

TEIGNBRIDGE DISTRICT COUNCIL

EXECUTIVE PART 1

31ST OCTOBER 2019

Report Title	DESIGNATED PROTECTED AREAS (DPA) IN TEIGNBRIDGE.
Purpose of Report	To seek approval for the Housing Service to request waivers from Homes England regarding the lifting of Designated Protected Area status in urban area of Teignbridge in respect of Shared Ownership housing.
Recommendation(s)	<p>The Executive is recommended to :</p> <p>Authorise the Housing Enabling and Development Manager to make applications in consultation with Portfolio Holder for Housing, when necessary, to Homes England to waive Designated Protected Area status in towns and villages with a population of above 3,000 in Teignbridge.</p> <p>Where waivers are required in towns and villages with less than 3,000 population, a report shall be brought to Executive for consideration</p>
Financial Implications	(Comment on financial implications from Finance) Andrea Snape, Accountant. Tel: 01626 215261 Email: andrea.snape@teignbridge.gov.uk There are no financial implications for Teignbridge.
Legal Implications	Paul Woodhead Legal services Team Leader and Deputy Monitoring Officer 01626215139 paul.woodhead@teignbridge.gov.uk Section 2.1 and 2.2 detail the legal background to the ability for Officers to make this request which is not currently covered by the Councils schedule of Delegated Authority.
Risk Assessment	The only risk is that a small number of shared ownership occupants may have the ability to purchase 100% of their shared ownership property thus reducing the stock of intermediate affordable housing in Teignbridge. This is offset by the capital receipt being available to the Registered Provider to use for the provision of replacement affordable housing.
Environmental/ Climate Change Implications	There are no implications.
Report Author	Graham Davey, Housing Enabling and Development Manager Tel: 01626 215412 Email: graham.davey@teignbridge.gov.uk
Portfolio Holder	Councillor Jackie Hook Portfolio Holder for Climate Emergency and Housing
Appendices	Homes England (formerly Homes and Communities Agency) Waiver Request Form.
Background Papers	Homes England Protected Areas and Leasehold enfranchisement: Explanatory note.

1. PURPOSE

- 1.1 To delegate to the Housing Enabling and Development Manager the authority to request waivers on the restrictions on “staircasing” (the process of shared owners purchasing additional shares in their properties from the Housing Association from the original purchase percentage, usually 40%) of shared ownership affordable homes in urban areas of Teignbridge, including the Local Centres and Rural Settlements in the Dartmoor National Park, and in the South West Exeter development area. 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. REPORT DETAIL

- 2.1 The Designated Protected Areas (DPA) were introduced in September 2009 to protect shared ownership homes being lost to the open market where they would be difficult to replace. Sections 300 to 302 of the Housing and Regeneration Act 2008 enables the Secretary of State to designate ‘Protected Areas’. The designated areas were set out in The Housing (Right to Enfranchise) (Designated Protected Areas) (England) Order 2009 (SI 2009 No. 2098). The exempted maps and parish lists were taken from the rural settlements exempted from the Right to Acquire in the 1990s, based on maps dated 1992. Maps of currently exempt areas can be found at <https://digitalservices.homesengland.org.uk/designated-protected-areas/>
- 2.2 Designated Protected Area Regulations were put in place at a time when shared ownership properties were becoming a viable tenure and were being delivered through central government grant funding. The intent was to ensure that rural affordable housing – specifically grant-funded shared ownership properties - remain available for part-purchase for qualifying households. Housing providers are required by Homes England to offer a lease that contains 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 that commits them to repurchase the property when the leaseholder wishes to sell.
- 2.3 Though the legislation and guidance from Homes England is in relation to grant-funded shared ownership homes, we have recently been advised by Homes England that this applies equally to nil-grant schemes delivered through Section 106 Planning Agreements which are part of Registered Providers Delivery Programme with Homes England. Legislation provides an opportunity to request exceptions to this via a waiver request, and a copy of the Waiver Request Form has been appended to this report. (Appendix A)

- 2.4 Shared ownership has been designed to help households to take a step on the ladder of homeownership when otherwise buying a home would be out of their means. Shared ownership purchasers qualify via local connection requirements and financial eligibility as assessed by the Help to Buy Agency South West.
- 2.5 So what is the issue?**
- 2.6 The current Local Plan policies stipulate that based on need, 30% of all new affordable housing provided “on site” should be of an intermediate tenure (usually meaning shared ownership).
- 2.7 Restrictions on “staircasing” limits the availability of mortgages for most applicants, and some potential buyers will find it harder to secure a mortgage or at less favourable interest rates.**
- 2.8 For some of the areas which are covered by Designated Protected Area status, the policy aim of retention of stock is no longer an issue. These include many town sites developed in the 1990s, urban fringe sites recently delivered and under construction, and new urban extensions such as development at South West Exeter. In addition, several applications are currently being considered, including those in Ashburton, Buckfastleigh and Moretonhampstead, where shared ownership provision is being planned as a route to access affordable housing for local families. In these areas the scale of development and affordable housing agreements indicate that shared ownership homes would not be hard to replace.
- 2.9 At the 2011 Census there were 495 shared ownership households in Teignbridge (ONS). Since then more than 300 shared ownership dwellings have been completed and there around 280 additional intermediate dwellings agreed in Teignbridge (via Section 106). This doubling of shared ownership provision has primarily been through nil-grant units delivered by Section 106 agreement.
- 2.10 Councils may apply to Homes England to waive the Designated Protected Area status for specific developments or areas. The Housing Service has no authorisation to make such application, and the Executive is being asked to delegate power to make application for waivers when appropriate.
- 2.11 So what does this mean for Teignbridge?**
- 2.12 Generally speaking towns and villages in Teignbridge with populations over 3,000 are not covered by these regulations, however the remainder of Teignbridge is. The Teignbridge Local Plan has many site allocations surrounding our towns which are currently covered by these regulations such as South West Exeter (SWE1) Attached to this report as Appendix A is the Homes England (formerly Homes and Communities Agency) Waiver Request Form. Page 3 of the document (items 4,5 and 6) explain that these regulations are not intended for “rural” areas which become urban areas or suburban sites.
- 2.13 In simple terms these regulations cover the legal relationship which Registered Providers have with Homes England in respect of their grant funded delivery programme of affordable homes. If the shared ownership properties are built in an area covered by the historic maps then the regulations apply unless the

Registered Provider requests a waiver. The waiver requires the approval of the Local Authority and therefore this is why the Registered Provider has to request that the Council make the Waiver request.

2.14 Why is it an issue?

2.15 Item 5 from the document referred to above states ***“Registered providers developing grant funded shared ownership housing where staircasing is restricted can sometimes be affected by the limited availability of mortgages for purchasers; also many providers have raised concerns over their financial ability to guarantee to buy back properties as required by the shared ownership lease if the leaseholder wishes to sell”***. This is the view held by the Registered Provider partners who work in Teignbridge. Therefore, Officers need the ability to act upon these requests should they be made.

2.16 What about the Dartmoor National Park Authority?

2.17 The DNPA also recognise this as an issue and have added policy in their draft Local Plan 2018 – 2036. Policy 3.1.11 states ***“an overly restrictive agreement can mean a development or property cannot be financed and therefore prevent the development going ahead”*** 3.1.12 2. ***100% staircasing will be allowed in Local Centres and Rural Settlements”***

2.18 It is anticipated that in the first instance waivers will be requested for those areas allocated for housing within the Councils Local Plan and DNPA Local Plan in which negotiations for delivery of affordable housing are ongoing.

2.19 Waiver requests in rural areas of the district (outside settlements) are not anticipated. In the event a waiver is required for a rural settlement (population under 3,000) officers propose bringing a report to the Executive to consider the proposal. For clarity, the urban settlements for which delegated powers are likely to be sought are:

Ashburton	Buckfastleigh	Chudleigh
Dawlish	Kingskerswell	Kingsteignton
Moretonhampstead	Newton Abbot	Teignmouth

2.20 For the sake of clarity we wish to point out that waiving of Rural Protection Areas for “staircasing” does not impact any affordable housing contracts or covenants or any residual restrictions on right to acquire social or affordable rented housing.

3. MAIN IMPLICATIONS

3.1 As stated above, Designated Protected Area conditions affect some Affordable Housing Providers’ interest/ability to bring forward the shared ownership units.

3.2 Mortgage provider limitations further restricts access to shared ownership properties for qualifying households. Within some of the smaller communities, in particular in the National Park, where young families are living with relatives or in private rental, shared ownership is the only route into housing in their community. Flexibility via DPA waivers will support affordability, choice and

opportunity for prospective buyers of the shared ownership properties and will support Affordable Housing Providers' business cases in proposed delivery.

- 3.3 There is no data available on the likely take-up of 100% "staircasing" though several Councils in Devon and the Southwest have applied for waivers to restrictions. Registered Providers working in Teignbridge report anecdotally that "staircasing" out tends to occur when a household is seeking to move on to market housing following a period of acquiring increasing shares in their home. However these instances are very rare and have very little impact upon the level of shared ownership stock in the District.
- 3.4 Allowing the Housing Service to request waivers to "staircasing" restrictions will support ongoing delivery of intermediate affordable housing and provide qualifying local families with greater opportunity and flexibility in housing options.
- 3.5 Where residents do staircase the receipt received by the Registered Provider is known as Recycled Capital Grant Funding. This is normally used by the Registered Provider to reinvest in the provision of replacement affordable housing. Indeed Teignbridge have benefited from this reinvestment on a number of schemes.

4. GROUPS CONSULTED

- 4.1 The Teignbridge Affordable Housing Partnership strongly supports having the ability to request waivers as this will improve their ability to deliver.
- 4.2 Dartmoor National Park Planning Officers support the scheme and have specifically requested waivers for selected developments where restrictions on "staircasing" limit access to housing for qualifying families (through mortgage restrictions etc) and where affordable housing providers need the option of 100% "staircasing" to achieve development financing.
- 4.3 Teignbridge Planning Officers support having greater flexibility in negotiating provision of developer contributions for affordable housing.

5. TIME-SCALE

- 5.1 At the request of our Housing Association partners Housing Officers wish to submit initial applications to waive DPA "staircasing" restrictions this autumn. The first waivers will be for specific sites where affordable housing contributions are being negotiated and to bring the South West of Exeter development area out of the rural protection area.

6 FINANCIAL IMPLICATIONS

- 6.1 There are no costs associated with waiver status, and as the Council own no Intermediate Affordable Homes there is no financial impact upon the Council.

7. CONCLUSION

- 7.1 Neither the Housing Service nor Homes England would normally be advocating policies which open affordable housing up to the possibility of not being retained in perpetuity. However the current financial climate means that to deny this option potentially closes the ability to deliver shared ownership housing or if, where possible, can make this type of tenure more expensive for prospective purchasers by subjecting them to a smaller pool of mortgage providers and potentially higher interest rates.