

## **Schedule 1 Affordable Housing**

The following definitions shall apply in this Schedule 1:

**Adjoining Parishes:** Black Torrington, Shebbear and Buckland Filleigh

**Advertising:** means the advertising for sale or letting of any interest in the relevant Discounted Market Sales Housing in accordance with a scheme to be approved by the Council which scheme shall include unless otherwise agreed with the Council an advertisement on the website of Help to Buy South West or any other similar organisation promoting Intermediate Housing and such other advertising (such as through local estate agents and social media channels) as shall be agreed in writing by the Council.

**Affordable Dwelling(s):** 23% (such number to be rounded to the nearest whole number if a fractional number results) of the Dwellings to be provided as Affordable Housing.

**Affordable Housing:** Social Rented Housing or Intermediate Housing that will be made available to persons who cannot afford to rent or buy housing generally available on the open market and as defined in Annex 2 to the NPPF but excluding Affordable Rent and Starter Homes as referred to therein.

**Affordable Housing Scheme:** a scheme for the provision of the Affordable Housing forming part of the Development to be submitted by the Owner to the Council which shall include unless otherwise agreed with the Council:

- (i) Arrangements for the provision (including the phasing of such provision) of the Affordable Dwellings;
- (ii) Location of the Affordable Dwellings;
- (iii) Details of the unit type and size of the Affordable Dwellings;
- (iv) The name of any Registered Provider
- (v) Arrangements for any transfer of the Affordable Dwellings

and submitted to the Council in the form set out in Annex C.

**Average Annual Household Income:** the average annual household income for households within the District provided by CACI or such successor organisation appointed by the Council to provide such information.

**CACI:** the Council's external consultant data and statistics provider.

**Chargee:** means a mortgagee or chargee (or any receiver (including an 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) of the whole or any part of the Affordable Dwellings.

**County:** means the county of Devon.

**Devon Home Choice:** the method or body agreed by the Council in accordance with Communities and Local Government guidance: 'Allocation of Accommodation: Choice Based Lettings' (August 2008) for the allocation of Affordable Housing in the District.

**Discounted Market Sales Housing:** means Affordable Housing for Sale as described in paragraph c) to the definition of 'Affordable Housing' in Annex 2: Glossary to the NPPF

**Discounted Market Sales Units:** means units of Discounted Market Sales Housing and "Discounted Market Sales Unit" shall mean any one of them.

**District:** means the administrative area of Torridge District Council.

**Help to Buy South West:** the method or body agreed by the Council for the nomination of Discounted Market Sales Housing and Shared Ownership Housing available to buy in the District.

**Homes England (HE):** the agency so named and established under the Housing and Regeneration Act 2008 for the purpose of procuring and regulating the provision of Affordable Housing and any body that replaces it for the purpose of those functions.

**Housing Need:** a person who does not have available to him or her and could not afford (personally or jointly with other members of his or her household) to acquire or rent a home suitable for his or her needs and the needs of their household at the normal market values prevailing in the District.

**Intermediate Dwellings:** means Intermediate Housing and reference to "Intermediate Dwelling" shall mean any one of them.

**Intermediate Housing:** means Affordable Housing as described in paragraph d) to the definition of Affordable Housing in Annex 2: Glossary to the NPPF and which for the avoidance of doubt also includes Shared Ownership Housing and housing let at an Intermediate Rent.

**Intermediate Rent:** means 'at least 20% below local market rents' as defined in paragraph a) to the definition of Affordable Housing in Annex 2: Glossary to the NPPF but for the avoidance of doubt excluding Social Rent and Affordable Rent Annex 2 of the NPPF.

**Local Connection:** a connection with the Parish, the Adjoining Parishes, the District or the County as appropriate and as demonstrated by that person to the reasonable satisfaction of the Council:

- a) being a minimum continuous residence by a prospective owner; or occupier of five (5) years therein immediately prior to their first Occupation; or
- b) residence by a prospective owner or occupier for five years therein within the ten (10) years preceding their first Occupation; or
- c) where one or both parents or guardians of a prospective owner or occupier have resided in the therein for a minimum period of ten (10) years prior to their first Occupation; or
- d) where a prospective owner or occupier has had continuous employment therein for the past five (5) years prior to their first occupation; or
- e) a key worker under a scheme approved by the Council;

**NPPF:** means the National Planning Policy Framework issued by Ministry of Housing, Communities and Local Government and dated July 2018

**Open Market Value:** the price which 100% of the freehold interest in a Dwelling would fetch if sold on the open market by a willing vendor and disregarding the obligations contained in this Deed which price is to be determined in the event of disagreement by a member or fellow of the Royal Institution of Chartered Surveyors at the cost of the Owner.

**Parish:** means the Parish of Sheepwash

**Protected Tenant:** any tenant who:



- (a) provision for the time being in force (or any equivalent contractual right) in respect of the Affordable Dwelling; or
- (b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of the Affordable Dwelling; or
- (c) has been granted a shared ownership lease by a provider of Affordable Housing (or similar arrangement where a share of the affordable housing unit is owned by the tenant and a share is owned by the provider of the Affordable Housing) in respect of the Affordable Dwelling and the tenant has subsequently purchased from the provider of the Affordable Housing all the remaining shares so that the tenant owns the entire Affordable Dwelling.

**Registered Provider:** a body which is registered with Homes England as a provider of social housing under Part 2 of the Housing and Regeneration Act 2008 or such other class or body as may be constituted under any legislation replacing that provision.

**Restricted Price:** a price calculated in accordance with paragraph 1.6 of this Schedule in respect of Shared Ownership Housing and paragraph 1.7 of this Schedule in respect of Discounted Market Sales Housing.

**Sale Notice:** means a notice which contains details of the Affordable Dwellings to be sold as Discounted Market Sales Housing in the form set out and completed in accordance with Annex A to this Deed and which is delivered to the Council and clearly marked for the urgent attention of the Strategic Enabling Officer.

**Shared Ownership Housing:** Affordable Housing where a person can buy a share in the property up to a maximum of one hundred percent (100%) and the remaining share is held by a provider of Affordable Housing under a lease based on the appropriate form of shared ownership as published by Homes England.

**Social Rent:** means rent set by the Government in their policy for social rent.

**Social Rented Dwellings:** means dwellings let at a Social Rent and "Social Rented Dwelling" shall mean any one of them.

**Social Rented Housing:** means Affordable Housing for rent as described in paragraph a) to the definition of 'Affordable Housing' in Annex 2: Glossary to the NPPF where the rent is set in accordance with the Government's policy for Social Rent.

**Valuer:** means a professionally qualified valuer who is a member of the Royal Institution of Chartered Surveyors or equivalent.

The Owner covenants with the Council as follows:

- 1.1 To provide 23% (such number to be rounded to the nearest whole number if a fractional number results) of the of the total number of Dwellings to be constructed on the Site as Affordable Housing in accordance with the Affordable Housing Scheme approved by the Council pursuant to this Deed with a mix of tenures which shall (unless otherwise agreed in writing with the Council) be not less than seventy five percent (75%) Social Rented Housing and twenty five percent (25%) Intermediate Housing
- 1.2 To submit the Affordable Housing Scheme to the Council as part of the Reserved Matters Application and not to Commence Development until the Affordable Housing Scheme has been submitted to and has been approved in writing by the Council.
- 1.3 Not to Occupy more than 62% (such number to be rounded to the nearest whole number if a fractional number results) of the Open Market Dwellings until such time as construction of

67% of the Affordable Dwellings has been practically completed and the 67% Affordable Dwellings are ready for Occupation.

- 1.4 Not to occupy more than 81%(such number to be rounded to the nearest whole number if a fractional number results) of the Open Market Dwellings until such time as construction of the remaining 33% (such number to be rounded to the nearest whole number if a fractional number results) of the Affordable Dwellings has been practically completed and are ready for Occupation
- 1.5 Subject to paragraph 1.19 the Affordable Dwellings shall not be used for any purpose other than for the provision of the Affordable Housing and as set out in the Affordable Housing Scheme.
- 1.6 On the grant of a lease for Shared Ownership Housing to any person prior to its first Occupation in accordance with this Deed the Restricted Price payable in respect of the initial share of the equity purchased by the lessee shall be the price which does not exceed that which can be afforded with a ninety five percent (95%) mortgage equivalent to three (3) times the Average Annual Household Income within the District, plus five per cent (5%) deposit.
- 1.7 On the sale of Discounted Market Sales Housing to any person prior to its first Occupation and any subsequent sale in accordance with this Deed the Restricted Price payable shall be the price which does not exceed 63% of the Open Market Value (or such other percentage as may be agreed by the Council in writing).
- 1.8 The Owner shall not permit or otherwise allow any of the Discounted Market Sales Housing on any transfer following completion of construction of the Discounted Market Sales Housing to be sold:
  - (a) other than to a person who is in Housing Need; and
  - (b) at a sum exceeding the Restricted Price.
- 1.9 In respect of the Discounted Market Sales Housing the Owner shall:
  - (a) in the case of initial sales;
    - (i) prior to service of a Sale Notice submit a scheme for the Advertising of the Discounted Market Sales Housing for subsequent approval by the Council; and
    - (ii) on receipt of a written approval from the Council for a scheme of Advertising serve a Sale Notice upon the Council each time one or more of the Discounted Market Sales Units are released for sale but in any event not less than 2 (two) months before the expected completion date of the relevant Discounted Market Sales Units; and
    - (iii) upon submission of a satisfactory Sale Notice carry out the Advertising of the Discounted Market Sales Units in accordance with the agreed scheme
  - (b) in the case of subsequent sales;
    - (i) serve a Sale Notice on the Council each time the Owner intends to sell the Discounted Market Sales Unit; and
    - (ii) submit a scheme for the Advertising of the Discounted Market Sales Units for subsequent approval by the Council prior to service of the Sale Notice; and
    - (iii) on receipt of a written approval of the Council for a scheme of Advertising carry out the Advertising of the Discounted Market Sales Unit in accordance with the agreed scheme immediately following the submission of the Sale Notice
  - (c) in the case of subsequent sales of any Discounted Market Sales Units serve upon the Council clearly addressed and marked for the urgent attention of the Strategic Enabling Officer a certificate from a Valuer OR 3 x valuations from local estate agents dated no



earlier than 3 (three) months before the expected date of exchange of contracts for the sale of the relevant Discounted Market Sales Units setting out the Open Market Value of the dwelling such certificate to be served on the Council before or together with the Sale Notice.

- (d) The Council shall either approve the assessment submitted to it in accordance with to sub-paragraph (c) above or provide an alternative assessment of the Open Market Value to be agreed between the parties, such approval not to be unreasonably withheld or delayed.
- (e) If agreement between the Council and the Owner is not reached under sub paragraph (d) above within 4 weeks of the Council's receipt of the assessment then the matter shall be referred to an appropriate Expert in accordance with the provisions of Clause 12 of this Deed.
- (f) Having obtained the Council's agreement of the Open Market Value (the "Agreed Valuation") pursuant to paragraph (d) of this paragraph 1.9 or having received the binding decision of the Expert in accordance with paragraph (e) of this Deed in order to establish the Open Market Value, the Owner shall give the Council written notice of
  - (i) the date upon which he or she has arranged for the Discounted Market Sales Unit to be advertised for sale; and
  - (ii) the name and address of the agent who will market the premises and will invite the Council to nominate persons to purchase the Discounted Open Market Unit in accordance with the provisions of this Deed.
- (g) If exchange of contracts for the Sale of the Dwelling has not occurred within 6 months of the date of the Agreed Valuation, then the Owner shall submit a new valuation, repeating the steps set out in paragraphs (c) to (e) of this paragraph 1.9 and any future sale shall only proceed in accordance with the new valuation, which in turn shall only be valid for a period of six months from the date it is agreed or determined in accordance with clause 12 of this Deed.

PROVIDED THAT the Owner shall not exchange contracts for the sale of the relevant Discounted Market Sales Unit until the Council or its agent has given its approval that the prospective purchaser satisfies the obligations contained in this Deed and if no response is given by the Council or its agent within 14 (fourteen) days of receipt of written verification from the Owner that the prospective purchaser satisfies the obligations contained in this Deed (such written verification to be served upon the Council clearly addressed and marked for the urgent attention of the Strategic Enabling Officer) then approval will be deemed to have been given; and

PROVIDED FURTHER THAT the Owner shall if so required by the Council or its agent provide to the Council or its agent (together with the written verification detailed above) all necessary documentation as stipulated in Annex B to this Schedule 1 as evidence that the prospective purchaser satisfies the obligations contained in this Deed

1.10 No person shall:

- (a) let the Social Rented Housing for a rent which exceeds the Social Rent; or
- (b) let the housing for Intermediate Rent for a rent which exceeds the Intermediate Rent.

1.11 Not to permit allow or cause the Affordable Dwellings to be Occupied by a person unless that person:

- (a) is a person in Housing Need and has a Local Connection at the time of his or her first Occupation of the Affordable Dwelling; or
- (b) is a member of the household of and living with a person in Housing Need who has a Local Connection at the time of his or her first Occupation of the Affordable Dwelling; and (in either case)
- (c) occupies the Affordable Dwelling as his or her sole or main residence

but nothing in this paragraph shall require any person who satisfied such a requirement when they first Occupied the Affordable Dwelling to vacate a dwelling if they cease to qualify under this paragraph by virtue of the death, hospitalisation or breakdown of a relationship with the person who qualified under this paragraph.

- 1.12 If within a period of four (4) weeks for Social Rented Dwellings and eight (8) weeks for Intermediate Dwellings from the date that the Affordable Dwelling becomes available for Occupation no prospective occupier in Housing Need and with a Local Connection to the Parish wishes to Occupy or purchase the Affordable Dwelling then Occupation or purchase is permitted by a person in Housing Need and with a Local Connection as applied to the Adjoining Parishes.
- 1.13 If after a period of six (6) weeks for Social Rented Dwelling and twelve (12) weeks for Intermediate Dwellings from the date the Affordable Dwelling becomes available for occupation no prospective occupier in Housing Need and with a Local Connection to the Adjoining Parishes wishes to occupy or purchase the Affordable Dwelling then the Occupation or purchase is permitted by a person in Housing Need and with a Local Connection to any parish within the District.
- 1.14 If after a period of eight (8) weeks for Social Rented Dwellings and sixteen (16) weeks for Intermediate Dwellings from the date the Affordable Dwelling becomes available for Occupation no prospective occupier in Housing Need and with a Local Connection to the District wishes to Occupy or purchase the Affordable Dwelling then Occupation or purchase is permitted by a person in Housing Need with a Local Connection to any parish within the County.

PROVIDED THAT throughout each of the periods specified in paragraphs 1.12 to 1.14 inclusive the Affordable Dwelling shall have been continuously marketed within the Parish such marketing can include making the Affordable Dwelling available to prospective occupiers from within the Parish by Devon Home Choice or Help to Buy South West as appropriate at a price not exceeding the Restricted Price, Intermediate Rent or Social Rent as the case may be.

- 1.15 Subject to the provisions of paragraph 1.19 of this Schedule not to sell an Affordable Dwelling prior to its first Occupation and any subsequent sale except to a person who:
  - (b) is in Housing Need; and
  - (c) at a price which does not exceed the Restricted Price
- 1.16 To manage the Affordable Dwellings to be constructed as part of the Development in accordance with the terms of this paragraph 1.16
  - (a) where the owner of an Affordable Dwelling is a Registered Provider the Affordable Dwelling shall be Occupied in accordance with any nomination and management agreement in effect between the Council and that Registered Provider unless otherwise agreed with the Council and where no such agreement is in place the



Affordable Dwellings shall be Occupied in accordance with sub-paragraphs (b and (c) below

- (b) the Occupiers of Affordable Housing available to rent shall be nominated in accordance with Devon Home Choice for the duration of the existence of Devon Home Choice and any subsequent replacement scheme that may be introduced and agreed to by the Council and the owners of Discounted Market Sales Housing (or in the case of Shared Ownership Housing the owners of any share in a Shared Ownership Dwelling) shall be nominated in accordance with Help to Buy South West and any subsequent replacement scheme that may be introduced and agreed to by the Council
  - (c) in the event all subsequent replacement schemes cease to operate the Council shall have 100% nomination rights and shall be responsible for nominating the Occupiers of the Affordable Housing available to rent and the owners of the Discounted Market Sales Housing (or in the case of Shared Ownership Housing the owners of any share in a Shared Ownership Dwelling)
- 1.17 Not to Occupy or permit the Occupation of the Affordable Dwelling before written material has been delivered to the Council's Strategic Enabling Officer evidencing the compliance of such Occupation of the Affordable Dwelling with such of the eligibility requirements as set out in this Deed and this Schedule as may be applicable
- 1.18 Where the owner of the Affordable Dwelling is a Registered Provider the Affordable Dwelling may also be Occupied in accordance with any nomination and management agreement in effect between the Council and that Registered Provider
- 1.19 The Affordable Housing provisions in this Deed shall not be binding on a Chargee of a Registered Provider or any purchaser from or successor in title to such Chargee or any Chargee of any Affordable Dwelling(s) or part thereof or any purchaser from or successor in title to such Chargee PROVIDED THAT:
  - (a) the Chargee shall prior to seeking to dispose of the Affordable Dwellings pursuant to any default under terms of its mortgage or charge first give written notice to the Council of its intention to dispose of the Affordable Dwellings and shall have used reasonable endeavours over a period of three (3) months from the date of the written notice to complete a disposal of the Affordable Dwellings to another Registered Provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and
  - (b) if such disposal has not completed with the three (3) month period, the Chargee shall be entitled to dispose of the Affordable Dwellings free from the affordable housing provisions in this Deed which provisions shall determine.
- 1.20 Notwithstanding any other provisions in this Deed the covenants and obligations contained in this Schedule shall not be binding upon a Protected Tenant or its successors in title.
- 1.21 Any transfer for the sale or lease of the Affordable Dwellings should include such covenants and restrictions so as to ensure the future compliance with the planning obligations in this Schedule.