

# Chichester District Council

## The Cabinet

### Designated Protected Areas – Policy for applying for a Waiver

#### 1. Contacts

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#### 2. Recommendation

- 2.1 That Cabinet recommend to Council the introduction of a policy for determining applications to Homes England seeking a waiver in Designated Protected Areas (DPA), as attached at appendix 1.
- 2.2 That Cabinet recommend to Council that delegated authority be granted to the Divisional Manager for Housing, Revenues and Benefits to make minor changes to the policy and as set out in section 5 of the policy.

#### 3. Background

- 3.1 DPA's came into being on 7 September 2009 by virtue of sections 300-302 of the Housing and Regeneration act 2008. The principal objectives were to restrict the staircasing of shared ownership houses to a maximum of 80% and to ensure the retention of shared ownership homes in areas where it would be hard to replace if lost through 100% staircasing.
- 3.2 The areas under which this restriction applies is set out in The Housing (Right to Buy) (Designated Rural Areas and Designated Regions) (England) Order 2016 SI 2016 No 587 (the Order), which came into force on 20 June 2016, was made by the Secretary of State in the exercise of powers conferred by section 157 (1) (c) and (3) of the Housing Act 1985, following an application by Chichester District Council (the Council) to designate such areas.
- 3.3 The legislation requires the lease to contain provision either to restrict the staircasing or where this is permitted for the landlord, specified in the lease, to repurchase the property when the leaseholder wishes to sell.
- 3.4 Since the introduction of DPA's it has become evident that the policy aim of retention of stock is not an issue in all DPA's and proposed development indicates that shared

ownership homes would not be hard to replace.

#### **4. Issues to be addressed**

- 4.1 The restrictions on staircasing limits the availability of mortgages and potential buyers have found it harder to secure a mortgage, or if they are able to it can be at less favourable rates. Registered Providers (RP's) have also raised concerns with Homes England around their financial ability to guarantee buying back properties. In recognition of these issues, Homes England has determined that under certain conditions a waiver to lift these restrictions may be sought.
- 4.2 The implementation of this policy will ensure an agreed, consistent approach is taken when the Council is approached by RP's requesting the Council to seek a waiver.

#### **5. Proposal**

- 5.1 Following a review of affordable housing stock across the district and forthcoming developments, in particular the location of strategic sites a list of parishes where waivers will be sought has been drawn up. See appendix 1.
- 5.2 In areas where new development is likely to be limited and where there are only a small number of shared ownership homes the Council will not seek a waiver, except under exceptional circumstances.
- 5.3 In areas where development is more likely to come forward, and where there is a healthy supply of shared ownership properties, or where an area has been allocated a strategic site then an application for a waiver will be supported by the Council.

#### **6. Alternatives Considered**

- 6.1 The Council could choose not to introduce a policy; however, this would leave the Council open to challenge when determining requests from RP's. The introduction of a policy clearly outlines the Council's position and process for dealing with applications and provides clarity for both council officers and RP's.
- 6.2 The Council could consider a more restrictive policy preventing the application for any waivers in DPA's, however such restrictive practice could result in RP's not purchasing the affordable homes in such areas or limiting a wider range of mortgage choices for potential purchasers.

#### **7. Resource and Legal Implications**

- 7.1 If the Council did not have a policy any decisions made to seek or not to seek a waiver could be open to challenge by RP's.

#### **8. Consultation**

- 8.1 Legal Services and the Housing and Communities Panel have been consulted on the policy proposal.

## 9. Community Impact and Corporate Risks

- 9.1 The retention of affordable homes in rural areas helps to ensure mixed, balanced, and sustainable communities, enabling waivers to be sought in areas where there is increasing stock of affordable homes to buy ensure a wider choice of mortgages for those whose options are already limited.

## 10. Other Implications

	Yes	No
<b>Crime and Disorder</b>		√
<b>Biodiversity and Climate Change Mitigation.</b>		√
<b>Human Rights and Equality Impact.</b> Applications to apply for a waiver must be fully considered as failure to do so may have adverse implications.	√	
<b>Safeguarding and Early Help</b>		√
<b>General Data Protection Regulations (GDPR)</b>		√
<b>Health and Wellbeing.</b> As above having a decent home is core to health and wellbeing.	√	
<b>Other</b> (please specify)		

## 11. Appendices

Appendix 1 – Designated Protected Areas policy

## 12. Background Papers

None