

P R E C *i* S

A summary series of recent research from Communities Scotland

No 100

Restricted occupancy conditions in National Parks

Housing pressure in National Parks is more acute than in other areas. Parks north of the border are in their formative years and are in a position to gain knowledge from the experience of the English and Welsh parks regarding planning mechanisms and local occupancy conditions.

Communities Scotland carried out an in-house literature review to explore the use of planning mechanisms in the UK used to restrict rural housing in both the public and the private sector to local people. The review focuses on existing policies in English and Welsh National Parks. The key findings of the study were:

Local occupancy conditions have been used in some form in the majority of National Parks across the UK. They are generally only applied to certain areas of the park or certain properties. Parks with no occupancy conditions tend to be in their formative years or have very low populations and minimal housing issues.

The majority of parks have experienced small scale resistance to restricted occupancy conditions. They have also experienced some teething problems during implementation of conditions, for example, NIMBY-ism, low housing completion rates in the private sector and finding householders that fit the criteria.

Overall, National Park in England and Wales tend to view restricted occupancy conditions on private new build housing and affordable rented property as a worthwhile policy intervention as action is seen to be taken on an acute rural problem. Academics tend to view the conditions unenthusiastically, though generally admit that they have had limited success in some situations. The public are split into two opposing camps regarding the policy.

There is an important difference in the private sector between 'local need' which restricts occupancy to 'locals' without consideration of price, and 'local affordable need' which places occupancy conditions only on those properties considered to be affordable for local people.

The two main mechanisms to provide housing with local occupancy conditions are Section 106 agreements (English equivalent to the Scottish Section 75 agreement) and exception sites.

The practice of restricting the size of new build properties in the private sector is becoming increasingly widespread in English National Parks, with the intention that houses remain at the lower end of the price range. Many parks which do not currently have size restriction policies may consider them in the future.

Introduction

Housing pressure in National Parks is often more acute than other areas. For this reason, many English and Welsh National Park authorities have introduced policies to restrict the occupancy of new houses to 'local' people. These policies have different degrees of severity and success is varied. Communities within Scotland's National Parks share many of these housing issues.

Restricted occupancy conditions – an overview

The actual criterion by which a person's 'local' status is established varies from park to park. There are a number of common factors which run through the policies reviewed: residency; strong local connections; poor housing conditions elsewhere locally; and employment.

These conditions are only likely to apply in certain areas of a park, or on certain properties. The application of a blanket policy approach across an entire park has not been adopted by any of the parks.

In certain Park, restricted occupancy conditions only apply to 'affordable' housing. This leads to a distinction being drawn between local need and local affordable need for both social rented and private homes.

Local needs housing: not usually required to provide affordable accommodation, but are subject to a Section 106 agreement between the developer and local authority specifying the nature of the local occupancy.

Local affordable housing: limited to local people in identified need of affordable accommodation. Tenure can be social rented, shared ownership or low cost starter homes.

Including 'affordability' in the criteria can be significant to the local community. As a result of categorising a property as just 'local needs housing', the value of the unit may be lowered by up to 15 per cent. However, for many local people this is still unobtainable due to their low wages.

Restricted occupancy mechanisms

Restricted occupancy conditions tend to be enforced in England and Wales through S106 agreements which allow the local planning authority to enter into a legally-binding agreement or planning obligation with a developer over a particular set of issues. S106 agreements are also often in place on exception sites which enable the authority to grant planning permission for small sites which the local plan would not otherwise release for housing

Key benefits of Section 106 agreements

- Allow restrictions on the occupation of land.
- Allow development on sites in expensive high pressure areas.
- Contribute to the government's mixed communities agenda.

Key criticisms Section 106 agreements

- Lack of transparency and uncoordinated approach on the part of the local authority.
- A time consuming process.
- Lack of clear government guidance.

Key benefits of exceptions policies

- Policies allow housing to be provided in small, remote settlements.
- The land is only released where there is a proven local need for affordable housing which will remain so in perpetuity.
- Non-housing land generally has lower value.

Key criticisms of exceptions policies

- Failure to ensure unit affordability.
- Low volume of units created.
- Restrictions on land availability.
- Time consuming process.

Mechanism appraisal

The suggestion in the literature is that the success of S106 agreements tends to be limited to delivering housing in larger settlements whereas the exception site policies are useful in delivering housing to smaller settlements.

It is reported that in many cases S106 agreements are the only way in which affordable housing can be provided in many high pressure areas as part of larger private developments.

Many exception sites are transferred to registered social landlords as they are considered the best way to maintain the houses for local affordable need.

It is noted within the literature that securing more affordable homes through S106 depends heavily on the housing market. A downturn would make it harder, putting the output of new affordable housing at risk.

A lack of local residents that fit the criteria can be challenging. A cascade approach is usually deemed within the literature to be the best way to deal with this problem for both private and social rented housing. The most problematic issue observed is timing. The local population want to wait for someone fitting the criteria, however, financial stakeholders in the development want the units to be filled as quickly as possible.

An evaluation of 'Local Lettings Initiatives' (LLI) was carried out by Robert Gordon's University, Aberdeen. The evaluation highlighted the apparent tensions between letting property to local people as opposed to those in the greatest need. The researchers felt that the policy contravened guidance from the Scottish Federation of Housing Associations. They also believed that there is little evidence to support the view that LLI make any serious contribution to sustaining local communities and suggested that only an increased supply of housing will have any real effect.

A study into social housing in rural areas by the University of Newcastle, commented that the imposition of 'local need' conditions had mixed implications. They were at times seen to be more sensitive to local opinion. However they created difficulties for RSLs finding tenants. It was also reported that they may also make it more difficult to attract private finance for development. It concluded that the overall effect can be exclusionary, ignoring housing needs in the wider area.

Sensitivities

Restricted occupancy conditions provoke a polarised reaction. Many are in favour of the policies, however, concerns have been raised regarding the unwillingness of developers to build where artificially lowered prices diminish the return on their investment. There are also concerns that developers will cut back on development costs leading to long-term aesthetic and sustainability problems, This would impact on the availability and quality of housing, making housing supply problems worse.

Despite these criticisms, the main restrictions to providing local affordable needs housing in rural areas are not the mechanisms themselves, but the crucial issues of land supply, prioritisation of the environment, lack of funding, and development difficulties.

National Park experience with restricted occupancy conditions

In contrast to academic opinion, National Parks that have had practical experience with local occupancy conditions tend to be more optimistic. However, that is not to say that they haven't been without criticism.

Low rate of completion

Low rate of completion has been reported in both the public and the private sector. However, it has to be taken into account that the amount of housing developed within the National Park boundaries has always been significantly less than that in other rural areas.

Lack of intermediate housing options

The majority of new stock with local occupancy conditions is social rented housing. Developers have complained that other housing options are not being fully considered.

Maintaining affordability

In some cases local occupancy conditions have not reduced land prices as much as had been expected.

NIMBY-ism

People seem to be in favour of local occupancy conditions until a site is selected near their particular town or village. Developers and private individuals complained that it devalues their property.

Other National Park policy interventions

Restricting the size of new build houses is a policy which has been rolled out across many of the English parks. Planning conditions are placed on all new builds in order to maintain the value below a certain threshold. The average size limit reported by parks using restrictions is around 90 square metres. This can be coupled with the removal of permitted development rights to extend. Theoretically these restrictions should tackle the issue of resale as well as requests for the removal of restricted occupancy conditions as properties should remain within a certain price range. Other parks have suggested that they might consider this in the future.

Conclusion

The following can be observed from the literature regarding the English and Welsh experience:

- Despite some controversy the majority of parks use local occupancy conditions and reported that although time intensive for all involved, the process provided small but significant gains for the local community when targeted at specific areas.
- Understanding and support is likely to increase if the public are assured that blanket policies will not be imposed and that housing with local occupancy conditions attached will remain affordable for local people in perpetuity.
- Detailed housing surveys at the local level are essential in order to determine where the local affordable need housing is required and therefore where to place the conditions.
- Improvement is needed to streamline existing mechanisms in order to increase productivity.
- Tying local occupancy policies to local affordable need is important. This avoids the policy being viewed as insular and exclusionary and targets the housing at those who need it most while leaving the majority of housing stock free from restrictions.
- There is a need for effective joint working between the different parties involved. A forum for all parties may be a positive contribution.
- The negotiation process may be improved by increased knowledge of housing and land markets by local authorities.

- Community consultation and active support by the local authority may be useful in tackling the stigma of social housing.

Looking forward

Scottish National Parks are in their formative years. Information about the English and Welsh experience may be relevant for the Cairngorms and Loch Lomond & Trossachs National Parks which are in the process of developing their local plans.

About the study

Research was conducted by Heather Smith for Communities Scotland. It involved: one-to-one phone interviews with planning officers from all National Parks; a review of National Parks local plans; discussions with housing associations regarding local lettings initiatives; and an investigation into various academic publications and government legislation.

Related research

Best R and Shucksmith M (2006) *Homes for Rural Communities*, Joseph Rowntree Foundation.

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Gallent N and Bell P (2000) *Planning Exceptions in Rural England: Past, Present and Future*, Planning Practice & Research, Vol 15, No. 4.

Oxford Brookes University/Sheffield Hallam University (2006) *The Provision of Affordable and Supported Housing in England's National Parks*, Housing Corporation/The Countryside Agency.

Richards F and Satsangi M (2004) *Importing a Policy Problem? Affordable Housing in Britain's National Parks*, Planning, Practice & Research, Vol. 19, No. 3.

Further Information

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