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| <b>Title of meeting:</b>      | Leader with responsibility for Planning, Regeneration and Economic Development |
| <b>Date of meeting:</b>       | Wednesday 28 <sup>th</sup> February 2018                                       |
| <b>Subject:</b>               | Self-build and Custom Housebuilding Register Local Eligibility Criteria        |
| <b>Report by:</b>             | Claire Upton- Brown, Assistant Director City Development                       |
| <b>Wards affected:</b>        | All  |
| <b>Key decision:</b>          | Yes/ No  |
| <b>Full Council decision:</b> | Yes/ No  |

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## **1. Purpose of report**

- 1.1 To seek approval for the introduction of a local connection test to Portsmouth City Council's self-build and custom housebuilding register. This will ensure that the register provides an accurate representation of demand for self-build and custom housebuilding in the city, aiding compliance with the Self-build and Custom Housebuilding Regulations 2016.

## **2. Recommendations**

- 2.1 It is recommended that the Leader with responsibility for Planning, Regeneration and Economic Development approves:
1. The introduction of a local connection test as set out in this report to be applied to future applications to the Council's Self-build and Custom Housebuilding Register received from 1 March 2018 onwards.

## **3. Background**

- 3.1 The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) requires Local Planning Authorities (LPAs) to keep a register of individuals and associations of individuals who are seeking to acquire serviced plots of land<sup>1</sup> for their own self-build and custom house building project.
- 3.2 Self-build and custom housebuilding allows individuals and groups of individuals to build their own homes. Self-build is where an individual organises the design

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<sup>1</sup> A serviced plot of land is a plot of land that either has access to a public highway and has connections for electricity, water and waste water, or, in the opinion of a relevant authority, can be provided with access to those things within the duration of a development permission granted in relation to that land.

and construction of their home themselves. This can include commissioning of an architect or builder with the self-builder overseeing the project. The custom-build approach is less involved for the individual as a specialist developer is commissioned to conduct the majority of the work involved in preparing the plot and delivering the home.

- 3.3 The Government is promoting self-build and custom housebuilding in response to calls to make it easier for more people to commission or build their own home. National planning policy and practice guidance makes it clear that local planning authorities should make provision for self-build housing in their Local Plan. However, it is acknowledged that historically there have been barriers to accessing suitable plots and a perception that self-build homes were for the privileged few. The 2015 Act is seen as tool for introducing more diversity and new delivery models to the housing market, to provide opportunities for more people to achieve their aspirations of owning a home.
- 3.4 Under the 2015 Act the Council is required to provide 'suitable development permissions' (planning permission or planning 'permission in principle') for a serviced plot of land to meet the need for self and custom housebuilding on the register. The Act states need must be met within 3 years of the conclusion of each base period<sup>2</sup>. No announcement has been made as to what sanction may be forthcoming if permissions are not issued, but in any event this requirement should be seen in the wider context of national planning policy requiring the need of various specialist types of housing to be met.
- 3.5 It is worth making clear that the purpose of the register is to determine the appropriate level of need, and for individuals to record an interest. It is not necessarily for the council to find the sites for the specific individuals who are on the register. Similarly, the individuals who have recorded an interest make no commitment that they would acquire a site for self-build or custom build.

#### **4. The self-build and custom housebuilding register**

- 4.1 Local Planning Authorities were required to establish Self-build and Custom Housebuilding Register by 1st April 2016. Portsmouth City Council established their register, and first published it on the Council's website, on 23rd March 2016. The names listed on the register provide evidence of the demand for self-build and custom-build housebuilding in the city. As noted in 3.2 above the Council is required to provide suitable development permissions to meet the need identified through the register. The table below outlines the numbers required.

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<sup>2</sup> The first base period begins on the day on which the register (which meets the requirement of the 2015 Act) is established and ends on 30 October 2016. Each subsequent base period is the period of 12 months, beginning immediately after the end of the previous base period. Subsequent base periods will therefore run from 31 October to 30 October each year.

| <b>Base Period</b>      | <b>Number of Suitable Permissions Required</b> | <b>Suitable Permissions to be Granted by</b> |
|-------------------------|--|--|
| 29/03/2016 - 30/10/2016 | 12   | 30/10/2019                                   |
| 31/10/2016 - 30/10/2017 | 18   | 30/10/2020                                   |

4.2 Entry onto the register is determined by an individual's eligibility as set out in the Self-build and Custom Housebuilding Regulations 2016. The regulations state that an individual is eligible for entry in the register if that individual meets all of the following criteria:

- a) is aged 18 or over; and
- b) is a British citizen, a national of an EEA State other than the United Kingdom, or a national of Switzerland; and
- c) is seeking (either alone or with others) to acquire a serviced plot of land in the relevant authority's area for their own self-build and custom housebuilding.

4.3 As well as the standard eligibility criteria listed in paragraph 4.2 above, the 2016 Regulations also allow the Council to set local connection criteria, set affordability criteria and to charge a fee<sup>3</sup> for an applicant's name to be entered and remain on the register.

## **5. A local connection test and other proposals**

5.1 To date the number of applicants gaining entry onto the register has not been regulated and individuals can join multiple registers across the country. Although current place of residence is not the only relevant factor, less than half of individuals who are currently on the register have provided a contact address in the city (likely in most cases to be a home address). Further details are set out at Appendix 1 to this report. Therefore there are grounds to believe that the register currently records need arising from outside the city.

5.2 If local connection criteria are set it will allow the Council to introduce a two part register. If an applicant meets both the eligibility criteria and the local connection criteria the individual's name is added to part 1 of the register. If an individual does meet the eligibility criteria but not the local connection criteria their name is added to part 2 of the register only. The Council only needs to count entries on part 1 of the register (i.e. those who meet the local connection criteria) towards the number of suitable serviced plots that it is required to grant permission for.

5.3 It is recommended that a local connection test is introduced for entry onto part 1 of the register. It is considered that the implementation of a local connection test will ensure the register accurately reflects the demand for self-build and custom build housing arising from those with strong connections to the city.

5.4 In order for a local connection to be established, it is proposed that applicants must provide evidence that they are:

<sup>3</sup> As set out in The Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016.

- Currently employed at an address in the city for a period of at least two continuous years without a gap of more than 4 weeks between different employment in the city; or
- Currently living at an address that forms the applicant's sole or principal place of residence in the city for a period of at least two continuous, uninterrupted years; or
- Currently a serving member of the regular armed forces, or that they have served as a member of the regular armed forces within the two years prior to their application to be entered onto the register.<sup>4</sup>

- 5.5 The evidence required to prove a local connection will be clearly detailed on the Council's website.
- 5.6 It should be noted that the purpose of the register is to understand what the level of demand may be. It does not mean that the council can only permit self-build schemes up to the level of this need - if more suitable schemes come forward they can form a useful part of the overall housing supply. However, it is thought more likely that it will be a challenge for sufficient sites to be identified and sufficient permissions issued. Hence the need to correctly identify local need and focus resources accordingly.
- 5.7 Turning to the other options, introducing set affordability criteria would require applicants to demonstrate that they have sufficient resources to fund purchase of a plot for their own self-build and custom housebuilding project. There is only a very limited local market in smaller plots which might be suitable for self-build and custom housebuilding projects and therefore there is limited information available on values achieved from previous plot sales. With this limited information, a minimum amount to test for affordability could not be set without risking a challenge, which might cause cost and inconvenience for the Council disproportionate to the benefits gained. There might be uncertainty about robustness and certainty of funding sources (for example credit-worthiness or loans from family members), with considerable work likely to be required to fully understand an applicant's financial position.
- 5.8 It is not recommended to charge a fee for joining the register at this time. The register itself does not require a significant amount of officer time to maintain. Only two other local authorities in Hampshire, Fareham Borough Council and Basingstoke and Deane Borough Council charge, and this is typically a very low fee (under £20). Further details are set out in Appendix 2 to this report. Taking into account the relatively low numbers of applicants, and costs of administering such a charge, the revenue created for the Council is minimal, with the potential for introducing a charge to dissuade legitimate persons from registering an interest. However, this situation will be kept under review.
- 5.9 It should be noted that any eligibility criteria cannot be applied retrospectively. Therefore, if a local connection test is approved for introduction the test could

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<sup>4</sup> A local connection test must include provision that any person in the service of the regular armed forces of the Crown is deemed to satisfy the test whilst in service and for a period after leaving service equal to the length of the longest of any periods required by the test for a condition to be satisfied.

only be applied to applications made for entry onto the register received on or after 1 March 2018.

## **6. Reasons for recommendations**

- a) To ensure that the self-build and custom housebuilding register provides a realistic indication of the need for self-build and custom housebuilding plots in the city.
- b) Without the introduction of a local connection test the council will continue to have a duty to meet demand for self-build and custom housebuilding plots arising from a register which could include those with no proven connection to the city.
- c) Portsmouth has a very limited supply of land available for development. Introduction of a local connection test should reduce the pressure on this limited supply of sites for self-build and custom building and focus available resources appropriately.

## **7. Equality impact assessment**

- 7.1** An equality impact assessment is not required as the recommendations do not have a disproportionate negative impact on any of the specific protected characteristics as described in the Equality Act 2010 for the following reasons:

The proposal to introduce local connection criteria does not include or exclude any applicant from entry to the Self-build and Custom Housebuilding Register based on: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; or sexual orientation.

## **8. Legal implications**

- 8.1** Introducing a local connection test is permitted under the Self-build and Custom Housebuilding Regulations 2016.

## **9. Director of Finance's comments**

- 9.1** The recommendation within this report, to introduce a local connection test to be to future applications to the Council's Self-build and Custom Housebuilding Register, has no adverse financial implications to the Council, and any associated costs are anticipated to be met from existing approved budgets.

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Signed by:

**Appendices:**

Appendix 1- Contact address of applicants applying to the Portsmouth Self-build and Custom Housebuilding Register

Appendix 2- Charging schedules and local connection criteria of other Local Authorities in Hampshire

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

| <b>Title of document</b>  | <b>Location</b>   |
|---|---|
| Self-build and Custom Housebuilding Act 2015  | <a href="http://www.legislation.gov.uk/ukpga/2015/17/contents/enacted">http://www.legislation.gov.uk/ukpga/2015/17/contents/enacted</a>                   |
| Self-build and Custom Housebuilding Regulations 2016                                | <a href="http://www.legislation.gov.uk/uksi/2016/950/pdfs/uksi_20160950_en.pdf">http://www.legislation.gov.uk/uksi/2016/950/pdfs/uksi_20160950_en.pdf</a> |
| Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016 | <a href="http://www.legislation.gov.uk/uksi/2016/1027/contents/made">http://www.legislation.gov.uk/uksi/2016/1027/contents/made</a>                       |

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by ..... on .....

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Signed by: