

Custom and Self Build Local Plan Policies – The Good the Bad and the Ugly



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Right to **BUILD**

Self-build and Custom Housebuilding Act 2015 (as amended)

A brief recap... “The Right to Build” legislative framework

New duty on Councils since April 2016

Self-build and Custom Housebuilding Act 2015:

- *keep and publicise a Register of people who want to self/custom build in their area;*
- *have regard to Register when exercising planning, housing, land disposal, regeneration functions*

Housing and Planning Act 2016:

- *amends/supplements Self-build and Custom Housebuilding Act 2015*
- *duty on Councils to meet demand on Register by granting ‘development permissions’ for enough ‘serviced plots’ to meet demand on rolling annual basis (three years to deliver)*
- *defines what Custom and Self Build homes are and what a ‘serviced plot’ is*

Self-build and Custom Housebuilding Regulations 2016

Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016

What is Custom and Self Build housing?

Custom Build

- *Working with a builder, specialist developer or 'enabler' to deliver homes*
- *Many sites offer ready-to-go serviced plots*



Self Build

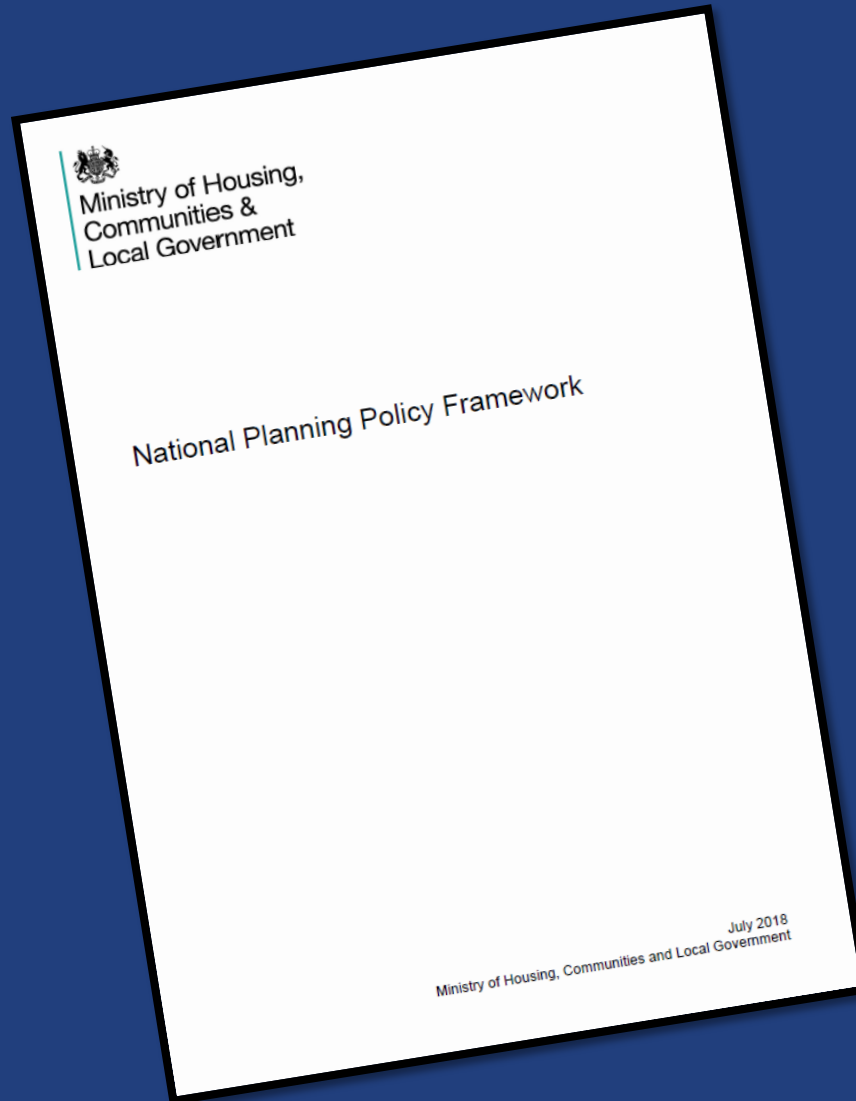
- *People directly organise the design and construction of their homes*
- *Very few actually do the main construction work*



Usually single homes, but both approaches can be used by groups or “associations of individuals”

Legal Definition in Sections 2 and 2A of the Self-build and Custom Housebuilding Act 2015 (as amended)

Revised National Planning Policy Framework



- *Councils need to make sufficient provision of land with permission and bring this forward without delay to meet the needs of different groups (Para 59)*
- *Size, type and tenure of housing needed for different groups should be assessed and reflected in planning policies, including “people wishing to commission or build their own home” (Para 61, Footnote 26 refers to ‘Right to Build’ duties)*
- *Self and custom-build properties could provide market or affordable housing (Footnote 26)*

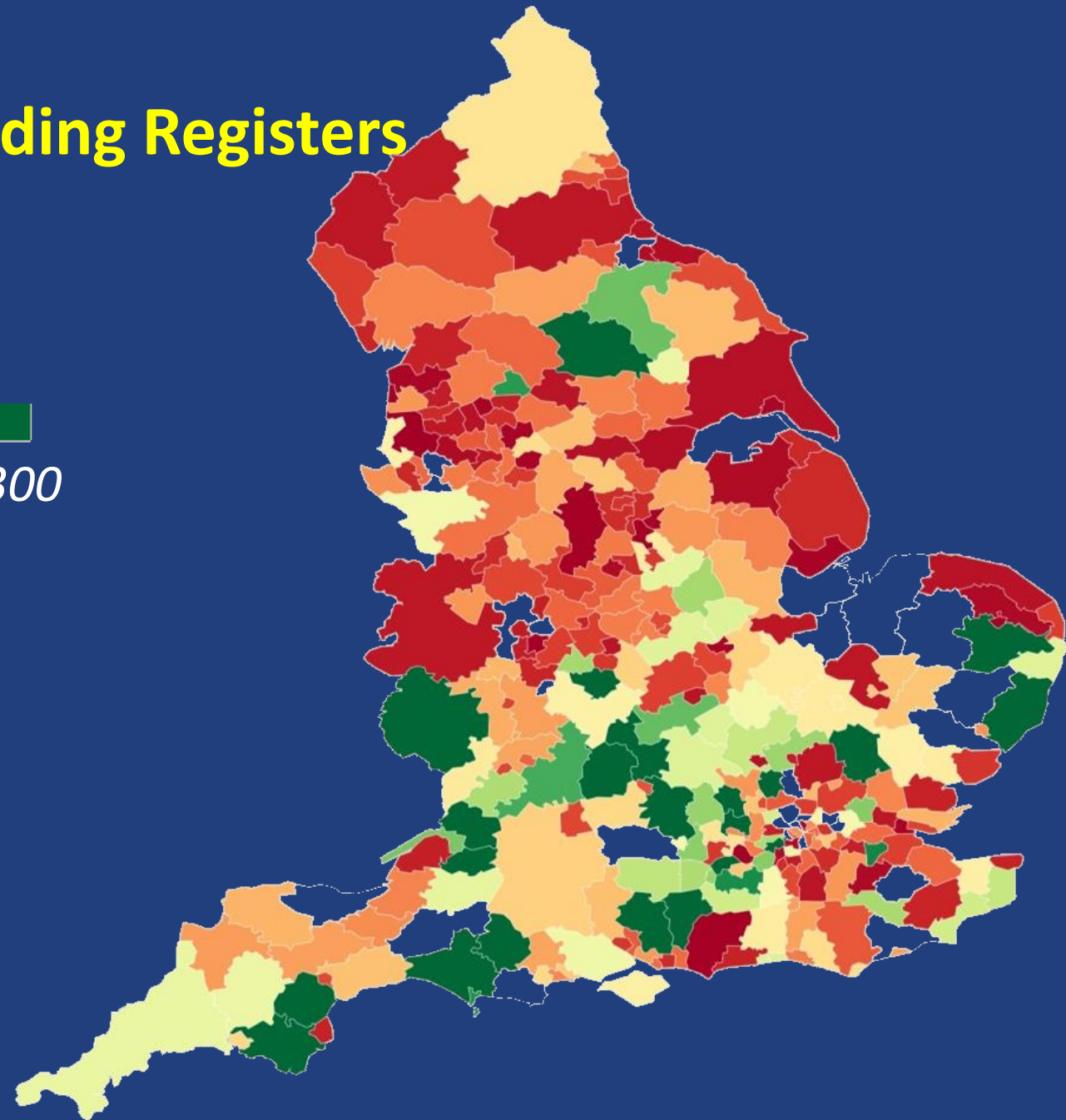
Demand – National Self-Build and Custom Housebuilding Registers

Total individual entries on Local Authority Registers
per 100,000 population



40,000+

(Number of people on local registers)



Fees and local eligibility tests/criteria increasingly common

Fees:

- 12% of Councils (40) have introduced fees (Highest- £600 over 4 years; Lowest- £12 one-off fee)
- Fees typically not proportionate or justified

Eligibility criteria:

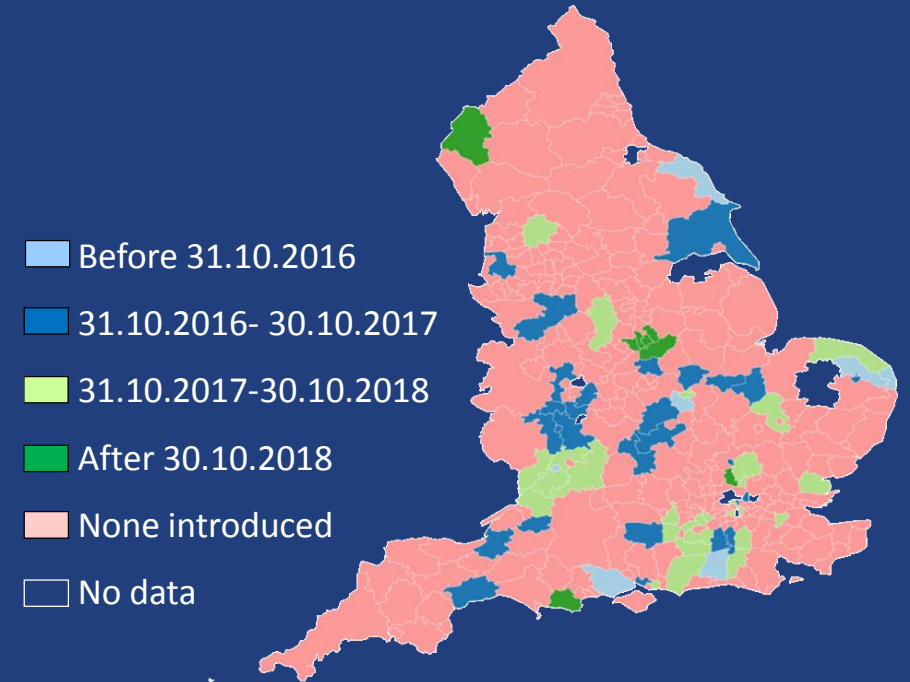
Local connection

- 24% of Councils have introduced a test (yet no tests are imposed on other forms of market housing)
- Some ask about local connection in application forms but don't impose an eligibility test

Financial solvency

- 10% of Councils (32) have introduced a test
- Some tests ultra vires as they ask about overall project affordability, not just to purchase land

Where have Local Connection tests been introduced?



Introduction of fees and tests lowers registrations

Source: NaCSBA, Freedom of Information request, NaCSBA (December 2018)

Number of permissioned serviced plots provided so far is unclear



- Interpretation of the Act is varied with regard to the meaning of “suitable development permissions”
- Some Councils are counting a lot more than they should be...



Credit: Long Four Acres, Mulbarton, Norfolk, Custom Build Homes

First full 3 year delivery period ended 30 October 2019

How Local Authorities are responding



Planning policy/Guidance

- *Local Plan policies promoting housing mix with general Custom/Self Build references*
- *Permissive policies on edge of settlements and 'percentage' policies*
- *Supplementary Planning Documents*
- *Promotion through Neighbourhood Planning (work with communities)*



Strategies and Delivery Plans

- *Housing Strategy commitments*
- *Custom and Self Build Action Plans*



Affordable Housing-led initiatives

- *Policy (e.g. Rural Exception Sites)*
- *Delivery by working with Housing Associations & Community groups*



Projects and landowner/builder engagement

- *Pilot projects on own land*
- *Join ventures (e.g. Homes England)*
- *Forums/events with landowner, agents and developers*



Land

- *Disposals*
- *Acquisitions*



Financial support

- *Mortgages and development finance/deferred payments*

***Progress by Local Planning Authorities
to support Self-build and Custom
housebuilding in Local Plans***



Summary

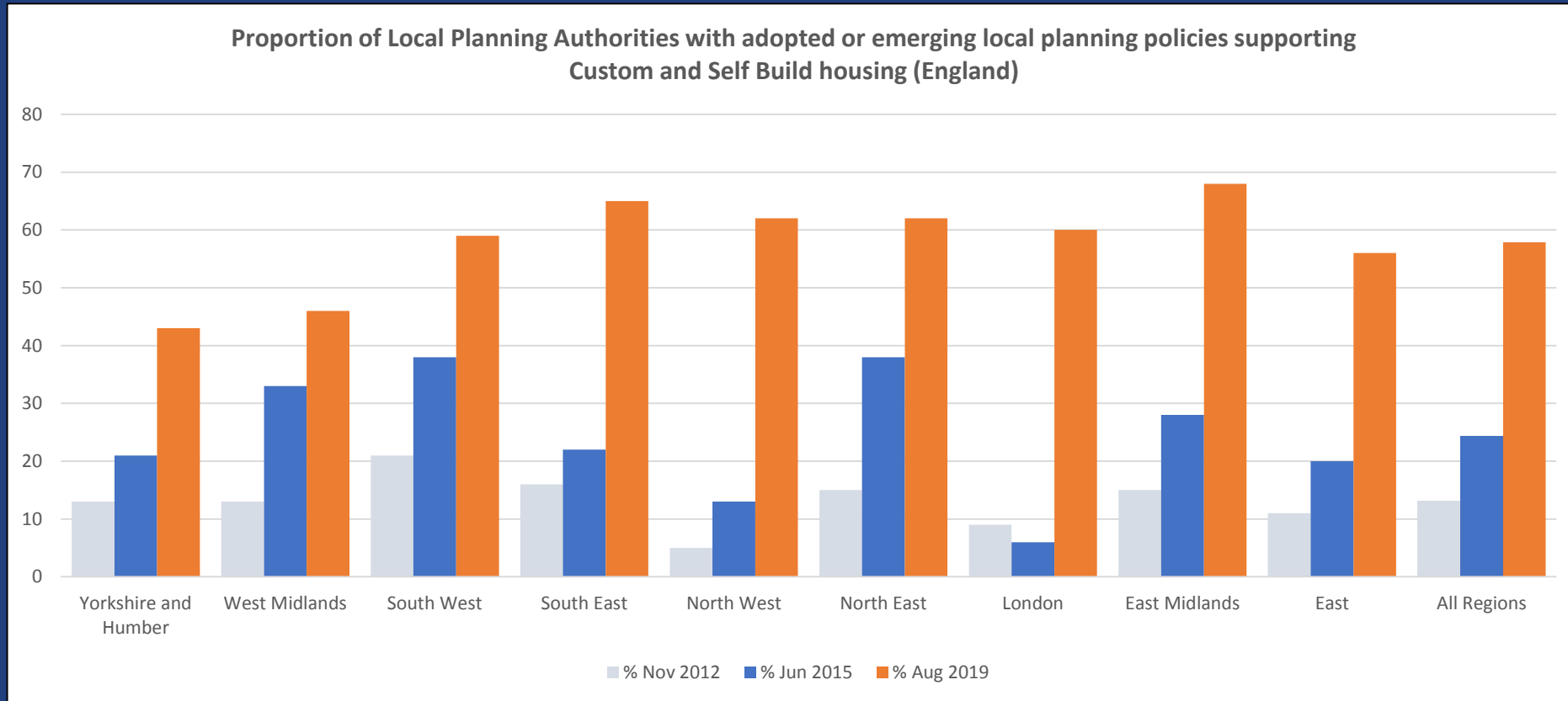
- ❑ More adopted Local Plans are *supporting* 'self build' housing:
 - pre-legislation Plans (pre-2016): **13%**
 - post-legislation Plans (2016+): **76%**

- ❑ Adopted post-legislation Plans are becoming more ambitious, *but most only include vague policies supporting Custom and Self Build housing in principle*

- ❑ More ambitious post-legislation Plans offer support through:
 - mix of policies identifying a range of opportunities: **28%**
 - land allocations and identification of larger sites: **28%**
 - affordable housing policies: **25%**
 - 'percentage' policies: **21%**

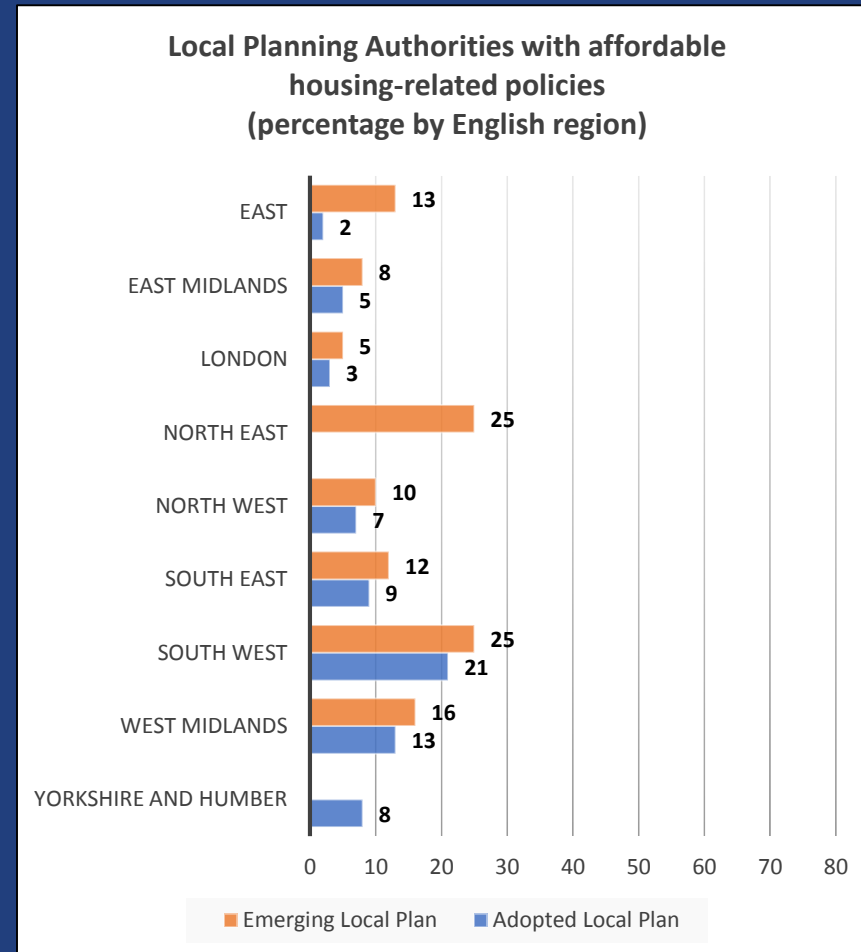
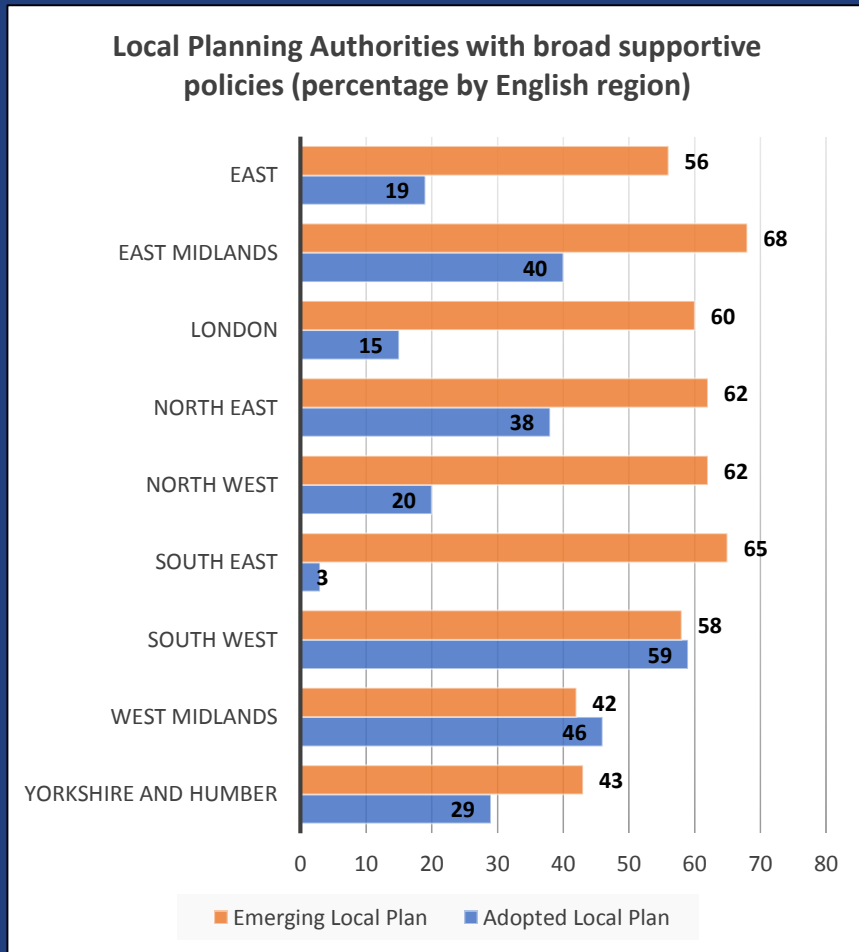
- ❑ Emerging post-legislation Plans *not supporting* 'self build' housing: **24%**

Progress across England (adopted and emerging Local Plans)

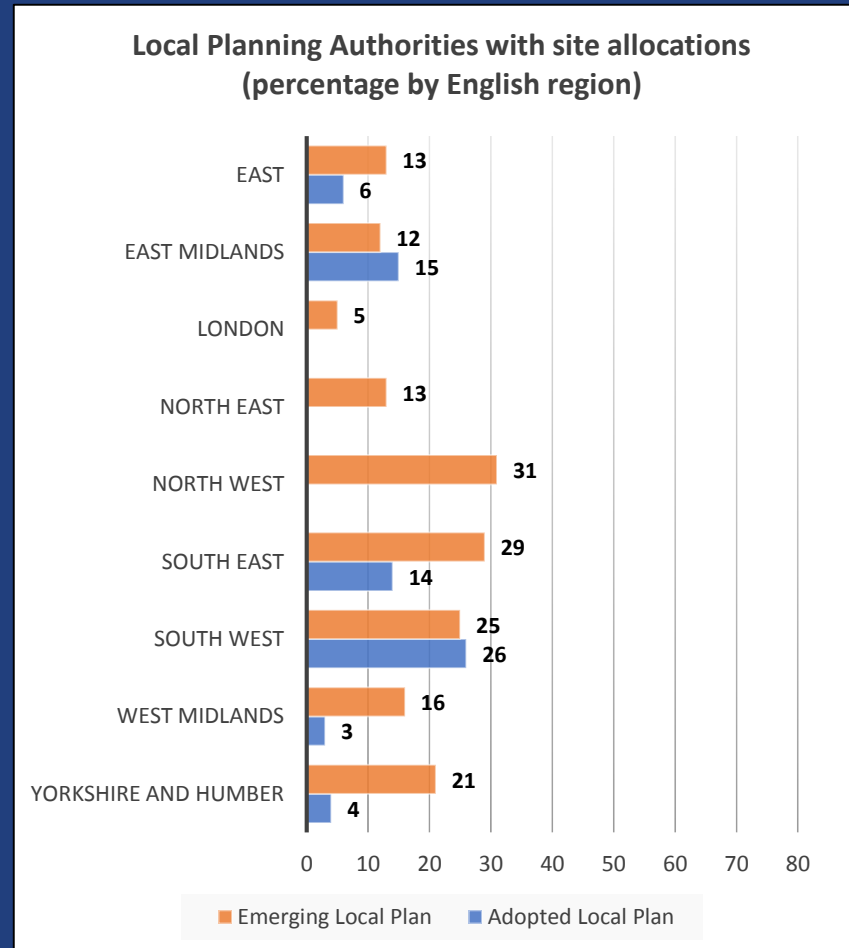
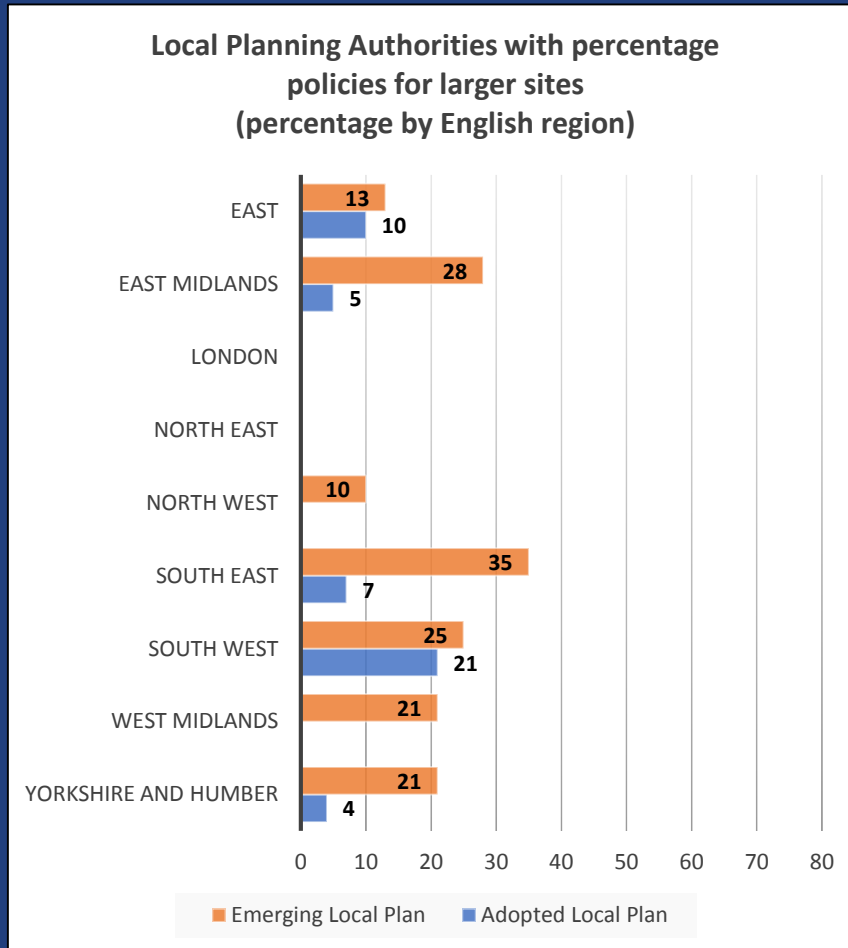


Source: Assessment of all Local Plans in England, Right to Build Task Force, August 2019, unpublished

Types of policy support in Local Plans by region

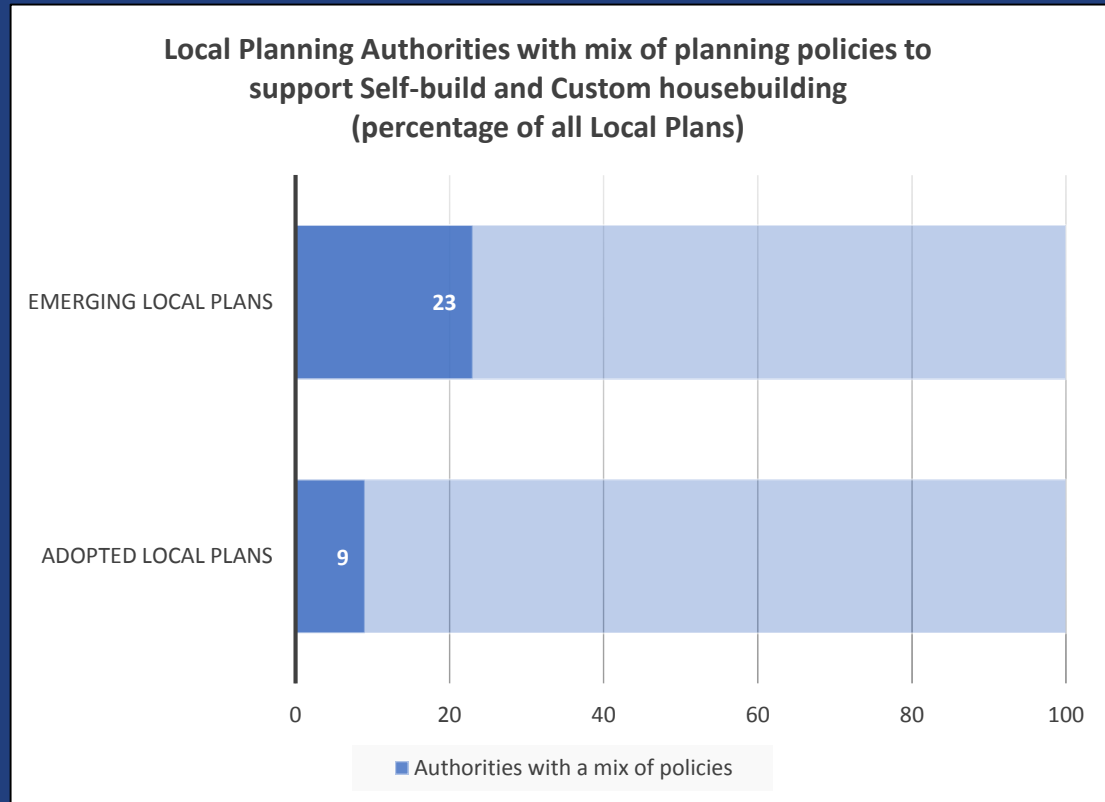


Types of policy support in Local Plans by region



Other notable facts

'Package' approaches



Supplementary Planning Documents or Guidance



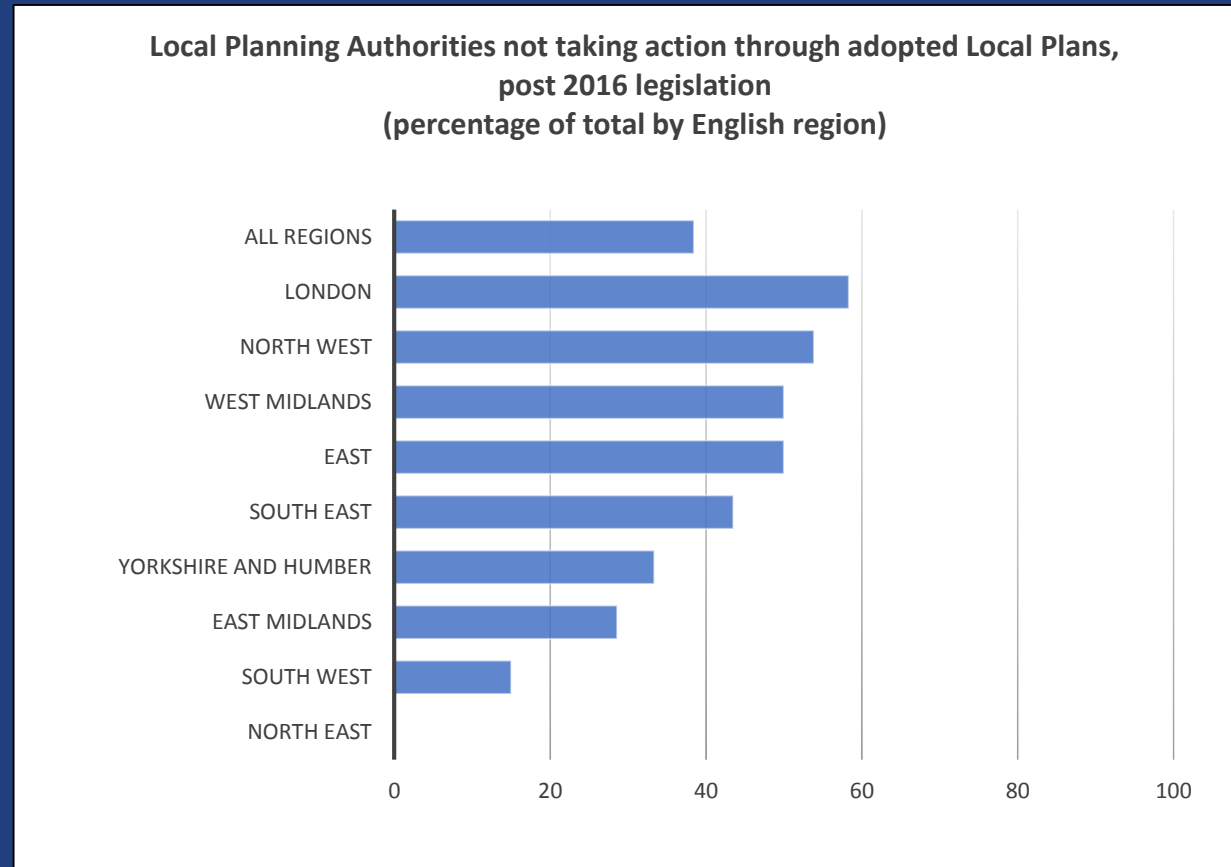
- *2% with dedicated SPDs*
- *4% as a theme in another SPD*

LOCAL PLANS WITH NO PROVISION

The Bad

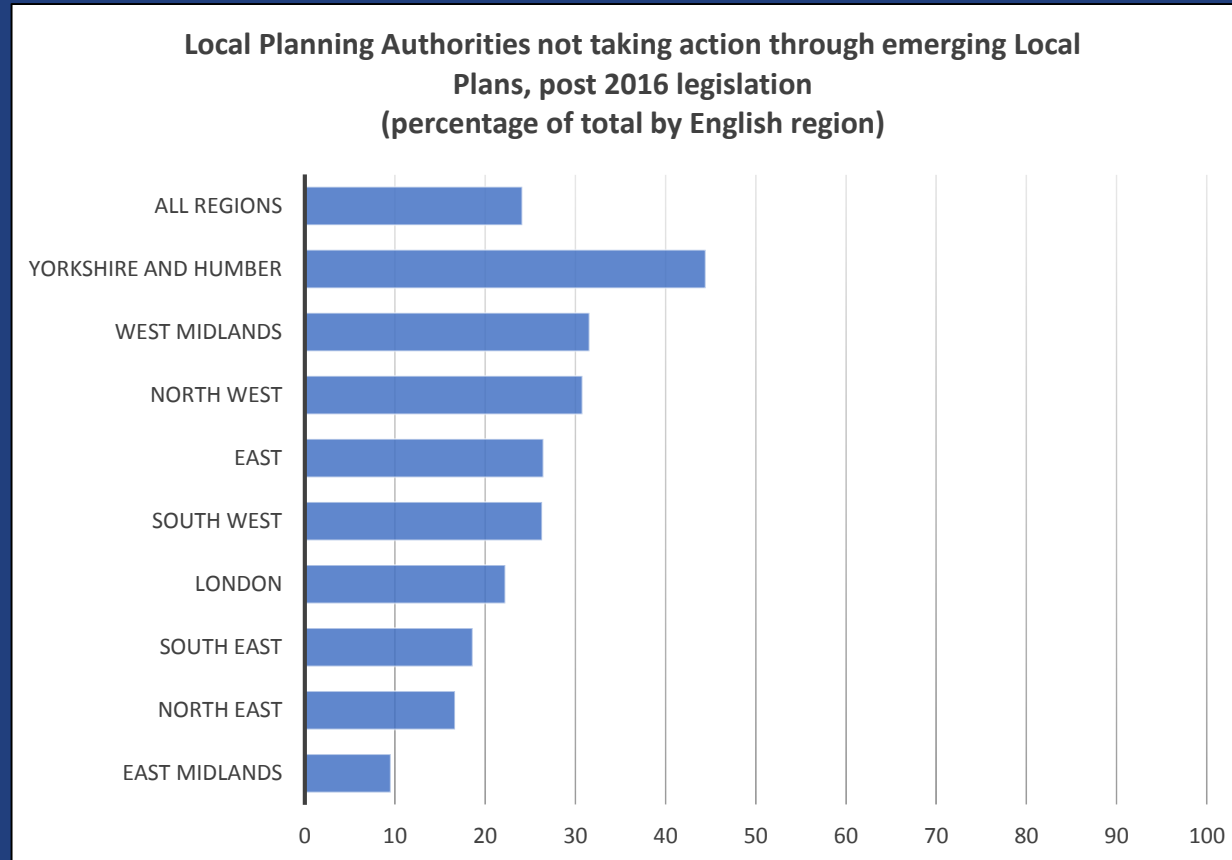


Local Planning Authorities not taking action through adopted Local Plans (post 2016)- by region



Source: Assessment of all Local Plans in England, Right to Build Task Force, August 2019, unpublished

Local Planning Authorities not taking action through emerging Local Plans (post 2016)- by region



Note: Excludes Local Plans in early stages of preparation (pre-Regulation 18)

Source: Assessment of all Local Plans in England, Right to Build Task Force, August 2019, unpublished

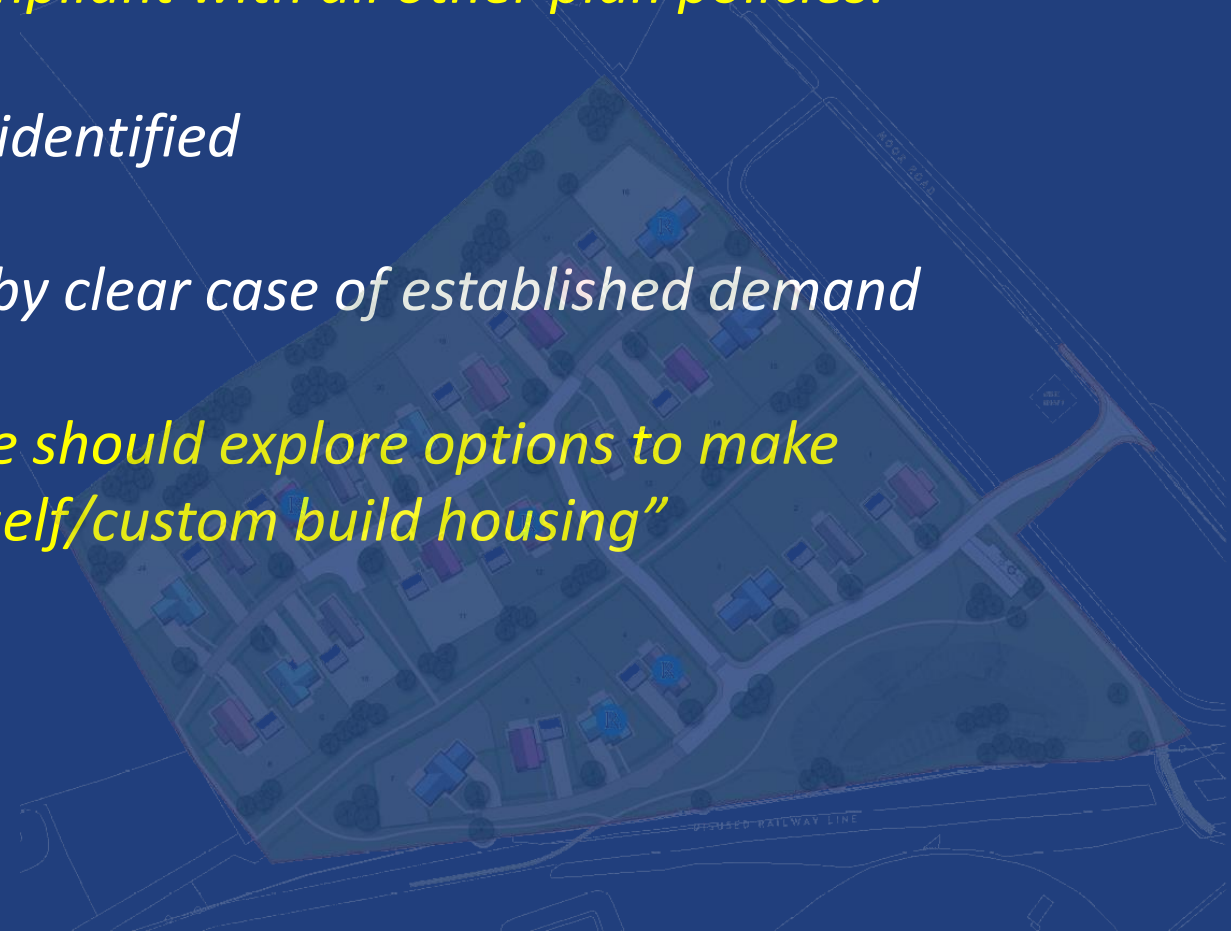
Local Plan policies which provide limited support- *The Ugly*

- *Delivery reliant on vague policy support and encouragement*

“Proposals for self/custom build housing projects that meet demand will be supported provided they are compliant with all other plan policies.”

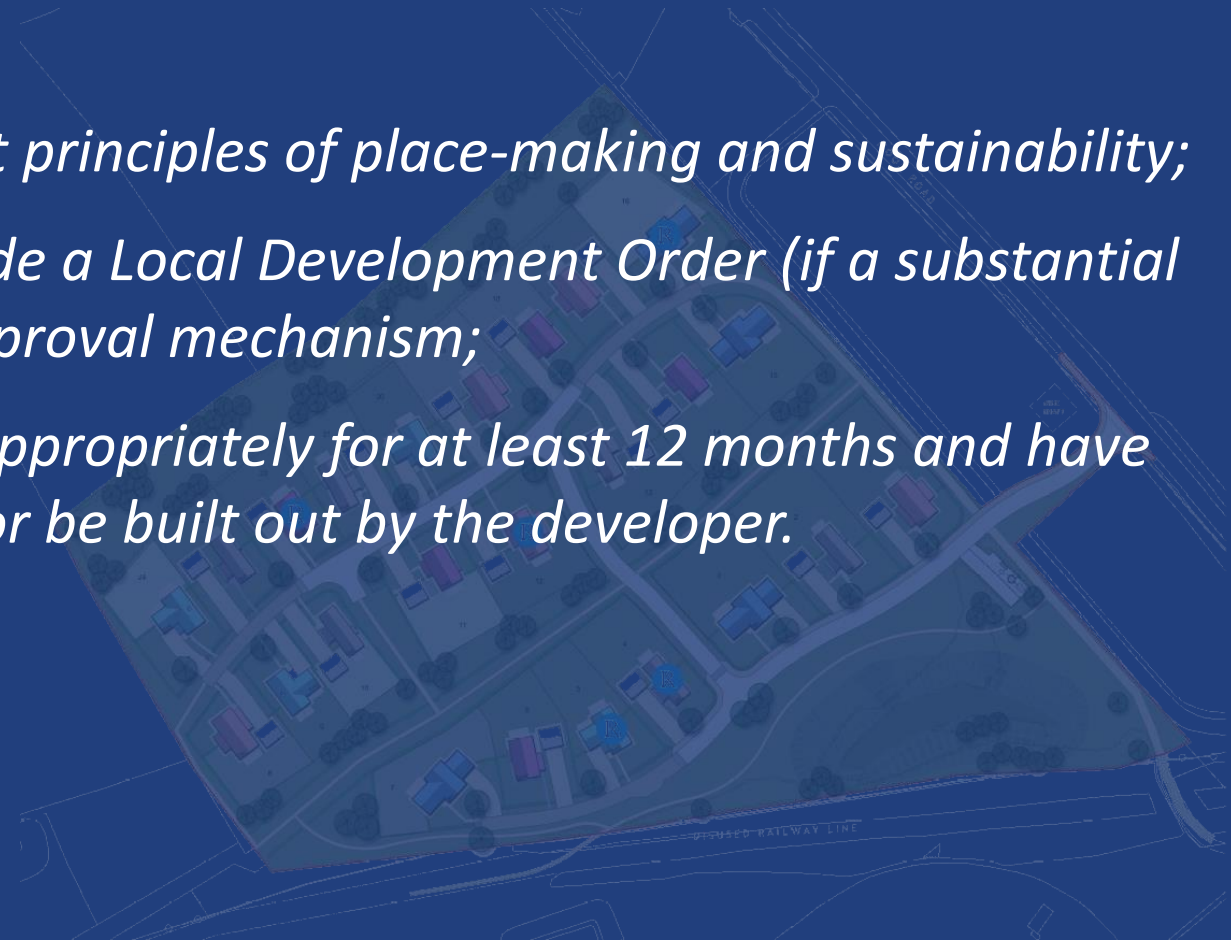
- *Support for projects subject to ‘need’ being identified*
- *Subject to ‘percentage policy’ unsupported by clear case of established demand*

“Large developments of 0.25ha or more should explore options to make provision for serviced plots of land for self/custom build housing”



The Good: Examples of policies - Garden Settlements

- *Folkestone and Hythe (Draft Policy SS6: Otterpool Park Garden Town) – self-build or custom-build plots to be included in each phase, having regard to council identified need; innovative designs encouraged that are flexible and incorporate new technologies; no requirement for uniformity in scale, plot width or materials.*
- *Design requirements will be established by:*
 - i) Planning policy and design code setting out principles of place-making and sustainability;*
 - ii) ‘Plot passport’ scheme introduced alongside a Local Development Order (if a substantial self-build phase is pursued) or alternative approval mechanism;*
 - iii) Where plots are provided and marketed appropriately for at least 12 months and have not sold, they may either remain on market or be built out by the developer.*



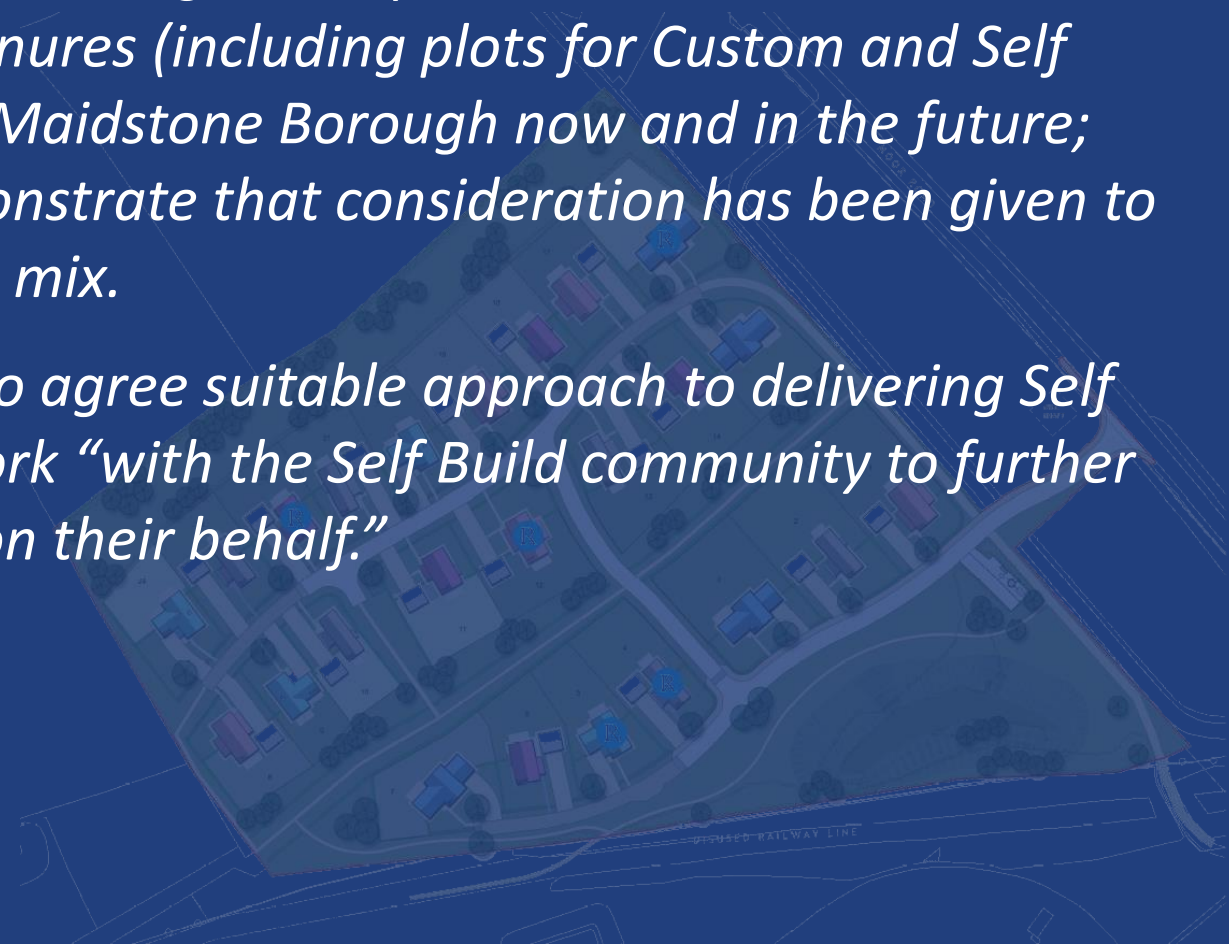
The Good: Examples of policies - Garden Settlements

- *East Devon (Policy CB12 Cranbrook Custom and Self Build Housing)* – not less than 4% of homes in each Expansion Area must be delivered as custom and self-build plots in accordance with agreed phasing strategy. Delivery must include affordable housing plots.
- *Where Council can demonstrate that demand is higher, delivery must meet identified demand unless a development is proven to be unviable.*
- *Plots must be actively marketed to individuals and custom build companies (as appropriate) and reasonably priced to reflect prevailing market conditions. A marketing and pricing strategy shall be agreed in writing in advance.*
- *Carlisle (St. Cuthbert's Garden Village)* – ambition to support Custom and Self Build, looking at how best practice examples can be drawn upon to develop specific policy.



The Good: Examples of policies - Support/mix policy

- **Durham** – Council will seek to secure appropriate mix of homes on all sites, taking account of existing imbalances in housing stock, site characteristics, viability and market considerations and opportunity to facilitate Custom and Self Build schemes.
- **Maidstone** – in considering proposals for new housing development, the Council seeks a sustainable range of house sizes, types and tenures (including plots for Custom and Self Build) that reflect the needs of those living in Maidstone Borough now and in the future; large development schemes expected to demonstrate that consideration has been given to Custom and Self Build plots as part of housing mix.
- **Swindon** – Council will work with developers to agree suitable approach to delivering Self Build homes as part of larger schemes and work “with the Self Build community to further understand their requirements and promote on their behalf.”



The Good: Examples of policies - Percentage policy and Allocations

- **Mid Devon (Policy S3)** – sites of 20 or more homes to provide at least 5% serviced plots for sale to self-builders. Specific provision made on larger strategic allocations. Local Plan also includes rural exceptions policy permitting Custom and Self Build proposals, subject to certain criteria. Masterplan SPD for Culm Garden Village provides more detail, taking demand into account.
- **Ashford (Policy HOU6)** – sites in and on edge of towns of Ashford and Tenterden delivering more than 40 homes to supply no less than 5% of serviced plots for sale. In villages and rural areas sites delivering more than 20 homes, schemes must supply no less than 5% of serviced plots for sale. Also supported on exception sites.
- **Wellingborough (Policy H5)** – provision of 5% on sites of 50 or more homes or 1.4ha taking account of local need; nature of development proposed; viability. Serviced building plots appropriately marketed at a prevailing market value and which remain unsold after 6 months can be built out by the developer.



The Good: Examples of policies – Affordable Housing

- **Shropshire** – positively encourages local people to build their own affordable home to meet their own housing needs, as long as the site is in a recognisable settlement and its future value remains affordable in perpetuity. Sites may be permitted outside settlements as an exception, subject to restrictions over house value, size and design.
- **Wellingborough (Policy H6)** – enables self-build in the rural area and supports affordable self-build housing through registered providers, self-build groups or community trusts. Complemented by various site allocations.
- **Cherwell (Policy BSC 3: Affordable Housing)** – requires active consideration for community self-build or self-finish housing, in particular where it is to a high design standard and will result in suitable empty properties being brought into residential use. Self-build and Self-finish should contribute towards meeting the need for affordable housing.



The Good: Torbay- Policy H3 (affordable housing and exception sites)

On 30+ home sites... 5% plots required as element of affordable housing

Criteria based application:

- 1. Obligation will secure delivery*
- 2. Marketing for 12 months with scope to build out after that*
- 3. Conditions will control build out*

In countryside... rural exception sites permissible where affordable self-build provided, subject to meeting 4 tests

Policy H3 Self-build affordable housing and exception sites

To accommodate demand for self-build homes, the provision of at least 5% of dwelling plots for sale to self-builders will be sought as an element of affordable housing provision identified in Policy H2, on sites of 30 dwellings or more. This will be controlled by the following means:

1. The provision of serviced plots in an agreed location will be set out through a s106 Planning Obligation;
2. Where plots have been made available and marketed appropriately for at least 12 months and have not sold, the plot(s) may either remain on the open market as affordable self-build or be offered to the Council or a Housing Association for a further six months, before being disposed of by the developer as open market housing; and
3. Planning permissions should include conditions requiring self-build developments to be completed within 3 years of a self-builder purchasing a plot.

In the countryside, the development of sites for affordable self-build housing to meet the needs of the local community will be permitted, as a rural exception, where:

- (i) There is a proven need for affordable housing from households that have a strong local connection with the local community;
- (ii) The site adjoins a settlement and does not have a disproportionate impact on local environmental, landscape, or historical assets;
- (iii) The scale of provision is limited to meeting the identified local need; and
- (iv) Dwellings are subject to a planning obligation which retains all the dwellings as affordable housing in perpetuity and gives priority to occupation by those with a strong local connection with the local community.

The Ambitious: Comprehensive/package approaches

- *Stratford-on-Avon Council – Core Strategy (Policy SAP.3) facilitates through various policies: integral part of identified new settlements; 5% requirement on reserve sites of 100 or more homes; on specific Custom and Self Build allocations, and on unallocated sites in settlements.*
- *West Oxfordshire – range of opportunities: mix aspiration; affordable housing commuted sums acceptable to support potential acquisition of land to facilitate delivery of community projects in appropriate locations; Council and partners will work with parish councils, registered providers, community land and self-build trusts to identify additional suitable rural sites for small scale affordable housing schemes to meet need which cannot be met.*
- *Northumberland – new Local Plan (Policies HOU5 and HOU7) supports community-led housing, and Custom and Self Build, particularly where they will contribute to meeting local housing needs. Commercial housebuilders encouraged to set-aside dedicated serviced plots within 'major' housing development sites.*

The Ambitious: Comprehensive/package approaches

- *South Gloucestershire Council – Policies, Sites and Places Plan (Policy PSP42) seeks to bring forward land for Custom and Self Build, opportunities on council owned land, encouragement on sites of 10 or more homes, 5% requirement on sites of 100 units or more, where full affordable requirement (35%) is unmet shortfall can be made up from Custom and Self Build.*
- *Bristol City Council – Draft Policies and Development Allocations Plan - Emerging Local Plan Review (Policy H5L) (next slide)*
- *South Lakeland – Policy DM12 and draft Dartmoor Local Plan (next slide)*
- *Dartmoor Draft Local Plan – settlement specific policies (next slide)*



The Ambitious: Comprehensive/package approaches

Draft Bristol Policies and Development Allocations Plan

- *Supports adopted Core Strategy which facilitates delivery of homes through working with partners and supports other mechanisms, including self-building and community land trusts.*
- *Draft Policy H5: Self-build and community-led housing*



Policy text

The provision of new homes through self-build, custom housebuilding and other community-led approaches will be encouraged.

Site allocations for self-build, custom housebuilding and community-led housing

The following sites are allocated specifically for self-build and custom housebuilding and/or community-led housebuilding:

- Bridge Farm, Glenfrome Road, Eastville;
- Land at College Road, Fishponds;
- Stapleton Cricket Club, Park Road, Stapleton;
- Cousins Lane, St. George.

Provision for self-build, custom housebuilding and community-led housing as part of new development

At least 5% of homes will be in the form of self-build/custom-build housing and/or community-led housing on the following sites allocated for new homes:

- Land at Bath Road, Brislington;
- Land at Yew Tree Farm;
- Land to west of Elsbert Drive, Highridge;
- Land at Ashton Gate.

Growth and regeneration areas

A proportion of self-build/custom-build housing and/or community-led housing will be sought as part of the overall development of identified growth and regeneration areas.

Affordable housing

Any requirement for affordable housing, as set out under Joint Spatial Plan Policy 3, will not apply to homes developed for self-build and custom housebuilding and/or community-led housing.

Community-led housing exception sites

Proposals for community-led housing of a scale appropriate to the location and to the level of local need identified may be permitted at the following locations:

- Redundant community facilities land or buildings (Retained Policies BCS12 'Community facilities' and DM5 'Protection of community facilities');
- Underused land or sites within Industry and Distribution Areas (Draft Policy E4 'Industry and distribution areas');
- Sites subject to Draft Policy E7 'New workspace within mixed use development';
- Reserved Open Space (Draft Policy GI2 'Reserved Open Space'), provided the proposal is demonstrably supported by the local community and no deficiency of open space will result.

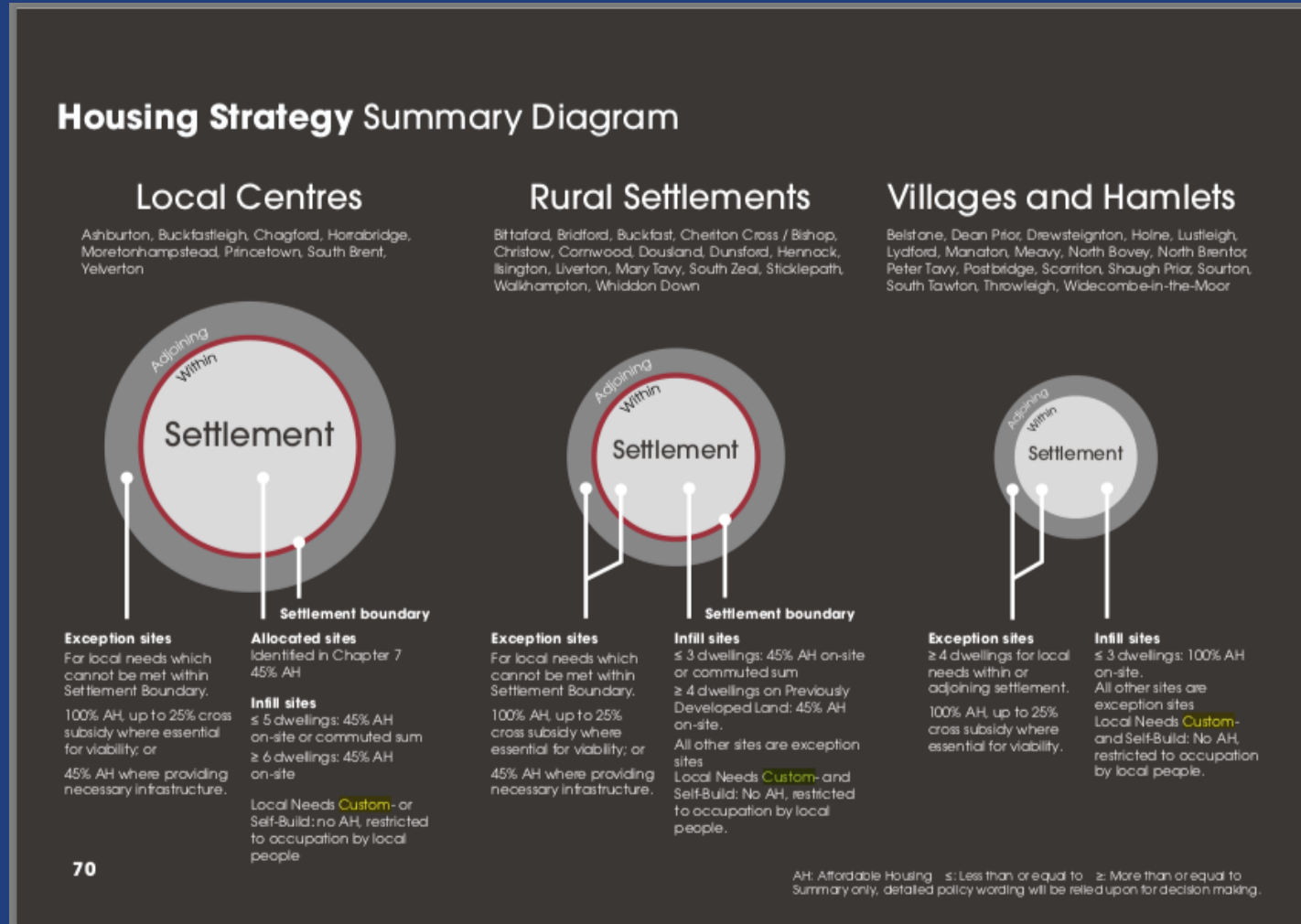
The Ambitious: South Lakeland- Policy DM12

- *Active support for proposals for sustainable Custom and Self Build homes*
- *Service Centres identified as suitable locations + development in and on edge of small villages and hamlets + on rural exception sites*
- *Register used as evidence to apply policies and negotiate with developers*
- *Where there is strong demand Council will encourage developers to consider whether some self-build plots can be included in schemes to support mix*
- *Affordable self-build plots will be considered and encouraged as suitable product within the affordable housing requirement on larger sites*



The Ambitious: Dartmoor Draft Local Plan (Dec 2018)

Proactive rural local plan promoting Custom and Self Build as part of affordable housing and in specific locations



Credit: Extract from final draft Dartmoor Local Plan

The Ambitious: Allocations, Guidance and related initiatives

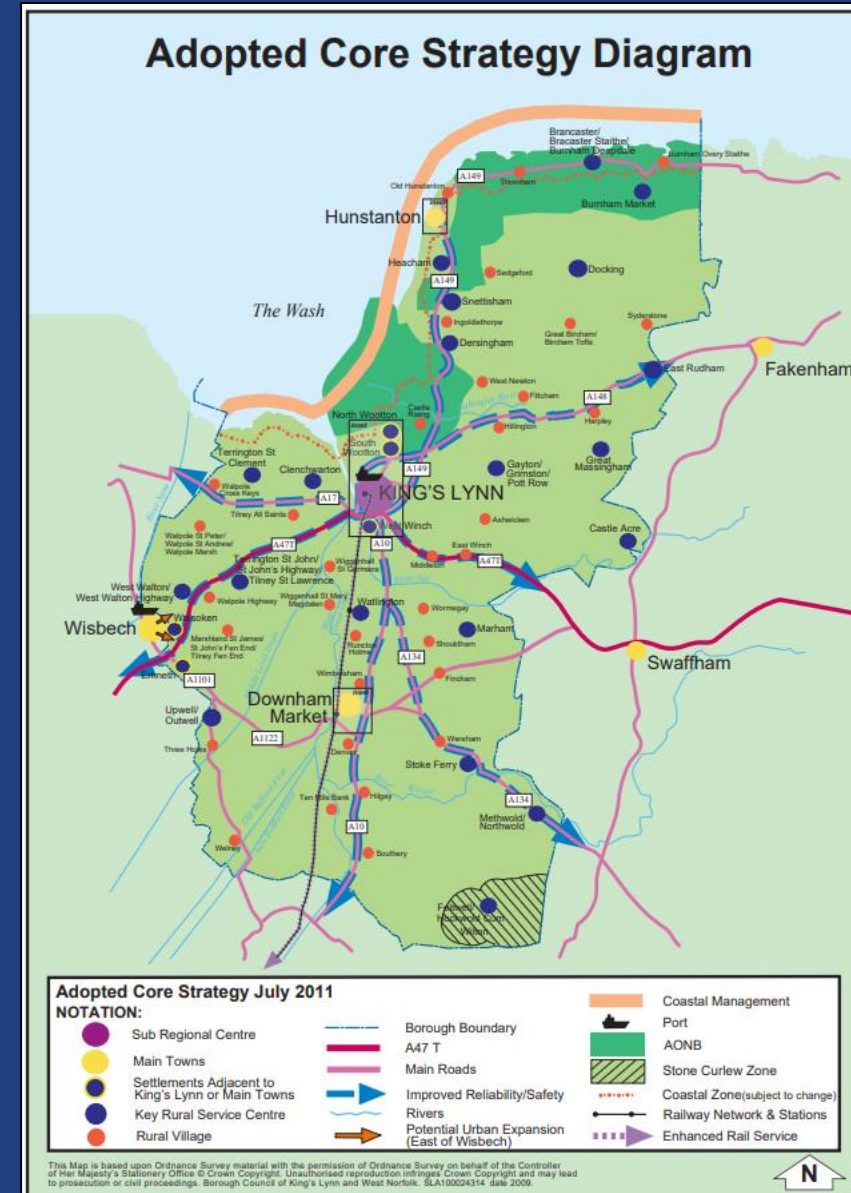
- *Range of Local Plans with specific partial, or full, allocations on public and/or private land – for example St Albans draft Local Plan 2011-2031 identifies 10 major sites with requirements to deliver 3% of all homes on those sites as Custom and Self Build*
- *SPDs – Barrow-in Furness, Basingstoke, Cornwall, Dartmoor, Daventry, East Herts, Teignbridge*
- *Action Plans – Fareham, King's Lynn and West Norfolk (Richmondshire will be preparing Action Plan with other neighbouring Councils to support community-led projects and Custom and Self Build housing)*



The Ambitious: Potential opportunities through a 'package approach'

- Prepare *locally-specific policies* which address a range of development opportunities, supported by *Supplementary Planning Document* which give detail, such as:
 - exceptions policy on edge of villages and permissive infilling in rural areas- allow redevelopment and infill outside settlements?
 - encourage as part of housing mix on windfall sites?
 - facilitate through targeted affordable housing policy?
 - consider area-wide allocations where development will be encouraged, linked to design code?
 - review settlement boundaries to identify opportunities – give smaller villages/hamlets boundaries to unlock opportunities in/on edges?

(Support policies by assessment of longer-term demand)



How will Council delivery be assessed against their duty?

- *Plans can be found unsound if they don't plan for Custom and Self Build (Ministerial letter, 5 March 2015)*
- *Councils need to have assessed demand and show how they will meet this demand (Register information insufficient, NPPG*)*
- *Requirement to give sufficient development permissions to meet demand but no need to match demand (e.g. permission plots in high demand areas); but locational demand info. useful to engage with landowners/developers & justify allocations*
- *Demonstrable permissions and clear policies seeking to meet demand will help with implementation*

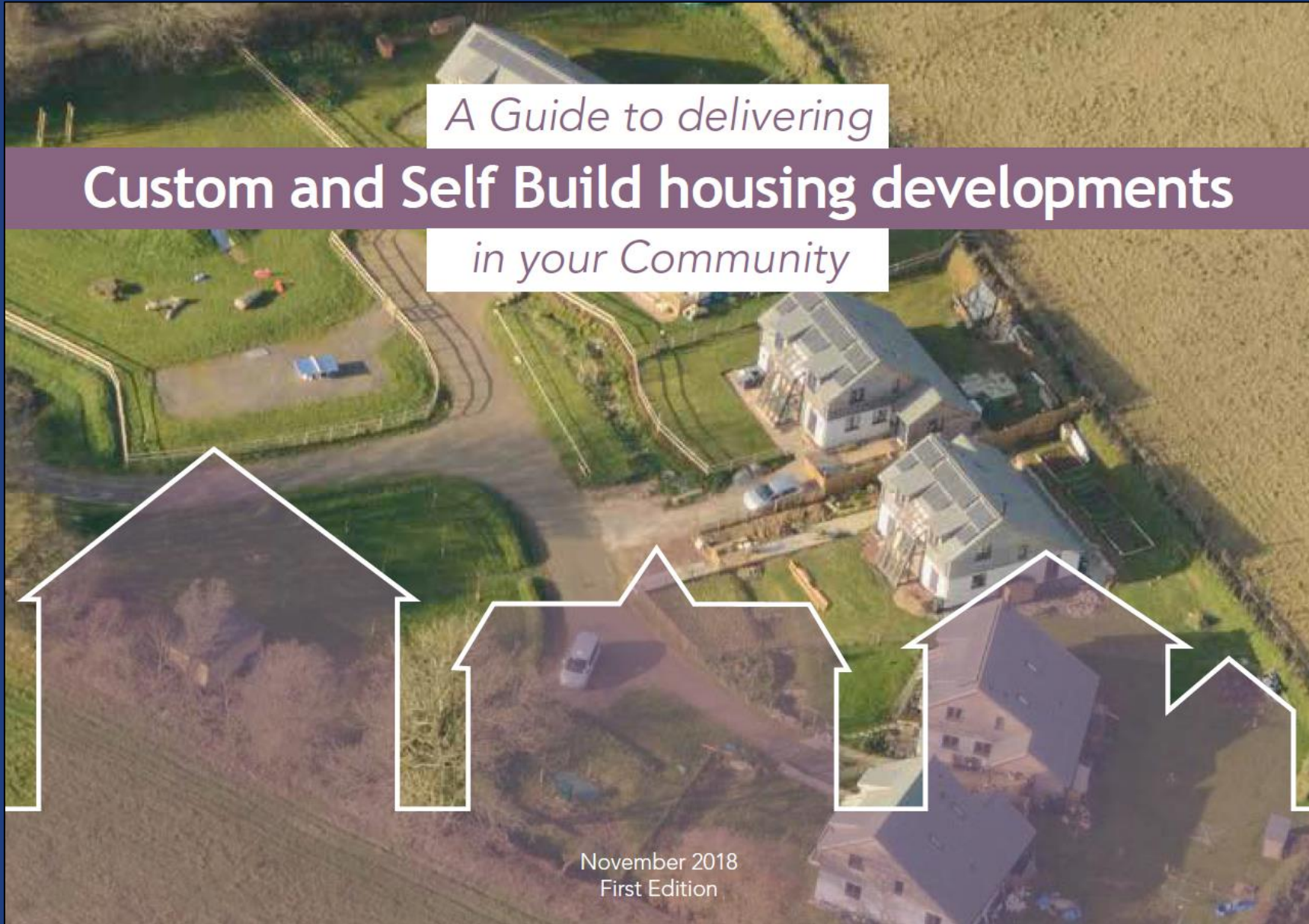
Bromsberrow Heath appeal (Forest of Dean District Council)*

- *Permission for up to 5 Custom and Self Build homes in open countryside on edge of Bromsberrow Heath Village despite recently adopted local plan & 5 year housing supply*
- *Weight given to legislation and NPPF, as council had not met demand and had no clear policy to support Custom and Self Build housing delivery*
- *Appeal raises 4 key points:*
 1. *Duty under the 2015 Act is an important material planning consideration when determining planning applications, even if a Council can show a five-year land supply.*
 2. *Even if a local plan is up to date, the absence of a policy to support Custom and Self Build can heighten the risk of Councils losing planning appeals.*
 3. *Importance of applicants using a Unilateral Undertaking to give decision-makers confidence that the development will be delivered for Custom and Self Build housing.*
 4. *Outline planning permission (or Permission in Principle) can count towards meeting demand on registers.*

An aerial map of a residential development, overlaid on a dark blue background. The map shows a cluster of houses, some of which are highlighted with blue and red icons. The map also shows a road network and a railway line. The text is overlaid on the map.

***Promotion to communities through
Neighbourhood Planning***

***Neighbourhood Plans increasingly targeting
Custom and Self Build housing to diversify local supply***



A Guide to delivering

Custom and Self Build housing developments

in your Community

November 2018
First Edition

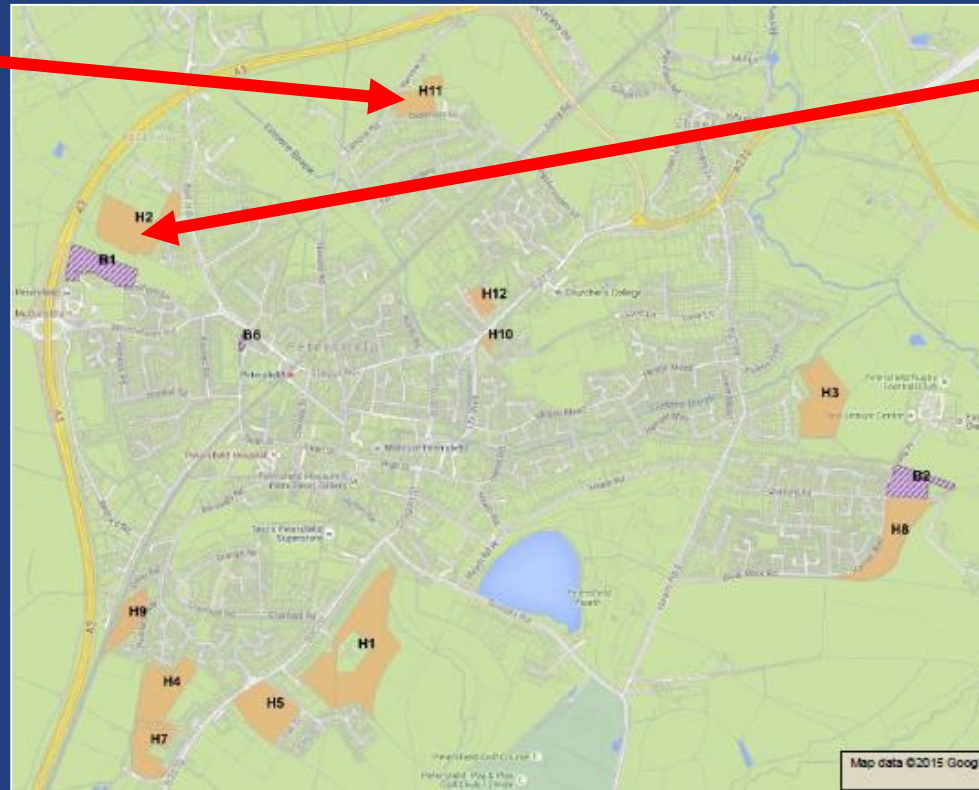
Credit: Teignbridge District Council (2018)

Example: Petersfield Neighbourhood Plan



11 homes

Allocation for 112 Custom and Self Build homes



101 homes

Credit: Petersfield Neighbourhood
Development Plan (Petersfield Town Council, 2015)

Petersfield Neighbourhood Plan

Design Principles:	Delivery Considerations:
<ul style="list-style-type: none">• Site H11 is reserved for self or custom build homes only (See Housing Policy HP7).• Retain the existing residential character of detached dwellings on larger plots.	<ul style="list-style-type: none">• The site is only appropriate for low density housing due to access constraints along Tilmore Road and Reservoir Lane.• The setting of the grade II listed Shirtles/Tilmore House should be respected.• Provision of a connection to the nearest point of adequate capacity in the sewerage network, as advised by Southern Water. Additional local sewerage infrastructure would be required to accommodate development in this location.• See also proposed mitigation measures detailed at Appendix G of the Sustainability Appraisal.
Approximate density: 8 dph	Indicative number of dwellings: 11

Example: Frome Neighbourhood Plan

POLICY H3 - SELF BUILD AND COMMUNITY HOUSING

*As an exception to normal policy ... **Community Housing may be permitted adjoining the existing development limit of the town** ... on sites where development would not otherwise be permitted providing:*

- a) The development provides an appropriate mix of dwelling types and sizes reflecting identified local need and meets demand based on the current ... (demand)*
- b) The development will not have a significant adverse impact on the character of the area and local landscape setting.*
- c) Such proposals should not have an adverse or harmful impact on statutorily protected species or habitats.*
- d) The land is held in trust as a community asset in perpetuity.*

(Community Housing means residential development by a group who build on land that is held in common ownership or trust for the benefit of the residents)

Example: Brereton Neighbourhood Plan

POLICY HOU02 EXCEPTIONS TO NEW HOUSING DEVELOPMENT

Beyond the settlement boundaries identified in the Plan, the following types of housing development may be considered acceptable as exceptions to Policy HOU01:...

d) Self-Build Schemes according to Policy HOU04

POLICY HOU04 SELF-BUILD SCHEMES

1. Applications for self-build or custom-built schemes within Brereton Parish will be supported where:
 - a) the location and proposed nature of the scheme are both sympathetic to the character of the open countryside and would have minimal visual and environmental impact
 - b) the site immediately adjoins a settlement boundary as shown on key maps C20a and C20b or the site would represent infil development (defined as 'the filling of a small gap with one or two dwellings in an otherwise substantially built-up frontage')
 - c) the development would be on land within the confines of a farm complex which is no longer in use for agricultural purposes and in association with the re-use of existing buildings, on land which:
 - (i) is hard-surfaced, or
 - (ii) is occupied by agricultural buildings which are not capable of re-use without extensive re-building, or
 - (iii) has previously been occupied by agricultural buildings.
2. Dwellings can only be built by those acting on behalf of individuals or a community group of individuals. No single individual or group will be granted planning permission for more than one dwelling in any one scheme.
3. New houses will need to conform to the quality standards set out in this plan and wider planning guidance.
4. Planning applications for the erection of self-build dwellings on exception sites as defined in Policy HOU02 shall be accompanied by evidence of the local housing connection(s) of the applicant(s) with Brereton Parish as defined in this plan. Planning permission for self-build dwellings on exception sites will be granted only where such a connection has been demonstrated. In addition, planning permission will be granted provided that an obligation is concluded under s106 of the Town and Country Planning Act 1990 in which the applicant(s) undertake(s) to commence construction of the dwelling within two years of the grant of a full permission or of the final approval of reserved matters submitted in accordance with an outline permission. The applicant(s) shall also undertake to occupy the dwelling upon completion.

Key considerations to getting policies right

- **Evidence base**
 - Robust assessment of demand essential
 - Not just about the Right to Build Register (consider other market information and assess longer-term demand over plan-period)
- **Allocations and trajectory**
 - Consider effectiveness of allocations in meeting demand now and in future (call for sites should target landowner interest in bringing forward serviced plots to meet demand)
- **Ensure approach is specific to district and local planning authority objectives**
 - Take strategic approach to delivery, supported by an SPD if possible, and avoid copying what others have done
- **Ensure Policy team are well-informed**
 - Numbers and profile of Register to inform local policies
 - The Council's statutory duties and how they can be effectively met



A **NāCSBA** Initiative
Right to
BUILD
TASK FORCE



Supporting Custom and Self Build Delivery in the UK

taskforce@nacsba.org.uk