

Improving Local Areas through Developer Funding

1.1. Funding for Affordable Housing

- 1.1.1. ONS Live Tables (1006-1008) for Affordable Housing Supply¹ confirm that there has been a pitiful number of completions of social housing for over 20 years, which demonstrates that the system of allocating funding via developer contributions does not meet the needs of citizens (Shelter² suggests that we need to build at least 90,000 social homes a year).
- 1.1.2. We would encourage the Committee to require the government to set a target for social housing (genuinely affordable homes). Social/council housing should be funded from specifically allocated public monies, not left to the whims of the developer contributions processes. This would provide more certainty in the availability of supply of homes for the most vulnerable in our society.

1.2. Community Involvement

- 1.2.1. We would encourage the Committee to seek greater involvement of local communities in setting, reviewing and spending the developer contributions. Communities should be specifically involved in determining what is needed in the areas to be affected by the development. These decisions are typically made by LPA staff in discussions with developers.
- 1.2.2. Whilst the planning guidance does suggest that communities should be involved, the processes are complex, include a lot of jargon and is not generally accessible to many residents. Even where parish and town councils are involved, it can be difficult for residents to understand what benefits will accrue from the contributions expected from development.
- 1.2.3. The timing of contribution payments is also an issue. Whilst the negative impact for communities commences as soon as the developer starts building, the contributions are typically not paid until the building work is complete. Even then, the funds can be held by the LPA for a considerable period of time, with the Home Builders Federation³ estimating that local authorities in England and Wales are sitting on over £8 billion of infrastructure payments by developers.
- 1.2.4. There are a number of issues that could arise following delays such as this. Inflationary price increases could mean that the original purpose of the contribution is no longer affordable. Developers could go out of business meaning that the funds can no longer be collected. Policy should be changed to ensure these payments are made prior to building work commencing.
- 1.2.5. Communities would be more assured of action if funding is collected when a planning application is agreed. Monies should be spent within a timescale agreed with affected communities to alleviate the impact of the development (which may require immediate action to ensure infrastructure is available in advance of development completion).
- 1.2.6. Our experience is that residents are confused by the contribution processes, especially as there is a perception that the communities most impacted by developments do not benefit⁴.

¹ <https://www.gov.uk/government/statistical-data-sets/live-tables-on-affordable-housing-supply>

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https://england.shelter.org.uk/professional_resources/policy_and_research/policy_library/briefing_the_social_housing_deficit

³ <https://www.hbf.co.uk/policy/unspent-developer-contributions/>

⁴ <https://www.livpost.co.uk/developers-gave-the-council-millions-to-improve-liverpool-why-havent-they-spent-it/>

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1.3. Monitoring Actions

- 1.3.1. Whilst there are requirements to monitor and report on developer contributions, we would encourage the Committee to strengthen the monitoring framework to ensure committed obligations are fully delivered at the right time.
- 1.3.2. The monitoring reports should also include specific details of the actions to be taken if developer contributions are not collected or spent. The BBC highlighted that one Council collected just £1.2m of the £4m agreed with developers since 2013 and had only spent £17,846⁵. This does not benefit the residents who have been impacted by the developments concerned.
- 1.3.3. In relation to the information reported on developer contributions, Affordable Housing should be split to separately show the contributions made to genuinely affordable housing as well as affordable housing to buy.
- 1.3.4. Similarly Transport and travel should be split to separately show the contributions have been made to sustainable passenger and freight transport options, school bus services and active travel options (which should be the highest priority for spend).

1.4. Viability

- 1.4.1. Government guidance⁶ more or less enshrines developer profits within policy, suggesting that *“an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers in order to establish the viability of plan policies”*. The Planning and Infrastructure Bill introduces further prejudice in favour of developers, as it suggests they are only expected to compensate for harms to the environment or nature if it does not affect project viability.
- 1.4.2. Planning guidance⁷ also suggests that *“Planning obligations can be renegotiated at any point, where the local planning authority and developer wish to do so”*.
- 1.4.3. The system is, therefore, already biased towards the big developers, who dominate and control supply, and hold back builds to maximise profit (evidenced by the more than 1.4m homes that have planning permission but have not been built)⁸.
- 1.4.4. In all the rhetoric about the planning ecosystem, the government makes no mention of developers reneging on their obligations, despite the many examples of poor conduct. Trafford Council⁹, for example, was required to write-off a £1.9m Section 106 contribution and, in Derbyshire¹⁰, a scheme that delivered below policy requirements generated some choice comments from the council leader about developer behaviours. The Committee should address these issues by proposing changes to policy.
- 1.4.5. If developer contributions are paid prior to scheme commencement, this would prevent later opportunities to renege on negotiated agreements by pleading viability issues.

⁵ <https://www.bbc.co.uk/news/articles/c78jzg2d5xwo>

⁶ <https://www.gov.uk/guidance/viability>

⁷ <https://www.gov.uk/guidance/planning-obligations>

⁸ <https://homesforeveryone.org/Homes-For-Everyone-Briefing.pdf>

⁹ <https://www.messengernewspapers.co.uk/news/24132770.trafford-councillors-fury-1-9m-write-off-request/>

¹⁰ <https://www.derbyshiretimes.co.uk/news/people/two-housing-developers-who-promised-to-build-45-affordable-homes-in-derbyshire-now-say-they-can-only-afford-to-build-6-5030167>

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- 1.4.6. If developers choose to build in isolated unsustainable, greenfield locations, rather than more sustainable brownfield sites, they should be required to fund the necessary infrastructure to make their sites sustainable. It should be noted that, if these costs are left to the public purse to fund, it is likely to be more cost effective for Councils to regenerate previously developed land. Where public funding is needed, development should be located on sites which result in the least costs to the public purse.

1.5. National Planning Policy Framework (NPPF)¹¹

- 1.5.1. The NPPF should be strengthened, including, for example, paragraph 35, which should include the timing of the payments and should emphasise the need to collaborate with affected communities to determine the specific infrastructure requirements for that locality. Paragraph 59 should confirm that, once agreed, contributions cannot be defaulted for viability reasons.

1.6. Evidence

- 1.6.1. We would encourage the Committee to strengthen the requirement for development contribution policies to be underpinned by relevant and up to-date evidence.
- 1.6.2. Government guidance¹² suggests that *“Plans should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability that takes into account all relevant policies, and local and national standards including the cost implications of the Community Infrastructure Levy (CIL) and planning obligations. Viability assessment should not compromise sustainable development but should be used to ensure that policies are realistic, and the total cumulative cost of all relevant policies will not undermine deliverability of the plan”*.
- 1.6.3. As mentioned above, viability issues should be tackled at the beginning of the planning application process and, if the site requires significant infrastructure to make it sustainable, alternative solutions should be considered.
- 1.6.4. Communities are increasingly concerned about the lack of local school places provision. In Trafford¹³, for example, there is certainly not the *“sufficient choice”* expected by NPPF paragraph 100.
- 1.6.5. There are also issues with the credibility of information related to Green Infrastructure. To give further confidence that the process is balanced, it is essential that meeting principles similar to those set out in the Green Claims Code¹⁴ are a key requirement of the policies. The principles would require that, for environmental or ecological assertions made in any planning related document:
- claims must be truthful and accurate
 - claims must be clear and unambiguous
 - claims must not omit or hide important relevant information
 - comparisons must be fair and meaningful
 - claims must consider the full life cycle of the product or service [a Battery Energy Storage System, for example]
 - claims must be substantiated.

¹¹ [National Planning Policy Framework](#)

¹² <https://www.gov.uk/guidance/planning-obligations>

¹³ <https://www.messengernewspapers.co.uk/news/25015254.parents-frustrated-children-miss-school-places/>

¹⁴ <https://www.gov.uk/government/publications/green-claims-code-making-environmental-claims/environmental-claims-on-goods-and-services>