

Land and finance for affordable housing



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Land and finance for affordable housing

The complementary roles of Social Housing Grant and the provision of affordable housing through the planning system

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1 The context for the research

This chapter sets the scene by explaining:

- the research question
- definitions
- the policy context
- the structure of the report.

The question

The Government has recently identified 67,000 new affordable houses to be provided over the period 2004–06 using the Approved Development Programme (ADP). The Deputy Prime Minister has made it clear that he will pressure local authorities to provide at least the numbers that are identified in current Regional Planning Guidance. He is also committed to providing over 100,000 more homes in four identified growth areas in the South of the country. Many of these homes are to be affordable and some will be targeted specifically at key workers. The most recent central government guidance places the planning system in a pivotal position for meeting the need for affordable housing.

Earlier research for the Joseph Rowntree Foundation on the relationship between planning gain¹, the use of the Section 106 policy (S106 from now on) and the provision of affordable housing found that, although the quantity of new affordable housing provided through the planning system had been increasing over time, about three-quarters of such housing also involved the use of Social Housing Grant (SHG) (Crook *et al.*, 2002). This meant that, rather than being an additional way of financing new affordable housing, the planning system was often simply complementing existing funding.

The study concluded that the use of S106 agreements to provide affordable housing was having a greater impact on changing the geography of new social housing rather than ensuring large-scale additional overall supply. In particular, affordable housing was being secured on sites in more expensive areas not normally associated with social housing where, traditionally, only market housing would have been built. The associated costs, particularly land costs, of these sites typically meant that SHG had to be used to make these developments viable.

The results of this project raised some fundamental concerns about the overall policy of affordable housing provision given that the majority of such housing still came from non-S106 affordable housing sites (often called 100 per cent sites or traditional sites).

The stark core question raised by this evidence is therefore:

If S106 is becoming the accepted way forward for a growing proportion of sites, is this at the cost of a declining number of non-S106 sites? If so, especially given the fact that, by their nature, S106 sites provide only an element of affordable homes, is this leading to a potential decline in the overall total of affordable housing provided?

This overall question can be broken down into a number of specific questions.

- 1 As the use of S106 becomes more prevalent across the full range of residential sites, is the *supply of sites* procured through the traditional non-S106 mechanism for affordable housing delivery supported by SHG alone declining?
- 2 Does the fact that the proportion of affordable housing built with developer contributions on S106 sites is increasing mean that the amount of *SHG* available for traditional new build is lower, making it more difficult to fund sites that are traditionally financed with a mix of SHG and housing association (HA) private finance?
- 3 Given that S106 sites involve considerable resources in negotiation and contracting, does this mean that HAs in particular have less *capacity* left effectively to procure these more traditional sites? This was an issue concerning a number of major HAs at the time the research was initiated.

The implications of these questions can be presented in terms of different scenarios.

- The *best case scenario* is one where the increase in the numbers and proportions of S106 dwellings reflects growth in the availability of sites and in funding either from SHG or from the S106 negotiations, as well as the capacity to procure and develop sites and homes by the traditional route. In this case, all elements of the policy are coming together to ensure that there is little substitution between the two strands of provision.
- The *worst case scenario* is that many traditional sites are transferring into the S106 strand with the proportions being procured obviously less than 100 per cent; that S106 sites are more expensive and so use up available SHG; and negotiations, etc. constrain the capacity of HAs to take up opportunities. In this case, even though the S106 policy alone might appear successful, total numbers would fall because of the reduction in output from traditional sites.

- The *real scenario* is likely to lie somewhere in between – with some substitution, some increase in overall funding and some capacity to deal with higher levels of activity. Where the policy currently lies on this spectrum is the basis for our research.

Definitions

It is necessary here to clarify the definitions of S106 and non-S106 sites and the mechanisms for delivery of new affordable housing.

An S106 site is land provided by a developer as part of a Section 106 planning agreement. This may take two forms:

- land that is part of a market housing development (on-site contribution)
- land that is not part of a market housing development but is provided as an off-site contribution.

Additionally, under an S106 agreement, developers may provide a *commuted payment* to the local authority – providing finance for development elsewhere within a certain defined period. The conditions under which a commuted sum is acceptable are set out in the local authority's affordable housing policy in the Local Plan. Many see this as acceptable only in exceptional circumstances.

A non-S106 site, or what is sometimes termed a wholly affordable housing site or a 100 per cent site, is land that an HA has purchased without an S106 developer contribution. Again, this may take at least two forms:

- land purchased at full market value from the private sector
- land purchased at Best Consideration from the public sector, usually less than full market value.

However, as we shall describe later in this report, the research found that in some cases what appeared to be land purchased at full market value from the private sector was actually part of a larger housing development. That development had a Section 106 agreement, and the parcel of land acquired by the HA for 100 per cent affordable housing was in fact part of the developer contribution.

There are numerous methods by which affordable housing may be delivered. The most common means of provision are as follows.

- 1 On-site provision of affordable housing, mixed-tenure site, with public subsidy.
- 2 On-site provision of affordable housing, mixed-tenure site, without public subsidy.
- 3 Off-site provision of affordable housing with public subsidy.
- 4 Off-site provision of affordable housing without public subsidy.
- 5 One hundred per cent affordable/non-S106 site with public subsidy.
- 6 Built by developer without public subsidy.
- 7 Other methods, including unit rehabilitation and Purchase and Repair, which transfer existing dwellings from the market sector.

Affordable housing built on all these sites can take the form of social rented housing fully owned by the HA and shared ownership where the housing is owned partly by the HA and partly by the resident who pays both rent to the HA and mortgage repayments. Other tenures include discounted open market value housing, low-cost home ownership or units rented at below market rents, although these tenures are less common.

Policy context

The consultation paper, *Contributing to Sustainable Communities – A New Approach to Planning Obligations*, was published in November 2003 (ODPM, 2003). This consultation paper proposed a number of changes to its policy on planning obligations and explained that the Government was minded to introduce a new optional planning charge set within the Local Development Framework, which applicants could choose to pay in place of the current negotiated route to agreeing a planning obligation. The Government's objective is 'to introduce more speed, certainty and transparency into the process, not to enlarge the scope of planning obligations beyond current practice' (ODPM, 2004, p. 12). Nevertheless, concern has been expressed by many of the responses to the consultation that the new planning obligations policy and the optional planning charge will result in a reduction in the level of affordable housing provided by or funded by the applicant.

More recently, the Barker *Review of Housing Supply, Delivering Stability: Securing our Future Housing Needs* (Barker, 2004), has set out an analysis of the housing supply system, including its implications for national economic growth and welfare, and the arguments why more housing would be beneficial. The underlying constraint on housing is the supply of land, which itself is affected by many factors including the speculative nature of the house-building industry and its attitude to risk (which makes developers reluctant to build out large sites quickly), the increasing complexity of sites where remediation may be required, fragmented land ownership, the planning system itself and the fact that new development is politically contentious.

The final report (Barker, 2004) made a range of recommendations for increasing the supply of land and the delivery of new housing. In relation to planning gain, it suggests two levels: a planning gain supplement (PGS) linked to the direct impact of development; and affordable housing contributions.

In light of the report of the Barker Review, the Government has reviewed its plans for taking forward the reform of planning obligations and has agreed that it is in principle acceptable to fund social housing and other measures out of the uplift in land values associated with the development process. The Chancellor of the Exchequer said in the Budget Report of 17 March 2004 that he would consider proposals for a national PGS and make a decision by the end of 2005 (HM Treasury, 2004).

This move towards an optional planning charge is important given the concerns that many HAs and local authorities raised over the difficulties in securing land for affordable housing. At present it is not clear how such a system might work. It is equally unclear whether on-site provision of affordable housing would have equal priority in any new system. It is possible that, if the Government decided to use an optional charge based on cash contributions for affordable housing with no requirement for on-site provision, then developers would choose this route. This would mean that S106 no longer contributed directly to the mixed-communities agenda. Moreover, as Barker points out, imposing a tax on development in general discourages its supply. However, if the tax is small, and is introduced in the context of a package of policies designed to increase the supply of land and planning permissions, the effect is expected to be quite small.

In his July 2004 statement on the Comprehensive Spending Review, the Deputy Prime Minister announced increased funding for new affordable housing enabling an additional 10,000 social rented units per annum to be built over the next three years. On top of this, provision is made for more than 40,000 homes for essential public

sector workers and low-cost home ownership in areas of high demand. Much of this new development will continue to be built on previously developed land, and further savings of greenfield land will be made by increasing densities in London and the South East from 25 to 30 dwellings per hectare. The statement noted that the Barker Report called for increased housing supply and in response the Spending Review allows an extra 200,000 homes in the Growth Areas of London and the wider South East of the country by 2016, an increase of 20 per cent over the number of homes originally planned.

Against this background, the Government now proposes to press ahead with identifying and implementing changes to the current arrangements for negotiated agreements. It will do this by revising the current Circular 1/97 on *Planning Obligations* (DETR, 1997) and publishing good-practice guidance for local authorities and developers. A draft revised Circular on negotiated planning obligations was published for consultation on 4 November 2004, with a view to putting the arrangements in place in spring 2005. The Government will also continue to work up proposals in parallel for an optional planning charge, on a timetable consistent with that for decisions on the PGS. During this process, the Government will also encourage a number of local authorities to pilot options for charging by local authorities.

The current position is that the Planning and Compensation Act 2004 aims to streamline the planning system by removing a tier, the Structure Plan at county and unitary authority levels, and replacing the current Local Plan system with a new Local Development Framework, which sets out the spatial planning strategy at local level. Within this Framework, several Development Plan Documents, one of which will cover housing, will be statutory documents subject to an Examination in Public (EIP). A revised Planning Policy Guidance Note 3: Housing (PPG3) will be issued together with a revised Circular 6/98 setting out the policy for achieving affordable housing through the planning system. ODPM consulted on updating aspects of PPG3 (Housing) in July 2003 and will be publishing its response early in 2005. In this context, the current research findings are timely.

Finally, the Government is now consulting on the Barker proposal to merge housing and planning functions at regional level. This is important because for the first time it would bring planning for housing together with the funding arrangements for affordable housing.

It has to be emphasised, however, that this research was conducted before the Barker Report had been published, at a time when the Government was consulting on the idea of a tariff or 'optional charge'. It is therefore assessing how the previous

system was operating rather than the present or planned policy. However, the findings are relevant in terms of what works and what does not.

The study

A full note on the data and methods employed can be found in Appendix 1. Briefly, the methodology included analysis of secondary data, a survey of 381 housing associations, more detailed case studies in 16 areas, in-depth telephone interviews with 28 developing housing associations and face-to-face interviews with housing and planning staff in 16 local planning authorities.

The report

This report addresses the research question by examining the evidence on four core aspects of the policy.

- *The delivery of affordable housing*: the mechanisms by which affordable housing is achieved; the barriers towards provision; and the changing relationship between provision on S106 and non-S106 sites.
- *S106 policy and the supply of affordable housing*: secondary data on the numbers of affordable homes being secured; whether those produced via S106 are additional; how the proportions of S106 and non-S106 sites are changing; and how the interface between S106 and SHG is working in different areas.
- *S106 in practice: the case studies*: assessment of the provision of affordable housing on case-study sites; variation in mechanisms of provision between areas and sites; assessment of the mechanisms for funding; the nature of S106 and non-S106 sites; the use of off-site S106 agreements.
- *Stakeholder views about the future*: local authority, developer and HA opinions on the operation and mechanics of the current system; impact of the proposed changes to the system.

Taking these four elements together enables us to assess the relationship between Social Housing Grant and S106 in the context of the current mechanisms for provision, what is actually being provided at the regional level, how this translates to the individual sites, how it is being funded and how the main stakeholders feel about the process. The final chapter brings these conclusions together and makes recommendations to the main stakeholders.

2 The delivery of affordable housing

Key points

- There are three main mechanisms for the provision of affordable housing through S106 – on-site and off-site provision and financial contribution (commuted sums).
- Commuted sums are sometimes accepted to make developments on other sites feasible. Off-site provision is also sometimes used to increase the developer contribution.
- S106 ‘on-site’ provision was seen to be working ‘reasonably well’ and making an important contribution to mixed communities and meeting local housing need. This is consistent with the findings of earlier research (Crook *et al.*, 2002).
- Non-S106 sites were seen as difficult to secure by HAs because of the cost of land and competition with private developers. S106 was seen as a mechanism for securing land and as a means of topping up inadequate grant.
- The Housing Corporation’s Total Cost Indicator (TCI) limits, although regularly updated, were also seen as having a major impact, especially as land has to be acquired speculatively, ahead of Housing Corporation allocations.

Introduction: our approach

This chapter examines the practical provision of affordable housing, in terms of the mechanisms by which it is achieved, the barriers towards its provision and the changing relationship between provision on S106 and non-S106 sites. It thus addresses the issue of whether S106 is making life easier or harder for social landlords in the provision of additional affordable housing. Drawing on our research, the chapter explores whether S106 makes land cheaper for HAs or cheaper across the board. It concludes with a discussion of whether provision via S106 is helping to meet secondary governmental objectives, in particular the creation of mixed and sustainable communities.

Our approach is based on a national survey of HAs (mainly undertaken in 2003); analysis of secondary data provided by the Office of the Deputy Prime Minister (ODPM) and the Housing Corporation; in-depth interviews with local authorities, HAs and developers; and a detailed assessment of 28 sites covering all versions of S106 plus ‘traditional’ 100 per cent sites developed by HAs. Full details of the methods used are given in Appendix 1.

What are the mechanisms for achieving affordable housing through the planning system?

There are three main ways by which affordable housing is currently achieved through the planning system:

- 1 payment of a commuted sum
- 2 off-site affordable housing contribution
- 3 on-site affordable housing contribution.

This section examines the practical operation of these mechanisms for achieving affordable housing through a comparison of what has been happening on 28 case-study sites. The sites that were examined were all very different and mostly very complex. To a large extent this confirms the views of all parties that 'each site is unique' and that it is difficult to generalise, particularly when it comes to analysing the costs of each scheme and the amount of public subsidy that has been required.

Payment of a commuted sum

The evidence from our interviews with practitioners and the site-specific case studies suggested that a common reason for the acceptance of a commuted sum was because a shortage of SHG meant that resources from a number of sites had to be pooled in order to make development feasible on one site. On one site in Tower Hamlets, which, at the time of the research, operated a policy of zero SHG, a commuted sum was accepted in order to achieve social rented housing on a non-S106 site. The local authority commented that, if the funding from the developer had not been available, less affordable units would have been built and those that would have been built would have required cross-subsidy from market units on the site.

Off-site affordable housing contribution

The 28 site-specific case studies showed that, in addition to the use of commuted sums, a significant number of dwellings provided via S106 were built off site. This is important in the context of current planning policy, which states that local authorities should 'provide wider housing opportunity and choice and a better mix in the size, type and location of housing than is currently available, and seek to create mixed communities' (ODPM, 2000, para. 2).

On-site affordable housing contribution

The case studies identified a number of barriers to the delivery of affordable housing on site. A number of local authorities saw off-site provision as a means of achieving an increased developer contribution. This was particularly common in high-cost areas, for example Tower Hamlets sought a contribution of 25 per cent affordable housing on site or 33 per cent off site. There was additionally evidence of developer resistance to on-site provision and one planner described how 'affordable housing scares every developer and landowner ... because it's perceived to have knock-on effects'. Developers did say that, in some cases, the approach adopted in S106 for mixed communities was the correct approach. However, they were prone to question the mix and balance put forward by local authorities and whether the proposed mix was sensible or relevant, in particular because of the emphasis on social renting over more key worker and shared ownership schemes.

How have the geography and proportions of S106 and non-S106 affordable housing changed over time?

Only 38 per cent of respondents believed that S106 sites were replacing non-S106 sites, 8 per cent in London. This indicates that, although S106 sites are becoming increasingly important, non-S106 sites are still the most common method of affordable housing provision. Respondents did comment that non-S106 sites were becoming increasingly difficult to obtain, mainly because of a shortage of publicly available land and, particularly in the South, the price of land. What has changed is the location of affordable housing. The increase in S106 activity has led to development in areas not normally associated with affordable housing. Sixty-six per cent of respondents believed that the growth of S106 meant they were developing in more expensive areas (in terms of land costs) and 66 per cent stated they were able to develop in areas not normally associated with affordable housing.

However, quantitative data from the survey of HAs¹ showed a trend in the mean number of S106 sites developed per HA from just under 2.4 in 1998/99 to over 3.4 in 2003/04. These data also show a corresponding decrease in the number of non-S106 sites developed per HA from 4.4 in 1998/99 to under 3.2 in 2002/03 (Figures 1 and 2).

Figure 1 Change in mean number of S106 sites by HA

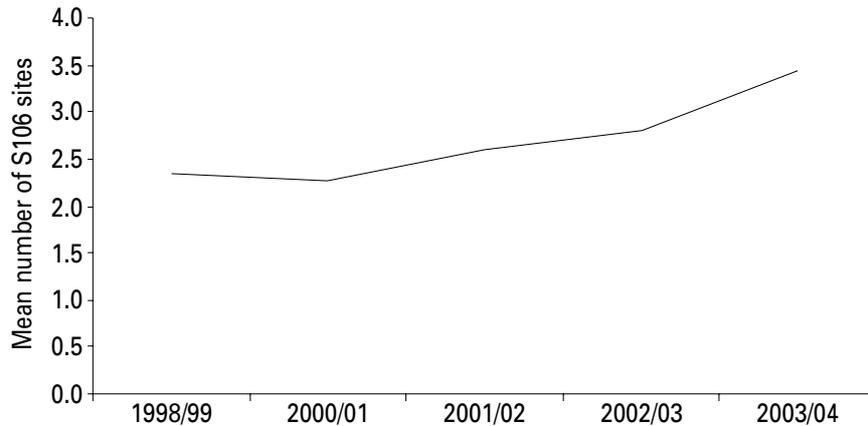
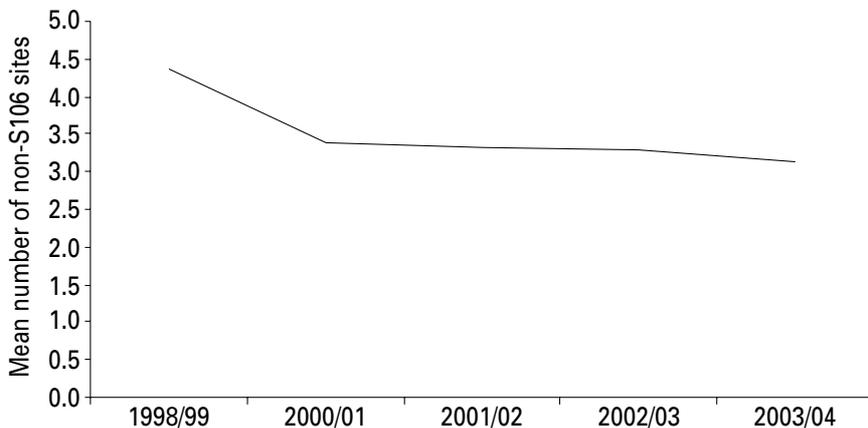


Figure 2 Change in mean number of non-S106 sites by HA



What are the barriers to the provision of affordable housing through the planning system?

Familiarity with policy requirements

The experiences and perceptions among those interviewed indicated that, although there were still some ‘minor problems’ with the implementation of S106 policy, these difficulties were lessening over time as all of the parties involved became more familiar with requirements and were establishing good working practices with each other. These ‘minor problems’ relate to the negotiation process.

The negotiation process

The negotiation process could 'unduly prolong the development process'. Developers expressed the view that sometimes the local authority staff were not skilled at negotiations and this contributed to delays. However, this argument was countered by both planners and housing enablers who criticised developers for sometimes prolonging the negotiation process. In particular, staff at two local authorities cited the difficulties they had experienced with developers employing consultants to negotiate on their behalf and they felt 'very nervous' as they were 'constantly working against the threat of court action' from developers.

The questionnaire results highlight problems with the negotiation process. HAs complained of being involved too late in the process when too many key decisions had already been taken prior to their involvement. Seventy per cent of respondents in the South stated the negotiation process was a specific difficulty.

Quality and level of guidance

Both planners and housing enablers discussed the 'lack of clear guidance' from the Government about the negotiation process and S106 agreements, and how this can delay the negotiation process. In particular being 'between PPG3 and the new PPG3' was cited as causing difficulties when it came to defining local guidance. The ways in which S106 is approached vary from one local authority to another, and this can lead to great differences in the negotiation and development process. Some cases were mentioned where colleagues experienced difficulties at other local authorities because Development Control was expected to negotiate (rather than having 'a dedicated team' from either housing or planning). The benefit of having a dedicated team with the skills, experience and expertise was cited as a major advantage in 'speeding up' and streamlining the whole process.

Housing enablers described situations where, for example, inexperienced small landowners are involved, and the 'mechanisms and processes (of S106) have to be explained and it is complicated'. This can cause delays as well as being potentially time-consuming for staff. However, if a local authority is 'geared up' to deal with these instances, major problems should not occur.

Although S106 may have caused some problems in the past, by and large local authority staff and developers stated that, as all of the parties involved become familiar with the requirements of S106 and the process is understood and they co-operate with each other, 'it is getting better' and is workable and successful.

Conflicting policies

Conflicting policies can act as a barrier to increased provision of new affordable housing through the planning system. In particular, the Government's target of 60 per cent of new development on brownfield land and the 'mixed-communities' agenda present difficulties to local authorities and HAs. It is more difficult to develop brownfield land and the local authority may wish to encourage brownfield development by reducing the S106 contribution on such sites. Developers can be very resistant to locating affordable housing, particularly social rented housing, on the same site as market housing. They argue that it reduces the sale value of the market housing, and they prefer housing that will eventually end up in the market sector, such as shared ownership and 'key worker' housing. Equally, HAs can often provide key worker housing without grant.

Finally, the interviews confirmed Crook *et al.*'s (2002) finding that there are many claims on planning gain, including contributions to education, roads and community facilities, and affordable housing can end up being squeezed. The non-housing claims are often simpler and more transparent, and do not involve lengthy negotiations.

Time taken to provide units

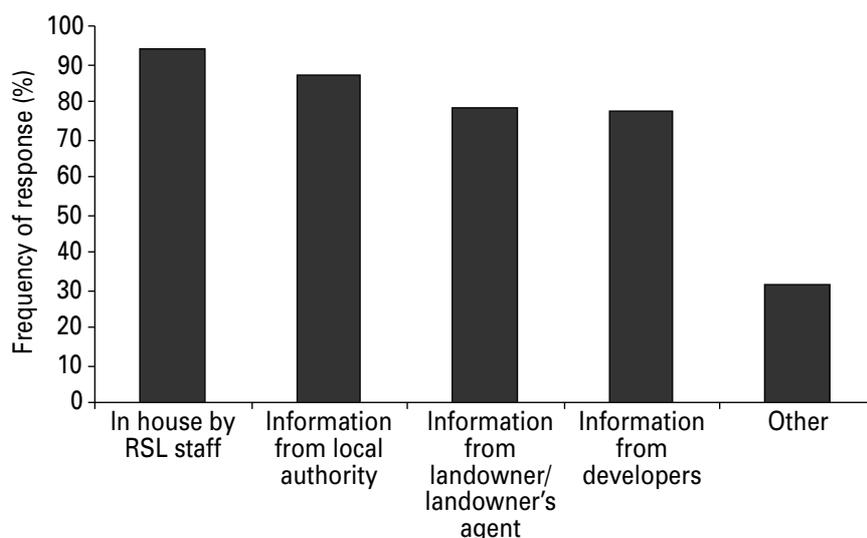
Respondents to the questionnaire survey viewed the time taken from scheme inception to the actual letting of units on S106 schemes to be a major problem. A significant majority of respondents stated it took between one and two years from site identification to the granting of planning permission, and a further one to two years from the planning permission to the transfer of units to the HA. Over 70 per cent of respondents claimed it took between 18 and 30 months from scheme identification to first letting on non-S106 sites, a significantly shorter period of time. Thirty-six per cent stated the length and complexity of the S106 process removed resources from their normal day-to-day activities. The Barker Interim Report (Barker, 2003) has stated that the default timescale involved in decision making on applications for major housing developments is 26 weeks (six months), assuming that the developer applies for outline planning permission and then detailed planning permission, and that both these decisions are made within the target time periods of 13 weeks.

What are the mechanisms for achieving affordable housing on non-S106 sites and S106 sites?

The survey of HAs asked how non-S106 sites were identified. The responses are shown in Figure 3. The main method of site identification was undertaken by registered social landlord (RSL) staff using information from the local authority, developers and landowners.

Information from other consultants was also mentioned as a way of identifying suitable land. Some HAs said that they obtained non-S106 sites through the land market, ensuring that agents and developers knew that they were looking for suitable sites. One said 'they know it's got my name on it', referring to land offered to the HA through the market. Sometimes sites come from the public sector but generally these are felt to be drying up now, particularly in pressured areas. Increasingly, all sites are coming from the private sector or from regeneration schemes on local authority estates.

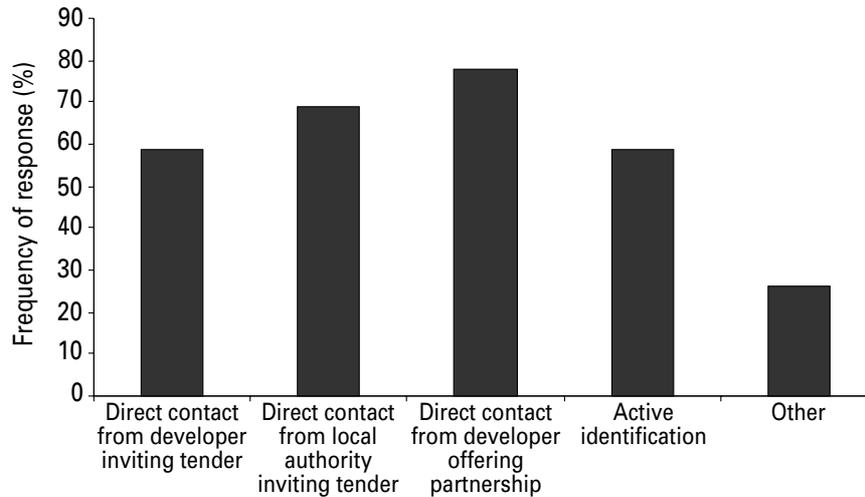
Figure 3 Methods of identifying non-S106 sites



* Other include local partnership with HAs and local authorities, from churches, parish groups, local knowledge, other consultants; architects etc.

The most common description of non-S106 affordable housing sites was found to be small brownfield infill sites in high-demand areas, followed by small brownfield infill sites in low-demand areas, ex-local authority sites and redevelopment sites. Figure 4 shows how HAs become involved in S106 sites.

Figure 4 Methods of identifying S106 sites



* Other include local partnerships with HAs, local authorities, developers, contact with other HAs involved with developers, nomination by local authority, competition, rota on client-commissioning basis and other contacts, e.g. consultants.

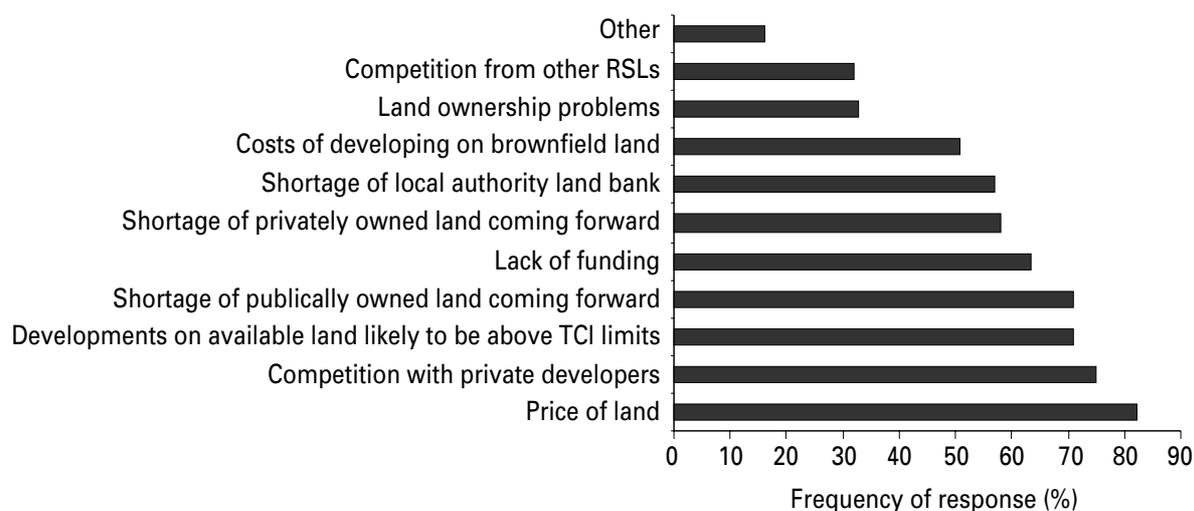
The main difference between identifying S106 and non-S106 sites is the involvement of the developer. Developers are ‘selecting’ HAs they want to work with and contacting them directly.

Land prices appear to vary enormously. The cheapest quoted by an HA was £5,000 per dwelling in the North West, while the most expensive was £100,000 per dwelling in London. Prices varied within regions as well as between them. For example, in the North West, prices facing one HA ranged from £16,000 to £60,000 per dwelling; while, in London, they ranged from £40,000 to £100,000. One HA commented that there is no typical site and the price varies by location.

Prices vary even from street to street in London. The cost of land is determined by its location, together with demand, the size and nature of the site including access, the class of use permitted, ownership, and whether it needs remediation work and, if so, how much.

The HAs were also asked what they perceived to be the main difficulties in securing non-S106 sites (Figure 5). The main difficulties were the price of land (identified by over 80 per cent of respondents), competition with private developers (75 per cent) and developments likely to be above the Housing Corporation’s Total Cost Indicator limits, which restrict the amount of Social Housing Grant that can be made available (70 per cent).

Figure 5 Main difficulties in securing non-S106 sites



Over 80 per cent of the respondents stated that it had become more difficult to acquire non-S106 sites over the last five years. The reasons given for this were the increasing price of land, increasing competition from private developers for sites they had previously avoided (e.g. complex brownfield sites), outdated TCI levels (despite regular updating by the Housing Corporation) and a rising occurrence of contamination/clearance costs.

The main constraints on finding suitable land include the high price of land and the grant regime, which cannot make allowance for such high land prices. The planning system is also seen as constraining the land supply and so contributing to high land prices. One HA said that it only developed on S106 sites because ‘no way could we compete on the open market [to purchase non-S106 sites]’. Another said that, in regeneration areas, land assembly, rather than land price, is the main challenge.

Most HAs thought that the mechanisms for securing land had changed significantly. In the past, there had been more greenfield land available and more land had been available from the public sector. For some, this is still a significant source of land but, for most, there has been a substantial shift to S106 land. Some said that they were offered the ‘rotten’ sites that a developer would not want. Some also said that they are now partnering developers to get land:

... this is new. In the past they would have built the sites and flogged the houses, now they say they are having to think more about sustainability.
(HA, national)

How is affordable housing now being produced?

This section summarises the views and perceptions of HAs in relation to securing affordable housing and the extent to which the S106 policy has changed the whole context for producing additional affordable housing. The information comes both from the questionnaire survey and the in-depth interviews.

Location of development

The interviews with the HAs identified a clear North/South divide, with land scarcity and consequent high land prices in the South. However, there were localised areas of high demand, land scarcity and high land prices in other areas. Equally, even areas such as London and the Eastern region have regeneration sites and Single Regeneration Budget funding. Regeneration sites most commonly comprise old local authority stock that requires upgrading and in some cases demolition and rebuilding.

Some HAs were developing in regions other than those where they own the most stock and where they are based. This is very much related to the development opportunities there. Others faced a clear mixture of contrasting areas – high and low pressure in terms of the land market and of housing need. Some said that all or most of the areas where they were developing were high pressured, especially in London.

For most of the HAs, there is very little greenfield development without an S106 agreement and all or most of their non-S106 development was on brownfield sites. A limited number, however, particularly those in rural areas, said they were mainly developing on greenfield sites. These were often rural exception sites.

Tenure of development

The main tenure of the HA stock was social rented, but there was between 4 and 11 per cent shared ownership, with particular concentrations in the North West and East Midlands (Table 1). Key-worker housing made a very small concentration and only in the South. There were some key-worker units in the North built without grant and a few units of market housing for rent.

Only one HA interviewed had developed a substantial amount of market sale housing in the last year, although four were considering it for next year and three had a market ‘wing’ or subsidiary that developed market sale housing to cross-subsidise the social rented housing. Only one said they ‘balk’ at the idea of building market housing.

Table 1 Proportions of stock by tenure

	Social rented (%)	Shared ownership (%)	Key worker (%)	Other (%)
<i>All</i>	88	6	1	5
North	89	7	0	4
South	88	6	1	6
North East	87	6	0	8
North West	90	8	0	2
Yorkshire & Humberside	91	4	0	6
East Midlands	87	11	0	2
West Midlands	89	6	0	6
East of England	96	4	0	0
London	88	6	0	6
South East	82	6	1	10
<i>Average</i>	<i>88.5</i>	<i>6.3</i>	<i>0.3</i>	<i>4.9</i>

Source: Survey of developing HAs.

Desire for expansion

Four HAs said that they did not want to be developing more than their current programme. All of these had large development programmes at present. The others mostly said that they would love to develop more but the main issues are a lack of suitable sites and the new funding regime from the Housing Corporation, which has reduced the number of developing HAs through partnership bidding.

Proportion of S106 compared to non-S106 sites

For all except four of the HAs included in the interview survey, the proportion of their new-build development on S106 sites was over 60 per cent. In the North West, an HA had no S106 sites last year, while a further three had mostly non-S106 sites and these were also based in the North West. However, these proportions do not reflect those in the questionnaire survey, which reported that around 33 per cent of all units were from S106 sites. In turn these differ from the larger Housing Investment Programme (HIP) dataset described in the next chapter. What this evidence does suggest is that the balance varies from HA to HA and from local authority to local authority.

Main sources of funding

The main sources of funding were SHG plus loan finance secured against future rental income. Some HAs were able to use recycled grant (grant approved on another scheme that did not go ahead). This will increasingly be possible for HAs that are ‘partners’ of the Housing Corporation, although even so there will not be total flexibility. HAs developing across regions will not be able to transfer grant between these regions because this would mean that regional housing targets could not be met.

Some HAs said they had been able to get extra funds by using modern methods of construction, although they claimed this was not financially prudent because the manufacturers knew that HAs had to use these methods so they put up their prices. One said that it was really only cheaper on a very large site, and most of their sites were small. However, this may be only a transitional phenomenon until industrial capacity increases.

Several HAs used market housing to cross-subsidise the affordable units. They also used their own funds where they have sold shares in shared ownership, staircasing up. Rent convergence means that there is a limit on borrowing and shared ownership schemes 'stack up better'. They did not tend to dip into their reserves for non-S106 sites.

The impact of S106 on funding

S106 sites effectively compete with non-S106 sites for funding. When the total SHG is fixed but the number of sites requiring grant is rising there is less grant to go around. An increase in the availability of SHG, as announced by the Government, will reduce competition for grant.

In some areas there is no SHG available for S106 sites, either as a specific policy option or because of a lack of funding. Some HAs viewed S106 as essentially a mechanism for obtaining sites so funding was unimportant, while others said that it made a large difference to finances because it was a subsidy on the land value reducing the requirement for subsidy. 'As a result we pay less for sites but also get less grant. The majority of our development is on S106 sites because land values are so high.' Where developer contributions reduce the requirement for SHG then SHG goes further and can fund additional units. However, where the developer contribution simply reduces the development costs to within TCI limits, full SHG funding is still required and cannot be directed to other affordable units.

The use of reserves on S106 sites

A number of HAs reported using their reserves to help make a scheme viable. This was usually where there were unexpected additional costs on site, or in high-demand areas where the development meets all the appropriate criteria for sustainability. There are also implications in terms of risk: 'we have to balance our long-term borrowing against our current assets'. Some HAs said that they have a business plan and, once the contingency element is used up, that is that.

Does S106 contribute to government objectives for mixed communities?

It has been commented elsewhere that the mixed communities policy has been an important component in assisting the general acceptance of S106 (ODPM, 2004). Planning Policy Guidance Note 3 (PPG3) states that:

The government believes that it is important to help create mixed and inclusive communities which offer choice of housing and lifestyle ... Local planning authorities should encourage the development of mixed and balanced communities.

(ODPM, 2000)

In theory, on-site provision of affordable housing contributes to the Government's objective of mixed communities by integrating market and affordable units on one site. In contrast, a commuted payment or off-site provision will typically result in the affordable units developed in very different areas from the market units.

However, even where the affordable element is developed on site, it is not entirely clear whether a truly mixed and sustainable community is created. In order to assess the extent to which on-site affordable housing is contributing to mixed communities, telephone and face-to-face interviews were undertaken with key actors, including planners, housing enablers, developers and HAs. These actors were selected in relation to chosen sites within the case-study areas. The views of a number of key stakeholders from national organisations were also ascertained.

The data reveal a number of key issues in relation to the provision of mixed communities through on-site provision. These relate to the extent to which the policy has bedded down, the difficulties in producing on-site affordable housing and the positive aspects of such provision. These issues are discussed further below.

Location, design and integration of affordable housing

Throughout the interviews with the key actors, the S106 policy was stated to be working 'reasonably well' and was making an important contribution to creating mixed-tenure sites and meeting housing-need targets. However, an important issue that was raised in the interviews related to the location, design and integration of affordable housing. It was stated by some of the planners interviewed that many developers were not as oriented as they could be to creating mixed developments. This varied from scheme to scheme. Developers tended to prefer placing affordable housing in one block 'in the least desirable part of the site' or 'in the back corner' and, in some cases, the design and size of the affordable units were inferior to the

market ones. A number of respondents stated that developers were beginning to realise the benefits of integrating affordable units throughout the site and making sure that their design was indistinguishable from the market units.

Expertise and negotiation skills

A related issue was the expertise and skills of the planning team to negotiate with developers and set the site up in a way that was inclusive. A number of respondents cited that there was some resistance to 'pepper potting' by HAs as it made management difficult. However, in one interview, this reason was perceived as masking the real difficulty facing HAs: service charges, which Housing Benefit would not pay. If affordable housing is located in separate blocks it keeps costs down for the HA. One respondent stated that 'pepper potting' could cause difficulties for the residents of affordable housing and it could put pressure on them as they were seen as 'stigmatised' and the attitudes of purchasers could often be resentful towards affordable housing residents.

It was argued that the most successful mixed developments were those where it was difficult or impossible to tell the difference between affordable housing and market housing. Several respondents stated that S106 had modified the nature of the market housing built on the site. Instead of expensive up-market units, smaller more modest units were being built at higher density. In at least one case, the local authority felt this benefited them because they had more than enough up-market houses and it helped them to meet not only government policy to increase densities but also local housing demand as well as need.

Stakeholder perceptions of the characteristics of residents

A key issue that emerged from the interviews was the perception of the characteristics and behaviour of affordable housing residents among developers, landowners and community residents in the locality of the affordable housing. Throughout the interviews, respondents described a number of common perceptions about affordable housing residents. These include that they will be a source of anti-social behaviour and that the value of adjacent market housing would be reduced. Examples were given of instances where purchasers of market housing resented affordable residents because they were renting, rather than purchasing, properties of a similar standard. However, purchasers of the market properties may be buy-to-let landlords who may not be very discriminating with regard to tenant selection. One respondent described how shared ownership schemes were preferred by developers over renting.

Negative media attention focusing on affordable housing residents, and, more recently, asylum seekers and refugees, was also cited by planners and housing enabling managers as causing difficulties and delays in the development process. In one area, the public perception (fuelled by local media coverage) was that all recent new developments were to be exclusively for asylum seekers or refugees. As a result the HA had to pursue a publicity scheme to explain the situation. Dealing with prejudice was time-consuming both for planners and HAs, and had to be dealt with in a sensitive manner.

Respondents stated that, once on-site schemes had worked successfully 'and there aren't three burnt out cars in the drive and there aren't people making their property derelict', it was much easier to get developers on board and persuade the general public that any new developments would not inevitably be a problem.

In general the interviews revealed differences in opinion about whether mixing tenures on site inevitably result in the development of mixed communities. These differing views stem from the ways in which affordable housing residents are perceived, as well as HA management practices and the time it takes for a community to develop. However, these issues should not detract from the positive aspects and the success of many schemes, and the knock-on effects this has in encouraging developers and HAs to be more creative and in fostering more positive images of affordable housing schemes and their residents among the general public.

Summary

- The survey of HAs showed that associations are increasingly shifting away from the traditional non-S106 affordable housing sites and towards greater use of S106.
- More than 80 per cent of HAs said that it was increasingly difficult to obtain land except through S106, particularly in the more pressured areas in the South.
- The combination of a lack of small brownfield infill sites coming forward coupled with increasing land prices means that HAs are unable to develop the quantities of units on such sites that they were able to do in the past.
- This is a key reason why they are effectively substituting S106 for non-S106 schemes, seeing S106 as a mechanism for securing land.

- The S106 policy has had an impact on how HAs deliver new affordable housing. They increasingly need a different set of abilities, especially in terms of management and negotiation skills.
- The S106 policy is increasingly acceptable as local authorities and developers become more familiar with its requirements and in negotiating site details, and as Local Plans are updated to comply with PPG3 (ODPM, 2000).
- SHG, and, in the case of S106, developer funding, often have to be supplemented by the HAs' own funding to make the projects financially viable.

3 S106 policy and the supply of affordable housing

Key points

- The number of planning permissions for affordable dwellings with S106 agreements has increased by over 60 per cent since 1999/2000.
- The number of completions for affordable dwellings with S106 agreements has increased by over 35 per cent over the same period.
- The total quantity of new affordable homes has declined by 3 per cent over the year 2001/02 to 2002/03.
- Over the period 1999/2000 to 2002/03, around 70 per cent of S106 completions were in the South.
- The proportion of affordable completions that are funded by public subsidy without S106 has fallen from 70 per cent in 2000/01 to 53 per cent in 2002/03.
- In 2002/03, 82 per cent of S106 completions relied on public subsidy (91 per cent of total affordable completions relied on public subsidy).
- The number of non-S106 completions is falling because of a dwindling supply of traditional small brownfield infill sites and rising land prices as well as the concentration of SHG on S106 sites.

Introduction

This chapter examines the available evidence about the numbers of affordable homes being secured; whether those produced via S106 are additional; how the proportions of S106 and non-S106 sites are changing; and how the interface between S106 and SHG is working in different areas. It does so by drawing on four sources of data:

- official government Housing Investment Programme (HIP) returns for 1998/99 to 2002/03 describing regional and national quantities of affordable housing completions
- data from the Housing Corporation regional offices on the number of new-build completions funded by SHG and Local Authority Social Housing Grant (LASHG) and other public funds administered by the Housing Corporation
- data from the Housing Corporation head office on the number of affordable completions by region and tenure, and more detailed analysis of three regions: London, the South West and the South East

- evidence from site-specific case studies on the costs of development and the proportion of public funding and developer contributions.

Analysis of these data provides an assessment of the following.

- 1 Whether the increases in S106 are adding to the overall numbers of affordable houses or whether S106 is replacing the traditional system.
- 2 How many additional units of affordable, subsidised housing are being produced within the ADP (how much is transfer from market housing rather than new build or conversion).
- 3 How the proportions of S106 and non-S106 affordable units are changing.
- 4 The relationship between S106 and public funding in different areas, particularly more pressured areas in the South.

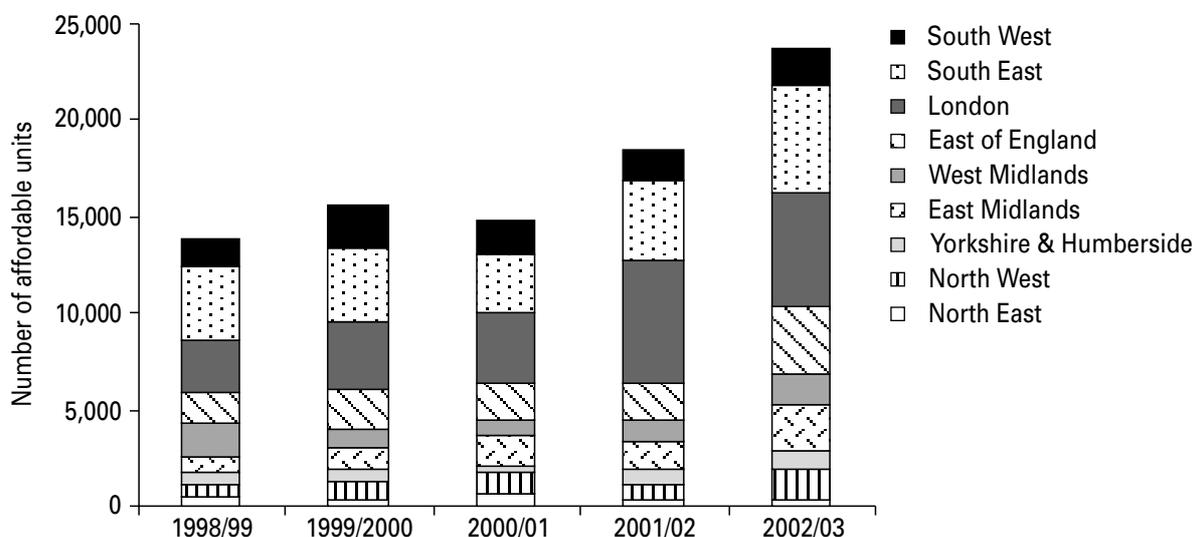
Changes in the supply of affordable housing

Planning permissions and completions

The HIP data recorded a total of 13,892 affordable units 'secured' in 1998/99. In 2002/03, 23,727 affordable units were 'granted planning permission', a 71 per cent increase (Figure 6). Over the period 1999/00 to 2002/03, planning permissions increased by 53 per cent. Consistent with our previous findings (Crook *et al.*, 2002), there have been significantly greater numbers of affordable homes approved/secured/granted planning permission in the southern half of the country. In addition the number of affordable homes approved/secured/granted planning permission in the South has increased by 77 per cent over the last five years compared to 57 per cent in the North.

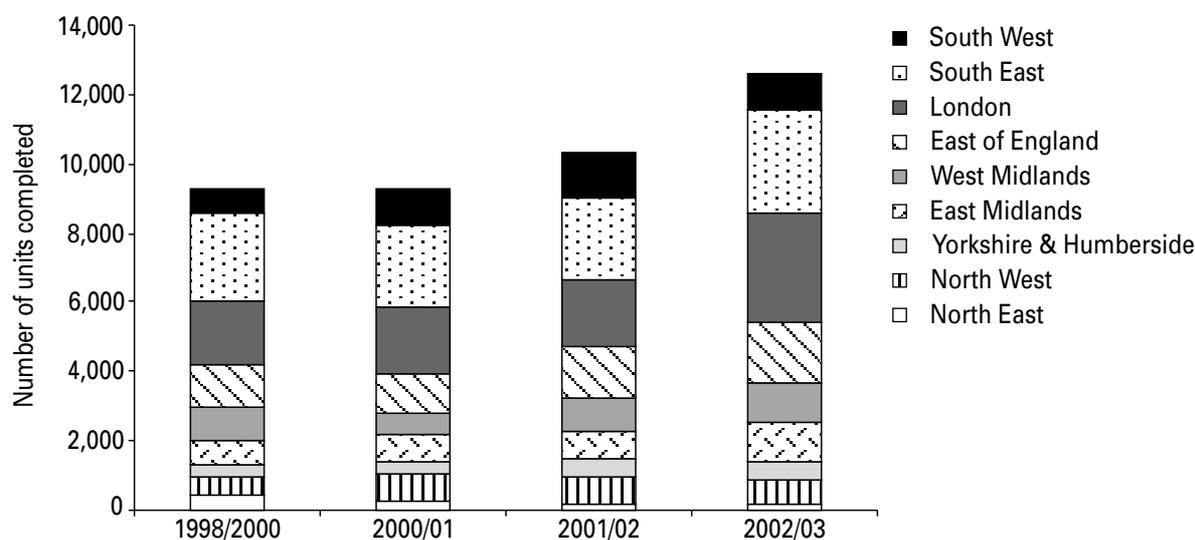
Completions can lag considerably behind approvals and, as our earlier work also showed (Crook *et al.*, 2002), there can be significant modifications in schemes once approved. For example, this may include changes in assumptions resulting in a reduction of the numbers of affordable units (and of course developers may simply not implement schemes despite having the consents needed). Figure 7 shows that the numbers secured through S106 agreements and completed are significantly less than the numbers approved even allowing for lags between approvals and completions. For example, if schemes take two years on average to complete, then the approvals of just under 15,000 dwellings in 2000/01 resulted in only just under 12,600 being completed in 2002/03.

Figure 6 Affordable housing secured/approved/granted planning permission through planning policy (PPG3 and Circular 6/98)



Source: HIP (HSSA, Section N, Provision of Affordable Dwellings) 1998/99–2002/03.

Figure 7 Affordable housing completed through planning policy (PPG3 and Circular 6/98)



Source: HIP (HSSA, Section N, Provision of Affordable Dwellings) 1998/99–2002/03.

The total number of affordable units completed through S106 rose from 9,244 in 1999/00 to 12,592 in 2002/03 (36 per cent). Table 2 shows that over 70 per cent of completions were in the four southern regions.

Table 2 Regional spread of completions (per cent)

	1999/00	2000/01	2001/02	2002/03
South	74	69	76	71
North	13	14	11	12
Midlands	13	16	14	17

Source: HIP (HSSA, Section N, Provision of Affordable Dwellings) 1999/00–2002/03.

Total new affordable housing completions

To determine the total numbers of ‘new-build’ affordable completions and excluding renovations, Housing Corporation data on completions with public funding¹ are added to HIP data, which record completions purely through S106 with no public funding. Table 3 outlines the changes. Over the past two years, there has been a 3 per cent fall in new-build affordable completions, although certain regions, such as the North East, have seen more significant decreases. In 2002/03, the data record nearly 25,000 new-build completions.

The relationship between S106 and SHG

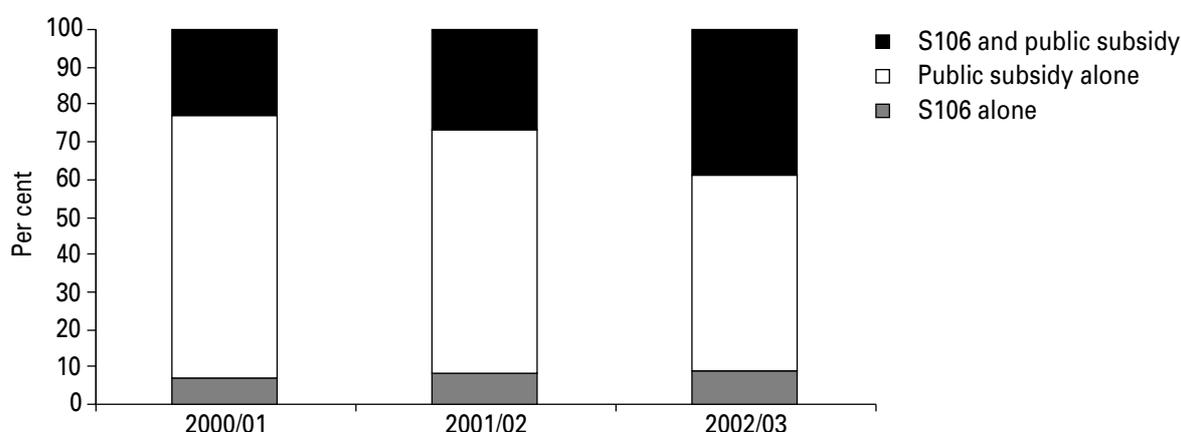
The impact of S106 on overall supply of affordable housing may be assessed by looking at the change in the relative proportions of affordable housing funded purely by public funds, a mixture of developer contributions and public funding, and purely developer contributions. Figure 8 uses HIP data to determine the funding of affordable units for the period 2000/01–2002/03.²

Table 3 Total new-build affordable completions

Region	2001/02	2002/03
East of England	2,643	2,609
East Midlands	1,887	1,458
London	5,842	5,537
North East	795	303
North West	2,677	2,689
South East	5,188	5,432
South West	2,900	2,859
West Midlands	2,167	2,652
Yorkshire & Humberside	1,612	1,426
<i>England</i>	<i>25,711</i>	<i>24,965</i>

Source: HIP HSSA, 2001/02–2002/03, Housing Corporation Regional Offices.

Figure 8 Constituents of funding for affordable completions/acquisitions (England)



Source: HIP HSSA, 2000/01–2002/03. S106 alone is given by the funding category, ‘additional affordable housing through planning policy – units with no support’. Units funded with public funds alone are determined by subtracting ‘additional affordable housing through planning policy – total completions’ from ‘all new affordable housing completions/acquisitions (outturn)’. Mixed-funded units are determined by subtracting these two figures from the total, ‘all new affordable housing completions/acquisitions (outturn)’.

Figure 8 and Table 4 show that there have been some significant changes in the composition of funding. Over the three-year period, proportions of completions/acquisitions funded by S106 alone have increased by 2 per cent. However, the most marked changes have been in the number of completions funded by a mixture of S106 and public subsidy, which have increased by 16 per cent, and the number funded by public subsidy alone, which have fallen by 17 per cent. Over the three-year period, completions funded partially or fully by S106 have risen from 9,300 to 12,500 (an increase of 35 per cent).

The figures show that a significant number of completions are reliant on public subsidy. In 2002/03, over 10,000 (82 per cent) of the S106 completions had some form of public subsidy. In 9 per cent of cases, no public subsidy was used suggesting that, in some cases, S106 is helping to replace public subsidy.

Table 4 Breakdown of affordable completions/acquisitions by funding (England)

	2000/01		2001/02		2002/03	
	Number	%	Number	%	Number	%
S106 alone	2,086	7	2,431	8	2,260	9
S106 and public subsidy	7,211	23	7,872	27	10,332	39
<i>Total S106</i>	<i>9,297</i>	<i>30</i>	<i>10,303</i>	<i>35</i>	<i>12,592</i>	<i>47</i>
Public subsidy alone	21,451	70	18,891	65	13,949	53
<i>Total</i>	<i>30,748</i>		<i>29,194</i>		<i>26,541</i>	

Source: HIP HSSA, 2000/01–2002/03.

Table 5 Percentage of total affordable completions with public funding and no S106 contribution

	Percentage with no S106 contribution		
	2000/01	2001/02	2002/03
North East	64	64	50
North West	91	74	72
Yorkshire & Humberside	56	62	60
<i>North</i>	<i>78</i>	<i>69</i>	<i>67</i>
East Midlands	51	61	33
West Midlands	24	61	56
<i>Midlands</i>	<i>37</i>	<i>61</i>	<i>46</i>
East of England	22	46	33
London	86	73	55
South East	89	64	47
South West	76	63	64
<i>South</i>	<i>75</i>	<i>64</i>	<i>51</i>
<i>England</i>	<i>70</i>	<i>65</i>	<i>53</i>

Source: HIP.

Regional patterns of funding

Table 5 examines the percentage of total affordable completions funded without S106 contributions. In England in 2000/01, 70 per cent of total affordable completions relied on public subsidy alone. This fell to 53 per cent in 2002/03 indicating an increase in other sources of funding, principally developer contributions.

Regionally, the highest proportions of completions funded without S106 contributions are in the North. In the South, there have been substantial decreases in the percentage of completions funded without S106. In particular, in London, completions funded without S106 contributions fell from 86 per cent of total affordable completions in 2000/01 to 55 per cent in 2002/03. Similarly, in the South East, completions funded without S106 contributions fell from 89 per cent of total completions in 2000/01 to 47 per cent in 2002/03.

This suggests that there are fewer non-S106 sites coming forward and SHG is instead being used on S106 sites coupled with developer contributions. The lack of supply of non-S106 sites has meant the funding has been redirected to S106 units.

Similarly, Table 6 shows the percentage of total affordable completions funded by an S106 contribution with no public funding. Regionally, very small percentages are funded in this way in the South and in particular in London. The greatest increase in funding by S106 alone has been in the North; however, the percentages do fluctuate strongly from year to year and the numbers are small. The West Midlands has shown a marked decrease in completions funded in this way from 30 per cent in 2000/01 to 14 per cent in 2002/03.

Table 6 Percentage of total affordable completions funded by an S106 contribution with no public funding

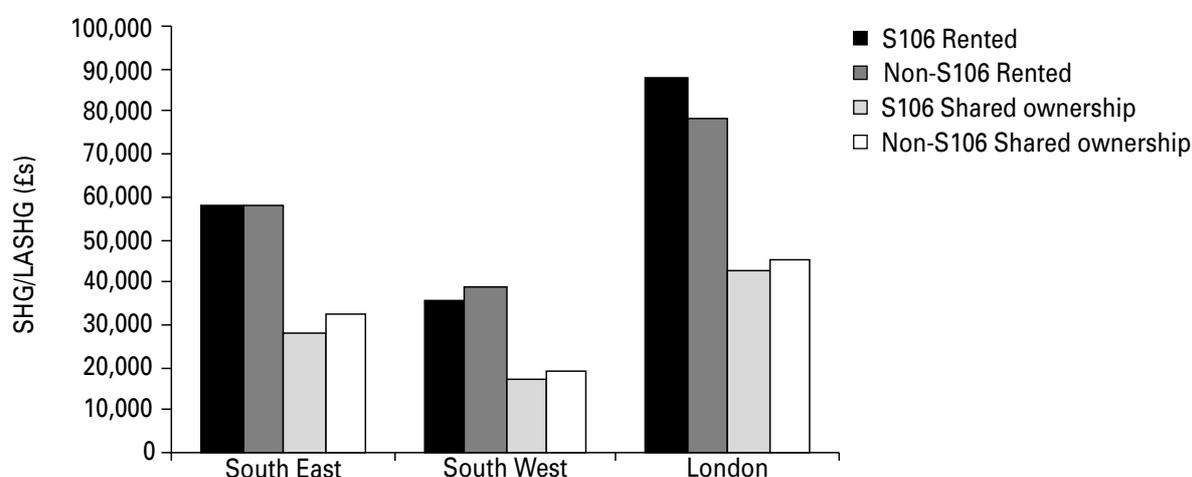
	Percentage funded by S106 alone		
	2000/01	2001/02	2002/03
North East	3	10	0
North West	3	9	9
Yorkshire & Humberside	18	12	16
<i>North</i>	<i>8</i>	<i>10</i>	<i>11</i>
East Midlands	12	15	10
West Midlands	30	15	14
<i>Midlands</i>	<i>22</i>	<i>15</i>	<i>13</i>
East of England	8	9	12
London	0	8	6
South East	3	4	7
South West	3	5	6
<i>South</i>	<i>2</i>	<i>6</i>	<i>7</i>
<i>England</i>	<i>3</i>	<i>6</i>	<i>7</i>

Source: HIP.

More detailed national data as well as data for three regions – London, South East, South West – were obtained from the Housing Corporation central offices. These data were disaggregated by tenure as well as by S106/non-S106.

Figure 9 shows the amount of SHG used on S106 and non-S106 sites in the three regions for social rented and shared ownership. The amount of SHG used on S106 was very similar to that used on non-S106 sites. The difference was more marked in London with higher levels of SHG used on S106 social rented sites. This might suggest that HAs here are developing in more expensive areas as a result of the policy. On the other hand, it might simply reflect increasing costs more generally.

Figure 9 Amount of SHG used on S106 and non-S106 sites



Source: Housing Corporation database, 2002–03.

Table 7 Acquisition cost of land, per unit (£s)

	S106 sites	Non-S106 sites
South West	25,749	19,568
South East	25,647	23,458

Source: Housing Corporation database, 2002–03.

Additionally, for the South West and South East regions, we had data on the acquisition cost of the land for developments on both the S106 and non-S106 sites.

Table 7 shows that the acquisition cost of the land is higher for S106 sites than non-S106 sites in both the South West and South East regions. This is particularly interesting if we consider that the effect of a developer contribution is to reduce the acquisition cost for the HA and that, as a result, the S106 policy should reduce land values. We can infer that the S106 developments are more likely to be in more expensive areas than the non-S106 developments and that these higher costs are outweighing the impact of the developer contribution and the policy effect of reduced land values.

Changing tenure patterns by region

The tenure patterns of affordable housing have also been changing as S106 has increased in importance. Table 8 uses Housing Corporation data to show shared ownership as a proportion of total HA and local authority (LA) affordable housing by region. While in some regions, such as Yorkshire and Humberside, the proportion of shared ownership has fallen or remained fairly static since 1999/00, in the more pressured areas the proportion has increased. In the case of the South East, shared ownership has risen from 9 per cent of total completions to 29 per cent between 1999/2000 and 2002/03. The reasons for this are complex, but include the need to limit the amount of grant per dwelling in expensive areas, a policy decision to meet different types of need, or giving developers additional comfort in terms of their ability to sell the market units at a maximum price. In some cases shared ownership can be delivered without public subsidy, so this could also be a factor.

Table 8 Outturn* of shared ownership as a proportion of total HA and LA outturn

	1999/2000 (%)	2000/01 (%)	2001/02 (%)	2002/03 (%)
North East	12	18	12	13
North West	11	9	17	13
Yorkshire & Humberside	12	8	7	9
East Midlands	18	12	11	13
West Midlands	4	5	10	7
East of England	3	7	4	10
London	15	16	13	23
South East	9	15	15	29
South West	7	6	7	11
<i>England</i>	<i>10</i>	<i>11</i>	<i>12</i>	<i>18</i>

Source: Housing Corporation database, 1999/00 to 2002/03.

** Outturn is the term used to denote the final output of affordable units in receipt of ADP grant funding.*

Summary

- HIP data show that total annual affordable completions have fallen from over 30,000 in 2000/01 to over 26,000 in 2002/03. These completions include not only new build but also renovations and conversions but exclude 'other private sector dwellings', for example Homebuy.
- Data that combine HIP and Housing Corporation data to estimate the total affordable new-build completions suggest that they have fallen from nearly 26,000 to 25,000 over the year from 2001/02 to 2002/03 (Table 3).
- Completions through S106 agreements have increased from 30 per cent of total affordable completions to 47 per cent of total affordable completions during the period 2000/01 to 2002/03 (Table 4).
- The number of units funded through developer contributions without public subsidy appears to be increasing very slowly from 7 per cent of total affordable completions in 2000/01 to 9 per cent in 2002/03.
- In 2002/03, just over half of affordable completions were on non-S106 sites (Table 5) compared with 70 per cent in 2000/01.
- Non-S106 units are on sites typically unwanted by private sector developers. They tend to be small brownfield sites in less desirable locations. These sites will continue to come forward although they are becoming less common. This partly explains why non-S106 sites are dwindling as a proportion of total provision.

- Sharp rises in planning permissions indicate a growth in S106 completions over the next few years.
- Although respondents to the HA survey suggested that S106 units are not replacing non-S106 sites, evidence from the HIP data suggests the opposite.
- SHG remains vital to affordable provision through the planning system, especially as S106 sites typically have higher land values and higher total scheme costs. Significant levels of public funding are required to ensure that developments go ahead.
- An increasing proportion of homes being delivered through S106 are shared ownership and intermediate market housing. For instance, in the South East, the proportion of shared ownership rose from 9 per cent in 1999/2000 to 29 per cent in 2002/03. This could be evidence of a need to limit grant per dwelling in expensive areas; it could reflect a policy decision to meet different types of need; or it could be giving developers extra comfort in relation to their market sale values.

4 S106 in practice: evidence from the case studies

Key points

- The findings from the case studies support the analysis reported in earlier chapters and provide examples of how the system works on the ground.
- Funding for affordable housing is extremely complex and the case-study sites illustrate the extent of variation between areas and between sites.
- Section 106 sites typically have higher total scheme costs than non-S106 sites and use significant levels of public funding.
- Non-S106 sites are typically brownfield remediation sites that are not wanted for market housing.
- Off-site S106 agreements tend to be made either where the on-site location is not appropriate for the type of affordable housing proposed or when the local authority can negotiate a higher percentage of affordable housing elsewhere.

The previous chapter has shown that there has been an overall fall in total completions but an increase in completions through the S106 policy. These patterns have important implications for the Government particularly at a time when the Barker Review (2004) is recommending increases in supply of both market and affordable housing. It is therefore important to understand the impact of these national and regional trends on the delivery of affordable housing at the local level.

This chapter presents evidence from 28 site-specific case studies, selected to represent different types of pressure on land. The case studies were carried out, however, prior to the publication of the Interim Barker Report (2003) and policy was in a state of flux with the ongoing discussion of the introduction of the 'optional charge'. A sample of S106 and non-S106 case-study sites in different locations was examined in detail to assess the evidence on the costs of providing affordable housing, who pays for the housing, the role of SHG and the factors affecting the operation of S106 on the ground.

How we might expect the S106 mechanism to work

Because the sites were so complex, it is helpful to start by looking at how we might expect the S106 policy to work together with SHG in a hypothetical example. Table 9 illustrates how this might work.

Table 9 Hypothetical comparison of the relationship between S106 and SHG

	Non-S106 (%)	S106 (%)
Land-cost element of total scheme costs (TSC)	30	10
Social Housing Grant	40	30
Private finance	30	30
Developer contribution	0	30
Total scheme cost (TSC)	100	100

Under S106, the developer is thus expected to bear some of the land cost and hence reduce the requirement for SHG. However, in practice, HAs can often find additional sources of grant. LASHG was an important source of funding until its recent abolition. Other minor sources of funding include Safer Communities funding and the Single Regeneration Budget. This will generally reduce the amount of SHG required but will not necessarily eliminate it altogether. As we have shown previously, in practice, the land value of the S106 site may be higher than that of the non-S106 site and the effect of the developer contribution may be simply to reduce the land cost to a level similar to that of a non-S106 site.

Non-S106 sites

We now look at some actual examples, taking the simplest case first.

Example 1: South West urban district

This site was a council site already earmarked for general needs through an HA. However, a second HA had an allocation from the 2001/02 Safer Communities programme for two young parents' schemes in the district. This led to the local authority encouraging the initial HA to release some of their site to the second HA for the purchase price of £115,000. The money from the Safer Communities fund was topped up with Housing Corporation money. The development consisted of eight two-bed, three-person flats of 52 metres square and a playroom for the children of young parents.

The bulk of the funding consisted of Social Housing Grant and Safer Communities funding (see Table 10).

Table 10 Example 1

	Total (£)	%
<i>Social rented – 8 units</i>		
Land value (0.2 hectares)	160,000	
Purchase price of land paid	115,000	
Build costs paid by HA	503,234	
<i>Total cost of scheme</i>	<i>618,234</i>	
<i>Total cost of scheme if land at market value</i>	<i>663,234</i>	
<i>Who pays?</i>		
SHG	355,379	54
Safer Communities	262,855	40
HA (vendor) through discounted land	45,000	7

Example 2: South East rural district

This brownfield site was a disused petrol station owned by the council. It was a complex site with high decontamination costs and a tenant whom the council had to buy out. The site was sold to the HA, which built 18 units, 12 of which were used for temporary accommodation. The site was not identified in the Local Plan but neither was it truly windfall because the council had always had it in mind to use it for housing at some stage; the problem had been acquiring the lease.

All the units were social rented and consisted of 12 two-bed houses and six one-bed flats. The council transferred the site at best value although at a price representative of the costs for the decontamination of the site and buying out the tenant. Table 11 illustrates there was additionally a large grant payable and the HA contributed a substantial sum, nearly £37,000 per unit.

Table 11 Example 2

	Total (£)	%
<i>Rented – 18 units</i>		
Purchase price of land	288,000	
Build costs	1,583,336	
<i>Total cost of scheme</i>	<i>1,871,336</i>	
<i>Who pays?</i>		
SHG	888,777	
LASHG	213,428	
Other grant	106,714	
<i>Total grant</i>	<i>1,208,919</i>	<i>65</i>
Estimated HA finance	662,417	35

Table 12 Example 3

	Total (£)	%
<i>Rented– 22 units</i>		
Land value (0.2 hectares)	?	
Purchase price of land paid to developer	350,000	
Build costs paid by HA	1,436,195	
<i>Total cost of scheme</i>	<i>1,786,195</i>	
<i>Who pays?</i>		
Total grant	752,175	42
LASHG	30,000	2
Estimated HA finance	1,004,020	56

Example 3: Midlands urban district

This site was identified by the HA, which contacted the vendor directly after another HA had been unsuccessful in securing the land. The site was brownfield and was identified in the Local Plan as a regeneration site within a neighbourhood renewal strategy area.

The mix of housing was determined by the HA working in partnership with the local authority, which identified a need for larger accommodation because of the shortage of four/five-bedroom houses in the town. The development consisted of 22 social rented dwellings; six two-bed flats, seven two-bed houses, four three-bed houses and five four-bed houses. The larger dwellings were three-storey town houses.

The development was financed mainly by a combination of HA borrowing and Social Housing Grant at 56 per cent and 42 per cent of the total scheme costs respectively. A small amount of funding was received from the local authority (see Table 12).

S106 sites**Example 4: East of England rural district**

This S106 site is in a village location. The site comprises 38 market dwellings and 15 affordable dwellings (a 28 per cent contribution across the whole site). The affordable units consist of four one-bed units, four two-bed houses, five three-bed houses and two four-bed houses.

The affordable units were transferred to the HA at the reduced value of £75,000 giving an indicative developer subsidy of £795,000. This subsidy is substantial at 41 per cent of the total scheme costs including the market value of the land. Social Housing Grant contributes 23 per cent of total scheme costs and LASHG 8 per cent. The HA finances the remaining 28 per cent (see Table 13).

Table 13 Example 4

	Total (£)	%
<i>Affordable units (15)</i>		
Land value (0.33 hectares) property market report	870,000	
Purchase price of land	75,000	
Build costs	1,052,248	
<i>Total cost of scheme</i>	<i>1,127,248</i>	
<i>Total cost of scheme if land at market value</i>	<i>1,922,248</i>	
<i>Who pays?</i>		
Indicative developer subsidy	795,000	41
SHG	433,000	23
LASHG	150,000	8
HA financing	544,248	28

Example 5: Midlands urban district

This scheme represents one phase of social rented housing in the district as part of a larger development of 1,100 new homes. The S106 agreement confirms a requirement for 15 per cent social rented housing on site plus 10 per cent affordable market housing.

The developer is building 61 market units and is contributing to 13 affordable units (18 per cent) by letting the HA purchase the land at the discounted value of £144,000. The affordable element is for 13 two- and three-bed homes.

The developer's subsidy in the form of the reduced land value means that the HA finances 24 per cent of the total scheme costs and SHG covers the remaining 30 per cent. (see Table 14).

Table 14 Example 5

	Total (£)	%
<i>Affordable units (13)</i>		
Land value (0.5 hectares)*	955,000	
Purchase price of land	144,000	
Build costs	813,272	
<i>Total cost of scheme</i>	<i>957,272</i>	
<i>Total cost of scheme if land at market value</i>	<i>1,768,272</i>	
<i>Who pays?</i>		
Indicative developer subsidy	811,000	46
SHG	536,000	30
HA financing	421,272	24

* Land value figures are indicative and taken from the Valuation Office Agency, Property Market Report 2002/03. Figures are provided at local authority level.

Example 6: London borough

This is a large and complicated site in a London borough, which has in the past operated a non-SHG policy. The SHG shown in the example was for the off-site provision; the developer fully funded the on-site provision through the S106 agreement.

The developer owned the land and wanted to build 25 per cent affordable housing on the site plus off-site affordable housing elsewhere in the borough, giving a total of 27 per cent affordable housing.

The on-site scheme consisted of a development of 769 residential units plus a 400-bedroom hotel and 500,000 square feet of office space. Of the total 769 units, 25 per cent (193) were built as affordable and transferred at nil value to the HA.

There was additionally an off-site element of 20 flats, funded by S106 at a cost to the developer of £763,000. This together with the on-site provision resulted in a total developer contribution of 27 per cent (193 + 20 units/789 units in total).

Additionally the developer paid the HA £2,250,000 to purchase the majority of the off-site land for the 20 S106 units as well as for a further 65 affordable units (18 bedsits for vulnerable people, 29 rented flats and 18 rented houses). An engineering company owned the majority of the land although a small portion was owned by the council and transferred at nil value.

The council identified the HA because it was one of its preferred partners. The negotiations with the developer involved details of moving the obligation off site. The unit breakdown was determined through discussions with the council based on housing need and there were a number of larger flats for Asian communities. The

Table 15 Example 6 (off-site element only)

	Total (£)	%
<i>20 S106 units plus a further 65 affordable units</i>		
Land value	2,250,000	
Purchase price of land	0	
Build costs	5,435,466	
<i>Total cost of scheme</i>	<i>5,435,466</i>	
<i>Total cost of scheme if land at market value</i>	<i>7,685,466</i>	
<i>Who pays?</i>		
Developer subsidy for land	2,250,000	29
Developer contribution cash	763,000	10
Safer Communities Grant	1,615,521	21
SHG	2,687,160	35
HA financing	369,785	5

rents were set according to the council's schedule of affordable rents and were then inflated for delayed handover in September 2005.

The impact of the S106 on the off-site element has been to increase the number of affordable housing units on this site. Previous versions of the scheme rested on cross-subsidy from sales units on the site. These sale units have been taken out of the scheme in favour of S106 units rented at affordable rent levels. In total, the developer subsidised the off-site element by 39 per cent. Other funding came from Safer Communities and SHG. The HA was left to provide the remaining 5 per cent (see Table 15).

General findings

From this analysis of the 28 case-study sites, including the six detailed examples given above, it is clearly evident that there are large variations in practices between both areas and sites. The S106 sites in Examples 4 and 5 were part of large greenfield developments. Example 6 is interesting because the local authority used the S106 agreement off site to increase the number of affordable houses on what would otherwise have been a non-S106 site. In addition, an on-site contribution was achieved to give in total 27 per cent affordable housing.

There is an important distinction to be made between on-site and off-site S106 agreements. Four of the S106 sites comprised an off-site affordable element. One of these sites was the off-site element of a very large development in London. Although a substantial number of affordable houses were completed on site, the local authority asked the developer to help fund 20 S106 units and provide land for a further 65 affordable units, which also attracted funding through Safer Communities and SHG. The impact of the S106 on the off-site scheme was to increase the number of affordable units that could be provided. Previous versions of the scheme rested on cross-subsidy from sale units on the site. In another case, the on-site element was located on a busy road. The off-site element was located across the road to ease management problems for the HA and because the road site was considered dangerous for young families.

The other two sites that were funded by off-site contributions were very similar and were both identified initially by the HA. In both cases, the local authority put forward the site to be an off-site contribution for developments elsewhere in the borough.

On-site S106 agreements made up the majority of the cases. A much larger proportion of these sites were greenfield and the percentage of affordable housing achieved varied from 62 per cent on a village site in an East of England rural district

to 17 per cent for a large greenfield site in a North West rural district. The percentage achieved appeared to depend largely on the strength of the Local Plan and negotiations. For example, on one site, where only a 10 per cent affordable housing contribution was achieved, the local authority stated that the Local Plan was very weak and had a time horizon only to 2001. However, on another site in a South West urban district, a high percentage of affordable housing was achieved because the site was on the edge of a council estate in a low-demand area and the developer wanted a guaranteed sale to an HA. On the majority of sites where we know the land costs, the subsidy was through a discount in land value.

Summary

- There are large variations in practices between both areas and sites.
- The S106 sites typically have higher total scheme costs than the non-S106 sites, usually because they are in more expensive locations. This means that they have roughly similar levels of SHG and other public funding to the non-S106 sites and include in addition the developer contribution.
- A surprisingly large number of the case-study sites were already in public ownership. These included S106 sites that were sold to developers by the public body.
- Where SHG was once concentrated on traditional, 100 per cent affordable (non-S106) housing sites, increasingly it is going on S106 sites to help pay for the increased total scheme costs.
- Non-S106 sites are usually brownfield sites in undesirable locations with consequentially cheaper land prices.
- Off-site contributions are often accepted by local authorities as a way of increasing the total amount of affordable housing from a scheme.
- Commuted sums are generally seen as the last option because of difficulties in getting hold of land. There are exceptions and they are occasionally used as a means of making other schemes viable.

5 Stakeholder views about the future

Key points

- The current system appears to be working well, although a particular issue remains the large number of local authorities whose local plans pre-dated PPG3 (ODPM, 2000).
- The objectives of the new policy, ‘to introduce speed, transparency and certainty’, were largely being met, so long as a clear Local Plan, which outlined the affordable housing requirements, was in place.
- Under an optional charge, it would be harder to secure land for affordable housing, even though the optional charge allowed for payments ‘in kind’.
- The optional charge might not lead to greater speed because of the need for negotiation over other aspects of the S106, for example infrastructure.
- An optional charge might not meet government objectives for mixed and sustainable communities.
- Developers were concerned over the mechanics of the optional charge and how it would be set to reflect market conditions. If the optional charge were set too high, this would force developers down the negotiated route leading to further delay.
- Local authorities were worried that they might set the charge either too low, and be unable to fund affordable housing, or too high, so that development would dry up.

Introduction

This chapter summarises the views of the main stakeholders – local authorities, developers and HAs – on the likely effects of the Government’s proposals for the future and on how, broadly speaking, they are finding the current system working in this rapidly changing policy context. It draws out the commonalities and differences in the views of different stakeholders and assesses the prospects for producing greater numbers of affordable houses in the future. The material comes from our interviews with local authority housing and planning officers, developers and HAs undertaken as part of the case studies.

At the time of the interviews, most stakeholders still referred to the proposed optional charge as a ‘tariff’ and most did not understand that it was not necessarily a cash payment but could be a contribution in kind, in the form of land, which could be either ‘on site’, on the same site as the proposed market development, or ‘off site’, on another site within the district. This is probably because the policy was still being developed, and reflects the fact that policy is changing extremely rapidly at present.

Local authority views

The main objective of the Government's proposals – to introduce speed, transparency and certainty – was criticised by several local authorities:

There is a myth about tariffs and it's along the lines that developers are going to regenerate cities and are being held back by incompetent or pedantic council bureaucrats failing to come up with S106 agreements in time and a simplified system would enable developers to get on with it. The reality is that developers are often unresponsive and they delay things, especially when they use consultants to negotiate. Some developers are prepared to see delay and the costs associated with that really for the sake of getting one over on a local authority.

(Local authority, London)

Several local authorities illustrated how greater certainty could be built into the current system with clear requirements of the percentage of affordable housing sought and site thresholds detailed in the Local Plan or through the use of clearly worded Supplementary Planning Guidance. As noted previously, many of the delays in negotiations were caused by Local Plans that pre-dated PPG3 (ODPM, 2000) and consequentially, as new plans are adopted, many of these delays will be prevented.

One district commented that, by setting a clear requirement of 30 per cent affordable housing that is essentially non-negotiable, it was already providing the certainty that developers need. It was not convinced that the optional charge would provide a significant degree of additional certainty. Another district said the S106 system should be improved instead and wanted land rather than cash.

Comments were also raised over the proposed allowance of a negotiated route. As one local authority stated:

... it is our experience that delay during the planning process most frequently happens when a developer seeks to deviate from the requirements set out in the Local Plan. This leads to a prolonged period of negotiation as the developer justifies their proposal and the City Council considers if their arguments merit making an exception to policy.

(Local authority, London)

In addition, in some cases, even if a charge had been paid, there would be non-financial issues that would need to be resolved in a conventional planning obligation. This is because planning obligations are also used to resolve a range of legal issues associated with the development. Effectively this would lead to a delay in the process, which would not be solved by the optional charge.

Other concerns were raised over the ability of the 'optional charge' to meet government objectives for mixed and sustainable communities. Our case studies highlighted the variety of ways in which affordable housing is secured and showed that, even with the present system, there is often a resistance to 'pepper potting' by both developers and HAs. At present it is not clear whether the Government will stipulate that the preferable option is for the transfer of a portion of the on-site land and it seems more likely that this would be left to the local authority to decide.

Local authorities were also worried about how to set the level of the charge if it was a cash option. If it was set too low, they would not have sufficient funds to produce the planned amount of affordable housing. On the other hand, if it was set too high, it might prevent development from taking place by threatening its viability and the supply of land would dry up:

... the local authorities, unless they are very astute and can really keep up to date, could find themselves selling themselves short – and developers would soon get wise to this – they would find they had not set the charge high enough to get what they need from the system. Also, if they subsequently thought of something afterwards, there would be no chance to add it – it would be too late.
(Local authority, North West)

Some local authorities believed that, if an optional charge was introduced, there would be less affordable housing provided. If HAs were forced to build in cheaper areas with an optional charge there would be other problems, as these areas are often cheaper because of contamination and are sites that developers have avoided. Another said simply that they could not see an optional charge system being able to deliver the same amount of provision.

However, not all local authorities were opposed to an optional charge. One said:

... the local authority is supportive of the idea of a tariff, which initially presumes that the provision is initially on site. This will give greater clarity and will work if it is the exception rather than the rule to go off site as in our Supplementary Planning Guidance.
(Local authority, South West)

Another said that the reason the optional charge was slightly tempting was that potentially it would provide some capital to spend on affordable housing. The fact that funding changes so rapidly – for example, the removal of LASHG meant that some capital receipts have had to be pooled and diverted to somewhere else – has meant that the district's capacity to influence new affordable provision has been

'hopelessly' compromised in the space of 18 months, and so an optional charge option becomes rather tempting.

Most of the authorities interviewed did not believe an optional charge system would produce more affordable housing than the present S106 policy. However, they were not particularly optimistic about getting much more out of the current system in future either:

I can't imagine a system where S106 would deliver any more than 50 per cent of the affordable housing in the Housing Corporation's programme.
(Local authority, London)

Developer views

The successful provision of affordable housing through S106 policy is heavily reliant on developers and negotiation processes with local authorities. It is therefore important to consider the perspectives of developers during this process and the extent to which they feel S106 presents difficulties and/or is working positively.

Although developers thought S106 was working 'reasonably well', a key area of concern was the negotiation of S106 agreements and the way in which local authorities and solicitors often handled these negotiations. Uncertainty about costs from the outset was a major concern and, to this extent, the optional charge system would, at least, 'guarantee certainty from the outset'. The inconsistent approaches of local authorities as well as a lack of clarity during the negotiation of S106 agreements were also raised as causes for concern, as these issues have knock-on effects for the costs and start dates of developing sites.

Developers cited clear examples of the types of constraints they perceived they faced. These included: the 'overly high demand' of some local authorities for affordable housing, making it 'unprofitable to develop' and so 'restricting development'; the 'abuse' of Circular 1/97 by some authorities, resulting in developers 'buying' planning consent; and planners over-controlling aspects of the development process.

Developers stated that, in some cases, the approach adopted in S106 for mixed communities was the correct approach. However, they were prone to question the 'mix and balance put forward by local authorities and whether their proposed mix is sensible or relevant'. Developers felt that local authorities emphasised social renting over more general and varied forms of affordable housing. It was felt that a greater

balance of different types of affordable units, for example, shared ownership and low-cost subsidised market housing, would often be more acceptable and appropriate.

Delays and the costs associated with delays in negotiating S106 agreements were cited as major difficulties by developers. One developer cited an example of a 26-unit site where two S106 agreements had to be negotiated, one with the district and one with the county, and an agreement had to be negotiated regarding the public highway. The whole process was very lengthy and the costs rose in terms of solicitors' fees with the negotiation of three agreements.

The mechanics of granting planning permission after the committee stage was also mentioned as a problem and solicitors were criticised as being 'slow and poor quality'. Developers also said that it was difficult to negotiate with local authorities in some instances, because 'if they don't like it they'll just appeal'.

The views of developers with regard to the proposed optional charge were mixed. The majority of developers agreed that, where the local authority had a clear policy for a percentage requirement of affordable housing, they were able to calculate costs up front and pass them back to the landowner. They felt that a clear local plan policy was sufficient to ensure both transparency and certainty. Nevertheless, issues were identified in relation to the speed of the process. As a nationally based developer commented:

... the main problem with the current system is the lack of resources in council legal departments ... if more resources were ploughed in and more time constraints imposed the system would be much improved.

Several developers additionally commented on the problem of a fixed charge that does not reflect the current state of the property market. However, factoring in market changes would be an added complication. The developers were also concerned that local authorities would set the optional charge too high, effectively forcing the developer down the negotiated route. Another point raised was the issue of whether the optional charge would increase the costs of the provision of affordable housing. As one developer stated:

... if I provide money or even land the local authority will still have to build the dwellings and the process will be much more bureaucratic and costly, it would be better for all if I could just provide the dwellings.

(Developer, South East)

On the issue of whether the same, or greater, quantities of affordable housing would be produced if optional charges were introduced, one developer thought not. A range of reasons were cited:

- Local authorities are poor in dealing with housing associations and landowners.
- Developers are more hard-nosed in getting better deals and generally will be more rapid in providing housing than if housing associations act as developers in their own right.
- In the current system S106 ensures a certain level of affordable housing is produced.
- Local authorities are land poor, not cash poor.
- There is currently a land shortage for building – partly linked to the slow nature in which land comes forward for development but also linked to the type of land.
- People divorce housing from the overall debate. Local authorities are keen to be seen to be meeting affordable housing need. And this is increasingly coming to be seen as more important than meeting overall housing requirements.
(Developer, national)

Another developer thought that, under the current system, many developers end up 'buying' planning consent and many local authorities are using planning policy to pay for things that are not relevant. A change to the current system could be used to formalise contributions.

A national developer thought that the optional charge would not work and it would slow down development because landowners would not release land. It would effectively be a tax on development and the impact would be that less would be produced. Another national developer said that, while an optional charge would probably be good for developers, it was clear that local authorities would not be able to get the same amounts of affordable housing.

HA views

HAs had concerns about the working of an optional charge. As might be expected, the main worry in the South of the country was access to land. At present many HAs view S106 as a mechanism for obtaining development land. If instead developers

opted to pay a charge, it was not clear how that would relate to the HAs' ability to acquire land at prices that allowed an affordable housing scheme to 'stack up'.

They also thought that an optional charge would not provide enough flexibility:

A set tariff would be hard to achieve on brownfield sites. You need to take into account the specific circumstances of development, for example the needs of the local authority and the type of site. You would not achieve the same quantities of development with a tariff.

(HA, South West)

Other concerns mentioned by HAs were that more land will be required to be released by the planning system under an optional charge. This was because at present HAs are benefiting from free or cheap land on a site bought by a developer. If instead HAs were given cash equivalent to the cost of the land, unless more land was made available, all that this cash would do was push up land prices. Enabling HAs to compete in the land market will not ensure that they can access land without an additional supply, either by increased land release through the planning system or by release of publicly owned land. One HA said that an optional charge system would work only if there was an alternative source of land supply. S106 delivers land and the problems with S106 are about lack of clarity more than anything else.

Overall, HAs felt that the current system was working reasonably well and their concerns were more about the grant regime than the optional charge *per se*. For example, one HA mentioned that what frequently happens is a site will come up 'with my name on it' through contacts in the local land market such as land agents, developers, other HAs and planning consultants, but grant is not available to purchase it. By the time grant has been made available, the price of the land has risen. A more streamlined grant system with greater certainty would ease this kind of problem. The current modifications to the grant allocation system could help.

In terms of the future, some HAs thought that more units could be built on cheaper sites, but that would just be creating new problems. Mixed communities would still be preferred to 'ghettos' of social housing so the affordable housing numbers would still not be as high as anticipated:

Increasing densities would not be sufficient to deliver greater quantities.

(HA, national)

However, there was evidence that some non-S106 sites were fairly mixed, either accidentally through integration with the existing surrounding dwellings or in planned, HA-led, mixed-tenure/mixed-affordability developments.

Another thought that S106 had resulted in a good delivery of affordable housing and has allowed a greater harnessing of the private sector to deliver this. If there was an optional charge and the public sector developed housing, it would probably find it difficult to achieve the same results (HA, London and South East).

Several HAs said that they anticipated greater problems in delivering affordable housing in the future if the Housing Corporation was not going to provide SHG on S106 sites. The problems will start with sites that have been secured on the basis of Housing Corporation funding and subsequently do not get any. As an HA stated:

... the times ahead look very challenging.
(HA, East)

Some of the HAs interviewed welcomed the optional charge. One said that S106 generally pays for the land and construction costs; however, an optional charge is better in the sense that it is clearer what the costs are. An optional charge based system will add certainty.

It is easier and clearer for developers operating in different areas with different local authorities. In theory more affordable housing should be achieved with a tariff because planning applications slow housing down. For example *[a site]* got planning permission in March and the S106 negotiations delayed it for another six months.
(HA, London)

However, another HA based in London said that S106 is more efficient because the developer is able to build all the housing. Under an optional charge they presumed that would not happen.

Interface between stakeholder views

There was significant commonality between the views of different stakeholders, as well as different views among the same group of stakeholders. Thus, while most local authorities felt that the optional charge would not lead to an increase in affordable housing, some welcomed it as providing clarity and helping to streamline the system. Equally, most developers were in favour of an optional charge because it would increase clarity and certainty, but others thought it would not be sufficiently flexible and were concerned that local authorities might set it too high. HAs were

perhaps more evenly divided. A few were strongly opposed to an optional charge because they would be unable to access land and they could not see any other benefits, while others welcomed an optional charge because it would lead to greater certainty and hence improve delays caused by lengthy negotiations.

Overall, there was considerable uncertainty about how an optional-charge system would work in practice. On balance, there did not seem to be any clear ideas about whether greater quantities of affordable housing could be obtained under the present system or whether an optional charge would help to increase provision. On the other hand, many of those interviewed from all three groups, although less so for the developers, felt that it was going to be difficult to get more out of the system, with or without an optional charge, unless grant funding for affordable housing was increased and/or enough land was somehow made available at a price that HAs could afford.

Summary

- In general, most respondents felt that the current system was working reasonably well and that it could still produce larger quantities of affordable housing.
- It was unclear how an optional charge would operate but the general view was that it would not represent any real improvement. In particular, any new system should not disturb the generally effective operation of the current policy.
- The exceptions to the conclusion that the current system was working well related to the desire for increased certainty and clarity.
- Many respondents argued that more public funding would be required under an optional charge. Some also suggested that more land would need to be made available, because otherwise the charge would simply fuel land prices.
- Both local authorities and developers were concerned about whether charges could effectively be fixed in advance at an appropriate level.
- It must be emphasised that, at the time of the interviews, the concept of an optional charge was generally understood to be in cash rather than through payment 'in kind'. Respondents' views might have been different were the system to imply that developers would contribute land (and/or dwellings) according to a predetermined set of criteria about prices and quantities.
- Doubts about the ability to set the contribution at the right level and the extent to which uncertainties would be reduced would probably remain.

6 Conclusions and recommendations

Key points

- New affordable housing provision has continued to decline in recent years. Housing Corporation data suggest that, between 2000/01 and 2002/03, output fell by a further 3 per cent – from 25,700 to 25,000. HIP data, which include renovations and acquisitions, show a larger fall of 14 per cent.
- The mix of S106 and non-S106 has been changing rapidly – from a 30:70 split in favour of non-S106 in 1999 to a 47:53 split in 2003.
- Planning permissions that include S106 agreements are now rising rapidly – so, overall, affordable output should increase over the next few years even though traditional non-S106 output is likely to continue to fall.
- Land remains the most important issue in achieving an expansion of affordable housing.
- SHG has not been a major constraint on output over the last few years – but subsidy requirements for S106 sites remain high, so any expansion in output will require further funding.
- Negotiation and partnership are also expensive in time and money– but help to make the system more acceptable to communities and to meet the mixed-tenure agenda.
- Stakeholders do not expect optional charges to significantly reduce these costs and are concerned about the possible negative impacts on land availability and social inclusion.

Conclusions

The research question revisited

This project concentrated on a core issue relating to the impact of S106 on the quantity of affordable housing being produced. Has the increased use of S106 agreements been at the expense of a decline in non-S106 sites? And, if so, does this mean that, overall, the number of affordable homes being produced is going down?

To answer this question in detail it was necessary to look at both outcomes (in terms of completions, planning permissions, etc.) and processes (how the actors involved in the development of affordable housing have been able to implement the policy). In coming to an understanding of what was happening and why, the question was broken down into three main elements.

- 1 Whether the overall quantity of land available for non-S106 provision is declining.
- 2 Whether there is evidence of competition for funding – notably SHG – such that development was being constrained.
- 3 Whether the process of negotiation and partnership is putting such heavy burdens on HAs and other actors that their capacity to meet the expansion agenda is being stretched.

A broader objective, following the earlier report, *Planning Gain and Affordable Housing: Making it Count* (Crook *et al.*, 2002), was to monitor how the policy was now operating and what stakeholders felt should be done to improve outcomes. Over the period of the research, this question developed to include an assessment of suggested modifications to the system as reflected in government policy statements. The findings of the research thus provide insights into the likely response of those working on the ground to current government initiatives, including those specified in the Barker Report.

Is overall output of affordable housing declining?

The quantity of new affordable housing has continued to fall over recent years. Using Housing Corporation data combined with HIP data to obtain a new-build figure, there was a small decline of around 3 per cent between 2001/02 and 2002/03. Using HIP data alone (which includes renovations and acquisitions) shows that, over the same period, output fell by 14 per cent, from 28,100 to 26,500. ODPM completions data suggest a fall of 19 per cent in the same period, and of 26 per cent since 1999. So, although the data sources provide different figures because of different definitions, they all point to a decline in the quantity of new affordable homes.

S106 homes are becoming a rapidly increasing proportion of all affordable completions. Between 2000/01 and 2002/03, those built with a planning agreement but without public subsidy have risen from 7 to 9 per cent of all completions. Those built with a mixture of S106 and public subsidy have risen from 23 to 39 per cent of all completions in the same period. Overall, the proportion of homes built through the planning system rose from 30 to 47 per cent of all completions. In the same period, the quantity of non-S106 units fell by 35 per cent from 21,451 in 2000/01 to 13,949 in 2002/03.

Thus both the proportions and the total of homes produced in the traditional, non-S106 route are declining. It is clear that S106 is becoming more important and that there has been a significant element of substitution between the two mechanisms for

providing new affordable housing. This has been associated with an overall decline in the output of affordable homes.

The evidence on affordable units with planning permission – the future pipeline – looks more promising. For example, in 2002/03, although only 12,592 affordable dwellings were completed, a total of 23,727 were granted planning permission. While not all planning permissions will actually be completed, total affordable housing output clearly has the potential to expand, even if non-S106 output continues to decline at current rates.

What are the constraints on expanding output of affordable housing?

The three fundamentals for increasing provision are land, the availability of subsidy from SHG and developers/owners, and management and procurement capacity to gear up to higher output levels.

Land availability

The main evidence on land supply comes from the survey of HAs together with the stakeholder interviews. While those on the front line did not generally perceive the supply of non-S106 sites to be falling, their responses to questions about the proportions of the two make it clear both that the total is declining and that the practical difficulties of finding the sites (which appear to be becoming more expensive, either because of location or the costs of remediation) are increasing. Stakeholder interviews confirmed this picture and emphasised concerns about shortages of sites. Many HAs said that the main purpose of S106 was to provide land for development, not to supplement or replace public subsidy with developer contributions.

Interviews with HAs reported that it was getting harder for them to find sites on the open market, especially in pressured areas. What was more freely available, mainly in non-pressure areas, was land in regeneration schemes. In these cases, the HA buys brownfield land from the local authority, often including existing poor-quality social-housing units on the site. Some of these require demolition and replacement while others need to be refurbished. These sites are often expensive and difficult to redevelop – although they can provide net additional new output. The funding for large-scale regeneration schemes is often separate from the SHG/S106 mechanism.

The case studies also showed that non-S106 sites were sometimes really part of a larger S106 site (although not covered by a formal S106 agreement), where a specific area had been identified for social housing. This land had also often been owned by the local authority. Most other non-S106 sites were small brownfield infill

sites in less attractive locations and difficult to develop. The evidence thus suggests that much of the declining quantity of non-S106 housing is being built on surplus public land.

The identified reduction in potential non-S106 development is now probably irreversible, given the emphasis on S106. Output could be expanded only if the public sector is enabled to make more land available or there is another major recession, which would reduce developers' profits on market housing enabling HAs to compete more effectively for private sector land. However, in current conditions, the use of SHG and planning gain together is probably increasing the overall flow of sites.

Hence HAs' output is likely to be increasingly dependent on the private housebuilding development cycle. In recent years, the buoyant state of the private market has generated more planning applications and hence more S106 permissions. In a downturn, this could rapidly reverse and, unless more non-S106 sites come forward, output levels of affordable housing would also decline.

Overall, HAs increasingly see themselves as able to gain access to land in the pressured areas only if the S106 system is working effectively. Many HAs stressed that land supply was their main constraint and that the main rationale of S106 for them is that it provides land.

Availability of SHG

The amount of investment in new affordable housing has increased in money terms over the last few years even though numbers have fallen. There has been more SHG available and there were further increases in the pipeline announced in the 2004 Comprehensive Spending Review. There is no evidence that shortage of grant has constrained development to any significant extent.

However, S106 schemes appear to require substantial amounts of SHG to make them viable. The location of market housing and the mixed-communities agenda is enabling HAs to develop in areas and on sites that they had not been able to afford in recent years. As a result, keeping the homes affordable requires both SHG and developer subsidy – and often HA contributions as well.

The statistics also show that an increasing proportion of the homes being delivered are shared ownership and intermediate market accommodation. For instance, in the South East, the proportion of shared ownership in the overall total of affordable housing rose from 9 per cent in 1999/2000 to 29 per cent in 2002/03. This could in part be evidence of the need to limit grant per dwelling in expensive areas.

The evidence from the HIP data confirms that the amount of SHG being used for traditional new build has been falling. However, HAs do not generally expect to use their own funds for this type of development – in part because land costs tend to be lower. In this context, there is some evidence from HAs of difficulties in obtaining SHG and concerns about buying land without the certainty that subsidy will be available.

If the system were able to produce the numbers of affordable homes through the planning system that are currently projected in planning permissions, lack of SHG is likely to become an increasing constraint in many areas. Currently this is being addressed (at least rhetorically) by increasing the number of S106 units provided with no SHG, often in the form of low-cost home ownership or discounted market housing as well as by building smaller units. But proportions of S106 dwellings requiring SHG to make them financially viable are still rising and there is also evidence of a clear trade-off between scale of grant and numbers achieved.

Negotiation and partnership

HAs agreed with developers and local authorities that the negotiations associated with S106 agreements create delays, which are costly to all parties. HAs suggested that the situation was made worse by the fact that they are often brought into the S106 negotiations only at the last minute whereas, if they were involved earlier, their knowledge and skills could be helpful in speeding up the final agreement. A more streamlined grant system would also help delivery through S106.

HAs also stated that considerable resources are used in finding non-S106 sites. They have to ensure that they are well-known to local actors in the land market so that, when a site comes up, land agents and others know that the HA is likely to be interested. Because land availability is so unpredictable, a more flexible grant system is necessary to enable them to purchase sites whenever they come on the market. Land purchase following on from grant allocation can often be more expensive.

There were some examples of very good practice. This included having an extremely clear policy; involving all parties, especially HAs, in the negotiations at an early stage; and using standard S106 agreements. Even so, evidence of the extreme variability across individual sites makes it difficult to see how the time taken can always be reduced. At the same time all parties now appear more comfortable with the policy. In particular, there was a sense that the framework is now in place and therefore it is possible to negotiate ‘proper’ prices for land.

Stakeholder views

On the current system

The current system was initially strongly resisted by developers. Over time, and in the context of rising house prices, the whole process has become more acceptable to all stakeholders, in part because the sustainable development and mixed communities agenda has widespread appeal.

Tensions from developers remain. These range from the simple fact that, if affordable units take up a portion of a site there will be fewer market houses and so smaller profits, to perceptions of social-sector tenants as making sales more difficult. In response to these concerns, there is evidence that the types of market housing provided are modified so that they sit more acceptably next to social housing. In other cases, the physical separation of the two tenures on site goes against strict mixed-community objectives but can be seen to fit with mixed neighbourhoods over a wider area. The problem of service charges for apartments has not been solved and there is some evidence that management costs are higher where social housing is fully integrated on a market site.

On policy proposals

The Government's new proposals as understood by stakeholders at the time of our research would address the desire by developers for greater certainty and perhaps enable them to provide more purely market developments. A tariff (now optional charge) approach would be more formulaic, like some other planning gain contributions, and easier to take into account when negotiating land prices. However, the specific nature of individual sites makes it very difficult to assess the charge *ex ante* and especially to determine an acceptable average payment. There is a risk that it will be too high for some circumstances and too low for others – leading to a lower overall take, as developments would be held back in areas where it was too high.

HAs and local authorities felt that an optional charge approach would make it even more difficult to gain access to land. In particular, it was expected to reduce the extent of on-site provision and so increase the need to purchase land elsewhere. Respondents felt that the overall cost would be higher and that the mixed-communities agenda would be under threat.

Developers were broadly in favour of an optional charge approach but not overwhelmingly so. Some were concerned that it would alter their capacity to negotiate an appropriate planning brief. However, all parties said that such a system would not remove the need for negotiations, since they take place over all types of planning gain as well as about the layout and design of the site.

There are serious concerns under an optional charge system about the price and availability of land for non-S106 development by HAs. With off-site provision under S106, the HA should get the land at the S106 price, i.e. at a discount from the market price. But, with an optional charge or a commuted sum, housing associations have to bid for land in competition – assuming an open land market – with other developers who would be able to pay more because they would be developing mainly market housing. The site would then have a Section 106 on it and the whole process would begin again. The evidence suggests that the majority of non-S106 sites that are now being developed are either in reality part of a larger S106 scheme or are purchased from the public sector. Land to meet off-site requirements cannot easily be purchased on the market and the only way forward would therefore be for public bodies to continue to supply land to housing associations at a price they could afford.

Recommendations

How to make the current system work better

For central government and the Housing Corporation

- Some stakeholders see the objective of the policy as fundamentally to provide land; others as mainly a funding mechanism. This research shows that currently it remains more a mechanism for providing land. However, with greater clarity in policy and good practice at all levels, it could be more effective at both. The Government needs to affirm in its new Planning Policy Guidance that it sees S106 as a mechanism for both providing land for affordable housing and ensuring a contribution is obtained from land values.
- Increasing dependence on S106 for the provision of land for affordable housing makes the whole system more vulnerable to the economic cycle. There is a strong case for maintaining a significant element of non-S106 provision – which is likely to depend mainly on making publicly owned land available.
- In line with the recommendations of the Barker Review, more land for housing should be released. Land release cannot be confined to the planned growth areas, because a lack of development land in other pressured parts of the country continues to fuel land and house prices, and to increase affordability problems.
- An improved mechanism for monitoring the costs and funding of S106 units would aid the development of a more efficient system. Because each agreement is unique this is not a simple matter – but, without a clear evidence base, neither good practice nor adequate funding can be made available.

- The Government should accept that a mixed-communities agenda is not costless. Transferring affordable housing to less desirable off-site locations can sometimes reduce direct costs but may increase social exclusion.
- More government funds need to be made available for affordable housing. Developer contributions cannot be expected to fill the gap. The recent Spending Review added £4.1 billion to housing, concentrated mainly on providing affordable housing in the new growth areas in the South – but this will not be adequate to fund a growing pipeline of planning permissions.
- The Government has made some progress in bringing together planning and housing at the regional level. Until this works more effectively the expansion agenda cannot be achieved.

For local authorities

- Negotiation skills still need to be improved. This can be aided by the introduction of a dedicated planning and housing team, who work together on S106 provision. Where authorities already have such a system in place, it tends to be working well.
- Local authorities should set out their S106 requirements more clearly in their Local Plans. This can be difficult where a new Plan is in the process of review but, where the policy is clear, there is a much greater chance of reducing delays and reaching successful conclusions.
- Local authorities should ensure that they have a public list of S106 priorities and should be careful during negotiations to avoid imposing extra requirements that would make development unviable.
- The speed of planning decisions needs to be increased. While there is evidence that developers may contribute to delay on occasion, it is also clear that the planning process plays a part. Slow decision making does not necessarily lead to better decisions.
- Local planners need to enable truly mixed communities. This can sometimes be achieved more easily at the neighbourhood level than on the individual site.
- On large sites it should be possible to meet the sustainable communities goal on the entire site with a mix of tenures, including different kinds of affordable housing, intermediate renting, shared ownership and low-cost market housing as well as full market value property. Planning briefs covering the whole site should be developed on these terms.

For HAs

- HAs need to be involved earlier in the S106 policy process, as this can significantly speed up the process. They could also benefit from longer-term strategic partnerships with developers, enabling them to work together so that land and funding are brought together at site level.
- There is existing good practice among HAs that others ought to follow. This includes the ability to act more like market developers in terms of managing risk and land banking. However, it is recognised that smaller HAs may not be in a position to maximise these approaches.
- A more positive image for social housing should be promoted, in partnership with developers. By advertising successful schemes, HAs can help assure local and potential residents that new social housing does not blight neighbourhoods.

For developers

- Developers should accept that they have an obligation to contribute towards affordable housing provision.
- Developers should be more prepared to share scheme-specific information for financial appraisal at least with local authority surveyors if not publicly.
- Developers should work together with local authorities and HAs to design appropriate planning briefs to create sustainable communities with a range of tenures. All such dwellings could share architectural style and design and thus contribute to the policy goals.

Helping the new approach to work

Here our comments are in the context of a system of optional charges within the new development plan framework.

- Ensuring that the optional charge is levied on small sites and even on non-residential sites makes a great deal of sense. In many cases, however, because of cost, the affordable housing might be built elsewhere.
- Setting an average optional charge across an area ignores the vast variation between individual sites. This could mean that fewer affordable homes are actually secured. If, as an alternative, a charge is set for each site (or for classes of sites), this will require a high degree of precision, potentially leading to delays

in producing and securing approval of the plans. It is also not clear that local authorities have access to enough information to be able to set such detailed variations.

- It is probable that negotiations will still have to occur on a large number of residential sites – especially if affordable housing provision is still to be on site. Hence, much of the apparent certainty relating to optional charges is likely to be illusory.
- The scale of the optional charge that is for affordable housing, as compared to other elements of planning gain, will still be subject to negotiation within the local authority. This will be true even if the Barker recommendations are put in place, whereby only costs immediately related to the development and affordable housing will be funded through S106.
- The Government will have to ensure that sufficient land is available to HAs at a price they can afford under an optional charge, just as under the present system. This is particularly crucial if more provision is to be made off site, given our evidence that non-S106 sites are both difficult to obtain and expensive.
- Crucial issues include:
 - the extent to which the new development plans make adequate provision for land for new residential development
 - the extent to which the proposed merging of regional housing and planning bodies can ensure co-ordination of both housing requirements and funding at a regional level
 - the extent to which these requirements can be matched by site and SHG allocations at the local level.

Optional charges: pros and cons

- The benefits of an optional charge approach should be greater certainty and greater transparency. There is a sense in which negotiations over affordable housing currently take place behind closed doors.
- However, the variability in sites and the difficulties of determining the optional charge across areas is likely to make it difficult to realise these benefits.

- Potentially, more could be achieved out of an optional charge system with off-site affordable housing provision – because the developer makes the full profit on the market units and hence can provide more through the charge than through negotiated contributions to on-site provision. But this assumes that HAs can find land and build the units required at reasonable cost.
- The changing planning context, with greater certainty in local development plans, greater consistency between regional policies and local policies, is likely to make the existing negotiating system work better. Paradoxically, the introduction of an optional charge could actually tend to frustrate this by requiring far too much detail before the event.

Notes

Chapter 1

- 1 Defined as the uplift in land value associated with the development process (ODPM, November 2004, p. 7).

Chapter 2

- 1 These data were adjusted to take account of non-responses particularly from HAs lacking data on the initial two years. They were also adjusted to take account of data from one or two HAs with very large annual development programmes, which swayed the overall results.

Chapter 3

- 1 The Housing Corporation records the number of new-build completions funded through the Annual Development Plan (ADP), Local Authority Social Housing Grant (LASHG) and other sources of public funds including Safer Communities and the Rough Sleepers Initiative. Homebuy and the Starter Home Initiative are excluded because they do not involve the construction of new affordable units.
- 2 Housing Strategy Statistical Appendix (HSSA) Section N data was used to give: (a) all new affordable housing completions/acquisitions (outturn); (b) additional affordable housing through planning policy – total completions; and (c) additional affordable housing through planning policy – units with no support. From (a), (b) and (c), the breakdown in funding was calculated. The mixed funding category shown in the 2002/03 dataset was not used in these calculations. Figures exclude additional affordable ‘other private’ sector dwellings (which include those new or acquired additional private sector dwellings sold at a discount or those provided by HAs for outright sale, e.g. Homebuy) because of recording issues.

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Appendix 1: Notes on the data and methods

Secondary data sources

The research discusses the following three ways by which affordable housing is funded:

- 1 through the planning system with the use of S106 agreements
- 2 with Social Housing Grant (SHG), Local Authority Social Housing Grant (LASHG) or other public funds
- 3 with a mixture of (1) and (2).

In order to determine the interactions of these funding mechanisms both regionally and over time, we can use data from the Housing Investment Programme (HIP) and the Housing Corporation (HC).

HIP data are sourced from local housing authority returns to ODPM. The analysis relies on the accuracy of authorities' records with respect to S106 agreements and as far as approvals are concerned, and it relies on the accuracy of building control staff for records of actual completions of new dwellings in all tenures. As noted in our previous research (Crook *et al.*, 2002), many local authorities do not keep accurate records of units secured, approved or granted planning permission and this will introduce inaccuracies. There have also been problems with the definitions used in the HIP returns. In 1998/99, the definition used was 'secured'; this changed to 'approved' in 2000/01 and 'granted planning permission' in 2001/02. For this analysis, the figures relating to units 'granted planning permission' are used and compared to the numbers secured and approved in 1998/99 and 1999/2000.

These definitions have additionally been interpreted in different ways by different authorities. The terms are supposed to relate to the numbers of affordable units specified in completed S106 agreements. Some authorities, however, recorded those units only in S106 agreements that had actually been completed, while others included those units that were likely to be secured but were still under negotiation. Evidence from the previous project (Crook *et al.*, 2002) suggested that the HIP figures overestimated the provision in the northern half of the country but underestimated the number of units in the South East and London.

The HIP data are useful for looking at patterns of funding (proportions of dwellings funded by S106 alone, a mixture of public and private funds, and purely public funds) rather than overall completions. This is because they include renovations of non-

affordable dwellings and affordable dwellings of different tenures. Obviously the inclusion of renovations is likely to produce a considerably higher figure than completions alone. However, the HIP data do not include affordable dwellings that have been renovated from existing affordable dwellings of the same tenure.

The primary data collection

The practical application of the policy was assessed using four sources of information collected as part of the research:

- 1 analysis of case-study sites
- 2 in-depth telephone interviews with 28 HAs
- 3 interviews with housing and planning staff
- 4 a survey of HAs covering 381 associations across the country.

Analysis of case-study sites

The mechanisms for achieving affordable housing were assessed on a selection of 28 affordable housing sites in 16 case-study areas.

These include sites with affordable housing provided:

- on site through S106 agreements
- off site through S106 agreements
- without the use of S106.

In-depth telephone interviews with 16 HAs

In-depth telephone interviews were carried out with a sample of 16 HAs from across the country to determine how they are bringing forward housing, obstacles to developing further and the impact of S106 on land and financing.

Interviews with housing and planning staff

Face-to-face interviews were carried out within 16 local planning authorities to explore in more detail the way that affordable housing policies have been implemented.

A survey of HAs covering 381 associations across the country

The design of the HA survey followed an initial review of the literature and previous project findings, and was then piloted on ten HAs – three in the Cambridge area, one in York, one in Sheffield and the remaining five in the South East. Pilot responses were then incorporated into the redesign of the questionnaire.

The sample frame was the 381 HAs that the National Housing Federation (NHF) recorded as developing, ranging from small HAs with less than ten units in development to large HAs with over 1,000 (see Table A1.1 for questionnaire survey response rates).

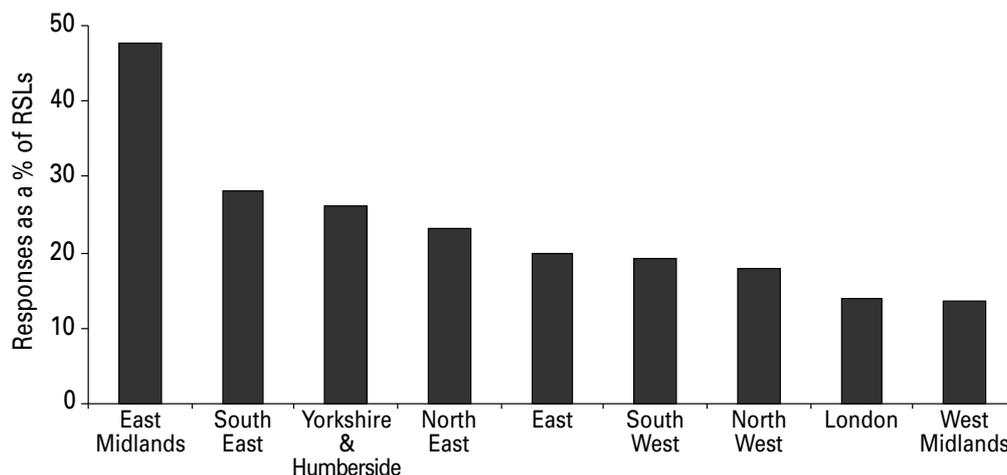
The questionnaire replies show that the majority of HAs are not currently active in new development even though they are recorded as being so by the NHF. The 87 replies from developing authorities provide an acceptable number of responses on which to base our analysis, although the usual caveats apply to analysis on this limited number of questionnaires.

Table A1.1 Questionnaire survey response rates

	Number	Per cent of total HAs	Per cent excluding non-developing HAs
No reply	140	37	
Reply: HA not developing	162	43	
Reply: completed	79	21	36
<i>Replies: total</i>	<i>241</i>	<i>63</i>	

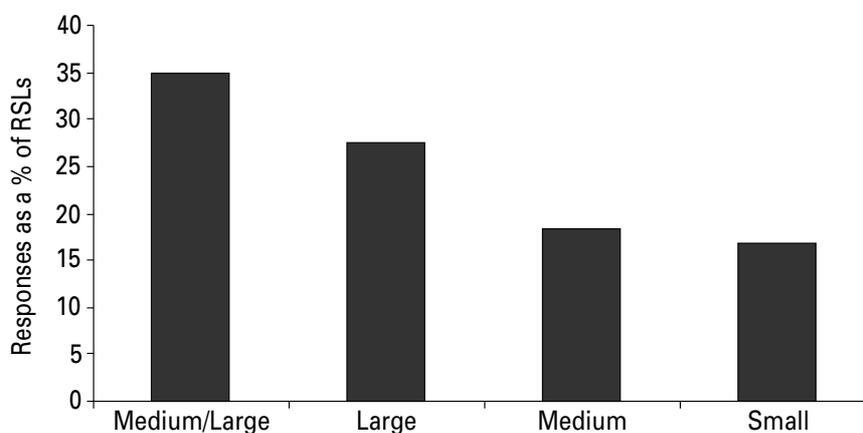
Figure A1.1 and A1.2 show a breakdown of responses by main region of operation and HA size. The responses represent a fairly good cross-section of the overall sampling frame.

Figure A1.1 Respondents to questionnaire as a percentage of total HAs in region*



* The region given is the main operating region of the HA as recorded on the NHF database.

Figure A1.2 Respondents to questionnaire as a percentage of total HAs by size* of organisation



* HA sizes are taken from the NHF database.

Appendix 2: The 28 case-study sites

The 28 case-study sites included the detailed examination of seven non-S106 sites (Table A2.1). All of these sites are brownfield and received fairly high levels of Social Housing Grant to make them viable.

Table A2.1 Summary of the non-S106 sites examined in the case studies

Example number	Site number						
	4	5	8	19	20	21	24
Example 1	Example 2	Example 3					
LA	Tower Hamlets	Tower Hamlets	Swindon	Derby	Derby	Derby	Fareham
Local plan policy	25% on site 33% off site	25% on site 33% off site	30% AH*	20-30% AH	20-30% AH	20-30% AH	25% AH
Type of site	Industrial/ commercial	Redevelopment	Brownfield and remediation	Brownfield	Car park	Brownfield	Brownfield
Original landowner	Private	Private	HA	Private	Council	Private	Borough
Land transfer costs	NA	Free	Discounted	Market	Nominal	Market	?
Number of affordable units	40	48	8	18	2	12	22
Tenure	Social rented	Supported housing	Social rented	Social rented	Social rented	Discounted market for older people	Social rented
TSC per unit (£)			82,904	81,191	84,228		103,963
SHG (£)			44,422	34,190	59,953		49,377
LASHG (£)			0	1,364	0	11,857	0
Safer Communities (£)			32,859	0	0		0
HA (£)			0	45,637	24,275		36,803
Developer (£)			NA	NA	0		NA
Shared ownership sales (£)			5,625	0	0	0	5,929
Other subsidy (£)							
Notes		Funded by SHG and LASHG					

* In plan on draft deposit only.
AH = affordable housing.

In comparison, the S106 sites in Examples 4 and 5 are part of large greenfield developments. Example 6 is interesting because the local authority, Tower Hamlets, used the S106 agreement off site to increase the number of affordable houses on what would have otherwise been a non-S106 site. In addition, an on-site contribution was achieved to give in total 27 per cent affordable housing.

There is an important distinction to be made between on-site and off-site S106 agreements. Table A2.2 outlines the details of four S106 sites where the affordable element was completed off site. Site 1 is the off-site element of a very large waterfront development in Tower Hamlets. Although a substantial number of affordable houses were completed on site, the local authority asked the developer to help fund 20 S106 units and provide land for a further 65 affordable units, which were also funded through Safer Communities and SHG. The impact of the S106 on the off-site scheme was to increase the number of affordable units on the site. Previous versions of the scheme rested on cross-subsidy from sale units on the site. The on-site element of Site 2 was located on a busy road. The off-site element was located across the road to ease management problems for the HA and because the road site was considered dangerous for young families.

Table A2.2 Summary of the off-site S106 agreements examined in the case studies

Site number	1	2	11	18
Example number	Example 6	–	–	–
LA	Tower Hamlets	Tower Hamlets	Swindon	Derby
Local Plan policy	25% on site 33% offsite	25% onsite 33% offsite	30% AH*	20–30% AH
Nature	Brownfield (not remediation)	Derelict flats	?	Car showroom
Original landowner	Private	HA	Developer	Developer
Land transfer costs	Free	Sold to developer	Discounted	Discounted
% affordable	27% on site and off site	25%	?	?
Number of affordable units	20 off site, 213 on site	8	10	14
Tenure	Social rented	Rented	Shared ownership	Shared ownership, rented
TSC per unit (£)	90,417		130,030	61,310
SHG (£)	31,614 (on non-S106 units)		0	9,656
LASHG (£)	0		0	0
Safer Communities (£)	19,006		0	0
HA (£)	4,350		53,303	33,876
Developer (£)	35,447		40,000	0
Shared ownership sales (£)	0		83,367	17,778
Other subsidy (£)	0		0	0

* *In plan on draft deposit only.*

Sites 11 and 18 were very similar and were both identified initially by the HA. In both cases, the local authority put forward the site to be an off-site contribution for developments elsewhere in the borough.

The on-site S106 agreements make up the majority of the examples (see Table A2.3 for a summary). A much larger proportion of these sites are greenfield and the percentage affordable achieved varies widely from 62 per cent on a village site in Huntingdon to 17 per cent for a large greenfield site in South Lakeland. The percentage achieved appears to be largely reliant on the strength of the Local Plan and negotiations. For example, on Site 25, where only 10 per cent was achieved, the local authority stated that the Local Plan was very weak and had a time horizon only to 2001. However, on Site 7 in Swindon, a high percentage of affordable housing was achieved because the site was on the edge of a council estate in a low-demand area and the developer wanted a guaranteed sale to an HA. On the majority of sites where we know the land costs, the subsidy was through a discount in land value.

Table A2.3 Summary of the on-site S106 agreements examined in the case studies

Site number	LA	Local Plan policy	Nature	Original landowner	Land transfer costs	% affordable	Number of affordable units	Tenure
3	Tower Hamlets 33% offsite	25% onsite	Power plant	Private	Free	25	187	Shared ownership and social rented
7	Swindon	30% AH*	Greenfield	Local authority		60	166	Shared ownership, rented, key worker
9	Swindon	30% AH*	Ex-hospital	NHS	Best Value	25	100	Rented, shared ownership
10	Swindon	30% AH*	Industrial estate	Private	?	30	120	LCHO (low cost home ownership)
12	Litchfield (Example 5)	25%	Greenfield	?	Discounted	18	13	Social rented
14	South Lakeland	20% AH	Greenfield	Private	Market	17	33	Rented
15	South Lakeland	20% AH	Greenfield	Private	?	?	24	Rented
16	Derby	20-30% AH	Caravan sales	Developer	Market	27	22	Rented
17	Derby	20-30% AH	Conversion	Developer	?	30	30	Shared ownership, key worker
22	Reading	50% AH	Brownfield	Developer	Market	20	20	Social rented
23	Fareham	25% AH	Greenfield	County council	Discounted for S106	27	21	Rented, key worker
25	Swindon	30% AH*	Greenfield	Mixed	?	10	28	LCHO, rented, shared ownership
26	Huntingdon	29% AH	Greenfield	Private	Discounted	62	8	LCHO
27	Huntingdon (Example 4)	29% AH	Greenfield	Private	Discounted	28	15	Social rented
28	Huntingdon	29% AH	Ex-hospital	Developer	Nominal	17	23	Social rented, shared ownership

* In plan on draft deposit only.
LCHO = Low cost home ownership.

