

Affordable Housing: means affordable housing within the meaning of the National Planning Policy Framework or any other statement or circular which may supersede or amend it and the Affordable Housing Units shall be Affordable Housing disposed of in accordance with this Agreement.

Affordable Housing Units: means those twenty eight Affordable Rented Unit dwellings forming part of the Development which shall be constructed on the Land and which shall be used for the purpose of providing accommodation to people whose income does not allow them to rent or to buy at normal market prices within the administrative area of the Council such housing to be occupied by households in need of affordable housing in the administrative areas of the Council and "Affordable Housing Unit" shall mean any one of them.

Affordable Housing Scheme: means the provision of a scheme to be approved by the Council (such approval not to be unreasonably withheld or delayed) showing the physical location, as well as the type and tenure of the individual Affordable Rented Housing Units (together 'Unit' or 'Units') and which shall also set out the following criteria (subject to any variations that may be approved from time to time in writing by the Council):

- i. a map or maps illustrating the distribution of Affordable Housing Units across the Development (including details of tenure)
- ii. eight one bedroom flats Affordable Rented Units;
- iii. one two bedroom bungalow Affordable Rented Unit;
- iv. eleven two bedroom houses Affordable Rented Units;
- v. six three bedroom houses Affordable Rented Units;
- vi. two four bedroom houses Affordable Rented Units.

The Affordable Housing Scheme shall also contain the following criteria:

- Layout size and outline specification of the Units; and
- A schedule of accommodation including the floor space of each Unit.

Affordable Rent: means a weekly rent (inclusive of any service charges an Approved Provider seeks to charge in respect of an Affordable Rented Unit) which does not exceed 80% of Open Market Rent for a similar dwelling in the locality and with the level of rent to be approved by the Council

Affordable Rent Tenancy: means a tenancy for Affordable Housing for rent only and subject to such terms as permitted by the HCA

Affordable Rented Unit: means any of the Affordable Housing Units to be let by an Approved Provider at an Affordable Rent on an Affordable Rent Tenancy (and the "Affordable Rented Units means all of them)

Application: means the application for outline planning permission submitted to the Council for the Development and allocated reference number 17/01179/MFUL

Approved Provider: means

- (a) a Registered Provider approved by the Council; or
- (b) a provider of housing approved by the Council for the purpose of owning, maintaining and managing Affordable Housing

Base Rate: the higher of 5% and the base rate from time to time of the Bank of England.

Chargee: means either:

- (a) the chargee of the Land or any part thereof; or
- (b) the charge of an individual Affordable Housing Unit where the chargor has defaulted on the particular mortgage; or
- (c) any mortgagee or chargee of an Approved Provider or any receiver or manager (including administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security; or any administrator (howsoever appointed) including a housing administrator (each a "Receiver") of the whole or any part of the Affordable Housing Units or any persons deriving title through such mortgagee, chargee or Receiver

Commencement of Development: the carrying out in relation to the Development of any material operation as defined by section 56(4) of the TCPA 1990 but disregarding for the purposes of this deed and for no other purpose, the following operations:

- demolition works;
- site clearance;
- ground investigations;
- site survey works;
- temporary access construction works;
- diversion and laying of services;
- temporary display of site notices and advertisements;
- archaeological investigation; and
- erection of any fences and hoardings around the Land.

'Commence' and 'Commences' shall be construed accordingly.

Commencement Date: the date the Development Commences.

Council's Housing Register: means the common housing register held by the Council or such other list or register that the Council may in future hold identifying Local Needs Persons

Default Interest Rate: 4% per annum above the Base Rate.

Development: means the development of the Land in accordance with the Planning Permission

Educational Contribution: means the sum of thirty eight thousand four hundred and sixty one pounds and fifty pence (£38,461.50) payable in accordance with Schedule 2 of this deed.

Housing Need: means the circumstances where a household is currently occupying accommodation that is substandard or unsuitable for its requirements and which has an income that is too low either to buy or rent accommodation appropriate to their circumstances on the open market

HCA: means the Homes and Communities Agency or other government body established to oversee Affordable Housing provision and policy

Index Linked: increased in accordance with the following formula:

Amount payable = the payment specified in this deed x (A/B) where:

A= the figure for the Retail Prices Index (All Items) that applied immediately preceding the date the payment is due.

B= the figure for the Retail Prices Index (All Items) that applied when the index was last published prior to the date of this deed.

Land: Land at NGR 303340 110341 Silver Street, Willand, registered at HM Land Registry with absolute title under title number DN507740 and shown edged red on the Plan.

Local Connection: means a connection (calculated from the Start Date) with the District, as referred to in Annex B. The provisions in relation to Shared Ownership Properties set out in Annex B do not apply to this Agreement.

Local Needs Person: means a person or persons in Housing Need (together with immediate family and dependents of such a person) who are registered on the Council's Housing Register and have a Local Connection as confirmed in writing by the Council

Local Plan: Mid Devon Core Strategy (Local Plan Part 1), Mid Devon Allocations & Infrastructure Development Plan Document (Local Plan Part 2), Local Plan Part 3 (Development Management Policies)

Notice of Commencement: means a notice in writing to advise the Council and County Council of the date that Commencement of Development will take place

Occupation: means for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display and “Occupy” and “Occupied” shall be similarly construed

Open Market Rent: means the rent charged for comparable properties rented on the open market (inclusive of service charges where applicable) within the same local area as such rent as valued by a qualified valuer (who is a member of the Royal Institute of Chartered Surveyors (RICS)) as being the open market rent using the RICS approved valuation methods

Plan: the plan attached as Annex A.

Planning Application: means the application for full planning permission for the erection on the Land of 28 affordable dwellings together with associated landscaping, highways and drainage infrastructure, which was registered by the Council on 28 July 2017, and allocated reference number 17/01179/MFUL.

Planning Permission: means the planning permission pursuant to the Planning Application.

Section 73 Consent: means a planning permission granted pursuant to Section 73 of the TCPA 1990

Registered Provider: means a registered provider of social housing as defined in the Housing and Regeneration Act 2008

Start Date: means the date immediately preceding the date on which the Affordable Housing Unit is Occupied by a Local Needs Person

TCPA 1990: Town and Country Planning Act 1990.

VAT: value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax.

Working Day: any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.

1.2 Clause headings shall not affect the interpretation of this deed.

Annex B. Allocations Plan

1. Allocation Criteria for Rented Properties

Affordable housing will be allocated to eligible people based on their level of housing need and local connection, in accordance with MHN/6 in the Supplementary Planning Document: Meeting Housing Needs. This annex is revised whenever necessary to take account of changes made by the Council's Housing Service to the eligibility criteria.

The cascade approach below categorises different levels of housing need into Bands A-E, ranging from 'emergency housing need' (Band A) to 'no housing need' (Band E). More information about the bands, how to bid for affordable housing and how homes are allocated may be found on the Devon Home Choice website at www.devonhomechoice.com.

2. Local Need/Connection Qualification Criteria

- 2.1 In determining the allocation of affordable housing to local people on rural exception housing sites the District Council will utilise the following cascade criteria to determine the suitability of potential occupants. Priority will be given to eligible persons with a local connection to the Parish (defined in section 4 of this Annex) coupled with a housing need, using the cascade in the following paragraphs
- 2.2 Applicants will be prioritised using the criteria, ranked in order of importance:
 - 2.2.1 The intended household has been continuously resident in the Parish of Willand for at least five years in Bands A-D.
 - 2.2.2 The intended household is permanently employed in the parish of Willand in Bands A – D and whose work is primarily based in this parish. For the purposes of this criterion, 'permanently employed' means having held a permanent employment contract for a minimum of 16 hours per week for at least the preceding 6 months.
 - 2.2.3 The intended household is living in private rented accommodation and has a local connection to the parish of Willand according to clauses 2.1 and 2.2 of this part in order of preference, in Band E where the household income is insufficient to enable it to afford to or to sustain to rent or purchase a property suitable for its needs at a full open market value or price in the parish of Willand.
 - 2.2.4 Former residents who previously lived in the parish of Willand for a period of at least three years within the last 10 years in Bands A – D who wish to return to the parish. Those in the Armed Forces (defined in Section 5 of this Annex) will be considered above those former residents who wish to return to the parish;

- 2.2.5 The intended household is in the A – D Band and has a close living relation resident in the parish of Willand. This means immediate family members (parents, siblings, dependent and non-dependent children) who themselves live in the Parish of Willand and have done so for at least the preceding five years; Exceptional circumstances will be taken into consideration.
- 2.2.6 Former residents (who have previously lived in the parish of Willand for a period of at least three years within the last 10 years) who wish to return to the parish of Willand in Band E and who are currently Council or Housing Association tenants.
- 2.2.7 The intended household have been continuously resident in the parish for six months or more in Bands A – D).
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- 2.2.8 Those residents of neighbouring parish in Bands A – D using the above criteria in the following order of priority:
- a. Halberton
 - b. Uffculme
 - c. Cullompton
- 2.2.9 Those residents with a local connection to Mid Devon District in Bands A – D. For the purposes of determining “local connection” the criteria above will be used, substituting Mid Devon District for references to Willand.
- 2.2.10 Those residents with a local connection to Mid Devon District or those with a local connection to the parish specified above, in Band E. For the purposes of determining “local connection” the criteria above will be used, substituting Mid Devon District or the relevant parish (as appropriate) for references to Willand.
- 2.2.11 All other Devon Home Choice applicants.

3. Shared Ownership Properties

3.1 For the shared ownership properties, the following groups would be eligible:

- First time buyers who cannot afford to buy on the open market in the locality
- Those who jointly owned a home but the relationship has broken down and cannot afford to buy on the open market in the locality.
- Existing shared owners who have outgrown their home but cannot afford to buy outright/rent on the open market in the locality

3.2 Shared ownership applicants would be prioritised on the following basis:

3.2.1 Has been continuously resident in the parish of Willand for at least five years

- 3.2.2 Is permanently employed in the parish of Willand and whose work is primarily based in this parish. For the purposes of this criterion, 'permanently employed' means having held a permanent employment contract for a minimum of 16 hours per week for at least the preceding 6 months.
- 3.2.3 Has previously lived in the parish of Willand for a period of at least three years within the last 10 years wish to return to the parish.
- 3.2.4 Has a close living relation resident in the parish of Willand. This means immediate family members (parents, siblings, dependent and nondependent children) who themselves live in the parish of Willand and have done so for at least the preceding five years; Exceptional circumstances will be taken into consideration.
- 3.2.5 Has been continuously resident in the parish for six months or more.
- 3.2.6 Residents of neighbouring parish using the above criteria in the following order of priority:
- a. Halberton
 - b. Uffculme
 - c. Cullompton
- 3.2.7 Has a local connection to Mid Devon District. For the purposes of determining "local connection" the criteria above will be used, substituting Mid Devon District or the relevant parish (as appropriate) for references to Willand.
- 3.2.8 Those residents with a local connection to Mid Devon District or those with a local connection to the parish specified above. For the purposes of determining "local connection" the criteria above will be used, substituting Mid Devon District or the relevant parish (as appropriate) for references to Willand.
- 3.2.9 All other shared ownership applicants.
- 3.3 First priority will be given to those who are eligible in accordance with the above criteria and who are existing Council and housing association tenants or Ministry of Defence personnel.
- 3.4 The size and type of the shared ownership home offered will be based on three main factors:
- Affordability
 - Household size
 - The applicant's preference
- 3.5 As a guide, offers will be made on the following basis:
- Single applicants – one or two beds

- Joints applicants – one, two or three beds
- Couples/single parent families with one child – two or three beds
- Couples/single parent families with two children – three or four beds

4. **Devon Home Choice Local Connection Definition**

4.1 An applicant fulfilling the local preference criteria will be the same as the one used in the current Devon Home Choice (DHC) guidance.

4.2 To demonstrate a local connection (defined in Part VII of the Housing Act 1996) with Devon, applicants will:

- Normally be resident in the parish or neighbouring parish. Local Government Association (LGA) guidelines define this as having resided in the area for six out of the last twelve months, or three out of the last 5 years, where residence has been out of choice. In line with the Housing and Regeneration Act 2008, service personnel who have been based and living in that parish or a neighbouring parish will be considered to have a local connection.
- Work in the parish or neighbouring parish. The LGA guidelines define this as employment other than that of a casual nature. For the purposes of this policy this will be defined as having permanent work with a minimum of a 16 hour contract per week for the previous 6 months, and without a break in the period of employment for more than three months.
- Have a family connection in the parish or neighbouring parish. The LGA guidelines define this as immediate family members (parents, siblings and non-dependent children) who have themselves lived in the area for five years.

NB - Applicants will be required to provide proof of their local connection to Devon before their banding is assessed.

5. **Armed Forces Personnel**

5.1 Allocation of Housing (Qualification Criteria for Armed Forces) (England) Regulations 2012 means:

- Those who are currently serving in the regular forces or who were serving in the regular forces at any time in the five years preceding their application for an allocation of social housing
- Bereaved spouses¹ or civil partners¹ of those serving in the armed forces where (i) the bereaved spouse or civil partner has recently ceased, or will cease to be entitled to reside in Ministry of Defence accommodation following the death of their service spouse or civil partner, and (ii) the death was wholly or partly attributable to their service. (¹ should bereaved spouses or civil partners secure housing after leaving Ministry of Defence then this will no longer apply)

- Current or former members of the reserved forces, who are suffering from a serious injury, illness or disability which is wholly or partly attributable to their service