

Rother District Council

Report to: Overview and Scrutiny Committee

Date: 29 September 2022

Title: Technical Advice Notes – First Homes and 100% Affordable Housing

Report of: Ben Hook, Director – Place and Climate Change

Ward(s): All

Purpose of Report: To advise of the publication of Technical Advice Notes (TANs) to support the Adopted Development Plan (Core Strategy 2011-2028; Development and Site Allocations Plan; and made Neighbourhood Plans) and consider TANs relating to First Homes; 100% Affordable Housing; and Bexhill Town Centre Conservation Area.

Officer

Recommendation(s): It be **RESOLVED**: That it be recommended to Cabinet and Council that:

- 1) amendments to the Planning Committee scheme of delegation, to enable proposed increases in affordable housing to be delegated to the Director – Place and Climate Change and determined in accordance with adopted planning policy, as detailed in the 100% Affordable Housing Technical Advice Note, be approved;
- 2) the publication of Technical Advice Notes, to support the Adopted Development Plan be agreed; and
- 3) the Technical Advice Notes relating to First Homes, 100% Affordable Housing and Windows in Bexhill Town Centre be supported.

Introduction

1. The Adopted Development Plan consists of the Core Strategy 2011-2028; the Development and Site Allocations Plan (DaSA); and made Neighbourhood Plans. Under Section 38(6) of the Planning & Compulsory Purchase Act 2004, planning decisions should be made in accordance with the Development Plan unless material considerations indicate otherwise.
2. Technical Advice Notes (TANs) can provide technical advice to developers and decision-makers (planning officers and the Planning Committee). They are not adopted policy documents and cannot set policy. However, they can be used to explain how existing adopted policy should be interpreted in specific scenarios.
3. Three TANs have been drafted to respond to specific policy issues:

- First Homes – government policy direction
- 100% Affordable Housing – recent planning applications
- Windows in Bexhill Town Centre

TAN 1 – First Homes

4. The concept of First Homes was introduced by the Government through publication of a Written Ministerial Statement to set out plans for the delivery of “First Homes” on 24 May 2021. It also set out changes to planning policy. These changes came into effect on 28 June 2021. For further details, please refer to the [Written Ministerial Statement](#)¹ and [Planning Practice Guidance](#)².
5. First Homes are a specific kind of discounted market sale housing which meet the definition of ‘affordable housing’ for planning purposes. First Homes are the Government’s preferred discounted market tenure and are now required to account for at least 25% of all affordable housing units delivered by developers through planning obligations (i.e. Section 106 agreements)³.
6. The First Homes requirements apply regardless of local planning policy and it is not necessary for a local planning authority to publish guidance. However, in order to provide clarity on how First Homes will be applied by Rother District Council and to assist understanding by developers, officers and our community, a TAN is proposed.
7. The TAN explains what First Homes are; explains the eligibility criteria; and the requirements for developers, including exemptions. This is a summary of the national position, set out in the Written Ministerial Statement, paragraph 65 of the National Planning Policy Framework (NPPF) and the Planning Practice Guidance.
8. It then sets out and comments on our relevant adopted local plan policy (DaSA Policy DHG1: Affordable Housing and Core Strategy Policy LHN1: Achieving Mixed and Balanced Communities) and how these policies are applied in relation to First Homes. Working examples are provided to aid understanding.

TAN 2 – 100% Affordable Housing

9. The Government’s Affordable Homes funding is awarded by Homes England to qualified investment partners, including registered providers of social housing⁴. However, it does not fund affordable homes secured through developer contributions (Section 106) – the anticipated mechanism of achieving affordable housing anticipated by the NPPF and Rother’s Local Plan. As a result, registered providers are seeking to develop wholly affordable housing on major housing development sites in Rother. This is a shift from the expectation that affordable housing will be secured as a percentage requirement through DaSA Policy DHG1.

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

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

³ Planning Practice Guidance Paragraph: 001 Reference ID: 70-001-20210524

⁴ Registered providers (often called RPs) are providers of social housing registered with the Regulator of Social Housing (RSH) - [List of registered providers – 14 June 2022 \(accessible version\) - GOV.UK \(www.gov.uk\)](#)

10. The TAN responds to this situation by summarising relevant adopted local plan policy and guidance in the NPPF; summarising the findings of the joint Hastings and Rother Housing and Economic Development Needs Assessment (HEDNA), August 2020; highlighting the Corporate Plan's commitment to delivering affordable housing; commenting on the role of the Community Infrastructure Levy; and explaining how local plan policy is applied in circumstances where up to 100% affordable housing is proposed on a site.
11. The TAN advises that where proposals come forward for greater levels of affordable housing than the minimum percentages set out in Policy DHG1 (up to 100%), such proposals may be supported in principle. It also notes that the HEDNA 2020 provides evidence that affordable housing need has significantly increased in recent years. It concludes that, whether or not specific schemes for up to 100% affordable housing can be supported will come down to their compliance with the adopted policies of the Development Plan as a whole.

TAN 3 – Windows in Bexhill Town Centre

12. This TAN provides advice on how the Council's adopted planning policies should be applied to planning applications for alterations to, or replacement of, windows and doors within the distinctive special character of the designated Bexhill Town Centre Conservation Area following a number of recent planning applications.
13. It explains the legislative background and summarises relevant planning policy and Historic England guidance. It highlights the Council's declaration of a Climate Emergency. It then provides a summary of the character and appearance of the Bexhill Town Centre Conservation Area. Information on the environmental impact of uPVC windows is also provided, in an appendix.
14. The TAN then discusses three scenarios. In short, these are:
 - Works affecting historic timber windows – where the Council will seek to retain them or, where the window is in such a deteriorated condition as to require replacement, require a like-for-like timber reproduction.
 - Works affecting existing modern timber windows – where the Council will seek to preserve good quality modern timber windows and seek timber sliding timber windows where an inferior timber window is present. In these circumstances, a sliding slash uPVC window will be considered where significant justification is provided.
 - Works affecting existing uPVC windows – where timber or uPVC sliding slash windows of suitable appearance, proportionality and opening method will be supported.

Amendment to planning scheme of delegation

15. Currently, procedures require all applications proposing variations to affordable housing are reported to the Planning Committee for approval. This process was put in place so that applications for reduced levels of affordable housing were considered by the Planning Committee. Applications for a proposed uplift in affordable housing were not envisaged when these procedures were put in place. The delegation of such applications to the Director – Place and Climate Change, will speed up the determination of such

applications and give confidence to affordable housing providers seeking to take on sites.

Conclusion

16. The introduction of Technical Advice Notes (TANs) can assist understanding by applicants, officers, Councillors and our community of how planning decisions are made under our adopted planning policy.
17. It is recommended Cabinet be recommended to agree the publication of Technical Advice Notes (TANs), to support the Adopted Development Plan.
18. It is recommended that Cabinet be recommended to support the TANs relating to First Homes, 100% Affordable Housing and Windows in Bexhill Town Centre.
19. It is recommended that Cabinet be recommended to agree changes to Planning Committee procedures so that applications which seek to vary planning permissions to enable a proposed uplift in affordable housing be delegated to and determined in accordance with adopted planning policy, as detailed in the 100% Affordable Housing Technical Advice Note.

Financial Implications

20. There are minor production costs of creating Technical Advice Notes, but it is considered that these outweighed by the benefits of their provision.

Legal Implications

21. None – TANs reflect adopted Local Plan policy and do not affect the planning permission application decision process.

Environmental Implications

22. None - TANs reflect adopted Local Plan policy and do not affect the planning permission application decision process.

Human Resources Implications

23. There are minor resource implications of creating Technical Advice Notes, which fall on the planning policy team, but it is considered that these outweighed by the benefits of their provision.

Risk Management

24. While TANs reflect adopted Local Plan policy and text within each document would make clear that no new policy is introduced, it is possible that the documents could be challenged.

Equalities and Diversity Implications

25. Having regard to the Council's duty under Section 149 of the Equality Act 2010, there is not considered to be any implications for those with protected characteristics arising from the proposal.

Consultation

26. No consultation is proposed for the TANs, because they reflect adopted Local Plan policy.

Other Implications	Applies?	Other Implications	Applies?
Human Rights	No	Equalities and Diversity	No
Crime and Disorder	No	External Consultation	Yes
Environmental	Yes	Access to Information	No
Risk Management	Yes	Exempt from publication	No

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Appendices:	Appendix 1: TAN1 Appendix 2: TAN2 Appendix 3: TAN3
Relevant Previous Minutes:	None
Background Papers:	None
Reference Documents:	None