



# **Guidance Document Discounted Sale Housing**



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# 1. Introduction

## Background to the scheme

- 1.1 The district of Eden is one of the most unaffordable districts in the north of England and in 2018 had the highest median income to house price ratio. Working households in the district need to spend almost eight and a half times their annual income in order to purchase the average house, underlining how unaffordable house purchasing has become for many.
- 1.2 To help local residents in affordable housing need achieve their home ownership goals the Council operates a discounted sale scheme to manage the sale of low cost home ownership properties secured through Section 106 planning obligations.

## What is discounted sale?

- 1.3 Discounted sale properties help households who have been priced out of the market by the rise in house prices and static household incomes.
- 1.4 Unlike some other forms of affordable housing (e.g. shared ownership) with discounted sale properties the purchaser owns their home outright, meaning no other party retains a share of the equity, but the initial price and each subsequent resale is subject to the same percentage discount. The owner is responsible for all repairs and maintenance costs.

## Scope of this guidance

- 1.5 This guidance document provides the Council with a policy and procedure framework by which to assess applications for discounted sale properties within the district of Eden, excluding those areas covered by the National Parks in their role as a planning authority.
- 1.6 It explains how the Council will apply the clauses in the Section 106 planning obligations to applications to purchase a discounted sale property.

## **2. Discounted Sale Policy**

### **A. Buying a discounted sale property**

#### **Qualifying for a discounted sale property**

2.1 The application process for purchasing a discounted sale property is based on the Section 106 Agreement attached to each specific affordable property. This agreement is a legal document which places specific conditions on the property or the land. It ensures that a property remains an affordable property each time its sold and provides the criteria for potential purchasers. Although every Section 106 is unique to each property, the three main eligibility criteria are:

1. Affordable housing need
2. Local connection
3. Only property of the purchaser

#### **Affordable housing need**

2.2 Discounted sale affordable housing is for those who are in housing need and unable to afford to buy a home on the open market. We work out whether you qualify by looking at your household's circumstances, income, savings, equity in any property owned, wages and potential mortgage.

2.3 If the applying household has total available funds that would allow it to purchase the discounted sale property at the open market value then the household will not be certified as eligible to purchase the discounted sale property.

Total available funds = mortgage in principle + savings + equity

2.4 The mortgage in principle offer should be on headed paper from a mortgage advisor or lender regulated by the Financial Conduct Authority (FCA).

2.5 Savings will be evidenced by statements from all accounts held by those applying for the purchase of a discounted sale property. Current account statements must show all transactions covering two months.

2.6 For applicants with a property to sell, equity will be calculated by taking away any outstanding mortgage from the current value of the property. This will be evidenced by an outstanding mortgage statement and a property valuation from an estate agent.

## Local connection

- 2.7 The local connection criteria in respect of discounted sale properties are detailed within the relevant Section 106 Agreement for the property. However, the standard definition is set out in the Eden Local Plan 2014 - 2032 as follows:

A person will be considered to meet the local occupancy conditions if immediately before taking up occupation of the affordable dwelling, he/she or a member of his/her household meets one of the following criteria:

- The person lives in the locality and has done so for a continuous period of at least three years.
- The person works permanently in the locality and has done so for a continuous period of at least three years.
- The person is an existing social tenant who needs to move to take up an offer of work in the district, as detailed in the Government's 'Right to Move' statutory guidance (DCLG, March 2015).
- The person has moved away but has strong established and continuous links with the relevant locality by reason of birth or long term immediate family connections.
- The person needs to live in the locality because they need substantial care from a relative who has lived in the locality for at least three years, or needs to provide substantial care to a relative who has lived in the locality at least three years. Substantial care means that identified as required by a medical doctor or relevant statutory support agency.

"Locality" refers to the parish and surrounding parishes or, in relation to development in Penrith, the District of Eden.

- 2.8 Discounted sale properties in Penrith are open to applicants with a local connection to the district of Eden, elsewhere discounted properties will initially be open to people with a local connection to applicants from the parish (or surrounding parishes), before "cascading" out to people with a connection to the County of Cumbria.
- 2.9 In each case it will be necessary to check the local connection criteria and timescales for "cascading" set out in the relevant Section 106 Agreement.
- 2.10 Within Section 106 Agreements there is generally the opportunity for the Council to consider prospective purchasers who do not meet the local connection criteria. Where this is the case and only in circumstances where no perspective purchaser meeting the local connection criteria has been identified, the Council will consider applicants who do not meet the required local connection criteria on a case by case basis and provide written approval accordingly. Amongst other circumstances, this will include consideration of applicants who may not have worked or lived in the locality for a continuous period of three years.

## **Only property of the purchaser**

- 2.11 A discounted sale property must be the only or principle dwelling/home of the purchaser. If an applicant owns a residential property they must show evidence to the Council that it has been sold subject to contract i.e. memorandum of sale, before completing the purchase of a discounted sale property.
- 2.12 In accordance with the Section 106 Agreement, purchasing a discounted sale property solely for the purpose of renting it to another household will not be allowed.

## **Additional criteria**

- 2.13 The minimum age for applicants to join the waiting list is eighteen years old, and applicants seeking to purchase a property through the scheme will need to have a right of residence in the UK.

## **Prioritising applicants**

- 2.14 Applicants meeting the eligibility criteria set out in the Section 106 Agreement for each particular scheme will be ranked by date of registration onto the waiting list for discounted sale properties. However, for some types of accommodation an additional priority is given to particular types of household with a greater need for that type of property, as follows:
- 4/4+ bedroom houses:
    - I. households including 3 or more children (or having joint custody of 3 or more children); then
    - II. households including 2 or more children (or having joint custody of 2 or more children); then
    - III. households including 1 child (or having joint custody of 1 child).
  - 3 bedroom houses:
    - I. households including 2 or more children (or having joint custody of 2 or more children); then
    - II. households including 1 child (or having joint custody of 1 child) or households who may need an overnight carer/nurse.
- 2.15 For the above house types where there is more than one qualifying applicant with an equal additional priority for the same discounted sale property, applications will be ranked by date of registration onto the waiting list for discounted sale properties.

- 2.16 For dormer bungalows, bungalows and ground floor flats, equal priority will be given to the following types of households:
- households including someone aged 55 or over, and/or households including someone registered disabled; and
  - households with children (or having joint custody), in the case of 4/4+ or 3 bed properties the criteria set out above would apply in respect of prioritising applicants based on the number of children in a household or the need for an overnight carer/nurse.

In allocating these house types, where there is more than one qualifying applicant with an equal additional priority for the same discounted sale property, the Council will base its decision by considering each households individual circumstances and assess and rank their level of housing need.

## **How to apply**

- 2.17 Those seeking certification to purchase a discounted sale property will need to complete the following steps:
1. Registration
  2. Application

## **Registration**

- 2.18 All households will be required to complete a registration form to apply to join the waiting list for discounted sale properties.
- 2.19 When accepted onto the waiting list those registered will receive details of properties available to purchase through the scheme and how to apply for certification of eligibility to purchase a discounted sale property.

## **Application**

- 2.20 Once those registered on the waiting list have found a specific discounted sale property which is advertised for sale through the scheme, they will then be required to complete an application form; applying for certification to purchase a discounted sale property in accordance with the Section 106 Agreement.
- 2.21 Applications from households who are not on the discounted sale waiting list will not be permitted.
- 2.22 Full details of the registration and application process are set out within the 'Discounted Sale Procedure' section of this document.

## **Appeals**

- 2.23 The scheme will be administered in accordance with a straightforward policy linked to the conditions of the Section 106 Agreement and time on the waiting list for discounted sale properties. It is therefore not intended that there will be any appeals process.

## **B. Selling a discounted sale property**

- 2.24 The Section 106 Agreement attached to a discounted sale property will normally provide the information needed to sell your house, including:
- stating the maximum percentage of market value you are able to advertise and sell the property;
  - obtaining a valuation;
  - who can buy the property; and
  - that the purchaser will normally have to be approved by the Council.

### **Step 1: Obtaining a valuation**

- 2.25 Before marketing a discounted sale property you must employ, at your own expense, an independent Royal Institute of Chartered Surveyors (RICS) registered chartered surveyor to provide an open market valuation for the property.
- 2.26 Your chosen surveyor must know the local housing market and have experience of valuing properties in the area. They will need to complete their report using the Council's standard Valuation Template which is available to download from Eden District Councils website.
- 2.27 If your surveyor does not use the standard format the valuation will be rejected and your surveyor will have to resubmit it in the prescribed format.
- 2.28 Completed valuations will be verified by the Council in the first instance; in the event of any dispute over the valuation, an independent RICS qualified valuer will be appointed by the Council to verify the valuation.
- 2.29 If the valuation remains contested the matter will be referred to the District Valuer, whose decision on valuation will be final, with the cost being reimbursed to the Council from the vendor.

### **Step 2: Applying the percentage discount**

- 2.30 The scheme seeks to ensure discounted sale properties remain within reach of households on local incomes. This is achieved through a percentage discount from the open market value, enabling the purchaser to buy the whole property at a discounted price.
- 2.31 As Section 106s will differ, it will always be necessary to refer to the Section 106 Agreement for the defined "affordable price", this states the maximum percentage of market value you are able to advertise and sell your property. On older schemes the discount may be between 20% to 30% of the open market value and the "affordable price" may or may not be subject to an upper affordable price cap.
- 2.32 New build discounted sale properties sold through this scheme will be sold at a discount of 40% from the open market value. To ensure prices remain affordable to households in Eden, and within the Governments definition of 'discounted market sales housing' (as set out in the National Planning Policy



Framework), any properties sold via this method will be capped in any event at 60% of the mean property price in Eden (based on CACI Paycheck data). This upper affordable price cap will be stated in the Section 106 Agreement.

2.33 The calculated affordable price cap will be updated on an annual basis.

### **Step 3: Marketing and Sales**

2.34 When a valuation has been agreed with the Council the property can be marketed. For all sales it is the responsibility of the vendor to market the property and to ensure that a buyer has been certified to purchase the property.

2.35 When a property is released for sale, or listed for sale with an estate agent, we will notify all households on the discounted sale register, full details of this process are set out within the 'Discounted Sales Procedure' section of this document.

2.36 Interested buyers will need to first complete a registration form to join our waiting list for discounted sale properties, before completing an application form for written approval/certification from the council in order to purchase a specific property. Further detail is set out in the 'Discounted Sales Procedure' section of this document.

### **What if your property is struggling to sell**

2.37 Buying and selling homes can be stressful and selling any home can take a while. Make sure that you are doing all you can to promote your property. Talk to your estate agent for advice, they may suggest redecorating or decluttering your home and possibly reducing the asking price.

2.38 In most Section 106 Agreements there is a process called "cascading", by which if there is no buyer after your property has been marketed for a certain length of time, such as 8 weeks, we can look at a temporary relaxation of the 'local connection' part of the Section 106 Agreement. Meaning the property only remains available to persons in affordable housing need, but the local connection criteria is broadened, allowing more people to qualify for its purchase.

2.39 All Section 106 Agreements are different and there have been many variations over time. If you are unsure whether yours contains a "cascade" process, contact your solicitor or our Housing Development Officer.

2.40 Any unusual circumstances may form the basis of a request to the Council to permit the property to be transferred to another party, such as an affordable housing provider, subject to and in accordance with the Section 106 Agreement.

## **Renting**

- 2.41 Owners of a discounted sale property must not allow any other person to live in their property, unless that person(s) forms part of their household.
- 2.42 However, exceptional circumstances may occur whereby the owner of a low cost property has been unable to sell the property but has a genuine need to move. In such circumstances we will allow a discounted sale property to be rented out on a temporary basis.
- 2.43 Written approval from the Council must be received before the discounted sale property can be rented out. Approval will be given provided the following criteria are met:
- The property must have been for sale with an estate agent for at least six months.
  - The rent charged must be no more than 80% of the open market rental value for the property. An estate agents valuation of the open market rent must be submitted.
  - The owner of the discounted property must confirm they have sought advice as to how letting the property would affect them, such as mortgage payments and insurance cover.
- 2.44 Approval given by the Council in the above circumstances would result in permission being given to let the property for a maximum two year period. The property must then be listed for sale for a further six months before applying to the Council for permission to resume letting.

## **C. Further information**

### **Home improvements**

- 2.45 Unlike some other forms of affordable housing (e.g. shared ownership) with discounted sale properties the purchaser owns their home outright, meaning no other party retains a share of the equity.
- 2.46 The owner is responsible for all repairs and maintenance costs and is entitled to undertake any home improvements they wish, for example adding a conservatory or extending the property (subject to securing planning permission where appropriate). However, it is important to be aware homeowners may not realise the full value uplift of these improvements due to the need to sell the home at the same percentage discount for which they purchased it.

### **Rights of succession**

- 2.47 Those who inherit a discounted sale property are required to inform the Council.
- 2.48 Inheriting households will need to demonstrate that they meet the qualifying criteria in the Section 106 Agreement attached to each specific affordable property. If the inheriting household is unable to meet the criteria the property will have to be sold in accordance with the Section 106 Agreement, with the monetary value (equity) received from the sale going to the beneficiary.

### **Section 106 Agreement legal implications**

- 2.49 A Section 106 is registered as a local land charge. This means that when a proposed purchaser undertakes a local search on the property the purchaser will become aware of the Agreement.
- 2.50 Potential purchasers are entitled to request a copy of the Agreement from Eden District Council to make themselves aware of its terms.
- 2.51 The purchaser should not proceed with a transaction unless and until they are satisfied of the terms and that they are not unduly affected by them. Any purchaser should secure that their interests are protected and they are not in breach of the Agreement by completing the conveyance.

### **Enforcement**

- 2.52 The Council should be notified of any sale of a discounted sale property. If the Council are not notified and become aware of a sale at a later date the Council will initiate an investigation to determine the eligibility of the purchaser. If the purchaser is found to be ineligible, the Council will take necessary enforcement action to ensure vendors and prospective purchasers are compliant with the Planning Obligation.

## **Data protection**

- 2.53 The Council shall comply with all applicable data protection legislation and privacy legislation in the UK including the General Data Protection Regulation (GDPR); the Data Protection Act 2018; and all other legislation and regulatory requirements in relating to the use of Personal Data and the privacy of electronic communications.
- 2.54 Any personal data submitted by you or obtained as part of an application will be handled in accordance with the Data Protection Laws, the Council's Data Protection Policy and its Privacy Policy which can be found on the Council's website ( [www.eden.gov.uk/your-council/council-business/requesting-information/data-protection-policy](http://www.eden.gov.uk/your-council/council-business/requesting-information/data-protection-policy)).

## **Monitoring and review**

- 2.55 It is expected that monitoring will be on-going to determine that both the discounted sale scheme and the guidance / procedure continues to work for vendors and purchasers and ensures that the type of housing provided for discounted sale reflects the needs of local households.

### 3. Discounted Sale Procedure

- 3.1 This section of the document explains the procedure followed by Eden District Council during the registration process and how the Council will assess applications to be certified as eligible to purchase a discounted sale property.
- 3.2 All communication will be by email, except where the households specifically request to receive communication by post.

#### Registration onto the waiting list

- 3.3 Registration forms are available to fill in online via Eden District Council's website, or can be requested from [housing.services@eden.gov.uk](mailto:housing.services@eden.gov.uk), or collected from the below address:

Mansion House  
Friargate  
Penrith  
CA11 7YG

- 3.4 Completed registration forms can be submitted online, returned via email to [housing.services@eden.gov.uk](mailto:housing.services@eden.gov.uk) or posted/delivered to the above address, marked for the attention of 'Housing Services'.
- 3.5 Registration forms will be scanned and saved electronically to a secure folder. Hard copies will be disposed of securely. Details from each application form will be added to Eden's waiting list for discounted sale properties.
- 3.6 Entry onto the discounted sale waiting list does not guarantee the household will be certified as eligible to purchase a discounted sale property.
- 3.7 Households will be sent confirmation of their entry onto the discounted sale register within 10 working days of their registration form being received.

#### Verifying valuations

- 3.8 Following notification from the vendor/developer of their intention to sell a discounted property, they will submit a valuation of the property to the Council. This valuation must be from a RICS registered chartered surveyor using the Council's standard Valuation Template.
- 3.9 When the Council confirms that they accept the valuation, they will then agree with the vendor/developer a marketing 'release date' for the property. The publicity must stipulate that the property is an "affordable property", "subject to a Section 106 Agreement" and that "buyers must be approved by Eden District Council".
- 3.10 At this point the Council will also seek confirmation from the vendor/developer that they give their approval for the Council to send details of the property (and contact details of the developer, estate agent or vendor) to households registered on the waiting list.

- 3.11 A copy of this guidance document will be shared with the vendor/estate agent /developer to ensure they are familiar with all aspects of the discounted sale policy and procedure.
- 3.12 Where applicable, the cascade process, specifying when households are eligible will begin 5 working days after the confirmed 'release date'.

### **Notifying households on the waiting list**

- 3.13 When a property is released for marketing all households on the waiting list will receive an email (or letter if they have specifically specified) giving the following details of the property (these details will also be published onto the Council's website):
- Location – address / development / plot number
  - Developer (only if new build)
  - Type of property and number of bedrooms
  - Open market and discounted sale price
  - Contact details for the developer, estate agent or vendor
  - Details of local occupancy criteria as per the Section 106 Agreement
- 3.14 A blank application form ('Word' format) and this guidance document for discounted sale housing will also be attached to the notification email.
- 3.15 A shortlisting deadline, 10 working days from the day of the notification email, will be given for submission of completed application forms. On close of the shortlisting deadline, should no applications have been received from qualifying households, applications received after this date will be assessed on a first come first assessed basis, in accordance always with the conditions of the Section 106 Agreement and guidance contained within this document.

## **Application process**

- 3.16 Completed application forms can be emailed to [housing.services@eden.gov.uk](mailto:housing.services@eden.gov.uk) or posted to:

Housing Development Officer  
Mansion House  
Friargate  
Penrith  
CA11 7YG

- 3.17 Application forms and supporting information will be scanned and saved electronically to a secure folder. Hard copies of the information submitted in support of an application will be disposed of securely (unless specified by the applicant that they would like any supporting documents to be returned).
- 3.18 Applications will be assessed using the eligibility criteria specified in this guidance document.
- 3.19 Additional information may be requested from applicants if necessary.

## **Notification of decision**

- 3.20 The Council may take up to 10 working days from the time of submission or from the shortlisting deadline (whichever is longer) to assess applications.
- 3.21 Applicants will be notified of the final decision via email (in exceptional circumstances and where the applicant does not have an email address a hard copy may be posted out).
- 3.22 Approved applicants will receive an email with a .pdf letter attached which will confirm their eligibility to purchase the property. If applicable this letter will specify what plot number they have been approved for.
- 3.23 Names and contact details of approved applicants will be passed onto the developer or estate agent.
- 3.24 The household buying the property will be removed from the waiting list.
- 3.25 If a reservation falls through, the developer/vendor will advise the Council who will advise qualifying unsuccessful applicants before contacting households on the waiting list who did not apply.

## **Annual Update**

- 3.26 An email will be sent annually to households on the waiting list asking for confirmation that they wish to remain on the waiting list.

## Contact Details

### Housing Development Officer

Eden District Council, Mansion House, Penrith, Cumbria CA11 7QF



01768 817817



housing.services@eden.gov.uk



Eden Council Facebook



@edencouncil

\*Copies of this document are available in alternatives formats or languages upon requests.