

# First Homes Policy Position

<b>Committee considering report:</b>	Executive
<b>Date of Committee:</b>	9 June 2022
<b>Portfolio Member:</b>	Councillor Howard Woollaston
<b>Date Portfolio Member agreed report:</b>	1 February 2022
<b>Report Author:</b>	Janet Weekes/Bryan Lyttle
<b>Forward Plan Ref:</b>	EX4177

## 1 Purpose of the Report

- 1.1 To brief members on a new affordable housing product ‘First Homes’ introduced into national policy through a Written Ministerial Statement in May 2021, and to consider West Berkshire’s policy position on First Homes.

## 2 Recommendations

- 2.1 Executive is asked to:
- (a) Consider the proposed policy position on First Homes in West Berkshire, and
  - (b) Agree the proposed First Homes policy at Appendix B.

## 3 Implications and Impact Assessment

Implication	Commentary
<b>Financial:</b>	The Council will be required to assess buyer eligibility of potential buyers of First Homes, in accordance with the policy position included at Section 5.17 of this report. There is no certainty over volume of applications that the Council will be required to assess and it is not possible at this stage to reliably estimate what such revenue costs might be.
<b>Human Resource:</b>	There may be a requirement to increase resources to manage the assessment process whilst it is embedded as BAU.
<b>Legal:</b>	The model section 106 planning obligations will need to be incorporated into the current section 106 precedent and the

	<p>responsibility and any administration fee for monitoring, needs to be considered and addressed in the section 106 agreement.</p>
<p><b>Risk Management:</b></p>	<p>The risks associated with the First Homes Policy are:</p> <ul style="list-style-type: none"> <li>• If the First Homes Policy is not implemented the Council will not be policy compliant and will not enable future planning applications submitted to reflect the policy position. The approval of this policy will mitigate this risk.</li> <li>• There is a risk that administering of the eligibility criteria will necessitate an increase in resources. A resource plan will be completed to mitigate this risk</li> <li>• There is also a recognised risk that First Homes will reduce the number of shared ownership and low cost rent/affordable homes for development. Changes to the tenure split will mitigate this risk but the impact of the risk to rural exception sites with these discounted homes is not yet known.</li> <li>• This policy would reduce the proportion of shared ownership and social rent delivered on open market sites (to 5% and 70% respectively) to make way for First Homes (25%). There is a risk that this could deter Registered Providers from providing social rent and shared ownership as part of open-market housing developments. Without a willing Registered Provider partner, the ability of developers to bring forward policy compliant development schemes could be restricted. This could risk both the delivery of open-market housing and First Homes, and could impact on CIL revenue.</li> <li>• Viability issues could occur from the lowering of the price cap which could impact on the delivery of First Homes and result in less affordable housing overall. To mitigate this the Council will determine whether to lower the price cap.</li> <li>• There is a risk that First Homes are rented at a market rent and this would mean the home would no longer be meeting the need for affordable housing. To mitigate this First Home tenants would be approved by the Council and the rent charged would be capped at the local housing allowance rate. This will make sure that the property remains affordable and is meeting local housing needs.</li> </ul>

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<b>Property:</b>	Whilst it is not anticipated that First Homes will have any impact on Property, the Housing Service regularly liaises with Corporate Property where there are property related matters and will continue to do so in relation to this policy.			
<b>Policy:</b>	The Written Ministerial Statement on Affordable Homes, 24 May 2021 sets out the national policy requirements.  The First Homes policy is intrinsically linked to the Local Plan, Affordable Housing policy and Housing Allocations policy. Therefore consideration will be applied to these policies.			
	<b>Positive</b>	<b>Neutral</b>	<b>Negative</b>	<b>Commentary</b>
<b>Equalities Impact:</b>				
<b>A</b> Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?	X			The need to deliver First Homes will benefit local buyers most in need of affordable housing.
<b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?	X			The need to deliver First Homes will benefit local buyers most in need of affordable housing.
<b>Environmental Impact:</b>		X		The environmental impact is neutral.
<b>Health Impact:</b>		X		The health impact is neutral.
<b>ICT Impact:</b>		X		The ICT impact is neutral.
<b>Digital Services Impact:</b>		X		The digital services impact is neutral.

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<b>Council Strategy Priorities:</b>			X	The new national policy could impact on the timetable for delivering a new Local Plan before the elections in 2023.
<b>Core Business:</b>			X	Additional work will need to be carried out involving policy, process and procedural aspects to address these changes introduced by Government.
<b>Data Impact:</b>		X		A data impact assessment has been completed.
<b>Consultation and Engagement:</b>	Internal consultation has taken place with housing, planning policy, planning development management, finance and legal officers. The Council will need to communicate its First Homes Policy to communities, developers, housebuilders and Registered Providers. The Council engaged with housing sector stakeholders (Registered Providers) in February in order to consult on the policy ahead of the Executive considering the policy for adoption. Minor queries were raised regarding how the policy would operate and amendments were made to the policy for clarification as a result.			

## 4 Executive Summary

- 4.1 In May 2021 the Government introduced a new type of affordable housing called 'First Homes'. First Homes are a new affordable housing product that allow first-time buyers, with a maximum income of £80,000, to buy a property with a 30% discount off the market value, with a maximum price of £250,000 after the discount has been applied. Future resales of First Homes must also be discounted by 30%, to ensure the properties remain affordable in perpetuity.
- 4.2 National policy on First Homes allows local authorities to impose a lower price cap and introduce a higher discount of 40% or 50% if there is evidence of need to support this. Local authorities are also allowed to apply a lower income cap or specify their own local eligibility criteria.

## 5 Supporting Information

### Introduction

- 5.1 The Government consulted on a new type of affordable housing called 'First Homes' from February 2020 - May 2020. The Government then consulted on proposed changes to the planning system from August 2020 - October 2020. Following these consultations, the First Homes policy was introduced via a Written Ministerial Statement on affordable homes on 24 May 2021. Statutory planning guidance was updated at the same time.

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5.2 Transitional arrangements ended on 1 January 2022 and the policy will need to be operationalised by West Berkshire Council through a new West Berkshire policy (see Appendix B for the proposed policy), the new local plan, and decisions on new planning applications.

## Background

- 5.3 A First Home must be sold at a discounted price of 30% off the market value of the property. The market value must be set by an independent registered valuer, on the assumption that the home is sold as an open market dwelling without restrictions. The first time it is sold, the home must cost no more than £250,000, after the discount has been applied. This means that a home sold for £249,000 after the discount is applied would have a market value of £355,714. Future re-sales must also have a discount of 30%. If the home sold for a second time at a market value of £380,000, the sale price must be no more than £266,000. This makes sure that First Homes remain relatively affordable in future, even if property prices rise over time. Local authorities are allowed to set a lower price cap and introduce a higher discount of 40% or 50% if there is evidence of need to support this.
- 5.4 Buyers of First Homes must be first-time buyers with a mortgage or home purchase plan, and a combined annual income of no more than £80,000. This is a requirement set by the Government in national policy. Local authorities are allowed to set a lower income cap or set local eligibility criteria.
- 5.5 A First Home owner can let the property for up to 2 years provided they notify the local authority and secure any necessary permissions from their mortgage lender. The local authority can allow for rental periods of longer than 2 years and set criteria for this.
- 5.6 The delivery of First Homes as part of on-site affordable housing for new residential development sites is required by national policy. Government policy stipulates that 25% of on-site affordable housing should be First Homes and that this contribution cannot be made in lieu via an off-site commuted sum. Where schemes consist of 100% of: build-to-rent, specialist housing for a group of people with specific needs (such as purpose-built accommodation for the elderly or students), self- and custom-build, and affordable housing, these schemes are exempt from this requirement under the National Planning Policy Framework.
- 5.7 Sites with full or outline planning permission in place or determined (or with a right to appeal against non-determination) before 28 December 2021 are exempt from this requirement. Applications where significant pre-application engagement takes place before 28 March 2022 are also exempt. Applications made under section 73 of the Town and Country Planning Act 1990 to amend an existing planning permission are also exempt, unless the variation in question relates to the quantity or tenure mix of affordable housing for that development.
- 5.8 First Homes are secured through section 106 planning obligations. The Government has provided a model section 106 obligation for this purpose. Each property must have a restrictive covenant entered on the title registered at HM Land Registry which prevents the property from being sold without the discount unless the seller seeks permission from the local authority to have the covenant removed. The Government has provided a model covenant for this purpose. First Homes qualify for mandatory social housing

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relief from CIL. If the covenant is removed and the First Home is re-sold without the discount, the property becomes liable for CIL and this liability is backdated.

5.9 The Government is also keen to deliver First Homes through exception sites. Exception sites are small sites that are not allocated in the Local Plan that deliver affordable housing. There are now two types of exception sites 1. First Homes exception sites and 2. Rural exception sites.

5.10 National policy expects local authorities to support the development of First Homes exception sites unless the need for First Homes is already being met within the local authority's area. First Homes exception sites should be adjacent to existing settlements; proportionate in size to them; not be located within or compromise the protection given to areas or assets of particular importance including Areas of Outstanding Beauty (AONB); and comply with any local design policies and standards. A proportion of market homes may be allowed on the site, where essential to enable the delivery of First Homes without grant funding.

5.11 The Government's national policy (see appendix A) states that:

*As such, the Government have decided that in designated rural areas, which includes some of the more constrained and expensive regions of the country such as national parks and areas of outstanding natural beauty, rural exception sites will remain as the sole exception site which can come forward. Elsewhere, First Homes exception sites and rural exception sites can both come forward.*

5.12 Therefore, it is important to note that only rural exception sites and not First Homes exception sites will be permitted within AONBs. While First Homes *exception sites* will not be permitted within AONBs, First Homes will come forward on *allocated sites* within AONBs. For example, sites allocated within AONBs through Neighbourhood Development Plans.

## Proposals

5.13 The national policy sets a price cap of £250,000 and a discount of 30%. The 30% discount will be absorbed by developers and house builders as part of their contribution towards affordable housing. It will not be paid for by the Council or by Homes England. The discount level will therefore need to be considered through viability assessments as supporting evidence for the Local Plan review. The Council will need to ensure that the discount level is viable and does not prevent the delivery of housing development, when all other policies in the Local Plan (including zero carbon) are taken into account.

5.14 The local authority has the discretion to set a lower price cap and to set higher discount of 40% or 50%. West Berkshire has high affordable housing need which would justify setting a lower price cap and a higher discount. However, this could impact on development viability and risk the delivery of both open-market housing and First Homes, and result in less affordable housing overall.

5.15 The national policy says that potential buyers of First Homes must be first-time buyers, must have a mortgage or home purchase plan and, must have a maximum combined income cap of £80,000. There is no local evidence to suggest that the income cap should be different for West Berkshire.

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- 5.16 The national policy allows local authorities to set local eligibility criteria. Setting a local connection criteria would ensure that local people in need of affordable housing would be given priority access to First Homes.
- 5.17 There are some circumstances where the local connection criteria would not apply. Members of the armed forces (and their families) are exempt from this criteria by the national policy. The national policy also stipulates that if a First Home has been marketed for three months and has not been sold, the local connection criteria would no longer apply. However, the income cap of £80,000 and the requirement to have a mortgage would still apply.
- 5.18 The national policy allows First Homes to be let for a maximum of 2 years, subject to notifying the local authority and securing permission from the mortgage lender. There is a risk that First Homes are rented at a market rent. In this situation, the home would no longer be meeting the need for affordable housing. Therefore, in West Berkshire, First Home tenants should be approved by the Council and the rent charged should be capped at the local housing allowance rate. This would make sure that the property remains affordable and is meeting local housing needs.
- 5.19 First Homes are secured through section 106 planning obligations. National policy requires that 25% of the affordable housing provided on-site via planning obligations must be First Homes. In West Berkshire, this would result in an affordable housing tenure mix of 70% social rent (previously 70%), 25% First Homes (previously 0% / new tenure), and 5% shared ownership (previously 30%). The Local Plan review will need to set out this mix in an affordable housing policy.
- 5.20 The impact of introducing First Homes into the affordable housing mix will be to reduce the provision of shared ownership dwellings potentially delivered through the planning process. In terms of dwelling numbers, without the introduction of First Homes, the Local Plan review would deliver between 795 and 898 shared ownership dwellings over the plan period 2022 – 2036. However, with First Homes taking up 25% of the affordable housing provision, the Local Plan review would deliver between 133 and 150 shared ownership dwellings over the same period. The impact of First Homes on shared ownership delivery is therefore between 662 and 748 fewer shared ownership dwellings.
- 5.21 The above analysis assumes that all new developments coming forward over the plan period will provide affordable housing in line with the Local Plan requirements (30% of the total number of dwellings on site, and the 70% social rent, 25% First Homes, 5% shared ownership tenure split). In practice, the Local Plan will allow some flexibility, in exceptional circumstances, for developments where the level of affordable housing or tenure mix needs to differ in order to bring the development forward. Therefore the above figures should be treated with caution, and as an estimate only.
- 5.22 In line with the new national policy on First Homes, West Berkshire's Regulation 19 Local Plan consultation will set out a draft policy to support the development of entry-level exception schemes to provide homes for first-time buyers. The Local Plan review policy will set out criteria for First Homes exception sites and will allow for a small proportion of market homes where essential to deliver the scheme.

**5.23** The proposed West Berkshire First Homes policy is set out at Appendix B. In summary, the **recommended policy position is:**

- New residential development will deliver First Homes as part of the affordable housing required on-site.
- Affordable housing on-site will consist of 70% social rent, 25% First Homes and 5% shared ownership.
- First Homes cannot be provided through off-site commuted sums in lieu of on-site provision.
- 100% build-to-rent schemes, specialist accommodation for the elderly or students, self- and custom-build homes, and affordable housing schemes are exempt from this requirement.
- The First Home will be sold at a discount of 30% off the market value (market value must be assessed by an independent, registered valuer) and, the first time it is sold, will have a maximum purchase price of £250,000, after the discount is applied.
- Future sales of the First Home will also be at a discount of 30% off the market value, to ensure the home remains affordable in perpetuity.
- Potential buyers of a First Home must:
  - Have a combined income of no more than £80,000;
  - Have a mortgage or home purchase plan;
  - Have a local connection to West Berkshire.
- West Berkshire Council will assess applications from potential buyers to check they meet the eligibility criteria.
- Members of the armed forces (and their spouses/partners and ex-spouses/partners), and veterans of the armed forces, are exempt from the local connection criteria. In exceptional cases, households may be fleeing violence or threats of violence, or be in need of protection as a witness in a serious criminal case. In such cases, the local authority may decide to exempt the household from the eligibility criteria.
- If the First Home has been actively marketed for at least 3 months and the property has not been sold at the end of this period, the local connection criteria will cease to apply but the income cap of £80,000 and the requirement for the buyer to be a first-time buyer with a mortgage or home purchase plan will continue to apply.
- If the First Home is let, it must be to a Council-approved tenant and the rent must not exceed the local housing allowance rate.
- The delivery of First Homes, the discount in perpetuity, and the eligibility criteria, will be secured through section 106 planning obligations and restrictive covenants entered onto HM Land Registry, using the model section 106 obligation and model covenant provided by the Government.

## 6 Other options considered

6.1 Officers have considered amending the national income threshold and the price cap but there is no evidence to suggest that a different approach is justified in West Berkshire. Officers have considered only having the national eligibility criteria but this would not be sufficient in meeting local housing need and ensuring that local first time buyers are prioritised for this type of affordable housing.



## 7 Conclusion

7.1 There is a need for West Berkshire to issue a policy on First Homes to enable the delivery of First Homes in a way that most benefits local people in need of affordable housing. This policy would then need to be incorporated into the Local Plan review affordable housing policy and exception sites policy to ensure that future applications for planning permission reflect the policy position.

## 8 Appendices

Appendix A – Written Ministerial Statement May 2021

Appendix B – First Homes Policy

Appendix C – First Homes Frequently Asked Questions (FAQs)

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### Corporate Board's recommendation

Proceed to Operations Board.

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### Background Papers:

#### Subject to Call-In:

Yes:  No:

The item is due to be referred to Council for final approval	<input type="checkbox"/>
Delays in implementation could have serious financial implications for the Council	<input type="checkbox"/>
Delays in implementation could compromise the Council's position	<input checked="" type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months	<input type="checkbox"/>
Item is Urgent Key Decision	<input type="checkbox"/>
Report is to note only	<input type="checkbox"/>

**Wards affected:** All

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### Document Control

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<b>Version</b>	<b>Date</b>	<b>Description</b>	<b>Change ID</b>
1	17/01/2022	Risks and formatting	v0.1
2	17/01/2022	Appendix – Written Ministerial Statement	v0.
3	17/01/2022	Legal comments	v0.3
4	18/01/2022	Risks, references and appendices	v0.4
5	19/01/2022	Financial risks, proof reading corrections	v0.5
6	24/01/2022	Changes to reflect Service Director's comments	v0.6
7	26/01/2022	Changes to reflect Executive Director's comments	v0.7
8	26/01/2022	Changes to reflect Portfolio Holder's comments	v0.8
9	2/02/2022	Changes to reflect Housing Board's comments	v0.9
10	18/04/2022	Approval to proceed granted by Corporate and Operations Boards	v.10