

## **TOWN AND COUNTRY PLANNING ACT 1990**

### **SELF-BUILD AND CUSTOM HOUSEBUILDING**

#### **TOPIC SPECIFIC STATEMENT OF COMMON GROUND**

#### **SECTION 78 APPEAL**

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Outline planning permission for the development of the site for new homes (Use Class C3) and Integrated Retirement Community (Use Classes C2, E(e), F2), creation of new access, landscaping and associated works to facilitate the development, in phases which are severable (outline with all matters reserved, except for access)

Former Laporte Works Site, Nutfield Road, Nutfield, Surrey

Nutfield Park Developments Limited

February 2026

PINS REF: APP/M3645/W/25/3374913

LPA REF: 2023/1281

OUR REF: M26/0103-03.RPT

## 1 Introduction

- 1.1. The appeal scheme would provide eight serviced plots for self-build and custom housebuilding.

## 2 Legislation

- 2.1. Tandridge District Council is subject to the statutory obligations under section 2A of the Self-Build and Custom Housebuilding Act 2015.

### *Definition*

- 2.2. Section 1(A1) and 1(A2) of the 2015 Self-Build and Custom Housebuilding Act (as amended) provides the definition for what constitutes self-build and custom housebuilding and states that:

*“In this act ‘self-build and custom housebuilding means 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.*

*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 specification decided or offered by that person”.*

### *The Duty to Grant Sufficient Development Permissions*

- 2.3. The 2023 Levelling Up and Regeneration Act (LURA) amended Section 2A(2) of the 2015 Self-Build and Custom Housebuilding Act (as amended) which states that *“an authority to which this section applies must give development permission for the carrying out 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”*.
- 2.4. The explanatory notes to the LURA explain that this amendment was made *“to ensure that only planning permissions that are specifically to be built out for self or custom build (for example via a planning condition or obligations) qualify towards meeting demand.”*
- 2.5. Section 2A(6) of the Act states that:

*“For the purposes of this section -*

*(a) 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 in subsection (2) expired during the base period in question, and*

*(B) the duty in subsection (2) has not been met;*

*(aa) 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 under section 1 kept by the authority."*

- 2.6. There are no transitional arrangements relating to Section 123 of the LURA and therefore the provisions are to be applied retrospectively since the coming into force of the statutory duty in 2016 through amendments made in the Housing and Planning Act. The demand figure is the total number of individuals (or groups) that have registered over the full period on Part 1 of the Register, calculated cumulatively.
- 2.7. The Council are statutorily required to have addressed demand arising within a Base Period within three years of the end of each respective Base Period under the legislative requirements of the 2015 Self-Build and Custom Housebuilding Act (as amended) and the Self-Build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016.
- 2.8. The grant of planning permission for the Appeal Scheme would create a qualifying development permission that would mean that the self and custom housebuilding element of the appeal proposals would contribute towards meeting demand for self-build and custom housebuilding in the Council's area for the purposes of Section 2A(2).
- 2.9. The precise demand figure is disputed between the parties.

### **3 Development Plan**

- 3.1 Tandridge Council has no adopted policies for the provision of self-build and custom housebuilding.

#### **4. National Planning Policy**

4.1 The provision of self-build and custom housebuilding plots is an important part of meeting the needs of different groups of people as stated in paragraph 63 of the NPPF and part of the government's objective to significantly boost the supply of homes in order to deliver a sufficient supply of homes

4.2 The NPPF December 2024 is a material planning consideration.

4.3 Self-build and custom housebuilding is the subject of guidance within the PPG.

4.4 Paragraph 61 of the NPPF (2024) states 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, and that the need of groups with specific housing requirements are addressed.”*

4.5 Paragraph 63 of the NPPF states that *“the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies including but not limited to...people wishing to commission or build their own homes.”*

4.6 Paragraph 71 of the NPPF sets out that *“mixed tenure sites can provide a range of benefits, including creating diverse communities and supporting timely build out rates, and local planning authorities should support their development through their policies and decisions”*. And that *“Mixed tenure sites can include a mixture of ownership and rental tenures, including...plots sold for custom or self-build.”*

4.7 Annex 2 of the NPPF defines Self-Build and Custom-Build Housing as: *“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.”*

#### **5. Planning Practice Guidance**

5.1 The Self-Build and Custom Housebuilding Section of the PPG was first published on 1 April 2016 and last updated on 8 February 2021.

5.2 PPG paragraph 57-016 states<sup>1</sup> that *“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.*

*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.”*

5.3 PPG 57-016a ‘What are the benefits of self-build and custom housebuilding’ the PPG states that *“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”*.

5.4 PPG 57-011<sup>2</sup> states that *“local planning authorities should use the demand data from their registers in their area, supported as necessary by additional data from secondary sources (as outlined in the housing and economic development needs guidance) Assessment to understand and consider future need for this type of housing in their area”* and that *“secondary data 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”*.

5.5 PPG 57-014 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.”*

5.6 PPG 67-003 ‘How can Self-Build and Custom Housebuilding needs be assessed’, within the ‘Housing Needs of Different Groups’ Chapter of the PPG states<sup>3</sup> that:

*“To obtain a robust assessment of demand for this type of housing in their area, local planning authorities should assess and review the data held on registers. This assessment can be supplemented with the use of existing secondary data sources such as building plot search websites, ‘Need-a-Plot’ information available from the Self Build Portal and enquiries for building plots from local estate agents.”*

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<sup>1</sup> Paragraph 016 Reference ID 57-016-20210208

<sup>2</sup> Paragraph 011 Reference ID: 57-011-20210208

<sup>3</sup> Housing Needs of Different Groups section, Paragraph 003 Reference ID 67-003-20190722

**6. Self-Build and Custom Housebuilding Demand**

- 6.1 The Council's self-build register data returns to the Ministry of Housing, Communities and Local Government (MHCLG) show that there were 63 Part 1 entries in Base Period 1 and a further 63 Part 1 entries in Base Period 2, totalling 126 entries across the first two Base Periods.
- 6.2 The Council introduced a local connection test (LCT, financial solvency test (FST) and fees to join the register as well as an annual retainer fee to remain on the register in Base Period 3 in November 2017.
- 6.3 The application of these tests splits the register into two parts, with those who meet the LCT being placed on Part 1 of the Register and those who do not on Part 2 of the register. The Section 2A duty only applies to Part 1 of the Register. Entries on part 2 remain a material consideration.
- 6.4 For the purposes of measuring demand and applying the Section 2A duty such tests do not apply retrospectively to Base Periods that preceded their introduction.
- 6.5 Across Base Periods 1 to 8 there are a total of 149 Part 1 register entries to whom the statutory duty applies.
- 6.6 The Base Periods of particular relevance to the appeal proposal are Base Periods 1 to 8 as the Council are statutorily required to have addressed demand arising from these Base Periods by 30 October 2026. The demand for this period is 149 plots.

**7. Self-Build and Custom Housebuilding Supply**

- 7.1 The appeal scheme provides eight plots for self-build and custom housebuilding which would be secured by legal agreement tied to the legislative definitions in the 2015 Self-Build and Custom Housebuilding Act (as amended).
- 7.2 The provision of eight serviced plot for self-build and custom housebuilding is a material consideration weighing in favour of the appeal proposals.
- 7.3 Without an enforceable mechanism such as a planning obligation or condition to secure provision of a permission, or part thereof, as self-build and custom housebuilding there is no certainty that this is what will be delivered or that it would meet the legal definitions.
- 7.4 CIL self-build exemptions in isolation are not a sufficiently robust method of recording permissions to meet registered demand. The CIL Amendment Regulations definition

of a 'self-builder' does not meet the legislative definition of a self or custom-builder in the 2015 Self-Build and Custom Housebuilding Act (as amended).

7.5 The Council has a shortfall in provision of serviced plots relative to the Council's statutory duty as defined at Section 2A of the 2015 Act (as amended).

7.6 The Council has not met its Section 2A statutory duty for Base Periods 1 to 7.

**8. Matters that remain in dispute**

8.1 The weight to be accorded to the provision of eight serviced plots for self-build and custom housebuilding secured by legal agreement in the planning balance.

8.2 The Council has not used secondary data sources to understand and consider the future need for this type of housing in their area.

8.3 The Council's position is that post application of the register entry tests, the Council has reported in its latest return (Base Period 9) that Part 1 of the register has 18 people remaining on it still actively looking for a plot.

8.4 The Appellant's position is that there are 149 Part 1 register entries to which the Section 2A statutory duty applies.

**Signed on behalf of the LPA:**

Signature:

*Peter J. Lee*

Name: Peter Lee

Date: 06.02.2026

**Signed on behalf of the Appellant:**

Signature:



Name: Andy Moger

Date: 6<sup>th</sup> February 2026