

BRIEFING NOTE:

IMPACT OF RIGHT TO BUY ON PROVISION OF RURAL AFFORDABLE HOUSING

This Briefing Note comes from the Rural Housing Alliance and Rural Services Network, who jointly wish to express their shared deep concern at the potential impacts of the Government's proposal to extend the Right to Buy to Housing Association tenants on the existing and future supply of rural affordable housing. It also offers a suite of exemptions that would ensure a continuing supply of much needed rural affordable homes, vital to retaining vibrant and mixed rural communities where successive generations can live.

The Rural Housing Alliance brings together the principal developers of affordable rural housing across England, working with rural communities to enable and invest in new and existing homes. It provides a collective voice to improve the supply of rural affordable housing through influencing policy and providing a forum for sharing good practice and experience. The Rural Services Network (RSN) represents the interests of rural service providers and their rural communities, with a membership of 150 local authorities and over 100 service providers in both the public and private sector. It fosters constructive debate and encourages best practice and active engagement by all with English rural issues.

As part of its Housing Bill the Government is proposing to extend the Right to Buy to Housing Association tenants and require that local authorities dispose of high value vacant council houses to fund extended discounts and build more affordable homes in the area.

There is already a severe lack of affordable housing in rural areas, with those dependent on local incomes unable to afford to buy in the market and a declining availability of rented affordable homes. The extension of the Right to Buy to Housing Association tenants would make this situation very much worse by reducing current supply and future delivery and in some cases lead to the complete lack of affordable housing in the parish. In so doing it will remove the opportunity for those on low incomes to live in rural areas, undermining the social and economic viability of rural communities. In short resulting in the outcome this Government has stated it seeks to avoid, the exile of these people from their families, roots, shared history and each other.¹

The Briefing Note was prepared independently by Jo Lavis of Rural Housing Solutions drawing on evidence from DCLG and ONS data, evidence provided to the Rural Housing Policy Review -February 2015 and results of a survey undertaken during June 2015 of 17 Housing Associations delivering in villages and 17 rural local authorities from across England.

1. Reduction in current supply where there is already a shortfall

The supply of rural affordable housing is already falling as a consequence of high losses of council homes through the current Right to Buy that have not been offset by increases in housing association delivery.

- *In 2011 8% of the housing stock in villages of less than 3,000 population is owned by councils and housing association*²
- *Despite new affordable homes having been built there was still a 0.7% reduction from 2001, with the proportion of council owned homes falling by 2%*³

¹ Secretary of State, Greg Clark's speech to the Local Government Association – 2nd July 2015

² ONS Table KS 402EW

- *Since 2012 the annual average number of Right to Buy sales in rural districts has accelerated from 2.4 homes per thousand to 10 per thousand homes.⁴*

The current 'rural' protections under S157 of the 1980 Housing Act to safeguard against the affects of Right to Buy for council housing are only restrictions on re-sales and do not retain the homes in the affordable rented sector, they are too weak and have limited coverage.

- *Rural Housing Policy Review only 45% (27) had used these protections. The reason for lack of take up was cost, complexity and difficulty of enforcement.*
- *21% of rural Parish and Town Councils with a population of less than 5,000 are covered by the S157 designations.⁵*
- *The criteria for designation were relaxed in the Housing Act 2003, but there have been no new designations since 2006.⁶*

More details of the rural designations under Right to Buy and exemptions from the Right to Acquire are provided in Annex A.

Equally importantly the net loss of council housing in villages demonstrates the lack of replacement of homes sold through RTB.

- *Between 2012/13 – 2013/14 in rural districts the ratio of sales to replacement is 8:1⁷*

It is likely that this underestimates the impact in villages where it is harder to provide replacement housing.

- *84% of local respondents to the Rural Housing Policy Review stated they had not been able to achieve 1:1 replacement in their settlements of less than 3,000 population.⁸*

These difficulties will be exacerbated by the Government's proposals. The high price of rural properties means that that Councils will be required to sell their already small supply of rural stock when it become vacant.

- *House prices in rural areas are 26% higher than in urban areas.⁹*
- *In the recent survey all respondents reported values for a 2 bedroom house above the median value used to define expensive housing proposed by the Policy Exchange in its case for extending the Right to Buy.¹⁰*

³ ONS Table KS18

⁴ DCLG Live Table 688

⁵ DCLG "Areas designated as 'rural' for right to buy purposes" & ONS KS101EW

The designated Parishes are rural and the majority have populations of less than 5,000, this is expressed as a % of all Parishes with a population of less than 5,000.

⁶ *ibid*

⁷ DCLG Live Tables 685 & 693

⁸ "A Fair Deal for Rural Affordable Housing – Feb 2015

⁹ Halifax Rural Housing Review Nov. 2014

¹⁰ Survey of 17 Local Authorities and 17 Housing Associations – June 2015

As significantly, most rural local authorities do not own housing stock and will not have this capital receipt to replace Housing Association homes that are sold.

- *64% of rural local authorities do not own housing stock.*¹¹

2. Reduction in future supply

The majority of rural affordable housing is covered by legal agreements that secure the homes as affordable in perpetuity. These arrangements together with the statutory rural exemptions from the Right to Acquire are a pre-requisite of landowners being willing to sell sites, schemes receiving planning permission and gaining community support.

The land price is lower than market values because of the need to provide affordable housing. Landowners accept this on the condition that the affordable homes are retained as affordable in perpetuity. The impact of the Right to Buy proposal will be to increase land prices which will reduce the amount of affordable housing that can be provided. This will affect all sites, but will particularly affect the release and price of rural exception sites.

The NPPF supports the provision of rural affordable housing, including rural exception sites for affordable housing in perpetuity. This is reflected in the policies of most Local Plans for rural areas. The extension of the Right to Buy will make it very difficult to retain the homes as affordable in perpetuity. In consequence the proposal undermines the NPPF and is likely to result in proposed developments being refused planning permission.

- *70%(12) Housing Associations reported that more than 50% of their homes in settlements of less than 3,000 population were covered by perpetuity agreements.*
- *94%(16) of local authorities reported that they applied perpetuity arrangements to affordable housing in villages.*
- *47%(8) of Housing Associations thought the Right to buy without exemptions would have a modest to significant impact on ability to gain planning permission.*
- *41%(7) of local authorities thought it would have a significant to devastating impact.*¹²

Small housing developments that include affordable housing are heavily dependent on the support of the local community. Indeed they are often instrumental in promoting and ensuring delivery. The extension of the Right to Buy will make it very difficult to meet the pre-requisite of their support, that the homes will meet local housing affordable housing needs in perpetuity.

- *70%(12) of Housing Associations and 70%(12) of local authorities said extending the Right to Buy to Housing Associations would have a significant to devastating impact on community support for rural affordable housing delivery.*¹³

3. Need for and Proposed Rural Exemptions

There is a need for rural exemptions from the extension of the Right to Buy to Housing Association tenants to ensure a continuing supply of much needed rural affordable homes for local people on

¹¹ DCLG Live Table 693

¹² Survey of 17 Local Authorities and 17 Housing Associations – June 2015

¹³ IBID

low wages to live and work in rural areas and villages to thrive. Historically this was recognised through the rural safeguards and exemptions from Right to Buy and Right to Acquire provided respectively through the 1985 and 1996 Housing Acts.

The proposed definitions are framed in the context that: the lack of affordable housing is a problem in most villages across England; that the majority of rural affordable housing is not on rural exception sites; that in some larger rural settlements housing market pressures and environmental constraints also mean there is a lack of affordable housing and difficulties replacing lost stock; and that Community Land Trusts are an increasing source of affordable rented homes in rural areas.

They have been devised through a collaborative approach so they are acceptable to all bodies working in the rural sector and publically supported by them, accessible and easy to understand, independent and widely accepted, sufficiently flexible to allow a community to decide whether or not it should be defined as rural and allow new communities to be added or declassified, within a clear decision making process

Proposed Rural Exemptions

- **All affordable housing in areas designated as National Parks and Areas of Outstanding Natural Beauty**
- **All affordable housing delivered on rural exception sites or by Community Land Trusts or similar community led organisations**
- **All affordable housing in rural communities with under 3,000 population as at 2011 Census**
- **All affordable housing in rural communities with under 10,000 population as at 2011 Census as designated by the Secretary of State, taking into account the following criteria - the proportion of second home ownership; the proportion of holiday lets; the level of disparity between lower quartile average earnings and lower quartile house prices; and the extent to which the community operates as a rural 'hub' for surrounding settlements.**

In the rural areas as defined above, we propose the following exemptions should apply:

- **A full exemption from the proposed new Right to Buy**
- **A right for the landlord of shared ownership leases to limit stair-casing to 80% of the equity for shared ownership properties, without the risk of the shared ownership leaseholder being able to acquire 100% through enfranchisement or lease extension**
- **A full exemption from any requirement for local authorities to sell vacant homes to fund Right to Buy discounts or replacement homes elsewhere.**

These definitions are supported by the following bodies that work with rural communities: The Campaign to Protect Rural England (CPRE); Rural Housing Alliance; Rural Housing Enablers; NALC; Campaign for National Parks; Plunkett Foundation; CLT Network; Rural Services Network; ACRE; and HARAHA (Hampshire Alliance for Rural Affordable Housing)

If you would like any further information please contact either:

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ANNEX A

A QUICK GUIDE TO THE STATUTORY PROTECTIONS FOR RETENTION OF AFFORDABLE HOUSING IN RURAL AREAS

	What is the geographical coverage?	What are the qualifying criteria	How are areas designated?	What does the measure provide?
<p>Right to Buy for tenants of council owned properties</p> <p>‘Rural’ designation under Section 157 of the 1985 Housing Act</p> <p>Housing Act 2003 and the Housing (Right to Buy)(Designated Rural Area and Designated Region)Order 2006</p>	<p>20% of parishes across England</p> <p>All parishes in National Parks and AONBs</p> <p>A list of the designated parishes is available from DCLG</p>	<p>The 1985 Act (consolidated the 1980 Housing Act) and defined ‘rural’ as settlements in National Parks and AONBs, plus areas designated as ‘rural’ by the Secretary of State.</p> <p>In 2003 the qualifying criteria were relaxed to encourage more ‘rural’ designations. Applications are made by a LA and assessed on a parish by parish basis. To be designated a parish has to have a population of less than 3,000 population, a population of density of 2 or less people per hectare, and an explanation by the LA of why designation is necessary. This could be evidence of exclusion of local people from the housing market, rising demand, high house prices, affordability ratios.</p>	<p>Local authorities have to apply for parishes to be designated. These are then listed in a Statutory Instrument.</p>	<p>It does not prevent sale, but places restrictions on future sales of properties bought under the Right to Buy. It, therefore, does not retain a supply of affordable rented housing.</p> <p>A LA can require either:</p> <p>i) that on resale, within 10 years of the initial sale under Right to Buy, the owner first offers the home to the LA so it can buy and bring it back into the affordable housing sector</p> <p>Or</p> <p>ii) that when the property comes up for resale it is sold to someone who has worked or whose principal home is within the area designated as ‘rural’ for at least three years. For National Parks ‘locally’ is the area of the Park.</p> <p><i>It has proved to be weak because of LAs are dissuaded from using the powers because of the high costs of repurchase, the complexity of the process and difficulties of enforcement</i></p>

<p>Right to Acquire for tenants of Housing Association properties</p> <p>1996 Housing Act - Rural exemption from the Right to Acquire</p>	<p>All settlements of less than 3,000 population</p> <p>They have to be listed in the relevant Statutory Instrument, which includes most settlements with populations of less 3,000.</p>	<p>That the homes are rented and provided by a Housing Association.</p> <p>That the Housing Association homes were built after April 1997</p>	<p>A list of settlements of less than 3,000 population was compiled in 1996/7. These were then recorded and appear on Statutory Instruments.</p> <p>Copies of the SI and maps are available from the Homes and Communities Agency</p>	<p>No rented home provided by a Housing Association after April 1997 in a settlement of less than 3,000 population can be sold.</p> <p><i>This is a very strong measure and simple to enforce and retains a supply of affordable rented homes in villages</i></p>
<p>2008 Housing & Regeneration Act – Exemptions from Leasehold Enfranchisement</p>	<p>All settlements of less than 3,000 population. These settlements are known as ‘Protected Designated Areas’ (DPA)</p> <p>They use the same SI list as that for exemptions from the Right to Acquire and therefore includes most settlements with populations of less than 3,000.</p>	<p>That the homes are leased using the Homes and Communities Agency’s Shared Ownership lease and are in a ‘Protected Designated Area’</p>	<p>The measure uses the same Statutory Instrument list of settlements as that used for the exemption from the Right to Acquire</p>	<p>A Housing Association can either:</p> <ul style="list-style-type: none"> i) limit the equity share that can be bought to 80% with the HA retaining the remaining 20%. This aims to retain the property at an affordable price and occupation by someone with a local connection. Or ii) have a pre-emption right when a resident who owns 100% of the equity decides to sell their home. <p><i>This is a relatively strong measure but has three drawbacks:</i></p> <p><i>General house price rises can make the home unaffordable even at 80% of the full equity price</i></p> <p><i>The HA may not be able to purchase the property back- although the HCA can do this if all other avenues have been exhausted.</i></p>

				<i>The restrictions can make it difficult for residents to raise a mortgage.</i>
Other measures – S106 Agreements	<p>In addition to the above it is common practice for a Section 106 Planning Obligation to be used to ensure that the homes are occupied by people with a local connection, usually defined by existing residency, family in the village or needing to support a family member in the village/ employment . A S106 may also be used to ensure that homes remain affordable in perpetuity. Statute takes precedence over S106 Agreements so any extension to Right to Buy would probably make these unenforceable.</p>			

