Chichester District Council

Policy for determining applications in relation to properties subject to a restriction under Sections 37 and 157 of the Housing Act 1985 or any other restriction of this nature

Contents

1. **Introduction**

    1.1   Under sections 37 and 157 of the Housing Act 1985 (or any other restrictions of this nature) a local authority may impose a restriction upon properties sold under Right to Buy.

    As a result the former tenant and subsequent purchasers are restricted from selling the property where that property is located in a National Park (which in the Chichester District Council (CDC) area is the South Downs National Park (SDNP), an Area of Outstanding Natural Beauty, (AONB) or within an area which has been designated as rural (DRA) by the secretary of state. The restriction requires them to sell to someone with a local live/work connection to the area, the minimum length of time for this connection is 3 years. The restriction may apply for a limited period, or in some cases in perpetuity.

    Only a small number of areas within Chichester do not fall under one of the above categories.

    For detailed information on which areas fall under each category please refer to the map at appendix B.

    1.2   The purpose of the restriction is to prevent former local authority owned homes from being acquired as second homes or holiday lets and to keep them for local people as far as is practicable.

    1.3   The effect of the restriction is that the purchaser needs to meet certain criteria to be allowed to buy the property and will require consent from the local authority stating that they meet the criteria and so grant consent for the property to be sold.

2. **Affected Properties**

    2.1   This policy relates to properties bought under the Right to Buy Scheme from CDC before 13 March 2001, located in the SDNP, an AONB or a DRA. On that date, the Council transferred all its housing stock to the Hyde Group.

3. **Policy**

    3.1.   The Council is committed to supporting the provision of affordable housing to promote mixed and sustainable communities. The aim of the policy is to ensure that ex-council homes sold under Right to Buy remain an affordable option for local people. The purpose of sections 37 and 157 of the Housing Act 1985 is to restrict sales to those who live and/or work in the SDNP and/or an AONB and/or a DRA for three years immediately prior to purchase.

    3.2.   In order to retain much needed affordable homes within the stock, the Council will not approve applications requesting to lift the restriction, except in very exceptional circumstances. However, the Council may choose to exercise its discretion to allow non-qualifying people to purchase the property. This may, for example be where the property has been actively marketed for a period of six months and no qualifying person has come forward and where there may be other personal, exceptional circumstances brought to the attention of CDC and appropriately evidenced.

3.3. Property owners wishing to request the removal of a restriction must make a formal application for consideration to CDC to Legal Services: Legal@chichester.gov.uk. Applicants are requested to follow the guidance on making an application which can be found on CDC's website and which are attached as appendix A.

4. Procedure for Removing a Restriction

4.1. Applications requesting the removal of a restriction must be made to Legal Services. A valid application must include the following information:

- Name of the applicant and full address of property.
- Evidence of title – from the Land Registry.
- Name and contact details of the estate agent marketing the property.
- Valuation of the property with and without the restriction.
- Dates property was marketed.
- Web link to property marketing material.
- Written statement (with supporting evidence where appropriate) outlining the exceptional circumstances and the impact these have on the seller.

4.2. Applications will be determined by the Director of Housing and Communities in consultation with CDC's Cabinet member with responsibility for housing and ordinarily a decision will be notified within 28 working days from the day after the receipt of the validated application.

4.3. The removal of a restriction will be permanent.

5. Exempt Disposals

7.1 Section 160 of the Housing Act 1985 contains a number of exemptions where the local authority's consent is not required, and these include:

- The property is transferred or leased to a spouse/civil partner or former spouse/civil partner, and they meet the criteria.

- The property is transferred or leased to a family member that has been residing in the property throughout the period of 12 months before the transfer and they meet the criteria.

- The transfer or lease is from joint to sole owners and the sole owner meets the criteria; or from a sole to a joint owner (the joint owner does not need to meet the criteria as the previous sole owner already complies).

- The transfer of a property to a beneficiary under a will or on an intestacy.

- A transfer of property under section 24 or 24A of the Matrimonial Clauses Act 1973.

- Orders under section 2 of the Inheritance (Provision for Family and Dependants) Act 1975.

- Orders under section 17 of the Matrimonial and Family Proceedings Act 1984.

- Orders under paragraph 1 of Schedule 1 to the Children Act 1989.

- Orders under Part 2 or 3 of Schedule 5 or paragraph 9 of Schedule 7 to the Civil Partnership Act 2004.

- The transaction is of a result of a compulsory purchase

Any restriction ceases to apply in relation to a disposal of a property which falls within the above exemptions.

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[i] A Designated Rural Area is an area that falls outside a settlement with more than 10,000 resident population. The criteria for rural designation are that the population density is no more than 2 persons or fewer per hectare and that there are no more than 3,000 inhabitants.