Cheshire West & Chester Council

Cheshire West and Chester Discounted Sale Affordable Housing

Overview and information for owners and potential purchasers

Building futures, opening doors

Cheshire West and Chester

Cheshire West and Chester Discounted Sale Affordable Housing

Overview and information for owners and potential purchasers

1. Purpose

This guidance note provides details on discounted sale affordable housing. It explains what this type of affordable housing is and the restriction that apply to owners. The requirements in this document should be taken into account when considering acquiring or selling a discounted sale affordable home. Owners, agents and potential purchasers are strongly advised to discuss affordable housing issues with the Council at an early stage when wishing to undertake a sale/purchase.

2. Background

Due to high property prices relative to local incomes the area has a shortage of affordable housing. Many households are unable to purchase or rent their own home on the open market. Increasing the supply of affordable housing is one of the Councils key local priorities. In view of the scale of the borough's affordable housing problem it is important that all affordable housing is prioritised to households who are unable to afford suitable market housing.

3. What is affordable housing?

Annex 2 of the National Planning Policy Framework (NPPF) provides definitions of the types of affordable housing including low cost home ownership products. It defines affordable housing as; "**H**ousing 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); and which complies with one or more of the following definitions:

a) **Affordable housing for rent:** meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).

b) **Starter homes:** is as specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or decision-making. Where secondary legislation has the effect of limiting a household's eligibility to purchase a starter

home to those with a particular maximum level of household income, those restrictions should be used.

c) **Discounted market sales housing (DMS):** is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.

d) **Other affordable routes to home ownership:** is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement.

Cheshire West and Chester primarily deal in the discounted market sales product and how this works in practice is explained in the following FAQ document:

Discounted Market Sale Affordable Housing Frequently Asked Questions

Question	Answer	Explanation	Points to Note
What is a Discounted Market Sale property?	A Discounted Market Sale (DMS) home is an affordable property (unit) that is sold at a set percentage below open market value and can only be purchased by an eligible person. A Discount for Sale property can also be called a Discount to Market, DMS, DFS, discounted, a Section 106 property or a restricted covenant property. Lenders often refer to them as restricted covenant properties.	There are many different types of affordable housing but properties under this scheme are offered for sale to eligible purchasers at a discounted price of the full market value. You own 100% of the property, no additional rent is required like other intermediate affordable home ownership products such as shared ownership or rent to buy. For example, a £100,000 house with a 25% discount would be offered to eligible applicants for £75,000.	The discount is tied to the property in perpetuity to ensure the unit stays affordable forever and continues to help those in affordable housing need. The Council only deals with Discount for Sale properties – all other affordable housing is dealt with by Help to Buy North West.

		This is not a shared ownership scheme and even though there is a discount on the sale price, the purchaser still owns 100% of the property. When the owners want to sell their property, they must do so on the same terms, which means they must sell it with the same level of discount they received (a percentage of the open market value at the time) and to someone who meets the criteria for affordable housing.	
What is a Section 106 Agreement?	A Section 106 Agreement is a legal document issued as part of the planning permission for the affordable home. It states the planning obligations of a scheme, including restrictions on disposal (sale and re-sale) and occupancy of the DMS properties.	To ensure properties are sold at the correct price and to households who require affordable homes a legal document under Section 106 of the Town & Country Planning Act 1990 is drawn up when the DMS unit is granted planning permission. The contents of the s.106 agreement apply every time the property changes hands and the Council check potential purchasers meet the eligibility criteria prescribed in the Agreement and that any occupancy restrictions (such as no sub-letting clauses) are being adhered to.	
Is discounted housing always dealt with through a Section 106	Not always; sometimes the affordable housing obligations are set out in an Affordable Housing Statement as part of a	Affordable Housing Statements and conditions work in the same way as a Section 106 Agreement and are binding on all owners/occupants in	

Agreement?	Planning Condition issued when planning permission was granted.	perpetuity.	
What is a Deed of Variation?	A Deed of Variation is a legal document making changes to the original Section 106 Agreement. Anything listed in a Deed of Variation will supersede the relevant sections of the Section 106 Agreement.		
What is the Council's role?	The Council's role is to ensure the restrictions in the Section 106 Agreement/Affordable Housing Statement are enforced on Discounted Market Sale properties.	The contents of the s.106 agreement/Affordable Housing Statement apply every time the property changes hands and the Council check potential purchasers meet the eligibility criteria prescribed in the Agreement and that any occupancy restrictions (such as no sub-letting clauses) are being adhered to.	The Council is not responsible for valuing properties (see later) or giving financial advice.
How do I apply for a DMS home?	To apply for Discounted Market Sale housing, you apply to the Affordable Housing Team at the Council on-line or complete a paper form.	Use the link on the Councils Affordable Housing webpages to apply. Alternatively you can email or phone the Affordable Housing Team and request a paper form or for help completing your application	The Council only deals with DMS properties; all other affordable housing products are dealt with by Help to Buy North West.
Do I have to be a first time buyer to be eligible?	Not necessarily – it depends what the Section 106 says for that particular scheme.	Applicant considered to be in Housing Need are prioritised for affordable housing, they do not have to be a first time buyer. For further details of common eligibility criteria and the application process please see the guidance	

		leaflet “What you need to know when buying an affordable home” available on the Councils Affordable Housing webpages.	
I want to buy a discounted property for my daughter/son (or I want to act as a Guarantor). Can I do this?	Parents are able to gift their children a deposit towards the cost of the affordable property up to a maximum of 65%. However they are unable to act as guarantor or become a joint owner unless they also intend to live there and have undergone an appraisal to ensure they meet the eligibility criteria.	The eligibility criteria relates to the purchaser. If a parent wants to buy a discounted property for their son or daughter then the parent will need to complete the application form and will be subject to the eligibility criteria – not their son or daughter.	
I’m a key worker / an armed forces employee, am I eligible?	Eligibility is set by the specific Agreement or affordable housing statement. It is not linked to a specific profession	Eligibility is usually based on local connection and inability to afford to purchase on the open market. Therefore no preference is made for specific professions	
Do I always have to sell with the discount?	Yes.	The discount is tied to the property in perpetuity to ensure the unit stays affordable forever and continues to help those in affordable housing need.	Every scheme is different and will have a set discount based on what is considered affordable for the area. The discount (a percentage the property should be reduced by) will be noted in the Section 106 Agreement. Occasionally, properties under the same Section 106 Agreement will be subject to different discount

			percentages depending on tenure.
How is the property valued?	The owner or developer for new properties is obliged to provide the Council with three written valuations for the open market value of the property from three local estate agents. The Council will take the average of the three and apply the relevant discount. This is then the maximum sales value.	Some Section 106 Agreements have specific details on valuing properties but the answer outlined here is generally applied.	
How does the process work?	1. The homeowner (or housing developer) advises the Council of their intention to sell the affordable unit. 2. The owner obtains three written valuations for the open market value of the unit from local estate agents. 3. The Council calculates the maximum sales price of the property. 4. The estate agent/ developer is advised on the process and eligibility criteria		Eligibility criteria usually contain a time cascade to prioritise potential purchasers to make sure that affordable housing is offered to local people in need of affordable housing first before the rest of the Borough and outside the area. This may mean that potential purchasers have to wait before they can make an offer for an affordable home because they have a lower priority.

	applicable. 5. Potential purchasers are sign posted to the Council website to make an online application. 6. The Affordable Housing Team processes applications and provides applicants with a decision letter. 7. Potential purchasers must provide this letter to the estate agent or developer's sales office to make a formal offer.		
I am not sure what I am buying / what I have applied for?	You should always seek the advice of a legal professional when purchasing a property who will be able to fully advise you on the implications of purchasing a Discounted Market Affordable Home.	The Council only assesses applications for Discounted Market Affordable properties not other low cost home ownership schemes. Please see the additional guidance leaflet "What you need to know when buying an affordable home"	If an applicant mentions shared ownership, Help to Buy or any other type of affordable housing product that is *not* Discounted Market Sale. Further advice on these options is available fromHelp to Buy North West: www.helptobuynw.org.uk
Can the Section 106 restrictions be removed?	Only in extenuating circumstances can the restrictions be amended. However it is unlikely this would require removal of the discount to enable the property to	The disposal and occupancy restrictions are tied to the property in perpetuity to ensure the unit stays affordable forever and continues to help those in affordable housing need.	

	become a market home.		
Must I sell through an estate agent?	No, but you should advertise the affordable unit widely to ensure eligible applicants can come forward.	The Council requires three written valuations for the OPEN MARKET value from local estate agents but after the sales value is confirmed, the homeowner can sell 'privately' (not through an estate agent) to save on the cost of fees.	All prospective purchasers must still complete an eligibility form and be confirmed as eligible for affordable housing prior to purchasing / putting in an offer. The Council currently advertises available discounted properties on the affordable housing web pages.
Do I have to sell through one of the estate agents I got the valuation done with?	No – the owner can get as many valuations as they like (to choose the best three) but can then sell their property through an estate agent of their choice.	They may want to choose the highest open market valuations but then sell through an estate agent with low fees.	The Council will contact the chosen estate agents to advise of the application process, maximum sales price and if necessary, an explanation about what the Discount for Sale is.
Can I appeal the valuation?	Yes. If an owner is not happy with the maximum sales price confirmed by the Council, then they can appeal it by sending in further valuations from other estate agents.		It is not the Council's job to value properties – we can only use written valuations from estate agents / professional surveyors. Rightmove comparables etc. where customers have researched themselves are not acceptable to the Council. Valuations must be official and in writing.
Can I sub-let / rent it out?	No. Most Section 106 Agreements have a clause	Discounted Market Affordable Homes are not an investment	Owners may be subject to formal enforcement action

	detailing that the affordable unit can only be occupied by the purchaser / Eligible Person and their household.	product. The Council periodically checks owners are not in breach of their obligations under the Section 106 Agreement or Affordable Housing Statement/Conditions.	if they are in breach of the eligibility ctiteria.
What are the eligibility criteria?	All schemes are different but as a general guide, an applicant must currently be living in unsuitable accommodation or need to live independently and not be able to affordable to purchase on the open market without assistance. Local connection to the immediate area through current residence, family or employment are also frequently applied	Unlike social housing, health status and age are not key criteria. The focus is on an applicant's ability to purchase a suitable property on the open market in the same area and any local connection to the area where the affordable home is located.	Please see the additional guidance leaflet "What you need to know when buying an affordable home"
Can I build an extension on my discounted property?	Yes (subject to the necessary planning approvals) but it is very important that the homeowner is aware that no matter how much they spend on the extension, they will still be expected to sell their property with the same discount percentage of the value.		Adding an extension to the property may not be cost-effective in the long-term because of the discounted sales value. Increasing the value because of home improvements, may price the property above the reach of many first time buyers and other eligible purchasers and it can be difficult to dispose of the property.

Who do I owe the equity to?	No-one. The Council does not have an equity share in the property	The property is sold at a discount to an eligible person but the owner will own 100% of the property. It is not shared ownership.	If a Discounted Market property is sold at market value or with a reduced discount applied, the Council can take Legal action to recoup the discounted percentage.
Which lenders lend on Section 106 schemes?	There is a reduced range of lenders who provide mortgages on this type of product, but confidence is growing. Lenders do change their requirements frequently, so it is best to contact a range or a broker to discuss individual circumsta nces.	It is important the purchaser makes their chosen lender aware immediately that the property is a Discounted Market unit to avoid delays in the sale later on.	The Council cannot offer any form of financial advice.
How much deposit do I need?	The Council cannot advise what deposit a customer will need either to obtain a mortgage or reserve a plot.		The Council cannot offer any form of financial advice.
If I'm eligible, can I apply the discount to any property I like?	No. The discount is tied to specific properties in a development (through a Section 106 Agreement).	The Affordable Housing Tea are able to confirm which plots in a new development or resales homes are Discounted Market units	
Can I put an offer in / reserve a property before I have completed an eligibility form?	No.	An applicant can only reserve a new discounted plot or put an offer in on a re-sale property if they have submitted an application and received a positive decision letter confirming that they are	Decision letters will explain if you are an eligible person and from what date you are able to put an offer in where there is a priority cascade in the Section 106

		able to proceed.	Agreement or Affordable Housing Conditions
Can I put in or accept an offer above the maximum sales value set by the Council?	The affordable property cannot be sold at more than the confirmed maximum sales value (the discount of open market value).	If a discounted property is sold at more than the discounted valuation price, then the owner is in breach of the Section 106 Agreement and would be considered to be profiteering and may be subject to legal action from the Council.	If two prospective purchasers are interested in the same property, there cannot be a 'bidding war' above the maximum sales price – it is up to the owner to decide which eligible purchaser to sell to.
Can the Council provide a certificate of compliance ?	Yes but only if the Section 106 restrictions have been adhered to (i.e. has the property been sold at the correct discounted value and to an eligible person?)	Some schemes require a certificate of compliance to be provided by the Council before a sale can be completed. Your solicitor or legal representative will advise if this is necessary.	The re-sale process is further outlined on the Council's website