



Department for
Communities and
Local Government

Right to Build: Supporting Custom and Self Build

Consultation



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Ministerial foreword

This Government is a proud supporter of the custom and self build sector. We want to increase the capacity and diversity of the house building industry and build more high quality new homes faster. We recognise that custom build can be an affordable way to home ownership that provides an opportunity to own a bespoke, sustainably designed and high quality home.

Since 2011, we have worked in partnership with the industry to make sites available for custom builders, provide finance for their projects, reduce red tape that prevents development and offer advice for consumers and developers. 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.

In June 2014 we announced a £150 million serviced plot repayable loan fund that will provide around 10,000 serviced plots over the next 6 years. We have had further success in the launch of the online Self Build Portal to provide better information for self builders.

We want to go further in empowering aspiring self builders to build their own home in their local area. Budget 2014 announced that we would consult on a new Right to Build giving prospective custom builders a right to a plot of land from their local council, and establish a number of vanguards to test the practicalities of operating the Right across England. This consultation fulfils that commitment to consult.

We aim to legislate for the Right – through first the Self Build and Custom Housebuilding Private Members' Bill and then legislation in the next Parliament – taking into account the outcome of this consultation and the experience from the vanguards.

I hope as many prospective custom builders, local authorities and businesses as possible respond to this consultation to help us tailor the Right to Build to every local area and aspiring self builder in the country.

Brandon Lewis MP

Minister of State for Housing and Planning

Topic of this consultation:	The Right to Build
Geographical scope of this consultation:	England
Body responsible for this consultation:	Planning Directorate within the Department for Communities and Local Government.
Duration of consultation:	8 weeks (23 October 2014 to 18 December 2014)
Enquiries:	For enquiries please contact: righttobuildconsultation@communities.gsi.gov.uk 030344 44323
How to respond:	<ul style="list-style-type: none"> • You can either respond to the consultation using the online SurveyMonkey at https://www.surveymonkey.com/s/G9R79CP • Or you can email your response to the questions to righttobuildconsultation@communities.gsi.gov.uk • If you need to provide a written response please make it clear which questions you are responding to. • Written responses should be sent to: Andrew Short Department for Communities and Local Government Third Floor Fry Block 2 Marsham Street SW1P 4DF <p>When you reply it would be very useful if you confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:</p> <ul style="list-style-type: none"> • your name, • your position (if applicable), • the name of organisation (if applicable), • an address (including post code), • an email address, and a contact telephone number

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Introduction

1. 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 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.
2. Custom build housing, including self build, is housing commissioned and built by individuals or groups of individuals for their own use, either by building the home on their own or working with builders.¹ Custom build homes are often innovatively designed and can be cheaper, greener, and more affordable than standard market housing.
3. 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.²
4. 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.
5. Since 2011 we have introduced a number of initiatives directly aimed at these barriers. These include:
 - Making £30 million available from 2012 to provide short term capital finance for group self build projects.
 - Creating a £150 million Serviced Plot Fund starting this year to provide 10,000 serviced plots by 2020.

¹ Custom build housing typically involves individuals or groups of individuals commissioning the construction of a new home or homes from a builder, contractor or package company or, in a modest number of cases, physically building a house for themselves or working with sub-contractors. This latter form of development is also known as 'self build' (i.e. custom build encompasses self build).

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7532/2033676.pdf

- Making available up to £65 million for affordable housing projects (including self build) from the Affordable Homes Guarantee Programme.
- Exempting Custom Builders from paying the Community Infrastructure Levy and taking steps to scale back Section 106 burdens.
- Identifying a pipeline of sites for custom build opportunities through the Homes and Communities Agency's disposal of public sector land; and
- Placing a stronger emphasis in planning policy and guidance (through the National Planning Policy Framework) on local planning authorities planning for custom build when preparing their local plans.

Section 1

The Right to Build

6. We want nevertheless to go further, and Budget 2014 announced that the Government “*would consult on a new Right to Build to give prospective custom builders a right to a plot from councils*” to improve the availability of suitable, serviced plots of land for custom build.
7. This consultation meets that commitment, and seeks views from local planning authorities, the custom build sector and prospective custom builders themselves about the best way of constructing such a Right.
8. In September we announced the establishment of 11 Right to Build Vanguard (following expressions of interest from local planning authorities over the summer) to test how the Right could operate in practice. We are also supporting Richard Bacon MP’s Private Members’ *Self-Build and Custom Housebuilding Bill* which aims to enact the first element of the Right – the establishment by local planning authorities of a register of prospective custom builders who are seeking a suitable serviced plot of land.
9. The results of this consultation, along with learning from the Vanguard and Parliamentary scrutiny of the Private Members’ Bill, will all help to design the final Right to Build.

Right to Build Vanguard

Ref 1

On 30 September Planning and Housing Minister Brandon Lewis announced that 11 local authorities have been selected to become Right to Build Vanguard.

The Vanguard will be the forerunners of the Right to Build programme and will have the opportunity to provide evidence and examples of how the Right to Build might work in different circumstances. The Right to Build Vanguard are:

- Cherwell District Council
- Exmoor and Dartmoor National Park Authorities
- Oldham City Council
- Pendle Borough Council
- Sheffield City Council
- Shropshire Council
- South Cambridgeshire District Council
- South Norfolk Council
- Stoke on Trent City Council
- Teignbridge District Council
- West Lindsey District Council

We will also be working with the Greater London Authority who will be testing a pan-London register.

Section 2

Scope of the Right

10. The Right to Build is an extension of the Government's planning reforms. National planning policy and practice guidance makes it clear that local planning authorities need to identify local demand for custom build and make provision for it in their local plans.³ However, given the difficulty custom builders often have finding suitable land, we want 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.

11. Broadly speaking, we envisage the Right will operate in the following way:

- Prospective custom builders will be entitled to apply to their local planning authority for a suitable, serviced plot of land on which to build or commission their own home;
- This application will be recorded on a Right to Build register for their local area (provided the prospective custom builder is eligible);
- The demand on the register will be 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 finally
- Registered custom builders will be offered suitable plots of land (with some form of planning permission and servicing) for sale through the local planning authority at market value.

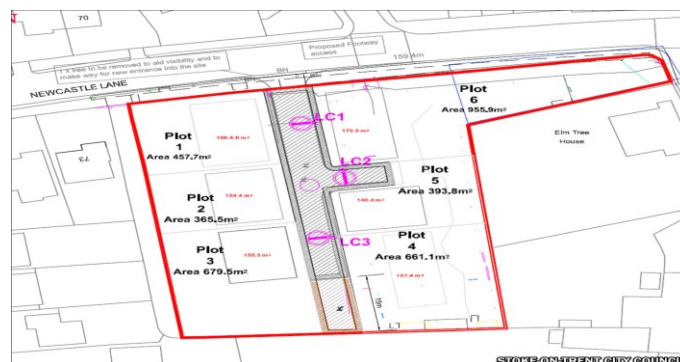
12. Although we will be seeking to put the Right on a statutory footing, many local planning authorities are already establishing registers and taking action through the planning system to make plots of land available for custom build. The Right will help to sustain momentum, and extend best practice across all local planning authorities so more people have the opportunity to build their own home.

³ See paragraphs 50 and 159 of the National Planning Policy Framework; paragraph 21 of National Planning Practice Guidance: housing and economic development needs assessments.

Penkull, Stoke on Trent

Stoke on Trent City Council is bringing forward serviced building plots for custom build housing in a range of locations. At Penkull in Stoke-on-Trent the Council secured outline planning consent, with access and layout committed, to bring forward six fully serviced building plots ranging from 365m² to 955m² providing for homes of up to 180m² total floor area with utility space and parking. The disposal generated 100 registered interests from a single promotion event. The Council invested £450,000 to prepare a design code and service the plots which were sold to local people by public auction. This scheme has been at the forefront of industry good practice to date and secured a recent Build-It magazine award for innovation.

The City Council has identified that it has 72ha amenity land that could be disposed of as the land currently has no purpose. The amenity sites could be used for a mix of self or custom build housing depending on their suitability which is yet to be evaluated. The Council is committed to bring forward at least three sites, if demand can be demonstrated through a local register.

**Trevenson Park, Cornwall**

In Cornwall the Homes and Communities Agency is piloting a scheme to deliver between 50 to 60 serviced plots for custom build housing on a larger housing site it is releasing under the Government's surplus public sector land programme. To help with the up-front cost, the agency allowed the developers to sell another part of the site for affordable housing. The capital receipt helped pay for infrastructure and servicing the custom build plots. The agency is also helping to improve cash flows by selling the land on a 'Build Now, Pay Later' basis where the developer pays for the land as the plots are sold. To protect its financial interest, the agency will receive a share of the profit, above a base return to the developer.

Trumpet Junction, Basingstoke

As part of the 1,250 unit redevelopment of the former hospital site at Park Prewett, Basingstoke, the HCA is disposing a site of some five hectares to create about 120 serviced plots for custom builders with the support of Basingstoke and Deane Borough Council. A master developer is expected to be appointed in late 2014 with start on site expected in spring 2015.

13. The Right will create new opportunities for local planning authorities to proactively bring forward custom build and we are keen to encourage innovative delivery, with significant local discretion to reflect the different circumstances across the country. But we want to ensure the Right to Build is discharged efficiently and effectively. The Right to Build Vanguard will help to test out different approaches and we are keen to ensure lessons from their experience are disseminated through the sector.

Q(1): If you are a prospective custom builder, would you be interested in using the new Right to Build?

14. In most areas of the country, we envisage the Right being facilitated by the local planning authority. However, in some places, responsibilities are split across planning authorities and special arrangements may need to apply. In particular:

- In London, the Mayor has significant strategic planning powers.
- In National Parks and the Broads, the National Park Authorities and the Broads Authority are the local planning authorities, often crossing a number of local authority areas; and
- In a small number of areas, development corporations have been, or are in the process of being, established to bring forward major new housing developments.

15. As part of the Vanguard process, Exmoor and Dartmoor National Park Authorities have offered to roll out a register for residents of their national park, while the Greater London Authority will be testing the feasibility of a pan-London register. However, we are open to views from all relevant authorities about how the Right should apply in these areas.

Q(2): How can local planning authorities work together to enable the Right to Build to apply in London, National Parks and the Broads and areas with development corporations?

Section 3

Step one: Establishing Demand for Custom Build

16. A fundamental component of the Right to Build will be a new entitlement for prospective custom builders, who are seeking to acquire a serviced plot of land for their home, to register with their local planning authority - so that the local planning authority have a clear idea of the local demand for custom build.
17. The Right to Build register of custom builders is not intended to become a parallel statutory framework to the planning system. We envisage that it will be an integral part of the future planning system building on current national policy and practice guidance. In particular, the National Planning Policy Framework already asks local planning authorities to identify and plan for the needs of their communities. This includes working in conjunction with local communities, identifying the overall amount of housing required, the type of housing needed and shaping where development should and should not go.
18. National planning guidance also provides explicit advice on how local planning authorities can identify and effectively plan for the needs of custom builders. Recognising the potentially significant demand for such housing, the guidance already encourages local planning authorities to survey local residents and then compile a local list or register of people who want to build their own homes. Having a statutory Right to Build register extends this further, providing a clear evidence base on which to enable proper planning for custom build across the country.
19. The Government wishes to set out the legislative framework for the Right to Build register in Richard Bacon MP's *Self-Build and Custom Housebuilding Bill*. This Bill will establish the broad framework for the register, with the Secretary of State for the Department for Communities and Local Government having the power to make regulations and issue statutory guidance about its operation.
20. This section of the consultation seeks views on how the Right to Build register should operate in practice to inform the development of the regulations. We are also testing the concept of a register through the Right to Build Vanguard to identify the key practical issues and estimate the likely implications for local planning authorities.

The Self-build and Custom Housebuilding Bill 2014

Ref 3

The purpose of the Bill is to allow individuals wishing to build their own home to register with the relevant authority for a suitable plot of land. Specifically the Bill makes provision for:

- Relevant authorities to maintain a register of people who are seeking to acquire a serviced plot in their area in order for them to build houses for them to occupy as homes; and
- Relevant authorities (broadly local authorities) to have regard to the demand for custom build housing as evidenced by the register when exercising certain functions including those relating to planning and housing.

Entitlement to register

21. Under the proposed legislation, an individual (or group of individuals) who is seeking to acquire a serviced plot of land in a local authority's area in order to build a house to occupy as a home would be entitled to apply to register with their local planning authority. We envisage the process would be primarily undertaken online using standard forms.

22. It is important that custom builders have the opportunity to express preferences about the nature of the plot of land they are ideally seeking for their home. We are proposing (through regulations and statutory guidance) that applicants would have the opportunity to set out broad preferences in their application. As a minimum, these broad preferences should include the following:

- General location or locations (e.g. relevant town).
- A realistic price range for the plot of land based on local land values.

23. Local planning authorities would have the discretion to specify that applicants indicate additional preferences for example:

- Type of dwelling (e.g. detached, terraced, bungalow, apartment etc).
- Size of dwelling (either in the form of the number of rooms or floor space).

24. Local planning authorities may find additional preferences helpful to enable them to ensure they are focused on bringing forward plots custom builders want. This should ensure local needs are met and that plots being brought forward are commercially viable.

25. Local planning authorities will also be expected to identify if any individual is planning or would be interested in proposals for a group self build. Offers to these groups are dealt with in section 5.

26. In setting out these broad preferences, there would be no guarantee that a plot of land would be made available which met these preferences. Plots offered should, as far as it is possible to do so, reflect the custom builder's preferences for location and costs while recognising that wider national planning policies, such as protecting the Green Belt, may make a preference unrealistic to realise. However, the preferences collectively would give local planning authorities an indication of the nature of the demand for custom build in their area so that it can be reflected in the preparation of local plans and their action to make plots of land available for those on the register.

Q(3): What preferences should custom builders be able to express on the register? Are there any preferences which are essential for all local planning authorities to consider?

Q(4): To what extent should a local planning authority be expected to meet these essential preferences?

Chelmsford City Council Register – Expressions of Interest

Chelmsford City Council has already established an on-line register. They will be using this to assess the level and type of demand for self or custom build homes within Chelmsford and its surrounding areas. The register has categories to cover contact and household details including; the tenure of the custom builders current property; information on what the custom builders wishes to build; how they are looking to complete the build; and in what part of the local authority and if a plot has already been identified and estimated timescales.

Teignbridge District Council Register - Expressions of Interest

Teignbridge District Council has also established its own register. The Council’s form asks similar questions, an example of which is shown below.

Teignbridge DISTRICT COUNCIL South Devon

Self Build Interest
(Please note: an * indicates a required field.)

1. Introduction
Teignbridge District Council (TDC) recognises the potential benefits of self build in meeting the housing needs of Teignbridge residents. These include supporting the delivery of lower cost market and affordable housing for local people, supporting residents employed in the construction industry, and supporting a more resilient supply of housing from a wider diversity of sources, not just volume house builders.

By submitting this form, you are agreeing that Teignbridge District Council may use the data to understand the demand for custom build housing, helping to support our policies to improve the supply of land for custom build housing. However, in order to help potential custom builders find plots we also propose to pass on your details to third parties, such as Community Land Trusts, developers or landowners who are interested in providing or selling self build plots. Therefore please choose from one of the following options:

Allow Teignbridge District Council to share All your details with selected third parties who may contact you, for example to publicise the availability of self build plots
 Only your contact details. (Allowing third parties to contact you, but limiting their access to the preferences and finance information contained in this form)
 None of your details. (The Council shall hold your details but shall not be able to share it with plot providers or other relevant third parties)

Community Land Trusts (CLT)
CLTs are non-profit, community-based organisations that develop housing, employment space, community facilities or other assets that meet the needs of the community and are owned and controlled by the community. Assets built by a CLT should be made available at permanently affordable levels.

5. Financial Position – This helps generate evidence on the affordability of self build as a housing option.
What is the maximum amount you have saved and could definitely afford to pay as a deposit or for the whole build without borrowing additional finance (including sale of existing dwelling)?

Amount

Indicate the maximum mortgage amount you wish to borrow from a bank or building society. Banks typically lend a maximum of 3.5 times your gross (total) household income.

Amount

Indicate the Maximum monthly rent/mortgage amount you could realistically afford

Amount per month

6. Strength of Interest – This helps establish an understanding of the likelihood of schemes going forward.
Indicate you level of interest in a custom build

Assessing applications to register for eligibility

27. The register is intended to demonstrate local demand for custom build plots. Consequently those on the register should be genuinely seeking to build or commission their own main home and have the financial means to acquire a plot of land at a going market rate and to build a home on it.
28. We therefore propose that eligibility criteria is set out in regulations. If an applicant fails to meet any of the eligibility criteria, the local planning authority would have the right to reject the application and not include it on the register.
29. We are currently considering four eligibility criteria:
- **Age and nationality.** An individual must be aged over 18 and be a European Economic Area citizen to be eligible.
 - **Local connection.** Further details can be found in paragraphs 31 - 36 below.
 - **Financial viability.** An individual must demonstrate that they can reasonably be expected to be able to access sufficient financial resources to be able to acquire a plot of land and commission or build a home on it (at a going market rate) to be eligible. This is to ensure prospective custom builders are realistic about their prospects of affording a custom build when expressing an interest in a plot of land.
 - **Main residence.** An individual must indicate that they are expressing an interest in a plot for their main residential home – and not a second home. This is to ensure that the register is not used for second homes or rental properties.

Q(5): Are these the right eligibility criteria for the register? What are the practicalities for local planning authorities in assessing against these criteria?

30. This assessment process will need to be proportionate for both the prospective custom builder and the local planning authority and Government would provide guidance about this to ensure consistency. We propose that registration is completed online and that applicants self certify that they meet the criteria. It would be for local planning authorities to determine in which circumstances they wished to ask for documentary evidence to support self certification. We expect evidence for age, nationality and local connection criteria to be based on readily available official documentation (e.g. passports, birth certificates, council tax and electoral registers). The financial viability and main residence criteria would be based on evidence including information about income, assets and other properties, for example bank statements and in principle mortgage agreements.

Case Study: Local Connection Test

Ref 5

The Vanguardians will test various ways of establishing a local connection test. Shropshire Council has set out a local connection test through its local plan for the Council's 'Build your own affordable home' programme. These houses are built on exception sites to meet local housing need. Custom builders must demonstrate that at least one adult member of the applicants' household meets at least two of their stipulated criteria. These criteria include (but are not limited to):

- If an individual was in permanent residence in the local area for any period of five years as a child attending a local school.
- If an individual has previously lived in the area at some point for 15 continuous years as an adult.
- If an individual is currently employed or routinely carry out self-employed work within either the local area or 5km of the site.
- If an individual can demonstrate active community involvement in the local area sustained for at least the previous 2 years

Local Connections and Neighbourhood planning

Teignbridge District Council proposes that sites secured through the Neighbourhood planning process would offer a key benefit for local people as residents within the Parish would have initial nomination rights to plots which come forward.

31. We are proposing to give local authorities the discretion to ask prospective custom builders to demonstrate a local connection to be eligible for registration. New custom build development should contribute to meeting local housing need as identified as part of the local planning process. As part of this we want to ensure authorities have the tools they need to manage demand effectively, for example in high demand areas such as national parks. This will ensure these areas are not overwhelmed, allowing the focus of the register to be on identifying and supporting local need.

32. In the majority of cases we would expect that where authorities choose to include a local connection criteria prospective, custom builders will be required to demonstrate a local connection through residency in the area or a family connection to the area.

33. If a residency criteria is used we would expect a prospective custom builder to be eligible for inclusion on the Right to Build register if they have been resident in the local authority area for a specified time period, for example a minimum of 12

months. We currently envisage that if an authority applied a residency criteria it would be for them to specify the time period for which a prospective custom builder would have to be resident in the local authority area. This could reflect for example, the fact that the length of time that residents typically reside in certain areas as this varies significantly in different parts of the country. However we would not expect the time period to be too onerous and we would expect allowances to be made for people who had been established in an area for a long time but had moved away for a short period prior to registration, for example for work or study purposes.

34. In most cases we would expect an authority that includes a local connection criteria to allow prospective custom builders with a family connection to also satisfy any local connection criteria. This would enable prospective custom builders to register in areas where they had close family, for example parents or children. We are proposing to give authorities flexibility in how 'family' is defined for these purposes.
35. If a local connection criteria is included we propose that members of the armed forces would be exempt from the need to demonstrate a local connection.
36. The aim of the Right to Build is to ensure that people who want to commission and build their own home have the opportunity to do so. Therefore we would not expect people to exercise their Right, and immediately apply to re-join the register. Local planning authorities would have the discretion to exclude from their register individuals who had purchased a plot of land through the Right to Build scheme within the last five years.

Q(6): Do you agree that local planning authorities should have the discretion to apply a local connection test and, if so, why?

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

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

Q(9): How do you think family should be defined for the purposes of establishing a local connection?

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

Amending the register

37. Once an application has been assessed as eligible, the local planning authority will be required to add that applicant to the register. The local planning authority will, nevertheless, have the power to remove an individual from the register on certain grounds to be specified in regulations. We envisage that there would be four potential grounds for removal:

- If an individual notifies the local planning authority that they wish to be removed from the register.
- If an individual secures a plot of land for custom build (whatever the route).
- If an individual ceases to be eligible for the register (for instance, if they move and would cease to meet the local connection criteria); or
- If an individual fails to confirm their continued interest after a period of time.

38. To ensure the eligibility assessment and removal powers are not abused, a prospective custom builder, who is deemed ineligible for the register following their expression of interest or removed from the register, will also have the right to request the local planning authority undertake a review of the decision (with the procedure for the review to be set out in regulations).

Q(11): Are the proposed criteria for removing a person from the register appropriate? What are the practicalities facing local planning authorities?

Format and transparency of the register

39. We envisage that local planning authorities would have broad discretion about the format of their register, subject to any statutory requirements about the information which it should contain. In particular, for data protection reasons, the register will not be a public document given the personal details which it may contain.

40. However, we propose that local planning authorities will make publicly available the headline data about the demand on the register on an annual basis (e.g. the number of individuals registered and their broad preferences). This data will include the number of people who have left the register (including the reason) so local planning authority performance in meeting both elements can be assessed. This information will enable local planners, land owners, building contractors and custom builders themselves have a clear aggregate local demand for custom build in their area – and plan accordingly. In particular, this aggregate data would form an important contribution to the local plan-making process.

Q(12): Do you agree with the proposals on transparency?

Publicising the register

41. The Bill proposes that local planning authorities would need to publicise their register, so that local custom builders are aware of it, with the Secretary of State having the power to issue statutory guidance.

42. How the register is publicised will be at the discretion of the local planning authority taking into account statutory guidance and reflecting its individual circumstances, but we expect publication to be proportionate and not burdensome on local tax payers. Already a number of vanguards are actively considering how best this could be achieved (for instance, through the innovative use of social media) which will help to inform the statutory guidance.

Q(13): How should local planning authorities publicise the register?

Section 4

Step Two: Meeting Demand on the Register

43. Richard Bacon's Private Members' *Self-Build and Custom Housebuilding Bill* focuses on enacting the first element of the Right to Build – the establishment of registers of prospective custom builders seeking a suitable plot of land. In addition the Bill puts in place a provision for local planning authorities to 'have regard' to the register when exercising their relevant functions. We envisage that in the next Parliament the Government may wish to go further and propose a new statutory requirement for local planning authorities to bring forward land to meet demand on the register where reasonable to do so.
44. We are keen to use the experience of the Vanguard to test how land can be readily brought forward by local planning authorities for custom build across a wide variety of different circumstances. However, at this stage, we envisage the statutory framework would involve:
- Local planning authorities having to take account of the demand on the register including in the preparation of their local plan so it has appropriate planning policies 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 secured through the local planning authority.
45. We are particularly keen to seek views in this consultation on these two key aspects of the second element of the Right to Build.

a) Taking account of the Right within the existing planning framework

46. We expect the demand for custom build as demonstrated by the Right to Build registers to inform the preparation of local plans. As discussed earlier, both national planning policy and practice guidance already ask local planning authorities to identify and plan for the housing needs of their communities, including a requirement to identify and effectively plan for the needs of custom builders.
47. The Right to Build should therefore be seen as an extension of best planning practice, and not as a new parallel planning regime. Land allocated for custom build – reflecting the demand as demonstrated by the Right to Build register, should form an integral part of the local planning authority's five year housing land supply, with local authorities identifying relevant sites and planning policies depending on the scale of the demand. Similarly, the Right to Build will not override existing planning designations which are designed to constrain inappropriate development and protect precious landscapes, such as the Green Belt.

48. Of course, there are some authorities with significant constraints on land supply for housing and these may face particular challenges in bringing forward land to meet all the demand expressed on the register through the local plan process. There will also be some local planning authorities who have plans which pre-date the National Planning Policy Framework or will have adopted plans before the Right to Build is implemented. This means that some may not have carried out the required needs assessment or site identification to promote custom build development.

49. However, given the importance national planning policy and guidance gives to updating strategic housing land assessments and identifying suitable sites for local needs, we consider that there is already a robust planning policy framework in place to identify and deliver land for custom build over time and no significant changes are required in response to the Right to Build.

Q(14): Do you agree that there is sufficiently robust planning policy and supporting guidance framework in place to promote custom build?

Q(15): If not, what more would you like to see?

50. To provide certainty and reduce costs for custom builders to help them to build out more quickly, we want to reduce the obstacles to building and streamline planning permission and servicing on Right to Build plots. To achieve this we propose that local planning authorities should ensure that plots are brought forward with outline planning permission and any relevant servicing (including land remediation).

51. Where plots form part of a larger site, outline permission for the site should cover basic infrastructure requirements for the site including road access and green space. There are a number of approaches to providing planning permission for individual plots:

- **Where permission is granted in outline, and access and layout form part of the permission.** This leaves matters of appearance, landscaping and scale to be dealt with at the reserved matters stage. To avoid each custom builder being required to bring forward their own detailed application for reserved matters approval we propose that, in such circumstances, local planning authorities should use a design code to set clear parameters for development that is preapproved on these plots.
- **A Local Development Order.** This could provide permitted development rights on specified custom build plots to streamline planning permission for custom builders while continuing to provide for important protections, for example through locally determined requirements such as adherence to a local design code, meeting servicing requirements.

- **Where a developer puts forward a proposal for full permission.** Custom builders may apply for a detailed planning permission that varies from the existing planning permission or Local Development Order if they wish.

Q(16): Should local planning authorities have discretion in which approaches they use? Are there alternative approaches which should be considered?

Q(17): What tools and support will local planning authorities need to develop these approaches?

52. We also propose that local planning authorities make arrangements for basic services to the boundary of each custom build plot that is brought forward. This would include water, wastewater and electricity or gas. They may also wish to include telecommunications access.

Q(18): Do you agree that water and energy services should be provided as a minimum? Should telecommunications access be required?

53. There may be circumstances where this level of servicing is inappropriate and we want to avoid restricting access to plots with reduced servicing where this is the choice of the custom builder. Therefore authorities would have discretion to work with custom builders to bring forward plots with lower levels of servicing where this is agreed with the custom builder. In these cases we would still expect land remediation work to have been completed.

Q(19): Are there circumstances when a local planning authority should not be required to service the plot?

b) Offering plots of land to registered custom builders

54. We want the Right to Build to create a statutory entitlement for registered custom builders to be offered suitable plots of land – for sale at market value, through the local planning authority securing relevant land.

55. The size and complexity of this task for the local planning authority will vary greatly, and we anticipate that different approaches will be appropriate for different local circumstances. To provide the local flexibility required, we propose to give planning authorities significant discretion about how they secure land within a national framework setting out clear allocation principles to ensure fairness (based on the idea of local allocation scheme that meets their specific needs).

Meeting the requirement to offer a plot

56. We expect plots offered by local planning authorities to be sufficiently close to the custom builder's preferences for them to be able to seriously consider them and they should be offered within a reasonable time following registration. However, local planning authorities will not be required to continue to offer plots of land which

must match preferences indefinitely, and we think local planning authorities should be able to discharge their statutory responsibilities where a number of reasonable offers (e.g. three offers) have been made but have not been accepted by the custom builder. Government will provide guidance on the circumstances in which a local planning authority is likely to have discharged their responsibilities.

57. To ensure registered custom builders are offered suitable plots of lands on a fair and consistent basis, we propose that the national framework could include the following principles:

- All custom builders on the register should usually be offered a minimum of three plots before the requirement can be considered to have been met.
- All custom builders should usually receive their three offers within two and a half years of registration.
- Plots offered should, as far as it is possible to do so, reflect the custom builder's preferences for location and costs while recognising that wider national planning policies, such as protecting the Green Belt, may make a preference unrealistic to realise; and
- All plots will usually be independently valued to ensure they are sold at a market rate which is fair to both local taxpayers and purchasers.

Q(20): How could we expand or change these principles to ensure we provide a fair national framework?

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

Q(22): Is two and half years the right time period in which authorities should reasonably be expected to make three reasonable offers in?

Plot pricing

58. We are proposing that plots would be offered to custom builders on the register at a fixed price. This will avoid bidding for plots which could inflate costs artificially. Where the local planning authority own the land they will want to ensure that they are obtaining the best price for local taxpayers. Consequently they will need to ensure they have had an independent valuation of the market value of the plot in order to set an appropriate market price. Authorities may wish to have three valuations and take the average of these.

Q(23): Should there be an appeals mechanism to enable custom builders to challenge the plot price?

Local allocation schemes

59. Local planning authorities will be expected to develop their own local allocation scheme within a national framework. Local planning authorities will need to publish this scheme on their website and ensure all custom builders on their register have received details of their scheme. We have considered a number of approaches to offering plots for sale. The appropriate route will depend on how many custom builders require plots and how many plots the local planning authority is able to bring forward at any one time. The main options are set out below.

- **One to one matching.** Where a local planning authority has a small number of custom builders on the register and is bringing forward only a small number of plots they may be in a position to offer the plots to individuals on the register on a 'first registered first served' basis. This approach has the benefit of enabling local planning authorities to target those who have been waiting longest and to put more focus on individual requirements. If the first custom builder to be offered a plot refused it, it would then be offered to the next in line. This approach could be complex and could create significant delays.
- **Pooling offers.** Local planning authorities may analyse their registers and divide it into 'pools'. These pools would enable them to target offers, for example at custom builders with broadly similar preferences or those who have been on the register longest. For example, a local planning authority might decide to make 20 plots in a certain location and of a certain size available to 20 custom builders on the register who had indicated a preference for that location and size of plot. Those 20 builders could then secure an individual plot from within the 20 on a first come first served basis.
- **Open offers.** If a local planning authority has high demand and is bringing forward large sites with high numbers of plots they may wish to make all plots available to all custom builders on their register as they become available. Custom builders who were able to respond quickly would have the greatest choice and be more likely to be able to access a plot. This approach reduces complexity, however local planning authorities would need to ensure that those who had been waiting a long time or who had specific needs were catered for so they could demonstrate they had responded effectively in relation to all custom builders on the register.

60. There will be other approaches, for example a lottery, and we would not necessarily exclude any approach.

Q(24): If you wanted to access a plot through the Right what approaches do you think would be appropriate and in what circumstances?

Q(25): If you were an authority administering the Right which approaches do you think would work for you?

Approaches to securing land

61. The Right to Build register will give local planning authorities evidence of the demand for serviced plots for registered custom builders. This will enable them to develop a strategy for securing and preparing a pipeline of land to meet custom builders' demand for plots in their area. There are a number of routes by which land may be secured for custom build, and the most appropriate routes will depend on local circumstances, including land availability and the nature of local demand.

62. These include:

- Setting out allocations in local plans where specific sites are identified for development specifically to offer registered custom builders.
- Giving developers the option to make contributions under existing planning obligation frameworks (section 106) in the form of land for registered custom builders, as an alternative to providing cash payments - this should not involve introducing new or additional burdens for applicants nor involve any form of compulsion to make such a payment in this way.
- Buying land utilising their own resources.
- Disposing of their own surplus land for custom build.

63. We will be looking to the Right to Build Vanguard to test the feasibility of these options in different circumstances.

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

Q(27): What support or changes local authorities would need to enable them to purchase and prepare land?

Case Study: Acquiring Land

Ref 6

Cherwell District Council acquisition of MoD site at Graven Hill

As part of its *Build!* Custom Build Housing Programme for the district Cherwell District Council has purchased Graven Hill from the Ministry of Defence to build the UK's largest self build housing development. The Council has established a wholly owned 'group' of companies limited by shares (Graven Hill Village Development Co. and Holding Co.) to own and deliver Graven Hill Village.

Teignbridge District Council Local Plan policy on Custom Build Dwellings

Teignbridge District Council's recently adopted Local Plan requires at least 5% of dwelling plots for sale to custom builders on sites of more than 20 dwellings. The policy makes clear that the Council may seek proposals to be developed in accordance with an agreed design code and that developments should be completed within 3 years. The policy also affords flexibility in the event there is no local demand for custom build housing.

Pendle Borough Council proposals to use public and private land

As part of its custom build ambitions and to meet local demand established through its custom build register Pendle Borough Council is committed to using its own land and potentially acquiring sites identified in its SHLAA. To achieve this, the Council will be working with both land owners and prospective custom builders offering support and guidance where necessary.

Areas with constrained land supply

64. While the Right is designed to be implemented at the local planning authority level we anticipate that there will be occasions when cross boundary working may achieve better outcomes for prospective custom builders; for instance, there is an important issue about how the Right would apply in areas of high demand and significant constraint on land supply, for example due to Green Belt and other protective designations.

65. In these circumstances we propose that the Right remains with the authority where the prospective custom builder has the local connection. However the authority might bring forward land from another authority in the housing market area to offer to people on the register and discharge their statutory responsibilities. The authority may need to be able to evidence both that it is constrained within its own area and that the alternative plots being provided are in a reasonable alternative location.

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

Local planning authority skills and resources

66. We expect to provide local planning authorities with flexibility about how they seek to meet need. Some approaches will involve the authority taking on more risk than others. A wide range of expertise would be needed to secure a parcel of land, prepare it as serviced plots and then sell it to individuals on the register. The resources needed would increase in proportion to the size of the pipeline of land that a local planning authority needed to bring forward to meet the demands of the custom builders on its register.

67. For example, the expertise needed might include:

- Surveying and valuation to find and assess the viability of sites and negotiate to buy them. When the plots are prepared they would need to be valued to set the price at which they would be offered to registered custom builders.
- Evaluation of sites' suitability to support sustainable development including, for example, consideration of the natural environment and the conservation and enhancement of the historic environment.
- Design and planning for designing plot layouts and / or producing design guides; preparing planning applications or Local Development Orders and negotiating agreements with land owners to secure land.

68. Depending on the local planning authorities' chosen delivery routes, other skills could be needed for example to run local planning authority-owned companies or manage commercial relationships with private developers or business partners delivering plots on the council's behalf.

Q(29): Do you foresee any challenges with authorities securing the expertise needed to support them in delivering plots for self builders

Section 5

Special Circumstances

Affordable housing

69. The Government is committed to helping people across the country meet their aspirations to rent or own their own homes. Local planning authorities have a responsibility to address the housing needs of their residents across all tenures and have a range of levers to help them do so. National planning policy requires local planning authorities to boost significantly the supply of housing through identifying, and making available, land that is suitable for housing, including affordable housing.
70. The provision of affordable housing is designed to meet the needs of specified eligible individuals and households whose needs are not met by the market. This is currently done through models such as Affordable Rent and Shared Ownership. However, the Government is seeking to develop new models to help local planning authorities and their communities build the homes they need.

The potential for affordable custom build housing

71. Although custom build is generally considered to be a form of market housing, it also has a track record of delivering affordable housing. There are a wide range of examples of this across the country where local planning authorities and registered providers are delivering affordable housing through the custom build route. However, the delivery of affordable housing through the custom build route remains limited.
72. Custom build is already demonstrating that it can deliver affordable housing and has the potential to deliver more. This can enable those with the greatest housing need to build or commission houses that are specially tailored to meet their specific needs. We are proposing to design the Right in such a way that it offers the opportunity for people who are eligible for affordable housing to work with a local registered provider to develop an affordable custom build home.
73. Registered providers can play an important role in bringing forward custom build affordable housing, including through bringing sites to market, enabling and supporting others and providing information and support. We propose for the Right to be designed in a way that would enable local planning authorities to deliver affordable housing through the custom build route. This could involve encouraging local planning authorities to allocate specific sites in their local plans for custom build development, with a requirement that a proportion of the development is delivered as affordable housing.
74. We propose that the register should enable prospective custom builders who are eligible for affordable housing to register in partnership with a registered provider.

75. The local planning authority would then work with the provider to bring forward suitable sites and allocate them accordingly.

Case Study: Affordable Housing

Ref 7

Circle Housing is working with a self-build group ('Headway Group') to build 10 new family houses on a former garage site in Penrhyn Grove in the London Borough of Walthamstow. The group comprises nine families who live in the local area and are predominantly Circle Housing residents.

The group obtained local political support from councillors before approaching Circle Housing as their landlord with a request that any surplus land be identified as a potential development site. Circle Housing identified an unused garage site and began working closely with Headway Group and the Community Self-Build Agency to ensure that the project was properly resourced and that the project runs as smoothly as possible.

The group completed an evening course in basic construction skills, including tiling, painting and joinery, at Waltham Forest College earlier this year.

Outline planning permission for the development was granted by LB Waltham Forest in October 2013. The approved scheme comprises of two two bed homes (including one wheelchair home), seven three bed and one four bed. Of these, seven will be let at social rent and three at affordable rent. The project is part funded by the GLA under the Affordable Homes Programme 2011-15.

Circle Housing has since decided to employ the Group's college tutor to provide on-site tutorials and practical assistance over the course of the Group's construction programme. The scheme is expected to be complete by the end of 2014.

Q(30): How should the register reflect the requirements of those who are eligible for affordable housing?

Q(31): What tools do local planning authorities and registered providers need to enable them to bring forward custom build affordable housing?

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

Group custom build

76. In many countries there is a strong culture of prospective custom builders working together to bring forward a group custom build. This can make custom build more affordable, especially in areas with high land values where higher density housing might be most appropriate. Therefore we propose that groups of individuals would

be entitled to make an application to register to their local planning authority to acquire a suitable plot of land for a group custom build.

77. In some cases an individual may be willing to consider either building on their own or group build options. Local planning authorities would need to capture these preferences when individuals register and look for opportunities to match up individual builders who are interested in group builds where there are appropriate sites. In areas where land is scarce this may be one way in which local planning authorities are able to manage demand and meet needs effectively.

78. Groups who wish to undertake a build may wish to register as a group of individuals with a clear preference for undertaking a build together. Registers should allow for this. Groups may wish to go further and constitute themselves as a body through which to design, develop and manage a development. In these cases the local planning authority would need to satisfy themselves that the group entity was eligible for registration based on the eligibility of the individuals who constitute the group.

Q(33): Should individuals who want to register for a group custom build apply to register as an individual stating their preference to group custom build, or should the group be able to register as one entity?

Q(34): If a single entity is capable of making an expression of interest for a group custom build should each individual within that group satisfy the eligibility criteria or would a proportion of the membership (say 75%) be sufficient?

Case study: Community Build Werneth

Ref 8

Interested residents formed Community Build Werneth Ltd who, with professional advisers developed plans for the Werneth site. Community Build Werneth has formal legal status, is governed by a working agreement and will adhere to a set of rules and regulations. The members have appointed relevant professional services to work up designs, secure statutory approvals, finalise budgets etc. Community Build Werneth have had discussions with a contractor who will build the homes for an agreed price and will operate under license, with the land transferred to the purchaser when construction is completed they will be responsible for developing the site. Subject to obtaining planning permission, Community Build Werneth will pay the council full market value for the land and will see the construction of 37 new 'custom built' homes.

Community Land Trusts

79. Community Land Trusts are non-profit, community based organisations run by volunteers that develop housing, workspaces, community facilities or other assets that meet the needs of the community, are owned and controlled by the community and are made available at permanently affordable levels. A Community Land Trust is set up by the community, for the community. The members of the Community Land Trust control it and the assets can only be sold or developed in a manner that

benefits the local community. If the Community Land Trust decides to sell the asset, the cash realised is protected by an asset lock and is re-invested into something else that the trust's members think will benefit the local community.

80. We believe Community Land Trusts provide an opportunity to bring forward custom build housing to meet local peoples' housing needs whilst involving the community in the design, development and on-going management of the homes.

81. In many cases as a key step in gaining planning permission for a site a Community Land Trust will already undertake a local housing needs survey to establish and provide evidence of the level of local housing need. This enables the Community Land Trust to identify individuals who are eligible for the Community Land Trust homes and registration on the register. We propose that local planning authorities should provide the opportunity for Community Land Trusts to register on the behalf of specified individuals who they intend to bring forward the development for.

Q(35): Do you support the principle of allowing Community Land Trusts to register individuals and state their preference for group custom build?

Case Study: Community Land Trust

Ref 9

Like many attractive villages where housing costs are high, Crosby Ravensworth in Cumbria has faced the challenge of retaining a vibrant and sustainable village life. A housing needs survey carried out by the Parish Council in 2008 identified a need for 23 affordable homes in the parish. Local residents subsequently identified a Community Land Trust as a model for providing the housing with local input while safeguarding it for the community.

Lyvennet Community Trust was formed in early 2009 with a board and membership drawn from the community as well as representatives from the Parish and District Councils. The Trust proceeded to identify and secure a developable site in the village before submitting a planning application for twenty affordable homes in December 2010.

The approved scheme comprises a mixture of shared equity, affordable rent and some self-build homes. The development was completed in 2012 and is now occupied by local people while the CLT continues to steward the homes and run the local pub, which is also in their ownership.

Section 6

Implementation

82. The Right to Build will involve a major shift in the role of local planning authorities as they take a more active role establishing the register for local custom build and offering plots of land to those registered. However, we recognise that its implementation will take time and potentially create administrative costs for local government.

Legislation

83. The Right to Build will require primary legislation to implement. The Government is committed to supporting Richard Bacon MP's Private Members' *Self-Build and Custom Housebuilding Bill* in this Parliament to enact the first element of the Right – the establishment of a register of prospective custom builders seeking a suitable plot of land. However, the full Right will require primary legislation in the next Parliament.

Cost to local planning authorities

84. We will use the responses to this consultation and the Right to Build Vanguard to understand any costs that local planning authorities will incur as a result of their new responsibilities. We will also consult further with the Local Government Association about our estimates. Any new statutory responsibilities will need to be funded in line with the new burdens principle, both for preparing a register and making offers of land to those on the register.

Scope to charge fees

85. In the first years of the register, we believe the register should be free so prospective custom builders are incentivised to use it and the register becomes more familiar among local planning authorities and the custom build sector. However, over time as local planning authorities start to develop a track record offering plots of land to those registered, there may be a case for introducing fees. We would expect these to be on a cost contribution or at most a cost recovery basis. Alternatively a national fee, based on a cost contribution may be set.

Q(36): Should local planning authorities have the power to charge fees on a cost contribution basis for the register?

Best practice support

86. For some local planning authorities with little experience of custom build, we recognise that the Right to Build could be a daunting prospect. However, there are many local planning authorities already taking action to establish registers and make land available to local custom builders – both within and outside the vanguard process – who could offer best practice to others across the country. The custom

build sector itself has been gearing itself up to provide more support to both local government and custom builders themselves.

87. We would welcome views about the practical support either the local government or custom build sectors could provide to support implementation, and whether there is a role for the Department for Communities and Local Government in addition to issuing statutory guidance – particularly in the earlier stages – to provide further support for the Right.

Q(37): What practical support should be available to local planning authorities?

Consultation Questions

Section 2: Scope of the Right

1. Q: If you are a prospective custom builder, would you be interested in using the new Right to Build?
2. Q: How can local planning authorities work together to enable the Right to Build to apply in London, National Parks and the Broads and areas with development corporations?

Section 3: Establishing demand

3. Q: What preferences should custom builders be able to express on the register? Are there any preferences which are essential for all local planning authorities to consider?
4. Q: To what extent should a local planning authority be expected to meet these essential preferences?
5. Q: Are these the right eligibility criteria for the register? What are the practicalities for local planning authorities in assessing against these criteria?
6. Q: Do you agree that local planning authorities should have the discretion to apply a local connection test and, if so, why?
7. Q: In what ways do you think a prospective custom builder should be able to demonstrate that they have a local connection, for example through residency or a family connection?
8. Q: How long do you think a prospective custom builder needs to be resident in an area before they satisfy the local connection test? Should temporary periods outside the area be permitted?
9. Q: How do you think family should be defined for the purposes of establishing a local connection?
10. Q: Do you agree that members of the armed forces should be exempt from any local connection criteria? Are there any other groups we should exempt from this requirement where it applies?
11. Q: Are the proposed criteria for removing a person from the register appropriate? What are the practicalities facing local planning authorities?
12. Q: Do you agree with the proposals on transparency?
13. Q: How should local planning authorities publicise the register?

Section 4: Meeting demand

14. Q: Do you agree that there is sufficiently robust planning policy and supporting guidance in place to promote custom build?
15. Q: If not, what more would you like to see?
16. Q: Should local planning authorities have discretion in which approaches they use? Are there alternative approaches which should be considered?

17. Q: What tools and support will local planning authorities need to develop these approaches?
18. Q: Do you agree that water and energy services should be provided as a minimum? Should telecommunications access be required?
19. Q: Are there circumstances when a local planning authority should not be required to service the plot?
20. Q: How could we expand or change these principles to ensure we provide a fair national framework?
21. Q: Is three the right number of minimum offers a local planning authority should be asked to make before they can consider the requirement to be met?
22. Q: Is two and half years the right time period in which authorities should reasonably be expected to make three reasonable offers in?
23. Q: Should there be an appeals mechanism to enable custom builders to challenge the plot price?
24. Q: If you wanted to access a plot through the Right what approaches do you think would be appropriate and in what circumstances?
25. Q: If you were an authority administering the Right which approaches do you think would work for you?
26. Q: Will these approaches (including a combination of approaches) work? What other approaches are there?
27. Q: What support or changes local authorities would need to enable them to purchase and prepare land?
28. Q: Do you agree that in some circumstances local planning authorities will need to look at bringing forward land in the wider housing market area? Are there other approaches we could consider?
29. Q: Do you foresee any challenges with authorities securing the expertise needed to support them in delivering plots for self builders?

Section 5: Special circumstances

30. Q: How should the register reflect the requirements of those who are eligible for affordable housing?
31. Q: What tools do local planning authorities and registered providers need to enable them to bring forward custom build affordable housing?
32. Q: How can we design the Right to enable registered providers play a greater role in bringing forward more custom build affordable housing?
33. Q: Should individuals from the group register individually, stating their preference to group custom build, or should the group be able to register as one entity?
34. Q: If a single entity is capable of making an expression of interest for a group custom build should the group be required to demonstrate a local connection and financial viability for each individual within the group or would a proportion of the membership (say 75%) be sufficient?
35. Q: Do you support the principle of allowing Community Land Trusts to register individuals and state their preference for group custom build?

Section 6: Implementation

36. Q: Should local planning authorities have the power to charge fees on a cost contribution basis for the register?
37. Q: What practical support should be available to local planning authorities?

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