

Chesterfield Borough Council Housing Services

RIGHT-TO-BUY (RIGHT OF FIRST REFUSAL) POLICY

BACKGROUND

The Housing Act 2004 introduced the Right of First Refusal (RFR) that gives Local Authorities the first opportunity to 'buy-back' properties being sold by former tenants who acquired their properties under the Right-To-Buy (RTB). This applies to ALL sales within ten years of purchase

When a property is sold under the RTB a covenant is included on all conveyances requiring that, during the 10 year period from the date of purchase, the vendor of the property serves an offer notice on the Council. The covenant is recorded on the property register held by the Land Registry and also by the Council as land charge, so that Legal Services will pick this up when a vendor wishes to sell their property.

Once the Council has received a RFR notice it has up to 8 weeks to decide whether it, or a nominated RSL, wishes to purchase the property.

Where the Council does not wish to re-purchase, it will serve a rejection notice on the vendor who is then free to sell the property on the open market (subject to any requirements for the repayment of the discount).

Where the Council wishes to accept an offer for re-purchase then it must achieve a completion time of a maximum of 12 weeks

All purchases would be made at the current market value and disputes between the Council's valuation and the vendors would be resolved by the District Valuer.

Although the RFR has been in place since 2004 the Council has not until recently been in a financial position to re-purchase any properties and has only served rejection notices. The additional freedoms and flexibilities offered by the reforms to the Housing Revenue Account (HRA) mean that in the future consideration of repurchasing property can be made.

The Right-to-Buy (Right of First Refusal) policy sets out the criteria for considering properties offered under the Right of First Refusal and a procedure for managing the process.

STRATEGIC LINKS

The Council needs to consider RTB Re-purchasing as part of a wider programme new build and stock investment. The repurchasing of properties will need to be considered a 'strategic acquisitions' in terms of delivering a more immediate solution to housing need in an area and better value for money. The acquiring of new affordable homes through RFR will have several benefits:

- Good value for money when compared to equivalent new build costs

- Strengthening HRA Business Plan through Rental Incomes
- Delivering high quality homes to meet local affordable housing need.

The policy will therefore link with delivering the following Strategies and Plans:

- Corporate Plan 2014-2015
- Housing Strategy 2013-2016
- HRA Business Plan
- Homelessness Strategy 2008-2013

The implementation of the policy has benefits for both the Council as a Strategic Housing authority and landlord to increase the social housing stock, the potential to prevent homelessness in certain circumstances and increasing the ability to make appropriate investment decisions in areas if a property is repurchased.

PURCHASE CRITERIA

To be considered for purchasing the property must meet at least one of the following criteria:

Sustainability:

- The property is within a block of flats where the purchase mean the Council regains the ownership of all the properties within the block
- The purchase will enable the Council to consider wider regeneration opportunities in the future (for example regaining ownership of a pair of semi-detached properties)
- The purchase will enable the Council to tackle a long term empty home

Housing Need:

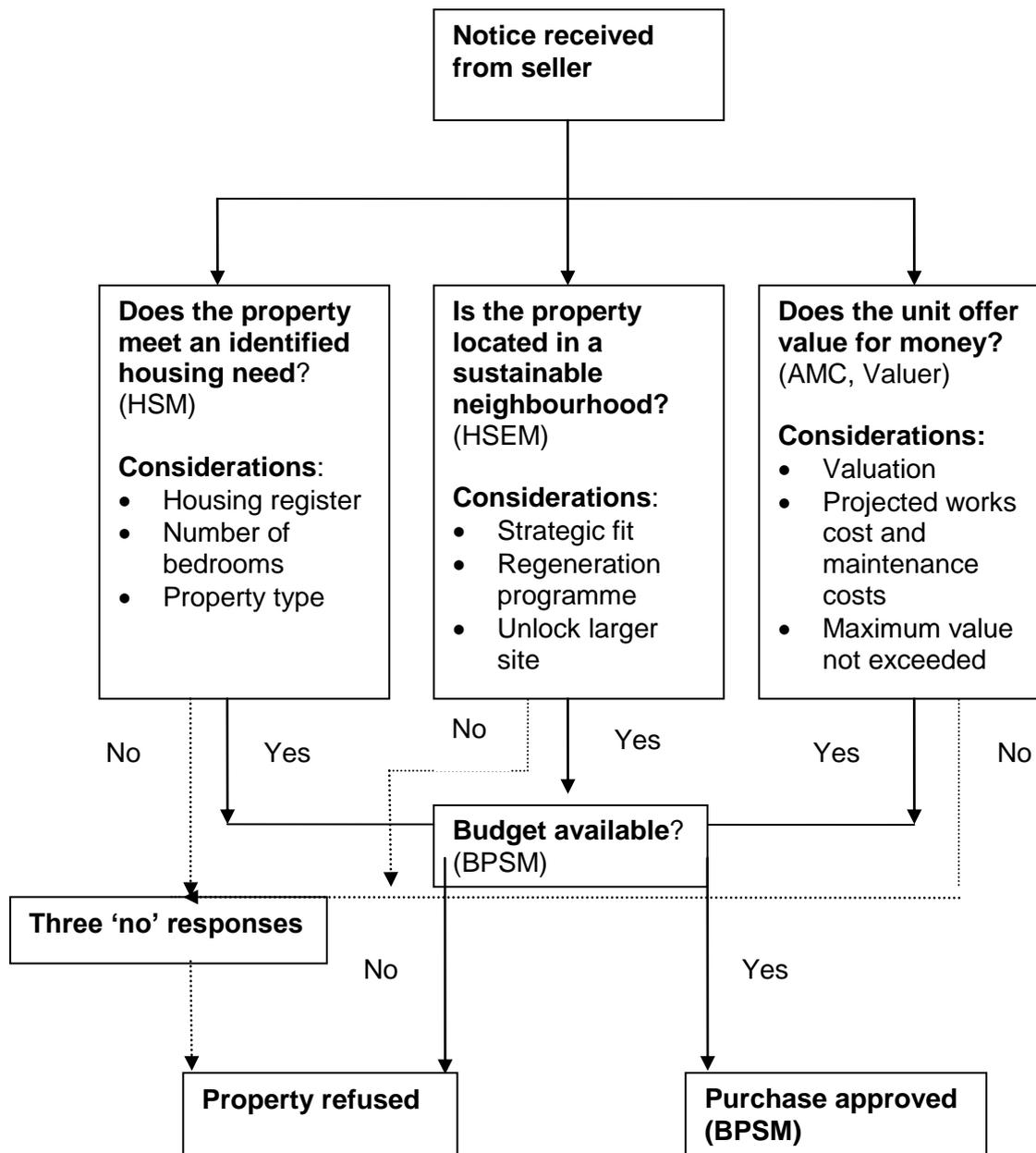
- Where the householder is facing eviction by the Mortgage Company and the purchase could alleviate potential homelessness
- Where there is a clear identified need for the property type in the estate area.

Financial Considerations:

- The owner has a large service charge/ major works debt they are unable to afford (Leasehold property only)
- The owner cannot afford to pay future service charges due to changes in their financial circumstances – even with the facility of a 10 year loan (Leasehold only)
- There is sufficient funding in the Housing Capital Programme. The current funding available (in 2015/16) is £300,000 .
- The maximum price payable for a property will not exceed £90,000 (to increase by inflation each year from 2015)
- The maximum value of the property purchase and works required to bring the property to a lettable standard does not exceed £95,000.

If the property being considered does not meet one of these criteria, a report to Cabinet will be required to secure approval for the spend.

Flow chart to aide RFR decision



HSEM – Housing Strategy and Enabling Manager
 AMC – Asset Management Co-ordinator
 HSM – Housing Solutions Manager
 BPSM – Business Planning and Strategy Manager

Right of first refusal process

1. Offer notice from seller received by Legal
2. Legal issues s156 Notice setting out legal requirements and timeframe
 - The Council has eight weeks in which to decide whether the Council wishes to purchase the property. If not interested in the property the Council will serve a rejection notice on the seller by the end of week eight.
 - If a decision is made to purchase then there is a maximum of a 12 week period from the end of the eight week period to complete the purchase.
3. Local Land Charges and Support Officer based in Governance will e-mail the following Officers (current post holders in brackets) who will assess the property against the criteria:
 - Business Planning and Strategy Manager
 - Housing Strategy and Enabling Manager
 - Housing Solutions manager
4. The Housing Solutions Manager (HSM) and Housing Strategy and Enabling Manager (HSEM) will notify the Business Planning and Strategy Manager (BPSM) of their opinions within one week of receiving the e-mail.
5. If the recommendations are not to purchase then the BPSM will notify the LLC SO of the decision and a letter advising this will be sent to the vendor.
6. If the recommendations are that the purchase should be considered further the BPSM will assess whether there is sufficient budget to make the purchase.
7. If the Council wishes to consider a potential purchase then the BPSM will notify the LLC SO to send a holding letter to the vendors solicitor and requesting access to the property be arranged. The LLC SO will advise of the arrangements.
8. The BPSM will then contact both the Asset Management Co-ordinator to arrange a survey of the property assessing its condition and identifying works required to bring the property up to the decent homes standard and future maintenance costs, and the Councils valuer based within the Councils partner Kier to determine a market valuation of the property.
9. The survey and valuation should be done within four weeks of the receipt of the notice from the vendor – subject to suitable access arrangements being made.
10. Once the information on the valuation and the long term financial costs of incorporating the property within the stock are provided the BPSM will formally decide under delegated powers whether to purchase the property. This will be done by the end of week six
11. The LLC SO will be notified of the intention as soon as possible. If the decision is to purchase then the process will move into the 12 week period for the completion of the sale.