



Department for  
Communities and  
Local Government

# Right to Build: Supporting Custom and Self Build

Government response to consultation



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# Introduction

The Government is committed to increasing housing supply and helping more people achieve their aspirations of owning a home. We want to see greater diversity in the housing market, with more competition, more new entrants and new development models to increase the speed of delivery and quality of new homes. The custom and self build sector can play a key role in achieving this ambition, and we are determined to support the growing number of people who want to build their own home.

Custom and self build homes<sup>1</sup> are often innovatively designed and can be cheaper, greener, and more affordable than standard market housing. Research in 2013 concluded that self builders can save between 20 and 25 per cent on the cost of the equivalent home on the open market<sup>2</sup> – a crucial saving for many looking to get on the housing ladder.

For too long custom build homes in this country have been seen as an option only for a privileged few. But in many other European countries, they form an important way of building new homes for households right across the social spectrum. Our immediate aspiration – first set out in our Housing Strategy for England *Laying the Foundations* in 2011, is to unlock the growth potential of the custom 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.<sup>3</sup>

The critical barriers to custom build in this country have historically included access to suitable plots of land to build on; access to development finance to enable the purchase of land and start of construction; and the hurdles and frustrations that many custom builders face when they engage with the regulatory regimes that govern the development process.

At Budget 2014 the Government announced that it “*would consult on a new Right to Build to give prospective custom builders a right to a plot from councils*” to address the first critical barrier to greater take up of custom build - the availability of suitable, serviced plots of land for custom build.

In October 2014, the Department published this consultation seeking views from local authorities, the custom build sector and prospective custom builders themselves about the scope and operation of the Right to Build. In addition, we are supporting:

- Richard Bacon MP’s *Self-Build and Custom Housebuilding Act* to bring forward legislation in this Parliament for the first element of the Right - the establishment of local registers of custom builders who wish to acquire a suitable plot of land to build

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<sup>1</sup> Custom build housing is typically defined as when someone commissions a specialist developer to help to deliver their own home, while self build housing is when someone directly organises the design and construction of their new home. In this consultation response, we use the term ‘custom build’ as shorthand to mean both self build and custom build housing.

<sup>2</sup> Wallace, A., Ford, J., Quilgars, D. (2013) *Build it yourself? Understanding the changing landscape of the UK self build market*, University of York and Lloyds Banking Group. Available at:

[http://www.york.ac.uk/media/chp/documents/2013/Lloyds\\_A4%20report%20v2-final%20NEWno.2.pdf](http://www.york.ac.uk/media/chp/documents/2013/Lloyds_A4%20report%20v2-final%20NEWno.2.pdf)

<sup>3</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/7532/2033676.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7532/2033676.pdf)

their own home. The Act requires local authorities to have regard to the demand on their local register when exercising their planning and other relevant functions; and

- A network of 11 Right to Build Vanguard to test how the Right can work in practice in a range of different circumstances. There was strong interest from a wide range of authorities, and we are working closely with the Vanguards to test the practicalities of maintaining a register and making sufficient land available across a range of different local housing and land markets. This will ensure the Right is informed by practical experience.

This consultation, along with learning from the Self-Build and Custom Housebuilding Act and the Vanguards, are all important steps in designing the final Right to Build.

# About the consultation

The consultation set out the Government’s vision for the operation of the Right to Build which would involve:

- Prospective custom builders being entitled to apply to their local planning authority for a suitable, serviced plot of land on which to build or commission their own home – with this application being recorded on a Right to Build register for their local area;
- The demand on the register being taken into account in particular in the preparation of local plans so that there are appropriate planning policies in place to bring forward sufficient plots of land for custom build; and
- Registered custom builders being offered suitable plots of land (with some form of planning permission and servicing) for sale through the local planning authority at market value.

The consultation sought views from local authorities, the custom build sector and prospective custom builders about the scope of the Right to Build specifically concerning:

- The detailed operation of the register;
- How demand on the register can be met through the existing planning system;
- The principle of local authorities making offers of plots of land to those on the register;
- The treatment of affordable housing and group custom build; and
- The implementation of the Right.

The consultation ran from 23 October to 18 December 2014. There were 224 responses to the consultation. Table 1 below provides a breakdown of the respondents by category.

**Table 1: Responses by category**

| Individual/<br>community<br>group | Local<br>authority | Professional<br>/ trade<br>organisation | Consultant<br>/academic<br>/research<br>organiser | Developer/<br>business | Public sector<br>organisation | Third<br>Sector | Housing<br>association |
|-----------------------------------|--------------------|---|---|------------------------|-------------------------------|-----------------|------------------------|
| 126                               | 60                 | 13                                      | 13  | 4                      | 3                             | 2               | 3                      |

Not all respondents responded to each of the questions in the document and some expressed equivocal views. We have therefore given a broad sense of support or opposition in relation to the proposals in the consultation document.

It should be noted that in evaluating the responses to this consultation, the Government has carefully considered the arguments respondents have made, rather than reaching a view based on the absolute numbers.

This report summarises the responses to the questions in the consultation and sets out the next steps for the Right to Build.

# Consultation questions

This section summarises responses to the questions set out in the consultation under the six broad headings of:

- The scope of the Right;
- Establishing Local Demand: The register;
- Meeting demand on the register: Planning;
- Meeting demand on the register: Bringing forward plots
- Special circumstances; and
- Implementation.

## The Scope of the Right

National planning policy and practice guidance is clear that local planning authorities should identify local demand for custom build in their areas and make provision for it in their local plans.<sup>4</sup> However, given the difficulty custom builders often have finding suitable land in England, we consulted on proposals to go further by giving prospective local custom builders the right to a suitable plot of land to build a new home with the help of their local planning authority.

There was a high level of support for the idea of the Right to Build amongst prospective custom builders, with 94% of respondents stating that they would be interested in using the new Right to Build. In addition, many of the local authority respondents were supportive of growing the custom build sector, with particular support given to the principle of local authorities maintaining registers of those interested in custom build.

Respondents suggested a number of ways to enable the implementation of the Right to Build in specific areas. However, in general respondents supported a bespoke approach. In the case of London, there was general support for a pan-London register administered by the Greater London Authority with input from local planning authorities, with some respondents noting that cross boundary working would be essential given high levels of demand and supply constraints. In the case of National Parks, respondents suggested that registers could be run by neighbouring local planning authorities or administered in a manner similar to Housing Market Areas, but the approach should be at the discretion of the National Park. Respondents suggested that local planning authorities should be responsible for administering the register in the Broads.

## Establishing Local Demand: The register

The consultation sought views on how the Right to Build register should operate in practice to inform the development of the regulations. On the whole, the majority of respondents across all categories were supportive of the proposals for the register.

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<sup>4</sup> See paragraphs 50 and 159 of the National Planning Policy Framework; paragraph 21 of National Planning Practice Guidance: housing and economic development needs assessments.

**Preferences:** The majority of respondents considered location, price range, type and size of dwelling to be the minimum essential preferences that local authorities should consider. A number of local authority respondents noted that the four proposed preferences were too stringent and that the register should be more light touch. Notably, over a quarter of respondents felt it should be for local authorities, through the local plan process, to determine the location of suitable custom build plots.

**Eligibility criteria:** There was broad support overall among respondents for the proposed eligibility criteria, with many respondents noting its benefits particularly for areas with high housing demand and low land supply. Local authority responses were mixed with many expressing concerns with the proposed criteria, noting that the assessment of applications would require upskilling of staff and create additional costs. Concern was also raised by some respondents of the practical difficulties for verifying and controlling the Financial Viability and Main Residence criteria. In addition, some of the trade organisations noted the need to ensure that the Right will benefit those who are mortgage worthy but who do not necessarily have a sufficiently large deposit to buy land and build.

There was strong support among respondents for local planning authorities to have the discretion to apply a local connection test, with a significant majority of local authority respondents expressing support. A number of the respondents also stressed the importance for the Right to provide a degree of flexibility, with many suggesting that a local connection should not be treated as a test of eligibility, but instead used in the calculation of priority. Most of the respondents who were against the proposal went further to state that they did not support the principle of the local connection test at all, raising concerns that it would prevent local authorities from developing a full understanding of levels and nature of demand, and that it would be unnecessary in areas with a good supply of development land.

A significant majority of respondents supported residency and family connection as criterion for the local connection test. There was also strong support for the inclusion of a work connection criteria and a large number of respondents also supported community involvement.

Responses were very mixed on the appropriate length of time a person should be resident in an area to satisfy the local connection test, with suggestions ranging from no requirement to a minimum of ten years. Overall the majority of respondents were supportive of allowing for temporary periods outside the area.

Most respondents believed family should be defined as close relatives for the purpose of establishing a local connection, while just under a third felt it should be defined as immediate family. A small number of respondents noted that the definition should be consistent with existing housing policies while a few others suggested family should be defined as broadly as possible to reflect the changing nature of the concept of family.

The response to the proposal to exempt members of the armed forces from the local connection test was mixed overall, with slightly more respondents in support of it than against it. Notably a significant majority of local authority respondents were supportive of and almost half of individual and community group respondents supported it.

**Removal Criteria and Transparency of Data:** There was general consensus among respondents for the proposals to remove a person from the register and the proposals on

transparency of the data, with a number of respondents noting the importance for headline data from registers being made available in order to inform the market about the level, and purchasing power, of demand.

**Publicising the Register:** A large number of respondents supported the proposal to allow local authorities to have discretion to develop their own bespoke approaches to publicising their registers while a small number of respondents (including representatives from local authorities, professional, trade and public sector organisations) suggested the creation of a national register.

## Meeting demand on the register: Planning

The consultation sought views on how local planning authorities should take account of the demand on the register including in the preparation of their local plans so it has appropriate planning policies to bring forward sufficient plots of land for custom build.

**Taking account of the Right within the existing planning framework:** Overall the majority of the respondents did not agree that there is sufficiently robust planning policy and supporting guidance in place to promote custom build. The response among local authority respondents was more mixed.

A number of respondents called for guidance to clarify how the Right will fit with existing planning policy. This included guidance on the relationship between registers and Strategic Housing Market Assessments; how local plan policies should address demand for custom build and how this relates to addressing demand for other forms of housing; and guidance on how local authorities can bring forward land for custom build, including the process of acquiring, servicing, valuing and selling land.

**Approaches to providing planning permission:** In order to provide certainty and reduce costs for custom builders to help them to build out more quickly, we proposed that local planning authorities should ensure that plots are brought forward with outline planning permission and any relevant servicing. The consultation set out three approaches to providing planning permission for individual plots:

- Planning permission in outline, with access and layout included in the permission;
- A Local Development Order; and
- Application for full planning permission is submitted by developer.

There was a strong level of support for local authorities having discretion over which approaches to use to obtain planning permission for individual plots, with many respondents emphasising that different approaches will be needed to reflect varying circumstances, including differing levels of resources, constraints, demand and sites across the country. One local planning authority respondent suggested the promotion of model alternative approaches initially in order to minimise local authority resources.

No alternative approaches to providing planning permission were suggested, however a number of the professional and trade organisations highlighted that discretion would enable local planning authorities to exploit alternative approaches for bringing forward plots. A number of individuals and community groups noted the importance for approaches to be flexible and allow for innovative design.

**Supporting Local Planning Authorities in bringing forward serviced plots:** A large number of respondents emphasised the need for additional support for local planning authorities to bring forward serviced plots with planning permission. The suggestions fell into three broad categories:

- **Funding:** for additional resources and staff training to improve skills and expertise;
- **Guidance:** (i) for local authorities on preparing Local Development Orders, design codes and plot passports; (ii) the custom build sector on the planning system and (iii) community groups on how to develop custom build policies in Neighbourhood Plans that respond to local demand; and
- **Practical support:** suggestions included advice on financial and legal agreements in public private partnerships and approaches to marketing registers and sites.

**Servicing Plots:** Respondents generally accepted the need for servicing of plots and were supportive of the provision of waste disposal, gas and broadband. A number of respondents also noted the importance of local authorities having discretion on servicing and acknowledged the need for the costs of servicing to be proportionate. The response among local authority respondents was more mixed, with a number of respondents noting that the servicing of plots should not fall to local authorities, highlighting concerns about cost and debt. In addition, several respondents noted that servicing of plots should not be included in cases where the cost of servicing is disproportionate and in rural areas where provision of some services may be impractical.

## Meeting demand on the register: Bringing forward plots

The consultation sought views on how local planning authorities should bring forward plots for custom build to meet the demand identified on the register.

There was strong support for many of the key principles proposed for bringing forward plots of land, especially among individual custom builders.

However, significant concerns were expressed from local authorities, some professional bodies and key players in the custom build sector about:

- Whether the idea of local authorities offering plots of land to registered custom builders was realistic and reasonable – especially for authorities that do not have significant land holdings;
- How the approach would work in areas with high demand and/or supply constraints;
- The prescriptive nature of the proposal that each registered custom builder should be offered at least three plots of land two and a half years; and
- The lack of local flexibility and clarity about what a ‘reasonable’ offer would look like.

**Meeting the requirement to offer a plot:** A significant majority of local authority respondents commented that the implications of purchasing land were considerable, that a lot of available land was already optioned and that the proposed limit of three offers for a custom builders was arbitrary and, in some cases, undeliverable. This position was echoed by the Local Government Association and the Planning Officers Society, who suggested that the supply constraints faced by some local authorities should be reflected in a requirement for local authorities to do what is ‘reasonably practical’. Notably, some respondents suggested that local authorities should adopt a connector, rather than a

developer, role through bringing prospective custom builders on the register together with local land owners.

A small majority of respondents were supportive of the proposal that three plot offers was an appropriate minimum number a local planning authority should make, but there was also considerable disagreement, with many local authorities calling for a low minimum, due to concerns about scarcity of land and resource implications, while many individual respondents (most of whom identified themselves as prospective custom builders) wanted a higher minimum or no limit, to enable greater choice. A small minority gave no clear steer about minimum offers commenting that this should be a matter for local discretion or that making offers was inappropriate.

The majority of individual respondents considered the proposal of two and a half years for local authorities to make plot offers to be a reasonable period of time, however a significant minority called for a shorter time period. Notably there was considerable opposition from local authorities (and some professional bodies) with many commenting that it was unrealistic and too short, particularly for local authorities with limited land supply. Alternative suggestions included no time limit or a five year limit.

**Plot pricing:** There was strong support for an appeals mechanism to enable custom builders to challenge the plot price among individual respondents and custom build trade organisations; however the majority of local authorities and other respondents were against it, with many commenting that an appeals mechanism would add additional and unnecessary costs for local authorities since it would involve independent valuation.

**Land allocation schemes:** The response to the approach local authorities should take to offering plots was mixed, however there was a general acceptance among respondents that the approach taken should reflect local circumstances and levels of demand. Some respondents commented that if demand was high, a pooled or open offer approach would be more practical for local authorities to administer.

There was a general view among respondents that a combination of the four proposed approaches to securing land should work, although the majority of local authority respondents expressed scepticism citing limited supply of publically owned land as well as lack of finance and resources to secure land.

Many respondents noted that to support local authorities in purchasing and preparing land, they would need administrative resource to improve internal capacity and expertise and financial loans to enable local authorities to purchase and develop plots of land. Igloo suggested that local authorities should use private sector custom build enablers rather build up internal capacity while other developer respondents commented that local authorities should not actively purchase land.

**Areas with constrained land supply:** There was strong endorsement of the proposal that in some circumstances local authorities may need to bring forward land in the wider housing market area, with many respondents emphasising the need to align the Right to Build with the duty to cooperate. However, a reasonable minority of respondents commented that local authorities should only bring forward land in their own area in order to focus on meeting local demand.

**Local planning authority skills and resources:** A significant majority of respondents were of the view that local authorities would need to develop greater in-house skills, expertise and capacity in order to bring forward plots for custom and self build. Some respondents commented that local authorities and the private sector would need to develop close working partnerships, while a small number stated that the role of local authorities in the process should be limited.

## Special circumstances

**Affordable housing through custom build:** The majority of respondents were supportive of the proposals concerning the provision of affordable custom build housing. Many respondents identified registered providers as well as community land trusts as being best placed to bring this forward. Respondents highlighted the need to avoid unnecessary conflict between affordable housing and custom build. Registered providers were supportive of the allocation of small sites to affordable custom build housing and the potential benefits for local industry. Respondents consistently suggested additional funding, guidance and planning support to support this provision.

**Group custom build:** There was strong support for the merits of group custom build from respondents however there was no consensus amongst respondents as to how group custom build would work in practice. Most local authority respondents favoured individual registration, commenting that it was more practical and reliable. Other respondents favoured group registration in order to encourage the development of group custom build. There was general acceptance that eligibility criteria should apply to the majority or all of group members in order to ensure fairness for the public and reduce the risk for local authorities.

## Implementation

**Fees:** There was a degree of acceptance of the proposal that local authorities should have the power to charge fees. Local authorities and certain representative bodies were strongly in favour of fees on a cost recovery basis or cost contribution basis. Other representative bodies, third sector organisations and prospective custom builders were opposed to the proposal commenting that it would be dissuade the public from registering and could damage the development of the custom build sector.

**Practical support:** Respondents suggested a wide variety of practical measures to support local authorities in implementing the Right to Build. Many respondents consistently suggested additional local authority capital and revenue. A number of respondents advocated a package of measures that could be provided for local authorities by Government, the National Custom and Self Build Association and other bodies, including exemplar financial and legal agreements, custom build public private model partnerships, marketing materials, an online register template, training, a help desk process and a direct bid mechanism for the Custom Build Serviced Plots Loan fund.

## Next Steps

The Government wishes to thank all those who have responded to the Right to Build consultation. The responses have been very helpful and put us in a strong position to develop and implement the Right to Build further in the next Parliament.

The new Self-Build and Custom Housebuilding Act, which received Royal Assent on 26 March, provides the legislative framework for the first part of the Right to Build requiring local planning authorities to establish local registers of custom builders who wish to acquire a suitable land to build their own home. This Act also requires local authorities to have regard to the demand on their local register when exercising their planning and other relevant functions.

The Government intends to prepare regulations and guidance setting out the detailed operation of the local registers early in the next Parliament. These regulations and guidance will be informed by the consultation responses and the practical experience of the 11 Vanguards preparing their registers. Ministers during the passage of the Act through Parliament have committed to further consultation with partners about the initial regulations and guidance. We will also undertake a further new burdens assessment of the additional cost of the local registers for local government.

We will also look at the experience of the Vanguards, as well as the consultation responses, to inform our final approach in the next Parliament for the second part of the Right to Build requiring local authorities to bring forward plots of land for registered custom builders in a reasonable time. Many of the Vanguards have made tremendous progress bringing forward land, and a significant body of best practice is beginning to emerge.

We are now working with the Vanguards to see how our current £150 million Custom Build Serviced Plots Fund can be used to facilitate more plots of land for custom build in their areas. We are also keen for other authorities to help facilitate bids from their areas, and for the custom build sector itself to develop more best practice guidance and toolkits to support local authorities, developers and custom builders themselves. This will help to ensure the final Right to Build is workable and proportionate, delivering suitable plots of land to the thousands of prospective custom builders currently seeking land to build their own home.