Ministry of Housing, Communities & Local Government

The Incidence, Value and Delivery of Planning Obligations and Community Infrastructure Levy in England in 2018-19

August 2020

Professor Alexander Lord, Dr Richard Dunning, Mr. Malachy Buck, Ms Suzanne Cantillon
The University of Liverpool

Dr Gemma Burgess
The University of Cambridge

And

Professor Tony Crook and Professor Craig Watkins
The University of Sheffield

Professor Christine Whitehead
London School of Economics

Ministry of Housing, Communities and Local Government

This document/publication is also available on our website at www.gov.uk/mhclg

If you have any enquiries regarding this document/publication, complete the form at http://forms.communities.gov.uk/ or write to us at:

Ministry of Housing, Communities and Local Government
Fry Building
2 Marsham Street
London
SW1P 4DF
Telephone: 030 3444 0000

For all our latest news and updates follow us on Twitter: https://twitter.com/mhclg

August 2020

Contents

Foreword

The principle that development value should be subject to a charge or levy has been an aspect of English planning for decades. Important legislative moments in this regard include the Town and Country Planning Act's Development Charge (1947), the Land Commission Act (1967), the Community Land Act (1975), the Development Land Tax Act (1976), the Town and Country Planning Act (1990) and the Planning Act (2008). Each of these Acts has had a bearing on the process by which the contributions the development industry makes are exacted and invested.

The context within which policy and practice on developer contributions is determined in 2018/19 is set by two of these pieces of legislation and one further document. Firstly, Local Planning Authorities' (LPAs) ability to negotiate obligatory contributions - hence 'planning obligations' - with developers on a case-by-case basis is provided under section 106 of the 1990 Town and Country Planning Act. These negotiated agreements and the full range of what they might be used to finance have consequently come to be known amongst the development industry and planning profession by the vernacular, 'section 106 agreements' (S106). Secondly, the Planning Act 2008 and subsequent CIL regulations from 2010 to the amendments of 2019 provide the legislative basis for the Community Infrastructure Levy (henceforth, CIL). This is a locally determined fixed charge on development which usually takes a relative form, such as '£X per square metre of new development'. Local planning authorities that have chosen to adopt CIL can operate these two approaches, CIL and S106, in parallel to manage developer contributions. Thirdly, the National Planning Policy Framework (NPPF), revised in July 2018 and updated in February 2019, provides the general template for planning practice in England and, therefore, determines the policy context for developer contributions.

Background and Previous Studies

This study was commissioned in July 2019 to explore the early effects of the policy changes outlined above that had been introduced following the most recent report on the value and incidence of developer contributions published in 2018 (Lord et al., 2018). This earlier report was the first to evaluate the combined effects of CIL and S106 planning obligations and was based on data pertaining to the financial year 2016/17. Throughout this report we refer to this previous work as the '2016/17 study' despite the fact that it was published in 2018. This measure is taken to ensure clarity and differentiation between the two studies on the basis of the financial years to which the data reported pertains. Because of the relatively short time that separates these two studies, this report seeks wherever possible to consider continuity and contrast between evidence on developer contributions in England during the financial year 2018/19 and the earlier 2016/17 work.

Prior to the 2016/17 study there had been four previous studies that took a similar scope and remit (although they were all restricted to just S106 negotiated settlements) in 2003/04, 2005/06, 2007/08 and 2011/12. It is important to contextualise these earlier studies. The first three coincided with a period of uninterrupted economic growth in England and reported important findings on the growth in planning obligations, their geographic variation and differences in approach to implementation between Local Planning Authorities. By contrast the 2011/12 study

described the operation of planning obligations during the global economic downturn of 2007 onwards. It reported a decline in the value of planning agreements signed as a result of the broader downturn in the construction industry and set out case study findings directed to the specific issue of stalled sites. By the time of the 2016/17 study the worst effects of the global financial crisis had passed but the domestic situation was characterised by an emerging political and economic uncertainty. The aggregate of CIL and S106 at this time, found to be worth £6bn, was closely comparable in real terms to the value reported in 2007/08.

In this sixth iteration of the work we seek to explore five areas in the context of a macroeconomic climate widely understood to have experienced recovery but beset by uncertainty. Our aims in this study were to:

- Update the evidence on the current value and incidence of planning obligations.
- Investigate the relationship between CIL and S106.
- Understand negotiation processes and delays to the planning process.
- Explore the monitoring and transparency of developer contributions.
- Understand the early effects and expectations for the changes to developer contributions brought in by the revisions to the NPPF.

Structure of the Report

The report has eight chapters and eight appendices. Chapter 1 considers the research context and rationale for updating the valuation of planning obligations and CIL in England, and the research methods used in the study. Chapters 2 to 5 mostly draw on evidence from the LPA survey. Chapter 2 explores the number of planning permission applications and number with CIL or planning obligations agreed, as well as highlighting the differences between the valuation for 2018/19 and those undertaken previously. The value of these contributions is explained in Chapter 3. Variation in the policy and practice of LPAs is considered in detail in Chapter 4. Chapter 5 identifies how the delivery of planning obligations and CIL differs from the number and amount of contributions agreed in the planning application process. Chapters 6 and 7 draw on separate components of the study methods. The core issues identified in the LPA case studies are detailed in Chapter 6 before a summary of roundtable discussions held with representatives of the development industry is provided in Chapter 7. Chapter 8 looks across all methods of the study and draws together the conclusions. The appendices largely focus on the research methods used in the study, with detailed explanations of the survey and valuation methods as well as the questions raised in the case studies.

Acknowledgements

We are grateful to the many planning officers who participated in this research on behalf of their planning authority. Their timely responses to the survey at short notice and fulsome support in providing detailed and wide-ranging information about the number and value of obligations and CIL, as well as the monitoring, delivery and expenditure of obligations and CIL were vital for this research. Our special thanks

must go to those who supported the case studies through collating records and answering detailed questions.

We are also grateful to the representatives of the development industry who contributed through roundtable discussions and interviews to the evidence of the relationship between development practices and the operation of planning obligations and CIL.

We also wish to thank the team at the Ministry of Housing, Communities and Local Government (MHCLG) who were responsible for commissioning and handling this research, in particular Alice Dunn, Harriet Fisher, Peter Roche, Jordan Rodrigues, Miguel Marques dos Santos and Graham Kinshott for their support. We are also grateful to those in MHCLG who commented on the research methods and findings.

About the research team

- Mr Malachy Buck is a doctoral researcher at the University of Liverpool
- Dr Gemma Burgess is Principal Research Associate at the Cambridge Centre for Housing and Planning Research
- Ms. Suzanne Cantillon is a research assistant at the University of Liverpool
- Professor Tony Crook is Professor Emeritus of Town and Regional Planning at the University of Sheffield
- Dr Richard Dunning is Lecturer in Planning at the University of Liverpool
- Professor Alexander Lord is Lever Chair in the Department of Geography and Planning at the University of Liverpool
- Professor Craig Watkins is Professor of Town and Regional Planning at the University of Sheffield
- Professor Christine Whitehead is Emeritus Professor of Housing Economics at the London School of Economics and Political Science

Summary of Key Findings

Evidence on the value and incidence of developer contributions

- The value of developer contributions agreed in England during the financial year 2018/19 was £7bn. This represents an increase in the aggregate value of developer contributions agreed since 2016/17, up 16% in nominal terms from £6.0bn in 2016/17 (9% after adjusting for inflation).

- There are strong geographical variations in how developer contributions are generated and invested. The majority of developer contributions are agreed in London and the South East. However, the proportion (53%) is lower than that reported in 2016/17 (58%).

- The most significant geographic change in the value of developer contributions agreed was in London. In 2016/17 London accounted for 38% of the total value of all developer contributions agreed; in 2018/19 this fell 10 percentage points to 28%. This sharp decline is reflected in a 16% reduction in the nominal value of all contributions agreed in London between 2016/17 and 2018/19.

- However, other regions of England saw increases in their share of agreed developer contributions. The proportion of the total value agreed more than doubled in the East Midlands (4% in 2016/17; 9% in 2018/19) and the North West saw an increase from 3% to 6% over the same time period.

- Against the main headline categories, the distribution of how developer contributions are exacted has not significantly changed since 2016/17. In 2018/19, CIL accounted for 12% of all developer contributions, down from 13% in 2016/17. Mayoral CIL has remained constant at 3% of the total in 2018/19, the same figure as 2016/17. Similarly, affordable housing contributions are unchanged from 2016/17 at 67% of the total value of developer contributions. The majority of developer contributions continue to come from negotiated S106 agreements. At 85% this is the same proportion in 2018/19 as was recorded in 2016/17. These figures are all rounded to the nearest whole percentage point.

- There has been a significant growth in some categories of non-affordable housing contributions. Large real terms increases have been seen in transport (110%), education (70%) and Open Space and Environment (27%). A significant increase in the 'Other' category (240%) may be explained by increased demand from healthcare.

- The value of some other planning agreements has declined. By far the largest recorded decrease was in land contributions. At its peak in 2005/6 this category was worth almost a quarter of the entire valuation - just over £1bn in nominal terms and second only to affordable housing. Even in 2016/17 this category was valued at £353m. However, in 2018/19 land contributions have diminished to £135m - just 2% of the aggregate total.

Changes to the CIL regulations have been welcomed

- There is widespread agreement that the policy changes delivered through the CIL regulations represent a positive change to policy and practice on developer contributions.

- The removal of 'pooling restrictions' - measures instituted from 6th April 2015 that prohibited the pooling of S106 contributions from five or more sources - was extremely popular. 90% of authorities thought that this measure would make it easier for them to deliver infrastructure, and 63% thought that it would increase the value of their planning obligations.

- 78% thought that moving to an Infrastructure Funding Statement (IFS) would make developer contributions more transparent. Developers also welcomed the increased transparency.

- 86% of local authorities felt that removing a round of consultation from the CIL setting process would make it easier to revise CIL rates.

The growth of CIL

- Take up of CIL has grown across all local authority types since 2016/17. By the end of 2019 almost half of LPAs have adopted CIL (48%), up from 39% in 2016/17.

- There is evidence that CIL accelerates the planning process. It is increasingly seen by LPAs as reducing the time from application submission to development completion, compared to S106. 61% of CIL charging authorities believe CIL speeds up the process compared to 50% in 2016/17.

- CIL may enhance LPAs capacity to recover some of the uplift in land values resulting from planning consent. 60% of CIL charging authorities agree that they have seen an increase in the total value of developer contributions since introducing CIL, compared to 23% who have seen a decrease.

- Evidence from the LPA survey would suggest that there remains scope for more authorities to introduce CIL. 38% of authorities that have not introduced CIL believe that if they had done so it would have increased the total value of developer contributions.

Section 106: still a core part of planning practice

- S106 remains a core aspect of planning practice: 90% of surveyed LPAs attached a planning obligation to a planning permission in 2018/19.

- Developers value the flexibility of S106, allowing both parties to reach pragmatic solutions to site-specific issues, even though the negotiation of S106 planning obligations can result in delay.

- Delay remains a hallmark of the system. However, it is important to distinguish between *unavoidable delays* – those that are an inherent aspect of the negotiation of planning obligations – and *avoidable delays* that result from LPA

capacity, skills and resourcing or as a tactic to negotiate a reduction in the developer contributions requested.

- Delivery on S106 planning obligations has slowed. 51% of LPAs had received 50% or less of the planning obligations negotiated two years previously, compared to 36% for the 2016/17 survey.

What developer contributions are being used to fund is changing

- The demands made of developer contributions is changing with some categories of investment seeing significant growth and others showing significant declines.

- Two categories that have seen significant growth are, 'Education' which has seen a real terms increase of 70% on the level recorded in 2016/17 (increasing from £258m to £439m) and 'Transport', up 110% on 2016/17 (from £140m to £294m).

- By far the largest growth was seen in the 'Other' category which has increased by just under 240% (from £55m in 2016/17 to £187m). Evidence from the case studies and developer workshops would suggest that this may be accounted for by a significant increase in the prevalence of requests for healthcare investment. As this is not traditionally an area that was routinely funded through developer contributions the survey did not disaggregate by this category.

- By contrast other areas that were traditionally significant beneficiaries of developer contributions have seen significant reductions. Land contributions have diminished to £135m in 2018/19 having been worth £353m in 2016/17. At their peak in 2005/6 land contributions were worth just over £1bn, almost a quarter of the aggregate total and second only to affordable housing as the most significant category for developer contributions.

Viability Appraisal remains a contentious issue

- There was a mixed reaction to the changes to viability assessment introduced through the revisions to the NPPF. Many LPAs reported that they are now better placed to negotiate with developers, but many were sceptical that this will speed up the planning process. 58% of local authorities thought that the NPPF/planning guidance changes had improved their ability to negotiate with developers, while only 15% disagreed.

Inconsistencies in LPA practices on developer contributions

- LPA policy and practice on developer contributions is highly inconsistent across local government in England. There is little consistency with respect to record keeping, the institutional position of the function or even whether it is considered a planning or legal matter. Connections to economic development/regeneration are rare.

- Many developers articulated frustrations with respect to the variability in how developer contributions are managed between LPAs. However, both

developers and LPAs expressed the hope that the introduction of Infrastructure Funding Statements would begin to regularise LPA policy, practice and record keeping with respect to developer contributions.

Building LPA capacity and capabilities

- LPAs would welcome greater training to deliver effectively on developer contributions. This was most frequently cited in relation to the question of viability assessment and understanding Gross Development Value.

Transparency and public engagement

- As was noted in 2016/17, direct communication with local communities is extremely rare. Many local authorities and developers expressed hope that the strong focus on transparency contained in the revised NPPF together with the provisions of Infrastructure Funding Statements may result in increased public awareness of the investment and public goods procured through developer contributions such as affordable housing, community facilities and infrastructure.

Chapter 1: Introduction

Scope of the Research

1.1 Recovering some of the uplift in land values entailed by the granting of planning consent for new development is a core aspect of planning policy in many international contexts. Although terminology varies from place to place - planning gain, land value capture, betterment - the underlying principle remains consistent: for new development to be acceptable there may be a requirement for investment in affordable housing, attendant infrastructure and supporting services. Whitehead (2016) identifies three alternative approaches to this public policy question: taxation of development following completion; statutory acquisition of land at existing use value prior to the provision of infrastructure and planning permission as a precursor to sale on the open market, and; the imposition of a planning obligation, such as a levy or negotiated settlement, at the point of permission.

1.2 Planning obligations and the Community Infrastructure Levy (CIL) are both examples of this third approach to the issue. Together they represent significant funding for social and environmental mitigation of development for local planning authorities (LPA). They may also be used for the provision of affordable housing, infrastructure and other items to support growth and enable housing delivery in LPAs. Although planning obligations and CIL are often seen to have a similar impact upon planning and development, their operation, value, incidence, remit and expenditure are distinct.

1.3 Planning agreements were first introduced in the Town and Country Planning Act (1971), which enabled LPAs to enter into a contractual arrangement with applicants. Since this time planning obligations have been agreed to make what would otherwise be unacceptable development permissible in planning terms (Jowell, 1977). Since the 1990 Town and Country Planning Act, these obligations have typically been referred to as Section 106 obligations (S106), in reference to said Act. By the 2000s S106 was being used to compensate third parties for externalities and act as a *de facto* betterment tax (Corkindale, 2004). This led to calls to separate the two functions of direct mitigation and affordable housing, and a supplement to charge to meet wider infrastructure needs (Barker, 2004; Crook et al., 2006). S106 agreements are negotiated on a case-by-case basis, and as such are agreed through the planning application process, with agreements set out in a parallel document using contract law to bind both parties to their agreement. Since the 1990 Act case law has been used to define precedents of S106 regulations.

1.4 The Community Infrastructure Levy (CIL) was introduced by the Planning Act (2008), giving LPAs the option to introduce this fee locally through powers in the Community Infrastructure Levy Regulations 2010. CIL is locally set, with a charging schedule subject to public consultation and independent examination prior to adoption. It is chargeable on most new development which creates net additional floor space of 100m^2 or more, or creates a new dwelling, though exceptions and potential exemptions apply.

1.5 When data were gathered for the 2016/17 report in November 2017, 43% of LPAs had adopted CIL, up from 39% in March of that year. By the end of March 2019 there were 339 potential CIL charging authorities, of which 161 (47%) were charging CIL. For the purposes of this research, we evaluate CIL raised by the London Mayoralty and the two Mayoral development corporations separately to local authorities and national parks. Therefore, excluding these three charging authorities leaves us with 336 potential charging authorities, of which 159 (47%) were charging CIL by the end of March 2019.

1.6 The local authority boundary changes of 1 April 2019 subsequently reduced the total number of potential charging authorities from 339 to 330, and the number of CIL charging authorities at that time from 161 to 155 (47%). Therefore, in July 2019, when data was collected for this report, there were 330 potential CIL charging authorities in England comprising 317 local planning authorities, 10 National Parks, 2 Mayoral development corporations and Mayoral CIL. This means that 48% of LPAs had chosen to adopt CIL by this point.

1.7 Beyond this set of CIL charging authorities a further 67 local authorities/national parks are progressing (by at least consulting on a preliminary draft charging schedule of proposed rates) towards the adoption of CIL. Therefore, 225 local authorities/national parks from a possible 327 (68%) are either charging CIL or working towards its adoption. A full list of CIL charging authorities used in this research is included in Appendix 7.

1.8 The monies collected through the levy can be used to fund a wide range of infrastructure, with some LPAs choosing to pool their CIL receipts with contiguous LPAs. A system of negotiated Section 106 planning agreements runs in parallel to allow LPAs to secure affordable housing and site-specific mitigation matters on a site-by-site basis. Whether a S106 is entered into on a site where CIL is charged is at the discretion of the LPA, subject to restrictions on development viability.

1.9 In the United Kingdom planning is a devolved matter. Therefore, the approach to development control and planning gain policy varies between England, Scotland, Wales and Northern Ireland. This study is solely focused upon the planning gain system in England. However, there are variations between policy and practice throughout England, principally between those local planning authorities that have chosen to adopt CIL and those that have not.

1.10 The operation of two systems of planning gain in parallel poses a particular issue in the valuation of developer contribution in aggregate. In this research, *The Incidence, value and Delivery of Planning Obligations and Community Infrastructure Levy in England in 2018/19*, data has been collected, through secondary datasets, as well as through primary research. The aggregate value and incidence of all developer contributions agreed in England during the financial year 2018/19 is calculated from a survey distributed to all English LPAs. In addition 20 case studies and three development industry roundtable sessions provide qualitative insights on the operation of both CIL and S106 planning agreements.

1.11 In developing an understanding of the incidence and value of agreed planning obligations and CIL in England in 2018/19, the study has five objectives:

a) Update the evidence on the current value and incidence of planning obligation in 2018/19.
b) Investigate the relationship between CIL and Section 106.
c) Understand the negotiation process and delays to the planning process and development delivery associated with developer contributions.
d) Explore the monitoring and transparency of developer contributions.
e) Understand the impact of recent reforms introduced in the 2018 revision of the National Planning Policy Framework (NPPF).

Research context

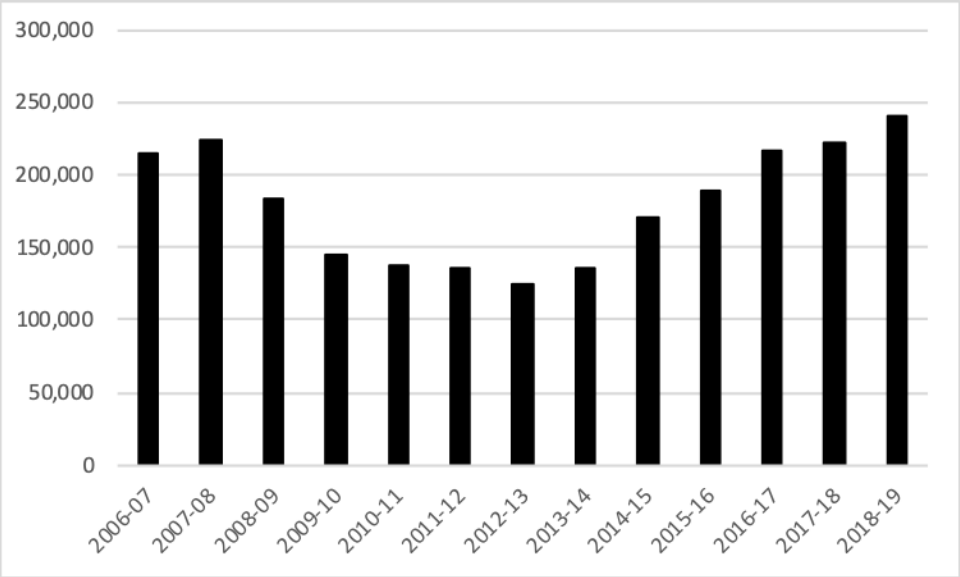
1.12 This iteration of *The Incidence, Value and Delivery of Planning Obligations and Community Infrastructure Levy in England in 2018/19* is the sixth of its kind commissioned by MHCLG (and its precursor, DCLG) with previous studies in 2003/04, 2005/06, 2007/08, 2011/12 and 2016/17 (Crook et al., 2006, 2008; University of Reading et al., 2014; Lord et al., 2018). During this period there have been several changes in the national policy environment, including most recently the National Planning Policy Framework, as amended in July 2018. There have also been varying macro-economic conditions in the same period, which is reflected in changing levels of development activity.

1.13 The prevailing macro-economic conditions within which each of the previous iterations of this work have taken place are relevant as they have an impact upon the value of planning obligations received. Three studies (2003/04, 2005/06 and 2007/08) examined periods of sustained economic growth, whereas the 2011/12, and to a lesser extent, the 2016/17 study, should be understood in the context of the immediate aftermath and subsequent recovery from the global financial crisis which began in 2007.

1.14 Evidence indicates that the development industry remained depressed for a sustained period following the global financial crisis. Figure 1.1 shows net additional dwellings reduced from a peak in 2007/08 until 2012/13. However, in subsequent years net completions consistently rose to the extent that by 2017/18 222,190 net additional dwellings were completed, 99.4% of the peak recorded in 2007/08. In 2018/19 the figure has increased to above the 2007/08 peak at 241,130 net additional dwellings.

.

Figure 1.1 Net Additional Dwellings 2006/07 to 2018/19



Source: MHCLG (2019), Live Table 120, Dwelling Stock.

1.13 Although Figure 1.1 points to a return to market conditions slightly in excess of the pre-recession peak recorded in 2007/8 it should be noted that *The Incidence, Value and Delivery of Planning Obligations and Community Infrastructure Levy in England in 2018-19* was commissioned in summer 2019 at a time when the context for development was complicated by an uncertain macroeconomic situation and a period of considerable political change. The aim of this study, however, was not to explore the effects of the broader political and economic context on real estate investment but rather to understand the effects, and expected effects, of changes to policy and practice on developer contributions.

1.14 In taking this focus a core objective of this study will be to examine the effects of changes to planning policy on developer contributions and to examine changes in policy and practice since the 2016/17 study.

1.15 Each study prior to 2016/17 focused solely upon planning applications with agreements secured through Section 106 planning obligations. There was limited immediate take-up of CIL following its introduction, hence the remit of the 2011/12 study was not altered. However, by the time of the 2016/17 study a sufficiently large number of LPAs had adopted CIL for it to be included in that report. Therefore, both this study and its immediate precursor from 2016/17 provide an account of the value and incidence of developer contributions exacted through both Section 106 and CIL. The inclusion of both mechanisms means the relationship and interaction between the two instruments can be examined, as well as the impact of increasing numbers of authorities adopting CIL.

Research Approach

1.16 This, the sixth iteration of *The Incidence, Value and Delivery of Planning Obligations and Community Infrastructure Levy in England* follows a similar multi-methods approach to that which was adopted in each of the previous five iterations. The primary research is split into three parts, which along with secondary datasets provides the foundations for valuation and explanation of the value and incidence of planning obligations. First, a survey was sent to every LPA in England (including National Parks and Development Corporations). Secondly, 20 LPA case studies were undertaken comprising interviews with LPA planning officers, development industry professionals and documentary review. Thirdly, three roundtable discussions with the development industry, were held in London, Liverpool and Sheffield.

1.17 The data by which the aggregate value of developer contributions is determined is gathered through a self-completion survey distributed via email to all English planning authorities. The survey focussed on the number and value of contributions, their operation, and expenditure. In addition, attitudinal data was also harvested. This focussed on respondents' experiences of operating CIL, S106 or both together and their expectations regarding the effects of changes to policy and practice on developer contributions. The overall response rate to the survey was 41% (previous iterations of the survey achieved between 31% and 46%). Full details of the response rate and corresponding breakdown by LPA family type and region can be found in Appendix 3. The survey respondents were responsible for granting permission for 40% of the total number of residential dwellings granted permission in 2018/19 (according to MHCLG data). The responding authorities are listed in Appendix 3 with further details of the response rate. The survey itself is reproduced in Appendix 2.

1.18 Secondary data was collected from a range of data sources, including planning application and housing supply statistics collated in MHCLG's housing and planning and land use live tables (MHCLG, 2019), land valuation data, MHCLG and house price data from the Land Registry and Office of National Statistics.

1.19 Primary data was collected on the operation of S106 and CIL primarily through the 20 case studies. Data was collected through in-depth semi-structured interviews with planning officers and development industry professionals, supplemented by desk-based analysis. The topic guide used to inform interviews is reproduced in Appendix 4.

1.20 Three roundtable sessions were undertaken with experts from the development industry, held in London, Liverpool and Sheffield, ensuring regional variation is captured. These sessions were used to elicit attitudes and behavioural insights into developers' experience and perspectives of varying approaches to the negotiation of S106 and the effects of CIL levies on the development process.

1.21 The typology of planning obligations used in previous studies covering affordable housing, open space and the environment, transport, community works, employment and other, is also used in this study. In a similar way to the previous 2016/17 study, the collection and allocation of CIL monies are recorded via the LPA survey. The method employed to calculate values is

consistent with that used in previous iterations of the research, ensuring comparability. Calculating the value of CIL and direct cash payments through S106 agreements is contingent upon accurate recording by responding authorities. The calculation for in-kind contributions is more complex and requires extrapolation of the type from direct contribution data, whilst affordable housing contributions uses secondary data, cross-checked against the survey responses to derive discounted market valuations.

Local Planning Authority Families

1.22 In common with previous iterations of this study local planning authorities are grouped into families for the valuation process. This grouping both enables the reportage of research findings at a sub-national scale without breaching the confidentiality of research participants and allows for extrapolation to non-participating authorities at a more appropriate scale than the national.

1.23 The creation of the LPA families used in the previous iterations of the research has been described in some detail in Crook et al (2006) and builds upon the work done by Vickers et al (2003) on the household characteristics of local authorities. The six original families created by Vickers et al (2003) were (numbers of member authorities in brackets): Established Urban Centres (30); Urban England (46); Rural Towns (119); Rural England (57); Prosperous Britain (76); and Urban London (26). Prosperous Britain was re-named 'Commuter Belt' in the 2011/12 study onwards.

1.24 In some places in this report statistics are recorded for both LPA family groups and regions. However, this presents methodological challenges as the two frameworks are quite different. For example, the London family and London region differ in composition. Of the 26 LPAs that comprise the London family, 23 were CIL charging at the time the research was undertaken; 3 (Ealing, Luton and Slough) were not. By contrast the London region is comprised of the same 32 London Boroughs and the City of London Corporation that constitute the Greater London Authority. This does not include Slough or Luton which instead belong to the South East and East of England respectively in the regional typology. The London region also includes just one non-CIL charging authority (Ealing). These variations in how LPAs are accounted for can have a significant bearing on how statistics are reported, particularly when apportioning values computed under the LPA family typology to the regional scale (see Appendix 2, paragraphs 6.2 and 6.3 for further details).

1.25 In 2019 there was a restructuring of local authorities in England. Whilst the majority of authorities remained unaltered there were changes in three counties. In Dorset two new unitary authorities, Dorset Council and Bournemouth, Christchurch and Poole Council, were created from seven previous authorities, abolishing the two-tier structure in the county. In Somerset and Suffolk three separate pairs of districts were combined to create three new authorities, Somerset West and Taunton Council, East Suffolk Council and West Suffolk Council, whilst retaining the two-tier structure. This resulted in a reduction in the total number of local authorities from 326 to 317. The restructuring also meant reconsidering the family type to which each new authority should be allocated.

1.26 Each of the new authorities contained previous authorities that were entirely within the same LPA family - Rural England. To ensure that allocating the new authorities to this family grouping was appropriate we considered the number of planning applications received in 2017/18; the proportion of planning applications approved in 2017/18; the number of dwellings completed in 2017/18 and residential land values per hectare in 2017. Due to the need to undertake the research before 2018/19 data was available, the numbers for 2017/18 were used as the closet proxy available. The aggregate of this analysis suggested that the new authorities should continue to be considered in the Rural England Family. This also maintains a historic link to the previous iterations of this research.

1.27 Table 1.1 summarises the LPA family membership, and distribution of CIL and non-CIL charging authorities in each group. The percentage totals indicate the proportion of all CIL and non CIL charging authorities in each particular family grouping. For example, although almost all of the London family of LPAs are CIL charging they together represent 14 percentage points of the overall 47% of LPAs in England that charge CIL. The names refer to the family characteristic and, therefore, may not accurately describe individual authorities in each family. LPAs which are National Parks and Development Corporations are not categorised in the typology given the unique nature of these authorities. Instead, they are reported in their own categories (National Parks, Development Corporations and Mayoral CIL). The full membership list of authorities can be found in Appendix 8 and the geographical distribution of these families can be found by region in Table 1.2 and in Figure 1.2 as a map.

Table 1.1 The number of authorities that can raise developer contributions within each LPA family and those charging CIL in March 2019.

Local Authority Family	CIL		Non-CIL		Total	
Urban England	14	9%	25	14%	39	12%
Rural Towns	22	14%	33	18%	55	16%
London*	23	14%	3	2%	26	8%
Rural England	48	30%	55	31%	103	30%
Established Urban Centres	8	5%	22	12%	30	9%
Commuter Belt	43	27%	30	17%	73	22%
National Parks	1	1%	9	5%	10	3%
Development Corp.	1	1%	2	1%	2	1%
Mayoral CIL	1	1%	0	0%	1	0%
Total	161	47%	179	53%	339	

Table 1.2 The number of authorities that can raise developer contributions within each region and those charging CIL in March 2019.

	CIL		Non-CIL		Total	
Region	No.	%	No.	%	No.	%
East	18	11%	29	16%	47	14%
East Midland	11	7%	29	16%	40	12%
London*	30	19%	3	2%	33	10%
North East	3	2%	9	5%	12	4%
North West	8	5%	31	17%	39	12%
South East	40	25%	27	15%	67	20%
South West	26	16%	11	6%	37	11%
West Midlands	13	8%	17	9%	30	9%
Yorkshire and Humber	9	6%	12	7%	21	6%
National Parks	1	1%	9	5%	10	3%
Development Corp.	2	1%	2	1%	2	1%
Mayoral CIL	1	1%	0	0%	1	0%
Total	161	47%	179	53%	339	

Source: MHCLG / Authors

*The London region and London family group are comprised of a slightly different set of LPAs. The discrepancy in these two tables is explained by this difference in composition.

1.28 The proportion of LPAs that charge CIL has increased since the time of the last study in 2016/17. Table 1.3 illustrates those LPAs that have adopted CIL since April 2019, up to January 2020. This brings the total of LPAs that are CIL-charging to 48% of the total eligible authorities.

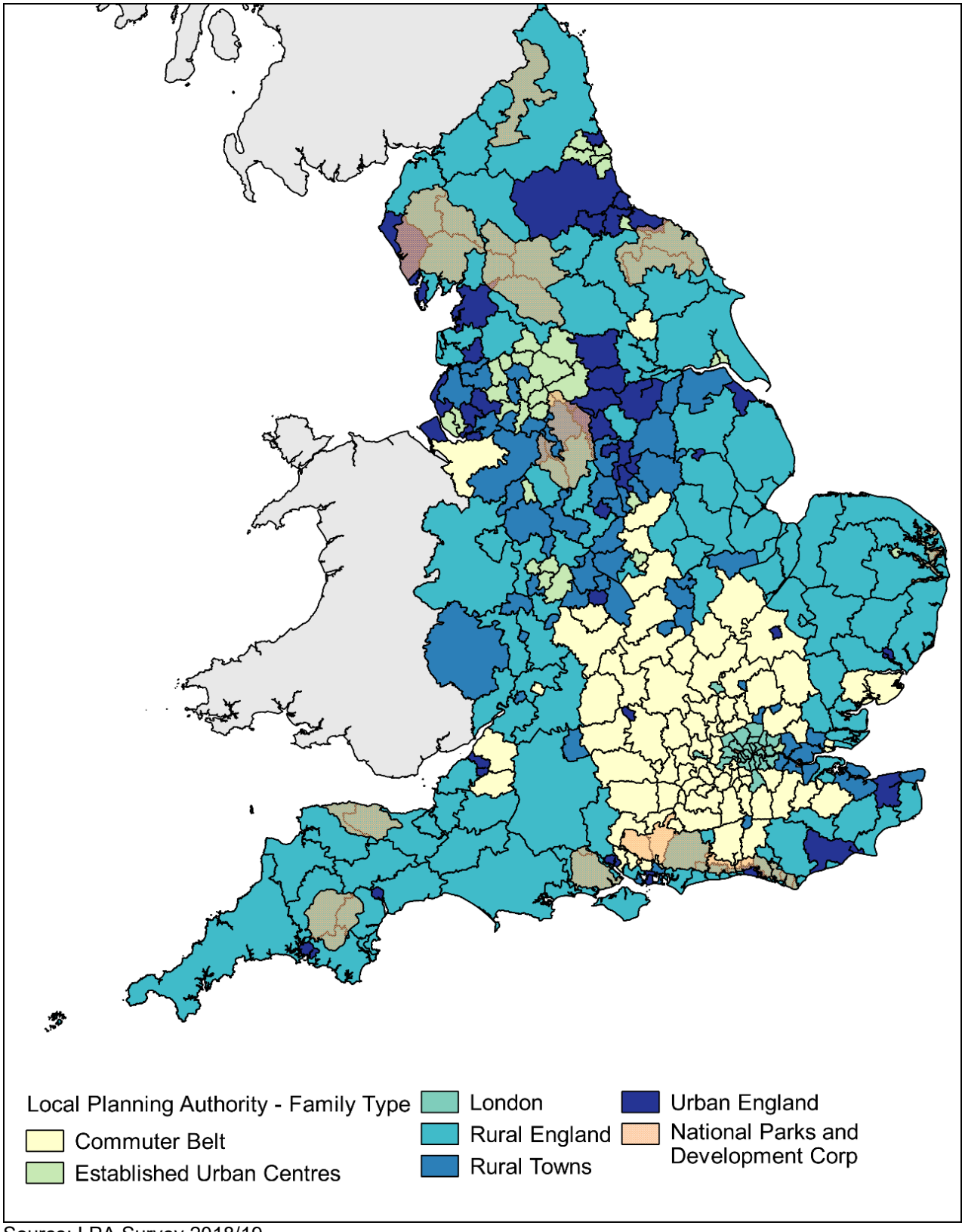
Table 1.3 The LPAs that have introduced CIL since 1st April 2017, up to January 2020

Local Planning Authority	Date of CIL adoption
South Downs NP	1 April 2017
Stroud	1 April 2017
South Somerset	3 April 2017
Torbay	1 June 2017
Malvern Hills	5 June 2017
Wychavon	5 June 2017
Bradford	1 July 2017
Rotherham	3 July 2017
Cheshire West and Chester	1 September 2017
Worcester City	4 September 2017
Horsham	1 October 2017
Vale of White Horse	1 November 2017
Warwick	18 December 2017
North Somerset	18 January 2018
North Kesteven	22 January 2018
West Lindsey	22 January 2018
Hull (Kingston-Upon-Hull)	1 February 2018
Stratford-On-Avon	1 February 2018
Lincoln City	5 February 2018
Basingstoke & Deane	25 June 2018
Tamworth	1 August 2018
Maidstone	1 October 2018
Cornwall	1 January 2019
Cheltenham	1 January 2019
Gloucester City	1 January 2019
Tewkesbury	1 January 2019
North Tyneside	14 January 2019
Waverley	1 March 2019
Cheshire East	1 March 2019
Cotswold*	1st June 2019
Havering*	1st September 2019
Rushcliffe*	7th October 2019

*CIL adopted after the valuation period to March 2019 and so CIL levied after 2018/19 by these authorities is not covered in the valuation

1.29 As indicated in Table 1.1 LPAs are not equally distributed amongst the families, Rural England contains approximately three times the number of authorities compared to London and Established Urban Centres. This geography is displayed in Figure 1.2. Previous studies have found the distribution of the incidence and value of obligations is related to location, scale of development, market conditions and LPA activity, rather than family type.

Figure 1.2 English Local Planning Authorities by family.

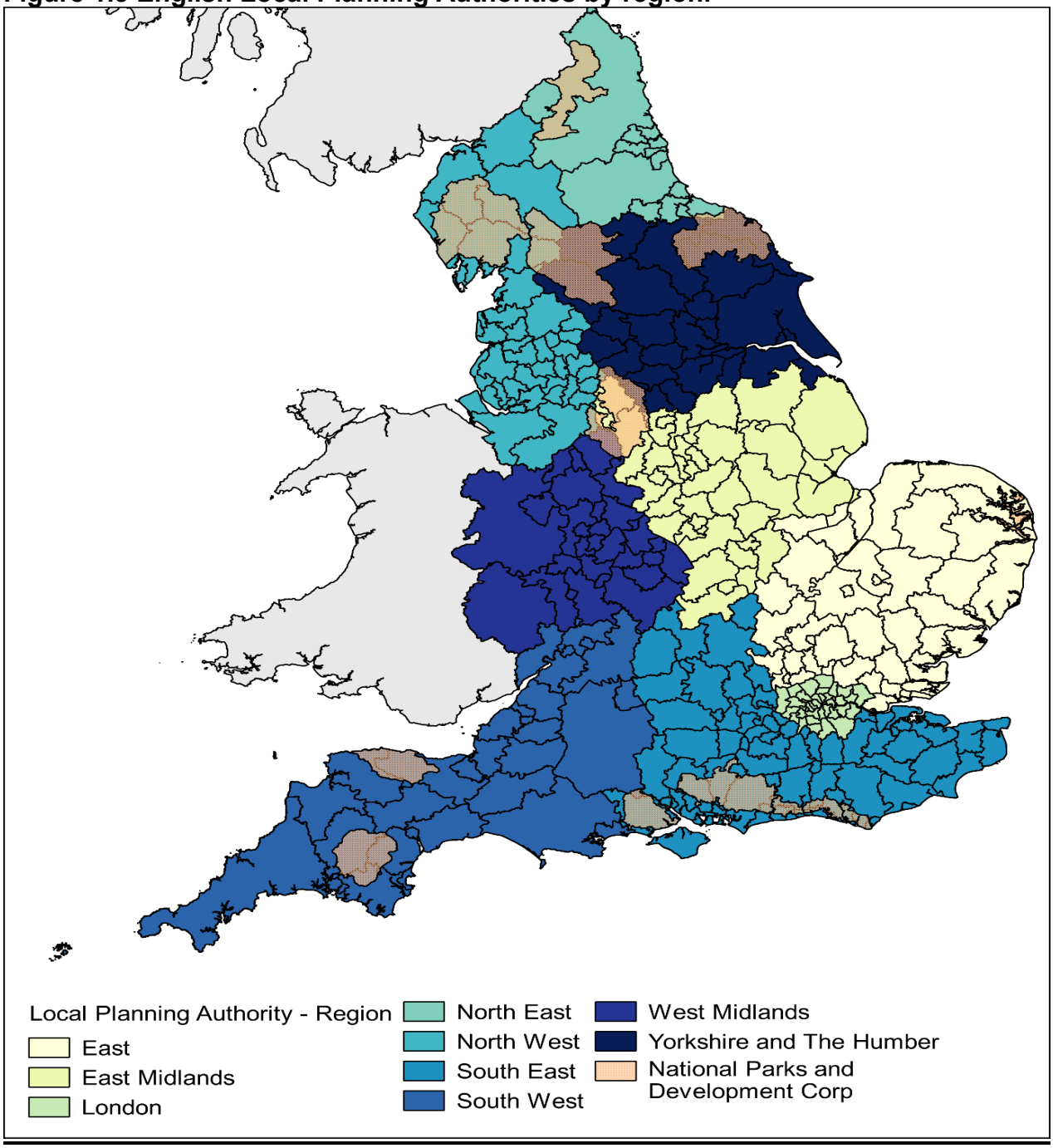


Source: LPA Survey 2018/19

1.30 Whilst the family typology is useful for grouping authorities with common household and planning characteristics it is also important to understand the patterns of planning obligation value and incidence at a regional level.

Therefore, this study uses the former Government Office Regions to understand variations in the geography of developer contributions where this is relevant. Figure 1.3 shows the geography of English Local Planning Authorities by region.

Figure 1.3 English Local Planning Authorities by region.

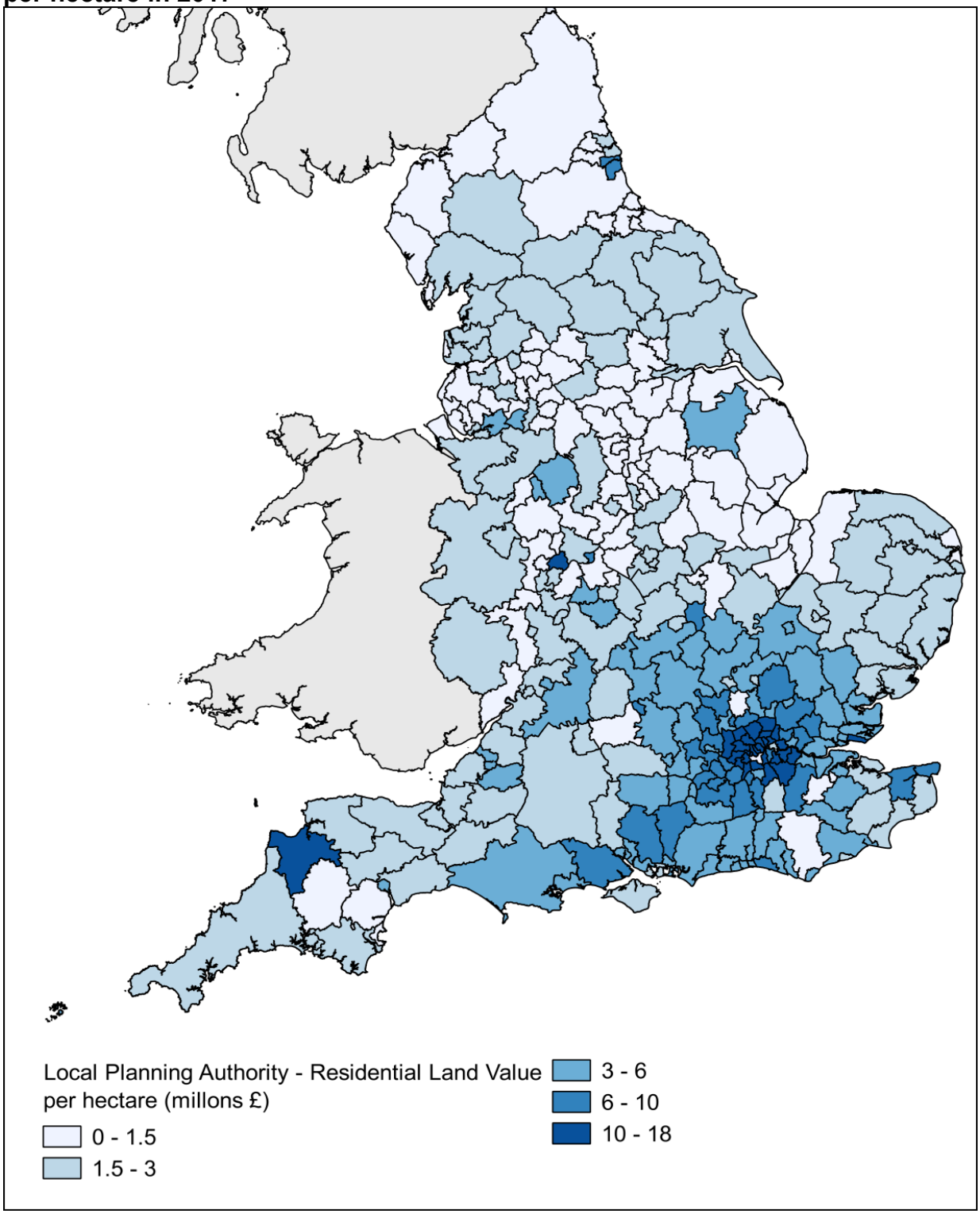


Source: MHCLG

1.31 Previous research (e.g. Dunning, Ferrari and Watkins 2016; Lord et al., 2019; Dunning et al., 2019) has investigated the relationship between the value and incidence of developer contributions and residential land values. As this may be an important indicator of the relative ability of LPAs to extract value through the planning process, Figure 1.4 shows variation in residential land value across

England. The greatest values can be found in, and around Greater London, and generally reduce in the North of the country. However, variations in market conditions can be very fine-grained with individual LPA areas accommodating areas of both high and low demand. This highly variegated aspect of land and development markets provides important context for this study.

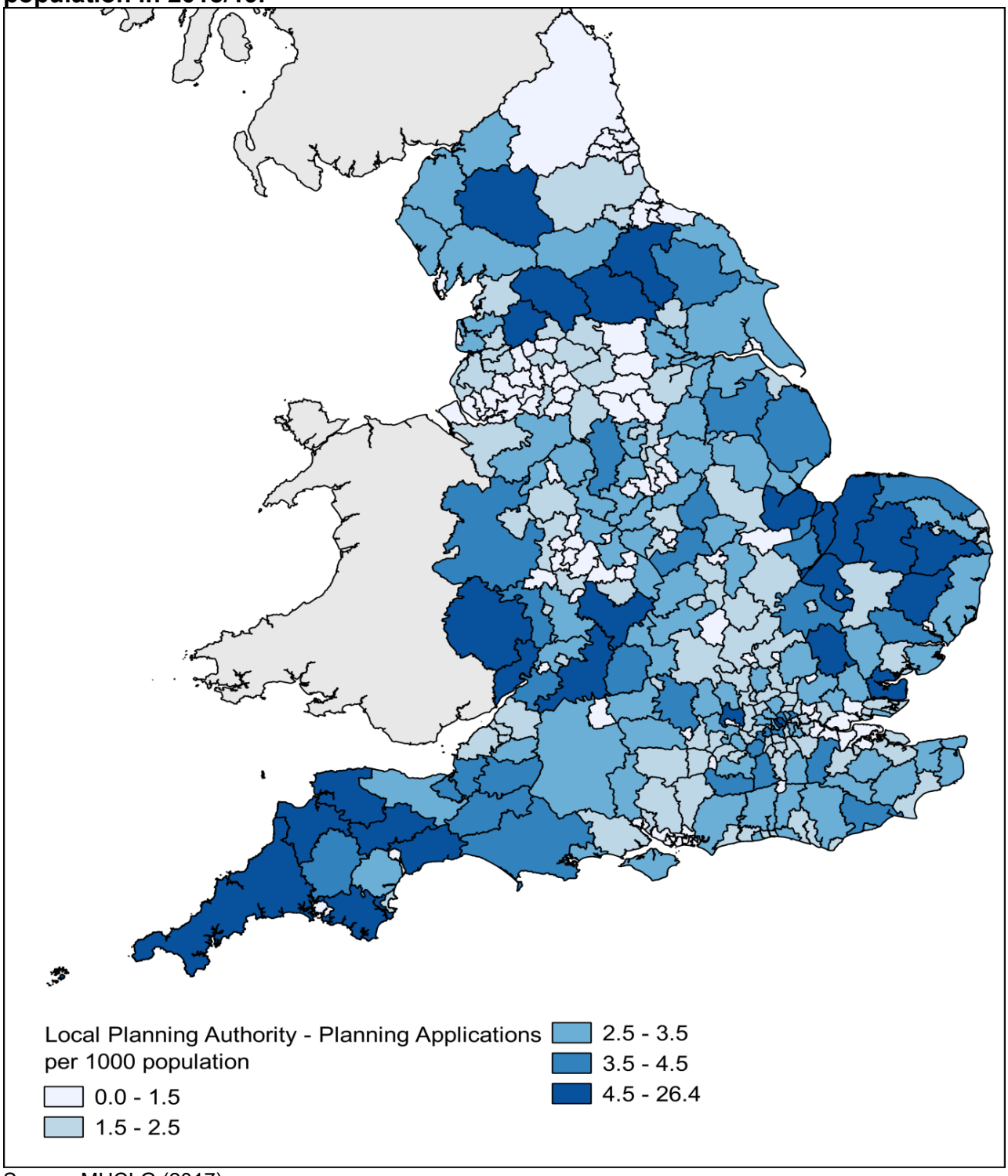
Figure 1.4 English Local Planning Authorities average residential land value per hectare in 2017



Source: MHCLG (2017)

1.32 The total value and incidence of planning obligations may also be related to the number of planning permissions granted, given the opportunities to extract value should increase with the number of applications. Figure 1.5 shows the distribution of the number of applications per 1000 population throughout England.

Figure 1.5 English Local Planning Authorities planning permissions per 1000 population in 2018/19.



Source: MHCLG (2017).

Chapter 2: The number of Planning Consents subject to Planning Agreements, Obligations and the Community Infrastructure Levy

Introduction

2.1 This chapter sets out the number of planning permissions granted in England and their geographic distribution. It then identifies the number of planning permissions that are subject to planning agreements, Community Infrastructure Levy, or both. The number and proportion of permissions with developer contributions for different types of development (e.g. minor/major, use-type) are also considered. The chapter uses both data from the survey of LPAs (for 2018/19) and secondary statistics.

Key Findings

The Growth of CIL

- Community Infrastructure Levy is the most common form of developer contribution, occurring on over twice as many planning permissions as planning agreements
- CIL alone is most likely to be charged on smaller residential permissions, but as the scale of residential development increases, there is greater use of planning agreements to collect developer contributions
- Only a very small proportion of non-residential planning permissions attract CIL and/or planning agreements.

Section 106: Still a core part of planning practice

- Planning agreements in 2018/19 included more obligations than in 2016/17, although with significant geographic variations. There is a clear positive correlation between average house prices in an LPA and the number of obligations.

Variation and inconsistency in LPA practices on developer contributions

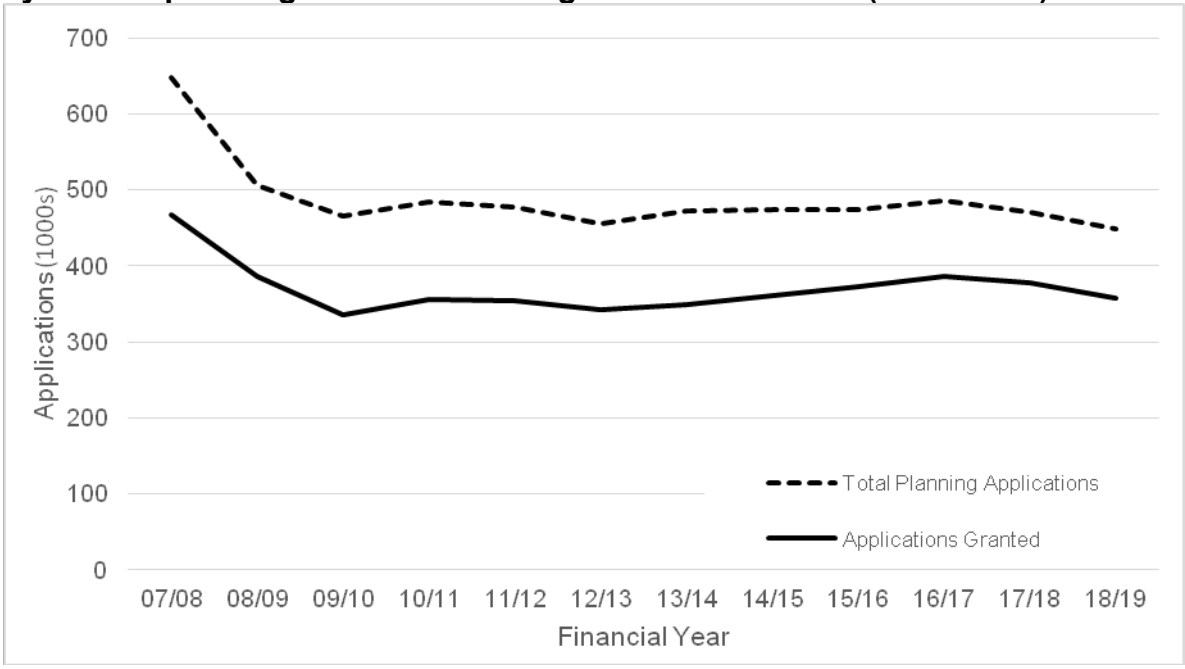
- There continues to be a widespread variation in the number of permissions granted per 1000 population within regions (and family types) across England.
- Overall, there has been a reduction in the number of planning applications permitted and granted between 2016/17 and 2018/19. Although there is strong regional variation in this statistic.

The number of planning permissions since 2007/08

2.2 There was a reduction in both the number of planning applications received and granted permission in 2018/19. The number of planning applications received by LPAs in 2018/19 was 22,000 fewer than in 2017/18, and 39,000 fewer than

in 2016/17. Figure 2.1 shows that over the same period, there has been a slight narrowing in the gap between applications received and permissions granted, indicating a greater proportion of applications resulting in permission granted. Approximately 50% of planning applications are householder developments, approximately 30% relate to Major or Minor developments.

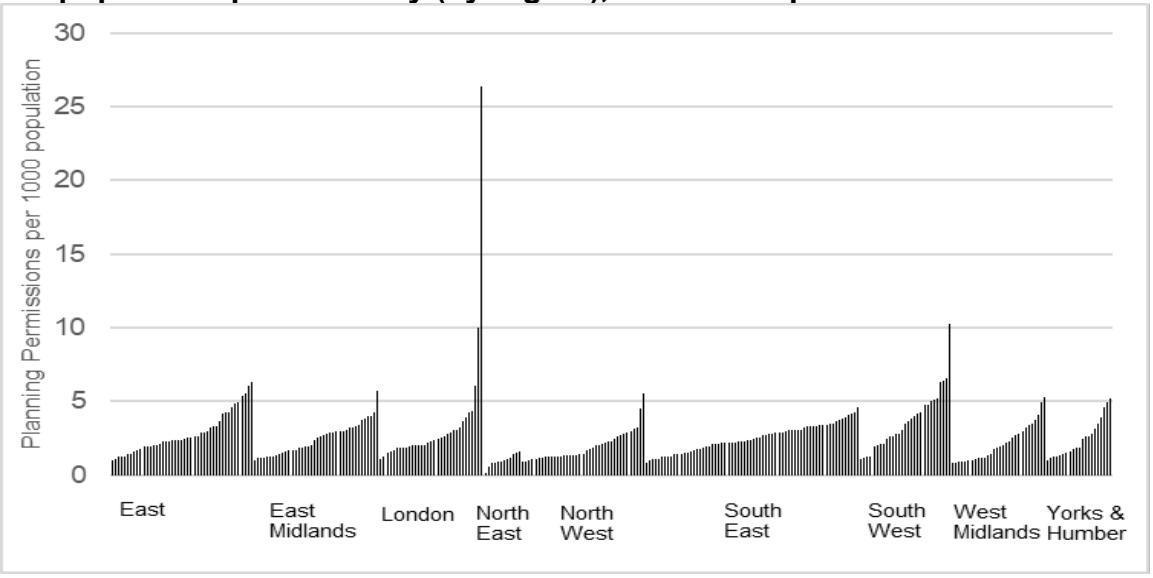
Figure 2.1 Number of planning applications received and applications granted by district planning authorities in England since 2007/08 (thousands)



Source: MHCLG (2019), Live Table P120, Planning Applications.

2.3 The distribution of submitted planning applications and consents is geographically varied. Planning consents per 1,000 population can be taken as an indicator of development activity. Figure 2.2 shows this distribution for 2018/19. Within each region there is a fairly even distribution of permissions, typically ranging from 1 to 5 permissions per 1000 population with a median of 2. However, some outliers are immediately obvious, in particular in London and the South East, where several LPAs granted 10 or more permissions per 1000 population. The City of London exhibits a much greater ratio (26 per 1000), due to the combination of a low residential population and intense development activity.

Figure 2.2 The total number of planning permissions granted in 2018/19 per 1000 population per authority (by region), each bar represents one LPA.



Source: MHCLG (2019), Live Table P132 and ONS (2019) Mid-Year Population estimate 2018.

2.4 The region and LPA family groups display similar distributions of planning permissions per thousand population. However, the distribution of population across the LPA family types impacts the distribution of permissions per 1000 population (see Figure 2.2). Family types associated with greater density of population, e.g. Urban England and Established Urban Centres, recorded lower planning permission amounts per 1000 head of population. This means that LPAs in these groups typically see between 1 and 4 permissions per 1000 residents, whilst those in Rural England typically cluster between 3 and 6 per 1000 as illustrated by Figure 2.3.

The number of developer contributions

2.5 It is sensible to make a distinction between contributions exacted on greenfield and brownfield sites as this binary categorisation provides the general context within which all development takes place in England. Tables 2.1 and 2.2 use LPA survey data to illustrate the share of developer contributions raised on greenfield and brownfield land for CIL (Table 2.1) and for planning obligations (Table 2.2).

Table 2.1 The proportion of CIL value levied on greenfield land

What proportion of the value of CIL was on greenfield land?	Proportion of CIL charging responding LPAs
0-30 %	77%
31-50 %	12%
51-70 %	5%
71-100 %	7%
	100%

Source: LPA Survey 2018/19

Table 2.2 The proportion of planning obligation value exacted on greenfield land

What proportion of the value of planning agreements was on greenfield land?	Proportion of responding LPAs
0-30 %	56%
31-50 %	8%
51-70 %	15%
71-100 %	20%
	100%

Source: LPA Survey 2018/19

2.6 The survey evidence reveals considerable variation between LPA families with respect to the mechanisms used to exact a developer contribution (Table 2.3). The most common form of planning application with a developer contribution was CIL only (i.e. no planning agreement attached). In England, on average, LPAs charged 26 planning agreements which had a CIL charge (and no planning agreement), 8 with planning agreements alone and 8 with both CIL and planning agreements.

Table 2.3 Mean number of planning applications granted per authority with contributions (by LPA Families) for planning agreements alone, CIL alone and both

	Planning Agreement (Only)	CIL (only)	CIL and Planning Agreement
Commuter Belt	10	27	6
Established Urban Centres	7	30	1
London	5	34	32
Rural England	9	26	6
Rural Towns	5	16	1
Urban England	12	22	3
England (CIL adopted)	2	26	8
England (non-CIL adopted)	6	0	0
England	8	26	8

Source: LPA Survey 2018/19

2.7 Urban England had the highest mean number of planning applications granted in 2018/19 with a planning agreement alone at 12.

2.8 In London there were large numbers of planning applications with both CIL and planning agreements, with an average of 32 per authority. This is significantly above the average for all other family types. It is important to note that the statistics presented in Table 2.3 represent just the CIL applied to development by the London Boroughs in question and not the wider Mayoral CIL which applies across London. In total, of the 32 LPAs that cover London, 30 are CIL-charging authorities.

2.9 As in 2016/17 there was significant variation in changes in developer contributions raised on non-householder applications within LPA Families.

Table 2.4 shows that LPAs in the Commuter Belt and Rural Towns families saw a decrease in both the number of applications with planning agreements alone and those with an agreement and/or CIL. Applications of this type that were accompanied by a planning agreement alone increased slightly amongst LPAs in the Established Urban Centres family group.

2.10 However, within the Established Urban Centres family group applications with an agreement and/or CIL increased by approximately 50%. This may reflect the increased adoption of CIL within LPAs in this family. In London, applications with an agreement and/or CIL decreased slightly, but applications with planning agreements alone dropped significantly, from 41 in 2016/17 to just 5 in 2018/19. This may reflect an interaction between CIL and S106 with the former beginning to 'crowd out' the latter with regard to applications of this type.

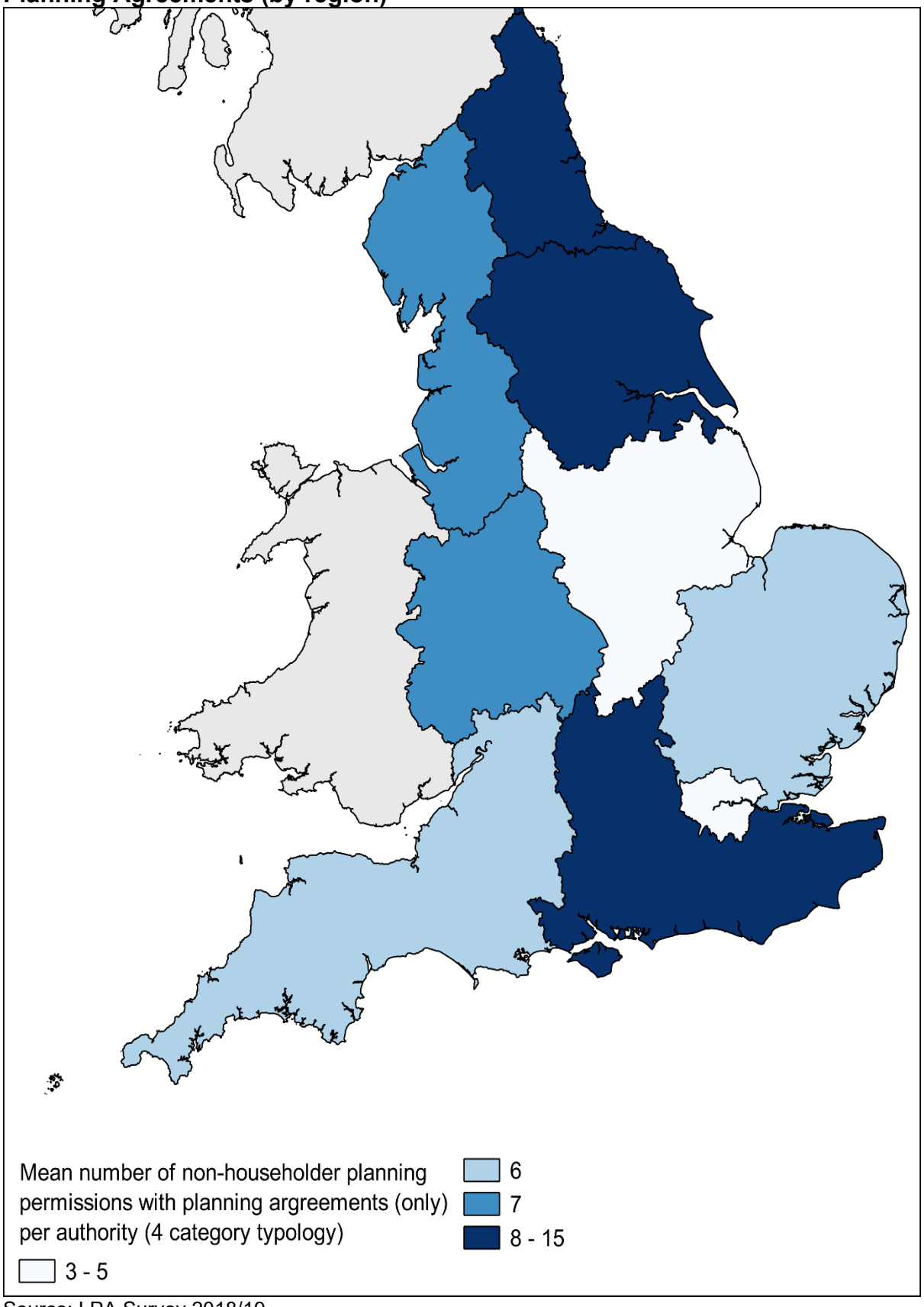
Table 2.4 Number of non-householder permissions with planning agreement per authority 2016/17 and 2018/19 (by LPA family)

	2016/17		2018/19	
	Planning agreements only	Agreement and/or CIL	Planning agreements only	Agreement and/or CIL
Commuter Belt	28	43	10	33
Established Urban Centres	8	21	7	31
London*	41	84	5	65
Rural England	17	47	9	31
Rural Towns	11	25	5	17
Urban England	21	25	12	25

Source: LPA Survey 2018/19 and Lord et al., (2018)

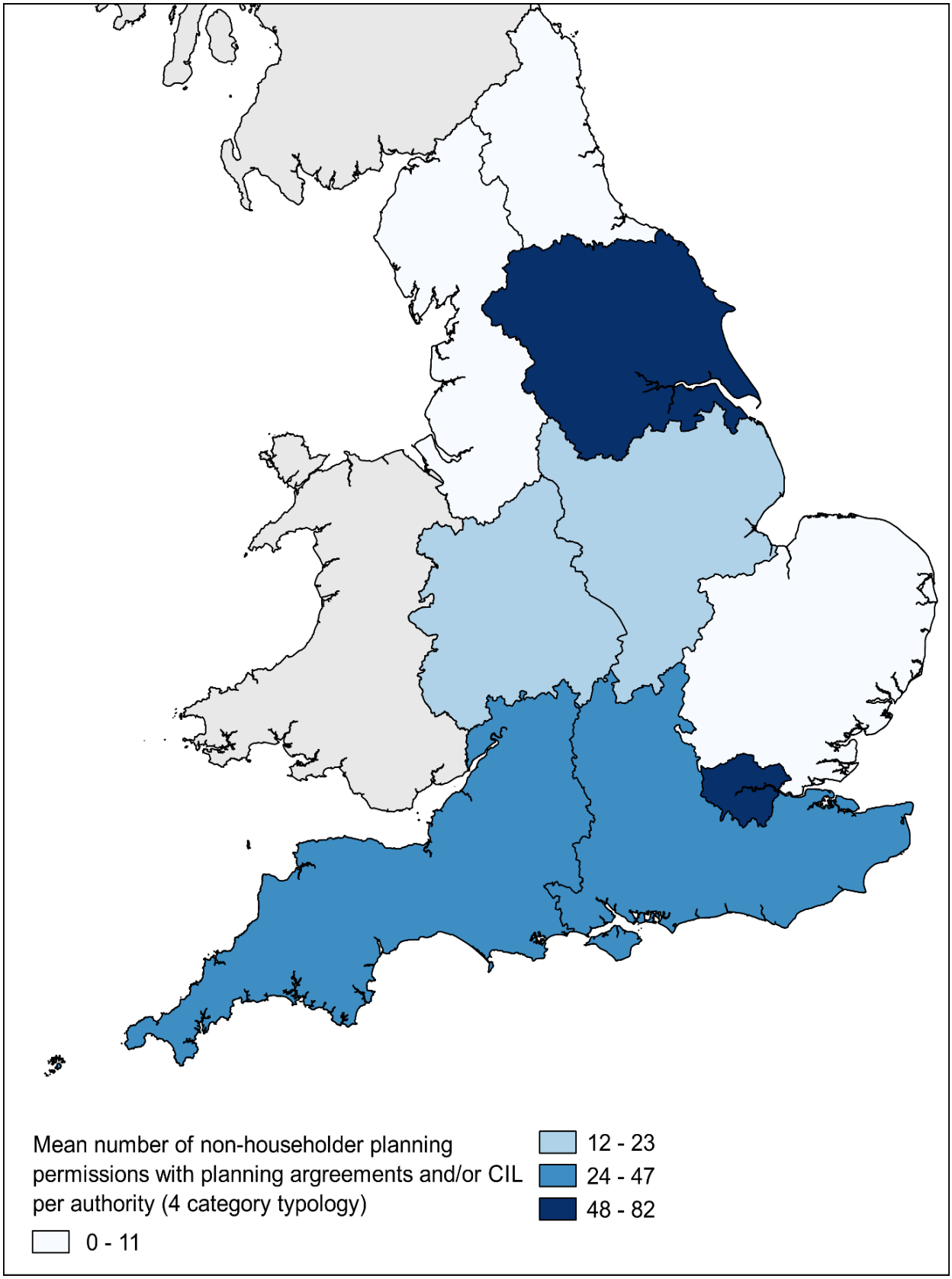
2.11 When the relationship between planning consents and developer contributions is considered in geographic context it is clear that there are quite significant variations in practice. Figures 2.3, 2.4 and Table 2.5 give an indication as to how practice varies. For example, it would appear that in the North East planning agreements predominate with a mean average of 0 permissions being subject to CIL alone and a mean of only 1 where both a planning agreement and CIL has been applied. By contrast, London and, to a lesser extent, the South East stand out as the only parts of the country where CIL and a planning agreement are routinely combined (a mean average of 29 and 11 respectively).

Figure 2.3 Mean number of non-householder planning permissions with Planning Agreements (by region)



Source: LPA Survey 2018/19

Figure 2.4 Mean number of non-householder planning permissions with Planning Agreements and/or CIL



Source: LPA Survey 2018/19

Table 2.5 Mean number of non-householder planning permissions with contributions per authority (by region)

	Planning Agreements Only	CIL (only)	CIL and Planning Agreements
East	6	10	1
East Midlands	4	18	0
London	3	31	29
North East	15	0	1
North West	7	5	0
South East	13	29	11
South West	6	46	1
West Midlands	7	21	2
Yorkshire & Humber	11	76	6
England (CIL adopted)	2	32	7
England (non-CIL adopted)	6	0	0
England	8	32	7

Source: LPA Survey 2018/19

2.12 Table 2.5 shows that London has the greatest mean average of non-householder planning permissions accompanied by contributions. For most other regions the figure is less than 2, although the South East and Yorkshire & Humber achieved 11 and 6 respectively.

2.13 For non-householder permissions with CIL alone Yorkshire & Humber had the greatest number of applications with 76. The South West (46) also had considerably greater numbers of applications subject to CIL alone than the other regions. Only authorities in the North East (0) and North West (5) had fewer than 10 applications that were subject to CIL, reflecting the generally lower CIL adoption rate amongst LPAs in these regions.

2.14 The data contained in Table 2.5 highlights the fact that it is uncommon for LPAs to rely upon a single mechanism to exact developer contributions. For example, despite the widespread take-up of CIL in the South East, on average LPAs in this region still record 13 permissions with Planning Agreements only. Yorkshire & Humber recorded the greatest number of applications with CIL only, yet still had a relatively high number of applications with only planning agreements attached.

2.15 Table 2.6 illustrates the average number of residential units granted per LPA in 2018-19 (1,291).

Table 2.6 Average number of residential units granted permission in 2018-19 per LPA (by LPA families)

LPA Family	Residential Units
Commuter Belt	866
Established Urban Centres	1,654
London	1,731
Rural England	1,117
Rural Towns	978
Urban England	1,780
All	1,291

Source: LPA Survey 2018/19

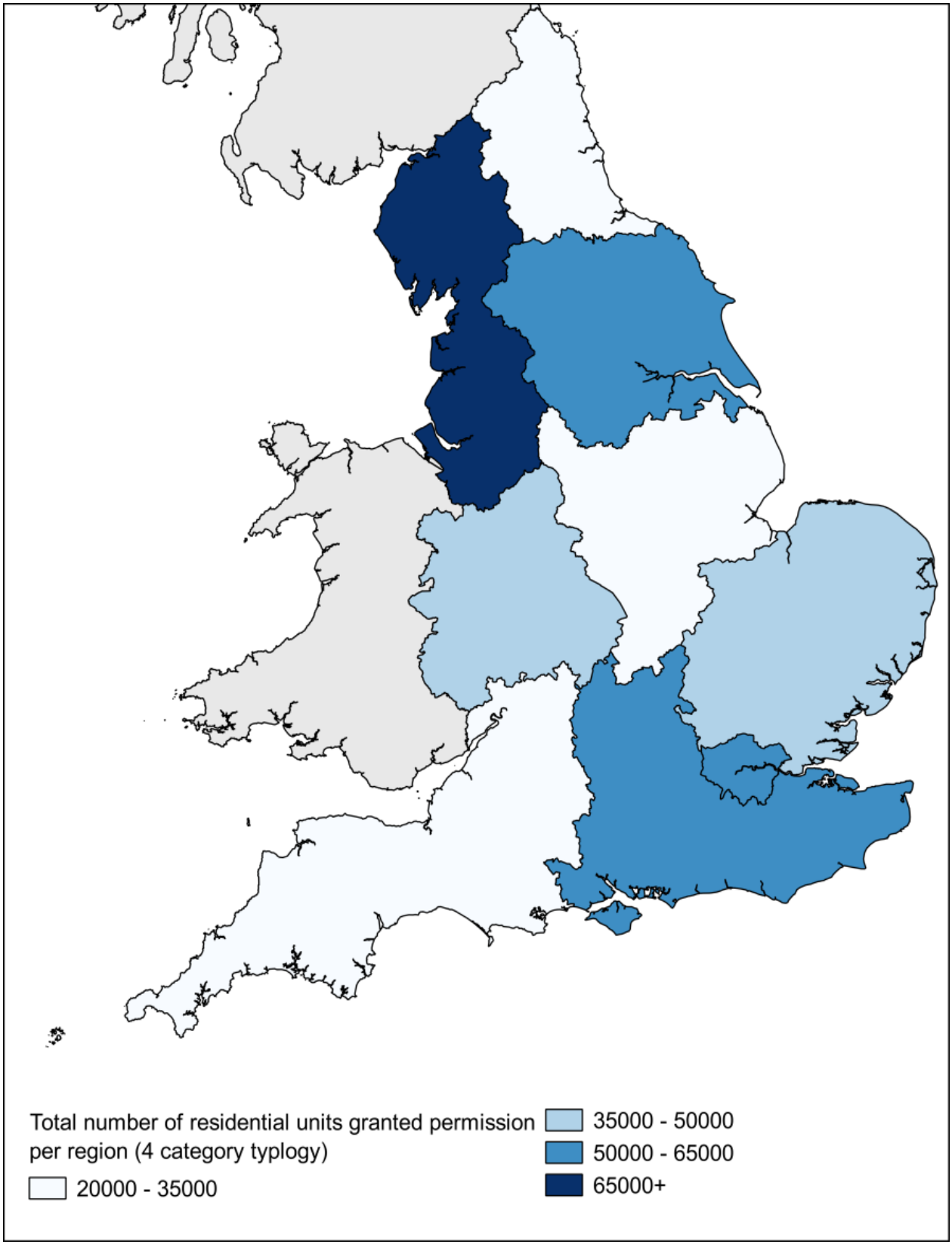
2.16 When considered in regional context, consent for residential units varies quite significantly. Table 2.7 illustrates that the lowest number, 716 units, was granted within the East Midlands. By comparison the LPAs within Yorkshire & Humber added 2,469 units on average, nearly double the national average. The next greatest number of units granted were in London (1,869) and the North West (1,823). However, this masks the volume of development because of the difference in the number of LPAs by region. Figure 2.5 shows the total number of units permitted by region in 2018/19.

Table 2.7 Average number of residential units granted permission in 2018-19 (region)

Region	Residential Units
East	1,110
East Midlands	716
London	1,869
North East	1,776
North West	1,823
South East	884
South West	1,056
West Midlands	1,562
Yorkshire & Humber	2,469
All	1,291

Source: LPA Survey 2018/19

Figure 2.5 Total number of residential units granted permission in 2018-19 by region



Source: LPA Survey 2018/19

2.17 Table 2.8 shows that there were 3,334 major development permissions granted with developer contributions in England in 2018/19 (1551 with agreements alone, 604 with CIL only and 1179 subject to both an agreement and CIL). Of these, 47% had a planning agreement attached (no-CIL); 18% were subject to a CIL contribution (no planning agreement) and 35% included both a planning agreement and CIL (Table 2.8).

Table 2.8 Total number of non-householder planning applications permitted with contributions (by LPA family) for England.

	Major			Minor		
	Agreements only	CIL only	Agreement and CIL	Agreements only	CIL only	Agreement and CIL
Commuter Belt	313	65	102	438	1820	388
Established Urban Centres	204	139	19	73	692	9
London	49	23	536	78	811	289
Rural England	541	191	389	290	2068	112
Rural Towns	147	32	46	64	584	16
Urban England	297	154	88	44	670	12
England (CIL adopted)	423	604	1179	403	6646	826
England (non-CIL adopted)	1128	0	0	584	0	0
England	1551	604	1179	987	6646	826

Source: LPA Survey 2018/19

2.18 The data presented in Table 2.8 illustrates how practice varies across England. This is further demonstrated by Table 2.9 which displays the data from Table 2.8 as proportions of applications subject to the three possible combinations of developer contributions (agreement only, CIL only, agreement and CIL combined). Table 2.9 shows that just 8% of major applications in London had a planning agreement alone. By contrast the use of planning agreements alone is far more common across all the other LPA family groups. Moreover, only in London were planning agreements and CIL combined regularly.

Table 2.9 Total percentage of non-householder planning applications permitted with contributions (by LPA family) for England.

	Major			Minor		
	Agreements only	CIL only	Agreement and CIL	Agreements only	CIL only	Agreement and CIL
Commuter Belt	65%	14%	21%	17%	69%	15%
Established Urban Centres	56%	38%	5%	9%	89%	1%
London	8%	4%	88%	7%	69%	25%
Rural England	48%	17%	35%	12%	84%	5%
Rural Towns	65%	14%	20%	10%	88%	2%
Urban England	55%	29%	16%	6%	92%	2%
England (CIL adopted)	27%	100%	100%	41%	100%	100%
England (non-CIL adopted)	73%	0%	0%	59%	0%	0%
England	47%	18%	35%	12%	79%	10%

Source: LPA Survey 2018/19

Proportion of permissions with contributions

2.22 It is important to be able to differentiate between residential planning permissions (which are more likely to attract developer contributions) and non-residential planning permissions. The size of residential development can have an impact upon the type of developer contributions which are levied as illustrated in Figure 2.6A (all authorities) and Figure 2.6B (CIL authorities only).

Figure 2.6A The proportion of planning permissions with contributions by residential development size (all authorities)

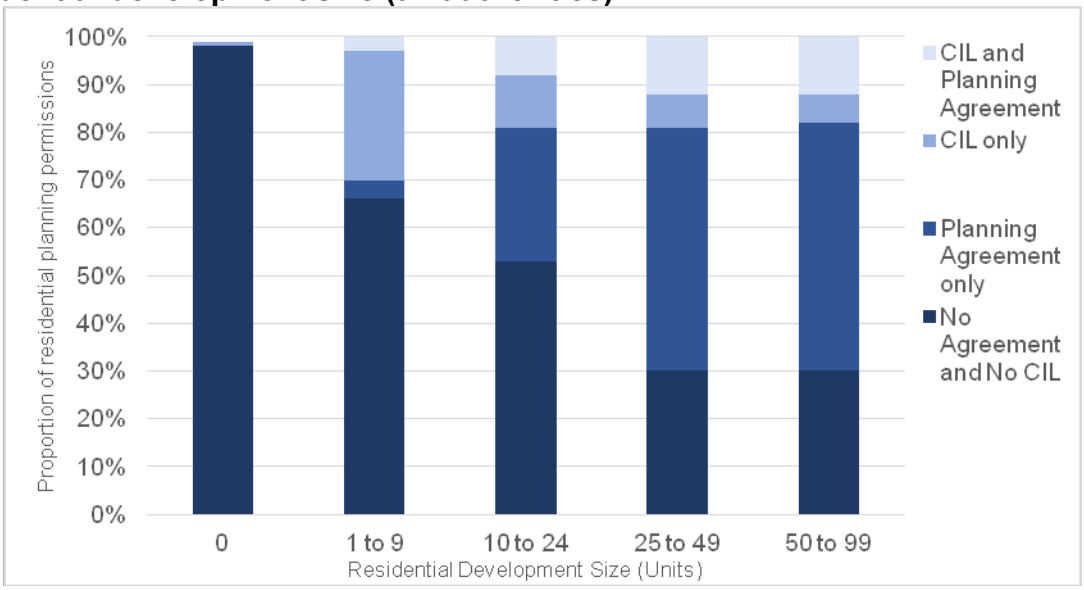
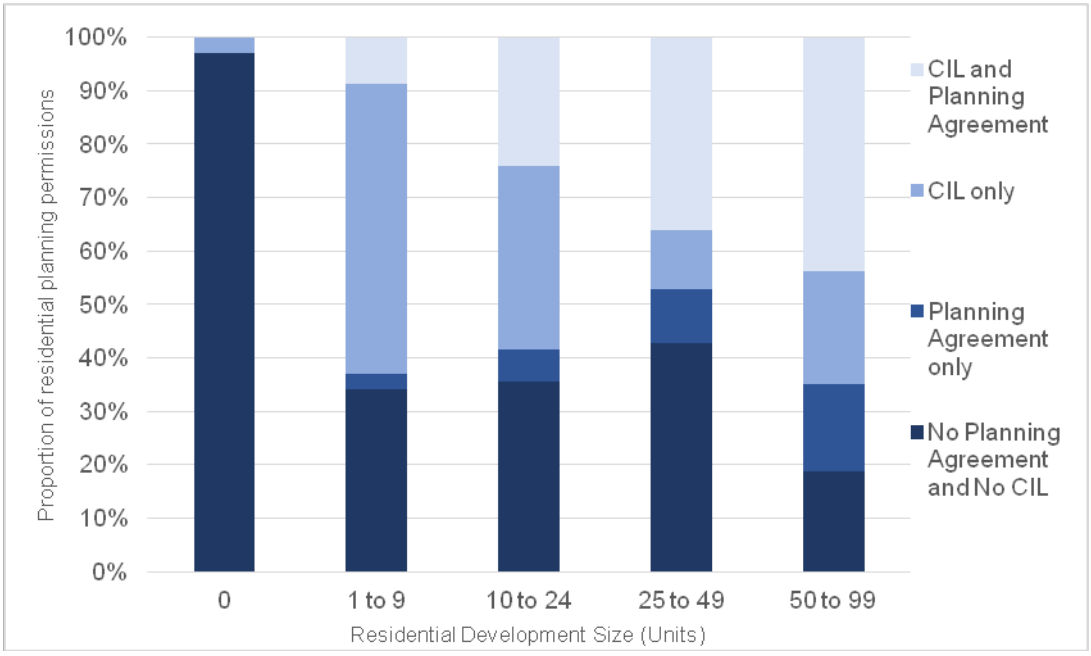


Figure 2.6B The proportion of planning permissions with contributions by residential development size (CIL authorities only)



Source: LPA Survey 2018/19

2.23 Table 2.10 shows the data from Figure 2.6A in tabular form and illustrates the proportions of planning permissions with contributions by residential development size. Householder developments (0 units) very rarely see any developer contributions with only 1% of applications paying CIL, which will only be relevant for the very largest scale of householder developments.

Table 2.10 The percentage of planning permissions with contributions by residential development size (%) (all authorities)

	0	1 to 9	10 to 24	25 to 49	50 to 99
No Agreement	98%	66%	53%	30%	30%
Planning Agreement only	0%	4%	28%	51%	52%
CIL only	1%	27%	11%	7%	6%
CIL and Planning Agreement	0%	3%	8%	12%	12%

Source: LPA Survey 2018/19

2.24 For the remaining minor residential development (1 to 9 units), the majority (66%) of applications did not attract any developer contributions. Where they do have a developer contribution it is most frequently CIL, with very few being subject for a planning agreement.

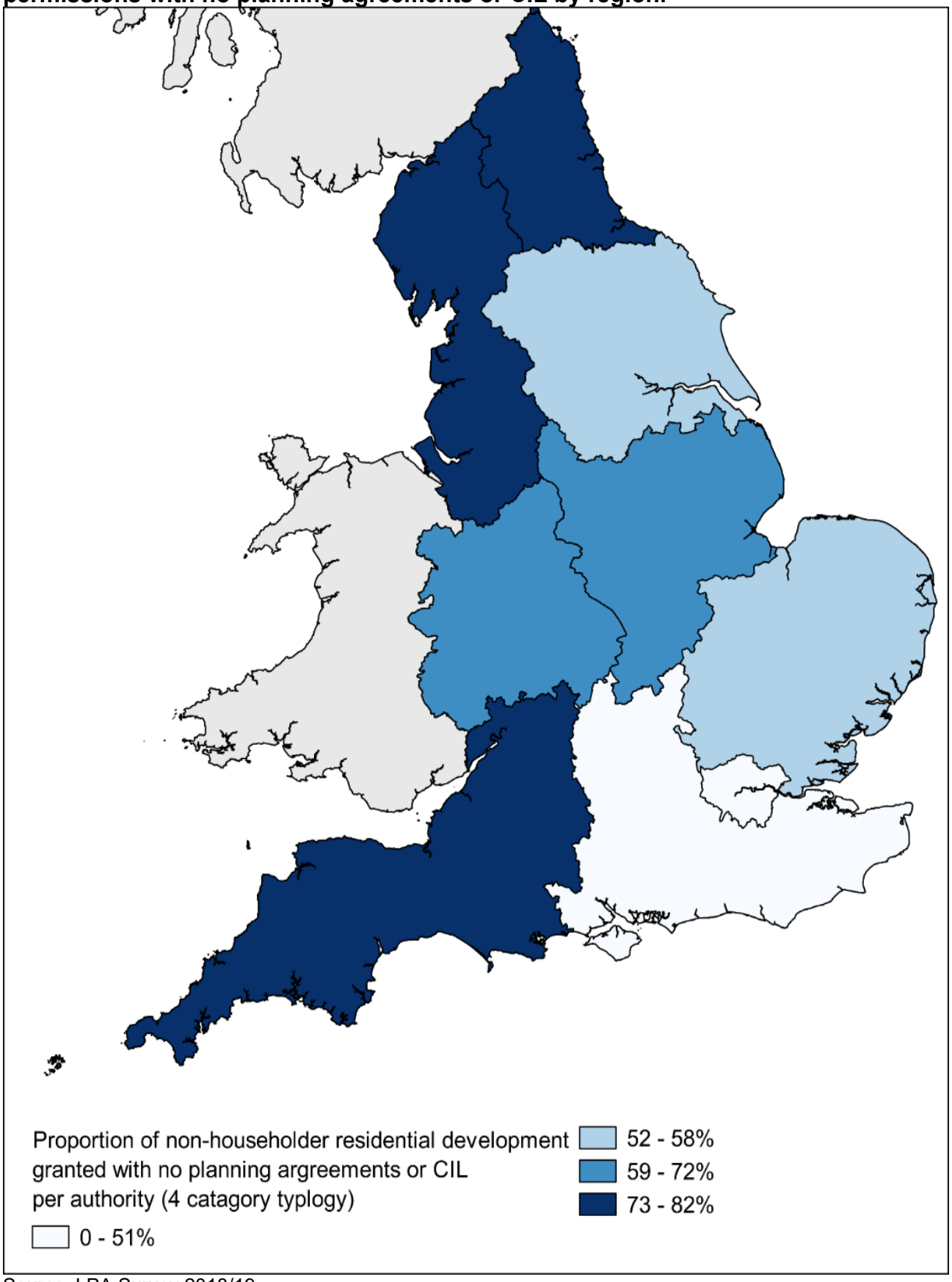
2.25 Table 2.11 shows the distribution of non-householder residential planning permissions that have attracted either planning agreements, CIL or both. The combination of CIL and S106 is clearly only viable in London and the Commuter Belt: around half of all consents in London were subject to both CIL and a planning agreement. This geography of where development is subject to neither a planning agreement or CIL is shown as a map in Figure 2.7.

Table 2.11 The proportion of non-householder residential development permissions with contributions by LPA family.

	No Agreement or CIL	Planning Agreement only	CIL only	CIL and Planning Agreement
Commuter Belt	47%	15%	29%	10%
Established Urban Centres	53%	8%	38%	2%
London	37%	5%	12%	46%
Rural England	82%	2%	16%	0%
Rural Towns	79%	5%	15%	1%
Urban England	71%	9%	17%	3%

Source: LPA Survey 2018/19

Figure 2.7 The proportion of non-householder residential development permissions with no planning agreements or CIL by region.



Source: LPA Survey 2018/19

2.26 It is much less common for non-residential development applications to attract developer contributions. Although there is some variation between development types it is rare for any type of non-residential development to result in a contribution through CIL or planning agreements. Table 2.12 shows that two types of development ('Office, R&D, Light Industry' and 'General Industry, Warehouse, Storage') were slightly more likely to have contributions attached to an application than other classes of development. Where a charge was applied it was more likely to be CIL alone, especially for the 'Office, R&D, Light Industry' and 'General Industry, Warehouse, Storage' classes of development.

Table 2.12 The proportion of planning permissions with contributions by development type (non-residential)

	No CIL or Agreement	Agreement (only)	CIL (only)	CIL & Agreement
Office, R&D, Light Industry	88%	4%	6%	3%
General Industry, Warehouse, Storage	88%	3%	9%	0%
Retail & Service	93%	2%	4%	1%
All other	98%	1%	1%	0%
Total	97%	1%	2%	0%

Source: LPA Survey 2018/19

2.27 However, considerable differences in practice across the English regions does occur. Table 2.13 demonstrates that London has the greatest proportion of commercial applications that attract a CIL charge (12%) with an additional 9% subject to both CIL and a planning agreement. The South East sees a similar proportion of applications with a CIL charge (9%) but only 3% attracted both CIL and S106.

2.28 Yorkshire and Humber (9%) and West Midlands (6%) are the other two regions which apply CIL to a considerable proportion of commercial applications. The North East and North West apply charges to a maximum of 6% of commercial development, whilst LPAs in the East apply charges to just 1% of commercial development.

Table 2.13 The proportion of commercial planning permissions with contributions by region (Office, Research & Design, Light Industry, General Industry, Warehousing, Storage, Retail and Service)

Non-Householder Residential Development	No Agreement or CIL	Planning Agreement only	CIL only	CIL & Planning Agreement
East	99%	1%	0%	0%
East Midlands	95%	4%	1%	0%
London	77%	2%	12%	9%
North East	94%	6%	0%	0%
North West	96%	3%	1%	0%
South East	69%	19%	9%	3%
South West	100%	0%	0%	0%
West Midlands	89%	4%	6%	1%
Yorkshire & The Humber	91%	0%	9%	0%

Source: LPA Survey 2018/19

Number of Obligations

2.29 A single planning agreement may include a range of individual planning obligations. The nature of each obligation may exhibit a high degree of heterogeneity from other planning obligations, but the number of obligations is a broad indicator of the breadth of issues being legally agreed through planning agreements.

2.30 Table 2.14 shows that LPAs in the East of England and the East Midlands had the greatest number of obligations per planning agreement with 5 each. In contrast LPAs in London included on average just 1 obligation per agreement. This may reflect the greater use of CIL to levy developer contributions in London when compared to other regions of England. That said, evidence presented earlier in this chapter suggested that LPAs in London do commonly combine CIL with Planning Agreements. The figure of 1 obligation per agreement indicates that when this occurs only a small number of items are included in the agreement.

2.31 Nationally the number of obligations per agreement has increased from 2016/17, this trend can be seen in every region, apart from the South East, which instead decreased slightly. Several regions doubled the average number of obligations per permission, suggesting an increase in the complexity of the negotiation process through an increasing number of obligations.

Table 2.14 Average number of obligations per planning agreement per region.

Region	Number of obligations per permission
East	5
East Midlands	5
London	1
North East	2
North West	3
South East	4
South West	4
West Midlands	3
Yorkshire and Humber	2
England	3

Source: LPA Survey 2018/19

2.32 Table 2.15 shows the number of obligations per agreement for CIL and non-CIL authorities in England. At a national level, there is no variation between non-CIL and CIL charging authorities, both with an average of 3 obligations per agreement. There is some variation between regions, but the data are less robust for some regions.

Table 2.15 Average number of obligations per permission with planning agreements for non-CIL and CIL charging LPAs

Region	Non CIL-charging LPA	CIL charging LPA
East	5	5
East Midlands	5	1
London	N/A	1
North East	2	4
North West	3	4
South East	3	5
South West	4	4
West Midlands	4	2
Yorkshire and Humber	1	2
England	3	3

Source: LPA Survey 2018/19

2.33 Whilst it might be expected that CIL adoption would uniformly result in a lower number of obligations per application, there is also a relationship between areas where house prices are higher and the adoption of CIL.

2.34 Across the standard ONS average house price quartiles there is a consistent trend in the total number of obligations per LPA. Table 2.16 shows that as the average price increases the average number of obligations per LPA also increases. This supports the suggestion made at the end of Chapter 1 that there may be a relationship between residential land values and the ability to secure obligations. LPAs in the upper quartile had been able to agree over double the number of obligations in comparison to the lower quartile. However, there is only a small difference between this quartile and the lower middle quartile.

Table 2.16 Average number of obligations per LPA by 2018 Average House Price Quartile.

Median House Price (2018/19)	Average Number of Obligations per Agreement	Proportion of Total Obligations
£115k - £178k	1.7	17%
£178k - £246.5k	2.1	20%
£246.5k - £331k	3.9	26%
£331k - £1.33m	3.0	37%

Source: LPA Survey and ONS (2019) HPSSA dataset 9.

Direct and in-kind obligations

2.35 The average number of direct payments per authority in 2018/19 was nearly double that recorded in 2016/17. However, it remains below the peak of 52 in 2007/08 and is also slightly less than the 2005/06 figure. Broadly this pattern is mirrored in each obligation category as illustrated in Table 2.17.

2.36 Affordable Housing contributions made up the greatest proportion of any planning agreements in 2018/19 and rose by approximately 3 obligations when compared to 2016/17, recording the greatest number of all previous iterations of this research.

2.37 The 'Other' category had the second greatest number of obligations per LPA, which indicates a broadening of obligation requests made by LPAs. Further research would be required to fully understand what these 'other' uses of developer contributions comprised. However, evidence from the case studies and developer roundtables (Chapters 6 and 7 respectively) points to a qualitative broadening of the demands placed on developer contributions particularly in areas such as health which would have been counted in the 'other' category in the LPA survey.

Table 2.17 The average number of direct payment obligations per authority

	2003/04	2005/06	2007/08	2011/12	2016/17	2018/19
Affordable Housing	3	6	8	3	15	19
Open Space	11	13	14	13	6	10
Transport and Travel	7	12	12	9	4	8
Community and Leisure	3	6	6	9	3	3
Education	3	5	5	4	3	4
Other	0	9	15	1	6	12
All	24	45	52	37	21	40

Source: LPA Survey 2018/19 and Lord et al. (2018)

2.38 Affordable Housing obligations were nearly three times greater in CIL charging LPAs compared to non-CIL charging LPAs (see Table 2.18). Given that CIL does not include affordable housing payments, this is not surprising. However, the significantly lower figure for non-CIL charging LPAs might support the suggestion made in developer roundtables that in areas of more marginal viability, residential development that is non-policy compliant on affordable housing can often still be permitted.

2.39 For the other obligation types there was no indicator that the adoption of CIL leads to greater, or lesser number of obligations. CIL charging LPAs recorded a greater number of Transport and Travel, and Education payments, whilst non-CIL charging LPAs had a greater number of Community and Leisure, and Other payments. There was only a small difference in the Open Space payments.

Table 2.18 The average number of direct payment obligations per authority for CIL and non-CIL charging

Type	CIL charging	Non-CIL charging
Affordable Housing	28	10
Open Space	11	10
Transport and Travel	9	6
Community and Leisure	2	4
Education	5	3
Other	10	13

Source: LPA Survey 2018/19

Chapter 3: The value of Planning Obligations and the Community Infrastructure Levy

Introduction

3.1 Chapter 3 considers the value of planning obligations and Community Infrastructure Levy in detail. It outlines the total value of contributions for 2018/19 in the context of the previous valuations before outlining the contributions by type according to geographical and typological variation.

Key Findings:

- The estimated value of planning obligations agreed and CIL levied in 2018/19 was £7.0 billion. This valuation is premised upon the assumptions identified in the appendix, corresponding to survey validity, respondent representation and the distribution of values.

- When adjusted to reflect inflation the total value of developer contributions in real terms is £500 million higher than in 2016/17, £300 million higher than in 2007/08.

- 67% of the value of agreed developer contributions was for the provision of affordable housing, at £4.7 billion; this is the same proportion as in 2016/17 and is the joint-highest to date.

- 44,000 affordable housing dwellings were agreed in planning obligations in 2018/19. This is a reduction since 2016/17, but the value of this housing has increased over the same period due to an increase in house prices in many areas with higher developer contributions.

- The value of CIL levied by LPAs was £830 million in 2018/19, with a further £200 million levied by the Mayor of London.

- The geographic distribution of planning obligations and CIL is weighted heavily towards the south of England. The South East, South West and London regions account for 61% of the total value. However, the value of developer contributions exacted in London has fallen since 2016/17 – down from 38% to 28% of the total aggregate value.

The value of planning obligations and CIL

3.2 The survey of LPAs was distributed on 26th August 2019 and covered questions relating to the value of all developer contributions that had been agreed during the 2018/19 financial year. The analysis here uses both the survey responses and secondary data, such as Local Authority Housing Statistics to identify the

number of affordable housing units permitted and Nationwide Building Society house price data for the valuation of affordable housing. To allow for longitudinal analysis the 2018/19 survey repeated some of the questions asked in previous studies on the value and incidence of CIL and planning obligations.

3.3 There has been an increase in the overall value of developer contributions agreed between 2016/17 and 2018/19 in both absolute terms and when adjusted for inflation (see Table 3.1). The real terms increase of £500 million from 2016/17 means that the value was just under £7 billion in 2018/19. This represents what was agreed rather than what was actually delivered.

Table 3.1 The 'real' value of agreed developer contributions in 2018/19 (£ millions)

	2006/07	2007/08	2011/12	2016/17	2018/19
CIL				1,011	1,030
Affordable Housing	2,934	3,563	2,754	4,332	4,675
Non-Affordable Housing	2,812	3,060	1,466	1,086	1,274
England total	5,760	6,643	4,430	6,430	6,979

Source: grossed up sample from the survey 2018/19; LAHS 2018/19; London Development Database 2019; Office of National Statistics house price index; MHCLG land value estimates; Transport for London

3.4 The distribution between different types of developer contribution, notably CIL, affordable housing and non-affordable housing S106 and S278 contributions has remained relatively stable since 2016/17 (see Tables 3.2 and 3.3 for, respectively, nominal and real comparisons with previous years). However, there has been a significant shift in what developer contributions are being used to finance in other respects. Whilst affordable housing continues to represent the single greatest value, some other categories have seen significant increases and decreases.

Table 3.2 Detailed nominal value of agreed developer contributions between 2005/06 and 2018/19 (£ millions)

Contribution Type	2005/06	2007/08	2011/12*	2016/17	2018/19
CIL	-	-	-	771	830
Mayoral CIL	-	-	-	174	200
Affordable Housing	2,000	2,614	2,300	4,047	4,675
Open Space & Environment	215	234	113	115	157
Transport & Travel	361	462	420	131	294
Community Works	75	192	159	146	62
Education	154	270	203	241	439
Land Contributions	960	900	300	330**	135
Other Obligations	149	183	30	50	187
England total	3,927	4,874	3,700	6,007	6,979

Source: grossed up sample from the survey 2018/19; LAHS 2018/19; London Development Database 2019; Office of National Statistics house price index; Transport for London * 2011-12 values are calculated for combined in-kind and direct payment values, County Council data were not reported separately **the Land Contribution value was not calculable from the survey data and has been estimated from previous reports.

Table 3.3 The 'real' value of agreed developer contributions between 2005/06 and 2018/19 (£ million)

Contribution Type	2005/06	2007/08	2011/12*	2016/17	2018/19
CIL				825	830
Mayoral CIL				186	200
Affordable Housing	2,934	3,563	2,754	4,332	4,675
Open Space & Environment	317	320	135	124	157
Transport & Travel	531	630	503	140	294
Community Works	110	263	190	156	62
Education	226	369	243	258	439
Land Contribution	1,408	1,227	359	353	135
Other Obligations	220	251	36	55	187
England total value	5,760	6,643	4,430	6,430	6,979

Source: Authors, CPI inflation applied to previous valuations (reported in Lord et al., 2018)

3.5 There were increases in the value of developer contributions agreed between 2016/17 and 2018/19 in relation to: CIL, MCIL, Affordable Housing, Open Space and the Environment, Transport and Travel, Education, and 'Other' obligations. There were decreases in Community Works and Land Contributions (see Table 3.4). These changes are in both absolute and 'real' terms. When considered over this longer timeframe some of the changes represent fundamental shifts in the nature of how developer contributions are invested. For example, land contributions - whereby title to a land holding is transferred to an LPA - which accounted for almost a quarter of the aggregate value of all contributions in 2005/6 have declined consistently over each of the subsequent four valuations to account for just 2% of the total in 2018/19.

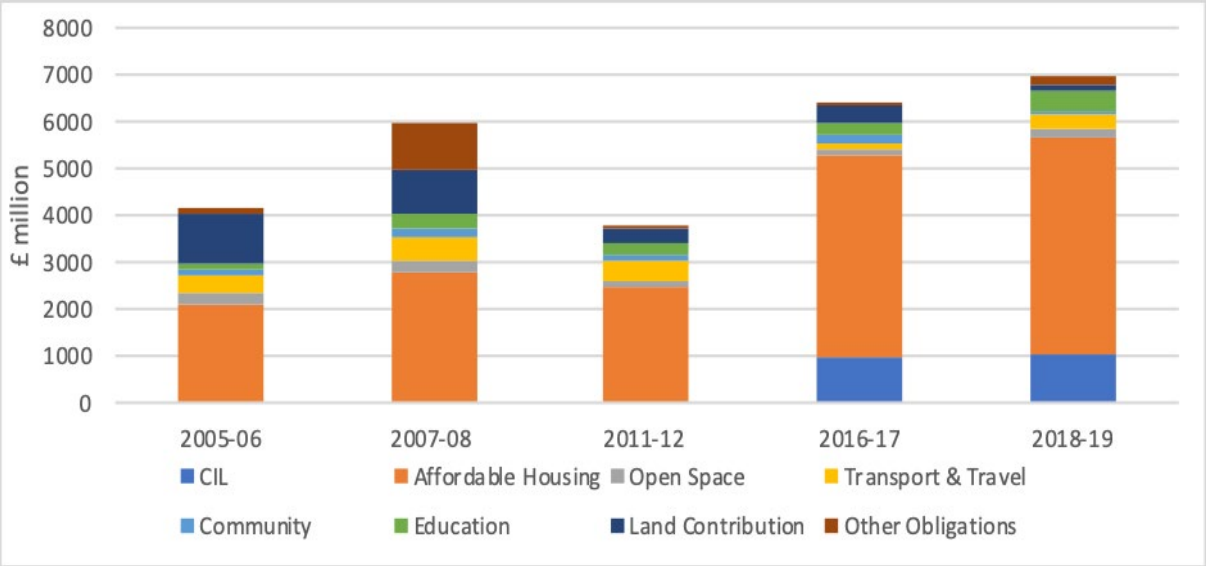
Table 3.4 The proportion of values of agreed developer contributions

Contribution Type	2005/06	2007/08	2011/12*	2016/17	2018/19
CIL				13%	12%
Mayoral CIL				3%	3%
Affordable Housing	51%	54%	62%	67%	67%
Open Space & Environment	6%	5%	3%	2%	2%
Transport & Travel	9%	9%	11%	2%	4%
Community Works	2%	4%	4%	2%	1%
Education	4%	6%	5%	4%	6%
Land Contribution	24%	18%	8%	5%	2%
Other Obligations	4%	4%	1%	1%	3%
England total	100%	100%	100%	100%	100%

Source: grossed up sample from the survey 2018/19; LAHS 2018/19; London Development Database 2019; House prices; Transport for London * 2011-12 values are calculated for combined in-kind and direct payment values, County Council data were not reported separately **the Land Contribution value was not calculable from the survey data and has been estimated from previous reports.

3.6 If the values for 2018/19 are compared to the values from 2005/06, 2007/08, 2011/12 and 2016/17 then a slightly different picture emerges, with real increases in CIL; MCIL; Affordable Housing; Education and 'Other' obligations (see Figure 3.1). This reveals that the priorities negotiated within planning agreements have shifted at various stages, with a current emphasis on CIL and affordable housing, accounting for 82% of overall developer contributions in 2018/19 (see table 3.4 and figure 3.1).

Figure 3.1 The value of developer contributions by type between 2005/06 and 2018/19 (£ millions)



3.7 The distribution of the value of planning obligations across regions is weighted heavily towards the south of England. The South East (25%) and London (28%) account for 53% of the total value of developer contributions in 2018/19 (see Table 3.5). Different types of developer contribution have slightly different distributions across the regions. The largest values for affordable housing contributions agreed are found in the South East (28%) and London (15%) and the same two are responsible for 80% of CIL levies agreed (including London's Mayoral CIL), but the East Midlands has the highest proportion of non-affordable housing developer contributions (21%).

Table 3.5 Indication of the value of agreed planning obligations by region (£ million), 2018/19

	Affordable Housing*		Planning Obligations (non-Affordable housing)**		CIL**		Total Value of Developer Contributions	
	Value (£ m)	%	Value (£ m)	%	Value (£ m)	%	Value (£ m)	%
East	562	12	170	13	81	8	813	12
East Midlands	328	7	263	21	11	1	602	9
London	1,097	23	195	15	629	61	1,921	28
North East	119	3	66	5	4	0	189	3
North West	282	6	109	9	22	2	413	6
South East	1,297	28	220	17	196	19	1,713	25
South West	425	9	97	8	43	4	565	8
West Midlands	306	7	114	9	13	1	433	6
Yorks. & Humber	258	6	39	3	32	3	329	5
England total	4,675	100	1,273	100	1,030	100	6,979	100

*Affordable housing is valued **These values are apportioned according to the proportion of value in the LPA Survey, due to grossing by LPA family the actual values may differ

3.8 There has been a shift in the regional distribution of the value of agreed developer contributions in 2018/19 (see Table 3.6). The largest reduction is 10 percentage points in London between 2016/17 and 2018/19. This is the outcome of the aggregate value of developer contributions falling considerably in London – a decline of 16% in nominal terms on the 2016/17 value. Qualitative evidence from Chapters 6 and 7 would suggest this reduction in developer contributions exacted in London may be the outcome of a more general market downturn in the capital.

3.9 The East and South West also saw reductions in the value of agreed developer contributions. However, other areas saw increases. The share of developer contributions raised in the East Midlands more than doubled (4% in 2016/17; 9% in 2018/19), the North West increased from 3% to 6% and the South East recorded growth of 5 percentage points over the same period.

Table 3.6 The Total value of agreed developer contributions 2016/17 and 2018/19 by region

Region	2016/17		2018/19		Regional distribution change between 2016/17 and 2018/19
	Value (£ m)	%	Value (£ m)	%	% points
East	838	14	813	12	-2
East Midlands	268	4	602	9	5
London	2,295	38	1,921	28	-10
North East	106	2	189	3	1
North West	182	3	413	6	3
South East	1,190	20	1,713	25	5
South West	564	9	1565	8	-1
West Midlands	326	5	433	6	1
Yorks. & Humber	238	4	329	5	1
England total	6,007	100	6,979	100	0

Source: Lord et al., 2018; grossed up sample from the survey 2018/19; LAHS 2018/19; London Development Database 2019; House prices; Transport for London * 2011-12 values are calculated for combined in-kind and direct payment values, County Council data were not reported separately **the Land Contribution value was not calculable from the survey data and has been estimated from previous reports.

Community Infrastructure Levy

3.10 The value of CIL is unevenly distributed across both the regions of England and the LPA family typology. Table 3.7 shows that the average for Established Urban Centres at £1 million stands in contrast to London LPAs at £17 million. When considered in the regional context in Table 3.8 the disparity is clear: 80% of all agreed CIL contributions in 2018/19 came in London and the South East. Furthermore, in London an additional £7 million was raised through London boroughs' contribution towards Crossrail through Mayoral CIL (see Table 3.7).

Table 3.7 The value of CIL levies agreed by LPA family type in 2018/19 (£ million)

	Number of LPAs per family	Average CIL per authority (£ million)	Total Estimate for family (£ million)
Established Urban Centres	30	1	8
Rural England	103	3	131
Rural Towns	55	2	44
Commuter Belt	73	5	201
Urban England	39	5	64
London	26	17	381
Mayoral CIL	N/A	7	200
England total value		n/a	1,030

Source: LPA Survey, LAHS 2018/19, London Development Database

Table 3.8 The value of agreed CIL levied by region in 2018/19 (£ million)

	Value (£million)	%
East	81	8%
East Midlands	11	1%
London	629	61%
North East	4	0%
North West	22	2%
South East	196	19%
South West	43	4%
West Midlands	13	1%
Yorkshire & Humber	32	3%
England total value	1,030	100%

Source: LPA Survey, LAHS 2018/19, London Development Database; Transport for London

3.11 The value of Mayoral CIL (MCIL) which is liable on planning permissions granted in 2018/19 is estimated at £200 million, an increase of £26 million on 2016/17. Given some of the planning permissions granted may not be delivered the value of MCIL received is likely to be lower. Mayoral CIL has been charged on development since 2012 to support funding for Crossrail. In April 2019 MCIL was updated to a higher charge on development, termed MCIL2, replacing MCIL and S106 Crossrail Charges (that applied in some London boroughs) to contribute towards Crossrail 2.

Affordable Housing

3.12 The number of affordable housing dwellings granted final planning permission in each year in relation to S106 obligations is recorded by LPAs in their annual return to MHCLG, which are aggregated to comprise the Local Authority Housing Statistics (LAHS). The use of Local Authority Housing Statistics data provides continuity with previous iterations of this work that used LPA housing statistics (previously HSSA).

3.13 In 2018/19 Affordable Rent was the largest type of affordable housing permitted through a S106 obligation (at 18,137 dwellings), with Shared Ownership (10,792) the second largest, between them accounting for 65% of the total (see Table 3.9).

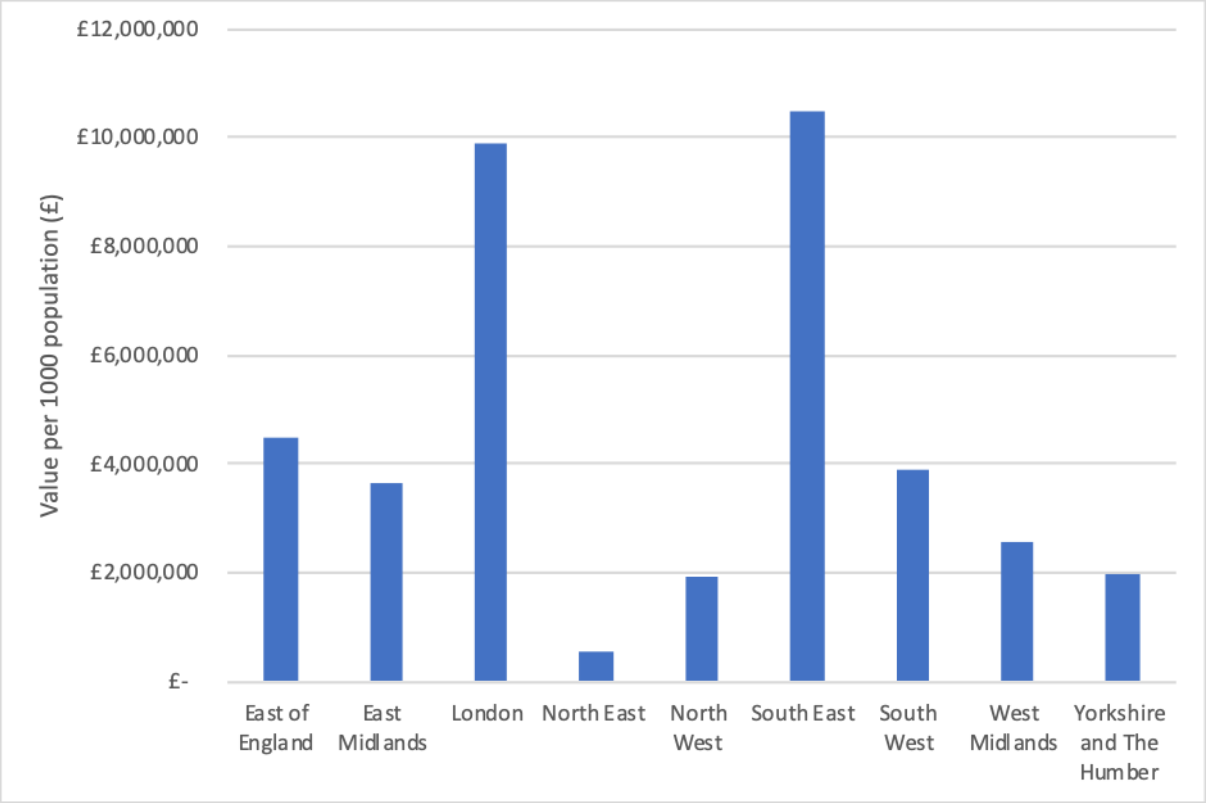
Table 3.9 The number of affordable housing dwellings agreed through s106 obligations in 2018/19 by region

	Social Rent	Affordable Rent	Intermediate Rent	Affordable Home Ownership	Shared Ownership	Starter Homes	Unknown	Total
East	163	3,581	0	121	1,768	18	1,076	6,727
East Midlands	273	1,674	38	95	1,010	1	1,087	4,178
London	1,638	1,913	1560	180	1,304	0	186	6,781
North East	2	224	14	21	18	0	498	777
North West	57	997	36	279	566	0	1,028	2,963
South East	567	4,934	232	156	3,140	35	679	9,743
South West	1,136	2,278	3	212	1,483	9	92	5,213
West Midlands	1,381	1,949	127	119	1,100	0	953	5,629
Yorkshire & Humber	475	587	658	38	403	106	192	2,459
England total	5,700	18,100	2,700	1,200	10,800	200	5,800	44,500

Source: Local Authority Housing Statistics 2018/19

3.14 The distribution of dwellings permitted was geographically uneven, with 777 units permitted through S106 obligations in the North East and 9,689 in the South East. This distribution variation remains after population distribution in each of the regions is accounted for. Figure 3.2 shows the value of affordable housing agreed through S106 agreements in 2018/19 per 1,000 population for each region. The South East (£10.5 million), London (£9.9 million) are significantly higher than the other regions, whilst the North East had just over £0.5 million agreed per 1,000 people.

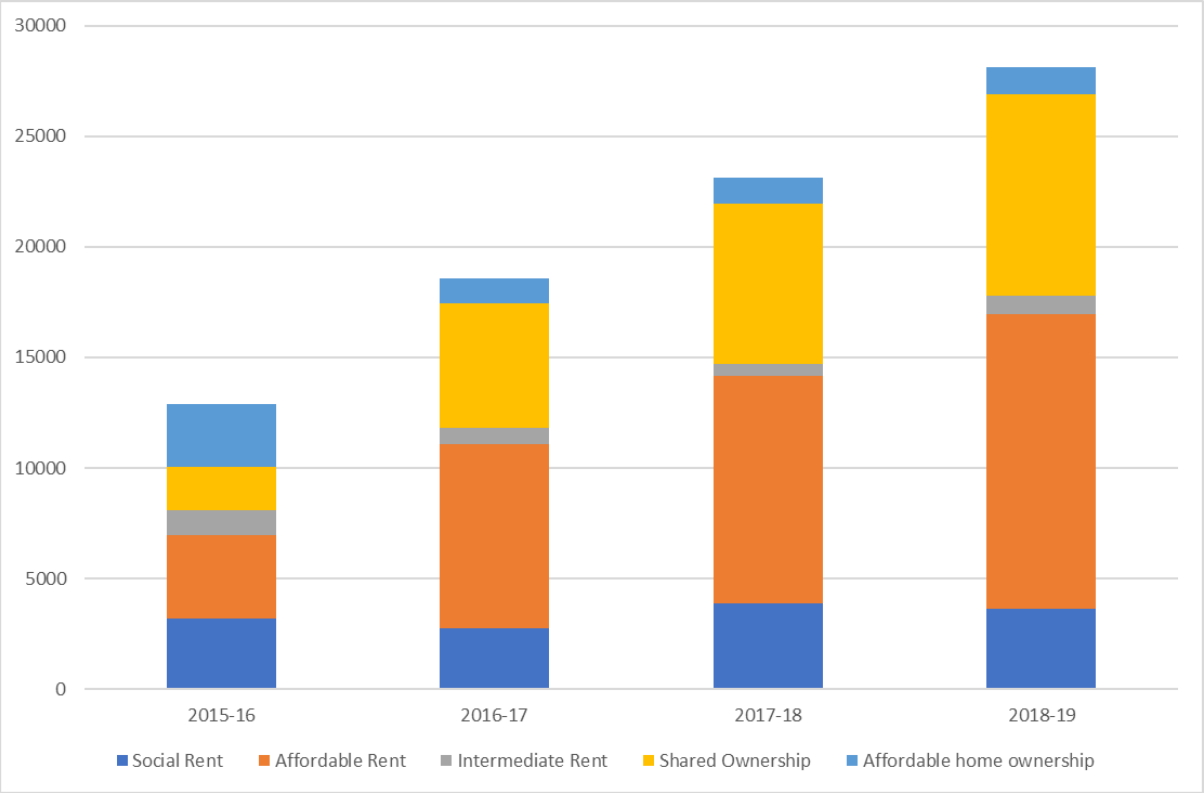
Figure 3.2 The value of affordable housing permitted through S106 obligations per 1000 population, by region



Source: LAHS, 2019; ONS Mid-Year Population Estimates 2018; House Prices

3.15 There has been significant variation in the number of affordable housing units started and completed each year since the first *Value of Planning Obligations* report was undertaken in 2003/04. Between 2000 and 2009 the number of affordable units delivered trended upwards. However, 2011, 2012 and 2015 experienced much lower levels of completion than the long-term average. Table 3.3 illustrates data for 2015/16 – 2018/19. The Ministry of Housing, Communities and Local Government reports that "49% of all affordable homes delivered in 2018-19 were funded through section 106 (nil grant) agreements, similar to the previous year (when it was 48%)." (MHCLG, 2019a, p.1). The same document states that 57,485 affordable homes were delivered in England that year, suggesting that approximately 28,150 affordable homes were delivered through S106 (nil grant) agreements.

Figure 3.3 Additional affordable housing supply started, agreed through S106 agreement 2015-2019, England



Source: MHCLG, 2019 – Table 1011s: additional affordable housing supply started, breakdown by local authority

3.16 The distribution of affordable housing units agreed in planning permissions relating to S106 obligations by both geography and type of affordable housing determines the value of affordable housing that could be contributed by developers. In 2018/19 Affordable Rent housing was the largest value of affordable housing agreed by developers at £1.9 billion, while Social Rent (£1 billion) and Affordable Home Ownership (£879 million) were the next two largest types (see Table 3.9). Starter Homes, Intermediate Rent and Shared Ownership represented more modest amounts, but still would be worth £429 million.

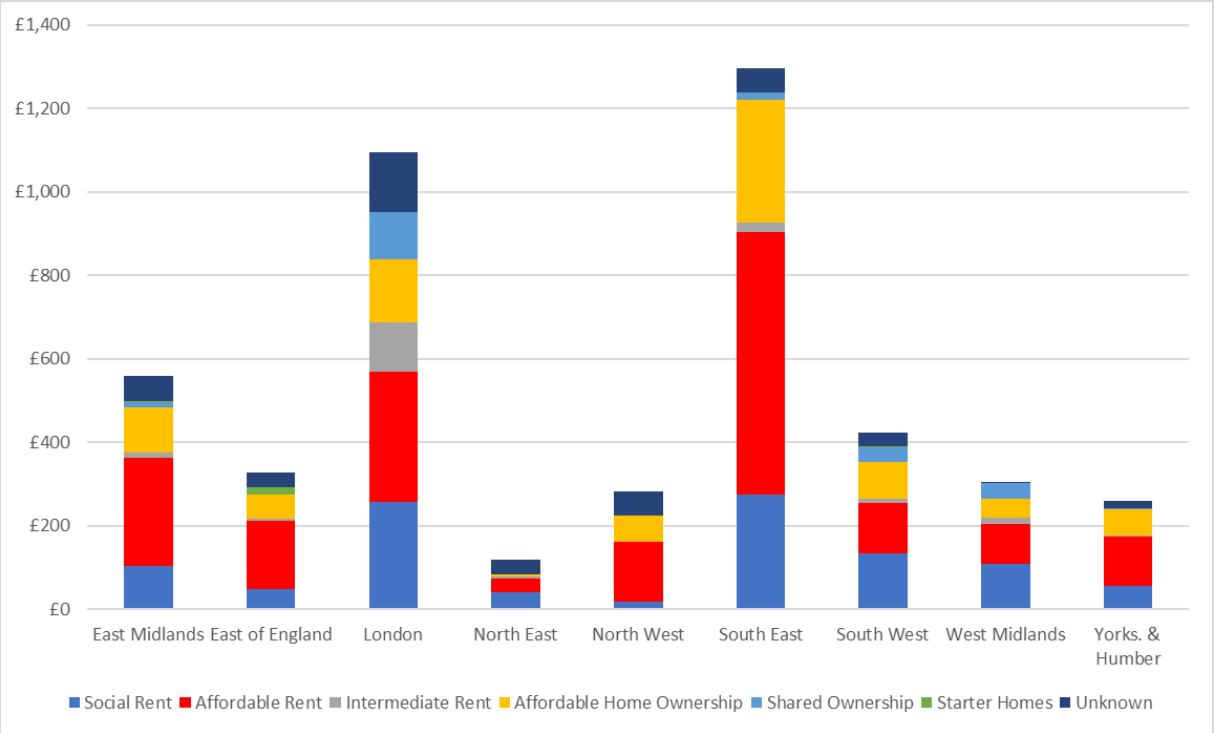
Table 3.10 The value of agreed developer contributions towards affordable housing 2018/19 by region (£ million)

	Social Rent	Affordable Rent	Intermediate Rent	Affordable Home Ownership	Shared Ownership	Starter Homes	Unknown	Total
East Midlands	105	257	13	110	12	1	62	562
East of England	49	164	5	56	2	17	35	328
London	258	311	118	152	112	0	145	1,097
North East	41	34	3	6	0	0	35	119
North West	18	144	1	61	0	1	57	282
South East	275	628	24	295	16	0	59	1,297
South West	133	122	9	90	35	3	32	425
West Midlands	110	94	15	45	38	0	4	306
Yorks. & Humber	56	118	3	64	1	0	17	258
England Total	1,045	1,874	191	879	216	22	448	4,675

Source: LAHS data 2018/19, Office of National Statistics House Price Index, Developer Interviews

3.17 The South East of England negotiated the highest value of affordable housing obligations through planning permissions granted in 2018/19 at £1.3 billion, with London negotiating the second highest amount at £1.1 billion (see Figure 3.4 and Table 3.10).

Figure 3.4 The value of agreed developer contributions towards affordable housing by region (£ million)



Source: LAHS data 2018/19, Office of National Statistics House Price Index, Developer Interviews

Table 3.11 The value of affordable housing in planning obligations by region (£ million)

	2005-06		2007-08		2016-17		2018-19	
	£m	%	£m	%	£m	%	£m	%
East Midlands	51	3%	99	4%	232	6%	562	12%
East of England	188	10%	298	11%	514	13%	328	7%
London	999	52%	1,324	51%	1,212	31%	1,097	23%
North East	15	1%	27	1%	78	2%	119	3%
North West	49	3%	130	5%	157	4%	282	6%
South East	285	15%	312	12%	876	22%	1,297	28%
South West	154	8%	188	7%	450	11%	425	9%
West Midlands	87	5%	121	5%	283	7%	306	7%
Yorks. & Humber	78	4%	116	4%	170	4%	258	6%
England Total	1,908	100	2,614	100	3,972	100	4,675	100%

Source: LAHS data 2018/19; LPA Survey and 2016/17 report

3.18 The distribution of the value of affordable housing is relatively even when CIL and non-CIL charging LPAs are considered comparatively. Table 3.12 shows that non-CIL charging authorities exacted slightly greater values with respect to most categories of affordable housing. However, this may be a reflection of the fact that a slightly greater proportion of LPAs are non-CIL charging authorities.

Table 3.12 The total value of affordable housing granted permission through S106 obligations in 2018/19 for CIL and non-CIL LPAs

	Non CIL LPA	CIL LPA
Total value of affordable housing granted permission through S106 obligations	£2,519,000,000	£2,155,000,000
Average value of affordable housing granted permission through S106 obligations per LPA	£15,000,000	£14,000,000
Total number of affordable housing dwellings granted permission through S106 obligations	23,307	21,109
Average value of affordable housing per dwelling granted permission through S106 obligations	£108,000	£102,000
Affordable housing granted permission through S106 obligations value per 1000 population	£19,000,000	£21,000,000

Source: LAHS 2018/19; house price data; ONS Mid-year population estimate 2018

3.19 Table 3.13 provides an estimate of the total number of obligations that relate to affordable housing but are not the direct provision of housing. This included questions on the provision of: on-site land; off-site free or discounted land; commuted sums paid from the developer to the LPA in lieu of affordable housing provision; and any other affordable housing contributions collected by LPAs. In this iteration of the research no obligations were recorded for commuted sums or the off-site provision of free or discounted land. The majority of the contribution was attributed to 'other affordable housing contributions' by LPA survey respondents.

Table 3.13 The number and value of 'other' affordable housing sums 2018/19

	No. of Obligations	Total estimate value for family (£ million)
Established Urban Centre	21	6
Rural England	145	19
Rural Towns	36	12
Commuter Belt	370	66
Urban England	39	12
London	99	58
England total	710	174

Source: LPA Survey 2018/19

Non-affordable housing and CIL planning obligations

3.20 Tables 3.14 and 3.15 illustrate the value of non-affordable housing planning obligations, first, by LPA family type and, second, by region. In aggregate £1.3bn of developer contributions was exacted across six categories in 2018/19: Open Space and the Environment, Transport and Travel, Community Works and Leisure, Education, Land Contributions and Other.

3.21 All six of the categories have seen considerable variation since 2016/17 with four growing and two showing significant declines. The 'Other' category has grown by the most – 240% in real terms. Interview testimony contained in Chapter 6 and evidence from the developer roundtables in Chapter 7 suggest this may reflect an increase in demand for developer contributions in relation to healthcare. As healthcare is not recorded separately in the LPA survey 'Other' would be the appropriate category against which to record contributions exacted for this purpose.

3.22 In addition to this growth in the 'Other' category, 'Transport' has grown by 110%, 'Education' by 70% and 'Open Space' by 27% (all in real terms). Again, evidence from the qualitative aspects of this study contained in Chapters 6 and 7 point to these increases as potentially being the result of developer contributions being understood as a potential source of funding for a broader range of public services.

3.23 The only categories to see a decline are 'Community Works and Leisure' and 'land contributions' which have decreased in real terms by 60% and 62% respectively. In the case of the former this may be the result of the general increase in the number of CIL-charging authorities which now means that there are greater numbers of LPAs in receipt of the community portion of CIL. In some instances this may have crowded out this traditional use of S106. For the latter, 'land contributions', discussed earlier in this chapter, has seen a steady decline in every iteration of this research from 2003/04 onwards (see Table 3.4). They now represent just 2% of developer contributions in aggregate.

3.24 Land contributions were calculated separately at the national scale due to the low number of obligations and to maintain individual anonymity at the LPA level. The national value for land contribution obligations was calculated at

£135 million. This was calculated using the survey responses for the amount of land (hectares) agreed in obligations multiplied by the average residential land value (MHCLG 2017 estimates) within the relevant local planning authority.

Table 3.14 The value of non-affordable housing planning obligations, excluding land contributions (£ million) by LPA family

	Open Space and the Environment	Transport and Travel	Community Works and Leisure	Education	Other	Total
Established Urban Centre	24	18	7	25	5	78
Rural England	22	46	13	76	26	183
Rural Towns	10	45	10	117	57	238
Commuter Belt	67	40	23	170	59	359
Urban England	24	60	7	47	7	145
London	10	85	2	5	33	135
England total	157	294	62	439	187	1,138

Source: LPA Survey 2018/19

Table 3.15 Indication of the value of non-affordable housing planning obligations by region, excluding land contributions (apportioned, not valued) (£ million)

	Open Space and the Environment	Transport and Travel	Community Works & Leisure	Education	Other	Total
East	6	20	12	110	16	165
East Midlands	13	40	10	128	62	252
London	12	86	2	5	39	144
North East	7	10	3	34	9	64
North West	35	51	6	10	1	103
South East	53	34	17	42	35	180
South West	8	27	1	34	15	84
West Midlands	7	20	10	67	9	113
Yorkshire & Humber	15	6	0	9	2	33
England total	157	294	62	439	187	1,138

Source: LPA Survey 2018/19

Chapter 4: Policy and Practice

Introduction

4.1 There have been several important changes to policy and practice on developer contributions since the 2016/17 study. The July 2018 National Planning Policy Framework amendments provide a new context for developer contributions including re-situating viability assessment from the point of application determination to the plan making stage. In addition to the changes that have been made to the NPPF there have also been significant amendments to the CIL regulations which came into effect on 1st September 2019 during the data collection phase of this research. These amendments include important changes such as the removal of restrictions on the pooling of S106 contributions.

4.2 Furthermore, broader changes in the policy context such as alterations to the standardised housing need calculation, definition of sustainable development and LPA powers for land assembly are all likely to have some influence on the practice of negotiating planning obligations and determining CIL charges. This chapter draws from information provided in the LPA survey, the case studies and development industry roundtables.

Key Findings

The growth of CIL

- CIL was used by 48% of LPAs, an increase from 43% in 2016/17. The tendency for CIL to be a more commonly used method for exacting a developer contribution was experienced across all LPA family types suggesting this may be a systemic shift.

S106 remains a core aspect of practice

- Planning obligations remain a core aspect of planning practice: 90% of survey respondent LPAs attached a planning obligation to a proposal in 2018/19.
- Delays associated with agreeing planning obligations are understood by some LPAs and developers to be an inherent aspect of the process by which developer contributions are exacted within a discretionary planning system. These unavoidable delays contrast with those circumstances where delay could be understood to result from avoidable circumstances.

Building LPA capacity and capabilities

- The proportion of LPAs who employ a monitoring officer has risen to 81% - higher than in any previous iteration of this study (previously 75% in both 2007/08 and 2016/17).
- There is evidence that LPAs would welcome greater training to deliver effectively on developer contributions. This was most frequently cited in relation to the question of viability assessment and understanding Gross Development Value (GDV).

CIL and Planning Obligations Policy and Practice

4.2 The implementation of CIL charging and agreeing planning obligations is undertaken by LPAs within national planning policy parameters. Both CIL and planning obligations are in effect voluntary mechanisms enacted by LPAs within these parameters. Therefore, there is variation between local authorities' policies and practice.

4.3 Since the introduction of CIL legislation nationally LPAs have voluntarily been adopting CIL charging schedules. Whilst the uptake of CIL by LPAs is not uniform nationally, there have been indications that the adoption of CIL has begun to reach saturation (CIL review, 2017). However, from a desk-based review of charging authorities it is clear that there has been a modest increase in CIL adoption since the last study in 2016/17. To understand the changes to policy and practice that took place in 2018/19 the LPA survey asked authorities to identify where they had made CIL charges, provided permissions for development that are CIL liable, signed a planning agreement and otherwise changed their practice or policy in 2018-19.

4.4 Table 4.1 shows that 54% of the LPAs who returned a survey either collected a CIL charge or provided a CIL liable planning permission in 2018/19. At the time the survey was distributed the total number of CIL-charging authorities nationally stood at 47%, up from the 43% recorded in November 2017. All LPA families saw an increase in the proportion of survey respondents charging CIL since 2016/17 suggesting that the increased adoption of CIL has been systemic.

Table 4.1 LPA CIL and Planning Obligation Practice

Percentage of surveyed authorities that in 2018/19…

LPA Family Type	…charged a development as a CIL collecting authority	…provided permission for a development that is liable for CIL	…signed one or more planning agreements	…changed their practice or policy on CIL or planning obligations
	118	118	111	112
Commuter Belt	54%	54%	88%	0%
Established Urban Centre	50%	50%	75%	0%
London	89%	89%	100%	11%
Rural England	56%	56%	94%	0%
Rural Towns	48%	50%	85%	5%
Urban England	27%	27%	100%	7%
TOTAL	54%	53%	90%	3%

Source: LPA survey 2018/19

4.5 The proportion of surveyed authorities that signed a planning agreement is high, at 90% nationally. However, this is a decrease from 96% in 2016/17. This change occurred across several LPA families, suggesting a wider trend and not simply a shift in one particular planning context. When combined with the increase in the proportion of LPA's that charged CIL this potentially marks a small, but important statistical juncture in shifting practice from the combined practice of charging CIL and signing planning agreements towards charging CIL.

4.6 Few LPAs changed their policy and practice in 2018/19, at only 3% nationally. This reflects the period of relative stability in national amendments directly to planning obligations and CIL charging and the incremental changes to CIL adoption, unlike in the 2016/17 study.

4.7 The survey asked LPAs whether they had a designated officer to negotiate planning obligations and/or CIL and a designated monitoring officer. Whilst CIL charges may be calculated in a relatively straightforward manner, the negotiation and monitoring of planning obligations is a complex process which requires significant knowledge of the legal, planning and development contexts. As discussed in Chapter 2 there is a high incidence of CIL charging LPAs also signing planning agreements, therefore the negotiation and monitoring process for obligations remains a relevant consideration within CIL charging contexts.

4.8 There has been an increase since 2016/17 in the proportion of LPAs that have designated negotiating and monitoring officers for planning obligations and CIL (at 30% and 81% respectively) – see Table 4.2. This is the highest proportion since this data was first collected in 2005/06. The survey recorded a decrease in Urban England LPAs for both negotiating and monitoring officers, the only family type to reduce.

Table 4.2 LPA employment of designated negotiating and monitoring officers by year of study (Percentage)

	Negotiating (Percentage)					Monitoring (Percentage)				
YEAR	05-06	07-08	11-12	16-17	**18-19**	05-06	07-08	11-12	16-17	**18-19**
Commuter Belt	5	18	12	22	**36**	65	68	50	81	**88**
Established Urban Centre	8	10	5	30	**46**	50	70	57	70	**100**
London	18	31	75	22	**50**	82	70	100	100	**100**
Rural England	20	26	26	28	**24**	50	76	56	70	**71**
Rural Towns	16	22	27	19	**25**	79	65	59	63	**79**
Urban England	29	24	12	27	**19**	71	81	71	87	**63**
Total England	15	23	24	25	**30**	64	75	61	75	**81**

Source: LPA Survey 2018/19 and Lord et al. (2018)

4.9 The regional picture is broadly similar to the LPA family type, with most areas experiencing an increase in the proportion of LPAs with negotiating and monitoring officers since 2016/17. However, the data reported in Table 4.3 illustrates a sizeable variation between regions, with over 90% of LPAs in London and the North West employing designated monitoring officers and 44% in the North East and 60% in West Midlands.

Table 4.3 LPA employment of designated negotiating and monitoring officers by region

	Negotiating	Monitoring
East	38%	86%
East Midlands	18%	78%
London	45%	91%
North East	40%	44%
North West	18%	91%
South East	32%	87%
South West	20%	70%
West Midlands	30%	60%
Yorkshire and Humber	38%	63%

Source: LPA survey 2018/19

4.10 The survey asked respondents to provide answers to factual questions, such as that described above, but also asked attitudinal questions. These attitudinal questions were designed to explore the impact of planning obligations and CIL on the development process and respondents' expectations with respect to the changes brought about by the NPPF of July 2018. Questions required respondents to grade answers on the familiar Likert scale (Strongly Agree to Strongly Disagree). The survey also asked respondents to indicate their confidence in their answer. We do not report the confidence of respondents to avoid repetition in this report; for all questions around 95% of respondents indicated that they were confident in the answer provided.

4.11 The perceptions of LPA respondents on the impact of planning obligations and CIL in creating a delay or reducing the time taken to determine a planning application is very similar to the position in 2016/17.

4.12 Table 4.4 shows that there is a general acceptance amongst LPA survey respondents that negotiating S106 agreements adds delay to granting permission and to completion of a development. Only 12% of LPAs agreed that negotiating planning obligations does not create a delay in granting planning permission. 66% of LPA respondents agreed that negotiating S106 increased the time between application and development completion.

4.13 Table 4.4 indicates some changes in how CIL is perceived since the time of the last study in 2016/17. For example, 61% of respondents now either agree or strongly agree with the statement "CIL reduces the time from application submitted to development completion when compared to S106" compared to 50% in 2016/17. Similarly, a greater proportion of respondents either disagreed or strongly disagreed with the statement "CIL does not reduce the time from application" in 2018/19 (61%) compared to 2016/17 (41%). In aggregate these findings would support the view that LPA officers regard CIL as reducing the potential for delay.

Table 4.4 The impact of planning obligations / CIL on delay of granting planning permission (CIL charging authorities only)

To what extent do you agree with the following statements (%)	N. (Excl. Don't know)	N. Don't know	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree
Negotiating S106 **creates a delay** in granting planning permission	125	2	20%	61%	10%	8%	2%
Negotiating S106 **does not create a delay** in granting planning permission	125	2	2%	10%	11%	62%	15%
Negotiating S106 **creates an increase** in the time from application submitted to development completion	124	3	16%	50%	16%	16%	2%
Negotiating S106 **does not create an increase** in the time from application submitted to development completion	121	4	0%	16%	17%	52%	16%
CIL **reduces the time** from application submitted to development completion when compared to S106	74	36	11%	50%	30%	5%	4%
CIL **does not reduce the time** from application submitted to development completion when compared to S106	74	35	3%	5%	31%	54%	7%

Source: LPA survey 2018/19

4.14 With respect to S106 planning obligations, whilst there is clear evidence that negotiating a planning obligation is widely understood to represent a delay in the process, it is important to distinguish between *avoidable* and *unavoidable* delays. For the latter, where planning agreements ensure that the permission is compliant with the Local Plan, the time taken for negotiation may be understood as a necessary and unavoidable delay that is part of the process required to ensure that planning applications are acceptable.

4.15 By contrast *avoidable* delays may be more usefully understood as those occasions a resolution could have been reached more rapidly. In accounting for delay of this type, evidence from case studies would suggest that this can be a function of strategy in negotiation. This issue is discussed in greater detail in Chapter 6. However, in defining this distinction one LPA interviewee argued that avoidable delay in the S106 process resulted from the general level of detail required before the resolution to permit and the subsequent more detailed discussions:

> "We've been really quite concerned about how long section 106 agreements are taking...What we get all the time is infrastructure providers making requests for contributions and providing the evidence and the developers saying 'yes, that's fine' and then that gets included in the committee report...It all looks good, gets approved and then we get into the detailed negotiation...And it takes forever... We've had examples where that has taken six months after the resolution to grant has gone through. We've had examples where case officers have spent longer on the section 106 negotiation than on assessing the planning application in the first place...I think there is something that goes on in the way that the developers approach

it. Before the resolution to grant they are wanting to be seen on the right side and afterwards, once they have got their resolution to grant, they play hard ball raising all sorts of questions and queries about the evidence. It would be much more helpful to us if those queries were raised before it gets to planning committee" (Case Study Interviewee, A1).

4.16 Another interviewee from the same case study corroborated this point and speculated as to the origin of the impulse for developers to argue more firmly on the detailed negotiation over points that had already been agreed in principle:

"We've got some developments that have taken an absolute age to sign even when, theoretically, everything has been agreed. We have one very large site that has come forward in two applications. Both of the permissions subject to 106 were granted in 2016. One of those 106s still hasn't been signed. But that is down to the developer coming back and arguing on points that, theoretically, we had all agreed before going to committee. So, the bottom line is that the difference between agreeing in principle and seeing figures in a committee report and actually signing is, I think, the strategic landholder and landowners who are saying 'we thought we were going to get more than this, can't you push back on so and so and so and so?'" (Case Study Interviewee, A2).

The introduction of CIL on proportion of Gross Development Value 'captured'

4.17 The relationship between gross development value (GDV) and planning obligations and CIL is complex. Previous research has shown that the proportion of GDV captured through planning obligations is a function of both the economic context that permission is granted in and other social aspects, such as the training and skillset of negotiating officers and the institutional context of developer and LPA relationships (e.g. Dunning et al., 2018; Lord et al., 2019). Table 4.5 shows that 38% of LPA survey respondents indicated that the proportion of GDV captured through planning obligations and CIL had increased since 2016/17, whilst 29% disagreed (and one third neither agreed nor disagreed). This suggests that practice is variable between LPAs, but may also indicate limitations in the capacity of LPAs to explain changes in the proportion of GDV captured, which is supported by the 52 (of 115) LPAs that indicated they 'Don't know'. 45% of LPAs indicated that they are better skilled or resourced in operating CIL than they were in 2016/17 and 20% disagreed.

Table 4.5 For CIL charging LPAs: respondent perspectives on GDV and skillset

To what extent do you agree with the following statements (%)	N. (Excl. Don't know)	N. Don't know	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree
The proportion of GDV captured through planning obligations and CIL has increased since 2016/17	63	52	5%	33%	33%	24%	5%
My authority is better resourced and skilled when it comes to operating the levy than in 2016/17	92	21	17%	28%	34%	15%	5%

Source: LPA survey 2018/19

CIL expenditure on infrastructure

4.18 CIL is collected by charging authorities and is then spent once a level of funding has been reached to provide the infrastructure stipulated by the authority. Table 4.6 shows that 34% of CIL charging authorities disagree that CIL receipts have been used to provide infrastructure, a small increase since 2016/17, whilst 49% agree. This highlights the time gap between delivery of the financial payment from development and the delivery of infrastructure that the financial payment is due to support.

Table 4.6 The role of CIL in infrastructure provision (CIL charging authorities only)

To what extent do you agree with the following statements (%)	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree	N. (Excl. Don't know)	N. Don't know
CIL receipts have been used to provide infrastructure	18%	31%	17%	24%	10%	78	18
This infrastructure has enabled further planning permissions to be granted or development to take place that otherwise would not have occurred	0%	26%	49%	20%	6%	35	16

Source: LPA survey 2018/19

4.19 Although evidence from the developer workshops contained in Chapter 7 reports some frustration at the speed with which LPAs spend the proceeds of CIL, responses to these attitudinal questions in the survey and broader case study testimony (reported in Chapter 6) point to LPAs requiring time to aggregate sufficient CIL revenues to finance strategic-scale projects.

The impact of introducing CIL

4.20 LPAs were asked about the impact of CIL on the total value of developer contributions (CIL plus planning obligations). Current CIL charging authorities

were asked in relation to the existing position and the hypothetical scenario that CIL had not been introduced. LPAs that did not charge CIL were asked about the potential difference CIL may have made had it been introduced. Table 4.7 shows that of CIL-charging authorities, 60% agreed that CIL had resulted in an increase in developer contributions, whilst 23% considered contributions to have decreased below the hypothetical scenario had CIL not been introduced. The adoption of CIL is voluntary and may relate to other political goals than simply the total value of developer contributions, however this finding highlights the variation in impact that introducing CIL has had on developer contributions. For non-CIL charging LPAs 38% agreed that if they had introduced CIL it would have resulted in an increase in developer contributions, whilst 34% indicated it would have caused a decrease.

Table 4.7 Attitudes on the impact of introducing (or counterfactual introduction) CIL

	To what extent do you agree with the following statements (%) The introduction of CIL has resulted in…	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree	N. (Excl. Don't know)	N. Don't know
CIL charging	… an increase in the total value of developer contributions (CIL plus obligations) from the position CIL had not been introduced	16%	44%	12%	26%	2%	57	17
	… a decrease in the total value of developer contributions (CIL plus obligations) from the position CIL had not been introduced	4%	19%	18%	44%	16%	57	17
	… no net change in the total value of developer contributions (CIL plus obligations) from the position CIL had not been introduced	2%	5%	25%	52%	16%	56	16
Non-CIL Charging	If CIL had been introduced it would have resulted in…							
	… an increase in the total value of developer contributions (CIL plus obligations)	5%	33%	20%	25%	18%	40	27
	… a decrease in the total value of developer contributions (CIL plus obligations)	13%	21%	23%	41%	3%	39	29
	… no net change in the total value of developer contributions (CIL plus obligations)	0%	8%	37%	47%	8%	38	30

Source: LPA Survey 2018/19

Changes to the National Planning Policy Framework

4.21 The impact of changes to the National Planning Policy Framework that were made in July 2018 were assessed by LPA respondents using attitudinal questions, see Table 4.8. The transition of viability assessment from the application determination stage to the plan making stage was seen as reducing the time taken to agree obligations by 33% of LPAs, but disagreed with by 38%. Almost twice as many LPAs disagreed (36%) that moving viability assessments would increase the total value of obligations than agreed (17%).

4.22 The majority of surveyed LPAs disagreed that 'standardised inputs are rarely challenged' – only 15% agreed with his statement. By contrast, 58% of LPAs

considered the revised viability guidance published in 2018 to have improved their ability to negotiate with developers. One third of LPA respondents agreed that the changes to the NPPF in July 2018 will lead to greater land value capture through S106.

Table 4.8 The impact of changes to the NPPF in July 2018

To what extent do you agree with the following statements (%)	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree	N. (Excl. Don't know)	N. Don't know
Including viability assessments in the Plan making stage (post July 2018 NPPF changes) has/will reduced time taken to agree planning obligations	2%	31%	29%	33%	5%	95	27
Including viability assessments in the Plan making stage (post July 2018 NPPF changes) has/will increased the total value of planning obligations agreed	1%	16%	51%	32%	0%	85	37
The LPA assessment of standardised inputs (including costs; gross development value; benchmark land value and developer return) is only rarely challenged by applicants	0%	15%	21%	46%	19%	96	27
The revised viability guidance brought in in 2018 improves our ability to negotiate with developers	6%	52%	27%	15%	0%	96	26
The changes to NPPF (July 2018) will lead to greater land value capture through S106	0%	33%	48%	19%	0%	73	48

Source: LPA Survey 2018/19

4.23 LPAs were very positive about the removal of pooling restrictions on S106 agreements. Table 4.9 shows that 63% of respondents agreed that this change in policy will increase the value of planning obligations agreed with a further 90% indicating that it will make the delivery of infrastructure easier. This level of agreement (and corresponding level of disagreement), is some of the highest recorded in the survey, indicating a strong consensus on the positive nature of these changes. This finding accords with qualitative evidence from the case studies and developer roundtables contained in Chapters 6 and 7 respectively.

4.24 The change from Regulation 123 lists to Infrastructure Funding Statements was also viewed by LPAs as likely to make monitoring and reporting on developer contributions more transparent (78% agree; see Table 4.9). Yet, fewer LPAs agreed that the changes would make the delivery of infrastructure easier at 33% agreement.

4.25 Removing one round of consultation in order to introduce or update CIL charging schedules was considered by 86% of LPAs to make it easier to revise CIL rates (see table 4.9).

4.26 73% of LPAs agreed that if development had been brought forward under a planning application rather than permitted development right, their authority would have sought a section 106 contribution (see Table 4.9).

4.27 These survey findings reveal that there is a broad consensus about the impact of the majority of the changes stated in the questions regarding pooling restrictions, regulation 123 lists, consultation and permitted development negotiation of S106 (see table 4.10).

Table 4.9 Future changes to the operation of planning obligations

To what extent do you agree with the following statements (%)	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree	N. (Excl. Don't know)	N. Don't know
The forthcoming removal of pooling restrictions on S106 will increase the value of planning obligations agreed	15 %	48 %	17 %	20 %	0%	108	20
The forthcoming removal of pooling restrictions on S106 will make delivery of infrastructure easier	31 %	59 %	8%	2%	1%	121	7
The forthcoming change from Regulation 123 list to Infrastructure Funding Statement will make monitoring and reporting of developer contributions more transparent	21 %	57 %	20 %	3%	0%	111	16
The forthcoming change from Regulation 123 list to Infrastructure Funding Statement will make the delivery of infrastructure easier	3%	30 %	48 %	16 %	2%	99	28
Removing one round of consultation in order to introduce or update CIL charging schedules will make it easier to revise CIL rates	17 %	69 %	12 %	2%	0%	99	23
If development had been brought forward under a planning application rather than permitted development right, our authority would have sought a section 106 contribution	32 %	41 %	22 %	5%	0%	98	29

Source: LPA Survey 2018/19

4.28 In interpreting some of the expectations it is important to also consider evidence from the case studies and developer roundtables. These qualitative aspects of the study reflected some anxieties regarding LPAs' capacity and skills to enact aspects of the changes to developer contributions policies and practice brought in by the revised NPPF. One representative of the development industry was very clear that:

> "Planners need better training on viability" (Case Study Interviewee, B4).

4.29 This point was reinforced by repeated requests by many planning officers for further training:

> "Because of the complexities it would be really useful to have some CPD and training" (Case Study Interviewee, A1).

4.30 Finally, some argued that CPD and training could be reinforced by sharing evidence on good practice amongst LPAs.

> “I would suggest that the whole way of doing viability assessments...there are lessons that can be shared. In terms of actually doing the viability assessments and going through that methodology there must be good practice that could be shared.” (Case Study Interviewee, D1).

Chapter 5: The delivery of planning obligations and CIL

Introduction

5.1 There is a distinction between the value of planning obligations and CIL that an LPA agrees (and is not renegotiated) and that which is actually delivered. This distinction is highly significant and previous iterations of the research have occasionally been misinterpreted. There are a large number of reasons why a planning obligation, or indeed a CIL charge that would occur should a development take place, not happen. LPA receipts for planning obligations are a reflection of the time taken to deliver the initially agreed planning permission in full (and as such represent a time lag from negotiation to receipt), the renegotiation of obligations, changes to planning applications, the proportion of applications not then developed and any shortfall in the amount agreed where development takes place but is not delivered. All of these issues can alter the value of planning obligations and CIL between agreement of a planning permission and the value that is ultimately delivered.

5.2 This chapter considers the amount of planning obligations received in both absolute and relative terms as a proportion of the amount agreed, and considers the extent of the renegotiation of planning agreements. Furthermore, the chapter considers the expenditure of CIL.

Key Findings

Planning obligations remain a core aspect of practice

- 46% of planning authorities renegotiated a planning agreement in 2018/19, with changes to the type or amount of affordable housing agreed one of the most common renegotiations recorded.
- 50% of LPAs had received more than 50% of the total value of direct payment planning obligations agreed in 2016/17 by 31st March 2019.
- £384 million was received as direct and in-direct contributions for non-affordable housing planning obligations in 2018/19.

The delivery of planning obligations and CIL

5.3 The survey asked LPAs to estimate the total value of direct payment money and in-kind contribution value that was received in 2018/19 regardless of the year in which it was agreed. Calculating the value of in-kind contributions is very complex and some LPAs indicated that they were unable to estimate the value. We estimate that £384 million was received in 2018/19 for direct payment non-affordable housing planning obligations and a further £42 million for in-kind contributions, giving a total of £426 million. This is an increase of £50 million from the estimated value delivered in 2016/17, attributed to an increase in direct contributions. Table 5.1 provides an estimate of the total value.

Table 5.1 Estimate of the total delivery of planning obligations received in 2018/19, excluding affordable housing (regardless of the year in which they were agreed)

	Total money received for all non-affordable housing planning obligations (£ millions)
Total Direct	£384
Total in kind	£42.3
Total (Direct and in kind)	£426.3

Source: LPA Survey 2018/19

5.4 Given that there can be a considerable time gap between signing a planning agreement and the delivery of any payment or in-kind contributions, the survey asked LPA officers about the proportion of payments received by 31st March 2019 for agreements signed in 2016/17.

5.5 32% of responding authorities estimated that they received more than 75% of the total value of direct payment planning obligations signed in 2016/17 by 31st March 2019. This is a decrease from the response in the last iteration of the survey for the same time period (which was 39% for the two-year period prior). 51% of LPAs responded that they had received 50% or less of the proportion of direct payment planning obligations signed in 2016/17, a change from 36% in 2016/17.

5.6 The picture is similar for affordable housing delivery, with 29% of LPAs indicating that 75% or more of the affordable housing agreed in 2016/17 had been delivered by 31st March 2019. 56% of authorities indicated that 50% or less of affordable housing agreed in 2016/17 had been agreed by 31st March 2019. This is a change from the last iteration of the research and indicates a reduction in the proportion of affordable housing being delivered within a two-year period, suggesting either a slowing delivery of affordable housing or reduction in the proportion that will be delivered.

Table 5.2 Estimates of the proportion of payments completed

Please estimate the proportion of…	Under 25%	25% - 50%	50% - 75%	75% - 90%	Over 90%	No.
…**direct payment** planning obligations signed in 2016/17 for which money was received by 31st March 2019	25%	26%	18%	14%	18%	85
… **affordable housing** in S106 agreements signed in 2016/17 that was delivered by 31st March 2019	34%	22%	15%	17%	12%	59

Source: LPA Survey 2018/19

5.7 The survey statistics clearly point to a discrepancy between what is agreed and what is delivered in practice.

5.8 The survey asked LPAs their estimate of the proportion of affordable housing agreed through planning obligations in 2018/19 that would eventually be delivered. No time restriction was put in place on the delivery of the affordable

housing. 33% of LPAs indicated that it was either too early to say or that they didn't know how to answer the question. 38% however did anticipate all affordable housing to be delivered.

Table 5.3 Proportion of affordable housing agreed in 2018/19 expected to be delivered

How much of the affordable housing do you expect to be delivered?	Too early to say	Some	Most	All	Don't know	No.
	21%	8%	21%	38%	12%	105

Source: LPA Survey 2018/19

Renegotiation of agreements

5.9 The previous iterations of the research have explored amendments to planning agreements and the renegotiation process. Between 2003/04 and 2007/08 approximately 9% of planning agreements were subsequently modified after being signed and permission granted. The 2011/12 research reported that 36% of LPAs negotiated a change to at least one planning agreement, with only 6% of requests to renegotiate a planning agreement rejected by LPAs. That research found that renegotiation often resulted in a reduced level of overall contribution, a reduction in the affordable housing provided and alterations to the terms of direct payments (University of Reading et al., 2014). By 2016/17 the number of authorities that renegotiated a planning agreement had grown to 65%.

5.10 In 2018/19 the renegotiation of planning agreements had decreased from 2016/17 to 46% of LPAs undertaking a renegotiation (see table 5.4). Most authorities only received a small number of requests (four or fewer) to alter an agreement, but several authorities received ten or more requests.

5.11 Of authorities that received a request to renegotiate a planning agreement 72% resulted in changing at least one planning agreement, whilst 27% of authorities that received requests did not change an agreement. This is a similar proportion to that experienced in 2016/17, suggesting a very high likelihood in requests for negotiating to planning agreements being accepted by LPAs.

Table 5.4 Renegotiation of existing agreements in 2018/19

Did your authority…	Yes	No	N.
...renegotiate any changes to previous planning agreements?	46%	54%	89
...receive any requests to renegotiate any changes to previous planning agreements that did not result in changes?	27%	72%	41

Source: LPA survey 2018/19

Chapter 6: Evidence from Case Study Local Planning Authorities

Introduction

6.1 Chapter 6 of the report explores the case study findings thematically. Twenty case studies were undertaken between July and October 2019 across England. In all but two instances the case studies selected were the same as those that were undertaken for the 2016/17 study to explore continuity and contrast against a benchmark. The case studies included interviews with LPA planning officers, developers, land agents and planning consultants. Subjects covered included the expectations regarding the changes to policy and practice on developer contributions brought in under the revisions to the National Planning Policy Framework of July 2018 as well as consideration of detailed, specific planning applications and agreements.

Key findings

Changes to the CIL regulations have been welcomed

- Many of the reforms to policy and practice brought in from September 2019 were strongly welcomed by both the LPAs and developers. Virtually all interviewees pointed to the removal of the pooling restrictions as a wholly positive step.
- However, some changes were understood to present challenges – particularly the situation of viability assessment at the plan making stage.

Growth of CIL

- A greater majority of case study LPAs were CIL charging in 2018/19 (75%) in comparison to 2016/17 (60%). This reflects the general tendency for more LPAs to have adopted CIL over this period.
- The spending of CIL receipts was described by some LPAs as a governance challenge that is taking time to work through the (often slow) local authority decision making systems. The timescales for spending CIL receipts vary between LPAs.

Planning obligations remain a core part of planning practice

- All case study authorities make extensive use of planning obligations. However, the ways in which S106 is operated, particularly in combination with CIL, varies.
- Delays attributable to the negotiation of S106 agreements remain a hallmark of the system. However, as with the findings of the 2016/17 study the reasons for delay are variable. An important distinction may be the difference between *unavoidable delays* that result from the 'normal' negotiation of a S106 agreement and *avoidable delays* that may be the outcome of strategic negotiation or a lack of LPA capacity.
- The distinction between areas with strong development pressure/high land values and those with lower pressures/lower values noted in the 2016/17 study remains the dominant feature that shapes practice on developer contributions.

What developer contributions are being used to fund is changing

- Evidence from the survey that the range of public goods seeking funding through developer contributions has grown is corroborated by case study findings.
- Healthcare is one area identified by both LPA officers and developers as being an increasingly significant request for developer contributions.

Variation and inconsistency in LPA practices on developer contributions

- There continues to be considerable variation in practice between LPAs in how they secure developer contributions.
- Variations may be attributable in part to the 'personal' nature of the process by which S106 contributions are negotiated. Some developers point to significant differences between LPAs with respect to the level and nature of contributions required. LPAs are also aware of this, and note that variations in what is secured depend on various factors including local policy and priorities, variations in land values, and resources, experience and skills.

Building LPA capacity and capabilities

- Most LPAs report that the costs of managing developer contributions are significant and, in some instances, are one of the areas where a lack of capacity has affected performance.

Transparency and public engagement

- There is limited evidence of communication with local communities regarding the public goods that developer contributions have financed.

The removal of the pooling restrictions

6.2 Evidence from the 2016/17 report pointed to the fact that most LPAs regarded the restrictions to pooling developer contributions from five or more sources to have acted as a barrier to exacting and investing developer contributions. The pooling restrictions, which had been in place since 6th April 2015, were lifted as of 1st September 2019.

6.3 For many - both LPA officers and developers - the end to the pooling restrictions were understood in wholly positive terms. As one LPA officer described it:

> "The removal of the pooling restrictions will have a huge impact on us...taking the pooling restrictions away will make life easier." (Case Study Interviewee, E2)

6.4 Several LPAs said that the pooling restrictions had limited their ability to seek contributions for necessary infrastructure.

> "This is useful and will impact on the county positively. Since the restriction we have not been negotiating much through 106. It was a bit pointless to try as we couldn't pool enough to spend it on anything meaningful." (Case Study Interviewee, G1)

> "Pooling stopped us asking. If you can only pool from five small sites you won't get a lot towards a new classroom or transport, so it meant we couldn't ask for them. We will get more overall now." (Case Study Interviewee, M1)

6.5 There is evidence from the interviews conducted as part of this study that, after the introduction of CIL, some LPAs scaled back what they sought through S106 because of the pooling restrictions to avoid the potential for double collection of funds. However, some LPAs said that now the pooling restrictions have been removed, they will reintroduce requests for certain contributions from developers which will be more bespoke to the development.

> "We removed everything from S106 that relates to infrastructure and hoped to collect this through CIL. But what we get through CIL is not enough for infrastructure needs. These will hopefully be met better through planning agreements going forward." (Case Study Interviewee, G1)

6.6 With a few exceptions the developers we spoke to share the view that the pooling restrictions had been an unwelcome and unnecessary regulation.

> "My views on that [*ending the pooling restrictions*] are that it was long overdue." (Case Study Interviewee, A3)

6.7 However, one developer did suggest that removing the pooling restrictions had been a coherent measure to encourage LPAs to adopt CIL. This point found a degree of corroboration from an officer in a non CIL charging authority:

> "It is emblematic of CIL's failings that they [the pooling restrictions] have been removed" (Case Study interviewee, E2)

> "Why would we introduce CIL now the pooling restrictions have been removed?" (Case Study interviewee, B5)

The growth of CIL and its relationship with S106

6.8 Whilst more LPAs operate CIL now than at the time of the 2016/17 report, many LPAs in the Midlands and North of England continue to exact developer contributions through S106 planning obligations alone. Some interviewees argued that market conditions in many contexts outside London and the South East meant that CIL was not suitable on viability grounds.

> "We considered adopting CIL as part of the adoption of our Local Plan in 2016. We did intend to adopt CIL at that moment. But the viability work we did at that time showed that large parts of our local authority area are only marginally viable for CIL. Some of the LPA area is not viable for CIL at all. Ultimately we came to the conclusion that what we would gain from CIL would actually not be worth the costs to the council of implementing CIL." (Case study Interviewee, A1).

6.9 Even where LPAs have adopted CIL, there can be significant differences in how they administer the levy. One interviewee from a county council made this point clearly.

> "Two of our LPAs operate CIL. But the two local authorities are operating the way in which they collect CIL very differently. So LPA 1 have decided to set CIL at high costs but won't collect it on large strategic sites. So it is 106 on the large sites and CIL everywhere else. LPA 2 have got a different approach to it. They have got variable CIL rates according to the land values in each part of the district. They still charge on their strategic sites but at a much lower value, so in many ways CIL is a bit of a bonus – a bit of additional funding. From a county council point of view the approach taken by LPA 1 is having a significantly adverse impact on us as we are no longer able to collect S106 on the smaller schemes." (Case Study Interviewee A2).

6.10 Some interviewees expressed the view that an implicit trade-off has become an established norm of practice with respect to the interplay between CIL and S106 - particularly with respect to affordable housing contributions. One planning consultant who acts as an advisor to both LPAs and the development industry described this trade-off with respect to the advice they provide to LPAs.

> "Really there are two issues that are relevant. One is affordable housing, the other is developer contributions. Both are required. The more the council ask of one, the less they can have of the other. So what we want to do is get to a point where we can tell the council, 'if you have 30% affordable housing they can get X developer contributions, but if they went for 20% affordable housing they could get more in developer contributions'. As part of that we will be looking at the scope for CIL but that will be a question as to whether or not they want to have the maximum amount of affordable housing – because if they have done that there will not be room for developer contributions." (Case Study Interviewee, B3).

6.11 On this issue there were mixed views from LPAs, reflecting the differential impacts of CIL between LPAs operating in different market conditions. A number of LPAs were of the view that the introduction of CIL had not reduced the affordable contributions that they were able to secure. One LPA which has adopted CIL in 2013 argued that:

> "CIL has had no impact on affordable housing whatsoever." (Case Study Interviewee, Q1)

6.12 The same LPA, located in a high demand area of the country, had secured more through planning obligations since implementing CIL alongside a scaled back S106 system, but felt strongly that this was because of the nature of sites in the LPA area.

> "CIL has increased our overall receipts from developer contributions as the smaller developers have to pay CIL and we have a lot of these small sites." (Case Study Interviewee, Q1)

6.13 By contrast other LPAs, particularly those with generally weaker markets, reported that they had secured less through planning obligations overall since they introduced CIL.

> "In terms of overall money we have been getting less because we couldn't collect through 106. We have a lot of sites where there is existing development, mostly office or warehouse, but after redevelopment the floor space remains the same, so we get little additional floorspace. Under just 106 this wouldn't have mattered, we would still have got contributions to infrastructure and housing. But with CIL the big developments are not paying their way." (Case Study Interviewee, G1)

6.14 This view was corroborated repeatedly by other LPA officer testimony:

> "106 was scaled back quite a lot. We used to seek obligations for transport, public realm, open space, sport, and community facilities etc. It was all through 106 before…This has all gone since CIL." (Case Study Interviewee, J1)

6.15 For some LPAs the decision to introduce CIL came with the explicit expectation that this would come at the expense of what could be secured through S106 planning obligations:

> "When we implemented CIL, we took a view to scale planning obligations right back to affordable housing, site specific highways work, little bits like fire hydrants, and payments for loss of trees. Just small bits and bobs." (Case Study Interviewee, Q1)

6.16 This interview testimony points to a potential shift in the character of developer contributions that are being exacted. This finding is consonant with the survey evidence contained in Chapters 2, 3 and 4 that similarly points to variation in what is secured through S106 since the last iteration of this research.

> "S106 is now for affordable housing, carbon offset, code of construction practice monitoring, officers going out on site to check for noise for example, and employment related activities." (Case Study Interviewee, J1)

6.17 A common complaint against CIL raised by interviewees was the effect it has on severing the connection between the site of development and the investment of the developer contribution. One developer articulated this point very clearly in relation to one of their schemes.

> "I don't have any strong views against CIL. But on one of our sites, for whatever reason, many of the CIL projects are nowhere near the community that is accepting the development. I look at that and wonder whether that is fair. If I lived in that community and found out that we as a developer had paid £350,000 of CIL money and none of it was spent in the local community I would probably feel really aggrieved about it." (Case Study Interviewee, A3).

Variations in practice

6.18 As indicated by the findings above, there is evidence for considerable variation between LPAs both in how they secure developer contributions and what these contributions are used to fund.

6.19 A clear example of this variation can be found in LPA policy documentation. Most of the LPA case studies had some form of online documentation detailing their planning obligations policy and requirements. In some cases, this was very detailed. However, there were instances where there was little detail beyond a general policy in the Local Plan, with developers expected to explore the detailed contributions required at pre-application stage.

> "We have an adopted Local Plan. It has a generic policy which doesn't specify the priorities but just [the] type of things we seek contributions for. At pre-app stage they contact us and try and get an idea of the contributions…. Most developers working in [the] district have been operating here for years and tend to know what is required." (Case study Interviewee, R1).

6.20 Developers also noted that some requests were made by LPAs that were not policy compliant, and that these requests tended to come from elected members.

> "We had an application where a week before the planning committee we got it back to find they had included a condition that all the affordable housing had to be Lifetime Homes compliant. This is not in their policy and they had not raised it once during the application process." (Case study Interviewee, G2)

6.21 This developer could have challenged the request at appeal, but decided it was not pragmatic to do so.

> "But it took six or seven months to get to the committee stage with a recommendation for approval…The political reality is that you have to get through the planning committee, so we accepted it…The officer got ambushed by a request from a member…At appeal it would have been black and white - it is not in the policy so it doesn't need to be provided. But an appeal takes 12 months." (Case study Interviewee, G2)

6.22 The variations in policies between LPAs, the varying uptake of CIL and the differences in its implementation alongside S106 lead some developers to point to significant differences between LPAs with respect to the level and nature of contributions requested. Interviewees from LPAs also noted this facet of the system, and noted that variations in what is secured depend on a range of factors including local policy and priorities, variations in economic circumstances (particularly the prevailing level of demand) and also resources, experience and skills.

6.23 One recurring theme that was understood by both developers and LPA officers was that negotiation was highly context specific and outcomes could be dependent upon the individuals involved in the process. One LPA officer clearly articulated the significance of the 'personal' nature of the process by which S106 contributions are negotiated:

> "We are not very hierarchical so a lot is placed on the officer. Each case officer does the negotiation and some officers are better at negotiating than

others. It's about their experience and nerve…The time taken varies so widely. Some officers have meeting after meeting to try and get the maximum from developers, others say 'don't worry don't give us anything'." (Case Study Interviewee, S1)

6.24 This 'personal' nature of the system was identified as significant by some local planning authorities, the development industry and planning consultants. It was noted that the local process was influenced by the degree of familiarity between a developer and the manner in which the system was administered by a particular LPA. These behavioural aspects of how the system is animated may point to the existence of incumbency advantage and barriers to entry whereby developers accustomed to doing business in an LPA area benefit from an understanding of how the system is implemented locally, whilst new entrants may have to accumulate this knowledge before participating fully in the market. This point was given clear articulation by one LPA interviewee in response to the question of what might be the main determinants of delay in the process:

"Some of it is down to the complexity of the scheme and the size of the scheme... We've tended to find that it is less with developers who are used to working with us. You build up that relationship with them." (Case study Interviewee, A2)

6.25 In many cases the process by which developer contributions are agreed and spent can include a broad array of parties: various functions within the LPA, the county council (where one exists), other local authorities and direct service providers such as health and education can be involved in some way. This varies between LPAs depending on a variety of factors including the status of the LPA (e.g. whether or not a unitary authority), whether they have adopted CIL, what their policy requirements are, and their spending arrangements. The main local authority divisions that are involved in S106 discussions are often highways and education, usually at county level. When asked who was involved in the process, one LPA officer described the situation.

"It is a long list for both negotiating and spending. Negotiations might be just finding out from them what the requirements are and the evidence and justification. It might be light touch in the negotiations to sense check what we are seeking. There is more input on highways, education, open space and affordable housing, and some negotiation might be done directly with those departments with the planning case officer overseeing it." (Case study Interviewee, M1)

6.26 The ability to successfully and efficiently negotiate, monitor and then spend planning contributions also varies between LPAs. Although a key determinant of how successfully LPAs secure developer contributions was understood to be the more general economic conditions in a local authority area, the different skills, level of experience, resources and capacity of LPA officers was also mentioned, which resonates with the findings from the 2016/17 study. Some LPAs still felt that they are lacking in resources and specialist skills.

"The biggest issue is capacity as we can't keep on top of it all the time. We tend to rely on developers to tell us if they have reached triggers, or a parish council might ask us to check if a payment trigger has been reached…It is a capacity and resource issue…S106 agreements are far more specialist than is realised. A lot is involved, and they are so complex. Resource is the main issue…We tried to recruit to a senior officer for 106s but we couldn't recruit. There is a lack of people, and a lack of people who want to specialise." (Case study Interviewee, R1)

6.27 Some LPAs had long serving and very experienced officers. In such contexts where a team of experienced LPA officers was in place to deal with planning obligations there were also often well developed and detailed policies. All LPA interviewees reported that setting planning obligations policy, administering CIL and negotiating S106, collecting monies, and managing spend was a considerable and resource intensive undertaking that required skills and investment.

"We realise that the whole thing takes a small team to do it properly. We need one officer to do the collection and reinforcement, and it is not the same person to drive forward policy. Dealing with the neighbourhood portion and consulting with the public will be a different skill set. We need to look at the resources we need to take development contributions to where we need to be. We currently operate on a shoestring with half a post, one day a week." (Case Study Interviewee, G1)

Viability appraisal: a 'dark art'?

6.28 To address the reported lack of capacity many LPAs procure external support in areas where specialist knowledge is limited in the LPA. By far the most common example where external advice is sought is in relation to the assessment of development viability – all of the LPAs interviewed seek external advice on this issue. This may be from the district valuer or planning consultants. The ability of an LPA to deal with viability assessments 'in-house' varies. Some LPAs had some in-house skills to deal with viability assessments:

"We have two officers who work with development management to look over developer viability assessments and go through the numbers, often we also get independent advice and work with consultants. We do our own research on build costs and values." (Case Study Interviewee, J1)

6.29 However, many relied completely on external advice on viability. Despite the changes to viability assessments, it was referred to as a "dark art" by one LPA interviewee, echoing similar sentiments expressed by other LPA interviewees.

"It is still a dark art and some officers are not as comfortable with the numbers as it wasn't part of their training." (Case Study Interviewee, J1)

6.30 Some LPAs commented that it was only a small part of what occupied officer time on a day to day basis and so it was difficult for LPA officers to build up experience. Many developers who were interviewed argued that

understanding viability and evaluating Gross Development Value was not necessarily what could be expected of LPA officers:

> "They are not house builders, so when it comes to viability or GDV they don't have any idea, and to be fair, why would they? It's not their business." (Case Study Interviewee G2).

6.31 All interviewees found it very difficult to estimate the costs associated with viability assessment and negotiating this aspect of S106 agreements. Most interviewees pointed out that if an external consultant was needed to conduct a viability assessment on a specific case, the cost would be passed on to the developer. Few LPAs have officers whose sole task it is to negotiate S106 agreements. None of the interviewed LPAs kept a time management record in a way that allows for the computation of an average value for time or costs per negotiation. Many interviewees emphasised the variability in the time and costs associated with negotiating a S106 and questioned the degree to which a 'typical' S106 existed:

> "For viability review we get developers to cover the cost. There are costs but we don't record the time spent on negotiating so it is difficult to give a figure…External advice from solicitors varies according to scale and complexity. We pass the costs of the solicitors on to developers so our time comes out of the planning application fee, if it has not already been exhausted." (Case study Interviewee, M1)

6.32 There were mixed views as to the impact of the viability related changes and many thought it was too early to say what difference it would make. There was no strong view that the changes to viability assessment helped to speed up S106 negotiations and development or that LPAs were changing their approach to undertaking viability assessment. However, some LPAs felt that it will reduce disputes about land values.

> "The 'we paid too much for the land argument' doesn't hold and the government changes support this. Now we are not getting so many arguments on the land value, developers know where we stand and know they have to meet the policy requirements and they do not argue as much…. Developers know what they have to do, so we know better where they have genuine viability reasons, and where they were chancing it". (Case Study Interviewee, J1)

6.33 For others, considering viability appraisal at the plan making stage was seen as broadly positive in principle, even if some questions remained about the degree to which the policy would have the desired effect in practice:

> "The general principle is a good one as for the last local plan in 2010 the affordable housing policy went through with barely an hour's discussion as the development industry knew 'why bother fighting it as we will fight it on a case by case basis when we put in an application?'. Being clear that more credence is given to viability at the plan stage makes it more upfront and robust, it will be challenged earlier, and it will be less easy for landowners

and developers at the application stage to say they can't provide affordable housing. We will still get viability assessments on brownfield, but better that it is tested at local plan stage." (Case Study Interviewee, Q1)

6.34 The majority of the interviewed LPA officers still expect to engage with the development industry on a case-by-case basis with respect to viability questions. Several LPA interviewees speculated that developers would argue more frequently for special consideration under the provisions to consider 'exceptional' sites.

"We had to do a viability assessment, we looked at GDV…But it does not drill down to specific areas and circumstances and developers will still argue [that] because it is undertaken at a high level we need to look at their specific circumstances. It will not do what the intention was, and will still see viability assessments coming in" (Case Study Interviewee, M1)

Infrastructure first? Sequencing the investment of developer contributions

6.35 All LPAs noted that collecting planning obligations is time and resource intensive.

"We have so many planning applications which presents problems, it requires a lot of data and resources, and collecting what we are owed takes a lot of resources." (Case Study Interviewee, L1)

6.36 Similarly, the sequencing of CIL receipts was also highlighted as an issue, as they tend not to be collected and spent until development is underway.

"The real issue is that the money comes in after the development has started so you are fighting a battle with people who say that you have new development but not the infrastructure." (Case Study Interviewee, L1)

6.37 In combination these two features of S106 and CIL were said by some interviewees to make it difficult for LPAs to forward-fund infrastructure. Many LPAs reported that the lag in time between a development itself and the attendant infrastructure that was funded by the developer's contribution was in effect retrospectively addressing the implications of development rather than being used to unlock sites or facilitate further development.

6.38 This question of how developer contributions are used to forward-fund infrastructure represents a further example of significant variation in practice between LPAs. For example, contrasting testimony from two LPAs illustrates how one uses developer contributions reactively to mitigate development whilst another has actively taken on risk to fund educational provision as a stimulus to development.

"I'm not quite sure it has unlocked further development. It ensures the borough doesn't become clogged by traffic." (Case Study Interviewee, J1)

"We get the developer contributions but we've also got free school money in from the ESFA (*Education and Skills Funding Agency*). When do you get the developer contribution in? When do you need to put the school in? And obviously it doesn't all quite align. So, the council will have to cash flow some of that. But what we need to ensure is that overall, we have got the money in. To do that there are risks. If development stalls the council still has the legal responsibility to deliver. So, we have taken that risk on to get the site away…The bottom line is that the council has signed up to take quite a bit of the risk on." (Case Study Interviewee, D1)

6.39 Across the full programme of interviews there was a high degree of variation across LPAs with respect to this issue of whether the investment of developer contributions was considered strategically for the wider purpose of economic development or simply to mitigate the implications of development on a site-by-site basis. This may be an important feature of the wider adoption of CIL: some of the authorities that had adopted CIL described a process of coming to terms with their role as an investor of cash contributions. For a small number of interviewees this entailed thinking about return on investment and joining-up funding sources with partner agencies. However, for the majority of LPAs, particularly those who do not operate CIL, developer contributions are typically understood as 'in-kind' contributions that pertain to a specific site to make it acceptable in planning terms.

6.40 For the more active LPAs one of the challenges of CIL is the time it takes to aggregate sufficient proceeds to finance strategically significant infrastructure. To address this one LPA officer suggested an approach similar to the process by which the London mayoralty is able to borrow against future CIL proceeds:

"I think the one thing that would be really helpful would be if there was some way, for key infrastructure, if we could receive funding from central government to forward fund the infrastructural element of it that we then paid back from the developer contributions when we collected them. That would be a huge, huge benefit to us." (Case Study Interviewee, A2)

6.41 Generally, there is considerable variation in how readily LPAs invest the proceeds of CIL. Some spend receipts promptly; others have aggregated receipts over a period of 5+ years. Development industry testimony harvested through the case study interviews, and corroborated by the findings of Chapter 7, questioned the readiness with which LPAs were investing the proceeds of CIL. However, LPAs described various reasons why CIL funds might not be spent quickly. In general, the most often cited reason for the retention of CIL proceeds was a preference to spend on larger infrastructure which, therefore, requires time for CIL monies to build up.

"It takes time for the pots to build up. Then it is about do we want to split the CIL money into tiny projects that no one benefits from? All LPAs want to save for the big-ticket items." (Case Study Interviewee, G1)

"It's not enough to fund what infrastructure we need even though we set CIL quite high." (Case Study Interviewee, J1)

6.42 Other LPAs argued that some lag between CIL proceeds and subsequent investment was an unavoidable aspect of the system and that CIL nevertheless offered the best way of enabling further development.

> "We spend CIL on enabling further development through the strategic bit…. It helps us to bring sites forward especially where there are viability issues…We use it for the big-ticket items blatantly to support growth." (Case Study Interviewee, Q1)

Governance and spending of developer contributions

6.43 Evidence collected through the programme of interviews would suggest that developer contributions are generally not considered at a strategic scale within LPAs. In particular, the spending of CIL monies and prioritising of infrastructure needs and associated spending was described by some interviewees as a governance challenge that many LPAs have not yet mastered.

6.44 The time taken to spend CIL receipts can vary between LPAs. Depending on the type of CIL fund, for example, the strategic portion of CIL may be spent on a different timescale to the neighbourhood portion, with different decision-making processes governing each.

> "The capital programme is a three-year rolling programme for spending. Half of CIL is spent on the capital programme. The rest we allocate quickly in a year and the projects are delivered in two or three years. We are not pooling for a long-term plan." (Case Study Interviewee, J1).

6.45 For some LPAs that have adopted CIL in the recent past, establishing a parallel governance framework to administer income and expenditure has proven to be a challenge.

> "We are working on CIL governance and the final stages of a draft to go through council processes to get adopted. We will prioritise our infrastructure delivery programme to provide the spending mechanism…But we are in the throes of a Local Plan review, and then will review CIL." (Case Study Interviewee, N1)

6.46 LPAs were asked how they prioritise infrastructure needs. A number were not very sure how to tackle this and were looking to other LPAs for examples of good practice. Many felt that putting governance around CIL spending in place was important and aided transparency, but said that this was a slow process internally for LPAs. When asked for a view on how CIL might be administered effectively one LPA interviewee responded:

> "A good question! There are not many examples out there for other authorities. We looked at X [a different LPA] as a template and the questions they asked as to how to prioritise…What we have is a draft, and it is a lengthy process to get approval. It doesn't prevent spending but we need a transparent system and it causes a delay as it takes a long time to make a draft as this is new ground, and then it is a long process to get it adopted.

> Even when it is adopted we will have to implement it and we will need to create a new group to manage it, then make officer recommendations, then go through the actual prioritisation procedure and carry out consultation with stakeholders - mainly the county." (Case Study Interviewee, N1)

6.47 Some LPAs had decided to take a less strategic approach to prioritising infrastructure spending.

> "It is a relatively ad hoc process where we get to points where we know we have spare CIL funding coming up and existing allocations are covered off. Then we have a meeting, identify potential needs, this feeds up to senior council management, then to the capital board, and potential schemes are whittled down based on where and when they will come forward and whether CIL funding is needed and then out of the top pops the scheme to get CIL funding, which goes to cabinet for approval." (Case Study Interviewee, Q1)

6.48 Most LPAs expressed a desire to establish systems for CIL spending that were transparent.

> "We tried to govern spend by making policy statements on our priorities publicly available, to help us to divide the pots between competing priorities." (Case Study Interviewee, L1)

Low versus high demand settings

6.49 A major determinant of how successfully LPAs secure developer contributions was understood to be the more general economic conditions in a local authority area. In areas of high demand interviewees described a situation where the CIL rates were unlikely to affect the development market significantly. As one developer noted:

> "Being extremely open, in certain areas of the country in the south east of England I don't necessarily need to overthink things. Because of the constrained supply, house prices are high, land values are high and they can withstand the CIL levels that are put in place. I realise it feels like a lazy attitude in one sense but we are broadly aware of what the CIL level is but it doesn't affect our ability to bring sites forward so why necessarily spend a lot of time arguing about it?" (Case Study Interviewee, A3).

6.50 This point was supported by several LPAs who were of the view that the buffer that developers built into their viability assessments could very easily accommodate CIL.

> "If you look at most cases, in a viability appraisal the level of contingency the developer puts in is way more than the CIL rate ever would be, CIL is small beer." (Case Study Interviewee, Q1)

6.51 A few developers argued that land values in the south east and London were falling and that the development context was experiencing a material change. Many of the interviewees who operated in markets outside London were more optimistic about conditions. A national developer described the situation in the

north west and how it might embolden LPAs to seek contributions in excess of policy:

> "One of the biggest challenges for our business is at the land bidding stage because land in the north west is particularly hot at the moment. Land opportunities are few and far between which means that when land does come forward and you are able to bid on it land owners and agents in that climate could be encouraged to invite bids on the basis of a policy compliant-*plus* basis. So, a view needs to be taken on what to include in that land bid. The difference between a £50,000 per plot and a £75,000 per plot assumption for section 106 and CIL can make a significant difference." (Case study Interviewee, E2)

6.52 Site differences still play a very key role in what is secured on different schemes, which was identified in previous research.

> "We have the highest affordable housing target in the area and we do achieve quite a lot. Smaller majors are usually policy complaint, but big schemes have not achieved the target of 35% because there can be very large infrastructure needs on the big greenfield sites, like new bridges or a new junction." (Case study Interviewee, N1)

6.53 For one developer, the broader effects of developer contributions policies may have been to exacerbate the uneven nature of development.

> "If you look at the Oxford Cambridge corridor…lay out the four LEP plans – they all have the same front cover. There is a concordat that sits behind it and it is planned overall. The growth and the funding have gone alongside the housing delivery based on an affordability issue. But if you follow that affordability through we get a more and more unbalanced country because we are always chasing in effect the hot spots rather than thinking about the areas that are moving the other way." (Case Study Interviewee, E1)

6.54 In some low value areas, what is secured through S106 is not sufficient to fund infrastructure and more investment is needed, beyond planning obligations, to unlock development. When asked how they are delivering infrastructure without CIL, one LPA interviewee from a non-CIL charging authority responded:

> "We are not really. The little bits of 106 that we get help but we have some big housing sites that we can't get off the ground. We have bids in to Homes England on the basis of if they build the road, the developer will build the houses, then Homes England will get their money back…..We are in year three of conversations with Homes England. Even if they say yes now, and county highways start the roads, there will be no houses before 2022. Developers say that the sites are not viable to put in infrastructure." (Case study Interviewee, S1)

Delay

6.55 Both LPAs and developers had views on what can cause delay. However, several interviewees contrasted *avoidable* and *unavoidable* delays. The latter

were usually understood to stem from the negotiation of planning obligations that are a necessary counterpart to the discretionary planning system. The former are those delays that can be attributed to contingent aspects of the process – such inefficiencies in LPAs or strategic bargaining by developers.

6.56 Some LPAs felt that even with long serving experienced officers, clear and detailed policy, and several years of operating a CIL, there had not been a lot of change over time in the length of time taken for applications to work through the system, for agreements to be put in place, and for development to commence.

> "The 106 for affordable housing can take between a few weeks and 18 months. Four to six months is most common. This has not changed in the last decade." (Case Study Interviewee, Q1)

6.57 As illustrated in the 2016/17 study, speed can be affected by legal delays, and large complex schemes with multiple landowners were noted as being very slow. It can take a long time for multiple landowners to come to agreement and sign a S106 agreement.

> "It's a slow process and when you get solicitors in the mix it is a very slow process. The complex ones have been in the system for two years. We have an agreed 106 that since the beginning of this year has been with the landowners. Where there are multiple landowners it is a very prolonged process to get them all to sign. Some might be looking to limit their liabilities, some want less of a burden on their land value, some are holding out for a higher deal with developer." (Case Study Interviewee, M1)

6.58 In accounting for delay some interviewees pointed to the personal nature of the discretionary planning system and the nature of negotiation. From this perspective the time taken depends on the approach to negotiating and meeting policy requirements on both sides, LPA and developer.

> "It comes down to the nature of the developer, some are more hard ball than others and it can impact on negotiations. With negotiations there is no right or wrong answer, it is how good you are at negotiating a deal." (Case Study Interviewee, N1)

6.59 Some argued that developers take different approaches to negotiating planning obligations in different circumstances. One described preferring to only take on sites where they could offer a policy compliant agreement without a viability assessment, because they were quicker to deal with and more certain.

> "We haven't undertaken a viability assessment for about three years or so….We made a conscious decision to not do them. If sites come and there is viability as a potential issue, we think the political climate is against you so it is not worth going after it…The applications we put in now are meeting planning requirements." (Case Study Interviewee, G2)

6.60 LPAs noted that it is not necessarily the negotiations that take time, but that it can take a long time to agree the final version of a scheme, either as the

developers change details of the scheme as the market changes, or because sites change hands.

> "Some applications drag on as variations happen to schemes so it can be years before developments go ahead and are finalised. It is not the negotiations but due to developers finalising what they want out of a scheme and submitting variations. Getting to the final development form can take a long time." (Case Study Interviewee, L1)

6.61 A developer explained that the agreement attached to a scheme purchased from a land promoter may not be deliverable, and the S106 has to be changed.

> "The land promoter's sole purpose is to achieve planning permission whether what is proposed is sensible or commercially viable or achievable. Their aims are not the same as a developer's, so we have to rectify this when we take over the site and 106." (Case Study Interviewee, G2)

6.62 A number of LPAs noted that the information provided by the developer at the application stage may not be sufficient to negotiate the S106, but is provided as the application works its way through the system.

> "Developers apply when they don't have all of this sorted, maybe to meet contractual requirements they put the application in and seek to negotiate and give us the extra information as the application goes through." (Case Study Interviewee, M1).

6.63 Many LPAs noted, as in previous research, that it may be in the developer's interest to delay signing the S106 agreement as it can extend the period before a permission expires, for example, if a developer wants to finish building out a live site before starting the next one in the area.

> "Consents last three years so it can be expedient to a developer to hold off signing as it extends their consent if they don't sign the 106. So, if they are not ready to start on site they might delay signing. One site was agreed 9 months ago but the developer and their funders have still not signed, we know them and we know that it is expedient for them not to do so, we want to see the site come forward so we are not chasing. They are extending the time, doing work related to the site in the background, so they end up with a four-year planning consent." (Case Study Interviewee, Q1)

6.64 Developers felt that there was some misunderstanding about delay and that criticisms of the development industry for having planning permission but not starting on site could be misinformed about the stage of planning permission achieved.

> "It is a political soundbite that developers have permission but they don't build. But they do not understand. They say we got permission and are not building. But outline means nothing, you can't start on site until you get everything." (Case Study Interviewee, G2)

What should developer contributions be used to finance?

6.65 There is evidence that the range of demands made of developer contributions is changing. The valuation detailed in Chapter 3 illustrated both significant growth and decline amongst some of the categories of non-affordable housing investment. Testimony from the case study interviews, corroborated by the development industry roundtables reported in Chapters 7, points to a growing tendency for contributions to be requested to fund healthcare infrastructure. As this area is not recorded as a separate category in the LPA survey it is plausible that the significant growth in the 'other' category (up 240% on the 2016/17 value) may have been driven by an increase in developer contributions used to fund healthcare investment. Qualitative evidence for this can be seen in interviews with planning officers at, respectively, a county council and an LPA:

> "One issue is that across the county local authorities are starting to get requests from University Hospitals Trusts." (Case Study Interviewee, R1)

> "We have met with the CCG. We have said to them that they have to provide evidence on the demand. The CCGs are not super geared up to do that...I think the CCG have woken up to it as a potential source of funding but don't quite understand how the process works and what they need to do." (Case Study Interviewee, D1)

6.66 The implication of this testimony is that requests for healthcare investment represent a relatively new development which explains a lack of institutional familiarity with how a requested developer contributions for healthcare should be evidenced. These public sector accounts chime with that of a developer from a different region.

> "There is a lack of interaction between many, many parties in the local plan making process...For example I have a live application but the NHS acute care trust have now put in a request for funding through the 106 agreement... My point to the NHS trust is - so why did you not raise these at the point of the local plan? Because at that point you could have put forward a calculation. That calculation would have been incorporated into every developers' appraisal when they are reviewing a site in that particular local authority". (Case Study Interviewee, A3).

6.67 LPAs do vary in what type of contributions are sought through S106. Some of these variations may relate to specific issues within that LPA or county. For example, in one LPA, all local authorities in the relevant geographical area sought contributions towards tree planting in relation to a habitat that covered several LPAs. However, a few LPAs and some developers were of the view that too many contributions were sought through S106 and that the system had become overly complex. The following view was expressed by a LPA.

> "What has happened is that 106 has been seen as a way of plugging gaps in public finances and not what it was there to do which is to minimise

development impact. It used to be highways, play areas and that's about it. Now it can cover any public service." (Case Study Interviewee, R1)

6.68 The broadening of what developer contributions might fund was a common issue for many of the interviewees from the development industry. A common aspect of developer testimony on this subject was to question the association between requests for funding and the act of real estate development. For example, one developer made the argument that S106 was not the best way to collect employment contributions:

"In London there are now requirements to facilitate apprenticeships, to pay contributions towards them through 106. We support apprenticeships and they are the right thing to do, but 106 is not the right vehicle." (Case Study Interviewee, G2)

6.69 More generally, the clarification that S106 monitoring fees can be charged to cover the costs of monitoring was welcomed by LPAs.

"We charged £300 per agreement before we got worried. For major sites I think we will charge a similar admin fee but also a per obligation fee on all the different monitoring triggers." (Case Study Interviewee, G1)

"It was helpful confirmation that we can seek monitoring fees. We were requiring fees, but now we will review to make sure we fully cover our costs and it means that developers can't push back on them which will remove the to-ing and fro-ing." (Case Study Interviewee, M1)

Communication and transparency

6.70 In terms of making viability assessments public, LPA practice varies. Some LPAs are not doing this, whereas some make all assessments public as standard.

"Yes every single bit. We have done for two years, they are all on the web un-redacted." (Case Study Interviewee, Q1)

"We haven't as a matter of course. We suggest to the applicant that they provide a redacted copy and we rarely get those. We will make them accessible when asked but we might remove sensitive information. On some developments not all the landowners are signed up and making it public may impact on their negotiations." (Case Study Interviewee, M1)

6.71 One LPA said that making assessments public had helped to increase accountability and to ensure that consistent costs were used by consultants.

"It is easier to question and challenge as the information is in the public domain. We can hold consultants to account on their site by site variations in costs. It's how consultants make money for clients, particularly those who don't want to pay for affordable housing, they tweak the professional fees etc, they tweak a few inputs and it shows an unviable scheme. But in the public domain you can look at the same consultant and different schemes

where costs should be similar, and you would not expect discrepancy, and it puts you in a stronger position on holding viability consultants to account." (Case Study Interviewee, Q1)

6.72 A common feature of many interviews with LPA officers was that there had been little reaction from the public on making viability assessments public, even if there was a general view that greater transparency was a positive thing.

"It is good from a transparency point of view with additional reporting, although it takes more resource. The infrastructure yearly statement is a good idea, it is good to get the message to the public." (Case Study Interviewee, L1)

6.73 Others did not feel that public transparency would make a difference to changing public attitudes to development.

"Local people don't want development so whether we get 20% or 25% affordable housing they don't care because they don't want it, or they say we had the wool pulled over our eyes and the developer got away with it. You can't win." (Case Study Interviewee, S1)

6.74 In some cases LPAs argued that the development industry could be expected to do more to advertise what their contributions had been used to fund. There is comparatively little evidence that this is a regular part of developers' marketing materials. In speculating on why this might be the case several interviewees argued that the attendant benefits to development were not a primary focus for the development industry or potential purchasers of new housing:

"My perception is that once a developer gets consent they are selling that product and from a house purchaser's point of view they are interested in that product. Whether it has paid for a play area half a mile away or not doesn't interest anyone. What sells houses...schools sell houses. So, the developer will point out where the school is or if a school is going to come on stream." (Case Study Interviewee, D1).

"The only time they are interested in the projects that their contributions have funded is when they ask if we have spent it and can they have it back if we haven't!" (Case Study Interviewee, E3).

Chapter 7: Evidence from the Development Industry

Introduction

7.1 To understand developers' and their advisers' perceptions of how planning obligations and CIL operate we held three developer workshops in London, Liverpool and Sheffield during August 2019, supplemented by telephone interviews. A broad cross-section of volume house builders, smaller regional developers, representative bodies, planning and legal consultants, registered affordable housing providers and land promoters were involved.

7.2 The workshops and interviews focused specifically on the impact of recent changes in government policy and in local planning authority practice, as well as the market environment. In particular, we covered: (i) the impact of developer contributions on their businesses; (ii) their experience of recent changes to national policy, especially the 2018 NPPF; (iii) their experience of local authority policy and practice over the previous two years; (iv) how they delivered affordable housing obligations; and (v) the changes they would most like to see in national and local policy and practice.

Key Findings

Changes to the CIL regulations have been welcomed

- Many aspects of the reforms to developer contributions brought in by the revised NPPF of July 2018 and amended CIL regulations were welcomed by participants. For example, many participants welcomed the end of the pooling restrictions.
- Other reforms were considered less favourably. For example, most participants questioned whether LPAs would be able to produce effective plan-wide viability assessments at the plan making stage.

Growth of CIL

- Whilst CIL was valued for its relative clarity and greater certainty, a number of participants suggested that CIL was unsuitable for larger sites because of the variations in physical (especially ground) conditions and the time required to build these sites out.
- Participants were concerned that CIL was being accumulated by LPAs rather than invested promptly, partly because funds for the specified infrastructure had to be raised from many CIL sites and 'payers'.

Planning obligations remain a core aspect of practice

- Participants valued the flexibility of S106, allowing both parties to reach pragmatic solutions to site-specific issues although it was recognised that it could cause delays.
- Developers described a range of relationships when delivering affordable

housing obligations. Some worked closely with LPAs' preferred housing associations; at the other extreme, others auctioned their affordable housing obligations to maximise the income they received.
- Many considered that LPAs' requirements were expressed in too general terms, making it difficult to price what they were prepared to pay for land.

What developer contributions are being used to fund is changing
- Many participants argued that the range of contributions being solicited via developer contributions had grown over the past two years.
- Several developers pointed to increased demands from education and health, requirements which were not in adopted plans or supplementary planning guidance.

Building LPA capacity and capabilities
- There was concern about the increasing lack of capacity in many LPAs to deal effectively with planning obligations and CIL.
- LPA leadership was seen as a key determinant in achieving agreements. Authorities with chief executives who shared priorities with council leaders and members and who took a 'pro-active' and pragmatic approach to development generated more positive outcomes.

Local authority leadership and attitudes to development

7.3 As with the 2016-17 study, leadership in local planning authorities (LPAs) was identified as a key determinant of the effectiveness of LPAs in delivering developer contributions. Many participants articulated frustrations that a perceived 'anti-development' culture in some LPAs was pervasive within the senior executive team, senior planning officers, council leaders and other elected members. Participants contrasted these 'anti-development' LPAs with a smaller group of 'pro-active' authorities which were said to have a strong desire to bring forward development and who worked to make requirements transparent.

7.4 In the allegedly 'anti-development' LPAs participants believed planning obligations and CIL were being handled in a manner that frustrated their development proposals because, for example, development was generally opposed by councillors, policy was under-specified/non-existent or unclear and/or inconsistently implemented. Many participants argued that applications and paperwork were processed slowly. In the more pro-active LPAs participants argued that LPAs had clearer and more consistently implemented policies and were fairer in their application of policies, whilst also being prepared to be pragmatic. In these latter LPAs participants described circumstances where both authorities and developers had common priorities with an understanding of the broader value of development, especially on strategic sites. LPAs that had entered into 'partnership agreements' with developers in the handling of planning applications and had specific staff responsible for taking individual applications through the process were frequently cited as 'pro-active'. For many participants, where there was a

positive political and executive attitude to development, developers saw themselves as more prepared to share 'commercial in confidence' information to help with discussions on viability appraisals.

7.5 However, even in authorities with 'pro-active' attitudes, some participants were concerned that a lack of capacity in planning departments (in terms of both staff numbers and expertise) could inhibit the processes by which developer contributions are agreed and implemented.

7.6 It was also argued that two-tier local government structures often introduced a further source of uncertainty and delay. Several developers identified cases where a strong and positive relationship between applicants and district councils was being compromised by uncertainty over the requirements of county councils on matters related to education provision and highways. Similarly, developers with a significant presence within Greater London reported greater tension between London Boroughs and the GLA in recent years – particularly in relation to affordable housing numbers.

7.7 Across the three roundtables and in other supplementary developer interviews most participants reported more delays and challenges when dealing with LPAs compared with the time of the previous study in 2016/17. Many participants in the developer roundtables added the caveat that they recognised that LPAs had been faced with significant internal constraints, notably staff losses.

7.8 Notwithstanding these perceived differences between pro-active and other LPAs, developers stated that they did not use these perceptions to select where they developed. In particular, they did not avoid buying land and seeking planning consents in the LPAs they characterised as 'anti-development'. Within London and the South East there was unanimity amongst participants that they had to 'follow the market' and deal with all LPAs, whatever their policies and practices. They accepted the costs, uncertainties and potential delays involved in doing business with all LPAs whatever their development stance and policies. Participants from other parts of England generally agreed with this, although there were more participants who said that developers' investment decisions were affected by the culture and policies of LPAs in these areas. Thus, although developers were prepared to operate in all authorities in their market areas they often stressed that it was easier to do so where LPAs had pro-active executive and political leadership.

CIL in practice

7.9 For workshop participants the potential clarity and certainty of CIL was an attraction. In contrast to S106, participants reported that it can create greater certainty when undertaking residual land valuations which in turn support the internal viability assessments that comprise the business case for development. Despite this, a frequent concern expressed by participants was that the flat rate of CIL (not withstanding inflation uprating and the use of intra LPA area typologies for CIL rates) does not take adequate account of the large variations in costs and market conditions on large development sites. These can take long periods to be fully delivered, so that the final viability can be unknown when making a planning application. This is particularly problematic for developers,

not just with long term projects but also for all projects where commencement gets delayed by lengthy and uncertain discussions about securing detailed planning consents, agreements with other infrastructure providers (e.g. water, highways), and investigations into ground conditions.

7.10 One of the principal concerns shared by the majority of workshop participants was the apparent slow speed with which CIL revenues were spent. Many developers argued that LPAs had been accumulating CIL monies for several years without making any significant disbursement of these accumulated revenues to fund the infrastructure required to support their development. Such apparently delayed provision undermined their ability to market their sites, for example if school provision was delayed. Many developers and their advisers often had little expectation that such critical infrastructure would be delivered on time. This was a particularly important problem where infrastructure was needed early in the development process.

7.11 Participants also highlighted the inability of land values in low-value areas to support the introduction of CIL. Many indicated that LPAs in such lower-demand areas would find it difficult to secure significant levels of developer contribution and that where CIL was charged this militated against the provision of new affordable homes through planning obligations.

7.12 Smaller-scale developers felt CIL favoured larger developers for two reasons. First, some LPAs had exempted large sites from CIL or had zero rated them. Second, larger developers had a greater ability to negotiate a lower level of S106 contributions as a trade-off for significant CIL contributions.

7.13 Land promoters felt that the speed with which developer contributions were agreed was key and they were willing to accept greater costs in order to reach a quicker agreement. Participants who made this point had a strong preference for CIL over S106 because CIL rates were published in formally adopted schedules. However, developers who use option agreements to acquire land for development were generally less concerned over the speed of negotiations, and instead had preferences for gaining deals where their liabilities were reduced and certain.

S106 in practice

7.14 Participants contrasted the relative certainty of CIL with the uncertain nature of S106, because the latter is generally subject to negotiation. However, most saw value in the bespoke nature of S106 and its flexibility to accommodate variations on a site-by-site basis especially on larger sites. Another recurring message was that the variation amongst LPAs in their expectations of the value and role of planning obligations was too great. Most participants experienced a system that was inconsistent within as well as between LPAs and this created a general climate of uncertainty.

7.15 These inconsistencies (and hence uncertainties) were seen to be lower in LPAs which had an adopted Local Plan, especially where there was clarity on planning obligations policies. In particular, where there were tariff type policies, for example, for open space or school provision, this reduced the scope for

negotiations creating more certainty and speeding up at least part of the process.

7.16 Many participants had also experienced difficulties in reaching agreements on S106 with LPAs when, notwithstanding LPA adopted plan policies, other public bodies, especially education and health authorities and Mayors of Combined Authorities, sought additional contributions. Those who made this point argued that extra requirements, including the emerging biodiversity net gain requirement (which was particularly difficult to cost) was placing more pressure on scheme viability when added into the mix of S106 contributions, CIL and affordable housing. These additional demands were generally not in adopted local plans or supplementary guidance making it more difficult to assess viability. Participants explicitly stated that they saw these greater demands for more obligations as partly an outcome of the publicity given to reports from several think tanks and other lobbyists which have argued that there is still a significant proportion of land value remaining un-captured by S106 and CIL. The additional contributions - to health, to biodiversity etc. - were clearly seen as both more important than two years ago and as creating additional uncertainties (which is particularly relevant to the issue of viability determination at plan stage when these additional contributions are sought after plans are formally adopted).

7.17 Despite their concerns about inconsistency and uncertainty, participants valued S106 for its flexibility in overcoming site-specific issues. Many participants advocated zero-CIL rating on large housing sites where, it was argued, a bespoke S106 was more appropriate because it guarantees that the connection between development sites and the investment of the developer's contributions is maintained. This echoes testimony from the case studies (Chapter 6). Some larger developers raised this as a key factor in local authority practice resulting in the faster delivery of such sites. All participants welcomed the removal of pooling restrictions on S106.

Affordable Housing

7.18 Participants stressed that increased downward pressures on land values arising from greater S106 and CIL contributions were harming the delivery of affordable housing. It was suggested that some LPAs were too optimistic about the land values available to support their desired rate of CIL. Some participants reported that this has resulted in instances where affordable housing had been negotiated downwards on viability grounds. It was also pointed out that current S106 and CIL legal, policy and practice frameworks create this situation, since site mitigation obligations (in practice) and CIL charges (in law) take priority over affordable housing. As a result, these developments are policy non-compliant in terms of the affordable housing agreed. Participants suggested that some elected members did not fully recognise or understand that CIL policies might be 'crowding out' their capacity to obtain the levels of affordable housing they wanted.

7.19 Participants wanted more specific guidance from LPAs on their expectations for affordable housing. Some participants were frustrated with LPA policies being too general (e.g. a requirement for 'about 30 percent' affordable homes) but

also by others being too inflexible (e.g. over tenure mix - a view especially strongly felt by those operating in London). Some noted how partnerships between LPAs and developers which set out agreed principles on affordable housing had led to greater and quicker delivery of affordable housing.

7.20 There were variations in how developers reached agreements with Registered Providers (RPs) (housing associations principally) of affordable housing. Some had 'preferred' RPs, with whom they had formed partnerships. In weaker market conditions these partners would be expected to share some development risk. Others relied on auctions to establish business partnerships with RPs and to maximise the prices paid by RPs for affordable homes. Others were happy to work with LPAs preferred RPs. Others were sometimes obliged to do so.

Resourcing

7.21 A recurring point made by all participants was that resourcing in many LPAs continues to be a huge issue. Many expressed sympathy for local planning officers, who were routinely characterised as hardworking but over-stretched. It was suggested that a loss of officer experience and expertise, and widespread under-staffing was contributing significantly to delays. It was also said to increase the risk of errors, not only concerning planning obligations but throughout the planning process.

7.22 Participants were particularly concerned about an apparent lack of expertise on development economics and thus issues related to plan wide and site viability. Participants made it clear that agreements satisfactory to both sides were reached more quickly in LPAs where there were experienced planning officers with a good grasp of the development process and some understanding of development economics. It was also noted that these attributes could vary even within an LPA, with the experience and attitude of an individual officer sometimes being a large determinant of speed and ease of reaching an agreement.

7.23 Another point frequently made by participants related to the cuts that many local authorities have made to legal teams. An absence of sufficient legal advice was said by several participants to be a significant contributory factor to delays. In addition, many had seen how the structuring of agreements was being 'farmed' out to locum solicitors who were not using standard agreements creating more delays in reaching agreements especially as personnel often changed during the process. On the other hand, where standard agreements were used, private practice solicitors could speed matters up.

7.24 Virtually all participants argued that LPAs need more resources to fund the staff required to effectively implement S106 and CIL policy and practice.

Viability

7.25 Participants referred regularly to generally unrealistic expectations regarding the level of developer contributions that current, and expected market conditions, could support. This position was reinforced by their evidence of

declining values in London. Their prevailing view was that land values on many sites across England could not meet all the costs of infrastructure, site mitigation, affordable housing, the biodiversity net gain requirement and reportedly increasing demands from education and health. Because of these concerns, participants wanted LPAs to take a more realistic approach to assessing both CIL schedules and S106 policies, better integrating their core plan strategies with infrastructure plans that examined all sources of potential funding before concluding what the market could bear in terms of CIL and S106.

7.26 Participants in lower-value areas had some of the greatest concerns over viability, indicating they there is rarely enough value to support any significant level of developer contribution. Some workshop participants noted that the LPAs with a sustained history of low levels of developer contributions are those most likely to refuse requests from other organisations and local authority departments to secure contributions due to viability issues.

7.27 There was also an overwhelmingly negative response to the changes to the NPPF requiring LPAs to conduct plan wide viability assessments at the plan making stage. Participants argued that this would mean conducting hypothetical analyses of gross development value and costs across highly variegated land and real estate markets. It was also suggested that the approach of defining viability through site typologies may not adequately address this problem as many developers argue that sites should be considered as highly context-specific.

7.28 Three additional points were made by participants. First, LPAs sometimes lacked the requisite skills or capacity to arrive at judgements regarding development viability. Second, plan-wide viability assessments had introduced further delays in contrast to the intention of the policy. Since developers expected most sites to be evaluated on average values by LPAs, many decisions about specific sites would then be challenged by developers on the grounds of their exceptional nature especially, in relation to site 'abnormals' in terms of ground conditions and especially in relation to larger sites. Where such challenges were unsuccessful they would simply wait for a subsequent reform of the system or changes in market conditions – thus reducing the rate of starts and completions. Third, there were concerns that, despite their reservations about plan wide viability, any further reforms would create additional uncertainties and complications that would inhibit development at a time of general macro-economic uncertainty.

7.29 In all three developer roundtables there was specific criticism of the introduction of a benchmark land value. At the core of this point was the argument that achieving 15-20% profit over a full economic cycle is likely to require greater than this range, on a site-by-site level, to address reduced returns during weaker economic periods. Furthermore, there were concerns about the fairness over sites brought forward under the original NPPF which were now being assessed using benchmark land value at appeal. Representatives thought that LPAs and some PINS Inspectors were using applications that met the 15-20% range within the LPA as a precedent, even when there were clearly site-specific

issues involved. In both cases, they indicated that these decisions meant that some land for development no longer comes forward. Some made the point that planning inspectors needed to be conversant with development economics when making informed judgements about the soundness of plan-wide viability assessments.

7.30 Despite participants' reservations about how S106 was implemented they generally thought that, from the perspective of viability, it would be better to deal with large sites through a negotiated S106 process than to rely on plan-wide viability judgements and CIL schedules.

7.31 Many participants argued that the changes to viability appraisal will require LPAs to ensure viability assessments are based on an understanding of development costs over the full build out period. This in turn will require a full appreciation that developers' required returns reflect the risks over the full development period.

Policy and development uncertainty

7.32 A key theme throughout the discussions was uncertainty. Participants felt the source of this uncertainty was not only linked to wider macro-economic and political conditions but also a result of the environment set by LPA policy on developer contributions.

7.33 Several policy reviews, specifically the Letwin build-out review, CIL Review and Parliamentary HCLG Select Committee Report on Land Value Capture were all seen as adding to existing uncertainties about land value capture in the industry. It was suggested by some that certain LPAs had halted their CIL adoption process in anticipation of the introduction of wholesale changes to planning obligations and CIL.

7.34 The timing of changes to Regulation 123 was also seen as having encouraged LPAs to postpone discussions or granting permissions until after the policy changes took effect, so that (the former) pooling restriction did not limit their requests for obligations.

7.35 There were also mixed views on the impact of short-term economic conditions. Some participants felt that we are coming to the end of the economic cycle and that stagnating house prices in some markets was impacting sales rates. This in turn would lead to disputes over viability as LPA expectations were slow to adjust. Others, including those who predominantly operate in areas that have seen continued house price increases reported more positive sales rates and, therefore, had fewer concerns with the prevailing macro-economic conditions.

7.36 In general, a majority of participants argued for greater clarity in LPA policy, especially in local plan policies and then later at pre-application stages; consistency in their application, including on affordable housing requirements; the avoidance of changes in requirements over a planning policy cycle to foster the certainty needed.

Making residents more aware of the benefits

7.37 Participants agreed that publicity regarding the investment of developer contributions was still very limited. Some participants suggested that a lack of transparency regarding what developer contributions were used for, resulted in low levels of public awareness and greater resistance to development.

7.38 By contrast a small number of participants argued that the development industry could do more to make it clear to communities that new housing development brought with it broader social benefits and improved infrastructure.

7.39 There was support for enhancing annual reporting by local authorities with respect to CIL and S106 spending. Some pointed out that these measures might also discourage local authorities from having unspent receipts – one of the principal complaints made by the development industry in the course of these workshops.

Changes to policy and practice sought by developers

7.40 Participants at the developer roundtables were asked to identify those aspects of the system that are working well and those that are working less well. The most commonly articulated points included:

- The need for greater clarity in LPA policy, especially in local plan policies and then later at pre-application stage. This could include affordable housing requirements and the avoidance of changes in requirements over a planning policy cycle to foster certainty.

- The benefits of integrating all S106 policies and CIL schedules into the core strategy of local plans; linking these to infrastructure funding strategies and plans better to align infrastructure spending to plan priorities and delivery.

- LPAs need more resources to fund the staff involved in S106 and CIL policy and practice. Some advocated clear standard templates for legal agreements.

- The use of a CIL-like tariff instead of S106 to help fund infrastructure on all but the largest development sites (e.g. above 500 homes) with S106 used to negotiate terms on these larger sites.

- Staged CIL payments (perhaps linked to the delivery of specific items) to help smaller developers.

- It is important to ensure viability assessments are based on a full understanding of development costs over the build-out period and a better appreciation that developers' required returns reflect the risks being undertaken.

- Some participants advocated a change in priorities, with a more limited level of site-specific mitigation and lower CIL rates, allowing a greater focus on using land values to support more affordable housing.

- Finally, many called for more understanding of the extent to which development value is already being captured by S106 and CIL plus national taxes on transactions of land with planning consent (i.e. Stamp Duty Land Tax and Capital Gains Tax). The objective would be to manage ‘downwards’ the expectations of some that S106 and CIL can deliver significantly more funding for a wider range of uses.

Chapter 8: Conclusions

Introduction

8.1 The objectives of this study were to:

- Update the evidence on the current value and incidence of planning obligations
- Investigate the relationship between CIL and S106
- Understand negotiation processes and delays to the planning process
- Explore the monitoring and transparency of developer contributions
- Understand the early effects and expectations for the changes to developer contributions brought in by the revisions to the NPPF

8.2 In this chapter we collate and summarise findings against these five objectives.

The value and incidence of planning obligations

8.3 In aggregate there has been a significant growth in the value of developer contributions agreed in England in 2018/19 in comparison to the last valuation in 2016/17: up 16% from £6bn to just under £7bn (9% after being adjusted for inflation).

8.4 This growth in value to £7.0bn underscores the significance of developer contributions in financing a broad range of public goods and infrastructure. Evidence presented in this study points to both aspects of continuity and contrast between this report and the moment of the last study in 2016/17 with respect to how developer contributions are raised and invested.

8.5 There is strong evidence of consonance in the proportion of developer contributions raised against the main categories. In 2018/19 S106 planning obligations accounted for 85% of the total, the same proportion reported in 2016/17. CIL accounted for 13% of the total of all developer contributions in 2016/17, just 1 percentage point higher than its 2018/19 proportion of 12%. Mayoral CIL has remained constant at 3% of the total in both 2016/17 and 2018/19. The only variation between these proportions results from rounding to whole percentage points. Similarly, affordable housing contributions remain at 67% of total developer contributions in 2018/19, the same proportion as in 2016/17.

8.6 In other respects there are some significant variations. Non-affordable housing contributions have increased from £1bn to £1.3bn over the period 2016/17 - 2018/19 and now represent 18% of the total of all contributions. However, within this figure there have been significant shifts in the categories of investment that developer contributions have been raised against. Transport (110%), education (70%) and Open Space and Environment (27%) have all seen significant real terms increases.

8.7 The largest increase in non-affordable housing contributions was recorded in the ‘Other’ category (240% in real terms). Testimony from Chapters 6 and 7

would suggest this may be accounted for by an increased demand for contributions to finance healthcare, a plausible explanation given that this category is not counted separately in the LPA survey. Taken together these findings would suggest a fundamental shift in what developer contributions are being requested to fund by LPAs.

8.8 By far the largest decline can be seen in land contributions. At its peak in 2005/6 land contributions were worth almost a quarter of the entire valuation - just over £1bn in nominal terms and second only to affordable housing as the most significant category for developer contributions. Even in 2016/17 this category was valued at £353m. However, in 2018/19 land contributions have diminished to £135m - just 2% of the aggregate total.

8.9 The geographically uneven nature of where developer contributions are generated (and invested) that was identified in 2016/17 remains a feature of the system in 2018/19 but with some important variations to report. The majority, 53%, of all developer contributions are raised in London and the South East - down from 58% in 2016/17. This decline is explained by the net effects of an increase in the South East (5 percentage points) and a considerable decrease in London (10 percentage points). This sharp decline in the proportion of developer contributions raised in London is a result of a sharp decline - 16% in nominal terms on the 2016/17 value - in the aggregate value of contributions raised here. This may be a result of weakening market conditions in London as indicated by the overall reduction in the level of developer contributions raised in the capital.

8.10 Outside London and the South East many regions experienced a growth in the proportion of developer contributions agreed. For example, the share of contributions raised in the East Midlands more than doubled (4% in 2016/17; 9% in 2018/19) and the North West saw an increase from 3% to 6% over the same time period. Again, testimony from Chapters 6 and 7 would suggest this may be the result of market conditions in the North and Midlands remaining strong.

8.11 The behavioural aspects of how developer contributions policies are enacted, identified in 2016/17, remains a hallmark of the system. Many development industry professionals who participated in the research articulated a similar view to that recorded at the time of the last study regarding the ‘personal’ and context specific nature of how the system is enacted.

8.12 This is a particularly important finding given that 85% of the value of developer contributions continues to be determined through negotiated S106 agreements. The determination of priorities to be funded by developer contributions and the style of negotiation are highly context-specific and can vary considerably between LPAs. This in turn may result in the perception amongst developers that some LPAs are more pro-development than others.

Most of the changes to developer contributions policy and practice have been welcomed

8.13 Some of the reforms to policy and practice brought in from September 2019 were strongly welcomed by both LPAs and developers. Virtually all interviewees pointed to the removal of the pooling restrictions - measures instituted from 6th April 2015 that prohibited the pooling of S106 contributions from five or more sources - as a wholly positive step.

8.14 Other aspects of reform were more controversial. The situation of viability assessment at the plan making stage, one of the key policy changes brought in by the revised NPPF, was understood by both developers and LPAs to present some important challenges. Many LPAs argued that the highly variable nature of land and real estate markets meant that it would be of little practical value to undertake viability assessments on average values at the plan making stage. Developers also made similar points and questioned the degree to which planning departments possessed the requisite expertise and specialist training to produce rigorous viability assessments.

8.15 Both developers and LPAs expressed the hope that the introduction of Infrastructure Funding Statements would begin to regularise LPA policy, practice and record keeping with respect to developer contributions.

8.16 LPAs would welcome greater training to deliver effectively on developer contributions. This was most frequently cited in relation to the question of viability assessment and understanding Gross Development Value.

8.17 Many developers expressed sympathy for local planning officers, who were often described as dedicated but overstretched. Loss of officer experience and widespread understaffing were seen as contributing significantly to delays and errors throughout the planning process.

8.18 Developers made clear that agreements that were satisfactory to both sides were reached more quickly in LPAs where there were experienced planning officers with a good grasp of the development process and some understanding of development economics. This could even vary within LPAs, and the experience and attitude of a particular officer could be a large determinant in the speed and ease of reaching an agreement.

The relationship between CIL and S106

8.19 The take up of CIL has grown across all local authority family types since 2016/17, although the results of the survey suggest that there may be further scope for more authorities to introduce CIL. Chapter 4 showed that 38% of authorities that have not yet introduced CIL believe that if they had done so it would have increased the total value of developer contributions. However, for this to be achieved, more support may be required as some LPAs reported that the principal reason why they had not adopted CIL were limitations in skills, experience and capacity.

8.20 One of the aims of CIL was to speed up the planning process and development. The study findings suggest that there may be early evidence to

support this view. In the survey, 61% of LPA survey respondents reported that CIL speeds the process up and reduces the time from the submission of an application to the commencement of development compared to 50% of respondents in 2016/17.

8.21 CIL is becoming an established and accepted aspect of policy and practice on developer contributions. Survey results show that 45% of local authorities are better resourced and skilled when it comes to operating the levy than they were in 2016/17. This could explain the growth in the number of authorities that employ a monitoring officer for developer contributions (81%, up from 75% in 2016/17).

8.22 However, findings from Chapter 7 suggest that CIL may be understood by the development industry as more appropriate in some circumstances than others. A number of participants in this aspect of the research argued that CIL was not suited to larger strategic sites and that S106 represented a more appropriate mechanism to return the investment of the developer contribution to the site of development itself.

8.23 Determining the infrastructure needs and spending priorities to be met from the proceeds of CIL was described by some LPAs as a governance challenge. For example, the strategic portion of CIL may be spent on a different timescale to the neighbourhood portion, with different decision-making processes governing each. Managing the spending of CIL receipts may be an area for further guidance and an area worthy of further consideration once the system has been in place longer.

8.24 The speed at which CIL is bringing forward investment may be an issue in some local authorities. Whilst 49% of CIL charging authorities agree that CIL receipts have been used to provide infrastructure, a significant minority, 34%, disagree. This mixed picture is corroborated by evidence from the case studies in Chapter 6. One explanation for this finding may be that LPAs require a relatively long period of time to aggregate CIL revenues sufficient to fund strategically-significant infrastructure. However, the lack of a conspicuous investment of CIL proceeds was often pointed to as a particular concern for developers. The CIL Regulations introduce a requirement for all local authorities to report on what they have received and spent through developer contributions, by publishing an Infrastructure Funding Statement. This will identify income and expenditure on infrastructure and affordable housing through developer contributions, and the choices local authorities have made about how future contributions will be used.

8.25 Case study evidence suggests that these findings may point to a broader systemic issue regarding the degree to which there is a lag between development and the subsequent investment of CIL. Although some LPAs have experimented with forward funding infrastructure to unlock sites, this potentially exposes such LPAs to development risk. In this area, as in others, practice is highly variable and how this unlocks future development remains unclear.

8.26 Another consequence of the increased adoption of CIL is the degree to which LPAs are required to apply a different approach to thinking about the

investment of developer contributions. For those LPAs that now exact a greater proportion of developer contributions through CIL there is a corresponding requirement to think strategically about the investment of these proceeds. This contrasts to some extent with S106 planning obligations where the process is mediated in the form of a negotiation over what are often in-kind contributions provided directly by the development industry. For CIL adopting authorities this can represent a significant change in practice. Evidence reported in this study would suggest that, in many cases, this strategic approach to investing CIL could be stronger.

8.27 Case study evidence presented in Chapter 6 points to significant variations in the governance contexts within which LPA policy and practice on developer contributions takes place. This may partly explain why there is limited evidence that developer contributions are considered strategically: in some settings developer contributions are well-connected to other policy areas; in others it is understood to be a core planning or legal function that is not joined-up with other policy areas. This is a significant observation if strategic decision making is required to make the most of CIL investments by, for example, partnering with other agencies such as infrastructure providers.

8.28 For some interviewees in Chapter 6 and participants in the developer workshops reported in Chapter 7, a systemic problem with CIL is the severance of the connection between the site of development and the return of investment to that site that is present in S106 agreements. The combination of S106 obligations to make a site acceptable in planning terms and a CIL contribution is theoretically plausible but evidence from the survey contained in Chapters 2 and 3 points to the fact that only in the strongest market conditions (principally London and some Commuter Belt settings) can CIL and S106 be routinely applied in tandem. Other aspects of the study, particularly case study findings in Chapter 6, would suggest that, at least in some locations, the interaction of CIL and S106 had resulted in CIL 'crowding out' planning obligations. Further research is warranted to explore in greater detail the implications of where this may have been the case.

Negotiation processes and delays to the planning process

8.29 S106 remains a core aspect of planning practice - 85% of all developer contributions are exacted through this mechanism. Developers value the flexibility of S106, allowing both parties to reach pragmatic solutions to site-specific issues, even though the negotiation of S106 planning obligations can result in delay.

8.30 There was a preference among some developers for large sites to be dealt with through S106 rather than CIL. The findings of Chapter 7 illustrate how some development industry professionals argued that where LPAs did this, it accelerated the delivery of large sites.

8.31 There continues to be considerable variation in practice between LPAs in how they secure developer contributions. One of the by-products of this variation is that the system is inherently 'personal' with the character of negotiation being highly context-specific. A potential implication of this feature of the system is that it could create incumbency advantages to those developers accustomed to

working in a particular local authority area. Equivalently, it may represent a barrier to entry for developers less familiar with the local terms of how developer contributions are agreed. There is some evidence of this from the case studies and developer workshops contained in Chapters 6 and 7.

8.32 Delay remains a hallmark of the system. However, as with the findings of the 2016/17 study the reasons for delay are variable. An important distinction may be the difference between *unavoidable delays* that result from the 'normal' negotiation of a S106 agreement and *avoidable delays* that may be the outcome of strategic negotiation or a lack of LPA capacity. This study reports evidence of both avoidable and unavoidable delays.

8.33 The demands made of developer contributions is changing with some categories of investment seeing significant growth and others showing significant declines. Evidence from across this study supports the view that developer contributions are increasingly seen as a potential source of investment by a wider range of agencies. This is reflected in the growth in non-affordable housing contributions which is reinforced by case study findings and developer roundtable testimony contained in Chapters 6 and 7.

8.34 In aggregate these findings point to some fundamental changes in the types of investment that developer contributions are resulting in. This may be an outcome of the more systemic transition towards CIL (and, therefore, cash contributions) from S106 planning obligations (which are often material, 'in-kind' contributions). Given that Chapters 1 and 2 identified a strong geographic variation in CIL's adoption this may point to a broader, geographically mixed picture with respect to how differences in developer contributions policies are resulting in different real-world outcomes. Again, this is an area where further research would be desirable.

The monitoring and transparency of developer contributions

8.35 LPA policy and practice on developer contributions is highly inconsistent across local government in England. There is little consistency with respect to record keeping. This may in part be a reflection of the fact that there is such great variation in the institutional position of the function or even whether it is considered a planning or legal matter. As governance context varies so too does the process by which monitoring is undertaken.

8.36 As with the 2016/17 report, the evidence would suggest that there is limited communication with local communities regarding the public goods that developer contributions have financed.

8.37 There is no evidence that communication with the public has changed appreciably since 2016/17. There is significant variation between LPAs with regard to the extent to which they make information publicly available. However, even in the cases of greatest transparency, information is published on the council website which is often not easy to locate.

8.38 Evidence from Chapter 6 would suggest that many LPAs hope that the strong focus on transparency contained in the revised NPPF may result in an increased public awareness that development brings with it attendant benefits

in the shape of affordable housing, community facilities and infrastructure. However, few LPAs had considered in great detail how they would meet the challenge of communicating with the public regarding what the proceeds of development had funded.

References

Crook, A., Henneberry, J. and Whitehead, C. (2016) Planning Gain: providing infrastructure and affordable housing. Wiley: London.

Crook, A., Henneberry, J., Rowley, S., Smith, R and Watkins, C. (2008) Valuing Planning Obligations in England Update Study for 2005-06, London: Ministry of Housing, Communities and Local Government

Crook, A., Henneberry, J., Rowley, S., Watkins, C. and Wells, J. (2006) *Valuing Planning Obligations in England, Final Report*, London: Ministry of Housing, Communities and Local Government .

Dunning, R., Ferrari, E. & Watkins, C. (2016) Spatial Variation in the Incidence and Value of Planning Obligations, in Crook, T., Henneberry, J. & Whitehead, C. (eds) *Planning Gain: Providing Infrastructure and Affordable Housing*, Wiley Blackwell, Malaysia.

Dunning, R.J., Lord, A.D., Keskin, B. and Buck, M. (2019) Is there a relationship between planning culture and the value of planning gain: Evidence from England, *Town Planning Review*, 90(4), 453-471.

Lord, A.D., Dunning, R., Dockerill, B., Burgess, G, Carro, A., Watkins, C. Whitehead, C and Crook, A. D. H. (2018) *The Incidence, Value and Delivery of Planning Obligations and Community Infrastructure Levy in England in 2016/17*. Ministry for Housing Communities and Local Government: London.

Lord, A.D., Burgess, G., Gu, Y. and Dunning, R. J. (2019) Virtuous or vicious circles? Exploring the behavioural connections between developer contributions and path dependence: evidence from England. *Geoforum*, 106, 244-252.

Ministry for Housing Communities and Local Government (2017) Land value estimates for policy appraisal 2017. [Online] Accessed: 12/8/19. Available from: https://www.gov.uk/government/publications/land-value-estimates-for-policy-appraisal-2017

Ministry of Housing, Communities and Local Government (2019a) Affordable Housing Supply: April 2018 to March 2019 England, accessed at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/847661/Affordable_Housing_Supply_2018-19.pdf last accessed on 26th November 2019

Ministry for Housing Communities and Local Government (2019b) Statistics at MHCLG – Live Tables.
Available at: https://www.gov.uk/government/organisations/ministry-of-housing-communities-and-local-government/about/statistics. MHCLG: London. last accessed on 26th November 2019

University of Reading, Three Dragons, Hives Planning, David Lock Associates and DLA Piper LLP (2014), Section 106 Planning Obligations in England, 2011-12,

London: Ministry of Housing, Communities and Local Government https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31406 6/Sect ion_106_Planning_Obligations_in_England_2011-12_-_Report_of_study.pdf

University of Sheffield, Curtin University (2008) Valuing planning obligations in England: update study for 2005-06. London: Ministry of Housing, Communities and Local Government , Available at: http://webarchive.nationalarchives.gov.uk/20120919230617/http://www.communities. gov.u k/documents/planningandbuilding/pdf/obligationsupdatestudy.pdf

University of Sheffield, University of Cambridge, Curtin University (2010) The incidence, value and delivery of planning obligations in England 2007-08. London: Ministry of Housing, Communities and Local Government. Available at: http://webarchive.nationalarchives.gov.uk/20120919230617/http://www.communities. gov.u k/documents/planningandbuilding/pdf/obligationsupdatestudy.pdf

Vickers, D, Rees, P. and Birkin, M. (2003) A new classification of UK Local authorities using 2001census key statistics. Working Paper. School of Geography, University of Leeds.

Whitehead, C. (2016) The Economics of Development Value and Planning Gain, in Crook, T., Henneberry, J. & Whitehead, C. (eds) *Planning Gain: Providing Infrastructure and Affordable Housing*, Wiley Blackwell, Malaysia.

Appendix 1: Glossary

Affordable Housing:

Affordable housing includes a range of non-market tenures including social rented, affordable rented and intermediate rented housing. Whilst it may be developed directly by registered providers or the private sector, for the purposes of this study it is only housing that is agreed through a planning obligation.

CIL – Community Infrastructure Levy:

A levy allowing local authorities to raise funds from owners or developers of land undertaking new building projects in their areas. The Community Infrastructure Levy is a tool for local authorities to help deliver infrastructure to support the development of their area.

LAHS – Local Authority Housing Statistics:

The LAHS is an annual data collection covering all local authorities and covers a wide range of housing topics; for the purposes of this study the survey collects data on the supply of affordable housing.

LPA – Local Planning Authority:

Local planning authorities are the public authority whose duty it is to carry out specific planning functions in a particular area. The planning system includes three tiers of local government in England, but in this instance the focus is on district councils and London borough councils (whether two tier or unitary authorities) as Local Planning Authorities (county councils, Broads authority, national park authorities and the Greater London Authority are identified separately).

PA – Planning Agreement

A legal agreement between local planning authority and developer, which sets out the individual obligations that have been agreed.

PO - Planning Obligation:

A legally enforceable obligation within a planning agreement, normally entered into under section 106 of the Town and Country Planning Act 1990, to mitigate the impacts of a development proposal.

PDR - Permitted Development Right:

A national grant of planning permission. The rights are set out in the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. Permitted development rights for the change of use to residential are subject to prior approval by the local planning authority.

S106 – Section 106 agreement:

Section 106 of the Town and Country Planning Act 1990. This is the primary legislation under which local planning authorities are able to secure planning obligations as a signed agreement between the developer and the LPA. The Act was amended in 2013; where referred to in relation to 2016/17 the amendment to the Act is assumed.

S278 – Section 278 agreement:

Section 278 of the Highways Act 1980. This is further legislation under which local planning authorities (as highway authorities)are able to secure planning obligations as a signed agreement between the developer and the LPA related to highways related works.

Appendix 2: Research Methods

Introduction

1.1 The incidence and value of planning obligations and CIL are inherently spatial. Therefore, the research includes a large component of quantitative information retrieved variously from secondary sources (such as population statistics) and primary sources, including a large scale survey of local authorities. However, in order to understand the values and explain something of the rationale behind their variation it is necessary to explore in much greater detail the story behind the numbers. Twenty case studies were used to understand policy and practice on developer contributions and provide meaningful insights on the reported values. In addition to the survey administration and case studies the research team also conducted roundtable discussions with representatives of the development industry. The three methods by which data has been collected provide complimentary perspectives on the research questions. However, findings need to be synthesised in order to provide a comprehensive picture of CIL and planning obligations.

Survey

2.1 The objectives of the research as described in the Statement of Requirements are to:

- Update evidence on the current incidence and value of planning obligations;
- Understand more fully the relationship between CIL and S106; and
- Provide a more detailed picture of the negotiation process and delays due to S106 and how this differs between smaller and larger sites, with a view to inform how the process may be streamlined.

2.2 Primary data was collected through a self-completion survey sent to every local planning authority and county council in England in July-September 2019.

2.3 The survey was created as an excel spreadsheet, comprising of six question areas: General Information (e.g. LPA name); Permissions (e.g. number); Number and Type of Contributions (e.g. total chargeable floorspace liable for CIL); Delivery (e.g. proportion of direct payments received); CIL Outcomes (e.g. expenditure) and an attitudinal section designed to understand LPA expectations regarding changes to the CIL regulations and NPPF. A version of the survey can be found in Appendix 3. The survey was extended and adapted from the 2016/17 survey to allow for comparison with the results from that study.

2.4 A database of key contacts at every planning authority with responsibility for completing the survey was created. This was derived from a GDPR-compliant dataset of LPA contacts held by MHCLG, an extensive web search of planning officers contact details and follow up individual phone contact with non-respondent local authorities. In most cases the key contact was a planning officer, but in some cases it was a designated S106 officer or other officer linked to planning.

2.5 The survey was distributed as an attachment via email to planning officers on 26th July 2019. A bespoke address was created to distribute the emails and to respond to enquiries, alongside this a 'help line' was staffed during office hours for the duration of the survey to provide LPAs with immediate support in completion of the survey.

2.6 Completion of the survey was also supported in MHCLG's regular newsletter for Chief Planners in July 2019.

2.7 An email reminder was sent out to those who had not responded on 19th August 2019 and an individualised email providing an extension to the research deadline was distributed to non-respondent authorities on 27th September 2019. LPAs also received telephone calls from the research team at regular intervals throughout the survey period, which for non-respondent LPAs meant upwards of five telephone calls before the final deadline on 6th September 2019. Details of the response rate are detailed below.

Secondary Data

3.1 The research draws on a range of secondary data sources. The use of these secondary sources was required to realise two specific aspects of the research: firstly, in the selection and representation of local planning authorities within the 'family' typology and, secondly, as direct inputs for the valuation of different aspects of developer contributions. For the former, a wide range of statistics are used to create and corroborate the LPA families (see Chapter 1 of the report and sections 7 and 9 of this appendix) such as the number of planning permissions per authority (MHCLG planning statistics) and average house prices (Land Registry). For the valuation of developer contributions, secondary data such as average house prices are used. Where possible we have used the same data sources as previous iterations of the research in order to facilitate comparability between studies. However, this is not possible in all cases. For example, MHCLG no longer produces table 563 on residential development land values.

The valuation of developer contributions

4.1 The total value of developer contributions through CIL and S106 planning obligations is the sum of five separate components: CIL; Direct Payment Contributions; in-Kind contributions; Affordable Housing contributions; and Land contributions. The accuracy of these five components is likely to be variable given the complexity of the categories themselves and the requisite methods of valuation - from the small number of assumptions required to value CIL and direct payment contributions, through to the larger number of assumptions required in the valuation of affordable housing contributions. This valuation complexity has been repeatedly acknowledged in all of the previous iterations of the research, and has resulted in four different methodologies discussed across those studies.

4.2 The first study (2003/04) considered three alternative approaches. The chosen approach (depreciated replacement cost) was then also used in the following two studies in 2006/07 and 2007/08. The 2011/12 research provided a critique of this approach and made some different assumptions in the valuation process to those that had been used previously.

4.3 In-kind contributions are inevitably the most difficult to value. They are works undertaken by the landowner or developer (or other third party) that would have required a monetary payment (for the authority to carry out) if not undertaken. The value of the in-kind contribution is, however, rarely calculated by the authority, and as such is not data that is directly available for valuation at the national scale. This study uses the same method as previous iterations, in which the value of direct payments and in-kind contributions are considered to be equivalent per obligation for each obligation type. This enables valuation using the average value of direct payment obligations multiplied by the number of in-kind obligations per obligation type.

4.4 Over the course of the studies the approaches to subsidising affordable housing and its definition have undergone significant changes. Therefore, it is not appropriate to simply replicate the assumptions that were considered in detail in, particularly, the first three studies.

Community Infrastructure Levy

4.5 Community Infrastructure Levy is by its nature a monetary charge (even where it is set at nil) on development by charging authorities and is, therefore, relatively straightforward to value. For this research we use the survey to understand the amount that responding CIL-charging local authorities agreed in 2018-19 and use these responses as the basis to gross up to the national scale. The accuracy of the valuation is consequently contingent upon two variables: the accuracy of the LPA records of CIL (as represented in the

survey responses) and the representativeness of the survey respondents to the population of CIL charging authorities as a whole.

4.6 There are two broad possibilities for grossing up CIL to the national scale. First, it is possible to create an average value of CIL receipt per respondent authority (within each LPA family) and attribute these values to non-respondent authorities within each family, before grossing up to the national scale. Second, to create an average value of CIL per permission granted within each LPA family, before using secondary data to multiply the average value by the total number of planning permissions granted (by permission type) per LPA family and then gross up to the national scale.

4.7 Both methods for valuing CIL at the national scale are recorded below and the variation between the two methods explored.

Valuation of the financial and non-financial obligations

4.8 As with the previous iterations of the research, we attempt to collect information on obligations that do not make a monetary contribution to the LPA as a charging authority as well as those that do. There are many different types of non-financial obligation that might occur in a planning agreement, such as restrictions on usage or operation of the use. Whilst these types of obligation may have a wider financial impact, they are not considered to make a direct contribution to the LPA as a charging authority (whether as a direct payment or an in-kind contribution) and as such these types of obligation are not valued here.

4.9 Planning agreements may include direct payment obligations, where by the developer makes a financial contribution to the LPA (or other body) in order that a particular object may be supplied by the authority (for example open space, or a school built by the local education authority). These contributions are financially calculated and the numbers are recorded within the planning agreements. Contributions of this type are relatively straightforward for local authorities to record. This information is directly reported in the questionnaire according to five different types of obligation, they are:

- Open space and the environment
- Transport and travel
- Community works and leisure
- Education
- Other obligations

4.10 As well as direct payment contributions, planning agreements may also specify non-financial contributions, such as the provision of land for open space or the inclusion of public works of art or highways adjustments. The

obligation is to provide the object rather than the finance to support the provision of the object and as such the actual cost is contingent upon the developer's approach to providing that obligation (rather than the charging authority's estimate for providing that object, as with a direct payment). These contributions are described as 'in-kind' contributions. In-kind obligations may include the provision of affordable housing and free land, for the purposes of this research we deal with the valuation of affordable housing and land separately from the remaining in-kind contributions, the valuation method for which is considered next. In in-kind obligation cases, planning agreements do not specify the financial value and as such they are very difficult to calculate directly from the agreement. To act as a proxy, the average direct payment contributions for each obligation type per agreement is used. This enables calculation of the in-kind contributions by type for each LPA, but is premised upon the assumption that there is a like for like relationship between direct payments and in-kind contributions. The previous iterations of the research used this approach, and justify it in relation to case study evidence discovered in the first iteration of the research. In-kind contributions are captured in the survey using the same classifications as previous studies, against affordable housing; open space and the environment; transport and travel; community works and leisure; education; and other.

4.11 The provision of affordable housing has been the single largest contributor to the value of planning obligations in previous iterations of the research. Yet, it is also a complex obligation to value, as data are sparse and can include sizeable differences according to the type of affordable housing and the location of the development. Over the course of previous studies the approaches to subsidising affordable housing and its definition have undergone significant changes. Therefore, it is not appropriate to simply replicate the assumptions that were utilised in the previous studies

4.12 The definitions of affordable housing have changed over the duration of the studies, with new forms of tenure emerging. This reflects the changing nature of affordable housing and the absence of a formal statutory definition (House of Commons Library, 2017). This iteration of the research considers obligations according to four categories; which were delineated in the survey and analysis but not defined, definitions are provided here for conceptual clarity:

- Affordable rent: housing rented to eligible households by local authorities or registered providers at a rent no more than 80% of market rent.
- Social rent: housing rented to eligible households by local authorities or registered providers at guideline rents determined by the Government.

- Affordable home ownership, intermediate rent and shared ownership: discounted sale or rent below market levels (but normally above social rents) to eligible households within income guidelines.
- Starter Homes: dwellings for sale at 80% (or less) of market prices with restrictions on purchase to first time buyers with income restrictions.

4.13 The affordable housing contribution can be estimated using a range of valuation approaches. In previous iterations of the research depreciated replacement cost and discounted market valuation methods have been used and capitalised net income was considered in the 2011/12 version. The first three studies largely used the depreciated replacement cost, however, whilst theoretically robust there are practical limitations in operationalising this approach given the paucity of data on residential land values and variation in development costs. The capitalised net income approach was rejected in 2011/12 due to the difficulty of obtaining appropriate capitalisation rates. The discounted market value approach provides a transparent method to analyse the value of developer contributions and limits the number of variables that may introduce inaccuracy by relying on only two key assumptions: the value of open market housing and the deduction of open market value paid by the purchaser (most frequently a Registered Provider but in the case of Starter Homes this may be direct to the consumer). In the 2011/12 report the depreciated replacement cost (when more appropriate land value data was available) and discounted market value approaches produced similar results.

4.14 Two data sources are available to identify the number of affordable housing units within a planning obligation, they are the LPA survey and Local Authority Housing Survey collected by MHCLG. When grossed up to families the LPA survey data showed a very similar number of dwellings to the provisions LAHS data supplied by MHCLG for 2018/19. The LAHS data was selected in order to support the use of non-family based statistics. Average new build house price data was used to identify regional house prices across 2018-19. A 10% reduction to this price was applied to reflect the proportionally lower number of affordable housing units when compared to large market units.

4.15 A range of data sources were utilised to determine the proportion of open market value paid by purchasers and therefore the amount of developer contribution. These sources include, the previous research reports, market knowledge, development industry insights derived from the developer workshops and interviews. The assumptions utilised in the research are found in the Table Appendix 5.1.

Table Appendix 5.1 The developer's contribution as a proportion of open market value

Affordable housing type	Development industry contribution
Social Rent	55%
Affordable Rent	35%
Intermediate Rent	27.5%
Affordable Home Ownership	27.5%
Shared Ownership	20%
Starter Homes	20%
Unknown affordable	30%

Source: Development industry insights from interviews, market insights and published reports

4.16 In previous studies one of the most complex component to value is the provision of free land as an obligation. There are two difficulties in valuing this contribution: first, in gathering data on the market price of land; and second, determining an appropriate land use from which to derive the market price. For this iteration of the study we have used residential land values from MHCLG's estimates, applied to the volume of land agreed in each local authority. There were limited responses to this question, so the data has been aggregated at the national scale to avoid identification of individual local authorities.

4.17 Where a County Council is a joint signatory to a planning agreement for a permission that is decided by a lower tier authority then the value of the obligations is incorporated in the LPA survey and as such is included in the main contributions for each of the categories. However, for county matters, such as minerals and waste applications then the value is not captured in the LPA survey and as such a separate survey is utilised to understand these values. According to MHCLG Table P146 and P147 the number of county matters waste and mineral planning applications in 2018/19 has fallen since the time of the last study in 2016/17 (at which time it was at the lowest level since 2007/08). The survey responses showed very low receipts for county councils, received a small response rate and in some cases responses referred to all planning applications rather than those signed regarding waste and minerals. As such, it was not possible to value county council contributions directly from the survey. It is likely that given the significant fall in applications that the 2016/17 value of obligations is less than the previous iterations of the research.

Response to the survey

5.1 The questionnaire for this iteration of the research received significant support from local authorities, resulting in good geographic and LPA type coverage.

The overall response rate, at 41%, is 5% percentage points lower than the 2016/17 study which was the highest response rate to date for the survey. However, the response rate is high given the wider context within which the research took place in 2019 including the timing of the survey's distribution over the summer months and its complexity (the inclusion of a new attitudinal section, for example). The strong response rate is likely the result of pro-active contact from the research team to local authorities, including regular email and telephone correspondence.

5.2 When just local planning authorities are considered (i.e. excluding district councils, development corporations, national parks and the London Mayoralty), the survey achieved a good response rate across all of the LPA family types (see Table Appendix 5.2), from 36% in the Commuter Belt to 45% in Established Urban Centres. All of the preceding five iterations of the research represented the situation using within authority type response rates of 33% or lower. The response rates achieved in this iteration of the research are consistent with those of earlier iterations.

Table Appendix 5.2 Number and proportion of respondents by LPA family

LA Family	No. of LAs (2018-19)	2003-04*		2005-06*		2007-08*		2011-12*		2016-17		2018-19	
		Resp.	%	Resp.	%	Resp.	Resp.	Resp.	%	Resp.	%	Resp.	%
EUC	30	8	27	12	40	10	33	14	47	11	37	14	47
RE	103	33	28	30	25	46	39	39	38	51	50	34	33
RT	55	15	26	19	33	23	40	22	40	28	51	22	40
CB	73	29	38	37	49	38	50	26	36	34	47	28	38
UE	39	16	35	17	37	21	46	17	45	16	42	15	38
UL	26	8	31	11	42	13	50	8	30	9	33	9	35
Total**	326	109	31	126	36	151	43	126	39	149	46	122	38

Source: 2003-04, 2005-06, 2007-8, 2011-12 reports

* Some LAs changed between surveys, 'Rates' refer to the response rate for LAs during the survey in question

** The aggregate response rate for this study is recorded elsewhere in this report as 41%. This is because this includes 7 responses by national parks/development corporations and 4 from county councils. The authorities are not counted in the LPA family typology and are consequently not represented in this table.

Grossing up and Apportionment to Regions

6.1 Two assumptions are made to enable grossing up from the survey response to estimate the national picture of planning obligations and CIL. First, as discussed above, on the basis that the survey responses are broadly representative with respect to the national picture of population distribution per authority, the number of planning decisions made and decisions made per 1,000 population, we assume that the respondent planning authorities are representative of the national picture. Second, the value of in-kind contributions are similar by type and LPA family to those of direct contributions. This assumption permits the use of survey data which would

otherwise be unknown to local authorities and too complex to collect at large scale to be aggregated and estimated.

6.2 Although data are collected and statistics computed against the LPA family typology, in some cases it is appropriate to report findings at the regional scale. Where this is undertaken, for example in Chapters 2 and 3 of this report, the regional figures are determined by taking the aggregate figure derived by grossing up to the LPA family typology and then re-apportioning this value to regions based upon the location of respondent authorities. As a result discrepancies can occur where there is variation between the response rate amongst the LPA family typology when this is disaggregated to regions, which may have a lower rate of response.

6.3 As the overall research design employed in this study turns on the collection of data and derivation of statistics using the LPA family typology it is this reporting framework that provides the strongest and most consistent evidence.

Appendix 3: The Survey of Local Planning Authorities

Study of the Value and Incidence of Planning Obligations and CIL in England 2018/19
for the Ministry of Housing, Communities and Local Government

Dear Planning Officer,

The Ministry of Housing, Communities and Local Government has commissioned the University of Liverpool to research the extent and value of CIL and planning obligations entered into in England in the year 2018/19. We hope to better understand the nature and scale of developer contributions under the Community Infrastructure Levy, section 106 of the 1990 Town and Country Planning Act and section 278 of the 1980 Highway Act.

This study will contribute to our knowledge and understanding of the operation of CIL and s106 contributions, supporting evidence for future planning policy.

This work will build upon previous studies, most recently undertaken in 2016/17. It is intended that the new data collected will assist in the identification of trends in the nature and application of planning obligations and how these are delivered in practice.

The questionnaire asks for details of all planning agreements and CIL charges for permissions granted by your authority between **1 April 2018 and 31 March 2019**. As the questionnaire also requests information relating to affordable housing and planning obligations entered into under s278 of the 1980 Highways Act, it may be necessary for staff responsible for housing and highways to also be involved in the compilation of data.

The Privacy Notice is in the final tab and indicates how the data will be used and protected.

If you have any questions about this survey please email VPO2019@liverpool.ac.uk or telephone 0151 794 0579.

We look forward to receiving your authority's response.

Yours faithfully,

Dr Richard Dunning and Professor Alex Lord

Thank you for taking time to complete this survey

Definitions for the Use and Value of Planning Obligations and CIL in England - 2018/19 Study

Definitions and Scope of Study

For the purposes of this study:
- "Community Infrastructure Levy" is defined as the charge liable to a development where your Local Planning Authority is the 'collecting authority' (as defined in paragraph 10 of the *Community Infrastructure Levy Regulations 2010*). The CIL charge in question may relate to any form of planning consent (e.g. permission from the: LPA; Planning Inspectorate; Secretary of State, or through a: local planning order; neighbourhood development order; permitted development or lawful development certificate) for the study period (**1st April 2018 to 31st March 2019**).
- "planning agreements" are defined as legal agreements signed by your LPA under any of the following: section 106 of the *Town and Country Planning Act 1990* or by your Local Highways Authority under section 278 of the *Highways Act 1980* between 1st April 2018 and 31st March 2019 that relate to outline and full planning permissions. Planning agreements relating to reserved matters permissions should only be recorded if they contain new items not covered in the planning agreement attached to the 'parent' outline permission.
- Unilateral undertakings are considered "planning agreements" for this study although are not strictly agreed or signed by the LPA.
- A "planning agreement" falls into the survey period (1st April 2018 to 31st March 2019) if it has been signed by all relevant parties between those dates.
- "Planning obligations" are the requirements set out within individual "planning agreements".

To complete the questionnaire you will need the following data:
- The number of planning agreements signed between 1st April 2018 and 31st March 2019;
- The number of permissions granted for developments that are liable for CIL between 1st April 2018 and 31st March 2019
- Information on the individual obligations, including value, contained within each planning agreement, including the type of planning obligation (categorised under the following general headings: Affordable Housing; Open Space and the Environment; Community and Leisure; Transport and Travel; and Education);
- Whether obligations were direct payments or in-kind contributions by developers;
- Information on the delivery of obligations and CIL

The questionnaire also asks for information relating to section 278 of the 1980 Highways Act. With this in mind, colleagues responsible for highways may need to be involved in compiling the data. In two-tier areas, district and borough councils may wish to liaise with county council highway authority colleagues.

We appreciate that obtaining and analysing copies of each planning agreement may take some time. However, we are keen to ensure that we reflect your authority's experience in using planning obligations in this study and would be very grateful if you could provide a submission for your authority. The previous studies have been hugely valuable in supporting policy and practice development at both the national and local level.

Please complete as much of the questionnaire as you can and return it via email by **19th August 2019** to VPO2019@liverpool.ac.uk.

If you have any questions about the research or require clarification about any part of the survey please also contact the team on 0151 794 0579 or via email on VPO2019@liverpool.ac.uk.

A partially completed questionnaire is also valuable to us if you do not have all the information requested.

A. General Information

Question types and colour coded cells	Free text - please enter a sentence or short narrative Drop down menu - please select one option

Local Planning Authority	
Name of respondent(s)	
Job Title	
Telephone Number	
Email address	
Within your authority is there a dedicated officer for **negotiating** CIL and/or planning agreements?	
Within your authority is there a dedicated officer for **monitoring** CIL and/or planning agreements?	

End of section. Please proceed to the next worksheet.

B. Permissions

Question types and colour coded cells	Free text - please enter a sentence or short narrative Drop down menu - please select one option Number or not applicable

During 1st April 2018 to 31st March 2019 did your local authority….	Yes / No / Don't know
a) Charge a development as a CIL collecting authority?	
b) Charge CIL on a development jointly with another CIL collecting authority?	
c) Provide permission for a development that is liable for CIL?	
d) Provide permission for a development with one or more planning agreement?	
e) Change its policy or practice on charging CIL or negotiating s106?	
If 'Yes' to e), how?	

→ *If your authority charges CIL jointly with other authorities, please provide evidence in this survey on the charges and receipts for developments within your authority*

Please complete the following table to record the number of planning permissions for which a CIL charge and/or a planning agreement was granted in 2018/19 and which relate to full and outline planning permissions.

Details of agreements relating to reserved matters permissions should only be recorded if they contain planning obligation(s) not covered in the planning agreement attached to the 'parent' outline permission.

The development categories are defined in the PS2 data return. This data return is part of the District Planning Matters return made annually to MHCLG. For non-residential land uses a minor development is where the floorspace is less than 1,000sq m or where the site area is less than 1ha.

Number of…		Dwellings (residential units, excluding student accommodation)								Student accommodation (number of bed spaces)
		0 (i.e. household development)	1 to 9	10 to 24	25 to 49	50 to 99	100 to 999	1,000 or more	All	
…**development permissions granted/approved** …	…in total									
	…with planning agreements (but no CIL)									
	…with CIL charge liable (but no separate planning agreement)									
	…with CIL charge AND separate planning agreement									
…**Permitted Developments** commenced…	…in total									
	…that were liable for CIL charges									
…**Local Development Order / Neighbourhood Development Order/ Community Right to Build Order** developments (approved/granted) …	…in total									
	…with planning agreements offered by landowner/developer (but no CIL)									
	…with CIL charge liable (but no separate planning agreement)									
	…with CIL charge AND separate planning agreement offered by landowner/developer									

Number of…		Student accommodation (number of bed spaces)	Offices / Research & Design / light industry		General Industry / storage / warehousing		Retail and service		Traveller caravan pitches		All other non-residential		Total non-residential
			Minor	Major	Minor	Major	Minor	Major	Minor	Major	Minor	Major	
…**development permissions granted/approved** …	…in total												
	…with planning agreements (but no CIL)												
	…with CIL charge liable (but no separate planning agreement)												
	…with CIL charge AND separate planning agreement												
…**Permitted Developments** commenced…	…in total												
	…that were liable for CIL charges												
…**Local Development Order / Neighbourhood Development Order/ Community Right to Build Order** developments (approved/granted) …	…in total												
	…with planning agreements offered by landowner/developer (but no CIL)												
	…with CIL charge liable (but no separate planning agreement)												
	…with CIL charge AND separate planning agreement offered by landowner/developer												

Please indicate the total number of residential units and non-residential floorspace granted permission in 2018/19 in your authority	
What is the total number of residential units granted permission in 2018/19?	
What is the total floorspace (sqm) of non-residential development granted permission in 2018/19?	

C. Number and Type of Contributions Agreed

Question types and colour coded cells	Free text - please enter a sentence or Drop down menu - please select one	Number or not applicable / Answer not possible

Please record in the table below the number of residential dwellings, total floorspace for non-residential developments and the value of CIL and planning obligations for different planning application types. If the development is mixed use, but there is a dominant land use then please include the data under that land use, where there is no dominant use please include it in 'All other major/minor developments'

Number of dwellings and non-residential floorspace permitted with CIL charge or Planning Obligations in 2018/19

Type of development	Community Infrastructure Levy		
	Total number of dwellings permitted liable for CIL	Total liable floorspace permitted (sqm) liable for CIL (include Nil CIL floorspace)	Total value of charges for permissions granted
Dwellings			
Offices / R & D / light industry	N/A		
General Industry / storage / warehousing			
Retail and service			
Traveller caravan pitches			
All other major/minor developments			
Total			

Number of dwellings and non-residential floorspace permitted with CIL charge or Planning Obligations in 2018/19

Type of development	Planning Obligations (e.g. s106)				
	Total number of obligations (some planning agreements contain multiple obligations)	Total number of dwellings permitted with planning agreement attached	Total floorspace for permissions granted (sqm) with planning agreement attached	Total value of planning obligations on permissions granted (including direct payments, in-kind and land)	Total number of affordable housing dwellings included in permissions with planning agreements
Dwellings					
Offices / R & D / light industry		N/A			
General Industry / storage / warehousing					
Retail and service					
Traveller caravan pitches					
All other major/minor developments					
Total					

Please record in the tables below the type, number and value of direct payment and in-kind planning obligations agreed between 1st April 2018 and 31st March 2019. Direct payment planning obligations are those where the developer agrees to pay a defined monetary sum to the authority (either for use by that authority or for transfer onto another body such as the Local Education Authority). In-kind planning obligations are those where the developer agrees to undertake specified works, or to provide defined facilities or services themselves, or to follow some other similar action. Please remember that a planning agreement may contain multiple obligations and may include both in-kind and direct payment obligations.

Number and value of planning obligations agreed in 2018/19

Obligation Types		Number of Obligations	Total number of affordable housing dwellings	Total value of obligations (£)		How confident are you that the data in this row is accurate?
i. Affordable Housing						
a) Total on-site provision of all affordable tenures					←	
	i) On-site provision of affordable rent				←	
	ii) On-site provision of social rent				←	
	iii) On-site provision of affordable home ownership (not Starter Homes), intermediate rent and shared ownership				←	
	iv) On-site provision of Starter Homes				←	
b) Total off-site provision: development and transfer of units on another site owned by the developer/landowner.					←	
	i) Off-site provision of affordable rent				←	
	ii) Off-site provision of social rent				←	
	iii) Off-site provision of affordable home ownership (not Starter Homes), intermediate rent and shared ownership				←	
	iv) Off-site provision of Starter Homes				←	
c) On-site provision of land only: land transferred to RSL or LPA for free or at a rate below market value					←	
d) Off-site provision of free or discounted land only					←	
e) Commuted sum: payment of a sum in lieu of actual provision of units					←	
f) Rural Exception Policy Agreements					←	
g) Other affordable housing contributions					←	
Total		**0**	**0**	**£ -**	←	
ii. Open Space and the Environment			←		←	
iii. Transport and Travel			←		←	
iv. Community Works and Leisure			←		←	
v. Education			←		←	
vi. Other Obligations			←		←	
Total		**0**	←	**£ -**	←	

These questions ask about the proportion of the total value of CIL and S106/278 that was attributed to greenfield and brownfield sites for permissions granted in 2018/19

	...Greenfield Sites	...Brownfield Sites
For all **residential** permissions, what proportion of the value of **CIL** was on….		
For all **residential** permissions, what proportion of the value of **s106/s278** was on…		
For all **residential** permissions, what proportion of the number of dwellings was on…		

End of section. Please proceed to the next worksheet.

D. Delivery

Question types and colour coded cells	*Free text - please enter a sentence or short*
	Drop down menu - please select one
	Number or not applicable

This section asks for information about the granting and delivery of permissions in **2016/17** and **2018/19**

Please estimate the total value of money actually received for **direct payment planning obligations in 2018/19** regardless of the year in which they were originally agreed. (Direct payment planning obligations are those where the developer agrees to pay a defined monetary sum to the authority, either for use by that authority or for transfer onto another body such as the Local Education Authority)	**TOTAL**	
	Affordable Housing Only	
	All Other Only	
Please estimate the total value of actually delivered **in-kind (including free land) planning obligations in 2018/19**, regardless of the year in which they were originally agreed. (In-kind contributions may include affordable housing, free land, public art etc).	**TOTAL**	
	Affordable Housing Only	
	All Other Only	
For planning agreements **signed in the year 2016/17** please estimate the proportion of **direct payment** planning obligations for which money was **received** by 31st March 2019 (e.g. if you estimate that direct payment obligations totalled £1m in 2016/17 and you have received £910k by the end of 2018/19 then select Over 90%)		
For planning agreements **signed in the year 2016/17** please estimate the proportion of **affordable housing** specified in s106 agreements that was **delivered** by 31st March 2019		
How much of the affordable housing specified in the s106 agreements signed in **2018/19** do you expect to be delivered?		
In **2018/19** did your authority renegotiate any changes to previous planning agreements?		
	If yes, how many?	
	If yes, please provide descriptions of up to three renegotiations, e.g. concessions made such as alterations to the mix of affordable housing	
In **2018/19** did your authority receive any requests to renegotiate previous planning agreements that did not result in changed agreement(s)?		
	If yes, how many?	
	If yes, please provide descriptions of up to three occurrences, explaining what the request was and why the agreement was not changed	

End of section. Please proceed to the next worksheet.

E. CIL Outcomes

Question types and colour coded cells	*Free text - please enter a sentence Number or not applicable*

Only complete this section if your authority charged CIL in 2018/19

How much CIL income was spent on each of these categories in 2018/19?	
Roads and other transport facilities	
Flood defences	
Schools and other educational facilities	
Medical facilities/ Emergency Services	
Social care facilities	
Sporting and recreational facilities	
Open/Green spaces	
Proportion given to town/parish councils and neighbourhood forums	
Public realm improvements	
Utilities	
Employment projects	
Environmental projects	
Energy	
Other…please specify below	
Other -	

End of section. Please proceed to the next worksheet.

F. Attitudinal questions

	Question types and colour coded cells		*Drop down menu - please select one option*
To what extent do you agree with the following statements with regard to your authority?	**Strongly agree to strongly disagree**		**How confident are you in this answer?**
The negotiation of s106 and CIL			
Negotiating s106 **creates a delay** in granting planning permission		←	
Negotiating s106 **does not create a delay** in granting planning permission		←	
Negotiating s106 **creates an increase** in the time from application submitted to development completion		←	
Negotiating s106 **does not create an increase** in the time from application submitted to development completion		←	
CIL **reduces the time** from application submitted to development completion when compared to s106		←	
CIL **does not reduce the time** from application submitted to development completion when compared to s106		←	
The proportion of Gross Development Value (GDV) captured through planning obligations and CIL has increased since 2016/17		←	
My local authority is better resourced and skilled when it comes to operating the levy than it was in 2016/17		←	
The contribution of CIL to infrastructure and further development			
CIL receipts have been used to provide infrastructure		←	
If *Strongly agree* or *Agree* to the above, this infrastructure has enabled further planning permissions to be granted or development to take place that otherwise would not have occurred		←	
What might have happened in your authority area if CIL had/had not been introduced			
For CIL charging authorities only			
The introduction of CIL has resulted in an **increase** in the total value of developer contributions (CIL plus obligations) from the position CIL had not been introduced		←	
The introduction of CIL has resulted in a **decrease** in the total value of developer contributions (CIL plus obligations) from the position CIL had not been introduced		←	
The introduction of CIL has resulted in a **no net change** in the total value of developer contributions (CIL plus obligations) from the position CIL had not been introduced		←	
For Non-CIL charging authorities only			
If CIL had been introduced it would have resulted in an **increase** in the total value of developer contributions (CIL plus obligations)		←	
If CIL had been introduced it would have resulted in a **decrease** in the total value of developer contributions (CIL plus obligations)		←	
If CIL had been introduced it would have resulted in **no net change** in the total value of developer contributions (CIL plus obligations)		←	
July 2018 changes to NPPF			
Including viability assessments in the Plan making stage (post July 2018 NPPF changes) has/will **reduced time** taken to agree planning obligations		←	
Including viability assessments in the Plan making stage (post July 2018 NPPF changes) has/will **increased the total value** of planning obligations agreed		←	
The LPA assessment of standardised inputs (including costs, gross development value, benchmark land value and developer return) is only **rarely challenge**d by applicants		←	
The revised viability guidance brought in in 2018 **improves our ability** to negotiate with developers		←	
The changes to NPPF (July 2018) will lead to **greater land value capture** through s106		←	
Future changes			
The forthcoming removal of pooling restrictions on S106 will **increase the value** of planning obligations agreed		←	
The forthcoming removal of pooling restrictions on S106 will **make delivery of infrastructure easier**		←	
The forthcoming change from Regulation 123 list to Infrastructure Funding Statement will make **monitoring and reporting** of developer contributions more transparent		←	
The forthcoming change from Regulation 123 list to Infrastructure Funding Statement will make the **delivery of infrastructure** easier		←	
Removing **one round of consultation** in order to introduce or update CIL charging schedules will make it easier to revise CIL rates		←	
If development had been brought forward under a planning application rather than permitted development right, our authority would have sought a section 106 contribution		←	

End of section. Please proceed to the next worksheet.

Thank you

Thank you for completing this survey. The results will be used by the Ministry of Housing, Communities and Local Government to inform policy decisions. Your contribution it very important to ensure a robust estimate of the value of planning obligations in England.

For help in completing or submitting this survey, please contact the team at VPO2019@liverpool.ac.uk.

Please select 'Yes' if you would like to receive a copy of the final report

Please select 'Yes' if you are willing to be contacted by a member of the team to discuss the value of planning obligations and CIL in England

Please email your completed survey to VPO2019@liverpool.ac.uk by 19th August 2019

UNIVERSITY OF LIVERPOOL

Appendix 4: Planning Authorities responding to the 2018/19 survey

Adur	Arun	Ashfield	Ashford
Babergh	Barking and Dagenham	Barnsley	Basildon
Birmingham	Blackburn with Darwen	Boston	Bracknell Forest
Bradford	Braintree	Broxtowe	Cambridge
Cannock Chase	Canterbury	Central Bedfordshire	Chelmsford
Chichester	City of London	Colchester	Copeland
Cornwall	Cotswold	County Durham	Crawley
Dacorum	Derby	Dudley	East Lindsey
East Riding of Yorkshire	East Staffordshire	Eastbourne	Ebbsfleet Development Corporation
Elmbridge	Epping Forest	Erewash	Forest of Dean
Gateshead	Gedling	Gloucestershire	Guildford
Halton	Harborough	Haringey	Harrow
Havant	Herefordshire, County of	Hinckley and Bosworth	Horsham
Ipswich	Isles of Scilly	Islington	Kensington and Chelsea
Kettering	King's Lynn and West Norfolk	Kingston upon Hull, City of	Kingston upon Thames
Knowsley	Lake District National Park	Lambeth	Leeds
Lewes	Lichfield	Liverpool	Maidstone
Maldon	Mansfield	Medway	Mid Suffolk
Milton Keynes	New Forest	Newark and Sherwood	Newcastle upon Tyne
North Kesteven	North West Leicestershire	North West Leicestershire	North York Moors
Norwich	Oadby and Wigston	Old Oak and Park Royal Development Corporation	Oldham
Oxford	Peak District National Park	Redcar and Cleveland	Reigate and Banstead
Richmondshire	Rochdale	Rochford	Runnymede
Rushmoor	Salford	Sedgemoor	Sheffield
Shropshire	Slough	Solihull	Somerset West and Taunton Deane
South Cambridgeshire	South Downs National Park	South Kesteven	South Lakeland

South Northamptonshire	South Oxfordshire	Spelthorne	St Albans
Stafford	Stevenage	Stroud District Council	Sunderland
Swindon	Tandridge	Telford and Wrekin	Thurrock
Torridge	Tower Hamlets	Uttlesford	Wakefield
Waltham Forest	Warrington	Warwick	Wealden
Wellingborough	Welwyn Hatfield	West Lancashire	West Suffolk
Winchester	Woking	Worcestershire	Wycombe
Wyre	Yorkshire Dales National Park		

Appendix 5: The Topic Guide for Case Studies

CIL charging authorities

General interview

1. Job title/role of interviewee(s)?
2. How does this role fit into the broader organisational structure?
3. With which other functions (finance, urban regeneration, local economic development et cetera) of the LPA or other local authorities (e.g. County Councils) do you interact when negotiating and then spending developer contributions?
4. How do developers access information on developer contributions? Is there a published planning obligations policy (dates and details) or is this a subject for discussion/negotiation?
5. Details of CIL introduction dates and charges
6. What changes were made to existing planning obligations policy with the introduction of CIL and to what is sought through S106?
7. What has been secured through CIL to date? Have CIL receipts been used to enable further development?
8. How you do you prioritise infrastructure needs?

Changes since 2016/17 (specific follow-ups in subsequent sections)

9. What have been the most significant effects of the changes brought in by the NPPF revisions of July 2018? Please provide further information.
10. How do you think the lifting of the pooling restriction will influence future section 106 negotiations and investment in infrastructure?
11. Are there any barriers to spending CIL/S106? Do you seek to aggregate developer contributions in accordance with a longer term infrastructure delivery plan? Over what time frame are developer contributions normally invested?
12. To what extent have the changes to viability assessment (brought in under the NPPF revisions of July 2018) helped speed up section 106 negotiations and development? Has there been a reduction in delay associated with the new approach to viability assessment? Do you anticipate any further improvements as changes become established?
13. Have you changed your approach to undertaking viability assessment in light of the 2018 NPPF revisions? If yes, how? Do you intend to make any further changes in the future?
14. If you have recently updated your plan, in situating viability assessment at the plan making stage you will have had to make an assessment of Gross Development Value for the sites you want to see brought forward. Have you done this, and if so, how did you determine GDV?
15. Has the new viability guidance increased the quality and consistency of evidence in viability assessments?
16. Has the new viability guidance impacted on what you are able to secure when viability assessments are brought forward at application stage?
17. What impact do you think lifting the pooling restriction will have? What impact do you think other changes in the CIL regulations will have?

Nature of agreements:

18. How and why do planning obligations vary between sites? What are the main factors in determining variation?
19. Where a site has a planning agreement what proportion of affordable housing is usually secured? Does this estimate meet the policy target? How and why does it vary between sites?
20. Has the introduction of CIL had any impact on what is secured through S106, overall levels of planning obligations achieved, and what is delivered on site/authority-wide?
21. What impact have CIL receipts had on enabling infrastructure delivery?
22. What impact does this have on attracting and securing further new development?
23. Do you typically seek section 106 agreements on small sites?

Negotiation

24. Do you ever procure external advice on negotiation S106 agreements? If so, who and how much does it cost?
25. Can you provide an estimate of the costs associated with negotiating S106 agreements? [*Follow up: this could be an estimate of proportion of staff time spent on negotiation*]

Delay

26. How long on average does it take to conclude section 106 negotiations?
27. To what extent have the changes to policy and practice on developer contributions reduced delays in the planning process? Do you anticipate any improvements in future?
28. Has there been any change to what causes delay?
29. Has the introduction of CIL made any difference to the time it takes for sites to work their way through the planning system, and in developers starting on site once agreements are signed?

Completion and modification

30. To what extent do S106 agreements get modified or re-negotiated after they have been signed?
31. Why are agreements modified? Are there any general reasons why what is agreed may differ from what is delivered?
32. If agreements do get modified, what normally gets changed?
33. Are there some aspects that get negotiated away more frequently than others?

Transparency

34. Are you making viability assessments public? [*Depending on answer*] What proportion of viability assessments are made public?
35. What has been the reaction to making viability appraisal public? Has there been public reaction? What has been the reaction of the development industry? Has there been any effect on development?
36. As a result of the changes to policy and practice on developer contributions do you communicate more with local communities about what is delivered through the planning obligation process?

37. Has there been any interest from the public or shift in public perception of development?

Delivering the new system

38. Do you have all the relevant information needed to enact the new approach to developer contributions? E.g. Are you confident in your estimates of GDV? Are you confident in how to approach viability assessment for plan making, and how to review any viability assessments at the application stage?
39. Are there any areas where the new approach to developer contributions represents an extension of previous practice for which CPD/training would be helpful? If so, what format of CPD/support would be most helpful? Who do you think should and would attend?

General messages

40. Reflecting on the changes to developer contributions policy in recent years, what would be your main observations/lessons/advice?

Non-CIL charging authorities

General Information and Context

1. Job title/role of interviewee(s)?
2. How does this role fit into the broader organisational structure?
3. With which other functions (finance, urban regeneration, local economic development et cetera) of the LPA or other local authorities (e.g. County Councils) do you interact when negotiating and then spending developer contributions?
4. How do developers access information on developer contributions? Is there a published planning obligations policy (dates and details) or is this a subject for discussion/negotiation?
5. Why has CIL not been introduced?
6. Without CIL receipts, how is infrastructure delivery enabled?
7. Changes since 2016/17 (specific follow-ups in subsequent sections)
8. What have been the most significant effects of the changes brought in by the NPPF revisions of July 2018? Please provide further information.
9. How do you think the lifting of the pooling restriction will influence future section 106 negotiations and investment in infrastructure?
10. Are there any barriers to spending S106? Do you seek to aggregate developer contributions in accordance with a longer term infrastructure delivery plan? Over what time frame are developer contributions normally invested?
11. To what extent have the changes to viability assessment (brought in under the NPPF revisions of July 2018) helped speed up section 106 negotiations and development? Has there been a reduction in delay associated with the new approach to viability assessment? Do you anticipate any further improvements as changes become established?
12. Have you changed your approach to undertaking viability assessment in light of the 2018 NPPF revisions? If yes, how? Do you intend to make any further changes in the future?
13. If you have recently updated your plan, in situating viability assessment at the plan making stage you will have had to make an assessment of Gross

Development Value for the sites you want to see brought forward. Have you done this, and if so, how did you determine GDV?

14. Has the new viability guidance increased the quality and consistency of evidence in viability assessments?
15. Has the new viability guidance impacted on what you are able to secure when viability assessments are brought forward at application stage?

Nature of agreements

16. How and why do planning obligations vary between sites? What are the main factors in determining variation?
17. Where a site has a planning agreement what proportion of affordable housing is usually secured? Does this estimate meet the policy target? How and why does it vary between sites?
18. Do you typically seek section 106 agreements on small sites?

Negotiation

19. Do you ever procure external advice on negotiation S106 agreements? If so, who and how much does it cost?
20. Can you provide an estimate of the costs associated with negotiating S106 agreements? [*Follow up: this could be an estimate of proportion of staff time spent on negotiation*]

Delay

21. How long on average does it take to conclude section 106 negotiations?
22. To what extent have the changes to policy and practice on developer contributions reduced delays in the planning process? Do you anticipate any improvements in future?
23. Has there been any change to what causes delay?

Completion and modification

24. To what extent do S106 agreements get modified or re-negotiated after they have been signed?
25. Why are agreements modified? Are there any general reasons why what is agreed may differ from what is delivered?
26. If agreements do get modified, what normally gets changed?
27. Are there some aspects that get negotiated away more frequently than others?

Transparency

28. Are you making viability assessments public? [*Depending on answer*] What proportion of viability assessments are made public?
29. What has been the reaction to making viability appraisal public? Has there been public reaction? What has been the reaction of the development industry? Has there been any effect on development?
30. As a result of the changes to policy and practice on developer contributions do you communicate more with local communities about what is delivered through the planning obligation process?
31. Has there been any interest from the public or shift in public perception of development?

Delivering the new system

32. Do you have all the relevant information needed to enact the new approach to developer contributions? E.g. Are you confident in your estimates of GDV? Are you confident in how to approach viability assessment for plan making, and how to review any viability assessments at the application stage?
33. Are there any areas where the new approach to developer contributions represents an extension of previous practice for which CPD/training would be helpful? If so, what format of CPD/support would be most helpful? Who do you think should and would attend?

General messages

34. Reflecting on the changes to developer contributions policy in recent years, what would be your main observations/lessons/advice?

Developer Interviews

General

1. Type of developer (size, specialism, geography)
2. Approximate number of units per annum/in this local authority
3. Number of planning permissions sought and granted (generally and in this LPA)
4. Number of S106 agreements negotiated and signed (generally and in this LPA)

Changes since 2016/17 (specific follow-ups in subsequent sections)

5. What have been the most significant effects of the changes brought in by the NPPF revisions of July 2018? Please provide some examples.
6. How do you view the changes to policy on pooling? Do you expect this to led to greater investment in infrastructure?
7. What is your general view on the changes to viability assessment (brought in under the NPPF revisions of July 2018)? Do you expect this will help speed up development? Has there been a reduction in delay associated with the new approach to viability assessment?
8. Have the 2018 NPPF revisions had any bearing on your interpretation of viability or GDV?

Development/agreements

9. How and why do planning obligations vary between sites?
10. Is there a typical scale / size of application above which is a planning agreement is usually required? (if so what) Does this vary between LPAs?
11. Do you find LPAs have a preference for securing in-kind contributions over cash/commuted sums? If so, why is this the case and what are your views on this approach?
12. Size and type of example recent development in this LPA – details of permission, CIL charges and agreement, process to completion

S106/CIL interaction

13. Do you find the negotiation process varies across authorities and if so how?
14. What is the cost (financial and time) attached to negotiating S106 agreements? Do you have any more detail on this: e.g. site specific evidence? Is there variation between small and large sites?

15. Could you provide an estimate of what you allow for/expect the developer contribution might typically be as a % of GDV?
16. Do you have any preferences regarding how the contribution is determined? CIL versus S106? Would the method of determining developer contribution have any bearing on your decision over where to develop?

Completion and modification

17. What is the normal timescale for the completion of different types of obligation?
18. To what extent do S106 agreements get modified or re-negotiated after they have been signed?
19. Why are agreements modified?
20. Are there standard procedures for modification or re-negotiation?
21. If agreements do get modified, what normally gets changed?

Delivering the new system

22. In your experience, are the changes to developer contributions policies and practice being effectively implemented?
23. Do you feel that the LPAs have the necessary competencies to enact the new approach to developer contributions? E.g. Are you confident in their estimates of GDV?

Appendix 6: The Case Study Authorities

No.	Region	LPA	CIL	LPA Family
1.	East	Watford	Y	Commuter Belt
2.	East	Chelmsford	Y	Rural England
3.	East	Basildon	Y	Rural towns
4.	London	Islington	Y	London
5.	London	Hillingdon	Y	London
6.	London	Westminster	Y	London
7.	South East	Aylesbury Vale	N	Commuter Belt
8.	South East	Horsham	Y	Commuter Belt
9.	South East	Reading	Y	Commuter Belt
10.	South West	South Gloucestershire	Y	Commuter Belt
11.	South West	Bristol	Y	Urban England
12.	East Midlands	Derby City	N	Urban England
13.	East Midlands	North West Leicestershire	N	Rural Towns
14.	West Midlands	Rugby	N	Rural Towns
15.	West Midlands	Warwick	Y	Commuter Belt
16.	Yorks & Humber	East Riding of Yorkshire	N	Rural England
17.	Yorks & Humber	Leeds	Y	Urban England
18.	North East	Newcastle	Y	Established Urban Centres
19	North West	Chorley	Y	Rural Towns
20	East	Norwich	Y	Established Urban Centres

Appendix 7: CIL Charging Authorities

Authority	Charging Commencement
Newark & Sherwood	1 December 2011
LB Redbridge	1 January 2012
Shropshire	1 January 2012
London Mayoral CIL	1 April 2012
Portsmouth	1 April 2012
Huntingdonshire	1 May 2012
LB Wandsworth	1 November 2012
Wycombe	1 November 2012
Bristol	1 January 2013
Poole	2 January 2013
East Cambridgeshire	1 February 2013
LB Croydon	1 April 2013
Elmbridge	1 April 2013
LB Barnet	1 May 2013
Fareham	1 May 2013
Plymouth	1 June 2013
LB Brent	1 July 2013
Broadland	1 July 2013
Norwich	15 July 2013
Waveney	1 August 2013
Havant	1 August 2013
Bassetlaw	1 September 2013
Chorley	1 September 2013
South Ribble	1 September 2013
Southampton	1 September 2013
Preston	30 September 2013
LB Harrow	1 October 2013
Oxford	21 October 2013
Exeter	1 December 2013
LB Newham	1 January 2014
LB Merton	1 April 2014
Bedford	1 April 2014
Dartford	1 April 2014
LB Sutton	1 April 2014
Taunton Deane	1 April 2014
Winchester City Council	7 April 2014
South Norfolk	1 May 2014
LB Waltham Forest	15 May 2014
Chelmsford City Council	1 June 2014
Purbeck	5 June 2014
City of London	1 July 2014
Epsom & Ewell	1 July 2014

Trafford	7 July 2014
LB Hillingdon	1 August 2014
Sevenoaks	4 August 2014
West Lancashire	1 September 2014
LB Islington	1 September 2014
LB Lambeth	1 October 2014
Teignbridge	13 October 2014
LB Richmond-Upon-Thames	1 November 2014
LB Haringey	1 November 2014
Hertsmere	1 December 2014
Surrey Heath	1 December 2014
Tandridge	1 December 2014
LB Lewisham	1 April 2015
Watford BC	1 April 2015
Spelthorne BC	1 April 2015
Woking BC	1 April 2015
West Berkshire BC	1 April 2015
Sedgemoor BC	1 April 2015
LB Camden	1 April 2015
Reading BC	1 April 2015
Three Rivers BC	1 April 2015
LB Tower Hamlets	1 April 2015
Eastbourne BC	1 April 2015
Sandwell	1 April 2015
LB Hackney	1 April 2015
LB Southwark	1 April 2015
LB Barking and Dagenham	3 April 2015*
New Forest DC	6 April 2015
Wokingham	6 April 2015
Leeds	6 April 2015
Bracknell Forest	6 April 2015
Bath & North-East Somerset	6 April 2015
LB Kensington & Chelsea	6 April 2015
London Legacy Development Corporation	6 April 2015
Swindon	6 April 2015
LB Greenwich	6 April 2015
Hambleton DC	7 April 2015
Peterborough City Council	24 April 2015
LB Bexley	30 April 2015
Wiltshire County Council	18 May 2015
Cannock Chase	1 June 2015
South Lakeland	1 June 2015
Dacorum	1 July 2015
Suffolk Coastal	13 July 2015
Sheffield	15 July 2015
LB Hounslow	24 July 2015
Southend-On-Sea Borough Council	27 July 2015
South Gloucestershire	1 August 2015

Daventry DC	1 September 2015
LB Hammersmith & Fulham	1 September 2015
Dudley	1 October 2015
Worthing	1 October 2015
Gedling	16 October 2015
LB Kingston-Upon-Thames	1 November 2015
Lewes	1 December 2015
Selby	1 January 2016
Birmingham	4 January 2016
Chichester DC	1 February 2016
Gosport BC	1 February 2016
Bournemouth	1 March 2016
Rutland County Council DC	1 March 2016
Ryedale DC	1 March 2016
Chesterfield	1 April 2016
LB Enfield	1 April 2016
Northampton	1 April 2016
Reigate & Banstead	1 April 2016
South Northamptonshire	1 April 2016
South Oxfordshire	1 April 2016
Wakefield	1 April 2016
Wealden	1 April 2016
Rother	4 April 2016
East Hampshire	8 April 2016
Babergh	11 April 2016
Mid Suffolk	11 April 2016
LB Westminster	1 May 2016
Lichfield	13 June 2016
Solihull	4 July 2016
West Dorset	18 July 2016
Weymouth & Portland	18 July 2016
Shepway	1 August 2016
Test Valley	1 August 2016
Crawley	17 August 2016
East Devon	1 September 2016
Windsor & Maidenhead	1 September 2016
Newcastle	14 November 2016
Gateshead	1 January 2017
Mole Valley	1 January 2017
Christchurch	3 January 2017
East Dorset	3 January 2017
Kings Lynn & West Norfolk	15 February 2017
South Downs NP	1 April 2017
Stroud	1 April 2017
South Somerset	3 April 2017
Torbay	1 June 2017
Malvern Hills	5 June 2017
Wychavon	5 June 2017

Bradford	1 July 2017
Rotherham	3 July 2017
Cheshire West and Chester	1 September 2017
Worcester City	4 September 2017
Horsham	1 October 2017
Vale of White Horse	1 November 2017
Warwick	18 December 2017
North Somerset	18 January 2018
North Kesteven	22 January 2018
West Lindsey	22 January 2018
Hull (Kingston-Upon-Hull)	1 February 2018
Stratford-On-Avon	1 February 2018
Lincoln City	5 February 2018
Basingstoke & Deane	25 June 2018
Tamworth	1 August 2018
Maidstone	1 October 2018
Cornwall	1 January 2019
Cheltenham	1 January 2019
Gloucester City	1 January 2019
Tewkesbury	1 January 2019
North Tyneside	14 January 2019
Waverley	1 March 2019
Cheshire East	1 March 2019
Cotswold*	1st June 2019
Havering*	1st September 2019
Rushcliffe*	7th October 2019

*CIL adopted after the valuation period to March 2019 and so CIL levied after 2018/19 by these authorities is not covered in the valuation

Appendix 8: LPAs grouped by LPA family type and CIL charging status

The LPA family typology

Grouping LPAs together by shared characteristics rather than a straightforward geography (such as regions) was first proposed by Vickers et al. (2003) using 2001 census data. This approach allows for meaningful comparisons between LPAs that are geographically distant from one another but are similar in many other respects, such as household composition. The six original families created by Vickers et al (2003) were (with the original numbers of LPA member authorities in brackets): Established Urban Centres (30); Urban England (46); Rural Towns (119); Rural England (57); Prosperous Britain (76); and Urban London (26). Prosperous Britain was re-named 'Commuter Belt' in the 2011/12 study onwards.

In 2019 there was a restructuring of local authorities in England. Whilst the majority of authorities remained unaltered there were changes in three counties. In Dorset two new unitary authorities, Dorset Council and Bournemouth, Christchurch and Poole Council, were created from seven previous authorities, abolishing the two-tier structure in the county. In Somerset and Suffolk three separate pairs of districts were combined to create three new authorities, Somerset West and Taunton Council, East Suffolk Council and West Suffolk Council, whilst retaining the two-tier structure. This resulted in a reduction in the total number of local authorities from 326 to 317.

Urban England

LPA Name	CIL?	LPA Name	CIL?	LPA Name	CIL?
Ashfield	No	Derby	No	Plymouth	Yes
Barnsley	No	Doncaster	No	Portsmouth	Yes
Barrow-in-Furness	No	Exeter	Yes	Preston	Yes
Bolsover	No	Halton	No	Redcar and Cleveland	No
Brighton & Hove	No	Hartlepool	No	Rotherham	Yes
Bristol	Yes	Ipswich	No	Sefton	No
Cambridge	No	Lancaster	No	Sheffield	Yes
Canterbury	No	Leeds	Yes	Southampton	Yes
Chesterfield	Yes	Lincoln	Yes	St Helens	No
Copeland	No	Mansfield	No	Stockton-on-Tees	No
County Durham	No	North East Lincolnshire	No	Wakefield	Yes
Coventry	No	North Tyneside	Yes	Wigan	No
Darlington	No	Oxford	Yes	Wirral	No

Established Urban Centres

LPA Name	CIL?	LPA Name	CIL?	LPA Name	CIL?
Barking and Dagenham	Yes	Kirklees	No	Pendle	No
Birmingham	Yes	Knowsley	No	Rochdale	No
Blackburn with Darwen	No	Leicester	No	Salford	No
Bolton	No	Liverpool	No	Sandwell	Yes
Bradford	Yes	Manchester	No	South Tyneside	No
Burnley	No	Middlesbrough	No	Stoke-on-Trent	No
Calderdale	No	Newcastle upon Tyne	Yes	Sunderland	No
Gateshead	Yes	Norwich	Yes	Tameside	No
Hyndburn	No	Nottingham	No	Walsall	No
Kingston upon Hull	Yes	Oldham	No	Wolverhampton	No

Rural Towns

LPA Name	CIL?	LPA Name	CIL?	LPA Name	CIL?
Amber Valley	No	Gravesham	No	Rugby	No
Basildon	No	Harlow	No	Solihull	Yes
Bassetlaw	Yes	Havant	Yes	South Ribble	Yes
Bexley	Yes	Havering	No	Stafford	No
Broxbourne	No	Herefordshire	No	Stevenage	No
Broxtowe	No	High Peak	No	Stockport	No
Bury	No	Hinckley and Bosworth	No	Swale	No
Cannock Chase	Yes	Kettering	No	Swindon	Yes
Cheshire East	Yes	Newark & Sherward	Yes	Tamworth	Yes
Chorley	Yes	Newcastle-under-Lyme	No	The Wrekin (and Telford)	No
Corby	No	North East Derbyshire	No	Thurrock	No
Crawley	Yes	North Lincolnshire	No	Trafford	Yes
Dartford	Yes	North Warwickshire	No	Warrington	No
Dudley	Yes	North West Leicester	No	Wellingborough	No
East Staffordshire	No	Northampton	Yes	West Lancashire	Yes
Erewash	No	Nuneaton and Bedworth	No	Worcester	Yes
Gedling	Yes	Peterborough	Yes	Wyre Forest	No
Gloucester	Yes	Redditch	No		
Gosport	Yes	Rossendale	No		

London

LPA Name	CIL?	LPA Name	CIL?	LPA Name	CIL?
Barnet	Yes	Hammersmith and Fulham	Yes	Newham	Yes
Brent	Yes	Haringey	Yes	Redbridge	Yes
Camden	Yes	Harrow	Yes	Slough	No
City of London	Yes	Hounslow	Yes	Southwark	Yes
Croydon	Yes	Islington	Yes	Tower Hamlets	Yes
Ealing	No	Kensington and Chelsea	Yes	Waltham Forest	Yes
Enfield	Yes	Lambeth	Yes	Wandsworth	Yes
Greenwich	Yes	Lewisham	Yes	Westminster	Yes
Hackney	Yes	Luton	No		

Commuter Belt

LPA Name	CIL?	LPA Name	CIL?	LPA Name	CIL?
Aylesbury Vale	No	Hart	No	Spelthorne	No
Basingstoke and Deane	Yes	Hertsmere	Yes	St Albans	No
Bath and North East Somerset	Yes	Hillingdon	Yes	Stratford-on-Avon	Yes
Bedford	Yes	Horsham	Yes	Surrey Heath	Yes
Bracknell Forest	Yes	Huntingdonshire	Yes	Sutton	No
Brentwood	No	Kingston upon Thames	Yes	Tandridge	Yes
Bromley	No	Maidstone	Yes	Tendring	Yes
Castle Point	No	Merton	No	Three Rivers	Yes
Central Bedfordshire	No	Mid Sussex	No	Tonbridge and Malling	No
Charnwood	No	Milton Keynes	Yes	Uttlesford	No
Cheltenham	Yes	Mole Valley	Yes	Vale of White Horse	Yes
Cherwell	No	North Hertfordshire	Yes	Warwick	Yes
Cheshire West and Chester	Yes	Oadby and Wigston	No	Watford	Yes
Chiltern	No	Reading	Yes	Waverley	Yes
Colchester	No	Reigate and Banstead	No	Welwyn Hatfield	No
Dacorum	Yes	Richmond upon Thames	No	West Berkshire	Yes
Daventry	Yes	Runnymede	No	West Oxfordshire	No
East Hampshire	Yes	Rushcliffe	No	Winchester	Yes
East Hertfordshire	No	Rushmoor	Yes	Windsor and Maidenhead	Yes
Eastleigh	No	Sevenoaks	Yes	Woking	Yes
Elmbridge	Yes	South Bucks	No	Wokingham	Yes
Epping Forest	No	South Cambridgeshire	No	Wycombe	Yes
Epsom and Ewell	Yes	South Gloucestershire	No	York	No

Guildford	No	South Northamptonshire	Yes		
Harborough	No	South Oxfordshire	Yes		

Rural England

LPA Name	CIL?	LPA Name	CIL?	LPA Name	CIL?
Adur	No	Folkestone and Hythe	Yes	Sedgemoor	No
Allerdale	No	Forest of Dean	No	Selby	Yes
Arun	No	Fylde	No	Shropshire	No
Ashford	No	Great Yarmouth	No	Somerset West and Taunton Deane	No
Babergh	Yes	Hambleton	Yes	South Derbyshire	Yes
Blaby	No	Harrogate	No	South Hams	No
Blackpool	No	Hastings	No	South Holland	No
Boston	No	Isle of Wight	No	South Kesteven	Yes
Bournemouth, Christchurch and Poole	Yes	Isles of Scilly	No	South Lakeland	Yes
Braintree	No	King's Lynn and West Norfolk	Yes	South Norfolk	Yes
Breckland	No	Lewes	Yes	South Somerset	No
Broadland	Yes	Lichfield	Yes	South Staffordshire	No
Bromsgrove	No	Maldon	No	Southend-on-Sea	Yes
Carlisle	No	Malvern Hills	Yes	Staffordshire Moorlands	No
Chelmsford	Yes	Medway	No	Stroud	No
Chichester	Yes	Melton	No	Teignbridge	No
Cornwall	Yes	Mendip	Yes	Telford and Wrekin	Yes
Cotswold	Yes	Mid Devon	Yes	Test Valley	No
Craven	No	Mid Suffolk	No	Tewkesbury	No
Derbyshire Dales	No	New Forest	Yes	Torbay	Yes
Dorset	Yes	North Devon	No	Torridge	No
Dover	No	North Kesteven	No	Tunbridge Wells	No
East Cambridgeshire	Yes	North Norfolk	Yes	Wealden	Yes
East Devon	Yes	North Somerset	Yes	West Devon	No
East Lindsey	No	Northumberland	Yes	West Lindsey	Yes
East Northamptonshire	No	Ribble Valley	Yes	West Suffolk	No
East Riding of Yorkshire	No	Richmondshire	No	Wiltshire	Yes
East Suffolk	Yes	Rochford	No	Worthing	Yes
Eastbourne	Yes	Rotherham	No	Wychavon	Yes
Eden	No	Rutland	Yes	Wyre	No
Fareham	Yes	Ryedale	No		
Fenland	No	Scarborough	Yes		

National Parks and Development Corporations

LPA Name	CIL?	LPA Name	CIL?	LPA Name	CIL?
Dartmoor National Park LPA	No	New Forest National Park LPA	No	South Downs National Park LPA	Yes
Ebbsfleet Development LPA	No	North York Moors National Park LPA	No	The Broads Authority LPA	No
Exmoor National Park LPA	No	Northumberland National Park LPA	No	Yorkshire Dales National Park LPA	No
Lake District National Park LPA	No	Old Oak and Park Royal Development Corporation LPA	No		
London Legacy Development Corporation LPA	Yes	Peak District National Park LPA	No		