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

PG3.8: Securing custom and self build using obligations and conditions

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 **NACSBA**
National Custom & Self Build Association

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1. INTRODUCTION

1. This document provides good practice guidance to support the delivery of custom and self-build homes in England. It forms part of a suite of documents which address a range of topics related to the delivery of custom and self-build homes, in the context of existing legislation and regulations, official frameworks and guidance.
2. It is intended for use by all, including planning authorities and planning inspectors.
3. It is intended for use by:
 - Those responsible for planning policies and decisions within local authorities and National Parks in England
 - Planning Inspectors and those engaged in review of planning decisions and planning policies.
 - All those interested in better and more beautiful homes.
4. Feedback on this document and the associated good practice guidance notes is welcome and any comments should be sent to Taskforce@righttobuild.org.uk
5. Specifically, this document addresses the challenges relating to the maintaining of open and inclusive Registers.
6. The guidance is published by the Right to Build Task Force and 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
7. A full list of all guidance documents and appendices is included at the end of this document.

2. THE RIGHT TO BUILD TASK FORCE

8. The Right to Build Task Force (the Task Force) was established by the National Custom and Self Build Association (NaCSBA) in 2017. The aim of the Task Force is to support the delivery of the Right to Build through the provision of technical expertise and advice. Further detail of this is included in Guidance Note 1.2 of this suite of documents.
9. As a Task Force, we believe that Self and Custom Build can help to drive forward the delivery of high quality, well-built and sustainable homes where appropriate design and the use of sustainable materials and methods of construction are achieved.
10. In order to make this happen, there is a need for good practice to be delivered consistently across the sector, in the context of legislation, which is the aim of this guidance.
11. The Task Force is funded by the Department for Levelling Up, Housing and Communities. The views here are however those of the Task Force, formed by our experience of this sector.

3. SUMMARY: SECURING CUSTOM AND SELF BUILD USING OBLIGATIONS AND CONDITIONS

12. Key to growth of custom and self build (CSB) housing is securing permissions and ensuring those permissions are delivered as individually commissioned homes built for or by the applicants.
13. Where the permission is an exception or departure on the basis of adding to the self build land supply, a planning obligation is generally required and justified. In cases such as windfalls, planning conditions can clarify that development permitted will contribute to the supply of CSB plots.
14. Multi-plot sites and outline permissions often require conditions or obligations to ensure delivery is effective, well-managed and will contribute to the supply of CSB plots.
15. Planning Obligations are set out in deeds under s106 and form a legal contract. Applicants and Local Planning Authorities (LPAs) are recommended to seek appropriate legal advice prior to entering into any such contracts. This is particularly true where Long Stop Date or step-in rights are included within the agreement.

4. INTRODUCTION TO PLANNING GUIDANCE NOTE

16. It is important to ensure that permissions for custom and self build homes are secured and delivered as self build. It is particularly relevant where delivery of CSB is a deciding material consideration in policy or the planning balance that permissions are not converted into speculative build for immediate open market sale.
17. The definition of CSB set out in the Self-build and Custom Housebuilding Act 2015 (as amended) is essentially that it is a home built to the plans or specifications decided by the occupant. However, the duty on councils, set out in the Housing and Planning Act 2016, is that sufficient permissions for plots are granted to meet a demand equivalent to the number of plots within the base period. The planning guidance note [PG1.2 Defining self-build and custom housebuilding](#) provides clarification on the statutory and practical definitions of Custom and Self Build (CSB). The [Right to Build Task Force Advice Note \(AN12\)](#) on development models also provides helpful background information.
18. In order to ensure plots permitted as CSB are delivered as required, or to ensure windfalls counted as CSB are delivered as self build, councils will require some form of certainty. There are three facets to securing and ensuring delivery;
 - planning obligations (via s106 agreement or Unilateral Undertaking)
 - planning conditions
 - monitoring to ensure construction meets the definition of CSB.
19. Approaches to securing delivery of plots will vary depending on whether applications are full or outline (FUL/OUT), whether the proposal is single or multi-plot, and the nature of the applicant (individuals, custom build enablers, major developers required to provide a parcel of plots as self build). These details are reviewed in section 3 of this note. The approach to obligations will also vary depending on the local policy context and the specifics of the application.
20. The Planning Inspectorate has questioned how certain matters relating to CSB should be secured or enforced and common practice is emerging. In general, for a small development a Unilateral

Undertaking (UU) is preferred¹. A section 106 obligation is likely to be the most appropriate method to for larger developments, and for phased development would be required.

5. POLICY BACKGROUND AND PLANNING JUSTIFICATION

21. The Statutory requirements for increasing the supply of CSB plots are set out in Right to Build Legislation which is clarified in the [Right to Build Obligations Advice Note \(AN02\)](#). In addition, the NPPF requires that LPAs' plans support delivering a sufficient supply of homes to meet demand from people wishing to commission or build their own homes and that 10% of new housing supply be on small plots.
22. The planning relevance of CSB is self-evident, in that supporting this form of housing adds to the diversity of new home supply and serves a distinct market, thus increasing resilience and delivery. This introduces a **new supply stream** for house building because CSB housing serves a different market than volume and regional house builders. There is also evidence that there are social benefits in placemaking which makes room for households seeking to maintain long term connections to an area and/or create significantly higher quality or more environmentally robust homes.
23. The CSB statutory duties hold whether or not a Council has a Local Plan policy which delivers self build housing and irrespective of the overall five-year housing land supply position. The planning relevance of self build is clear and there are many examples of where the nature of delivery or occupancy is material to a permission. For example, not just tenure restrictions or agricultural ties, but issues such as requiring use of apprentices or local workforce in the delivery of a development. Where the proposal forms part of the Local Plan strategy for provision of CSB plots, for example through a percentage policy requirement, there is a necessity for ensuring delivery as CSB development.
24. The fact that a scheme is self build does not obviate any other DM policy requirements or any necessary conditions or obligations such as requirements for construction plans, landscape or drainage plans details etc. This advice note focuses specifically on issues related to delivery of CSB development.

5.1 Planning Obligations

25. Planning Obligations can be used to mitigate the impacts of a proposal or to secure required commitments in relation to development. This can be secured via a planning agreement by a person with an interest in the land and the local planning authority (**s106 agreement**); or via a **unilateral undertaking** entered into by a person with an interest in the land without the local planning authority.
26. Planning obligations run with the land, are legally binding and enforceable. A Unilateral Undertaking similar to a s106 as it is a deed granted by the landowner (and mortgagee if not owned outright). A UU does not require the local planning authority to be party to it.

¹ We would **strongly recommend** that the wording of the UU include reference to 'any applications on the site for XX years' as a UU that solely runs with a specific application may result in gaming the system whereby once permission is secured, a second application for speculative market housing is made on the same site (the principle of development being established for self-build land supply).

27. The basics of planning obligations are set out in CIL regs 122, and repeated as NPPF para 57, namely:

”Planning obligations must only be sought where they meet all of the following tests:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development”.²

5.2 Planning Conditions

28. Planning Conditions are used to ensure permitted development proceeds in a way that meets the requirements of planning and development set out in policy and arising from specific technical requirements for appropriate development.

29. The Town and Country Planning (Development Management Procedure) Order 2015 (as amended) (DMPO) s35 (1) (a) is clear that where planning permission is granted subject to conditions, the decision notice must state clearly and precisely the full reasons for imposition of the condition, and where these are pre-commencement conditions the reason for a requirement prior to any development. The [Town and Country Planning \(Pre-commencement Conditions\) Regulations 2018](#) introduced a requirement that in general pre-commencement conditions must not be imposed on the grant of (full/rm) permission without the written agreement of the applicant.

30. [Paragraph 56](#) of the National Planning Policy Framework (2023) states that planning conditions should be kept to a minimum, and only used where they are:

- Necessary,
- relevant to planning and to the development to be permitted,
- enforceable,
- precise, and
- reasonable in all other respects.

31. Where a residential development is acceptable in principle, regardless of tenure or occupation, such as a policy-compliant windfall, conditions relevant to CSB may not be necessary to the permission. Department for Levelling Up, Housing and Communities and Ministry of Housing, Communities & Local Government guidance for reporting Custom and Self Build plots states that **“the local authority must be satisfied that the development permissions being counted meet the legislative requirements and that these can withstand the scrutiny of local constituents or any legal challenge.”** Councils should consider carefully how robust the evidence for securing delivery is.

32. Where the self build aspect of a residential proposal is a deciding factor, either through Local Plan or Neighbourhood Plan Policy or through balance of material considerations, conditions or obligations to ensure custom and self build and delivery will be necessary. These conditions may include plot sale and marketing or residency conditions. **An Annex to this note provides examples of conditions** that have been used, though specific conditions would have to respond to the application details. In the case of a larger developments or multi plotted scheme, specific obligations or pre-commencement conditions

² Set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and NPPF 2023 paragraph 57

may be required to secure the details of phasing of development - this is generally best handled through a s106.

33. The courts have clarified that the description of development is not a determining factor in use and development. However, where a proposal's description of development includes reference to self-build, a pre-commencement condition requiring evidence of self build purchase and design could be justified as necessary to ensure development is carried out in accordance with the description. If an applicant objects to such a condition, it is debatable if the plot is likely to count as part of the self-build land supply.

5.3 Monitoring

34. With self and custom build, it is critical that conditions and obligations be closely monitored and enforceable. For individual plots and custom build plots LPAs should require notification of all land and plot transactions. This is critical in order to ensure that the homeowner or occupant is identified and committed prior to the finalisation of the plans for the dwelling.

5.4 Enforcing Delivery

35. Conditions can include time periods for commencement or submission of details. Conditions **cannot** be used to enforce a completion date for a proposal. There is no evidence that self build dwellings are more susceptible to stalling or expiring, but there is a perception that this is a risk. There is no justification for a condition in this regard and there is no evidence this would be enforceable in planning; a contractual obligation as part of plot purchase would likely be required.
36. On a multi-plot site, it is reasonable to use phasing conditions to ensure delivery of CSB plots. Problems arise when larger site developers delay marketing and selling CSB parcels available to self build enablers. Where a CSB Plot Marketing and Delivery Strategy (secured through condition or s106) is required this **should include the approach to sale contracts and step-in rights or Long Stop Dates to ensure individual self-builders complete the development**. Step-In rights enable a party to regain control of a development and take action, such as appointing new developers; long stop dates enable parties to a contract to be released from the sale contract in the event a development is not completed by a given date.

5.5 Enforcing Sales of Parcels or Plots as Part of a Major Development

37. In agreeing a marketing approach for parcels and plots on major or strategic sites (often arising from *percent sites* policies) it is important to set out details for onward marketing of parcels or plots to custom build enablers and/or marketing of plots to self builders. Section 3.2 below discusses areas that need to be agreed to ensure plots or parcels of plots are priced and marketed appropriately.

5.6 Affordable Housing

38. Where there is a requirement for affordable housing, this will need to be secured through a planning obligation. The affordable housing requirements set out in council policy are likely to include limits to prices for sale or rental following initial occupation by the specifying custom builders as well as other

affordable housing or nomination restrictions such as local connections test, limits to household income of purchasers or tenants etc. Self build provided as open market plots does not offset obligations for affordable housing. This is true whether this is specifically a standard mixed-tenure development, an affordable departure or exception site, an affordable CLT or collective self build, or as part of a percentage of plots on a major or strategic scheme.

6. ISSUES AND ESSENTIALS TO CONSIDER IN CREATING PERMISSIONS & S106 AGREEMENTS

39. Issues around counting permissions for CSB land supply are discussed in [PG3.2 Counting relevant permissioned plots and PG3.3 NPPF and Right to Build Legislation - delivering appropriate permission](#).
40. Be aware that, in meeting statutory duties, the requirement, as written, is to permit annually at least a minimum number of CSB plots. As with overall land supply calculations, under or over supply is carried forward to subsequent base periods. Where a council cannot demonstrate that plots are being secured in a robust manner delivery will be difficult to evidence. CSB should respond to a diversity of demand for plots and it is not the intent of the legislation to solely create a number of plots through a percentage policy on a large scheme and do nothing more to support delivery of CSB.
41. For any multi-plot scheme it will be important to understand at the outset the delivery model. For a multi-plot site being delivered as part of a large or strategic site the parameters of the CSB development need to be explored at an early stage. Particular attention to the location of parcels of plots in relation to larger schemes to ensure that access can be provided at an early point, rather than waiting to completion of build and sales of the larger site. The issue of a mix of plot sizes will also need to be explored and a robust needs assessment can help address these issues. Advice on assessing demand in [PG2.1 Delivering a sufficient supply of CSB homes](#) may be helpful to review.

6.1 Different Development Types and Delivery Obligation Issues

42. The following table provides an overview of some of the CSB delivery issues arising from different types of CSB planning applications which have implications for delivery whether controlled by conditions, obligations or other form of agreement.

OUT major/strategic site requiring a percentage of CSB plots.

Applicant generally site promoter or larger developer

See Example percentage plot s106

- Requires commitments that the area of the CSB plots will be marketed either to a custom build enabler or serviced and marketed directly to self builders.
Note: Custom build enablers will make competitive bids for the CSB parcel and this does not negatively impact viability. In some cases, serviced plot sales will make a positive impact on viability, and scheme viability should be carefully considered.
- Requires marketing plans for the CSB plot parcel and/or individual plots. A **parameters plan** or block plan **should set out the area of CSB plots (the parcel of plots)** and be referenced within the s106 agreement. Details will include:
- Arrangements for marketing and sale of **the custom build parcel of land** (i.e. the area within the major development

**clauses in the annex to
this note for more
detailed definitions**

which has been agreed and identified through a masterplan or parameters plan); and

- arrangements for the marketing and sale of **custom build plots** made available on the self build parcel.
 - **Sale arrangements** which should include contractual commitment that initial occupants will meet definition of custom or self builders.
 - **Triggers for marketing** should be set out. It is not reasonable for developers to delay bringing CSB parcels and plots to market so timing, usually expressed as % of site-wide completions or occupations, should be set out in any s106 agreement.
 - Details of design code and plot passports etc will be required to be submitted as RMs for the CSB plot. Councils should consider using permission to streamline the plot passporting or reserved matters approach to reduce the DM burden on dealing with individual plots.
 - Agreement needs to ensure any custom build enabler's approach to customisation legitimately meets the definition of CSB and is not just a "palette" of speculative build house types.
 - Phasing should be set out restricting occupation of a proportion of market homes on the larger site until the CSB sub parcel has been purchased by custom enablers of self builders. Step-in rights or other interventions may be negotiated as part of the s106 via ongoing development contracts to ensure delivery of CSB whilst not jeopardising delivery of larger scheme. Phasing plans and CIL CSB exemption if appropriate.
-

OUT for open market multi-plot CSB development

custom build enabler/service plot provider applicant

- Where a proposal is for serviced plots there is a requirement for phasing of servicing and marketing and sale of individual plots. Plot purchases will often take place **prior** to any construction above slab level, unless the scheme is specially set out as shell delivery.
- Where the proposal is not serviced-plots but custom builder offering, there is a need to ensure the custom build enabler’s approach to customisation legitimately meets the definition of CSB and is not just a “palette” of speculative build house types.
- Details of design code and plot passports can be established as part of an outline permission with streamlined RMs per plot where compliance with design code and plot passport is demonstrated. This enables RM payment by the applicant per plot.
- Undertakings to commit the initial occupants as custom and self builders.
- Justified to enable the development to be delivered as set out in the application (usually as specified in the Design and Access Statement, Planning Statement or CSB-specific approved plans.
- CIL CSB exemption if appropriate.

Out/Full application

For collective / community CSB applicants

- Consideration should be given to how the applicants are organised – as a CIC, a CLT or through some other articles of association. If this is to be a custom build, then the future (initial) occupants will have to be “members” of the collective prior to FUL/RM applications.
- Undertakings to commit the initial occupants as custom or self builders will be necessary to ensure cohesive delivery. This will also be justified in order to enable the development to be delivered as set out in the application (usually as specified in the Design and Access Statement, Planning Statement or CSB-specific approved plans).
- CIL CSB exemption if appropriate.

OUT/FUL for Affordable CSB housing (single/multi plot)

Any Applicant

- Standard affordable housing issues to consider, such as resale or rental limits and local connections requirements, household income limits on occupants and in-perpetuity principal residency requirements.
- Undertakings to commit the initial occupants as custom and self builders.

OUT Single Dwelling to be marketed as self build

Policy-compliant application; CSB not material to permission

- In order to consider this as part of the CSB land supply, the Council should secure commitment to market as a plot for a CSB purchase with CSB development commitment including the specifier as first occupant and principal residency of the first occupant as part of the sale contract; commitment should include notifying the council of marketing and sale.
 - CIL CSB exemption if appropriate.
-

FUL Single Dwelling market self build

Policy compliant infill; CSB not material to permission

- In order to consider this as part of the CSB land supply, the Council should request Self-certification commitment that the applicant is the self-builder who has specified the dwelling and as first occupant will retain as principal residency for a period.
- CIL CSB exemption if appropriate.

FUL Single Dwelling self build departure or exception site

CSB applicant; CSB material to permission

- In order to consider this as part of the CSB land supply, the Council must be satisfied that the development permission being counted meets the legislative requirements.
 - It is relevant to question the ownership of the plot to ensure that the land owner is willing to undertake a UU in relation to CSB (and to ensure that the applicant does not intend to use CSB as a “trojan horse”).
 - A “what if” question that planners ask is what if between the permission being granted and commencement of development the applicant’s circumstances change such that they are no longer able to carry out the development and residency. This should be clarified through a planning obligation or condition that states that in the event the applicant is unable to build the house which they have specified, the unbuilt plot can be marketed as a self build opportunity, subject to council approval of CSB plot marketing strategy and on the condition that it will be delivered only as a CSB dwelling with owner-specified design (likely to require a s73 variation) and subject to owner construction and initial occupancy.
 - Planning Obligations are justified as the CSB aspect of the proposal is fundamental to the planning balance or justifying the departure.
 - CIL self build exemption if appropriate.
-

43. Underpinning all of the above is the need to ensure that sites are truly delivered as CSB, not speculative build. In the case of a custom build enabler broad customisation needs to be available including floorplans and internal layouts specified by plot purchasers. A monitoring condition requiring notice of any contract or sale on any plot so that the LPA can engage with the self builder to confirm the nature of the build helps this. A speculative developer who only offers a choice of colours, finishes or appliances is NOT providing a custom build offering.

6.1.1 Summary of Multiplot Issues

44. As a quick reference, the following highlights issues which should be addressed early in the decision making process. Advice to custom and self build applicants should also suggest this information be set out in the planning statement, DAS or a custom build delivery note.

Total Number of plots	Number of plots overall
Documents to be agreed through DM (Outline)	Location of plots and parcels and servicing and access plans Mix of plot sizes and potential dwelling sizes Design code principles or full design code
Documents to be agreed through DM (Outline)	Documents required: <ul style="list-style-type: none"> • Design Code • Marketing Strategy • Plot Passports for all CSB plots • LPA should explore potential for streamlined planning so dwelling specific matters can be handed through compliance checks with design code etc, rather than redundant full consultation etc
Raise awareness of SCB	Work pro-actively to raise the public’s awareness of the future availability of CSB plots and to understand range of demand.
Triggers	Sale: Not more than xxx% of total dwellings shall be first occupied until 40% of the CSB plots are in a serviced, remediated condition, ready for development and then marketed appropriately.
Marketing Agreement	See details below.
Primary input	Initial Occupant of any CSB Dwelling shall only be persons who have primary input into Dwelling’s final design and layout and the dwelling must be a primary residence (not second home)
Local Plan specific requirements	This may include cascade of sale for unsold parcels and plots wherein Registered Providers or the LPA may be able to exercise purchase rights (independently assessed value). Potential for offsite contributions for single plots (for delivery of self build plots elsewhere) or a sum as council levy for management of self build delivery.

6.2 CIL Considerations

31. Councils with an adopted Community Infrastructure Levy should highlight the requirements for Self Build exemptions under the CIL regulations, being clear about the requirements set out in Form 7 Part II which must be submitted within 6 months of completing the self build dwelling.
32. A self build exemption form cannot be required by a council, but it is unlikely that a genuine self builder would refuse to apply for one where levy is in operation.

6.3 Marketing Plans

33. The key objective of the marketing agreement is to ensure that plots or parcels of plots are widely marketed and offered at a fair price to ensure they are available to self and custom builders. Overpricing plots so that they don’t sell risks developers pushing forward plans to remove plots from self-build land supply for conversion to speculative builds.
34. Example s106 agreements for percentage plots provided in the annex highlights the need for details of the marketing plan. In addition to these, Councils should consider the following:
 - Ensure plots are actively marketed as custom and self build for a specified period (e.g. 12 months) at a price the council considers realistic and achievable – this may specify the need to

use at least three marketing sources (for example a national property portal such as Rightmove or Zoopla, local estate agents, and one other source.

- If there is a policy requirement, an obligation may include a cascade where if there are no buyers, plots to be offered to a local housing association or the council but this will generally be for very specific circumstances.
- Requiring that **prior to marketing plots must be serviced and have access and be ready to develop with no contractual or technical issues to prevent immediate purchase and development.**
- In addition to commercial marketing, plot availability should be notified to people on the council's demand Register (this will be done by the Council)
- Issues around party walls, scaffolding margins, phasing, construction plans and estate management charges may also need to be addressed.

6.4 Ensuring Sale of Plots

35. Ensuring plots and parcels of plots are available to self and custom builders includes:

- effective marketing, well advertised across many channels including to the local households, registrants on the self build register, and directly to custom build enablers.
- marketing commences only when plots are serviced and accessible, and
- the price for plots or parcels of plots is reasonable given the nature of the proposal and market.

45. Marketing well includes positive action by the developer to meet the issues set out in 3.3.

46. Pricing well means ensuring that parcels and plots are not overpriced. If well-marketed plots are not being picked up by the market it may be an indicator that these are overpriced or that the plot sizes or layout is inappropriate. The LPA should seek levers, such as extensions of time to marketing periods and requiring an independent assessment of sale prices to ensure plots or parcels of plots are priced fairly. Independent valuation should be instructed by the LPA and paid for by the developer to avoid conflict of interest.

47. Inclusion of CSB plots does not adversely affect scheme viability, and sale of serviced plots can assist with cash flow as an early receipt can be realised by major and strategic site developers. The Task Force has published two useful resources related to viability. [PG3.7: Area-wide Approaches to Viability Assessment](#) and a short Advice note [Project viability for custom and self-build \(AN09a\)](#) which may be relevant.

48. Some developers will have a preference for a market sector such as larger plots for "high end" self build or more modest size plots for more mass market appeal. Housing mix policies may be relevant in decision making. More detailed and nuanced approaches, such as requiring unsold plots be offered to other parties, or off-site contributions require a robust, adopted local plan policy and these will be part of detailed negotiation.

7. COUNCIL OWNED LAND OR PLOT SALES

49. Where councils are disposing of their own land, they can exercise strict controls over who the land is sold to and control its build out. For example, if they are selling a site to a developer, they can require the land to be used for custom and self build housing through covenants and sale or development agreements. A key requirement of any sale contract is to ensure site servicing is taken to the plot level for marketing. Legal advice should be sought on the best way of achieving this.

50. Where councils service their own sites and sell serviced plots directly to self builders they have the option to limit sales to private individuals (instead of builders), and they can restrict plot sales to one plot per customer etc. This can prevent purchases by developers who may wish to build speculative homes for sale.
51. Local authorities can also impose strict build out requirements. For example, a council could build in an ability to claw back a plot (with penalties and administrative costs) if the home has not been constructed within a specified period (typically two years from receiving full planning permission). Owner occupation time limit clauses can also be imposed. This practice is often used by private landowners and is widely employed abroad.
52. As the freeholder of the site, the Council may enter into a Development Agreement with a commercial custom build developer (as opposed to a design and build contract let by the council). Such agreement should include provision for the Council to 'step in' at a certain point should the development be stalled. Step-in rights would enable the Council to assume the obligations of the Development Agreement and appoint a new development partner to complete the scheme.

8. AFFORDABLE HOUSING

53. Some multi-plot or collective CSB developments will include affordable rented homes. Where these are being designed and/or constructed³ to the specifications of the initial occupants, these can qualify as self build homes.
54. As affordable homes, rents will be based on either a fixed discount from market rents or on discounted VOA local market rental rate. As affordable homes the unilateral undertaking (or s106) may include a clause requiring subsequent occupants (tenants) be chosen based on nominations agreed with Council Housing Officers. This ensures that those most in need and most appropriate for new tenancies will have access to the housing.
55. For some community affordable housing, the Council, as Housing Authority, may be willing to delegate other parties, such as a local parish council or charitable community organisation, as the nominating authority.
56. There are many examples of council led guidance and policies which provide templates for securing self build housing as rural exception. The Teignbridge District Council [Single Plot Exception Guidance for Affordable Self Build](#) is a good example of user-friendly information for affordable self build and clear setting out of the development limitations, the affordability criteria and in-perpetuity occupancy criteria. Further reading in respect of affordable housing can be seen in the Taskforce Guidance PG2.2 'Provision of Affordable Housing, including Exception Sites' and Advice Note AN04 Affordable Housing, see also Chapter 5 Paragraph 63 and foot note 29 of the December 2023 NPPF.

9. HINTS AND TIPS

57. It is good practice to ensure the wording of any UU or s106 include a reference to post completion period of residence, specifically stating that; following construction, the commissioning or building

³ Such as a self-finish shared ownership or a construction/sweat equity programme for specific needs groups.

household will occupy the plot as a principal residence for a minimum of three years (which aligns with the CIL regulations definition of custom and self build).

58. Include sample conditions and UU clauses in planning advice (either via SPD, pre-application advice and validation guidance on heads of terms). This will help frontload discussions. Genuine self build applicants will be willing to work with councils in agreeing the most effective approaches to ensuring appropriate delivery in this context while speculative developers may raise obstacles.
59. A detailed explanation or consideration of the CSB issues should be included in officer and committee reports and any conditions or obligation requirements should be reasonably required to address the issue. This is particularly important where the CSB aspect is a significantly weighted material consideration or deciding factor in a recommendation for approval.

10. ANNEX: EXAMPLE S106

60. The following pages include extracts from some s106s and Unliteral Undertakings which have been made in relation to Self and Custom Build. These are not an endorsement of any specific text, but are included to illustrate some of the considerations in securing delivery of plots specifically as CSB.
61. These extracts are provided in two sections
 - Simple unilateral undertakings for small developments
 - s106 for percentage of plots to be delivered on larger sites

10.1 Simple unilateral undertakings

62. These are offered by an applicant unilaterally and do not require the LPAs agreement.

10.2 S106 terms and definitions

63. The following are examples of extracts from s106's from major developments. From the various schedules it is evidence that the range of self build issues that need to be spelled out may include definitions and detail around the following:

"Self/Custom Build Housing"	housing designed and built by (or commissioned by) someone to be occupied by them as their sole or main residence (does not have to follow the CIL definition)
"Self/Custom Build Dwellings"	means XX% of the Dwellings to be provided as Custom Build Housing (note rounding up/down for partial plots)
"Custom Build Housing Enabler"	Third-party provider / developer of Custom Build Housing
"Custom Build Housing <u>Parcel</u> "	means parcel of land shown on a parameters/master plan which is the location of plots to be sold as self/custom build plots
"Custom Build Housing <u>Parcel</u> Marketing Terms"	terms and conditions of the sale of the Custom Build Housing Parcel of plots
"Custom Build Housing <u>Parcel</u> Marketing Period"	marketing period (set out in a schedule)
"Custom Build Housing <u>Parcel</u> Marketing Strategy"	Details to be set out in schedule – be sure that parcel servicing is to be included in terms of sale of any parcel of plots

"Self/Custom Build Housing <u>Plots</u> "	Means the plots on which Custom Build Housing Dwellings shall be constructed. Sale to commissioning/building household – plot generally sold separately to construction costs.
"Custom Build Housing <u>Plots</u> Marketing Strategy"	means the strategy for the marketing advertising and promotion of the Serviced Custom Build Housing Plots on the market to individuals. Specifics of plot marketing, including periods of sale, etc. Be sure to include reference that marketing period of plots only commences once plot is serviced and available with no issues limiting immediate purchase and development.
"Service Charge"	As a reminder. How will Estate service charges for e.g. suds and open space maintenance, how will this be apportioned to the Custom Build sub-plot etc. Same management company or separate
"Serviced"	in relation to the Custom Build Housing all utility connections provided to plot

11. ANNEX: CONDITIONS

Example of a condition placed on an approval by an inspector in case Appeal Ref: APP/F2415/W/22/3303898:

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- 5) Each residential unit ('unit') in the development hereby permitted shall be constructed as a self-build dwelling within the definition of self-build and custom build housing in the 2015 Act:
 - i.) The first occupation of each unit in the development hereby permitted shall be by a person or persons who had a primary input into the design and layout of the unit and who intends to live in the unit for at least 3 years;
 - ii.) The Council shall be notified of the persons who intend to take up first occupation of each unit in the development hereby permitted at least two months prior to first occupation.

Example of a condition from a council approval:

4. Each residential unit in the development hereby permitted shall be constructed as a self-build and custom housebuilding dwelling within the definitions of self-build and custom housebuilding in the 2015 Self-Build and Custom Housebuilding Act (as amended by the 2016 Housing and Planning Act):
 - i. The first occupation of each unit in the development hereby permitted shall be by a person or persons who had a primary input into the design and layout of the dwelling;
 - ii. The Council shall be notified of the persons who intend to take up first occupation of each unit in the development hereby permitted at least two months prior to first occupation.

Reason: To ensure the development complies with the self-build and custom house building definition and help to meet the Districts self-build requirement, in accordance with National Policy.

Example of a condition from a council approval:

- 8 Notwithstanding The Town and Country Planning (Use Classes) Order 1987 and The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and/or re-enacting those orders with or without modification), the development shall not be constructed other than as a self-build dwelling as defined under the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) and shall not be used for any other purpose without express planning permission.

Reason: To ensure there are enough serviced plots of land to meet the demand for self-build and custom housebuilding in the borough, having regard to the self-build register and the provisions of the Joint Core Strategy (2017).