

## **A SAFE BUILDING IS A SOUND INVESTMENT – SETTING THE SCENE**

*The objective of this paper is to show support for Dame Judith Hackitt’s proposition that ‘a safe building is a sound investment’ and that once money demands this, the industry will follow.*

### **EXECUTIVE SUMMARY**

The Building Safety Act (BSA) represents a permanent and necessary reset for the UK construction industry, following the systemic failures highlighted by the Grenfell tragedy and the subsequent uncovering of further poor practices. Its aim is clear: to raise safety, accountability, and quality across the built environment, ensuring that “a safe building is not only essential for those who use it but also a sound investment”.

While the intent of the Act is widely supported, its implementation, particularly through the Building Safety Regulator (BSR) and the Gateway 2 approval process, has created significant tensions and adverse consequences. Delays of up to 30–40 weeks, lack of dialogue, and uncertainty over costs have stalled high-density development, redirected investment toward low-rise housing, and discouraged forward funding. The result is a reduction in residential delivery and investor confidence. *It remains to be seen whether this is a temporary problem or has longer term consequences.*

Key challenges include:

- Regulatory delays undermining investment confidence and adding financing costs.
- Uncertainty in risk allocation, particularly in contracts, leading to inflated costs or disputes.
- Inadequate handover and building information, limiting the long-term benefits of the Golden Thread of Information.
- Investor perceptions that compliance adds cost and delay, rather than long-term value.

However, the BSA also presents opportunities:

- Safe, compliant buildings reduce insurance costs, increase asset value, and align with ESG requirements.
- A professionalised, safety-led approach enhances long-term investment security and market confidence.
- Improved quality and comprehensive documentation support better asset management, future-proofing, and reduced remediation risk.
- Clearer risk-sharing contract structures can limit disputes and create fairer allocation between investors and contractors.

The way forward requires:

1. Improved efficiency in the BSR processes, especially Gateway 2, with predictable timelines and constructive dialogue.
2. Education of investors to reframe compliance as value creation and asset protection, not just additional cost.
3. Collaborative frameworks that balance regulatory rigour with commercial viability.
4. A cultural shift in procurement, away from lowest-cost delivery toward long-term quality, safety, and resilience.

Ultimately, the success of the BSA depends on the industry’s ability to embrace safety as a competitive advantage. If investors demand compliance as standard, the supply chain will adapt, creating a positive feedback loop. In this way, the sector can rebuild confidence, ensure resident safety, and deliver sustainable long-term returns, proving that a safe building is, indeed, a sound investment.

## **A SAFE BUILDING IS A SOUND INVESTMENT**

There is no doubt that the aims of the BSA are required in the industry and have been for some time. The Grenfell tragedy, and what we have subsequently seen materialise across the country, has demonstrated that things needed to change. Namely, design as you build, a lack of understanding of design and materials, a lack of accountability for decision making, race to the bottom pricing, and value engineering being the focus, rather than value and quality.

The BSA has forced a reset to the general approach to design and constructing buildings - one that has enforced a new approach to delivering buildings, and a positive long-term move for the industry. However, the intent of the BSA is not fully understood, with its implementation often considered a negative move for the industry.

The problem isn't the BSA and what it is seeking to implement, but the way it has been deployed/introduced and the lack of proactive preparation by industry to be ready for what they knew was coming. This has resulted in delays, uncertainty and investment cost increases, primarily due to the delays in the application process via the Building Safety Regulator (BSR). These 'problems' fly in the face of proactive and positive investment in the UK's living sectors, particularly in buildings of height.

At the current time, the stumbling block for all investors is the delay cost and uncertainty, which is all that investors currently see and understand. With delays of up to 30/40 weeks for a Gateway 2 application, with little or no dialogue, it is not appealing to investors. The process creates risk. The effect has seen a change in focus from high-density development to low-rise, and often single-family housing, out-of-town developments, consequently delivering a reduced number of homes and shifting towards low-rise regional projects that avoid Gateway 2 requirements. At Rund, we have seen several clients opt for this approach to allow them to keep building. Forward funding has become challenging, with investors avoiding development risk, preferring to trade stabilised assets instead. This has had an overall detrimental impact on residential development across the country.

**A solution** - We understand that change is coming to the BSR and Gateway 2 process, but we need more education and to see the effect of this coming through. We need to focus on the positivity of the BSA and what it will deliver in the future for the long term. Investors as long-term asset holders, or those who are seeking a quality product to stabilise and sell, should see the benefit of this approach; after all, an unsafe building is an asset sales risk. Investors need to see that the current complexity is a temporary situation; but the market effect is permanent. Investors need to be encouraged to view the BSA as the path to a professionalised UK rental market, with safety leading design and build standards.

## **THE BSR - A BARRIER TO PROCUREMENT AND RESOURCING - THE UNINTENDED CONSEQUENCES ACROSS THE INDUSTRY**

High-rise and high-density development has been hit hard, going from a growing and predictable asset class to one hit by delays, increased costs, complex risk management and a lack of regulatory awareness. Uncertainty is affecting all aspects of the industry, from land acquisition to design teams and contractor pipelines. So-called regulatory uncertainty which is also about industry reluctance to embrace the need for change has become a barrier to investment, largely due to increased construction costs and investment costs - namely in the form of interest/financing costs created by delays.

The Gateway 2 process has created a significant and immediate challenge for high-rise development. As well as investor concern and viability challenges, the bottleneck in applications impacts consultant teams and contractors in particular, with a pause in projects during the application review period being the main issue. The bottleneck means a pause for these teams, uncertainty and ultimately a loss of continuation on many projects as a result. This comes at a cost and is an extremely inefficient use of time and resources - teams don't grow, companies don't invest in growth and new recruitment, and ultimately, the residential development sector doesn't have the wider appetite to invest and grow as a result. This problem needs to be addressed by both changes in the regulator's approach and also by changes to the way projects are developed which now needs to involve much more up front design ahead of Gateway 2.

**A reduction in investment** - In very simple terms, investors have reduced interest in developing. This has led to a decrease in the number of projects, resulting in fewer instructions for consultants and contractors. The industry doesn't currently have the certainty to continue with growth plans - no matter how positive the BSA is overall, this is an unintended consequence driven by delays. We need a reset. A positive approach to the BSA, a reduction in delays, and certainty on the process. An understanding of the correct allocation and sharing of risk, and a changed approach to project planning can all help rectify this.

The flipside to this is potential strains on capacity and resourcing should the flood gates open and projects start to come forwards in large numbers. Does the industry have the resources to tackle the demand and react - does this add a further complication, resulting in a spike in pricing and restriction in progress due to the limited capacity? The industry needs to tackle resourcing and the longer-term impact, which is a separate conversation.

**The need for focus** - the focus for investors should be ensuring that buildings are being procured compliantly throughout the design and build process. Once the BSR is appropriately resourced and all parties become more familiar with the requirements, the base principles of the BSA will come to the fore, i.e. confidence in that all relevant buildings will have been designed and built to an appropriately safe standard for occupation and the associated benefits which come with this to investor organisations, etc.

Alongside this, the impact of Gateway 3 on the overall procurement process is still to be felt. This is the point of maximum financial strain for an investor, when all capital has been deployed, but income generation cannot yet commence. If the industry wants investors to be optimistic and embrace the BSA and development in general, the industry needs to get this part of the process right. In terms of overall project procurement, we need to avoid the mistakes of Gateway 2 presenting themselves at Gateway 3 - let's be prepared. This requires ensuring that what is approved at Gateway 2 is what actually gets built and that good records are maintained during design and construction.

**A solution** - The main principles of the BSA need to be reintroduced to investors, alongside the backdrop of an improved Gateway 2 process. This ultimately means ensuring that all relevant elements of a building are fully designed and approved prior to works starting on site, with a design and specification for those relevant items fully scoped and understood by the contractor at the time they are negotiating a contract sum. From that point on, therefore, there is no excuse for the contractor not to take on the responsibility of ensuring that construction complies with the approved design, and with their identified supply chains. Contract terms and conditions should therefore be drafted to reflect this.

## **THE VALUE OF SAFE BUILDINGS - A SHIFT IN UNDERSTANDING**

At the current time, investors see a block to development when talking about the BSA and Gateways. Until the intellectual, emotional, and financial aspects of the BSA are resolved, there is a cultural block to embracing the BSA and the benefits it brings to the industry and to buildings. Currently, investors just see time and costs escalating, creating unviable development. Whilst many see the aims and the benefits of the requirements, until the process is improved, with applications reviewed in a sensible time frame and a collaborative approach adopted, they are not going to want to understand the requirements and, indeed the benefits. What they see:

- BSR approval is unpredictable and potentially indefinite.
- Uncertain timelines and costs create risk premiums that make projects unviable.
- Failure to obtain approval can significantly disrupt project timelines, leading to costly delays and potential contractual penalties.

Delay means cost. Investors see the impact and repercussions of the extended BSA delays as unnecessary. Viability is the key ingredient; if, following a collaborative process and a full and safe review of information in compliance with the requirements of the BSA, time taken for approval was reduced and the delivery of approval guaranteed, developments would progress. Investors would perceive that barriers have been removed and there would be an understanding and appreciation of the value and requirements of the BSA. If barriers are removed, the education around the requirements and value will be understood.

The challenge for investors will be accepting the fact that complying with the BSA, designing first, building correctly, and with competent teams, will cost money - requiring upfront costs and the right expertise where it is needed. When educating investors, the emphasis needs to be that this adds value. We want to avoid the mistakes of the past and the new regulatory process is a step towards allowing this to occur, ensuring that residents have a safe home within which to live. This needs to be fed from the top down, with Boards being accountable for decision-making that results in a race to the bottom.

So, what does the industry need? There needs to be value placed on the asset that is built to a standard, with information in place that meets the BSA requirements, alongside the following being made clearer and developed further:

- Insurance premiums that are increasingly linked to building safety credentials.
- Property values reflect safety standards, with compliant buildings commanding premium pricing.
- Institutional investors are developing ESG requirements that align with BSA principles.
- Recognition that remediation costs for non-compliant buildings far exceed the upfront investment in proper construction.
- Whole life cycle costs of buildings need to be front and centre not just initial construction cost

Once major investors demand BSA compliance as a baseline requirement for portfolio inclusion, the entire supply chain will adapt. This creates a positive feedback loop where safety becomes a competitive advantage rather than a burden.

Investors don't just want to hear about reform of the BSA, they want to see the change and understand it. We need to be turning the regulatory uncertainty into a competitive advantage for investors who can look past this and see the potential for a more consolidated and professional product that is being delivered, benefiting the longer-term view of the sector. What we need for this to happen is to see practical, predictable and positive change in the approach to the

Gateway 2 process, and certainty that this will deliver quicker, yet still robust decision-making and ultimately safe buildings.

### **QUALITY IN CONSTRUCTION, HANDOVER AND GATEWAY 3**

The requirement for detailed and comprehensive building information at handover is not fully understood. Current standards fall short of what's needed for effective post-completion building management:

- Building information often lacks the detail needed for ongoing maintenance and safety management.
- Handover documentation is frequently inadequate for building owners and operators.
- Digital record-keeping systems vary widely in quality and accessibility.
- Management teams don't understand the information and therefore don't use it correctly.

Poor building information creates ongoing operational risks and costs that impact long-term investment returns. Investors need to understand this and the fact that Gateway 3 is intended to address and resolve this.

The Golden Thread of Information exists to provide an ongoing asset management benefit, ensuring complete building documentation that supports maintenance planning. It should allow for accurate maintenance plans, quicker fault diagnosis, and effective contractor briefing.

However, the information provided at handover is only part of the story. We need to turn the narrative from the end of the project to the beginning; what goes into the design of a building and its construction from the outset is vital; the handover information and operational information is key to maintaining what has been built safely in the first place. This all relies on a good design that is safe and built well in accordance with regulatory standards and a competent team, following a good brief from the investor. It also means ensuring that designs are followed, and standards met. Quality control is therefore important, and the rise in the use of Clerk of Works is welcome to help oversee and monitor quality in construction, for the benefit of the investor and the developer/contractor.

The construction industry's historical focus on lowest-cost delivery has created systemic quality issues. The necessity for the BSA has been brought about by the lack of ownership and lack of quality control by contractors, their designers, subcontractors and suppliers.

The project brief has a fundamental impact on the procurement process and build cost. Whilst costs and viability may be tight, investors should avoid the race to the bottom, seeking the lowest price - this doesn't represent value to the build over the long term and needs to be led from investors.

What the industry and investors need to see is that, in the life of a development, the design and construction period is only a relatively short amount of time, albeit a costly and important time. Investors should focus on the lifespan and the longer-term use and value of a development, along with its maintenance requirements. The ethos of the BSA is one that focuses on the total project value rather than the lowest initial cost. Investors should acknowledge that investment in competent suppliers and comprehensive documentation to manage a building provides an enhanced, longer-term outcome, and reduced operational risk.

Improved construction quality and detailed, comprehensive documentation provide protection for long-term asset values. Developments with a complete Golden Thread of Information and safety compliance are better positioned for future changes to regulations, upgrades, and disposal strategies - creating transparency and certainty.

Investors should learn from previous mistakes and embrace the change. Educating on the risks, and overall reward of compliance and quality might help outweigh the delay and resultant costs that have been experienced to date. Investors must be educated that paying premiums for quality contractors and designers reduces long-term risk and enhances returns.

## **CONTRACTUAL RESOLUTION**

A significant positive to come from the BSA is that the thought process that good design and construction are driven from the early stages of a construction project and are required to be finalised and approved before a spade is in the ground. Those relevant elements are fully designed and costed prior to works starting on site. This should inevitably result in fewer post-contract disputes, with ongoing risks limited to site-specific conditions.

There are currently two extremes contractually. At one end, the investor retains full responsibility for change or delays caused by the BSR and, in doing so, is exposed to significant risk. At the other end, obtaining BSR approval is entirely the contractor's responsibility. This will inevitably affect a contractor's pricing and allow for the risk cost within their contract sum, and therefore, again, the investor takes the hit.

A pragmatic approach is where standard contracts are amended to share the BSR risk, and where an appropriate timescale is built in whereby the contractor takes responsibility, therefore providing an incentive to deliver, with any further risks at the investor's responsibility.

It is important that contract forms are used that incorporate building safety requirements, the allocation of responsibility and the requirements for the coordination of the design, designers, principal contractor and the management of information and the requirements leading to The Golden Thread of Information. The ultimate goal is for any disputes to be resolved via the form of contract, not the courts. Having suitably worded clauses, in full compliance with the BSA and BSR requirements, is essential to ensure a full appreciation of the risks.

Alongside this, investors and clients in general will need to ensure that the approach manages risk appropriately, with the understanding that loading all risk onto the contractor is not sustainable and reasonable.

## **SUMMARY**

The Building Safety Act and Building Safety Regulator represent a permanent shift in how we approach construction safety, and rather than viewing them as obstacles, the industry must recognise the fundamental value they bring to building standards and development quality. The enhanced safety requirements should be viewed as essential improvements that protect both occupants and investment value, rather than being dismissed as bureaucratic barriers.

The residential development sector now has a genuine opportunity to reverse the concerning decline in standards and confidence that has plagued the industry since long before the Grenfell tragedy. This transformation will require more than regulatory compliance - it demands a comprehensive change in how investors understand and engage with building

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safety. Education must sit at the heart of this shift, alongside practical reforms to the Gateway 2 approval process that can resolve many of the problems currently emerging later at Gateway 3.

Looking beyond immediate implementation challenges, investors must fundamentally reframe their perspective on building safety as a long-term asset protection strategy. An unsafe building poses significant commercial risks, ranging from potential remediation costs to marketability issues that can significantly impact returns. By contrast, developments that exceed safety standards from the outset provide robust protection against future liabilities and maintain their value proposition over time.

Success will require forward funding mechanisms that work within viable development parameters. This cannot be achieved through regulatory pressure alone - it demands genuine collaboration between industry stakeholders, the Building Safety Regulator, and the investment community to create frameworks that support both safety excellence and commercial sustainability.

Ultimately, the market must accept that a safe building is a sound investment. This principle should guide every funding decision and development strategy moving forward, recognising that the highest safety standards deliver the most secure long-term returns. The industry that emerges from this transition will be stronger, more reliable, and better positioned to serve both residents and investors with confidence.