



Middlesbrough Council

Low Cost Home Ownership (Discounted Sale) Policy and Guidance

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Middlesbrough Council
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(Discounted Sale) Policy and Guidance

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Middlesbrough Council

Low Cost Home Ownership

(Discounted Sale) Policy and Guidance

Middlesbrough Council reserves the right to amend and change this policy to ensure compliance with legislation and planning policy. Prior to the purchase of a Discounted Sale property, applicants are required to enter into a Discounted Sale Agreement with the Council and will be bound by a specified version of this policy.

1. Background to Scheme

- 1.1. Middlesbrough Council operates a Discounted Sale scheme to manage the sale of Low Cost Home Ownership (LCHO) properties, in respect of new build housing schemes, and each subsequent resale of these homes. Discounted Sale is a form of 'intermediate' affordable housing, and the Council's scheme offers an alternative to shared ownership schemes – often run by Housing Associations (Private Registered Providers of affordable housing), or the Government's *Help to Buy* scheme, which provides equity loans to help first-time buyers onto the housing ladder.
- 1.2. The Council's Discounted Sale scheme has been developed because the Council recognises that many local people have been priced out of local housing markets.
- 1.3. Discounted Sale properties represent private developers' contribution to affordable housing through a planning obligation. Discounted Sale properties are subject to covenants contained in a Section 106 Agreement (S106 of the Town and Country Planning Act, 1990). This policy document establishes the detailed terms and conditions of the Section 106 Agreement, which are binding in perpetuity upon the owner of any Discounted Sale property, and upon any other party with an interest in the land i.e. a Mortgagee.
- 1.4. The Council maintains a database of purchasers of Discounted Sale property.

2. Percentage Discount

- 2.1. The policy seeks to ensure Discounted Sale properties remain within reach of people on local incomes but without making schemes economically unviable. This is achieved through a percentage discount.
- 2.2. Discounted Sale are typically sold at a discount of 20% from the open market value.
- 2.3. Unlike some other forms of low cost home ownership (e.g. shared ownership) with discounted sale properties the purchaser owns their home outright – no other party

retains a share of the equity, but the initial price and each subsequent resale is subject to the same percentage discount. The owner is responsible for all repair and maintenance costs.

3. Making an application

3.1. All applications for Discounted Sale properties must be made through the Developer or owner. The Council will only accept applications referred by a Developer or owner.

4. Responsible Borrowing

4.1. Government recommendations on responsible borrowing, set by the Department for Communities and Local Government in the *Strategic Housing Market Assessment Guidance (2007)* were 3.5 x gross single household income and 2.9 x gross joint household income. This guidance has now been cancelled and replaced by the *National Planning Practice Guidance (2014)* which does not make any direct reference to responsible borrowing, unlike the previous guidance.

4.2. In the absence of any updated formal guidance, the former standard multipliers should therefore still be used as a guide; however, these guidelines were set a number of years ago, and since then many responsible lenders will now allow people to borrow slightly more and a number of lenders no longer operate simply on multipliers, but also take into consideration the amount of existing credit or loans the customer might have. If an applicant can provide a Mortgage Affordability Statement from a reputable lender for slightly more than the guideline multipliers (3.5 x single / 2.9 x joint income) then this would be acceptable up to a maximum of 4.5 x (single or joint) which is the maximum allowed under the Government's 'Help to Buy' scheme. This keeps the policy consistent with the Government's flagship equity loan scheme, and reduces the risk of potential repossessions.

4.3. Savings, equity in an existing property, and any financial assistance to be provided (usually from the applicant's family) will also be taken into account to determine the applicant's obtainable funds.

5. Setting Affordable Values

5.1. The Open Market Value of any low cost property shall be determined by the developer. Upon each subsequent re-sale the vendor will need to provide the Council with two valuations for approval. In the event of a dispute over the valuation, an independent RICS qualified valuer will be appointed, whose decision will be final.

5.2. The developer will be required to enter into a S106 Agreement, setting out the numbers of units to be involved in the Discounted Sale scheme, the affordable housing discount and the qualifying criteria.

6. Owner Occupiers

6.1. Not all of the Discounted Sale homes would necessarily be first time buyer properties and referred purchasers may already have an amount of equity in an existing property which they wish to sell. This could include people needing a larger home as their family has increased but are unable to afford market prices or, conversely, older people looking to downsize into more manageable accommodation.

6.2. Some owner occupiers may also be "equity rich, cash poor" so rely on equity from the sale of an existing property, more than current income to secure a low cost home – this is particularly prevalent in the case of retired people.

6.3. Existing homeowners would need to have a sale 'subject to contract' before they can be formally nominated for a Discounted Sale property, due to the length of time it can take for an applicant to sell their home. However, if there are no other qualifying persons on the register, the developer or vendor should still be notified of their interest.

7. Eligibility Criteria

7.1. Applicants for Discounted Sale housing need to fulfil certain criteria:-

7.1.1. Housing Need and Local Connection (see **Section 8**).

7.1.2. Household income cannot exceed £60,000 per annum.

7.1.3. Demonstrate that they require the discount to purchase the property (the Council reserves the right to determine and amend the test of resources used to ascertain the requirement for Discounted Sale housing).

7.1.4. Household unable to rent or buy an appropriate property on the open market in the Locality of the property for Discounted Sale.

7.1.5. The Discounted Sale property would have to be the only or main home of the purchaser (they cannot be purchased as buy to let), and the purchaser would be required to live there not less than 10 months of the year. The Discounted Sale properties could not be sold as second homes or holiday lets.

7.1.6. The minimum age for applicants is eighteen years old.

7.1.7. An applicant would need to have a right of residence in the UK.

8. Housing Need and Local Connection Criteria

8.1. In the absence of specific provisions of the relevant S106 Agreement, in respect of Housing Need and Local Connection criteria, the following standard definition of “Qualifying Person(s)” shall apply, meaning an applicant(s) who:-

8.1.1. has a Housing Need; a situation where, in the opinion of the Council, a person or household (as defined in section 113 of the Housing Act 1985) meets any of the following criteria:

8.1.1.1. needs to move from accommodation which is in disrepair, shared, temporary overcrowded, or

8.1.1.2. needs to be re-housed as a result of leaving tied accommodation, or

8.1.1.3. is or includes an elderly or disabled person who needs to move due to medical conditions, or

8.1.1.4. needs to move due to reasonable preference as determined by the Council’s housing allocation policy; or

8.1.1.5. does not have available to them and cannot afford to buy or rent suitable accommodation at Open Market Value or market rent prevailing within the Locality; and

8.1.1.6. household does not live in the Locality but has demonstrated a connection to the locality through employment or family association and meets the requirements of affordability

8.1.2. has local connections which shall be conclusively presumed in the case of a person who meets any of the following criteria:

8.1.2.1. was born in the Borough of Middlesbrough; or

8.1.2.2. has lived in the Borough of Middlesbrough for a continuous period of at least three (3) years up to and including the date on which a Disposal is agreed, subject to contract, of a Discounted Sale property; or

8.1.2.3. has worked in the Borough of Middlesbrough for a continuous period of at least three (3) years up to and including the date on which a Disposal is agreed, subject to contract, of a Discounted Sale property; or

8.1.2.4. is by blood or marriage a member of the family (as defined in Section 113 of the Housing Act 1985) of a person who falls or (in the case of any such relationship to a deceased person) would if such person were living fall within one of the above categories; or

8.1.2.5. has an offer of employment in the Borough of Middlesbrough which is of a permanent nature; or

8.1.2.6. has any other reason for living in Borough of Middlesbrough which is approved by the Council; and

8.1.2.7. has registered an interest in living in the Borough of Middlesbrough and is on the housing register maintained by Compass (www.compasscbl.org.uk) and / or any Registered Provider operating in the Borough of Middlesbrough.

9. Prioritising Applicants

9.1. Applicants are to apply for specific Discounted Sale properties for sale through the Developer or owner. Referrals are at the discretion of the Developer or owner. This will usually be on a first come, first serve basis. Where the Developer or owner refers more than one application per Discounted Sale property, this will trigger an application window lasting 28 days; during which time further applications may be referred. Immediately thereafter, eligible applications will be prioritised over a 7-day period and a prospective purchaser will be identified by the Council and the Developer or owner informed. The decision of the Council will be final.

9.2. First priority will be given to eligible applicants meeting any specific provisions of the relevant S106 Agreement. Second priority will be given to those meeting the Housing Need and Local Connection criteria.

9.3. Thirdly, where there is more than one eligible applicant with the same priority, additional priority will be given to particular types of household with a greater need for that type of property, as follows:-

9.3.1. **4/ 4+ bedroom houses:-**

9.3.1.1. households including 3 or more children (or having joint custody of 3 or more children); then

9.3.1.2. households including 2 children (or having joint custody of 2 children); then

9.3.1.3. households including 1 child (or having joint custody of 1 child).

9.3.2. **3 bedroom houses:-**

9.3.2.1. households including 2 or more children (or having joint custody of 2 or more children); then

9.3.2.2. households including 1 child (or having joint custody of 1 child).

9.3.3. **2 bedroom houses:** households including 1 child (or having joint custody of 1 child).

9.3.4. **Dormer bungalows:** including a downstairs bedroom and downstairs w/c and bathing facilities: equal priority will be given to the following types of household:-

9.3.4.1. households including someone aged 60 or over, and / or households including someone registered disabled.

9.3.4.2. households with children (or having joint custody). Priority will be determined by the number of children in the household.

9.3.5. **Bungalows and adapted/ adaptable ground floor flats** (e.g. built to 'Lifetime Homes Standard') – households including someone aged 60 or over, and households including someone registered disabled.

9.4. The priority for households with children will also apply in cases where a member of the household is pregnant. The applicant will need to contact the Housing team as

soon as possible to update their details (e.g. through providing a MAT B1 maternity certificate form).

- 9.5. Fourthly, in cases where there is more than one eligible applicant with an equal additional priority for the same Discounted Sale property, applications will be ranked by date of application.

10. Re-Sales (Disposal)

- 10.1. Disposal is a transfer or sale of a freehold or a leasehold or an agreement to make such a transfer or sale.
- 10.2. Upon the prospective disposal of a Discounted Sale property the owner must:-
 - 10.2.1. Inform the Council's Private Sector Housing Team in writing of their intention to sell;
 - 10.2.2. Submit at least two valuations to Council's Private Sector Housing Team for the non-discounted Open Market Value of the property.
- 10.3. In the event that the valuations submitted by both parties do not correspond and an agreement cannot be reached between the two parties, the owner and / the Council has the right to request an independent valuation. The appointed valuer must be mutually agreed and be a member of the Royal Institute of Chartered Surveyors (RICS). The cost of appointing an independent valuer will be split between the owner and the Council and the independent valuer's decision is final.
- 10.4. Further to an agreement on the non-discounted Open Market Value, the owner may then market the property for sale with the same percentage discount which the owner obtained through the Discounted Sale Agreement. Any prospective purchaser must:-
 - 10.4.1. apply to the Council for a Discounted Sale application form;
 - 10.4.2. fulfil the same eligibility criteria and prioritisation applied to the owner; and
 - 10.4.3. sign a Discounted Sale Agreement in advance of the purchase.
- 10.5. The owner may reduce the Disposal Price equivalent to 10% of the agreed Open Market Value without the consent of the Council. If the owner wishes to reduce the sale price by more than 10%, the owner must pay for a review of the agreed Open Market Value. The agreed Open Market Value must be reviewed at a cost to the owner every 12 months in the event that a disposal cannot be agreed.
- 10.6. If after 6 months, it has not been possible to facilitate a Discounted Market Sale disposal, the owner may write to the Council requesting permission to conduct an Exceptional Circumstance Open Market Value sale at one hundred percent of the Discounted Market Sale property's value. Owners would need to provide evidence to the Council demonstrating that it has not been possible to facilitate a Discounted

Market Sale. The property must have been for sale with an estate agent for a significant period of time (e.g. 6 months) and where no qualifying person has made an approach. The applicant must demonstrate that the property has been marketed for the period stated, by providing copies of advertisements or alternatively a letter from an estate agent or solicitor acting on their behalf

10.7. The Council will consider each case individually at its discretion. If the Council approves an Exceptional Circumstance Open Market Value sale:-

10.7.1. the property may then be marketed for sale at the non-discounted Open Market Value; and

10.7.2. simultaneous to the completion of the disposal, the owner is required to repay the Council, in proportion to one hundred percent of the Disposal Price (in accordance with the provisions of section 10.5), the same percentage discount as set out in the Discounted Sale Agreement signed by the owner.

11. Rights of Succession

11.1. If the owner of a Discount Sale home wished to leave the property to a beneficiary in a will, the beneficiary would need to demonstrate that he / she meets both the eligibility criteria (set out in **Section 7**) and the Housing Need and Local Connection criteria (set out in **Section 8**).

11.2. If the beneficiary was unable to meet both of these criterion the property would have to be sold at the discounted price, in accordance with the S106 Agreement, with the monetary value (equity) received from the sale going to the beneficiary.

11.3. Notwithstanding these arrangements around succession, any unusual circumstances may form the basis of a request to permit the property to be transferred to another party, subject to the Section 106 Agreement remaining on the property.

12. Discounted Sale Agreement – Legal Implications

12.1. A Discounted Sale Agreement is protected by a restriction on the proprietorship register of the registered title of the Discounted Sale property, constructed in substantially the like form:-

“No disposition of the registered estate is to be registered without a certificate signed by the Council of the Borough of Middlesbrough that the provisions of a Discounted Sale Agreement dated [the date] made between [the parties] have been complied with”

12.2. The Discount is not portable on moving property.

13. False Applications and Repayment Trigger Event

- 13.1. Applicants must provide full and accurate information when applying for Discounted Sale housing and sign a Discounted Sale Agreement declaring the information and supporting documentation provided to be accurate and truthful.
- 13.2. If it is discovered at any time the applicant or owner has withheld or provided false information or has not notified the Council of a change in circumstances in respect of section 14, this will result in:
 - 13.2.1. the refusal of any pending application; and
 - 13.2.2. a Repayment Trigger Event for an owner of a Discounted Sale property.
- 13.3. Where a Repayment Trigger Event is enacted:
 - 13.3.1. the Council has the right to request an independent valuation of the Discounted Market Sale property. The appointed valuer must be a member of the Royal Institute of Chartered Surveyors (RICS). The cost of appointing an independent valuer will be payable by the owner. The independent valuer's decision is final;
 - 13.3.2. the owner is then required to repay the Council, in proportion to one hundred percent of the independent valuation, the same percentage discount as set out in the Discounted Sale Agreement signed by the owner; and
 - 13.3.3. where an owner refuses to repay the Council, this will result in the immediate commencement of legal proceedings to recover the discount.

14. Rental Option

- 14.1. Occasionally, circumstances may occur whereby the owner of a Discounted Sale property has been unable to sell the property but has a genuine need to move out of the property (e.g. due to securing a new job in another area) and wishes to rent out the property on a temporary basis. This needs to be approved by the Council, but can be agreed if the property is let to a qualifying person at an affordable rent, providing the following criteria are met:-
 - 14.1.1. The property must have been for sale with an estate agent for a significant period of time (e.g. 6 months) and where no qualifying person has made an approach. The applicant must demonstrate that the property has been marketed for the period stated, by providing copies of advertisements or alternatively a letter from an estate agent or solicitor acting on their behalf.
 - 14.1.2. The owner should also be informed that permission would be needed from their mortgage company (if there is an outstanding mortgage there may be restrictions placed on this) and advising them to seek legal advice.
- 14.2. The Council's agreement is subject to confirmation from the owner that the lease will not be for more than seven years, as leases in excess of seven years are compulsorily registrable with the Land Registry.

- 14.3. The property must be let at an affordable rent (as these are affordable homes subsidised through planning obligations) at no more than the Local Housing Allowance rate for the property type. This also applies in respect of annual rent increases.

15. Appeals

- 15.1. The Discount Sale scheme will be administered in accordance with the provisions of this policy document. Therefore an appeals process is not applicable.

16. Further Information

- 16.1. Please contact:-

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