

# Self-Build and Custom Housebuilding Evidence of Andrew Moger BA (Hons) MA MRTPI

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Land at Little Bushey Lane, Bushey



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Application for residential development (up to 310 units) with access from Little Bushey Lane, and land reserved for primary school, community facilities and mobility hub (Class E) along with car parking, drainage, and earthworks to facilitate drainage, open space and all ancillary and enabling works (outline application with appearance, landscaping, layout, and scale reserved).

Land at Little Bushey Lane, Bushey

Redrow Homes Ltd

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# Introduction

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## Section 1

1.1 My name is **Andrew Moger**, and I am instructed by **Redrow Homes Ltd** to examine the Self-Build and Custom Housebuilding sector in Hertsmere in relation to the appeal proposals.

1.2 In accordance with the Planning Inspectorate's Procedural Guidance, I hereby declare that:

*"The evidence which I have prepared and provide for this appeal in this Statement is true and has been prepared and is given in accordance with the guidance of the Royal Town Planning Institute. I confirm that the opinions expressed are my true and professional opinions."*

1.3 My credentials in relation to the Self-Build and Custom Housebuilding sector are as follows:

- I hold a Bachelor of Arts (Hons) degree in Design, Development and Regeneration from Nottingham Trent University (2005) and a master's degree in Spatial Planning from Birmingham City University (2009). I am a Chartered Member of the Royal Town Planning Institute.
- I have 16 years professional experience in the field of town planning and housing. I was employed across various local authorities in the East Midlands and South West regions between 2006 and 2012 and I have been in private practice since 2013.
- I have previously provided evidence on the need for Self-Build and Custom Housebuilding serviced plots to meet identified demand at numerous Section 78 Inquiries, Hearings and at Local Plan Examinations.
- I acted as planning consultant for Carillion-Igloo Regeneration Partnership and Coastline Housing Association to secure consent for 54 Custom Build homes, 70 affordable homes and 20 open market dwellings in Pool, Cornwall in 2015. This was the first pilot scheme implemented by Homes England to kick-start the Government's commitment to maximising opportunities for Custom Build homes

and tap into the growing demand from the British public to create their own unique and individual home.

- I advised on the Frome Neighbourhood Plan in relation to the introduction of a Self-Build and Custom Housebuilding policy to encourage community-led housing and co-housing.
- I am retained by the Department for Levelling Up, Housing & Communities funded Right to Build Task Force to act for a range of clients as a national Self-Build and Custom Housebuilding expert. The Task Force has been established by the National Custom and Self-Build Association (NaCSBA) to help local authorities, community groups and other organisations across the UK to deliver Self-Build and Custom Housebuilding projects. The Task Force is Government endorsed and funded, having been recognised in the Housing White Paper: Fixing our Broken Housing Market.
- I have advised a number of private clients on Self-Build and Custom Housebuilding schemes through my role within the Right to Build Task Force in Bristol, Suffolk and Cornwall as well as advising local authorities in Devon, Carlisle, Eden, Humberside, Essex and Oxfordshire on their Self-Build and Custom Housebuilding Registers and their Policy approach.
- I am retained by Self-Build and Design Magazine to provide an 'ask-an-expert' service and deliver seminars on Self-Build and Custom Housebuilding at both their annual East and West Self-Build and Design Shows.
- I am the retained planning consultant for Custom Build Homes, the UK's leading Custom Build specialists.

1.4 The appeal scheme seeks outline planning permission (with appearance, layout, landscaping and scale reserved) for the erection of up to 310 new dwellings, with access from Little Bushey Lane, and land reserved for primary school, community facilities and mobility hub (Class E) along with car parking, drainage and earthworks to facilitate drainage, open space and all ancillary and enabling works.

1.5 The appeal proposals seek to provide 5% of the open market housing units on site for self-build and custom housebuilding, equivalent to 10 serviced plots which will be secured by a legal agreement.

1.6 In preparing this Proof of Evidence reliance has been placed upon information sought through a Freedom of Information (FOI) request that was submitted to Hertsmere

Borough Council on 19 January 2023 requesting a range of information relating to the Self-Build Register. The Council's response was received on 26 January 2023.

1.7 This Proof of Evidence comprises the following six sections:

- Section 2 considers the importance of Self-Build and Custom Housebuilding as a material consideration, drawing on a range of sources including national strategies, national policy, the Housing White Paper and briefing papers, the Self-Build and Custom Housebuilding Action Plan, the 'Bacon' Review and the proposed amendments to the 2015 Self-Build and Custom Housebuilding Act (as amended) through the Levelling Up and Regeneration Bill;
- Section 3 reviews the Development Plan position in Hertsmere Borough in relation to Self-Build and Custom Housebuilding and considers other material considerations of relevance;
- Section 4 considers the demand for Self-Build and Custom Housebuilding in the Hertsmere Borough authority area and Bushey Park Ward;
- Section 5 considers the extent to which serviced plots are being delivered to meet identified demand in Hertsmere Borough;
- Section 6 discusses the weight to be attributed to the provision of Self-Build and Custom Housebuilding through the appeal proposals, in light of the evidence of demand in the area; and
- Section 7 draws together my summary and conclusions.

# Self-Build and Custom Housebuilding as an Important Material Consideration

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## Section 2

### Introduction

- 2.1 The provision of Self-Build and Custom Housebuilding is increasingly forming a key part of the planning system and the government's response to addressing the national housing crisis.
- 2.2 The demand for this tenure of housing was first detailed in the 2011 Housing Strategy for England and has since become enshrined in national policy within the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG).

### Laying the Foundations: A Housing Strategy for England (2011)

- 2.3 At paragraph 67 of the Strategy, it set out that Custom Build housing brings many benefits including *“providing affordable bespoke-designed market housing, promoting design quality, environmental sustainability, driving innovation in building techniques and entrepreneurialism”*.
- 2.4 It went on at paragraph 68 to state that *“there are over 100,000 people looking for building plots across the country and we know from recent market research that one in two people would consider building their own home if they could.”*
- 2.5 The Strategy set out at paragraph 69 that the Government recognised that by overcoming the main challenges which are holding back the potential of this sector (which it identifies as including a lack of land), Custom Build housing can make a stronger contribution to economic growth.
- 2.6 Furthermore, it found that *“by making it easier for ordinary people to build their own homes, there is the potential to deliver wider benefits of affordable, greener and innovatively designed homes and to make a significant contribution to the number of new homes built in this country”*.
- 2.7 The Government's ambition was clearly detailed at paragraph 71 which stated that *“the Government wants to make building your own home a mainstream housing option – an affordable way of building a place people are proud to call home”*.



- 2.8 It went on to set out that the Government’s *“immediate aspiration is to unlock the growth potential of the Custom Build homes market and double its size over the next decade, to create up to 100,000 additional Custom Build Homes over the next decade and enable the industry to support up to 50,000 jobs directly and indirectly per year”*.

### **National Planning Policy Framework (2012)**

- 2.9 The now superseded National Planning Policy Framework 2012 (NPPF 2012) required local authorities to ensure that their strategies for housing, employment and other uses were integrated and that they took full account of relevant market and economic signals (paragraph 158).
- 2.10 In doing so local authorities were instructed to undertake a Strategic Housing Market Assessment (SHMA) to assess their future housing requirements and to work with neighbouring authorities where housing market areas cross administrative boundaries (paragraph 159). The NPPF 2012 made clear this included the need to take account of requirements for *“people wishing to build their own homes”*.
- 2.11 Having assessed these requirements, paragraph 50 told local authorities to then plan for a mix of housing to deliver a wide choice of high-quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. This was required to take account of current and future demographic and market trends and the needs of different groups in the community, including *“people wishing to build their own homes”*.

### **The Community Infrastructure Levy (Amendment) Regulations (2014)**

- 2.12 The amendments to the Community Infrastructure Levy (CIL) regulations on 24 February 2014 introduced the exemption for Self-Build and Custom Housebuilding at section 54A. The regulations stated that:

*“54A. – (1) Subject to paragraphs (10)<sup>1</sup> and (11)<sup>2</sup>, a person (P) is eligible for an exemption from liability to pay CIL in respect of a chargeable development, or part of a chargeable development, if it comprises Self-Build housing or Self-Build communal development.*

*(2) Self-Build housing is a dwelling built by P (including where built following a commission by P) and occupied by P as P’s sole or main residence.”*

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<sup>1</sup> Which covers the authority being satisfied that the exemption does not constitute State Aid which would require approval by the European Commission

<sup>2</sup> Which covers that where paragraph 10 applies relief should be granted up to an amount which would not constitute State Aid.

2.13 The regulations went on at section 54D to set out a clawback mechanism in the event that a disqualifying event occurred:

*“54D. – (1) This regulation applies if an exemption for Self-Build housing is granted and a disqualifying event occurs before the end of the clawback period.*

*(2) For the purposes of this regulation, a disqualifying event is –*

*(a) Any change in relation to the Self-Build housing or Self-Build communal development which is the subject of the exemption such that it ceases to be Self-Build housing or Self-Build communal development;*

*(b) A failure to comply with regulation 54(C)<sup>3</sup>;*

*(c) The letting out of a whole dwelling or building that is Self-Build housing or Self-Build communal development;*

*(d) The sale of the Self-Build housing; or*

*(e) The sale of the Self-Build communal development.*

2.14 The regulations defined the clawback period in relation to Self-Build at regulation 3(1)(b) as:

*“Clawback period means –*

*(b) In relation to the exemption for Self-Build housing, the period of three years beginning with the date of the compliance certificate relating to the relevant dwelling.*

#### **House of Commons Debate (7 May 2014)**

2.15 Richard Bacon MP opened his Adjournment Debate by stating that *“it is a great pleasure to have an adjournment debate on the importance of self-build and custom-build housing.”*

2.16 He went on to explain that:

*“I should also say at the outset that the term “self-build” is in some ways perhaps almost uniquely unhelpful as it immediately creates the impression that everyone who wishes to do this has to learn how to become a plumber or an electrician or a joiner, and that simply is not the case. Probably the best definition I have come across was in a paper by Alex Morton, then of Policy Exchange, called “A Right to Build: Local homes for*

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<sup>3</sup> Which relates to the compliance certificates

local people.” I should say that Alex Morton has done a great deal to promote the interests of this sector and to draw the Government’s attention to its value. In answer to the question about what we mean by self-build, he stated:

*The notion of self-build...does not mean that the entire process is handled by a single individual from start to end. It means that an individual or family has had serious input in the design and construction of a house, a house they then live in for a prolonged period of time.”*

- 2.17 In discussing the market for self-build and custom build as a product, Mr Bacon explained that:

*“The self-build market is divided into a number of different components. Perhaps the most established is what we might even call the “established market”, comprising people in their 40s, 50s or early 60s who already own a property and have the cash available to buy a plot, and whose typical budget is in the region of £250,000 to £350,000.*

*Such people are primarily driven by the opportunity to have the home they really want and to reduce running costs...*

*...They build houses that have lower running costs than the ones they were building 20 years ago, but it is possible to build a house that costs £200 a year to run, as I found when I visited a Passivhaus in my constituency that was built by the excellent Saffron Housing Trust. As I was told that, I thought that that is exactly the sum we pay out on the winter fuel allowance each year, and it would be much better to have homes that cost little to heat rather than paying so much money to people to insulate poorly constructed and insulated homes of an old design.”*

- 2.18 Further expanding upon this he went on to detail that:

*“The sector I just described, the more established market, is only one part of the self-build market—or the interest for self-build, as I should call it.*

*The potential boom that could arise in self-build will be driven by a different group of people: a younger generation in their 20s, 30s and perhaps 40s, many of whom are struggling to afford a new home and have much smaller budgets, perhaps of £100,000 or up to £200,000.*

*Such people will be driven by the opportunity to have a say in the home they really want, but mainly by the affordability benefit”* (emphasis added).

- 2.19 Mr Bacon went on to explain that the UK is far behind its European neighbours in this sector, noting that *“in Denmark 40% to 45% of houses are constructed in this way. In France and Germany, countries that are in many ways comparable to the UK, although France has a bit more land, the figure is more like 50% to 60%. The figure for Sweden is 65% and even the figure for little Austria is 80% or higher.”*
- 2.20 Highlighting some of the issues facing prospective self-builders in the UK, he set out that *“the issue is the structure of our entire market and how difficult that makes it for anyone who would like to self-build to get things off the ground. People often do not have a real or effective choice that they can turn into a reality; it is an aspiration rather than a reality in many cases”* (emphasis added).
- 2.21 Addressing the issue of choice in the marketplace, he stated:  
*“That brings me to the issue of choice in the marketplace. When we ask what people spend most of their money on, we find that for nearly all of us it is where we live, whether we are renting or buying, yet more genuine choice exists in the market for beer, apples, or perhaps even toothpaste than in the market for housing. It is an extraordinary paradox that where people spend the most money, they also have the least choice”* (emphasis added).
- 2.22 Mr Bacon was clear:  
*“There is enormous pent-up demand in this country as well, but it just does not know where to go or how to get a foothold”* (emphasis added).

### **The Self-Build and Custom Housebuilding Act (2015)**

- 2.23 The Self-Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) placed a legal duty on local authorities to keep a Register of individuals and associations of individuals (i.e., groups) who want to acquire serviced plots of land and to have regard to that Register when carrying out its planning, housing, land disposal and regeneration functions.
- 2.24 Local authorities can separate their Register into two parts (Part 1 and Part 2) if they introduce a local connection test, with those people who meet the criteria of such a test being placed on Part 1 of the Register. Those who meet all of the statutory eligibility criteria to join the Register except for the local connection test must be entered onto Part 2 of the Register. This does not apply to members of the Armed Forces.

- 2.25 Conditions for a local connection are broadly defined in legislation and it is left to the authority to decide the criteria to use *“as the authority reasonably considers demonstrates that the individual has sufficient connection with the authority’s area”* provided that such a test is justified, proportionate and introduced in response to a recognised local issue.
- 2.26 Government guidance also says such tests should be reviewed periodically to ensure they remain appropriate and are still achieving their desired effect.
- 2.27 The effect of this in practice is that the requirement to give suitable development permission for enough serviced plots of land to meet the demand on the Register only applies to the number of households entered on Part 1 of the Register.
- 2.28 Local authorities can also introduce a registration fee and impose a financial solvency test, which can be used to assess whether an applicant can afford (i.e., has sufficient resources) to purchase the plot of land they are seeking.
- 2.29 A legal definition of Self-Build and Custom Housebuilding, for the purpose of applying the Act, is contained in Section 1(A1) and (A2) of that Act as:

*“(A1) In this Act ‘Self-Build and Custom housebuilding’ means the building or completions 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.*

*(A2) 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”.*

### **The Housing and Planning Act (2016)**

- 2.30 The 2016 Housing and Planning Act at Section 10 placed a duty (which came into force on 31 October 2016) on local authorities to grant sufficient development permissions to meet the demand for Self-Build and Custom Housebuilding in their area arising in each Base Period within the three years after the end of the Base Period.

- 2.31 A serviced plot is one that has access to a public highway and has connections for electricity, waste and water, or can be provided with those things in specified circumstances or within a specific period.
- 2.32 There is no requirement to disaggregate the supply to meet demand in specific parts of a local authority area. Government guidance instead required that local authorities should use the preferences expressed by those on their Register to guide decisions when discharging their duties under the legislation.
- 2.33 There is no duty on authorities to directly provide the serviced plots themselves, but Government guidance advised that they can work in partnership with another landowner - a public body or a private landowner; deliver plots through their planning policies; and, by encouraging and permitting planning applications, either as windfall or as part of a larger site.

### **The Self-Build and Custom Housebuilding (Time for Compliance and Fees)**

#### **Regulations (2016)**

- 2.34 The Time for Compliance and Fees Regulations set out at part two that *“the time allowed for an authority to which section 2A of the Act (duty to grant planning permission etc) applies to comply with the duty under subsection (2) of that section in relation to any Base Period is the period of 3 years beginning immediately after the end of that Base Period (d).”*

#### **The Housing White Paper: Fixing Our Broken Housing Market (February 2017)**

- 2.35 The White Paper offered strong support for Custom Build housing, with the sector identified as an important driver to help diversify and fix the broken housing market.
- 2.36 The White Paper clearly signalled the intention to support Custom Build homes by enabling greater access to land and finance in order to give more people more choice over the design of their home.
- 2.37 The White Paper specifically stated that *“the Government wants to support the growth of Custom Build homes”* at paragraph 3.14 and acknowledged that such homes are generally built more quickly and to a higher quality than other homes, and that they tend to use more productive, modern methods of construction. It said that whilst fewer homes are Custom Build in England than many other countries, there is evidence of more demand for them, including from older people.

### **House of Commons Briefing Paper: Self-Build and Custom Build Housing (March 2017)**

- 2.38 Chapter three of the briefing paper set out that there may be significant unmet demand for Self-Build and Custom Housebuilding in the UK. It reported that a YouGov survey commissioned by the Building Societies Association (BSA) and published in October 2011 found that 53% of people in the UK would consider building their own home given the opportunity.
- 2.39 At chapter four the briefing paper referenced the University of York's 2013 report on the Self-Build market<sup>4</sup> which identified a series of challenges to Self-Build projects which included *"land supply and procurement"* and *"the planning process and variations in planning authority approaches"*.
- 2.40 It went on to refer to AMA Market Research set out in its 'Self-Build Housing Market Report – UK 2014-2018 Analysis' which summarised constraints to growth of the sector in stating that *"a number of issues, including...difficulties in obtaining suitable land and planning permission, continue to constrain growth within the Self-Build market."*
- 2.41 It found that *"as a result, Self-Build completions have declined in recent years from a peak of around 14,000 units in 2007 to around 10,600 in 2013, and the UK continues to have one of the lowest rates of Self-Building in Europe."*
- 2.42 Reference was also drawn to AMA's Self-Build Housing Market Report – UK 2016-2020 Analysis which found that *"the last couple of years have seen a great deal of activity in the Self-Build sector through Government incentives and greater media exposure"*, yet reported that *"despite these positive influences, Self-Build completions are still below Government targets and a number of challenges still constrain growth in the sector"* including *"ongoing difficulties surrounding the availability of land for Self-Build projects"* (emphasis added).

### **House of Commons Debate (16 October 2018)**

- 2.43 On 16 October 2018 during a debate on Housing and Home Ownership, Scott Mann MP for North Cornwall asked the then Housing Minister, Kit Malthouse, whether he *"agrees with the sentiment that there is no better help that we can give to an individual than to allocate them a plot and allow them to build their own home?"*.

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<sup>4</sup> Wallace A, Ford J and Quilgars D, Build it yourself? Understanding the changing landscape of the UK Self-Build market, Centre for Housing Policy, University of York (2013)



2.44 Mr Malthouse’s response was emphatic in stating that:

*“I wholeheartedly agree on Self-Build, which I am very keen to encourage, something like three out of four houses in Austria are Self-Built or Custom Built. It holds enormous capacity for the future. I recommend that my hon. Friend go and visit a site called Graven Hill just outside of Bicester, which is the largest Self-Build site in Europe, and which will deliver around 1,400 Self-Build homes.*

*It is quite something to see – an amazing array of different houses. There is a house that look like a stealth bomber sitting next to a Swiss chalet, a Cotswold cottage and a flat-pack house from Poland. As I said on the fringes of Conference, I think the site will be a conservation area in the future because of the effervescence of design that is taking place there.*

*We are very keen to encourage Self-Build*” (emphasis added).

**The Letwin Review: Independent Review of Build Out (October 2018)**

2.45 At section three The Letwin Review set out a series of recommendations for increasing diversity through a new planning framework for larger sites.

2.46 Paragraph 3.8 recommended that:

*“All large housing sites above 1,500 units must strive to achieve sufficient diversity to support the timely build out of the site and high-quality development. Housing diversity includes housing of differing type, size and style, design and tenure mix. It also includes housing sold or let to specific groups such as older person’s housing and student accommodation, and plots sold for custom or self-build...*

*...As a minimum, each phase should draw housing from each of the following categories...housing for specified groups and custom build: these housing types can contribute significantly to housing diversity. Each phase should deliver housing of this type to serve local needs.”*

2.47 Section four addressed increasing diversity through a new development structure for large sites in the future, with paragraph 4.1 detailing that the rules recommended in section three “are intended to apply to the granting of new outline permissions for all sites of over 1,500 units in areas of high housing demand, regardless of where in the country they lie and regardless of whether they have or have not yet been allocated”.



- 2.48 The Review also recommended at paragraph 4.6 that local authorities be given explicit statutory powers to draw upon models of development which are familiar in much of continental Europe.
- 2.49 It indicated at paragraph 4.7 that where such bodies exist in the UK (i.e., Mayoral Development Corporations, New Town Development Corporations and Urban Development Corporations) they are able to develop land to benefit from a wide diversity of housing to match the particular circumstances of local markets.
- 2.50 Paragraph 4.8 explained that such bodies are able to “*invest in appropriate infrastructure (including major infrastructure) and thereby to provide well-prepared terrain (or even serviced plots) which major builders, small and medium-sized builders, private rental institutional investors, housing associations...custom-builders, and self-builders can all use to enter the housing market on the site*”.
- 2.51 In light of which paragraph 4.11 recommended that in areas of high housing demand, new forms of development vehicles are created to develop sites through masterplans and design codes to increase diversity and attractiveness and hence its build out rate.

#### **National Planning Policy Framework (2019)**

- 2.52 The now superseded NPPF 2019 at section five covered delivering a sufficient supply of homes and at paragraph 59 made clear that local authorities need to make sufficient provision of land with permission without delay to meet the needs of different groups.
- 2.53 Paragraph 60 said that in determining the minimum number of homes needed, strategic policies should be informed by a local housing need assessment. It went on at Paragraph 61 to say that within this context, the size, type, and tenure of housing needed for different groups in the community should be assessed and reflected in policy, including “*people wishing to commission or build their own homes*” with footnote 26 of the NPPF 2019 detailing that:

*“Under Section 1 of the Self-Build and Custom Housebuilding Act 2015, local authorities are required to keep a Register of those seeking to acquire serviced plots in the area for their own Self-Build and Custom Housebuilding. They are also subject to duties under sections 2 and 2A of the Act to have regard to this and to give enough suitable development permissions to meet the identified demand. Self and Custom Build properties could provide market or affordable housing”.*

2.54 Annex 2 of the NPPF 2019 defined Self-Build and Custom Housebuilding as:

*“Housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing. A legal definition, for the purpose of applying the Self-Build and Custom Housebuilding Act 2015 (as amended), is contained in section 1(A1) and (A2) of that Act.”*

**House of Commons Debate on Housing (28 March 2019)**

2.55 In the debate surrounding the subject of housing, Richard Bacon MP, the Right to Build Taskforce Ambassador, set out that:

*“It is absolutely clear that we have a very big housing problem, and have had a very big problem, for some years. I have been attending seminars, roundtables and conferences on housing for at least seven years. I first went to the QEII Centre to hear Adri Duivesteyn, the godfather of the self-build and custom house building movement in the Netherlands—a former Dutch Member of Parliament who then became the mayor of Almere, a community in the Netherlands that I think I am right in saying the Minister has visited. Since then, I have been to many events of various kinds, and everyone has their own diagnosis of the problems and their own solutions, but generally they all mention land, planning or finance. They often mention the role of the volume house builders, the way in which local council planning authorities are stretched and the difficulty in getting access to land.*

*Many of these points have a great deal of truth about them, but the issue can be encapsulated much more simply in the following sentence: the supply of housing does not rise to meet the demand for housing...*

*...The strange thing is that if one asks consumers what they think and what they want, as has been done several times by independent, authoritative opinion pollster organisations that have been commissioned for the purpose, they will come up with the following result. Somewhere between two thirds and three quarters of people do not want to buy the products of volume house builders. The figure of 75% comes from a YouGov survey conducted by the National Custom and Self Build Association, which is a trade body for, as the name suggests, self-building and custom house building...”*  
(emphasis added).

2.56 Mr Bacon went on to explain that:

*“When I came off the Public Accounts Committee in 2017, it was to spend time on the Right to Build Task Force, an initiative set up by the National Custom and Self Build Association to help local councils, developers, community groups and landowners who want to bring forward self-build and custom house building projects on serviced plots of land—that is to say, where all the difficult bits such as fresh water, sewage, electricity, broad- band and so on are already dealt with—in order to increase supply and give people more choice. That is what I have spent most of the last two years in this place doing.*

*The Right to Build Task Force has been going for two years...*

*...Over 50 organisations have been helped, of which 60% are local councils, with the rest being community groups, landowners and developers. There is a whole range of examples of its work. Aylesbury Woodlands in Buckinghamshire will have a project where 15% of all the new homes are custom and self-build. Cornwall has an ambition to bring forward up to 1,000 serviced plots across the county. I am looking around for my hon. Friend the Member for North Cornwall (Scott Mann), who arranged the meeting we had with the Prime Minister on this very subject and who is a passionate believer in more serviced plots. North Northamptonshire has a plan whereby as many as 10% of homes could be custom and self-built across several different local authorities. There are rural areas such as Eden in Cumbria, which is looking at a range of opportunities for affordable homes for local people. King’s Lynn and North Norfolk, in my own county of Norfolk, has agreed an action plan to drive up delivery across the area with landowners and smaller builders. A lot is going on already, but the thing is that there could be very much more going on.*

*This is the fundamental point. It is a quote from Andrew Baddeley-Chappell, a former director of Nationwide building society, who is now the chief executive of NaCSBA, while still chairing the Bank of England residential property forum. He has said:*

*“Custom and Self-build can deliver more and better homes that more people aspire to live in and that communities are happier to see built.”*

*...If we want more homes, we have to build them in a way that people want. At the moment, the problem is that most local people feel they have no say or voice in what gets built, where it gets built, what it looks like, how it performs—its thermal performance and therefore what it costs to run—and, absolutely crucially, who gets the chance to live there. If we change all that, we change the conversation. As the right*

*hon. Member for Leeds Central (Hilary Benn), the former shadow Secretary of State said, we need to turn NIMBYs into YIMBYs. Prince Charles put it even better when His Royal Highness referred to BIMBYs—beauty in my backyard. We need to create an environment in which people actually welcome housing. We have reached the tipping point now in that more people want it than do not, because people have begun to realise how serious the crisis is...*

*...We also need clarity about what counts. Some local authorities are gaming the system, and in some cases local authorities are not clear what counts towards their legal obligations to provide permissioned plots of land. Some councils are allowing the conversion of holiday lets into private dwellings under the happy delusion that that counts towards meeting their legal obligations under the right to build legislation, and some of them may be in for a rude awakening at some point...*

*...My third request is about the Planning Inspectorate. It is absolutely imperative that Government planning inspectors properly apply the current provisions of the legislation when they determine planning appeals and when they examine local plans. There is clear evidence that that is not happening as it should—mostly because planning inspectors are unfamiliar with the law in this area, which is still quite new. The obvious answer is to have training for inspectors. The Secretary of State has agreed with me at the Dispatch Box that we should do that, although it has not happened yet. I urge the Minister to pursue that and engage with the taskforce in identifying exactly what training is required.*

*We need something to help raise consumer awareness. Most people would like to commission a project of their own at some point in their lives; 1 million people would like to do that in the next 12 months, yet only 12,000 to 15,000 do. The reason is that it is very difficult to get a serviced plot of land. If getting one were as easy as it is to go into a Ford dealership and buy a Ford Fiesta, far more people would do it* (emphasis added).

- 2.57 In reply, the then Minister for Housing, Kit Malthouse MP, stated that “on the Planning Inspectorate, my hon. Friend is right. We are trying to talk to staff about how they can be more consistent in their decision making and apply it more regularly across the country” and that “I would be more than happy to join my hon. Friend in raising consumer awareness...”

**House of Commons Debate on the British Housebuilding Industry  
(5 September 2019)**

2.58 In the debate on the British housebuilding industry Richard Bacon MP stated that:

*“I am accused of wanting everyone to learn how to be a builder and build their own house. It has nothing to do with doing it yourself. It is very important to stress that. It is about self-commissioning and giving the customer more power. I will be briefing the Minister next week on the terms of the Self-build and Custom Housebuilding Act 2015, which commenced three years ago in April 2016, and the way it was augmented successfully by the Housing and Planning Act 2016, so that now the more people who are on the local register the greater the legal obligation on a council to provide suitable planning permissions.*

*The point about having individuals and associations of individuals under the terms of the legislation is that it could apply to anybody. It could be used by school governors wishing to use the provision of a serviced plot of land as a recruitment and retention tool; by local social services directors trying to recruit social work managers in parts of the country where it is difficult to find the right calibre of social worker; by NHS trusts trying to accommodate staff, whether young junior doctors, paramedics or ambulance staff; by local Army commanders trying to retain that very expensively trained staff sergeant with 20 years’ experience; by the Royal British Legion and other veterans groups trying to accommodate veterans; by probationers and ex-offenders trying to make sure that ex-offenders coming out of prison have accommodation that is not the drug dealer’s sofa; and by the homeless themselves—I have seen just outside Berlin, in Potsdam, homeless single mums building their own accommodation for an affordable rent.*

*That brings me to my next point: it has nothing to do with tenure. One can use self-build and custom house building both for private ownership and for all kinds of affordable accommodation models, including mutual housing co-operatives and various other types of social landlords.*

*I am keen to keep my remarks brief, but I want to say a few things to the Minister about what the Right to Build Task Force, which I have been involved with for some years, is now looking for. We had £350,000 of funding from the Nationwide Building Society, and with that we can evidence an additional 6,000 to 9,000 houses added to the pipeline in the last three years. If we can do that with £350,000, think what we could do with some serious money. I would like the Department to take on the funding for that, but also as part of a help-to-build team installed within Homes England with the*

*task of facilitating the delivery of serviced plots, buying land, and working with local authorities and other public sector partners on public sector land for a range of client groups, especially the young and those who have been most marginalised. That team should also reach out to anybody who wants to get a serviced plot so that we reach a point where someone can go to the plot shop in the local town hall in their home town and find a plot of land as easily as people can in the Netherlands, where I have seen it done.*

*We have to put help to build on a level playing field with Help to Buy. The Government are currently planning to spend £22 billion on Help to Buy, subsidising demand, when we should really be subsidising supply. If one wants more of something, then subsidise it and it will happen. I know from many people I have spoken to, including Treasury Ministers, that there is a desire to do something about the growing cost of Help to Buy. The obvious thing to do is to wean people off Help to Buy—a subsidy for demand—and wean them on to a subsidy for supply, thus increasing supply.*

*We have to remove the regulations that currently allow local authorities to charge people to be on the register each year. Most do not, but Camden and Islington councils charge £350, and people do not get any guarantee of a plot for that...*

*...The charge is supposed to recover the cost of keeping a register, but that is really very small—it can be done in an exercise book kept in a drawer or on a spreadsheet.*

*We need to introduce a series of specific planning reforms, particularly allowing for exception sites where councils are not fulfilling their legal obligations. We need to make it clear that the national planning policy framework has a presumption in favour of sustainable development in circumstances where councils fail to meet their duties under the legislation, irrespective of whether there is a five-year land supply, in terms of providing service plots. We need to introduce changes to the planning system that provide greater predictability to reduce the planning risk—for example, through the compulsory use of form-based codes or through local development orders. We need to take forward the proposals in the White Paper to facilitate land pooling, which has worked very successfully in Germany and elsewhere on the continent.*

*We do have a broken system and doing more of the same will not produce a different result. We have to think differently and do differently. I encourage the Minister to take that responsibility seriously” (emphasis added).*



2.59 In response, the then Housing Minister, Esther McVey MP, stated that:

*“More importantly, as my hon. Friend the Member for South Norfolk (Mr Bacon) said, we want there to be the right to build: we want to be able to make sure there are not just a few companies, building thousands of homes, because there could be thousands of individuals making their own homes. That is what we are about: choice and opportunity as we go forward.”*

### **The Community Infrastructure Levy (Amendments) Regulations (2019)**

2.60 The 2019 amendments to the CIL Regulations continued to support an exemption for Self-Build and Custom Housebuilding.

### **Speech by Former Minister of State for Housing at the RESI Convention (12 September 2019)**

2.61 The former Housing Minister, Esther McVey MP, set out that the Government’s *“collective commitment to deliver the homes this country needs has been constant and unwavering.”*

2.62 Ms McVey first discussed the Self-Build and Custom Housebuilding sector when she stated:

*“Right to Build, so many places around the world have far more people building their own homes, so we’re going to be there, whether its support for Right to Buy or Right to Build.*

*And also supporting communities, for Communities to Build.*

*Because there are so many houses to build – we need to open up all of those opportunities”* (emphasis added).

2.63 She went on to add further support to the sector in stating that:

*“I just think of the opportunities, enormous opportunities, exciting prospects and I’m talking in design and type.*

*I’m talking in diversity of homes.*

*I’m talking in technology of the home.*

*I’m talking environmentally of the home - carbon zero homes.*

*I'm taking creativity, in the style of the home, the type of living, reflecting the needs of people, whichever part of the housing ladder, young single people, divorcees, elderly, disabled people, families – all kinds of partnerships.*

*Each one of these needs a different type of home.*

*Are we really reflecting those different types of homes and needs?*

*I speak to young people across the country, and they say these homes don't really reflect what we'd like to see. Some want a family home, some want a bigger home, some want what they see as more like a future community - living in an exceptional space, maybe with a shared gym, maybe with a shared space downstairs, and within it an apartment as their own home, these would be much cheaper in price, a smaller apartment that they could own.*

*Surely between us, looking across what's happening in the world, we can get the homes that different generations want.*

*And what about the jobs and the careers to build all these homes, we need to think about that. We need to be opening up this house building to SME's, bringing them onboard, bringing it to communities, bringing it to the self-build and bringing in modern methods of construction" (emphasis added).*

**National Design Guide: Planning practice guidance for beautiful, enduring and successful spaces (September 2019)**

- 2.64 The introduction to the National Design Guide explains that it *"illustrates how well-designed places that are beautiful, enduring and successful can be achieved in practice"* and *"forms part of the Governments collection of planning practice guidance and should be read alongside the separate planning practice guidance"*.
- 2.65 Paragraph 18 recognises that younger people's expectations are changing and that this is leading to new lifestyles and models of home ownership, including *"more communal forms of living, such as cohousing"*. It identifies that new models of development are also emerging and that *"these include new off-site production methods, the use of digital technologies for production and customisation, and an increase in self and custom-build."*
- 2.66 In outlining the components for good design, paragraph 30 discusses the importance of materials and construction techniques and explains that *"modern methods of construction are becoming more common, whether in the form of mass production of modular construction, or off-site bespoke construction for self or custom-build"*.



- 2.67 Section two of the Guide sets out the ten characteristics that make up the Governments priorities for well-designed places. Within this, paragraph 118 states that:

*“Well-designed larger scale developments include a range of tenures. They also promote a variety of development models, such as community-led development, self and custom-build and build to rent. This supports a diversity of delivery, by small as well as large developers. It also helps to create rich, diverse settlements”* (emphasis added).

#### **Conservative Party Election Manifesto (December 2019)**

- 2.68 The Conservative Party Manifesto reaffirmed the Government’s commitment to Self-Build and Custom Housebuilding where it set out at page 31 under the headline of ‘places we want to live in’ and sub-heading of ‘community housing and self-build’ that they will *“support community housing by helping people who want to build their own homes find plots of land and access the Help to Buy scheme”*.

#### **Speech by Former Chief Secretary to the Treasury (28 July 2020)**

- 2.69 In his first speech to thinktank Onward, former Chief Secretary to the Treasury, Steve Barclay, discussed housing and covered the custom build sector where he talked about the Japanese prefabricated homes market:

*“Customers are able to personalise their future home to match their individual needs and aspirations – making buying a home closer to the experience of buying a car. This is what we should be seeing in the UK.”*

#### **Planning for the Future: White Paper (August 2020)**

- 2.70 In setting out the aims of the White Paper, it stated at paragraph 1.12 that:

*“We wish to...support innovative developers and housebuilders, including small and medium-sized enterprises (SMEs) and self-builders.”*

- 2.71 Reference was also made under the fifth pillar at paragraph 1.20 to supporting the self-build sector through exploring the disposal of publicly owned land. Proposal 1 which related to simplified land use plans, proposed at paragraph 2.10 that in Growth areas:

*“Sub-areas to be created specifically for self and custom-build homes, and community housing developments, to allow a range of housing aspirations to be met and help create diverse and flourishing communities. In the case of self and custom-build homes, local authorities should identify enough land to meet the requirements identified in their Self-Build and Custom Housebuilding registers.”*

- 2.72 To further encourage the growth of this sector, despite proposing a series of changes to the Infrastructure Levy, the White Paper was clear at paragraph 4.19 that the Government “*will maintain the exemption of self and custom-build development from the Infrastructure Levy.*”

**Press release: Boost for families wishing to build their own home (30 October 2020)**

- 2.73 On 30 October 2020, which represented the annual Right to Build Day, the former Housing Secretary, Robert Jenrick MP, announced a review to make it easier for people to build their own home.
- 2.74 The press release stated that:

*“Building or designing your own home plays an important part in helping people get a foot on the housing ladder. Currently there are around 15,000 of these types of homes built every year – an increase of 50% in 2 years. But there is still more to be done to support the self and custom build industry, last estimated be worth almost £4.5 billion to the UK economy.*

*Councils are currently required to keep a register of those who wish to build in their local area. And by 30 October each year – ‘Right to Build’ day – councils should have granted planning permission to enough suitable plots to match the demand on their register.*

*The review announced today will examine how effectively these arrangements support self and custom building, including whether they increase land available to support these homes.*

*And the Housing Secretary has written to councils to ensure they consider the demand for these homes when providing land for building and making planning decisions in their area.”*

- 2.75 Mr Jenrick was quoted as saying that:

*“We are backing people who want to design and build their own home and today I have launched a review to ensure councils provide enough land and take proper consideration for these homes when making planning decisions in their area.*

*This will help more people get a foot on the housing ladder and support our building industry as we deliver the homes that this country needs.”*

**Speech by Former Secretary of State for Housing, Communities and Local Government at the RESI Convention (11 November 2020)**

2.76 The former Housing Secretary set out in his keynote speech to the RESI convention that one of the Government's core objectives is *"having more diverse, competitive planning system and house building market."*

2.77 Mr Jenrick went on to state that:

*"Thirty years ago, small builders accounted for 40% of new build homes. This has since fallen to just 12%. SMEs are vital for long-term housing delivery. Between 2010 and 2018, they were responsible for the creation of around 140,000 jobs.*

*Self-build and modular construction techniques have also struggled to gain a foothold.*

*This is bad not just for housing delivery, but also for the innovation and competition for the productivity of the UK economy. We want to make the UK a world leader and see the businesses taking root in the Midlands and the North grow, thrive, build more of those homes, and see more of the product they rely on manufactured in the UK."*

**The Chancellor of the Exchequers Spending Review (25 November 2020)**

2.78 The Chancellor, Rishi Sunak MP, announced £2.2bn of new loan finance to support housebuilders across the country, in his spending Review of November 2020 which included delivering 'Help to Build' for custom and self-builders, and funding for SMEs and modern methods of construction.

**Ministry of Housing, Communities and Local Government Planning Newsletter No.1 of 2021 (5 February 2021)**

2.79 The Planning Newsletter from Joanna Averley, Chief Planner, under the heading of 'update on Self & Custom Housebuilding' states that:

*"The Government believes self and custom build housing can play a crucial role in securing greater diversity in the housing market as well as helping to deliver the homes people want. Self and custom builders are well placed to build high quality, well-designed homes that are energy efficient, accessible, affordable, and welcomed by their communities..."*

*...We are undertaking a review of the effectiveness of the Self-build and Custom Housebuilding Act 2015 ('Right to Build') in the context of our wider planning reforms. Given the legislation has been in place since 2016, it is now time to consider whether*

*the legislation is having the desired effect in supporting self and custom build nationally.*

*We are updating Planning Practice Guidance to provide greater clarity and certainty for authorities to bring more land forward. We are also publishing the data returns that local authorities have reported on self and custom build activity in their areas.*

*In addition, the Department is funding the Right to Build Task Force to provide expert support and guidance to local authorities in England to support the delivery of more self and custom build homes.”*

### **Planning Practice Guidance (2021)**

2.80 The Self-Build and Custom Housebuilding section first introduced on 1 April 2016 and last updated on 8 February 2021.

2.81 Paragraph 038<sup>5</sup> provides guidance on what constitutes a suitable development permission in respect of meeting the Statutory Duty under the heading of ‘how can authorities record suitable permissions’. This states that:

*“The legislation does not specify how suitable permissions must be recorded. However, the following are examples of methods a relevant authority may wish to consider to determine if an application, permission, or development is for self-build or custom housebuilding:*

- Whether developers have identified that self-build or custom build plots will be included as part of their development and it is clear that the initial owner of the homes will have primary input into its final design and layout;*
- Whether a planning application references self-build or custom build and it is clear that the initial owner of the homes will have primary input into its final design and layout; and*
- Whether a Community Infrastructure Levy or Section 106 exemption has been granted for a particular development.*

*A relevant authority must be satisfied that development permissions being counted meet the legislative requirements”.*

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<sup>5</sup> Paragraph: 038 Reference ID: 57-038-20210508

- 2.82 It also sets out<sup>6</sup> that *“in considering whether a home is a Self-Build or Custom Build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout.”*

*Off-plan housing homes purchased at the plan stage prior to construction and without input into the design and layout from the buyer, are not considered to meet the definition of self-build and custom housing.”*

- 2.83 The benefits of self-build and custom housebuilding are set out at paragraph 16a<sup>7</sup> which explains that *“self-build or custom build helps to diversify the housing market and increase consumer choice. Self-build and custom housebuilders choose the design and layout of their home and can be innovative in both its design and construction”.*

- 2.84 Paragraph 011<sup>8</sup> details that *“local planning authorities should use the demand data from the registers in their area, supported as necessary by additional data from secondary sources (as outlined in the housing and economic development needs guidance) to understand and consider future need for this type of housing in their area.”*

- 2.85 It goes on to explain that *“secondary data sources can include data from building plot search websites, enquiries for building plots recorded by local estate agents and surveys of local residents. Demand assessment tools can also be utilised.”*

- 2.86 The PPG sets out<sup>9</sup> that *“section 2(1) of the Self-Build and Custom Housebuilding Act 2015 places a duty on relevant bodies to have regard to each self-build and custom housebuilding register”* and that *“the registers that relate to the area of a local planning authority – and the duty to have regard to them – needs to be taken into account in preparing planning policies, and are also likely to be a material consideration in decisions involving proposals for self and custom housebuilding”.*

**Ministry of Housing, Communities and Local Government Self and Custom Build Action Plan (24 April 2021)**

- 2.87 The Government’s self and custom build action plan was announced and published on Saturday 24 April 2021.

Press Release

<sup>6</sup> Paragraph 016 Reference ID: 57-016-20210208

<sup>7</sup> Paragraph 16a Reference ID: 57-016a-20210208

<sup>8</sup> Paragraph 011 Reference ID: 57-011-20210208

<sup>9</sup> Paragraph 014 Reference ID: 57-014-20210508

- 2.88 The Press release identified a new £150 million ‘Help to Build’ scheme to make it easier and more affordable for people to build their own homes.
- 2.89 It sets out that *“the ‘Help to Build’ scheme will ensure that self and custom home building can become a realistic option to get onto the housing ladder through lower deposit mortgages”* through provision of *“an equity loan on the completed home, similar to the Help to Buy scheme.”*
- 2.90 It also explains that *“lowering the required deposit will free up capital, so people can build the home they want and need whether it’s a commissioned, made to order home, or a new design from scratch.”*
- 2.91 Major lenders already signed up to the 95% mortgage guarantee scheme to help more people onto the housing ladder are cited as including Lloyds, Santander, Barclays, HSBC and NatWest with Virgin Money due to follow.
- 2.92 The benefits include that *“made to order homes allow people to customise the home they want”* and that *“this could include more office space, or a particular design to support a family’s requirements including for disabled or older people”* and the Government consider that *“self and custom build could deliver 30-40,000 new homes a year: a significant contribution to the country’s housebuilding ambitions.”*
- 2.93 Former Housing Secretary, Robert Jenrick MP, was quoted as saying:  
*“Building your own home shouldn’t be the preserve of a small number of people, but a mainstream, realistic and affordable option for people across the country. That’s why we are making it easier and more affordable – backed by over £150 million new funding from the government.*  
  
*The scheme we have launched today will help the thousands of people who’d like to build their own home but who’ve not yet considered it or previously ruled it out.*  
  
*Our plans will help get more people on to the housing ladder, ensure homes suit people’s needs like home working or caring for relatives, whilst providing an important boost to small builders and businesses too.”*
- 2.94 The press release also detailed that the Prime Minister has commissioned Richard Bacon MP to lead a review on how they can scale up delivery of self and custom build homes.

### Bacon Review Commissioning Letter

- 2.95 The letter from Prime Minister, Boris Johnson MP, to Richard Bacon MP commissioning him to undertake a legislative review highlights that the Prime Minister considers that in respect of the housing market in this country:

*“Unlike housing markets elsewhere in the world, there is a lack of consumer choice and diversity of supply”*

- 2.96 The Prime Minister is clear in stating considers that:

*“Self-Build and Custom Housebuilding can play a crucial role in increasing choice for consumers and ensuring people live in the homes that they want, and that are designed to meet their needs. We know that self and custom builders deliver high quality, well-designed homes that are energy efficient, accessible, affordable and welcomed by their communities”.*

- 2.97 And that:

*“The place for self and custom building has also been amplified by coronavirus. As we build back better and emerge from the pandemic, we need to push ahead with expanding access in this market for more people.*

- 2.98 Mr Johnson concludes that:

*“Coronavirus has highlighted the importance of the places we all call home. Our homes should maximise our creativity, our productivity, and the quality of our lives. I am convinced, as I know you are, of the role of self-build in this ambition”.*

### Policy Paper: Self and Custom Build Action Plan

- 2.99 The Action Plan identifies that:

*“The government is committed to increasing the number of self and custom build homes in this country and to establish it as a mainstream option for people to choose to get on the housing ladder or when moving home. The government has previously brought forward initiatives to tackle the barriers to the growth of the sector, and now we are bringing these initiatives and new ones together under one self and custom build action plan.”*



2.100 The three main barriers to growth identified by the Action Plan were:

1. Access to finance:

staged mortgage payments for such projects typically through smaller lenders at higher rates and lower loan to value which creates a barrier to first time buyers, younger people and those who don't already have substantial capital; and

2. Access to land:

Not enough serviced plots suitable for self and custom build available; and

3. Expertise/knowledge gap:

Emerging sector with limited available consultancy expertise with low wider knowledge base that acts as a barrier to self and custom build homes being delivered.

2.101 The Action Plan seeks to support sector growth through Government intervention as follows:

1. Access to finance:

a. An initial £150 million to deliver low deposit mortgages and improve affordability of home ownership for self and custom builders; and

b. £2.5 billion in short term loan finance for small and medium sized builders, innovation and custom build with funding available for serviced plots of 5 units or more.

2. Access to Land

a. Brownfield Land Release Fund allocating £25 million to local authorities to bring forward serviced plots on public sector land;

b. Legislative review to consider interventions and reforms to ensure the legislation is working;

c. Collation and publication of local authority performance against the Statutory Duty; and

d. Planning for the Future consultation that would allow authorities to identified sites for self and custom building in their Local Plan.



3. Expertise/knowledge gap:
  - a. Further funding for the Right to Build Task Force to provide expertise and support on the implementation of the Right to Build.
4. Scaling up self and custom build:
  - a. Commissioning ‘the Bacon Review’ to establish a plan to scale up self and custom build homes and to boost capacity and overall housing supply.

### **National Planning Policy Framework (2021)**

2.102 The NPPF 2021 amended paragraph references with section five covered delivering a sufficient supply of homes and at paragraph 60 it makes clear that local authorities need to make sufficient provision of land with permission without delay to meet the needs of different groups.

2.103 Paragraph 61 said that in determining the minimum number of homes needed, strategic policies should be informed by a local housing need assessment. It goes on at Paragraph 61 to say that within this context, the size, type, and tenure of housing needed for different groups in the community should be assessed and reflected in policy, including “*people wishing to commission or build their own homes*” with footnote 28 detailing that:

*“Under Section 1 of the Self-Build and Custom Housebuilding Act 2015, local authorities are required to keep a Register of those seeking to acquire serviced plots in the area for their own Self-Build and Custom Housebuilding. They are also subject to duties under sections 2 and 2A of the Act to have regard to this and to give enough suitable development permissions to meet the identified demand. Self and Custom Build properties could provide market or affordable housing”.*

2.104 Annex 2 of the NPPF 2021 defined Self-Build and Custom Housebuilding as:

*“Housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing. A legal definition, for the purpose of applying the Self-Build and Custom Housebuilding Act 2015 (as amended), is contained in section 1(A1) and (A2) of that Act.”*

**The Bacon Review: House – How Putting Customers in Charge Can Change Everything (21 August 2021)**

2.105 The introduction to the Bacon Review outlines what self and custom housebuilding means. It sets out that:

*“At one extreme, people may find a plot and undertake every element of the build themselves - a home that is literally self-built. At the other extreme, people may select a model home from a catalogue and have it erected for them on their chosen serviced plot, which they have purchased from a landowner or builder. What both approaches have in common is that it is the customer who makes the key design and lay-out decisions, rather than a developer building a home speculatively in the hope that, at some point, someone might like it enough to buy it. “Self-build” is increasingly associated with a home built on a single plot. By contrast, “custom build” involves homes built by professionals on behalf of new homeowners on permissioned serviced plots in line with a framework of rules that define the nature and delivery of the site.”*

2.106 The Bacon Review outlines six recommendations to the Prime Minister for scaling up self-commissioned homes to boost capacity and overall housing supply.

**House of Lords 1<sup>st</sup> Report of Session 2021/22: Meeting Housing Demand (10 January 2022)**

2.107 The House of Lords report explains at paragraph 28 that approximately 11,000 self-build homes are built each year and of these less than 10% of those homeowners were physically involved in the building work.

2.108 Table 2 sets out the key housebuilding sectors and identifies a current output of around 13,000 self-build and custom housebuilding units per annum provided by people organising development themselves (usually using SME builders). In terms of potential output, it states that:

*“Self-build and custom housebuilding could increase significantly...growth of an extra 5,000 homes per year could be achieved in the next few years, under the right circumstances”.*

2.109 At paragraph 107 the report states that *“an additional way of increasing the availability of small sites is to grow the number of self-commissioned new homes”* noting that in some markets, such as Austria, Germany, Poland and Japan, self-commissioned housing is the dominant form of housebuilding.

## **Government Response to the Bacon Review (June 2022)**

- 2.110 The foreword to the Governments response explains that the recommendations of the bacon Review match the Governments ambitions for the self and custom build sector and that they will be taking forward a number of these.
- 2.111 It details how a number of recommendations touch on existing legislation in the Self-build and Custom Housebuilding Act 2015 and that these recommendations intersect with the findings from the government review of the Self-build and Custom Housebuilding legislation which took place over summer 2021.
- 2.112 It goes on to state that part of the Levelling Up and Regeneration Bill the Government intends to bring forward legislation to support the delivery of more self and custom build housing, to meet the needs of those who have registered an interest in self and custom build homes and will consider whether additional changes are needed to planning policies.

## **Extract from Hansard (13 December 2022)**

- 2.113 On 13 December 2022 in debating amendments to the Levelling Up and Regeneration Bill, Hansard records show that the following proposed amendment to the Self-Build and Custom Housebuilding Act (as amended) was added to the Bill:

*“New Clause 68*

*Duty to grant sufficient planning permission for self-build and custom housebuilding.*

*“In section 2A of the Self-build and Custom Housebuilding Act 2015 (duty to grant planning permissions etc)—*

*(a) in subsection (2)—*

*(i) omit “suitable”;*

*(ii) for “in respect of enough serviced plots” substitute “for the carrying out of self-build and custom housebuilding on enough serviced plots”;*

*(b) omit subsection (6)(c).”*

*This new clause provides 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 for self-build and custom housebuilding. The new clause will be inserted after clause 108.*

*Brought up, and added to the Bill.”*

2.114 The Housing Minister, Lucy Frazer, stated that:

*“We are making it easier for people to access suitable plots to build their own homes. We are building on the immense work of my hon. Friend the Member for South Norfolk (Mr Bacon). We recognise the importance of self-build and custom housebuilding, and new clause 68 clarifies the duty on authorities to provide for plots for such homes in their planning decisions.”*

2.115 Richard Bacon MP proposed two additional new clauses 115 and 112, the former proposing further tightening of the way in which permissions can count towards the statutory duty. Mr Bacon stated that:

*“My proposals...would substantially increase the likelihood that more supply will come forward, which is what we need if we are to create a world in which more people on ordinary incomes have the chance to bring forward their own schemes and have a dwelling or their own.”*

2.116 In response, the Housing Minister set out that:

*“I have already mentioned the considerable work that my hon, Friend the Member for South Norfolk (Mr Bacon) has done on custom build and self-build. The Government strongly believe that self-build and custom-build housing can play a crucial role as part of a wider package of measures to boost home ownership and diversify the housing market, as well as helping to deliver the homes that people want. We will look to see whether we can further tighten up any legislation, taking on board his thoughts and comments.”*

### **Levelling Up and Regeneration Bill Third Marshalled List of Amendments (February 2023)**

2.117 On 24 February 2023 further amendments were published by the Government that is being brought to the Lords through the Levelling Up and Regeneration Bill which allows for regulations to be made to define the types of development permission that count under the duty to grant permission and roll forward any unmet demand from earlier Base Periods.

2.118 The further amendments proposed are:

*“Clause 115, page 148, line 30, at end insert—*

*“(aa) after subsection (5) insert—*

*“(5A) Regulations may make provision specifying descriptions of planning permissions or permissions in principle that are, or are not, to be treated as development permission for the carrying out of self-build and custom housebuilding for the purposes of this section.”;*

***Member's explanatory statement***

*This amendment allows the Secretary of State to specify descriptions of planning permissions or permissions in principle that will count as development permissions for the purpose of a local planning authority complying with its duty to meet the demand for self-build and custom housebuilding in its area.”*

2.119 And:

*“Clause 115, page 148, line 30, at end insert—*

*“(ab) in subsection (6), for paragraph (a) substitute—*

*“(a) the demand for self-build and custom housebuilding in an authority's area in respect of a base period is the aggregate of—*

*(i) the demand for self-build and custom housebuilding arising in the authority's area in the base period; and*

*(ii) any demand for self-build and custom housebuilding that arose in the authority's area in an earlier base period and in relation to which—*

*(A) the time allowed for complying with the duty in subsection (2) expired during the base period in question, and*

*(B) the duty in subsection (2) has not been met;*

*(aa) the demand for self-build and custom housebuilding arising in an authority's area in a base period is evidenced by the number of*

*entries added during that period to the register under section 1 kept by the authority;”;*

***Member's explanatory statement***

*This amendment provides that the demand for self-build and custom housebuilding in an authority's area in a particular 12-month base period should be treated as including any demand from an earlier 12 month base period which has not been met within the time period allowed for complying with the duty to meet that demand.”*

**Conclusions on Self-Build and Custom Housebuilding as an Important Material Consideration**

- 2.120 Central Government has been consistent in seeking to boost the supply of Self-Build and Custom Housebuilding for the past decade, starting with the 2011 Housing Strategy for England, and it is clear that there is national demand for this type of housing.
- 2.121 As recently as April 2021 the Government announced an Action Plan intended to scale up delivery and provide funding support for self and custom-builders and more recently, the 'Bacon Review' made a series of recommendations to Government to scale up the delivery of self-build and custom housebuilding.
- 2.122 The Government announced these recommendations will be considered through the Levelling Up and Regeneration Bill (LURB) and have proposed changes to the 2015 Self-Build and Custom Housebuilding Act (as amended) to ensure that only permissions genuinely for self-build and custom housebuilding are counted towards addressing the statutory duty to meet Register demand, any unmet demand is carried forward and that regulations will specify which types of development permission count towards the duty.
- 2.123 The requirement to deliver Self-Build and Custom Build homes is enshrined in statute and within national policy through both the NPPF 2021 and the PPG
- 2.124 Local authorities are required to address this through granting sufficient development consents to meet the demand for Self-Build and Custom Housebuilding arising within their administrative area and examining secondary data sources in addition to their Register numbers to obtain a robust assessment of demand.

# The Development Plan and Other Material Considerations

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## Section 3

### Introduction

- 3.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 3.2 The Development Plan for Hertsmere Borough of relevance to the appeal proposals currently comprises the Core Strategy (2013) and the Site Allocations and Development Management Policies Plan (2016).
- 3.3 Other material considerations include the NPPF (2021), the Self-Build and Custom Housebuilding section of the PPG (8 February 2021) (**Appendix AM3**), the 2015 Self-Build and Custom Housebuilding Act (as amended) (**Appendix AM4 and AM5**), and the Self-Build and Custom Housebuilding (Time for Compliance and Fees) Regulations (2016) (**Appendix AM6**).

### The Development Plan

#### Hertsmere Local Plan – Core Strategy DPD (2013) - CD-F1

- 3.4 The Core Strategy sets out the strategic planning policies for the Borough covering the period 2012 to 2027 and was adopted in January 2013.
- 3.5 The adoption of the Core Strategy post-dates the original 2012 NPPF<sup>10</sup> but pre-dates the Self-Build and Custom Housebuilding Act (2015) and subsequent amendments made to it through the Housing and Planning Act (2016) as well as the 2016 introduction of the Self-Build and Custom Housebuilding Section of the PPG.
- 3.6 The Core Strategy does not contain any reference to self-build and custom housebuilding.

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<sup>10</sup> Which required - at paragraph 50 - for local authorities to plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community including “people wishing to build their own homes”.



Hertsmere Site Allocations and Development Management Policies Plan (2016) - CD-F2

- 3.7 The Site Allocations and Development Management Policies Plan (SADM) seeks to provide environmental and other criteria, against which all development proposals and planning applications can be judged and to define sites and areas.
- 3.8 The SADM was adopted in November 2016 and also covers the period up to 2027.
- 3.9 The adoption of the SADM post-dates the original 2012 NPPF<sup>11</sup>, the Self-Build and Custom Housebuilding Act (2015) and subsequent amendments made to it through the Housing and Planning Act (2016) as well as the 2016 introduction of the Self-Build and Custom Housebuilding Section of the PPG.
- 3.10 The SADM does not contain any references to Self-Build or Custom Housebuilding.

**Other Material Considerations**

Emerging New Local Plan for Hertsmere - CD-G4

- 3.11 A meeting of Hertsmere full Council in April 2022 considered options in relation to the Local Plan following the public engagement carried out in 2021. It was agreed to set aside the current Regulation 18 draft Local Plan but continue the local plan process by completing consideration of the Regulation 18 engagement responses and carrying out additional work as necessary to inform a local plan spatial strategy, whilst awaiting clarity from the Government on changes to law or policy affecting that matter.
- 3.12 The Council’s website explains that officers are therefore continuing with a range of technical work which will underpin the new Local Plan whilst also awaiting details of proposed changes to the NPPF (relating to policy approach) as well as the plan making reforms set out in the Levelling Up and Regeneration Bill in May.
- 3.13 At this stage there is no firm timetable for the next steps.

Emerging South West Hertfordshire Joint Strategic Plan 2050

- 3.14 The emerging Joint Strategic Plan (JSP) is intended to provide a blueprint for the area to 2050. It covers the local authority areas for Watford Borough, St Albans City & District, Hertsmere, Dacorum Borough, Hertfordshire County Council and Three Rivers District.

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<sup>11</sup> Which required - at paragraph 50 - for local authorities to plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community including “people wishing to build their own homes”.



- 3.15 The 'Realising Our Potential: A Vision for South West Herts' document was published in March 2022. It does not contain any reference to self-build or custom housebuilding.
- 3.16 The emerging JSP is at a very early stage of development, has yet to be tested at Examination and has a number of unresolved objections. As such it cannot attract any weight in the determination of this appeal.

National Planning Policy Framework (2021)

- 3.17 Paragraph 60 of the NPPF is clear that in order to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, and that the needs of groups with specific housing requirements are addressed.
- 3.18 Paragraph 61 says that in determining the minimum number of homes needed, strategic policies should be informed by a local housing need assessment. It goes on at Paragraph 62 to say that within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in policy, including "*people wishing to commission or build their own homes*" with footnote 28 of the NPPF 2019 detailing that:

*"Under Section 1 of the Self-Build and Custom Housebuilding Act 2015, local authorities are required to keep a Register of those seeking to acquire serviced plots in the area for their own Self-Build and Custom Housebuilding. They are also subject to duties under sections 2 and 2A of the Act to have regard to this and to give enough suitable development permissions to meet the identified demand. Self and Custom Build properties could provide market or affordable housing".*

- 3.19 Annex 2 of the NPPF defines Self-Build and Custom Housebuilding as:

*"Housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing. A legal definition, for the purpose of applying the Self-Build and Custom Housebuilding Act 2015 (as amended), is contained in section 1(A1) and (A2) of that Act."*

- 3.20 The NPPF also makes clear at paragraph 68 that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly.

- 3.21 At paragraph 124 of the NPPF it states that *“planning policies and decisions should support development that makes efficient use of land, taking into account...the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it”*.

Planning Practice Guidance

- 3.22 The Self-Build and Custom Housebuilding Section of the PPG was first published on 1 April 2016 and last updated on 8 February 2021.

- 3.23 The PPG clarifies<sup>12</sup> that under the Self-build and Custom Housebuilding Act 2015 (as amended) local authorities must grant suitable development permissions for enough suitable serviced plots of land to meet the demand for Self-Build and Custom Housebuilding in their area.

- 3.24 The PPG sets out<sup>13</sup> under the heading of ‘what is self-build and custom housebuilding’ that:

*“Self-build and custom housebuilding covers a wide spectrum, from projects where individuals are involved in building or managing the construction of their home from beginning to end, to projects where individuals commission their home, making key design and layout decisions, but the home is built ready for occupation (“turnkey”).*

*The Self-Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) provides a legal definition of self-build and custom housebuilding...*

*...In considering whether a home is a Self-Build or Custom Build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout.*

*Off-plan housing, homes purchased at the plan stage prior to construction and without input into the design and layout from the buyer, are not considered to meet the definition of self-build and custom housing”* (emphasis added).

- 3.25 Paragraph 016a<sup>14</sup> was introduced on 8 February 2021 and in setting out what the benefits of self-build and custom housebuilding are states that:

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<sup>12</sup> Paragraph 023 Reference ID: 57-023-201760728

<sup>13</sup> Paragraph 016 Reference ID 57-016-20210208

<sup>14</sup> Paragraph 016a Reference ID: 57-106a-20210208

*“Self-build or custom build helps to diversify the housing market and increase consumer choice. Self-build and custom housebuilders choose the design and layout of their home, and can be innovative in both its design and construction”*

3.26 Paragraph 038<sup>15</sup> provides guidance on what constitutes a suitable development permission in respect of meeting the Statutory Duty under the heading of ‘how can authorities record suitable permissions’. This states that:

*“The legislation does not specify how suitable permissions must be recorded. However, the following are examples of methods a relevant authority may wish to consider to determine if an application, permission or development is for self-build or custom housebuilding:*

- *Whether developers have identified that self-build or custom build plots will be included as part of their development and it is clear that the initial owner of the homes will have primary input into its final design and layout;*
- *Whether a planning application references self-build or custom build and it is clear that the initial owner of the homes will have primary input into its final design and layout; and*
- *Whether a Community Infrastructure Levy or Section 106 exemption has been granted for a particular development.*

*A relevant authority must be satisfied that development permissions being counted meet the legislative requirements”.*

3.27 The PPG provides further guidance<sup>16</sup> where it states that:

*“Assessment of local housing need as a whole should be conducted using the standard method in national planning guidance. Within this context, the size, type and tenure of housing needed for different groups should be assessed including people wishing to self-build or custom-build their own home.*

*Local planning authorities should use the demand data from their registers in their area, supported as necessary by additional data from secondary sources (as outlined in the housing and economic development needs guidance), when preparing their Strategic Housing Market Assessment to understand and consider future need for this type of housing in their area.*

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<sup>15</sup> Paragraph: 038 Reference ID: 57-038-20210508

<sup>16</sup> Paragraph 011 Reference ID 57-011-20210208

*Secondary sources can include data from building plot search websites, enquiries for building plots recorded by local estate agents and surveys of local residents. Demand assessment tools can also be utilised.”*

- 3.28 Furthermore, it details that<sup>17</sup> *“authorities are encouraged to publish, in their Authority Monitoring Report and the self and custom build section of their website, headline data on the demand for Self-Build and Custom Housebuilding revealed by their register and other sources. This can support development opportunities for Self-Build and Custom Housebuilding by increasing awareness among landowners, builders and developers of the level and nature of demand for Self-Build and Custom Housebuilding in the local area”* (emphasis added).
- 3.29 The PPG sets out<sup>18</sup> that *“section 2(1) of the Self-Build and Custom Housebuilding Act 2015 “places a duty on relevant bodies to have regard to each self-build and custom housebuilding register” and that “the registers that relate to the area of a local planning authority – and the duty to have regard to them – needs to be taken into account in preparing planning policies, and are also likely to be a material consideration in decisions involving proposals for self and custom housebuilding”.*
- 3.30 The first Base Period begins on the day on which the Register is established and ends on 30 October 2016 with subsequent Base Periods running from 31 October one year to 30 October the next year. At the end of each Base Period, relevant authorities have three years in which to permission an equivalent number of plots of land, which are suitable for Self-Build and Custom Housebuilding, as there are entries for that Base Period.

#### The Self-Build and Custom Housebuilding Act (2015)

- 3.31 The Self-Build and Custom Housebuilding Act 2015 placed a legal duty on local authorities to keep a Register of individuals and associations of individuals (i.e., groups) who want to acquire serviced plots of land and to have regard to that Register when carrying out its planning, housing, land disposal and regeneration functions.
- 3.32 A legal definition of Self-Build and Custom Housebuilding, for the purpose of applying the Act, is contained in Section 1(A1) and (A2) of that Act as:

*“(A1) In this Act ‘Self-Build and Custom housebuilding’ means the building or completions by -*

<sup>17</sup> Paragraph 012 Reference ID 57-012-20210508

<sup>18</sup> Paragraph 014 Reference ID: 57-014-20210508

- (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.*
- (A2) *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.”*

#### The Housing and Planning Act (2016)

- 3.33 The 2016 Housing and Planning Act at Section 10 places a duty (which came into force on 31 October 2016) on local authorities to grant sufficient development permissions to meet the demand for Self-Build and Custom Housebuilding in their area arising in each Base Period within the three years after the end of the Base Period.
- 3.34 There is no duty on authorities to directly provide the serviced plots themselves, but Government guidance advises that they can work in partnership with another landowner - a public body or a private landowner; deliver plots through their planning policies; and, by encouraging and permitting planning applications, either as windfalls or as part of a larger site.
- 3.35 At part 2A(5) of the Act it is clear that ‘development permissions’ means planning permission or permission in principle (within the meaning of the 1990 Act).

#### The Self-Build and Custom Housebuilding (Time for Compliance and Fees) Regulations (2016)

- 3.36 The Time for Compliance and Fees Regulations set out at part two that *“the time allowed for an authority to which section 2A of the Act (duty to grant planning permission etc) applies to comply with the duty under subsection (2) of that section in relation to any Base Period is the period of 3 years beginning immediately after the end of that Base Period (d).”*

### **Conclusions on the Development Plan and Other Material Considerations**

- 3.37 There are no policies within the adopted Development Plan for the provision of self-build and custom housebuilding.
- 3.38 Full Council agreed in April 2022 to set aside the emerging Regulation 18 Local Plan and consequently there are no emerging policies for the provision of self-build and custom housebuilding.
- 3.39 At a national level there is a clear desire by central government to significantly boost the supply of self-build and custom housebuilding through both the NPPF and the PPG. Most recently the 'Bacon Review' made a series of recommendations to Government to scale up the delivery of self-build and custom housebuilding with the Governments response indicating that the recommendations are to be considered through the Levelling Up and Regeneration Bill.

# Self-Build and Custom Housebuilding Demand in Hertsmere Borough

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## Section 4

### Housing Market Assessments

- 4.1 The South West Hertfordshire Local Housing Needs Assessment (2020) and the South West Hertfordshire Strategic Housing Market Assessment (2016) are the most up to date assessments of local housing need, each of which are considered in turn below.

#### South West Hertfordshire Strategic Housing Market Assessment (2016) - CD-H11

- 4.2 The 2016 Strategic Housing Market Assessment (SHMA) provided consideration of custom and self-build between paragraphs 9.85 to 9.90.
- 4.3 Paragraph 9.87 stated that local authorities are now required to establish and maintain a register of those interested in building or commissioning their own home but considered that as this was a new requirement on local authorities the registers did not yet provide comprehensive information in demand.
- 4.4 At paragraph 9.88 the SHMA reported that quantitative information was hard to come by and that there was no centrally held source of demand data.
- 4.5 The key findings on self and custom build set out in the SHMA included that *“this is a small sector in the housing market, but one which has the potential to grow”* and that *“there is potential for plots to be set aside for custom-build development as part of larger development schemes”*.
- 4.6 It does not provide any calculation or estimation of likely future demand for self-build and custom house building.

#### South West Hertfordshire Local Housing Needs Assessment (2020) - CD-G2

- 4.7 The South West Hertfordshire Local Housing Needs Assessment (LHNA) August 2020, on behalf of Dacorum, Hertsmere, St. Albans, Three Rivers and Watford Council, considers the supply of Self-Build and Custom Housebuilding in Hertsmere, as well as the other four councils.



- 4.8 The LHNA identifies at paragraph 8.9 that on 1 January 2020 the number of individuals registered on the local authority self-build and custom housebuilding registers in South West Hertfordshire was 709. Of these it states that 48 were in Hertsmere.
- 4.9 The LHNA takes the view at paragraph 8.15 that there are other online resources which seek a database for custom and self-build demand and that these may show a different level of demand than the register. It considers that in all likelihood those who are truly dedicated to this form of accommodation will be aware of the routes to it including registering with the local authority.
- 4.10 Paragraph 8.28 takes the view that all single unit developments could be seen as proxy for custom and self-build development. It indicates that between 2013/14 and 2017/18 there were a total of 105 single dwelling completions in Hertsmere, and 85 CIL Self-Build Exemptions.
- 4.11 At paragraph 8.34 the LHNA recommends that the five local authorities should seek to adopt general “encourage” policies *“for self-build and custom-build housing on smaller sites (+10 units) but also implement a further policy on strategic sites, where justified. The exact level should be determined in reference to the number and capacity of strategic sites and the overall local need. This should also consider the committed supply and viability”*.
- 4.12 This recommendation is also included within the key messages and recommendations on page 184 which concludes section 8 ‘housing needs of different groups’.
- 4.13 It does not provide any calculation or estimation of likely future demand for self-build and custom house building.

### **The Self-Build Register in Hertsmere Borough**

- 4.14 The Self-Build and Custom Housebuilding Act 2015 requires local authorities to keep a Register of households who wish to Self-Build or Custom Build in their administrative area. From 31 October 2016 amendments to the Act<sup>19</sup> placed further duties on local authorities requiring them to grant sufficient development permissions for serviced plots of land to meet the demand arising from their Self-Build Register.
- 4.15 Based upon data provided by the Council through their FOI response (**Appendix AM1**) in the period up to 26 January 2023, across Base Periods 1 to 8 there was a total demand for at least 80 serviced plots as illustrated by figure 4.1.

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<sup>19</sup> Through the Housing and Planning Act (2016)

Figure 4.1: Hertsmere Self-Build Register Based on FOI Response

Base Period	No. of Individuals	No. of Associations of Individuals	Long-stop date to Meet Demand
1 (1 April 2016 to 30 October 2016)	8	1 <sup>20</sup>	30 October 2019
2 (31 October 2016 to 30 October 2017)	4	0	30 October 2020
3 (31 October 2017 to 30 October 2018)	22	1 <sup>21</sup>	30 October 2021
4 (31 October 2018 to 30 October 2019)	11	1 <sup>22</sup>	30 October 2022
5 (31 October 2019 to 30 October 2020)	5	0	30 October 2023
6 (31 October 2020 to 30 October 2021)	18	1 <sup>23</sup>	30 October 2024
7 (31 October 2021 to 30 October 2022)	7	0	30 October 2025
8 (31 October 2022 to 30 October 2023)	1	0	30 October 2026
<b>Totals</b>	<b>76</b>	<b>4<sup>24</sup></b>	
	<b>80<sup>25</sup></b>		

Source: FOI Response (26 January 2023)

<sup>20</sup> Information not provided on number of members within association through FOI response.

<sup>21</sup> Information not provided on number of members within association through FOI response.

<sup>22</sup> Information not provided on number of members within association through FOI response.

<sup>23</sup> Information not provided on number of members within association through FOI response.

<sup>24</sup> Information not provided on number of members within associations through FOI response.

<sup>25</sup> Information not provided on number of members within associations through FOI response.

- 4.16 The numbers provided through the FOI response for Base Periods 1 to 6 do not however appear to tally with the Council's data returns to the Department for Levelling Up, Housing and Communities (DLUHC). Figure 4.2 sets out the register numbers taken from the Council's central government data returns.
- 4.17 Despite the DLUHC data returns covering two fewer Base Periods than the FOI response they cumulatively total 77 entries, albeit that as with eth FOI data it is not specified how many individuals there are within each of the five associations identified.
- 4.18 The Council's approach appears to be to measure statutory duty performance against a retrospectively revised Self-Build Register in respect of Base Periods 1, 2, 3 and 5.<sup>26</sup>

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<sup>26</sup> It is not clear why the Councils FoI response reports higher numbers of entries for Base Periods 4 and 6 compared to their central government data returns.

Figure 4.2.: Hertsmere Self-Build Register Based on DLUHC Data Returns

Base Period	No. of Individuals	No. of Associations of Individuals	Long-stop date to Meet Demand
1 (1 April 2016 to 30 October 2016)	11	1	30 October 2019
2 (31 October 2016 to 30 October 2017)	6	0	30 October 2020
3 (31 October 2017 to 30 October 2018)	23	1	30 October 2021
4 (31 October 2018 to 30 October 2019)	8	1	30 October 2022
5 (31 October 2019 to 30 October 2020)	7	1	30 October 2023
6 (31 October 2020 to 30 October 2021)	17	1	30 October 2024
<b>Totals</b>	<b>72</b>	<b>5</b>	
	<b>77</b>		

Source: DLUHC Right to Build Register Monitoring (6 May 2022)

- 4.19 This must be considered against the legislative framework set out in the 2015 Self-Build and Custom Housebuilding Act as amended by the 2016 Housing and Planning Act. Of particular importance is Section 2A(2) and 2A(6)(a).
- 4.20 At Section 2A(2) the amendments to the 2015 Act state that *“an authority to which this section applies must give suitable development permissions in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority’s area arising in each base period”* (emphasis added).
- 4.21 It goes on at Section 2A(6)(a) to states that *“the demand for self-build and custom housebuilding arising in an authority’s area in a base period is the demand as evidenced by the number of entries added during that period to the register”* (emphasis added).
- 4.22 The primary legislation is clear that performance against the statutory duty applies to the need arising within a Base Period and relates to the number of entries that were added during that Base Period – and not against a retrospectively revised Self-Build Register.
- 4.23 Although the Council’s Self-Build Register is an important tool to help gauge local demand and inform how many permissioned serviced plots need to be made available on a rolling basis each year by the Council, it cannot predict longer term demand for plots.

### **Secondary Data Sources**

- 4.24 In my opinion current practice has shown that local Self-Build Registers only provide a short-term supply-led picture because they rely upon people knowing about the Self-Build Register and then Registering their interest. I consider that the numbers on the Self-Build Register can therefore be a significant under-representation of latent demand.
- 4.25 In that context it is relevant to note that national survey data<sup>27</sup> has consistently revealed that 8 out of 10 people are unaware that Councils keep a Register of people interested in buying a development plot in the local area for a Self-Build and Custom Housebuilding project.
- 4.26 The Self-Build and Custom Housebuilding section of the PPG<sup>28</sup> explains that local authorities should use the demand data from the registers in their area, supported as

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<sup>27</sup> Ipsos Mori polls commissioned by NaCSBA 2014, 2016 and 2020

<sup>28</sup> Paragraph: 011 Reference ID: 57-011-20210208

necessary by additional data from secondary sources, to understand and consider future need for this type of housing in their area. It states that:

*“Secondary sources can include data from building plot search websites, enquiries for building plots recorded by local estate agents and surveys of local residents. Demand assessment tools can also be utilised.”*

- 4.27 Neither the SHMA (2016) or the LHNA (2020) consider secondary data sources to understand the future need for self-build and custom housebuilding is within Hertsmere.

#### Buildstore

- 4.28 The industry leading building plot search website is Plot-Search, operated by Buildstore. Information received from Buildstore (**Appendix AM6**) shows that in January 2023 within the Hertsmere Borough Council administrative area there were 262 registrants on their Custom Build Register who are wishing to create their own customisable home within the authority area and 823 Plot-Search subscribers, who are seeking to purchase a serviced plot in the district to build or commission their own home.
- 4.29 It is important to note that the Buildstore data is cross-referenced to remove duplications so cumulatively constitutes some 1,085 individuals currently seeking a serviced plot within the authority area.
- 4.30 At Ward level, the Buildstore data (**Appendix AM6**) found that in January 2023 there were 20 registrants on their Custom Build Register who are wishing to create their own customisable home within Bushey Park Ward and 98 Plot-Search subscribers who are seeking to purchase a serviced plot in the Ward to build or commission their own home. This results in a combined demand of 118 (11% of overall authority-wide demand).
- 4.31 Whilst I acknowledge that there are likely to be some people who are registered on more than one of the available plot search facilities and some of whom may also be on the Council’s own Self-Build Register, the figures on the Buildstore Plot-Search platform further illustrate that there is a substantial level of unmet demand within Hertsmere.

#### Ipsos Mori and NaCSBA Polling

- 4.32 Other data sources indicate that the actual demand for Self-Build and Custom Housebuilding development plots is higher than indicated by the Council’s Self-Build Register including Ipsos Mori statistics and ONS population estimates.

- 4.33 The Ipsos Mori statistics commissioned by NaCSBA have consistently shown<sup>29</sup> that 1 in 50 of the adult population want to purchase a Self-Build or Custom Build home.
- 4.34 When taking into account Hertsmere Boroughs adult population<sup>30</sup> (85,51431 based on ONS data) it is estimated that as many as 1,710 people may be interested in building their own home across the district in the foreseeable future

#### AMA Market Research

- 4.35 Data collected at a national level by AMA Market Research<sup>32</sup> indicates that self and custom build accounts for around 7-10% of housebuilding across the UK. Applying this 7-10% range to the housing need identified by the standard method for Hertsmere<sup>33</sup> would result in a need for between 51 to 72 self-build and custom housebuilding plots per annum.
- 4.36 When applying this range to the Core Strategy Plan period which runs from 2012 to 2027 this would result in an overall need for between 765 and 1,080 self-build and custom housebuilding plots over the 15-year period.
- 4.37 True demand for Self-Build and Custom Housebuilding across Hertsmere Borough can therefore be expected to be substantially higher than the numbers on the Council's own Self-Build Register suggests. In light of which, I consider that latent demand is actually substantially higher than currently recorded on the Council's own Self-Build Register.
- 4.38 The importance of secondary data sources was recognised by Inspector Mike Hayden in the 11 August 2020 appeal decision in relation to land at Pear Tree Lane, Euxton (CD-I19). In his report at paragraph 60, Inspector Hayden held that:

*“The PPG advises that data on registers can be supplemented from secondary data sources to obtain a robust assessment of demand. The Buildstore Custom Build Register, the largest national database of demand for self and custom build properties, has 185 people registered as looking to build in Chorley, with 699 subscribers to its PlotSearch service. Data from a national survey conducted by Ipsos Mori for the National Custom and Self-Build Association, when applied to Chorley's population, indicates that as many as 1,929 people may wish to purchase serviced plots in Chorley over the next 12 months”.*

<sup>29</sup> 2013, 2014, 2015, 2016 and 2020 surveys of 2,000 people aged 15+ with survey data weighted to the known population profile.

<sup>30</sup> Those aged 16 and over

<sup>31</sup> Based on ONS population estimates by local authority based by single year of age [extracted from NOMIS 27 February 2023]

<sup>32</sup> House of Commons Briefing Paper No. 06784 – Self-Build and Custom Build Housing (England)

<sup>33</sup> 724 dwellings per annum – based on 23 March 2022 affordability ratios.



4.39 Paragraph 60 concluded that:

*“They provide evidence of a greater level of demand for self-build than the Council’s register shows.”*

4.40 The relevance of the use of secondary data sources was also referred to in the June 2021 appeal decision relating to land off Bullen’s Green Lane, Colney Heath (CD-12) with Inspector Masters setting out at paragraph 50 of her decision how “the Planning Practice Guidance advises that local authorities should use the demand data from registers, supported by additional data from secondary sources, to understand and consider future need for this type of housing in their area.”

4.41 She went on at paragraph 51 to explain that “neither authority has an up-to-date assessment of likely future demand for this type of housing in line with the planning practice guidance” and that “the appellant provided detailed evidence in relation to the Custom Build Register, none of which was disputed”.

4.42 In setting out how the two relevant authorities had not met their statutory duty, Inspector Masters found at paragraph 51 that *“taking into account other secondary data sources, these shortfalls may well be on the conservative side”*.

#### **Conclusions on Self-Build and Custom Housebuilding Demand in Hertsmere**

4.43 There are at least 76 individuals and at least four associations<sup>34</sup> of individuals on the Self-Build Register across Base Periods 1 to 8. Although the Council’s Self-Build Register is an important tool to help gauge local demand and inform how many permissioned serviced plots need to be made available on a rolling basis each year by the Council, it cannot predict longer term demand for plots.

4.44 In my opinion current practice has shown that local Self-Build Registers only provide a short-term supply-led picture because they rely upon people knowing about the Self-Build Register and then Registering their interest. I consider that the numbers on the Self-Build Register can therefore be a significant under-representation of latent demand.

4.45 Secondary data sources, such as Buildstore’s Plot-Search and Custom Build Register platforms illustrate a demand for at least 1,085 plots in Hertsmere, of which 118 were in Bushey Park Ward.

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<sup>34</sup> Information not provided on number of members within associations through FOI response.

- 4.46 Other secondary data sources indicate that as many as 1,710 people may be interested in building their own home in the foreseeable future and that annual needs could fall in the range of 51 to 72 plots per annum.
- 4.47 The importance of secondary data sources was recognised by Inspector Hayden in the Pear Tree Lane decision (CD-I19) and Inspector Masters in the Bullen's Green lane, Colney Heath decision (CD-I2).
- 4.48 True demand for Self-Build and Custom Housebuilding can therefore be expected to lie between at least 76 individuals and four associations<sup>35</sup> of individuals currently registered on the Council's Self-Build Register,<sup>36</sup> the 1,085 plots through the Buildstore data, the 785-1,080 plots over the 15 year Core Strategy Plan period when AMA Market Research is used as a proxy, and as many as 1,710 people when using national survey data<sup>37</sup> as a proxy.
- 4.49 The appellant recognises that there is a substantial level of unmet need for this tenure of housing in Hertsmere. The importance placed upon the provision of Self-Build and Custom Housebuilding plots by statute and by both the NPPF and the PPG has also been recognised by the appellant, as have the recommendations of the 'Bacon Review' and the direction of travel with the proposed amendments to the 2015 Self-Build and Custom Housebuilding Act (as amended) through the LURB.

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<sup>35</sup> Information not provided on number of members within associations through FOI response.

<sup>36</sup> The market leading building plot search website in line with the provisions of the PPG

<sup>37</sup> Based on ONS population estimates by local authority based by single year of age [extracted from NOMIS 27 February 2023]

# Self-Build and Custom Housebuilding Supply in Hertsmere Borough

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## Section 5

### **Past Delivery of Self-Build and Custom Housebuilding in Hertsmere Borough**

- 5.1 The Self-Build and Custom Housebuilding Act (as amended) and the PPG require the Council to grant sufficient suitable development permissions for plots to meet the demand for Self-Build and Custom Housebuilding in their administrative area, noting that the level of demand is established by reference to the number of entries added to an authority's Self-Build Register during a Base Period.
- 5.2 Local Authorities were required to hold a Self-Build Register from 1 April 2016. The first Base Period begins on the day on which the Self-Build Register is established and ends on 30 October, with subsequent Base Periods running from 31 October one year to 30 October the next year.
- 5.3 At the end of each Base Period, relevant authorities have three years in which to permission an equivalent number of plots of land, which are suitable for Self-Build and Custom Housebuilding and meet the definitions set out in the Act, as there are entries for that Base Period.

### Hertsmere Boroughs Position

- 5.4 Data provided through an FOI request (**Appendix AM1**) request to the Council shows that the Council's position is that it considers it has consented suitable development permissions as follows:
- 15 permissions towards Base Period 1 demand;
  - 29 permissions towards Base Period 2 demand;
  - 36 permissions towards Base Period 3 demand;
  - 33 permissions towards Base Period 4 demand;
  - 44 permissions towards Base Period 5 demand;
  - 50 permissions towards Base Period 6 demand;

- 30 permissions towards Base Period 7 demand; and
- 7 permissions towards Base Period 8 demand.

5.5 If the Councils position were to be taken at face value without any further interrogation of the data then the result would be as shown in figure 5.1.

Figure 5.1: Hertsmere Self-Build Register Statutory Duty Performance - The Councils Position

Base Period	No. of Individuals	No. of Associations of Individuals	Long-stop date to Meet Demand	Permissions Granted	Base Period Shortfall/Surplus	Cumulative Shortfall/Surplus
1 (1 April 2016 to 30 October 2016)	8	1 <sup>38</sup>	30 October 2019	15	+6	+6
2 (31 October 2016 to 30 October 2017)	4	0	30 October 2020	29	+25	+31
3 (31 October 2017 to 30 October 2018)	22	1 <sup>39</sup>	30 October 2021	36	+13	+44
4 (31 October 2018 to 30 October 2019)	11	1 <sup>40</sup>	30 October 2022	33	+19	+63
5 (31 October 2019 to 30 October 2020)	5	0	30 October 2023	44	+39	+102
6 (31 October 2020 to 30 October 2021)	18	1 <sup>41</sup>	30 October 2024	50	+31	+133
7 (31 October 2021 to 30 October 2022)	7	0	30 October 2025	30	+23	+156
8 (31 October 2022 to 30 October 2023)	1	0	30 October 2026	7	+6	+162
<b>Totals</b>	<b>76</b>	<b>4<sup>42</sup></b>		<b>244</b>	<b>+162</b>	
	<b>80<sup>43</sup></b>					

Source: FOI Response (26 January 2023) and DLUCH Right to Build Register Monitoring (6 May 2022)

<sup>38</sup> Information not provided on number of members within association through FOI response.

<sup>39</sup> Information not provided on number of members within association through FOI response.

<sup>40</sup> Information not provided on number of members within association through FOI response.

<sup>41</sup> Information not provided on number of members within association through FOI response.

<sup>42</sup> Information not provided on number of members within associations through FOI response.

<sup>43</sup> Information not provided on number of members within associations through FOI response.

5.6 Although figure 5.1 suggests that the Council has met its statutory duty by a considerable margin, the permissions that the Council rely upon must be interrogated for evidence that they do in fact constitute self-build or custom housebuilding. I undertake this exercise under the heading of 'the appellants position' below and in **Appendix AM7**.

5.7 The FOI response from the Council provides two data sets. The first data set includes the number of CIL Form 7 Part 1's and the second dataset include the number of CIL Form 7 Part 2's.

#### The Appellants Position

5.8 As part of my analysis, I have undertaken a review of all the permissions that the Council seeks to include against the criteria set out at paragraph 038 of the Self-Build and Custom Housebuilding Section of the PPG for both data sets.

5.9 The examples cited within the PPG as to what may constitute a suitable development permission that such an assessment should be measured against are:

- Whether developers have identified that self-build or custom build plots will be included as part of their development and it is clear that the initial owner of the homes will have primary input into its final design and layout;
- Whether a planning application references self-build or custom build and it is clear that the initial owner of the homes will have primary input into its final design and layout; and
- Whether a Community Infrastructure Levy or Section 106 exemption has been granted for a particular development.
- A relevant authority must be satisfied that development permissions being counted meet the legislative requirements.

5.10 In addition to the PPG paragraph 038 measures outlined above, I have also considered whether a condition has been attached to secure the provision of self-build and custom housebuilding plots and the stage of the CIL self-build exemption that the application has progressed to.

5.11 Figure 5.2 illustrates the Councils performance against the statutory duty when the permissions it relies upon are assessed against paragraph 038 of the PPG and assessment of whether there is a condition to secure as self-build and custom housebuilding.

- 5.12 **Appendix AM7** provides analysis of all the permissions that the Council sets out in its FOI response as counting towards addressing the statutory duty. A sizeable number of these cannot be counted as they fail the Self-Build and Custom Housebuilding (Time for Compliance and Fess) Regulations (2016) tests due to the date of consent, and others have been removed for double counting and/or invalid application references.
- 5.13 Cross referencing the data sets provided in FOI by the Council results in the following position:
- A total of 86 plots towards Base Period 1 demand;
  - A total of 26 plots towards Base Period 2 demand;
  - A total of 31 plots towards Base Period 3 demand;
  - A total of 17 plots towards Base Period 4 demand; and
  - A total of 2 plots towards Base Period 5 demand.
- 5.14 However, the situation is considerably more nuanced than the headline figures suggest. This is because my assessment of the 162 plots listed above found that for 82 of these – equivalent to 51% - the only ‘evidence’ is CIL Form 7 Part 1. There is no other evidence in the application material that the permission is for self-build and custom housebuilding.
- 5.15 In the context of statutory duty performance, it is particularly relevant to be aware that the fact that the CIL Regulations do not correlate with the Self-Build and Custom Housebuilding legislation or the provisions of the self-build and custom housebuilding section of the PPG.
- 5.16 For example, landowner ‘A’ could obtain full planning permission for a single dwelling on a parcel of land and then sell the land with planning permission to purchaser ‘B’. This purchaser ‘B’ is then able to build, or commission someone to build on their behalf, the house that has the benefit of planning permission (which they had played no part in obtaining) and apply for the CIL Self-Build Exemption.
- 5.17 However, when one considers this against the definition of a self or custom-builder at Section (1)(A2) of the 2015 Act (as amended) it is clear that:
- “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”*



5.18 The PPG provides further guidance on this<sup>44</sup> where it states that:

*“In considering whether a home is a self-build or custom build homes, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout.*

*Off-plan housing, homes purchased at the plan stage prior to construction and without input into design and layout from the buyer, are not considered to meet the definition of self-build and custom housebuilding.”*

5.19 There is considerable uncertainty therefore as to the robustness of counting CIL self-build exemptions without further interrogation of the data, particularly when only monitoring CIL Form 7 Part 1. This illustrates why the reliance upon CIL exemptions as a proxy for self-build supply without any further interrogation of the dataset is fundamentally flawed.

5.20 The relevance of the lack of robustness in reliance upon CIL forms as a proxy for actual supply of self-build and custom housebuilding has been considered in the appeal decision (**CD-I19**) at Pear Tree Lane, Euxton where Inspector Hayden found that in the context of the CIL self-build exemption, *“evidence for the period 2016-2019 shows that only around 30% of such developments in Chorley have ultimately qualified for self-build exemption, which indicates that CIL self-build exemption applications are not a reliable proxy for the actual level of self-build supply”*.

5.21 CIL exemption forms were also subject to consideration in the Corner Mead, Droitwich Spa decision (**CD-I20**) where the Inspector found that:

*“I do not consider the evidence provided by the Council is sufficiently reliable for me to conclude that the Council has met its duty under Section 2A. To my mind, some further analysis of the raw data is necessary...it is not sufficient to rely on CIL exemption forms without this type of further analysis, which is lacking in the Council’s evidence. I conclude that the Council has not satisfactorily demonstrated that it has granted enough permissions for serviced plots to meet the demand for self-build and custom build plots in the first base period.”*

5.22 The information provided by the Council in respect of CIL exemptions through their FOI response shows that of the 180 CIL Form 7 Part 1’s the Council rely upon, only 68 have progressed through to CIL Form 7 Part 2 – equivalent to a 38% conversion rate.

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<sup>44</sup> Paragraph: 016 Reference ID: 57-016-20210208

- 5.23 In line with the findings of the Inspector in the Pear Tree Lane appeal decision, this highlights the unreliability of CIL self-build exemptions as a proxy for the actual supply of self-build and custom housebuilding permissions. Particularly those secured by legal agreement to ensure compliance with the legislative definitions in the 2015 Act (as amended).
- 5.24 When the sites where the only 'evidence' is CIL Form 7 Part 1 are removed from supply - given the unreliability of this as a mechanism for measuring permissions - then the result would be:
- A total of 46 plots towards Base Period 1 demand;
  - A total of 9 plots towards Base Period 2 demand;
  - A total of 13 plots towards Base Period 3 demand;
  - A total of 6 plots towards Base Period 4 demand; and
  - No plots towards Base Period 5 demand.
- 5.25 Figure 5.2 illustrates the position in respect of statutory duty performance when these supply figures are measured against register demand and shows that although the duty was met for Base Periods 1 and 2, there was a within Base Period shortfall for both Base Periods 3 and 4 and a pending within Base Period shortfall for Base Period 5.

Figure 5.2: Hertsmere Self-Build Register Statutory Duty Performance – When ‘CIL Form 7 Part 1 Only’ permissions are removed from supply

Base Period	No. of Individuals	No. of Associations of Individuals	Long-stop date to Meet Demand	Permissions Granted <sup>45</sup>	Base Period Shortfall/Surplus	Cumulative Shortfall/Surplus
1 (1 April 2016 to 30 October 2016)	8	1 <sup>46</sup>	30 October 2019	46	+37	+37
2 (31 October 2016 to 30 October 2017)	4	0	30 October 2020	9	+5	+42
3 (31 October 2017 to 30 October 2018)	22	1 <sup>47</sup>	30 October 2021	13	-10	+32
4 (31 October 2018 to 30 October 2019)	11	1 <sup>48</sup>	30 October 2022	6	-6	+26
5 (31 October 2019 to 30 October 2020)	5	0	30 October 2023	0	-5	+21
6 (31 October 2020 to 30 October 2021)	18	1 <sup>49</sup>	30 October 2024	0	-19	+2
7 (31 October 2021 to 30 October 2022)	7	0	30 October 2025	0	-7	-5
8 (31 October 2022 to 30 October 2023)	1	0	30 October 2026	0	-1	-6
<b>Totals</b>	<b>76</b>	<b>4<sup>50</sup></b>		<b>74</b>	<b>-6</b>	
	<b>80<sup>51</sup></b>					

Source: FOI Response (26 January 2023); <https://www.hertsmere.gov.uk/Planning--Building-Control/Planning-Applications/Search-and-comment-on-planning-applications.aspx> [accessed 28/02/2023]

<sup>45</sup> That contain evidence within the application material and/or have achieved CIL Form 7 Part 1 and Part 2

<sup>46</sup> Information not provided on number of members within association through FOI response.

<sup>47</sup> Information not provided on number of members within association through FOI response.

<sup>48</sup> Information not provided on number of members within association through FOI response.

<sup>49</sup> Information not provided on number of members within association through FOI response.

<sup>50</sup> Information not provided on number of members within associations through FOI response.

<sup>51</sup> Information not provided on number of members within associations through FOI response.

- 5.26 In Hertsmere however there are also a considerable number of applications the Council rely upon where whilst CIL for 7 Part 1 and Part 2 have been achieved, there is no evidence in the application materials that they are self-build and custom housebuilding in line with the legislative definitions.
- 5.27 As highlighted earlier within this section, the CIL Amendment Regulations do not correlate with the Self-Build and Custom Housebuilding legislation or the provisions of the self-build and custom housebuilding section of the PPG.
- 5.28 Resultantly it is entirely possible that all of those applications whereby CIL Form 7 Part 2 has been achieved which contain no evidence within the application submission that they are for self-build and custom housebuilding do not actually meet the legislative definitions contained within the Act. There is no evidence contained within them that they do so.
- 5.29 Therefore, it is appropriate to remove all sites that have achieved CIL Form 7 Part 1 and Part 2 from supply where there is no other evidence within the application material that they actually constitute self-build and custom housebuilding in line with the legislative definitions.
- 5.30 When only sites in supply which have either of the following combinations are counted, then the result in respect of statutory duty performance is show at figure 5.3:
- Form 7 Part 1 and there is evidence within the application material that the applicant has had primary input into design and layout; or
  - Form 7 Part 1 and Part 2 and there is evidence within the application material that the applicant has had primary input into design and layout.
- 5.31 Figure 5.3 illustrates the position in respect of statutory duty performance when these legislative compliant supply figures are measured against register demand and shows that although the duty was met for Base Period 1, there was a within Base Period shortfall for Base Periods 2, 3 and 4 and a pending within Base Period shortfall for Base Period 5.
- 5.32 Even when the overprovision from Base Period 1 is carried forward towards addressing demand from the later Base Periods, there is still a cumulative shortfall of 16 plots which must be addressed by the 30 October 2023. The appeal proposals would address this in full.

Figure 5.3: Hertsmere Self-Build Register Statutory Duty Performance – When only applications which contain evidence as well as CIL form 7 Part 1 and/or Part 2 are included in supply

Base Period	No. of Individuals	No. of Associations of Individuals	Long-stop date to Meet Demand	Permissions Granted <sup>52</sup>	Base Period Shortfall/Surplus	Cumulative Shortfall/Surplus
1 (1 April 2016 to 30 October 2016)	8	1 <sup>53</sup>	30 October 2019	17	+8	+8
2 (31 October 2016 to 30 October 2017)	4	0	30 October 2020	3	-1	+7
3 (31 October 2017 to 30 October 2018)	22	1 <sup>54</sup>	30 October 2021	10	-13	-6
4 (31 October 2018 to 30 October 2019)	11	1 <sup>55</sup>	30 October 2022	6	-5	-11
5 (31 October 2019 to 30 October 2020)	5	0	30 October 2023	0	-5	-16
6 (31 October 2020 to 30 October 2021)	18	1 <sup>56</sup>	30 October 2024	0	-19	-35
7 (31 October 2021 to 30 October 2022)	7	0	30 October 2025	0	-7	-42
8 (31 October 2022 to 30 October 2023)	1	0	30 October 2026	0	-1	-43
<b>Totals</b>	<b>76</b>	<b>4<sup>57</sup></b>		<b>36</b>	<b>-43</b>	
	<b>80<sup>58</sup></b>					

Source: FOI Response (26 January 2023); <https://www.hertsmere.gov.uk/Planning--Building-Control/Planning-Applications/Search-and-comment-on-planning-applications.aspx> [accessed 28/02/2023]

<sup>52</sup> That contain evidence within the application material and have achieved CIL Form 7 Part 1 and/or Part 2

<sup>53</sup> Information not provided on number of members within association through FOI response.

<sup>54</sup> Information not provided on number of members within association through FOI response.

<sup>55</sup> Information not provided on number of members within association through FOI response.

<sup>56</sup> Information not provided on number of members within association through FOI response.

<sup>57</sup> Information not provided on number of members within associations through FOI response.

<sup>58</sup> Information not provided on number of members within associations through FOI response.

### **Future Delivery of Self-Build and Custom Housebuilding Plots in Hertsmere**

- 5.33 The adopted Development Plan does not contain any policies for the provision of self-build and custom housebuilding.
- 5.34 Full Council agreed in April 2022 to set aside the emerging Regulation 18 Local Plan and consequently there are no emerging policies for the provision of self-build and custom housebuilding.
- 5.35 The future supply of self-build and custom housebuilding in Hertsmere appears highly uncertain without sites such as the appeal site making provision for serviced plots secured by legal agreement.

### **Conclusions on Self-Build and Custom Housebuilding Supply in Hertsmere**

- 5.36 The Council places undue reliance upon CIL exemptions without further interrogation of the data. Previous appeal decisions have highlighted the lack of robustness to such an approach and that CIL forms are not a reliable proxy for actual delivery of self-build and custom housebuilding.
- 5.37 When the data is interrogated for the permissions that the Council rely upon, only 38 of the permissions the Council rely upon contain any evidence other than a CIL Form that the application will be for self and custom build.
- 5.38 Resultantly, the Council has failed its statutory duty to meet Register demand for Base Periods 3 and 4 and it appears likely to fail in its duty for Base Period 5, which would result in a current cumulative shortfall of 16 plots
- 5.39 There are no adopted or emerging Local Plan policies for the provision of self-build and custom housebuilding and the future supply of self-build and custom housebuilding in Hertsmere appears highly uncertain without sites such as the appeal site making provision for serviced plots secured by legal agreement.
- 5.40 What is abundantly clear is that the Council need to take urgent action now to address unmet identified demand. Serviced plots secured by legal agreement – such as those proposed by the appeal scheme – are required to address both current and future demand.

# Weight to be Attributed to the Provision of Self-Build and Custom Housebuilding Plots

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## Section 6

### Introduction

- 6.1 The Government attaches weight to achieving the objective of significantly boosting the supply of homes. The NPPF 2021 is clear at paragraph 60 that in order to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward and that the needs of groups with specific housing requirements are addressed.
- 6.2 Paragraph 61 of the NPPF sets out that in order to determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment. It goes on at paragraph 62 to detail that the type of housing needed for different groups in the community should be assessed and reflected in planning policy, including for people who wish to commission or build their own homes.
- 6.3 Neither the 2016 SHMA or the 2020 South West Hertfordshire LHNA contain any consideration of likely future need for self-build and custom housebuilding within the district or Parish.
- 6.4 The Self-Build Register entries provided through FOI response do not tally with the Council's data returns to DLUHC. There are at least 76 individuals and at least four associations of individuals on the Self-Build Register across Base Periods 1 to 8.
- 6.5 However, in my opinion current practice has shown that local Self-Build Registers only provide a short-term supply-led picture because they rely upon people knowing about the Self-Build Register and then Registering their interest. I consider that the numbers on the Self-Build Register can therefore be a significant under-representation of latent demand.
- 6.6 Secondary data sources, such as Buildstore's Plot-Search and Custom Build Register platforms illustrate a demand for at least 1,085 serviced plots in Hertsmere in January 2023.



- 6.7 At Ward level, the Buildstore data (**Appendix AM6**) found that in January 2023 there were 20 registrants on their Custom Build Register who are wishing to create their own customisable home within Bushey Park Ward and 98 Plot-Search subscribers who are seeking to purchase a serviced plot in the Ward to build or commission their own home. This results in a combined demand of 118 (11% of overall authority-wide demand).
- 6.8 Other secondary data sources indicate that as many as 1,710 people may be interested in building their own home in the foreseeable future and that annual needs could fall in the range of 51 to 72 plots per annum.
- 6.9 The Council has no adopted Development Plan policy for the provision of self-build and custom housebuilding, nor does it have any emerging Plan policy position or timeframe for such a policy either given that Council agreed in April 2022 to set aside the emerging Regulation 18 Local Plan - consequently there are no emerging policies for the provision of self-build and custom housebuilding.
- 6.10 In the absence of any adopted specific policy target's, specific monitoring indicator's or clear strategy to address the existing shortfall in delivery of Self-Build and Custom Build homes, it is unclear how Hertsmere Council intends to address ongoing demand as well as meet the existing shortfall without sites such as the appeal site
- 6.11 The appellant recognises that there is a substantial level of unmet need for this tenure of housing in Hertsmere and that urgent action is required to meet the scale of demand identified.

#### **Committee Report – 23 February 2023 – CD-C1**

- 6.12 In undertaking the planning balance exercise at section 7.15, the Committee Report sets out what the applicant considers are the benefits of the scheme, which includes *“the provision of self-build plots where there is currently no adopted policy to secure this in Hertsmere.”*
- 6.13 At paragraph 7.15.8 the Committee Report states that:  
  
*“The provision of self-build plots is a noted benefit of the application, particularly given that the Local Plan does not currently have any policies for the delivery of self-build housing. This benefit would therefore carry significant weight.”*
- 6.14 The Committee Report then goes on at paragraph 7.15.16 to combine all the benefits under a single weighting of significant to very significant weight and takes the view that this does not outweigh the substantial weight caused by harm to the Green Belt and

concludes that there are therefore no Very Special Circumstances that would justify the grant of permissions.

- 6.15 The Committee Report provides no consideration of unmet Register demand, nor does it provide any consideration of demand demonstrated by secondary data sources.
- 6.16 It is therefore unclear on what basis the report draws the conclusion that significant weight should be attributed to the provision of 10 serviced plots other than the Council not having any adopted policy position.
- 6.17 Although acknowledging that the Officer awarded the provision of serviced plots significant weight, I consider that this is insufficient weight and that the provision of serviced plots from the appeal site instead warrants substantial weight in the planning balance.

### **The Weight to be Afforded to the Proposed Self-Build and Custom Housebuilding Plots**

- 6.18 The importance of Self-Build and Custom Housebuilding as a material consideration has been reflected in a number of Secretary of State and appeal decisions. Of particular interest is the amount of weight which has been afforded to the provision of Self-Build and Custom Housebuilding plots relative to other material considerations. Brief summaries of relevant appeals are outlined below.

#### ***Appeal Decision: Land east of Park Lane, Coalpit Heath, South Gloucestershire (6 September 2018) – CD-I21***

- 6.19 The Inspector found at paragraph 61 of his report that:

*“There are three different components of the housing that would be delivered: market housing, affordable housing (AH) and Custom-Build housing (CBH). They are all important and substantial weight should be attached to each component” (emphasis added).*

- 6.20 Furthermore, the Inspector was clear in his decision that:

*“The fact that the much needed AH and CBH are elements that are no more than required by policy is irrelevant – they would still comprise significant social benefits that merit substantial weight” (emphasis added).*

- 6.21 Notably, substantial weight was awarded to the provision of serviced plots despite the Council having not failed their statutory duty at that time.

**Appeal Decision: Land off Hepworth Road, Woodville (25 June 2019) – CD-122**

- 6.22 The Inspector set out at paragraph 22 of his report that *“the Council confirms that as at April 2019, there are 54 individuals on the Council’s Self-Build and Custom Housebuilding Register and that as of April 2019, it has permitted 4 plots in the period since 31 October 2016. Since 31 October 2016, the Council has permitted an additional 133 single plot dwellings which have been distributed across the District. However, the Council has not provided any information to suggest that there are provisions in place to ensure that any of the 133 single dwelling permissions would be developed in a manner that accords with the legal definition of self-build and custom housebuilding in the Self-Build and Custom Housebuilding Act 2015 (as amended).”*
- 6.23 He went on at paragraph 23 to consider that:
- “To my mind this raises considerable doubts as to whether any of the single dwelling permissions would count towards the number of planning permissions the Council has granted for serviced plots and thus whether these consents would actually contribute towards the delivery of self-build and custom housebuilding in the District. Importantly, the S.106 Agreement submitted with the appeal proposal contains provisions to ensure that the proposed dwellings on the appeal site would meet the definition of self-build and custom housebuilding. There is no evidence before me of a similar mechanism which would secure the delivery of self-build and custom housebuilding on the plots referred to in Appendix 3 of the Council’s Statement. I consider it would be unreasonable to include any of the single dwelling permissions within the calculation of self-build and custom housebuilding permissions granted in the District.”*
- 6.24 Paragraph 24 explained that *“the Council refers to the Buildstore.co.uk website which was, at March 2019, advertising 9 self-build plots sites as being available within the District and that all of these have been granted planning permission since 31 October 2016. However, one of these (17/01860/FUL) is also listed in Figure 4 of the Council’s Statement of Case as an approved self-build site. From the evidence that is before me none of the 8 remaining sites is subject to a planning condition or a planning obligation requiring a self-build or custom-build house to be built on the site that accords with the statutory definition.”*
- 6.25 He went on at paragraph 25 to find that *“it is only the 4 plots listed in Figure 4 of the Council’s Statement of Case that appear to comply with the definition of self-build and custom housebuilding in the Self-Build and Custom Housebuilding 2015 (as amended). It follows that the Council has not yet granted planning permission for enough serviced plots to meet the demand arising for Base Period 1 let alone any of*

*the subsequent Base Periods (2, 3 and 4). Although the Council maintains it is already making progress towards granting planning permission for enough serviced plots to meet the demand arising in Base Period 1, the Council has provided no information to suggest that there are any applications pending determination for serviced plots in the District at present.”*

- 6.26 Addressing the statutory requirement to meet demand arising from Base Period 1, the Inspector reported that *“the deadline for granting planning permission for enough serviced plots to meet the demand arising for Base Period 1 is 30 October 2019. As such there remains a residual requirement to grant consent for at least 5 serviced plots by 30 October 2019. Consequently, the ability of the appeal proposal to address the unmet demand for serviced plots that arose in Base Period 1, Base Period 2 and part of Base Period 3, in a comprehensively planned manner, is a material consideration that weighs strongly in favour of the appeal proposal. The appeal proposal would meet the majority of the current demand by delivering 30 serviced self-build or custom-build plots and this would accord with advice in paragraphs 59 and 61 of the NPPF and other Government guidance.”*
- 6.27 He accepted at paragraph 27 that *“the NPPG on Self-Build and Custom Housebuilding states that relevant authorities could include policies in their local plans for self and custom housebuilding, but this is not a requirement. It also states that relevant authorities could seek to meet demand by engaging with landowners who own sites that are suitable for housing. The only requirement is that the Council has a duty to grant planning permission for enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area.”*
- 6.28 Paragraph 28 is clear that *“the Council is required by the provisions in Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended) to grant planning permission for enough serviced plots of land to meet the demand for self-build and custom housebuilding in the District which arises in each Base Period. I consider the appeal proposal is necessary to enable the Council to meet its statutory obligations with respect to the duty under Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended), given that there appears to be an inadequate supply of serviced plots coming forward for development in the District.”*
- 6.29 In weighing matters in the planning balance, at paragraph 47 he concluded that *“I attach substantial weight in terms of the economic benefits that would arise from the provision of 30 dwellings in Woodville. The new residents that would live in these homes are likely to use and support local services, local facilities and local businesses.*

*Therefore, the proposal is likely to make a positive contribution to the local economy. The development of each property should create opportunities for local builders, tradesmen and builder’s merchants. This has the potential to create local employment and training opportunities” (emphasis added).*

6.30 Furthermore, paragraph 48 found that:

*“The appeal proposal does not represent unnecessary development because it would greatly assist NWLDC to meet its statutory obligations with respect to providing serviced plots for self-build and custom-build housing. This would ensure that the proposed development plays a major role in meeting an evidenced housing need in North West Leicestershire. Moreover, the mix of housing types that come forward on the site would respond to the needs of local residents in accordance with Policy H6 of the LP and paragraph 59 of the NPPF. The overall layout of the site has been designed to ensure that a high standard of amenity can be provided for existing and future residents in line with Policy D2 and paragraph 127f of the NPPF. This comprises a substantial social benefit” (emphasis added).*

6.31 Notably, in this case too substantial weight was awarded to the provision of serviced plots despite the Council having not failed their statutory duty at that time.

**Secretary of State Decision: Land off Darnhall School Lane, Winsford, Cheshire (4 November 2019) – CD-I23**

6.32 Whilst I acknowledge that despite the Inspectors recommendation to approve the appeal, the Secretary of State dismissed it, it is of relevance to consider the weight attributed to self-build by both the Inspector and the Secretary of State.

6.33 At paragraph 412 of the Inspectors report, they stated that:

6.34 *“The self-build plots would help meet the governments objective expressed in the Housing White Paper and now included in the revised Framework, to support the growth of self and custom build homes. Whilst maintaining a register of those seeking to acquire serviced plots under Section 1 of the Self-Build and Custom Housebuilding Act 2015, to date there are no specific development permissions in CW&C to meet the identified demand. As identified through the Council’s self-build register that amounts to 309 households. In Xx the Council confirmed that it did not know how many self-build plots it had granted planning permissions for during the plan period. The extent to which the Council has supplemented this data with secondary information, as recommended by the Framework, was also not clear but despite Build Store’s database identifying 443 registrants within ten miles of the appeal site, the Council*

*maintained that there is no demand at all in Winsford for such housing on a large scale.”*

6.35 He went on at paragraph 413 to explain that:

*“I do not share the Council’s pessimism about the need for self and custom build housing at Winsford. Its stance is largely based on conjecture rather than hard evidence and I also note that despite government advice, emerging Policy DM20 of the CW&CLP P2 sets no targets for self and custom-build housing nor allocates any specific sites. The twenty-six plots on adjacent Peacock Avenue, which were developed in such a way some years ago, suggests that such a development can be achieved at Winsford in the right circumstances.”*

6.36 At paragraph 414 the Inspector found that:

*“The self-build element would carry some social benefits in helping to respond to the needs of a particular group, identified by the SHMA and the Government, who wish to build their own homes...I consider that the self-build element of the scheme should attract substantial weight” (emphasis added).*

6.37 The Secretary of State agreed with the Inspector at paragraph 28 of their decision letter where they stated that:

*“The social benefits of the provision of the self-build element of the scheme should attract substantial weight” (emphasis added).*

**Appeal Decision: Corner Mead, Newland Lane, Droitwich Spa (13 July 2020) – CD-I20**

6.38 The Inspector found at paragraph 31 that *“the Council has not satisfactorily demonstrated that it has granted enough permissions for serviced plots to meet the demand for self-build and custom build plots in the first base period.”*

6.39 In undertaking the planning balance at paragraph 51, the Inspector considered that:

*“While there is no dispute that the Council can demonstrate a 5-year supply of housing land, I consider that the Development Plan is out-of-date in respect of self-build housing....*

*...In view of the importance attached to provision for self-build housing in the NPPF and PPG I do not accept the Council’s view that it should be treated simply as a component of general market housing. The tilted balance is therefore engaged in this case.”*



6.40 Finally, at paragraph 52 the Inspector set out that *“the proposed development would make a significant contribution to the supply of sites for self-build housing in Wychavon in accordance with section 5 of the NPPF and the associated PPG. There would be an economic benefit during construction and from on-going support for local facilities, and significant social benefit in terms of the diversity of housing type which would contribute towards meeting the Council’s duty under the 2015 Act. I attach substantial weight to this benefit”* (emphasis added).

**Appeal Decision: Land at Church Lane, Whittington (20 November 2020) – CD-I24**

6.41 At paragraph four the Inspector found that for the second base period there was a significant undersupply and that *“consequently, and notwithstanding the existence of a five-year housing land supply more generally, the significant undersupply of self-build housing in the second Base Period carries substantial weight in favour of the proposal in helping to meet statutory requirements”* (emphasis added).

6.42 They also recognised at paragraph five that *“the self-build nature of the proposal has been appropriately secured by the executed Unilateral Undertaking submitted by the appellant”* which they considered met the three tests in the NPPF and Regulations 122(2) of the Community Infrastructure Levy Regulations 2010 (emphasis added).

6.43 In drawing together their conclusions at paragraph 10, the Inspector set out that although *“the proposal would not be in an appropriate location, conflicting with Policies SWDP1, SWDP2 and SWDP21 of the SWDP, as these policies seek to protect the countryside and significant gaps from urbanising development. However, I have identified an undersupply of self-build housing, and the policy objectives under paragraph 61 of the Framework, as a material consideration carrying substantial weight in favour of the proposal that outweighs the limited harm from conflict with the development plan in this particular case”* (emphasis added).

**Appeal Decision: Land behind 31-33 The Causeway, Steventon (28 May 2021) – CD-I25**

6.44 Inspector McGlone found at paragraph 24 that the Council *“has not granted enough suitable planning permissions to address the demand arising from the first two base periods (70 and 109 entries respectively) which was to be met by 30 October in 2019 and 2020.”*

6.45 At paragraph 26 the Inspector set out that *“the proposal would help meet the demand arising from the third base period (80 entries). As of 24 February 2021, the Council*



*had granted 7 suitable planning permissions” and that “the proposed provision would be of a substantial benefit given the period of time left for the Council to meet the demand for the third base period.”*

6.46 He went on to explain at paragraph 28 that:

*“Approaches to unmet demand, which is a relevant consideration, have been considered in several appeal decisions. If I were to take unmet demand into account, the scale of the proposal would not change the substantial weight that I have set out above, nevertheless, the position would only confirm my opinion about the weight that I have given to the provision of this type of housing” (emphasis added).*

6.47 In undertaking the planning balance, Mr McGlone found at paragraph 47 that:

*“The provision of self-build and custom-build houses would be a public benefit as they would help the Council meet its duty, help address the established demand for this type of house and widen the type and size of housing in the area. These are substantial social benefits. The S106 would secure the provision of the self-build or custom-build houses and satisfy the relevant tests. Future occupiers would be likely to use and support local services, local facilities and local businesses. Consequently, the proposal would make a positive contribution to the local economy. The development of each house should also create opportunities for local builders, tradesmen and builders merchants leading to local employment opportunities” (emphasis added).*

**Appeal Decision: Land off Bullen’s Green Lane, Colney Heath (14 June 2021) – CD-I2**

6.48 Inspector Masters in her 14 June 2021 decision<sup>59</sup> to allow 100 dwellings in the Green Belt (10% of which were self-build plots) at Colney Heath.

6.49 At paragraph 50 of her decision, she set out at paragraph 50 of her decision how *“the Planning Practice Guidance advises that local authorities should use the demand data from registers, supported by additional data from secondary sources, to understand and consider future need for this type of housing in their area.”*

6.50 Inspector Masters went on at paragraph 51 to explain that *“neither authority has an up to date assessment of likely future demand for this type of housing in line with the planning practice guidance”* and that *“the appellant provided detailed evidence in relation to the Custom Build Register, none of which was disputed”*.

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<sup>59</sup> APP/B1930/W/20/3265925 and APP/C1950/W/20/3265926

- 6.51 She discussed how the authorities in that case had not met their statutory duty and stated that *“taking into account other secondary data sources, these shortfalls may well be on the conservative side”*.
- 6.52 Inspector Masters concluded at paragraph 52 that *“the provision of 10 self-build serviced plots at the appeal site will make a positive contribution to the supply of self-build plots in both planning authority areas. I am attaching substantial weight to this element of housing supply.”*

***Appeal Decision: Land to the rear of Brock Cottage, Burford Road, Brize Norton (11 July 2022) – CD-I26***

- 6.53 The appeal decision relates to an outline application for 2 plots for self-build and custom housebuilding. Through paragraphs 16 to 23, the Inspector determined that the Council did not have enough suitable permissions to meet identified demand and therefore was failing in its statutory duty under the 2015 Act (as amended)
- 6.54 Within this context, in the planning balance section of their report, the Inspector found at paragraph 34 that *“the Council has fallen well short of granting suitable planning permissions to meet the identified SBCH demand. Although the contribution to SBCH supply would be small, the extent of the shortfall, the statutory SBCH duty, and the identified economic and social benefits would cumulatively amount to substantial weight in the balance.”*

***Appeal Decision: Land adjacent to Walton Hall, Chapel Lane, Walton (8 September 2022) – CD-I27***

- 6.55 In their decision of 8 September 2022, Inspector Young set out in paragraph 6 how it was common ground that *“the Council has not met its statutory duty to have issued a sufficient number of permissions to meet demand arising from its Self-Build Register in respect of Base Periods 1, 2 and 3”*.
- 6.56 The Inspector further found that *“while the Council is looking to redress the shortfall, current policies seem unlikely to prevent the situation from getting worse in the foreseeable future. I therefore find it probable that the demand arising from Base Period 4 will also go unmet. In the light of the shortfall in provision the need to increase the supply of self and custom-build housing is an important planning consideration which must carry substantial weight”* (emphasis added).

***Appeal Decision: Land South of (East of Griffin Place) Radwinter Road, Seward's End, Safron Walden (5 October 2022) – CD-I28***

6.57 The appeal proposals were for 230 dwellings with 5% custom build provision secured by legal agreement. The appellants contended that the Council had failed its statutory duty for Base Periods 1, 2 and 3 and were on course to fail Base Period 4 too.

6.58 At paragraph 88, Inspector Masters stated that:

*“I have concluded that the benefits of housing delivery, affordable housing and custom build housing should all individually carry substantial weight.”*

***Appeal Decision: Land at Duckmoor, East of Billingshurst (18 January 2023) – CD-I29***

6.59 The appeal proposals were for 83 dwellings and included provision for 5% self-build and custom housebuilding (4 plots). At paragraph 38 the Inspector found that *“the provision of four custom/self-build plots would add to the overall type of housing proposed and meet with the Framework which highlighted the requirements for Councils in the Self-Build and Custom Housebuilding act 2015.”*

6.60 They went on at paragraph 58 to set out that:

*“Four units of residential accommodation would be provided as custom/self-build plots. The Council recognises that there is a significant shortfall of such plots/permissions to meet the identified need. These units would contribute to meeting a part of a different housing need in the area and should also be attributed substantial weight.”*

**Conclusions on the Weight to be Attributed to the Provision of Self-Build and Custom Housebuilding**

6.61 The evidence shows that there is a substantial unmet demand for Self-Build and Custom Housebuilding plots within Hertsmere.

6.62 There are at least 76 individuals and at least four associations of individuals<sup>60</sup> on the Self-Build Register across Base Periods 1 to 8. However, in my opinion current practice has shown that local Self-Build Registers only provide a short-term supply-led picture because they rely upon people knowing about the Self-Build Register and then Registering their interest. I consider that the numbers on the Self-Build Register can therefore be a significant under-representation of latent demand.

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<sup>60</sup> Information not provided on number of members within associations through FOI response.

- 6.63 Secondary data sources, such as Buildstore's Plot-Search and Custom Build Register platforms illustrate a demand for at least 1,085 serviced plots in Hertsmere in January 2023.
- 6.64 At Ward level, the Buildstore data (**Appendix AM6**) found that in January 2023 there were 20 registrants on their Custom Build Register who are wishing to create their own customisable home within Bushey Park Ward and 98 Plot-Search subscribers who are seeking to purchase a serviced plot in the Ward to build or commission their own home. This results in a combined demand of 118 (11% of overall authority-wide demand).
- 6.65 Other secondary data sources indicate that as many as 1,710 people may be interested in building their own home in the foreseeable future and that annual needs could fall in the range of 51 to 72 plots per annum.
- 6.66 The importance of secondary data sources was recognised by Inspector Hayden in the Pear Tree Lane decision (**CD-I19**) and Inspector Masters in the Bullen's Green lane, Colney Heath decision (**CD-I2**).
- 6.67 The Council has no adopted Development Plan policy for the provision of self-build and custom housebuilding, nor does it have any emerging Plan policy position or timeframe for such a policy either given that Council agreed in April 2022 to set aside the emerging Regulation 18 Local Plan - consequently there are no emerging policies for the provision of self-build and custom housebuilding.
- 6.68 In the absence of any adopted specific policy target's, specific monitoring indicators or clear strategy to address the existing shortfall in delivery of Self-Build and Custom Build homes, it is unclear how Hertsmere Council intends to address ongoing demand as well as meet the existing shortfall without sites such as the appeal site.
- 6.69 The appellant recognises that there is a substantial level of unmet need for this tenure of housing in Hertsmere and that urgent action is required to meet the scale of demand identified.
- 6.70 The Committee Report considers that the provision of serviced plots warrants significant weight.
- 6.71 However, a number of appeal decisions have found that substantial weight has been afforded to the provision of serviced plots for self-build and custom housebuilding by Inspectors and the Secretary of State:
- Even where such provision is in line with policy requirements;

- Where there has been statutory duty failure – even if only for a single base period;
- Where secondary data sources demonstrate a level of demand that exceeds that on the Self-Build Register; and
- Prior to demonstration of any statutory failure.

6.72 I consider that nothing less than substantial weight should be attributed to the provision of 10 serviced plots in the planning balance.

6.73 The reason why I consider this weight to be appropriate in respect of the provision of 10 serviced plots from the appeal site can be summarised as follows:

- This would be the first self-build and custom housebuilding consent issued to be secured by legal agreement tied to the legislative definitions in the district which accords with the Governments proposed amendments to the 2015 Act (as amended);
- There is a cumulative unmet need for at least 16 serviced plots across Base Periods 3, 4 and 5 of the Council’s self-build register. The appeal proposals would address these unmet Register needs;
- Secondary data sources indicate that latent demand far exceeds the numbers on the Council’s Register;
- The Council needs windfall sites such as this to make provision for serviced plots to address the unmet needs that the Plan strategy will fail to meet given that there are no adopted or emerging policies for the provision of self-build and custom housebuilding within the Borough;
- Such weight would be consistent with other appeal decisions such as:
  - Corner Mead, Droitwich Spa (13 Jul 2020)<sup>61</sup> where substantial weight was awarded to the provision of nine plots;
  - Land at Church Lane, Whittington (20 November 2020)<sup>62</sup> where substantial weight was awarded to the provision of two plots;
  - Land behind 31-33 The Causeway, Steventon (28 May 2021)<sup>63</sup> where substantial weight was awarded to the provision of seven plots;

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<sup>61</sup> CD-I20

<sup>62</sup> CD-I24

<sup>63</sup> CD-I25

- Land off Bullen's Green Lane, Colney Heath (14 June 2021)<sup>64</sup> where substantial weight was awarded to the provision of 10 plots - as a cross-boundary appeal 5 plots were to be provided in each of the two authority areas respectively;
- Land to the rear of Brock Cottage, Burford Road, Brize Norton (11 July 2022)<sup>65</sup> where substantial weight was awarded to the provision of two plots;
- Land adjacent to Walton Hall, Chapel Lane, Walton (08 September 2022)<sup>66</sup> where substantial weight was awarded to the provision of a single unit of self-build and custom housebuilding; and
- Land at Duckmoor, East Billingshurst (18 January 2023)<sup>67</sup> where substantial weight was awarded to the provision of four plots.

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<sup>64</sup> CD-12

<sup>65</sup> CD-126

<sup>66</sup> CD-127

<sup>67</sup> CD-119

# Summary and Conclusions

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## Section 7

- 7.1 Central Government has been consistent in seeking to boost the supply of Self-Build and Custom Housebuilding for the past decade, starting with the 2011 Housing Strategy for England, and it is clear that there is national demand for this type of housing.
- 7.2 As recently as April 2021 the Government announced an Action Plan intended to scale up delivery and provide funding support for self and custom-builders and more recently, the 'Bacon Review' made a series of recommendations to Government to scale up the delivery of self-build and custom housebuilding.
- 7.3 The Government announced these recommendations will be considered through the Levelling Up and Regeneration Bill (LURB) and have proposed changes to the 2015 Self-Build and Custom Housebuilding Act (as amended) to ensure that only permissions genuinely for self-build and custom housebuilding are counted towards addressing the statutory duty to meet Register demand, any unmet demand is carried forward and that regulations will specify which types of development permission count towards the duty.
- 7.4 The requirement to deliver Self-Build and Custom Build homes is enshrined in statute and within national policy through both the NPPF 2021 and the PPG
- 7.5 Local authorities are required to address this through granting sufficient development consents to meet the demand for Self-Build and Custom Housebuilding arising within their administrative area and examining secondary data sources in addition to their Register numbers to obtain a robust assessment of demand.
- 7.6 There are no policies within the adopted Development Plan for the provision of self-build and custom housebuilding.
- 7.7 Full Council agreed in April 2022 to set aside the emerging Regulation 18 Local Plan and consequently there are no emerging policies for the provision of self-build and custom housebuilding.



- 7.8 There are at least 76 individuals and at least four associations<sup>68</sup> of individuals on the Self-Build Register across Base Periods 1 to 8. Although the Council's Self-Build Register is an important tool to help gauge local demand and inform how many permissioned serviced plots need to be made available on a rolling basis each year by the Council, it cannot predict longer term demand for plots.
- 7.9 In my opinion current practice has shown that local Self-Build Registers only provide a short-term supply-led picture because they rely upon people knowing about the Self-Build Register and then Registering their interest. I consider that the numbers on the Self-Build Register can therefore be a significant under-representation of latent demand.
- 7.10 Secondary data sources, such as Buildstore's Plot-Search and Custom Build Register platforms illustrate a demand for at least 1,085 plots in Hertsmere, of which 118 were in Bushey Park Ward.
- 7.11 Other secondary data sources indicate that as many as 1,710 people may be interested in building their own home in the foreseeable future and that annual needs could fall in the range of 51 to 72 plots per annum.
- 7.12 The importance of secondary data sources was recognised by Inspector Hayden in the Pear Tree Lane decision (**CD-I19**) and Inspector Masters in the Bullen's Green lane, Colney Heath decision (**CD-I2**).
- 7.13 True demand for Self-Build and Custom Housebuilding can therefore be expected to lie between at least 76 individuals and four associations<sup>69</sup> of individuals currently registered on the Council's Self-Build Register,<sup>70</sup> the 1,085 plots through the Buildstore data, the 785-1,080 plots over the 15 year Core Strategy Plan period when AMA Market Research is used as a proxy, and as many as 1,710 people when using national survey data<sup>71</sup> as a proxy.
- 7.14 The appellant recognises that there is a substantial level of unmet need for this tenure of housing in Hertsmere. The importance placed upon the provision of Self-Build and Custom Housebuilding plots by statute and by both the NPPF and the PPG has also been recognised by the appellant, as have the recommendations of the 'Bacon Review' and the direction of travel with the proposed amendments to the 2015 Self-Build and Custom Housebuilding Act (as amended) through the LURB.

<sup>68</sup> Information not provided on number of members within associations through FOI response.

<sup>69</sup> Information not provided on number of members within associations through FOI response

<sup>70</sup> The market leading building plot search website in line with the provisions of the PPG

<sup>71</sup> Based on ONS population estimates by local authority based by single year of age [extracted from NOMIS 27 February 2023]

- 7.15 The Council places undue reliance upon CIL exemptions without further interrogation of the data. Previous appeal decisions have highlighted the lack of robustness to such an approach and that CIL forms are not a reliable proxy for actual delivery of self-build and custom housebuilding.
- 7.16 When the data is interrogated for the permissions that the Council rely upon, only 38 of the permissions the Council rely upon contain any evidence other than a CIL Form that the application will be for self and custom build.
- 7.17 Resultantly, the Council has failed its statutory duty to meet Register demand for Base Periods 3 and 4 and it appears likely to fail in its duty for Base Period 5, which would result in a current cumulative shortfall of 16 plots.
- 7.18 There are no adopted or emerging Plan policies for the provision of self-build and custom housebuilding and the future supply of self-build and custom housebuilding in Hertsmere appears highly uncertain without sites such as the appeal site making provision for serviced plots secured by legal agreement.
- 7.19 What is abundantly clear is that the Council need to take urgent action now to address unmet identified demand. Serviced plots secured by legal agreement – such as those proposed by the appeal scheme – are required to address both current and future demand.
- 7.20 In the absence of any adopted specific policy target's, specific monitoring indicator's or clear strategy to address the existing shortfall in delivery of Self-Build and Custom Build homes, it is unclear how Hertsmere Council intends to address ongoing demand as well as meet the existing shortfall without sites such as the appeal site
- 7.21 The appellant recognises that there is a substantial level of unmet need for this tenure of housing in Hertsmere and that urgent action is required to meet the scale of demand identified.
- 7.22 The Committee Report considers that the provision of 10 serviced plots warrants significant weight. However, a number of appeal decisions have found that substantial weight has been afforded to the provision of serviced plots for self-build and custom housebuilding by Inspectors and the Secretary of State:
- Even where such provision is in line with policy requirements;
  - Where there has been statutory duty failure – even if only for a single base period;

- Where secondary data sources demonstrate a level of demand that exceeds that on the Self-Build Register; and
- Prior to demonstration of any statutory failure.

7.23 I consider that nothing less than substantial weight should be attributed to the provision of 10 serviced plots in the planning balance.

7.24 The reason why I consider this weight to be appropriate in respect of the provision of 10 serviced plots from the appeal site can be summarised as follows:

- This would be the first self-build and custom housebuilding consent issued to be secured by legal agreement tied to the legislative definitions in the district which accords with the Governments proposed amendments to the 2015 Act (as amended);
- There is a cumulative unmet need for at least 16 serviced plots across Base Periods 3, 4 and 5 of the Council's self-build register. The appeal proposals would address these unmet Register needs;
- Secondary data sources indicate that latent demand far exceeds the numbers on the Council's Register;
- The Council needs windfall sites such as this to make provision for serviced plots to address the unmet needs that the Plan strategy will fail to meet given that there are no adopted or emerging policies for the provision of self-build and custom housebuilding within the Borough;
- Such weight would be consistent with other appeal decisions such as:
  - Corner Mead, Droitwich Spa (13 Jul 2020)<sup>72</sup> where substantial weight was awarded to the provision of nine plots;
  - Land at Church Lane, Whittington (20 November 2020)<sup>73</sup> where substantial weight was awarded to the provision of two plots;
  - Land behind 31-33 The Causeway, Steventon (28 May 2021)<sup>74</sup> where substantial weight was awarded to the provision of seven plots;

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<sup>72</sup> CD-120

<sup>73</sup> CD-124

<sup>74</sup> CD-125

- Land off Bullen's Green Lane, Colney Heath (14 June 2021)<sup>75</sup> where substantial weight was awarded to the provision of 10 plots - as a cross-boundary appeal 5 plots were to be provided in each of the two authority areas respectively;
- Land to the rear of Brock Cottage, Burford Road, Brize Norton (11 July 2022)<sup>76</sup> where substantial weight was awarded to the provision of two plots;
- Land adjacent to Walton Hall, Chapel Lane, Walton (08 September 2022)<sup>77</sup> where substantial weight was awarded to the provision of a single unit of self-build and custom housebuilding; and
- Land at Duckmoor, East Billingshurst (18 January 2023)<sup>78</sup> where substantial weight was awarded to the provision of four plots.

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<sup>75</sup> CD-12

<sup>76</sup> CD-126

<sup>77</sup> CD-127

<sup>78</sup> CD-119