

NOTICE OF MEETING

Meeting: HOUSING OVERVIEW AND SCRUTINY PANEL

Date and Time: THURSDAY, 12 NOVEMBER 2020, AT 6.00 PM*

Place: SKYPE MEETING - ONLINE

Enquiries to: Email: karen.wardle@nfdc.gov.uk
Tel: 023 8028 5071

PUBLIC PARTICIPATION:

*Members of the public may speak in accordance with the Council's public participation scheme:

- (a) immediately before the meeting starts, on items within the Panel's terms of reference which are not on the public agenda; and/or
- (b) on individual items on the public agenda, when the Chairman calls that item. Speeches may not exceed three minutes.

Anyone wishing to speak should contact the name and number shown above no later than 12.00 noon on Monday, 9 November 2020. This will allow the Council to provide public speakers with the necessary joining instructions for the Skype Meeting.

Bob Jackson
Chief Executive

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www.newforest.gov.uk

This Agenda is also available on audio tape, in Braille, large print and digital format

AGENDA

Apologies

1. MINUTES

To confirm the minutes of the meeting held on 16 September 2020 as a correct record.

2. DECLARATIONS OF INTEREST

To note any declarations of interest made by members in connection with an agenda item. The nature of the interest must also be specified.

Members are asked to discuss any possible interests with Democratic Services prior to the meeting.

3. PUBLIC PARTICIPATION

To note any issues raised during the public participation period.

4. RURAL HOUSING AND RIGHT TO BUY (Pages 5 - 16)

To consider a proposed new policy to implement a Local Connection Restriction to Council houses sold under the Right to Buy scheme in rural areas.

5. HOMELESSNESS UPDATE

To receive an update on homelessness.

6. HOUSING STRATEGY / HRA PROPERTY DEVELOPMENT AND ACQUISITION UPDATE

To receive an update on the progress of the Housing Strategy and HRA property development and acquisition.

7. PORTFOLIO HOLDER UPDATE

An opportunity for the Portfolio Holder to provide an update to the Panel on any issues.

8. WORK PROGRAMME (Pages 17 - 18)

To consider the Panel's future work programme and make changes where necessary.

9. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT

NEW FOREST DISTRICT COUNCIL – VIRTUAL MEETINGS

Background

This meeting is being held virtually with all participants accessing via Skype for Business.

A live stream will be available on YouTube to allow the press and public to view meetings in real time and can also be found at the relevant meeting page on the Council's website.

Principles for all meetings

The Chairman will read out Ground Rules at the start of the meeting for the benefit of all participants. All normal procedures for meetings apply as far as practicable, as the new Government Regulations do not amend any of the Council's existing Standing Orders.

The Ground Rules for all virtual meetings will include, but are not limited to, the following:-

- All participants are reminded that virtual public meetings are being broadcast live on YouTube and will be available for repeated viewing. Please be mindful of your camera and microphone setup and the images and sounds that will be broadcast on public record.
- All participants are asked to mute their microphones when not speaking to reduce feedback and background noise. Please only unmute your microphone and speak when invited to do so by the Chairman.

- Councillors in attendance that have not indicated their wish to speak in advance of the meeting can make a request to speak during the meeting by typing “RTS” (Request to Speak) in the Skype chat facility. Requests will be managed by the Chairman with support from Democratic Services. The Skype chat facility should not be used for any other purpose.
- All participants should note that the chat facility can be viewed by all those in attendance.
- All participants are asked to refer to the report number and page number within the agenda and reports pack so that there is a clear understanding of what is being discussed at all times.

Voting

When voting is required on a particular item, each councillor on the committee will be called to vote in turn by name, expressing their vote verbally. The outcome will be announced to the meeting. A recorded vote will not be reflected in the minutes of the meeting unless this is requested in accordance with the Council’s Standing Orders.

By casting their vote, councillors do so in the acknowledgement that they were present for the duration of the item in question.

Technology

If individuals experience technical issues, the meeting will continue providing that it is quorate and it is still practical to do so. The Chairman will adjourn the meeting if technical issues cause the meeting to be inquorate, the live stream technology fails, or continuing is not practical.

Public Participation

Contact details to register to speak in accordance with the Council’s Public Participation Procedures are on the front page of this agenda.

In order to speak at a virtual meeting, you must have the facility to join a Skype for Business Meeting. Joining instructions will be sent to registered speakers in advance of the meeting.

The Council will accept a written copy of a statement from registered speakers that do not wish to join a Skype Meeting, or are unable to. The statement will be read out at the meeting and should not exceed three minutes. Please use the contact details on the agenda front sheet for further information.

To:	Councillors	Councillors
	Steve Davies (Chairman)	Andrew Gossage
	Ann Sevier (Vice-Chairman)	Joshua Kidd
	Anne Corbridge	Ian Murray
	Kate Crisell	Caroline Rackham
	Jack Davies	Christine Ward

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HOUSING OVERVIEW AND SCRUTINY PANEL - 12 NOVEMBER 2020

PROPOSED IMPLEMENTATION OF RESTRICTIONS CONTAINED IN S157 HOUSING ACT 1985 TO RESTRICT ONWARD DISPOSALS OF COUNCIL PROPERTIES SOLD UNDER THE RIGHT TO BUY (RTB) IN DESIGNATED RURAL AREAS, NATIONAL PARK AND AREAS OF OUTSTANDING NATURAL BEAUTY WITHIN THE NEW FOREST DISTRICT COUNCIL ADMINISTRATIVE AREA

1. INTRODUCTION

- 1.1 Section 157 of the Housing Act 1985 allows Housing Authorities to restrict onward disposals of former RTB properties in designated rural areas, the National Park and Areas of Outstanding Natural Beauty (which shall be referred to, for ease of reference for the purposes of this report, as the 'protected areas') so that they can only be sold to people who have lived or worked in the 'protected areas' for at least 3 years.
- 1.2 Currently, the only restrictions that apply to such Council dwellings is the mandatory statutory regime contained in section 156A Housing Act 1985 (introduced by Housing Act 2004), which gives the Council the right of first refusal on a subsequent disposal of a former Council dwelling within the 'protected areas' for a period of 10 years following the exercise of the original RTB. This potentially enables the Council to buy back the former Council dwelling at full market value should it come up for sale within the 10 year period. To date, no former Council properties have been bought back in this way.
- 1.3 The ability to restrict onward disposals of former Council dwellings within 'protected areas' under section 157 is a discretionary power and, if adopted, will only apply to Council dwellings sold under the RTB from the date the Council decides to adopt the power.

2. BACKGROUND

- 2.1 Rural areas face special difficulties when it comes to affordable housing. Not only is there less affordable housing and greater problems with affordability, opportunities to build a new supply of such housing for future generations is extremely limited.
- 2.2 When allocating Council housing within the rural areas, the Council's overriding aim has always been to ensure that local people, connected to the specific community within which the housing exists, were allocated the housing. This has been the cornerstone of the Council's Housing Allocation policy for many decades.
- 2.3 Affordable housing for people who already live and/or work in rural areas is crucial to the availability of local services, a thriving local economy and being able to draw upon the support of family.
- 2.4 The RTB legislation has always allowed Council tenants, even within rural areas, to exercise their right to buy. That has had the effect of reducing the numbers of Council housing in these important areas. This is in contrast to social housing owned by Housing Associations and other Registered Providers, whose tenants are not permitted to buy their property, if it is located within rural areas.

- 2.5 The Council's Housing Strategy (adopted in December 2018) includes a number of key objectives, including the aim to secure greater numbers of affordable housing in rural areas. To help achieve this important objective, consideration should be given as to whether the Council adopts a more restrictive approach to the future disposal of Council houses sold under the RTB in rural areas, by requiring that they can only be sold or let to those living or working within those rural areas. Such a policy would capture both existing council-owned stock and newly-built homes for rent within the designated rural areas.

3. A LOCAL CONNECTION RESTRICTION

- 3.1 As an alternative to the 10-year pre-emption referred to in paragraph 1.2, local authorities can choose to impose a restriction on the sale of former Council houses in rural areas so that they can only be sold to those with a "local connection". Section 157 Housing Act 1985 is a discretionary power available to Housing Authorities which, if adopted, has the effect of restricting future disposals (i.e. freehold or leasehold sales) of Council dwellings following the exercise by a tenant of their RTB to those with a local connection. Section 157 can only apply to dwelling houses in areas designated by the Secretary of State as a rural area (SI 1981 No 397 designated the perambulation of the New Forest as a rural area), a National Park or an Area of Outstanding Natural Beauty. So for the purposes of a local connection restriction, any Council dwelling falling within the former perambulation, the National Park or an Area of Outstanding Natural Beauty within the District could have a local connection restriction applied to it.
- 3.2 Covenants would be imposed when the Council dwelling is sold under the RTB, which requires the consent of the Council to any future disposal. The legislation stipulates that such consent shall not be withheld if the disposal is to a person who has lived or worked in the 'protected areas' for at least 3 years. If imposed, the same covenant would also apply to the letting of a property within a 'protected area', whereby the new tenant would also have lived or worked in the 'protected areas' for 3 years, or the property is let on the basis that it was the new occupants' only or principal home. The local connection covenant would apply "in perpetuity", not just to the first sale or letting.
- 3.3 Some other Councils have mitigated the effects of a "local connection restriction" by having a policy to exercise discretion within their own schemes to waive a restriction in exceptional circumstances. Such waivers would allow a sale to go through, but the covenant would remain in place for the future. Examples of exceptional circumstances could include:
- **Personal circumstances** - if prospective purchasers have not lived or worked in the 'protected areas' for the requisite 3 year period but they can show strong connections through former residence or employment, or can demonstrate some exceptional benefit to others that would come about by living in the area.
 - **Owners unable to sell or let their home** - at a price that takes into account of the s157 restriction. Evidence is required that the owner has marketed the property for sale or rent for at least 12 months.

4. EFFECT OF INTRODUCING A LOCAL CONNECTION RESTRICTION

- 4.1 The introduction of a local connection restriction under s157 ensures that any future Council dwellings sold under the RTB, when subsequently disposed of, can only be sold to a local person who has lived or worked in the 'protected areas' for 3 years or more. The 3 years requirement would also apply to the letting of such properties unless the letting is to a person who will use the property as their only and principal home.
- 4.2 S157 creates the benefit of retaining housing for local New Forest people, as the opportunity to deliver new housing within rural areas is extremely limited. With s157 restrictions imposed, such housing is likely to remain more affordable than open market housing without any restriction.
- 4.3 The Council's Estates and Valuation Section consider that properties with a s157 covenant imposed could resell for prices between 5% and 25% lower than would be the case if the restriction were not imposed, depending on the market and local circumstances at the time, on a case by case basis. The benefit of this means that such dwellings are likely to be more affordable than other market houses in the locality.
- 4.4 The potential for a reduced sale value sometime in the future would not affect the tenant when they exercise their RTB, although it might affect the value of the capital receipt received by the Council at this time by between 5% and 25%, depending on the market and local circumstances at the time, again on a case by case basis. It becomes relevant should the owner wish to sell their former Council property in the future.
- 4.5 If the Council implemented a local connection restriction under s157, it would not apply retrospectively but would apply to future RTBs within the 'protected areas'. Anyone wishing to exercise their RTB would do so in the knowledge that there would be restrictions on future disposals. This is considered a proportionate proposal to counter the obvious negative effects that come about through the loss (and increasing diminishing numbers) of affordable homes in the rural areas of the New Forest. If the Council were to implement a local connection restriction it could, of course, include waivers where, in exceptional circumstances, the restriction could be relaxed.
- 4.6 In carrying out research on the stance taken by other Councils, it is clear that other rural Councils similar to New Forest District Council, operate a local connection restriction including Norfolk, Cotswold District Council, South Oxfordshire, Devon, Cornwall and Chichester Council. Many operate a strict s157 regime and some have built in a waiver procedure if potential purchasers (who cannot comply with the 3 year occupancy or work condition) can demonstrate that they will bring 'significant' other benefit to the area.

5. INFORMATION ABOUT COUNCIL DWELLINGS WITHIN THE DISTRICT

- 5.1 In the 1980s, New Forest District Council owned a total of 9,257 Council dwellings across the whole of its administrative area. Approximately 1,400 of these dwellings were in rural areas. Today 558 council-owned homes remain within the New Forest National Park and the Cranborne Chase Area of Outstanding Natural Beauty. The numbers of Council dwellings across the whole District currently stands at 5,134. Rural Council dwellings within the designated protected areas therefore make-up 11% of the Council's current stock.

- 5.2 So far, only 2 Council houses have been offered back to the Council (under the first refusal provisions) referred to in paragraph 1.2 above. They were deemed too expensive to buy back at full market value. One of these properties was sold under the RTB in 2014 and had a market value of £265K at that time. RTB discount at the time was £77K. When it was offered back to the Council in 2020, it was marketed for £500k and was deemed not to be good value for money for the Council to buy back.
- 5.3 Had these former Council dwellings had the local connection restriction imposed, it would have restricted future disposals to local New Forest people.

6. CONCLUSION

- 6.1 The Council has the ability, through s157 Housing Act 1985, to take action to restrict the future disposal of the remaining 558 Council dwellings that exist within the designated rural areas, and newly-built rented homes therein, so they remain available for local New Forest people to buy. Any scheme that is implemented could contain provisions where there are genuine and good reasons to waive the restriction.

7. PROPOSED WAY FORWARD

- 7.1 A proposed local connection scheme under s 157 Housing Act 1985 and how it would operate is set out at Appendix 1.
- 7.2 Prior to making a final decision on adopting a local connection policy, it is proposed that the Council undertakes a consultation process on the proposal. In this respect, those current tenants within the 'protected areas' would be directly consulted, as well as Parish Councils within these areas. There would also be the opportunity for others to also give their view through a wider consultation which would appear on the Council's website.
- 7.3 Following consideration of this proposal by the Housing Overview and Scrutiny Panel, the matter will be considered by the Cabinet at its meeting in December. If approved, the consultation would commence and the results reported back to Cabinet in February, with Council making any final decision to implement a Local Connection Restriction Policy.

8. FINANCIAL IMPLICATIONS

- 8.1 There may be a reduction in the capital receipt accruing to the Council when the Council dwelling is first sold by between 5- 25%, depending on local market conditions at the time, on a case by case basis.

9. ENVIRONMENTAL AND CRIME AND DISORDER IMPLICATIONS

- 9.1 There are none.

10. EQUALITIES IMPLICATIONS

- 10.1 The Council is subject to the public sector equality duty, as set out in section 149 of the Equality Act 2010. The duty covers defined protected characteristics comprising

age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex; and sexual orientation. The Council must have due regard to the requirements of the public sector equality duty in the exercise of its functions, particularly in the introduction of new policies.

- 10.2 This report sets out the aims and objectives of the proposed Local Connection Restriction Policy. As described in paragraph 7 of this report, before any decision is made, the proposed Policy will be subject to a targeted consultation of those current tenants within the 'protected areas' as well as Parish Councils within these areas. There will also be an opportunity for others to feedback their views through a wider consultation on the Council's website.
- 10.3 It is considered that the proposed Policy will have a positive impact on those with protected characteristics as it will increase the options for affordable home ownership in the 'protected areas'; particularly for those who have limited income due to age, gender or disability. However, it is recognised that it may have an impact on those who do not readily meet the Council's proposed local connection restrictions. The Council considers its proposed local connection restrictions strike a fair balance of promoting local priorities whilst limiting the adverse impact on such groups, particularly taking into account the discretionary ability to waive the restrictions in the exceptional circumstances outlined in paragraph 3.3 of this report.
- 10.4 Whilst it is not currently considered that the proposed Policy will have an adverse equality impact, the consultation exercise will assist in assessing the likely equality impact on different groups of people. Further consideration can be given to this matter after the consultation exercise has taken place to enable the Council to ensure compliance with its duties under the Equality Act 2010 going forward.

11. RECOMMENDATION

- 11.1 That the Housing Overview and Scrutiny Panel consider this report and the proposed Local Connection Restriction Policy and make recommendations to Cabinet.

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Draft Local Connection Restriction Policy

December 2020

CONTENTS

Purpose of Policy	Page 3
The Rural areas covered by the policy	Page 3
How the restriction will work	Page 3
Making an application to waive the restriction	Page 4
Selling a property with a local occupancy restriction	Page 4
Guidance on making an application to waive a local connection	Page 4
Appendix 1, Section 157 Housing Act 1985	Page 6

PURPOSE OF POLICY

The Council is adopting a new policy under section 157 Housing Act 1985 to allow it to implement restrictions on sales of Council properties in defined rural areas following the Right to Buy, so that properties can only be sold to people with a local New Forest connection.

Over the years, Council properties in rural areas have significantly diminished, meaning that future generations are often not able to secure housing and have to move away from the area. The purpose of this policy is to ensure that local people continue to have access to housing which serves local needs and is more affordable than other market housing in the area.

A copy of s157 Housing Act 1985 is attached to this policy at Appendix 1.

THE RURAL AREAS COVERED BY THE POLICY

The policy applies to Council dwellings within the following designated areas:

- the area defined as the Perambulation of the New Forest
- the National Park area
- Areas of Outstanding Natural Beauty

The designated areas referred to above with currently owned Council stock include:

Boldre	East Boldre	Sway
Bramshaw	Ellingham, Harbridge and Ibsley	Whitsbury
Brangore	Hale	Woodgreen
Brockenhurst	Lyndhurst	
Burley	Martin	
Calshot	Minstead	
Copythorne	Netley Marsh	
Damerham	Rockbourne	

The policy will also apply to any future new-build council dwellings that are subject to the Right to Buy within the designated areas.

HOW THE RESTRICTION WILL WORK

When a Council property is sold under the Right to Buy, the Council will impose a covenant under s157 of the Housing Act 1985, which requires the consent of the Council to any future disposal of that property.

The Council cannot withhold its consent if the disposal is to a person(s) who has lived or worked in the designated rural areas for the last 3 years.

The covenant will apply to both freehold and leasehold sales.

The covenant will also apply to the letting of the property (i.e. the granting of a tenancy or licence).

The Council's consent cannot be withheld if the letting is to a person(s)

- who has lived or worked in the rural areas for at least 3 years or,

- whose only or principle home is and throughout the duration of the tenancy or licence, remains the dwelling

The restriction will only be imposed on council properties sold within the protected areas from the time this Policy is adopted. It will not apply to past sales.

MAKING AN APPLICATION TO WAIVE THE RESTRICTION

Whilst the Council will not remove a local connection restriction, it will in exceptional circumstances consider requests to waive a restriction. If granted, this will allow an owner to sell or let the property to a person who does not meet the terms of the restriction. The Council will consider applications to waive the restrictions in the following situations:

PERSONAL CIRCUMSTANCES for purchasers or prospective tenants who have not lived or worked in the rural areas for the last 3 years, but can show strong connections through former residence or employment, or can demonstrate exceptional benefit to the wider community that would come about by living in the area.

OWNERS UNABLE TO SELL OR LET THEIR HOMES at a price that takes into account the s157 restriction. Evidence is required that the owner has marketed the property for sale or rent for at least 12 months.

SELLING A PROPERTY WITH A LOCAL OCCUPANCY RESTRICTION

If you are selling a property with a local occupancy restriction, you must make your Estate Agent aware of the restriction. Your agent should include information about the local occupancy restriction once they advertise the property for sale.

Once you have agreed a sale, it is the responsibility of the purchaser's solicitor to obtain the Council's permission for the buyers to proceed with their purchase.

GUIDANCE ON MAKING AN APPLICATION TO WAIVE A LOCAL CONNECTION RESTRICTION

You can make your request for the local connection restriction to be waived by contacting the Housing Strategy and Development Team by emailing housing.development@nfdc.gov.uk. Once the Council has all the necessary information, a decision will be made in consultation with the Portfolio Holder for Housing Services.

PLEASE NOTE THAT IF THE COUNCIL DECIDES TO WAIVE A LOCAL CONNECTION RESTRICTION, IT WILL DO SO ONLY FOR A SINGLE DISPOSAL; THE RESTRICTION WILL CONTINUE TO APPLY ON FUTURE SALES OR LETTINGS OF THE PROPERTY.

APPENDIX 1
Section 157 Housing Act 1985

(1) Where in pursuance of this Part a conveyance or grant is executed by a local authority or a housing association ("the landlord") of a dwelling-house situated in

(a) a National Park,

(b) an area designated under section 82 of the Countryside and Rights of Way Act 2000 as an area of outstanding natural beauty, or

(c) an area designated by order of the Secretary of State as a rural area, the conveyance or grant may (subject to section 156A(8)) 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 in the manner specified below.

(2) The limitation is, that until such time (if any) as may be notified in writing by the landlord to the tenant or a successor in title of his

(a) there will be no relevant disposal which is not an exempted disposal without the written consent of the landlord; but that consent shall not be withheld if the disposal is to a person satisfying the condition stated in subsection (3) and

(b) there will be no disposal by way of tenancy or licence without the written consent of the landlord unless the disposal is to a person satisfying that condition or by a person whose only or principal home is and, throughout the duration of the tenancy or licence, remains the dwelling-house.

(3) The condition is that the person to whom the disposal is made (or, if it is made to more than one person, at least one of them) has, throughout the period of three years immediately preceding the application for consent or, in the case of a disposal by way of tenancy or licence, preceding the disposal

(a) had his place of work in a region designated by order of the Secretary of State which, or part of which, is comprised in the National Park or area, or

(b) had his only or principal home in such a region;

or has had the one in part or parts of that period and the other in the remainder; but the region need not have been the same throughout the period.

(4).....

(5).....

(6) A disposal in breach of such a covenant as is mentioned in subsection (1) is void and, so far as it relates to disposals by way of tenancy or licence, such a covenant may be enforced by the landlord as if

(a) the landlord were possessed of land adjacent to the house concerned; and

(b) the covenant were expressed to be made for the benefit of such adjacent land.

(6A) Any reference in the preceding provisions of this section to a disposal by way of tenancy or

licence does not include a reference to a relevant disposal or an exempted disposal.

(7) Where such a covenant imposes the limitation specified in subsection (2), the limitation is a local land charge and the Chief Land Registrar shall enter a restriction in the register of title reflecting the limitation.

(8) An order under this section

(a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

DRAFT

HOUSING OVERVIEW & SCRUTINY PANEL WORK PROGRAMME 2020/2021

ITEM	OBJECTIVE	METHOD	LEAD OFFICER
20 January 2021			
Housing Revenue Account Budget and the Housing Public Sector Capital Expenditure Programme for 2021/22	To consider the HRA budget and the housing public sector capital expenditure programme for 2021/22.	Report to Panel	Kevin Green
Telecare Infrastructure Replacement Project	To receive a presentation on the Telecare Infrastructure Replacement Project	Presentation to Panel	Richard Fudge/ Ritchie Thomson/ Brian Byrne
Housing Strategy / HRA Property development and acquisition update	To receive an update on the progress of the Housing Strategy and HRA property development and acquisition	Update to Panel	Tim Davis
Homelessness Update	To receive an update on homelessness	Update to Panel	Richard Knott
17 March 2021			
Housing Strategy / HRA Property development and acquisition update	To receive an update on the progress of the Housing Strategy and HRA property development and acquisition	Update to Panel	Tim Davis
Compliance Update	To receive a presentation on the progress made against the new compliance policies now in place	Presentation to Panel	Ritchie Thomson/ Richard Fudge
Homelessness Update	To receive an update on homelessness	Update to Panel	Richard Knott

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