

Agenda Item No:

Report To:

Date of Meeting: 25th November 2021

Report Title: **Agreement to produce a First Homes Position Statement**

Report Author & Job Title: Mark James, Development Partnership Manager
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Portfolio Holder Cllr. Paul Clokie, Portfolio Holder for Housing
Portfolio Holder for: Cllr Neil Bell, Portfolio Holder for Planning and Development



Summary:

First Homes is the latest Government affordable housing product aimed at allowing people to progress towards home ownership. It follows on, and adapts, the 'Starter Home' initiative which was first introduced around six years ago.

In May 2021 the Minister of State for Housing, Christopher Pincher MP, issued a Written Ministerial Statement (WMS) setting out how Local Planning Authorities should progress First Homes and what weight should be applied to their application through the planning system.

This paper sets out how Ashford Borough Council will respond to the WMS, bearing in mind that the Council has a recently adopted Local Plan (adopted 2019) that sets out how affordable housing should be delivered in the Borough.

The intention is for the Council to produce a Position Statement that will show developers and land agents how First Homes shall be applied moving forward, in a flexible and considered way.

This Paper establishes the broad parameters of what will be included in a future Position Statement and delegates the final decision as to its contents.

Key Decision: NO

Significantly Affected Wards: No Wards are identified as significantly affected

Recommendations: **The Cabinet is recommended to:-**

- I. Agree that the Council adopt a flexible position on First Homes to take into account the nature of the WMS and the Council's adopted policy on affordable housing delivery,**
- II. Agree the broad scope of a Position Statement,**

detailed in this report, which will demonstrate how First Homes should be applied until such time as a Local Plan Review is engaged or and supplementary planning document (SPD) prepared, and

- III. Delegate responsibility for the final contents of the Position Statement to the Head of Planning and Development in consultation with the Portfolio Holder for Planning and Development, Head of Housing and Portfolio Holder for Housing**
- IV. That, when agreed, the Position Statement is treated by the Council as a Material Consideration for the purpose of planning decisions**

Policy Overview:

Policy HOU1 'Affordable Housing' of the Council's adopted Local Plan to 2030 (adopted 2019) sets out how affordable housing shall be delivered in the Borough. This policy pre-dates the publication of the First Homes WMS by the Government.

However, Policy HOU1 has recently gone through the rigours of a Public Examination and found to be 'sound' in planning terms. It is consistent with the National Planning Policy Framework (NPPF) and has taken account of issue such as whole plan viability, housing need and the need to take into account local circumstances.

Policy HOU1 currently carries full planning weight in terms of decision making, as it is the most up-to-date part of the development plan in regards to affordable housing.

Financial Implications:

None

Legal Implications:

There is the potential that a Position Statement could be challenged by developer/landowner interests, or by others interested in the provision of affordable housing, either in respect of the Statement not being entirely consistent with the published WMS (which is a recognised material consideration) or that the Statement departs too much from adopted Council policy (which carries significant weight). It could also be challenged on the grounds of not having followed a formal consultative process.

Either scenario could happen until such time as a Local Plan Review is engaged where the issue of First Homes can be properly debated, taking into account the wider issues and inter-dependencies between the various policy objectives set by Government (normally expressed through the NPPF and supporting Guidance).

However, it is felt that as a result of adopting a flexible, non-prescriptive approach to the issue (see below), the risk of

challenge is minimal. Moreover, even if no Position Statement were adopted, the Council's approach to First Homes, in current and future Section 106 Agreement negotiations, may also be challenged. Therefore, preparing and, when agreed, publishing a Position Statement is the most effective and transparent way for the Council to proceed.

Equalities Impact Assessment:

This is attached at Appendix A

Data Protection Impact Assessment:

Assessment on the impact on data protection will be undertaken at the appropriate time

Risk Assessment (Risk Appetite Statement):

The only potential risk is one of challenge, as outlined above but, as stated, offering a flexible position on First Homes should mitigate any risk.

Sustainability Implications:

This report concerns tenures, marketing and purchasers of affordable homes, rather than design, construction, materials or other 'physical' attributes of homes. However, the possibility of adopting some eligibility criteria relating to proximity to family, work, etc., may help to promote strong communities and reduce travel for work and leisure purposes.

Other Material Implications:

The WMS does not and should not replace the adopted Local Plan policy and that is why a flexible approach has been proposed here.

As First Homes do not involve Registered Providers (RPs), the Council as LPA would need to do all of the monitoring and overseeing work to ensure the First Homes are created, marketed and sold, both initially and subsequently, in line with the principles of First Homes. The resource implications of this for the Council are not clear but could, as the number of First Homes grows in year to come, be significant.

Exempt from Publication:

NO

Background Papers:

None

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Report Title: Agreement to produce a First Homes Position Statement

Introduction and Background

1. First Homes is consistent with a long established Government desire for everyone to own their own home. It follows on, and adapts, the 'Starter Home' initiative which was first introduced around six years ago.
2. First Homes are a specific kind of discounted market sale housing product which count as 'affordable housing' (as Starter Homes were). Properties are sold initially at a minimum 30% discount against the open market value of the home. This percentage discount is then applied in perpetuity, unlike Starter Homes whereby the discount only applied in the first purchase of the property. In essence, the First Homes housing stock will always be marketed at 70% of market value. These requirements are expected to be secured through Section 106 Agreements, however the Government has not published the draft Section 106 wordings that it suggests should be considered for this, nor is it clear.
3. The power for a local authority to set a higher discount of either 40% or 50% exists but, importantly, this can only be achieved via a housing need assessment through a local plan process. Accordingly, until a Local Plan Review is triggered by the Council, it cannot seek more than a 30% discount for First Homes.
4. Also, the First Homes discount can only be applied as a blanket discount across the whole of the borough and cannot be altered for the town of Ashford versus the rural parts of the Borough – although such differentiation is something which the Council's existing affordable policy achieves.
5. The first sale of a First Homes property is subject to a price cap to a maximum of £250,000. Accordingly, wherever the national default 30% discount applies, the full market value of the property cannot be above £357,142. This is not likely to be a problem for generally smaller properties in the Ashford market which would be attractive to first-time buyers.
6. According to the published WMS, First Homes are the government's preferred discounted market tenure product and is intended to be a 'top-slice' of each site's affordable housing delivery.
7. The WMS states that First Homes should account for at least 25% of all affordable housing units delivered as part of each residential development proposal that is delivering any affordable homes (subject to exclusions – notably Build to Rent, specialist accommodation for older persons or students, self-build and 100% affordable housing proposals). The remaining 75% is expected to comprise a mix of rented tenure and intermediate housing in the form of shared ownership homes.
8. There is national eligibility criteria for First Homes. Applicants have to:

- i. be a first time buyer
 - ii. have a maximum household income of £80,000
 - iii. have a mortgage that must cover at least 50% of the discounted price
9. Local authorities can also apply their own local eligibility criteria subject to a clearly evidenced rationale which is explored in more detail below.
10. Should First Homes not be sold to an eligible applicant, they are converted to open market sale homes (i.e. sold by the developer for full market value), with the 30% share of value (which would have represented the discount) being paid to the LPA towards the provision of affordable housing elsewhere. However, it is unclear how that might work in practice in terms of making sure the cost provided caters for the land purchase, scheme development, planning costs and other overheads of creating replacement affordable housing elsewhere.
11. At the very least, this results in the loss of the original home for affordable housing purposes, and a number of further steps and time would be needed before an alternative affordable home became available elsewhere. Hence it is important to seek to ensure that the number of First Homes created does not exceed demand for them, and thus requesting evidence of demand to support proposals for First Homes.

Proposal

12. While the principle of affordable home ownership is one that the Council supports, the implications for existing Council policy which has only recently been assessed and adopted (2019) needs to be explored.

Existing Policy

13. The Council's existing affordable housing policy is contained within Policy HOU1 of the Local Plan 2030. It requires an overall percentage of affordable housing, depending on the location of the site when compared to identified viability areas and a site size threshold (HOU1 applies for schemes of 10 or more units, or sites over 0.5ha in size).
14. The policy then identifies the split for affordable homes, setting a 'minimum target' for 'Affordable/Social rented' and 'Affordable home ownership products' (see table 1 below). 'Starter Homes' were assumed to form part of this home ownership requirement as a 'flexible' element, along with the specific minimum percent requirement set out for Shared Ownership. Rent to buy, were also assumed to form part of the home ownership requirement as a 'flexible' element.

Table 1 – Extract from Policy HOU1

Area*	Affordable/Social Rented requirements (% of total dwellings)	Affordable Home Ownership Products (% of total dwellings)	Total affordable housing requirements (% of total dwellings)
Ashford Town (Zone A)	0%	20% (including a minimum of 10% shared ownership)	20%
Ashford Hinterlands (Zone B)	10%	20% (including a minimum of 10% shared ownership)	30%
Rest of Borough (Zone C)	10%	30% (including a minimum of 20% shared ownership)	40%

15. The Local Plan policy was viability tested and assessed at Examination to ensure the products detailed within the policy could be delivered and did not place an undue burden on developers. Discounted market housing was (to a degree) assessed under this viability test as a minimum of 10% Starter Homes were assumed, in the round, as part of the package which would come forward. The Local Plan also refers to starter homes as a qualifying affordable home ownership product. While it does not refer to First Homes, it is reasonable to regard this as a qualifying affordable home ownership product.

First Homes within the context of Policy HOU1

16. In terms of Policy HOU1, First Homes are an ‘affordable home ownership product’. The below scenarios show how First Homes may be accommodated within the umbrella of Policy HOU1.

Scenario 1: Site within Ashford Urban area (Hinterlands Zone B) for 50 homes.

- Current policy would require a total of 30% affordable housing products (15 dwellings total) made up of:
 - 10% rented: 5 dwellings
 - 10% Shared ownership: 5 dwellings
 - 10% other ownership (in practice this is currently shared ownership): 5 dwellings
- Introducing ‘First Homes’ at 25% of the affordable housing requirement, could therefore make the same site look like this:
 - 10% rented: 5 dwellings
 - 10% Shared ownership: 5 dwellings
 - First home requirement: 4 dwellings
 - Other ownership (in practice shared ownership): 1 dwelling

Scenario 2: Site within Rural Area (zone C) for 40 homes

- Current policy would require a total of 40% AH products (16 homes total) made up of:
 - 10% rented: 4 dwellings
 - 10% Shared Ownership: 4 dwellings
 - 20% other ownership (in practice this is currently shared ownership): 8 dwellings
- Introducing ‘First Homes’ at 25% of the AH requirement could look like this:
 - 10% rented: 4 dwellings
 - 10% Shared Ownership: 4 dwellings

- *First Homes requirement: 4 dwellings*
- *Other ownership (in practice shared ownership): 4 dwellings*

Scenario 3: Site within Ashford Town centre (Zone A) for 100 homes (not flats)

- *Current policy would require a total of 20% AH (20 homes) made up of:*
 - *10% Shared ownership: 10 dwellings*
 - *10% other ownership (in practice this is currently shared ownership): 10 dwellings*
- *Introducing 'First Homes' at 25% of the AH requirement could look like this:*
 - *10% Shared ownership: 10 dwellings*
 - *First Homes requirement: 5 dwellings*
 - *Other ownership (in practice shared ownership): 5 dwellings*

17. As can be seen in all scenarios, progressing First Homes could be achieved in a way that does not erode any of the **minimum targets** set out in Policy HOU1 for shared ownership and, importantly, affordable rented products.

18. However, adopting this approach, as a requirement in all circumstances, would remove the flexibility from the 'home ownership' approach currently outlined in Policy HOU1. In most circumstances it would be the shared ownership product which would be reduced in order to provide First Homes, and this product is the most popular currently.

19. Therefore, a First Home should not affect developer viability on a site and importantly it will not reduce the affordable rented provision that we ask for in the section 106 agreement.

What is being proposed?

20. Officers are proposing that a Position Statement should be produced by the Council that sets out how a flexible approach to the delivery of First Homes will be applied, in the short to medium term. In the longer term, the future Local Plan should set out the favoured approach.

21. A flexible approach is deemed necessary, for a number of sound planning reasons even though on the face of it the approach is not entirely consistent with the recently published WMS.

22. The existing affordable housing products within Policy HOU1 clearly meet a local need and this has been determined by evidence. The approach has also been rigorously assessed through the Local Plan Examination and is consistent with the NPPF. Accordingly, if a planning application is promoted that is consistent with Policy HOU1, yet does not promote First Homes, then there should be scope for that scheme to still be determined favourably.

23. After all, while the scenarios above show that First Homes do not directly risk the delivery of shared ownership products in the borough to the minimum targets established in Policy HOU1, it does show that they will result in fewer shared ownership products coming forward overall. This may not be appropriate in all circumstances.

24. Shared ownership products provide a more flexible route over the longer term into home ownership, with purchasers able to start at the minimum 25% equity entry level (rather than 70% with a First Home). There is also a strong

track-record of shared ownership products being delivered in the borough, and they continue to be delivered successfully. No evidence locally has been produced that indicate shared ownership products are now no longer needed and their continued delivery is a key Council objective as inferred in Policy HOU1 of the Local Plan.

25. By comparison, there is no local evidence to suggest the need for First Homes in the borough and there is no evidence about how receptive the market might be to deliver these products (the take up for 'Starter Homes' [a similar product] was minimal).
26. However, it is clear that First Homes are a flagship Government objective and the WMS is very clear that they should be prioritised. It is also clear (at a national level) that First Homes meet a need within the housing sector.
27. Officers suggest that First Homes delivery in the borough will probably cater for the needs of those people who are considered to be 'young professionals' and 'key workers'. These types of individuals would appear to benefit most from the proposal and could potentially afford to buy a home at 70% of its value on day one.
28. In this context, First Homes clearly meet a need, it is the extent to which they fetter the ability for another type of affordable housing product to be delivered that is the main issue.
29. Accordingly, if a planning application is promoted that is consistent with the WMS in terms of First Homes delivery, and remains consistent with the broad parameters of Policy HOU1, then these schemes should also be able to be determined favourably in planning terms where appropriate.
30. Officers are therefore recommending that a Position Statement is produced by the Council to set out how both scenarios (applications which are delivering a 'traditional' HOU1 compliant scheme, and those which are delivering a WMS compliant scheme) can be accommodated through the planning system in a balanced way.
31. In essence, this flexible approach is consistent with the spirit of the WMS, but provides some interpretation as to its applicability in certain scenarios, to take into account local circumstances, most notably that an up-to-date and 'sound' affordable housing policy already exists and that the current approach is consistent with the NPPF.

Issues to be addressed within the Position Statement

32. The Position Statement will be a material consideration when making planning decisions from the point at which it is agreed and published.
33. The following are areas of guidance that should form part of the Position Statement.
34. Firstly, the Position Statement will need to clarify that Policy HOU1 of the Local Plan 2030 is part of the up-to-date Local Plan, and retains significant weight. It will also need to acknowledge that the recently published WMS

carries some planning weight, but as a material consideration in line with case law and the NPPF.

35. Secondly, the Position Statement will need to make clear that where an applicant wants to, or it is desirable in planning terms to do so, that they can carry on delivering affordable housing in a way that is consistent with Policy HOU1 'Affordable Housing' – i.e. there is not a requirement, in every qualifying application, to deliver First Homes despite the contents of the WMS.
36. Thirdly, the Position Statement should also make it clear that First Homes are supported by the Council, as a point of principle. Within this context, the following planning considerations should be set out and guidance provided.
 - **A) The amount of First Homes to be provided:** The Position Statement should set out that the maximum amount of First Homes that can be delivered is 25% of the total affordable housing provision prescribed through Policy HOU1.
 - Less than 25% can be acceptable, provided the overall amount of affordable home ownership products delivered meets the overall percent required as prescribed through Policy HOU1.
 - More than 25% can be accommodated, but only if those First Homes are in addition to the overall percentage of affordable housing which is prescribed through Local Plan Policy HOU1 – i.e. they replace general market housing.
 - **B) Evidence to be provided to support individual applications:** The Position Statement should set out what level of evidence should be provided by the applicant to support proposals which promote First Homes. For example, evidence of local need or market research on how First Homes would be beneficial.
 - **C) Development Viability:** The Position Statement should set out that a reduction of the overall percentage of affordable housing prescribed through Policy HOU1 would not be acceptable because of the delivery of First Homes. This expectation is expressed through the WMS which infers that the delivery of First Homes should not generate more of a cost to developers than the costs already assumed through the delivery of Policy HOU1.
 - **D) Marketing:** The Position Statement should provide guidance to applicants on the level, type and breadth of marketing for any First Homes products. It is accepted that the WMS already provides some guidance on this matter, but officers consider further clarity is needed in terms of when such marketing can begin, that the marketing is done in an appropriate way (and is phased on large sites) and for how long any marketing should be undertaken (three months seems far too short for any meaningful marketing exercise).
 - **E) Local Criteria:** Should the Council wish to, the Position Statement could set out local eligibility criteria for the First Home products. An example of what might be set out is appended to this paper at Appendix

B, for consideration. We need to assess whether the local eligibility criteria can be applied outside of a Local Plan review. However, given that Ashford is the most rural borough in the county, it would seem fair to have some criteria that are specific to rural areas where possible.

- **F) Other planning considerations:** The Position Statement should also make it clear that delivering First Homes does not mean that there is a deterioration in build quality of the First Homes (i.e. they are not discounted by virtue of materials used) and that they are not visually distinguishable from the market housing on site in terms of build quality, materials, detail, levels of amenity space/parking etc.

37. The intention is that the Position Statement is worked on quickly and will be produced before the end of the current financial year.

Equalities Impact Assessment

38. Members are referred to the attached Assessment. The impacts will be positive on those who can afford a First Home but potentially negative on those who could only afford a shared ownership home, as fewer will likely be available as a result of the proposals.

Consultation Planned or Undertaken

39. The approach outlined in this paper was explained briefly to the Council's RP partners at a recent Development Forum meeting. It was commented in response that the Government-funded First Homes pilot has only recently closed and the Government will assess the outcomes in due course and seek to apply them to the developer-funded scenario envisaged in the WMS. Therefore, letting the market for First Homes develop over time was felt to be a sensible option.

40. However, because First Homes will reduce the number of shared ownership units coming forward on development sites, it was felt that this may have an adverse impact on the values which RPs are able to offer to developers for packages of shared ownership and rented homes, thus inhibiting housing delivery and potentially raising viability issues on some sites, especially lower-value sites in Ashford town.

41. No specific consultation is planned for the Position Statement on account of it providing a flexible approach to the market in terms of how First Homes might be delivered.

42. In due course, the Council may wish to produce Supplementary Planning Guidance (SPD) relating to this issue. This may depend on whether further Government announcements are made and/or the market is pushing in a particular direction. An SPD will be subject to the public consultation in line with the national requirements.

43. It is also highly likely that the issue of First Homes will need to be addressed through any Review of the Local Plan 2030 and as such any future policy will

be subject to extensive public consultation – such as the element of flexibility on discount levels across the borough.

Other Options Considered

44. There are limited options available to the Council. The main alternative option would be to apply the contents of the WMS completely, as a requirement, and in all circumstances regardless of need. This approach is not felt appropriate in the circumstances, given the issues raised in this paper.
45. It seems far more sensible to adopt a flexible, balanced approach, one which can cater for sustainable development in the borough. This may mean a scheme that is Policy HOU1 compliant, but does not deliver First Homes for sound planning reasons. Or a scheme that does deliver an element of First Homes to meet needs, while still remaining consistent with the wider requirements of Policy HOU1.

Reasons for Supporting Option Recommended

46. There are a number of reasons for supporting the option recommended, as set out in the Paper. This would seem to represent the most flexible approach, offering developers the opportunity, where there is demand, to harness this new product about which the Government is enthusiastic, while at the same time ensuring that we are true to our existing HOU1 Local Plan policy, which is tried and tested and remains at the core of our decision making.

Next Steps in Process

47. The Position Statement should be produced before the end of the current financial year, and then published as a material consideration to be applied to planning decisions.

Conclusion

48. First Homes is a product that Ashford Borough Council will broadly support, given our ambition to deliver a mix of affordable homes – for affordable home ownership as well as affordable rent. While it is untested in our borough as a product, and while there will inevitably be questions around its affordability in comparison to affordable rent and shared ownership, and thus as to the extent of demand for it, it provides another route to home ownership and therefore must be embraced in a measured and flexible way.
49. The paper sets out the most feasible way that the Council can do this in the short term, without triggering a Local Plan review, and while adhering to the principles of its creation.

Portfolio Holder's Views

Cllr. Paul Clokie, Portfolio Holder for Housing

50. First Homes is another important way that people can access the housing ladder. The fact that it is an affordable housing product in perpetuity is to be welcomed and the fact that at the appropriate point the Council will be able to

set some local elements that afford the borough some flexibility in how the scheme is to be operated is important.

51. I am particularly grateful to officers in housing, planning, legal and other services who have contributed towards the position that this report sets out. It is a sensible approach both for now, and a pathway that can be followed as we proceed towards a review of our Local Plan in due course.

Cllr Neil Bell, Portfolio Holder for Planning and Development

52. I fully support the proposal here to offer flexibility now and then cement our position when the Local Plan review is undertaken in time. Home ownership is an important aspect of our affordable housing delivery and it is key to balancing our rural communities in particular. It is right that we seek to implement First Homes when it is forming a key strand of the Government's plan to ensure everyone can access the housing ladder.

Contact and Email

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Equality Impact Assessment

Appendix A to November 2021 Cabinet report on First Homes

1. An Equality Impact Assessment (EIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in its decision-making. Although there is no legal duty to produce an EIA, the Council must have **due regard** to the equality duty and an EIA is recognised as the best method of fulfilling that duty. It can assist the Council in making a judgment as to whether a policy or other decision will have unintended negative consequences for certain people and help maximise the positive impacts of policy change. An EIA can lead to one of four consequences:

- (a) No major change – the policy or other decision is robust with no potential for discrimination or adverse impact. Opportunities to promote equality have been taken;
- (b) Adjust the policy or decision to remove barriers or better promote equality as identified in the EIA;
- (c) Continue the policy – if the EIA identifies potential for adverse impact, set out compelling justification for continuing;
- (d) Stop and remove the policy where actual or potential unlawful discrimination is identified.

Public sector equality duty

2. The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:
- (a) Eliminate discrimination, harassment and victimisation;
 - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it (ie tackling prejudice and promoting understanding between people from different groups).

3. These are known as the three aims of the general equality duty.

Protected characteristics

4. The Equality Act 2010 sets out nine protected characteristics for the purpose of the equality duty:
- Age
 - Disability
 - Gender reassignment
 - Marriage and civil partnership*
 - Pregnancy and maternity
 - Race
 - Religion or belief
 - Sex
 - Sexual orientation

*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

Due regard

5. Having 'due regard' is about using good equality information and analysis at the right time as part of decision-making procedures.
6. To 'have due regard' means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations. This can involve:
- removing or minimising disadvantages suffered by people due to their protected characteristics.
 - taking steps to meet the needs of people with certain protected characteristics when these are different from the needs of other people.
 - encouraging people with certain protected characteristics to participate

in public life or in other activities where it is disproportionately low.

7. How much regard is 'due' will depend on the circumstances. The greater the potential impact, the higher the regard required by the duty. Examples of functions and decisions likely to engage the duty include: policy decisions, budget decisions, public appointments, service provision, statutory discretion, decisions on individuals, employing staff and procurement of goods and services.
8. In terms of timing:
 - Having 'due regard' should be considered at the inception of any decision or proposed policy or service development or change.
 - Due regard should be considered throughout development of a decision. Notes shall be taken and kept on file as to how due regard has been had to the equality duty in research, meetings, project teams, consultations etc.
 - The completion of the EIA is a way of effectively summarising this and it should inform final decision-making.

Case law principles

9. A number of principles have been established by the courts in relation to the equality duty and due regard:
 - Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty and so EIA's must be attached to any relevant committee reports.
 - Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.
- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
- The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.

- The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
- The duty is a continuing one so that it needs to be considered not only when a policy, for example, is being developed and agreed but also when it is implemented.
- It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
- A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
- A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

The Equality and Human Rights Commission has produced helpful guidance on "Meeting the Equality Duty in Policy and Decision-Making" (October 2014). It is available on the following link and report authors should read and follow this when developing or reporting on proposals for policy or service development or change and other decisions likely to engage the equality duty. [Equality Duty in decision-making](#)

Lead officer:	Mark James
Decision maker:	Cabinet
Decision: <ul style="list-style-type: none"> • Policy, project, service, contract • Review, change, new, stop 	<ul style="list-style-type: none"> • Agree that the Council adopt a flexible position on the application of the First Homes to take into account the nature of the WMS and the Council’s adopted policy on affordable housing delivery, • Agree the broad scope of a Position Statement, which will demonstrate how First Homes should be applied until such time as a Local Plan Review is engaged, and • Delegate responsibility for the final contents of the Position Statement to the Head of Planning and Development in consultation with the Portfolio Holder for Planning and Development, Head of Housing and Portfolio Holder for Housing, and • That, when agreed, the Position Statement is treated by the Council as a Material Consideration for the purpose of planning decisions.
Date of decision: The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	25 th November 2021
Summary of the proposed decision: <ul style="list-style-type: none"> • Aims and objectives • Key actions • Expected outcomes • Who will be affected and how? • How many people will be affected? 	<p>Agree that the Council adopt a flexible position on the application of the First Homes to take into account the nature of the WMS and the Council’s adopted policy on affordable housing delivery</p> <p>Agree the broad scope of a Position Statement, which will demonstrate how First Homes should be applied until such time as a Local Plan Review is engaged</p> <p>Delegate responsibility for the final contents of the Position Statement to the Head of Planning and Development in consultation with the Portfolio Holder for Planning and Development, Head of Housing and Portfolio Holder for Housing</p> <p>That, when agreed, the Position Statement is treated by the Council as a Material Consideration for the purpose of planning decisions</p>
Information and research: <ul style="list-style-type: none"> • Outline the information and research that has informed the decision. • Include sources and key findings. 	<p>Policy HOU1 ‘Affordable Housing’ of the Council’s adopted Local Plan to 2030 (adopted 2019) sets out how affordable housing shall be delivered in the Borough. This policy pre-dates the publication of the First Homes WMS by the Government.</p> <p>However, Policy HOU1 has recently gone through the rigours of a Public Examination and found to be 'sound' in planning terms. It is consistent with the National Planning Policy Framework (NPPF) and has taken account of issue such as whole plan viability, housing need and the need to take into account local circumstances.</p>

	Policy HOU1 currently carries full planning weight in terms of decision making, as it is the most up to date part of the development plan in regards to affordable housing.
<p>Consultation:</p> <ul style="list-style-type: none"> • What specific consultation has occurred on this decision? • What were the results of the consultation? • Did the consultation analysis reveal any difference in views across the protected characteristics? • What conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics? 	<p>No specific consultation is planned for the Position Statement on account of it providing a flexible approach to the market in terms of how First Homes might be delivered.</p> <p>In due course, the Council may wish to produce Supplementary Planning Guidance (SPD) relating to this issue. This may depend on whether further Government announcements are made and/or the market is pushing in a particular direction. An SPD will be subject to the public consultation in line with the national requirements.</p> <p>It is also highly likely that the issue of First Homes will need to be addressed through any Review of the Local Plan 2030 and as such any future policy will be subject to extensive public consultation – such as the element of flexibility on discount levels across the borough.</p>

Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.

When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.

Protected characteristic	Relevance to Decision High/Medium/Low/None	Impact of Decision Positive (Major/Minor) Negative (Major/Minor) Neutral
<u>AGE</u> Elderly	None	Neutral
Middle age	Medium	Positive for those who can afford to purchase a First Home; negative for those who cannot but can afford an equity share in a shared ownership home
Young adult	High	Positive for those who can afford to purchase a First Home; negative for those who cannot but can afford an equity share in a shared ownership home
Children	None	Neutral
<u>DISABILITY</u> Physical	None	Neutral
Mental	None	Neutral

Sensory	None	Neutral
<u>GENDER RE-ASSIGNMENT</u>	None	Neutral
<u>MARRIAGE/CIVIL PARTNERSHIP</u>	None	Neutral
<u>PREGNANCY/MATERNITY</u>	None	Neutral
<u>RACE</u>	None	Neutral
<u>RELIGION OR BELIEF</u>	None	Neutral
<u>SEX</u> Men	None	Neutral
Women	None	Neutral
<u>SEXUAL ORIENTATION</u>	None	Neutral

<p>Mitigating negative impact:</p> <p>Where any negative impact has been identified, outline the measures taken to mitigate against it.</p>	<p>Where the assessment has been carried out above it is on the basis of the new homes being for first-time buyers. This will primarily be of benefit to young adults, though not exclusively. It will be of major benefit to those people able to access the homes and though not everyone will be able to do so, other forms of housing are supplied by the Council and through section 106 agreements and so those people will still be provided for in the delivery of homes of other tenures. The need for promoters of First Homes to demonstrate evidence of demand will help to balance provision of First Homes and provision of shared ownership homes, in order to match needs and provision and seek to meet the needs of the widest number of people and groups.</p>
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<p>Is the decision relevant to the aims of the equality duty?</p> <p>Guidance on the aims can be found in the EHRC's Essential Guide, alongside fuller PSED Technical Guidance.</p>	
Aim	Yes / No / N/A
1) Eliminate discrimination, harassment and victimisation	N/A
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	Yes
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	N/A
Conclusion:	

<ul style="list-style-type: none"> • Consider how due regard has been had to the equality duty, from start to finish. • There should be no unlawful discrimination arising from the decision (see guidance above). • Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified. • How will monitoring of the policy, procedure or decision and its implementation be undertaken and reported? 	<p>Due regard has been considered throughout this proposal to each protected group.</p> <p>No unlawful discrimination has arisen from the decision.</p> <p>The effect on the community will be positive due to the balance of tenures being provided where such homes are brought forward alongside evidence of demand.</p> <p>The delivery of such homes will be monitored by housing and planning services. Both housing and planning Portfolio Holders will be kept informed of work surrounding the position statement.</p>
<p>EIA completion date:</p>	<p>15th November 2021</p>

Local Connection Criteria for First Homes

Working draft as at 15th November 2021

You have your only or main home within the boundaries of the district covered by Ashford Borough Council and have lived here for a continuous period of at least one year OR

You (not a member of your household) are in permanent paid work in the Ashford Borough (full or part-time employment of at least 16 hours per week) and that employment has been for a continuous period of one year OR

If you live outside of the borough at present, you have lived in the Ashford Borough for at least five out of the past ten years

Local Connection Criteria for First Homes – Rural

If the property is within the parishes listed below, the following criteria should be applied.

You have your only or main home within the boundaries of the parish, or an adjoining parish, and have lived there for a continuous period of at least five years OR

You have lived in the parish, or an adjoining parish, for any period totaling at least 7 years within the previous 10 years OR

You (not a member of your household) are in permanent paid work in the parish or an adjoining parish (full or part-time employment of at least 16 hours per week) and that employment has been for a continuous period of two years OR

You need to move into the parish or an adjoining parish to take up full-time employment where the role is pertinent to the local community

Aldington & Bonnington	Appledore	Bethersden	Biddenden	Bilsington
Boughton Aluph & Eastwell (Goat Lees)	Brabourne	Brook	Challock	Charing & Charing Heath
Chilham and Old Wives Lees	Crundale	Egerton	Godmersham	Hastingleigh
High Halden	Hothfield	Kenardington	Little Chart	Mersham & Sevington
Molash	Newenden	Orlestone/ Hamstreet	Pluckley	Rolvenden
Ruckinge	Shadoxhurst	Smarden	Smeeth	Stone-cum-Ebony
Warehorne	Westwell	Wittersham	Woodchurch	Wye with Hinxhill

