

Chichester District Council

CABINET

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Rural Designations

1. Contacts

Report Author:

Linda Grange, Housing Enabling Manager,
Tel: 01243 534582 E-mail: lgrange@chichester.gov.uk

Cabinet Member:

Susan Taylor, Cabinet Member for Housing and Planning,
Tel: 01243 514034 E-mail: staylor@chichester.gov.uk

2. Recommendation

- 2.1. That the Head of Housing and Environment Services submits an application to the Department of Communities and Local Government (DCLG) for all rural parishes in Chichester district with populations of under 3,000 to be designated as rural under section 157(1) of the Housing Act 1985, on behalf of the Council.**

3. Background

- 3.1. In November 2014 the government announced new national planning practice guidance introducing a national threshold of 10 units on market housing sites above which affordable housing contributions could be sought. It also advised that local planning authorities could choose to apply a lower threshold to rural areas described under section 157(1) of the Housing Act 1985, which included national parks, Areas of Outstanding Natural Beauty (AONB) and areas designated by order of the Secretary of State as a rural area. In such cases commuted sums could be sought on developments of between six and ten units.
- 3.2. The Local Plan was amended to reflect this new government policy and subsequently adopted. In August 2015 two councils won a landmark High Court challenge and as a result the relevant paragraphs of the National Planning Practice Guidance (NPPG) have been withdrawn. The NPPG no longer provides any specific guidance on thresholds for seeking affordable housing contributions. However the future position is still unclear as the DCLG has indicated its intention to appeal the high court decision. In the meantime applications for planning permission must be determined in accordance with the affordable housing thresholds set out in Policy 34 of the adopted plan.
- 3.3. A report detailing the implications of these recent changes in government national planning practise guidance on affordable housing provision was presented to Development Plan and Infrastructure Panel (DPIP) on 17 September 2015 and it was resolved that DPIP considers the options for a review of Policy 34 of the adopted plan following the outcome of the appeal of the High Court ruling.

- 3.4. Currently all rural parishes in the district are designated as rural under the Housing Act 1996 for the purpose of right to acquire restrictions and also under the Leasehold Reform Act 1967 for the purpose of shared ownership restrictions. However they are not designated as rural under section 157(1) of the Housing Act 1985. Consequently, under the Local Plan which used the now-withdrawn planning obligations guidance, the district council is unable to apply the lower threshold to the rural parishes outside of the South Downs National Park and AONB.
- 3.5. This issue has been taken up with DCLG, who advised that should the Council wish to apply the lower threshold to all rural parishes it should submit an application for all rural areas to be designated under section 157 of the Housing Act 1985.
- 3.6. Application guidance from DCLG advises that local authorities may apply to have specified areas designated as 'rural'. Parishes must meet the criteria of a population density of less than three persons per hectare, and any settlements in them must have with a population of fewer than 3,000 inhabitants. The first criterion can be applied flexibly. For example, some parishes just over these limits may be designated in order to avoid a 'patchwork' situation where some parishes are designated while others, broadly similar, are excluded.
- 3.7. The primary purpose of rural designation under section 157 of the Housing Act 1985 is to restrict the consequences of the Right to Buy. It allows restrictive covenants to be put in place so that the property can only be sold on to someone who has been living or working in the parish for 3 years. Alternatively the landlord may require the tenant to offer the home back to them if the tenant wishes to sell within 10 years of buying.

4. Outcomes to be achieved

- 4.1. Rural designation of all rural parishes under section 157 of the Housing Act 1985 will enable the council to apply the lower five unit threshold, as set out in the Local Plan, to all new housing sites within rural parishes and maximise the contribution towards the delivery of affordable housing to meet local housing need and our affordable housing targets.
- 4.2. Rural designation of all rural parishes may also help to reduce the consequences of the government's proposal to extend the Right to Buy to housing association tenants and help to ensure that rural affordable housing is retained for local people.

5. Proposal

- 5.1. It is proposed that the draft application, Appendix 1 be submitted to DCLG.
- 5.2. Consideration has been given as to whether Hyde tenants with the Preserved Right to Buy would be adversely affected by such designations. The Housing Act 1985 Section 157(1) states, "...the conveyance or grant **may** contain a covenant limiting the freedom of the tenant (including any successor in title of his and any person deriving title under him or such a successor) to dispose of the dwelling-house..."

- 5.3. Legal advice is that it can therefore be concluded that rural designation does not imply a statutory restriction but one that can be applied by a local authority or housing association on disposal of a property under the Right to Buy legislation.
- 5.4. The policy on thresholds was introduced by government to reduce the planning obligations on small sites, encourage their development and improve their viability. However, the original intention in the Local Plan was not to have a threshold and apply the affordable housing quota on all sites. The local plan viability assessment concluded that there were no issues with the viability of small sites, given the high land values in the district.

6. Alternatives that have been considered

- 6.1. Officers have written to DCLG suggesting that national planning policy guidance be amended to refer to the Housing Act 1996. The DCLG responded advising that the Council should apply for rural designation under the Housing Act 1985. Although the national guidance on thresholds and quotas has been withdrawn, the policy is now embedded in the Local Plan.
- 6.2. If the Council does not apply for rural designation under the Housing Act 1985 it will be unable to apply the lower threshold in rural parishes outside of the SDNP and AONB. This will reduce the contribution to affordable housing from market housing development in those rural parishes. Based on an analysis of the Site Allocations DPD It is estimated that at least 20 affordable homes could be lost in rural parishes over the plan area.

7. Resource and legal implications

- 7.1. If all rural parishes are designated as rural the Council will be able to seek an affordable housing commuted sum on all sites of six to ten dwellings, with the exception of sites in Chichester city, Selsey, Southbourne (outside the AONB) and East Wittering (unless the developer is willing to provide units on site). These funds can then be invested in new affordable housing to meet local need.

8. Consultation

- 8.1. Extensive consultation was undertaken on the threshold level for affordable housing contributions as part of the Local Plan process.
- 8.2. This proposal has been discussed with housing, planning and legal officers.

9. Community impact and corporate risks

- 9.1. Rural designation under section 157(1) of the Housing Act 1985 of the district's rural parishes with populations of fewer than 3,000 will have a positive impact on the availability of affordable housing to local people.

10. Other Implications

Crime & Disorder:	no
Climate Change:	no

Human Rights and Equality Impact:	yes
Safeguarding:	no

11. Appendices

- 11.1. Table of proposed designated rural parishes..
- 11.2. Map indicating proposed designated rural areas

12. Background Papers

- 12.1. Equalities Impact Assessment.