

North Yorkshire Council

Executive Member

11 October 2023

North Yorkshire Council Self-Build and Custom Housebuilding Register: Consultation on Introducing Eligibility Tests and Fees Report of the Corporate Director of Community Development.

1.0 PURPOSE OF REPORT

- 1.1 To agree, for the purpose of targeted consultation, the draft criteria for inclusion on the Self-build and Custom Housebuilding Register for North Yorkshire.

2.0 BACKGROUND

- 2.1 The Self-build and Custom Housebuilding Act 2015 (as Amended) (thereafter referred to as 'the Act') placed a duty on public authorities to keep a register of individuals (including groups of individuals) and associations who wish to acquire serviced plots to bring forward self and custom build housing. This act placed a duty on public authorities to have regard to those registers in carrying out their planning and other functions including housing, regeneration and disposal of land functions.
- 2.2 The Act and the Self-build and Custom Housebuilding Regulations 2016 (as Amended)(thereafter referred to as 'the Regulations') enables local authorities to include up to two optional local eligibility tests; a local connection test and a financial solvency test. Authorities can apply one or both of these tests only where there is strong justification for doing so. The Act also allows the authority to impose a fee to be placed on the Self-build and Custom Housebuilding register (thereafter referred to as 'the register'). The fee is to reflect the costs of administering and maintaining the register and not exceed what is considered cost recovery.
- 2.3 The Act makes provision for the register to be split into two parts, Part 1 and Part 2. Part 1 is the element that would be subject to any eligibility criteria and/or a fee. The local authority has a duty to provide sufficient plots to meet the identified demand on Part 1 of the register. Part 2 is for individuals or groups who either do not meet the eligibility criteria or, if a fee is required, choose not to pay the fee. Part 2 is to assist in the local authority in determining the overall demand for self-build plots in the authority area for the purposes of longer term planning, housing, land disposal and regeneration but do not count towards demand for the purposes of the Act.
- 2.4 The former district authorities have their own respective registers, however following reorganisation; the council must put in place a consolidated register for the whole of North Yorkshire Council area, excluding the two National Parks. This provides the opportunity to re-consider the eligibility criteria and fees for acceptance onto the register.

3.0 THE SELF-BUILD AND CUSTOM HOUSEBUILDING REGISTER

Creating a New Register

- 3.1 Prior to setting out whether eligibility criteria and fees should be adopted, the report will set out the process for creating a new register. There is no guidance available that sets out the

process for authorities that have gone through reorganisation such as North Yorkshire Council.

3.2 It is not a simple process of combining all of the former registers into a single entity as:

- a) The legacy authorities did not have a singular approach to eligibility criteria or fees (see Table 3.1 below); and
- b) There is an issue of data protection in that the persons formerly registering for one of the self-build registers did so on the basis of seeking plots in the legacy areas. They have not provided their consent to be on a North Yorkshire wide register.

3.3 The table below sets out the position in the legacy areas in terms of the number of entrants on the register, eligibility criteria and fees:

District Area	No of People on Register (Part 1/Part 2)	Local Connection Test (Y/N)	Financial Test (Y/N)	Fee (Y/N)	Fee Value
Craven	122 ¹	N	N	N	N/A
Hambleton	125	N	N	N	N/A
Harrogate	437 ² /37	Y	Y	Y	£80 (£25 annually)
Richmondshire	35	N	N	N	N/A
Ryedale	118	N	N	N	N/A
Scarborough	0/47	Y	Y	Y	£50 (£25 annually)
Selby	39	N	N	N	N/A

Table 3.1 – Former District Self-Build Registers and Criteria/Fees

It should be noted that only Harrogate and Scarborough split their registers into Part 1 and Part 2.

3.4 For the reasons highlighted above it is therefore proposed to create an entirely new register to cover the North Yorkshire area. This is the full area covered by the council with the exception of the North Yorkshire Moors National Park and the Yorkshire Dales National Park.

3.5 The legacy council officers responsible for the individual registers will in due course write to those persons on their respective registers. Instructions will be provided on how to re-register for the new self-build and custom housebuilding register. If existing entrants do not respond, they will not be placed on the new register but will remain on the legacy registers until such time they are closed down.

3.6 This new register will be set up following the conclusion of the draft consultation and any resulting further changes. Once set up the self-builder will be able to self-serve and input the following required details (not a finalised list):

- Name and address;
- Their interest level in self-build;
- The type of project (eg individual self-build);
- The preferred location(s) for self-build project;
- Size of plot;
- Size of house;

¹ 119 individuals and 3 associations

² This combines those on Part 1 with those that were on the single register before it was split.

- When they would like to commence;
- Funding arrangements;

The Eligibility Criteria and Fees

3.7 The two options for eligibility criteria are the local connection test and a financial solvency test. The introduction of both of these is considered below.

Local Connection Test

3.8 A local connection test is one where an applicant must demonstrate they have one of a number of connections to the area. Previously this would have been a connection to the areas of Harrogate or Scarborough Borough, however, if we were to pursue such a test now this would have to apply to North Yorkshire as a whole.

3.9 Consideration has been given to whether a local connection test should be applied in North Yorkshire and the recommendation is that it should be. The reasons for this are set out below:

- The risk of not adopting a local eligibility criteria is that persons interested in building a home will be more likely to have their details entered on multiple registers across the region and/or nationally. This would skew demand and potentially result in an over-provision of self-build plots;
- North Yorkshire is a highly desirable place to live, own a second home or retire to, with house prices in some areas in excess of the regional and national averages and subsequently high levels of affordable housing need;
- Areas including Whitby and Filey have high levels of second home and holiday let ownership and a local connection test would go some way to ensure those persons building self-build units are not exacerbating this issue;
- Housing land is a finite resource and the in the first instance the council should seek to meet the needs of the local population.

3.10 It is proposed that a local connection³ would be established by way of meeting one or more of the following criteria:

- An applicant currently lives in North Yorkshire and has done so for at least three consecutive years;
- An applicant has previously lived in North Yorkshire for a continuous period of three years within the past ten years;
- An applicant is currently employed in North Yorkshire and has been for the past twelve consecutive months⁴
- An applicant is currently self-employed, with an ongoing viable venture where work is within North Yorkshire, and has been for the past 12 consecutive months⁵
- An applicant has close family living in North Yorkshire, who have done so for at least five years, e.g. children, parents, brothers and sisters only.

³ A local connection test must include provision that any person in the service of the regular armed forces of the Crown is deemed to satisfy the test whilst in service and for a period after leaving service equal to the length of the longest of any periods required by the test for a condition to be satisfied. In this case, that is five years.

⁴ Employment must be more than 16 hours per week and where working hours fluctuate; an average will be taken over 12 months.

⁵ Self-employment must be more than 16 hours per week and where working hours fluctuate; an average will be taken over 12 months

- 3.11 As set out in the Regulations, an exception is made for those who are currently serving in the armed forces of the Crown or who were serving in the armed forces of the Crown at any time in the five years preceding their application to the self-build and custom housebuilding register.

Financial Solvency Test

- 3.12 In addition to a local connection test, the Act allows the introduction of measures to assess whether a person applying to be on the register has the financial ability to purchase land. Whilst the Act suggested this would also include the ability to pay for the construction of the house, the Regulations subsequently only referred to the purchasing of a plot. As such any financial solvency test would have to be limited to just the purchasing of the land itself.
- 3.13 Whilst an argument could be made to introduce such a requirement, it does bring with it the complication of handling and checking sensitive financial data; loan details, bank accounts, etc. This brings in a host of data protection matters and the manner in which such data is handled and disposed of. Typically, the number of entrants on Part 1 when eligibility criteria are brought in (as seen with Harrogate and Scarborough Borough Council registers) is limited and the additional work and risks associated with handling sensitive data is not considered justified in this instance.
- 3.14 This is a matter that can be kept under review and if it was considered that a financial solvency criterion was required later, this could be actioned.

Charging a Fee

- 3.15 The Regulations allow Authorities to charge a fee for entry onto the register and a separate annual fee for remaining on the register. Of the legacy authorities, both Harrogate Borough and Scarborough Borough opted to introduce a fee. These were £80 and £50 for entry onto the register with a £25 subsequent annual fee thereafter. The other authorities did not introduce a fee.
- 3.16 It remains the opinion of officers that the adoption of a modest charge to recover reasonable costs is appropriate. These costs to the Council will include determining applications for entry onto the register, maintaining the register and corresponding with entrants on the register.
- 3.17 By being entered onto Part 1 the council take on the role of seeking to deliver sufficient self-build plots to meet identified demand – this does not mean that the persons on the register will necessarily receive a plot but numerically the council must seek to deliver sufficient plots to meet demand.
- 3.18 The council propose to provide all entrants on Part 1 a list of potential opportunities for self-build taken from the up to date housing monitoring list on at least an annual basis . This will list sites that have permission for one or a small number of units that have not yet commenced that may be opportunities for self-build. It will also provide details of any larger sites that have specific permission for self-build plots within them⁶. It is not a guarantee that such sites will be available but will provide the opportunity for the self-builder to make connections and seek further information.
- 3.19 In terms of setting a fee, the fees set for registers at Harrogate and Scarborough Borough were set a number of years ago. It is therefore appropriate to set a revised fee and consider

⁶ The former Harrogate Borough Council has 2 strategic sites that would deliver self-build plots in accordance with local plan policy that requires 5% self-build plots on schemes of 500 or more dwellings.

whether an annual fee should be brought in. This needs to be a set fee that is used across all of North Yorkshire.

Setting an Appropriate Fee

- 3.20 A fee for entry on the self-build register has been calculated with input from the council's finance officers. This has been based on the following assumptions:
- The approximate time taken to administer each new entrant onto Part 1 of the register will be two hours;
 - A list of potential sites that could be utilised for self-build will be produced annually for across all North Yorkshire Council planning area and this will take an officer circa 10 hours. This will be sent to all entrants on Part 1;
 - At least five new self-builders will be registered on Part 1 of the system each year – meaning that the costs of providing this list are covered annually by new entrants on the register.
- 3.21 This means that on the basis of five new persons registering on Part 1 their fee will covering the cost of two hours of administration and two hours of the 10 hours budgeted for to produce the list of self-build opportunities. Taking into account the hourly rates provided by the Finance Department and any associated on-costs the proposed fee is set at £123 for entry onto the register. This fee will be re-calculated each year taking into account the council's budget setting guidance.
- 3.22 It is proposed not to charge an ongoing annual fee for entrants to be retained on Part 1 at this time. The costs associated with providing the potential list of sites to all entrants should be adequately funded by new entrants added onto Part 1 of the register each year. When this information and accompanying letters are sent out it will ask whether registrants wish to be removed from the register (or moved to Part 2). There is considered minimal work associated with this element of maintaining the register, however, it is proposed to review the resources required to carry out these tasks by 31 October 2025: the date when the base year starts for self-build registers.
- 3.23 The legacy self-build register from Harrogate Borough included a small number of entrants who opted to pay the fee. These entrants were entered onto Part 1⁷. If these entrants opt to move onto the new register for North Yorkshire, it is proposed that they should not be subject to the £123 fee. They have previously paid under the legacy register and it would be unfair for those entrants to be charged again. Notwithstanding this, if they opt not to move across at this time but seek to join later the fee will apply.
- 3.24 Taking into account the above it is therefore proposed to introduce a local connection test and a £123 fee to join the register.

4.0 CONSULTATION UNDERTAKEN AND RESPONSES

- 4.1 Consultation is the next step. The imposing of eligibility criteria and a fee will be subject to a four-week consultation process. It is proposed that this should be a targeted consultation; there is no requirement to consult all persons on the consultation list or the usual statutory consultees that would have no interest in this subject matter.
- 4.2 It is the intention to write to all individuals and groups that are on any of the legacy self-build registers and all Town and Parish Councils. Where a town or parish council does not exist in Harrogate and Scarborough we will consult with Division Members.

⁷ No entrants paid a fee at Scarborough Borough and were all entered on Part 2.

5.0 CONTRIBUTION TO COUNCIL PRIORITIES

5.1 Ensuring that opportunities for self-build housing are made available for the local community accords with the ambition under Places and Environment that seeks to ensure we have:

- Good quality, affordable and sustainable housing that meets the needs of our communities;

5.2 It also accords with the priorities:

- To help maintain housing supply, both market and affordable housing, whilst improving the quality of new homes; and
- To help meet housing needs, including those of vulnerable households and those with specific needs.

5.3 Specific needs can include those persons seeking to build their own home.

6.0 ALTERNATIVE OPTIONS CONSIDERED

6.1 The publishing of a self-build and custom housebuilding register is a legislative requirement under the Self-build and Custom Housebuilding Act 2015 (as Amended). There is therefore no alternative to having a register.

6.2 The alternative options that can be considered are that North Yorkshire Council do not impose any eligibility criteria or adopt an administrative fee. This has been covered in the Section 3, with reasons set out for why the chosen option has been proposed.

7.0 IMPACT ON OTHER SERVICES/ORGANISATIONS

7.1 There are very limited impacts on other services, with the exception of:

- working with the Communications Team to publish a press release; and
- ensuring integration with a payment system for the payment of the upfront fee for inclusion on the register.

8.0 FINANCIAL IMPLICATIONS

8.1 Financial implications are limited in respect of the eligibility criteria and fee. By entering interested parties onto Part 1 of the register, the authority will have to provide updates on the availability of serviced plots. This will be done so through the publication of a list of potential opportunities on a yearly basis. This will be prepared by the planning service within existing resources and the upfront fee will provide cost recovery for the works involved.

9.0 LEGAL IMPLICATIONS

9.1 The maintaining of a register is a legislative requirement under the Self-build and Custom Housebuilding Act 2015 (as Amended). The imposition of eligibility criteria and a fee is optional but legislated for in the aforementioned acts.

10.0 EQUALITIES IMPLICATIONS

10.1 An Equalities Impact Screening assessment has been completed (Appendix 1). This concluded that a full Equalities Impacts Assessment was not required in this instance.

- 10.2 The imposition of eligibility criteria in respect of a local connection test does not discriminate against any group with protected characteristics. Whilst it limits those that can apply to be on the register to those persons residing or with a connection to North Yorkshire this is considered to be justified as set out in paragraph 3.8 onwards.

11.0 CLIMATE CHANGE IMPLICATIONS

- 11.1 The draft decision to be made by this report is solely in relation to imposing a local connection test and a fee for entry onto the register. It is not about the homes that may be provided via the self-build process.
- 11.2 The imposition of a local connection test is considered sustainable, as this will restrict self-builders to those with a connection to North Yorkshire. Without such a criteria, any person or group could apply to be on the register (countrywide) and deliver what could be a second home.
- 11.3 It is therefore not considered to have any significant climate change implications (see Appendix 2: Climate Change Impact Assessment).

12.0 ICT IMPLICATIONS

- 12.1 There are not considered any ICT implications. The register itself will be set up within existing systems with links on the website to direct interested parties.

13.0 CONCLUSIONS

- 13.1 The maintaining of a Self-build and Custom Housebuilding Register is a statutory requirement and introduction of local eligibility clauses and/or a fee at the discretion of the local authority. Following consideration, it is proposed to introduce a local connection test and a fee for being entered onto the register.
- 13.2 It is considered that there are no substantial implications associated with adopting a local connection test or applying a fee.

14.0 REASONS FOR RECOMMENDATIONS

- 14.1 The report sets out the reasons why the local connection test and the fee are recommended. In brief the local connection test is considered essential to ensure that North Yorkshire Council seek to meet local demands for self-build plots and do not inadvertently exacerbate the increasing issues of second home ownership in certain parts of the county.
- 14.2 The reason for introducing a fee is to recover some of the costs associated with maintaining the register and providing updates on potential self-build opportunities.

15.0 RECOMMENDATION(S)

- i) Agree, for the purpose of public consultation, the draft Eligibility Criteria and Fee.

APPENDICES:

- Appendix 1 – The Equality Impact Screening assessment
Appendix 2 – The Climate Change Impact assessment

BACKGROUND DOCUMENTS:

The Self-build and Custom Housebuilding Act 2015 (as Amended)

Nic Harne
Corporate Director of Community Development
County Hall
Northallerton
5 June 2023

Report Author – Steve Wilson (Planning Policy & Conservation Manager [SCA])
Presenter of Report – Steve Wilson (Planning Policy & Conservation Manager [SCA])

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

Initial equality impact assessment screening form This form records an equality screening process to determine the relevance of equality to a proposal, and a decision whether or not a full EIA would be appropriate or proportionate.			
Directorate	Community Development		
Service area	Planning		
Proposal being screened	Consultation on Introducing Eligibility Tests and Fees for Self-build and Custom Housebuilding Register		
Officer(s) carrying out screening	Steve Wilson		
What are you proposing to do?	<p>Preparing the draft criteria for inclusion on the self-build and custom housebuilding register for consultation.</p> <p>This is proposing that a fee is paid to be on Part 1 of the register and that you must meet a local connection test.</p>		
Why are you proposing this? What are the desired outcomes?	<p>We are proposing to consult on the draft criteria and, following any amendments as a result, publish the self-build and custom housebuilding register.</p> <p>The desired outcome is to commence with a new self-build register for North Yorkshire with fair and proportionate criteria.</p>		
Does the proposal involve a significant commitment or removal of resources? Please give details.	<p>The proposal does not remove resources.</p> <p>It continues on and consolidates the former self-build registers of the seven district councils.</p>		
<p>Impact on people with any of the following protected characteristics as defined by the Equality Act 2010, or NYC's additional agreed characteristics</p> <p>As part of this assessment, please consider the following questions:</p> <ul style="list-style-type: none"> To what extent is this service used by particular groups of people with protected characteristics? Does the proposal relate to functions that previous consultation has identified as important? Do different groups have different needs or experiences in the area the proposal relates to? <p>If for any characteristic it is considered that there is likely to be an adverse impact or you have ticked 'Don't know/no info available', then a full EIA should be carried out where this is proportionate. You are advised to speak to your Equality rep for advice if you are in any doubt.</p>			
Protected characteristic	Potential for adverse impact		Don't know/No info available
	Yes	No	
Age		✓	
Disability		✓	
Sex		✓	
Race		✓	
Sexual orientation		✓	
Gender reassignment		✓	
Religion or belief		✓	
Pregnancy or maternity		✓	
Marriage or civil partnership		✓	
People in rural areas		✓	
People on a low income		✓	
Carer (unpaid family or friend)		✓	
Are from the Armed Forces Community		✓	

Does the proposal relate to an area where there are known inequalities/probable impacts (e.g. disabled people's access to public transport)? Please give details.	The proposal relates to setting criteria for entry onto the register and is not impacting on existing inequalities.			
Will the proposal have a significant effect on how other organisations operate? (e.g. partners, funding criteria, etc.). Do any of these organisations support people with protected characteristics? Please explain why you have reached this conclusion.	The proposal will have no effect on how other organisations operate.			
Decision (Please tick one option)	EIA not relevant or proportionate:	✓	Continue to full EIA:	
Reason for decision	<p>This proposal to propose and consult on implementing a fee and a local connection test is based on evidence as set out in the report. The main reason for the local connection test is to restrict opportunities for self-build to residents (or people with a connection to) of North Yorkshire and play a minor part in preventing the proliferation of second homes. Without a local connection test any person could apply to be on the register to seek a self-build plot – potentially as a second home.</p> <p>As such, it is considered that the draft criteria does not require a full Equality Impact Assessment.</p>			
Signed (Assistant Director or equivalent)	Steve Wilson			
Date	07/09/23			

APPENDIX 2: Initial Climate Change Impact Assessment

The intention of this document is to help the council to gain an initial understanding of the impact of a project or decision on the environment. This document should be completed in consultation with the supporting guidance. Dependent on this initial assessment you may need to go on to complete a full Climate Change Impact Assessment. The final document will be published as part of the decision-making process.

If you have any additional queries, which are not covered by the guidance please email climatechange@northyorks.gov.uk

Title of proposal	Consultation on Introducing Eligibility Tests and Fees for Self-build and Custom Housebuilding Register
Brief description of proposal	To seek approval of the Executive Member to consult on the draft criteria for inclusion on the Self-build and Custom Housebuilding Register which requires the payment of a fee and the ability to meet a local connection test.
Directorate	Community Development
Service area	Planning
Lead officer	Steve Wilson, Planning Policy & Conservation Manager (Scarborough)
Names and roles of other people involved in carrying out the impact assessment	N/A

The chart below contains the main environmental factors to consider in your initial assessment – choose the appropriate option from the drop-down list for each one.

Remember to think about the following;

- Travel
- Construction
- Data storage
- Use of buildings
- Change of land use
- Opportunities for recycling and reuse

Environmental factor to consider	For the council	For the county	Overall
Greenhouse gas emissions	No effect on emissions	No Effect on emissions	No effect on emissions
Waste	No effect on waste	No effect on waste	No effect on waste
Water use	No effect on water usage	No effect on water usage	No effect on water usage
Pollution (air, land, water, noise, light)	No effect on pollution	No effect on pollution	No effect on pollution
Resilience to adverse weather/climate events (flooding, drought etc)	No effect on resilience	No effect on resilience	No effect on resilience
Ecological effects (biodiversity, loss of habitat etc)	No effect on ecology	No effect on ecology	No effect on ecology
Heritage and landscape	No effect on heritage and landscape	No effect on heritage and landscape	No effect on heritage and landscape

If any of these factors are likely to result in a negative or positive environmental impact then a full climate change impact assessment will be required. It is important that we capture information about both positive and negative impacts to aid the council in calculating its carbon footprint and environmental impact.

Decision (Please tick one option)	Full CCIA not relevant or proportionate:	X	Continue to full CCIA:	
Reason for decision	<p>The recommendation is to seek approval to consult on the criteria attached to be entered onto the self-build and custom housebuilding register. This is limited only to (a) paying a fee, and (b) meeting a local connection test.</p> <p>This is not about the actual policies of the local plan or any decisions made on planning applications in relation to the location or construction of any self-build homes. The actual specification of house design has no bearing on the register and that this would follow in the relevant planning permission and building control regulation requirements in terms of energy efficiency and design.</p> <p>Whilst not noted in the table above there is the nuanced argument that by restricting development to those persons with a local connection (to North Yorkshire) this eliminates the use of self-build plots for the construction of second homes. Second homes can be an inefficient use of a residential unit and often used for holiday letting purposes. This can result in long journeys by motor vehicles for short-term stays as opposed to a person(s) living and residing in the area.</p> <p>With this in mind, the impacts on climate change are therefore considered to be minor in nature, and in respects of this proposal in a positive manner.</p>			
Signed (Assistant Director or equivalent)	Steve Wilson			

Date	7/09/23
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