

## Appendix 1A: Rural Designation (RTB)

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| <b>Title:</b><br>Rural Designation (RTB) | <b>Approved:</b><br>Executive Board On 26/06/2018                              | <b>Effective from:</b><br>01/07/2018  | <b>Next review:</b><br>01/07/2023 |
| <b>Version:</b><br>2.0                   | <b>Author:</b><br>Kay Dickinson, Housing Policy, Performance & Systems Manager | <b>Reviewed By:</b><br>Kay Dickinson, Housing Policy, Performance & Systems Manager | <b>Last review:</b><br>01/03/2021 |
| <b>Review Comments</b>                   | 2.0 – no changes; review date updated  |   |                                   |

### Aim

The aim of this Policy is to enable local people to continue to have access to housing which is both affordable, and meets local needs, by applying restrictions on Right to Buy in the designated Rural Areas.

### Scope

This Policy applies to all properties located in the designated Rural Areas that are subject to an application submitted under the Right to Buy on, or after, the 1<sup>st</sup> July 2018.

### Definitions

Local people are defined as those who have lived or worked (or a combination of both) in the District of North Kesteven for at least three continuous years, immediately prior to purchase.

The Rural Areas as designated by the Housing (Right to Buy) (Designated Rural Areas and Designated Regions) (England) Order 2018 (SI 2018/265, art 3) are the parishes of Anwick, Ashby de la Launde and Bloxholm, Aswarby and Swarby, Aubourn with Haddington, Aunsby and Dembleby, Bassingham, Beckingham, Billingham, Blankney, Boothby Graffoe, Brant Broughton and Stragglethorpe, Burton Pedwardine, Canwick, Carlton-le-Moorland, Coleby, Cranwell, Brauncewell and Byard's Leap, Digby, Doddington and Whisby, Dogdyke, Dorrington, Dunston, Eagle and Swinethorpe, Ewerby and Evedon, Great Hale, Harmston, Kirkby la Thorpe, Leadenham, Leasingham, Little Hale, Martin, Navenby, Nocton, North Kyme, North Rauceby, North Scarle, Norton Disney, Osbournby, Potter Hanworth, Rowston, Scopwick, Scredington, Silk Willoughby, South Kyme, South Rauceby, Stapleford, Swaton, Swinderby, Thorpe on the Hill, Threekingham, Thurlby, Timberland, Walcot near Folkingham, Walcott, Welbourn, Wellingore and Wilsford.

The designated Rural Areas are coloured green on the District Map, attached as Appendix 2, and the Housing (Right to Buy) (Designated Rural Areas and Designated Regions) (England) Order 2018 (SI 2018/265) attached as Appendix 3.

## 1. Introduction

Rural Designation, under the terms of Section 157 of the Housing Act 1985, brings restrictions governing properties in the Rural Area subject to the Right to Buy.

The properties concerned are those subject to an application submitted under the Right to Buy after 1 July 2018. These same properties will be subject to the same restrictions when sold to subsequent purchasers.

The restrictions are applied under conditions and covenants registered on the property's title with the Land Registry. Rural designation of certain parishes within North Kesteven, as a "Rural Area," provides a policy which attempts to control a limited supply of housing provision in rural areas towards occupants demonstrating a link to the area and a need to live in a certain locality.

Section 157 of the Housing Act 1985 covers the restrictions on the disposal of former Council housing properties in the Rural Area within the North Kesteven District. A copy of Section 157 of the Housing Act 1985 is attached as Appendix 4.

If the consent of the Council is not obtained to further sales of the property, the Land Registry will not register the transaction and the sale will be void.

In each case the Council will:

- Consider the implications of the Human Rights Act 1998 to ensure no potential breach of the Act occurs;
- Ensure that in every individual case, the decision making, consultation and actual process of moving the tenant is carried out in accordance with the law.

## 2. Rural Areas Restrictions

The Secretary of State for Housing, Communities and Local Government made an Order 2018 No 265, dated 28 February 2018, designating parishes as Rural Areas, with the region (designated for the purposes of Section 157(3) of the Act) being the district of North Kesteven.

This means that Council housing subsequently sold, within the designated Rural Areas under the Right to Buy, from applications that are submitted on or after 1 July 2018 may only be sold with the Council's written consent.

In order to gain consent, prospective purchasers of properties in the above category within the designated Rural Areas of North Kesteven must comply with Section 157 of the Housing Act 1985. This means they must have lived, or worked, or a combination of both, in the North Kesteven District Council area, for three years immediately prior to purchase of the property. Where more than one person is involved in the purchase, then only one of the persons needs to fulfil the above criteria.

Where a potential purchaser does not match the strict requirements of Section 157 of the Housing Act 1985, this policy gives guidance on where exceptions to the restrictions can be applied (see Section 3).

## **2.1. Selling and Renting Properties subject to the Rural Area Restrictive Covenant**

When intending to sell a property subject to the Rural Area restrictive covenant, the seller must make their Estate Agent aware and ensure the Rural Area covenant restrictions are included in the sale particulars, thereby reducing the risk of a sale falling through. Solicitors acting in the sale should also be made aware of the position at an early stage.

If intending to rent out a property, where the Rural Area restrictive covenant applies, then the prospective tenant must also meet the same residency criteria, as defined in Section 157 of the Housing Act 1985, in the same way as if purchasing the property. It must also be their only, or principal, home.

## **2.2. Qualifying Applicants**

Applicants who qualify for purchase must provide their Solicitor with the required documentary evidence, such as electoral registration documents, letters or salary/wage records from employers or driving licence. Once this is done a Statutory Declaration should be provided through their Solicitor (example shown at Appendix 5).

Once a satisfactory Statutory Declaration is received, the Council will forward consent to the purchaser's solicitor to enable the necessary arrangements to be made with the Land Registry on transfer of the property and title to the new owner(s).

## **2.3. Applicants that do not satisfy the criteria**

Where a prospective purchaser fails to provide satisfactory evidence of residency/employment to qualify, then the Council is not under obligation to provide consent for the removal of the local occupancy restriction.

However, the Council has discretion as to whether to grant consent, where a prospective purchaser does not meet the requirements of Section 157 of the Housing Act 1985.

The Council will consider whether the prospective purchaser is in key employment, could suffer economic hardship, or has long term family links with the North Kesteven District. Full details on the exceptions are detailed in Section 3 below.

## **3. Exceptions to the Rural Areas Restrictions**

If the prospective purchaser maintains the restriction is unduly harsh, the Council may consider special circumstances where the prospective purchaser does not meet the requirements of Section 157 of the Housing Act 1985.

In deciding whether to grant an exception to the restrictive covenant, the Council will consider the following issues, with special consideration given to circumstances such as bereavement:

- The property must have been marketed actively, noting the restrictive covenant details, for at least three months, at a price which takes account of the local occupancy restriction;
- The prospective purchaser must be making the purchase to use the property as their only home;
- Subject to the availability of other suitable properties in the parish concerned, the prospective purchaser must demonstrate that they cannot afford to purchase such an

alternative property, not having the local occupancy restrictive covenant, at its open market value;

- The prospective purchaser must demonstrate a strong local connection with the parish where the property is located, in one of the following manners:
  - Having lived in the parish for the majority of their life
  - Needing to live in the parish to be employed in a key worker post in the parish, such as a doctor, nurse, police officer, fire officer, teacher
  - Needing to live in the parish to give or receive care and/or support to/from close family members (medical evidence will be required).
- The Council will consent to waiver of the restriction only for a single disposal. The restriction will still apply to future sales of the property.

### **3.1. Applying for release of the Rural Area restrictive covenant**

The prospective purchaser should submit a written request for release of the Rural Area restrictive covenant to the Head of Housing and Property. This should outline the reasons and issues leading to the request.

Supporting documentary evidence as to why a prospective purchaser considers the restrictive covenant should be released must be provided.

This may include dates and addresses of residence, electoral registration details, letters and salary/wage records from employers, self-employment details, records of existing family connections to the area and any other relevant issues. The Council may require a written statement from the applicant and/or family members, where appropriate.

Following consideration of the request, the Head of Housing and Property will submit the details to a member of the Corporate Management Team to decide whether approval will be granted.

The outcome will be sent to the claimant, outlining the reasons for the resulting decision.

## **4. Properties not in a designated Rural Area**

Properties within North Kesteven not included in the designated Rural Area are not subject to the criteria laid down in Section 157 of the Housing Act 1985, but are subject to the current restrictive covenant, outlined in Section 156A of the Housing Act 1985 (attached as Appendix 6).

This covenant stipulates that the Council has the Right of First Refusal to re-purchase a property sold under the Right to Buy for the first 10 years after its initial sale. This covenant applies to properties in the parishes coloured orange, on the map provided at Appendix 2; both those sold since 18 January 2005, and since the date of the implementation of the Rural Area covenant.

## Responsibilities

Prospective sellers intending to sell a property subject to the Rural Area restrictive covenant, are responsible for:

- Making their Estate Agent aware of, and ensuring that the Rural Area covenant restrictions are included in the sale particulars;
- Notifying the Solicitors acting in the sale of the covenant restrictions an early stage.

Owners of properties purchased through Right to Buy, that are subject to the Rural Area restrictive covenant, who are intending to rent out the property, are responsible for ensuring that:

- The prospective tenant meets the same residency or employment criteria as required if purchasing the property; and
- The property will be the tenant's only, or principal home.

The Council is responsible for ensuring that:

- Information packs about the Right to Buy, and associated website details, clearly inform prospective Right to Buy applicants about Rural Areas Designation and the Right of First Refusal, and the associated restrictive covenants that apply;
- Offer letters, known as Section 125 Notices, state details of the restrictive covenant that applies to the property in question and where to obtain further information.

## Supporting Documents & Procedures

There are 5 Appendices:

- Appendix 2: RTB District Eligibility Map
- Appendix 3: Housing (Right to Buy) (Designated Rural Areas and Designated Regions) (England) Order 2018 (SI 2018/265)
- Appendix 4: Housing Act 1985 S157
- Appendix 5: Sample Statutory Declaration (S157 Restriction)
- Appendix 6: Housing Act 1985 S156A

## Monitoring

This policy will be monitored every other year against its aims by the Housing Policy, Performance & Systems Manager.

## Consultation

Consultation has taken place within NewsNK and the tenant's At Home magazine.

## Communication

The policy will be made available on the corporate website and to tenants who enquire about submitting a Right to Buy application.

## Implementation

Policy will be implemented on 1<sup>st</sup> July 2018.

## Policy Approval

Approved by Executive Board on 26<sup>th</sup> June 2018.

## Policy Review

This policy will be reviewed in response to changes in legislation or statutory instruments by the Housing Policy, Performance & Systems Manager or Head of Housing and Property Services.

In the absence of any legislative changes to trigger a review, this policy will be reviewed every two years to ensure it remains organisationally accurate.

