

The challenges of unlocking Section 106 delivery



The challenges of Section 106 delivery

Demand for Section 106 homes has dropped off sharply, primarily driven by severely constrained financial capacity amongst Registered Providers and a renewed emphasis on investment in existing stock. Not only does this impact affordable housing delivery but also has the potential to significantly disrupt wider housing delivery. Urgent resolution is required to prevent a more prolonged impact on housing supply.

Section 106 has been the single largest method of delivering affordable homes since 2015-16 and also accounts for a significant share of total new home delivery. Without Section 106, the development pipeline is at risk of shrinking considerably. The impact will not be felt uniformly across the country and will have a disproportionate impact on local authorities which make the greatest contribution to overall new home delivery.

As Registered Providers are scaling back development more generally, Section 106 delivery is set to see the biggest reduction, with providers either no longer intending to acquire Section 106 or reducing their requirements. There does remain some appetite but from a limited pool of providers.

Larger Registered Providers are prioritising other routes to development, mainly land-led grant funded development, where they can have greater influence over design and the type of homes built. Grant funded

delivery is expected to contribute over half of the future development pipeline for affordable housing over the next five years.

Restoring the financial capacity of Registered Providers is key. But is unlikely to be a short term fix. Substantial long term support around future social housing rents and grant levels for new and existing homes will be required.

In the short term, there is an urgent need for planning flexibility that enables housebuilding to keep going, even if that has a short term impact on affordable housing supply. The new Government will need to make interventions that are simple, targeted and fast.

Given the limited pool of buyers for Section 106, Registered Providers have become much more selective on which opportunities they pursue. There is a clear mismatch between what developers are building and what Registered Providers as regulated landlords are looking to buy, whether that's the type and specification of new homes, build standards or sustainability credentials. A more collaborative approach, with Registered Providers engaged earlier in planning and development, would provide greater assurances around stock quality.

Contents

4-7 Our survey says...

Results from our survey and conversations with Housing Associations and For Profit Registered Providers

8-9 A key delivery route

The role of Section 106 in affordable housing supply and wider housing delivery

10-11 Removing roadblocks

Potential solutions to encourage demand for Section 106



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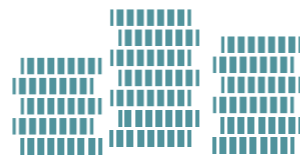
Our survey says...

Our survey of developing Housing Associations revealed scaled back requirements for Section 106. This is driven primarily by a lack of financial capacity and a focus on delivering grant funded commitments. Underlying concerns around build standards and sustainability features of Section 106 homes have also gained prominence.

Here are five key takeaways from our survey of developing Housing Associations:



1 53% of Housing Associations no longer intend to acquire Section 106 homes or are reducing their requirements.



2 75% of Housing Associations reported that financial capacity had impacted appetite for Section 106 homes.



3 67% of Housing Associations reported that financial capacity will remain a challenge for at least the next two to five years or even longer.



4 A significant fall in the cost of debt alongside a long term rent settlement would provide Housing Associations with greater certainty to return to the Section 106 market.

5 Enhanced sustainability and energy efficiency standards were ranked as the second most important element developers could improve to encourage Housing Associations to return to buying Section 106 homes.



Behind the survey scenes

We surveyed the top 50 developing Housing Associations identified by Inside Housing, to understand how much appetite for Section 106 has reduced and the main drivers of the current lack of demand. 30 out of the top 50 developing Housing Associations responded to the survey between 15th May and 10th June 2024. We also had a number of conversations with Housing Associations and For Profit Registered Providers across the country.

A declining market for Section 106

Housing Associations face a perfect storm of mounting pressures from severely constrained financial capacity, higher costs of finance, rising building costs and commitments to remediate existing stock to meet building safety and decarbonisation requirements, all of which have reduced sector capacity to finance and develop new affordable homes. The biggest drop off in new affordable housing delivery will be through the scaling back of Section 106 acquisitions.

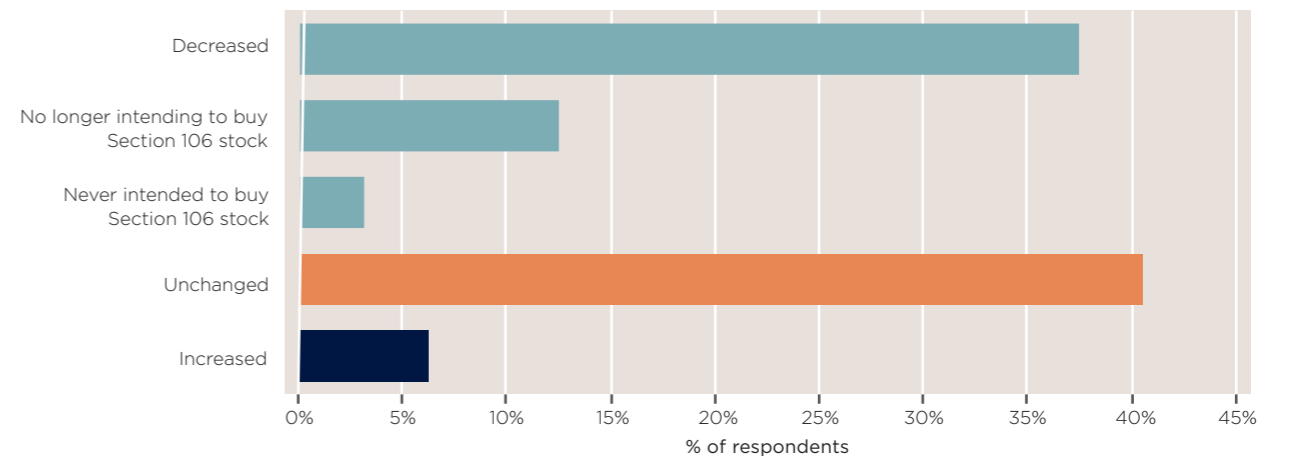
Just over half of Housing Associations surveyed (53%) reported that they were either no longer intending to acquire Section 106 homes or had reduced their requirements for them. In contrast, 6% of Housing Associations surveyed reported increased requirements for Section 106 homes. With providers scaling back their requirements in general, the market for Section 106 homes has diminished significantly. There does remain some appetite, but notably from a limited pool of providers.

Alongside a wider step back from development, the pattern of future affordable housing delivery is expected to shift. Housing Associations have other routes to development where they have greater control and ability to influence the design of homes than through Section 106.

Over the next five years, grant funded delivery is expected to contribute to over half of affordable housing delivery (53%) as providers focus on grant funded commitments, including through Strategic Partnerships. This is a considerable increase on the previous five years where grant funding has accounted for 36% of new affordable housing supply. This helps Housing Associations mitigate development risk and meet Affordable Homes Programme targets in which nil grant Section 106 homes do not count.

Almost a third (29%) of future affordable housing supply is expected to be comprised of nil or part grant Section 106 delivery. This is a significant reduction when compared to the last five years, where developer contributions have accounted for 51% of affordable housing supply in England.

FIGURE 1: HOW HAVE YOUR ORGANISATION'S REQUIREMENTS FOR ACQUIRING SECTION 106 STOCK CHANGED IN THE LAST TWO YEARS?

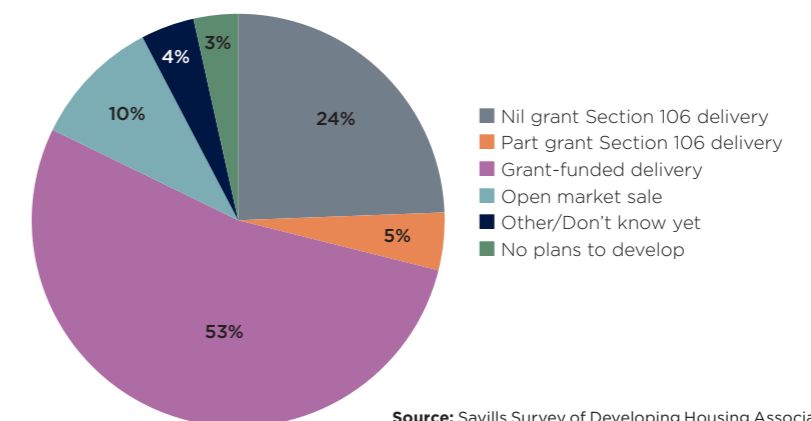


Source: Savills Survey of Developing Housing Associations

FIGURE 2: WHAT PERCENTAGE OF YOUR ORGANISATION'S TOTAL NEW HOMES DELIVERY OVER THE NEXT FIVE YEARS WILL FALL INTO THE BELOW CATEGORIES?



29% of future affordable housing supply is expected to comprise of nil or part grant Section 106 delivery



Source: Savills Survey of Developing Housing Associations



Only **8%** of Housing Associations expect financial capacity to improve in the next year.

Strapped for cash

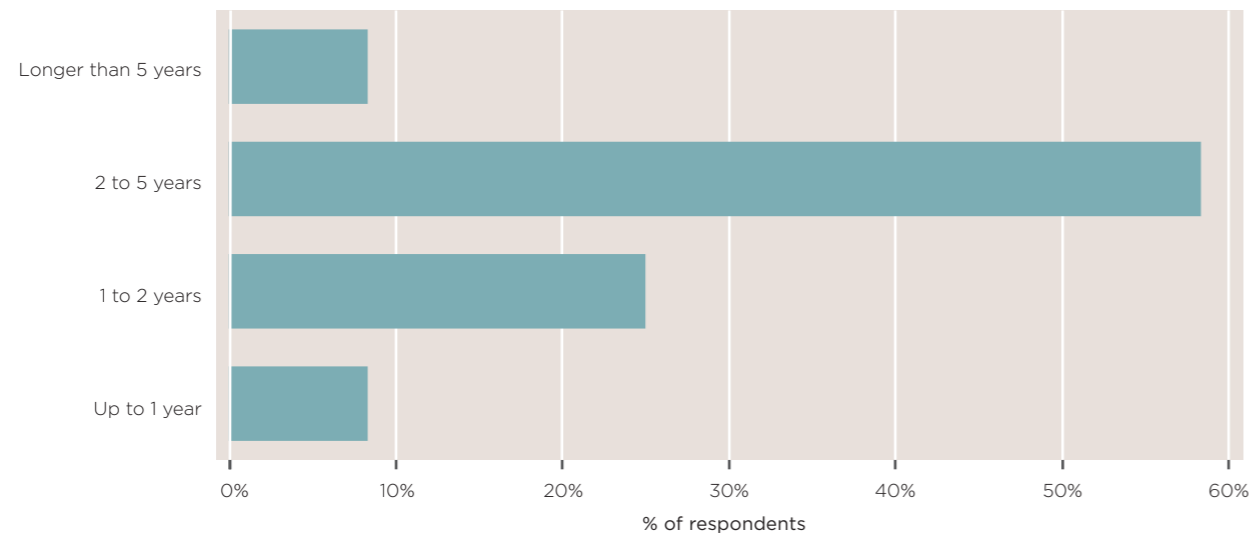
75% of Housing Associations surveyed reported that financial capacity has affected appetite to buy Section 106 stock. In London, this increased to 100%, underlining the challenges of high rise buildings within existing stock, related to building and fire safety.

Whilst finances amongst Housing Associations have deteriorated, the need to invest in existing stock has grown. Housing Associations have had to allocate both operational and financial capacity towards upgrading existing stock. Major repairs and maintenance expenditure rose to £7.7 billion in 2023, marking a 43% increase on the previous two

years, according to the Regulator of Social Housing 2023 Global Accounts. And providers are forecasting further increases in spending to maintain their current stock, rising to £9 billion per year over the next five years. A significant increase in the cost of debt over the last couple of years has also contributed to severely constrained financial capacity.

Improving sector financial capacity is unlikely to be a short term fix. 67% of Housing Associations surveyed expect financial capacity to remain a fundamental barrier for at least the next two to five years and even beyond that in some instances. Only 8% of Housing Associations expect financial capacity to improve in the next year.

FIGURE 3: HOW LONG IS FINANCIAL CAPACITY LIKELY TO REMAIN A BARRIER TO INVESTMENT IN SECTION 106 STOCK?



Source: Savills Survey of Developing Housing Associations



A need for greater policy certainty

Beyond addressing pricing levels and improving build standards, a significant fall in the cost of debt alongside a long term rent settlement at CPI + 1% were cited as the

most important factors to encourage more demand for Section 106 homes. Both would contribute to improving sector financial capacity and provide greater certainty around future rental income.

FIGURE 4: RANKING OF SOLUTIONS TO SECTION 106 DEMAND



- 1 A greater than 100bps fall in the cost of debt
- 2 A long-term rent settlement at CPI + 1%
- 3 100bps fall in the cost of debt
- 4 Grant funding for Section 106
- 5 Tenure flexibility within Section 106 agreements
- 6 Greater flexibility in payment terms
- 7 Improved or expanded debt guarantees

Source: Savills Survey of Developing Housing Associations

Shining the spotlight on standards

In the current market where Housing Associations haven't been buying as much Section 106 housing, underlying concerns around build standards and the type of Section 106 homes have gained greater prominence. Given the lack of active players, Housing Associations are now in a position to be more selective around the housebuilders that they work with, and the type and specification of homes that they purchase. These issues have gained greater prominence whilst the level of demand for Section 106 from Registered Providers is reduced.

We asked Housing Associations what developers could do to encourage more demand for Section 106. An adjustment in pricing levels was ranked as the most significant factor in encouraging a return in appetite for Section 106 housing, indicating a mismatch in value expectations between developers and Housing Associations.

This was followed by higher build standards for Section 106 homes, with enhanced sustainability and energy efficiency credentials being most important. Generally, developers build Section 106 homes to meet regulations around building safety,

space standards and energy efficiency. But many providers are looking to futureproof their pipelines in anticipation of changes to building regulation. Therefore, in many cases, they are looking to acquire Section 106 homes that exceed current standards to avoid additional costs to upgrade and retrofit these homes in the future. For example, some providers are looking for enhanced sustainability credentials on homes such as air source heat pumps. Housing Associations have also noted issues relating to property size and proportions. Bedrooms in new build homes are only large enough for one person but to comply with space standards in the Housing Act 1985, these bedrooms may need to accommodate two people.

Quality of customer service, namely the speed at which snagging issues and defects are addressed and resolved has also become increasingly important and is causing providers to be more selective over who they will work with. Housing Associations are looking to acquire new stock for the long term and, as regulated landlords, have a responsibility to provide a decent home for their tenants. The Regulator's emphasis on consumer standards has brought these concerns into sharp focus.

FIGURE 5: RANKING OF DEVELOPER-LED SOLUTIONS TO SECTION 106 DEMAND

- 1 Lower price for homes
- 2 Higher sustainability and energy efficiency standards for homes
- 3 Improved build quality for homes
- 4 Better design of space within Section 106 stock
- 5 Improvement in payment terms
- 6 Larger lot sizes (aggregating smaller Section 106 packages across sites)



Source: Savills Survey of Developing Housing Associations

A key delivery route

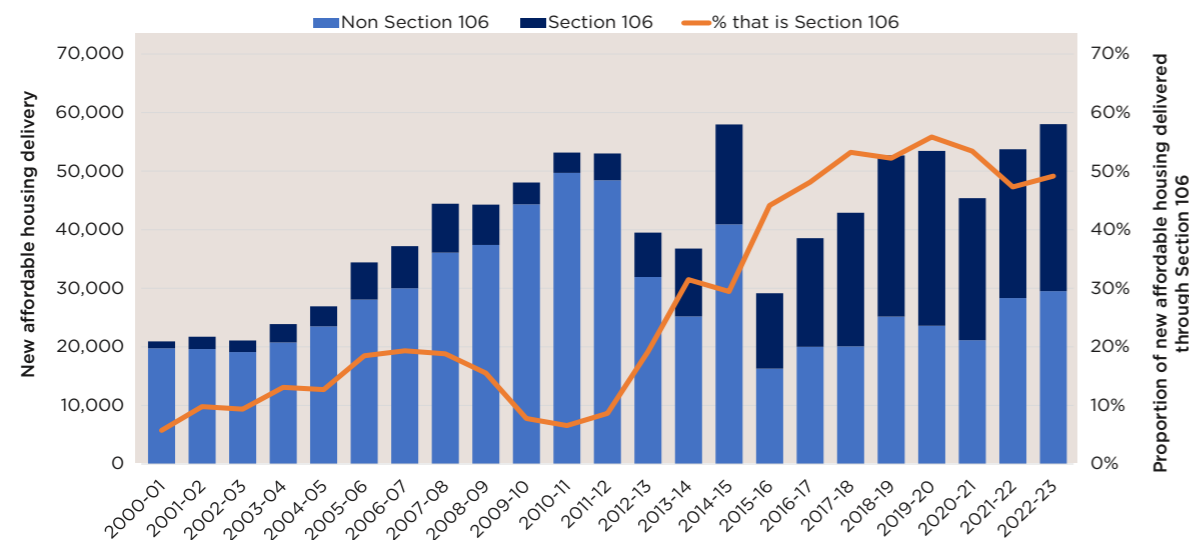
Section 106 housing has been the single largest method of delivering affordable homes in recent years and also accounts for an important share of total new home delivery

A scarcity of buyers for Section 106 stock has bigger implications than just a drop in affordable delivery. It has the potential to disrupt wider housebuilding, as it prevents developers progressing on sites with a Section 106 obligation. This is because some planning obligations require affordable homes to be occupied before private homes can be completed and before starting construction on new phases of a scheme. In some instances, private developers are unable to access development finance, progress on site, or even complete a land deal without a Section 106 partner in place.

The scale of the issue

Total new build affordable housing delivery in England reached just over 58,000 homes in the year to March 2023, the highest rate recorded in the past eight years. Section 106 affordable housing delivery contributed just under 50% of all affordable completions in 2022-23, and has been the single largest method of delivering affordable homes in England every year since 2015-16, accounting for at least 40% of affordable supply every year. The majority of homes built through this route do not receive any grant finance, and are instead subsidised by private development activity.

FIGURE 6: PROPORTION OF NEW AFFORDABLE HOUSING THROUGH SECTION 106



Source: MHCLG

Section 106 homes also account for a notable share of total new home delivery. Delivery peaked last year against this metric, with 28,500 homes delivered through Section 106 making up over 12% of net additions to dwelling stock nationally. Without the route to market provided by buyers of Section 106 stock, both affordable and overall housing delivery in England will shrink considerably.

Local authority provision

Local authorities are trying to build in requirements for Section 106 through Local Plans. Based on data covering a third of local authorities, excluding London, the minimum average threshold for homes delivered as Section 106 affordable is c.23%. The London Plan sets a threshold of 35% affordable to progress through the Fast Track Planning route. There are aspirations through Local Plans to continue high volumes of Section 106 delivery – but our survey shows that, without flexibility, there is a risk that

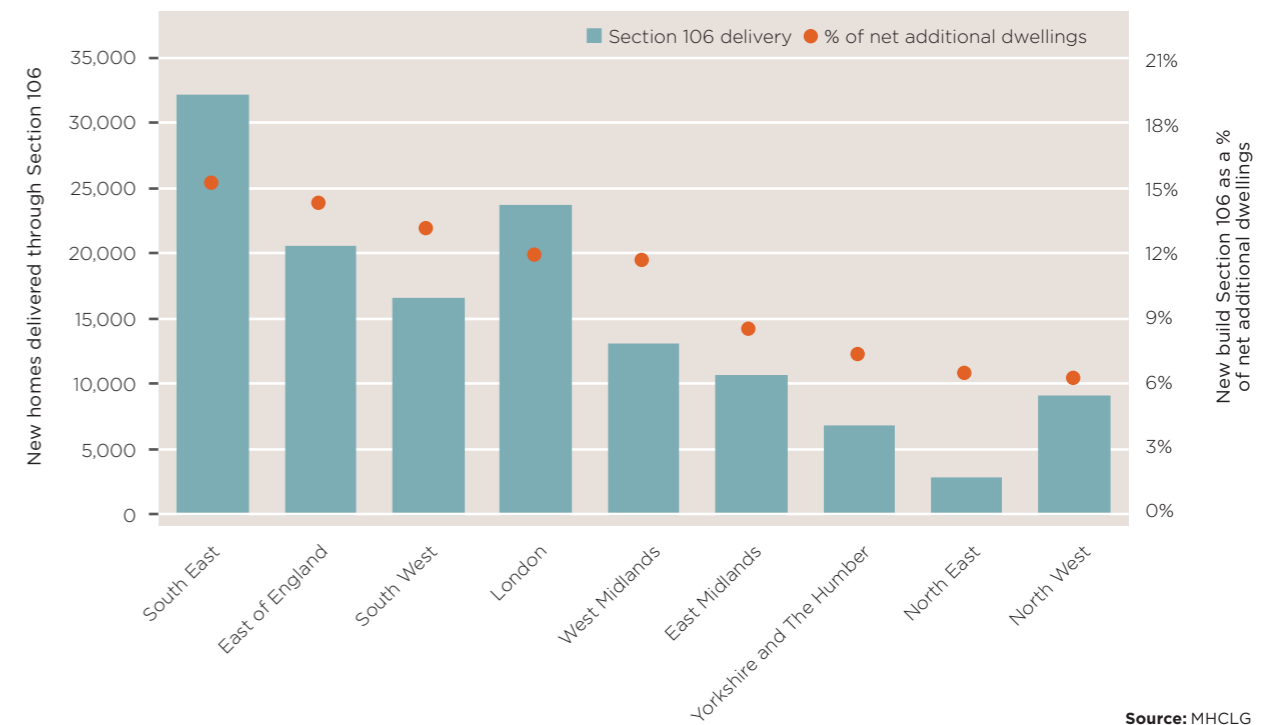
consents granted under these plan requirements won't be deliverable.

Varied levels of risk

The impact on the development pipeline will not be felt uniformly across the country. Regionally, the highest volumes of Section 106 have been built in markets across the south of England. 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 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.

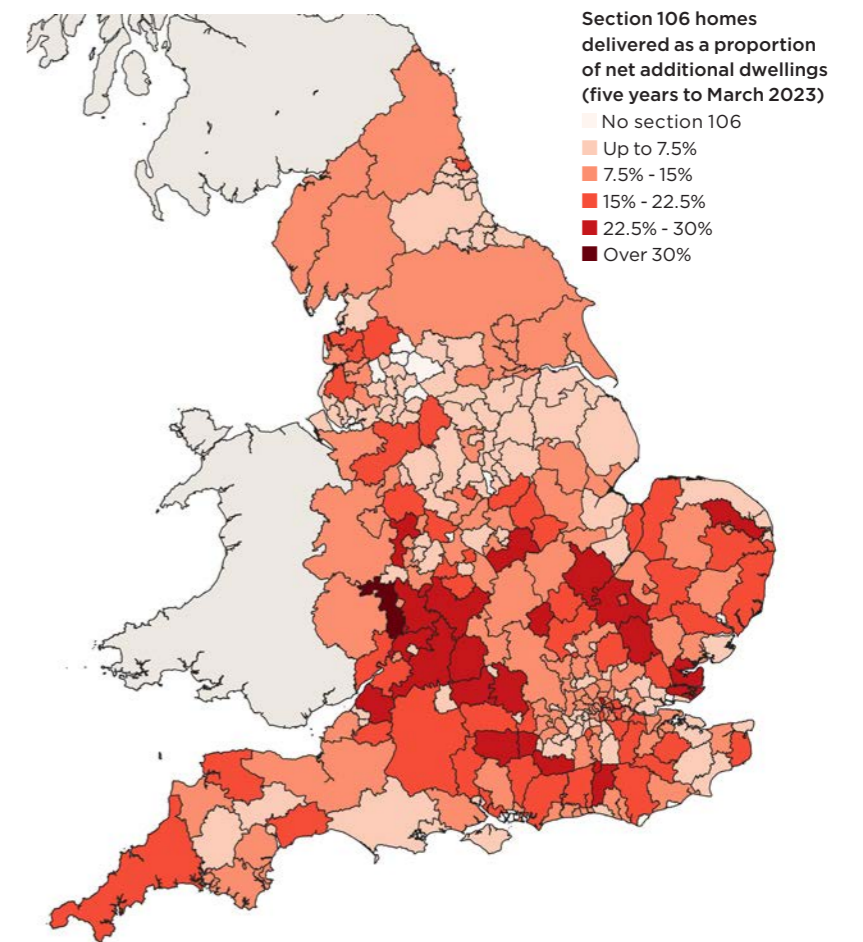
FIGURE 7: REGIONAL DELIVERY OF SECTION 106 HOMES (FIVE YEARS TO MARCH 2023)



Source: MHCLG

Although there are some exceptions, the broad trend is that local authorities that have high levels of Section 106 delivery are the areas that have the highest overall volumes of housebuilding. For areas where Section 106 accounts for more than 20% of delivery, average housebuilding is at a rate of 1.4% of existing stock, well above the England average of 0.9%. By contrast, 15 local authorities that have delivered no Section 106 in the last five years are only increasing their housing stock by an average of 0.5% per year. This suggests that a lack of appetite for Section 106 stock will have a disproportionate impact, with locations that make the greatest contribution to overall housebuilding volumes facing the most disruption.

FIGURE 8: SECTION 106 DELIVERY AS A PROPORTION OF NET ADDITIONAL DWELLINGS (FIVE YEARS TO MARCH 2023)



Source: MHCLG

A top down approach

The current lack of appetite for Section 106 has the potential to impact all stages of the development pipeline. With this issue not likely to resolve itself any time soon, the new Government will need to make interventions that are simple, targeted, and fast. In the short term, there is an urgent need for planning flexibility that enables housebuilding to keep going, even if that has a short term impact on affordable housing supply. This will include greater engagement at a local level alongside national solutions. Otherwise there is the increasing risk of sites being stuck in Section 106 obligations and not being able to progress through the pipeline.

Removing roadblocks

There are no easy answers to the challenges presented, but solutions are needed to keep new homes being built

It is clear that there are some fundamental challenges for the Section 106 market, on both the demand and supply sides. But solutions are needed to secure future affordable housing supply and ensure the current problems do not present a barrier to private development.

The potential solutions can be put into three main categories:

1. Supporting demand;
2. Improving the nature of the supply;
3. Avoiding the problems through planning flexibility.

1. Supporting demand

The long term solution is to restore financial capacity within the Housing Association sector. This should be a key priority for the new Government. It is likely to require substantial and long term commitments on social housing rents and grant funding, both for new homes and investment in existing housing stock.

Our modelling of sector finances shows that very substantial support is needed to restore capacity to a sufficient level to allow increased investment in new affordable homes. But even if such a package were forthcoming from the new Government, it would take until at least 2027 before Registered Providers were able to increase their investment in Section 106. So this is neither a quick nor an easy fix.

Housing Association development activity is currently focussed on delivering the grant funded development programme from Homes England and the Greater London Authority including Strategic Partnerships. Section 106 homes do not count towards those programme numbers. Greater flexibility from both agencies in allowing some grant funding to support Section 106 acquisition may be helpful

in supporting demand in the short term. New flexibility on this from the Greater London Authority has already had some impact via the Accelerated Funding Route introduced in February 2024, but the need for additional capital investment from Registered Providers remains, which mitigates its impact.

An alternative short term solution would be for Homes England and the Greater London Authority to support the acquisition of Section 106 homes in a way that removes the capital investment needed from Registered Providers.

A structure could be created whereby Homes England and the Greater London Authority acquire Section 106 affordable housing and hold it for a period, with a view to selling it to local authorities and Housing Associations when financial capacity allows. The structure would mitigate the need for local authorities or Housing Associations to commit capital to acquiring Section 106. It would also require a Registered Provider to be the landlord of social housing tenants.

There are a number of options, including leasing arrangements or interest-free loans, which could achieve this. But they all require additional investment from the public sector.

2. Improving the nature of the supply

The need for Registered Providers to prioritise their investment activity has revealed the shortcomings of Section 106 supply and concerns around build standards. Customer satisfaction is another key concern, mainly the speed at which developers respond to defects and snagging issues. These are not new problems and don't affect all providers, but they have gained greater prominence in the current market given the selectiveness of the limited pool of active buyers for Section 106. It highlights the mismatch between the homes acceptable to individual buyers compared to those that regulated landlords (with a responsibility to provide quality homes for their tenants in the long term) want in their portfolios.

Registered Providers are attempting to model the need for homes to be zero-carbon within their 30 year business plans. Private housing delivery in line with building regulations, even if it does include measures that move it towards compliance with the anticipated Future Homes Standard, is not at this level. "We'll be back in there retrofitting within 10 years" was

how one Housing Association chief executive put it.

While private development could be brought up to the standards that Registered Providers expect to be required in future, this brings with it higher build costs. There is limited evidence of a 'green premium' for new home sales, with most buyers heavily constrained by affordability, so there is an inevitable impact on scheme viability.

Energy efficiency is not the only issue cited. Design of space and the sizes of homes were raised by a number of organisations as problems with Section 106 homes. While only part of the picture, these issues may be easier for developers to address.

Several respondents called for a more collaborative approach, seeking to be viewed more as partners, with greater consultation around design at much earlier stages of planning and development, as an integral part of the process. This would allow Registered Providers more opportunities to influence the design of homes therefore providing assurances around the homes built alongside shaping the quality of place of the wider site.



🗨️ Solutions are needed to secure future affordable housing supply and ensure the current problems do not present a barrier to private development 🗨️

3. Planning flexibility

There is a clear and urgent need for local planning authorities to work collaboratively with developers to ease barriers to housing supply. Detail around how Section 106 homes are delivered will be central to this. Current agreements are rigid, especially around the nature and timing of affordable housing delivery, with restrictions on starting new phases or occupying private homes if the affordable housing is not sold to a Registered Provider. Greater flexibility around these issues could help reduce friction and increase the rate of new home delivery.

That flexibility could include cascade mechanisms within Section 106 agreements, so that if the policy compliant mix of tenures is not deliverable because there is no demand from Registered Providers, other options are available to ensure the scheme can be delivered. This could include switching to

tenures where no involvement from a Registered Provider is required, such as Discounted Market Sale (DMS) or Discounted Market Rent (DMR). Payments in lieu towards off-site affordable housing could also be permitted as a last resort, particularly on smaller schemes.

The short term priority must be to stop the lack of demand for Section 106 housing having a bigger and more protracted impact on new home delivery. This can be achieved through planning flexibility. The downside is that it will potentially result in a reduced range of affordable housing tenures, particularly Social and Affordable Rent housing that require a regulated landlord. The upside is reduced disruption to housebuilding more generally, enabling vital new housing to continue being built.



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