

**TAFLEN BENDERFYNIAD AELOD CABINET
CABINET MEMBER'S DECISION NOTICE**

PWNC/SUBJECT: Cais am ganiatâd i ohirio cymal rhwystrad person lleol am un trosglwyddiad yn unig i ail-werthu cyn dy Gyngor o dan gymal Adran 157 Deddf Tai 1985 – 9 Llwyn y Ne, Clynnog Fawr.

Application to give consent to the suspension of the local person restriction for one transfer only on re-sale of former Council Property under section 157 Housing Act 1985– 9 Llwyn y Ne, Clynnog Fawr.

AELOD CABINET/CABINET MEMBER:- Cyngorydd Ioan Thomas

PENDERFYNIAD/DECISION

Rhoi caniatâd i berchennog 9 Llwyn y Ne, Clynnog Fawr werthu'r eiddo heb orfod cydymffurfio gyda'r rhwystrad person lleol am un trosglwyddiad yn unig

Consent given to the owner of 9 Llwyn y Ne, Clynnog Fawr. to sell the property without having to comply with local person restriction for one transfer only.

RHESYMAU DROS Y PENDERFYNIAD/REASONS FOR THE DECISION

Pwrpas cyfyngiad o dan adran 157 a'r gyn tai cyngor yw ceisio cadw'r stoc tai yma i bobl lleol eu prynu, drwy roi amodau person lleol ar y weithred. Mae gan Gyngor Gwynedd bolisi i ddelio gyda cheisiadau gan berchnogion sydd wedi methu gwerthu'r eiddo i berson sydd yng nghydymffurfio gyda'r amod person lleol drwy roi'r cyfle iddynt wneud cais i'r Cyngor i gael gohirio'r cymal am un trosglwyddiad yn unig. Golygir hyn y gall y perchennog gwerthu'r eiddo ar y farchnad agored heb rhwystrad person lleol ond byddai'r amod person lleol yn aros ar deitl yr eiddo i unrhyw drosglwyddiad dilynol. Mae'r perchennog wedi ceisio gwerthu'r eiddo ers y 25^{ain} o Hydref, 2014 pan roddwyd yr eiddo ar y farchnad gyntaf, ond heb dderbyn cynnig ar yr eiddo gan 'berson lleol'. Gan nad oes yna ddi-ddordeb yn cael ei ddangos gan berson lleol i brynu'r eiddo, gohirio'r cymal am un trosglwyddiad yn unig fel bod modd i'r perchennog weithredu mewn marchnad ehangach er mwyn ceisio cael prynwr i'r eiddo.

The purpose of the restriction under section 157 on former council housing stock is to try to keep these houses for local people to buy, by placing local person conditions on the deed. Gwynedd Council has a policy to deal with requests by the owners who have failed to sell the property to a person who complies with the local person restriction by allowing them to make an application to the Council to suspend the restriction for one transfer only. This means that the owner is able to market the property on the open market without the local person restriction applying but the restriction will remain on the title to the property for any future transfers. The owner has tried to sell the property since the 25th October, 2014 when the property was first placed on the market, but has not received an offer on the property from a local person. Since no interest is being shown by a local person to buy the property, the restriction is suspended for one transfer only in order that the owner may operate in a wider market to try and secure a buy for the property.

YSTYRIAETHAU PERTHNASOL

O dan Adran 157 o Ddeddf Tai 1985, gall y Cyngor gynnwys mewn trawsgludiad o dy wedi ei leoli yn y Parc Cenedlaethol neu mewn Ardal Wledig a ddynodwyd, gyfamod yn cyfyngu ar ryddid y tenant (ac unrhyw olynnydd mewn teitl) i ganiatáu tenantiaeth neu drwydded lle nad yw'r eiddo yn parhau i fod yn brif gartref i'r prynwr (neu unrhyw olynnydd mewn teitl) neu i werthu'r eiddo heb ganiatâd ymlaen llaw gan yr Awdurdod Lleol. Polisi Cyngor Gwynedd oedd gosod cyfamod o'r fath mewn achosion ble'r oedd yn bosibl gwneud hynny.

Pan wneir cais am ganiatâd i'r Cyngor gall atal ei ganiatâd, oni bai fod prynwr yr ymgeisydd trwy gydol y cyfnod o dair blynedd yn union cyn y cais am ganiatâd:-

- (a) wedi cael eu man gweithio mewn ardal wedi ei dynodi gan orchymyn gan yr Ysgrifennydd Gwladol ac sydd o fewn ardal y Parc Cenedlaethol, neu Ardal Wledig ddynodedig lle lleolir yr eiddo.
- (b) wedi cael eu hunig neu eu prif gartref mewn ardal o'r fath.

Yn unol â'r polisi i ddelio â cheisiadau o'r fath, fe fydd angen i'r Cyngor ystyried os yw'r ffactorau a ganlyn yn berthnasol cyn dod i benderfyniad:

- (c) Bod y darpar brynwr wedi cael eu man gweithio neu eu hunig neu brif gartref yn sir Gwynedd neu o fewn radiws o 20 milltir o'r eiddo y bwriedir ei brynu, fel arall yn cydymffurfio gyda'r cyfamod.
- (d) Bod gan y darpar brynwr (neu un ohonynt yn achos cyd-brynwr) gysylltiad lleol cryf. Byddai cysylltiad lleol yn cael ei fodloni pe byddai'r ymgeisydd yn ŵr/wraig briod, cyn gŵr /gwraig briod, yn rhiant, yn blentyn, yn frawd neu chwaer i unigolyn sydd yn cydymffurfio yn llawn gyda'r cyfamod.
- (e) Lle fo'r darpar brynwr yn aelod o'r lluoedd arfog ac y byddai yn flaenorol wedi cydymffurfio gyda thelerau'r cyfamod.
- (ch) Unrhyw amgylchiadau allweddol eraill fyddai yn cyfiawnhau caniatáu'r cais.
- (f) Cymdeithas Tai
 - (i) O dan yr holl amgylchiadau eraill dylai'r cais gael ei gyfeirio at Gymdeithas Dai sy'n gweithredu yn yr ardal dan sylw, er mwyn canfod os fydda'r Gymdeithas Dai yn barod i brynu'r eiddo.

- (ii) Os yw'r Gymdeithas Dai berthnasol wedi nodi yn ysgrifennedig nad yw'n medru neu yn barod i brynu'r eiddo, bydd yn cais yn cael ei
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Gwybodaeth Gefndirol:-

Gwerthwyd yr eiddo, 9 Llwyn y Ne, tŷ pen teras gyda thair llofft, yn wreiddiol gan y Cyngor yn nol yn 1991 o dan ddarpariaeth Hawl i Brynu. Rhoddwyd y rhwystrad person lleol o dan adran 157 Deddf Tai, sef rhwystrad ar deitl yr eiddo yn erbyn trosglwyddo, roi les neu osod yr eiddo.

Mae cais felly am ganiatâd i ohirio'r rhwystrad 'person lleol' am un trosglwyddiad yn unig yn cael ei ystyried gan y Cyngor ac mae angen roi sylw i'r wybodaeth ganlynol cyn dod i benderfyniad:-

- (a) **Y pris o'i gymharu â thair cyffelyb** - Yn dilyn ymholiadau gyda gwerthwyr tai lleol, nodir bod rhif 22 Llwyn y Ne wedi ei werthu ym mis Mawrth eleni am £112,500. Mae yna dŷ teras tai llofft arall ar werth yn y pentref gyda phris gofyn o £124,950, a thŷ semi newydd tair llofft gyda rhwystrad 106 arno, gyda'r pris gofyn o £118,950. Dywed y perchennog bod yna bump o dai cyffelyb i'w eiddo ef wedi bod ar y farchnad ym mis Hydref 2014, gyda 3 o'r rhain yn dai fforddiadwy gyda cyfyngiad pris gwerthu penodol. Roedd y pris gofyn y pum tŷ yn amrywio o £117,950 i £129,950. Ystyrir felly fod y pris gwerthu yn dderbyniol.
- (b) **Cyfnod bu'r eiddo ar y farchnad** - Rhoddwyd yr eiddo ar y farchnad ym mis Hydref 2014 gyda phris gofyn o £129,900. Cafwyd 4 gwahanol berson yn gweld yr eiddo ers y dyddiad hynny, gyda 1 ohonynt yn 'berson lleol'. Ym mis Tachwedd gostyngwyd y pris i'r pris gofyn nawr, sef £124,500. Derbyniwyd cynnig ar yr eiddo gan gwpl nad oeddynt yn cydymffurfio gyda'r cymal ac felly, tynnwyd y cynnig yn nol. Dywed y perchennog ei fod wedi nodi bod nifer o dai ar werth pan roddwyd ei dy ar y farchnad gyntaf ac felly yn ei dyb e, doedd yna ddim prinder tai cyffelyb yn yr ardal i bobl leol eu prynu.
- (c) **A gynigwyd y Tŷ i Gymdeithas Tai-** Dywed y perchennog ei fod wedi cynnig yr eiddo i Gartrefi Cymunedol Gwynedd Cyf. ac i Grŵp Cynefin, cymdeithasai tai sydd yn gweithredu yn yr ardal, ond ar hyn o bryd nid oeddynt yn prynu tai yn yr ardal.

Wedi ystyried yr uchod, ystyrir ei fod yn briodol i roddi caniatâd i'r perchenogion werthu'r eiddo am un trosglwyddiad yn unig heb y rhwystrad person lleol ond fe arhosir y rhwystrad person lleol ar deitl yr eiddo am unrhyw drosglwyddiad yn y dyfodol.

RELEVANT CONSIDERATIONS

Under Section 157 of the Housing Act 1985, the Council may include in a conveyance of a house that is located in the National Park or a designated Rural Area, a covenant limiting the freedom of the tenant (and any successor

in title) to grant a tenancy or license where the property will continue to be the main home to the purchaser (or any successor in title) or to sell the property without prior permission from the Local Authority. Gwynedd Council's policy was to impose such a covenant in cases where it was possible to do so.

When a request for permission is made to the Council it may withhold its consent unless the buyer candidate throughout the three year period immediately preceding the application for permission:-

a) has been working in an area designated by an order of the Secretary of State and which is within the National Park area, or a designated Rural Area where the property is located.

b) have had their only or main home in such an area.

In line with the policy to deal with such requests, the Council will need to consider if the following factors are relevant before making a decision:

(a) That the prospective buyers have had their place of work or their only or principal home in Gwynedd or within a radius of 20 miles of the property proposed to be purchased, otherwise comply with the covenant.

(b) That the prospective buyers (or one of them in the case of joint purchasers) have a strong local connection. Local connection would be satisfied if the applicant is a husband / wife spouse, ex-husband / wife spouse, parent, child, brother or sister of a person who is fully compliant with the covenant.

(c) where the potential buyer is a member of the armed forces and would have previously complied with the terms of the covenant.

(d) Any other key circumstances which would justify granting the application.

(e) Housing Associations:-

(i) In all other circumstances the application be referred to a Housing Association operating within the area in question to ascertain whether the Housing Association is prepared to purchase the property.

(d) If the relevant Housing Association has indicated in writing that it is unable or unwilling to acquire the property, the application will then be considered by the Council.

Background information:-

9 Llwyn y Ne, a three bedroomed end terrace house was sold originally by the

Council back in 1991 under the Right to Buy provisions. The local person restriction was placed on the title under Section 157 Housing Act 1985, which is a restriction against transfer, leasing or letting the property.

An application for permission to suspend the 'local person restriction' for one transfer only is to be considered by the Council and there is a need to address the following information before making a decision: -

- (a) **The price compared to similar houses** – Following enquires with local estate agents, it is noted that number 22 Llwyn y Ne was sold in March this year for £112,500. There is another three bedroomed terrace house for sale in the village with an asking price of £124,950 and a new three bedroomed semidetached house, which has a 106 restriction on the title, with an asking price of £118,950. The owner states that there were five similar houses to his property on the market in October 2014, with 3 of them being affordable houses with a fixed sale price restriction. The asking price of the five ranged from £117,950 to £129,950. It is considered therefore, that the selling price is acceptable.
- (b) **Period property has been on the market** - The property was placed on the market in October 2014, with the asking price of £129,950. There have been 4 different viewings of the property since that date, with 1 of them being from a 'local person'. In November, the asking price was reduced to the current asking price, which is £124,500. An offer was made on the property by a couple who did not conform to the covenant consequently, the offer was withdrawn. The owner states that he noted that there were several similar properties for sale when he first placed his property on the market therefore, in his opinion, there wasn't a shortage of houses for sale for local people to buy.
- (c) **Has the Property been offered to a Housing Association-** The owner states that the property has been offered to Cartrefi Cymunedol Gwynedd Cyf. and Grŵp Cynefin, Housing Associations which operate in the area, but they stated that they were not currently buying houses in the area.

Having considered the above, it is considered appropriate to give permission to the owners to sell the property for one transfer only without the local person restriction; however the local person restriction is to remain on the title for all future transfers.

BARN Y SWYDDOGION STATUDOL/VIEWS OF STATUTORY OFFICERS

1. Y Prif Weithredwr/Chief Executive:-

Wrth gwrs mae rhesymau da ar gyfer y cyfamodau hyn lle y maent wedi eu gosod a rhaid cael dadl grêt o blaid eu symud. O holi ymhellach, mae achos i ystyried y cais hwn yn yr amgylchiadau hyn.

Of course there are good reasons for these covenants where they have been included and there must be a very good argument for changing them. After making further enquires there is a case for considering this application in these circumstances.

2. Swyddog Monitro/ *Monitoring Officer*:-

Mae'r daflen wedi ei pharatoi gan y Gwasanaeth Cyfreithiol felly dim sylwadau i'w hychwanegu o safbwynt priodoldeb

The notice was prepared by the Legal Services, therefore no further observations to be added from the propriety perspective.

3. Prif Swyddog Cyllid/Chief Finance Officer:-

Dim gwrthwynebiad o safbwynt priodoldeb ariannol

No objection from the perspective of financial propriety.

BARN YR AELOD LLEOL/VIEW OF LOCAL MEMBER

Y Cynghorydd/ *Councillor* :- Owain Williams

Fel aelod lleol ac fel aelod o Gyngor Gwynedd, byddaf yn arferol yn gwrthwynebu tynnu amodau gwerthiant i ffwrdd. Yn yr achos arbennig hwn, lle y credaf fod y perchennog wedi ceisio pob dull i werthu'r eiddo i berson cymwys, 'rwyf o'r farn y dylid gwneud eithriad a chaniatáu'r cais un unol â phenderfyniad aelod Cabinet.

As a local member and as a member of Gwynedd Council I usually oppose the revocation of selling conditions. In this particular case, where I believe the owner has tried every avenue to sell the property to an eligible person, I am of the opinion that an exception should be made and the application should be granted in line with the decision of the Cabinet member.

LLOFNOD /SIGNED



DYDDIAD/DATE

21/8/15 .
