

# Official Process Sales of Shared Ownership Properties

July 2024



## 1. Background

- 1.1 This process document covers all aspects of sales of Shared Ownership properties provided by Babergh & Mid Suffolk District Councils (the Council) from advertisement of the property by the Council through to application, staircasing, subsequent sales and lease responsibility.
- 1.2 The Council is a Local Authority providing affordable homes under the Shared Ownership Scheme and the Council follows guidance provided in Homes England's Shared Ownership Capital Funding Guide.
- 1.3 The individual property lease should be referred to for full and final clarification on any matters referenced or not referenced in this document.
- 1.4 For specific information on the Council's procedures for the Financial and Affordability Assessment, Staircasing and Resales, please refer to the information sheets 'Shared Ownership Financial and Affordability Assessment', 'Selling your Shared Ownership Home' and 'Shared Ownership Staircasing'.

## 2. Advertisement and marketing

- 2.1 All information provided in the advertisement of a property, such as specification, amenities, and appliances, are provided to the best of the Council's knowledge and may be subject to change. Any information provided in the advertisement is not a guarantee and purchasers should rely on their own enquiries during the conveyancing process.
- 2.2 The Council advertise all their new Shared Ownership homes available for purchase through estate agents, William H Brown. All properties will be advertised on the estate agent's own website along with other property selling websites.
- 2.3 Interested parties may contact the estate agent to register their interest in future Shared Ownership homes provided by the Council.

## 3. Applications

- 3.1 Applications to purchase the first sale of Shared Ownership home are to be made through estate agents William H Brown. William H Brown collect all required application paperwork and documents and undertake affordability assessments on behalf of the Council.
- 3.2 Applications for Resale Shared Ownership homes are to be sent directly to the Council by the applicant or by the estate agent acting on behalf the seller.
- 3.3 Completed applications are reviewed by the Council's Shared Ownership Sales team. Incomplete applications will not be accepted for review.
- 3.4 The Council aim to provide a response to all complete applications within 7 working days of being received. The Council will provide written reasoning as to why an application has not been accepted.
- 3.5 A complete application consists of the following paperwork and documents, the Council reserve the right to request additional information on a case-by-case basis where required to in order confirm eligibility and affordability criteria are met:
  - a. Housing Questionnaire/Shared Ownership Application form
  - b. Council of Mortgage Lender's UK Finance Disclosures form (*otherwise known as a CML form, required for new builds only*)
  - c. Local Connection form (*where applicable*)
  - d. Proof of affordability and financial assessments carried out by a William H Brown mortgage advisor/broker
  - e. Confirmation of applicant's identify (*such as copy of driving licence or passport*)
  - f. Confirmation of applicant's income
  - g. Proof of funds for deposit or full premium
  - h. Mortgage Lender's Agreement in Principle (*only for applicants requiring a mortgage*)
  - i. Anti-money laundering and credit check (*only for applicants purchasing without a mortgage*)

- 3.6 When a Shared Ownership home is purchased, the Council will share the purchaser's personal information provided in the application with the Department for Levelling Up, Housing & Communities (DLUHC) for research and statistical purposes only. Full information on what information is shared can be found in the DLUHC's "Privacy notice - new social housing tenants and buyers" document. Further information on how the Councils process and hold data can be found in the Council's Data Protection Policy.
- 3.7 The process the Council will follow when advertising and reviewing applications for a Shared Ownership home is laid out below:
- i. The property is advertised by the estate agent.
  - ii. The interested party contacts the estate agent to submit their interest in the property. Initial eligibility and affordability checks are made on the interested party by the estate agent, if these initial criteria checks are met then the interested party then have the opportunity to view the property (if available to do so) and make any initial enquiries about the property.
  - iii. Following the viewing and initial enquiries, if the interested party wishes to purchase a share of the property, they must then complete a full application with the estate agent.
  - iv. The full application is passed to the Council for review, if the applicant meets all eligibility and affordability requirements, and all required information and documents have been received and checked, then the Council will confirm their acceptance of the application in writing. The Council will only review full and complete applications. Full and complete applications will be reviewed in order of receipt.
  - v. If the applicant wishes to proceed with the purchase, they now have the opportunity to reserve the property by paying the reservation fee to the Council.
  - vi. If multiple applicants are interested in a property, the property is available on a first come first served basis and the property will be sold to the first applicant to receive full written acceptance and also make the reservation payment.
  - vii. If the application is not accepted the Council will inform the applicant in writing.
  - viii. Once the property has been reserved the estate agent will issue a memorandum of sale and the property will be marked as sold subject to contract (SSTC) and the applicant can instruct a solicitor.
- ## 4. Eligibility
- 4.1 In order to be eligible to purchase a Shared Ownership home applicants must have a gross household income of less than £80,000 and be otherwise unable to purchase a suitable property for their housing needs on the open market. The Council are required to conduct their own assessment of individual applicants to ensure that they meet the eligibility criteria.
- 4.2 Where there are long delays between initial application and exchange of contracts, the Council must ensure that applicants continue to meet the eligibility criteria, as their circumstances may have changed (for example, an applicant may have changed jobs or formed a new partnership).
- 4.3 If a Local Connection is required as per terms of the Section 106 agreement the Council will include this as part of the eligibility, the Council reserve the right to expand or waive this requirement in the rare occurrence that the restriction is hindering the sale of the property. In absence of any Local Connection criteria defined in the Section 106 agreement the Council will follow the Gateway to Homechoice Allocations Policy.
- ## 5. Affordability
- 5.1 The Council follow guidance provided in Homes England's Shared Ownership Capital Funding Guide when establishing affordability for applicants. Affordability assessments must be undertaken by a suitably qualified and regulated mortgage advisor or financial advisor and at no cost to the applicant.

5.2 The Council are required to confirm that an affordability assessment of individual applicants has taken place to confirm what the applicant can afford and to ensure that their purchase is affordable and sustainable.

5.3 Applicants must meet the Council's required minimum monthly surplus income level of 55% of gross income to pass the affordability assessment. A surplus is the money left after considering all deductions, commitments, and shared ownership housing costs. The minimum 55% surplus income should be available to support a mortgage and other essential expenditure.

5.4 The methodology for arriving at an applicant's monthly surplus income is calculated as follows:

$$55\% \text{ of } A = E$$

$$A - B + C + D = F$$

To meet affordability criteria F should equal no less than E

A = Gross monthly income

B = Gross monthly deductions (tax, National Insurance, student loan, etc)

C = Known commitments (loans, credit cards, childcare, etc)

D = Housing costs of the Shared Ownership purchase (rent and service charges)

E = Minimum monthly surplus (55% of gross monthly income)

F = Monthly surplus income (This figure should not be lower than E)

6.2 Applicants are free to choose the percentage they wish to purchase as long as this percentage has been assessed as affordable for the applicant, the share percentage chosen has no influence on the Council's prioritisation of the applicant.

6.3 The Council request a fee of £500 to reserve a property, this fee is to be paid upon acceptance of the applicant's successful application. Should the applicant withdraw from the purchase within 14 days from the date of reservation then this fee will be refunded in full, if the applicant withdraws from the purchase after 14 days have elapsed then the Council reserve the right to refund the reservation fee minus reasonable costs of £250.

6.4 The Council reserve the right to withdraw from a sale and retain the whole of the reservation fee should there be no positive action to proceed with the purchase taken by the applicant following reservation or should exchange of contracts have not taken place within 6 months from the date the Memorandum of Sale. Positive action being instruction of a solicitor or making payment on account to a solicitor.

6.5 The Council will provide applicants with completed Key Information Documents (KIDs) specific to the property at or before the application acceptance stage.

## 6. Allocation and reservation

6.1 Shared Ownership homes provided by the Council are available on a first come, first served basis to applicants providing that they meet the relevant eligibility and affordability criteria, the only exception is when Armed Forces personnel apply, and in circumstances of under supply, priority must continue to go to serving military personnel and former members of the British Armed Forces discharged in the last 2 years.

## 7. Initial valuations

7.1 Initial sales are based on the full market value of the property. This value is obtained from a valuation report completed Royal Institution of Chartered Surveyors (RICS) qualified and registered valuer. A valuation report is valid for no more than 3 months after which time an updated valuation must be sought, should this take place during the conveyancing process any changes in value will be reflected to the applicant.

## 8. Responsibilities

8.1 Shared Ownership leaseholders are responsible for (The full list of responsibilities of the Leaseholder for each individual property is outlined in the lease):

- a. Paying rent and/or service and insurance charges through a method agreed with the Council's Housing Ownership and Income Teams.
- b. Keeping the property repaired and maintained internally and externally.
- c. Seeking the Council's permission to carry out any alterations to the property.
- d. Seeking the Council's permission to keep a pet in the property.
- e. Not assigning (selling) the property, without notice in writing to the Council.
- f. Not subletting the property; the property must be lived in as a main and principal home.
- g. Allowing the Council to access the property and examine the condition and to take a schedule of fixtures and fittings at reasonable times.
- h. Ensuring gas appliances are tested every 12 months, and the certificate made available upon request.

8.2 The Council are responsible for (The full list of responsibilities of the Council for each individual property is outlined in the lease):

- a. Providing service charge estimates & actuals.
- b. Rent, service charge and insurance charge collection.
- c. Collecting fees and charges owed to the Council and carrying out arrears processes.
- d. Managing and administering the service and providing general advice on rights and responsibilities.
- e. Insuring the building against loss or damage to its full reinstatement value.
- f. Administration of staircasing.
- g. Administration of requests for adaptations.
- h. Administration of permission for pets.
- i. Providing advice for the selling on of shares.

- j. Undertaking valuations for purchasing of further shares and/or staircasing to 100%.
- k. Liaison with external agencies (such as repossession, debt collection).
- l. Holding a database of Shared Ownership property lease arrangements.
- m. Undertaking a regular audit of shared ownership properties to ensure there are no breaches of the lease.
- n. Reviewing processes and procedures to ensure the service complies with current Legislation.
- o. Managing the agreement between the Council and outside Managing Agents/Companies, for properties which are part of an externally managed housing developments.
- p. Providing information on changes affecting Shared Ownership leaseholders.
- q. Upholding covenants in leases.

## 9. The lease

9.1 The lease is a contract between the landlord, either Babergh District Council or Mid Suffolk District Council, and the Shared Ownership leaseholder. It sets out the respective rights and responsibilities of each party. The lease is a legally binding contract and enforceable by law. Current legislation may override the lease if there have been legislative updates since the lease commenced. The Council uses the model lease provided by Homes England, the model lease used is dependent on when the initial financial assessments and planning permission application for the property or development were first made.

9.2 The lease includes information about:

- a. The Parties to the lease
- b. The market value of the whole property at the time of initial purchase, the amount the shared owner is paying, and the percentage bought.
- c. The rent to be paid, how this is determined, when payment is due and how it will be reviewed.
- d. The arrangement for collecting contributions to additional charges, (service charges and any estate management/maintenance costs).

- e. The procedures to purchase additional shares in the property (staircasing) and incentives to do so.
- f. The process to assign or transfer the lease.
- g. Insurance arrangements and charges.
- h. The restrictions on 'sub-letting' the property.
- i. The responsibilities of the leaseholder, in respect of repair, decoration, servicing and alterations to the property.
- j. The grounds for the landlord ending the lease by forfeiture or re-entry.
- k. Details of the responsibilities of both the leaseholder and the landlord.
- l. Mutual covenants.

## 10. Insurance

- 10.1 The Council are responsible for insuring the building (buildings insurance). The policy covers the cost of rebuilding a property if it is damaged or destroyed. In most cases a charge for this insurance is applicable to the Shared Ownership leaseholder.
- 10.2 Leaseholders will be provided with copies of the Council's Building Insurance Policy during the conveyancing process, in addition they can request a copy from the Council at any time during their lease term.
- 10.3 Home and contents insurance is the responsibility of the leaseholder.

## 11. Rents

- 11.1 Leaseholders will pay rent to Babergh District Council or Mid Suffolk District Council on the remaining share they do not own.
- 11.2 Any rent payable will be calculated in line with the lease and any relevant Government Regulator of Social Housing/Homes England's rent setting guidance. Currently the initial rent is set at 2.75% of the unacquired share.
- 11.3 Rent is reviewed on the 1<sup>st</sup> April every year.

## 12. Service charges

- 12.1 Where services are provided to shared ownership properties, either by the Council or a Management Company or Agent, these will be referenced in the lease and will be charged to the Shared Ownership leaseholder. Charges will be set and administered in accordance with current legislation.

## 13. Ground rent

- 13.1 The Council do not charge ground rent on Shared Ownership properties.

## 14. Purchase of additional shares (Staircasing)

- 14.1 Leaseholders can purchase additional shares at any time following the initial purchase. The lease outlines the specific terms for staircasing for each property. As Leaseholders buy further shares, the rent will be reduced proportionately to reflect the fact that the Council's interest in the property has reduced.
- 14.2 The Council encourages all leaseholders to staircase to 100% where financially achievable (where the lease allows).
- 14.3 The Council charge an administration fee of £167.00 plus VAT for processing staircasing applicants, this fee is payable on completion of the staircasing.
- 14.4 If the property is a house and the leaseholder has purchased 100% of the shares, they will have the right to acquire the freehold of the property at no further charge. If the property is a flat, the freehold will remain with the Council or Freeholder.



## 15. Flexible tenure (Downward staircasing)

- 15.1 Flexible tenure, or downward staircasing, allows a leaseholder to remain in their home by selling some of their shares back to their landlord, in order to reduce their mortgage to a more affordable and sustainable level.
- 15.2 The Council is not obliged to offer flexible tenure except where specifically stated in the lease.

## 16. Assignment or transfer (Resale)

- 16.1 A Leaseholder can sell their share at any time but must follow the procedures within the lease. Depending on the type of lease held, Leaseholders may be required to assign the property to a nominated purchaser, offer the Council Right of First Refusal on the purchase, or sell the share on the open market. The Council may offer to repurchase the share in a small number of cases.
- 16.2 Where the leaseholder is asked to sell the share on the open market, the buyer will be bound by the terms of the seller's lease at the time of purchase.
- 16.3 If a nomination period is required by the lease, this period will only begin once formal written consent to sell has been granted by the Council. The Council may waive the nomination period if they are unable to nominate a buyer.
- 16.4 If the Council fails to nominate a purchaser within the nomination period the leaseholder may sell their share of the property on the open market, subject to all conditions defined in the lease and provided the price does not exceed the market value. Depending on the type of lease, the leaseholder may also sell 100% of the property on the open market, subject to all conditions in the lease and provided price does not exceed the market value, in a process called back-to-back staircasing. When back-to-back staircasing the

leaseholder simultaneously staircases to 100% and sells 100%.

- 16.5 The Council charge an administration fee of £167.00 plus VAT for assignments of a lease and this fee is payable on completion of the sale.

## 17. Subletting and lodging

- 17.1 The shared ownership lease prohibits sub-letting. This stops the leaseholder from having the right to sub-let. However, the Council may agree to sub-letting or lodging arrangements if they choose to do so in exceptional circumstances. Exceptional circumstances may include the prevention of homelessness or financial hardship. This may require a deed of variation to the lease, and the Council will seek legal advice prior to any approvals. This is to protect public funds from misuse and to ensure that applicants are not entering into shared ownership for financial gain, apart from the creation of equity.
- 17.2 In all cases of sub-letting or lodgers must be approved by the Councils' Housing Ownership Team in liaison with the Councils' Legal Services.

## 18. Breaches of the lease

- 18.1 The Council will take appropriate action whenever it becomes aware that a leaseholder is acting in breach of the terms of their lease, which may include but are not limited to:
  - a. Non-payment of rental income for 21 days after becoming payable.
  - b. Unapproved works to the home or building.
  - c. Improper use of the home or building.
  - d. Failure to maintain or damage to the premises.
  - e. Refusal of access to Council staff.
  - f. Antisocial behaviour including harassment or neighbour nuisance.

- 18.2 In all cases the Council will follow the breach of lease procedure and work with the leaseholder to resolve the issue. However, if the breach continues legal action could be taken which may include seeking an injunction, or action for the forfeiture of their lease.

## 19. Fraud/criminal activity

- 19.1 The Council will comply with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (the Regulations) where suspicion of such criminal activity is identified.

## 20. Alterations and improvements

- 20.1 Leaseholders must not make any alterations or additions to the property without written approval from the Council.
- 20.2 The Council will consider the request to carry out alterations or improvements on a case-by-case basis and consent will not be unreasonably withheld.
- 20.3 Applications for permission for alterations must be submitted through the 'Request a Change to Your Home' form on the Council's website.
- 20.4 Any refusal of the proposed alteration or improvements will be accompanied by a full written explanation. The terms of the lease will be referred to on all occasions.
- 20.5 The Council do not charge a fee for reviewing or processing applications for permission for alterations.

## 21. Performance monitoring and reporting

- 21.1 The Council will regularly monitor service provision, associated costs and performance in collecting shared ownership income.

## 22. Feedback

- 22.1 If the leaseholder is unhappy with any area of service provided this will be progressed through the Councils' complaints process which can be accessed through the Councils' website here: [www.baberghmidsuffolk.gov.uk](http://www.baberghmidsuffolk.gov.uk)



# Contact us

Councils' information is also available in audio, Braille, large print or other formats. If you would like information in another format or language, please contact us.

**Councils' website:** [www.baberghmidsuffolk.gov.uk](http://www.baberghmidsuffolk.gov.uk)

**Phone to be connected to any Council service:** 0300 1234000

Our phone lines are open from 8.45am to 5.00pm, Monday to Friday. On Tuesdays, lines open at the slightly later time of 10.00am. We are closed on weekends and public holidays.