

# First Homes – Interim Policy Position

Report of the Housing & Environmental Health Portfolio Holder

## Recommended:

1. That the First Homes interim policy position recommended in the report is adopted.
2. That the Head of Housing & Environmental Health in consultation with the Head of Planning Policy & Economic Development, Housing & Environmental Health Portfolio Holder and the Planning Portfolio Holder be given delegated authority to:
  - a. Prepare and publish a First Homes policy encapsulating the requirements of First Homes Planning Practice Guidance and the recommendations set out at paragraph 5 of this report, and
  - b. To amend that policy in response to legislation or governmental guidance on First Homes delivery.

### SUMMARY:

This report summarises the details surrounding the introduction of First Homes as a mandatory new affordable housing tenure, including the implications that the inclusion of First Homes on all qualifying developments may have on the delivery of other affordable housing tenures. The report also sets out Test Valley Borough Council's proposed interim policy position around the various aspects of First Homes, and recommends the publication of a First Homes Interim Policy Note which will expand upon those proposals.

## 1 Introduction

- 1.1 In August 2020 Local Authorities were consulted on the government's proposals to introduce First Homes as part of the affordable housing tenure on all new housing developments.
- 1.2 On 1 April 2021 the government released its response to the consultation setting out the key details for delivery of First Homes. On 24 May 2021 a Written Ministerial Statement and Planning Practice Guidance document were published, setting out further details on the First Homes policy and procedures, and confirmed an implementation date of 28 June 2021.
- 1.3 It is on that basis that this report has been prepared, recommending an interim policy framework for negotiating the delivery of First Homes in Test Valley until such time that it can be considered through the next Local Plan process.
- 1.4 The scheme will be delivered through two routes within the planning system: through section 106 developer contributions and through new Local Plan policies regarding First Home Exception Sites.

## 2 Background

### 2.1 First Homes – the key details.

### 2.2 The key requirements of First Homes delivery are:-

- At least 25% of affordable homes delivered on each site must be delivered as First Homes. Some exemptions apply, including developments that provide solely for Build to Rent homes, 100% affordable housing schemes, rural exception sites, developments that provide specialist accommodation for a group with specific needs such as the elderly, and self-build developments.
- Purchasers must be first time buyers.
- The discount must be at least 30% of open market value. Local authorities can set policies that seek discounts of 40% or 50% if they can evidence the need and viability through the Local Plan process.
- The discount and first time buyer eligibility requirement will be held in perpetuity and secured through legal mechanisms, i.e. when any First Homes are sold to subsequent purchasers the same level of discount and first time buyer eligibility criteria will apply.
- There will be a price cap for qualifying properties, and the maximum purchase price after the discount will be £250,000.
- Local authorities can apply their own local connection criteria and other criteria such as giving priority to keyworkers, subject to providing evidence of the need to include such restrictions.
- Purchasers are eligible to purchase a First Home if they have household income of less than £80,000 (this is the same as the qualifying criteria for shared ownership housing).
- Local connection criteria can only be applied for the first 3 months of marketing, after which a property can be sold to any purchaser from anywhere in England, subject to meeting the criteria around household income, first time buyer eligibility, and with the discount still being held in perpetuity.
- A First Home must be a purchaser's only home.
- At least 50% of the discounted value of the property must be financed via a mortgage or other similar form of finance.
- In the event that a First Home cannot be sold to a qualifying purchaser within 6 months of marketing, the property can be sold as an open market home and the seller pays the Council a cash contribution in lieu of the 30% discount. This requirement will be secured in the S106 agreement.

### 2.3 **First Homes Exception Sites**

2.4 From 28 June 2021, as part of the overarching First Homes policy, the government has introduced First Homes Exception Sites to replace existing entry-level Exception Sites. Exception Sites are small sites outside of settlement boundaries used to deliver affordable housing. In the Test Valley Borough Council Adopted Local Plan 2011-2029, there is an existing rural exception sites policy for affordable housing, however this is not specific to a certain type of affordable housing.

2.5 The First Homes Exception Sites policy requires homes on qualifying sites to be delivered predominantly as First Homes, but with some flexibility to allow for a small proportion of market homes where this would be necessary to ensure the viability of the development. The policy also allows for the inclusion of other affordable housing tenures where it can be demonstrated that it would assist viability or the sustainability of the development. **First Homes Exception Sites will not apply in designated rural areas, where delivery will be through the rural exception site policy only.** A large proportion of Test Valley falls under a designated rural area, with the exception of the following:-

Andover, Enham Alamein, Charlton, Wellow, Romsey, Romsey Extra, Nursling & Rownhams, North Baddesley, and Valley Park.

## 3 **Corporate Objectives and Priorities**

3.1 The Council's Corporate Plan 2019-2023 Growing Our Potential, includes four strategic aims for the Council over the next four years and beyond. One of the four strategic priorities is "Growing the Potential of People". Within that theme the Council sets out its priorities in addressing housing needs.

3.2 With the adopted Local Plan and Affordable Housing Supplementary Planning Document setting out the key policies in respect of affordable housing development, the publication of an interim policy statement for First Homes will complement those policies and provide detailed guidance to developers and landowners to ensure that the provision of this new tenure meets the mandatory requirements and addresses the needs of customers.

## 4 **Consultations/Communications**

4.1 The proposed policy position has been shaped by the outcome of the government's consultation on First Homes proposals, which sought the views of local authorities, Registered Providers, and developers.

4.2 The emerging policies around First Homes will form part of the Review of the Local Plan which will be subject to full public consultation.

## 5 **Discretionary Policy Areas for Consideration**

5.1 There are a number of areas of the First Homes policy where local authorities are able to set their own criteria, and these are set out in this section of the report.

5.2 The proposed interim policy position set out in this report reflects the guidance issued by the MHCLG (now Department for Levelling Up, Housing and Communities – DLUHC), and recognises the market conditions in Test Valley. The discretionary policy areas for consideration are set out below.

### 5.3 **Impact of the Delivery of First Homes on other Affordable Housing Tenures.**

#### DLUHC Guidance

5.4 The requirement is that at least 25% of all affordable homes delivered on a qualifying COM7 site will be delivered as First Homes, with the balance of the affordable units being delivered as per the Local Plan requirements, i.e. 70% rented, 30% intermediate housing. For example, a qualifying site delivering 100 affordable homes would produce a tenure mix of:-

- First Homes 25 units (25%) – leaving a balance of 75 affordable homes comprising:
- Rented units 53 units (70% of 75)
- Shared ownership 22 units (30% of 75)

5.5 Local Authorities who stipulate social rented housing as a requirement in their Local Plan are able to prioritise social rent over shared ownership when determining the tenure of the remaining 75% of affordable housing. Test Valley Borough Council does not stipulate social rented housing as a policy requirement in the Local Plan and must therefore apply the position as set out above.

#### Risks/Issues

5.6 There will be a reduction in the number of affordable/social rented units and shared ownership units in comparison with the percentages set out in current Local Plan policies. Affordable/social rented housing meets the needs of households in Test Valley who are on low incomes and unable to access suitable accommodation in the private sector. Whilst affordable rent is the predominant tenure, the Corporate Plan identifies the importance of the inclusion of social rented homes wherever possible to meet the needs of those in the lowest income households where housing benefit levels struggle to match the affordable rent levels. The inclusion of First Homes will not only reduce the amount of affordable rented homes being delivered, but may also affect the viability of the inclusion of any social rented homes. This is largely due to the fact that as a result of the requirement for First Homes to be part of the affordable housing mix there will be a reduced number of shared ownership homes which tend to generate the higher level of income to the developer. On average a developer can sell a shared ownership home to a Registered Provider at 80% of open market value, compared with selling a First Home at no more than 70% of open market value. As a result the overall income to the developer will be reduced, creating potential viability issues. The inclusion of social rented homes exacerbates the viability issue further as the developer's income for a social rented home is in the region of 50% of open market value.

- 5.7 Under current policies a development which generates 100 affordable homes would provide 70 affordable/social rented units and 30 shared ownership units.

**Recommended Test Valley Borough Council Interim Policy Provision:-**

**25% of all affordable homes on qualifying sites will be sought as First Homes, with the balance of the affordable housing being split as 70% affordable/social rented and 30% shared ownership, in accordance with Adopted Local Plan Policy COM7: Affordable Housing.**

**5.8 Discounts to be applied to First Homes**

DLuHC Guidance

- 5.9 The government Guidance sets out a requirement for a minimum 30% discount from open market value, but higher discounts of 40% or 50% may be applied where a need is demonstrated through evidence which can be through the Neighbourhood Plan or Local Plan process.

Risks/Issues

- 5.10 At this stage there is no firm evidence available to support higher levels of discount in Test Valley, and the maximum discount that could be applied would be 30%. In the event that the Council wishes to consider higher levels of discount this would need to be considered and evidenced, and this can be undertaken through the Local Plan process, with viability being taken into consideration. Higher levels of discount will almost certainly create viability issues for developers due to lower sales income, with a high risk of that impacting even further on the delivery of affordable/social rented housing.

**5.11 Price Caps for First Homes**

**Recommended Test Valley Borough Council Interim Policy Provision:-**

**First Homes will be sold with a discount of 30% from full open market value. This may be reviewed as and when evidence becomes available through the Strategic Housing Market Assessment and the Local Plan Viability Assessment as part of the Local Plan process.**

DLuHC Guidance

- 5.12 The maximum purchase price for a First Home on initial sale only is £250,000 after discount. Assuming that discount is capped at 30%, the maximum open market value before discount would be in the region of £357,000. When a First Home is sold on as a resale at a later date, the 30% discount will apply, but price caps can no longer be imposed.

- 5.13 Local Authorities have discretion to set lower price caps if they can demonstrate a need for this. Any local price caps can be determined through the local plan making process with regard to local income levels, related to local house prices and mortgage requirements.

Risks/Issues

- 5.14 The price cap of £250,000 after discount is likely to dictate the type of property which will meet the criteria for First Homes in the borough. Analysis of the local housing market in Test Valley indicates that in the north of the borough First Homes could generally fit under the £250,000 price cap as 1, 2 and 3 bed properties. In the south of the borough only 1 and 2 bedroom properties would fit within the price cap. Recent new-build developments in the south of the borough have produced open market values of up to £400,000 for a 3 bed house, which would make a 3 bed property out of reach as a First Home.
- 5.15 Lower price caps would further reduce the scope of properties which could be sold as a First Home. If lower price caps were also applied alongside higher discounts, the viability of developments would be compromised to the extent that other affordable housing tenures would be severely impacted.

**Recommended Test Valley Borough Council Interim Policy Provision :-**

**The price cap of £250,000 will be applied in Test Valley.**

**5.16 Need and Affordability Analysis of First Homes**

DLuHC Guidance

- 5.17 There is no waiting list for First Homes and developers will be required to market the homes through normal marketing routes, targeted at the appropriate audience.

Risks/Issues

- 5.18 The only method available to the local authority in determining need and affordability for low cost home ownership products is through the Help to Buy Agent register which holds details of applicants interested in other forms of low cost home ownership. Some affordability analysis carried out using data from that register has indicated that there would be a limited number of applicants currently registered for low cost home ownership in Test Valley who could afford a property with just a 30% discount from open market value in any part of the borough. The highest levels of affordability were for a 2 bedroom property in Andover. In the south of the borough the analysis showed that a very small number of applicants may be able to afford a 1 or 2 bedroom property with a 30% discount, but 3 and 4 bedroom homes are out of reach (and beyond the price caps).

- 5.19 The affordability and price caps dictate that First Homes are mainly only feasible to be delivered as 1 and 2 bedroom homes. Those smaller size homes are also a high priority for the delivery of affordable/social rented housing, and there is a risk that developments will need to deliver a higher proportion of 1 and 2 bed homes than they would otherwise deliver, in order to just meet the needs and make First Homes a viable product.

**Recommended Test Valley Borough Council Interim Policy Provision:-**

**The First Homes mix will be negotiated on a site by site basis, taking into consideration the market values in the area. As a general guide the Council will be predominantly seeking delivery of First Homes in the form of 1 and 2 bedroom home in Andover, with smaller numbers of 3 bed homes, subject to affordability and price caps. In the remainder of the borough the First Homes mix will predominantly be 1 and 2 bedroom homes to match affordability and price caps.**

**5.20 Local Connection Criteria and Household Income Limits**

DLuHC Guidance

- 5.21 Local Authorities can set their own local connection criteria for the sale of First Homes. Local connection criteria can only be applied for the first three months of advertisement. After 3 months the seller can sell the property to someone with no local connection provided that they still qualify as a first time buyer, and are within the household income limit.
- 5.22 Local Authorities can set lower household income caps.
- 5.23 Local Authorities can give priority to certain groups, for example keyworkers.

Risks/Issues

- 5.24 Local connection criteria applied for the first 3 months of advertisement would ensure that local people have priority over others for the new First Homes delivered in Test Valley.
- 5.25 Based on the high open market values in much of Test Valley it is likely to be counter-productive to apply lower household income caps as that is likely to reduce the number of purchasers who can afford to buy a First Home, and increases the risk that they are either sold to applicants with no local connection to Test Valley, or that no qualifying purchaser can be found at all. In the event that a First Home is not sold to a qualifying buyer within 6 months of advertisement, the developer can sell it as an open market home and repay the Council a cash contribution in lieu of the 30% discount. The home is then lost as an affordable home.

- 5.26 The household income limit of £80,000 proposed by government is in line with the existing criteria for all other low cost home ownership products, and the data available to us via the Help to Buy Agent is based on that limit. Any reduction in the household limit would result in the need to do a complete review of the number of households who could qualify for First Homes.
- 5.27 The prioritisation of keyworkers ceased to be an aspect of national policy some years ago and it is not standard practice in Test Valley in relation to allocating homes for affordable/social rent, or for prioritising applicants for shared ownership housing. The Council developed a balance of priorities in allocating homes to rent that ensures it is adequately taking into account the need of the district, against a backdrop of a comprehensive housing options approach for those who may be homeless or at risk of homelessness. In terms of intermediate home ownership products, these have been allocated by government appointed zone agents for many years. It is noted that local authorities may wish to consider whether or not First Homes are prioritised for key workers, however, the definition of keyworker is very broad, and many households who access subsidised housing fall into that definition. Moreover, it is difficult to establish more specific definitions without unintended consequences or alienating particular groups. The Council's priority is to assist those who are most in need of subsidised housing, regardless of the nature of their employment and it is therefore not considered necessary to prioritise keyworkers for the purchase of a First Home at this time.

**Recommended Test Valley Borough Council Interim Policy Provision:-**

**Local connection criteria will be applied for the first 3 months of advertisement of a First Home. On first sales a marketing strategy will be agreed with the developer to ensure that marketing is targeted at the appropriate audience, and within agreed timescales.**

**Household income caps will be set at £80,000 in line with other low cost home ownership products.**

**There will be no specific priority given to keyworkers or other specific client groups.**

- 5.28 **First Homes Exception Sites Policy – inclusion of market housing and/or other affordable housing tenures.**

DLuHC Guidance

- 5.29 A First Homes Exception Site should be predominantly delivered as affordable housing, i.e. First Homes, with a small amount of open market housing being considered acceptable where it is necessary to make the development viable. The government considers that local authorities are best placed to determine the level of market housing that would be acceptable.
- 5.30 A First Homes Exception Site could include other tenures of affordable housing if it improves viability, or makes the development more acceptable to the local community.



- 5.31 First Homes Exception Sites cannot be delivered in Designated Rural Areas. For Test Valley that means that these sites could only be considered in the following areas:-

Andover, Enham Alamein, Charlton, Wellow, Romsey, Romsey Extra, Nursling & Rownhams, North Baddesley, and Valley Park.

Risks/Issues

- 5.32 In the absence of a policy which stipulates a maximum level of open market housing that could be included on a First Homes Exception Site, there is a risk of challenge if an application is refused due to the level of market housing it includes. Equally, if a maximum limit is set in policy it is likely to attract proposals which aim to deliver the maximum level of open market housing that is allowed in policy, whether or not it is required to make the development viable.
- 5.33 To add some context, the current Local Plan policy for rural exception sites (Policy COM8) does not specifically mention the inclusion of any open market housing. However, the Council will consider the issue raised in the Paragraph 77 of the NPPF regarding the potential to consider an element of private market housing on a rural exception site where it can be demonstrated that it would help facilitate development. This is generally expected to be on the grounds of viability, and no maximum numbers are specified.

**Recommended Test Valley Borough Council Interim Policy Provision:-**

**The inclusion of any open market housing on a First Homes Exception Site will only be considered where there is evidence in the form of a viability appraisal to support the fact that it is necessary to achieve a viable development, and is in proportion to the size of the development.**

- 5.34 **First Homes Exception Sites Policy – size of development**

DLuHC Guidance

- 5.35 The site size threshold previously applied via the NPPF to entry level exception sites has been removed for First Homes Exception Sites. A local authority can determine what it considers to be appropriate as a site size threshold.
- 5.36 The adopted Local Plan and the adopted Affordable Housing Supplementary Planning Document do not make reference to any site size thresholds for either entry level exception sites or rural exception sites.

Risks/Issues

- 5.37 The Council could be open to challenge if an application is refused based on the number of dwellings exceeding what is considered to be reasonable. Proposals will vary and would need to be considered against the size of the adjacent settlement, as well as other material planning considerations. The application of a site size threshold across the borough may have a greater impact on some areas more than others, and could equally pose a risk of the Council being challenged if an application is refused.

**Recommended Test Valley Borough Council Interim Policy Provision:-**

**Proposals will be considered on a site by site basis taking into consideration the size of the proposed site against the size of the adjacent settlement. Proposals will also need to demonstrate evidence of need in the site location to justify the size of the development, and will need to demonstrate that the development is sustainable in terms of its proximity to local transport networks and amenities.**

## **6 Options and Options Appraisal**

- 6.1 **Option A** – To adopt the recommended interim policy position and authorise the preparation and publication of an Interim First Homes Policy as set out in this report.
- 6.2 **Advantages:** Adoption of the interim policy will assist the Housing Team in their negotiations with developers on new developments where First Homes are a mandatory requirement. The adoption of an interim policy will enable the Housing Team to ensure that First Homes are affordable for the appropriate customer group, and limit the impact that the delivery has on the affordable and social rented tenures.
- 6.3 **Disadvantages:** None.
- 6.4 **Option B** – Not to adopt the proposed interim policy position and authorise preparation and publication of an Interim First Homes Policy as set out in this report.
- 6.5 **Advantages:** None.
- 6.6 **Disadvantages:** If a decision is made not to adopt an interim policy on First Homes it could leave the Council in a weak position when negotiating their delivery with developers. This could have a detrimental impact on the delivery of other affordable housing tenures which meet the greatest needs.
- 6.7 **Option C** – Not to approve some or all of the recommendations and to resolve to adopt some other form of First Homes arrangement and/or alternative Interim Policy wording.
- 6.8 **Advantages:** None

- 6.9 **Disadvantages:** The recommendations set out in this report and described at Option A have been formulated with reference to Government Guidance and with the benefit of Officers' professional opinions, taking into account local circumstances and policy provisions. Option A therefore represents the optimal position.

Option Appraisal - For the reasons set out above Option A is the recommended option.

## **7 Risk Management**

- 7.1 A risk assessment has been completed in accordance with the Council's Risk Management Methodology. The only risk which remains an Amber risk is around the reduction in the delivery of affordable/social rented homes and shared ownership homes. The inclusion of First Homes as 25% of all affordable homes on qualifying sites is mandatory, and will result in a reduction in other affordable housing tenures. In order to minimise the impact, the Council will ensure that Local Plan policies are applied for the remainder of the affordable housing delivered on these sites, with emphasis on delivery of social rented homes for those on lowest incomes wherever possible and financially viable.

## **8 Resource Implications**

- 8.1 The implementation of the interim policy will be resourced from existing staffing and will be form part of existing workloads.
- 8.2 The government recognises that the mandatory provision and administration of First Homes may have resource implications for local authorities. A separate Government First Homes project is currently underway, with government providing grant funding to developers to convert new open market homes to First Homes, and they will be monitoring the impact of the administration of that scheme on local authority resources. Subject to the outcome, local authorities may be able to make a charge for the administration work associated with this new tenure.

## **9 Legal Implications**

- 9.1 An interim policy will form part of the Council's planning policy guidance documents.
- 9.2 The publication of the First Homes Interim Policy Position will facilitate the Council in meeting its statutory obligations with regard to the delivery of this new affordable housing tenure in the borough.

## **10 Equality Issues**

- 10.1 An EQIA screening has been completed and no potential for unlawful discrimination and/or low level of minor negative impact identified. A full EQIA has not been carried out.

## **11 Other Issues**

### **11.1 Community Safety**

11.2 The adopted Affordable Housing Supplementary Planning Document seeks to ensure the development of well-designed housing that can contribute to reducing crime and create places where people wish to live and work. The delivery of First Homes will form part of the overall affordable housing delivery on new developments and will be subject to the same requirements as the other tenures.

### **11.3 Environmental Health Issues**

11.4 None.

### **11.5 Sustainability and Addressing a Changing Climate**

11.6 The Affordable Housing Supplementary Planning Document sets out guidance to secure sustainable developments across the borough. That same guidance will still be applicable to First Homes delivery.

### **11.7 Property Issues**

11.8 None.

### **11.9 Wards/Communities Affected**

11.10 All wards are potentially affected.

## **12 Conclusion and reasons for recommendation**

12.1 This report has identified the key challenges around the delivery of First Homes and sets out a proposed interim policy position for Test Valley Borough Council to apply when negotiating developments where affordable housing is to be included, and specifically where First Homes are included. The interim policy may need to be reviewed and updated to reflect any new guidance or challenges that occur during the inception of the First Homes tenure, and in response to any further government guidance or amendments released following the First Homes Pilot Project. The Local Plan review process can consider the appropriateness for policies on First Home Exception Sites and whether any further evidence is required.

12.2 It is recommended that the interim policy position as set out in this report is adopted and a First Homes interim policy is produced and adopted.

Background Papers (Local Government Act 1972 Section 100D)

Local Plan

Affordable Housing Supplementary Planning Document

24 May 2021 Affordable Homes Update - Written Ministerial Statement

24 May 2021 First Homes Planning Practice Guidance

Confidentiality

It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.

No of Annexes:	0	File Ref:	N/A
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Report to:	Cabinet	Date:	27 October 2021