RECORD OF DECISION MADE UNDER DELEGATED AUTHORITY

***PART 1 – PUBLIC DOCUMENT**

SERVICE DIRECTORATE: REGULATORY

1. DECISION TAKEN

To apply for two waivers concerning Designated Protected Area status

1.1 To apply for two waivers concerning Designated Protected Area status for shared ownership homes on housing schemes in both Ickleford and Barkway.

1.2 These decisions are separate and independent and have only been included in the same decision notice on the grounds of efficiency.

2. DECISION TAKER

Director - Regulatory

3. DATE DECISION TAKEN:

6 November 2026

4. REASON FOR DECISION

4.1 A local authority may be approached by a registered provider about a particular site, or potentially a private developer who has an element of affordable housing on their site, which would be developed as shared ownership. The local authority may even wish to approach Homes England (the government's housing and regeneration agency) directly about a specific site before the site reaches a developer.

4.2 Applications for a waiver of Designated Protected Area grant conditions can only be made to Homes England regarding specific sites within the Designated Protected Area, which will need to be clearly identified. Homes England is unable to remove Designated Protected Area status from an entire area.

4.3 A developer has requested a waiver for the shared ownership homes on their scheme in Ickleford as they are struggling to find a registered provider to deliver the affordable housing because of the staircasing restrictions on the shared ownership homes.

4.4 Lifestone Homes will be delivering affordable homes on a scheme in Barkway and have also requested a waiver for the shared ownership homes on the scheme.

5. ALTERNATIVE OPTIONS CONSIDERED

5.1 None.

6. CONSULTATION (INCLUDING THE EFFECT ON STAKEHOLDERS, PARTNERS AND THE PUBLIC)

6.1 Consultation has not been undertaken, and each decision is considered on a site-by-site basis.

6.2 The Executive Member for Regulatory, Councillor Mick Debenham, has been consulted and is supportive of this decision.

7. FORWARD PLAN

7.1 This decision is not a key Executive decision and has therefore not been referred to in the Forward Plan.

8. BACKGROUND/ RELEVANT CONSIDERATIONS

8.1 Designated Protected Areas (DPAs) came into being 7 September 2009, with two principal policy objectives:

- to remove the risk of enfranchisement for shared ownership houses where staircasing is restricted and
- to ensure retention of shared ownership homes in areas where it would be hard to replace if lost to the sector through 100% staircasing (in effect being lost entirely as affordable housing and becoming market housing).

8.2 In some areas now covered by DPA status, the policy aim of retention of stock is not an issue. These include planned urban extensions, new towns, and many suburban sites where levels of existing or proposed development indicate that shared ownership homes would not be hard to replace.

8.3 Registered providers developing shared ownership housing where staircasing is restricted can sometimes be affected by demand, largely due to the limited availability of mortgages for purchasers; also, many providers have concerns over their financial ability to guarantee to buy back properties as required by the shared ownership lease if the leaseholder wishes to sell.

8.4 In response to this issue, Homes England has agreed that under certain conditions, it will waive the particular conditions of grant relating to DPA status. All other conditions of grant would remain. This enables providers to develop grant funded shared ownership stock on DPA sites allowing buyers to staircase to 100% without an obligation on the provider to buy back the property if the leaseholder wished to sell.

8.5 To consider waiving the DPA lease requirements Homes England requires the support of the relevant local authority. A provider may approach the authority asking for its support and to make the waiver application. A local authority can approach Homes England to request a waiver pertaining to DPA status if it considers that a particular site does not:

- meet the criteria set out in the original classification of why an area should be protected
- or has other reasons why they think that the shared ownership stock does not need to be protected in perpetuity.

8.6 The waiver only applies to shared ownership homes developed in DPAs and does not have any impact on other tenures, including equity loans or market sale. Neither does it change the exemption from Right to Acquire for rented homes where that applies.

9. LEGAL IMPLICATIONS

9.1 The designation of such areas was aligned with those exempt from the Right to Acquire. In the main these were rural settlements with a population of less than 3,000. The Housing (Right to Enfranchise) (Designated Protected Areas) (England) Order 2009 sets out the areas covered by the legislation.

9.2 The Housing (Shared Ownership Leases) (Exclusion from Leasehold Reform Act 1967) (England) Regulations 2009 details the requirements which need to be met for shared ownership housing to be exempt from this previous enfranchisement legislation. These requirements are that the lease contains provisions either
i) to restrict staircasing to no more than 80% or that
ii) 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.

9.3 Legal advice received is that specific authority is given to decide to apply for a waiver and that a waiver request should be made to Homes England regardless of whether the scheme is in receipt of Homes England grant funding.

9.4 The Designated Protected Area regime arises from housing legislation governing shared ownership products rather than planning legislation. Whilst the issue has implications for delivery of affordable housing secured through the planning process, any decision to support a waiver application to Homes England should principally be considered as a housing strategy/affordable housing matter, with input from development management rather than as a planning merits decision.

9.5 Paragraph 14.6.11 (vi) of the Council's Constitution delegates authority to the Director – Regulatory for matters associated with Housing and Homelessness.

10. FINANCIAL IMPLICATIONS

10.1. There are no costs associated with applying to Homes England for a waiver.

11. RISK IMPLICATIONS

11.1 Without the waiver the developer may not secure a registered provider for the affordable homes on their site and Lifestone Housing may struggle to sell the shared ownership homes.

11.2 There is a risk that a small number of the shared ownership homes could be lost if a purchaser staircases to 100%. The risk is minimal after data revealed that less than 1% of owners staircased to 100% in 2024-25.

12. EQUALITIES IMPLICATIONS

12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

12.2 There are no equality implications arising from the proposals in this report.

13. SOCIAL VALUE IMPLICATIONS

13.1 The Social Value Act and "go local" policy do not apply to this decision.

14. ENVIRONMENTAL IMPLICATIONS

14.1. All recommendations/actions of the council, and those identified in this report/decision strive for positive impacts on the environment as per the Council's Sustainability priority.

14.2 There are no significant environmental impacts or requirements that apply to the decisions in this report.

15. HUMAN RESOURCE IMPLICATIONS

15.1 There are no human resource implications.

16. BACKGROUND PAPERS

16.1 The Designated Protected Areas form can be viewed at: Designated Protected Areas - GOV.UK

17. APPENDICES

17.1 None.

NOTIFICATION DATE

9 November 2026

Please Note: that *unless urgency provisions apply* EXECUTIVE decisions cannot be implemented until 5 clear working days have elapsed after the decision has been taken to allow for scrutiny call-in.

Call-in does not apply to NON-EXECUTIVE DECISIONS