

Briefing Note: Written Ministerial Statement: First Homes– 24 May 2021

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

Through a Written Ministerial Statement the Government has set out the requirements on local planning authorities to provide First Homes. Concurrently, these were incorporated into amended National Planning Practice Guidance. <https://www.gov.uk/guidance/first-homes>

This briefing note sets out how these arrangements will apply in rural areas, including the differences between designated and non-designated rural areas under S157 of the 1985 Housing Act.

Definition and eligibility criteria

The definition and eligibility criteria, summarised in Appendix A, apply to First Homes irrespective of whether the provision is: in a designated or non-designated rural area, part of the affordable housing contribution on a market led site, a First Homes Exception Site or a Rural Exception Site.

Rural Implications

It will not possible to apply the First Homes discount to a value that has already been discounted to reflect that the homes are restricted to those with a local connection. In consequence, in some areas the national 30% discount of OMV may not be sufficient to make this tenure affordable to local people.

It is, therefore, helpful that Local Authorities will have the discretion to apply a 40% or 50% discount. However, this still has to deliver 25% First Homes on the site. Given the high price of housing and low locally earned incomes this will leave rural local authorities in a difficult position. If they adopt a higher discount that makes the homes affordable, it is likely that they will have to reduce the total amount of homes provided on site, with a particular squeeze on social rent provision in order to make a scheme viable.

Similarly, local authority discretion to set a lower annual income cap could be helpful, but is likely to increase the level of discount required to make the homes affordable, raising the same consequences for viability and tenure mix of the remaining 75% affordable housing contribution.

The standard S106 template will be helpful, as will be the wording for model title restrictions that is to be entered on to the title register to identify the property as a First Home. Hopefully, as well ensuring the First Homes are affordable in perpetuity, the model wording will save time and cost for developers and local authorities, as well as making it easier for the residents to secure mortgages.

Requirements placed on Local Planning Authorities to deliver First Homes

Different arrangements apply for areas designated as 'rural' under the 1985 Housing Act and for Rural Exception sites wherever they are developed. Table One summarises where First Homes requirements apply, followed by some further details, including the inter-action of First Homes with other forms of affordable housing.

Table One: Application of First Homes planning requirements between Designated and Non- designated rural areas

	Non-designated rural areas (i.e. not designated under S157 Housing Act 1985)	Rural Areas designated under S157 Housing Act 1985 AND Green Belt
Market led sites where affordable housing contribution required	25% of affordable homes to be First Homes 10% of all homes to be affordable home ownership	25% of affordable homes to be First Homes 10% of all homes to be affordable home ownership
First Homes Exception Sites	Required	Exempted
Rural Exception Sites	25% First Homes requirement does not apply, but can include First Homes as part of the tenure mix	25% FH requirement does not apply, but can include First Homes as part of the tenure mix
Self and Custom Build	25% First Homes requirement does not apply to S&CB development	25% First Homes requirement does not apply to S&CB development
Community Infrastructure Levy	As First Homes are defined as affordable housing they are exempted from CIL	As First Homes are defined as affordable housing they are exempted from CIL

Detailed requirements

- ***25% of all affordable housing provided through developer contributions will be in the form of First Homes.***

This will apply on all market led sites in all rural areas, whether or not the development is in a ‘rural’ areas designated under S157 of the 1985 Housing Act.

It does not apply to Rural Exception Sites.

The remaining 75% affordable housing contribution should prioritise securing Local Plan policy requirements for social rent **once** they have secured the 25% First Homes requirement.

Where other affordable housing can be secured this should be in the relative proportions set out in the Local Plan.

In line with NPPF para 62 First Homes are expected to be delivered on site unless off-site 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.

- ***First Homes count as affordable home ownership and therefore can contribute to the NPPF requirement that 10% of all homes should be in the form of affordable home ownership.***

The 10% affordable home ownership requirement does not apply to:

- Rural Exception Sites
- Development by people building or commissioning their own homes (Custom and Self Build)
- ***First Homes Exception Sites will replace Entry Level Exception Sites and local authorities will be expected to support them unless the need for first time buyers is already being met within the local authority's area.***

Areas designated as 'rural' under S157 of the 1985 Housing Act will be exempted from the First Homes Exception Sites requirement. So too are Green Belts

Although the WMS is slightly ambiguous the NPPG is absolutely clear that Green Belts are also exempted from First Home Exception Sites.

NPPG - Paragraph: 025 Reference ID: 70-025-20210524 states

Where can First Home exception sites come forward?

First Homes exception sites can come forward on unallocated land outside of a development plan. They cannot come forward in areas designated as Green Belt, or designated rural areas as defined in Annex 2 of the National Planning Policy Framework. In these areas rural exception sites are the sole permissible type of exception site.

- ***First Home exception sites should:***
 - Comprise of First Homes – as defined in the WMS
 - Be adjacent to existing settlements and proportionate in size and not compromise protections afforded by National Park, AONB, Green Belt designations.
 - A small proportion of market housing can be allowed at the local authorities' discretion, for example where it is essential to deliver First Homes without grant funding.
 - A small proportion of other forms of affordable housing may be allowed where there is significant identified local need.
 - Local connection criteria can be applied where this is supported by evidence of necessity and will not compromise site viability.

Rural Implications

The exemption from the 25% First Homes requirement on rural exception sites wherever they are developed is helpful. So too, but to a more limited extent, is the exemption from First Homes Exception Sites in designated rural areas. However, the concerns raised by rural local authorities and interest groups during the consultation remain and the provisions are likely to have a negative impact on meeting rural affordable housing needs in all rural areas.

Across all rural areas, the requirement that 25% of affordable housing contributions on market led sites should be in the form of First Homes is likely to limit local authorities' ability to provide homes for their evidenced need for affordable housing.

The need to achieve financial viability is likely to limit the scope for local authorities to increase the level of discount. In consequence the homes may not be affordable to first time buyers living and working in the area. Once the three month period during which any local connection criteria may apply has lapsed, these homes will be available to anyone who meets the prescribed income cap. Alternatively, a higher discount

could be adopted, but again for viability reasons, this is likely to result in lower levels of social rented provision, despite evidence consistently showing this is the form of tenure most needed.

Defining 'rural' areas as those designated under S157 of the 1985 Housing Act will leave almost 70% of parishes with populations of 3,000 or fewer open to First Homes Exception Site Development. The higher land value that will come from the requirement that First Homes are the dominant tenure on these sites means it is unlikely landowners will release land for lower value rural exception sites. In consequence, there will be less opportunity to meet the evidenced principal need in rural communities for social rented homes.

The reduction in the provision of social rented housing is likely to be exacerbated by the allowance of some market housing on First Homes sites. Helpfully the WMS states it should be limited to a level that will make a scheme viable without grant. However, there is nothing to stop the market development resulting in a higher land price which will reduce the ability to provide other affordable tenures, including social rented housing.

In recognition of these concerns, the Housing Minister made a commitment to monitor the impact of First Homes Exception Sites on rural exception site delivery. It will be important that this collects information on number and location of First and Rural Exception Sites, their respective land values, the tenure of housing provided on these sites, the extent to which the residents have a local connection and what has been the impact on community support for new affordable housing development.

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Appendix A

Definition

First Homes, wherever they are provided will be required to meet the following requirements.

- A First Home must be discounted by a minimum of 30% of open market value. The valuation will be by undertaken by an independent registered valuer. The valuation should assume that the home is sold without any restrictions.

This means that local connection criteria used by some rural local authorities cannot be applied to the value before valuation for the First Homes discount.

- Local authorities can increase the level of discount to 40% or 50% where this is justified by the evidence. However, the requirement that 25% of the affordable homes contribution is provided as First Homes will still apply.

For viability reasons the over-riding requirement that 25% of affordable housing are First Homes will make it difficult for LPAs to apply a higher level of discount.

- After the discount has been applied, outside London, the first sale of the home must be at a price no higher than £250,000.
- The same level of discount that applied at first sale must apply to any future resales of the home.
- The discount should be secured through a planning obligation.

Government is developing a model S106 agreement that will include wording for a model title restriction, recognised by HM Land Registry and will ensure the homes retain their discount in perpetuity.

- A Mortgagee Protection Clause will be required so a lender can enforce its security by selling at the full market value. Any surplus up to the value of the First Homes discount should be returned to the local authority.

Eligibility criteria

- First Homes should be prioritised for first time buyers (defined in Finance Act 2003) and outside of London not sold to any household with a combined income in excess of £80,000.
- Local authorities can:
 - Set a lower income cap
 - Prioritise key workers who also meet the first time buyer definition
 - Specify local connection requirements based on work or current residency – but with exemptions from meeting local residency requirements for members of the Armed forces.

Any local authority restrictions will be time limited to the first three months from the start date of marketing the property, thereafter they will revert to the national criteria.

- All purchasers of First Homes must use a mortgage or home purchase plan for at least 50% of the discounted purchase value
- First Homes should be the person's sole or primary residence. However, allowance is made for renting out a home for a maximum of two years as long as the LA is notified.