

# CIH submission to CLG select committee Inquiry into land value capture



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Housing

## About CIH

Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is simple - to provide housing professionals and their organisations with the advice, support and knowledge they need to be brilliant. CIH is a registered charity and not-for-profit organisation. This means that the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We have a diverse membership of people who work in both the public and private sectors, in 20 countries on five continents across the world.

Further information is available at: [www.cih.org](http://www.cih.org)

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## Introduction

We have an acute housing crisis, with the need to build an estimated 250,000-300,000 new homes a year to address household growth projections and tackle the shortfall in development over many years. A significant number of new homes need to be at lower 'social' rents to address the loss of over 150,000 of these homes between 2012-2017; CIH [estimates](#) that, by 2020, 230,000 of the most affordable homes will be lost through the Right to Buy and conversion to higher 'Affordable' rents (which may be set at up to 80 per cent of market rents).

CIH has called for more direct investment in affordable homes by shifting the focus of the existing investment programme. Currently, only 21 per cent of the £53 billion programme of housing investment up to 2020 is for affordable homes, with the remainder targeted at the private market.

## Current mechanisms

The tightening of direct investment in house building by government has led to a reliance on planning gain to deliver affordable homes. However, the current mechanisms of Community Infrastructure Levy (CIL) and Section 106 agreements are not capturing enough of the considerable increase in land value that arises from the identification of strategic sites for residential and other development and public investment in infrastructure.

[Analysis](#) by the Centre for Progressive Capitalism identified that Section 106 agreements and CIL together captured £2.8 billion of the increase in land value for public benefit, leaving £9.3 billion as windfall profit, largely accruing to landowners/traders. They estimate that, at that rate, £185 billion of increased value over the next 20 years would be lost, which otherwise would be able to contribute towards the infrastructure required for that development, and the benefit of local communities. A system is required that enables a more balanced share of the increase in land value between landowner, developer and the public.

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However, although clearly imperfect, there have been some benefits from the current system which should be maintained and improved in any replacement.

Section 106 agreements have made a significant contribution to the overall number of new affordable homes in the past. In 2006, they delivered 32,000 or two-thirds of the new affordable homes total. Although this reduced through the financial crisis and recession, in 2016/17, just over 18,200 homes were delivered through planning gain, 43 per cent of the total, almost all without grant. About 14 per cent of the total (2,560 homes) were for social rent, 36 per cent (6,610) were for homeownership and the rest for Affordable (or intermediate) Rent. A survey of housing associations by the National Housing Federation suggests that over half of housing association output in 2017/18 will come from use of Section 106. (CIH, UK Housing Review 2018, forthcoming).

If Section 106 is retained as a key mechanism for delivery of affordable homes and other infrastructure, a standardised and robust approach to viability assessment is needed. Commentators argue that current guidance supports a viability assessment that prioritises developers' and landowner's profit above planning obligations which are then challenged and reduced. A study of 82 housing developments in ten major cities by the Bureau of Investigative Journalism in 2013 found that only 40 per cent complied with local targets for affordable housing provision. Many used viability tests to reduce the number of affordable homes delivered or to switch to different affordable tenures requiring lower contributions. (CIH UK Housing Review 2018, forthcoming).

Setting and enforcing the requirement for affordable housing in local plans, with site level assessments only as an exception, as proposed in the government's housing white paper, *Fixing our broken housing market*, would be a start to amend that approach. Developers would need to take account of that provision in the cost of site development and the price paid for land. (This would be more effective if combined with suggested changes to compulsory purchase powers considered below as a backstop, as landowners would not then be encouraged to hold onto land in expectation of increased value from negotiable Section 106 agreements or challenges to review).

Section 106 also generally enables provision of affordable housing on-site which supports mixed tenure developments. This is important not only to encourage more mixed communities (see, for example, [JRF, Foundations: Mixed Communities](#)) but also because, where commuted sums are accepted in lieu of housing, the local authority may not always be able to provide suitable alternative sites, well connected to facilities.

Increasingly some of the larger housing associations are able to acquire land and develop their own housing schemes. It enables them to develop often to higher standards, although it entails additional risk to manage and assurance required for the regulator. Given the competition for and price of land for residential development, small and medium sized housing associations are less able to do this;

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for these providers planning gain is a critical way to access land and new homes. Any new system of land value capture may, through depression of the hope value that drives up land prices, enable more medium sized housing associations to compete for land; if it leads to further barriers that is a risk to the delivery of the additional new homes needed, given the scale requires all possible organisations to be involved and maximising what they are able to deliver.

## **Alternative methods**

### New Towns/local authority development corporations

More should be done proactively to encourage and enable a more widespread use of the new towns model/ local authorities' development corporations: to acquire land, grant planning permissions, and establish level of affordable housing to be provided. If retaining land to develop directly, the local authority would benefit from sales receipts and/ or rental revenue. Alternatively through sale/lease of land to developers, it could retain the value uplift from the planning permission for investment in required infrastructure and costs.

A key element for this to be successful is to enable the local authorities to acquire land at closer to existing use value rather than anticipated value from future development, through amendments to the 1961 Land Compensation Act. The existence of such a power, even if incorporating a (set and limited) premium available above existing use would:

- depress the hope value that arises from the current negotiable arrangements
- incentivise landowners to release land for development in advance of any application of the compulsory purchase.

Amending compulsory purchase powers to acquire land at or close to existing use value may also be a simpler method of capturing land value than by developing other mechanisms.

### Local authority role in land pooling

Incentivising local authorities to take a more proactive approach to land pooling, following examples such as in Germany would be another option. Designating an area for strategic development, the council pools the rights of all landowners, identifies the land required for public space, and returns any remaining land to the original owners according either to land area or original value. If it is reapportioned by value, the uplift from infrastructure is payable to the local authority; if by land area, a percentage is retained by the authority (see RTPI, 2013, [Delivering largescale housing](#)).

### Use of tax increment finance

Development of the Northern line extension included the pooling of Section 106 and Community Infrastructure levy funding, alongside a tax increment financing scheme. Repayment of the government loan is to be funded from future tax revenue from business growth (evidenced by planning applications). This may operate more effectively in city regions and may be useful to the combined authorities. It may be less useful for smaller authorities, particularly in view of the proposed changes to local authority funding through retention of business rates.

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## Land value tax

Many commentators and governments have considered how a tax on the value of land, either on the added value from development or on the intended use as designated in the Local Plan. This would encourage land to be brought forward for the intended development and reduce windfall profits from land trading. Development of such a system would need to ensure an appropriate appeal mechanism through the planning system. This has to date proved a complex proposal and a more straightforward and successful approach may be to allow local authorities to acquire land on closer to existing use value under amended compulsory purchase powers as indicated above.

## **Conclusion**

Although the current mechanisms are flawed, there have been some benefits arising in particular from Section 106 agreements in relation to the delivery of affordable housing (in lieu of direct funding from government). Any alternative system or suite of mechanisms should maintain that, as well as providing a more effective means of balancing the benefit of, and profit from development, for the landowner, the developer and local communities.