

FURTHER NOTE ON POLICY LPP34(B)

BRAINTREE DISTRICT COUNCIL

1. The inspector has asked for clarification as to what forms of Affordable Housing (within the definition of the NPPF 2012) the Right to Acquire under section 180 of the Housing and Regeneration Act 2008 applies.
2. Affordable Housing within the NPPF 2012 covers “Social rented, affordable rented and intermediate housing provided to eligible households whose needs are not met by the market”.¹
3. Section 180 sets out the criteria for the Right to Acquire as follows:

“(1) The tenant of a dwelling in England has a right to acquire the dwelling if–

(a) the landlord is a private registered provider or a registered social landlord,

(b) the tenancy is within subsection (2),

(c) the provision of the dwelling was publicly funded,

(d) the dwelling has remained in the social rented sector ever since that provision, and

(e) the tenant satisfies any qualifying conditions applicable under Part V of the Housing Act 1985 (c. 68) (as it applies by virtue of section 184).

(2) A tenancy is within this subsection if it is–

(a) an assured tenancy, other than a long tenancy, or

(b) a secure tenancy.

¹ The definition provides greater detail on each of these categories of affordable housing as follows:

“Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.

Affordable rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).

Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.”

4. In principle all three categories of affordable housing identified in the NPPF – social rented, affordable rent and intermediate housing - are *capable* of being subject to the Right to Acquire under section 180 of the NPPF 2012. In each case, whether the right actually does arise will depend on whether the criteria under section 180(1) is met in respect of the individual dwelling (and particular tenant in question).
5. By way of context, it is regularly the case (in Braintree at least) that the landlord of the affordable housing dwelling is a Private Registered Provider (or Registered Social Landlord), and that the dwelling will have been provided, in full or in part, by public funds.²

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² Section 181 of the Housing and Regeneration Act 2008 sets out circumstances in which the dwelling will be considered to have been publicly funded for the purposes of section 180(1)(c). In general terms, for instance, where the dwelling has been wholly or partly funded by the HCA, a Private Registered Provider or Registered Social Landlord.