

Report to: Strategic Planning Committee



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Review date for release N/A

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## **Self-build and custom housebuilding update and monitoring report for 2022-2023**

### **Report summary:**

Since the last self-build and custom housebuilding (SCB) monitoring report was considered by this committee in February 2023, there have been three major changes to the national context for SCB.

- Section 123 of the Levelling Up and Regeneration Act 2023 ([LURA](#)) has amended the provisions of the Self-build and Custom Housebuilding Act in respect of our legal duties.
- Paragraph 70b has been added to the [NPPF](#) requiring us to 'seek opportunities to support small sites...for self-build and custom-build housing'.
- A ministerial [statement](#) has been published which underlines the importance of paragraph 70b (of the NPPF).

This report notes the legal changes, sets out the challenges of meeting future monitoring requirements and highlights the need to increase opportunities for SCB, both through the emerging local plan and when making decisions on development proposals.

The legislative changes are likely to have implications for how subsequent SCB monitoring is undertaken, but the method used for calculating this monitoring (seventh) monitoring report is in line with that produced for the last couple of monitoring periods. This is considered to be a reasonable approach since the monitoring period of 31/10/2022 to 30/10/2023 pre-dates the legislative changes. However, advice given at a recent webinar by the 'Right to Build' [Taskforce](#) suggests that the legal provisions may be applied retrospectively. Secondary legislation is expected to be consulted on later in the year, which will hopefully make the situation clear. This may have very significant implications and require us to 'redo' all of our previous SCB monitoring in line with the new legislation/guidance. Meanwhile, it is considered important to publish our monitoring work as currently set out so that it can inform policies in the emerging local plan and consideration of applications for SCB housing.

The monitoring report shows that the supply of self-build plots has fallen quite significantly over the last two years. This, coupled with the revised national planning context (which is extremely supportive of SCB, particularly on small and medium sized sites) suggest that we need to do more to deliver SCB opportunities. This can be done, both through supportive policies in the local plan and by giving significant weight to providing opportunities for SCB on small/medium sites through the development management process.

**Is the proposed decision in accordance with:**

Budget Yes  No

Policy Framework Yes  No

### **Recommendation:**

That Strategic Planning Committee:

1. Note the legislative and national policy changes described in the report and give consideration to including a planning policy in the emerging local plan that will enable greater levels of self-build and custom housebuilding being delivered through small and medium sized sites.
2. Endorse of the draft monitoring report for use in planning decisions (to inform both local plan production and decision making on development proposals).
3. Note that 13 individuals were added to the self-build register during the latest monitoring period (31/10/22 to 30/10/23).
4. Note the need to permission 11 plots suitable for self-build between 31/10/23 and 30/10/26 to meet the level of demand shown on Part 1 of the self-build register (between 31/10/22 and 30/10/203).
5. Note need to permission a further 3 plots suitable for self-build between 31/10/23 and 30/10/25 to meet the 'residual' requirement from the demand shown on the register for 31/10/21 to 30/10/22.
6. Note that the demand for self-build plots indicated on the register should be taken into account in our planning, housing, regeneration and estate functions.

### **Reason for recommendation:**

To ensure that our obligations with regard to self-build and custom housebuilding are met in line with the relevant legislation and national planning policy context.

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Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities
- Tourism, Sports, Leisure and Culture

**Equalities impact** Low Impact

**Climate change** Low Impact

**Risk:** Medium Risk; There is a legal obligation to 'permission' enough plots to meet the demand for self-build and custom housebuilding shown on the register.

**Links to background information**

Link to [Council Plan](#)

Priorities (check which apply)

Better homes and communities for all

A greener East Devon

A resilient economy

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## 1. Background to the self-build register

- 1.1 The Government is keen to encourage opportunities for people to build their own homes. It diversifies the supply of housing, gives individuals and groups the opportunity to tailor make their own home, can be cheaper than buying a 'standard' home from a house builder and can produce innovative designs with enhanced ecological credentials
- 1.2 Since March 2016 we have kept a register of people who are interested in building their own home in East Devon. Since October 2017 we have had a duty to ensure that enough serviced plots are 'permissioned' to meet the demand shown on the register. We have produced SCB monitoring [reports](#) annually to show the latest demand and supply figures. There is a legal duty to consider the results in our planning, housing, regeneration and estate functions.
- 1.3 In April 2017 we introduced a local connection test so that, generally, only those who live or work in East Devon, are included on the part of the register that is used to gauge demand for the number of plots that need to be permissioned (Part 1). In February 2020 this Committee decided to keep the local connection test and not to introduce a financial solvency test or a registration fee. It is not considered that circumstances have changed that would justify reconsideration of these issues.
- 1.4 In addition to being relevant to developing plans and policies, Government Guidance states that the self-build register is likely to be a material consideration in planning applications. The guidance also says it should be taken into account in housing decisions, including preparing local housing strategies, delivering affordable housing, supporting community-led housing

and building housing on land owned by the local housing authority. The register should also be used to inform disposal of Council owned land and when preparing redevelopment plans.

- 1.5 Over the years our approach to determining which permissions were 'suitable' for SCB (and should therefore be counted towards the supply needed to meet the demand indicated in 'Part 1' of the register) has evolved. In the first few monitoring reports we included all single plots in our supply. Following the publication of Right to Build Task Force Custom and Self-Build Planning Guidance in 2021 we amended our approach to generally align with that guidance (see Section 3 of our fifth monitoring report). Since that time our approach has been to include in our supply any permissions where a Community Infrastructure Levy (CIL) Exemption Part 1 Claim Form has been submitted (a declaration that the property will be built as SCB).

## **2. Changes to National Context**

- 2.1 Section 123 of the [Levelling-up and Regeneration Act 2023 \(legislation.gov.uk\)](#) (LURA) made changes to the [Self-build and Custom Housebuilding Act 2015 \(legislation.gov.uk\)](#) (SCB Act) that were enacted on 31/01/2024. Section 2A (2) of the SCB Act now requires that a Local Planning Authority (LPA) "must give development permission for the carrying out of self-build and custom housebuilding on enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area in respect of each base period". Previously the legal requirement was that the LPA should 'grant sufficient permissions' that were 'suitable' for self-build. The clear implication of this wording was that the plots should be 'suitable' for but not necessarily developed as SCB. For the last two years, we have included in our SCB supply sites where there is an application for exemption for CIL on the basis that the development is self-build. Prior to that we included permissions for single dwellings. Guidance provided by a legal professional during a recent webinar by the 'Right to Build' Taskforce was that only permissions that were 'conditioned' as SCB or were required by S.106 to be CSB or were described as CSB in Planning in Principle consent should be 'counted' as SCB for monitoring purposes.
- 2.2 In December 2023 paragraph 70 was added to the NPPF. This states that "Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should ... seek opportunities, through policies and decisions, to support small sites to come forward for community-led development for housing and self-build and custom-build housing".
- 2.3 Paragraph 70 was reinforced by Michael Gove's [Ministerial Statement](#) of 19/12/2023 which said that '...local authorities should seek opportunities to

support small sites to come forward for community-led housing, and self-build and custom build housing.'

### **3. Key Points from Monitoring Report**

- 3.1 The monitoring report shows that the overall demand for plots indicated on the self-build register was 13, with 9 on 'Part 1' of the register. This is a marked decrease from previous years, when the level of demand has ranged from 18 to 40. This seems to be continuing, with only 6 individuals placed on the register from 31/10/2023 to 30/04/2024 (4 on Part 1).
- 3.2 To meet the 2022/2023 demand, we will need to permission enough serviced plots to meet the demand indicated on Part 1 (9 plots) between 31/10/2023 and 30/10/2026.
- 3.3 The previous monitoring report (published February 2023) noted that there was a 'residual' requirement for 10 plots to be permissioned between 31/10/2023 and 30/10/2025 to meet the 2020 to 2021 demand.
- 3.4 Supply figures show that we permissioned around 18 plots suitable for self-build between 31/10/22 and 30/10/23. Of these, 10 need to be counted against the 'residual' requirement of 10 to meet the 2021/2022 demand. This leaves 8 plots that can be counted towards the 31/10/1022 to 30/10/2023 demand, leaving a 'residual' requirement for 3 plots to be permission between 31/10/1023 and 30/04/2026.
- 3.5 The number of plots permissioned (18) continues the lower figure noted in last year's monitoring report (16 compared with 36 plots in 2020 -2021). This is an indication that we may need to encourage more SCB opportunities to meet the minimum legal requirements.

### **4. Existing and emerging Development Plan Context and Compatibility with National Context**

- 4.1 The adopted [EDLP](#) Policy H2 'encourages' the provision of SCB plots on schemes of 15 or more dwellings. The adopted [Cranbrook](#) Plan Policy CB11 requires 4% of the expansion areas to be offered for CSB. Some neighbourhood plans, including Kilmington, Broadclyst and Farringdon, have SCB policies. These tend to allow for some small scale SCB in locations that may not otherwise be supported for housing through the plan policies.
- 4.2 The draft East Devon [Local Plan](#) 2020 to 2040 includes Policy 44 to support 5% SCB on sites of 20 dwellings or more. In earlier drafts of the plan officers had recommended that a policy be included to allow some SCB

adjoining a settlement boundary in certain circumstances, but this was not supported by SPC.

- 4.3 Draft Policy 44 is considered to be appropriate for promoting SCB plots on larger sites of 20 dwellings or more. However, there is nothing in the draft plan to specifically promote SCB on smaller sites in line with the NPPF and 19<sup>th</sup> December 2023 Ministerial Statement. It is strongly recommended that consideration be given to how a policy in the emerging local plan could be developed to support SCB on small and medium sites, together with community lead housing in accordance with paragraph 70 of the NPPF. If this is agreed, a paper will be prepared for a future SPC meeting setting out options for consideration.

## **5. Development Management Implications**

- 5.1 The dropping off of supply for SCB homes noted in the monitoring report, together with changes to legislation national planning policy mean that consideration should be given to whether increased weight should be given to the delivery of SCB housing on small and medium sized sites. This would be likely to become more urgent if it is confirmed that the legislative changes will apply retrospectively, although recent appeal decisions suggest that it may be difficult to defend some applications for SCB housing at appeal. For example, in March 2024 an [appeal](#) was allowed in outline for around 26 self-build housing plots outside of the settlement boundary for Malmesbury. The Inspector gave significant weight to the SCB element of the proposal and found that the LPA had over relied on Community Infrastructure Levy (CIL) Exemption Part 1 Claim Forms (the approach we have taken) so that the supply of SCB plots was not as high as the LPA had stated. This followed an [appeal](#) that was allowed in October 2023 for four SCB plots in the countryside, adjacent to the development limits for Docking. In this case the Inspector also gave considerable weight to the SCB nature of the development and found that the Councils reliance on CIL Exemption Part 1 Claim Forms had overestimated the true delivery of SCB plots.
- 5.2 In the medium to long term the Cranbrook expansion areas should be a significant source of self and custom build housing plots with 4% of the plots to be delivered in this way. Although outline consents for the Treasbare and Cobden's expansion areas have a resolution to grant subject to Section 106 agreements and should be issued shortly; the timelines for reserved matters applications and commencement of build out are less clear. We cannot therefore rely on delivery coming forward at Cranbrook in the short term.
- 5.3 It is strongly recommended that planning decisions on applications on small and medium sites give considerable weight to any SCB housing and, if

found to be appropriate, are conditioned to be for SCB if for less than 2 plots or subject to S.106 agreement for sites of 3 or more SCB plots. This is in line with advice given in the recent 'Right to Build' webinar.

**Financial implications:**

There are no direct financial implications resulting from the report.

**Legal implications:**

The legal issues are covered in the report.