

**DOES THE USE OF SECTION 106
AGREEMENTS TO DELIVER
AFFORDABLE HOUSING REALLY
CONTRIBUTE TO ADDRESSING THIS
HOUSING NEED?**

David Richard Edwards BSc (Hons) MRICS

MSc Project Management

University of Glamorgan

School of Technology

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i) **DECLARATION**

I hereby declare that this dissertation is the result of my independent investigation, except where I have indicated my indebtedness to other sources.

Signed

“If I book a holiday to Spain, the Travel Agent does not insist that I pay for and take someone who can’t afford it. Why therefore does this apply to housing?”

(An anonymous questionnaire respondent)

ii) **ABSTRACT**

In the current climate of ever increasing house price inflation coupled with a chronic undersupply of all tenures of housing stock, it is not surprising that an ‘affordability gap’ is opening up between those who can afford to buy property and those who cannot. The mantle of providing ‘decent homes for all’ is one that has been taken on board by the current Government.

They aim to achieve this, whilst maintaining tight fiscal control of the economy, by empowering Local Authorities to impose a legal obligation on the recipients of planning approvals for residential developments, to make provision within their proposed developments for an element of ‘Affordable Housing’.

Many developers see this legal obligation, a Section 106 Agreement, as a penalty. Is this the case? Are developers now the new providers of Social Housing? Is there a better way to meet this need? Does the use of this Agreement really address this housing need?

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1.0 **CHAPTER ONE** – The Research Design and Methodology

1.1 **Introduction**

The research contained in this dissertation sets out to examine the background to the requirement for the provision of ‘Affordable Housing’ and how this requirement is currently being met, how it will be met in the future and the role of the private sector developer in its provision. The research is carried out in the context of a housing market that acts like no other market in respect of its cyclical nature. Historically the market swings from ‘boom’ to ‘bust’ with house price inflation rampant and uncontrollable in one year to house price deflation and people losing their properties the next.

The current market is however unlike many have seen before. The economy is currently in good health and inflation is being maintained at unprecedented low levels. In light of these conditions homeowners are experiencing exceptional growth in the value of their properties. Rises of 100% or more over the last 5 years are not un-common. It would be expected that given these conditions, the market is due for a ‘re-adjustment’ with a period of deflation to come. This however is unlikely to happen, at least not on the dramatic scale seen in recent history. When corrections have taken place before, one of the other key economic indicators i.e. inflation or interest rates, have been at uncontrolled and unprecedented levels. This is currently not the situation.

Whilst homeowners welcome these conditions, those that do not own property are suffering and the gap is widening. The Government acknowledge this fact and have attempted to address the situation in publishing their Green Paper

‘Quality and Choice: a Decent Home for All – The Housing Green Paper’. The Government hailed this Paper as *“the first comprehensive review of housing for 23 years”*, and stated their aim was to *“offer everyone the opportunity of a decent home and so promote social cohesion, well being and self dependence.”* They used the Paper to set out their “strategy for housing” which is intended to *“deliver improvements in quality and establish fairer markets that allow people to make real choices about their homes.”*

One of the Chapters of the Paper addresses the provision of new Affordable Housing, with the proposal that the following two mechanisms for the delivery of this type of housing be adopted:

1. The provision of public subsidy – Social Housing Grant (SHG) – to support the development by Registered Social Landlords (RSL’s) of housing for letting at sub-market rents or for sale on shared or low-cost ownership terms.
2. The use by local planning authorities of their powers to require an element of Affordable Housing to be provided in the development of a site under the arrangements set out in “Planning Policy Guidance note 3: Housing” (PPG3) and DETR Circular 6/98: Planning and Affordable Housing”.

Whilst the vast proportion of this housing requirement is met by the first of these mechanisms, it is the second mechanism that is most topical and potentially the most controversial. As such it will be this that is the subject of further analysis in this research.

1.2 **Research Methodology**

1.2.1 **Aims / Objectives**

The aim of the study is to assess if the use of the planning system to provide Affordable Housing via a method commonly known as ‘planning gain’ is the correct method to use. The study will also assess the role of the private sector developer and his observations and comments towards the imposition of this method.

The objectives of the research are:

- To provide an over view of the current status of housing supply in the UK housing market. Looking at how the forces of supply and demand and levels of investment influence the delivery of housing stock.
- To provide a précis of the current planning system so the supply problems encountered can be viewed in context.
- To look at the concept of ‘Affordable Housing’. To try to explain the difficulties in providing a clear and concise definition whilst understanding the importance of assessing the true needs of a community through the use of housing needs assessments.
- To examine the definition of ‘Key Workers’ and to assess as a group, their inter-relationship with Affordable Housing.
- To review and assess if Affordable Housing is actually a paradox.
- To assess the current methods and mechanisms for the delivery of Affordable Housing. To comment on the proposed changes to this system through the updating of PPG3 and to look at the relative effectiveness of planning policies and for Affordable Housing.

1.2.2 The Context of the Research.

This research is being carried out in an area of the UK housing market that is highly topical and currently highly political. The provision of housing for those who cannot afford to purchase or rent through the private sector is a fundamental role that should be provided by Central Government. As a concept, the provision of a 'decent home' for all is not without question. It cannot be underestimated the amount of neglect, in fiscal and practical terms, that this sector of the housing stock has received in recent times. The continued lack of Central Government funding for new public sector housing, coupled with the ever-increasing controls and restrictions placed on Local Authority expenditure has seen the supply of new housing decline in real terms, when the demand has risen at an ever-increasing rate.

Through the 2000 Green Paper 'Quality and Choice: a Decent Home for All', the Government appear on the face of it, to be addressing the issue. The question then arises are they addressing it in the right way and is their apparent imposition on the private sector developer of the onus of making up the shortfall of this type of housing nothing more than a penalty for developers who are currently enjoying the benefits of a housing market the like of which has not been seen before?

As the topic for research is so current and new opinion and literature is being produced on a daily basis, a cut off in terms of the literature reviewed has had to be made. This cut off is January 2004. Any comment or opinion ventured by the author is made in the light of the literature available prior to this date.

As an area of research and discussion, Affordable Housing will continue to be topical up to and beyond the next general election. Irrespective of who the next Government will be, the need for Affordable Housing; whatever definition this title is given, will remain.

1.2.3 **Research Methodology and Justification.**

Literature Review

In order to carry out a thorough review of the literature associated with 'Affordable Housing' use was made of the University of Glamorgan's Learning Resource Centre (LRC). As a relatively new concept, it was found that very little academic work existed on the subject, but there were a number of recent newspaper and journal articles as well as periodicals and links to relevant web sites. Further use of 'search engines' on the Internet led again to newspaper and journal articles as well as to the website of the Office of the Deputy Prime Minister (ODPM) where copies of all the Green Papers, consultation documents and other Government reports could be downloaded.

In terms of exploring and reviewing literature from the slightly wider field of planning, planning gain and the relative effectiveness of planning policies, the Joseph Rowntree Organisation have a particularly useful website as does each Local Authority.

In respect of time scales, the search for literature only went back to 1999, since most relevant and salient literature; notwithstanding Circular 6/98 from the DETR, appears to follow on from and comment on the Housing Green Paper of 2000.

The publication in December 2003 by Kate Barker of the Interim Report – Analysis of the ‘Review of Housing Supply’ as commissioned by the Chancellor of the Exchequer and the Deputy Prime Minister in April 2003; yielded some useful sources of further research particularly when addressing the areas of housing supply and when searching for an historical perspective on the current situation. In addition to this the author attended a one day conference / workshop with the title ‘Understanding Social Housing’.

Although held in London, which gave the course content a bias towards London and the South East, the conference was highly informative in so far as many of the ‘cutting edge’ problems that are being experienced in Social and Affordable Housing are being experienced in this geographical area first. The need for ‘Affordable’ and ‘Key Worker’ housing is creating problems of a far greater magnitude in this area of the country, due mainly to the exceptional rises in house price inflation that are currently being experienced, than any where else. Much also of the current Government legislation is geared towards specifically addressing the problems arising here.

From the literature review, the author gleaned a good understanding of the perceived need for Affordable Housing, the current methods of delivering this type of housing and the future plans for further increasing this supply. What the author found lacking from the research carried out to date was the views

and thoughts of the private sector housing developer. Much of the academic work and many of the articles reviewed were written from the view point that society had an obligation to provide housing for all and dwelt very much on the social aspects of providing this type of housing. With the exception of some political articles that called for the powers of the free market to be allowed to prevail, there was a surprising lack of literature written from the view point of the developer.

With this in mind the author decided to take the research for this paper into this area and try to ascertain the views and comments of private sector housing developers. As such developers only become involved with this provision through the imposition of an obligation to provide Affordable Housing as planning gain and this is structured legally through the use of Section 106 Agreements, it was felt this would be an interesting and as yet un-chartered area of research.

Data Collection

The data for this research would be heavily biased towards the qualitative end of the scale with view points, opinions and answers to non-quantitative questions being sought. It would be possible however to collect some quantitative data, especially in respect of numbers of completions of designated affordable homes, number of sites to which these new rule applied etc.

Pre Questionnaire Interview

The research began with an interview with Mr A Crompton, Land Director of Persimmon Homes (South Wales) Ltd. This interview was arranged to glean general information on the topic of research and to aid the formulation of a questionnaire, which would later be distributed amongst the land buying departments of all the national House builders. The Land Buying department was selected since it is the Land Buyer who normally works out the appraisal for a specific site prior to purchase and who in doing so would have preliminary discussions with the Local Authority. It is in these initial contacts that the provision of Affordable Housing would arise and the basis for any subsequent Section 106 Agreements would be first discussed.

Pilot Study

Following on from this interview and using the information gathered, a draft questionnaire was prepared. This was then submitted to Mr Crompton for his comments on the content and quality of design. Having previously explained the purpose of the research and the outcomes that were being sought, minor amendments were made to some of the questions in order to illicit a better quality of information and data from the answers.

Questionnaire Survey

The questionnaire is an often and widely used method of data collection. Its most common guise is the postal questionnaire. There are two methods of distribution for the postal questionnaire, it can be used 'blind' i.e. sent to people without prior warning, or it can be sent to them as a follow up to an interview or initial contact. The response to a 'blind' distribution will in all probability be not very high and thus the resultant data will be poor quality. It is best used in the follow up method whereby its recipients will have had time to think about their responses and will thus provide a higher quality of data.

It is a good method for descriptive and analytical surveys that will generate facts, opinions, views and generally provide answers to 'closed ended' questions such as 'yes' or 'no'. These answers can then be ranked and analysed.

Additional benefits of this method are economy, speed and consultation.

Economy comes as a result of the ability to cover a wide geographic area with a questionnaire. This will normally lead to a high validity of results assembled from the minimum use of financial and human resources. Speed is linked to economy in that it makes the most economical use of the shortest time. A questionnaire with 'yes' or 'no' answers will take a relatively short time to complete and with mass distribution will generate large volumes of data in a relatively short period.

One other advantage is consultation. Where a question requires a quantified answer that may require the respondent to make further enquiries with colleagues or databases before answering, a questionnaire allows the necessary time to carry out this consultation, where as, say, in an interview, such time would not be available.

There is a negative aspect to questionnaires. In order for the data to be valid and useful the responses must be as accurate as possible. The questionnaire must therefore contain simple questions that have been carefully worded to ensure that the answer requested conveys the correct information. Failure to ensure this accuracy will lead to inaccurate data. Respondents may also be too general in their answers, when a more specific answer is sought.

This method is also inflexible in that it does not allow immediate follow up questions as an interview would. The final limitation is the nature of the person who actually responds. There are many agencies that produce questionnaires as their main business. Companies therefore are often in frequent receipt of questionnaires to complete. This may lead to ambivalence on the part of the person to whom the questionnaire has been sent, and as this process is done via the post and not face to face, there is no guarantee that the intended recipient is the person who actually completed the questionnaire.

The correct selection of the survey sample - a 'sample' being "a specimen of part of a whole (population) which is drawn to show what the rest is like".

(Naoum 1998 p59) - for the questionnaire was very important. In order to ensure that the data gathered was as valid as possible, the characteristics of the

sample had to be the same as that of the population in order for it to be representative. Rather than use a random sample, where the specifics of the characteristics of the sample are not an essential requirement, it was decided to use a selected sample. This is the reverse of a random sample in that the intended recipients should be as homogenous as possible. To this end it was decided that the recipients of the questionnaires should be the Land Buyers (or such person who is responsible for purchasing land) from the top 10 national house builders. The top 10, being measured in terms of the number of legal completions per annum. Each company was contacted by e-mail and/or telephone to ascertain who the correct recipient should be and to forewarn them of the impending arrival of the questionnaire.

1.2.4 A Critique of the Research Methodology.

The strategy outlined above was deemed to be the most sensible approach to collecting worthwhile data for analysis. The vast majority of available data and research, although relatively current, appeared to have its basis firmly in the public sector. This has led, in the authors' opinion, to an imbalance in the perception of Affordable Housing and has not portrayed the whole picture.

In order to address this, the 'sample' chosen as recipients for the questionnaire was drawn exclusively from a 'population' that was entirely in the private sector. This in itself would quite obviously produce results and data that could easily be deemed to be biased in their own right. The author felt however that

there exists sufficient data and research for an opinion to be formed, following review of said literature, as to the attitude and approach of public sector bodies. The author felt that such an opinion could not be formed about their counterparts in the private sector due to a lack of available data.

As a means of data gathering, the questionnaire proved successful with a return of 94 completed questionnaires from a distribution of 168, which represents a 55.95 % response rate. This was deemed to be a success as a response rate of 30 – 40 % had been envisaged due to ‘questionnaire fatigue’. This has subsequently provided useful and meaningful data for analysis (see Chapter 5).

The relative success of this data gathering exercise is attributed to the useful knowledge gained from the pilot study where changes were made to the style and phraseology of some of the questions. Also the initial pre-questionnaire interview conducted with Mr A Crompton of Persimmon Homes (South Wales) Ltd helped to identify the relevant areas in which to base the questions.

In respect of any limitations to the study, the obvious one is the time constraint imposed by the nature of the MSc Project Management course being part-time. Had more time been available then subsequent ‘follow up’ interviews with a smaller sample could have been undertaken to further explore some of the answers given. Notwithstanding the valid data gathered through this research, the author is of the opinion that this is an area of research that would benefit from further in depth analysis as part of a higher research based, rather than a

taught, degree. This would enable the requisite amount of time that this research would merit, to be allocated.

2.0 **CHAPTER TWO** – An Overview of Housing Supply in the UK

2.1 **Introduction**

Being well housed has a fundamental impact on a persons well being. Most people consider themselves to be well housed with surveys showing that over 90% of respondents claiming to be satisfied with their housing (ODPM, April 2000). That said a persons quality of life could be blighted by external factors that can make even the nicest home an un-desirable place to live. Hence the Government has put forward the concept of a ‘**decent home**’ as a means to “promote social cohesion, well being and self dependence.” (ODPM, April 2000) It is felt that:

“People who are decently housed have a stronger sense of security and place. Decent housing strengthens communities and provides a better setting in which to raise families. It improves health and educational achievement and provides a long term asset that can be passed on to future generations”

This statement, made in the housing green paper ‘Quality and Choice: A Decent Home for All’ clearly demonstrates that where and how a person lives has a much wider and greater effect than is first thought.

The housing market can have an effect on the economy. If the housing supply is inadequate or functions poorly this can lead to a restriction in economic growth which in turn can impact upon the housing market. This can lead to a self-perpetuating situation that can, and often does, spiral out of control. High prices in certain geographical sectors of the housing market can exclude

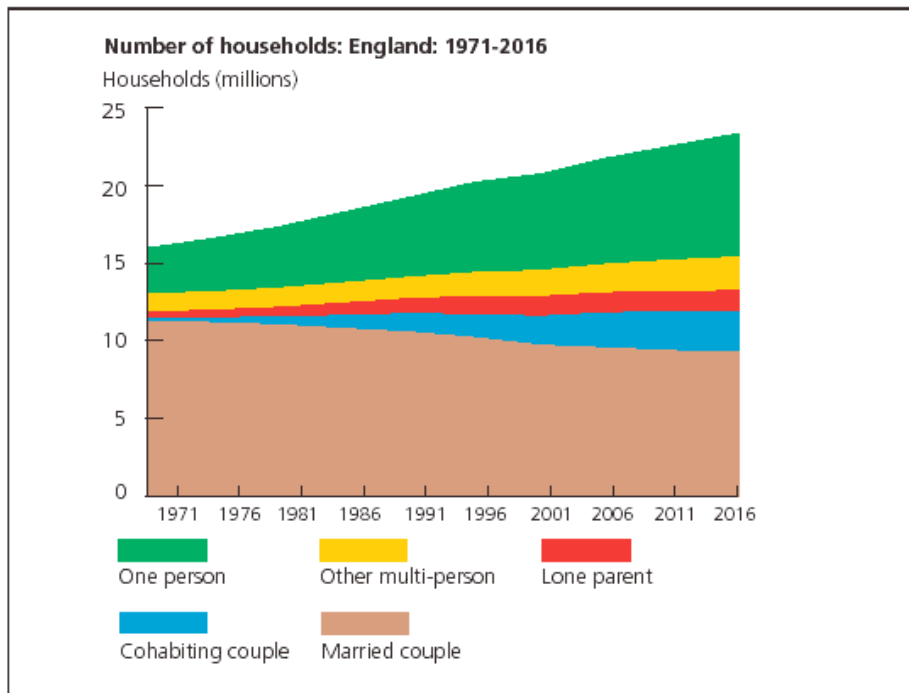
people from home ownership whereas given a different geographical location; the same people would be able to sustain their own homes. This impacts on the availability of labour in the market place, which in turn affects the economy. Certain sectors of the labour market, teachers, nurses etc. whose pay is considered low, cannot afford to live in highly priced areas. This causes a problem, especially in the south east of England, where these workers cannot afford to live in the large highly priced urban areas where their services are most needed.

But why is there a problem? Some point towards the notoriously volatile nature of the housing market, which historically moves in cycles of 'boom' and 'bust' and thus creates instability through the markets lack of predictability. Others point towards the simple economic laws of Supply and Demand.

2.2 **The Forces of Supply and Demand**

There is overwhelming evidence that a shortage of housing exists in the UK and with projections that somewhere close to 3.8 million households will form in England alone before 2016 (see figure 1.) (ODPM, 2000) this equates to an additional 155,000 households each year. The nature of this shortage is however complex. A simple comparison of the number of households and the number of dwellings would fail to identify the mismatch in the patterns of supply and demand that exists at both a regional and local level.

Figure 1 – Number of households: England: 1971-2016



(Source: ODPM, 2003a, p.7)

A further complication is the fluctuating levels of demand experienced for certain types of housing in certain places in both the public and private sectors. There actually currently exists a paradox whereby there are approximately 770,000 empty properties in the UK at a time when there is also a perceived shortage of housing (ODPM, 2000). Yet another complication is the continually changing mix in types of household. Figure 1 clearly shows the predicted rise is single person households that is a reflection on the changing pattern of relationships in society today and also acknowledges that people are now living longer than at any time in history.

The strong level of demand for housing in the UK has quite logically produced strong house price growth. Kate Barker in the interim report for her 'Review of Housing Supply – Securing our future housing needs' published in December 2003 (p8) suggests that this strong house price growth

“Stems in part from a high propensity to consume housing services, influenced by a number of factors such as:

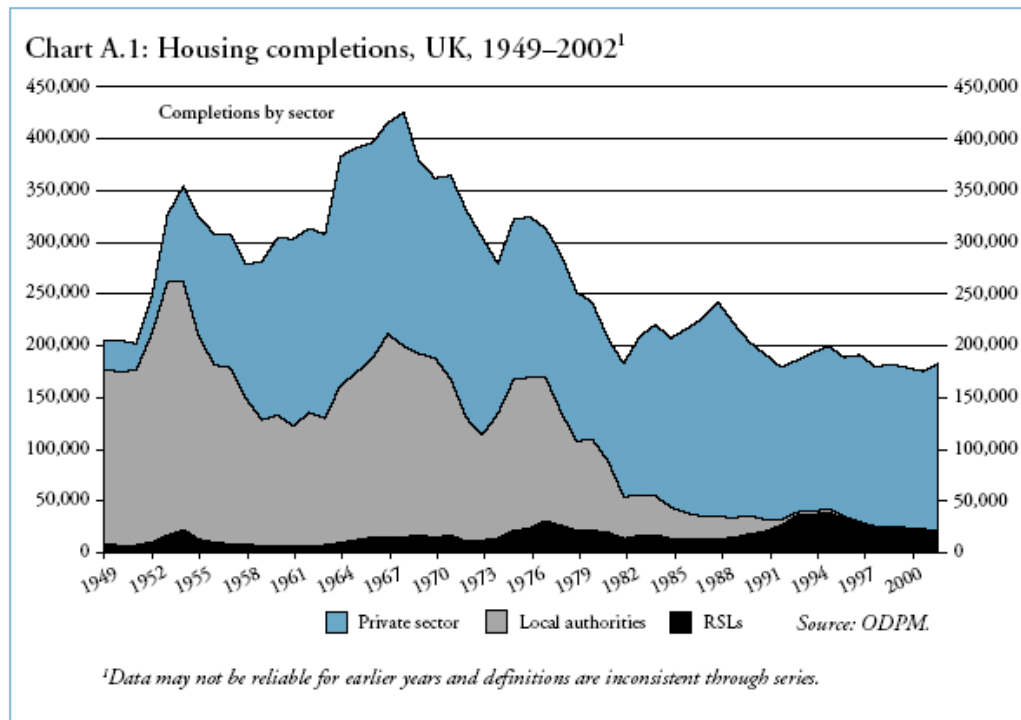
- *Cultural preferences for home ownership, combined with policies that have encouraged home ownership such as Right to Buy and Right to Acquire and, in the past, the relatively generous tax treatment of owner occupation;*
- *A more responsive and competitive lending market resulting from financial liberalisation; and*
- *The knowledge that housing is a good investment, given the price trends experienced previously.”*

Barker also goes on in her report to explain that the state of the current market is not solely a product of demand side factors alone, the supply, or lack of supply, also plays a large part in creating the position we now find ourselves in.

Figure 2 overleaf clearly illustrates the decline in housing completions since the peak in the late 1960's, thus demonstrating the weak housing supply that has existed in the UK. This lack of investment when measured as a proportion of GDP compares unfavourably when set against international comparison. The UK's rate of housing completions is also relatively low when viewed in terms of the 'rate of replacement' of existing housing stock. When viewed in

these terms of a house built today would need to last around 1,200 years (Barker, 2003).

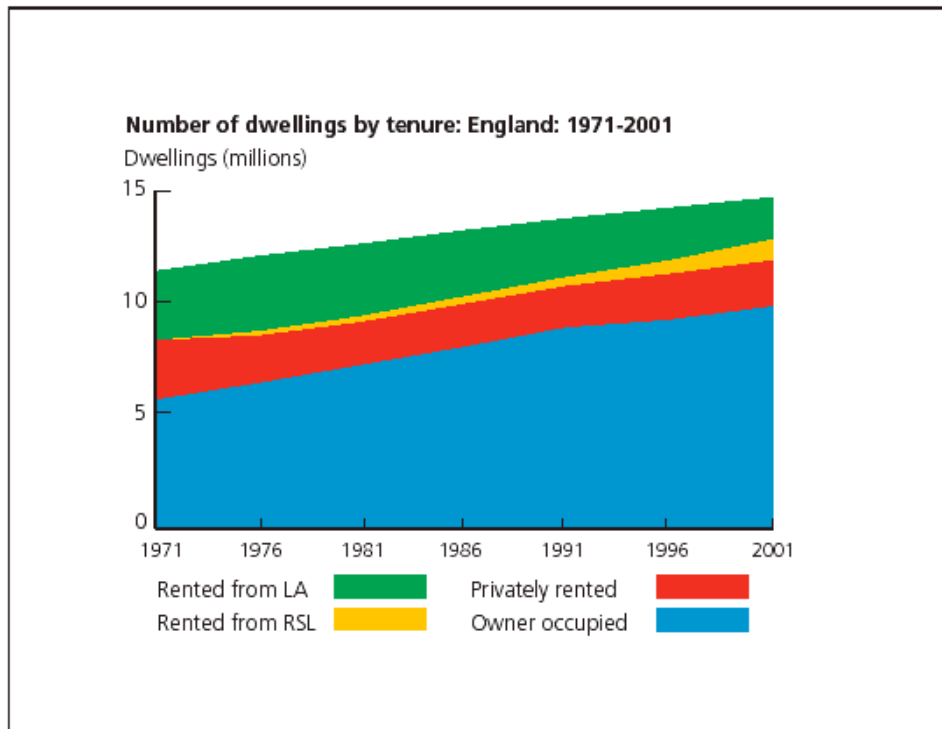
Figure 2 – Housing Completions, UK, 1949-2002



(Source: Barker, 2003, p.9)

Figure 3 overleaf graphically demonstrates the changes in tenure that have taken place over the last 30 years. More people now own their home, 70% today as compared with 50% in 1971, with surveys indicating that this is now the preferred choice of tenure for households. (ODPM, 2004)

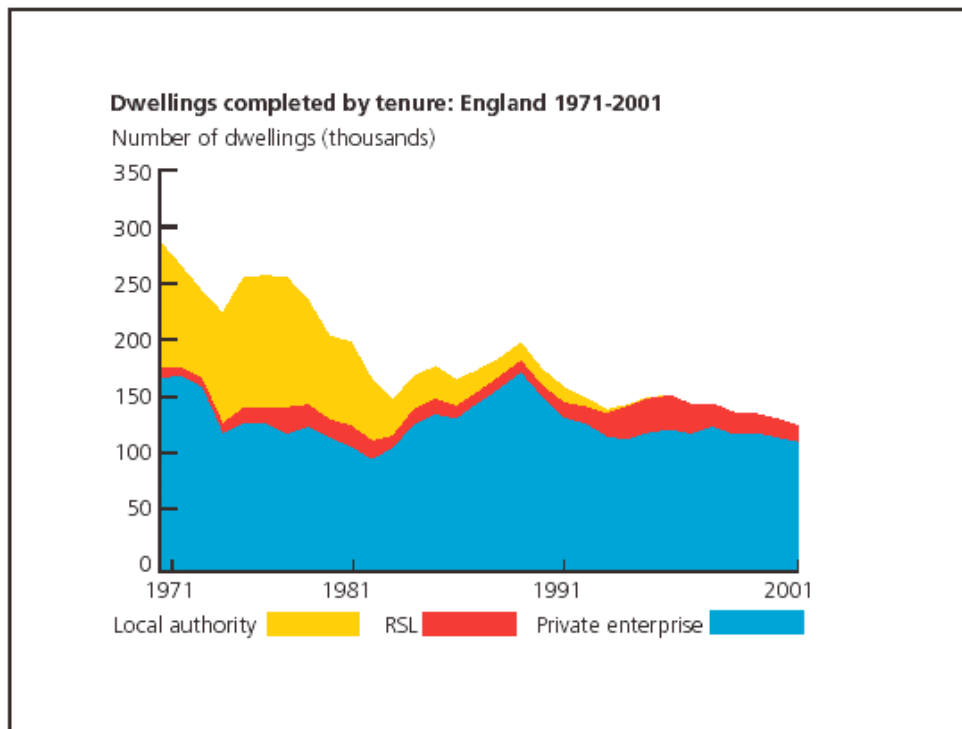
Figure 3 – Number of dwellings by tenure: 1971 - 2001



(Source: ODPM, 2003a, p.8)

These figures and this increased desire for home ownership are also borne out by the data displayed in figure 4 (overleaf). Not only does the graph show the decline in the number of dwellings completed, it further breaks the data down by tenure. The move away from rented to ownership is clearly visible with the decline in Local Authority completions and the rise in private enterprise completions. Notwithstanding these changes the graph is again a clear demonstration of the diminishing supply of housing being experienced in the UK today.

Figure 4 – Dwelling completed by tenure: England 1971 - 2001

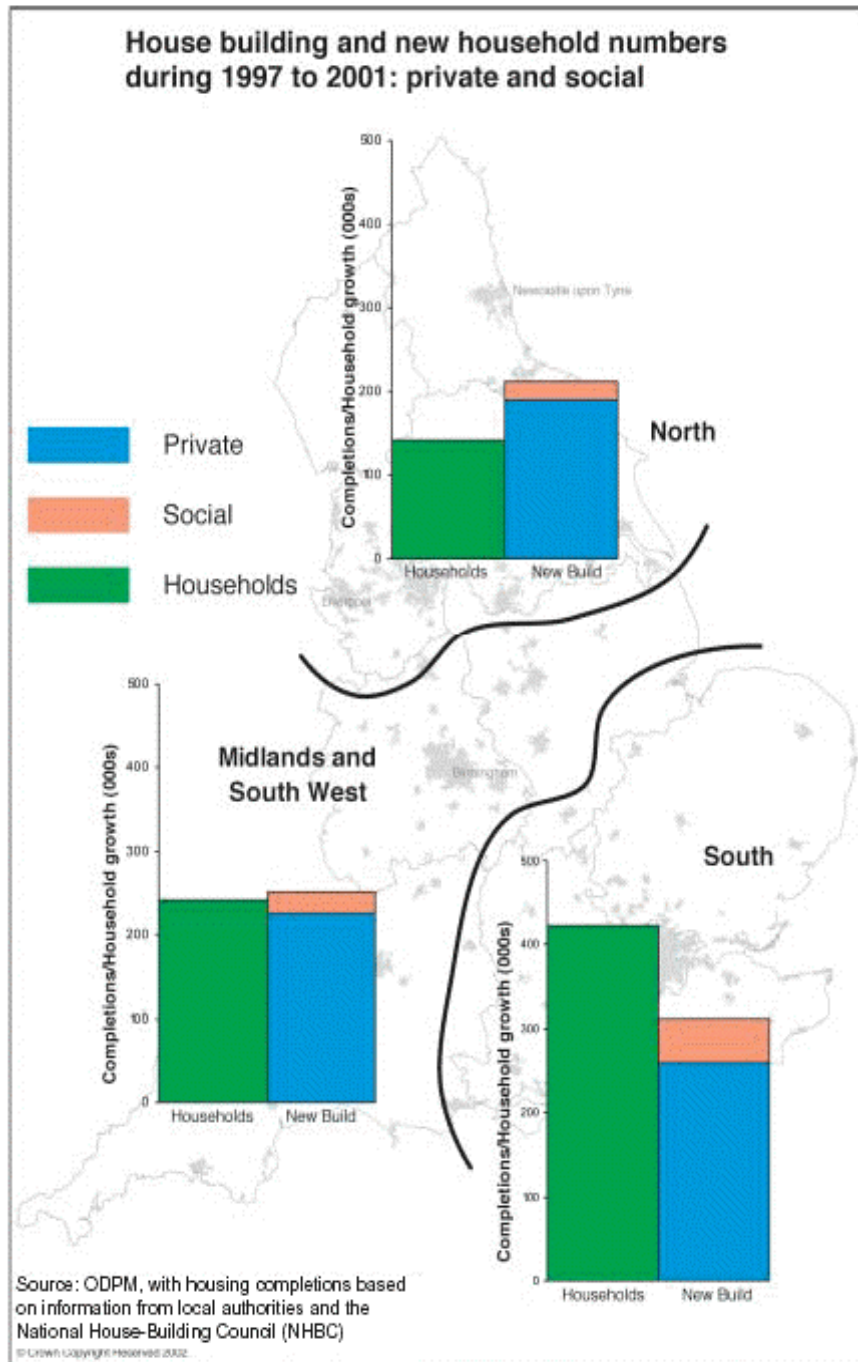


(Source: ODPM, 2003a, p.9)

All of the above tables and graphs are representations of a national picture. Whilst useful in providing an overall view, portraying a picture on such a large scale can mask the more varied problems that can exist at a regional level. The following table (figure 5) gives a clear indication that although new homes are being constructed the mix of private and social is disproportionately biased in favour of the private sector and it also gives the clearest possible demonstration of the problem that is being experienced in the South where the rate of build, irrespective of being private or social, is not keeping pace with the rate of household growth.

Figure 5 – House building and new household numbers during 1997 to 2001:

Private and Social



(Source: ODPM, 2003a, p10)

So why is there such a restriction in the supply of housing? and why is the market apparently unresponsive in terms of correcting itself through market forces? Referring again to Kate Barkers report (ODPM, 2003 p10) she proposes that there exists a range of factors that might constrain supply and that these arise as a result of market failures and the underlying environment of Government policy.

The suggested factors are as follows:

- There are industry constraints such as the competitiveness of house-builders, capacity constraints relating to skills and innovation and the availability of finance; and
- The role of policy levers such as tax, regulation through the planning system and housing subsidies.

In addition, she also proposes that the underlying constraint on housing is the supply of land. The range of factors constraining supply is as follows:

- The house-building industry, its response to risk and the speculative nature of land leading to a reluctance to build out large sites quickly.
- The increasingly complex nature of sites (especially brownfield), where significant remediation may be required.
- Land ownership and the incentives to bring land forward for development along with the difficulties of site assembly, where ownership is fragmented.

- The planning system and its influence over the amount of land which is made available and whether development is viable through the delivery of necessary infrastructure.
- Land use is also politically contentious.

2.3 **Investment in Housing**

In the immediate aftermath of the Second World War housing completions rose. This rise continued in real terms up until the end of the 1960's (see figure 2 earlier) when the number of completions was over 400,000 per annum. Much of this rise was due the increase in Central and Local Government expenditure with private sector house building remaining relatively constant from 1960 onwards.

The three main constituents of the housing market during this time were Social Housing, private rented housing and the owner-occupiers. Social Housing is not to be confused with Affordable Housing and in the context of this description it is taken as being what was once known as Local Authority Housing Stock.

Since 1980 the level of this stock has fallen. The introduction of the Right to Buy policy has transferred approximately 1.5 million properties out of this sector which coupled with the large scale voluntary transfers of Local Authority Stock to Registered Social Landlords (RSL's) has seen significant

changes in the volume of property that falls within this sector. The role of the Local Authority in housing provision has all but ceased and whilst the stock of the RSL's has risen, little has been in the way of new build as the majority of the RSL funds are expended on stock maintenance and refurbishment.

The Private rental sector has its roots firmly entrenched in history. In the early twentieth century over 90% of the UK population lived in rented accommodation. Following on from the programme of slum clearance introduced in 1918, Local Authorities became the driving force in the provision of new housing which, as discussed earlier, gained increased momentum following the Second World War.

The introduction of rent controls and the expansion of the Social Housing sector saw the private rented sector decline from over a third of the total stock to just over a quarter. Further reforms to taxation policy, most notably the introduction of mortgage interest tax relief and the subsequent benefits of this relief in a market where interest rates were high, house prices were rising at a rate in excess of inflation and inflation itself was rising; saw an increase in the levels of home ownership. All this was happening at a time when rental rates rose only in line with inflation.

More recently this trend has been reversed. Increasing house prices have seen 'first time buyers' being priced out of the market, the inability of the Social sector to accommodate all those requiring housing and the ability to use Housing Benefit to finance private rented accommodation has led to a rise in the demand in this sector. A further expansion has taken place with the advent

of ‘Buy to Let’ whereby rising property values have made residential property a good investment, which ironically has further fuelled the house price inflation thus exacerbating the situation even further.

In respect of owner occupation, the UK has a high level of home ownership by comparison to its neighbours in Europe. Figure 6 below shows the UK ranked 5th out of its 14 fellow European countries.

Figure 6 – Comparison of European Housing Tenure (by percentage)

Table A.1: Comparison of European housing tenure (percentages)

	Owner occupied	Private rental	Social rental	Other
Spain ⁴	83	9	2	6
Ireland ⁶	78	8	8	6
Greece ⁵	74	20	0	6
Belgium ⁶	74	17	6	3
UK ⁶	69	10	21	0
Italy ²	68	20	6	6
Portugal ⁴	64	25	3	8
Finland ⁶	58	15	16	11
Austria ⁴	56	21	20	3
France ³	54	21	17	8
Netherlands ⁶	53	12	35	0
Denmark ⁶	51	26	19	4
Germany ⁴	43	47	10	0
Sweden ¹	39	22	22	17

¹ 1990, ² 1991, ³ 1996, ⁴ 1998, ⁵ 1999, ⁶ 2000

Source: *Housing Statistics in the European Union, 2002*

(Source: Barker, 2003, p179)

The latest available figures for 2000/01 indicate that the level of owner-occupation has reached 14.4 million households (Barker, 2004, p178), which has risen from just over 5 million in 1971 (see figure 3 earlier). Much of this increase took place in the 1980’s whilst the 1990’s saw a relatively low rate of

growth. The reason that the UK has a propensity for owner occupation is attributed by some to a number of cultural, historical and economic factors that are beyond the scope of this research. However the volatility over recent decades of the inflation rate which in turn made property appear to be a safe investment may be just one of the reasons.

2.4 **A Précis of the UK Planning System**

Governments over the years have approached the provision of housing from every conceivable angle. From the blanket provision by the state in the early to mid twentieth century, right up to the free market approach whereby every one had the right to own their own home, adopted in the 1980's. It has only been since the mid twentieth century however, that a co-ordinated approach to development has been in place.

Up until 1947 and the advent of the Town and Country Planning Act, Planning policy per se was a combination of individual planning laws and policies that failed to provide a comprehensive approach to development in the UK. The Act that was implemented in 1947 is fundamentally the same system that is in operation today albeit having had a number of modifications made along the way.

The role of the Planning system is to balance different objectives. More specifically it plays a key role in:

- Promoting economic prosperity by delivering land for development in the right place at the right time.
- Encouraging urban regeneration
- Conserving Greenland and re-using urban brownfield land
- Playing a critical part in achieving the Governments commitment to sustainable development.

(Barker, 2003, p181)

At a national level the Government seeks to influence planning policy by the use of Planning Policy Guidance Notes (PPG's) and Planning Circulars. The most relevant PPG for housing is PPG3, which in its latest revision in 2000 sought to meet the following Government objectives:

- To ensure an adequate and continuous supply of housing land which is both available and sustainable.
- To make effective use of land within urban areas, whilst protecting open/green space.
- To provide a mixture and range of types of housing.
- To ensure that housing is available where jobs are created.

(Barker, 2003 p 183)

These requirements are then interpreted and taken on board by the individual Local Authorities who absorb them into their framework plans. The system then works by being “plan led”, that is the framework of plans that have been formulated cascade down from regional to local level. These plans then

determine what and where development may take place. If an application falls in line with a particular plan then approval can be granted unless there are “material considerations” to prevent it.

The amount of land that can be allocated for housing is determined by Regional Planning Guidance (RPG) and is based on the housing needs assessment (see Chapter 3) carried out by the individual Local Authority. The allocation of land for housing is then detailed on a site specific basis in the Local Authorities Local Development Plan (LDP), which will have been formulated in consultation with the local community. The LDP will set out the Local Authorities development proposals in an area for a given period of time (usually ten years).

Once these plans are adopted they can be adapted and amended by the issuing of Supplementary Planning Guidance notes (SPG) to update them inline with any Government policy amendments during the currency of the plan. (This is the way in which many Local Authorities have approached the issue of Affordable Housing).

Development Control is the secondary element of the planning system and is the process whereby the Local Authority can ensure that any planning application submitted meets its various criteria. Any amendments to the application imposed by the Local Authority normally manifest themselves as ‘Reserved Matters’ appended to a planning approval.

The development Control process can also include the imposition of planning obligations on a developer. The current legislation that permits and regulates these obligations is Section 106 of the Town and Country Planning Act 1990. The use of an agreement under this section of the Act sets out not to achieve planning gain but to compensate the local community for the impact of the development and to improve the infrastructure and services that are necessary to make the development viable.

These obligations are imposed at the point at which the development gains planning permission, for it is at this point that the developer and/or landowner benefits from the increased land values that ensue from the granting of the planning permission. The agreement seeks to extract some of this gain for the benefit of the local community.

2.5 **The Affordability Problem**

Affordability and Affordable Housing are two quite distinct concepts and as such merit individual analysis. The definition and concept of 'Affordable Housing' are examined in greater detail in Chapter 3. Affordability will be dealt with here.

Academic research has provided various definitions of Affordability. Fallis (1993) and Bramley (1994) provide definitions of Affordability that take account of the access to the market afforded to different sectors of society.

Freeman et al (1997) consider Affordability to concern more than just the cost of housing. They propose that it should also consider the quantity of housing consumed and whether or not households have sufficient residual income to ensure provision of the other necessities of life.

Affordability is therefore a variable concept and is best described by Fyson, (1992) in that it means;

“Housing accessible to people whose income is insufficient to allow them to acquire adequate homes from among those which are available locally, on the open market.”

The question then arises as to the extent of this problem. What, if any, is the shortfall in the provision of housing that is required to provide the element of Society who suffer a lack of housing because they fall into this affordability trap?

The research report ‘Planning Gain and Affordable Housing: making it count’ (Crook et al, 2002) addressed this issue and produced the following table.

Figure 7 – The Gap between need and provision: ADP funding of Section 106 sites

Annual need for new affordable homes (Holmans, 2000)	80,000
Less annual output of new build by RSLs, funded by ADP/LASHG on S106 sites	8,000
Less annual output of new build by RSLs, funded by ADP/LASHG but not on S106 sites	21,000
Less additional annual output from planning gain, not funded by ADP/LASHG	4,000
Less annual output of other new affordable homes	5,000
Equals annual deficit in total output against need	44,500

Note: ADP, Approved Development Programme; LASHG, Local Authority Social Housing Grant

(Source: Crook et al, 2002)

From the figures above it can be seen that the perceived deficit in housing provision is 44,500 units, which when compared to Holmans assessment of the annual need for 80,000 units, means that less than 45% of the demand is being met by supply. This shortfall is borne out by reference to figures collated from the Regional Planning Guidance's (RPG's) for regions where affordable needs have been estimated. Using this data the national need is assessed at 69,000 units with a current provision of 40,000 units, thus showing a shortfall of 29,000 units (a 42% deficit).

2.6 **Conclusion**

In the 21st century it goes without saying that people deserve the right to be adequately housed. How and via what route this housing is provided is the vexed question that is becoming more relevant by the day. The Governments attempt to at least establish a benchmark in the formulation of the ‘Decent Homes’ concept is too be applauded and the Housing Green Paper ‘Quality and Choice: a Decent Home for All’ is, as they say, the first comprehensive review of housing in this country for 23 years.

Despite these efforts the problems appear to be growing rather decreasing. This has much to do with the unprecedented rises in house price inflation that is currently being experienced in the UK. The Governments policies now appear to be reactive rather than proactive and the provision of housing be it ‘Affordable’ or ‘Social’ will continue to be at the fore of Politics for some time to come.

It is quite apparent that the root of the problem has been the failure of the housing market to keep pace with the increasing demand for housing and the growth in the number of households requiring homes. The fact that the demographics of this rising number of households have changed over time is merely a further complication.

Whether this lack of housing supply is due to market failure or the underlying environment of Government policy is a contentious and highly political debate to which there would appear to be no formal consensus of opinion. This aspect

of the under supply argument is beyond the scope of this research and as such will be ignored. The relevant aspect is the perceived constraint placed on the supply of land for housing. There are many facets to this constraint, all of which were listed earlier. Most of them revolve around the two key issues the un-willingness of landowners and house builders to bring land forward, and the vagaries of a planning system that many believe to be an insurmountable hurdle that seeks to deter development rather than promote it.

In respect of the delivery of Affordable Housing, the topic of this research, before any analysis of the process is undertaken the rationale behind the concept and how it is defined must first be examined.

3.0 **CHAPTER THREE - Affordable Housing: The Premise and The Practice**

3.1 **Introduction**

A key objective of current Government strategy and policy is the desire to ensure everyone has the opportunity of a decent home. In attempting to meet this objective, providing access to housing that is genuinely affordable to a wide range of people has assumed an increasingly important role. In the foreword to the Governments Housing Green Paper published in April 2000. John Prescott stated,

“As we enter the 21st Century, we are enjoying unprecedented levels of prosperity. In a prosperous country it is right that we should strive towards giving every one the opportunity of a decent home. That is the Governments objective.

But many have had experiences with their housing. Too many are in poor accommodation. Years of under investment in Social Housing have left a £19 billion repair backlog. Too many face real difficulty in finding a decent and affordable home.”

It is the recurring concepts of a ‘**decent**’ and ‘**affordable**’ home, which continue to come to the fore. The concept of a ‘decent’ home has led to a review of the existing housing stock and the subsequent requirement for Landlords to carry out such repairs and maintenance as are required to bring these properties up to a pre-determined standard. The ‘affordable’ element of the policy, the area we will concentrate on, addresses the provision of housing for people who cannot afford to buy a property due to low income or other

external influences, many of which are beyond their control, such as the area in which they live.

Affordable Housing must be viewed as distinct from Social Housing.

Referring again to the Housing Green Paper of April 2002, Social Housing is considered to be:

“A valuable resource that confers benefits such as low rents, security of tenure and Right to buy. It is supported by the public purse on the basis that it brings worthwhile benefits to the community that the private market cannot readily provide.”

Following on from this it should be relatively easy to provide a definition of Affordable Housing, however finding such a definition is quite elusive.

3.2 **Defining Affordable Housing**

The aforementioned Green Paper refers to the then current ‘Planning Policy Guidance note 3: Housing’ (hereinafter referred to as PPG3) for its definition of Affordable Housing as:

“Housing that is either let at sub-market rents or sold at prices at the lower end of prevailing market levels”.

This definition was amplified in the DETR Circular 6/98 (Planning and Affordable Housing) and the term is referred to in here as being “housing that will be available to people who cannot afford to rent or buy houses generally available on the open market.”

This Circular 6/98 is a key document in respect of the introduction of the concept of Affordable Housing. It’s premise was to advise planning authorities and developers on the requirement for new developments to provide an appropriate mix of housing and other uses whilst maintaining a central theme of making this provision cheaper than is generally available in the market place.

Paragraph 15 of the Circular further refines the scope of the definition by stressing that the ‘need’ for Affordable Housing should relate solely to local need. This requirement to clarify ‘need’ stems from the statement in Paragraph 9, which states;

‘The policy should define what the authority regards as affordable, but this should include both low-cost market and subsidised housing, as both will have some role to play in providing for local needs’

So from Circular 6/98 we now have the twin requisites that planning authorities and developers should ensure an appropriate mix on new developments and that the determinant for this mix should be considered at a local level and be reflective of local circumstances. Hence Affordable Housing

becomes housing that is defined as being ‘affordable’ in the local context and covers a spectrum of housing provisions including low cost and subsidised. Use of the terms low cost and subsidised was sufficiently broad for Local Authorities to plan developments that had a range of housing tenures.

Paragraph 4 however specifically forbade the authorities from drawing up planning policy that defined the housing tenure that was to be considered as affordable. It stated:

‘Planning policy should not be expressed in favour of any particular form of tenure. Therefore, the terms ‘Affordable Housing’ or ‘affordable homes’ are used in this Circular to encompass both low cost market and subsidised housing (irrespective of the tenure, ownership -whether exclusive or shared- or financial arrangements) that will be available to people who cannot afford to rent or buy houses generally available on the open market’

So, combining all of the above parameters leads to the recommendation that policies drawn up by Local Authorities should define what each Local Authority regards as affordable, and that definition should include both low cost and subsidised housing, since both will have a place in providing for the local need. Such a definition should be framed in a way as to have a life span equal to the length of the planning policy and should be relevant to the local need. Such relevance should be demonstrated by reference to the level of local incomes and their relationship to market house prices and rents, as opposed to a standardised or particular price or rental.

Subsequent to Circular 6/98 the Government produced a revised PPG3 (DETR 2000), which has taken the concept of Affordable Housing much further, especially in respect of delivering such housing. In Paragraph 12 of this latest PPG3, they have attempted to draw together the various threads of Circular 6/98 in the following;

‘The Government believes that it is important to help create mixed and inclusive communities which offer a choice of housing and lifestyle. It does not accept that different types of housing and tenures make bad neighbours. Local planning authorities should encourage the development of mixed and balanced communities: they should ensure that new housing developments help to secure a better social mix by avoiding the creation of large areas of housing of similar characteristics’

From this statement it is clear what the Governments intentions and requirements are in respect of new housing developments. However what is puzzling is their unwillingness to be specific in respect of a definition of Affordable Housing. From Circular 6/98 it is clear and understood that the assessment of the need for Affordable Housing should be arrived at on a local level, and that local factors should be the major determinants. Yet this reluctance to provide even a basic framework wording for a definition has led to and is still causing confusion.

By way of example, from the literature search undertaken the following wide-ranging Local Authority definitions were found:

'Housing for those residents in housing need and Key Workers essential to the Central London economy whose incomes are insufficient to afford adequate housing' (A London Borough's agreed policy: 1998)

'Housing provision of a type and standard within the financial means of people who are in unsuitable accommodation for their needs or who are homeless. These can include both subsidised and low cost market housing; the suitability of the various forms of housing will be judged on the ability to meet need. Affordability will be assessed, at the time of negotiation, in relation to local market conditions and the financial indicators of those in housing need' (A West Midlands Local Authority District Local Plan: 2000)

'Affordable Housing is defined as that which is accessible to people whose income does not enable them to afford to buy or rent property suitable for their needs in the free housing market' (A North West Authority Deposit Draft Local Plan: 2000)

(Source: Henry Stewart Conference: Understanding Social Housing, London, 2004)

What is clear from all these definitions is the strong adherence to the wording found in Circular 6/98. By utilising this Circular the Local Authorities have taken a very cautious approach to producing a definition and as can be seen are coming up with very loose and broad based definitions.

In terms of providing a comprehensive and conclusive definition, none exist. Perhaps the best around is the one to be found in Local Needs Assessment: A Guide to good Practice (2000) which quite succinctly summarises Affordable Housing as:

‘Housing of an adequate standard which is cheaper than that generally available in the local housing market. This can comprise a combination of subsidised rented housing. Subsidised low cost home ownership including shared ownership, and in some market situations cheap housing for sale.’

3.3 **Housing Needs Assessment**

It seems odd, given the volumes of literature and guidance on the subject that the best definition of Affordable Housing should be found in a guide to good practice for assessing local needs. Although on reflection this may give an indication of the importance of the Housing Needs Assessment Survey in formulating policy.

In Circular 6/98 there is a clear requirement for any policy formulated for Affordable Housing to be based firmly on a rigorous and realistic assessment of local needs. If evidence of a need is identified then local plans should include a policy for seeking an element of such housing as is required to address the need, when suitable sites are found. Such a policy would then be a

material consideration when determining any future applications for planning permission.

Simple reliance on the findings of a survey carried out by an independent consultant would be dangerous. In addition to the basic assessment of need, political and resource judgements need to be factored in, together with due account of local circumstances.

Any assessments need to be rigorous and clear, with clear statements of the assumptions and definitions used. These assessments must be able to withstand detailed scrutiny and should be kept up to date during the currency of the planning period.

They should include factors such as, current local housing market prices, current local rental values, the existing supply of suitable local Affordable Housing (if any), the composition and demographics of local households and the types of housing best suited to meeting these local needs.

The remit for the survey should be as wide ranging as is required and should not only include Affordable Housing but should also include housing for the following groups: the elderly, disabled, students, young single people, rough sleepers, homeless, those in need of hostel accommodation, Key Workers, travellers and occupiers of mobile homes and house boats.

As a basis for the formulation of policy it is clear that the Housing Needs Assessment Survey is an important document, so much so that the DETR

issued guidance in 2000 on how best to undertake such surveys. Surveys carried out prior to this were often criticised by developers for having methodological weaknesses, which amongst other things, led to overstatement of the need for social rented housing and under estimation of the need for other types of Affordable Housing. In addition, concerns have been raised with the translation and interpretation of the surveys into planning policy. One element of the data provided by current assessments is a rise in the prevalence and significance of a group known as ‘Key Workers’.

3.4 **Key Workers – who are they?**

The term Key Worker is relatively new and no mention of the term is made in Circular 6/98. From the literature search, the term is to be found for the first time in Paragraph 13 of PPG3 where it is referred to in the context of assessing housing need. It is referred to again in the Good Practice Guide to Housing Assessment (July 2000) but the document fails to provide a definition.

The Government, ever mindful of the politics of providing a definition, have over time alluded to and suggested categories of employment that could fall under this description. Indeed in a response to a Select Committee Report on Affordable Housing, the Government actually confirmed that it had not yet defined Key Workers, but from its pronouncements it believed that the term should at least include health workers, teachers and the Police.

Possibly the closest to a definition is to be found in the document “Starter Home initiative Round 2”, Building Guidance – Equity Loan Scheme (January 2002) where it states:

‘The starter home initiative is intended to assist the purchase of homes for Key Workers whose services are essential to the local community, and who need to live close to those communities and the people they serve and could not otherwise afford to do so.

The aim of the scheme is to provide help for Key Workers, particularly health workers, teachers and police to buy their own homes within a reasonable distance from their work.’

So having, in a round about way, defined who Key Workers are, the question arises as to why are they so important and why do they need assistance? Their importance is obvious, since they all work in the Public Sector and perform vital roles in providing services that we rely on every day. As to why they need assistance, the reason is quite simple. In certain areas such as the South East of England, demand for housing is outstripping supply and many workers on modest incomes cannot afford to buy and renting is not a viable alternative due to high rental values.

In Sustainable Communities: building for the future (ODPM, 2003) these reasons are succinctly clarified as;

(a) The disparity between housing costs and incomes for Key Workers and the general lack of housing; and

(b) Labour market considerations such as wages, competition and demographic changes.

Hence people on what are termed 'low to moderate incomes' fall between the two stools of being on the one hand unable to finance a house purchase, yet earning too much to qualify for access to social rented housing.

In the past this has been addressed by Councils giving priority access to Council housing for such 'Key Workers' and certain services, namely the Police and the NHS providing on site accommodation and lodgings. The reduction in the provision of such lodgings and the increase in the take up of the 'right to buy' scheme, coupled with the concentration by Local Authorities in placing the homeless and the poorest households in Council housing has severely diminished the availability of this housing stock.

The Government obviously foresaw this as a problem area and introduced the Starter Home Initiative (SHI) in an attempt to alleviate the problem. With a continually rising housing market where price rises are advancing at a greater rate than wage rises, this scheme will fall short of its intended targets. Some argue (Tetlow, 2003) that the definition of Key Worker included in the SHI was too narrow and that the maximum loans were unrealistically low. The loan level has now been addressed, however with a continued lack of a clear definition for both Key Worker and Affordable Housing there is now beginning to exist a 'grey area' in terms of where the housing provision for these two, distinct, groups will come from.

If Key Worker housing is regarded as a specific category of Affordable Housing, then the planning system can be expected to contribute to meeting this need through planning gain via Section 106 Agreements. However as discussed earlier, Circular 6/98 makes no mention of Key Workers, yet PPG3 does refer to Key Workers as one of the ‘specific groups’. This is a source of confusion amongst Local Authorities that have commissioned, and subsequently acted upon, Housing Need Assessment Surveys where Key Workers have largely been ignored as a group per se. Many Unitary Development Plans (UDP) and Local Plans have been drawn up omitting to address this growing need. Some, Milton Keynes Council for example, have gone to the extreme of adjusting the ratio within their 30% Affordable Housing target to reflect a provision of 25% Key Worker and 5% social rented. Others, Cambridgeshire and Peterborough in their joint structure plan, have viewed Key Worker housing as a subset of Affordable Housing and not a part of their overall Affordable Housing target.

3.5 **The Paradox of Affordable Housing**

During the literature search it became apparent that the topic of Affordable Housing is highly politicised. Any opportunity to attack the policy or performance of the Government is seized upon with vigour by their opponents, with a mind set amongst some that despite the much heralded targets and promises of further funding the situation exists where the shortage or ‘backlog’ of housing is actually growing rather than declining (Moylan, 2003).

Moylan also claims that Affordable Housing is just social or subsidised housing by another name. He then goes on further to attempt to dispel some of the assumptions that have been made when producing supporting arguments for the requirement for Affordable Housing. He states that the UK housing market has perverse incentives, for instance there is little incentive for people claiming housing and council tax benefit to find employment and leave the Affordable Housing sector. He claims that the restrictions placed on Councils and RSL's in the right to buy legislation coupled with further Government restrictions on other market mechanisms, have helped to create a market that is dysfunctional and has ultimately failed.

He then moves on to address the proposed method of delivering further Affordable Housing via the planning route and the use of Section 106 Agreements. He argues that contrary to the belief that this method is 'costless' because no public money is involved, the actual cost incurred by the developer in providing the affordable units is passed on to the purchasers of the new private units. This manifests itself in increased private sector house prices, which only serves to fuel the upward spiral of prices thus widening the gap between the private and affordable sectors. This argument is countered by others who believe that instead of passing the cost on to his customers, the developer will in fact reduce his offer price for the land by the projected cost of providing the Affordable Housing.

Moylan further argues that an overhaul of the 'structural rigidities' in the social landlord sector is required with much being learnt from the private rental sector in how to manage property correctly and efficiently. He then berates the

concept of ‘Key Worker housing provision’ as being the by-product of the sale of the accommodation stock that used to house these workers. The sale of this stock only being required because of the ‘constraining effects of Government accounting policy’.

In conclusion, and clearly making a political point, he states that the housing market should be liberalised with planning controls made more flexible, less restrictive regulation on the minimum housing standards and generally an increase in the level and volume of house building overall. In short the power of the market should be left to address the undersupply of housing currently being experienced today.

3.6 **Conclusion**

The requirement to provide housing for those that cannot afford it is not without question. Whatever the type of housing and type of tenure, it is everyone’s fundamental right to have a ‘decent’ home. Whether these ‘decent’ homes are affordable, especially given the current rising market conditions, is the question most perplexing the current Government.

In revising and updating Circular 6/98 and PPG3 to reflect the requirement for first, Affordable Housing and subsequently Key Worker housing, the Government have attempted to address these issues. They have in some ways however, been victims of their own success, in as much as the growth and

relative stability of the economy over recent times, coupled with the lowest level of interest rates in living memory has fuelled the ever increasing spiral of house price inflation.

Whereas in a falling market or in times where house prices were more stable, the numbers of people in these categories would have been fairly constant or even falling; in the current market place where wage rises are being outstripped by house price rises, the numbers are actually rising.

Notwithstanding this, and the housing market has been notoriously cyclical over the years moving from 'boom' and 'bust' with an ever increasing predictability; the method chosen by the Government to affect a change to this predicament appears to lack a clarity of definition that has the potential to cause more problems than it solves.

The fundamental lack of a central definition of Affordable Housing and subsequently key Worker and the imposition on individual Local Authorities to formulate and refine their own definition is flawed policy. It is understood that 'needs' must be assessed at a local level taking into account all manner of local factors, however the lack of stricter guidelines within which to assess these needs is the fundamental flaw.

Recent Planning decisions made on appeal have shown the potential pitfalls ahead. In a proposed residential development in Hillingdon, West London some of the new accommodation was offered to a Registered Social Landlord to be occupied by persons employed or studying at the local hospital. The Council rejected the scheme on the grounds that the staff accommodation

would not amount to Affordable Housing, placing its reliance on Paragraph 13 of PPG3, which refers to “Affordable Housing and housing to meet the needs of specific groups”. At the appeal the inspector concluded “there is nothing in PPG3 to suggest that these two groups are mutually exclusive and there will often be substantial overlap”. Thus the appeal was allowed, confirming that Key Worker housing is a specific category of Affordable Housing if it is based on demonstrated need, and Affordable Housing would be occupied by people who cannot afford to rent or buy houses locally on the open market. (Tetlow, 2003)

Hence it can be seen that the lack of clear definition and guidance from Central Government has and will continue to cause problems. Whereas much political emphasis has been put on the concept of ‘a decent home for all’, in this current housing market where prices continue to rise, the Government needs to make a concerted effort to ‘get ahead of the game’ in terms of providing definitions and guidelines that will enable the providers of Affordable Housing, whoever they may be, to deliver the goods.

4.0 **CHAPTER FOUR** – Delivering Affordable Housing

4.1 **Introduction**

Having in the previous two chapters provided an over view of the housing market and housing supply in the UK and then explored the background to ‘Affordable Housing’; it is now time to discuss the delivery of this type of housing.

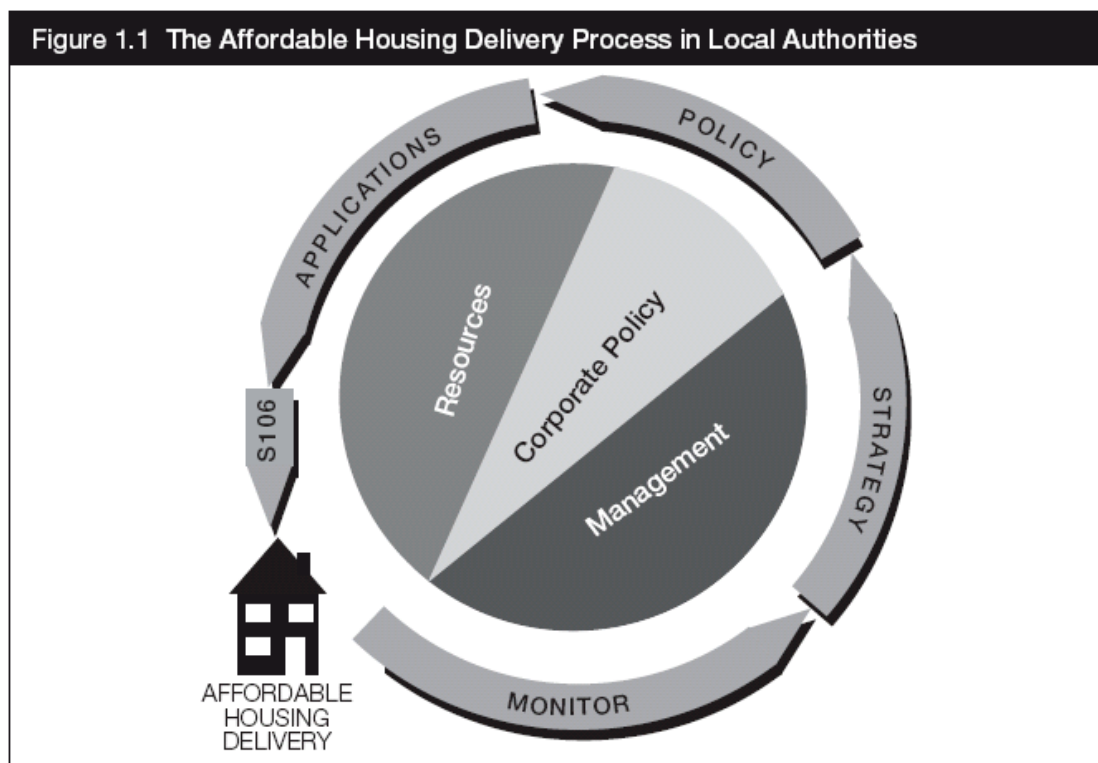
Who is responsible for securing delivery, the Local Authority (via control of the Planning process), RSL’s, or private sector developers? An argument can be put forward by any or all of these bodies to state the case for it **not** being them. Just as equally the same argument can be used to prove it **should** be them. The answer quite probably lies somewhere in the middle with inputs from all interested parties being required in order to effectively deliver the necessary housing to meet the need.

The key to successful delivery is that planning practice, supported by effective planning policy, secures low land values and thus facilitates buildable schemes for whoever the provider may be. (Lainton, 2001) The necessary mechanisms to achieve this goal need to be fully developed and supported in order to achieve the stated aim of securing successful Affordable Housing policy implementation. If this means allowing developers to come forward with suggestions for credible delivery mechanisms, or partnerships between developers and RSL’s being actively encouraged in order to secure a planning permission, then all these possibilities should be fully supported.

Notwithstanding the importance of securing Affordable Housing, the Local Authorities must seek to achieve a balance across all their planning objectives. Consideration needs to be given to the relative ‘weighting’ of obligations whilst at all times ensuring that a clarity and consistency is retained in their approach.

How a Local Authority assesses, monitors, manages and ultimately delivers Affordable Housing is best demonstrated by reference to the following diagram.

Figure 8 – The Affordable Housing delivery process in Local Authorities



(Source: ODPM, 2003b, p11)

In this diagram it can be seen that there is a lengthy process that must first be undertaken in order to establish the correct level of need. What the diagram also clearly shows is that the preferred method of delivery is via the planning system and the use of a Section 106 Agreement.

The use of the planning system to provide Affordable Housing as a form of 'Planning Gain' is not a new concept. It has been included in all Planning Policy Guidance on housing (PPG3) since 1981 and provided Local Authorities have policy within their adopted statutory development plans that assesses and identifies the need (see Housing needs Assessments – Chapter 3) for new Affordable Housing; they can, should they choose, require private developers to contribute to meeting this need. (Crook et al, 2002)

When the Authority gains the agreement of any developer to making such a contribution, the legal aspect of this agreement is made binding by use of a Section 106 Agreement. This agreement derives its name from Section 106 of the 1990 Town and Country Planning Act and is a pre requisite to the granting of a planning permission for a specific site.

4.2 **The Current Methods and Mechanisms for Delivery**

There are currently two main mechanisms for delivering Affordable Housing:

- a. The provision of public subsidy – Social Housing Grant – to support the development by registered social landlords of housing for letting at sub market rents or for sale on shared or low cost ownership terms; and
- b. The use by Local Authorities of their powers to require an element of Affordable Housing to be provided in the development of a site under the arrangements set out in “Planning Policy Guidance note 3: Housing” and DETR Circular 6/98: Planning and Affordable Housing”.

(Source: ODPM Housing Green Paper, 2000, pp 71-72)

Social Housing Grant (SHG) is provided by Central Government via the Housing Corporation, who in turn distributes it via their Approved Development Programme (ADP). SHG is also distributed through support given to a Local Authority’s own development programmes. The extent and geographical spread of the funding, varies widely with the bulk of the funding in London and the South East of England.

The Housing Corporations ADP is geared predominantly towards the delivery of Social Housing, which as discussed in Chapter 3 is quite distinct from Affordable Housing. That said, the Government clearly did not envisage a distinction when drawing up the Green Paper in 2000 as it set out the objectives for the ADP as:

- a. To provide additional Affordable Housing in areas of economic and demographic growth;
- b. To contribute to regeneration of deprived neighbourhoods by helping to fund the refurbishment or replacement of existing housing; and
- c. To fund the provision of new supported housing to meet the needs of a wide range of vulnerable groups.

It is apparent that at some time following on from the drafting of the Green Paper, a decision has been made to differentiate between Affordable and Social Housing. The reasons for making such a distinction are unclear. Suffice to say the resultant lack of a clear and workable definition of Affordable Housing has become problematic.

The second of the two mechanisms is the one that is the subject of this research. The delivery of Affordable Housing via the planning system is, as was stated earlier, nothing new. Until the late 1980's Central Government appeared willing to provide for this element of the housing market supply via established funding routes. Since 1989 however successive Governments have sought to change this and the resultant chronology of these events is as follows:

- 1989 – Rural Exceptions Policy – allowed relaxation of restrictions on development around the periphery of villages where this involved construction of 'Affordable Housing'.
- 1991 – Circular 7/91 – created a general ability for Local Authorities to negotiate a proportion of Affordable Housing on larger sites.
- 1992 – PPG3 confirmed the measures include in Circular 7/91

- 1996 – Circular 13/96 restricted this policy in terms of site size thresholds.
- 1998 – Circular 6/98 strengthened the policy by reducing site size thresholds.
- 2000 – PPG3 was further strengthened by creating a presumption in favour of both ‘mixed and balanced communities’ and the active use of PAH policies where needs justified them.
- 2001 – a consultation process has commenced on a possible ‘tariff system’ of planning gain, with Affordable Housing emphasised as particularly important.

(Source: G Bramley, 2002)

Delivery via the planning system takes place using Section 106 Agreements. This would appear to be the most appropriate tool for this delivery route however experience shows that there are often problems of delay in the drawing and subsequent negotiation and completion of these agreements. This may well be a result of the lack of a standard form of agreement coupled with a lack of experience on the part of those constructing the agreement.

In order to achieve the aim of ensuring the housing stock being provided remains affordable in perpetuity, this is often best done by introducing an RSL to the agreement. If however, as is being proposed in Scotland, a ‘right to buy’ for RSL tenants is introduced, this undermines the argument for RSL involvement. Even if the ‘right to buy’ takes the initial form of shared ownership, there is normally a facility allowing the purchaser the opportunity to staircase to full ownership. The only benefit of this would be the provision

of capital receipts for the RSL on the sale of the property, which they could re cycle into funding further new stock provision.

4.3 **The Role and Effective Use of Section 106 Agreements**

As discussed in the previous section of this chapter, the delivery of Affordable Housing is predominantly via the use of Section 106 Agreements. Indeed it can be concluded that these agreements are an integral part of the provision of this tenure of housing and that in the vast majority of mixed tenure sites such an agreement will be in place.

Hence the role of Section 106 Agreements is clearly to act as the method by which this tenure of housing is delivered. There is however concern that the process involved in concluding these agreements is overly long and can in some instances be a barrier to development. Recent research carried out for the now defunct DTLR and presented in the document ‘Delivering Affordable Housing through Planning Policy’ published in March 2002 (ENTEC, Three Dragons, Nottingham Trent University); surveyed all the Local Authorities in the following five English regions:

- London
- The South East
- The South West
- The West Midlands
- The North West

The findings of the research clearly demonstrate that despite the prescription that this should be the standard mechanism for invoking the requirement for Affordable Housing, the use of these agreements and the consistency of this use and their formulation varied dramatically across the country. The research also highlighted the complex nature of the process of delivering on-site Affordable Housing. Notwithstanding the normal process of the application for planning approval, there are several other issues outside this that also require reconciliation. The negotiation of the build contract between the housing developer and the RSL, and the availability of subsidy through SHG being just two.

To return to the research, the following tables serve to illustrate the three main points to come out of the survey, firstly the experience in negotiating these agreements varies dramatically across the country, secondly, the organisation of the negotiating team and lead departments is also variable, and thirdly, that the average time to complete the negotiations for these agreements also varies on a regional basis.

Figure 9 – Numbers of Section 106 Negotiations Concluded or under Negotiation

Region	Average - Concluded	Average - Under Negotiation
Greater London	9.3	2.2
North West	3.3	N/r
South East	4.3	4.4
South West	4.3	3.1
West Midlands	7.1	3.4

(Source: ODPM, 2002, p56)

This table shows that at the time of the survey under half of the authorities surveyed had an agreement under negotiation and whilst in the North West only 30% of authorities had concluded an agreement in the previous two years, 67% of the London Boroughs and 64% of the authorities in the South West had completed an agreement in the same time period.

Figure 10 – Conducting Section 106 Agreements

Table 7.2: Conducting Section 106 Agreements	
Best description of the way in which Section 106 agreements are usually conducted	All regions (64 responses)
No experience of negotiation of Section 106 for affordable housing	11%
Planning Dept leads on negotiation, with advice from Housing Dept	47%
The Housing Dept leads on negotiations, with advice from Planning Dept	5%
Housing & Planning Depts undertake negotiations together	25%
Legal Dept leads the negotiations	5%
Other mechanisms	7%

(Source: ODPM, 2002, p56)

This table would suggest that the lead department in the negotiations is of little significance, however one of the key findings of the research is that poor internal communications is a significant factor in delaying progress on planning obligations. Hence it can be concluded that whoever leads, they must do so with authority and clear lines of communication.

Figure 11 – Average Time to Conclude a Section 106 Agreement

Table 7.3: Average Time to Conclude a Section 106 Agreement	
Region	Months
Greater London	7.3
North West	6.5
South East	5.3
South West	12
West Midlands	4.5

(Source: ODPM, 2002, p58)

Analysis of figure 11 clearly demonstrates that once again there is considerable regional variation. This may reflect the lack of negotiating experience on the part of the Local Authority, or as discovered by the researchers the delays can also be attributed to the developer who try and re negotiate every point and who use lawyers with considerable resources to try and gain maximum advantage from the agreement prior to signing.

The research concludes with recommendations that follow the Government guidelines on the concept of ‘Towards Better Practice’. This concept is based on a ‘Plan, Monitor and Manage’ approach, the aim being to improve efficiency and thus streamline the process.

The recommendations can be summarised as follows:

- Involve planning, housing and legal teams in an early discussion of the Section 106 requirements.

- Negotiate the Section 106 obligations in parallel with processing the planning application so that when the resolution to grant is made, a detailed Heads of Terms or draft Section 106 obligation is available.
- Develop contribution frameworks in a consistent format across districts, within a county or sub-region.
- Seek full cost recovery for preparing Section 106 Agreements.
- Use external resources to supplement internal legal teams, using money reimbursed by applicants.
- Use standardised Section 106 Agreements, devised in consultation with RSL's and developers.
- Ring fence in-lieu contributions and hold them in dedicated accounts.
- Set internal response targets for concluding Section 106 Agreements, particularly if the preparation does not take place until after the resolution to grant.
- Monitor progress on Section 106 Agreements, track payments and actions.

(Source: ODPM, 2003, Improving the Delivery of Affordable Housing in London and the South East)

4.4 **The Effectiveness of Planning Policies for Affordable Housing**

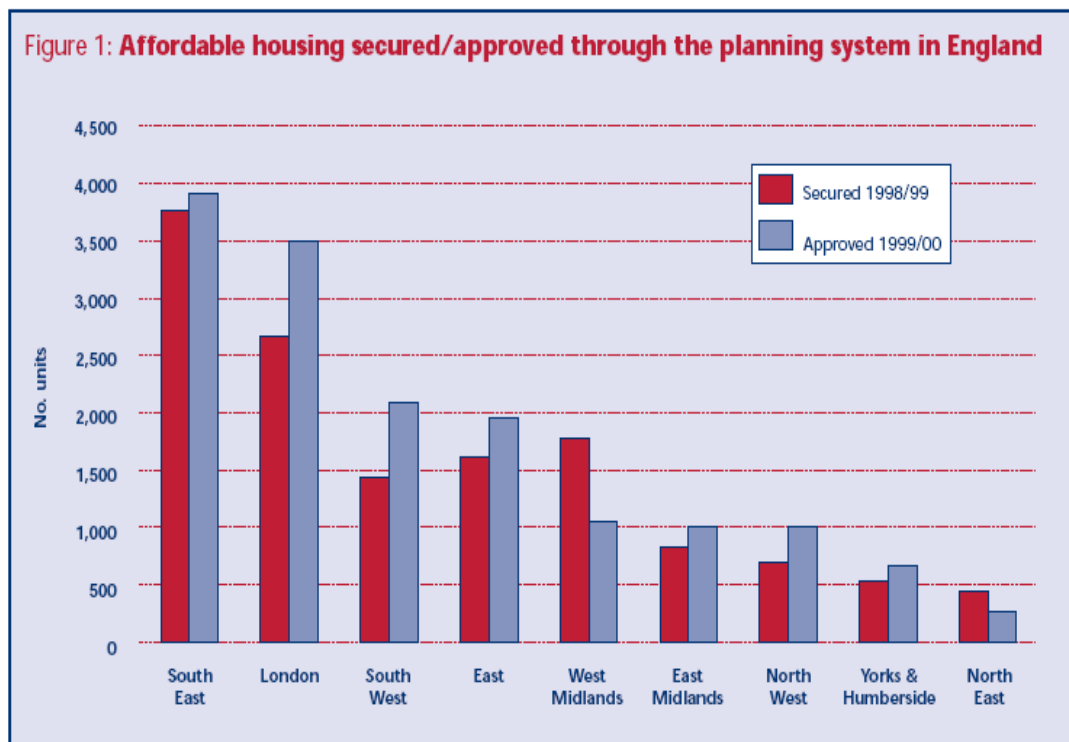
As has been established throughout this chapter, the planning system now plays a key role in the provision for, and delivery of Affordable Housing. Although the premise is sound the practice may in some respects be self defeating if RSL's use SHG to finance Affordable Housing secured via a Section 106, but by using this SHG they are actually reducing the volume of Social Housing being secured elsewhere. This also lends credence to the school of thought that the fundamental flaw in housing undersupply is the lack of Government funding across the board. Taking money from one pot to finance housing in another is not solving the problem but merely masking it.

This argument applies not only to funding but applies equally to the provision of land. In a recent submission to the Barker Review (ODPM, 2003, p173) Crook, Monk, Rowley and Whitehead suggested that if the amount of land secured by the use of Section 106 Agreements increased, it would be essential for any accompanying financial contributions from developers to also increase. If this did not happen they suggest that the increase in Section 106 units would absorb an ever increasing proportion of the Housing Corporations Approved Development Programme (ADP) which in turn would leave less funding for other forms of Social Housing.

In a statistical context, very little up to date information exists. In November 2003 the Joseph Rowntree Foundation presented a summary of some research carried out jointly by the University of Sheffield and the University of Cambridge. The research was entitled 'the effectiveness of planning policies

for Affordable Housing: A joint research project at the University of Sheffield and the University of Cambridge.’ The research showed considerable variation in the interpretation of Affordable Housing policies across England in the amount of Affordable Housing being obtained. The results of their survey were represented graphically as follows;

Figure 12 – Affordable Housing secured / approved through the planning system in England



(Source: Joseph Rowntree Foundation, 2001)

The background for the data contained in the above table is as follows. In the period 1998 to 2000 the Government used a process known as the Housing Investment Programme (HIP) to collect the data shown. Although in

subsequent years definitions were altered the information indicates the amount of new Affordable Housing either secured or which would be secured in the future as a result of the successful negotiation of a Section 106 Agreement. The totals indicate that in 1998/99 13, 892 units were secured through planning policies, whilst in 1999/2000 15,529 units had been approved. These figures represent about 10% of all new housing provision with London and the South East accounting for almost 50% of both the secured and approved homes.

Notwithstanding the figures provided by the HIP the researchers carried out their own survey, which resulted in the production of some considerably different figures. The HIP figures were found to be inaccurate and may have contained an element of double counting. Subsequent interviews with Local Authorities discovered that many did not consistently check to see if and when Affordable Housing included in planning permissions was actually built; and in other authorities there was a failure to distinguish between Affordable Housing secured in this way and housing built by RSL's as part of their normal development.

Analysis of the data recorded by the researchers through their survey and follow up interviews has produced the following table. The data contained herein reflects a provision of Affordable Housing that represents 2.2% of the total housing stock provision over the period 1992 – 2000, whereas the Governments use of the HIP figures has this proportion at about 10%.

Figure 13 – Affordable Housing secured by the planning system 1992 - 2000

	<i>Total</i>	<i>Urban</i>	<i>Rural</i>
No. of dwellings completed	179,043	134,858	44,185
No. of affordable units completed	2,926	1,911	1,015
No. of rural exception units completed	991	126	865
Total no. of affordable dwellings	3,917	2,037	1,880
Percentage of total dwellings completed that are affordable units	2.19	1.51	4.25
Commuted sums received	£10,868,323	£10,763,323	£105,000

(Source: Joseph Rowntree Foundation, 2001)

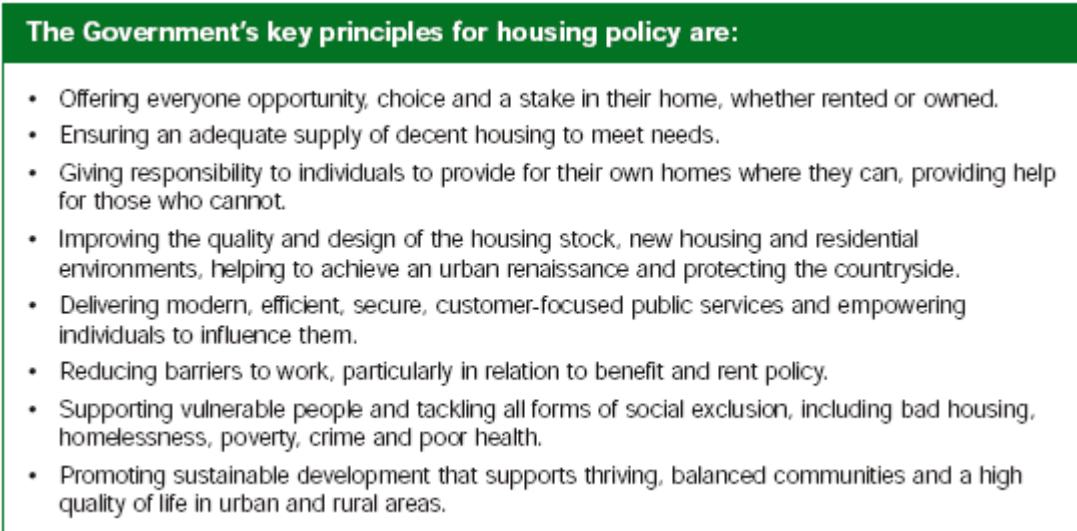
Useful comparison of the two sets of data is however virtually impossible. The differing time periods cannot be successfully weighted, as the period 1992 – 2000 was the very period when this policy was being used more and more. This, coupled with the incomplete nature of the data collected by the researchers (only 47 Local Authorities provided data) provides a less than full and accurate picture. What the data does show however is that over this period the delivery of Affordable Housing, when expressed as a percentage, clearly rose and that the policy was beginning to be effective.

4.5 **Central Government Strategy going forward**

So having set the process in motion and begun to see the effects of an increase in the delivery of Affordable Housing what is Central Government's policy and strategy going forward? In the Housing Green Paper 'Quality and Choice: A Decent Home for All' published in April 2000, the Government began the statement of its policy objectives in the first chapter by stating its 'housing strategy for the 21st Century'.

This strategy was to "offer everyone the opportunity of a decent home and so promote social cohesion, well-being and self-dependence." This aim was under pinned by the following eight key principles.

Figure 14 – the Governments key principles for housing policy as set out in the Housing Green Paper 'quality and Choice: a Decent Home for All'



The Government's key principles for housing policy are:

- Offering everyone opportunity, choice and a stake in their home, whether rented or owned.
- Ensuring an adequate supply of decent housing to meet needs.
- Giving responsibility to individuals to provide for their own homes where they can, providing help for those who cannot.
- Improving the quality and design of the housing stock, new housing and residential environments, helping to achieve an urban renaissance and protecting the countryside.
- Delivering modern, efficient, secure, customer-focused public services and empowering individuals to influence them.
- Reducing barriers to work, particularly in relation to benefit and rent policy.
- Supporting vulnerable people and tackling all forms of social exclusion, including bad housing, homelessness, poverty, crime and poor health.
- Promoting sustainable development that supports thriving, balanced communities and a high quality of life in urban and rural areas.

(Source: ODPM, 2000, p16)

These key principles were further embellished by the Governments vision for the 21st Century in which their policy would:

- Support sustainable homeownership
- Promote a healthy private rented sector, offering choice and flexibility
- Ensure the provision of a wide range of good quality, well managed, affordable Social Housing
- Support balanced thriving communities.

Having then established the parameters of their aims and objectives, the Government set about implementing the necessary changes to ensure the goals were achieved. The revision of PPG3 followed shortly after and changes began to take place. What the Government had not catered for was the continued growth in house prices and the continued undersupply of new housing stock.

Having realised that the problem was larger than first envisaged, the Government commissioned the Barker Review and also produced another paper entitled ‘Sustainable Communities: Building for the Future’ which was published in February 2004. Although this ‘Communities Plan’ as it is known refers to sustainable communities it is fundamentally a re-launch of its strategy and sets out:

“The Governments vision for sustainable communities where everyone has the opportunity to be decently housed, in a prosperous community, with a good quality of life. In summary, providing Quality new homes built in the right place at the right time”

(Keith Hill, Minister for Housing and Planning, Feb 2004)

In the plan, it is stated that the intention is to remove barriers to effective delivery of new housing and ensure that the planning system does not act as a brake on an adequate and continuing supply of sites for housing in sustainable locations. The Government will look to Local Authorities to facilitate the delivery of this housing. The emphasis will be placed on meeting the need that is identified locally whilst ensuring that new developments are well designed and provide a higher density of development than is currently experienced. Should these Local Authorities fail to deliver, then measures will be put in place through incentives, support, engagement and intervention to improve their performance.

Funding of these new initiatives will be taken away from Local Authorities and re-distributed in accordance with national and regional funding priorities. The move to a more regional structure does not stop with the distribution of funding. A new Strategic Framework will be set up with the focus being on the regional aspect. This framework will comprise:

- Regional Housing Board / Regional Planning Board
- Regional Housing Strategy / Regional Spatial Strategy
- Sub regional strategies
- Local Housing strategy / local development plans
- Supplementary Planning guidance

In addition to this new Framework, local research should be available to aid the identification of the nature and extent of the local housing need. This research should be constantly updated to reflect the ever-changing society in which we now live, i.e. the increasing need for ‘Key Worker housing’.

So it appears that the Government is serious about improving the supply of housing stock in this country. Whether building at higher densities and on a larger scale will be politically acceptable remains to be seen. Promoting and emphasising the regional aspect of housing supply is a move that should be welcomed. The house building industry is very regional in terms of the various and diverse factors that affect the supply and demand of new housing. Funding is also key to the success of this strategy and it is to be hoped that adequate and timely funding is made available to support the proposed changes.

4.6 **Conclusion**

This chapter set out to discuss the various methods used to deliver Affordable Housing in the current market. Early on in the research it became clear that this simple aim would be complicated by the lack of a clear and precise definition of Affordable Housing and the perceived lack of a distinction from Social Housing and the stigma that is attached to it.

The research showed that there are two main mechanisms for delivery, public subsidy (SHG) and the use of the planning process and Section 106

Agreements. Neither of these methods is particularly new but the use of the planning process has gained in popularity since 1989, whilst there appears to have been a diminishing desire on the part of the Government of the day to provide direct funding through SHG.

Although in theory the use of Section 106 Agreements appears a relatively simple process, in practice the opposite is the case. The research carried out by ENTEC, Three Dragons and Nottingham Trent University following a survey carried out amongst several Local Authorities, showed that these agreements are not widely used, they take a long time to formulate and conclude, and could, paradoxically, be acting as a block to the effective delivery of the required housing.

The further statistical data reviewed in this Chapter also bore out the theory that although the intentions are good the practice of using the planning system to deliver Affordable Housing is not as successful as was envisaged. The Government appear to have acknowledged this (although somewhat indirectly) and the recent publication of the white paper 'Sustainable Communities: Building for the Future' is fundamentally a revision and re-launch of previous strategy and policy.

In all the research reviewed for this Chapter there does appear to be a lack of analysis of the view point of the Private Developer. The developer is very much to the fore in delivering all forms of housing, including affordable, yet their input is rarely sought and they tend to have the provision imposed upon them rather than agreeing sensible ways forward by way of negotiation. In

order to pursue this avenue and explore their views a questionnaire was formulated with questions designed to extract salient points and information. The results of this questionnaire are analysed in the following Chapter.

5.0 **CHAPTER FIVE** – Analysis and discussion of the Research Findings

5.1 **Introduction**

The background research and analysis undertaken in the previous chapters has provided an overview of Affordable Housing and its place amongst the current methods of delivering housing stock in this country. Based on the understanding of this topic gained, the author concluded that there appeared to be a lack of research of this subject from the perspective of the private residential developer. Notwithstanding some published comment reflecting a defensive stance against the proposed changes to PPG3 and some suggestions for further amendments, very little private sector based research was found. Most of the research and analysis found had its basis in the public sector.

In an attempt to redress this it was decided to focus the analytical aspect of this research in this area, and more specifically to explore the attitude and approach of private residential developers to the use of Section 106 Agreements to deliver Affordable Housing. With this in mind a questionnaire was devised with the title;

‘Does the use of Section 106 Agreements to deliver Affordable Housing really contribute to addressing this housing need?’

5.2 Questionnaire Design

The establishment of the means of, and the justification for the research methodology chosen were detailed in Chapter One. In that Chapter it was explained that the ‘sample’ for receiving a questionnaire was determined to be the Senior Land Buyers (or such person who is responsible for purchasing land) from the ‘Top 10 UK house builders, 2002’. This top 10 represents the ‘population’ with the criteria for inclusion being measured in terms of the number of legal completions per annum.

Figure 15 – Top 10 UK house builders, 2002

Table 4.1: Top 10 UK housebuilders, 2002

	Completions
Wimpey	13,480
Persimmon	12,352
Barratt	12,250
Taylor Woodrow	6,238
Bellway	6,044
Wilson Bowden	4,164
Wilson Connolly	4,002
Berkeley	3,955
Redrow	3,908
Westbury	3,812

Source: Private Housebuilding Annual 2003

(Source: Barker, 2003, p 62)

Various mergers and takeovers refined the above table to the following list of recipient companies, which although numbering 12 in total constituted those companies listed in the table above. (The list is in no specific order):

1. Persimmon Homes
2. Charles Church

3. Westbury Homes
4. Redrow Homes
5. Berkeley Homes
6. Bryant Homes
7. Barrett
8. George Wimpey
9. Wilson Connelly
10. Taylor Woodrow
11. Bellway Homes
12. David Wilson Homes

A questionnaire was sent to each Senior Land Buyer in each of the regional offices of the companies listed above. In total this meant the distribution of 168 questionnaires to offices throughout the United Kingdom. The Senior Land Buyer was chosen as the intended recipient because it was felt that this would be the person in each organisation who would be most likely to encounter Section 106 Agreements in their every day work.

The questionnaire was distributed by post on 12th March 2004 with a return date of 26th March 2004. The allowance of two weeks to return the questionnaire was deemed more than adequate and on the due date the number of completed and received questionnaires was 94. This represented a response rate of 55.95 %, which considerably exceeded the anticipated rate of 30 – 40%. Such a response rate was deemed excellent by the author and has provided sufficient reliable data to ensure that the data is representative of the views of this ‘population’.

The information regarding the questionnaire is detailed in the Appendices to this research under the following headings:

- 12.1* Appendix A – The Questionnaire covering letter.
- 12.2* Appendix B – The Questionnaire.
- 12.3* Appendix C – The list of intended recipients for the Questionnaire.
- 12.4* Appendix D – A graphical representation of the Questionnaire results.

5.3 **The Findings of the Research**

In order to try and elicit good quality data and information, the structure of the questionnaire and the formulation of the questions sought to explore the following three areas:

- a. The Company Perspective

This section sought to explore the view point of the recipients company in respect of Affordable Housing, and to discover if the company had a uniform, nationwide approach to dealing with Section 106 Agreements.

- b. The Need for Affordable Housing

This section sought to draw on the individuals experience and own knowledge to establish their views in the area of ‘Need’.

c. Affordable Housing and the Planning System

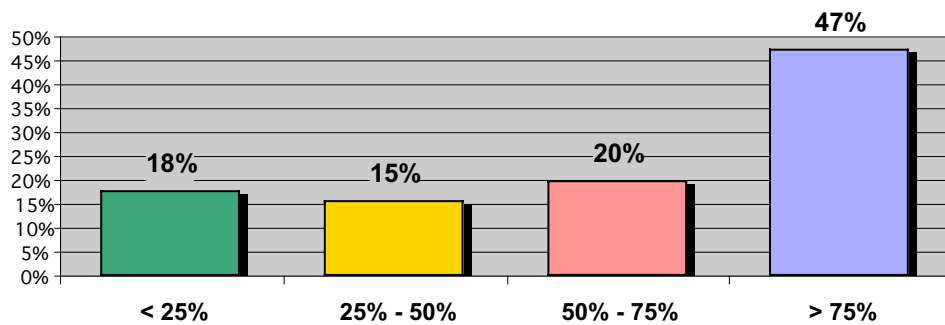
This section sought to bring the two elements of Affordable Housing and planning together and set out to establish the views of the recipients as to the use of the planning system to deliver Affordable Housing.

All the quotes used in the questionnaire upon which the recipients are asked to comment and/or agree with, are un-attributable and have been fabricated by the author following on from the literature review undertaken previously. Many of the quotes are deliberately provocative in order to try to establish the true depth of feeling in what for some is an emotive subject.

5.3.1 Section 1 – The Company Perspective

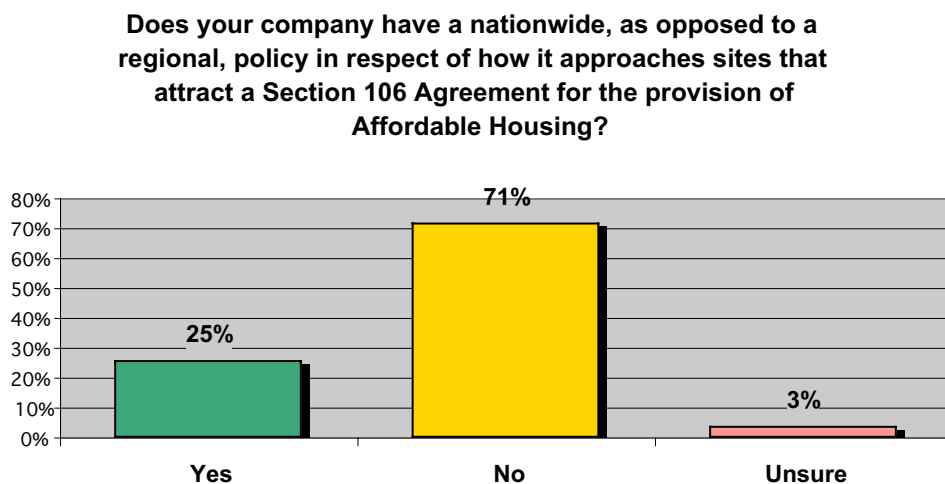
Figure 16 - Question 1

What proportion of your company's scheme's, currently on site and future sites with full planning permission, have a requirement to provide Affordable Housing through the use of a Section 106 Agreement ?



This question sought to establish the true extent of the use of Section 106 Agreements to provide Affordable Housing. Bearing in mind the distribution of the questionnaires was UK wide, the result shown above that 47% of the companies surveyed were experiencing the use of 106 Agreements on over 75% of their sites gives a clear indication of the high and increasing use of this method for delivery of Affordable Housing. Given the constraints to the research discussed in Chapter One, a further regional analysis of this question was not possible. Were it to have been included, the subsequent findings of the geographical distribution of the respondents indicating a proportion in excess of 75% would have provided interesting reading with the likely conclusion being that the majority of the 47% indicated above were based in the South East of England where the use of this Agreement is most prevalent.

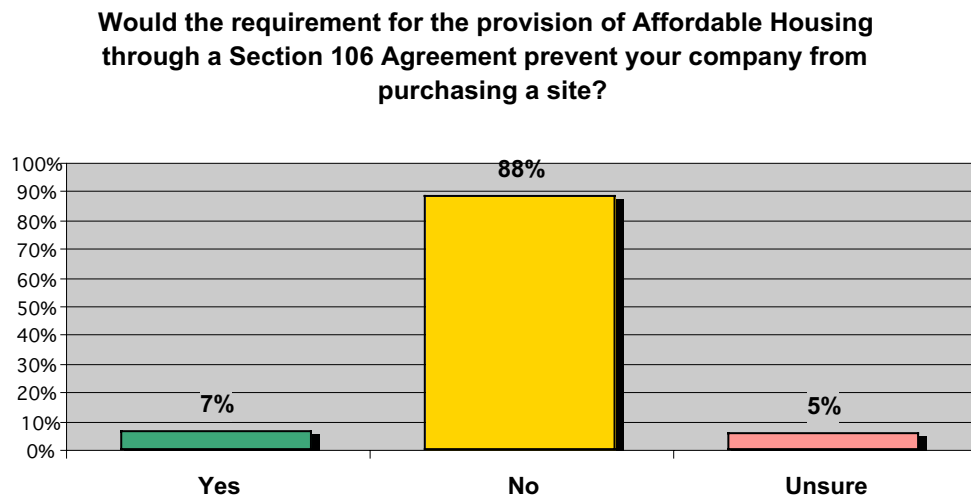
Figure 17 - Question 2



The answers given to this question indicate two things, either companies are not organised enough to have a pre-determined policy or they believe this matter is best approached at regional level hence they have stayed away from

formulating a structured policy that may be a hindrance given the varied nature of the industry across the country. Although the majority of answers were 'No', 25% said they did have a policy. The survey was distributed to a total of 12 Companies who collectively represent the top 10 house builders; hence one fairly un-scientific conclusion that can be drawn is that only 3 of the top 10 have a set policy.

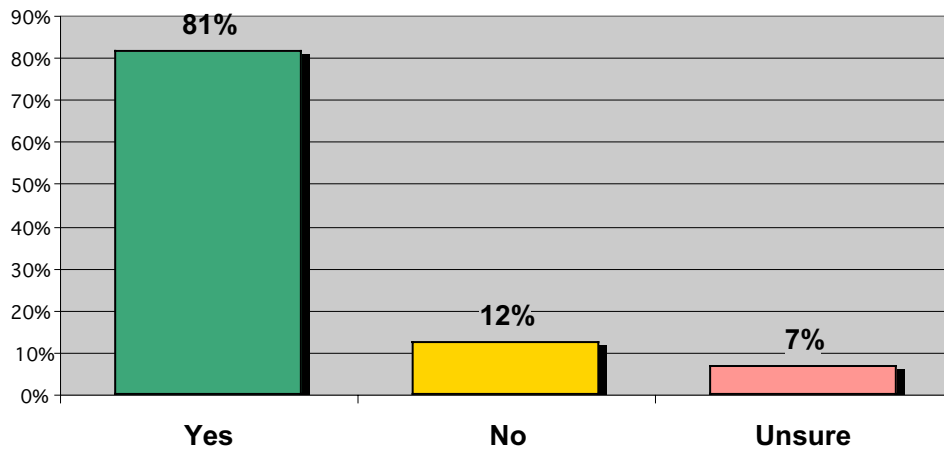
Figure 18 - Question 3



The overwhelming replies of 'No' in answer to this question clearly indicate that despite the apparent reluctance of house builders to be involved with Affordable Housing, they still need to acquire land. With more and more house builders being publicly quoted Company's and accountable to shareholders, the requirement to constantly improve and increase turnover and profitability means that land banks are depleted more quickly. The answers given to this question imply that this type of 106 Agreement is obviously not seen as an insurmountable hurdle to development.

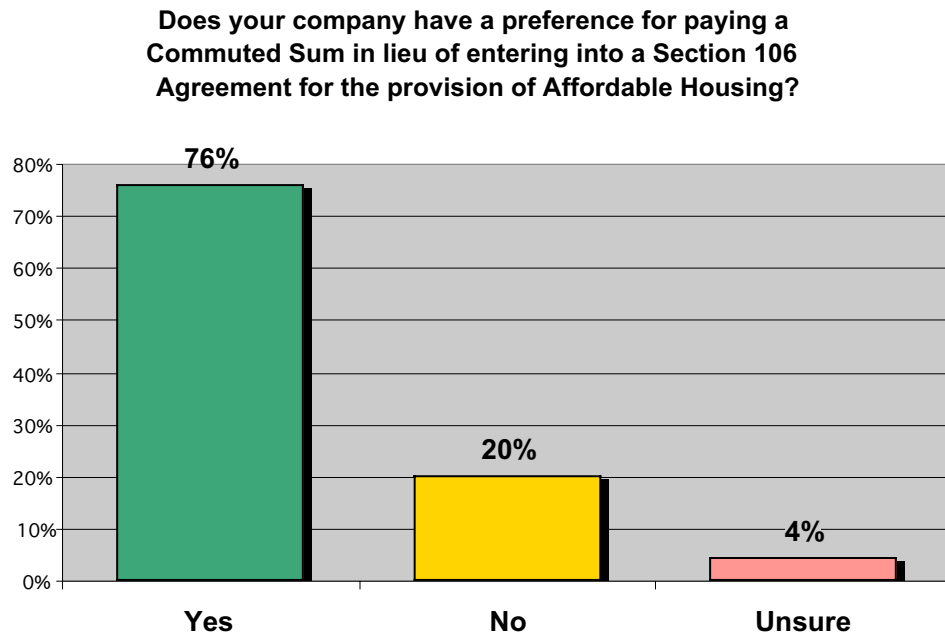
Figure 19 - Question 4

When negotiating land purchases where a Section 106 Agreement for the provision of Affordable Housing is in place, will your company as a matter of course, reduce your offer to the vendor by the perceived cost of the Affordable Housing?



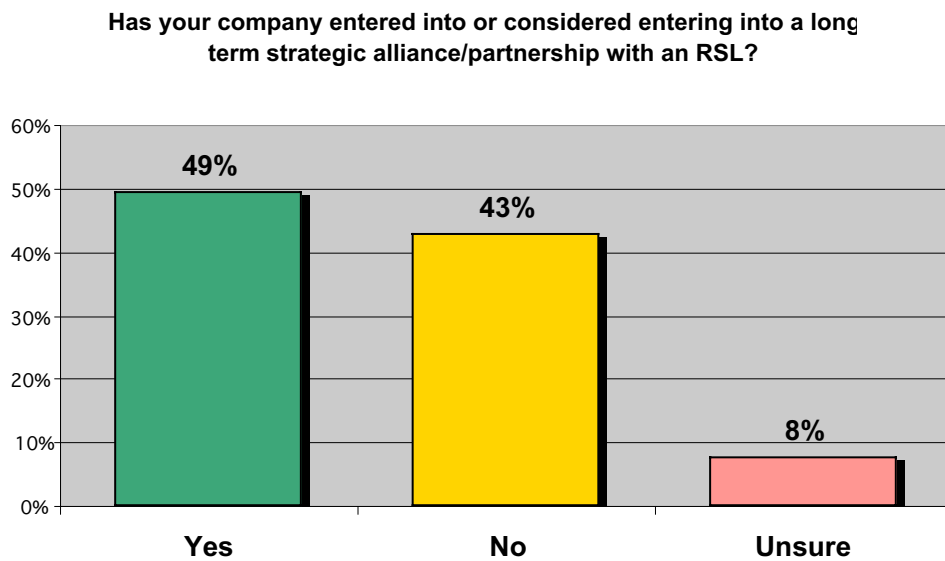
The answers given to this question clearly back up the school of thought that it is not actually the developer who bears the cost of providing Affordable Housing, but ultimately it is the vendor of the land who pays. Some would argue that this is correct as more often than not land values will rise dramatically following the receipt of a planning permission, hence this is a way for the community as a whole to benefit from the landowners 'windfall' gain. They would also argue that the developer is only interested in making his known profit on the build and sale of new housing and were the cost of the Affordable Housing to be deducted from this profit it would detrimentally affect the continued viability of the developer.

Figure 20 - Question 5



Quite clearly there is a lot of time and effort involved in negotiating, formulating and implementing a Section 106 Agreement. As discussed in the previous chapter the lack of any standard documentation means that each Agreement has to be put together from scratch and this, coupled with the acknowledged lack of experience and ability on the part of the public sector in negotiating these Agreements, clearly involves a great deal of the private developers time for which he is neither reimbursed or compensated. The payment of a Commuted Sum does in the eye of the developer attain the same goal, a financial contribution to the public sector for use as they see fit, without excessive employment of their time and resources.

Figure 21 - Question 6

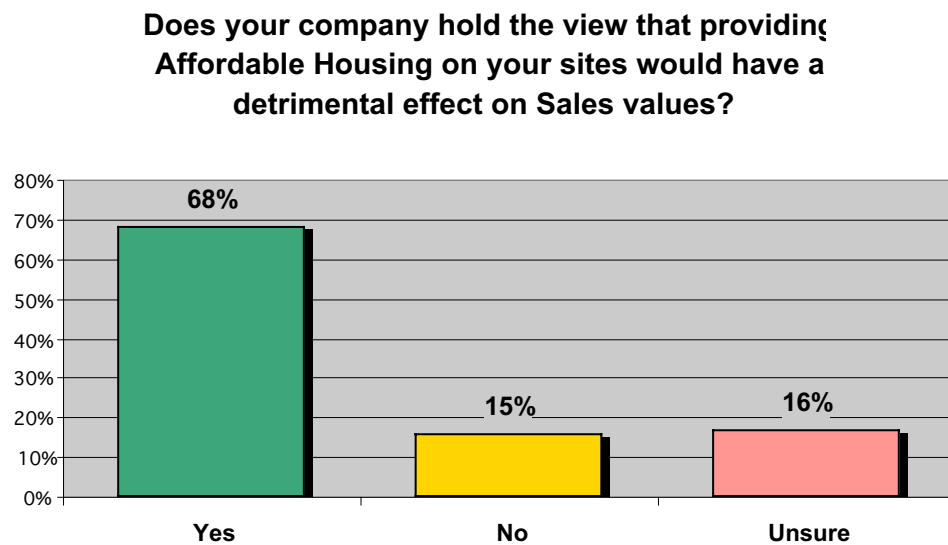


In answering this question the respondents have demonstrated that their companies have a clear stance on the prospect of Joint Venturing / Partnering with RSL's. In answering 'No', 43% have demonstrated that they have not even considered a long-term strategic alliance / partnership. The only conclusion that can be reached here is that they do not feel the need to 'partner' because they do not envisage being involved in delivering Affordable Housing or they operate in an area where the need for Affordable Housing is not to the fore. Bearing in mind this survey was distributed across the United Kingdom, this is one question where a degree of 'weighting' for regional answers would have been of use. It may be that all the 'Yes' responses came from an area where Section 106 Agreements are used on a regular basis i.e. the South East.

The answers may also reflect the 'regional' nature of RSL's. If for instance one of the house builders, all of who are national, decides it is in their interest to enter into such an alliance, they may be unable to find an RSL who also has

a presence nationally with whom to forge a partnership. The subsequent need to partner with several RSL's may again prove to be too costly in terms of allocating and deploying resources.

Figure 22 - Question 7

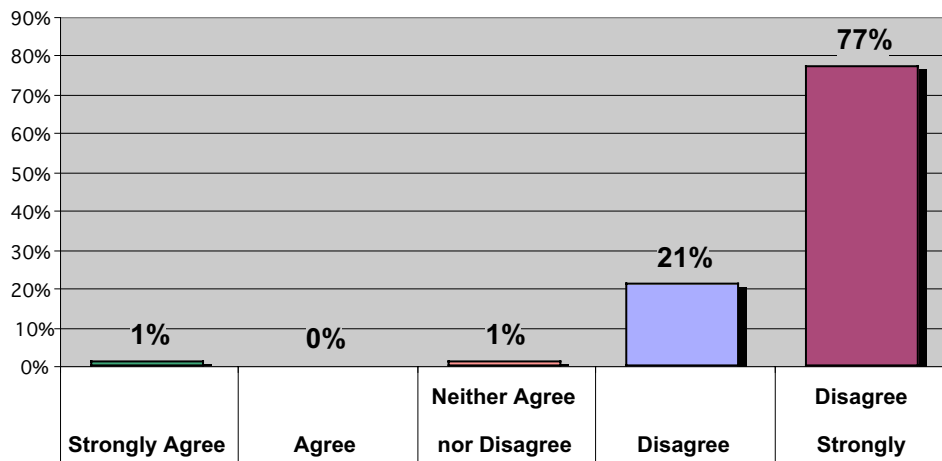


The 16% who responded that they were unsure probably represent developers who have little to do with Affordable Housing, whereas the 15% who responded 'No' clearly have not experienced any prejudice from potential customers. The vast majority of respondents (68 %) obviously feel that combining Affordable Housing in their schemes would harm sales. This is a clear indication of the prejudice towards Affordable Housing that exists, rightly or wrongly, amongst the house buyers of today. It again is a clear indication of the misconception that exists about Affordable Housing and the problem that ensues from the lack of a clear and precise definition.

5.3.2 Section 2 – The need for Affordable Housing

Figure 23 - Question 8

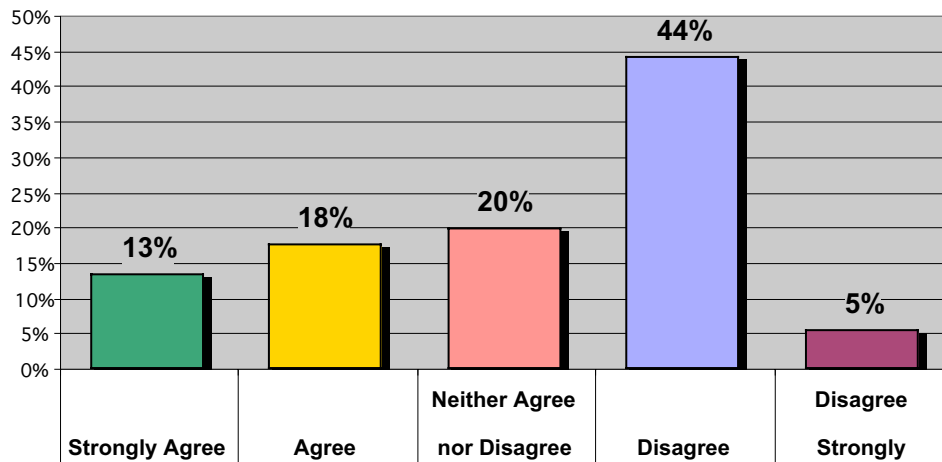
"The fundamental shortage of Housing in this country is a direct result of large residential developers accumulating large 'land banks' "



This question was deliberately phrased in a provocative way to obtain a feel for the widely held view that house builders are deliberately accumulating land and thus constricting supply to drive up prices. The clear answer received is that this is not the view of the industry and to be fair to private developers this is a point that is borne out to some extent by the recent publication of the Barker Review which, whilst finding that supply is constricted, did not lay the blame for this on ‘land banking’ carried out by private developers. Indeed although the survey called for a series of ticks in boxes, many of the respondents felt the need to add the comment of ‘See Barker!’ against this question.

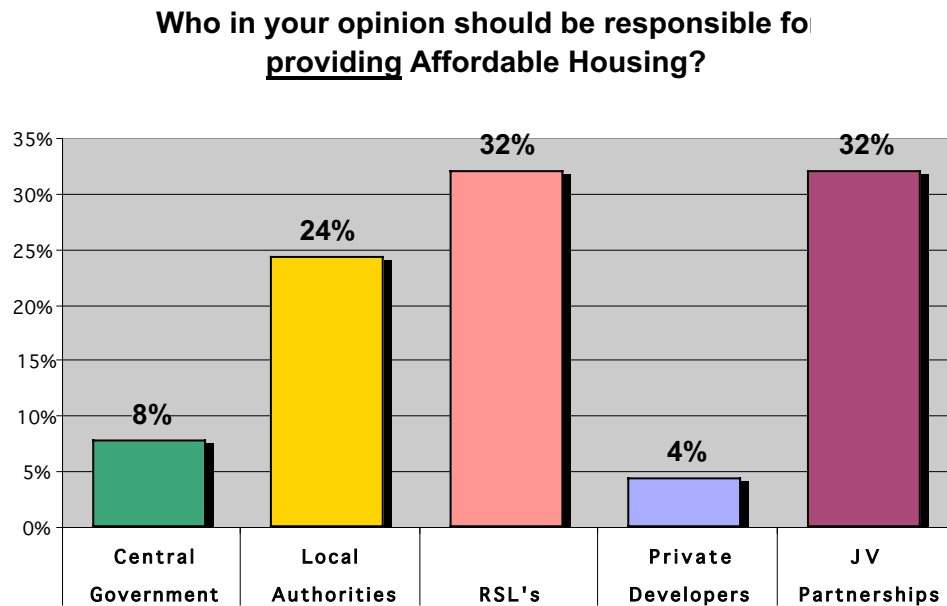
Figure 24 - Question 9

"The provision of all Housing stock, irrespective of type and tenure, should be left to the forces of the 'free market' "



This question has its basis in the economics of housing supply and any responses made must inherently have as their foundations the thinking and political bias of the respondent. One respondent whilst strongly disagreeing noted “there is no free market for homeless people”. Another, who agreed with the statement, added “on the proviso that councils can build to meet need. If not I strongly disagree” Two very different responses reflecting the different political and social attributes of the respondents.

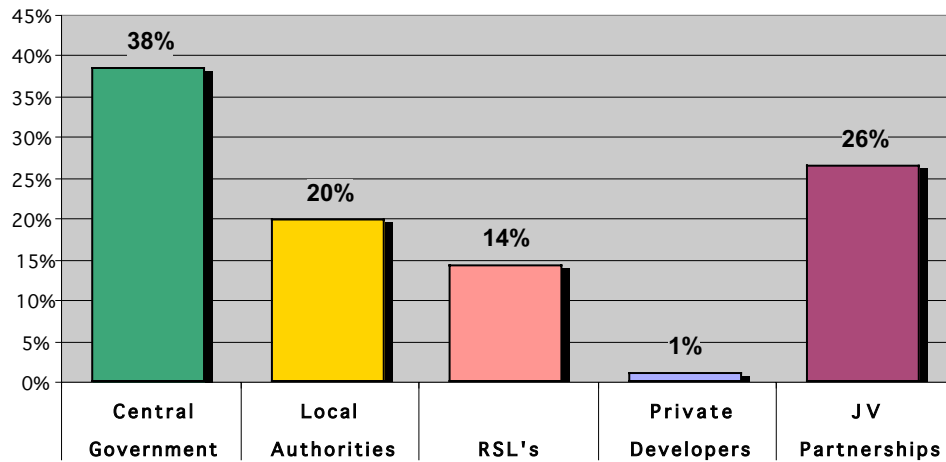
Figure 25 - Question 10



A clear response here from the private sector, with 96% of the responses reflecting the view that some element of the public sector should be involved in Affordable Housing provision. One encouraging aspect is the 32% response that felt JV partnerships had a role to play, thus reflecting the view that the private sector has some responsibility to be involved in Affordable Housing delivery.

Figure 26 - Question 11

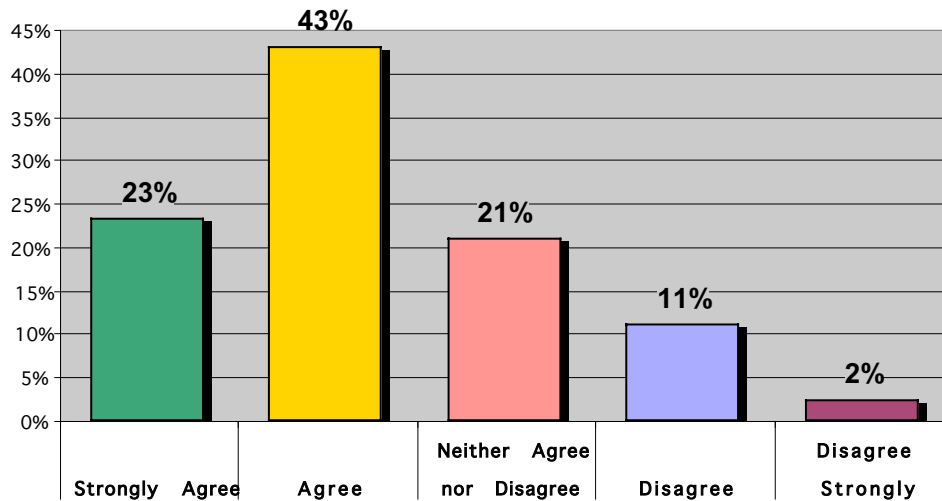
Who in your opinion should be responsible for financing Affordable Housing?



The answers to this question reflect those given to question 10. 99% of the respondents felt that private developers should not be solely responsible for financing Affordable Housing provision. Again the encouraging sign is that they are prepared to see financial contribution via JV Partnerships, which again reflects an acceptance on their part to some responsibility. One other interesting feature of questions 10 & 11 is that the responses reflect the view that whilst RSL's are deemed the joint best provider (with 32% of the responses) with JV Partnerships, it is Central Government (38%) that is deemed to be the best source of finance.

Figure 27 - Question 12

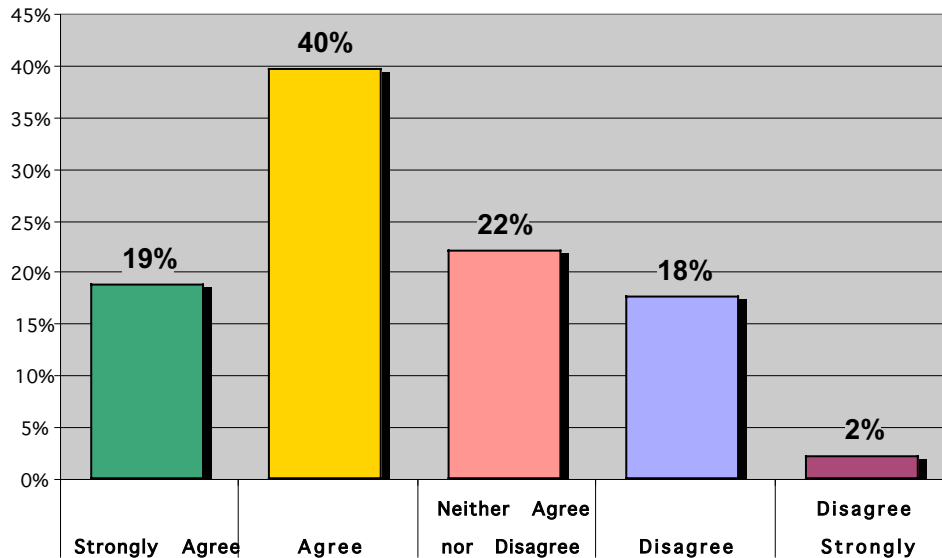
"The perceived shortage of Social and Affordable Housing could be overcome with the release of redundant Government land coupled with a greater diversity of Grants and Subsidies provided by Government to facilitate the remediation of 'Brownfield' sites"



This question was posed to ascertain the views as to whether or not the Government could do more to aid the delivery of Affordable Housing. The Government has a large amount of land that it could free up for development should it choose. In addition it could help fund 'brownfield' development with the provision of Grant and Subsidies instead of relying on developers to remediate land. The 66% of respondents who either agreed or strongly agreed with this statement demonstrates the view of the private sector that more could be done by Central Government to increase the supply of land.

Figure 28 - Question 13

"The fundamental flaw with Affordable Housing is the lack of a clear definition. The Government should adopt a clear prescriptive policy with a precise and workable definition"

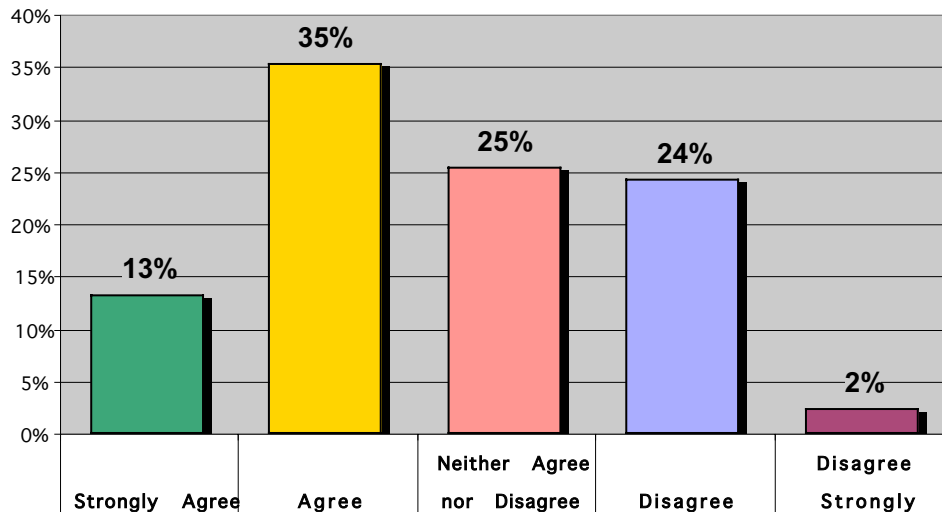


One of the key findings of this research is the lack of a clear and precise definition of Affordable Housing. One respondent rather rudely noted in his response to this question that this statement was, to para-phrase, ‘inaccurate’ and implied that Circular 6/98 provided the definitive definition. This has a degree of validity however subsequent PPG3 revisions have served to ‘muddy the water’ and the definition is now far from clear (see Chapter 3).

This finding as to the lack of clarity in terms of a definition is borne out by the responses with 59% of the replies being either an agreement or strong agreement with the statement, whilst only 20% either disagreed or strongly disagreed.

Figure 29 - Question 14

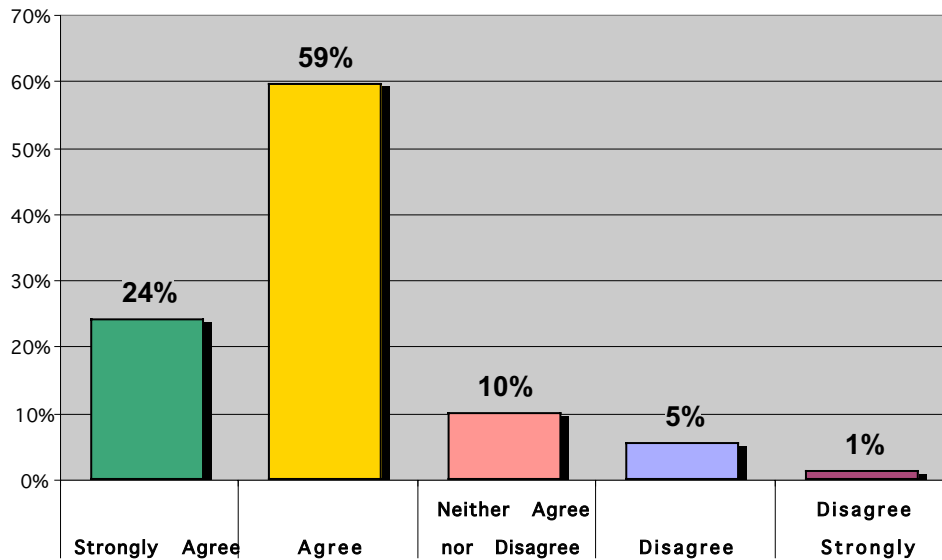
"Affordable Housing is merely a re-definition of Social Housing and as such should be provided by Central Government"



This question sought to ascertain if the recipients of the survey believed that Affordable Housing was Social Housing by another name. The spread of replies clearly indicates that within the industry there is an understanding of the difference between the two types of housing. The large agreement to the statement (48%) could be seen as the cynical view of house builders who believe the Government is trying to remove itself from the responsibility of providing housing stock yet maintaining the supply by imposing conditions on the private sector to pick up the shortfall.

Figure 30 - Question 15

"The requirement for Affordable Housing varies so much across the Country that it is only correct that it is assessed and dealt with at a local level"

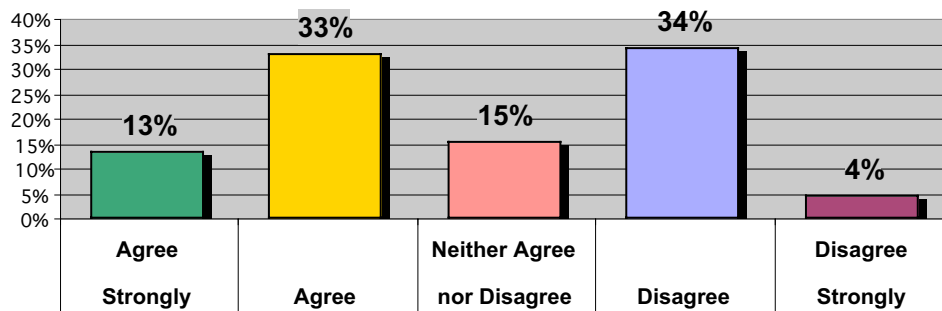


The strong agreement to this statement (83%) reflects the understanding within the industry of the regional nature of the housing market in the UK. Whilst some areas have a serious under supply of housing other areas do not. It is only right therefore that housing needs should be assessed at a local level.

5.3.3 Section 3 – Affordable Housing and the Planning System

Figure 31 - Question 16

"All forms of Planning gain, including the provision of Affordable Housing, should be via Commuted Sums payable to the Local Authority, who should then be responsible for the subsequent expenditure of these monies as they see fit"



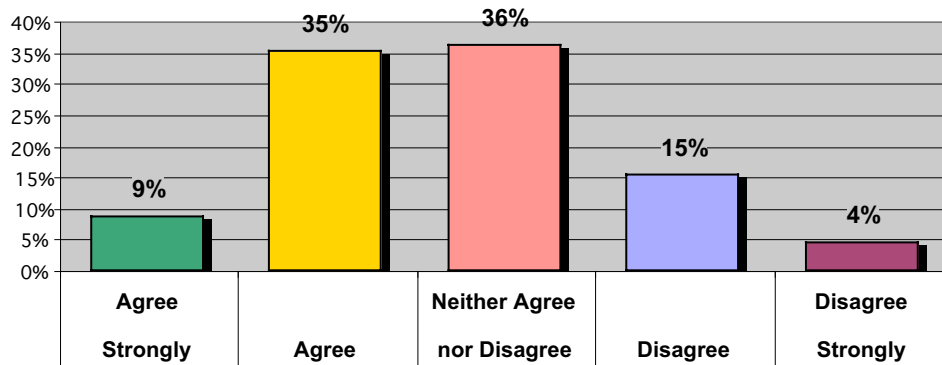
This question was posed to see if the recipients of the survey felt that a financial payment in lieu of actually providing housing stock would be more acceptable. This would be a one-off contribution to the Local Authority who would then be responsible for the subsequent re-distribution of the monies.

This would end the developer's involvement with the payment and the onus for delivering Affordable Housing would then pass to the Local Authority.

The responses, with 33% agreeing and 34% disagreeing, shows that the views of the industry are mixed. A one off payment would save time and resources for the developer, yet allowing the Local Authority to spend the monies as it sees fit would not necessarily ensure that it was spent on providing housing stock.

Figure 32 - Question 17

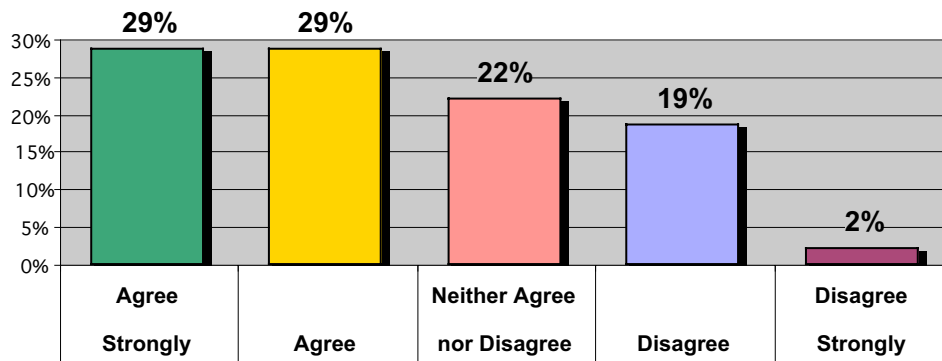
"If Planning gain is to be paid for by the use of a Commuted Sum, then the element allocated for Affordable Housing should pass to an RSL rather than the Local Authority" - Do you agree with this statement?



This question is a follow on from question 16 and refines the statement by adding that the payment should be passed to an RSL instead of the Local Authority. The premise for this is that this would ensure the monies were spent on housing provision. The percentage agreeing to this statement remains fairly constant (35%) but the percentage disagreeing drops (15%). This may reflect the view of developers that this route would be more acceptable given that the funds would be re-directed into housing via the RSL and not just given to the Local Authority to spend as it wants.

Figure 33 - Question 18

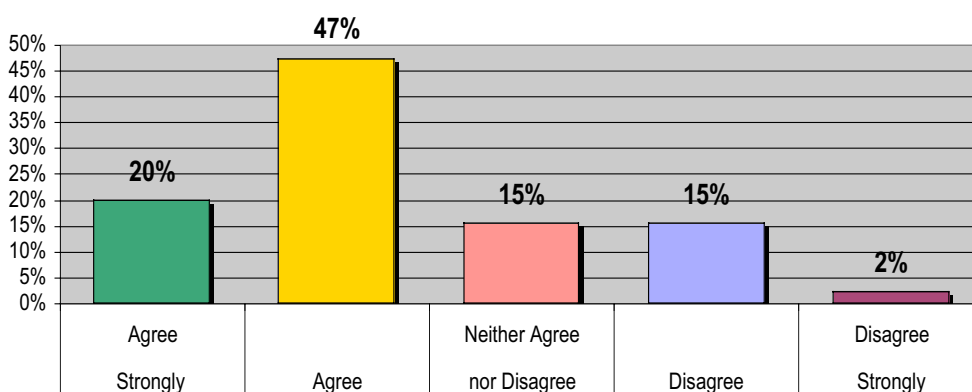
"In an attempt to increase the numbers of Affordable homes, it is proposed to further lower or even remove the development thresholds after which Affordable Housing is required. Paradoxically this will actually prevent the desired increase in provision"



The strong agreement to this statement (58%) reflects the commonly held belief that a development's viability will diminish if the thresholds after which Affordable Housing is required are removed. One respondent noted "it will make all marginal sites unviable" which is a very real possibility given the high prices that are currently being paid for land. Should there be a correction in the market and house prices start to fall, developers who have paid high prices for land with planning permissions that have no threshold for Affordable Housing will start to see site appraisals that show a negative return. This will in turn lead to decisions to postpone the development and will subsequently result in a reduction in the supply of Affordable Housing.

Figure 34 - Question 19

"It is an unfair system where only residential Planning consents attract 106 Agreements for Affordable Housing. The scope for the use of 106's to provide Affordable Housing should be widened to include Consents for Industrial / Commercial schemes"



This question sought to address the current situation whereby only Section 106 Agreements on housing developments provide for the Affordable Housing. If the scope for using 106 Agreements were widened to include planning permissions for alternative uses, especially in areas of high demand for Affordable Housing, then perhaps the need would be more readily met. As could be expected having distributed the survey to house builders, the level of responses either agreeing or strongly agreeing was high (67%). One respondent made a very valid point that this becomes more of an issue if the permission for an alternative use, be it industrial or commercial, subsequently generates more jobs or enhanced levels of spending that have a consequential effect on the local housing market.

5.4 **Conclusion**

The response to the questionnaire, in terms of numbers returned, far exceeded the expectations of the author. Given the high level of returns and the make up of the sample that received a questionnaire, the data produced has a greater degree of validity and can be seen as representative of the industry as a whole.

Many of the questionnaires were returned with additional notes and some even came with a covering letter that further expanded on the topics and issues raised. To the people who took the time to write the author is especially grateful; to those who's comment were too rude to include in this research the author acknowledges that everybody is entitled to their opinion!

The whole area of planning permissions, planning gain and Section 106 Agreements is and remains highly topical. As one respondent wrote in his covering letter "your subject matter is an area of considerable interest to residential developers such as ourselves and if you are able to make a copy available, I would be interested to discover your findings when your project is complete." This, the authors believes, represents the views of many in the industry in as much as there exists considerable interest in this subject yet very little research into the views and attitudes of the private sector developer has been undertaken and subsequently there exists very little cohesive evidence for making assessments as to the stance of the major residential developers.

The author would once again reiterate his gratitude to all those who took the trouble and time to respond to the questionnaire.

6.0 **CHAPTER SIX** – Conclusion & Proposals

6.1 **Introduction**

The initial premise for this research was that the author, who currently works for a private residential developer, could clearly see that a large gap was appearing between those who can afford to buy property and those who cannot. This gap is widening at an alarming rate and is exacerbated further by the geographical disposition of prospective purchasers. Currently if you own property its value is rising on an almost daily basis and all is well. If you do not own property, you must be wondering how you will ever afford it.

So in order to try and assess this problem and provide some logic to it, the author set out to research the methods by which housing, of all tenures, is delivered in this country. Having found much research in the area of public sector housing and more latterly ‘Social’ and ‘Affordable’ housing provided by either Local Authorities or RSL’s, the author felt there was a lack of research designed to assess the views and attitudes of the private sector developers to the need for and methods of providing and delivering Affordable Housing.

These views and attitudes are of increasing importance since one of the two ways, and the method that appears to be becoming more prevalent, that Affordable Housing is delivered, is via the use by Local Authorities of their powers under the Town & Country Planning Act to impose the provision of such housing by use of a Section 106 Agreement. As this method has a direct

impact on all aspects of private development from affecting the price paid initially for land, to affecting the price that customers are prepared to pay for the finished properties, it was felt that analysis of its effectiveness by those who are ultimately expected to bear the cost provided justification for the research.

In order to achieve the desired objective it was decided to carry out a questionnaire survey with the title “Does the use of Section 106 Agreements to deliver Affordable Housing really contribute to addressing this housing need?” The justification for choosing this methodology is discussed in Chapter One together with an expansion of the stated aims and objectives. Chapter One also contains a critique of the validity and successfulness of this methodology.

6.2 **Why is there a problem with housing supply in the UK?**

One of the early areas of research that was undertaken was to examine the supply of housing stock and to see if there is a problem in this area. Much of this was done via the literature review, through which it was discovered that there is indeed a considerable undersupply of housing. The Government have begun to acknowledge this, firstly in their green paper ‘Quality and Choice: A Decent Home for All’ published in 2000, and more latterly in the request made to Kate Barker to produce a ‘Review of Housing Supply – securing our future housing needs’.

This review clearly finds that the undersupply is due to factors on both supply and demand sides of the market. However the true nature of the problem is slightly more complex than just too little supply or too much demand.

Additional factors come into play such as the increasing number of households in the UK, the ageing demographics of the population, the make up of today's households with greater numbers of single parent families and single elderly people. The mismatch in patterns of supply and demand across the regions must also be accounted for, as there are considerable numbers of empty properties, which are in the wrong location. (i.e. the proliferation of derelict housing in the Valley's of South Wales when there is excess demand in Cardiff).

Another aspect that must be considered is the reduction in the number of housing completions each year, which in turn reflects the change in tenures that has taken place over this period. The move away from rented to owner occupancy has come at a time when Local Authority expenditure on new housing stock has declined. A combination of these two factors coupled with the relative lack of increase in private sector completions has all come together to produce a housing market which when measured as a proportion of GDP leaves the United Kingdom in a unfavourably weak position when set against international comparison.

Other than these purely economic factors attempts to increase the supply often meet the alternative problems of a lack of funding and / or the stumbling block that is the current planning system. Since theoretically the Government has it within its powers the ability to resolve these alternative problems, moves have,

and are currently being made to try and move forward and address these issues. The problem encountered here however, is that both funding and planning are highly political in nature. The recommendations of the Barker Review that address these issues are currently being assessed by Government with a view to implementation, however the machinations of Government are slow and with election time looming, the prospects for progress in the short term look poor.

6.3 **What is ‘Affordable Housing’?**

In Chapters 3 & 4 of this research the area of Affordable Housing was explored in some detail. One of the critical findings has been the lack of a clear and precise definition for a term that is now commonly used. One of the conclusions reached by the author is that it is a term that was coined by somebody without much forethought as to the ambiguity that was to ensue. Alternatively it could be argued that it is a term whose definition has evolved since it's first use in Circular 6/98.

There appears to remain a lack of clarity with the vast majority of the confusion being that people in general perceive it to be an alternative name for Social Housing. This may be a common and acceptable misconception amongst the public, however even amongst the recipients of the questionnaire for this research there appears to be some confusion. One respondent when answering the question in the research questionnaire that relates to this lack of

a definition, commented “who said this ****?, have they not read Circular 6/98, p 4?” another commented that “Affordability as a term is getting very confused”. Clearly the first respondent has the original definition in his/her own mind as the only definition. Possibly the second respondent reflects those that see the evolving nature of the term.

The confusion is not only confined to definition but also relates to interpretation. There have been planning decisions that have gone to appeal over different interpretations of what Circular 6/98 and subsequently PPG3 have meant in terms of Affordable Housing. Further research, also contained within Chapter 3, into ‘Key Worker’ housing leads the author to conclude that a similar problem of a lack of a clear and precise definition also exists with this term.

6.4 **The Private Developer and Section 106 Agreements.**

The questionnaire that formed the basis for this research is analysed and discussed in detail in Chapter 5. The responses to the questions portray a picture whereby although companies are being exposed to the use of Section 106 Agreements on a much more regular basis, they do not have company wide uniform approaches to dealing with this issue. On a positive note the responses indicate that the use of such an Agreement would not deter a company from purchasing a site, however they would seek to recover the perceived costs involved by a reduction in the purchase price of the land.

In respect of a taking proactive approach to future housing supply, most companies are seeking to establish links and working relationships with RSL's and feel that one of the ways ahead for financing and providing Affordable Housing is through Joint Venture developments. This answer must however be qualified; as the majority of respondents felt that either Central or Local Government should do this. The respondents also confirmed that the on going problem of misconception and misinterpretation about Affordable Housing remains, which in turn causes confusion and ultimately does impact on sales revenue / values.

On the issue of the supply of land, nearly all the respondents felt the undersupply was not the fault of developers 'land banking' and they also felt the Government could do more in the provision of grants and subsidies to help remediate 'brownfield' sites. In respect of planning issues, the respondents preferred to pay a Commuted Sum rather than enter into a Section 106 Agreement, yet they were fairly ambivalent about to whom this money should go to and what they should do with it. They also felt that Commercial and Industrial planning approvals should be brought within the scope of 106 Agreements for Affordable Housing.

6.5 **Proposals and the way forward**

In respect of providing proposals and suggestion for a way forward to enabling a better, more efficient means of providing Affordable Housing the following are the views of the author who has arrived at these conclusions following the literature review and questionnaire survey undertaken as part of this research.

In respect of the hypothesis of this research ‘Does the use of Section 106 Agreements to deliver Affordable Housing really contribute to addressing this housing need?’ the author finds that the use of these agreements does indeed contribute but in a highly inefficient manner that should not be relied upon to improve and increase the supply of a much needed element of this country’s housing stock. The system from within which the Section 106 comes is found to be cumbersome, prone to excessive and unnecessary delays and is far too slow to react to the changing demands of today’s housing market. In addition the personnel involved in formulating and carrying through the completion of the Agreements are lacking in the necessary skills to enable their successful negotiation.

Instead of implementing a system whereby developers and social landlords both benefit mutually from planning approvals, the current system is seen as penalising the ‘entrepreneurial’ developer who is carrying the bulk of the development risk. To work within the existing framework a programme of standardisation of Agreement documentation and re-training of specified and dedicated personnel to be able to execute the necessary paperwork as expediently as possible, is the bare minimum that is required. Should the

various bodies not be able to meet these requirements, thought should be given to the use of external consultants, be they from the legal or surveying profession, to execute these documents on behalf of the parties.

These are a few suggestions specific to the completion of a single document. The problem however appears from the research to run much deeper and the following are suggestions as to how the whole concept of the delivery of Affordable Housing could be improved.

Firstly there needs to be a fundamental re-assessment of the definition of Affordable Housing and it should be a much tighter definition than exists at present. The specifics included in the definition need to be much clearer and once formed must be adhered to. This would solve the current conflict, for example, of whether or not Key Workers should be included, and it would strengthen the distinction of Affordable Housing as opposed to Social Housing.

The assessment of need must be more comprehensive and carried out only at the local level. It needs to be assessed more frequently and must be more flexible and responsive to more accurately reflect the current trends of the housing market.

Many of the Barker Review findings must be implemented irrespective of the political nature and consequences of their implementation. This review is the most in depth analysis of the housing market ever undertaken and if it is not to be seen as a wasted report it must be fully endorsed. The key aspects proposed

include an increase in the supply of units in the social sector, the establishment of a 'market affordability' goal based on economics rather than demographics, the introduction of Regional Planning Executives to overhaul and subsequently oversee the planning process, a further 'vigorous' revision of PPG3, and various financial incentives to help overcome a skills shortage in the house building sector and to aid the release of 'brownfield' sites something which was also identified as being required in the research questionnaire.

One aspect to come from the research questionnaire is the apparent willingness of developers to contemplate the funding and provision of Affordable Housing on a joint venture basis between themselves and RSL's. Such joint ventures (JV's) would allow the early involvement of the developer who would bring his commercial expertise to the partnership, whilst the RSL in put would be to advise on the likely levels of housing required and the price that the RSL can afford to pay, whilst also providing support and help with planning issues and section 106 negotiations. With the prospect of a reduction in the number of RSL's (as required by the Housing Corporation) the earlier that developers can form strategic alliances with these bodies the better.

Alliances of this nature or even just one-off site, specific JV's can only serve to reduce development costs. If coupled with this build costs can be reduced as well, then the provision of housing becomes more efficient and ultimately more stock is delivered. The advantages and disadvantages of reduced build costs by the utilisation of Methods of Modern Construction (MMC) is a whole topic of research that merits a dissertation in it's own right.

6.6 **Conclusion**

In summary, the author is of the firm opinion that the only constructive way forward to solve the problems that currently blight the delivery of all forms of housing, is for all the housing suppliers, be they private or public sector, to work together in partnership, whatever form this takes. The industry is big enough and the demand strong enough for all elements of society to be successfully housed in a 'decent' home.

In respect of the aims and objectives of this research, the author is satisfied that the goals identified have largely been achieved. The methodology chosen is deemed to have been successful with a questionnaire response rate of 55.95% providing valid and legitimate data that can be viewed as being representative of the population surveyed. The study has had its limitations, which have been discussed in Chapter One. In addition to those limitations already identified can be added that the survey failed to more accurately reflect the varied regional nature of this topic, with certain questions being too general and too geographically wide.

As to scope for further research, analysis on a more regional level is an obvious area along with more detailed examination of the financial aspects associated with this topic. With hindsight the area of 'housing' and in particular 'Affordable Housing' at first appears to be narrow. Only after this research was commenced did the author fully come to appreciate the many and varied facets that constitute this sector of the Construction Industry.

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12.1

APPENDIX A – Questionnaire Covering Letter

12.3

**APPENDIX C – A list of the intended recipients of the
Questionnaire**

12.4

APPENDIX D – A graphical representation of the Questionnaire results.

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