

PC 429/23

NEW FOREST NATIONAL PARK AUTHORITY

PLANNING COMMITTEE MEETING – 15 AUGUST 2023

DPA WAIVER REQUEST – CHURCH LANE, SWAY

Report by: David Illsley, Policy & Conservation Manager

1. Introduction

- 1.1 Shared ownership schemes are integral to the Government's objective of delivering more affordable homes and increasing home ownership. Purchasers typically buy an initial minimum share of 25% of the equity of a home owned usually by a Registered Provider and pay rent on the remainder. The leaseholder may then buy further equity shares (known as 'staircasing') until the property is owned outright.
- 1.2 Sections 300 to 302 of the [Housing and Regeneration Act 2008](#) enable the Secretary of State to designate 'Protected Areas' ('DPAs'), which have the effect of ensuring shared ownership houses are retained as such in areas that they would be difficult to replace (such as National Parks). The policy objectives behind the Act aim to ensure that shared ownership houses in areas where they would be difficult to replace are not subject to the general Government aim to enable leaseholders to gain full ownership (i.e. 'staircase' to 100%).
- 1.3 The Act and associated Regulations and Order relating to DPAs are designed to have a positive impact on the provision and retention of shared ownership houses by: (i) providing greater certainty for housing and planning authorities that proposals for shared ownership homes in areas with identified need, where opportunities to build are scarce, can be brought forward without the risk of those homes being lost to the open market; and (ii) enabling an increase in the availability of land due to landowners having greater assurance that the homes will be retained as affordable in perpetuity.
- 1.4 The [Housing \(Right to Enfranchise\) \(Designated Protected Areas\) \(England\) Order 2009](#) lists all the DPAs. This includes over 20 parishes within the New Forest National Park, including the parishes of Ashurst & Colbury, Brockenhurst, Lyndhurst and Sway – the four defined villages in the adopted Local Plan (2019) and settlements where four of the five Local Plan housing allocations are located. For dwellings within a DPA, the associated Regulations - The Housing (Shared Ownership Leases) (Exclusion from Leasehold Reform Act 1967) (England) Regulations 2009 - envisage that landlords include in the shared ownership lease conditions that either:
 - restrict the leaseholder's equity share to a maximum of 80%; or
 - ensure that, following the leaseholder's acquisition of 100% of the house, once it becomes available for resale it is sold back to the landlord.
- 1.5 Homes England has agreed that under certain conditions, it is able to waive the particular conditions relating to DPA status. Further details are available at [Designated Protected Areas - GOV.UK \(www.gov.uk\)](#) and any such requests for a waiver must be made with the support of the relevant planning authority. Therefore any request for a DPA waiver for development sites within the boundary of the New Forest National Park require the support of the National Park Authority in our capacity as the sole planning authority for the National Park area.

2. Request for Authority support for a DPA waiver request – Church Lane, Sway

- 2.1 The Government's [National Parks Circular](#) (2010) confirms that National Park Authorities have a key role as planning authorities for their areas, but they are neither housing authorities nor housing providers. Paragraph 79 states, '...the Government expects the [Park] Authorities to maintain a focus on affordable housing and to work with local authorities and other agencies to ensure that the needs of local communities in the Parks are met and that affordable housing remains so in the longer term.'
- 2.2 The delivery of affordable housing for people in identified need in the National Park is a major driver behind the policies in the adopted New Forest National Park Local Plan (2019). The greenfield housing allocations at Ashurst, Fawley and Sway amount to over 200 dwellings and set a policy target of 50% on-site affordable housing delivery. Land at Church Lane in Sway is allocated for around 40 dwellings through policy SP25 in the adopted Local Plan. Planning application 21/00743 sets out proposals for 46 dwellings on the site, including 50% on-site affordable dwellings. The application was considered by our Planning Committee in August 2022 (see Annex 1 for site plan), which delegated authority to officers to grant permission subject to the completion of the necessary legal agreement. The application was submitted by Hurst & Hurst, working with Vivid Homes.
- 2.3 Following discussions with New Forest District Council (in its capacity as the statutory housing authority for this area of the National Park) and Homes England, on 10 July 2023 Vivid Homes confirmed they were seeking the formal support of the Authority in a request to Homes England that the DPA status of the Church Lane, Sway site be waived insofar as it relates to the proposed open market dwellings (shown in white on the attached plan in Annex 2). Any calls for the Authority to support a DPA waiver request must be carefully considered given the challenges around delivering affordable housing within a nationally protected landscape. The Authority's scheme of delegation to officers does not enable us to support such a request without first obtaining the approval of the Planning Committee.
- 2.4 Officers have discussed the principles raised in the request for Authority support for a DPA waiver request for part of the Church Lane, Sway site with Homes England. They have confirmed that a DPA waiver request can relate to specific parts of a site, rather than having to cover a whole development site. This clarification from Homes England is important, as Authority officers have indicated we would not support a DPA waiver request relating to the whole Church Lane site in Sway due to concerns that ultimately some of the affordable housing delivered may be lost in time. This would be contrary to the site allocation policy in the Local Plan (2019) and the national policy framework.

3. Benefits of supporting the DPA waiver request at Church Lane, Sway

- 3.1 The DPA waiver would enable the development at Church Lane to access Homes England grant funding to deliver additional affordable housing, over and above the 50% secured through application 21/00743. Vivid Homes are a strategic partner of Homes England and are committed to providing additional affordable homes in their operating area, including the New Forest. Funding conditions do not allow Vivid to apply grant to any shared ownership housing where staircasing is restricted (i.e. within a DPA). The DPA waiver for part of the site would therefore support the financing of the scheme and offer a slightly wider tenure of affordable housing – in lieu of the open market housing currently proposed – that is not restricted by the staircasing conditions. Such dwellings can typically access a wider market of mortgage providers and this would help provide a broader range of dwellings for people in housing need. The delivery of further affordable housing in an area of significant need and high prices would be a major benefit.

- 3.2 In assessing the case at Church Lane, Sway, it is important to highlight that (as per the details in application 21/00743) the development that the Planning Committee was minded to grant would provide 50% open market housing (i.e. 23 dwellings). The DPA waiver request, if supported, would relate specifically to this open market element of the scheme and would not impact on the affordable housing already secured through application 21/00743. The request for a DPA waiver at Church Lane would enable additional affordable housing to be provided, while importantly ensuring the 50% affordable housing secured through application 21/0000743 is unaffected. This therefore represents a net gain in affordable housing provision.
- 3.3 It should also be emphasised that the proposed DPA waiver would not alter the scheme considered and supported at the Planning Committee meeting in August 2022. The proposed site layout, number of dwellings and materials would be unaltered. Policy SP25 of the Local Plan (2019) sets a ‘target’ of 50% affordable housing on-site. This is not a ceiling or upper limit and the DPA waiver would, if supported by Homes England, deliver additional affordable homes in lieu of open market dwellings. It is for these reasons this report recommends that members support the DPA waiver request.
- 3.4 It is acknowledged that there is a small risk that should a DPA waiver be granted, an element of the additional shared ownership homes provided in lieu of the open market housing could potentially be lost over time through staircasing to 100%. However, national indications are that the number of homes that staircase to 100% is minimal and housing associations are required to reinvest the capital receipt into the provision of affordable housing (albeit this could be anywhere in their area of operation and cannot be ring-fenced to the National Park). The shared ownership affordable homes provided on the rest of the site will still be protected through the Section 106 agreement and the DPA status of that part of the site. As the waiver is only sought on the private open market dwellings any additional affordable housing would be a gain.

4. Conclusions

- 4.1 Designated Protected Area status for large parts of the New Forest National Park offers important policy protection for shared ownership affordable housing. It helps deliver affordable housing ‘in perpetuity’ in line with national and local planning policies, providing reassurance that shared ownership affordable dwellings will remain available for local people in housing need. For these reasons any request for the Authority to support a request for DPA status to be waived must be considered very carefully.
- 4.2 This report importantly highlights that the DPA waiver request relating to the Church Lane site will not affect the 50% affordable housing provision secured through application 21/00743. This is a key principle and we would not recommend supporting a waiver that jeopardises this provision. The DPA request relates solely to the open market element of the Church Lane site and the waiver would broaden the range of tenures available and deliver additional affordable housing in an area with significant local housing need. Officers are therefore recommending the request be supported.

Recommendations:

- a) **Members support the DPA waiver request relating to the part of the Church Lane, Sway site that is currently earmarked for open market housing, as outlined in this report including Annex 1; and**

b) Members delegate authority to the Executive Director (Strategy & Planning) to submit the formal request to Homes England and to take all other action as necessary in this regard.

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Papers:

PC 429/23 – cover paper

Annex 1 – Plan of the Church Lane, Sway site

Annex 2 – Plan of the Church Lane, Sway development site illustrating the dwellings subject to the proposed DPA waiver request

Equality Impact Assessment:

No impacts have been identified. If successful, the DPA waiver request would provide additional affordable housing for people in housing need, in line with the National Park Authority's socio-economic duty.

Annex 2 – Plan of the Church Lane, Sway site illustrating the dwellings subject to the proposed DPA waiver request (white, see Key)



Key

	Shared Ownership affordable housing, <u>not subject to DPA waiver request</u>
	Affordable Rent affordable housing, <u>not subject to DPA waiver request</u>
	Open market housing subject to DPA waiver request