



[www.righttobuild.org.uk](http://www.righttobuild.org.uk)

# Right to Build Task Force Custom and Self-Build Planning Guidance

## PG3.2: Counting relevant permissioned plots

Previously numbered as PG 10

August 2022

Version 3.0

Supported by:



## CONTENTS

	<b>Page</b>
1. Introduction	<b>2</b>
2. The Right to Build Task Force	<b>3</b>
3. Summary	<b>4</b>
4. The role of CSB plots and land supply	<b>5</b>
5. Review of guidance definitions	<b>6</b>
6. Is a plot custom and self-build or not? <ul style="list-style-type: none"><li>• Possibly CSB</li><li>• Community-Led Housing</li></ul>	<b>8</b>
7. Counting plots and permissions <ul style="list-style-type: none"><li>• Decision-making</li><li>• Dealing with small applications</li><li>• Multi-plot developments</li></ul>	<b>11</b>
8. List of all Right to Build Planning Guidance documents	<b>13</b>

## 1. INTRODUCTION

1. This document forms part of the Right to Build Task Force Custom and Self-Build Planning Guidance. The guidance consists of an overview, together with separate planning guidance documents and appendices.
2. This guidance has been designed to complement existing legislation and regulations, together with the National Planning Policy Framework (NPPF) and in particular National Planning Policy Guidance (NPPG) in relation to custom and self-build.
3. Together the guidance sets out good practice guidance to support the delivery of custom and self-build homes in England. By “good practice” we mean information at a level of detail that is otherwise not available to support an approach that best aligns with the aims, the letter and the spirit of the legislation.
4. It is intended for use by:
  - a. Landowners and land promoters
  - b. Those seeking to bring forward or support custom and self-build developments.
  - c. Those responsible for planning policies and decisions within local authorities and National Parks in England
  - d. Planning Inspectors and those engaged in review of planning decisions and planning policies.
  - e. All those interested in better and more beautiful homes.
5. The guidance is published by the Right to Build Task Force and it is regularly updated to reflect emerging good practice and in response to any relevant changes in legislation, regulation or policy. The latest version of the guidance can be found at [www.righttobuild.org.uk](http://www.righttobuild.org.uk). A full list of all guidance documents and appendices is included at the end of this document.
6. All references are correct at the time of publication.
7. Feedback on this document and the associated good practice guidance notes is welcome and any comments should be sent to [Taskforce@righttobuild.org.uk](mailto:Taskforce@righttobuild.org.uk)

© Right to Build Task Force August 2022.

You may reuse this information free of charge in any format or medium. Where any information quoted is from a third party, you should obtain permission from them to reuse.

While every effort has been taken to check the accuracy of the information in this guidance, the Right to Build Task Force cannot be held liable for any financial loss resulting from the advice contained herein. Readers are advised to seek independent legal advice before proceeding on any planning matter.

## 2. THE RIGHT TO BUILD TASK FORCE

8. The Right to Build is the generally used term for a collection of primary and secondary legislation introduced to support the growth in the number of custom and self-build homes within England.
9. The Right to Build Task Force (Task Force) was established by the National Custom and Self-Build Association (NaCSBA) in 2017. NaCSBA is the voice of the custom and self-build housing sector.
10. The aim of the Task Force is to support the delivery of the Right to Build through the provision of technical expertise and advice based on a model that has been used successfully in the Netherlands.
11. The Task Force provides help to local authorities, community groups and other organisations across the UK to deliver large, affordable, custom, and self-build projects.
12. An ethical wall separates the activities of NaCSBA and the Task Force. A Task Force Advisory Board, made up of experts and advisors from national and local government, industry and community housing, provides strategic oversight of our work.
13. The Task Force is currently funded by the Department for Levelling Up, Housing and Communities to provide support to Local Planning Authorities in England.

### 3. SUMMARY

14. This note provides guidance on identifying those plots which will count towards the custom and self-build (CSB) land supply. This guidance focuses on the role of identifying plots in relation to decision-making. Right to Build Task Force [Planning Guidance \(PG2\) \*Delivering a sufficient supply of CSB homes\*](#) provides pointers for policies which will help deliver more plots and which will help guide decision-making.
15. 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.

#### 4. THE ROLE OF CSB PLOTS AND LAND SUPPLY

16. The intention of the Right to Build legislation<sup>1</sup> is to increase diversity in the housing market, introduce new outlets for delivering high quality housing, and to satisfy the UK's demand for opportunities to build or commission a home designed to meet the owner's needs and aspirations. It is expected that over time the level of CSB development in the UK should approach that seen in other countries – moving from the current very low level. This will also help boost overall supply of housing in introducing new opportunities and small-scale land supply.
17. The legislation also seeks to open opportunities for a broader range of self-builders so that those on limited budgets can access plots. The definition of custom and self-build in the legislation references occupation and not ownership.

---

<sup>1</sup> Custom and Self Build 2015 (as amended); herein referenced as the CSB Act and Self-build and Custom Housebuilding Regulations 2016

## 5. REVIEW OF GUIDANCE DEFINITIONS

18. From October 2019 the CSB legislation requires councils to meet the demand for CSB plots in their area, and this requires robust and ongoing monitoring of the plot supply. The definitions of what is or is not a CSB permission (dwelling) goes to the heart of monitoring and reporting plot supply. Right to Build Task Force Planning Guidance (PG13) *Annual Monitoring Reporting* suggests detailed information which should be reported for counting permissioned plots and completions.

19. [Right to Build Task Force Planning Guidance \(PG1\)](#) sets out the definitions of custom and self-build. Irrespective of whether the CSB dwellings are customised, commissions from specialist builders, single commission with bespoke design and construction, or a complete DIY on a serviced plot, the key test for identifying self-build plots is where:

*“The individuals who first live in the homes have had primary input into its final design and layout. This may include homes for rent, CLT, co-housing, or rural workers’ dwellings – **but only where the initial occupants have specified design and layout.**”*

20. For clarity, in the case of a collective CSB scheme the group efforts in design and commissioning usually will qualify all households in the group where those households have been part of an officially structured group<sup>2</sup> during the design and commissioning stages (pre-application).

21. For avoidance of doubt The Self-build and Custom Housebuilding Act 2015 makes it clear that custom and self-build:

*“1 (A2) 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.”*

22. Initially, some councils counted all permissions on individual or smaller sites to meet their duties – this is not appropriate. Councils may have mis-interpreted the reference in the Self-build and Custom Housebuilding Act Section 2A (6) to “*must give **suitable** development permission*” to mean that any small development permission might be suitable for CSB housing. This is incorrect as a dwelling can only be constructed as self-build where the applicant is the intended occupant and detailed consideration of suitability is required.

23. The NPPG makes it clear that Councils should only be counting those dwellings where there is evidence that the homes will meet the definition of Custom or Self Build.

*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.*

---

<sup>2</sup> Such as a CIC, charitable Trust, unincorporated association etc

*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.*

*Paragraph: 016 Reference ID: 57-016-20210208*

24. The legal definition of CSB does not fully address questions in relation to individual plots which are marketed for sale as an opportunity to build. Unless there are conditions or unilateral undertakings restricting the design and construction/occupation to a CSB applicant, it cannot be known if a plot will be purchased for speculative build. This is also true of conversions, such as Permitted Development conversions, or FUL permissions sold as building opportunities. These have reduced scope for self-build customisation but, in some cases, can be acquired for genuine self-build. The factors for determining whether a plot is self-build or not are explored in this guidance note.






6. IS A PLOT CUSTOM AND SELF-BUILD OR NOT?

24. The Right to Build legislation requires councils to ensure that they have met the demand for CSB plots in their area and this requires robust and ongoing monitoring of the plot supply. The statutory requirement is to **permit annually a minimum number of CSB plots**. There is no detailed guidance on how this is to be interpreted in relation to a land supply pipeline where under/over supply is carried forward. It is recommended that planning authorities maintain specific monitoring information and that the basis for decision making is made clear.

25. The following table highlights a number of types of applications and suggests whether they are likely to qualify as CSB land supply.

Table 1 – Qualifying Permissions for CSB Plot Supply

 <b>Definitely CSB</b>	<ul style="list-style-type: none"> <li>▪ Permission with signed Unilateral Undertaking committing to self-build;</li> <li>▪ Permission with condition or agreement for marketing the plot(s) as a CSB opportunity;</li> <li>▪ Permission that <b>creates a new dwelling</b> and has a submitted Form 7: Self Build Exemption Claim Form - <b>Part 1</b> and <b>Part 2</b><sup>3</sup>.</li> </ul>
 <b>Possibly CSB</b> requires evidence	<ul style="list-style-type: none"> <li>▪ Outline permissions;</li> <li>▪ Full permission with unknown intent;</li> <li>▪ Rural/Agricultural worker’s dwelling;</li> <li>▪ Multi-unit flat where the owner creates multiple flats, and intends to occupy one as principle residence;</li> <li>▪ Permitted Development approval for conversions;</li> <li>▪ Dwelling demolition and redevelopment;</li> <li>▪ Community Land Trusts.</li> </ul>
 <b>Definitely Not</b>	<ul style="list-style-type: none"> <li>▪ Certificate of Lawfulness for a dwelling;</li> <li>▪ Caravans are not self-build; <i>caravans do not meet the “construction” part of the definition (and self-build legislation seeks to increase the SME sector as well);</i></li> <li>▪ Ancillary accommodation;</li> <li>▪ Build to Rent development;</li> <li>▪ A substantial enlargement or redevelopment that creates new floorspace but not a new dwelling.</li> </ul>

<sup>3</sup> 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.

### Possibly CSB

26. The majority of windfalls are small schemes of one to three homes and most of these small permissions for new dwellings will fit into the “possibly CSB” category. Larger schemes – unless they are clearly labelled CSB or collective self-build will generally be speculative. Factors determining whether a permission is CSB *may* include:
- **Who is the applicant/landowner?**
    - *Where the applicant is a builder/developer who will be seeking to sell a completed dwelling for profit. This is **not CSB**.*
    - *Where the applicant is a business seeking to provide a **rural worker’s dwelling** it will in general **NOT** be a CSB unless there is specific evidence that the rural worker household has in fact been involved in the design of the dwelling and that they will be resident. This is not generally likely with contracted farm workers but may be CSB where the rural worker is part of the family and has an ongoing interest in the rural business.*
  - **Has the applicant stated the intention to market the development as a building opportunity?**
    - *A conversion to flat(s) might count as self-build, where the applicant/leaseholder has designed the conversion and is the intended resident. Where there are multiple flats proposed only one would be considered self-build except in specific co-housing or group build cases where undertakings are in place to confirm CSB applicability.*
27. The issue of a plot with full permission is nuanced. As per the Act, building a house wholly or mainly to plans or specifications decided or offered by another person is not CSB. However, in practice a permitted plot may be sold un-built and a self-builder may acquire the plot and adapt the permission (eg via non-material amendment) to have the dwelling constructed to meet their design and aspirations. However, if that same permission is sold un-built to a local builder who builds it out (as permitted) for resale it does not count toward the supply. The Task Force is of the opinion that, if the applicant has committed to marketing the plot as a CSB opportunity, the plot can count. This will require monitoring though, as if the plot is sold to a builder who builds for resale and profit, then it would not count as a CSB dwelling.
28. Conversions through Permitted Development (eg agricultural or office to residential) may count as CSB even though there will be limits on the scope for customisation of external appearance or internal re-structuring. The Task Force considers that, in relation to the legal definition of self-build construction, there is no distinction between Prior Approval and Planning Permissions. However, councils should not rely solely on plots delivered through permitted development as this does not demonstrate taking positive measures to boost a diverse supply of housing.

29. Applications for demolition and rebuild have traditionally been the main supply for self-builders, at least those who can afford it. This is not “net-supply” in housing land supply terms, but the Task Force considers that these permissions count as CSB plots in relation to the definition where the applicant has confirmed the intention to build/occupy as CSB. This is because the legislation is framed in relation to the construction of dwellings. However, relying primarily on demolition and rebuild does not demonstrate taking positive measures to boost a diverse supply of housing as per the NPPF requirement.

### Community-Led Housing

30. Community-led housing (CLH) is helping to promote diversity in housing delivery and has been involved in a number of CSB schemes but not all CLH schemes are custom and self-build. CLH schemes which involve commissioning the design and delivery of a number of plots which will be owned/part-owned by the group and once built allocated to wider members of the community on some criteria basis are unlikely to be CSB. However, where the group is formed specifically to create an opportunity for self-builders to acquire plots and jointly participate in the design, and possibly construction or finishing, these plots will likely be counted as CSB. The evidence of commitment may be found in the group’s articles of formation or undertakings related to the permission.
31. It is possible that a multi-plot site, for example in a CLH development, may include a few homes designed by the group for rental or cross-subsidy (enabling development) or third parties (eg housing associations). If most of the homes qualify, it is reasonable to describe the scheme as a qualifying project (test of proportionality) but councils should discount those non-CSB plots from the reported number.

## 7. COUNTING PLOTS AND PERMISSIONS

### Decision-making

32. No one involved in CSB wants to see speculative applications being promoted solely on the back of CSB duties. Particularly where the application is in some way harmful to the local character or environment or where speculative building is sought to the detriment of wider interests. Nor do those engaged in the sector wish to see ongoing legalistic examination of land supply.
33. This guidance should allow councils that make good faith efforts to engage with and support CSB. Providing evidence of ongoing engagement and support can be legitimately factored into consideration of the planning balance for CSB proposals.

### Dealing with small applications

34. When writing the Officer Report for a planning application which has been confirmed or asserted to be CSB, this should be acknowledged in the report. If the application is demonstrably a CSB plot then this should be identified as a material consideration. If there is doubt on the applicability of CSB then the applicant should be given a chance to clarify the issues and confirm availability through a unilateral undertaking or enforceable condition.
35. The issue of meeting the CSB requirement is material and should be included in weighing the planning balance. A development contributing to CSB is unlikely on its own to outweigh planning harm (eg landscape or environmental harms). However, there is a clear requirement to meeting the council's duties under the CSB legislation. If the council demonstrates that the duty to support CSB has tipped the planning balance in some number of new approvals (eg, infill, edge of settlement or other departure), it will help demonstrate the council's commitment.

### Multi-plot developments

36. The Task Force is producing specific guidance for working with multi-plot sites and phased delivery - see Right to Build Task Force Planning Guidance (PG12) for details on implementation of multiplot schemes and Right to Build Task Force Planning Guidance (PG11) in relation to securing delivery of CSB.
37. For councils with policies requiring a percentage plots on major or strategic sites, for plots to be considered part of the CSB plot supply, the Section 106 and/or permission conditions should include:
  - a. the arrangements for marketing and delivery of the sub-area site which will provide **the custom build parcel** of land (ie the area within the major development which

- has been agreed and identified through a masterplan/parameters plan); unspecified future delivery or “petterpotting” of CSB plots is not considered robust.
- b. arrangements for future marketing of the individual custom build plots available on the self-build parcel.
  - c. Some phasing or triggers, tied to the occupation/delivery of the larger site, should be set out to ensure the CSB plots are brought to market as such.
38. When multi-plot sites are approved, we recommend councils send notification to people on the self-build Register, unless there is a link to plots approved/for sale on the council’s CSB webpages.

## 8. LIST OF ALL RIGHT TO BUILD TASK FORCE PLANNING GUIDANCE DOCUMENTS

39. The guidance is made up of individual planning guidance documents. These are listed below. Not all documents are currently published. These notes will be introduced over time, with an indicative phase shown.

### Summary of Practice Guidance notes

Reference	Title	First issued
<b>Introduction and Definitions</b>		
PG1.1 (was PG0)	Planning guidance good practice overview	October 2020
PG1.2 (was PG1)	Defining custom and self-build	October 2020
<b>Plan Making and Policies</b>		
PG2.1 (was PG2)	Delivering a sufficient supply of homes	October 2020
PG2.2 (was PG3)	Provision of affordable housing, including exception sites	June 2021
PG2.3	Designs of exceptional quality	Phase 4
PG2.4	Sustainability	Phase 3
PG2.5	Supplementary Planning Documents (template)	Phase 4
PG2.6	Neighbourhood plans and the process	Phase 4
PG2.7	Maintaining open and inclusive Registers and engaging with those on the Register	Phase 2
<b>Decision Taking</b>		
PG3.1 (was PG9)	Using Register numbers to identify plots to be permissioned	October 2020
PG3.2 (was PG10)	Counting relevant permissioned plots	October 2020
PG3.3 (was PG11)	NPPF and Right to Build Legislation – delivering appropriate permissions	June 2021
PG3.4	Working with multi-plot sites and phased delivery	Phase 3
PG3.5 (was PG13)	Annual Monitoring Reporting	June 2021
PG3.6	Securing delivery of self- and custom build homes	Phase 3
<b>Engaging</b>		
PG4.1	Working with groups of self-builders	Phase 4
PG4.2	How to address undersupply (strategic and short-term)	Phase 3
<b>Appendices</b>		
Appendix A	Legislation and regulation	October 2020
Appendix B	National Planning Policy Framework and National Planning Policy Guidance	October 2020
Appendix C	Other key policy documents	October 2020
Appendix D	Planning appeals	Phase 2