

DECISION TAKER: Cabinet Member for Housing and Asset Management

REPORT TITLE: DESIGNATED PROTECTED AREA WAIVER

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WARD(S): WHITELEY AND SHEDFIELD

PURPOSE

To consider the lifting of the Designated Protected Area status in respect of the affordable shared ownership homes which are being delivered across the North Whiteley Major Development site

RECOMMENDATIONS:

1. Authorise the Service Lead, New Homes Delivery to submit an application to Homes England to lift the Designated Protected Area Status in respect of the North Whiteley development site

IMPLICATIONS:

1 COUNCIL PLAN OUTCOME

- 1.1 The report contributes to delivering on providing `Homes for All` a priority in the Council Plan 2020-2025.
- 1.2 It also contributes to delivering energy efficient, affordable, modern homes where residents can Live Well avoiding the stresses of unaffordable costs related to their housing.

2 FINANCIAL IMPLICATIONS

- 2.1 There are no direct financial consequences for Winchester City Council for applying to Homes England for the Designated Protected Area status to be lifted.
- 2.2 If Homes England agree to the lifting of the Designated Protected Area status then the shared ownership affordable homes will be more affordable and more accessible to those households in housing need, as described below. Although there are lenders that households could go to for a mortgage there are a lot fewer than if the Designated Protected Area is lifted and lenders will often not provide a large number of mortgages on the same site.
- 2.3 Given the time scale for the development and based upon the negotiations that occurred before 2018 when the legal agreement was signed then a further 43 shared ownership properties will be delivered giving purchasers the opportunity to buy a shared ownership home and meaning that Winchester City Council will not have to expend funds in order ensure that shared ownership homes remain on the site

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 In Designated Protected Areas, providers of shared ownership homes must either restrict staircasing of shared ownership homes, which means residents can only purchase up to 80% of their home, or the Registered Provider (RP) must agree to buy back the property.
- 3.2 The Housing (Right to Enfranchise) (Designated Protected Areas) (England) Order 2009 Regulations is in place to ensure that rural affordable housing – specifically grant-funded shared ownership properties - remains in the ownership of local people. Where that is the case, providers are required to offer grant-funded shared ownership properties with a lease that contains restricted provisions.
- 3.3 Homes England has recognised that the Designated Protected Area provision potentially creates problems and established a wavier process whereby by a Local Authority submit a request to waive the Designated Protection Area conditions of grant relating to designated protected areas where the policy aim of the retention of affordable housing stock is not an issue.

4 CONSULTATION AND COMMUNICATION

4.1 Consultation occurred with Whiteley and Shedfield district councillors on 25.1.22.

5 The consultation took the form of a briefing note sent to councillors and the response from Councillor Bentote was that a waiver should be applied for.

6 ENVIRONMENTAL CONSIDERATIONS

6.1 There are no Environmental considerations

7 EQUALITY IMPACT ASSESSEMENT

7.1 There is no impact on those with a protected characteristic, although removing the DPA makes the shared ownership homes available to a wider group of people, particularly those with little savings for a deposit.

8 RISK MANAGEMENT

8.1 The principle risk is to the Council's reputation if the Shared Ownership Homes either cannot be easily sold or they are not affordable for people registered on the Help to Buy Register.

Risk	Mitigation	Opportunities
Financial Exposure	The Local Authority will not be financially exposed. If the DPA is waived, there will still be the opportunity to purchase a shared ownership home at this site, with households being able to easily obtain a mortgage and for more households in housing need to be assisted as the properties will be more affordable.	n/a
Exposure to challenge	n/a	
Innovation	n/a	n/a
Reputation	If the Affordable Housing cannot be delivered this would reflect poorly on Winchester City Council.	Improved marketability would avoid reputational risk
Achievement of outcome	Adoption of process to achieve lifting of DPA	

	status	
Property cannot be sold	Lifting of Designated Protected Area status allows for improved marketability	
Community Support	See consultation section	
Timescales		
Project capacity		
Other		

9 OTHER KEY ISSUES

9.1 None

10 SUPPORTING INFORMATION:

10.1 The site at Whiteley, has outline planning permission for 3500 properties, with 15% and a financial contribution being for affordable housing. Of this 15%, 25% are designated as being for shared ownership or 111.25 properties.

10.2 The proportion of affordable homes that is required at this site is quite low, but since the planning stage many of the Open Market homes have been purchased by affordable housing providers and converted to Shared Ownership homes and the developers have altered many of the Discount Market Sale affordable homes to Shared Ownership properties. These processes have meant that an additional 285 shared ownership homes will come forward as at 17.1.22 with the site scheduled to deliver new homes over several more years.

10.3 The most recent Designated Protected Areas (DPA) Homes and Community Agency policy guidance from 2016 explains that DPAs were introduced in September 2009 to protect shared ownership homes being lost to the open market where they would be difficult to replace. The designated areas were aligned with those exempt from the Right to Acquire, based on maps dated 1991. If any homes were lost to the open market (though very few occupiers actually purchase the whole property), planned development elsewhere in the parish means that shared ownership accommodation would still be available in this location.

10.4 There are a very limited number of lenders for mortgages where households can only purchase a proportion of the property due to the DPA status (based upon recent experience on another site within the Winchester District, there were 2 as opposed to over 20 according to information supplied to the Council's Home Ownership Officer by an independent financial advisor) and they required a higher deposit to reduce their perceived risk (15% of the share that is purchased rather than between 5 and 10%). Also lenders will not want to provide a large number of mortgages on the same site. All of these issues

mean that it is extremely difficult to obtain a shared ownership mortgage where there is a limit to the proportion of the property that can be purchased.

- 10.5 Homes England has agreed a waiver process such that if the Local Authority (LA) determines that the site does not require protecting, it can apply for a waiver from the HCA's successor body (Homes England).
- 10.6 There is great concern at the lack of affordability of the shared ownership homes at North Whiteley if the DPA remains in place with such a high deposit being required. There is concern that the high deposits will severely compromise the ability to sell the homes.
- 10.7 In order for housing needs to be met in this location it is requested that a waiver for the DPA is applied for.

11 OTHER OPTIONS CONSIDERED AND REJECTED

- 11.1 The other option that has been considered is to not apply for a waiver. This has been rejected because it may mean that the affordable homes are more expensive and so fewer households in housing need could be assisted. The main problem is caused by the level of the deposit that is required by lenders for potential applicants looking to purchase shared ownership new build properties with an 80% restriction.
- 11.2 These two lenders require a deposit of at least 15% of the value of the share of the property that is to be purchased on a Shared Ownership basis. Based upon the modelling that has been carried out using values derived from an affordable provider delivering shared ownership homes at North Whiteley, if a 40% share were to be purchased for a mid-terraced 2 bedroom house valued at £303,010 with no restriction, then a deposit of between £6,060 and £12,120 would usually be needed. Given the above information a lender would require a minimum deposit of £18,180.60 for a similar property with an 80% restriction due to the DPA status.
- 11.3 As at 17 January 2022, of the applicants to Help to Buy South, (the national government agency for Shared Ownership in this area and the register used to obtain households for shared ownership) wanting to live in the Curdrige and Whiteley area and wanting a 2 bedroom property, only 24 households have sufficient savings to meet the restricted staircasing deposit requirements.
- 11.4 In considering non-restricted shared ownership mortgages there are over 20 mortgage lenders, hence there are more lenders to choose from. At present, the deposit that these lenders require is between 5 and 10%.
- 11.5 As stated above the current Winchester City Council Local Plan allocates the North Whiteley site for development which will occur over a number of years. Therefore there will be shared ownership homes available for future

occupiers. There will therefore be an opportunity for those households taking up shared ownership homes to be assisted in this location.

- 11.6 It is considered that the removal of the DPA will assist in the delivery of these shared ownership homes and allow these homes to be afforded by applicants in housing need. The impact of removing the DPA for this site is negligible, given the number of units involved, and the planned new homes. Very few shared owners purchase 100% of their homes. Therefore if the DPA is removed, the loss of shared ownership homes to the open market is likely to be insignificant. To not seek a waiver of the Designated Protected Area status would possibly mean that shared ownership affordable housing could not be sold so that providers would be financially penalised or the homes would not be available to those with a housing need.

BACKGROUND DOCUMENTS:-

Previous Cabinet/Committee Reports or Cabinet Member Decisions:-

There are no other committee reports relating to this DPA issue

Other Background Documents:-

None

APPENDICES:

None