

Social Housing in South Hams

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1 Introduction

1.1 What is Social Housing ?

Social Housing is the collective term for properties owned by Registered Providers (see section 1.3). These are usually Local Authorities (LAs), Housing Associations (HAs) or Community Land Trusts (CLTs). They provide homes at rents that must be below 80% of the current market value. This threshold is defined by the National Planning Policy Framework (see section 3.1 below). The tenancies for Social Housing are usually long-term.

Social Housing is a subset of the more general term; Affordable Housing. Affordable Housing landlords are not necessarily Registered Providers but are still subject to a range of controls. The definition of Affordable Housing is part of the National Planning Policy Framework. However, it must be added that the distinction between Social and Affordable is often not strictly applied in the literature.

Some other common jargon:

- Sheltered Housing is generally for people over 60.
- Supported Housing is for people with disabilities who need housing-related or care-related support.
- Intermediate Housing is housing for sale or rent at prices above affordable levels but below the market level.
- Almshouses are charities, mostly catering for people over 60 and often from a particular background.

1.2 Social Housing Need

South Hams is in a 'high affordability pressure area', as measured by the difference between average social rents and private rents, being greater than £50 per week.

According to Devon Home Choice (see below), there are currently 19,300 people that have been identified as being in need of housing across Devon of which 730 are in South Hams.

1.3 Regulation

Providers of Social Housing are regulated by the government Regulator of Social Housing (RSH) which became a standalone regulator in October 2018. All providers of Social Housing must register with the RSH.

There was, at Dec 2018, 1680 Registered Providers:

Local Authorities	198	11.8%	198 is less than half of all LAs
Non-Profit	1435	85.4%	Mostly are registered charities
Profit	47	2.8%	Mostly companies limited by guarantee

An important aspect of the regulation includes the level of rents which must be less than 80% of the market level.

Recent changes to regulation include:

Local authorities and housing associations will be able to increase rents by up to the Consumer Price Index +1% for 5 years from 2020. The purpose of this change is to "provide the security and certainty organisations need to plan investment, and provide greater confidence about their future rental income to underpin their house building plans."

2 Registered Providers in South Hams

2.1 South Hams District Council (SHDC)

SHDC is not a Registered Provider. Prior to 1999, SHDC owned 3,094 homes in South Hams. In March 1999 it transferred nearly all of its properties (see next para) to South Hams Housing under the Large Scale Voluntary Transfer (LSVT) rules. This is not unusual. LSVTs began in 1988 and since then about half of England's Local Housing Authorities have transferred their stock.

SHDC is an owner of Residential Property. The Council did retain its hostel style accommodation at Avonwick (later demolished) and has since purchased an assortment of other properties. These are used for temporary accommodation for homeless households. The Council managed these properties for some time but they are now subject to a management arrangement with South Devon Rural Housing Association.

Normally ownership of housing by an LA has to be managed through the ring-fenced Housing Revenue Account (HRA). However, an HRA is not required for the provision of temporary emergency accommodation to meet the Council's statutory homelessness duty under section 188 of the Housing Act 1996 (as amended), and the accounting for this function is therefore done through the Council's General Fund.

The Council has statutory duties in regard to homeless families as a result of the Housing Act 1996 (part 7), the Homelessness Act 2002, Homelessness (Priority Need for Accommodation) (England) Order 2002 and Homelessness Reduction Act 2017. The latter was a significant reform of legislation and placed a duty on LAs to intervene at an earlier stage to prevent homelessness in their areas. It also requires housing authorities to provide homelessness services to all those affected.

2.2 Housing Associations

Devon Home Choice works with 25 Housing Associations across Devon. Below are some of those that operate in the South Hams.

- LiveWest <https://dch.livewest.co.uk/about-livewest/>
- South Devon Rural Housing Association <https://southdevonrural.co.uk/>
- Guinness Partnership <http://www.guinnesspartnership.com/>
- Westward Housing Group <https://www.westwardhousing.org.uk/>
- Anchor Hanover <https://www.anchor.org.uk/>
- Sanctuary Housing <https://www.sanctuary-housing.co.uk/>

An aside: The history of South Hams Housing (recipient of SHDC's housing stock) is worthy note as it illustrates the consolidation that has taken place in this sector. It merged with Tor Homes. Tor Homes then became part of Devon & Cornwall Housing (DCH) in 2006 and after a series of steps it merged with DCH. DCH has since absorbed several housing associations like West Devon Homes in 2015. Then in March 2018 DCH merged with Knightstone to form Livery which now has about 36,000 properties. Then in Sep 2018, Livery changed its name to LiveWest.

2.3 Community Land Trusts (CLT)

Not all CLTs will become Registered Providers. By their nature they will provide affordable homes. They will be subject to the usual planning procedures that may result in Section 106 obligations.

- Transition Homes Community Land Trust is currently building 27 eco-homes at Clay Park, in Dartington parish. The majority of the homes (70%) are affordable rental & shared ownership for local people with a proportion of market housing required for cross-subsidy. <https://www.transitiontowntotnes.org/transition-homes/>
- Totnes Community Development Society is not really a CLT. It is current developing the old Dairy Crest site (next to the station)... the Atmos project. Once complete it is the intention of TCDS to become a Registered Provider. <http://totnescommunity.org.uk>

- Harberton & Harbertonford CLT has submitted plans for 12 dwellings.
<https://www.facebook.com/groups/Hx2CLT>
- South Brent CLT
<http://www.sbclt.co.uk/>
- Stoke Gabriel CLT
<http://sgclt.org.uk/>

2.4 Almshouses

Only a few Almshouses are Registered Providers.

- Sir Warwick Hele's Almshouses
- Sarah Roope Almshouses
- Holeton Almshouses
- The Almshouse Or Hump's Charity

3 Government Funding

Funding for Affordable Housing is now managed by Homes England which was formed in Jan 2018 when it replaced the Homes and Community Agency and a separate Regulator for Social Housing was formed.

3.1 Shared Ownership and Affordable Homes Programme 2016-21 (SOAHP)

The main source of fund is currently SOAHP. This is a fund of some £9b. Initially £7 billion was allocated and this was a consolidation of existing programmes; £4.7b in grants announced in April 2016, £1.4b that was announced in the Autumn Statement in Nov 2016, and £0.9b allocated under a previous programme. In 2018 an extra £2b was announced, bringing the fund to £9b.

Importantly, the fund is available for developments that include a variety of types of tenure and allows; Affordable Rent, Shared Ownership and Rent to Buy.

LAs, Housing Associations and some community led groups can apply for funding. These Registered Providers bid for funds through the Homes England so called Continuous Market Engagement process.

3.2 New Homes Bonus

The New Homes Bonus is a grant paid by central government to local councils to reflect and incentivise housing growth in their areas. It is based on the amount of extra Council Tax revenue raised for new-build homes, conversions and long-term empty homes brought back into use. There is also an extra payment for providing affordable homes.

3.3 Local Authority Borrowing

LAs have a statutory duty to operate a ring-fenced Housing Revenue Account (HRA). This account is also subject to borrowing limits. In the 2018 Autumn budget, it was announced that this cap would be increased in areas of "high affordability pressure" (as is South Hams: see section 1.2 above). This cap is to allow LAs to borrow an extra £1b for Affordable Housing.

4 Role of Planning

SHDC is a Local Planning Authority (LPA) and as such controls developments in the area.

4.1 National Planning Policy Framework (NPPF)

The NPPF provides the context in which individual LPAs develop planning policy specific to their area; the Local Plan. The NPPF was introduced in 2012 and was recently updated in July 2018. With regard to affordable housing the NPPF provides the following definitions:

- **Affordable housing for rent:** Housing owned by a Registered Provider (except where part of a Build to Rent scheme) which is rented in accordance with the national rent policy for Social Rent or Affordable Rent or is at least 20% below local market rents, with provision made for it to remain at an affordable price for future households or for the subsidy to be recycled for alternative affordable housing provision.

- **Starter homes:** New-build housing available for purchase by qualifying first-time buyers at a minimum of 20% below the market price, with sale prices subject to a cap of £450,000 in London and £250,000 outside London.
- **Discounted market sales housing:** Housing for sale to eligible buyers at a discount of at least 20% below local market value, with provision made for it to remain at a discount for future households.
- **Other affordable routes to home ownership:** Housing for sale that provides a route to ownership for those who could not achieve home ownership through the market. There are many different types of products that fall within this category, including shared ownership, relevant equity loans, other low cost homes for sale at a price at least 20% below local market value and rent to buy which includes a period of intermediate rent.

Note: the term 'eligibility' refers to limits, on for instance income, that may be set by secondary legislation, which the Secretary of State has, under powers available under the Housing and Planning Act 2016.

4.2 The Local Plan

The Local Plan forms the context of planning decisions made by a LPA. Other statutory considerations need to be taken into account but at the core of any planning decision are the policies that make up the Local Plan. The Local Plan is developed by the LPA in consultation with partners and then has to be approved by the Planning Inspectorate.

The Local Plan will include policies on Affordable Housing and the use of Section 106 Agreements.

In the case of SHDC, it has developed a Joint Local Plan (JLP) with Plymouth, West Devon. This was submitted to the Secretary of State for approval in July 2017. Amendments were submitted in October 2018. While the Joint Local Plan has not yet been adopted, its progress to approval is at an advanced stage and so it does (should) have considerable weight when making planning decisions.

The JLP policies that are directly relevant are:

SPT3	Provision for new homes
DEV8	Meeting local housing needs in the Thriving Towns & Villages Policy Area
DEV9	Meeting local housing needs in the Plan Area
DEL1	Approach to development delivery and viability, planning obligations and the Community Infrastructure Levy

4.3 Section 106 Agreements (aka Planning Obligations)

These agreements are obligations that a developer must fulfil under Section 106 of the Town and Country Planning Act 1990 (as amended). Section 106 provided a mechanism whereby a Local Planning Authority (LPA) can impose obligations over and above the usual conditions attached to a planning consent, in order to mitigate the effect a development may have and also to promote planning policy goals.

A common use of s106 agreements is to secure affordable housing. How and when this is appropriate is determined by the Local Plan.

Local policies on the use and contents of planning obligations must be published in the Local Plan. These policies must conform with the NPPF requirement that a planning obligation must only be sought where it is:

- necessary to make the development acceptable in planning terms
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

A fundamental principle of Section 106 agreements is that they should not change the nature of the planning permission or be so onerous as to mean the development cannot go ahead. To this end the NPPF sets out a Viability Process which formalises how a planning obligation may be challenged on the basis of a 'viability argument'. There is a great deal of evidence to show that this has been abused by some developers and the NPPF update of 2018 attempts to address some of these issues. The viability assessment must now be made at the planning stage and also it must be made public.

When used to secure affordable housing a section 106 agreement may specify eligibility criteria for potential tenants or purchasers of these properties. This might include:

- a need to demonstrate a local connection
- a housing need assessment

A local connection is typically demonstrated if it can be shown that a person:

- was born in the area and has lived there for a number of years
- permanently lived in the area for a number of years
- used to live in the area for a number of years but had to move away because of the lack of affordable housing
- has been permanently employed in the area for a number of years

4.4 Localism Act 2011

The Localism Act introduced many changes to how local government operates, not least in how a LA constitutes itself. Of particular relevance to affordable housing are the provisions for:

- Neighbourhood Planning
- Community Right to Build Order
- Community Right to Buy (Assets of Community Value)

Neighbourhood Plans

These are plans submitted by a community, usually a Town or Parish Council, that lays out a housing development plan to meet the needs of local people in their area.

Community Right to Build Order

Where a community can demonstrate, through a local referendum, that there is support for a development to meet local needs then the usual planning process is considerably shortened to allow the development proceed.

Community Right to Buy (Assets of Community Value)

An asset that is deemed to be of importance to a community may be registered as an Asset of Community Value which gives the community 6 months to raise funds to purchase it.

4.5 Land Supply

Paras 67 and 73 of the NPPF require LPAs to identify a 5 year supply of development sites. Para 73 states:

“Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirements set out in the adopted strategic policies, or against their local housing need where strategic policies are more than five years old. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:

- 5% to ensure choice and competition in the market for land; or
- 10% where the local planning authority wishes to demonstrate a five year land supply of deliverable sites through the annual position statement or recently adopted plan, to account for any fluctuations in the market during that year; or
- 20% where there has been significant under delivery of housing over the previous three years,
- to improve the prospect of achieving the planned housing supply.”

The so called Housing Delivery Test as defined by government and as applied to South Hams establishes the need for 240 homes for 2017-18. However, this figure is hedged about by several caveats. See ref 15 for details.

5 Devon Home Choice

DHC brings together all the providers of social housing in Devon; the LA’s, Housing Associations and Community Land Trusts. It works with 25 housing associations and 10 LAs across the region. The aim is to provide a single source of information on available housing, a common means of needs assessment and to allow people to move within Devon more freely.

Moving from one LA area to another is now much simpler but LAs still have local policies to control any net influx into their area.

DHC maintains a list of available properties across Devon that is accessible via their web site. Applicants can register with DHC and fill a rather long form which DHC uses to make an assessment of their housing need (see next section). Applicants can then express an interest in three properties which appeal. This process is known as 'bidding'.

Once a week properties are allocated to the bidders according to an Allocations Policy.

5.1 Allocations Policy

Applicants for social housing are categorised according to their housing need by being placed into a so called band; A to E. The following lists these bands with some illustrative examples. For a full definition please see Ref 1

A	Emergency Housing Need. Eg: <ul style="list-style-type: none"> • An urgent health/wellbeing need • Home assessed as being in a state of emergency disrepair • Needs to move to escape violence or threat of violence, harassment or a traumatic event
B	High Housing Need. Eg: <ul style="list-style-type: none"> • Assessed to be statutorily homeless by a Devon local authority, and where it is assessed that it is not possible and appropriate to find you private rented accommodation • Is homeless, or threatened with homelessness, and has been placed in the 'Homelessness Reduction Act - Qualifying Applicants' category by a Devon local authority • Severely overcrowded as measured by DWP Housing Benefit rules • Tenant of a Devon Home Choice partner landlord and seeking to move to a home with fewer bedrooms • Assessed as having a high health/wellbeing need • Live in a home assessed as being in a state of High disrepair • Have been assessed as ready for move on from supported housing
C	Medium Housing Need. Eg: <ul style="list-style-type: none"> • No bedroom • Assessed as having a medium health/wellbeing need • Live on or above the 4th floor with children aged under 8 • Served in the UK armed forces and would otherwise have had your application placed in Band D • Need to move for work, and would otherwise have to travel more than 30 miles (each way) from home to work
D	Low Housing Need. Eg: <ul style="list-style-type: none"> • Assessed as not having a permanent home, or at risk of becoming homeless. This may include people who are rough sleeping, have no fixed abode or are 'sofa surfing', as well as households accepted as statutorily homeless but where it is assessed as possible and appropriate to find private rented accommodation, or those assessed as not in being priority need or are intentionally homeless. See DHC policy for further information. • Assessed as having a low health/wellbeing need • Share facilities, such as a toilet, bath, shower or kitchen • Have a housing need but have no local connection to Devon • Have been assessed as having deliberately worsened your circumstances • Meet a local priority agreed by the local authority managing your application
E	No housing needs

Time on Register

Applicants that have been registered and actively looking are given priority when other factors are equal.

Local Policies

Section 106 Agreements

When assessing the suitability of candidates for a property a landlord will also have to take account of any Section 106 obligations that may be attached to the property. The landlord will accept the candidate with the highest priority need that also fulfils the Section 106 requirements. If this is not possible, then either the property will remain vacant or they may be able to relax aspects of the Section 106 agreement.

So, for example, a s106 agreement may require a local connection and a band A-D housing need assessment. If there is no such candidate then a landlord may be allowed to look further afield for candidates in the A-D band.

Band E

In the period 1st April 2017 to the 31st March 2018 (the last available full year figures) 47 general needs properties went to people in band E, which equated for 18% of lets in the South Hams in this year. For older persons sheltered accommodation 8 properties went to people in Band E which was 20% of the properties available during this time.

6 Problem with Allocation

Allocation Policy

Problems can arise due to the way the way Section 106 agreements are drafted and the way the allocation policy is implemented.

As described in section 4 (above), Section 106 agreements often require tenants to be have a local connection and to be in a housing need band; A to D. This requirement is council policy and is implemented by planning officers when negotiating with developers.

There are several issues with this policy:

- If a local person or household who is in band E applied for a property that is subject to these restriction they would not be regarded as eligible. However, they and the local community may benefit considerably from their being allowed.
- Some parishes have said that because local families are unable to pass the allocation tests, developments can then get populated with challenging tenants that can have a demoralising affect on the local community.
- The need to recruit highly-skilled but relatively low paid staff, for jobs like nursing, is not consistent with this policy. They need affordable housing.

The current policy appears to create a conflict between the need for Social Housing and the need for Affordable Housing. There needs to be a more thoughtful policy that achieves a more reasonable balance.

Parish Councils appear to have been complaining about this for some time. There does seem to be a need for the Council to change its policy so that Section 106 agreements result in local people getting greater priority, by including band E candidates. This would still allow band A-D candidates priority if they were local, and only under well proscribed circumstances should a landlord be allowed to look outside the local area.

7 References

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