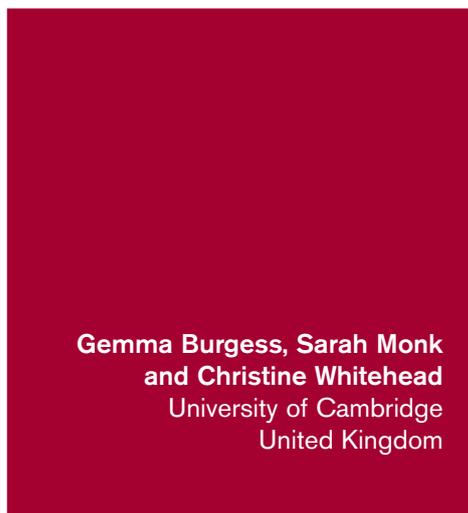


The provision of affordable housing through Section 106: the situation in 2007

RICS Research paper series

Volume 7 Number 14

October 2007



Sarah Monk is a Senior Research Associate in the Department of Land Economy, University of Cambridge. As Deputy Director of the Centre for Housing and Planning Research (CCHPR), she has developed a track record in researching the relationship between the planning system and the provision of housing including a range of projects on Section 106: Land and Finance for Affordable Housing: Making it Count (2002), The Complementary Roles of S016 and SHG in Providing Additional Affordable Housing(2005) and Delivering Affordable Housing through Section 106: Outputs and Outcomes (2006), all of which were funded by the Joseph Rowntree Foundation. A further project on Value for Money of Delivering Affordable Housing through Section 106 was carried out for the ODPM. Sarah led the team which produced the revised Guidance to local authorities on Local Housing Assessments to replace the earlier Local Housing Needs Assessments. She is currently completing two studies for DCLG, one exploring the potential for Common Starting Points for S106 Negotiations, the other an econometric study of Modelling Future Take-up of Low Cost Home Ownership Products. She is also involved in Evaluating the Mixed Communities Demonstration Projects for DCLG, working with a team led by the Institute of Education in London.

Christine Whitehead is an internationally respected applied economist whose research is well-known in both academic and policy circles. She has conducted an extensive programme of research on various aspects of the housing market, with special reference to social housing provision and financing, as well as on urban policy and privatisation issues. A major theme in her recent research is the application of economic concepts and techniques, including cost-effectiveness and cost-benefit analysis, to questions of public resource allocation with respect to land use planning, education, policing and urban regeneration. Another important theme has been monitoring and evaluating the effectiveness of introducing private finance into social housing. She has been Director of the CCHPR since 1980 and has attracted more than £10 million in research funding during that time. Over the last few years Christine has been particularly concerned with affordability and the finance of affordable housing, including the delivery of affordable housing through the planning system and the provision of low cost home ownership and key worker housing. She is Professor in Housing in the Department of Economics, London School of Economics, and Visiting Professor at the University of Glasgow.

Gemma Burgess is a Research Assistant at the Centre for Housing and Planning Research, University of Cambridge. She has recently completed her PhD at the University of Cambridge. Since joining the CCHPR she has been involved in a number of projects exploring how the planning system is delivering affordable housing including the potential Common Starting Points for S106 Negotiations for DCLG and The Provision of Affordable Housing Through S106: The Situation in 2007 for the RICS.

**The provision
of affordable
housing through
Section 106: the
situation in 2007**

Volume 7 Number 14

October 2007

Panel of referees

Kwame Addae-Dapaah
National University of Singapore
Singapore

Akintola Akintoya
Glasgow Caledonian University
Scotland

Saleh Al-Hathloul
Alhathloul lilumran
Kingdom of Saudi Arabia

Adarkwah Antwi
University of Wolverhampton
England

Ghassan Aouad
University of Salford
England

David Baldry
University of Salford
England

Malcolm Bell
Leeds Metropolitan University
England

Roderick Bisset
Faithful & Gould
Scotland

Alistair Blyth
University of Westminster
England

Thomas Bohn
University of Leipzig
Germany

Paul Bowen
University of Cape Town
South Africa

Spike Boydell
University of Technology, Sydney
Australia

Jagjit Chadha
BNP Paribas UK Holdings Ltd
United Kingdom

Aditi Chatterji
University of Calcutta
India

SO Cheung
City University of Hong Kong
Hong Kong

Chris Cloete
University of Pretoria
South Africa

Charles Cowap
Harper Adams University College
England

Hoffie Cruywagen
Association of Quantity Surveyors
in South Africa
South Africa

Julian Diaz III
Georgia State University
United States of America

Tim Dixon
Oxford Brookes University
England

Keith Duff
Consultant
England

Richard Fellows
University of Hong Kong
Hong Kong

Christopher Fortune
University of Salford
England

Karen Gibler
Georgia State University
United States of America

Andy Hamilton
University of Salford
England

Cliff Hardcastle
University of Teesside
England

Barbara Haward
University of Portsmouth
England

John Henneberry
University of Sheffield
England

Robert Home
Anglia Ruskin University
England

Aart Hordijk
ROZ Real Estate Council
The Netherlands

Michael Hoxley
Nottingham Trent University
England

Will Hughes
University of Reading
England

Eddie Hui
Hong Kong Polytechnic University
Hong Kong

Norman Hutchison
University of Aberdeen
Scotland

L Jide Iwarere
Howard University
United States of America

Ramin Keivani
Oxford Brookes University
England

J M Lusugga Kironde
UCLAS
Tanzania

Andrew Knight
Nottingham Trent University
England

Richard Laing
Robert Gordon's University
Scotland

Chris Leishman
University of Glasgow
Scotland

David Lewis
Royal Agricultural College
England

Colin Lizieri
University of Reading
England

S M Lo
City University of Hong Kong
Hong Kong

Sim Loo Lee
National University of Singapore
Singapore

Sui Pheng Low
National University of Singapore
Singapore

David Lowe
University of Manchester
England

Ahmed M Saleh Ouf
Government of Sharjah
United Arab Emirates

John Mansfield
Nottingham Trent University
England

Pat McAllister
University of Reading
England

William McCluskey
University of Ulster
Northern Ireland

James Meikle
Davis Langdon
England

Stuart Morley
GVA Grimley
England

Wordsworth Odame Larbi
Ministry of Lands, Forestry & Mines
Ghana

Modupe Omirin
University of Lagos
Nigeria

Jacob Opadeyi
University of the West Indies
Trinidad and Tobago

Allison Orr
University of Glasgow
Scotland

Ali Parsa
University of Ulster
Northern Ireland

Rob Pickard
University of Northumbria
England

Frances Plimmer
Kingston University
England

Gwilym Price
University of Glasgow
Scotland

David Proverbs
University of Wolverhampton
England

Les Ruddock
University of Salford
England

Sarah Sayce
Kingston University
England

Karl-Werner Schulte
University of Regensburg
Germany

Rainer Schultz
University of Aberdeen
Scotland

Martin Sexton
University of Salford
England

Low Sui Pheng
National University of Singapore
Singapore

Francois Viruly
University of Witwatersrand
South Africa

Clive Warren
University of Queensland
Australia

Christine Whitehead
London School of Economics
England

Peter Wyatt
University of the West of England
England

Saad Yahya
Saad Yahya Associates
Kenya

RICS Research paper series

The aim of the RICS Research Paper Series is to provide an outlet for the results of research relevant to the surveying profession. Papers range from fundamental research work through to innovative practical applications of new and interesting ideas. Papers combine academic rigour with an emphasis on the implications in practice of the material presented. The Series is presented in a readable and lucid style which stimulates the interest of all the members of the surveying profession.

Editorial Team

Stephen Brown
Head of Research
RICS

E: sbrown@rics.org
T: +44 (0)20 7334 3725

Amy Roberts
Research Officer
RICS

E: aroberts@rics.org
T: +44(0)20 7334 3750

© RICS

October 2007
ISSN 1464-648X
ISBN 978-1-84219-355-6

Published by:

RICS
12 Great George Street
London SW1P 3AD
United Kingdom

The views expressed by the author(s) are not necessarily those of RICS nor any body connected with it. Neither the author(s), nor RICS accept any liability arising from the use of this publication.

This paper can be copied free of charge for teaching and research purposes, provided that:

- the permission of RICS is sought in advance
- the copies are not subsequently resold
- RICS is acknowledged

Contents

Executive Summary	7	3 Findings from the Research	26
1 Introduction	8	3.1 Completion of Affordable Units	26
1.1 Aims	8	3.2 Defining Affordable Housing	28
1.2 Methods	9	3.3 The Transition from Local Plans to LDFs	28
1.3 Research Questions	9	3.4 Affordable Housing Targets	28
2 Literature and Policy Review	10	3.5 Site Specific Targets	28
2.1 Problems of Housing Supply	10	3.6 Tenure Mix	28
2.2 Policy Instruments for New Affordable Housing Provision: Section 106	11	3.7 S106 Contributions to Affordable Housing	28
2.3 Using Section 106 in Practice	12	3.8 Participation in a Housing Market Assessment	30
2.4 A Changing Policy Context	13	3.9 The Evidence Base for Policy Making on Affordable Housing	30
2.5 Planning Policy Statement 3: Housing (PPS3)	14	3.10 Views on Policy Change and S106	31
2.6 Planning Gain Supplement	15	4 Summary	35
2.7 Regional Spatial Strategies	17	5 Conclusions	37
2.8 Local Development Frameworks	17	References	40
2.9 Strategic Housing Market Assessments	18	Appendix	42
2.10 Affordable Housing: The Numbers	19	RICS research paper series	44
2.11 Summary	25		

Contact

Gemma Burgess
Department of Land Economy,
University of Cambridge
19 Silver Street,
Cambridge CB3 9EP
UNITED KINGDOM

Tel +44 (0)1223 337118
Email glb36@cam.ac.uk

Acknowledgement

We would like to express our gratitude to the local authorities who responded to the questionnaire used in the study. We are particularly grateful to the planners and housing enablers from the fourteen local authorities who were kind enough to give up time to participate in the interviews that were a key element of the study.

We thank the RICS Education Trust for providing the funding to conduct this piece of research.

Executive Summary

This study was conceived as a way of exploring the current state of local planning authority (LPA) practice with regard to the provision of affordable housing through Section 106 (S106) against a background of rapidly changing policy and practice. Much of the discussion has so far been anecdotal; therefore this study was designed to fill this gap in our knowledge. The study presents the findings from a large-scale survey of all local authorities to which 117 responded, and in-depth telephone interviews with a sub-set of 14 respondents.

Since the research was commissioned, policy emerged in the form of Planning Policy Supplement 3: Housing (PPS3). The study explored how LPAs are responding to the new policy, and what impact they believe it will have. The study also looked at LPA participation in Housing Market Assessments and the perceived impacts of the proposed Planning Gain Supplement (PGS).

The study found that in many LPAs, policy on affordable housing is in a state of flux, with changes either recent or underway. Policy is by no means consistent across the country. Whilst the data show that more affordable housing is being delivered through S106, few LPAs meet their affordable housing targets.

There is great variation in what different LPAs manage to deliver through S106. Policy is far clearer and more robust in some LPAs, which means that developers know what to expect and which gives the LPA stronger grounds for negotiation. Some areas have only recently experienced housing pressure, and thus have little experience at negotiating S106 agreements.

Practice with regard to S106 negotiations varies between LPAs. Some have a model S106 agreement available for developers, a dedicated team working on S106 and affordable housing and a clear structure and set of expectations for the negotiation process. However, many LPA representatives interviewed for the study were not even clear whose responsibility it was to deal with S106 and affordable housing. This suggests that 'best practice' is yet to be taken on board by many LPAs, and there is scope for improvement in most LPAs.

Many LPAs complained of problems in S106 negotiations. The most common was the difficulty in countering developer claims that the site would be unviable with the proportion of affordable housing sought by the LPA. This suggests that there is still considerable scope for improving the skills of the planning, housing and legal department members who are involved in negotiating S106 agreements, particularly in understanding development economics.

The introduction of PPS3 was welcomed particularly for the change in the definition of affordable housing and the ability to reduce the site thresholds above which affordable housing has to be provided. Its impact on the provision of affordable housing seems more uncertain. The majority of LPAs registered concern over the possible introduction of PGS. Most felt they would lose control of how the funds were spent at the local level.

Housing Market Assessments (HMAs) also produced mixed feelings. Whilst most planners felt that HMAs would increase their knowledge base, they expressed concern over how resource intensive they were to conduct. The difficulty of acquiring the data and of co-ordinating HMAs between different LPAs were also seen as problematic.

1 Introduction

The delivery of affordable housing through Section 106 (S106) has now become the major mechanism for achieving additional affordable housing. Government statistics show that S106 completions totalled just over 55% of all affordable housing completions/acquisitions in 2005 (Housing Strategy Statistical Appendix). Recent proposals for changing the S106 approach, particularly moving to a formal tariff as recommended by the Barker Review of Housing Supply of 2004 are under consultation.

However, new guidance on Strategic Housing Market Assessments (HMAs) and on delivering size, type and affordability initially promised for 2005 were only published in March 2007.

This study was initiated in response to the call for research proposals by the RICS Education Trust Awards of December 2006, who funded this research. The study began in February 2007 and was completed in May 2007.

The motivation behind the research was initially the vacuum in which local authorities were working created by the lack of policy regarding S106 and affordable housing. Since this study was proposed, Planning Policy Supplement 3: Housing (PPS3) has been published to provide policy and guidance in this area.

These changes have created a period of uncertainty for planning authorities and developers alike. It has been a time of adjustment for local authorities as they respond to the new policy environment. The situation is likely to change again as the proposed Planning Gain Supplement (PGS) adds further uncertainty and complexity.

Given the importance of S106 in providing affordable housing and this period of uncertainty and change, it has therefore been a timely moment to explore how local authorities are dealing with the provision of affordable housing and S106 in practice.

1.2 Aims

The aims of this study were as follows:

- To provide an up to date picture of how S106 is working on the ground to deliver affordable housing.
- To identify how HMAs are being taken forward by local authorities, and how they are being used to shape affordable housing policy at the local level.
- To identify the impacts of recent policy changes, such as PPS3, on the use of S106 and affordable housing policy and provision.
- To assess what local authorities believe the impact of the proposed PGS will be on affordable housing provision.

1.3 Methods

A comprehensive review of the relevant policy background and the recent changes was undertaken.

An email survey of all local planning authorities was conducted (see Appendix for the questionnaire). This questionnaire was piloted with a small number of local authorities before being distributed to all LPAs. Through previous research CCHPR have contact details of many LPA members dealing with S106 and affordable housing. Telephone enquiries to other LPAs helped to ascertain who the appropriate person was to complete the survey.

The questionnaire explored current affordable housing policy, including how affordable housing is defined, what targets have been set, whether these are site-specific, and whether the mix of tenure is specified. The survey collected data on affordable housing delivery over the past two years and what percentage of this had a S106 contribution. The questionnaire asked for site-specific data where available. The survey ascertained the status of each local authority's HMA, and what data informed policy on affordable housing. Planners were asked to comment on recent policy changes.

Telephone interviews were then conducted with a sub-sample of fourteen local authorities chosen based on the survey data. These reflected a range of contexts. The interviews allowed a more detailed exploration of how S106 is working in practice.

1.4 Research Questions

Specific questions were addressed through the research. These included:

1. How important is S106 in providing affordable housing?
2. What issues arise in S106 negotiations?
3. Is the policy moving from individual site negotiations around the target set for affordable housing to a more formulaic tariff or tax?
4. How is the mix of tenure and the size and type of housing determined on individual sites?
5. How are planning authorities dealing with Housing Market Assessments (HMAs)?
6. How do local authorities see the likely impact of the new PPS3 and its accompanying Advice Note on Affordable Housing Delivery?
7. What impact do planning authorities feel PGS may have?

2 Literature and policy review

2.1 Problems of housing supply

The basic objectives of national housing policy are reflected in the phrase: a decent home for every family at a price within their means. The fundamental objective of housing policy is to provide enough homes for every household through the general market and the intermediate market (that includes 'affordable' housing, shared ownership and key worker housing), as well as the social rented sector. This objective is intimately linked to the objective of ensuring that housing is affordable and that house prices do not adversely affect the wider economy (Stephens et al 2005).

Many housing policies have been successful when judged in their own terms. An evaluation of housing policy 1975-2000 found that over the period as a whole access to owner-occupation and to private renting increased and in many parts of the country social renting is reasonably

available (Stephens et al 2005). Affordability has been maintained for the vast majority of households despite the reduction in and restructuring of subsidies. All of this has been against a background of ownership restructuring and increasing partnership in development and regeneration (Stephens et al 2005).

However, supply mechanisms are not providing sufficient amounts of new housing for the market, intermediate ('affordable') or social rented sectors (Stephens et al 2005).

Demand for housing is increasing over time, driven primarily by demographic trends (ageing and migration) and rising incomes. Yet in 2001 the construction of new houses in the UK fell to its lowest level since the Second World War. Over the ten years to 2002, output of new homes was 12.5 per cent lower than for the previous ten years (Barker 2004).

“ The basic objectives of national housing policy are reflected in the phrase: a decent home for every family at a price within their means ”



The Minister for Housing and Planning reiterated this lack of affordable housing: “We have not been building enough homes for a generation... we have been building too few homes to meet demand since at least the early eighties. Over the last three decades of the twentieth century we saw a 30 % increase in the number of households and a 50 % drop in the level of house building. That is unsustainable.” (Yvette Cooper 20/09/06). She commented on how the lack of supply affects affordability; “If we carry on with the levels of house building we have seen it will not be long before less than a third of new households are able to afford their own home.” (Yvette Cooper 30/06/05).

The Barker Review of Housing Supply Final Report (2004) was concerned with the issues both of volatility in the housing market and of the long-term supply of homes. It concluded that whilst the impact of changes in housing policy on affordability presents a complex picture, the consequences of the failure to provide sufficient new housing are clear. House prices have risen, favouring existing owners above new households (Barker 2004), thus housing affordability has worsened for new households (Stephens et al 2005). This issue of rising affordability problems has been well documented, notably by Wilcox (2003, 2005, 2006) and, highlighting the particular problems for rural areas, the Affordable Rural Housing Commission (2006). The government's response to Barker's recommendations to increase housing supply has been to concentrate additional supply in the Growth Areas already announced in the Sustainable Communities Plan (ODPM, 2003).

2.2 Policy Instruments for New Affordable Housing Provision: Section 106

Traditionally local authorities in England provided new affordable housing with the aid of central government subsidy. After 1974 housing associations – independent not-for-profit bodies – became increasingly important in new provision. Until the 1990s, the main mechanism for delivering new affordable housing was the purchase of sites at market prices by housing associations in order to provide rented housing with the aid of public subsidy to enable the new dwellings to be let at affordable, below market, rents. An initiative in 1989 allowed rural planning authorities exceptionally to grant planning permission for low cost homes on sites which would not otherwise be developed at all. From this beginning, policy instruments for securing new affordable housing through the planning system emerged (DETR, 1998; DTLR, 2000; Crook et al, 2006).

The current policy on provision of affordable housing through the planning system operates through Section 106 of the Town and Country Planning Act 1990 as amended by Planning and Compensation Act 1991 (Stephens et al 2005). Section 106 agreements can be used in the context of a planning permission to provide mitigation against the impact of development, such as additional infrastructure, or – increasingly – to require the inclusion of affordable housing requirements. They allow local authorities to seek cash or contributions in kind from developers to mitigate the impact of development. This is intended to ensure that local residents are essentially no worse off as a result of the development (Barker 2006).

Section 106 has three distinct objectives, that of providing the land for affordable housing; providing mixed communities and a mix of affordable housing appropriate to the area; and increasing financial contributions, implicit and explicit, from developers and other stakeholders (Stephens et al 2005).

Presently some 6.9 per cent of all planning permissions have planning obligations attached (Barker, 2006). Major residential developments are the most likely to have section 106 agreements, with the proportion rising from 26 per cent of permissions in 1997-98 to 40 per cent of permissions in 2003-04. A greater proportion of major applications have section 106 agreements attached in the South East (40 per cent) than in the North East (7.5 per cent) (Barker 2006). Approximately £1.15 billion worth of planning obligations were delivered across England in 2003-04 (Barker 2006).

2.3 Using Section 106 in Practice

A number of problems have been identified in using S106 in practice. Government consultation on a proposed Planning Gain Supplement (PGS) in 2005 found that S106 has had highly variable application (CLG, 2005). Due to differences in skills and capacity, there are wide variations between local authorities as to the size and type of contributions sought. Barker reported that although the variability in Section 106 contributions makes any attempt to calculate average values hazardous, S106 values achieved are around 5 times higher in the South (£753,000 per site) than the North of England (£148,000 per site), and contributions secured are also higher for greenfield than brownfield sites (Barker 2006).

Negotiating Section 106 agreements can lead to delays in the granting of planning permission. In around 45 per cent of cases (around 11,500 developments) these take more than six months to complete and 11 per cent (around 3,700 developments) take over a year to negotiate (Barker 2006). Section 106 agreements, arising partly from indeterminacy of process, can cause delay and frustration. There are also concerns about the specialist skills required of planners in negotiating complex S106 agreements (Barker 2006). The Consultation on PGS found that stakeholders feel there is a lack of transparency in the system, and that developers face a lack of certainty over what contributions will be required (CLG 2005).

However, a recent review of the provision of affordable housing through S106 found that in the vast majority of cases, once the development process gets under way, the S106 agreements are implemented in full (Monk et al 2006). Whilst this research led to the conclusion that S106 agreements need to be better specified, and that monitoring is poorly developed, it argued that the current system works reasonably well. It posited that S106 is largely accepted, and concluded that improving what has become accepted practice could have a greater chance of working than the more radical changes proposed by the Government such as the PGS (Monk et al 2006).

2.4 A Changing Policy Context

Recently there have been a number of changes to the housing and planning policy context. In 2005, Kate Barker was asked by the Government to conduct an independent review of the land use planning system in England. The terms of reference asked her to consider how, building on recent reforms, the planning system could better support economic growth in the context of delivering its wider sustainable development goals. An interim report was published in July 2006, highlighting the ways in which the planning system can impact on productivity growth. The Government will set out in a White Paper, in spring 2007, its proposals in response to her recommendations for improving the speed, responsiveness and efficiency in land use planning.

Housing and accompanying advice and guidance have also been developed in response to recommendations in the Barker Review of Housing Supply in March 2004.

The Government's Response to Kate Barker's Review of Housing Supply, published alongside the 2005 Pre-Budget Report, set out a package of measures to increase housing supply and improve affordability, including a target to raise the number of new houses being built to at least 200,000 net additions per year by 2016.

Whilst the pre-budget report of November 2006 argued that some progress has been made, it also said that new housing supply will have to rise given the expected demand due to demographic change. It also highlighted Barker's findings that a lack of affordable housing has been one result of planning strategy being poorly aligned with the economy.



2.5 Planning Policy

Statement 3: Housing (PPS3)

The Government is therefore bringing forward further measures to increase and speed up the delivery of new, sustainable housing. The publication of Planning Policy Statement 3: Housing (PPS3), which replaces the previous PPG3, is designed to ensure that local and regional plans are more responsive to housing markets and that they release more land to meet future housing requirements (Pre-budget report 2006). A principal aim of the new PPS3 is to underpin the Government's response to the Barker Review of Housing Supply and the necessary step-change in housing delivery, through a new, more responsive approach to land supply at the local level (CLG 2006B).

PPS3 outlines the key role that the planning system has in the delivery of affordable housing (PPS3, paragraphs 27-30). Local planning authorities have a leadership role in turning the spatial vision for their area into a Local Development Framework (LDF), to guide and shape development over the next 15-20 years (CLG 2006B). The LDF and its constituent Local Development Documents will play a key role in the provision of additional affordable housing (CLG 2006A)

PPS3 stipulates that in Local Development Documents, Local Planning Authorities should:

- Set an overall (i.e. plan-wide) target for the amount of affordable housing to be provided. The target should reflect the new definition of affordable housing in this PPS. It should also reflect an assessment of the likely economic viability of land for housing

within the area, taking account of risks to delivery and drawing on informed assessments of the likely levels of finance available for affordable housing, including public subsidy and the level of developer contribution that can reasonably be secured.

- Ensure that provision of affordable housing meets the needs of both current and future occupiers, taking into account information from the Strategic Housing Market Assessment.
- Set separate targets for social-rented and intermediate affordable housing.
- Specify the size and type of affordable housing.
- Set out the range of circumstances in which affordable housing will be required. The national indicative minimum site size threshold is 15 dwellings. However, Local Planning Authorities can set lower minimum thresholds, where viable and practicable, including in rural areas.
- Set out the approach to seeking developer contributions to facilitate the provision of affordable housing (CLG 2006B).

Local Planning Authorities are required to have regard to this statement as a material consideration when making decisions on planning applications from 1st April 2007.

One important change introduced by PPS3 is the definition of affordable housing. Low cost market housing is explicitly ruled out for the first time. Instead, low cost market housing is considered to be a valuable element in providing housing for the

whole community. Discounted market housing is included but only if it is affordable in perpetuity or there are clear arrangements for recycling funds back into affordable housing from the sale of previously discounted housing at market prices.

2.6 Planning Gain Supplement

A further response to the problems identified by Barker is the proposed Planning Gain Supplement (PGS). The Government proposes to scale back the use of S106, and to introduce a PGS to capture a modest portion of the land value uplift accruing to land granted planning permission (Pre-Budget report 2006). Kate Barker proposed that S106 agreements should be scaled back to cover only “direct impact mitigation” plus affordable housing, in order to “increase certainty” and reduce negotiation costs, so the Government’s rationale for scaling back planning obligations is to a) improve the current system and b) ensure the two systems of PGS

and planning obligations can operate alongside one another (CLG 2006C). The Government’s 2005 consultation paper on the PPS3 outlined some principles for a new scaled back system of negotiated planning obligations, one being that affordable housing is to be retained within the scope of planning obligations (CLG 2006C).

In response to the December 2005 consultation paper on the Planning Gain Supplement, many respondents raised concerns that the retention of affordable housing contributions within planning obligations could undermine the objectives of speedy negotiations and predictability for developers, because of the problems experienced with the current system that particularly affect affordable housing negotiations.

The 2005 consultation paper proposed to address some of these problems by seeking greater consistency in approach between local



authorities and to prevent attempts to maximise value capture through the planning system rather than to address affordable housing need. The two areas which emerged as those which would have the greatest impact on improving the system were clarifying the statutory and policy basis for securing affordable housing contributions and giving greater certainty over the value of the contribution which developers were expected to make.

In designing the new arrangements, the Government reports that it is keen to create a clear and explicit basis for the delivery of affordable housing through the planning system (CLG 2006B). In practice, this means reviewing whether improvements could be made to the current legal basis for planning obligations, to make clearer the intended use of planning obligations for affordable housing contributions. It will also entail the production of clear policy

statements on the provision of affordable housing through planning obligations, to complement PPS3. In particular, the new arrangements would need to make clear in Local Development Frameworks the link between housing need, planning policies and the developer contribution being made (CLG 2006C). The main response to the 2005 consultation on PGS has been to undertake a further round of consultation, with detailed options outlined by HM Revenue and Customs, the Valuation Office Agency and CLG, plus a technical consultation from HM Revenue and Customs (2006).

Whilst the Government says that "A planning gain supplement is currently a lead option and that we had not yet made a final decision" (John Healey, Financial Secretary, 15/01/06), it seems that the PGS is a likely policy choice. The consultation period ended on 28th February 2007.



One issue in relation to the proposed introduction of a PGS together with a scaled down S106 is that of perverse incentives. This issue would arise if, as proposed, the scaled down S106 contribution from developers is a prior claim on the planning gain that is available from the site. If a local authority is located in an area that is desperately in need of infrastructure but which has a relatively large social rented housing stock, there is an incentive for them to reduce their claims on S106 for affordable housing in order to ensure that the PGS can be levied on the largest element of planning gain that is possible. One example might be a local authority located within the Thames Gateway growth area, which is sorely lacking in infrastructure but has relatively high proportions of social rented housing. If these perverse incentives operated across the country, the amount of affordable housing that is delivered through S106 – and hence in total – could be severely reduced.

2.7 Regional Spatial Strategies

Government Offices work with regional partners to develop, implement and monitor 'Regional Spatial Strategies', which set out Government's planning and transport policy for each region for a 15-20 year period. The strategies provide frameworks for determining planning applications, as well as for preparing both Local Development Documents and Local Transport Plans.

The role of regional governance within the planning system is clearer than it was. Planning and housing boards have merged, and each region has a timetable for producing its Regional Spatial Strategy and undergoing the full consultation process.

2.8 Local Development Frameworks

Local Development Frameworks (LDFs) set out the local planning authority's policies and proposals for the development and use of land in their area over a period of up to 10 years. LDFs must take into account the national and regional policies issued by the 'First Secretary of State' responsible for planning, which under the current Government is Ruth Kelly. They must also be in general accord with the relevant regional spatial strategy.

The LDF then includes a set of Development Plan Documents (DPDs) which set out policies on separate issues. The idea is that individual DPDs can be updated in the light of monitoring without the need to revise the entire plan. Thus when monitoring shows that particular policies are not working or that targets are not being met, the policies or targets can be revised in line with the evidence so that they are more realistic and achievable.

The LDF documents fall into two categories: required and optional. The required DPDs are Core Strategy, Site Specific Allocations, Adopted Proposals Map, Local Development Scheme (which is a public 'project plan' identifying which LDDs will be produced, in what order and when), Statement of Community Involvement (demonstrating how and when the community will be consulted), and an Annual Monitoring Report (assessing progress).

The optional DPDs are Area Action Plans, other documents concerned with housing, employment, retail development etc. They can also include generic development control

policies. Supplementary Planning Documents are also optional and are similar to Supplementary Planning Guidance which many authorities issued to provide greater detail for developers when applying for planning permission. These may relate to a topic such as affordable housing, or to individual sites, particularly large strategic sites.

Some local authorities have included their current approved Local Plan as a DPD in the interim, until all the new DPDs have been approved. Others have chosen not to go down the LDF route at present, because their Local Plan adoption process is so recent (e.g. Cambridge City which has only just held its Local Plan Inquiry). It is likely that they will introduce the LDF once their annual monitoring report identifies the need for review of particular policies or targets.

2.9 Strategic Housing Market Assessments

The Strategic Housing Market Assessments Practice Guidance was published by the Department for Communities and Local Government in March 2007. The guidance sets out how local authorities (both urban and rural) can develop a good understanding of how housing markets operate, particularly in terms of need and demand in their communities. Reflecting the objectives and approach set out in PPS3, it is primarily intended to assist local authorities and their stakeholders to plan for housing in sub-regional housing markets (DCLG 2007).

As a minimum, the practice guidance will enable authorities to derive figures for housing need and demand in their areas and to

determine what this might mean in terms of market and affordable housing provision. It will also allow authorities to develop a good understanding of housing markets, particularly in terms of their characteristics and the drivers of market change. This assessment will provide authorities with a robust evidence base which will inform the development of policies in local development frameworks aimed at providing the right mix of housing (DCLG 2007).

The DCLG guidance sets out a methodology which utilises secondary data where possible. This means that partnerships should not need to undertake large-scale primary data collection exercises such as household surveys to achieve the requirements of this policy approach, provided that they have sufficient information from other sources to estimate housing need and demand. These sources may include surveys undertaken by local authority housing departments for other purposes, such as tenant satisfaction surveys (DCLG 2007). Working with regions, housing market partnerships should develop comprehensive strategies for monitoring housing markets and updating housing market assessments, having regard to existing monitoring guidance. This suggests that partnerships should not need to undertake comprehensive assessment exercises more frequently than every five years (DCLG 2007).

2.10 Affordable Housing: The Numbers

Crook et al (2006) provide an analysis of the output of affordable housing using S106. The total output of new affordable housing over the period 1999-2000 to 2004-05 is shown in Table 1.

	1999/00	2000/01	2001/02	2002/03	2003/04	2004/05
North East	2,621	2,241	624	328	585	644
North West	5,698	5,717	2,374	3,022	2,565	2,531
Yorks & Humber	2,036	1,940	1,456	1,330	1,736	1,232
East Midlands	4,190	4,350	1,846	1,837	1,906	1,807
West Midlands	5,730	5,465	2,858	2,789	2,864	3,410
East of England	4,154	4,328	2,968	2,796	3,485	3,865
London	8,114	9,130	7,055	7,377	8,769	8,552
South East	7,766	7,876	7,08	6,148	7,298	7,645
South West	3,917	3,924	3,541	3,164	3,397	3,468
England	44,226	44,971	29,806	28,791	32,605	33,154
Percent Increase	-	2%	-34%	-3%	13%	2%

Source: Crook et al (2006), page 359

The government's HSSA data for 2004/5 and 2005/6 shows that the number of affordable units completed through the planning system increased by 31% from 18 175 to 23 869.

In both years the South East, followed by London and the East of England, completed the greatest number of affordable units, as shown in Figures 1 and 2.

Figure 1: Total affordable units completed in 2004/5 by region

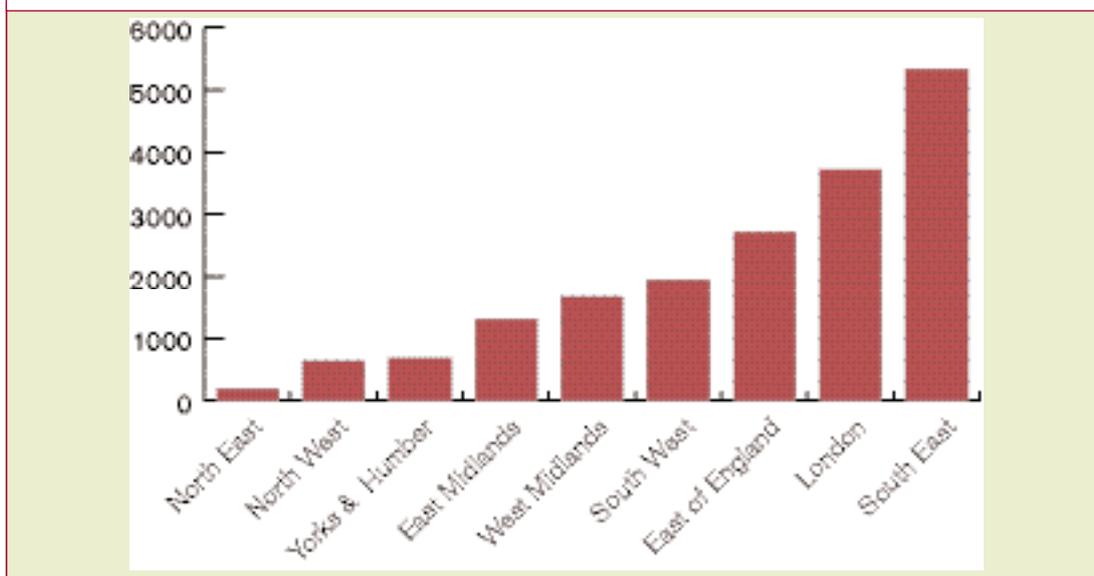
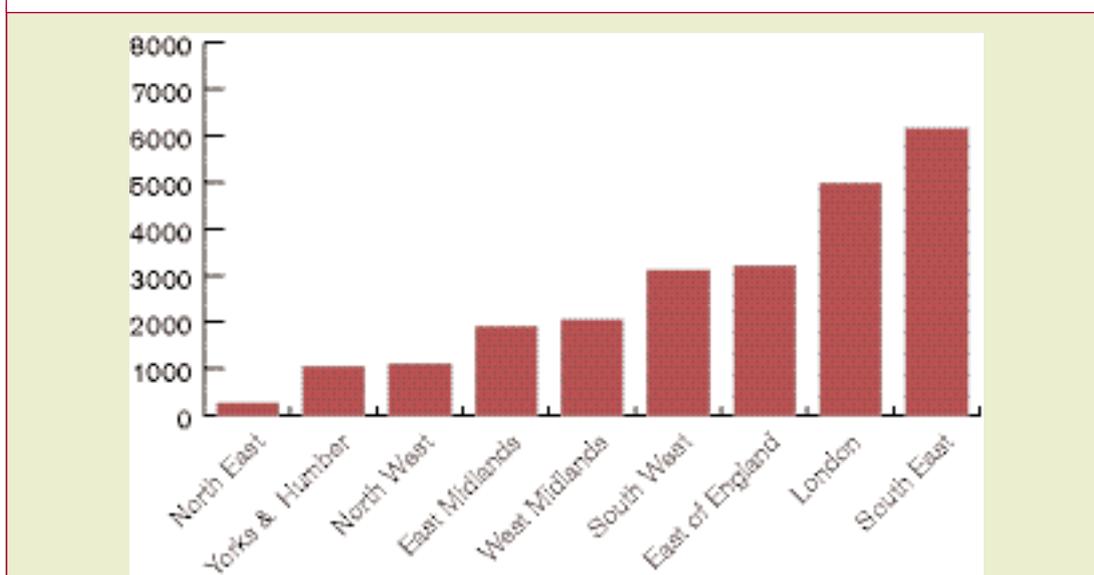


Figure 2: Total affordable units completed in 2005/6 by region



Financial and other contributions received towards the provision of affordable housing via planning policy in 2005/6 increased significantly in comparison to 2004/5. The amount of discounted or free land received in 2005/6 in hectares increased from 40 to 2519 nationally. This was due to the South West achieving a very large increase in land from only 8 hectares in 2004/5 to 2475 hectares in 2005/6. The amount of financial contributions received nationally also increased considerably, from £40 703 000 in 2004/5 to £142 688 000 in 2005/6. In this case the increase was largely due to the South East achieving a hefty £103 327 000 in financial contributions in 2005/6, in comparison to only £11 322 000 in 2004/5.

In terms of tenure, there was a 5% decline in the proportion of affordable units delivered as social rented, and an increase of 5% in the amount of shared ownership between 2004/5 and 2005/6. However, social rented still accounted for 60% of all completions overall, whilst shared ownership made up 33% of all completions in 2005/6.

Overall numbers of affordable dwellings provided depend upon two main factors: the quantity of Government grant available and the level of activity in the market sector. During the late 1990s declines in both of these elements tended to depress the capacity to build affordable homes. However in the early years of the twenty first century both funding and market activity started to increase enabling a turn around in the numbers of affordable dwellings provided.

Reflecting these factors with the lag necessary for completion, Table 1 shows that delivery fell sharply between 2000-01 and 2001-02, a fall of over one third. The improvement since then has been relatively slow, and output levels (including acquisitions) are only about 75% of the levels of the turn of the century.

“ ...in the early years of the twenty first century both funding and market activity started to increase enabling a turn around in the numbers of affordable dwellings provided ”

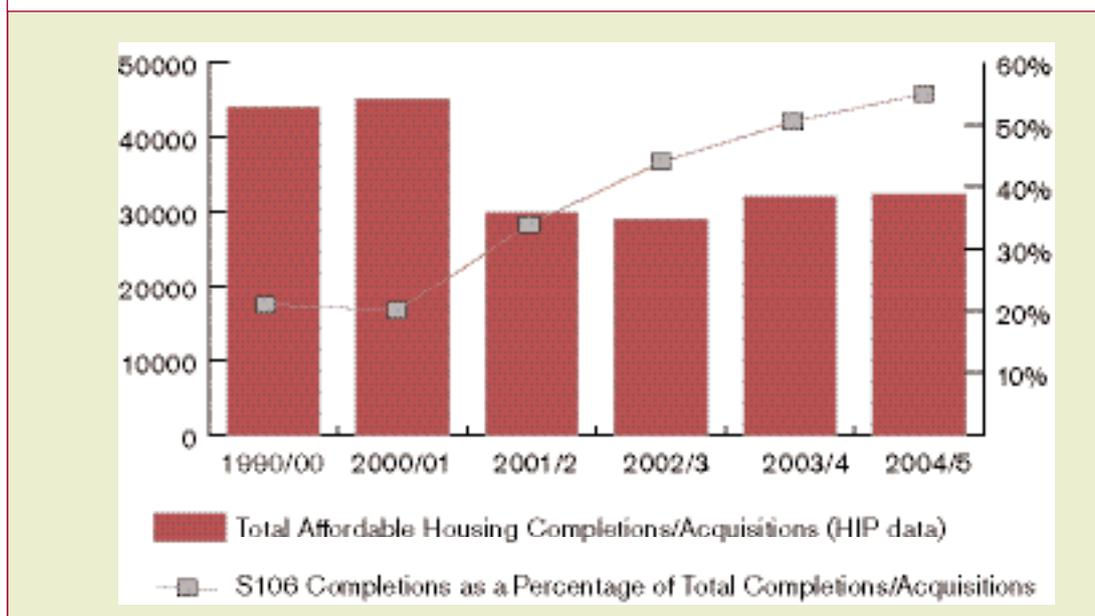
Table 2 shows the number of affordable units completed with the aid of S106 contributions.

	1999/00	2000/01	2001/02	2002/03	2003/04	2004/05
North East	442	290	206	160	133	186
North West	550	777	785	733	812	631
Yorks & Humber	289	336	502	515	760	681
East Midlands	691	778	761	1,155	898	1,294
West Midlands	1029	660	985	1,117	1,199	1,672
East of England	1194	1,103	1,511	1,780	2,426	2,710
London	1842	1,958	1,904	3,153	3,895	3,725
South East	2553	2,298	2,394	2,923	3,577	5,327
South West	654	1,097	1,255	1,056	2,680	1,949
England	9,244	9,297	10,303	12,592	16,380	18,175
Percent increase	-	1%	10%	18%	23%	10%

Source: Crook et al (2006) page 360

This suggests that S106 has been successful in maintaining provision against a background of falling levels of public subsidy. Only when the government starts to increase finance do output levels rise. Crook et al demonstrate this by looking in more detail at S106 completions.

Figure 3: The provision of affordable housing through the planning system



Source: Crook et al, 2006, page 361

Figure 3 shows that S106 output has risen by almost 50% since 1999-2000 and are now above the levels originally thought to be achievable in absolute terms, though not as a proportion of private sector completions. S106 completions have risen from around 5% to perhaps 12% of total private completions since 1999. This is still below the potential given local authority targets, but is expected to rise towards 15% fairly rapidly.

However, S106 is insufficient to offset the decline arising from reductions in public subsidy. In 1999-2000 S106 completions accounted for only 21% of all housing completions, but this had risen to 55% in 2004-05. Even then, S106 completions are clearly not enough to substitute for the decline in affordable homes achieved in the traditional way with government grant to housing associations – S106 completions rose

by 30% but the total rose by only 15%. There is still a long way to go to get back to the position at the turn of the century when total output was 45,000 units compared with 33,000 in 2004-05.

Since 1974 the Housing Corporation has been the major provider of capital finance for RSLs, using the Approved Development Programme (ADP) which is the chief mechanism for this funding (CLG 2007). ADP accounted for the funding of 50% of affordable housing in 2005/6. The amount delivered with no support increased from 18% in 2004/5 to 25% in 2005/6. The remainder is funded through a mixture of subsidy and developer contribution.

The number of S106 affordable units granted permission increased by 18% from 36 616 in 2004/5 to 43 368 in 2005/6. S106

completions as a percentage of all completions increased from 55% to 61% nationally. There is a significant regional variation within this. For example, in 2005/6 70% of total affordable completions were S106 completions in the South West, the South East and the East Midlands. However, only 35% in the North West and 36% in the North East were S106 completions.

The regional pattern is interesting. In the late 1990s, Crook et al argue that there was considerable concern about the extent to which new housing overall and new affordable housing provision was concentrated in the North and to a lesser extent the Midlands (Urban Task Force, 1999). In these regions housing conditions were often poor but the emerging issue was low demand and regeneration rather than increasing numerical housing pressure in the South (Stephens et al, 2005). Yet the data presented here shows that 23% of completions were in the North in 1999-2000 with a further 22 percent in the Midlands. This is completely out of line with the projected increases in the total numbers of households in these regions, and particularly the likely demand for social rented housing – both suggest that almost 80 percent of requirements will be in the South (Crook et al, 2006).

By 2004-05 the proportions had changed to 13% in the North and 16% in the Midlands – significantly more in line with housing pressure. However, the shift had mostly taken place by 2001-02, before the real expansion of S106. In that year only around a third of additional completions were taking place outside the South. The real shift in activity was generated by cutbacks in government funding.

In three regions – East of England, East Midlands and South East the proportion of affordable housing delivered through S106 is now over 70% while the average for England is 55%. London remains significantly below the England average at 44%, reflecting the extent to which the traditional means of delivering affordable housing remains important. The South West is close to the England average at 56%.

Crook et al (2006) conclude from their analysis of the numbers that although S106 has been successful and is set to increase further as a proportion of all affordable housing delivery, that total delivery is still inadequate because S106 has not been sufficient to compensate for the reduction in government grant. The recent government document – Delivering Affordable Housing – that was published alongside PPS3 at the end of 2006 states that the government is keen to encourage affordable housing provision without grant. So unless S106 can provide more, the outlook for affordable housing is bleak.

2.11 Summary

Section 106 has been the key instrument used by planners to secure affordable housing for over a decade. In 2006 Planning Minister, Yvette Cooper urged local authorities to make better use of S106 agreements to deliver more affordable housing and infrastructure. How local authorities are implementing S106 in practice was addressed in this study.

However, it became clear that S106 had many problems in implementation. The Barker reviews highlighted these issues, in addition to the problems of providing housing for the UK's changing demographics. Barker argued for the need for changes to the planning system, key here is the scaling back of S106 and the proposed PGS. The Government responded to these reviews with new policy on housing in the form of PPS3, which comes into effect in April this year. It has been consulting on PGS and it seems that this will be implemented sometime over the next two years. The opinions of planners regarding the proposed PGS were explored in this study.

“ Section 106 remains a key instrument for planners to meet the Government’s objectives ”

Section 106 remains a key instrument for planners to meet the Government's objective of providing affordable housing. However, this is against the background of a changing policy context realised through the new PPS3 and possibly soon alongside the addition of the PGS. Given the potential for perverse incentives this offers, the total quantity of additional affordable housing may be reduced, rather than as is hoped, increased. This analysis raises two key issues. Firstly, can S106 deliver more affordable housing without grant? And secondly, will PGS help or hinder planners in their efforts to deliver more affordable housing?

3 Findings from the Research

One hundred and seventeen local authorities responded to the email survey out of the 363 LPAs in the country. Figure 4 shows the distribution of respondents by region. Not all questionnaires were completed in full, for example, only 86 of the 117 respondents could provide the number of affordable houses planned over the past two years. Asking for planners' opinions on recent policy changes received a very good response. However, the numerical data received regarding affordable housing was often patchy, particularly regarding S106 contributions. This was surprising considering that planners are supposed to record this information for the government's HSSA database. This suggests that data collection is perhaps not as robust as it should be.

Respondents by region as a proportion of local authorities in the region:

South West	20%
Y&H	24%
London	27%
East of England	34%
West Midlands	35%
South East	35%
North East	39%
East Midlands	41%
North West	42%

3.1 Completion of Affordable Units

Looking at how successful individual local authorities are in the different regions in Figures 5 and 6, in both years local authorities in London and the South East completed the most affordable units on average, the North East and North West completed the least.

Figure 4: Survey respondents by region

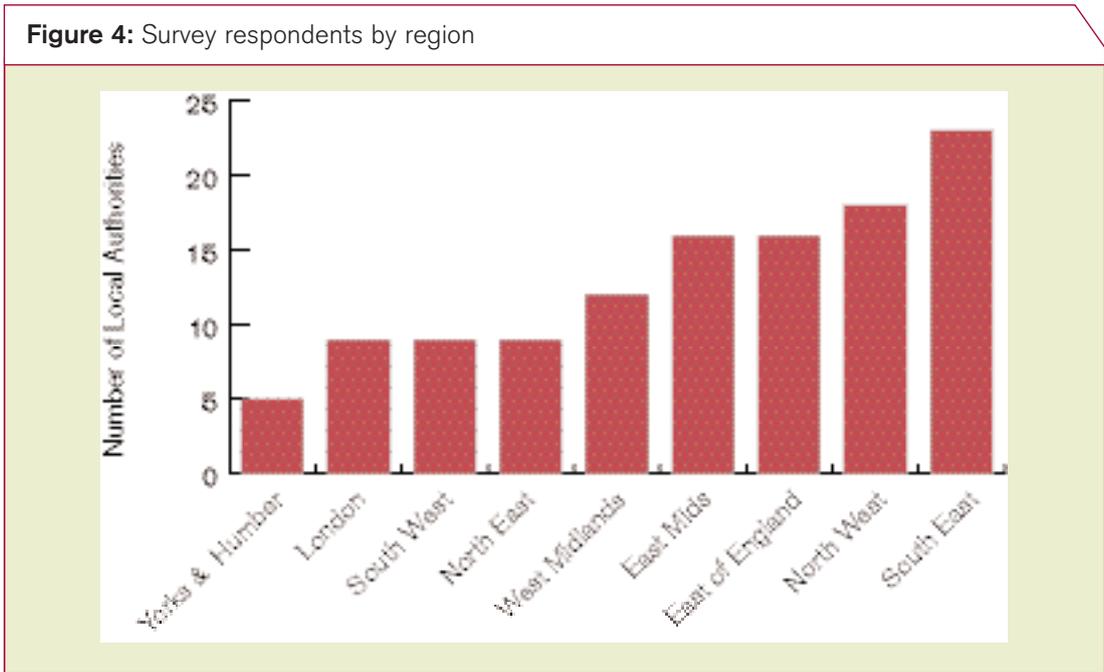


Figure 5: Average number of affordable units per local authority 2004/5

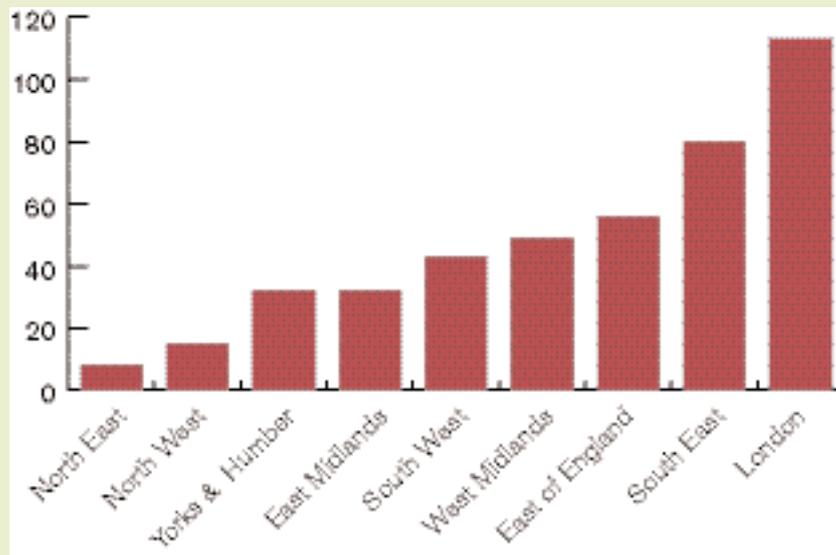
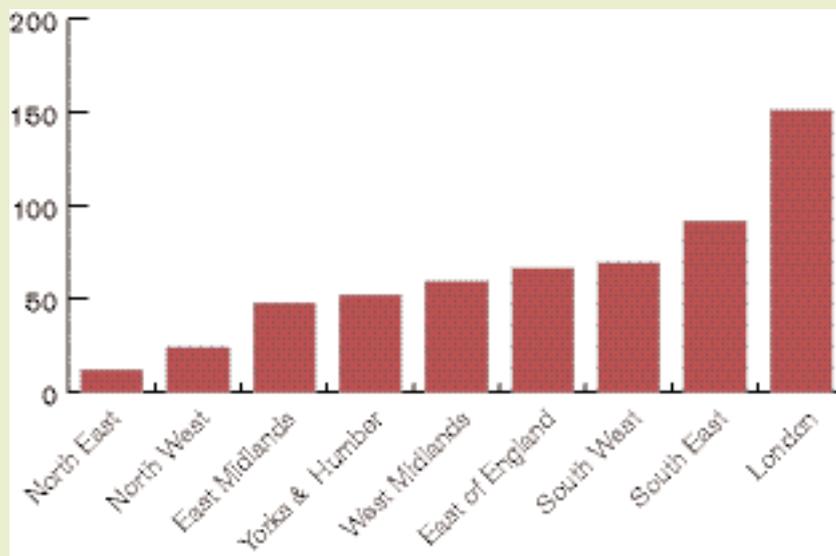


Figure 6: Average number of affordable units per local authority 2005/6



3.2 Defining Affordable Housing

A minority of local authorities have no definition of affordable housing at all; some have far more detailed definitions than others. Definitions include housing for social rent, intermediate housing, low-cost home ownership, shared ownership and discounted market housing. These are to be made available to people whose incomes prevent them from affording these homes on the open market.

3.3 The Transition from Local Plans to LDFs

60% of local authorities will be changing or already have changed their definition of affordable housing as they move from Local Plans to LDFs. Many planners commented that they welcomed the change in definition.

3.4 Affordable Housing Targets

81% of local authorities have an affordable housing target. There is a lot of variation in the targets of different authorities. A few have no target for affordable housing at all, whilst some have an ambitious 50% target. The majority of authorities with an affordable housing target aim for 30%-40%.

3.5 Site Specific Targets

Only 23% of local authorities set site-specific affordable housing targets. However, it seems that for many authorities this will change as the LDF documents replace the Local Plans.

3.6 Tenure Mix

Over half of local authorities do not specify the mix of tenure required on developments where affordable housing is built. 40% of the planning authorities who responded do have a fixed requirement for the mix, for example specifying 70:30 social rented to intermediate housing.

3.7 S106 Contributions to Affordable Housing

Contributions to affordable housing from S106 vary from none at all, to being funded 100% by developer contributions. Nationally for 2005/6, 55% of affordable housing was built with S106 contributions (HSSA 2006). The data in Figures 7 and 8 shows that whilst many local authorities have S106 contributions on almost 100% of the affordable housing they provide, a substantial number have no S106 contributions to their affordable housing at all. This suggests that some authorities are achieving far higher S106 contributions for developments within their authority than others. There was little change in this overall pattern between 2005 and 2006. However, there is a slight increase in the number of local authorities obtaining S106 contributions for almost 100% of their affordable housing, and a concomitant reduction in the number securing no S106 contribution at all.

Figure 7: Proportion of affordable housing permissions with S106 contributions in 2006

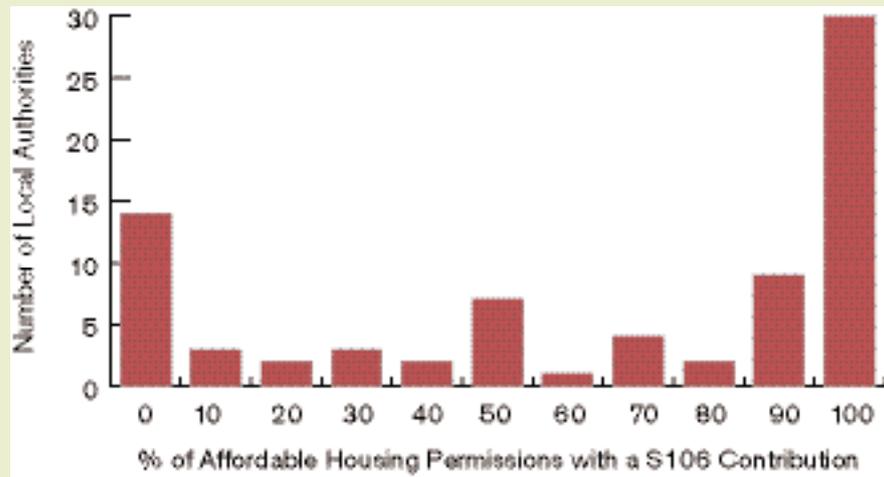
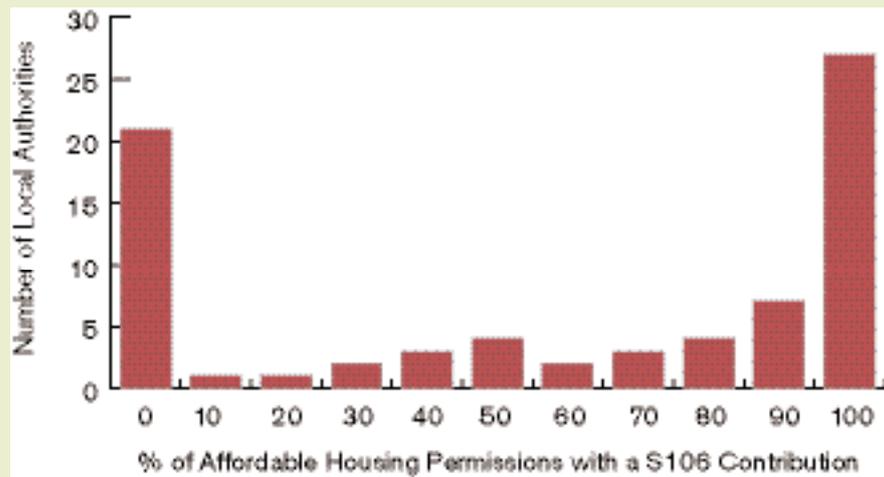


Figure 8: Proportion of affordable housing permissions with S106 contributions in 2005



A regional breakdown of the proportion of all affordable housing completions that were S106 completions in 2005/6 is displayed in Figure 9. It appears that the authorities of the South West, South East and the East Midlands achieve the highest proportion of S106 contributions to their affordable housing development. The pattern has changed little between 2005 and 2006. There is considerable regional variation in the proportion of affordable housing that has S106 contributions. London has completed the second greatest number of affordable units amongst the regions, and on average the London local authorities complete the most affordable housing per authority. However, only just over 50% of the affordable units completed in London are S106 completions. Other regions have a much higher proportion of S106 completions. For example, 70% of all

affordable units completed in the South West, South East and the East Midlands are S106 completions. This suggests that some regions are managing to achieve S106 contributions for a greater proportion of the affordable housing they are delivering.

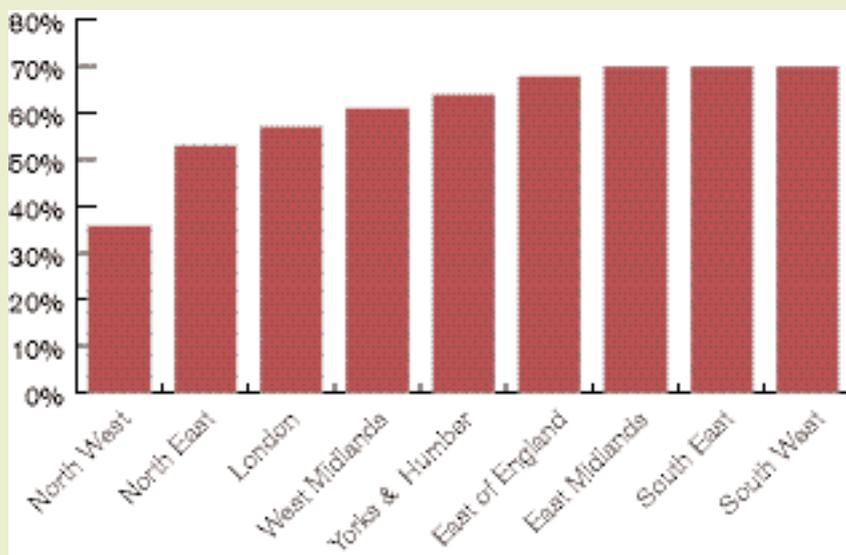
3.8 Participation in a Housing Market Assessment

Almost half (45%) of local authorities have already participated in a Housing Market Assessment, whilst a further 11% are currently involved in a HMA as shown in Figure 10. Of the remaining 44%, some have HMAs scheduled for the near future.

3.9 The Evidence Base for Policy Making on Affordable Housing

The Housing Needs Survey appears to be the key source used to inform the policy-making

Figure 9: Proportion of affordable housing completions which were S106 completions in 2005/6 (Source: HSSA 2006).



of almost all of the planning authorities. Housing Market Assessments are one element of the evidence base of some authorities, but many (56%) have yet to complete one. Secondary data on house prices and incomes is also considered by some, and a minority have undertaken some primary research in the form of interviews.

3.10 Views on Policy Change and S106

Further insight into S106 and affordable housing provision was gained through interviews and comments from the questionnaires. Selected quotes (indented in text) have been used to highlight points through the following discussion.

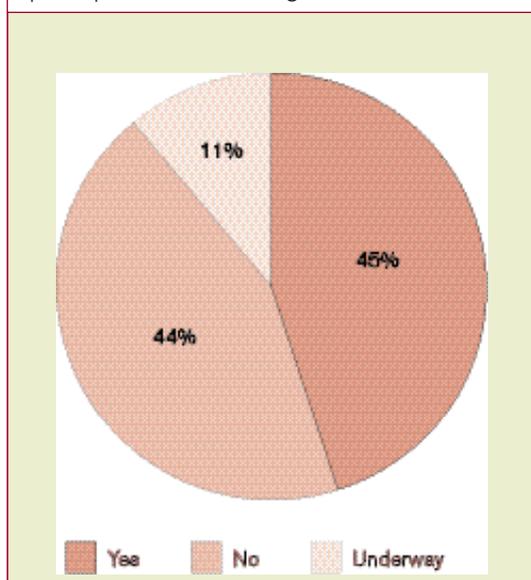
All the planners interviewed stressed the importance of S106 contributions for the provision of affordable housing in their authority. Some planners said they go as far

as is viable with S106, and a higher level of affordable housing provision would have to be supported by grant. Others commented that they have only recently engaged in S106 agreements. This is consistent with the data that shows a marked variation in the S106 contribution to affordable housing across different local authorities. Some authorities have far greater experience at negotiating S106 agreements than others.

There were mixed reports in the interviews of the difficulties encountered in negotiating S106 agreements. Some planners said they always encounter problems. The most common issue they have to address is a developer claiming it is not financially viable to meet the affordable housing requirement on their development. Some planners commented on the need to be more transparent for developers. This would enable developers to so be aware earlier of the cost of providing the affordable housing, and of what the housing association will pay for the units. Some local authorities have a model or template S106, and find this makes the process easier. However, planners said it does not remove the need for the often lengthy negotiations. A few commented that the process has improved recently due to clearer government guidance.

Whilst some councils have S106 contributions for 100% of the affordable housing they provide, some local authorities have no S106 contribution at all. There is great variation in the amount of experience different local authorities have in negotiating S106 agreements. Despite the production of some guidance on 'best practice', planners still find the negotiations difficult, particularly when having to counter developer claims of site

Figure 10: % of local authorities that have participated in a Housing Market Assessment



viability issues. Some local authorities have far more robust practice than others, with housing and planning working closely together or a dedicated officer to negotiate S106 and affordable housing. Some provide a model S106 that developers can use, and find this makes the process easier. There is no consistency however in what is asked in terms of the developer contribution to affordable housing. Whilst some authorities specify relatively clearly the proportion of housing that is to be affordable, the tenure mix, and the way in which developers are expected to contribute, for example in the form of free land, others have much vaguer policy requirements.

All interviewees rely on site by site negotiations around the target they set for affordable housing. None are currently using a more formulaic tariff or tax, nor did those interviewed envisage this would be the case in the near future. The mix of tenure, and the size and type of housing is predominantly determined through negotiation on a site by site basis. Some authorities specify in their policy the tenure mix they aspire to achieve. For example, Durham requires sites over 25 houses to have 30% affordable housing, with 70% to be social rented and 30% to be low-cost home ownership. They also set eco-standards and require pepper-potting of the affordable units. Some planners commented that determining the appropriate tenure mix can be problematic as their data, such as the Housing Need Survey, is out of date. Once completed, the HMAs are believed to be of help in rectifying this problem.

There were mixed opinions as to the impact of PPS3. Some planners think that it will have a significant impact in their area mainly

because it redefines affordable housing to include intermediate, and lowers the site thresholds. PPS3 has strengthened local authorities' arguments for lowering thresholds. They hope this will enable them to deliver more affordable housing on smaller sites.

There was no consensus on whether policy changes will increase or reduce the amount of affordable housing provided. A number of planners are of the opinion that recent policy changes will only have a marginal impact on the amount of affordable housing delivered. However, some planners believe that the amount of affordable housing they are able to deliver will actually decrease due to lower targets than they currently set being imposed by the RSS. For example:

"In the last Structure Plan being prepared for Bournemouth, Dorset and Poole we were pushing for a 50% affordable housing target due to the extreme problems of affordability in this area. We have objected to the draft RSS for the South West's policy on affordable housing (which seeks only 30% affordable) and are currently preparing evidence to support this objection and push for a higher proportion at the EIP."
(Planner, March 2007)

This will also potentially be the case if the neighbouring local authorities they are supposed to collaborate with have lower targets for affordable housing than their own. Less affordable housing may also be delivered if a 'common starting point' for negotiations is suggested that is lower than the authority's current target. There was a general view that S106 contributions alone will not meet affordable housing needs.

The change in definition of affordable housing brought about through PPS3 is broadly welcomed. Planners were pleased that they will be able to set lower thresholds on sites for the provision of affordable housing. They also welcomed the flexibility to determine the appropriate mix of housing and the ability to set specific tenure-based targets. It appears that many local authorities are still consulting on the details of these changes, but as one respondent commented:

“There are major implications in terms of our ability to be far more specific about types and sizes of dwellings (both affordable and market) required, rather than just applying density targets which are not type specific. Affordable housing provision will also be more stringently monitored following the inclusion of more detailed targets in RSS and so, hopefully, the whole system will be more responsive to under-provision.”
(Planner, March 2007)

All planners said that were not sure what the specific impact of the proposed PGS would be. However, they all said that they believed it would be problematic and expressed concern about its consequences. Some were worried about how financially viable development would be under the proposed scheme. The primary concern with PGS was where the funds raised would eventually be spent. Planners fear they will lose control over the revenues raised; therefore the funds will not be of direct benefit to local people.

Many believe that preparing LDFs takes too long, and that this could have an impact on the delivery of affordable housing. There is also a view that LDFs are not flexible enough, particularly as housing markets change so rapidly.

With regards to HMAs, the view of planners is that one positive outcome could be more consistent policy and approaches across the sub-region or housing market area. This consistency would in their view also make the situation easier for developers, if consistency could be achieved across housing market areas. It should also lead to a better understanding of how housing market areas operate, and a clearer knowledge base on which to make policy decisions.

HMAs are generally felt to be useful. They will provide a framework to which local authorities can add data and update themselves. Whilst the HMAs will provide information about the need for different types of housing, some said they will still have difficult decisions to make regarding what type to provide, since demand is far outstripping supply.

Many remarked on what is needed to carry out a HMA:

“The need to undertake assessments of housing market areas is prudent and reflects actual geography of housing market areas which do not respect local authority boundaries. However, such assessments will require close collaborative working between local planning authorities will require, inter alia:

- a firm will for local authorities to work together
- better collection and monitoring of data
- the commitment of dedicated staff time; and
- financial resources to commission various studies.” (Planner, April 2007)

It seems that many local authorities are concerned about the practical difficulties of conducting the HMAs. They are regarded as being very resource intensive and this appears to have funding implications for authorities. Many respondents commented that collaboration is difficult because local authorities are often running on different time-scales to one another, and finding the resources for collaboration can be problematic. For example:

“Working together with other authorities is an ideal scenario but is not necessarily always realistic. You can only work at the speed of the slowest. We are one of the most advanced Councils in terms of the work programme in the area and we will have to delay many projects to enable other Councils to catch up. We do not believe that these studies will show us anything we do not already know. We have a huge need for affordable housing, spending a lot of time and money on further work will not change this.” (Planner, March 2007)

One problem identified by some planners is the amount of work that is going to be involved in trying to represent the information in a coherent way that can actually be used in the planning process. A few local authorities have struggled to collect data, for example, banks have not been forthcoming with data on incomes. As one interviewee said:

“The government thinks the information is just there, and it isn't. It is time-consuming and demanding on resources to find it.” (Planner, April 2007)

Many planners expressed concern on how to define housing market areas. For example:

“Whilst [our local authority] supported collaborative working within sub-regional housing markets there has been some concern as to how the housing markets will be defined and whether they will be appropriate. [This borough] borders two which may fit into one housing market, and also some of the more economically and socially deprived areas within which may fall into another. It was feared that the sub-regional housing market approach could lead our borough falling into a housing market which may have suited some parts of the borough but not all.” (Planner, March 2007)

It seems that planners would welcome more guidance on defining HMAs:

“The move towards greater collaboration with adjacent local authorities in housing market areas is fine in theory but creates a number of practical difficulties. Not the least of these is actually defining what the housing market area your Borough is part of before collaboration with other LPAs. Even this may understate the difficulties, as your Borough may itself be part of more than one HMA. Much clearer guidance as to how a HMA is defined is required.” (Planner, April 2007)

4 Summary

The amount of affordable housing that is provided through S106 varies greatly across the regions. The regions of the North East, North West and Yorkshire and Humberside complete the least units of affordable housing, whilst the regions of the South East and London deliver the most.

There is also great variation between different local authorities. This reflects not only variations in what local policy defines as the target, but also differing experience and skills at negotiating S106 agreements. Affordable housing targets vary across local authorities. The most common targets are 30-40%. A minority, such as Liverpool in the North West, have no target at all. Some councils have set relatively high affordable housing targets. For example, Westminster, Bridgnorth and Luton have an ambitious target of 50% of housing to be affordable. What is actually delivered in practice is often far less.

The change in definition of affordable housing brought about by PPS3 was welcomed by planners. 60% of local authorities will be using the transition from Local Plans to Local Development Frameworks to change how they define affordable housing in their policies. Changes are also being made to the threshold above which affordable housing will be a requirement, and more than half of local authorities are still in the process of determining tenure requirements.

PPS3 suggests a threshold of 15 dwellings as the size of development requiring affordable housing provision at the proportion stipulated in local policy. Although many thresholds remain at 25+ dwellings, a number of local authorities have already reduced their threshold to 15 units. A minority of local authorities have lowered thresholds even further. For example, Worthing has a policy which seeks 10% affordable housing on developments of 6-10 dwellings, 20% for 11



to 14 dwellings, and 30% for 15 dwellings or more. It appears from the interviews that a number of local authorities are also considering lowering thresholds below 15 dwellings, although it was commented that this may raise viability issues.

Just over half of the local authorities that responded to our survey set site specific affordable housing targets. The majority of councils do not stipulate the mix of tenure required. Site by site negotiation is then used to determine the mix of tenure and the size and type of housing to be delivered. Of the 40% who do specify in their policy what the mix of tenure should be, a split between 70% social rented housing and 30% intermediate housing seems to be the norm.

PPS3 may help by reducing the site size threshold but there is a potential trade-off. Affordable housing now includes intermediate housing which is much more acceptable to

developers and can probably be delivered without grant in most cases. However this will be at the cost of less social rented housing, which is still needed for households without incomes from employment. Therefore the trade-off between intermediate and social rented housing may increase housing pressures for the very poorest and most vulnerable households.

Just over half of the local authorities have participated in an HMA. The majority of planners said that they thought the HMA would be useful, particularly in understanding the dynamics of the whole market area. They believe that the HMA will also help them to decide on the most appropriate mix of tenure. However, a number of issues were raised about the HMAs. Planners were concerned at how resource intensive they are to conduct, and commented on the difficulties of trying to collaborate with other local authorities. It seems that planners would welcome more guidance on defining housing market areas.

“ The trade-off between intermediate and social rented housing may increase housing pressures for the very poorest and most vulnerable households ”

The guidance on HMAs was only published very recently, (March 2007), and will take time for local authorities to follow its recommendations. It may still prove lacking in details e.g. on defining a housing market area, particularly in London where arguably all local planning authorities are part of the same market yet they are divided up pragmatically. This may not matter providing that consistent approaches are taken between adjacent authorities so that developers cannot play one off against another.

5 Conclusions

There are clearly improvement in the delivery of affordable housing through S106. Developer contributions are funding more affordable housing and some LPAs have sufficient experience, skills and best practice for negotiations to be relatively successful.

However, there is still progress to be made in terms of the overall numbers being delivered. The number of local planning authorities who are actively engaging with S106 and feel themselves to be successful or 'advanced' in their approach is limited, whilst some still find the process difficult and time consuming. The most common problem encountered by planners during S106 negotiations is the claim by developers that it is not viable to provide the amount of affordable housing dictated by local policy. Many planners do not have the level of expertise necessary to successfully counter these claims. The implication here is that the members of LPAs planning, housing and legal departments involved in trying to deliver affordable housing through S106 need to be equipped with stronger skills for the negotiation process. One skill would be a better understanding of development economics. This would enable LPA negotiators to assess site viability issues more effectively, and make a stronger case for affordable housing provision when developers claim that sites are not viable.

Whilst it seems that there is a move towards creating clearer, more detailed and up to date policy within local authorities since the introduction of PPS3, there are variations between different local authorities in their approach to securing affordable housing through S106. Some authorities have more

detailed policy than others, specifying not only the percentage of housing that has to be affordable, but also the type, tenure mix, and even size and location of the housing. Some have model S106 agreements to try and standardise the process, and a team who deal with the S106 negotiation, or at least a degree of communication between planning and housing. Others have vaguer policy and a less clear approach to securing affordable housing through developer contributions. It is not even necessarily clear who has responsibility for S106 affordable housing negotiations. Clear policy and practice guidelines that give consistent structure to S106 negotiations may be a step forward.

This is still a period of adjustment. Progress in achieving developer contributions for affordable housing through S106 has been made, but this is not consistent across all local authorities. The ability to negotiate successfully with developers varies, and some local authorities have more experience than others. There is evidence that knowledge of best practice is emerging which may further improve the ability of authorities to secure affordable housing through S106. The conclusion from this study is that this best practice needs to be considered by LPAs and incorporated into their S106 process. This should help to make practice more consistent across LPAs, and to increase the amount of affordable housing that LPAs are able to deliver through developer contributions. Many of the LPA staff are working in a relatively isolated manner, thus a process through which communication and knowledge sharing between LPAs could take place might help to produce better, more consistent practice.

HMAAs should provide LPAs with a better understanding of local housing market areas, and a clearer source of information for making decisions about affordable housing policy, which will be the basis on which LPAs seek developer contributions through S106. This data needs to be robust, not only to ensure that policy is geared towards meeting local needs, but also to give LPAs a strong base from which to negotiate with developers. However, the experience of participating in HMAAs has been mixed. Some LPAs have employed independent consultants to carry out the HMAAs. Others have found them too resource intensive, and found that coordinating the process with other LPAs was very difficult. Guidance on HMAAs has been produced, but will take time to be absorbed and put into practice. The findings of this study suggest that this guidance should be better communicated to LPAs, and that again a sharing of best practice and experience could be facilitated.

The study explored opinions about PGS, and found that it is still a huge unknown to most LPAs. The most common reservation was where the funds would eventually be spent. There is a fear that as the revenue raised by PGS is collected centrally, local authorities will lose control over how and where it is spent. They are concerned that even though the planning gain was raised through development in their locality, it may not be spent there and so will not benefit local people.

It is possible that PGS may provide perverse incentives. For example, local authorities who feel more infrastructure is required before any more housing is built may deliberately ask for less affordable housing through S106 in order to ensure sufficient value to pay for PGS, leading to a reduction in affordable housing. This could happen in Thames Gateway, for example, which government is assuming will provide much of the affordable housing for London, the South East and East of England regions. Most local authorities do not appear to understand how PGS is supposed to work in theory, let alone in practice.

However, progress made in negotiating S106 agreements may be undermined by the introduction of the new policy and practice that will result if the proposed Planning Gain Supplement is implemented. Whilst affordable housing provision will remain under the S106 system, other aspects of planning gain will be dealt with separately. This study was initially proposed at a time when local authorities were struggling in a policy vacuum for guidance on S106 and affordable housing. PPS3 has helped to fill this gap and has been largely welcomed. However, it seems that the situation could yet again become uncertain as the transition to the PGS system is made, and local authorities have to undergo a further learning process. The new system is likely to require yet another period of adjustment as the policy beds in, and it is as yet difficult to determine what the impact on the provision of affordable housing will be.

The study found that whilst progress has been made in providing affordable housing through S106, improvements in negotiating S106 agreements are still necessary in many LPAs. The changes brought about by PPS3 are still ongoing, and if PGS is introduced LPAs will have a whole new system to learn when they are still grappling to implement the current one effectively. Whilst PGS may remove many planning obligations from S106, affordable housing is still likely to remain within the remit of S106. The government is considering a common starting point for S106 affordable housing negotiations. However, the findings of this study suggest that this would require major changes to current policy of many LPAs, given the variations that exist in practice. It would not remove the need for negotiation, nor would the skills of LPAs to engage in these negotiations be improved. The findings of this study suggest that efforts should be made to communicate and implement best practice in affordable housing negotiations if S106 is to produce more consistent and productive affordable housing outcomes into the future.

Since this research was completed, there have been changes to the situation regarding PGS. In the Green Paper of July 2007 the Government is proposing a Planning-gain Supplement Bill. The Government proposes that key features of PGS would be that in England at least 70% of PGS revenues would be paid directly to the Local Planning Authority which granted the planning permission to which the PGS liability is attached. Payments would be made on a regular basis to ensure that local authorities could deploy PGS receipts in a timely way to

support infrastructure growth. The remaining share of all PGS revenues raised in a region would be returned to that region. However the Government will be prepared to defer the legislation if a better alternative can be found. The Green Paper sets out four possible alternative approaches to facilitate discussion with key stakeholders. Again this looks like a period of uncertainty for LPAs who have to balance affordable housing provision with the demands of other planning obligations.

Further research would be needed to detail with certainty what may constitute best practice in delivering affordable housing through S106. It seems that the LPAs who do well have clear policy that is easily available. Planning and housing members need to communicate effectively and work as a team in negotiating with developers. It appears that a robust understanding of development economics helps local planners to deal with site viability queries.

“ ...efforts should be made to communicate and implement best practice in affordable housing negotiations if S106 is to produce more consistent and productive affordable housing outcomes into the future ”

References

Affordable Rural Housing Commission (2006) Affordable Rural Housing Report, Department for the Environment, Food and Rural Affairs, London.

Audit Commission (2006) Securing Community benefits Through the Planning Process: Improving Performance on Section 106 Agreements.

Barker, K. (2004) Review of Housing Supply Final Report - Recommendations Delivering Stability: Securing our Future Housing Needs. HM Treasury, London.

Barker, K. (2006) Barker Review of Land Use Planning: Final Report – Recommendations. HM Treasury, London.

Communities and Local Government: London (2005) Consultation Paper on Planning Policy Statement 3 (PPS3) –Housing: A Summary of Responses and Key Issues. Communities and Local Government, London.

Communities and Local Government: London (2006A) Delivering Affordable Housing. Communities and Local Government, London.

Communities and Local Government: London (2006B) Planning and Policy Statement 3: Housing. Communities and Local Government, London.

Communities and Local Government: London (2006C) Changes to Planning Obligations: a Planning-gain Supplement consultation. Communities and Local Government, London.

Crook A, Monk S, Rowley S and Whitehead C (2006) 'Planning gain and the supply of new affordable housing in England: Understanding the numbers', Town Planning Review 77 (3) 353-373.

DETR (1998) Planning and Affordable Housing (Circular 6/98), The Stationery Office, London.

DTLR (2000) PPG3: Housing, The Stationery Office, London.

Greater London Authority (2001) Affordable Housing in London, technical report in the London Plan, Nottingham Trent University and Three Dragons for GLA, London.

Greater London Authority (2006) Affordable Housing Development Control Toolkit 2006-07 Version, Greater London Authority, London.

GVA Grimley and Bespoke Property Group (2006) Housing Corporation Economic Appraisal Tool, Housing Corporation, London.

HM Treasury (2005) The Government's Response to Kate Barker's Review of Housing Supply. Office of the Deputy Prime Minister: London.

HM Treasury (2006) Pre-Budget Report: Investing in Britain's potential: Building our long-term future. HM Treasury, London.

Monk S, Crook A, Lister D, Lovatt R, Ni Luanaigh A, Rowley S and Whitehead C (2006) Delivering Affordable Housing Through Section 106: Outputs and Incomes. Joseph Rowntree Foundation, York.

Stephens, M., Whitehead, C., Munro, M. (2005) Lessons from the Past, Challenges for the Future for Housing Policy: An Evaluation of English Housing Policy 1975-2000. Office of the Deputy Prime Minister: London.

Wilcox S (2003) Can Work –Can't Buy: Local Measures of the Ability of Working Households to Become Home Owners, Joseph Rowntree Foundation, York.

Wilcox, S (2006) The Geography of Affordable and Unaffordable Housing: Local Measures of the Limits to the Ability of Working Households to become Home Owners, Joseph Rowntree Foundation, York.

Appendix

Survey: The Provision of Affordable Housing through S106

1. Do you have a:
- a) Local Plan Y/N
 - b) Local Development Framework Y/N

2. When does the LDF become operational? DD/MM/YY

3. How is affordable housing defined in your LP/LDF?

4. Has this definition changed between the LP/LDF? Y/N

5. Has a target been set for affordable housing, e.g. 25% of new housing, in your LP/LDF? Y/N

If so, what is the target:

6. Do you set site-specific affordable housing targets? Y/N

If so, what are they? Please illustrate using up to 5 current or recent sites:

Site	Affordable Housing Target

7. Do you specify the mix of tenure, size and type of affordable housing to be provided on large sites? Y/N

8. How many affordable houses have been given planning permission in the last 2 years?

Year	Number planning permissions
2006	
2005	

9. What proportion of these had developer contributions through S106/planning obligations?

Year	% with contributions
2006	
2005	

10. Has your authority participated in a housing market assessment for the whole housing market area?

Y/N

Date:

DD/MM/YY

Date of next HMA:

DD/MM/YY

11. What comprised/will comprise your evidence base when determining affordable housing policies? (e.g. recent household survey, secondary data on prices and incomes, primary data from interviews etc)

12. What do you see as the likely impacts of recent policy changes, such as PPS3, the production of Regional Spatial Strategies, Local Development Frameworks and Local Development Documents, greater collaboration with adjacent local authorities in housing market areas, and the move towards understanding demand for market housing as well as the need for affordable housing?

RICS Research paper series

Submission of papers

The RICS encourages academics and other researchers to submit work that is relevant to the discipline of surveying in all its fields. Authors may submit either by post or by email. In the first instance, submissions should be made to the RICS. Postal submissions should be made in triplicate to:

Stephen Brown
Head of Research
Royal Institution of Chartered Surveyors
12 Great George Street
London SW1P 3AD
UNITED KINGDOM

Email submissions of Word or PDF files should be sent to sbrown@rics.org

Telephone number for enquiries:
+44 (0)20 7334 3725

The refereeing process is double blind and all submitted papers will be referred to at least two reviewers.

The manuscript

There is no fixed limit on the length of papers and each paper is published as:

- A PDF on the RICS website, with no charge made for download.
- A stand-alone published document

Papers are placed on the RICS website immediately that they are completed and printed copies available shortly thereafter.

While there is no word limit, it is anticipated that papers would be no less than 5,000 words and generally no more than 30,000 words.

The manuscript must be in English, typed in double spacing on one side of A4 paper only, with a 4 cm margin on the left-hand side. The pages should be numbered consecutively. There should be no loose addenda or notes or other explanatory material.

Title page

The first page of the manuscript must contain the full title: the name(s), affiliation(s), address(es) of the author(s); a title of not more than 75 characters and spaces; and five key words for the purpose of indexing. If there is more than one author, the corresponding author should be indicated.

The abstract

The second page should contain the title and an abstract. It should not contain the name(s) of the author(s). The abstract should not exceed 200 words and must be a clear summary of the contents of the manuscript, indicating the contribution that the paper makes to knowledge and providing a clear statement of the key findings and outcomes of the paper.

Illustrations

Any illustrations must accompany the manuscript but should not be included in the text. Diagrams, charts, photographs and maps, should be referred to as 'Figure 1', 'Figure 2' and so on. They should be numbered in the order in which they are referred to in the text.

Illustrations can be colour or monochrome. When providing electronic version of illustrations, please ensure that these are of a sufficient resolution for reproduction. A resolution of 300 dots per inch is the minimum acceptable standard for images. They will normally be reduced in size on

reproduction and authors should bear this in mind, particularly when selecting font sizes. Appropriate electronic submission is permissible.

Proofs

Proofs, in the form of a PDF file, will be sent to the corresponding author for correction and approval. The website is used to provide ongoing comment and feedback on papers that are posted on the website, and comments that are provided will be passed through to the corresponding author. Authors are provided with five free copies of their paper. Further copies can be bought at a price of £2.00 each.

Publicity

The aim of the RICS is to ensure that papers are promoted and publicised to appropriate academic, professional, policy and media audiences. In pursuit of this, the RICS may seek to develop and issue supporting material for papers published, such as press releases and summary documents. The RICS will liaise with the corresponding author on the drafting of this material and on the appropriate degree of involvement of the author in this process.

References

The Harvard system should be used. References in the text should be quoted in the following manner: Jones (1999) or (Edge and Moody, 2001) or, if there are more than two authors ... Thomas *et al.* (2002). If there is a citation of a page number or numbers, the format should, as appropriate, be Smith (1999, 20), Smith (1999, 20-5), (Smith, 1999,20) or (Smith, 1999, 20-5).

References should be collected at the end of the paper in alphabetical order by the first author's surname. If references to the same

author have the same year, they should be differentiated by using 1998a, 1998b and so on. The style should follow the examples below:

Chau, K.W., MacGregor, B.D. and Schwann, G. (2001) Price discovery in the Hong Kong real estate market, *Journal of Property Research*, 18(3), 187-216.

Brown, G.R. and Matysiak, G.A. (2000) Real estate investment - a capital markets approach, Financial Times Prentice Hall, Harlow.

If no person is named as the author the body should be used, for example:

Royal Institution of Chartered Surveyors (1994) *Understanding the property cycle*, London.

Copyright

Submission of an article to the RICS Research Paper Series is taken to imply that it represents original, unpublished work, not under consideration for publication elsewhere. When submitting a manuscript, authors will be asked to transfer the copyright for their article to the Royal Institution of Chartered Surveyors, if and when the article is accepted for publication. The Royal Institution of Chartered Surveyors will not refuse any reasonable request by the author for permission to reproduce any of his or her contributions to the series in other forms.

Permission to publish illustrations must be obtained by the author before submission and any acknowledgements should be included in the figure captions.

RICS (Royal Institution of Chartered Surveyors) is the largest organisation for professionals in property, land, construction and related environmental issues worldwide. We promote **best practice**, regulation and **consumer protection** to business and the public. With 130 000 members, RICS is the leading source of property related knowledge, providing independent, **impartial advice** to governments and global organisations.

This work was funded by the **RICS Education Trust**, a registered charity established by RICS in 1955 to support research and education in the field of surveying.

**The Royal Institution
of Chartered Surveyors**
12 Great George Street
Parliament Square
London SW1P 3AD
United Kingdom

T +44 (0)870 333 1600
F +44 (0)20 7334 3811
contactrics@rics.org
www.rics.org

RICS Europe
Rue Ducale 67
1000 Brussels
Belgium

T +32 2 733 1019
F +32 2 742 9748
ricseurope@rics.org

RICS Americas
The Lincoln Building
60 East 42nd Street
Suite 2918
New York, NY 10165
USA

T +1 212 847 7400
F +1 212 847 7401
ricsamericas@rics.org

RICS Asia Pacific
Suite 2104
Central Plaza
18 Harbour Road
Wanchai
Hong Kong

T +852 2537 7117
F +852 2537 2756
ricsasiapacific@rics.org

RICS Oceania
Suite 1602, Level 16
1 Castlereagh Street
Sydney
NSW 2000
Australia

T +61 (0)2 9216 2333
F +61 (0)2 9232 5591
ricsoceania@rics.org

