

WAVERLEY BOROUGH COUNCIL

EXECUTIVE - 6 FEBRUARY 2018

Title:

SELF-BUILD AND CUSTOM HOUSEBUILDING REGISTER

[Portfolio Holder:Cllr Chris Storey]

[Wards Affected:All]

Summary and purpose:

In accordance with the Self-build and Custom Housebuilding Act 2015 ('the Act'), since the 1 January 2016, Waverley has kept a register of individuals and associations who wish to acquire a serviced plot for their own self-build or custom housebuilding project.

The Self-build and Custom Housebuilding Regulations 2016 ('the Regulations') require Councils to grant sufficient planning permissions to meet the demand for plots shown in their self-build and custom housebuilding registers. In order to ensure that registers provide a realistic indication of local demand, the Regulations enable Councils to control entry by imposing a local connection test, a financial test and also introducing a fee for joining and being on the register.

This report recommends that Members approve the introduction of additional eligibility criteria and fee for entry onto and remaining on the Waverley Borough Council Self-build and Custom Housebuilding Register ('the SB & CH Register'). This report also recommends that members agree to make provision in the Council's Scheme of Delegation to ensure that the requirements of the Act and its accompanying regulations are met. This will be addressed as part of the review of the Scheme of Delegation which will be presented to the Standards Panel in January 2018.

How this report relates to the Council's Corporate Priorities:

Preparation and maintenance of the SB & CH Register will assist with the delivery of new homes. It will influence and support the aspirations for self-build and custom housebuilding development in our towns and villages. Identifying and meeting the demand for self-build and custom housebuilding aligns with the aims to ensure that growth is proportional and managed to meet our economic needs and the wellbeing of our communities.

Financial Implications:

Setting fees to recover costs ensures the council is delivering a sustainable service and the service is not supported by council tax payers. It is normal practice for administering authorities to cover the costs of providing a similar service by means of set fees which are periodically reviewed. The proposed fees are set out below.

Legal Implications:

The Self-build and Custom Housebuilding Regulations 2016 (“the Regulations”) were brought into force on 31 October 2016 under the Self-build and Custom Housebuilding Act 2015 (“the Act”). Regulation 5 states that:

- A relevant authority may set criteria whereby only individuals who meet such conditions as the authority reasonably considers demonstrate that the individual has sufficient connection with the area are eligible for entry in the register; and
- A relevant may set criteria whereby only individuals who can demonstrate that they will have sufficient resources to purchase land for their own self-build and custom housebuilding are eligible for entry in the register.

The Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016 also came into force on 31 October 2016 under the Act. Regulation 3 states that:

- A relevant authority may charge a fee to a person to be entered on the register for a base period or part of a base period and thereafter on an annual basis to remain on the register.

The comments set out in this report are a comprehensive assessment of the relevant issues and no further comment is required.

Background

1. Since 1 January 2016, as required by the Act the subsequent Regulations, the Council has kept a register of individuals and associations of individuals who are seeking to acquire serviced plots of land in Waverley. The SB & CH Register is intended to identify the demand for self-build and custom housebuilding within Waverley Borough.
2. The Council is required to have regard to the register in its planning, housing, regeneration and land disposal functions.
3. The Regulations require that each individual applicant and every member of an association that applies for entry on the register must be:
 - Aged 18 or older
 - A British citizen, a national of a European Economic Area (EEA) State other than the United Kingdom, or a national of Switzerland
 - Seeking (either alone or with others) to acquire a serviced plot of land in the authority’s area to build a house to occupy as that individual’s sole or main residence
4. The need for self-build and custom housebuilding is assessed against ‘base periods’. The first base period commenced on the date the Council first established its register (1st January 2016) and concluded on 30th October 2016. Subsequent base periods will begin on the 31st October and will conclude on the 30th October.
5. At the time of writing this report there were a total of 133 applicants on the SB & CH Register:
 - 54 applicants were successfully placed on the SB & CH Register during the first base period (01/01/16 – 30/10/2016)

- 68 applicants were successfully placed onto the SB & CH Register in the second base period (31/10/2016 – 30/10/2017)
 - 11 applicants have been successfully registered in the current base period (third) (31/10/2017 –).
6. Applications are received on a frequent basis and are straightforward to assess under the current national eligibility criteria. The applicant must be informed of the Council's decision within 28 days of the Council receiving the application. If applicants are not placed on Part 1 of the SB & CH Register the Council must give reasons why not. Officers have been able to process applications within the required response time.
 7. The Regulations place a requirement on the Council to provide 'suitable development permissions' (planning permission) for serviced plots of land to meet the demand for self-build and custom housebuilding in Waverley as recorded on the SB & CH Register. The need must be met within three years of the conclusion of each base period. Therefore, the deadline for granting 'suitable planning permissions' for the self and custom build plots for the first base period is the 31st October 2019.
 8. The monitoring to ensure that sufficient suitable development permissions are provided to meet the demand for self-build and custom housebuilding will be undertaken by Officers.

Implications of the new legislation

9. To date the number of applicants gaining entry onto the SB & CH Register has not been regulated and individuals can join multiple registers across the country, regardless of whether they have a fundamental need to obtain a self-build plot within Waverley. However, the Regulations which came into force on the 31st October 2016 enable the Council to set additional eligibility criteria for entry onto their self-build register.
10. Given the duty to provide suitable development permissions to meet the demand for self-build and custom housebuilding, it is considered necessary and appropriate to introduce a local connections test. It is considered appropriate to set separate entry and an annual fee (for remaining on the register), which must be set on a cost recovery basis.

Local Connections Test

11. Given the challenges of identifying enough land for development in what is a highly constrained area of the country, it is considered appropriate for the Council to introduce a local connection test for its SB & CH Register.
12. It is considered that the implementation of a local connection test will regulate entry to the SB & CH Register to those who have a substantial connection to Waverley and will ensure that the SB & CH Register would not be inflated by demand arising from outside of Waverley.
13. The Council's Housing Allocation Scheme already has an existing local connection test. In the interests of consistency, it is proposed to adopt the same local connection test for the purpose of the SB & CH Register. This is in line with the approach taken by other councils such as Mole Valley District Council, and has the benefit of being

consistent and transparent. The introduction of this test would mean that applicants wishing to join Part 1 of the SB & CH Register must comply with the following:

- The applicant or partner has, by choice, lived in the Borough of Waverley for at least 3 out of the 5 years immediately preceding the date the application is made or reviewed; or
 - The applicant or partner, by choice, lived in the Borough of Waverley continuously for at least 5 years at any time in the past; or
 - The applicant or partner has been employed in the Borough of Waverley for at least 12 months and:
 - remains in employment in the Borough continuously from the date of their application
 - the employment is permanent (not temporary), and is for a minimum of 16 hours per week
- or;
- The applicant or partner has a close relative that lives in the Borough of Waverley and has done so for at least 5 years immediately preceding the date the application is made or reviewed. For the purposes of this paragraph a close relative means mother, father, adult son or daughter, brother or sister; or
 - The applicant or partner has demonstrated, to the Council's satisfaction, that a local connection applies to the Borough of Waverley through special/exceptional circumstances.

14. The Regulations also specify that any person in the service of the regular armed forces of the Crown is deemed to satisfy the local connection test whilst in service, and for a period after leaving service equal to the longest of any periods required by the local connection test, i.e. 5 years.

Financial Solvency Test

15. A local authority can require applicants to the SB & CH Register to demonstrate that they will have sufficient fund/resources to purchase land for their own self-build and custom housebuilding project. Given the complexity of collecting and analysing relevant information, it is recommended that this test is not introduced at this stage. However, this position will be subject to review.

Entry and Renewal Fee

16. The Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016 enable relevant authorities to charge a fee for entry to the register and a fee for remaining on it. The fees must be set on a cost recovery basis. Any fees charged must therefore be proportionate, reflect genuine costs incurred and should not act as a deterrent for people to be entered on or remain on the register.

17. It is considered that the introduction of a fee charge for applicant wishing to the SB & CH Register will enable the Council to focus on the applicants that have a genuine interest in obtaining a self and custom build plot in Waverley.

18. Based on an approximation of time required to determine the applications (taking in to account the additional local connection test), maintain correspondence and deal with any queries or disputes that may arise, it is considered appropriate to charge £25 for an application to enter on to the Register and an annual fee of £10 to remain on it. The

proposed fees are the same as those agreed upon by Guildford Borough Council and Mole Valley District Council.

19. It is recommended that the entry fee is charged from the beginning of the new financial year, 1st April 2018 and is suggested that the renewal fee is introduced upon the commencement of the next base period, 31st October 2018.
20. It is proposed that the charging fees set for entry onto and remaining on the SB & CH Register should be reviewed on an annual basis.

Part 1 and Part 2 of the Register

21. If the applicant meets all the eligibility criteria (including the local connections and the entry fees) then they go on Part 1 of the SB & CH Register. If they fail the local connections test but meet the other eligibility criteria then they must go on to Part 2 of the SB & CH Register. The applicant must be informed of the Council's decision within 28 days of receiving the application. If they are not placed on Part 1 of the Register the Council must give reasons why.
22. The duty to grant 'suitable development permissions' (planning permission) for serviced plots of land only applies to the number of applicants on Part 1 of the Register. The Council does not have a duty to grant planning permission for serviced plots to meet the demand on Part 2 of the SB & CH Register.
23. A relevant authority may remove an entry from the register:
 - if the authority considers that the individual (or in the case of an association, any member of the association) is no longer eligible for entry in the register;
 - where the person has acquired land suitable for building a house; or
 - if an individual or association fails to pay any fee required to remain in the register.
24. Given there are currently 130 individuals on the SB & CH Register, the introduction of a local connections test would involve contacting and assessing those currently on the SB & CH Register against the new local connections test.

Scheme of Delegation

25. The 2015 Act came into force before the current Scheme of Delegation was adopted in July 2017. In order to ensure that the requirements of the Act and its accompanying regulations are met it is recommended that the paragraph 42 of the Scheme of Delegation is amended to give delegated authority to the Head of Planning Service to take all decisions, actions and exercise powers in respect of the 2015 Act. This amendment will be addressed as part of the review of the Scheme of Delegation which will be presented to the Standards Panel in January 2018.
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Recommendation

It is recommended that approval be given to:

1. the introduction of a local connection test as additional eligibility criteria for being entered on either Part 1 or Part 2 of SB & CH Register;

2. the introduction of a set charging fee of £25 for applicants wishing to gain entry onto the SB & CH Register; and
3. the introduction of an annual set fee of £10 to be charged for each base period that the applicant remains on the SB & CH Register with effect from 31 October 2018.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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