

EXECUTIVE

15th September 2022

Report Title	First Homes Early Delivery Programme
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Lead Member	Cllr Matthew Binley, Executive Member for Housing, Communities and Levelling Up

Key Decision	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for call-in by Scrutiny?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there public sector equality duty implications?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information (whether in appendices or not)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Applicable paragraph number/s for exemption from publication under Schedule 12A Local Government Act 1972	

List of Appendices

Appendix A – Deed of Variation for land at parcel R7, Glenvale Park

1. Purpose of Report

- 1.1. To note the officer decision taken under delegated authority to apply the national eligibility criteria, level of discount, income cap and price cap for First Homes being delivered in North Northamptonshire.
- 1.2. To seek approval for the decision to apply discretionary local connection criteria to First Homes sold in North Northamptonshire.
- 1.3. This decision applies to any First Homes being delivered under Homes England's First Homes Early Delivery Programme, and on any other First Homes delivered in North Northamptonshire until the Local Plan is updated to include any alternative First Homes policy for North Northamptonshire
- 1.4. To delegate authority to the Executive Member for Housing, Communities and Levelling Up, in consultation with the Executive Director for Place and Economy

to enter Deeds of Variation to enable the delivery of additional First homes, where deemed appropriate.

2. Executive Summary

- 2.1. First Homes are a type of affordable housing and were introduced into the National Planning Policy Framework on 28th June 2021 via a Written Ministerial Statement. They are discounted market sale units which:
 - a) must be discounted by at least 30% against the market value;
 - b) be sold to households who meet the First Homes eligibility criteria;
 - c) remain discounted and sold to eligible households in perpetuity by way of a restriction registered on the title at HM Land Registry in favour of the Council; and,
 - d) cannot be sold for the first time at a price higher than £250,000 after the discount has been applied
- 2.2. First Homes are the government's preferred discounted market tenure and should now account for at least 25% of all affordable homes delivered by developers through planning obligations (section 106 agreements). The tenure of the remaining 75% can be decided by the Council, in line with adopted planning policy and considering evidence of affordable housing need in the local area.
- 2.3. The rules on First Homes allow local authorities to set their own local eligibility criteria and lower price caps, discount levels and income caps, however the decision to do so must not be arbitrary and must be implemented via the Local Plan-making process. The Council is therefore not permitted to divert from the national First Homes policy until the Local Plan is updated to include an adopted local policy on First Homes in North Northamptonshire. Whether or not it is appropriate to divert from the national policy will be determined with reference to the data on local house prices, incomes and affordability contained within the emerging North Northamptonshire Housing and Economic Needs Assessment (HENA). The exception to this is on local connection criteria. The Council can choose to apply local connection criteria to First Homes if this can be justified.
- 2.4. To expedite the delivery of First Homes, developers were invited to bid for grant from Homes England under the First Homes Early Delivery Programme. The grant funding meets the cost of converting homes, which would otherwise have been sold at full market value, to First Homes being sold at 70% of the open market to eligible households. Funding has been secured by Persimmon to provide six First Homes on parcel R7 at Glenvale Park, Wellingborough. These homes are in addition to the affordable housing which has been secured via the Section 106 agreement so there will be an overall increase in the number of affordable homes provided at Glenvale Park as a result.
- 2.5. To secure the delivery of these additional affordable homes, a Deed of Variation is required to the existing Section 106 agreement for Glenvale Park. The deed amends the Section 106 agreement to include the First Homes and the criteria that applies to them. This ensures that the homes are legally protected as

affordable homes in future, and that the relevant criteria will always be applied to any future sales. The deed also introduces the wording which must be used in the title restriction to be registered with HM Land Registry in favour of the Council. Without agreement to a Deed of Variation, Homes England would withdraw the grant and the six additional First Homes would revert to being sold at their full market value to any willing and able purchaser without restriction.

- 2.6. An officer decision was made by the Executive Director of Place and Economy under the Council's Scheme of Delegation and in consultation with the Chair of the Wellingborough Area Planning Committee on 12th August 2022. The decision was to enter a Deed of Variation with Persimmon Homes Ltd. to enable the delivery of the six First Homes at parcel R7 of Glenvale Park, Wellingborough. These homes would otherwise have been sold at full open market value by Persimmon. The reason for the decision was to enable an increase in the number of affordable homes, to meet the grant deadlines of Homes England and to enable Persimmon to begin marketing the First Homes to first time buyers as soon as possible.
- 2.7. The Executive is asked to note the officer decision taken to enter the Deed of Variation and apply the national criteria on the level of discount, eligibility criteria, income cap and price cap, in the absence of an adopted Local Plan policy on First Homes and in line with Homes England's grant conditions.
- 2.8. The Executive is asked to ratify the officer decision to apply the discretionary local connection criteria to First Homes, meaning that they will be sold to those with a local connection to North Northamptonshire. Further details and the definition of "local connection" are contained within sections 4 of this report.
- 2.9. Approval is also sought from The Executive for officers to apply the above to all future First Homes delivered in North Northamptonshire until the adoption of an updated Local Plan containing any alternative locally determined criteria for First Homes North Northamptonshire (if appropriate). The Local Plan will be separately subject to the statutory adoption processes required by planning law and the Council's constitution.

3. Recommendations

- 3.1. It is recommended that the Executive:
 - a) Notes the officer decision taken under delegated authority to apply the national eligibility criteria, level of discount, income cap and price cap for First Homes being delivered in North Northamptonshire.
 - b) Approves the decision to apply discretionary local connection criteria to First Homes so that they are sold to first-time buyers with a local connection to North Northamptonshire.
 - c) Approves that the above will apply to any future First Homes being delivered under Homes England's First Homes Early Delivery Programme, and on any other First Homes delivered in North Northamptonshire. This

will be the case until the Local Plan is updated to include any alternative First Homes policy for North Northamptonshire.

- d) Delegates authority to the Executive Member for Housing, Communities and Levelling Up, in consultation with the Executive Director for Place and Economy to enter Deeds of Variation on the basis set out above to enable the delivery of additional First homes, where deemed appropriate.
- 3.2. Reason for Recommendation: The decision to enable the early delivery of First Homes will lead to an increase in the overall supply of affordable homes in North Northamptonshire and improve access to homeownership for local first-time buyers. Early delivery also provides the Council with an opportunity to pilot the legal and sales procedures for First Homes, ahead of their delivery through the planning system, and will help officers to refine this process and make any necessary adjustments or improvements prior to larger numbers of First Homes being delivered via Section 106 agreements.
- 3.3. Alternative Options Considered: The alternative option is to refuse requests to vary existing section 106 agreements to provide First Homes. Taking this approach was discounted as it would mean the Homes England grant being diverted to another local authority area and it would mean the loss of additional affordable homes for local people.

4. Report Background

- 4.1. First Homes are a type of affordable housing and were introduced into the National Planning Policy Framework on 28th June 2021 via a Written Ministerial Statement. They are discounted market sale units which:
- a) must be discounted by at least 30% against the market value;
 - b) be sold to households who meet the First Homes eligibility criteria;
 - c) remain discounted and sold to eligible households in perpetuity by way of a restriction registered on the title at HM Land Registry in favour of the Council; and,
 - d) cannot be sold for the first time at a price higher than £250,000 (outside of London) after the discount has been applied
- 4.2. First Homes are the government's preferred discounted market tenure and should now account for at least 25% of all affordable homes delivered by developers through planning obligations (section 106 agreements) on new planning applications made after December 2021. The tenure of the remaining 75% can be decided by the Council, in line with adopted planning policy and considering evidence of need in the local area.
- 4.3. At the end of 2021 the Department for Levelling Up, Housing and Communities (DLUHC) announced that they would deliver 1,500 First Homes across England as part of the Early Delivery Programme. They made grant funding available,

via Homes England, to private sector housebuilders to convert homes, which would otherwise have been sold at full market value, to First Homes.

- 4.4. The reason for the Early Delivery Programme was to increase the number of affordable homes being provided to First Time Buyers and, following some small-scale pilot schemes, allow local authorities and developers to provide feedback to Homes England and DLUHC on the process involved in the development and sale of First Homes. The restriction on title in favour of the Council means that officers will be required to check that the correct discount, price cap, and eligibility criteria are being applied upon each sale of a First Home.
- 4.5. In March 2022 Homes England confirmed to relevant officers in the Planning and Housing Development and Enabling teams that Persimmon Homes Ltd. had been successful in their bid for grant to provide four First Homes on parcel R7 at Glenvale Park. This was later increased to six at Persimmon's request and approved by Homes England.
- 4.6. These First Homes are in addition to the affordable housing which has been secured at Glenvale Park via a section 106 agreement, so will increase the overall number of affordable homes being delivered in North Northamptonshire.
- 4.7. To enable the delivery of First Homes under the Early Delivery Programme a Deed of Variation is required to the existing Section 106 agreement. The deed amends the Section 106 agreement to include the First Homes and the criteria that applies to them. This ensures that the homes are legally protected as affordable homes in future, and that the relevant criteria will always be applied to any future sales. The deed also introduces the wording which must be used in the title restriction to be registered with HM Land Registry in favour of the Council. Without agreement from the Council to a Deed of Variation, Homes England would withdraw the grant and the six additional First Homes would revert to being sold at their full market value to any willing and able purchaser without restriction.
- 4.8. In the case of any First Homes delivered as planning obligations via Section 106 agreements on new planning applications from December 2021, the provisions for First Homes and the title restriction will be included in the initial Section 106 agreement and therefore no Deed of Variation will be required.
- 4.9. DLUHC have produced standard wording to be used for Section 106 agreements and Deeds of Variation and a solicitor, under instruction from officers of the Council applied this wording to produce the deed for Glenvale Park, in negotiation with Persimmon and their legal representative.
- 4.10. The rules on First Homes allow local authorities to set their own local eligibility criteria and lower price caps, discount levels and income caps, however the decision to do so must not be arbitrary and must be implemented via the local plan-making process. The Council is therefore not permitted to divert from the national First Homes policy until the Local Plan is updated to include an adopted local policy on First Homes in North Northamptonshire. Whether or not it is appropriate to divert from the national policy will be determined with reference

to the data on local house prices, incomes and affordability contained within the emerging North Northamptonshire Housing and Economic Needs Assessment (HENA). The exception to this is on local connection criteria. The Council can choose to apply local connection criteria to First Homes if this can be justified.

- 4.11. In the case of the Early Delivery Programme, the national criteria are being applied and an officer decision was taken to apply discretionary local connection criteria to ensure that First Homes are directed towards helping people within the local community access home ownership. The local connection criteria included is as follows:

means either (a) or (b) below:

(a) criteria which are met by a person who satisfies one or more of (i) and (ii) below:

- (i) is ordinarily resident within North Northamptonshire and has been for a continuous period of not less than 6 (six) consecutive months prior to exchange of contracts for the relevant First Home; and/or**
(ii) who has a close family association with North Northamptonshire by reason of a Family Member who is ordinarily resident within North Northamptonshire (iii) is moving to North Northamptonshire for the purposes of their employment in North Northamptonshire

(b) such other local connection criteria as may be published by the Council from time to time as its “First Homes Local Connection Criteria” and which is in operation at the time of the relevant Disposal of the First Homes Unit and for the avoidance of doubt any such replacement criteria in operation at the time of the relevant Disposal of the First Homes Unit shall be the “Local Connection Criteria”. which shall apply to that Disposal (it being acknowledged that at the date of this agreement the Council has not designated any criteria as Local Connection Criteria

- 4.12. A copy of the approved Deed of Variation is provided as **Appendix A**. Where appropriate on some of the national criteria, a caveat has been included to allow the application of any future local criteria implemented through the local plan-making process.

5. Issues and Choices

- 5.1. The Council could choose not to allow any variations to existing Section 106 agreements to facilitate First Homes ahead of their delivery via new planning permissions implemented after December 2021. Taking this approach is not recommended as it prevents the delivery of affordable homes being made available within the local area. These homes are additional to the affordable

homes already secured via the existing Section 106 agreement and so are not replacing more affordable tenures such as Shared Ownership and Affordable Rent, which traditionally make up the affordable housing provision within Section 106 agreements.

- 5.2. Where a variation is agreed, the Council could choose not to apply the local connection criteria and allow anyone from any area to purchase the First Homes. This is not recommended as the early pilot schemes delivered elsewhere in England have established that First Homes were extremely popular with First Time Buyers and so demand is likely to be very high. This will particularly be the case until larger numbers are delivered on new development sites in future. It is therefore recommended that First Homes locally are directed towards people with connection to North Northamptonshire.
- 5.3. There will be future choices to make in establishing a future policy for First Homes in North Northamptonshire. Whether or not it is appropriate to divert from the national policy will be determined with reference to the data on local house prices, incomes and affordability contained within the emerging North Northamptonshire Housing and Economic Needs Assessment (HENA) and formally adopted through the Local Plan. The Local Plan will be separately subject to the statutory consultation and adoption processes required by planning law and the Council's constitution.

6. Next Steps

- 6.1. Following the signing of the Deed of Variation, officers from the Council's Housing Development and Enabling team will meet with Persimmon to ensure that the First Homes are properly marketed, and the sales process mirrors the model process set out by DLUHC and Homes England. Both the developer and council officers have been provided with the relevant packs which purchasers will be required to complete, along with process maps explaining what each party is required to do at each stage of the sales process.
- 6.2. Officers will continue to engage with Homes England and provide feedback on the successes and challenges of the First Homes process so that learning can be taken forward in future schemes.
- 6.3. There are some financial and resource implications as well as some risks attached to the future increasing provision of First homes. These will need careful monitoring and consideration and are covered in section 7. Further decisions may need to be sought in future to address these.

7. Implications (including financial implications)

7.1. Resources, Financial and Transformation

- 7.1.1. To deliver First Homes, a restriction on the title is required in favour of the Council. This restriction ensures that anyone selling a First Home is bound by

the First Homes criteria, including the level of discounts, the income cap, and the eligibility criteria. This title restriction also means that officers from the Council will be required to check that the restrictions have been complied with and will be required to issue formal confirmation to allow a sale to proceed to completion.

- 7.1.2. The national policy on First Homes allows the Council to claim a £150 payment for every first sale of a First Home, which would be paid by the initial developer. This money is to cover the administration costs of the Council in processing First Homes sales. This money is unlikely to cover the true costs of administering First Homes, particularly as numbers eventually increase with 25% of all affordable housing on Section 106 sites being First Homes.
- 7.1.3. It is anticipated that the initial sales will be relatively straight forward as the developers involved in delivering First Homes have had extensive engagement with Homes England and the Council. They also employ marketing teams who are familiar with other types of housing such as Help to Buy. Even then, there will be occasions where multiple applications could be made for a single property depending on how the sales process progresses for the individuals involved. Once the First Homes are being sold on by individuals and Estate Agents however, there are likely to be more incidents of abortive applications as knowledge and expertise is lower, at least until the tenure is very well established. This will increase the administrative burden for the Council. It will also be more difficult to predict when onward sales are likely to occur making planning resources more difficult initially.
- 7.1.4. There are currently no staff employed within the Council to administer the process and currently, whilst numbers are low, this can be absorbed by existing staff in Housing Development and Enabling. As numbers rise however there will be a need to assess the resource requirements for First Homes and incorporate these into future staffing and structures within Housing.
- 7.1.5. For First Homes delivered via the Early Delivery Programme, the Council is not permitted to include an administrative charge which would apply to future purchasers. There may however be an option to include this in future First Homes being delivered via section 106 sites and it is recommended that this is considered in future as the likely financial implications become clearer.

7.2. Legal and Governance

- 7.2.1 First Homes provide additional affordable housing and are subject to specific eligibility criteria. There is a requirement to publish local criteria if adopted and restrictions are applied to the use and sale of the property.
- 7.2.2 The main legal implications relate to the drafting of Section 106 agreements and Deeds of Variation to incorporate First Homes. Officers in Housing, Planning and Legal Services are working together to familiarise themselves with the standard templates and clauses and incorporate these where required.

7.3. Relevant Policies and Plans

7.3.1. Increasing the supply of affordable housing meets the objective of enabling safe and thriving places as set out in the Corporate Plan 2021-2025

7.3.2. The National Planning Policy Framework directs that 25% of all affordable homes provided as planning obligations via section 106 agreements, on new planning applications made after December 2021 must be First Homes. This does not apply to sites which are developed as 100% affordable housing by the Council or other Registered Providers.

7.4. Risk

7.4.1. The main risk is the financial risk set out above and this is not an immediate risk posed by this decision. This is a risk which will require monitoring and any further decisions relating to this will be made at the appropriate time in accordance with the Council's decision-making policies and constitution.

7.4.2. There is also a longer-term risk that the provision of First Homes will reduce the numbers of other types of affordable housing, particularly Shared Ownership which currently typically makes up around 30% of the affordable housing provided via Section 106 agreements. This risk will be considered and managed through the Local Plan process and by officers who already apply existing planning policy and make decisions about the mix of affordable housing tenures provided on individual sites. The precise mix is set out in any planning application which is publicly consulted upon and determined in line with policy either by delegated authority or via the relevant Planning Committee.

7.5. Consultation

7.5.1. In making the delegated decision to enter the Deed of Variation the Chair of the Wellingborough Area Planning Committee was consulted by the Executive Director for Place and Economy.

7.5.2. The national policy on First Homes was subject to public consultation carried out by the Department for Levelling Up, Housing and Communities prior to being implemented through the National Planning Policy Framework.

7.6. Consideration by Executive Advisory Panel

7.6.1. This decision has not been considered by an Executive Advisory Panel due to a delegated decision on the Deed of Variation being required in a timely manner to allow the Early Delivery Pilot to proceed.

7.7. Consideration by Scrutiny

7.7.1. This decision has not been considered by the Scrutiny Committee

7.8. Equality Implications

7.8.1. As part of the adoption of the national policy on First Homes, the Department for Levelling Up, Housing and Communities carried out an Equalities Impact Assessment.

7.9. Climate and Environment Impact

7.9.1. There are no additional climate implications resulting directly from this decision. All housing development in North Northamptonshire is required to meet the sustainability standards set out in the North Northamptonshire Joint Core Strategy and the relevant Part 2 Plan. They are also required to adhere to the Building Regulations, which are currently being updated to incorporate additional requirements to address climate change.

7.10. Community Impact

7.10.1. This decision increases the number of affordable homes available for local people.

7.11. Crime and Disorder Impact

7.11.1. There is no direct impact on crime and disorder as a result of this decision.

8. Background Papers

8.1. First Homes Guidance from DLUHC: <https://www.gov.uk/guidance/first-homes>

8.2. First Homes Early Delivery Programme 2021-2023 Guidance for Developers: <https://www.gov.uk/government/publications/first-homes-early-delivery-programme-2021-to-2023-guidance-for-developers>