makes recommendations about the introduction of local eligibility conditions and makes draft proposals for the introduction of a fee for applicants to enter into and remain on the Register (to be introduced at a later date).

2 Recommendations

It is recommended that:

- 2.1 The proposed eligibility conditions, including a local connection and a financial resources test, as set out in section 4 (paragraph 4.26) of this report be agreed and made available for consultation for a 6-week period on the Council's consultation portal.
- 2.2 Officers' report the results of consultation back to this committee, together with a schedule of any recommended changes as considered appropriate.
- 2.3 The committee notes the draft proposal for a fee to be introduced for applicants to enter the Register as set out in section 8 of this report. A final proposal will be included in a future report to this committee alongside the results of consultation as set out in 2.2 above.

3 Background

- 3.1 The Council (as a relevant authority) has a duty¹ to maintain and publicise a Self-build and Custom Housebuilding Register for (a) individuals and (b) associations of individuals, who are seeking to acquire serviced plots of land in the authority's area for their own Self-build and Custom Housebuilding. The Council must have regard to the Register when carrying out its functions relating to:
- Planning;
 - Housing;
 - The disposal of any land of the authority; and
 - Regeneration.
- 3.2 The Council's Register is currently hosted by a specialist external provider on the Local Self Build Register website:
<http://localselfbuildregister.co.uk/localauthorities/welwyn-hatfield-council/>
- 3.3 Self-build and Custom Housebuilding is defined in the Self-build and Custom Housebuilding Act 2015 (amended by the Housing and Planning Act 2016) as:
- “... the building or completion by (a) individuals, (b) associations of individuals, or (c) persons working with or for individuals or associations of individuals of houses to be occupied as homes by those individuals. But it does not include the building of a house on a plot acquired from a person who builds the house wholly or mainly to plans or specifications decided or offered by that person.”²*
- 3.4 In practice, there are many routes to delivering a Self-build and Custom Housebuilding project. The Self-build portal³, which is produced by the National Custom and Self Build Association (NaCSBA) and is endorsed by the Government, provides advice for those with an interest in such projects.
- 3.5 Self Build is generally defined as a project where someone directly organises the design and construction of their new home. This includes a 'DIY Self-build' home, where the self-builder selects the design they want and then does much of the actual construction work themselves. However, self-build can also include projects where the self-builder arranges for an architect to design, and a contractor to build their home for them. There are also projects delivered by kit home companies, where the self-builder selects a preferred kit home but still has to find the plot, arrange for the slab to be installed, and then has to organise the kit home company to build the property for them. There are also community-led projects where members of the community work together to acquire a site to split into individual plots and then construct their own homes. In some circumstances, a social landlord may support a community self-build group to build a group of homes together. Schemes tend to involve houses but they can involve flatted developments.
- 3.6 Custom-build homes tend to be those where a homeowner works with a specialist developer to deliver their home. Custom build developers secure a site, offer a serviced plot and a menu of custom build options e.g. from simply selling a serviced plot through to building a home to watertight stage. The developer may provide help

¹ In accordance with the Self-build and Custom Housebuilding Act 2015 (the Act), as amended

² Housing and Planning Act 2016 (Chapter 2, Section 9) had the effect of amending the Self-build and Custom Housebuilding Act 2015 : <http://www.legislation.gov.uk/ukpga/2016/22/section/9/enacted>

³ <http://www.selfbuildportal.org.uk/>

with the design or agree to deliver a bespoke home. This is more of a 'hands off' approach although the individual should be able to finish off the project, with the potential to make some cost savings, if they so wish.

- 3.7 On 31 October 2016, new Regulations came into force. One effect of the legislative updates has been to introduce a duty on local authorities to grant permission for sufficient land suitable for Self-build and Custom Housebuilding to meet the demand on their register (measured in 'base periods') within 3 years. Alongside this, the opportunity now exists for relevant authorities to set a local eligibility test (including local connection and financial solvency criteria); and a fee for applicants to be entered onto and remain on the register.
- 3.8 A letter issued by the Department for Communities and Local Government (DCLG) on 21 March 2017 confirmed that the Department will be monitoring local authorities' response to the legislation to make sure it is being as effective as possible.
- 3.9 As this duty is relatively new it is not yet known what might happen if insufficient development permissions were granted within three years of the end of each base period, but the indication from the government is that failure will result in a reinforcement of the duty. How this will manifest itself is difficult to predict but it could have an impact on plan making or decision-making or for other functions of the Council.
- 3.10 The Department for Communities and Local Government issued new Planning Practice Guidance on 28th July 2017⁴.

4 Explanation

- 4.1 **The Welwyn Hatfield Self-build and Custom Housebuilding Register:** Consistent with the relevant Act and Regulations, since 1 April 2016 the Council has publicised and maintained a register of individuals and associations of individual who wish to acquire serviced plots of land to bring forward Self-build and Custom Housebuilding projects in the borough. The Register is hosted externally on the *Local Self Build Register* website and is also accessible via the Council's website: <http://www.welhat.gov.uk/selfbuild>
- 4.2 Currently, to be eligible to enter onto the register, a set of nationally prescribed criteria must be met and individuals (and each individual within an association) must be:
- a) Aged 18 or over;
 - b) A British citizen, a national of an EEA State other than the United Kingdom, or a national of Switzerland; and that they are
 - c) Seeking (either alone or with others) to acquire a serviced plot of land in the relevant authority's area for their own Self-build or Custom Housebuilding.
- 4.3 **Base periods and the duty to grant development permission:** Base periods are prescribed⁵ time-periods, which are used to monitor demand. The 1st base period

⁴ <https://www.gov.uk/guidance/self-build-and-custom-housebuilding>

⁵ A concept introduced by the Housing and Planning Act 2016

ran from 1 April to 30 October 2016 (a 7-month period). The 2nd base period runs for a year, from 31 October 2016 to 30 October 2017; and so-on thereafter for each subsequent base period.

- 4.4 Relevant authorities must give suitable permission for enough serviced⁶ plots of land to meet that demand in the authority's area arising in each base period. 'Suitable permission' means if the permission could include Self-build and Custom Housebuilding, e.g. by way of permission in principle or planning permission. No account can be taken of development permission granted before the start of the first base period (1 April 2016) towards meeting the demand as seen by the Register.
- 4.5 The 2016 Regulations⁷ introduced the time period for compliance with that duty, i.e. within 3 years beginning immediately after the end of each base period. The Act confirms that a grant of planning permission cannot be taken into account in relation to more than one base period in determining whether the duty is discharged.
- 4.6 **Number of applicants enter into the Register in the 1st base period (1 April 2016 to 30 October 2016):**
- 145 individual applicants were entered into the Welwyn Hatfield Register during the 1st base period;
 - No associations were entered into the Welwyn Hatfield Register during the 1st base period.

This represents the demand for which the Council has a duty to grant suitable development permission within 3 years, i.e. by 31 October 2019.

- 4.7 **Additional information:** Applicants that meet the eligibility criteria are asked an additional set of questions. This helps authorities to monitor the characteristics of demand. Applicants do not have to answer these additional questions. However, from those that did, the data indicates that:
- 52% of applicants are aged between 30 and 44;
 - 33% indicated that they were a first-time buyer;
 - Applicants wish to have control over a building's design and specification, build a home with low running costs, with a low environmental impact, and one that they can afford to own;
 - Most applicants are looking for a plot of land not only in Welwyn Hatfield but elsewhere (search areas can be extensive);
 - Excluding high and low extremes, the average household income of applicants is £46,400;
 - 78% of applicants can bring over £50,000 of private finance to a project although a number of applicants can bring significantly higher sums of private finance to a project;

⁶ Serviced plot means access to a public highway and connections for electric, water and waste water or such access can be provided

⁷ The Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016

- 25% of applicants could self-finance a project without the need for a mortgage;
- Suburban or rural areas are the most preferred locations for a project;
- A single home site is the most preferred option, although many applicants would consider building within a small to medium sized mainstream project (of between 2 and 40 dwelling). Larger mainstream projects appear to be the least popular option.
- A detached home is the preferred type of housing;
- 73% of applicants are seeking a plot sufficient to build a family sized home with 3 or 4 bedrooms;
- Most applicants indicate that they could commence a project within 12 months, once a suitable opportunity becomes available (many indicate they could start immediately or within 6 months).

- 4.8 **Number of applicants on the Register in the 2nd base period.** This period does not end until 30 October 2017 and the level of data set out above will not be available until after that date. However, at the current time, there are around 100 eligible individuals on the Register.
- 4.9 One application has been received in the 2nd base period for an association indicating that it represented 1,000 individuals. This application has been rejected as it failed to meet the eligibility criteria.
- 4.10 In total, there are currently around 245 individuals on the Welwyn Hatfield Register between the two base periods.
- 4.11 **Demand as measured from the Register:** Applicants are not limited to the number of self-build registers they may enter into - provided they meet the eligibility criteria. Our Self-build register indicates that the majority of applicants are seeking a plot of land in Welwyn Hatfield or elsewhere in the country. Recently released national planning practice guidance states that, "*Plan-makers will need to make reasonable assumptions using the data on their register to avoid double-counting households.*" However, applicants are not obliged to advise each relevant authority that they have registered in multiple areas and it may therefore be difficult to arrive at a robust statistical adjustment and still meet the duty to grant suitable permissions to meet the demand.
- 4.12 From the evidence available, it is highly likely that the Welwyn Hatfield Self Build Register represents an over-inflated picture of the true level of demand for a plot in Welwyn Hatfield. Most individuals will be seeking a single plot somewhere (not multiple plots in multiple locations even though they indicate that their area of interest is quite extensive). Once an individual has secured a plot in one part of the country, their interest in other areas is likely to fall away. However, there is no requirement for applicants to notify relevant authorities that they have no further interest in any particular area (or that they have simply changed their mind about a Self-build or Custom Housebuilding project). Over time, with no incentive for applicants to update their position, it is of reasonable concern that the demand data is likely to become unreliable.

- 4.13 Currently, individuals or an association (of individuals) must submit a written request if they wish to be removed from the Register. If the relevant authority considers an individual (or a member of an association) is no longer eligible for entry in the Register then such instances, certain procedures apply to the removal of a person or association from the Register.
- 4.14 Given the prescriptive nature of the existing eligibility criteria and the duty on relevant authorities to give suitable development permission for Self-build and Custom Housebuilding to meet the demand as demonstrated on the Register, and the pressure for building new homes in the borough generally, there is a considerable case for considering whether the Register could be managed more effectively in order to ensure that as far as practically possible, the demand data is a true reflection of the actual demand for Self-build and Custom Housebuilding in the borough.
- 4.15 **Local eligibility tests for entry into the Register:** Regulations⁸ now allow relevant authorities to set local eligibility conditions for entry onto the Register and then split the Register into two parts (Part 1 and Part 2).
- 4.16 Local eligibility tests means a set of conditions:
- The authority reasonably considers it necessary to demonstrate that an individual has sufficient connection with the authority's area, **a local connection test** (with certain provision being made for persons in the service or previously in the service of the regular armed forces); **and**
 - A financial solvency test whereby applicants would need to demonstrate that they have '**sufficient resources**' to purchase land in the borough for their own self-build and custom house building project.
- 4.17 Relevant authorities are advised to consider consulting on their proposals before introducing local eligibility tests. Once introduced, they should be reviewed periodically to ensure they remain appropriate and are achieving the desired effect. It is for each relevant authority to determine the rationale for introducing a local eligibility test.
- 4.18 Any such criteria as an authority may set, must then be publicised and a relevant authority is entitled, but not required, to rely upon the information provided by an applicant as part of the application process.
- 4.19 An authority may also set a **fee** to be entered onto or remain on the register on a cost recovery basis (see later in this report).
- 4.20 **Eligibility for Part 1 of the register:** If the Council decides to introduce local eligibility conditions, individuals or each member of an association would be eligible for entry into Part 1 of the Register if that individual or each member of an association:
- a) Is aged 18 or over;
 - b) Is a British citizen, a national of an EEA State other than the United Kingdom, or a national of Switzerland;

⁸ The Self-build and Custom Housebuilding Regulation 2016

- c) Is seeking (either alone or with others) to acquire a serviced plot of land in the relevant authority's area for their own Self-build or Custom Housebuilding; and must
- d) Satisfies any local eligibility conditions (including a local connection test) set by the relevant authority; and
- e) Has paid a fee to be entered onto or remain on the register (where one is required).

- 4.21 **Eligibility for Part 2 of the register:** Applicants would be eligible for entry onto Part 2 of the Register if they meet all of the eligibility criteria apart from a 'local connection test'. Persons entered onto Part 2 of the register would not count towards the assessment of local demand for Self-build and Custom Housebuilding⁹ for the purposes of section 2A of the Act, which requires authorities to grant sufficient development permission to meet that demand. However, regard must still be paid to the Register, even if it is split into Part 1 and Part 2.
- 4.22 **Introducing a local connection and financial solvency:** Relevant authorities may apply one or both of these tests only where they have a strong justification for doing so. They should ensure that they are proportionate and, in the case of the former, the government expects these to be introduced in response to a recognised local issue. In the case of Welwyn Hatfield, it has already been noted that the available evidence indicates that the Register is likely to represent an over-inflated picture of the true level of demand for a plot in Welwyn Hatfield. Land is not a finite resource and as this committee is aware, the Local Plan is already proposing a significant release of Green Belt land in the borough to help address the overall need for housing. In order to give priority to those with a genuine connection to the local area, it is recommended that a local connection test should be introduced.
- 4.23 Applicants that do not meet the local connection test but meet all other eligibility criteria (and pay any fee required) would still be eligible to enter Part 2 of the Register.
- 4.24 Other than certain provision being required for persons in the service or previously in the service of the regular armed forces, no specific advice exists on the detail of what a local connection test would comprise. However, national PPG advises that authorities may wish to consider criteria based on residency, having a family member residing in the local area and / or having an employment connection to the local area.
- 4.25 Officers from Planning Policy have worked with Housing officers and a local connection test has been developed that has a number of parallels with (but is not identical to) the criteria associated with the Housing Register. This appears to be the general approach being taken by other relevant authorities, although the criteria vary from authority to authority. The proposed (draft) local connection test recognises that there may be individuals who have previously lived in the borough for a specified period of time and wish to return.
- 4.26 In addition, it is recommended that an eligibility test is introduced around the availability of sufficient financial resources to ensure that realistically, applicants

⁹ Regulation 9 of the Self-build and Custom Housebuilding Regulations 2016

would be able to pursue a project when a plot becomes available. The proposed (Draft) tests are as follows:

Local Connection (tick as many criteria as apply). I confirm that I meet one or more of the following criteria and am able to demonstrate this with documentary evidence, as required to do so:

1. I have lived in Welwyn Hatfield Borough continuously for 5 years or more on, or prior to, the date of my application to enter the Register;
2. I have close family (i.e. parents, siblings or children) who, on the date of my application to enter the Register, reside in the borough and have done so continuously for 10 years or more;
3. I have been working in Welwyn Hatfield Borough continuously for 12 months or more on the date of my application to enter the Register and I have a permanent employment contract for 16 hours or more per week;
4. I am currently in the service of the regular armed forces of the Crown (within the meaning of section 374 of the Armed Forces Act 2006);
5. I was previously in the service of the regular armed forces of the Crown (within the meaning of section 374 of the Armed Forces Act 2006), having left no more than 5 years ago.

Sufficient financial resources: I confirm that I have sufficient financial resources to purchase land in Welwyn Hatfield Borough for my own Self-build and Custom Housebuilding am able to demonstrate this with documentary evidence as required to do so.

- 4.27 **Implementation of the revised registration process:** The current contracted registration service automatically informs applicants if they have been successful in entering the Register based on the information provided. Data is then securely accessed by officers of the Council via a protected database. If the Council decides to revise the registration process, it is recommended that the Council continues to work with its current service provider to manage applications to the Register, adding the additional local eligibility tests to the registration process.
- 4.28 There will be a two week delay between instruction and implementation in order to design and test the web-based functionality of the additional eligibility conditions, the new two-part Register (one each for individuals and associations) and the updated notification process.
- 4.29 Any changes to the eligibility criteria will need to be publicised and the Council's website will need to be updated accordingly. Local eligibility tests cannot be introduced retrospectively.
- 4.30 An annual fee may be introduced to be entered onto or remain on (Part 1 of) the register and this is discussed further in section 5 of this report.

5 **Next Steps**

- 5.1 **Dedicated resource for Self-build and Custom Housebuilding:** In a letter to Chief Executives on 21 March 2017, DCLG reaffirmed its commitment to increasing consumer choice through Custom Housebuilding and its objective to see this sector grow. The letter emphasised the requirement for local authorities to “*permission sufficient land suitable for self and custom build housing to meet the demand on their register within three years.*” The Government has assessed that the Regulations have created a new burden on local authorities and funding has been identified through the New Burdens Assessment process to support authorities:
- Set up and maintain the Register; and
 - Ensure there is sufficient permissioned and serviced land to satisfy demand.
- 5.2 A one off payment £5,850 has already been paid and in addition DCLG are providing a further £90,000 of funding to local authorities over 4 financial years commencing 2016/17. Further details are set out in the financial section below. The tasks that will need to be carried out to implement this new duty are set out below.
- 5.3 **Granting permission for sufficient plots:** To date, no permissions have been granted. The Local Plan, which was submitted for examination in May 2017, requires a number of strategic development sites to make provision for Self-build and Custom Housebuilding but these sites cannot reasonably be held to account for meeting all the demand over the plan period. Whilst the Local Plan supports delivery on other allocated or windfall sites, a more proactive approach may be required to identify and deliver suitable opportunities, by working with other relevant council functions, landowners, developers, Self-builders and Custom build specialists to ensure that the Council meets its duty within the rolling 3-year requirement.
- 5.4 **Housing, Land Disposal and Regeneration Functions:** To date, no permissions have been granted for serviced plots via any of these functions. The Council could review opportunities linking to:
- **The Housing Strategy:** The Housing and Homelessness Strategy 2013-2018 understandably, given the date of preparation, makes no reference to Self-build and Custom Housebuilding duties. However, at its review in 2018, consideration will be given to any new duties at that time. Work will commence in autumn 2017.
 - **The Asset Management Strategy:** The Council’s Medium Term Financial Strategy (2016/17 to 2018/19) sets out the Council’s approach to sourcing efficiencies. This includes the effective use of the Council’s assets – challenging the asset base and the use of assets. However, this also notes that the number of assets identified for the disposal list has reduced.
 - **Regeneration Strategy:** The Council’s regeneration projects are mainly focussed around Hatfield Town Centre and Highview in Hatfield. No Self-build or Custom Housebuilding is proposed as part of these current regeneration plans. It is considered given the nature of development here that these sites are unlikely to be suitable for self build.

- 5.5 **Brownfield Register:** Another new duty introduced by the government is the duty to prepare and maintain a Brownfield Register of land that is suitable for residential development irrespective of its planning status. The Register must be up-to-date and publicly available, and must be compiled by 31 December 2017. The Register will be split into Part 1 and Part 2. Consideration could be given when compiling the Register to the suitability of sites for Self-build and Custom Housebuilding. Part 2 of the Register will relate to sites with 'Permission in Principle' (see below).
- 5.6 **Permission in Principle:** Sites that are entered on Part 2 of the Brownfield Register will trigger a grant of 'Permission in Principle' for those sites suitable for housing-led development but only after they have followed the consultation and publicity requirements, and other procedures set out in the regulations. Such sites may include plots for Self-build and Custom Housebuilding.
- 5.7 **Annual Monitoring:** A report of the demand evidenced by the Register needs to be prepared at the end of each base period. The data from this report is critical to understanding the demand data and needs to be reflected each year in the Council's Annual Monitoring Report.
- 5.8 **Masterplanning:** Strategic development sites will be subject to masterplanning processes and detailed guidance will need to be included in the Supplementary Planning Documents on matters such as the different types of Self-build and Custom Housebuilding, demand data, policy context, how applications will be determined, serviced plots, plot sizes, access, design, plots passports, sales, marketing, S106 agreements, exemptions from the Community Infrastructure Levy, Affordable Self-build, Neighbourhood Planning, Building Regulations, VAT and the Register to aid delivery. This will require research into alternative delivery models and agreement on the preferred approach.
- 5.9 **Communicating with Customers:** The Council's website currently explains that the Council is assessing demand and links applicants to the externally hosted website for registration purposes. The website could be used to communicate more effectively with customers on what the Council is doing to meet its duties, details of any relevant consultation events, guidance, and to provide signposts to other useful websites. Indeed, the national guidance encourages such activity.
- 5.10 **Introducing a fee to be eligible to enter into the Register:** As mentioned earlier in this report, Regulations¹⁰ now allow a relevant authority to charge a fee. A person may be charged:
- a) To be entered on the Register for a base period or part of a base period;
 - b) Thereafter, on an annual basis, to remain on that register irrespective of whether any fee was charged to be entered on the register.
- 5.11 Fees must be set on a cost recovery basis only. The amounts charged must be publicised and must be proportionate, reflecting genuine costs incurred and should not act as a deterrent for people to be entered on or remain on the Register. If an application is unsuccessful, any fee that has been paid must be returned.

¹⁰ The Town and Country Planning, England – The Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016

- 5.12 A fee cannot be charged for someone to remain on the register where the duty to grant development permission does not apply (i.e. those who wish to remain on Part 2 of the Register).
- 5.13 Currently, the Council pays a fee to its external service provider, who publicises and manages the registration process on the Council's behalf (whilst the Council holds the Register). This cost-effective service is possible because the provider is a social enterprise specialising in the field, working to help a number of local authorities (creating economies of scale) and Self-builders communicate with each other to help make it easier for people to be able to find plots in their area of interest. The fee will increase by a nominal sum with the introduction of the eligibility criteria and any bespoke notifications as necessary.
- 5.14 If the Council introduces a fee, the social enterprise cannot collect a fee on the Council's behalf and the Council will need to administer this part of the registration process itself. This would create a two-part registration process for applicants and the Council would need to dedicate resources to administering the fee collecting process and then completing the registration process.
- 5.15 Alternatively, the Council could consider bringing the entire registration process in-house but this would mean ending the existing contract at an appropriate point in time with consideration to the terms of the contract (including termination and the implication of termination) and the timing of the base periods. A dedicated staff resource would be needed to design and manage an alternative in-house registration process, and further consideration would need to be given to the costs and implications likely to be associated with bringing the whole service in-house and the implications for terminating what is an existing satisfactory service.
- 5.16 Consideration could also be given to working with other Hertfordshire authorities to share the administration of a common registration process, noting that each authority must keep its own Register in compliance with the Act. Again, a dedicated staff resource could explore this option.
- 5.17 Additional staff resources will be made available within Planning Policy funded by DCLG grant funding. However this is only available for a four year period and the introduction of a registration fee will enable some costs to be covered initially with the aim that in the future the maintenance of the register will be self-funding.
- 5.18 For initial benchmarking purposes, a review of other authorities has revealed charges of between £16 and £350 to enter the Register (Part 1 and Part 2). Some (but not all) charge a smaller fee if the applicant is eligible to enter Part 2 of the Register (given that authorities need only have *regard* to Part 2 of the Register and the duty under S2A of the Act does not apply). Fees to remain on Part 1 of the Register are either the same or a lesser amount than to enter the Register. (No fee can be charged to remain on Part 2 of the Register).
- 5.19 Currently our costs of administering the register relate to the provision of a page on our website linking to the registration portal provided by our external supplier (with a cost charged to the Council for this service). If the existing eligibility criteria is met, a notification is generated. The Council is then notified as new entrants are added into the register. The Council then needs to produce a report identifying the demand for self-build for each base period. The Council does not (as a general rule) verify declarations, as it is entitled (but not required) to rely upon the information provided.

However, officers do from time to time, carry out further investigations where it is considered the need arises.

- 5.20 Going forward, it is considered that applicants should be required to provide evidence of a proportionate nature to establish age, residency, nationality, local connection and financial ability to purchase land in the borough in support of their applications. This could include copies of birth certificates, passports, driving licences, EU identity cards, immigration documentation, proof of address (utility bills, tenancy agreement, council tax records) etc. Introducing local eligibility criteria would also need to cover evidence of service in the armed forces.
- 5.21 This would take time to collate, check and if necessary verify the information provided and would add considerably to the cost of administering the Register. Further, if and when applications are received from associations, there could be a considerable number of applicants to assess (e.g. a recent application was submitted seeking land for 1,000 self-build plots).
- 5.22 It is considered that introducing a fee will have a number of helpful impacts:
- It should help to ensure that only applicants who are committed to a project in Welwyn Hatfield apply in the first instance – this would help to ensure that the Register is a better reflection of true demand and of the need to grant suitable development permission to meet that demand;
 - Introducing a fee to remain on Part 1 of the Register, would allow the Council to undertake an annual re-registration process. Applicants who are no longer seeking a plot of land in the borough or have subsequently decided not to pursue a self-build project are unlikely to pay a fee to remain on the Register. The authority may remove an entry from the register if it considers that an individual (or any member of an association) is no longer eligible for entry in the register.
- 5.23 Introducing a fee to enter into or remain on the Register may raise expectations with applicants. However, whilst relevant authorities have certain duties, these do not extend to allocating plots to specific individuals or to permission land specifically to meet the requirements or aspirations expressed by those on the Register. Managing expectations could form part of a future communications strategy.
- 5.24 On balance, and in light of all the above, it is recommended that it would be reasonable for the Council to introduce an appropriate fee in order to recover the Council's reasonable costs for the maintenance of the Register.
- 5.25 In order to minimise disruption to the registration service and to keep the costs of the registration process as low as possible by minimising the number of upgrades, it is recommended that a fee be introduced a future date alongside the introduction of local eligibility conditions. As the draft local eligibility conditions will be subject to consultation, the fee would not therefore be introduced until such time as officers have reported on the responses to consultation and any subsequent update on the (draft) fee proposal set out in section 8 below.

6 Link to Corporate Priorities

6.1 The subject of this report is linked to the Council's Business Plan 2017-2018, particularly:

- Priority 3 – Meet the borough's housing needs;
- Priority 4 - to help to build a strong local economy;
- Priority 5 - engaging with our communities and provide value for money.

7 Legal Implications

7.1 Self-build and Custom Housebuilding is governed by primary legislation, the Self-build and Custom Housebuilding Act 2015 (the Act), as amended by the Housing and Planning Act 2016, and secondary legislation set out in Regulations.

7.2 Subsequent to the introduction of the Act, Regulations came into force on 1 April 2016. The Housing and Planning Act (May) 2016 then made a set of changes to the Act. Subsequently, on 31 October 2016, two new sets of Regulations came into force. One set of Regulations had the effect of revoking the earlier April 2016 Regulations. National Planning Practice Guidance (PPG) was issued in April 2016 and was updated on 28 July 2017.

7.3 The Council must have regard to the Register when carrying out its functions relating to:

- Planning;
- Housing;
- The disposal of any land of the authority; and
- Regeneration.

7.4 The Council's general duties are set out in this report. A letter issued by the Department for Communities and Local Government (DCLG) on 21 March 2017 confirmed that the Department will monitor local authorities' response to the legislation to make sure it is being as effective as possible.

7.5 As this duty is relatively new it is not yet known what might happen if insufficient development permissions were granted within three years of the end of each base period, but the indication from the government is that failure will result in a reinforcement of the duty. How this will manifest itself is difficult to predict but it could have an impact on plan making or decision making or for other functions of the Council. The Housing White Paper indicates this include changes to legislation.

7.6 The Council currently has an annual contract with a specialist external service provider to deliver the existing registration process. The current contract runs until 31 March 2018 and is renewable on 1st April 2018. This service can be extended at a nominal cost to encompass the local eligibility conditions described in this report but it cannot be extended to cover the costs of charging and collecting a fee or for checking documentary evidence submitted in support of an application.

8 Financial Implications

- 8.1 **Existing cost of the registration process:** To date, the cost of administering the current registration process has been met by the Planning budget, with officers having to absorb the work associated with the Register in addition to their other duties. The addition of local eligibility criteria will incur a small one-off design and implementation fee and additional time will be incurred managing the new registration process. An upgrade to the notifications process will also incur a small fee based on the number of months left in the relevant contract period.
- 8.2 **Draft fee and future implications:** As described earlier in this report, the Council may now set a fee on a cost recovery basis. Officers from the Planning Policy and Finance teams have assessed the estimated costs likely to be associated with maintaining and managing the Register. It is recommended that once the Council has consulted, considered responses and decided on the set of local eligibility conditions to be applied as part of the application process, the following scale of fees be introduced:
- For individuals to be entered on the Register: £40;
 - For individuals to remain on the Register in subsequent years: £20 p.a. (to be charged on the anniversary of the first registration date but would not apply to those on Part 2 of the Register);
 - For Associations to be entered on the Register: £40 plus £10 for each and every member of the association;
 - For Associations to remain on the Register in subsequent years: £20 p.a. plus £5 for each and every member of the association (to be charged on the anniversary of the first registration date but would not apply to those on Part 2 of the Register).
- 8.3 Thereafter, the fee will be reviewed periodically. If it is considered that the fee no longer covers the Council's reasonable costs, then a further report will be presented to the relevant committee at that time.
- 8.4 **Payments by government:** An initial one-off payment of £5,850 was made by the government to local authorities in June 2016 and further payments are being made each year to 2019/20 in light of the additional burden the duty places on local authorities to take account of the additional dedicated resource required to satisfy the demand on the register. In total £90,000 is due to be paid over four financial years. This is based on the experience of Vanguard authorities and is intended to fund a FTE planning officer for 3 years.
- 8.5 **Additional Council funding:** The funding from Government covers up to £90,000 over 4 years in salary costs. An additional £6,000 is required in order to fund the related on-costs (pension and national insurance) payments.

9 Risk Management Implications

- 9.1 If the Council does not grant sufficient suitable development permissions to meet the demand in any one base period, then the Council will fail to meet its Duty. However, if action is not taken to introduce local eligibility conditions (and at a future date, a fee) then there is a strong possibility that demand may be over-stated and in discharging its duty, the Council may be exceeding what is absolutely necessary.

10 Security and Terrorism Implications

10.1 There are no security or terrorism implications arising from this report.

11 Procurement Implications

There are no procurement implications arising directly from this report.

12 Climate Change Implications

12.1 Development sites that are proposed for allocation in the Local Plan have been assessed as part of the Sustainability Appraisal. In locational terms, sites which are well located to public transport and close to services/facilities will have less impact on climate change than those sites which are more remote.

12.2 Self-build and Custom Build projects may ultimately take place on allocated sites or on windfall sites. A number of applicants on the Council's Self-build and Custom-Housebuilding Register for the 1st Base Period have indicated that they wish to build an environmentally low impact home with low running costs. Such measures would contribute towards minimising the impact of growth.

12.3 Policy SP1 of the submitted Local Plan, alongside other policies including SP10 Sustainable Design and Construction, seeks to ensure that adaptation and mitigation principles relating to climate change are incorporated into the design and construction of new development which include energy and water efficiency measures, the use of low carbon and renewable energy, the provision of green infrastructure and sustainable drainage systems. This principle applies to mainstream and Self-build and Custom Housebuilding projects alike.

13 Policy Implications

13.1 Policy SP 7 of the submitted Local Plan states that:

Self-build and Custom Housebuilding: Strategic Development Sites SDS1 (WGC4), SDS2 (WGC5), SDS5 (Hat1) and SDS6 (Hat15) should make provision for a proportion of serviced plots of land to contribute towards meeting the evidenced demand for Self-build and Custom Housebuilding in the borough. Serviced plots of land for Self-build and Custom Housebuilding will also be supported on other allocated sites or permitted windfall sites where overall, this would not result in an over-provision of this type of Housebuilding when compared to the Council's supply/demand evidence.

13.2 Self-build is currently exempt from planning obligations or CIL payments to cover infrastructure costs or the provision of affordable housing.

14 Equalities and Diversity

14.1 The proposal to introduce local eligibility conditions has been subject to an initial Equalities Impact Assessments (EIAs) screening stage. No unjustified negative impacts were identified and a full assessment is not considered necessary. This will be reviewed following the proposed consultation on the local eligibility conditions.

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Appendices:

None

Background Documents (in date order):

1. Self-build and Custom Housebuilding Act 2015 - March 2015:
http://www.legislation.gov.uk/ukpga/2015/17/pdfs/ukpga_20150017_en.pdf
2. Town and Country Planning, England – The Self-build and Custom Housebuilding (Register) Regulations 2016 – April 2016 (now revoked):
http://www.legislation.gov.uk/uksi/2016/105/pdfs/uksi_20160105_en.pdf
3. Planning Practice Guidance – Self-build and Custom Housebuilding register (Last updated April 2016): <https://www.gov.uk/guidance/Self-build-and-Custom-Housebuilding>
4. Housing and Planning Act 2016 - May 2016:
http://www.legislation.gov.uk/ukpga/2016/22/pdfs/ukpga_20160022_en.pdf
5. Town and Country Planning, England – The Self-build and Custom Housebuilding (Register) Regulations 2016 – October 2016:
<http://www.legislation.gov.uk/uksi/2016/105/made?view=plain>
6. Town and Country Planning, England – The Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016 – October 2016:
http://www.legislation.gov.uk/uksi/2016/1027/pdfs/uksi_20161027_en.pdf
7. Housing White Paper - Fixing our broken housing market – February 2017:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/590464/Fixing_our_broken_housing_market_-_print_ready_version.pdf
8. Self-build and custom housebuilding – National planning Practice Guidance 2017:
<https://www.gov.uk/guidance/self-build-and-custom-housebuilding>