

BUILD TO RENT (BTR) GUIDANCE

BRIEFING NOTE

This is our review of the Government's Planning Practice Guidance on Built to Rent published 13 September 2018 in which we highlight key elements relating to Build to Rent Schemes and Affordable Private Rent

Build to rent (BTR) has been introduced as a distinct asset class within the revised National Planning Policy Framework (NPPF) published on 24 July 2018 and is defined within the NPPF (2018) glossary as *"Purpose built housing that is typically 100% rented out. It can form part of a wider multi-tenure development comprising either flats or houses but should be on the same site and/or contiguous with the main development. Schemes will usually offer longer tenancy agreements of three years or more, and will typically be professionally managed stock in single ownership and management control."*

The role of Local Planning Authorities (LPAs)

LPAs should use a local housing need assessment to confirm the need for BTR homes in their area. Where such a need is identified, LPAs are required to include policy within their local plan to promote and accommodate BTR developments.

Build to Rent and Affordable Housing

BTR is identified as having an independent class of affordable housing named Affordable Private Rent (APR).

Generally, a 20% provision of APR homes is required to be provided and maintained in perpetuity within any BTR scheme. LPAs can deviate from this requirement if evidence justifies otherwise, backed by Local Plan viability evidence. Similarly, developers may be able to deviate from this requirement by presenting suitable justification evidence on viability.

Affordable Private Rent (APR) Provision

A minimum rent discount of 20% for APR homes relative to local market rents (inclusive of service charges), adjusted (increased or decreased) on the same basis as long-term (market) tenancies within a development is required.

APR is not the only form of affordable housing permitted on BTR schemes. A commuted payment and/or other forms of affordable housing as defined in the NPPF glossary can be used to fulfil affordable housing requirements within BTR schemes, which should be confirmed in a Section 106 agreement.

Developers can vary the proportion of APR units and discount them over the lifetime of BTR schemes beyond the granting of permission, as long as contributions accord with the agreed housing contribution set as part of the planning permission in a Section 106 agreement.

The process for managing APR units should be set out within the Section 106 agreement. The Section 106 agreement should also require BTR operators to produce an annual statement to LPAs, confirming the approach for letting the affordable units, their ongoing status and clearly identifying how the scheme is meeting the overall affordable housing level required in the planning permission.



Restrictive Covenants and Clawback Arrangements

The sale of BTR units should not result in the loss of affordable housing. However, PPG acknowledges that investors require flexibility to respond to changing market conditions. In addition, PPG states that consideration should be given to a covenant period for the retention of private market BTR units and that if these are sold before the expiration of the agreed covenant period a clawback mechanism should be used. It is suggested that the clawback sum is calculated by multiplying the sale price of the withdrawn unit by the discount percentage in rent applied to the same unit.

Occupier Eligibility

BTR scheme operators have the final decision over the occupancy criteria and eligibility for APR homes. LPAs must take a reasonable position in negotiating occupancy. Eligibility should not constitute grounds for refusing planning permission.

Eligibility criteria for APR homes should be set out in the Section 106 agreement and be determined with regard to local household income levels and in relation to rent levels. LPAs are refrained from having direct nominations from their Statutory Housing List, but are encouraged to maintain an 'intermediate housing list' from which they can identify prospective APR tenants. Developers and authorities are encouraged to assemble "*a unique dataset for the development*" in absence of a local intermediate housing list; PPG suggests that the list should also ideally include evidence about people's local residence or employment connections.

Tenancy Policy

The NPPF definition of BTR states that BTR developers should usually offer tenancy agreements of three years or more. To implement this policy, LPAs are required in granting planning permission to set a planning condition requiring scheme operators to offer tenancies of three or more years to all tenants, regardless if they pay market rent or APR. Customers are though not obliged to take a three year tenancy and can request shorter. PPG provides detailed guidance on how the longer tenancy policy is to be applied to BTR,

National Space Standards

BTR is subject to national and local space standards. However, the PPG confirms that LPAs can dis-apply national space standards for particular development types (such as BTR schemes), or parts of the local plan area should it so wish.

For more information on Build to Rent please do not hesitate to contact either:

Julian Sutton
Managing Director
Julian@jmsplanning.com
07525 131145

Jackie Ford
Director
Jackie@jmsplanning.com
07770 328674