



JULY 2024

Draft Proof of Evidence of Paul McColgan (for the Applicants) on Custom and Self-Build Need

Home Farm, Kemnal Road, Chislehurst BR7 6LY

Planning Inspectorate Reference - APP/G5180/W/24/3339919

Iceni Projects Limited on behalf of
Alan and Pauline Selby

July 2024

HOME FARM, KEMNAL
ROAD, CHISLEHURST BR7
6LY

Iceni Projects

Birmingham: The Colmore Building, 20 Colmore Circus Queensway, Birmingham B4 6AT
Edinburgh: 11 Alva Street, Edinburgh, EH2 4PH
Glasgow: 177 West George Street, Glasgow, G2 2LB
London: Da Vinci House, 44 Saffron Hill, London, EC1N 8FH
Manchester: This is the Space, 68 Quay Street, Manchester, M3 3EJ

t: 020 3640 8508 | w: [iceniprojects.com](https://www.iceniprojects.com) | e: mail@iceniprojects.com
linkedin: [linkedin.com/company/iceni-projects](https://www.linkedin.com/company/iceni-projects) | twitter: @iceniprojects

Draft Proof of Evidence of Paul
McColgan (for the Applicants) on
Custom and Self-Build Need
ERROR! NO TEXT OF SPECIFIED STYLE IN
DOCUMENT

CONTENTS

| | |
|---|----|
| 1. INTRODUCTION | 1 |
| 2. POLICY BACKGROUND | 3 |
| 3. BENEFITS OF THE PROPOSED SCHEME..... | 15 |
| 4. CURRENT SUPPLY AND DEMAND POSITION | 17 |
| 5. SUMMARY | 25 |

APPENDICES

A1. APPENDICES

1. INTRODUCTION

The Proposal

- 1.1 This proof of evidence relates to a planning appeal at Home Farm, Chislehurst, in the London Borough of Bromley (APP/G5180/W/24/3339919). The proposed development is described as:
- 1.2 *“Demolition of part of Greenacres, demolition, alterations and extensions to part of Polo Mews North, demolition of Polo Mews South and demolition, alterations and extensions to part of The Bothy. Erection of linking extension between Polo Mews North and Polo Mews South to create 1 new dwelling. Erection of two-storey extension to The Bothy and conversion from 3 into 2 dwellings. Establishment of new vineyard. Provision of new solar panel array. Erection of hydrogen energy plant and equipment. Erection of new single-storey dwelling. Rearrangement of the internal access roads.”*
- 1.3 The applicant has had considerable input into the design of the new dwelling and once constructed intends to occupy it.

Background

- 1.4 My name is Paul McColgan and I am a Director of Economics at Iceni Projects specialising in housing needs assessment, including assessing the demand for custom and self-build housing. I hold a Masters Degree in GIS for Business and Service Planning. I am a Member of the Institute for Economic Development (MIED). I have almost 20 years of experience in advising the private and public sectors on housing and economic matters.
- 1.5 I have provided professional advice on housing and housing need for a wide variety of public and private sector businesses. This includes advising over 100 local authorities through Strategic Housing Market Assessments and similar studies many of which examine the need for self and custom build housing.
- 1.6 I have provided expert witness advice at examination in public of local plans as well as public inquiries, where my assessment methodologies and findings have been accepted by Planning Inspectors.
- 1.7 In relation to this Public Inquiry, Iceni Projects were formally appointed by Alan and Pauline Selby in May 2023 to identify the demand for custom and self-build plots in Bromley and what the supply response has been. The reason for this is to establish whether the delivery of self and custom-build

housing as this site proposes is a material consideration and is capable of contributing to very special circumstances and that is site contributes towards meeting a shortfall.

Statement of Truth

- 1.8 The evidence which I have prepared, as set out in this document and the appendices are to the best of my knowledge true. I confirm that the opinions expressed are mine, and are true and professional opinions.

2. POLICY BACKGROUND

National Planning Policy Framework

- 2.1 The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied. The latest version of the National Planning Policy Framework¹ (NPPF) was published in December 2023.
- 2.2 The NPPF "provides a framework within which locally-prepared plans can provide for sufficient housing and other development in a sustainable manner.... Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise" (Paragraphs 1 and 2).
- 2.3 Paragraph 2 adds the NPPF "must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements."
- 2.4 Chapter 5 of the NPPF relates to "Delivering a Sufficient Supply of Homes". The NPPF notes in paragraph 60 that "To support the Government's objective of **significantly boosting the supply of homes**, it is important that a **sufficient amount and variety of land** can come forward where it is needed, that **the needs of groups with specific housing requirements are addressed** and that land with permission is developed without unnecessary delay. The overall aim should be to meet as much of an area's identified housing need as possible, including with an appropriate mix of housing types for the local community" (My emphasis).
- 2.5 Paragraph 63 of the NPPF states "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; families with children; older people (including those who require retirement housing, housing-with-care and care homes); students; people with disabilities; service families; travellers; people who rent their homes **and people wishing to commission or build their own homes**"
- 2.6 Footnote 29 states that "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

¹ <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

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.”

2.7 Paragraph 70 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. 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 custom-build housing**”

2.8 **Annex 2 of the NPPF provides a glossary of terms and includes:** “Self-build and custom-build housing: Housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing. A legal definition, for the purpose of applying the Self-build and Custom Housebuilding Act 2015 (as amended), is contained in section 1(A1) and (A2) of that Act.”

Self-build and Custom Housebuilding Act 2015

2.9 Paragraphs A1 and A2 of the Self-Build and Custom Housebuilding Act² 2015 (and updated in 2023) defines self-build and custom housebuilding as “the building or completion by—

(a) individuals,

(b) associations of individuals, or

(c) persons working with or for individuals or associations of individuals, of houses to be occupied as homes by those individuals.

2.10 But it does not include the building of a house on a plot acquired from a person who builds the house wholly or mainly to plans or specifications decided or offered by that person.”

2.11 The Act establishes the need for “Each relevant authority (including London Boroughs) must keep a register of “(a) individuals, and (b) associations of individuals, who are seeking to acquire serviced plots of land in the authority's area for their own self-build and custom housebuilding.”

2.12 Paragraph 2A of the Act relates to the provision and confirms “An authority to which this section applies must give development permission (planning permission or permission in principle) for the carrying out of self-build and custom housebuilding on enough serviced plots of land to meet the

² <https://www.legislation.gov.uk/ukpga/2015/17/section/1>

demand for self-build and custom housebuilding in the authority's area in respect of each base period.

2.13 The Act then clarifies that “the demand for self-build and custom housebuilding in an authority’s area in respect of a base period is the aggregate of—

(i) the demand for self-build and custom housebuilding arising in the authority’s area in the base period; and

(ii) any demand for self-build and custom housebuilding that arose in the authority’s area in an earlier base period and in relation to which:

(A) the time allowed for complying with the duty expired during the base period in question, and

(B) the duty has not been met”

2.14 In relation to point (A) above this is clarified in the Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations³ 2016 which states that “The time allowed for an authority...to comply with the duty...in relation to any base period is the period of 3 years beginning immediately after the end of that base period”.

2.15 The Act also clarifies that “the demand for self-build and custom housebuilding arising in an authority’s area in a base period is evidenced by the number of entries added during that period to the register”

2.16 It also stipulates that permissions cannot be counted twice and that permissions granted before the start of the first base period (Which ended on the 30th of October 2016) should not be included as part of the supply.

2.17 Further to the Act the government also published “The Self-build and Custom Housebuilding Regulations 2016”⁴ which provides further regulation on how custom and self-build registers can be managed.

2.18 Regulation 4 provides eligibility criteria for entry in an authority’s register and for registers to be divided into Part 1 and Part 2 depending on the circumstances of the applicant. Criteria for entry onto the Part 1 register include those that “satisfies any conditions set by the relevant authority (local

³ <https://www.legislation.gov.uk/uksi/2016/1027/regulation/2/made>

⁴ <https://www.legislation.gov.uk/uksi/2016/950/note/made>

eligibility criteria (see below)” whereas those on Part 2 meet “all of the eligibility requirements...apart from a local connection test”

- 2.19 Regulation 5 allows authorities to set additional criteria for eligibility. This includes “A local connection test” although those in the armed forces are exempt from this. It is also possible for Local Authorities to apply 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”
- 2.20 Regulation 9 has the effect that those on Part 2 of the register (i.e. where they have failed to demonstrate a local connection or resources) do not count towards the assessment of local demand for self-build and custom housebuilding. Therefore, any supply position should only be assessed against Part 1 of the Register.
- 2.21 Regulation 4 also states that “Where a relevant authority does not set any eligibility criteria under regulation 5, references in these Regulations to Part 1 of the register are to be treated as a reference to the register kept by that authority”. This means that all entries prior to the setting of eligibility criteria should be counted towards the demand.

Planning Practice Guidance

- 2.22 The Planning Practice Guidance (PPG) is a live document published by the Department for Levelling Up, Housing and Communities (DLUHC) in relation to Self-Build and Custom Housebuilding⁵. The PPG provides guidance on how the NPPF should be put into practice.
- 2.23 This includes confirmation of what can be counted as part of the supply. It notes “In considering whether a home is a self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout” (Reference ID: 57-016-20210208).
- 2.24 It adds that “Off-plan housing, homes purchased at the plan stage prior to construction and without input into the design and layout from the buyer, are not considered to meet the definition of self-build and custom housing” (Reference ID: 57-016-20210208).
- 2.25 It also sets out that “The Community Infrastructure Levy Regulations 2010 allow for certain development such as self-build and custom build housing to apply for an exemption from the levy

⁵ <https://www.gov.uk/guidance/self-build-and-custom-housebuilding>

and guidance provides a definition of self-build and custom build housing for that purpose.” (Reference ID: 57-016-20210208).

- 2.26 Separate guidance on the Community Infrastructure Levy⁶ (CIL) states that a CIL exemption applies to Self-Build Housing “If the necessary qualification requirements are met and the application process is completed within required timescales, an exemption from the Community Infrastructure Levy will be available to anybody who is building their own home or has commissioned a home from a contractor, house builder or sub-contractor. Individuals benefiting from the exemption must own the property and occupy it as their principal residence for a minimum of 3 years after the work is completed (Reference ID: 25-082-20190901).
- 2.27 It goes on to add that “There is a set process which requires 4 steps to be undertaken within the required timescales. Failure to follow the set procedures within the required timescales will mean that the exemption will not be obtained, or will be rescinded if previously obtained, and a full levy liability will be incurred.” It adds that “following completion of the build, a form must be submitted to the collecting authority, along with the additional supporting evidence...within 6 months of the date of the compliance certificate” (Reference ID: 25-083-20190901).
- 2.28 The Four Steps are, in summary:
- **Step 1** - The applicant must assume the liability to pay the levy in relation to the development by completing an Assumption of Liability (Form 2).
 - **Step 2** - The applicant must certify that the scheme will meet the criteria to qualify as a ‘self-build’ development. They must submit a self-certified Self-Build Exemption Claim (Form 7 - Part 1)
 - **Step 3** - A Commencement Notice (Form 6) must be received by the collecting authority prior to the commencement of the development (start of works on site).
 - **Step 4** - Following completion of the build, the Self-Build Exemption Claim (Form 7 - Part 2) must be submitted to the collecting authority, along with the additional supporting evidence, within 6 months of the date of the compliance certificate. This evidence includes proof of occupation and either a VAT refund, Self-build Warranty or Self-Build Mortgage Approval.(Reference ID: 25-087-20230104 and Reference ID: 25-088-20190901)
- 2.29 The Self and Custom Build PPG also provide greater clarity on Part 1 and Part 2 Registers stating “Relevant authorities who choose to set a local connection test are required to have two parts to their

⁶ <https://www.gov.uk/guidance/community-infrastructure-levy#para082>

register. Individuals or associations of individuals who apply for entry on the register and meet all the eligibility criteria must be entered in Part 1. Those who meet all the eligibility criteria except for a local connection test must be entered on Part 2 of the register” (Reference ID: 57-017-20170728).

- 2.30 It also confirms that “Relevant authorities must count entries on Part 1 of the register towards the number of suitable serviced plots that they must grant development permission for...Entries on Part 2 do not count towards demand for the purpose of the 2015 Act (as amended) but relevant authorities must have regard to the entries on Part 2 when carrying out their planning, housing, land disposal and regeneration functions...This means, for example, in plan-making the starting point for establishing overall demand for self-build and custom housebuilding would be the number of registrants on Part 1 and Part 2 of the register” (Reference ID: 57-018-20210208).
- 2.31 Of note the PPG states that “Local planning authorities should use the demand data from the registers in their area, supported as necessary by additional data from secondary sources...to understand and consider future need for this type of housing in their area. Secondary sources can include data from building plot search websites, enquiries for building plots recorded by local estate agents and surveys of local residents. Demand assessment tools can also be utilised” (Reference ID: 57-011-20210208).
- 2.32 The PPG also provides guidance on the duties for addressing custom and self build demand. These duties are the ‘duty to grant planning permission etc’ and the ‘duty as regards registers’. This confirms that “At the end of each base period, relevant authorities have 3 years in which to permission an equivalent number of plots of land, which are suitable for self-build and custom housebuilding, as there are entries for that base period” (Reference ID: 57-023-201760728).
- 2.33 The PPG provides advice to “Relevant authorities should consider how local planning policies may address identified requirements for self and custom housebuilding to ensure enough serviced plots with suitable permission come forward”. This includes “when engaging with developers and landowners who own sites that are suitable for housing, and encouraging them to consider self-build and custom housebuilding, and facilitating access to those on the register where the landowner is interested” (Reference ID: 57-025-20210508).
- 2.34 Data on how suitable permissions are recorded are not set out in the legislation however the PPG provides the following three examples:

“Whether developers have identified that self-build or custom build plots will be included as part of their development and it is clear that the initial owner of the homes will have primary input into its final design and layout;

Whether a planning application references self-build or custom build and it is clear that the initial owner of the homes will have primary input into its final design and layout; and

Whether a Community Infrastructure Levy or Section 106 exemption has been granted for a particular development.”

- 2.35 It adds that a relevant authority “must be satisfied that development permissions being counted meet the legislative requirements” (Reference ID: 57-038-20210508).
- 2.36 The PPG also notes “that the Act places a duty on relevant bodies to have regard to each self-build and custom housebuilding register, **including Part 2 of the register** (where a register is in two parts), that relates to their area when carrying out their planning, housing, land disposal and regeneration functions. The following guidance suggests ways in which the duty may be demonstrated in carrying out each function” (Reference ID: 57-014-20210508).
- 2.37 In relation to planning the PPG states that “the registers that relate to the area of a local planning authority – and the duty to have regard to them – needs to be taken into account in preparing planning policies, and **are also likely to be a material consideration in decisions involving proposals for self and custom housebuilding**. (Reference ID: 57-014-20210508) (my emphasis).

Levelling Up and Regeneration Act (2023)

- 2.38 The Levelling Up and Regeneration Act⁷ (2023) (LURA) Made changes to the 2015 Self-Build and Custom Housebuilding Act which gave greater clarity on what constitutes suitable supply. The section above already reflects these changes.
- 2.39 However, for clarity the legislation now states that the local authority needs to permit “for the carrying out of self-build and custom housebuilding on enough serviced plots” rather than just “in respect of enough serviced plots”. This change means that Councils will therefore need to demonstrate that serviced plots **have** resulted in self and custom-build development rather than their current approach as to what **could** be self and custom-build plots for example on the assumption of a CIL exemption.
- 2.40 The second change from LURA is that unmet need from the previous base period needs to be included within the current need rather than just disappear. Council's will therefore need to demonstrate that their supply assumptions that CIL exemptions give a “Strong Indication that a

⁷ <https://www.legislation.gov.uk/ukpga/2023/55>

development will come forward as self-build” are correct and also meet historic unmet need if they have not.

London Borough of Bromley Local Plan

- 2.41 Bromley’s Local Plan⁸ was adopted as the statutory Development Plan for Bromley on 16 January 2019 and, in conjunction with the London Plan is used to determine planning applications in the borough.
- 2.42 The Local Plan itself is silent on Self-Build, mentioning it only once (at 2.1.26) in relation to “specific circumstances where contributions for affordable housing should not be sought from small scale and self-build development.”
- 2.43 From the previous committee report we understand that the Council do not consider their Local Plan to be silent on self and custom build but simply that they would rely on the London Plan for policy on this matter.

The London Plan

- 2.44 The London Plan⁹ (2021) notes that “The homebuilding industry itself also needs greater diversity to reduce our reliance on a small number of large private developers. New and innovative approaches to development, including Build to Rent, community-led housing, and self- and custom-build, will all need to play a role, and more of our new homes will need to be built using precision-manufacturing.”
- 2.45 Policy H2 of the London Plan states that “**Boroughs should pro-actively support** well-designed new homes on small sites (below 0.25 hectares in size) through both planning decisions and plan-making in order to 4) support those wishing to bring forward custom, self-build and community-led housing.”
- 2.46 It is clear to me that unlike the Bromley Local Plan, the London Plan does have a position in relation to Self and Custom build Housing and that position clearly puts the onus on the Borough’s to develop policies which “pro-actively support” those wishing to support self and custom build housing and it has clearly failed to respond to this.
- 2.47 Furthermore, paragraph 70 of the December 2023 NPPF now includes a requirement for “Local Authorities” (not regional bodies such as the GLA) “To seek opportunities, through **policies**

⁸ <https://www.bromley.gov.uk/downloads/file/51/bromley-local-plan>

⁹ https://www.london.gov.uk/sites/default/files/the_london_plan_2021.pdf

and decisions, to support small sites to come forward for community-led development for housing **and self-build and custom-build housing**" (my emphasis).

- 2.48 While this is a relatively new national policy for decision making it becomes immediately relevant as per the transitional arrangement and the Council cannot demonstrate through policy how it, as a local authority, is supporting self and custom-build housing through policy or decisions.
- 2.49 The Borough's failure to have a policy position is also highlighted by the Right to Build Registers Monitoring¹⁰ data collated and published by DLUHC. An extract of this data is published below and further underlines the Council inactivity in relation to Custom and Self Build.

¹⁰ [https://www.gov.uk/government/publications/self-build-and-custom-housebuilding-data-2016-2016-17-2017-18-and-2018-](https://www.gov.uk/government/publications/self-build-and-custom-housebuilding-data-2016-2016-17-2017-18-and-2018-19)

Table 2.1 Extract from Right to Build Registers Monitoring - Bromley

| 9. In having regards to your register when carrying out your housing, planning and regenerative functions, have you undertaken any of the following; | | | | | | | |
|--|--|---|---|--|---|--|--|
| a. Local Plan policy - included general support for custom and self-build? | b. Local Plan policy - promoted custom and self-build as part of housing mix policy? | c. Local Plan policy - adopted a percentage policy for self and custom build at larger sites? | d. Introduced supplementary planning policies/guidance? | e. Introduced consideration as part of land allocations, disposals and acquisitions? | f. Specifically supported identified projects | g. Taken action through Housing Strategy | h. Adopted Neighbourhood Plans which incorporate policies on self and custom build |
| no | no | no | no | no | no | no | no |

Source: Department for Levelling Up, Housing and Communities, 2023

- 2.50 Such a lack of policy has been challenged in other relevant appeals. One such appeal was in Colletts Green, Worcester (APP/J1860/W/22/3300301), where the inspector at paragraph 57 concluded “given the absence of any policy within the SWDP in relation to such housing or evidence of local initiatives to support it, I am of the view that it is unlikely that the Council will deliver a sufficient number of plots to address the current shortfall and meet the requirement”.
- 2.51 The inspector went on to add at paragraph 62 that “I have found that the Council cannot demonstrate a five-year supply of deliverable housing land [which is also the case in Bromley]. In addition, there are no relevant development plan policies relating to SBCH. In such instances, paragraph 11 d) of the Framework and the ‘tilted balance’ is engaged [unless the LPA can demonstrate that there is a clear Green Belt reason for refusal]. In so far as this appeal is concerned the Framework states that where policies which are most important for determining the application are out-of-date 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.”
- 2.52 To confirm, the most recently stated housing land supply position in Bromley is 2.96 years as established at a recent appeal (May 2024) for a site at Green Close, Shortlands (App Ref: APP/G5180/W/23/3332048).

Bromley Self and Custom Build Register

- 2.53 The Council introduced its Self and Custom Build Register on the 1st of April 2016 and introduced a Local Connection Test for the start of 2017. The Council have not introduced a financial soundness test nor do they charge for entering the register.
- 2.54 The local connection test requires applicants to demonstrate that they have been resident in the borough for a continuous period of five years, up to and including the day of their application for entry in the register.

-
- 2.55 While a local connection test is in line with government guidance and regulation it potentially results in an underestimation of the true demand for custom and self-build plots in the Borough. Bromley forms part of the long-established London Housing Market Area (HMA). A HMA according to the Plan Making PPG¹¹ “is a geographical area **defined by household demand and preferences for all types of housing** (my emphasis), reflecting the key functional linkages between places where people live and work” (Reference ID: 61-018-20190315). This therefore demonstrates that demand for a Custom and Self Build plot in Bromley could realistically come from any part of London.
- 2.56 Furthermore, the Council also failed to consult and justify why this Local Connection Test is needed and again this unduly restricts the number of people that could reasonably want to build a home of their own in Bromley. While we recognise that the regulations are vague on this matter and there is no statutory requirement for public consultation on changes to the register, the PPG¹² is clear as is the Right to Build Taskforce Guidance that this should take place. The lack of statutory consultation has also not been well received by the Inspectors which we set out below.
- 2.57 The PPG (Reference ID: 57-019-20210208) clearly states that “Relevant authorities are advised to consult on their proposals before they introduce an eligibility test” and the Taskforce Guidance¹³ states (in paragraph 43) that “Good practice is to follow the ministerial lead and to not apply such a local connection test unless there are exceptional circumstances.”
- 2.58 Icen Projects highlighted the issue of the Housing Market Areas and a Local Connection Test as being an appropriate local definition in the Rough Common, Canterbury appeal (Appeal Ref: APP/J2210/W/20/3259181) and in paragraph 41 of his decision notice the Inspector stated:

“The lack of consultation on imposing the local connections test undermines any rationale for its imposition, particularly when the Council has determined ‘local’ to be confined to its own administrative boundaries when the Strategic Housing Marketing Assessment 2009 defines Canterbury as being in the East Kent marketing area. Furthermore, I am not presented with any circumstances or information by the Council that demonstrate a strong justification for the imposition of the local connection test, or why the register was unmanageable without such a test in place”

¹¹ <https://www.gov.uk/guidance/plan-making>

¹² <https://www.gov.uk/guidance/self-build-and-custom-housebuilding>

¹³

https://righttobuild.org.uk/editorial_images/page_images/featured_images/planning_good_practice_guidance/using_register_numbers_to_identify_plots_to_be_permitted/PG3.1%20-%2008.2022%20Using%20register%20numbers%20to%20identify%20plots%20to%20be%20permitted%20V3.pdf

-
- 2.59 Consequently, the Inspector concluded (paragraph 43) that “there is sufficient ambiguity in the Council’s case as to the level of self-build need or provision in the area that leads me to conclude that there is an unmet need for self-build plots. Therefore, the appeal development positively contributes to fulfilling that need”.
- 2.60 As demonstrated above, the Inspector also took a dim view of the lack of public consultation on the imposition of a local connection test. While this is not a statutory requirement it is clearly best practice and failing to do so “undermines” the use of the register as an accurate assessment of the scale of demand.

3. BENEFITS OF THE PROPOSED SCHEME

- 3.1 The Proposed Development will also address one of the 47 entries on the Council's Part 1 Self and Custom Build Register.
- 3.2 The PPG answers the question what are the benefits of self-build and custom housebuilding? It states "Self-build or custom build helps to diversify the housing market and increase consumer choice. Self-build and custom housebuilders choose the design and layout of their home and can be innovative in both its design and construction (Reference ID: 57-016a-20210208).
- 3.3 For occupants there are also several benefits of self and custom-build housing, not least the ability to deliver a home that specifically meets their needs and adds variety to the local housing stock. It can also be a more cost-effective option although this is not always the case. By building to a higher quality than "off the shelf" development self-build homes are often more energy efficient and have lower maintenance costs. It has also been suggested that people who build their own houses generally feel fulfilled and are happier.
- 3.4 The National Custom and Self-Build Association (NaCSBA) produces an annual Custom and Self-Build Market Report. The top 5 reasons people surveyed by NaCSBA gave for self-building their own home:
- Being able to build a house to my specifications.
 - Get better value for money than with an existing home or developed new build.
 - Attain a higher-quality home than with a standard new build.
 - Have an eco-home that's more sustainable and environmentally friendly.
 - The challenge and satisfaction of completing a project.
- 3.5 Research by the University of Cambridge's Centre for Housing and Planning Research produced an evidence-based review of Custom and Self Build Housing (Appendix 12)¹⁴ this states "It is argued that there is a lack of diversity in the UK housing market (Letwin, 2018a) as it is dominated by a few large-scale speculative builders (HM Government, 2011; Morton, 2013), leading to a slow build out rate on larger sites (Letwin, 2018a) and a housing market vulnerable to external shocks (Parvin et al., 2011)."

¹⁴ <https://www.landecon.cam.ac.uk/sites/default/files/2024-05/self%20build%20rapid%20review%20report.pdf>

-
- 3.6 It adds that “Increasing housing output from the self-build sector could lead to a more sustainable housing supply, even during periods of economic decline (Ash et al., 2013), as self-builders frequently rely on their own capital to construct their home rather than borrowing from financial institutions to finance their housing project (Parvin et al., 2011, Duncan and Rowe, 1993)”.
- 3.7 One relevant aspect of the research notes that “In periods of economic crisis, large-scale construction projects by speculative builders tend to decline, whereas construction within the self-build sector continues to grow or at least remain stable, thereby sustaining local and national economies (Duncan and Rowe, 1993).” Recent evidence suggests that the number of new homes permitted is at a very low ebb.
- 3.8 Self and Custom Build Housing also benefits small developers and tradespeople who form a considerable part of construction employment. According to the Cambridge report, “the UK government has recognised the importance of the self-build and custom housebuilding industry to the wider economy, estimating that it is worth almost £4.5 billion to the UK economy (MHCLG, 2020b) and that it creates and safeguards new jobs for several thousands of people, thereby strengthening the construction supply chain and the local economy”.

4. CURRENT SUPPLY AND DEMAND POSITION

- 4.1 This section of my Proof of Evidence examines the current supply and demand position for self-build housing as set out in their email to the Council on the 14th of June 2024 (Appendix 1 and 2).

Updated Register

- 4.2 The Council has provided information on its latest register position for each base period to the end of October 2023. This data is replicated below with a cumulative required column. The Council have highlighted in Red the relevant demand figure for each base period. For base periods 1 to 5 this the total number of entrants (Part 1 and Part 2) but for base period 6 this is the Part 1 figure.

Table 4.1 Bromley Self and Custom Build Register

| Base Period | Covering | Part 1 Entrants | Part 2 Entrants | Total Entrants | Planning Permissions Granted and Commenced | Cumulative Required |
|-------------|-------------------------------------|-----------------|-----------------|----------------|--|---------------------|
| 1 | 1st April 2016 - 30 October 2016 | 0 | 0 | 0 | 9 | 0 |
| 2 | 31st October 2016 - 30 October 2017 | 4 | 32 | 36 | 14 | 36 |
| 3 | 31st October 2017 - 30 October 2018 | 2 | 20 | 22 | 17 | 58 |
| 4 | 31st October 2018 - 30 October 2019 | 4 | 25 | 29 | 14 | 87 |
| 5 | 31st October 2019 - 30 October 2020 | 1 | 18 | 19 | 13 | 106 |
| 6 | 31st October 2020 - 30 October 2021 | 9 | 56 | 65 | 14 | 115 |
| 7 | 31st October 2021 - 30 October 2022 | 22 | 16 | 38 | 20 | 137 |
| 8 | 31st October 2022 - 30 October 2023 | 5 | 18 | 23 | 13 | 142 |
| Total | 1st April 2016 - 30 October 2023 | 47 | 185 | 232 | 114 | 142 |

Source: LBB Council, 2024

- 4.3 As set out above, the total demand has been for 142 permissions while only 114 have been permitted. This results in a shortfall of 28 permissions. Therefore, by their own measure, the Council have not permitted enough custom and self-build plots to meet their identified demand.
- 4.4 The Council in their Statement of Case for this appeal set out their position stating "The Council considers that moderate weight could be given to the proposed self-build unit, where secured through legal agreement. Greater weight would only be justified where demand was not being met and/or

where a significant amount of self-build units were proposed. Where demand is not being met, the weight to be given would depend on the level of shortfall and should also take into account the Council's track record of meeting self-build demand over past base periods."

4.5 While the level of a shortfall is such that it should be given little or great weight is subjective and a matter for the inspector's judgement. However, there are several cases where other inspectors have concluded what weight should be given and these should guide the inspector's decision.

4.6 One example is the Dunsfold Common appeal in Godalming, Surrey (APP/R3650/W/22/3300262), In this case, there was an undersupply of 135 dwellings and gaps in council data for two base periods. In Paragraph 22 of the inspector's letter, they state:

"There is a clear deficiency of the provision of CSBH. As such I conclude that the Council is not meeting its statutory duty with respect to the delivery of plots for Custom and Self-Build dwellings and I give this significant weight in my consideration of the merits of the proposal."

4.7 Another example is the Causeway, Kneesworth appeal (APP/W0530/W/23/3322754) where the Inspector in paragraph 4 stated "These 9 units would make only a small contribution to reducing the overall shortfall, but nonetheless it would be a positive step that would have some tangible effect. I therefore afford this benefit an appreciable weight." This was in the context of a 200-plot shortfall.

Other Indicators of Demand

4.8 As well as the registers themselves the PPG also advises that "Local planning authorities should use the demand data from the registers in their area, supported as necessary by additional data from secondary sources...to understand and consider future need for this type of housing in their area.

4.9 The PPG goes on to specify that "Secondary sources can include data from building plot search websites, enquiries for building plots recorded by local estate agents and surveys of local residents. Demand assessment tools can also be utilised" (Reference ID: 57-011-20210208).

4.10 For the purposes of this proof of evidence we have commissioned a demand appraisal for Custom and Self Build Homes in the London Borough of Bromley from Custom Build Homes (See Appendix 3). This Demand Appraisal comprises the number of people currently subscribed to the Right to Build Register, held by Custom Build Homes, who want to custom or self-build their home within Bromley.

4.11 This data is collected by consumers signing up to the Right to Build Register at www.righttobuildregister.co.uk. The data is provided voluntarily by private individuals wishing to custom or self-build their own homes in local authority areas across England, Scotland, and Wales.

-
- 4.12 The Right to Build Register mirrors the statutory processes in place to determine whether an applicant benefits from the “Right to Build” as set out in the Self-build and Custom Housebuilding Act 2015 (as amended).
- 4.13 In total the number of Bromley residents subscribed to the register totals 1,316. This is substantially higher than the Council’s register (almost 6 times higher) and potentially reveals a significant demand for custom and self-build housing in Bromley.
- 4.14 This data also better reflects the findings of the October 2020 survey undertaken by YouGov on behalf of NaCSBA which found that 1 in 3 people (32%) are interested in building their own home at some point in the future, including 12% who said they were very interested.
- 4.15 As being encouraged by the PPG, equivalent evidence was also accepted by the inspector at the Gleadhill House Gardens, Chorley inquiry (APP/D2320/W/23/3324581). While the Council register identified a demand from 17 entrants it had permitted 18 plots the Inspector accepted evidence produced by the Appellants (and also within the Council own report (produced by Icen Projects)) which highlighted 185 registrants (from a similar source to our evidence) and 699 plotsearch subscribers.
- 4.16 The inspector concluded (paragraph 21) that they “have no substantive reason to question these figures. Whilst the scheme involves a modest number of self-build plots, I am therefore unable to conclude, on the basis of the evidence before me, that the proposal would not make a positive contribution to the need for this type of housing in the Borough. I have subsequently given the self-build nature of the proposal significant positive weight”. Although ultimately this appeal was dismissed due to significant harm to GB.

Council’s Supply Position

- 4.17 This shortfall could be higher still as the Council’s permissions are “based on detailed analysis of permissions which have submitted a CIL Form 7 Part 1 and have commenced”. This is insufficient as the legislation now states that the local authority needs to permit “for the carrying out of self-build and custom housebuilding on enough serviced plots” rather than just “in respect of enough serviced plots”. The Council will therefore need to demonstrate that serviced plots have resulted in self and custom-build development rather than their current approach as to what could be self and custom-build plots on the assumption of a CIL exemption.

-
- 4.18 Furthermore, as the Right To Build Taskforce Guidance¹⁵ highlights (See Appendix 4 - Footnote 3 on page 9), that “there is some evidence that **a majority** of applications for which a Part 1 CIL exemption is submitted **do not go on to submit a Part 2** and are, in fact, not built out as self-build”. Therefore, only Part 1 and Part 2 CIL exemptions should be counted as part of the supply.
- 4.19 Admittedly, the Right to Build Taskforce does not form part of the Guidance or legislation, however, it was commissioned by the Government to support the legislation and at the very least should be seen as best practice.
- 4.20 As set out in their email to the applicant, the Council has not examined the number of applicants who have submitted Part 2 of the CIL exemption form which is clearly in their power to do so, although they have noted that this is based on “detailed analysis of permissions which have submitted a CIL Form 7 Part 1” (covering email with the data).
- 4.21 This issue was discussed at a recent appeal in Wiltshire (APP/Y3940/W/23/3317252) where the inspector noted (paragraphs 27-30) that in light of the changes brought about by the Levelling Up and Regeneration Act greater evidence was required to confirm such supply was being used for Self and Custom Build Housing. It was also apparent from the inspector's wording that the onus was on the Council to properly establish a supply position.

“27. The Levelling Up and Regeneration Act 2023 (LURA) amended the SBCHA and recently came into force. **This reinforced the view that self-build plots should only be counted in relation to development that is brought forward that is genuinely carried out as a self-build project.**

28. The Council accepts that demand for self-build plots is advancing at a faster rate than is met by current supply. However, based on the evidence before me **the situation would appear to be graver than the Council is willing to accept. Many of the schemes that the Council considers to be self-build development it does so with reference to the submission of the Community Infrastructure Levy Form (CIL) 7 Part 1, which does not require the submission of any evidence. Only a small number of developments recorded by the Council appear to have been sincerely built out as self-build development, as evidenced by the completion of CIL Form 7 Part 2. Reaching this further stage is a more robust means of demonstrating that a development has been realised as a genuine self-build scheme.** An alternative means of securing this would be by a S106 agreement.

¹⁵

https://righttobuild.org.uk/editorial_images/page_images/featured_images/planning_good_practice_guidance/counting_relevant_permissioned_plots/PG3.2%20-%2008.2022%20Counting%20relevant%20permissioned%20plots%20V3.pdf

29. **Without this evidence the Council has not satisfactorily demonstrated that it has granted enough permissions** to meet the demonstrated demand for self-build development in its area, and the level of self-build delivery in its area is far worse than that suggested by its data.

30. Given what would appear to be a considerable level of under deliverability against a high level of demand for self-build development, I find that I should **give substantial weight to the self-build nature of the proposal**. The delivery of such is a clear public benefit that attracts significant weight in the heritage balance.” (My Emphasis).

- 4.22 There were also decisions made prior to the ascent of LURA such as that Station Road, Docking, Norfolk (APP/V2635/W/23/3320506) where the Inspector (at paragraph 50) noted “the Council relies chiefly on Community Infrastructure Levy (CIL) Exemption Part 1 Claim Forms to demonstrate it is meeting its statutory duty. Moreover, at the Hearing, the Council confirmed these are generally not supported by other evidence to provide certainty of sites coming forward, as this relates to marketing of a few larger multiple plot sites”
- 4.23 As a consequence, the Inspector concluded (paragraph 51) that “A large proportion of the permissions referred to in the SoCG would therefore need to be discounted. This means development permissions given by the Council that meet the requirements of the 2015 Act and PPG are likely to be less than one-third of those given by the Council. On this basis, significant weight should be afforded to the provision of four plots for custom housebuilding, secured by a legal agreement, as it would help the Council to meet its statutory duty. This could include unmet demand arising from the fifth base period.”
- 4.24 As well as not necessarily being occupied by those commissioning the homes, some CIL exemptions are given on permissions which involve the demolition and rebuild hence they do not result in a net gain. The inclusion of CIL exemptions which do not result in a net new dwelling is a common error for Local Authorities to make but, in reality, these permissions do not have any impact on the self-build register nor the housing land supply and that Inspectors have previously chosen to remove them.
- 4.25 For example, the inspector at the Rough Common appeal in Canterbury (APP/J2210/W/20/3259181) noted (in Paragraph 42) that because replacement dwellings were included in their CIL numbers “This approach raises doubt as to the accurate recording of self-build permissions, particularly where it is likely the self-build register has been bypassed altogether, and therefore does not reduce the need or demand for new serviced plots.” It is not clear from the Council’s evidence that such supply has been discounted from their position. If not this would further reduce the supply position.
- 4.26 To further illustrate the disconnect between CIL exemption forms and self and custom build supply, Icen Projects has reviewed all permissions since January 2023 in the Borough. Our research

suggests that there are only two approved applications that specifically are for self-build. This compares to 13 in the Council's evidence, although admittedly this is for a different period.

- 4.27 While the council has provided a list of sites which comprise the supply it was not given in enough time to fully interrogate it. We have however looked at a small selection of the sites and we would dispute the inclusion of a number of these as part of the supply.
- 4.28 For example, in Base Period 1 the Council has stated that they have permitted 9 sites for custom and self-build. However, on one of those sites Woodlands (16/03654/FULL1 (see Appendix 14)) the applicant does not check the box indicating that they are custom or self-building on the main CIL Form.
- 4.29 In another, Priory Avenue (15/04368/FULL1 (see Appendix 15)) the appeal form indicates in para 4.2 response to part e) that "The rear garden will either be fully landscaped or cleared and levelled for the future residents to decide their personal preferences for the layout of their gardens." This indicates that the future residents are not yet known and as such have not been involved in the design process.
- 4.30 It would appear that the applicant was a resident at number 11 Priory Avenue, both the post office and land registry recognise the site to now be 11a Priory Avenue. Therefore, the net additional dwelling was not occupied by the developer/applicant and should not be included in the supply.
- 4.31 We also have misgivings around two further sites in base period 1 (15/04442/FULL1 and 16/01530/FULL1). There is no CIL exemption form loaded onto the Council system to confirm their status as custom and self-build but in any case, they appear to not result in an additional home but are rather demolitions and rebuilds (See 4.24). As such they should not be included as part of the supply.
- 4.32 We also have doubts about the validity of several sites in Base Period 2. The Council's position is that they permitted 14 plots. However, two sites at Candle Hill (16/04314/FULL1 (Appendix 16)) and Pleydell Avenue (16/05881/FULL1 (Appendix 17) again on the main CIL Forms the applicants do not check the box indicating that they are custom or self-building.
- 4.33 Another site at Wimborne Way (16/05877/FULL1) had no mention of self-build within either the Design and Access Statement or the application forms. In addition, according to the Land Registry, a new property 1a Wimborne Way was sold in 2017 (Appendix 18). This would be within three years of being built and therefore should not be eligible for CIL exemption (see 2.26).

-
- 4.34 We are also in a similar position with two other sites in Year 2 (Kechill Gardens 17/00382/FULL1 and Jason Yester Road 17/00988/FULL1) which were also sold in 2020 and 2019 respectively) (Appendix 19 and 20). Again, these should not be included as part of the supply.
- 4.35 Another site at Craven Road (17/02645/FULL1 (Appendix 21)) the Design and Access Statement (paragraph 4.5) says “the development will attract a wide range of buyers”. It is therefore unlikely that the occupant had any intention of occupying the property and should therefore not be included in the supply. Furthermore, the site is a demolition and rebuild and should therefore not be included in the supply.
- 4.36 Finally, the development at Liguanea Woodlands Road (16/04231/FULL1) is a demolition and rebuild and therefore does not constitute a net gain and therefore should be excluded from the supply calculations.
- 4.37 We therefore get to a position in year 1 where the Council’s supply reduces from 9 to 6 permissions and in year 2 it reduces from 14 to 7. If this reduction is applied across the other years then the undersupply would be even greater. That is notwithstanding the other points raised around the use of CIL Form 7 Part 1 rather than Part 2.
- 4.38 In addition, while I agree with the Council's position (as reflected in Regulation 9 of the relevant legislation) that any supply position should only be assessed against Part 1 of the Custom and Self-Build Register there is still a requirement for the Council to have regard to the entries on Part 2 when carrying out their planning, housing, land disposal and regeneration functions.
- 4.39 According to the PPG “This means, for example, in plan-making the starting point for establishing overall demand for self-build and custom housebuilding would be the number of registrants on Part 1 and Part 2 of the register” (Reference ID: 57-018-20210208). By not having a Local Plan policy to address this the council is therefore failing in its duty to meet the wider need.
- 4.40 The PPG also notes that relevant bodies should have “regard to each self-build and custom housebuilding register, including Part 2 of the register” when carrying out their planning duties and that the registers “are also likely to be a material consideration in decisions involving proposals for self and custom housebuilding”.

Supply and Demand Balance

- 4.41 The Council’s own figures suggest that it has failed to permit enough plots to meet the identified demand within its Register. This is a position we agree on, but it likely underestimates the true demand and overestimates the supply in the Borough.

-
- 4.42 As set out above demand is likely to be much higher. This is because the register unnecessarily puts a local connection test on entrants. Other evidence also suggests that demand could be considerably higher (5.6 times higher from Bromley residents and potentially higher still from London-wide demand).
- 4.43 We also have good reason to believe that the Council's supply position overestimates what has truly been delivered as custom and self-build housing. This is because it relies on CIL part 1 returns which require no evidence of final use and a better position (as required by legislation and previous decisions) would be to use the Part 2 returns. It therefore fails to demonstrate that it has permitted a suitable number of self and custom build plots to meet the identified demand.
- 4.44 Taken together my position is that the supply and demand balance for custom and self-build plots in Bromley is likely to be considerably worse than the Council's position states. By failing to permit enough suitable plots the Council are in breach of its duty under the Self and Custom Build Act and failed it meet its obligations under the PPG. As such the inspector should, as others have done, place significant weight on this issue.

5. SUMMARY

- 5.1 This proof of evidence relates to a planning appeal at Home Farm, Chislehurst, in the London Borough of Bromley (APP/G5180/W/24/3339919).
- 5.2 The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied. The latest version of the National Planning Policy Framework (NPPF) was published in December 2023.
- 5.3 The NPPF notes that "To support the Government's objective of significantly boosting the supply of homes", and "that the needs of groups with specific housing requirements are addressed" This includes people wishing to commission or build their own homes".
- 5.4 The NPPF also states that Council's 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".
- 5.5 I believe that the Council has failed to address these through policy and instead erroneously rely on the London Plan in respect of Custom and Self Build housing which itself clearly puts the onus on Local Authorities to develop policies to meet this demand.
- 5.6 The Self-Build and Custom Housebuilding Act was recently amended by the Levelling Up and Regeneration Act and as a consequence puts greater emphasis on Council to permit enough plots "for the carrying out of self-build and custom housebuilding."
- 5.7 This is a significant strengthening of the wording and consequently means that the Council should not be reliant on Part 1 CIL forms as a means of demonstrating supply. This was confirmed by the Inspector in Wiltshire. The Council therefore needs to provide greater evidence to support its supply position.
- 5.8 I also have reservations about the Council's demand position. Firstly, it includes a local connection test which is unnecessary and fails to reflect the functioning of the London Housing Market Area. Secondly, this Local Connection Test was introduced without consultation which goes against best practice and PPG in this area.
- 5.9 In any case the PGG also suggests that Part 2 of the register is a material consideration in decisions involving proposals for self and custom build housing.

-
- 5.10 I have also provided wider evidence which suggests that demand for a custom and self-build plot in the Borough is considerably higher than the register suggests potentially up to and in excess of 5 times the Council position.
- 5.11 Such evidence is encouraged in the PPG to allow Local planning authorities to “understand and consider future need for this type of housing in their area”. This has also been accepted by inspectors elsewhere.
- 5.12 Taken together my position is that the supply and demand balance for custom and self-build plots on Bromley is likely to be considerably worse than what the Council's position states. As such the Inspector should, as others have done, should place significant weight on this issue.

A1. APPENDICES

- Appendix 1 - Home Farm Appeal self-build information Email
- Appendix 2 - Council Position
- Appendix 3 - Demand appraisal for Custom and Self Build Homes
- Appendix 4 - Right to Build Taskforce Custom and Self-Build Planning Guidance
- Appendix 5 - Rough Common, Canterbury Appeal
- Appendix 6 - Collett's Green Appeal
- Appendix 7 - Dunsfold Common Appeal
- Appendix 8 - The Causeway Appeal
- Appendix 9 – Malmesbury Wiltshire Appeal
- Appendix 10 – Chorley Appeal
- Appendix 11 – Docking Norfolk Appeal
- Appendix 12 – Cambridge Self-Build Rapid Review Report
- Appendix 13 – Shortlands Appeal
- Appendix 14 – Woodlands
- Appendix 15 – Priory Avenue
- Appendix 16 – Candle Hill
- Appendix 17 – Pleydell Ave
- Appendix 18 – Wimbourne Way
- Appendix 19 – Kechill Gardens
- Appendix 20 – Jason, Yester Road
- Appendix 21 – Craven Road