

**Planning policy**

# Affordable Housing Supplementary Planning Document



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## 1 Introduction

- 1.1 The East Devon Local Plan 2013 to 2031 (adopted January 2016) promotes the delivery of new affordable housing in the district, through policies relating to affordable housing targets and exception sites. The purpose of this Affordable Housing Supplementary Planning Document (SPD) is to add further detail to the policies in the development plan, giving greater clarity to developers and communities about the expectations for affordable housing delivery in East Devon. The SPD should also be helpful for communities when preparing neighbourhood plans.
- 1.2 By giving clear guidance upfront about the councils' expectations on issues such as tenure mix, how vacant building credit will be operated, and where off-site contributions will be appropriate, it will enable developers and landowners to better understand policy requirements. Therefore, this SPD should assist applicants when making planning applications, and the council in determining them.<sup>1</sup>
- 1.3 The SPD explains when and how affordable housing will be secured in order to deliver sustainable communities in East Devon. It reflects Government policy on affordable housing in the National Planning Policy Framework, and has been prepared in a manner consistent with the relevant regulations.<sup>2</sup>
- 1.4 The SPD begins by providing some context with a brief overview of affordable housing and related planning policy, and then provides guidance across a variety of chapters on affordable housing issues relevant to Local Plan policies. The SPD is structured around a series of key questions so that the guidance is provided in a clear format.



Affordable housing in Cranbrook, which has been a significant supply of affordable housing delivery in East Devon over recent years

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<sup>1</sup> National Planning Policy Framework, Annex 2, explains that SPDs add further detail to the policies in the development plan; and Planning Practice Guidance Reference ID: 61-008-20190315 states that SPDs should build upon and provide more detailed advice or guidance on the policies in an adopted local plan, and should not add unnecessarily to the financial burdens on development.

<sup>2</sup> The Town and Country Planning (Local Planning) (England) Regulations 2012:  
<http://www.legislation.gov.uk/uksi/2012/767/contents/made>

## 2 Context and Overview of Policies and Evidence

### What is affordable housing?

- 2.1 Affordable housing is defined as housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers). There are four broad types of affordable housing:<sup>3</sup>
- a) Affordable housing for rent
  - b) Starter homes
  - c) Discounted market sales housing
  - d) Other affordable routes to home ownership

### Who delivers new affordable housing?

- 2.2 Planning policies require a certain proportion of affordable housing, or off-site contribution for their delivery elsewhere, in order for planning permission for new housing to be granted – it is through this process that the vast majority of affordable housing is delivered.
- 2.3 In most cases, new affordable homes to *rent* are constructed by private developers and sold to registered providers<sup>4</sup> (RPs). The RP then lets out these properties to eligible households – the maximum level of rent that is covered by Universal Credit or housing benefit is set according to the number of bedrooms and the location.<sup>5</sup> The RP is responsible for their ongoing management (apart from Build to Rent affordable housing, where the landlord need not be a registered provider). RPs currently operating in East Devon can be seen in [chapter seven](#).
- 2.4 New affordable homes to *buy* are also generally constructed by private developers and either sold to RPs, or made available directly by the developers. These homes can then be purchased by eligible households at below market values. Another route to affordable home ownership is in the form of rent to buy, such as homes provided by ‘Rentplus’, who purchase

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<sup>3</sup> National Planning Policy Framework, 2019, Annex 2, contains the full definition of affordable housing: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/740441/National\\_Planning\\_Policy\\_Framework\\_web\\_accessible\\_version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740441/National_Planning_Policy_Framework_web_accessible_version.pdf) Nb. this could be amended in future revisions of national policy.

<sup>4</sup> Registered Providers are independent companies set up to provide affordable homes for people in need. They are funded and regulated by Homes England.

<sup>5</sup> Local Housing Allowance rates are used to set the maximum level of rent that can be charged by an RP. The rates in East Devon can be seen here: <http://lha-direct.voa.gov.uk/SearchResults.aspx?LocalAuthorityId=209&LHACategory=999&Month=2&Year=2019&SearchPageParameters=true>

new properties and lease them to RPs to manage and let to eligible households at an affordable rent (set at 80% of market rent).<sup>6</sup>

- 2.5 Other, less common, routes of affordable housing delivery include schemes funded by Government grant, or schemes led by RPs who may obtain planning permission and construct affordable homes to rent or buy themselves.
- 2.6 In some cases, completed affordable homes may be passed to East Devon District Council (EDDC) to add to its own housing stock or to the councils' local housing company East Devon Homes.
- 2.7 Community land trusts (CLTs) can also deliver affordable housing. These are non-profit organisations for the ownership and/or management of assets (e.g. housing) for the benefit of the local community, and can be set up by communities in towns as well as more rural areas. Once a CLT has been set up, they can own land and commission the construction of homes that are made affordable to rent or buy for local people (for example through leasing the homes to a RP). The CLT then remains a long term steward of homes and assets.<sup>7</sup> A notable CLT in East Devon is Beer Community Land Trust, which has already delivered affordable housing in the village, and has plans to deliver more.<sup>8</sup>



Affordable housing delivered by Beer Community Land Trust

- 2.8 Finally in terms of delivery, EDDC spend receipts from the 'Right to Buy' to purchase dwellings on the open market, which are then managed by the council as affordable housing

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<sup>6</sup> Further information can be seen on the Rentplus website: <http://rentplus-uk.com/>

<sup>7</sup> Further information on CLTs is available here: <http://www.communitylandtrusts.org.uk/>

<sup>8</sup> Beer Community Land Trust: <http://www.beerclt.org/>

to rent. The council has a target of acquiring 20 dwellings per year via this method.<sup>9</sup> Right to Buy receipts have to be spent within three years, otherwise they are returned to Government (with interest).<sup>10</sup>

### How much affordable housing is there in East Devon?

- 2.9 There are a total of 70,175 dwellings in East Devon, of which 6,746 are “affordable”. East Devon District Council own 4,195 of these affordable dwellings, and the other 2,551 are owned by RPs.<sup>11</sup>
- 2.10 Around 25 social rented homes are purchased by tenants from the council each year under the ‘Right to Buy’ – where council housing tenants have a right to buy their home at a discount, with the amount of discount dependent upon the length of time as a social tenant.<sup>12</sup>

### How “affordable” is housing in East Devon?

- 2.11 Currently, the average house price in East Devon is £275,000, which is 10.47 times average earnings.<sup>13</sup> This makes East Devon a less affordable place to buy a house than both the England (7.83) and south west region (8.79) average.<sup>14</sup> The following graphs show average house prices in East Devon since 1997, along with the affordability ratio that compares house prices to earnings. These indicate that house prices trebled between 1997 and 2007, but were then broadly stable until a rise in 2017-18. The affordability ratio doubled from 5 to 10 between 1997 and the mid-2000s, and house prices have remained around 10 times earnings ever since. It is worth noting that house prices vary across East Devon – for

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<sup>9</sup> East Devon District Council Housing Strategy 2017: <http://eastdevon.gov.uk/housing/housing-strategies-and-policies/housing-strategy/>

<sup>10</sup> The Government are considering greater flexibility on this – see consultation on ‘Use of receipts from Right to Buy sales’ August – October 2018: <https://www.gov.uk/government/consultations/use-of-receipts-from-right-to-buy-sales>

<sup>11</sup> Number of dwellings by tenure and district, England, 2019, Table 100: <https://www.gov.uk/government/statistical-data-sets/live-tables-on-dwelling-stock-including-vacants>

<sup>12</sup> In 2012, the Government significantly raised the maximum cash discount under the Right to Buy. This had the effect of increasing the number of social rented homes purchased under the Right to Buy in East Devon from around 3-4 dwellings per year between 2007 and 2012, to around 25 dwellings per year from 2012 to 2018.

Source: Annual Right to Buy Sales: Sales by Local Authority, Table 685: <https://www.gov.uk/government/statistical-data-sets/live-tables-on-social-housing-sales#other-schemes>

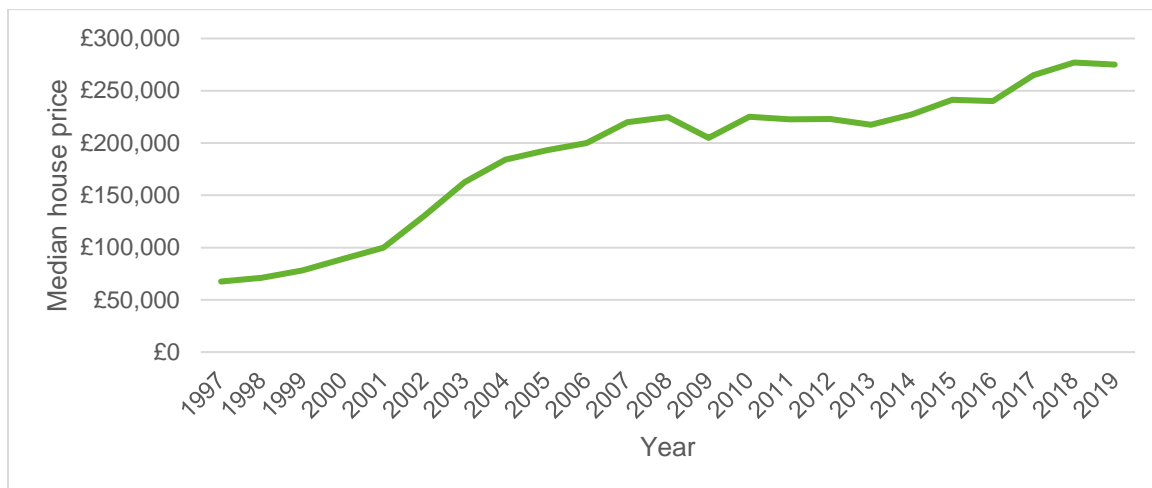
<sup>13</sup> Ratio of median house price to median gross annual workplace-based earnings by local authority district, 2019, Office for National Statistics:

<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/bulletins/housingaffordabilityinenglandandwales/2019>

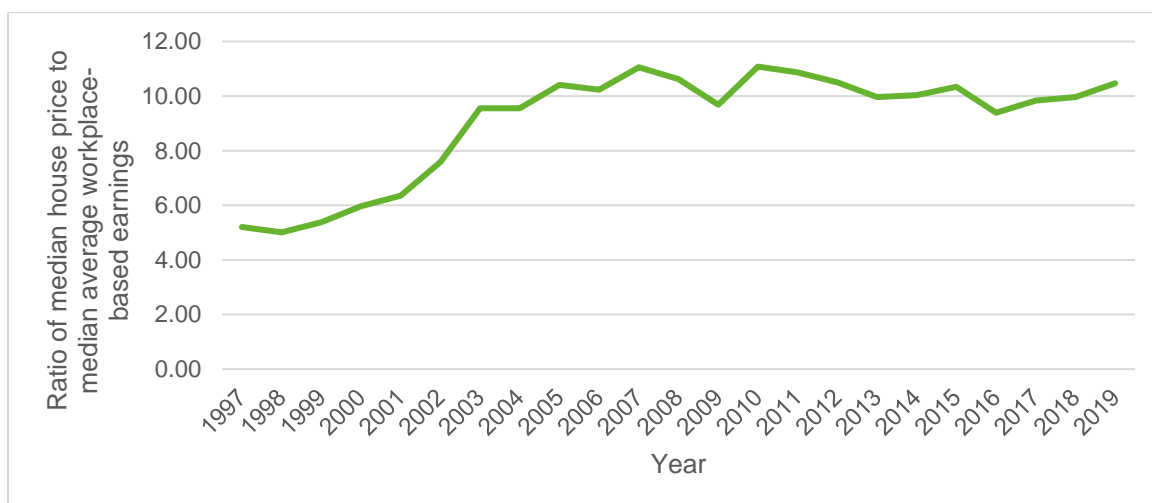
<sup>14</sup> As above.

example, in general, the coastal towns of Sidmouth and Budleigh Salterton are more expensive than elsewhere.

**Figure 2.1: Average house price in East Devon 1997 – 2019<sup>15</sup>**



**Figure 2.2: Affordability ratio in East Devon 1997 – 2019<sup>16</sup>**



<sup>15</sup> Median house price by local authority district, 2019, Office for National Statistics: <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/bulletins/housingaffordabilityinenglandandwales/2019>

<sup>16</sup> Ratio of median house price to median gross annual workplace-based earnings by local authority district, 2019, Office for National Statistics: <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/bulletins/housingaffordabilityinenglandandwales/2019>

## What is national Government policy on the delivery of affordable housing?

- 2.12 The National Planning Policy Framework (NPPF) supports the Government’s objective to significantly boost the supply of homes.<sup>17</sup> The type of affordable housing required should be set out in planning policies, and this need should be met on-site unless off-site provision or a financial contribution can be robustly justified and it would contribute to creating mixed and balanced communities.<sup>18</sup>
- 2.13 In general, affordable housing can only be sought from “major development” i.e. 10 dwellings or more, or a site area of 0.5 ha or more. However, in ‘designated rural areas’,<sup>19</sup> policies may set out a lower threshold of 5 units or fewer – most of East Devon falls within this area (explained in [figure 3.1](#)). Affordable housing contributions should be reduced where vacant buildings are being reused or redeveloped.<sup>20</sup>
- 2.14 As part of the overall affordable housing contribution on major sites, at least 10% of the homes should be available for affordable home ownership, subject to various exemptions (e.g. significantly prejudicing the ability to meet the needs of specific groups).<sup>21</sup>
- 2.15 Local authorities should support entry-level exception sites of affordable housing for first time buyers or renters, unless such need is already being met elsewhere in the area. Opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs should also be supported, allowing some market housing where necessary to facilitate this.<sup>22</sup> Exception sites are discussed further in [chapter 6](#).

## Which Local Plan policies discuss affordable housing?

- 2.16 The East Devon Local Plan 2013 to 2031<sup>23</sup> contains two policies that solely related to affordable housing:
- Strategy 34 – ‘District Wide Affordable Housing Provision Targets’ is the overarching policy on affordable housing, setting targets for different parts of East Devon, the tenure mix, and thresholds, amongst other issues.

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<sup>17</sup> National Planning Policy Framework, paragraph 59:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/740441/National\\_Planning\\_Policy\\_Framework\\_web\\_accessible\\_version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740441/National_Planning_Policy_Framework_web_accessible_version.pdf)

<sup>18</sup> National Planning Policy Framework, paragraph 62.

<sup>19</sup> Defined in the NPPF as “National Parks, Areas of Outstanding Natural Beauty and areas designated as ‘rural’ under section 157 of the Housing Act 1985.”

<sup>20</sup> National Planning Policy Framework, paragraph 63.

<sup>21</sup> National Planning Policy Framework, paragraph 64.

<sup>22</sup> National Planning Policy Framework, paragraph 77.

<sup>23</sup> East Devon Local Plan 2013 to 2031: <http://eastdevon.gov.uk/media/1772841/local-plan-final-adopted-plan-2016.pdf>

- Strategy 35 – ‘Exception Mixed Market and Affordable Housing At Villages, Small Towns and Outside Built-up Area Boundaries’ provides for exceptions housing schemes, subject to robust evidence.

2.17 In addition, Strategy 36 states that, on sites of 10 dwellings or more, all of the affordable housing should meet part M4(2) of the Building Regulations relating to accessible and adaptable dwellings.

### **What other local guidance is there on affordable housing in East Devon?**

2.18 East Devon’s Planning Obligations SPD (June 2017) reflects the affordable housing targets and tenures in the Local Plan, setting out national policy thresholds.<sup>24</sup> Affordable housing should be delivered in phase with the market housing, and proposals for non-policy compliant tenure splits must be justified and evidenced by the applicant. It makes clear that rural exception sites should reflect the need in a Rural Housing Needs Survey. The SPD also contains guidance on overage and viability.

2.19 East Devon District Council’s Housing Strategy<sup>25</sup> sets out its responsibilities to:

- Provide a housing options service for all who are homeless or threatened with homelessness
- Provide, maintain, and manage our own council housing stock
- Work with housing developers and housing associations to deliver more affordable housing
- Regulate and improve other social rented, private rented and owner occupier housing

2.20 Guidance on how to find affordable housing, what the council is doing to increase the number of properties, and how affordable housing need is assessed, can be seen on the councils’ website.<sup>26</sup>

2.21 Viability guidance notes are also available on the councils’ website, several of which are relevant in cases where an applicant is seeking to justify less affordable housing than required in the Local Plan.<sup>27</sup>

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<sup>24</sup> East Devon Planning Obligations Supplementary Planning Document, June 2017:

<http://eastdevon.gov.uk/media/2140634/final-version-for-adoption.pdf>

<sup>25</sup> EDDC Housing Strategy: <http://eastdevon.gov.uk/housing/housing-strategies-and-policies/housing-strategy/>

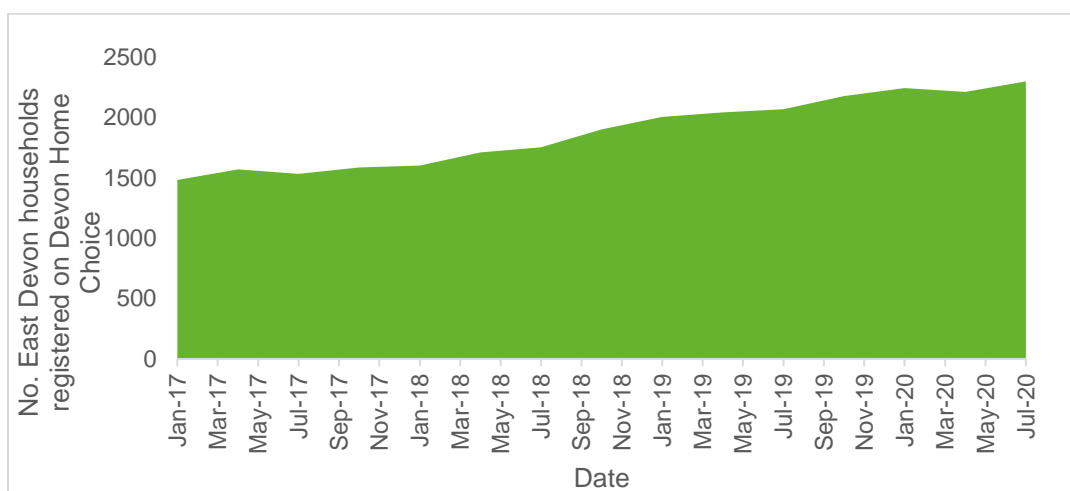
<sup>26</sup> This guidance can be seen at: <http://eastdevon.gov.uk/housing/affordable-housing-in-east-devon/>

<sup>27</sup> EDDC viability guidance notes can be seen at: <http://eastdevon.gov.uk/planning/planning-services/planning-development-management/viability-guidance-notes/>

**What are the key sources of evidence regarding affordable housing need in East Devon?**

- 2.22 The Strategic Housing Market Assessment (SHMA) 2014/15 identifies an annual affordable housing need of 272 dwellings per year in East Devon.<sup>28</sup> It also makes recommendations on the future delivery of affordable housing need on issues such as tenure mix and number of bedrooms required, which informed the Local Plan.
- 2.23 Devon Home Choice (a choice-based letting scheme) produce a quarterly monitoring report with information on the number of households registered for social and affordable rented affordable housing, which gives an indication of housing need.<sup>29</sup> Currently, there are around 2,300 households registered in East Devon, which has increased over the period 2017-20 (see figure 2.3 below). There were an average of 69 bids per property in East Devon during the first quarter of 2020/21.<sup>30</sup>

**Figure 2.3: Number of households in East Devon registered on Devon Home Choice, 2017-20**



- 2.24 EDDC fund Devon Communities Together (DCT) to undertake housing need surveys for three parish councils each year. DCT will also undertake surveys on behalf of landowners, developers, and planning agents, which can provide evidence to justify development in an area, particularly for affordable housing.

<sup>28</sup> Exeter Housing Market Area, Strategic Housing Market Assessment 2014/15: <http://eastdevon.gov.uk/media/996504/exeter-shma-final-report-16-03-15.pdf>

<sup>29</sup> Devon Home Choice Quarterly Monitoring Reports can be seen at: <https://www.devonhomechoice.com/useful-information-0>

<sup>30</sup> Devon Home Choice Quarterly Monitoring Report, July 2020, Table 7: [https://www.devonhomechoice.com/sites/default/files/DHC/monitoring\\_report\\_july\\_2020\\_gp.pdf](https://www.devonhomechoice.com/sites/default/files/DHC/monitoring_report_july_2020_gp.pdf)

### 3 Thresholds and Targets

#### When should affordable housing be sought in new development?

- 3.1 Local Plan Strategy 34 states that the thresholds as to when affordable housing is required will be the minimum set out in Government policy or guidance, subject to an up to date council viability assessment showing that these thresholds can be justified.
- 3.2 This means that affordable housing will be sought from ‘major’ residential development i.e. where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. In ‘designated rural areas’ affordable housing can be sought from schemes of between 6 and 9 dwellings in the form of an off-site contribution, paid upon completion of the development, to the delivery of affordable housing elsewhere. The vast majority of East Devon is within a designated rural area, with only the parishes of Exmouth, Sidmouth, Seaton and Honiton excluded. These affordable housing thresholds are set out in figure 3.1 below.

**Figure 3.1: Affordable housing thresholds<sup>31</sup>**

Location	Residential development of...		
	1 – 5 dwellings	6 – 9 dwellings	10 dwellings or more, or site area of 0.5 ha or more
The parishes of Exmouth, Sidmouth, Seaton and Honiton	No affordable housing	No affordable housing	On-site affordable housing
Rest of East Devon (including areas within the AONB in the parishes above)	No affordable housing	No affordable housing on-site; financial contribution towards off-site affordable housing	On-site affordable housing

- 3.3 The maps in [Appendix One](#) show how these thresholds apply across East Devon.<sup>32</sup>
- 3.4 Housing proposals with a low density that is below these affordable housing thresholds will be carefully scrutinised in light of national policy to promote an effective use of land.

<sup>31</sup> These thresholds do not apply to exceptions sites, which are explained further in chapter 6.

<sup>32</sup> The boundaries on the maps relate to parishes and Areas of Outstanding Natural Beauty.

National policy makes clear that “local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework”.<sup>33</sup>

- 3.5 Similarly, proposals that artificially sub-divide sites within the same ownership or allocation will also be closely examined, so that the affordable housing threshold is not circumnavigated. In these circumstances, the council will consider whether the proposal should be treated as a single site for the purposes of the affordable housing threshold.

### How much affordable housing should be provided in new development?

- 3.6 When proposals for residential development meet the thresholds for providing affordable housing (set out above), the amount of affordable housing that should be provided depends upon the location. Figure 3.2 sets out the targets in Local Plan Strategy 34.

**Figure 3.2: Affordable housing targets**

Location	Target
Axminster	25%
Exmouth	25%
Honiton	25%
Ottery St Mary	25%
Seaton	25%
Major strategic ‘West End’ development sites: Cranbrook <sup>34</sup> , adjacent to Pinhoe, north of Blackhorse	25%
Rest of East Devon (apart from exception sites), including the towns of Sidmouth and Budleigh Salterton	50%
Exception sites at villages, small towns and outside built-up area boundaries	At least 66%

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<sup>33</sup> National Planning Policy Framework, paragraph 123. c):

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/740441/National\\_Planning\\_Policy\\_Framework\\_web\\_accessible\\_version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740441/National_Planning_Policy_Framework_web_accessible_version.pdf)

<sup>34</sup> Nb. Cranbrook Plan Submission Draft proposes 15% affordable housing in the expansion areas, although this is subject to Examination before it can be adopted.

- 3.7 The towns listed in the table above are geographically defined by their Built-up Area Boundary (BUAB). These, and the major strategic 'West End' development sites, are shown on the Local Plan policies map.<sup>35</sup> For clarity, within the BUABs the 25% target applies, whilst outside of the BUABs the target is 50% affordable housing (apart from at exception sites).
- 3.8 The application of these targets will not always result in a 'round' number of affordable dwellings being required. For example, a scheme of 10 dwellings in Honiton will require 2.5 affordable dwellings. Clearly, it is not possible to provide half a house. In these circumstances, the remaining proportion should be paid as a commuted sum towards off-site affordable housing – these contributions are [explained below](#).



A terrace of four affordable homes, part of a larger housing development in Ottery St Mary

### **Under what circumstances might a lower amount of affordable housing be acceptable?**

- 3.9 The council recognises that viability considerations may justify a departure from the affordable housing target and/or tenure mix expressed in Local Plan Strategy 34. Development proposals which seek to depart from the target and/or tenure mix must be supported by evidence that explains why the affordable housing target is "not viable or otherwise appropriate" (Strategy 34). If this is the case, the applicant should notify EDDC as early as possible through pre-application discussions. In the first instance, the council will

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<sup>35</sup> East Devon Local Plan 2013 – 2031 policies maps: <http://eastdevon.gov.uk/planning/planning-policy/local-plan-2013-2031/>

consider adjustments to the tenure mix where this will maximise the overall proportion of affordable housing.

- 3.10 Evidence on viability should be undertaken by a suitably qualified professional(s), and should explain the viability issue, what has been done to address it, and what level of affordable housing is now being proposed. The viability assessment should follow the approach set out in national guidance<sup>36</sup> and the council's published guidance on viability.<sup>37</sup> The viability assessment will be reviewed by a suitably qualified officer, or an external consultant commissioned by the council – the cost of this review will be covered by the applicant – and will be made available on our website.
- 3.11 The value paid for the land is often the biggest factor affecting the viability of a development. Viability appraisals will be expected to be based not on the price paid for the site, but the existing use value of the land plus a premium for the landowner. In determining the premium for the landowner regard will be had to up to date evidence of land values, case law, and Government policy and guidance (including the approach taken by Government agencies).
- 3.12 The applicant may also suggest reasons where it might not be "*otherwise appropriate*" to meet the Local Plan affordable housing targets. This would be for the applicant to justify, with regards to the specific circumstances of the proposal and site in question. An example could be that the proposal is a residential institution (use class C2) rather than a dwelling (use class C3) as there is generally not a requirement for affordable housing from C2 uses.

### **What is an overage clause, and when does it apply?**

- 3.13 The Local Plan (Strategy 34) includes an overage clause for situations where levels of affordable housing fall below policy targets. An overage clause is a clause in the section 106 agreement that relates to future profits from a development. Where the viability evidence justifies a lower affordable housing requirement than the policy target, which is then accepted by the council, an overage clause will be inserted into the section 106 agreement – the standard overage clause is contained in [Appendix Three](#), Part B. The purpose of this clause is to ensure that the council claws back additional profit above that initially anticipated in the viability appraisal. In other words, where a developer makes more profit than expected, a proportion of this 'additional' profit is paid to the council to help fund the provision of affordable housing that should have otherwise been provided by the development.

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<sup>36</sup> Planning Practice Guidance: <https://www.gov.uk/guidance/viability>

<sup>37</sup> Available at: <http://eastdevon.gov.uk/planning/planning-services/planning-development-management/viability-guidance-notes/>

- 3.14 The level of 'additional' profit is established through a re-assessment of viability after completion of the scheme using the actual costs and values in the development, rather than the assumptions used at the planning application stage. It is EDDC practice to recover the amount of affordable housing that would have been required in a scheme by obtaining 50%<sup>38</sup> of any additional profit, unless a different percentage can be robustly justified, capped to the amount of affordable housing that would have been required to meet the policy target. Further guidance on overage is available on the council's website.<sup>39</sup>

### **When might it be appropriate to provide affordable housing off-site?**

- 3.15 The clear preference is for affordable housing to be provided on the same site (as the market housing). However, the Local Plan allows affordable housing to be provided off-site in some cases, as explained below:
- *Exempted through Government policy or guidance* – Government policy<sup>40</sup> enables off-site financial contributions to be sought for sites of 6-9 dwellings in designated rural areas, therefore exempting such sites from providing affordable housing on-site.
  - *Not mathematically possible* – where the affordable housing requirement results in a proportion of a dwelling (e.g. 10 dwellings in most towns would require 2.5 affordable homes) then it will clearly not be possible to provide this on-site, so the remaining proportion should be an off-site contribution.
  - *No registered provider being willing to manage the new affordable units* – this may occur where a proposal includes a block of flats with mixed market and affordable dwellings that are difficult to manage separately (e.g. if they have the same block entrance), where only a few affordable homes are being proposed on-site and/or the remote location of the site. In these instances, EDDC will require evidence that a registered provider cannot be secured, along with an explanation.
  - *Other planning reasons* – these reasons would be for the applicant to justify, but could include situations where off-site contributions would better achieve a mixed

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<sup>38</sup> This is set to incentivise developers to achieve higher profits, and therefore greater sums available under the overage clause for the council to spend on delivering affordable housing.

<sup>39</sup> <http://eastdevon.gov.uk/planning/planning-services/planning-development-management/viability-guidance-notes/viability-guidance-note-3-overage/> The East Devon Planning Obligations SPD, paragraph 6.22, also contains guidance on overage: <http://eastdevon.gov.uk/media/2140634/final-version-for-adoption.pdf>

<sup>40</sup> National Planning Policy Framework, paragraph 63:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/740441/National\\_Planning\\_Policy\\_Framework\\_web\\_accessible\\_version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740441/National_Planning_Policy_Framework_web_accessible_version.pdf)

and balanced community such as where there is a dominance of affordable housing in the immediate locality, or where an appropriate form of affordable housing cannot be provided within a scheme.

### **How do we calculate the contribution towards off-site affordable housing?**

- 3.16 If the council agrees that it is appropriate for affordable housing to be provided off-site, then a financial contribution, known as a “commuted sum”, will be accepted instead. This payment is due after completion of units within the development, and will be secured through a legal agreement.
- 3.17 A commuted sum calculator works out the off-site financial payment.<sup>41</sup> This approach has been adopted by the council,<sup>42</sup> and applicants should use this calculator to demonstrate compliance with Local Plan Strategy 34.
- 3.18 The commuted sum is the difference in residual value<sup>43</sup> of a scheme made up entirely of market dwellings, compared to a scheme with a policy compliant level of affordable housing (or lower level where demonstrated by a viability assessment). The contribution varies according to the market area, and whether the affordable housing target is 25% or 50%. The commuted sum is worked out by multiplying the total number of dwellings (market and affordable) in the scheme, by the contribution per dwelling in the calculator.
- 3.19 The commuted sum calculator ensures that a developer will be no better or worse off financially, whether affordable housing is provided on-site or as a commuted sum. The calculator is periodically updated to reflect market changes – for the latest figures see the commuted sum calculator on the council’s website.<sup>44</sup>

### **Where and when does the money from off-site contributions get spent?**

- 3.20 The council will spend the money secured from off-site contributions – the “commuted sum” – on the delivery of affordable housing in East Devon. The legal agreement will impose a

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<sup>41</sup> Further information on the commuted sum calculator can be seen on the council’s website: <http://eastdevon.gov.uk/planning/planning-services/planning-development-management/unilateral-undertakings-section-106-agreements-habitat-mitigation-and-affordable-housing-contributions/commuted-sum-calculator-stage-1a/>

<sup>42</sup> Agenda for Development Management Committee, 3 June 2015, minutes of the Committee held on 21 April 2015: <http://eastdevon.gov.uk/media/1140473/030615-combined-dmc-agenda.pdf>

<sup>43</sup> Residual value is the difference between the total scheme revenue (from residential development) and the cost of delivering the scheme.

<sup>44</sup> The commuted sum calculator can be seen at: <http://eastdevon.gov.uk/planning/planning-services/planning-development-management/unilateral-undertakings-section-106-agreements-habitat-mitigation-and-affordable-housing-contributions/commuted-sum-calculator-stages-2-and-3/>

time limit of a minimum of 10 years on the council, within which time the contribution must be spent. This time limit will begin from the date of the council receiving the commuted sum.

- 3.21 The council aspires to spend the commuted sum on the provision of affordable housing within the same parish from which the sum was received, in order to create mixed and balanced communities. However, if this is not possible (e.g. if a suitable site cannot be found within a reasonable period of time), then the contribution will be spent elsewhere in East Devon. Generally, commuted sums are combined with right to buy receipts to purchase property to add to the council's social rented housing stock.

### **What is “vacant building credit” and how can it affect the affordable housing requirement?**

- 3.22 To support the re-use of brownfield land, national policy permits the reduction of affordable housing contributions where vacant buildings are being reused or redeveloped, known as “vacant building credit” (VBC).<sup>45</sup> In such cases, the affordable housing requirement should be reduced by a proportionate amount, equivalent to the existing gross floor space of existing buildings. If the total floor space of existing buildings to be reused or redeveloped is equal to or exceeds the total floor space created, then no affordable housing would be required.
- 3.23 VBC applies where the building has not been abandoned. The floor space is measured as the gross internal area (GIA) – best practice for measuring GIA is set out by the Royal Institute of Chartered Surveyors.<sup>46</sup>
- 3.24 An applicant should make clear whether they are seeking to apply VBC through their planning application. The following formula shows how VBC should be calculated:
- $RAH = AH - ((AH \times EFS) / PFS)$**
- RAH = Revised number of affordable dwellings to be provided
  - AH = expected number of affordable dwellings prior to application of VCB
  - EFS = Existing floor space to be demolished in square metres
  - PFS = Proposed floor space to be created in square metres
- 3.25 Effectively, vacant building credit results in an affordable housing requirement that is based on only the net increase in floor space. The revised requirement may result in a ‘proportion’

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<sup>45</sup> National Planning Policy Framework, paragraph 63 and footnote 28:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/740441/National\\_Planning\\_Policy\\_Framework\\_web\\_accessible\\_version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740441/National_Planning_Policy_Framework_web_accessible_version.pdf)

<sup>46</sup> Code of Measuring Practice, Royal Institute of Chartered Surveyors: <https://www.rics.org/uk/upholding-professional-standards/sector-standards/real-estate/code-of-measuring-practice/>

of an affordable dwelling being required – in these cases, the commuted sum calculator should be used to identify the financial contribution required from that ‘proportion’.

3.26 Bearing in mind its intention to incentivise brownfield development, in applying VBC, national guidance allows authorities to consider whether:

- the building has been made vacant for the sole purposes of re-development
- the building is covered by an extant or recently expired permission for the same or substantially the same development<sup>47</sup>

3.27 If a proposal benefits from vacant building credit, and then provides a policy compliant level of affordable housing for the remainder of the development, an overage clause will not be applied as the proposal is, in effect, consistent with policy targets.



Affordable housing overlooking the country park in Cranbrook

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<sup>47</sup> Planning Practice Guidance, Reference ID: 23b-028-20190315: <https://www.gov.uk/guidance/planning-obligations>

## 4 Tenure and Mix

### What mix of affordable housing tenures should be provided?

- 4.1 Over the period of the Local Plan (2013 to 2031), the following affordable housing tenures are sought:
- 70% social or affordable rent
  - 30% intermediate or other affordable housing<sup>48</sup>
- 4.2 These target figures reflect long term affordable housing need in East Devon, as identified in the Strategic Housing Market Assessment,<sup>49</sup> but this tenure mix could vary in periods of depressed markets to reflect viability considerations and aid delivery. What constitutes a “depressed market” will need to be justified by the applicant, but could include a recession or similar significant economic changes, or particular areas where house prices or sales are falling. In these circumstances, the council will consider whether additional costs associated with brownfield sites, mitigation of contamination and the provision of significant community benefits should change the housing mix. The council will require viability evidence from the applicant to justify an alternative tenure mix, along with evidence that there is a need for the proposed affordable housing product.
- 4.3 In terms of the 70% ‘social or affordable rent’, Social Rent is set at a level that takes into account local earnings and property values, typically around 50-60% of market rents; whilst Affordable Rent levels are set at a maximum of 80% of market rent.<sup>50</sup>
- 4.4 Applicants will be encouraged to provide evidence to justify the mix being proposed within the 30% ‘intermediate or other housing’, given this can comprise of:
- other affordable routes to home ownership (which include shared ownership, relevant equity loans, other low cost homes for sale, and rent to buy e.g. ‘Rentplus’)
  - discounted market sales housing

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<sup>48</sup> This tenure split does not apply to rural exception sites (see [chapter 6](#)), where schemes will be informed by more localised housing needs evidence.

<sup>49</sup> Exeter Housing Market Area, Strategic Housing Market Assessment 2014/15, section 13.5:  
<http://eastdevon.gov.uk/media/996504/exeter-shma-final-report-16-03-15.pdf>

<sup>50</sup> National figure, A new deal for social housing, MHCLG, August 2018, paragraph 2:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/733605/A\\_new\\_deal\\_for\\_social\\_housing\\_web\\_accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733605/A_new_deal_for_social_housing_web_accessible.pdf)

- starter homes

- 4.5 The inclusion of some of these products within the definition of affordable housing (namely low cost market housing, starter homes, rent to buy) post-dates the Strategic Housing Market Assessment, so there is currently a lack of evidence regarding the need for these types of affordable housing in East Devon. Therefore, the council will take account of up-to-date evidence such as local housing needs assessments when considering development proposals.
- 4.6 Discounted market sales housing and other low cost homes for sale should be priced at least 20% below local market values. Starter homes should cost no more than £250,000, with Government guidance stating that they are not expected to be priced significantly more than the average price paid by a first time buyer<sup>51</sup> – as at May 2020, the average price paid by a first time buyer in East Devon is £228,659.<sup>52</sup> As part of the overall affordable housing contribution on major development, national policy states that at least 10% of homes should be available for affordable home ownership, subject to certain exemptions.<sup>53</sup>

#### **What size and type of affordable housing should be considered in East Devon?**

- 4.7 Evidence indicates that social and affordable rented housing need is primarily for properties that are 1-2 bedrooms in size, with 50% of need for 1 bedroom properties, and 40% for 2 bedrooms, and the remaining 10% should be 3-4 bedrooms or more.<sup>54</sup> These long term forecasts of need are reflected in the latest quarterly Devon Home Choice monitoring report, which identifies just under 80% of need being for 1-2 bedroom properties for social and affordable rented housing – Exmouth has a particularly high need for this type of property.

#### **Figure 4.1: Bedroom need of households registered on Devon Home Choice (Bands A – D) in East Devon, July 2020<sup>55</sup>**

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<sup>51</sup> Planning Practice Guidance, Reference ID: 55-002-20150318: <https://www.gov.uk/guidance/starter-homes>

<sup>52</sup> UK House Price Index, Land Registry.

<sup>53</sup> National Planning Policy Framework, paragraph 64:

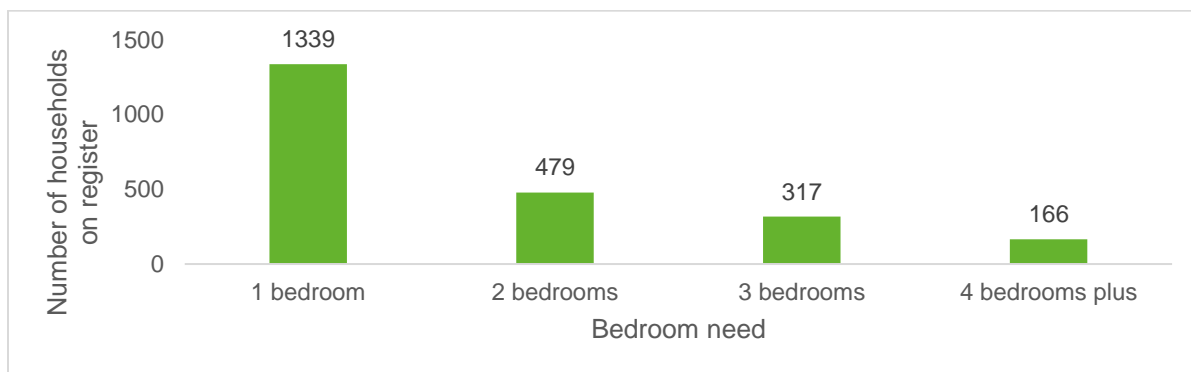
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/740441/National\\_Planning\\_Policy\\_Framework\\_web\\_accessible\\_version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740441/National_Planning_Policy_Framework_web_accessible_version.pdf)

<sup>54</sup> Exeter Housing Market Area, Strategic Housing Market Assessment 2014/15, Table 13-1:

<http://eastdevon.gov.uk/media/996504/exeter-shma-final-report-16-03-15.pdf>

<sup>55</sup> Devon Home Choice Quarterly Monitoring Report, July 2020, Table 2:

[https://www.devonhomechoice.com/sites/default/files/DHC/monitoring\\_report\\_july\\_2020\\_gp.pdf](https://www.devonhomechoice.com/sites/default/files/DHC/monitoring_report_july_2020_gp.pdf)



- 4.8 The property sizes for intermediate or other affordable housing need is also focussed on mainly 1-2 bedroom units, to meet the needs of concealed households forming and unable to access the market sector as a first time buyer. Evidence indicates that the overall property sizes required for intermediate or other affordable housing is the same as for social and rented i.e. 50% one bedroom, 40% two bedroom and 10% for three bedrooms.<sup>56</sup>
- 4.9 On individual sites, the size and type of affordable housing will be a matter for negotiation in light of this evidence, any more up-to-date evidence, and other relevant factors, including deliverability and social/community balance. Local Plan policy H2 promotes a mix of dwelling sizes or predominantly smaller dwellings. Specific needs evidence may be available in rural areas where a housing needs study has been produced.

#### Is it possible to purchase extra shares of a shared ownership affordable dwelling?

- 4.10 Shared ownership offers affordable homes for sale that are partly owned and partly rented by the occupier. Shares of between 25% and 75% of the market value can be purchased, with a subsidised rent to be paid on the remaining share. Additional shares can be bought by occupiers of shared ownership dwellings, in a process known as “staircasing”.<sup>57</sup>
- 4.11 It is important to note that rural parts of East Devon are within a ‘Designated Protected Area’ (DPA) where there are restrictions on the proportion of shares that can be purchased.<sup>58</sup> In these cases, either staircasing is restricted to no more than an 80% share of the property; or

<sup>56</sup> Exeter Housing Market Area, Strategic Housing Market Assessment 2014/15, section 13.7:

<http://eastdevon.gov.uk/media/996504/exeter-shma-final-report-16-03-15.pdf>

<sup>57</sup> Social housing is exempt from paying Community Infrastructure Levy (CIL), as long as it is occupied as such for at least 7 years. If staircasing to 100% is achieved within this time, and then sold on the open market, the owner may be liable to pay CIL.

<sup>58</sup> The Designated Protected Areas are set out in a Government Order:

[http://www.legislation.gov.uk/ukxi/2009/2098/pdfs/ukxi\\_20092098\\_en.pdf](http://www.legislation.gov.uk/ukxi/2009/2098/pdfs/ukxi_20092098_en.pdf) Areas outside the towns of Axminster, Budleigh Salterton, Exmouth, Honiton, Ottery St Mary, Sidmouth and a small part of Broadclyst adjacent to Exeter are within the DPA, shown on the maps at: <https://digitalservices.homesengland.org.uk/designated-protected-areas/>

in instances where the occupier can purchase more than an 80% (i.e. up to full ownership) share, there is an obligation on the landlord to repurchase the property when the occupier wishes to sell. These areas are set by the Government with the intention of retaining shared ownership houses in locations where they would be difficult to replace.<sup>59</sup>

- 4.12 For grant-funded shared ownership dwellings within a DPA, EDDC can apply to the Government (Homes England) to remove these restrictions on staircasing (known as a “waiver”), under certain conditions. The Government recognise that retaining shared ownership dwellings is not an issue in some parts of DPAs, such as planned urban extensions, new towns, and suburban sites.<sup>60</sup> For example, the shared ownership dwellings in phase one of Cranbrook have been “waivered” by the Government.



Shared ownership affordable homes in Cranbrook

- 4.13 For non-grant funded shared ownership dwellings in DPAs, Registered Providers are able to apply to EDDC to remove the restrictions on staircasing.<sup>61</sup> The council will lift the restrictions where evidence shows there is either a surplus of shared ownership units, that

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<sup>59</sup> Designated Protected Areas explanatory note, HCA, December 2016:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/582207/DPA\\_explanatory\\_note.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/582207/DPA_explanatory_note.pdf)

<sup>60</sup> Designated Protected Area waiver form, HCA:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/530061/2016.06.17\\_-\\_DPA\\_waiver\\_form.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/530061/2016.06.17_-_DPA_waiver_form.pdf)

<sup>61</sup> This approach is set out in the EDDC Cabinet report, June 2014 (item 19):

<http://eastdevon.gov.uk/media/131741/cabinet-040614-public-version.pdf> and minutes (item 17):

<http://eastdevon.gov.uk/media/1465787/cabinet-mins-040614.pdf>

they can be easily replaced, or that the restriction is making the shared ownership unit(s) unaffordable to potential occupants due to high interest rates or high deposits required by lenders. Where a waiver is given, the s.106 agreement will be amended so that staircasing receipts are recycled for the provision of affordable housing East Devon.

### **Can self-build and custom-build housing be considered affordable housing?**

- 4.14 Self-build and custom-build housing is built by an individual, a group of individuals or persons working with or for them, to be occupied by that individual.<sup>62</sup> The Local Plan (policy H2) encourages developers to make at least 10% of plots available for self/custom build.
- 4.15 Although self/custom-build can often be a cheaper way of buying a house, it will typically not be considered as “affordable housing,” unless it meets the [definition in national policy](#) (see paragraph 2.1). It may be possible for self-builders to work with a registered provider or Community Land Trust to deliver affordable self/custom build housing.

### **How can affordable sheltered housing be delivered?**

- 4.16 Sheltered housing usually consists of purpose-built flats or bungalows with limited communal facilities such as a lounge, laundry room and guest room. It does not generally provide care services, but provides some support to enable residents to live independently.<sup>63</sup> Most sheltered housing for rent is provided by the council and registered providers, whilst private developers offer the majority of sheltered housing for sale.
- 4.17 If a proposal falls with C3 of the Use Classes Order, proposals for new sheltered housing should provide affordable housing consistent with policies in the Local Plan. This means that affordable sheltered housing should be provided on-site above the set thresholds, meeting the relevant target (25% or 50%) depending upon the location. Off-site contributions may also be acceptable.
- 4.18 The older age profile in East Devon makes it important to deliver affordable sheltered housing, particularly given the ageing population is forecast to grow. The movement of older people who are living in (under-occupied) affordable housing into sheltered housing will also release affordable housing stock for families in need.<sup>64 65</sup>

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<sup>62</sup> Further information can be seen on council’s website: <http://eastdevon.gov.uk/planning/planning-policy/housing-issues/self-build-and-custom-build/>

<sup>63</sup> Planning Practice Guidance, Reference ID: 63-010-20190626.

<sup>64</sup> Exeter Housing Market Area, Strategic Housing Market Assessment 2014/15, para 12.6.8: <http://eastdevon.gov.uk/media/996504/exeter-shma-final-report-16-03-15.pdf>

<sup>65</sup> The Devon Home Choice quarterly monitoring report includes information on the number of bids for sheltered homes, indicating a continued need for this type of affordable accommodation: [https://www.devonhomechoice.com/useful-information-0#Monitoring\\_reports](https://www.devonhomechoice.com/useful-information-0#Monitoring_reports)

## 5 Design and Layout

### How can affordable housing be well-designed?

- 5.1 The NPPF makes clear the importance of achieving well-designed places, stating that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.<sup>66</sup> Local Plan policy D1 requires high quality, locally distinctive design that respects the key characteristics and special qualities of the area, with buildings that are well-related to their context. This can include crime prevention through environmental design.
- 5.2 The design of affordable housing should therefore be consistent with these national and local planning policies. New homes and streets should be “tenure-blind,” meaning that market and affordable dwellings cannot be distinguished from each other in terms of design, build quality, appearance, materials and site location.



“Tenure blind” market and affordable dwellings in Ottery St Mary

- 5.3 Where it is intended that a registered provider (RP) will take on responsibility for the affordable housing, these bodies should be engaged at an early stage to ensure that their

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<sup>66</sup> National Planning Policy Framework, paragraph 124, 129:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/740441/National\\_Planning\\_Policy\\_Framework\\_web\\_accessible\\_version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740441/National_Planning_Policy_Framework_web_accessible_version.pdf)

design and layout requirements can be met. For example, management requirements within flatted development means that social or affordable rented dwellings should have separate floors, entrances or blocks to open market units.

### How should affordable housing be ‘pepper-potted’ or dispersed throughout a development?

- 5.4 Local Plan Strategy 34 states that “on any development site affordable housing should be ‘pepper potted’ or dispersed throughout the scheme”. The distribution of affordable housing throughout a development promotes social cohesion, creating a mixed and balanced community.
- 5.5 Pepper potting or dispersal of affordable housing will likely mean “clusters” of affordable homes – these are defined as groups of dwellings that share: adjacent side boundaries, share the same road frontage, and/or are located directly opposite each other.
- 5.6 Affordable housing should generally be provided in clusters of no more than 10 dwellings, unless the applicant can justify that greater than 10 dwellings is necessary, and can still be delivered in a manner that promotes social cohesion and creates a mixed and balanced community. On larger sites, the affordable housing within each cluster should include a mix of tenures.

**Figure 5.1: Illustrative example of the dispersal of affordable housing throughout a development – good on the left, poor on the right**



- 5.7 It is acknowledged that exception sites (which could be entirely affordable housing) can be up to or around 15 dwellings, so may involve a cluster greater than 10 dwellings. Nevertheless, affordable housing on exception sites should still be dispersed if possible.

**Are there any design standards that affordable housing should meet?**

- 5.8 The Local Plan (Strategy 36) makes clear that on developments of 10 dwellings or more, all of the affordable housing should meet part M4(2) of the Building Regulations relating to accessible and adaptable dwellings, unless viability evidence indicates it is not possible. The Building Regulations contain detail on how to achieve this standard.<sup>67</sup> There are several, wide ranging benefits to making homes accessible and adaptable, such as:
- Meeting the needs of an ageing population
  - Meeting the housing need of people with disabilities
  - Reduction in care costs by allowing people to remain at home
  - Limited/nil costs necessary to adapt an existing home
  - Providing flexible living arrangements to suit changing needs
  - Providing an option for elderly residents to move out of family homes, freeing up such homes for younger people
- 5.9 National policy allows the use of a minimum internal space standard for new dwellings, where a need can be justified. There are no space standards in the East Devon Local Plan 2013-2031,<sup>68</sup> but dwelling size is seen as an important issue for design quality, and to avoid overcrowding in affordable homes.<sup>69</sup>

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<sup>67</sup> The Building Regulations 2010, Approved Document M, Volume 1: Dwellings:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/540330/BR\\_PDF\\_AD\\_M1\\_2015\\_wit\\_h\\_2016\\_amendments\\_V3.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/540330/BR_PDF_AD_M1_2015_wit_h_2016_amendments_V3.pdf)

<sup>68</sup> The Cranbrook Plan Submission Draft includes a policy requiring new dwellings to meet the Nationally Described Space Standards – this is subject to Examination before it can be adopted.

<sup>69</sup> For example, the Government consider house size when assessing bids for affordable housing funding, by benchmarking against the Nationally Described Space Standards, as detailed in Shared Ownership and Affordable Home Ownership supplementary information: <https://www.gov.uk/government/publications/shared-ownership-and-affordable-home-ownership-supplementary-information>



Meadow Haze, Woodbury, a scheme of 20 dwellings (12 market, 8 affordable) which was runner up at the Devon Affordable Housing Awards 2018

**At what stage in the development should on-site affordable housing be delivered?**

5.10 In order to foster social cohesion and a mixed and balanced community from the outset, on-site affordable housing should be delivered alongside market dwellings. The design and layout of the site should ensure that affordable housing can be delivered alongside the market dwellings; and this phasing will be set out in the section 106 agreement. As an example, in negotiations on s106 agreements, the council will seek the following phasing for schemes of 20 dwellings or more:

- No more than 50% of open market dwellings should be occupied prior to completion of 50% of the affordable homes
- No more than 75% of open market dwellings should be occupied prior to completion of 100% of the affordable homes

5.11 Examples of where this phasing may not be feasible or viable could include situations where there is a need to focus revenue from the development on infrastructure delivery to initially 'open up' a site; or if there are issues associated with the availability of funding from Registered Providers or similar sources.

## 6 Rural Exception Sites

### What are rural exception sites?

- 6.1 The Local Plan (Strategy 35) allows exception sites for mixed affordable and open market housing schemes at villages, small towns and outside Built-up Area Boundaries, where residential development would not normally be acceptable. These are commonly known as “rural exception sites.” Up to or around 15 dwellings will be allowed on such sites, where justified by local housing needs. At least 66% of the housing should be affordable – for example, a scheme of 10 dwellings should provide at least seven affordable homes, as six would be below the policy requirement.

### What evidence on housing needs is required to justify a rural exception site?

- 6.2 Local Plan Strategy 35 makes clear that “a proven local need demonstrated through an up to date robust housing needs survey” will be required to justify a rural exception site, along with evidence that affordable housing need in any given locality would not otherwise be met.
- 6.3 A “robust housing needs survey” should have either been produced by rural housing enablers at Devon Communities Together,<sup>70</sup> or followed their methodology and, if possible, undertaken in partnership with the parish council and/or neighbourhood plan steering group.<sup>71</sup> The survey will gather factual information on the scale and nature of housing need at a local level. This will give an indication on the number, type and tenure of affordable homes that are needed by those that have a local connection to the parish or parish grouping.<sup>72</sup>
- 6.4 Housing need surveys represent a snapshot in time, and will become out of date as housing circumstances change. Therefore, an “up to date” housing needs survey is one that has been completed within the last five years; unless there has been significant development of affordable housing subject to a local connection within this period, in which case an update of the survey is likely to be necessary.
- 6.5 Evidence on the tenure of affordable housing in the needs survey at the small town or village may be different to the 70/30 social or affordable rent/intermediate or other affordable

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<sup>70</sup> Devon Communities Together, Rural Housing services: <https://www.devoncommunities.org.uk/services/rural-housing>

<sup>71</sup> See further guidance on ‘Producing robust and influential rural housing needs surveys’:

<http://www.acre.org.uk/cms/resources/rhe-surveys-principles-and-guidance.pdf>

<sup>72</sup> East Devon Local Plan 2013 – 2031, paragraph 16.29, sets out the grouping of parishes for assessing housing need: <http://eastdevon.gov.uk/media/1772841/local-plan-final-adopted-plan-2016.pdf>

housing split in the Local Plan (Strategy 34). In these cases, the findings from the housing needs survey will supersede the tenure requirements in Strategy 34.



Six affordable homes on a rural exception site in Dalwood, delivered by Corry Valley Community Land Trust

### **What is the process for producing a Rural Housing Needs Survey?**

- 6.6 EDDC work in partnership with rural housing enablers at Devon Communities Together (DCT) on rural housing needs. The council fund DCT to carry out three housing needs surveys each year, often as the result of an approach by a town/parish council, Community Land Trust, or through the planning process. Landowners, developers and agents can also commission DCT to undertake such surveys.
- 6.7 When instructed, rural housing enablers at DCT will initiate the survey by attending a town/parish council meeting to explain the survey, which the council should then agree at a subsequent meeting – if the town/parish council is not supportive, DCT will not progress the survey.
- 6.8 The report focusses on affordable housing need based on their finances and local connection, but also covers market need for residents of the parish. DCT will also produce an options appraisal that will set out the next steps for the town/parish council to deliver the identified need; such as through a Community Land Trust, partnering with a Registered Provider, or working with a developer. Altogether, a rural housing needs survey will likely take 3 to 4 months to produce.

### **Where can rural exception sites be built?**

- 6.9 In accordance with Local Plan Strategy 35, rural exception sites will only be considered at small towns or villages that have a population of below 3,000 people. There are eight settlements in East Devon with more than 3,000 people – Exmouth, Sidmouth, Honiton, Seaton, Axminster, Budleigh Salterton, Ottery St Mary and Cranbrook – so the potential for

rural exception sites in these settlements can immediately be ruled out.<sup>73</sup> There is an expectation that, in proposing a rural exception site, applicants will have worked closely with the parish council prior to submission of a planning application.

- 6.10 At small towns and villages with a Built-up Area Boundary (BUAB), rural exception sites “*must be abutting or physically closely related to that boundary*”.<sup>74</sup> For villages without a BUAB, the site should be “*physically very well-related to the built form of the village*”.
- 6.11 Whether a site is *physically closely* or *very well-related* to the boundary/built form will be considered on a case-by-case basis, depending upon the characteristics of the village in question. In general terms, the built form will be a group of buildings and associated land (e.g. residential gardens) that together take the physical form of a settlement – outlying land and buildings are not likely to be part of the built form. To be physical closely or very well-related, a site should either be adjacent to the built form or otherwise shown by the applicant to be closely or very well related to the village.
- 6.12 The rural exception site should also be close to a range of community services and facilities, meaning at least four of the following:
- School
  - Pub
  - Village hall
  - Shop/post office
  - Doctors surgery
  - Place of worship
  - Public transport service
- 6.13 “Close” should mean that these services and facilities can be reasonably accessed by future residents; preferably by walking, cycling, or public transport in order to minimise the need to travel by car on a day-to-day basis.

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<sup>73</sup> Unless a made Neighbourhood Plan includes such a policy.

<sup>74</sup> There are 15 villages with a BUAB in the East Devon Villages Plan:  
<http://eastdevon.gov.uk/media/2558248/edvp-adopted-version.pdf> Neighbourhood plans may also identify BUABs.



Rural exception site in Colyton

### **Who can live in an affordable dwelling at a rural exception site?**

6.14 The first and subsequent occupancy of affordable housing on a rural exception site is restricted to those who:

- do not have access to general market housing (i.e. in housing need); and
- is a resident of that parish group<sup>75</sup> or has a local connection due to family ties or a need to be near their place of work.

6.15 To be considered in *housing need* for affordable housing to rent, an occupant will need to be registered with Devon Home Choice and then placed within bands A – E. For shared ownership or equity loan schemes, an occupant should be registered on Help to Buy South, the Government appointed local help to buy agency which provides a one stop shop for households seeking all forms of low cost home ownership. Eligibility to purchase starter homes and other discounted market sales housing will be based upon household income, age (under 40 for starter homes), and whether the proposed occupant is a first time buyer (starter homes).

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<sup>75</sup> Parish groups are defined in the Local Plan 2013-2031, paragraph 16.29:  
<http://eastdevon.gov.uk/media/1772841/local-plan-final-adopted-plan-2016.pdf>

6.16 The restrictions on residency and local connection, along with the evidence required to demonstrate compliance with these restrictions, are shown in figure 6.1 below. Further detail is given in the standard section 106 agreement for affordable housing in [appendix three](#). For social and affordable rented dwellings, Devon Home Choice undertake these checks on behalf of the council.

**Figure 6.1: Local connection requirements to occupy affordable housing on a Rural Exception Site**

Local connection to the parish or parish grouping (in order of priority)	Examples of evidence to demonstrate local connection
i) Persons who have been permanently resident therein for a continuous period of three years out of the five years immediately prior to the affordable dwelling being offered to them; or	Proof of address history such as utility bills, mobile phone bills, council tax bills, bank/credit card statements
ii) Being formerly permanently a resident therein for a continuous period of five years at some time in the past	Proof of address history such as utility bills, mobile phone bills, council tax bills, bank/credit card statements
iii) Having his or her place of permanent work (normally regarded as 16 hours or more a week and not including seasonal employment) therein for a continuous period of at least 12 months immediately prior to being offered the affordable dwelling; or	Pay slips and/or written confirmation from employer
iv) Persons who can demonstrate a close family connection to the District in that the person's mother, father, son, daughter or sibling has been permanently resident therein for a continuous period of five years immediately prior to the affordable dwelling being offered to them and where there is independent evidence of a caring dependency relationship	Proof of address history from close family, such as utility bills, mobile phone bills, council tax bills, bank/credit card statements  Independent evidence of a caring dependency

6.17 Further detail on who can live in affordable housing on other (non-exception) sites can be seen in [chapter 7](#).

**What if the rural exception site is not viable?**

6.18 Local Plan policy (Strategy 35) does not allow viability to be considered on rural exception sites. The purpose of allowing up to 34% market housing on rural exception sites is to provide a cross-subsidy that enables such sites to be viable. The cost of land, in particular,

should be low on rural exception sites. Therefore, viability cannot be used to justify the delivery of less than 66% affordable housing on a rural exception site.<sup>76</sup>

### **Who will manage rural exception site affordable housing?**

- 6.19 In the majority of cases, rural exception site affordable housing to rent will be purchased and then leased out and managed by a Registered Provider (RP). However, the small-scale nature and/or remote location of some exception sites mean that it can sometimes be difficult to secure an RP where only a few affordable homes are being delivered, as such sites lack the economies of scale to be managed by the RP in a viable manner.
- 6.20 Community land trusts (CLTs) can also deliver rural exception site affordable housing, and then lease the homes to an RP to manage.
- 6.21 Alternatively, it may be possible to pass properties on to the district council to manage alongside its existing rented stock.
- 6.22 Affordable housing to buy on rural exception sites may also be subject to management conditions; for example, shared ownership homes will involve the purchaser buying shares worth between 25% and 75% of the property's value, with a subsidised rent to an RP or sometimes private developer being paid on the remaining element.

### **How do rural exception sites differ from entry-level exception sites?**

- 6.23 As described in [paragraph 2.15](#), entry-level exception sites provide homes suitable for first time buyers or those looking to rent their first home, on land not already allocated for housing. They were introduced by the revised National Planning Policy Framework (NPPF)<sup>77</sup> – as the Local Plan was adopted prior to this revision, it does not mention such sites. Therefore, proposals for entry-level exception sites will be judged against existing policies in the Local Plan, with the NPPF being a material consideration.<sup>78</sup>
- 6.24 There are several key differences between rural exception sites and entry-level exception sites, illustrated in the table below (figure 6.2).

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<sup>76</sup> Further guidance on viability and exception sites has been published by the council:

<http://eastdevon.gov.uk/planning/planning-services/planning-development-management/viability-guidance-notes/viability-guidance-note-5-viability-and-exception-sites/>

<sup>77</sup> National Planning Policy Framework, paragraph 71:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/740441/National\\_Planning\\_Policy\\_Framework\\_web\\_accessible\\_version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740441/National_Planning_Policy_Framework_web_accessible_version.pdf)

<sup>78</sup> Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

**Figure 6.2: Key differences between rural exception sites and entry-level exception sites**

<b>Issue</b>	<b>Rural exception site</b>	<b>Entry-level exception site</b>
<i>Affordable housing proportion</i>	At least 66%	100%
<i>Type of affordable housing</i>	Justified by up to date robust housing needs survey	Suitable for first time buyers or those looking to rent their first home
<i>Site size</i>	Up to or around 15 dwellings	No larger than one hectare in size or exceed 5% of the size of the existing settlement
<i>Location</i>	In settlements with a population of 3,000 people or less, close to a range of community services and facilities. Sites must abut or be physically closely related to a Built-up Area Boundary, or physically very well related to built form of village (where no BUAB exists)	Adjacent to existing settlements, but not within an Area of Outstanding Natural Beauty



Affordable housing on a rural exception site in Kilmington

## 7 Pre-application, Legal agreements, and Occupancy

### What should an applicant discuss with the council at pre-application stage?

- 7.1 As advised in the Planning Obligations SPD, it is extremely important that developers enter into pre-application discussion with the councils' Development Management team at an early stage.<sup>79</sup>
- 7.2 As a minimum, pre-application discussions should cover the following affordable housing issues, to ensure consistency with the Local Plan and this SPD:
- Proposed number of affordable dwellings
  - Legal agreement to secure the affordable dwellings
  - Viability issues if proposing less affordable housing than the policy requirement
  - Tenure
  - Type
  - Design
  - Layout
  - Phasing of affordable housing delivery
  - Engagement with potential Registered Providers (including EDDC)

### How is the delivery of affordable housing legally secured?

- 7.3 A planning obligation, entered into as part of the planning application, will ensure that the delivery of affordable housing is legally secured. Planning obligations can be secured through either a section 106 agreement, or a unilateral undertaking.
- 7.4 A section 106 agreement should be used to secure the provision of on-site affordable housing. This will set out how much affordable housing will be provided, the tenure, type, and who can be considered as occupants of the housing. Planning applications should be accompanied by Heads of Terms for the section 106 agreement, which outline details of the proposed affordable housing being delivered in the scheme. The council has prepared a standard section 106 agreement for securing affordable housing (see [appendix three](#)) – this may be negotiable and can be adapted to suit site-specific circumstances.

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<sup>79</sup> East Devon Planning Obligations Supplementary Planning Document, paragraph 5.1:  
<http://eastdevon.gov.uk/media/2140634/final-version-for-adoption.pdf>

- 7.5 A unilateral undertaking is used for proposals for affordable housing where only a financial contribution is being provided. In these cases, a draft heads of terms must be provided with the planning application at the point of submission. The financial contribution itself should be paid after completion of units within the development and prior to first occupation.
- 7.6 For both section 106 agreements and unilateral undertakings, a fee is payable to the council to cover the costs in registering and assessing the agreement, and for ongoing monitoring.<sup>80</sup>

### **Who can live in an affordable dwelling?**

- 7.7 Affordable homes for *social and affordable rent* from the council or a registered provider are allocated to occupants through Devon Home Choice, a choice based lettings scheme.<sup>81</sup> Potential occupants are assessed and placed into one of five priority bands, ranging from band A (emergency housing need) to band E (no housing need). An applicant can then 'bid' to live in properties that match their household needs. An occupant is chosen according to the band they have been placed in, and how long they have been waiting for a property.
- 7.8 For *shared ownership, equity loans, discounted market sales housing, and rent to buy*, potential occupants must apply to Help to Buy South, who will check their eligibility to be registered.<sup>82</sup> A series of criteria are considered on whether to accept potential occupants on to the register, principally being those who are unable to afford to purchase a home suitable for their needs on the open market. Starter homes are available to first time buyers who are under the age of 40 at the time of purchase.
- 7.9 Due to the high demand for affordable housing and limited supply to meet local housing needs, current practice is that local connection criteria to the parish in which the affordable housing is located will be applied, in the following priority order:
- i. Being permanently resident therein for a continuous period of at least six months out of the last 12 months or for a continuous period of three years out of the last five years immediately prior to being offered the Affordable Housing unit; or
  - ii. Being formerly permanently resident therein for a continuous period of five years at some point in the past; or
  - iii. Having his or her place of permanent work (normally regarded as 16 hours or more a week and not including seasonal employment) therein immediately prior to being offered the Affordable Housing unit; or

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<sup>80</sup> The registration fee for unilateral undertakings is currently £50; whilst the fee for assessing and monitoring a s106 will vary on a case-by-case basis, depending upon the complexity of the agreement.

<sup>81</sup> Further information can be seen on the Devon Home Choice website: <https://www.devonhomechoice.com/>

<sup>82</sup> Further information can be seen on the Help to Buy South West website: <https://www.helptobuyagent3.org.uk/>

- iv. 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 years immediately prior to being offered the Affordable Housing unit

7.10 In the event that no-one satisfying the above criteria can be found within the parish where the affordable housing is being provided, the above process will be repeated considering persons from the following areas, in the following priority order:

- i. Neighbouring parishes
- ii. Elsewhere in East Devon
- iii. At strategic sites in the “West End”: those with a connection to Exeter<sup>83</sup>
- iv. For sites elsewhere in East Devon: those with a connection to the county of Devon

7.11 Potential occupants can be sought from these areas simultaneously, with priority given according to the hierarchy set out above. The council will work with Registered Providers to ensure that new affordable homes are occupied by people that meet this local connection test. If no-one can be found within Devon, the council will consider occupants from adjacent counties to Devon where appropriate, for example where sites are located close to the county boundary.

7.12 As [previously explained](#) in chapter 6, Local Plan policy requires a “local connection” to a parish or parish grouping to occupy affordable homes at exception sites.

### **How long will an affordable dwelling remain “affordable”?**

7.13 The length of time that a home will remain “affordable” will depend upon the type of affordable dwelling. Any restrictions required to ensure the dwelling remains affordable into the future will be specified in a section 106 agreement.

7.14 For affordable housing to rent and discounted market sales housing, provisions should be in place to ensure housing remains at a discount for future eligible households. Where public grant funding has been provided to deliver other affordable routes to home ownership (including shared ownership, equity loans, rent to buy), homes should remain affordable for future eligible households, or receipts recycled for alternative affordable housing provision, or refunded to the Government or council.

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<sup>83</sup> Defined as the administrative area covered by Exeter City Council.

- 7.15 Where possible (i.e. allowed in the NPPF definition of affordable housing, as explained above), the homes will be subject to a perpetuity restriction in the section 106 meaning the homes will remain affordable for a period of at least 80 years.
- 7.16 The Government has indicated that starter homes are only sold as such the first time they are bought by a qualifying first time buyer – subsequent sales will be made at full market value (although the seller will need to pay some money back, depending on how long they have lived there).<sup>84</sup>

### **Which Registered Providers are currently operating in East Devon?**

- 7.17 There are 14 Registered Providers that are currently operating in East Devon, listed below.<sup>85</sup> The council is open to new providers working in the district, and would be happy to hold discussions with any prospective registered providers.

- Aster
- Cornerstone
- East Devon District Council
- Guinness Trust Housing Association
- Hastoe Housing Association
- Heylo Housing
- LiveWest
- Rural Homes Ltd
- South Devon Rural Housing Association Limited
- South Western Housing Society
- Sovereign
- Stonewater
- Teign Housing
- Westward Housing
- Yarlington Housing Group

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<sup>84</sup> Government response to reforming contributions, MHCLG, June 2019:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/806284/Developer\\_contributions\\_government\\_response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/806284/Developer_contributions_government_response.pdf)

<sup>85</sup> Rural specialists who have worked with community land trusts and in rural areas include: Hastoe Housing Association, South Devon Rural Housing Association Ltd, South Western Housing Society and Rural Homes Ltd.

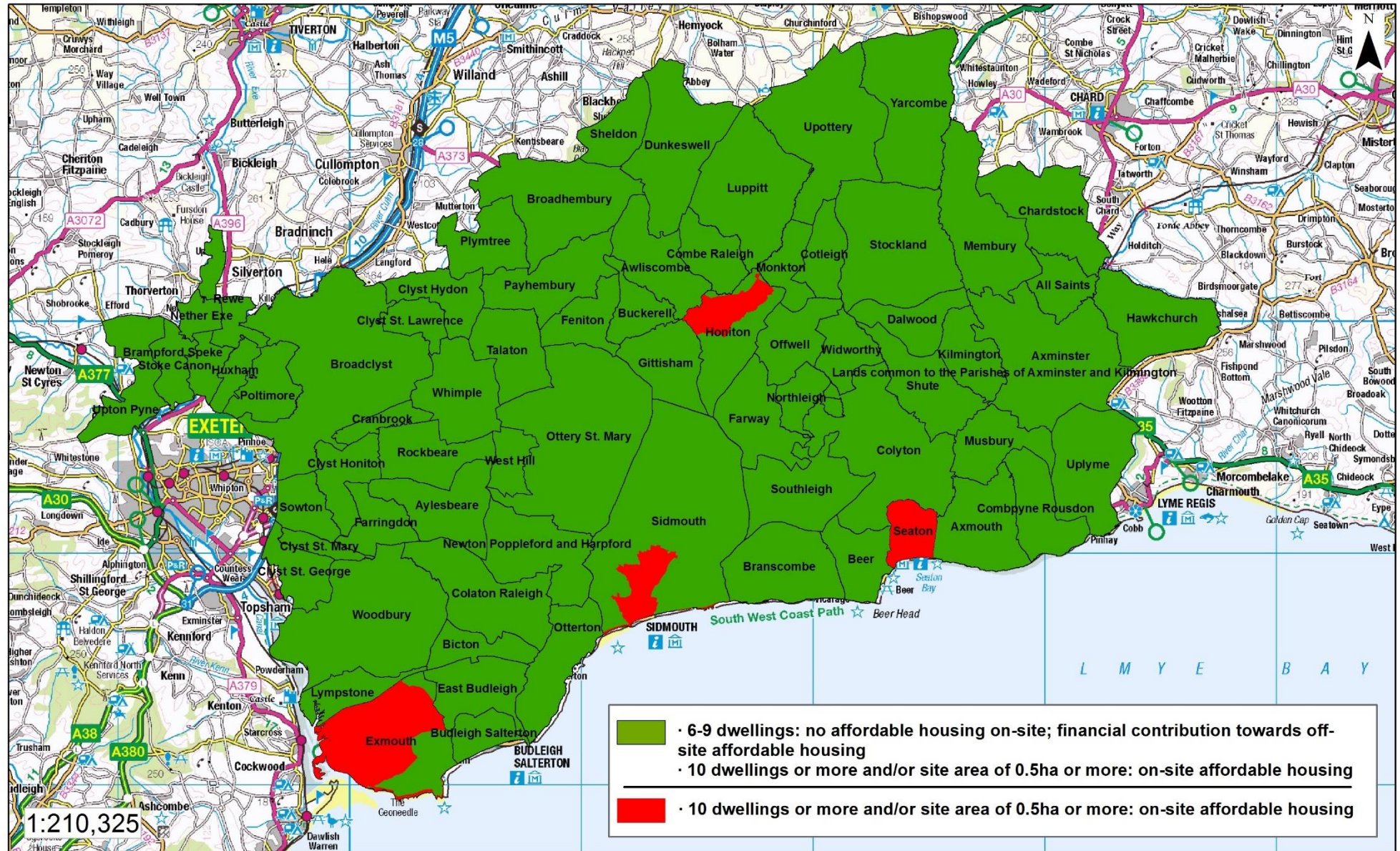
## Appendices

### Appendix One – Maps showing affordable housing thresholds<sup>86</sup>

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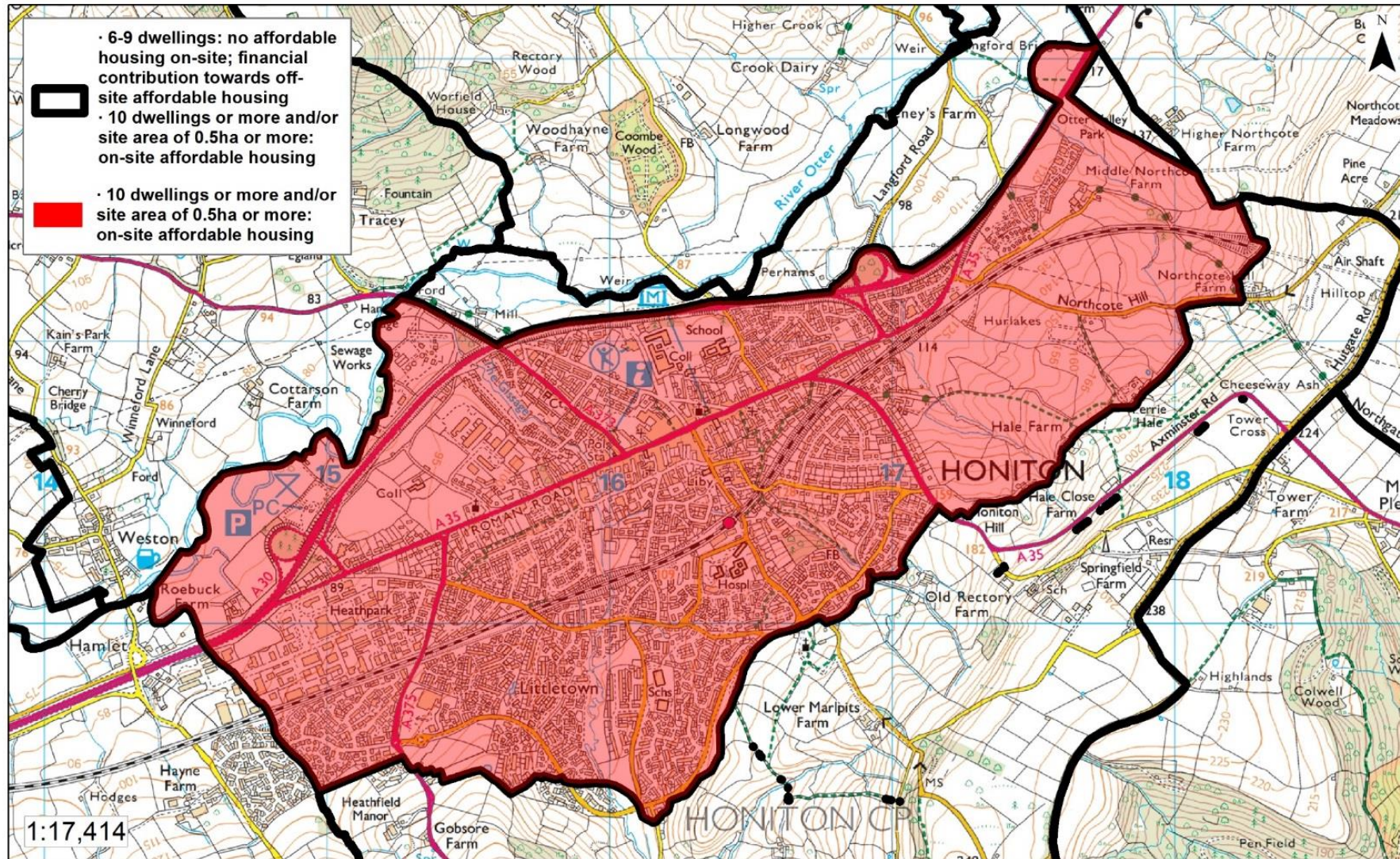
<sup>86</sup> The maps of Exmouth and Sidmouth show the area up to the mean low water mark (the jurisdiction covered by East Devon District Council), which includes areas out at sea.

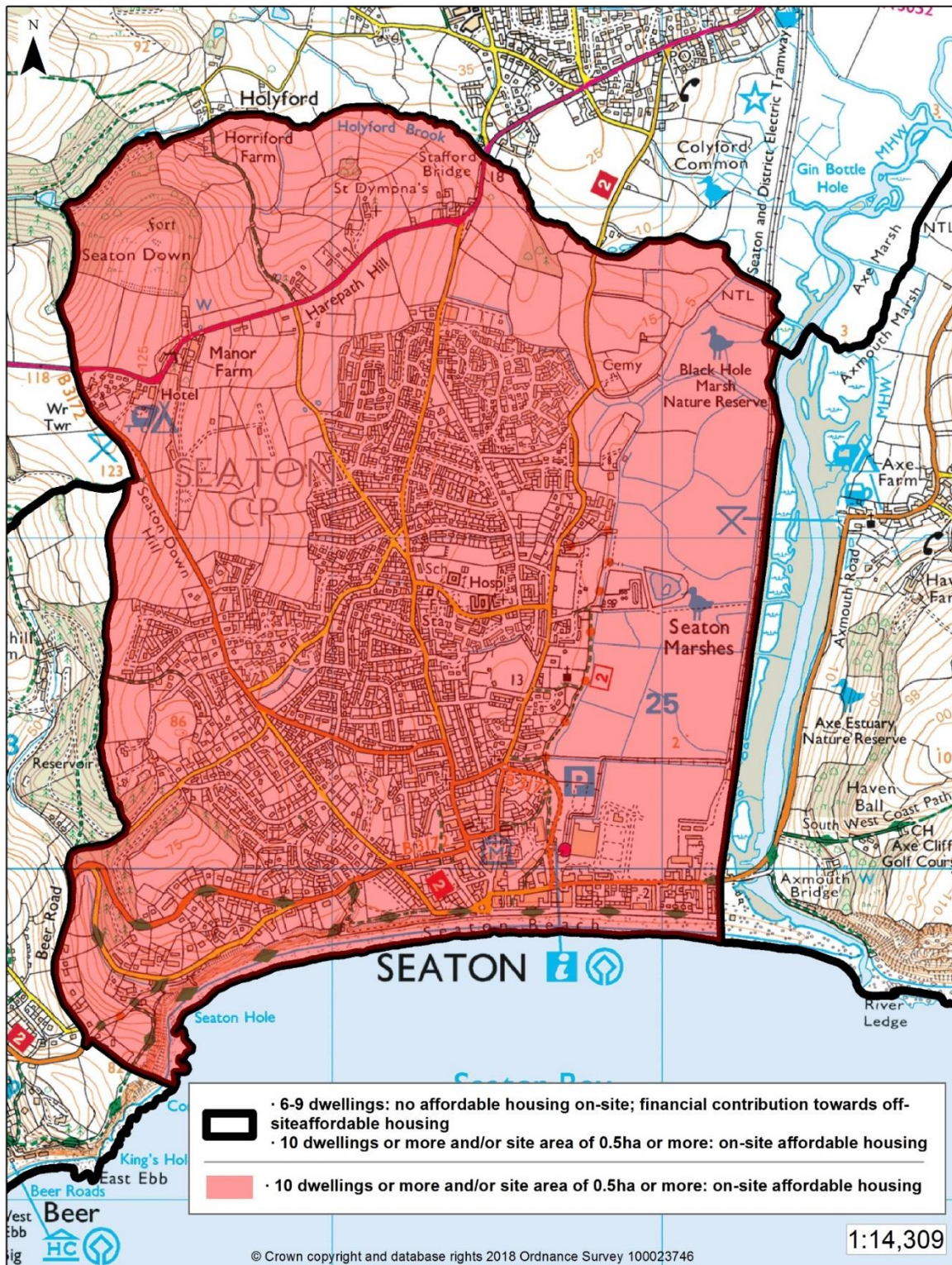
## Affordable Housing Thresholds



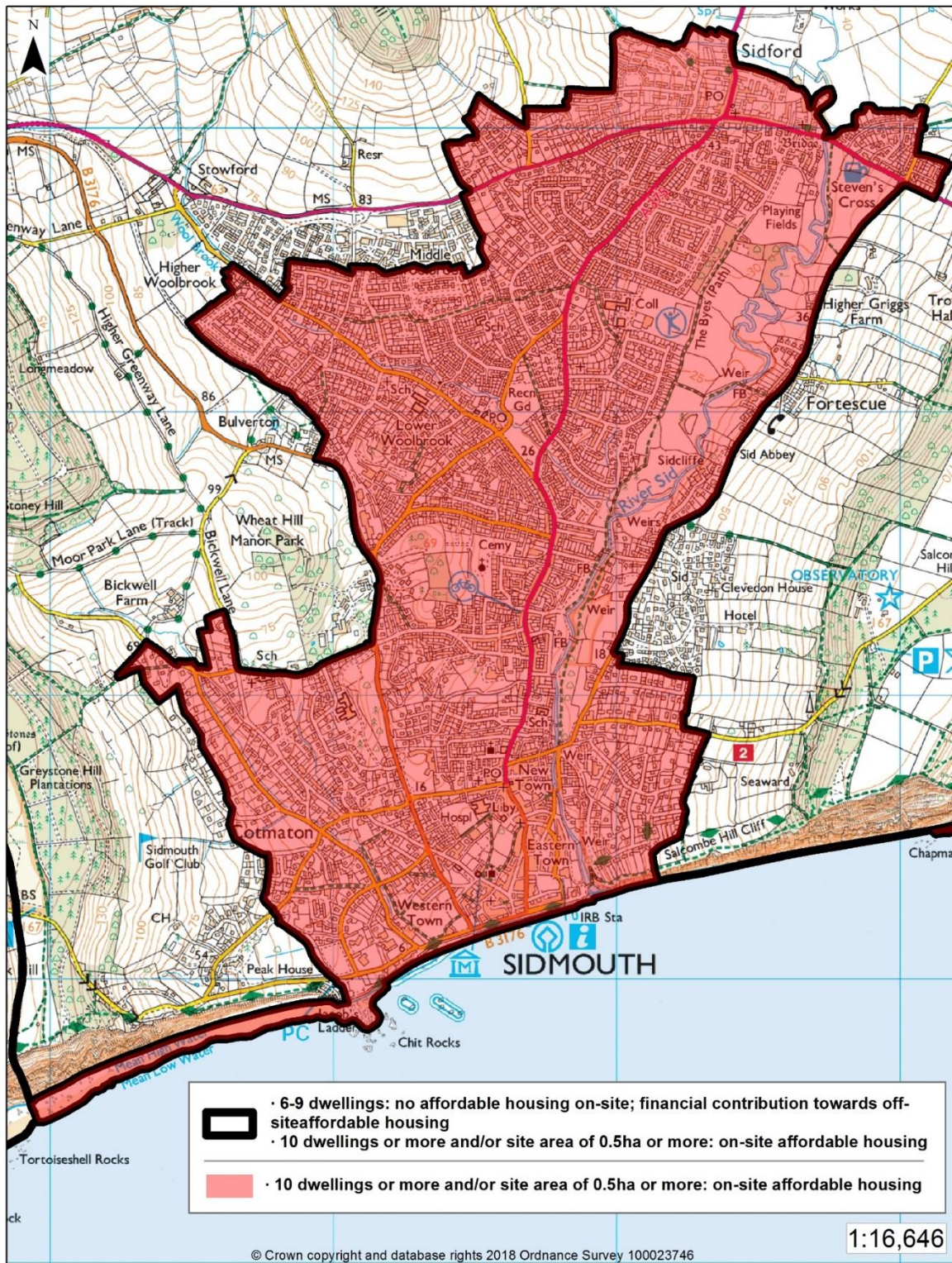


## Affordable Housing Thresholds - Honiton





### Affordable Housing Thresholds - Seaton



## Affordable Housing Thresholds - Sidmouth

## Appendix Two – Affordable housing policies in the East Devon Local Plan 2013-2031

### **Strategy 34 - District Wide Affordable Housing Provision Targets**

Affordable housing will be required on residential developments in East Devon as follows.

**Within the areas defined below a target of 25% of the dwellings shall be affordable :**

- a) Axminster;
- b) Exmouth;
- c) Honiton;
- d) Ottery St Mary;
- e) Seaton; and
- f) Major strategic 'West End' development sites.

Under this policy:

- 1 the towns listed above are defined by the area within the Built-up Area Boundary
- 2 the major strategic West End development sites to which policy will apply are
  - a) Cranbrook,
  - b) adjacent to Pinhoe and
  - c) North of Blackhorseas shown on the West End inset map (to the Proposals Plan)

**Areas to which higher (50%) affordable housing targets apply:** Outside of the areas listed above (i.e. all other parts of East Devon including all settlements not listed, coastal and rural areas and Budleigh Salterton and Sidmouth) 50% of the dwellings shall be affordable subject to viability considerations. The 50% figure applies to all areas that do not come under the 25% classification and which are permitted under Strategy 35 'Exceptions' policy.

Where a proposal does not meet the above targets it will be necessary to submit evidence to demonstrate why provision is not viable or otherwise appropriate. An overage clause will be sought in respect of future profits and affordable housing provision, where levels of affordable housing fall below policy targets.

Looking across the lifespan of the plan an affordable housing policy provision target of 70% social or affordable rent accommodation and 30% intermediate or other affordable housing is sought. However in periods of depressed markets an alternative negotiated mix to reflect viability considerations and help deliver schemes will be acceptable. The District Council will consider issues of development viability and housing mix including additional costs associated with the development of brownfield sites, mitigation of contamination and the provision of significant community benefits provided the assessment process is completely transparent and there is full financial disclosure by stakeholders.

The thresholds at which this policy shall apply will be the minimum set out in Government policy or guidance (including any lower thresholds which Local Planning Authorities have the discretion to establish) subject to an up to date Council viability assessment showing that these thresholds

can be justified. Where there is no applicable Government Policy or Guidance there will be no minimum size threshold at which affordable housing will be sought, subject to there being up to date strategic evidence that the general delivery of housing would not be significantly undermined.

Affordable housing shall be provided on site unless it is exempted through Government Policy or Guidance, is not mathematically possible or where off site provision of equivalent value is justified by circumstances such as no registered provider being willing to manage the new affordable units or other planning reasons. In such cases a payment towards an off site contribution will be required in lieu of on site provision. On any development site affordable housing should be 'pepper-potted' or dispersed throughout the scheme.

### **Strategy 35 – Exception Mixed Market and Affordable Housing At Villages, Small Towns and Outside Built-up Area Boundaries**

Exception site mixed affordable and open market housing schemes, at villages and outside of Built-up Area Boundaries, for up to or around 15 dwellings will be allowed where there is a proven local need demonstrated through an up to date robust housing needs survey. Affordable housing must account for at least 66% of the houses built.

For:

- a) Villages WITH a Built-up Area Boundary the scheme must be abutting or physically closely related to that boundary; or
- b) Villages WITHOUT a Built-up Area Boundary the scheme should be physically very well related to the built form of the village.

To be permitted evidence will need to show

1. The affordable housing need in any given locality would not otherwise be met, and
2. The village or small town has a population that falls below 3,000 persons, the scheme is well designed using local materials, close to a range of community services and facilities (including four or more of a school, pub, village hall, shop/post office, doctors surgery, place of worship or public transport service) and sympathetic to the character of the settlement and has a satisfactory highway access.
3. Initial and subsequent occupancy of the affordable housing is restricted to a person(s) who:
  - a) Does not have access to general market housing and is in housing need; and
  - b) Is a resident of that Parish group, or has a local connection with that parish group because of family ties or a need to be near their workplace.

In the event that an occupier who fulfils both criterion (a) or (b) cannot be found within a reasonable period of time, then the criterion will be widened firstly to a person(s) with a local connection to the parish group because of family ties or a need to be near their workplace, and subsequently to a person(s) with an East Devon connection.

**In this policy, local connection** means one or more of the following connections in priority order in respect of parishes or the parish grouping:

- i) persons who have been permanently resident therein for a continuous period of three years out of the five years immediately prior to the Affordable Dwelling being offered to them; or
- ii) being formerly permanently resident therein for a continuous period of five years at some time in the past;
- iii) having his or her place of permanent work (normally regarded as 16 hours or more a week and not including seasonal employment) therein for a continuous period of at least twelve (12) months immediately prior to being offered the Affordable Dwelling; or
- iv) persons who can demonstrate a close family connection to the District in that the person's mother, father, son, daughter or sibling has been permanently resident therein for a continuous period of five years immediately prior to the Affordable Dwelling being offered to them and where there is independent evidence of a caring dependency relationship.

## **Strategy 36 - Accessible and Adaptable Homes and Care/Extra Care Homes**

### **Accessible and Adaptable Homes**

On residential development schemes for 10 dwellings or more developers should demonstrate that all of the affordable housing and around 20% of market units will meet part M4(2) of the Building Regulations, Category 2: accessible and adaptable dwellings (or any comparable updated nationally set standards) unless viability evidence indicates it is not possible.

Where there are elderly population levels in a settlement that substantially exceed East Devon average levels, for any housing planning application in that settlement the council will seek to negotiate a greater proportion and/or a lower threshold for accessible and adaptable dwellings (or any comparable updated nationally set standards) unless viability evidence indicates it is not possible. The expectation is that the majority of units would be of two bedrooms or more.

### **Care/Extra Care Homes and Other Forms of Specialist Older Person's Housing**

**We will aim to secure Care and Extra Care homes in all of our Towns and Larger Villages in line with provision of:**

- a) 150 Care/Extra Care Home Spaces at Exmouth;
- b) 50 Care/Extra Care Home Spaces at Axminster, Honiton, Sidmouth, Seaton and Ottery St Mary; and
- c) 10 (or more) at larger settlements with a range of facilities that have easy accessibility to a GP surgery.

Care/Extra Care home proposals will be acceptable on sites allocated for residential development (or which include residential uses as part of an allocation, though in such cases provision should be 'off-set' against the residential element/land). Proposals for specialist housing should be accompanied by a Care Needs Assessment which justifies the proposal's scale, tenure and accommodation type. Where such provision is proposed on an allocated housing site the actual need for provision should also be established. The Council will take account of financial viability considerations, and overall contributions for affordable housing, where older person housing is proposed on or as part of a site for residential development and such provision impacts on site viability.

## Appendix Three – Standard section 106 agreement for affordable housing

### SCHEDULE 1

#### COVENANTS WITH THE DISTRICT COUNCIL

#### Part A: Affordable Housing Provisions

The Owner hereby covenants with the Council as follows:-

#### 1. Definitions

For the purposes of this Schedule the following words will have the following meanings:

“Affordable Housing”	Means (subject to the provisions of this Agreement units of subsidised housing within the meaning of National Planning Policy Framework or any Government Policy Statement or Circular that replaces it
“Affordable Rent”	means a rent of up to 80% of local market rent to include the service charge (where applicable) and in any event should not exceed the published Local Housing Allowance for the relevant property type and in the relevant market area
“Affordable Rented Dwelling”	means a Dwelling available to those whose needs are not adequately served by the commercial housing market let at an Affordable Rent and which complies with the definition of affordable rented housing in Annex 2 of the National Planning Policy Framework
“Affordable Shared Ownership Dwelling”	means a Dwelling for sale on a shared ownership basis solely by way of a Shared Ownership Lease
“Affordable Housing Units”	means the <del>XX</del> Dwellings to be provided as Affordable Housing comprising <del>X</del> Affordable Shared Ownership Dwellings and <del>XX</del> Affordable Rented Dwellings

	to be provided in accordance with the provisions of this Schedule on the Affordable Housing Site
“Affordable Housing Scheme”	<p>means the scheme for securing the provision of the Affordable Housing Units on the Affordable Housing Site as hereinafter defined more particularly;</p> <ul style="list-style-type: none"> <li>- the location of, and proposed address for each Affordable Housing Unit</li> <li>- mix of unit types</li> <li>- name of proposed AFFORDABLE HOUSING PROVIDER</li> <li>- details of the proposed unit size and applicable Design Standard</li> <li>- proposed tenure for those units; and</li> <li>- the proposed timetable for such provision</li> </ul>
“Affordable Housing Site”	means the land to accommodate the Affordable Housing Units including curtilage as shown within the land shown edged [yellow] on the Plan annexed hereto
“Affordable Home Ownership”	Means (subject to the provisions of this Agreement units of subsidised housing for sale within the meaning of Other Affordable Routes to Home Ownership within the National Planning Policy Framework or any Government Policy Statement or Circular that replaces it
“Affordable Housing Provider”	means a housing association or similar organisation or a social landlord in each such case registered with the Housing Corporation under Section 1 of the Housing Act 1996 or such other body or organisation whose main object is the provision of Affordable Housing as agreed in writing by the Council
“Design Standards”	<p>Means that the Affordable Housing Units shall be constructed;</p> <ul style="list-style-type: none"> <li>(i) to meet part M4(2) of the Building Regulations Category 2: accessible and adaptable dwellings (or any comparable updated nationally set standards)</li> </ul>

	<p>(ii) (in so far as the Affordable Housing Units will be funded through grant or public subsidy) in accordance with Homes England’s design and quality standards applicable at the time of the grant of Planning Permission</p> <p>(iii) Tenure blind so as to be materially indistinguishable from Private Dwellings in respect of their external appearance</p>
“Designated Person”	Means a person or household who is registered with Devon Home Choice or Help to Buy South and is in Housing Need
“District”	means the administrative area of the East Devon District Council
“Devon Home Choice”	means a choice based lettings scheme developed and operated in partnership between the Council and the Affordable Housing Provider or any successor scheme or arrangement agreed between the Council and the Affordable Housing Provider as a replacement for Devon Home Choice
“Help to Buy South”	Means the Government appointed local help to buy agency which provides a one stop shop for households seeking all forms of low cost home ownership
“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 in the open market for property in the locality where the Affordable Housing Unit is situated taking into account the person’s income and capital and other financial circumstances. 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
“Insecure”	means accommodation which the Designated Person does not have a legal right to occupy in the long term

<p>“Lettings Notice”</p>	<p>Means a notice (the content of which is to be agreed with the Council) which contains details of the property to be let and which shall include unless otherwise agreed with the Council</p> <ul style="list-style-type: none"> <li>a) The name and address of the landlord and the Owner</li> <li>b) The postal address of the property</li> <li>c) The amount of the weekly or monthly rent (not to exceed the Affordable Rent)</li> <li>d) Amount and breakdown of any service charge per week/month/annum</li> <li>e) Details of any additional charges</li> <li>f) Any age or other occupancy restrictions</li> <li>g) Property type</li> <li>h) Property size</li> <li>i) Heating type</li> <li>j) Details of mains services in the property</li> <li>k) Availability of parking space/garage</li> <li>l) Any disabled adaptations</li> <li>m) Provision of any support services</li> </ul> <p>And which is delivered to the Council clearly addressed and marked for the attention of Housing Enabling and Allocations Manager PROVIDED THAT for the avoidance of doubt an advertisement for the Affordable Rented dwelling placed on Devon Home Choice and approved by the Council shall be considered a Lettings Notice for the purpose of paragraph 4.3 of schedule 1</p>
<p>“Local Connection”</p>	<p>means a connection to the Parish of ##### demonstrated by one or more of the following in priority order:</p> <ul style="list-style-type: none"> <li>(1) being permanently resident therein for a continuous period of at least six (6) months out of the last twelve (12) months or for a continuous period of three (3) years out of the last five (5) years immediately prior to being offered the Affordable Housing Unit; or</li> </ul>

	<p>(2) being formerly permanently resident therein for a continuous period of five (5) years; or</p> <p>(3) having his or her place of permanent work (normally regarded as 16 hours or more a week [and not including seasonal employment] therein and in the case of where the Affordable Housing Unit is within a village, small town and outside a built up area boundary as set out in the East Devon Local Plan, has also been in permanent employment for a continuous period of at least twelve (12) months immediately prior to being offered the Affordable Housing Unit][where strategy 36 applies only]; or</p> <p>(4) 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 immediately prior to being offered the Affordable Housing Unit [and in the case where the Affordable Housing Unit is within a village, small town and outside a built up area boundary as set out in the East Devon Local Plan, there is independent evidence that the family member is in need of support or can give support][where strategy 36 applies only]; or</p> <p>(5) such person as is prescribed by the Allocation of Housing (Qualification Criteria for Right to Move) (England) Regulations 2015</p> <p>and in the event that no-one satisfying the above requirements can be found within the Parish of <b>XXXXXXXX</b> then the process shall be repeated considering persons from the following areas in the following priority order;</p> <p>(1) the Neighbouring Parishes,</p> <p>(2) persons from the District</p> <p>(3) [persons from the administrative area of the city of Exeter with the prior written approval of the Council][Site specific extension only]</p> <p>(4) [persons from the county of Devon with prior written approval of the Council][site specific extension only]</p>
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<p>Local Housing Allowance</p>	<p>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 of Works and Pensions or such similar framework that may replace it.</p>
<p>“Neighbouring Parishes”</p>	<p>means the parishes of <del>XXXXXX</del>,</p>
<p>“Scheme of Advertising”</p>	<p>means the advertising for sale or letting of any interest in the relevant Affordable Housing Units in accordance with a scheme to be approved in writing by the Council (such approval not to be unreasonably withheld or delayed) which scheme shall include unless otherwise agreed with the Council</p> <ul style="list-style-type: none"> <li>a) in the case of Affordable Rented Dwellings an advertisement on the website of Devon Home Choice or such other similar website for advertising of Affordable Housing Units as agreed by the Council; or</li> <li>b) in the case of the Shared Ownership Dwellings and Affordable Home Ownership Units an advertisement on the website of Help to Buy South West being the Government appointed help to buy agent for Devon or other successor organisation</li> <li>c) in the case of Affordable Home Ownership Units an advertisement on a relevant website as agreed by the Council</li> </ul>
<p>“Shared Ownership Lease”</p>	<p>means a long shared ownership lease (as defined in section 622 of the Housing Act 1985 or successor provision) with a Affordable Housing Provider substantially in accordance with Homes England (or successor body) Model as at the date of any such lease where the purchaser purchases an initial share of the equity between 25 – 80% and pays rent on the remaining unsold equity provided that such rent per annum shall initially be at a level not exceeding 2.75% of the Open Market Value of the affordable housing providers retained share of the relevant affordable housing unit: and not be at a level which is in conflict with any applicable Homes England restrictions relating to charges payable by the tenant [and where additional share of the equity can be</p>

	purchased provided that no more than 80% of the equity can be purchased] [DPA areas only]
“Staircasing Receipts”	Means any monies received by the approved Affordable Housing Provider of an Affordable Shared Ownership Dwelling as a result of the leaseholder exercising a right to increase their share of the equity less the amount of any outstanding loan amount secured on the Affordable Shared Ownership Dwelling and the reasonable costs of administration or legal or other expenses (and any part of such monies)

**2. Affordable Housing Provision**

- 2.1 Not to carry out or otherwise cause or permit the [Commencement of Development][construction of any Development] unless and until the Affordable Housing Scheme has been submitted to and approved in writing by the Council
- 2.2 To construct and provide the Affordable Housing Units in accordance with the approved Affordable Housing Scheme and in accordance with the Design Standards
- 2.3 Notwithstanding the requirements of paragraphs 2.1 and 2.2 above not to cause or permit the Occupation of more than [### (#th) Private Dwellings until the Owner has transferred the freehold interest or leasehold (of a minimum period of 80 years) interest in the Affordable Housing Site to the Affordable Housing Provider and to have completed all of the Affordable Housing Units and all of the Affordable Housing Units have been completed and are available for Occupation
- 2.4 The Affordable Housing Units shall only be used for the purpose of providing Affordable Housing and shall be so used in perpetuity (here meaning for a minimum period of 80 years)
- 2.5 The transfer of the Affordable Housing Site and / or the Affordable Housing Units to the Affordable Housing Provider shall be in such form as the Owners shall reasonably require to ensure that the Affordable Housing Site and / or the Affordable Housing Units are subject to substantially the same rights and easements and covenants (both restrictive and positive) as are to be granted and reserved in sales of the Private Dwellings
- 2.6 To ensure that the Affordable Housing Site and / or Affordable Housing Units together with their respective curtilages will abut a publicly adopted highway or roads and footways the subject of a bonded road making agreement under section 38 of the Highways Act 1980 (or enjoy ready and free access thereto via an intervening private drive) and have ready and free access to all usual domestic services needed for residential occupation of such Affordable Housing Units

2.7 At least 10 Working Days prior to Occupation of the [##### (#th)] Private Dwelling to serve on the Council a Trigger Point Notice to notify date of Occupation of the [#####(#)] Private Dwelling

2.8 The Owner shall provide the Council with at least one month's prior written notice of the address/addresses and UPRN and anticipated date on which the Affordable Housing Units shall be available for Occupation.

### **3. Restrictions on Occupation of Affordable Housing Units**

3.1 Subject to the provisions of this Deed the Owners as appropriate shall not at any time permit the Affordable Housing Units to be occupied other than as Affordable Housing by a Designated Person (and their dependents) who has a Local Connection

### **4. Affordable Rented dwellings**

4.1 Not to permit or otherwise allow any of the Affordable Rented Dwellings to be let other than:

4.1.1 At a sum not exceeding the Affordable Rent; and

4.1.2 To persons selected in accordance with the principles of the Devon Home Choice policy whether or not the Affordable Housing Provider is a member of the Devon Home Choice scheme

4.2 Not to permit or otherwise allow any of the Affordable Rented Dwellings to be let on initial or subsequent letting prior to the submission to and approval by the Council of a Scheme of Advertising for the Affordable Rented Dwellings

4.3 To serve upon the Council a Letting Notice each time an Affordable Rented Dwelling becomes available for letting

4.4 To advertise the relevant Affordable Rented Dwelling in accordance with the Scheme of Advertising approved in accordance with paragraph 4.2 of this First Schedule immediately following the service of a Letting Notice in accordance with paragraph 4.3 of this First Schedule

4.5 Not to grant a tenancy of the relevant Affordable Rented Dwelling until the Owner has submitted written verification to the Council that the prospective tenant satisfies the obligations contained in this Deed and the Council has given its approval that the prospective tenant would satisfy the obligations contained in the Deed (such approval not to be unreasonably withheld) and if no response is given by the Council within 10 Working Days of receipt of written verification from the Affordable Housing Provider then approval will be deemed to have been given PROVIDED THAT such written verification is served upon the Council clearly addressed and marked for the urgent attention of the Housing Enabling and Allocations Manager

4.6 The Affordable Housing Provider shall if so required by the Council provide to the Council (together with the written verification detailed in paragraph 4.2 above) all necessary

documentation as stipulated in Annex 2 as evidence that the prospective tenant satisfies the obligations contained in this Deed.

**5. Affordable Home Ownership**

5.1 Not to cause or permit any of the Affordable Home Ownership Units to be sold or let other than:

5.1.1 by way of a Shared Ownership Lease; or

5.1.2 by way of another Affordable Home Ownership product which shall be agreed in writing with the Council and

5.1.3 to a Designated Person who is either releasing an Affordable Housing Unit elsewhere in the District or is in Housing Need

5.2 Unless otherwise agreed in writing by the Council not to cause or permit any of the Affordable Home Ownership Units to be sold or let on initial or subsequent sale or letting prior to:

5.2.1 the submission to and subsequent approval by the Council of a Scheme of Advertising for the Affordable Home Ownership Units; and

5.2.2 advertising the relevant Affordable Home Ownership Units in accordance with the approved Scheme of Advertising at 5.2.1 above

5.3 In the event that the Owner is unable to sell an Affordable Home Ownership Unit in accordance with paragraph 5.1.3 above within a period of 60 Working Days of advertising, the relevant Affordable Home Ownership Unit may be:

5.3.1 let to any person at 80% of the Open Market Rent; or

5.3.2 sold or let to any willing purchaser by way of an Alternative Affordable Housing product that shall have first been approved in writing by the Council (such approval not to be unreasonably withheld or delayed)

5.4 Not to exchange or complete contracts for the sale of any interest in the relevant Affordable Home Ownership Units until the Owner has submitted written verification to the Council that the prospective purchaser satisfies the criteria contained in this Deed and the Council has given its approval that the prospective purchaser satisfies the obligations (such approval not to be unreasonably withheld) and if no response is given by the Council within 10 Working Days of receipt of written verification from the Affordable Housing Provider then approval will be deemed to have been given PROVIDED THAT such written verification is served upon the Council clearly addressed and marked for the urgent attention of the Housing Enabling and Allocations Manager

5.5 The Affordable Housing Provider or Owner of the Affordable Home Ownership Units shall if so required by the Council provide to the Council (together with the written verification detailed in

paragraph 5.4 above) all necessary documentation as stipulated in Annex 2 as evidence that the prospective purchaser satisfies the obligations contained in this Deed.

## **6 Release**

- 6.1 None of the obligations and restrictions referred to in Part A of this Schedule shall not be binding on 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 (each a Receiver)) of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:
- such mortgagee or chargee or Receiver 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
  - if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Housing Units free from the Affordable Housing Obligations in this Schedule which provisions shall determine absolutely
- 6.2 In relation to any Affordable Housing Units the Affordable Housing obligations in this Deed shall not apply to;
- 6.2.1 any sale to a tenant in exercising their right to acquire or purchase under a statutory power or a tenant who acquires the said rented dwelling pursuant to any voluntary sales policy of its landlord or to the successors in title to any such persons to the intent that such provisions shall determine absolutely in respect of that unit
- 6.2.2 in relation to any Affordable Shared Ownership Dwelling where if required the owner of the said unit has been granted a waiver to the requirements of the Designated Protected Area Order (SI 2009/2098) (or such other regulations restricting the ability to achieve 100% staircasing) the owner subsequently acquires such percentage that will take their ownership to 100% of the said unit or to the successors in title to any such persons to the intent that such provisions shall determine absolutely in respect of that unit
- 6.3 In the event of any Affordable Shared Ownership Dwelling being released from the Affordable Housing restrictions herein contained by virtue of the operation of paragraph 6.2.2 above the Owner shall provide the Council with details of Staircasing Receipts from the Affordable Shared

Ownership Dwellings and in co-operation with the Council to invest 100% of the Staircasing Receipts, if any, arising from the Affordable Shared Ownership Dwellings in the provision of new build Affordable Housing or to invest in measures to enhance the provision of Affordable Housing within the administrative area of the Council including facilitating the acquisition of market housing or the conversion or refurbishment of existing housing to bring such housing back into beneficial use to enable it to be occupied provided that the use of the Staircasing Receipts is limited to the provision within District

## **7. Provision of Information**

- 7.1 The Affordable Housing Provider will on request from the Council allow the Council to inspect or provide to the Council such information as is necessary in order to enable the Council to verify that the Affordable Housing Provider has sold or let the Affordable Housing in accordance with the terms of this Schedule

### **Part B Overage [if required]**

#### **“Development Account”**

means the return to be provided by the Owner to the Council such return to detail;

(1) the independently audited account for the Development setting out the actual costs, expenditure and income from the Development

(2) the Owner’s profit at [20%] of gross development value

#### **“Development Costs”**

means all actual costs incurred by the Owner in constructing the Development and which shall include:

- a. land acquisition costs and any SDLT
- b. legal fees and other professional fees in connection with land acquisition and plot sales
- c. costs of obtaining planning permission (including all legal and professional fees)
- d. construction and labour costs
- e. marketing costs
- f. interest payments on borrowing
- g. any costs associated with complying with the requirements of this Agreement and/or the conditions imposed on the Planning Permission

<b>“Disposal”</b>	means the disposal of the Owner’s interest by way of the sale of the freehold interest or the granting of a long leasehold interest and ‘Disposed of’ shall be construed accordingly
<b>“Overage Cap”</b>	means the sum equal to £[#### (#### pounds)]
<b>“Overage Payment”</b>	Means 50% of the amount of the Overage Value which shall be paid to Council
<b>“Overage Payment Date”</b>	means the first Working Day falling 20 Working Days after the date upon which Council confirm in writing that the Development Account is agreed and the amount of Overage Payment due.
<b>“Overage Trigger”</b>	Means any surplus amount in the Development Account when compared with the Viability Appraisal
<b>“Overage Value”</b>	<p>Means the potential additional profit made by the Owner calculated in accordance with the following formula, namely;</p> $P = A - B - C$ <p>Where;</p> <p>P = Overage Value (profit element)</p> <p>A = actual gross development value (i.e. receipts from actual sales)</p> <p>B = Development Costs</p> <p>C = Owner’s profit element in accordance with the [20%] of the gross development value set out in the Viability Appraisal [ and in the alternative should the Owner provide the Discount Market Housing Units the Owner’s profit] at [20]%</p>
<b>Viability Appraisal</b>	means the [Plymouth City Council report named #### PCC Review Version Development Appraisal dated ####] which reviewed the Applicant’s viability report [dated August 20##]

<b>Viability Fee</b>	Means the amount payable by the Owner towards the costs of obtaining the external review of the Development Account as advised by the Council
<b>Working Day”</b>	Means a weekday which is neither a statutory bank holiday, nor Good Friday, nor any day falling between 22 December in any year and 2 January in the following year (both dates inclusive)

**“Part B: Overage**

1. The Owner hereby covenants with the Council as follows:-
  - a. To provide the Development Account to the Council within twenty five (25) Working Days of the Disposal of the last Dwelling
  - b. Following submission of the Development Account the Owner shall pay to the Council the Viability Fee within 5 Working Days of written notification of the amount due
2. In the event of the Council providing written confirmation that the Development Account is agreed and where the Development Account demonstrates that there is a positive Overage Value the Owner shall pay to the Council the Overage Payment by the Overage Payment Date PROVIDED ALWAYS THAT any Overage Payment shall not exceed the Overage Cap

**ANNEX 2**

to the

**FIRST SCHEDULE**

**(Evidence of eligibility of Qualifying Persons)**

Pursuant to paragraphs 4.5 and 4.6 of Part A and paragraphs 5.4 and 5.5 of Part A of the First Schedule the Owner shall verify to the Council or its agent that the prospective purchaser or tenant meets the terms of this Deed 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 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)

**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

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