

S106 Summary

South West Exeter – Alphington Parcels 15 & 16

Teignbridge District Council

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.

Allotments, community building, district heating system, education land, LAP, LEAP, NEAP, Man Co

Key information for letting homes

Homes must be let to a Qualifying Person – who has a local connection as outlined below. Cascade commences at 28 days and 56 days.

Applicants must have at least one for the following to the primary area, the secondary area, tertiary area or the county:-

- Being permanently resident
 - Being formerly permanently resident for 5 years
 - Permanent work (16 hours or more)
 - Local connection through close family member
 - Other special circumstances
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- The Primary area is the town/parish of Exminster
 - The Secondary area is the parishes of Shillingford, Kenn and Powderham
 - The County is the administrative area of Devon County Council

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Management) Regulations 2015

"Accessible and Dwellings"	Adaptable	means the Dwellings which are to be constructed to the sizes and standards required by Building Regulations Part M4(2) Category 2: accessible and adaptable dwellings
"Affordable Dwellings"		means each unit of Affordable Rented Housing and Intermediate Affordable Housing or such other form of Affordable Housing as maybe agreed in writing by the Council from time to time to be delivered on the Site pursuant to this Deed
"Affordable Housing"		means subsidised housing for rent or sale as defined in the NPPF Annex 2 provided to eligible households whose needs are not met by the market, with regard to local incomes and local house prices, and subject to provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision
"Affordable Rent"		a rent which does not exceed 80% of the Open Market Rent (inclusive of any service charge) for the relevant property type and in any event should not exceed the published Local Housing Allowance for the relevant property type and in the relevant property market area allowing for any modifications to a level of allowance as published from time to time by the Government SAVE THAT the rent charged under all lettings may be increased annually by a proportion equivalent to an increase by the Consumer Price Index plus 1% or any relevant increase determined from time to time by the HCA
"Affordable Rented Housing"		means housing for rent let by an AHP comprising a local authority or registered provider of social housing to Qualifying Persons eligible for social rented housing at an Affordable Rent
"County"		means the administrative area of Devon County Council

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"Devon Homechoice"	means a choice based letting scheme operated in partnership between the Council and participating AHPs
"District"	means the administrative area of Teignbridge District Council
"District Heating Facility"	means a district heating facility that is capable of providing a constant supply of hot water and space heating to properties within all of the Development and its vicinity and shall include any subsequent replacement or addition to such a facility
"Exminster Parish Council"	means Exminster Parish Council, c/o the Clark to the Exminster Parish Council of 57 Crockwells Road Exminster EX6 8DH or such other address as may be notified by the Exminster Parish Council from time to time
"Household"	means anyone who may reasonably be expected to reside with the Qualifying Persons(s)
"Housing Need"	means being homeless or threatened with homelessness or living in accommodation which in the opinion of the Council is Insecure or unsuitable and being unable to purchase or rent reasonably suitable accommodation on the open market in the locality where the Affordable Dwelling is situated taking into account the person's income and capital and other financial circumstances but having regard also to the fact that accommodation may be unsuitable on the grounds of cost, overcrowding, unfitness or lack of basic amenities or because of a person's infirmity, physical disability, mental disability or specific social or care needs

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"Letting Notice"

means a notice which contains details of the property to be let and which shall include unless otherwise with the Council:

- the name and address of the landlord and Owner (if different);
- the address of the property
- the weekly or monthly rent;
- the amount and breakdown of any service charge per week/month/ annum;
- details of any additional charges;
- any age or other occupancy restrictions;
- property type;
- property size;
- heating type;
- details of mains services in the property;
- availability of parking space/garage;
- any disability adaptations;
- any provision of support services;

and which is delivered to the Council clearly addressed and marked for the urgent attention of the Housing Manager

PROVIDED THAT an Advertisement for the Affordable Dwelling approved by the Council and placed by a registered provider of social housing on Devon Homechoice shall be considered a Letting Notice for the purposes of paragraph 2.2 of Part 2 to Schedule 2

"Local Connection"

means having on the date of Advertising at least one of the following a connections with the Primary Area, the Secondary Area, Tertiary Area or the County as appropriate:

- being permanently resident therein; or
- being formerly permanently resident

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- therein for a continuous period of five (5) years; or
- having his or her place of permanent work (normally regarded as sixteen (16) hours or more a week excluding seasonal employment) therein immediately prior to advertising; or
- having a connection through a close family member (normally mother, father, brother, sister, son or daughter) where the family member is currently resident therein and has been so for a continuous period of at least five (5) years; or
- being in such other special circumstances which the Council considers requires the applicant to reside therein as appropriate and which is consistent with the Devon Homechoice or Help to Buy South West (as appropriate)

Buy South West (as appropriate)

"Local Housing Allowance"

means the flat rate rental allowance providing financial assistance towards the housing costs of low income households for different rental market areas and property types set out and reviewed by the Valuation Office Agency under a framework introduced by the Department for Work and Pensions and any periodic modifications to that level of allowance, or such similar framework that may replace it

"Management Company"

means a body with a registered office in England or Wales that is nominated or established by the Owners for the acquisition and long term management and maintenance of the Open Space in accordance with the provisions of Schedule 4 such body to be approved by the Council (such approval not to be unreasonably withheld or delayed)

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"Primary Area"

means the town/parish of Exminster

attenuation areas

"Qualifying Person"

means person(s) who (unless otherwise agreed in writing with the Council) has/have on the date of Advertising a Local Connection with the Primary Area or if no person satisfying the requirement of (a) above has been identified by the Owner in consultation with the Council within a period of 28 days of Advertising, the Primary Area or the Secondary Area; or
if no person satisfying the requirements of

(a) or (b) above has been identified within a period of 56 days of Advertising, the Primary Area or the Secondary Area or the County

"Secondary Area"

means the Parishes of Shillingford, Kenn and Powderham

sustainable transport objectives

"Wheelchair
User Dwellings"

means the Dwellings which are to be constructed to the sizes and standards required by Building Regulations Part M4(3) Category 3: wheelchair user dwellings

Part 2 - Affordable Rented Dwellings

- 2 The Owners hereby covenants with the Council as follows:
- 2.1 Not to permit or otherwise allow any of the Affordable Rented Dwellings to be let other than:
- (a) to a Qualifying Person who is either releasing an Alternative Affordable Home or is in Housing Need;
 - (b) at a sum not exceeding the Affordable Rent; and
 - (c) to persons selected in accordance with the principles of Devon Homechoice whether or not the AHP is a member of the Devon Homechoice
- 2.2 Each time an Affordable Rented Dwelling becomes available for letting:
- (a) to serve on the Council a Letting Notice;
 - (b) to submit to and secure the Council's prior approval of a Scheme of Advertising in respect of the relevant Affordable Rented Dwelling(s); and
 - (c) to advertise the relevant Affordable Rented Dwelling(s) in accordance with the Scheme of Advertising approved by the Council
- 2.3 Not to grant a tenancy of the relevant Affordable Rented Dwelling until submission to the Council of written verification (marked for the urgent attention of the Manager of Housing) that the prospective tenant satisfies the obligations in this Schedule 2 Part 2 and the Council has given its approval that the prospective tenant would satisfy the said obligations (such approval not to be unreasonably withheld and if no response is given by the Council within 14 days of receipt of written verification then approval will be deemed to have been given)
- 2.4 If so required by the Council, to provide to the Council (in addition to the written verification detailed in paragraph 2.3 of this Schedule 2 Part 2 above) all necessary documentation as stipulated in Annex 1 as evidence that the prospective tenant satisfies the obligations contained in this Schedule 2 Part 2

Part 3 – Intermediate Affordable Housing

- 3 The Owners hereby covenant with the Council as follows:
- 3.1 Unless an alternative type of Intermediate Affordable Housing tenure (other than a Shared Ownership Unit) is approved by the Council when approving the Affordable Housing Units Layout and Mix Plan in accordance with paragraph 1.4 of Part 1 of Schedule 2, not to permit or otherwise allow any of the units of Intermediate Affordable Housing to be disposed other than:
- (a) in accordance with the terms of the Shared Ownership Lease; and
 - (b) to a Qualifying Person who is either releasing an Alternative Affordable Home or is in Housing Need
- 3.2 To submit to and secure the Council's prior approval of a Scheme of Advertising in respect of the relevant Intermediate Affordable Housing unit(s) and to Advertise the Intermediate Affordable Housing unit(s) in accordance with the approved Scheme of Advertising
- 3.3 Save in respect of initial sales following construction of the Intermediate Affordable Housing unit(s) in the event the Owner is unable to sell the Intermediate Affordable Housing unit(s) in accordance with paragraphs 3.1 and 3.2 of this Part 3 Schedule 2 above within a period of 90 days of Advertising the Intermediate Affordable Housing unit may be sold to any willing purchaser (but subject to paragraph 3.1(a) above) and such person shall again remain bound by the terms of this Deed
- 3.4 Not to exchange or complete contracts for the sale of any interest in an Intermediate Affordable Housing unit until the Owner has submitted written verification to the Council (marked for the urgent attention of the Manager for Housing) that the prospective purchaser satisfies the obligation in this Schedule 2 Part 3 and the Council has given its approval that the prospective purchaser would satisfy the said obligations (such approval not to be unreasonably withheld and if no response is given by the Council within 14 days of receipt of written verification then approval will be deemed to have been given)
- 3.5 If so required by the Council, to provide to the Council (together with the written verification detailed in paragraph 3.4 of this Schedule 2 Part 3) all necessary

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documentation as stipulated in Annex 1 as evidence that the prospective purchaser satisfies the obligations in this Schedule 2 Part 3

Part 4 – Exemptions

- 4 The obligations restrictions and undertakings in this Schedule 2 shall not apply:
- 4.1 to any tenant who has exercised any statutory or equivalent contractual or voluntary right to acquire buy or acquire their dwelling (or any interest in it) nor to any person deriving title through or under such tenant; nor
- 4.2 to any person who has exercised their right under a Shared Ownership Lease to staircase up to 100% of the leasehold or freehold equity in the relevant Intermediate Affordable Dwelling nor to any person deriving title through or under such leaseholder
- 4.3 The obligations restrictions and undertakings in this Schedule 2 shall not be binding on a Chargee PROVIDED THAT:
- (a) the Chargee shall first give written notice to the Council of its intention to dispose of the Affordable Dwelling(s) (the "Chargee's Notice");
- (b) the Chargee shall have used reasonable endeavours over a period of three months from the date of the Chargee's Notice to complete a disposal of the Affordable dwelling(s) to another AHP 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
- (c) if such disposal has not completed within the three month period stipulated in sub-paragraph 4.3(b) above, the Chargee shall be entitled to dispose of the Affordable dwelling(s) free from the obligations restrictions and undertakings in this Schedule 2 which provisions shall (in respect of the released Affordable Dwelling(s)) determine absolutely.
- 4.4 Any Grant Funding element of any capital receipt generated by the exercise of a right referred to in Part 4 paragraph 4.3(b) above shall be recycled in accordance with the HCA guidance in force at the time and the AHP shall furnish the Council with such evidence as the Council shall reasonably require to show how the receipt has been spent

**Annex 1
to Schedule 2
(Evidence of Eligibility of Qualifying Persons)**

Pursuant to paragraphs 2.4 of Part 2 and paragraphs 3.5 of Part 3 of this Schedule 2 the Owners are required to verify to the Council that the prospective tenant or purchaser meets the terms set out in Schedule 2 to this Deed by obtaining appropriate documentation from section A and B and C below or such other evidence or confirmation as the Council shall deem necessary or sufficient and if required by the Council or its agent provide copies of such evidence to the Council

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
- 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 and employer's address
- Written certification from either a Solicitor / Social Worker / Probation Officer / Inland Revenue Officer / Police Officer / Teacher or Doctor
- Employer's letter confirming length and terms of employment (including hours worked if applicable)

SECTION C: Housing Need

- Tenancy or licence deed
- 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