

**Broom Park Dartington**

**Section 106 (S106) Agreements** are legal **agreements** between Local Authorities and developers; these are linked to planning permissions and can also be known as planning obligations, and can refer to lettings requirements which need to be adhered to on first, and subsequent lettings.

It is important to review before advertising any vacancy as the wording will differ from agreement to agreement.

*This document captures relevant sections from the full s106 which make reference to letting our homes. It should be reviewed in conjunction with the full document.*

**Key information for adverts:-**

Social Rented units must be allocated in accordance with Devon Home Choice subject to the Local Allocations Policy and to a Designated Person:-

- a) Who falls within the selection and allocations criteria set out in Devon Home Choice, and
- b) Is considered by the AHP to be in need of the accommodation

If the Council are unable to nominate a Designated Person within 1 month, the AHP shall be entitled to allocated the home to any person who falls within the selection and allocations criteria set out in Devon Home choice.

Designated persons are people who immediately prior to occupation have a local connection with:-

- a) The Parish of Dartington or the town of Totnes, or
- b) If no person satisfies the criteria set out in (a) within 1 month, a person with a local connection to the Administrative Area (ie the District of South Hams), or
- c) If no person satisfies the criteria set out in (a) or (b) within 2 months, a person with a Local Connectionn to the County of Devon

the Sports Facilities Contribution, as the context requires

**"Designated Person"**

means any person or persons who immediately prior to the Occupation of an Affordable Housing Unit has a Local Connection with:

- (a) the Parish of Dartington or the town of Totnes; or
- (b) if no person satisfying the criteria set out in (a) above has been identified within one month of the relevant Affordable Housing Unit being first marketed, a person with a Local Connection to the Administrative Area; or
- (c) if no person satisfying the criteria set out in (a) or (b) above has been identified within two months of the relevant Affordable Housing Unit being first marketed, a person with a Local Connection to the County of Devon;

and the expression "Designated Persons" shall be construed accordingly;

**"Devon Home Choice"**

means the choice based letting scheme introduced in the County of Devon with a view to allocating those most in need of housing accommodation owned by local authorities and AHPs;

open space, play, landscape and/or surface water drainage purposes

**"Local Allocations Policy"**

means the policy adopted by the Council in September 2015 (Revised November 2017) to ensure locally based allocation policies for Affordable Housing Units pursuant to section 167(2E) of the Housing Act 1996 together with any revisions thereof;

**"Local Connection"**

means a local connection to the Administrative Area of the Council having regard to the local connection criteria set out in the Local Allocations Policy applicable at the date when the relevant Affordable Housing Unit(s) are being allocated (or in the event of there being no Local Allocations Policy in force such other criteria as may be agreed by the Council in writing acting reasonably);

**"Protected Tenant"**

means any tenant who:

- a. has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provisions for the time being in force (or any equivalent statutory or contractual right) in respect of a particular Affordable Housing Unit;
- b. has exercised any statutory right to buy (or any equivalent statutory or contractual right) in respect of a particular Affordable Housing Unit;
- c. has been granted a Shared Ownership lease by an AHP (or similar arrangement where a share of the Affordable Housing Unit is owned by the tenant and a share is owned by the AHP) in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the Affordable Housing Provider all the remaining shares so that the tenant owns the entire interest in an Affordable Housing Unit;
- d. has acquired an Affordable Housing Unit through Social Homebuy funded pursuant to s.19(3) of the Housing and Regeneration Act 2008 or pursuant to a

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voluntary grant scheme under s.21 of the Housing Act 1996 or any amendment or replacement thereof;

**"Shared Ownership Units"**

means the Intermediate Units to be let under a lease (of not less than 99 years) in the standard form of the Affordable Housing Provider and in accordance with the requirements of Homes England whereby the Dwelling is let by an Affordable Housing Provider and the purchaser pays to the AHP a rent in respect of the remaining equity of up to 2.75% of the unsold equity or such similar equivalent means of tenure;

**"Social Rented Unit"**

means an Affordable Housing Unit let at a rent which meets guideline target rents determined through the national rent regime. Rent levels should not exceed target rent levels recommended for the area and the type of accommodation by Homes England

**Mechanism For Provision Of Affordable Housing**

- 4 From the date of Practical Completion of the Affordable Housing Units:
  - 4.1 they shall not be used other than for Affordable Housing and shall only be Occupied by persons with a Local Connection in accordance with the Council's Local Allocations Policy; and
  - 4.2 the Intermediate Units shall only be occupied by Designated Persons who cannot afford to rent or buy housing generally available on the open market immediately prior to Occupation  
save that this Obligation shall not be binding on:
    - 4.3 any Protected Tenant or any mortgagee or Chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees or Chargees; or
    - 4.4 Any Chargee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor and any purchaser from such Chargee; or
  - 4.5 any successor in title or any person deriving title or any person claiming by title paramount to any persons listed in sub-paragraphs 4.3 to 4.4 above or their respective Chargees
- 5 Unless otherwise agreed in writing with the Council:
  - 5.1 no more than 50% of the Market Housing Units shall be Occupied until 50% of the Affordable Housing Units have been constructed to Practical Completion and are ready for Occupation and (save for any Discount Market Housing Units) have been transferred to the Affordable Housing Provider;; and
  - 5.2 no more than 75% of the Market Housing Units shall be Occupied until 100% of the Affordable Housing Units have been constructed to Practical Completion and are ready for Occupation and (save for any Discount Market Housing Units) have been transferred to the Affordable Housing Provider
- 6 Subject to paragraph 4, prior to the first Occupation of any Dwelling the Owners shall notify the Council of the name of the Affordable Housing Provider(s) to whom the Social Rented Units and the Intermediate Units (save for any Discount Market Housing Units) shall be transferred

**DISCOUNT MARKET HOUSING**

SEE SCHEDULE 1 FOR DETAILS

**Nominations – Social Rented Units**

- 16 Not to allocate the Social Rented Units except in accordance with Devon Home Choice subject to the Local Allocations Policy and each Social Rented Unit shall only be let to a Designated Person:
  - 16.1 who falls within the selection and allocations criteria set out in Devon Home Choice; and
  - 16.2 who is considered by the AHP to be in need of the accommodation;  
  
PROVIDED THAT in the event that the Council has been unable to nominate a Designated Person within 1 month of being notified of the vacancy the Affordable Housing Provider shall be entitled to allocate the relevant Social Rented Unit to any person who falls within the selection and allocations criteria set out in Devon Home Choice and is considered by the AHP to be in need of the accommodation
- 17 In the event that Devon Home Choice ceases to operate or the register is discontinued an alternative allocation method shall be agreed with the Council prior to any further allocations.

- 18 In so far as it is lawfully able to do so (and subject to the provisions of paragraph 18 hereof) the Owners shall ensure that the Intermediate Units are disposed of only to:
- 18.1 Designated Persons chosen by the Affordable Housing Provider from the list of eligible applicants which the Affordable Housing Provider shall request from the Help to Buy Agent provided that if there shall not be sufficient suitable applicants on such list or if any suitable applicants fail to proceed with the purchase within 3 (three) months of being made an offer by the Affordable Housing Provider then the Affordable Housing Provider shall be entitled to dispose of the Intermediate Unit to a person of its own choosing who is unable to afford suitable accommodation on the open market provided that the Affordable Housing Provider shall use all reasonable endeavours to dispose of the Intermediate Unit to persons from such list of eligible applicants.

**Chargee's Release Clause**

- 19 The affordable housing provisions set out in Schedule 1 to this Agreement shall not be binding on a Chargee of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such Chargee PROVIDED THAT:
- 19.1 such Chargee shall first give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Units 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
- 19.2 if such disposal has not completed within the three month period, the Chargee shall be entitled to dispose of the relevant Affordable Housing Units free from the this Agreement which provisions shall determine absolutely in respect of those Units