

NPS NORTH WEST LTD (AGENTS FOR SOUTH LAKELAND DISTRICT COUNCIL)

GUIDANCE NOTE FOR SELLER, AGENTS, SOLICITORS, SURVEYORS Etc.

RE-SALES OF HOUSES/FLATS SUBJECT TO S.106 AGREEMENT

1. In many cases, when granting consent for new residential developments, the District Council imposes affordable housing conditions on the development which have the effect of restricting the price that the Developer can charge and limits those who can buy certain houses or flats within the development. This means that those houses or flats are sold at less than the market value and are sold to people approved by the District Council as having met the local occupancy condition. In this way the Council can ensure that local people can be provided with affordable housing.
2. In each case these restrictions are set out in a S.106 Agreement, which is registered as a Local Land Charge against each property affected. This ensures that each time the house or flat is resold in the future those same restrictions on price and occupancy will continue to apply. The Council will ensure at each resale that the price and occupancy restrictions are adhered to.
3. Therefore when a property owner intends to sell a property subject to those restrictions the following general procedure will apply:-
 - 3.1. The seller must obtain a formal written valuation of the property to be sold before it is offered for sale on the open market.
 - 3.2. An original copy of that valuation must be submitted for approval to NPS North West Ltd, Aynam Mills, Little Aynam, Kendal LA9 7AH.
 - 3.3. The seller must meet the costs of obtaining that valuation.
 - 3.4. All valuations submitted for approval must contain these ingredients:-
 - 3.4.1 It must be certified by a Chartered Surveyor.
 - 3.4.2 The Valuer must be local to the District.
 - 3.4.3 The valuation must state that the value is to the RICS definition of Market Value ignoring all S.106 restrictions.
 - 3.4.4 The Valuer must state that the Council can rely upon the valuation.
 - 3.4.5 The Valuer must certify that he has arrived at his opinion of the value independently of the parties to the transaction.
 - 3.5. A suggested model form of valuation can be supplied to the Valuer upon request from NPS North West Ltd.
 - 3.6. It is not sufficient to submit an asking price provided by an Estate Agent. **Estate Agents should, however, be instructed to refer to the price and occupancy restrictions when offering the property for sale.**
 - 3.7. When the Council is satisfied it will provide written approval

continued/

4. Once the valuation is approved by the Council, the property can be offered for sale. The sale price will be arrived at by multiplying the valuation by the reduced percentage fixed in the S.106 Agreement (NB some reference to this percentage is usually with the Deeds to the property).

e.g. Valuation to Market Value at the time of resale = £80,000
S.106 Percentage Reduction as fixed in Deeds = 25%
∴ Sale Price = $£80,000 \times \frac{75}{100} =$ £60,000

5. In the event that the valuation goes out of date the seller is responsible at his own cost for obtaining and providing the Council with a revised valuation on exactly the same basis as at 3. above.

6. In the event of any dispute the seller has the option of either not proceeding with the sale or accepting the buyer's offer if this is less than the reduced sale price.

7. When a sale is agreed with a prospective buyer, the seller must obtain approval of the buyer by the Council. An application form can be obtained from the Community and Housing Manager at South Lakeland House, Kendal, Cumbria.

8. Prospective buyers should be advised that approval will only be given if:-

8.1 They have a proven local connection to the area in which the property is situated.

8.2 Their income and capital are such that they are unable to purchase a similar property in the area at the full market value.

Further clarification of 8.1 and 8.2 can be obtained from the Community and Housing Manager.