

Schedule 1 - Obligations to the District Council - Affordable Housing

The following definitions shall apply in this Schedule 1:

1. Definitions

“Advertising”	means the advertising for sale or letting of any interest in the relevant Discounted Market Sales Housing Unit 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 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.
“Adjacent Districts”	means the district council areas of North Devon and West Devon.
“Affordable Dwellings”	means being not less than 19% (rounded up or down to give a whole number of Dwellings) of the Dwellings to be provided as Affordable Housing and reference to “Affordable Dwelling” shall mean any one of them.
“Affordable Housing”	means Social Rented Housing or Intermediate Housing provided to eligible households whose needs are not met by the market, where eligibility is determined with regard to local incomes and local house prices and which remains at an affordable price for future eligible households and as defined in Annex 2 of the NPPF.
“Affordable Housing Scheme”	<p>means 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):</p> <ol style="list-style-type: none">Arrangements for the provision of the Affordable Dwellings;Location of the Affordable Dwellings to be shown on a plan with reference to the appropriate plot numbers;Details of the unit size of the Affordable Dwellings; andArrangements for the transfer of the Affordable Dwellings to a Registered Provider <p>and such other details as reasonably required by the Council with the First Reserved Matters Approval .</p>
“Affordable Rent”	means rent controls that require a rent of no more than 80% of local open market rent (including service charges where applicable) at the time of letting which may be increased by no more than the Consumer Price Index plus 1% annually or other such amount as prescribed by HE.
“Affordable Private Rent”	means rent at least 20% below local market rents as defined in paragraph a) to the definition of “Affordable housing” in Annex 2 to the NPPF but for the avoidance of doubt excluding Social Rent and

Affordable Rent.

"Affordable Private Rented Housing"	means the Affordable Dwelling(s) to be let at an Affordable Private Rent.
"County"	means the County of Devon.
"Devon Home Choice"	means the method or body agreed by the Council in accordance with Department for Communities and Local Government guidance: - "Allocation of Accommodation: Choice Based Letting" (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 to the NPPF.
"Discounted Market Sales Housing Units"	means the Dwellings to be provided for Discounted Market Sales Housing and "Discounted Market Sales Housing Unit" shall be construed accordingly.
"District"	means the administrative area of Torridge District Council.
"Help to Buy South"	means 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 or such successor body or organisation responsible for the nomination of Discounted Market Sales Housing and Shared Ownership Housing available to buy in the District.
"Homes England (HE)"	means 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"	means a person who does not have available to him and could not afford (personally or jointly with other members of his household) to acquire or rent a home suitable for his needs and the needs of their household at the normal market values prevailing in the District.
"Intermediate Housing"	means Affordable Housing made available for sale or rent as Shared Ownership Housing, Discounted Market Sales Housing or housing let at an Affordable Private Rent.
"Intermediate Housing Units"	means the Dwellings to be provided as Intermediate Housing and "Intermediate Housing Units" shall be construed accordingly
"Local Connection"	means a local connection calculated from the Start Date (defined in Part VII of the Housing Act 1996) with the District (or the Qualifying Area as appropriate) as follows: <ul style="list-style-type: none">• being permanently resident therein for six of the last twelve months, or three out of the last five years; or• in permanent full-time or part-time (minimum 16 hour contract per week) work therein for 6 months. This may include the need to move to the District in connection with permanent employment (minimum 16 hour contract per week) where commuting from the person's existing home is accepted by the Council as unreasonable. In all cases there should be no break

in the period of employment for more than 3 months over the relevant period; or

- have family connections in the District. Reflecting the Local Government Association guidelines this is normally defined as the applicant, or a member of their household has parents, adult children or brothers or sisters who have been resident in the District for at least the last 5 years; or
- having immediate relatives (i.e. parents, non-dependent children, brother or sister) who have lived therein for at least 5 years and with whom there has been shown to have been frequent contact, commitment or dependency; or
- other categories or relationships may be considered by the Council including foster relationships where clear evidence of frequent contact, commitment dependency is shown
- other special circumstances which create a link to the District (not including residence in a hospital armed forces accommodation holiday let or person or rehabilitation facility) and having been first verified in writing by the Council as having such special circumstances and this may include the need to reside medical support or (with the approval of the Council) some other form of special support.

“Mortgagee”

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).

“NPPF” (National Planning Policy Framework)

means the National Planning Policy Framework published by the Department for Communities and Local Government in February 2019 (as updated in June 2019) (or any future guidance or initiative that replaces or supplements it or any successor policy or legislation in respect of affordable housing);

“Open Market Value”

means the price which 100% of the freehold interest in a Dwelling would fetch if sold on the open market by a willing vendor to a willing purchaser 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.

“Qualifying Area”

means the District, the Adjacent Districts or the County as appropriate.

“Registered Provider (RP)”

means a body which is registered with HE 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”

means a price calculated in accordance with paragraph 2.15 of this

Schedule 1 in respect of Discounted Market Sales Housing.

“Sale Notice”	means a notice which contains details of the Affordable Dwellings to be sold 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 Council’s Strategic Enabling Officer.
“Shared Ownership Dwelling”	means an Affordable Dwelling sold on the basis of a Shared Ownership Lease and the rent under such lease may be increased by no more than the Retail Prices Index (All Items) plus 0.5% or other such amount as prescribed by Homes England.
“Shared Ownership Housing”	means Affordable Housing where a person can buy a share in the property 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 HE.
“Shared Ownership Lease”	means a Shared Ownership lease in the form as published by Homes England as amended to comply with this Deed or as approved by the Proper Officer (District Council)
“Social Rent”	means a rent which does not exceed HE target rents for the area in which the Site is located as specified by the HE or other successor or replacement body which sets rent levels for Affordable Housing.
“Social Rented Dwelling”	means an Affordable Dwelling(s) let at a Social Rent.
“Staircased Dwelling”	means an Affordable Dwelling which is a Shared Ownership Dwelling for which the tenant has purchased one hundred per cent (100%) of the leasehold or freehold equity as the context requires under the terms of the tenant’s Shared Ownership Lease.
“Staircasing and Staircase”	means the exercise by a tenant of a Shared Ownership Dwelling of the right to increase his or her share of the equity in the Affordable Dwelling
“Staircasing Payment”	means a payment made by the tenant under a Shared Ownership Lease to the Landlord for the purchase of an additional share of the equity in the Shared Ownership Dwelling less the amount of any outstanding loan amount secured on the relevant unit and the reasonable costs of administration or legal or other expenses (and any part of such monies).
“Start Date”	means the date immediately preceding the date on which the Affordable Housing Dwelling is Occupied by a person in Housing Need;
“Subsidy”	means social housing grant or similar provided by the Council and/or HE or such other body as may succeed it.
“Valuer”	a professionally qualified valuer who is a member of the Royal Institution of Chartered Surveyors or equivalent.

2. AFFORDABLE HOUSING

2.1. The Owner covenants with the Council as follows:

Affordable Housing Scheme

- 2.17.1. 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 2.17.2 and 2.17.3 below;
- 2.17.2. the owners of Discounted Open Market 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 and any subsequent replacement scheme that may be introduced and agreed to by the Council;
- 2.17.3. 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
- 2.17.4. in the event all subsequent replacement schemes cease to operate the Council shall have 100% nomination rights and shall be responsible for nominating 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).

Marketing - Rented Housing

- 2.18. If within a period of 2 (two) weeks for initial lettings and 1 (one) week for subsequent lettings from the date that the relevant Affordable Private Rented Housing Unit or Social Rented Dwelling becomes available for Occupation no prospective occupier in Housing Need and with a Local Connection to the District wishes to Occupy the relevant Affordable Dwelling then Occupation is permitted by a person in Housing Need and with a Local Connection as applied to the County.

PROVIDED THAT throughout the periods specified in this paragraph the Affordable Dwelling shall have been continuously marketed within the District.

Marketing - Intermediate Housing for sale

- 2.19. If within a period of 12 (twelve) weeks for initial sales and 12 (twelve) weeks for subsequent sales from the date that 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 and with a Local Connection as applied to the Adjoining Districts.
- 2.20. If after a period of 4 (four) weeks from the end of the period referred to in 2.19 no prospective purchaser with a Local Connection to the Adjoining Districts (as applicable) has come forward then a prospective purchaser in Housing Need with a Local Connection to the County may be considered **PROVIDED THAT** priority will be given to those in Housing Need with a Local Connection to the District.

PROVIDED THAT throughout the periods specified in this paragraph the Affordable Dwelling shall have been continuously marketed within the District

Occupation of the Affordable Dwellings

- 2.21. 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 Schedule 1 as may be applicable.
- 2.22. 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 scheme in effect between the Council and that Registered Provider.
- 2.23. 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 1 subject to the exclusions contained in this Schedule and subject also to any subsequent amendment or variation to this Agreement as agreed with the Council to ensure that the Affordable Housing remains as such in perpetuity.

3. Mortgagee Exclusion

- 3.1. Notwithstanding the other provisions of this Deed, the covenants, restrictions and obligations contained in this Schedule 1 shall not be binding on a Mortgagee or any purchaser from or successor in title to such Mortgagee or any other Mortgagee of any Affordable Dwelling(s) or part thereof or any purchaser from or successor in title to such Mortgagee PROVIDED THAT:
- 3.1.1. the Mortgagee shall prior to seeking to dispose of the Affordable Dwellings (or any part thereof) pursuant to any default under terms of the relevant security documentation first give written notice to the Council of its intention to dispose of the Affordable Dwellings (or any part thereof) and shall have used reasonable endeavours over a period of 3 (three) months from the date of the written notice to complete a disposal of the Affordable Dwellings (or any part thereof) 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
- 3.1.2. if such disposal has not completed with the 3 (three) month period, the Mortgagee shall be entitled to dispose of the Affordable Dwellings free from the affordable housing provisions in this Deed which provisions shall determine absolutely.

Annex B
(Eligibility criteria)

Pursuant to paragraph 2.10 of Schedule 1 of the s106 Agreement the Owner shall verify to the Council or its agent that the prospective purchaser or tenant meets the terms of the s106 Agreement by obtaining appropriate documentation from Section A and B and C below or such other evidence or confirmation as the Council or its agent shall deem necessary or sufficient and if required by the Council or its agent provide copies of such evidence to the Council or its agent

SECTION A:

Proof of identity (of prospective purchaser or tenant and where applicable close family member)

A current and valid passport

UK residence permit

A valid UK driving licence (paper and photograph parts)

National Insurance number card

Marriage certificate

Medical card

Letters about asylum from the Home Office

SECTION B:

Local connection

Residency – sufficient evidence to cover the relevant local connection period for prospective purchaser/tenant/close family member as appropriate

Utility bills (gas electric phone etc.)

Council tax bills

Bank/Building Society account/credit card statements

State benefit books or receipts showing rent paid

Payslips showing home address

Written certification from either a Solicitor / Social Worker / Probation Officer / Inland Revenue Officer / Police Officer / Teacher or Doctor

Employment – sufficient evidence to cover the relevant local connection period

Payslips showing employer's address

Employer's letter confirming length and terms of employment (including hours worked if applicable)

Family connection

Supporting evidence to the satisfaction of the Council or its agent that the close family member is in need of support or able to give support

SECTION C:

Housing Need

Tenancy or licence agreement

Rent book showing name and address of applicant

Where applicable letter from friend or family member confirming residence at their address

P60 annual statement of earnings for the most recent complete tax year

Payslips covering last 3 months

For self-employed persons a set of accounts no older than 12 months

Bank/Building Society account or other statements showing savings/capital

Evidence of any other income including state benefits