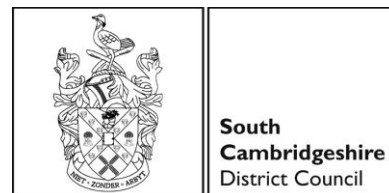


Appendix A



Department for Communities & Local Government Consultation

Planning and Affordable Housing for Build to Rent South Cambridgeshire District Council's Response

The Council's response to the proposals for the planning and affordable housing for build to rent is set out below:

Q1. Please provide your name and address and contact details in the box provided, and identify whether you are responding as (please tick one):

☐

A private individual?

☒

On behalf of an Organisation?

Julie Fletcher - Head of Housing Strategy
South Cambridgeshire District Council
South Cambridgeshire Hall
Cambourne Business Park
Cambourne
Cambridge
CB23 6EA

Q2. If you are responding as a private individual, please identify in what capacity you are replying:

N/A.

Q3. If you are responding on behalf of an organisation, please identify in what capacity you are replying:

Local Authority and Social Landlord

Q4. Please specify the part(s) of England in which you live, or your organisation's activities (or members) are principally located:

East of England

Q5 – 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.

Market Failures – market prefers build for sale and developments, as there is still limited investor interest in Build to Rent schemes. Limited scale of financial incentives, for example market housing benefits from Help to Buy equity loans, which encourage developers to build homes for sale.
Regulatory failures – lack of regulations differentiating Build to Rent from other forms of development.

Q6 – Do you agree with the proposal to refer explicitly to Build to Rent in the National Planning Policy Framework

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Yes – this would ensure regulations exist to deliver Build to Rent through the local plan where there is an identified need to do so. Build to Rent will cater for a range of housing needs that supports economic growth, providing easy access to accommodation, stability and good quality accessible housing.

Build to Rent schemes need to be defined in such a way as to clearly differentiate them from other forms of development. The Council supports the proposals that they should be 100% rented, possibly as part of a mixed tenure development but have to be on the same site or contiguous, offering 3+year length 'Family Friendly' tenancies and that they will be professionally managed in single ownership.

Q7 – Do you think that Government should set a policy expectation on Affordable Private Rent in the National Planning Policy Framework or not (please state reasons)

Yes. Affordable Private Rent should be described as a form of affordable housing that is delivered exclusively through a Build to Rent scheme. We would not want to see Affordable Private Rent substituting the more traditional affordable housing managed by registered providers on other sites that are not specific to Build to Rent.

There needs to be robust mechanisms to ensure Affordable Private Rent is allocated to households whose needs are not met by the market based on local incomes. The Affordable Private Rent should remain affordable in the longer term and offer rents between social rent and below market rent and be available to those on housing benefit. In particular it would be useful if a proportion of the Affordable Private Rent was available to support the local authority's ability to discharge its homelessness duty in the private sector, which is becoming increasingly more difficult with individual landlords reluctant to take on households on benefit.

The consultation paper states that schemes will typically be professionally managed stock in single ownership and management control. It is therefore presumed that there will be no registered provider role in the Affordable Private Rent; this should be clearly stated in its definition. There is some concern that there will be no safeguards in place as to the management of Affordable Private Rent if there is no regulation as there currently is through the more traditional forms of affordable housing.

Q8 – 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.

Yes as long as the definition of Affordable Private Rent is restricted to Build to Rent schemes only and that it is the only form of affordable housing that is to be delivered on Build to Rent schemes.

Q9 – Do you consider that Affordable Private Rent could play a useful role in the delivery of affordable housing in the areas where you operate?

Yes. The Council acknowledges the difficulties in providing the traditional forms of affordable rent/shared ownership in a private rented scheme and welcomes the potential to increase the overall supply of private rented accommodation in the District through the Build to Rent initiative.

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Q10 – 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 there would need to be significant incentives to encourage investment in the different approach to procurement and management needed to allow Build to Rent development to become mainstream. Current guidance on viability appraisals is geared towards residual valuations, which suit open market sale led schemes. Alternative appraisal models are needed that are accepted by investors and developers alike that encourage Build to Rent to be seen as an equally viable form of development. It should also be appreciated that the procurement of Build to Rent schemes is quite different from Market Sale developments, which are often Housebuilder led and often favour slower (traditional) construction methods and longer marketing periods. Build to Rent schemes could be procured by investor / owner / managers who may prefer the higher quality and quicker build opportunities that Off Site Manufacturing (OSM) can deliver. The ability for the schemes to be occupied quickly after completion and en mass is another key differentiator of Build to Rent from Market Sale

Q11 – Do you consider that there could be unintended consequences of Affordable Private Rent if it is accepted as a form of affordable housing?

Yes – if Affordable Private Rent is not restricted exclusively to Build to Rent, then there is a risk that developers could, for example, attempt to reduce the requirement for other forms of affordable housing, especially Affordable Rent and Social Rent on schemes that are market sale led. The management of Affordable Private Rent that is not part of a larger Build to Rent scheme would be a cause for concern that these would not be managed appropriately. Affordable Private Rent should be restricted to the Build to Rent Sector with the restrictions set out in our responses to Q6 – Q9 above.

Q12 – If your answer to Q11 is yes, would these consequences be mitigated by limiting Affordable Private Rent to Build to Rent Schemes?

Yes.

Q13 – 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, along with the ability for the tenant to choose the tenancy length that suits them (from 6 months onwards and with rent increases at the end of the initial term (up to 3 years) restricted to RPI, so as to prevent the landlord evicting a sitting tenant in order to increase the rent above RPI. The tenant should also have the right to renew their tenancy, in much the same way that commercial tenants have the same rights under the 1954 Landlord and Tenant Act, and the Landlord should not be allowed to offer tenancies that could not be renewed in this way. This would allow families (for example) to have greater confidence that they could remain living in the same home for longer than 3 years. There may need to be amendments to the Housing Act to regulate these tenancies and differentiate them from the existing form of assured shorthold tenancy, that does not give tenants these rights.

Q14 – Do you agree the Build to Rent tenancies should be for a at least three years (with a one month break option for the tenant after the first six months), for all customers in the development that want one?

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Yes. If this was applied to all customers it would then equally apply to those tenants paying full market rents, and not just those on Affordable Private Rent.

Q15 – 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, and in addition within this District a minimum covenant period of at least 15 years would be appropriate along with a clawback mechanism to give investors and operators the confidence to invest in such schemes.

Q16 – 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 but Affordable Private Rent should be restricted solely to Build to Rent schemes and no other form of development.

Q17 – Do you agree to the definition of Affordable Private Rent set out on page 21? (if not, please state why, and what criteria should apply)

The definition should make it clear that this form of tenure is restricted solely to Build to Rent. The definition should be explicit that rent levels should be at least 20% below market rents and that there is flexibility for local authorities to determine a range of rent levels for the Affordable Private Rent so as to provide a choice of rents that are genuinely affordable. This will be considered in the context of the overall viability of the Build to Rent Scheme. The average overall discount percentage figure would then be used to determine the value of any future clawback.

The definition should also include that a minimum of 20% of the properties within a Build to Rent development should be Affordable Private Rent but that local authorities can seek a higher contribution where it is viable.

Q18 – 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 tenancy 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?

It is considered that these parameters are reasonable. However we would wish to add that the tenants have the right to renew their tenancy after the initial letting period, should they wish to do so. We would also like to see protection for tenants who may need to claim housing benefit, in that there are no tenancy conditions or overly onerous service charges that prevent them from doing so.

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Q19 – Should the parameters for Affordable Private Rent appear on the face of the National Planning Policy Framework or within Planning Practice Guidance.

The change in definition for affordable housing which includes the Affordable Private Rent Housing should be set out within the National Planning Policy Framework. Further guidance on its implementation would sit better within Planning Practice Guidance to give local authorities some flexibility.

Q20 – The Government is minded to leave determination of eligibility and nomination criteria for Affordable Private Rent to the 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.

Guidance is needed to assess the viability of Build to Rent schemes, which differ fundamentally from market sale led developments. Without such guidance, there is likely to be constant uncertainty as to what is an appropriate affordable housing provision in Build to Rent developments, leading to best practice being determined through lengthy and costly planning appeals. This will not help accelerate delivery. What is needed is some guidance and benchmarking from DCLG and the industry to help describe how viability assessments in Build to Rent schemes should be conducted and how to balance the affordable housing requirements within them against other planning obligations that may arise.

The Council would want to see localised policy through its Affordable Housing SPD as to the eligibility and nomination criteria for Affordable Private Rent. This should be a localised policy and not left as a negotiation tool between the developer and the local authority.

Q21 – 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. South Cambridgeshire District Council would like to see a minimum covenant period for at least 15 years so that from the tenants' perspective, they will have some confidence that their home will remain more affordable than market housing for that period. There is also some concern that without a minimum period this may provide some ambiguity for developers to avoid onsite affordable housing provision which is always the Council's preference in such a high demand area. If the developer is unable or unwilling to agree to the minimum covenant then the scheme should not be described as Build to Rent.

Q22 – 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 to be agreed between the local authority and the applicant?

Yes, as this will ensure transparency and certainty.

Q23 – 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

In London the build to Rent market is more advanced than in other parts of the country, so possibly different policies are appropriate. London is also made up of a number of different boroughs, all with different affordability

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criteria. In terms of the covenant length, the Growth Areas in this District would have a similar level of attractiveness to investors as the London PRS, as housing costs in this region are second only to London, with generally high values for housing land also.

Q24 – Would it be helpful for Government to produce model clauses (which would not be mandatory) that could be used in S106 agreements to give effect to Affordable Private Rent?

Yes.

Q25 – Is a transitional period of six months appropriate for the introduction of policies proposed in this consultation? (If not, why not?)

Within the White Paper, a transitional period for changes to the affordable housing definition suggest up to April 2018, which is not consistent with the above proposal of six months. Either way they need to be aligned, implementation of the Affordable Private Rent cannot be enforced until the change of definition through the NPPF.

It would be useful to receive some guidance on whether due consideration should be given now to the new affordable housing definition, that includes Affordable Private Rent, where schemes are likely to be completed after the six month period/April 2018.

Q26 – 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.

| Positive | Negative |
|--|--|
| Minimum tenancies up to 3 years | No right to renew tenancy after 3 years |
| Could improve tenure security for those living in private rented sector | Could result in fewer affordable rented (and intermediate) homes being delivered |
| Could reduce demand on Council housing waiting list through increased delivery of affordable homes in the District | Lack of minimum covenant period means a tenant's home may not remain affordable in the longer term |
| Could reduce demand on Council Housing by making Buy to Let less attractive to investors, who often evict tenants just to increase the rent, who then become unintentionally homeless and the responsibility of the Council to rehouse | Lack of agreed guidance on viability makes it difficult to promote Build to Rent as opposed to Market Sale housing developments |
| | Risk that Councils may not be able to invest / own / operate Build to Rent scheme despite already being actively involved in PRS (Ermine Street) If DCLG decides all tenants in property developments owned by the Council have the Right to Buy |
| | No regulation for Affordable Private Rent in terms of management. |
| Could provide additional private rented accommodation to secure suitable housing to discharge the local authority's | Lack of legislation to enable the local authority to nominate tenants. Concern that this could have a negative effect for |

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|-------------------------------------|--|
| prevention and homelessness duties. | people with protected characteristics, such as the elderly or disabled, or may be reliant on benefits, who could be discriminated against if the private landlord will not accept those on benefits. |
|-------------------------------------|--|