

Designated Protected Areas of Chichester

Policy for DPA Waivers

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1. Introduction

- 1.1 Designated Protected Areas (DPA) came into being on 7 September 2009 by virtue of sections 300 to 302 of the Housing and Regeneration Act 2008, which amended the Leasehold Reform Act 1967. There were two principal policy objectives: to remove the risk of enfranchisement for shared ownership houses where staircasing is restricted to a maximum of 80% and to ensure retention of shared ownership homes in areas where it would be hard to replace if lost through 100% staircasing.

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. The Order sets out areas within various districts, which include Chichester District.

- 1.2 The legislation requires the lease to contain provisions either to restrict staircasing to no more than 80% or that in instances where the leaseholder is permitted to acquire more than 80% (i.e. up to full ownership), then there is an obligation on the landlord (or a designated alternative landlord) specified in the lease to repurchase the property when the leaseholder wishes to sell.
- 1.3 It has become evident that for some of the areas which are now covered by DPA status, the policy aim of retention of stock is not an issue or the proposed development indicates that shared ownership homes would not be hard to replace.
- 1.4 In these circumstances a Registered Provider¹ (RP) can apply to the local authority to seek a waiver from Homes England, using the application form at appendix 2.
- 1.5 This policy sets out the circumstances where Chichester District Council (the Council) will request from Homes England that a waiver be granted on the restrictions on 'staircasing' (the process of shared owners purchasing additional shares in their properties from the RP). This will enable 100% of the equity, rather than the 80% restricted limit to be made available for purchase, where appropriate, for qualifying households.

2. The Issues

- 2.1 Ninety-four % of the Chichester District is designated as rural; typically, these are areas where the population is less than 3,000. In some of these areas, Westhampnett being one example, the Local Plan has designated strategic housing sites which are included in the DPAs. DPAs are not intended to cover 'rural' areas which become urban or suburban areas.
- 2.2 The legal relationship between RPs and Homes England in respect of their grant-funded delivery programme of affordable homes requires the lease to include a

¹ Means a person listed in the register of providers of social housing established under Chapter 3 of Part 2 of the Housing and Regeneration Act 2008

restriction on the staircasing, along with a clause that the RP will buy back a property should the owner wish to sell.

- 2.3 Restrictions on staircasing limits the availability of mortgages and some potential buyers will find it harder to secure a mortgage or if they can it will usually be at less favourable interest rates. There are only a small number of lenders prepared to lend on restricted leases and RPs have also raised concerns over their financial ability to guarantee buy back properties.

3. The Council's Approach.

- 3.1. The Council is committed to retaining affordable housing in its rural areas, particularly where forthcoming development is limited, and the prospect of replacement is low.
- 3.2. The Council has reviewed the current location of affordable housing stock and forthcoming developments, and in particular the location of strategic sites. This information has been used to assess the areas designated under the legislation and their suitability for an application to Homes England for a waiver.
- 3.3. In areas where new development is likely to be limited and where there is only a small number of shared ownership properties the Council will not, save in exceptional circumstances (see para 4.4 below), support an application to Homes England for a waiver. Such areas are denoted red in the colour-coded key in Appendix 1 to this policy.
- 3.4. 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. Such areas are denoted yellow or orange in Appendix 1 to this policy.

4. Application to Homes England

- 4.1. Where a RP wishes to seek a DPA waiver it must approach the Council with details of the development and a site location plan which clearly outlines the area to which the waiver is requested to be applied. The Housing Delivery Team will be responsible for processing the application in line with this policy acting in accordance with nominations made by the Director of Housing and Communities pursuant to delegated authority conferred by the Council's constitution.
- 4.2. If the development falls within one of the locations 'pre-approved' by the Council, then an application will be made by the Council to Homes England using the form attached as Appendix 2.
- 4.3. If the development falls within an area not approved by the Council, then the RP will be informed that the Council is unable to support the application, save where exceptional circumstances are deemed to exist (see para 4.4 below).

- 4.4. The Council may, in exceptional circumstances, use its discretion to seek a waiver from Homes England in an area which ordinarily it would not support an application for a waiver. An example of an exceptional circumstance might be where an RP is bringing forward a land-led 100% affordable scheme.

5. Monitoring and Review

Over time, as the Council's Local Plan is reviewed and updated new strategic sites may emerge. Where this happens the Council's Housing Delivery team will review and update the approved list of locations where a waiver may be supported in consultation with the Divisional Manager for Housing, Revenues and Benefits. This policy will be reviewed on a three-yearly basis (unless particular circumstances require an earlier review).

Appendix 1 – Designated Protected Areas

Parish	Current Shared Ownership Units
Appledram	1
Barlavington	
Bepton	
Bignor	
Birdham	18
Bosham	1
Boxgrove	2
Bury	
Chichester	393
Chidham and Hambrook	14
Cocking	4
Compton	
Donnington	12
Duncton	
Earnley	
Eartham	
Easebourne	3
East Lavington	
East Dean	
East Wittering and Bracklesham	44
Ebernoe	
Elsted and Treyford	
Fernhurst	21
Fishbourne	17

Key



Within a DPA but do not (save in exceptional circumstances) recommend waiver.

Area not covered by DPA.

Area partly covered by DPA, allow waiver on large or strategic sites.

Area in DPA, recommend waiver due to current stock and forthcoming developments.

* Selsey (where DPA applies) to be included in waiver recommendations

Fittleworth	
Funtington	
Graffham	
Harting	
Heyshott	
Hunston	1
Kirdford	6
Lavant	11
Linch	
Lynchmere	
Lodsworth	
Loxwood	17
Lurgashall	
Marden	
Midhurst	33
Milland	
North Mundham	13
Northchapel	2
Oving	99
Petworth	8
Plaistow & Ifold	
Rogate	
Selsey*	31
Sidlesham	
Singleton	
Southbourne	77
Stedham with Iping	
Stoughton	
Stopham	
Sutton	
Tangmere	30

Tillington	1
Trotton with Chithurst	
Upwaltham	
West Itchenor	
West Lavington	
West Dean	4
West Wittering	6
Westbourne	9
Westhampnett	55
Wisborough Green	6
Woolbeding with Redford	
Total	939