

Rother District Council

FIRST HOMES

Technical Advice Note 1

January 2023

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Please telephone **01424 787668** or email **planning.strategy@rother.gov.uk**

Technical Advice Notes (TANs)

We have produced a series of Technical Advice Notes (TAN) to support the Adopted Development Plan (Core Strategy 2011-2028; Development and Site Allocations Plan; and made Neighbourhood Plans). TANs provide technical advice to developers and decision-makers but are not adopted policy documents and should not be read as such. TANs do not set out new planning policy. The TANs may be updated from time to time to reflect changing circumstances or best practice.

Introduction

1. This Technical Advice Note (TAN) sets out the key information relating to First Homes and how the requirement impacts on the implementation of relevant policies of the adopted Local Plan, that is:
 - Policy DHG1 (Affordable Housing) of the Rother District Development and Site Allocations (DaSA) Local Plan (2019)¹;
 - Policy LHN1 (Achieving Mixed and Balanced Communities) of the Rother Local Plan Core Strategy (2014); and
 - Relevant policies of the made Neighbourhood Plans.
2. This Technical Advice Note responds to changes in Government policy, pending the adoption of the new Rother Local Plan, which is currently being prepared by the Council, with the initial round of public consultation planned for early 2023.

Background

3. On 24 May 2021, the Government published a Written Ministerial Statement to set out plans for the delivery of “First Homes”. It also set out changes to planning policy. These changes came into effect on 28 June 2021. For further details, please refer to the [Written Ministerial Statement](#)² and [Planning Practice Guidance](#)³.

¹ Policy DHG1 supersedes Core Strategy Policy LHN2

² <https://questions-statements.parliament.uk/written-statements/detail/2021-05-24/hlws48>

³ <https://www.gov.uk/guidance/first-homes>

First Homes Definition

4. First Homes are a specific kind of discounted market sale housing which meet the definition of 'affordable housing' for planning purposes. First Homes are the government's preferred discounted market tenure and are now required to account for at least 25% of all affordable housing units delivered by developers through planning obligations (i.e., S106 agreements)⁴.
5. 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 title transfer; and,
 - d) after the discount has been applied, the first sale must be at a price no higher than £250,000.
6. Local authorities and neighbourhood planning groups have the discretion to set a lower price cap than £250,000 for the first sale price if they can demonstrate a need for this. Any local price caps should be determined through the plan-making process with regard to local income levels, related to local house prices and mortgage requirements.⁵ The ability to set a lower price cap is being explored through the emerging Local Plan process and, if justified, would be introduced in the new plan.
7. Local authorities and neighbourhood planning groups also have the discretion to require a higher minimum discount of either 40% or 50% if they can demonstrate a need for this. A decision to increase the minimum discount should be informed by a housing need assessment undertaken as part of the plan-making process, to 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.⁶ As above, if the evidence justifies it, a higher minimum discount would be introduced through the new plan.

⁴ Planning Practice Guidance Paragraph: 001 Reference ID: 70-001-20210524

⁵ Planning Practice Guidance Paragraph: 005 Reference ID: 70-005-20210524

⁶ Planning Practice Guidance Paragraph: 004 Reference ID: 70-004-20210524

First Homes Eligibility Criteria

8. First Homes must be prioritised for first-time buyers⁷ and not be sold to any household with a combined annual income in excess of £80,000. A purchaser of a First Home should 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.
9. These national standard criteria should also apply at all future sales of a First Home.⁸
10. Through a section 106 agreement, local authorities or neighbourhood planning groups can apply eligibility criteria in addition to the national criteria described above. This may involve lower income caps (if this can be justified with reference to local average first-time buyer incomes), a local connection test, or criteria based on employment status (for example, to prioritise key workers). Any local eligibility criteria will apply for a maximum of 3 months from when a home is first marketed. If a suitable buyer has not reserved a home after 3 months, the eligibility criteria (including income caps) will revert to the national criteria set out above, to widen the consumer base. Local eligibility requirements will not apply to members of the armed forces.
11. A lower income cap will not be applied at this time. However, the Council is reviewing available evidence and may introduce a lower income cap in advance of the new Local Plan.
12. A local connection requirement will be included in section 106 agreements, consistent with that required for other low cost home ownership products regarded as affordable housing in planning terms (ie shared ownership). This requires owner occupiers to live, work or have family in the Rother area.
13. The Council may set an employment status criteria through section 106 agreements on a case by case basis where there is an identified local need: for example, for specific key worker professions, as allowed for by the Government's Planning Practice Guidance (PPG).

⁷ As defined in paragraph 6 of schedule 6ZA of the Finance Act 2003 for the purposes of Stamp Duty Relief for first-time buyers

⁸ Planning Practice Guidance Paragraph: 007 Reference ID: 70-007-20210524

Setting developer contributions for First Homes

14. 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.
15. In accordance with paragraph 62 of the National Planning Policy Framework (NPPF), 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.
16. 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.
17. 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.⁹

⁹ Planning Practice Guidance Paragraph: 012 Reference ID: 70-012-20210524

How should the remaining 75% of affordable housing be secured through developer contributions?

18. 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.
19. For example, if a local plan policy requires an affordable housing mix of 20% shared ownership units, 40% affordable rent units and 40% social rent units, a planning application compliant with national policy would deliver an affordable housing tenure mix of 25% First Homes and 40% social rent. The remainder (35%) would be split in line with the ratio set out in the local plan policy, which is 40% affordable rent to 20% shared ownership, or 2:1. 35% split in this way results in 12% shared ownership; and 23% affordable rent.
20. In another example, if a local plan policy requires 80% of units to be shared ownership and 20% to be social rent, a policy compliant application would deliver 25% First Homes units, 20% social rent and 55% shared ownership.
21. If a local authority has an up-to-date policy on cash contributions in lieu of onsite contributions, then a planning application compliant with national policy will align with this approach.¹⁰

Is there a transition period for decision making?

22. The transition period for decision making has now passed, meaning the First Homes policy requirement now applies to all applications for full or outline planning permission except in areas where local and neighbourhood plans are adopted/made under the transitional arrangements¹¹. In these areas, the First Homes requirements will 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.¹²

¹⁰ Planning Practice Guidance Paragraph: 015 Reference ID: 70-015-20210524

¹¹ Local plans and neighbourhood plans submitted for examination before 28 June 2021, or that have reached publication stage by 28 June 2021 and subsequently submitted for examination by 28 December 2021, will not be required to reflect the First Homes policy requirement.

¹² Planning Practice Guidance Paragraph: 019 Reference ID: 70-019-20210524

23. This means that within Rother, the First Homes requirements will not apply to planning applications within Battle¹³ or Burwash¹⁴ parishes until such time as the requirements are introduced through a subsequent update to those Plans.
24. The First Homes policy requirement 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.¹⁵

Are there exemptions to the requirement for First Homes?

25. The [Written Ministerial Statement](#)¹⁶ confirms that Paragraph 65 of the NPPF sets out that for major development involving the provision of housing, 10% of all homes on site should be affordable home ownership products, unless one of the exceptions applies. First Homes are an affordable home ownership product. Where specific developments are exempt from delivering affordable home ownership products under paragraph 65 of the NPPF, they shall also be exempt from the requirement to deliver First Homes. Those exemptions are where the site or proposed development:
 - a) provides solely for Build to Rent homes;
 - b) provides 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.

¹³ Battle NP: submitted for examination Nov 2020, made Nov 2021.

¹⁴ Burwash NP: submitted for examination August 2020, anticipated to be made June 2022 (subject to referendum on 16 June 2022)

¹⁵ Planning Practice Guidance Paragraph: 022 Reference ID: 70-022-20210524

¹⁶ <https://questions-statements.parliament.uk/written-statements/detail/2021-05-24/hlws48>

Relevant Local Plan Policies

Policy DHG1: Affordable Housing

26. On housing sites or mixed-use developments, this policy in the adopted DaSA Local Plan (2019) requires the following percentages of affordable housing within the district:
- i. In Bexhill and Hastings Fringes, 30% on-site affordable housing on schemes of 15 or more dwellings (or 0.5 hectares or more);*
 - ii. In Rye, 30% on-site affordable housing on schemes of 10 or more dwellings (or 0.3 hectares or more);*
 - iii. In Battle, 35% on-site affordable housing on schemes of 10 or more dwellings (or 0.3 hectares or more);*
 - iv. In the Rural Areas:*
 - a) In the High Weald Area of Outstanding Natural Beauty, 40% on site affordable housing on schemes of 6 dwellings or more (or 0.2 hectares or more); or*
 - b) Elsewhere, 40% on-site affordable housing on schemes of 10 or more dwellings (or 0.3 hectares or more).*
27. The supporting text to Policy DHG1 confirms that to meet this policy requirement, where the affordable housing requirement results in a number of units which is not a whole number, the number of units required on-site will be rounded down to the nearest whole figure. The 'unmet' proportion of a unit will be funded through an in-lieu contribution equivalent to the cost of providing that part unit on-site.¹⁷
28. The tenure mix for affordable housing is set out in Policy LHN1 of the Rother District Local Plan Core Strategy (2014):

Policy LHN1: Achieving Mixed and Balanced Communities

29. In order to support mixed, balanced and sustainable communities, this policy states that housing developments should (inter alia):
- v. In relation to affordable housing, contribute to an overall balance of 65% social/affordable rented and 35% intermediate affordable housing;*

¹⁷ Paragraph 4.17

vi. Ensure that affordable housing is integrated with market housing, where practical.

30. The supporting text to Policy LHN1 confirms that the evidence for the 65%/35% split comes from the Strategic Housing Market Assessment (SHMA, 2010), which recommends this broad split, although indicates there should be flexibility in this split. The supporting text also notes that in some rural areas, it may be appropriate to seek all affordable housing as 100% social/ affordable rented accommodation given the shortage of social rented homes in these areas.¹⁸
31. The introduction of the First Homes policy means that 25% of affordable housing provision should be for First Homes, with 75% remaining for other tenures. The Written Ministerial Statement and Planning Practice Guidance state that once a minimum of 25% First Homes has been accounted for, social rent should be delivered in the same percentage as set out in the local plan. 65% social rent is normally required, in line with Policy LHN1 of the Core Strategy.
32. Therefore, from 28th June 2021 the tenure mix for affordable housing under Policy LHN1 is:
- 25% First Homes
 - 65% Social Rented Housing
 - 10% Intermediate Affordable Housing.
33. The National Planning Policy Framework (NPPF)¹⁹ sets a requirement that where major development is proposed, at least 10% of homes should be available for affordable home ownership. First Homes can make up or contribute to this 10%. Planning Practice Guidance advises: “If a planning application for a major housing site in which 25% of the affordable homes are 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”.²⁰

¹⁸ Paragraph 15.15

¹⁹ Paragraph 65

²⁰ Planning Practice Guidance: Paragraph: 023 Reference ID: 70-023-20210524

34. Where additional affordable home ownership homes are needed to meet the 10% NPPF requirement, then applicants should provide additional affordable home ownership products such as 'shared ownership' homes to enable those in housing need to access an alternative affordable home ownership model.

Example 1: A scheme for 25 dwellings in Bexhill

35. METHOD RESULT: 30% affordable housing requirement through Policy DHG1: $25 \times 30\% = 7.5$ (7 affordable homes, with the remaining value of 0.5 dwellings secured as a financial contribution). A tenure mix of 25% First Homes, 65% social rented and 10% intermediate affordable = 1.75 First Homes (2 rounded up), 4.55 social rented (4 rounded down, to ensure the 10% NPPF requirement for affordable home ownership is met), 1 intermediate. This equals 3 affordable home ownership homes, which meets the 10% NPPF requirement.

Example 2: A scheme for 10 dwellings in Rye

36. METHOD RESULT: 30% affordable housing requirement through Policy DHG1: $10 \times 30\% = 3$ affordable homes. A tenure mix of 25% First Homes, 65% social rented and 10% intermediate affordable = 0.75 First Homes (1 rounded up), 1.95 social rented (2 rounded up), 0.3 intermediate (0 rounded down). This equals 1 affordable home ownership home, which meets the 10% NPPF requirement.

Example 3: A scheme for 15 dwellings in Battle

37. METHOD RESULT: 35% affordable housing requirement through Policy DHG1: $15 \times 35\% = 5.25$ (5 affordable homes with the remaining value of 0.25 dwellings secured as a financial contribution). A tenure mix of 25% First Homes, 65% social rented and 10% intermediate affordable = 1.25 First Homes (2 rounded up, to ensure the total % is not less than 25%), 3.25 social rented (3 rounded down), 0.5 intermediate affordable (0 rounded down). This equals 2 affordable home ownership homes, which meets the 10% NPPF requirement.

Example 4: A scheme for 20 dwellings in the Rural Areas

38. METHOD RESULT: 40% affordable housing requirement through Policy DHG1: $20 \times 40\% = 8$ affordable homes. A tenure mix of 25% First Homes, 65% social rented and 10% intermediate affordable = 2 First Homes, 5.2 social rented (5 rounded down), 0.8 intermediate affordable (1 rounded up). This equals 3 affordable home ownership home, which meets the 10% NPPF requirement.

Exception Sites

39. Policy DHG2 of the DaSA Local Plan (Rural Exception Sites) provides for the granting of planning permission, in exceptional circumstances, for small scale residential development outside development boundaries in order to meet a local need for affordable housing in rural areas. The policy includes a number of criteria which such schemes must meet. The 25% requirement for First Homes also requires to Rural Exception Sites permitted under this policy.
40. In addition, the Written Ministerial Statement provides for First Home Exception Sites, that is, a housing development that comes forward outside of local or neighbourhood plan allocations to deliver affordable housing, that delivers primarily First Homes. First Homes exception sites cannot come forward in designated rural areas as defined in Annex 2 of the National Planning Policy Framework, which includes Areas of Outstanding Natural Beauty (AONBs).²¹

Further Sources of Information

[Written Ministerial Statement](#)²² 24 May 2021

[Planning Practice Guidance](#)²³ First Homes

Please contact planning.strategy@rother.gov.uk should you require any further information.

²¹ Planning Practice Guidance Paragraph: 025 Reference ID: 70-025-20210524.

²² <https://questions-statements.parliament.uk/written-statements/detail/2021-05-24/hlws48>

²³ <https://www.gov.uk/guidance/first-homes>