



# **NORTH DEVON AND TORRIDGE LOCAL PLAN 2011-2031**

## **Affordable Housing**

### **Supplementary Planning Document (SPD)**

**Adopted July 2022**

v1 | July 2022

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## Foreword

**Foreword**

**1** This Supplementary Planning Document (SPD) comprises formal planning guidance of North Devon Council and Torridge District Council (the "Councils") on matters associated to the delivery of affordable housing, in support of the implementation of the adopted North Devon and Torridge Local Plan 2011-2031 (the "Local Plan").

**2** The SPD sets out how the Councils will consider planning applications which have the potential to support the delivery of affordable housing. It principally provides guidance to support the implementation of Policies ST18: Affordable Housing on Development Sites, ST19: Affordable Housing on Exception Sites and ST19A: Entry-Level Exception Sites of the Local Plan, whilst responding to changes to national planning policy introduced following the adoption of the Local Plan.

**3** The SPD sets out the Councils' affordable housing delivery priorities, the approach to calculating financial contributions, the means by which development viability will be assessed and affordable housing management arrangements. The SPD will be used alongside the Local Plan in the decision-making process when the Councils consider proposals on qualifying development and exception sites.

**4** The SPD supersedes two Practice Notes<sup>(1)</sup> published by the Councils in 2019 and the North Devon Affordable Housing Code of Practice (2004). The SPD has additionally been framed to reflect updated national planning requirements as contained in the 2021 NPPF.<sup>(2)</sup>

**5** A draft of this SPD was published for public consultation between 31st March and 13th May 2022. All representations received on time and relevant to this SPD were considered by North Devon and Torridge District Councils and, where considered necessary, the SPD was amended in response to representations received. The SPD was adopted by North Devon Council and Torridge District Council by resolution of the Joint Planning Policy Committee on 15th July 2022. As an adopted SPD, the content may form a material consideration in the determination of relevant planning applications.

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<sup>1</sup> [Practice Note 1 - Affordable Housing on Development Sites and Practice Note 2-Entry-Level Exception Sites](#)

<sup>2</sup> [National Planning Policy Framework \(Ministry of Housing, Communities and Local Government February 2021\)](#)



# 1 Introduction

## Overview

**1.1** The Local Plan sets out the long-term vision for how the towns, villages and countryside of northern Devon should develop and evolve in the period up to 2031. A key objective of the Local Plan is to achieve a balanced local housing market by delivering a choice of decent, well-designed housing that addresses the varied needs of our existing and future communities, including a range of affordable housing in sustainable locations.

**1.2** The delivery of this objective will be principally achieved through the implementation of Local Plan policies ST18: Affordable Housing on Development Sites, ST19: Affordable Housing on Exception Sites and ST19A: Starter Homes Exception Sites. These policies provide the basis for the guidance contained within this SPD.

**1.3** The SPD also responds to changes to government planning policy (via revisions to the National Planning Policy Framework and through Written Ministerial Statements) that have come into effect since the adoption of the Local Plan. It also provides information on the Councils approach to the allocation and management of affordable housing.

## Background

**1.4** The planning system, through its influence on new development, plays a critical part in addressing local housing needs. Local planning authorities have to take into account and plan for local housing need, which is an important contributor in achieving sustainable communities. This includes the provision of affordable housing, for which there is an identified need across northern Devon<sup>(3)</sup>.

**1.5** The Councils are committed to delivering the right homes in the right places in order to provide for the current and future needs of all residents across northern Devon.

**1.6** There is an on-going need for the provision of affordable housing across northern Devon as evidenced by the North Devon and Torridge Housing and Economic Needs Assessment<sup>(4)</sup>. The Assessment established a justification for the Councils to seek additional affordable housing; there being an identified need for 345 affordable dwellings per annum 2011-2031 and that the majority of affordable housing should be one- and two-bedroom properties. The Councils' Economic Viability Assessment<sup>(5)</sup> provides the justification for the Local Plan requirement that 30% of housing on qualifying developments should be provided as affordable housing and the sought tenure split between social and intermediate housing.

**1.7** The principal reason for locally high historic and current levels of affordable housing need relate to house price affordability, there being a significant disconnect between wages and house prices, coupled with an ongoing shortage of supply. Housing affordability has become an increasing problem, in 2020 the house price to earnings ratio was 10.03 in North Devon and 9.11 in Torridge<sup>(6)</sup>.

**1.8** It is through the planning system that the majority of affordable housing will be secured. Developers of qualifying market housing sites based on proposed units and site area are

<sup>3</sup> The Districts of North Devon and Torridge excluding that part of North Devon District within Exmoor National Park

<sup>4</sup> Housing and Economic Needs Assessment Torridge and North Devon (GL Hearn May 2016) <https://consult.torridge.gov.uk/portal/planning/localplan/examination/> (document CE21)

<sup>5</sup> North Devon and Torridge Housing Economic Viability Assessment (Adams Integra 2015): <https://consult.torridge.gov.uk/portal/planning/localplan/examination/> (document CE24)

<sup>6</sup> [Table 5c - House Price to Workplace-based Earnings Ratio \(ONS, March 2021\)](#)

required to contribute to the delivery of affordable housing, with further opportunities enabled through delivery on exception sites.

### **Purpose of this document**

**1.9** The purpose of the SPD is to aid the effective and consistent implementation of the Councils' Local Plan affordable housing policies, within the context of updated national planning policy provided by the National Planning Policy Framework (NPPF) 2021 and more recent Written Ministerial Statements.

**1.10** The requirement for the delivery of affordable housing ultimately needs to be reflected in land purchase and development costs for sites on which affordable housing will be required. **1.11** The main objectives of the SPD are to:

- a. provide clear guidance on how the Councils will interpret and implement local and national planning policy to deliver affordable housing;
- b. increase the efficiency of Section 106 preparation, reducing the need for negotiations and the time taken to determine planning applications, increasing the possibility of housing targets being met;
- c. enable the delivery of affordable dwellings of a tenure, type and size, in locations that best meet local housing needs;
- d. identification of the factors which impact site viability and may reduce the amount of affordable housing sought and the mechanisms that will be used to assess financial viability;
- e. ensure that affordable housing is integrated effectively within development sites, that they are 'tenure blind' in terms of location and design, in order to help create mixed and balanced communities;
- f. provide guidance on when consideration may be given to the delivery of affordable housing on a site(s) other than the qualifying application site;
- g. provide clarity on affordable housing delivery options in rural areas and;
- h. provide clear guidance on the management of affordable housing including allocation, price and ensuring the affordable connection in perpetuity.

**1.12** In achieving these objectives, the intention is to ensure that opportunities for the delivery of affordable housing are optimised within the constraints to the adopted local plan and national planning policy.

**1.13** The effectiveness of this SPD will be reviewed through Councils' joint Authority Monitoring Report (AMR).

### **Status of Supplementary Planning Document**

**1.14** When adopted, the SPD will be a material consideration in the determination of relevant planning applications and will be referenced when providing pre-application advice. Development proposals should be informed by the requirements set out in the SPD from the inception stage, including land value negotiations, site acquisition and undertaking development feasibility.

## **2 Policy Context**

**2.1** The policy framework that seeks to secure the delivery of affordable housing is provided by Development Plans, which locally will include the Local Plan and "made" Neighbourhood Plans (where applicable) and by national planning policy (NPPF).

## Legal Context

**2.2** Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The principal element of the development plan within North Devon and Torridge is the adopted North Devon and Torridge Local Plan 2011-2031, although there are also other documents relating to minerals and waste, along with neighbourhood plans in some areas.

**2.3** The legal mechanism for securing the delivery of the affordable housing is through the agreement of planning obligations. The SPD reflects the statutory framework for planning obligations as set out in Section 106 of the Town and Country Planning Act 1990 as amended by Section 12(1) of the Planning and Compensation Act 1991, together with the provision of national planning policy and guidance.

## The National Planning Policy Framework (NPPF)

**2.4** The NPPF establishes national planning policy, the requirements of which must be reflected in Development Plan Documents (including local plans) and it is a material consideration in the determination of planning applications.

**2.5** The NPPF was first published in 2012 followed by incremental updates, with the latest revision being made in July 2021. A more recent addition to national planning, relevant to the delivery of affordable housing, is provided by a Written Ministerial Statement (WMS) published on 24th May 2021 <sup>(7)</sup>

**2.6** In accordance with transitional arrangements (NPPF 2018 paragraph 214), the Local Plan was examined against the requirements of the 2012 NPPF. The SPD provides an updated position, reflecting Local Plan requirements supplemented by current national planning policy. The 2021 NPPF alongside the WMS, provides the current national policy context for the provision of affordable housing, which will be a material consideration in the determination of relevant planning applications.

**2.7** Through the NPPF (Chapter 5 - 'delivering a sufficient supply of homes') the Government sets out its objective of boosting the supply of homes, within which there is a need to ensure that the needs of groups with specific housing requirements are addressed.

**2.8** NPPF paragraph 62 elaborates on this, stating that "*the size, type and tenure of housing needed for different groups in the community should be addressed and reflected in planning policies (including but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes).*"

**2.9** NPPF paragraph 63 establishes that where a need for affordable housing is identified, planning policies should specify the type of affordable housing required (as defined in NPPF Annex 2 and replicated in appendix 1 of this SPD) and that affordable housing should be

- provided on-site unless:

off-site provision or appropriate financial contribution in lieu can be robustly justified; and the agreed approach contributes to the objective of creating mixed and balanced communities.

<sup>7</sup> [Written Ministerial Statement 24th May 2021](#)

**2.10** NPPF paragraph 64 establishes that affordable housing should not be sought on residential developments that are not 'major' i.e., only on major developments, unless in designated rural areas (with planning policies able to adopt a lower threshold in these areas). Additionally, where vacant buildings (other than those which have been abandoned) are being reused or redeveloped, affordable housing contributions will be reduced by a proportionate amount, having regard to the gross floorspace of the existing buildings (footnote 30).

**2.11** NPPF paragraph 65 establishes the expectation that major housing developments should provide at least 10% of the total number of homes to be available for affordable home ownership (as part of the overall affordable housing contribution from the site); unless this would exceed the level of affordable housing requirement in the area or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. A range of exemptions to this requirement are provided where the development proposes:

- solely Build to Rent homes; specialist accommodation for groups of people with specific
- needs; developed by people who wish to build/commission their own homes; or
- exclusively for affordable housing, an entry level exception site or a rural exception site.

**2.12** NPPF paragraph 72 provides that local planning authorities should support the development of entry-level exception sites, suitable for first time buyers (or those looking to rent their first home), unless the need for such homes is already being met within the authority's area. This requirement has however been superseded by the WMS of 24th May 2021 which clearly sets out that entry-level exception sites have been replaced by First Homes (see below). Consequently, the delivery of entry-level exception sites are no longer considered to be supported by national planning policy.

**2.13** NPPF paragraph 78 provides support for rural housing development that reflects local needs. Local planning authorities are enabled to bring forward rural exception sites to meet identified local needs, which may include market housing to facilitate the delivery of the affordable housing.

### Written Ministerial Statement on First Homes (24th May 2021)

**2.14** On 24th May 2021 the Government published a new Written Ministerial Statement <sup>(8)</sup> and Planning Practice Guidance <sup>(9)</sup> setting out how it expects First Homes to be delivered. First Homes are a form of affordable housing for sale; they must be discounted by at least 30% (although discounts of 40% or 50%) against the open market value and be sold to a person or persons meeting defined eligibility criteria. As mentioned previously, the WMS also introduced a policy for First Homes exception sites, which qualify as affordable housing, replacing entry-level exception sites, which are still referred to as affordable housing in the NPPF.

### Planning Practice Guidance (PPG)

**2.15** National planning policy is supported by Planning Practice Guidance (PPG) which provides advice and further detail on how national planning policy should be considered and applied. PPG is an online resource <sup>(10)</sup>, which is regularly updated by the Government. When considering the provision of affordable housing the most relevant sections of the PPG relate to Planning Obligations, First Homes and Self-Build and Custom Housebuilding.

<sup>8</sup> <https://questions-statements.parliament.uk/written-statements/detail/2021-05-24/hlws48>

<sup>9</sup> <https://www.gov.uk/government/collections/planning-practice-guidance>

<sup>10</sup> <https://www.gov.uk/government/collections/planning-practice-guidance>

## Development Plan - North Devon and Torrridge Local Plan (29th October 2018)

**2.16** The Local Plan contains four strategic aims with associated objectives. In respect of housing the strategic aim seeks the achievement of a balanced local housing market – where a choice of decent housing of all types is available and new development meets community needs. To help achieve this aim, the Local Plan contains the following specific housing related policies (provided in full in Appendix 2 'North Devon and Torrridge Local Plan Policies'):

- **Policy ST17: A Balanced Local Housing Market** – seeks to ensure that the scale and mix of dwellings, in terms of dwelling numbers, type, size and tenure provided through development proposals reflects the identified local housing needs, subject to the consideration of the site character and context and taking account of site viability. The policy also supports the provision of specialist housing accommodation.
- **Policy ST18: Affordable Housing on Development Sites** – sets out the proportion of affordable housing, including the tenure split (between social rented and intermediate accommodation), the Councils will seek and the site thresholds which the policy will apply. The policy additionally sets out the limited circumstances when a reduced proportion of affordable housing, or alternative delivery, either off-site, or through a financial contribution would be considered acceptable.
- **Policy ST19: Affordable Housing on Exception Sites** – sets out when the Councils' rural exceptions policy will apply, and ensures that any such schemes are rigorously assessed as to their suitability and legitimacy for meeting local housing needs.
- **Policy ST19A: Starter Homes Exception Sites** – sets out the parameters for the release of previously developed land for Starter Homes, including qualifications relating to: locations, price relative to local markets levels, age of intended occupants and limitations on resale.

**2.17** It is important to note that the above policies do not operate in isolation. In determining planning applications all relevant policies will be taken into consideration; recognising that a range of policies may have an influence on proposals for the delivery of affordable housing.

**2.18** The Local Plan was tested and found to be "sound" (as required by the NPPF paragraph 35) through examination against the 2012 NPPF. The NPPF was subsequently updated, consequently the Local Plan to a limited extent is considered to be out of date or silent, which in respect of affordable housing policy relate to the following:

- national development thresholds that determine whether affordable housing on development sites may be sought;
- the proportion (10%) of all housing on major developments that are required to be for affordable home ownership unless an alternative approach is justified (based on national provisions); and
- an amended definition of affordable housing to encompass further housing tenures/ products.

**2.19** Section 5 'Delivery of Affordable Housing on Development Sites' of this SPD sets out how these changes to national planning policy will be applied, in the determination of relevant planning applications.

### Policy DM24 Local Needs Housing

**2.20** Local Plan Policy DM24: Rural Settlements, enables appropriately located development of a modest scale to meet identified locally generated housing needs, when the proposed location qualifies as a Rural Settlement. The qualification criteria for a Rural Settlement, which is based on the presence of services and facilities is set out in Local Plan paragraph 4.15. The dwellings directly enabled through the provisions of Policy DM24 may be referred to as 'local occupancy dwellings' as a consequence of the required connection between the intended occupants and the Rural Settlement. Dwellings enabled on the basis of Policy DM24 and are not normally considered to be affordable housing, although due to occupancy restrictions property values may be reduced from those open more widely to the housing market.

**2.21** Affordable housing delivery can additionally be enabled in Rural Settlements through the use of rural exception sites and the associated provisions of Policy ST19.

### Key Local Evidence

#### Housing and Economic Needs Assessment/Viability Assessment

**2.22** The Local Plan is informed by wide ranging evidence, of significance in respect of affordable housing is the North Devon and Torridge Housing and Economic Needs Assessment (HENA) <sup>(11)</sup> and the North Devon and Torridge Housing Economic Viability Assessment<sup>(12)</sup>. The provided evidence justified the level of sought affordable housing (30%) on qualifying sites and the tenure mix (75% social rented and 25% intermediate accommodation), as set out in Local Plan Policy ST18.

**2.23** The HENA also provides evidence of housing mix, by bedroom size that would enable both affordable and market housing need to be met. Table 2.1 'Recommended Housing Mix', taken from the HEDNA (Table 114) provides the starting point for establishing an appropriate mix of bed-sizes for dwellings, the requirement for which is set out in Local Plan Policy ST17.

**Table 2.1 Recommended Housing Mix**

Type	1-bed	2-bed	3-bed	4-bed
Market	5-10%	30-35%	40-45%	15-20%
<b>Affordable</b>	<b>30-35%</b>	<b>35-40%</b>	<b>20-25%</b>	<b>5-10%</b>
All dwellings	15%	35%	35%	5%

11 North Devon and Torridge Housing and Economic Needs Assessment (GL Hearn, May 2016)

12 Economic Viability Assessment of Housing Development in North Devon and Torridge (Adams Integra October 2013)

**2.24** There is sometimes more localised evidence of housing need for particular communities across northern Devon which can be useful for informing the appropriate mix of housing.

#### Affordable Housing Research (Altair)

**2.25** The Councils commissioned Altair Consultancy and Advisory Services Ltd (Altair) to undertake research that would support the implementation of the Local Plan's affordable housing policies and the preparation of this SPD. The commission sought the following outcomes:

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- establish criteria on the affordability of Discounted Market Sales Housing (DMS) for those most in need; and research approaches to calculating financial contributions (commuted sums) for the delivery of affordable housing.

**2.26** The research (September 2021) has been used to inform the approaches set out in Sections 4 'What is Affordable Housing?' and 11 'Financial contributions towards the off-site delivery of affordable housing' of this SPD. The research is published in the Evidence Base section of the Councils' joint local plan website (<https://www.torridge.gov.uk/ndt1p/evidence>).

### 3 The Development Management Process

#### Before making a planning application - pre-application advice

**3.1** In advance of submitting a planning application, applicants are advised to seek pre-application advice <sup>(11)</sup> to discuss all aspects of a planning proposal, including affordable housing requirements. The provided advice, which is a chargeable service, will help to identify what local requirements must be met, reducing the likelihood of the application being invalid and provide guidance on how planning policies and other requirements may affect the proposal.

**3.2** The specific benefit of undertaking pre-application planning advice in relation to affordable housing is to establish the tenure mix, size of units, location of the affordable housing within the potential application site and how affordable housing should be delivered. It is intended to provide all parties with greater certainty as the proposal moves forward and help avoid unnecessary cost and delays that may otherwise occur. A pre-application enquiry should ideally include as much detail as possible on the intended development, including those matters set out above in respect of affordable housing, to allow for informed advice to be offered.

**3.3** To assist with the enquiry, a housing statement should be submitted as part of the enquiry on sites where Local Plan policy would require affordable housing to be delivered (see Housing Statement).

#### Planning Applications

**3.4** When submitting a planning application, the applicant must refer to the councils' local lists (which are available to view on their respective websites) and submit the required information,

#### Housing Statement

**3.5** The local lists require a Housing Statement to accompany a planning application on sites where Local Plan policy would require affordable housing to be delivered. The Statement should include details of the proposed approach to affordable housing, including the number, size and the tenure composition of affordable housing when considered against policy requirements.

**3.6** The local planning authority may ask for additional information to be provided at the pre - application or application stage to assist with assessing the proposal; which may include specific details of proposed affordable housing units on a plot-by-plot basis. To assist with this process, an [affordable housing template](#) is available .

**3.7** Where sought, the information should be provided in order to best utilise the Council's pre-application service, to assist with the expedient determination of the planning application and to enable the efficient monitoring of development when it occurs.

**3.8** If the proposed housing scheme is not a policy compliant development, then the Housing Statement should include a justification for the proposal. If the affordable housing contribution in scale or form does not satisfy policy requirements on the basis of site viability,

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<sup>11</sup> Pre application advice: North

Devon: [www.northdevon.gov.uk/planning-and-building-control/pre-application-advice/](http://www.northdevon.gov.uk/planning-and-building-control/pre-application-advice/)Torridge: [www.torridge.gov.uk/article/11077/Pre-application-Advice](http://www.torridge.gov.uk/article/11077/Pre-application-Advice)

the developer will be required to provide a viability assessment to demonstrate the variance from policy requirements (see section 9 'Assessing Financial Viability').

## 4 What is Affordable Housing?

**4.1** National planning policy (NPPF Annex 2) and the Affordable Housing Written Ministerial Statement dated 24th May 2021 (both detailed in Appendix 1 'National Planning Policy Framework definition of affordable housing (including updates made through the Written Ministerial Statement 24.05.21)'), provide the scope of what Government determines to be affordable housing. Any form of housing that does not accord with the Government's definition of affordable housing will not be considered to be affordable housing for the purpose of determining planning applications. Affordable housing can also be known as social housing.

### Types of Affordable Housing

**4.2** The following expanded description of affordable housing is provided to ensure affordable housing or "products" are genuinely affordable for local communities in northern Devon and best focused to meet need.

#### 1. Affordable Housing for Rent

##### Social Rent

**4.3** Social rented housing is owned by local authorities and private registered providers, for which guideline target rents are determined through the national rent regime.

##### Intermediate Rent or Affordable Rent (Intermediate Product)

**4.4** Nationally, affordable housing for rent must:

- a. be set in accordance with the government's rent policy for Social Rent (above in paragraph 4.3) or Affordable Rent; or is at least 20% below local market rents (including service charges where applicable); and
- b. be provided by a landlord that is a registered provider.

**4.5** In North Devon and Torridge both the Intermediate Rent and Affordable Rent are capped at Local Housing Allowance rates (applicable to the dwelling's postcode and house size) unless it is shown that 80% of the Open Market Rent of the property is lower. The difference between the two products is simply terminology, in that the term "Affordable Rent" can only be used where the dwelling is grant funded by Homes England. Please note that North Devon and Torridge are areas within which Homes England will support the funding of Social Rent (above in paragraph 4.3) and this will be the Local Housing Authority's first preference when supporting grant funding proposals. If the rented dwelling is not supported by grant from Homes England, it is defined as an Intermediate Rent.

##### Build to Rent

**4.6** Build to Rent affordable housing is normally let by private landlords without registered provider status. The need for this form of affordable housing has not been evidenced, the Councils therefore will not consider applications for this type of development as a type of affordable housing. This approach will be reviewed, if evidence of need is established in undertaking an update to the Local Plan.

#### 2. Affordable Housing for Sale

**4.7** Affordable housing provided with an element of purchase is referred to in the Local Plan as intermediate affordable housing for sale.

**4.8** The North Devon and Torridge HENA, provides that a reasonable starting point for affordability was 25%-40% of gross household income; this evidence was supported by subsequent local and national research <sup>(14)</sup>.

**4.9** The Councils have adopted a position that 25% of gross household income provides a locally relevant affordability threshold. This approach, which takes the affordability threshold to the lower end of the evidenced position, is considered justifiable to enable a focus of households that are most in need (i.e., lower quartile earners). In line with the referenced research the Councils' approach adjusts household income according to household size and composition.

### **Discounted Market Sales Housing**

**4.10** Discounted Market Sales Housing (DMS) should be provided on the basis of 100% freehold property purchase. Exceptionally, the Councils can explore the provision of such housing on a leasehold basis if there are scheme specific considerations that suggest this is necessary and appropriate. These will be considered on a case-by-case basis and supported only where it is determined that there is a legitimate and justified position to do so. Any leasehold proposals must continue to ensure that the property remains as affordable housing in perpetuity for future households and any required service charges must not render the property unaffordable.

**4.11** National planning policy (NPPF Annex 2) stipulates that Discount Market Sales Housing should be sold at a discount of at least 20% below market value, with eligibility being determined with regard to local incomes and house prices. Having regard to local market values, average household incomes and general lending practices pricing, it is considered that a market discount of 20% would provide a housing product that is not accessible to the majority of local households in housing need.

**4.12** Independent research <sup>(15)</sup>, supports a 'Purchase Power' approach to setting a discount for DMS greater than 20%. Purchase Power is determined as the mortgage a household can afford. This is established on the basis of 25% of a household's gross income spent servicing a mortgage for 25 years, taking into consideration full and part time lower quartile earnings and an assumed household composition for each size of property. A 10% mortgage deposit is also assumed along with an interest rate of 5.5%.

**4.13** The Councils' aim is to prioritise the needs of those most in housing need and to avoid pushing households on the borders of affordability into hardship, which may result, for example, if mortgage interest rates and/or non-housing related costs increase significantly. The approach is implemented by the identification of Value Zones. North Devon is divided into five Value Zones as set out in tables 4.1 - 4.5 as depicted in Appendix 3 'Value Zones for the calculation of Discounted Market Sales Housing', while Torridge is taken to be a single Value Zone (see Table 4.6 'Area For Discount Open Market Housing: Zone 6').

**Table 4.1 Area For Discount Market Sales Housing Zone 1**

Constituent Ward	Constituent Parish(es)
Barnstaple Central	Barnstaple (part)
Barnstaple with Westacott	Barnstaple (part)

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14 <https://www.torridge.gov.uk/ndt/p/evidence>

15 [North Devon and Torridge Affordable Housing Research Full Report Nov 2014 - Oct 2019 \(Altair, Sept 2019 updated Sept 2021\); available at https://www.torridge.gov.uk/ndt/p/evidence](#)

Constituent Ward	Constituent Parish(es)
Ilfracombe West	Ilfracombe (part)
South Molton	South Molton
Witheridge	East Worlington, Meshaw, Rackenford, Witheridge

Table 4.2 Area For Discount Market Sales Housing Zone 2

Constituent Ward	Constituent Parish(es)
Barnstaple with Pilton	Barnstaple (part), Pilton West
Bickington	Fremington (part)
Chulmleigh	Burrington, Chulmleigh, Romansleigh
Combe Martin	Combe Martin
Fremington	Fremington (part)
Ilfracombe East	Ilfracombe (part)
Newport	Barnstaple (part)
Roundswell	Barnstaple (part), Fremington (part), Tawstock (part)

Table 4.3 Area For Discount Market Sales Housing: Zone 3

Constituent Wards	Constituent Parish(es)
Bishop's Nympton	Bishop's Nympton, East Anstey, George Nympton, Knowstone, Mariansleigh, Queen's Nympton, Rose Ash, West Anstey
Bratton Fleming	Arlington, Bratton Fleming, Challacombe, Goodleigh (part), Kentisbury, Loxhore, Stoke Rivers
Braunton East	Braunton (part)
Landkey	Bishop's Tawton, Goodleigh (part), Landkey, Swimbridge,
Marwood	Berrynarbor, Bittadon, East Down, Marwood, Shirwell
North Molton	Brayford, East and West Buckland, Molland, North Molton, Twitchen

Table 4.4 Area For Discount Market Sales Housing: Zone 4

Constituent Wards	Constituent Parish(es)
Braunton West & Georgeham	Braunton (part), Georgeham
Heanton Punchardon	Ashford, Heanton Punchardon
Instow	Horwood, Lovacott and Newton Tracey, Instow, Tawstock (part), Westleigh

Table 4.5 Area For Discount Open Market Housing: Zone 5

Constituent Wards	Constituent Parish(es)
Mortehoe	Mortehoe, West Down

Table 4.6 Area For Discount Open Market Housing: Zone 6

Constituent Wards	Constituent Parish(es)
All Torridge wards	All Torridge parishes

**4.14** The latest available version of the North Devon and Torridge Affordable Housing Research Annual Update (Annual Update) will contain the Open Market Value discounts and Average Values by property size for each Zone shown in tables 4.1 to 4.6 to be used for calculating the Discounted Price for DMS. This is to ensure that the assumed household on lower quartile earnings for each property size in each Zone can afford the average house (see paragraph 4.20).

**4.15** The legal agreement will restrict the price of the DMS in two ways:

a. **Initial Sale Price**

**4.16** Initial Sale Price means the amount for which a DMS may be sold on the first sale. It is set as a fixed price in the legal document and will generally be calculated from the relevant table in the Annual Update. Please note that as the Initial Sale Price is directly tied to how much those households most in need are able to borrow via a mortgage (defined as their "purchase power") the Initial Sale Price is the same for all Zones.

**4.17** This is calculated using the latest Annual Update (Initial Sale Price tables) by:

- Selecting the relevant property size and using the relevant "purchase power" value indicated

**4.18** All information is in the Annual Update and no valuations are required.

b. **Discounted Price**

**4.19** The Discounted Price will apply to all future sales following the initial sale by the landowner or developer. This will be set as a percentage of Open Market Value <sup>(12)</sup> within the legal agreement to apply on all future sales (subsequent to the initial sale).

**4.20** This is calculated by:

- Selecting the appropriate Zone for the location of the property (tables 4.1 to 4.6);
- Selecting the appropriate property size and using the relevant "Open Market Value discount" indicated (using the relevant tables from the Annual Update for that Zone).
- Please note that whilst we recognise that the samples sizes are low for 1-bed dwellings, in the absence of alternative data, the 1-bed values will be utilised to simplify the process and provide certainty.
- Please note that Chittlehampton ward has not been included in the price Zones due to the small sample size of properties sold in the ward during the research period. The constituent ward parishes for the ward are: Atherington, Chittlehamholt, Chittlehampton, Filleigh, King's Nympton and Satterleigh and Warkleigh. Therefore, for any property in the ward of Chittlehampton the Discounted Price is calculated using the ratio of the household "Purchase Power" for the relevant property size (from the latest Annual Update) to the resulting Open Market Value generated from the process at paragraphs 4.26 to 4.29 for future sales. Please note that the process for Chittlehampton ward may change in future versions of the Annual Update should the sample of one bed homes increase: in which case a Zone would be allocated to Chittlehampton and a specified average value and Open Market Value discount will be shown in the Annual Update.

**4.21** In the future, when any subsequent owners of the dwelling give the relevant Council notice of intention to sell, the owner will need to arrange for and submit 3 recent open market valuations of the property to the relevant District Council<sup>(13)</sup>.

**4.22** The valuations must be:

- No more than six months old;
- A local RICS registered chartered surveyor or registered valuer; or a local Estate Agent with at least five years experience of valuing residential properties in the relevant District's area;
- For avoidance of doubt, open market valuation means the value of the property as if it were not subject to any of the restrictions contained in the Section 106;
- Submitted and agreed with the relevant Council at the earliest opportunity;
- The open market value is required to be reviewed and confirmed at six month intervals where a property remains unsold

**4.23** If a valuation contains a range of figures then the mid-range figure will be taken for that valuation. The relevant District Council will then take the average figure (median).

**4.24** The percentage of Open Market Value set in the legal agreement under the definition of Discounted Price will then be applied to this average Open Market Value (median). The resulting sales price will be confirmed by the Council before the property is marketed to include in the advertisement.

<sup>12</sup> "% of Open Market Value" = 100% minus "Open Market Value Discount"

<sup>13</sup> Notice of intention to sell and valuations to be submitted to & resulting sale price/advert to be approved by: - North Devon Council – Housing Allocation Team, or Torridge District Council – Planning Team.

### Shared Ownership

**4.25** A Shared Ownership product is a property where the household purchases a part share of the property and pays rent on the remaining part. A registered provider owns the remaining equity and a Homes England lease must be signed. The household purchases an initial share in the property between 25% and 75%. The household would then also pay a rent capped at up to 2.75% of the unsold equity owned by the Registered Provider. The leaseholder can purchase additional shares up to a maximum of 80% in Designated Protected Areas (see What is a DPA?) or 100% in all other areas where they would then own the property outright with no rent element.

**4.26** In northern Devon, the shared ownership product is unaffordable to those most in need i.e. lower quartile earners <sup>(14)</sup> and is unaffordable to even the average earner in certain high value areas. In the areas where research has identified that shared ownership is affordable, it will therefore be targeted at those on median incomes. Elsewhere, delivery of shared ownership will not be supported by the Councils and alternative affordable housing products should be used to fulfil the intermediate housing requirements.

**4.27** Details of where and for which dwelling sizes the delivery of intermediate affordable housing as a Shared Ownership product is permitted. will be included in the Annual Update. Where it is not permitted, the intermediate affordable housing element should be delivered as DMS or intermediate rent/affordable rent, if funded, unless a Housing Needs Survey demonstrates a need for Shared Ownership units in the respective location which can be afforded.

**4.28** The same Zones apply as shown in tables 4.1 - 4.6. The values and corresponding discounts will be updated annually.

### First Homes

**4.29** First Homes are a type of affordable housing introduced by the Government with the intention of helping eligible first-time buyers secure home ownership. Planning provisions regarding First Homes were introduced into national planning policy via a Written Ministerial Statement (WMS) on 24th May 2021<sup>(15)</sup> with the provisions coming into effect on 28th June 2021. National Planning Practice Guidance<sup>(16)</sup> was also issued to provide further information regarding the practical application of the new provisions.

**4.30** National planning policy establishes a threshold, requiring a minimum of 25% of all affordable housing secured through a planning proposal to be First Homes on sites that are not within a Designated Rural Area and not subject to transitional arrangements in relation to pre-existing pre-application discussions or submitted planning applications. Further details of Designated Rural Areas are provided in paragraphs 5.6 - 5.8.

**4.31** First Homes are a form of discounted market sale housing that meets the definition of affordable housing for planning purposes. They are required to be:

- Discounted by a minimum of 30% against the market value of the dwelling, with the discount remaining in perpetuity;
- 

<sup>14</sup> <https://consult.torridge.gov.uk/portal/planning/localplan/adoption/evidence/>

<sup>15</sup> Written Ministerial Statement – Affordable Homes Update [UIN HCWS50]; Minister of State for Housing; 24th May 2021

<sup>16</sup> First Homes; Published 24 May 2021; available at: <https://www.gov.uk/guidance/first-homes>

Subject to an initial sales value of no more than £250,000, with subsequent sales values tied to the discounted open market value at that time; and

Only eligible for purchase by first-time buyers with a combined annual household income not exceeding £80,000 and where subject to a mortgage or home purchase plan funding a minimum of 50% of the discounted purchase price.

**4.32** Local planning authorities also have the discretion to introduce additional local requirements where they can demonstrate a need to do so through evidence, such as a higher minimum discount (up to 50%), lower price or income caps, local connection provisions or criteria based on employment status (for example prioritising key workers).

**4.33** Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The Written Ministerial Statement is a material consideration and weight is applied to it accordingly.

**4.34** Planning practice guidance indicates that local planning authorities should make clear how existing policies should be interpreted in the light of First Homes requirements using the most appropriate tool available to them.

**4.35** Having considered the national First Homes provisions, the Councils have determined that the most legitimate way to consider the routine implementation of First Homes for northern Devon is as part of the review of the North Devon and Torridge Local Plan which was formally instigated by resolution of the Councils in late 2020. This approach recognises the need to robustly consider the wider policy implications of introducing First Homes and to legitimise the formal introduction of the additional local requirements necessary in order for the product to meet identified local needs.

### **Starter Homes**

**4.36** Starter Homes are offered for sale at a minimum of 20% below its open market value of the property to first time buyers. Further restrictions may be applied to those who can qualify for this product. Starter Homes are only available on under-used or unviable industrial and commercial land that has not been currently identified for housing and therefore are theoretically permitted as exception sites.

**4.37** The statutory framework for Starter Homes, the Housing and Planning Act (2016), received Royal Assent on 12 May 2016, although the relevant Sections (2 and 3) of the Act have not yet come into force. The Ministry of Housing, Communities & Local Government have not introduced the secondary legislation and withdrew the planning practice guidance related to Starter Homes in 2019. Although Starter Homes are still included in the definitions of affordable housing in the NPPF, the mechanisms are not in place to bring this model of housing forward at the current time. Further detail on the Councils' approach to Starter Homes is provided in section 7 'Alternative Delivery Mechanisms for Affordable Housing'.

### **Other Affordable routes to Home Ownership**

**4.38** The Local Authorities will consider any other products that meet the affordable housing definition on a case by case basis. Such products may include Rent to Buy and housing that incorporates relevant equity loans. (as part of the intermediate housing elements).

**4.39** Homes that do not meet the NPPF definitions for affordable housing, such as “low cost market” housing, will not be considered as affordable housing for planning purposes. However, as Policy ST17 of the local plan requires that the mix of housing provided through development proposals, including the type and size, should reflect identified local housing needs (subject to a range of caveats), the Councils will make use of this policy to seek a mix of housing (in terms of sizes) on development proposals that are reflective of wider housing need (both market and affordable).

### **Local Context**

**4.40** To put this into a more local context, tenure types commonly delivered in North Devon and Torridge are:

- Social Rent
- Intermediate Rent
- Affordable Rent (only where Grant Funding is necessary)
- Shared Ownership (Intermediate Affordable Housing for Sale)
- DMS (Intermediate Affordable Housing for Sale)

### **Delivery of affordable housing through the Local Plan**

**4.41** The Local Plan provides for different planning routes for the delivery of affordable housing within the plan area. These include the provision of affordable housing on open market development sites (policy ST18), delivery on 'exception' sites (ST19), and through the provision of 'Starter Homes' (ST19A). In addition 'Entry Level Exception Sites' approach was introduced through the revisions to national planning policy in July 2018 but this is not addressed in the Local Plan, however it is still a valid mechanism for the delivery of affordable housing in the plan area. Each of these delivery mechanisms are considered in more detail in the following sections.

## 5 Delivery of Affordable Housing on Development Sites

**5.1** Policy ST18 of the local plan seeks, subject to a range of criteria and thresholds, the delivery of an element of affordable housing as part of proposals for open market housing. Further detail on the interpretation and application of the policy is provided below.

### Thresholds for requiring affordable housing

**Subject to a range of considerations, the starting point is to require 30% of the total number of units on qualifying development sites (Policy ST18).**

**5.2** Policy ST18(1) requires the provision of affordable housing on developments of open market housing when the proposals are above certain thresholds; with the thresholds dependent on the location of the proposal. Clauses (1)(a) and (1)(b) of Policy ST18 set out the thresholds that would apply in urban and rural locations respectively at the time of the adoption of the local plan.

**5.3** Subsequent to the preparation of the local plan, national planning policy relating to thresholds for seeking affordable housing were amended <sup>(17)</sup>. In such circumstances, Policy ST18 contains provisions in clause (1) to **set aside the thresholds prescribed within the policy** and to rather have regard to those set out in national planning policy.

**5.4** On this basis, and reflecting the provisions of national planning policy (paragraph 64), the following thresholds will be applied when considering whether affordable housing is required as part of proposals for market housing development:

- **Outside of “Designated Rural Areas”** affordable housing will be sought on-site at a level of 30% for housing development of 10 or more dwellings or where the site has an area of 0.5 hectares or more, irrespective of the number of dwellings proposed. The threshold of 11 dwellings or the provision of 1,000 square metres (gross internal area) of residential floorspace irrespective of the number of dwellings, as set out in Policy ST18(1) is set aside.
- **Within “Designated Rural Areas”** affordable housing will be sought at a level of 30% from housing developments of 6 or more dwellings or where the site has an area of 0.5 hectares or more, irrespective of the number of dwellings proposed. The provision stipulating that only financial contributions towards affordable housing will be sought on 6 - 10 dwellings in the rural areas (ST18 (1)(b)) is set aside.

**5.5** It is considered that the move to apply the national thresholds does not place an unacceptable burden on development proposals. The threshold reductions from 11 to 10 dwellings, and to take in sites of 0.5 hectares or more, are demonstrated through the Update of the Economic Viability Assessment of Housing Development in North Devon and Torridge<sup>(18)</sup> to be viable. In relation to qualifying development proposals in "Designated Rural Areas", the further point of difference with regard to affordable housing being provided on site as opposed to a financial contribution will be immaterial in that the financial contribution would have had to be "...of broadly equivalent value to providing on-site" (clause (1)(b) of ST18). In accordance with Policy ST18 (clause (4)), off-site delivery or provision through financial contributions of broadly equivalent value may be negotiated where it can be demonstrated that on-site provision is not possible or appropriate.

<sup>17</sup> Revised through Paragraph 63, National Planning Policy Framework (Ministry of Housing, Communities and Local Government; July 2018) and as per Paragraph 64, National Planning Policy Framework (MHCLG; July 2021)

<sup>18</sup> Housing and Economic Needs Assessment Torridge and North Devon (GL Hearn May 2016)  
<https://consult.torridge.gov.uk/portal/planning/localplan/examination/>

### What is a Designated Rural Area?

**5.6** For the purposes of the application of site thresholds, national planning policy (Glossary, NPPF) defines a Designated Rural Area as: "National Parks, Areas of Outstanding Natural Beauty and areas defined as 'rural' under Section 157 of the Housing Act 1985". Further details are provided in the glossary, however it is important to note that this is a different definition to the designation of a rural area used for the purpose of applying local connection and staircasing restrictions namely, Designated Protected Areas (see below).

**5.7** In northern Devon, the extent of the '**Designated Rural Areas**' covers the whole of the area of the two local planning authorities, excluding:

- a. the parishes of Barnstaple, Bideford, Fremington and Great Torrington in their entirety; and
- b. the parts of the parishes of Ilfracombe and Northam that fall outside of the Area of Outstanding Natural Beauty.

**5.8** Appendix 4 'Location of Designated Rural Areas' provides maps showing the extent of the Designated Rural Areas in northern Devon. An interactive map will also be available to view when this SPD is adopted.

### What is a Designated Protected Area (DPA)?

**5.9** Please note that the North Devon and Torridge Local Plan only refers to rural areas as Designated Rural Areas (DRAs). However, for the purposes of staircasing restrictions to 80% as well as the geography of the local connection cascade and associated advertising timeframes The Statutory Instrument: Housing (Right to Enfranchisement (Designated Protected Areas) (England) Order 2009 (Statutory Instrument 2009/2098) sets out the locations of Designated Protected Areas. Therefore, in this Supplementary Planning Document reference is made to Designated Rural Areas only in terms of the application of the thresholds for affordable housing.

**5.10** Designated Protected Areas came into being 7 September 2009 and amongst other issues removes the risk of enfranchisement for shared ownership houses where staircasing is restricted and ensures retention of shared ownership homes in areas where it would be hard to replace if lost to the open market through 100% staircasing. The designation of such areas was aligned with those exempt from the Right to Acquire. In the main these were rural settlements with a population of less than 3,000.

**5.11** In northern Devon, the extent of the '**Designated Protected Areas**' covers the whole of the area of the two local planning authorities, excluding:

- a. the parish of Barnstaple in its entirety;
- b. the parts of the parishes of Ilfracombe and Northam that fall outside of the Area of Outstanding Natural Beauty; and
- c. the parts of South Molton, Braunton, Fremington, Tawstock and Bideford which are indicated as urban by map.

**5.12** An interactive map showing the DPAs will be made available following the adoption of this SPD.

**5.13** It is evident that although parts of Braunton, Fremington and Bideford and the entirety of Holsworthy Parish are covered by Designated Protected Area status, the policy aim of retention of stock is not such an issue because growth in housing stock since their designations has resulted in a significant amount of housing. Therefore, the LPAs consider it appropriate to treat those parts

indicated as rural on the DPA maps as urban areas in relation to being able to staircase up to 100% on shared ownership dwellings and enabling the shorter urban timeframe applicable to each local connection cascade. However, the rural geography within that local connection cascade (parish to adjoining parishes to District) will remain. Some parts of Braunton, Fremington and Bideford are already designated as urban by the DPA maps and will continue to be treated entirely as urban. Please note that if any shared ownership dwellings located in the areas of Braunton, Fremington, Holsworthy or Bideford originally defined on the map as Designated Protected Areas are grant funded as additionality by Homes England, the Local Housing Authorities will be prepared to approve a waiver, which will be required by Homes England to formerly remove the Designated Protected Area status. This would be done on a scheme-by-scheme basis.

### **When is affordable housing required on open market development sites?**

**5.14** The requirement for affordable housing applies to all types of residential development falling within Use Class C3 that meet the policy thresholds discussed above, and includes changes of use of any building to residential use (where subject to planning permission), mixed use sites that incorporate an element of residential development, conversions and retirement housing including assisted living, sheltered and extra care housing schemes. Affordable housing is not sought on holiday accommodation.

**5.15** The criteria for determining whether the use of particular premises should be classified within Use Class C3 include both the manner of the use and the physical condition of the premises. Premises can properly be regarded as being used as a single dwelling house where they are:

- A single, self-contained unit of occupation which can be regarded as being a separate 'planning unit' distinct from any other part of the building containing them;
- Designed or adapted for residential purposes - containing the normal facilities for cooking, eating and sleeping associated with use as a dwelling house.

**5.16** No affordable housing will be sought from proposals for residential annexes, extensions or occupancy restricted dwellings; such as rural workers dwellings, holiday accommodation, or open market homes provided through Starter Home Exception Sites.

**5.17** The affordable housing thresholds and percentages apply to the gross number of dwellings proposed. For example, if an application is submitted to demolish three existing dwellings and build six new dwellings on the site, the policy would be applied to all six dwellings.

**5.18** In accordance with the NPPF, the provision of affordable housing will be through on-site provision of completed affordable homes unless there is robust justification for doing otherwise. It must be demonstrated why on-site provision is not possible or appropriate. This could be, for example, if there are prohibitively high service charges. A developer's preference for alternative off-site provision or an expression of concerns on the potential impact on the values of surrounding properties through the provision of affordable units would not be sufficient justification for off-site provision in lieu of on-site provision

**5.19** Affordable dwellings must be identified as part of any detailed or reserved matters application. On mixed tenure sites, the tenure mix, dwelling mix, size, layout and design of the affordable dwellings should be considered at a very early stage in the design process. Therefore, the Councils encourage all applicants (whether developers, land agents or individuals) to undertake pre-application discussions with the Councils' Planning and Housing Enabling Officers to discuss affordable housing provision where required in policy terms.

**5.20** The provision of on-site affordable housing and/or financial contributions towards the off-site delivery of affordable housing will be secured through an appropriate Planning Obligation (by way of a Section 106 agreement or unilateral undertaking as the District Council considers appropriate in the circumstance). For outline applications, commuted sums in lieu of on-site affordable housing will be detailed on a formulaic basis with requirement to finalise the sum upon submission of a reserved matters planning application. Further details are set out in 11 'Financial contributions towards the off-site delivery of affordable housing'.

### Tenure mix

**5.21** Clause (7) of Policy ST18 requires 75% Social Rent and 25% intermediate accommodation, although variation may be negotiated on the basis of identified local housing need and/or development viability. If a whole number is not generated then as Social Rent represents the highest need, the fraction should always be rounded up to the next whole number of Social Rent.

**5.22** The tenure mix of 75% Social Rent and 25% intermediate accommodation sought as the starting point through clause (7) of Policy ST18 is founded on evidence of housing need for northern Devon provided through the Housing and Economic Needs Assessment Housing and Economic Needs Assessment Torridge and North Devon (GL Hearn, May 2016) <sup>(19)</sup> which identifies a need for a high propensity of social rented housing.

**5.23** Any deviation from this tenure mix must be agreed with the respective Council and robustly justified either via a robust assessment of development viability, if the reason relates to financial issues, or by way of a clear explanation in the application if other reasons need to be considered e.g. the design or layout of the site or an appropriate housing needs survey deemed acceptable by the relevant authority

### National Requirement for 10% affordable home ownership

**5.24** National planning policy (Paragraph 65, NPPF) sets out the expectation that for major developments, at least 10% of homes being provided are to be made available for affordable home ownership as part of the site's overall affordable housing provision, subject to a range of qualifications; so long as this would not exceed the need for affordable housing and that such would not "significantly prejudice the ability to meet the identified affordable housing needs of specific groups".

**5.25** As noted above, clause (7) of policy ST18 provides that affordable housing will be sought initially on the basis of a tenure mix of 75% social rented and 25% intermediate accommodation. Applying the national planning policy requirement 10% affordable home ownership to the local plan policy requirement for 30% affordable housing on market housing sites would result in a requirement for an alternative affordable housing tenure split of 33.3% for home ownership and 66.6% for social rented housing. This would result in a significant reduction in the level of social rented housing which could be sought; diminishing the ability to meet identified needs for affordable housing across northern Devon.

**5.26** The Strategic Housing Market Assessment update <sup>(20)</sup> identified the significant scale of affordable housing need across northern Devon; the need for affordable housing in each district being 57% (North Devon) and 58% (Torridge) of all newly forming households. Further evidence

<sup>19</sup><https://www.torridge.gov.uk/ndt1p/evidence>

<sup>20</sup> Northern Peninsula Housing Market Area, Strategic Housing Market Assessment (SHMA) Update Final Report; Housing Vision, 2015

identifies a need for a high propensity of social rented housing<sup>(21)</sup>. Following on, the tenure mix is founded on established evidence of housing need for northern Devon as contained in the Housing and Economic Needs Assessment (Chapter 8, Housing and Economic Needs Assessment, GL Hearn, May 2016), which advocated that 80% of affordable housing be sought as social and affordable rented housing, and which has been subject to review as part of the independent examination of the adopted local plan.

**5.27** It is clear from the referenced evidence that the application of the national provision for 10% affordable home ownership in northern Devon would result in a diminishing ability to meet the identified affordable housing needs of the specific group of households across northern Devon requiring social rented housing. The approach would result in the provision of affordable housing that could not be accessed by the majority of households that are deemed to be most in housing need. It is the Councils' position that their ability to address affordable housing needs would be significantly prejudiced by the introduction of a 10% home ownership requirement.

**5.28** As set out above, national planning policy provides an opportunity for exclusion from the requirement for 10% affordable home ownership on major development on the basis that it would significantly prejudice the ability to meet the identified affordable housing needs of specific groups; with Paragraph 62 of the NPPF establishing that "those requiring affordable housing" are within the scope of "different groups in the community" and that their tenure requirements should be reflected in planning policies (Paragraph 63, NPPF).

**5.29** Recognising that evidence demonstrates a high level of need for the social rented tenure, the delivery of which would be prejudiced by the national requirement for affordable home ownership, the Councils have taken the opportunity provided through national planning policy to not apply the 10% home ownership requirement as part of the affordable housing mix on qualifying proposals for open market housing. Accordingly, the 10% home ownership requirement as part of the affordable housing mix on qualifying development sites will not be applied. No variance in the implementation of clause (7) of Policy ST18 is therefore considered necessary as a result of national planning policy (Paragraph 65, NPPF) and the stated tenure mix remains the starting point for establishing the tenure mix required by developments.

### **Housing Mix - Size of dwellings and space standards**

**5.30** To ensure a balanced local housing market, clause (1) of Policy ST17 sets out that the scale and mix of dwellings, in terms of dwelling numbers, type, size and tenure provided through development proposals should reflect identified local housing needs, subject to consideration of site character and context; and development viability. The supporting text to the policy in the Local Plan (Paragraph 7.12) indicates that the assessment for the appropriate type and size should have regard to relevant up-to-date and robust evidence. The supporting text of the Local Plan goes on to state that the housing mix to be provided by an individual development proposal should respond to up-to-date and relevant local evidence where available, such as District or Urban Housing Needs Surveys, and comprehensive parish plans. The most relevant local evidence is however most likely to now derive from a neighbourhood plan or a Rural Housing Needs Survey as Urban Needs Surveys are rarely undertaken.

### **Size of dwellings**

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<sup>21</sup> Tables 7.3 & 7.4, Strategic Housing Market Assessment: Torridge and North Devon Update - Final Report; Housing Vision 2012

**5.31** The size of dwellings should be based on up-to-date and robust evidence. In lieu of more locally specific evidence, the mix of dwellings sought in terms of bed sizes should be based upon the Housing and Economic Needs Assessment (May 2016)<sup>(22)</sup>. In the absence of alternative evidence and based upon this assessment, the following dwelling mix in terms of bed size will be sought:

- 1-bedroom dwellings: 30 - 35%
- 2-bedroom dwellings: 35 - 40%
- 3-bedroom dwellings: 20 - 25%
- 4-bedroom dwellings: 5 - 10%

**5.32** In some circumstances the Local Authorities may request larger 5-bed and 6-bed houses on certain schemes.

**5.33** The majority of affordable housing should be provided as houses or bungalows. The Local Authorities allow 1-bed 2-person apartments but limit 2-bed 3-person and 2-bed 4-person apartments to no more than 10% of the 2-bed requirement (unless the whole development is for apartments). This restriction is due to the high number of households with young children and those with mobility issues. Apartments are limited to a maximum of 4-6 units in one block. Where apartments are provided, the Section 106 will ensure that there is a requirement for a Local Lettings Plan to be in place with the objectives of this Plan to:

- create a balanced sustainable community that reflects the community's present and future needs;
- ensure the needs of the local and wider community are reflected within the property;
- minimise future housing management issues ;and
- make best use of the housing stock.

**5.34** The Councils' preference is for the ground floor flats to have their own entrances to minimise shared space and management issues. Applicants should also ensure that there is sufficient amenity spaces including parking and bin storage and where possible include garden space (especially for ground floor apartments).

**5.35** In rural areas where there is a limited supply of affordable housing, and due to design, management and sustainability considerations, the Councils will generally require affordable housing to be provided in the form of houses to provide flexibility and adaptability in order to meet the changing needs of families.

**5.36** The exception to the above would be where a local housing needs survey, design or a viability assessment deemed acceptable by the respective Council demonstrates a differing requirement regarding size and type.

**5.37** Semi, terraced and link detached houses should always be of the same tenure. Coach houses/flats above garages are only acceptable if the garage below is part of the same property and allocated to the same household.

### Space standards

**5.38** The amount of floorspace provided by affordable dwellings is a key consideration in determining whether they will meet identified needs.

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<sup>22</sup>paragraph 8.27, Housing and Economic Needs Assessment (May 2016)

**5.39** Northern Devon has an ageing population, 1 in 4 people are aged 65+ and the evidence shows that 2011-2031 will see a 57% increase in this age group alone; this compares to an under-65 growth of just 7% <sup>(27)</sup> . Responding to northern Devon's ageing population, it is important that dwellings provide sufficient floorspace to allow for future adaptation; providing the flexibility to enable the use of grab rails, mobility devices and downstairs only living, the latter which requires ample room for both a separate bedroom and downstairs bathroom facilities.

**5.40** It is therefore important that new properties are ideally built to the nationally described space standards to better allow for such adaptation in the future, to meet the needs of the ageing population. Equally, registered providers require affordable housing to be built to accord with national space standards.

**5.41** Additionally, to make the dwellings as flexible as possible for allocation and to future-proof dwellings to allow families to grow or downsize, the Registered Providers will generally require the dwellings to be constructed to maximum occupancy. This means the highest number of bed-spaces per room (double bedrooms) will be sought:

- 1-bed 2-person
- 2-bed 4-person
- 3-bed 6-person
- 4-bed 8-person

**5.42** Accordingly, the Councils will seek affordable housing to be constructed to the maximum bed-space requirements for the size of dwelling (number of bedrooms) and to accord with the associated nationally described space standards for those bed-spaces<sup>(28)</sup> .These are outlined in the table below. Please note these sizes will not be adequate for wheelchair user dwellings as per paragraph 5.38.

**5.43** The Councils recognise that there cannot always be one approach that is appropriate to all circumstances. The provision to seek maximum bedspaces is intended to provide maximum flexibility of occupation, ensuring that it can accommodate the widest range of needs and future proof-housing to some extent when families grow. Whilst the SPD advocates the application of maximum bed-space provisions, the Councils recognise that they may sometimes be a basis for an alternative which can be considered on a case-by-case basis supported by a sound justification.

**Table 5.1 Technical housing standards – nationally described space standard (Minimum gross internal floor areas and storage (m2))**

Number of bedrooms (b)	Number of bed spaces (persons) (p)	Apartment (1 storey)	Bungalow (1 storey)	House (2 storey)	House (3 storey)	Built-in storage
1b	2p	50	50	58	N/A	1.5
2b	3p	61	61	70	N/A	2.0
2b	4p	70	70	79	N/A	2.0
3b	5p	-	86	93	99	2.5

27 Housing and Economic Needs Assessment Torridge and North Devon (GL Hearn May 2016)

28 [www.gov.uk/government/publications/technical-housing-standards-nationally-described-space-standard](http://www.gov.uk/government/publications/technical-housing-standards-nationally-described-space-standard)

Number of bedrooms (b)	Number of bed spaces (persons) (p)	Apartment (1 storey)	Bungalow (1 storey)	House (2 storey)	House (3 storey)	Built-in storage
3b	6p	-	95	102	108	2.5
4b	6p	-	99	106	112	3.0
4b	7p	-	108	115	121	3.0
4b	8p	-	117	124	130	3.0
5b	8p	-	125	132	138	4.0

**5.44** The Gross Internal Area of a dwelling is defined as the total floor space measured between the internal faces of perimeter walls that enclose the dwelling. The Code of Measuring Practice (RCIS) provides detailed guidance on what may and may not be included in the determination of the Gross Internal Area (GIA). This includes partitions, structural elements, cupboards, ducts, flights of stairs and voids above stairs. The Gross Internal Area should be measured and denoted in square metres (m<sup>2</sup>).

## Design

**5.45** The Councils expect affordable housing to be built to a high standard of design and amenity. In line with the Local Plan objectives to achieve mixed and sustainable communities, policy ST18(8) states that the affordable housing should be indistinguishable from the open market housing; the development should be tenure blind. The affordable housing should therefore be:

- Of a comparable design and quality;
- Of the same material and construction;
- To at least the same basic internal and external specification;
- With the same car parking arrangement;
- To be at least of an equivalent size and type to the open market dwellings (or if larger, the national space standards)

**5.46** All housing should be built to M4 (1) as a minimum as per the Building Regulations 2010, *Approved Document M: Access to and use of buildings*. This is step-free housing allowing access into the building for visitors who are wheelchair users.

## Wheelchair Users

**5.47** 3% of those households on the housing registers for North Devon and Torridge have issues with accessibility. Therefore, on sites of 50+ affordable dwellings the Councils will seek 3% (rounded to the nearest whole number) to be constructed to meet these needs. Registered Providers require these dwellings to comply with the requirement M4(3)(2)b of The Building Regulations 2010, *Approved Document M: Access to and use of buildings*, and therefore the space standards in Table 5.1 'Technical housing standards – nationally described space standard (Minimum gross internal floor areas and storage (m<sup>2</sup>))' will not be sufficient for such properties. These dwellings should be provided as social rented units.

Further information regarding Building Regulations is set out in the Department for Communities and Local Government's Approved Documents. Such units will be secured through a planning condition in the associated planning decision notice and are in section 106 agreement.

### Phasing

**5.48** Policy ST18 (8) states that affordable housing should be provided broadly in-step with market housing as the development progresses and be inter-mixed with it across the site. Any deviation to these requirements need to be justified robustly.

**5.49** A legal agreement (Section 106 / Unilateral Undertaking) will control the progression of the development to ensure the affordable housing is delivered in phases in parallel with the development of market housing.

**5.50** For on-site provision of affordable housing:

a. on developments of up to 150 dwellings the Councils will require that:

- i. 50% of the affordable housing dwellings have been completed and made available for occupation\* by the developer prior to the occupation of 50% of the open market dwellings; and
- ii. 100% of the affordable housing dwellings have been completed and made available for occupation\* by the developer prior to the occupation of 75% of the open market dwellings; whilst

b. on larger developments of 150 dwellings or more, the Councils will require that:

- i. 50% of the affordable housing dwellings have been completed and made available for occupation\* by the developer prior to the occupation of 25% of the open market dwellings;
- ii. 75% of the affordable housing dwellings have been completed and made available for occupation\* by the developer prior to the occupation of 50% of the open market dwellings; and
- iii. 100% of the affordable housing dwellings have been completed and made available for occupation\* by the developer prior to the occupation of 75% of the open market dwellings.

\* Completed in accordance with the Affordable Housing Scheme, having been connected to all main services and made available and fit for residential occupation.

**5.51** In all cases, where a commuted sum towards the off-site delivery of affordable housing is secured, the Councils will require that:

- i. 50% of the financial commuted sum for affordable housing has been paid to the local planning authority by the developer prior to the occupation of 50% of the open market dwellings; and
- ii. 100% of the financial commuted sum for affordable housing has been paid to the local planning authority by the developer prior to the occupation of 75% of the open market dwellings.

**5.52** For the provision of Discounted Market Sales Housing (DMS), the developer must ensure that the dwellings are advertised, allocated and occupied in accordance with the relevant District's DMS Marketing and Allocation Procedure.

**5.53** On phased developments the Councils expect that the overall proportion of affordable housing required by the development is reflected in each phase, unless robustly justified and agreed by the local planning authority.

**5.54** Wherever possible developers should ensure that they are in contract with an approved registered provider prior to commencement of the development on site, so as to increase certainty of delivery in line with agreed phasing and prevent a site becoming stalled.

**5.55** If a departure from the above requirements is considered necessary, early discussions with the local planning authority should be undertaken and be justified robustly through the viability assessment process (see section 9 'Assessing Financial Viability'). Circumstances where this may be applicable include the need for infrastructure (such as a school) to be provided onsite in the early phase of the development.

### Clustering

**5.56** Clause (8) of Policy ST18 requires the affordable housing to be intermixed with market housing across the site. The local planning authorities do however recognise that some clustering of affordable housing can be practical from a construction and management perspective. The local planning authorities will therefore allow maximum groupings of six affordable dwellings, or blocks of up to six apartments within proposals. Consideration of the acceptability of clustering, will take account of how the proposal relates to other phases of the development (if applicable), the degree of separation provided by market housing, roads, open space, landscape features, etc. and the relationship and proximity to any pre-existing affordable housing in the locality.

**5.57** On an exceptions site, up to 100% of the proposed housing would be affordable, so clustering restrictions would not apply. A slightly higher number (up to 10) affordable homes could be located together where the site layout means they are located 'back to back' and accessed from different roads. This higher number could include clusters incorporating any existing affordable homes on adjacent development sites. Some illustrative hypothetical examples of acceptable layouts are shown in figures 5.1 to 5.3.

Figure 5.1 Clustering: Example 1



Figure 5.2 Clustering: Example 2





**5.58** Clustering should ensure equal access to any green infrastructure and community facilities for all residents of affordable and open market homes.

### Vacant Building Credit

**5.59** Policy ST18 (2) details the approach the Councils will take to the implementation of Vacant Building Credit (VBC). Further details of VBC can be found in section 10 'Vacant Building Credit'.

### Viability

**5.60** If an applicant considers that the mandatory requirements of the Councils' policy in respect of affordable housing cannot be met on a particular site due to site financial viability concerns, then any such representation must be justified with the submission of an evidenced and 'open-book' viability assessment along with a supporting statement to include all necessary information to demonstrate and justify a reduced affordable housing contribution. The cost of the viability assessment should be met by the applicant.

**5.61** The Councils' approach to financial viability and viability review mechanisms is outlined in section 9 'Assessing Financial Viability' of this document.

### Local Connection

**5.62** In rural areas, restrictions will be in place to ensure that the priority for occupation is given to households with a rural local connection. In urban areas this is widened to include the relevant

district. Further details on how the local connection is established and managed are set out in section 8 'Management Arrangements'.

### **Occupation Restrictions**

**5.63** In all cases, permanent affordable housing supported by Policy ST18 will be subjected to restrictions **in the section 106** that limit occupation to households identified as being in need of affordable housing.

## 6 Exception Sites

### Exception Sites

**6.1** The Local Plan seeks to ensure that housing needs can be met appropriately to support the creation of sustainable communities, providing housing in response to locally generated social needs. The Local Plan enables exceptional land release around defined settlements for the provision of sites for affordable housing in line with the requirements of Policy ST19: Affordable Housing on Exception Sites. Recognising that viability may inhibit delivery, the Local Plan supports the delivery of an element of market housing on such proposals where this would enable the provision of significant additional affordable housing.

**6.2** Such sites are best brought forward through a partnership with the relevant Parish Council and the District Councils' Housing Enabling teams.

**6.3** This section provides details on the application of policy ST19 which are either different or not applicable to policy ST18. However, the following matters apply to both and in these cases reference should be made to the relevant information in section 5 'Delivery of Affordable Housing on Development Sites'.

- ● tenure mix (policy ST19 applies only to designated rural areas. The tenure mix will be determined through the provision of robust housing needs evidence which demonstrates the proposed need) housing mix space standard size (sqm) occupancy of dwellings (the number of bedrooms) design
- occupation criteria (housing need)
- **Settlements where exception sites can be developed**

**6.4** Policy ST19 provides that affordable housing exception sites will be supported at Local Centres, Villages and Rural Settlements. The categorisation of settlements defined in policy ST07 are:

- **North Devon Local Centres:**

- Bratton Fleming
- Chulmleigh
- Combe Martin
- Fremington and Yelland
- Instow
- North Molton

Witheridge

Woolacombe.

- **Torrige Local Centres:**

- Bradworthy
- Buckland Brewer
- Dolton
- Halwill Junction
- Hartland
- High Bickington

Shebbear

Winkleigh

- **North Devon Villages:**

- 
- Atherington,
- Berrynarbor (no development boundary),
- Bishop's Nympton (no development boundary)
- Bishop's Tawton
- Burrington (no development boundary)
- Chittlehampton
- Croyde
- East Anstey (no development boundary)
- East Worlinton (no development boundary)
- Filleigh (no development boundary)
- Georgeham
- Goodleigh
- Kentisbury (no development boundary)
- Kentisbury Ford
- King's Nympton
- Knowle
- Landkey
- Lower Lovacott
- Morteheo
- Newton Tracey
- Rackenford
- Shirwell (no development boundary)
- Swimbridge
- Umberleigh (no development boundary) West Down.

- **6.5 Torrington Villages:**

- Abbotsham
- Ashwater
- Beaford
- Black Torrington
- Bridgerule
- Bucks Cross
- Chilsworthy
- Clawton
- Clovelly
- Darracott
- Higher Clovelly
- Langtree
- Merton
- Milton Damerel
- Monkleigh
- Parkham
- Pyworthy
- Sheepwash
- St Giles on the Heath
- Stibb Cross
- Sutcombe
- Tetcott
- 
-

Venn Green

Welcombe (no development boundary) Woolfardisworthy.

**6.6** Rural Settlements are not identified however they are required to contain at least one prescribed service or community facility from the following list: community/village hall, post office, public house, convenience shop, place of worship, sports playing field, primary school (as defined in paragraph 4.15 of the Local Plan).

### **The appropriate location of exception sites in qualifying settlements**

**6.7** ST19(a) sets out that exceptions sites should be located where *'the site is well related to or adjoining the defined development boundary'* or where the settlement is not subject to a development boundary, the site is well related to the extent of the contiguous built form'.

#### **What is meant by 'well related'?**

**6.8** The glossary of the Local Plan defines 'well related' as: "sites adjoining the main built up form of a settlement, particularly in relation to villages without identified development boundaries and 'exception sites' outside defined development boundaries."

**6.9** To establish whether a site without a development boundary (where policy DM23: *Residential Development in defined Settlements without development boundaries* applies) is 'well related', a range of matters should be taken into consideration which are detailed below.

**6.10** The starting point should be to carry out an assessment to establish the contiguous built form of the settlement. The Councils consider the contiguous built form of a settlement (also referred to in policy DM23 as the principal built form) to extend to the bounds of the substantive cluster(s) of buildings, their associated curtilage and any other developed land that collectively hold a strong physical relationship and sense of place. In addition it includes any greenfield land that is not otherwise protected within the bounds of those main cluster(s).

**6.11** The principal built form is not however considered to include the following:

1. any agricultural buildings, associated yards and built farm complexes;
2. any greenfield land on the edge of the settlement;
3. any curtilage of properties that are considered to extend unduly into the countryside; and
4. any buildings or other developed land that are sporadic, disconnected or remote from the main cluster(s) of buildings, their associated curtilage or other developed land.

**6.12** A site is generally considered to be within the principal built form when it is fully contained within the bounds of the definition set out above.

**6.13** Therefore a site will be considered 'well related' where it is adjoining the principal built form of a qualifying settlement (as set out previously), and where it holds a substantive boundary and physical relationship to the principal built form of the settlement.

**6.14** For sites both with and without a defined development boundary the determination of whether a site and/or a proposal is well related to a settlement is ultimately a judgement for the decision taker, based on the provisions of the development plan and any other material considerations. In doing so, any justification provided in support of a proposal, or the views of third parties may be taken into consideration in formulating a view.

## Thresholds

**Policy ST19 has a starting point of 100% affordable housing**

**6.15** The policy allows for an element of market housing to be provided where this would enable the delivery of significant additional affordable housing. The Local Plan recognises this can be an effective mechanism to deliver affordable housing in rural areas. The starting point for delivery of affordable housing under this policy is an expectation of providing 100% affordable housing. Where this is not viable, the level of open market housing will be the minimum required to provide the necessary financial cross-subsidy to build the proposed affordable housing. Where cross subsidy through the provision of open market housing is proposed, the local planning authority will expect proposals to be supported by evidence to demonstrate that it is appropriate and necessary. This will normally be on the basis of an open book financial appraisal of development and further details are provided in section 9 'Assessing Financial Viability'.

**6.16** Note that high land value expectations are not a rationale for introducing market housing onto a site. Market housing is to cross subsidise the development costs of the affordable housing where there is a deficit. By definition the Existing Use Value (EUV) of land outside settlements that can only be used for a rural exception site will be low and the Council will not accept a benchmark land value (i.e. total EUV and Premium) of more than £10,000 per plot.

## The Size of Exception Sites

**6.17** There are no minimum and maximum limits for the number of dwellings to be developed on an exception site. However, policy ST19(b) and (c) expects development to be proportionate to the scale and nature of the existing settlement and to be justified by the need.

## Tenure Mix

**6.18** The tenure mix will be determined through the provision of robust housing needs evidence which demonstrates the proposed need.

## Establishing a Local Housing Need which cannot reasonably be satisfied without the exceptional release of land

**6.19** The policy will not support speculative housing proposals. The Councils will therefore expect that all planning proposals for the development of rural exception sites are supported by a local housing needs survey undertaken within the previous five years, which will determine the level of affordable housing need in the parish(es). For the purpose of this policy, the geographical scope of local affordable housing need is taken as that arising from households that have a local connection to the parish where the proposal is located, the adjoining rural parish(es) and/or other relevant grouping of parishes formally recognised by the Local Planning Authorities (such as the Rural Alliance), as the case may be.

**6.20** For Parish Councils working with the Councils to investigate the possibility of community-led housing there may be the opportunity to bid for funding for such a survey, when available nationally. Due to limited resources, the Councils are unable to directly carry out surveys; nevertheless the Councils wish to ensure a standard approach to such surveys and a consistency between them and therefore Devon Communities Together tend to carry out such surveys in North Devon and Torridge. This ensures that the methodology is

considered sufficiently robust to provide evidence which supports the development proposals. The survey is delivered to each and every house in the administrative parish boundar(ies) and is available online. The final report produced from the survey gives an indication of the number, type, size and tenure of affordable homes that are needed by households with a local connection (as defined by the Local Plan) to the parish.

**6.21** The surveys aim to gather information on the realistic, rather than aspirational housing needs of residents, consequently the analysis considers information on the incomes and savings of respondents in relation to their needs and to local housing costs in the parish, in order to assess both their eligibility and accessibility to appropriate forms of housing. It gathers information on existing housing circumstances and future housing requirements the housing needs survey takes a snapshot of local affordable housing need at a specific point in time and also supplements the data from Devon Home Choice. Therefore, work is also done to ensure those registered on Devon Home Choice who require affordable housing in the parish are not omitted or duplicated. All individual responses to surveys are kept confidential. Where an existing housing needs survey exists there is no requirement for the developer to undertake another – see Local Validation list.

**6.22** To meet the provisions of policy ST19(d), proposals will need to be supported by evidence to satisfy the Local Planning Authority that there are no reasonable and available alternatives, such as development of an appropriate and available site or building within the extents of a Local Centre, Village or Rural Settlement or through the development of an appropriate and available allocation for residential development or extant planning permission that could reasonably deliver the housing required to meet the identified local need. Evidence should include an assessment of whether both undeveloped housing allocations and extant planning permissions with the settlement will be achieved within a reasonable timescale.

### **Vacant Building Credit (VBC)**

**6.23** National Planning Practice Guidance explicitly excludes rural exception sites from any restrictions on seeking planning obligations. The NPPF definition of exception sites are those of small scale where the principle of market housing wouldn't ordinarily be accepted. It therefore follows that the VBC should not be applied in circumstances where this might result in no affordable housing being provided on an exception site. VBC will not therefore be applied to rural exceptions sites.

## **7 Alternative Delivery Mechanisms for Affordable Housing**

**7.1** In addition to the delivery of affordable housing through policies ST18 and ST19, there are other routes which individuals, communities and developers can take to build affordable housing.

### **Starter Homes**

**7.2** Policy ST19A introduces Starter Homes Exception Sites as a means for the delivery of a specific type of affordable housing. Starter Homes are defined in the Local Plan glossary as "*Sites comprising of underused or unviable industrial and commercial land, or other forms of unviable or underused brownfield land defined through national planning policy or guidance as falling within the scope of being considered capable of being a Starter Home exception site, which are not previously identified for housing and provide for the delivery of Starter Homes.*"

**7.3** Starter Homes Exception Sites were introduced as government policy through a written ministerial statement in March 2015 and subsequently included in the definition of affordable

housing in the 2018 revision to the National Planning Policy Framework. In addition to policy guidance, primary legislation was enacted through the Housing and Planning Act 2016, however the required regulations providing the details of the application of starter homes have not been finalised.

**7.4** Whilst legislation has not taken forward the specific provisions of the Written Ministerial Statement relating to Starter Homes Exception Sites, the provisions of Policy ST19A are fully compliant with the wider principles of national planning policy. The policy is considered to continue to provide a legitimate planning approach and the policy therefore remains applicable.

**7.5** In light of all of the above the Councils will consider applications for a Starter Homes Exception Site against ST19A on site on a case by case basis .

### **Self-build and Custom housebuilding**

**7.6** This type of housing provides individuals and groups with the opportunity to build their own homes and therefore reduce purchasing costs. The definition of Self-Build or Custom Build Housing is detailed in the Housing and Planning Act (2016) <sup>(23)</sup> can be summarised as housing built or commissioned by individuals (or groups of individuals) to be occupied by themselves as their sole or main residence. The differences between self-build and custom housebuilding are:

- Self-build is where a person is directly involved in organising and constructing their home.
- custom build is where a person commissions a specialist developer to help to deliver their own home

**7.7** For the purposes of planning policy, self-build and custom build dwellings share the same definition and the terms are used interchangeably.

**7.8** Most self-build plots will come forward on an individual basis or in some cases as a small group if it involves a self-build collective. Rarely would a self-build scheme involve 10 or more units in a single planning application, however, it may do so if a landowner applies for an outline application for a site of self or custom build plots.

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<sup>23</sup> Housing and Planning Act 2016 (Chapter 2, Section 9)

**7.9** The Councils will not normally expect developments to offer the affordable housing element as self-build. However, there are a number of mechanisms for delivering self build housing that is affordable housing. These mechanisms include:

- The developers or landowners are able to work in partnership with a recognised Housing Association, Community Land Trust or alternative registered affordable housing provider; The tenure must be Discounted Market Sale Housing to ensure that the property is available as affordable housing in perpetuity.

**7.10** Where affordable self-build plots are to be delivered on rural exception sites, there will also be a need to establish that a household has a local connection to the Parish where the plot is proposed.

**7.11** Community led housing schemes can include the construction of self-build properties, further details of which are provided in the following paragraphs.

### Community Land Trusts

**7.12** Affordable housing can also be delivered through community-led proposals, for example through a Community Land Trust (CLT) <sup>(24)</sup>. CLTs are one form of community led housing, where communities come together to deliver new or refurbish existing housing to meet local affordable housing needs. Other forms of community-led housing include housing co-operatives, cohousing groups, development trusts and some forms of self-build housing. These are non-profit, legally constituted organisations run by community volunteers that develop assets (e.g. housing) for the benefit of the local community. Affordable homes are owned and controlled by the community and are made available to those with a local connection to the area who are in housing need at permanently affordable levels. Such organisations can be set up by both rural communities as well as within urban areas.

**7.13** Community Led Housing is encouraged and supported by the Councils. Through their national Community Housing Fund allocations (when available from national funding) the Councils can bid to offer funding to a limited number of Parish Councils and community groups who wish to investigate this as a housing solution for their area. The funding allows communities to take the lead from the outset from design through to build and allocation with the support of Middlemarch, an expert in this field. Middlemarch work with Parish Councils and community groups on behalf of the Council to introduce the subject of community-led housing, carry out consultation to establish community support, legally establish the group, perform site searches with the community and generally offer technical guidance on all aspects of affordable housing delivery through the life of the project.

## 8 Management Arrangements

**8.1** Applicants will be required to enter into a Section 106 agreement securing the future management of Affordable Housing. As such this chapter details the requirements in terms of the advertising, allocation and management of affordable housing dwellings.

### Delivery Organisations

**8.2** The 'Regulator of Social Housing' is responsible for registering and regulating providers of social housing and maintaining a Statutory Register of Providers of Social Housing (the register), which lists private (both not for profit such as housing associations and for profit) and local authority providers.

<sup>24</sup> <https://www.communitylandtrusts.org.uk/>

**8.3** The Councils expect affordable housing providers to be registered with the 'Regulator of Social Housing' as Registered Providers.

**8.4** Whilst North Devon and Torridge Councils work with some affordable housing providers more frequently than others, the Councils do not have preferred partners. However, the Councils can provide details of registered providers operating in the Districts which provide and manage affordable homes, if requested. Applicants would normally contact providers themselves in order to make the necessary arrangements in terms of delivering affordable housing.

**8.5** Discounted Market Sales Housing (DMS) is delivered directly to those in housing need by developers, with the freehold transferred to that household (in all but exceptional circumstances - see paragraph 4.9).

## Occupation Criteria

### Housing Need

**8.6** To supplement the NPPF definition, in North Devon and Torridge the term "housing need" is taken to mean:

"Homeless or threatened with homelessness or living in accommodation, which in the opinion of the relevant Council is insecure or unsuitable (this may be 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)

AND

Being unable to purchase or rent suitable accommodation at open market values in the respective area, taking into account the household's income, capital and other financial circumstances."

**8.7** Ultimately, housing need will be determined with reference to the Councils' Allocations Policy - 'Devon Home Choice Policy' <sup>(25)</sup> for rented housing; 'Help to Buy South' <sup>(26)</sup> for Shared Ownership and the relevant District's Discounted Market Sale Housing (DMS) Marketing and Allocation Procedure for DMS, or where these cease to exist, it would then be any subsequent replacement policies.

### Nomination Rights

**8.8** In all instances the Council where the properties reside will expect to be granted nomination rights to all tenures of affordable housing, to enable the Councils to support those households in housing need. The Councils will make use of such nomination rights in line with its prevailing Allocations Policy for both affordable housing for rent and for sale.

**8.9** Some affordable housing developments such as extra care schemes will be subject to a Nominations Agreement between the Council and the housing provider.

**8.10** On occasion, there may be a requirement for a Local Lettings Plan to be adopted to support the specific circumstances of an individual proposal.

<sup>25</sup> <https://www.devonhomechoice.com/useful-information-0>

<sup>26</sup> [https://www.help\\_tobuysw.org.uk/Default/FrequentlyAskedQuestions](https://www.help_tobuysw.org.uk/Default/FrequentlyAskedQuestions)

## Marketing

Table 8.1 Advertising and allocation system by tenure

Tenure	System name for advertising and allocation (or any successor)	Period of notice to NDC/TDC (Housing for new build completions)	Period of notice to NDC/TDC (Housing) for re-lets or resales
<b>Affordable housing for rent</b>	Devon Home Choice	Min: 8 weeks Max: 6 months	At earliest opportunity
<b>Shared Ownership (Homes England funded)</b>	Help to Buy south	None, all via Registered Provider	None, all via Registered Provider
<b>Shared Ownership (non grant funded)</b>	via the Registered Provider's website AND <ul style="list-style-type: none"> <li>• Zoopla/Rightmove or</li> <li>• other UK property portal and/or</li> <li>• Local Estate Agent</li> </ul>	None, all via Registered Provider	None, all via Registered Provider
<b>Discounted Market Sales Housing (DMS)</b>	Discounted Market Sale Housing (DMS)  Marketing and Allocation Procedure	Min: 8 weeks Max: 6 months	At earliest opportunity

**8.11** It is imperative that confirmation is sought from the respective Council's Housing Register Teams as to the rental charge applicable each and every time the property becomes available to let.

**8.12** For the avoidance of doubt all affordable housing for rent must be provided by a registered provider (as detailed in annex 2 of the National Planning Policy Framework).

**8.13** All affordable housing must be actively and continuously marketed without interruption; this means that:

- There must be no breaks in advertising throughout the marketing period (timeframes are shown in paragraphs 8.19 - 8.20)
- The relevant affordable housing requirements must be included in the advert and The
- process is active in that the Owners are expected to undertake a thorough marketing campaign each time a property becomes available, which includes:
  - Alerting the parish clerk of the relevant Parish or Town Council
  - Alerting the ward member
  - The use of alternative online coverage to the systems listed in Table 8.1 'Advertising and allocation system by tenure'

The use of local posters and newsletters

The use of social media

**8.14** Adequate marketing increases the awareness of local people and ultimately ensure that affordable housing is allocated to those local people in housing need and can help ensure voids are reduced to a bare minimum.

**8.15** In some circumstances such as where DMS units are delivered; or where affordable housing is delivered as part of a rural exception site, a marketing campaign may need to be agreed with the respective Local Authorities with this requirement being detailed in the relevant Section 106 agreement.

#### Local connection criteria

**8.16** For the purpose of Policy ST18 and Policy ST19, a household with a local connection

- to the parish, adjoining rural parish(es), other relevant grouping of parishes district or county, as the case may be, is defined as those where:

- at least one adult in the household was resident continuously in the qualifying area for
- a minimum of five years immediately prior to occupation; or at least one adult of the household was resident in the qualifying area for five years within the previous ten years immediately prior to occupation; or at least one parent, guardian, child or sibling of at least one adult in the household, has been resident in the qualifying area for a minimum of 5 years immediately prior to occupation; or ● at least one adult in the household has been in continuous employment for at least 16 hours a week in the qualifying area for at least five years immediately prior to occupation. **Local Connection Cascade**

**8.17** Affordable housing in rural areas provides the best opportunity to meet the needs of local communities where supply of such housing is often low and make villages sustainable places to live. Policies ST18 and ST19 require affordable housing in such locations (see 'What is a Designated Protected Area?' in section 5 'Delivery of Affordable Housing on Development Sites') to be subject to restrictions that limit occupation in the first instance to households with a local connection to the parish where the site is located, before being cascaded to other wider geographic areas if no eligible household is identified. The local connection restrictions and cascade will be secured within a legal agreement (either a Section 106 or Unilateral Undertaking attached to the planning permission). The local connection geography and timeframe that the Local Authorities expect to operate are discussed below and are set out in Appendix 4 'Location of Designated Rural Areas' divided into 3 areas: 'Urban excluding parish of Holsworthy', 'Rural excluding parishes of Fremington and Braunton' and 'Parishes of Fremington, Braunton and Holsworthy'

#### a) Geography

**8.18** The local connection cascade in Designated Protected Areas runs from parish to adjoining parishes and ultimately to the respective District Council's administrative area.

**8.19** However, affordable housing need is sometimes assessed across an area wider than the host parish of a proposal (see paragraph 6.19), such as adjoining rural parishes or a relevant grouping of parishes formally recognised by the local planning authority, such as the Rural Housing Alliance. Where that cumulative affordable housing need is to be met by a proposal on one site, then the above local connection criteria for a household will relate equally to any parish from which that need has arisen. Such dwellings will be available to

households with a local connection to any qualifying parish before being cascaded across a wider spatial area. Ultimately, where no household qualifies for occupancy within these areas, the scope for occupation will cascade to the wider local planning authority area.

**8.20** In order to address each District's wider affordable housing need, affordable housing delivered in the areas of the District which fall outside designated rural areas, will also be subject to the local connection criteria. However, the local connection in this circumstance applies to the respective District Council's administrative area before cascading to the administrative County of Devon.

#### **b) Timeframes**

**8.21** Affordable housing subject to a local connection will have a cascade mechanism applied, which will ensure that local households are given priority and sufficient opportunity to apply for available housing, whilst balancing the amount of time a property will remain void. To minimise the latter, the Councils will allow simultaneous advertising of the property to all relevant geographies (i.e. advertise for the parish, adjoining parishes, district and county as appropriate at the same time). All affordable homes must be continuously and actively advertised without interval for the indicated period and then priority must be then be given to those with a Local Connection to the specified cascade areas in priority order.

**8.22** Time cascades will apply for both new build Affordable Housing and those dwellings which become re-available for either rent or sale.

#### **Housing Related Charges**

**8.23** It is essential that the ongoing occupation costs for households living in affordable housing remain affordable in the long term. The Councils will seek to control occupation costs through legal agreements (section 106 agreements or unilateral undertakings) on the following basis:

##### **Service & Management Charge**

**8.24** An additional charge may be payable on affordable homes in addition to the rent/mortgage. Such charges could include estate management, ground rents, services, repairs, maintenance and improvements of a communal nature as well as the insurance of the building. The level of service charge can be a material planning consideration as this affects the relative affordability of the dwelling. Early engagement with the local planning authority is advised, as simple changes to a proposal's design or configuration could have a significant impact on the scale of required future maintenance and management and hence the associated charge passed on to occupants.

**8.25** To ensure the ongoing affordability of DMS, it is imperative that they are sold as 100% freehold rather than leasehold, with provisions to ensure that they will remain so in perpetuity; with any variation being exceptional (see paragraph 4.9). Furthermore, any service or management agreement will need to be agreed by the local planning authority.

#### **Rent Increases**

##### **Rent in Advance and Deposits**

**8.26** In the interest of affordability and to assist those most in need, the local authorities expect affordable housing providers to limit rent in advance to a maximum of 4 weeks rent. Where this is not possible, it must be shown that the applicant eligible to occupy the property

can afford the proposed rent in advance and ultimately this charge must not render the property inaccessible to the nominated household.

**8.27** The charging of deposits for affordable housing will not be acceptable in all but exceptional circumstances and only when justified and agreed in writing by the local planning authority.

## 9 Assessing Financial Viability

**9.1** The provision of a range of affordable housing appropriate to meet local needs is one of the objectives of the North Devon and Torridge Local Plan. Policy ST18 seeks to contribute to this through open market housing being required to provide a set proportion of affordable housing. However the Councils accept that there may be occasions where a development is unable to meet the affordable housing policy requirements as to do so would render the development economically unviable. Clause (5) of Policy ST18 allows for the variation of the scale and nature of affordable housing, along with the balance of other infrastructure and planning requirements, on the basis of a robust appraisal of development viability.

**9.2** The other infrastructure and planning requirements which need to be considered include contributions for both education and open space. The viability of the Local Plan was assessed using the assumptions that these contributions would be made in relation to the development of affordable housing. It is essential that the Councils seek these contributions to ensure that sustainable communities are developed, with local residents having the same accesses to amenities as people living in the open market housing.

**9.3** If a lack of viability requires a choice to be made between the required level of affordable homes and other planning requirements, the Council will make that decision on a case by case basis. The decision will be based on the prioritised needs of the site and the local area.

**9.4** Where an applicant seeks to depart from the Affordable Housing policy position based upon economic viability, the Council will require this to be justified in an evidenced and 'open-book' Viability Assessment. A Viability Appraisal should therefore be prepared on the basis that it will be made publicly available. Reference should be made to Planning Practice Guidance for further advice on public availability. <sup>(27)</sup>

**9.5** It is the responsibility of the applicant to submit sufficient information to clearly demonstrate how the provision of the full affordable housing and other infrastructure requirements would impact on the deliverability of the site. In this situation the applicant should indicate clearly either that a proportion of the policy compliant affordable housing can be provided (and what proportion by percentage, tenure and dwelling numbers), or whether no provision can be made.

**9.6** This full financial assessment and associated document are required to be submitted by the applicant at the time the planning application is submitted. Where such documents are not provided it is likely the application will be considered invalid and will not be registered, unless it a policy compliant scheme.

**9.7** Any viability assessment should be based upon and refer back to the viability assessment that informed the plan which was in line with the more detailed Planning Practice Guidance (PPG) with respect to viability and decision making; and the applicant should provide evidence of what has changed since then. Applicants may use their own viability assessment toolkit to assess financial viability although the Councils recommend

<sup>27</sup> [www.gov.uk/guidance/viability-see-should-a-viability-assessment-be-publicly-available?](http://www.gov.uk/guidance/viability-see-should-a-viability-assessment-be-publicly-available?) Paragraph 021  
Reference ID 10-021-20190509

using an independent viability expert to assist in assessing the viability of the proposed development.

**9.8** The submitted information will be robustly and independently appraised by the Councils' retained economic viability consultants. This will involve close scrutiny of all figures and the developer will be required to take an open book approach to the financial assessment. The applicant will be required to meet the full cost of this work, including any meetings that are required. Once the relevant information has been submitted to the Council a quote for the

appraisal will be obtained. The Council will only instruct its external independent viability experts to undertake this work once a full undertaking to meet the cost of this is received from the applicant in writing.

**9.9** All submitted viability appraisals will be assessed in line with national Planning Viability Guidance published by the Ministry of Housing, Communities and Local Government <sup>(28)</sup>. This PPG provides comprehensive guidance on the preparation and submission expectations for Viability Assessments in planning.

**9.10** In addition, the local planning authorities will also expect all viability assessments to follow the RICS latest guidance on Financial viability in planning. At the time of the publication of this SPD, this is 'Assessing viability in planning under the National Planning Policy Framework 2019 for England' (published March 2021).

**9.11 For the avoidance of doubt, and in accordance with planning practice guidance, under no circumstances will the price paid for land be a relevant justification for failing to accord with relevant policies in the plan.** Local authorities can request detail on the price paid for land (or the price expected to be paid through an option agreement)". To define land value for any viability assessment, a benchmark land value should be established on the basis of the existing use value (EUV) of the land, plus a premium for the landowner.

**9.12** Where an objective assessment of development viability, and the process of negotiation on affordable housing and other infrastructure and planning requirements, identify that a lesser proportion of affordable housing than that stipulated in Policy ST18 is justified, the agreed proportion of affordable housing should still be delivered in accordance with the tenure split set out in clause (7) of Policy ST18, unless otherwise negotiated and agreed with the local planning authority.

**9.13** In circumstances where the Councils consider there could be a material change of circumstances to the viability of development over the lifetime of its delivery, the Councils will expect an *overage clause* to be included within the legal agreement (Section 106 / Unilateral Undertaking) to allow for a review of required affordable housing as deliver progresses.

**9.14** This will only be considered for large housing developments of 100 units or more, or those to be delivered in a phased manner, which is expected to take a number of years to complete. The overage clause seeks to ensure that if market conditions have improved sufficiently at a specified future point, the affordable housing contribution will be reviewed through an updated viability appraisal. The decision to include an overage clause with a Section 106 agreement will be made on a case by case basis.

**9.15** In all cases, the Councils' are not required to enter into renegotiations of a planning obligations within five years and therefore may reserve the right not to do so ([section 106A of the Town and Country Planning Act 1990](#)).

## 10 Vacant Building Credit

**10.1** As part of residential development proposals, where vacant buildings are brought back into lawful use or are demolished to be replaced by new buildings, a vacant building credit may be applicable. This is a financial credit equivalent to the existing gross floor space of relevant vacant buildings which is offset against the affordable housing contribution as

<sup>28</sup> <https://www.gov.uk/guidance/viability#viability-and-decision-taking>

determined by the relevant planning policy for the development. Affordable housing contributions will be required only where there is a net increase in floorspace.

**10.2** In considering how the vacant building credit should apply to a particular development, the Councils will have regard to the intention of national policy. The policy is intended to incentivise brownfield development, including the reuse or redevelopment of empty and redundant buildings (note that brownfield development excludes agricultural buildings). Vacant Building Credit will not be applied to buildings that have been intentionally abandoned and therefore the Councils will consider whether a building has been made vacant for the sole purpose of negating affordable housing provision. As set out in the PPG, the Courts have held that in determining whether a use has been abandoned, account should be taken of all the relevant circumstances, including: the condition of the property, the period of non-use, whether there is an intervening use and any evidence of the owner's intention.

**10.3** In order to qualify as a vacant building, the entire building must be demonstrated to be vacant. Where a building is partly occupied it will be deemed ineligible for the vacant building credit. The credit is only applicable to permanent, substantive buildings with a lawful use; those of a temporary or non-permanent nature will not be eligible to contribute towards Vacant Building Credit.

**10.4** Where an applicant seeks a Vacant Building Credit, a Vacant Building Credit Statement must be submitted alongside the relevant planning application in which a reduced affordable housing contribution is being sought. Within this statement the applicant will need to submit the following information:

#### **Evidence that any referenced building is a 'Vacant Building'**

Evidence a building on site is not an 'Abandoned Building' or vacated solely for the purpose of the redevelopment. The onus will be on the applicant to demonstrate this. The Councils will take into account the following:

- The physical condition of the building
- The length of time that the building had not been used
- Whether the building had been used for any other purposes
- The owner's intentions
- Any previous planning applications

**10.5** The Councils may agree VBC in principle on Outline applications but cannot assess the deduction proportion until floorspaces to be developed have been approved. In these cases, potential for VBC deductions will be referenced in a s106 agreement.

#### **Calculating the Vacant Building Credit**

**10.6** The Vacant Building Credit will be calculated on the basis of the gross internal floor area (GIFA) of relevant buildings that will be brought back into use or demolished and replaced by new buildings, as part of a development. The affordable housing requirement is based on only the net increase in floorspace. Applicants need to provide the gross internal floor area of any vacant building on which they wish to claim vacant building credit on, and for the proposed buildings. The GIFAs must be signed off by a RICS Chartered Surveyor or RIBA member architect.

#### **Examples**

- **Example 1 - Development where Affordable Housing is required on site in policy terms**
- 
- Existing vacant building to be demolished or converted 800sqm GIFA
- Proposed development of 12 units with total development floorspace of 1200sqm GIFA
- 

## Financial contributions towards the off-site delivery of affordable housing

30% of 12 units = 3.6 Affordable Units required if vacant building credit did not apply

Overall increase in floorspace equates to 400sqm

400sqm floorspace as a percentage of the overall development of 1200sqm = 33.33%

3.6 Affordable Housing Units x 33.33% = 1.19 Affordable Housing units required

- **10.7** In this situation the District Councils will require 1 unit to be provided on site and
- 0.19 as a financial commuted sum with this sum calculated in line with the Councils' adopted methodology for calculating commuted sums as detailed in Appendix x.
- 
- **Example 2 – Development where an off-site contribution is required in policy terms**

Existing vacant building to be demolished or converted 350sqm GIFA

Proposed development of 8 units with a total development floorspace of 900sqm GIFA

30% of 8 units = 2.4 Affordable Units where vacant building credit does not apply

Overall increase in floorspace equates to 550sqm

550sqm floorspace as a percentage of the overall development of 900sqm = 61.10%

2.4 Affordable Housing Units x 61.10% = 1.46 Affordable Housing units required

**10.8** In this situation the Councils will expect 1.46 units to be provided in the form of a financial commuted sum with this sum calculated in line with the Councils' adopted methodology for calculating commuted sums as detailed in Appendix x.

## 11 Financial contributions towards the off-site delivery of affordable housing

**11.1** The Councils' overarching preference is for the delivery of on-site affordable housing as completed dwellings. However, in some exceptional circumstances, and at its absolute discretion, the Councils may accept off-site provision where it can be robustly demonstrated that on-site provision is not possible or appropriate (as detailed in policy ST18(4)). This section details the tests which the Councils will assess an application to deviate from on-site affordable housing. These tests align with paragraph 63 of the NPPF, which provides two

- reasons for such an approach: it can be robustly justified; and the agreed approach contributes to the objective of creating mixed and balanced communities).
- 

- **11.2** The exceptional circumstances that may justify an alternative to on-site affordable could include:

The site may not be suitable for affordable homes due to a high service charge which would render the affordable housing Units un-affordable;

Where there is a demonstrable lack of interest from a registered provider (Housing Association) purchasing the affordable housing properties;

The Council considers that the affordable homes would be better provided elsewhere

**11.3** In order to demonstrate that there is a demonstrable lack of interest from registered providers the applicant must set out in an affordable housing statement (or similar) the measures that they have undertaken to engage with a wide range of locally active registered providers in a timely, rigorous and effective manner. The applicant will have to provide letters from all locally active registered providers that clearly show that they have legitimate reasons why they would not be willing or able to manage on-site affordable housing. The Council will confirm with each of the RPs their reasons for not be able to manage affordable housing on-site and may offer alternative management options.

**11.4** Regardless of any argument put forward to justify off-site provision of affordable homes, it is at the discretion of the Council whether it will accept an alternative.

**11.5** Financial contributions in lieu of on-site affordable homes will be subject to same test of viability as on-site affordable housing.

**11.6** Off-site provision may be in the form of a commuted sum of broadly equivalent value or serviced plots on an alternative site within the vicinity of the application site, along with a Commuted Sum for construction of the affordable housing. A financial contribution may also be required where the affordable housing provision required by policy generates a fraction.

**11.7** In addition to being in the vicinity of the application site, the alternative on-site provision will only be acceptable where the location is considered to be sustainable. As such it must meet the spatial development strategy of the North Devon and Torridge Local Plan. To ensure the development results in a mixed and balanced community, affordable housing on an alternative site should be pepper potted throughout the site rather than clustered in one area (see paragraph 5.39).

**11.8** In all instances it is important that applicants seeking off-site contributions should discuss the matter with the relevant Council at the earliest opportunity and preferably demonstrate through the pre application process the reasons for such an approach.

### **Serviced Plots**

**11.9** Off-site delivery via the provision of serviced land may apply where the Councils consider that such a contribution, either on the proposed development site or on an alternative site, would meet the identified housing needs of the District more effectively. Serviced land is defined as freehold cleared, remediated land with all services and connecting media (e.g. gas, electricity, water, sewerage, surface water drainage, telephone, broadband etc.) and infrastructure (e.g. roads to an adoptable standard, footpaths, boundary walls, street lighting etc.) necessary for development right up to the edge of the land. There must be no legal, physical nor financial barriers to the servicing of the land by the developer constructing the affordable housing or ongoing commuted payments for the off-site maintenance of infrastructure.

### **Methodology for the calculation of Commuted Sums**

**11.10** A commuted sum must be of broadly equivalent value to that which would have been required on-site. The methodology for the off-site financial contribution calculation is as follows:

## **The methodology for financial contributions towards the off-site delivery of affordable housing**

### **THE OPEN MARKET VALUE OF THE HOME**

- Select the "Average Value" for:
  - the appropriate "Zone" for the location of the property (Tables 4.1 to 4.6); and
  - the appropriate property size
- N.B. Open market valuations will be required on a site-by-site basis as per the process at 4.26-4.28 (?) for:
  - Any size property if within the ward of Chittlehampton

### **MINUS**

### **THE VALUE OF THE HOMES AS AFFORDABLE HOUSING**

- For Social Rent properties this is 35% of the above Average Value
- For Shared Ownership properties this is 65% of the above Average Value

**11.11** The corresponding values for this methodology must be taken from the latest available version of the Annual Update. Following the adoption of the Affordable Housing Supplementary Planning Document, an off-site financial contributions calculator will be made available online.

### **Payment phasing and indexation**

**11.12** Financial contributions towards the off-site delivery of affordable housing will be subject to a negotiated position based on a phased payment programme. Usually this will be 50% payment on commencement of the development and the remaining 50% payment when 50% of the open market units have been sold / occupied. For phased development the agreed payment schedule will apply to each phase. The commuted sum to be paid and the payment schedule will be reflected in the Section 106 Agreement or Unilateral Undertaking.

**11.13** The Councils will index the agreed financial contribution from the date of the agreement to the date of payment. This will be by an amount equal to the proportionate upward only change in the All in Tender Price Index of the Building Costs Information Service (BCIS) of the Royal Institution of Chartered Surveyors.

### **Spending off-site financial contributions in lieu of on-site affordable housing**

**11.14** Where a financial contribution towards the off-site delivery of affordable housing is secured via a Section 106 Agreement or Unilateral Undertaking, the contribution will be 'ring-fenced' and used to meet the Councils' affordable housing objectives. In the first instance, endeavors will be made to use such financial contributions to achieve affordable housing delivery within the parish where the development was located. Where it can be demonstrated that there is not a reasonable prospect of delivery within that parish, the contributions may be used to deliver affordable housing within adjoining parishes, or within a relevant grouping of parishes formally recognised by the local planning authority (such as the Rural Alliance). Ultimately, the use of contributions to deliver affordable housing may cascade to the wider local planning authority area where it is demonstrated that there is not a reasonable prospect of delivery within the parish where the original proposal site was

located nor within adjoining parishes. In some circumstances, commuted sums may be pooled and used to enable the provision of affordable housing, as determined by the Councils.

**11.15** The period for the spend of any commuted sum for affordable housing will be specified within a legal agreement (Section 106 agreement/ Unilateral Undertaking) attached to the planning permission. This period will normally be set at 10 years from the date of receipt of payment.

## Spending of commuted sums

**11.16** The Council will look at the best approach at spending commuted sums in each area to achieve maximum benefits. This may include using any contributions:

- On other sites over which the applicant has control to increase the delivery or improve tenure mix of affordable homes
- To bridge a funding gap on other development sites where the full policy compliant affordable housing can't be met
- To fund registered providers (sometimes on behalf of CLTs) to deliver affordable homes following a successful bid to the Council for the funding, subject to meeting any funding criteria
- To help bring back vacant homes back into use if they will be subsequently secured for affordable homes

**11.17** In order to maximise the benefits derived from deployment of any commuted sums in addressing the affordable housing needs of the Districts, the Councils will prioritise expenditure on a one-for-one basis. Where this is not possible, the Councils will look to maximise the number of units to be built.

**11.18** Monitoring will be on a site-by-site basis and the Councils will report where funds have been allocated and spent. This information will be reported on an annual basis in the respective Councils' Infrastructure Funding Statements.

## Appendix 1 National Planning Policy Framework definition of affordable housing (including updates made through the Written Ministerial Statement 24.05.21)

Extract from the National Planning Policy Framework, July 2021, Ministry of Housing, Communities and Local Government, Annex 2: Glossary.

**Affordable housing:** 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); 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).

National Planning Policy Framework definition of  
affordable housing (including updates made through  
the Written Ministerial Statement 24.05.21)

- 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.

**The Government's definition of First Homes**

The Planning Practice Guidance (published 24.05.21) <sup>(29)</sup> provides the following definition:

First Homes are a specific kind of discounted market sale housing and should be considered to meet the definition of 'affordable housing' for planning purposes. Specifically, First Homes are discounted market sale units which:

- a. must be discounted by a minimum of 30% against the market value;
- b. are sold to a person or persons meeting the First Homes eligibility criteria
- c. on their first sale, will have a restriction registered on the title at HM Land Registry to ensure this discount (as a percentage of current market value) and certain other restrictions are passed on at each subsequent title transfer; and,
- d. after the discount has been applied, the first sale must be at a price no higher than £250,000 (or £420,000 in Greater London).

First Homes are the government's preferred discounted market tenure and should account for at least 25% of all affordable housing units delivered by developers through planning obligations.

<sup>29</sup> [Paragraph: 001 Reference ID: 70-001-20210524](#)

## Appendix 2 North Devon and Torrridge Local Plan Policies

### Housing Mix

#### Policy ST17: A Balanced Local Housing Market

##### Housing Scale and Mix

(1) The scale and mix of dwellings, in terms of dwelling numbers, type, size and tenure provided through development proposals should reflect identified local housing needs, subject to consideration of:

- (a) site character and context; and
- (b) development viability.

##### Specialist Housing Accommodation

(2) Within development boundaries, or the principal built form of defined settlements without settlement boundaries, proposals for specialist housing accommodation will be supported where they:

- (a) meet an identified local need;
- (b) are proportionate in scale to the locality;
- (c) are located so they are accessible to local facilities; and
- (d) provide necessary ancillary facilities as part of the development, that complement locally available amenities and, where possible, be made available to the wider community.

#### Affordable Housing on Development Sites

##### Policy ST18: Affordable Housing on Development Sites

(1) Affordable housing provision will be required on residential development proposals on the following basis, with the thresholds for the provision of affordable housing applied unless changed in national policy or guidance:

- (a) proposals for 11 or more dwellings, or for the provision of greater than 1,000 square metres (gross internal area) of residential floorspace irrespective of the number of dwellings, will be expected to provide on-site delivery of affordable housing equal to 30% of the number of dwellings (gross) on site; and
- (b) in rural areas designated under section 157 of the Housing Act 1985, including the North Devon Coast Areas of Outstanding Natural Beauty, proposals for 6 to 10 dwellings will be expected to provide a financial contribution of broadly equivalent value to providing on-site affordable housing equal to 30% of the number of dwellings (gross) on site.

(c) If the requirement for affordable housing thresholds is removed from national planning policy or guidance then clauses (1)(a) and (1)(b) above will no longer have effect and all residential development proposals that provide for a net gain in open market housing will be required to provide affordable housing equal to 30% of the number of dwellings (gross) on site.

(2) As part of residential development proposals, where vacant buildings are brought back into any lawful use, or are demolished to be replaced by new buildings, the affordable housing requirement for the proposal will be discounted by a proportion equivalent to the existing gross floorspace of the vacant buildings unless the requirement to do so is removed or moderated by a change in national policy or guidance.

(3) Where a fraction of an affordable dwelling is required by policy, such provision will be collected through a financial contribution of broadly equivalent value to that which would have been required on-site.

(4) Where the policy seeks on-site provision, alternative off-site delivery or provision through financial contributions of broadly equivalent value may be negotiated where it can be demonstrated that on-site provision is not possible or appropriate.

(5) Negotiation to vary the scale and nature of affordable housing provision, along with the balance of other infrastructure and planning requirements, will be considered on the basis of a robust appraisal of development viability.

(6) Where it is considered that a proposal is formulated with a view to circumventing affordable housing requirements, the affordable housing provision will be re-negotiated.

(7) Affordable housing will be sought initially on the basis of a tenure mix of 75% social rented and 25% intermediate accommodation, although variation may be negotiated on the basis of identified local housing need and/or development viability.

(8) Affordable housing provision should be provided broadly in-step with market housing as development delivery progresses, be visually indistinguishable from market housing and be intermixed with it across the site. Any proposed departure from these requirements will need to be robustly justified.

(9) All affordable housing will be subject to arrangements to ensure that it or provision of broadly equivalent value remains available to eligible households in perpetuity.

(10) Affordable housing will be subject to planning conditions, obligations or other legally defensible limitations to:

(a) restrict occupation to households identified as being in need of affordable housing; and

**(b) in designated rural areas, give priority of occupation to households with a local connection.**

**Affordable Housing on Exception Sites****Policy ST19: Affordable Housing on Exception Sites**

Proposals to deliver permanent affordable housing at Local Centres, Villages and Rural Settlements will be supported, subject to the following:

- (a) the site is well related to or adjoining the defined development boundary; or where the settlement is not subject to a development boundary, the site is well related to the extent of the contiguous built form;
- (b) the development is proportionate to the scale and nature of the existing settlement;
- (c) there is an identified local need for affordable housing sufficient to justify the extent and nature of the proposed development;
- (d) the housing need could not reasonably be satisfied without the exceptional release of land;
- (e) arrangements are in place to ensure that the affordable housing, remains available to the local community in perpetuity;
- (f) where it can be robustly demonstrated that an element of market housing is required to enable delivery of significant additional affordable housing, it will be supported provided that:
  - (i) the element of market housing is the minimum amount required to enable the delivery of the proposed affordable housing; and
  - (ii) the mix of open market dwellings, in terms of type and size, complies with the requirements of Policy ST17;
- (g) environmental and heritage assets are not subject to significant harm, are conserved or enhanced, with particular respect to the setting and special qualities of nationally important landscapes, biodiversity and heritage designations and the undeveloped coast; and
- (h) the use of planning conditions, obligations or other legally defensible limitations to:
  - (i) restrict occupation to households identified as being in need of affordable housing; and
  - (ii) give priority of occupation to households with a local connection.

**Starter Homes Exception Sites****Policy ST19A: Starter Homes Exception Sites**

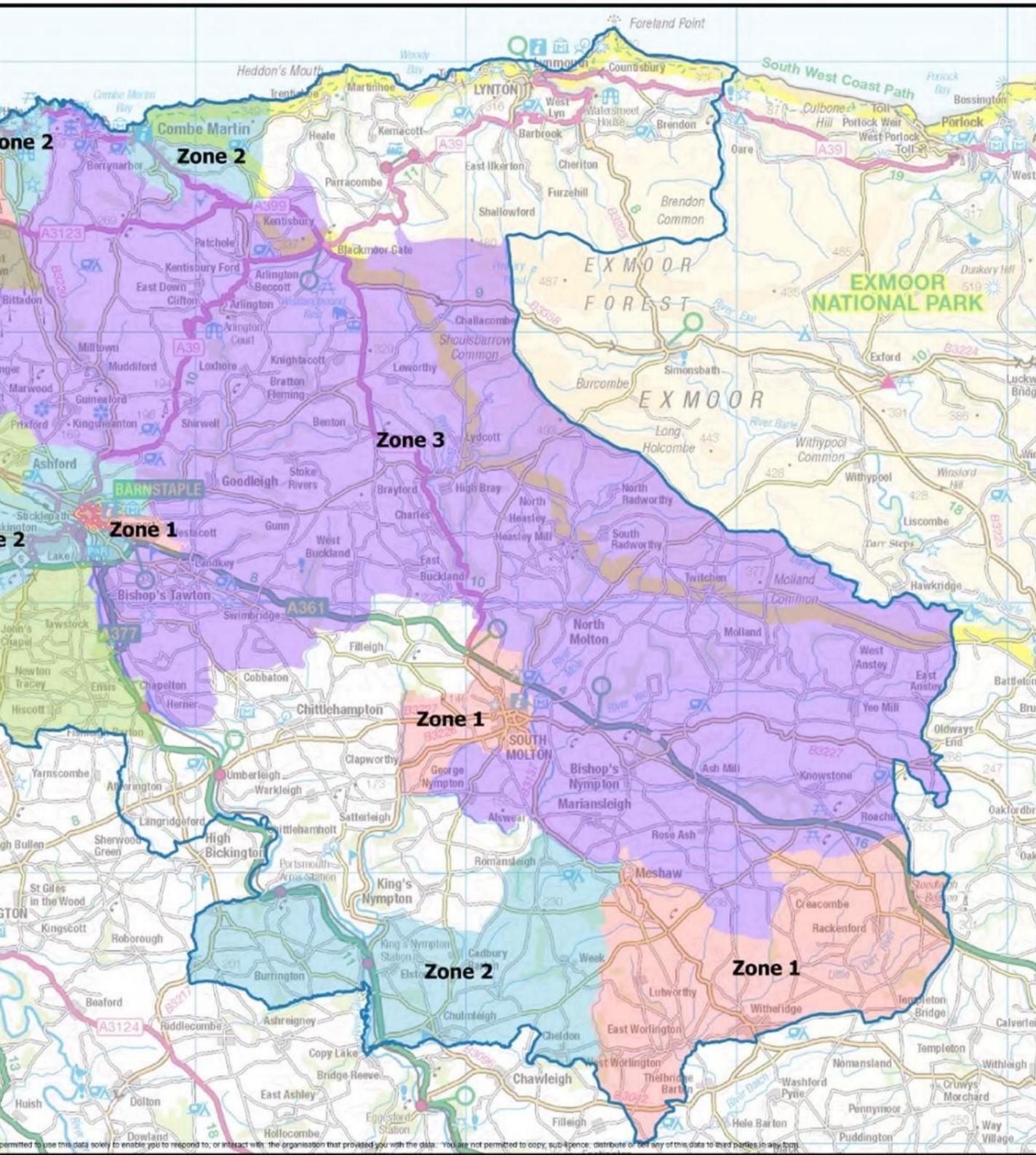
Proposals to deliver Starter Homes in the Sub-Regional Centre, Strategic and Main Centres, Local Centres and Villages will be supported on qualifying Starter Homes Exception Sites, subject to the following:

- (a) the site is located within the defined development boundary or, where the settlement is not subject to a development boundary, the site falls within the settlement's contiguous built form;
- (b) the site is demonstrably unsuited for its current or former use or cannot viably be used for its current or former purpose(s);
- (c) the mix of dwelling types and sizes reflects the identified housing needs of new entrants to the local housing market;
- (d) where it can be robustly demonstrated that a small proportion of market housing is required to enable delivery of the proposed Starter Homes, it will be supported provided that:
  - (i) the element of market housing is the minimum amount required to enable the delivery of the significant majority of the site for Starter Homes; and
  - (ii) the mix of open market dwellings in terms of type and size, complies with the requirements of Policy ST17; and
- (e) the use of planning conditions, obligations or other legally defensible limitations to:
  - (i) restrict initial occupation to first time buyers who are below the age of 40 at the time of purchase;
  - (ii) ensure that the initial sales value of each Starter Home is subject to at least 20% discount from the open market value; and
  - (iii) ~~ensure that any resale or letting of a Starter Home must reflect the discount from an open market value achieved at the initial point of sale for a period of 5 years following the initial sale.~~

### Appendix 3 Value Zones for the calculation of Discounted Market Sales Housing

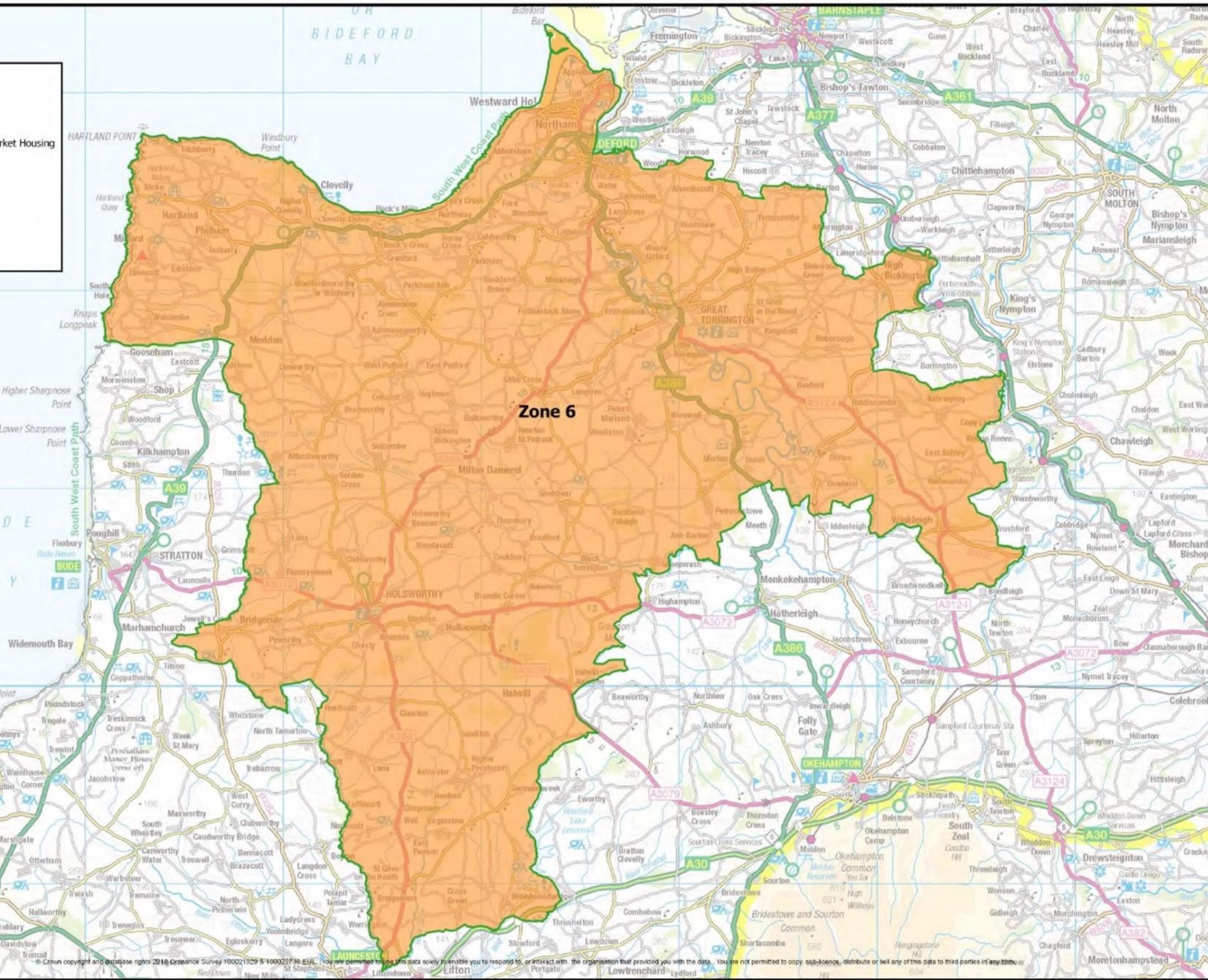


Map 3.1 Affordable Housing Zones (North Devon)



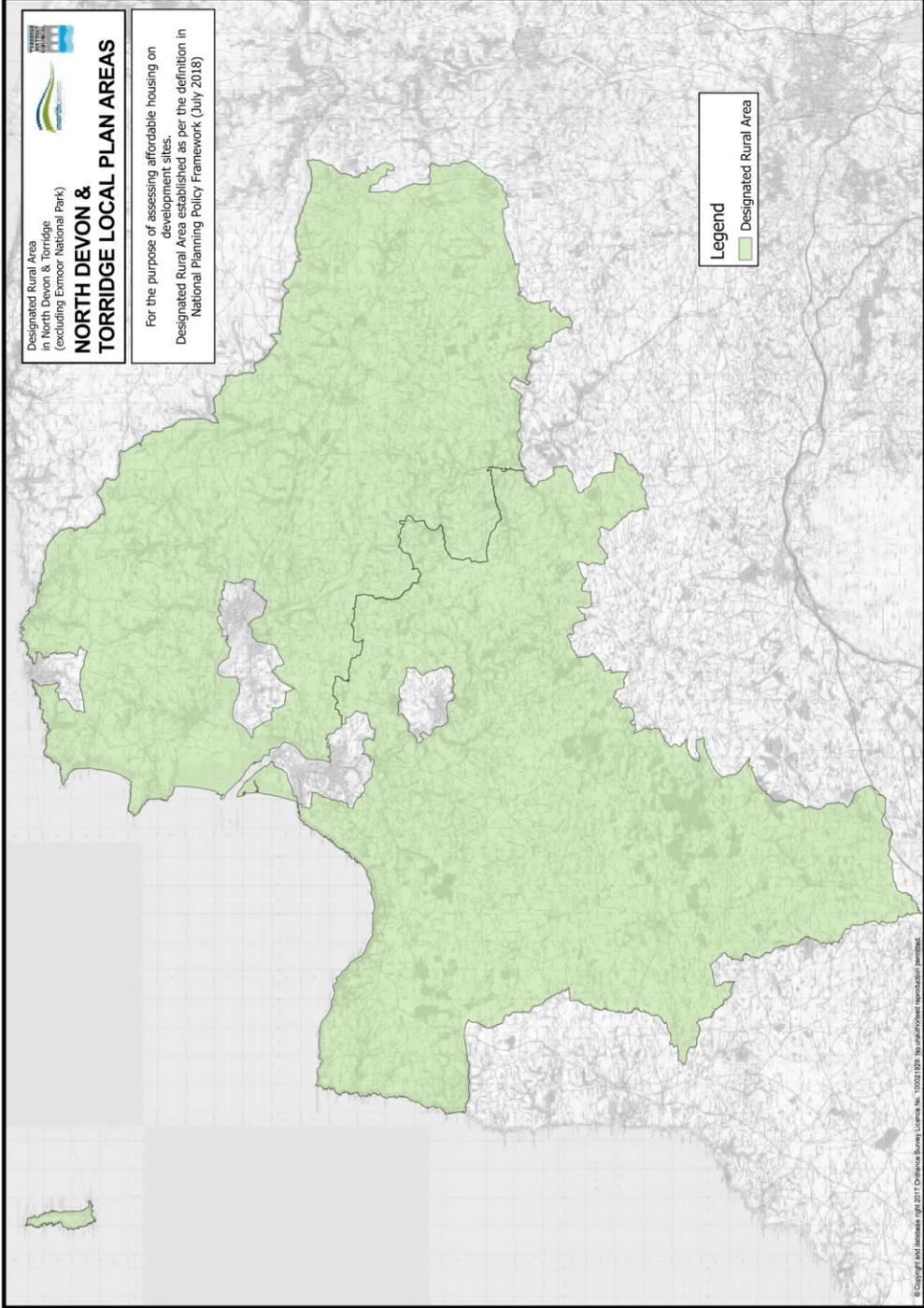
## Appendix 3

Map 3.2 Affordable Housing Zones (Torrige)

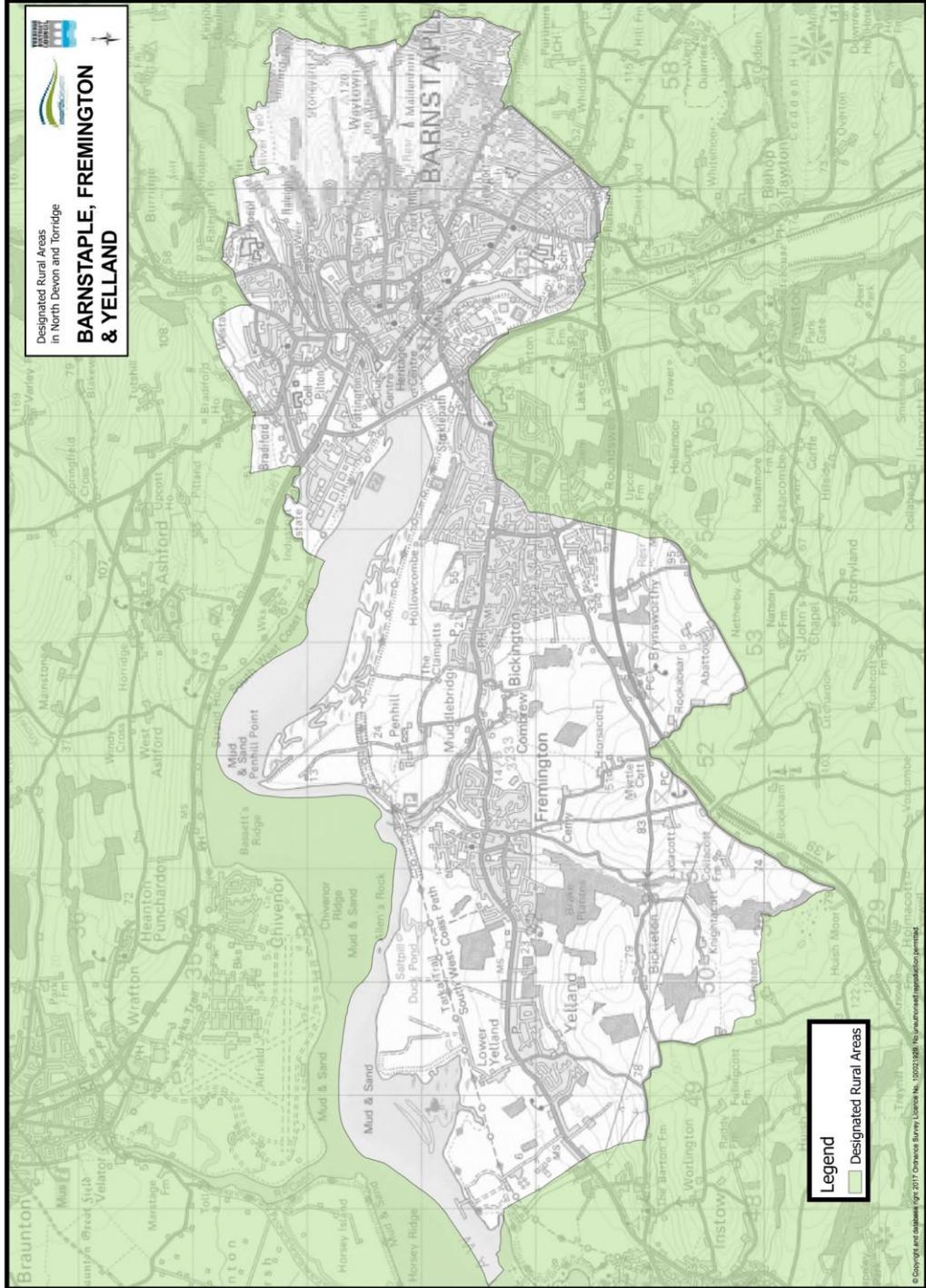


# Appendix 4 Location of Designated Rural Areas

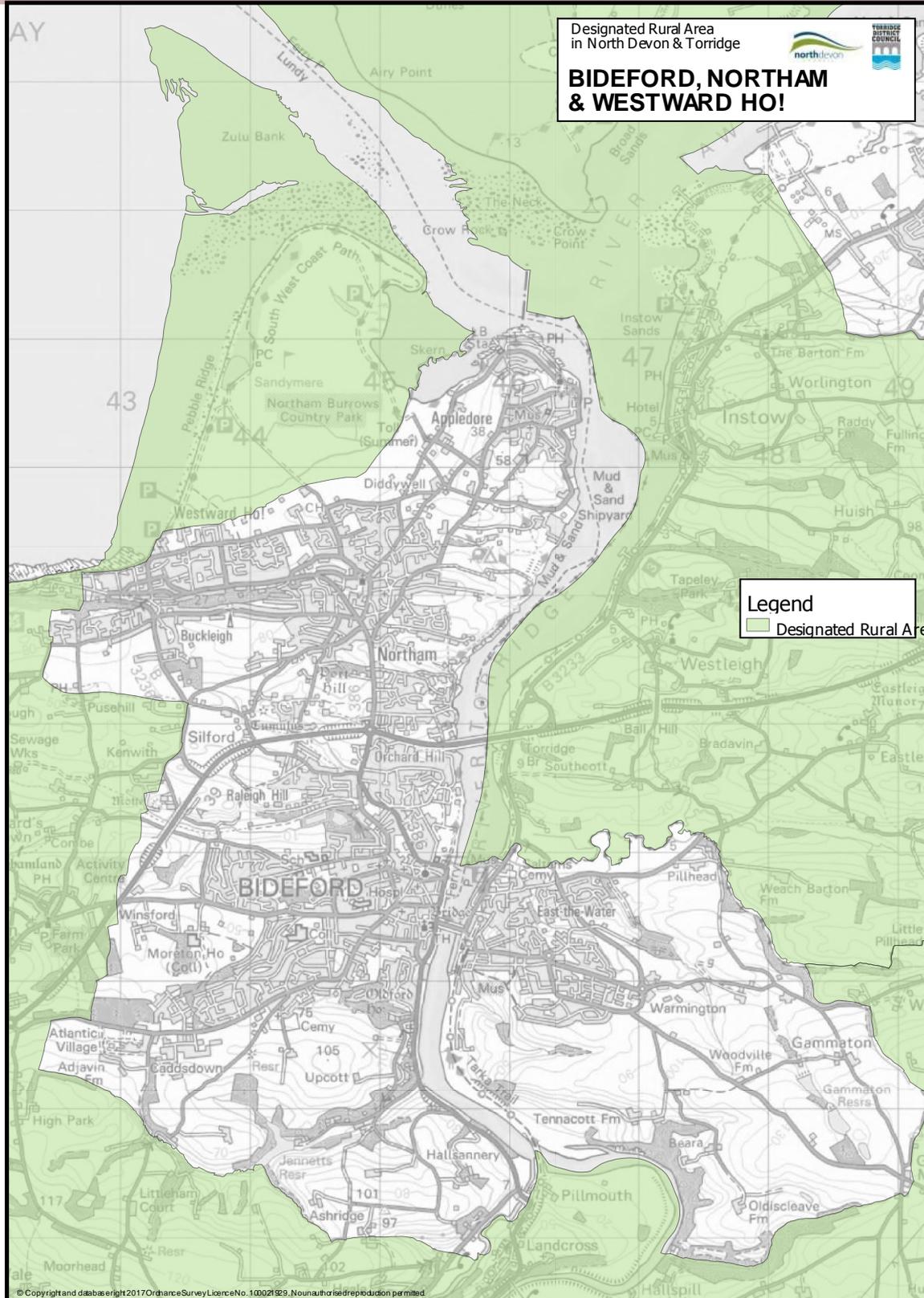
Map 4.1 Designated Rural Areas within the North Devon and Torrington Plan Area



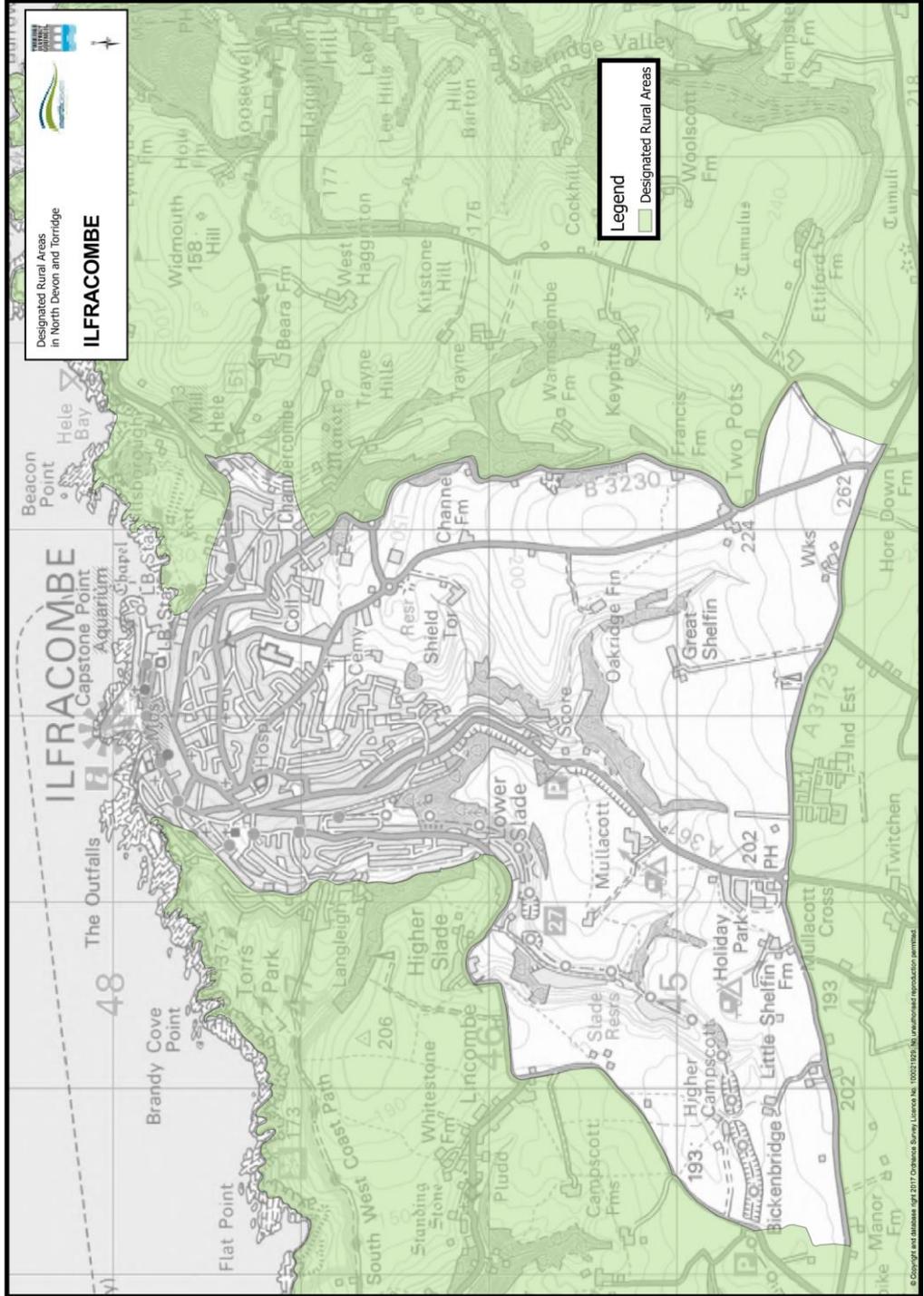
Map 4.2 Designated Rural Areas for Barnstaple, Fremington & Yelland



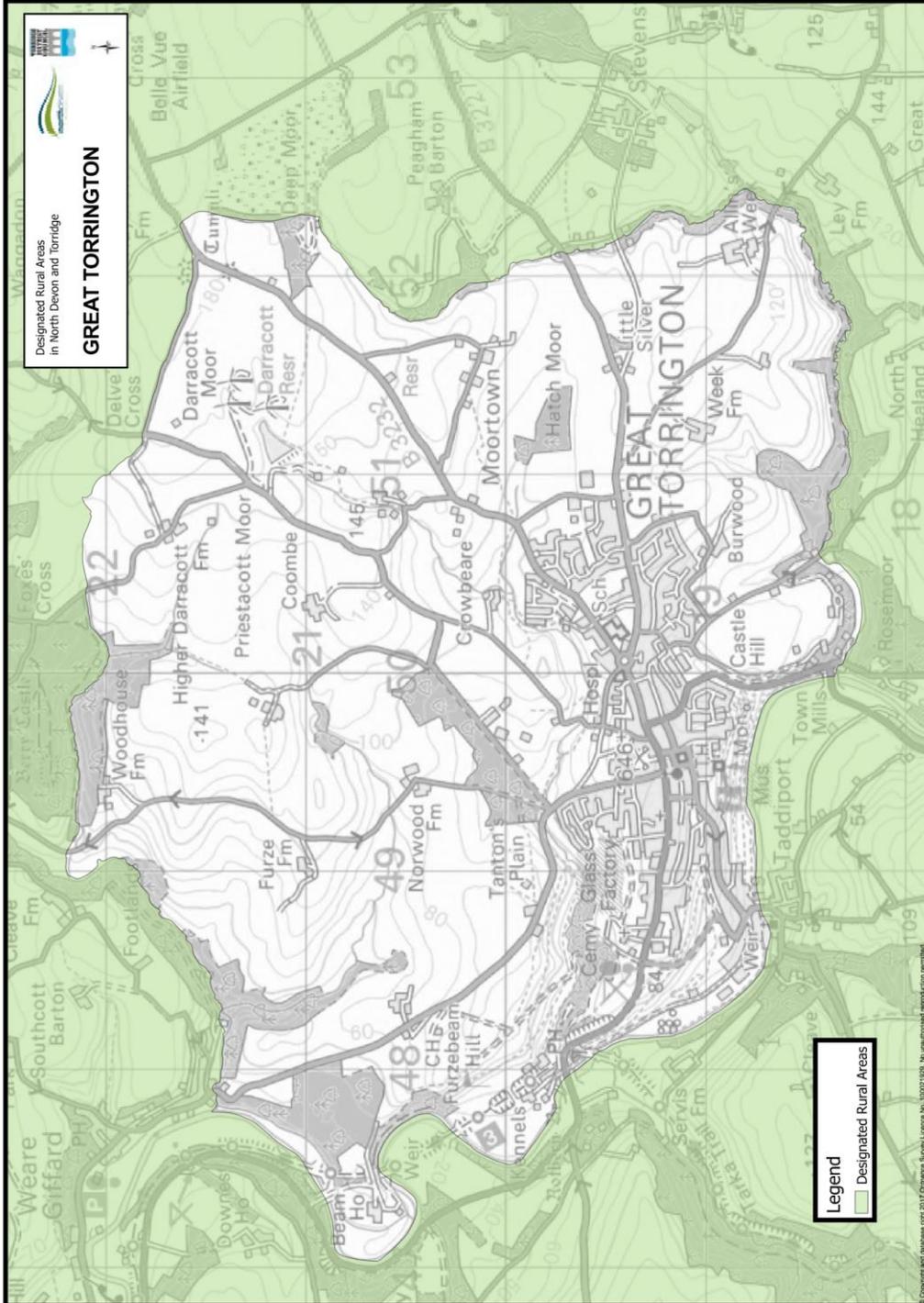
Map 4.3 Designated Rural Areas for Bideford, Northam & Westward Ho!



Map 4.4 Designated Rural Area for Ilfracombe



Map 4.5 Designated Rural Area for Great Torrington



Appendix 5 Local Connection Cascade



# URBAN excluding parish of Holsworthy

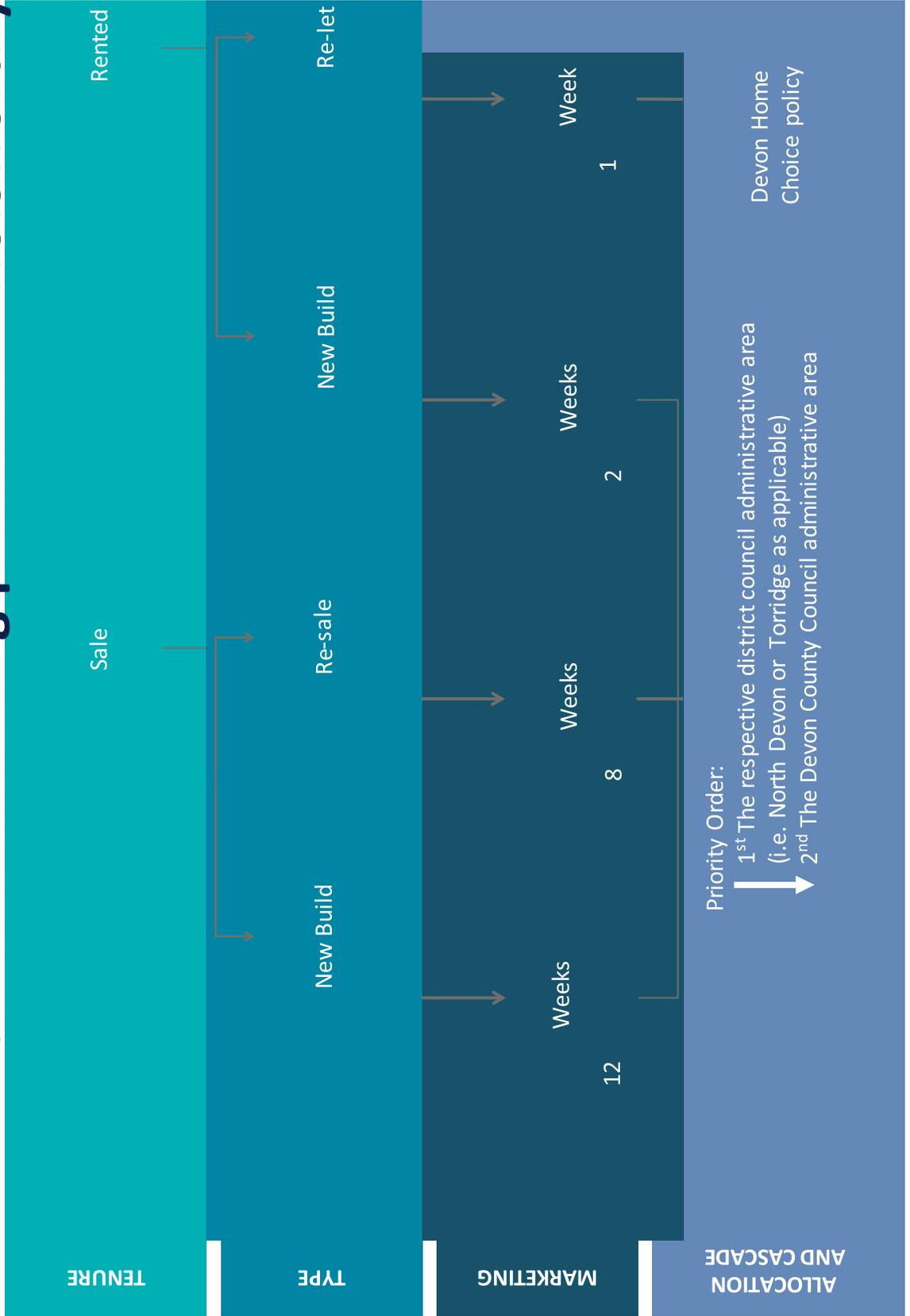


Figure 5.2 Rural Local Connection Cascade excluding rural parts of Fremington, Braunton, Bideford and Holsworthy

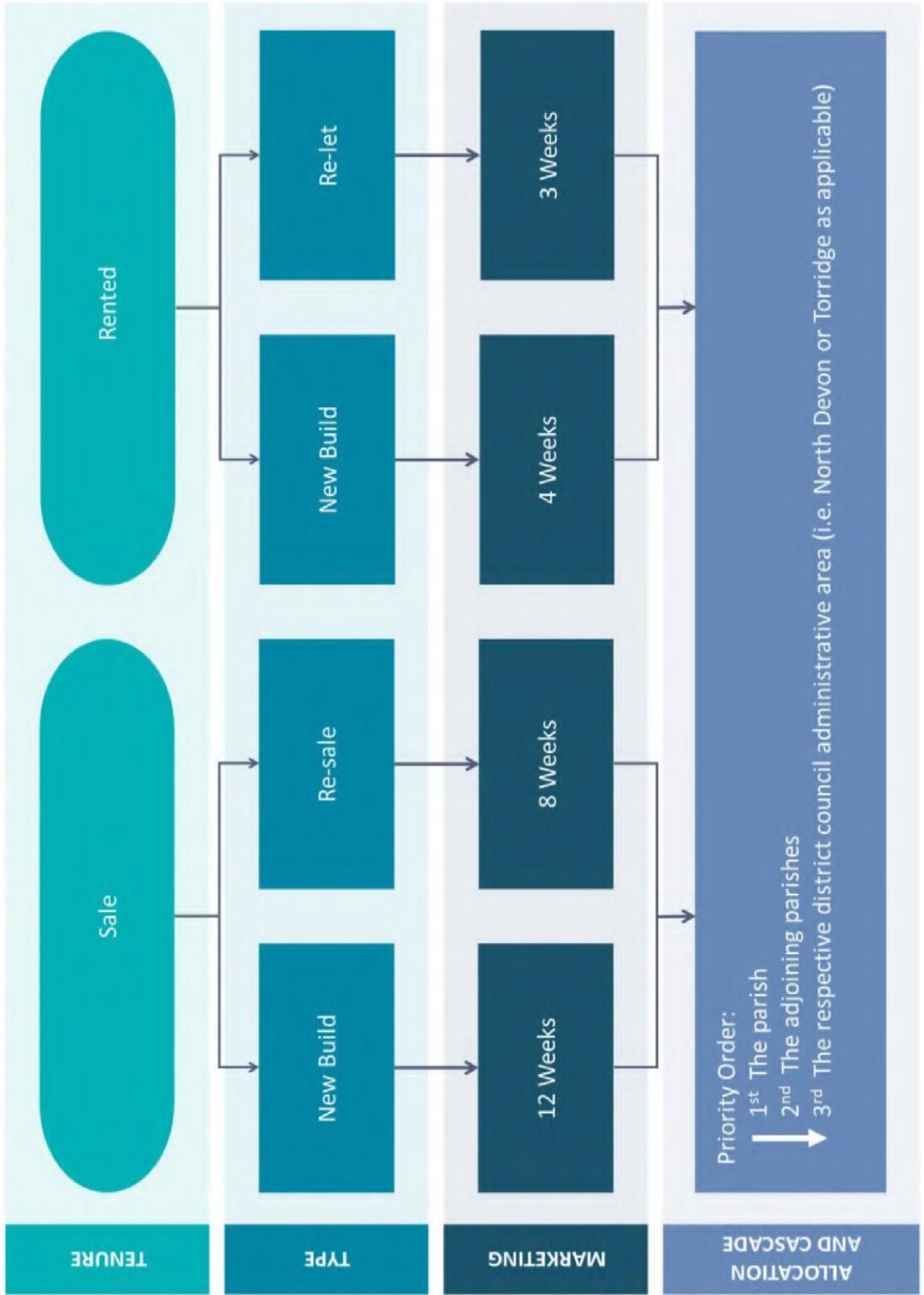
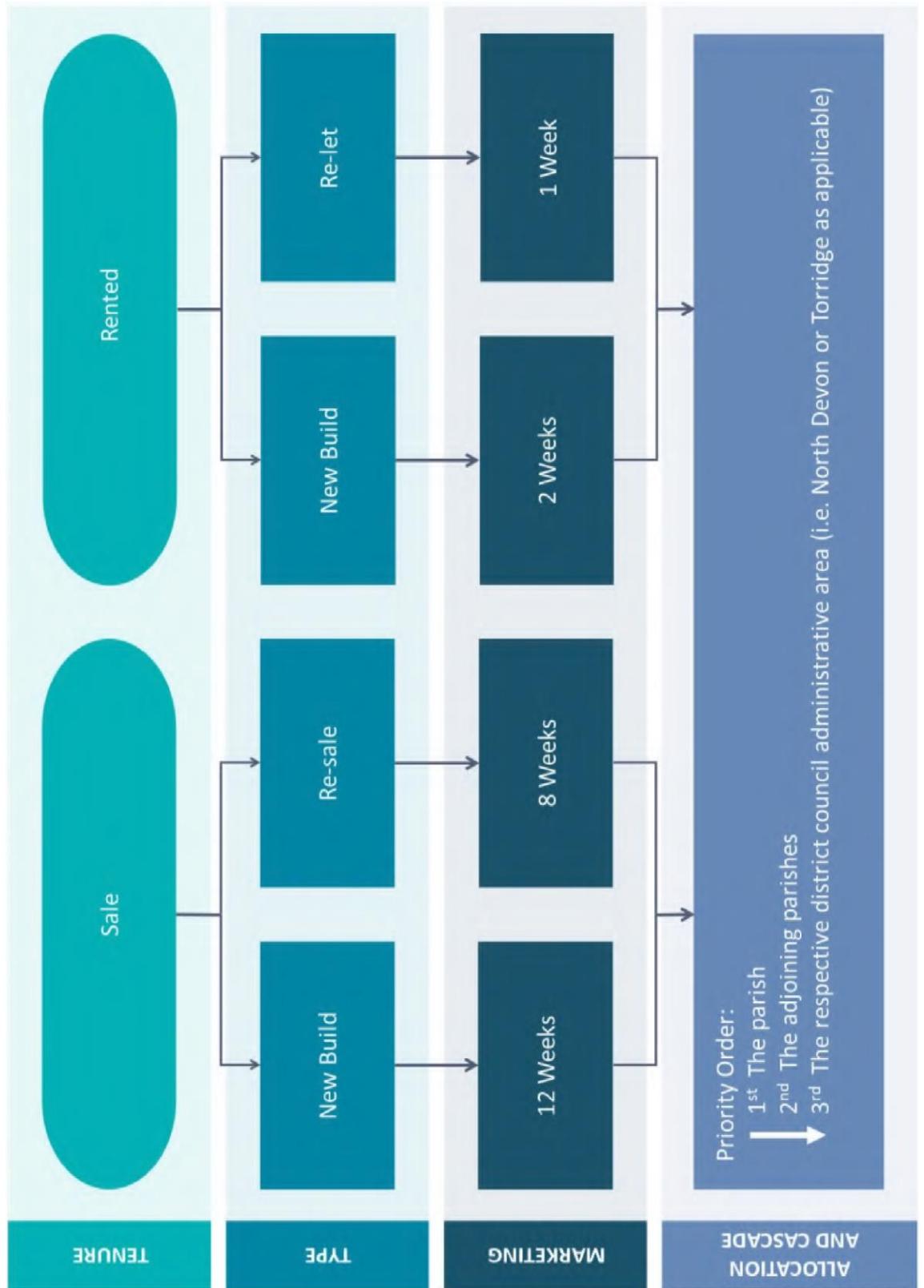


Figure 5.3 Local Connection Cascade for rural parts of Fremington, Braunton, Bideford and Holsworthy



## Appendix 6 Glossary

### Glossary

Allocations Policy

A policy which determines the priorities and defines the procedures to be followed in allocating affordable housing accommodation.

Clustering

The development of the affordable housing

Appendix  
6 Glossary

	in multiple groups.
Development Boundary	Development boundaries are generally a line drawn on a Local Plan Policies Map, around a settlement, which reflects its built form and development proposals. The development boundary is used as a policy tool reflecting the area where a set of plan policies are to be applied.
Designated Protection Areas	The whole District except for the parishes which are designated pursuant to the Housing (Shared Ownership Leases) (Exclusion from Leasehold Reform Act 1967) (England) Regulations 2009 and the Housing (Right to Enfranchise) (Designated Protected Area) (England) Order 2009 in which there are restrictions on Shared Ownership Housing preventing Staircasing beyond 80%.
Designated Rural Areas	The glossary of the revised NPPF (2021) defines designated rural areas as "National Parks, Areas of Outstanding Natural Beauty and areas defined as 'rural' under Section 157 of the Housing Act 1985". For North Devon and Torridge, the areas designated as 'rural' are defined through Article 2 of the Housing (Right to Buy) (Designated Rural Areas and Designated regions (England) (No2) Order 1981).
Existing Use Value (EUV)	What the land is worth in its current form.
Housing Needs Survey	An independent report, collating information on the current housing, circumstances and requirements of a community, providing an objective assessment of its current and future housing needs.

Term	Definition
Intermediate tenure	Affordable Housing made available for sale or rent as Affordable Rent Dwellings, Shared Ownership Dwellings, Discount Market Sale (DMS) Dwellings or Intermediate Rent Dwellings.
Local Connection	<p>A household with a local connection to the parish of [NAME], adjoining parishes, the District or the County (as appropriate) as follows:</p> <p>(a) at least one adult in the household was resident continuously in the qualifying area for a minimum of five years immediately prior to occupation; or</p> <p>(b) at least one adult of the household was resident in the qualifying area for five years within the previous ten years immediately prior to occupation; or</p> <p>(c) at least one parent, guardian, child or sibling of at least one adult in the household, has been resident in the qualifying area for a minimum of five years immediately prior to occupation; or</p> <p>(d) at least one adult in the household has been in continuous employment for at least 16 hours a week in the qualifying area for at least five years immediately prior to occupation;</p>
Local Housing Allowance	The rents applicable to [POSTCODE OF SCHEME] published by the Valuation Office Agency of H.M. Revenue and Customs (or any successor body responsible for setting the applicable rate).
Local Housing Need	The scale, type, size and tenure of housing needed in a town, village or rural settlement, including affordable housing needs, together with the housing needs of the wider area served by the respective main and local centres including, where appropriate, parishes within adjoining districts.

Local Letting Plan An agreement between Housing Services and a housing provider. It sets out how properties will be allocated in exceptional circumstances to meet area specific issues.

Major Application

Defined in the NPPF (2021), for housing as

	development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.
MHCLG	The Ministry of Housing, Communities and Local Government. This has now been rebranded as the Department for Levelling Up, Housing and Communities.
National Planning Policy Framework	The Government's planning policies for England and how they should be applied.
Nomination Agreement	An agreement between the Council and a Registered Provider by which the occupation of Affordable Housing Units is approved by the Council.
Pepper Potting	The "sprinkling" of social housing amongst privately-owned housing.
Planning Obligation	Planning obligations (also known as Section 106 Agreements or 'planning gain') are obligations attached to land that is the subject of a planning permission. They are used to mitigate or compensate for the negative impacts of a development or to prescribe the nature of a development
Planning Practice Guidance National Planning	Practice Guidance (NPPG) supports the National Planning Policy Framework. It sets out more detailed guidance on how national policy should be implemented, and it is intended that the two documents should be read together. It covers a wide range of topics, including considerations relating to decision making and plan making.
Registered Provider	Registered provider are defined in the Housing and Regeneration Act 2008 Act. Registered providers include local authority landlords and private registered providers (such as not-for-profit housing associations and for-profit organisations).
<b>Term</b>	<b>Definition</b>
Section 106 (s106)	A type of planning obligation or legal agreement attached to a planning permission.
Self-build and custom-build housing: Defined	in the NPPF (2021) as housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing. A legal definition, for the purpose of applying the Self-build and Custom
<b>72 Affordable Housing SPD</b>	

Housebuilding Act 2015 (as amended), is contained in section 1(A1) and (A2) of that Act.

**Unilateral Undertaking A** Unilateral Undertaking is a simplified version of a planning agreement, which is relatively quick and straightforward to complete, and is entered into by the landowner and any other party with a legal interest in the development site.

**Use Class C3**

A dwelling house used by a) a single person or people living together as a family; or b). not more than 6 residents living together as a single household (including a household where care is provided for residents), or c). not more than 6 residents living together as a single household where no care is provided to residents (other than a use within C4 HMO definition).

**Vacant Building Credit**

This is a financial credit equivalent to the existing gross floor space of relevant vacant buildings which is offset against the affordable housing contribution as determined by the relevant planning policy for the development.

**Vacant Building Credit Statement**

A Vacant Building Credit Statement must be submitted alongside the relevant planning application in which a reduced affordable housing contribution is being sought.

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