

First Homes Update – Government Template Planning Obligations

Briefing Note

15/01/2022

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Introduction

The Government's plans for the delivery of First Homes and a new model for shared ownership was set out in its Written Ministerial Statement dated 24th May 2021. This Briefing Note provides an update on the legal mechanisms to secure the delivery of First Homes and ensures that a restriction is registered onto a First Home's title on its first sale.

Background

First Homes are discounted market homes for first time buyers who meet certain eligibility criteria. The details of First Homes (discount, eligibility criteria and terms of use) are secured by a S106 Agreement.

Updated position

On 23 December 2021, the Government provided model clauses for use in preparing S106 Agreements to deliver First Homes:



www.gov.uk/government/publications/first-homes-model-section-106-agreement-for-developer-contributions

The template planning obligations can be used as a basis for locally prepared agreements.

The published template obligations include a model title restriction securing that the First Homes discount is registered against the title to the property ensuring that it is secured in perpetuity (subject to exceptions). The template obligations also include an exemplar Mortgagee Exclusion Clause which it is strongly recommended be used by local authorities. This Clause makes certain that there is appropriate protection for lenders and encourages competitive lending rates and establishes that mortgagees and lenders can sell on First Homes free of the restrictions if necessary.

Considerations moving forward

The provision of the Government's template planning obligations should assist all parties involved in simplifying this aspect of drafting the required S106 Agreements for applicable developments. A consistent approach is welcomed in working with both local authorities and developers to bring forward policy compliant developments and the delivery of First Homes as part of Affordable Housing for those whose needs are not met by the market (as defined within Annex 2 of the National Planning Policy Framework (NPPF) 2021).

The wider impacts of the priority being given to First Homes is still awaited with no publicised local plan viability studies as of yet, or significant planning applications going through the appeal process that address this specific matter. It is considered that the provision of social / affordable rent units may be lessened through the priority for provision of First Homes.

If you wish to find out more about the requirements for First Homes as part of your development proposals, or how DLP can assist with this or any other queries, please get in touch at enquiries@dlpconsultants.co.uk.

Contact us:

4 Abbey Court, Fraser Road, Priory Business Park, Bedford, MK44 3WH

t 01788 562233

f 01234 831266

e bedford@dlpconsultants.co.uk

www.dlpconsultants.co.uk