

Shelter Response

First Homes Consultation

May 2020

Summary

Shelter do not support the proposed mechanisms for delivering First Homes (questions 1 and 20 to 22)

- Mandating that large, fixed proportions developer contributions must be First Homes would impact the provision of more affordable tenures, in particular social rent, undermining the ability of local authorities to reduce and prevent homelessness or meet the broader housing needs of low-income households in their communities.
- In displacing genuinely affordable social rent homes, delivering First Homes in the way proposed would benefit more affluent households to the disbenefit of those already unable to access a secure and affordable home.
- The suggested approach to the delivery of First Homes would also build inflexibility into the planning system, curbing local authorities' abilities to respond to the make-up housing need and demand in their local areas.

The delivery of sub-market housing should be informed by detailed assessments of local housing need (questions 20 to 22). Local authorities should be required and supported to:

- Develop robust assessments of local housing need, which include a breakdown of the types and tenures of homes needed, including for social rent housing.
- Develop 'affordable housing' and other policies which maximise the extent to which new supply is targeted at locally identified need.

Local authorities, registered providers and market actors should be supported and incentivised to deliver more sub-market housing of all types, with an urgent need to prioritise social rent (question 26).

- The Land Compensation Act 1961 should be reformed to enable land, right priced for significantly higher proportions of genuinely affordable housing, to enter the market.
- Planning reforms should strengthen and increase the abilities of local authorities to target new supply at locally identified housing need and unmet demand for 'affordable housing'.

Introduction

Shelter welcomes the opportunity to respond to this consultation on First Homes.

Low-cost homeownership can be an important part of a functioning, stable housing market that meets a wide range of housing need and supports the government's aim to increase housing supply. However, we are very concerned about the loss of truly affordable social rent housing through the delivery mechanism proposed for the First Homes policy – namely the centralised and mandatory setting of First Homes as fixed a proportion of 'affordable Housing' (Section 106) contributions.

This is particularly pertinent given the expected impacts of the COVID-19 pandemic on housing need and the wider economy. The delivery of social housing will be more crucial than ever in ensuring that everyone can access an affordable and safe home. Social rent, pegged to local incomes, is a tried and tested method for providing genuinely affordable homes for low-income households across the country and offers families the security and stability they need to put down roots and to save.

A well-designed Section 106 system will remain an important tool in delivering these homes, alongside direct delivery of sub-market housing by local authorities, housing associations and other providers. Whilst the immediate and potential future impacts of the current public health crisis will reduce market housing supply and thus the number of sub-market homes which can be delivered through Section 106 in the short term, it is no less important that the planning system works to ensure that what new housing supply is achieved contributes to meeting locally identified housing need and provides a diversity of housing options that maximises local demand.

This is crucial in ensuring that the supply of new housing is appropriate and affordable to local people and that those homes are built out as quickly as possible to help maintain housing supply in support of the government's aim to increase housebuilding over the course of the parliament. The approach to the delivery of First Homes outlined in the consultation undermines both of these important aims. Setting First Homes as a fixed proportion of Section 106 contributions would predetermine the mix of 'affordable housing' sought, preventing the system from being able to respond flexibly to local housing need, including the housing needs likely to arise as a result of the current public health crisis.

Meeting housing need

Shelter do not support the approach to delivering First Homes outlined in the consultation document (questions 20 to 22). Mandating that high percentages of 'affordable housing' contributions must be First Homes will limit local authorities' abilities to deliver genuinely affordable social homes for rent, the tenure needed most urgently. Without a supply of social rent homes, local authorities cannot effectively prevent and end homelessness or meet the broader housing needs of low-income households in their communities.

Social rent homes made up just 11% of all sub-market housing delivered through Section 106 in 2018-19,¹ yet this mechanism alone delivered almost 60% of all social rent homes built in England that year. To deliver any of the fixed percentages proposed (question 22) – 40%, 60% or 80% - the supply of First Homes would have to displace existing provision of other sub-market tenures, including social rent supply. If a local authority must ring-fence at least 40% of sub-market housing contributions through Section 106 for First Homes, there will quite simply be less subsidy left over for other tenures.

While there will still be a proportion of Section 106 which can be built as other tenures, the consultation proposals suggest this could be no more than 60% of Section 106 homes on a given site. Many local authorities will find this is simply inadequate for meeting the scale of need for social rent that exists in their local areas, while choices about how to use the remaining Section 106 will be bounded by the constraints of individual sites. If local authorities have less choice over how to use the resources provided through Section 106, they will find it particularly difficult to deliver social rent – which generally requires a higher level of subsidy and could require very different design specifications to First Homes, depending on the nature of local demand. Despite its importance in meeting housing need, the frequency with which social rent has been the first casualty in negotiations over developer contributions in recent years demonstrates its marginal position,² even without the added pressure of high mandated percentages of First Homes.

Accessing First Homes relies on households being able to save for large deposits. High rents across the private rented sector, and low incomes in North and Midlands regions, make saving for a deposit challenging and close to impossible in many areas. Latest figures in the English Housing Survey show that 63% of privately renting households have no savings whatsoever for a deposit³.

Even if households can amass a sufficient deposit, our analysis carried out prior to the outbreak of the pandemic and subsequent measures to minimise its impacts, found that to access a First Home with a 30% discount (assuming undiscounted values are similar to current first time buyer house prices) would require an income of £47,995 – significantly higher than the average private rented sector household income (£33,739) and over double that of those in all 'affordable' tenures (£19,997)⁴.

While the long-lasting effects of the COVID-19 pandemic are still uncertain, it is likely that savings, incomes and access to mortgage finance will be further reduced for these groups⁵. For these people, and the 280,000 people⁶ already experiencing homelessness across the country, First Homes will not be a suitable housing option.

By contrast, social housing is affordable to low income households everywhere. When accounting for social housing sales, transfers and demolitions, statistics show a large net loss of social housing. In 2018/19 there was a net loss of 17,000 social rent homes in

¹ [Live Table 1000](#), MHCLG, December 2019

² See, for example, Grayston, R., "[The curious case of 100 West Cromwell Road](#)", Shelter, 2017

³ MHCLG, [English Housing Survey 2017-18: Private Rented Sector](#), 2019, [p.4](#)

⁴ Mean household incomes have been estimated from EHS 2017-18 and inflated by wage inflation as measured in ONS Average Weekly Earnings series.

⁵ Resolution Foundation, [The Resolution Foundation Housing Outlook: Quarterly Briefing Q2](#), 2020, p.2

⁶ Shelter, [This is England: A Picture of Homelessness in 2019](#), 2019

England. The past 22 years have seen an overall net loss of nearly 400,000 social rent homes⁷. The long-term undersupply of social housing has pushed thousands of low-income households into temporary accommodation and millions into the private rented sector, where conditions are often poor and housing costs often unmanageable.

In displacing social rent homes, First Homes delivered through Section 106 contributions would provide a benefit to relatively affluent households already able to access or very close to accessing homeownership, at the expense of access to a secure and affordable home for those currently least able to meet their housing costs. Our analysis shows that the average benefit an individual household would derive from a 30% First Homes discount would be £62,000, whilst the subsequent cost to a household of remaining in the private rented sector, now unable to access a social rent home because a First Home has been built instead, would be £109,000 over a 30-year time period⁸.

Many households with incomes high enough to access First Homes, will have access to homeownership through existing products, like Help to Buy⁹. The insight from government's evaluation highlights an issue with housing programmes that try to overcome the need for large deposits to buy – many households who can already buy a home will use the scheme to simply buy bigger homes than they otherwise could afford. Refocussing Section 106 contributions to increase the housing options of these higher-income households, undermines the abilities of local authorities to use the planning system to provide a balance of tenures that addresses local housing need, impacting those already without a suitable housing option the most.

In 2018/19, Section 106 accounted for nearly 60% of the 6,287 social homes delivered in England¹⁰, and this figure is higher in some regions. Whilst Section 106 will clearly not be able to deliver at the same scale in the coming months, the long-term importance of section 106 as a tool for targeting new supply at housing need – and delivering social rent for which there is huge unmet need – has not diminished.

Further, it is widely understood that housing markets vary across the country, both within and between regions. The suitability of First Homes in a given local housing market will depend on the picture of housing need in that place. Developing a functioning housing market therefore requires a robust local assessment of these factors and meaningful action to meet the need identified. A strong and flexible planning system will always be pivotal in this.

As Shelter's response to the 2018 National Planning Policy Framework (NPPF) consultation sets out¹¹, local authorities should be required and supported to:

- **Develop robust assessments of local housing need, which include a breakdown of the types and tenures of homes needed, including for social rent housing.**

⁷ Analysis of MHCLG data on social rent additions and sales and demolitions show that on average 18,000 social homes are lost each year.

⁸ Shelter, Analysis of First Homes, 2020.

⁹ The average household income of beneficiaries of the Help to Buy: Equity Loan scheme to date is £51,000. 59% of Help to Buy beneficiaries did not need the scheme to access owner occupation. . MHCLG, Help to Buy (Equity Loan Scheme) data to 30 June 2018, 2018.

¹⁰ MHCLG Affordable Housing Supply – table 1011.

¹¹ R. Grayston, [Consultation Response: National Planning Policy Framework](#), Shelter, 2018

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- **Develop ‘affordable housing’ and other policies which maximise the extent to which new supply is targeted at locally identified need.**

The main delivery mechanism for First Homes suggested in the consultation document runs counter to this logic and would create a system that a) does not reflect the reality (the huge unmet need for specific tenures, above all social rent) and b) cannot respond to the diversity in housing need across local markets.

Boosting housing supply

Sensitivity to local markets must be embedded in planning policy if the government’s own housebuilding ambitions are to be met. Shelter supports the ambition to significantly increase overall additions and recognises the present challenges in doing so. The recommendations in this consultation response are made with the aim of supporting these ambitions as part of the country’s recovery from the current public health crisis.

The previous government’s own independent review, conducted by Sir Oliver Letwin MP, found that the fundamental driver of build out rates is the absorption rate for market sale homes in the local market - “[t]he rate at which newly constructed homes can be sold into (or are believed by the house builder to be able to be sold successfully into) the local market without materially disturbing the market price”¹².

The crucial variable in large sites is diversity. Where there is a diversity of offerings on a site, addressing different ‘categories of demand’, absorption rates will generally be faster.

Price and tenure are key components of this diversity. The distribution of incomes, employment and family circumstances, household savings and personal preferences divide a local market into categories of demand for different types of homes at different price points. Where different tenures are suitable and accessible to different income groups their absorption will be additional to one another, encouraging developers to build out faster.

There are two key changes that together would meaningfully improve build out rates:

- **Increasing overall provision of sub-market housing.**
- **Increasing the extent to which ‘affordable housing’ supply is targeted at existing housing need and unmet demand.**

Recent research from Lichfield’s found that sites of over 500 units with over 30% ‘affordable housing’ build out twice as fast on average, compared with sites with between 20% and 29%¹³. Within this, protecting and increasing the supply of homes for social rent delivered on these sites would provide an effective boost to build out rates. The long-term undersupply of social rent has meant that build out rates have ‘missed out’ on the potential benefit of social rent homes, for which no absorption rate barrier exists. In most areas, social rent homes occupy a uniquely low price point, crucially set by local incomes, and thus address a distinct category of demand.

¹² O. Letwin, [Independent Review of Build Out: Preliminary Update](#), 2018, p.3

¹³ Lichfields, [Start to Finish: Second Edition](#), 2020

The proposals to deliver First Homes by mandating set proportions of 'affordable housing' contributions or legislating that a proportion of homes must be delivered on all major sites, would simply displace existing 'affordable housing' provision and impact the supply of social rent, rather than increasing 'affordable housing' supply or generating new effective demand. It is therefore likely that tenure diversity would be undermined by the introduction of First Homes in the proportions proposed, negatively impacting on build out rates.

There are many ways the government could enable the planning system overall to deliver additional sub-market housing - for example by removing Section 106 exemptions for small sites, and by ending the use of Permitted Development Rights for use class conversions from commercial and industrial to residential. Such measures would increase the overall value of developer contributions and could have a meaningful impact on delivery, particularly once the housing market recovers from the current crisis.

However, it is highly unlikely that any such set of measures could increase the overall value of developer contributions to the levels needed to deliver 40%, 60% or 80% of Section 106 supply as First Homes without cannibalising the existing supply of other sub-market tenures. Mandating high proportions of any new tenure or type of housing through the planning system will inevitably inhibit local authorities from tailoring their planning policies to local conditions and local housing markets - which is what will ultimately be needed to maximise England's overall housing supply and end the housing emergency for good.

Delivering more affordable housing

The government must aim to deliver First Homes within the context of an increase in overall sub-market housing provision, guided by detailed assessments of local housing need, so that the supply of First Homes is genuinely additional to the 'affordable housing' currently provided through Section 106, and support for higher income households to access homeownership does not come at the expense of those in the greatest housing need.

Shelter have long campaigned for reforms that would encourage greater delivery of 'affordable housing' of all types and increase overall housing supply through greater build out rates. Reforms that would meaningfully increase the ability of local authorities to address their local housing emergencies, preventing homelessness and tackling the crisis in housing affordability.

In particular, Shelter has written elsewhere about the ultimate barriers to increasing the overall value of developer contributions through the planning system without reform of the Land Compensation Act 1961¹⁴. This outdated legislation governs how compensation is assessed for Compulsory Purchase Orders (CPOs), but by giving landowners a right to receive 'hope value' – a value reflective of speculative future planning permissions – it serves to distort prices in the broader land market and encourage land speculation. Ultimately, this dynamic reduces revenues for social rent homes and other community benefits from developer contributions through the planning system by weakening local authorities' bargaining power in negotiations with landowners and developers.

¹⁴ Grayston, R., "From vision to reality: Amending the 1961 Land Compensation Act" in Shelter, [Grounds for Change: The case for land reform in modern England](#), 2019, p.64

The government's planning policy is clear that the policies set as part of the Local Plan process 'should not undermine the deliverability of the plan'.¹⁵ Policies should be set at a level which ensures that landowners and developers will prefer to participate in housing development rather than hold land back from the Local Plan. If a local planning authority tried to achieve more ambitious policies, it would likely find itself unable to meet its requirement to demonstrate a 'five-year land supply' or to satisfy the government's 'Housing Delivery Test'. In either case, the ultimate consequence is a 'presumption in favour of sustainable development': meaning any planning proposal that does not conflict with central government's top-line planning rules must be approved. The ultimate effect is that plan-makers must find a level of land value capture landowners and developers will accept or risk losing their powers to enforce their planning policies at all.

Reforming the 1961 Act to exclude consideration of theoretical planning permissions from CPO compensation awards would remove a critical barrier to tenure diversification in England's housebuilding system. As we argue in 2019's Grounds for Change report,¹⁶ this would increase landowners' incentives to participate in development to meet current demand for a range of housing types and tenures – including products like First Homes, social rent homes, and a range of other housing types and tenures to meet local need - rather than holding back their land in the hope of accessing future demand for the most profitable market sale homes.¹⁷

Tackling the housing emergency is ultimately dependent on robust assessments of housing need at a local level to inform the targeting of delivery of new supply toward identified need. Changes to planning policy and legislation should be geared towards these aims, rather than undermine them, as these consultation proposals threaten to do.

In addition, an expanded grant funding programme to increase the capabilities of providers and the market to deliver more 'affordable housing' than has been seen in previous years is needed in both the short and long term.

The government must focus on measures to support the recovery from the expected economic downturn as a result of COVID-19. Need will increase for social housing, and uncertainty of market values means that delivery of any product that is based on market values will be challenging and is likely to be very limited. By contrast, social rent is uniquely independent from market change and risk, as rents are not adjusted with reference to market rents or prices. As well as responding to the desperate and increasing level of need across the country, social rent benefits from revenue streams that carry the certainty needed to rebuild and maintain supply once normal construction work can resume.

This summarises the key recommendations made in this consultation response. We provide responses to other relevant questions in the consultation document below.

¹⁵ MHCLG, NPPF, 2018, paragraph 34

¹⁶ Shelter, [Grounds for Change: The case for land reform in modern England](#), 2019

¹⁷ Shelter, [Grounds for Change: The case for land reform in modern England](#), 2019, p.64

Consultation Response

Q1.

a) Do you agree with a minimum discount of 30% (but with local flexibility to set a higher one)?

b) If not, what should the minimum discount be?

i. 20%

ii. 40%

iii. Other (please specify)

63% of privately renting households¹⁸ have no savings whatsoever for a deposit. For the many thousands of homeless households, amassing savings of any size is extremely difficult. Accessing homeownership of any form is well beyond reach. In fact, access to social rented homes may be the only opportunity for these households to save for a deposit. High private rents across England make saving for a deposit to purchase a First Home challenging. Private renters spend on average 40% of their household income on rent¹⁹.

Even if households can amass a sufficient deposit, our analysis carried out prior to the outbreak of the pandemic and subsequent measures to minimise its impacts, found that to access a First Home with a 30% discount (assuming undiscounted values are similar to current first time buyer house prices) would require an income of £47,995 – significantly higher than the average private rented sector household income (£33,739) and over double that of those in all ‘affordable’ tenures (£19,997.42)²⁰.

Much larger discounts would be required to make First Homes more affordable in high value areas, but because the barrier of saving for a deposit is still prohibitive for most; this policy will disproportionately favour those that would already be able to access homeownership – simply increasing the support via the First Homes discount (an average of £62,707 for a 30% First Homes discount) offered to them, at the expense of those impacted by the loss of affordable rented homes.

Further, simply increasing discounts to make First Homes more affordable within the proposed delivery model would be ill advised. Whilst it makes sense to allow for flexibility in discounts to enable local authorities to target First Homes effectively, deep discounts in high value areas would divert greater subsidy away from other sub-market tenures, particularly social rent, in the very places where the need for social housing is highest. Setting First Homes as fixed proportions of developer contributions, with the expectation that local authorities set deeper discounts in higher value areas, risks further undermining local authorities’ abilities to meet housing need identified in their local housing market through the provision of homes for social rent.

Due to the barrier of saving for a deposit, First Homes discounts will not help the majority of renters. As a result, many of the households able to access First Homes will be close to homeownership even without the benefit of additional government support through existing products like the Help to Buy: Equity Loan scheme. The result will be to shift around existing demand, missing out on an opportunity to maximise local demand, boost overall housing supply and drive up the supply of social homes

¹⁸ MHCLG, [English Housing Survey 2017-18: Private Rented Sector](#), 2019, p.4

¹⁹ MHCLG, [English Housing Survey](#), 2018-19, Annex Table 1.13

²⁰ Shelter, [Analysis of First Homes](#), 2020. Household incomes by tenure from MHCLG, [English Housing Survey](#), 2016-17, updated 2 years using Average Weekly Earnings inflation data.

affordable to low-income households. As set out in answers to the remaining questions in this consultation, Shelter are concerned that the proposals to refocus Section 106 contributions to the delivery First Homes (Questions 20 to 22) will impact the delivery of genuinely affordable homes for social rent, further diminishing the housing options for those already unable to access a secure and affordable home. We therefore disagree with the First Homes policy proposals and believe it should not be introduced.

Q2.

a) Should we set a single, nationally defined price cap rather than centrally dictate local/regional price caps?

b) If yes, what is the appropriate level to set this price cap?

i. £600,000

ii. £550,000

iii. £500,000

iv. £450,000

v. Other (please specify)

No.

We do not support the First Homes policy being introduced. However, if it is introduced, it is not clear that a nationally defined price cap could be set at a level which adequately accounts for house price variation across the country.

The value, to account for higher prices in London and the South East, would have to be set higher than average house prices in other regions. In these areas the national price cap would not prevent the First Homes discount from supporting the purchase of 'exceptionally expensive property' relative to that area.

Evaluations of the house price to income ratios for Help to Buy Equity Loan beneficiaries show that households receiving the loan would have been able to afford a home on the open market, but accessed support through Help to Buy to purchase larger, more expensive homes than they would otherwise have been able to afford.²¹ Whilst income caps and the size of the discount offered can be set to help minimise this, price caps that are sensitive to local markets are an important measure in ensuring that First Homes support additional purchases, not more expensive purchases.

Q3.

a) If you disagree with a national price cap, should central Government set price caps which vary by region instead?

b) If price caps should be set by the Government, what is the best approach to these regional caps?

i. London and nationwide

ii. London, London surrounding local authorities, and nationwide

iii. Separate caps for each of the regions in England

iv. Separate caps for each county or metropolitan area

²¹ Bank of England, [Housing Consumption and Investment: Evidence from Shared Equity Mortgages](#), 2019, p.13

v. Other (please specify)

We do not believe there is a need for the First Homes policy to be introduced, as set out above. However, if the First Homes policy is introduced, it is worth government noting that broad regional price caps would not account for market variations within regions, for example between mostly rural authorities and urban ones.

A local authority level price cap, alongside an appropriate local authority level income cap, is necessary to prevent the scheme subsidising the purchase of expensive property and supports as many people as possible into home ownership. Government should set guidance for how local authorities should approach setting caps.

Q4.

Do you agree that, within any central price caps, Local Authorities should be able to impose their own caps to reflect their local housing market?

Local authorities should be required to set price caps with reference to house prices in their local area for the reasons stated in the response to question 3.

Q6.

When should local connection restrictions fall away if a buyer for a First Home cannot be found?

- i. Less than 3 months**
- ii. 3 - 6 months**
- iii. Longer than 6 months**
- iv. Left to Local Authority discretion**

iv. Left to Local Authority discretion

Setting fixed, short timeframes in which local connection restrictions fall away leave the scheme open to abuse. There may in some cases be an incentive to build homes for a wider market - for example larger homes - rather than homes that effectively address the make-up of local demand, where doing so would be more profitable. This would undermine the value of the local connection restriction and increase the incidence of the restriction falling away.

As we have set out, local authorities should carry out detailed assessments of housing need and demand in their local area. Section 106 'affordable housing' policies and local authorities' own housebuilding plans should be informed by the need and demand identified, particularly the desperate need across the country for social rent housing. Local authorities could also keep a register of demand, as some local authorities already do for intermediate housing options²². While the circumstances or preferences of a small number of households may change between a housing need assessment and new delivery, these processes would ensure that sub-market homes like First Homes

²² Royal Borough of Kensington and Chelsea, [Allocations Policy for Intermediate Housing](#), 2015

are not delivered in significant excess of the existing local demand. This would minimise the occasions in which a local, eligible buyer for products like First Homes cannot be found, thus retaining the value of these eligibility criteria.

In this scenario, it does not feel necessary to prescribe a set timescale for which the local connection restrictions should fall away. Nor should it be necessary that the restriction should fall away entirely. Local housing authorities could enter into agreements with neighbouring authorities to extend the low-cost homeownership offer to their 'register', which would retain some element of locality whilst facilitating labour mobility.

Q8.

a) Should there be a national income cap for purchasers of First Homes?

b) If yes, at what level should the cap be set?

c) Do you agree that Local Authorities should have the ability to consider people's income and assets when needed to target First Homes?

No.

A national income cap would not account for the variation in incomes *and house prices* across the country. A set national income cap would not adequately ensure that First Homes do not benefit those who would already be able to afford on the open market, particularly in lower-demand areas.

Government should assess the best way to generate caps that provide clarity but that also ensure that First Homes are targeting need. Ideally, this cap would account for local incomes and local house prices, to ensure that First Homes are not supporting those already able to afford a home in their local area.

As our responses to questions 10 through to 12 state, various locally determined criteria would be important in ensuring a product like First Homes provides some community benefit, but these can be costly and time consuming to implement. If the government wants to ensure First Homes work and to minimise the impacts on other vital services, it must be prepared to support local authorities in full to meet the administrative burdens of the scheme (see below).

Q10.

a) Are Local Authorities best placed to oversee that discounts on First Homes are offered in perpetuity?

b) If no, why?

Q11.

How can First Homes and oversight of restrictive covenants be managed as part of Local Authorities' existing affordable homes administration service?

Q12.

How could costs to Local Authorities be minimised?

10a) No.

Shelter are concerned that the administration of the First Homes scheme would be burdensome and costly. Local authorities are already extremely resource constrained. Budget cuts saw spending on planning, development and housing services fall by over 50% between 2009-10 and 2017-18²³. Recent analysis by the Local Government Association estimated that to continue delivering all services within their remit at current standards, councils will face a £7.8 billion funding gap by 2025²⁴.

The resource and capacity costs of administering First Homes would impact on local authority capacity and resource to carry out their housing delivery, maintenance and management duties and limit their abilities to meet housing need.

If government does go ahead with the First Homes scheme, which we believe they should not, they must explore ways to ensure that the full costs of the First Homes scheme, including costs incurred in the ongoing oversight of restrictive covenants, are covered by the development and sales process at a scheme level. Government should consider whether appropriate body to carry out the administration of the scheme exists, or if one ought to be established, as was developed for the Help to Buy scheme.

The resource dedicated to Help to Buy, in the form of regional agents, has aided the administration of the programme. Help to Buy agents review applications, carry out eligibility and mortgage sustainability checks, and signpost potential buyers to the appropriate advice²⁵. This represents a recognition of the resource intensive nature of administering such a programme. Administering First Homes would likely be more resource intensive.

As with Help to Buy, support from Homes England would have the added benefit of raising national awareness of the product and building confidence across the market place²⁶. This may also be important in developing widespread understanding of the product, in particular that the First Homes discount is retained in perpetuity, along with other restrictive covenants.

Q14.

Do you agree that it is appropriate to include a mortgage protection clause to provide additional assurance to lenders?

No.

Proposals to waive the First Homes discount in any circumstances are concerning and would undermine the community value of First Homes, particularly where large numbers of First Homes are mandated through planning policy or legislation without consideration of the extent to which local people can afford First Homes.

Government should explore alternative approaches that would **prioritise retaining the affordability of**

²³ Institute for Fiscal Studies, [English Council Funding: What's Happened and What's Next](#), 2019, p.6

²⁴ Local Government Association, [Local Government Funding](#), 2018, p.7

²⁵ Homes England, [Help to Buy: Equity Loan House Builder Participation Guide](#) 2019.

²⁶ MHCLG, [Evaluation of the Help to Buy: Equity Loan Scheme](#), 2017. The evaluation found that the Help to Buy scheme was seen as much more desirable - than its predecessor FirstBuy - as a market led product with government backing which helped build confidence across the marketplace.

the homes in question. Offering the homes to registered providers to purchase and deliver as an appropriate affordable tenure would ensure that the home is put to use as quickly as possible and crucially, would retain affordability. This will also ensure that community support for First Homes is maintained.

Q15.

For how long should people be able to move out of their First Home and let it out (so it is not their main or only residence) without seeking permission from the Local Authority?

- i. Never**
- ii. Up to 6 months**
- iii. 6- 12 months**
- iv. Up to 2 years**
- v. Longer than 2 years**
- vi. Other (please specify)**

Owners of First Homes should seek permission from the local authority to be able to rent their home out for any period of time. While we do recognise the need for this process to be minimally burdensome for owners - particularly as changes in circumstances may be the result of significant life events or personal upheaval – the desire to minimise interference may leave the rule open to abuse.

At the very least, owners of First Homes wishing to sublet their home should be required to notify the local authority of their intention to do so, so that this element of First Homes can be monitored and reviewed once the scheme is in operation. Government should establish a plan to review the efficacy of this policy and consider adjustments necessary to ensure that First Homes are being used as purchasers' primary residence as far as is possible.

Q20.

Which mechanism is most appropriate to deliver First Homes?

- i. Planning policy through changes to the National Planning Policy Framework and guidance**
- ii. Primary legislation supported by planning policy changes**

Q21.

Which do you think is the most appropriate way to deliver First Homes?

- i. As a percentage of section 106 affordable housing through developer contributions**
- ii. As a percentage of all units delivered on suitable sites**

Q22.

What is the appropriate level of ambition for First Home delivery?

- i. 40% of section 106**
- ii. 60% of section 106**
- iii. 80% of section 106**
- iv. Other (please specify)**

Shelter does not support the suggested models of delivery for the First Homes policy. The approach outlined in the consultation document – to mandatorily require high, fixed proportions of 'affordable housing' contributions to be First Homes – runs counter to important government and local

authority responsibilities.

Each would strip local authorities of the flexibility to set 'affordable housing' policies that address the need and demand they identify in their areas, and crucially, would further diminish the supply of truly affordable social rent homes.

While there will still be a proportion of Section 106 which can be built as other tenures, the consultation proposals suggest this could be no more than 60% of Section 106 homes on a given site. Many local authorities may find this is simply inadequate for meeting the scale of need for social rent that exists in their local areas, while choices about how to use the remaining Section 106 will be bounded by the constraints of individual sites.

If local authorities have less choice over how to use the resources provided through Section 106, they will find it particularly difficult to deliver social rent – which generally requires a higher level of subsidy and could require very different design specifications to First Homes, depending on the nature of local demand. The frequency with which social rent has been the first casualty in negotiations over developer contributions in recent years demonstrates its marginal position, even without the added pressure of high mandated percentages of First Homes.

As such, setting First Homes as a fixed proportion of developer contributions would create a system that a) does not reflect the reality (the huge unmet need for specific tenures, above all social rent) of housing need and b) cannot respond to the diversity in housing need across local markets.

As Shelter's response to the 2018 National Planning Policy Framework (NPPF) consultation details²⁷, local authorities should be required and supported to:

- **Develop robust assessments of local housing need, which include a breakdown of the types and tenures of homes needed, including for social rent housing.**
- **Develop 'affordable housing' and other policies which maximise the extent to which new supply is targeted at locally identified need.**

Within this model of 'affordable housing' delivery, the introduction of First Homes as an 'affordable tenure' can be justified and local authorities can determine where and to what extent they can contribute to meeting identified need.

The key point here is that local authorities should retain the flexibility needed to set 'affordable housing' policies that aim at maximising the housing need met, and which therefore also maximise available local demand for housebuilding. It is clear that local authorities can be further supported and incentivised to achieve these aims through changes to the planning system.

The standard method for assessing housing need in the NPPF, the foundation of the current approach to promoting increased housing delivery through the planning system, does not require local authorities' housing supply targets to include a breakdown of the affordable housing and the specific tenures needed within their 'housing requirement figure'²⁸.

Housing need assessments should include all the information necessary to understand local housing markets, and to build up a full profile of the types, tenures and prices of homes needed to meet local housing need and demand. Guidance should provide the tools for carrying out these assessments and

²⁷ R. Grayston, [Consultation Response: National Planning Policy Framework](#), Shelter, 2018

²⁸ MHCLG, [National Planning Policy Framework](#), 2018, p.18

assign to them the appropriate policy making weight to ensure local authorities can effectively meet the identified range of housing need and to challenge schemes with a poor mix of sub-market tenures where necessary.

The First Homes delivery proposals would preclude these important improvements to the planning system. Setting First Homes as a fixed proportion of Section 106 contributions predetermine the mix of 'affordable housing' sought, preventing the system from being able to respond flexibly to local housing need, including the housing needs likely to arise as a result of the current public health crisis.

Q23.

Do you agree with these proposals to amend the entry-level exception site policy to a more focused and ambitious First Homes exception site policy?

Q24.

a) Do you think there are rare circumstances where Local Authorities should have the flexibility to pursue other forms of affordable housing on entry-level exception sites, because otherwise the site would be unviable?

b) If yes, what would be an appropriate approach for Local Authorities to demonstrate the need for flexibility to allow other forms of affordable housing on a specific entry-level exception site?

We do not support the proposal to require that all affordable homes delivered on entry-level exception sites be First Homes. However, we are supportive of the aim to address barriers to take up of exception sites generally, which would support the provision of genuinely additional 'affordable housing', particularly social rent housing.

Entry level exception sites offer a promising opportunity to bring forward additional sites and crucially deliver affordable housing that otherwise would not be. As we set out in our NPPF consultation response in 2018²⁹ and elsewhere³⁰, exception sites can be an effective zoning tool to ensure the delivery of truly affordable housing in areas of high housing need, as rural exception sites have demonstrated. There were 2691 'affordable housing' completions on rural exception sites in the last three years³¹.

Key to the success of rural exceptions sites is that communities retain control, ensuring that the development coming forward provides homes that local people can afford and has the support of that community and local landowners (thus increasing the likelihood that sites comes forward). Community control and affordability are crucial characteristics of these sites as they are sites that would not be ordinarily granted permission. Entry level exception sites carry the potential to extend similar benefits to a broader range of sites and areas.

Prescribing that the 'affordable housing' delivered on exception sites should be First Homes would strip control from local communities in the planning system and undermine the potential benefits of entry level exception sites. Entry level exception sites that are limited to First Homes delivery are unlikely to achieve widespread community support.

Government should explore ways to encourage the use of entry-level exception sites and to ensure the

²⁹ *ibid.*

³⁰ R. Grayston, [Exception sites are a lifeline for communities in need of affordable homes](#), 2018

³¹ MHCLG, [Local Authority Housing Statistics Data Returns](#), 2016-17 to 2018-19.

maximum amount of affordable housing is delivered on those sites, to ensure housing delivered through exception mechanisms are genuinely additional and that exception sites do not serve to displace demand for market homes from sites permitted through the mainstream planning system. We do not think that local authorities should have to demonstrate that First Homes would make a site unviable to justify the inclusion of other more affordable types of housing, given the urgent need for a range of 'affordable housing' types in local markets across the country, and above all for social rent. Entry level exception sites can play an important role in areas of high housing need, where the benefits of even a small number of social homes are strongly felt. Local authorities should retain the flexibility, and be required to, deliver a mix affordable housing on entry level exception sites that helps to meet locally identified need.

Q26.

What further steps could the Government take to boost First Home delivery?

As our response has stated, the government must explore ways to deliver more of the homes that communities need, above all this means social rent housing, for which the need is most urgent. We do not believe First Homes should be a priority. They will not address the housing emergency experienced by communities across the country.

Shelter have long campaigned for reforms that would encourage greater delivery of sub-market housing of all types and increase overall housing supply through greater build out rates:

- **Strengthening the planning system: removing Section 106 exemptions, such as those for small sites and vacant buildings, would increase the opportunities to deliver the 'affordable housing' each area needs through S106.**

There are many ways the government could enable the planning system overall to deliver additional sub-market housing - for example by removing Section 106 exemptions for small sites and vacant buildings, or by ending the use of Permitted Development Rights for use class conversions from commercial and industrial to residential. Such measures could increase the overall value of developer contributions once the housing market recovers from the current crisis enabling the homes that each community needs to be delivered through Section 106, particularly social rent housing.

However, it is important to emphasise again that it is highly unlikely that any such set of measures could increase the overall value of developer contributions to the levels needed to deliver 40%, 60% or 80% of Section 106 supply as First Homes without cannibalising the existing supply of other sub-market tenures. Mandating high proportions of any new tenure or type of housing through the planning system will inevitably inhibit local authorities from tailoring their planning policies to local conditions and local housing markets - which is what will ultimately be needed to maximise England's overall housing supply and end the housing emergency for good.

- **Reform of the Land Compensation Act 1961: excluding consideration of theoretical planning permissions from Compulsory Purchase Order compensation awards would remove a critical barrier to tenure diversification in the current system.**

Shelter has written elsewhere about the ultimate barriers to increasing the overall value of developer contributions through the planning system without reform of the Land Compensation Act 1961.³² This outdated legislation governs how compensation is assessed for Compulsory Purchase Orders (CPOs), but by giving landowners a right to receive 'hope value' – a value reflective of speculative future planning permissions – it serves to distort prices in the broader land market, encourage land speculation and reduce revenues for social rent homes and other community benefits.

Reforming the 1961 Act to exclude consideration of theoretical planning permissions from CPO compensation awards would remove a critical barrier to tenure diversification in England's housebuilding system. As we argue in 2019's Grounds for Change report, this would increase landowners' incentives to participate in development to meet current demand for a range of housing types and tenures - particularly social rent homes, and a range of other housing types and tenures to meet local need - rather than holding back their land in the hope of accessing future demand for the most profitable market sale homes.³³

Crucially, local authorities should be required and supported to develop robust assessments of local housing need, which include a breakdown of the types and tenures of homes needed. These assessments should inform the development of 'affordable housing' policies and local authorities' own housebuilding plans. This is crucial in ensuring that private and local authority led supply is targeted at locally identified need and local authorities are able to fulfil their housing and homelessness duties.

³² Grayston, R., "From vision to reality: Amending the 1961 Land Compensation Act" in Shelter, [Grounds for Change: The case for land reform in modern England](#), 2019, p.64

³³ Shelter, [Grounds for Change: The case for land reform in modern England](#), 2019, p.64

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