

Reigate and Banstead Borough Council

First Homes Interim Policy Statement

8 June 2022

Summary

- 1.1 This statement, to be presented to the Council's Planning Committee, and subsequently published online, summarises the national First Homes policy, implications of the national policy for tenure mix of affordable housing in the borough to meet local needs, and how the Council will implement the new policy, including local criteria.
- 1.2 First Homes were introduced into national planning policy by a Written Ministerial Statement made in May 2021. Planning Guidance on the implementation of First Homes national policy has been provided in the Planning Practice Guidance (PPG). This includes encouragement for local planning authorities to make the development requirements for "First Homes" clear for their area. It recognises that the most appropriate tool will depend on individual circumstances for each local planning authority but may be through publishing an interim statement or updating relevant local plan policies.
- 1.3 Whilst this Interim Policy Statement does not set statutory local planning policy nor guidance, as a policy statement that will be published in accordance with the national planning guidance recommendation (PPG "First Homes" Paragraph: 009 Reference ID: 70-009-20210524), the local criteria set out here will be a material consideration where relevant to the consideration of planning applications and appeals.
- 1.4 The Council's 5 year plan seeks to address the issue of the generally high property prices in the borough relative to local wages and to national property prices through its objective to "secure the delivery of homes that can be afforded by local people and which provide a wider choice of tenure, type and size". Helping people who would like to own their own home but whose incomes put them beyond the reach of home ownership in the open market is one way to work towards achieving this objective.

Recommendation

- 1.5 It is recommended that the Planning Committee:
 - Note the requirements of this new national planning housing policy, and the need to apply it in the borough as set out in this Interim Policy Statement;
 - Agree the recommended local eligibility criteria; and
 - Authorise the relevant Heads of Service alongside portfolio-holder to amend this Interim Policy Statement as required to reflect lessons learnt through implementing the policy.

Reason: To comply with the national First Homes policy, whilst minimising any negative impact on other tenures of affordable housing in the borough to ensure that new affordable housing in the borough supports the borough's local housing needs.

First Homes National Policy

- 2.1 The “First Homes” policy aims to promote home ownership. The policy was introduced into national planning policy by a Written Ministerial Statement (MS) by Minister of State for Housing Mr Christopher Pincher on 24 May 2021, with effect from 28 June 2021. It sets out requirements for developer contributions
- 2.2 This is a move away from “Starter Homes” which are specifically included within the definition of Affordable Housing in the 2021 National Planning Policy Framework (“the Framework”), which although similar to First Homes, also required applicants to be no older than 40 years (unless in Armed Forces). Secondary legislation to implement Starter Homes were not issued, as anecdotally mortgage companies found the market for Starter Homes too limiting for lenders to offer a working mortgage product.
- 2.3 The First Homes MS establishes that from 28 June 2021, a home meeting the criteria of a First Home will be considered to meet the definition of ‘affordable housing’ for planning purposes, although the NPPF / the “Framework” has not yet been updated to include this. “First Homes” tenure is a form of discounted market sales housing.
- 2.4 From the end of December 2021, the Government’s policy on First Homes, as set out in the Written Ministerial Statement and Planning Practice Guidance, will be a material consideration for the Council when determining planning applications and in relation to the provision and type of affordable housing on market-led sites. An exception can be made for development proposals determined before 28 March 2022 where there has been significant pre-application engagement.
- 2.5 The new national policy requires local planning authorities (not subject to the transitional arrangements set out in the MS and the PPG) “to make clear how existing policies should be interpreted in the light of First Homes requirements using the most appropriate tool available to them.” As summarised below, this is the situation for R&B Borough Council.
- 2.6 For reasons explained later in this Statement, it is not possible at this time for the Council to revise its current Affordable Housing SPD 2020 to include First Homes policy requirement without contravening the Local Planning Regulations requirement for SPDs not to conflict with the development plan. Nor is it practical to update just DMP Policy DES6 “Affordable Housing” in the fairly recently adopted (Sept 2019) development plan, which requires affordable homes to be provided within market developments, due to the time and resources involved in an independent examination which is required of a new development plan policy.
- 2.7 This Interim Policy Statement therefore sets out the Council’s policy position, which it will follow, and consider when dealing with applications until such time as it is appropriate to incorporate the new national planning policy and any local First Homes criteria into R&B Borough’s development plan.
- 2.8 The First Homes planning policy requires at least 25% of the affordable homes provided by developer contributions to be secured by a s106 planning obligation as “First Homes”. The remaining 75% of affordable housing should be prioritised by securing the Council’s adopted policy requirements for social rented housing, with other affordable homes being secured in the proportions set out in the development plan, viability permitting. The new national policy also provides some scope for councils to influence

how First Homes are implemented locally by introducing local eligibility criteria, should evidence justify it.

What are First Homes?

2.9 “First Homes” are a new affordable housing tenure of discounted market sales housing which are:

- Discounted by at least 30% against the market sales value; the discount may be greater than 30% if the Local Authority justifies that it is needed it with evidence. The same percentage discount must be retained on each subsequent sale (secured in perpetuity by a s106 planning obligation and title restriction).
- Sold at no more than £250,000 after the discount has been applied (or £420,000 in Greater London), this price cap applies to the initial sale only, and does not apply to re-sales;
- Sold to a person or persons meeting the First Homes eligibility criteria.
- Restricted by a section 106 planning obligation to secure restrictions on the use and sale of the property, as well as a legal restriction on the title of the property (HM Land Registry) to ensure that these restrictions are applied to the property at each future sale and title transfer.

National Eligibility Criteria

2.10 National policy sets certain requirements about who can purchase First Homes. To purchase a First Home at first and all future sales, buyers must:

- Be a first-time buyer as defined in paragraph 6 of schedule 6ZA of the Finance Act 2003 for the purposes of Stamp Duty Relief for first time buyers’. Joint purchasers must both be First Time Buyers as set out in paragraph 6 of Scheduled 6ZA of the Finance Act 2003 for the purposes of stamp duty;
- Have an annual household income of less than £80,000 in the tax year immediately preceding the year of purchase (the “income cap”); and
- Have a mortgage or home purchase plan (if required to comply with Islamic law) to fund a minimum of 50% of the discounted purchase price.

2.11 The PPG advises that as part of their plan-making process, local planning authorities should undertake a housing need assessment to take into account the need for a range of housing types and tenures, including various affordable housing tenures (such as First Homes). The assessment will enable an evidence-based planning judgement to be made about the need for a higher minimum discount level in the area, and how it can meet the needs of different demographic and social groups. In these circumstances, the minimum discount level should be fixed at either 40% or 50% below market value and should not be set at any other value.

2.12 In 2019, RBBC Planning Policy Service commissioned specialist consultants Icenl Projects Limited to prepare a “Housing Needs Assessment” (November 2019) to inform its revised Affordable Housing SPD 2020. This has also informed First Homes local eligibility criteria.

2.13 The same level of discount below market value (which nationally is 30%) must apply to

the home each time it is sold in perpetuity (subject to certain specific exclusions), so that communities continue to benefit from the homes for years to come. The discount in perpetuity is to be secured through a planning obligation. However, the price cap of £250,000 is only applied to the initial sale of each First Home.

Local Eligibility Criteria

- 3.1 The national Planning Policy Guidance, PPG advises that “First Homes are designed to allow people to get on the housing ladder in their local area“. Reflecting this aim, First Homes national policy therefore permits councils to apply local eligibility criteria to First Homes in addition to the national requirements. This is dependent on the specific needs of the borough, where evidence supports them and they will not compromise site development viability.
- 3.2 Local eligibility criteria may include:
 - setting a discount greater than 30% below market value (where evidence justifies it and it is progressed through a local plan or SPD);
 - setting a local connection requirements; and / or
 - setting a lower “income cap” (if this can be justified with reference to local average first-time buyer incomes),
- 3.3 First Homes will be available to buy on a first come, first served basis. Local eligibility criteria can be applied for the first 3 months, after which unsold homes will be made available to all households meeting the national First Homes eligibility criteria for a further 3-month period, to widen the pool of potential purchasers. Any local criteria must be applied carefully to ensure they do not limit the eligible consumer base to the point that homes become difficult to sell.

Sales discount level

- 3.4 In considering the most suitable discount level for the borough, we have analysed Land Registry data sold price data for new build homes sold in 2020/21. From this we have calculated the average cost of new builds in R&B Borough over the year Jan 2020-Jan 2021.
- 3.5 Sales of second hand properties were excluded as this would skew the proportion of new build homes that households could afford; second-hand properties generally selling for less than their new build equivalents .
- 3.6 Although the value of First Homes will likely increase over time with subsequent sales, it is likely that the sales values of First Homes will increase less rapidly than similar sized and aged market housing in the area due to their restricted selling pool.
- 3.7 First Homes must be new build homes sold on the open market with an in-perpetuity discount of 30% (or 40% or 50% if justified by local evidence).

Table 1: New Build sales values in R&B Borough 2020
Source data: Land Registry

	Number of new build properties sold	Median sale price for each new build home by size 1 Jan 2020 – 31 Jan 2021	Discounted by 30% (required minimum discount)	Discounted by 40%	Discounted by 50%
1 bed	15	£295,980.13	£207,186.09	£177,588.98	£147,995.06
2 bed	13	£356,972.54	£249,880.78	£214,183.52	£178,486.27
3 bed	57	£480,392.11	£336,274.48	£288,235.27	£240,196.06
4 bed	39	£633,165.26	£443,215.68	£379,899.16	£316,582.63

The following conclusions can be drawn from the data presented above -

- One bed-flats:
73% (11 of the 15) of the one-bed flats would comply with the maximum £250,000 cap with a 30% discount. This increases to 100% with a 40% discount.
 - Two-bed homes:
84.6% (11 of the 13) of the two-bed homes would comply with the maximum £250,000 cap after discount. This increases to 92.2% (12 of the 13 homes) with a 40% discount or 50% discount. The only property that would not be possible to secure as a First Home with a 50% discount would be a luxury, top specification penthouse flat, which sold for £742,500, and which would have needed a 66% discount to qualify.
 - Three-bed homes:
Only 1.75% (one of the 57 three-bed homes) would comply with the maximum £250,000 cap with a 30% discount. This increases to 19.3% with a 40% discount, to and 65% of the new-build three-bedroom homes with a 50% discount.
 - None of the 39 four-bed homes sold would comply with the maximum £250,000 cap after discounts of 30% or 40%. With a 50% discount, only 24.45% (11 of the 45 four-bed homes) would comply with the criteria.
- 3.8 Given the sales values for new build homes in the borough, applying the national discount of 30% below market value would mainly secure one-bedroom flats. Some two-bedroom flats could be secured as First Homes, depending on values, although possibly not in the highest value areas of the borough. The national guidance advises that the same level (%) of discount below market value should apply to the whole local plan area.
- 3.9 The Council could require a greater discount below market value for larger-sized First Homes in the borough, but this would then likely be at the expense of other homes ownership tenures such as shared ownership or even affordable rented housing, given the need for the First Homes Policy to be financially neutral for the developer. A 40% discount would be needed on most two-bedroom homes, and a 50% discount below

market values on 3-bed homes to bring them below the price cap for this area. It is unlikely to be possible to secure any four bed homes in the borough as First Homes due to values.

- 3.10 On sites with larger homes, for example of development of 3 and 4 bedroom homes, developers will not be able to provide First Homes on site, due to the national cap of £250,000 after the discount. The Council would instead receive a financial contribution towards facilitating the provision of First Homes on other sites in the borough. In many developments in higher value areas with lower density housing, accepting a financial contribution in lieu of lower value homes may reinforce areas of high value housing, further prohibiting first time buyers from entering the housing market in their local area.
- 3.11 DMP Policy DES6 requires provision of affordable housing as part of developments to be on site, unless in exceptional circumstances, where it can be robustly justified and the Council considers on-site provision not to be suitable or practical. This policy wording is consistent with the Framework (paragraph 63) which specifies that “Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required and expect it to be met on site unless a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and b) the agreed approach contributes to the objective of creating mixed and balanced communities.
- 3.12 For such developments in which the house / flat size and location means that with a 30% discount the homes would be above the national First Homes value limit, it may well be suitable to give less weight in balancing material planning considerations application to First Homes policy, and more to the Council’s fairly recently adopted Affordable Housing development plan policy and SPD, so that on such sites, Shared Ownership tenure is favoured over First Homes as the affordable homes ownership tenure on these sites. The weight to give to each material consideration will be considered on a case by case basis.
- 3.13 Not introducing a greater local discount of 50% or even 60% below market value, will also help to “protect” the affordable rented housing contributions, as First Homes national guidance advises that a “policy compliant planning application should seek to capture the same amount of value as would be captured under the local authority’s up-to-date published policy”.
- 3.14 DMP Policy DES4 “Housing Mix” requires that “All new residential developments should provide homes of an appropriate type, size and tenure to meet the needs of the local community.” The requirements of the Affordable Housing SPD are included at DES4 criteria 1c.
- 3.15 In assessing planning applications, depending on the specifics of the development proposal (the location and size of the homes proposed, and therefore their value), the Council and developer will agree the First Homes contribution (25% of the affordable homes required, to be secured by section 106 planning obligation), either on site or via a financial payment (to be ringfenced). Once First Homes has been accounted for, national planning guidance advises 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 local plan policy. This will result in shared ownership, in particular, being reduced across the borough, and potentially, although unlikely, some reduction in affordable rented homes.

- 3.16 To support the continued delivery of other affordable housing tenures in the borough particularly rented homes, it is proposed that the nationally stipulated discount of 30 percent is applied to all First Homes in the borough

Local connection criteria

- 3.17 National guidance on First Homes allows the inclusion of local eligibility criteria in addition to the national criteria and makes clear that local criteria should 'not limit the eligible consumer base to the point that homes become difficult to sell' ("First Homes": Paragraph: 008 Reference ID: 70-008020210524).
- 3.18 In order to ensure that First Homes policy help local people to access the housing market in the borough, the following local connection criteria is proposed on initial sale and re-sales.
- 3.19 At least one purchaser must meet one or more of the following:
- Currently live or be employed in the borough continuously for a period of 12 months prior to the exchange of contracts; and / or
 - Have a close relative residing in the borough (one of a mother, father, adult sibling, adult son or daughter); or
 - Be a member of the Royal Navy, Royal Marines, British Army or Royal Air Force; or a former member who was a member 5 years prior to purchase, or in the last five years became a divorced or separated spouse or civil partner of a member, or a spouse or civil partner of a deceased member or former member whose death was caused wholly or partly by their service.
- 3.20 To comply with First Homes Policy and ensure that homes do not remain unsold if suitable buyers in the local area cannot be found locally-based criteria will only apply to the first three months of marketing. If there is no sale or reservation in the first three months, the local criteria fall away and the default national criteria will apply for a further three months. After the second period of three months, if there are no potential buyers meeting the national eligibility criteria, it can be sold at the market sale value, and the difference between that and the First Homes discounted value (i.e. 30% of the market value) will be given to the Council. This would be held as a developer contribution and 25% would be required to use to facilitate the provision of First Homes on other sites in the borough.
- 3.21 If no local criteria are imposed, under the national First Homes policy, these homes would be available for anyone in the country meeting the national First Homes eligibility requirements. Whilst this would potentially help lower paid households who wish to buy a property in the borough, it would not be in the spirit of the government's intention for First Homes to help local people to buy a suitable home in their local area.

Securing First Homes and other affordable housing contributions

- 4.1 National Planning policy requires First Homes to be secured in perpetuity through a s106 planning obligation. Government has published model section 106 obligation that local authorities can use to secure First Homes at the planning permission stage, and

also wording for a model title restriction, which will be recognised by HM Land Registry and will ensure the homes retain their discount in perpetuity.

4.2 To qualify as a First Home, there must be a section 106 agreement between the land owner(s) so that the Council can secure the necessary restrictions on the use and sale of the property, along with a legal restriction on the title of the property to ensure that the restrictions are applied to the property at each future sale. The government's model s106 planning obligation includes the following provisions:

- National and local eligibility criteria
- Requirement for a market valuation from an independent registered valuer following RICS valuation standards;
- Requirements relating to the marketing of First Homes for first and subsequent sales to ensure they are marketed in an appropriate manner and for suitable timescales;
- Requirement that a legal restriction is registered onto a First Home's title on its first sale;
- Setting out requirements to ensure the council can recover the value of the affordable housing in the event of a mortgagee enforcing their security against a property, or a First Home not being sold after it has been marketed for six months; and
- Use of the First Home as the main residence of the owner unless specified provisions apply.

4.3 When a First Home is sold by the developer to the first owner, a restriction must be entered onto the Title Register identifying the dwelling as a First Home. This restriction will ensure that the title cannot be transferred to another owner unless the local authority certifies to HM Land Registry that the First Homes criteria and eligibility criteria have been met, including the discounted sale price. This will likely be the responsibility of the Council's Legal Service, including Land Charges. A model title restriction has been published by the Department for Levelling Up, Housing and Communities (DLUHC) for this purpose.

4.4 To ensure that suitable mortgages are available for First Homes, the national policy requires local authorities to provide for a mortgage lender enforcing its security over a First Homes to be able to realise the full market value of the property, returning any surplus up to the value of the First Homes discount to the local authority. The local authority will need to hold that money and use a minimum of 25% of the financial contributions in lieu of on-site provision to secure First Homes elsewhere in the borough.

4.5 The valuations and financial implications of First Homes to developers are not yet fully clear. Developers may therefore prefer flexibility in s106 permission, permitting either First Homes or Shared Ownership. It may be that developers prefer Shared Ownership homes as they can sell them to an RP at a fairly reliable discount below market price (about 60 - 70% of market value) that they are used to and to sell them earlier in the build out (golden brick), which will improve the cash-flow and therefore the value of the site, by having a reduced sales risk.

- 4.6 First Homes are still a bit of an unknown to developers. As developers will only realise their return later in the build process compared to Shared Ownership, which is purchased by a Registered Provider. They may well therefore potentially have unsold First Homes for longer than Shared Ownership, if the First homes do not attract a buyer who meets the national First Homes criteria (and any local criteria introduced in the borough).

First Homes Exception Sites

- 5.1 First Home Exception sites should be on land which is not already allocated for housing in a development plan; in effect a “windfall site” (which are defined in the Framework Glossary as “Sites not specifically identified in the development plan”).
- 5.2 First Homes exception sites should be on land which is not already allocated for housing and should:
- Comprise First Homes (as defined within this statement)
 - Be adjacent to existing settlements, proportionate in size to them, not compromise the protection given to areas or assets of particular importance in the NPPF, and comply with any local design policies
- 5.3 First Homes exception sites can deliver a small proportion of market housing, provided that it can be demonstrated as necessary to ensure the overall viability of the scheme. Local authorities can set policies that specify the proportions of market housing that would be considered acceptable, and under what circumstances. Similarly, the guidance indicates that applicants can include small quantities of other types of affordable housing on First Homes exception sites, where there is clear evidence of significant local need.

Implementing First Homes in the Borough

- 6.1 The Reigate & Banstead Local Plan comprises the Core Strategy (adopted 3 July 2014 and reviewed and found not to need updating on 2 July 2019) and the Development Management Plan (DMP) (adopted September 2019). The Core Strategy provides the spatial strategy for the borough over the plan period 2012-2027 and the DMP provides the detailed policies and site allocations. Both plans are up to date.
- 6.2 Planning law (Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990) requires planning applications and appeals to be determined in accordance with the development plan, where there are relevant policies, unless material considerations indicate otherwise. As national planning policy, the “First Homes” MS is one such material consideration. This is confirmed in the Framework itself (paragraph 2), which as national planning policy, has the same status as the “First Homes” MS; as it advises that “*Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan and is a material consideration in planning decisions.*”
- 6.3 This approach to the interaction of adopted development plan policy and subsequent national planning policy was confirmed by the judgement of the Court of Appeal in R

(West Berkshire DC v SSCLG [2016] 1 WLR 3923. As confirmed in R (Sainsbury's Supermarkets Ltd) v First Secretary of State [2005] EWCA, government policy is a material consideration where relevant to determinations, rather than a legal requirement.

- 6.4 The statutory requirement is to consider all national planning policy relevant to the application being considered, but the weight to give each material consideration in the planning balance is for the decision maker to determine on the merits of each application and will vary depending on the specifics of the application.
- 6.5 There will be situations where material considerations, and even national planning policy itself, will pull in opposite directions, and the decision maker will need to weigh up how much weight to give to each consideration based on the specifics of the case. Likewise, appeal decisions are not binding upon subsequent appeals, but must be considered where relevant and given appropriate weight by each decision maker.
- 6.6 National planning policy included in the Framework (paragraph 62) also advises that *“the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing..)”*
- 6.7 R&B's DMP Policy DES6 criterion 3 requires *“the tenure mix* of the affordable housing provided on each qualifying site to contribute (to the Council's satisfaction) towards meeting the latest assessment of affordable housing needs.”
- 6.8 DMP Policy DES6 itself does not provide detailed requirements for the size and tenure of affordable housing to be provided cumulatively on all sites, as this detail changes and is therefore more suitably included as supplementary guidance, which can be more responsive than a Local Plan to such changes.
- 6.9 Policy DES6 criterion 4 requires that *“the size mix* of the affordable housing provided on each qualifying site, expressed as number of bedrooms and bed spaces, should take into account the affordable housing needs in the borough at that time, the size of the market homes provided on the site, and the prevailing type of housing in the area.”
- 6.10 The explanatory text to DMP Policy DES6 (paragraph 2.1.32) notes that “the latest evidence of affordable housing needs in the borough identifies a need for 60% rented and 40% other affordable housing tenures, and for 1, 2, and 3-bedroom flats and houses”. It also encourages developers and agents to discuss the local affordable housing needs at the time with the Council's Housing Service and/or a locally-active registered provider.
- 6.11 The Council's most recent Housing Needs Assessment is the [R&B's "Housing Needs Assessment" \(November 2019\)](#) prepared for the Council by specialist consultants Icen Projects Limited. This evidence study informed the [Affordable Housing Supplementary Planning Document \(SPD\)](#), adopted in April 2020, which amplifies DMP Policy DES6.
- 6.12 The R&B Affordable Housing SPD 2020 is a material consideration where relevant to determinations. The SPD sets out the local affordable housing needs, based on recent evidence, to be **62% rented** and **38% other forms of affordable housing products**. The 25% of affordable homes to be provided as First Homes, can be included within this 38%, with the remaining 13% being shared ownership and other low-cost home ownership products (subject to viability once the social housing requirement policy has

been met). The precise affordable housing tenures and the unit sizes / bedspaces of affordable homes would need to be specified and secured in a s106 planning obligation.

- 6.13 The Council’s 2019 “Housing Needs Assessment” analysed the relative cost of housing to buy and rent in the borough relative to wages and identified that there are a number of households earning between £31,500 and £60,000 falling within a rent or to buy gap (i.e. able to afford to private rent but not to buy a property to meet their needs in the borough). The 2019 Assessment therefore recommended that affordable home ownership products should be pitched at such households. This now includes First Homes.
- 6.14 **Table 1 of the 2020 Affordable Housing SPD 2020** confirms the size of sizes of affordable homes needed in the borough as:

Number of bedrooms	Affordable Rented Accommodation (Social rented, affordable rent or affordable private rent)	Affordable Home Ownership Accommodation
1-bedroom properties	20%	20%
2-bedroom properties	40%	45%
3-bedroom properties	30%	25%
4+-bedroom properties	10%	10%

- 6.15 The Council’s AH SPD cannot therefore require an affordable housing mix that conflicts with the development plan, Policy DES6 (criteria 3).
- 6.16 DMP Policy DES6 requires the tenure mix of affordable housing provided on each qualifying site to contribute, subject to the Council’s satisfaction, towards meeting the latest assessment of affordable housing needs.
- 6.17 The smallest schemes required to provide on-site affordable housing under Policy DES6 (i.e. 11 homes) would require at least 2.75 (rounded up to 3 in line with Policy DES6) to be provided as First Homes.
- 6.18 It should be noted that a further change since the preparation of the DMP (which was examined under transitional arrangements using the 2012 Framework), is the addition in 2019 of the policy requirement (paragraph 65) for “major” development proposals providing at least 10 homes (or sites of at least 0.5ha) to provide at least 10% of the total number of homes in the scheme as affordable home ownership tenures (First Homes are included within this requirement), with a few exemptions. Such exemptions are if this would exceed the level of affordable housing required in the area or would significantly prejudice the ability to meet the identified affordable housing needs of specific groups (my emphasis).
- 6.19 The First Homes national policy requires planning applications including First Homes to capture the same value as would be captured under the local authority’s up-to-date published policy (which has been tested and shown to be viable through independent examination).

- 6.20 As shown in Table 1 of the 2020 SPD, the greatest need for affordable home ownership in the borough is for 2-bedroom homes. In considering the price cap on the initial sale of a First Homes (of no more than £250,000 with the 30% discount from market value), it will be important to ensure that developers do not over supply one-bedroom First Homes flats in the borough, as although in some areas First Homes sales will approach the national price cap, the greatest need for affordable home ownership is for 2-bedroom homes.
- 6.21 This is different to the requirement for new Local Plans, which is to be consistent with national policy and other relevant statements of national planning policy.
- 6.22 Within the borough, affordable housing is required (by the NPPF paragraph 62 and DMP Policy DES6) to be delivered on-site unless off-site provision or an appropriate financial contribution in lieu can be robustly justified; and the agreed approach contributes to the objective of creating mixed and balanced communities. The MS requires that a policy compliant planning application should capture the same amount of value as would be captured under the local authority's up-to-date published policy. The First Homes policy should therefore in effect be "cost neutral" to the developer. This value can then be reallocated to a different affordable housing mix, potentially a higher proportion of social rented homes.
- 6.23 In the exceptional circumstances where the Council accepts a payment in lieu of on-site provision under Policy DES1, a minimum of 25% of these contributions should be used to secure First Homes.
- 6.24 The same level of discount as a percentage below market value must apply to the home each time it is sold in perpetuity (subject to certain specific exclusions).
- 6.25 The Development Management Plan (DMP) 2019, part of the borough's Local Plan, will need to be reviewed within 5 years of its adoption, so before 29 September 2024. As part of its review, the consistency of its policies (including DES6) with national planning policy (the Framework and relevant Written Ministerial Statements) will be considered. Where there is significant difference, these policies may then need to be updated to be consistent with later national planning policy.
- 6.26 The national policy requirement for 25% of affordable homes to be provided as First Homes will not apply to sites where a right to appeal against non-determination has arisen before 28 March 2022 if there has been significant pre-application engagement, although local authorities should allow developers to introduce First Homes to the tenure mix if they wish to do so.
- 6.27 Implementing First Homes policy in the borough will impose greater workloads compared to the process of securing affordable housing as shared ownership and affordable rented housing. This will fall mainly to Housing Services and Legal Services, and will include screening / approving prospective purchasers, checking sales and ongoing administration in relation to the restrictions on title.
- 6.28 It is likely the administration of First Homes will be monitored by various council services, including Planning, Housing and Legal. This will have resource implications, particularly for Housing and Legal, although the number of development schemes in the borough where affordable housing is required is limited by the size threshold for

application of affordable housing contributions.

Community Infrastructure Levy

- 7.1 The Community Infrastructure Levy (CIL) Regulations 2010 allow the developers of First Homes to obtain an exemption from the requirement to pay CIL, in line with other affordable housing products.
- 7.2 Mandatory social housing relief can apply in respect of dwellings where the first and subsequent sales are for no more than 70% of their market value. To be eligible, a planning obligation must be entered into prior to the first sale of the dwelling designed to ensure that any subsequent sale of the dwelling is for no more than 70% of its market value. If, following the required marketing period, the dwelling does not then sell to someone meeting the First Homes eligibility criteria, but instead ends up being sold as a market home, the home would no longer be exempt, and would be liable to pay CIL.
- 7.3 As other affordable housing tenures are eligible for social housing relief, this is unlikely to provide a viability advantage to the developer, or to the Council with regards CIL receipts.

Legal Implications

- 8.1 As new national planning policy the Council must consider this national First Homes Policy as a material consideration where relevant to a planning determination.
- 8.2 The procedure which will need to be followed for First Homes initial sales, subsequent sales, and mortgage repossession are set out in officer working documents.

Financial Implications

- 8.3 There are no anticipated budget implications for RBBC from the proposals in the report.

Equalities Implications

- 8.4 The Government published an Equality Impact Assessment on First Homes in September 2020. This identified that the substitution of the delivery of First Homes in place of other types of affordable housing would likely have a negative impact on certain protected groups, in terms of their access to affordable housing.
- 8.5 Some borough residents and employees who have a desire to purchase a home but cannot afford to do so on the open market may benefit from the new national policy, however, for residents who want to rent an affordable home it could be considered negative as it may impact the supply of new affordable homes for affordable rent *and shared ownership*. These people are more likely to be households with dependent children, households with long-term health issues and disabilities.

Conclusion

- 9.1 Subject to adoption of this Interim Policy Statement, the Council will apply the national policy set out in the “First Homes” Written Ministerial Statement with its agreed Local Eligibility criteria, alongside other relevant material considerations, including other affordable housing national planning policy, adopted Local Plan Policy DES6, and its Affordable Housing SPD 2020.
- 9.2 First Homes will be a housing tenure product that in R&B Borough can make smaller (1 and 2-bed) homes cheaper for purchase, and therefore help meet local housing needs on their initial sale. Although First Homes implementation is still in early days nationally, it appears that they may be slightly cheaper as monthly outgoing for the purchaser than Shared Ownership. However, due to the nationally-set price cap of £25,000 after discount, the cost of new-build 3-bed homes in the borough prohibits their delivery as First Homes without a discount of 50%, even higher in some areas of the borough. Such a discount would come at the expense of other affordable housing tenure types, including social and affordable rented housing, and is not therefore suitable of this borough to help meet its identified housing needs.
- 9.3 The £250,000 price cap (after discount) will be monitored with house price increases. Should implementation of the Interim Policy Statement require a change to local eligibility criteria, a further report will be provided to Planning Committee, setting out details of First Homes delivery in the borough and an update on the operation of local legibility criteria.

Background documents:

[Written Ministerial Statement](#) – “Affordable Homes Update: First Homes” 24th May 2021 by Christopher Pincher, Minister of Housing, Communities and Local Government

[Planning Practice Guidance – “First Homes”](#)

[R&B “Development Management Plan”, Sept 2019](#) – In particular Policies DES6 and DES4

[R&B “Affordable Housing” Supplementary Planning Document 2020](#)

[First Homes: Model Section 106 Agreement \(for developer contributions\)](#)

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