



DARLINGTON
Borough Council

Darlington Borough Council

Discount Market Sales Housing Guidance

June 2023

Background

Discount market sales housing is a type of affordable housing which is sold at a discount of at least 20% below local market value. Purchasing discount market sales properties can be done either directly from a developer of a new housing development site, or through the re-sale of an existing discount market sale property advertised through an estate agent.

Purchasers will still own 100% of the property but you will pay a discounted price on purchase. The owner is responsible for all repairs and maintenance costs. Legal provisions are put in place to ensure the home is discounted in perpetuity and therefore each subsequent resale is subject to the same percentage discount.

This type of home helps local people get on the property ladder where they couldn't afford to buy a home at the open market value. This can be due to rising house prices and static household income. It also offers an alternative to shared ownership schemes often run by Housing Associations.

Not all discount market sales homes would necessarily be first time buyer properties and purchasers may already have an amount of equity in an existing property which they wish to sell. This could include people needing a larger home as their family has increased but are unable to afford market prices.

This document provides advice and background information on discount market sales housing for those looking to purchase and sell this type of property. It also sets out the Council's procedure framework which ensures that an appropriate discount is applied and purchasers are eligible, demonstrating that they are in affordable housing need. Eligibility will be confirmed with the Council via an application process.

Legal controls and restrictions

Discount market sale properties represent private developers' contribution to affordable housing through a planning obligation. This is controlled via a Section 106 agreement (S106 of the Town and Country Planning Act, 1990) which is a legal agreement signed as part of a planning permission and places particular conditions on the property or the land. The Section 106 agreement is binding in perpetuity upon the owner of any discount market sale property, and upon any other party with an interest in the land i.e., a mortgagee.

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.

It is recommended that you read the Section 106 agreement for the site you are wanting to purchase on or which is related to a re-sale, so you are aware of the eligibility criteria that must be followed and also the discount value which should be applied. The discount applied should be at least 20%. Based on local income data and recent price paid data the Council may require higher discounts. For example, within medium value areas a discount of between 20-30% will be required and within higher value areas a 30% discount, to ensure homes are affordable and suitably priced. Some sites may also have more specific eligibility criteria. Eligibility is however generally based on housing need and local connection.

A discount market sale home can also be protected by a restriction on the land registry property title.

There may also be occasions where discount market sale homes are controlled via planning condition and affordable housing statements produced by developers which are agreed with

the Council. They can set out specific details including eligibility criteria and discounts applied.

Buying a discount market sale home

Applications for discount market sales properties (to confirm eligibility) should be made through the developer or owner. The Council will generally only consider applications referred by a developer or owner.

Affordable housing need

Discounted market 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. The associated application form should be filled in and supporting documentation provided.

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.

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

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 a property valuation from a registered valuer.

Local connection

The local connection criteria in respect of discounted sale properties are detailed within the relevant Section 106 agreement for the property, however examples are set out below. A person would be considered eligible if they or a member of their household, meet one of these criteria:

- Have been resident within Darlington Borough for 12 months or more prior to application.
- Have been employed permanently with a minimum 16 hour a week contract within Darlington Borough for 6 months or more prior to application or has a firm permanent job offer in Darlington for a minimum of 16 hours per week.
- A person has immediate family connections in Darlington Borough (e.g., parents, siblings or adult children) who have lived in the authority for 12 months or more.
- A person needs to live in Darlington because they require substantial care from a relative who has lived in the Borough for at least the last 6 months, or they need to provide substantial care to a relative who has lived in the Borough for at least the last 6 months.

Applicants must also be at least 18 years of age and have a right of residence in the UK. The discount market sale property would also have to be the only home of the purchaser. They cannot be purchased as buy to let, second homes or holiday lets.

In recognition of the unique nature of their circumstances, members of the Armed Forces, the divorced or separated spouse or civil partner of a member of the Armed Forces, the spouse or civil partner of a deceased member of the Armed Forces (if their death was

caused wholly or partly by their service) or veterans within five years of leaving the Armed Forces are exempt from any local connection testing restrictions.

Prioritising Applicants

Developers or owners are expected to present applications of potential purchasers which they consider to be eligible to the Council in order of receipt and will consider them on this basis. The Council will not prioritise potential purchasers of discount market sale dwellings if there is more than one qualifying applicant than the number of dwellings.

For new builds it is intended that the developer will liaise with the Council to ensure the purchaser/applicant meets the eligibility criteria, submitting the application form and associated documentation. This will be confirmed or rejected in writing within 10 working days (10 working days from the date which all information is received). In the case of a re-sale of a discount market sale home, eligibility will normally be confirmed or rejected via a conveyance solicitor or directly with the vendor. Again the application form and supporting information will be required and response provided within 10 working days.

Applications will be assessed in line with the conditions set out in the relevant Section 106 agreement and this guidance document. It is therefore not intended that there will be any appeals process.

Selling a discount market sale home and verifying valuations

The Section 106 agreement attached to a discount market sale property will normally provide the information needed to sell your house. It will set out the discount which should be applied and who can buy the property (eligibility criteria).

Before marketing a discounted property the developer/vendor must notify the Council of their intention to sell. A valuation of the home should be submitted to the Council undertaken by a Royal Institute of Chartered Surveyors (RICS) registered valuer to provide an open market valuation for the property. When the Council confirms that they accept the valuation, they will then agree with the vendor/developer a marketing 'release date' for the property. Details of the sale price will also be agreed with the Council, ensuring that the correct discount is applied. The marketing publicity must stipulate that the property is an affordable home, subject to a Section 106 agreement and that buyers must be approved by Darlington Borough Council.

In the event of any dispute over the valuation, an independent RICS qualified valuer will be appointed by the Council to verify the valuation at the cost of the applicant.

What if your property is struggling to sell

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 3 months, 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.

All Section 106 agreements are unique and there can be variations in conditions over time. If you are unsure whether yours contains a "cascade" process, contact your solicitor or the Council's planning policy team (planning.policy@darlington.gov.uk).

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

Owners of a discounted market sales properties must not allow any other person to live in their home unless that person forms part of their household.

However, exceptional circumstances may occur whereby the owner of a discount market sale 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.

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 property should be let to a qualifying person and the rent charged must be no more than 80% of the open market rental value for the property. A registered valuer's 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.

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.

Further Information

Home improvements / alterations

As set out above, the purchaser of a discount market sale home owns the property outright. No other party has a share of the equity, although a mortgage lender will still have their rights. Consequently, the owner is responsible for all repairs and maintenance costs. They are also entitled to undertake any home improvements they wish, for example adding a conservatory or extending the property (subject to securing planning permission where needed). 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

If a person inherits a discount market sale home they are required to inform the Council. They will need to demonstrate that they meet the criteria set out in the Section 106 agreement attached to the affordable property. If the inheriting household does not meet the criteria the property will have to be sold in line with the conditions in the Section 106 agreement. The monetary value received from the sale would go to the beneficiary.

Enforcement

The Council should be notified of any sale of a discount market 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 not eligible, necessary enforcement action will be taken to ensure vendors and prospective purchasers are compliant with the planning obligation.

First Homes

A First Home is also a type of discount market sale property and it is intended to help get people on the property ladder. It is purely for first time buyers and the Government has set more specific criteria for this type of home, for example, income caps of those purchasing and a cap on the price of the initial sale. For more information on First Homes please read the Council's policy position statement on this type of housing which is available on the Council's website <https://www.darlington.gov.uk/environment-and-planning/planning/planning-and-environmental-policy/first-homes/>

Data Protection

The Council will comply with all relevant data protection and privacy legislation in the UK including the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 in relation to the use of personal data.

Any personal data submitted by you or obtained as part of an application will be handled in accordance with the data protection laws and the Council's Data Protection Policy which can be found on the Council's website <https://www.darlington.gov.uk/your-council/data-protection-and-freedom-of-information/data-protection/>

The related privacy notice can also be found on the Council's website <https://www.darlington.gov.uk/your-council/data-protection-and-freedom-of-information/privacy-notice/planning-policy-discount-market-sales-housing-privacy-notice/>

Declaration

Applicants must provide full and accurate information when applying for discount market sales housing and sign a declaration on the application form confirming this. If it is realised at any time that an applicant or owner has provided false information or has not notified the Council of a change in circumstances, this will result in the refusal of a pending application or potentially a repayment trigger. Repayment would involve the owner of a discounted home paying to the Council the discount value of the open market value of the property. This would also involve an independent valuation of the property by a chartered surveyor (RICS) at the expense of the owner. The value paid to the Council would then be reinvested into affordable housing provision in the borough.

Monitoring and review

The Council will continually monitor the implementation of this guidance to ensure that the process works well for developers, vendors and purchasers. Also, to ensure that the type of housing provided for discount market sales meets the needs of local people.

Application forms / contacting us

The application form to verify eligibility for discount market sales housing is available on the Council's website at www.darlington.gov.uk or can be requested from planning.policy@darlington.gov.uk and collected from:

Town Hall
Feethams
Darlington
DL1 5QT

Completed forms can be emailed to planning.policy@darlington.gov.uk or posted to the address above marked for the attention of the Planning Policy Team.

Verifying valuations can also be undertaken by sending the relevant information to the contact details above. This would include property address, open market valuation by a RICS registered valuer and the discounted sale price.

If you have any queries in relation to this guidance or the processes outlined above you can speak to a member of the Planning Policy Team on **01325 406724**.