



Research report

Cascades: Improving certainty in the delivery of affordable housing for large-scale development?



Executive summary

Acknowledgements

The researchers are most grateful to the local authorities who responded to our initial questionnaire and to all of the interviewees who gave so much of their time in answering our questions.

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This is a joint piece of work undertaken by English Partnerships, the Advisory Team for Large Applications (ATLAS) and the Housing Corporation, and led by English Partnerships' National Consultancy Unit.

The team set out to consider to what extent the use of mechanisms such as cascades, could assist in improving the delivery of Affordable Housing (AH) via planning obligations¹, particularly to achieve greater certainty, clarity and transparency. The Government wants a more responsive house building sector and planning system that can increase the rate of housing delivery. The need for this has been highlighted in Kate Barker's *Review of Housing Supply* (Barker.2004) and the recent Communities and Local Government (CLG) *PPS3: Housing (PPS3)* (CLG.2006a). The protracted negotiation of AH within planning obligations is the most often cited cause of delay to developments that could otherwise make a significant contribution to housing delivery across all tenures.

The research focused on the use of cascades, defined as a mechanism incorporated into planning obligation agreements, setting out options for varying AH provision – quantity, tenure and mix. The report reviewed how cascades can assist in achieving certainty in the delivery of affordable homes and speed up the planning process for large-scale housing developments.

The basic premise is that policy in the Local Plan or Local Development Framework (LDF) should set the local authority (LA) requirements for the AH necessary to meet local housing need, as identified by strategic housing market assessments, including tenure and size of home, whilst also setting out the basis for determining the LA base AH expectations from Section 106 (S.106) developer contributions².

It is important that site specific attributes are considered when determining a development proposal's conformity with broader planning policy and sustainability. In considering AH provision, economic viability is vital to its successful delivery.

As the research progressed, it was decided the report should focus on large-scale developments. It was clear at an early stage that many Local Planning Authorities (LPA) only resorted to the cascade approach for larger, more complex schemes.

¹ Section 106 (1) of the Town and Country Planning Act 1990 provided that planning obligations may be created by deed of agreement between LAs and applicants to restrict the use of land or development, require operations to be carried out on the land or used in a specified way or to require payments to the authority.

² Local Development Documents should also reflect the likely economic viability of land for housing within the area, taking into account risk to delivery and drawing on informed assessments of the likely levels of finance available for affordable housing, including public subsidy and the level of developer contribution that can be reasonably secured. The LDF will have been tested at an Examination in Public to ensure the policy is robust and meets the requirements of PPS1 paragraph 26.

There are several reasons why the flexibility a cascade can offer may be appropriate. Long development periods, with phases spanning several Housing Corporation programmes during which investment priorities and approaches may change, make it difficult to manage the risk that funding may not be secured. A cascade can provide a framework for agreeing the overall quantum and/or mix of tenures subject to variation in scenarios where funding is not provided or is only available for certain phases. Cascades can also address changed housing need and market assessment circumstances during an extended delivery period.

The report examines how cascades can provide options that help speed up negotiation and provide satisfactory outcomes to meet the key concerns of the LA and developer.

The Housing Corporation has acknowledged the need to better align the timing of planning and housing investment decisions in the pre-prospectus for the 2008-2011 NAHP bid round, by introducing more regular market engagement with flexibility to consider bids on a quarterly basis (Housing Corporation, 2007b). For strategic sites identified in regional housing strategies, there is also a potential for public funding commitments to be made to partners on a five year basis.

Notwithstanding this changing context, the need for economic certainty in the delivery of the larger strategic sites will continue to be an issue. For this reason the report concentrates on addressing how decisions on the use of cascades and their detailed provisions can be made part of a more consistent approach to the project management of large-scale developments.

It is important to appreciate that the provision of AH is but one aspect of planning for genuinely sustainable communities. AH considerations need to be built into an overall proactive pre-application process that also considers other community benefits. This report considers the AH negotiations within this context.

There is no one template for a cascade. Rather a variety of circumstances, issues and priorities will build up to a consensus upon which the cascade will be based. However, it should be noted that the Home Builders Federation are investigating other methodologies as set out in their policy paper *Expanding Choice Increasing the Supply of Affordable Housing* (Home Builders Federation, 2007). The report draws on the approach recommended by ATLAS for a project management process framework that assumes early engagement and collaborative working to ensure a more robust outcome for AH delivery on large-scale sites. The following are the main recommendations:

- cascades should be considered as part of the AH negotiation, particularly if the proposal involves a large-scale or complex scheme delivered over a long development period where build-out times go far beyond the normal timescales of housing investment programmes;

- they can be useful in circumstances where a robust case has been made that the developer contribution will not suffice to meet the appropriate level, type and quality of AH required as they provide flexibility in the S.106 Agreement (planning obligation) whilst ensuring the best possible outputs and outcomes are achieved;
- cascades can provide the certainty that the LA desires to meet its commitments and land owners and developers require to confirm acquisition arrangements within the early stages of a large scheme, whilst allowing for the increased flexibility in the later phases where there are more unknowns and therefore risk;
- cascades are appropriate in many situations (not just for large-scale schemes), but not in instances where the AH requirements can be met without public subsidy or where the applicant has assessed the risk that the required funding will be available and has sufficient certainty that it will be forthcoming;
- it is recommended that as part of pre-application discussions, early and meaningful communication and information sharing between the key players takes place, on a confidential basis if necessary, to improve decision-making;
- to guide that collaborative approach, it is essential to have a comprehensive approach to the wider project management of large-scale housing developments;
- the economic viability assessment must clearly identify what can be provided without grant, to form the baseline position;
- the LA must ensure that each option in the cascade is supported by an up-to-date housing market assessment, to provide a robust evidence base that the need and demand exists for the type of housing included; and
- the key principles outlined in Chapter 6 cover areas that should be considered in providing clear instructions for drafting a cascade in a S.106 Agreement drawn from the lessons learned in the case studies.

Glossary of abbreviations

We have identified that further research and/or policy guidance would assist improving delivery of AH through the planning system in the following areas:

1. setting clear benchmarks for assessing affordability of, and demand for, each of the tenures or AH products to be provided, particularly those that address the intermediate market. These will need to take into account local housing markets and influences on the cost of provision. There is already some good practice developing in this area, for instance, the Greater London Authority (GLA) has developed affordability benchmarks that are updated each year³;
2. providing further national guidance on the standards to be adopted for AH given current conflicting approaches where, for non-grant funded affordable provision, developers may be unwilling to meet the Housing Corporation's core standards;
3. improving the skills and expertise of LPA staff to understand and appraise development viability assessments, including guidance on interim arrangements that can be taken to fill any gaps;
4. handling the commercial sensitivities implicit in using an approach which requests the provision of scheme financial information to the planning authority on a confidential basis, and providing guidance on the need for and appointment of independent assessors; and
5. resourcing and managing the monitoring requirements implicit in achieving the S.106 AH provision, which becomes even more vital once a cascade with key milestones or 'triggers' is introduced.

The research team note that the report is a work in progress. Planning and housing investment policy continues to respond to issues arising in its application. Many of our case studies are now historic, having been negotiated long before the latest national planning policy guidance in *PPS3* (CLG.2006a) and the accompanying policy document *Delivering Affordable Housing* (CLG.2006b). For this reason, although attention has been drawn to the different ways cascades have been used in our evidence base, the report does not necessarily recommend these approaches as good practice, but they have informed our advice in Chapters 5 and 6.

The recommendations note where further research might assist development of good practice in the broader planning and housing agenda. It is hoped that as thinking continues to develop, more sophisticated responses will continue to inform developing policy guidance.

ATLAS	Advisory Team for Large Applications
AHP	Affordable Housing Provider
AH	Affordable Housing
BPF	British Property Federation
CLG	Communities and Local Government
DC	District Council
DCLG	Department for Communities and Local Government
DPD	Development Plan Document
GLA	Greater London Authority
HA	Housing Association
HNS	Housing Needs Strategy
IT	Intermediate Tenure
LA	Local Authority
LCH	Low Cost Housing
LCHO	Low Cost Home Ownership
LCMH	Low Cost Market Housing
LDF	Local Development Framework
LPA	Local Planning Authority
MDA	Major Development Area
NAHP	National Affordable Housing Programme
NPV	Net Present Value
ODPM	Office of the Deputy Prime Minister
OPP	Outline Planning Permission
PGS	Planning-gain Supplement
PPA	Planning Performance Agreement
PPS	Planning Policy Statement
RHS	Regional Housing Strategy
RSL	Registered Social Landlord
S.106	Section 106 of the Town and Country Planning Act 1990
SDS	Scheme Development Standards
SHG	Social Housing Grant
SPD	Supplementary Planning Document
SPG	Supplementary Planning Guidance
S/O	Shared Ownership
SR	Social Rented
UDP	Unitary Development Plan
WEP	West of England Partnership

³ The London Plan Annual Monitoring Report (Mayor of London, 2007-60), sets out the requirement for social rent and intermediate housing with reference to income ranges and affordability criteria for the latter.

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Introduction

The delivery of AH is a critical issue in many parts of the country where the housing market has created conditions that make it difficult for many to access a home they can afford.

The crucial role the planning system plays, and the specific outcomes it should deliver in support of the Government's housing policy objectives, in particular for AH provision, was confirmed in November 2006 with the publication of *PPS3* (CLG.2006a), which requires LAs to set out their approach to seeking developer contributions for AH. Planning authorities, however, have been using planning obligations/S.106 Agreements for over 15 years to ensure that developers address AH needs within their schemes with varied results.

The policy document, *Delivering Affordable Housing* that accompanied *PPS3*, noted that Government has addressed the increasing need for AH by providing more public investment in recent years and by introducing a number of new grant funded products. It acknowledged that there has also been much innovation from the financial community and developers but noted that:

"there is also scope for achieving development without grant, by effective use of developer contributions through planning obligations (sometimes known as S.106 Agreements)" (CLG.2006b:2).

It stressed:

*"The Government strongly encourages **the best possible use of planning obligations and other tools** to improve delivery, and would like to see all local authorities meet the standards of the best performers"* (CLG.2006b:2).

This report is a joint piece of work undertaken by English Partnerships, the Advisory Team for Large Applications (ATLAS) and the Housing Corporation, and led by English Partnerships' National Consultancy Unit. It is based on research which specifically examined the use of cascade agreements in England in order to understand how such 'tools' might achieve flexibility which would allow planning applications to be determined in circumstances where certain aspects of the financial viability cannot be finalised. This mainly occurs where a robust case has been made that public subsidy is required to supplement the developer contribution in order to meet the AH targets set by a LPA within its' planning policy framework.

The Housing Corporation has always sought early strategic dialogue with LAs on forward planning of grant investment, however within a two year investment bid cycle, it has been difficult to confirm investment decisions at the same time that planning obligations are being negotiated. Hence, divergence in timing of planning determination and housing investment decisions has often meant that funding cannot be assured. There is an added complication for larger applications where funding is likely to span several Housing Corporation investment programmes. S.106 Agreements therefore have to accommodate

circumstances where there is no certainty of future funding, or, if there is an agreement in principle to fund, the precise levels of grant and timescales for delivery have yet to be finalised.

It is often the case that such uncertainty in regard to the availability and level of the public subsidy needed to supplement the developer contribution presents an unacceptable risk to the developer and/or AH provider.

It is not surprising therefore that many respondents to HM Treasury's 2005 consultation document on the possible introduction of the *Planning-gain Supplement (PGS)* (HM Treasury.2005) raised concerns that the retention of AH contributions within planning obligations could undermine the objectives of speedy negotiations and predictability for developers because of the problems experienced with the current system that particularly affect AH.

AH delivery is certainly more complex than other community benefits LAs seek through S.106 planning obligations. Complexities and differences in practice have arisen through local arrangements that have evolved within the broader planning obligations system – policy has followed practice rather than the reverse⁴. This lack of national guidance has also been accompanied by changing operational guidelines applied by the Housing Corporation in its investment processes.

In the negotiation of planning obligations, the parties involved usually have quite different expectations. This can result in prolonged and often adversarial negotiations for AH provision with neither party appreciating the other's position. Developers are unable to progress their land acquisitions as they cannot predict with certainty the value of the contribution likely to be sought and in some instances the scheme will simply not be delivered. In others the opportunity to achieve the best possible outcome is lost.

The research team wanted to establish in what circumstances cascades had been used; how they had been framed; how they had contributed to achieving the outcomes intended and indeed whether their introduction had any unintended consequences. The research aims to establish the extent to which the use of cascade mechanisms provided certainty, clarity and transparency in delivering AH via planning obligations, their effect on the speed and effectiveness of negotiations and any resulting improvement in the delivery of AH.

During the course of the research it became clear that cascades had been applied more frequently on major developments spanning many years. Large-scale⁵ sites are by their nature complex developments to bring forward and there are always competing needs and issues that shape the proposals, only one of which is AH.

⁴ Nevertheless, parties must have regard to current primary legislation and national planning policy guidance whilst also ensuring compliance with the adopted local plan/LDF.

⁵ For the purposes of this report, the definition of large-scale is taken to be sites providing around 500 housing units, equivalent sized mixed use sites, and/or sites which have a long development period over a number of phases.

It was concluded that clear guidance on the process that might be followed to enable early consideration of the AH element of large developments was required, and that this should also help to establish whether a cascade approach was the best way forward and if so, steer those involved through issues that need to be considered in its formulation as part of a S.106 Agreement.

The proposed process framework and drafting principles (Chapters 5 and 6) are based on what the research team believe has or has not worked well from the evidence of the research and case studies. The report does not recommend that the case studies in Chapter 4 are adopted as good practice as many have since been superseded by later primary legislation and national planning policy guidance (bearing in mind that some negotiations will have commenced over five years ago).

The Housing Corporation has also recently confirmed the policy context for AH provision through the planning system. From 2008, as outlined in the Housing Corporation's latest *National Affordable Housing Programme (NAHP) Pre-prospectus* (Housing Corporation.2007b), more flexibility will be given to grant seekers in the timing of bids for grant, which will allow improved alignment of grant investment decisions within the planning process. Whilst many of the case studies were unable to benefit from the changing policy environment, they have helped inform this report's recommendations.

The findings of the report are set out in the following chapters:

Chapter 2: Research methodology;

Chapter 3: Commentary on the recent circumstances and policies impacting on AH provision, including a summary of the current Housing Corporation response to *PPS3* in the *NAHP Pre-Prospectus*;

Chapter 4: Key findings and evidence of need obtained from questionnaires and individual case study interviews;

Chapter 5: Proposed process for ensuring effective planning decisions and creation of a robust cascade to provide certainty in the delivery of AH for large-scale sites where S.106 is required;

Chapter 6: Key principles for a cascade and S.106 preparation; and

Chapter 7: Conclusions and recommendations.

Research aims and objectives

The aims and objectives of the research were to evaluate the use of cascades in delivering AH, within S.106 Agreements. The research team analysed a number of case studies in order to understand the way AH cascades are working in practice in different LAs. The case study approach allowed the detailed consideration needed to understand the issues in their context and has informed the process framework proposed in Chapter 5.

This report identifies the processes involved in establishing an AH cascade and analyses existing barriers. It seeks to evaluate existing policy and practice in terms of the following research questions:

What are the housing needs and policy circumstances for sites where LAs do or do not use cascades?

The housing needs and policy circumstances in different LAs are investigated. The circumstances influencing the use of cascades or the specific types of cascades being used are considered. The context leading to the introduction of cascades is highlighted to assess whether they are more suitable in some circumstances rather than others.

Are there particular key priorities for different stakeholders?

All parties involved in the development project i.e. the LAs, developers and Registered Social Landlords (RSLs) have their own key priorities. The particular concerns for each party are considered and the extent to which they are complimentary or contradictory is examined.

Which approaches are taken to secure AH targets through S.106 Agreements? How are particular ways of working helped by the introduction of cascades?

The ways in which parties currently engage in the negotiation and the process followed are examined and the causes of any arising conflicts are considered. Stakeholder involvement is investigated to see whether this is taking place at the correct time and whether all the right players are included from the outset.

What are the funding and viability issues in relation to the provision of AH?

The economics of the provision of AH are considered, particularly in relation to whether schemes are viable without grant, or when a case is made for funding, whether there is any uncertainty regarding public funding from various sources.

What are the main outcomes of using cascades?

The extent to which the use of cascades can provide a better outcome was investigated. The process of setting up a cascade was considered along with ways in which this could be improved.

Research methodology

Initially a questionnaire was issued to all LAs in England, (excluding County Councils who have no statutory housing functions). One hundred and sixty-one replies were received which was a response rate of 46 per cent. At this stage the information sought related to the policies pursued by the LAs in relation to AH and the extent to which their policy objectives were being delivered. They were also asked whether they had any experience of using cascades or whether they knew of any other LAs who used cascades.

Once the questionnaires had been analysed, the most interesting cases were shortlisted. These included both LAs who had used cascades, as well as some who prefer not to use cascades. Eighteen different cases were followed up with telephone interviews conducted with LA planning and housing officers to further probe why cascades were not adopted, or if they were the types of cascades being used and the reasoning behind their introduction. The interviewees' perceptions of the strengths and weaknesses of cascades were also sought.

To provide the opportunity for more detailed case studies, a shortlist of seven of the LAs who use cascades was drawn up. In order to obtain more qualitative data and determine individual attitudes, face-to-face interviews were held. These were preferred to using surveys where, although answers to the questions could be obtained, it would not be possible to properly analyse or question the respondents' attitudes. The objective of the interviews was to consider a range of perceptions, experiences and attitudes. The choice of case studies was based on the interest of the studies, willingness of interviewees to participate and the areas in which the potential case studies were located, to provide a geographical spread. The need for AH reflects areas of market pressure, therefore the preponderance of case studies are in the Greater South East and growth areas.

For the case study stage of the research, questions were asked of a variety of stakeholders including LA planning and housing officers and in most instances, the landowner (if the applicant), housebuilder and RSL partner. A number of semi-structured interviews were conducted with individuals in the main stakeholder organisations, including parties who had been involved in negotiating the S.106 as part of the planning application process. The interviews were based on pre-prepared questions, with plenty of scope for more open-ended replies. This was to give the opportunity to ask appropriate follow-up questions and investigate unforeseen information. Through talking to people from many different organisations, a range of perceptions and experiences were gathered. The S.106 Agreements detailing the cascade provisions were also analysed and in-depth interviews conducted with the legal teams responsible for their drafting. Details of the case studies are included at Appendix 1.

The interviews sought to consider the following main themes:

Part I – Context setting

Interviewees were questioned on the nature of the case study site and the area context. The planning/policy background and site details were investigated including the mix of uses, types, tenures and numbers of units.

Part II – Specific uses of cascades

All interviewees were asked about the decision to use cascades, the nature of the cascade(s), funding issues, their development partners and the actual or anticipated outputs.

Additional follow-up interviews were also conducted with members of the West of England Partnership (WEP)⁶ who have a very clear policy that securing AH should not rely on the use of public subsidy. Their matrix approach to setting the AH price provides clear guidance to the land market and sets a benchmark against which the Housing Corporation's value for grant for additional outputs and outcomes can be measured. It was considered that this approach could also provide a very clear mechanism to address uncertainty of funding but only if it allows the identified AH requirements to be met in full.

Views were also sought from the Royal Town Planning Institute (RTPI), the Association of London Government (now London Councils), the Greater London Authority (GLA), The Home Builders Federation (HBF), the British Property Federation (BPF) and the Law Society's Special Planning Law Panel.

Details of the responses received at each stage are shown at Appendix 2.

Limitations of the research

The research started with a questionnaire being sent to all LAs in England. Whilst detailed interviews were held with RSLs and private developers in relation to the individual case studies, the report still has a LA bias in terms of the information received through this stage of the research.

As the report focused on the agencies and institutions responsible for the delivery of the AH programme, it was not appropriate to contact residents. This could, however, be the subject of a future study into AH provision via planning obligations, especially in relation to the suitability of the housing provided for the groups targeted.

The research did not specifically ask questions in relation to the quality or design of units which had been achieved, apart from enquiring whether they met the Housing Corporation's Scheme Development Standards (SDS). The Joseph Rowntree Foundation has already published research into quality and space standards in relation to AH provided through developer contribution, but has not specifically linked these findings to assess the value the introduction of public subsidy might have added or to the use of cascades where funding was not assured (Watson.2006). This is an aspect which could also form the subject of future research.

A further element which was not specifically included in this research was the extent to which stakeholders undertake monitoring to ascertain whether their key objectives have been met, and evaluate how their processes could be improved in the future. It is also important that outputs from the development are monitored, particularly in the case of large-scale applications with long delivery periods where the original aspirations for the scheme may need to be varied. This becomes even more important once a cascade with key milestones or 'triggers' is introduced. The lack of monitoring was raised by Monk et.al. in their report for the Joseph Rowntree Foundation (Monk et.al.2006). This is an important element which the research team stress should be considered and resourced adequately in the process framework.

The research did not specifically look at the Housing Needs Assessments or Housing Market Assessments which had been undertaken in the case study areas and could not therefore draw any conclusions in relation to their robustness.

⁶West of England Partnership – Bristol City Council; South Gloucestershire, North Somerset and Bath and North East Somerset (BANES), Housing Corporation South West Region and partner RSLs.



Changing context and circumstances

AH has been delivered through the planning system for over 15 years. Planning obligations have made an increasingly important contribution and in 2004-05, it is estimated that 46 per cent of all AH delivered on sites supported by Social Housing Grant (SHG) included a developer contribution through S.106.

Experience however is not consistent across the country. There are areas where local housing market conditions have, over time, enabled the formation of sophisticated approaches to planning obligations, whilst in other areas approaches are only just being developed as housing market conditions begin to create affordability issues. The research has also identified a tendency for policy responses to develop as a response to practice.

In carrying out this research the team has also been conscious that the case studies are based on historic situations and that national housing and planning policy has moved on in the intervening period. In addition practice has developed based on the sharing of experiences between LAs and within emerging partnerships, leading to specific policy and practice being adopted on a sub-regional basis.

Some of the key changing circumstances include:

- shifting national planning policy positions and government aspirations. *PPG3*, followed by *PPS3* and the *Sustainable Communities Plan* have increasingly identified the planning system as a means to improve affordability across the housing market, both by increasing the overall supply of housing and specifically by increasing affordable provision;
- Regional Spatial Strategies and LDFs need for soundness based on a robust evidence/information base;
- housing market assessments across broader sub-regional areas to replace housing needs assessments within LA boundaries;
- increased use of Supplementary Planning Guidance (SPG) and subsequently Supplementary Planning Documents (SPD) being prepared by LAs and increased joint working of authorities;
- development of 'nil grant' approaches to AH provision via planning obligations within LA planning policy;
- shifts in the Housing Corporation's operational policy position with emphasis on grant 'adding value' to developer contributions;
- a new realism amongst landowners/developers and acceptance of the need to have AH provided as part of development proposals;
- higher percentages of AH being sought and secured by LAs;
- greater use/consideration of viability modelling/assessment and requirements for scheme financial information;
- high standards of design and quality confirmed in *PPS3* and by the Housing Corporation with specific quality and environmental standards established for publicly funded AH provision; and
- an emerging 'mixed economy' of AH providers allowing qualifying private sector partners to access Housing Corporation grant for the first time.

⁷ *PPS3* (CLG.2006a) states that in seeking developer contributions, the presumption is that affordable housing will be provided on the application site so that it contributes toward creating a mix of housing. However, where it can be robustly justified, off-site provision or a financial contribution in lieu (of broadly equivalent value) may be accepted as long as the agreed approach contributes to the creation of mixed communities in the LA area.

Planning policy context

The introduction of LDFs through the 2004 Planning and Compulsory Purchase Act will improve flexibility in respect of local planning policy. Development Plan Documents (DPDs) can be produced in response to particular needs, for example AH. As part of the new spatial approach to planning, these documents can be more easily amended or replaced, to take account of changing circumstances in relation to housing needs and housing markets.

The delivery of AH through the planning system is achieved by setting targets for the provision of AH as part of market housing developments. As paragraph 29 of *PPS3* recommends, targets should be viable, having regard to evidence of housing need produced by Strategic Housing Market Assessments (CLG.2006b:10). In addition, LAs should develop site-size thresholds above which AH will be sought, as well as setting out the size and type of AH required. The mechanism for delivering AH as part of market housing schemes is through S.106 Agreements, otherwise known as planning obligations.

The planning system can also deliver AH through policy which encourages effective use of developer contributions to provide AH negotiated under planning obligations, requiring the inclusion of a given proportion of AH within a market housing development⁷.

As housing and affordability are key planning issues in many areas, LAs have been keen to emphasise them in emerging LDFs. Many have taken the opportunity to prepare housing DPDs and Supplementary Planning Documents and revise upwards the requirements for AH provision.

CLG earlier this year issued new guidance on undertaking *Strategic Housing Market Assessments* (CLG.2007b) as these would form the basis of all housing needs and demands for each area. In part this was because some Housing Needs Surveys proved not to be robust at public inquiry. In addition there is a duty to balance affordable need with private demand, together with ensuring there are adequate resources to deliver the outcomes.

PPS1 states that, LPAs, when preparing development plans, should:

"Have regard to the resources likely to be available for implementation and the costs likely to be incurred" and "not impose disproportionate costs, in terms of environmental and social impacts" (ODPM.2005:10).

In addition, *PPS3* has placed greater expectations upon the planning system to contribute to the delivery of AH (CLG 2006a:11)⁸ and the Housing Corporation's *NAHP 2008-11 Pre-prospectus* responds to this

⁸ The companion guide to *PPS3, Delivering Affordable Housing*, states that where grant is not forthcoming the provider and the LA should consider alternative options which:

"may be specified in local development documents and should take account of funding priorities in the RHS. If funding is not available from other sources, this could include requiring intermediate housing instead of social rented from developer contributions, or reducing the overall number of affordable homes required" (CLG.2006b:22).

by providing a basis for an improved interface between the planning system and housing investment decisions.

The level of developer contribution required on a given housing scheme will be subject to the financial viability, alongside other considerations. A site specific financial viability appraisal can assist in agreeing the level of S.106 AH that can be provided without public subsidy. The Housing Corporation's aim is to invest grant in a way that will add value to AH secured through S.106 Agreements. This may be in the form of additional affordable units; a different affordable mix or enhanced design and quality – most typically the added value will be a combination of all three. At the same time the Housing Corporation wishes to avoid grant inflating land values or reducing developer contributions. The level of Housing Corporation grant funding may not be confirmed at the scheme's initial planning stages, especially for larger projects that run beyond the Housing Corporation's funding period horizons. In these circumstances it may be difficult to agree the level of AH which the LA is seeking to achieve on sites where grant funding is anticipated but not yet confirmed.

Delivering Affordable Housing also suggests early dialogue with the Housing Corporation in relation to grant availability. It states that LAs should consider:

"Developing an early dialogue with the Housing Corporation on availability of grant in relation to the setting of affordable housing targets and considering applications for individual developments" (CLG.2006b:6).

It notes that in order to improve certainty of funding:

"The Housing Corporation works with strategically-minded local authorities on protocols which cover a pipeline of schemes over the medium term (e.g. 5 to 7 years) and to define appropriate policies on S.106 Agreements and the likely availability of grant. Such agreements can give a degree of certainty of funding" (CLG.2006b:20).

Delivering Affordable Housing also recommends, at paragraph 49, flexibility on the part of LAs and developers on the selection of AH providers:

"Local authorities should not prescribe affordable housing providers in planning conditions, obligations or local development documents. They should discuss with potential providers how affordable housing can be provided and long term management arrangements secured. They may include information on their standards (e.g. development, management, local presence, cost) in respect to providers. They should be able to robustly justify rejecting any particular provider on the basis of these standards" (CLG.2006b:13).

It is recognised, however, at paragraph 50 that the appropriate knowledge should be available to decision-makers to help progress AH proposals:

"Early dialogue (e.g. a round table discussion) between developers, the local authority and potential providers can help to ensure the provider is acceptable to all parties. It may be useful to involve the provider in negotiating any planning obligation. Where a provider has not been identified, expert views may still be sought, e.g. through an advisory panel of providers with expertise in planning obligations negotiations. In rural areas, the local authority may involve the Rural Housing Enabler, where appropriate." (CLG.2006b:13).

In addition, the guidance notes that:

"the Government strongly encourages the best possible use of planning obligations and other tools to improve delivery" (CLG.2006b:02).

For planning obligations to effectively deliver AH they require:

"good negotiation skills, ambitious but realistic affordable housing targets and thresholds given site viability, funding 'cascade' agreements in case grant is not provided, and use of an agreement that secures standards" (CLG.2006b:03).

The use of cascade mechanisms is also supported by regional spatial strategies such as the London Plan. In particular *Housing: The London Plan Supplementary Planning Guidance* states:

"Where the availability of grant is not known, S.106 Agreements should include a cascade agreement, based on financial appraisal, which links the required affordable housing output to the availability of grant. This should set the requirement for affordable housing should no grant be available, and the output required should grant be available at a specified level or levels. Cascade agreements should allow for affordable housing output to be increased if additional grant is made available" (Mayor of London.2005:53).

Such 'cascade' mechanisms can therefore include provision for any alternative arrangements, where reasonably anticipated public subsidy was not forthcoming or where there were significant changes in the site development costs that would render the project financially unviable. These alternative arrangements may include a different split between Social Rented (SR) and intermediate AH or indeed a different proportion of AH.

It should be noted that this use of the term 'cascade' is different to the 'local occupancy cascade', which is used as a mechanism to prioritise the needs of local people to occupy AH. This term is increasingly being used in areas such as the Peak District where housing affordability is impacted upon by factors such as second home ownership in the area.

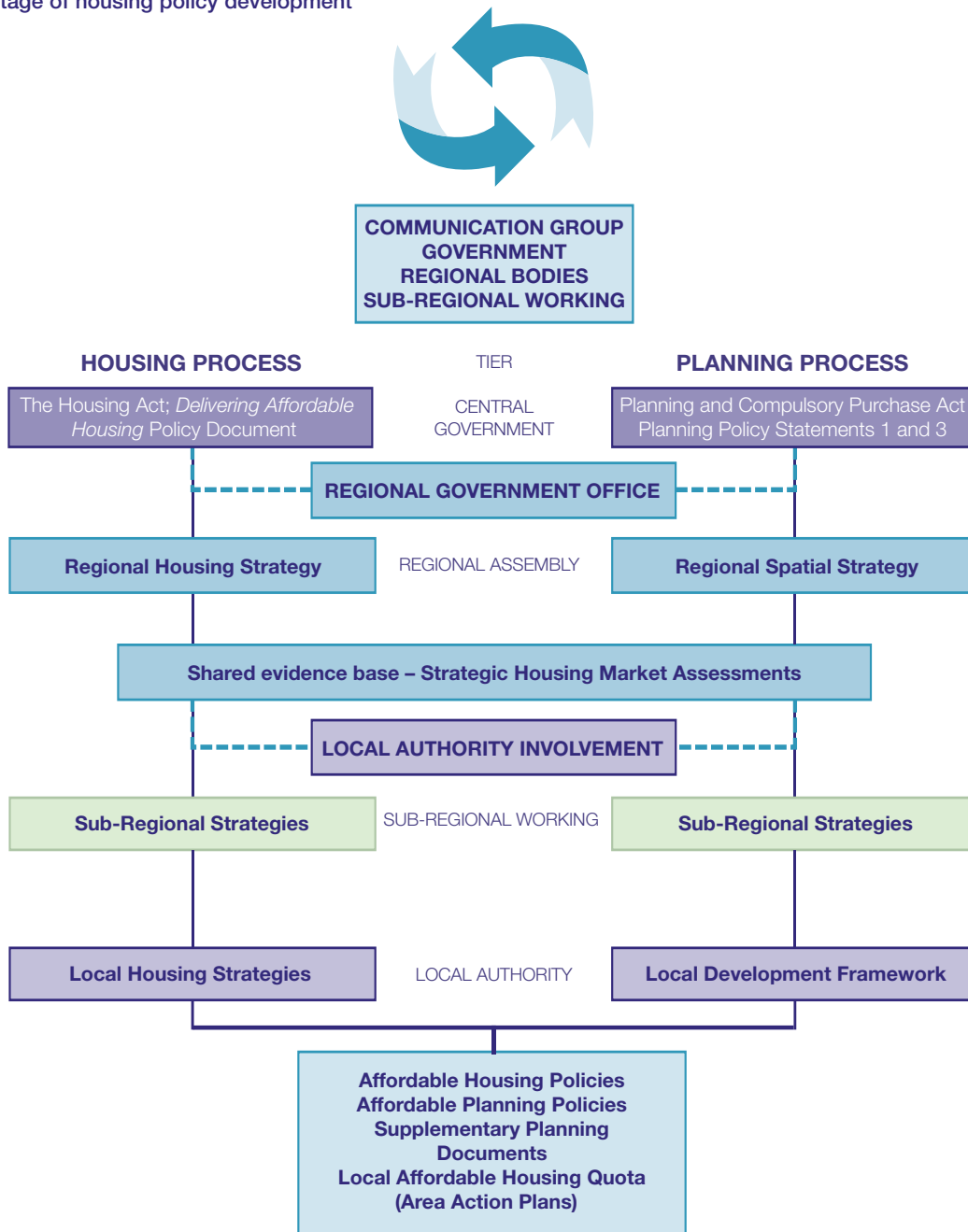
The Concept stage of housing policy development diagram, Figure 1 below, demonstrates how planning and housing policy is formulated at different levels of Government; from central Government, through regional levels of Government and sub-regional bodies, finally focusing on local government.

Whilst national planning policy statements and advice have helped clarify the policy position, it is the application of the policy which still presents a challenge to LAs. Individual site attributes, particularly in the case of

brownfield and regeneration schemes, can introduce abnormal costs which adversely impact on the viability of achieving the planning policy requirements for AH.

The research team were concerned to investigate how policy was applied on a scheme-by-scheme basis, especially for larger sites, and how specific local circumstances and site constraints influenced and impacted on the detailed development proposals that came forward. The findings are set out in Chapter 4.

Figure 1: Concept stage of housing policy development



Emerging practice

The issue of scheme viability is a crucial aspect of site negotiations. A growing number of authorities are requiring viability assessments on the basis of confidential financial information provided by applicants, with this requirement commonly confirmed in the SPD. This is likely to be a continuing trend as it is recognised that developer contributions need to be assessed in the round, in the context of the overall scheme objectives. The Housing Corporation's requirement that value for grant has to be proven where it is providing funding will also influence this trend.

A further substantial change which would impact on AH negotiation is the possible introduction of a PGS. As part of its latest consultation on PGS launched in December 2005 the Government consulted on the associated scaling back of planning obligations (HM Treasury.2005).

Whilst the 2005 and the subsequent 2006 consultation by CLG (CLG.2006c) confirm an intention to retain AH contributions within the scope of planning obligations, the overall objective remains to improve and speed up the process of developer contribution negotiations. Concerns that a lack of clarity for a developer approaching a negotiation as to what value of contribution is likely to be sought, have prompted a proposal within the consultation that a common starting point in negotiations should be introduced and implemented through LDFs (CLG.2006c:15). CLG has commissioned research on the values of contributions currently being made by developers.

The 2006 CLG consultation recognises that specific sites may give rise to exceptional development costs which would impact on any common starting point value. As the general LA policy in relation to AH would have been robustly tested to confirm that it was sound, the consultation states that:

"the onus would be on the developer to demonstrate that the viability of the site was such that it was unable to support the common value of contribution taken as the starting point" (CLG.2006c:16).

In addition the CLG consultation adds:

"where a developer wished to make a contribution that was greater than the common starting point, this would also be possible under the proposed arrangements, for example to support innovative funding models which currently don't require grant. However, the new system would include a presumption that local authorities should not seek contributions greater than the common starting point unless justified by Local Development Framework policies" (CLG.2006c:16).

This clearly suggests that CLG are mindful that there can be sufficient flexibility for LAs to vary the common starting point should this be required in the light of specific site issues.

Housing Corporation investment policy

The Housing Corporation is currently developing its' investment policies to introduce more certainty and flexibility in relation to the planning system. The future framework for grant seeking and allocation of grant will enable grant to be better aligned with developer contributions, as noted in PPS3's companion policy document, *Delivering Affordable Housing*.

The Housing Corporation's *Pre-prospectus for the 2008-2011 NAHP*, for the first time a three year investment programme, signals important changes in the Corporation's investment framework which, with a continued emphasis on grant adding value to S.106 developer contributions, will allow more effective negotiation of S.106 Agreements where Housing Corporation grant is considered alongside developer contributions for AH.

This will provide improved scope to make grant decisions at the time planning obligations are being negotiated through, more regular market engagements, funding will be held back to allow regular in year bidding for schemes as opportunities occur.

The *Pre-prospectus* notes:

"Our implementation of regular market engagements means that premature bids need no longer be considered for fear of losing the development opportunity. We will therefore set some specific conditions on the timing of bids on sites where developers are contributing towards the provision of affordable housing through a planning obligation.

Such bids will need to be accompanied by, in order of preference, either:

- *an economic appraisal of the site and proposed level and mix of affordable housing using a recognised tool (such as the Housing Corporation's Economic Assessment Tool or the GLA's Development Control Toolkit) and the values produced for grant required; or*
- *a signed S.106 Agreement which offers different outcomes of affordable housing provision (levels and mixes) based on assumptions of different levels of grant ('cascade agreements'); or*
- *another form of validated assessment (e.g. confirmation from the Local Authorities of the level of onsite affordable housing provision required by tenure and number based on a strategic housing market assessment).*

PPS3 requires local authorities to set out a clear policy for developer contributions to affordable housing through planning obligations. In some cases site viability will support delivery without grant; in others grant can work in combination with developer contributions to secure optimum outcomes. Grant is available where it will bring clear additional benefits, including:

- *additional affordable housing;*
- *a different mix of housing; and*
- *meeting higher design or environmental standards where the Housing Corporation believes them to be of benefit.*

Our aim is to provide grant where this is purchasing additional affordable housing outcomes, and where the level of developer contribution represents an appropriate response to the site economics. We will not fund the simple purchase by a housing association of affordable housing delivered with developer contributions through a planning obligation.” (Housing Corporation.2007b:22-23).

On regionally significant strategic sites the Housing Corporation will be able to make five year funding available, subject to satisfactory bids. The *Pre-prospectus* states:

“The definition of strategic sites will be led by Regional Assemblies and, in the case of London, the Mayor. The Minister for Housing and Planning has written to Assemblies asking for their assistance in identifying large, multi-phase developments where early and long-term commitments of public funding can unlock site potential. We will give further details of the definition in the full bid round Prospectus in summer 2007” (Housing Corporation.2007b:15).

These changes, whilst providing more flexibility, may reduce but will not remove the need for cascade arrangements in S.106 Agreements which are for the first time specifically anticipated in Housing Corporation guidance.

The Housing Corporation will continue to operate a competitive market for grant and expects grant to be allocated to its investment partners on a scheme basis through a competitive bidding process. The Housing Corporation uses competitive bidding to establish value for grant: a weighted assessment which includes cost, quality and delivery. Competition is typically between AH providers across a regional programme of sites but may include competitive bidding on major strategic sites in liaison with the LA.

LPAs and developers negotiating S.106 Agreements which anticipate grant being sought will be expected to work with the Housing Corporation’s Investment Partners and Affordable Housing Providers (AHPs) in ways that are consistent with the Housing Corporation’s competitive grant framework.

These new ways of working reinforce the need for early discussions and a collaborative approach. An increased use of viability appraisals is also likely to emerge as part of the planning process given that they will be needed to justify bids for Housing Corporation grant.

The case study research contained within this report pre-dates both *PPS3* and the Housing Corporation’s more focused approach and highlights certain areas which are now being addressed. It is early days as far as these new policy approaches are concerned. During their practical application, the need for further investigation and subsequent changes to policy and refinement of the Housing Corporation’s approach may become apparent.

4

Key findings and evidence of need

Introduction

There has been significant national interest in the delivery of AH through the planning system, which was evidenced by the good response rate to the initial questionnaire survey of LAs. This was particularly true in the South East and growth areas where pressure for the delivery of AH is especially acute.

The responses highlighted that there was considerable concern about the best way to deliver AH through planning obligations and LA interest in how cascades or other mechanisms might assist.

This section highlights the many different circumstances influencing the use of cascades whilst also covering areas where it was felt guidance might be helpful. The report summarises but does not endorse the various approaches taken.

Chapter 4 introduces the following key issues and themes:

- local housing markets and needs;
- objectives and priorities;
- circumstances influencing use/type of cascade;
- ways of working; and
- funding/scheme viability.

Local housing market and needs

The research confirmed that local circumstances regarding housing markets and needs, as well as the adopted planning policy position of the authority influenced the approach taken to securing AH and the possible use of cascades.

Following the publication of *PPS3* and the reformed planning system, there was an expectation that Local Plan policy would be reviewed. Where strategic housing market assessments demonstrate that there is a case for revision and there is a major opportunity for delivery but the new policy is not yet adopted, some planning authorities have found the flexibility a cascade can provide attractive.

As *Delivering Affordable Housing* states:

“The increase in house prices relative to incomes in recent years has been marked. At the start of this decade there were areas where house prices were very high, but this was largely confined to London, the South East and a few regional hotspots. By 2005, the position had changed significantly: there are now many areas in all regions where house prices are very high and where as a consequence first time buyers are finding it very difficult to buy a home in the market.” (CLG.2006b:2).

The document goes on to note several consequences, principally that:

“Where housing commands much higher prices there is greater scope for securing affordable housing through developer contributions or

‘planning obligations’. In traditional high value areas, local planning authorities already have strong experience of negotiating planning obligations to deliver both social rented and intermediate market housing. But there is now a need for local authorities in other areas to raise their game and to recognise that such obligations will increasingly be viable on new housing developments” (CLG.2006b:2).

Hence some LAs which have no experience of using a cascade may not have previously needed to. Their local circumstances may have been such that they have only recently insisted on AH provision, or they had required a relatively low level of affordable provision which could be met by developers without requiring public subsidy.

This is the case in Darlington where there was existing policy on AH although an SPD has just been adopted and in Easington where the District Council (DC) are in the process of preparing their SPD on AH with the timescale for completion being early 2008. In the latter case, as there is no policy on AH in the Easington Local Plan, the emerging SPD can only be used to inform development briefs and encourage developers. It cannot be formally adopted until a related policy is adopted in the proposed core strategy document, which is likely to be in early 2009.

In some circumstances cascades are proving useful mechanisms for securing AH in the absence of an effective planning policy. In Sedgefield AH has never been included in adopted council policies and an AH SPD has not yet been developed. The Local Plan was adopted in 1996, when house prices were far lower and affordability was not an issue in the borough. However, the housing needs survey and Dwelling Balance Analysis in 2003 identified that AH had become a key issue in parts of the borough. Only three sites in Sedgefield have included AH and all of this provision has been achieved by negotiation, without the expectation of Housing Corporation grant. Sedgefield Borough Council is currently considering a cascade through a S.106 for a site at Sedgefield village to use as an interim measure, until the LDF is further advanced and there is a formally adopted local policy position on the AH requirement.

At Solihull the authority has used a cascade as a way of updating AH requirements in advance of the strengthening of formal policy. When a large site was first being discussed the council had a relatively unambitious Unitary Development Plan (UDP) AH policy and was generally only achieving 15 per cent AH. Solihull was trying to strengthen its policy and increase the amount of AH to 40 per cent. An up-to-date Housing Needs Survey advocated 40 per cent and this requirement was being progressed through the emerging UDP, but was not adopted until February 2006. In the intervening period the council wanted to capture more AH on large sites and used a cascade to achieve this. In this instance, the landowner was resistant to providing more than 15 per cent AH which was the usual proportion achieved at that time in this part of Solihull but agreed to the use of a cascade⁹.

⁹ The negotiated position was 30 per cent affordable housing, with a cascade allowing a greater proportion of this to be rental units, provided grant was received.

Discussions with LAs have confirmed that many have updated their housing needs surveys and that these have identified levels of housing need which are not being addressed through AH delivery. As a result a number of authorities are looking to review or are in the process of revising their AH planning policy requirements both in terms of criteria/levels, at which it will be required, i.e. lowering thresholds, and increased percentage provision. The post 2004 Planning and Compulsory Purchase Act planning system has been a timely trigger to bring forward revised housing policies and new DPD/SPDs.

In these circumstances, where local planning policy that reflects the latest housing needs surveys or strategic housing market assessments, has not yet been adopted, it appears that the flexibilities introduced by cascades have persuaded applicants to accept a higher AH requirement than that stipulated by current policy on the basis that public subsidy may be introduced.

Objectives and priorities

The key objectives of each party involved in a development can be diverse and are not always complementary. It is important that those key drivers which are shared between the parties are identified early to provide a focus for a successful negotiation. Housing delivery is often not the main priority for a regeneration or brownfield site where heritage, employment and other uses may be more important. Where housing use is also appropriate and sustainable outcomes are to be achieved, it is likely that a robust case for public subsidy will need to be made to meet shortfalls in the economic viability.

The distinction in value between brownfield and greenfield sites is also an important factor in the viability assessment. Brownfield sites benefit from having existing use values but, generally speaking, may have site specific issues such as contamination. However, as HM Treasury notes:

“Brownfield sites differ significantly, with some experiencing substantial value uplift with little or no remediation, while others may incur additional costs” (HM Treasury, 2005:19).

On the other hand, many greenfield sites, have a much larger infrastructure liability. Those involved in negotiating planning obligations should be aware of the likely impact of these specific site related issues.

Certainty of delivery has been achieved with the use of cascades for such large-scale developments and instances are cited in this chapter where cascades were used and shared priorities enabled the negotiation to go forward.

All negotiations take place in an environment of competing objectives and concerns. The key to a successful outcome is to recognise and understand the key priorities of each party to arrive at a set of options that can then be reviewed and agreed.

The approach which will be proposed in Chapter 5 of the report, however, very much depends on the willingness of and opportunity for

all parties to take part in the negotiation, to dedicate the resources and time required, as well as to understand and appreciate the priorities of others and the inherent risks.

If the parties are willing to engage on this basis, cascades have an attraction in that they can clearly set out a menu of options that provide the best possible outcome for all those involved, when delivery of the Local Plan policy is affected by factors that cannot be finalised at the time that a planning application needs to be determined. These factors will vary, reflecting the different attributes and circumstances of each site.

Experience has shown that LAs tend to be concerned with addressing dysfunctions in housing markets and meeting housing need. In addition they perform their statutory obligations for housing the homeless and those in priority need, improving the local economy, creating balanced mixed communities and addressing their needs. LAs also aim to achieve high quality and sustainable places, deliver development sites and associated infrastructure. LAs additionally contribute to meeting regional and local targets, whilst ensuring skills and resources are in place to allow them to address these diverse agendas.

For example, Exeter City Council's key driver is to deliver their AH targets. This is the current number one priority of the council enjoying political support. Similarly Solihull Metropolitan Borough Council housing department's key driver in relation to the Wharf Lane development was to maximise the amount of AH whilst ensuring it was dispersed throughout the site. The planning department, however, considered the key drivers to be providing better links to the rest of the existing community, maximising the number of housing units, whilst providing a mix and balance of types, sizes and appropriate levels of AH tenures¹⁰.

Housing is not the main priority for all LAs on every site. For example, Worcester City Council were keen to achieve a mixed-use development on the Royal Worcester Porcelain site, including employment uses, since many new residential units had already been provided near to the town centre. The planning department were disappointed that the scheme did not include more office floorspace but were pleased with the high quality of design and improvement to the public realm. The housing department were keen to include leisure uses in the scheme and to improve the public realm. Swindon Borough Council had a number of key drivers in relation to the Southern Development Area scheme. The council wished to achieve a high quality expansion of the town and the delivery of a flagship sustainable housing scheme. However, they owned a considerable amount of the development land and therefore also wished to maximise receipts, to spend on council priorities.

Amongst the concerns of site developers is the need to meet shareholder expectations in terms of profit, return on capital expended, ensuring an adequate margin. Developers also wish to be able to build sufficient numbers of units, constructed to a quality that meets market demand.

¹⁰ PPS3 expects LAs to plan, monitor and manage the supply of affordable housing.

They must be aware of being able to satisfy the contractual obligations on price with the landowner, despite a changing market and many try to avoid the expense and delay of going to appeal, through negotiating a planning consent. It should be noted that a minimum value is frequently given to sites through discussions between developers and landowners, years in advance of development.

On the Wharf Lane site in Solihull, the developer had hoped to balance the achievement of a quality development, with maximising profits. However, they considered that this balance may have been affected by unanticipated complexities of a brownfield development, such as archaeological requirements. In relation to the Royal Worcester Porcelain site, Berkeley Homes considered that their key priority was to achieve broader regeneration aspirations for the area and the AH was less important. The aspirations included retention of existing buildings and promotion of tourism and local interest in the historic location.

As Housing Corporation investment partners, RSLs tend to be concerned with achieving agreed programme outputs and quality design. Other important factors for RSLs are whole life-cycle costings, value for money and the impact on long-term business plans and lending covenants. In addition they wish to create balanced mixed communities and provide for long-term stewardship. Location is also an important factor in RSL decision-making, in relation to stock rationalisation and responsive cost effective management arrangements.

In the case of the Wharf Lane development in Solihull, for Bromford Housing Group, getting a good mix of smaller houses and apartments was the most important factor. The main drivers for West Mercia Housing Group on the Royal Worcester Porcelain site were the achievement of a quality development and a mix of tenures.

Sovereign Housing Group's key driver in relation to the Southern Development Area scheme in Swindon was part of their broader strategy to expand their portfolio in this area to gain sufficient housing stock to warrant opening a regional office. Their primary business is in rental units which would favour the higher proportion of rental dwellings indicated in the cascade. However, they predicted a good steady stream of business and were therefore comfortable with any type of tenure which would meet the LAs identified needs in the area, given there was a clear demand for both rent and shared ownership (S/O). Sovereign considered that the establishment of a 'community' was key to the overall success of the town expansion.

Stakeholder objectives are diverse, with parties often aspiring to deliver a number of outcomes that are not necessarily compatible. Finding a common point of reference can prove difficult, but would be worthwhile if AH delivery and broader outcomes are to be achieved.

Circumstances influencing use/type of cascade

This section indicates that cascades may be used to ensure the tenure prioritised within the LAs housing market assessment is provided. Various approaches are used within the cascade to achieve this, with the nil grant scenario forming a baseline. There is often a fall back position where the overall amount of AH required is reduced to ensure that the prioritised tenure can be provided. Depending upon local context and priorities, cascades may alternatively be used to maintain a given overall amount of AH but to allow variations in the tenure proportions.

The prescription of the AH provider within the agreement is not recommended. However, cascades have been utilised to provide some flexibility in the introduction of different providers, possibly when the financial proposition or 'AH price' cannot be supported by those initially approached.

Cascades can also allow some flexibility during the long timespan over which large strategic sites are delivered. This can also be addressed by insisting on specific requirements at the time the detailed reserved planning matters for each phase are submitted.

Many LAs have used S.106s as a way of influencing housing tenure types. LAs commonly expressed a greater need for SR accommodation than for intermediate market tenures and used cascades to influence this. All the examples below demonstrate ways in which LAs have used cascades to achieve preferred tenures.

Breckland Council have used a cascade mechanism to set out alternatives for dwelling types and a mix of AH tenures, between SR and low cost home ownership (LCHO), depending upon the amount of grant received. The Forest of Dean District Council operate a similar system; the first level of the cascade is a requirement for more rented properties, followed by an increased level of S/O properties and if this is not achievable by the developer then the AH requirement is reduced to less than 40 per cent.

The Royal Worcester Porcelain example of a cascade also demonstrated that a high proportion of rented units were required. An independent assessor verified that Worcester City Council's policy requirements for 30 per cent AH, with 80 per cent SR and 20 per cent S/O could not be supported by the development alone. However, 30 per cent AH with a split of 20 per cent SR and 80 per cent S/O could be supported by this development without access to public subsidy. As this split of tenure did not sufficiently address identified needs for housing in the city, a baseline was agreed at 20 per cent AH without grant but if funding was forthcoming this would rise to 30 per cent AH, whilst maintaining 80 per cent SR and 20 per cent S/O split for both scenarios. The Housing Corporation subsequently provided grant for some of the rented units. Exeter was another authority who stated that the purpose of their policy approach was to help achieve at least 85 per cent SR provision.

In the case of The Wixams scheme, the cascade operates so as to decrease the percentage of SR housing in favour of intermediate tenures (IT) if grant is not forthcoming. The overall proportion of AH to be delivered thus remains constant.

Housing needs vary over time and between locations. Needs in relation to house sizes, types and tenure are not static. The use of cascades allows flexibility at a later date and can mean that the units provided can reflect the latest need. Cambridge City Council has used cascades in this way. Bedford Borough Council also acknowledges that cascades can provide some flexibility over later stages of major schemes with long build-out times, but even then prefers to try to maintain some influence by negotiation over the proportions of SR accommodation in later stages.

The S.106 used in the case of Wharf Lane, Solihull, required the sizes of AH units to be determined by reference to housing need in the area, at the time the developer would be applying for planning approval for each phase. Similarly in Swindon, the LA required the type and mix of affordable dwellings to be determined in respect of each phase of the Southern Development Area prior to the submission of a reserved matters application.

In this way the cascade mechanism can support flexibility in the detailed prescriptions reflecting changing need and demand over the timespan large sites are delivered, by allowing revisions at a later stage in the planning process, following the signing of the S.106 Agreement and grant of outline planning permission.

Ways of working

Timing of engagement

Whilst the parties who sign the S.106 are the LA and the landowner/developer, it is important that all parties who will be involved in delivering, owning and managing the scheme (if appropriate or known) are involved from the outset in the pre-application discussions and formation of the scheme. However, it should be noted that the applicant may not wish to select the AH provider until planning has been determined. In these circumstances it is advisable to seek 'expert views' to inform the AH discussions.

Although the LA and applicant will need to agree whether others continue to be involved at the later stage of S.106 negotiation, it is vital that a broad consensus has been developed on the requirement for public subsidy and the use of a cascade. As can be seen below, the stage at which parties become involved can often have a critical impact on scheme outcomes.

This is especially true in the cases where landowners may sign a S.106 Agreement, but do not anticipate being involved in the delivery of the actual schemes. In many instances, LAs have developed good working relationships with AH providers in their area and it is useful if they are

involved at the earliest stages, not only to advise on critical success factors for the funding proposal, but to contribute to the broader development framework that will provide for a truly sustainable community. It is also important that all the parties are involved in building the cascade and reviewing the various options to ensure they are viable in all respects including financial (see Objectives and priorities section on pages 11 and 12 of this report). There is some debate on what stage a scheme should be at before funding is accessed, but the Housing Corporation's new approach to investment should help address this issue by increasing the frequency of market engagements.

The timing of the introduction of cascades into the S.106 is important in relation to involvement of the key stakeholders. In some cases, a S.106 which includes a cascade, may be introduced by a landowner, prior to the disposal of the site to a developer or involvement of an RSL.

In the case of Wharf Lane, Solihull, outline planning permission was obtained and the S.106 was signed by Secondsite Property Nominees Ltd, prior to the land being tendered and won by a major house builder. The house builder would have preferred not to have this cascade on this site as they thought it introduced too great an element of uncertainty, due in part to detailed drafting. They considered that the S.106 was poorly worded and difficult to understand. The matrix of tenures types included was too complicated and a simple scenario based on receiving grant or not would have been preferred.

Similarly Bromford Housing Group, believed they were removed from the early design process on Wharf Lane and would have liked more involvement in the layout, design and tenure decisions. The RSL did however consider the concept of a cascade was sound, as all parties knew where they stood as a result of the legal agreement.

Exeter City Council considered that having a standard cascade clause within the model S.106 Agreement helped them negotiate a better policy and delivery position as it clearly set out upfront what was required on the site. Over a third of developers have been happy to sign up to this without negotiation. By having the documentation prepared, Exeter found that negotiations were based around their own AH requirements and targets, rather than those introduced by the developer.

The importance of early engagement and identification of the options to be included in the cascade must not be overlooked. Mid Bedfordshire District Council felt it important to 'front load' the process and bring the issue of public subsidy and use of cascades into the pre-application discussions. This encouraged debate on the options available. Many other LAs stressed the importance of early engagement and joint working of multiple stakeholders, regardless of whether they favoured the use of cascades. Penwith District Council, for example, had a development team approach comprising housing, planning and legal staff that speeded up the drafting, negotiation and implementation of S.106 and other legal agreements.

Resources

The research has shown that cascades can provide for better outcomes, particularly in resolving deadlocks in negotiation, although the approach may not necessarily be any less resource intensive than a traditional fixed output negotiated settlement. The parties involved recognised that large-scale schemes required more input and generally took a long time to negotiate. Although the introduction of cascades can prolong the negotiations as each option has to be modelled and agreed they can save time in the longer term especially at implementation stage. The research has shown that some LAs prefer to use external consultants or 'experts' in relation to the negotiation of S.106s and the validation of economic viability assessments rather than relying on their own internal skills base.

Cascades can be a way of unlocking and speeding up the planning process, however there is also concern that the inclusion of a cascade agreement could slow down S.106 negotiations. Cambridge City Council is routinely using a cascade mechanism in the delivery of AH but has expressed some concerns about this issue. One of their concerns was that developers would attempt to exploit the loopholes in cascade agreements and as a result the need to negotiate a 'watertight' cascade had the potential to lengthen S.106 negotiations.

Cascades permit the resolution of conflicting positions leading to a commonly agreed solution. In the case of the Wixams site near Bedford, the decision to use the cascade came soon after negotiations had stalled following changes to the grant regime. It was seen by the Council as a way out of a deadlock in that it offered something for both sides. Winchester City Council stated that the use of cascades had benefited both parties. The negotiations on AH were becoming problematic and the subject scheme could have gone to appeal. The use of the cascade mechanism effectively bypassed this problem. Similarly, in the case of Wharf Lane, Solihull, the introduction of a cascade was a way of compromising to resolve a difficult situation. The landowners were trying to maximise values and discussions between their solicitors and the LA were becoming very protracted. The S.106 had been negotiated over an extremely long period following the planning application being made in 2001. It was finally signed in 2003 as a result of the flexibility which the cascade introduced and benefits it offered the landowner. The cascade was seen by all parties as a useful tool which assisted negotiations and allowed the S.106 to be signed.

At Berryfields in Aylesbury the development consortium felt that the decision to use a cascade was beneficial in that it would enable the scheme build-out to continue and not be interrupted by issues with the delivery of AH. The agent who acted for the Berryfields Development Consortium, the developer grouping who promoted this site, felt strongly that whilst negotiations in this case were not accelerated, this was primarily due to the parties being unfamiliar with the cascade concept and were thus on a steep learning curve. He stated that if it were possible in future instances to agree the structure and parameters of a 'standard' cascade early on, then negotiations would be much quicker.

At the time that a cascade was introduced into the Royal Worcester Porcelain site's S.106, it was a new concept and therefore this placed a huge amount of pressure on staff resources in order to draft a form of cascade that was agreeable. Now that the council have a cascade template which can be used in the future, it is hoped that any other future cascade agreements could be negotiated and agreed more quickly. This feeling that, once the concept had been 'tried' over an initial case or cases, then subsequent use of similar cascades would be relatively easier and quicker, was echoed by several parties involved with the Wixams and Berryfields examples.

In the previous section it was highlighted that Exeter District Council developed a standard cascade clause and Penwith District Council use a development team approach which should help speed up the negotiation process.

Another factor common to both Wixams and Berryfields was the use of specialist AH 'experts' (by councils and developers) to negotiate on their behalf. Research has identified that in some instances LAs have employed AH specialists to represent them in development discussions and negotiations especially in instances where the developer has also appointed their own specialists. Such an approach highlights the sensitivity and often complex issues surrounding AH provision and in some cases the limited experience and knowledge historically within LPAs. It was felt that once the experience and learning had been established, and best practice emerged the councils and developers would feel more confident in advocating the use of cascades, and would be less inclined in future to place excessive reliance upon external advisors.

Authorities generally indicated good working relationships with RSLs in their areas and this aided a proactive approach to discussions with developers as well as contributing to the objective of trying to achieve certainty, particularly in terms of possible funding.

Funding/scheme viability

The examples in this section demonstrate that each scheme's particular attributes will determine whether the developer contribution can support the AH requirement in the Local Plan. It has already been stressed earlier in this report that the economic viability of a scheme is key to delivery. It is only once the different strands begin to come together and the proposal begins to form that financial aspects can be clearly assessed. Current understanding is that a case for grant is best made via a robust financial appraisal. For example, the Housing Corporation have indicated that they:

"will continue the refinement and implementation of tools (such as Financial Workbooks and the Housing Corporation Economic Appraisal Tool) to ensure grant to S.106 sites is at an optimal level" (Housing Corporation/LGA.2006:9).

Agreement can either be reached via a negotiated settlement for a fixed option or by using a cascade with a range of options acceptable to all parties which meet the needs identified in the housing market assessment. It is essential that the baseline of the overall quantum and tenure mix of AH that can be provided without public subsidy is set as part of the cascade.

The provision of AH is only one of a number of S.106 obligations placed on a developer. There is evidence to suggest that the use of cascades has been seen as weakening the priority given to the AH requirement by making such provision 'optional', when considered against the other elements of developer contributions that are sought and which are viewed as 'essential'. For example, some LAs are particularly concerned that developers will take the use of cascades for AH as an indication that this is the element of a scheme which can be reduced, should delivering 100 per cent of the S.106 obligations mean that the economic balance does not work and a scheme becomes unviable. This is considered as an arbitrary position, as it should be recognised that the whole of a development scheme and not just the AH element, contributes towards its' economic viability.

This situation may change as a higher priority is now given to AH provision by many authorities but this reinforces the need for the LPA to consider contributions as a whole, having regard to scheme viability issues and having regard to the five tests for the use of planning obligations, set out in *Circular 05/05*. Some authorities have adopted SPG regarding contributions which set out local priorities, with some referring to financial assessments being required from developers if they claim the overall package of developer contributions is too high for the scheme to bear, these are to be independently assessed. Increasingly LAs are setting a baseline by requiring a certain quantum, tenure mix and type of affordable housing to be provided without public funding.

In some locations councils have local policy positions that AH targets are readily achievable without grant and LAs are not prepared to vary them. The 'nil subsidy' approach is used by Bristol City Council. Their planning policy framework makes it clear that AH secured through the planning system is delivered without public subsidy. Bristol is part of the WEP (which includes Bath and North East Somerset, Bristol, North Somerset and South Gloucestershire). All four of these authorities have adopted a nil subsidy approach to AH. In the WEP example the AH price for each tenure and unit type is defined in a locally determined matrix which all RSL partners voluntarily agree to apply. The matrix is based on target rents and has a firm link to affordability (including ITs). The matrix was devised by feeding the variables that contribute to the long-term business plan for each AH product through an economic viability model.

Other examples show that several LAs prefer to use an 'open book negotiated' approach. South Norfolk Council initially seeks the provision of 25 per cent AH without SHG or other public subsidy. If the target cannot be achieved, then the applicant is expected to make all financial details pertinent to the scheme viability available and if the appraisal

clearly demonstrates the Local Plan requirement cannot be met, a lower percentage may be agreed. A clawback mechanism is used in this instance, should funding subsequently be received.

In other cases LAs are willing to consider bids for SHG if applicants can make a robust case via an 'open book approach' that the Local Plan policy requirement cannot be met without it. Canterbury City Council requires 35 per cent AH (split 20 per cent SR and 15 per cent shared equity), without SHG or other public subsidy. In the event that the site cannot afford this, the developer is asked to provide scheme financial information to the LPA on a confidential basis. This can lead to Canterbury City Council supporting a bid for Housing Corporation funding. Other LAs in East Kent are beginning to take a similar approach and Canterbury has a shared experience with Thanet, Dover and Shepway.

A number of LAs indicated that they would only introduce a cascade into a S.106 if a financial appraisal demonstrated that developers could not afford to meet the council's AH requirements without grant. Hence a robust case that public subsidy is required is a clear prerequisite for the use of a cascade. This will set the baseline of what the developer contribution can support without public subsidy.

Bedford and Aylesbury councils both expressed the concern that a poorly drawn cascade could allow the developer's obligation to deliver AH to fall away too easily. This is remedied however, in the Bedford case, by fixing a baseline without funding of a lower acceptable level of SR housing within the S.106.

The research has also identified cases where developers have been able to demonstrate through financial viabilities that the development costs on their sites are abnormally high, so that they cannot meet their full S.106 requirements without grant subsidy. The Wixams for example, to be built on largely brownfield land south of Bedford, will be subject to high development costs, including the provision of a new railway station, all to be borne by the development. Whilst the railway station is not to be delivered immediately, other infrastructure elements such as the diversion of several miles of a major A road and the decontamination of the site core, will need to be actioned up-front, prior to any residential occupations.

The regeneration project being undertaken on the Royal Worcester Porcelain site is another example where it has proved to be more costly than a simple greenfield housing development. The restoration and refurbishment of historic buildings and the funding of archaeological investigations have added to the costs of the project. Berkeley Homes prepared a financial viability which was audited by an independent external consultant. The agreed cascade allows for the developer to seek grant towards their AH costs, enabling the full 30 per cent AH the council were requesting to be provided, should grant be forthcoming. Without grant, the developer would be permitted to construct 20 per cent of the units as AH, whilst still maintaining the 80 per cent rental mix. The Wharf Lane scheme in Solihull was on a former British Gas site. The

land was heavily contaminated, especially in relation to ground water issues. Twelve months of monitoring by the Environment Agency affected both the timing and costs of development on the site.

Land values are a controversial but fundamental part of the equation. Several LAs indicated that rising land prices mean that developers who bought land several years ago had made sufficient profit such that the viabilities of the schemes would not be at risk by requiring the developers to meet the full AH policy requirement. Oxford City Council confirmed that they would not be willing to use a cascade if the only reason for the scheme being unviable was that the price paid for the land had been too high. One LA considered that the price paid for a particular site with existing employment uses, was too high. The developer argued that the price was related to the finances needed to ensure the future viability of the existing employer themselves and protecting local employment, rather than the actual value of the land.

Uncertainty of funding

Most LAs use cascades because there is uncertainty over Housing Corporation funding. Many of the case studies highlight that it is this uncertainty that frustrates agreement and delays planning. If grant availability is certain at the time of signing the S.106, the AH provision can be accurately costed and precise numbers and tenures fixed. If grant is uncertain, cascades or options can incorporate flexibility into the S.106.

Reigate and Banstead Borough Council raised this issue stating that a cascade mechanism was used when public sector subsidy was uncertain and there was a possibility that the developer would not be able to fund the LAs AH requirement. The Borough of Poole stated that they used this approach in all their S.106 negotiations. Cascades were the main way of meeting their AH outputs owing to the inability of RSLs to compete in the local land market and difficulties they had in accessing SHG. The cascade ensured that AH could be secured regardless of funding, at a price considerably below market which was available in perpetuity.

Aylesbury Vale District Council stated that cascades had been used principally where the developer did not want development to be stopped because of inability or risk of contracting with an RSL. Cascades are suitable where the proposed build-out period of a development is lengthy and future funding is at risk. Cascades have also been used by Solihull, Swindon, Bedford, Mid Bedfordshire and Worcester councils in situations where Housing Corporation grant was uncertain at the time planning applications were made and S.106 Agreements were being formulated.

Cambridge City Council stated that a cascade mechanism was used when there was uncertainty over Housing Corporation funding and there was consequently a need to set out what happened if grant was not received. Several LAs expressed the view that cascades were a 'fallback' position if no Housing Corporation funding was available. The following LAs stated that they adopted cascade mechanisms as a

fallback position: Ashford Borough Council, Exeter City Council and North Somerset Council.

Some LAs had other options in place to meet any funding gaps in the delivery of AH through the planning system. Westminster City Council had an internal AH fund in place. All small residential and commercial development in Westminster paid a commuted sum towards AH. The fund in Westminster currently stands at £20m. Westminster City Council made it clear to developers that all AH would be provided with grant. This would either come from the Housing Corporation or Westminster's AH fund. Cherwell District Council used cascades but stated that money may be available from the authority if it were likely the AH would be lost. Salisbury District Council also used cascades in this way but confirmed that it only had a small amount to draw upon. It was also mentioned that RSLs could draw on their capital grant recycling fund to plug any gaps in the financial viability.

Conclusions

This section of the report sets out the conclusions relating to the key findings of the case study research. The evidence base informs the subsequent chapter which considers the wider planning process within which negotiations for AH take place and recommends approaches that can be adopted.

There are a multitude of local circumstances impacting on AH provision. If a LA identifies a need for AH and supports enhancement of the developer contribution with public subsidy, cascades can provide options, thereby unlocking a stalemate in the negotiation.

Additionally local circumstances and needs change over time, hence there is a need for flexible Local Plan/LDF policies which can adapt to changing housing market circumstances and levels of housing need. This research has shown that where policies have yet to be reviewed, some LAs have introduced a cascade approach to improve flexibility.

Although the key priorities of stakeholders involved in the proposal may vary, it is important that a shared focus is developed at an early stage allowing negotiations to progress. Improved understanding of key issues influencing each party, can be critical in terms of the success of a project and the research has shown that early involvement of all parties can help unblock and speed up the negotiation process.

The guidance in the following chapter clearly sets out how and why the AH group should be formed early. This forum can clarify each party's key objectives for the project and develop a shared understanding of issues impacting on their delivery. It can also be used to broker consensus on the need for grant, the use of a cascade, its' framing and the critical success factors for achieving funding allocations.

The use of cascades has helped achieve certainty of delivery, especially for large-scale regeneration sites, by allowing the S.106 Agreement to be finalised, and the development to proceed uninterrupted. However, as the research has found, there is no consensus amongst LPAs as to whether cascades are the best option.

There appeared to be concern that in acknowledging the need for funding via a cascade, LAs were allowing site developers to dictate the overall quantum and detailed prescriptions for AH to be provided on any site. The report however recommends that with careful drafting cascades may offer a valuable tool, particularly for large sites where proposals for later phases cannot be finalised. Chapter 6 of the report draws on lessons learned from the case studies to provide guidance on constructing the cascade.

There is a great variety in the way cascades have been used which is largely dictated by local circumstances. The report recommends that they primarily ensure particular tenures identified in housing market assessments are delivered, or a particular overall quantum of affordable units achieved. Cascades have been introduced for large strategic sites where the build-out period is likely to be prolonged, to ensure there is flexibility during the delivery by addressing specific needs at the time when reserved matters are submitted. It appears that smaller planning applications do not warrant a formal mechanism, and negotiation of a fixed output seems to be the preferred option for LAs.

The research has demonstrated that a robust financial appraisal is the best way forward. Cascades have been introduced into S.106 Agreements when financial viabilities indicate that it is not possible to provide the required level of AH without grant, and when it is uncertain whether grant will be provided. Grant may therefore be used to maximise additionality whilst ensuring that needs identified in housing market assessments have been met. The report recommends that once this approach is adopted, it can form the basis of justifying the added value grant can provide and thereby improve the quality of bids to the Housing Corporation. The report also recommends that a financial appraisal is used to fix the baseline for the cascade, the quantum and detail prescriptions for AH that can be delivered without public subsidy.

The research has identified circumstances where AH may not be the main priority for the scheme and highlights the need for a financial viability to clearly set out the impact of other priorities, particularly where these affect the balance of S.106 benefits. The report will recommend that the AH group sits within a clear project management structure, allowing it to refer back to the overall vision and aspirations for the project at key stages in the negotiation.

Although the use of cascades can improve delivery, the research has not demonstrated that the approach has necessarily been any less resource intensive. Many acknowledged the steep learning curve and some good practice was identified in the development of local cascade templates which, if well drafted, can save time in future S.106 negotiations.

Generally, the feedback received by LAs regarding the use of a cascade has been positive. Many LAs that use cascade mechanisms suggested that they would be likely to use them again.

On a practical level, however, it has proved difficult to assess longer term outcomes, as many existing and emerging cascades will not be fully tested until the major development schemes to which they relate have been built-out, which may take eight to 12 years or longer. Many case study developments that have commenced have been successful in securing Housing Corporation funding and the relevant cascade has therefore not been triggered.

Whilst the specific mechanisms used in cascades by individual LAs vary, the key findings indicate a number of approaches which are important in achieving a successful cascade. These elements will be considered in the following chapter, which proposes a process to be followed when considering the inclusion of cascades into S.106 Agreements, with the objective of providing transparency, clarity and certainty for all concerned.

Introduction

This chapter proposes a process that could be applied to address the main concerns and issues detailed in Chapter 4, by providing an approach that stakeholders should take to ensure that they are in a position to positively influence the provision of AH. It will also aid the ability of stakeholders to secure grant funding if it is required, and to consider the form and content of a cascade if appropriate.

The subject of AH provision within a development, frequently involves protracted discussion and negotiation between the parties. There is a need to improve understanding and approaches to the wider matter of AH provision which should happen well before applications are submitted (and the detail of S.106 is discussed). The previous chapter draws out the critical challenges facing stakeholders involved in the negotiation of AH cascades on large-scale sites.

The research has shown that some of the critical issues are:

- adopted policy is sometimes still being formulated and therefore cannot inform the AH negotiations or such policy may not be informed by sufficiently robust information pertinent to the site characteristics;
- there are many different stakeholders involved in the provision of AH, often with varying preconceptions and conflicting objectives and there is a tendency for AH issues to be dealt with in 'silos' without considering the wider planning balance of a development. This in turn can influence the respective approaches of the LPA and the developer to S.106 negotiations and these differences need to be resolved if effective negotiation is to take place;
- the flexibility in the definition of housing products in terms of mix and tenure and how this can be achieved/delivered;
- the need to manage the process in a clear and consistent manner to secure agreement on the AH provision and achieve a more robust outcome;
- the recognition that AH is part of the overall package of contributions required from developments and therefore a full understanding is required of the viability of the development and the likelihood of it being achieved; and
- the need to justify added value in order to seek and secure public grant.

Given all these factors it is not surprising that often the details of the provision of AH for large-scale sites are considered at a later stage in the planning process, frequently leading to difficulties and delay.

There is an impetus in recent national planning policy guidance and the Housing Corporation's investment policy encouraging approaches for securing AH through planning obligations by setting out realistic site targets, referring to site viability and securing good quality development through negotiation. This is not a straightforward task for LAs to manage given the issues that arise in relation to large-scale development proposals and the variety of competing interests. A lack of staff resource, knowledge and experience can also have an impact.

Even though each site differs in context and decisions are made on a case-by-case basis, it is considered that a more comprehensive and nationally consistent management approach could be achieved, in order to help define robust cascades within a S.106 where required.

Process

A comprehensive management approach to large-scale development is recommended¹¹. The planning process is complex, especially given the range of land uses involved in the delivery of sustainable communities and the scope and breadth of issues that need to be considered and resolved. A key recurring theme from the case studies and the experience of the research team is the importance of strong project management and collaborative working across a wide range of stakeholders. AH is one aspect of a wider large-scale development and therefore the ability to successfully secure and agree its provision cannot happen in isolation. Establishing a robust project management process will need to cover the following key elements:

- identifying specific individuals who can play key roles in terms of 'Directing' and 'Managing' the project, who possess a range of necessary skills and attributes to drive the process forward. Where projects have a number of key partners involved from the public and private sectors, each partner will need to identify relevant individuals to lead on their inputs;
- organising an appropriate management structure, including an overall steering group and working groups (such as a housing topic group) to lead on and consider specific development issues. A strong joint 'development team' approach should be adopted, which combines both the developer/scheme promoter together with LPA as part of a joint decision-making body. The role of members, other key external stakeholders and the community must also be addressed;
- establishing an overall project plan and timetable against which key decisions would need to be made and the project advanced in a timely manner. Risks to achieving this timescale must be identified and understood; and
- considering the potential role of a structured project management process through the town planning system (such as a Planning Performance Agreement (PPA)), new technology and third parties (including consultants) to support the project management process.

LAs are encouraged to adopt collaborative working practices and programmes to ensure more efficient and timely processing of development projects in the planning system by allowing more clarity, better communication and engagement of all relevant stakeholders. Projects should be approached holistically rather than separating AH from the main vision.

¹¹ ATLAS has developed comprehensive guidance for this with its web based 'ATLAS Guide'. PPA, (formerly known as Planning Delivery Agreements) are also being promoted by CLG for adoption by LAs for sites of a larger scale (CLG 2007a).

The approach recommended for the wider management of a large-scale development is represented in Figure 2. It is based upon a series of key stages and illustrates a range of issues that need to be considered and addressed, together with advice on how best to go about this.

LAs commonly handle large planning applications on a reactive basis, without sufficient investment in early engagement or the initial establishment of defined management processes. In response, applicants often only provide the minimum information required unless prompted for more.

Under these circumstances, problems and blockages to progression of applications are rarely foreseen or mitigated. Instead they are dealt with as and when they arise, one after another. This can result in long drawn out assessment and decision-making processes.

To minimise potential delay and risk, a robust management structure will need to be put in place to build confidence and consensus in the scheme before an outline application is produced and the scheme enters the formal planning process.

The most appropriate way for a project to be taken forward will be highly influenced by the extent of work that may have already gone into the project, the expectations of the partners, and any specific local sensitivities or circumstances. These issues should be discussed at length early on in the overall process to inform the creation of the most suitable project management structure to take the project forward.

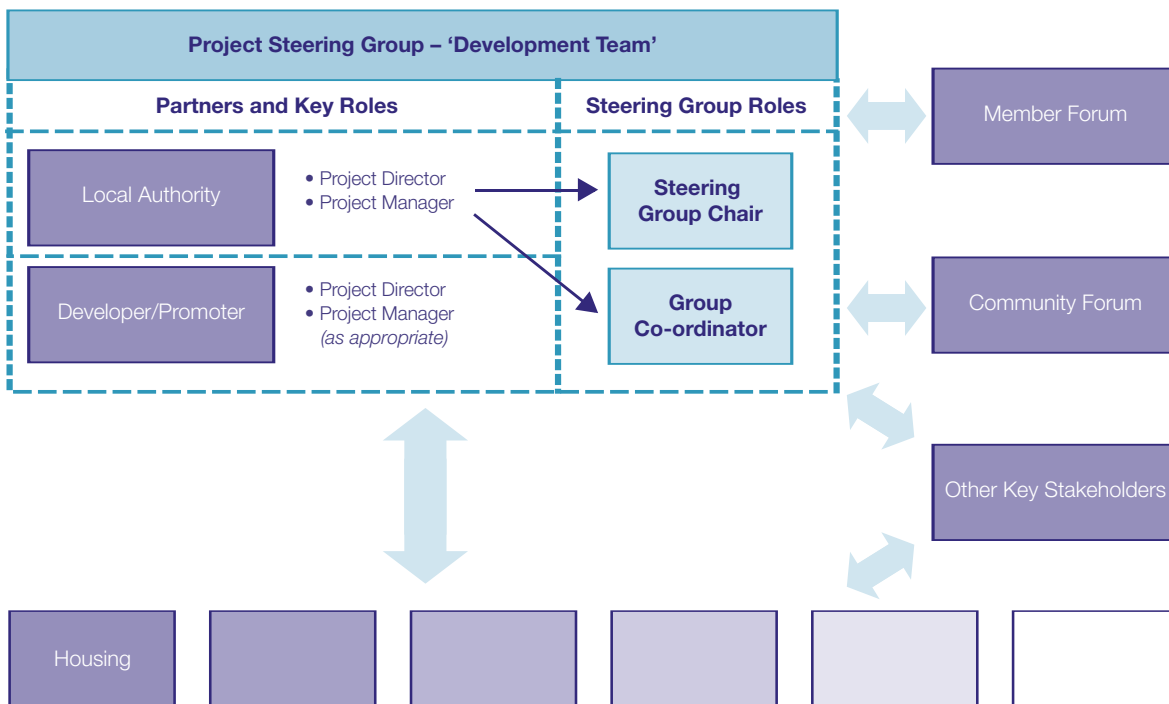
Topic specific working groups

In addition to an overall steering group, for sites with significant levels of AH provision, it is recommended that a specific topic group is set up **at the pre-application stage**. The members of this group should be tasked with exploring and resolving specific housing issues (see Figure 2).

Establish base position

AH is an important element to be considered within a broader development project, however, it is vital that a comprehensive approach is taken and no one element should be viewed as a separate process in itself. When considering the underlying context, scope and scale of a potential project, it will be crucial for those involved in the project to consider at the outset the physical boundary, impact area, policy and key drivers of the project. This should be a collaborative process

Figure 2: Illustrative project management structure (ATLAS Guide, 2007)



involving those other stakeholders who are likely to be most important to achieving a successful outcome. It is also crucial that reference should always be made back to the agreed overall vision and objectives set for the development project, in order to understand the relative role that the provision of AH plays in achieving that overall vision.

Early appreciation of these issues will assist in providing definition of the scope and scale of any potential project, inform the vision and objectives setting and assist in defining those key players to be involved.

Key players

It is recommended that key people from the relevant stakeholder groups are identified who will focus on AH provision as part of the overall development proposals. It is recommended that an AH task group is formed at the pre-application stage (as one of the 'topic' groups described above).

For large-scale housing developments, it is not recommended that one officer alone deals with the technical matters such as AH. The comprehensive topic group should consist of planning and housing officers (and potentially estates or valuation staff) from the LA(s) and developer/applicant representatives. This group should have a clear responsibility and leadership structure, and given the high profile of housing need issues it will need to involve or preferably be led by the Project Manager, and also have a direct link to the Project Champion (steering group).

When the AH task group is formed at a very early stage in the project, engagement with representatives from the Housing Corporation is recommended (e.g. the local investment manager).

The group should also consider whether expert views from AHPs should be included in discussions, as suggested in *Delivering Affordable Housing* (CLG 2006b:13) to ensure a comprehensive understanding of management and funding issues which could aid decision-making and assist both the LA and developer in negotiating a comprehensive cascade agreement later in the planning process.

Although neither the Housing Corporation nor AHPs are signatory to a S.106 and therefore do not need to attend all meetings, it can save time and improve the quality of decision-making if a more collaborative approach is taken by including these stakeholders, rather than closed discussions with groups developing proposals in isolation. It should be noted that such arrangements must be agreed between the LA and applicant given the potential impact on commercial considerations.

The work of this group should be informed by the overall vision and objectives set for the project. They should be briefed on, and understand, the wider development proposals, and the issues arising, as well as the overall project plan/programme. The specific work of the group should inform the overall plan as well as be guided by it.

Role of affordable housing group

The purpose of an identified group of people working on the AH issues is to concentrate on this specific aspect, with the objective of ensuring that the appropriate quantum and type of AH is delivered in the context of the overall vision and development objectives of the scheme. The project management and overall project communication need to be effective and information between working groups, such as design or transport, could be vital in making decisions for AH.

The group will need to identify a starting position informed by the local planning policy, supported by robust and up-to-date local housing need/market data recognising that through their work and overall project iterations this may need to change in order to ensure a balanced community. *PPS3* supplementary document *Delivering Affordable Housing* states that:

'Local Authorities should ensure their housing and planning functions effectively deliver a shared vision by working to agreed objectives.' (CLG.2006b:5).

Although, this is referred to in the context of the wider regional objectives at which level strategic sites are identified and value for money and delivery are considered, it is still a fundamental approach to be applied to all levels of negotiations. Even if sites are identified in the Regional Housing Strategy (RHS), and can thereby achieve longer term certainty of funding, the key players still need to engage early to build a shared understanding of the delivery programme and influence scheme outcomes.

The AH requirements for a site will in most circumstances be derived from relevant LDF documents. The group should take responsibility for informally reviewing this policy position and all relevant material available i.e. housing needs surveys, market assessments etc. If more than one LA is involved and the policy stances and/or the methodologies or timing of their needs surveys are different, then the group will need to harmonise these positions in order to give an overall agreed 'take' on AH provision for the particular development. This may be a relatively simple matter of agreeing a compromise AH percentage for example, or could entail more complex discussions to reflect different identified need priorities. It is important therefore to collectively consider whether there is enough information available and whether it is robust.

It is common for AH provision to be determined in form and content late in the planning process and quite often when applications have been submitted for some time and other infrastructure requirements have been fixed (at a strategic level). It is therefore critical to review the wider planning balance for the scheme (and use the steering group to inform the AH group about wider progress). Early discussions should take place with the public funding organisation to ensure the level of funding required is supportable, particularly with regard to other non-AH requirements from developer contributions and scheme specific abnormal requirements. As can be seen in Chapter 3, the Housing

Corporation will need assurances that grant is adding value to the scheme. Alternative delivery scenarios may need to be modelled for inclusion in the cascade¹².

Whilst any adopted policy will be the starting point to influence the proposals, the particular circumstances of the case and outcomes will need to be assessed and considered. For example, it is sometimes the case that there is no specific policy relating to a particular development site and therefore a LA-wide approach is promoted. However, it may not be appropriate to apply a 'standard' approach to a large-scale scheme such as 3,000 homes, if the mix and type of tenure that would result would fail to deliver a sustainable, balanced community. It is essential that needs are balanced with the overall concept of development outcomes and the economic viability. The vision and objectives should include reference to the type of housing that is desired, the needs that are to be met and the type of community to be created, including how this is envisaged to evolve over time. The vision for the site will need to take account of the local physical, economic and social framework.

Group responsibilities

The group has responsibility for defining the provision of AH and should focus on the following:

Quantum

There is a need to consider at the outset the AH provision for the site. Dependent upon the adopted policy position of the LPA and the information made available, it is likely that the developer/applicant will have formulated their own proposal which will be brought to the discussions for agreement or negotiation. The proportion of overall AH to be provided is best expressed as a percentage of the total since the eventual total is likely to exceed the original projection, although it may be appropriate to also specify a minimum number, clearly articulated and evidenced.

Components – tenure/mix

Within the overall figure, the ideal optimum requirement in terms of costs and numbers of different tenures, house types, occupancy levels and other prescriptions should be clearly defined as evidenced by identified housing need and the desirability to evolve a balanced, mixed community. Rental housing usually has clear definitions in policy; however this is not always the case for S/O and other intermediate housing tenures. The type of and mix of units to comprise the provision, across tenures, will derive from the information regarding local need and market assessment. Accordingly it is vital that this is up-to-date and robust.

Affordability criteria

The affordability criteria for each tenure should be clearly identified. This should reflect latest government guidance on the proportion of

household incomes that should be expended on housing costs. The latest housing market assessment (or waiting lists where available and up-to-date) will also provide a robust evidence base for income groups who should be prioritised in accessing AH. This is particularly important for intermediate housing tenures which are not included in the Housing Corporation's target rent regime.

The means of AH delivery through planning gain should be referred to in the agreement and should be tested in the scheme-specific economic viability appraisal in order to assess the level of funding required. The cost of providing AH is fundamental when considering development viability issues.

Targets

Where the AH is to be provided with the assistance of Housing Corporation grant then the required 'target' proportions of the various desired tenures should be stated for example, 75 per cent of the affordable dwellings should be for social rent, 25 per cent intermediate affordable etc. These should be identified, having regard to the definitions of the categories of 'intermediate housing', 'low-cost market' etc. as provided in *Delivering Affordable Housing* and should be restated in the S.106 Agreement (CLG.2006b:5).

An appropriate 'fallback' or 'minimum' target (whether tenure-specific or overall) will need to be calculated for any particular development, depending upon a balance between housing needs and scheme viability. A cascade that alters the balance of tenures should still aim to maximise the delivery of SR units by the cross-subsidy of SR properties from any surplus revenue arising from the ITs, for example, by altering the mix of dwelling types.

Achieving a tenure-blind approach to design and specification for AH is important to create a sustainable development. Decision-makers should seek to achieve a comprehensive development with integrated AH that is fit for purpose¹³. The Housing Corporation's *Design and Quality Strategy* (HC.2007a) sets out how the Corporation would work with LPAs to deliver high quality housing and their *Design and Quality Standards* (HC.2006) sets out new core standards required of all new homes receiving grant from April 2008. The issue of achieving consistent quality and standards across all tenures: affordable and private, and appropriate standards for non-grant funded AH is currently subject to debate but stakeholders should be aware that any decision made about standards will impact on viability.

Phasing

The AH should be provided in accordance with a timetable relative to the overall build-out that should be agreed with the LA before each

¹³The companion guide to PPS3, *Delivering Affordable Housing*, states that:

"Effective use of planning obligations to deliver affordable housing requires good negotiation skills ... and use of an agreement that secures standards" (CLG.2006b:10).

¹² PGS may introduce a new regime of scaled-back planning obligations.

phase of development commences (i.e. robust but reasonable triggers relative to the open-market housing, ideally defined on a per-phase and an overall development basis).

Large-scale housing development is implemented over an extended timescale influenced in part by the initial site and infrastructure works required. The practical and funding issues that arise from a development build programme of extended years need to be considered by the AH group. The informed decisions taken then need to be reflected in the drafting of any conditions and S.106, i.e. phasing, delivery of affordable provision and cascade triggers.

Consideration will also need to be given to how nominations for occupations are to be addressed; the policy on site distribution and acceptable numbers within clusters of AH, as well as options for addressing the retention of affordability in perpetuity and/or recycling of developer contributions.

The group will be constantly reviewing the above in the context of the scheme proposals as they develop. These are explained further in the following chapter.

Viability

The AH options will inevitably need to be balanced with other infrastructure requirements and development costs, which is why viability testing is important. This can be achieved through an approach where developers provide scheme financial information to the LPA on a confidential basis, although both applicant and authority need to have an understanding of the viability testing process and the issues involved or, given commercial sensitivities, an alternative could be an independent assessment. A brief for any such work should be written jointly by the group, who will also need to agree on the selection of the assessor, and, by agreement, to commit to jointly abide by the findings of the assessment in order to continue negotiations.

Several models are generally available to test overall scheme viability and the sensitivity to different variables such as AH provision. It must be stressed that these models must be properly evidenced with reliable and up-to-date data, and that all parties understand and agree upon their applications and their limitations. The Housing Corporation created the *Economic Assessment Tool* in October 2006 to measure the added value that any Housing Corporation grant is providing, ensuring that grant is not going to increase land values or reduce the viable level of developer AH contributions. In London the GLA has promoted the use of its *Development Control Toolkit (DCT)*. Both the Housing Corporation's *Economic Assessment Tool* and the GLA's *DCT* (3 Dragons) model the residual land value, seeking to establish in dialogue with the developer a reasonable and viable residual value against given AH outputs.

The preferred option that emerges will be the result of consideration of all these factors, based on a starting point of needs review. Other factors

that should be considered whilst following an iterative design process will normally include land and construction costs, specific design factors, other site abnormal costs and phasing implications, assumptions on other S.106 planning gains payments or costs, social (target) rents, intermediate market housing affordability criteria for example, target income bands, service charges, and the calculation of estimated capital sales receipts or LCHO products, management and maintenance costs, broken down between social rent and S/O, allowing for voids and bad debts.

Specialist appraisals may also be required should the AH comprise any identified special needs for example, high care sheltered.

Overall development programmes for all housing and supporting infrastructure (start on site, completion, phasing etc.) will need to be considered in setting appropriate triggers for AH delivery.

Funding sources

The group will critically also need to investigate funding sources, including the availability of Housing Corporation grant. The Housing Corporation will support local housing strategies and priorities by taking LA views on bids for individual schemes into account, therefore early engagement is essential. For individual projects, the use of a clear decision-making structure and steering group with a project plan will aid the Housing Corporation's local investment managers to be informed on the project progression, without the need to attend all meetings, although upfront involvement will save time at the later stages of a planning application and S.106 negotiation.

The Housing Corporation is happy for LAs to deliver AH from developer contributions without grant input, but in circumstances where developer contributions alone are insufficient to achieve the level of AH required on a specific site to achieve sustainable mixed communities and Local Plan targets, early discussion with the Housing Corporation is encouraged. However, if grant is to be sought it should deliver added-value in the form of more AH or a more balanced and sustainable mix, and also achieve the design and quality standards the Housing Corporation is seeking.

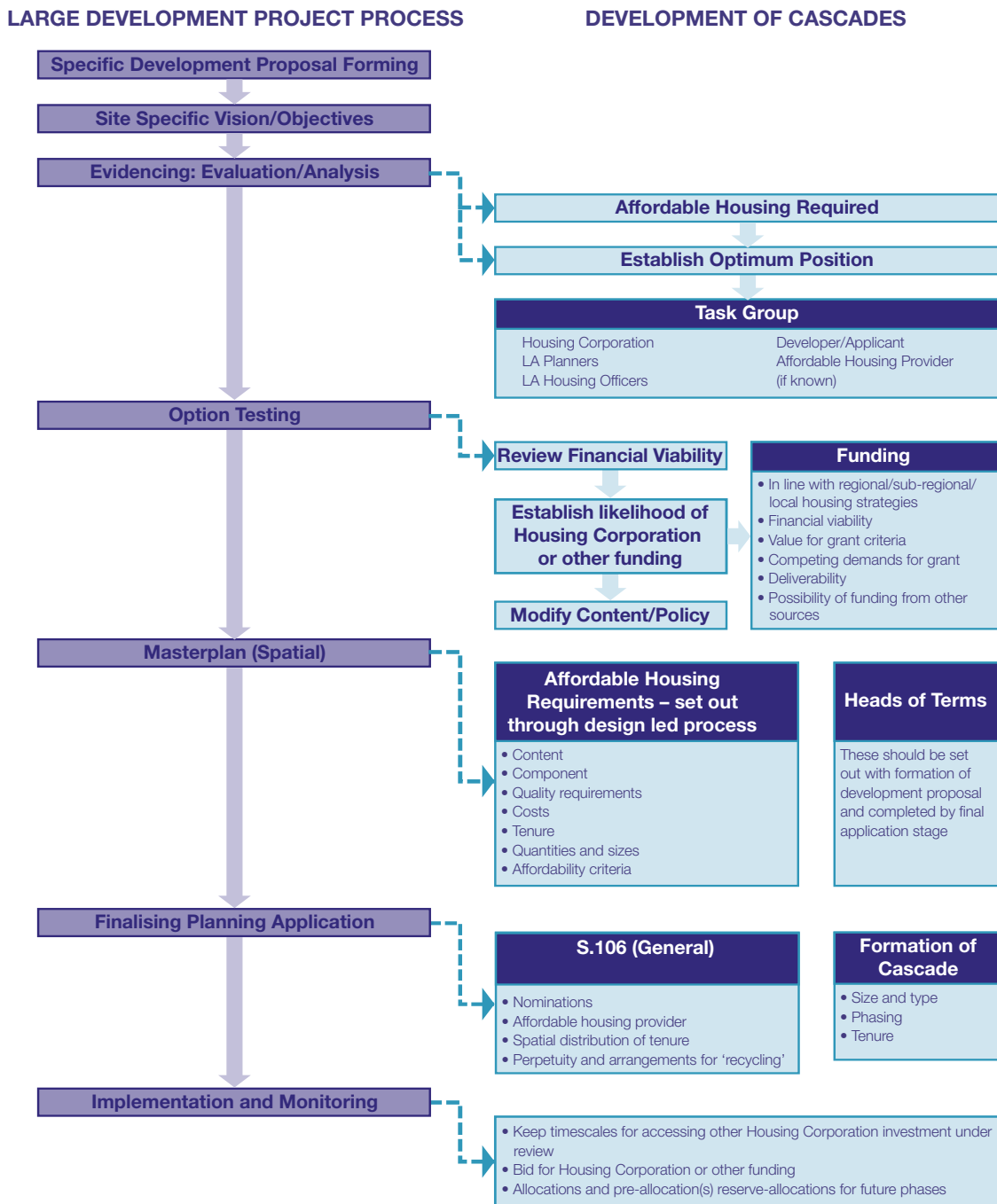
Once the implications of overall scheme viability and the potential role for public subsidy are properly understood then the group can decide whether it would be appropriate and beneficial to incorporate a cascade mechanism into the S.106 Agreement, and the parameters for this. The increased focus that the Housing Corporation plans to bring to measuring the added value of grant will continue to make the measurement of variable AH outputs an essential discipline in the negotiation of S.106 AH Agreements. In particular, consensus needs to be reached over fundamental points such as whether the proposed cascade would operate sufficiently quickly to satisfy the buyers' lenders and ensure that units are not left vacant for long periods. The financial terms could be reviewed periodically, for example, as the mix and tenure of each phase of a development is being considered as part of reserved matters applications.

In summary, the following are key actions to be undertaken in order to pursue a successful S.106 negotiation for AH for large-scale sites and enable more robust decision-making about the need for a cascade and its' form:

- it is recommended that a robust project management process is put in place to allow the issue of AH to be properly considered. This may include the use of a PPA;
- it is recommended that early and meaningful communication and information sharing between the key players occurs, on a confidential basis if necessary;
- engagement with regional Housing Corporation staff at the very earliest stages is also important to aid understanding and is therefore highly recommended. Strategic sites also need to be flagged to regional housing boards which in turn will establish their priority in achieving longer-term funding commitments;
- ideally the housing task group should include all parties who will have an interest in the development (by virtue of ownership and/or management), not just the LA and applicant. However, it is for the parties to the application to determine who will be involved in the final stage of S.106 negotiation;
- it is important to form the vision and objectives for the development, which in turn will impact on the role of AH in it and determine how developer contributions are balanced against other potential benefits to the community;
- it is recommended that as proposals form, they should be regularly related back to the vision and objectives at key stages and adjusted as necessary;
- it is recommended that all LAs ensure they have robust, detailed and up-to-date information on their local markets in order to inform their position and ensure that there is a robust case for each option in the cascade;
- an economic viability to assess developer contribution and value for grant and establish the baseline position for the cascade is recommended; and
- even where 'non-grant' policy approaches are taken, it is recommended that LAs should be able to understand the impacts and deliverability of the particular site in order to comprehend how the development can bear the full cost of affordable provision on the overall 'deal' (i.e. community provision etc.) and make an informed decision on development priorities. The LA needs to be able to have the capacity and skills to appreciate, absorb and audit this information or to employ specialists who can provide the required resource which is why a collaborative approach can be beneficial to achieve more certainty for both applicant and LA.

The proposed process is summarised in Figure 3, overleaf.

Figure 3: Summary of proposed process



6 Delivery mechanisms

Principles for cascade/option for legal agreement

There is no one appropriate template for a cascade agreement. The research has highlighted the variety of circumstances in which cascades have been deemed appropriate, the varied form they take, the differing priorities that they aim to address, and the differing criteria/triggers included.

Nevertheless it has been possible to carry out an analysis of the example cascades highlighted by the research so as to comment on the format and critical elements based on the findings.

Key principles

The work of the AH group will need to identify the following key principles to be captured in a legal agreement. The identification of these key principles then enables clear and unambiguous instructions to be given to the legal team for the drafting of the detailed terms of the S.106 Agreement. The key principles are (as discussed in the previous chapter):

Key principles for legal agreement

- quantum, defined as the affordable proportion of the overall housing to be provided in the application, defined by units and by tenure. In certain circumstances it may also be appropriate to define affordable elements in terms of habitable rooms or areas;
- components, defining specific mix of units by tenure;
- affordability criteria;
- phasing, stating timescales for provision across the site and triggers to secure delivery; and
- targets, expressed as varying levels of proportions in order to clarify optimum and minimum positions.

Additional legal principles

- grant seeking: an obligation should be placed on the land owner or developer to use 'reasonable endeavours'¹⁴ to work closely with the LA and the public funding organisation to achieve the level of subsidy required to provide the optimum or planning policy requirement for AH; and
- monitoring: adjustments by agreement may be required in the course of building a large development over several phases. The developer and AHP, or LA, usually with input from the Housing Corporation, then agree an alternative to the criteria or requirements set out in the agreement. The agreement should provide for flexibility in the application of the various requirements for the provision of AH.

¹⁴ In all cases the onus upon the developer should be to use reasonable endeavours to resolve any impasse in both the means of funding and finding an AHP willing to provide the Affordable Housing units. This is understandable as a requirement to use best endeavours would be too onerous where the ability to resolve the matter depended upon the co-operation of third parties, namely the Housing Corporation and/or the AHP, and also where compliance with the affordable housing obligations in the Section 106 Agreement would be only one of many planning obligations relating to the overall development. Any delay in the resolution of the affordable housing component because of an obligation to use best endeavours could adversely affect the ability of the developer to carry out the overall development or the completion of a particular phase of the development.

Introduction to drafting principles for S.106 Agreements

A S.106 Agreement is one of a variety of means used to secure the provision of AH. Such an agreement can also be described as a 'planning obligation', although the document usually includes a series of obligations or covenants. It is an agreement between the owners of the development site and/or the developer(s) if different, and the LPA or authorities, where the development site extends across administrative boundaries. A S.106 Agreement does not normally include the AH provider as a party unless that provider is also an owner of the land or part of the development site. This means that the drafting in the agreement needs to provide for mechanisms to be operated with and by a third party or parties, if there is to be more than one provider, who is not legally bound by the covenants in the agreement. A 'cascade' is a mechanism that can be included in the agreement to introduce flexibility into the obligations to provide AH, where the original circumstances envisaged in the agreement have changed.

It is therefore important for the agreement to specify **who** should provide the AH, **what** they should provide, **where** the AH should be provided, (e.g. on or off-site provision) and **when**, as the operation of a cascade mechanism will only need to be triggered when one or more of these elements requires to be adjusted.

Who

AHP: the developer or owner will covenant in the agreement to provide a quantum of AH. It is unusual for the owner of the land or the developer of the land to be directly responsible for the subsequent management of the AH. This is usually the responsibility of the AHP. Until 2004 this could only be an RSL or a housing association (HA). Now the choice of AHP is not restricted to an RSL and can be wider.

However, national planning guidance advises against a particular RSL being prescribed in the agreement. It suggests parties to the S.106 Agreement should discuss with potential providers how AH can be provided and long-term management arrangements secured. LAs should be able to robustly justify rejecting any particular provider.

The developer may invite tenders for the provision of the AH. It is for them to decide at which stage this take place. The agreement should provide for the developer to keep the council informed of the process so that the council is satisfied that the process is transparent and in accordance with the terms of the agreement. The choice of preferred AHP may be made in consultation with the council and the Housing Corporation to a timetable that is specified in the agreement. The tender documentation can specify target rents and other affordability criteria including the basis upon which service and estate charges are to be calculated and included, taking account of the proposed tenure mix. As noted in Chapter 2, LPAs and developers negotiating S.106 Agreements which anticipate grant will be expected to work with AHPs in ways that are consistent with the Housing Corporation's competitive grant framework in the negotiation of S.106 Agreements.

Another aspect of 'Who' which should be included in the agreement is the arrangement for nominating prospective tenants for the Affordable Housing Units, both SR and Intermediate Housing, with definitions included for the nominating body, usually the LA, or the LAs making up a housing sub-region, if appropriate. The agreement can also append the form of nomination agreement that the AHP will be required to enter into with the relevant LA.

What

Usually the quantum is determined by specifying a percentage of the total market housing (normally as already specified in the LDF). This should then be apportioned between:

- SR housing; and
- intermediate housing; certain ITs may be specified e.g. shared equity and rented.

The agreement should contain definitions for AH and each tenure type. In the interests of consistency, the definitions that appear in CLG's *Delivering Affordable Housing* (CLG.2006b) should be adopted.

Specifying the percentages or numbers for each tenure sets the baseline even if circumstances then lead to their alteration. This is also material to the appointment of the AHP whose financial appraisal and offer cannot be made without this knowledge. In terms of intermediate housing, the agreement can also be used to define its affordability by reference to specified bands of gross income earned in a household or range of percentage shares initially purchased and setting of rental element. (It is assumed that social rent affordability will be dealt with under the Housing Corporation's target rent regime).

Dwelling mix

Similarly the agreement should specify the dwelling mix in terms of type whether house or flat, size, whether one bed, two bed, three bed etc. should initially be specified, as reflecting the current housing needs survey, and also the master plan, or any development brief, for creating the new community on the development site.

Where

The LA may have a policy on the distribution of the AH. This is particularly relevant with large housing sites, where the LA may wish to see the AH units pepper-potted over the site, or located within certain areas. For example, supported housing units for the elderly may need to be located near to the community centre or health centre. Provisions may be included in the agreement to determine the distribution of the AH units within the development site, with provision for this to be altered to reflect changes in circumstances as identified in future housing surveys.

When

Timetable

The agreement should specify when the AH units or a proportion of them are to be made available in relation to the rate of build of the market housing and whether in both cases this is to mean constructed or available for occupation. This covenant should be expressed in a negative manner, namely that the xth market housing unit shall not be available for sale/occupation until the y percentage or the nth AH unit has been constructed and is ready for occupation. This is material to the effectiveness and validity of the covenants in the S.106 Agreement. Whilst such covenants run with the land, to be enforceable as restrictive covenants they need to be couched as negative covenants.

Use of receipts

Another aspect of 'When' is the arrangement for use of the receipts when a tenant exercises a right to buy or an occupier under-shared equity arrangement staircases into full equity. Where the AH has had the benefit of SHG this element is repaid to the Housing Corporation. There should be provision for the balance of the receipts to be reused in the provision of more AH either by the developer or more likely the AH provider who has been managing the shared equity units. Requirements for recycling of grant should not conflict with Housing Corporation policy.

Scenarios for grant funding/activation of a cascade

The agreement may need to lay out a set of options for delivery involving, for example, direct provision by the developer or offer of land and/or units to RSLs/other providers, within a reasonable specified timescale.

Once agreement is reached between the RSL or other provider and the owner/developer, they must, prior to commencement of development on that phase, enter into an unconditional contract.

If it does not prove possible using the above mechanism to deliver the 'ideal' quantum of AH due to the non-availability of sufficient public subsidy then a cascade could repeat the above but with revised targets so either the percentage of SR properties decreases in favour of the ITs; and/or a reduced AH percentage is delivered across all tenures.

In order to satisfy the LA there is a need to make adjustments. The agreement should provide for an economic appraisal either by specifying the preferred methodology and/or providing for the appointment of an independent assessor. The complexity of the provisions will depend upon the scale of development envisaged.

Monitoring of AH provision and developer contributions generally is often poorly developed although examples of best practice are emerging. Given the importance placed on S.106 to ensure delivery of AH it is important that LAs develop improved monitoring systems with RSLs and providers. This is especially necessary to ensure robust information and data is available to inform policy reviews (LDFs, SPDs etc.) and planning decisions.



Conclusions and recommendations

It is important to appreciate that the provision of AH is but one aspect of planning for a genuinely sustainable community. AH considerations need to be built into an overall pre-application process. This report considers the AH negotiations within this context.

A cascade is a means of improving delivery by imparting some certainty where a robust case has been made that public subsidy is essential or desirable but firm funding allocations have not been agreed. Cascades are not appropriate for all situations; however they are more applicable to large or complex schemes where build-out times go far beyond the normal timescales of housing investment programmes.

Cascades may also have a time limited application by providing flexibility where changing housing markets have placed an onus on LPAs to include an AH requirement for the first time or update that requirement in relation to the latest housing market assessment.

There is no one template for a cascade. Rather a variety of circumstances, issues and priorities will build up to a consensus upon which the cascade will be based. The report has very much been guided by the approach taken by ATLAS in recommending a process framework which relies on early engagement and a collaborative way of working.

If a form of cascade can be agreed up-front then time and effort can be saved in later S.106 negotiation and in implementation. It should be remembered that, in the case of very large development projects, the approach within the S.106 can (and probably should) be reviewed and updated after five years to ensure that needs identified in the housing market assessment are still being met whilst maintaining scheme viability.

A well-constructed cascade can maximise the provision of SR properties, usually specified by authorities as being the single most critical tenure type in addressing their housing need, whilst ensuring that this provision does not jeopardise the viability of the development and thus the overall delivery of housing outputs and broader outcomes.

Concerns that cascades can 'let a developer off the hook' can be addressed by robust S.106 drafting, based on an evidence-based minimum position (e.g. for a percentage provision of SR housing). It is stressed that cascades must establish the baseline position with no grant and that each option in the cascade should be supported by the LPA's housing market assessment, to provide a robust evidence base.

It can also be argued that where cascades and other mechanisms have been developed, LPAs, applicants, AH providers and their advisors have begun a steep learning curve where only now more refined approaches can be developed. For instance, many legal teams the researchers spoke to stated they would not replicate the cascade drafted and have gone on to new schemes where much improved agreements have been possible. The report has tried to reflect this in the process framework recommendations. It is important that given the intensive commitment of

resources required to develop a cascade, good practice is captured and applied in future. After all, if cascades are more appropriate for larger strategic sites and these only come forward sporadically, then clear guidance is available.

The following are the main recommendations:

- cascades should be considered as part of the AH negotiation, particularly if the proposal involves a large-scale or complex scheme delivered over a long development period where build-out times go far beyond the normal timescales of housing investment programmes;
- they can be useful in circumstances where a robust case has been made that the developer contribution will not suffice to meet the appropriate level, type and quality of AH required as they provide flexibility in the S.106 Agreement (planning obligation) whilst ensuring the best possible outputs and outcomes are achieved;
- cascades can provide the certainty that the LA desires to meet its commitments and land owners and developers require to confirm acquisition arrangements within the early stages of a large scheme, whilst allowing for the increased flexibility in the later phases where there are more unknowns and therefore risk;
- cascades are appropriate in many situations (not just for large-scale schemes), but not in instances where the AH requirements can be met without public subsidy or where the applicant has assessed the risk that the required funding will be available and has sufficient certainty that it will be forthcoming;
- regardless of whether a cascade approach materialises, it is essential that early and meaningful communication and information-sharing between the key players takes place, on a confidential basis if necessary, with an aim to get parties on board and improve decision-making;
- to guide that collaborative approach, the process framework which is recommended in Chapter 5 may be adopted;
- the economic viability assessment must clearly identify what can be provided without grant, to form the baseline position;
- the LA must ensure that each option in the cascade is supported by a detailed and up-to-date housing market assessment to provide a robust evidence base that the need and demand exists for each type of housing included;
- each option in the cascade must be realistic and achievable with appropriate appreciation of the developer risk; and
- if the decision is made to use a cascade the key principles which are outlined in Chapter 6 may be followed. These cover areas that should be considered in providing clear instructions for drafting a cascade in a S.106 Agreement drawn from the lessons learned in the case studies.

The research team note that this is very much a work in progress. Planning and housing investment policy continues to respond to issues arising in its application. By their nature many of the case studies are now historic, having been negotiated before the latest government guidance in *PPS3* and the accompanying *Delivering Affordable Housing*, (CLG.2006a and CLG.2006b) that sets out new definitions and clarifies housing and planning policy guidance to date. The Housing Corporation is also developing new tools and approaches to investment which will enhance their value for grant decisions and provide more certainty for those schemes where a robust case can be made for public investment.

The focus of this report is to provide pragmatic solutions to practitioners in this very specialist area of delivering AH on major strategic sites. The following recommendations note where further research might assist development of good practice in the broader planning and housing agenda:

1. setting clear benchmarks for assessing affordability of, and demand for, each of the tenures or AH products to be provided, particularly those that address the intermediate market. These will need to take into account local housing markets and influences on the cost of provision. There is already some good practice developing in this area, for instance, the GLA has developed affordability benchmarks that are updated each year¹⁵;
2. providing further national guidance on the standards to be adopted for AH given current conflicting approaches where for non grant funded affordable provision developers may be unwilling to meet the Housing Corporation's core standards;
3. improving the skills and expertise of LPA staff to understand and appraise development viability assessments and providing guidance on interim arrangements that can be taken to fill any gaps;
4. handling the commercial sensitivities implicit in using an approach which requests the provision of scheme financial information to the planning authority on a confidential basis, and providing guidance on the need for and appointment of independent assessors; and
5. resourcing and managing the monitoring requirements implicit in achieving the S.106 AH provision, which becomes even more vital once a cascade with key milestones or 'triggers' is introduced.

It is hoped that as thinking continues to develop, more sophisticated responses will continue to inform developing policy guidance.

¹⁵ *London Plan Annual Monitoring Report 3* (Mayor of London, 2007:60), sets out the requirement for social rent and intermediate housing with reference to income ranges and affordability criteria for the latter.

Appendix 1

Case studies

SITE:	The Wixams New Settlement, Bedfordshire
LOCAL AUTHORITY(IES):	Bedford Borough Council; Mid Bedfordshire District Council
STATUS:	S.106 signed 2 June 2006.
SIZE/DESCRIPTION:	4,500 homes plus industrial/business; retail; leisure, social and community facilities; open space and landscaping; infrastructure, highways and public transport facilities. Four 'villages' with village/town centres.
SITE CHARACTERISTICS/ ABNORMALS:	Mostly brownfield site. Includes new railway station; re-alignment of significant length of A6; site remediation; some off-site works (traffic calming, footpath linkages etc.). Joint Venture applicant – 'Town Builder' developer plus major landowner; Two planning authorities.
POLICY:	25 per cent AH provision for this site agreed between councils as compromise between differing overall AH policies of 20 per cent and 30 per cent; mix to be determined subsequently according to needs survey. Identical policies for site were agreed at a joint Local Plan inquiry.
PER CENT AFFORDABLE HOUSING SOUGHT:	25 per cent AH provision subject to agreement of AH parcels; indicative sizes/tenure mix; and release programme via Sub-Area Design Briefs per village. AH to be integrated in clusters with market housing triggers.
TENURE MIX SOUGHT:	Target tenure mix of 15 per cent SR and 10 per cent ITs (proportions derived from recent Needs Surveys) overall, but varies according to phase/village to accommodate viability factors (i.e. to help offset initial high infrastructure costs) agreement stipulates smaller proportion SR in initial phase, but balance redressed at later stages. Minimum tenure mix comes into play if tender process invoked – overall 8 per cent SR and 12 per cent ITs (see below). Note 5 per cent of total provision to be low cost housing (LCH) sold at no more than 75 per cent market value (one fifth of the 25 per cent AH provision); LCH exempt from most provisions but councils to have limited nomination rights. Also note agreed village dwelling-type mixes and floorspace caps for villages one to four.
MECHANISM INCLUDING CASCADE:	<p>Overall AH provision governed on village-by-village basis, linked to village design guidance which identifies AH parcels and AH 'Release Programme'. Four options for provision as per target per cent and village tenure mix:</p> <ul style="list-style-type: none"> ● owners procure construction; or ● offer to execute legally binding contract with RSL/alternative provider to transfer/lease AH land and/or AH units to provider and procure construction upon payment of agreed 'Completed Unit Price'; or ● offer to execute legally binding contract with RSL/alternative provider to transfer/lease AH land to provider so that AH provider procures units by back-to-back contract with owners; or ● offer to execute legally binding contract with RSL/alternative provider to transfer/lease AH land to provider so that AH provider procures units. <p>If provision is not thus achieved within set time period then councils have option of acquiring AH land for nominal sum (owners' obligation then ceases); if not then tender process begins. This process addresses uncertainty over availability of Housing Corporation grant plus need for flexibility over long build-out time by adjusting target per cent so that surplus revenue from additional ITs cross-subsidises provision of SR in order to maximise SR provision thus:</p> <ul style="list-style-type: none"> ● owners invite tenders and adjust target per cent according to outcome; procure SR and IT housing on this basis either directly or via contract with provider; and ● if owners cannot complete contracts within tender period then obliged to provide AH according to minimum per cent and agreed dwelling type mix (NB. more flexibility allowed for villages three and four in that the level to the minimum per cent).
TRIGGERS:	<ul style="list-style-type: none"> ● two stages per 'village': 1) not more than 45 per cent open market housing to be occupied unless 50 per cent of AH has been provided; 2) no more than 85 per cent of open market housing to be occupied unless all AH has been provided; and ● whole site: no more than 85 per cent of open market housing to be occupied unless all AH has been provided.

COMMENTS:	<ul style="list-style-type: none"> ● provision is on basis of free, decontaminated and serviced land with unit construction governed by 'Completed Unit Price' expressed as £ per gross internal sq m; ● time limits incorporated in S.106 to ensure delivery/occupation occurs within reasonable period; ● bigger development with longer build-out time than most, hence proposed mechanism weighted towards higher degree of certainty and prescription early on (villages one and two) and more flexibility later (villages three and four). S.106 can be reviewed after five years; ● all AH except LCH subject to Housing Corporation SDS; LCH subject to Housing Corporation SDS size standards only; ● owners obliged to monitor compliance; and ● nominations protocol in force for all AH (with limited council rights re: LCH).
SITE:	Berryfields, Aylesbury
LOCAL AUTHORITY(IES):	Aylesbury Vale District Council
STATUS:	Berryfields Major Development Area (MDA) Development Brief March 2004; S.106 awaiting signing (March 2007), issues of OPP anticipated early/mid-2007 with start on site (infrastructure works) Autumn 2007.
SIZE/DESCRIPTION:	One of two MDAs in Aylesbury (other being Weedon Hill); 196 ha site; housing, employment and other uses (including schools); urban extension to town; promoted by, a consortium of four developers; 3,000 dwellings on 85 ha, not more than 1,850 within plan period to 2011 (in 'villages' of 150-600 units); at 9 ha employment land.
SITE CHARACTERISTICS/ ABNORMALS:	Distributor road off A41 with junctions; highways and public transport contributions; on and off site path links etc.; two separate combined schools plus 1,500 place secondary school (to meet needs from both MDAs) and with funding from the education authority to replace an existing school; neighbourhood centre inc. at 1,400 sq m net retail; park and ride facility 1.7 ha; open space/recreation (10 ha formal and 70 ha informal) etc.
POLICY:	The policy stated is as in the adopted Local Plan. The subsequent SPG seeks a minimum 30 per cent AH but this does not apply to the Berryfields site. Council negotiates for between 20-30 per cent AH per qualifying development, taking into account need and site economics; additionally minimum 10 per cent Low Cost Market Housing (LCMH defined as one or two bed units suitable for those on low incomes inc. 'key workers'; restrictions on subsequent extensions and sub-letting).
PER CENT AFFORDABLE HOUSING SOUGHT:	30 per cent AH provision, 80/20 social rent/S/O (although this split is not policy in the Local Plan, nor is it in the S.106 Agreement). Requirements contained in 2004 SPG, currently (March 2007) under review. Three phases with AH and LCMH regulated by per-phase plans showing sub-phases and number and distribution details. Detailed size/floor area table with percentage breakdown given in S.106 for phase one, for phases two and three the developer requests size/mix spec. from council prior to submitting AH/LCMH plans. Default mix is as per phase one. Developer/owner obliged to (per sub-phase).
TENURE MIX SOUGHT:	80/20 social rent/S/O. Additional requirement for 10 per cent LCMH. NB. the tenure split is not set out in the S.106 Agreement, which is tenure blind. The preferred 80 per cent/20 per cent split is derived from the Housing Needs Survey 2003 which is currently being reviewed.
MECHANISM INCLUDING CASCADE:	<p>Prior to the submission of the first application for approval of reserved matters in connection with a sub-phase the developer/owner notifies the council of the proposed RSL chosen from the council's preferred partner list developer/owner to:</p> <ul style="list-style-type: none"> ● use 'all reasonable endeavours' to enter into a binding contract with an RSL on specified terms ('the offer') within three months; ● if no success written evidence to be provided to the council of efforts to complete agreement with nominated RSL and the owner nominate another RSL with the 'offer' as to terms and conditions to be completed within three months;

	<ul style="list-style-type: none"> ● developer/owner to provide evidence of efforts to council who is asked to nominate a third RSL with completion of the contract within three months; ● if no success provide evidence of efforts to the council and repeat with the same 'offer' but with an RSL chosen by the developer/owner; ● if the developer/owner is unable to reach agreement with their chosen RSL, then the developer/owner may offer AH land to council for £1; council has three months to consider; and ● if council has not entered into binding contract within three months developer is released from AH obligation [for that sub-phase] and units allocated as AH can be disposed of as LCMH.
TRIGGERS:	No more than 50 per cent of market housing [per sub-phase] to be constructed until AH land, and where appropriate AH dwellings, have been provided to the relevant RSL.
COMMENTS:	Construction of cascade was heavily influenced by both parties' use of 'AH specialists', mainly due to this being a new concept with no precedent; there are pros and cons to this. Both parties generally supportive of cascade use but realise that this is an evolving area.
SITE:	Wharf Lane, Solihull
LOCAL AUTHORITY(IES):	Solihull Metropolitan Borough Council
STATUS:	S.106 signed 20 March 2003.
SIZE/DESCRIPTION:	571 homes including 178 affordable, one to four bed houses and apartments, with eight supported housing units, plus open space and landscaping; infrastructure/highways.
SITE CHARACTERISTICS/ ABNORMALS:	Large brownfield site, which was formerly a gasworks. Considerable contamination, especially in relation to ground water issues. Geographically central to the borough, within a primarily residential area. The site has good transport links and is within 15-20 minutes walk from the town centre.
POLICY:	<ul style="list-style-type: none"> ● the current provision in the UDP is 40 per cent AH provision on sites over 0.5 ha or 15 units; ● at the time the cascade was used, the LA was between two different AH policy approaches. When a large site was first being discussed the LA had a relatively unambitious UDP AH policy and was generally only achieving 15 per cent in this part of the borough. They were trying to strengthen their policy and increase the amount of AH which was being asked for, up to 40 per cent. The new Housing Needs Strategy advocated 40 per cent and this requirement was initiated through the new UDP, but it was not adopted until February 2006. In the intervening period the council wanted to capture more AH on large sites; ● the site was allocated for housing in the UDP and a development brief was produced by the council in October 2001. This included a requirement of 30 per cent AH with a majority of one and two bed roomed dwellings plus some three bed accommodation, but was not very prescriptive; and ● in this instance the developers were surprised that the LA wanted more than 15 per cent which was their published plan requirement but agreed to the use of a cascade.
PER CENT AFFORDABLE HOUSING SOUGHT:	30 per cent AH provision.
TENURE MIX SOUGHT:	Target tenure mix of 60 per cent SR and 40 per cent non-SR AH tenures. Minimum tenure mix 20 per cent SR and 80 per cent non-SR tenures with matrix included in S.106 to permit adjustment of proportions of SR units and non-SR Units depending upon availability of SHG.
MECHANISM INCLUDING CASCADE:	<p>The owner is obliged to transfer the constructed AH units to an RSL on specified terms:</p> <ul style="list-style-type: none"> ● if one year from the date when all AH becomes available for occupation, the owner has not been able to transfer the AH units to an RSL having used reasonable endeavours the council will appoint an alternative RSL; and ● if the AH units have not been transferred within two years the AH units may be sold on the open market without restriction.

TRIGGERS:	Not more than 75 per cent residential units to be occupied until the AH units have been constructed and transferred to an RSL with the non-SR units being transferred at a price to be negotiated between the owner and RSL.
COMMENTS:	<ul style="list-style-type: none"> ● all AH subject to Housing Corporation SDS; ● non-SR units included; ● S/O; ● units rented at a reduced market value with a restrictive covenant to ensure reduced cost remains in perpetuity; ● units sold at a reduced market value, with a restrictive covenant to ensure reduced cost remains in perpetuity; ● units rented at a reduced market value, with a restrictive covenant to ensure reduced cost remains in perpetuity to specific income brackets or specific types of people, e.g. key workers; and ● units sold at a reduced market value, with a restrictive covenant to ensure reduced cost remains in perpetuity to specific income brackets or specific types of people, e.g. key workers.
SITE:	No specific site – Exeter
LOCAL AUTHORITY(IES):	n/a
STATUS:	n/a
SIZE/DESCRIPTION:	n/a
SITE CHARACTERISTICS/ ABNORMALS:	n/a
POLICY:	Exeter has developed a standard cascade clause as part of their model S.106 Agreement. Their aim in doing this is to ensure delivery of their AH targets.
PER CENT AFFORDABLE HOUSING SOUGHT:	Currently 25 per cent, but is being updated to 35 per cent. Exeter is looking to increase its AH target to 35 per cent through the LDF and Housing Strategy processes. All must meet Housing Corporation SDS standards, EcoHomes and council's own sustainability standards.
TENURE MIX SOUGHT:	At least 85 per cent rented, rest S/O.
MECHANISM INCLUDING CASCADE:	<ul style="list-style-type: none"> ● the standard form provides that prior to commencement of development the developer should ask the council to nominate an RSL to whom the AH is to be offered on specified terms; ● if within six months, despite using reasonable endeavours the developer has not been able to conclude a contract with the nominated RSL then the developer shall enter into negotiations with the council for the transfer of the AH to the council on the terms specified in the agreement; and ● if within 12 months after commencement of development the developer has been unable to enter into a contract with either an RSL or the council the developer will themselves arrange to provide the AH and the arrangements for such provision are to be approved by the council.
TRIGGERS:	<ul style="list-style-type: none"> ● none have been triggered to date; and ● not more than 50 per cent of open market dwellings on site to be occupied until all Affordable Dwellings are completed. The developer will notify the council upon occupation of 45 per cent of the open market dwellings.
COMMENTS:	<ul style="list-style-type: none"> ● the standard template was developed after cascade clauses were introduced on an increasing number of projects to ensure that housing delivered was actually affordable; ● they have found that on average a third of developers are happy to accept the standard wording without need for further negotiation. This is dependent mainly upon whether the developer already has an RSL lined-up and developers' familiarity with the model S.106; ● they have found that having the documents already prepared helps to protect their policy position as it prevents developers from getting their own position ready;

	<ul style="list-style-type: none"> ● they see the role of cascades being more important as SHG resources for the SW decrease and affordability issues increase; ● the council are looking at financial viability issues as they are looking to increase AH target to 25 per cent. They have employed consultants to undertake this at a strategic (to check overall targets) and site specific role; ● the council is also capping grant funding to an average of £25,000 per rented unit and £12,500 per S/O unit by including the considerably discounted 'transfer price' (typically £45,000 to £75,000) of the homes to an AH Provider, or to the council itself, in a schedule in the S.106 Agreement. It will be seeking increased developer contributions in future; and ● they see the key benefit as the certainty it brings to the process upfront by clearly setting out their requirements and the acceptable fall back position.
SITE:	Southern Development Area, Swindon
LOCAL AUTHORITY(IES):	Swindon Borough Council
STATUS:	S.106 signed 19 May 2005.
SIZE/DESCRIPTION:	4,500 housing units, of these 1,350 are AH, plus retail, open space and employment.
SITE CHARACTERISTICS/ ABNORMALS:	The site forms the SW extension to the existing town. Infrastructure costs are very high – over £0.5m per acre. Area of significant flooding, great crested newts, restoration of canal, construction of country park, construction of southern relief road. Only 17 per cent of land owned by the developer, the remainder owned by Swindon Borough Council, but LA offered a land swap to the developer as they wanted the developer to pay for all infrastructure costs.
PER CENT AFFORDABLE HOUSING SOUGHT:	30 per cent AH, 10 per cent of this to be supported housing.
TENURE MIX SOUGHT:	Target tenure mix of 55 per cent SR and 45 per cent LCHO. If no grant available need an assessment through a viability. This can allow a reduction in SR to a minimum of 20 per cent with 80 per cent LCHO.
MECHANISM INCLUDING CASCADE:	<ul style="list-style-type: none"> ● prior to the submission of each and every application for the approval of reserved matters the owner is to carry out a viability study taking into account the likely availability of SHG as ascertained from the Housing Corporation, and the amount, tenure and standard of AH to be provided shall be determined by the viability study. If the council does not accept the viability study, it shall be referred to an expert for determination as to the amount and tenure of the AH units to be provided; ● thereafter the AH Units in such tranche of development are to be managed by an agent approved by the council or disposed of to an RSL approved by the council; and ● there are no criteria set out in the agreement upon which the council will approve the RSL, more the identification of preferred RSLs or AH providers.
TRIGGERS:	<ul style="list-style-type: none"> ● contract to be let for construction of AH in each tranche, prior to the occupation of 50 per cent of the open market housing in that tranche; and ● construction of AH to be completed prior to the occupation of the final open market dwelling in each tranche. However, first 150 units to be built and occupied can exclude AH.
COMMENTS:	<ul style="list-style-type: none"> ● landowner/developer to obtain a preliminary indication from Housing Corporation as to the availability of grant prior to submission of each reserved matters application; ● determine desired number, tenure and standards of AH prior to submission of each reserved matters application; ● carry out a viability study in respect of AH prior to submission of each reserved matters application; and ● council can request that rental units for which grant has not been obtained, are still built to Housing Corporation's SDS.

SITE:	Royal Worcester Porcelain, Worcester
LOCAL AUTHORITY(IES):	Worcester City Council
STATUS:	S.106 signed 23 June 2006.
SIZE/DESCRIPTION:	Mixed-use scheme. 300 homes plus hotel, offices, bar/restaurants.
SITE CHARACTERISTICS/ ABNORMALS:	Brownfield site, former porcelain factory including historic buildings to be retained. Includes significant infrastructure works and remediation.
POLICY:	30 per cent AH provision for sites over 0.8 ha or 24 dwellings. Tenure mix 80 per cent rent to 20 per cent S/O.
PER CENT AFFORDABLE HOUSING SOUGHT:	30 per cent AH sought. Without grant overall percentage could be reduced to 20 per cent.
TENURE MIX SOUGHT:	Tenure split of 80 per cent rental to 20 per cent S/O required, regardless of whether or not grant is obtained. Total 106 AH dwellings of which 88 for rent and 18 for S/O, to comprise 85 apartments, 21 houses (11 houses for rent; 10 houses for S/O). Were the overall numbers of dwellings sought in the planning permission to be reduced, the number of AH could be reduced pro-rata below the 106 units.
MECHANISM INCLUDING CASCADE:	<ul style="list-style-type: none"> ● the S.106 Agreement restricts occupation of specified number of market housing units until a contract has been signed with an RSL for the sale or lease of the AH Units in phases; ● the RSL is to be a 'preferred partner' of the council taken from a list of such RSLs annexed to the agreement; ● the owner is to use reasonable endeavours to assist the RSL to obtain Housing Corporation grant. In the absence of being able to obtain sufficient grant and the council being so satisfied, the size of AH units to be provided may be adjusted to a schedule appearing in the agreement, or if Housing Corporation funding is insufficient with the developer contribution to construct 106 AH units then the owner will provide the number of AH Units required by the Housing Corporation provided that the viability of the overall development is not adversely affected; ● the S.106 Agreement does not contain any provisions dealing with the situation where no RSL on the council's list is prepared to enter into a contract for the provision and subsequent management of the AH units; ● rental units to be let at Housing Corporation target rents. S/O to be affordable to households nominated by City Council and RSL. Expect no more than a 50 per cent share to be sold initially or for rent charge (excluding service charge) on remaining share to be any more than 3 per cent of remaining equity; ● if no grant obtained from Housing Corporation, the following AH units to be provided for rent: 17 one-bed flats, 27 two-bed flats, 11 three-bed houses. Plus the following AH units to be provided for S/O: one, one-bed flat, nine, two-bed flats, four, three-bed houses. These units to be provided in one or more phases with the first being for 39 units (34 rent and five S/O); and ● if partial funding received the additional 10 per cent units must be included, provided that grant for the additional 10 per cent did not take the developers baseline figure below an agreed minimum.
TRIGGERS:	<ul style="list-style-type: none"> ● no more than 100 open market dwellings to be occupied until contracts have been exchanged with an RSL for the sale or lease of, and a construction contract entered into for 30 AH units; ● no more than 200 open market dwellings to be occupied until contracts have been exchanged with an RSL for the sale or lease of, and a construction contract entered into for a further 30 AH units; and ● no more than 250 open market dwellings to be occupied until contracts have been exchanged with an RSL for the sale or lease of, and a construction contract entered into for a further 46 AH units.
COMMENTS:	<ul style="list-style-type: none"> ● for one month from the date of the S.106, RSL should use reasonable endeavours to obtain grant from Housing Corporation for provision of units in phase one, and for period up to the date that contract is signed for transfer of units to RSL for units in phase two; ● the S.106 required the involvement of an RSL who was one of the City Council's preferred partners; and ● all affordable rental units to comply with Housing Corporation's SDS.

Appendix 2

Questionnaire and interview responses received

Initial postal questionnaire

A postal questionnaire was sent out to the planning and housing departments of all LAs in England. This was a total of 350 LAs (excluding County Councils who do not have a statutory housing duty). Responses were received from the following 161 LAs:

Alnwick District Council	Guildford Borough Council
Amber Valley Borough Council	Harborough District Council
Ashford Borough Council	Hart District Council
Aylesbury Vale District Council	Hartlepool Borough Council
Babergh District Council	Hastings Borough Council
Bedford Borough Council	High Peak Borough Council
Blaby District Council	Hinckley and Bosworth Borough Council
Blyth Valley Borough Council	Huntingdonshire District Council
Bolsover District Council	Hull City Council
Bournemouth Borough Council	Kennet District Council
Braintree District Council	Kettering Borough Council
Breckland Council	Kirklees Metropolitan Council
Brighton and Hove City Council	Leeds City Council
Bristol City Council	Leicester City Council
Broadland District Council	Lincoln City Council
Broxtowe Borough Council	City of London Council
Bury Metropolitan Borough Council	City of Westminster Council
Cambridge City Council	London Borough of Greenwich
Cannock Chase District Council	London Borough of Hillingdon
Canterbury City Council	Royal Borough of Kensington and Chelsea
Carlisle City Council	London Borough of Newham
Castle Point Borough Council	London Borough of Tower Hamlets
Chelmsford Borough Council	Macclesfield Borough Council
Cherwell District Council	Maidstone Borough Council
Chester City Council	Maldon District Council
Chichester District Council	Mendip District Council
Congleton Borough Council	Melton Borough Council
Corby Borough Council	Mid Bedfordshire District Council
Craven District Council	Mid Devon District Council
Crawley Borough Council	Middlesbrough Council
Crewe and Nantwich Borough Council	Mid Sussex District Council
Dacorum Borough Council	Mole Valley District Council
Darlington Borough Council	New Forest District Council
Derby City Council	Newark and Sherwood District Council
Dover District Council	North Cornwall District Council
Dudley Metropolitan Borough Council	North Devon District Council
Durham City Council	North Hertfordshire District Council
District of Easington Council	North Norfolk District Council
East Northamptonshire Council	North Shropshire District Council
East Riding of Yorkshire Council	North Somerset Council
East Staffordshire Borough Council	North Warwickshire Borough Council
Elmbridge Borough Council	North West Leicestershire District Council
Epping Forest District Council	Norwich City Council
Erewash Borough Council	Nuneaton and Bedworth Borough Council
Exeter City Council	Oxford City Council
Fareham Borough Council	Penwith District Council
Forest of Dean District Council	Plymouth City Council
Fylde Borough Council	Borough of Poole
Gosport Borough Council	Portsmouth City Council

Purbeck District Council
Reading Borough Council
Reigate and Banstead Borough Council
Restormel Borough Council
Rother District Council
Runnymede Borough Council
Rushmore Borough Council
Ryedale District Council
Salisbury District Council
Sedgefield Borough Council
Sefton Metropolitan Borough Council
Selby District Council
Sevenoaks District Council
Sheffield City Council
Solihull Metropolitan Borough Council
Shepway District Council
Southampton City Council
South Bedfordshire District Council
South Bucks District Council
South Holland District Council
South Lakeland District Council
South Norfolk Council
South Northamptonshire Council
South Ribble Borough Council
South Staffordshire Council
South Tyneside Council
Spelthorpe Borough Council
Stafford Borough Council
St Albans District Council
Stockton-on-Tees Borough Council
Stoke City Council

Stratford-on-Avon District Council
Sunderland City Council
Surrey Heath Borough Council
Swindon Borough Council
Tameside Metropolitan Borough Council
Tandridge District Council
Taunton Deane Borough Council
Teesside District Council
Teignbridge District Council
Tendring District Council
Thanet District Council
Torbay Council
Tewkesbury Borough Council
Tynedale District Council
Vale of White Horse District Council
Wakefield Metropolitan District Council
Walsall Council
Warrington Borough Council
Watford Borough Council
Waveney District Council
Waverley Borough Council
Wealden District Council
Wealden District Council
Wellingborough Borough Council
Welwyn Hatfield Borough Council
West Berkshire Council
Weymouth and Portland Borough Council
Winchester City Council
Worcester City Council
Wycombe District Council
Wyre Valley District Council

Telephone interviews

Twenty-five telephone interviews were held with the following shortlisted LA's:

Aylesbury Vale District Council
Bedford Borough Council
Brighton and Hove City Council
Bristol City Council
Cambridge City Council
Cherwell District Council
City of Westminster Council
Corby Borough Council
Guildford Borough Council
London Borough of Greenwich
Maidstone Borough Council
Mid Bedfordshire District Council
Mid Sussex District Council

London Borough of Newham
Oxford City Council
Borough of Poole
Reigate and Banstead Borough Council
Salisbury District Council
Sedgefield Borough Council
Solihull Metropolitan Borough Council
South Gloucestershire
Swindon Borough Council
Watford Borough Council
Winchester City Council
Worcester City Council

Detailed case study interviews

Detailed case studies were considered for the following seven individual sites:

Berryfields, Aylesbury Vale;
Didcot, South Oxfordshire;
Royal Worcester Porcelain, Worcester;
Southern Development Area, Swindon;
West Kent Coldstore, Sevenoaks;
Wharf Lane, Solihull; and
The Wixhams, Bedford.

Detailed interviews were held with:

Aylesbury Vale District Council: Helen Spence, Project Officer, MDAs; Anna Gordon, Strategic Housing Manager;
Bedford Borough Council: Carolyn Barnes, Senior Planner;
Berkeley Partnership Homes: Alisdair Chant, Managing Director;
Bromford Housing Group: Jenny Webb, Regional Head of Development;
Exeter City Council: Ron Mayers, Strategic Housing Manager;
Savills: David Jackson, Savills Oxford (agent for Berryfields Consortium);
Solihull Metropolitan Borough Council: Laurence Osborn, Senior Planning Officer; John Pitcher, Senior Housing Strategy Officer;
Sovereign Housing: James Gibson, Head of Development;
Swindon Borough Council: Vivienne O'Connell, Team Leader, Major Projects; Alan Wylde, Enabling Manager;
West Mercia Housing Group: Elaine Mark, Area New Business Manager; and
Worcester City Council: Jim Pithouse, Senior Planning Officer; Kathryn Jones, Project Officer.

Appendix 3

Summary of soundings from professional and trade bodies

The following were consulted as part of broader scoping and establishing the evidence base for the research project:

3 May 2006

Association of London Government, now London Councils

Members from the research team attended two relevant working groups to present the project and to engage in discussion on the broader issues:

Planning for Affordable Housing; and
S.106.

13 June 2006

Rynd Smith of the Royal Town Planning Institute

Circulated details of the research project to members of The Regeneration Networking group.

27 July 2006

Meeting with officers from the GLA's Affordable Housing team

24 July 2007

The British Property Federation

Sent out a series of questions to members interested in bringing forward sites for primarily residential development.

The Law Society sent out the same questions as the BPF as part of a questionnaire to members of the **Specialist Planning Law Panel**.

Various responses led to a meeting with the Home Builders Federation (HBF); BPF and the Law Society, being convened on 12 December 2006, when examples of cascades were discussed. Several follow-up meetings were held with representatives of the HBF.

Bibliography

- Barker, K. 2004. *Review of Housing Supply. Delivering Stability: Securing Our Future Housing Needs*. Final Report. HMSO
- Communities and Local Government. 2006a. *Planning Policy Statement 3 (PPS3)*: Housing. CLG
- Communities and Local Government. 2006b. *Delivering Affordable Housing*. CLG
- Communities and Local Government. 2006c. *Changes to Planning Obligations: A Planning-gain Supplement Consultation*. CLG
- Communities and Local Government. 2007a. *Planning Performance Agreements: A New Way to Manage Large-scale Major Planning Applications*. CLG
- Communities and Local Government. 2007b. *Strategic Housing Markets Assessments: Practice Guidance*. CLG
- The Golden Triangle Affordable Housing Project. 2005. *Affordable Housing Good Practice Manual: Delivering Affordable Housing Through Section 106 Agreements*. David Cumberland Housing Regeneration Ltd
- HM Treasury. 2005. *Planning Gain Supplement: A Consultation*. HMSO
- Home Builders Federation Affordable Housing Policy Group. 2007. *Expanding Choice Increasing the Supply of Affordable Housing*. Home Builders Federation
- Housing Corporation. 2006. *Design and Quality Standards*. Housing Corporation
- Housing Corporation. 2007a. *Design and Quality Strategy*. Housing Corporation
- Housing Corporation. 2007b. *The National Affordable Housing Programme: Pre-prospectus*. Housing Corporation
- Housing Corporation/Local Government Association. 2006. *Working Together to Build Homes and Strong Communities*. Housing Corporation/LGA
- Mayor of London. 2005. *Housing: The London Plan Supplementary Planning Guidance*. GLA
- Mayor of London. 2007. *London Plan Annual Monitoring Report 3*. GLA
- Monk, S. Crook, T. Lister, D. Lovatt, R. Luanagh, A. Rowley, S and Whitehead, C. 2006. *Delivering Affordable Housing through Section 106 Outputs and Outcomes*. Joseph Rowntree Foundation
- ODPM. 2003. *Sustainable Communities: Building for the Future*. ODPM.
- ODPM. 2005. *Planning Policy Statement 1 (PPS1): Delivering Sustainable Development*. ODPM.
- Watson, J. 2006. *Understanding Planning Gain; What Works?* Joseph Rowntree Foundation



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