

Planning gain and affordable housing

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Making it count

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1 Introduction

Key points

To set the scene this chapter explains:

- the research question
- policy basis for using planning gain to secure affordable housing
- why we need information about policy output and outcomes to assess how the policy is working
- how current government proposals might affect that success
- the framework for our analysis of process, outputs and outcomes.

The question

Almost everyone agrees that we need more affordable housing in England – and that there is an overall shortage of housing in many parts of the country. It is a requirement of the land use planning system that adequate land is supplied to meet identified demands. Whether or not the funding is made available to achieve the necessary affordable housing is a matter of government policy and priorities.

Over the last decade the government has evolved a policy by which land allocation and some elements of funding are tightly linked through planning obligations. An important research question is how effectively this policy is working to increase provision as well as to meet wider objectives of mixed communities and regional imbalance.

This report aims to answer the question by:

- clarifying the numbers of additional affordable houses secured in England through the planning system, and regional and other variations in these numbers
- assessing the effectiveness of the processes by which affordable housing is secured
- looking at the costs involved and who pays for the affordable housing provided
- evaluating how much the use of a planning obligation approach is helping to achieve affordable housing policies.

Policy background

Local authorities had been experimenting with ways of using the planning system to secure affordable housing in a number of areas in England in the 1970s, but official government endorsement first came in 1979 when the rural exceptions policy was announced. This enables rural planning authorities to grant planning consent for housing on sites that would not otherwise receive permission, provided that only affordable housing is developed on them.

The approach was more widely sanctioned to enable affordable housing to be secured on all larger housing developments in 1981 and subsequently included in all Planning Policy Guidance on housing (PPG3) issued since then (DETR, 2000). Provided that local planning authorities have policies in their adopted statutory development plans that assess the need for new affordable housing in their districts, they may require private developers to contribute to meeting this need. They may also set specific targets to be achieved on sites allocated for new housing in adopted plans. When developers agree to make contributions these are made legally binding contracts, where they enter into agreements with the relevant planning authority under section 106 of the 1990 Town and Country Planning Act as part of the process of securing planning permission.

These contributions fall into the general category of 'planning gain' (see for example, Healey *et al.*, 1993). In the past, planning gain was

generally limited to securing developers' contributions towards the specific costs that are directly associated with development impacts, including off-site infrastructure. Today, they are used increasingly to make contributions to wider infrastructure and community needs, including affordable housing (Campbell *et al.*, 2000).

There have been modifications to the policy and some recently announced proposals for reform. In 1998, the policy was amended, to reduce site thresholds above which contributions would normally be sought, and to link it more closely with the government's policies on social inclusion, mixed communities and urban renaissance through on-site provision of affordable housing (DETR, 1998). In the 2000 version of PPG3, the government made it clear that developers' unwillingness to make contributions to affordable housing would be an appropriate reason, of itself, to refuse planning permission (DETR, 2000).

In the 2001 Green Paper on reform of the planning system the government proposed widening the scope of the affordable planning policy to incorporate small sites and commercial developments. It also proposed replacing negotiated contributions by standard authority-wide financial tariffs, which would still mainly be used for on-site provision. (DTLR, 2001a, 2001b). The government has recently announced its intention to implement many of these proposals, including those on planning obligations (ODPM, 2002).

Output and outcomes: the need for more information

Much of the previous research has focused on questions of policy development and of implementation rather than on output and outcomes. It has looked at the dissemination of policy, examining how planning authorities have interpreted policies and the issues they face in implementing them. Because the evidence suggests

that securing affordable housing through negotiations with developers has been far from easy, this type of research has also helped produce guidance on good practice, especially to promote partnership working between developers, local authorities and registered social landlords (RSLs) (for example: DTLR, 2001c; David Bishop & Associates 2001).

The numbers of affordable houses secured through this mechanism, both in the early years of the policy and more recently have been estimated (for example, Barlow *et al.*, 1994; Holmans *et al.*, 2000). This suggests that in the early 1990s between 10,000 and 12,000 affordable dwellings were being secured through the planning system each year in England, with up to approximately 15,000 in the later years of that decade.

Most research has been limited to identifying 'good practice' and to looking at the total numbers secured. It has not examined whether these numbers are actually additional (that is would not have been provided in some other way); nor what has actually been achieved and where; nor how the costs have been shared between government, landowners, developers, or purchasers of market housing.

A full evaluation of the impact and effectiveness of the policy in securing additional affordable housing requires a much more up to date and detailed picture of what is occurring. In particular we need empirical evidence on the key questions of location, tenure and the costs of securing affordable housing on 'section 106 sites'. Moreover, given that the effectiveness of negotiations between planning authorities and developers and RSLs is likely to be critical to questions of costs, and type of provision, understanding the policy context in which authorities work is crucial to the interpretation of results. This involves tracing the impact of central government policy through regional authorities to the district planning and housing department decisions which help determine the resultant outputs.

Framework for analysis

The section 106 approach to providing affordable housing starts from the presumption that the land use planning system, together with building regulations, will determine the total number of additional dwellings that may be provided, their location and their physical attributes. This will be achieved through central government policy and advice, regional allocations of appropriate numbers, local plans and development controls.

Ensuring that affordable housing is delivered through the planning system is not meant to modify these decisions significantly, but is intended to ensure that a proportion, based on local needs assessment, is affordable – either via low cost market provision or, more usually, social rented housing. As such the section 106 contract ensures land for affordable housing. It also ensures that a financial contribution is made to the affordable housing provided.

In this way the use of planning gain for affordable housing means that developers and landowners are being asked to fund part of the shortfall in the provision of social rented and other affordable housing. That contribution can be in the form of free land or from reduced land prices, from housing, a reduction of the transfer price of the housing or from direct contributions.

There are three main possibilities as regards who pays for the cross-subsidy:

- First, developers can pass the expected subsidy back to the landowner by paying a lower price for the land. As long as the same amount of land comes forward, this is simply a financial redistribution from landowners to affordable housing.
- Second, the cost can fall on developer profits. One of the richest sources of subsidy here comes from land price increases arising after the developer buys the land. If these are unexpected, 'taxing' these need not affect

output – but if they come out of the developer's normal development profit it could cut both market and affordable housing output.

- Third it could come from an increase in the prices of the market houses included on the sites. This would not normally occur – as one would expect the developer always to seek the highest attainable price.

The necessary price reduction can also come from reducing costs per dwelling – for example, by lowering building standards, changing the mix of housing provided or increasing densities. These do not involve subsidy but rather changes in the output provided and in the efficiency of production. Any problems arising from these cost reductions are likely to be borne by the occupier or by the neighbours now or in the future. There could even be benefits – if for instance existing density standards are too high.

On the other hand, some or all of the potential subsidy may be lost through:

- lower market house prices in the rest of the scheme, which reduces the capacity to provide affordable housing
- higher costs of building and negotiations which again reduces the opportunity for additional affordable housing and wastes real resources
- changing the location of building to higher cost areas, such as brown-field sites or to higher cost regions
- schemes not going ahead – which works against policies to provide enough housing whether market or affordable.

The framework is further complicated by the fact that section 106 is not the only – or indeed the main – way by which housing is made affordable. Direct government subsidy in the form of Social

Housing Grant (SHG) is allocated through the Housing Corporation, both to section 106 sites and to 100 per cent affordable housing sites. Local Authority SHG (LASHG) is also sometimes available to assist provision. The interface between this financial subsidy and that available through section 106 – which is generally in kind rather than cash – makes it extremely difficult to ascertain the impact of the planning system approach.

Sometimes, section 106 contributions are seen as a way of stretching SHG, in other cases they may be a substitute, in still others higher levels of subsidy are necessary to allow the development to take place at all. As importantly, the land allocation made within a section 106 agreement is often a prerequisite to enabling SHG to be used at all – without land affordable housing cannot be built.

Who actually pays the subsidy will depend on market circumstances and the bargaining powers of those involved (Crook and Whitehead, 2002).

Whether or not the policy secures affordable housing also depends on a whole host of factors but crucially prerequisites are a flow of development land with planning permission in areas with unmet affordable housing needs and with development values high enough to provide the cross-subsidy required. What any evaluation must therefore monitor is how much affordable housing is being provided, the processes by which this occurs, and who is paying for the output achieved.

The report

This report addresses the research question by looking at the evidence on three core aspects of the policy and then bringing the findings and conclusions together to evaluate the overall achievements of the policy and to make recommendations to the main stakeholders.

The three core issues are:

- *Numbers.* How many affordable homes are being achieved through the planning system (including both section 106 and rural exceptions policies); where and what type of tenure; and how does this compare to the potential within the system as well as the overall requirements?
- *The process.* How are local policies developed and implemented; how is the timing of development and what is achieved affected by that process, the relative negotiation powers of the different actors; and the factors affecting success?
- *Costs and additionality.* The costs of the outputs secured; who is paying for these outputs; the role of SHG; and the extent to which what is provided is truly additional.

Taking these three elements together enables us to address the success of the policy in terms of land allocation, financial contribution and what is being provided. It also allows us to evaluate suggested policy change in the light of findings about how well the current system is working.

The research was based on an analysis of Housing Investment Programme (HIP) data, a postal questionnaire to 197 planning authorities in the summer of 2000 followed by case study visits to a subsample of 40 planning authorities during late 2000 and early 2001. Site-specific analysis was carried out in a subset of 16 authorities during 2001–2002. The questionnaires were returned by 117 authorities, a response rate of 59 per cent. The case studies were illustrative rather than statistically representative because the study focused mainly on areas where some output had been achieved. Appendix 1 sets out the detailed research questions and research methods.

2 The numbers

Key points

- HIP data indicate that the planning system secures around 15,000 affordable units annually, but these data probably overstate the actual numbers.
- There is a strong North–South divide, both in numbers secured and in the tenure of affordable housing.
- Affordable housing tends to be separated from market housing on section 106 sites.
- Local authority site-specific affordable housing requirements are generally being achieved in areas of high market demand when sites come forward for development.
- The shortage of development land is a major constraint on what can be achieved.
- The numbers achieved so far fall well below the potential contribution to affordable housing from the policy.
- Even this potential falls well below estimated affordable housing requirements.

Introduction

This chapter examines the available evidence about the numbers of affordable homes being secured, their location and tenure. It does this through an examination of five sources of data:

1. Official HIP returns for 1998–1999 and 1999–2000 describing regional and national quantities of affordable housing approved and secured.
2. The results of a postal questionnaire describing quantities of affordable housing secured by region and by authority.
3. Analysis of the affordable housing policies and contributions within 40 local authorities.
4. The evidence from the 64 site-specific case studies where section 106 agreements were concluded between 1997 and 2000.
5. A detailed analysis of all sites above the affordable housing threshold in three local authorities.

Analysis of these data permits:

- an assessment of the gross contribution of affordable housing as recorded by the HIP data

- a comparison of this gross contribution with the potential output if the policy were fully implemented and
- a comparison with affordable housing requirements.

Total contributions

Quantities of affordable housing secured through the planning system: evidence from the HIP returns

The most important record of housing development information from local authorities is the HIP data. HIP data are collected annually by means of two questionnaire forms: the HIP Operational Information and the HIP Annual Plan.

The HIP data record a total of 13,892 affordable units ‘secured’ during the year 1998–1999. In 1999–2000 the definition used within the HIP returns was altered slightly, as local authorities were asked to record the number of units ‘approved’ and ‘completed’ rather than ‘secured’. For this analysis, the figures relating to ‘approved’ units are used and compared to the numbers secured for 1998–1999.

For 1999–2000 the number of units approved was 15,529, an increase of almost 12 per cent on the

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previous year. These figures equate to between 11 per cent and 13 per cent of total housing completions given the patterns of 1998–2000. At the time of writing HIP data have yet to be published for the year 2000–2001.

Regional variations

Figure 1 displays the regional patterns of affordable housing. It is clear that there have been significantly greater numbers of affordable homes approved or secured in the southern half of the country. This is shown in more detail in Figure 2, where the quantity of affordable housing secured or approved is shown relative to residential development activity, measured by total completions, for the given year.

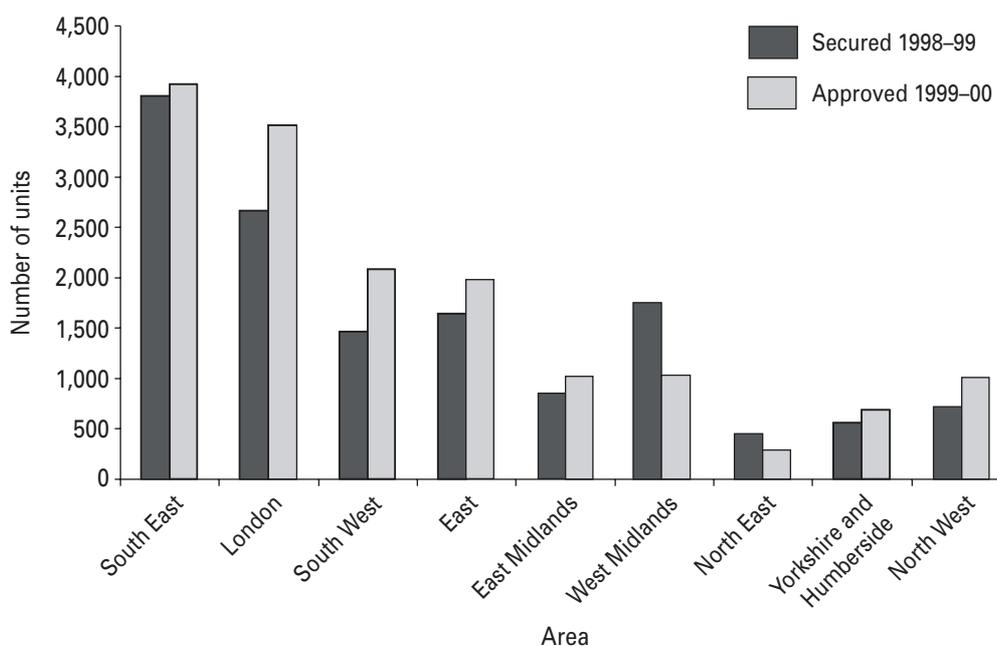
A similar pattern exists for financial and land contributions made in lieu of the on-site provision of affordable units. For 1998–1999 authorities in London received almost £21m in commuted sums out of a total of £43m. In 1999–2000 total

contributions dropped to £35m but with over 50 per cent of this figure received in London and the South East. The total contribution of land over the two periods is almost identical at 93 hectares for 1998–1999 and 95.5 hectares for 1999–2000 with the majority of the contributions again in the South East. Only 5 per cent of total land contributions were in the northern part of the country.

Problems with the HIP data

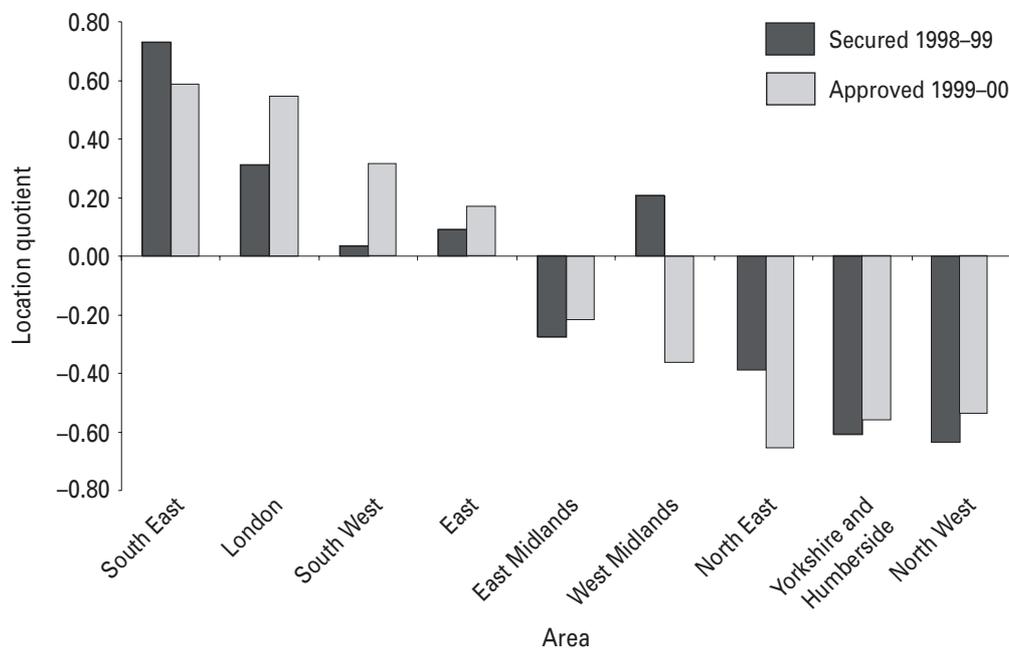
The main problem with the accuracy of the HIP returns is that these data are recorded by the local authorities. During this research it became increasingly evident that the majority of local authorities do not keep accurate records of affordable housing completions, units secured or approved through the section 106 process. There is also a problem with the definitions used with the HIP returns. The terms secured and approved have been interpreted in different ways by different authorities. The terms are supposed to relate to the

Figure 1 Affordable housing secured/approved on-site through the planning system



Source: HIP data

Figure 2 The relative distribution of on-site affordable housing negotiated through the planning system



Source: HIP data and housing completions data (Regional Trends 40)

numbers of affordable units specified in completed section 106 agreements. Some authorities, however, only recorded those units actually completed while others included those units that were likely to be secured but were still under negotiation. There is also evidence that some authorities have recorded all affordable housing units allocated planning permission in the relevant year and not just those secured or approved as an element of a market site. Double counting of starts and completions was also evident. Our evidence suggests that the HIP figures have over-estimated the provision in the northern half of the country but under-estimated the number of units in the South East and London.

Housing need and affordable housing provision: evidence from the 40 case study authorities

For each of the 40 case study local authorities surveyed during this research a qualitative assessment of housing need and the use of price:income ratio determined the level of housing

need in the authority. This assessment was then compared to the quantity of affordable housing secured through the planning system. Although affordable housing targets were related to housing need there was no relationship between need and the quantity of affordable housing secured. The main reason behind this is the lack of suitable development land. In one of the larger case study authorities there were only four sites above the 25-unit threshold over a 2-year period. This significantly limits the ability of the local authority to secure large quantities of affordable housing. In many southern authorities land availability is restricted to small brown-field infill sites that fall below the threshold. Many rural areas lack large development sites. Other areas suffer from land constraints such as national park boundaries or surrounding green-belt land. These issues contribute to a shortage of development land and consequently limit the quantity of affordable housing that local authorities can secure.

Site-specific contributions

Affordable housing targets and policy compliance: successes

The vast majority of local authorities set affordable housing requirements usually stated as a percentage of total units. These are written into their local plans. Requirements of the 40 study authorities ranged from 10 per cent up to 40 per cent. A small number of authorities, 6 of the 40 surveyed, set site-specific targets whereby each allocated site has a site brief which specifies the number of affordable units required. The requirement set by the local authority displays a strong relationship with the level of housing demand and need in an area. Areas with low need have low or no required contributions.

The postal questionnaire asked local authorities for details of affordable housing secured or approved on market sites between 1997 and 2000. The sites provided were examples of the successful implementation of the affordable housing policy. Details of 301 sites were provided by 61 authorities, the majority being in London and the South East, reflecting the distributions shown in Figures 1 and

2. Table 1 indicates that the largest on-site percentage contributions were in the South East and London with the remaining regions of the country all below the 20 per cent contribution mark. Contributions were slightly higher in rural areas. On successful sites, local authorities are securing significant numbers of affordable units. Even the low demand areas such as the North and Yorkshire and Humberside are securing over 10 per cent of total units as affordable. This figure rises to over 25 per cent in the South East.

Table 2 describes whether the 64 site-specific case studies complied with the affordable housing policy of the local authority. ‘Compliance’ is defined as the actual contribution being close to the policy requirements of the local authority. ‘Compliance with conditions’ indicates that the contribution was below the affordable housing target but there were reasons for this that were deemed acceptable by the local authority.

Table 2 suggests that developers operating in areas where there is greater local need and higher demand for market housing are more likely to satisfy the affordable housing requirements of the

Table 1 Site-specific affordable housing contributions 1997–2000

	Number of sites	Open market dwellings	Affordable dwellings	Percentage on-site contribution	Exception sites	Affordable dwellings on exception sites	Commuted sums (£)
South East	46	2,168	790	27	4	28	950,000
London	82	4,215	1,199	22	0	0	15,160,500
South West	15	627	110	15	8	62	450,000
East	35	3,075	600	16	1	8	73,005
East Midlands	34	5,800	1,086	16	11	22	2,265,296
West Midlands	29	2,610	423	14	4	22	1,240,840
North East	9	4,075	506	11	0	0	0
Yorkshire and Humberside	32	2,157	294	12	0	0	695,000
North West	19	1,492	279	16	0	0	0
Total	301	26,219	5,287	17	28	142	20,834,641
Rural	129	8,392	2,035	19.5	27	140	482,005
Urban	172	17,827	3,252	15.5	1	2	20,352,636

Source: Postal questionnaire survey

Table 2 Regional pattern of policy conformity (% in region)

Region	Contribution consistent with district policy?		
	Yes	No	Compliance with conditions
South East	58	8	33
London	69	0	31
South West	91	9	0
East	60	0	40
East Midlands	86	14	0
West Midlands	50	50	0
North East	50	50	0
Yorkshire and Humberside	33	33	33
North West	75	25	0
Average	64	21	15

Source: Site-specific case studies

local authority. In lower demand areas there is far more room for negotiation to achieve lower output levels.

Quantities secured: all sites

The analysis above suggests that local authorities have been successful in securing significant quantities of affordable housing on the majority of sites where the affordable housing policy has been fully implemented. However, this analysis focuses only on those sites where a contribution was made. There are large numbers of sites above the threshold where no contributions are obtained.

The questionnaire asked local authorities to provide data on completions for the period 1992–2000 to enable a calculation of the number of affordable units completed as a percentage of total units. Although only 34 of the 117 respondents provided data for the full period it was sufficient data on which to produce an estimate of the quantity of affordable housing as a percentage of total completions.

Between 1992 and 2000, only 2.8 per cent of total completions were affordable units. This figure does not include contributions of land or commuted sums. However, this covers a period when the policy was only beginning to generate outputs.

Evidence gathered from the postal

questionnaire, the survey of 40 local authorities and the site-specific case studies indicates that local authorities can secure local plan target levels of affordable housing. Evidence also suggests that quantities of affordable housing secured are low, although increasing. One reason is that the majority of residential development sites fall below the threshold and contribute no affordable housing, but the survey of 40 authorities also discovered many sites above the threshold which avoided affordable housing contributions. The overall conclusion therefore is that affordable housing contributions are not being maximised.

Affordable housing completions: evidence from three authorities

A detailed survey of three local authorities aimed to examine first, why sites avoid affordable housing contributions and second, affordable housing as a proportion of total completions. All sites above the threshold in three local authorities were analysed along with local authority documents and interviews. Table 3 describes the characteristics of the three local authorities.

The three authorities have varying characteristics from urban to rural and low to high housing need. All require affordable housing contributions on all sites above 25 units. In

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authority C this falls to 10 units in some smaller settlements.

Table 4 describes the number of private dwellings completed/approved above the affordable housing threshold for the study period, the number of affordable units completed/approved for the same period and the affordable units as a percentage of the total. These figures are consistent with the 2.8 per cent of total dwellings identified as affordable from the questionnaire analysis. This figure is lower because of the longer period and the policy was less developed in the early 1990s.

These figures indicate how small a proportion of total units on sites above the threshold is

affordable. Clearly these authorities are not meeting their local plan targets, although quantities secured are increasing as local authorities become more experienced in negotiations and the demand for residential property continues to expand. The main reasons for this policy failure are examined below.

Authority A

Just 4 per cent of dwellings above the threshold were affordable. This falls to 3 per cent of total private dwellings *completed* during the period 1997–2000. The authority were extremely concerned about the low quantities of affordable housing being secured. Indeed they stated that

Table 3 Characteristics of the three local authorities

Authority	A	B	C
Location	Yorkshire	South West	East
Urban/rural	Urban	Urban with rural areas	Rural
District or UA	UA	UA	District
Affordable housing requirement	15–25%	20%	10–15%
Threshold	As in Circular 6/98	As in Circular 6/98	As in Circular 6/98 but 10 units in smaller settlements
Negotiating teams	Led by planning department	Joint housing and planning team	Led by housing department
Negotiation stance	Flexible	Flexible	Strict
Housing need assessment	Low but growing	Medium but growing	Medium to high

Source: Survey of three planning authorities

Table 4 Affordable housing as a percentage of total completions/approvals on sites above 25 units

Authority	Period examined	Private dwellings on sites above threshold	Total affordable units	Affordable units as a percentage of total units
A	1997–2000 (Completions)	3530	149	4
B	1998–2002 (Approvals and completions)	7805	365	5
C	1997–2000 (Completions)	818	72	8

Source: Survey of three planning authorities

over the last 2 years there had been no instances of the full affordable housing requirement being delivered. They focused on two main reasons for this. First was rising house prices. The authority requires 20 per cent of units to be discounted by 25 per cent of open market value and transferred to an RSL. However, because of the rapid rise in house prices, a 25 per cent reduction no longer makes the property affordable. Discounts are being combined, thereby reducing the contribution in terms of the total number of units. The second reason was the generous allowances made by the authority for the abnormal costs of developing brown-field land. They felt that they were being over generous with these and that developers were taking advantage of this even though many were deducting the abnormal costs from the land price.

Other problems experienced by the authority included the actual delivery of the affordable housing and obligation release clauses. This has resulted in the loss of 17 affordable dwellings from 2 sites. The release clauses are activated because the nominated housing association has failed to acquire the affordable dwellings within set deadlines. The dwellings are then sold at market value. The failure of housing associations to purchase the units is due in part to dissatisfaction on their part with the agreements reached between the council and the developer.

Authority B

Authority B was unusual in the fact that there were large areas of residential development land that had been granted outline planning permission in the late 1980s and early 1990s, before the implementation of the affordable housing policy, and which have recently been granted detailed permission. Consequently there are large areas of development land without any affordable housing contributions.

This example indicates that there are still large residential sites with outstanding permissions which have little or no affordable housing secured upon them. However, the same authority is currently negotiating another large residential

development site of approximately 4,000 units. The local authority are seeking an affordable housing contribution of between 30 per cent and 40 per cent, a level above the local plan requirement. This will go some way towards compensating for the lack of affordable units on earlier sites.

Within the same authority during the study period, none of the four city centre developments above the threshold contributed any affordable housing. The reason given was that they were within important redevelopment areas and, with the associated costs of development on these brown-field sites, the local authority did not wish to jeopardise the regeneration by imposing additional costs upon the developer.

Authority C

A housing enabling officer is involved in every affordable housing negotiation on schemes above the threshold and stated that affordable housing has been secured on every site, although there have been reduced contributions in many cases. This is an example of a largely effective policy in a predominantly rural area.

In the early stages of the policy the authority required a 10 per cent contribution on sites above the threshold and was generally successful in achieving this. However, in smaller settlements where the threshold is 10 units, the maximum contribution would be a single unit. It is not until the size of the site rises to 20 units that a second affordable unit would be required. The difficulty lies in persuading developers who are developing a site between 10 and 20 units to provide the additional affordable unit. A lack of experience and the desire to be consistent by always seeking a 10 per cent contribution whatever the circumstances during early section 106 negotiations are also reasons why the total contribution is below the 15 per cent now sought. The authority also stated that the costs of developing brown-field sites and the impact of other planning obligations reduced contributions.

Evidence from these three authorities suggests a number of problems in implementing the policy, not least a lack of experience in the early stages. The study also indicates that authorities are getting better at negotiations and are starting to secure greater quantities of affordable housing. But most importantly it suggests that real outcomes will continue to be well below identified requirements.

Rural exception sites

Rural exception sites (RES) are always small sites (six units on average) on the edge of village settlements, developed almost exclusively for social rented housing with local occupancy clauses in place. Figure 3 indicates the number of rural exception units secured or approved through the planning system. The numbers outside the South are low and it is possible that the South East figure for 1998–1999 is an anomaly. Where units have been developed the schemes have been considered a valuable use of resources by all concerned.

Affordable housing tenures and mixed communities

There are a variety of affordable housing tenures delivered through section 106 agreements. The most common tenure is social rented housing which always involves an RSL. Shared ownership is also common, again involving an RSL. Other tenures include low cost home ownership (LCHO). These units are dwellings sold on the open market but are usually restricted in size in order to maintain affordability. Discounted open market value (DOMV) units are less common. In this case the developer will sell the units at a discount of the open market value, usually 20 per cent. Subsequent sales are also at the same discount. The process is usually administered by the local authority. Other variations on low cost ownership include occupancy restrictions whereby those entitled to

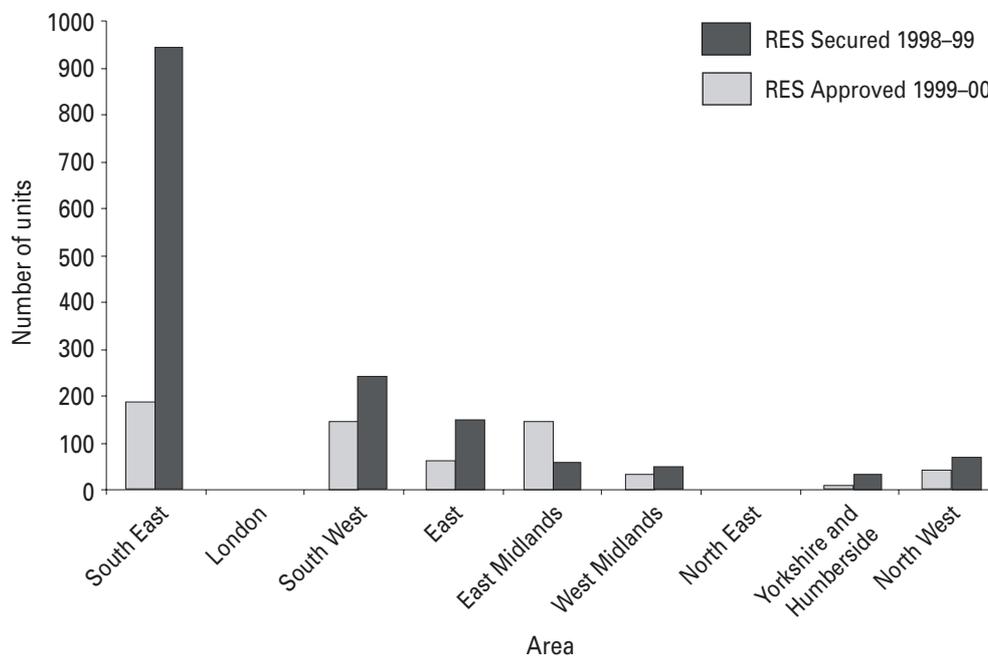
purchase a dwelling have to have satisfied certain criteria such as being resident in the area for a number of years or being defined as a key worker. Commuted payments may be made by a developer to the local authority as an alternative to providing physical units.

Social rented property is the most common tenure secured in London, the South East and South West. From our site-specific case study sites there was an element of rented property on almost 80 per cent of sites in these areas. This falls to under 40 per cent for sites in the Midlands and the North. Here there is a higher proportion of shared ownership accommodation. LCHO units are found almost exclusively in the North and Midlands, as even a small two bedroom house in the South East would be outside the boundaries of affordability. This also applies to discounted market units.

Developers interviewed as part of the site-specific case studies indicated their preference for LCHO over rented units for a number of reasons. First was the fact that these LCHO units could be sold at open market value and therefore a profit could be made on them. Second is the stigma attached to social rented units and, to a lesser extent, shared ownership units. Developers were concerned that the presence of social rented units next to market units would impact on the saleability and therefore the value of the market units.

In the case study authorities in the North, North West, East Midlands and South West, local authorities appear to be careful in ensuring that the affordable units integrate with the market element of the site. This was not the case in the remaining regions where local authorities permit a certain degree of separation between the two. Occasionally, LCHO units and shared ownership units are used as a buffer between rented and market units. In some cases the affordable units were located in the worst areas of the site and completely separated from the market units.

Figure 3 RES approved/secured through planning policy



Source: HIP data

Monitoring the provision of affordable housing

The quantitative elements of the research programme were consistent in determining the poor quality of the monitoring of affordable housing outputs. The questionnaire asked respondents to supply data on the quantity of affordable housing secured since 1992. Only a quarter were able to do this and the majority were unable to provide accurate data on the exact number of units secured through the policy since 1997.

The lack of accurate data is closely associated with a lack of proper monitoring of affordable housing delivery. The monitoring of affordable housing is the task of development control but only as part of the whole housing development – there is no requirement to monitor the affordable units separately. The study identified only one local authority that employed someone specifically to monitor the delivery of affordable housing. This

lack of monitoring could result in the developers failing to provide the requirements of many complex section 106 agreements either through misinterpretation of the clauses, a failure by the local authority to clarify the requirements or a deliberate attempt to reduce the contribution.

With section 106 agreements being attached to the outline planning application and with many sites being split up for detailed planning approval it is vital to ensure that the legal agreement is enforced and it is up to local authorities to do this. The accurate recording of the numbers secured through the section 106 agreement would help this process and also inform local housing strategies as well as regional and national policies.

Housing need and the potential output of affordable housing

There is a limit to the quantity of affordable housing that local authorities can deliver through the section 106 policy. Assuming total completions

of market units are 120,000 units per annum and all authorities secured a 30 per cent affordable housing contribution on every residential development site then the policy could deliver 36,000 units. Site thresholds are set at Circular 6/98 levels in the majority of authorities, 25 units in settlements above 3,000 and generally 15 units in smaller settlements, therefore the vast majority of sites are not eligible to contribute affordable housing. Indeed, simple analysis of the Land Use Change Statistics (LUCS) for three local authorities suggests that, for urban authorities, fewer than 50 per cent of units are developed on sites above 25 units. In rural areas the figure is much lower. This leaves a total of around 60,000 completions per year on sites above the current threshold. Even assuming a 30 per cent contribution on all sites the result is a maximum affordable housing contribution of under 20,000 units per annum.

Regional Planning Guidance (RPG) sets regional targets for affordable housing. The South East has a yearly target of 18,000–19,000 units, the South West 6,000–10,000 per annum, London 11,500 per annum and the North West just under 4,300 affordable units per annum. Housing Corporation Approved Development Plan (ADP) spending is expected to account for between 15 per cent (in the South East) and 70 per cent (in the North West) of the total requirement. This leaves the section 106 policy to provide approximately 40,000 units without additional assistance. With the current thresholds in place combined with the availability of development land there will be a shortfall of at least 20,000 units per annum. Reducing the threshold will increase the provision of units. However, the resultant location of affordable units would not be consistent with the regional distribution of need.

Independent research by Holmans *et al.* (2000) estimates the need for affordable housing in England at over 80,000 units. With just under 22,000 additional units expected from Housing Corporation ADP spending there is a shortfall of

around 60,000 units. The current section 106 contribution of dwellings with no SHG hardly dents that figure.

Policy implications

HIP data estimate that around 15,000 affordable units are secured per annum. Evidence from our survey of 40 authorities suggests that this is an over-estimation, as many authorities have incorrectly interpreted the definition of secured and approved used within the HIP returns. Double counting of approvals and completions as well as the recording of 100 per cent affordable housing sites masks the true figure.

The postal survey determined that just under 3 per cent of total completions were affordable units during the period 1992–2000. This figure is low because it reflects the early years of the policy when outputs were minimal. A survey of more recent data within three local authorities suggests that between 4 per cent and 8 per cent of total completions were affordable.

Our postal survey described what can be secured on a site-specific basis. Using evidence from 301 sites throughout England, on-site contributions ranged from 11 per cent in the North up to 27 per cent in the South East. Thus, large quantities of affordable housing can be secured on specific section 106 sites, particularly in high demand areas of the South. Further site-specific evidence from our 64 case study sites suggests that local plan affordable housing targets are now being met on the majority of sites that are above the threshold.

Taking all the evidence from the research into account, a rough assessment may be made about the quantity of total completions secured as affordable housing. Quantities have been rising every year since the new guidance was issued in 1998. The 4–8 per cent range determined by the three case study authorities includes the period 1998–2000 when requirements were still low and

authorities were inexperienced at negotiations. We estimate that a maximum of 10 per cent of total market housing completions is being secured at the moment – representing at most around 12,000 units. This figure will continue to rise as authorities set higher targets, reduce thresholds and get tougher in negotiations.

However successful the policy becomes there are limits to the quantities of affordable housing that can be delivered because of the lack of land coming forward for development. If South East affordable housing contributions of 27 per cent were negotiated on every market site in the country this would only secure around 33,000 units, assuming total completions of 120,000 market units.

Analysis of the LUCS indicates only around 50 per cent of units are developed on sites above the threshold, therefore the maximum contribution is around 16,500 units.

The RPG affordable housing target for the South East alone is 19,000 units per annum. Independent research (Holmans *et al.*, 2000) suggests a requirement for over 80,000 affordable units per annum. With ADP spending estimated to provide around 22,000 units and assuming that no section 106 sites require SHG there is a shortfall of 47,000 units. If affordable homes on section 106 sites require funding from Housing Corporation SHG – which the majority do – there is an even bigger gap in provision.

3 Policy, process, negotiations and timing

Key points

- Compliance with local authority policy is generally good on sites where an element of affordable housing is sought.
- The main problem when securing affordable housing is the clarity of the affordable housing policy framework from central government.
- Negotiations between local authorities and developers are the key to the affordable housing process.
- The level of demand for residential property directly affects the ability of the local authority to successfully secure local plan levels of affordable housing.
- The affordable housing process is both lengthy and complex. The process needs to be streamlined and the relevant skills and experience of local authority officers improved.

Introduction

This chapter describes the process of delivering affordable housing through the planning system. It focuses on three main factors that influence the provision of affordable housing:

- the clarity of affordable housing policy
- the negotiations between local authorities and developers/landowners
- the level of demand for residential property.

Emphasis is also placed on the length of the process from pre-application discussion to affordable housing delivery.

Policy compliance

The process of securing affordable housing as part of a market development is a complex one; there are a number of variables that influence the outcome. The previous chapter described the level of provision in some detail, stating that two thirds of the 64 case study sites were considered to be consistent with the policy of the district. The following examples describe sites that complied, did not comply, or complied but with conditions to the policy of the local authority.

Examples of sites that complied with policy

- *Site 6c: affordable housing requirement 30 per cent, provision 25 per cent.* This large brown-field allocated site in an urban authority in the East Midlands obtained planning permission for 277 units. Amicable negotiations secured 30 units for rent through an RSL and 40 low cost market units. The percentage contribution was reduced slightly by agreement because of the extra costs of infrastructure associated with the brown-field nature of the site.
- *Site 13a: affordable housing requirement 25 per cent, provision 25 per cent.* This large brown-field allocated site located in London was developed for 385 units, 25 per cent of which were affordable, 70 for rent and 27 for shared ownership. The Housing Association was heavily involved in the negotiations from the outset and the affordable units are considered to be of the highest quality. The site was accompanied by a planning brief which directly influenced the scheme of the developer.

Examples of sites that did not comply with policy

- *Site 6a: affordable housing requirement 30 per cent, provision £31,250 commuted sum.* This small brown-field windfall site was a

conversion of an existing building in the East Midlands into 40 flats. Both parties agreed that on-site provision of the affordable housing was inappropriate but the planning authority requested a commuted sum of over £250,000. Hostile negotiations followed with the developer threatening to break up this site so the application would fall below the threshold. The developer provided financial appraisals to show the planning authority that the development was not viable with a commuted sum of anything over £31,250. This was reluctantly accepted by the authority, who wanted to see the site regenerated. The sum was equivalent to a contribution of 1 unit.

- *Site 3c: affordable housing requirement 20 per cent, provision 8 per cent.* This very large green-field allocated site in the South West was allocated for around 6,000 units. As early as 1993 a very substantial package of planning obligations had been agreed which included no mention of an affordable housing requirement. When the reserved matters application was submitted the local authority decided that an affordable housing requirement was necessary. A 15 per cent contribution was the original requirement given the other planning obligations agreed. Negotiations reduced the contribution to 8 per cent but 90 per cent of these units were for rent in line with the affordable housing policy. The consortium of developers was angry that the planning authority wanted to alter the terms of the initial planning obligation agreement.

Examples of sites that complied with policy but with conditions

- *Site 10a: affordable housing requirement 15 per cent, provision 11 per cent.* This is a large green-field site in the East. The original plan

was for planning gain to go towards a bypass but the bypass was rejected. Section 106 did not specify the tenure but required the developer to hand over completed houses to an RSL without SHG. In practice this meant the land was free. The developer argued that the original 1993 planning application offered 10 per cent affordable housing contribution and this was accepted by the council because they feared they might lose the appeal.

- *Site 11a: affordable housing requirement 20 per cent, provision 14 per cent.* This was a very large allocated brown-field site in the South East for the development of 300 units. Negotiations eventually secured an on-site contribution of 46 rented units and a commuted sum of £500,000 based upon £10,000 for 50 units. The reduction in the requirement was due to other planning obligations on the site and the fact that the site was a regeneration site which the authority felt it important to develop.

Policy compliance is linked to a number of crucial factors. These factors can be summarised under three categories:

- Policy clarity
- Negotiation environment
- The demand for residential property.

The last two are linked with the demand for residential property directly affecting the ability of the local authority to negotiate. These three factors are now explained in detail.

Policy clarity

In all, 89 per cent of local authorities have an affordable housing policy written into their local plan. This written policy is often supported by

supplementary planning guidance. Both documents inform developers and landowners of the potential affordable housing obligation. During focus groups and case study interviews, developers and landowners consistently commented that certainty is the most important factor during negotiations because it allows them to include any potential affordable housing obligation in the financial appraisal of a development site. This certainty comes initially from a clear and unambiguous local plan policy and then from a consistent approach to negotiations from the local authority. Policy transparency through site-specific local plan targets would aid the process.

However, questionnaire analysis determined that local authorities considered that the most significant problem of securing affordable housing was a lack of clarity in the policy framework set by central government. This leads directly to problems in formulating watertight local plan policies and, perhaps more importantly, in determining exactly what the authority is legally entitled to press for during negotiations.

A common complaint among developers was that the local authority would often change their affordable housing requirements without warning. This is sometimes due to internal politics or a failure to fully implement the local plan policy in the first place. A clear, consistent message from the local authority conveyed through site-specific targets from allocated sites offers certainty to developers, resulting in a smoother negotiating process.

Negotiation environment

Negotiation between the local authority and developer and/or landowner is the key to the affordable housing process. It is these negotiations that determine the detail of the final contribution; details such as the amount, tenure and location of the affordable housing. The effect of negotiation is clear. Two authorities with similar levels of market

demand and land availability can secure vastly different levels of affordable housing as a result of the negotiation approach and the skill and experience of those involved. This section examines the different aspects of negotiation and identifies the factors that influence the provision of affordable housing.

Negotiation – the developer and landowner

Developers and landowners place huge importance on affordable housing negotiations. A successful outcome could save hundreds of thousands of pounds on a large site. Consequently, to conduct the negotiations the parties either use senior members of staff with affordable housing experience or employ specialist consultants.

Developers will use a number of tactics to reduce affordable housing contributions. The list below illustrates actual reasons given by developers for reducing the affordable housing contribution.

- The developer was unaware of the policy requirement and as a consequence paid too much for the land.
- The abnormal costs of development increases unit costs and therefore reduces the funds available for affordable housing provision.
- The existing package of planning obligations such as highway works, education and open space minimises any further planning gain contributions.
- The developer's own housing needs survey contradicted the local authority's survey, suggesting that a much reduced contribution was appropriate.

In many cases the developers may already have an established relationship with the local authority planning department and may begin informal discussions before any application is submitted. The affordable housing requirement may be

discussed at this time. This can provide a reliable indication of the size of the contribution and financial appraisals can incorporate this contribution when establishing development viability.

Within the analysis of the 64 sites, developers were classified as local, regional or national. A pattern emerged concerning the relationship between the size of the developer and the affordable housing contribution. The evidence indicated that national developers are more adept at minimising contributions, probably because of experience and the quality of advice available to them during negotiations. Also important is the pattern of commuted sums. Within the 64 sites, five of the seven commuted sums were paid by national developers.

Models of the negotiation approach – local authorities

Authorities adopt one of three approaches to negotiation:

- A 'strict' approach: if developers refuse to provide the required contribution they are made aware that permission will not be granted. This is most common with the high need authorities of the South East and London.
- A 'flexible' approach: negotiations will take place around (and usually end up under) the local plan target figure. This approach is adopted by the majority of local authorities.
- A 'take what we can get' approach: unique to areas with low housing need, the authority either asks for no contribution or for a minimal contribution. Refusal to provide the minimal contribution will not normally result in the refusal of planning permission.

A number of factors lie behind these different stances. These include the strength of the local authority's policy stance and its vulnerability to

appeal. Those authorities whose planning and affordable housing policies have been the subject of scrutiny and ratification in the plan-making process are more confident that their requirements will withstand an appeal unless there are exceptional circumstances associated with the site.

Within the 40 local authorities surveyed, nine adopted a strict approach to negotiation. These included all the National Parks, and six of the remaining seven were in London or the South East. Therefore, market demand appears to strongly influence the approach taken towards negotiation. Within the 64 sites, negotiations were categorised as either hostile, amicable or somewhere in between. Negotiations were hostile in only 11 of these 64 sites, indicating that agreements are reached in the vast majority of cases.

Negotiating teams and local authority politics

There are important variations in the ways and the extent to which planning and housing departments work together to secure affordable housing. There are three models of this relationship:

- The planning department either undertakes all the negotiation on their own, or involves the housing department only during the final stages of the agreement to deal with technical issues such as how the affordable housing is to be provided.
- Either the planning department or the housing department undertake the majority of negotiations but the other department provides relevant information when required. This is the most common pattern.
- A negotiation team is assembled from the planning, housing, engineering and legal sections of the local planning authority.

There may be tension between the local authority departments. Where planning officers lead negotiations some housing staff feel that too much is decided before they become involved in

discussions and feel unable to press for contributions above those already agreed. In contrast, some planning officers perceived their housing colleagues as inflexible, pushing for maximum contributions irrespective of the characteristics of the site.

Also important is the issue of regeneration versus housing need. Where local planning authorities are looking to regenerate inner city areas, where abnormal development costs are often high, the imposition of an affordable housing requirement may jeopardise any potential development. In such cases the planning department will often waive any affordable housing requirement. This often conflicts with the policy of the housing department. Example site 6a above illustrates the effect that such a context can have on the eventual outcome.

The solution to inter-departmental tension is to establish a negotiating team consisting of expertise from relevant local authority departments, including valuation expertise to scrutinise development appraisals. The team can determine a site by site strategy before negotiations with developers begin. The developer then receives a single, consistent message.

Local authority politics play an important role in first, establishing the extent of the affordable housing policy and second, developing the negotiating stance. Council members will have some input into the process by pressing for maximum contributions on key sites or perhaps settling for below local plan requirements to ensure the development of a site. Rural council politics have a significant input into the rural exception site process. Members have the power to approve or reject possible sites for rural exception housing and this can often lead to major problems if parish councillors adopt a 'NIMBY' approach. RSL and local authority staff commented that parish councillors can make life almost impossible if they do not want to see affordable housing developed in their parish.

Costs of brown-field development

The additional costs involved in developing brown-field land are a major factor in below target affordable housing contributions. Such additional costs would include land decontamination and site clearance, for example. These abnormal costs of development are often cited by developers during negotiations as the main reason why they could not provide the required level of affordable housing. In the vast majority of cases the local authority accepts the developer's argument without examining any evidence. Developers should be compelled to provide evidence to prove their case. Currently they are not asked to do so because of a lack of in-house financial appraisal expertise within the planning and housing departments. The use of property valuation skills from elsewhere in the local authority could help solve this problem.

SHG – impact on negotiations

Planners undertake the majority of affordable housing negotiations. This presents a significant problem. The vast majority of planners do not understand the link between the provision of affordable housing and the funding of affordable housing through SHG (see Chapter 4). By maximising the number of social rented units planners are not aware of the funding implications. Developers and landowners are also unaware of this problem. The situation can arise where an authority has secured significant numbers of social rented housing but does not have the SHG available to fund all the units. Insufficient funding will either result in a reduction in the number of rented units, the rented units being switched to shared ownership or low cost housing, or the affordable housing obligation being discharged. Insufficient funding through SHG was one of the major problems of securing affordable housing identified by the postal questionnaire.

The priority of many authorities is to secure social rented housing. This must be balanced with the availability of funding. Housing officers and

RSLs should be involved in negotiations to ensure that funding is taken into account and that appropriate tenures are secured.

The negotiating process: other key factors

Individuals play a key role in the process. An individual can often determine the stance of the local authority and the tone of negotiations – strict or flexible. There are examples where authorities with similar economic and policy characteristics have secured vastly different quantities of affordable housing for this reason alone.

Experience is also key. Negotiations are face to face and it is often the skill and experience of the negotiating parties that determine the final quantity and tenure of the affordable housing. Developers now commonly employ affordable housing consultants. Local authorities are often short staffed and junior planning officers are dealing with these experienced consultants in often complex negotiations. With local authorities being unclear of the legal position regarding what they can and cannot require from the developer, the negotiating position of the developer is made even stronger.

The choice of RSL is often limited to local authority determined lists. This limits competition between RSLs. Developers should establish a partnership with an RSL early in the section 106 process to develop an effective working relationship and involve RSL expertise in negotiations.

There is evidence to suggest that other significant planning obligations affect the amount of affordable housing secured on a site. The extent of other planning obligations is therefore an important factor. This varies site by site. There are often competing priorities for planning gain. County and district councils are often competing for a slice of the planning gain package. The county council may wish to see significant education contributions while the district council are pushing for affordable housing. A trade-off is inevitable.

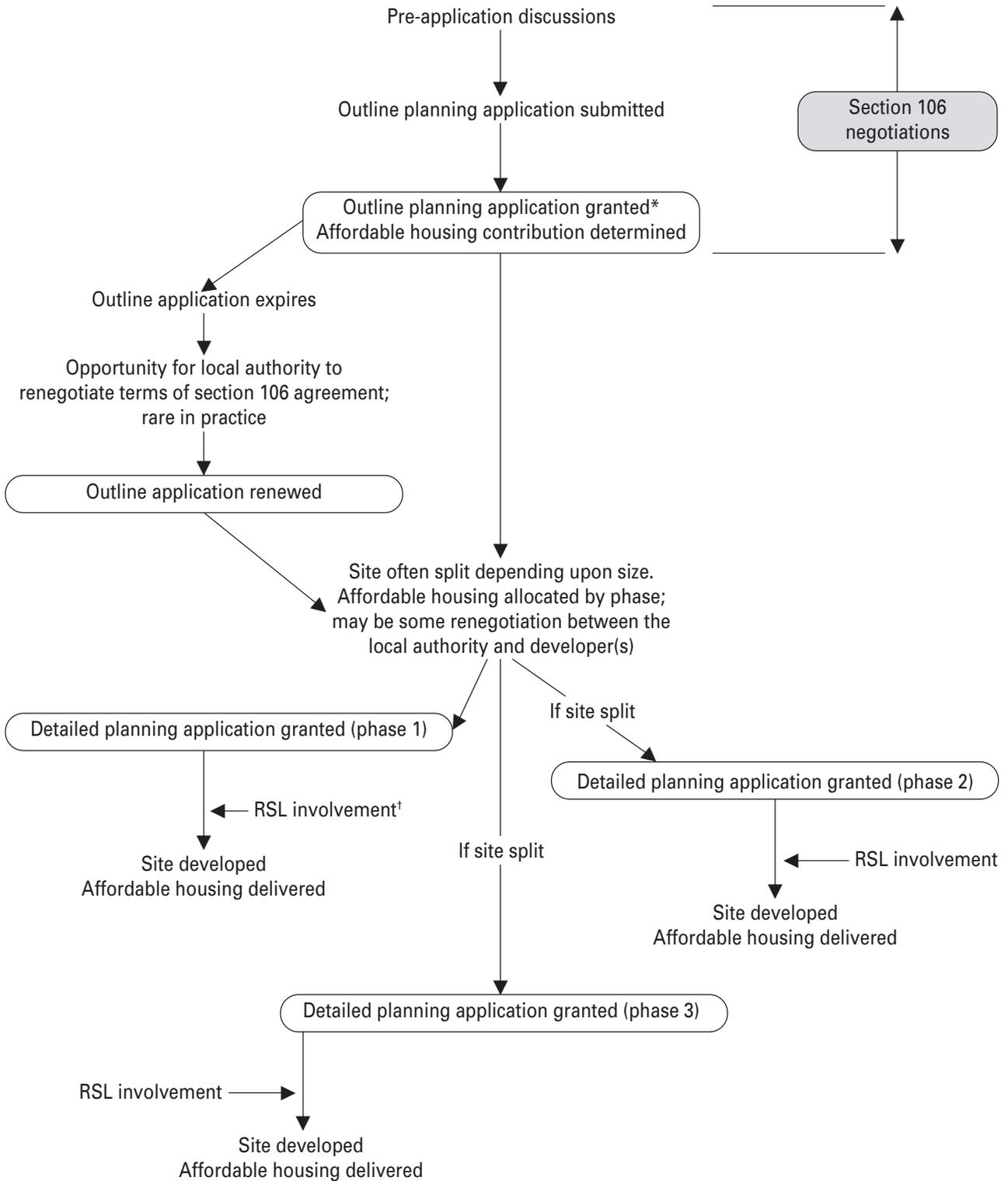
The demand for residential property

Market demand is the most crucial factor in securing affordable housing. As described in Chapter 2, the quantities of affordable housing secured, relative to completions, are far higher in the South of the country than in the North. The demand for housing leads directly to the demand for development land through the profitability of development. This demand provides the local authority with its negotiating strength. An authority can take a firm stance and demand a full affordable housing contribution knowing that if the developer does not comply there will be other developers that will. In lower demand areas there may only be a single developer interested in developing a site. If the local authority is keen to see this site developed then the developer can determine the level of affordable housing, as the local authority will not want to refuse planning permission.

Need is also greater in areas of high demand, therefore evidence from housing needs surveys permits affordable housing targets to be higher than in other areas. Requirements of 30 per cent or higher are common in the South compared with 15–30 per cent in the remainder of the country. In addition, high demand authorities have had greater numbers of section 106 agreements to negotiate and consequently have built up considerable experience.

It is important to remember that this policy is operating at a time when economic conditions are extremely favourable for both developers and landowners, with very low interest rates and almost unprecedented demand for residential property. Profits are high and developers and landowners are in a position to be able to make substantial affordable housing contributions. The operation of the affordable housing policy would be very different in conditions of low and falling market demand.

Figure 4 The affordable housing planning process



*Outline application sometimes granted subject to subsequent approval.

†In some cases the RSL may be involved from a much earlier stage, usually during the later stages of the section 106 negotiations. Ideally the RSL will be involved in the process as early as possible.

Timing

Securing affordable housing through the planning system is a lengthy process. Each residential site passes through a number of stages on the way to completion (see Figure 4). The more successful relationships between developers, landowners and local authorities begin with informal pre-application discussions relating to affordable housing provision and other planning matters. Some sites are more complex than others. Large sites are often split after the outline application is approved and sold off to different developers. The affordable housing is divided between the individual sites and the developer of the specific site has to provide the affordable housing. Often the individual developers will negotiate with different RSLs. This makes monitoring the delivery of the section 106 obligation problematic.

As Table 5 shows, the actual section 106 negotiation process is lengthy, in fact anything up to 6 years, although 18 months is common. Development of the section 106 agreement is often undertaken parallel to negotiations and redrafted when agreements change or disputes are settled. The actual legal detail of the section 106 agreement may take another 18 months to finalise. Planning permission is often granted subject to the legal agreement and this agreement may not be finalised until well after permission is granted. This adds to the (already) lengthy planning process.

Relating the example of site 13a to Figure 4, pre-application discussions began in 1995. The formal outline planning application was not submitted until 1998, by which time the affordable housing contribution had been all but agreed. The application and the section 106 agreement were then approved by the planning committee of the council in January 1999, almost 4 years after initial discussions began. The detailed planning applications were submitted immediately and construction of the units was completed in mid-2001. Although this was a large site, negotiations

were relatively smooth. Even so the whole process took 6 years.

The process of securing affordable housing on rural exception sites is also a lengthy process. From site identification, through negotiation to completion can take over 3 years. Table 5 provides some examples. The average size of a rural exception site is six units although they can be as small as two units. The process is therefore resource intensive. The recent introduction of rural housing enablers in many areas is aiding the process. These agents search for suitable sites and negotiate with parish councils and RSLs, ensuring that the process is less resource intensive for local authority planning and housing officers. The ability to designate land on the edge of settlements for affordable housing has supporters and would remove the hope value for market development but is controversial.

Many outline planning permissions negotiated during the early and mid-1990s are still outstanding. Such outline agreements were finalised either before or during the early stages of the affordable housing policy and no, or only small quantities of, affordable housing was secured. Therefore, a large number of sites, particularly the large, more complex sites, are being constructed with very little affordable housing on them. Developers who purchased land and obtained planning permission in the mid-1990s have witnessed large increases in the development value of sites due to rising house prices. As planning obligations were agreed during the outline permission stage and development has yet to begin, local authorities should take the opportunity to re-negotiate the agreement at the detailed permission application stage, or more likely when/if the outline permission is renewed, in order to take advantage of large increases in development values to secure additional affordable housing.

One way to shorten the process is to standardise the section 106 agreement. Too much time is spent finalising the small print of the document with

copies going backward and forward between the developer and local authority. Standard clauses in a standard document would help, although it is accepted that the agreements can be extremely complex and each site is different. However, there is no reason why each local authority could not have a number of standardised agreements and could use the one most applicable to the particular development.

Implications

The affordable housing policy has been in place for over a decade and although it is continually evolving as authorities undertake more and more section 106 developments there are still problems with the clarity of the policy framework. Many authorities, particularly those with less experience of negotiations, are still unsure about the extent of their powers. The ability to set site thresholds and targets and demand specific tenures are areas where further clarification is required.

Negotiations between developers and local authorities are key to the affordable housing process. Negotiations are where the quantity, tenure and location of the affordable housing are determined and offer the developer scope to minimise contributions. Local authorities are getting better at negotiating with developers as they become more experienced. However, they are learning from their mistakes and mistakes result in a loss of affordable housing. Greater policy transparency, the development of negotiating teams, the use of financial expertise to analyse developers' site appraisals and the early involvement of RSL expertise will all aid local authorities in their negotiations. The emphasis should be shifted during negotiations from local

authorities justifying their local plan target to developers justifying why they cannot meet that target. The availability of SHG funding should also be an issue during negotiations. If there is insufficient funding available alternative tenures should be agreed, for example key worker housing. Contributions should not be minimised because of a lack of public subsidy. These recommendations will lead to local authorities maximising affordable housing contributions. It will always be easier for authorities in areas of high housing demand to secure greater proportions of affordable housing but those authorities in lower demand areas can still maximise contributions by adopting the same principles. It is important to note that the policy is operating in favourable market conditions and outcomes would be very different in a less favourable economic environment.

The section 106 process is far too long. The negotiations lengthen the planning process considerably, in some cases by 3 years. Pre-application discussions, the early involvement of RSLs and a consistent approach by the local authority to avoid constant re-negotiation of agreements will aid the process. The adoption of standardised section 106 agreements would also help, although this is difficult because of the unique nature of each site and each agreement. Greater use of rural housing enablers would help to improve the efficiency of the rural exception process.

Local authorities are undoubtedly getting better at negotiating section 106 agreements and securing more affordable housing over time. However, there is plenty of scope to improve the efficiency of the process, provide more clarity and consistency for the developer, build skills and experience and therefore secure greater quantities of affordable housing.

Table 5 The affordable housing process: site identification to site completion

Site	Brief details	Site identified/					Status of development
		Initial discussions begin	Planning application submitted	Planning application granted	Date of legal agreement		
6d	400 units, 70 low cost market, £675,000 commuted sum	Late 1980s	Mar 1996	Jan 1998	Mar 2000	Not started	
3c	5,000 units, 450 Affordable, 90% rent	1986	1992	Feb 1997	July 1998	Not started	
2c	18 units, 3 affordable units off-site	Mid-1997	July 1998	Oct 1998	Aug 1999	Completed 2001	
9a	600 units, 10% affordable housing, LCHO	Mid-1997	June 1998	Sept 1999	Sept 1999	25% completed, including 28 affordable, 20% under construction	
9b	560 units, provision of land for 30 affordable units	1991	1993	Jan 1994	Dec 1994	68 completed, 28 under construction; affordable not yet determined.	
1a	300 units, 10% affordable LCHO	1995	July 1996	April 1998 (appeal)	Sept 1997	Complete	
1b	383 dwellings, 96 affordable of which 76 LCHO	Mid-1997	Sept 1997	Jan 1999	Apr 2001	Under construction	
4c	8 rural exception units	Sept 1997	Feb 1998	Apr 1998	Oct 1998	Completed late 1999	
4b	8 rural exception units	End 1997	June 1998	Sept 1998	Jan 1999	Completed early 2000	
3b	16 rural exception units	Early 1994	Mar 1995	Sept 1995	Sept 1995	Completed 1997	
3d	2 rural exception units	Nov 1995	Apr 1997	Nov 1997	Nov 1997	Completed Jan 1999	
17a	40 market flats and houses and 10 affordable		1999	Jan 2000	Jan 2000	Completed 2001	
17c	60 new units (exclusive 7-bed, 3-storey homes) and 21 affordable	1996	1996	Jan 1999	Jan 1999	Complete	
16a	46 houses and 26 apartments (market) plus 14 affordable terraced houses for rent	Feb 1997	1997	Apr 1998	April 1998	Completed 1999–2000	

continued overleaf

Table 5 The affordable housing process: site identification to site completion (continued)

Site	Brief details	Site identified/				Date of legal agreement	Status of development
		Initial discussions begin	Planning application submitted	Planning application granted	Initial discussions begin		
16b	33 dwellings of which 9 are affordable	Identified 1997 but land bought 1999	1998	Apr 1999	Jan 2000	Completed 2001	
13a	385 units of which 97 are for affordable flats	1995	1998	Jan 1999	Jan 1999	Completed 2001	
13b	Under construction are 204 units (1-3 bed) of which 49 are affordable units	Pre-Aug 1997	1997 and revised in 1998	Mar 2000	2000	Expected finish in 2002	
14a	1,680 units of which 800 affordable	1995	1998	May 2000	May 2000	Construction started but now under re-negotiation	
14c	20 units, all for RSL rent		Oct 1998	Jan 1999	Mar 1999	Completed 2000	

4 Costs and additionality

Key points

- The numbers of affordable homes achieved, total cost indicator (TCI), discounts and grants are closely inter-related. Many of the discounts are being used to enable the project to come in under TCI rather than to add to the total output of affordable housing.
- In general in the South and particularly in London section 106 makes schemes viable rather than freeing up funding to increase the overall output of affordable housing.
- Developer contributions are generally quite small when calculated across the whole scheme. Developers rarely make contributions over and above direct land costs. Who pays for that contribution depends on earlier negotiations with the landowner.
- The methods by which SHG is calculated, and the amount paid, depend on when contributions are recorded as much as on underlying real resource costs.
- Even though SHG and RSL contributions are often quite high the costs borne by tenants and those entering shared ownership are still considerable.
- We cannot fully assess additionality without a lot more information on possible alternative uses – but generally the evidence is that section 106 is enabling geographical restructuring rather than more housing. However, in the North and Midlands it is providing land supply for a small amount of unsubsidised affordable homes, mainly in LCHO.

Introduction

This chapter examines the evidence on the costs of providing affordable housing; who pays for that housing, particularly the role of SHG; and the extent to which the affordable housing provided through the planning system is additional. It is based on detailed cost information collected from submissions to the Housing Corporation for 64 sites which involved SHG, together with interviews with the relevant RSLs, the planning authority and where possible, the developer.

SHG and the affordable housing process

To evaluate the effectiveness of the policy in achieving additional affordable housing we need to understand the make up of the costs of housing provided:

- how these costs relate to TCI and therefore the amount of SHG available, and
- the contributions made by the landowner, the developer, the RSL and the government.

Taken together these can give us some idea of the extent to which what is being provided is actually additional – as well as helping us to understand the nature of the outcomes.

Chapters 2 and 3 discussed the outcomes and processes of the affordable housing policy. Linked to both the outcomes and processes is the use of SHG to fund social rented and shared ownership units. Almost 75 per cent of affordable housing sites involve the use of SHG or LASHG (HIP data and evidence from 64 case study sites). There are two crucial issues surrounding the use of SHG. First, are those units funded through the use of SHG additional or would the SHG have been used elsewhere to provide social units? Second, does the availability of SHG reduce the contributions of developers and landowners?

Costs

To analyse the use of SHG on section 106 sites, developers, local authorities and RSLs were interviewed during the site-specific case study

research to obtain specific funding details for each site. Developers are not generally prepared to provide detailed costings. We were therefore only able to obtain the required data on costs and contributions for a proportion of sites where SHG has been made available. These data come from RSL submissions to the Housing Corporation.

Of the 26 sites for which we can estimate unit costs all but three are in the South. The majority are in the South East, widely defined. Excluding the five RES schemes, over half (14) are on brown-field sites. Again excluding the RES schemes which are necessarily small, a surprisingly large proportion (around half) are on small sites. Where the sites are large they are usually phased and it can be difficult to keep track of all the changes and additional negotiations.

The sites where it is easiest to assess the costs tend to be those where the developer transfers the affordable housing on completion. However, even here the RSL is often involved at an early stage and this sometimes has a direct impact on the costs as well as on the price at transfer. A high proportion of schemes for which we have details are all or mainly for rent, although over half include some shared ownership. In these cases it is often difficult to obtain enough information to analyse the different elements separately. A number of the schemes include other types of RSL accommodation, notably sheltered housing, rough sleeper units and nursing homes. In these cases additional information would be required to make a full assessment of cost and additionality.

The costs per affordable unit on section 106 sites including land range from below £30,000 for a small RES site used for shared ownership to £135,000 per unit for rented flats in a central London luxury development. On 50 per cent of the sites where we can estimate total unit costs these are below £60,000. In the majority of these cases the land has been given free or has been heavily discounted. Three quarters of these sites are small – sometimes very small RES sites. Of the large sites in

this cost range two are in the Midlands and the North while the one southern large site is wholly for shared ownership.

Among the 30 per cent of sites where costs per unit are between £61,000 and £100,000 all are in the South and the majority are large sites. Those over £100,000 per unit are brown-field sites in the South with a majority of output for rent. Some of these sites are quite small, but two large sites make a major contribution to the number of affordable houses expected to be achieved.

In some cases we are able to assess the cost per unit excluding land as well as the total cost per unit. Construction and overhead costs together (excluding land and infrastructure costs) vary quite widely, with a large proportion around £50,000 per unit. However, many of those being built in the South East are coming in at around £60,000–£70,000 per unit. In London costs per unit can rise to £80,000. Costs for shared ownership units are usually considerably lower. This may well reflect cost allocation rules which are affected by the different grant rates as much as different specifications, but there does seem to be a strong suggestion that costs and standards are lower for shared ownership as compared with rented dwellings.

Relationship to TCI

In most cases it is possible to obtain information on the relationship of costs borne by the RSL to the relevant TCI, the Housing Corporation's measure of the typical costs of developing a unit of a specific size and tenure in a given location. It is obvious that in a large number of cases the negotiation process and the nature of the contribution have been determined in such a way as to bring the site within TCI. This impacts (i) the price at which the land is transferred, (ii) the cost and standard of the dwelling built, (iii) the number of affordable units achieved and (iv) the mix of rented and other tenure forms.

Among the schemes for which we have appropriate details, some two thirds were built at a cost either close to TCI or at a premium accepted by the Corporation as reasonable. This suggests that in many instances section 106 is being used to make particular schemes work. It could reasonably be argued that TCI is playing its role as the determinant of acceptable costs and is therefore implicating the starting point for negotiations. There are one or two exceptions where the developer has clearly raised the costs to TCI on the basis that the RSL will be able to obtain the funding and therefore no one is the loser. Equally there are examples where it is stated that standards have been reduced in order to achieve TCI (or the cost required) and one instance when standards have been increased as compared with market housing because the TCI made this possible.

What we do not have is evidence of schemes where TCI could not be achieved even with the planning cross-subsidy on offer. The fact that so many are just around the TCI mark suggests that this could well occur, resulting in lower output levels.

SHG

Average grant rates are typically 40–60 per cent (of scheme costs), but can be higher in the South. Grant rates for shared ownership are lower at approximately half that for social rented schemes. There are clear geographical patterns in terms of the amounts of SHG received and the proportion of costs covered by grant. For much of the country, where the average cost per social rented unit appears to be £50,000–£60,000, the grant received ranges around £20,000–£30,000. In some parts of the South this increases to between £70,000 and £100,000 cost per unit and £40,000–£50,000 grant per unit. In London, typical costs are higher – between £100,000 and £200,000 per unit with grants of £50,000–£100,000 per unit.

However, the pattern for individual sites is much more varied. This in part arises from different levels of contributions and because of variations in the way in which grant has been calculated. But it also arises from other factors. For example, the specification of a particular RSL may push up the unit costs, as will particular site conditions. Some, usually large RSLs, may have more experience in claiming for and obtaining grants – and so maximise the grant. Equally, they may also be able to cross-subsidise schemes and forward fund much more than smaller RSLs, allowing some schemes to go ahead through internal cross-subsidy.

The principles by which SHG are calculated appear to be relatively straightforward. The total scheme costs (TSC) for the project are estimated and compared (via the scheme cost index – SCI) with the Housing Corporation’s TCI. If the costs are within acceptable limits, SHG at the relevant rate is payable. If other contributions are then made available SHG will be discounted to take these into account.

The principles sound simple – but their application is not straightforward in practice, both because of the rules as to how the calculations are made and because of the way that section 106 contributions interface with those calculations to determine the amount of subsidy received. The details of how SHG is calculated and some of the reasons for these complications are set out in Appendix 3.

In particular, regulatory rules mean that discounts, discounted land for example, can enter at different points in the process, impacting on the amount of SHG made available for basically the same costs. The amount of SHG obtained depends on whether any discount is entered before or after the TSC is calculated.

Section 106 agreements can play two distinct roles which impact on the types of housing obtained and the extent to which they are additional. First, section

Illustrative example:

Land value is £400,000, land cost paid by the RSL is £300,000 and SHG rate is 50 per cent.

If the actual cost paid by the RSL is put into the grant calculation (£300,000) then the RSL receives 50 per cent plus on costs, so perhaps £165,000 in grant associated with these costs.

If, on the other hand, the total cost (£400,000) is put into the calculation, the grant would be calculated as £200,000 plus the on cost, so around £230,000 in grant. However, the £100,000 discount would then be subtracted from the grant, meaning that only £130,000 would be received.

106 agreements may bring the scheme to just within TCI and so make it possible for the scheme to go ahead. Alternatively the agreements may reduce the amount of SHG that is payable, so ensuring that discounted costs are well below 100 per cent of TCI. At the limit, section 106 contributions may mean that no SHG is required because costs are brought down to affordable levels.

The detailed evidence on site costs and grants suggests that it is often the first that is occurring – in many cases all that is happening is that costs are being brought down to TCI levels by either discounts on land or in some cases RSL contributions. The exception to this is on London brown-field sites, which tend to remain way over 100 per cent of TCI. In the majority of other cases where SHG is required no scheme costs are under 70 per cent of TCI.

This evidence on section 106 contributions and grant rates raises two important questions:

- Are such dwellings additional, in that they are using full SHG or is the section 106 policy simply enabling homes to be built in expensive areas or on expensive sites where the TCI is inadequate to cover these costs?

- Does the fact that the TCI is so often around 100 per cent mean that negotiations are being based around that TCI. In other words, are authorities only aiming to obtain enough section 106 contribution to ensure that the homes can be built and the costs can be covered?

The fact that so many of the 100 per cent TCI sites are in the South and particularly in London and that these tend to be on brown-field sites suggests that section 106 is indeed enabling affordable housing to be provided in these high cost areas. However, one might ask why contributions could not be higher in these areas of high land values – which does imply that negotiations are not pushing developers to their limits.

The more general conclusion is that the rules for applying for and calculating SHG seem to be fairly ambiguous, particularly with respect to the meaning behind the ‘discount on grant’ calculations. One RSL representative, for instance, stated ‘the method of calculating these sorts of finances is very complicated. You would need a huge sample of sites to find any sites which could be described as funded in the normal way’. Overall, the amount of grant made available on each site does not appear to be particularly systematic. For instance, big differences can be found on similar sites within the same local authority.

Moreover, negotiations may be quite different from actuality – for instance, even within our limited number of sites there are several examples of swapping SHG over from one site to another as well as a site where unexpected SHG became available and was used to convert market units into affordable housing. Equally there are sites where SHG was expected to be available but where, for various reasons, it was not available in the final outcome.

Who pays?

The landowner

Landowners make a contribution whenever the land is transferred at below market value. This is the most usual form of contribution. The number of cases where land has been donated free of charge is very small. However, in a significant proportion there is only a nominal charge for the land. Where a percentage discount is agreed the amount of this discount often appears to be determined by that necessary to ensure that the scheme comes within TCI limits.

A common view of RSLs is that the existence of the section 106 agreement itself reduces the value of the land (by designating part or all of the scheme for affordable housing) and so the owners’ ‘subsidy’ no longer shows up as a discount. More generally, on many sites, the ‘discount’ is anyway merely an agreed and accepted land cost and does not register as a subsidy.

On the other hand, there are at least two cases in our detailed sample where the RSLs suggest that the value of the land would properly have been negative but they have paid a positive price. In one case it is argued that the end use (which includes a rough sleepers unit) was the cause and it was only the grant that made it possible. In the second case there was no grant but the RSL paid a positive value because a value had been included in the original section 106 negotiation. There is thus some evidence that land values, like costs, are being manipulated within the negotiation and that, on rare occasions, more is being paid than would have been the case without the section 106 agreement.

The developer

In most instances the cross-subsidy is embedded in the land value – so is being paid by the developer as landowner. The extent to which that has been passed back to the original landowner is usually not clear – although Table 6 gives some indication of how the main actors see the position. This suggests that the landowner bears the majority of the cost but the position varies with availability of SHG.

In some cases, however, the developer is paying more than just the land costs in that the actual construction costs they bear are higher than the payment received from the RSL. In these cases the developer is certainly making a direct contribution from the market housing provision or from his/her overall profits.

A rather different question is whether the section 106 agreement increases the costs of building. Here there are a number of examples, especially in the context of social rented housing, where unit costs appear to be increased as a result of RSL requirements and Housing Corporation specifications for rented property.

The RSLs

Where the scheme cost index is over 100 per cent and the RSL wants the development to go ahead, the RSL may be prepared to make a contribution (through loans, rental income and private finance). This represents a discount made to reduce the cost figure to within the approved limits. As RSLs are increasingly operating in competitive situations to ensure that they secure the scheme some RSLs voluntarily reduce the grant input and instead contribute the equivalent amount of finance

Table 6 Who pays for affordable housing?

Who Pays?	Landowner (%)	Developer (%)	Shared (%)
Full SHG	50	25	25
Part SHG	63	12	25
No SHG	33	33	33

Source: interviews with planning and housing professionals and some developers

themselves. These contributions can be very substantial, particularly in the South and in London. RSLs are concerned that this trend will intensify with the new grant rate calculator.

The government

The subsidy provided by the government includes not only Housing Corporation SHG but also Local Authority SHG (LASHG). This local grant is often seen as a direct element in the negotiation process. In the majority of cases (76 per cent from 1999–2000 HIP figures) the government provides some subsidy over and above that available from section 106. To the extent that subsidy is provided but at below the full grant rate, section 106 stretches rather than substitutes for government finance. However, in practice there appears to be an inverse relationship between the availability of SHG and the numbers actually achieved. In other words, refusing to allow SHG does not toughen the overall negotiating stance of the local planning authority (LPA); rather there is a direct trade-off between the grant rate and the numbers of affordable homes that are achieved as the total developer subsidy is concentrated into fewer units.

Relative contributions and their impact on additionality

It is not possible to provide any general rules about the extent to which section 106 agreements are helping to fund additional affordable housing – it all depends on individual circumstances. Equally because of the different and complex ways that discounts are recorded it is often not possible to compare like with like. The best that can be done is to look at particular examples and show the ways that the different actors are contributing in different contexts.

Ideally, to estimate contributions and additionality we would like to be able to start from the market value of the land and the cost of construction of similar units or alternatively the market value of the dwellings and then compare actual costs and transfer prices. In making this calculation it should be possible to estimate who is paying what proportions of the value of the properties and make an estimate of additionality.

The examples below give some indication of findings on particular sites (see Appendix 1).

Table 7 Examples of contributions and additionality: site characteristics

Example	1	2	3	4
Site (Appendix 1)	15a	17a	13b	6d
Location	South East	South East	London	East Midlands
Brown- or green-field	Brown-field	Brown-field	Brown-field	Green-field
Size	Small	Large	Large	Large
Percentage affordable	7	18	24	22
Urban or rural	Urban	Urban	Urban	Urban
Built by	Developer	Developer	Developer	Developer
Tenure	Rent	Rent	Rent and S/O	Rent and S/O
Relation to TCI	100%	95%	130% and 150%	N/A
Cost per unit				
excluding land	N/A	£60,000	£80,000 and £61,000	N/A
Land Transfer	N/A	Discount	Discount	Discount
Cost per unit to RSL				
including land	£60,000	£85,000	£135,000 and £105,000	£40,000
Actual SHG per unit	£29,000	£42,000	£85,000 and £26,000	0
Full grant rate	48%	49%	36–63%	0

Example 1: site 15a

This site consisted of 38 market and 3 social housing units and was completed at 100 per cent TCI. It was purchased off the shelf on a brown-field site. The figures on the grant application form for this project suggest a cost of around £60,000 per unit of which £29,000 (48 per cent) is paid for by grant. However, in this case the open market valuation is known and once this is taken into account it is clear that the market value of the properties is around £112,000. On this basis the developer/owner is contributing nearly half the opportunity cost; the government is paying around a quarter – and the tenants will probably end up paying rents of about £60 per week.

The negotiations thus produced a 100 per cent TCI outcome and only three units – that is 7 per cent affordable housing. Although the developer contribution per unit is high, taken across the

whole development it is only 3.4 per cent of available value.

Example 2: site 17a

Here the development consisted of 47 market and 10 social rented units at 95 per cent TCI. It took place on a brown-field site and the units were purchased from the developer.

In this example we again have all the information necessary to evaluate who pays for what. Within the total market value 38 per cent is land while the discount made available by the developer accounts for 11.5 per cent of costs. This discount is enough to enable the scheme to come in at 95 per cent TCI but only provides 18 per cent affordable housing. Just over half the RSL's cost is paid for by local authority SHG. The result is affordable housing at some £43,000 per unit, which without use of reserves would be likely to generate a rent of over £80 per week.

Table 8 Example 1

	Total (£)	Per unit cost (£)	Percentage
Total (open market) value	336,000	112,000	100
Of which land value	Not known	N/A	
Of which direct costs	Not known	N/A	
Discounted land price	N/A	N/A	
Owner/developer contribution	156,300	52,100	47
Purchase price to RSL	179,700	59,900	53
Of which LASHG	87,000	29,000	26
Of which RSL contribution	92,700	30,900	28

Table 9 Example 2

	Total (£)	Per unit cost (£)	Percentage
Total (open market) value	957,500	95,750	100
Of which land value	360,000	36,000	38
Of which direct costs	597,500	59,750	62
Discounted land price	250,000	25,000	26
Owner/developer contribution	110,000	11,000	11.5
Total costs to RSL scheme	847,500	84,750	88.5
Of which LASHG	415,275	41,528	43
Of which RSL contribution	432,225	43,223	45

Planning gain and affordable housing

Although the discount per affordable housing unit looks quite significant once it is spread across the whole scheme, the developer discount is only around 2 per cent. Moreover the qualitative evidence suggests that the negotiations were not very tough and all parties were happy with the outcome.

Example 3: site 13b

This consists of 155 market and 49 affordable units (33 rented, 16 shared ownership) on a central London brown-field site. Only 16 units have been built so far.

This is a large central London site where there is an estimate of open market value and therefore of the true opportunity cost of the affordable housing. The proportion of affordable housing achieved is only about 25 per cent but the developer is paying 46 per cent of the open market land value in order to bring costs down to an acceptable 135 per cent of TCI. The grant covers just over a quarter of open market value and building costs are around one third of the value. The resultant cost to the RSL is

£67,878 per unit. If no internal subsidy were used, this would equate to rents of around £130 per week.

The shared ownership element involves greater developer contribution and lower grant. Costs are also significantly lower than for the rental properties – which raises issues about the type of dwellings and the standards achieved. At £94,000 per unit, this affordable housing could not be considered cheap.

The developer financial contribution looks very high indeed when measured against the affordable units but across the whole scheme is perhaps 12 per cent.

Example 4: site 6b

This scheme is very much at the other end of the spectrum. It is made up of 105 market and 32 affordable shared ownership units in the East Midlands.

The developer made a 23 per cent contribution based on open market values. The result enabled shared ownership to be provided without grant

Table 10 Example 3: rented element

	Total (£)	Per unit cost (£)	Percentage
Total (open market) value	8,250,000	250,000	100
Of which costs (excluding land)	2,622,708	79,476	32
Implicit land costs	5,627,292	170,524	68
Developer contribution	3,807,276	115,372	46
Total costs to RSL scheme	4,442,724	134,628	54
Of which LASHG	2,202,750	66,750	27
Of which RSL contribution	2,239,974	67,878	28

Table 11 Example 3: shared ownership element

	Total (£)	Per unit cost (£)	Percentage
Total (open market) value	4,000,000	250,000	100
Of which costs (excluding land)	989,680	61,855	25
Implicit land costs	3,010,320	188,145	75
Developer contribution	2,330,000	145,630	58
Total costs to RSL scheme	1,670,000	104,370	42
Of which LASHG	410,000	10,460	4
Of which RSL contribution	1,260,000	93,910	38

Table 12 Example 4

	Total (£)	Per unit cost (£)	Percentage
Approximate open market value	1,660,000	51,875	100
Developer contribution	380,000	11,875	23
RSL payment	1,280,000	40,000	77

and at a reasonable cost to the purchaser. The cost to the developer across the whole scheme was around 6 per cent.

Implications

Each of the examples tells one part of a very complex story. Together with other examples they also raise some important general issues:

- i. While the developer contributions may look quite large in relation to the affordable housing itself, they are usually quite small when measured across the whole development.
- ii. Even where the developer contribution is quite large and grants are high the potential rents are also high.
- iii. Even with developer contributions and grants the RSL often has to make a contribution from internal funds.
- iv. Only in London are the developer contributions significant when measured against the value of the whole scheme. This is partly because of the very high land values and thus the capacity to negotiate larger proportions of affordable housing. The results are still expensive.

Overall the examples suggest that in the South the impact of section 106 agreements is more to bring particular developments within the bounds where schemes can obtain SHG rather than to maximise the financial contribution made by developers. In the North the section 106 agreements make land available for shared ownership and other LCHO without the need for subsidy.

Does this process result in additional affordable housing? In the North and Midlands the answer is almost certainly yes – but in terms of ownership rather than rental properties. In the South and in London it certainly increases the amounts of affordable housing provided in high cost areas – but at a high absolute subsidy cost – which restricts provision in lower cost areas. To show true additionality would require a far greater understanding of where and how the SHG would have otherwise been spent. The best guess on our evidence is that section 106 is doing more to change the geography of affordable housing provision by shifting social housing onto more costly sites in areas that would not otherwise see the provision of such units. There is less evidence to suggest increases in the provision of affordable housing.

5 Conclusions

Key points

- The planning system is currently producing only modest amounts of affordable housing and not all this is additional. There are three key reasons for this:
 1. Not enough residential development overall – on the development sites above threshold that are coming forward, planning authorities are generally achieving their site-specific targets; hence the shortage of development land in adopted plans and achieving detailed planning permission is a major constraint on achieving authority-wide targets.
 2. Land prices and/or development costs are generally high on S106 sites; while developers' / landowners' contributions reduce this price/cost, large amounts of SHG are often still needed to secure affordable homes.
 3. Negotiations are long drawn out and complex: planning authority staff lack key skills to maximise contributions, and there is a conflict with other planning gain requirements; as a result, the potential for additional affordable housing contributions is not being maximised.
- In addition, the frameworks of regional governance for both development plans and for other resource allocation systems are not currently sufficiently aligned to maximise the potential for delivering additional affordable homes.
- Even so, the policy is evolving and lessons are being learned; there is therefore potential to increase the contribution of planning gain to affordable housing within existing frameworks.

Introduction

We bring our conclusions together under three headings: land and finance; numbers and additionality; and why so little is being achieved. We then consider the implications for the future.

Affordable housing: what is being secured?

We estimate that around 12,000 affordable units are being secured each year through section 106 sites. The majority of these units are in London and the South East, the areas of highest need, with the North East and North West securing the fewest units. The tenure of affordable housing varies across the country. Authorities in the South are securing the majority of affordable units as social rented housing with some shared ownership. In the North there are more LCHO, DOMV and shared ownership units and far fewer rented properties. The situation in the Midlands is somewhere in between. Nearly all units are secured on-site with a small number of commuted payments, notably in

London, where on-site provision is considered unsuitable. Rented accommodation tends to be separated from the market element of the site, whereas other tenures are more integrated into the development.

Delivering land and funding for affordable housing: the twin resource channels

Until planning gain became a means of securing both land and funding for affordable housing, land and finance were delivered through two quite independent channels. The planning system was the means of ensuring that sufficient land was earmarked in planning authorities' adopted development plans to meet agreed requirements for all new dwellings, whatever their tenure. The housing finance system was the means of providing the capacity to obtain land and construct new homes and the subsidy needed to ensure affordability.

Now, these separate channels have to some extent been merged. Through the planning system

local authorities negotiate with developers both to provide the land for affordable housing on market housing sites and to contribute to its funding. Similarly the allocation (amount, timing and location) of Housing Corporation SHG funds is now partly determined by the land allocation and planning consent decisions of local authorities.

The planning system has not been able to secure large enough or sufficient developer contributions to pay for the affordable housing allocated. Hence, the planning gain system cannot operate alone to secure affordable housing. A crucial question is the extent to which these two systems have come so close together that a large part of the Housing Corporation's ADP is now allocated to funding planning gain schemes.

Numbers and additionality

Numbers

Official statistics on the numbers of affordable homes currently being secured by planning gain overstate output. Numbers secured have been less than the (approximately) 15,000 per annum enumerated in the HIP data, partly because the latter sometimes double counts starts and completions and particularly because it includes new affordable homes given planning permission which are not part of planning gain schemes.

Our own postal survey shows that, on sites where affordable contributions were negotiated between 1997 and 2000, an average of 17 per cent of dwellings were affordable, ranging from a high of 27 per cent in the South East to a low of 11 per cent in the North East. This is not an indication of the total percentage of new dwellings being produced that are affordable, as the sites in the analysis exclude those where no contribution has been negotiated and where 100 per cent of the dwellings are either open market or affordable houses.

Evidence from the three 'typical' planning authorities where we were able to examine all sites with planning permission over the same period

suggests that affordable housing as a percentage of total market completions in an authority ranges from 4 per cent to 8 per cent, although these figures are rising each year.

Other evidence suggests that some authorities in the South East are beginning to achieve contributions much closer to their targets. Westminster, for instance, is producing more of both market and affordable housing than planned.

Taking all our evidence into account, and making allowances for the completions on below threshold sites, we conclude that at most 10 per cent of all completions in 2000 were affordable homes directly secured through planning gain. This would equate to approximately 12,000 new affordable housing units being secured in this way.

The proportion has undoubtedly risen over the last decade, for two reasons. First, the system has been evolving and all those involved have got better at getting results. Second, the system depends on the private market generating sites on which developers seek planning consent and creating sufficient development value to cross-subsidise affordable houses on those sites. This works best where that market is buoyant, as has increasingly been the case in the latter part of the last decade.

By now that figure may well have risen to slightly above 10 per cent, because the policy is continuing to be embedded and because the regional mix of completions is changing. However, it must be remembered that 75 per cent of these sites involve SHG, so only a small proportion are fully additional.

Yet, our detailed examination of the 64 sites with section 106 agreements shows that targets tended to be achieved. Where they were not achieved, this was because of the costs associated with redevelopment, the fact that some agreements pre-dated current policy, and the outcomes of negotiations were affected by competition from other planning obligations.

So, where land is available and sites do come forward, site-specific targets can be achieved. The prerequisite therefore, if section 106 is to take the strain, is far more land being brought forward for development.

Costs and additionality

Our evidence on costs and SHG indicates that relatively few of the affordable homes secured are additional. The use of SHG is widespread, as evidenced both by the HIP data and by the detailed study of our 64 sites. The HIP data showed that 72 per cent of dwellings had SHG while 77 per cent of the case study sites had SHG. Most of the sites where there was no SHG had either shared ownership or discounted market price dwellings. There was also a clear 'North-South' split, with most of the sites in the South having SHG, and few of the sites in the North receiving it.

The site evidence shows that, despite the significance of this SHG funding, developers' contributions are also significant. Most of this is in the form of land contributions. Whether the developer or landowner actually pays for this depends on prior negotiations. Developers argued that it was easier to pass costs back to landowners where the contribution requirements were known well in advance. They also argued that it was easier to pass costs back in the South than in the North. National developers appeared more able to pass costs back to landowners than local ones.

The site evidence also shows that the numbers of affordable homes secured on the site, the TCI, the developers' contributions and SHG were closely inter-related. In the main, developers' contributions enabled schemes that would otherwise be too expensive to be viable. Hence planning gain is enabling schemes to come within TCI levels and thus to proceed at near 'full tariff' SHG for the type of scheme involved, rather than freeing up SHG and thus increasing the overall amount of affordable housing.

Many schemes also required contributions from RSLs' own reserves and, again, did not free up such reserves for other affordable homes. Finally our evidence from the sites showed how small the developers' contributions were when they were calculated as a percentage of land value across the whole of the scheme (market as well as affordable dwellings).

The reasons why so little additional output is secured

There appear to be three key constraints to producing additional affordable housing which together explain why so little additional affordable housing has been achieved to date:

- 1 a shortage of land coming forward
- 2 the costly locations where section 106 agreements are negotiated
- 3 the negotiation processes.

Shortage of development land

The numbers secured are higher in London and the South East than in other regions. This is not surprising, because this is where the need for new affordable housing is highest. It also reflects the more buoyant private housing market and higher land values that prevail in the southern regions. These are required to generate the development values necessary to subsidise affordable housing through planning gain.

Despite the pressures to achieve affordable housing, the amounts secured in each planning authority in the South do not relate clearly to levels of need. A key constraint is the amount of land above threshold coming forward on which applications are submitted for private market housing. In areas of high planning constraints, including those with Green Belts, and often, high need, the amounts are sometimes very low. Moreover what is available is often on sites below threshold. In urban authorities where brown-field

sites were available, costs of remediation often limited the contributions that could be sought.

The lack of available land can in part be attributed to the overall housing requirement included within RPGs. As Appendix 2 explains, recent changes to the planning framework have led to significant modifications in the approach to setting such requirements. In the past, requirements were set to meet predicted needs, so planning authorities had to take these into account in their own unitary and local plans. Now a much wider range of factors is taken into account when fixing the new housing requirements in RPGs, with the result that overall requirements may be less than that needed to meet projected demand and need. Although planning authorities can demonstrate that their own plans provide sufficient land to meet this requirement, the requirement itself is often too low when measured against projected demands.

Location

The findings with respect to costs and SHG show that the land prices for sites coming forward are high. This is not surprising. Either these are green-field sites in areas of high housing pressure and of significant planning constraint in southern England, or they are brown-field sites, with high remediation costs as well as high development values – at least in southern England.

Because prices are high, scheme costs will be above TCI unless developers' contributions (in the form of reduced land costs) bring schemes down to TCI levels and render them eligible for grant. As a result SHG is often paid at near full TCI level even though there may also be significant developers' contributions.

Planning gain is thus shifting the geography of social housing to the more expensive parts of the housing market in southern England, including inner city regeneration areas, rather than adding significantly to the national total of affordable homes provided. It is also contributing to the creation of more mixed communities in these areas.

Policy and negotiations

The negotiation process itself is a third factor. Our evidence suggests that most developers are no longer as hostile to the principle of contributions as they once were, but are keen to negotiate hard on the detail. All our findings show that negotiations are problematic – for several reasons.

- negotiations can involve many 'actors' within planning authorities as well as outside
- tensions within local authorities, especially between planning and housing departments over the amounts of affordable housing to be secured
- ambivalence on the part of planning officials as to the purpose of planning gain – in particular the extent to which affordable housing policy in planning terms is a tool to maximise developers' contributions and hence to lever in subsidy for the affordable housing
- insufficient expertise to conduct negotiations with private developers about what level of contributions can be afforded on specific sites
- conflicts within authorities (and between district and county authorities) about the balance between affordable housing and other types of contribution
- developers' exploiting inconsistencies between neighbouring authorities with very different policies; a gap in sub-regional strategies was evident
- RES negotiations tend to be very protracted; funding is not the main problem, but the time taken to locate and process appropriate sites tends to be lengthy, including securing local residents' support for schemes.

Another key factor is how SHG is treated. There is insufficient liaison at regional level between planning policies and regional housing statements and Housing Corporation investment decisions. This limits the potential for using the planning system to secure additional affordable housing. At the level of the individual site, negotiations are not framed to maximise developers' contributions. In particular, published TCI levels rather than affordable housing targets appear to be the starting point for negotiations – resulting in a high grant payment.

Focus group evidence suggested that where planning authorities had clear, consistently applied policy stating that SHG would not be used on section 106 sites, it was possible to secure section 106 agreements on the basis of nil grant. Other more quantitative evidence suggests that nil grant reduces the numbers of units obtained. There is thus a trade-off to be made.

The effectiveness of the regional framework

In addition to the above three factors, our findings show that there is a lack of integration between the framework at regional level for development plans and those for allocating resources. This creates a further barrier to securing affordable housing. In principle, the framework provides for coherent strategies and policy delivery at both regional and sub-regional level (described in Appendix 2). However, the evidence from our regional focus groups showed clearly that this potential is not being sufficiently realised.

Regional agencies and regional levels of government are very active in promoting good practice in policy delivery 'on the ground'. Government offices, for example, stressed the role that they were increasingly playing in broadcasting and fostering good practice within local authorities. They felt that they were helping to increase clarity of understanding and consistency of practice across

regions, and saw themselves as engaging in a wider monitoring role. This reduces the 'distance' between policy at central government level and the planning office at district council level and hence potentially helps to reduce variations in interpretation and implementation of policy between authorities. Similar work is being undertaken by other agencies, including the Countryside Agency with respect to rural schemes.

In contrast to the pro-active work of regional agencies in fostering good practice in policy implementation, our evidence shows that there is almost a vacuum in linking agency plans to one another at regional and sub-regional level. Hence policy co-ordination between physical planning policies at the regional, sub-regional and local level and the resource allocation decisions, especially including the investment of SHG, by regional agencies and regional arms of government falls far short of its potential. This creates problems in ensuring that sufficient SHG is available in relation to targets and the flow of sites (and vice versa). More generally, the need to nurture better cross-boundary working within defined sub-regions was an issue stressed by many focus group participants, ensuring that policies related to the location of affordable housing, its funding, and that the transport, jobs and training for its occupants were better co-ordinated. This latter point was stressed as much for rural as for urban housing markets.

Implications

Our findings show that not much is being secured and that little of it is additional. Instead, where the planning gain system has succeeded has been in finding the sites where SHG can be invested to secure affordable housing.

Table 13 gives a rough estimate of what can now be provided based on existing data on the requirement for new affordable homes in England, the current annual output of affordable homes from

Table 13 The gap between need and provision: ADP funding of section 106 sites

Annual need for new affordable homes (Holmans <i>et al.</i> , 2000)	80,000
Less annual output of new build by RSLs, funded by ADP/LASHG on S106 sites	8,000
Less annual output of new build by RSLs, funded by ADP/LASHG but not on S106 sites	21,000
Less annual output of other new affordable homes	5,000
Less additional annual output from planning gain, not funded by ADP/LASHG	4,000
Equals annual deficit in total output against need	42,000

RSLs and other providers and the remaining deficit. On current evidence some 8,000 of the 12,000 units secured on section 106 sites are funded with the help of SHG. On this basis less than half of what is required is being provided. If, instead of the estimate of need produced by Holmans *et al.* (2000), we use the indicative figures in the RPG for regions where affordable needs have been estimated, there is still a considerable shortfall. Pro-rating these published RPG figures gives a national need for affordable housing of approximately 67,000 per annum, leaving a national shortfall of 29,000 homes each year, once all sources of output have been taken into account.

Our analysis does suggest that there are ways in which more additional affordable housing could be produced within the existing framework. To happen, this will require:

- Planning authorities to identify more development land in approved plans. We have seen that site-specific targets are generally achieved; a larger flow of sites with permission should therefore enable more affordable homes to be negotiated with developers. This will require important changes within the hierarchy of development plans discussed in Appendix 2. In particular, it will need changes in RPG in terms of the housing requirements to be met in local authority plans.
- Greater clarity, professionalism, and consistency in negotiations over section 106 agreements in order to achieve bigger

developer contributions and thus minimise the need for SHG. In particular, targets, not TCI levels, will need to be at the heart of negotiations over developers' contributions, and negotiating teams will need to have valuation expertise available to them to enable them to fully understand and contest (where necessary) developers' evidence on development values and costs. Planning authorities will also need to be much clearer than in the past about the total contributions required of developers and of the priority attached to each.

Increasing the flow of land will create more output but, unless negotiations succeed in reducing the need for SHG, the increased output will draw more and more of the Housing Corporation's ADP into the task of funding the SHG schemes. This will leave less and less for other needs, including rehabilitation, unless the ADP total is significantly expanded.

Overview

The policy of linking land allocation for affordable housing to that of financing affordable housing is generally accepted and is becoming more effective. So far, however, the impact has been mainly in terms of enabling more affordable housing to be built in more expensive places.

If it is to work better in the future more has to be provided both in terms of numbers and financial contributions. There are three distinct types of development that must be encouraged:

- Affordable housing development which needs no additional subsidy. This is currently occurring mainly in the North and Midlands in the form of LCHO. It is far less likely in the South, and where authorities operate a no SHG policy they usually achieve far less housing. Yet there may be opportunities for such contributions, especially on smaller sites.
- Developments with both contributions and SHG. Here the objective must be to make the SHG go further – which means moving away from negotiations based around TCI and looking at a broader mix of developments to include lower subsidy elements such as key worker housing.
- Developments involving SHG but no section 106 agreement. These are mainly 100 per cent affordable housing sites. As the section 106

policy becomes more embedded it is likely to become harder to obtain 100 per cent affordable housing sites. While the supposed benefits of mixed communities would be lost, to provide enough affordable housing overall is going to mean that far more such sites need to be made available. This is because of the low proportions likely to be made available on section 106 sites, as well as the need to make effective use of financial contributions from small and non-residential site developments where there can be no on-site provision. This is a major area of concern with respect to the government's proposals.

Only if all three types of development occur, and additional government subsidy is made available, is there any chance of providing both the numbers of affordable housing required and an appropriate mix of tenures and types of housing to meet long-term aspirations.

6 Implications and recommendations

Key points

- Changes within the framework of current policy can yield more additional affordable homes; the release of more housing sites in pressure areas, simplifying processes and transfer of good practice, a different approach to allocating SHG, and better equipped and dedicated local authority teams to handle negotiations would all increase output.
- Government proposals to introduce tariffs are unlikely to achieve the objectives set for them. The policy emphasis on mixed communities implies that site-specific agreements for on-site provision will continue to be needed and often means that standard tariffs cannot be applied.
- The planning system remains better at providing land than at financing development. It cannot substitute for SHG.

Introduction

This section draws together the implications discussed in the first five chapters of this report and provides recommendations for:

- Central government
- Housing Corporation
- Local authorities
- Developers
- Registered social landlords

Improving the delivery of current policy

A combination of insufficient development land, high scheme costs and poor negotiating skills has significantly limited the total output from planning gain and the proportion of this that is additional. However, the current system, last modified as recently as 1998 (and with further refinement in 2000), is now beginning to 'bed down', lessons are being learned, and there is a good prospect of achieving more.

First, there has to be a larger stock of land earmarked for housing within adopted development plans, especially in the southern regions where need is greatest. The release of more sites for market housing is a necessary condition for more output of affordable homes.

Within the cascade of regional planning guidance and statutory plans the most important

requirement is a change in the approach to setting total housing requirement targets in RPG. Only by requiring planning authorities to release sufficient land to meet larger regional requirements (that are mostly generated by 'in situ' growth not by inward migration) will it be possible to increase the contribution of planning gain to new affordable housing.

Second, there should be a new approach to determining financial contributions. Currently, on sites where SHG is necessary, negotiations appear to use TCI as the pivot in that agreements on developers' contributions were often designed to ensure that land was conveyed to RSLs at prices that ensured scheme costs matched TCI. Especially in the high cost southern areas, developers' contributions rarely significantly exceed this amount. Our estimates indicate that developers' contributions are currently only a small fraction of the economic value of land. A small increase in the cross-subsidy from the majority of the site would make a given amount of SHG go a lot further.

Third, planning authorities must tighten up their approach to negotiating section 106 agreements for affordable housing and make it more transparent with respect to both the affordable housing required and other planning obligations. These must be clearly set out in statutory plans. Local authorities should form negotiating teams to deal with all cases within an

authority, hence enabling teams to develop a degree of group experience and shared expertise. Crucially the teams need valuation expertise in order to negotiate with developers on an expert basis on matters related to costs and values and to set site-specific targets in statutory plans. Thereafter 'open-book' negotiations would be best but there should at least be a requirement for developers to demonstrate with evidence where targets cannot be met. Negotiating teams will benefit from a project planning approach to discussing section 106 agreements and from using standard legal heads of agreement as a default, rather than custom building each legal agreement, as often happens at present.

Joint commissioning restricts the RSLs that become involved in planning gain in any one local market. This reduces competition, which could lead to higher costs. Ideally RSLs should become involved at an early stage in negotiations, and generally developers should be able to work with RSL partners of their choice rather than being restricted to local authority determined lists except where this can be shown to be more efficient.

Government proposals

The government recently proposed replacing the current system of negotiated obligations with standard tariffs for each local authority, with departures permitted depending on individual site circumstances. The tariff might be based on a proportion of some physical measure of the development as is currently the case (number of market units) or on a proportion of development value. The tariff 'income' could then be used for a wide variety of purposes within the local authority (of which affordable housing will be only one), including the potential to 'export' it to another authority so that the need may be met in an alternative location.

Some of the proposals are welcome, including the proposal to include small sites and non-residential sites within the scope of policy. Under the current arrangements developers make no contributions at all on below threshold sites. Once they bring forward a site just above threshold, they may be required to make a large contribution – the incentives are obvious. Equally, omitting developers of commercial property from obligations to provide affordable homes is not consistent with the fundamental concept of planning gain relating to the community needs associated with that development. However, moving towards tariffs can be expected to raise many difficulties:

- A standard tariff ignores the big variations between sites in what can be achieved – standardisation is likely to lower the number of affordable homes secured by making some sites unviable.
- The certainty may prove to be illusory, in that site-specific negotiations will continue on many sites, especially if provision is to be on-site.
- Negotiations within the authority about the proportion of the tariff income that will go to affordable housing can be expected to be long drawn out affairs with no guarantee that housing would be a top priority.

Even so, it makes sense for tariffs to be introduced directly for small sites and for those commercial developments where on-site provision of affordable housing is not appropriate. This would be consistent with the existing practice of accepting commuted payments in such circumstances. Equally, setting out the principles behind the choice of tariff based on the value of the development would set a benchmark for the level of financial contribution – as opposed to land – that developers can expect to provide.

Planning gain as a mechanism for securing affordable housing

There is general acceptance of the policy to the extent that it is used to identify land for affordable housing. There is also fairly general acceptance that developers should make a contribution to costs. Even so, the current system produces remarkably little additional housing. Moreover, it does so at significant administrative cost while posing delays in the flow of development land with planning permission and the potential for reducing the amounts of private housing provided. On the positive side, planning gain has probably changed the geography of social rented housing, providing more affordable homes in areas of high house and land prices and growing employment opportunities, and has fostered more mixed communities.

An alternative approach suggested in the wider debate would involve introducing an affordable housing use class on the one hand and levying betterment tax on planning gain on the other. These might in principle be seen as a cleaner way of enabling affordable housing to be achieved. However, the evidence both of the inflexibility of a use class approach and the history of levying betterment tax at standard rates over the last 50 years suggests that this is not the way forward. The joint approach embedded in current policy appears to work – although much more effectively in producing the land than in obtaining significant financial contributions.

Recommendations to key actors

To central government

- Re-examine RPG; ensure that at least existing requirements of both market and affordable housing are being met (as promised in the Deputy Prime Minister's July 2002 statement) and revise these requirements to reflect projected demands, especially in pressure areas.
- Ensure greater consistency between RPG and Regional Housing Strategies.

- Encourage regional bodies to develop joined up approaches to different types of development, employment generation, market and affordable housing provision.
- Develop policies to ensure that 100 per cent affordable housing sites come forward.
- Monitor the use of the increased SHG made available in the Comprehensive Spending Review to ensure that it is not substituting for developer contributions.
- Promote the use of rural enablers in finding appropriate sites and ensuring development of affordable housing in rural areas.
- Work to bring a more cost-effective approach to section 106 and RES negotiations – many small sites are successful in their own terms but make almost no contribution to affordable housing requirements.
- Increase local authorities' capacities to improve both processes and negotiation skills.

To the Housing Corporation

- Carefully evaluate how TCI impacts on section 106 negotiations and the types of schemes that go forward – TCI should not be the determinant of contributions.
- Re-examine the consistency of grant calculations and how private and public contributions are treated. Ask whether the enormous variation in SHG provided is consistent with its most cost-effective use.
- There will be a growing need for timely provision of SHG as the section 106 system continues to bed down and market activity increases. This will put stresses on the allocation system, especially, for instance, if the London Plan were effective. The Corporation must ensure that grant provision does not hold up negotiations and development.

Planning gain and affordable housing

- Carefully evaluate the impact of the changing geography of affordable housing provision on the value for money and quantity of housing achieved.
- Integrate regional investment plans with RPG.

To planning authorities

- Allocate enough developable housing land in the local plan to meet both market and affordable housing requirements, including 100 per cent affordable housing sites where these are necessary.
- Be more positive about both market and affordable housing – better housing is an absolute requirement for long-term sustainability.
- Provide as much information on contributions and development requirements as early as possible – so that the environment for negotiations is less uncertain.
- Enable RSLs to be involved earlier in negotiations, and check out whether excluding RSLs through joint commissioning policies reduces competitive pressures and increases costs.
- Develop negotiation teams – including valuers – that can build up good practice and speed up negotiations; learn from other authorities' success; bring in standard heads and other means of replication; do not re-invent the wheel for each negotiation.
- Carefully assess the financial contribution as well as the land allocation resulting from the section 106 agreements in your area.
- Positively evaluate in the light of local circumstances the trade-offs between highly subsidised traditional social housing provision and LCHO schemes which meet different needs at lower subsidy.

- Where appropriate, re-negotiate section 106 agreements when existing planning applications expire.
- Establish a system for recording the number of units approved through section 106 agreements. This will aid the monitoring of affordable housing delivery.
- Prioritise planning obligation contributions.

To developers

- Liaise as early as possible with the local authority and the RSL, preferably before the outline planning application is submitted.
- Operate an open-book approach to negotiations within the specified contribution requirements.
- Justify with empirical evidence any case for a lower than local plan provision of affordable housing.

To RSLs

- Get involved as early as possible in the negotiation process.
- Liaise quickly on the availability of SHG.
- Do not unnecessarily increase costs through over-specification.
- In addition to seeking opportunities to be involved in mixed developments, search for 100 per cent affordable housing sites as these may become increasingly scarce.

Overall

Attempting the modest reforms we have suggested together with implementing the specific recommendations listed above provides a baseline for improving outcomes. In this way, significantly more can be achieved more quickly and with greater certainty than by introducing more comprehensive reforms.

Bibliography

Barlow, J., Cocks, R. and Parker, M. (1994) *Planning for Affordable Housing*. London: HMSO

Campbell, H. J., Ellis, H., Gladwell, C. and Henneberry, J. M. (2000) 'Planning obligations, planning practice and land-use outcomes', *Environment and Planning B: Planning and Design*, Vol. 27, pp. 759–75

Crook, A.D.H. and Whitehead, C.M.E. (2002) Social Housing and Housing Subsidies, Planning Gain and Betterment Tax: A Critical Assessment of Using the Planning System to Provide Affordable Housing. *Environment and Planning A*, Vol. 34, No. 7, pp. 1259–79

David Bishop & Associates (2001) *Delivering affordable housing through the planning system*. London: The Royal Institution of Chartered Surveyors and the Housing Corporation

Department of the Environment, Transport and the Regions (1998) *Planning and Affordable Housing*. Circular 6/98. London: The Stationery Office

Department of Transport, Local Government and the Regions (2000) *PPG3 Housing*. London: The Stationery Office

Department of Transport, Local Government and the Regions (2001a) *Planning: Delivering a Fundamental Change*. Planning Green Paper. London: Department of Transport, Local Government and the Regions

Department of Transport, Local Government and the Regions (2001b) *Planning Obligations, Delivering a Fundamental Change*. London: Department of Transport, Local Government and the Regions

Department of Transport, Local Government and the Regions (2001c) *Delivering Affordable Housing Through Planning Policy*. ENTEC, Three Dragons and Nottingham Trent University. London: Planning Report from the Department of Transport, Local Government and the Regions

Healey, P., Purdue, M. and Ennis, F. (1993) *Gains from Planning: Dealing with the Impact of Development*. York: Joseph Rowntree Foundation

Holmans, A., Morrison, N. and Whitehead, C. (1998) *How Many Homes Will We Need? The Need for Affordable Housing in England*. London: Shelter

Holmans, A., Kleinman, M., Royce Porter, C. and Whitehead, C. (2000) *Technical Report*. London: Shelter

Office of the Deputy Prime Minister (2002) *Sustainable Communities, Housing and Planning and Sustainable Communities, Delivering Through Planning*. London: ODPM

The Royal Town Planning Institute (2001) *A Summary of the Main Proposals in the Planning Green Paper 'Planning: Delivering a Fundamental Change'*. London: RTPI

Town and Country Planning Association (2002) *TCPA Briefing Paper on the Government Proposals for Reforming the UK Planning System*. London: TCPA

Glossary

ADP	Approved Development Plan
C6/98	Circular 6/1998
DETR	Department of the Environment, Transport and the Regions
DOMV	Discounted open market value
DTLR	Department of Transport, Local Government and the Regions
EIP	Examination in Public
HIP	Housing Investment Programme
LASHG	Local Authority Social Housing Grant
LCHO	Low cost home ownership
LUCS	Land Use Change Statistics
NIMBY	'Not in my back yard'
ODPM	Office of the Deputy Prime Minister
ONS	Office for National Statistics
PPG	Planning Policy Guidance
RES	Rural exception sites
RHSt	Regional Housing Statement
RICS	Royal Institute of Chartered Surveyors
RPG	Regional Planning Guidance
RSL	Registered social landlord
SHG	Social Housing Grant
TCI	Total cost indicator
TSC	Total scheme costs

Appendix 1

Research methods

Our specific research objectives and questions

The detailed objectives of our research were to:

- clarify how policies to produce affordable housing are drawn up and implemented
- determine the factors that make these more, or less, effective
- assess how policies operate in different areas
- assess the outputs and outcomes of the current system, and
- determine the scope for improvements to both policy and its implementation.

In pursuing these objectives we asked the following specific questions:

- What volume of affordable housing is being produced under land planning policies?
- To what extent is this volume genuinely additional? For example, if the SHG required on 'section 106 sites' is the same as for normal RSL developments, the volume will not be additional, although the planning system may be changing the geography of affordable housing subsidy in ways that are desirable.
- If the affordable housing is additional, who is paying for it?
- What is the nature of the housing that is produced, in terms of tenure, cost and physical characteristics?
- What impact does affordable housing have on the site and on local policies, especially in relation to the impact of affordable housing on the values of market housing and policies in relation to how affordable and market housing is mixed on site?

- What regional and other variations exist in the production of affordable housing, especially as between rural and urban areas, and as between green-field and brown-field sites, in the light of variations both in need, land values, land remediation and development costs.

Research methods

1. The questionnaire survey

The questionnaire survey was designed to examine the following issues:

- Local plan/Unitary Development Plan (UDP) policies on affordable housing
- Problems of securing affordable housing
- Number of affordable dwellings produced via the planning gain route between 1992 and 2000
- Site by site details of affordable housing secured through planning obligations between 1997 and 1999.

The design of the survey followed an initial literature review and was then piloted on eight local authorities; four in the Sheffield area and four in the Cambridge area. Pilot responses were then incorporated into the redesign of the questionnaire.

The technique of stratified sampling was used to select the local authorities included in the postal survey. All local authorities in England were broken down into the nine regions and then split by authority type, district or unitary. The authorities were then classified using the ONS classification of local authorities (Table A). Distinct groups were developed.

Half the cases within each group were then selected at random to draw the sample. In addition to the 353 local authorities there are also seven

Planning gain and affordable housing

National Parks with planning powers. A questionnaire was sent to each of the seven National Park authorities. This gave a total of 360 planning authorities. The sampling procedure produced a total of 197 authorities; all were sent questionnaires. Questionnaires were sent to named individuals identified as the head of planning departments or chief planning officers within each local authority.

Following the closing date of 11 August 2000, non-respondents were contacted by telephone to encourage response. Further replies were received until October 2000. Response rates by region are shown in Table B.

An overall response rate of 59 per cent was achieved, an extremely good rate considering the timing of the questionnaire (summer holidays) and the 'questionnaire fatigue' expressed by a number of respondents. Responses in all regions were

Table A Local authorities by ONS family classification

ONS classification	Total cases
I Rural areas	54
II Urban fringe	85
III Coast and services	44
IV Prosperous England	83
V Mining, manufacturing and industry	57
VI Inner London and education centres	18
VII Outer London	12
Total	353

above 50 per cent. Responses were also distributed throughout ONS classifications, urban and rural authorities and district type.

2. Survey of 40 local authorities

The second stage of the research aimed to establish a clearer understanding of how different local authorities are implementing their affordable housing policies. The case studies were designed to explore the factors that influence a local authority's choice of policy and to describe negotiations to secure affordable housing on individual sites. Also important were the outcomes of the policy in terms of units secured and the constraints within which local authorities operate. In each case we interviewed housing and planning staff, reviewed policy documents, and inspected a sample of planning files relating to affordable housing sites.

This stage involved case studies of 40 local planning authorities, selected to include a cross-section of activity in England. This was considered a sufficient sample of the 360 planning authorities. They were chosen from the 117 respondents to the postal questionnaire on the basis of the following criteria:

- Regional representation: the distribution of case study authorities should match the distribution of all local authorities by region.

Table B Response by region

Region	Number sent	Responses	Response rate (%)
South East	35	18	51
London	18	12	67
South West	25	13	52
East	24	13	54
East Midlands	24	19	79
West Midlands	18	11	61
North East	16	11	69
Yorkshire and Humberside	13	7	54
North West	24	13	54
Total	197	117	59

- Urban/rural: within each region, using a Countryside Agency classification, the sample of local authorities should match the split between urban and rural authorities.
- National Parks: three National Parks were selected to replace three rural local authorities.

The 40 authorities were selected as follows. The 117 responding authorities were split into regions and then by rural, urban and National Park categorisation. The number of authorities selected from each region reflected the regional distribution of authorities in England. Rural authorities were chosen to reflect the overall percentage of rural authorities (40 per cent). Three National Park authorities were selected.

Once the number of rural and urban authorities within each region was determined, the appropriate numbers of authorities were selected at random. Where a selected authority has no affordable housing policies or no affordable housing secured in 1998–1999 an alternative authority was chosen at random. Table C describes the regional distribution of authorities with additional key variables.

3. Site-specific case studies

Stage 3 of the research focused on the processes and outcomes at the site-specific level. Here, 17 case study areas were chosen from the 40 authorities in stage 2 and then up to 5 sites within each area were selected from those sites with a section 106 agreement signed between 1997 and 2000. The 17 authorities were chosen first, to ensure at least one authority in each region; second, to ensure adequate representation of rural and urban authorities and third, to reflect the distribution of affordable housing secured during 1997–2000. Table D describes the regional distribution of the case studies along with the basic policy characteristics of each authority. The choice of authority was dependent on the actual level of activity (there was little point surveying an authority with no section 106 sites), the variety of sites and the likely co-operation of the authority staff.

In many cases the choice of sites was determined by availability. For example, within the North East authority there were only three examples where an element of affordable housing had been secured. Where more than five sites were available an attempt was made to choose a mixture of sites with different characteristics such as urban/

Table C The regional distribution of the 40 local authority case studies

	Number of authorities selected	Number of rural authorities	Number of National Parks	Range of affordable housing targets (%)	Average price: income ratio*
South East	7	2	0	10–30 (50 rural areas)	6.1
London	5	0	0	10–40	6.3
South West	5	2	1	20–30	5.4
East	6	3	0	15–30	4.9
East Midlands	4	2	1	30	4.1
West Midlands	3	1	0	15–30	4.8
North East	3	1	0	0–25	3.9
Yorkshire and Humberside	2	1	0	20	4.2
North West	5	1	1	10–25	4.21
Total	40	13	3		

*National Parks excluded. Figures for 1998–1999.

rural, allocated / windfall or a commuted payment or off-site contribution instead of on-site provision. In rural districts the focus was on the rural exception policy so, where possible, a mixture of rural exception sites and market sites was selected. Again the choice of sites was limited by availability. Sites were chosen through telephone and e-mail discussions with local authority staff.

For each site the planning and housing officers involved in section 106 negotiations were interviewed together with an examination of the relevant planning files. Details of the landowner, developer, RSL and any other interested parties were obtained from these sources. Once identified, the aim was to interview these parties, if not face to face then by telephone.

The interviews with local authority staff, developers, landowners and RSLs focused on the process, the constraints and the outcomes. Issues included:

- basic information about the site and its ownership and planning history
- the history of the negotiations over the section 106 agreement
- details of the agreement itself, the agreed provision, other planning gain, when it was signed, etc.
- who was involved in the negotiations, how the RSL was selected and when
- whether SHG was required, how much and issues concerning timing
- the current state of play, including the outcomes if the housing is now built and let.

Interview data were assembled for each site together with the site details and were used to answer the specific research questions identified at the beginning of the research project. The policies of the 17 authorities are described in Table D and basic site details in Table E. Anonymity was

assured so that no authority or site names appear in any tables, examples or text.

4. Regional focus groups

Five focus groups were run to gather greater understanding of policy and processes. The first focus group took place in London followed by regional groups in Cambridge and Sheffield.

The regional focus group strand of the project was designed to help us understand the role that regional arms of government departments, government sponsored bodies, and developers' and landowners' organisations play in the design and delivery of policy.

In addition we invited some representatives of those RSLs, local planning and housing authorities and developers that had taken part in interviews related to the sites included in stage 3 of the project to join each of the focus groups. Each meeting had about a dozen attendees in addition to the research team. The planned small size of each meeting contributed to the richness of the round-table discussion and the wide range and depth of the issues discussed.

The focus groups covered the following themes:

- The role played by specific organisations at the regional 'level' and how each organisation interacts with others in the development and implementation of policy.
- The rules for calculating SHG for social rented housing secured on section 106 sites and how these are operated in practice.
- The circumstances under which affordable housing can be produced on section 106 sites without SHG.
- The experience of organisations regarding the manner in which local authorities implement their affordable housing policies, particularly with respect to negotiations.

Table D District characteristics

District	Region	Affordable housing target (%)	Threshold	Housing needs	SPG	Negotiating team*
1	WM	30	40	1998	No but some site briefs	1
2	NW	Varies with site; approx 20	C6/98	1997	Yes + site briefs	1
3	SW	30	20 units	1998	Yes	1
4	SW	Varies with site; approx 30	15 and 5 where <3000	Site-specific	No	1
5	Y+H	20	C6/98	1997	Yes	1
6	EM	30	20	1998	Yes	1
7	SW	Varies with site; approx 20	C6/98 (lower where <3000)	Site-specific	Yes + site briefs	1
8	EM	Varies with site; usually 100	25 units, mostly RES	Site-specific	No	1
9	N	15	C6/98	1997	Yes	3
10	E	15	15 units	Pre-1997	Yes + site briefs	1
11	SE	30	C6/98	New survey imminent	Yes	3
12	London	40	15 units	None	Yes	1
13	London	25	C6/98	Pre-1997	Interim policy	1
14	London	No target	None	1999	Yes	1
15	SE	10	40 units	Pre-1997	No	2
16	SE	20 bedspaces	15 units	Pre-1997	No	1
17	SE	25	C6/98	1999	Yes	1

*Notes:

1 = Negotiations are led by either the planning or housing departments with the other department supplying supporting information.

2 = Negotiations are undertaken by the planning department only.

3 = A specific team has been set up to deal with section 106 negotiations. This will include members of the planning and housing departments with perhaps a legal and engineering representative.

Table E Site characteristics

District ¹	Site ²	Region ³	Total number of units ⁴	Percentage affordable/commuted sum ⁵	Tenure ⁶	Urban or rural ⁷	Brown-field/contaminated/green-field ⁸	Allocated ⁹	Contribution type ¹⁰
1	a	WM	280	10	SO	Urban	GF	Yes	C
1	b	WM	383	25	LCHO, SO	Urban	Mix	Yes	B, C
1	c	WM	100	15	LCHO	Urban	BF	Yes	B
1	d	WM	46	22	Rent, SO	Urban	BF	No	D
2	a	NW	8	100	Rent	Rural	GF	RES	RES
2	b	NW	30	17	DOMV	Rural	GF	Yes	B, F
2	c	NW	18	17	DOMV	Rural	GF	Yes	B, F
2	d	NW	81	11	DOMV	Rural	BF	No	B
3	a	SW	100	20	SO	Rural	GF	Yes	C
3	b	SW	20	100	Rent, SO	Rural	GF	RES	RES
3	c	SW	5950	8	Rent, LCHO	Urban	GF	Yes	C, B
3	d	SW	2	100	Rent	Rural	GF	RES	RES
4	a	SW	10	100	SO, Rent	Rural	GF	RES	RES
4	b	SW	8	100	Rent, SO	Rural	GF	RES	RES
4	c	SW	8	100	Rent, SO	Rural	GF	RES	RES
4	d	SW	8	100	Rent	Rural	GF	RES	RES
5	a	Y+H	30	7	DOMV	Urban	GF	Yes	C
5	b	Y+H	68	21	Rent, SO	Urban	BF	No	C
5	c	Y+H	684	12	LCHO, Rent	Urban	BF	Yes	B, C
6	a	EM	40	£31,250	CS	Urban	BF	No	G
6	b	EM	137	22	SO, Rent	Urban	GF	Yes	C
6	c	EM	277	25	LCHO, Rent	Urban	BF	No	B, C
6	d	EM	430	16, £650,000	LCHO, CS	Urban	GF	Yes	B, G
7	a	SW	14	29	Rent	Rural	GF	Yes	C
7	b	SW	120	24	Rent, SO	Rural	GF	Yes	C
7	c	SW	24	25	DOMV	Rural	GF	Yes	B
8	a	EM	6	100	DOMV	Rural	GF	RES	B
8	b	EM	44	36	Rent, SO	Rural	BF	Yes	C
8	c	EM	18	50	Rent, SO	Rural	BF	Yes	N/A
9	a	N	600	10	SO	Urban	GF	Yes	C
9	b	N	250	10	Rent	Urban	GF	Yes	E

continued

Table E Site characteristics (continued)

District ¹	Site ²	Region ³	Total number of units ⁴	Percentage affordable/commuted sum ⁵	Tenure ⁶	Urban or rural ⁷	Brown-field/contaminated/green-field ⁸	Allocated ⁹	Contribution type ¹⁰
10	a	E	300	11	Rent	Rural	GF	Yes	E
10	b	E	79	14	Rent	Rural	GF	Yes	E
10	c	E	10	£10,500	CS	Rural	GF	No	G
10	d	E	10	100	Rent	Rural	GF	RES	RES
10	e	E	8	100	Rent	Rural	GF	RES	RES
11	a	SE	746	6, £500,000	Rent, CS	Urban	BF	Yes	E, G
11	b	SE	1050	10	not determined	Urban	BF	Yes	A
11	c	SE	not determined	not determined	not determined	Urban	BF	Yes	not determined
11	d	SE	not determined	not determined	not determined	Urban	BF	Yes	not determined
11	e	SE	not determined	not determined	not determined	Urban	BF	Yes	not determined
12	a	London	162	32	Rent, SO	Urban	BF	No	C
12	b	London	15	40	Rent	Urban	BF	No	C
12	c	London	161	32	Rent, SO	Urban	BF	No	C
12	d	London	6	£204,895	CS	Urban	BF	No	G
12	e	London	20	25	Rent	Urban	BF	No	C
13	a	London	385	25	Rent, SO	Urban	BF	Yes	C
13	b	London	204	24	Rent, SO	Urban	BF	No	C
13	c	London	170	£2,250,000	CS	Urban	BF	No	G
14	a	London	1680	48	Rent, SO, DOMV	Urban	BF	Yes	C, B
14	b	London	66	100	Rent, SO	Urban	BF	No	C*
14	c	London	20	100	Rent	Urban	BF	No	C
14	d	London	7	100	Rent	Urban	BF	No	C
14	e	London	7	£1,000,000	CS	Urban	BF	No	G
15	a	SE	41	7	Rent	Urban	BF	No	C
15	b	SE	148	17	Rent	Rural	GF	Yes	E
16	a	SE	86	16 (53)	Rent (DOMV)	Urban	BF	Yes	C, B
16	b	SE	33	27	SO	Urban	BF	No	D

continued overleaf

Table E Site characteristics (continued)

District ¹	Site ²	Region ³	Total number of units ⁴	Percentage affordable/commuted sum ⁵	Tenure ⁶	Urban or rural ⁷	Brown-field/contaminated/green-field ⁸	Allocated ⁹	Contribution type ¹⁰
16	c	SE	35	34	Rent	Urban	BF	No	C
16	d	SE	36	42	Rent	Urban	BF	No	C
17	a	SE	57	18	Rent	Urban	BF	Yes	C
17	b	SE	39	26	Rent	Urban	BF	No	C
17	c	SE	110	27	Rent, DOMV	Urban	BF	Yes	E, B
17	d	SE	39	£250,000	CS	Urban	BF	No	G

Notes

¹District – each district is assigned a number, 1–17

²Each site within a district is assigned a letter, a–e.

³The regions are: WM, West Midlands; EM, East Midlands; E, East; Y+H, Yorkshire and Humberside; NW, North West; NE, North East; SE, South East; London, London; SW, South West.

⁴The total number of units includes both the number of market units and the number of affordable units. This provides an indication of the size of the site, as size in hectares was not always available.

⁵The percentage affordable describes the percentage of total units that are affordable, for example, a total of 280 units and a 10 per cent affordable housing contribution means that there are 28 affordable units. This figure provides a measure of the affordable housing contribution. Where a commuted sum was paid instead of the provision of units the actual sum is provided. Where there was both a unit contribution and a commuted sum, both figures are provided separated by a comma.

⁶The tenure of the affordable housing contribution is described. There may be more than one tenure on each site. The tenures are: SO, shared ownership; Rent, RSL rented property; DOMV, discounted open market value; S, commuted sum; LCHO, low cost home ownership.

⁷This defines whether the site was urban or rural in nature. It is possible for a district to have both rural and urban sites within it.

⁸This defines whether the site was brown-field (BF) or green-field (GF) in nature. Where there are elements of both then the term Mix is used.

⁹If the site was allocated in the local plan or unitary development plan then Yes is entered here.

¹⁰The type of development contribution is defined: A, the developer sells space or dwelling on the site at full market price for another organisation to provide affordable housing on the site. B, the developer provides a form of affordable housing himself. This is either (a) smaller dwellings but sold at full market price for their size; (b) dwellings sold at a discount against market price; or (c) dwellings sold under shared equity with the developer retaining partial ownership. C, the developer sells land or dwellings to a registered social landlord who purchases them with the maximum amount of SHG and private finance permitted by the Housing Corporation's grant rate framework. D, the developer sells land or dwellings to an RSL who purchases them without any SHG input (but with private finance). E, the developer sells land or dwellings to an RSL at a nominal price. F, the developer makes an off-site contribution. G, the developer pays a commuted sum.

Appendix 2

Regional and planning policy context

Key points

- The ‘cascade’ of development plans and national and regional planning policy guidance together provide a potential framework for agreeing on affordable housing need and for resolving conflicts about the location of the required provision to meet need.
- The co-ordination of Regional Planning Guidance, Regional Housing Statements, Regional Economic Strategies and other ‘sectoral’ plans provide a basis for integrating land allocations with housing and related investment decisions.

Introduction

This Appendix describes the way planning policy frameworks affect the way affordable housing is secured by the planning system. It examines two kinds of frameworks.

First, the ‘vertical’ hierarchy of land use development plans, from national planning policy guidance, through regional planning guidance, and ‘down’ through structure plans to unitary and local plans. This system ‘delivers’ the housing sites on which affordable housing contributions may be negotiated.

Second, the ‘horizontal’ system of resource planning at regional and sub-regional level whereby resource allocation decisions about housing and related investments may be connected via the hierarchy of development plans to specific sites. This system ‘delivers’ housing subsidy from the Housing Corporation to specific affordable housing schemes. It also delivers other related investment, including the costs of remediation on brown-field sites.

Planning policy framework

Adequate numbers of new affordable dwellings can only be secured through the planning system if sufficient development land comes forward in appropriate locations and on sites above threshold size (in terms of current planning policy guidance) to meet the need identified in approved development plans.

At national level the relevant central government department responsible for town and country planning (currently the Office of the Deputy Prime Minister – ODPM) issues national policy guidance through a series of Planning Policy Guidance notes – or PPGs. The most recent PPG3 on housing was issued in 2000. In the current PPG3, as in all its predecessors since 1981, central government has made it clear that seeking affordable housing contributions from private developers is a legitimate objective of local planning policy, provided that certain key steps are first taken.

Planning authorities must first make an assessment of the need for affordable houses. If this reveals a shortfall, district planning authorities can make the seeking of contributions from developers to meeting this shortfall an objective of their statutory unitary or local development plans. They may set overall plan wide targets for these contributions and they may also designate specific targets on individual sites allocated for housing in these plans. These targets become the basis for negotiations with developers (and they may also fix targets for ‘windfall sites’ – those not allocated in an approved plan, but sites which developers identify and subsequently bring forward). Planning authorities have been advised not to seek these contributions on small sites – below specific thresholds. In rural areas, planning authorities may also adopt rural exceptions policies. These enable

permission to be exceptionally given for development on sites where consent for housing would not normally be granted, except for the fact that it will secure affordable housing – for the whole of the (usually small) sites in question.

As part of the process of determining planning applications to develop both allocated and windfall sites, planning authorities negotiate affordable housing contributions and the agreements with respect to these are enshrined in legally binding agreements, known as S106 agreements. These enable the authority to bind developers (and subsequent site owners) to implement the agreement, including matters related to tenure and price that cannot be set out as formal conditions of planning permission. In the most recent PPG3, issued in 2000, the government made it clear that where, despite the existence of adopted policy, developers were unwilling to make contributions this would of itself be a legitimate reason for refusing permission, even if the site in question was suitable for housing development.

In drawing up statutory (structure, unitary and local) plans, planning authorities must have regard not only to national policy guidance (contained in PPGs) but also to Regional Planning Guidance (RPG). District planning authorities in counties must also ensure that their local plans conform to county structure plans. One of the key ingredients in this downward cascade of guidance and policy is the level of housing requirements for which plans must cater. This has become a matter of much political as well as technical controversy. RPGs are crucial. Currently RPGs are issued by the ODPM, following advice from regional planning bodies, made up of representatives of planning authorities in the region. The draft RPG is subject to an Examination in Public (EIP) before being formally issued by the ODPM, following consideration of the EIP panel's report. Projections of the need for new housing need and the extent to which this need should be met within a region (and where) have been matters of much controversy. The

government has moved away from an approach (usually described as 'predict and provide') which obliges planning authorities to make provision in their development plans for all predicted need. The current approach (described as 'plan, monitor and manage') eschews this approach in favour of one that seeks to mediate the conflicts between requirements generated by market demand and housing need on the one hand and matters related to overall capacity, environmental sustainability and the like on the other. These have been debated at length in the often lengthy processes leading up to the issuing of RPGs, not least in southern England. The RPG issued by ODPM's predecessor bodies have often tried to find a middle way between setting requirements to meet overall market demand and need and much more limited numbers that match capacity and environmental considerations. Public antipathy towards new development has inevitably been part of the backdrop to these debates and decisions.

Resource allocation frameworks

However sharp the clarity of policy and the speed of plan preparation and adoption, affordable housing targets will not be secured unless the development plans framework is well integrated with resource allocation mechanisms, especially in relation to the availability of subsidy.

The main source of subsidy for social rented housing is SHG allocated by the Housing Corporation. The Corporation divides the total national SHG in its Approved Development Plan between each of its regions on the basis of a needs index. Allocations within regions are no longer mainly dependent on needs indicators but on a much wider range of considerations.

Regional Housing Statements (RHSt), prepared by Government Offices in the regions and the Housing Corporation Regional Offices and also Regional Investment Strategies (produced by Housing Corporation) are increasingly important

parts of the framework for regional investment policy with respect to the allocation of SHG. They deal with sub-regional needs and priorities and also provide an overall regional picture. Hence RSLs' bids for SHG will be judged on a wide range of considerations, including value for money and their contributions towards regional objectives and much less than in the past on the basis on the level of need (as evidenced by need indicators in the relevant district). These statements and strategies have become much more important following the move away from reliance on need indicator-led allocations. There are important potential links between RHSTs, Regional Investment Strategies, RPGs and statutory development plans. This is especially so in regions where affordability is the

most acute housing problem, and where the flow of sites with S106 agreements needs to be co-ordinated with investment decisions on SHG allocations made by Housing Corporation regional investment teams.

Regional Economic Strategies are also of significance. They are produced by Regional Development Agencies and have key significance for affordable housing. This is the case both in northern regions where the resourcing of regeneration strategies can be the key to successful brown-field development as well as in southern regions where matters related to overcoming labour shortages including key workers are crucial issues to sustaining economic development.

Appendix 3

How SHG is calculated

RSLs essentially go through two steps when applying for SHG:

- 1 ascertaining the likely costs of development for a typical site in that region of the country (as determined by the Housing Corporation) and the resultant grant rate, and
- 2 applying this figure to the actual costs of development on that particular site.

The first step involves TCIs and grant rates. TCIs represent a measure of the Housing Corporation's agreed typical costs of developing a number of units of a certain tenure (by taking bed spaces, floor area, etc. into account) in specific geographical areas (TCI bands). The Housing Corporation accept that the costs will be greater in some cases – e.g. remediation costs on brown-field sites and other 'abnormals' – and this is reflected in the TCI multiples. For example, a basic project would have a multiple of 1 but that for a rehabilitation project might be 1.12, and supported housing would be different again. The resultant adjusted TCI multiplier is then set against various Housing Corporation tables, thus giving the grant rate from which is calculated the maximum or 'full grant' for which the scheme would be eligible when applied to the scheme's qualifying costs (TSC – total scheme costs). This stage, then, is largely desk-based – gaining information from Housing Corporation information resources.

It should be noted that there has recently been a change in the way grant rates are calculated. Rent restructuring means that rents are now set on the basis of earnings and values in an area, so values are entered into a spreadsheet which already has earnings factored in, and the grant rate is automatically calculated.

The next step involves introducing the proposed actual scheme costs. The TSC is calculated to include actual qualifying costs – so, for instance, if land is

recorded as free or discounted by the private sector that would be reflected in the TSC. When the TSC is compared to TCI, this gives a Scheme Cost Index (SCI). Until last year, RSLs could go up to 130 per cent of TCI where exceptional costs could be proved. The limit is now 110 per cent of TCI, because TCIs have recently been altered to reflect regeneration costs, etc. It is now very unusual (with the possible exception of London sites) that any development with costs (after any discount) over 110 per cent of TCI will be given consent to proceed.

When the scheme comes in under the TCI limits or where special permission has been given to exceed them, the amount of eligible grant is then calculated. The TSC multiplied by the grant rate determines the full amount of grant required.

Further discounts may be applied at this stage. In particular, where the land is publicly owned any contribution must be entered as 'other public subsidy' after the full grant has been calculated. This will result in a pound for pound reduction in grant received.

Where other discounts enter the calculation appears in part to be a matter of choice. If contributions are well defined at an early stage, especially those from private landowners, they will normally enter before calculating the TSC. This is particularly the case where the 'real' TSC is too high to allow the scheme to go ahead without such contributions. On the other hand contributions from the landowner, the developer and the RSL may, as any public land subsidy must, enter in the final stage as discounts against the full grant. This is often the case where the RSL makes a contribution to ensure that they win the bid within the Corporation's competitive environment by showing good value for money. The only thing that is certain is that any contributions towards the costs of the scheme must be excluded from the actual grant paid.