**Fenland District Council Explanatory Note on Implementation of First Homes – April 2022**

This Note intends to help all parties understand the approach Fenland District Council will take in relation to the implementation of national First Homes policy. This Note is not formal policy but acts as the starting point for how officers are likely to approach the implementation of First Homes for development schemes in Fenland. This Note may be updated, as experience of implementation of First Homes is undertaken or should national policy or guidance change.

On 24th May 2021, the Government announced its First Homes policy through a written ministerial statement (WMS) (<https://questions-statements.parliament.uk/written-statements/detail/2021-05-24/hlws48>) and accompanying changes to Planning Practice Guidance (PPG) (<https://www.gov.uk/guidance/first-homes>)

First Homes policy came into effect on 28th June 2021.

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| **Fenland’s Response**:Whilst recognising that First Homes will potentially meet the needs of a sector of our residents, requiring a minimum of 25% of affordable housing provision secured by means of Developer contribution to be delivered as First Homes will have the impact of reducing the housing options for those households in greatest need. The Fenland Local Plan (adopted May 2014) sets out the affordable housing tenure expectations that best meet affordable housing needs in this local authority area. Policy LP5 Meeting Housing Need, states that the exact tenure mix of the affordable dwellings provided, should be informed by and be compatible with the latest government guidance and an up-to-date local Strategic Housing Market Assessment (SHMA). The latest assessment of housing needs in Fenland published in 2021 (Cambridgeshire and West Suffolk Housing Needs of Specific Groups Assessment) set out that based on housing market cost analysis and affordability there is little to no need for homeownership tenure affordable housing in the district. In terms of the Housing Market Area as a whole, it concludes that “whilst there are some households in the gap between renting and buying, they in many cases will be able to afford homes below lower quartile housing costs. As a result the 10% requirement in the NPPF would be an over-supply if applied across the HMA.” The need to continue to maximise the delivery of rented tenure affordable housing in Fenland is further reinforced by the high number of households on the Housing Register and the growing number of families in temporary accommodation awaiting rehousing. Therefore, until such time as Fenland’s affordable housing policy is updated through adoption of the emerging Local Plan, the Council will continue to negotiate Developer contribution affordable housing provision based on our adopted Affordable Housing policy (and considering the emerging Local Plan strategic viability report). Based on this adopted policy, the preferred tenure split sought in Fenland is for 70% Affordable Rented tenure and 30% Shared Ownership tenure. This will continue to be our starting point for negotiations for Developer contribution affordable housing, subject to viabilityNational First Homes policy will not be implemented **unless** a planning application asks to include First Homes tenure as part of the affordable housing tenure mix to be secured through Developer Contribution. A flexible case-by-case response to proposals to include First Homes as part of the affordable housing tenure mix will then be applied to these applications. The onus will be on the applicant to demonstrate that the inclusion of First Homes will not seriously prejudice meeting evidenced local housing need that informs the tenure split sought by adopted local policy.For permissions and applications where First Homes policy is to be applied, Fenland District Council will secure no more than 25% of the total affordable housing developer contribution as First Homes and will seek to secure the proportions of 70% Affordable Rented tenure and 30% Shared Ownership tenure from the remaining 75% of the developer contribution affordable homes to be provided.If the provision of 25% First Homes does not deliver enough affordable home ownership products to meet the 10% affordable homeownership expectation in the NPPF, then shared ownership tenure dwellings will be secured to make up the shortfall.For permissions and applications where First Homes policy is to be applied, Fenland District Council will secure no more than 25% of the total affordable housing developer contribution as First Homes and will secure the maximum Affordable Rented tenure provision that is deliverable once he 10% affordable homeownership expectation set out in the NPPF has been met.Fenland District Council intends to apply the national policy standard 30% discount percentage for First Homes and to apply the standard maximum sale price for First Homes after discount has been applied.The Council does not intend to add any local connection criteria to the standard Eligibility criteria set out in national policy.Appendix A provides an overview of the National First Homes Policy and sets out the Council’s approach to its implementation in the circumstances when a development proposal includes reference to First Homes as part of affordable housing provision and it is subsequently accepted that the inclusion of this tenure will not seriously prejudice providing for local need. If a development proposal does not refer to First Homes, the affordable housing split to be applied will continue to reflect the provisions of Policy LP5 Meeting Housing Need in the Local Plan.  |

**Appendix A: National First Homes Policy for Development Proposals seeking to include First Homes as part of the Affordable Housing Delivery**

This appendix provides an overview of the National First Homes Policy and sets out the Council’s approach to its implementation in the circumstances when a development proposal includes reference to First Homes as part of affordable housing provision and it is subsequently accepted that the inclusion of this tenure will not seriously prejudice providing for local need.

Please Note:

If a development proposal does not refer to First Homes, the affordable housing split to be applied will continue to reflect the provisions of Policy LP5 Meeting Housing Need in the Local Plan.

**First Homes Definition**

The PPG (Paragraph: 001 Reference ID: 70-001-20210524) sets out that First Homes meet the definition of affordable housing for planning purposes. The PPG sets out that they 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 be at a price no higher than £250,000 (or £420,000 in Greater London)

Local authorities may increase discount percentage applied for First Homes and/or reduce the maximum sale price for First Homes after discount has been applied where this is justified by evidence.

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| For Development proposals where First Homes policy is to be applied, the Council will apply the standard thresholds set out in national policy as described above until such times as appropriate evidence establishes that locally set thresholds are justified. |

**First Homes 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 of more than £80,000.

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 should be exempt from any local connection testing restrictions.

Local authorities may apply additional criteria at a local level such as particular local connection requirement based on work or current residency.

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| For Development proposals where First Homes policy is to be applied, the Council does not intend to add any local connection criteria to add to the standard Eligibility criteria set out in national policy. |

**Developer contributions for delivery of First Homes**

First Homes policy requires that a minimum of 25% of all affordable housing units secured through developer contributions should be First Homes. It is expected that First Homes (and the mechanism securing the discount in perpetuity) will be secured through section 106 planning obligations.

In accordance with paragraph 62 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.

**The interaction between First Homes and the 10% affordable home ownership requirement in the NPPF**

The 25% expected First Homes contribution can make up or contribute to the 10% of the overall number of homes expected to be an affordable home ownership product on major developments as set out in the NPPF.

For developments where First Homes policy does apply, if the provision of 25% First Homes does not deliver enough First Homes to meet the 10% affordable home ownership expectation in the NPPF, additional affordable home ownership homes may be provided on top of the First Homes provision, in order to meet this expectation.

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| For developments where First Homes policy is to be applied, if the provision of 25% First Homes does not deliver enough affordable home ownership products to meet the 10% affordable homeownership expectation in the NPPF, then the percentage of shared ownership tenure dwellings secured from the remaining developer contribution homes will be increased as necessary to meet the threshold. |

**Determining the tenure split for the remaining 75% of affordable housing be secured through developer contributions**

The PPG (Paragraph: 015 Reference ID: 70-015-20210524) sets out that once a minimum of 25% of First Homes has been accounted for, 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 local plan policy.

Policy LP5 of Fenland’s Local Plan (adopted May 2014) states that the Council will seek the provision of 25% affordable housing on sites of 10 or more dwellings with the tenure mix is to be informed by the latest needs assessment and government guidance. Based on this adopted policy, the preferred tenure split sought in Fenland is for 70% Affordable Rented tenure and 30% Shared Ownership tenure. Social Rent is not specified as part of the tenure mix sought for delivery through local planning policy and therefore the remaining 75% of affordable housing to be secured by developer contributions after First Homes have been accounted for, should be delivered in line with the tenure split proportions that usually apply.

**The Impact of viability**

Fenland has commenced the process of refreshing its Local Plan. To inform the preparation of the emerging Plan, a Viability Assessment was undertaken which looked at the cost of building new homes and the costs associated with the policies in this Local Plan.

The Report concluded that viability in Fenland is marginal and varies between localities in the district. The assessment indicates that 20% affordable housing is likely to be the maximum level of provision that can be achieved through planning obligations. In response to the report, the Council has confirmed that the finding of the viability assessment will be taken into account when determining planning applications from May 2020 onwards.

Consequently, while the Council aims to deliver policy compliant 25% affordable Housing provision on qualifying schemes where possible, it is acknowledged that a maximum of 20%, will be achievable in most instances.

This lower percentage of affordable housing provision combined with the NPPF requirement that 10% of all dwellings be provided as affordable home ownership products, also impacts on the capacity to implement the preferred tenure split proportions of 70% Affordable Rented tenure and 30% Shared ownership tenure indicated by the Local Plan. The exact tenure for affordable housing provision is therefore agreed through negotiation as part of the planning process with a clear commitment to maximise the delivery of Affordable Rent tenure dwellings once National policy requirements have been met.

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| For Development proposals where First Homes policy is to be applied, Fenland District Council will secure 25% of the total affordable housing developer contribution as First Homes.If the provision of 25% First Homes does not deliver enough affordable home ownership products to meet the 10% affordable homeownership expectation in the NPPF, then shared ownership tenure dwellings will be secured to make up the shortfall. The remaining affordable housing provision will be secured as Affordable Rented tenure. This is to ensure that the delivery of rented tenure affordable homes is maximised where possible. |

**Transitional Allowance for Plan Making**

Paragraph 18 of the PPG refers to the WMS and confirms that Local Plans and Neighbourhood Plans that have been submitted for examination before 28 June 2021 (or in some circumstances, 28 December 2021) **will not be required** to reflect the First Homes policy requirements.

 For areas that do not meet the criteria for transitional arrangements, **new** development plans, including local plans and neighbourhood plans, should take account of the new First Homes requirements from 28 June 2021.

Paragraph 19 confirms that where local plans and neighbourhood plans are adopted under the transitional arrangements set out in para 18, the First Homes requirements will also **not need to be applied** when considering planning applications in the plan area until such time as the requirements are introduced through a subsequent update.

**Transitional Allowance for Decision Making**

The new First Homes policy requirement does not apply to 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 pre-application engagement which are determined before 28 March 2022.

**First Homes Exemptions**

Developments which are currently exempt from the 10% affordable home ownership requirement (listed in paragraph 65 of the NPPF) will also be exempt from the First Homes requirement. This includes developments that:

a) provide solely Build to Rent homes;

 b) provide specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);

c) is proposed to be developed by people who wish to build or commission their own homes; or

d) is exclusively for affordable housing, an entry-level exception site or a rural exception site.

**First Homes Exception Sites**

First Homes policy has introduced First Homes exception sites to replace Entry Level exception sites with effect from 28th June 2021. The requirements for First Homes exception sites are set out in the Ministerial Statement and PPG. The Transitional Allowance Arrangements set out above also apply to permissions and applications for Entry Level exception sites.