

REPORT

Improving local areas through developer funding

Ministry of Housing,
Communities & Local Government


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Improving local areas through developer funding

Ministry of Housing,
Communities & Local Government

Report by the Comptroller and Auditor General

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Gareth Davies
Comptroller and Auditor General
National Audit Office

29 May 2025

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Key facts

There are two main ways that developers can contribute to the provision of local infrastructure:	
Section 106 agreements	Community Infrastructure Levy (CIL)
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
£5.5 billion	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:	
58%	proportion of local authorities that experienced difficulties recruiting planning officers in 2022, according to a survey conducted by the Local Government Association
86	number of LPAs, out of 308, that had an up-to-date local plan (less than five years old) as at February 2025
17,400	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:	
£14.2 million	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
£28 million	amount of MHCLG funding in 2024-25 to support local authorities carrying out local plan delivery and related work
£13.5 million	amount of MHCLG funding for a team of built environment specialists offering centrally coordinated planning and enabling direct support to LPAs
December 2024	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

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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 2019.¹ 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.² MHCLG was introducing some reforms to improve the system’s effectiveness, but acknowledged they would not take effect for several years.

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

² 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.

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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).

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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).

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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).

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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).

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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).

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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;

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- 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.

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Part One

Understanding the developer contributions system

1.1 This part of the report sets out the main definitions and responsibilities relating to developer contributions. It outlines their context within the wider planning system, and examines the Ministry of Housing, Communities & Local Government's (MHCLG's) role in overseeing the system.

Definitions and responsibilities

1.2 Before starting to construct houses or other buildings, developers must generally apply for planning permission. MHCLG is responsible for setting national policy for the planning system, mainly through the National Planning Policy Framework (NPPF) and accompanying planning practice guidance.

1.3 Administering the planning system is largely devolved to local planning authorities (LPAs) including preparing local plans, which set out planning policies and proposals for new development, determining planning applications and enforcing planning obligations.³ In two-tier areas (those with both county and district councils), district councils are responsible for most planning matters, other than transport and minerals and waste planning, which are typically functions of the county council. In single-tier areas, authorities are responsible for both district level and county level planning matters. In London, the Mayor has powers to determine planning applications of strategic importance, and can enforce certain planning obligations.

1.4 Developer contributions provide options for LPAs to secure financial and other inputs from developers. Broadly, their purpose is to help ensure the impacts of development are appropriately mitigated, and the right infrastructure is in place to support new development. They can include funding for affordable housing, and for wider infrastructure such as new roads, health facilities, schools and open spaces.

³ A local planning authority (LPA) is the public authority whose duty it is to carry out specific planning functions for a particular area. It is usually the relevant borough, district or unitary council.

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1.5 There are two main ways an LPA can secure developer contributions when a new development is taking place. It can:

- enter a negotiated Section 106 agreement with developers, requiring them to deliver certain 'planning obligations' to make a development acceptable in planning terms;⁴ and/or
- impose 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.

1.6 In 2019, we reported that developers were able to use the planning system to pay less in contributions than agreed. We found that MHCLG was introducing reforms to improve the system, but some of these would not take effect for several years. We recommended that MHCLG should work with local authorities and other government departments to ensure that the necessary infrastructure is funded and delivered.⁵

How the developer contributions system works

1.7 Section 106 planning obligations are bespoke agreements, negotiated between developers and LPAs through the planning system on a case-by-case basis. The CIL was introduced through the Planning Act 2008, which gave LPAs the option to introduce a locally developed charging schedule. It was intended to make the system fairer, faster, and more certain and transparent. Where development takes place in a parished area, the LPA must pass between 15% and 25% of CIL receipts to the parish council for it to spend on local infrastructure. In Greater London, the Mayor can charge the Mayoral CIL. Section 106 agreements and the CIL are explained more fully in **Figure 1**. In November 2024, some 162 LPAs (52% of the total) were operating the CIL. The geographic distribution of LPAs which operate the CIL is shown in **Figure 2** on page 16.

1.8 LPAs can use Section 106 agreements and the CIL at the same time. The Section 106 agreement is for site-specific mitigations, while the CIL can address the broader impacts of development across the local area. Using both can help LPAs to secure higher contributions. However, doing this can make it harder to administer and enforce the arrangements, and may affect the viability of development if there is an up-front payment which means developers may seek to negotiate down their Section 106 contributions because they are also paying the CIL.

4 Section 106 of the Town and Country Planning Act 1990.

5 Comptroller and Auditor General, *Planning for new homes*, Session 2017–2019, HC 1923, National Audit Office, February 2019.

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Figure 1

The strengths and limitations, as identified by stakeholders, of the two types of developer contribution

There are strengths and limitations of Section 106 agreements and the Community Infrastructure Levy (CIL)

Type of contribution	Description	Strengths	Limitations
Section 106 planning obligations (Section 106 of the Town and Country Planning Act 1990)	<p>Local planning authorities (LPAs) should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.</p> <p>Bespoke agreements, negotiated between developers and LPAs through the planning system.</p> <p>Set out the terms on which developers must provide or fund affordable housing, infrastructure and services, to make a development acceptable in planning terms.</p> <p>Developers may deliver infrastructure themselves, rather than making a financial contribution.</p>	<p>Well established and understood, as all LPAs are able to negotiate agreements.</p> <p>Responsive to market conditions, as the agreements are negotiated on a case-by-case basis.</p> <p>Clearly link the agreement to the development.</p> <p>Support the delivery of on-site affordable housing.</p> <p>LPAs can pool Section 106 receipts together with CIL receipts to create a larger amount for bigger projects.</p>	<p>Resource-intensive, requiring legal expertise to negotiate agreements.</p> <p>Often have complex site-specific mitigations to development.</p> <p>Negotiation process takes time, lacks transparency and can favour larger developers.</p> <p>Developers often submit complex financial viability assessments.</p> <p>Agreements can be renegotiated during the development.</p> <p>Potential delays to the development of affordable housing and infrastructure, as funding is tied to 'trigger points' within a development.</p> <p>More difficult to secure on smaller developments, so favours areas where bigger development is possible.</p>
Community Infrastructure Levy	<p>Discretionary charge which LPAs can choose to levy on new development to fund infrastructure.</p> <p>Only applies in areas where the authority has consulted on, approved and published a charging schedule setting out levy rates in its area.</p> <p>Can be spent on a wide range of infrastructure including roads, schools, medical centres, sporting facilities and open spaces.</p> <p>Cannot be spent on affordable housing.</p> <p>Does not need to be directly related to the specific site.</p>	<p>Increased transparency as charging schedules must be examined in public before adoption.</p> <p>LPAs have flexibility to spend on infrastructure across the local area, not on a specific site.</p> <p>Payment is generally up-front, non-negotiable and not tied to the progress of the development.</p> <p>LPAs can pool receipts with other CIL-charging authorities to create a larger amount for bigger projects provided that this meets the requirement to support the development of their area.</p>	<p>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.</p> <p>There have been numerous, complex changes to CIL regulations.</p> <p>Amount charged cannot account for changing circumstances.</p> <p>It can be difficult for LPAs to pool enough funding together from CIL receipts to spend on infrastructure.</p> <p>Can be expensive, resource-intensive and time-consuming to set up, creating a barrier to introduction.</p>

Note

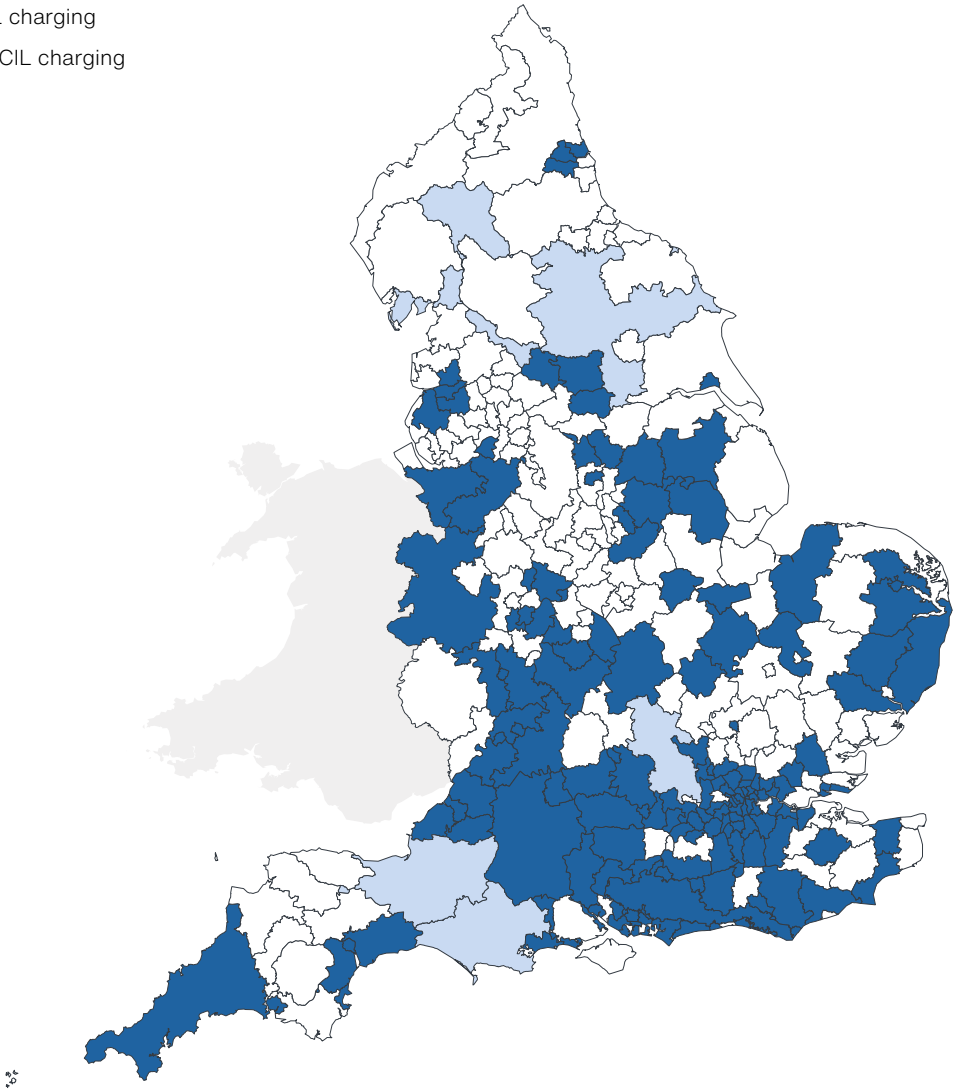
- 1 A planning obligation is a tool, in the form of a legal agreement, for placing restrictions or requirements on developers, often requiring them to minimise the impact on the local community and to carry out tasks which will provide community benefits. A planning condition is a clause written into a planning application, to make sure a development is acceptable.

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Figure 2
Local planning authorities (LPAs) that charge a Community Infrastructure Levy (CIL) in England, as at November 2024

52% of LPAs operate a full or partial CIL

- Full CIL charging
- Partial CIL charging
- No CIL



Notes

- 1 The CIL is a charge which can be levied by LPAs on new development in their area.
- 2 Buckinghamshire, Dorset, North Yorkshire, Somerset, and Westmorland and Furness LPAs charge a CIL in some but not all areas within their boundaries, and are referred to as 'partial CIL-charging authorities'. This is because, when these authorities were created, their boundaries covered multiple former LPAs, some of which charged a CIL and some of which did not. Each authority would need to consult on proposed CIL charges and undergo CIL examination in order to charge a CIL in their former LPA areas that were not previously CIL-charging.
- 3 LPAs may charge different CIL rates in different areas, dependent on viability evidence, within their boundary.
- 4 All LPAs in London charge the Mayoral Community Infrastructure Levy (MCIL) on behalf of the Mayor. The MCIL was introduced in 2012 to help finance the Elizabeth Line (Crossrail), and a new charging schedule was adopted in 2019.

Source: National Audit Office analysis of Ministry of Housing, Communities & Local Government data and map boundaries from the Office for National Statistics licensed under the Open Government License v3.0. Contains OS data © Crown copyright and database right 2024

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Developer contributions in practice

1.9 Developer contributions support the delivery of many types of infrastructure, and affordable homes, across the country. **Figure 3** on pages 18 to 19 provides examples from some of the LPAs with whom we engaged during our fieldwork.

Developer contributions and local plans

1.10 The planning system is vital to providing new homes, because it enables LPAs to determine the number, location and type of new homes to be built. The Planning and Compulsory Purchase Act 2004 requires LPAs to prepare a local plan, setting strategies for meeting the need for new homes in a local area over a minimum of 15 years. The local plan is important when LPAs decide planning applications and other planning matters, including developer contributions.

1.11 The NPPF states that a local plan should set out the contributions expected from development. This should include the levels and types of affordable housing provision required, along with other infrastructure, such as that needed for education, health, transport, flood and water management, and green and digital infrastructure. Requirements for contributions should be clear, informed by evidence of infrastructure and affordable housing need. We heard from some LPAs that producing a local plan is time-consuming, resource-intensive and complex.

1.12 Once the LPA has finished preparing and consulting on a local plan, it must be submitted to the Secretary of State, who appoints a Planning Inspectorate official to carry out an independent examination. The inspector assesses whether the plan has been prepared in accordance with legal and procedural requirements and is 'sound', as per the NPPF. In most cases, the examination includes public hearing sessions. Ultimately, the inspector recommends whether the LPA can adopt the plan.

1.13 As at February 2025, only 86 LPAs – less than a third of the total of 308 – had adopted a local plan in the past five years, while 202 LPAs had plans that were more than five years old (**Figure 4** on page 19). The NPPF states policies in local plans should be reviewed to assess whether they need updating at least once every five years, and updated as necessary. When we last reported on this in February 2019, 149 LPAs had an up-to-date local plan. MHCLG told us that, on average, it takes seven years for LPAs to develop and publish a local plan.

Figure 3

Examples of infrastructure funded by developer contributions, in England

Developer contributions have supported the delivery of infrastructure such as schools, affordable homes, community facilities, road improvements and public transport in local areas

Often developer contribution monies will be combined with funding from other sources, such as central government grants, to deliver infrastructure projects. Below are examples of infrastructure funded, or part-funded, via developer contributions.

Education



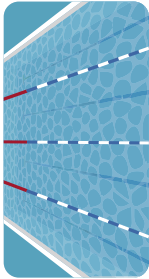
Such as new or improvements to existing school buildings and provision of additional school places.

Examples:

High school expansion works in Bungay, East Suffolk, completed in 2023, received over £600,000 of Community Infrastructure Levy (CIL) funding. These included a new standalone block on site to be used for IT classes and a dining space.

Primary school expansion works in Halesworth, completed in 2022, received over £1 million of CIL funding. The works included provision of two new classrooms, a library and additional bike parking. It included funding to provide an extra 105 primary school spaces to meet local demand.

Open space, leisure and community facilities



Such as public parks and gardens, sports pitches, playgrounds and nature reserves.

Examples:

Improvements to the visitor facilities at Seven Sisters Country Park, opened in 2022, received £180,000 of CIL funding. They include a refurbished visitor centre and a new refreshment facility.

A floodlit 3G sports pitch in Becoles, completed in 2019, received £75,000 of CIL funding. The pitch provides all-weather use opportunities to children and adults throughout the community.

Refurbishment of wet changing rooms in Arun Leisure Centre, opened in 2023, received over £190,000 of Section 106 funding.

Transport and travel



Such as cycle lanes, footpaths, bridleways and bus stations.

Examples:

A new link bridge in Liverpool, which opened in 2024, received £200,000 of Section 106 funding. The bridge links Princes Dock at Liverpool Waters with the Isle of Man Ferry Terminal at Central Dock and connects existing pedestrian and cycleways.

Reforms of a park and ride facility in Newcastle, to use as a drop-off point for children attending nearby schools, will receive just under £1 million of CIL funding. This includes funding for a path connecting the drop-off point with the schools.

Highways

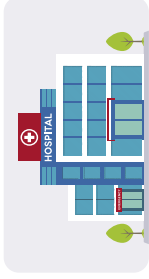


Such as new roads, improvements to existing roads, new roundabouts and junctions.

Example:

Improvements to a main road around the village of Stroud, completed in 2022, received £20,000 of CIL funding. The improvements included new signs, updates to existing signs and a new pedestrian crossing.

Health



Such as new or improvements to existing healthcare facilities.

Example:

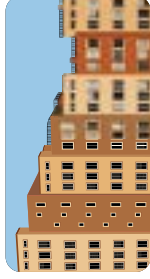
A new health hub in Leamington Spa, which opened in 2024, received £2.8 million of CIL funding. The hub integrates primary care services with community health teams and supports increased access to services for the local population.

Crossrail



Crossrail, completed in 2023, a major railway line connecting Reading and Heathrow in the west, to Shenfield and Abbey Wood in the east, has received over £1 billion from the Mayoral Community Infrastructure Levy, since 2012. Other funding sources included Transport for London and a special business rate supplement.

Affordable housing



Section 106 agreements typically include provision of affordable housing, while the CIL cannot be spent on affordable housing.

In England, 27,658 affordable housing units were delivered through Section 106 agreements in 2023-24, 44% of the total provided.

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Figure 3 *continued*

Examples of infrastructure funded by developer contributions, in England

Notes

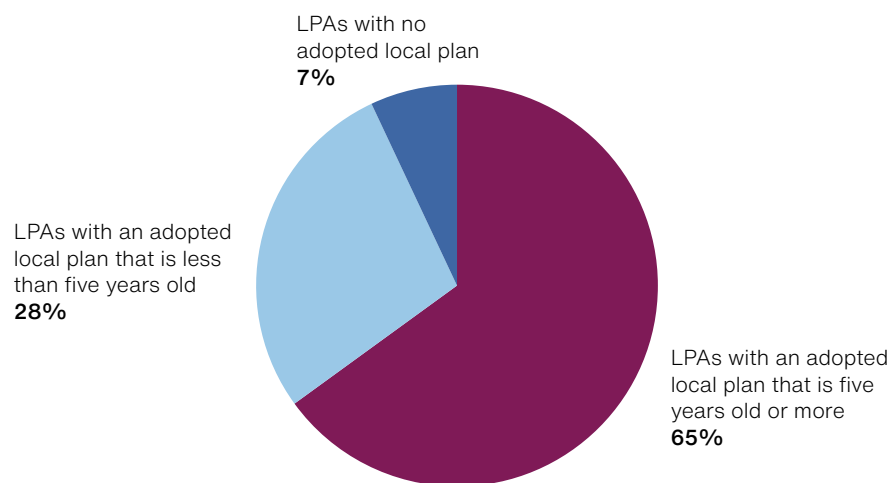
- 1 Developer contributions include Section 106 agreements and the Community Infrastructure Levy (CIL). We have also included an example of infrastructure funded via the Mayoral Community Infrastructure Levy (MCIL) which is a levy charged on new developments in London to help fund strategic infrastructure projects, including Crossrail.
- 2 Under Section 106 agreements, developers will build the infrastructure directly or contribute the money to local authorities to deliver it. For example, developers will build Section 106 affordable homes on the development site, or they will pay the local planning authority money to go towards building them elsewhere in the local area. The CIL is a payment from developers to the local planning authority, who decides what it will fund. The MCIL is collected by local planning authorities in London, on behalf of the Mayor of London, who decides where the money is spent.

Source: National Audit Office analysis of published infrastructure funding statements and public information for Arun District Council, South Downs National Park Authority, East Suffolk Council, Liverpool City Council, Newcastle City Council, Warwick District Council and the Greater London Authority, and analysis of Ministry of Housing, Communities & Local Government data

Figure 4

Local planning authorities' (LPAs) performance in producing local plans

As at February 2025, less than a third of LPAs had an up-to-date local plan

**Notes**

- 1 There are 308 LPAs which could be covered by a local plan.
- 2 Local authority reorganisation between 2019 and 2023 led to some new LPAs being established, covering different geographic boundaries from previous ones. In our analysis, only local plans that cover the geographic boundary for current LPAs have been included. Of the LPAs that have been superseded (not included in our analysis), six have adopted local plans that are less than five years old and 35 have plans that are five years old or more. Newly created LPAs are required to adopt a new local plan covering the entire area of the reorganised authority within five years. Legislation gives allowances for plan-making to continue in the superseded areas for five years after reorganisation.
- 3 LPAs which have reviewed their local plans in the last five years, and whose review has been adopted, are counted as having an adopted local plan less than five years old.
- 4 The Ministry of Housing, Communities & Local Government uses a different methodology to measure local plan coverage.

Source: National Audit Office analysis of Planning Inspectorate data

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1.14 There are several practical disadvantages associated with not having an adopted, up-to-date local plan. The LPA:

- risks not delivering the new homes it needs in the right location to meet local demand;
- may be unable to coordinate the appropriate amount of contributions, and risks receiving no monies if a viability assessment goes to appeal because expectations have not been outlined in the local plan (see paragraph 2.11); and
- has less control over the location and type of development which could lead to ill-suited developments, without the necessary amount of contributions.

1.15 MHCLG – through the Secretary of State – has wide-ranging powers to intervene if an LPA is failing to meet its legal obligations to produce a local plan. Historically, it has used these powers sparingly, but since September 2023 it has issued plan-making directions to 12 LPAs. In February 2025, after consultation alongside reforms to the NPPF, it also introduced new intervention criteria to help ensure that future action is “targeted, swift and proportionate”.

MHCLG’s oversight of the system

1.16 The NPPF and accompanying guidance set out the government’s planning policies for England covering the economic, social and environmental aspects of planning and how these should be applied, including developer contributions. As the planning system is administered by local government, LPAs are responsible for securing developer contributions and ensuring developers comply with the agreed levels of contributions. However, 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.

1.17 Several specialist bodies play a role in the system.

- **The Planning Inspectorate:** An executive agency sponsored by MHCLG, responsible for dealing with planning appeals – including appeals against Section 106 agreements – the examination of local plans, and other planning-related and specialist casework. It also has a formal role in examining LPAs’ CIL charging schedules and hearing certain types of CIL appeals.

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- **District Valuer Services (DVS):** The specialist property arm of the Valuation Office Agency (VOA), an executive agency sponsored by HM Revenue & Customs. LPAs can appoint DVS to undertake planning viability assessments in relation to challenges to Section 106 obligations, including affordable housing. The VOA is responsible for determining certain types of CIL appeals such as appeals against the chargeable amount, apportionment of liability and some categories of exemption and relief, although under some circumstances appeals are heard by the Planning Inspectorate.⁶
- **Homes England:** An executive non-departmental public body, sponsored by MHCLG. It works with MHCLG to deliver the Affordable Homes Programme (AHP), and with partners such as LPAs, registered providers of social housing and housing associations.⁷ Its wider work aims to improve engagement between different stakeholders, identify ways that AHP grant funding can be used to increase affordable housing delivery, and make delivery meet local need in terms of type and tenure. Homes England does not get involved in Section 106 negotiations between LPAs and developers on local infrastructure, but it can support LPAs and developers to deliver affordable housing through grant funding.

1.18 Infrastructure providers have a role in the system locally and often make a case for a portion of contributions.⁸

- NHS England, Integrated Care Boards and NHS Property Services are regularly involved in the local plan process, engaging with LPAs to secure funding from developer contributions and more generally to deliver additional local health facilities, such as health centres and GP surgeries.
- Education authorities are involved in the local plan process, and the Department for Education has separate guidance to help LPAs secure developer contributions for education infrastructure and plan for additional school places.
- The Department for Transport manages the policy and legislative framework for local highways and transport authorities, as they exercise their statutory function to maintain and improve the transport network. These bodies will look to secure developer contributions to help fund the transport infrastructure needed to support new development, or to mitigate the impact of new development.

⁶ In April 2025, it was announced that, in order to improve efficiency, the Valuation Office Agency would be brought into its parent department, HM Revenue & Customs, by April 2026.

⁷ Registered providers of social housing are primarily local authorities, housing associations (private, not-for-profit organisations set up to provide affordable homes) and for-profit organisations.

⁸ Infrastructure providers are public bodies, including agencies and arms-length bodies sponsored by government departments, who work with local authorities to help deliver health, educational, transport, environmental and other facilities.

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- The Department for Environment, Food & Rural Affairs works with MHCLG to ensure that planning policy is aligned with the government's environmental objectives, and that LPAs can use some developer contributions to help fund local environmental infrastructure and flood defences.

1.19 MHCLG engages widely with other departments in relation to planning matters. It told us that, where developer contributions policy is under consideration, this engagement is targeted towards relevant departments and is proportionate to the level of involvement each department has in the system. MHCLG also consults on emerging legislation – for example, on the previously proposed infrastructure levy and changes to the NPPF and other policy. Departments have mixed views on the quality and timeliness of communication. MHCLG told us it intends to gauge other departments' appetite and capacity to join a 'standing forum' on developer contributions to share information, discuss relevant policy updates and identify areas of overlap.

1.20 We heard about particular issues with developers using their advantages within the system. For example, during the negotiation of Section 106 agreements, developers can spend more on hiring consultants and experts to negotiate down the contributions they need to pay (see paragraph 2.11).

The impact of changes in the planning system

1.21 The planning system has undergone numerous and sometimes significant reforms by successive governments (**Figure 5**). Most recently, the current government committed to reform the NPPF to help achieve its target of building 1.5 million new homes over the period of this Parliament. MHCLG published the revised NPPF in December 2024 after an eight-week public consultation, obtaining views from various sector stakeholders including local authorities, neighbourhood and parish planning groups, developers, professional bodies and interest groups.

1.22 There have been no significant changes to the developer contributions element of the planning system through the revised NPPF. MHCLG did consult on changes to rules about assessing the financial viability of sites for developers to implement the Golden Rules for Green Belt development (see paragraphs 1.23 and 1.24), but decided to implement an alternative approach in response to feedback. It made a further commitment to review the financial viability guidance.

1.23 However, some changes to the NPPF have a broad relevance to local housing and the associated infrastructure. They include:

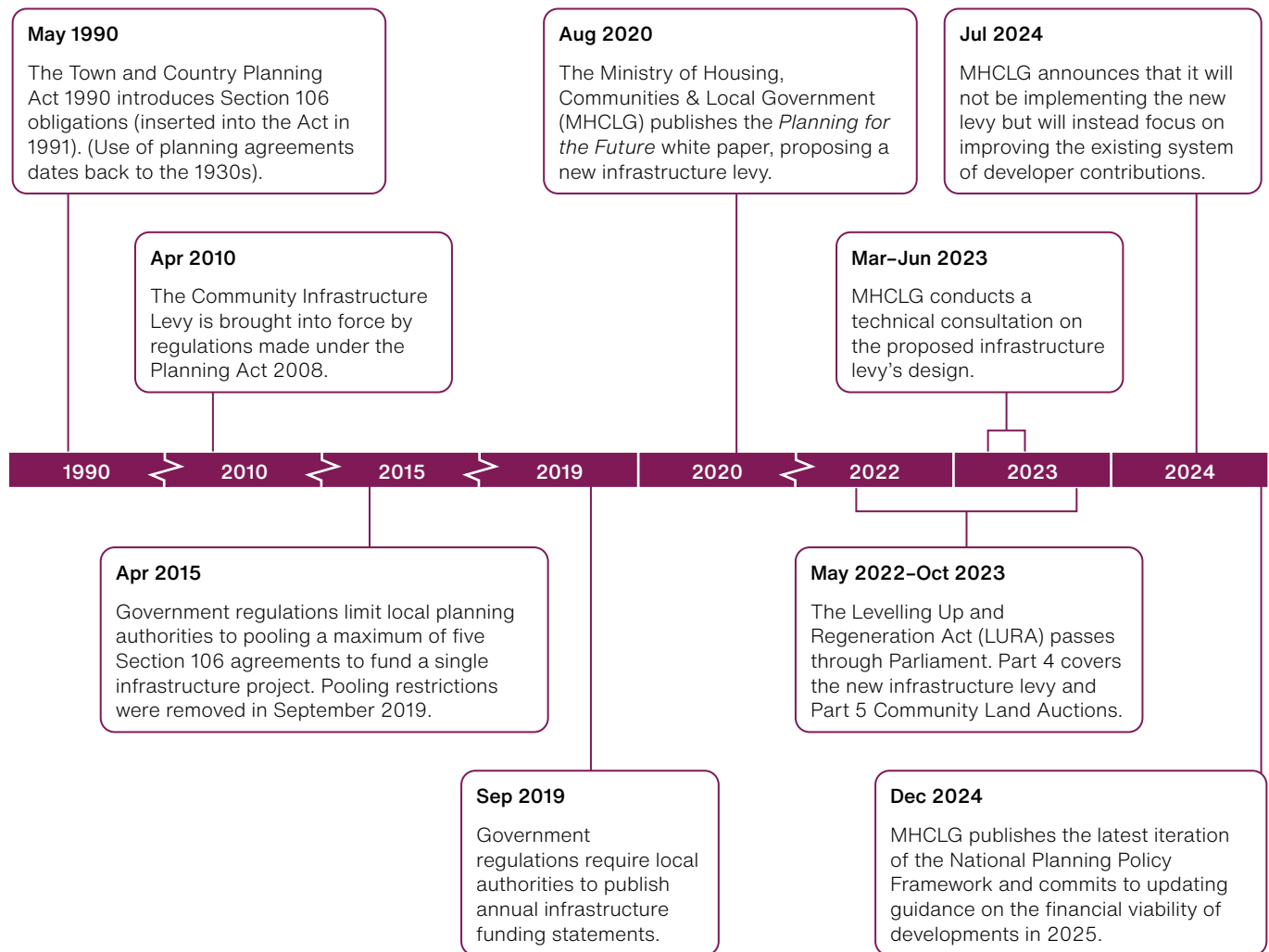
- a new method for assessing housing need;
- the introduction of mandatory housing targets; and
- new 'Golden Rules' which set out principles for developers to gain planning approval on land within or released from the Green Belt.

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Figure 5

Reforms to the developer contributions system, between 1990 and 2024

The government has made successive changes to the developer contributions system



Source: National Audit Office analysis of Ministry of Housing, Communities & Local Government documents

1.24 The Golden Rules include a focus on securing affordable housing, boosting public services and infrastructure, and protecting genuine green space. Most LPAs and stakeholders we spoke to were positive about changes to the NPPF. However, the NPPF and associated guidance remain complex, and some LPAs and other stakeholders told us that developers, particularly small and medium-sized enterprises, may not fully understand the relevant legislation and regulations.

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1.25 Most local areas have seen their housing targets change, and some targets have increased significantly due to a new method for assessing housing need. Some LPAs told us this has made their existing local plan redundant, and the number of new homes now mandated will generate a significant additional infrastructure requirement. Some LPAs also told us the more piecemeal nature of development in pursuit of new housing targets will make strategic planning of infrastructure more difficult. MHCLG has engaged with LPAs on the targets by setting out transitional arrangements for LPAs' local plans. It has also increased the funding that LPAs can apply for to support delivery of new local plans. In January 2025, MHCLG held a workshop on local plans and transitional arrangements, although some LPAs told us they would like more opportunity to engage with MHCLG on this topic.

1.26 The government has introduced Biodiversity Net Gain and the Building Safety Levy with the expectation that LPAs can administer and collect them using their existing resources.⁹ While stakeholders and LPAs recognise the inherent value of these new policies, it leaves their services stretched further with more policies to administer. Some LPAs told us that, since complying with the relevant legislation is compulsory, they may need to make trade-offs in their efforts to secure contributions from developers as they will be seeking more contributions from the same development.

1.27 The English Devolution white paper, published in December 2024, outlines plans to reform and reorganise local government. The government intends to move away from the current two-tier system of district and county councils, towards bringing together lower- and upper-tier services in new unitary councils. Some LPAs have expressed concern about how the developer contributions system will operate during the reorganisation, and particularly how LPAs that charge the CIL will integrate with authorities that do not. However, the move away from a two-tier system may address some stakeholders' and LPAs' concerns about consultation on planning decisions and distribution of developer contributions.¹⁰

⁹ Biodiversity Net Gain is a mandatory requirement which aims to ensure that developments result in more or better-quality natural habitat. The Building Safety Levy will be payable by developers on new developments as part of the building control process, to recoup expenditure that the government has incurred, or will incur, in providing financial assistance for the remediation of building safety defects. The government has confirmed that the Levy will not now come into effect until autumn 2026.

¹⁰ The English Devolution white paper, published in December 2024, also outlined plans to allow mayors to charge developers a mayoral community infrastructure levy.

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Part Two

Challenges within the developer contributions system

2.1 This part of the report examines challenges within the developer contributions system, including data, financial viability concerns, local authority staffing, provision of affordable housing, and unspent funds.

Research and data collection

2.2 The Ministry of Housing, Communities & Local Government (MHCLG) published research into the use of developer contributions in England for the years 2016-17 and 2018-19. Researchers surveyed local planning authorities (LPAs) and used the responses to generate estimates of the value of developer contributions collected, along with other metrics. MHCLG has not conducted any further research of this kind.

2.3 Currently, infrastructure funding statements (IFSs) are the main source of data about developer contributions. Since 2019, the government has required all local authorities that receive Section 106 monies or the Community Infrastructure Levy (CIL) to publish an annual IFS on their website. In December 2020, the Planning Advisory Service (PAS) published a guide for local authorities, which included examples of best practice and a template for completing an IFS.¹¹ MHCLG told us it can arrange for PAS to help authorities address challenges relating to producing an IFS. MHCLG and PAS also held workshops for local authorities in 2019 and 2020 on how to produce an IFS. However, MHCLG does not prescribe how an IFS should be presented, so authorities can produce them in a wide range of different formats and with varying levels of detail.

2.4 Local authorities must publish by 31 December their IFS covering the previous financial year, but some do not meet this deadline, and they face no sanctions. As at December 2024, 17% of potential contribution-receiving authorities had not published an IFS for 2022-23.

11 The Planning Advisory Service is part of the Local Government Association and provides support to local authorities on planning-related issues.

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2.5 There is no process for collating all IFSs in one place – for example, here is no national database – which means information at national level is limited. In September 2019, MHCLG produced guidance recommending local authorities publish the raw data informing their IFS, which it would gather into a central database. While authorities are still encouraged to publish these data alongside their IFS, MHCLG decided not to proceed with the database, to focus resources on developing the infrastructure levy when it was proposed in August 2020.

2.6 MHCLG undertakes an internal, unpublished annual review of IFSs, including the total amounts agreed, collected and spent. At the time of our fieldwork, it had completed this for the years 2019-20 to 2022-23. While these reviews provide MHCLG with aggregated totals, there are some challenges:

- LPAs are not required to notify MHCLG when they publish their IFS, so officials collect the IFSs manually by locating them on websites.
- The reviews do not include data from LPAs that have not published an IFS for that year. For 2022-23, MHCLG asked for the data directly from these LPAs, and included the data from the 11 LPAs (26%) that responded.
- The reviews do not capture ‘in-kind’ Section 106 contributions of infrastructure or land (where the developer builds the infrastructure instead of providing a financial contribution), other than the number of affordable housing units agreed, so they provide only part of the picture.
- To understand the overall value of developer contributions, MHCLG estimates the value of affordable housing contributions, as LPAs are not required to report on this. It acknowledges that there is considerable uncertainty around the estimate.

2.7 MHCLG’s latest annual review indicates that the value of developer contributions agreed during 2022-23, as recorded in IFSs, was around £5.5 billion (**Figure 6**). This includes an estimate of £4.2 billion for the value of ‘in-kind’ affordable housing units agreed through Section 106.

2.8 MHCLG lacks a systematic and comprehensive picture of how much LPAs collect, and more importantly, how they are spending the monies. It is difficult for MHCLG to carry out its stewardship role sufficiently, and make effective improvements to the system, without a complete evidence base. By contrast, MHCLG has good data on the supply of affordable housing, including the proportion delivered through Section 106 agreements.

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Figure 6

The Ministry of Housing, Communities & Local Government's (MHCLG's) analysis of infrastructure funding statements (IFSs), 2019-20 to 2022-23

MHCLG's analysis indicates the value of developer contributions agreed in 2022-23, as recorded in IFSs, to be **£5.5 billion**

	2019-20	2020-21	2021-22	2022-23
Total value agreed (total of next three rows) (£bn)	6.4	5.3	4.0	5.5
• Section 106 (£mn)	974	810	730	708
• Community Infrastructure Levy (CIL) (£mn)	625	603	367	554
• Affordable housing delivered on-site (estimated value) (£bn)	4.8	3.9	2.9	4.2
Total value received by local planning authorities (LPAs) (£bn)	4.8	4.3	Not estimated	Not estimated
Total CIL monies spent (£mn)	271	272	224	425
Total Section 106 monies spent (£mn)	651	543	409	582

Notes

- 1 Starting with 2019-20 data, MHCLG has undertaken internal, unpublished reviews of IFSs, producing a report that includes the total amount of developer contributions agreed, collected and spent. There are limitations to the reviews, including that they omit data for authorities that did not publish an IFS for that year. They also do not capture the value of 'in-kind' Section 106 contributions of infrastructure other than an estimate of the value of affordable housing agreed as on-site contributions. MHCLG acknowledges that there is considerable uncertainty around this estimate.
- 2 MHCLG started collecting data for its 2023-24 review in March 2025.
- 3 The data are presented in cash terms.
- 4 The 'in-kind' Section 106 contributions are when the developer builds the infrastructure instead of providing a financial contribution.
- 5 The table presents the headline findings from MHCLG's reviews; the reviews contain other findings, including regional breakdowns.
- 6 Figures for CIL agreed and spent do not include monies in respect of the Mayoral CIL.
- 7 For 2022-23, MHCLG asked for data directly from LPAs that had not published an IFS, and included the data from the 11 LPAs (26%) that responded.

Source: National Audit Office analysis of Ministry of Housing, Communities & Local Government data

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Financial viability assessments

2.9 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 'suitable' profits for developers. Planning practice guidance states that, for the purposes of plan making and for individual negotiations, a profit margin of 15% to 20% of the gross development value may be considered suitable. A lower figure may be appropriate, for example with regard to delivery of affordable housing with guaranteed sales at a known value. If the profit level is deemed too low for a particular scheme at the planning application stage, developers may state that the scheme is 'non-viable' and not proceed with it. The LPA may then decide to reduce the amount of developer contributions it requires, in order to raise the developer's profit to a viable level.

2.10 Developers can submit a viability assessment alongside their planning application. Guidance states that, where LPAs have up-to-date policies in their local plan that set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant (that is, the developer) to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight given to a viability assessment is a matter for the decision maker (that is, the LPA), who will often appoint a qualified practitioner to examine the assessment, considering all the circumstances in the case, including whether the plan and viability evidence underpinning it are up to date, and any change in site circumstances.

2.11 Viability assessments are important in ensuring sites are financially feasible for developers and development takes place. However, we heard from LPAs and other stakeholders about several issues.

- Developers are more frequently submitting viability assessments with planning applications, which adds to LPAs' workloads.
- Larger developers have the resources to employ consultants and legal experts to challenge viability, and find any way to negotiate contributions down.
- There is a lack of skills and capacity within LPAs to address technical and legal viability challenges.
- Developers attempt to deviate from local plans, despite up-to-date policies, reducing the provision of affordable housing and infrastructure contributions.
- Land values vary significantly across the country, so in some local areas, particularly in less affluent areas, developers can argue that sites are not viable.
- Viability assessments are difficult for LPAs to challenge as they are not transparent, and LPAs do not know if costs included by developers are realistic and reasonable.

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2.12 MHCLG acknowledges that the planning practice guidance on viability is too simplistic. It is planning to publish reforms to the guidance in 2025.

Staffing issues within LPAs

2.13 Research from the sector suggests staffing in LPAs is a serious problem:

- A 2022 survey by the Local Government Association found that 58% of local authorities in England experienced difficulties in recruiting planning officers – the highest percentage for any profession within the local authority workforce.
- A Freedom of Information (FOI) request by the Local Government Chronicle showed only one in 10 local authority planning departments, of the 276 that responded, was fully staffed in 2022.
- The Royal Town Planning Institute's State of the Profession report, published in 2023, found that, in the period 2013–2020, around a quarter of planners left the public sector, while the private sector grew by two-thirds.¹²

2.14 Stakeholders that we consulted believe staffing issues within LPA planning teams are largely due to the working environment, caseloads and pay. Planners are expected to cover a wide range of responsibilities, can face hostilities from local councillors and the public, and may experience reduced morale. Many experienced planners find opportunities in the private sector more attractive, and one LPA told us it is difficult to make posts competitive. We heard that keeping up with recent changes, and additional requirements in the planning system, added to the burden of working as a planner. These include the changes to the National Planning Policy Framework, Biodiversity Net Gain requirements and the new Building Safety Levy.

2.15 Some LPAs reported not having serious staffing concerns. We also heard positive examples about the ways LPAs were addressing problems – for example, introducing in-house training, learning from external reviews, and creating template Section 106 agreements and other tools to help improve efficiency. Paragraph 3.6 explains the programme that MHCLG has set up to improve the pipeline of local authority planning staff and enhance their skill levels. In April 2025, MHCLG raised the level of some planning fees, and it expects this to increase the resources available to LPAs. In addition, there is a measure in the Planning and Infrastructure Bill (which is currently being scrutinised as it passes through Parliament) that will allow LPAs to set their own planning fees to cover the costs of delivering a planning applications service, stipulating that the income from these fees must be retained and used for this purpose. MHCLG told us that this should lead to direct improvements in service delivery.

¹² Royal Town Planning Institute, *State of the Profession 2023: The UK planning profession in numbers*, November 2023.

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2.16 LPAs and stakeholder groups told us there is an imbalance in capacity and capability between the public and private sector. Larger developers are generally better resourced with people who have specialist skills for negotiation. Some LPAs rely on external consultants to provide expertise, but one stakeholder told us the quality of advice varies. LPAs and stakeholder groups also told us about a perceived conflict of interest issue, as the same consultants sometimes work for LPAs and developers and therefore have knowledge about both sides of the negotiations. Some suggested this issue was widely understood, and they expect consultants to use internal procedures to prevent such conflicts.

Registered providers and affordable housing

2.17 Developer contributions via Section 106 agreements have become an important way to deliver affordable homes in England.¹³ In 2023-24, 44% of affordable homes were provided this way, compared with 27% in 2013-14, and 4% in 2000-01 when the first Section 106 affordable homes were recorded. In each financial year since 2016-17, over 40% of affordable homes have been delivered through Section 106 agreements (**Figure 7**). Of those delivered in 2023-24, most were for affordable rent (37%), followed by shared ownership (33%) and social rent (14%).

2.18 Developers rely on bids from registered providers of social housing (RPs) to buy the Section 106 affordable homes they deliver, but recently developers have been struggling to sell them. MHCLG believes this issue is widespread, despite not yet showing up in official statistics, and poses a significant challenge. Research from the sector highlights the prevalence of the issue. A Home Builders Federation (HBF) survey of 31 housebuilders found that, as at October 2024, around 17,400 Section 106 affordable homes with detailed planning consent did not have a buyer.¹⁴ In July 2024, Savills (a large UK-based property services company) reported that 53% of the housing associations it surveyed said they were either no longer intending to buy Section 106 homes or had reduced their requirements for them.

¹³ MHCLG defines 'affordable housing' as housing for sale or rent for those whose needs are not met by the open market, including housing that provides a subsidised route to home ownership, and/or is for essential local workers. It must comply with one or more of the following definitions: social rent; other affordable housing for rent; discounted market sales housing; and other affordable routes to home ownership.

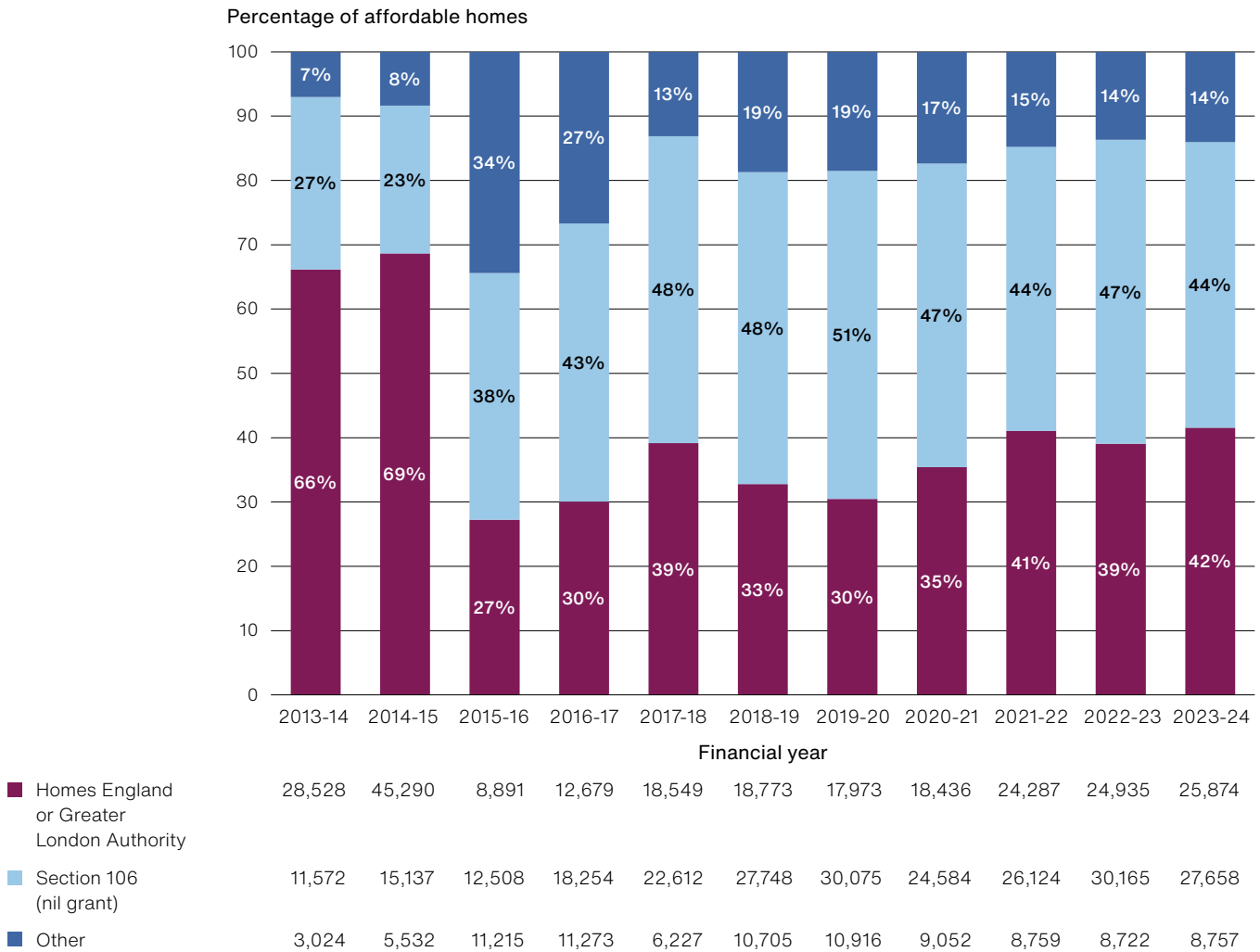
¹⁴ Home Builders Federation, *Bid farewell: An examination of the crisis in S106 Affordable Housing*, November 2024.

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Figure 7

The funding sources for affordable homes delivered in England, 2013-14 to 2023-24

In each financial year since 2016-17, over 40% of affordable homes have been delivered through Section 106 agreements



Notes

- 1 The figure shows the number of affordable homes completed in each financial year.
- 2 The 'Section 106' category only includes affordable homes fully funded by Section 106 contributions. Cases where the government has provided grant funding alongside the Section 106 contribution are included in the 'Homes England or Greater London Authority' category. However, for 2016-17, all homes fully funded and partially funded via Section 106 agreements are counted in the Section 106 category due to limitations in the data.
- 3 'Other' includes all other sources of funding such as the use of Right to Buy receipts by local authorities and the Affordable Homes Guarantee Scheme.

Source: National Audit Office analysis of Ministry of Housing, Communities & Local Government data

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2.19 MHCLG, Homes England and other stakeholders told us what they had heard, through their engagement with the sector, about why some RPs' interest in buying Section 106 affordable homes is declining.

- Increasing cost pressures: These pressures come from required investment in the safety of existing housing stock, increased costs of borrowing, and inflationary pressures. In addition, rent caps have previously limited income, and there are general financial capacity concerns in the sector.
- Quality concerns: Some RPs are cautious of buying from developers due to quality issues, in areas such as space standards, heating systems and sustainability requirements. Some also have concerns about high service charges and uncertainty around who is responsible for fixing faults.
- Types of housing on offer: There is a mismatch in expectations around the price, location, number and tenure mix of homes available. For example, RPs often seek to buy larger numbers of homes per site for efficiency reasons, but homes are often available only in smaller numbers.
- Lack of transparency: There is a lack of systematic and timely engagement between parties about the availability of homes for sale.

2.20 This issue represents a risk to the delivery of affordable and social rent homes, and to the government's aim of increasing overall housing supply. On sites where developers need to sell Section 106 affordable homes to RPs before they are built, this poses a delivery risk to the rest of the development and any infrastructure that may have been negotiated through developer contributions, as the development does not hit its 'trigger points' for delivery. The HBF's survey found that 139 building sites in England were delayed due to uncontracted Section 106 affordable homes. Additionally, developers may use unsold Section 106 affordable housing as a reason to claim viability issues in future development sites, as they can claim that what they delivered was not needed (since it has not been sold).

Unspent developer contributions

2.21 Financial contributions from developers can remain unspent for some time, leading to large amounts remaining in LPAs' accounts. Once LPAs receive a CIL contribution, they must decide how to spend it, while Section 106 agreements for financial contributions will normally be ringfenced for a certain infrastructure project or affordable homes.

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2.22 In 2024, the HBF estimated that local authorities in England and Wales had over £8 billion of unspent developer contributions. This included £6.3 billion from Section 106 agreements and £1.8 billion raised through the CIL. The analysis was based on FOI requests which received responses from 208 authorities, representing 61% of all authorities.¹⁵ The HBF extrapolated the data to account for authorities that did not reply, to estimate the national totals. Its research found the following.

- On average, authorities held £18.7 million in unspent Section 106 contributions and 26% of the total had been unused for more than five years.
- Most unspent Section 106 contributions are allocated for schools and education (32%), followed by highways and roads (17%) and social infrastructure (14%).
- On average, authorities held £11.4 million in unspent CIL contributions.
- In 2023, the HBF had estimated that local authorities retained almost £2.8 billion in unspent Section 106 contributions, with an average of £8.2 million per authority.

2.23 Most LPAs and other stakeholders we spoke to believe the situation is not as stark as presented in the HBF's report, and there are valid reasons for developer contributions remaining unspent. Some LPAs we spoke to told us the money is accounted for and normally allocated to projects. It can remain unspent for the following reasons.

- Infrastructure projects can take years to deliver, and the money will be spent at certain trigger points in developments.
- Sometimes it cannot be spent until additional funding for the project has been secured from other sources, which may not line up at the same time, for larger infrastructure projects such as new schools or roads.
- The LPA may want to retain monies to ensure spending on the right facilities at the right time; for example, birth-rate data might generate the conclusion that it will need a new primary school near a particular development in a certain number of years' time.

2.24 There remains a risk that benefits are not realised by local communities, since Section 106 agreements can include clauses enabling developers to renegotiate or reclaim unspent contributions after a certain period of time, or if a project is not delivered. The HBF's research found 80 LPAs – around a third of those who responded to the question – had returned money to developers in the previous five years, with £20.6 million returned in total. The CIL allows more flexibility and cannot be reclaimed by developers, although it may take longer to 'pool' into a large enough amount to use on infrastructure.

¹⁵ Some 97 of the responding authorities provided data on unspent CIL contributions. The HBF estimates that this constitutes 60% of councils which used the CIL in England and Wales as at 2022.

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Part Three

Improving the developer contributions system and how it is used

3.1 This part of the report examines the work of the Ministry of Housing, Communities & Local Government (MHCLG) to make the developer contributions system more effective. It also draws on stakeholders' views about how MHCLG and others might help them use the system better.

Consultation on a new infrastructure levy

3.2 In August 2020, MHCLG set out its intention to largely replace the system of Section 106 agreements and the Community Infrastructure Levy (CIL) with a mandatory infrastructure levy.¹⁶ A core aim was to set the levy at a fixed level, in order to “prevent developers from negotiating down the amount they contribute to the community when they bring forward new projects”. Other expected benefits included:

- accelerating the delivery of projects by ending lengthy negotiations;
- allowing local planning authorities (LPAs) to benefit from increases in land value, by calculating the contribution once a project is complete; and
- letting LPAs determine how much of the levy would deliver affordable housing versus other infrastructure.

3.3 In March 2023, MHCLG began a 12-week consultation. It recognised the significant change involved, and proposed to introduce the levy through a ‘test and learn’ process over a 10-year period. The consultation prompted around 500 formal responses, and MHCLG also gathered views through over 30 stakeholder events such as webinars and workshops. The consultation exposed a range of concerns, including that the arrangements would be overly complex; the perceived ‘infrastructure first’ approach would jeopardise the delivery of affordable housing; payments being made only when a project was complete would necessitate borrowing against expected levy receipts, which presented too much risk; and the long transition period would create difficulties.

¹⁶ Ministry of Housing, Communities & Local Government, *Planning For The Future*, white paper, August 2020.

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3.4 In June 2023, around 30 stakeholder bodies – including developers, local government representative groups and charities – wrote to the then Secretary of State, asking for the levy not to go ahead in the proposed form. They expressed uncertainty about how the likely rates and thresholds would protect the economic viability of projects, ensure the delivery of affordable homes and homes for social rent, and return enough money to fund necessary infrastructure. 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 of developer contributions.

Targeted improvement programmes

3.5 MHCLG and associated bodies have developed improvement programmes that may help address some of the problems in the developer contributions system. MHCLG also sponsors the Planning Advisory Service, which formally resides within the Local Government Association and provides local authorities with help, advice, support and training on planning and service delivery matters.

Planning Capacity and Capability Programme

3.6 This programme is intended to improve the pipeline of planning professionals in local authorities and enhance their skill levels. It covers all elements of planning, not just Section 106 agreements and the CIL. The programme has been running since summer 2023, and generally consists of relatively small-scale or exploratory initiatives, including:

- extending and increasing MHCLG’s funding to the Planning Advisory Service;
- providing £14.2 million across 2023-24 and 2024-25 to help local authorities tackle backlogs in planning applications and boost their internal capacity and capabilities;
- providing £28 million during 2024-25 to support local authorities with the costs of local plan delivery and Green Belt reviews;
- spending £13.5 million setting up a multidisciplinary team of built environment specialists across MHCLG and Homes England, offering centrally coordinated planning, and enabling direct support to LPAs;
- placing around 80 graduates into LPAs in the first year of a Pathways to Planning scheme; and
- giving around 50 students a £5,000 planning bursary for post-graduate study.

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The New Homes Accelerator

3.7 MHCLG launched the New Homes Accelerator programme in July 2024. It is a collaboration between MHCLG, Homes England, the Greater London Authority, local authorities, developers and other key stakeholders. It aims to help tackle problems in the delivery of new housing schemes that have become delayed, or which are not progressing as quickly as they could be. It focuses on selected large-scale developments – those with over 1,500 homes – and involves:

- identifying and addressing thematic issues causing delays, such as coordination failures, regulatory obstacles, and local authority capacity constraints;
- deploying teams to unblock and accelerate delivery on sites; and
- learning lessons that might inform future reforms to housing and planning policy, where policy barriers to rapid housing delivery are identified.

3.8 In autumn 2024, MHCLG ran a call for evidence, inviting developers, local authorities and landowners to nominate large-scale housing developments that were delayed or stuck. At the time of our fieldwork, MHCLG had identified 12 systemic problems and was prioritising those where coordinated governmental activity could make a difference. It was working with bodies such as National Highways and the Environment Agency, to remove barriers to progress – for example, where a piece of infrastructure is needed to get a development started. MHCLG told us it is currently developing metrics to capture the impact of the programme.

The Section 106 Affordable Housing Clearing Service

3.9 The government announced the Section 106 Affordable Housing Clearing Service, which is operated by Homes England, in December 2024. It aims to facilitate the sale of uncontracted and unsold affordable homes across England (excluding London, where the Greater London Authority has responsibility for affordable housing delivery). It also acts as a source of data and insight into the challenges facing Section 106 affordable housing delivery, in order to better inform any future interventions. Paragraphs 2.17 to 2.20 explore this problem in more detail.

3.10 Developers can use the service to provide details of affordable homes they have planning permission to build, alongside private homes, but for which they have been unable to find a buyer. This information is available for registered providers of social housing and local authorities to view.¹⁷ Homes England believes the service provides greater visibility of opportunities for buyers and sellers to connect, build new partnerships, and work together to get affordable homes sold and occupied.

¹⁷ Affordable homes are planned for by LPAs and are generally taken on by registered providers of social housing. Primarily, these are local authorities, housing associations (private, not-for-profit organisations set up to provide affordable homes) and for-profit organisations.

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3.11 At the end of January 2025, Homes England issued a call for stakeholders to maximise their use of the service. It asked registered users, and especially sellers, to provide details in addition to basic registration information, such as site location, construction progress, number of homes and types of tenure. By the end of February 2025, some 110 developers, 183 registered providers and 110 local authorities had signed up to the service. However, only around 600 uncontracted homes had been listed, which is far below the figure of around 17,400 homes that exist across the country according to a survey by the Home Builders Federation.

3.12 This innovative approach has the potential to significantly improve the marketplace for affordable homes funded through Section 106. Homes England created the service quickly, in a simple and light-touch way, to address a crisis in the sector. At the time of our fieldwork, it was planning to conduct research with those who had used the service, to establish how well it was working. Homes England told us that, depending on initial results, it would consider if there was merit in building a more advanced version of the service as part of business-as-usual.

Using information from infrastructure funding statements

3.13 The more detailed infrastructure funding statements (IFSs) may set out developer contributions data at the level of individual transactions. The most comprehensive may also showcase what developer contributions have helped to deliver, perhaps including photographs and details relevant to businesses and communities, and set out existing infrastructure priorities along with details of how new schemes and ideas will be considered. MHCLG explained that it had used examples of good-quality IFSs to improve its guidance on how to produce them.

3.14 However, MHCLG has not drawn out broader insights from the information available. Some LPAs that we spoke to believe it would be valuable for MHCLG to analyse the IFSs more qualitatively and disseminate its findings. This might, for example, provide more accessible insights into how developer contributions are being used across the country, and draw out examples of good practice for other LPAs to follow.

Support for local planning authorities

3.15 MHCLG supports LPAs in a number of ways, including by issuing formal planning practice guidance. At the time of our fieldwork, there were 59 online guides on a wide range of topics such as brownfield land, environmental impact assessments, housing supply and delivery, and rural housing.

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3.16 MHCLG last updated its guidance on Section 106 agreements in September 2019. The guidance links to other relevant material, including that produced by other government departments. It covers issues such as how Section 106 monies relate to other contributions, whether monies can be pooled to fund infrastructure, and whether an agreed planning obligation can be changed. The most recent guidance on the CIL dates from April 2024. It is designed both for LPAs that have adopted the CIL and those that are reviewing their arrangements or considering introducing it in the future.

3.17 The Planning Advisory Service told us it had worked with around 60 local authorities on planning matters, including developer contributions. It suggested there was a gap in the guidance relating to how LPAs should spend CIL monies. In response, it is trying to raise the profile of the CIL, so it is seen as a genuine corporate opportunity rather than just a planning issue. In parallel, MHCLG is funding work with a small number of LPAs to develop a model infrastructure delivery plan and guidance. This includes exploring digital tools and data standards, with a focus on transparency and better decision-making for infrastructure delivery. MHCLG is also funding a broader digital planning programme for LPAs.

3.18 Several LPAs expressed a desire for more direct engagement with MHCLG. Some explained that they were keen to contact relevant MHCLG staff about live issues relating to developer contributions, housing targets and the planning system more widely, but did not know how to do this.

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Appendix One

Our audit approach

Our scope

- 1** The report contains our independent conclusions on whether the Ministry of Housing, Communities & Local Government (MHCLG) oversees a system of developer contributions that is achieving its objectives. We reached these conclusions following our analysis of evidence collected mainly between November 2024 and March 2025.
- 2** The evaluative criteria that we used include whether MHCLG has designed a system that is understandable and accessible to stakeholders; supports local planning authorities (LPAs) to collect and spend developer contributions efficiently and effectively; and is learning and applying lessons to improve the developer contributions system.
- 3** This report covers some of the issues explored in our February 2019 report on planning for new homes.¹⁸ In keeping with the scope of MHCLG's policy responsibilities, we only examine the developer contributions system in England. The report does not assess in detail the workings of the wider planning system, although it does refer to other planning matters where appropriate.

Our evidence base

- 4** In forming our conclusions, we drew on a variety of evidence sources, as described in the paragraphs below. We collated and analysed the evidence using our evaluative criteria as a framework. We looked across different sources of evidence to support each of our findings.

Teach-in

- 5** In November 2024, we received a teach-in from officials within MHCLG, to develop our general understanding of the developer contributions system and related planning issues, and to inform our document review and interview areas.

¹⁸ Comptroller and Auditor General, *Planning for new homes*, Session 2017–2019, HC 1923, National Audit Office, February 2019.

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Literature review

6 Between November 2024 and January 2025, we reviewed published research, reports and other material relating to planning and the developer contributions system in England. We used the intelligence that we gathered to refine our approach to several of our other methods – most notably the document review, interviews with officials from government departments and associated bodies, and LPA case studies.

Document review

7 Between December 2024 and March 2025, we reviewed published and unpublished documents from MHCLG and other government bodies. We used this information to understand issues such as how MHCLG oversees the system of developer contributions; the process through which MHCLG consulted on introducing a new infrastructure levy and then decided not to proceed with it; MHCLG's wider oversight of the planning system; the objectives behind changes to the National Planning Policy Framework; and how other government departments interact with the planning system to help procure infrastructure relevant to their activities.

8 These documents included:

- terms of reference for steering groups and other functions;
- internal reports on a range of issues;
- material from public consultations;
- advice to ministers; and
- analytical summaries.

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Interviews

Interviews with officials from MHCLG and associated bodies

9 Between November 2024 and March 2025, we conducted 12 online interviews with officials from MHCLG, Homes England, the Planning Inspectorate and the Valuation Office Agency. We used these interviews to understand a range of issues, including:

- policy aims with regard to the developer contributions system;
- latest objectives with regard to affordable housing;
- engagement with LPAs;
- land values and the financial viability of developments;
- changed plans with regard to the previously proposed infrastructure levy;
- LPA capacity and capability; and
- work to help LPAs improve the way they collect and spend developer contributions.

Interviews with officials from other government departments and associated bodies

10 Between January and March 2025, we conducted online interviews with officials from other central government bodies to explore how they interact with MHCLG, LPAs and other stakeholders for the purpose of securing new infrastructure which supports their activities. These bodies were the Department for Environment, Food & Rural Affairs; the Department of Health & Social Care; the Department for Education; the Department for Transport; the Ministry of Justice; NHS England; and NHS Property Services.

Data analysis and review

11 Between November 2024 and March 2025, we analysed relevant data, and reviewed analysis carried out by other bodies, including:

- the proportion of LPAs that operate the Community Infrastructure Levy (CIL);
- MHCLG's analysis of the value of developer contributions;
- information published within LPAs' infrastructure funding statements;
- research commissioned by stakeholder groups, such as the Home Builders Federation's analysis of unspent developer contributions; and
- data on planning decisions.

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LPA case studies

12 In January and February 2025, we conducted 11 case study discussions with LPAs – 10 remotely and one in person. The discussions covered the following topics: an overview of how developer contributions are used locally; aspects that are working well; key challenges; the impact of recent changes to the system; engagement with MHCLG and other government bodies; and potential improvements to the system.

13 We selected the LPAs to provide breadth in terms of size and geography, and also to provide some contrast between urban and rural locations. The chosen LPAs were:

- Arun District Council (online);
- Cheshire East Council (online);
- East Lindsey District Council / South & East Lincolnshire Councils Partnership (online);
- East Suffolk Council (online);
- Liverpool City Council (online);
- London Borough of Barnet (online);
- London Legacy Development Corporation (online);
- Newcastle City Council (in person);
- Rotherham Metropolitan Borough Council (online)
- South Downs National Park Authority (online); and
- Warwick District Council (online).

Development site visit

14 In February 2025, we were given a tour of a development site by Newcastle City Council. This visit helped to deepen our understanding of the impacts of the developer contributions system on local areas, and demonstrate the complexities and challenges involved in providing affordable housing and new local infrastructure.

Stakeholder consultation

15 We interviewed – and in some cases received written material from – selected stakeholder bodies. We invited them to provide their views on the following issues: aspects of the developer contributions system that are working well; key challenges; the impact of recent changes to the system; engagement with MHCLG and other government bodies; and potential improvements to the system.

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16 We engaged with the following stakeholders:

- ADEPT (the Association of Directors of Environment, Economy, Planning & Transport);
- Avant Homes;
- Carr & Carr (Builders) Ltd;
- the County Councils Network;
- the District Councils' Network;
- the Greater London Authority;
- the Home Builders Federation;
- the Local Government Association;
- London Councils;
- the National Housing Federation;
- the Planning Advisory Service;
- the Royal Town Planning Institute; and
- Section 106 Regional Group.

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