

**HOUSING ENABLING – SUPPLEMENTARY PLANNING DOCUMENT
(S106 - HOUSING NEED ALLOCATION – EXCEPTION SITES)**

Cabinet Member Cllr Ray Stanley
Responsible Officer Andrew Pritchard – Operations Director

Reason for Report: The last policy was adopted in June 2012, since then the policy requires updating following the legal legislation regarding Armed Forces personnel (Annexe 1).

RECOMMENDATION(S): That the new local need /qualification criteria annex 1 to the Meeting Housing Needs Supplementary Planning Document be approved.

Relationship to Corporate Plan: The Council is committed to facilitating the housing growth that Mid Devon needs, including affordable housing.

Financial Implications: None.

Legal Implications: To ensure that Registered Social landlords following the adopted policy as per the S106 conditions.

Risk Assessment: Failure to follow procedure may lead to homes being allocated to applicants living outside the District, therefore breaching planning regulations.

1. Background

- 1.1 The Meeting Housing Need Supplementary Planning Document (Annexe 1) requires updating due to change in legislation. The report to the Housing PDG does not seek to change the Meeting Housing Needs Supplementary Planning Document itself (this would need formal consultation and to go via the Planning Policy Advisory Group), but rather only change Annex 1, the local need / qualification criteria. The annexe will continue to be revised periodically to ensure that needs of the area are met
- 1.2 This document along with the SPD will ensure that any homes developed remain affordable in perpetuity and are prioritised for people with a local connection as required in a S106 local connection criteria.
- 1.3 Affordable housing will be allocated to eligible people based on their level of housing need and local connection, in accordance with Meeting Housing Needs section 6 (HN/6) in the Supplementary Planning Document: Meeting Housing Needs. This annex is revised whenever necessary to take account of changes made by the Council's Housing Service to the eligibility criteria.
- 1.4 The cascade approach below mirrors the Devon Home Choice (DHC) scheme and categorises different levels of housing need into Bands A-E, ranging from 'emergency housing need' (Band A) to 'no housing need' (Band E). More information about the bands, how to bid for affordable housing and how

homes are allocated may be found on the Devon Home Choice website at www.devonhomechoice.com.

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Circulation of the Report: Councillor Ray Stanley, Cabinet Member for Housing

Mid Devon District Council

Supplementary Planning Document (S106 - Housing Need Allocation – Exception Sites)

Policy Number:

May 2017

Version Control Sheet

Title: Supplementary Planning Document
(S106 - Housing Need Allocation – Exception Sites)

Purpose: To review the S106 Local connection criteria with reference to case law changes.

Owner: **Housing Options Manager**
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Telephone number 01884 234906

Date: **May 2017**

Version Number: v1.3

Status: **Supplementary Planning Document**
(S106 - Housing Need Allocation – Exception Sites)

Review Frequency: Three years or sooner if required and in accordance with changes in legislation and case law.

Next review date: May 2020

Consultation This document was sent out for consultation to the following:

Management Team
Cabinet Member
PDG Decent and affordable Homes
Planning

Document History

This document obtained the following approvals.

Title	Date	Version Approved
Head of Service		
Management Team		
PDG Decent and Affordable Home		
Cabinet		
Council		
Audit		

1.0 Introduction

- 1.1 Planning obligations, also known as Section 106 agreements (based on that section of The 1990 Town & Country Planning Act) are private agreements made between local authorities and developers and can be attached to a planning permission to make acceptable development which would otherwise be unacceptable in planning terms. The land itself, rather than the person or organisation that develops the land, is bound by a Section 106 Agreement, something any future owners will need to take into account.
- 1.3 The Government's policy on the use of planning obligations is set out on the Planning Practice Guidance website. Local planning authorities must take this guidance into account in their decisions on planning applications and must have good reasons for departing from it.

1.4 The S106 will vary depending on the nature of the development and based on the needs of the District. The most common obligations include:-

- Public Open Space
- **Affordable Housing**
- Education

1.4 This Policy sets out how the process by which a Landlord/Trust will comply with the requirements of a Section 106 agreement detailed in a scheduled scheme i.e. to ensure that any homes developed remain affordable in perpetuity and are prioritised for people with a local connection.

2.0 **S106 - Affordable housing (Exception Sites)**

2.1 Affordable housing will be allocated to eligible people based on their level of housing need and local connection, in accordance with MHN/6 in the Supplementary Planning Document: Meeting Housing Needs. This annex is revised whenever necessary to take account of changes made by the Council's Housing Service to the eligibility criteria.

2.2 The cascade approach below categorises different levels of housing need into Bands A-E, ranging from 'emergency housing need' (Band A) to 'no housing need' (Band E). More information about the bands, how to bid for affordable housing and how homes are allocated may be found on the Devon Home Choice website at www.devonhomechoice.com.

3.0 **Local Need/Connection Qualification Criteria**

3.1 In determining the allocation of affordable housing to local people on rural exception housing sites the District Council will utilise the following cascade criteria to determine the suitability of potential occupants. Priority will be given to eligible persons with a local connection to the Parish coupled with a housing need, using the cascade in the following paragraph (Appendix 1). Applicants will be prioritised using the criteria, ranked in order of importance:

3.1.1 The intended household has been continuously resident in the Parish of (XXXX) for at least five years in Bands A-D.

3.1.2 The intended household is permanently employed in the parish of (XXXX) in Bands A – D and whose work is primarily based in this parish. For the purposes of this criterion, 'permanently employed' means having held a permanent employment contract for a minimum of 16 hours per week for at least the preceding 6 months.

3.1.3 The intended household is living in private rented accommodation and has a local connection to the parish of (XXXXX) according to clauses 1 and 2 in order of preference, in Band E where the household income is

insufficient to enable it to afford to or to sustain to rent or purchase a property suitable for its needs at a full open market value or price in the parish of XXXX

- 3.1.4 Former residents who previously lived in the parish of (XXXX) for a period of at least three years within the last 10 years in Bands A – D who wish to return to the parish. Those in the Armed Forces (defined in Appendix 2) will be considered above those former residents who wish to return to the parish;
- 3.1.5 The intended household is in the A – D Band and has a close living relation resident in the parish of (XXXX). This means immediate family members (parents, siblings, dependent and non-dependent children) who themselves live in the Parish of (XXXX) and have done so for at least the preceding five years; Exceptional circumstances will be taken into consideration.
- 3.1.6 Former residents (who have previously lived in the parish of (XXXX) for a period of at least three years within the last 10 years) who wish to return to the parish of (XXXX) in Band E and who are currently Council or Housing Association tenants.
- 3.1.7 The intended household have been continuously resident in the parish for six months or more in Bands A – D).
- 3.1.8 Those residents of neighbouring parish in Bands A – D using the above criteria in the following order of priority:
 - a).xxxx
 - b).xxxx
 - c).xxxx (as listed)
- 3.1.9 Those residents with a local connection to Mid Devon District in Bands A – D. For the purposes of determining “local connection” the criteria above will be used, substituting Mid Devon District for references to XXXX.
- 3.1.10 Those residents with a local connection to Mid Devon District or those with a local connection to the parish specified above, in Band E. For the purposes of determining “local connection” the criteria above will be used, substituting Mid Devon District or the relevant parish (as appropriate) for references to XXX.
- 3.1.11 All other Devon Home Choice applicants.

4.0 Shared Ownership Properties

4.1 For the shared ownership properties, the following groups would be eligible:

- First time buyers who cannot afford to buy on the open market in the locality
- Those who jointly owned a home but the relationship has broken down and cannot afford to buy on the open market in the locality.
- Existing shared owners who have outgrown their home but cannot afford to buy outright/rent on the open market in the locality

4.2 Shared ownership applicants would be prioritised on the following basis:

4.2.1 Has been continuously resident in the parish of (XXXX) for at least five years

4.2.2 Is permanently employed in the parish of (XXXX) and whose work is primarily based in this parish. For the purposes of this criterion, 'permanently employed' means having held a permanent employment contract for a minimum of 16 hours per week for at least the preceding 6 months.

4.2.3 Has previously lived in the parish of (XXXX) for a period of at least three years within the last 10 years wish to return to the parish.

4.2.4 Has a close living relation resident in the parish of (XXXX). This means immediate family members (parents, siblings, dependent and non-dependent children) who themselves live in the parish of (XXXX) and have done so for at least the preceding five years; Exceptional circumstances will be taken into consideration.

4.2.5 Has been continuously resident in the parish for six months or more.

4.2.6 Residents of neighbouring parish using the above criteria in the following order of priority:

- a).xxxx
- b).xxxx
- c).xxxx (as listed)

4.2.7 Has a local connection to Mid Devon District. For the purposes of determining "local connection" the criteria above will be used, substituting Mid Devon District or the relevant parish (as appropriate) for references to XXX.

4.2.8 Those residents with a local connection to Mid Devon District or those with a local connection to the parish specified above. For the purposes of determining “local connection” the criteria above will be used, substituting Mid Devon District or the relevant parish (as appropriate) for references to XXX.

4.2.9 All other shared ownership applicants.

4.3 First priority will be given to those who are eligible in accordance with the above criteria and who are existing Council and housing association tenants or Ministry of Defence personnel.

4.4 The size and type of the shared ownership home offered will be based on three main factors:

- Affordability
- Household size
- The applicant’s preference

4.5 As a guide, offers will be made on the following basis:

- Single applicants – one or two beds
- Joints applicants – one, two or three beds
- Couples/single parent families with one child – two or three beds
- Couples/single parent families with two children – three or four beds

5.0 **Application of Criteria**

5.1 The landlord is responsible for lettings and sales. Residents will be tenants or leaseholders of the landlord.

5.2 Where two or more applicants have equal status in terms of local connection and housing need, the deciding factor will be their length of time registered on Devon Home Choice and the property will be allocated to those who have been registered longer.

5.3 As affordable rented homes are in short supply, a home with a spare bedroom will not usually be offered except in the following circumstances:

- Where a member of the family has a long term illness or disability and may need a carer to stay overnight on a regular basis
- Where, after allocating two bedroom homes to families with children or

dependant relatives, some homes remain available, couples with a local connection may be considered for that property.

- Where children, who normally live with their other parent, frequently stay overnight.

6.0 Advertising of Vacancies

6.1 On the first letting/sales, the Landlord/Trust will hold an open meeting 4 months before the expected completion date of the properties to provide information and advice.

6.2 The Landlord will notify the Trust of all rental vacancies or re-sales. If the property is rented, it will be advertised on Devon Home Choice (DHC). If the property is to be sold under a Shared Ownership lease it will be advertised by South West Homes (SWH). In the event that DHC or SWH are unable to provide this service, or the definitions of Bands A-E should change, the Landlord/Trust will ensure that future applicants who would formerly have been eligible for the properties by having a local connection and being in Band E will remain eligible. The Landlord/Trust will formally amend this Allocations Plan accordingly (and with it, the Section 106 Agreement).

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

7.0 The Offer Process

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

7.2 Prior to and offer being made - and with the consent of the applicants - the landlord will provide the Trust with applicants' names and stated local connections in order that the Trust can use its local knowledge to verify the applicants local connections.

8.0 Conclusion

9.0 Related Documents

10.0 Diversity and Equal Opportunities

10.1 Mid Devon District Council is committed to reflecting the full diversity of the

community it serves and to promoting equality of opportunity for everyone. The Housing Service will tailor its services to meet the diverse needs of individuals. They will foster good relations with people when providing their services to eliminate discrimination

Appendix 1

Devon Home Choice Local Connection Definition

An applicant fulfilling the local preference criteria will be the same as the one used in the current Devon Home Choice (DHC) guidance.

To demonstrate a local connection (defined in Part VII of the Housing Act 1996) with Devon, applicants will:

- Normally be resident in the parish or neighbouring parish. Local Government Association (LGA) guidelines define this as having resided in the area for six out of the last twelve months, or three out of the last 5 years, where residence has been out of choice. In line with the Housing and Regeneration Act 2008, service personnel who have been based and living in that parish or a neighbouring parish will be considered to have a local connection.
- Work in the parish or neighbouring parish. The LGA guidelines define this as employment other than that of a casual nature. For the purposes of this policy this will be defined as having permanent work with a minimum of a 16 hour contract per week for the previous 6 months, and without a break in the period of employment for more than three months.
- Have a family connection in the parish or neighbouring parish. The LGA guidelines define this as immediate family members (parents, siblings and non-dependent children) who have themselves lived in the area for five years.

NB - Applicants will be required to provide proof of their local connection to Devon before their banding is assessed.

Appendix 2

Armed Forces Personnel

Allocation of Housing (Qualification Criteria for Armed Forces) (England) Regulations 2012

- Those who are currently serving in the regular forces or who were serving in

the regular forces at any time in the five years preceding their application for an allocation of social housing

- Bereaved spouses¹ or civil partners¹ of those serving in the armed forces where (i) the bereaved spouse or civil partner has recently ceased, or will cease to be entitled to reside in Ministry of Defence accommodation following the death of their service spouse or civil partner, and (ii) the death was wholly or partly attributable to their service.

(¹ should bereaved spouses or civil partners secure housing after leaving Ministry of Defence then this will no longer apply)

- Current or former members of the reserved forces, who are suffering from a serious injury, illness or disability which is wholly or partly attributable to their service,

Signed on behalf of

Name

Dated

Signed on behalf of

Name

Dated

IN WITNESS whereof the parties hereto have executed this instrument this instrument as their Deed the day and year first before written

THE COMMON SEAL of MID DEVON)
DISTRICT COUNCIL was hereunto affixed)

In the presence of:-

Chairman of the Council

Chief Executive

EXECUTED as a Deed by
NAME

In the presence of:-