

LOCAL AUTHORITY EXPERIENCE IMPLEMENTING FIRST HOMES REQUIREMENTS

In May 2021 the Government introduced requirements for the provision of First Homes as part of the affordable housing contribution on market led S106 sites and through First Homes Exception sites. The details were set out in Written Ministerial Statement and National Planning Practice Guidance. Apart from some areas where transitional arrangements will apply, the First Homes requirements will come into effect from 28 December 2021.

Over the last eight months local authorities have been assembling evidence to inform their approach to implementing these requirements. From this process a number of challenges have emerged that specifically affect rural local authorities. These arise from the diverse housing value markets within many rural local authorities; allied to this are issues relating to higher house prices and lower locally earned incomes in rural areas; and small in-house planning and housing teams.

To ascertain the extent and build a more in depth understanding of these challenges the Rural Services Network undertook a short survey of its local planning authority members during November. Twenty-seven councils responded, which is 27% of RSN's local authority membership.

Key findings

58% of respondents said that not being able to apply variable discounts across their area would be problematic because there are different value housing markets within the authority.

66% said their chosen local authority wide discount would result in First Homes not being affordable in their rural communities.

63% said that it would not be possible to achieve the £250,000 price cap after the discount has been applied because market values are too high.

An overwhelming majority of respondents reported that the proportion of affordable rented and other affordable sale tenures would fall once the 25% First Homes requirement had been applied. 82% stated all affordable rented housing would be reduced and 86% noted a reduction in shared ownership provision.

62% reported that the greatest percentage fall would be in shared ownership with 52% of respondents reporting that Registered Providers have stated this will affect their ability to cross-subsidise affordable rented housing, thus potentially further reducing its supply too.

Eight respondents reported that the replacement of local with national eligibility criteria if the First Homes have not been sold within 3 months will be problematic. The principal reason given was that First Homes will not be affordable to local people, but the opportunity to meet their needs will be lost by providing First Homes.

First Homes Exception Site policy will apply in nine of the responding local authorities. Most reported it was too early to say what the impact would be on rural exception site supply. However, in three local authorities, rural exception sites have already been replaced with First Homes Exception Sites and the land price was greater than that paid for a rural exception site.

85% will look to absorb the additional workload arising from First Homes into existing teams, but nine of these will also be looking to employ new staff and seek a contribution from developers towards administrative costs.

Introduction

In May 2021 the Government introduced requirements for the provision of First Homes as part of the affordable housing contribution on market led S106 sites and through First Homes Exception sites. The details were set out in Written Ministerial Statement and National Planning Practice Guidance. The key elements are:

- 25% of affordable housing contributions on S106 sites must be in the form of First Homes
- The national discount level is 30% of open market value, but local authorities have the discretion to increase this to 40% or 50% where this is supported by evidence.
- The level of discount will apply in perpetuity, secured through a legal covenant and through the S106 agreement.
- Outside London First Homes are subject to a price cap on first sales of £250,000 after the discount has been applied. Local authorities can set lower price caps.
- National eligibility criteria are set out which require:
 - The purchasers must be First Time Buyers
 - Outside London the income of the purchasers is no more than £80k pa
 - The buyer must be using a mortgage covering at least 50% of the discounted purchase price
 - The First Home must be the buyers only or main residence
- Local authorities may also apply local connection eligibility criteria, but if the First Home is not sold within 3 months these fall away and the default national eligibility criteria apply.
- Outside areas Designated as Rural Areas, that is those designated under S157 of the 1985 Housing Act, and Green Belts, First Homes Exception sites can come forward on unallocated sites. These are:
 - Primarily developed with First Homes
 - Proportionate in size to the community in which they are located
 - Some market housing is allowed where evidence shows this to be needed to make the scheme viable
 - Where there is evidence of need small quantities of other affordable housing can be provided

Apart from some areas where transitional arrangements will apply, the First Homes requirements will come into effect from 28 December 2021.

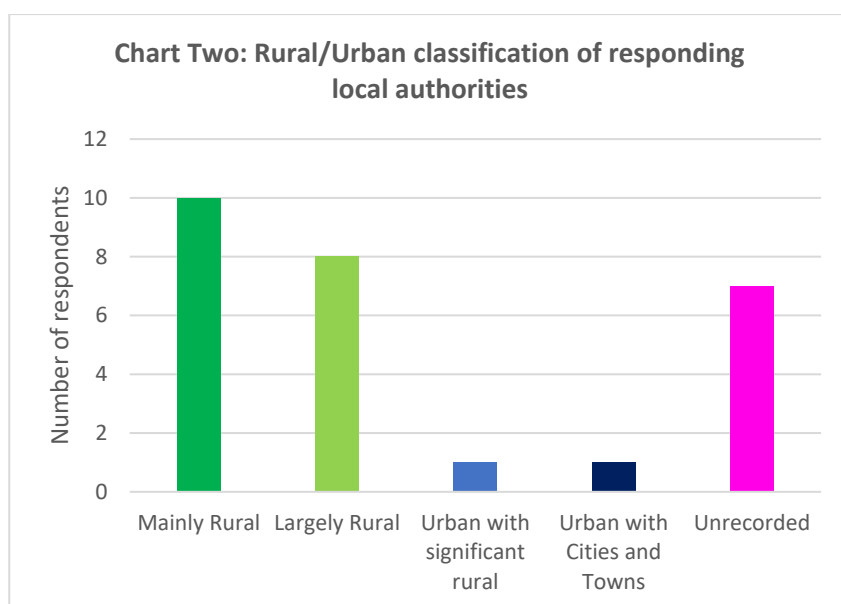
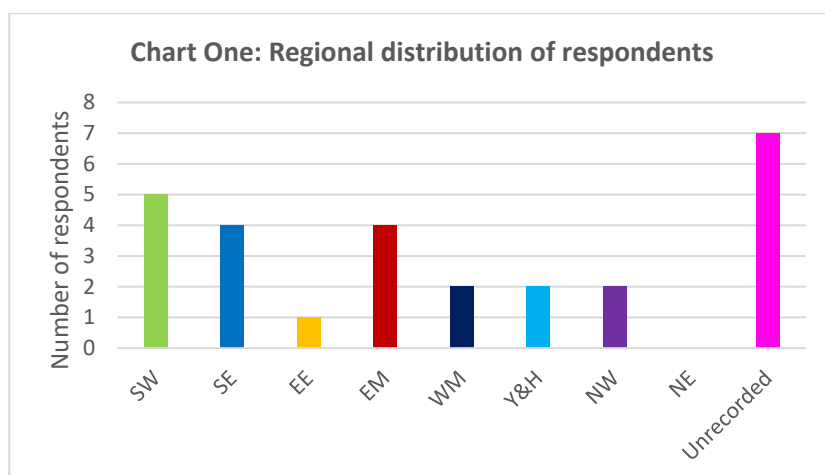
In their response to the Government's consultation on First Homes the Rural Services Network (RSN) noted that First Homes could help meet the challenge faced by first time buyers in rural areas. However, it also flagged up several rural factors that should be taken into account and called on the Government to carry out rural proofing as part of designing the approach to First Homes. RSN's full response can be read here https://rsnonline.org.uk/images/First_Homes_consultation_RSN_F.pdf

Survey and response rate

Over the last six months local authorities have begun to assemble the evidence that informs their approach to implementing First Homes. From this work a number of those rural factors that RSN highlighted in its consultation response are emerging. To assess the extent and gain a greater understanding of the challenges these pose RSN undertook a survey of its local planning authority members in November 2021. A copy of the questionnaire is provided in Appendix A

Twenty-seven local authorities responded, representing 27 % of RSN's local authority membership. Six were unitary authorities and the remaining twenty-one are Shire Districts.

Chart One shows the location of respondents by region and Table Two shows their rural classification.



Findings

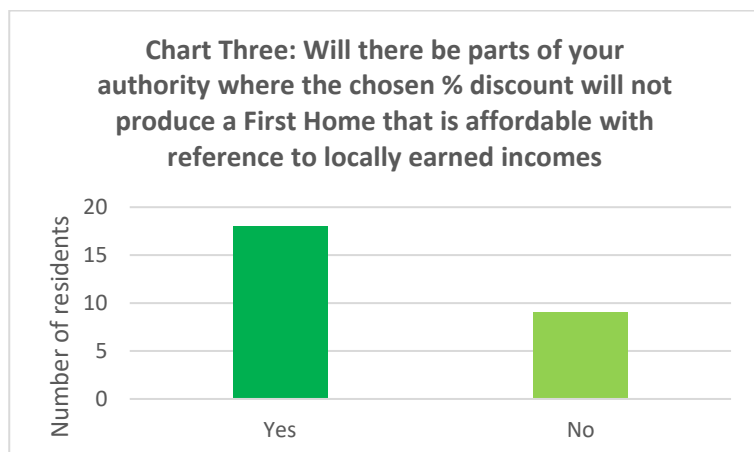
Ability to provide affordable homes First Homes in rural areas

The NPPG states that the First Homes discount should be 30% of open market value, but it gives local authorities discretion to apply 40% or 50% discount where there is evidence to show that this is needed to make First Homes affordable. This flexibility is helpful, but because local authorities can only set one level of discount for their area it is not responsive to different value housing markets within a local authority. Planning authorities then face a quandary. Setting a lower discount that makes delivery of First Homes viable in their lower value areas, but it may not be sufficient to make the First Home affordable in their higher value communities. Given the price premium of rural housing and lower level of local incomes this is a challenge that particularly affects rural areas.

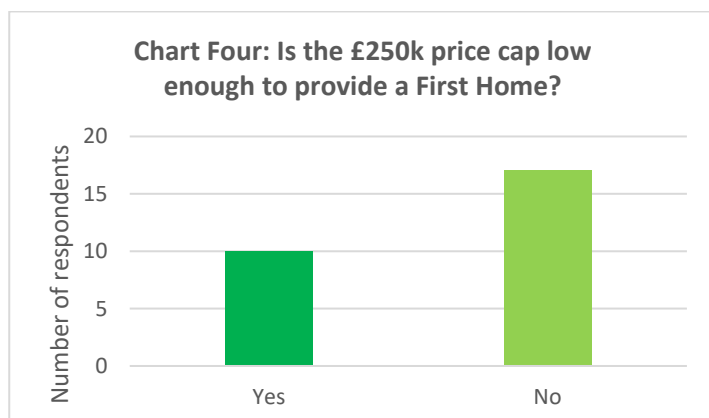
66% (18) respondents stated that the chosen discount would result in First Homes not being affordable in parts of their area.

52% (14) respondents stated that it would be helpful if they could apply different discount rates to make First Homes an affordable option in all parts of their area, reflecting the different value housing markets in their area.

Interestingly, these responses were not confined to the high value areas of the South-East and South-West, or to larger unitary authorities, but came from rural local authorities from all regions and included Shire District and Unitary authorities.



A further measure set out in the NPPG to control affordability is the application of a price cap. Outside London the price of a First Home should not exceed £250,000 after the discount has been applied. This assumes that market house prices are low enough for this to be achievable. As Chart Four shows for 63% (17) of survey respondents this is not the case and even with the discount the price of a First Home would be above the cap. Again, this was not just a challenge for local authorities in the high value areas of the South-East and South-West.



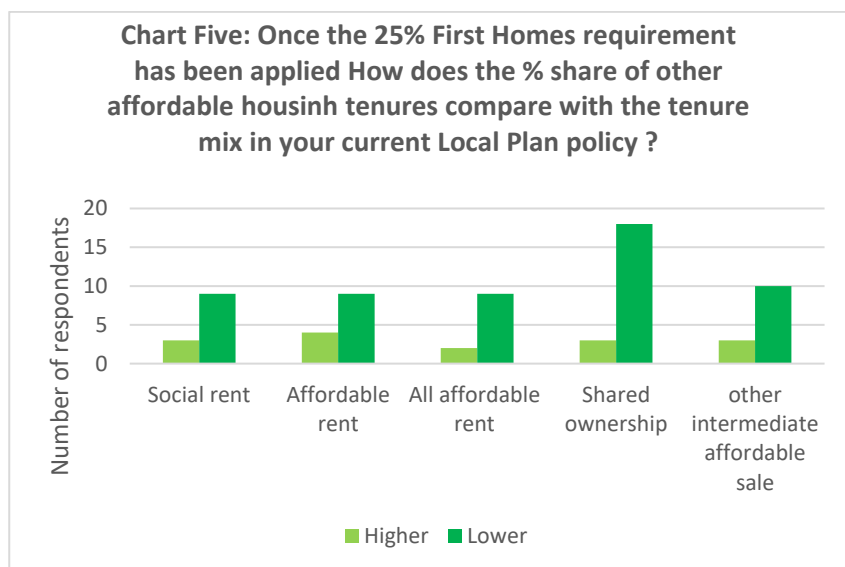
In eight of the nine local authorities where the price cap could be achieved, £250,000 will produce a 3-bedroom terraced or semi-detached property. It is, however, interesting to note the comment made by one local authority in the South-East that with a 30% discount it will only be possible to build one and two bed homes.

Impact on other affordable housing tenures

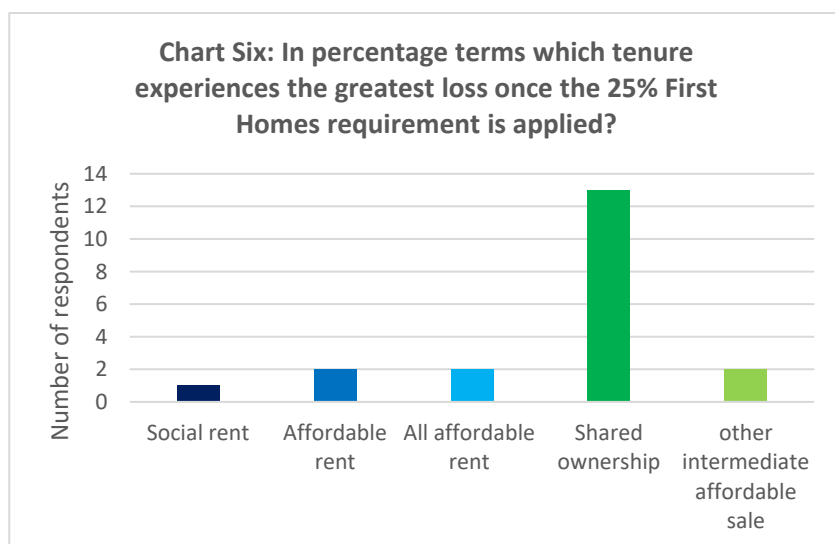
The NPPG requires that 25% of affordable housing contributions on a S106 market led site should be in the form of First Homes. Thereafter social rent should be delivered in the same percentage as set out in the Local Plan. The remainder should be delivered in line with the proportions set out in the Local Plan's policy.

Consistently Strategic Housing Market Assessments and local housing needs surveys identify the principal housing need in rural areas is for affordable rented housing, although this is not always disaggregated between social and affordable rent.

Chart Five shows that for most respondents once the 25% First Homes requirement is introduced the percentage of all other affordable housing tenures will be reduced.



As Chart Six shows local authorities expect that the greatest reduction will be shared ownership housing. Not only will this narrow the options for affordable home ownership, but there may also be a further loss of affordable rented homes. Currently, Registered Providers often provide internal cross subsidy from their shared ownership delivery to support affordable rent provision. 52% (13) of respondents reported that their Registered Provider partners had already raised the concern that this subsidy may no longer be available.



Local Eligibility Criteria

The NPPG allows local authorities to set local connection criteria for First Homes. However, if they remain unsold after 3 months the local connection criteria fall away and the default national criteria apply.

In effect this widens the pool of potential buyers, reducing developers' financial risk of the homes being unsold. However, it could have unintended negative consequences in rural local authorities. Given the evidence cited earlier that in many rural areas First Homes will not be affordable, it is likely that a number of these properties will be taken up by households from outside the area. This is not problematic in itself, but the fact that First Homes reduces the supply of other forms of locally affordable homes means that opportunities to meet these local needs are lost.

Potentially, this will be exacerbated further if, as one local authority cited, no buyers come forward because they are dissuaded by the remoteness of rural locations. The NPPG advises that the local authority may include in the S106 agreement provisions that allow a developer to sell a First Home on the open market and remove the title restriction if certain conditions are met. These should include requirements for the marketing of the homes for at least six months. In addition, that in the event of sale into the open market the developer pays compensation to the local authority to the value of the discount the First Home is sold for, as a percentage of the final sale price, net of any stamp duty incurred. Whilst again this reduces risk to the developer, there is no guarantee that the compensation payment raised from a rural development will be used to provide alternative provision of rural affordable housing, particularly if this is for affordable rented homes. Furthermore, if the sale into the open market occurs on a First Homes Exception Site there is the added danger that communities and landowners will be unwilling to support or make sites available for future First Homes or Rural Exception Sites.

Eight respondents noted that the return to national affordability criteria will be problematic, citing the following reasons.

Failure to meet housing need locally.
Affordability in the rural areas is a big issue and there will only be relatively few local people who will be able to afford first homes. Even if these properties are opened to the national criteria, they will be too far away from any towns to interest other people.
Less of an issue in urban areas, where sites are allocated in the Local Plan. It is proving problematic in rural communities where exceptional cross subsidy planning permissions play an increasing important role - these are most successful where we secure community support. The uncertainty associated with FH(s) across this cohort is starting to make it more challenging to secure planning consent. This concern is on the increase and will I fear affect the supply of new AH going forward.
Yes, impacts on meeting local demand for affordable homes.
Not helping the current local communities.
Would wish it to be 6 months because our aim is to meet the housing needs of the district and 6 months would give more flexibility if a large number of first homes come to market at the same time.
Administrative complexity and cost for sellers.
Concern that 3 months isn't enough time to find a buyer and complete the sale. We aim to tackle this for new build by marketing before the 3 months begin.
Unclarity for buyers.
Additional work for Councils monitoring.
Monitoring.

Developer appetite for First Homes

Given that First Homes are a new product and implementation is not a requirement until the end of December, 95% of respondents considered it too early to say what the response of developers to the First Homes requirement on S106 sites in small rural communities. Only one reported that developers have said it will not work.

First Home Rural Exception Sites

In rural areas that are not designated as 'rural' under S157 of the 1985 Housing Act or are in a Green Belt, First Homes Exception Sites apply.

In all rural areas the Rural Exception Site policy still applies, providing a range of affordable housing that meets the specific need of the host community. However, concerns have been expressed that the higher land value that is likely to be commanded by a First Homes Exception Sites will result in landowners releasing land for this use, rather than for a lower value rural exception site.

Nine of the responding local authorities are not designated 'rural' areas. Five reported that there had been interest in First Homes Exception Sites and in three of them this has been to replace a rural exception site.

Seven local authorities reported that it is too early to say whether First Homes has affected landowner behaviour towards release of land for rural exception sites. The other two reported that interest had declined.

Across the three local authorities who have experienced loss of rural exception sites to FHES, on three sites the land price was more than the conventional £10k plot value of a rural exception site.

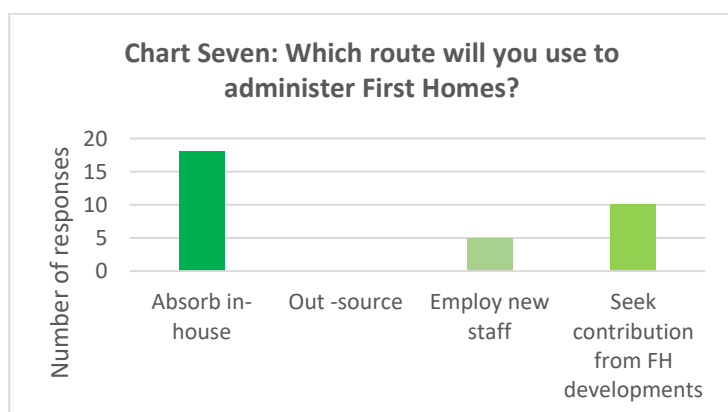
Administering First Homes

There are five points at which local authorities will be required to manage and monitoring the delivery of First Homes. These involve:

- setting up the local eligibility criteria and the S106 agreement
- receiving completed application pack and checking criteria are met and issuing Authority to Proceed and conveyancer pack
- receiving the conveyancer's legal undertaking that the transaction is compliant and issuing Authority to Exchange
- receiving confirmation of completion and updating records
- monitoring sales process and future transactions

Rural local authorities tend to have small planning and housing teams and there will be challenges in taking on this additional workload. Urban areas receive some 61% more per head of population in Government Funded Spending Power (Grant). This underfunding seriously affects capacity within rural authorities.

As Chart Seven shows, respondents are looking at a variety of measures to meet this demand. The majority 85% (18) will look to absorb it within current teams, five will employ new staff and ten will seek contributions from First Homes development to cover administrative costs. Nine of these respondents were pursuing a mix of these measures.



Other comments

At the end of the survey respondents were invited to offer any further comments on First Homes and First Homes Exception Sites. These fall under six headings and are set out below.

Concerns over affordability and meeting local need	Only 1B & 2B homes will be able to be delivered with a 30% discount in our district. Most current Shared Ownership need is for 2B units but useful to provide some 3B units too. Increasing the discount above 30% may lead to an increase in viability claims and reduce the number of rented units which could be delivered. First Homes sites should not be delivered at the expense of rural exception sites.
	We are concerned that the ability to flip First Homes to market sale after 6 months provides a route for developers to provide market homes on exception sites 'through the back door'.
	Exception site delivery is based on need. Our need tends to cover a wider range of need not just for a first home.
Concerns over viability	Currently as First Homes will not be grant funded then could not deliver first homes on rural exception sites in designated rural areas as the viability does not stack up.
	The S106 template provides that the local authority may purchase the homes at the discounted price, however, this may not be viable if they are to be provided for rent, the specification may not be appropriate and the local authority is effectively being asked to underwrite the developer's risk. We have raised this with DLUHC but haven't been able to get any advice.
	Our affordable rented tenures (which form 65% of all on-site affordable units via S106) aren't affected by FH, however the 25% requirement will leave only 10% left for intermediate tenures. This is mostly taken by shared ownership via RPs, but we also operate a small-scale discounted market sale scheme. I anticipate S106's won't be as attractive to RP's and it will be left to the local authority to increase the provision of First Homes to make a scheme policy compliant.
Urgent need for Government templates	We urgently need Govt approved docs in order to deliver First Homes.
	Still awaiting guidance around the S106 wording to use for First Homes
	Concerned that the template documents should be issues as soon as possible to aid negotiation with developers.
Concerns over workload pressures	We are also really concerned over additional workload expected for this tenure hence why ticked several options for Q13. Imagine will need extra staff to administer these Would also seek contribution from FH development and understand some developers may be offering such a contribution towards legal and other costs of setting up a FH supplemental agreement.
Too early to say what the impact of First Homes will be	It is too early to make any real comments on how FH will affect us
	Difficult to answers some of these questions as it is too early to gauge impacts in the future.
First Homes should not be too problematic	We already have discounted sale properties as part of our affordable housing, so it is not such an issue for us.
	Most of our area is designated rural so we are hopeful FH exceptions sites will not apply.

Conclusions

Even though it is still early days for the First Homes policy the steps being taken by local authorities to implement the policy are flagging up some challenges of applying this policy in rural areas. The survey results confirm that whilst First Homes could help provide much needed affordable homes for first time buyers, as currently designed the approach will not achieve this benefit in many rural areas. Moreover, it will undermine the delivery of other affordable housing tenure, including affordable rented housing which is the primary need in rural areas. This is a consequence of three elements of the design of the First Homes policy.

Firstly, the survey demonstrates the problem that arises from local authorities not being able to set variable discounts that reflect the different value housing markets within their area. Setting the discount at a level that makes a scheme viable in lower value more populace centres is often insufficient discount to make First Homes affordable in higher value rural communities.

Secondly, responses demonstrate that the requirement for 25% of any affordable housing contribution should be First Homes is reducing the provision of affordable rented. As importantly they highlight that the loss of this tenure may be exacerbated by the significant reduction in shared ownership housing which has in the past subsidised the delivery of affordable rented homes.

Thirdly, there are concerns at the loss of local connection eligibility criteria if First Homes are unsold within 3 months. The unaffordability of First Homes to many rural residents who are dependent on low local incomes will mean that these homes will not be occupied by local people in housing need. Moreover, the requirement that 25% of affordable housing contributions are in this tenure will limit the supply of alternative affordable housing tenures that they can afford.

Turning to First Homes Exception Sites. The survey was only able to offer limited insights into the impact of this policy on the delivery of new rural affordable housing. Most of the respondents worked for authorities that are Designated Rural Areas where this policy does not apply. For the remainder most considered it too early to assess the impacts. However, it is salutary to note that in the small number of cases where First Home Exception Sites have been pursued they have both replaced rural exception sites and attracted a higher land price than would conventionally be paid for a rural exception site.

Finally, the small size of many rural local authority housing and planning teams means the additional workload associated with managing First Homes is causing concern. Given their limited budgets it is not surprising that most respondents were looking to absorb much of this work in-house. However, half of these authorities were also seeking to employ new staff and/or seek contributions from First Homes developers to cover administrative costs. Respondents are also looking to Government to provide the S106 template documentation it promised but is not yet available.

Recommendations

1. Amend the NPPG and/or through incorporating First Homes into the NPPF to allow:

- Local planning authorities to set variable % discounts across their local plan area to ensure First Homes are affordable in all housing value markets in their Local Plan area.
- Greater flexibility in setting the % of the affordable housing contribution that should be First Homes based on the evidence of housing needs in the different parts of their Local Plan area.
- Greater flexibility in the price cap for First Homes so the capped price allows for the development of First Homes now and in the future that are affordable and of a size and type appropriate for First Time buyers.
- Change the definition of designated rural area to all parishes of 3k population or less and all parishes in National Parks and AONBs. This would allow First Homes to be built on small market S106 sites in these rural communities, whilst also protecting the supply of rural exception sites that provide a range of affordable housing tailored to the needs of the host community.

2. Allow Homes England grant subsidy where it is evident that First Homes has squeezed out the cross-subsidy that otherwise would have been provided by Shared Ownership housing.
3. Government to fulfil its commitment to monitor the impact of First Homes Exception Sites on the supply of Rural Exception Sites by monitoring:
 - Land price paid for FHES and how this compares with the going rate for RES (the usual price is £10k - £12k a plot - £100k - £120k an acre - but there is some limited regional variation).
 - Tenure provided on FHES.
 - How this compares with tenure that would have been provided on a RES - this can be evidenced by reference to the local Housing Needs Surveys that support any RES planning application.
 - Who/whether there are RPs willing to take on the management of any social/affordable homes on a FHES given that these are likely to be very small numbers.
4. As a matter of urgency Government issues the S106 and other template documentation that it has committed to providing.

Report prepared by Jo Lavis
December 2021

Appendix One

RSN Survey on Impact of First Homes on the delivery of rural affordable housing

As rural local authorities put in place policies and practice to delivery First Homes a number of challenges are emerging. Whilst many of these were raised during the Government's consultation on First Homes, it is becoming apparent that the impacts on the delivery affordable housing are often heightened in rural areas. This is a consequence of higher house prices, the diversity of housing markets within rural local authority areas and stretched staff capacity.

To gauge the extent and greater understanding of the challenges being faced the Rural Services Network would appreciate it if you could complete the following short tick box survey, which will take less than 10 minutes of your time. Drawing on the results we will raise these challenges with the Housing Minister who has agreed to attend a Rural Services APPG meeting in the near future.

If you have any questions relating to the survey, please contact Jo Lavis
Jo.Lavis64@gmail.com

1. Does your local authority include different housing market areas for which it would be helpful to set different discount rates to make First Homes affordable?
Yes
No
2. Will there be parts of your authority where the chosen % discount will not produce a First Home that is affordable in terms of local incomes
Yes
No
3. Is the price cap of £250,000 (after the discount has been applied) low enough to provide a First Home?
Yes
No
4. What size and type of dwelling can be built within the price cap limit?
1 bedroom flat
1 bedroom terraced or semi-detached house
2 bedroom flat
2 bedroom terraced or semi-detached house
3 bedroom terraced or semi-detached house
Other
5. Once you have applied the 25% First Homes requirement, how does the % share of other affordable housing tenures compare with the required tenure mix in your current local plan policy?

	HIGHER	LOWER
Social Rent		
Affordable Rent		
All Affordable Rent*		
Shared Ownership		
Other intermediate affordable housing		
e.g. Discounted Market Sale/ Rent to Buy		

*recognising that LPAs Local Plan does not currently distinguish between social and affordable rent

6. In % terms which tenure has experienced the greatest reduction once the 25% FH requirement has been applied?
- Social Rent
 - Affordable Rent
 - All affordable rent
 - Shared Ownership
 - Other intermediate affordable housing
7. Have any of your RP partners raised concerns at no longer being able to internally cross-subsidise affordable rented homes on market led S106 sites?
- Yes
- No
8. Does the return to national eligibility criteria after 3 months if it has not been possible to sell the First Homes to someone meeting the local eligibility criteria problematic for you? If yes, please could you briefly say what the challenges are?
- Yes
- No
9. What has been the response of developers of S106 sites in rural settlements of 3k population or fewer to the First Homes requirement?
- Keen
 - Uncommitted
 - Don't think it will work
 - Too early to say
10. Do you have any parishes where First Homes Exception Sites apply?
- Yes
- No
- If you answered No, please go to question 16
- If you answered Yes, please go to question 11
11. Have you experienced any change in landowner behaviour towards releasing land for Rural Exception Sites?
- Less interest in releasing sites for RES
 - No change in interest releasing sites for RES
 - Greater interest in releasing sites for RES
 - Too early to say
12. Have you received any expressions of interest in developing a First Homes Exception Sites
- Yes
- No
13. If, Yes, has this been to replace a Rural Exception Site with a First Homes Site?
- Yes
- No

14. If you have experience of First Homes Exception Sites coming forward, please could you tick which of the following features they include

	FHES1	FHES 2	FHES 3	FHES 4
Land price is >10k a plot				
Includes some market housing				
Includes other affordable housing				

15. Which of the following will you use to resource the administration of First Homes?

(please design so respondents can tick more than one response)

Absorb it within the roles of existing in-house planning and housing staff

Out-source some of the verification tasks

Employ new staff to administer First Homes

Seek to raise a payment from FH development to contribute to costs of administration

16. If there are other comments you would like to make on either First Homes or First Homes Exception Sites please do so

THANK YOU VERY MUCH FOR TAKING THE TIME TO COMPLETE THIS SURVEY