Changes to the Current Planning System Consultation

- **Delivering First Homes**
- **Supporting small and medium-sized developers**
- **Extension of the Permission in Principle consent regime**

Response from Homes for the North

Homes for the North (H4N) is an alliance of 17 of the North's largest developing housing associations, who want to deliver more homes across the North of England. We commission research and share our expertise to help policy makers create the conditions for more and better homes in the North, stimulating social and economic growth to rebalance the UK.

Between our members, we own or manage more than 500,000 homes, and currently provide a third of all social rented homes in the North. Over the next 3 years, H4N members have plans to develop circa 24,000 new homes of all tenures across the north of England. In 2019/20 H4N members commenced building over 5,000 new homes for shared ownership, as well as over 4,000 homes for market sale and over 1,000 for Rent to Buy.

Homes for the North welcomes the opportunity to provide a response to the HM Government consultation on the proposal to introduce changes to the current planning system. Our response is in two parts. This document covers H4N's response to proposals for First Homes, supporting small and medium-sized developers and extension of the permission in principle consent regime. A separate response is provided covering proposals for changes to the standard method for assessing housing numbers in strategic plans, prepared with the support of leading planning consultants, Lichfields.

Individual Registered Providers represented by Homes for the North may also respond to this consultation.

1. Summary

Delivering First Homes

- H4N supports HM Government in its commitment to supporting people to make the dream of home ownership a reality.
- H4N welcomes HM Government's proposal to require a minimum of 25% onsite affordable housing as First Homes, being a reduction from the scenarios outlined in the original consultation.
- H4N would welcome powers for Local Authorities to flex provision of First Homes below 25% in specific circumstances, set out in a revised National Planning Policy Framework, in order to maintain a mixed offer of affordable tenures. We retain the view that the introduction of First Homes will significantly reduce the supply of other forms of affordable housing, specifically targeted at those with incomes lower down the income distribution, particularly where property values and developers' revenues and margins are low.

- In particular, local authorities should be in a position to negotiate a lower First Homes requirement (or waive any requirement altogether) in the case of regeneration schemes, where there is clear evidence that provision would jeopardise scheme viability. This applies particularly in lower value areas and in the case where existing homes are being re-provided, to establish a minimum level of affordable provision of a particular tenure to meet the needs of existing residents.
- For the balance of onsite provision of affordable homes, H4N would strongly recommend that Local Planning Authorities (LPAs) are given the flexibility to pursue a mix of affordable tenures that meet locally assessed and derived needs, based on their existing policies. H4N would therefore support the proposed option 2 – negotiation between a local authority and a developer - for applying the remaining 75% of affordable housing secured through developer contributions.
- Developments providing 100% affordable homes should be exempt from any First Homes requirement.
- For larger phased developments where future phases have yet to receive planning consent, affordable housing requirements (and thus First Homes requirements) should be established on a phase by phase basis to reflect any changes over time in values and to ensure scheme viability is maintained.
- In respect of transitional arrangements, there needs to be a clear cut-off point to provide clarity on the definition of "significant work having taken place" on a planning application, such as completion of the first formal pre-application discussion with the LPA, in order to provide clarity and ensure that the policy is consistently applied by all LPAs.
- There should be no discretion for local authorities to apply higher levels of discount. Applying flexibility to the level of the First Homes discount will create uncertainty, increase the time it takes for developers to agree final proposals with the LPA and could, potentially, reduce overall delivery of market and affordable tenures where deeper discounts than 30% are required by the LPA.

Supporting SME Developers

- H4N does not support the proposed 18 month increase in the threshold for affordable housing. The proposed increase in the level of small sites threshold for affordable housing for 18 months will further reduce the number of affordable homes delivered through planning applications consented in this period and is unlikely to generate a positive impact on the level of SME development in this period, due to the lag effect of planning timescales versus delivery outcomes.

Extension of the Permission in Principle Consent Regime

- H4N broadly supports proposals for the extension of the permission in principle regime and the principles outlined in the consultation document.

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2. Response to consultation questions

Delivering First Homes

Q8: The Government is proposing policy compliant planning applications will deliver a minimum of 25% of onsite affordable housing as First Homes, and a minimum of 25% of offsite contributions

towards First Homes where appropriate. Which do you think is the most appropriate option for the remaining 75% of affordable housing secured through developer contributions?

H4N retains the view that the introduction of First Homes will significantly reduce the supply of other forms of affordable housing, specifically targeted at those with incomes lower down the income distribution, particularly where property values and developers' revenues and margins are low. Therefore, we would welcome proposals to enable Local Authorities to flex provision of First Homes below 25% in specific circumstances set out in a revised National Planning Policy Framework, in order to maintain a mixed offer of affordable tenures.

If 25% is to be held as the minimum level of First Homes delivery, in respect of the remaining 75% affordable onsite provision, H4N would strongly recommend that LPAs are given the flexibility to pursue a mix of other affordable tenures that meet locally assessed and derived needs, based on their existing policies. H4N would therefore support the proposed option 2 - negotiation between a local authority and a developer - for applying the remaining 75% of affordable housing secured through developer contributions.

Percentage of Affordable Housing Secured Through Developer Contributions

H4N submitted a response to the First Homes Consultation in April 2020 and welcomes HM Government's proposal to require a minimum of 25% onsite affordable housing as First Homes, as a sensible reduction from the scenarios set out in the original consultation. This reduction will facilitate Local Planning Authorities (LPAs) in maximising other forms of affordable housing through planning gain, providing a choice of homes for individuals unable to purchase a First Home.

Our view remains that in the event of First Homes becoming a major route for the delivery of homes through S106 and the Infrastructure Levy, the number of much needed homes for rent and shared ownership is likely to be significantly reduced for customers on low incomes, particularly where property values and developers' revenues and margins are low. In H4N's response to the original consultation, we proposed that mechanisms should be developed in order to ensure that First Homes are delivered as part of a mixed affordable tenure offer, mitigating the risk of the potential reduction in the delivery of new homes for shared ownership and rent. The reduction to 25% partially mitigates this risk, but providing Local Authorities with the ability to further flex the level of First Homes delivery below 25%, based on locally identified housing needs and by exception, in accordance with criteria set out in the NPPF, would facilitate mixed affordable delivery which reflects local markets and will provide further choice to customers requiring affordable housing. Ideally, a system should support delivery of mixed affordable tenures based on local requirements, rather than with nationally-set parameters or at the expense of any particular affordable tenure.

In addition, with uncertainty remaining around the details of the Affordable Homes Programme, the financial demands of building safety and carbon reduction obligations on Registered Providers, and the ongoing the uncertain economic climate, H4N view it as unwise to set an affordable tenure mix on a national basis through stipulating a minimum proportion of First Homes. If this policy is to be pursued, a maximum proportion of First Homes should be set, in order to protect the supply of other affordable tenures.

Case study example:

Initial modelling undertaken by one of the Registered Providers within H4N across a number of sites, indicates that in order for the developer to maintain scheme viability with 25% First Homes, a reduction in the provision of other affordable tenures in the remaining 75% will be necessary, almost across the board. This will have the effect of reducing the aggregated number of affordable homes of all tenures delivered, particularly shared ownership; and could have the effect of further reducing the delivery of affordable rented tenures where there is a reduction in surpluses from shared ownership which may be used to cross-subsidise affordable rented tenures. In higher value areas where the potential for developer contributions through Section 106 is greatest, affordability pressures will often be the most severe; these are the locations where First Homes will potentially have a detrimental impact on delivery of other affordable tenures, where demand for these tenures, driven by affordability pressures, is likely to be strongest.

The heaviest impact of introducing First Homes on all future development schemes was seen in the modelling of lower value regeneration schemes where there is currently no requirement to provide affordable housing through S106, but where under proposals in the Planning White Paper to introduce an Infrastructure Levy this may change. Whilst affordable homes on such developments are more often than not provided through Homes England grant, the future application of 25% First Homes could render the market sale element of such schemes unviable, and thereby detrimentally affect overall delivery of all tenures, including market sale homes.

The case study below reflects the likely effect of applying First Homes at 25% on a mixed tenure scheme based in Cheshire.

Original Scheme	**Units**
Shared Ownership units	88
Affordable Rent units	30
Open Market Sales	136
Total Units	254
Margin	15%

In this scheme the level of affordable provision has been agreed through negotiation with the local authority including a S106 obligation to make a payment to the local authority and provide 88 affordable new homes, with more being provided beyond the agreement. If the scheme is adjusted such that First Homes are introduced at 25% of the affordable homes, and shared ownership is reduced accordingly, this would result in 22 First Homes and 66 shared ownership homes with no significant change in the developer's margin. If the scheme is adjusted such that affordable rent homes are reduced, this would result in the provision of just 8 homes for affordable rent. The fundamental principle is that there are no more affordable units generated but there would be a net shift in affordable tenure to First Homes. This example demonstrates how First Homes will reduce the overall number of affordable homes produced, limiting the choice of lower income customers wishing to access the different affordable tenures, as First Homes will be more expensive to access than shared ownership or affordable rent.

Q9: Should the existing exemptions from the requirement for affordable home ownership products (e.g. for build to rent) also apply to apply to this First Homes requirement?

Q10: Are any existing exemptions not required? If not, please set out which exemptions and why.

Q11: Are any other exemptions needed?

Developments providing 100% affordable homes should be exempt from any First Homes requirement in order to mitigate the wider loss of shared ownership and affordable rented tenures caused by First Homes.

Where developments are proposed with levels of affordable homes that are higher than the local policy requirement (e.g. where a scheme includes a minimum number of market homes required to make a development viable,) First Homes requirements should only be imposed on a policy compliant level of the affordable homes i.e. the First Homes requirement should only be applied to 25% of the policy-compliant homes. Again, this will go some way to protect the delivery of existing affordable tenures.

Similarly, First Homes may have the effect of frustrating development of regeneration schemes. Where a Registered Provider is re-providing a fixed number of affordable homes of agreed tenures for existing residents, insistence on a proportion of First Homes, potentially at the expense of the number of affordable rented or shared ownership homes, will detrimentally affect the whole-scheme viability and reduce the level of cross-subsidy available to support affordable development.

Local authorities should be in a position to negotiate a lower First Homes requirement (or waive any requirement altogether) in the case of regeneration schemes, where there is clear evidence that provision would jeopardise scheme viability. This applies particularly in lower value areas and in the case where existing homes are being re-provided, to establish a minimum level of affordable provision of a particular tenure to meet the needs of existing residents.

For larger phased developments where future phases have yet to receive planning consent, affordable housing requirements (and thus First Homes requirements) should be established on a phase by phase basis to reflect any changes over time in values and to ensure scheme viability is maintained.

Transitional Arrangements

Q12: Do you agree with the proposed approach to transitional arrangements?

H4N agrees with the proposal to implement transitional arrangements and timescales, but the wording in the consultation document is vague in respect of existing planning applications, which could be open to interpretation and create uncertainty. There needs to be a clear cut-off point to provide clarity on the definition of “significant work having taken place” on a planning application, such as completion of the first formal pre-application discussion with the LPA, in order to provide clarity and ensure that the policy is consistently applied by all LPAs. Existing planning applications should be exempt from the First Homes policy, with an implementation date set in order to mitigate the risk of uncertainty and prevent prolonged re-appraisal and assessment of existing applications which, we would challenge, LPAs do not have the resources and capacity to address. This change should also be applied to longer-term phased schemes, where planning permission for later phases may not have been consented, but where investment plans have been made based on existing or agreed future arrangements.

Level of Discount

Q13: Do you agree with the proposed approach to different levels of discount?

No, we believe discounts should be capped at 30%. Applying flexibility to the level of the discount will create uncertainty, increase the time it takes for developers to agree final proposals with the LPA and could, potentially, reduce overall delivery of market and affordable tenures where deeper discounts than 30% are required by the LPA. Developers will seek to challenge where the discount level is set higher than 30%, no matter what a valuation says. This will lead to protracted negotiation around viability, as it is very likely that developers will model their initial viability assessments at 30% in the hope of negotiating it down where set higher. In any case, markets are so granular in nature that it will be almost impossible to set varied discount levels in local plans that will truly affect local market conditions, demographics, incomes and affordability metrics.

In areas where deeper discounts are required to secure First Home buyers, there are also likely to be acute affordability pressures on those who require more accessible affordable tenures. Deeper discounts on First Homes would be likely to reduce the land value capture available for such tenures, exacerbating the disadvantage of those most in need.

Exception Sites

Q14: Do you agree with the approach of allowing a small proportion of market housing on First Homes exception sites, in order to ensure site viability?

As the introduction of First Homes is likely to significantly reduce delivery of other affordable tenures, H4N does not agree with the approach of allowing a proportion of market homes on First Home exception sites. Exception sites should remain as 100% affordable.

Q16: Do you agree that the First Homes exception sites policy should not apply in designated rural areas?

Whilst H4N supports the proposal to retain rural exception sites for 100% affordable tenures and to be exempt from the First Homes policy, the underuse of this mechanism of delivery is recognised and a review is welcomed.

Supporting Small and Medium Sized Developers

Q17: Do you agree with the proposed approach to raise the small sites threshold for a time-limited period?

Q18: What is the appropriate level of small sites threshold?
i) Up to 40 homes
ii) Up to 50 homes
iii) Other (please specify)

Q19: Do you agree with the proposed approach to the site size threshold?

Q20: Do you agree with linking the time-limited period to economic recovery and raising the threshold for an initial period of 18 months?

Q21: Do you agree with the proposed approach to minimising threshold effects?

H4N does not support the raising of the small sites affordable homes threshold and supports the current threshold being maintained.

The proposed increase in the level of small sites threshold for affordable housing for 18 months will further reduce the number of affordable homes delivered through planning applications consented in this period and is unlikely to generate a positive impact on the level of SME development in this period, due to the lag effect of planning timescales versus delivery outcomes. The only way to make this policy effective in the 18 month medium term Covid recovery period would be to retrospectively apply it to existing planning consents, which would be complex, time consuming and require commitment of LPA resources and capacity that they currently don't possess; as well as further reduce delivery of much-needed affordable homes.

A proposed increase in the threshold would be unlikely to encourage SME developers into the market, but instead encourage landowners and their agents to pursue planning consents exempt from affordable housing requirements for developments of 50 homes or less on land which would, over time, be traded at inflated values. As with the majority of the proposals in the "Changes to the Current Planning System" consultation and in the "Planning for the Future" White Paper, this proposal does not address the major frustration of build out rates being slowed by the planning system continuing to allow developers and landowners to sit on consented sites for elongated periods. The reduction in the small sites affordable threshold may exacerbate this situation.

The proposal could also have the effect of developers submitting planning applications for existing consented sites in order to shake-off affordable housing requirements, as well as reducing density in order to take advantage of the increased threshold.

Evidence demonstrates that the north of England will be hit hardest regionally by this policy across non-rural locations, as an average of 18% of affordable homes supply through S106 is derived through affordable homes packages of 15 homes or less, whilst the average in the south of England is 9% and the national average is 11%, indicating a significant reliance on delivery of affordable homes through S106 on smaller sites.

Q22: Do you agree with the Government's proposed approach to setting thresholds in rural areas?

H4N welcome the proposal to maintain current policy in rural locations, as these are most likely to be detrimentally affected by this proposal in respect of the reduction of affordable housing delivery, as these locations rely heavily on sites of 50 homes or less.

Extension of the Permission in Principle Consent Regime

Questions 24-32

H4N broadly supports proposals for the extension of the permission in principle regime and the principles outlined in the consultation document.