

"the Act"	means the Town and Country Planning Act 1990
"Affordable Housing"	means subsidised housing that is available to persons who cannot afford to buy or rent on the open market being Affordable Rented Housing Units disposed of in accordance with this Agreement and constructed to the standards required by the Homes and Communities Agency
"Affordable Rent"	means a weekly rent (inclusive of any service charges) up to 80% of the local Open Market Rent at the time of each letting and which may be increased annually by no more than the All Items Index of Retail Prices plus 0.5% annually
"Affordable Rented Housing Units"	means the dwellings to be constructed as subsidised dwellings for rent as Affordable Housing
"Affordable Rent Tenancy"	means a tenancy for a minimum period of five years and subject to such other terms permitted by the Homes and Communities Agency
"the Affordable Housing Units"	means the 10 Affordable Rented Housing units
"Allocations Plan"	means the basis upon which the Affordable Housing Units will be rented attached at the Schedule
"Approved Provider"	means <ul style="list-style-type: none"> a. a Registered Provider approved by the Council and Aster

- Communities is approved; or
- b. a provider of housing approved by the Council for the purpose of owning maintaining and managing Affordable Housing

In both cases such approval not to be unreasonably delayed or withheld

"Assured Tenancy or Assured Tenancies"

means an assured tenancy under the Housing Act 1988 (and may where appropriate include an assured shorthold tenancy used solely to serve the purpose of a probationary or introductory tenancy or such other form of periodic or other tenancy for the time being permitted by law for use by Approved Providers for the type of Affordable Housing proposed)

"the Chargee"

means any mortgagee or chargee or security trustee of any tenant of an Affordable Housing Unit or of the Approved Provider or any receiver or manager (including an administrative receiver appointed pursuant to the Law of Property act 1925)

"the Chargee's Duty"

means the planning obligations set out under clause 7 of this agreement

"Commencement of Development" and "Commence the Development"

means the first instance of the carrying out of a material operation as defined in Section 56 of the Act to implement the Planning Permission save that the definition shall not include works of ground investigation site surveys or archaeological investigation or site preparation or environmental preparatory works or the

erection of fencing to enclose the Development or any part of the Development or laying of, or provision of, any services and/or services diversion works on or under the Development or any part of the Development or the laying out of roads for construction purposes or the erection of site buildings for construction purposes or contamination tests or remediation or trial pits or works of decontamination remediation

"the Development"

means the erection of 10 Affordable Housing Units pursuant to the Planning Permission

"Devon Home Choice"

a choice based letting scheme operating across the County of Devon where housing applicants for affordable housing are assessed in the same way using the rules set out in the 'Devon Home Choice Policy v3.5 Effective from 1 October 2013' policy document or such other subsequent policy that may replace Devon Home Choice in the future to ensure fairness and consistency

"Homes and Communities Agency or HCA"

means the Homes and Communities Agency of Maple House 149 Tottenham Court Road London W1T 7BN established by section 1 of the Housing and Regeneration Act 2008 or such other body replacing it in function

"Housing Need"

means where a person does not have available to him or her and cannot 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 normal market values prevailing in the district

"the Land"

means the land shown edged red on the Plan

"Local Connection"

means as set out in Section 3 of the Allocations Plan

"Open Market Rent"

means the rent calculated in accordance with the definition of "Market Rent" at Practice Statement 3.3 of the Royal Institution of Chartered Surveyors' Appraisal and Valuation Standards 6th Edition dated January 2008 as amended which rent is to be determined in the event of disagreement by the valuer

"Notice of Commencement"

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

"Open Market Value"

means a price to be calculated in accordance with the definition of "Market Value" at Practice Statement 3.2 of the Royal Institution of Chartered Surveyors' Appraisal and Valuation Standards 6th Edition dated January 2008 as amended 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 vendor

"Occupation" and "Occupied"

means occupation 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 or occupation in relation to security operations

"Plan"

means the plan annexed hereto

"Registered Provider"

means a provider of social housing registered with the Tenants Services Agency pursuant to Part 2 of the Housing and Regeneration Act 2008 (or any successor agency having similar functions)

"the Planning Application"

means the application for full planning permission for the Development to which the Council have allocated registration number 1/0851/2013/FULM

"the Planning Obligations"

are the covenants on behalf of the Developer contained in clause 4 of this Deed

"the Planning Permission"

means a notice of decision issued by the Council pursuant to the Planning Application

"Valuer"

means an independent expert who is a member or fellow of the Royal Institution of Chartered Surveyors and approved in writing by the Council

2. Interpretation

2.1 In this Deed:

- 2.1.1 words importing the singular include the plural and vice versa
- 2.1.2 references to persons include bodies corporate and vice versa

Notice of Commencement

- 4.1 Not to Commence the Development until a Notice of Commencement has been given to the Council

Affordable Housing

- 4.2 To provide the Affordable Housing Units in accordance with clauses 4.2 to 4.8 in accordance with the specification layout siting design and external appearance approved in writing by the Council save that this obligation shall not be binding on any Chargee and any purchaser from a Chargee provided that the Chargee shall have first complied with the Chargee's Duty
- 4.3 No person shall Occupy an Affordable Rented Housing Unit unless that person:
- 4.3.1 was a person in Housing Need and had a Local Connection at the time of his or her first Occupation of an Affordable Rented Housing Unit; **or**
- 4.3.2 is a member of a household of and living with a person who was in Housing Need and had a Local Connection at the time of his or her first Occupation of the Affordable Rented Housing Unit; **and** (in either case)
- 4.3.3 occupies that Affordable Rented Housing Unit as his or her sole main residence but nothing in this clause shall require any person who satisfied the requirement in paragraph 4.3.2 above when they first Occupied the Affordable Rented Housing Unit to vacate the Dwelling if they cease to qualify under paragraph 4.3.2 by virtue of death, hospitalisation or breakdown of a relationship with a person who qualified under paragraph 4.3.1.
- 4.4 Prior to renting any Affordable Housing Unit to request from the Council in writing a list of suitable persons in Housing Need having a Local Connection to Bradworthy (such list to be compiled using Devon Home Choice data or such other subsequent policy document as may replace Devon Home Choice in the future).
- 4.5 To use its *or reasonable* *GO R & U, E.A.T.* best endeavours (and provide evidence of the same to the Council upon reasonable request) to rent the Affordable Housing Units in accordance with the Allocations Plan

- 4.5.1 If after a period of 1 month from the date the Affordable Rented Housing Unit became available to occupy, no prospective occupier in Housing Need and with a Local Connection to the parish of Bradworthy wishes to Occupy the Affordable Rented Housing Unit, then those persons in Housing Need and with a Local Connection defined by 3.2 (6)(a) of the Allocations Plan may be considered.
- 4.5.2 If after a period of 2 months from the date the Affordable Rented Housing Unit became available to occupy, no prospective occupier in Housing Need and with a Local Connection to the parish of Bradworthy or as defined by 3.2(6)(a) of the Allocations Plan wishes to Occupy the Affordable Rented Housing Unit, then those persons in Housing Need and with a Local Connection defined by 3.2.6(b) of the Allocations Plan may be considered
- 4.5.3 If after a period of 3 months from the date the Affordable Rented Housing Unit became available to occupy, no prospective occupier in Housing Need and with a Local Connection to Bradworthy or as defined by 3.2(6)(a) or 3.2(6)(b) of the Allocations Plan wishes to Occupy the Affordable Rented Housing Unit, then those persons in Housing Need with a Local Connection defined by 3.2(7) of the Allocations Plan may be considered
- 4.5.4 Should there still be no suitable prospective occupier after a further period of 1 month then those persons in Housing Need and with a Local Connection defined by 3.2(8) of the Allocations Plan may be considered PROVIDED THAT during the said periods the Affordable Rented Housing Unit shall have been continually marketed within Bradworthy and the areas defined by 3.2(6)(a) and 3.2(6)(b) of the Allocations Plan as appropriate at a rent not exceeding the Affordable Rent.
- 4.5.5 If after a period of 5 months from the date the Affordable Rented Housing Unit became available to occupy, no prospective occupier in Housing Need and with a Local Connection wishes to Occupy the Affordable Rented Housing Unit, then all other Devon Home Choice applicants may be considered.
- 4.6 Not to permit or otherwise allow any of the Affordable Rented Dwellings to be let other than at a sum not exceeding the Affordable Rent.
- 4.7 Not less than 28 days prior to exchange of contracts on the rent of any Affordable Housing Unit to :

4.7.1 notify the Council in writing of the proposed occupier and supply details of the said person's qualification as a person in Housing Need and with a Local Connection;

4.7.2 advise the Council of the advertised and actual price and terms of lease of the Affordable Housing Unit

4.8 Not to permit or otherwise allow any of the Affordable Rented Dwellings to be let on initial or any subsequent letting unless and until the Council has been sent written confirmation from the Owner that the obligations contained in this Deed have been complied with.

5 Legal Costs

The Developer covenants that it will pay to the Council no later than the date of completion hereof the Council's reasonable legal costs incurred in connection with this Deed in the sum of £2,500.

6 Notices

Any notice consent or approval required to be given under this Deed to any party to this Deed shall be in writing and shall be delivered personally or sent by pre-paid first class post to the address of the party as aforesaid or such other address for service as shall have been previously notified by the party to the other parties

7 Chargee's Duty

7.1 For the avoidance of doubt, subject to the requirements of clauses 7.3 and

7.4, any Chargee will be bound by the terms of this Agreement upon

exercising any power to take possession rent or sell or otherwise deal with any

Affordable Rented Housing Unit on the Land PROVIDED THAT this

Agreement shall not be enforceable against any Chargee until it takes

THE SCHEDULE

ALLOCATIONS PLAN

1. Background

- 1.1 **Bradworthy Community Land Trust Ltd** (hereafter referred to as "the Trust") is established under the Industrial and Provident Societies Act of 1965 (Registration no. IP031717.)
- 1.2 It is intended that as soon as possible after completion of this Agreement the Owner will transfer the freehold interest in the Land to the Trust subject to a long term lease with the Registered Provider **Aster Group Ltd** of Sarsen Court, Horton Avenue, Cannings Hill, Devizes, Wiltshire, SN10 2AZ (Homes & Communities Agency registration: LH4393; Industrial & Provident Society registration no: 29573R); hereinafter referred to as the "Landlord" on the properties specified in the Schedule.
- 1.3 This allocations plan has been prepared to ensure that the objects of the Trust are met.
- 1.4 Every effort has been made to ensure the Allocations Plan is not in variance with other policies and agreements.

2. Section 106 Agreement (Town & Country Planning Act 1990)

- 2.1 This policy sets out the process by which the Trust and the Landlord will comply with the requirements of this Section 106 Agreement to ensure that any homes developed remain affordable in perpetuity and are prioritised for people with a local connection.

3. Local Connection Criteria

- 3.1 Subject to paragraph 4.3, priority will always be given to applicants with the strongest connection with the Parish of Bradworthy as defined in paragraph 3.2.

Applicants will then be further prioritised within each of these criteria in accordance with the Devon Home Choice (or such other policy as may subsequently replace Devon Home Choice in the future) definition of housing need.

- 3.2 Applicants will be prioritised using the following criteria, ranked in order of importance:

1. (At least one adult in the intended household has been continuously resident in the Parish of Bradworthy for at least 5 years at the date of offer on Devon Home Choice.)
2. (The intended household has previously lived in the Parish of Bradworthy for a period of at least 5 years within the last 10 years at the date of offer on Devon Home Choice and wishes to return to the Parish.)
3. The intended household has a close living relation resident in the Parish of Bradworthy. This means immediate family members (parent, parent-in-law, son, daughter, step-son, step-daughter, child of partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece) who themselves live in the parish of Bradworthy and have done so for at least the preceding 10 years at the date of offer on Devon Home Choice; exceptional circumstances will be taken into consideration.
4. At least one adult in the intended household is permanently employed or self-employed in the Parish of Bradworthy and whose work is primarily based within this parish. For the purposes of this criteria 'permanently employed' means having held a permanent contract

for a minimum of 16 hours per week for at least the preceding 5 years at the date of offer on Devon Home Choice.

5. A key worker undertaking permanent employment, or with a firm offer of employment, within the Parish of Bradworthy
6. The intended household has a connection with neighbouring parishes. For the purposes of determining 'local connection' criteria 1-4 above will be used, substituting the neighbouring parishes, in priority order, for references to Bradworthy:
 - a) Sutcombe and East & West Putford
 - b) Other adjoining parishes
7. A key worker undertaking permanent employment, or with a firm offer of employment, within the neighbouring parishes of:
 - a) Sutcombe and East & West Putford
 - b) Other adjoining parishes
8. The intended household has a connection to Torridge District. For the purposes of determining 'local connection' criteria 1-4 above will be used, substituting Torridge District for references to Bradworthy.
9. A key worker undertaking permanent employment, or with a firm offer of employment, within the Torridge District.
10. All other Devon Home Choice applicants.

4. Application of Criteria

- 4.1 The Landlord is responsible for lettings. Residents will be tenants of the Landlord.
- 4.2 When two or more applicants meet the same Local Connection Housing Need and Devon Home Choice criteria, subject to paragraph 4.3 below, a decision on who to let the property to will be made based on the overall length and strength of family connection to the Parish together with the length of time they have been registered on Devon Home Choice below
- 4.3 Occasionally an applicant may have a special circumstance which the Landlord, the Trust and the Council (each acting reasonable and properly) agree create a significant connection to the Parish of Bradworthy such agreement to be documented in writing. Where such a special circumstance is agreed, this could take priority over the criteria set out in paragraph 3.
- 4.4 As affordable rented homes are in short supply, a home with a spare bedroom will not usually be offered except in the following circumstances and only then if deemed affordable after an affordability assessment is completed:
 - 4.4.1 where a member of the family has a long term illness or disability and may need a carer to stay overnight on a regular basis, or where siblings that might otherwise be expected to share a bedroom require their own because of ill-health/disability
 - 4.4.2 where, after allocating two bedroom homes to families with children or dependent relatives, some homes remain available, couples with a local connection may be considered for that property

4.4.3 where children, who normally live with their other parent, frequently stay overnight

4.4.4 where children who would normally live with the family, are away at college or university

4.4.5 Where families have a member who is away on armed forces duty

Under occupancy on this basis will be considered at each stage in the cascade.

5. Advertising of Vacancies

5.1 On the first lettings, the Landlord will hold an open meeting 4 months before the expected completion date of the properties to provide information and advice.

5.2 The Landlord will notify the Trust and the Council of all rental vacancies. If the property is rented it will be advertised on Devon Home Choice . In the event that Devon Home Choice is unable to provide this service, or the definitions of Bands 'A' – 'E' (see The Annex) should change, the Trust will ensure that future applicants who would formerly have been eligible for the properties by having a local connection and being in Band 'E' will have the opportunity to apply directly to the Council for consideration. The assessment of housing need will broadly reflect the needs criteria detailed in the attached Annex entitled 'Devon Home Choice Housing Need Bands' and for the avoidance of doubt, will include applicants living in private rented accommodation 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 Bradworthy at the date of the offer.

5.3 Advertisements will clearly state the priority given to local connection in the allocation of any property

5.4 When notified of vacancies the Trust will use local communications to ensure as many local people as possible know about the vacancies and how to apply.

6. The Offer Process

6.1 The Landlord will carry out a home visit to verify the information provided by the applicant. All applicants who are being considered for housing will be visited.

6.2 Prior to an offer being made – and with the consent of the applicants – the Landlord will provide the Council with applicants' names and stated local connections in order that the Trust can use the means at its disposal to verify the applicant's local connections including assessment of any evidence provided by the applicant.

6.3 No offer will be made until the Trust has completed the process in paragraph 6.2 subject to this being within the timescales agreed between the Landlord and the Trust.

7. Disputes Procedure

7.1 The Trust and the Landlord undertake to use their best endeavours to resolve any issues, complaints or disputes in respect of the operation of this Allocations Plan or any other matter pertaining to this Allocations Plan amicably, through discussion and co-operation.

7.2 The parties agree that any complaints or matter of dispute from an applicant or third party regarding the performance or non-performance of obligations under this Allocations Plan or any other matter pertaining to this Allocations Plan should usually be addressed or referred to the Landlord.