

Committee Name and Date of Committee Meeting

Cabinet – 25 April 2022

Report Title

Introduction of First Homes and approval of local eligibility criteria

Is this a Key Decision and has it been included on the Forward Plan?

Yes

Strategic Director Approving Submission of the Report

Paul Woodcock, Strategic Director of Regeneration and Environment

Report Author(s)

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Ward(s) Affected

Borough Wide

Report Summary

First Homes became a mandatory Central Government requirement from 28 December 2021. They are a new affordable home ownership product to be delivered via Section 106 planning obligation on residential development sites.

One quarter (25%) of all affordable homes secured by Section 106 planning obligation will be First Homes.

Central Government has established mandatory national criteria relating to the delivery of First Homes. In addition to this requirement, local authorities can choose to apply local eligibility criteria, including local residency and employment criteria, income, and price caps. Details of the initial criteria to be applied in Rotherham are set out in the report.

It is the developer's responsibility to sell First Homes to eligible applicants. However, the Council will be directly involved in the sales process for First Homes, both at initial sale stage and any subsequent resales. As the Council will be involved in the administration of First Homes, a fee is to be charged to the developer for the first sale and to cover costs of administration on subsequent re-sales. The fee charging schedule is outlined in this report.

Recommendations

1. That Cabinet notes the introduction of First Homes as a mandatory requirement by Central Government.
2. That Cabinet approves the proposed local eligibility criteria as additional requirements over and above the First Homes mandatory national criteria. The local eligibility criteria will be published in an Interim Policy Statement on the Council's website.
3. That Cabinet approves the introduction of a fee charging system to cover reasonable costs associated with the administration of First Homes in perpetuity.
4. That Cabinet approves delegation to the Strategic Director for Regeneration and Environment, in consultation with the Cabinet Member for Jobs and the Local Economy, to amend the First Homes local eligibility criteria and fee charging system as required by monitoring and review.

List of Appendices Included

Appendix 1 Interim Policy Statement
Appendix 2 Equality Part A - Screening
Appendix 3 Carbon Impact Assessment

Background Papers

National Planning Policy Framework

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

National Planning Policy Guidance

<https://www.gov.uk/guidance/first-homes>

Rotherham Local Plan 2013 – 2028

<https://www.rotherham.gov.uk/planning-development/guide-local-plan/1>

Supplementary Planning Document (SPD) 8 Affordable Housing

<https://www.rotherham.gov.uk/planning-development/planning-guidance/1>

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

No

Exempt from the Press and Public

No

Introduction of First Homes and approval of local eligibility criteria

1. Background

- 1.1 From 28 December 2021, it is a mandatory requirement that all local authorities implement the First Homes policy as part of their Section 106 planning obligation negotiations with developers. One quarter (25%) of all the affordable housing units required for each development, will be brought forward as First Homes. First Homes agreed between 28th December 2021 and approval of this Cabinet report will be subject to the requirements of national policy only and local policy eligibility criteria will only be applied with the agreement of the developer.
- 1.2 It is a requirement of the associated Planning Policy Guidance (PPG) that First Homes:
- Must be discounted by at least 30% against the market value, to ensure they are an affordable housing product and in these circumstances will be eligible for mandatory relief from the Community Infrastructure Levy.
 - Are sold to a person or persons who meet the First Homes eligibility criteria, including locally determined criteria.
 - On their first sale First Homes will apply a restriction on the title of the property at HM Land Registry to ensure this discount (as a percentage of market value) and certain other restrictions are passed on at each subsequent sale of the property.
 - After the discount has been applied, the first sale must be at a price no higher than £250,000 (or £420,000 in Greater London).
- 1.3 The discount on the Open Market Value (OMV) and the eligibility criteria are conditioned via the Section 106 planning agreement and enforced by a restriction on the title deeds of the property. The First Home can only ever be resold on the same basis, unless specific nationally prescribed criteria are met to remove the restriction from subsequent sales.
- 1.4 The Open Market Value of a property, and thus the 30% discounted value, will change over time depending on the housing market cycle. But the level of percentage discount of 30% will not change.
- 1.5 Without the introduction of local eligibility criteria, First Homes will have a limited impact in tackling significant affordable housing needs in Rotherham. The Council's Strategic Housing Market Assessment (SHMA) identifies a requirement for social rented housing to meet local housing needs in the Borough. Therefore, discounted open market sale property (a First Home) cannot meet the specific housing need identified in the SHMA.
- 1.6 The joint Strategic Housing Market Assessment was prepared by CRESR (Centre for Regional Economic and Social Research) of Sheffield Hallam University for Sheffield City and Rotherham Metropolitan Borough Councils

and published in January 2020. The SHMA identifies affordability of new homes as a key concern for Rotherham.

- 1.7 The SHMA identifies a combination of a policy environment driving increased socioeconomic inequalities, worsening affordability, and a diminished supply of social rented homes. These factors provide robust evidence that most of the new affordable housing provision in the Sheffield and Rotherham Housing Market is required as social rented housing.
- 1.8 Without the application of local eligibility criteria, the Council will be unable to maximise its own affordable housing policy for the benefit of residents and those with strong connections to our Borough.
- 1.9 Local Plan Policy CS7 Housing Mix and Affordability, seeks 25% affordable homes on all major development sites (greater than 10 homes). Supplementary Planning Document (SPD) 8 Affordable Housing breaks down the 25% into 14% to be delivered as social rented housing and the remaining 11% as intermediate tenures including shared ownership. Social rented housing means housing owned by local authorities and/or registered providers for which guideline target rents are determined through the national rent regime. Intermediate tenure means affordable housing to buy and is targeted at people who are not able to afford to rent or buy a home on the open market; it can include shared ownership, shared equity, and discounted market sale units. First Homes are a discounted market sale product and therefore fall within the intermediate tenure definition.
- 1.10 The table below sets out the current Local Plan affordable housing requirement and identifies the First Homes obligation as a proportion of affordable housing. The calculation shows how First Homes are to be provided as a mandatory 25% of all the affordable housing sought and how the tenure breakdown will operate. The current affordable housing policy seeks 25% affordable homes on major development sites and requires that 14% are delivered as rented homes and 11% as intermediate tenures. To achieve the Government requirement for 25% of the total affordable housing requirement to be First Homes, the intermediate tenure will be split between 6% First Homes (25% of 25% rounded down to whole units) and 5% shared ownership. Therefore, the First Homes element equates to one quarter of the total affordable housing as required by Central Government mandate.

Worked example for a 100-unit site subject to Policy CS7	
Total no. of homes to be built on a site	100
No. of affordable housing units (25% policy requirement)	25
No. of social rented homes (SPD requirement)	14
No. of intermediate tenure (SPD requirement)	11
Breakdown of the 11 units of intermediate tenure	
No. of First Homes (25% of 25) (Government requirement)	6
No. of shared ownership units	5

1.11 The Council's planning policy guidance in SPD 8 Affordable Housing reiterates the priority for social rented homes, as evidenced by the SHMA. It is considered that provision of First Homes, as a home ownership product, will not have a significant impact in meeting the identified affordable housing needs in the Borough.

2. Key Issues

2.1 Central Government has established national eligibility criteria, and all purchasers of First Homes shall meet these requirements, as a minimum:

- A purchaser (or if a joint purchase – all of the purchasers) of a First Home should be a first-time buyer as defined in paragraph 6ZA of the Finance Act 2003 for the purposes of Stamp Duty Relief for first time buyers.
- Purchasers of a First Home, whether individuals, couples or group purchasers should have a combined income not exceeding £80,000 (or £90,000 in London) in the tax year immediately preceding the year of purchase.
- A purchaser of a First Home should have a mortgage or home purchase plan (if required by Islamic law) to fund a minimum of 50% of the discounted purchase price.

2.2 Bolsover District Council are participating in the Government's initial pilot scheme and have reported that many First Homes have been sold to purchasers who do not currently live and have never lived within Bolsover district. This is a cause of concern, as it encourages in-migration from distant towns and cities to take advantage of the cheaper house prices offered through First Homes, at the same time it places extra pressure on other services and facilities and reduces the ability of the Council to meet its own affordable housing needs within the Borough.

2.3 If Cabinet supports the introduction of local eligibility criteria, Central Government policy requires that local criteria only take precedence during the first three months of sale. In these circumstances, it is considered that a robust marketing strategy will be required. This will ensure the developer actively markets the First Homes within the initial three-month period, when local eligibility criteria are applicable. This approach will ensure existing Rotherham residents will have priority to purchase these discount market sale homes.

2.4 As First Homes became a mandatory requirement from 28 December 2021, the preparation of a detailed evidence base sufficient to justify a reduction in income cap and property values is not currently feasible.

2.5 In the future, and only if there is sufficient robust evidence, the Council can introduce additional local eligibility criteria. For example, the reduction of the

national income cap and/or increasing the level of discount that can be applied to the sale of First Homes.

- 2.6 As part of the ongoing monitoring of First Homes, the property types, values, incomes, and purchaser profiles will be analysed. This will enable the Council to revise the income caps or property prices in the future, to better reflect local circumstances. At that time a further report would be brought forward seeking to amend local eligibility criteria to better meet the needs of the Borough.
- 2.7 The Council is directly involved in the sales process for First Homes, both at the initial sales stage and any subsequent resales. National guidance requires the application form containing personal details of potential purchasers to be supplied by the developer to the Council. The Council is then required to confirm the applicant's compliance with national and local eligibility criteria, and to authorise the sale to proceed. It is essential that a fee to cover all administration costs is introduced to reflect the initial and ongoing costs of delivering this product in the long term.
- 2.8 The Council will be required to validate each subsequent re-sale of the property, to ensure all national eligibility criteria and where applicable, local eligibility criteria are adhered to.
- 2.9 The discount of 30% applied to open market values and the eligibility criteria remain in perpetuity. This is enforced through restrictions on the title deeds of the property. Officers of the Council or representatives acting on behalf of the Council will be involved in every resale of the property. They will advise estate agents and potential purchasers, outline the terms of the scheme, screen potential purchasers for their eligibility to proceed, and formalise the agreement in writing. The Council is required to ensure the restriction on title is maintained with each subsequent sale of the property.
- 2.10 As the Council will be involved in the administration of First Homes on an ongoing basis, an initial fee will be charged to the developer to cover reasonable costs of the Council. Payment of ongoing administrative costs will be imposed on subsequent vendors or purchasers.
- 2.11 The Council's proposed initial fee rate is based on anticipated staff costs for administering the scheme. To cover the Council's administrative costs, the fee rate will be regularly reviewed to reflect rising costs of administration. This may be subject to change following further Government regulation.
- 2.12 Central Government encourages local planning authorities to make the development requirements for First Homes clear for their area. The most appropriate method or tool to do this will depend on individual circumstances for each local planning authority. These might include publication of an interim policy statement or updating relevant local plan policies.
- 2.13 Local planning authorities should assess their own circumstances when considering the most appropriate way to implement First Homes. Given the status of the adopted Local Plan and the time required to amend its policies,

the Council has prepared a draft Interim Policy Statement for Cabinet approval. The Statement can be used in planning decisions until the relevant Local Plan policy is reviewed as part of the Core Strategy Partial Update currently in progress.

3. Options considered and recommended proposal

3.1 Option 1: Approve an Interim Policy Statement with Local Eligibility Criteria, to require that:

- Applicants shall currently live or have lived in Rotherham within the last three years for a continuous period of not less than one year. Proof of address and residency will be required; or,
- Applicants who leave Rotherham to pursue higher or further education opportunities will be eligible to apply for a First Home for up to three years after their exit/graduation from a higher/further education course provided they can prove they were resident in Rotherham borough, prior to leaving for higher/further education opportunities; or,
- Applicants shall currently be permanently employed in Rotherham Borough or be able to demonstrate a contract with a local employer. Proof of employer/employment status will be required; or,
- Applicants are a serving member of the Armed Forces, spouses, or civil partners of current members of the Armed Forces, spouses, or civil partners of a deceased member of the armed forces (if their death was wholly or partly caused by their service) and veterans within five years of leaving the armed forces. (Other local connection criteria are disapplied for those meeting the armed forces criteria); and,
- The property must be the applicants only and main home and cannot be rented out for any reason, without the specific consent of the Council and only in exceptional circumstances. Full guidance is provided within NPPG.

3.2 Local eligibility criteria only apply for three months from the date the First Home properties are advertised for sale. If First Homes are not sold within this timeframe the local eligibility criteria are removed, and the only restrictions imposed on purchasers will be compliance with national eligibility criteria.

3.3 **Option 2:** The Council can decide to not implement local eligibility criteria and to accept and use Central Government policy criteria only. This is not recommended as the Council seeks to ensure that First Homes are affordable for Rotherham residents and meet identified local needs of the Borough. Applying local criteria reduces the opportunity for people who have no residency or employment connection to Rotherham purchasing a First Home.

3.4 Officers of the Planning and Housing Services have considered the most appropriate criteria to be included within an Interim Policy Statement. The

proposed criteria in Option 1 are considered to best protect the interests of Rotherham residents and meet local affordable housing needs. The criteria are not too onerous and do not require a robust evidence base to be prepared to support their introduction.

3.5 Option 1 is the preferred option.

4. Consultation on proposal

4.1 As this affordable housing product has been introduced by Central Government, no consultation has been undertaken by this Council on the First Homes product. Central Government has undertaken extensive national consultation prior to its enactment and has instigated several pilot schemes nationally, including with Bolsover District referred to above. The Government allows the option for councils to introduce local eligibility criteria, and developers are anticipating this will happen.

4.2 Delivery of First Homes is now a mandatory requirement. Local eligibility criteria have been designed to ensure that our residents, or those persons with strong local connection are able to derive the greatest benefit from the introduction of First Homes. However, should the local eligibility criteria ultimately prove to be a barrier to sale, Government policy will require that these local eligibility criteria are no longer applied. After three months of marketing, if there are no suitable purchasers, or no interest at that time, national criteria will be imposed on the sale of First Homes.

5. Timetable and Accountability for Implementing this Decision

5.1 Subject to Cabinet approval, the Interim Policy Statement setting out the Council's local eligibility criteria will be published on the Council's website.

5.2 To achieve consistency with the Council's document style, minor changes to numbering, formatting and images may be made prior to publication of the document.

6. Financial and Procurement Advice and Implications

6.1 The approach set out is compliant with the Council's Procurement policies. Any chargeable goods or services required by the Council should be sought in accordance with Section 58 of the Financial and Procurement Procedure Rules (Normal Procedure).

6.2 There are no additional planning costs associated with the introduction of the First Homes national policy, although mandatory relief from Community Infrastructure Levy payments will be applied to this product.

6.3 The Council are required to confirm the applicant's compliance with national and local eligibility criteria, and to authorise the sale to proceed. This function will be managed by the Housing Service. Fee income from the developer and subsequent income on re-sale from the vendor or purchaser

will support the Housing Service to fund the additional staffing and administration costs.

7. Legal Advice and Implications

- 7.1 The approval of the Interim Policy Statement setting out local eligibility criteria will ensure that decision-making is robust and provides clarity and a local dimension to national planning policy requirements.
- 7.2 This Interim Policy Statement provides clear guidance to applicants at the pre-application stage, ensuring the process of decision-making is transparent and open.
- 7.3 Central Government has provided a model S106 obligations template; this will be used by the Council to ensure a consistent approach for delivering First Homes product. This template will be subject to amendment to reflect local circumstances.

8. Human Resources Advice and Implications

- 8.1 There are no direct human resources implications arising from this report for Regeneration and Environment Services only. Strategic Housing and Development will initially manage the additional workload with existing staff but will monitor the extra volume of work that First Homes create and either recruit additional staff or amend duties and responsibilities of existing staff if the need arises. It is not envisaged that the administration of the First Homes scheme will create a full-time role

9. Implications for Children and Young People and Vulnerable Adults

- 9.1 The Interim Policy Statement will assist in delivering the Council's strategy and policies set out in the Local Plan and particularly the Central Government enacted changes to the affordable housing policy framework. This will help to promote and deliver sustainable patterns of development, and the creation of mixed and sustainable communities.

10. Equalities and Human Rights Advice and Implications

- 10.1 First Homes are a central government initiative to promote discounted market sale housing as an affordable housing product. The homes are discounted by 30% of their open market value. It is proposed to include local eligibility criteria to ensure First Homes are ring fenced to people living and/or working within the Borough, for the first three months of their marketing. First Homes will contribute to meeting the need identified in Local Plan policy to support delivery of affordable housing.
- 10.2 The provision of an Interim Policy Statement aims to ensure the Local Plan is in accordance with national planning policy requirements and to ensure that any benefits to local people arising from new development opportunities are provided to those people. The Interim Policy Statement will ensure that impacts on the community and wider environment are mitigated in

accordance with the vision of the Local Plan: “to minimise inequalities through the creation of strong, cohesive and sustainable communities”.

11. Implications for CO2 Emissions and Climate Change

- 11.1 There are no implications for CO2 emissions and climate change. The mandatory introduction of First Homes requires a change to the implementation of Local Plan policy on affordable housing but does not of itself affect carbon emissions.

12. Implications for Partners

- 12.1 The introduction of First Homes by Central Government will mean opportunities for shared ownership housing will be more limited. Housing association partners may find that schemes are now less viable, because of their reliance on the income from shared ownership, as a cross subsidy for social rented units as part of a comprehensive affordable housing scheme. However, housing associations have been included within the Government consultation and have made their concerns known via this consultation route.

13. Risks and Mitigation

- 13.1 If the introduction of local eligibility criteria is not supported, then national policy will be used to deliver First Homes, for any persons who have not previously purchased their own home, regardless of any residency or employment connection to Rotherham. The inclusion of local eligibility criteria and a clear fee charging structure will enable delivery of an affordable home ownership product that meets the needs of Rotherham residents or people who are employed to work in the Borough. Mitigation of this risk is afforded by the introduction of local eligibility criteria.
- 13.2 Failure to implement an appropriate charging policy will result in the Council picking up all costs of its administration, including human resource costs, in ensuring the delivery of First Homes. The burden of administering First Homes is in perpetuity; therefore, it is essential that appropriate fees are levied on the developer initially and all subsequent re-sales of First Homes. It is proposed that the principles of full cost recovery shall be applied, to ensure that the people of Rotherham are not unfairly burdened by the introduction at a national level of this affordable housing product.

14. Accountable Officers

Simon Moss, Assistant Director – Planning, Regeneration and Transport

Approvals obtained on behalf of Statutory Officers: -

	Named Officer	Date
Chief Executive	Sharon Kemp	06/04/22
Assistant Director of Finance & Customer Services (S.151 Officer)	Graham Saxton	04/04/22
Assistant Director of Legal Services (Monitoring Officer)	Phil Horsfield	05/04/22

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