Housing, Communities and Local Government Committee – Land Value Capture Inquiry

Introduction

The Land, Planning and Development Federation (LPDF) welcome this opportunity to submit evidence as part of the Land Value Capture (LVC) Inquiry as this is a topic which concerns our members. We understand the desire to ensure that developer contributions are optimised as part of the development process and that the necessary infrastructure in support is delivered. We also recognise the importance of clearly linking new developments to the benefits they provide for both existing and future residents to help foster more positive attitudes toward new housing. However, it is the view of the LPDF and its members that systems already exist (S106 and Community Infrastructure Levy (CIL)) to ensure that this occurs. In addition, taxation of the underlying landowner through Capital Gains Tax (CGT), income or corporation tax also further boosts wider society's benefit from the development of the underlying land. As a consequence the mechanisms already exist to ensure that land value is captured.

If a new system of LVC were to be introduced, this would have the potential to have a significant negative impact on the availability of land and the delivery of much needed new housing and economic growth. It therefore needs to be borne in mind, that any negative impact on the land market could counteract the positive steps that have been introduced through the National Planning Policy Framework (NPPF), potentially undermining the ability of the government to deliver the necessary scale of housing required to meet their overall ambitions and tackle the housing crisis.

The government has looked at the subject of LVC on numerous occasions in the past, most recently in 2018 as part of a Housing, Communities and Local Government inquiry[1] and it is important to be mindful of the conclusions of these previous inquiries as part of this investigation.

For the purposes of responding to this call for evidence, the LPDF rely on research published recently by Savills, with the full report being attached to this submission. Key facts and conclusions from this research are raised within our responses to the questions below. The Savills report should be read alongside this submission.

About the LPDF

The LPDF seeks to represent the UK's leading land promoters, home builders and commercial developers.

LPDF members support the housebuilding and commercial development sectors by promoting sites through the planning system, providing "shovel ready" land with a planning permission which can facilitate the delivery of infrastructure and serviced land parcels.

The LPDF seeks to actively engage with government on planning, housing and commercial development policy and to educate the wider public on the social, environmental and economic benefits of development through an evidenced based approach.

[1] Land Value Capture

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The LPDF encourages its members to deliver well designed, high quality, sustainable places which deliver a mix of housing types and tenures, commercial spaces and community uses that have a positive social, environmental, and economic impact.

Our key values include:

- Working in a positive and cooperative way with central and local government and key stakeholders, to deliver a planning system capable of supplying the homes and employment space we need.
- Promoting research and an evidence-led approach to policy development.
- Increasing the supply of new homes to meet demand and make home ownership a realistic possibility for all those who aspire to it.
- Ensuring that we build the affordable homes of all types and tenures that this country so desperately needs.
- Delivering new employment space to meet demand from businesses and support economic growth.
- Championing the impact of increased housing delivery on reducing intergenerational unfairness.
- Creating well designed, high quality and sustainable places to live and work.
- Educating and informing about the social, environmental and economic benefits of development.
- Supporting diversity of delivery in the market and championing SME developers.
- Promoting diversity and inclusivity within the sector.

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Questions

How effective and efficient are current mechanisms of land value capture in England?

Whilst not perfect, it is extremely important to recognise the benefits that the current forms of LVC, S106 Agreements and CIL, are achieving. The attached Savills report highlights that there has been an increased proportion of land value captured up to 2018/19. This report notes that according to LSE research carried out for MHCLG, developer contributions in England reached £6.9 billion in 2018/19[2], the most recent year for which there is data available (which excludes the additional impact of CGT, Inheritance Tax and Corporation Tax). This was an increase of 16% against the previous year, and 88% higher than the developer contributions agreed in 2011/12.

Specifically, Savills analysis (Figure 3) indicates that developer contributions, public sector land sales and tax receipts account for 52% of land value uplift from residential development in England. The remaining 48% of land value uplift needs to; provide a sufficient incentive for landowners to release land for development, to cover the costs of promoting land through the planning system with policy compliant contributions, and to ensure land enablers (typically master developers) can service the land with the required infrastructure. This level of return is necessary given the risk and uncertain timescales inherent in the planning and development process both of which have increased significantly over the last decade or more. The return is also needed to offset investment in sites that are not successful in progressing through the planning process, a situation which has also increased considerably in the last decade as shown by the research recently undertaken by Lichfields[3].

As evidenced in the Savills report, there has been a proportional increase in LVC over recent years and it is respectfully suggested that the issue which needs to be addressed is less 'how much is being collected', and more about how it is collected and spent which is unquestionably sub-optimal. If the government wishes to see improvements in the delivery of critical infrastructure and local facilities, then they should assist Local Planning Authorities (LPAs) to spend the monies they have collected, and will collect through the developer contribution system, effectively and efficiently.

Research undertaken by the Home Builders Federation (HBF) evidenced that LPAs were sitting on and estimated £8billion of unspent infrastructure payments from developers including £6billion from S106 and a further £2billion from CIL[4]. This is considered unacceptable as the development industry is often criticised for not providing the necessary infrastructure to support new development whereas it is often the case that the funding has been provided but the LPA or relevant organisation has not spent the funding as required. The sheer scale of this underspend should warrant a separate inquiry into the reasons why so much unspent capital is sitting unused.

The LPDF are clear that if the government wishes to ensure that optimal levels of LVC are being leveraged from development proposals without negatively impacting the land market or delivery of new housing and economic growth, then there is a need to review the existing developer contribution tools which form part of the current planning system.

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[2] Section 106 planning obligations and the Community Infrastructure Levy in England, 2018 to 2019: report of study

[3] Reform and Strengthen: Will the draft NPPF changes to the presumption in favour of sustainable development be sufficient to meet the Government's growth objectives?

[4] Unspent developer contributions

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The LPDF believe that there is significant scope to improve the efficiency and effectiveness of the current S106 Agreements process and the negotiation procedure which is involved in reaching these agreements. The preparation and completion of S106 Agreements is one of the major causes of delay in the planning process due to their complexity, a lack of resources (particularly on the Local Authority (LA) legal side) and lack of engagement from the main statutory consultees. This issue is critical to resolve if the government wish to speed up the development process to allow them to meet their overall growth ambitions. We believe a National Standard S106 Agreement / Clauses should be used nationwide. In addition, there needs to be greater focus on resources within LPA legal teams.

The LPDF would also advocate making the current system of CIL mandatory. As of April 2023, only 158 LPAs were CIL charging authorities, representing only 51% of all LPAs in England. If CIL was made to be mandatory, to be prepared and examined alongside the Local Plan, then the viability impacts of the CIL would be tested and government could ensure that LVC was being optimised without impacting on the viability of development coming forward. It is considered that alongside ensuring that LPAs are held accountable for spending the funding collected from developer contributions, this would be the most efficient way for the government to achieve its aims of optimising LVC.

The LPDF believe that with simple changes to both CIL and S106 Agreements the effectiveness of the current approach could be optimised.

What alternative methods of land value capture might be most suitable for England?

As outlined above, the LPDF believe that the government should simply review and reform the current system to ensure that it works more effectively and efficiently. The current system works reasonably well, but could be improved by making CIL mandatory for LAs and by properly resourcing both LA planning and legal services so that delays in the preparation and resolution of S106 Agreements are minimised. It should be made mandatory for CIL to be tested at Examination alongside the Local Plan.

As the Savills report notes, there will be significant geographic variation in the potential to increase land value capture, depending on the strength of local housing markets, and the level of land supply in different areas. In 2012, Savills calculated that delivering 30% affordable housing alongside at least £3,000 per plot in CIL and S106 was viable in only 38% of English local authorities outside London.[5] The proportion of markets in which this is viable has increased since then, supported by house price growth outstripping build cost inflation, but there is still a large range between geographies and across different site types. If the government made CIL mandatory, this would help to address the regional variation issue as CIL would be set locally and viability tested to ensure it was achievable in the majority of cases and did not render development unviable.

The Savills report also highlights this regional variation issue clearly when it notes that in 2018/19, London and the South East accounted for 53% of all developer contributions in England, despite only delivering 36% of the development pipeline. Conversely, 12% of planning consents were granted in the North West, but the region only contributes 6% of the planning gain. These figures reflect the lower uplift from existing use land value in weaker housing markets.

Any attempt to implement alternative LVC mechanisms would need to be sensitive to the significant variation across markets and not apply blanket rules across the whole country. Regarding regional disparities, greenfield sites in

[5] https://pdf.euro.savills.co.uk/residential---other/cil-report-2014.pdf

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higher-value areas will always offer greater potential for value capture compared to brownfield sites in lower-value areas.

Would alternative mechanisms of land value capture deliver more affordable housing and public infrastructure than the current section 106/Community Infrastructure Levy regime?

The LPDF would reiterate comments made above about the need to ensure that LPAs are spending the monies they have collected through S106 and CIL effectively and efficiently rather than assuming that an alternative mechanism would result in an overall better outcome.

How could the benefits of alternative mechanisms of land value capture be realised across England, including regions with lower average land values?

The LPDF have no comments on this question.

What are the economic and practical opportunities and challenges of pursuing land value capture policies in England?

It is important to remember that development is complex and arrangements with landowners are often put in place and agreed early on in the process. The agreements in themselves are complex, containing provisions around developer contributions and minimum land values. If the government pursues a move to a tax on a percentage share of the gross development value (GDV) at the end of the project, this will cause issues with regards to sites that are already subject to an existing agreement and will also act to discourage landowners from releasing land for long term strategic promotion.

What mechanisms of land value capture have been effective internationally?

The LPDF have no comments to make on this question.

Should reforms to land value capture be pursued through changes to the current section 106/Community Infrastructure Levy regime, or by introducing a new mechanism?

As outlined above, the LPDF believe that any reforms introduced should be through simple changes to improve the current S106 / CIL regime, specifically by making CIL mandatory across the country. This would ensure that regional variations are accounted for and would provide clarity and certainty of what is expected from the development industry. In addition, it is always open to Government to amend the underlying CGT or Income Tax regimes and the availability of reliefs to increase the effective percentage of land value captured.

What changes to planning law and guidance would be needed to introduce a new mechanism of land value capture?

Please see answers above.

Would new methods of land value capture be compatible with human rights legislation, regarding property rights?

The supporting Savills report provides detail regarding compliance with European Convention of Human Rights (ECHR). In brief this notes that any attempt to remove hope value from the price paid at Compulsory Purchase would almost certainly be challenged for compliance with the ECHR.

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How could different mechanisms of land value capture complement the Government's ongoing planning reform agenda, including delivery of New Towns and the release of 'grey belt' land for development?

The LPDF do not consider that sites emerging through the new grey belt provisions, whether through local plan allocations or applications, need a different mechanism for Land Value Capture compared to other development sites. This is because the "golden rules" for affordable housing provision and infrastructure on Grey Belt sites, for instance, can be secured through a S106 Agreement.

Overall, would reforming land value capture support or distract from the Government's target of delivering 1.5 million new homes by the end of this Parliament?

Overall, it would depend on how the government went about change. If the government simply reviewed and reformed the existing CIL and S106 regimes, seeking to improve their effectiveness, making CIL mandatory for all LPA's and improving the efficiency of LPA's in agreeing S106 agreements and investing the money collected, then this would, once in place, act to support the delivery of the 1.5 million homes target.

However, if the government went down the route of alternative forms of land value capture, as highlighted above this could result in less willingness from landowners to promote their land for development thus being a major distraction to achieving the Government's ambition of building 1.5 million new homes.

Conclusion

The LPDF hope that the information which is provided above assist the inquiry in its investigation into LVC and we respectively request that our trade body is invited to give oral evidence to the committee at the appropriate stage.

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Land Value Capture

Submission to HCLG Committee inquiry by Savills (UK) Limited

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1. Executive Summary

- There is limited recent data available for the value of development contributions collected, with the most comprehensive national reports only covering up to 2018/19. However, these reports from the 2010s show that agreed developer contributions grew by 88% between 2011/12 and 2018/19. This was a faster rate of growth than that seen in the volume of planning consents and the volume of housing completions, suggesting that an increasing proportion of land value uplift was captured as the decade progressed. The data for 2018/19 showed the highest value of developer contributions on record, in both nominal and real terms.

- As a consequence of this more effective land value capture regime, the link between house prices and land values has been weakened. UK house prices returned to their 2007 peak in June 2014, and had grown by a further 45.8% by the end of 2024. However, land value growth has been much lower over the same period, and still remains 8% below 2007 peak values. This trend has become even more pronounced over the last five years. UK house prices have grown by 23.2% since the start of 2020 according to Nationwide, compared to a 4% increase in land values over the same period. This clearly demonstrates that recent house price growth has not been driven by the cost of land.

- Any attempt to further increase land value capture needs to be balanced with the requirement for a level of return to developers and land owners that incentivises them to engage with the lengthy and risky planning process. If it was considered the new policies are appropriate, they would need to be introduced in a way that avoids disincentivising landowners bringing forward land at scale. The increasing cost of construction over the last three years, coupled with falling house prices has resulted in lower residual land values, making this balancing act more challenging.

- There is significant variation in the potential for land value capture between regions and across different site types. For this reason, a nationally set benchmark land value would not be an effective tool for land value capture. Instead capturing developer contributions relies on planning policy continuing to evolve towards alignment of landowner expectations with policy compliant land values, with reference to local market conditions, at an early stage in the Local Plan process.

- Section 106 affordable housing current makes up the bulk of developer contributions. However, this land value capture mechanism is at risk due to the lack of financial capacity amongst registered providers to purchase new affordable homes. Imposing higher requirements for S106 delivery of affordable homes without ensuring there is capacity for the affordable sector to absorb more new homes would have the potential to significantly disrupt wider housing delivery, as developers are unable to secure finance, move on to future phases if affordable homes are unoccupied, or even complete land deals without a S106 partner in place.

- The land market distortion following the introduction of the 1947 Development Charge, the Betterment Levy in 1967, and the Development Land Tax of 1976 demonstrates the risks of making drastic change to land value capture policy. A similar impact today would substantially distract from the Government's target of delivering 1.5 million new homes by the end of this Parliament, particularly as land supply has already fallen sharply from 2019, and the current annual volume of sites coming through the planning system is around 50% below the level needed to reach 300,000 net additions per year.

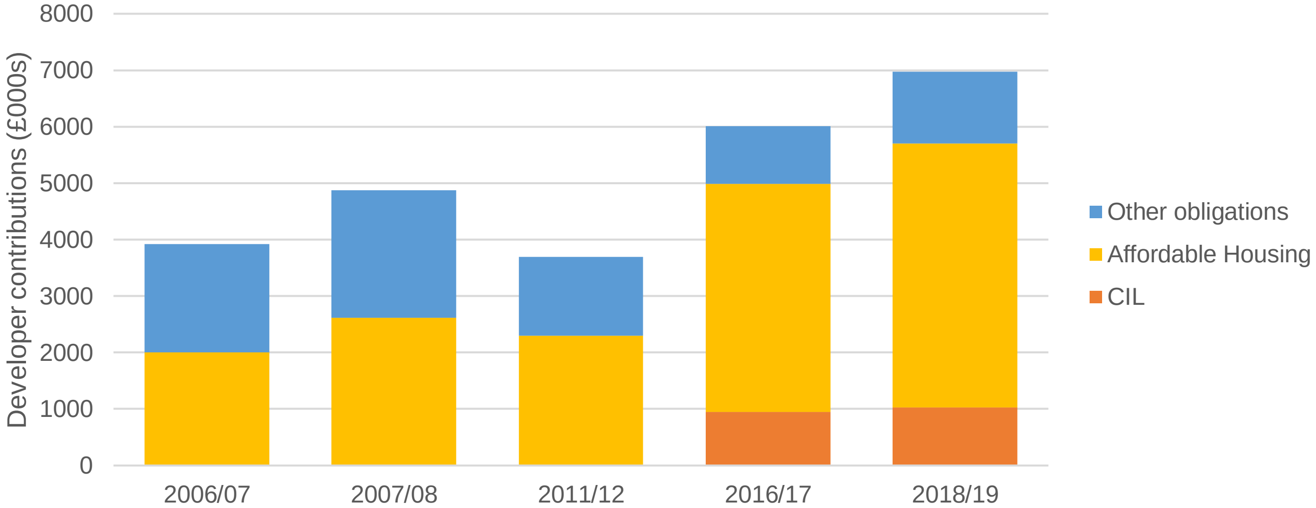
2. How effective are current mechanisms of land value capture in England?

2.1. Current levels of land value capture

According to LSE research carried out for MHCLG, developer contributions in England reached £6.9 billion in 2018/19[1], the most recent year for which there is data available. This was an increase of 16% against the previous year, and 88% higher than the developer contributions agreed in 2011/12, representing growth in real and nominal terms. The rate of increase in developer contributions has been higher than the growth in both planning consents and housing completions, suggesting that an increasing proportion of land value uplift was being captured as the decade progressed.

Affordable housing contributions account for the highest proportion of developer contributions, equivalent to two thirds of the total value. Contributions made via S106 agreements have increased by 18% between 2016/17 and 2018/19, whereas CIL contributions only grew by 9%. This suggests that S106 agreements, which are more site specific, rather than flat rate CIL charges, are a more effective mechanism for capturing land value uplift.

Figure 1: Value of Agreed Developer Contributions



Source: LSE for MHCLG

Affordable housing delivery data also underlines the increasing efficacy of land value capture over the last 15 years. In 2009/10, affordable homes funded through S106 contributions comprised just 3% of all new build completions. For the last two years (2022/23 and 2023/24) S106 delivery has accounted for over 14% of completions. This expansion has in part been aided by house price growth over the period, which has made delivering affordable housing alongside CIL and other S106 obligations viable in more markets.

1 https://assets.publishing.service.gov.uk/media/5f2adbdae90e0732dbca7a6b/The_Value_and_Incidence_of_Developer_Contributions_in_England_201819.pdf

The growth in contributions between 2011/12 and 2018/19 has also been enabled by increasing levels of land supply between 2012-2019 following the introduction of the NPPF with planning consents more than doubling over the period, which has helped to moderate land value growth. Data on more recent developer contribution agreements is not available, so we cannot assess whether the fall in consented land volumes has limited the potential for land value capture.

The lack of any national datasets on developer contributions since 2018/19 means it is impossible to assess the effectiveness of land value capture mechanisms given recent market changes such as:

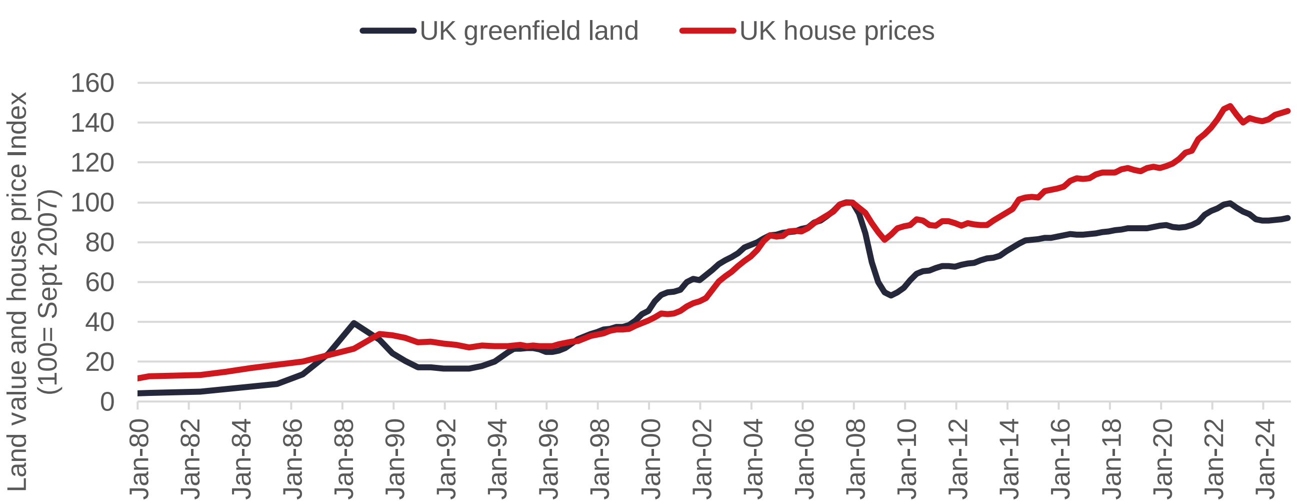
- the fall in planning consents and land supply since 2019;
- the slowdown in house price growth in 2022 and 2023, which could have impacted the level of contributions that is viable in some markets;
- the impact of recent high levels of build cost inflation, and additional requirements such as Biodiversity Net Gain, Future Homes Standard and increased building safety regulation, which will have also added to developer costs.

Furthermore, these historic datasets only capture information on agreed developer contributions, at the point that a S106 agreement is signed, or a CIL charging notice is issued. There is no data available on the delivery of these developer contributions, so it is not possible to assess how long it takes for land value capture to be realised, or how much value is lost if schemes do not progress after receiving planning consent. Gathering more comprehensive recent data, both in terms of overall receipts and site level contributions, should be the first step in considering any further changes to the land value capture system.

2.2. Land value and house prices

The relationship between land value and house prices has weakened over the last 20 years, in part driven by the increasing levels of land value capture over the 2010s. As shown in figure 1, prior to the global financial crisis, indices of the two measures followed broadly similar patterns. However, there has been a sharp divergence since 2008. UK house prices returned to their 2007 peak in June 2014, and had grown by a further 45.8% by the end of 2024. However, land value growth has been much lower over the same period, and still remains 8% below 2007 peak values. This trend has become even more pronounced over the last five years. UK house prices have grown by 23.2% since the start of 2020 according to Nationwide, compared to a 4% increase in land values over the same period. This clearly demonstrates that recent house price growth has not been driven by the cost of land.

Figure 2: House prices and development land values



Source: Nationwide, Savills Development Land Index

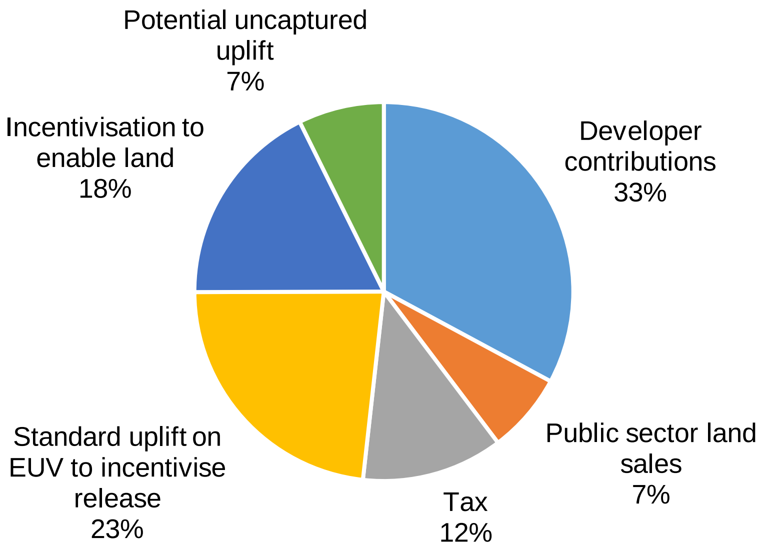
3. What opportunity is there for increased land value capture?

3.1. Current distribution of land value uplift

Leading academics in land and planning policy estimated in 2018 that agreed obligations capture about 30% of development values on greenfield sites in England with another 20% captured by capital gains and stamp duty land taxes[2]. This estimate of around 50% capture of land value uplift is similar to the conclusions of Savills analysis across all land types.

Savills analysis (shown in Figure 3) in 2023 indicated that developer contributions, public sector land sales and tax receipts account for 52% of land value uplift from residential development in England. This includes the assumption that, of the £6.9bn of developer contributions agreed annually (based on the most recent evaluation in 2018/19), 80% is received annually, reflecting the gap between the volume of completions and consents in England.

Figure 3: Distribution of land value uplift 2018/19



Source: Savills Research

The analysis assumes:

- incentives to release land of 30% uplift on previously developed land and 15 times agricultural value.
- that the high risk and capital intensive process of land enabling requires an internal rate of return of 25%, on 40% of the land supply. This reflects the increasing reliance of land supply on larger sites that require new infrastructure.[3]

[2] https://committees.parliament.uk/writtenevidence/87763/html/

[3] Further detail on the requirements for developer return can be found here https://www.london.gov.uk/sites/default/files/app17_savills_residential_development_margin.pdf

3.2. Return requirements to incentivise activity

The remaining 48% of land value uplift needs to provide sufficient incentive for landowners to release land for development, covering the costs of promoting land through the planning system, and for land enablers, typically master developers, to service the land with infrastructure, with planning policy compliance.

This level of return is needed given the risk and uncertain timescales inherent in the planning and development process, and the need to offset investment in sites that are not successful in progressing through the planning process. For example, Savills analysis of planning consents data has shown that the average time taken to gain planning consent for a site with capacity for more than 20 homes is 1.79 years, with larger sites taking considerably longer. This process requires the applicant to make up-front investment in bringing the site through planning, with little certainty of the outcome.

Table 1: Average time taken to progress from application to permission by site size, England 2015-2022

Application to permission	Years (mean)	Sample (sites)
Up to 50	1.67	2,061
50 - 100	1.69	1,215
100 - 250	1.86	840
250 - 500	2.40	288
500 - 1,000	3.39	80
Over 1,000	4.02	10
Total	1.79	4,494

Source: Savills Research, Glenigan

Similarly, larger complex sites requiring up-front infrastructure delivery have higher rate of return requirements. This is particularly relevant for brownfield sites where the extent of abnormal costs is largely unknown at the outset. Furthermore, on large sites there is significantly more sales risk, as there is greater uncertainty about the strength of market conditions over the life of the development, which is likely to include a market downturn. Such uncertainty both in terms of cost and timings increases the risk profile and therefore the rate of return required by those financing the project.

3.3. Potential for additional land value capture

This left 7% of land value uplift uncaptured. Given the uncertainties in this top down analysis (potentially magnified through the process of calculating a minor residual proportion) and the necessity to not disincentivise land, planning and development activity, we concluded at the time that:

- there could be additional land value that could be captured via developer contributions,
- policies would need to be introduced in a way that avoids disincentivising landowners bringing forward land at scale,
- it would take time for any new policy measures to work their way through the planning system, to influence landowners' perceptions of land value.

However, changing market conditions since our previous analysis have led to significantly reduced potential for additional land value capture. Firstly, housebuilding activity has fallen since 2018/19 by between 28% (based on the number of planning consents granted) and 33% (based on the number of housing starts recorded by NHBC) Consequently, the total amount of land value uplift generated by residential development has fallen, reducing the amount of potential uncaptured value.

Secondly, the cost of construction has taken a larger proportion of the gross development value. Since the peak of the market in September 2022, house prices have fallen by -1.7% according to the Nationwide Index. Build costs, measured by the BCIS All-In Tender Price Index, have risen by 7.0% over the same period, and further increased cost is expected with the introduction of the Future Homes Standard, which is estimated to add £5,000-£6,000 in build cost per home.[4]

As a consequence of increased developer costs that cannot be offset by house price growth, greenfield land values have already fallen by 7.6% since September 2022 according to the Savills Development Land Index. With land owners already seeing lower returns than two years ago, the potential to increase land value capture without disincentivising activity has become more limited. We now estimate that the amount of uncaptured land value uplift that could be realised without affecting land supply is in the range of £0.3-£0.5bn.

3.4. Regional variation

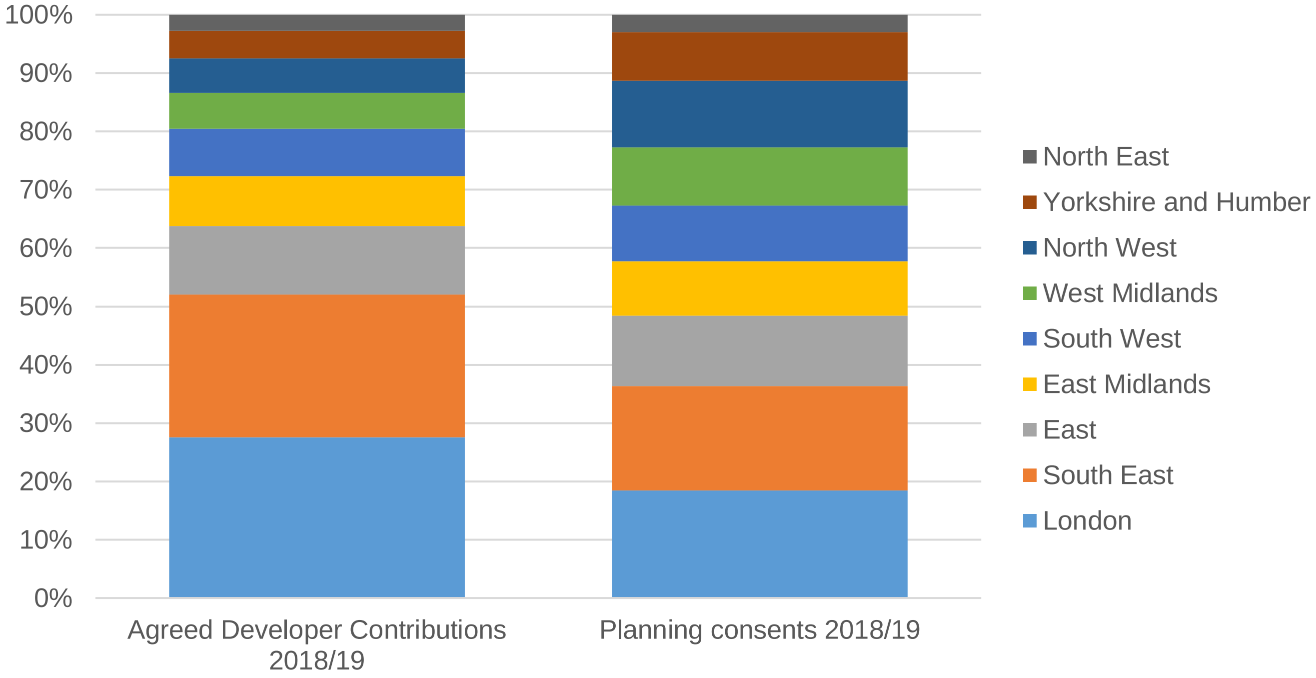
There will be significant geographic variation in the potential to increase land value capture, depending on the strength of local housing markets, and the level of land supply in different areas. In 2012, Savills calculated that delivering 30% affordable housing alongside at least £3,000 per plot in CIL and S106 was viable in only 38% of English local authorities outside London.[5] The proportion of markets in which this is viable has increased since then, supported by house price growth outstripping build cost inflation in the 2010's, but there is still a large range in the amount of land value uplift between geographies and across different site types.

Comparing the distribution of agreed developer contributions in 2018/19 with the number of full planning consents granted in the same period demonstrates the variation in potential for land value capture. London and the South East account for 53% of all developer contributions in England, despite only delivering 36% of the development pipeline. Conversely, 12% of planning consents were granted in the North West, but the region only provides 6% of developer contributions. These figures reflect the lower uplift from existing use land value in weaker housing markets, further demonstrating the issue with setting national benchmark land value.

[4] https://housingforum.org.uk/wp-content/uploads/2024/09/The-Cost-of-Building-a-House-Housing-Forum-Sept-2024.pdf

[5] https://pdf.euro.savills.co.uk/residential---other/cil-report-2014.pdf

Figure 4: Distribution of agreed developer contributions and planning consents by region, 2018/19

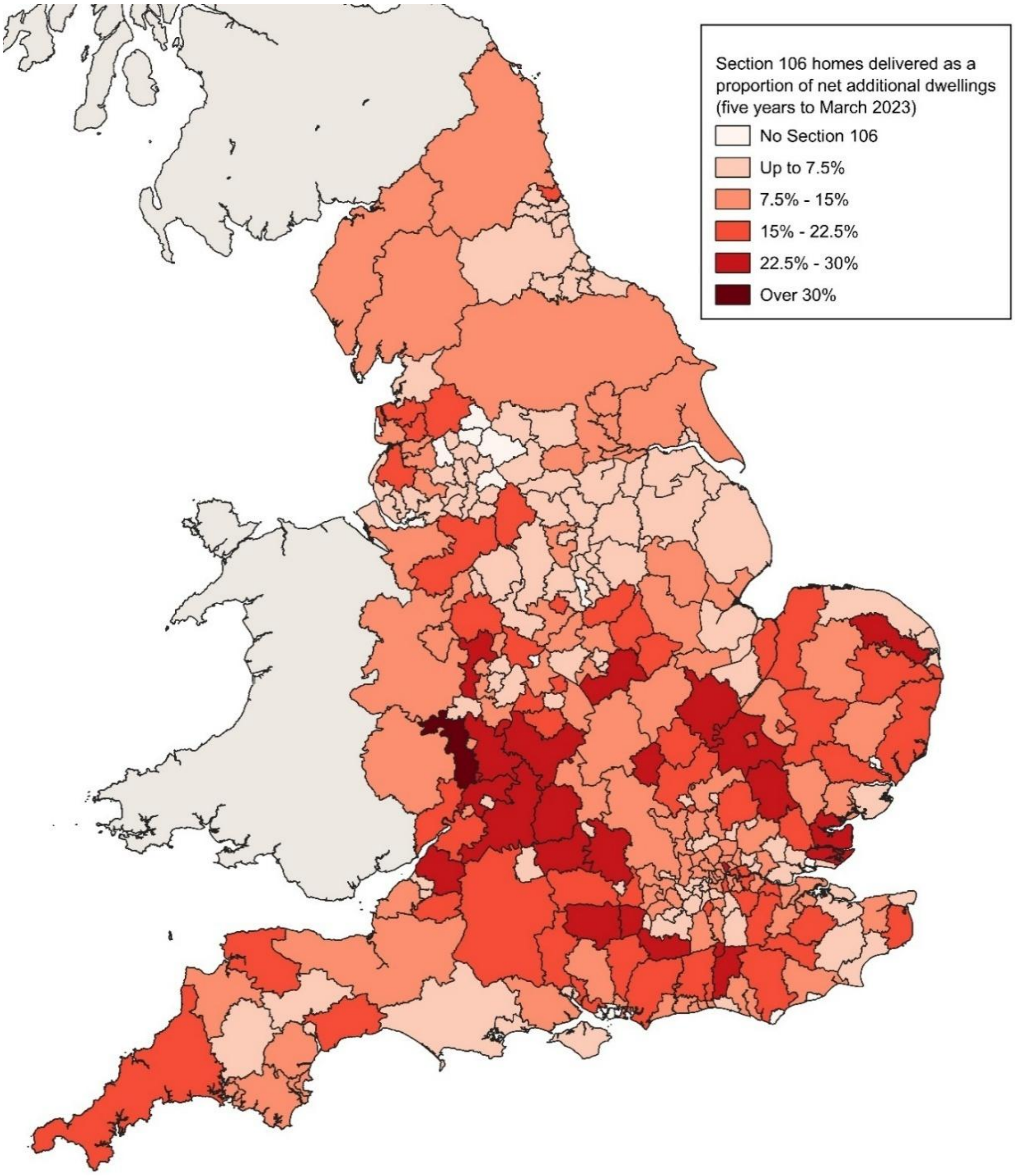


Source: LSE for MHCLG, HBF Pipeline Report

This pattern broadly holds for delivery of S106 affordable homes[6]. Over the past five years, almost 56,000 Section 106 homes have been delivered across London and the South East. This amounts to over 11% of net additional dwellings delivered in London, and over 15% of those delivered across the South East. For areas further North, where development viability is more challenging, Section 106 delivers far less affordable housing, making up a much smaller share of total home completions at a regional level. Over the past five years, just over 2,800 new homes in the North East have been delivered via Section 106, accounting for just 6.5% of total delivery.

6 https://pdf.euro.savills.co.uk/uk/residential---other/the-challenges-of-unlocking-section-106-delivery---july-2024..pdf

Figure 5: S106 delivery as a proportion of net additional dwellings



Source: MHCLG

Research carried out in 2023 to inform plans for the proposed Infrastructure Levy also identified that there is less potential for land value capture on brownfield schemes compared to greenfield sites.[7] Brownfield settings are more limited due to:

- these types of sites typically having higher existing use values from previous or existing commercial activities.

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7 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1144482/Exploring_the_potential_effects_of_the_proposed_Infrastructure_Levy.pdf

- greater complexity of site remediation and higher build cost compared to greenfield development.
- urban flatted development tending to have more internal common areas, meaning that a greater floor area needs to be constructed than can be sold.

The limited potential for high levels of land value capture on more complex sites can be seen in the London development market, which is dominated by higher density schemes on land that often requires significant remediation. A combination of market conditions and a shifting policy environment has led to a reduction in activity across every stage of the development and planning process. Developers have struggled to balance the higher requirements for affordable housing delivery introduced through the 2017 SPG on Affordable Housing and Viability with increased build costs, greater regulation for building and fire safety which has added further cost and higher environmental regulation. Between Q3 2017 when the SPG was first published, and the end of 2024, private starts on site fell by 61% according to Molior, and starts on new affordable homes reduced by 87%.

The Infrastructure Levy research modelling also indicates more limited potential for additional developer contributions on strategic urban extensions than on other sites in greenfield settings, because of the higher costs of providing new infrastructure on these sites.

4. Risks of increasing land value capture

4.1. Land market distortion

Any attempt to implement alternative land value capture mechanisms would need to be sensitive to the significant variation across markets, and not apply blanket rules across the whole country. For example, if a nationally-set benchmark land value were to be introduced as proposed in the 2024 NPPF revisions, in lower value areas land owners could be incentivised to release sites, but there is a risk delivery of affordable housing or other developer contributions would be unviable. In higher value areas, a nationally set benchmark that is too low could remove the incentive to bring land forward for residential development at all, damaging housing delivery in areas where there is the greatest need for new homes.

This effect was seen in previous attempts to introduce nationally set changes to land value capture through the introduction of the 1947 Development Charge, the Betterment Levy in 1967, and the Development Land Tax of 1976, all of which were quickly reversed as willing vendors of land disappeared from the market, and development land values rose as a result of the scarcity of supply.[8] A similar impact today would substantially distract from the Government's target of delivering 1.5 million new homes by the end of this Parliament, particularly as land supply has already fallen sharply from 2019, and the current annual volume of sites coming through the planning system is around 50% below the level needed to reach 300,000 net additions per year.

Instead the path to capturing additional developer contributions relies on planning policy continuing to evolve towards alignment of landowner expectations with policy compliant land values, with reference to local market conditions, at an early stage in the Local Plan process. Given the current time to update and adopt new Local Plans (an average of 7 years, according to MHCLG), this would take at least a decade to take effect across the country.

4.2. Compliance with ECHR

It has been suggested by some commentators that reform of the Land and Compensation Act 1961, to remove hope value from the price paid for land at Compulsory Purchase, would achieve this aim. Practice in other European countries is often given as an example of how this could operate in the UK. Any change of UK practice would need to comply with the European Convention on Human Rights (ECHR), which permits expropriation of private property by the state (with payment of compensation) when it is in the public interest to do so[9].

Work completed by the Scottish Land Commission[10], supported by academic review of European systems and previous UK policies[2,4], concludes that "*It is … essential that any new mechanism or approach is regarded as fair by all parties and has wide-spread political support. To be regarded as fair any new mechanism will need to ensure that landowners whose land is acquired through compulsory purchase receive equivalent compensation to landowners who sell their land on the open market. Simply introducing new rules to exclude hope value from compensation arrangements without addressing this issue is likely to be regarded as very unfair and could breach the protections provided by the ECHR.*"

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[8] Crook, Capturing Development Value Through de jure National Taxation: The English Experience, 2016

[9] https://www.landcommission.gov.scot/downloads/5dd6a28747529_Historic-Approaches-to-Land-Value-Capture-in-the-UK-Final-report-9Apr18.pdf

[10] https://www.landcommission.gov.scot/downloads/5dd687d6d2d6f_Initial-advice-from-the-SLC-to-the-Scottish-Government-on-land-value-uplift-capture.pdf

The SLC work also observes that the ability of public sector bodies to acquire land at [or closer to] existing use value "rests in deep-seated differences between the Scottish planning system and the Dutch/German systems that mean that market value in these countries is closer to existing use value". A key theme from elements of past practice in the Netherlands is that the land price and/or developer contribution are agreed at market value, but at the point at which a land use plan is agreed, so that there is a negotiation between the state and landowner.

This is similar to the increasingly common practice in England, whereby local planning authorities select sites to allocate in their Local Plan from a long list, requiring landowners to demonstrate that their sites are deliverable with policy compliance, including developer contribution policy. This allows expectations of land value to be aligned at an early stage, with an element of competition amongst landowners, within the wider context of the most sustainable locations for development. This competitive element mirrors some of the competitive features of Community Land Auctions, while retaining the existing planning structures that assess the sustainability of development.

Any attempt to remove hope value from the price paid at Compulsory Purchase would almost certainly be challenged for compliance with the ECHR. The SLC work observes that "*History has shown that poorly designed solutions tend to provoke conflict and resistance, reduce the availability of land for development and ultimately limit the supply of new homes*".

4.3. Absorption of Section 106 affordable housing

It has been proposed that increased land value capture could be achieved by requiring higher levels of affordable housing, particularly on sites released from the Green Belt. The updated 2024 NPPF outlined an expectation for green belt sites to provide at least 15% above the highest existing affordable housing requirement in local policies or 50% affordable housing if the local planning authority has no existing affordable housing policy.

Leaving aside the question of whether this would be viable in all markets, this may not be an effective route for land value capture given current Registered Provider (RP) finances. Demand for Section 106 homes has dropped sharply, primarily driven by severely constrained financial capacity amongst RPs and a renewed emphasis on investment in existing stock. Savills research in 2024 found that over half of RPs had reduced their requirements for new S106 stock, and almost 70% of RPs anticipated that financial capacity would constrain them for more than two years.[11]

This creates two problems; a lack of market capacity to absorb new affordable homes, and this risk that the wider development pipeline is constrained as developers are unable to secure finance, move on to future phases if affordable homes are unoccupied, or even complete land deals without a S106 partner in place. The HBF has recently estimated that over 17,000 S106 affordable homes are uncontracted to an RP, which has resulted in work stalling on over 140 sites. Imposing higher requirements for S106 delivery of affordable homes without ensuring there is capacity for the affordable sector to absorb more new homes would have the potential to significantly disrupt wider housing delivery.

[11] https://pdf.euro.savills.co.uk/uk/residential---other/the-challenges-of-unlocking-section-106-delivery---july-2024..pdf

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