

Delivery of Affordable Build to Rent Homes in Bristol

Affordable Housing Practice Note (July 2022)



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1. Introduction

The Build to Rent (BtR) sector is a fast-growing part of new housing supply in Bristol. BtR and affordable housing within BtR schemes, known as Affordable Private Rent (APR), are defined in the [National Planning Policy Framework](#) (NPPF). Guidance on planning for BtR, affordable housing within BtR schemes and scheme management is provided in national [planning practice guidance](#) (PPG).

This document explains national policy and guidance relating to BtR and APR and how the Council's planning policies for affordable housing should be interpreted having regard to the national policy and guidance.

Bristol City Council has an ambitious affordable housing delivery target. This encompasses all types of affordable housing to meet the city's identified needs, including Affordable Private Rent (APR). Whilst the national benchmark level for APR is set at 20%, the Council will aim to deliver a much higher percentage of affordable housing from Build to Rent (BtR) schemes, consistent with percentages sought for more traditional forms of affordable housing. This is in line with aspirations to increase overall affordable housing percentages above current Local Plan policy levels. Increased percentages will be explored through the Local Plan Review process and will be subject to viability testing. Any higher percentages sought for APR will be set out in the new Local Plan.

The Council is also committed to the delivery of high quality and genuinely affordable homes. To ensure all types of affordable homes are affordable the Council expects new APR rentals to be capped at Local Housing Allowance (LHA) levels. The Council is exploring ways to ensure the affordability of APR units is maintained in perpetuity.

Further work is also being undertaken to explore target markets for APR and whether certain groups may be better suited to this form of affordable housing, including essential local workers.

2. What is Build to Rent and Affordable Private Rent?

BtR is a distinct asset class within the private rented sector and is defined in the NPPF as follows:

“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.”

APR is identified under the definition of affordable housing in the NPPF as follows:

*“**Affordable housing:** housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:*

- a) **Affordable housing for rent:** meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent*

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scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent)."

Key guidance on APR, set out in PPG, is summarised as follows:

- Affordable housing for BtR schemes should be provided by default as APR.
- A benchmark provision of 20% APR homes (maintained in perpetuity) is generally suitable for a BtR scheme. If a different proportion is required, it should be justified using evidence emerging from the Council's local housing need assessment and set out in the Local Plan. In exceptional cases developers are permitted to make a case seeking to differ from the benchmark where justified by a viability appraisal.
- APR should be set at a level that is at least 20% less than the private market rent (inclusive of service charges) for the same or equivalent property. The discount should be calculated when a discounted home is rented out, or when the tenancy is renewed. The rent on the discounted homes should increase on the same basis as rent increases for longer-term (market) tenancies within the development.
- Developers should usually meet their affordable housing requirement by providing APR homes. However, the Council and developer can agree to meet this requirement by other routes, such as a commuted payment and/or other forms of affordable housing as defined in the NPPF glossary.
- The proportion of APR units, and discount offered on them can be varied across a development, over time. Similarly, it should be possible to explore a trade-off between the proportion of discounted units and the discount(s) offered on them, with the proviso being that these should accord with the headline affordable housing contribution agreed through the planning permission. This should be agreed between the Council and developer.
- APR homes should be under common management control, along with the market rent BtR homes. They should be distributed throughout the development and physically indistinguishable from the market rent homes in terms of quality and size. They will not need the separate involvement of a registered landlord.
- BtR developers will as a norm offer longer tenancy agreements of 3 years or more to all new applicants who want one. They should provide longer term security and stability.

3. What does this mean for affordable housing policy in Bristol?

The Council's planning policies for affordable housing in Bristol are set out in [Policy BCS17: Affordable Housing Provision in the Core Strategy Local Plan \(Adopted June 2011\)](#), and [Policy DM3: Affordable Housing Provision: Smaller Sites](#) in the [Site Allocations and Development Management Policies Local Plan \(Adopted July 2014\)](#). Further guidance on the Council's affordable housing policies is set out in the [Affordable Housing Practice Note 2022](#) (AHPN) or subsequent updated guidance.

The above policies and guidance should be interpreted with regard to national policy and guidance on BtR and APR. Affordable housing within a BtR scheme should therefore be delivered as either:

- APR which is specified in the NPPF/PPG; or
- A stand-alone affordable housing block which is disposed to a Registered Provider without public subsidy.

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If delivered as APR, a minimum¹ of 20% of the units should be delivered as affordable housing.

The Council's AHPN establishes an expectation that the cost of an 'Affordable Rent' home will not exceed prevailing Local Housing Allowance (LHA) levels and is inclusive of all service charges. This expectation also applies to APR units. If a 20% discount on the market rent secures a rent level lower than LHA this will be applied. The rent will be rebased in accordance with the agreed discount, at each re-let.

If the affordable housing is delivered within a stand-alone affordable housing block disposed to a Registered Provider without public subsidy, the affordable housing should be delivered with a tenure split of 75% Social Rent and 25% Shared Ownership. Typically, this should be provided with the tenures split between cores² or floors. The Council may also accept 100% Affordable Rent (limited by LHA) in certain circumstances.

If the affordable housing is delivered within a stand-alone affordable housing block its disposal to a Registered Provider must include all ancillary uses associated with the occupation of the affordable housing block which may include amenity space, car parking and other service provision.

Regardless of the delivery route all affordable homes should be delivered in accordance with the Council's:

- [Affordable Housing Practice Note](#);
- [Space Standards Practice Note](#);
- [Government's Housing Standards Review: Operation of Bristol Local Plan Policies](#);
- [Urban Living SPD](#).

This practice note should be read in conjunction with guidance provided in the AHPN relating to commuted sums and viability issues.

4. Agreeing Affordable Private Rent provision in Bristol

The following information will be sought by the Council from operators of BtR schemes in Bristol and secured, where appropriate, through a Section 106 (s106) agreement.

- A schedule setting out the proportion of affordable units, including plot numbers at first let and the discount approach agreed.
- The process for managing APR units which will incorporate:
 - Lettings marketing agreement;
 - Rent levels; and
 - Management and service agreement to include:
 - Allocations policy;
 - Tenancy agreement;
 - Repairs and maintenance policy;
 - Equalities policy;

¹ The Council is seeking to deliver a higher level of APR housing and encourage developers to increase provision above the national benchmark level. The amount of affordable housing delivered is an important material consideration in decisions on planning applications. Having regard to evidence on affordable housing need the Council will aim to set a higher percentage in the new Local Plan.

² Where there is more than one service core within a building.

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- Complaints policy.

The Council may seek to approve certain elements prior to commencement of development.

- BtR scheme operator to produce an annual statement to include:
 - The approach to rents at commencement and any annual increases;
 - Summary data of all lettings of the affordable units and their ongoing status; and
 - Clear identification of how the scheme is meeting the overall affordable housing level required in the planning permission.
- The BtR scheme operator to supply summary equalities data to evidence the letting of properties in accordance with equalities legislation. The Council reserves the right to audit this data.
- Ahead of completion, the BtR developer must provide quarterly delivery forecasts, completions and monitoring information.

Mechanisms will be included in the s106 to allow the periodic review of the affordable housing provision to ensure it continues to address affordable housing need. The eligibility criteria for the APR homes will be set out in the s106 agreement.

5. Disposal

PPG states BtR schemes would normally, by definition, remain within the rental sector, under common ownership and management, for the long term. Any APR homes included as part of a s106 agreement are provided specifically as a community benefit in perpetuity. The sale of a BtR scheme, or the sale of individual homes within the scheme to other tenures, should not therefore result in the withdrawal of the affordable housing contribution from the local community.

The Council will work with the BtR developer to ensure the affordable homes secured are maintained in perpetuity. The s106 should set out arrangements to be put in place in the event of affordable units being sold or taken out of the BtR sector. These arrangements will ensure alternative provision is made for other affordable housing, as defined in national planning policy.

Alternatively, financial 'clawback' arrangements can be used, the proceeds of which should be spent on the provision of alternative affordable housing for the benefit of the community. In such cases the Council will expect the clawback formula outlined in national guidance to form the basis of any financial calculations and for this be set out in the s106. Any departure from this formula would need to be justified and accepted by the Council. The Council will seek to utilise the proceeds from the clawback arrangement within the existing ward or, if this is not possible, will seek to utilise the proceeds in the closest suitable development within the city.

6. Nominations and allocations

The Council will refrain from having direct nomination rights from their housing list however, the Council will require referrals from HomeChoice to receive first consideration, subject to eligibility. The Council will require the BtR operator to record any refusal reasons for Council referrals as summary data in the annual statement. The BtR operator will be expected to work collaboratively with the Council for a period of 6 months prior to completion of the scheme to promote the affordable housing through HomeChoice or any other suitable means available to the Council.

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The local connection criteria that will apply to BtR in Bristol are set out in the Council's HomeChoice allocations policy³ (section 3.2b) and is summarised below. The criteria will be applied, through a s106, to the initial tenant and every subsequent change of tenancy. Eligible BtR tenants will need to meet one of the following local connection criteria:

- Tenants who have been living within the Bristol City boundary continuously for the last 2 years immediately prior to the date of application.
- Tenants who have close family currently living in Bristol, who have lived in Bristol continuously for the last 2 years immediately prior to the date of application, and who need to live near that person to provide or receive care⁴.
- Tenants whose normal place of work is in Bristol. For the purposes of this criterion, voluntary, temporary, casual or short-term employment will not count. Employment must not be marginal.
- Tenants who meet the criteria as set out in [The Allocation of Housing \(Qualification Criteria for Armed forces\) \(England\) Regulations 2012](#) for whom a residency requirement cannot be applied.

Only one member of a household renting in joint names needs to have a local connection to Bristol as set out above.

If HomeChoice are not able to provide eligible applicants within 4 months of active marketing then the provider may use their own marketing channels to allocate. The PPG states eligibility should be determined with regard to local household income levels, related to local rent levels. In determining a suitable household income cap for this product we have incorporated the cap identified in the Homes England [Capital Funding Guide](#) of £80,000 (or as varied) for their intermediate housing products. This will allow applicants on Homechoice Bristol to be eligible, but also those applicants requiring short-term rental options ahead of accessing shared ownership or home ownership opportunities. A local lettings policy must be agreed by the Council prior to advertising units.

7. Service charges

APR rents should be inclusive of all Universal Credit eligible service charges and capped at LHA levels. The rent and service charge must be separately identified. Components of the service charge relating to 'lifestyle'⁵, which would not be met by Universal Credit, should also be clearly identified in all marketing and will be paid as a top up by the individual tenant in accordance with the terms of the tenancy agreement. Further information on what service charges are eligible for Universal Credit can be found [here](#).

8. Community Infrastructure Levy and planning obligations

Developers of APR homes can apply for and obtain an exemption from the requirement to pay the Council's Community Infrastructure Levy. This is because APR homes are a form of affordable

³ [Bristol City Council \(homechoicebristol.co.uk\)](http://bristolcitycouncil.gov.uk/homechoicebristol.co.uk)

⁴ For the purposes of this local connection criteria close family will normally be taken to mean immediate family i.e. parents, dependent and non-dependent adult children and siblings. The prospective tenant must be able to show that they have a relationship with that person and that they need to live near that family member for care.

⁵ This could include, but not be limited to: gyms, individual living expenses and other non-essential service elements.

housing. Further details of how to apply for an exemption are provided on the Council's website under [Development liable for Community Infrastructure Levy \(CIL\)](#).

All other relevant Planning Obligations sought through the Bristol Local Plan will apply to BtR homes.

9. Further considerations

Residential developments should provide a mix of affordable housing units and contribute to the creation of mixed, balanced and inclusive communities. When planning permission is approved, it will be necessary for a schedule of plot numbers to be provided, based on an appropriate mix of units (agreed with reference to availability), identified need and economic viability. Thereafter the Council should be advised over any changes to the affordable units in the scheme operator's annual statement to the Council. There should be no distinction between affordable and market units to allow the location of affordable units to change within the scheme where necessary.