



Classification	Item No. 07
Open	

Meeting:	Planning Control Committee
Meeting date:	14 December 2021
Title of report:	First Homes Policy Position Statement
Report by:	Head of Development Management
Decision Type:	Non-key decision
Ward(s) to which report relates	All

Executive Summary:

The Government has introduced new planning policy requirements for First Homes – a specific kind of affordable housing for discounted market sale to first time buyers.

The policy will be a material consideration in determining planning applications.

In order to set out how the policy will apply in Bury and the local eligibility criteria to be applied, a First Homes Policy Position Statement has been prepared to provide guidance to applicants until a full review of the affordable housing policy is undertaken through the Bury Local Plan. This report summarises the proposed policy position, and recommends the adoption of the First Homes Policy Position Statement as a material planning consideration.

Recommendation(s)

That: The First Homes Policy Position Statement be approved.

Reasons for the decision:

To set out how the Council will apply the First Homes requirements so that the Council's position on the application of local eligibility criteria is clear.

Other options considered and rejected:

To apply the national requirements with no local criteria – this option has been rejected in order to give priority to existing local residents, in line with the existing affordable housing scheme.

To apply additional local eligibility criteria in relation to income or key worker status – this option has been rejected as it would limit the eligible consumer base, reducing the likelihood of the property being sold during the three month window in which local criteria apply. This increases the likelihood of having to apply the national criteria only if no eligible purchaser is found within the first three months of marketing. It would also be more complex to administer and there is a lack of evidence to demonstrate an identified local need for certain professions in order to locally define key workers.

Background

On 24th May 2021 a Written Ministerial Statement was published setting out details of the Government's First Homes Scheme. First Homes are a specific kind of discounted market sale housing and are considered to meet the definition of 'affordable housing' for planning purposes. The Written Ministerial Statement sets a national requirement for 25% of all new affordable homes provided through developer contributions to be delivered as First Homes.

Specifically, 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 sale; and,
- d) after the discount has been applied, the first sale must be at a price no higher than £250,000.

Local authorities are able to set a deeper minimum discount at either 40% or 50% and impose lower price caps if they can demonstrate a need for this through evidence, however this is not proposed at this time as a deeper discount would result in a reduction in the number of affordable homes delivered, and a lower price cap would restrict the type of First Homes provided.

National eligibility criteria apply to the sale of First Homes as defined in the Written Ministerial Statement and summarised below:

- First Homes must be prioritised for first-time buyers (as defined in paragraph 6 of schedule 6ZA of the Finance Act 2003);
- First Homes must not be sold to any household with a combined annual income in excess of £80,000;
- All purchasers must use a mortgage or home purchase plan for at least 50% of the discounted purchase value.

Local authorities can choose to introduce their own eligibility restrictions, which are time-limited to the first three months from the start date of marketing of the property. For example, they may wish to set a lower income cap, prioritise key workers (who also meet the first time buyer definition) and / or specify a particular local connection requirement based on work or current residency. After three months, any homes which have not been sold or reserved will revert to the national standard criteria.

The proposal

The Council has been successfully operating affordable housing scheme delivering discounted market sale housing through Section 106 Agreements for a number of years, and therefore has considerable experience in delivering a scheme of this nature.

For consistency with the current affordable housing scheme, it is proposed to introduce local criteria requiring eligible applicants to:

- Have been resident within the Borough (e.g. Prestwich, Whitefield, Bury, Radcliffe, Tottington or Ramsbottom) for at least the last 6 months or more prior to application. If it is a joint application, only one of the applicants has to be living within the borough.
- Have no current or former rent arrears or history of anti-social behaviour with the Council.

In recognition of the unique nature of their circumstances, members of the Armed Forces, the divorced or separated spouse or civil partner of a member of the Armed Forces, the spouse or civil partner of a deceased member of the Armed Forces (if their death was caused wholly or partly by their service) or veterans within five years of leaving the Armed Forces are exempt from these local connection testing restrictions.

In light of the three month time limit for local eligibility criteria in order to maximise the opportunity for these properties to be available to local first time buyers, no additional local eligibility restrictions are proposed.

This approach is set out in the First Homes Policy Position Statement so that the Council's position is clear to applicants until such time as a full review of the Affordable Housing policy has been undertaken through the Bury Local Plan and an updated Affordable Housing Supplementary Planning Document has been prepared.

Community impact/links with Community Strategy

This proposal contributes towards the Lets Do It Strategy – in particular the local neighbourhoods principle, in enabling access to affordable housing for local first time buyers.

Equality Impact and considerations:

Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.

Equality Analysis	<i>Please provide a written explanation of the outcome(s) of either conducting an initial or full EA.</i>
<p>The First Homes Interim Policy Position Statement will have a neutral impact on the Public Sector Equality Duty. It has limited scope and is restricted to setting out how the Council will apply the First Homes requirements so that the Council's position on the application of local eligibility criteria is clear.</p> <p>The requirement to provide First Homes is set by national policy which has been subject to a separate Equality Impact Assessment by the Government prior to its introduction.</p>	

**Please note: Approval of a cabinet report is paused when the 'Equality/Diversity implications' section is left blank and approval will only be considered when this section is completed.*

Assessment of Risk:

The following risks apply to the proposal:

Risk / opportunity	Mitigation
There could be a small reduction in the overall delivery of affordable housing through s106 agreements as a result of applying a 30% discount to First Homes instead of the current 25% requirement applied to discounted market housing.	The requirement for 25% of affordable homes to be First Homes and the minimum 30% discount is set by the Government so is therefore outside our control. Where developers argue that it is unviable to deliver the full affordable housing requirements, we will continue to require this to be supported by viability evidence which is subject to detailed scrutiny at the applicant's expense.
Reduction in the delivery of affordable rent or social rent properties.	The requirement for 25% of affordable homes to be First Homes and the minimum 30% discount is set by the Government so is therefore outside our control. We will continue to support the delivery of affordable rent or social rent properties where possible.
Delay in the sale of First Homes due to the application of local criteria.	The local criteria are only applicable to the first three months of marketing, after which the national criteria apply. Any delay is therefore time limited, and where appropriate consideration will be given to waiving local criteria if necessary, as is the case with the current affordable housing scheme. The local criteria are limited in scope in order to avoid an overly restrictive approach which would limit the eligible consumer base.

Consultation:

Principal Strategy Officer. Their suggestions have been incorporated in the Interim Policy Position Statement.

Legal Implications:

Whilst the Council's statutory development plan policies will remain the starting point for planning decisions, the Government's policy requirement for First Homes will be a material consideration in the determination of planning applications. Publishing an

interim policy statement will ensure that there is clarity on local requirements for First Homes in Bury.

Approval of the First Homes Policy Position Statement as a material planning consideration is within the remit of the Planning Control Committee.

Financial Implications:

There are no financial implications for the Council in adopting this position statement. However, it does meet with the Council objectives of promoting affordable homes for residents of our Borough.

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Background papers:

First Homes Interim Policy Position Statement

[Written Ministerial Statement: Affordable Homes Update made on 24 May 2021](#)

[National Planning Practice Guidance on First Homes](#)

Please include a glossary of terms, abbreviations and acronyms used in this report.

Term	Meaning
Affordable Housing	<p>Housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:</p> <p>(a) Affordable housing for rent: meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be</p>

	<p>recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).</p> <p>(b) Starter homes: is as specified in sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or decision-making. Where secondary legislation has the effect of limiting a household’s eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.</p> <p>(c) Discounted market sales housing: is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.</p> <p>(d) Other affordable routes to home ownership: is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to government or the relevant authority specified in the funding agreement.</p>
First Homes	<p>First Homes are a specific kind of discounted market sale housing and should be considered to meet the definition of ‘affordable housing’ for planning purposes. Specifically, First Homes are discounted market sale units which:</p> <ul style="list-style-type: none"> 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 be at a price no higher than £250,000 (or £420,000 in Greater London).

First Homes Policy Position Statement

Introduction

This position statement sets out the key information relating to First Homes and how it will relate to the implementation of UDP Policy H4/1 and [SPG5: Affordable Housing Provision in New Residential Developments](#). It sets out the Council's position until such time as a full review of the affordable housing policy is undertaken through the Bury Local Plan and an updated Affordable Housing Supplementary Planning Document is prepared.

When First Homes requirements come into force (for full or outline applications determined from 28th December 2021), these are the key aspects Bury Council will typically apply. Further guidance and information is set out in the remainder of this note.



25% of all homes on developments of 25+ dwellings and 10% of homes on developments of 10-24 dwellings should be provided as affordable housing in line with SPG5 and NPPF requirements.



25% of new affordable housing should be provided as First Homes (subject to limited exceptions and transitional arrangements).



First Homes must be sold with a minimum discount of 30% of the market value – the discount should remain in perpetuity and be secured through a suitable planning obligation.



First sale price (after discount) of First Homes to be no higher than £250,000, sold to first-time buyers with a combined household income of less than £80,000.



Bury's local eligibility criteria apply to the first 3 months of marketing, requiring applicants to have been resident within the Borough for at least 6 months and have no current or former rent arrears or history of anti-social behaviour with the Council.

Background

On 24th May 2021, a [Written Ministerial Statement](#) was published setting out details of the Government's First Homes Scheme. First Homes are a specific kind of discounted market sale housing and are considered to meet the definition of 'affordable housing' for planning purposes. The Written Ministerial Statement sets a national requirement for 25% of all new affordable homes provided through developer contributions to be delivered as First Homes.

The Government also set out the new [National Planning Practice Guidance on First Homes](#). These changes came into effect from 28 June 2021. For further details, please refer to the Written Ministerial Statement and Planning Practice Guidance.

What are First Homes?

Specifically, 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 sale; and,
- d) after the discount has been applied, the first sale must be at a price no higher than £250,000.

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).

First Homes should be physically indistinguishable from the equivalent market homes in terms of quality and size. As set out in the Council's Affordable Housing Provision in New Residential Development, any affordable housing provision should be fully integrated and spread throughout the site. The Council will not accept proposals whereby the affordable housing provision is separated or cornered off from the remainder of the development.

In order to ensure the discount is genuine, developers should obtain a valuation from a registered valuer acting in an independent capacity, and that valuation should be in accordance with the Royal Institution of Chartered Surveyors red-book valuation guidance for new-build homes. When the home is resold in future, the seller should secure a valuation in the same way in accordance with RICS's guidance.

First Homes National Eligibility Criteria

First Homes must be prioritised for first-time buyers (as defined in paragraph 6 of schedule 6ZA of the Finance Act 2003 for the purposes of Stamp Duty Relief for first-time buyers) and not be sold to any household with a combined annual income in excess of £80,000.

A person who can afford to purchase a First Home without a mortgage should not be eligible to purchase a First Home. As a deterrent against the use of First

Homes for investment, all purchasers of First Homes must use a mortgage or home purchase plan (if required to comply with Islamic law) for at least 50% of the discounted purchase value.

First Homes are intended to be used as a person's sole or primary residence and should not be used for investment or commercial gain. However, there are occasions when it may be necessary for owners of First Homes to let out their property for short periods of time, especially in response to unexpected life events. Therefore, a First Homes owner can only rent out their home for a maximum period of two years, as long as the local authority is notified. Longer rental periods will be considered under the following circumstances: deployment elsewhere (for members of the Armed Forces); primary caring responsibilities for relative/friend; short job posting elsewhere; redundancy; domestic abuse; and relationship breakdown. This will not affect restrictions on letting a property prescribed by a mortgage lender and permission from them would likely also be required.

Local Eligibility Criteria

Local authorities can choose to introduce their own eligibility restrictions.

In Bury, in addition to the national criteria above, and consistent with the Council's long-running affordable housing scheme, to be eligible applicants must:

- Have been resident within the Borough (e.g. Prestwich, Whitefield, Bury, Radcliffe, Tottington or Ramsbottom) for at least the last 6 months or more prior to application. If you are making a joint application, only one of the applicants has to be living within the borough.
- Have no current or former rent arrears or history of anti-social behaviour with the Council.

In recognition of the unique nature of their circumstances, members of the Armed Forces, the divorced or separated spouse or civil partner of a member of the Armed Forces, the spouse or civil partner of a deceased member of the Armed Forces (if their death was caused wholly or partly by their service) or veterans within five years of leaving the Armed Forces are exempt from any local connection testing restrictions.

As required by the Written Ministerial Statement, these local eligibility restrictions are time-limited to the first three months from the start date of marketing of the property. Upon expiry of the three-month period, any homes which have not been sold or reserved will revert to the national standard criteria set out above.

Setting developer contributions for First Homes

A minimum of 25% of all affordable housing units secured through developer contributions should be First Homes. First Homes (and the mechanism securing the discount in perpetuity) will be secured through section 106 planning obligations.

In accordance with paragraph 63 of the National Planning Policy Framework, affordable housing is expected to be delivered on-site unless off-site provision or a financial contribution in lieu can be robustly justified, and the agreed approach contributes to the objective of creating mixed and balanced communities.

Where cash contributions for affordable housing are secured instead of on-site units, a minimum of 25% of these contributions should be used to secure First Homes. This could be achieved, for example, by acquiring additional First Homes from market development, paying the developer a sum to offset the discount from market price, and securing the tenure through section 106 planning obligations.

Where a mixture of cash contributions towards affordable housing and on-site units are secured, 25% of the overall value of affordable housing contributions should be applied to First Homes.

Planning proposals

Paragraph 65 of the National Planning Policy Framework requires major development involving the provision of housing (i.e. schemes of 10 or more residential units), 10% of all homes on site should be affordable home ownership products, subject to limited exceptions.

Bury's planning policies require 25% of homes on sites on 25 or more dwellings to be provided as affordable housing.

Once a minimum of 25% of the affordable units as First Homes has been accounted for, the Written Ministerial Statement states that social rent should be delivered in the same percentage as set out in the local plan. The remainder of the affordable housing tenures should be delivered in line with the proportions set out in the development plan.

In Bury, the affordable housing policies do not set specific requirements for proportions of different tenures, therefore the tenure of the remaining 75% of affordable units is open for negotiation. We have been delivering a similar discounted sale product for a number of years, the main difference being that the properties are discounted by 25% and are not restricted to first time buyers. It is anticipated that First Homes will replace a proportion of these properties.

The affordable housing requirements in Bury are therefore:

Development size	Total % affordable requirement	Tenure split of affordable units	Worked example
10-24 units	10%	25% First Homes 75% affordable home ownership	24 unit scheme requires 2 affordable homes. 25% of 2 = 0.5, which is rounded up to 1 First Home. 1 can be any form of affordable home ownership.
25+ units	25%	25% First Homes 15% affordable home ownership 60% any tenure	100 unit scheme, 25 affordable homes required. Requirement for 6 First Homes, 4 can be any form of affordable home ownership, 15 can be any tenure of affordable housing.

Once 25% of the affordable properties are accounted for as First Homes it is open to applicants to set out the tenure mix for the remaining affordable properties, ensuring that at least 10% of the total properties are affordable home ownership (including First Homes, discounted market housing and shared ownership) as required by NPPF.

Exemptions from requirements to deliver affordable home ownership products

Paragraph 65 of the National Planning Policy Framework sets out that for major development involving the provision of housing, 10% of all homes on site should be affordable home ownership products, unless the site or proposed development:

- Provides solely for Build to Rent homes;
- Provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);
- Is proposed to be developed by people who wish to build or commission their own homes; or
- Is exclusively for affordable housing, an entry-level exception site or a rural exception site.

First Homes are an affordable home ownership product. Where specific developments are exempt from delivering affordable home ownership products under paragraph 65 of the Framework, they shall also be exempt from the requirement to deliver First Homes.

Is there a transition period for decision making?

The new First Homes policy requirement does not apply for the following:

- sites with full or outline planning permissions already in place or determined (or where a right to appeal against non-determination has arisen) before 28 December 2021
- applications for full or outline planning permission where there has been significant preapplication engagement which are determined before 28 March 2022; and

Applicants should be mindful of the requirement for a Section 106 agreement to be in place at the point of determination (i.e. a decision being issued), and this will be taken into consideration in determining the affordable housing mix. Where there is a resolution to grant permission but there has been insufficient progress in the agreement of a planning obligation by the deadlines set out above, the Council may need to consider reviewing the affordable housing tenure mix prior to issuing a decision.

For the purposes of the First Homes policy, significant pre-application engagement means any substantive discussions between the Council and the applicant relating to the proposed quantity or tenure mix of the affordable housing contribution associated with that application.

Where an application has been submitted and is likely to be granted before the dates above, the applicant can opt to amend the proposals to include First Homes, either at 25% of the affordable units or a lower proportion.

The First Homes policy does not apply to applications made under section 73 of the Town and Country Planning Act 1990, to amend or vary an existing planning permission, unless the amendment or variation in question relates to the proposed quantity or tenure mix of affordable housing for that development.

First Homes Exception Sites

In order to maximise the number of First Homes made available the Government is also seeking to deliver First Homes via exception sites. Exception sites are small sites brought forward outside of development plans in order to deliver affordable housing.

First Homes exception sites should be on land which is not already allocated for housing and should:

- a) Comprise First Homes;
- b) Be adjacent to existing settlements, proportionate in size to them, not compromise the protection given to areas or assets of particular importance in the NPPF¹ and comply with any local design policies and standards.

A small proportion of market homes may be allowed on the site at the local authority's discretion, for example where essential to enable the delivery of First Homes without grant funding. The Council expect this to be justified by a detailed viability assessment to justify the level of market housing proposed. Also, a small proportion of other affordable homes may be allowed on the sites where there is significant identified local need.

Further Sources of Information

- [Written Ministerial Statement – 24th May 2021](#)
- [Planning Practice Guidance – First Homes](#)
- For further information regarding affordable housing provision please see [SPG5: Affordable Housing Provision in New Residential Development](#).
- For details of the Council's pre-application advice service please see [Pre-application advice - Bury Council](#)
- Contact planning.policy@bury.gov.uk should you require any further information.

¹ i.e. the areas referred to in footnote 6 of the National Planning Policy Framework. First Homes exception sites should not be permitted in National Parks (or within the Broads Authority), Areas of Outstanding Natural Beauty, land designated as Green Belt, or areas designated as rural under s. 157 of the Housing Act 1985.