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# First Homes Policy (June 2022)

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## Part One: Purpose and Context

### 1. Purpose

- 1.1 The purpose of this policy is to explain the framework by which the Council will deliver First Homes in West Berkshire.
- 1.2 The policy sets out the definition of First Homes, the nationally and locally agreed eligibility criteria for buying and letting First Homes in West Berkshire, the qualification process, how First Homes will be delivered, and the review and complaints procedure.
- 1.3 The Executive approved the First Homes Policy on 9 June 2022.

### 2. Applicability

- 2.1 This policy applies to buyers and tenants, or potential buyers and tenants seeking to purchase or rent a First Home in West Berkshire.
- 2.2 This document is publicly available for reference and viewing.
- 2.3 The Council has consulted with relevant stakeholders, including social landlords known as Registered Providers; developers; Elected Members; and relevant Council Officers.

### 3. Roles and Responsibilities

- 3.1 This policy provides an over-arching framework for First Homes. The Council continues to manage and administer the Housing Register (HR) and the allocation of social and affordable accommodation through the Choice Based Lettings (CBL) system. Each Registered Provider (RP) will have their own Allocations and Lettings Policy for social and affordable accommodation which they will have regard to when deciding whether or not to make an offer of accommodation.

### 4. Review

- 4.1 The Council will review this First Homes Policy every five years or sooner if there is a legislative or policy requirement to do so. All material changes (changes that are not minor but constitute a significant change that could have an adverse impact on applicants) will be subject to consultation and Executive approval.

### 5. Housing in West Berkshire

- 5.1 West Berkshire is a very popular place to live with limited supply of social and affordable properties. However, there are many different types of homes in the district, including homes to buy on the open market or through affordable home ownership schemes; homes to rent from a private landlord or registered provider; and homes designed for particular groups, for example, sheltered housing.
- 5.2 The aims of this policy are to:
  - Ensure that affordable housing in the district is provided to those in the greatest need
  - Make the process of securing properties as transparent as possible
  - Make best use of affordable housing stock in the district
  - Encourage safer and sustainable communities

**6. Legal Context**

6.1 This is the Council's First Homes policy. In developing this policy the Council has followed and fully considered the following:

Legislation:

- Section 106 of the Town and Country Planning Act 1990 (as amended)
- The Housing Act 1996, Part 6 as amended by Localism Act 2011 (England)
- The Planning and Compulsory Purchase Act 2004
- The Planning Act 2008
- The Community Infrastructure Levy Regulations 2010 (as amended)

National policy:

- Written Ministerial Statement 'Affordable Homes' volume 696 (24 May 2021)
- The National Planning Policy Framework (as amended, July 2021)

Statutory guidance:

- Planning Practice Guidance: First Homes (first published May 2021, updated December 2021, Department for Levelling Up, Communities and Housing)

6.2 In framing the policy, regard has also been given to the council's Reducing Homelessness & Rough Sleeping Strategy 2020 - 2025, Housing Strategy 2020 - 2036, the Tenancy Strategy and the Armed Forces Covenant 2011.

**Part Two: Definition**

**7. Discounted sale price**

7.1 The definition of a First Home is set nationally through national policy (Written Ministerial Statement 'Affordable Housing' volume 696, May 2021).

7.2 A First Home is a home sold at a discounted price of no more than 70% of the market value of the property.

7.3 The market value must be determined by an independent registered valuer and must be based on the assumption that the home is sold as an open market dwelling without restrictions.

7.4 The first time a First Home is sold, the home must cost no more than £250,000, after the discount has been applied.

**8. Affordable in perpetuity**

8.1 To continue to qualify as a First Home, future re-sales of the home must also be at a discounted price of no more than 70% of the market value of the property.

8.2 This is to ensure that First Homes continue to be sold with a 30% discount off the market value and remain affordable in future, even if property prices rise over time.

## Part Three: Eligibility

### 9. National eligibility criteria

- 9.1 Eligibility for purchasing First Homes is set nationally through national policy (Written Ministerial Statement 'Affordable Housing' volume 696, May 2021).
- 9.2 National policy prioritises First Homes for first-time buyers, as defined in paragraph 6 of schedule 6ZA of the Finance Act 2003 for the purposes of stamp duty relief for first-time buyers.
- 9.3 First Homes must not be sold to any household with a combined annual income greater than £80,000 (or any threshold set by the Government in future).
- 9.4 All purchasers of First Homes must use a mortgage (or home purchase plan, if required to comply with Islamic law), for at least 50% of the discounted purchase value.

### 10. Local eligibility criteria

- 10.1 Part 6 of the Housing Act (as amended by the Localism Act 2011) and national policy on First Homes enable local authorities to set their local qualifying criteria.
- 10.2 In West Berkshire, in addition to the national criteria, purchasers of First Homes must
  - Have lived or worked within West Berkshire District Council's boundary for a period of 2 years before the property purchase;

Or

  - Have a local connection to the area from one of the following criteria:
    - A child in permanent full time education within West Berkshire District Council's boundary
    - To take up meaningful employment within West Berkshire District Council's boundary
    - Immediate family who have lived within West Berkshire District Council's boundary for more than 5 years
    - Returning to care for a relative or dependant who has lived within the West Berkshire District Council's boundary for more than 5 years
- 10.3 If no one is eligible for the property from the criteria listed then other examples of local connection maybe considered at the discretion of the Housing Strategy and Reviews Manager.
- 10.4 Members of the armed forces, the divorced or separated spouse or civil partner of a member of the armed forces, the spouse or civil partner of a deceased member of the armed forces – if their death was caused wholly or partly by their services, or veterans within five years of leaving the armed forces, are exempt from the above local eligibility criteria.

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- 10.5 A potential buyer may be fleeing violence, or threats of violence. In such cases, the Council may decide to exempt the potential buyer from the local connection criteria, and treat them as qualifying, subject to meeting all of the other eligibility criteria.
- 10.6 In exceptional circumstances the local authority may be approached to assist a household who are a witness in a serious criminal case and who need to be moved to an alternative area for their own protection. In such cases, the housing authority will seek to cooperate with the relevant agencies and may decide to exempt the household from any or all of the eligibility criteria.
- 10.7 If, after three months of active marketing of the home, the home has not been sold to an eligible purchaser, the local eligibility criteria will cease to apply. The national eligibility criteria will continue to apply.

### **11. Qualification process**

- 11.1 West Berkshire Council will assess applications from potential buyers to check they meet the eligibility criteria, including undertaking employment verification checks if relevant.
- 11.2 If the national and local eligibility criteria is met, consent addressed to HM Land Registry will be issued.
- 11.3 The fee for issuing this consent is £250.00.
- 11.4 If none of the criteria is met, the potential buyer should provide other evidence upon which they wish to rely in order that the Council can consider the application.

### **12. Lettings**

- 12.1 A First Home can be let for a maximum of 2 years.
- 12.2 Homeowners wishing to let their First Home must apply to the local authority for permission to let the property
- 12.3 West Berkshire Council will assess applications from homeowners wishing to let their First Home to check that:
- potential tenants meet the criteria; and
  - the rent for the First Home is not more than the local housing allowance rate.
- 12.4 This will ensure that the property remains affordable and is meeting local housing needs.
- 12.5 If the criteria is met, West Berkshire Council will issue consent to let the property.
- 12.6 The fee for issuing this consent is £250.00.

## **Part Four: Delivery**

### **13. Section 106 planning obligations**

- 13.1 In line with local planning policy, new residential development is required to provide affordable housing.
- 13.2 In line with national planning policy, at least 25% of this affordable housing must be First Homes.

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- 13.3 The First Homes must be delivered on-site. Commuted sums or off-site provision will not be accepted in lieu of on-site provision.
- 13.4 Development schemes which consist of 100% build-to-rent; specialist accommodation for the elderly or students; self- and custom-build homes; or affordable housing are exempt from the requirement to deliver First Homes.
- 13.5 Section 106 planning obligations will be used to secure the delivery of First Homes using the model section 106 planning obligation provided by the Government, as set out in statutory planning guidance (published December 2021).
- 13.6 Restrictive covenants will be entered onto the HM Land Registry, using the model covenant provided by the Government, as set out below:

*No disposition of the registered estate (other than a charge) by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by [Local Authority] of [address] or their conveyancer that the provisions of clause XX (the First Homes provision) of the Transfer dated [Date] referred to in the Charges Register have been complied with or that they do not apply to the disposition.*

- 13.7 A seller must apply to the Council for permission to remove this restrictive covenant. If approved by the Council, the property would cease to qualify as a First Home.
- 13.8 To help ensure the ongoing supply and availability of affordable housing in the district, the Council will not normally approve applications to remove this covenant.

## 14. Community Infrastructure Levy

- 14.1 In accordance with Community Infrastructure Levy (CIL) regulations, First Homes will qualify for mandatory social housing relief and will be exempt from the requirement to pay CIL (provided that the application for relief meets specific assessment criteria).
- 14.2 A rented First Home would still be eligible for mandatory social housing relief provided the letting of the property did not exceed the maximum 2 year period.
- 14.3 If an application is made to remove the restrictive covenant and the property is sold at more than 70% of the market value, the property will no longer qualify as a First Home and will no longer be eligible for mandatory social housing relief from CIL. The CIL liability will be backdated to commencement at the rate that was in place at the time of commencement (plus a surcharge for a disqualifying event).

## 15. Exception Sites

- 15.1 In line with local planning policy, First Homes can also be provided on First Homes exception sites. The forthcoming Local Plan review will set out criteria for First Homes exception sites.

## Part Five: Reviews and Complaints

### 16. Right to Review

- 16.1 An applicant has the right to request a review of a decision regarding:
- Whether a property qualifies under the definition of a First Home;
  - Whether s/he is eligible to purchase or rent a First Home of accommodation;
  - The suspension, cancellation, or removal of an application.
- 16.2 Applicants wishing to review a decision must advise the Council in writing within 21 days of the decision date giving their reasons for doing so.
- 16.3 As evidence is taken in written form it is very important that, when making the request for a review, the applicant, or someone acting on their behalf:
- Brings to the Council's attention any new information that they wish to have considered; and
  - Explains why they think the decision is wrong.
- 16.4 If no written representations are received the matter will be decided on the facts already known.
- 16.5 An officer senior to the officer who made the original decision, and who has not been involved in the original decision, will carry out the review and respond to the applicant.
- 16.6 The Council will determine the review within 56 days. If there is a delay with the review decision the applicant will be advised in writing of the reason for the delay and a revised timescale.
- 16.7 If the applicant disagrees with the review decision, they can seek judicial review or take their case to the Local Government Ombudsman.

### 17. Complaints

- 17.1 Where an applicant considers that they have been treated unfairly or believes that there has been maladministration, they can make a formal complaint to the Council.
- 17.2 This is distinct from the procedure to request a review of a decision that has been made in accordance with this policy and the complaints procedure cannot be used to challenge the outcome of reviews.
- 17.3 The Council's complaints procedure is detailed on the Council's website and in the leaflet 'How to complain' which can be obtained from Council offices.

### 18. Monitoring

- 18.1 The scheme will be closely monitored by the Housing Service to ensure that it is operating equitably and fairly.
- 18.2 The Housing Service will carry out regular checks to verify details to prevent fraud.
- 18.3 The policy will be reviewed after the first 12 months of introduction to consider if any revisions are necessary after initial operation. The policy will then be reviewed every 5 years thereafter. Should any significant amendments be required, consultation would be undertaken with relevant stakeholders including elected members prior to a decision being made.