

How local planning authorities are delivering policies for affordable housing

Findings
Informing change

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This study provides an update on how local planning authorities have been implementing affordable housing policies (Section 106 of the Town and Country Planning Act 1990) in the context of changing and uncertain policy.

Key points

- Local planning authorities have continued to improve the implementation of their S106 affordable housing policies despite continuing uncertainties over the last five years. Planning Policy Statement 3, published in March 2007, was welcomed as it reduced uncertainty by defining affordable housing and allowing authorities to reduce the threshold at which S106 contributions are required.
- Increasing requirements for other planning obligations such as highways and education, along with the affordable housing requirement, may make sites unviable. In these cases it is the affordable housing requirement that is squeezed.
- Viability issues have made it necessary for some local authorities to do financial viability assessments, adding considerably to their work load. Authorities felt this was necessary to address perceived inequalities in their negotiations with developers.
- Although developers increasingly accept the need to provide affordable housing, tenure is now a major negotiating point as developers see a higher proportion of shared ownership as a means of reducing their financial commitment.
- Achieving the affordable housing target is the over-riding issue on some development sites, while on others a lower percentage of affordable housing may be accepted to achieve a house type that meets local needs.
- All the authorities in the case study areas were concerned that further changes in policy might adversely affect their capacity to meet affordable housing objectives.

The research

By Gemma Burgess and Sarah Monk at the University of Cambridge, looking at experiences in five local authority areas

Background

Section 106 (S106) policy has been through a period of uncertainty and continuing change together with consistent pressure to expand the number of affordable units delivered.

Since 2002 the system has been under review, with repeated consultations on replacing it with tariffs; on introducing a planning-gain supplement (taxing the profits made by landowners selling land for property development); on speeding up negotiations; on increasing the requirements and detailing the mix of tenure; and at the same time introducing greater certainty for developers. Planning Policy Statement 3: Housing (PPS3), published in March 2007 after lengthy consultation, introduced new definitions of affordable housing, which have largely been welcomed. Local development frameworks have been brought in with the aims of speeding up the planning system and increasing consistency, but few are yet in place and many authorities are operating with very out-of-date plans. New guidance has been issued on how to identify needs. The Housing Corporation's grant allocation mechanisms have modified, changing regional priorities and the likelihood of receiving a grant.

These changes continued with the publication of the Housing Green Paper – *Homes for the future: more affordable, more sustainable* – in July 2007 raising further uncertainties about the potential introduction of a planning-gain supplement (PGS). It has more recently been announced that a national PGS will not go ahead. Instead a system of local planning charges will be introduced, again creating uncertainty about the impact on the provision of affordable housing through S106.

How have local authorities been coping in response to this plethora of advice and initiatives? The authors looked at this question first, using website and email surveys across all planning authorities together with supporting interviews undertaken for the Royal Institution of Chartered Surveyors (RICS) Education Trust (*The provision of affordable housing through S106: the situation in 2007*, Gemma Burgess, Sarah Monk and Christine Whitehead, 2007, RICS Education Trust).

This showed that different authorities were taking very different stances on how much and what to provide and about their role in ensuring developer contributions; that authorities see increasing pressures in all directions; that they are focused on expanding the amount of affordable housing through S106 but that fewer affordable homes are coming from other sources.

This study builds on these findings through five detailed case studies, which look at policy, negotiations and implementation in the context of rapidly changing national and regional policy, and the resultant uncertainty.

Lessons from the case studies

The case studies showed improving performance everywhere in obtaining affordable housing through the planning system. However, there were increasing complexities as well as uncertainties that were having an adverse impact on authorities' capacity to achieve the affordable housing required.

Viability

Maximising financial contributions whilst not forgoing units is a problem for some Local Planning Authorities (LPAs). The most common issue in one of the case studies has been dealing with developer claims that sites are not viable with the proportion of affordable housing the LPA seeks. The council has invested considerable resources in overcoming this:

“The biggest barrier is demonstrating viability on the site. We have spent a huge amount of money – used the Three Dragons tool kit (a spreadsheet-based appraisal for applications that propose less than the 50 per cent minimum of affordable housing), got professional valuations, and now have a fairly robust model to help challenge developers – but it all depends on the data.”

The use of financial models and toolkits to consider the viability of a scheme has become much more common, particularly as affordable housing targets increase and difficult sites come forward. In one case study where the target is a relatively low 25 per cent, there has been little need for models, but the target is likely to increase to 30 or 35 per cent in the near future and the interviewee foresaw a need for more viability studies, a larger workload and more lengthy negotiations.

The study suggests there is still an unequal playing field between developers and Local Planning Authorities (LPAs). As one interviewee commented:

“It is easier to believe a developer and their legion of staff with their sharp suits and nice spreadsheets and presentations than your own officers. In most 106 negotiations it will be me sat against three or four developer staff who won’t be on less than a £70,000 salary and there is an expertise and a manner that comes with that. It can be difficult for members to stand up against that.”

Other obligations

The study found that there is often a long list of other planning gain in addition to affordable housing. This can come from the county council as well as the local authority. Planning obligations place a strain on a development – affordable housing is only one aspect and is usually the first to be squeezed when viability issues arise.

Examples of the ‘shopping list’ from one case study include: community facilities provision, community forest contributions, landscape improvements, local labour and training initiatives, park and ride contributions, pedestrian, cycle and public transport improvements, plant and wildlife habitat areas conservation and enhancement, pollution control contribution, public art provision and public realm provision.

A related problem is when the county comes into the negotiations too late, asking for essential planning obligations that force the affordable housing to be renegotiated. Unitary authorities have a greater ability, and incentive, to present a united front with all the other obligations sorted out at the same time. However, those among our case studies tended to have an even longer ‘wish list’ than the districts.

Types of affordable housing and developer contributions

Recently there has been a shift in what developers want to negotiate over:

“The sticking point in negotiations is starting subtly to change. It used to be the percentage but now most developers have taken on board that from a member’s point of view and getting it through planning control they will have a much

easier ride if they don’t argue for something lower. So now we get developers saying they will do the 30 per cent but not the tenure split and offering less social rented.”

This issue is closely linked to the size of developer contribution achieved. For example, in one case study the LPA is very closely involved with the financial aspects of the affordable housing as they determine a set of prices for different sizes and types of dwellings that the housing association will pay to the developer. The LPA feels that this approach means that:

“Developers are happy because it provides certainty even before they have acquired the land so they can build it in to their calculations.”

However, this is seen to raise an additional concern – that Registered Social Landlords (RSLs) may then pay above the set prices, ‘undermining’ the approach and reducing developer contributions.

At the other extreme, in another case study the LPA is not at all concerned with what contribution the developer makes:

“What goes on between the developer and the housing association is no concern of the council as long as we get what we ask for.. We said all along we want dwellings. We are not interested in who pays for them as long as they get built.”

This difference is linked to more fundamental attitudes of the LPA to the policy of achieving affordable housing through the planning system. There are two extremes in terms of these attitudes. Some of the case study authorities say they are not concerned with how the affordable units are financed, only with achieving the target numbers. Others want to maximise the developer contribution and provide the ‘right’ housing to meet needs in terms of size, type and tenure, rather than just achieving the target numbers. To do this they feel they have to be concerned with how the units are financed, and prefer a grant-free developer contribution to which they can add a grant to achieve real added value, such as housing for the elderly.

Achieving policy objectives

Support for the affordable housing policy from local authority councillors helps planning officers in negotiations because developers know that if their application goes to committee without meeting the affordable housing requirements the councillors will reject it:

“Because there is the public perception that people are struggling to buy houses, members (councillors) have become more aware that affordable housing is important and they have been pushing us a lot at committee. Four years ago they wouldn't have even asked what the affordable housing was on a site, they weren't bothered about 106s, now it is the key question on every site, 'Are you getting 30 per cent and if not why not?'”

Even so, one interviewee highlighted, the need to have a policy that is supported by all LPA departments is a prior requirement if the LPA is to be able to present a united front to developers.

Policy change has meant that all the LPAs had problems relating to out-of-date Local Plans with equally out-of-date affordable housing policies. They agree that efforts need to be made to ensure LPA policy is clear, easily accessible, up to date, evidence based and consistently applied – but see this as impossible in the current environment.

Conclusions

The system has been delivering significant amounts of affordable housing despite the uncertainty surrounding the policy and the lack of guidance LPAs feel they face. Progress has been largely the result of all parties improving the negotiation 'game' and of planning authorities setting out their policies with greater clarity, using Supplementary Planning Guidance Documents to spell out the details of their approach.

In order to increase clarity for developers and to allow LPAs easier comparison with other authorities, the authors recommend that a website containing a database of all LPAs' policies would be helpful. Greater consistency in the system would also be helped by the use of a common toolkit in all LPAs. Taken together with broadly accepted regional guidance, this could make expectations more consistent and lead to common practice across LPAs.

S106 for affordable housing has proved to be robust in the face of continuing uncertainties. However, tensions are building up within the system regarding other planning obligations; the types of dwellings delivered; the use of grants; and the fact that many local authority plans are out-of-date. There are further tensions arising from uncertainties about broader policies, notably the impact of Government approaches to capturing planning gain, on what can be achieved in terms of affordable housing. Finally there are fundamental concerns about the realism of some LPA housing policies as rising affordable housing targets increasingly lead to viability issues, an issue that is unlikely to be resolved by clearer government guidance.

About this study

This study was conducted by Gemma Burgess and Sarah Monk at the University of Cambridge with support from Christine Whitehead and from Tony Crook at the University of Sheffield. The study built on recent questionnaire and telephone interview research funded by the RICS Education Trust, with the Joseph Rowntree Foundation supporting in-depth case studies with five Local Planning Authorities to explore in more detail how the delivery of S106 policy had changed over the last five years. The case studies highlight what is interesting in each LPA rather than being exhaustive accounts of policy and practice in each case.

Further information

For more information about this study please contact Sarah Monk at the Cambridge Centre for Housing and Planning Research (e-mail: landecon-cchpr-admin@lists.cam.ac.uk). The initial RICS study, **The Provision of Affordable Housing through S106: the Situation in 2007**, will be published by the RICS Education Trust in its Research Report series.

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Tel: 01904 615905 email: info@jrf.org.uk