

Housing Covenants policy

1. Contacts

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Cabinet Member:

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2. Recommendation

- 2.1 That Cabinet recommend to Council the introduction of a policy for determining applications relating to properties subject to a restriction under Sections 37 and 157 of the Housing Act 1985, or any other restriction of this nature as attached at appendix 1.
- 2.2 That delegated powers are given to the Director of Housing and Communities, following consultation with the Cabinet member for Housing, Revenues and Benefits, to make minor amendments to the policy.

3. Background

- 3.1 Under Sections 37 and 157 of the Housing Act 1985 a local authority may impose a restriction upon properties sold under the Right to Buy where the property is in a national park, Area of Outstanding Natural Beauty (AONB) or within an area designated as rural by the Secretary of State. The restriction limits the former tenants and subsequent purchasers from selling a property unless certain conditions are met, for example the purchaser must have a local connection to the district. The restriction requires purchasers to obtain Council consent to purchase the property and without consent a sale would be considered void.
- 3.2 The restriction applies to properties located in the South Downs National Park, AONB or Designated Rural Area and purchased under the Right to Buy Scheme from Chichester District Council before 13 March 2001. After this date the council transferred all its housing stock to the Hyde Group.

4. Outcome to be achieved

4.1 The Council to introduce a policy outlining the purpose of such restrictions, the process to be followed for the Council to consent to a sale, and the application process to be followed if a homeowner wishes to request for a restriction to be lifted.

4.2 The policy will ensure rural homes sold under the Right to Buy are retained as affordable homes for local people.

5. Proposal

5.1 To retain much needed affordable homes within the housing stock, the Council will introduce a policy to refuse applications requesting removal of a restriction, except in exceptional circumstances. The policy will promote a consistent approach to decision making.

5.2 Applications to determine requests to remove a restriction will be considered by the Director of Housing and Communities in consultation with the Cabinet Member for Housing, Revenue and Benefits as agreed at Council on 26th September 2023.

6. Alternatives Considered

6.1 The Council could choose not to introduce a policy; however, this would leave the Council open to challenge when determining such applications. The introduction of a policy clearly outlines the Council's position and process for dealing with applications and provides clarity for both vendors and purchasers.

6.2 The Council could consider a more restrictive policy preventing restrictions being removed in any circumstance, however this would fetter the Council's discretion.

7. Resource and Legal Implications

7.1 A purchaser is unable to proceed with a sale of a property without the consent of the Council. Failure to obtain consent will result in the sale not being registered and considered void.

7.2 If the Council does not have a policy any decision made to maintain or discharge such conditions would be open to challenge either by the persons living in the address affected by a charge, or by third parties where different decisions were made in respect of other charges if legal logic is not sufficiently demonstrated.

8. Consultation

8.1 Legal Services have been consulted on the policy proposal and this paper was previously discussed at the Housing and Communities Panel on the 2 November 2023 where feedback from members was received and sought.

Community Impact and Corporate Risks

9.1 The retention of affordable homes in rural areas helps to ensure mixed, balanced and sustainable communities.

9. Other Implications

	Yes	No
Crime and Disorder		√
Biodiversity and Climate Change Mitigation.		√
Human Rights and Equality Impact. Applications to lift a restriction must be fully considered as failure to do so may impact on human rights and cause exceptional hardship.	√	
Safeguarding and Early Help		√
General Data Protection Regulations (GDPR)		√
Health and Wellbeing. As above. Applications to lift a restriction must take account of the impact on health and wellbeing of the applicant. This will need to be detailed in the application under exceptional circumstances.	√	
Other (please specify)		

10. Appendices

Appendix 1 - Policy on the Disposal of Properties Subject to a Local Connection Restriction under Sections 37 and 157 of the Housing Act 1985

Appendix 1A – Guidance Notes on Restrictive Covenants

Appendix 2 – Right to Buy Rural Designations – Chichester District Map

12. Background Papers

Housing Covenants report – Full Council – 26th Sep 2023