

# Summary Self-Build and Custom Housebuilding Evidence of Andrew Moger BA (Hons) MA MRTPI

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Land off Bullens Green Lane, Colney Heath

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Outline planning application for residential development of up to 100 dwellings, including 45% affordable and 10% self-build, together with ancillary works

Land off Bullens Green Lane, Colney Heath

Canton Ltd

March 2021

LPA REF: 5/2020/1992 and 6/2020/2248/OUTLINE

PINS REF: APP/B1930/W/20/3265925 and 3265926

OUR REF: M20/0509-05.RPT

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# Introduction

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## Section 1

- 1.1 This Self-Build and Custom Housebuilding Summary Proof of Evidence has been prepared by **Andrew Moger** of Tetlow King Planning on behalf of **Canton Ltd**. It relates to the residential development proposals at land off Bullens Green Lane, Colney Heath
- 1.2 This Summary Proof of Evidence examines the Self-Build and Custom Housebuilding sector within the St Albans City and District Council and Welwyn Hatfield Borough Council administrative areas and considers the weight to be attributed to the Self-Build and Custom Housebuilding provided by the appeal proposals in the overall planning balance.
- 1.3 The appeal scheme seeks permission for up to 100 dwellings, of which 10% - a total of up to 10 plots – are to be provided as serviced plots for Self-Build and Custom Housebuilding.
- 1.4 My credentials as an expert witness are summarised in my main Proof of Evidence in Section 1.

# Evolution of Self-Build and Custom Housebuilding in the National Policy Context

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## Section 2

- 2.1 The provision of Self-Build and Custom Housebuilding is increasingly forming a key part of the planning system. The demand for this tenure of housing was first detailed in the 2011 Housing Strategy for England and has since become enshrined in national policy within the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG).
- 2.2 The subject was first addressed in the Housing Strategy for England (2011) before being introduced into national policy through the first iteration of the NPPF in 2012 which required local authorities to take account of *“people wishing to build their own homes”*.
- 2.3 Amendments were also made to the Community Infrastructure Levy (CIL) Regulations in 2014 to exempt Self-Build and Custom Housebuilding from CIL in order to further encourage the delivery of this type of housing.
- 2.4 The Self Build and Custom Housebuilding Act (2015) placed a legal duty on local authorities to keep a Register of individuals and associations of individuals (i.e. groups) who want to acquire serviced plots of land and to have regard to that Register.
- 2.5 The 2016 Housing and Planning Act then made subsequent amendments to the Self-Build and Custom Housebuilding Act and placed a statutory duty (which came into force on 31 October 2016) on local authorities to grant sufficient ‘development permissions’ to meet the demand for Self-Build and Custom Housebuilding on their Register arising in each ‘Base Period’ within the three years after the end of each Base Period.
- 2.6 A separate section was added to the Planning Practice Guidance (PPG) in 2016 covering Self-Build and Custom Housebuilding to support the implementation of the Self-Build and Custom Housebuilding Act (as amended).
- 2.7 The matter of Self-Build and Custom Housebuilding has been subject to a number of debates in the House of Commons between 2014 and 2019, all of which have seen continued Government support for the growth of this sector.

- 2.8 In February 2019, the revised NPPF detailed that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in policy, including *“people wishing to commission or build their own homes”*.
- 2.9 Annex 2 of the NPPF 2019 defined Self-Build and Custom Housebuilding 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.”*
- 2.10 The former Minister of State for Housing, Esther McVey MP, provided further support for the sector in her September 2019 speech at the RESI Convention, which was followed by the publication of the National Design Guide in October 2019. This sets out ten characteristics that make up well-designed places and includes Self and Custom Build within these.
- 2.11 The Conservative Party Election Manifesto of December 2019 reaffirmed the Government’s commitment to Self-Build and Custom Housebuilding where it commits to *“support community housing by helping people who want to build their own homes find plots of land and access the Help to Buy scheme”*.
- 2.12 The Planning for the Future White Paper of August 2020 set out the Governments ambition to *“support innovative developers...and self-builders”* and sought to maintain the CIL Self-Build Exemption to continue to encourage the growth of the sector.
- 2.13 On 30 October 2020, Right to Build Day, the Housing Secretary Robert Jenrick MP announced a review to make it easier for people to build their own home. Mr Jenrick said:  
*“We are backing people who want to design and build their own home and today I have launched a review to ensure councils provide enough land and take proper consideration for these homes when making planning decisions in their area.*  
*This will help more people get a foot on the housing ladder and support our building industry as we deliver the homes that this country needs.”*
- 2.14 In Mr Jenrick’s keynote speech at the November 2020 RESI Convention, he was clear that:  
*“Self-build and modular construction techniques have also struggled to gain a foothold.*

*This is bad not just for housing delivery, but also for the innovation and competition for the productivity of the UK economy. We want to make the UK a world leader and see the businesses taking root in the Midlands and the North grow, thrive, build more of those homes”.*

2.15 The November 2020 Chancellor of the Exchequers Spending Review announced £2.2bn of new loan finance to support housebuilding which included delivering Help to Build for Custom and Self-Builders.

2.16 In her 5 February 2021 MHCLG Newsletter, Joanna Averley, Chief Planner set out that *“The Government believes self and custom build housing can play a crucial role in securing greater diversity in the housing market as well as helping to deliver the homes people want.”*

*And that “we are undertaking a review of the effectiveness of the Self-build and Custom Housebuilding Act 2015 (‘Right to Build’) in the context of our wider planning reforms. Given the legislation has been in place since 2016, it is now time to consider whether the legislation is having the desired effect in supporting self and custom build nationally.”*

2.17 The Self-Build and Custom Housebuilding section of the PPG was revised on 8 February 2021. Paragraph 038<sup>1</sup> provides guidance on what constitutes a suitable development permission in respect of meeting the Statutory Duty under the heading of ‘how can authorities record suitable permissions’. This states that:

*“The legislation does not specify how suitable permissions must be recorded. However, the following are examples of methods a relevant authority may wish to consider to determine if an application, permission or development is for self-build or custom housebuilding:*

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

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<sup>1</sup> Paragraph: 038 Reference ID: 57-038-20210508

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

*A relevant authority must be satisfied that development permissions being counted meet the legislative requirements”.*

- 2.18 It also sets out<sup>2</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.”*

- 2.19 The benefits of self-build and custom housebuilding are set out at paragraph 16a<sup>3</sup> which explains 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”.*

- 2.20 Paragraph 011<sup>4</sup> details that *“local planning authorities should use the demand data from the registers in their area, supported as necessary by additional data from secondary sources (as outlined in the housing and economic development needs guidance) to understand and consider future need for this type of housing in their area.”*

- 2.21 It goes on to explain 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”.*

- 2.22 Central Government has been consistent in seeking to boost the supply of Self-Build and Custom Housebuilding from as far back as the 2011 Housing Strategy for England and it is clear that there is national demand for this type of housing.

- 2.23 The requirement to deliver Self-Build and Custom-Build homes is now enshrined in national policy through both the NPPF and the PPG.

- 2.24 Local authorities are required to address this through granting sufficient development consents to meet the demand for Self-Build and Custom Housebuilding arising within their administrative area.

<sup>2</sup> Paragraph 016 Reference ID 57-016-20210208

<sup>3</sup> Paragraph 16a Reference ID: 57-016a-20210208

<sup>4</sup> Paragraph 011 Reference ID: 57-011-20210208



# The Development Plan and Related Policies

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## Section 3

- 3.1 At present there are no policies relevant to the provision or delivery of Self-build and Custom Housebuilding in the adopted development plans for either authority.
- 3.2 Whilst the emerging Welwyn Hatfield Borough Council Local Plan 2013-2032 at emerging policy SP7 is concerned with type and housing mix and identifies four allocations which should make provision for serviced plots. The policy does not set a percentage target instead stating that an undefined level of provision should contribute towards meeting the evidenced demand for self-build and custom housebuilding in the borough. The emerging policy also supports provision on other allocated sites or windfall site albeit again with what level of provision this could entail undefined.
- 3.3 The emerging St Albans City and District Local Plan 2020-2036 has now been withdrawn.
- 3.4 At a national level there is a clear desire by central Government to significantly boost the supply of Self-Build and Custom Housebuilding through both the NPPF (2019) and the February 2021 revisions to the Self-Build and Custom Housebuilding section of the PPG, as well as through Manifesto and Spending Review commitments.

# Self-Build and Custom Housebuilding Demand and Delivery

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## Section 4

- 4.1 Neither St Albans City and District Council nor Welwyn Hatfield Borough Council have any adopted policy position in relation to self-build and custom housebuilding.
- 4.2 In the case of St Albans, the withdrawal of the emerging Plan in November 2020 means that there is little chance of this being remedied anytime soon.
- 4.3 Whilst Welwyn Hatfield's emerging Plan contains a policy relating to self-build and custom housebuilding, it appears to rely upon undefined contributions from larger sites, a strategy that has thus far yielded just 6 plots against a Statutory Duty in line with the primary legislative requirements to have provided 399 plots by 30 October 2020.
- 4.4 It is also important to note that as Mr Gray sets out at section four of his Planning Proof of Evidence there remain fundamental questions over the soundness of the emerging Welwyn Hatfield Local Plan some three and a half years after it was submitted, and it is far from a certainty that these will be overcome leading to a sound verdict. As Mr Gray explains, the correspondence between the examining Inspector and the Council suggest that that is in no small part down to the reluctance of the Council to address the Inspectors concerns.
- 4.5 The Government have been clear in their objective to boost significantly Self-Build and Custom Housebuilding delivery since at least 2011 with this reinforced in recent years through manifesto commitments and strengthening of guidance.
- 4.6 Neither St Albans Council nor Welwyn Hatfield Council's most recent assessments of housing needs<sup>5</sup> undertakes any assessment of likely future demand for this type of housing and nor does either undertake a robust assessment in line with the recommendations of the PPG.
- 4.7 Secondary data sources also indicate a substantial level of demand in both authority areas. Buildstore demand data shows that in St Albans there were 314 registrants on their Custom Build Register wishing to create their own customisable home in the

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<sup>5</sup> For St Albans this is the South West Herts SHMA (2018) and for Welwyn Hatfield it is the Welwyn Hatfield SHMA Update (2017)

council's administrative area, and 984 Plot-Search subscribers seeking a serviced plot to build or commission their own home in St Albans City and District. For Welwyn Hatfield, the Buildstore demand data showed 196 registrants on the Custom Build Register and 587 Plot-Search subscribers seeking opportunities in the authority area.

- 4.8 Other secondary data sources including Ipsos MORI polls<sup>6</sup> and ONS data, indicate that the level of demand in St Albans City and District would be as high as 2,304 plots whilst in Welwyn Hatfield Borough this indicated demand could be as high as 1,998 plots.
- 4.9 I consider that without sites such as the appeal site there is considerable doubt surrounding how either Council intends to address identified demand for self and custom housebuilding anytime soon.
- 4.10 In St Albans City and District, under the legislative requirements of the 2015 Self-Build and Custom Housebuilding Act (as amended) the Council had a Statutory Duty to have granted suitable development permissions for 108 plots by 30 October 2019 and a further 144 plots by 30 October 2020.
- 4.11 The original 14 August 2020 FOI<sup>7</sup> data revealed that against this level of demand the Council considered it had granted 81 suitable consents. Analysis of this found that only 43 could be counted as the remaining 38 failed to adhere to the Self-Build and Custom Housebuilding Time for Compliance and Fees Regulations (2016), resulting in a shortfall of 65 in respect of the Statutory Duty to have issued sufficient development permissions to match demand arising in Base Period 1.
- 4.12 For Base Period 2, the shortfall was 144 plots meaning that cumulatively the Council failed its Statutory Duty for Base Periods 1 and 2 by a measure of 209 plots. This is before one even begins to consider the fact that the Council must have issued a further 104 suitable development consents by 30 October 2021 or fail to meet their Statutory Duty for the third year running.
- 4.13 Additional FOI data received 19 March 2021 however indicates that St Albans City and District Council are now only counting 64 consents towards their Statutory Duty, a reduction of 17 consents since the FOI data provided on 14 August 2020. The Council has not provided details of the application reference numbers for their 19 March 2021 FOI data despite this forming part of the FOI request made, so analysis of the 64 consents has not been possible to confirm whether or not they constitute suitable development permissions.

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<sup>6</sup> 2013, 2014, 2015 and 2016 surveys of 2,000 people aged 15+ with survey data weighted to the known population profile.

<sup>7</sup> 14 August 2020

- 4.14 The 19 March 2021 FOI response directs the reader to St Alban's City and District Council's Authority Monitoring Report (AMR) of December 2020 which indicates that the Council considers that 55 suitable development permissions were issued towards Base Period 1 demand, and a further 9 suitable development permissions were issued towards Base Period 2 demand.
- 4.15 The figures set out in St Alban's City and District Council's AMR mean that the Council has indisputably failed to meet its Statutory Duty in respect of Base Period 1 by a margin of 53 (a 49% shortfall) and has also indisputably failed to meet its Statutory Duty in respect of Base Period 2 by a margin of 135 (a 94% shortfall).
- 4.16 In Welwyn Hatfield, the Council has retrospectively removed entries from its Self-Build Register and sought to measure its performance against the Statutory Duty against the amended register numbers contrary to Section 2A(2) and 2A(6)(a) of the 2015 Act (as amended) which details that the Statutory Duty applies to the need arising within a Base Period and relates to the number of entries that were added during that Base Period rather than to retrospective revisions made to that Base Period to reduce numbers.
- 4.17 This is of particular relevance when, cumulatively across the first three Base Periods for which demand must have been met by 30 October 2021, the Council's retrospective review reduced Register numbers from 465 to 22, a reduction of 95%. Worst affected was Base Period 2 which saw 246 entries removed, a 97% reduction.
- 4.18 When the primary legislative requirements with regard to the Statutory Duty are assessed against the single suitable development consent for 6 plots at land North East of Welwyn Garden City<sup>8</sup>, then it is clear that the Council has fallen short of meeting the Duty for Base Period 1 by 140 plots, equivalent to a 96% shortfall. For Base Period 2 the shortfall is 253 plots, equivalent to a 100% shortfall against identified demand evidenced by the number of entries added during that Base Period.
- 4.19 Cumulatively the Council has a shortfall of 393 plots against their statutory duty to have met the need arising within a Base Period in relation to the number of entries that were added during that Base Period by 30 October 2020.
- 4.20 This is before one even begins to consider the fact that under the Statutory Duty the Council has a legal requirement to have granted consent for a further 68 suitable development consents by 30 October 2021.

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<sup>8</sup> FOI data received 24 March 2021 indicates that no additional permission have been granted since the 6 plots at North East of Welwyn Garden City

- 4.21 What is clear is that Section 2A of the 2015 Self-Build and Custom Housebuilding Act (as amended) sets out that the Statutory Duty applies to demand arising within a Base Period and is evidenced by the number of entries added during that period, and not a retrospectively reviewed and reduced Register.
- 4.22 What is abundantly clear is that both St Albans City and District and Welwyn Hatfield Borough need to take urgent action now to address identified needs. The fact that neither have an adopted local policy that expressly requires such provision does not negate the need to address identified demands and adhere to their Statutory Duty under the primary legislative requirements of the 2015 Self-Build and Custom Housebuilding Act (as amended) and it is unclear how either Council intends to begin to address identified needs anytime soon without sites such as the appeal site.
- 4.23 Demand is far outstripping supply in both authority areas and in the absence of any clear and effective strategy from either Council to remedy this any time soon then the provision of 10 serviced plots through the appeal proposals are essential to begin to address the substantial shortfall against both Base Periods 1 and 2 and help to address Base Period 3 demand by 30 October 2021 in both St Albans City and District and Welwyn Hatfield Borough.

# The Weight to be Attributed to the Provision of Self-Build and Custom Housebuilding

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## Section 5

- 5.1 The Government attaches weight to achieving the objective of significantly boosting the supply of homes.
- 5.2 NPPF Paragraph 60 sets out that in order to determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment. It goes on at paragraph 61 to detail that the type of housing needed for different groups in the community should be assessed and reflected in planning policing, including for people who wish to commission or build their own homes.
- 5.3 The most recent assessment of housing need in St Albans City and District is the South West Hertfordshire SHMA (2016). It provided no assessment of likely future demand for self-build in the authority area and nor did it undertake a robust assessment of demand as recommended by the PPG.
- 5.4 In Welwyn Hatfield Borough the most recent assessment of housing need is the Welwyn Hatfield SHMA Update (2017) which does not make a single reference to self-build and custom housebuilding and thus also fails to provide any assessment of likely future demand or undertake a robust assessment of demand as recommended by the PPG.
- 5.5 Evidence illustrates a substantial level of demand for self-build and custom housebuilding plots in both St Albans City and District and Welwyn Hatfield Borough supported by secondary data sources in line with the recommendations of the PPG. Data taken from both authorities Self-Build Register's<sup>9</sup> and from the Buildstore platform<sup>10</sup> indicate that there is a substantial level of demand within both St Albans and Welwyn Hatfield that is going unmet.
- 5.6 In St Albans City and District when the primary legislative requirements with regard to the Statutory Duty are assessed against the 43 consents within the 14 August 2020 FOI data that the Council are counting towards this which actually adhere to the

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<sup>9</sup> Cumulatively across both authority areas there are 1,122 individuals and 1 association of individuals to which the statutory Duty applies

<sup>10</sup> Cumulatively across both authority areas there are 510 on the Custom Build Register and 1,571 subscribers to PlotSearch

regulatory requirements of the Self-Build and Custom Housebuilding Time for Compliance and Fees Regulations (2016), there was a shortfall of 65 plots against Base Period 1 demand, equivalent to a 40% shortfall. In respect of Base Period 2, the shortfall against the Statutory Duty amounts to 141 plots, this constitutes a 100% shortfall. Cumulatively to date, the Council has a shortfall of 206 plots when measured against their Statutory Duty in respect of Base Periods 1 and 2.

- 5.7 However, within St Albans City and District, the additional FOI data received 19 March 2021 presents a different position from that received on 14 August 2020. It indicates that the Council are now only counting 64 consents towards their Statutory Duty, a reduction of 17 consents since the FOI data provide on 14 August 2020. Application reference numbers for the Council's 19 March 2021 FOI data were not provided however despite this forming part of the FOI request made, so analysis of the 64 consents has not been possible. The 19 March 2021 FOI response directs the reader to the Council's Authority Monitoring Report (AMR) of December 2020 which indicates that the Council considers that 55 suitable development permissions were issued towards Base Period 1 demand, and a further 9 suitable development permissions were issued towards Base Period 2 demand.
- 5.8 In St Albans City and District, the Council now has until 30 October 2021 to address the shortfall from Base Period 1 (between 53 and 65 plots<sup>11</sup>) and Base Period 2 (between 135 and 144 plots<sup>12</sup>), together with demand for a further 104 plots that arose within Base Period 3 or fail to have met their Statutory Duty in line with the legislative requirements of the 2015 Act (as amended) for the third consecutive year.
- 5.9 In Welwyn Hatfield Borough the Council has retrospectively removed entries from its Self-Build Register contrary to Section 2A(2) and 2A(6)(a) of the 2015 Act (as amended) which details that the Statutory Duty applies to the need arising within a Base Period and relates to the number of entries that were added during that Base Period rather than to retrospective revisions made to that Base Period to reduce numbers.
- 5.10 When the primary legislative requirements with regard to the Statutory Duty are assessed against the single suitable development consent for 6 plots at land North East of Welwyn Garden City<sup>13</sup>, then the Council has fallen short of meeting their

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<sup>11</sup> The 19 March 2021 FOI data did not provide application references so analysis of these consents to consider whether the constitute suitable development permissions has not been possible hence the range set out here.

<sup>12</sup> The 19 March 2021 FOI data did not provide application references so analysis of these consents to consider whether the constitute suitable development permissions has not been possible hence the range set out here.

<sup>13</sup> Additional FOI data received 24 March 2021 indicates that no further consents have been granted towards addressing the Statutory Duty since the 6 plots at North East of Welwyn Garden City in February 2020.

Statutory Duty for Base Period 1 by 140 plots, equivalent to a 96% shortfall. For Base Period 2 the shortfall was 253 plots, equivalent to a 100% shortfall against identified demand evidenced by the number of entries added during that Base Period. Cumulatively to date, the Council has a shortfall of 393 plots in respect of Base Periods 1 and 2 against their statutory duty to have met the need arising within a Base Period in relation to the number of entries that were added during that Base Period by 30 October 2020.

- 5.11 In Welwyn Hatfield Borough the Council now has until 30 October 2021 to address the shortfall from Base Period 1 (140 plots) and Base Period 2 (253 plots), together with demand for a further 68 plots that arose within Base Period 3 or fail to have met their Statutory Duty in line with the legislative requirements of the 2015 Act (as amended) for the third consecutive year.
- 5.12 What is clear is that Section 2A of the 2015 Self-Build and Custom Housebuilding Act (as amended) sets out that the Statutory Duty applies to demand arising within a Base Period and is evidenced by the number of entries added during that period, and not a retrospectively reduced Register.
- 5.13 In St Alban's City and District, based upon the Council's performance to date and the lack of an adopted or emerging policy specifically related to the provision of self and custom housebuilding and the apparent lack of alternatives making provision to address the identified shortfall to date against the Statutory Duty or meet Base Period 3 demand, the Council appears to have no clear strategy for how it intends to address identified demand for self-build and custom housebuilding.
- 5.14 In Welwyn Hatfield Borough, although there is no adopted Policy there is an emerging Policy position in respect of self-build and custom housebuilding through the emerging Local Plan. However, this appears to be placing reliance upon larger sites making an undefined contribution towards serviced plot delivery, a strategy that has thus far resulted in just 6 plots being consented (at SDS1, less than 1% of overall unit numbers consented on the site) and a failure to meet their Statutory Duty for Base Period 1 and Base Period 2.



5.15 Considering the evidence of demand for this type of housing across both St Alban's City and District and Welwyn Hatfield Borough, the importance placed upon it by both the NPPF and the PPG, combined with the lack of suitable strategies to address the backlog in delivery against the Statutory Duty in both authority areas, or to deal with identified demand any time soon, I consider that nothing less than substantial weight should be afforded to the provision of 10 Self-Build and Custom Build homes in the determination of this appeal.