

Section 106 Agreements and unspent developer contributions in England & Wales



EXECUTIVE SUMMARY

New HBF research has found that local authorities in England and Wales are, on average, sitting on over £8 million in unspent developer contributions. From a sample of 171 local councils who provided data following a Freedom of Information request, more than £1.4 billion remains unspent, including over £280 million specifically earmarked to provide much-needed Affordable Housing for local residents. Extrapolating these findings out across local government suggests that almost £2.8bn in contributions from the private sector are unspent.

WHAT ARE SECTION 106 AGREEMENTS?

As part of the process of securing planning permission, developers are required to make contributions to local authorities. These contributions mitigate the impact of development by providing additional Affordable Homes at below market value, enhancing infrastructure, and providing public goods. Examples of public goods funded by developer contributions include education facilities such as new schools, road upgrades, public transport improvements, community facilities, open spaces, nature reserves and health facilities.

While some of these amenities will be provided directly by the builder, planning agreements sometimes involve the developer making a cash contribution for upgrades. This may be because the value of the contribution in relation to the specific site may not be enough to deliver the full range of infrastructure and facilities the council has prioritised, or because the planning authority considers that, for example, the provision of Affordable Housing could be maximised away from the site itself. Over recent years,



the proportion of new Affordable Homes provided through Section 106 either directly or indirectly has grown to around 50%. For Social Rented homes the proportion is even greater than half.

Section 106 and developer contributions are seen as a crucial part of ensuring that local communities see and feel the benefit that development brings to their area. This research, however, demonstrates that across the country a lack of capacity or unwillingness to spend developer contributions is preventing communities from realising the benefits that have been paid for by builders. This, in turn, has inevitable consequences for communities' perceptions of development and the wider narrative around and perception of home builders.

UNSPENT AFFORDABLE HOUSING CONTRIBUTIONS IN MAJOR CITIES

Our research shows that local authorities in major cities with communities at the sharp end of the housing crisis are holding the greatest sums of monies that have been allocated for affordable housing. Five of the ten councils with the highest amounts of unspent affordable housing contributions are in London, with Leeds, Oxford and Newcastle City Councils also among the top 10.

The Royal Borough of Kensington and Chelsea (RBKC) holds more in funds allocated for affordable housing than any other council which responded, with over £20m unspent. Outside of London, Leeds City Council holds the most amount of money allocated for affordable housing (£17m).





INTRODUCTION

HBF has undertaken a large-scale Freedom of Information (FOI) survey exercise of local authorities (LA) in England and Wales to ascertain how much in S106 contributions remain unspent despite being allocated to a specific purpose (e.g. affordable housing or highways improvement contributions).

All levels of LA (district/borough, unitary, metro, county, London borough and Welsh council) were surveyed, allowing for a reliable and representative assessment of the receipts and current balances of S106 developer contributions within local authorities in England and Wales.

We received 171 completed responses to the FOI request, constituting 50% of local authorities in England and Wales.



UNSPENT S106 CONTRIBUTIONS IN ENGLAND AND WALES

FOI request: 'How much money received via S106 agreements is held, unspent, by the local planning authority? How much of this figure is specifically earmarked for (a) affordable housing provision, (b) highways improvements, (c) education contributions, (d) social infrastructure, e) healthcare services and (f) other?'¹

Total unspent S106 contributions held by planning authority respondents in England and Wales = **£1,405,787,653.52**²

Average unspent S106 contributions held by councils that responded = **£8.2M**

Extrapolation of these figures to account for the 50% of councils that did not respond to the request allows us to estimate that across England and Wales there is likely to be as much as £2.8bn in unspent Section 106 monies provided by home builders to mitigate the impact of development and provide community benefits to accompany the new homes provided.

THE TOP 10 LAS WHO HELD UNSPENT THE MOST S106 CONTRIBUTIONS WERE:

1. South Gloucestershire Council - £58.2m
2. Leeds City Council - £57.9m
3. London Borough of Greenwich - £57.2m
4. London Borough of Lambeth - £49.9m
5. Royal Borough of Kensington and Chelsea - £44.0m
6. Rushcliffe Borough Council - £42.2m
7. London Borough of Hammersmith and Fulham - £39.6m
8. Newcastle City Council - £31.9m
9. Test Valley Borough Council - £27.9m
10. Bracknell Forest Council - £27.7m

The top ten councils collectively hold over **£436M IN UNSPENT S106 CONTRIBUTIONS** from developers.

1. Responses include monies that have been allocated or committed to projects that will discharge the terms of the relevant S106 agreements, but as yet remain unspent.

2. Figures provided are contributions held unspent at the end of the 2022/23 financial year, or held unspent as of June 2023 when the FOI request was made.



South Gloucestershire Council holds the most in unspent contributions. However, Thornbury and Yate MP Luke Hall has stated that 'South Gloucestershire does not have the infrastructure to accommodate thousands more houses at the expense of our local infrastructure'. It is important that developers' financial contributions are spent according to their negotiated purpose and within their agreed time limit so that strain on local infrastructure is not blamed unfairly on local developers.

AFFORDABLE HOUSING

Total unspent affordable housing contributions among respondents = **£283.3M**

Average unspent affordable housing contributions per LA who responded = **£1.7M**

Total unspent affordable housing contributions in England and Wales if scaling up to all LAs = **£566.6M**

THE TOP 5 LAs WITH THE LARGEST AMOUNT OF UNSPENT AFFORDABLE HOUSING CONTRIBUTIONS WERE:

1. Royal Borough of Kensington & Chelsea - £20.4m
2. Leeds City Council - £17.2m
3. Oxford City Council - £12.3m
4. London Borough of Greenwich - £10.8m
5. Shropshire Council - £9.8m



This figure is based on average grant values for new Affordable Homes.³

Although Westminster City Council did not respond to our FOI request, the council has previously confirmed that it has more than £240m held in its Affordable Housing Fund account. These monies have been collected in lieu of Affordable Housing onsite.⁴

³ National Housing Federation (<https://www.housing.org.uk/news-and-blogs/blogs/nathan-pickles/what-do-the-ahp-strategic-partnerships-tell-us/>)

⁴ Affordable Housing Fund, Westminster City Council note for its City Plan 2019-2040 <https://www.westminster.gov.uk/media/document/ev-h-020--report-on-westminsters-ahf>



HIGHWAYS IMPROVEMENTS

Total unspent highways improvement funds among respondents = **£191.9M**

Average unspent highways improvements funds per LA who responded = **£1.1M**

Total unspent highways improvement funds in England and Wales if scaling up to all LAs = **£383.8M**

THE TOP 5 LAs WITH THE LARGEST AMOUNT OF UNSPENT HIGHWAYS IMPROVEMENTS FUNDS WERE:

1. Leeds City Council - £14.9m
2. London Borough of Greenwich - £9.6m
3. Stockton-on-Tees Borough Council - £9.0m
4. South Gloucestershire Council - £8.5m
5. Newcastle City Council - £8.4m

**£384m in
unspent
highways
contributions
could fund:**



THE REPAIR OF OVER
6 MILLION POTHOLES



THE CONSTRUCTION OF
OVER 1,060,000 METRES
OF FOOTWAYS



EDUCATION CONTRIBUTIONS


Total unspent education contributions among respondents = **£210.2M**

Average unspent education contributions per LA who responded = **£1.2M**

Total unspent education contributions in England and Wales if scaling up to all LAs = **£420.4M**

THE TOP 5 LAs WITH THE LARGEST AMOUNT OF UNSPENT EDUCATION CONTRIBUTIONS WERE:

1. Surrey County Council - £14.2m
2. Leeds City Council - £13.4m
3. Rushcliffe Borough Council - £12.6m
4. Derby City Council - £11.4m
5. Wakefield Council - £10.3m

<p>£420m in unspent education contributions could:</p>	 <p>TRAIN OVER 45,000 NEW TEACHERS</p>
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SOCIAL INFRASTRUCTURE

Total unspent social infrastructure contributions among respondents = **£166.6M**

Average unspent social infrastructure contributions per LA who responded = **£974,196**

Total unspent social infrastructure contributions in England and Wales if scaling up to all LAs = **£334M**

THE TOP 5 LAs WITH THE LARGEST AMOUNT OF UNSPENT SOCIAL INFRASTRUCTURE CONTRIBUTIONS WERE:

1. South Gloucestershire Council - £22.6m
2. Rugby Borough Council - £7.3m
3. Wakefield Council - £5.7m
4. Tewkesbury Borough Council - £5.2m
5. Royal Borough of Kensington and Chelsea - £4.9m



UNSPECIFIED CONTRIBUTIONS

Total unspent developer contributions for unspecified purposes among respondents = **£507.7M**

Average unspent unspecified developer contributions per LA who responded = **£3.0M**

Total unspecified developer contributions in England and Wales if scaling up to all LAs = **£1.02BN**

THE TOP 5 LAS WITH THE LARGEST AMOUNT OF UNSPENT UNSPECIFIED CONTRIBUTIONS WERE:

1. London Borough of Lambeth - £34.9m
2. London Borough of Hammersmith & Fulham - £29.3m
3. London Borough of Greenwich - £28.1m
4. London Borough of Islington - £23.0m
5. Test Valley Borough Council - £21.3m

£46 million allocated for healthcare services is also held unspent, an average of £269,000 per council. The London Borough of Greenwich held the most in contributions allocated for healthcare services (£4.4m).



WALES

14 Welsh local authorities responded to the FOI request, out of a total of 22.

A total of **£71,405,329** in S106 contributions is held unspent in Wales – an average of **£5.1 MILLION** per council. If extrapolating out to all Welsh councils, around **£112M** is likely to be held unspent.

Cardiff City Council holds the most in unspent contributions (£23.3m), followed by Newport City Council (£9.5m) and Pembrokeshire County Council (£8.1m). Pembrokeshire County Council also holds the most in unspent affordable housing contributions in Wales (£4.4m).



CONCLUSIONS AND RECOMMENDATIONS

In recent years, the output of affordable housing in England has been increasingly reliant on S106 and CIL contributions from developers over other sources of funding, such as the Affordable Homes Programme. Between 2019 and 2022, almost 50% of new Affordable Homes completed in England were delivered as a result of S106 contributions obtained through private-led developments. Section 106 agreements also build support for new developments among local communities by funding vital infrastructure. We know from research commissioned by the Government that over time the focus of S106 contributions has moved away from other infrastructure and services towards Affordable Housing. This is likely to be the result of a reduction in government grant funding for Affordable Housing Programmes. It is therefore especially worrying that payments made to councils to provide services and infrastructure are not feeding through to new provision for the enjoyment and utility of new and existing communities, potentially leaving residents unsure of the benefits that development has brought to their area.

However, the supply of new homes is now under threat from the Government's broader anti-development approach, with the Government abandoning mandatory housing targets and removing the requirements around five-year land supply. Alongside interventions by Natural England on water and nutrient neutrality, as well as a growing burden of new levies, regulations and taxes, housing supply could now fall to the lowest levels since World War Two. This will have a knock-on impact on the S106 contributions that local authorities will receive and are therefore able to spend on affordable housing and other important community services, such as education provision, and the number of people subsequently employed in local areas.

This research also shows that much of the S106 contributions made by developers are being held unspent by local authorities. **Developers' financial contributions should be spent according to their negotiated purpose and within their agreed time limit, rather than returned to developers or left unspent.** Home builders are not advocating refunds of S106 payments. Instead, the industry is concerned that the inaction or lack of capacity from councils, along with fiery rhetoric about development and developers from politicians, is contributing to negative perceptions of home building across the country.

Local authorities should be compelled to publish an easily digestible summary of their annual reports on their website, which includes details of how money from developers is being spent - or why it is not being spent. This would improve public transparency of this process. This information is not always clear from Infrastructure Funding Statements currently published by councils. **A new badging scheme through which infrastructure and new facilities supported by S106 contributions, either directly or indirectly, could be easily identifiable to communities would also help public understanding of such provision and create a more informed, sensible debate about housing supply.**



THE 20 LAS WHO HOLD THE MOST IN UNSPENT S106 CONTRIBUTIONS

	COUNCIL	REGION	AMOUNT HELD UNSPENT
1	South Gloucestershire Council	South West	£58,241,004
2	Leeds City Council	Yorkshire and the Humber	£57,858,664
3	London Borough of Greenwich	London	£57,223,192
4	London Borough of Lambeth	London	£49,893,801
5	Royal Borough of Kensington and Chelsea	London	£44,038,840
6	Rushcliffe Borough Council	East Midlands	£42,229,907
7	London Borough of Hammersmith and Fulham	London	£39,623,399
8	Newcastle City Council	North East	£31,927,136
9	Test Valley Borough Council	South East	£27,900,647
10	Bracknell Forest Council	South East	£27,771,338
11	London Borough of Islington	London	£26,501,540
12	Derby City Council	East Midlands	£25,281,423
13	Cardiff City Council	Wales	£23,272,403
14	Surrey County Council	South East	£23,186,000
15	Wakefield Council	Yorkshire and the Humber	£21,618,274
16	Cheshire West and Chester Council	North West	£20,920,636
17	Wigan Council	North West	£20,356,659
18	Vale of White Horse District Council	South East	£18,223,919
19	London Borough of Hounslow	London	£18,177,781
20	Mid Sussex District Council	South East	£18,117,357



FOR FURTHER INFORMATION PLEASE CONTACT:

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ABOUT HBF

HBF is the representative body of the home building industry in England and Wales. Our members are responsible for providing around 80% of all new private homes built in England and Wales and most of our members are small or medium-sized enterprises.

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