

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

PWNC/SUBJECT: Cais i i ddiddymu cymal o dan Adran 157 Deddf Tai 1985 oddi ar deitl cyn dy Gyngor:- 6 Maes Gwydryn, Abersoch.

Application to revoke the covenant under Section 157 Housing Act 1985 from the title of a former Council house:- 6 Maes Gwydryn, Abersoch.

AELOD CABINET/CABINET MEMBER:- Cynghorydd Ioan Thomas

PENDERFYNIAD/DECISION

I beidio ddiddymu cymal o dan Adran 157 Deddf Tai 1985 oddi ar deitl 6 Maes Gwydrn Abersoch.

Not to revoke the covenant under Section 157 Housing Act 1985 from the title of 6 Maes Gwydryn Abersoch.

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 leol eu prynu, drwy roi amodau person lleol ar y weithred. Yn unol â gofynion y cymal mae'n rhaid i'r perchnogion gael caniatâd Cyngor Gwynedd cyn y gallant werthu neu osod yr eiddo. Mae'r perchnogion yn bwriadu rhoi estyniad ar yr eiddo er galluogi iddynt ddechrau busnes o'r eiddo, sef cadw gwely a brecwast. Mae'r perchnogion eisoes wedi cael caniatâd gan Gartrefi Cymunedol Gwynedd i'r busnes hyn ac felly, does dim yn nadu iddynt symud ymlaen gyda'r fenter. Mater i'r perchnogion yw os ydynt eisieu buddsoddi eu harian yn yr eiddo. Mae'r perchnogion wedi gwneud cais i godi'r cyfamod er mwyn sicrhau y gellir gofyn am bris y farchnad agored os gwerthir yr eiddo yn y dyfodol, yn hytrach na phris is yn arferol y gofynnir am eiddo gyda chymal o'r fath ar y teitl. Mae hyn yn mynd yn groes i ethos y cyfamod, sef y pwrpas yw ceisio cadw prisiau'r cyn tai Cyngor yn is na physiau tai ar y farchnad agored, er galluogi pobl leol fforddio eu prynu. Tydi'r Cyngor ddim yn edrych ar brisiau ail werthu tai Cyngor pan mae yna gais am ganiatâd i werthu i berson sydd yn cyd-fynd gyda gofynion y cyfamod ond yn hytrach, pan nad yw'r perchennog yn gallu gwerthu'r eiddo o dan yr amodau hyn. Fe fydd modd i'r perchnogion wneud cais i'r Cyngor yn y dyfodol am ganiatâd i werthu'r eiddo ar y farchnad agored, os ydynt yn gallu dangos nad oes yna ddiddordeb gan berson lleol i brynu'r eiddo am bris rhesymol.

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. In accordance with the requirements of the covenant, the owner must obtain Gwynedd Council's consent before being able to sell or rent the property. The owners intend to build an extension to the property in order to start a business from the property, namely a bed and breakfast business. The owners have previously obtained the permission of Cartrefi Cymunedol Gwynedd to this business and therefore, there is nothing to prevent them moving ahead with this venture. It is a matter for the owners if they decide to invest their money in the property. The owners have made an

application to revoke the covenant to enable them to ask for the open market price, if the property is sold in the future, rather than the lower price that is usually asked for a property with such a covenant on the title. This goes against the ethos of the covenant, the purpose of which is to try and keep the price of ex council property lower than the price of houses on the open market, in order that local people are able to afford them. The Council does not look at the selling price on the re sale of ex council houses when the application is to sell the property to person who conforms to the requirements of the covenant, only when the owner is unable to sell the property under these conditions. The owner will be able to make an application to the Council in the future for consent to sell the property on the open market, if they can demonstrate that local people have showed no interest in buying the property for a reasonable price.

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 brynwyr 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.
 - b. Bod gan y darpar brynwyr (neu un ohonynt yn achos cyd-brynwyr) 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.
 - c. Lle fo'r darpar brynwr yn aelod o'r lluoedd arfog ac y byddai yn
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flaenorol wedi cydymffurfio gyda thelerau'r cyfamod.

ch. Unrhyw amgylchiadau allweddol eraill fyddai yn cyfiawnhau caniatáu'r cais.

d. 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 ystyried gan y Cyngor

Y Cais:-

Gwerthwyd yr eiddo, 6 Maes Gwydryn, yn wreiddiol gan y Cyngor yn nol yn 1994 o dan ddarpariaeth Hawl i Brynu. Rhoddwyd y rhwystrad person lleol o dan adran 157 Deddf Tai 1985, sef rhwystrad ar deitl yr eiddo yn erbyn trosglwyddo neu osod yr eiddo heb ganiatâd Cyngor Gwynedd. Yn unol â'r ddeddf, nid oes gan Gyngor Gwynedd yr hawl i wrthod rhoi caniatâd i'r trosglwyddiad os yw'r darpar brynwyr wedi byw neu weithio yng Ngwynedd am y tair blynedd cyn gwneud y cais.

Mae cais gan y perchnogion i ddiddymu'r cymal person lleol oddi ar deitl yr eiddo fel bod modd gwerthu'r eiddo ar y farchnad agored neu ei osod i berson sydd ddim yng nghyd fynd gyda'r cyfamod.

Mae'r perchnogion wedi penderfynu y byddai modd iddynt ddechrau busnes Gwely a Brecwast o'u cartref (sef 6 Maes Gwydryn), gan eu bod yn meddwl fod lleoliad eu heiddo yn ddelfrydol i fenter o'r math yma. Dywed y perchnogion bod y math o letygarwch sydd ar gael yn Abersoch wedi newid ers iddynt ddod i'r ardal ac yn dal i newid. Mae'r perchnogion yn honni bod nifer o fusnesau sydd yn cynnig gwely a brecwast neu yn gosod ystafelloedd allan, wedi mynd i lawr mewn nifer yn y pentref a bod yna alw mawr am y fath yma o le aros. Dywed y perchnogion eu bod wedi cael llwyddiant yn gosod rhan o dŷ tafarn fel flat yn y gorffennol, ac bod, yn eu tyb hwy, bod yna alw mawr am y math yma o le aros.

Dylid nodi nad oes angen caniatad gan y Cyngor o ran cychwyn busnes Gwely a Brecwast ar yr eiddo. Mae'r cymal adran 157 yn rheoli pwerchnogaeth a lesu yr eiddo yn unig.

Yn eu cais, dywed y perchnogion yn sgil y datblygiad newydd tai fforddiadwy ar stad Lôn Garmon a hefyd y tai newydd sydd yn cael eu hadeiladu yn Llanbedrog, y tebygrwydd yw y bydd pobl yn penderfynu prynu'r tai newydd yma yn hytrach nag y tai hŷn ar stad Maes Gwydryn. Dywed y perchnogion

bod gan Abersoch dulliau sefydledig ar gyfer ail ddatblygu ardaloedd masnachol darfodus ac mae'r cyswllt rhwng cymyniad busnesau lletygarwch sefydledig, ynghyd â datblygiadau newydd o ail gartrefi a darpariaeth am dai fforddiadwy, yn anffodus, eu tyb hwy, yn system sydd yn rhagfarnu perchnogion cyn tai Cyngor sydd gyda'r rhwystrad 157 ar eu teitl. O ystyried hyn, dywed y perchnogion nad yw yn ymarferol iddynt ddilyn eu cynlluniau i fuddsoddi yn eu cartref nac unrhyw botensial busnes yn y dyfodol, os yw'r cymal 157 yn aros ar deitl. Dywed y perchnogion os yw'r cymal 157 yn aros ar eu teitl, ni fyddant, os ydynt yn gwerthu'r eiddo a'r busnes yn y dyfodol, yn gallu gofyn am bris y farchnad agored sydd yn adlewyrchu gwerth y buddsoddiad yn yr eiddo a'r busnes.

Wedi ystyried yr uchod, ystyrir nad yw yn briodol i ddiddymu'r cymal 157 oddi ar deitl yr eiddo. Mae modd i'r perchnogion yrru ymlaen i sefydlu eu busnes cadw gwely a brecwast heb ddiddymu'r cymal 157. Os yw'r perchnogion yn gallu dangos tystiolaeth yn y dyfodol eu bod methu â gwerthu'r eiddo, mae modd iddynt wneud cais yr adeg yno i ohirion neu ddileu'r cymal 157 drwy ddangos tystiolaeth perthnasol yn unol a gofynion safonol y Cyngor. Ystyrir felly fod y cais yn gynamserol, a nid yw eu hawydd i gychwyn y busnes gwely a brecwast yn ei hun yn gyfiawnhad i godi'r cyfamed.

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.

(ii) 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.

The Application:-

The property, 6 Maes Gwydryn, was sold originally by the Council back in 1994 under the provisions of Right to Buy. The local person restriction was placed under section 157 Housing Act 1985, which is a restriction on the title of the property prohibiting the transfer or the renting out of the property without the consent to of Gwynedd Council. In accordance with the act, Gwynedd Council does not have the right to refuse consent to the transfer, if the intended buyer has lived or worked in Gwynedd for three years prior to making the application.

The application by the owners is for revocation of the local person restriction from the title of the property, which would enable the property to be sold on the open market or to rent it out to a person who does not conform to the covenant.

The owners have decided that they are able to start a Bed and Breakfast business from their home (6 Maes Gwydryn), since they are of the opinion that the location of their property is ideal for such a venture. The owners state that the type of hospitality that is available in Abersoch has changed since they first came to the area and is still changing. The owners purport that the number of businesses which offer bed and breakfast or the letting out of rooms, has fallen in numbers in the village but that there is substantial need for this type of place to stay. The owners state that they have had success in letting out part of the pub as a flat in the past and that there is, in their

estimation, a great need for this type of place to stay.

It should be noted that there is no requirement to obtain the consent of the Council to start the Bed and Breakfast business at their property. The section 157 covenant only regulates the ownership and leasing of the property.

In their application, the owners state that in light of the new affordable housing development at the Lôn Garmon estate and also the new houses which are being built at Llanbedrog, the likelihood is that people will decide to buy these new properties, rather than the older houses on the Maes Gwydryn estate. The owners state that Abersoch has an established method for re-developing 'decaying areas of commercial property and the link between the demise of the established hospitality business together with the development of new second homes and the provision of affordable housing is unfortunately, in their opinion, a system which is prejudicial to the owners of ex council houses which have the 157 restriction on their title. Considering this the owners state that it is not practical for them to follow their plans to invest in neither their home nor any potential business in the future if the clause 157 remains on the title. The owners state that if the clause 157 is to remain on the title of their property, they will not, if they sell the property and the business in the future, able to ask the open market price which reflects the worth of the investment in the property and the business.

Having considering the above, it is considered that it is not appropriate to revoke the 157 clause from the title of the property. The owners are able to proceed with the setting up of the bed and breakfast business without the deletion of the 157 clause. If the owners are able to produce evidence in the future that they are unable to sell the property, they may make an application at that time to suspend or revoke the 157 clause by producing relevant evidence in line with the standard requirements of the Council. It is considered therefore that the application is premature and that their desire to start a bed and breakfast business is not in itself justification to lift the covenant.

BARN Y SWYDDOGION STATUDOL/VIEWS OF STATUTORY OFFICERS

1. Y Prif Weithredwr/Chief Executive:-

Mae'r mater hwn yn amlwg yn un cymhleth gyda sawl elfen iddo. Fodd bynnag, y mater i'r Cyngor yw codi'r amod neu beidio. Fel y mae'r daflen yn nodi, mae'n anodd gweld sut y gellir cyfiawnhau codi amod sydd yn anelu i sicrhau cyflenwad o eiddo a chyfleon i bobl leol.

This matter is obviously a complex one with several elements to it. However, the mater for the Council is whether nor not to lift the restriction. As the notice points out, it is difficult to see how lifting the restriction can be justified as the aim of it is to ensure the supply of property and opportunities for local people.

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 i'w ychwnaegu o safbwynt priodoldeb ariannol

Nothing to add from the perspective of financial propriety.

BARN YR AELOD LLEOL/*VIEW OF LOCAL MEMBER*

Y Cynghorydd/ *Councillor* :- R. H. Wyn Williams

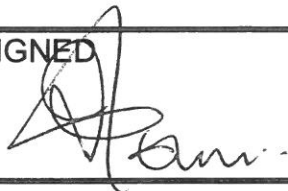
Mae'r cais yma yn anodd, rydym yn deall bod codi cymal 157 yn anodd, ac fe fedr greu cynsail wrth ganiatáu, oherwydd bod yr amod lleol yn bwysig i'r ardal.

Ond yr hyn sydd ddim wedi ei drafod ydi, i greu busnes Gwely a Brecwast sydd wedi derbyn caniatâd, a dilyn canllawiau lechyd trwy foderneiddio, mae rhaid buddsoddi, ac i wneud hyn maen tebyg bod rhaid mynd am Forgais ac ati, ac yn sicr fe fydd yn anodd iawn i'r perchennog symud ymlaen gan fod y cymal 157 am fod yn rhwystr iddo i ddatblygu trwy fuddsoddi.

This is a difficult application, we understand that lifting the 157 clause is difficult, and by consenting it could create a precedent, since the local restriction is important to the area.

But what has not been discussed is, to create a Bed and Breakfast business which has received approval, and by following health guidelines through modernising, it is necessary to invest, and to do this presumably it is necessary to obtain a mortgage and such, and it will certainly be very difficult for the owner to move forward since the 157 clause will be an obstruction to him developing through investing.

LLOFNOD /SIGNED



DYDDIAD/DATE

16/2/16.
