

EXMOOR NATIONAL PARK AUTHORITY

3 April 2018

EXMOOR NATIONAL PARK SELF BUILD REGISTER

Report of the Chief Executive

Purpose of the report: To recommend the division of the Exmoor National Park Self Build Register into two parts.

RECOMMENDATION: The Authority is recommended to APPROVE the division of the Exmoor National Park Self Build Register into two parts to enable a local connection test to be included as part of the eligibility criteria.

Authority Priority: Securing more resources and influencing national and regional policy for Exmoor

Legal and Equality Implications:

Self-build and Custom Housebuilding Act 2015 (as amended)

The Self-build and Custom Housebuilding Regulations 2016

The equality impact of the recommendation of this report has been assessed as follows: *It is considered that there are no equality impacts. The division of the register into two parts is permitted through legislation and follows advice provided through national planning practice guidance.*

Consideration has been given to the provisions of the Human Rights Act 1998 and an assessment of the implications of the recommendation(s) of this report is as follows: *The division of the register into two parts, to provide inclusion of a local connection test, is permitted through legislation. National planning practice guidance provides further advice and the recommendation is consistent with the approach taken in Local Plan policies that have been prepared in accordance with legal and procedural requirements, and independently assessed as sound by a planning inspector.*

Financial and Risk Implications: The financial and risk implications of the recommendation(s) of this report have been assessed as follows: *There are no financial implications, as the work will be undertaken by the Policy & Community Team. The risk implications are considered to be very low.*

1. Introduction

- 1.1. The publication of a self build register became a legal requirement for all local planning authorities from 1 April 2016 as part of the Government's aim to enable more people to build or commission their own homes. Local planning authorities have a duty to 'have regard' to this register in relation to planning, housing and

regeneration functions and when disposing of any land in accordance with the Self-build and Custom Housebuilding Act 2015 (the Act). .

- 1.2. The purpose of the register is to give a general indication of the level of interest for self/custom build in local planning authority areas. There is no requirement for local planning authorities to match permissioned land to individuals on the register, as set out in the Explanatory Memorandum to The Self-build and Custom Housebuilding (Register) Regulations 2016.
- 1.3. The Self-build and Custom Housebuilding Regulations (the regulations) came into force on 31st October 2016 and revoked The Self-build and Custom Housebuilding (Register) Regulations 2016. These regulations enable local planning authorities to set eligibility requirements for entry on to the self build register in terms of local connection and the demonstration that individuals have the resources to purchase land for their own self build project. If eligibility criteria are set, then the register must be divided into two parts:
 - Part 1 for entrants meeting all the eligibility requirements including the local connection test; and
 - Part 2 for those that meet eligibility requirements excluding the local connection test.
- 1.4. The Housing and Planning Act 2016 amended the Act to place a duty on local planning authorities to grant enough 'development permissions of serviced plots of land' to meet the level of demand shown on the register (but not specifically for those on the register). The Ministry for Housing, Communities and Local Government (MHCLG) monitors the number of entrants on the register on an annual basis. Local planning authorities are required to submit the number of entrants, additional information pertaining to the maintenance and publication of the register, and number of permissions for self/custom build dwellings, to MHCLG from October 31st to October 30th of the following year. National planning guidance states: *"At the end of each base period, relevant authorities have three years in which to permission an equivalent number of plots of land, which are suitable for self-build and custom housebuilding, as there are entries for that base period"*.
- 1.5. It is important to note that if a register includes local eligibility criteria (i.e. a local connection test), local planning authorities only count entries on Part 1 of the register towards the number of development permissions of serviced plots of land. Entries on Part 2 do not count towards demand, but relevant authorities must have regard to these entries when undertaking their planning, housing, land disposal and regeneration functions. If the register is not divided into two parts, the total number of entries contributes to the number of suitable serviced plots that must be granted planning permission over the following three-year period.

2. Exmoor National Park Self Build Register

- 2.1. The Authority has maintained a register of people looking for land in the National Park on which to build their own homes, since March 2015 when Dartmoor and Exmoor National Parks were part of only 11 'Right to Build Vanguard' pilot areas. A review of the register was undertaken once the provisions of the Act commenced and regulations relating to the register came into force. This required a register to be in place by 1st April 2016. The Authority contacted all entrants on the existing register at that time to request that they provide information to enable them to comply with the requirements set out in secondary legislation to remain on the register. The information needed related to their age, nationality, and confirmation

that they were seeking a plot to build a home for their main residence. This final requirement relating to “building a house to occupy as that individual’s sole or main residence” was not taken forward in the regulations brought into force on October 31st 2016.

- 2.2. This review of the register reduced the number of entrants on the register from 85 (excluding duplicate household members) to 19 by 1st April 2016. At the current time there are 40 entrants on the Exmoor National Park self build register: with the majority of entrants living outside the National Park.

3. Proposal for a Two-Part Register

- 3.1. It is proposed that a local connection test is applied as part of the eligibility criteria for the Exmoor National Park self build register; requiring the register to be divided into two parts. Only the number of persons or associations qualifying under Part 1 of the register would be relevant in terms of the Authority’s duty to grant sufficient development permissions in respect of serviced plots of land to meet the demand on the register. There is also a concern that demand in the National Park could continue to be inaccurately recorded if a local connection test is not applied, because it is possible for individuals and associations to apply to be entered on more than one local authority register.
- 3.2. The consequence of this proposal in the immediate term is a substantial reduction in the number of existing entrants that would qualify to be included on Part 1 of the register; resulting in a smaller number of permissions the Authority is required to grant for self and custom build housing.
- 3.3. To date all the entrants on the register have been reported to MHCLG for the past two base periods (1/4/16 – 30/10/16 and 31/10/16 – 30/10/2017). This essentially means that the current number of permissions required to be granted for self/custom build homes is considered to be high for the Authority, even against overall housing delivery across the National Park. Furthermore, the legislation relating to self build registers does not have regard to policies in the development plan: therefore, our strategic priority of delivering housing on a local affordable needs led basis through a rural exception site approach is effectively disregarded by this legislation and affects our ability to meet the requirements of the Act.
- 3.4. Given these issues, the division of the Exmoor National Park self-build register into two parts, would provide a more accurate recording of demand for self build plots. The eligibility criteria for the local connection test are limited to “*individuals who meet such conditions as the authority reasonably considers demonstrate that the individual has sufficient connection with the authority’s area*”.¹ National planning practice guidance also provides that there should be a strong justification for the application of local eligibility tests and to ensure that they are proportionate and in response to a local issue.
- 3.5. The Exmoor National Park Local Plan 2011-2031 has local connection criteria for affordable housing set out in policy HC-S3 Local Occupancy Criteria for Affordable Housing; it is proposed to use this policy as the basis for the local connection test for Part 1 of the register. The local connection criteria are as follows, for a person (and their dependents) who:

¹ The Self-build and Custom Housebuilding Regulations 2016 – regulation 5(2)

- a) has a minimum period of 10 years' permanent residence in the parish or an adjoining parish and who is forming an independent household or is currently homeless or living in otherwise unsatisfactory accommodation;
- b) has a minimum period of a total of 10 years' permanent residence within parishes within the National Park and who can demonstrate a clear link with a parish or its adjoining parish and is forming an independent household or is currently homeless or living in otherwise unsatisfactory accommodation;
- c) is not now resident in the parish or an adjoining parish but with a local connection with the parish including a period of permanent residence of 10 years or more within the last 30 years;
- d) has an essential need to live close to another person who has a minimum of 10 years permanent and continuous residence in the parish or an adjoining parish, the essential need arising from proven age or medical reasons; or
- e)
 - i) carries out paid work which is of value to the National Park and its communities; and
 - ii) needs to live in the parish or adjoining parish in order to carry out that work effectively.

3.6. Planning practice guidance is clear that the test must be reasonable and only relate to local connection to the area. Therefore, the Authority is unable to include an affordability test as part of the local eligibility criteria i.e. require an applicant to demonstrate that they are in affordable housing need. The local connection within the National Park is a period of 10 years in the last 30 years, which would equate to criteria a) – c) above. Policy HC-S3 also includes a work connection (criterion e), which requires that a person in affordable housing need carries out paid work that is of value to the National Park and its communities and they need to live in the local area to carry out that work effectively. Since there is no guidance to determine how this criterion is interpreted at the current time, it is proposed that the work connection included in the 'local connection test' for the self build register is simplified to those who work in the National Park. If subsequent guidance provides further clarity in terms of the period of employment or numbers of hours worked per week for example, then the local connection test could be amended accordingly.

3.7. The regulations also state that members of the armed forces should also qualify to be included in Part 1 of the register including a period after they have left the armed forces that equates to the local connection test.

3.8. Furthermore, it is also proposed that a criterion is included to ensure that the individual is seeking (either alone or with others) to acquire a serviced plot of land in the relevant authority's area to build a house to occupy as that individual's sole or main residence. The former regulatory requirement 'to occupy as that individual's sole or main residence' was not taken forward in the regulations introduced on 31st October 2016. However, this measure is consistent with the Local Plan policy approach for local need affordable homes, including any Principal Residence market homes that may be permitted to enable the delivery of affordable homes.

3.9. The local eligibility criteria can also include tests that enable the demonstration of an applicant's ability to pay for the land and self/custom build home. It is not considered necessary at this stage to include this particular test to qualify to enter on to Part 1 the register. However, there will be questions on the Self Build Register form that ask levels of income and savings but these will not be made compulsory at this stage. Whilst it may also be useful to apply a financial test, this would require

additional checks that may not be justified (for the Authority or the individual) given the limited benefits of acceptance onto the register.

- 3.10. In order to comply with our policies, people wishing to undertake self-build must complete a separate Local Plan Housing Policy Form to assess whether they are in local affordable housing need. This form requires evidence of income and savings before an assessment can be undertaken. This usually undertaken as part of the planning application process for self build local need affordable dwellings. As the local eligibility criteria for the self build register cannot distinguish local people in affordable housing need this separate process has to be retained. It is intended that any material provided in relation to the Self Build Register will explain that people on the register may still not be eligible for a local need affordable self build house because of the need to assess their income/savings and housing situation.
- 3.11. It is recommended that a local connection test is applied as part of the eligibility criteria for the Exmoor National Park self build register, requiring the register to be divided into two parts.
- 3.12. This would require that the National Park Authority website, online form for the register (and any paper version that may be developed) is amended to enable a two-part register to be established for the National Park.
- 3.13. Eligibility criteria for Parts 1 and 2 of the register, an individual or association needs to meet the following eligibility criteria, as set out in legislation:

- Be aged 18 or over;
- Be a British citizen, a national of an EEA State other than the United Kingdom, or a national of Switzerland; and
- Is seeking (either alone or with others) to acquire a serviced plot of land in Exmoor National Park for their own self-build and custom housebuilding

- 3.14. The name, address and contact details of an individual or lead contact of an association of individuals will be required in addition to their date of birth and nationality.
- 3.15. To be included on Part 1 of the register a person will need to meet the criteria set out above and also meet local eligibility criteria in the 'local connection test'. The proposed local connection test for inclusion on Part 1 of the register is as follows:

EITHER

- An individual who must have lived permanently in the National Park and been on the electoral roll for at least 10 continuous years in the last 30 years

and/or

- must have a permanent job in Exmoor National Park

and

- want their own self-or custom build home in Exmoor National Park to occupy as their sole or main residence.

OR

- A member of the regular armed forces as set out in Section 374 of the Armed Forces Act 2006 (as amended) or an individual who has left the service for a period of 10 years or less

- 3.16. If an association wishes to register under Part 1 of the register, then all members of the association must meet the local eligibility requirements set out above. It is proposed that all individuals and associations on the register would be contacted with regard to the splitting of the register, with the default position of being entered onto Part 2 of the register unless they can demonstrate they meet the local connection test to qualify to be entered onto Part 1.

4. Other Matters

- 4.1. The regulations also enable local planning authorities to set a fee for an individual or association to be entered in, or to remain on, the register. Given the relatively low number of entrants on the register over a three-year period, it is considered that a fee is currently unnecessary to cover the costs of maintaining the register, but this should be kept under review if the number of entrants or the eligibility requirements change to generate a significant financial burden to the Authority. At present, the Government is providing support under the new burdens doctrine to enable local planning authorities to establish and maintain their registers.

5. Conclusion

- 5.1. It is recommended that the Exmoor National Park Self Build Register includes a local connection test and is divided into two parts. This will distinguish those individuals and/or associations who meet the eligibility criteria including local connection test from those individuals/associations that otherwise meet the eligibility criteria but do not satisfy any of the conditions set by the local connection test.
- 5.2. Parts 1 and 2 of the register will give an overall indication of the interest in self-build in the National Park, although only Part 1 will indicate the level of demand for self build that has to be met by the planning authority.

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15 March 2018

Background papers on which this report, or an important part of it are based, constitute the list of background papers required by Section 100 D (1) of the Local Government Act 1972 to be open to members of the public comprise:

Self-build and Custom Housebuilding Act 2015

The Self-build and Custom Housebuilding (Register) Regulations 2016

The Self-build and Custom Housebuilding Regulations 2016

National Planning Practice Guidance: [Self Build and Custom Housebuilding](#)

Paragraph: 001 Reference ID: 57-001-20170728; Paragraph 002 Reference ID: 57-002-20170728;
Paragraph: 005 Reference ID: 57-005-20160401; Paragraph: 006 Reference ID: 57-006-20170728;
Paragraph: 008 Reference ID: 57-008-20170728; Paragraph: 017 Reference ID: 57-017-20170728;
Paragraph: 018 Reference ID: 57-018-20170728; Paragraph: 019 Reference ID: 57-019-20170728;
Paragraph: 020 Reference ID: 57-020-20170728; Paragraph: 021 Reference ID: 57-021-20170728