

P17-2919-LO05v1-PL/GL

24th July 2023

Housing Strategy Team
South Staffordshire Council
Wolverhampton Road
Codsall
WV8 1PX

Sent via email to: housingstrategy@sstaffs.gov.uk

Dear Sir/ Madam,

**First Homes Local Eligibility Criteria Consultation
Representations on behalf of Miller Homes**

We have been instructed on behalf of our client, Miller Homes to submit representations to the consultation on First Homes Local Eligibility Criteria (June 2023).

This guidance is being developed alongside the wider Local Plan Review, which includes related policies in respect of affordable housing and first homes, and is currently on hold following the Publication Consultation in November 2022. We made detailed representations to this earlier consultation, and this letter should be read alongside those.

These representations relate specifically to Miller's landholdings at Holly Lane, Landywood, which have a draft allocation in the plan (Ref: 536a) with a minimum capacity of 84 dwellings across 4 Ha, to include affordable housing, specialist elderly housing and a drop-off parking area for the adjacent primary school.

However these representations also signify Miller's wider commitment to invest and build within South Staffordshire and seek to ensure that these eligibility criteria support the Local Plan and its ability to deliver the borough's housing requirements in full. The representations should be seen in this context.

Document Status

At the outset, it is not clear from the consultation what status this 'policy statement' has or even whether it is due to form part of the Development Plan, as it is not mentioned in the Council's most recent Local Development Scheme (October 2022) or confirmed anywhere in this document.

We assume that it is either intended to be incorporated into the emerging Local Plan (as part of the Affordable Housing Policy HC3, or a separate standalone policy); or to form part of a separate SPD, such as an Affordable Housing SPD, which is repeatedly referred to in the Publication Plan.



If it is to form part of a policy in the Local Plan Review this needs to be explicitly stated, along with further clarification on how it will be accommodated, given the plan has already reached submission stage after undertaking its Reg 19 consultation in late 2022.

If it is to form part of an Affordable Housing or standalone SPD, this needs to hang from an adopted policy which is clearly identified and sufficiently detailed and has been fully tested and examined. Further to this, we would reiterate our previous representations as to how Local Plan policies and SPDs should interact:

“The (Affordable Housing) SPD should do no more than clarify the Local Plan policy, and it is suggested that if the requirements for implementing the policy are known to need explanation now, then these should either be included within the Plan now or set out within the explanatory text. The SPD is not the appropriate vehicle for setting new policy and or burdens on delivery which may not have been included in the Plan’s Viability Study, and the Plan should provide clarity at the point of adoption as to what it requires.”

Accordingly, the purpose and status of the document needs to be clarified and we reserve the right to provide further comment once it has.

Relevant PPG guidance

First Homes were introduced in a Ministerial Statement on 24th May 2021 as a new form of discounted market sale ‘affordable housing’, replacing Starter Homes, with the following relevant guidance included within the PPG in relation to local eligibility criteria. This gives:

“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.” (Ref: 70-005-20210524)

“As part of the section 106 agreements, local authorities or neighbourhood planning groups can apply eligibility criteria in addition to the national criteria described above. This may involve lower income caps (if this can be justified with reference to local average first-time buyer incomes), a local connection test, or criteria based on employment status.” (Ref: 70-008-20210524)

“Local planning 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. 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.” (Ref: 70-009-20210524)

We also note the relevant guidance on viability from paragraph 34 of the NPPF, and expanded on in PPG paragraph 10-001-20190509:

“Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure).

These policy requirements should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability that takes into account all relevant policies, and local and national standards, including the cost implications of the Community Infrastructure Levy (CIL) and section 106. Policy requirements should be clear so that they can be accurately accounted for in the price paid for land. To provide this certainty, affordable housing requirements should be expressed as a single figure rather than a range. Different requirements may be set for different types or location of site or types of development.”

So based on the above guidance it is clear that any local eligibility criteria for First Homes are best considered through the plan making process, to allow the viability implications of this policy to be properly considered alongside all the other proposed policy requirements.

This would support these criteria being incorporated into the current Local Plan Review (Policy HC3 or similar) rather than being left for a future SPD.

Comments on Criteria and Implementation

The proposed criteria in terms of local connections, key workers and exceptions for Armed Forces personnel broadly align with the relevant PPG guidance and the suggested income cap is supported with evidence.

One minor point on the income cap is that it is based on a maximum size of 3 bedrooms on the basis that it is considered unlikely that any 4+ bed First Homes will be delivered in the district (based on affordability and the type of household this tenure is aimed at). Whilst this may largely be the case, there is nothing in the Ministerial Statement or PPG that restricts the bedroom size of First Homes, and setting the threshold on this basis could exclude some potential First Home buyers who are looking for larger properties.

The document indicates that there will be flexibility in these criteria, suggesting that the income threshold will be reviewed annually, that local connection and key criteria will be kept under review, and that the local income cap will only be applicable for 3 months before reverting to the national cap.



We fully welcome the acknowledgement that these criteria need to have the flexibility to adapt and respond to the latest evidence on income levels etc; however it is not clear how these changes will be monitored and implemented in practice and what data will be used.

Presumably income levels/ thresholds can be tracked annually within an Annual Monitoring Report or Housing Supply Monitor using publicly available data, however it is unclear how the local connection criteria will be measured and reviewed; whilst monitoring the 3 month local income cap on individual schemes (before reversion to the national income cap) generates multiple issues in terms of how this will be enforced and paid for, who deals with disputes, how this will be secured as part of planning permissions, as there is very little supporting detail here, nor in the wider PPG.

The development industry needs more clarity on this matter as otherwise these issues could impact on sales and delivery of First Homes as well as the delivery of wider developments; and the PPG seeks to avoid First Homes remaining unsold:

“It is important that agreements to secure First Homes do not prevent homes from being sold for a long period and there may be circumstances where a suitable buyer for a First Home cannot be found, even when the local restrictions have been removed. Therefore, a local authority should include provisions in a section 106 agreement which allow a developer or First Home owner to sell a First Home on the open market and remove the title restriction, as long as certain conditions are met.” (Ref: 70-011-20210524)

Therefore we would ask that additional detail is provided on how this policy will cascade from local First Homes criteria to national First Homes criteria, to open market sale, and the triggers and evidence required for each. The PPG suggests this is best done through S106 agreements, which seems reasonable, as this is generally how detailed affordable housing requirements are dealt with; albeit we are aware of other authorities that prefer to use planning conditions. Either way, it would be useful if the Council could work up some model wording for a S106/condition as part of any future consultation.

Wider Flexibility

In addition to the flexible application of the First Homes criteria we would also stress that there needs to be flexibility in the wider application of the affordable housing policy (HC3), and the individual elements/ proportions, as set out in our previous representations to the Publication Plan:

“This policy requires major residential developments to provide 30% affordable housing, broken down using the ratio of 50% social rent, 25% shared ownership and 25% first homes.

The HBF’s comments on this policy note how the Council’s Viability Study (2022) clearly highlights the challenges in delivering the 30% affordable housing requirement, and that without higher sales values many sites may not be viable.



Paragraph 34 of the NPPF is clear that development of affordable housing policies must take account viability and deliverability as well as need; as it is unrealistic to negotiate every site on a one-by-one basis because the base-line policy aspiration is set too high, as this will lead to delays in delivery. Such delays and issues could be reduced by taking a variable approach to affordable provision based on the evidence provided in their Viability Study.

The breakdown in terms of tenure broadly aligns with national policy, although should include flexibility to adapt to the latest evidence of need and any future changes to the tenure definitions and requirements of national policy (noting change from Starter Homes to First Homes in recent years). It may also be beneficial for the Shared Ownership definition to be broadened out into other forms of affordable home ownership in line with the NPPF to provide further flexibility.”

This is particularly relevant for mixed use sites, including Miller’s site at Holly Lane (and many of the other draft allocations in the Local Plan Review), which is required to deliver specialist elderly housing and a drop-off parking area for the adjacent school, in addition to the regular market and affordable requirements. Accordingly, if Policy HC3 and the First Homes criteria are applied too rigidly on this site it could compromise or delay the delivery of the wider site including the much needed car park infrastructure and elderly housing.

Conclusions

In summary, we welcome the opportunity to engage in this process at an early stage and support the Council’s aspiration to provide more detail around First Homes. However at present the consultation document lacks clarity both in terms of the status that the resulting policy will have and what form it will take (i.e. will it be a development plan policy or an SPD), and in how the various eligibility criteria will be monitored, updated and enforced by the Council going forward.

We also welcome the Council’s acknowledgement that First Homes eligibility criteria need to be flexible and respond to changing circumstances, however we would ask that flexibility is also applied to the wider affordable housing policy and the individual elements/ proportions, particularly on mixed use allocations such as Miller’s site at Holly Lane, so as not to compromise wider delivery of infrastructure and other beneficial uses.

I trust the enclosed representations are clear, and would appreciate confirmation of receipt and acceptance, and notifications of any future consultation or consideration of this document.

Yours faithfully,

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