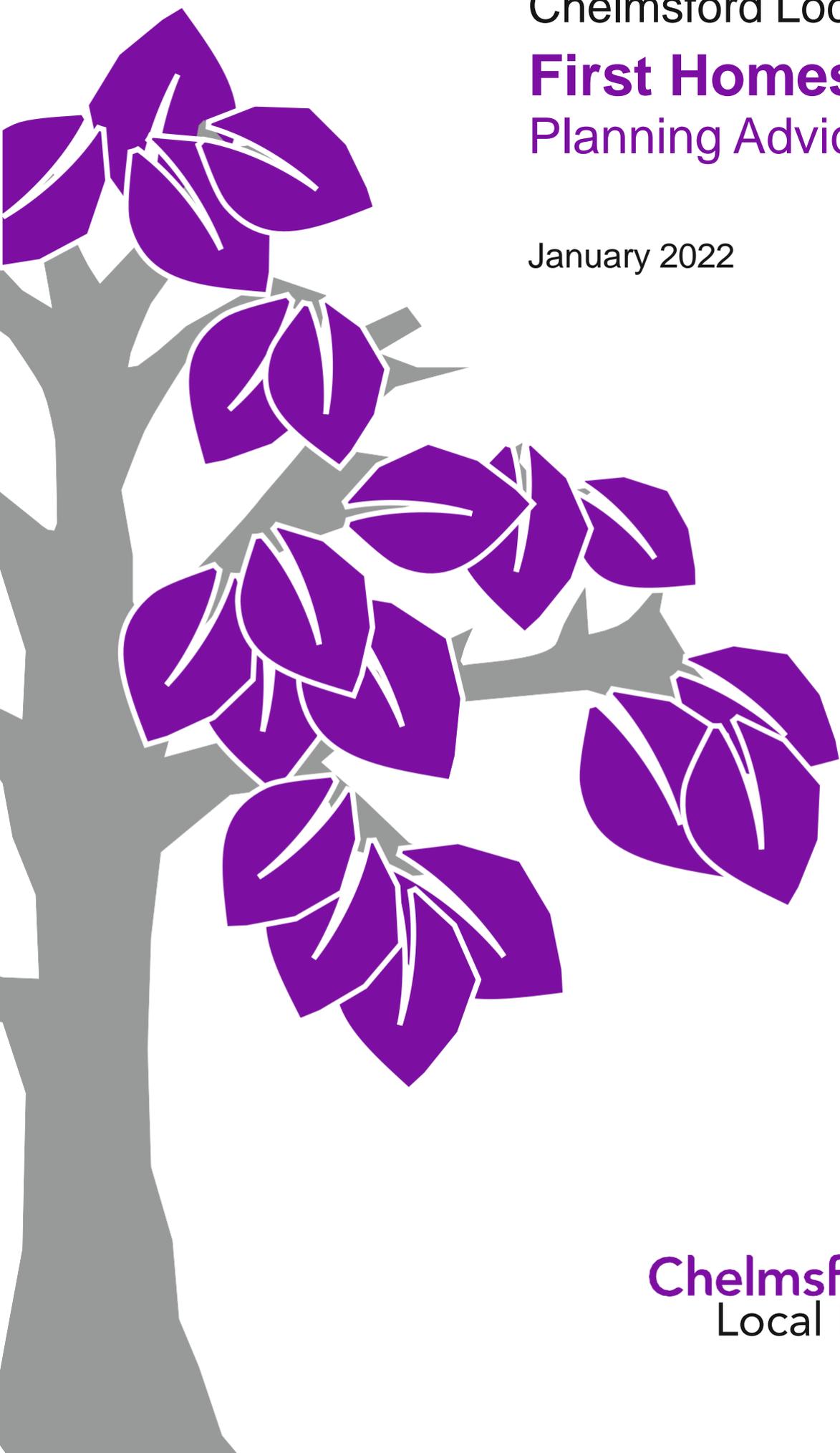


Chelmsford Local Plan
First Homes
Planning Advice Note

January 2022



First Homes: Planning Advice Note

1. Background

1.1 On 24th May 2021, the Government published a Written Ministerial Statement¹ that set out plans for delivery of a new type of affordable home ownership product called First Homes. To support the future development of First Homes, the Government also set out changes to national planning policy.²

1.2 First Homes are a specific kind of discounted market sale housing which must:

- be discounted by a minimum of 30% against the market value; and
- can only be sold to a person or persons meeting the First Homes eligibility criteria (see below); and
- after the discount has been applied, the first sale must be at a price no higher than £250,000 outside of London; and
- on the first sale, a First Home will have a restriction registered on the title of the property at HM Land Registry to ensure the discount (percentage of current market value) and certain other restrictions are passed on at each subsequent title transfer.

1.3 This is the minimum criteria a First Home must meet and would be considered to meet the definition of 'affordable housing' for planning purposes.

1.4 The national eligibility criteria for purchasers of First Homes includes the following:

- a purchaser (or, if joint purchase, all the purchasers) of a First Home should be a first-time buyer³; and
- purchasers of First Homes, whether individuals, couples or group purchasers should have a combined annual household income not exceeding £80,000 in the tax year immediately preceding the year of purchase; and
- 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; and
- the First Home must be the buyer's main residence with restrictions on lettings being applied.

1.5 The First Homes Written Ministerial Statement does give local authorities or neighbourhood planning groups discretion to:

- Require a higher minimum discount of either 40% or 50% if they can demonstrate a need for this.
- Set lower price caps if they can demonstrate a need for this.
- Apply time limited eligibility criteria in addition to the national criteria described above, for example a local connection test, or criteria based on employment status.

¹ <https://questions-statements.parliament.uk/written-statements/detail/2021-05-24/hlws48>

² <https://www.gov.uk/guidance/first-homes>

³ As defined in paragraph 6 of schedule 6ZA of the Finance Act 2003 for the purposes of Stamp Duty Relief for first-time buyers.

1.6 First Homes are the Government's preferred discounted market tenure and should account for a minimum 25% of affordable housing secured through planning obligations.

1.7 Chelmsford's Local Plan (Policy DM2 A) requires the provision of 35% of the total number of residential units to meet the national definition of 'affordable housing' within all new residential developments that comprise 11 or more residential units.

1.8 The reasoned justification for Policy DM2 A sets out that to meet housing need the 35% affordable housing policy requirement must incorporate 22% affordable housing for rent, provided as either social or affordable rented housing. The remaining 13% required to meet demand for affordable home ownership and comply with national planning policy, which requires that at least 10% of homes should be available for affordable homes ownership, was determined through the Local Plan Viability Study. It was assumed to be provided as shared ownership housing where buyers purchase a share in a home and pay a below market rent on the share that they do not own.

1.9 The First Homes Written Ministerial Statement also introduced a First Homes exceptions site policy to encourage First Homes-led development on land that is not currently allocated for housing, replacing the entry-level exception site policy.

1.10 First Homes exception sites should be on land which is not already allocated for housing and should:

- a) comprise First Homes (as defined in the Written Ministerial Statement); and
- b) be adjacent to existing settlements, proportionate in size to them, not compromise the protection given to areas or assets of particular importance in the National Planning Policy Framework⁴, and comply with any local design policies and standards.

1.11 The First Homes exceptions site policy also allows a small proportion of market homes on the site at the local authority's discretion.

2. Purpose

2.1 The purpose of this advice note is to:

- 2.1.1. Clarify what a policy compliant affordable housing requirement on developments of 11 or more dwellings is following the implementation of the First Homes Written Ministerial Statement.
- 2.1.2 Set out the City Council's position regarding those elements of the National criteria that can be amended by local authorities relating to the homes and purchasers of First Homes.
- 2.1.3 Clarify the City Council's interpretation and position regarding the terms 'proportionate to the settlement' and 'small proportion of market homes' in relation to First Homes exceptions sites.

2.2 This Planning Advice Note will be reviewed in line with the review of the Local Plan, which is timetabled to commence in 2022.

⁴ They should not be permitted in National Parks, Areas of Outstanding Natural Beauty, land designated as Green Belt, or designated as rural under s.157 of the Housing Act 1985.

3. Policy Compliant Affordable Housing Mix

3.1 A minimum of 25% of all affordable housing units secured through developer contributions should be First Homes, subject to the transitional arrangements (see below).

3.2 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. Because Local Plan Policy DM2 A does not differentiate between social and affordable rent; the 22% affordable housing for rent contribution must be provided in line with Paragraph 8.11 of the Local Plan to protect the social rent units. This is the basis on which the need was assessed, and the requirement determined.

3.3 The remainder of the affordable housing tenures should be delivered in line with the proportions set out in Local Plan policy.

3.4 The First Homes Planning Practice Guidance states that a policy compliant planning application should seek to capture the same amount of value as would be captured under a local authority's up-to-date published policy. It sets out that where a plan viability assessment shows the amount of value captured, this allows the total value captured under the policy to be calculated. This value can then be reallocated to a different affordable housing mix under the new policy⁵.

3.5 Currently the 35% affordable housing policy requirement consists of 63% affordable housing for rent and 37% affordable home ownership – assumed to be provided as shared ownership housing. As the 25% First Homes requirement can be accounted for within the 37% affordable home ownership element of the contribution, or 13% total affordable home ownership requirement, from the 28 June 2021 (where transitional arrangements do not apply) the following affordable housing contribution will be considered policy compliant:

- **At least 9% of the total number of residential units on new residential developments of 11 or more residential units will be required as First Homes as this equates to 25% of the affordable housing requirement. Where the percentage of First Homes sought does not result in whole numbers, it should always be rounded up to achieve the required 9%.**
- **At least 22% of the total number of residential units on new residential developments of 11 or more residential units will be required as affordable housing for rent as set out in the Local Plan. Where the percentage of affordable housing for rent does not result in whole numbers, it should always be rounded up to achieve the required 22%.**
- **The balance, 4% of the total number of residential units on new residential developments of 11 or more residential units will be required as Shared Ownership Housing to continue to meet demand for affordable home ownership homes and from purchasers that do not meet the qualification criteria applied to First Homes.**

3.6 To ensure a compliant planning application captures the same amount of value as would be captured under the Local Plan:

- **First Homes will be required at the 30% discount against the market value and the national price cap of £250,000 will apply.**

⁵ First Homes Planning Practice Guidance, Paragraph: 014 Reference ID: 70-014-20210521

3.7 The Local Plan Viability Study assumed a larger discount would apply to shared ownership housing – 35% from the market value rather than 30%. Therefore, to maintain the same overall value for the affordable home ownership contribution in addition to the provision of 9% of the total number of residential units on new residential developments of 11 or more residential units being provided as First Homes; **a financial contribution in lieu of the 5% difference in the discount applied to shared ownership will be applied to the 9% First Homes to meet the priorities identified in the Housing Strategy.**

3.8 The value of the 5% contribution has been calculated using the same market values applied in the Local Plan Viability Study, which are also set out in Table 5 of the Planning Obligations Supplementary Planning Document:

Table 1 First Homes Financial Contribution

Dwelling type	Market Value per sqm	5% of market value per sqm
Flat	£4,931	£247
House	£4,046	£202

3.9 A worked example of a greenfield site of 100 homes with 35% affordable housing using the size and mix of accommodation indicated in Local Plan Policy DM1 for market housing, the size requirement for affordable housing for rent set out in the Strategic Housing Market Assessment and the price caps for First Homes on initial sale, is provided in Table 2 below:

Table 2 Worked Example

Total Residential Dwellings	Size Sqm ⁶	Market Housing Dwellings	Affordable Housing For Rent Dwellings	First Homes Dwellings	First Homes Financial Contribution £'s	Shared Ownership Dwellings	Total
1 bed flat	50	4	5	4	4 x 50 = 200 200 x £247 = £49,400		13
2 bed flat	70	6	5	5	5 x 70 = 350 350 x £247 = £86,450		16
2 bed house	79	12	7			2	21
3 bed house	93	30	3			2	35
4 bed house	106	13	2				15
Total		65	22	9	£135,850	4	100

3.10 The affordable housing contribution in the worked example would therefore consist of:

- 9 First Homes dwellings and a financial contribution towards affordable housing of £135,850.
- 4 Shared Ownership dwellings.
- 22 affordable dwellings for rent.

⁶ The floor areas used to calculate the sum in Table 2 are illustrative and reflect the minimum gross internal floor areas required for affordable housing for rent. They may be lower for affordable housing for home ownership but must still comply with Nationally Described Space Standards, as referenced in Policy DM26 of the Local Plan.

3.11 If the discount on the First Homes dwellings is greater than the minimum 30% required, the developer will not be required to pay the financial contribution in lieu of the 5% difference on those First Homes discounted at 40% or 50% from market value.

3.12 When a developer chooses to discount First Homes beyond the minimum 30% the Council and national planning policy requires, the Council will still require 22% affordable housing for rent on new residential development of 11 or more residential units, as set out in the Local Plan. The requirement for 4% of the total number of residential units on new residential developments of 11 or more residential units will be also be required as shared ownership housing to continue to meet demand for affordable home ownership homes and from purchasers that do not meet the qualification criteria applied to First Homes.

4. Local Eligibility Criteria

4.1 As part of planning obligations secured through section 106 agreements, local authorities can apply eligibility criteria to First Homes in addition to the national criteria described above. In Chelmsford, the following additional local criteria will apply to all First Homes on initial sales and resales for a period of 3 months from when a home is first marketed:

- **Households with an adult that at the time of marketing the First Home lives or works⁷ in the administrative area of Chelmsford City Council; or**
- **Households with an adult that at the time of marketing the First Home is an essential local worker as defined in the National Planning Policy Framework⁸.**

4.2 If a suitable buyer has not reserved a home after 3 months, the eligibility criteria will revert to the national criteria to widen the consumer base.⁹

4.3 In accordance with national Planning Practice Guidance, the local eligibility criteria will be disapplied for all active members of the Armed Forces, divorced/separated spouses or civil partners of current members of the Armed Forces, spouses or civil partners of a deceased member of the armed forces (if their death was wholly or partly caused by their services) and veterans within 5 years of leaving the armed forces.

5. First Homes Exceptions Sites

5.1 The First Homes Written Ministerial Statement and associated planning guidance allows for First Homes exceptions sites to come forward on unallocated land outside of a development plan so long as it meets the criteria set out above. As well as being adjacent to existing settlements, the criteria states that these sites must be 'proportionate in size' to the existing settlements.

⁷ To qualify at least one prospective purchaser must be contracted to work with a company based in Chelmsford on either a full or part time basis.

⁸ Annex 2 of the National Planning Policy Framework (2021) defines 'Essential local workers as public sector employees who provide frontline services in areas including health, education and community safety – such as NHS staff, teachers, police, firefighters and military personnel, social care and childcare workers.'

⁹ Rural exception sites delivered through Local Plan Policy DM2 (B), which are only allowed when there is a clearly identified need in the Parish in which they are located, will continue to have a local eligibility criterion that favours residents with a defined connection to the Parish for a set period of time.

5.2 National Planning Practice Guidance states that for decision making, what constitutes a proportionate development will vary depending on local circumstances and encourages local authorities to set policies which specify their approach to determining the proportionality of First Homes exceptions site proposals.

5.3 Until the review of the Local Plan, Chelmsford City Council will consider First Homes exceptions site proposals to be 'proportionate' to an existing settlement **when the total size of the proposed development area is not greater than whichever is the lower of:**

- **either 1 hectare or 5% of the measurement (in hectares) of the area within the existing settlement's Defined Settlement Boundary.**¹⁰

5.4 This accords with the current National Planning Practice Guidance on Entry-level exception sites, which First Homes exceptions sites have replaced, but provides further clarity on the measurement of the existing settlement in hectares and definition of the existing settlement to be that of the area within the boundary of the relevant existing Defined Settlement which the proposed First Homes exceptions site would be located adjacent to.

5.5 The First Homes exceptions site policy also allows a small proportion of market homes on the site at the local authority's discretion. The circumstances in which this would be deemed acceptable are similar to those currently set out in Local Plan Policy DM2 B v and vi, although the percentage permissible has been reduced because the level of cross-subsidy required to help deliver First Homes, compared to affordable housing for rent normally provided on rural exception sites, would be lower.

5.6 The starting point, as with Policy DM2 B, is that market homes are not required, especially given First Homes are not required to be discounted beyond the 30% minimum, however:

Where it can be demonstrated to the satisfaction of the Council that market housing is essential to cross-subsidise the delivery of First Homes on First Homes exceptions sites:

- **the proportion of market housing must not exceed 20% of the total number of homes; and**
- **the market and affordable homes must not be distinguishable in design and quality.**

5.7 National Planning Policy Guidance allows small quantities of affordable housing products for one or more other form of affordable housing on a proposed First Homes exceptions site where evidence suggests that a significant local need exists. This evidence can be in the form of a local Housing Needs Assessment or the local authority Housing Register.

5.8 As Chelmsford City Council has significant local need for more affordable housing for rent to meet the needs of households on the Council's Housing Register, we expect **at least 25% of First Homes exceptions sites to provide affordable housing for rent to meet the needs of those households in the greatest housing need on the Council's Housing Register.**

¹⁰ The existing Defined Settlement boundaries outside of the Greenbelt as listed in Policy S7 – The Spatial Strategy of the Local Plan and include one of the following Chelmsford, South Woodham Ferrers, Bicknacre, Boreham, Broomfield, Danbury, Great Leighs, East Hanningfield, Ford End, Great Waltham, Little Waltham, Rettendon Place, Woodham Ferrers, Chatham Green, Good Easter, Howe Green, Howe Street, little Baddow, Rettendon Common and Sandon.

6. Transitional Arrangements

6.1 National Planning Practice Guidance sets out that the First Homes policy requirement does not apply to decision making for the following:

- sites with full or outline planning permissions already in place or determined (or where a right to appeal against non-determination has arisen) before 28 December 2021;
- applications for full or outline planning permission where there has been significant pre-application engagement which are determined before 28 March 2022; and
- sites where neighbourhood plans are adopted/made under the transitional arrangements - submitted for examination¹¹ before 28 June 2021 or have reached publication stage¹² and subsequently submitted for examination by 28 December 2021.

6.2 These transitional arrangements also apply to permissions and applications for entry-level exception sites.

6.3 The First Homes 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 the development.

7. First Homes Applications

7.1 First Homes applications should be made [online](#). Applications should only be submitted by a developer that is selling a First Homes property to a first-time buyer, or an estate agent that is working with both a current First Homes property owner and new first-time buyer.

7.2 Each application will require a fee of £150 (VAT is not applicable) is paid before the application can be processed to help meet the administrative burden on the Council to issue the authorisation/compliance certificates required.

8. Key Documents

Chelmsford Local Plan (2020)

8.1 Policy DM2 sets out the affordable housing and rural exceptions site policies.

8.2 Paragraph 8.19 sets out that any proposal that includes market housing on rural exceptions sites must include robust, independently prepared and audited viability assessment of the proposed development, prepared on an open book basis. The extent of the funding gap to be bridged in order for the proposal to be viable, including the income from cross-subsidy generated through open-market sales that will assist in creating the additional scheme revenue that can fund the affordable housing on the site without requiring additional public subsidy, must be clearly set out.

Planning Obligations SPD (2021)

8.3 Section 5 of the Planning Obligations SPD provides guidance on the implementation of the Council's affordable housing planning obligations.

Emerging Chelmsford Housing Strategy (2021)

8.4 The emerging Chelmsford Housing Strategy 2022-2025, notes that currently the Council is at a critical stage of being at risk of being unable to meet its statutory duties to some of those in most urgent need of larger, affordable homes for rent. A priority for action is therefore the increase in the supply of affordable homes for rent, with a focus on larger dwellings.

¹¹ Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 for Neighbourhood Plans.

¹² Regulation 14 of the Neighbourhood Planning (General) Regulations 2012 for Neighbourhood Plans.