

Cheshire East Council

Cabinet

Date of Meeting:	11 th July 2107
Report of:	Frank Jordan - Executive Director of Place
Subject/Title:	The Self-Build and Custom Housebuilding Regulations 2016
Portfolio Holder:	Councillor A Arnold, Housing and Planning

1. Report Summary

- 1.1. On the 1st April 2016 (as required by the Self-build and Custom Housebuilding Act 2015) Cheshire East launched its self build register. From 31st October 2016 further regulations have placed additional duties on the Council. The principal change arising from this is to place a duty on the Council to grant a sufficient number of planning permissions for serviced plots of land to fulfil the demand for self-build homes as established by the self-build register.
- 1.2. The Council has the ability to establish criteria for entry onto the self-build register. These include local eligibility conditions and an assessment of financial resources.
- 1.3. The Council can also charge a fee for registration and to remain on the register.
- 1.4. This report outlines the changes to the Legislation and Regulations regarding self-build and custom housebuilding and the impact of these changes. Furthermore, the report seeks Cabinet approval for how to administer the self-build register, in light of the new discretionary regulations and the duty to provide sufficient planning permissions to meet the demand identified in the register.

2. Recommendation

- 2.1. It is recommended that the Cabinet:
- 2.2. Agrees to the introduction of a local connection test for entry onto the Self Build Register as defined in paragraph 5.12.
- 2.3. Agrees that the Council should not carry out a financial assessment of applicants to the self-build register.

- 2.4. Approves the charging of a fee for entry onto the self build register set at a level to cover the Council's reasonable costs incurred in accordance with the Regulations.
- 2.5. Delegates the authority to set the charging level to the Executive Director of Place in consultation with the Portfolio Holder for Housing and Planning.

3. Other Options Considered

- 3.1. The Council could choose to accept all applicants onto the self-build register whether they have a local connection or not, or whether they have the resources to purchase the land.
- 3.2. The Council could carry out a financial assessment of applicants to the self build register
- 3.3. Also, the Council could choose to finance the reasonable costs incurred in connection with it's functions under the Self-build and Custom Housebuilding Act 2015.

4. Reasons for Recommendation

- 4.1. The introduction of "a local connection test" will afford the Council substantial control over who is able to be included on the self build register. It may also restrict speculative applications from those who do not have a local connection to Cheshire East. A new test will be required as use of the local connection criteria in the Council's Allocation Policy would not be appropriate for this purpose.
- 4.2. In line with The Self-build and Custom Housebuilding Regulations 2016 (No.950) the Council can agree to set a criteria so that only those that can demonstrate that they have sufficient resources to purchase land for their self-build and custom housebuilding are eligible. However, this is a complex process as the cost of land varies depending on the size of plot and the location within the borough which will make it difficult to make a meaningful assessment of an applicants ability to purchase land at some stage in the future.
- 4.3. Charging a fee to be registered on the self-build register and to remain on the register would allow for some of the additional costs incurred by the Council, in running the self-build register, to be recovered.

5. Background/Chronology

- 5.1. The Self-Build and Custom Housebuilding Act 2015 provides for local authorities to create and maintain a register of persons in their area who wish to build their own homes. The Council is obliged to create such a register, provide for applicants to be able to register and to have regard to the information contained in the register when discharging its planning, housing, regeneration functions and when engaging in the disposal of land.

- 5.2. In addition to these obligations the Housing and Planning Act 2016 and associated Selfbuild and Custom Housebuilding Regulations 2016 place further duties upon the Council.
- 5.3. Duty to grant permissions. The principal change is that there is now a duty upon the Council to grant a sufficient number of planning permissions for serviced plots of land to fulfil the demand for self build homes as established by the register. Such demand is by reference to the 'base period'. The first base period runs from the date of the establishment of the register by the Council (1st April 2016) until the date of s10 of the Housing and Planning Act 2016 coming into force (31st October 2016). Thereafter the base period is to be calculated on a twelve month rolling basis from the date after the end of the initial base period.
- 5.4. The demand is the number of entries which have been added to the register in the relevant base period.
- 5.5. The requirement is for a corresponding number (as a minimum) of planning permissions to be granted for plots which are suitable for self-build and custom housing and which are serviced to enable such development.
- 5.6. Time for compliance. In relation to each base period the Council has a period of three years (from the date that the base period ended) in order to grant sufficient permissions to satisfy the demand as evidenced by that base period. Should the Council grant permission for the number identified in the base period within those three years then it will have satisfied its duty in relation to that base period.
- 5.7. A permission in relation to a specific plot may only be taken account of once. It cannot count toward supply for any more than a single, identified base period. Nor can any permissions granted prior to the start of the first base period be counted.
- 5.8. Serviced plot. A plot of land is considered to be a 'serviced plot of land' if it can, in the opinion of the Council, be provided with access to the public highway along with connections for electricity, water and waste water within the period before the permission granted in respect of that plot would ordinarily expire (i.e. a site which has the benefit of planning permission but does not yet have services available can still count toward the supply figure provided that there is a reasonable expectation that such services will be provided within the time period of the permission).
- 5.9. Exemptions. In certain circumstances an authority can make an application to the Secretary of State for exemption from the duty to provide permissions, those circumstances being that the identified demand for the base period in question represents greater than 20% of the land identified by the local authority for future housing in the relevant period. 'Demand' is taken to be the aggregate of the base period and the previous two base periods, 'Land Availability' is taken to be the total number of plots assessed as deliverable in the base period, the two preceding base periods and the two following base periods (i.e. over five years).

- 5.10. Local Eligibility Conditions. An authority may establish a criteria for eligibility for entry on to the register, should it establish such a regime the Council must divide the register into two separate parts. 'Part 1' of the register will contain the details of those who satisfy the various standard eligibility tests and in addition the 'local connection test'. 'Part 2' of the register will contain details of those who satisfy the standard eligibility test but who do not satisfy the 'local connection test'.
- 5.11. An authority may "set a criterion whereby only individuals who meet such conditions as the authority reasonably considers demonstrate, that the individual has sufficient connection with the authority's area, are eligible". The definition of such criteria goes no further than that other than if a criteria is established it must be published in the same manner as the register itself. Applications to be entered on the register must be determined within 28 days of receipt and upon determination the applicant must be notified within a further 28 days that either (i) they have been entered into Part 1 of the register or (ii) that they have been entered into Part 2 of the register or have been refused entry into the register. In relation to (ii) the authority is obliged to give reasons for its decision.
- 5.12. The local connection test should require that only those who meet the following criteria should be accepted onto Part 1 of the Register:-
- Have lived in Cheshire East for at least 2 years
 - Have worked in Cheshire East for at least 2 years
 - Have an offer of employment in Cheshire East
- 5.13. The principal effect of adopting local eligibility conditions and a split register is that the duty to grant the required number of planning permissions applies only to Part 1 of the register (i.e. only to those registered who have satisfied the local eligibility condition). The authority would however still have to have regard to the contents of the register in its entirety (including Part 2) when discharging its planning and housing functions, when discharging any regeneration function and when engaging in the disposal of land.
- 5.14. There are currently 93 applicants on the self-build register (up to 1st April 2017). 51 of these meet the local connection criteria to Cheshire East as outlined in this report: -

Base period	Total applicants	Applicants applying with a Cheshire East address	Applicants applying from an address outside Cheshire East
1 (1.4.16 – 31.10.16)	35	21	14
2 (1.11.16 – 31.10.17)	58 (up to 1.4.17)	30	28

5.15. Fees. It is open to the Council to charge a fee both to be registered and further to remain on that register upon expiry of the present base period. The details of such fees must be published by the Council and are limited in that the fees may not exceed the reasonable costs of the Council incurred in connection with its functions under the Act (there is further delineation based upon whether a registered person or association is within Part 1 or Part 2 in the case of a split register, it is also notable that those falling within ‘Part 2’ cannot be compelled to pay a fee to remain on the register unlike those falling within ‘Part 1’).

5.16. Members of the Armed Forces are not subject to the local eligibility criteria.

6. Wards Affected and Local Ward Members

6.1. All wards

7. Implications of Recommendation

7.1. Policy Implications

7.1.1 The principle of individuals and associations building or commissioning their own homes is supported in Policy SC 4 (Residential Mix) of the Local Plan Strategy.

7.2 Legal Implications

7.2.1 The Council now have a legal duty in the Self-build and Custom Housebuilding Act 2015, s2A(4) to provide enough planning permissions to meet the need from the self-build register (part 1 - subject to Cabinet approving “a local connection test”).

7.2.2 In accordance with the Self –build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016 the Council may charge a fee to a person (a) to be entered on the register for a base period or part of a base period; and (b) thereafter, on an annual basis, to remain on that register irrespective of whether any fee was charged to be entered on the register. The amount of fees charged must be determined and published by that authority. In determining the amount of the fees, the Council must secure that taking one financial year with another, the income from fees does not exceed its reasonable costs incurred in connection with discharging its functions under the Act.

7.3 Financial Implications

7.3.1 There will be a staffing cost to fulfil the requirements of the recommendations if they are approved. These costs can be covered by charging of fees as highlighted above.

7.4 Equality Implications

7.4.1 Any “local connection” test will require an Equality Impact Assessment.

7.5 Rural Community Implications

7.5.1 None identified.

7.6 Human Resources Implications

7.6.1 See 7.3.1

7.7 Public Health Implications

7.7.1 None identified.

7.8 Implications for Children and Young People

7.8.1 None identified.

7.9 Other Implications (Please Specify)

7.9.1 None identified.

8 Risk Management

- 8.2 Cheshire East, is a desirable area to live therefore there is a risk of a high demand for self-build plots from those with no connection to the borough. This in turn means that the duty to provide enough planning permissions for self-build plots will become difficult to meet. This risk can be mitigated by applying criteria to restrict eligibility for the register.

9 Access to Information/Bibliography

Self-build and Custom Housebuilding Act 2015,

Housing and Planning Act 2016 and Self Build and Custom Housebuilding Regulations 2016

10 Contact Information

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