

## RIGHT TO BUILD: Supporting Custom and Self Build

18 Dec 2014

Thank you for consulting the Home Builders Federation on the above proposal. The HBF is the principal representative body of the housebuilding industry in England and Wales and our representations reflect the views of our membership of national and multinational plc's, through regional developers to small, local builders. Our members account for over 80% of all new housing built in England and Wales in any one year.

Many of our members will be able to assist the custom build sector either through the physical building of dwellings on behalf of the homeowner or through the provision of plots for sale to custom builders. We are, therefore, not opposed to the idea of increasing the custom build sector in England but we have a number of key concerns regarding the concept of the "Right to Build" as set out in this consultation paper.

The most fundamental concern is over how the "right" to a plot, provided by the local authority, fits within the spatial plan for an area set out in the development plan. The second is over the apparent amount of control the government wishes to place over who is eligible for such plots through a "right". The third fundamental question is how taxpayers will get the most beneficial return through the selling of public land under the right to build.

We are, of course, more than happy to continue to seek practical ways of addressing these concerns through further discussions as to how the initiative will fit within the existing market and planning systems. We set out in more detail below our considerations of the questions posed within the consultation.

### Consultation Questions

#### 1. If you are a prospective custom builder, would you be interested in using the new Right to Build?

As potential builders of custom build products our members are very interested in assisting in the delivery of custom build projects brought forward under the right to build.

## **2. How can local planning authorities work together to enable the Right to Build to apply in London, National Parks and the Broads and areas with development corporations?**

Registers should coincide with local planning authority areas. It should be possible for potential custom builders to register with more than one LPA providing that they clearly identify this fact in their registration (to avoid double counting).

While a pan-London list would potentially reduce administration it should clearly allow expressions of interest in specified Boroughs rather than be applied across the whole of London.

## **3. What preferences should custom builders be able to express on the register? Are there any preferences which are essential for all local planning authorities to consider?**

The type of plots that are of interest should be specified in the registration. There is, for example, a huge difference between the desire of someone to custom build a house on a stand-alone plot on the edge of a rural settlement and a plot that forms part of a larger residential development site being built in the conventional way.

If LPAs are to be allowed to require an element of custom build on all residential development permissions through development plan policy, there should be a clear expression of interest in such sites being provided.

## **4. To what extent should a local planning authority be expected to meet these essential preferences?**

The identification of sites and their availability must be consistent with the spatial strategy of the development plan. That is not to say that the strategy could not be amended to reflect the housing ambitions of the registered potential custom builders but clearly it would be unreasonable to force LPAs to find and offer sites to custom builders in locations where any other type of housing would be restricted.

## **5. Are these the right eligibility criteria for the register? What are the practicalities for local planning authorities in assessing against these criteria?**

Financial viability is the key issue to determine registrants who are merely expressing their dream to custom build and those who are actually in a position to do so. However, the cost of serviced plots of land and individual build costs will vary massively making any financial viability appraisal extremely difficult at the beginning of the registration process.

**6. Do you agree that local planning authorities should have the discretion to apply a local connection test and, if so, why?**

There is no rationale as to why custom builders should have a local connection to the area in which they wish to build their own home. Such restrictions do not apply to market sale of new dwellings and this allows for mobility of labour across the country (and, indeed, across the EU).

Even if custom build is seen as contributing to meeting affordable housing needs or reducing the need for housing benefit or subsidy this is a national scheme and the net result of helping people who might otherwise be on an affordable housing register elsewhere house themselves is not a local issue.

**7. In what ways do you think a prospective custom builder should be able to demonstrate that they have a local connection, for example through residency or a family connection?**

Such a connection should not be necessary or required. Indeed, the desire to establish a residency connection may exacerbate rising housing costs in some of the more desirable market areas of the country as rents and purchase prices are pushed up by people seeking to establish such rights.

**8. How long do you think a prospective custom builder needs to be resident in an area before they satisfy the local connection test? Should temporary periods outside the area be permitted?**

If there is to be a residency test then there is no reason why periods of residency should not be cumulative rather than continual.

**9. How do you think family should be defined for the purposes of establishing a local connection?**

There is no logical reason why custom builders should have to show family connections to an area in which they wish to register for the right to build. Indeed, modern society means that many “family” members are more removed than parents/children yet their family ties are as strong, if not stronger than some estranged families.

**10. Do you agree that members of the armed forces should be exempt from any local connection criteria? Are there any other groups we should exempt from this requirement where it applies?**

If a local connection is necessary to establish peoples’ “right to build” there is no reason why a member of the armed forces should be exempt from meeting some of the eligibility criteria. Members of the armed forces have families, employment or may easily meet the residency requirements of the right to build, especially if residency can be made up of cumulative years since birth.

**11. Are the proposed criteria for removing a person from the register appropriate? What are the practicalities facing local planning authorities?**

The introduction of eligibility criteria for both inclusion and removal from the register will require an appeals process to ensure that the rules are not broken. It is also conceivable that there should be a third right of appeal to these decisions to stop abuse or misconduct by either applicants or local authorities.

The proposed criteria for amendment of the register places undue reliance on the person on the register to remove themselves rather than on the local authority to ensure that the register is kept up to date. The only way to ensure that the register is kept up to date and is accurate would be to require updating of registration at regular intervals. Although re-registration annually might seem excessive it would reflect the need to keep financial evidence up to date. Inevitably the process will become automated and reminders to re-register could be routine with non-responses automatically removed from the register.

**12. Do you agree with the proposals on transparency?**

It is vital that aggregated data of the register is publicly available.

**13. How should local planning authorities publicise the register?**

Publicity should be both online and by more traditional means such as leaflets and response cards. Many people do not interact with their local authority on a day to day basis and the register should be open to all and widely publicised.

**14. Do you agree that there is sufficiently robust planning policy and supporting guidance in place to promote custom build?**

Yes. The NPPF is quite clear that local planning authorities should identify and plan for the needs of their communities including the need for custom build dwellings. It is important, however, that the right to build is integrated within the rest of the planning process, particularly with regard to spatial decisions, deliverability and developability of sites.

While land to be used for custom build dwellings could form part of the five year supply of land for housing it will need to be rigorously tested to ensure that there is a realistic chance of the sites being built within the five year assessment period. Both sales rates and build out rates will need to be closely monitored in local areas as both are potentially a lot slower than such rates currently being delivered by conventional housebuilding.

**15. If not, what more would you like to see?**

**16. Should local planning authorities have discretion in which approaches they use? Are there alternative approaches which should be considered?**

The best approach towards delivery of custom build dwellings will vary across the country. Therefore it is essential that local planning authorities can use a variety of tools to bring sites forward.

**17. What tools and support will local planning authorities need to develop these approaches?**

It is important that proposals for custom build are dealt with through proper planning considerations and are consistent with policies in the development plan. Therefore local planning authorities should keep their development plans up to date using the best possible data to assess their overall needs for housing and, within that context, the need for custom build dwellings.

There is no need for a special planning regime to provide opportunities for custom build dwellings.

**18. Do you agree that water and energy services should be provided as a minimum? Should telecommunications access be required?**

As suggested by Q19, there should be flexibility in the level of servicing available to the custom builder. The price of plots will be significantly affected by the provision of servicing and timing of the release of plots may be compromised by delays in providing services “up-front” when provision later in the development process would be acceptable and would assist cash flow.

**19. Are there circumstances when a local planning authority should not be required to service the plot?**

Yes. The level of servicing (and the respective price of the plot) should be negotiated with the custom builder as suggested.

**20. How could we expand or change these principles to ensure we provide a fair national framework?**

The consideration of what is a “reasonable” offer is open to considerable interpretation and there appears to be no “appeal” process proposed to ensure that local authorities actually offer suitable sites that meet custom builders’ requirements. Similarly it is not clear how local authorities might “opt out” of having to offer sites in areas deemed inappropriate for development in their local plan.

This issue could be covered by the registration process rather than through the offer of plots. If this is to be the case then the registration process needs to set out very clearly which areas are excluded from expressions of interest since, if there is no likelihood of plots coming forward there is no way of local authorities meeting their new statutory obligation.

**21. Is three the right number of minimum offers a local planning authority should be asked to make before they can consider the requirement to be met?**

Any limit to the number of offers made to applicants should be directly related to inclusion on the register. If an applicant is offered three plots and refuses them their name should be removed from the register with no re-registration for a further period of time.

**22. Is two and half years the right time period in which authorities should reasonably be expected to make three reasonable offers in?**

We offer no comment on the appropriate period of time in which a number of offers should be made to potential custom builders. Indeed, we suggest that this might vary in areas where availability and turnover of plots is limited.

However, as with the number of offers discussed in Q21, we suggest that the time period in which the offers are made should correspond with the period for which people should be registered and suggest a similar period for their exclusion from registering again after having been offered the agreed number of plots.

**23. Should there be an appeals mechanism to enable custom builders to challenge the plot price?**

The ruling out of bidding for plots means that there does not need to be a right to challenge the price of plots which should be offered at an independently valued market price.

**24. If you wanted to access a plot through the Right what approaches do you think would be appropriate and in what circumstances?**

**25. If you were an authority administering the Right which approaches do you think would work for you?**

Access to plots will become a key issue in areas where registration exceeds availability or practical provision of plots. Since the government has ruled out the bidding for plots as a differentiator (which is, of course, how the market sale of housing operates) there must be a clear and fair method of allocating plots to potential custom builders.

Every local authority operates an effective model for affordable housing allocations, making provision of a scarce resource to an over-subscribed register of potential recipients. There may be lessons to be learned from this approach which is, generally, seen to be fair, transparent and not open to corruption.

The government should set out the principles that approaches should achieve rather than prescribe how these should be implemented. Key principles should include transparency, fairness, and consistency.

It is not considered that a lottery approach should be able to meet these principles since this is a random process.

**26. Will these approaches (including a combination of approaches) work? What other approaches are there?**

Details of how developers could make contributions towards the provision of plots for custom builders through S106 agreements should be investigated further. HBF would be happy to work with others to ensure that this approach sits within the overall viability assessment of land for housing and local plan viability assessment.

Recognition of the fact that custom build is a contributor to helping people afford their own homes would require local planning authorities to see provision of custom build sites as legitimate affordable housing provision.

**27. What support or changes local authorities would need to enable them to purchase and prepare land?**

Just as it is recognised that there will be many different levels of involvement of custom builders so too will different local authorities have different levels of expertise in bring forward land for development (including the servicing of land for sale).

The costs of bringing forward plots for development must be reflected within the sale price of the plots. Similarly, the value of the land for any alternative uses (including housing for market sale) must also be taken into account in setting a market price for the land in order to provide a competitive return to taxpayers (essentially the landowners).

Fees for bringing the sites to market (through the use of agents or consultants), as envisaged by Q29, would also be legitimately included within the market price of the plots for sale.



**28. Do you agree that in some circumstances local planning authorities will need to look at bringing forward land in the wider housing market area? Are there other approaches we could consider?**

It would be difficult for a potential custom builder to recognise that a local authority was providing plots for custom builders in the wider housing market area so would be unlikely to express an interest in an area outside the registering local authority area.

It would be better to allow registration with more than one local authority (with a clear indication that this was the case in order to avoid double counting) or encourage local authorities who share a housing market area to produce joint registration lists.

**29. Do you foresee any challenges with authorities securing the expertise needed to support them in delivering plots for self-builders?**

No. development planning is already a key part of the statutory responsibilities of local authorities. Any additional resources necessary could be recouped through the sale price of bringing sites to market.

**30. How should the register reflect the requirements of those who are eligible for affordable housing?**

**31. What tools do local planning authorities and registered providers need to enable them to bring forward custom build affordable housing?**

**32. How can we design the Right to enable registered providers play a greater role in bringing forward more custom build affordable housing?**

People in affordable housing should be able to register for the right to custom build their own affordable house. The registration form should accommodate this with a clear indication in the financial viability box of how much assistance would be needed.

Registered providers would be able to identify affordable housing recipients on the register and offer them plots on the financial terms that suit their needs.

**33. Should individuals from the group register individually, stating their preference to group custom build, or should the group be able to register as one entity?**

Both individuals and groups should be able to register. However, it is essential that there is no double counting of individuals in terms of the overall numbers of households registering.



**34. If a single entity is capable of making an expression of interest for a group custom build should the group be required to demonstrate a local connection and financial viability for each individual within the group or would a proportion of the membership (say 75%) be sufficient?**

Elsewhere in this representation we suggest that there is no reason to restrict registration (provided that double counting is avoided). However, if it is considered essential for potential custom builders to meet eligibility criteria to register then it follows that groups should wholly comprise eligible individuals.

**35. Do you support the principle of allowing Community Land Trusts to register individuals and state their preference for group custom build?**

No. Community land trusts are primarily about providing community affordable housing rather than providing the opportunity for self-build or custom build dwellings. Eligibility for residents of community land trusts is set out by the Trust itself and is not specifically limited to how the dwellings are built but their future tenure.

**36. Should local planning authorities have the power to charge fees on a cost contribution basis for the register?**

Registration should incur a charge not only to offset the cost of administration but to stop frivolous registration.

**37. What practical support should be available to local planning authorities?**

The new proposal for a right to build will present not just local authorities with new responsibilities and considerations. Despite the vanguards programme there is very little practice from which to draw good examples and to be able to avoid mistakes. Indeed, the fact that the consultation allows for considerable flexibility in many areas of the proposal mitigates against providing central government prescription in favour of more sounding boards or peer review groups.

The HBF would be happy to discuss the practical issues of custom build provision in greater detail over the coming months.

*Yours sincerely*



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