



REPORT

# Improving local areas through developer funding

Ministry of Housing,  
Communities & Local Government

# Key facts

There are two main ways that developers can contribute to the provision of local infrastructure:	
<b>Section 106 agreements</b>	<b>Community Infrastructure Levy (CIL)</b>
bespoke arrangements negotiated between developers and local planning authorities (LPAs) through the planning system	a discretionary charge on new development to fund infrastructure, at a set rate, as stated in a CIL charging schedule
44% of affordable homes were delivered through Section 106 agreements in 2023-24	52% of LPAs were operating a CIL in November 2024
<b>£5.5 billion</b>	estimated value of developer contributions (via Section 106 agreements and the CIL) in published infrastructure funding statements covering 2022-23, according to analysis by the Ministry of Housing, Communities & Local Government (MHCLG)
There are challenges within the system:	
<b>58%</b>	proportion of local authorities that experienced difficulties recruiting planning officers in 2022, according to a survey conducted by the Local Government Association
<b>86</b>	number of LPAs, out of 308, that had an up-to-date local plan (less than five years old) as at February 2025
<b>17,400</b>	number of affordable homes funded through Section 106 agreements with detailed planning consent that had no buyer in October 2024, according to a survey by the Home Builders Federation
MHCLG is aiming to make the system more effective:	
<b>£14.2 million</b>	amount of MHCLG funding for local authorities across 2023-24 and 2024-25, to help them tackle backlogs in planning applications and boost their internal capacity and capabilities
<b>£28 million</b>	amount of MHCLG funding in 2024-25 to support local authorities carrying out local plan delivery and related work
<b>£13.5 million</b>	amount of MHCLG funding for a team of built environment specialists offering centrally coordinated planning and enabling direct support to LPAs
<b>December 2024</b>	date when Homes England began the Section 106 Affordable Housing Clearing Service, which aims to facilitate the sale of uncontracted and unsold affordable homes across England

# Summary

- 1** Before starting to construct houses or other buildings, developers must generally apply for planning permission. The Ministry of Housing, Communities & Local Government (MHCLG) sets national policy for the planning system, mainly through the National Planning Policy Framework (NPPF) and accompanying planning practice guidance. Administering the planning system is largely devolved to local planning authorities (LPAs), including preparing local plans, which set out policies and proposals for new development, determining planning applications and enforcing planning obligations.
- 2** LPAs can require developers to make financial or other (in-kind) contributions to them as part of the process of granting planning permission. These ‘developer contributions’ ensure the impacts of development are appropriately mitigated, and the right infrastructure is in place to support new development. They can include affordable housing, and infrastructure such as new roads, health facilities, schools and open spaces. There are two main ways an LPA can secure developer contributions.
  - The LPA enters a negotiated Section 106 agreement with developers, requiring them to deliver certain ‘planning obligations’ to make a development acceptable in planning terms.
  - The LPA imposes a Community Infrastructure Levy (CIL) on new development. Developers must pay the CIL if the LPA has chosen to set a charge in its area.

## The scope of our work

- 3** We reported on these elements of the planning system in 2019.<sup>1</sup> We found the developer contributions system was complex and not working effectively to maximise the amounts collected, with developers able to negotiate lower contributions on the grounds of financial viability.<sup>2</sup> MHCLG was introducing some reforms to improve the system’s effectiveness, but acknowledged they would not take effect for several years.

<sup>1</sup> Comptroller and Auditor General, *Planning for new homes*, Session 2017–2019, HC 1923, National Audit Office, February 2019.

<sup>2</sup> Viability assessments are financial appraisals that establish whether a site is viable by examining whether the value likely to be generated by the development is more than the cost of developing it, including a profit for developers.

**4** We are returning to this topic now that the current government has chosen not to implement a previously proposed mandatory infrastructure levy which would have largely replaced the current system. It has also made several changes to the planning system to accelerate housebuilding and deliver its commitment to build 1.5 million new homes over this Parliament. This report assesses whether MHCLG is overseeing an effective and efficient system of developer contributions that delivers the intended benefits.

- Part One sets out how the system works and MHCLG's oversight of it.
- Part Two examines challenges within the system.
- Part Three assesses MHCLG's actions to make the system more effective at delivering the intended benefits.

**5** This report focuses on the developer contributions system in England. While it sets out how developer contributions operate within the wider planning system, it does not comment in detail on housing targets or the effectiveness of the planning system in general. There are other sources of funding for infrastructure, such as the Housing Infrastructure Fund, which are also outside the scope of this report.

## **Key findings**

### Understanding the developer contributions system

**6 Developer contributions are important for delivering public benefits from new developments, but they have significant limitations.** Section 106 agreements set out the terms under which developers will provide or fund affordable housing, infrastructure and services associated with a particular development to mitigate its impacts. They are well established and responsive to market conditions, but since they are individually negotiated, they are also resource-intensive, often complex and can lack transparency. In contrast, the CIL is transparent and can be charged on new development to fund a wide range of infrastructure, but cannot be spent on affordable housing. Its strength lies in the fact that LPAs can spend it across the local area, and it does not need to be directly related to a specific site. In addition, they can pool receipts with other CIL-charging authorities to fund larger projects, provided that this meets the requirement to support the development of their area. However, there is lower take-up in areas with lower land value, as LPAs may not want to risk disincentivising developers from building in the area by adding an additional charge where their profits may already be less than in areas with higher land values. Additionally, the CIL can be expensive, resource-intensive and time-consuming to set up, creating a barrier to introducing it. In November 2024, some 162 LPAs (52% of the total) were operating the CIL (paragraph 1.7, and Figures 1 and 2).

## **7 Fewer LPAs have an up-to-date local plan than when we last examined**

**this topic.** As at February 2025, only 86 LPAs – less than a third of the total of 308 – had a local plan that was less than five years old, setting out their strategy for meeting the need for new homes and expectations for developer contributions. This figure is down from 149 when we reported in February 2019. If an LPA does not have an up-to-date local plan, it may be unable to coordinate the appropriate amount of developer contributions and risk not delivering the new homes it needs in the right location to meet local demand. Some LPAs told us that producing a local plan is time-consuming, resource-intensive and complex. MHCLG – through the Secretary of State – has infrequently challenged LPAs that do not have an up-to-date-plan. However, in February 2025, MHCLG published new criteria under which it will intervene to ensure that local plan intervention action is “targeted, swift and proportionate” (paragraphs 1.10 to 1.15, and Figure 4).

## **8 Multiple government departments, agencies and local public bodies have a role in the developer contributions system, and MHCLG’s oversight is light-touch.**

MHCLG oversees the planning system through the NPPF and accompanying guidance. As the planning system is administered by local government, LPAs are responsible for securing contributions and ensuring developers comply. But MHCLG has the power to take over the decision-making process from LPAs for individual planning applications (through a process known as ‘call-in’). Because of the Secretary of State’s statutory role in the planning system, even where the LPA remains the decision maker, MHCLG cannot comment on a local planning matter or advise on individual cases. Infrastructure providers, including agencies and arms-length bodies sponsored by other government departments, make a case to secure a share of developer contributions to help fund infrastructure locally, such as health facilities, schools, roads and environmental projects. Departments have mixed views on the quality and timeliness of MHCLG’s communication. MHCLG is considering establishing a ‘standing forum’ on developer contributions, in addition to existing forums, to share information, discuss relevant policy updates and identify areas of overlap (paragraphs 1.16 to 1.19).

## **9 Changes to the planning system continue to impact the effectiveness**

**of developer contributions.** Successive governments have undertaken reforms of the planning system. Most recently, the current government reformed the NPPF, which included creating a new method for assessing housing need, and introducing mandatory housing targets and new ‘Golden Rules’ for developing housing on land within or released from the Green Belt. As a result, most areas have seen their housing targets change. Some targets have increased significantly, which has made local plans redundant and will generate a significant additional infrastructure requirement. While MHCLG consulted on changes to rules about assessing the financial viability of sites for developers in relation to delivering the Golden Rules, it adopted an alternative approach after consultation (paragraphs 1.21 to 1.25, and Figure 5).

## Challenges within the developer contributions system

**10 Beyond those relating to affordable housing, MHCLG does not have accurate or timely data on developer contributions, so it does not know if the system is delivering benefits as intended.** Local authorities in receipt of Section 106 monies or the CIL must publish infrastructure funding statements (IFSs) annually, setting out a report relating to the developer contributions collected and spent in the previous financial year. These are the main source of data about developer contributions and are intended to provide transparency on the infrastructure and affordable housing that is expected to be delivered. MHCLG paused its plan to create a national IFS database to prioritise work on infrastructure levy reforms, meaning information at national level is limited. MHCLG has conducted internal, unpublished reviews of IFSs for the financial years 2019-20 to 2022-23, but they do not capture information for all authorities, or the value of 'in-kind' contributions where the developer builds the infrastructure instead of providing a financial contribution, other than the number of affordable housing units agreed. MHCLG therefore lacks a comprehensive picture of how much LPAs collect, and more importantly, how they are spending the monies. This can make it difficult for MHCLG to carry out its stewardship role sufficiently and ensure oversight of the system. MHCLG analysis of published IFSs estimates the value of developer contributions agreed during 2022-23 at around £5.5 billion. By contrast, MHCLG has good data on the supply of affordable housing, including the proportion delivered through Section 106 agreements (paragraphs 2.3 to 2.8 and Figure 6).

**11 For developments to take place, it is important to ensure they are financially viable, but viability assessments can be manipulated by developers.** The assessments that developers produce are financial appraisals that establish whether a site is viable, by examining whether the value likely to be generated by the development is more than the cost of developing it. Guidance states that an assumption of 15% to 20% of gross development value may be considered a suitable return to developers, in order to establish viability for plan purposes and for individual negotiations. A lower figure may be more appropriate, for example in the delivery of affordable housing. Issues with the process include that:

- assessments are difficult for LPAs to challenge, since they do not know if costs included by developers are realistic and reasonable; and
- larger developers have the resources to employ consultants and legal experts to find ways to negotiate contributions down.

MHCLG acknowledges that practice guidance on viability is too simplistic. It is planning to publish updated guidance in 2025 (paragraphs 2.9 to 2.12).

**12 Many LPAs face staffing issues, hampering their ability to negotiate with developers and deliver infrastructure efficiently.** There is an imbalance in capacity and capability between the public and private sector, and larger developers generally have access to specialist negotiating skills. Some LPAs rely on external consultants to provide expertise, but there are perceived conflicts of interest, as consultants sometimes work both for LPAs and developers. Sector stakeholders told us shortages within LPA planning teams are largely due to the working environment, caseloads and pay, with many experienced planners finding opportunities in the private sector more attractive (paragraphs 2.13 to 2.16).

**13 There is a growing problem with registered providers of social housing (RPs) not buying affordable homes from developers, which risks constraining housing supply.** Section 106 agreements have become an important way to deliver affordable homes, with around 27,700 affordable homes (44% of the total number of new affordable homes) provided this way in 2023-24. Developers rely on bids from RPs to buy the affordable homes they deliver. The reasons that MHCLG, Homes England and other stakeholders perceive for some RPs' declining interest include a number of rising costs negatively impacting their financial position, concerns about the quality of homes, mismatched expectations about price, and a lack of transparency about the availability of homes for sale. This issue represents a risk to the government's aim of increasing overall housing supply, since having unsold Section 106 homes can sometimes stall whole developments (paragraphs 2.17 to 2.20 and Figure 7).

**14 There are valid reasons why developer contributions remain unspent by LPAs for some time, but they can sometimes be reclaimed by developers.** In 2024, the Home Builders Federation estimated that local authorities in England and Wales held over £8 billion of unspent developer contributions. LPAs told us the money is accounted for and normally allocated to projects. Spending it can be a slow process because infrastructure projects may take years to deliver, and the money is spent at trigger points in developments, not all at the start. In addition, LPAs often need to source additional funding for projects, and they may choose to retain the monies to ensure they spend them on the right facilities at the right time. If Section 106 contributions are not spent as agreed, they may be returned to developers (paragraphs 2.21 to 2.24).

## Improving the developer contributions system

**15 The previous government intended to introduce a mandatory infrastructure levy, largely replacing Section 106 agreements and the CIL, but the levy is not being taken forward.** MHCLG set out its intentions in August 2020, and the expected benefits included preventing developers from negotiating down their contributions by setting the levy at a fixed level; accelerating the delivery of projects; and allowing LPAs to benefit from increases in land value by calculating the contribution once a project is complete. MHCLG planned to introduce the levy through a ‘test and learn’ process over a 10-year period. However, many stakeholders raised concerns about the design of the levy and transitional arrangements. In July 2024, following the general election, MHCLG announced it would not implement the new levy, but would instead focus on improving the existing system (paragraphs 3.2 to 3.4).

**16 MHCLG has launched targeted programmes that may help address some of the issues with the system.** The Planning Capacity and Capability Programme, launched in summer 2023, generally consists of relatively small-scale or exploratory initiatives designed to improve the pipeline of planning professionals in local authorities and enhance their skill levels. The New Homes Accelerator programme, initiated in July 2024, aims to assist new housing schemes that are progressing too slowly, focusing on selected developments with over 1,500 homes. In December 2024, Homes England began the innovative Section 106 Affordable Housing Clearing Service that allows developers to upload details of affordable homes for which they have been unable to find a buyer, and encourages buyers and sellers to connect and build new partnerships. By the end of February 2025, some 110 developers, 183 RPs and 110 local authorities had signed up to the service. But only around 600 uncontracted homes had been listed, which is far below the figure of around 17,400 that exist across the country according to a survey by the Home Builders Federation (paragraphs 3.5 to 3.12).

**17 It is challenging for MHCLG to draw broader insights from IFSs, given the inconsistency of information included in them.** The Planning Advisory Service produced guidance and a template, and with MHCLG ran workshops for local authorities, on how to produce an IFS. But MHCLG does not prescribe how IFSs should be presented, so authorities can produce them in a wide range of different formats and with varying levels of detail. LPAs are also not required to notify MHCLG when they have produced an IFS, or to send it to MHCLG, leading to a manual and inefficient collection process. LPAs that we spoke to believe it would be valuable for MHCLG to provide more accessible insights into how developer contributions are being used, and draw out examples of good practice for other LPAs to follow (paragraphs 2.3, 2.6, 3.13 and 3.14).



**18 While MHCLG provides a range of support, some LPAs would value more direct engagement on developer contributions and related matters.** MHCLG issues detailed planning practice guidance on a wide range of topics, including Section 106 and the CIL. The Planning Advisory Service, which MHCLG funds, works with LPAs on planning matters, and is particularly concerned with supporting the governance of developer contributions and infrastructure planning. However, several LPAs commented that they would value a way to engage with MHCLG more directly (paragraphs 3.6 and 3.15 to 3.18).

## **Conclusion on value for money**

**19** Developer contributions support the delivery of vital new infrastructure and affordable housing for local areas, but they have significant limitations. Current policy is not reliably delivering the infrastructure funding required for new developments, even where it may be financially viable to do so. Additionally LPAs are stretched, both in terms of finances and skills, meaning they are often unable to effectively challenge developers. The number of planners leaving the public sector and the resulting vacancies make these challenges more acute.

**20** While MHCLG has updated the NPPF and targets for housebuilding, it is yet to update financial viability guidance. Issues affecting registered providers are continuing to affect the delivery of affordable homes through Section 106 agreements, although Homes England has implemented a basic coordinating service to try and help improve this. Asymmetries of skills and resources between LPAs and larger developers, the complexity of financial viability assessments, and a lack of coordinated support from central government, all need to be addressed for these challenges to be overcome. Until they are, we cannot conclude that the current approach represents value for money.

## **Recommendations**

**21** In the short term, we recommend that MHCLG should:

- a** introduce standardised templates for Section 106 documentation, and consider introducing templates for agreements, to reduce the amount of work for LPAs and improve consistency across areas;
- b** amend the requirements relating to the content and presentation of IFs, in order to make them more consistent and accessible for the purposes of local accountability;
- c** assess whether improving the content of IFs would be the most effective way to provide stronger data on developer contributions, and would allow better insights and good practice to be drawn out;
- d** review the perceived conflicts of interest that arise from consultants representing both LPAs and developers with regard to viability assessments, and determine whether any action is needed;

- e** review viability assessments and how they are used, including evaluating whether removing them would make the system work better, or whether there are other ways of improving outcomes (such as open book costing);
  - f** help LPAs to increase capacity and capability by carrying out a full assessment of the Planning Capacity and Capability Programme to understand what works and disseminate lessons;
  - g** ensure Homes England reviews the impact of the Section 106 Affordable Housing Clearing Service, looking to make it a permanent service if successful and use the information gathered for wider benefits; and
  - h** consider how it can use existing forums or communication channels to provide clarity for LPAs regarding planning matters that fall within its remit, and to signpost them to other sources of advice where appropriate.
- 22** In the longer term, we recommend that MHCLG should:
- i** encourage a greater number of LPAs to use the CIL, by reviewing and removing barriers to introducing it for areas where it would be financially viable; and
  - j** explore whether there are simpler and more effective ways of mitigating the negative effects of development, including whether the benefits of Section 106 agreements could instead be captured through an expansion of planning conditions.