

May 2017

Planning and Affordable Housing for Build to Rent

POS response to Government consultation

Introduction

POS welcomes the focus on delivering housing, and is generally supportive of the proposals set out in this consultation. Although we would highlight the importance of planning for employment, community uses and infrastructure as well as housing and that these are appropriately funded. Place making should be at the heart of all residential proposals.

Q 1: Please provide your name and contact details in the box provided, and identify whether you are responding as (please tick one):

Organisation - Planning Officers Society

Q 2. If you are responding as a private individual, please identify in what capacity you are replying and whether your main interest is as:

Planning Officers Society - representing all Local Planning Authorities across England

Q 3. If you are responding on behalf of an organisation, please identify in what capacity you are replying and the main interest of your organisation (tick all that apply):

Planning Officers Society - representing all Local Planning Authorities across England

Q 4. Please specify the part(s) of England in which you live, or your organisation's activities (or members) are principally located (you may tick more than one):

All across England

Q 5: Do you consider there are market and regulatory failures impeding the rapid development of the Build to Rent market that merit national policy intervention? Please add comments.

Yes - Although POS does not see the current planning system as a barrier to Build to Rent, it may be useful to clarify how Build to Rent should be assessed when compared to other housing types. However, POS would strongly argue that local housing needs should be supported at a local level, and this should be part of the assessment of a Build to Rent scheme.

Q 6: Do you agree with the proposal to refer explicitly to Build to Rent in the National Planning Policy Framework?

Yes

POS would be happy to be part of the joint committee or to help advise this committee as Government requires.

Q 7: Do you think that Government should set a policy expectation on Affordable Private Rent in the National Planning Policy Framework, or not? (Please state your reasons).

Yes, however the approach needs to be flexible so Local Planning Authorities can negotiate a lower percentage of affordable built-to-rent in exchange for higher levels of rent reduction if that is necessary to meet local needs.

Q 8: Will a policy expectation in the National Planning Policy Framework send a sufficiently strong signal to support Affordable Private Rent as the main vehicle for affordable housing in Build to Rent? (Please state your reasons)

Yes

POS would suggest that communication is sent to all Local Planning Authorities and Councillors to be clear of the intended National Policy changes as this is a relatively new area of policy, rather than an adjustment of existing policy.

Q 9: Do you consider that Affordable Private Rent could play a useful role in the delivery of affordable housing in the area(s) where you live or operate?

Yes, because BtR has the potential to be an additional source of new housing, rather than substitution, however what is provided must be driven by LPA identified local needs and not by what the developer wants, as is the case for other forms of housing. The LPA is required under NPPF to meet housing need in their area so needs to be able to set the overall strategy and policy response so that they can deliver.

Q 10: Do you consider that the efficiencies arising through on-site provision of Affordable Private Rent can materially improve the viability of Build to Rent, compared to other affordable housing tenures?

Yes,

Although we note that the consultation does not refer to the contribution Affordable Private Rent must make to maintenance costs and other costs, this can make an affordable home become unaffordable. There does need to be a recognition of this and adjustments to other legislation to enable cross subsidy not just in the capital investment, but also in the operational costs of these developments.

Q 11: Do you consider that there could be unintended consequences of Affordable Private Rent if it is accepted as a form of affordable housing?

Yes,

Government should limit Affordable Private Rent to Build to Rent only as it needs to be part of the overall package of benefits that government have identified for this form of housing.

Q 12: If your answer to Q11 is yes, would these consequences be mitigated by limiting Affordable Private Rent only to Build to Rent schemes?

Yes

Q 13: Do you think it is reasonable for Planning Authorities to specify minimum tenancy lengths in Build to Rent schemes? Please add your reasons, and give examples of such agreements where appropriate.

Yes, we agree to a minimum tenancy. But it should be for a wider market than just families and a longer time period, please see answer to question 14 below.

Q 14: Do you agree that Build to Rent tenancies should be for at least three years (with a one month break option for the tenant after the first six months), for all customers in the development who want one?

Yes, at least three years but this really should be the minimum.

POS understands a three year tenancy is working well in case studies in East London. However, we would suggest a five year tenancy may attract a wider market, in particular elderly people downsizing (or transferring their assets to their children to help them get into the housing market) but wanting security. The Centre for Ageing Better sets out that there are an increasing number of older private renters – 200,000 older adults joined the rental market in the past four years, and it's estimated that a third of over-60s could be living in private rental property by 2040. The Build to Rent housing type could be very attractive and avoid fears of non-regulated rents, loose landlord regulations, short-term tenancies, and houses in disrepair or not adapted for their needs. However, it is likely that this market would require over three years, therefore investors should be able to control flexibility on this although be encouraged to market units appropriately to elderly persons, which would free up much need family housing.

<https://www.ageing-better.org.uk/news/housing-white-paper-ageing-front-centre/>

POS is aware that Shelter has previously suggested five year tenancies and we would certainly support this as a step in the right direction.

http://blog.shelter.org.uk/2017/02/the-white-paper-a-step-rather-than-a-leap-in-the-right-direction/?_ga=1.108514626.1324131642.1493583868

Q 15: Does the definition of Build to Rent set out on page 20 capture all of the appropriate elements? (If not, please state why, and what criteria should apply).

Yes

Q 16: Do you agree that the National Planning Policy Framework should put beyond doubt that Affordable Private Rent qualifies as affordable housing in Build to Rent schemes? (If not, please state why).

Yes

Q 17: Do you agree with the proposed definition of Affordable Private Rent set out on page 21? (If not, please state why, and what criteria should apply).

Yes, mostly;

Some flexibility should be available so that, for example, it may be desirable, based on local circumstance that 15% discounted units are provided but with a rent more than 20% of local market rent. POS certainly supports the principle but seeks flexibility to negotiate that the overall discount to suit the particular proposal and its location. LPAs must meet local housing need (part of the social sustainable development role, the third core planning principle and a para 47 NPPF requirement) so need the tools and flexibility to deliver.

Q 18: The Government intends to set the parameters of Affordable Private Rent as:

- a minimum of 20 per cent of the homes to be discounted;
- the discount to be set at minimum of 20 per cent relative to the local market;
- an offer of longer tenancies of three years or more;
- the discount to apply indefinitely (subject to a “claw-back” arrangement if Affordable Private Rent homes are withdrawn).

Taken as a whole, are these parameters: (i) reasonable; (ii) too onerous; (iii) insufficient? Which, if any of them, would you change and why?

“ Reasonable

Generally POS would suggest that the parameters are reasonable. Although, there could be lengthy discussions over the definition of a ‘local’ area to agree that a development would be at least 20% relative to local market rent levels. However, there is no easy solution to this and certainly POS agrees that the local area should be taken into account rather than not just the market value of homes within the scheme itself. LPAs should also have flexibility as set out in earlier answers.

Q 19: Should the parameters for Affordable Private Rent appear on the face of the National Planning Policy Framework or within Planning Practice Guidance?

POS would suggest on the face of the National Planning Policy Framework as we feel it is an important and significant shift in policy.

Q 20: The Government is minded to leave determination of eligibility and nomination criteria for Affordable Private Rent to negotiation between the developer and the local authority. Do you support this position? Will it affect take-up of the policy? Please give your reasons.

Yes, POS supports this position

Q 21: The Government considers there is no need for a fixed minimum covenant period, so long as appropriate claw-back arrangements are provided for. Do you agree?

No

POS suggests that there should be a fixed minimum covenant period and a claw-back. If for example, 15 years is pursued by Government (as has been sought by the London Mayor in his draft SPG) then POS would suggest that there should still be some recognition of the need to make some provision for contributions towards wider affordable housing as the affordability of housing issue is unlikely to get any better for even the medium to long term. This could be as a commuted sum but this is removing affordable

housing units from the market and relying on Local Authorities or Registered Social Landlords to reprovide this lost stock.

In terms of re-calibrating a scheme based on the local plan affordable housing policies at the time of the original planning permission, the NPPF should make it clear that the cost of an independent review of a viability reports on behalf of the Local Planning Authority should be met by the developer where required.

POS understands that Government is trying to encourage investors into the Build to Rent market and therefore may be concerned that having a fixed minimum covenant period could put off some from entering the market or securing funding. However, POS does not consider that a minimum covenant period would preclude a developer. There are options to alter the merits of the original permission if problems of securing occupancy did arise on an individual site.

Q 22: Do you think Government should (a) prescribe the basis for calculating the amount of claw-back, (b) set a possible basis for calculating the amount of claw-back in guidance, or (c) leave the amount of claw-back to be agreed between the local authority and the applicant?

There are pros and cons to each approach. Generally it would be useful to have a set approach prescribed. However, this should be fair to the local community, planning authority and simple to use.

Q 23: Should the Government's Build to Rent and Affordable Private Rent policy be identical across the whole of England or does it need to be set differently between London and the rest of England? If it should be set differently, please use the comments box to tell us how and why the policy should vary in London from the rest of England.

Identical across the whole of England

Q 24: Would it be helpful for Government to produce model clauses (which would not be mandatory) that could be used in Section 106 agreements to give effect to Affordable Private Rent?

Yes,

POS considers that non-mandatory clauses for S106/Conditions would be helpful to standardise an approach and help to achieve delivery.

Q 25: Is a transitional period of six months appropriate for the introduction of the policy? (If not, why not?)

Yes,

POS, in its response to the HWP, have suggested that the proposed amendments to the definition of Affordable Housing in the NPPF should be adjusted in terms of its layout so that affordable housing types are grouped into those where the subsidy is from statutory means (ie RSLs or local councils – ie social rented, affordable rented and intermediate housing) and those where the subsidy is provided by the market alone (ie starter homes, discounted market sale and affordable private rent housing). This approach we believe enables consequential changes to the NPPF to be written in such a way that local plans are not out of date and these welcome, but new, changes to housing policy can be absorbed into the system with greater ease.

Q 26: Does the summary Equalities Statement in Annex A represent a fair assessment of the equalities impacts of the policy proposals in this consultation? Please provide any further evidence on this issue, including how any negative impacts might be minimised and positive impacts enhanced.

Yes, a fair assessment