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1. Introduction

The application itself is very simple and there are relatively few factors to consider at the in principle stage.

Through studying many previous self-build and PiP applications, decision notices and appeals we have noticed that there are several questions about the process and procedure that crop up on a regular basis. We have set these out, and provided answers to them based in legislation, guidance, and appeal cases. These questions and answers are generally more about process rather than the particulars of any given site. These questions are intended to help frame the decision making process. Where a decision-maker might come to a different conclusion on any of these questions, we would welcome the opportunity to discuss these matters further and if necessary, submit additional information.

2. Permission in Principle Q&A

Q: What is the LPA's duty to engage proactively with applicants on PiP applications, particularly if concerns arise that might lead to a refusal?

A: Local Planning Authorities (LPAs) have a clear and explicit duty to work with applicants in a positive and proactive manner. This is not merely good practice but a requirement underscored by national policy and specific legislation relating to Permission in Principle (PiP).

Paragraph 39 of the National Planning Policy Framework (NPPF) sets out the general expectation:

> *"Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible."*

More specifically for PiP applications, Article 5T(2) of The Town and Country Planning (Permission in Principle) Order 2017 mandates that where permission in principle is refused:

> *"(2) Where paragraph (1)(a) applies, the notice must also include a statement explaining, whether, and if so how, in dealing with the application, the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with an application."*

Taken together, these provisions mean that if an LPA identifies issues with a PiP application that could lead to refusal, they are expected to communicate these concerns to the applicant and work towards finding solutions. A decision to refuse that introduces new reasons without prior discussion, or provides reasons only hours before issuing the notice, would make it difficult for the LPA to adequately demonstrate how they have fulfilled their duty under Article 5T(2) in their decision notice. We therefore anticipate that should any such concerns arise with this application, they will be communicated to us in a timely fashion to allow for constructive dialogue and the opportunity to address them before a decision is reached. This ensures a fair, transparent, and collaborative process consistent with legislative requirements.

Q: What is Permission in Principle?

A: The Permission in Principle (PiP) process provides a structured, efficient approach to assessing the suitability of small-scale housing developments. Introduced by the Housing and Planning Act 2016, PiP allows for an early decision on a site's development potential without requiring extensive upfront technical details. This helps both developers and the Local Planning Authority (LPA) focus on key considerations, reducing unnecessary complexity in the early stages.

In the first stage of PiP, the LPA considers three core factors:

- Location
- Land Use
- Amount of development

This stage ensures that only these fundamental aspects are assessed, allowing for a clear, efficient evaluation of whether the site is suitable for housing.

These are the only matters addressed in this statement and are the only matters that should be reviewed and considered by the decision-maker at this stage.

The second stage, known as Technical Details Consent (TDC), addresses the specific technical elements of the development, such as design, access and a detailed analysis on the setting. This ensures that detailed considerations are handled appropriately once the principle of development has been agreed upon.

PiP is intentionally designed to focus on these essential elements at the outset, with other detailed matters deferred to the TDC stage. The Planning Practice Guidance (PPG) confirms this approach, ensuring that unnecessary delays or costs are avoided while maintaining thorough oversight.

By establishing the principle of development early, PiP provides greater certainty for both the LPA and the applicant. The LPA retains full control over technical details during the TDC stage, ensuring that all relevant requirements are met before planning permission is finally granted.

Appendix 2: Land on the North Side, Lodge Lane, Bolney

Q: Why has Permission in Principle been selected for the application route?

The proposed development aims to deliver small-scale plots that can be developed quickly, diversifying the local housing market and addressing the demand for Self-Build and Custom Housebuilding (SBCH) homes in the area.

The Permission in Principle route was selected due to its expedited process and straightforward nature, making it suitable for securing "in-principle" approval while minimising complexity in the early stages.

The proposal aligns closely with national planning policy, as outlined in Paragraph 73 of the National Planning Policy Framework (NPPF) - with all bold emphasis added both here and below:

> *"73. 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:*
>
> - *[...]*
> - *b) seek opportunities, through policies and decisions, to support small sites to come forward for [...] self-build and custom build housing;*
> - *c) use tools such as [...] permission in principle [...] to help bring small and medium sized sites forward;"*

Q: Can Self-Build be secured via the Permission in Principle route?

A: Permission in principle is expressly identified as one of the two routes for an LPA to meet its duty under Section 2A of the Self-Build and Custom Housebuilding Act:

> *"(2) An authority to which this section applies 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….(5) In this section "development permission" means planning permission or permission in principle (within the meaning of the 1990 Act)."*

The PPG confirms that following a grant of PiP, the granting of TDC has the effect of granting planning permission and that an application for TDC must be in accordance with the PiP. The PPG also states that LPAs may agree planning obligations at the TDC stage.

The status as "self-build" is carried through to the TDC stage by recording this within the description of the Permission in Principle application.

The applicant has also included an example Unilateral Undertaking (Appendix 6) that the applicant would submit with a subsequent TDC should Permission in Principle be granted.

Appendix 2: Land on the North Side, Lodge Lane, Bolney

If an applicant were to submit an application for technical details consent ("TDC") for anything else, including conventional housing, then the Council could refuse that consent.

There are a number of recent precedent appeals that confirm that full weight should be given to self-build PiP Stage 1. The link between the proposed (self-build) housing type being outlined in the application description and the subsequent technical matters application has been upheld in several appeals. An example is the recent PiP appeal at Banbury Road, Gaydon, Stratford-Upon- Avon (Appeal Ref: APP/J3720/W/23/3336035, dated 14th June 2024), where the inspector said:

> *"Section 2A(5) of the Act defines 'development permission' as both planning permission or permission in principle, demonstrating that SCBH can be delivered through the PIP route. The description of development would limit the occupancy of the building to SBCH tenancy. The PPG, and the 1990 Act advise that the technical details consent must be in accordance with the relevant PIP. As such, a subsequent TDC to this PIP would need to demonstrate how it would deliver the SBCH to be approved. This requirement could be secured by a suitable legal mechanism. This would guarantee the site's delivery for the specialist type of housing. As such, this site would assist the Council in its delivery of SBCH sites and help address its existing shortfall."*

Therefore, if an applicant includes self-build in the title of the PiP then a planning authority can grant permission specifically for self-build at the "in principle" stage and then back this up with guidance in the decision that a Unilateral Undertaking will be required at the Technical Details Consent stage. If an applicant attempted to drop the self-build element in the Technical Details Consent stage this would contradict both the description of the development and the guidance issued by the council in the "In principle" decision that self-build would be secured via a Unilateral Undertaking and planning could therefore be refused.

Q: What is the difference between Permission in Principle and Outline Planning Permission?

A: For outline planning applications planning is granted on the grant of an outline permission and reserved matters are considered detail. With Permission in Principle applications it isn't until the grant of Technical Detail Consent that a planning permission is legally granted. There is no planning permission until Technical Detail Consent has been granted and no requirement for this to be given automatically following the grant of Permission in Principle. This means that although there might not be all the information necessary to make a full assessment of the proposals (such as landscape impact, effect on listed buildings, highways access etc) there is enough to make an 'in principle' assessment.

For outline applications certain matters can be classed as 'reserved matters' and be assessed at a later 'reserved matters application' stage. These include issues such as:

- Appearance
- Means of access

- Landscaping
- Layout
- Scale

However, with outline applications the local authority may, when necessary, request details of any or all reserved matters within one month of receipt if it considers the application cannot be determined without such details. This is not the case with Permission in Principle. For a Permission in Principle application only location, land use and amount of development can be considered at the in principle stage with all other matters being considered later at the Technical Details Consent stage. Planning authorities cannot insist on additional information other than that required to validate the application and must make a decision based on this information. If it feels like there is insufficient information to make a decision at the 'In Principle' stage of a PiP this likely indicates that this aspect of the scheme should be considered at the 'Technical Details Consent' stage.

Q: Should discussions take place between local planning authorities and applicants before Permission in Principle is proposed for sites?

A: Paragraph 51 of the Planning Practice Guidance states the following:

Local planning authorities and applicants should refer to policies in the National Planning Policy Framework on pre-application engagement and front loading. A proportionate approach should be taken as there will also be an opportunity to have mutually beneficial pre-application discussions before the submission of a technical details consent application.

This suggests that it is entirely reasonable to submit an application for the 'in principle' stage without prior engagement and look at more detailed engagement during the Technical Details Consent stage.

Q: Can planning conditions be attached to a grant of Permission in Principle?

A: Paragraph 20 of the Planning Practice Guidance states the following:

> *"It is not possible for conditions to be attached to a grant of permission in principle and its terms may only include the site location, the type of development and amount of development. Local planning authorities can inform applicants about what they expect to see at the technical details consent stage."*

Q: Can local planning authorities inform applicants about what they expect to see at the technical details stage?

A: Paragraph 45 of the Planning Practice Guidance states the following:

> *"When granting permission in principle to a site, local planning authorities can provide information on the relevant entry on the brownfield land register, or on the decision*

> *notice where permission in principle is granted following an application, about what they expect the detailed proposals to include at the technical details stage. This information may include where further impact assessment is needed by the applicant or where a particular scheme of mitigation may be required. Applicants are encouraged to take account of this information when preparing a technical details consent application."*

Q: Can local authorities agree planning obligations at the Permission in Principle and Technical Details Consent stages?

A: Paragraph 22 of the Planning Practice Guidance states the following:

> *"Local planning authorities may agree planning obligations at the technical details consent stage where the statutory tests have been met. Planning obligations cannot be secured at the permission in principle stage. Local planning authorities can inform applicants that planning obligations may be needed at the technical details consent stage."*

Q: How can a Unilateral Undertaking, linking the site with self-build housing, be considered as part of the 'in Principle' stage?

A: As discussed above it is not possible to include conditions as part of the “In Principle” stage and therefore a Unilateral Undertaking cannot be attached as a condition to the application. However, as stated in Paragraph 45 of the PPG it is possible for the planning authority to set out:

> *“what they expect the detailed proposals to include at the technical details stage [...] This information may include where further impact assessment is needed by the applicant or where a particular scheme of mitigation may be required.”*

Paragraph 22 of the PPG also states:

> *"Local planning authorities may agree planning obligations at the technical details consent stage where the statutory tests have been met. Planning obligations cannot be secured at the permission in principle stage. Local planning authorities can inform applicants that planning obligations may be needed at the technical details consent stage."*

It is therefore correct for a decision maker to factor in self-build at the “In Principle” stage of the PiP - informing the applicant that at the Technical Details Consent stage a planning obligation will be required in order to guarantee a delivery mechanism for self-build.

Indeed, this is the approach taken in appeal decision 3288893 for Permission in Principle:

> *"25. The proposal is for up to six self-build dwellings. Whilst this is a matter that cannot be secured at the PiP stage, this is a characteristic of the proposal that is included within the description of development, and, as suggested by the appellant, a legal*

> *agreement could be entered into at the TDC stage which would ensure that the development is brought forward as a genuine self-build scheme. This matter carries considerable weight."*

Therefore, in the decision notice the council can set out that some form of UU will be expected in the "Technical Details Consent" stage in order to secure the site for self-build housing. A draft UU is set out as part of this application as an example of what would come forward in the "technical details" stage. As this is not being conditioned as part of this application it is not necessary to review this in detail at this stage as this would form part of the "Technical Details Consent" stage. This approach would be entirely consistent with Planning Practice Guidance on Permission in Principle applications.

Q: What matters can be considered at the "in principle" stage of a PiP?

A: Paragraph 12 of the PPG on Permission in Principle is very clear:

> *"What matters are within the scope of a decision on whether to grant permission in principle?*
>
> *The scope of permission in principle is limited to location, land use and amount of development. Issues relevant to these 'in principle' matters should be considered at the permission in principle stage. Other matters should be considered at the technical details consent stage."*

So, the following can be considered:

- Location
- Land use
- Amount of development

Amount of development for this application is clearly defined. The "land use" is for residential development and in particular self-build Residential development as defined by the Self-build and Custom Housebuilding Act 2015.

"location" is a bit more nuanced. For example: are highways considerations part of "location"?; Is the effect on landscape part of "location"?; is the effect on the National Landscape part of "location"?; Is historic conservation part of "location"? If the answer to any of these questions is yes then how does a decision maker assess these aspects without having any details of the development to assess?

There might be cases where a decision is so clear cut that even without knowing the details of a proposal a decision on the site is obvious - a house on top of a hill in open countryside in a national park would certainly be refused. However, in other cases a decision might be more nuanced - for example a site next to a listed building. If a very sensitive design was submitted that respected and even enhanced the setting of the listed building then this might be possible, however, a badly designed house would be totally inappropriate in that location. How should these more nuanced scenarios be assessed?

Appendix 2: Land on the North Side, Lodge Lane, Bolney

The Collins Dictionary gives the following definition for “in Principle”:

If you agree with something in principle, you agree in general terms to the idea of it, although you do not yet know the details or know if it will be possible.

If we go back to our examples, In principle you can build next to a listed building. However, it isn’t until you see the details that you know if a design is really appropriate.

In principle you can build a house in a National Landscape. However, it isn’t until you see the details that you can properly assess what effect it will really have on the landscape and whether or not a particular design is acceptable.

So, except for the more extreme examples it is likely that these aspects should be left for the “technical details” stage rather than the “in principle” Stage

Indeed unlike outline planning permission - where planning is granted on the grant of an outline permission and reserved matters is considered detail. With Permission in Principle applications it isn’t until the grant of Technical Detail Consent that a planning permission is legally granted. There is no planning permission until Technical Detail Consent has been granted and no requirement for this to be given automatically following the grant of PiP.

Below are several appeals that demonstrate this understanding:

Appeal Case 3269210, Torridge District Council, Permission in Principle (PIP), 17 February 2021, Allowed:

16. I note the concerns of interested parties and the Council’s Highways Consultee that there could be a degree of risk in introducing a new access in close proximity to a crossroads and that there is limited information on which to assess whether satisfactory visibility splays can be achieved. Further concerns relate to the management of surface water that may run onto the highway.

17. The limited information provided with the appeal application is commensurate with the nature of the PiP stage process, which purely seeks to determine whether the location, land use and amount is acceptable in principle. These highways aspects are more appropriately determined as part of the TDC stage, and there can be no guarantee that just because the PiP has been granted, that the TDC will follow. It takes approval of both stages for a planning permission to be secured.

18. Thus, whilst I accept that there is limited information provided to indicate that a safe access, appropriate parking provision and associated surface water management measures can be delivered, these details would come forward as part of a TDC application in any event.

Appeal Case 3280423, Tewkesbury Borough Council, Permission in Principle (PIP) 26 August 2021, Allowed:

21. I appreciate that I do not have full details of the scale and design of the final proposed development, including any landscaping arrangements. However, I consider that there is a real

prospect that the development of between one and 6 dwellings on the appeal site would not be harmful to the AONB or its scenic beauty. This is based on the site's specific characteristics in terms of its overall value, visibility, and relationship to existing built form. In addition, the extant permission provides a realistic fallback position that could see significant built development come forward at the site.

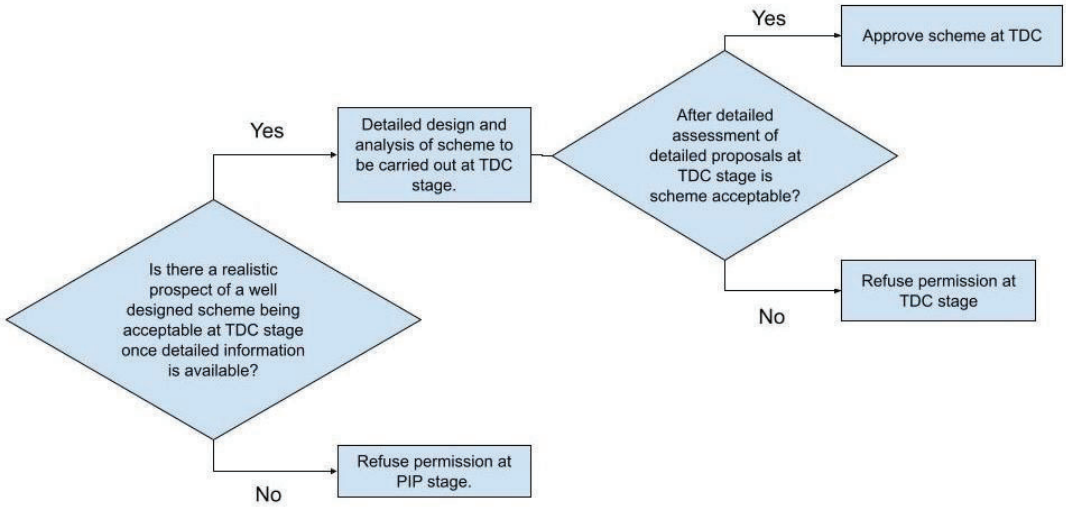
22. The appellant has also identified an intention to provide a comprehensive package of information as part of the technical details stage, including a landscape and visual appraisal or impact assessment. This would allow a comprehensive consideration of the impacts on the AONB to be fully tested once precise details of a scheme are available.

24. Concerns have been raised by third parties regarding the effect of the proposal, including on highways, infrastructure, and flooding. However, these are not matters which would fall within the scope of consideration for the first stage of the Permission in Principle route. These issues will need to be addressed as part of the technical details stage and there can be no guarantee that just because Permission in Principle has been granted, that approval of technical details will follow. It takes approval of both stages for a planning permission to be secured.

25. The site also lies adjacent to Gretton Conservation Area. Matters pertaining to issues such as scale, appearance and landscaping are subject to future consideration. However, subject to suitable design, the siting of dwellings in this location would not appear as an overly insensitive form of development, nor harmful to the setting of the adjacent conservation area. From the information before me I have no reason to find harm to the setting of the Gretton Conservation Area. As such, there is no conflict with policies which seek to protect local and the settings of heritage assets or my duty thereunder.

This appeal deals with the potential effect on the National Landscape in the correct way. The inspector first assesses whether "[...] there is a real prospect that the development [...] would not be harmful to the National Landscape." Note that this is very different to being conclusive as to whether or not there is harm. They then go on to state that detailed assessment of the effect on the National Landscape together with a Landscape and Visual Impact Assessment would rightly be assessed in the Technical Details Consent stage. This is where the full assessment of potential harm would be conducted. Below is a diagram that we propose is the correct decision making flow diagram for matters concerning landscape, heritage, highways, drainage etc.:

Appendix 2: Land on the North Side, Lodge Lane, Bolney



Q: How should ecology be considered at the “in principle” stage of a PiP application?

A: The assessment of ecology at the Permission in Principle (PiP) stage follows the same established logic as other detailed technical matters such as landscape impact, highways, or tree protection. The core principle, consistently upheld in appeals, is that a full and detailed assessment of ecology is a matter for the Technical Details Consent (TDC) stage.

At the "in principle" stage, the decision-maker's role is to consider the three core matters of location, land use, and amount of development. A comprehensive ecological appraisal requires detailed information—such as specific site layouts, building footprints, drainage strategies, and mitigation plans—which is not required or submitted at the PiP stage.

Therefore, unless the site is subject to a statutory designation (such as a SSSI or Habitats Site) that would represent a fundamental, in-principle constraint on any development, the detailed consideration of ecological impacts should be deferred. The decision-maker at the PiP stage should assess whether it is plausible that an acceptable scheme, which appropriately mitigates ecological impacts, could be designed. The proof and detailed scrutiny of that scheme is reserved for the TDC stage.

This approach is confirmed in numerous recent appeal decisions where permission in principle has been granted.

Appeal Ref: APP/D0840/W/24/3352627 - 21 February 2025, Allowed:

The inspector deferred a range of technical matters, explicitly including ecology, to the second stage:

21. Details of matters including ecology, drainage, tree protection, access and parking would all need to be considered and approved at TDC stage along with a consideration of the design of

the proposed dwellings and effect on the living conditions of the occupiers of neighbouring properties. However, I have been presented with no evidence which would lead me to conclude that acceptable arrangements could not be implemented.

Appeal Ref: APP/M1900/W/24/3340638 - 26th November 2024, Allowed:

When addressing concerns from a local resident, the inspector was clear that ecology was a matter for the TDC application:

13. A local resident raises concerns about the impacts of the proposed dwelling. The details of the scheme will come forward with the technical details consent application. Consideration of matters such as layout, building line, size, design, impacts on trees and ecology, parking and separation distances will be addressed at that stage.

Appeal Ref: APP/M3645/W/24/3347815 - 19 February 2025, Allowed:

In this appeal, the inspector grouped ecology with other technical issues that are not for consideration at the PiP stage:

18. In addition to the main issue above, further matters raised by interested parties include the loss of privacy, highway safety, flood risk, ecology, infrastructure, noise and other details. Traffic and highway safety concerns include how the road could accommodate an increase in residents, alongside existing pressures from school and other traffic. Noise concerns include the effect on a local riding school business, through disturbing the horses.

19. Having regard to the advice in the PPG, many such technical matters do not fall to be considered at the permission in principle stage of development, and so it is not necessary for me to consider them as part of this appeal. Such matters would be appropriately considered at the technical details stage.

Q: How should the potential for archaeological remains be assessed at the ‘in principle’ stage of a PiP application?

A: The assessment of archaeology at the Permission in Principle (PiP) stage must be proportionate and follow the same procedural logic as other technical matters, such as ecology, flood risk, and highways. The core principle is that a full, detailed evaluation is a matter for the Technical Details Consent (TDC) stage, not the ‘in principle’ stage.

While the NPPF requires the effect of an application on heritage assets to be considered, the nature of that consideration must align with the limited scope of a PiP application, which only assesses location, land use, and amount of development.

The argument that a full archaeological field evaluation (including trial trenching) is required before a PiP can be granted is procedurally incorrect for several key reasons:

1. It misinterprets the PiP process: Requesting detailed, intrusive, and costly investigations upfront undermines the purpose of the two-stage PiP route, which is designed to establish

the principle of development efficiently before significant expenditure is incurred. Unlike an outline application, a planning authority cannot insist on this level of detail for a PiP.

2. The TDC stage provides the necessary safeguard: The Council is fully protected. A grant of PiP is not a grant of planning permission. The detailed archaeological investigations are correctly undertaken to inform the design and layout submitted at the TDC stage. If those investigations reveal significant remains that cannot be acceptably preserved or recorded, the Council retains its full power to refuse the Technical Details Consent. If TDC is refused, no planning permission exists.

3. The correct test is to identify an absolute constraint: The question for the decision-maker at the PiP stage is not to pre-judge the outcome of detailed investigations, but to determine if there is a fundamental, in-principle reason for refusal that would apply regardless of a more technical in depth analysis. This would typically only apply where a site is subject to a statutory designation, such as being a Scheduled Ancient Monument, which acts as an absolute constraint. Where a site merely has the potential to contain undesignated remains, there is no such absolute bar. The TDC stage provides the correct and robust forum for assessing these details. Should detailed investigations at the TDC stage uncover an absolute constraint that renders development unacceptable, the Council retains its full authority to refuse permission. Equally, if partial or less significant remains are found, the TDC stage allows for the flexibility to sensitively design the development's layout around these finds, ensuring their preservation in situ.

This procedural approach has been explicitly confirmed by the Planning Inspectorate. In the recent appeal decision for a PiP at Land at Moorhouse Lane, Hallen (Appeal Ref: APP/P0119/W/21/3276047), the Inspector dealt with the Council's concerns about archaeology as follows:

16. The Council included three further reasons for refusal on its decision notice. These relate to the potential archaeological interest of the site, highway safety and its effect on the living conditions of the occupiers of nearby dwellings.

17. I am mindful of the Council's view that the site is within the historic core of Hallen which may be medieval, and within the Lower Seven Vale Levels, archaeology for which can be nationally important. However, the PPG is clear that only 'in principle' matters should be assessed at the PiP stage. It advises that other statutory requirements, which would include the need to consider the potential archaeological interest of the site, are matters to be considered at the TDC stage(PPG Paragraph: 003 Reference ID: 58-003-20190615). There is no planning permission until TDC has been granted and no requirement for this to be given automatically following the grant of PiP.

The Inspector's reasoning is unequivocal: even where there is potential for nationally important archaeology, this is a matter to be addressed at the TDC stage. To refuse a PiP application based on a lack of detailed archaeological investigation would be a clear misapplication of the established PiP process and directly contrary to the guidance of the Planning Inspectorate, risking a successful procedural challenge at appeal.

3. Sustainable Location Q&A

Q: Is the site considered as isolated within the open countryside?

A: This issue has been extensively discussed in the court of appeal case - Braintree DC v SSCLG. The judge ruled that "isolated" should be read in its common sense form as being "separate from". The Appeal judge ruled:

> *"… a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is, or is not, 'isolated' in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand" at [31].*
>
> *"Whether, in a particular case, a group of dwellings constitutes a settlement, or a 'village', for the purposes of the policy will again be a matter of fact and planning judgment for the decision-maker" at [32]*

The site is not separate or remote from the settlement and therefore is not isolated within open countryside as defined in the NPPF.

Q: Should rural locations be considered differently to urban sites when it comes to reviewing sustainable transport?

A: Yes. The NPPF clearly states that rural locations should be treated differently from Urban locations when reviewing sustainable transport. Paragraph 110 states:

> *"... Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes…"*

Which implies that development which is not significant can reasonably meet a lower threshold for sustainability. And goes on…

> *"...opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making."*

In the Braintree Appeal the judge also added to this in paragraph 28:

> *"The scale of the proposed development may also be a relevant factor when considering transport and accessibility."*

Sustainable Transport is an important factor in decision making. However, for more rural settings some flexibility should be applied for smaller sites.

Appendix 2: Land on the North Side, Lodge Lane, Bolney

Q: What is considered a walkable distance.

A: The National Design Guide defines walkable as being 800m (or approximately a 10 minute walk. However, there is only a passing reference to this distance. The BRE document 'Home Quality Mark ONE - Technical Manual' goes into much more detail on what is considered walkable. As per the guidance from the NPPF in Paragraph 110 it also makes a distinction between rural and urban areas when defining sustainable transport. The BRE Technical Manual gives the following definitions of walkable in relation to local amenities on page 23:

- Urban - 650m,
- Rural - 1300m

These are both along the route rather than 'as the crow flies'.

Q: The site is relatively small in scale. Given this, what weight should be given to any benefits of the scheme.

A: Looking through less recent appeals for smaller schemes the weight given to any benefits of a particular scheme is sometimes reduced, referencing the small scale of the development as a reason for reducing the weight given. However paragraph 73 of the NPPF specifically singles out smaller sites as providing an important contribution and states:

> *"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." and goes on… "To promote the development of a good mix of sites local planning authorities should:*
>
> *[...]*
>
> *b) seek opportunities, through policies and decisions, to support small sites to come forward for community-led development for housing and self-build and custombuild housing;*
>
> *c) use tools such as area-wide design assessments, permission in principle and Local Development Orders to help bring small and medium sized sites forward."*

This makes it very clear that there are specific advantages to smaller sites that should be given extra weight in the planning balance. At the very least the weight given to a scheme should not be diminished simply because of its small scale.

This view has been taken in a number of recent appeals:

At Bourn Road, Caxton APP/W0530/W/24/3352408 (decided MaRCH 2025) as a PiP for a single self-build dwelling. The inspector said.

> *"31. The Council suggests that the benefit of providing just one additional plot would be small in relation to the size of the shortfall, and that this should therefore carry limited weight. But that approach seems flawed, as it would appear to mean that the larger the shortfall, the less would be the weight. In any event, this would also offer little prospect*

> *that the deficit could be made good within a reasonable period, especially as there is no evidence that large numbers of self-build plots are likely to come forward through other sources.1*
>
> *32. In the circumstances, I consider that the need for self-build plots, and the benefits of the appeal proposal in meeting part of that need, should command substantial weight. "At Bullens Green Lane, Colney Heath APP/B1930/W/20/3265925 (decided June 2021) the inspector awarded substantial weight to the provision of 5 self-build plots (as part of a bigger application).*

At Brock Cottage, Brize Norton APP/D3125/W/21/3274197 (decided July 2022) the inspector awarded substantial weight to the provision of just two self-build plots, and that was despite the fact that the LPA had an up-to-date Local plan, with a self-build policy (% of larger sites), and could demonstrate a 5 year housing land supply.

It should be noted that just one additional plot has been considered significant where there is an undersupply - as per the appeal at Clayton Le Dale, Blackburn (Appeal Ref: APP/T2350/W/23/3335737, decided 1 May 2024):

> *"... although the appeal scheme is only for 1 dwelling, I consider that substantial weight should be given to the fact that it is a self-build dwelling that would contribute towards meeting the significant demand for such housing in the borough."*

Q: Can the application be refused simply for being in conflict with policies relating to settlement boundaries and sustainable location?

A: Any decision needs to be based on applying a planning balance. It is common ground that the application technically conflicts with policies relating to the settlement boundary. However, with the tilted balance engaged not only do these harms need to outweigh the benefits - they must significantly and demonstrably outweigh them. Therefore any decision needs to apply this test considering any potential harms and all relevant benefits. Only after this test is applied can a decision be made.

4. Planning Balance Q&A

Q: How is the tilted balance correctly applied to decision making?

A: Havant Borough Council have produced a very helpful flow diagram explaining how the tilted balance is correctly applied in decision making. We have included a copy of this in Appendix 9.2 and a link can be found here - https://www.havant.gov.uk/sites/default/files/documents/Tilted%20Balance%20Flow%20Chart.pdf

Appendix 2: Land on the North Side, Lodge Lane, Bolney

Q: When assessing limb i of paragraph 11 d) of the NPPF which policies should be considered in determining whether or not the tilted balance is applied?

A: The following issues should be considered that protect areas of particular importance:

- Habitats sites
- Sites of Special Scientific Interest
- Green Belt,
- Local Green Space,
- National Landscapes,
- National Park (or within the Broads Authority)
- Heritage Coast;
- Irreplaceable Habitats;
- Designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68);
- Areas at risk of flooding or coastal change

However, the NPPF states that these should only be assessed against relevant policies within the NPPF. Footnote 7 specifically excludes including the local development plan policies relating to the above.

Q. Does the Local Plan being silent on self-build trigger the tilted balance NPPF para 11?

A: Yes. When considering whether the tilted balance is triggered, decision makers need to consider the basket of policies relating to the scheme. While a single policy being out of date or silent is not enough to trigger the tilted balance if a policy is among the most pertinent policies relating to the scheme then this should carry great weight in making a decision.

The policies most pertinent to the site are those relating to a sustainable location and settlement boundaries and those relating to self and custom build.

Self-build and custom-build have their own legal definition and a set of mechanisms both within the NPPF and the self-build act to actively encourage decision makers to give significant weight to this form of development. New emerging plans will generally have specific policies relating to self-build that treats this form of development differently to other forms of housing. These often allow this form of development on edge of settlement locations and in other marginal places where other forms of housing might otherwise be difficult.

Custom build policies are tending to put a change of emphasis on where this form of development can be located. Therefore not having policies relating to custom build brings into question existing policies relating to location and settlement boundaries.

Appendix 2: Land on the North Side, Lodge Lane, Bolney

Paragraph 11 of the NPPF was designed to deal with exactly this type of scenario where national policy has overtaken the local plan on the most pertinent policies relevant to the scheme.

Triggering the tilted balance doesn't mean the automatic granting of planning permission. It just means that a different emphasis should be applied in the decision making.

This principle has also been established through several previous appeals where the current plan being silent on self-build policies has triggered the tilted balance. Some recent examples of these, in the past year, are listed below:

Worcestershire District Council - Appeal case: 3276845, Date: 26/05/2022

The appeal decision states:

> *"27. Notwithstanding the debate regarding the Council's housing supply position there are no relevant development plan policies relating to self-build and custom building housing. In such instances the Framework states that where there are no relevant development plan policies permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, paragraph 11 d) of the Framework is engaged."*

Tendring District Council - Appeal case 3264706, Date: 14/05/2022

The appeal decision states:

> *"11. The positions of the main parties have materially changed during the course of the appeal, and the parties are now not in dispute regarding the Council's ability to demonstrate a 5-year housing land supply. However, the appellant has indicated that the proposal is for a self-build dwelling and I have not been made aware of any planning policy specific to self-build dwellings and needs. In this respect, the adopted development plan is silent on this matter for the purposes of this appeal. As such, paragraph 11 of the National Planning Policy Framework is thus engaged."*

Wyre Forest District Council - Appeal case: 3284761, Date: 21/4/2022

The appeal decision states:

> *"25. The Council's position statement from April 2021 indicates a 7.12-year supply of housing land. This is not challenged by the appellant. Therefore, paragraph 11 d) is not engaged by this particular factor.26. Notwithstanding the above, there is no relevant development plan policies relating to self-build and custom building housing. Therefore, paragraph 11 d) of the Framework is engaged and permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole."*

Appendix 2: Land on the North Side, Lodge Lane, Bolney

You can see that with all 3 of these very recent appeal decisions the plan being silent on Self-build and custom-build is deemed to be enough to trigger the tilted balance.

Q. What effect does the triggering of the tilted balance have on decision making?

A: Triggering the Tilted Balance changes the process by which an application is assessed. The balancing process changes from a normal “planning balance” where the benefits of the scheme have to outweigh the harms in order to be approved, to a “tilted balance” where the harms have to significantly and demonstrably outweigh the benefits in order to be refused. This is a significant difference.

It is important that the decision maker weighs the basket of policies that apply to the scheme rather than making a decision on a single policy conflict. It is also important that appropriate weight is assigned to each policy when weighing the balance.

Q. Does a council not meeting its self-build requirements trigger the tilted balance?

A: The relationship between how a planning authority is performing against its self-build register is very similar to the question of how it is performing against its 5 year land housing supply. Both mechanisms set a figure for housing (that is a minimum rather than a target figure). Both mechanisms then compel a local authority to permission enough units to, at the very least, meet this figure.

However, whereas 5 year housing supply is set out in secondary legislation the requirements for self-build registers are set out in primary legislation. Therefore, planning authorities not only have a duty under the NPPF but additionally also a legal duty to comply with the self-build and custom housebuilding act 2015.

This therefore sets an even higher duty to meet the requirements in the act than the 5 year housing supply does. The tilted balance is the recognised mechanism that is used to compel a planning authority that is failing to meet its duties. Therefore, for a council that is failing to meet its duties under the act the tilted balance is the appropriate mechanism to help adjust the balance.

Q: How should a Permission in Principle (PiP) application be assessed if new mapping shows a part of the site is at risk of surface water flooding?

A: The recent updates to national surface water flood risk mapping have meant that many sites, which are otherwise suitable for development, now show some areas at risk of flooding. A rigid interpretation of the National Planning Policy Framework (NPPF) might suggest that the requirement to apply a sequential test (NPPF, Para 175) acts as a blanket ban on such sites. However, a detailed recent appeal decision demonstrates a more

pragmatic and proportionate approach is required, especially where technical solutions are available.

The core purpose of the sequential test is to steer development to areas with the lowest risk of flooding. However, where a site can be made safe for its lifetime through well-understood engineering and design solutions, a technical conflict with the sequential test should not be an automatic barrier to development, nor should it automatically disengage the 'tilted balance'.

This approach was robustly tested at a recent inquiry for a major development in Faversham (Appeal Ref: APP/V2255/W/24/3350524, dated 27th June 2025). The Inspector made several critical findings:

1. Acknowledge the Policy Conflict: The Inspector was clear that failing to undertake a sequential test where one is required is a "clear conflict with the Framework" and represents a "fundamental breach of planning policy" to which he attached significant weight (Paras 20, 90, 99).
2. Distinguish Between Technical Conflict and "Real World Harm": Crucially, the Inspector found that because mitigation measures (such as minor land-raising and drainage design) could make the development entirely safe from flooding, there was "no real world harm" as a result of the proposal (Para 25).
3. The "Tilted Balance" Remains Engaged: Most importantly, the Inspector considered whether this policy conflict constituted a "strong reason for refusing the development" under NPPF Paragraph 11d and Footnote 7 (which lists flood risk areas as assets of particular importance). He concluded:
4. "A 'strong' reason for refusal based on flooding must, to my mind, go beyond mere technical conflicts, even if they are important. There must be substantive risks and harms that go beyond policy. I do not, therefore, view this as a strong reason for refusing the development proposed... The 'tilted balance' is therefore engaged." (Para 101)
5. The Outcome: With the tilted balance engaged, the Inspector found the substantial benefits of the scheme outweighed the harms, including the technical conflict on flood risk, and allowed the appeal.

Application to Permission in Principle:

At the PiP stage, the question for the decision-maker is not whether a fully detailed drainage solution has been submitted, but whether it is feasible for a technical solution to be designed and secured at the subsequent Technical Details Consent (TDC) stage.

If a site has a limited area of surface water flood risk that can clearly be designed-out through pragmatic and standard construction methods, then:

- The principle of development can be considered acceptable.
- The failure to apply the sequential test can be noted as a policy conflict and weighed in the planning balance.

- However, following the logic of the Faversham appeal, this conflict should not be considered a "strong reason" for refusal that would prevent the tilted balance from being applied.
- The LPA can, and should, use the decision notice to inform the applicant that a detailed drainage strategy demonstrating how the site will be made safe from flooding will be required at the TDC stage.

In summary, the presence of a surface water flood risk area on a site does not create an automatic refusal. The decision-maker should assess whether a pragmatic technical solution is feasible. If one is, the harm is limited to a technical policy conflict rather than a "real world" risk to people or property, and this should be weighed accordingly in the planning balance.

Q: How should decision-makers treat self-build proposals on land that lies within protective designations (e.g. Green Belt or National Landscape) when the LPA's geography is so heavily constrained that meeting its statutory self-build duty will inevitably require development on some of that land?

A:

1. Start with the legal context.

- S.2A of the Self-Build & Custom Housebuilding Act 2015 (as amended) places an unqualified duty on every LPA to grant enough suitable permissions to meet the demand on its register in each base period.
- The duty is not dis-applied where large parts of the district are Green Belt, National Landscape (AONB) or similar; Parliament made no exemption for constrained authorities.

2. Establish the factual baseline.

- Identify the percentage of the district that is covered by restrictive designations.
- Quantify the outstanding register deficit (plots still required from each elapsed base period).
- Demonstrate how far the adopted plan's allocations and any percentage-policies can realistically go toward closing that deficit on unconstrained land.

3. Apply the principle confirmed in Pondview, Maidenhead & Windsor (APP/T0355/W/22/3309281, apr-23):

"Given that 83 % of the Royal Borough is Green Belt, it seems inevitable that some of the demand for SBCH will have to be met on sites within the Green Belt." (paras 30–31)

1. Inspectors have since repeated that approach where AONB, Green Belt or flood-plain coverage is comparably high.

- The shortfall in statutory provision is a material consideration of ‘very significant’ / ‘overriding’ weight.
- Where severe constraint leaves few alternative sites, the location inside a designation does not by itself provide a “strong reason for refusal” under NPPF 11 d i – especially for small-scale schemes that can minimise landscape harm.
- Harm to openness/landscape must still be assessed, but the weight of the self-build duty will often tip the overall planning balance in favour of permission.

4. Practical application at PiP stage.

- Decision-makers need only be satisfied that a suitable scheme could be achieved on the site, with detailed design/mitigation reserved to Technical Details Consent.
- Where the LPA accepts there is no realistic prospect of meeting its register numbers on unconstrained land, it should proactively explain how and where the deficit will be addressed; absent such a strategy, the self-build argument will attract even greater weight.
- 5. Costs exposure.
- Recent appeal awards (e.g. Fairfield Lane, Wolverley – APP/R1845/W/24/3352115) show that authorities risk costs if they refuse or delay decisions without grappling with their statutory self-build deficit in constrained districts.

Q: When does applying a footnote 7 policy amount to a strong reason for refusing permission under NPPF 11 d i?

Footnote 7’s function

It lists the NPPF policies that protect “areas or assets of particular importance” (Green Belt, National Landscape / AONB, SSSI, heritage assets, flood-risk areas, irreplaceable habitats, etc.).Once one of those policies is engaged the decision-maker must ask whether its application provides a strong reason for refusal before reaching the tilted balance in 11 d ii.

“Strong” vs “engaged”

Engagement alone is never enough. The 2019 Monkhill judgment (decided when the wording was “clear reason”) confirmed that it is the outcome of applying the policy that matters.The 2023 NPPF raised the bar from “clear” to “strong”, i.e. the harm identified must, on its own, justify refusal.

Two broad policy families

The first family of policies are those with an in-policy full balance (e.g. Green Belt “very special circumstances”; NPPF §190 major development in National Landscape; NPPF §214 heritage “substantial harm/total loss”). This type of policy works by already weighing all relevant considerations. The likely effect at 11 d i is that if that internal test is failed, it will almost always be a strong reason – the tilted balance never bites.

Appendix 2: Land on the North Side, Lodge Lane, Bolney

The second family covers Gateway / sequential tests (e.g. flood sequential test; NPPF §215 “less than substantial harm” heritage balance; irreplaceable habitats). These policies work by flagging a conflict but do not weigh overall public benefits. The likely effect is that a failure can still be outweighed under 11 d ii – it is not automatically strong. The decision-maker asks whether the residual harm is “substantive” in the real world.

Illustrative decisions across three designations

a) Landscape (National Landscape / AONB)

Brock Cottage, Brize Norton (APP/D3125/W/21/3274197, Jul 2022) – 2 self-build plots inside the Cotswolds NL. Inspector accepted that small-scale, well-designed development could conserve & enhance the landscape; §189 therefore did not create a strong reason. Tilted balance applied.

b) Heritage

Malmesbury, Wiltshire (APP/Y3940/W/23/3317252, Mar 2024) – “less than substantial” harm to a Grade II* asset. Footnote 7 engaged, but Inspector held that the “substantial public benefit” of 26 self-build plots outweighed the harm; heritage conflict carried significant weight yet was not a strong reason. Permission granted under 11 d ii.Forge Field v Sevenoaks [2014] EWHC 1895 – by contrast, substantial harm to the setting of a Grade II* church was judged a determinative (then “clear”, now “strong”) reason because the heritage test in §214 was failed.

c) Flood risk (for comparison)

Yatton, North Somerset (APP/D0121/W/24/3343144, March 2025) – sequential test failed, but tidal risk fully mitigated; not a strong reason.

Faversham, Kent (APP/V2255/W/24/3350524, June 2025) – no sequential test provided; harm purely “theoretical”, so still not strong.

Working checklist

1. Identify which footnote 7 policy is triggered

2. Apply it completely – including any internal balancing.

3. Decide whether the resulting harm, standing on its own, must lead to refusal:

- Yes → strong reason; the tilted balance is closed.
- No → note the conflict (often with substantial weight) and proceed to the tilted balance under 11 d ii.

Key takeaway

“Strong” concerns the severity and inevitability of real-world harm, not the mere fact of technical policy conflict. Only when the protected interest would still be unacceptably harmed after mitigation and within-policy balancing does footnote 7 bar the tilted balance.

5. Self and Custom Build Q&A

Q: What role does Self-Build play in meeting housing demand?

A: Self-build housing plays an important and positive role in diversifying housing provision and addressing local needs. The Self-Build and Custom Housebuilding Act 2015 (as amended) places a statutory duty on local authorities to maintain a register of individuals and associations seeking to acquire serviced plots of land for self-build and custom housebuilding. Local authorities must also grant sufficient development permissions to meet the demand for self-build and custom housebuilding as evidenced by their register. This duty is intended to ensure that individuals wishing to build their own homes have suitable opportunities to do so.

National policy, as outlined in the NPPF and PPG, also requires local authorities to address self-build demand by granting sufficient development permissions. The recent amendments through the Levelling Up and Regeneration Act 2023 (LURA) underscore the importance of councils proactively supporting self-build projects.

The LURA amendments clarified that only permissions explicitly for self-build housing can be counted towards statutory obligations, further emphasising the need for dedicated self-build permissions. This change means that local authorities can no longer count planning permissions that merely 'could' be for self-build towards their statutory obligations. Only permissions that are explicitly for self-build and custom housebuilding, as defined by the Act, can be counted.

Additionally, the LURA amendments clarified that demand not met within three base periods will be rolled over to the next base period, making it a cumulative requirement. This means that councils must proactively grant permissions for self-build plots to meet not only current demand but also any unmet demand from previous periods.

These legislative changes, which came into force in January 2024, highlight the increased accountability placed on local authorities to ensure that self-build housing demand is met in a timely and effective manner.

By granting Permission in Principle for this proposal, the authority would be taking a proactive approach to meeting its statutory duties and supporting the local community's desire for self-build opportunities.

Appendix 2: Land on the North Side, Lodge Lane, Bolney

Q: Should Self-Build be considered in the same way as any other market housing?

A: No. Self-build has an entire act of parliament dedicated to it that treats it in a different way to any other form of housing.

The NPPF is also clear in stating that policies need to reflect different needs for different types of housing including people wishing to commission or build their own homes:

> *"63. Within this context of establishing need, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups should include (but are not limited to) those who require affordable housing (including Social Rent); families with children; looked after children26;older people (including those who require retirement housing, housingwith-care and care homes); students; people with disabilities; service families; travellers27; people who rent their homes and people wishing to commission or build their own homes."*

Footnote 28: Under section 1 of the Self-Build and Custom Housebuilding Act 2015, local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. They are also subject to duties under sections 2 and 2A of the Act to have regard to this and to give enough suitable development permissions to meet the identified demand. Self and custom-build properties could provide market or affordable housing."

Together the NPPF and the Self-build and Custom Housebuilding Act 2015 explicitly differentiate self-build from other forms of housing requiring councils to consider self-build in a different policy context to normal market housing. To equate self-build with normal market housing and treat it under the same policy context is to go against both the NPPF and the Self-Build and Custom Housebuilding Act.

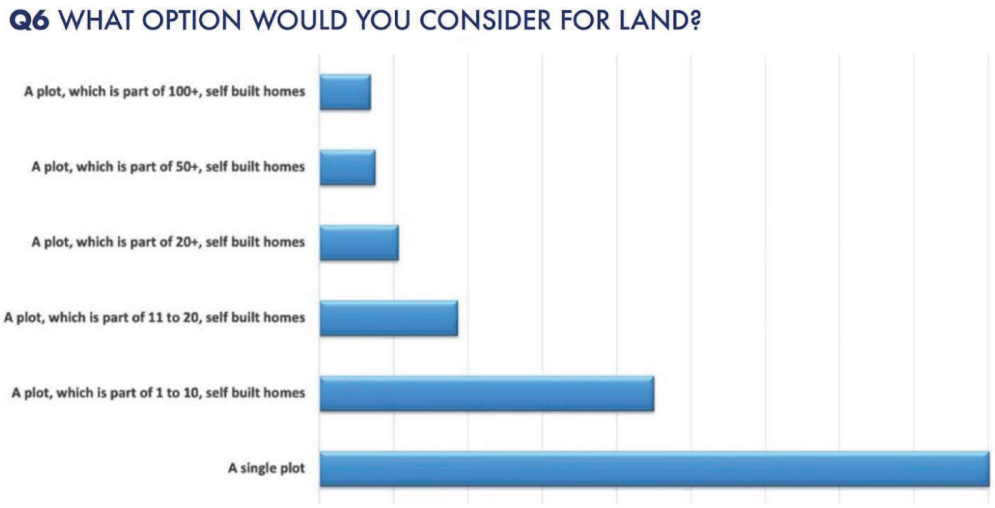
Q: Is having a percentage policy on self-build enough to comply with central government legislation and guidance?

A: No. Government guidance in the Practice Policy Guidance on Self-Build is clear:

> *"Relevant authorities should use preferences expressed by those on the register to guide their decisions when looking at how to meet the duty to grant planning permission etc. This will help ensure that relevant authorities permission land suitable for self-build and custom housebuilding which people are actually keen to develop."*
> Paragraph: 028 Reference ID: 57-028-20210508

The preferences of those on the register and other housing needs assessments need to be taken into account when policy making and decision taking. The preferences of those on the Local Authorities register is not publicly available. However a recent consumer survey by NaCSBA and YouGov shows that demand for sites on larger developments is very limited

(see graph below):A vast majority of those wanting to build their own house wanted to do so either on a single plot or on developments of between 1 and 10 homes.

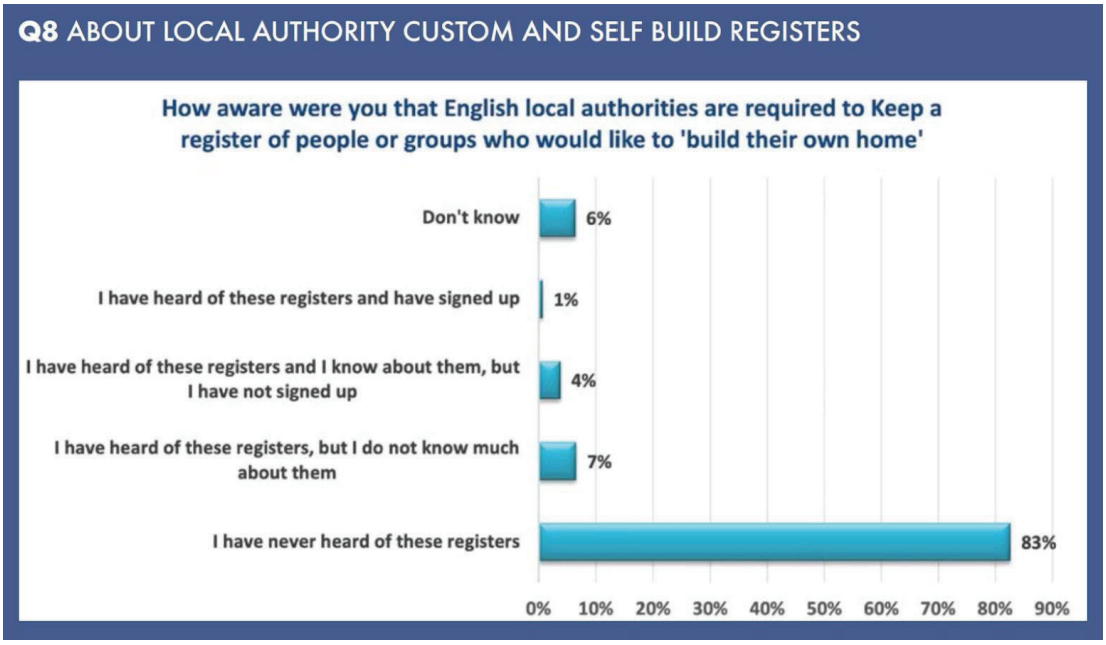


The Right to Build Task Force Guidance PG02 paragraph 48 states:

“In planning positively for the future supply of CSB plots, LPAs must seek to deliver the type of plots preferred by prospective self-builders. It is therefore important that a range of opportunities are offered on large and small sites providing diversity, and that planning policies positively encourage CSB windfall proposals in appropriate areas such as infill plots, locations on the edge of settlements and brownfield sites.” Therefore policy that simply utilises a percentage of the large strategic sites to deliver self-build is deemed to be in conflict with the most recent national advice and is likely to be deemed as out of date in terms of tilting the planning balance.

Q: Do register numbers accurately take into account self-build demand? If not should other data sources be considered during policy making and decision taking.

A: A 2022 consumer survey conducted by NaCSBA and YouGov showed the following awareness of the Self and Custom Build numbers:



This is within the same group in which 32% of people expressed an interest in building their own home. This demonstrates that the register numbers on their own show an extreme under estimate of demand for self-build and custom build plots and actual demand is likely to be orders of magnitude higher.

If the registers represent a significant under estimate of demand, how should this be taken into account in policy making and decision taking? The Right To Build Task Force states in Planning Guidance note 2:

Paragraph 37 states:

> *"The Self-Build and Custom Housebuilding PPG recommends that LPAs should use the demand data from their self-build Registers, supported as necessary by additional data from secondary sources, to understand and consider future need for this type of housing in their area."*

Paragraph 39 states:

> *"Augmenting data from the self-build Register with additional data from secondary sources is crucial due to the short-term and opt-in nature of self-build Registers, in which LPAs only keep a record of people who have decided to register. As such, the Register has limitations in achieving accurate demand measurement. There is also a reliance upon the level of publicity that the Registers are exposed to by local planning authorities (LPAs), which can lead to a significant under-representation of actual demand. Therefore, reliance solely on data from registers risks underestimating the need CSB housebuilding plots in the longer term."*

This supports the idea that Local Authorities should consider a range of sources when making policy and deciding applications. The 2022 NaCSBA YouGov consumer survey is one such datasource to consider when assessing true demand. While the register figures provide

the legal framework for decision making, other data sources should be a material consideration in decision making.

Q: What figures should be used for calculating compliance with the self-build legislation.

A: Each local planning authority provides a data return every year of supply and demand figures to central government for publishing here -

https://www.gov.uk/government/publications/self-build-and-custom-housebuilding-data

These are the most authoritative and transparent figures to use as a starting point. These have been used as the basis for the calculation.

Q: What calculation should be used to assess compliance with the self-build and custom build regulations.

A: There is currently no definitive calculation for determining compliance. However, NaCSBA have been developing a Standard Calculation for determining compliance which corresponds with LURA (2024) updates. It is a nuanced formula that takes into account demand always being carried forward but supply only being able to be taken into account within 3 years. They have also produced a spreadsheet with the formulas exposed so that anyone can check compliance.

This calculation is what we have used to determine compliance. We have also obtained a letter from NaCSBA confirming that these figures match their calculated figures (see appendix 9.4.

Q: Does an applicant need to demonstrate local need in order for self-build to be considered in the planning balance.

A: No. If the local authority is failing in its duty to permission enough self-build plots to meet the demand on its register, then this is enough to show that there is demand for self-build. The self-build registers were specifically introduced to demonstrate local demand. A local authority being down on its self-build numbers is enough for a council to be failing to meet its legal duties and therefore applications for self-build should carry significant weight in the planning balance and there should be no additional requirements to prove demand.

Q: When calculating supply whose responsibility is it to prove that a plot meets the definition of the legislation.

A: This responsibility lies with the local planning authority. The Right to Build Task Force PG10 Paragraph 15 states:

> *"In measuring whether the statutory duties have been met, it is for the planning authority to demonstrate the number of permissioned plots and indicate why the*

> *council considers the plot will be built or sold as a custom or self-build plot. The counting of all windfalls or all permissions on smaller sites is not an appropriate approach."*

Q: Are there any sanctions if a council fails to meet its legal duties around self-build housing?

A: Yes. Councils have a statutory duty under the Self-Build and Custom Housebuilding Act 2015 (as amended by the Levelling-up and Regeneration Act 2023) to grant sufficient development permissions to meet the demand on their self-build registers. If a council fails in this duty, it can result in both planning and financial consequences.

A recent appeal (Fairfield Lane, Wolverley – Appeal Ref: APP/R1845/W/24/3352115) illustrates the point clearly. In that case, the Planning Inspector found that Wyre Forest District Council had not properly demonstrated compliance with their self-build duty. The council's supply evidence was vague and insufficient, and failed to show how permissions granted aligned with the relevant statutory requirements. As a result, the inspector concluded that the council had acted unreasonably.

Significantly, the inspector awarded a partial costs order against the council, requiring them to reimburse the appellant for expenses incurred in dealing with the self-build issue at appeal. The inspector noted that the appellant had no choice but to appeal in order to seek confidence in the decision, given the council's failure to set out a clear case. This demonstrates that a council's failure to meet its legal self-build duties can not only support the allowance of an appeal, but can also result in financial penalties through a costs award.

This case reinforces the importance of councils complying with their self-build duties in a transparent and evidenced manner. Failure to do so can amount to unreasonable behaviour and lead to planning decisions being overturned and costs being awarded against the authority.