

CABINET

DATE OF MEETING:	2 December 2021
TITLE OF REPORT:	HART INTERIM PLANNING POLICY STATEMENT ON FIRST HOMES
Report of:	Head of Place/Community
Cabinet member:	Cllr Graham Cockarill – Place Cllr Stuart Bailey – Community
Key Decision	No
Confidentiality	Non exempt

1 PURPOSE OF REPORT

- 1.1 This report reflects the introduction of First Homes as an affordable housing product by the Government in May 2021 and sets out a suggested approach to be applied in Hart district, through the introduction of an Interim Planning Policy Statement.

2 OFFICER RECOMMENDATION

- 2.1 Cabinet is recommended to adopt the First Homes Interim Planning Policy Statement at Appendix A.

3 BACKGROUND

- 3.1 On 24 May 2021, the Government published a [Written Ministerial Statement](#) to set out the Government's plans for the delivery of First Homes defining the product and changes to [planning policy](#). These changes came into effect from 28 June 2021.
- 3.2 First Homes are a specific kind of discounted market sale housing and fall under the 'affordable housing' definition for planning purposes. There is an existing requirement for all major developments to include provision for affordable housing.
- 3.3 Hart Local Plan (Strategy & Sites) 2032 adopted in April 2020, includes Policy H2 which sets out the Council's requirement for affordable housing on new development in the district. In summary this requires:
- On major developments (i.e., developments where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more) the Council will require 40% of the new homes to be affordable housing
 - the tenure mix of the affordable housing will be 65% affordable housing for rent and 35% affordable home ownership
 - 15% of the affordable units will be accessible and adaptable as defined by requirement M4(2) of the Building Regulations

- 3.4 The requirements of Policy H2 are based on extensive evidence gathered through the Local Plan process and subsequently found sound at examination prior to adoption of the Local Plan in 2020.
- 3.5 The Council has sought legal advice on the matter of First Homes, given its Local Plan was only adopted in 2020. That advice concludes that *‘the Council is not obliged to implement the First Homes Policy as a matter of law. However, it should be given considerable weight and applied unless the Council has a justifiable basis for departing from it. The Council would be at risk of its decision being overturned if it does not provide proper reasoning for taking a different stance to that set out in the First Homes Policy.’*
- 3.6 The Local Plan and Policy H2 is silent on First Homes and given the above legal opinion it is considered prudent in accordance with National Planning Guidance to prepare and publish an interim policy statement. The alternative would be to update the relevant local plan policies, this however would not be a quick process and given previous commitments to undertake an assessment to inform a local plan review it is considered at this time, a policy statement is sufficient to set out how the Council will apply the First Homes policy.
- 3.7 The interim planning policy statement (attached at Appendix A) therefore sets out how the Council will apply the requirement introduced through changes to national planning policy in relation to First Homes.

4 DETAILS

- 4.1 First Homes are discounted market sale units which:
- a) must be discounted by a minimum of 30% against the market value;
 - b) are sold to a person or persons meeting the First Homes eligibility criteria (see below);
 - c) on their first sale, will have a restriction registered on the title at HM Land Registry to ensure this discount (as a percentage of current market value) and certain other restrictions are passed on at each subsequent title transfer; and
 - d) after the discount has been applied, the first sale must not be at a price higher than £250,000 (outside Greater London).
- 4.2 To be eligible for a First Home Government guidance requires:
- First time buyers only - as defined in paragraph 6 of schedule 6ZA of the Finance Act 2003 for the purposes of Stamp Duty Relief for first-time buyers;
 - Household combined gross annual income up to £80,000;
 - All purchasers must use a mortgage or home purchase scheme for at least 50% of the discounted purchase value.
- 4.3 In addition to the above the Council would also wish to introduce a local connection test, which is allowed for in government guidance. This is to

ensure that the provision of First Homes responds to the housing needs of the district. The local connection test is set out in the policy statement and a detailed occupation plan is being prepared.

4.4 First Homes are the government's preferred discounted market tenure and should account for at least 25% of all affordable housing units delivered by developers through planning obligations (i.e., S106 agreements).

4.5 The following table illustrates how Policy H2 would be apportioned to include 25% of First Homes on varying sized developments:

Table 1

Total Homes	40% affordable	25% First Homes	75%	
			35% affordable home ownership	65% affordable housing for rent
		Provided by the developer	Provided and managed by a registered provider	
10	4	1	1.05	1.95
20	8	2	2.1	3.9
30	12	3	3.15	5.85
40	16	4	4.2	7.8
50	20	5	5.25	9.75
75	30	7.5	7.88	14.63
100	40	10	10.50	19.5

4.6 The small number of dwellings and partial dwellings raises issues of implementation, in particular the potential interest of registered providers to take on the affordable home ownership/affordable rented element.

4.7 First Homes are a market product albeit discounted so would be provided by the developer through S106 agreements with detailed restrictions to ensure that the property remains as a First Home through subsequent sales. This element introduces a role for the Council in ensuring that any properties delivered as First Homes, remain such.

4.8 The interim policy statement acknowledges that parts of a dwelling may be either rounded up/down or converted to a financial contribution and encourages applicants to discuss schemes at the early stages of preparation with the Council to enable a workable outcome.

4.9 Government guidance allows for local authorities to adjust the percentage discount (30%) to require a higher minimum discount of either 40% or 50%, if they can demonstrate a need for this. At present the Council does not have the evidence to be able to support an adjustment of the 30% specified in guidance and has therefore commissioned further work on both affordability and viability. This work is anticipated to be completed by early 2022 and will then inform any subsequent reviews of the interim policy statement.

5 OVERVIEW AND SCRUTINY DISCUSSION

- 5.1 The Overview and Scrutiny Committee considered this report on 16 November 2021 and supported the Interim Policy Statement. The Committee understood that 'First Homes' has been imposed nationally by the Government.
- 5.2 Concerns were raised about the price cap of £250,000 and whether this would result in only 1 or 2 bedroomed homes being delivered. There is a risk of this, and once further work is completed on affordability and viability Hart may wish to adopt a greater level of discount (40% or 50%) to enable delivery of other sizes and types of First Homes. However, this would impact the viability of delivering affordable homes for rent and so would need to be looked at very carefully before such a step is taken. Work has started on gathering this evidence.
- 5.3 It was suggested that the use of decimal points, when showing numbers of homes to be provided of each tenure, needed further clarification, for example in terms of prioritising certain tenures (e.g., rounding some tenures up and others down).
- 5.4 It was asked whether parish councils would have a role in validating the local connections of people purchasing First Homes.
- 5.5 The relationship with Neighbourhood Plans was discussed. It does not affect those plans already made, but it is open to those preparing new Neighbourhood Plans to include a First Homes policy with specific requirements that would apply in that area, provided it is evidence based.
- 5.6 Exception sites were discussed. The Local Plan contains a Rural Exceptions Policy H3 which applies to villages in rural areas. These sites are justified on the grounds that they address a proven local need for affordable housing. It appears that First Homes could be justified on rural exception sites if there is a local need.
- 5.7 In addition, as part of the First Homes policy the Government has introduced First Homes Exceptions Sites. These are not limited to smaller settlements and mean that exception sites on the edge of any settlement, proportionate in size, could come forward, primarily for First Homes.
- 5.8 The question was also asked as to whether a First Homes policy statement is needed at all. This is dealt with in the section below on alternative options.

6 ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

6.1 Option 1 – Do not publish a policy statement

- 6.2 One option is not to publish an interim policy statement on First Homes.
- 6.3 However, First Homes have entered national policy through a Ministerial Statement and Planning Practice Guidance. As a result, it is a material consideration when determining planning applications. A policy statement

provides clarity and certainty for those elements that are optional, such as a local connection test, or open to interpretation, such as the tenure mix when applying first homes in the context of the prevailing affordable housing policy in the local plan.

6.4 The Hart local plan pre-dates First Homes and so is silent on the issue. It is therefore recommended, in line with Planning Practice Guidance, to set out the Council's position for applicants, developers, Registered Providers, decision makers and other stakeholders.

6.5 **Option 2 – Do not apply First Homes**

6.6 This option is to ignore the Government policy and simply apply the Hart Local Plan Policy H2 as adopted. However, the Government's policy is a material consideration with significant weight and the Council would need strong justification to depart from it. If new evidence provides a justification to depart from the First Homes policy, then Members may wish to revisit the proposed approach.

6.7 **Option 3 – Treat the 25% First Homes requirement as part of the 35% Affordable Home Ownership element in local plan policy, and retain the 65% affordable homes for rent element in full.**

6.8 The current local plan requires 40% of homes on large sites to be affordable, with a tenure mix of:

- 35% Affordable Home Ownership
- 65% affordable homes for rent.

6.9 Applying First Homes under Option 3 would result in a mix as follows:

- 25% First Homes
- 10% Other Affordable Home Ownership (usually Shared Ownership)
- 65% Affordable Homes for Rent (either Affordable Rent or Social Rent)

6.10 Table 2 below illustrates the mix that would be applied under this option.

Table 2

Total Homes	40% affordable	35% affordable home ownership		65% affordable housing for rent
		25% First Homes	10% Other affordable home ownership usually shared ownership	
10	4	1	0.40	2.60
20	8	2	0.80	5.20
30	12	3	1.20	7.80
40	16	4	1.60	10.40
50	20	5	2.00	13.00
75	30	7.5	3.00	19.50
100	40	10	4.00	26.00

6.11 Legal advice confirms that this option would comply with national guidance, given the wording of Hart's Affordable Housing policy H2 in the adopted

local plan. Policy H2 requires 35% Affordable Home Ownership and 65% Affordable Homes for Rent. The advice confirms that First Homes can be seen as a form of Affordable Home Ownership within the terms of Policy H2 and could form part of the 35% requirement.

6.12 However, there are practical concerns regarding the very low numbers of shared ownership properties generated under this option, particularly for the sizes of site (less than 100 homes) likely to come forward under the current local plan (the strategic sites have permission already). The concerns are:

- a) This option increases the risk that Registered Providers will not take up the shared ownership units. Where only one or two shared ownership homes are provided, economies of scale diminish in terms of marketing the properties and ongoing management.
- b) The reduction in shared ownership properties could undermine viability, ultimately resulting in fewer social rented homes in any event.

6.13 Given these concerns, and until there is further evidence that may point towards a different approach, the recommended Interim position is to simply top-slice the 25% then apply the local plan tenure split to the remaining 75% of affordable homes. Based on discussions with other authorities this appears to be the standard or default application of the guidance depending on local circumstances.

7 NEXT STEPS

- 7.1 Continue to collate evidence on affordability and viability in relation to the implementation of First Homes in Hart District, and engage with Registered Providers on the issues raised by First Homes.
- 7.2 Work with developers in preparing planning applications to achieve the best outcomes to meet local affordable housing needs.
- 7.3 Once agreed, to publish the Interim Planning Policy Statement on First Homes on the Council's website.
- 7.4 Develop a First Homes Occupation Plan which will set out the eligibility criteria and Hart Council's processes for administering the delivery and sale of First Homes.

8 FINANCIAL IMPLICATIONS

- 8.1 The commissions to examine affordability and viability are being sourced from existing budgets. The Council's role in the administration processes involved with First Homes, are being explored, this will involve both the Housing Strategy and Development Team and legal services.

9 CLIMATE CHANGE IMPLICATIONS

- 9.1 There are no direct carbon/environmental impacts arising from the recommendations.

10. EQUALITIES IMPACT

- 10.1 An EqIA has been undertaken. This acknowledges that the introduction of First Homes will potentially reduce the other affordable housing products available and this could impact those on lower incomes, older people (non-first time buyers). Hence the need to encourage those proposing developments to engage with the Council in the early stages of scheme preparation to discuss their proposals.

Contact Details:

Daniel Hawes	Email: daniel.hawes@hart.gov.uk
Jenny Wood	Email: jenny.wood@hart.gov.uk
Nicola Harpham	Email: nicola.harpham@hart.gov.uk
Gemma Watts	Email: gemma.watts@hart.gov.uk

APPENDICES

Appendix A: First Homes – Interim Planning Policy Statement December 2021