

Oldham

Local

Plan

**Securing Affordable
Housing Interim Planning
Position Paper**

February 2022



Oldham
Coun

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1 Executive Summary

- 1.1** This Interim Planning Position Paper provides an update to Policy 10 on Affordable Housing of Oldham's Joint Core Strategy and Development Management Development Plan Document (Joint DPD). The paper sets out the council's position in relation to:
- First Homes;
 - Vacant Building Credit; and
 - the dwelling threshold to which Policy 10 applies.
- 1.2** The paper will be used when assessing planning applications and development proposals requiring affordable housing. It must be read alongside Policy 10 Affordable Housing of the Joint DPD, adopted by the council 9 November 2011.
- 1.3** In relation to the dwelling threshold the council will seek the provision of affordable housing only on major developments. This is in line with paragraph 64 of the National Planning Policy Framework (NPPF) that has come into effect since the adoption of Policy 10 and which states that the provision of affordable housing should not be sought for residential developments that are not major development, other than in designated rural areas.
- 1.4** Section 5 of this Interim Planning Position Paper sets out the council's approach to the delivery of First Homes. In summary:
- The approach in Oldham is for a property to be sold at 30% below the open market value. The appropriateness of applying a higher threshold, such as 40%, and its impact on the viability of development coming forward will be tested through the Local Plan review.
 - The council does not propose to lower the national price cap at present. The Local Plan Review will consider an appropriate local price cap in line with available evidence.
 - In order to ensure First Homes in Oldham contribute to local housing need across the borough and deliver affordable housing that addressed local needs a local connection test based on the council's housing allocations policy is applied. This will be applied until such a time as it can be reviewed through the Local Plan review.
- 1.5** Section 6 of the Planning Position Paper sets out the council's approach to applying Vacant Building Credit. In particular, for the purposes of applying Vacant Building Credit a 'vacant building' is defined as a '*a building that has not been in continuous use for any 6 month period during the last three years*'.
- 1.6** The council's approach regarding securing affordable housing, the delivery of first homes and application of vacant building credit will be considered further and finalised as part of the Local Plan review. In relation to the delivery of First Homes and the determination of relevant planning application as per the Ministerial Statement published 24 May 2021, the new requirement for 25% of affordable housing secured through a planning obligation to be First Homes will not apply to 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. Nor those determined before

28 March 2022 where there has been significant pre-application engagement. With regards to the latter, developers may introduce First Homes to the tenure mix if they wish to do so.

2 Purpose

- 2.1** This Interim Planning Position Paper provides an update to Policy 10 on Affordable Housing of Oldham's Joint Core Strategy and Development Management Development Plan Document (Joint DPD). The paper sets out the council's position in relation to First Homes, Vacant Building Credit and the dwelling threshold to which Policy 10 applies in order to align the council's approach with that in national planning guidance. The paper will be used when assessing planning applications and development proposals requiring affordable housing. It must be read alongside Policy 10 Affordable Housing of the Joint DPD, adopted by the council 9 November 2011.

3 Background

3.1 This section provides a summary of the national and local planning policy context that has helped to inform the approach taken within the Planning Position Paper.

National planning policy

3.2 Section 5 of the National Planning Policy Framework (NPPF) sets out the approach to delivering a sufficient supply of homes, including the provision of affordable housing. In particular:

3.3 Paragraph 64 states that:

- the provision of affordable housing should not be sought for residential developments that are not major developments; and
- to support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount (defined in footnote 30 as being equivalent to the existing gross floorspace of the existing buildings). This does not apply to vacant buildings which have been abandoned.

3.4 For housing NPPF defines major as '*development where 10 or more homes will be provided, or the sites has an area of 0.5ha or more*'. NPPF does not define what constitutes an abandoned building, as such the council has identified a set of criteria that will help to determine a building's 'abandoned' status, such as the condition of the property and period of non-use. Further information can be found in paragraph 6.8.

3.5 On the 24 May 2021 a Ministerial Statement was published setting out the Government's plans for the delivery of First Homes. This statement set out that:

- From 28 June 2021, a home meeting the criteria of a First Homes will also be considered to meet the definition of 'affordable housing' for planning purposes;
- A minimum of 25% of all affordable housing units secured through developer contributions should be First Homes - a national threshold which should be applied for England.

3.6 The Ministerial Statement also sets out transitional arrangements for how First Homes should be translated into local plans and considered as part of the decision-making process. Where local plans do not benefit from transitional arrangements (i.e. they are not at Submission or Publication stage) the local planning authority should make clear how existing policies should be interpreted in the light of First Homes requirements using the most appropriate tool available to them. In line with these arrangements this Planning Position Paper sets out the council's approach to delivering First Homes whilst the Local Plan is under review. In relation to decision-making the Statement sets out the following:

- the new requirement for 25% First Homes will not apply to 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; or
- 28 March 2022 if there has been significant pre-application engagement, although local authorities should allow developers to introduce First Homes to the tenure mix if they wish to do so.

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- 3.7** Further planning policy guidance is then provided in relation to First Homes as the government's preferred discounted market tenure. Specifically, First Homes are discounted market sale units which:
- a. must be discounted by a minimum of 30% against the market value;
 - b. are sold to a person or persons meeting the First Homes eligibility criteria;
 - c. on their first sale, will have a restriction registered on the title at HM Land Registry to ensure this discount (as a percentage of current market value) and certain other restrictions are passed on at each subsequent title transfer; and,
 - d. after the discount has been applied, the first sale must be at a price no higher than £250,000 (or £420,000 in Greater London).

Local planning policy

- 3.8** Affordable Housing is currently sought through Policy 10 of the Joint DPD. This was adopted 9 November 2011 and as written states that:

Joint DPD Policy 10 Affordable Housing

All residential development of 15 dwellings and above, in line with national guidance, will be required to provide an appropriate level of affordable housing provision. The current target is for 7.5% of the total development sales value to go towards the delivery of affordable housing, unless it can be clearly demonstrated to the council's satisfaction that this is not viable. This target is based on the findings of the AHEVA, but will be monitored and reviewed over the lifetime of the LDF to ensure that it is still appropriate.

When agreeing the level and nature of affordable housing to be provided the council will have regard to the following:

- a. the size and type of affordable housing to be provided, such as social-rented accommodation or intermediate housing, and how this meets the local affordable housing needs; and*
- b. the availability of Social Housing Grant, or equivalent, to support the delivery of the affordable housing; and*
- c. the impact of the provision of affordable housing on the economic viability of the development; and*
- d. whether the provision of affordable housing would prejudice the delivery of other planning and regeneration objectives.*

Affordable housing must be provided on-site, in partnership with a Registered Provider, preferably that belongs to the Oldham Housing Investment Partnership (OHIP) ⁽¹⁾ unless there are exceptional circumstances that would justify the acceptance, by the council, of off-site provision within the locality or a financial contribution in lieu of provision. Exceptional circumstances include:

- e. where the specific characteristics of the residential development proposed mean that the provision of affordable housing is neither practicable or desirable; or*
- f. where the council consider the off-site provision within the locality or a financial contribution would meet local affordable housing needs and other planning and regeneration objectives more effectively.*

Where a financial contribution is paid and the provision cannot be provided on-site, the priority will be given to off-site provision in the local area followed by off-site provision within the borough.

The council will use planning conditions or obligations to secure delivery of the affordable housing provision, and to ensure that it is occupied in perpetuity by people falling within particular categories of need for affordable housing.

The council will provide further advice and guidance on this policy.

¹ Please note the the Oldham Housing Investment Partnership no longer exists however the council continue to require that the Registered Provider should already operate in the area and be agreed with the Local Planning Authority.

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- 3.9** In the main Policy 10 remains appropriate and the council will continue to apply Policy 10 when determining relevant planning applications for residential development. However, since adoption of the Joint DPD, national planning guidance has revised the threshold to which the policy should be applied and further guidance is required on the application of First Home and Vacant Building Credit. These are considered in turn throughout the remainder of this paper.
- 3.10** Policy 10 and our approach to delivering First Homes and applying Vacant Building Credit will be assessed and formalised through the Local Plan review. Until such a time the council's approach is set out within this Planning Position Paper.

4 Threshold for securing affordable housing

- 4.1** In line with paragraph 64 of NPPF the council will seek the provision of affordable housing through Joint DPD Policy 10 only on major residential developments. That is those developments that are for 10 homes or more (as per the definition of major development set out NPPF Annex 2: Glossary⁽¹⁾).
- 4.2** The council's Local Housing Needs Assessment (LHNA) provides an up to date evidence base and identifies in the need for affordable housing across the borough. In particular the LHNA:
- Identifies the need for 203 affordable homes a year (net) across the borough. This equates to 30% of the borough's local housing need and was based on a five year period (which at the point of the Housing Strategy publication was up to 2023) and the LHNA recommended that in the absence of any updated information this should be extrapolated forward to the Local Plan period.
 - Recommends an appropriate affordable housing tenure split of 50% social / affordable rented and 50% intermediate tenure.
 - Recognises the imbalance in the spatial distribution of affordable housing across the borough, with affordable housing often being concentrated in lower market areas rather than in higher value areas where there is also a distinct need and issues of rural affordability.
 - In response to the evidence of supply and demand variations by area and property size the LHNA suggests the following mix of house type and size for affordable housing:
 - Houses (50.9%) and flats (31.7%), bungalows (12.7%) and other types of homes (4.6%).
 - One-bedroom (16.7%), two-bedroom (48.7%), three-bedroom (29.6%) and four or more bedrooms (5%).
- 4.3** In light of the above evidence the council considers it appropriate to continue to apply Joint DPD Policy 10 in securing the provision of affordable housing (with exception of the policy now applying to developments of 10 homes or more in line with NPPF and paragraph 4.1 above) until such a time as the approach can be reviewed as part of the Local Plan review.

1 NPPF Annex 2: Glossary - Major development: For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. For non-residential development it means additional floorspace of 1,000m² or more, or a site of 1 hectare or more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

5 Delivering First Homes

- 5.1 This section of the paper sets out how the government's First Homes policy, as set out in NPPF, will be delivered in Oldham. The information is provided based on a series of questions.
- 5.2 Please note, this is not a definitive guide to First Homes. Further information / guidance is available from: <https://www.gov.uk/guidance/first-homes>

Application of the First Homes criteria in Oldham

- 5.3 As set out within guidance, local authorities are encouraged to ensure that First Homes work well in their area, which may include requiring a higher minimum discount, lower price or income caps, or local connection/key worker requirements.
- 5.4 Local planning authorities are also encouraged to make the development requirements for First Homes clear for their area. The most appropriate method or tool to do this will depend on individual circumstances for each local planning authority. These might include (but may not be limited to): publication of an interim policy statement or updating relevant local plan policies. Local planning authorities should assess their own circumstances when considering the most appropriate way to achieve this in their context.
- 5.5 Given the timeline for Oldham's Local Plan Review, it is considered most appropriate to set out an Interim Position for First Homes. First Homes will be fully considered through Oldham's Local Plan Review and new policies will apply as appropriate when the new Local Plan is adopted.
- 5.6 Each First Homes standard criteria is considered in turn below with the proposed position for Oldham.

A First Homes must be discounted by a minimum of 30% against the market value

National standard

- 5.7 In order to qualify as a First Home, a property must be sold at least 30% below the open market value. Therefore, the required minimum discount cannot be below 30%.
- 5.8 However, the First Homes Written Ministerial Statement does give local authorities and neighbourhood planning groups the discretion to require a higher minimum discount of either 40% or 50% if they can demonstrate a need for this. As part of their plan-making process, local planning authorities should undertake a housing need assessment to take into account the need for a range of housing types and tenures, including various affordable housing tenures (such as First Homes). Specific demographic data is available on open data communities which can be used to inform this process. The assessment will enable an evidence-based planning judgement to be made about the need for a higher minimum discount level in the area, and how it can meet the needs of different demographic and social groups.
- 5.9 In such circumstances, the minimum discount level should be fixed at either 40% or 50% below market value and should not be set at any other value. In each case, these percentages represent the minimum discount required for a home to qualify as a First Home. Developers who are able to offer higher discounts within their contributions

should be free to do so but the local authority cannot require this. In such cases, whatever discount (as a percentage of market value) is given at the first disposal should be the same at each subsequent sale. These minimum discounts should apply to the entire local plan area (except if Neighbourhood Plans are in place in certain areas) and should not be changed on a site-by-site basis.

- 5.10** If local authorities or neighbourhood planning groups choose to revise their required minimum discounts in any future alterations to their plans, this should not affect the minimum discounts required for previously sold First Homes when they come to be resold, as these will be bound by the section 106 agreements entered into at the time of their first sale.

Oldham position

- 5.11** Oldham's LHNA identifies that in 2017 (the latest data period available at the time the LHNA was published) for a median priced house (£122,000) to be affordable⁽¹⁾ the household income required is £31,371. For a lower quartile priced house (£84,000) to be affordable the household income required is £21,000.

- 5.12** More recent data (using a pre-covid baseline – June 2019) identifies that for a median priced house (£135,000) to be affordable the required household income is £34,714. For a lower quartile house (£95,000) to be affordable, the required household income is £24,429⁽²⁾.

- 5.13** Based on the June 2019 baseline outlined above, data analysis identifies that approximately 65% of households in Oldham cannot afford the average (median) Oldham house. Furthermore, only 45% of households can afford a lower quartile house. The impact of covid, and continually rising house prices, further decreases affordability of houses in Oldham.

- 5.14** The LHNA has identified that in Oldham:

- 19.4% of households receive less than £10,400 gross per year;
- 18.1% receive between £10,401 and £15,600 per year;
- 15.2% receive between £15,601 and £20,796 per year;
- 13.6% receive between £20,797 and £26,000 per year;
- 16.3% receive between £26,001 and £39,000 per year; and
- 17.4% receive at least £39,000 per year.

- 5.15** A 30% discount of the median market sale house price (June 2019) would be £94,500. A house of £94,500 would require a household income of at least £27,000, of which 33.7% of households in Oldham achieve.

- 5.16** A 40% discount of the median market sale house price (June 2019) would be £81,000. A house of £81,000 would require a household income of at least £23,143, of which 47.3% of households in Oldham achieve.

1 Assuming a 3.5x income multiple and a 10% deposit is available – as per table 4.9 LHNA.

2 The data for June 2019 is sourced from ONS House Price data and household income data held by Oldham Council.

5.17 At present the approach in Oldham is for a property to be sold at 30% below the open market value. The appropriateness of applying a higher threshold, such as 40%, and its impact on the viability of development coming forward will be tested through the Local Plan review.

After the discount has been applied, the first sale must be at a price no higher than £250,000;

National standard

5.18 In order to qualify as a First Home, the initial sale of the home cannot be at a price greater than £250,000 (or £420,000 in Greater London) after the discount has been applied. Therefore, local authorities cannot set price caps higher than these national caps.

5.19 However, the [First Homes Written Ministerial Statement of 24 May 2021](#) does give local authorities and neighbourhood planning groups the discretion to set lower price caps if they can demonstrate a need for this. Any local price caps should be determined through the plan-making process with regard to local income levels, related to local house prices and mortgage requirements.

5.20 Local price caps should not be set arbitrarily and should only be used if evidence demonstrates a need for intermediate housing at particular price points. Whilst the national standard price caps will be high for many local areas across England, homes built as First Homes will need to be of appropriate size and price for first-time buyers in any area. The national price caps should not be used as justification for delivering more expensive properties than are necessary or required in any area.

Oldham position

5.21 *In applying a 30% market discount to the median Oldham house price, a price cap of approximately £95,000 would be appropriate to ensure First Homes are aimed at households in affordable housing need. However, as set out in the Ministerial Statement, local price caps should be determined through the plan-making process. As such, it is not proposed to lower the national price cap at present. The Local Plan Review will consider an appropriate local price cap in line with available evidence.*

5.22 *As per Oldham's position on the First Homes set out above, any First Home should be delivered at a 30% discount to the market sales price. Where it is proposed that a First Home, after applying the 30% discount, would be significantly above the median sales price of £95,000 the applicant will be required to robustly justify and agree the sales price with the local planning authority, considering the intention of the First Homes policy as an affordable housing product.*

The home is sold to a person who meets the First Homes eligibility criteria.

National standard

5.23 The First Homes policy sets out that a purchaser (or, if a joint purchase, all the purchasers) of a First Home should be a first-time buyer as defined in paragraph 6 of schedule 6ZA of the Finance Act 2003 for the purposes of Stamp Duty Relief for first-time buyers.

- 5.24** Purchasers of First Homes, whether individuals, couples or group purchasers, should have a combined annual household income not exceeding £80,000 (or £90,000 in Greater London) in the tax year immediately preceding the year of purchase.
- 5.25** 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.
- 5.26** These national standard criteria should also apply at all future sales of a First Home.
- 5.27** Authorities are able, and are encouraged, to prioritise key workers for First Homes. This should be based on a local definition of a key worker.
- 5.28** Furthermore, authorities are also able to introduce local connection criteria, which may include (but are not limited to) current residency, employment requirements, family connections or special circumstances, such as caring responsibilities. In recognition of the unique circumstances of the Armed Forces, local connection criteria should 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 service) and veterans within 5 years of leaving the armed forces.

Oldham's position

- 5.29** *It is of course important that the First Homes delivered help to address the borough's local housing need and help those from the area who may not be able to afford a home otherwise. As such until such a time as the approach can be tested and formalised through the Local Plan review it is proposed to use the council's current allocations policy as local connection criteria, which are that the:*
- *Applicant has resided in the borough for 6 months out of the last 12 months or 3 years out of the last 5 years; or*
 - *Applicant's mother, father, adult sibling or adult child have resided in the borough for 5 years or more; or*
 - *Applicant is employed in the borough.*
- 5.30** *The local connection should be applied in the first instance. However, should the circumstances arise where there is no take-up of the First Homes through the application of the local connection criteria the homes should be marketed and offered to those in general affordable housing need. Should there continue to be no take-up of the First Homes the home can then be marketed and offers to those in the general housing market. The council consider that the First Homes should be marketed for a period of at least 6 months to those meeting the local connection criteria before moving on to those in general affordable housing and (after a further 6 months marketing) those in the general housing market. The approach to marketing must be agreed with the local planning authority prior to commencement to ensure the most appropriate platforms are used.*
- 5.31** *The national criteria relating to eligibility and income will be applied. In terms of income the national criteria requires purchasers of First Homes, whether individuals, couples or group purchasers, to have a combined annual household income not exceeding £80,000 in the tax year immediately preceding the year of purchase. As set out above, the income required to purchase a discounted (at 30%) median market sale house in*

Oldham is at least £27,000. As such it would be more appropriate for an income cap of £30,000 to apply to First Homes purchasers in Oldham to ensure First Homes remain affordable to the borough's residents. However, no local price cap is proposed at present, although the applicant is encouraged to ensure that First Homes are accessible for Oldham's residents, taking into consideration the local income data set out above.

5.32 *The local connection test and income cap will be further tested through the Local Plan review.*

What percentage of First Homes should be provided on an application site?

5.33 First Homes should account for at least 25% of all affordable homes delivered by developers through planning obligations. The remaining 75% affordable housing requirement can be made up as per local planning policy requirements/ recommendations.

- *In Oldham we will be seeking 25% First Homes contribution on sites where First Homes are required to be delivered. The remaining 75% affordable housing contribution on the relevant application site is to be made up of Affordable/ Social Rent and Intermediate tenures in line with the recommendations set out within the council's Housing Strategy and Local Housing Needs Assessment (LHNA). The LHNA, which is a material consideration for relevant planning applications, recommends a split of 50% affordable rent and 50% intermediate tenure. Given that First Homes is a form intermediate tenure when determining the split of the remaining 75% affordable housing contribution the council would be seeking a further 25% intermediate tenure and 50% affordable / social rent so as to meet the recommendations in the council's Housing Strategy / LHNA.*
- *It is important to note that the First Homes requirement is not "in addition" to the existing affordable housing requirement on a site. It will simply make up 25% of any affordable housing planning obligation, as required by NPPF⁽³⁾.*

What house types and bed sizes should be delivered using First Homes?

5.34 The Council's Housing Strategy and LHNA provide recommendations on property types and bed sizes that should be sought when securing affordable homes, now including First Homes, to best meet affordable housing need. Applicants should consider these recommendations as part of any proposed development to ensure that an appropriate housing mix is delivered across the site as a whole.

- *The LHNA sets out there is a need for a range of affordable housing types, with broad requirements of:*
 - *16.7% one-bedroom homes;*
 - *48.7% two-bedroom homes;*

³ The Local Plan's (Joint Core Strategy and DPD 2011) affordable housing policy (Policy 10) has been superseded by NPPF (paras. 63-65). This is applicable from publication of this paper until the adoption of the new Local Plan.

- 29.6% three-bedroom homes; and
- 5% four or more-bedroom homes.

5.35 First Homes will be expected to meet the National Described Space Standards as a minimum.

How does the requirement for 25% First Homes interact with the requirement in the National Planning Policy Framework that where major development is proposed, at least 10% of homes should be available for affordable home ownership?

5.36 The 25% expected First Homes contribution can make up, or contribute to, the 10% of the overall number of homes expected to be an affordable home ownership product on major developments as required through NPPF depending on the amount of affordable housing to be provided as part of the proposed development. For example:

- Where a scheme of 120 homes is to provide 10% affordable housing, then all of these (12) homes would need to be in the form of an affordable home ownership product. 3, or 25% of these, would then need to take the form of First Homes properties, in line with national planning guidance.
- However, where a scheme of 120 homes is to provide 20% affordable housing (24 homes), 10% of the total number of homes to be delivered will need to take the form of an affordable home ownership product as outlined above - 12 homes. 6 (or 25%) of these would need to take the form of First Homes properties (in line with national planning guidance) and 6 could take the form of another intermediate tenure. The remaining 12 affordable homes can then made up of affordable and /or social rent.

5.37 At present Policy 10 of the Local Plan states that when agreeing the level and nature of affordable housing to be provided the council will have regard to various factors including the size and type of affordable housing to be provided, such as social-rented accommodation or intermediate housing and how this meet local affordable housing needs. As such, it does not currently stipulate a split between the different types of affordable housing to provided. This will be reviewed as part of the Local Plan review.

5.38 In the meantime, the LHNA recommends that in terms of new affordable homes built 50% should be for social and/or affordable rent and 50% should be intermediate tenure. Following this recommendation, where more than 10% of the total homes proposed is to be for affordable housing then this evidence should be used to determine the split of the remaining affordable housing tenures required in order to provide the LHNA recommended split of 50% intermediate tenure and 50% social / affordable rent across the development as a whole as per the LHNA recommendation.

How does the 25% requirement apply to off-site affordable housing contributions?

5.39 In accordance with paragraph 62 of the NPPF, affordable housing is expected to be delivered on-site unless off-site provision, or a financial contribution in lieu off, can be robustly justified, and the agreed approach contributes to the objective of creating mixed and balanced communities.

- 5.40** Where financial contributions for affordable housing are secured instead of on-site units, a minimum of 25% of these contributions should be used to secure First Homes. This could be achieved, for example, by acquiring additional First Homes from market development, paying the developer a sum to offset the discount from market price, and securing the tenure through section 106 planning obligations.
- 5.41** Where a mixture of cash contributions towards affordable housing and on-site units are secured, 25% of the overall value of affordable housing contributions should be applied to First Homes.

When will the First Homes policy requirement come into force?

- 5.42** Guidance states that First Homes policy requirement does not apply in relation to:
- 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
 - *This means that any application already granted, or refused but being appealed, before this date, 28 December 2021, is not subject to the First Homes requirement, meaning that First Homes tenure is not required or expected.*
 - Applications for full or outline planning permission where there has been significant pre-application engagement which are determined before 28 March 2022. For the purposes of the First Homes policy, significant pre-application engagement means any substantive discussions between the local planning authority and the applicant relating to the proposed quantity or tenure mix of the affordable housing contribution associated with that application.
 - *In Oldham, we interpret this to mean any application already submitted to the Council or where pre-app advice has already been given prior to 24 May 2021 (when the first Homes Guidance was published), so long as the application is determined by 28 March 2022.*
- 5.43** Notwithstanding the timeline set out above, guidance states that if an applicant wishes to amend a planning application, which has already been submitted and is likely to be granted before 28 March 2022, to include First Homes, the local planning authority should be flexible in accepting First Homes as an alternative type of tenure.

Does the First Homes requirement apply to variations or amendments to existing planning permissions?

- 5.44** The First Homes policy does not apply to application 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 related to the proposed quantity or tenure mix of affordable housing for that development.

Position on First Homes Exception Sites

5.45 A First Homes exception site is a housing development that comes forward outside of local or neighbourhood plan allocations to deliver affordable housing and which primarily delivers First Homes as set out in the First Homes Written Ministerial Statement.

5.46 First Homes exception sites can come forward on unallocated land outside of a development plan. They cannot come forward in areas designated as Green Belt, or designated rural areas as defined in Annex 2 of NPPF. In these areas, rural exception sites are the sole permissible type of exception site (Oldham does not currently have a rural exception sites policy).

What evidence can be used to in demonstrating that a proposed First Homes exception site is proportionate in size to the existing settlement?

5.47 For decision-making, what constitutes a proportionate development will vary depending on local circumstances. As part of their process for preparing planning applications, applicants should consider engaging a relevant built environment professional to provide advice on the scale of their proposal and also consider proactively engaging with local authorities where possible to discuss their proposals.

Can First Homes exception sites deliver market housing?

5.48 First Homes exception sites can deliver a small proportion of market housing, provided that it can be demonstrated that this is necessary in order to ensure the overall viability of the site. Local authorities and neighbourhood planning groups can set policies that specify in further detail the proportions of market housing would be considered acceptable, and under what circumstances.

What sort of evidence can be provided in order to justify the inclusion of a small proportion of market housing on First Homes exception sites?

5.49 Applications for First Homes exception sites that propose the inclusion of a small proportion of market housing will be expected to provide evidence that the site would be unviable without such housing being included, for instance in situations where the development faces significant and unexpected delivery costs. Evidence would typically be in the form of a detailed viability assessment prepared in line with Planning Practice Guidance on Viability in Decision Taking

Under what circumstances can other types of affordable housing come forward on First Homes exception sites?

5.50 Where local evidence suggests that a significant local need exists for one or more other forms of affordable housing on a proposed First Homes exception site, applicants may alter the proportions of affordable housing to include small quantities of other affordable housing products. Applicants will be expected to provide evidence of this need in the form of a Local Housing Needs Assessment, local authority Housing Register, or other sufficiently rigorous local evidence.

5.51 For plan-making, local authorities and neighbourhood planning qualifying bodies are encouraged to set policies which specify their approach to determining the proportionality of First Homes exception site proposals, and the sorts of evidence that they might need in order to properly assess this. The Local Plan Review will consider this.

Can Community Infrastructure Levy be collected on First Homes development?

5.52 The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) make provisions for charging authorities to give relief or grant exemptions from the levy. These regulations allow developers of First Homes to obtain an exemption from the requirement to pay CIL. Oldham does not currently have CIL.

Securing the delivery of First Homes

5.53 Where a site will be delivering First Homes, a section 106 agreement will be required to secure the necessary restrictions on the use and sale of the property, and a legal restriction on the title of the property to ensure that these restrictions are applied to the property at each future sale. The intention is to protect the property as a First Home and ensure that the discount is passed on to all future eligible purchasers.

5.54 In addition to other requirements the Section 106 will seek to:

- *Secures the delivery of the First Homes; and,*
- *Ensures that a legal restriction is registered onto a First Home's title on its first sale.*

5.55 This will mean that:

- *When a First Home is sold by the developer to the first owner, a restriction is to be entered onto the title register identifying the unit as a First Home. This restriction should ensure that the title cannot be transferred to another owner unless the relevant local authority certifies to HM Land Registry that the First Homes criteria and eligibility criteria have been met, including the discounted sale price.*

5.56 In most cases, these planning obligations should be entered into in the usual way prior to the grant of planning permission. The government will publish template planning obligations for this purpose, which the local planning authority can use as a basis for agreements prepared locally.

5.57 Guidance states that, to ensure consistency and clarity regarding the status of First Homes, it is strongly recommended that the following model title restriction is used, which is a variation on a standard Form L restriction which has been prepared with HM Land Registry for this purpose. This model title restriction is part of the government's published template planning obligations:

- *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

- *In Oldham we will be seeking to refine existing Section 106 clauses to reflect the restriction requirements.*

5.58 In circumstances where this restriction needs to be removed, such as an invocation of the Mortgagee Protection Clause, the Local Authority will be required to apply to enable the removal of the restriction.

Eligibility Criteria

5.59 Government guidance sets out who is eligible for a First Home as shown via this link <https://www.gov.uk/guidance/first-homes#first-homes-eligibility-criteria>, but a local authority can set its own requirements for:

- Income thresholds
- Keyworkers
- Local Connection
- Discount level above 30%

5.60 Any local eligibility criteria will apply for a maximum of 3 months from when a home is first marketed. If a suitable buyer has not reserved a home after 3 months, the eligibility criteria (including income caps) will revert to the national criteria set out above, to widen the consumer base.

- *The Council will ensure that the Section 106 captures the Council's local eligibility requirements within the context of the discretions allowed in national policy.*

6 Vacant Building Credit

- 6.1** The introduction of Vacant Building Credit (VBC) is aimed at stimulating the development of vacant building on brownfield sites.
- 6.2** VBC works through the deduction of a financial 'credit', equivalent to the existing gross floorspace of any relevant vacant buildings within the redline boundary of the application site brought back into lawful use or demolished for redevelopment, from the overall affordable housing contribution calculation sought from relevant residential development schemes. For example, where a building with a gross floorspace of 8,000 square metre building is demolished as part of a proposed development with a gross floorspace of 10,000 square metres, any affordable housing contribution should be a fifth of what would normally be sought as it would be applied to only 2,000 square metres. This will apply in calculating either the number of affordable housing units to be provided within the development or where an equivalent financial contribution is being provided.
- 6.3** This will not apply to vacant buildings which have been abandoned (see below for further information).
- 6.4** In considering how the vacant building credit should apply to a particular development, local planning authorities should have regard to the intention of national policy. In doing so, it may be appropriate for authorities to consider:
- whether the building has been made vacant for the sole purposes of re-development (vacant building credit does not apply to abandoned buildings)
 - whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development
- 6.5** The council will determine on a case by case basis whether a building is vacant or abandoned and whether it is appropriate to apply VBC. Details regarding the type of information that may be required to inform the decision and support a relevant planning application is set out below.

Proposed criteria for applying Vacant Building Credit

- 6.6** The criteria for applying Vacant Building Credit are as follows:
1. The site must meet the NPPF definition of 'Previously Developed Land' (NPPF, Annex 2 Glossary).
 2. The building must meet the Council's definition of a 'Vacant Building' and must not have been abandoned (see below). The whole building should be vacant for VBC to apply.
 3. The building must not have been made vacant for the sole purposes of redevelopment. The applicant must demonstrate that vacancy has arisen for other reason.
 4. If the proposal is covered by an extant or recently expired planning permission for the same or substantially the same development or has there been an application submitted but not determined since the VBC was reintroduced and VBC not sought, VBC will not apply.

Definition of a vacant building when applying Vacant Building Credit

- 6.7** Like many authorities, Oldham will use the Community Infrastructure Levy (CIL) definition of a vacant building for this interim planning position. The CIL defines a vacant building as "a building that has not been in continuous use for any 6 month period during the last three years". A 'building' does not include buildings: into which people do not normally go; into which people go only intermittently for the purpose of maintaining or inspecting machinery, or; for which planning permission was granted for a limited period.
- 6.8** Whilst Oldham does not have CIL, the CIL definition of a vacant building provides a clear vacancy period which takes into consideration the requirements of Policy 14 of the Local Plan. For employment sites, one of the Policy 14 criterion is that adequate marketing (as agreed with the council) is carried out to determine the site's viability/suitability for the identified employment use. It is important to ensure that Oldham's employment sites are protected from development, especially as the Employment Land Review is still being carried out to inform the Local Plan Review. This interim position does not supersede any requirements set out within Policy 14.

Abandoned buildings

- 6.9** In deciding whether a use has been abandoned, account should be taken of all relevant circumstances, such as:
- the condition of the property
 - the period of non-use
 - whether there is an intervening use; and
 - any evidence regarding the owner's intention.

Vacant Building Credit and Outline Planning Applications

- 6.10** As stated above the council will determine on a case by case basis whether a building is vacant or abandoned.
- 6.11** When considering outline planning applications it may not be clear what the actual number of dwellings, or the size of those dwellings, may be. Therefore it will be difficult to quantify what vacant building credit will be applicable at this stage. Where the local planning authority agrees that the VBC may be applicable, the applicant will be expected to enter into a S.106 Agreement at the outline stage to enable the matter to be deferred to a later stage when the relevant details of the scheme have been finalised. If the VBC is applicable to the proposed site, the information on floor space will inform the level of affordable housing contributions.

Vacant Building Credit Statement

- 6.12** In order to apply for the VBC seeking reduced affordable housing contribution, a VBC Statement must be submitted alongside a planning application. The following information will need to be included in the Statement:
- 6.13** Evidence that any referenced building is a 'vacant building'. As stated above a building is not considered as 'vacant' if the building has been in continuous use for any six months during the last three years up to the date of the planning application is submitted.

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- 6.14** The whole building must be vacant to apply for VBC.
 - 6.15** Evidence that any referenced building is not an 'abandoned building' or vacated solely for the purpose of redevelopment. The onus will be on the applicant to demonstrate this. The factors the council will take into account are set out above.
 - 6.16** Information on the existing Gross Internal Floor Area (GIFA) and the proposed GIFA. GIFA is the area of a building measured to the internal face of the perimeter walls at each floor level. The Royal Institution of Chartered Surveyors (RICS) definition of GIFA will be used for the purposes of assessing VBC.
 - 6.17** The council encourages the above information to be also be applied as part of any pre-application discussed so that the application of VBC can be considered at the earliest stage.