



# Common Starting Points for Section 106 Affordable Housing Negotiations



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# Executive Summary

## The research

This report presents the research findings and associated recommendations from a study conducted by the Cambridge Centre for Housing and Planning Research in collaboration with the University of Sheffield on behalf of Communities and Local Government. The aim was to improve the evidence on the dynamics of planning obligations through section 106 (S106) negotiations for affordable housing and to explore what the best common starting point (CSP) for such negotiations might be.

The work included a review of relevant literature and policy. Case study local planning authorities (LPAs) were selected and interviewed to explore their policy and practice. A shortlist of CSPs was drawn up. These were modelled using real scheme data where available and LPA averages. Results were discussed with stakeholders in focus groups and interviews. We have been advised throughout by a senior Steering Group, for whose time and input we are very grateful.

## The findings

A national CSP is not viable given the significant variations in housing markets and land prices across the country.

The study showed that policy and practice with regard to affordable housing provision through S106 varies considerably between LPAs.

Many LPAs do not have a CSP as originally envisaged in the research brief. Most have a policy that specifies the proportion of affordable housing they seek and other requirements such as tenure, unit size and type.

The main CSPs identified during the research were:

1. LPAs seeking a proportion of affordable housing but leaving the negotiation of the price paid for the units between the developer and the Registered Social Landlord (RSL);
2. The 'rental stream' or 'matrix approach' where the LPA specifies what the developer will be paid for the units based on the expected income the RSL is likely to receive from the units;
3. The LPA seeks a percentage of free or free serviced land.

Some LPAs feel it is their role to achieve their target number of units, others feel they should be maximising developer contributions. Therefore some LPAs intervene in the negotiations between developer and RSL by stipulating what price the RSL will pay for the affordable units, while other LPAs take no role in these negotiations.

Free land would not be an appropriate CSP for many LPAs as they currently achieve a higher level of developer contribution than this. However, for those who currently secure very little through S106 a CSP of free land may at least secure land for affordable housing, but this would then rely on the LPA securing other resources to build the units. Free land produced a lower contribution than the other starting points modelled during the research and considerably lower than what was achieved on the real London schemes that were analysed.

Affordable housing with grant as a CSP is not recommended. Grant should be used where viability is an issue or where value is added, for example by changing the tenure split.

A CSP where the LPA specifies what the developer will be paid for the units without grant gives the highest contributions, but may not always be viable. In practice the LPAs who already use this rental stream approach find that RSLs and developers negotiate between themselves anyway and competition between RSLs is not eradicated.

It was not possible to model CSPs where the LPA takes no part in the negotiation over the price paid for units as the research team had no knowledge of what was actually paid by the developer. Therefore whether this approach maintained the value of the developer contribution could not be assessed because the contribution could not be modelled – it depends on how much the RSL was able to pay.

The original aim was to consider CSPs in terms of creating developer certainty, but as the project unfolded it became clear that engaging LPAs who currently do very little to secure affordable housing was also important. A CSP in the form of a clear policy will help LPAs who currently do not have the skills to secure affordable housing through S106, but may have less impact on LPAs that do not have the political will to seek affordable housing.

It is unlikely that any CSP will remove the need for negotiation completely given the considerable variations between sites and the varying priorities of LPAs, but a CSP may reduce the length of negotiations.

## The recommendations

If a CSP were to be introduced at the regional or sub-regional scale, careful consideration would have to be given to the trade-off that may result between how much affordable housing different LPAs achieve across the region. Successful LPAs may secure less if a CSP was introduced that generated a smaller developer contribution, but poor-performing LPAs may secure more after the introduction of a CSP.

The most appropriate CSP would be at LPA level and should consist of clear, thorough, easily accessible policy that is consistently applied and based on evidence of housing need.

LPAs should be free to determine what CSP would best meet their local needs. LPAs are able to decide whether they want to specify what the developer will be paid for the units in order to try and maximise contributions, or whether they want to focus on securing the target number of units and leave the negotiations about the price to the developer and RSL.

Policies can be clarified and improved. LPAs should ensure that their policies are up to date and accessible in one central database that is easy to find on their individual websites.

Other aspects of good practice may help LPAs to deliver more affordable housing and provide greater certainty for developers. For example, the use of toolkits is recommended to help LPAs to improve their understanding of site economics to inform general negotiations, and to explore viability of particular sites. The introduction of a CSP as clear policy at LPA level, combined with best practice in policy implementation, should help LPAs to secure more affordable housing through S106.

# 1. Introduction

Local authorities often have affordable housing targets. They may have an overall number of units that they aim to achieve over a certain time period such as a year. Local authorities usually also have a percentage requirement for affordable housing whereby they aim to achieve a certain proportion of the units on a new residential development as affordable when a section 106 agreement is applied. The affordable housing percentage sought by the local authority is usually in the Local Plan/Local Development Framework and Supplementary Planning Documents. Housing Need Studies and Housing Market Assessments provide the evidence base for the targets and policy. These policy requirements are most usually expressed for the local authority as a whole.

Communities and Local Government commissioned a two-stage research project to improve the evidence on the dynamics of section 106 (S106) negotiations for affordable housing and to explore what the best 'common starting point' for such negotiations might be. The Government's consultation paper, *Changes to Planning Obligations: A Planning-gain Supplement*, included a proposal for a common starting point for developer contributions to affordable housing (Communities and Local Government, 2006c, paragraphs 48-60) in response to criticism of the current arrangements as lacking predictability for developers as to the value of the contribution likely to be sought from them.

## 1.1 What is a common starting point?

A common starting point (CSP) is defined as what a local planning authority (LPA) always asks a developer to contribute towards the achievement of the affordable housing required by the Local Development Framework at the opening of a site-specific negotiation, and could be specified as a minimum or a target.

The aim of this research was to explore current LPA practice and to establish whether LPAs have CSPs and what these are; to evaluate the relative merits of different CSPs; consider issues such as a single CSP; and identify whether the adoption of CSPs would be beneficial.

The consultation paper on planning-gain supplement (PGS) included a box, reproduced below, which illustrates the range of developer contributions to affordable housing. This contains some examples of what a CSP could be in theory:

### **Box 8: Illustration of range of developer contributions towards affordable housing**

The application of a hypothetical Local Development Framework policy to a site allocated for housing may require that for a development of 20 units, eight must be affordable (based on a threshold<sup>1</sup> of 15 units and a 40 per cent requirement for affordable housing). The developer is expected to **deliver** all of the units, but the **financing** of them falls to three parties – the developer, the Registered Social Landlord and in this illustrative case, the Housing Corporation.

Under the current arrangements, it is often not clear to the developer what value of contribution will be required. For instance, the following could be required:

- a) the value of a portion of the land to support the eight affordable units
- b) the value of the land to support the eight affordable units
- c) the value of the land and its servicing to support the eight affordable units
- d) some other contribution based on a formula developed by the local authority

In other circumstances, the developer may provide:

- e) the value of the land to support the units, plus a contribution to the build costs

In order to reduce this lack of clarity, the consultation paper proposed the introduction of a common starting point in negotiations for the value of developer contributions to affordable housing. This could be implemented through Local Development Frameworks.

The paper set out a range of options which suggested that a contribution by the developer in the form of, or equivalent to, the value of the land necessary to support the required number of affordable units on the development site might represent a reasonable starting point for negotiations. This study sought the views of stakeholders on the best common starting point for the value of contributions towards affordable housing and the implications of a common starting point for negotiations for a range of case study schemes.

Using the example in the box above, the research brief states that if the common starting point is 'free land' the developer can now, before negotiations begin, estimate the contribution to affordable housing as *free land for eight units*, with the rest of the costs being met through registered social landlord (RSL) contributions using private finance and in some cases Social Housing Grant (SHG).

<sup>1</sup> The percentage of affordable housing sought on residential developments will only apply to schemes over a certain size. PPS3 lowered the threshold to 15 dwellings and allowed a lower threshold to be considered where there is a local justification.

## 1.2 Objectives

The objectives of the research as specified in the brief are outlined below.

### Stage 1

**Objective 1.1:** To describe, in broad terms, the range of current practice with respect to Starting Points (SPs) in affordable housing (AH) negotiations. This will involve answering the following five questions:

- i) What are the most frequently used common SPs and why?
- ii) What factors affect the choice of common SP for negotiations?
- iii) Which common SPs are most effective in achieving LPA objectives?
- iv) Why do some LPAs **not** use a common SP (for example, they may choose a SP on a case by case basis - we are interested in the reasons why they adopt this approach)?
- v) How common is it that a LPA gets the SP it opened the negotiation with? And what factors affect this?
- vi) What are interviewees' views on what the common SP should be?

**Objective 1.2:** Develop a full list of the SPs which are currently used.

### Stage 2

**Objective 2.1:** Assess the impact of a shortlist of common SPs on the monetary value of contributions made by developers to affordable housing.

**Objective 2.2:** Assess each common SP on the shortlist (primarily) in terms of:

- 1) Providing certainty for developers (so as to inform land transactions)
- 2) Reducing the time and difficulty of negotiations for the affordable housing component of S106
- 3) Ensuring the value of contribution by developers towards affordable housing

In addition, researchers may also assess each common SP according to the following criteria:

- 4) The SP should not remove incentives for private developers to build market housing due to unreasonable burdens from S106
- 5) The SP should encourage LPAs who otherwise would not have had the capacity/inclination to negotiate an AH S106 contribution to do so, because of the simplification in the arrangements
- 6) The value of the common SP should be positively correlated with overall land value uplift in the area
- 7) The value of the SP should be in line with housing need in the local area

The original aim was to consider CSPs in terms of creating developer certainty, but as the project unfolded it became clear that engaging LPAs who currently do very little to secure affordable housing was also important to try to improve the amount of affordable housing secured.

### **1.3 Methods**

For a more detailed discussion of the methodology developed to meet the two stages of the project brief see appendix B.

A literature and policy review was carried out to explore current thinking around the issues at stake.

In stage one of the research a scoping study of current practice was conducted to select case study LPAs. Telephone interviews were conducted with the relevant officers to ascertain current policy and practice with regards to S106 and the provision of affordable housing.

Through consideration of the CSPs that emerged from the interviews and discussion with the project Steering Group, a shortlist of CSPs was selected for analysis in stage two of the project. Stage two consisted of modelling the CSPs under various scenarios.

During stage two focus groups were conducted with mixed groups of developers, planners, housing officers, housing associations, and planning consultants; together with interviews with representatives from the Housing Corporation and English Partnerships. These discussions involved assessing the common starting points and the results of the modelling.

### **1.4 Structure of the report**

The main report presents the key findings; more detail is contained in the appendices.

Chapter two of the report contains the key points from the literature and policy review.

Chapter three of the report describes current practice of LPAs and outlines the most common CSPs.

Chapter four presents the main issues that were raised during the focus groups and interviews with stakeholders.

Chapter five of the report contains the findings from the modelling and general discussion of the CSPs in light of the overall findings of the study.

Chapter six presents the conclusions and recommendations drawn from the research.

## 2. Literature and policy review

The main findings from the review that are relevant to this project are summarised below. The full review is available in appendix A. The most relevant literature is recent policy, as there has been little consideration of the issue of starting points in more academic literature.

- There is a continuing problem of high and rising house prices and increasing affordability difficulties which are spreading across England and show few signs of abating (for example see Wilcox 2007).
- The Government has responded to these issues both in terms of overall housing supply (for example see the green paper *Homes for the Future: more affordable, more sustainable*, Communities and Local Government, 2007b) and the provision of affordable housing particularly through S106.
- The new policy context comprises *Planning Policy Statement 3: Housing* (Communities and Local Government, 2006b) (PPS3), the *Delivering Affordable Housing* (Communities and Local Government, 2006a) policy document, and the *Strategic Housing Market Assessment Practice Guidance* (Communities and Local Government, 2007a). PPS3 requires LPAs to identify at least a fifteen year land supply for housing in plans, including a continuous five year supply of deliverable sites.
- PPS3 and *Delivering Affordable Housing* revised the definition of affordable housing, to include both social-rented and intermediate housing, but explicitly to exclude low cost market housing. Discounted market housing where the discount makes the dwelling affordable and is retained in perpetuity is permitted. On-site provision of affordable housing is preferred on large sites, in order to achieve mixed communities.
- PPS3 has a requirement for a plan-wide target for affordable housing and for an indicative minimum site threshold of 15 dwellings.
- Local Development Frameworks are intended to provide greater flexibility than the local plan system as individual local development documents can be revised and policy updated without the need for a full review of the framework. Strategic Housing Market Assessments will help local planning authorities to plan for the whole housing market in terms of the size, type and tenure of new dwellings.
- At regional level, the Regional Spatial Strategy (RSS) provides the strategic framework for housing delivery including affordable housing. Regions and local authorities are required to have regard to a number of factors when deriving housing provision figures (see paragraph 33 of PPS3), including official household projections and the findings of Strategic Housing Market Assessments, although the regions are not necessarily going to deliver the housing targets that are implied by the official household projections, mainly because of infrastructure constraints.

- Housing Market Assessments have been introduced to improve understanding of how housing markets operate, particularly in terms of need and demand, and are intended to assist local authorities and their stakeholders to plan for housing in sub-regional housing markets.
- Partly in order to address infrastructure constraints, but also to streamline planning obligations, Barker proposed a Planning-gain Supplement (PGS) (Barker, 2004) which the Government has consulted on widely. Alongside a PGS the Government had suggested that S106 would be scaled back to cover only affordable housing, plus direct impacts associated with the individual sites that require mitigation (Communities and Local Government, 2006c). The Planning-gain Supplement Bill will now be deferred and provisions to establish a new statutory Planning Charge have been introduced in the Planning Reform Bill (2007) which sets out proposals for a new Community Infrastructure Levy (CIL). Negotiated agreements will still be used to secure provision of affordable housing.
- Analyses of the numbers of affordable units coming through the planning system show that more is being delivered through S106, but overall less housing is being produced than in the 1990s (Crook *et al*, 2006b). Market units have remained roughly constant, but affordable housing provision has declined and has not yet reached the most recent peak of 2000/2001. S106 affordable housing now amounts to more than half of all new affordable housing provision.
- PPS3 requires local planning authorities to set out the range of circumstances in which affordable housing will be required. It sets a nationally indicative minimum site size threshold of 15 dwelling but allows authorities to set lower thresholds where viable and practicable. Similarly, it requires authorities to assess the economic viability of any targets for affordable housing, including their likely impact upon overall levels of housing delivery and creating mixed communities. Many authorities are already responding to these changes.
- Research shows that development economics vary with the type of development and according to site-specific circumstances (for example see Crook *et al*, 2006a).
- In response to this, a number of 'toolkits' have been developed to test site viability under different assumptions about S106 contribution, tenure mix, dwelling type and size mix and density. These demonstrate clearly the wide variability in site viability both between and within authority areas. Site viability is driven by house prices so that the precise location of the development will make a difference. The toolkits also show the impact of Social Housing Grant as well as different proportions of affordable housing on the viability of development.
- Social Housing Grant should be used to achieve additionality by adding value to a development (Housing Corporation, 2007), for example by changing the tenure split. It may be added where viability is an issue given the affordable housing requirements.

- From the literature and from current ongoing research it is clear that there is still a wide variety of practice in terms of S106 affordable housing across the country (Crook *et al*, 2006b). In part this reflects the variation in house prices, and it probably also reflects local political concerns. As a result, there appears to be a variety of delivery of affordable housing that is not necessarily related to the pattern of house prices although that would be the expected explanation. Work in the South West showed no pattern (Tym *et al*, 2007). It also highlighted the inaccuracy of data, even data collected by the local authorities themselves and submitted to government in the Housing Strategy Statistical Appendices (HSSA) which record details of affordable housing through S106, with and without grant.
- New research shows that there have been some changes over the past two years. Whilst there is still significant variation between planning authorities in the number and value of agreements, there is now a more evident relationship between these variations and the market factors that might explain them. Hence, unlike in 2003-04, variations in 2005-06 in the numbers of agreements are more likely to be statistically and positively related to land values, household growth and the numbers of major permissions granted. The average value of agreements is related to land values and the number of major decisions (Crook *et al*, 2007).

### 3. Assessing current practice

The scoping study selected LPAs for telephone interview (see appendix B). The interviews showed a range of policy and practice.

Most authorities say that their policy as set out in their Local Plan/Local Development Framework (LDF) is their starting point. Other details of the developer provision of affordable housing are commonly negotiated on a scheme by scheme basis. This research did not consider the process through which the affordable housing is funded and delivered once the planning obligation agreement is signed.

To summarise the case studies they have been grouped into categories of broadly similar current practice (figure 1). The detail of the case studies is described in full in appendix C.

#### Figure 1: Categories of starting points found in 35 case study LPAs

**Option 1:** SP is not a relevant consideration due to LPA circumstances, eg no affordable housing is being delivered through S106. (1 LPA)

All the following begin with at least a percentage requirement for affordable housing set out in the local plan:

**Option 2:** A range of options for the delivery of affordable housing is suggested by the LPA, and then one is chosen through negotiations with the developer on a case by case basis. (7 LPAs)

**Option 3:** The developer suggests the most appropriate way to deliver the affordable housing on each scheme. (1 LPA)

**Option 4:** The developer sells completed units to an RSL at a price negotiated between them. (8 LPAs)

**Option 5:** The LPA specifies that the developer is expected to contribute land, either as free land or more usually free serviced land. Practice is for the developer to sell completed units to an RSL at a price agreed between them that is supposed to reflect the free land or free serviced land. In practice all land is serviced land. (8 LPAs)

**Option 6:** Developers are expected to complete the unit and sell them to an RSL at a price specified by the LPA. This is often determined by a 'rental stream approach' in which the price paid for the social-rented housing by the nominated RSL will depend on the income stream forecast for the affordable units in question. This is commonly known as 'the matrix approach'. (10 LPAs)

### 3.1 Most frequently used common starting points

There is no consistent pattern amongst the LPA requirements or practices identified through the study. Each is slightly or significantly different from the others. Other findings follow:

- The policy is usually the starting point. In addition to specifying the proportion of affordable housing sought by the LPA on sites over a specific threshold, the policy may also specify the tenure split, unit size and type, 'pepper-potting'<sup>2</sup>, local connection cascades<sup>3</sup>, and at what phase in the development the affordable units have to be completed.
- It appears that whilst the percentage requirement for affordable housing may be determined within Local Plans/LDFs and is therefore adopted policy, many other expectations placed on developers are either specified in non-binding planning guidance documents, or are simply common practice.
- LPAs most frequently seek free land; completed units sold to an RSL by the developer at a fixed price (the 'rental stream' or 'matrix approach') or sold for an undisclosed sum; or have a range of options and choose them on a case by case basis.
- Most LPAs tell developers not to assume grant will be available. However, there are areas where grant provision is the norm.
- Preference is for on-site provision. Commuted sums may be considered if necessary.
- There are LPAs who clearly specify the monetary value a developer will receive for each affordable unit delivered. The LPAs that specify in advance what the RSL will pay the developer said that it provides developers with clarity as to what their contribution will be. They said that it means that developers accept what their provision will be, although developers are frequently unhappy with the specified amounts. The LPAs also said that this does not preclude negotiation as developers often argue that the requirement for affordable housing is not financially viable. Most LPAs specify that this has to be proved in an open-book financial viability study. Where this is the case, the price per unit paid remains the same, but fewer units are delivered, thus a lower percentage of the dwellings will be affordable.
- Developers can, however, challenge this approach based on Circular 11/95 (Communities and Local Government, 1995) which states that conditions should not normally be used to control matters such as tenure, price or ownership, although tenure requirements can now be specified under PPS3.

<sup>2</sup> 'Pepper-potting' is the dispersal of affordable housing units within residential developments to promote mixed communities and minimise social exclusion.

<sup>3</sup> Local connection cascades restrict eligibility for housing to people with a strong local connection to the area. An example would be where the local connection criteria works on a cascade basis which gives priority to residents who have lived in the village for more than 12 months but need separate accommodation; then people who need to live in the village due to employment; people who have family in the village; people who live in adjoining villages; and finally, to people who have lived in the Borough for five or more years (West Norfolk). Another example would be where firstly, details of the affordable homes will be sent to people who have a local connection (residency, employment or family) in the parish in which the properties are situated. If there are no applicants who fulfil these criteria or there is no interest in the properties from those applicants who do, the details will be sent to those applicants who have a local connection (as above) with the parishes surrounding the original parish. If there are no applicants who fulfil these criteria or there is no interest in the properties from those applicants who do, the details will be sent to all other applicants on the affordable home ownership register (West Somerset).

- Other LPAs did not feel that it was their role to be involved in the negotiations between the developer and RSL. They are only concerned with the provision of the units, not the financial aspects of the developer contribution.
- The LPAs in these cases expect completed units to be delivered. The price to be paid by the RSL to the developer for the units is not fixed in advance, but negotiated between the developer and the RSL.
- The extent to which LPAs achieve their target percentage of affordable housing for specific sites varies, but does not appear to relate to which of the above options is used. Research has shown that LPAs that meet their local need for affordable housing successfully through S106 tend to have clear policy, a corporate approach and strong negotiating skills (Burgess *et al*, 2007a, Tym *et al*, 2007, Audit Commission, 2006).

### 3.2 Factors affecting the choice of common starting point

The interview discussions with LPA officers tried to ascertain what factors affect the choice of CSP. The findings follow.

- Housing need studies are important for LPAs to assess the level of housing need and therefore to determine how much affordable housing they require. Such studies also help determine what tenure, mix and size of housing is required.
- However, housing need is balanced against what LPAs feel is achievable and realistic in deciding what the policy should be.
- As described, some aspects of what is sought from developers by LPAs are not written into policy but are in Supplementary Planning Guidance (SPG) or are common practice. This has emerged over time as LPA officers do what they feel is best, or what their colleagues before them have done.
- Some LPA practice emerges as the result of government guidance, such as the guidance on thresholds and tenure contained in PPS3.
- There is not a great deal of knowledge-sharing between LPAs and few know what approach neighbouring authorities take.
- Those LPAs who specify what the RSL will pay for the units feel that this produces a degree of certainty to the negotiations, and creates a level playing field between RSLs, removing the competition between them.
- Some interviewees felt that seeking free land was no longer sufficient but had been incorporated into policy in the past before changes in housing markets had made affordability such a problem.

### **3.3 Effectiveness in achieving local planning authority objectives**

The following observations regarding the effectiveness of CSPs can be made:

- Free land alone is not very effective at achieving the objective of providing affordable units as additional resources are needed to build the actual dwellings.
- Whether the LPA specifies the amount the RSL will pay for the development or not, both approaches result in completed units being delivered.
- The CSP or LPA policy sets the framework for negotiations with developers. Many other factors also affect the negotiation, such as the number and type of sites coming forward or competing planning obligations.
- LPA objectives often vary on a site by site basis. In some cases achieving a particular unit size such as family dwellings may be the most pressing aim; in other cases the objective may be hitting the percentage target on a site, or something other than affordable housing such as regeneration.

### **3.4 Reasons why some local planning authorities do not use a common starting point**

The research brief suggested that authorities may choose a starting point on a case by case basis. The research established a number of other reasons that influence whether an authority adopts a CSP:

- Sites vary so much that some LPAs feel that they have to deal with each in its own terms. All LPAs in the study have at least a target percentage of affordable housing that they seek on sites over a dwelling threshold.
- Those that do not have a very detailed starting point that applies to every case feel that each site can be dealt with according to local housing need and the specifics of the site.
- Many feel that it is not of interest to the LPA how the units are provided. They do not get involved in negotiations between the RSL and developer and so the contribution of the developer will be different in each case. These LPAs are most interested in getting the units they require to meet housing need and are not concerned about exactly what the developer contributes in monetary terms towards achieving this aim, as long as the units are provided.

### **3.5 Assessing how common it is that a local planning authority gets the starting point it opened the negotiation with and the factors that affect this**

Few of the case study LPAs meet their affordable housing target overall, although most felt they are improving over time. There are a number of factors involved:

- The LPA officers stressed that every scheme is different, both in terms of financial viability and in terms of what the LPA is seeking to achieve in order to meet local need.
- Factors specific to a site generally affect what is actually achieved on a particular site. For example, when a site is a difficult brownfield one with issues of contamination or site-clearance; where there are demands for other planning obligations such as open space or highways within the S106 agreement; and where there are pressing objectives other than affordable housing such as regeneration or bringing the site forward, the starting point is less likely to be achieved. Site viability is the key issue: other planning obligations have to be met, affordable housing is very costly, and is most often the aspect of the S106 negotiation that has to give to make the site viable for development.
- Achieving the percentage target is not always the primary aim for LPAs. The tenure, type, size and mix are often what are negotiated. For example, many LPAs would like more social-rented units and fewer shared ownership ones than they actually achieve, but this is not viable on many sites.
- Previous research shows that LPAs are effective at meeting their affordable housing needs when they have a clear policy that is supported by all LPA departments and by elected members, when the LPA has a corporate approach with good communication between housing and planning officers, when the LPA officers have a solid understanding of development economics and strong negotiating skills (Burgess *et al*, 2007b, Monk *et al*, 2006, Audit Commission, 2006).

## 4. Focus groups and interviews

Focus groups were held with stakeholders (including developers, LPA officers and representatives from Housing Associations) to discuss CSPs and the results from the modelling (reported in chapter 5). Individual interviews were held with representatives from the Housing Corporation, Audit Commission and English Partnerships. See appendix B for more detail about participants.

The key points that emerged during the focus groups and interviews are presented below.

### **A national/single common starting point**

It quickly became clear that, whilst it would bring some benefits, a single or national CSP would not be viable or practical. The highest scale at which it would be possible to run a CSP would be at sub-regional level. If a CSP were to be introduced at the regional or sub-regional scale, careful consideration would have to be given to the trade-off that may result between the amounts of affordable housing different LPAs would achieve across the region. Three main points were made here:

- Developers have to deal with many different LPAs with different requirements, a CSP would standardise the system. A national CSP would also provide a benchmark which the LPA has to match, or explain why they do not, rather than start from nothing thus forcing some LPAs to raise their game. Some LPAs would welcome a CSP as they feel it may create common practice and give them firmer grounds for pursuing it with developers. They would like a clearly defined CSP, together with national guidance.
- However, other LPAs felt that if a CSP was intended to help under-performing LPAs, then it would be better to target these directly, rather than to introduce a CSP that might penalise LPAs that currently achieve more affordable housing.
- Many said that they could not see how having a CSP would reduce the time taken to negotiate S106 affordable housing, particularly as sites vary so much, and as LPA affordable housing targets increase. A CSP may simply unravel in the face of such variations; therefore negotiations would take as long as they do now. The huge variations between sites, markets, values, costs etc across the country also make it difficult to see what starting point could suit them all.

## Developers

Their perspective includes these points:

- It can be difficult to discover what the LPA wants. A need for clear, transparent policy with all LPA requirements specified was identified by participants as bringing more certainty for developers rather than a CSP across the country or regions. The starting point could vary between LPAs but should be embedded in evidence of need from Strategic Housing Market Assessments, and based on viability.
- In terms of speeding up the process and providing greater certainty, participants thought that there should be a common format for putting policy on the web, and ideally a central website with a database of LPA requirements so that developers and landowners could easily see what the LPA was looking for. Another suggestion was for a standard format for S106 policies to be put on the web.
- Free serviced land was said to be problematic by developers, either due to viability or due to the complication of building flatted developments. Given that 'pepper-potting' for flats can be difficult, it was suggested that a CSP should not include it as a requirement but it should be part of a 'shopping list'.
- The policy that is contained in Local Plans and Supplementary Planning Documents (SPDs) on LPA websites is often out of date and no longer current practice.

## Local Planning Authorities

- LPAs are concerned that a starting point of free land would deliver less affordable housing than they currently achieve. Others said that free land is nebulous – helpful when developing policies but quite inadequate otherwise, especially when much land is publicly owned. Most participants did not want to see this approach for any CSP.
- Local Plans are often out of date, and are not flexible enough to cope with changes to the housing market, but creating new policy in LDFs, for example, is a long process.

## All Participants

- The policy is central. It should be very clear and easily accessible, set out in SPG or SPD and based on evidence of need. Having clear policy helps developers to know what they will be expected to deliver.
- Participants felt that in considering a CSP it was crucial to take account of the negotiations with RSLs and what happens 'downstream' of the starting point.

- The uncertainty surrounding the allocation of Housing Corporation (HC) grant is problematic for LPAs, RSLs and developers alike. One suggestion was to have particular criteria that have to be met in order to be awarded grant, but that grant will always be given if these conditions are fulfilled.
- There are mixed views as to how grant is used. Some developers believe it goes to the landowner, others that it makes up the gap between the cost of providing the affordable housing units and what the Housing Association (HA) can pay.
- Some suggested the need for better alignment between S106 negotiations and grant discussions based on a nil grant starting point, and want more consideration of what nil grant can deliver and therefore what difference grant makes in terms of value for money.
- The demands placed on all parties in meeting the HC's housing quality standards are problematic. These standards are higher than those on market units. One RSL said they would sometimes rather turn grant down than have to build to these costly standards. Developers said it is difficult to make sites viable because extra cash is now needed to meet the new standards. One suggestion was that the housing quality standards need to be national and cover market housing in addition to the affordable. However, given the extra costs involved, this is likely to be unpopular with housebuilders.
- Some felt that applications should not be taken to the planning committee until the S106 was fully sorted, as this created further delays. Most felt that there were aspects of 'best practice' that LPAs could take on board and improve performance under the current S106 system.

# 5. The modelling

## 5.1 Common starting points to model

Objectives 2.1 and 2.2 of the project (see chapter 1, part 1.2) were addressed using a financial model to compare the impact of different starting points on hypothetical and actual schemes. In particular this approach permitted an assessment of the impact of a shortlist of common starting points on the monetary value of the contribution that would be made by developers to affordable housing under different starting points.

As a result of the findings from exploring current LPA practice and subsequent discussions, a shortlist of CSPs was established. Figure 1 in chapter 3 describes the starting points that were identified amongst the case study local authorities.

The first common starting point (CSP) tested in the model is option 5 (in figure 1, chapter 3) in which the LPA asks for the percentage of affordable housing they seek in the form of free land.

As Social Housing Grant is often used for schemes where affordable housing is required, the impact of the input of grant was modelled as the second CSP.

Options 2, 3 and 4 can all be considered as the same starting point as they all assume that the LPA has a percentage requirement for affordable housing, and possibly further specifications as to tenure, size, type and location, but does not specify further about what form the developer contribution should take. Rather it is negotiated on a case by case basis. However, this as it stands could not be modelled. Whilst in practice many LPAs use their policy as the starting point, it is not possible to model this without further assumptions. In practice the developer and RSL may agree a price for the units between them, but in order to make assumptions about the developer contribution for modelling purposes the research team had to use the rental stream to calculate this contribution (the 'matrix approach').

Under option 6 developers are expected to complete the unit and sell them to an RSL at a price specified by the LPA. This is often determined by a 'rental stream approach' in which the price paid for the social-rented housing by the nominated RSL will depend on the income stream forecast for the affordable units in question. This is commonly known as 'the matrix approach'. This became the third CSP tested using the model whereby the LPA specifies what the developer will receive from the RSL as payment for the units. The fourth CSP modelled the rental stream approach with the addition of grant.

Two further starting points were suggested during the research. In one the developer would be expected to provide 30 per cent of the units as affordable without grant with a tenure split of 25 per cent shared ownership, five per cent social rented. Additionality could be achieved through the input of grant to change the tenure split. This became the fifth CSP modelled.

In the sixth CSP suggested during the research the price the RSL would pay the developer is based on the lower quartile house price for the district, and the tenure of the units is not specified but is decided by the RSL in discussion with the LPA.

For a full discussion of the modelling see appendices B and D.

The CSPs that were modelled are summarised below (figure2).

### **Figure 2: Summary of the common starting points modelled during the research**

#### **1) x per cent Free Land**

The LPA seeks their per cent of affordable housing as a proportion of the land from the developer. LPAs who ask for 'land' from developers in the majority of cases expect free serviced land, although this is not always specified in policy. Free land has been treated as serviced in the project as this is almost always the case in practice.

#### **2) x per cent Free Land plus Grant**

As above with the addition of Social Housing Grant (SHG).

#### **3) x per cent Affordable Housing using the Rental Stream or 'Matrix Approach'**

The LPA seeks a proportion of affordable housing and determines what the RSL will pay the developer for the units based on the rental stream income the RSL will receive from the properties. This is commonly known as the 'Matrix approach'.

#### **4) x per cent Affordable Housing using the Rental Stream or 'Matrix Approach' plus Grant**

As above with the addition of Social Housing Grant (SHG)

#### **5) 25 per cent Shared Ownership, 5 per cent Social Rented**

This CSP requires the developer to deliver a proportion of the units as affordable, at a tenure split of 25 per cent shared ownership and 5 per cent social-rented. It was suggested that most developers would find this financially viable to deliver. Grant could be added to change the tenure split of the units.

#### **6) x per cent Affordable Housing, Registered Social Landlord to pay the Lower Quartile House Price for the District**

This was suggested as another way of calculating what the developer will be paid for the units. The RSL will purchase the units from the developer at a price based on the lower quartile house price for the area.

The addition of grant was not modelled for the 25 per cent/5 per cent tenure split and Lower Quartile CSPs (5) and (6) above) as the additionality achieved by any input of grant is clear.

## 5.2 The model

A residual model<sup>4</sup> designed by the research team was used to assess the impact on the financial details of schemes using different CSPs. The developer contribution, residual for the land and viability can be compared for the different CSPs. Using a model, the total costs of the scheme (including the developer's profit margin and the affordable housing contribution) can be deducted from the income that will be generated from the sale of the proposed units. The amount that is left over, if it is positive, is the amount that the developer can in theory pay for the land. Therefore the impact of different affordable housing contributions can be assessed on the economics of a scheme.

Five schemes in London were modelled. Data from real sites were used<sup>5</sup>. The actual scheme and what the scheme would have looked like if there had been no affordable housing were modelled alongside the CSPs tested for comparison. Seven LPAs outside of London were also modelled. Data for real schemes were unavailable for these areas so averages were used. The schemes were modelled as 100 per cent market schemes for comparison. Appendix B has more details of the modelling.

The assumptions in the model are as follows. The building costs are averaged for the development. The social-rent revenue is based on the weekly rent by the number of beds. The shared ownership uses 50 per cent of the market rent. Grants are paid at the beginning of the development period for simplicity (although this makes little difference). The main aim is to ensure the model replicates the outcome using different inputs for the different areas.

The outputs from the modelling are presented in appendix D where the assumptions of the model and explanation of the graphs are discussed further. The graphs in appendix D illustrate the impact of the different starting points on the actual schemes and on the hypothetical schemes.

The scenarios modelled were brownfield with identical abnormal costs of development assumed. Modelling greenfield would make little difference to the pattern of the results. It is the patterns of starting point contributions that are being explored rather than the actual level. Greenfield developments would mean that the land value outcome is higher and so are contributions but the impact of each of the CSPs makes no difference. For more discussion of the differences between greenfield and brownfield see appendix D.

<sup>4</sup> A residual model is a quantitative model to test land values and the impact on the economic viability of residential development of applying particular targets, such as affordable housing targets. Various models are used, including the models of Three Dragons and GVA Grimley.

<sup>5</sup> Analysis of scheme financial appraisals based on the GLA financial appraisal model (Three Dragons toolkit - 2006/7 version) – schemes anonymised for reasons of commercial confidentiality.

## 5.3 Modelling results

The results show that the starting points that have no grant input require a larger developer contribution. The contribution is also increased the greater the proportion of social-rented units.

The only real schemes with sufficient data to model for comparison were in London. The pattern for the results outside London is the same in every case but within London the results varied widely, reflecting the nature of cost characteristics on actual schemes. The very high alternative use values have an impact on viability of housing development in London, but this is not the case in the rest of the country.

In the schemes that were modelled outside of London, even land and units being transferred for free was viable at 30 per cent, and sometimes at 40 per cent depending on the cost characteristics of the development. This suggests that in these local authorities sites could support a larger developer contribution than achieved through the CSPs tested.

None of the CSPs are directly correlated with the overall land value uplift. Value is not in line with local need for any of the CSPs. Rather it is policy based, other studies have shown that LPAs get more affordable housing in relation to how good they are at the process; it is not based on or related to need.

The degree of certainty for developers depends on whether the CSP is a target or a minimum. If it is a minimum then developers will not have complete certainty, but if it is a maximum then developers will always negotiate down and LPAs will lose out. There is always a trade-off between value and certainty.

All CSPs are likely to reduce the time and difficulty of negotiations on schemes where there are no viability issues, as developers will know what they are expected to contribute and can factor this in to negotiations with landowners. However, regardless of the CSP there will be negotiation when viability is an issue.

### 1) x per cent Free Land

Here the policy seeks a proportion of the land for affordable units, although the developer may not actually build them.

The monetary value of the developer contribution is less than in the other starting points without grant and considerably less than the contribution made in actuality for the London schemes. The model showed that the impact on land values is relatively minimal, and the residual value is not much less than if the scheme had 100 per cent market units.

As a result the modelling results suggest that this starting point would not remove incentives for private developers to build market housing due to unreasonable burdens from S106 affordable housing.

This CSP may provide certainty for developers as they would know what their contribution is expected to be and could factor this into negotiations with landowners.

It may reduce the time and difficulty of negotiations if the developer contribution is relatively low. However, there is still likely to be negotiation given the variation site by site and the varying objectives of LPAs.

This CSP is relatively simple and so may encourage LPAs to seek affordable housing through S106 if they do not currently due to a lack of skills or capacity, but is not likely to encourage LPAs where the political will to provide affordable housing is lacking.

Some developers felt that even free serviced land would not be financially viable. Of course every site is different and there may be instances where this is the case, but the model suggests that this is generally a viable starting point for negotiations, albeit with relatively low developer contributions on average. This CSP does not ensure the value of the developer contribution.

However, free land was not a popular suggestion with LPAs during the interviews and focus groups. Many felt that they achieve more with their current approach. Most were particularly concerned about finding the resources to fund the building of the actual units if only land was provided. This raises issues about the viability of this starting point where such resources are scarce given that it generates land rather than dwellings.

## **2) x per cent Free Land plus Grant**

This CSP is the same as the above but with the addition of grant. The model shows that the developer contribution is further reduced by the addition of grant. The land values remain high, only slightly below the value for a 100 per cent market scheme.

It is likely that this CSP would provide certainty and may be popular with developers and not discourage the building of market housing as developer contributions would be significantly less under this CSP. As in 1) above, it may reduce the time and difficulty of negotiations and may encourage LPAs.

However, the discussions with stakeholders raised concerns that a CSP that had a provision for grant would merely reduce developer contributions and be passed on to the landowner. This CSP will not therefore ensure the value of contribution from developers.

Whilst this CSP may be financially viable for developers it is very unlikely to be viable for LPAs. It provides land rather than units and grant has already been used to acquire the land but without further funding units cannot be built. This CSP is likely to place too large a burden on grant provision.

### **3) x per cent Affordable Housing using the 'Matrix Approach'**

This CSP would ensure the value of contribution by developers towards affordable housing as developer contributions are higher than the other CSPs tested.

As the monetary value of developer contributions is higher than the other CSPs, issues of scheme viability are more likely to arise. The London schemes show that, with the exception of one scheme, the residual value was considerably lower than the CSP of free land, raising questions as to the viability of this CSP in real schemes where land values and alternative use values are high. In the case of the London schemes it is possible that this CSP would have discouraged the building of market housing, although it is more likely to result in a lot of negotiation. However, land values remained relatively high outside of London, suggesting it may be viable here.

This is likely to be a viable CSP for LPAs as it produces a relatively large developer contribution and results in completed dwellings.

This CSP will provide certainty for developers to inform land transactions as they know how much they will be paid for the units.

This CSP may not encourage LPAs who currently do not have the capacity or inclination to seek affordable housing contributions by setting and following a basic policy given that detailed calculations of rental streams have to be considered. Negotiations may be reduced as developers will know what they are expected to provide, but issues of viability will almost certainly lead to negotiation.

### **4) x per cent Affordable Housing using the 'Matrix Approach' plus Grant**

As mentioned above, any CSP that assumes the input of grant is likely to place too great a burden on grant provision. Grant reduces developer contributions. This would not be a recommended starting point for negotiations; grant should be used to achieve additionality.

### **5) 25 per cent Shared Ownership, five per cent Social Rented**

This CSP generates a relatively low developer contribution and would not ensure the value of contribution by developers towards affordable housing.

This CSP may reduce the length and difficulty of negotiations for the LPA. However, this CSP is very unlikely to meet LPA needs. The predominant need is for social housing and LPAs are unlikely to want or need such large proportions of shared ownership. Large inputs of grant would be needed to achieve the appropriate tenure mix, placing a burden on the grant regime and moving the negotiations with developers from LPAs to RSLs.

The findings suggest this is not a suitable CSP.

### **6) x per cent Affordable Housing, Registered Social Landlord to pay the Lower Quartile House Price for the District**

Developer contributions are also low with this CSP and so it also does not ensure the value of the developer contribution.

This CSP would not provide certainty as the lower quartile price will change and is very problematic given the lack of data to inform it.

The findings suggest this is not a suitable CSP.

### **Summary**

The aim of the study was to compare the different CSPs against a number of criteria (objective 2.2, chapter 1, part 1.2). The findings are summarised in table 1. However, this schema is simplified and should be treated with care.

**Table 1: Summary of common starting point findings**

	<b>Free Land</b>	<b>Free Land plus Grant</b>	<b>'Matrix approach'</b>	<b>'Matrix approach' plus Grant</b>	<b>25 per cent shared ownership social rented</b>	<b>Lower Quartile</b>
Monetary value of developer contribution	Low	Very low	High	Medium/High	Low	Low
Certainty for developers	Yes	Yes	Yes	Yes	Yes	Uncertain
Reduce time and difficulty of negotiations (assuming no problems with viability)	Yes	Yes	Somewhat	Somewhat	Yes	Yes
Ease of Use	Easy	Easy	More difficult	More difficult	Easy	Difficult
Evidence Base Required	Evidence of Need	Evidence of Need	Evidence of Need + Rental Stream	Evidence of Need + Rental Stream	Evidence of Need	Evidence of Need + Lower quartile prices (difficult)
Encourage LPAs to negotiate S106 agreements on private land	Maybe	Maybe	Maybe not	Maybe not	Maybe	No
Ensuring value of contribution	No	No	Yes	To a degree	No	No
Impact on scheme viability	Sometimes	No	Most likely	No	Rarely	Rarely
Delivery of appropriate completed units	No	No	Maybe	Maybe	No	No
Remove incentives to build market housing	Possibly	No	Possibly	Possibly	No	No
Value positively correlated with overall land value uplift	Not directly	Not directly	Not directly	Not directly	Not directly	Not directly
Value in line with AH need	No	No	No	No	No	No

## 5.4 Discussion

After considering all the evidence it appears that the CSPs that assume the input of grant are not appropriate. Grant should only be used to achieve additionality (Housing Corporation, 2007). However, in practice some LPAs assume that grant will be available.

It is unlikely that any CSP will remove the need for negotiation completely given the considerable variations between sites and the varying priorities of LPAs, but a CSP may reduce the length of negotiations.

The CSP based on lower quartile house prices, which is not used in current practice, generates a low developer contribution, does not create certainty, and there are not sufficient data on which to base it. The CSP based on 25 per cent shared ownership and 5 per cent social-rented is not suitable as it will not meet need, and would need large inputs of grant in order to do so.

This leaves three CSPs for consideration. The first CSP is one in which the LPA has a policy with a per cent requirement for affordable housing (and possibly further specifications as to tenure, size, type and location etc) but does not specify the developer contribution. The second CSP seeks free land. The third specifies what the developer will receive from the RSL to pay for the units (the rental stream approach).

Free land generates a smaller developer contribution than the rental stream approach. It provides only land for the LPA, not completed units. This CSP is not recommended for LPAs who are already securing affordable housing through S106 as they are likely to achieve less using this CSP.

However, it may be of some benefit to LPAs who currently secure very little, if anything, through S106 as they would at least secure some land on which to build affordable homes. It is a simple CSP to operate and would give developers more certainty to inform land transactions.

However, CSPs that seek completed units, whether they specify what the developer will be paid for them or not, are better for LPAs who do secure some affordable housing through S106. These CSPs are more likely to meet need as completed units are provided.

In many LPA policies the developer is expected to build the negotiated number of units and sell them to an RSL for a price negotiated between them. This means that the developer contribution is not pre-determined at the negotiation stage or on signing of the planning obligation agreement as it depends on the price agreed between the RSL and the developer, which is a negotiation that the LPA is often not involved in. For example:

Unit build cost £40 000

If RSL pays £40 000, the developer has contributed free land.

If RSL pays £30 000, the developer has contributed land + reduced price dwellings.

If RSL pays £50 000, the developer has contributed reduced price land only.

If RSL was to pay a sufficiently high price for the units, there is a possibility that this covers build and land costs, and so the developer contributes nothing, except the profit that would have been made if the units were sold on the open market.

Many LPAs do not know which of these options happens in practice; nor do they necessarily feel it is relevant, as long as they achieve a certain output of affordable units secured through planning obligation agreements.

Recent research describes how the calculation of the value of planning obligations relating to affordable housing posed particular problems (Crook *et al*, 2007). Previous work failed to establish the extent of developer contributions for affordable housing for the majority of a large number of case study sites (Monk *et al*, 2005). Research to establish accurately the value of affordable housing contributions would require much longer, more intensive case study-based analysis with extensive co-operation from developers and registered social landlords (RSLs) (Crook *et al*, 2007).

The developer contribution in practice cannot be assessed as it will vary site by site, even if the policy is the same. This information is not known by LPAs. As a result it was not possible to model this common practice of leaving negotiations about monetary transactions to developers and RSLs. For modelling purposes it had to be assumed that the developer receives a price based on the rental stream, as in the 'matrix approach'. Therefore this approach cannot be compared in the same way.

Without access to information about what RSLs have paid developers on real schemes and making a comparison to an explicit rental stream approach, the impact on the developer's monetary contribution cannot be assessed. If the aim of a CSP is to ensure the value of the developer contribution, then this approach is not necessarily effective as it is negotiated without LPA involvement and knowledge. However it may be perfectly satisfactory if the aim is to deliver the target number of completed affordable units.

Participants in the focus groups felt that these 'downstream' negotiations were very important. They determine what the developer contribution will actually be in monetary terms. Even where the LPA specifies the price to be paid by the RSL for the completed units, there can be competition between RSLs and the developer will select the highest bidder in a so-called 'beauty contest'. This appears to be increasingly common, with the developer 'ringing round' a number of RSLs asking them to bid, often with very little notice.

There is a judgment to be made here about the role of LPAs in the S106 process, and whether priority should be for the delivery of the target number of units or the maximising of developer contributions. Whilst both approaches may produce the same outcome, in practice this cannot be effectively assessed using the data currently available.

LPAs should be free to determine what CSP would best meet their local needs. Unless the Government directs them to do otherwise, LPAs remain free to decide whether they want to specify what the developer will be paid for the units in order to try and maximise contributions, or whether they want to focus on securing the target number of units and leave the negotiations about the price to the developer and RSL.

## 6. Conclusions and recommendations

The key recommendation from this study is that LPAs have a clear policy as their starting point that details all their affordable housing expectations and is based on evidence of need. It should be up to date and easily accessible, with all relevant policies in one place on the LPA's website.

With the use of a toolkit to gain a more detailed knowledge of the differences between sites, land values etc within a local authority, LPAs would be able to assess the viability of various common starting points across the authority to ensure that they set a viable CSP, perhaps having a different CSP where appropriate within the same authority.

Local authorities can decide themselves if they prefer to specify what the developer will pay for the units or if the developer should negotiate this directly with the RSL.

Free land is not generally recommended as it secures land but not affordable dwellings.

Evidence of need is important given that *Planning Policy Statement 1: Delivering Sustainable Development* (Communities and Local Government, 2005b) requires LPAs to ensure that plans and policies are properly based on analysis and evidence. Unless this evidence is robust, policies are likely to be challenged by developers.

The policy may contain the proportion of affordable housing sought, the tenure, 'pepper-potting' requirements, grant availability, size and type of units required, phase in development the affordable units should be competed by, any local connection cascades, how trade-offs will be made against other planning obligations, the mechanism of achieving agreement, how site viability issues will be dealt with (whether open book is required for example) and the form of contribution.

Below is a schedule of possible requirements that may be included in the specified starting point of LPA policy (figure 3). It is suggested that any number of these could be bolted together to form a starting point for negotiating developer contributions.

**Figure 3: Starting points that could be included in LPA policy**

- |     |  |
|-----|--|
| 1.  | per cent affordable housing: max; at least/minimum                                   |
| 2.  | per cent intermediate and per cent social housing                                    |
| 3.  | Form of contribution – price paid for units negotiated between developer and RSL     |
| 4.  | Form of contribution – price paid for units specified by LPA                         |
| 5.  | Form of contribution – free land   |
| 6.  | Form of contribution – reduced price land  |
| 7.  | Form of contribution – reduced price dwellings                                       |
| 8.  | Form of contribution – free dwellings  |
| 9.  | Form of contribution – financial (commuted sum)                                      |
| 10. | Grant – none   |
| 11. | Grant – expected rate  |
| 12. | Grant – trade-off with scale of provision  |
| 13. | Type of housing – size/mix   |
| 14. | Type of housing – tenure (including long term shared equity eg community land trust) |
| 15. | Type of occupation – eg key worker   |
| 16. | Location of housing – on site/off site   |
| 17. | Location of housing – ‘pepper-potting’/other   |
| 18. | Trade-off with other S106 components (education, roads, community, etc)              |
| 19. | Trade-off between sites/tenures (shared ownership versus social rented)              |
| 20. | Mechanism for achieving agreement  |
| 21. | Pricing of trade-offs between different elements                                     |

There was no consistent pattern amongst the LPA requirements or practices identified through the study. Each was slightly or significantly different from the others. It is not always clear whether what LPAs seek from developers is written into policy in the Local Plan or a Supplementary Planning Document or has just developed as common practice. Some requirements, such as the

percentage target for affordable housing, are specified within Local Plans or the LDF. Other specifications, such as the tenure split required, are written into Supplementary Planning Guidance or Supplementary Planning Documents. But in many cases some of the details of what is required from developers are part of practice rather than approved policy. This gives requirements differing legitimacy within the negotiation process.

It would be more effective if all aspects relating to affordable housing sought by LPAs from developers were contained within policy. This would strengthen the negotiating position of LPAs. It would also be beneficial to have all policy requirements detailed in one place.

It was evident through conducting the interviews that staff within LPAs are not always sure who deals with S106 and affordable housing. To find the information, planning, housing and legal departments had to be contacted. Some LPAs had an officer who dealt specifically with S106 agreements or with the affordable housing component, but some were far from clear as to what was common practice.

It would be better practice if LPAs have a designated contact for issues relating to S106 affordable housing. Communication between departments needs to be robust. The policy needs to be supported by all LPA departments and by local authority councillors.

There are other aspects of 'best practice' that LPAs can adopt to improve S106 affordable housing negotiation. LPAs should familiarise themselves with toolkits in order to increase their understanding of development economics and developers' concerns, and to assess viability issues on different sites. A number of studies have made recommendations of good practice (for example see Audit Commission 2006, Tym *et al* 2007 and Monk *et al*, 2008).

The key messages from this study are the need for clarity about what is required from developers and consistency of application by LPAs. The common starting point that is needed is clear policy at LPA level.

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# Appendices

## Appendix A: Literature and policy review

### **The provision of affordable housing through the planning system**

#### **1. Problems of housing supply**

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

Many housing policies have been successful when judged in their own terms. An evaluation of housing policy 1975-2000 found that over the period as a whole access to owner-occupation and to private renting increased and in many parts of the country social renting is reasonably available (Stephens *et al*, 2005). Affordability has been maintained for the vast majority of households despite the reduction in and restructuring of subsidies. All of this has been against a background of ownership restructuring and increasing partnership in development and regeneration (Stephens *et al*, 2005).

However, supply mechanisms are not providing sufficient amounts of new housing, for the market, intermediate or social-rented sectors (Stephens *et al*, 2005). Demand for housing is increasing over time, driven primarily by demographic trends (ageing and migration) and rising incomes. Yet in 2001 the construction of new houses in the UK fell to its lowest level since the Second World War. Over the ten years to 2002, output of new homes was 12.5 per cent lower than for the previous ten years (Barker, 2004).

The Minister for Housing and Planning reiterated this lack of affordable housing: *"We have not been building enough homes for a generation... we have been building too few homes to meet demand since at least the early eighties. Over the last three decades of the twentieth century we saw a 30 per cent increase in the number of households and a 50 per cent drop in the level of house building. That is unsustainable."* (Cooper, 2006). She commented on how the lack of supply affects affordability; *"If we carry on with the levels of house building we have seen it will not be long before less than a third of new households are able to afford their own home."* (Cooper, 2006).

The *Barker Review of Housing Supply 2004* was concerned with the issues both of volatility in the housing market and of the long-term supply of homes. It concluded that whilst the impact of changes in housing policy on affordability presents a complex picture, the consequences of the failure to

provide sufficient new housing are clear. House prices have risen, favouring existing owners above new households (Barker, 2004), thus housing affordability has worsened for new households (Stephens *et al*, 2005). This issue of rising affordability problems has been well documented, notably by Wilcox (2003, 2006) and, highlighting the particular problems for rural areas, Defra's Affordable Rural Housing Report (2006). The Government's response to Barker's recommendations to increase housing supply has been to concentrate additional supply in the Growth Areas already announced in the *Sustainable Communities Plan* (ODPM, 2003).

## **2. Policy instruments for new affordable housing provision: section 106**

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

The current policy on provision of affordable housing through the planning system operates through section 106 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (Stephens *et al*, 2005). Section 106 agreements can be used in the context of a planning permission to provide mitigation against the impact of development, such as additional infrastructure, or – increasingly – to require the inclusion of affordable housing requirements. They allow local authorities to seek cash or contributions in kind from developers to mitigate the impact of development. This is intended to ensure that local residents are essentially no worse off as a result of the development (Barker, 2006). Section 106 has three distinct objectives: that of providing the land for affordable housing; providing mixed communities and a mix of affordable housing appropriate to the area; and increasing financial contributions, implicit and explicit, from developers and other stakeholders (Stephens *et al*, 2005).

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

### 3. Using section 106 in practice

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

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

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

A recent study for the Royal Institution of Chartered Surveyors (RICS) explored the current state of local planning authority (LPA) practice with regard to the provision of affordable housing through Section 106 against a background of rapidly changing policy and practice (Burgess *et al*, 2007a).

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

The RICS study found that in many LPAs, policy on affordable housing is in a state of flux, with changes either recent or underway. Policy is by no means consistent across the country. Whilst the data show that more affordable housing is being delivered through S106, not all LPAs meet their affordable housing targets of achieving a certain proportion of the units on S106 sites as affordable as specified in their policy.

There is great variation in what different LPAs manage to deliver through S106 (Burgess *et al*, 2007a). Policy is far clearer and more robust in some LPAs, which means that developers know what to expect and the LPA has stronger grounds for negotiation. Some areas have only recently experienced housing pressure, and thus have little experience at negotiating S106 agreements.

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

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

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

Clear policy and practice guidelines were recommended in the report for the RICS and dissemination of 'best practice' between LPAs. Improved knowledge of development economics and the use of toolkits by LPAs were also suggested.

A further study for the Joseph Rowntree Foundation (JRF) asked how local planning authorities have been implementing S106 policies for affordable housing in the context of changing and uncertain policy (Burgess *et al*, 2007b). This research looked in detail at the experience in five local authority areas.

It found that what is included in S106 negotiations remains very varied, particularly in the context of the developer/RSL relationship. Some authorities feel that this relationship is no concern of theirs as they simply want to meet their target numbers of affordable homes. Others determine exactly what the RSL will pay the developer for the completed units, as well as what form the affordable housing should take.

The study for the JRF showed that the housing priorities within each authority vary site by site. On some sites achieving the affordable housing target of 'x per cent' affordable housing is the over-riding issue; on others a lower percentage may be accepted in order to achieve a house type that meets local needs or social-rented rather than low cost home ownership.

Viability issues have made it necessary for some local authorities to do financial viability assessments adding considerably to their work load and the need to use toolkits has become more pressing. However, there is still an unequal playing field between developers and LPAs.

The JRF study found that there is often a long list of other planning gain in addition to affordable housing eg this could include community facilities provision, community forest contributions, landscape improvements, local labour and training initiatives, park and ride contributions, pedestrian, cycle and public transport improvements, plant and wildlife habitat areas conservation and enhancement, pollution control contribution, public art provision and public realm provision. This can come from the county council as well as the local authority. Planning obligations place a strain on a development, and affordable housing is only one aspect and is usually the first to be squeezed when viability issues arise.

The study found that the support of local authority councillors helps LPA officers enormously in negotiations because developers know that if their application goes to committee without officer backing it will be rejected by councillors.

In order to both increase LPA knowledge of development economics generally and to explore viability on specific sites, more familiarity with toolkits is recommended in the JRF report. There is increasing need to consider viability both as a policy issue and for site negotiation.

More recently PPS3 states (paragraph 29) that local authorities should, when setting affordable housing targets, take into account the viability of land for housing. An appraisal toolkit can provide information about the economics of residential development; show impact of affordable housing and S106 requirements; provide help at different stages in the planning process and be an aid to decision making (Golland, 2007). Examples include the toolkit developed by Three Dragons for the Greater London Authority and by GVA Grimley for the Housing Corporation<sup>6</sup>.

<sup>6</sup> For further information about the GVA Grimley model see: <http://www.gvagrimley.co.uk/x7338.xml> and for the Three Dragons model see: <http://www.london.gov.uk/mayor/planning/aff-housing/index.jsp>.

The toolkit works as an economic model that uses a residual value approach; the residual is the total development value less the build costs and profit margin. What is left – the residual – represents what is available to pay for the land. This allows developer margin to be modelled and assumes that the residual value is a ‘pot’ to be shared between several agencies. The aim is to end up knowing: the residual site value; the residual if the scheme was 100 per cent market housing; the revenue for a specified proportion of affordable housing and the impact of wider planning obligations (Golland, 2007).

Research in the South West on forecasting and managing planning obligations for developer contributions to affordable housing (Tym *et al*, 2007) showed that there is little evidence that the alignment of grant and planning gain is widespread nor that opportunities to exploit delivery of affordable housing without grant in higher value areas is being fully exploited. Location (as it impacts on house prices) is a critical determinant of site viability. As a general principle, where house prices are higher, the value of development is greater and it is more likely that affordable housing can be delivered with less or nil grant. As house prices vary, the ability of sites to deliver affordable housing without grant will not be the same across regions. The research also showed that development economics vary with the type of development and according to site-specific circumstances.

Tym *et al* propose a new mechanism to improve the alignment of grant and planning gain which involves developers demonstrating to LPAs what they can achieve without grant and LPAs demonstrating to the Housing Corporation (HC) the added value which grant would provide. The researchers suggest that it is feasible to develop a ‘guideline model’ which could provide the HC with indicative information about the potential residual value (the land value that remains given the affordable housing requirements being modelled and any other planning obligations) of schemes in different locations (determined by their market values) and hence the potential need for grant, although this would not replace the need for scheme-specific analysis (Tym *et al*, 2007). They suggest that the way grant is invested, and affordable housing targets formulated, will, in the short term, have to take account of land owners’ current expectations but in the long term there is scope for policy makers and investors in housing to maximise land owner contributions. Tym *et al* posit that this will require a systematic analysis of scheme economics and a process led by the HC which focuses LPA analysis on the added value which grant can deliver. In return, the HC will need to devise a set of procedures which ensure that the way LPAs input into the allocation process is clear and transparent.

The Audit Commission report *Securing Community Benefits through the Planning Process: Improving performance on Section 106 agreements* (2006) recommended that councils should put in place detailed policy in Supplementary Planning Documents (SPDs), describing the developer contributions that will be expected through planning obligations and should engage chief executives, leaders and portfolio holders to integrate the current and potential contributions of planning obligations with the delivery of the community strategy.

The Commission also recommended that councils ensure that the other building blocks are in place to improve performance on planning obligations. They should:

- Test the potential impact of their policies on development viability.
- Set up a system to deal with planning obligations and ensure that an effective process is in place.
- Be clear about when and how communities are involved.
- Improve transparency by publicising the results and outcomes obtained through planning agreements.
- Manage the risks and monitor the outcomes to ensure that contributions are spent on what they were intended for in the agreed timescale; and draw on the experience of other councils in similar circumstances.

The Commission believes that improving the way in which planning obligations are used will require an investment of time upfront but should result in a more efficient process.

Overall there is a general acceptance of the S106 policy by all parties. However, there are concerns that the ever changing pressures in terms of more complex brownfield sites; increasing environmental standards and larger requirements for other types of contribution are increasing. Moreover this acceptance depends upon the benefits from S106 (and other land 'taxes' such as PGS) remaining local – and being seen to do so.

#### **4. Section 106 best practice**

Recent research (Monk *et al*, 2008) and review of the literature and policy highlight a number of suggestions for S106 best practice. These can be summarised as follows:

- Clear local planning authority (LPA) policy is vital. It should stipulate exactly what the LPA expects in terms of affordable housing.
- Support for this policy at all levels is needed within the LPA, including support from chief executives and elected members.
- Clear communication between different departments in the LPA is important, particularly between Planning and Housing, with clarity over who is responsible for what.
- An understanding of development economics is important in addressing issues of site viability successfully. The use of 'toolkits' can be of help.
- The use of standardised S106 agreements is one mechanism for speeding up negotiations with developers and creating consistency.
- The priorities of the LPA in the various planning obligations it seeks eg affordable housing and where affordable housing fits into this order should be made clear.

- Early discussions with potential developers/landowners and with other parties involved, notably relevant housing associations, can produce greater clarity and make negotiations more straightforward.
- LPAs should hold regular internal meetings (monthly or bi monthly) of the officers involved in S106 negotiations to discuss progress with negotiations and emerging issues.
- LPAs should produce one document that gathers together all relevant information for developers. This may include a summary of what the council seeks to achieve, an overview of their procedures, copies/links to all relevant policies and procedures and specimen S106.
- The implementation of S106 agreements needs to be monitored and enforced.
- Clarity about the stage which S106 negotiations need to have reached when a planning application is 'taken to committee' is recommended.

## 5. A Changing policy context

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

Policy and government guidance has been influenced by the recommendations in the *Barker Review of Housing Supply* in March 2004. *The Government's Response to Kate Barker's Review of Housing Supply* (HM Treasury, 2005), published alongside the 2005 Pre-Budget Report, set out a package of measures to increase housing supply and improve affordability, including a target to raise the number of new houses being built to at least 200,000 net additions per year by 2016. Whilst the Pre-Budget Report of November 2006 (HM Treasury, 2006) argued that some progress has been made, it also said that new housing supply will have to rise given the expected demand due to demographic change. It also highlighted Barker's findings that a lack of affordable housing has been one result of planning strategy being poorly aligned with the economy.

## 6. Planning Policy Statement 3: Housing (PPS3)

The Government brought forward further measures to increase and speed up the delivery of new, sustainable housing. The publication of *Planning Policy Statement 3: Housing (PPS3)* (Communities and Local Government, 2006) is designed to ensure that local and regional plans are more responsive to housing markets and that they release more land to meet future housing requirements (Pre-budget report, 2006). A principal aim of the new PPS3 is to

underpin the Government's response to the *Barker Review of Housing Supply* and the necessary step-change in housing delivery, through a new, more responsive approach to land supply at the local level (Communities and Local Government, 2006b).

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

PPS3 stipulates that in Local Development Documents, local planning authorities should:

- Set an overall (ie plan-wide) target for the amount of affordable housing to be provided. The target should reflect the new definition of affordable housing in this PPS. It should also reflect an assessment of the likely economic viability of land for housing within the area, taking account of risks to delivery and drawing on informed assessments of the likely levels of finance available for affordable housing, including public subsidy and the level of developer contribution that can reasonably be secured.
- Ensure that provision of affordable housing meets the needs of both current and future occupiers, taking into account information from the Strategic Housing Market Assessment.
- Set separate targets for social rented and intermediate affordable housing.
- Specify the size and type of affordable housing.
- Set out the range of circumstances in which affordable housing will be required. The national indicative minimum site size threshold is 15 dwellings. However, local planning authorities can set lower minimum thresholds, where viable and practicable, including in rural areas.
- Set out the approach to seeking developer contributions to facilitate the provision of affordable housing (Communities and Local Government, 2006b).

Local planning authorities were required to have regard to this statement as a material consideration when making decisions on planning applications from 1 April 2007.

## **7. Planning-gain Supplement**

A second response to the problems of housing supply and the planning system identified by Barker was the proposed Planning Gain Supplement (PGS). The Government proposed in the Pre-Budget Report 2006 to scale back the use of

S106, and to introduce a PGS to capture a modest portion of the land value uplift accruing to land granted planning permission (HM Treasury, 2006). Kate Barker proposed that S106 agreements should be scaled back to cover only “direct impact mitigation” plus affordable housing, in order to “increase certainty” and reduce negotiation costs, so the Government’s rationale for scaling back planning obligations was to a) improve the current system and b) ensure the two systems of PGS and planning obligations can operate alongside one another (Communities and Local Government, 2006c).

After consulting on PGS the Government announced that the Planning-gain Supplement Bill would now be deferred and provisions would be introduced into the Planning Reform Bill to establish a new statutory Planning Charge. Negotiated agreements would still be used to secure provision of affordable housing.

## **8. The green paper *Homes for the Future: more affordable, more sustainable* Cm 7191, Communities and Local Government, July 2007**

The green paper (Communities and Local Government, 2007b) concentrates almost wholly on the issues associated with how to increase the supply of housing and to make that housing more affordable. With respect to supply, it promises more homes overall; more funding for social housing; an increased emphasis on social-rented housing; a new approach to ensuring land availability through the planning system, including a new form of delivery grant; and a comprehensive approach to delivery. It also sets out a variety of different ways in which S106 might work in relation to PGS. This new policy statement comes after a long period of change and uncertainty, particularly with respect to how the planning system should be improved to achieve additional affordable housing together with continued exhortation to produce more of all types of dwellings.

The green paper points to a large increase in capital funding to support the expansion of the provision of affordable housing. In relation to this, during the course of the current research study issues were raised about the value added that is achieved from additional funding. The fundamental is that the potential availability of funding can, at one extreme, simply mean that land prices are higher than they would otherwise be and, at the other, that the result is more affordable housing and/or a better mix of types and tenure. In between these extremes, the availability of grant, even if not absolutely necessary on paper, may facilitate negotiations and ensure development goes ahead.

## **9. Regional Spatial Strategies**

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

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

Regional strategies are at different stages in the planning process. The Examination in Public (EiP) for the South East ended in March 2007 and now awaits the Inspectors' report. The most important issue to emerge during the EiP was the inadequacy of infrastructure provision to support the projected household and dwelling growth. Such development is proposed to be focused in nine sub-regions: South Hampshire (Portsmouth and Southampton), Sussex Coast, East Kent and Ashford, Kent Thames Gateway, London Fringe, Western Corridor and Blackwater Valley, Central Oxfordshire, Milton Keynes and Aylesbury Vale, Gatwick Area and Isle of Wight Special Policy Area. Each of these sub-areas has particular needs and constraints, so, for example, the first four all place emphasis on regeneration and addressing deprivation whereas the next three focus on careful management of pressures for growth. Milton Keynes and Kent Thames Gateway are Growth Areas but there is a need to ensure sufficient infrastructure and also that employment growth keeps pace with population increase. Overall, the South East RSS proposes to plan for rather fewer additional dwellings than are implied by official projections, as the South East are including the growth area allocations as part of the regional contribution rather than being additional. The South East therefore proposes 28,900 dwellings a year on average over the 20 year plan period, which compares with a past target of 28,000 a year and with 31,907 completions in 2004-05. In terms of affordable housing provision, the RSS proposes a target of 25 per cent social-rented housing and 10 per cent intermediate housing (low cost home ownership).

The 2006 draft South West RSS proposes to concentrate growth on strategically significant cities and towns (SSCTs) selected because 'they offer the greatest opportunities for employment and the greatest levels of accessibility by means other than car to cultural, transport, health, education and other services' (Draft RSS, Development Policy A, 2006). Elsewhere, emphasis is placed on development in locations that are sustainable in terms of access to employment, education and services, and on securing targeted development which can address regeneration needs. It must be remembered that 68 per cent of super output areas (SOAs) in the South West are in the 20 per cent most deprived SOAs in England. Therefore regeneration and renaissance is a key issue across the region, although almost a quarter of these SOAs are in Bristol.

The draft East Midlands RSS was published in March 2005, but it does not meet all the requirements of the 2004 Planning and Compulsory Purchase Act and a review is now taking place under the new procedures. A draft revision was launched for public consultation on 28 September 2006 and, after the consultation and the EiP process, a final document is due for adoption by the end of 2008. Like the others mentioned here, it focuses on promoting development in sustainable locations, within or close to large urban areas,

where existing infrastructure and access to employment and services is greatest, and restricting development in villages and small towns to affordable housing, particularly in the National Park. The region includes part of the South East Milton Keynes growth area and further growth is concentrated on Northampton, Corby, Kettering and Wellingborough, with additional New Growth Points – the three cities of Nottingham, Derby and Leicester, and Lincoln, Grantham and Newark. Again, like the South East, the East Midlands region has not accepted the number of dwellings projected by central government, but has adjusted them to include the planned Growth Area targets as part of their regional target and so reduced the requirements for Lincolnshire proportionately. For affordable housing, they propose an overall regional target of 27 per cent social-rented housing and 5 per cent intermediate housing.

## 10. Local Development Frameworks

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

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

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

The optional DPDs are Area Action Plans, other documents concerned with housing, employment, retail development etc. They can also include generic development control policies. Supplementary Planning Documents are also optional and are similar to Supplementary Planning Guidance which many authorities issued to provide greater detail for developers when applying for planning permission. These may relate to a topic such as affordable housing, or to individual sites, particularly large strategic sites.

Some local authorities have included their current approved Local Plan as a DPD in the interim, until all the new DPDs have been approved. Others have chosen not to go down the LDF route at present, because their Local Plan

adoption process is so recent (for example Cambridge City has only just held its Local Plan Inquiry). It is likely that they will introduce the LDF once their annual monitoring report identifies the need for review of particular policies or targets.

## 11. Strategic Housing Market Assessments

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

As a minimum, the practice guidance will enable authorities to derive figures for housing need and demand in their areas and to determine what this might mean in terms of market and affordable housing provision. It will also allow authorities to develop a good understanding of housing markets, particularly in terms of their characteristics and the drivers of market change. This assessment will provide authorities with a robust evidence base which will inform the development of policies in Local Development Frameworks (LDFs) aimed at providing the right mix of housing (Communities and Local Government, 2007a).

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

## 12. Affordable Housing: the numbers

Crook *et al* (2006b) provide the most up-to-date analysis of the output of affordable housing using S106. The total output of new affordable housing over the period 1999-2000 to 2004-05 (the most recent available data) is shown in table A1.

**Table A1: Affordable housing completions**

	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05
<b>North East</b>	2,621	2,241	624	328	585	644
<b>North West</b>	5,698	5,717	2,374	3,022	2,565	2,531
<b>Yorks &amp; Humber</b>	2,036	1,940	1,456	1,330	1,736	1,232
<b>East Midlands</b>	4,190	4,350	1,846	1,837	1,906	1,807
<b>West Midlands</b>	5,730	5,465	2,858	2,789	2,864	3,410
<b>East of England</b>	4,154	4,328	2,968	2,796	3,485	3,865
<b>London</b>	8,114	9,130	7,055	7,377	8,769	8,552
<b>South East</b>	7,766	7,876	7,084	6,148	7,298	7,645
<b>South West</b>	3,917	3,924	3,541	3,164	3,397	3,468
<b>England</b>	<b>44,226</b>	<b>44,971</b>	<b>29,806</b>	<b>28,791</b>	<b>32,605</b>	<b>33,154</b>
<b>Per cent Increase</b>		2%	-34%	-3%	13%	2%

Source: Crook *et al* 2006b, page 359

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

Reflecting these factors with the lag necessary for completion, table A1 shows that delivery fell sharply between 2000-01 and 2001-02, a fall of over one third. The improvement since then has been relatively slow, and output levels (including acquisitions) are only about 75 per cent of the levels of the turn of the century.

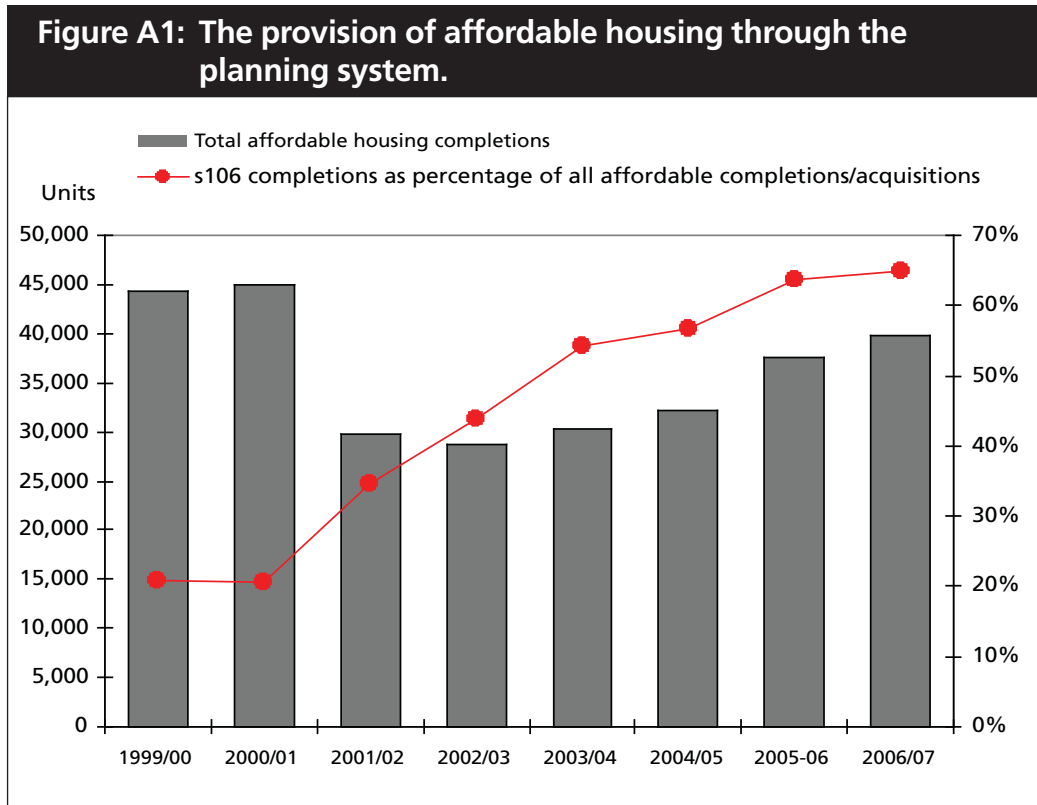
Table A2 shows the number of affordable units completed with the aid of S106 contributions.

**Table A2: Affordable units completed through the planning system**

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

Source: Crook *et al* 2006b, page 360

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



Source: Crook *et al*, 2006b, page 361 (updated to 2006/7)

Crook *et al* show that S106 output has risen by almost 50 per cent since 1999-2000 and is now above the levels originally thought to be achievable in absolute terms. S106 completions have risen from around five per cent to perhaps 12 per cent of all housing completions since 1999. This is still below most local authority targets, but is expected to rise towards 15 per cent fairly rapidly.

However, S106 is insufficient to offset the decline arising from reductions in public subsidy. Figure A1 shows that in 1999-2000 S106 completions accounted for only 21 per cent of all affordable housing completions, but this had risen to 55 per cent in 2004-05. Even then, S106 completions are clearly only just enough to substitute for the decline in affordable homes achieved in the traditional way with government grant to housing associations – S106 completions rose by 30 per cent but the total rose by only 15 per cent. There is still a long way to go to get back to the position at the turn of the century when total output was 45,000 units compared with 33,000 in 2004-05.

The regional pattern is interesting. In the late 1990s, Crook *et al* argue that there was considerable concern about the extent to which new housing overall and new affordable housing provision was concentrated in the North and to a lesser extent the Midlands. In these regions housing conditions were

often poor but the emerging issue was low demand and regeneration rather than increasing numerical housing pressure in the South (Stephens *et al*, 2005). Yet the data presented here show that 23 per cent of completions were in the North in 1999-2000 with a further 22 per cent in the Midlands. This is completely out of line with the projected increases in the total number of households in these regions, and particularly the likely demand for social-rented housing – both suggest that almost 80 per cent of requirements will be in the South (Crook *et al*, 2006b).

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

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

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

### 13. Toolkits

To help in S106 negotiations several S106 toolkits have been developed, notably by Three Dragons for the Greater London Authority (GLA, 2001) which the GLA have updated, and plan to continue to update, on an annual basis. The purpose of the toolkit is to assess the development economics of providing affordable housing on individual sites. The toolkit should assist local authorities, developers and housing associations when negotiating S106 agreements. The toolkit is policy neutral but allows the user to test the economic implications of different types and amounts of planning obligation, including the volume and mix of affordable housing sought and the amount of public subsidy. It includes a set of local authority default values for all London Boroughs, but it also operates on specific scheme details where these are available. It can be purchased in the form of a CD Rom which includes the data base model in Excel, default values for London and detailed guidance notes on its use.

The Housing Corporation has also produced a toolkit or assessment tool (GVA Grimley and Bespoke Property Group, 2006). The Economic Appraisal Tool is designed to model residential and mixed-use developments which seek Social Housing Grant alongside developer S106 contributions. Commissioned from property consultants GVA Grimley & Bespoke Property Group, initially for internal use, the model is available for the use of all parties involved in the process of developing affordable housing. Its purpose is to assist and inform discussions between Housing Corporation field officers, developers, Registered Social Landlords (RSLs) and planning authorities in the negotiation of Section 106 agreements and of the levels of social housing grant needed to achieve viable and sustainable developments.

In their paper, *Affordable Housing and Development Viability: Greater London as a Case Study* (2004), Golland, Oxley and Dunmore report on research examining the impact of affordable housing in 'section 106' schemes on the economics of development. This has become a critically important issue in the light of reduced financial support for affordable housing provision from government in recent years. The paper presents findings from research examining the challenge of developing affordable housing in Greater London, where pressures on housing supply are amongst the highest in Western Europe.

A key aim of the paper is to show how affordable housing affects the financial viability of housing schemes in the capital. The paper demonstrates how the Three Dragons toolkit model developed for the Greater London Authority is being used to facilitate negotiations between speculative housing developers, local authorities and registered social landlords. In particular, it shows how varying the type and tenure of affordable housing can impact on developers' decisions on whether or not to purchase sites.

The paper tests the hypothesis that different affordable housing quotas should be applied in different local housing market situations. The London case study considers four boroughs where house prices, housing mix and density vary, and looks at the impact of affordable development on site viability. The paper also considers how grant can impact on the feasibility of schemes and, furthermore, how affordable housing may alter land owners' decisions in the light of existing and alternative uses for their sites.

The implications of the model devised for Greater London go beyond housing questions in the region, although it is probably fair to say that they are most pronounced in the capital, where affordability is a key issue. The model produces results that can help local authorities better understand the consequences for housing delivery of chosen policy options. In its most fundamental form, it indicates the financial impact of affordable housing on residual site value. Results can be compared with existing or alternative land use value, and informed decisions made on the propensity of a site to come forward for residential use. The model is not intended to be used in a mechanistic fashion. It is intended to be an aid to decision making. It does not make the decision. When used for a particular site, users can apply their own

'bespoke' data if this is more relevant. A considerable benefit of the model is that it can assist negotiating processes between planners and developers by making assumptions explicit and by clarifying the basis on which viability conclusions are reached.

The model can be used strategically. A strategic planning authority (either at the local or regional level) can generate results for typical developments across its area of responsibility. On this basis, it can form a view about where affordable housing can be most viably delivered. In some areas, no affordable housing will be possible, whilst in others; affordable housing can be encouraged on all sites. In practice, it will become clear that this tool is very helpful in giving planners a benchmark against which overall levels of affordable housing delivery can be measured.

The process of assessing the deliverability of affordable housing is seen in the context of the policy objective implicit within PPS3 of creating mixed and sustainable communities. It is also seen in the context of the need to regenerate city centres and wider urban areas, and further, in the context of the requirement to develop affordable housing where it is most needed. Improved information on the viability of affordable housing can greatly assist in the process of balancing (sometimes competing) policy objectives. For example, local authorities are often concerned to avoid situations in which new affordable housing might be concentrated in an area with an existing high level of social housing stock. In the same way, a strategic regional planning authority might be concerned to deliver the highest affordable housing targets in predominantly wealthier, owner-occupied areas. A local authority might further be concerned to rehabilitate existing homes rather than build new ones (since, for example, it has an existing stock of homes that is 'affordable'). Under all these circumstances, better information on the impacts of affordable housing on the viability of schemes can help to deliver more sustainable outcomes.

## **14. Summary**

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

However, it became clear that S106 had many problems in implementation. The Barker reviews highlighted these issues, in addition to the problems of providing housing for the UK's changing demographics. Barker argued for the need for changes to the planning system; key here is the scaling back of S106 and the proposed PGS. The Government responded to these reviews with new policy on housing in the form of PPS3, which came into effect on 1st April 2007.

The most useful methods of estimating the value of developer contributions involve a model or toolkit which is based on the 'residual method' of evaluating development viability. While these models take several forms, they are all based on estimating the gross value of the development in terms of numbers of units at expected sales prices, deducting all the costs of development except the land – so deducting build costs, fees, and normal profits (usually 15 per cent) so that what is left – the residual – represents what is available to pay for the land. Such a model was used in this research to value developer contributions under different common starting points.

Section 106 remains a key instrument for planners to meet the Government's objective of providing affordable housing. However, this is against the background of a changing policy context realised through the new PPS3 and the future introduction of a new LPA tariff system to raise funds for infrastructure.

## Appendix B: Methodology

### Scoping study

After the literature and policy review was completed (reported in appendix A) a scoping study was conducted to select the case studies.

The purpose of this section of the study was to “describe the range of current practice with respect to starting points (SP) in affordable housing Section 106 (S106) negotiations” (Research Specification) and to identify local planning authorities that potentially have a SP and those that do not. The brief explicitly did not require these authorities to be nationally representative.

The research team initially intended to conduct an email survey of local planning authorities (LPAs) in order to select 12 for interview. Instead, it was decided to use various information sources available to the research team to identify a larger number of LPAs for interview by phone and/or examination of their policies. Thirty-three LPAs were chosen to ensure coverage of:

- Settlement sizes (conurbation, freestanding city, large town, small town, rural area)
- Regional distribution (north/south/midlands)
- Housing market pressure (high/medium/low)
- Brownfield/greenfield
- Housing need (high/medium/low)
- Availability of social housing grant
- Experience of S106 negotiations

We have a large database of LPA practice and S106 agreements built up through our previous research work. Housing Strategy Statistical Appendix (HSSA) data was examined to explore affordable housing provision across the different regions. This enabled us to use purposive sampling to select local authorities as case studies where we were confident that there would be sufficient S106 agreements to examine. Previous work and further examination of LPA affordable housing policy helped us to determine which LPAs may have a SP for S106 affordable housing negotiations and those that do not. We took the LPAs suggested by Steering Group Members into consideration when selecting these case studies. The mix of LPAs in the different regions broadly reflects the national distribution of the delivery of affordable housing. The table below shows which LPAs were interviewed for the study.

<b>London</b>	<b>South East</b>	<b>South West</b>
Bexley Camden Hammersmith Haringey Hillingdon Newham	Basingstoke Eastleigh Hart Hastings New Forest Surrey Heath Windsor and Maidenhead Wokingham	Bristol Restormel Torbay
<b>East of England</b>	<b>East Midlands</b>	<b>West Midlands</b>
Broadland Cambridge City Chelmsford Peterborough	Charnwood High Peak	Birmingham East Staffordshire Gloucester Lichfield Stroud Taunton Deane Worcester Wyre Forest
<b>Yorkshire &amp; Humber</b>	<b>North West</b>	
East Riding	Stockport	

## Interviews

The LPAs selected were telephoned and once contact had been made with the appropriate person, they were interviewed. However, this process was not straightforward since in many cases authorities did not know who was responsible for undertaking S106 negotiations, while in others, the relevant case officer undertook the negotiations, so that a number of different individuals were involved.

The questions listed below were used as a topic guide during the interviews:

1. What proportion of affordable housing do you seek on new developments (any other policy specifications such as thresholds)?

Where is this specified?

2. What do you always begin with in terms of what you ask the developer to contribute as the affordable housing?

For example, what form should the contribution take (reduced price land, free land, free serviced land, reduced price dwellings, free dwellings, completed units sold to a Registered Social Landlord at a fixed price, financial/commuted sum)?

3. What type of housing – size, mix, tenure, type of occupation?

4. Location - on or off site, 'pepper-potted'?

5. Involvement of RSL?

6. Do these requirements apply to every development in the whole district, does a common starting point exist?
7. If not, why not? If so, why did you choose this one?
8. Are there other CSPs that you feel would be more effective?
9. Grant – do you plan for none, for grant at an expected rate, or with a trade-off against the scale of provision?
10. Are these requirements written into policy and available somewhere developers can access?
11. What happens if the developer offers something different?
12. Any trade-off with the other S106 components?
11. Do you generally achieve the SP that you ask for?

## Modelling

Five schemes in London were modelled. Data from real sites was used. Analysis of scheme financial appraisals is based on the GLA financial appraisal model (Three Dragons toolkit - 2006/7 version) – schemes have been anonymised for reasons of commercial confidentiality. The actual scheme and what the scheme would have looked like if there had been no affordable housing were modelled alongside the CSPs tested for comparison. Seven LPAs outside of London were also modelled. Data for real schemes was unavailable for these areas so averages were used. The schemes were modelled as 100 per cent market schemes for comparison.

The research team were given confidential access to the full details of 30 actual schemes in London. They were very varied, and given the time taken to analyse them in terms of the agreed list of common starting points, the team selected five schemes. To provide analysis other than London which is often seen as a special case or at least very different from the rest of the country, two scenarios were modelled using average data in seven other areas:

Bristol	South Lakeland
Cambridge	South Norfolk
Leeds	Swindon
Medway	

Average data had to be used as data from real schemes was not available. Developers are understandably very reluctant to make this information public given the competitive nature of the industry. The problem with these hypothetical schemes is that they inevitably do not reflect the varied nature of actual schemes in terms of precise location, nature of site including ground conditions and abnormalities (cost characteristics), particular impacts of the development that need mitigation, and so on, although such variation could be modelled with additional resources. However, they do provide an indication of the differences between the selected common starting points which is the main purpose of the modelling.

## Focus groups and interviews

After the modelling had been completed focus groups were held with a range of stakeholders. A total of 21 people attended the focus groups, representing consultants, the Advisory Team for Large Applications (ATLAS), developers, planners and housing officers from district and county councils, and housing associations. A short presentation summarised the aims of the project and presented graphs of the emerging modelling results. The participants were asked to discuss the issues listed under objective 2.2 of the Research Specification (see chapter 1). Representatives from the Housing Corporation and English Partnerships, with their potential role in determining the allocation of grant, were interviewed separately. This allowed unbiased discussion in the focus groups of the key areas of concern. We also interviewed a representative from the Audit Commission who had been involved in producing their guide to S106 (*Securing Community Benefits through the Planning Process: Improving Performance on Section 106 Agreements*, 2006).

## Appendix C: Case study results

Below is a summary of the results from the case study local authorities grouped into the starting points identified in figure 1 of the main report.

### **Option 1: No CSP**

#### **East Staffordshire**

No housing developments over 10 units permitted. No CSP, no AH being provided through S106.

### **Option 2: Range of options suggested, chosen through negotiation on a case by case basis.**

#### **Restormel**

At least 30 per cent to be affordable. LPA provides a list of options, one is chosen through negotiation between developer and LA. Specified in Planning Guidance Note, adopted January 2004.

#### **Lichfield**

25 per cent, on site provision preferred rather than commuted sums (financial contribution in lieu of land/units). How to be provided is negotiated on a case by case basis. Specified in Planning Obligations Supplementary Planning Document, May 2006.

#### **Cambridge City**

40 per cent. What is asked in terms of the developer contribution varies on a site by site basis. There is nothing specified in policy. Currently have a range of contributions. Hope in the future to specify a policy of free land.

#### **Windsor and Maidenhead**

30 per cent. Negotiable. Usually completed units sold to an RSL at an appropriate price. Order of preference:

1. On site housing
2. Land with planning permission for housing
3. Financial contribution

#### **Peterborough**

Just changed from 30 per cent to 35 per cent, but evolving all the time. Suggest a 50/50 split between social-rented and shared ownership. Open to negotiation whether the developer provides land or completed units. If the developer and an RSL cannot agree on a deal between them, the land is passed to the council for development of affordable housing units, or as commuted sums. Do not specify type, size or location of units.

**High Peak**

Per cent of affordable housing required varies across region. What is expected varies on a case by case basis. Developer and RSL to provide completed units; RSL buys units at price negotiated between the two.

**Torbay**

Use Total Cost Indicator to calculate affordable values, but negotiate on a site by site basis with developer.

**Option 3: Up to the developer to decide what form the contribution will take.****Stroud**

No CSP stated but 30 per cent affordable housing required, leaving the form of contribution up to the developer. Assumes no grant. Suggest a range of options (free land, completed units etc) and ask the developer to decide.

**Option 4: Completed units required, preference for on-site units. Sold to RSL at price agreed between developer and RSL.****Taunton Deane**

20-35 per cent. Local Plan states preference for on site as completed units. However, these can be built by the developer or by the RSL. No fixed policy on who to provide the units.

**Watford**

30 per cent on site, as a guide to the preferred mix, the ratio of units for rent to other tenures should ideally be 75 per cent to 25 per cent (specified in SPG). Developer has to build units. Completed units purchased by HA at price agreed between HA and developer, no LA involvement in this element of the negotiation.

**Basingstoke**

40 per cent in Local Plan. Expected as completed units, but, who pays the build costs varies. Developer may only provide free land, or may pay build costs. This is decided by negotiation between RSL and developer. Currently producing SPD on affordable housing.

**Surrey Heath**

25 per cent on sites of 25+ units is specified in the Local Plan but the threshold will be 15 units soon due to PPS3. Completed units on site are preferred. Planning is not involved in the detailed negotiations, housing and RSL to decide.

**Hammersmith**

Units to be provided on site, price paid by RSL negotiated with developer, currently a period of change. SPG not adopted and has no weight. UDP says will negotiate for the maximum reasonable amount of AH. Seek 100 per cent affordable housing on exception sites. The monitoring target is 65 per cent, but new Conservative administration have proposed 40 per cent.

**Birmingham**

35 per cent on site specified in the SPG. 25 per cent social-rented and/or shared ownership, 10 per cent other intermediate such as intermediate market rent. Completed units sold to RSL. Prefer RSL and developer to negotiate price privately. However, if developer requires certainty at the planning stage, will specify the price the RSL will pay based on a per cent of the market value. Issue of trade-offs with other planning gains have been a problem and is under investigation. Other trade-offs may be made if larger sized units can be provided. For example, a lower proportion of affordable housing may be permitted if four bed+ social-rented units can be delivered, as the waiting list for large units is very long. In this case the LPA would accept less than 35 per cent.

**Chelmsford**

35 per cent on threshold sites. SPD in draft form. In practice, although not yet adopted policy, expect no grant, expect completed units on site. Whilst in theory the price paid for the units is negotiated between the RSL and developer, in reality it is fixed as it is determined by the mortgage the RSL can get for the units.

**Worcester**

30 per cent on site. Completed units purchased by HA at price agreed between HA and developer, no LA involvement in this element of the negotiation.

**Option 5: Completed units required, preference for on-site units. Developer to provide land (either free land or free serviced land) and build the units, sold to RSL at price agreed between developer and RSL, so actual contribution of developer will vary.**

**Camden**

The SPD specifies 50 per cent affordable housing, with a tenure split of 70/30 social-rented/intermediate. Guidance on the mix is vague for the intermediate units, but specifies that they cannot all be studios. For the social-rented units the policy specifies that 50 per cent should be three bed+, 30 per cent should be two beds, and 20 per cent should be one bed. The 50 per cent is calculated on floor space. This is to be provided in the form of free land, given to a Registered Social Landlord (RSL) in the form of completed units, sold to the RSL at price agreed between the RSL and developer. It is assumed that Housing Corporation (HC) grant with the Housing Association's (HA) funds can cover the development costs of units. No 'pepper-potting' is required as the developments are flats.

**Charnwood**

Free land, given to an RSL in the form of completed units, sold to RSL at price agreed between RSL and developer. Assume HC grant with the HA can cover development costs of units.

**Gloucester**

40 per cent affordable housing. Ideally 75/25 social-rented/shared ownership. The order of preference is:

1. Units on site constructed by developer. Sold to HA at reduced cost, to be agreed between RSL and developer, council intervened on one site to specify price per sq metre to be paid.
2. Free land and developer contribution
3. Commuted sum.

(SPD draft 2006).

**Haringey**

50 per cent on 10+ units in the SPG. On site expected to transfer completed units to RSL. Who pays for the building costs, and how much, is negotiated privately between the developer and RSL.

**Hillingdon**

Target of 50 per cent on site. No CSP in policy, but common practice – free land to RSL, units built by developer for RSL. Leave it up to the developer and the RSL to decide which approach they would prefer.

**New Forest**

35 per cent as free serviced land. SPD adopted November 2005. Units may be built by either RSL or developer.

**East Leigh**

Ask for 35 per cent on sites of 15+ dwellings. How the units are to be provided is negotiated on a scheme by scheme basis. Commonly, the land is given free, the HA buys completed units from the developer.

**Hart**

Ask for free serviced land, but currently price paid to RSL by developer is agreed privately between them so cannot say what the developer contribution was in practice on each scheme. The LPA is working with their partner RSLs to agree a price per m<sup>2</sup> to pay a developer. Current policy asks for a mix of 50 per cent shared ownership and 50 per cent social-rented, however, the LPA is looking to move towards 65 per cent rented and 35 per cent shared ownership in the LDF. They are trying to negotiate this at present. 40 per cent on-site provision is expected in very exceptional circumstances. This is on sites of 15 dwellings or 0.5ha and 5 dwellings or 0.2 ha in areas with a population of 5,000 or less

## **Option 6: Units to be built by developer and sold to RSL at price fixed in advance by LA**

### **Bexley**

35 per cent of units on site, sold to RSL at price specified in policy based on TCI in SPD adopted March 2006. 70/30 social-rented/intermediate. The type of units are specified based on the area. 'Pepper-potting' now in place after convincing RSLs and developers.

### **Bristol**

30 per cent on site completed units. Provided as reduced-cost units. Developer meets part of build costs, RSL pays part of the cost as determined by a rental-stream approach known as 'the matrix'. The matrix is based on supportable deficits, so the amount the RSLs could afford to raise through target rents. City divided into two zones. In SPG, Affordable Housing Practice Note. Matrix is internal but available from housing department.

### **Wokingham**

Rental stream approach determines what RSL pays for units built on site by developer. In Supplementary Planning Advice.

### **East Riding**

Rental stream approach. CSP is a per unit amount a developer can expect to receive from an RSL based on the market value of the units minus subsidy, this is calculated by formula specified in SPG.

### **Newham**

35 per cent on site preferred. Completed units sold to RSL at a price fixed during the planning stage. Use a formula to calculate RSL contribution, but this varies on a site by site basis.

### **West Berkshire**

Rental stream approach. Generally, of the affordable housing, 75 per cent will be for affordable rent and 25 per cent will be for low cost home ownership, shared ownership or intermediate rent. The specific proportions for any site will be dependent on a range of factors. The Supplementary Planning Guidance (SPG) requires affordable housing to be delivered using the rental stream approach. Details of the Council's affordable housing policies can be found in the Local Plan and Housing Strategy.

### **Hastings**

Completed units to be transferred to an RSL at amount calculated using rental stream approach. In SPG.

**Stockport**

35 per cent completed units on site as shared ownership on sites over half a hectare or 15+ dwellings in SPG. Developer has to sell to RSL at a fixed unit price, based on second quartile incomes in the region. These are adjusted every year in line with incomes.

**Wyre Forest**

Policy stipulates what developer can expect RSL to pay for completed units. Details in an 'Affordable Housing Toolkit' document.

## Appendix D: Modelling results

Modelling was undertaken as part of this research in order to test the impact of different CSPs (common starting points) on the economics of development. A financial appraisal model was used that is similar to other models available such as the Three Dragons model for the Greater London Authority and GVA Grimley's model for the Housing Corporation. Using a model, the total costs of the scheme (including the developer's profit margin and the affordable housing contribution) can be deducted from the income that will be generated from the sale of the proposed units. The amount left over, if it is positive, is the amount that the developer can in theory pay for the land.

The model was used to estimate the residual value of the scheme (the sum remaining after taking account of all costs including planning obligations), the viability of the scheme (the sum remaining after taking the value of the site in an alternative – or existing – use from the residual value) and the developer contribution in financial terms for a range of different CSPs. The results presented below for sites in London were based on actual data, while for areas outside London average values had to be used.

### Model assumptions

The assumptions in the model are as follows. The building costs are averaged for the development. The social rent revenue is based on the weekly rent by number of beds. The shared ownership uses 50 per cent of the market rent. Grants are paid at the beginning of the development period for simplicity (although this makes little difference). The main aim is to ensure the model replicates the outcome using different inputs for the different areas.

### What the graphs show

#### 1. Residual value

These graphs show the land value that remains given the affordable housing requirements of the CSP being modelled and any other planning obligations.

#### 2. Viability

For the London sites it was possible to compare the housing scheme with the alternative use value for the site.

#### 3. Contribution

Here the developer contribution is calculated by taking the residual value from the scheme as if it had no affordable housing ie a 100 per cent market

scheme, and deducting the residual value from the scheme in the form of each starting point. This approach is the one used in *Valuing Planning Obligations* for Communities and Local Government and takes into account the loss of market revenue as well as the revenue paid to the developer by the RSL for the units.

However, in practice we found from the focus groups that developers do not all make this calculation, even where they use models similar to the one we have used. They see their contribution as a simple calculation of total costs of the affordable units (including land) minus what the RSL pays, which can be with or without grant. It is important to take this into account; otherwise we may find that we are giving the development industry misleading results.

#### **4. Contribution as a per cent of costs**

These graphs show the contribution as calculated above as a proportion of the overall costs of the scheme.

#### **5. Contribution per market unit**

Here the contribution is displayed as an average for each market unit on the scheme.

### **London (Figure D1)**

#### **Residual value**

There is considerable variation between the schemes, reflecting that site specifics affect the outcomes. The residual values for the real schemes are low. In almost all cases they are lower than the CSPs tested with the general exception of transferring both land and units for free. Scheme 5 is an anomaly in that the residual values are high for every CSP.

#### **Viability**

The results here show that in comparison to alternative use values all of the schemes generated a negative value and yet have gone ahead. It is therefore difficult to make substantive comments about viability for the other CSPs. It shows that there are other considerations apart from pure economics when developers decide whether to go ahead with a scheme.

#### **Contribution**

Free land generates a far lower contribution than the scheme actually had. The addition of grant makes the contribution negligible. The contribution is higher using the 'matrix approach', but is still less than that of the real scheme. The contribution as a per cent of costs and per market unit follows the same pattern.

## Outside London (Figure D2)

### Scenario 1 – development of 25 units on brownfield land (Figure D2a)

#### Residual value

The pattern is the same for every site, a contrast to the London data which varies between each site. The highest residual value is generated by a 100 per cent market development as would be expected. Unlike the sites modelled from London, all the residual values in these developments remain positive. The second highest residual value is generated by 30 per cent free land with seven units at Social-rented Unit rate grant, the third highest by 30 per cent affordable housing with grant based on typical rates from the HC. 30 per cent free land is next, with the lowest land value generated by transferring the land and units for free, although it is still a positive value.

#### Viability

The viability data is again in great contrast to the results from London where a number of the scenarios generated negative values. The results from outside London all remain positive. The highest value is generated when the scheme contributes 30 per cent free land with seven units with variable grant at Social-rented Unit rate. 30 per cent affordable housing with land and units transferred for free is viable on all sites though generates a greater value on some sites than others where it is only marginally viable.

#### Contribution

As in the London data, the developer contribution is highest when 30 per cent affordable housing is provided as land and units transferred for free. The smallest contribution is made when the contribution is in the form of 30 per cent AH with seven units with variable grant at Social-rented Unit rate, and is about a third of the contribution of land and units transferred for free.

#### Contribution as a per cent of costs

The contribution is greatest as a per cent of costs when land and units are transferred for free, being between 45 per cent and just over 60 per cent of costs. The pattern is similar to the London data, but here the per cent is lower at between about 17 per cent and 48 per cent of costs. The contribution is the smallest per cent of costs when free land with variable grant at Social-rented Unit rate is modelled.

#### Contribution per market unit

For the data from outside London, the contribution per market unit is greatest when land and units are transferred for free, and when free land without grant is provided. The lowest is when the scheme contributes 30 per cent AH with seven units with variable grant at Social-rented Unit rate. For the London data the contribution per market unit is negligible when free land with grant at £60 000 per off site unit is provided.

## **Scenario 2 – development of 1200 units, houses and flats, on 20ha of brownfield land (Figure D2b)**

### **Residual value**

The results from outside London show that the residual value from a 100 per cent market scheme is not much higher than the two scenarios when 30 per cent AH is provided with grant. All options generate a positive residual value, the smallest being when land and units are transferred for free, although even then the value is £20m at the very least.

### **Viability**

Viability varies considerably between the different AH options. Whilst all create a positive value, in four of the seven modelled the viability is small when land and units are transferred for free. However, for the other options there is not a great difference in viability in comparison to 100 per cent market development. In fact in three instances a higher value is generated when 30 per cent AH is provided with variable grant at Social-rented Unit rate than the fully market scheme.

### **Contribution**

As in the other instances, the contribution is by far the greatest when land and units are transferred for free. The contribution is very small under the two options where some grant is included.

### **Contribution as a per cent of costs**

Again, the contribution is by far the highest per cent of costs when land and units are transferred for free. The contribution is only a very small per cent of costs under the options with grant.

### **Contribution per market unit**

The contribution per unit is almost double the other options when land and units are transferred for free. The two options with grant produce the smallest contribution per market unit.

## **Scenario 3 – development of 25 units on brownfield land with a 40 per cent affordable housing contribution (Figure D2c)**

### **Residual value**

Values are all positive and show the same pattern as 30 per cent affordable housing. There is little difference between the value of the 100 per cent market scheme and the options with an input of grant. Land and units transferred for free generates the lowest land value.

### **Viability**

At 40 per cent affordable housing all options remain viable with the exception of land and units being transferred for free which in two cases produces a negative value. This means however that it would still be viable in five out of the seven to transfer 40 per cent affordable housing land and units for free.

## Contribution

As in the previous examples, the contribution is far higher when land and units are transferred for free. The lowest contribution is when the scheme contributes 40 per cent free land with variable grant at Social-rented Unit rate.

## Contribution as a per cent of costs

When land and units are transferred for free the contribution as a per cent of costs can be as high as 80 per cent, although there is a lot of variation. The per cent of costs is low when 40 per cent free land with seven units with variable grant at Social-rented Unit rate is modelled.

## Contribution per market unit

Again, the contribution is highest when land and units are transferred for free, and lowest with 40 per cent free land with seven units with variable grant at Social-rented Unit rate.

## Scenario 4 – development of 1200 units, houses and flats, on 20ha of brownfield land with a 40 per cent affordable housing contribution (Figure D2d)

## Residual value

Residual values are almost as high as a 100 per cent market scheme under all options except 40 per cent land and units transferred for free. Again the addition of grant keeps the land value high.

## Viability

At 40 per cent land and units transferred for free it becomes a negative value in two cases, but produces a healthy positive value in two other cases. The addition of grant produces values equal to or higher than the 100 per cent market scheme.

## Contribution

As before, the developer contribution is relatively very high when land and units are transferred for free and very low when grant is added. This pattern is repeated when looking at the contribution as a per cent of costs and per market unit.

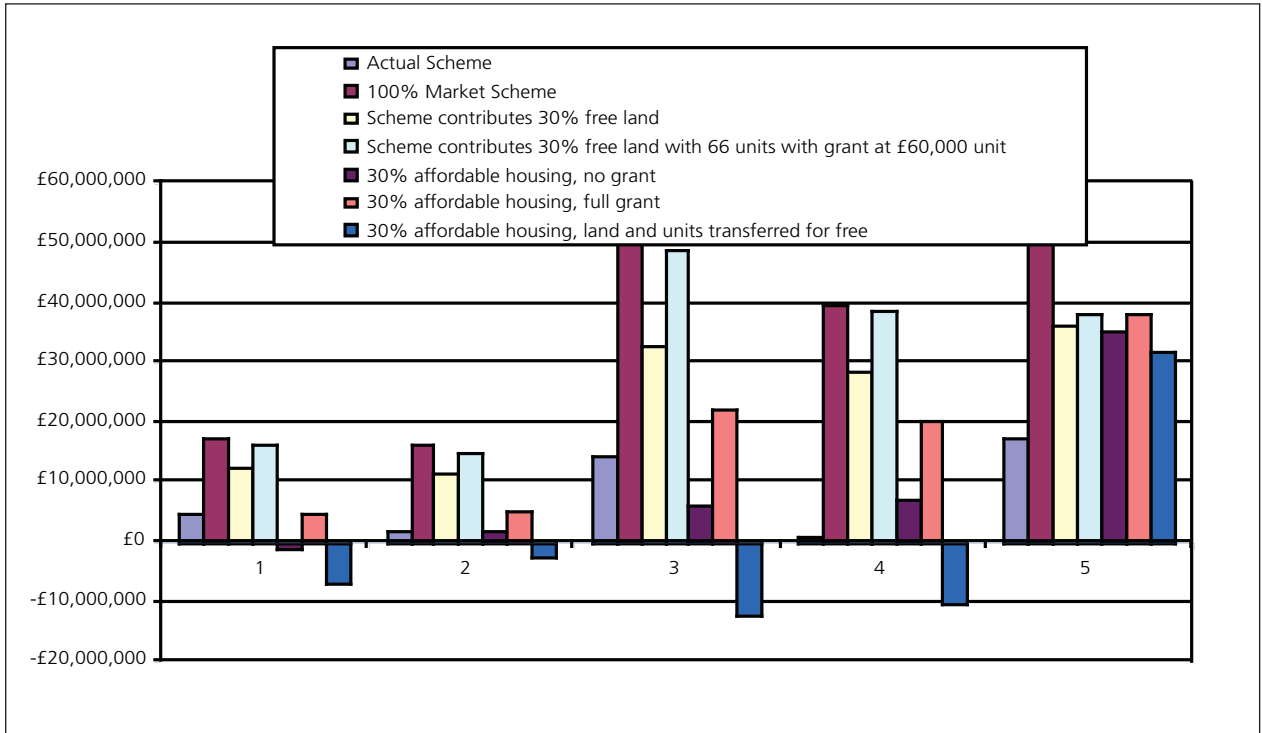
## Conclusions

In these cases even land and units being transferred for free can be viable at 30 per cent, and sometimes at 40 per cent. This suggests that in these local authorities sites could provide far more than only 30 per cent free land. This supports the comments from members of LPAs who say they currently achieve more than free land. These results also show that the addition of grant makes the developer contribution relatively very low and keeps the land value at that of a fully market scheme.

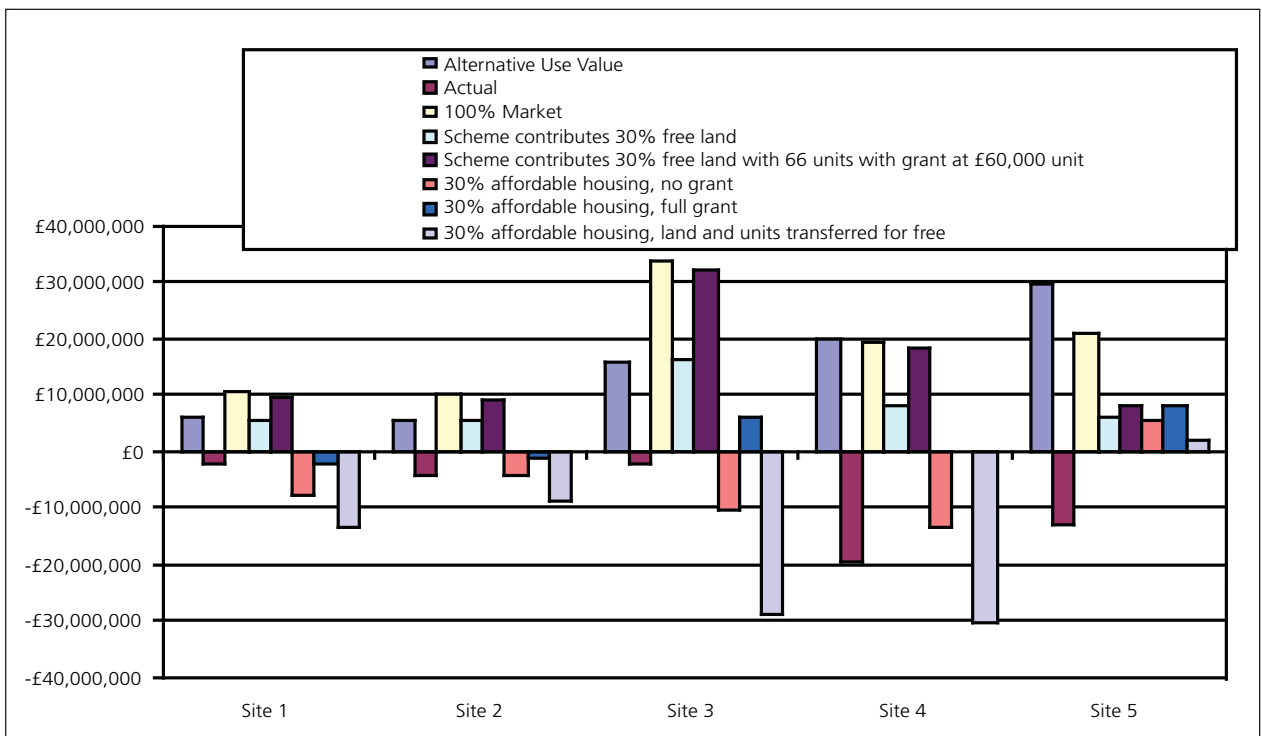
The pattern for the results outside London is the same in every case, but within London the results varied widely. The different options were also more viable in the cases outside of London, even at 40 per cent.

**Figure D1: Results from the London schemes**

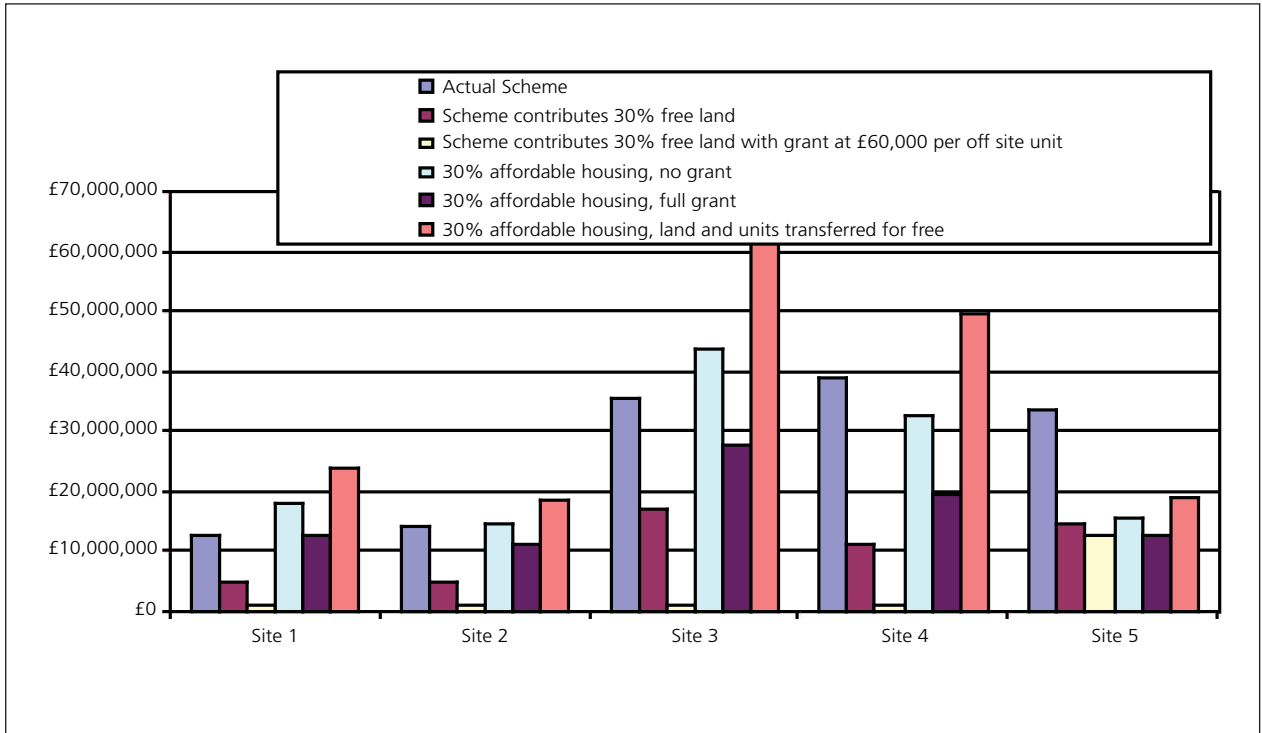
**Residual value**



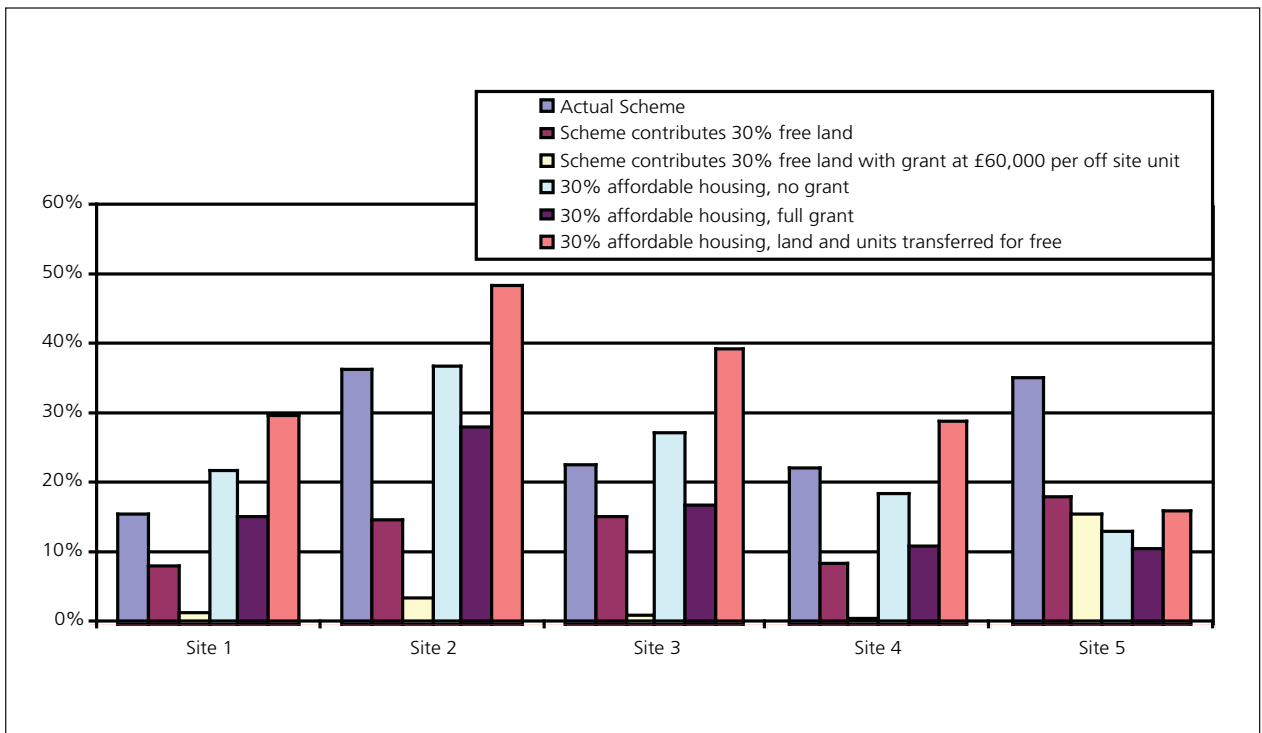
**Viability**



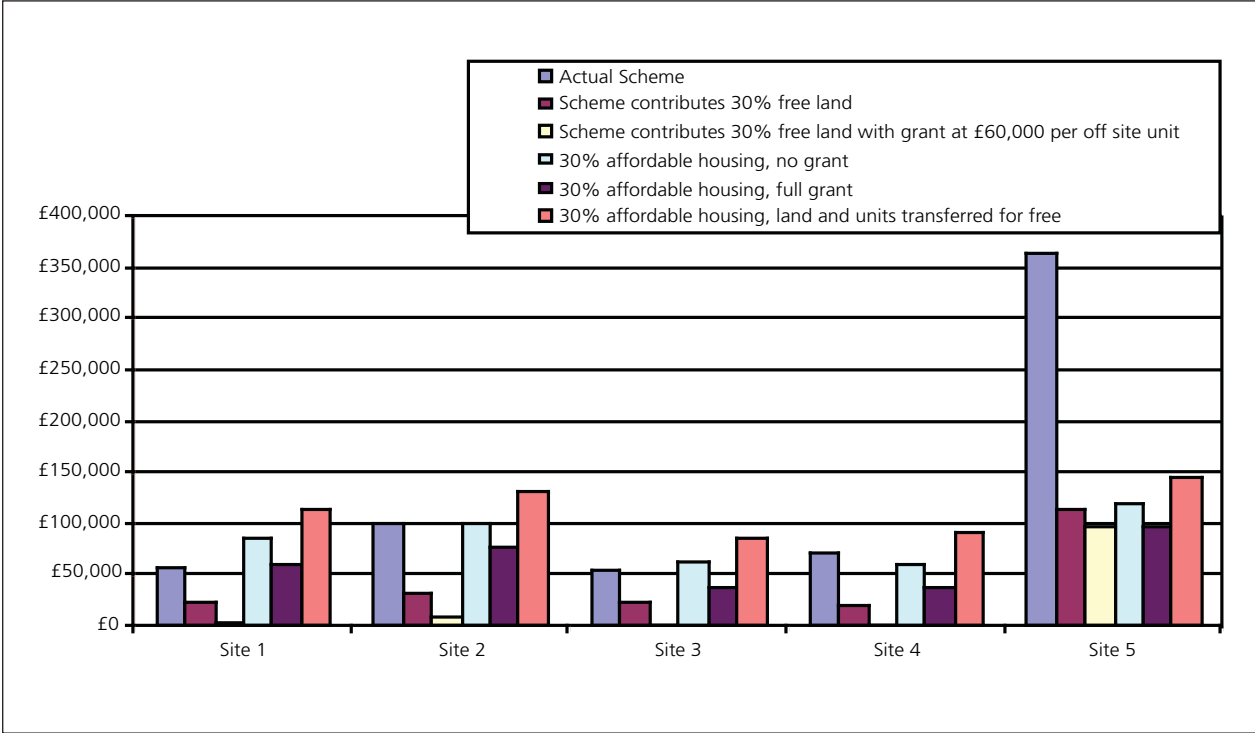
### Contribution



### As a per cent of costs



### Contribution per market unit

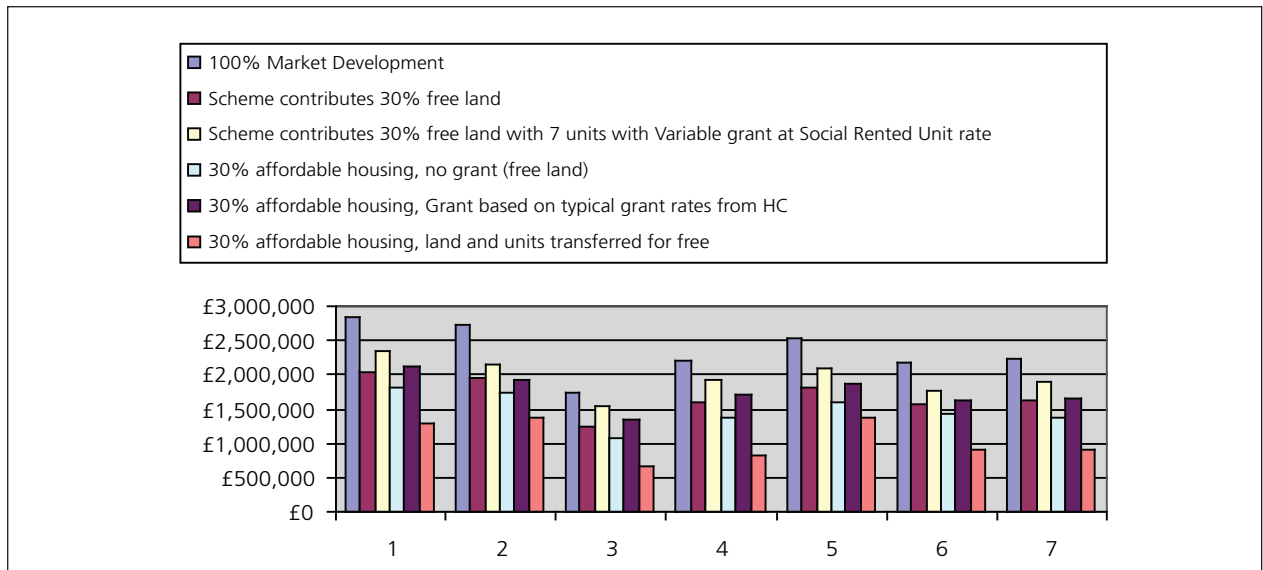


### Figure D2: Results from the schemes outside of London

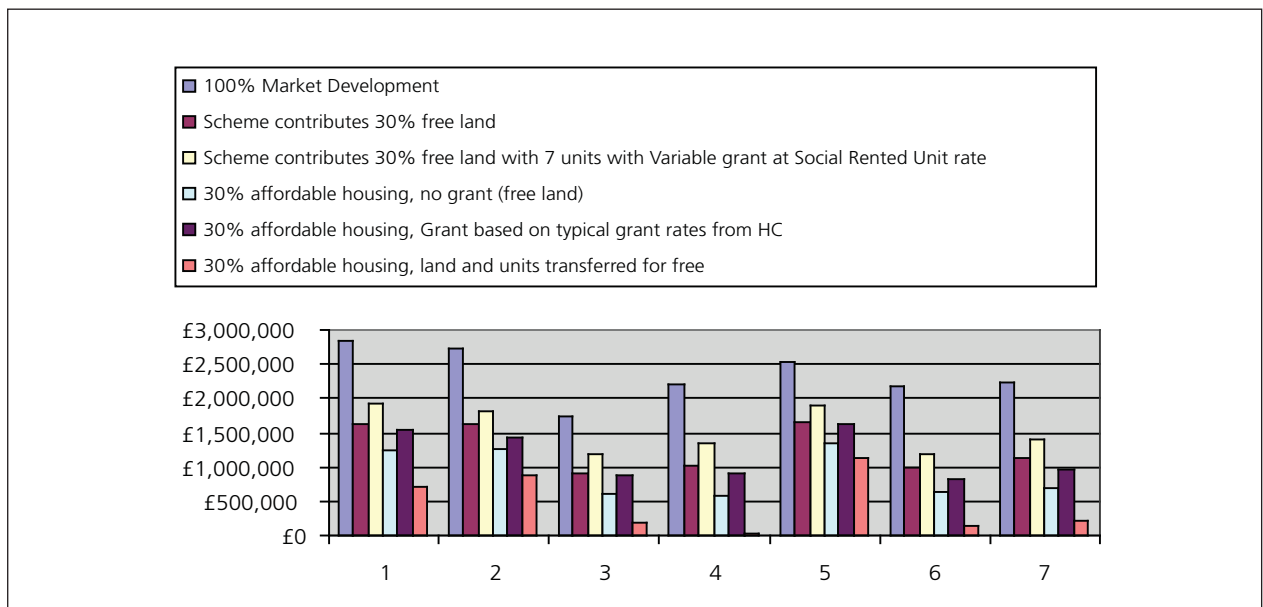
1. Bristol    2. Cambridge    3. Leeds    4. Medway    5. South Lakeland    6. South Norfolk    7. Swindon

### Figure D2a: Scenario 1 - Development of 25 units on brownfield land. 30 per cent Affordable Housing Contribution

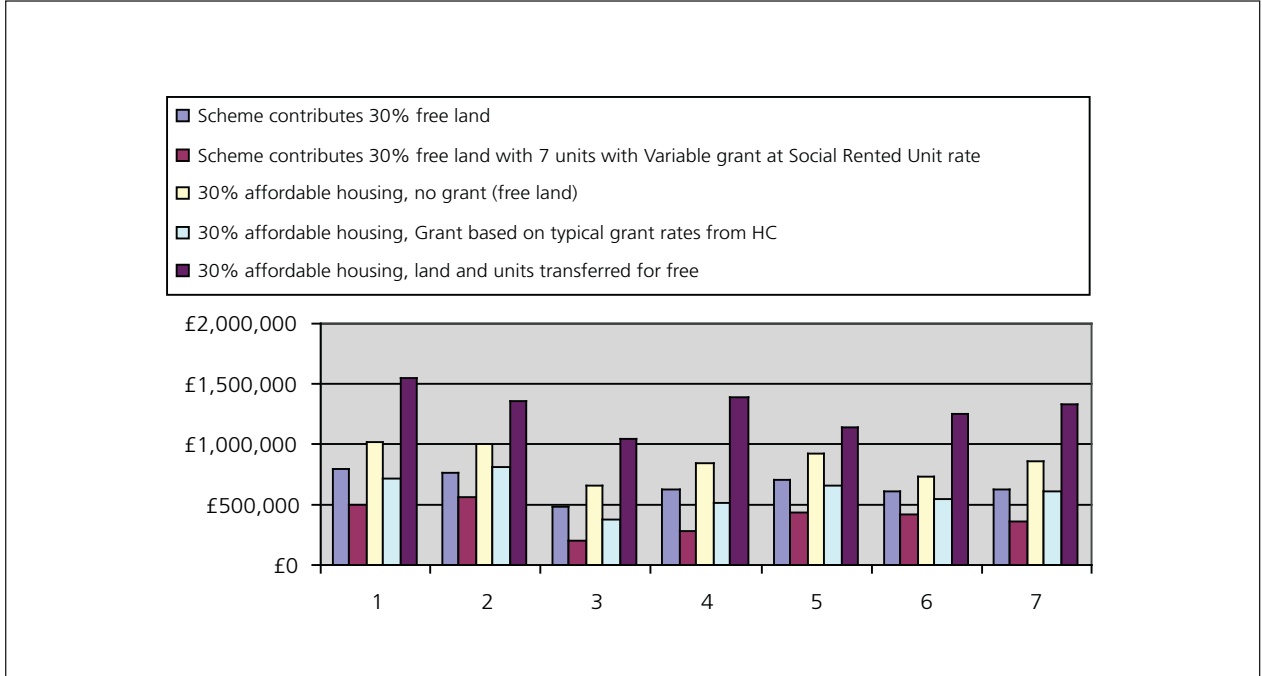
#### Land value



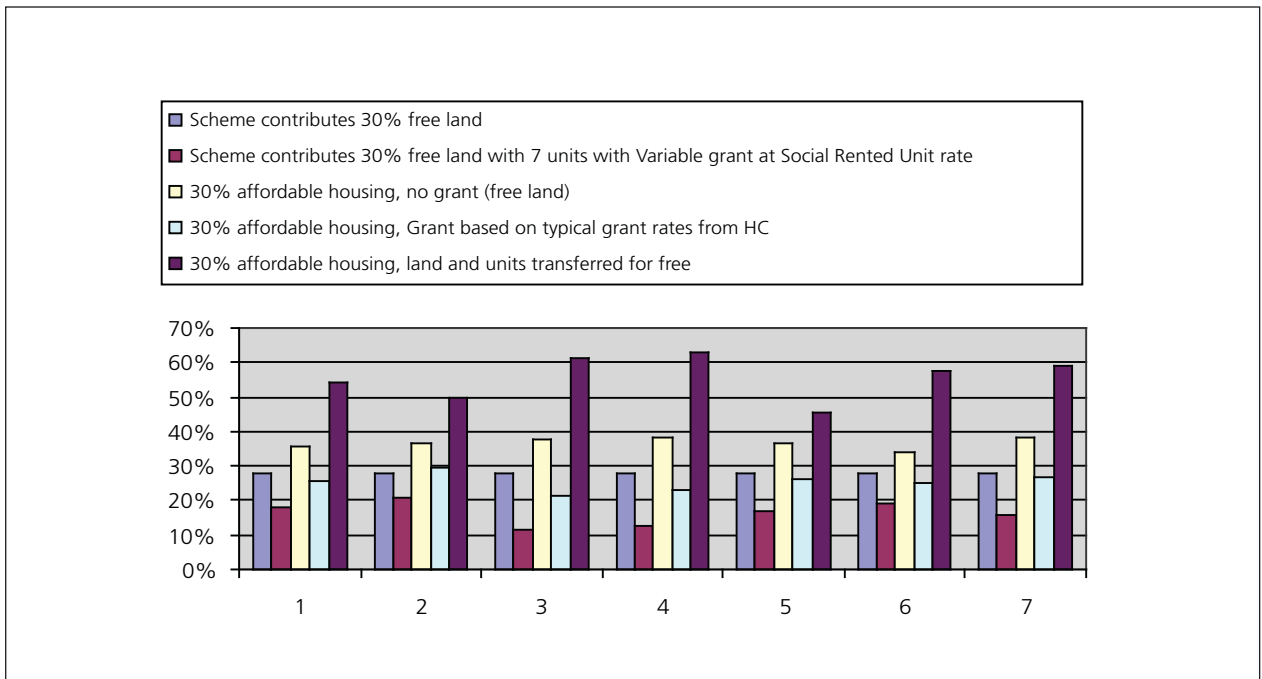
#### Viability



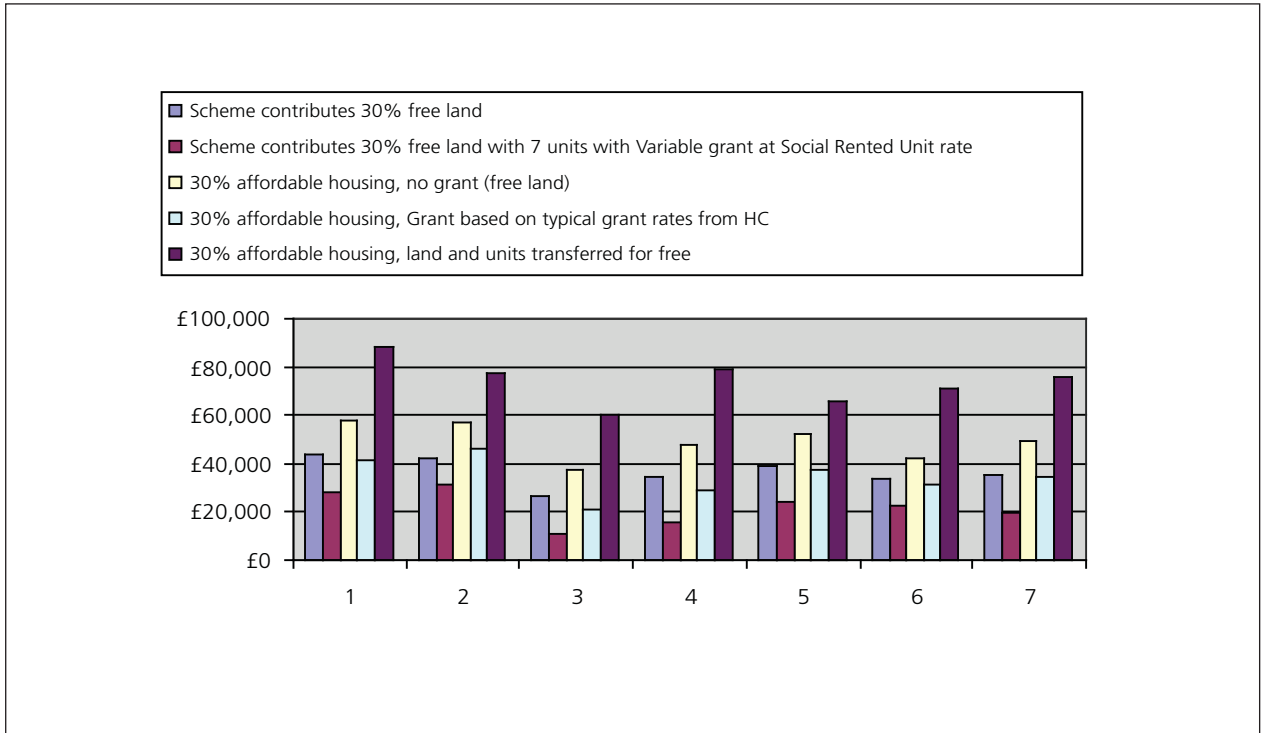
### Contribution



### Contribution as a per cent of costs

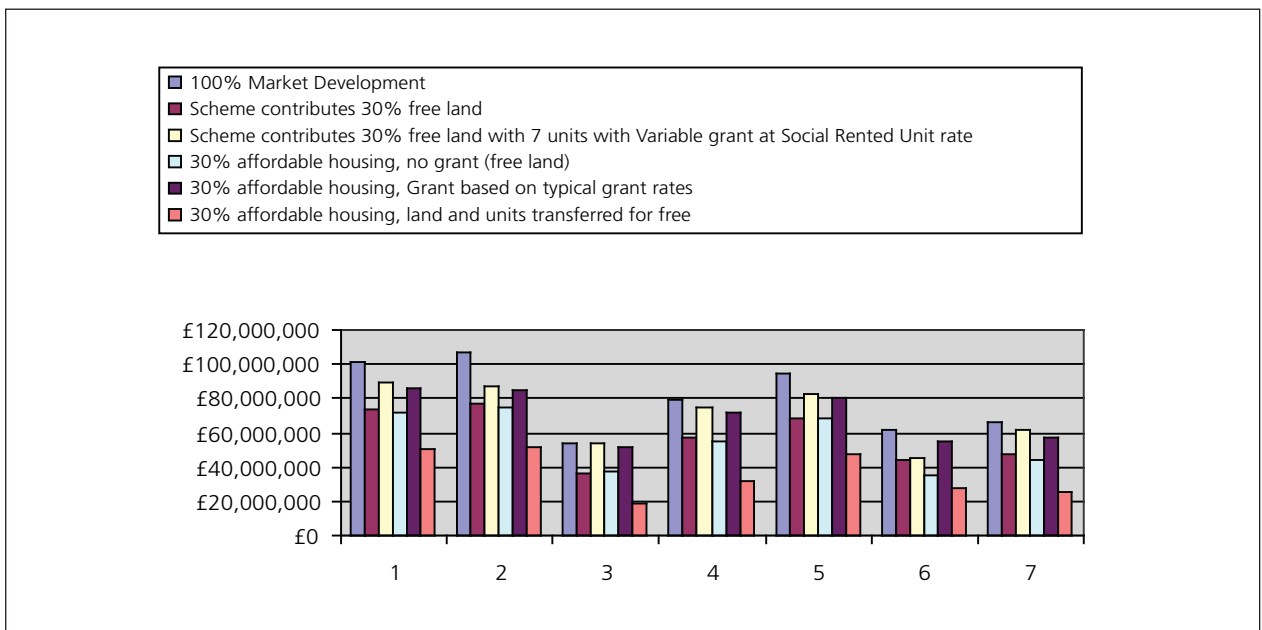


### Contribution per market unit

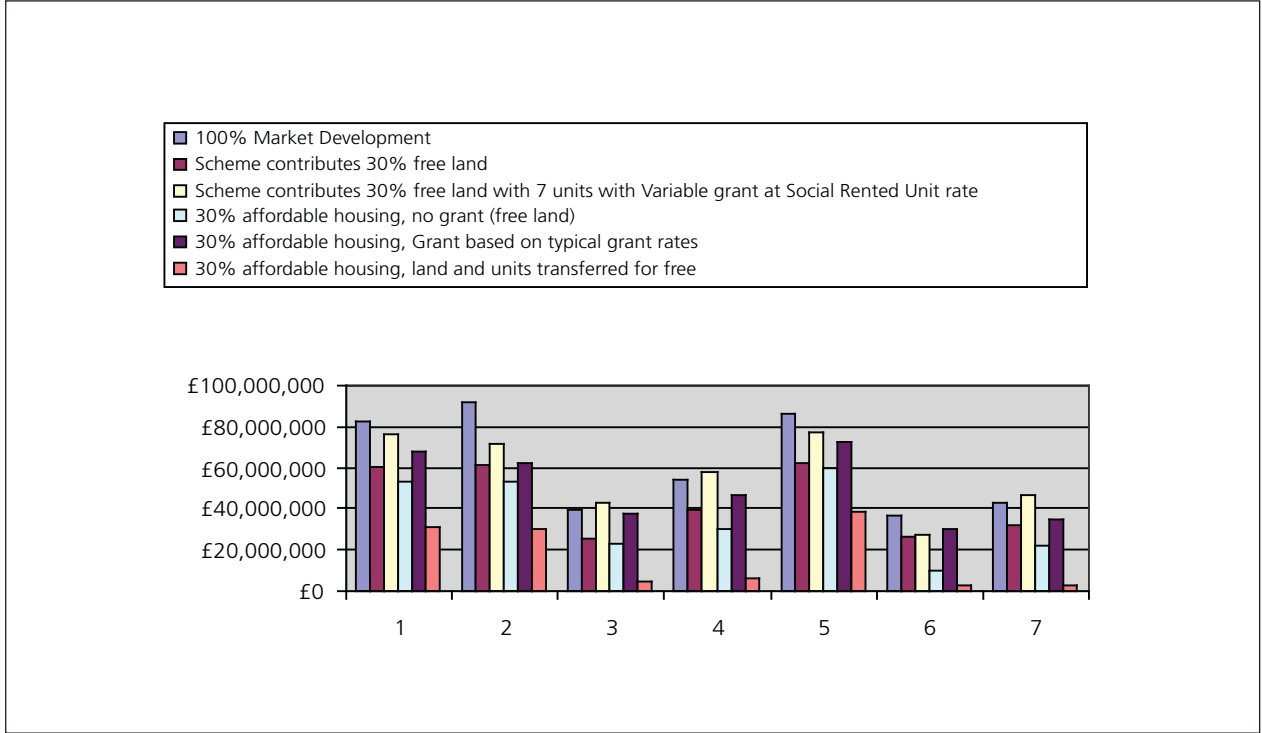


**Figure D2b: Scenario 2 - Development of 1200 units, houses and flats, on 20ha of brownfield land. 30 per cent Affordable Housing Contribution**

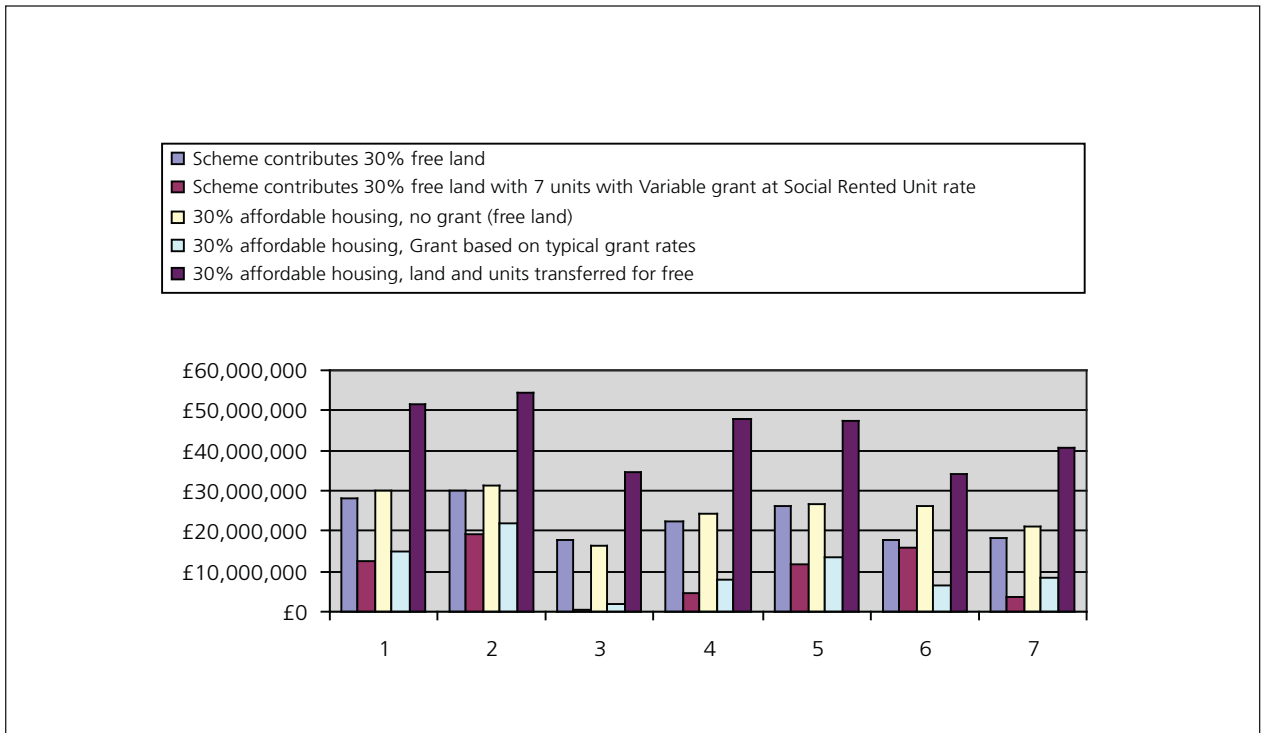
### Land value



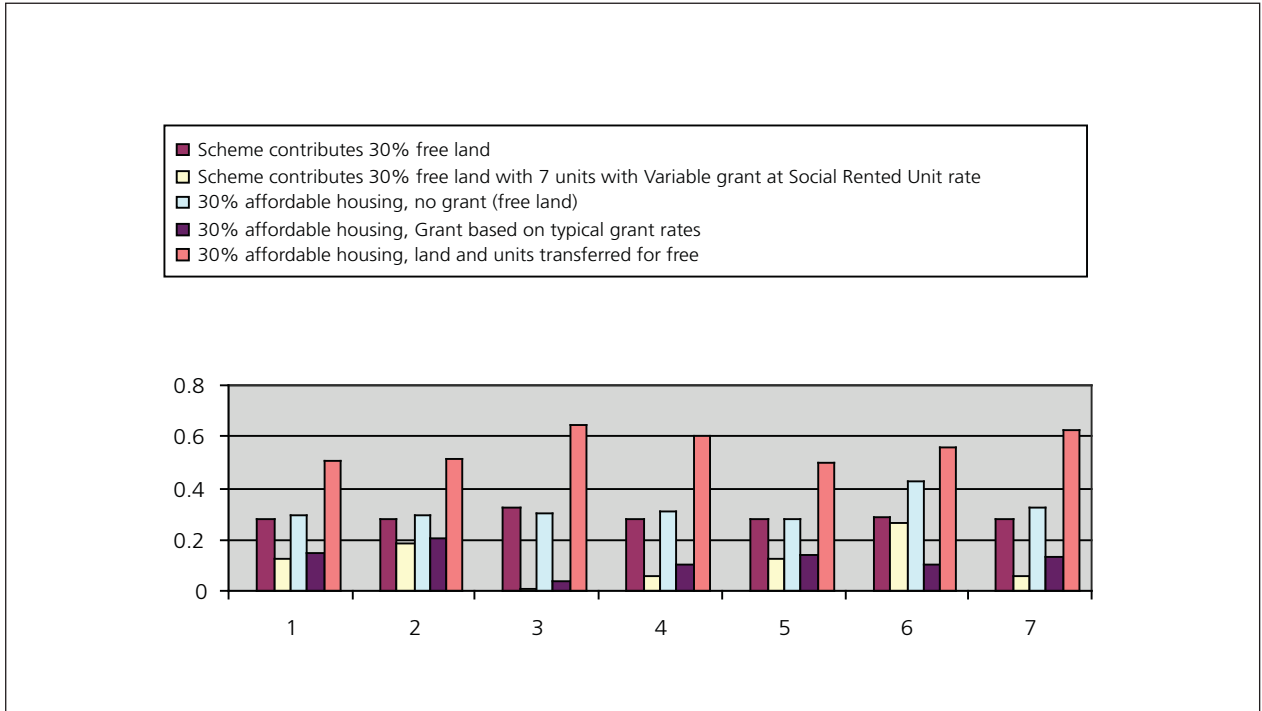
## Viability



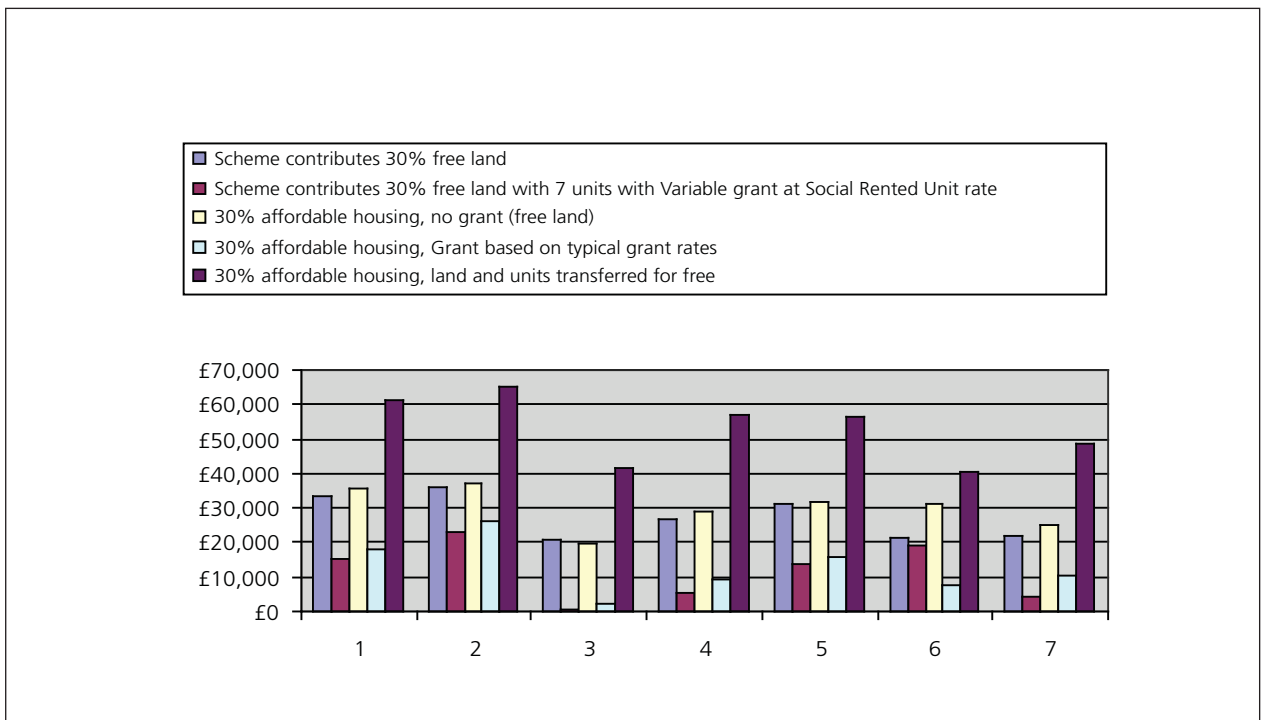
## Contribution



### Contribution as a per cent of costs

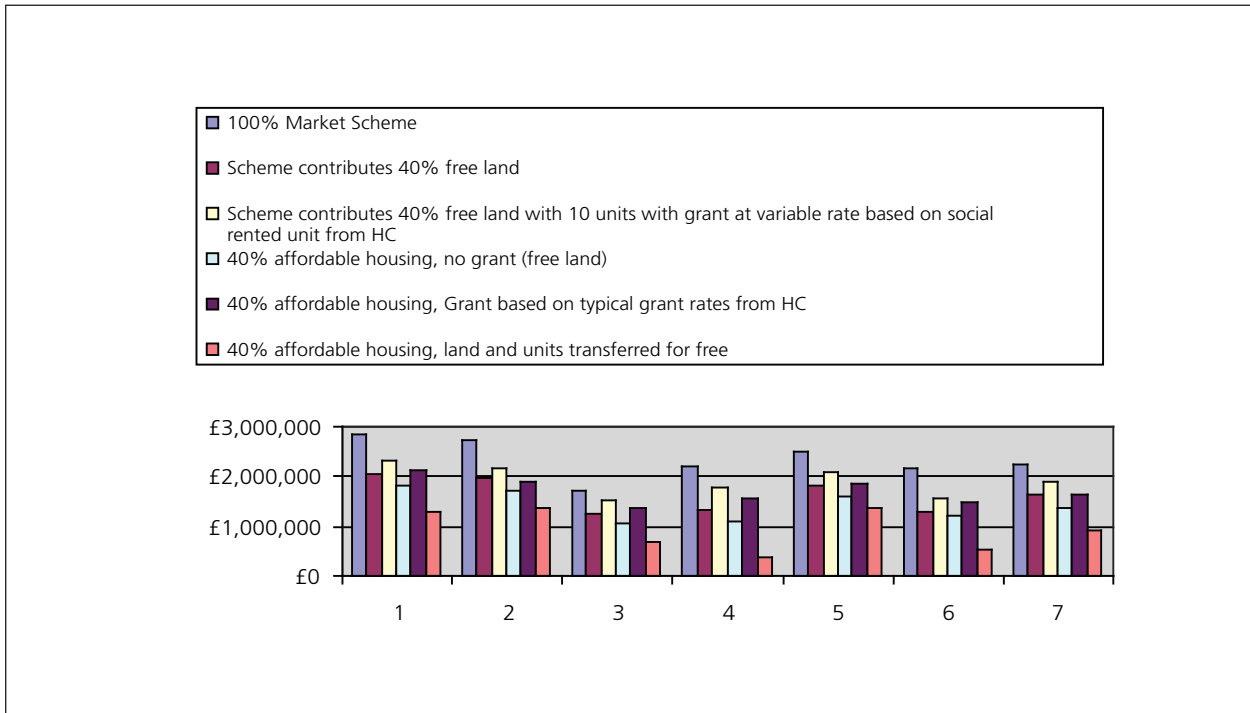


### Contribution per market unit

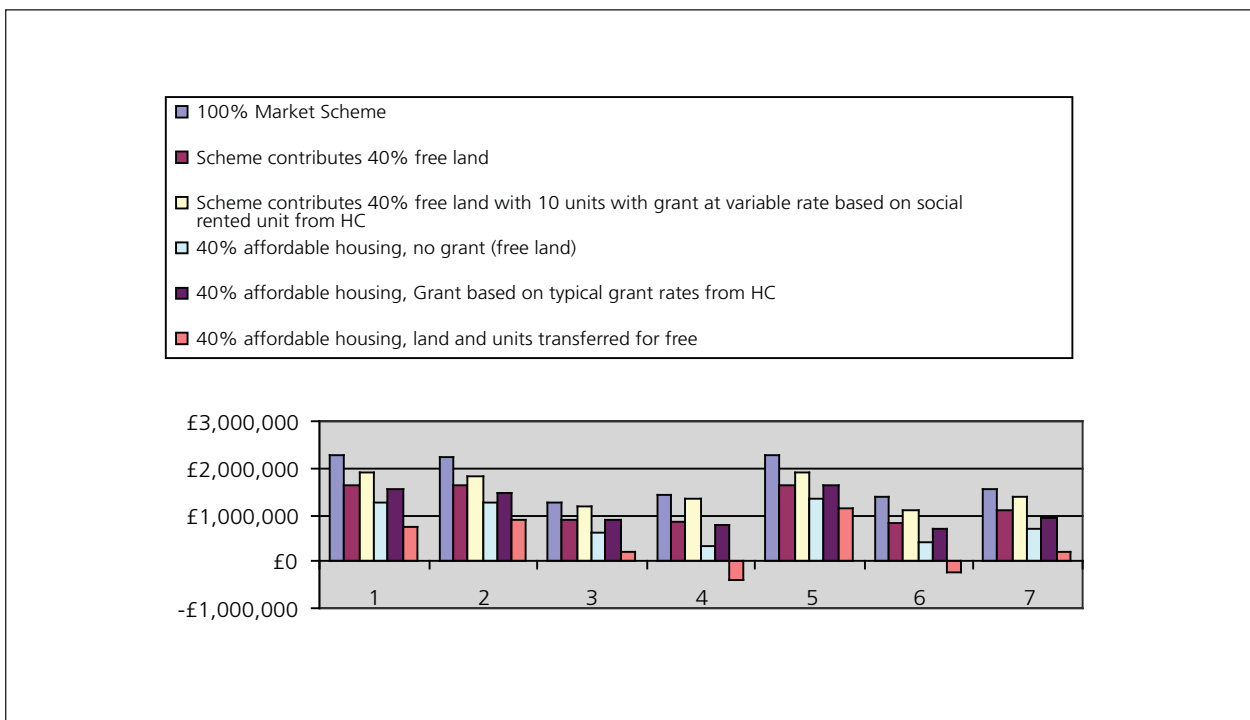


**Figure D2c: Scenario 3 - Development of 25 units on brownfield land. 40 per cent Affordable Housing Contribution**

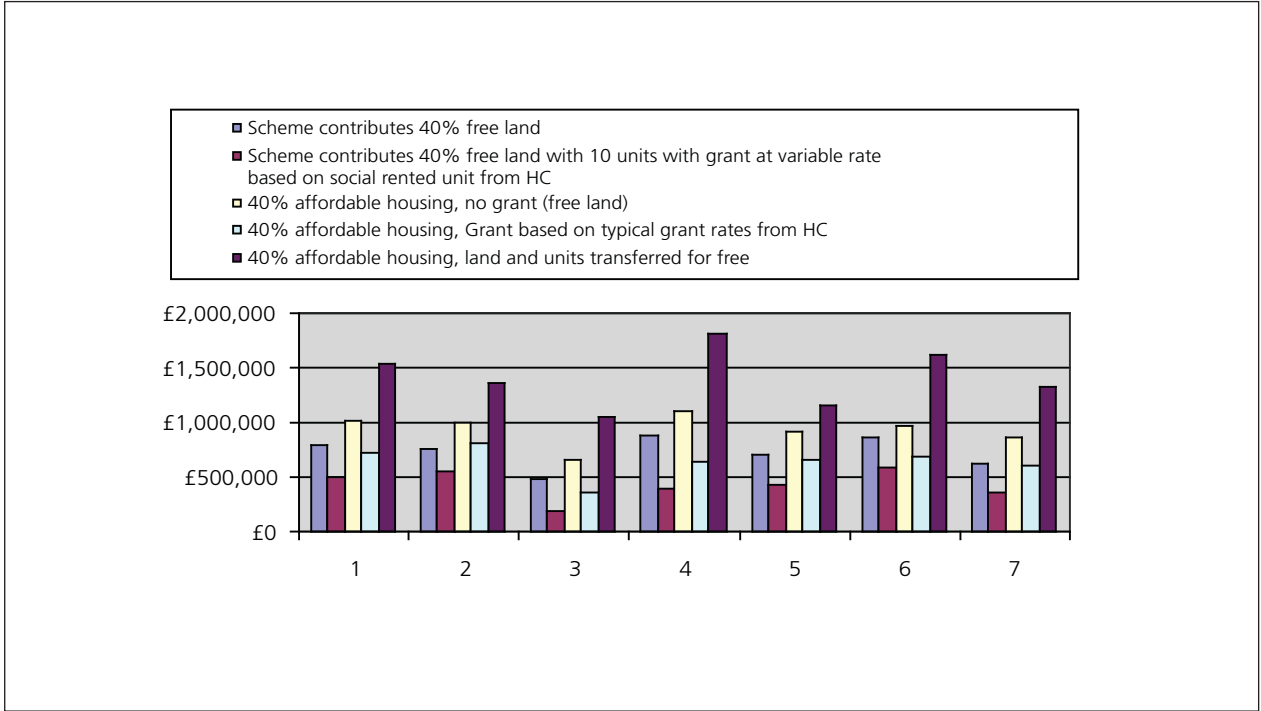
**Land value**



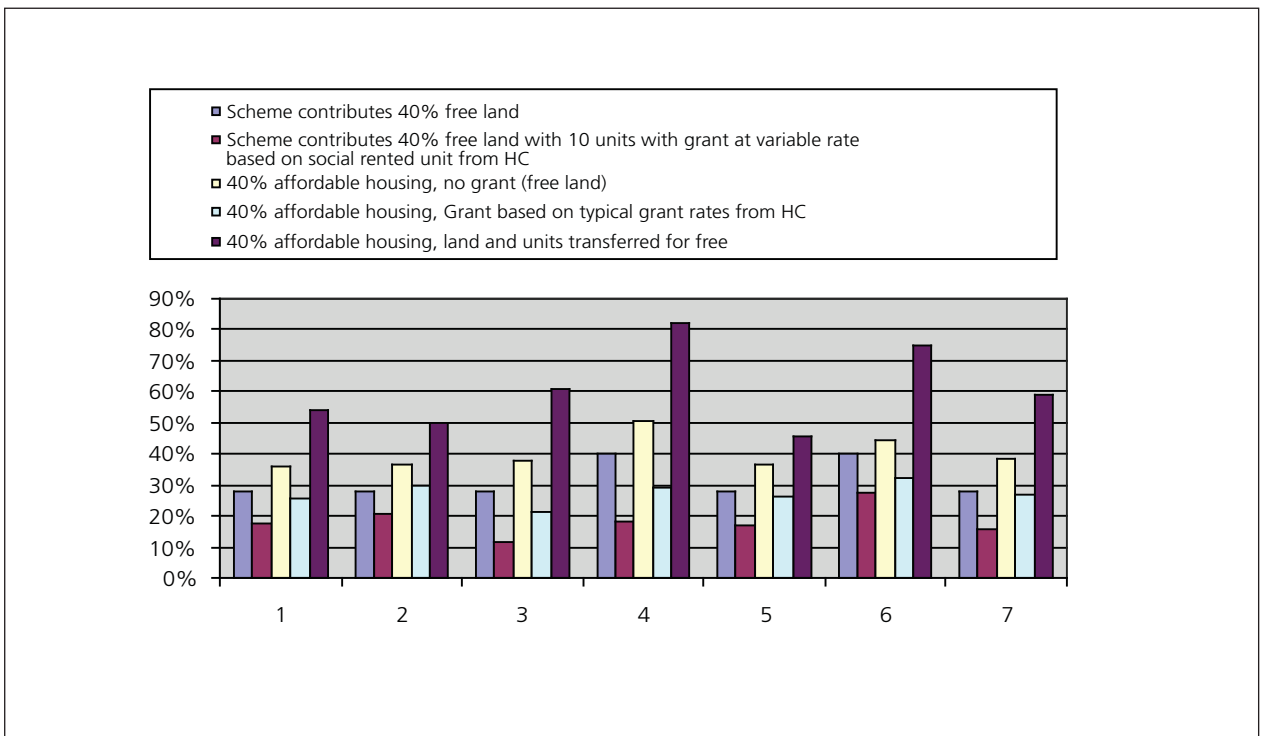
**Viability**



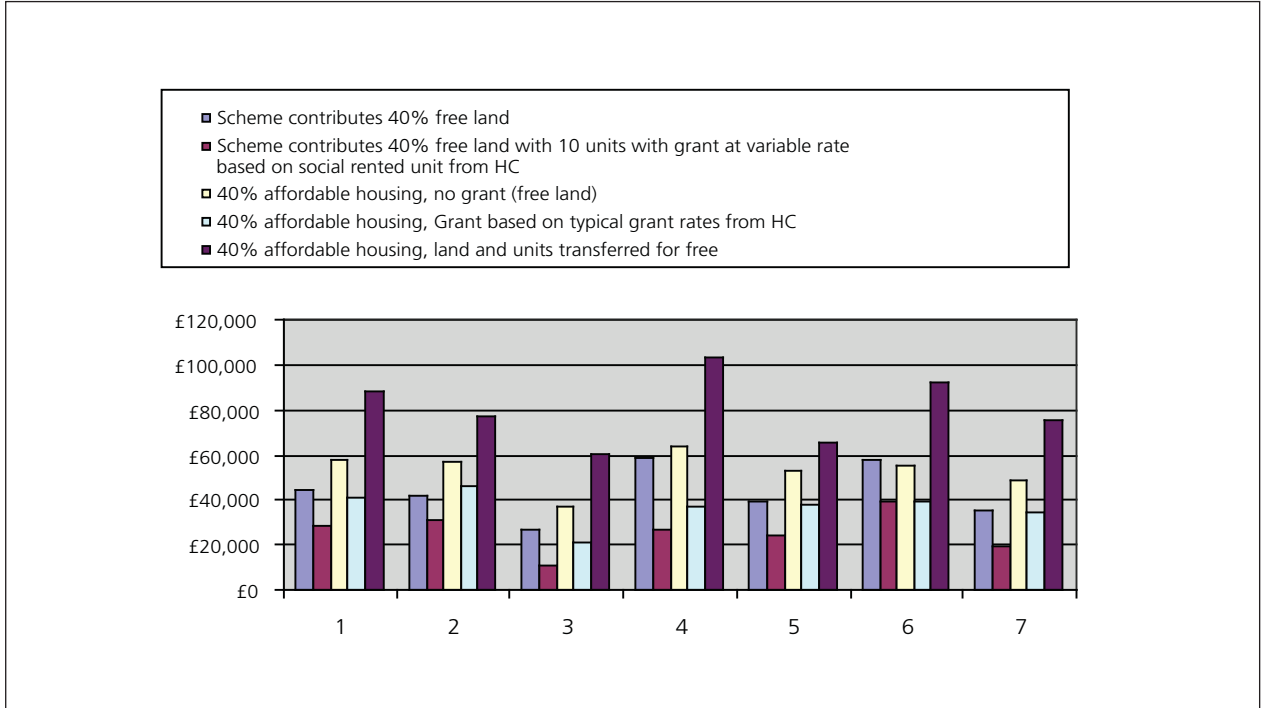
### Contribution



### Contribution as a per cent of costs

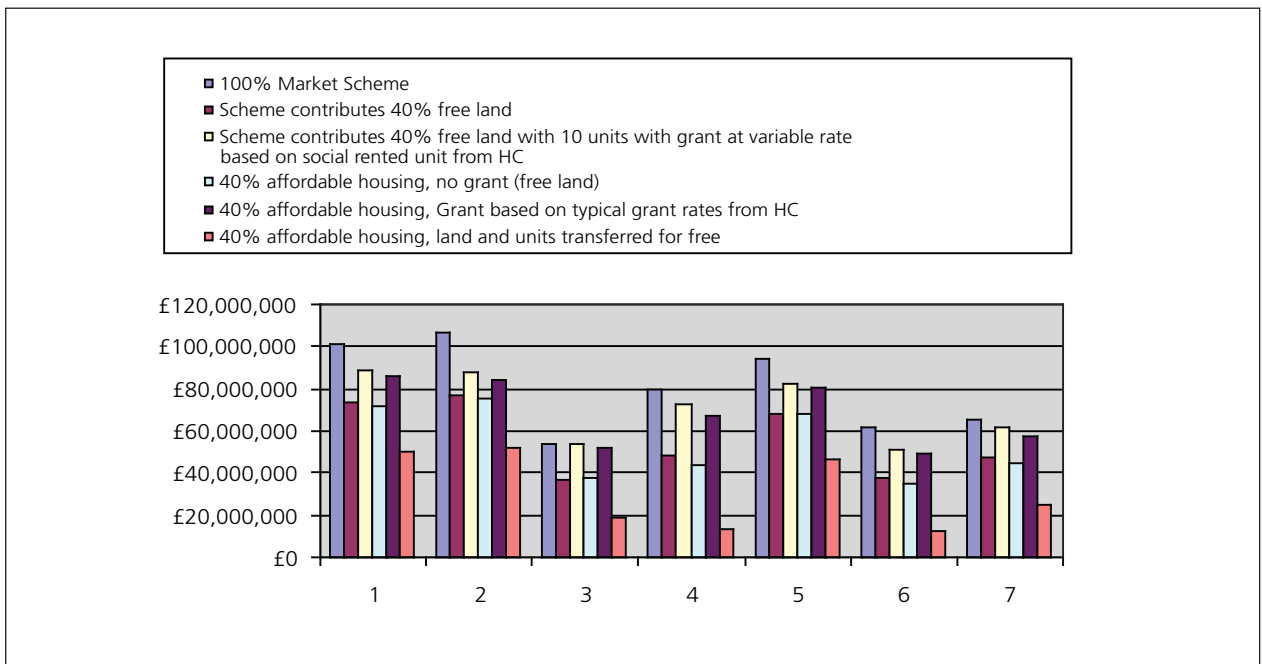


### Contribution per market unit

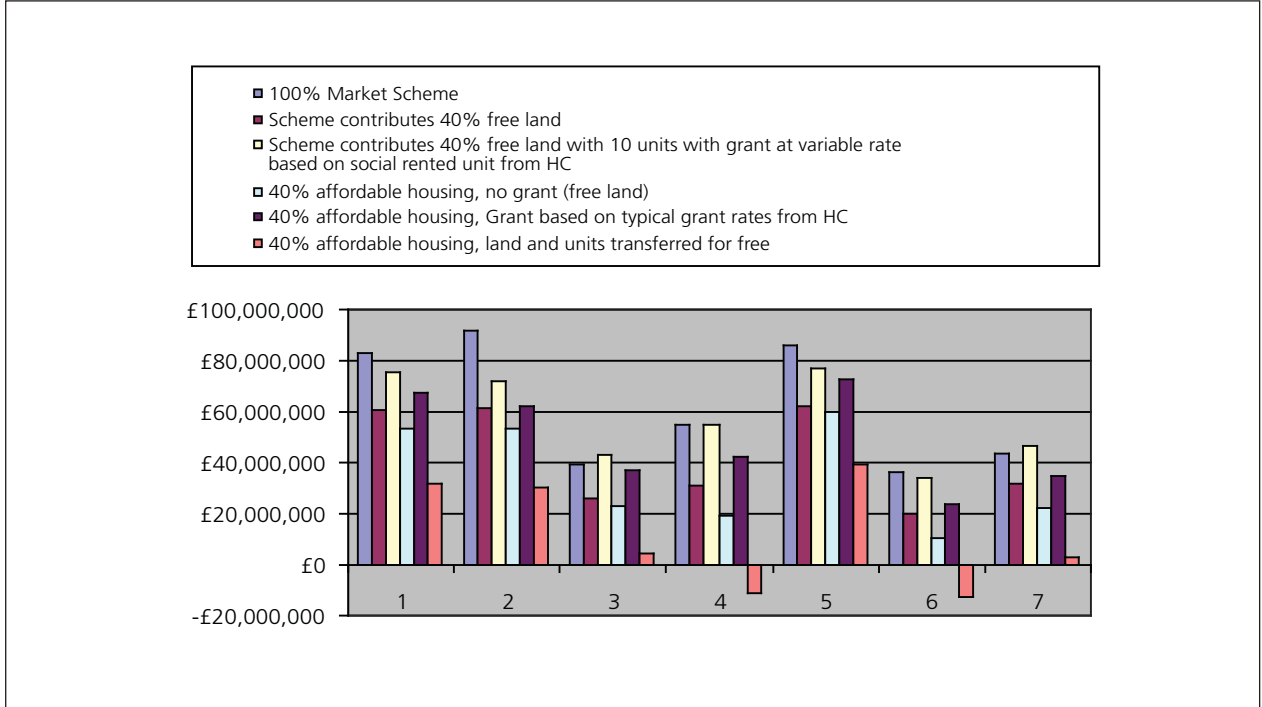


**Figure D2d: Scenario 4 - Development of 1200 units, houses and flats, on 20ha of brownfield land. 40 per cent Affordable Housing Contribution**

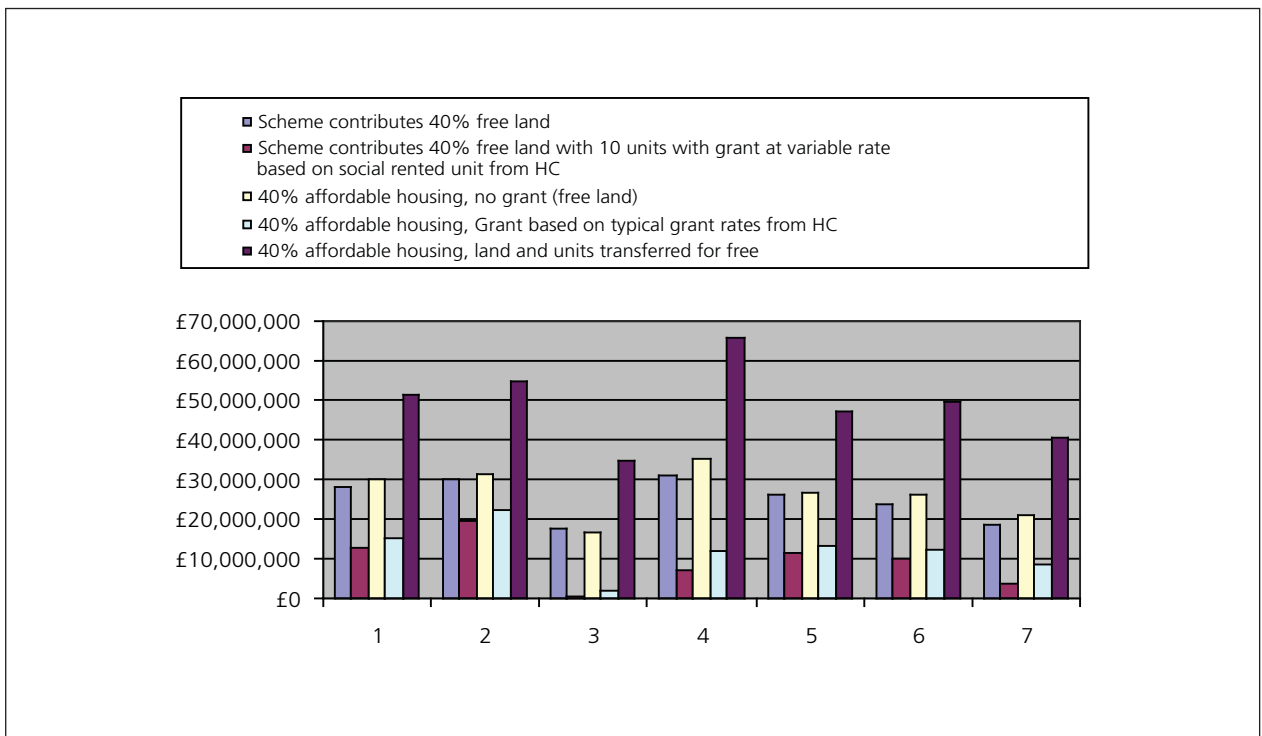
### Land value



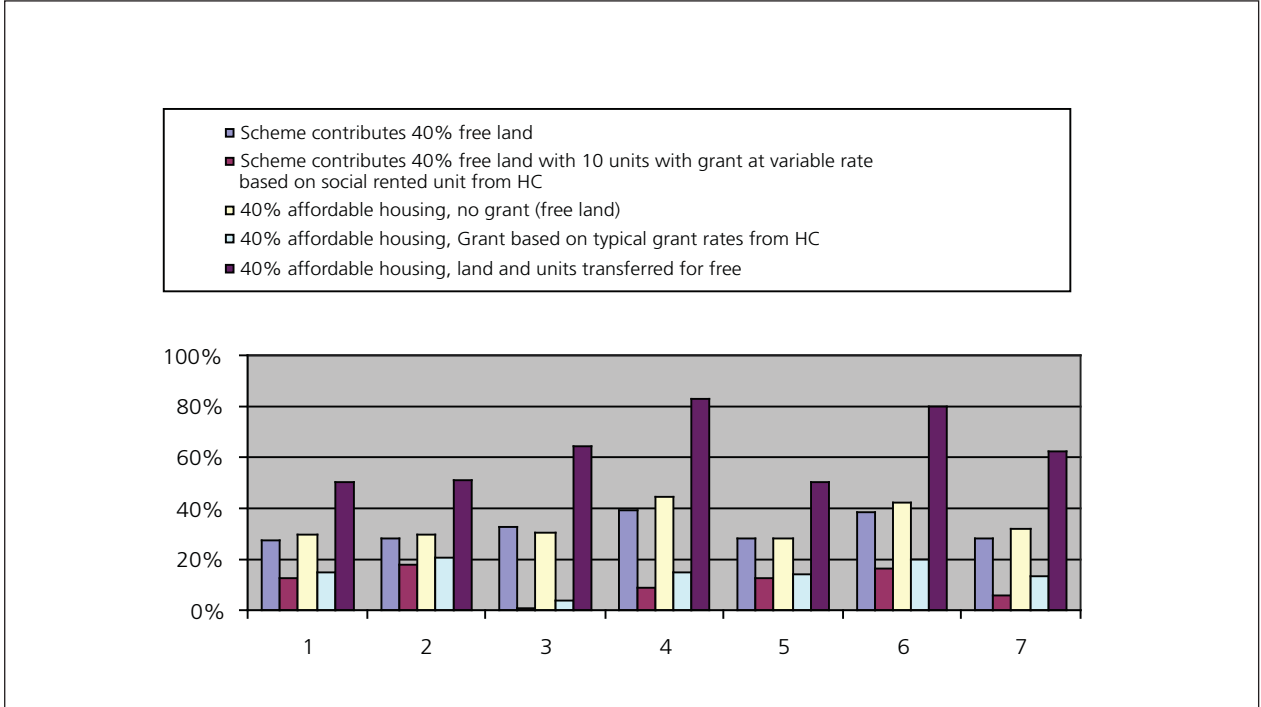
## Viability



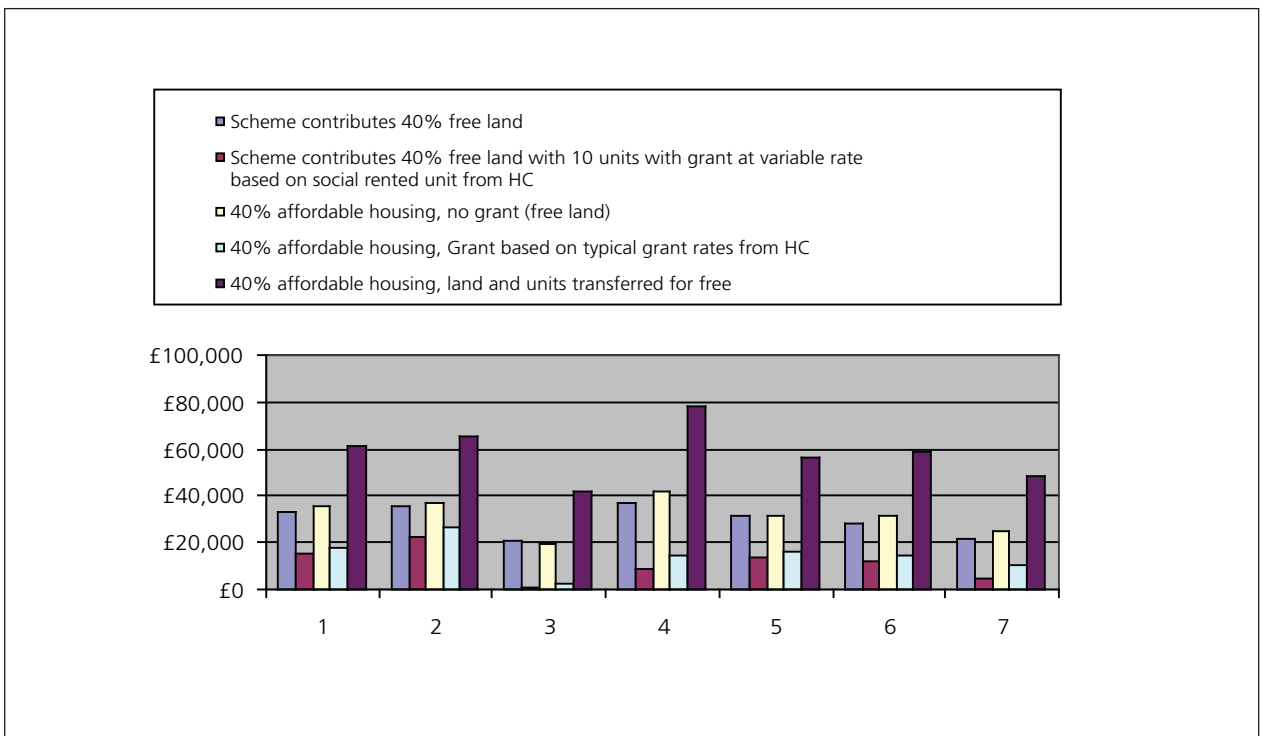
## Contribution



### Contribution as a per cent of costs



### Contribution per market unit



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