Improving infrastructure funding and delivery

Boosting the provision of sub-national infrastructure by local authorities and their partners

January 2023

Improving infrastructure funding and delivery

A report for the County Councils Network

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Contents

Executive summary 5

Infrastructure challenges and opportunities 10

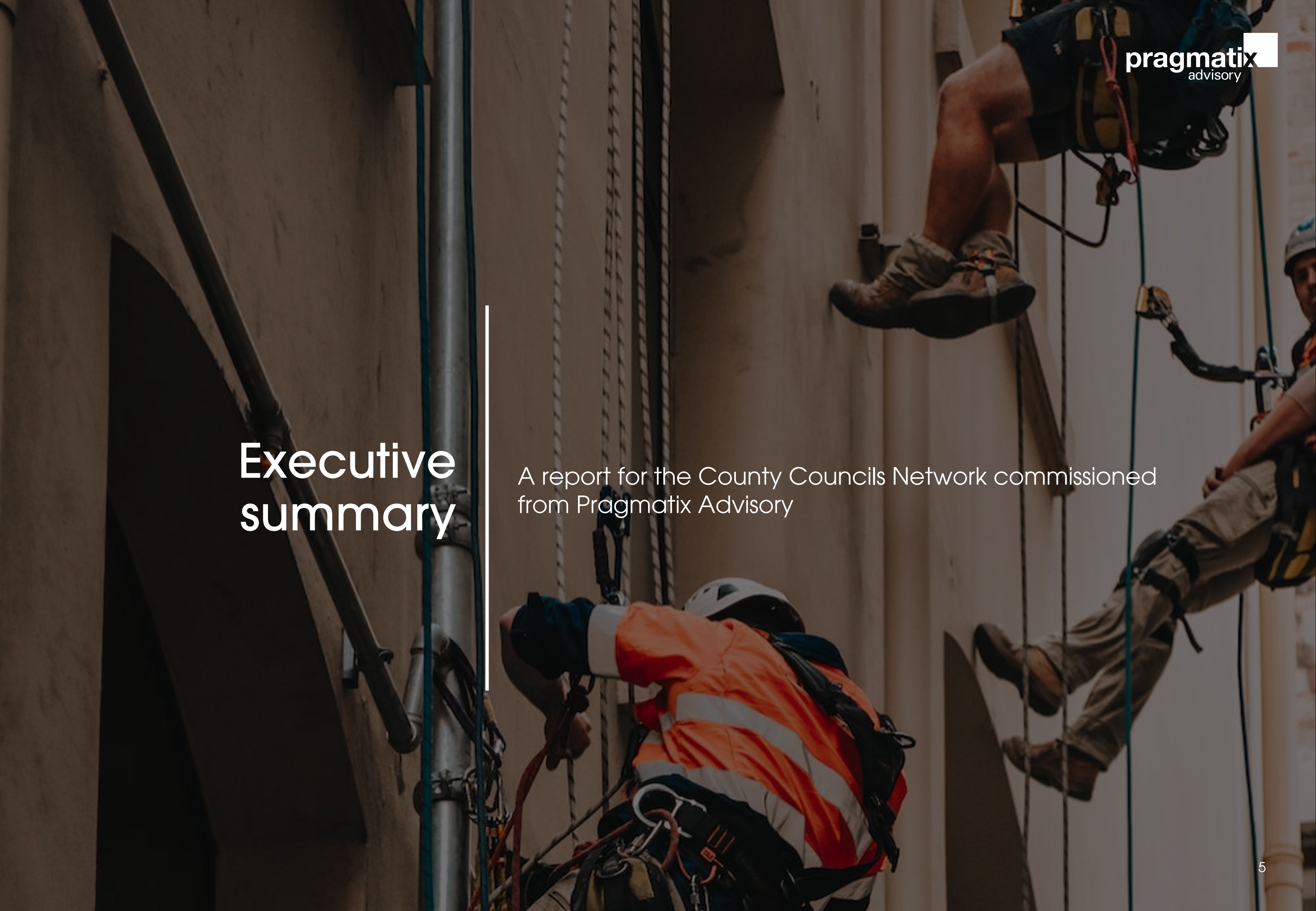
Developers' contributions to infrastructure 28

The wider policy environment for investment 47

Building a better system 55

Appendix 76

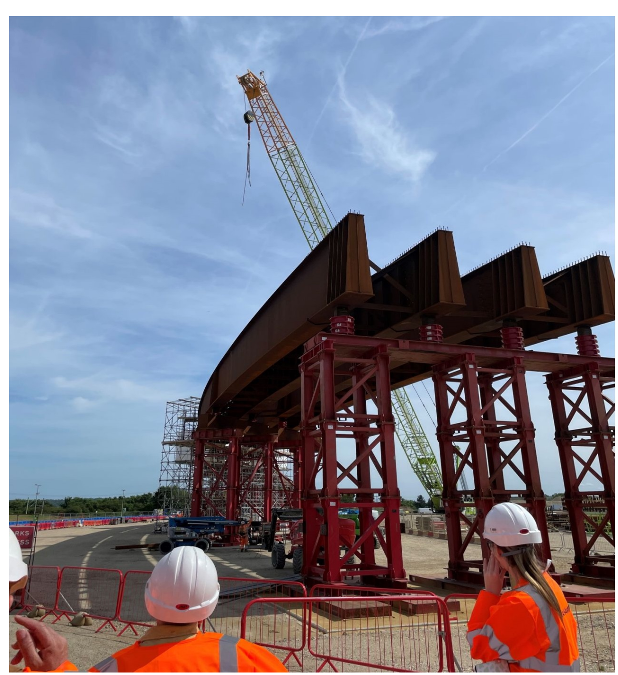
Authors 88



Executive summary

A report for the County Councils Network commissioned from Pragmatix Advisory

Opportunity to reshape infrastructure funding



Government has identified planning and infrastructure policy as key to growing local economies. Its focus on this area provides an opportunity to reshape the way infrastructure is funded and delivered.

Such reform is desperately needed, to overcome barriers to success in areas which have poor infrastructure and to cater for new developments and changes in society. Planning for the requirements of sustainable communities must be long-term, coordinated and fully costed. It must take into account what assets are needed across a wide range of services. It must involve the many stakeholders engaged in planning, funding and delivering infrastructure.

The system has to be flexible enough to cater for widely varying needs across the country. The scope of local variation, particularly differing levels of existing demand for development, needs to be recognised when national policy is created. The system also needs to cope with challenges arising from the current economic environment of high inflation and rising costs of borrowing.

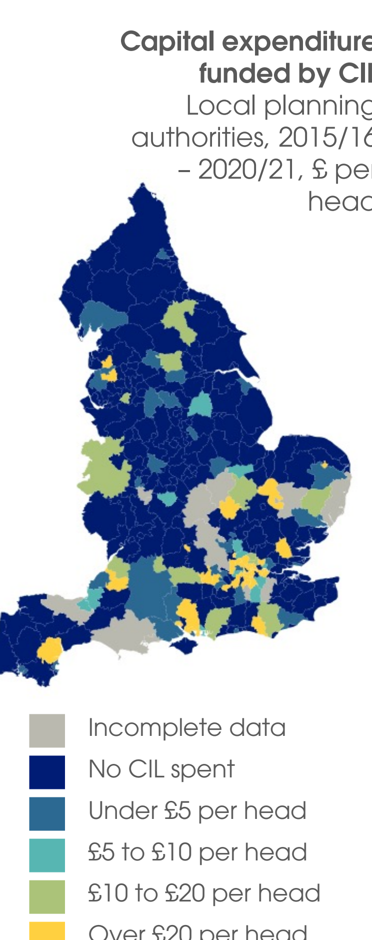
The government is seeking to increase investment in infrastructure. But its only detailed proposal to do this is changing the basis for levying development and switching the funding of affordable housing to this from the planning obligation regime. Achieving a step change in infrastructure investment will require wider reforms than this.

A key missing piece in the government's current plans is promoting a shared, long-term vision at a strategic level for each county area. Such a vision would provide the clarity that developers and councils both seek and constitute a solid basis for reforming the developer contribution system. It would also provide transparency for communities around what new infrastructure is forthcoming. The County Councils Network has proposals for structures which would facilitate this.

Source: Countryside Properties PLC (top); Kent and Hertfordshire County Councils (bottom)

Developer contributions alone aren't enough

Capital expenditure funded by CIL
Local planning authorities, 2015/16 – 2020/21, £ per head



The scale of England's need for sub-national infrastructure means that it cannot all be supplied from developer contributions. In fact, developer contributions form a relatively small part of the funding mix for sub-national infrastructure – particularly outside London.

The mechanism which provides the greatest income, Section 106, should be viewed as a tool in the planning system. It can be highly flexible and responsive to specific needs of each development. However, without a vision for a development which is shared between a planning authority and its statutory consultees, it can confront developers with many uncoordinated demands. In particular, infrastructure is put in active competition with affordable housing for funding.

Funding from developer contributions varies greatly. Lower sums are often raised from new developments in the north and midlands and especially in areas with lower existing levels of housing growth. In many parts of the country, the Community Infrastructure Levy is either not implemented, or is never applied to the same development as Section 106. It can be slow to build up and put to use. In some two-tier areas, county councils find it difficult to access the levy. It can be heavily skewed towards community facilities, while Section 106 is focused on affordable housing, leaving little for county-level infrastructure.

Infrastructure should be seen as an investment, not just for developers and landowners, but also for public money. To unlock developments and stimulate growth, this investment needs to be stable, predictable and long-term. Investments need upfront funding. This is available from a range of sources – from public funding, the financial sector, private sector partners and potentially community investment. But developments are long projects and the repayment of this investment, with a return, will be over long timescales.

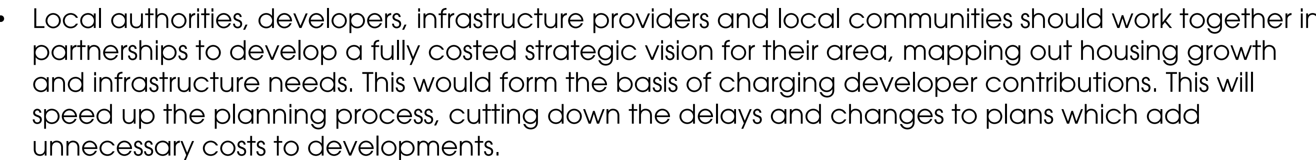
To unlock the full potential of such investment, risks need to be managed – both project risks and political risks. Government policies on local taxes, grants and infrastructure are subject to frequent changes, constraints and inconsistency which undermine the capacity for local investment.

Source: Department for Levelling Up, Housing and Communities and Pragmatix Advisory analysis

A package of reform will boost investment

The sustainable growth of England's communities requires long-term investment in infrastructure, which is coordinated, stable and adaptable to local needs.

We have identified a package of measures to achieve this:



- Local authorities, developers, infrastructure providers and local communities should work together in partnerships to develop a fully costed strategic vision for their area, mapping out housing growth and infrastructure needs. This would form the basis of charging developer contributions. This will speed up the planning process, cutting down the delays and changes to plans which add unnecessary costs to developments.

- The introduction of the governance structures set out in *The Future of Strategic Planning in England* would provide the most suitable mechanism for developing a strategic vision for each county area. This would include an accountable strategic planning body with responsibility for specific functions such as developing and delivering a strategic growth plan, as well as a representative advisory and challenge body. Their roles and relationships with existing bodies would be clearly delineated.

- Mechanisms for further managing the risks inherent in development should be explored with the government, including a mutual insurance scheme and further guarantees for investments made in infrastructure. This needs to cater for the current economic climate with large and unpredictable price rises.

- Capital grants should be long term and not subject to competition. Rolling five-year infrastructure budgets should be devolved to county level, to be managed by each area in support of its strategic vision, drawing on existing best practice.

- The government should explore with local government other options for fiscal and financial devolution. Greater borrowing against tax uplifts can be unlocked through a programme of exempting developments from changes to local taxes, where the taxes are being borrowed against – or preferably, giving councils permanent control of the parameters of these systems.

Source: James Genchi via Unsplash

Government should facilitate, not mandate

The role of the government in building a better system should be one of facilitating, rather than mandating. It should:

- Continue to work with investor organisations to tackle barriers to greater investment in infrastructure by the financial and community sectors.
- Engage with local authorities, developers, landowners and infrastructure providers on a regular basis to identify systematic barriers causing underfunding of infrastructure and affordable housing. This can be done through accountable strategic planning bodies and strategic planning advisory bodies once they are established.
- Work with local government to disseminate best practice on partnership working on planning and infrastructure. This should include partnership working a) between local authorities, b) with developers and landowners and c) with other infrastructure providers.
- Work with local government to ensure that planning departments are sufficiently staffed and trained to implement best practice.

The developer contributions system needs to maintain its flexibility to adapt to local circumstances:

- Section 106 should continue to be subject to the three legal tests imposed by the *Community Infrastructure Levy Regulations 2010*. There should be no further restrictions imposed on its use, for any size of development.
- Partnerships of upper-tier and lower-tier authorities should be empowered to determine the most appropriate basis for charging a levy in their area, within a framework drawn up through dialogue between the government, developers and local government.
- Until the uncertainties of development financing are managed down sufficiently to allow prudent borrowing on a larger scale, payments of any levy should continue to be in instalments. Without this, developments could stall for lack of upfront infrastructure.
- The government should clarify in official guidance that the levy is to pay for cumulative infrastructure needs, while Section 106 contributes to site-specific requirements, and so sites will generally incur both.

Infrastructure challenges and opportunities

The context within which infrastructure is delivered is moving fast. There are opportunities for change, but infrastructure must also meet many needs.

- A government focus on planning and infrastructure as the keys to growth provides an opportunity to reshape the system. This is desperately needed, to overcome barriers to success in areas which have poor infrastructure and to cater for new developments and changes in society.
- However, there are many stakeholders involved in planning, delivery and funding infrastructure. Planning for future requirements must be long-term and coordinated, paying attention to the balance of facilities needed across many services.
- The system must be flexible enough to cater for widely varying needs across the country. The scope of local variation, particularly differing levels of existing demand, needs to be recognised when national policy is developed.
- There are additional challenges at present which need to be factored in, from inflation and rising costs of borrowing.
- To make reform work, a shared, long-term vision is needed at a strategic level for each county area. Changes to the developer contribution regime will only succeed if they are grounded in this. The County Councils Network has proposals for structures which would facilitate this.

Infrastructure is the key to sustainable growth

The government's focus on infrastructure reflects its importance.

In just over two years, government has published one bill, three white papers and a growth plan relating to infrastructure and planning. It sees this agenda as the key to unlocking the growth needed to fund public services and views it as vital for improving productivity and stimulating the economy in areas which have 'fallen behind'.

Investment in infrastructure can improve the connectivity and productivity of existing settlements, particularly where these are most problematic. This can attract business into an area and drive economic growth. We know from *Global Britain, Global Counties* (November 2022) that local infrastructure remains high on the agenda for investors. Where there is housing growth, investment provides facilities to the new population and ensures that growing communities are catered for sustainably.

Many socioeconomic trends are accelerating the need for new infrastructure – from carbon reduction and the growing number of elderly people to a greater reliance on digital technologies. With an increasingly mobile population expecting greater levels of connectivity, transport investment will be a major area of need, but education, health and social care and utilities will also need significant investment.

Planning for the Future White Paper (August 2020)

Consultation proposing to reform developer contributions – replacing Section 106 and CIL with Infrastructure Levy – abolish the 'duty to cooperate' and update assessments and tests in planning system

Build Back Better White Paper (March 2021)

Set out how investment in infrastructure was key to tackling productivity gap, ensuring post-pandemic economic recovery and creating long-term sustainable growth

Levelling Up White Paper (February 2022)

Explained how infrastructure weaknesses led to places being 'left behind' and set goals on improving aspects of infrastructure

Levelling Up and Regeneration Bill (May 2022)

To implement Infrastructure Levy to replace CIL and fund affordable housing, introduce County Combined Authorities and implement a range of planning reforms (see appendix for more detail)

Growth Plan (September 2022)

Announced sector-specific infrastructure reforms, investment zones, and intention to bring forward Planning and Infrastructure Bill and regulations on pension fund investments

Government policy on planning and infrastructure
England, 2020-2022

Source: Counties Councils Network and EY

Proportion of infrastructure required by type
Average across selected county areas, England, 2016

Roads and parking
Public, active and other transport
Health and social care
Cultural and neighbourhood services
Waste facilities
Utilities
Green infrastructure
Flooding and drainage
Education

A wide range of infrastructure is required for a sustainable community.

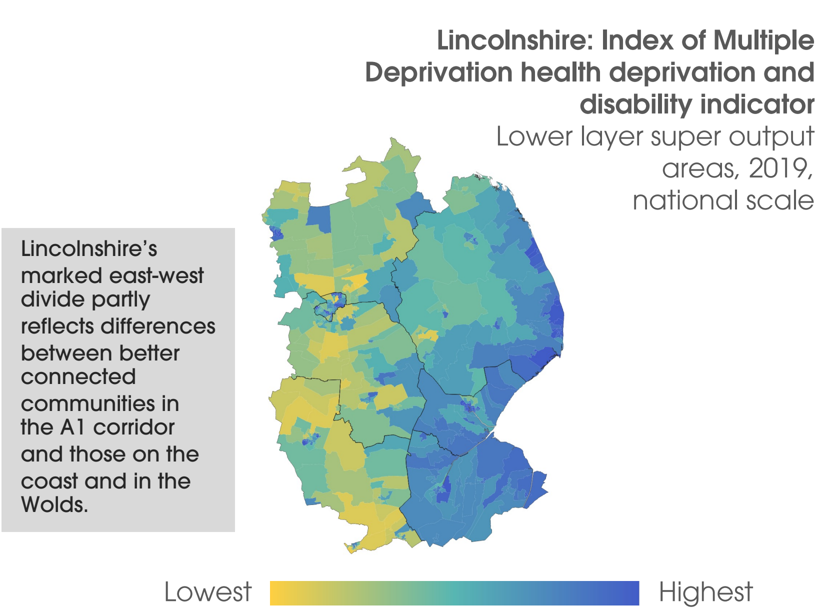
Infrastructure, broadly speaking, covers a range of facilities and their supporting systems which allow a settlement or development to function. This can include transport networks and facilities, utilities networks, facilities for providing services, and local open spaces and amenities.

In this report, we exclude housing (whether 'affordable' or not) from our definition of infrastructure.

Inadequate infrastructure contributes to areas feeling 'left behind'.

Insufficient or poor-quality infrastructure contributes to some areas being seen as less desirable than others – adding to housing pressures in high demand areas. It is also a major factor in geographical inequalities, for example whether residents are able to access high-quality healthcare, education and jobs. In some cases, it can lead to areas feeling remote and cut-off.

Once an area has fallen behind, it can be difficult to recover. Labour markets can be depressed, reducing demand for relocating to them. Infrastructure investment can help reverse a cycle of decline.



Source: Staffordshire, Surrey, Kent and Hertfordshire County Councils (top left); Office for National Statistics (bottom right)

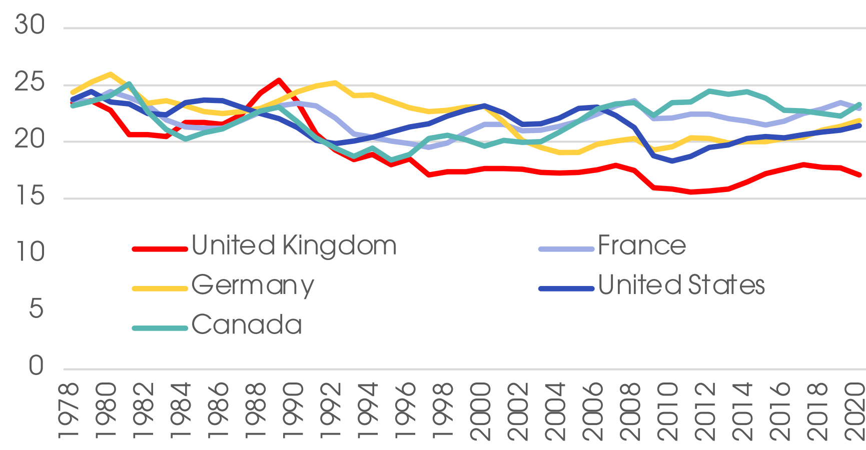
The United Kingdom has fallen behind similar nations in infrastructure investment.

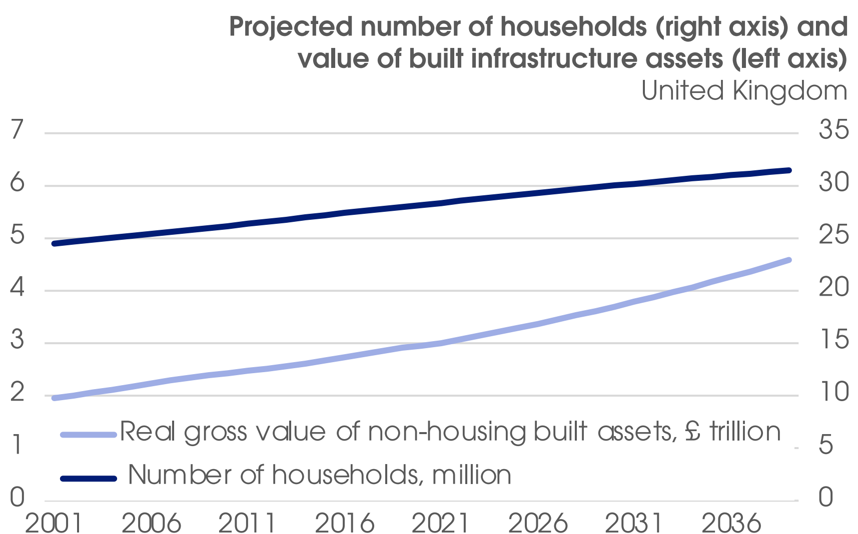
Since 1990, the United Kingdom has invested less in capital, such as infrastructure, housing and other buildings, as a share of gross domestic product than many major industrialised democracies. The reduction in investment since 1978, when the country was on a par with its competitors, has averaged £50 billion per year, in 2021 prices.

Consequently, the value of this capital fell from 5.3 times gross domestic product in 2001 to only 3.7 in 2021. Within this, the value of infrastructure capital fell from 1.7 times gross domestic product in 2001 to 1.3 in 2021. Restoring this ratio just to its 2001 level would cost £881 billion.

Gross fixed capital formation

Per cent of gross domestic product





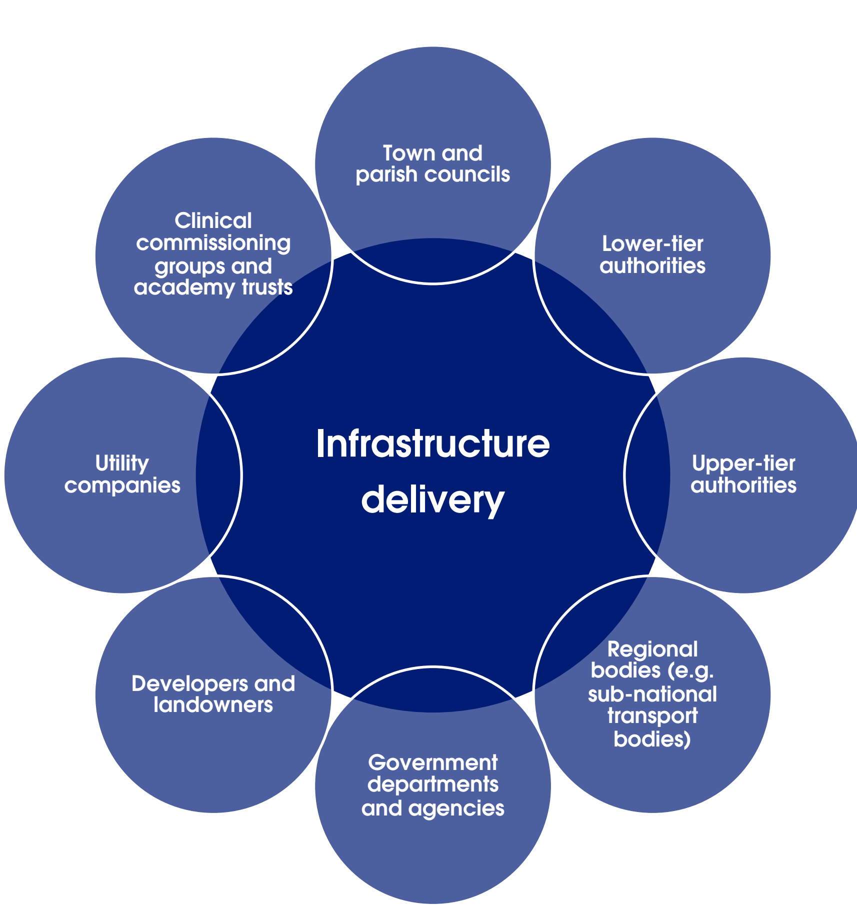
Demand for infrastructure is rising rapidly – even faster than household formation.

Infrastructure will also be needed for new households going forward – both in new developments and existing communities. The number of households in England is projected to rise by twelve per cent over the next two decades.

In recent decades, the value of infrastructure has grown four times faster than the number of households. This trend looks unlikely to abate any time soon given the desire for high-quality modern homes which are well connected and provided with a wide range of cradle-to-grave services. If demand continues, infrastructure will need to grow by £1.3 trillion in the next fifteen years.

Source: World Bank and Office for National Statistics (top); Department for Levelling Up, Housing and Communities and Office for National Statistics (bottom)

Providers and funding require coordination



Responsibility for planning, delivery and funding infrastructure is spread unevenly across many stakeholders.

Funding and delivery is most complex in multi-tier areas. In some areas, there can be up to four tiers of authorities. There are also service-specific governance bodies, including the subnational transport bodies. For example, the village of Ashley in Cambridgeshire has a parish council, a district council (East Cambridgeshire), a county council (Cambridgeshire), and a combined authority (Cambridgeshire and Peterborough). For strategic transport matters, it is covered by England's Economic Heartland.

Besides local authorities, providers and regulators often include a range of government agencies, such as Highways England and the Environment Agency, and stakeholders from across the public and private sectors.

Planning and development control is largely carried out by lower-tier authorities, but the responsibility for constructing, commissioning or operating many assets lies with upper-tier authorities. Only upper-tier authorities have the overview of the demand for these shared assets to plan for the long-term, strategic infrastructure needs of their areas.

The finance packages for developments are often complex. These may include borrowing, contributions from developers, capital receipts and grants from a range of bodies, including central government and local enterprise partnerships.

Planning for developments and their supporting infrastructure requires long-term thinking. Upper-tier authorities have a key role in coordinating this – and as providers and commissioners themselves.

The inputs of the various infrastructure providers into a development need to be coordinated, ensuring that each asset is delivered at the appropriate point. This requires identifying long-term finances and a long term plan or framework.

Councils try to plan infrastructure over periods of many years, if not decades. For example, Kent and Medway, Staffordshire and Stoke-on Trent, Surrey, and Hertfordshire have all analysed their areas' needs for infrastructure over periods of between thirteen and twenty years.

In shire areas, county councils have the responsibility for constructing or operating many of these assets – such as waste facilities, schools, libraries and most non-trunk roads.

However, planning and development control for infrastructure assets is mainly carried out by district councils. Where the Community Infrastructure Levy is charged, districts also set the levy rates and collect the payments.

In many county areas, this causes significant barriers to ensuring that an appropriate proportion of developer funding is spent on strategic assets, such as those for social care.

Planning and development – mainly done by districts, but counties involved for some matters as statutory consultee.

Education – upper tier responsibility. But we heard of one district council which received grant funding to lend to an academy for a new school.

Roads and parking – non-trunk roads overseen by counties, which have most capital spend on roads, street lighting and road safety. Most capital spend on parking is by districts.

Other transport – a mix, e.g. counties spend more on bus-related assets than districts, but all spend on ports and piers in shire areas is by districts.

Health and social care – social care is an upper-tier responsibility. Almost all capital spend in shire areas is by counties. Both tiers work with health providers.

Sport, leisure and cultural amenities – a mix, e.g. libraries and youth services county responsibilities, recreation and museums are district responsibilities.

Open space – both districts and counties have a role. Capital spend is split between them.

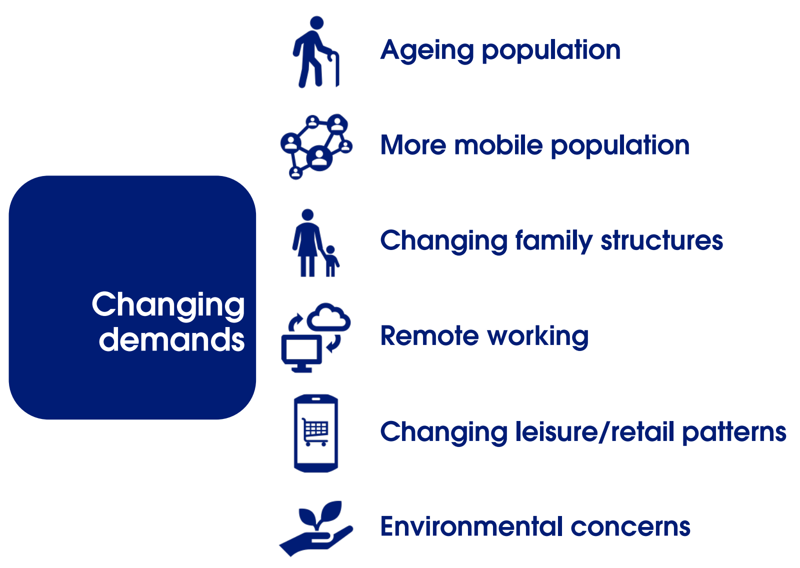
Waste infrastructure- disposal is county responsibility, while collection lies with districts. As these are closely inter-related, there is a lot of joint working.

Water and drainage – capital spend on drainage is split between tiers. Both tiers need to work with the water authorities.

Other utilities – mainly provided by private companies, but some councils have set up their own electricity generating services.

County and district roles in planning and delivering infrastructure

Source Staffordshire, Surrey, Kent and Hertfordshire County Councils (left); Department for Levelling Up, Housing and Communities and Pragmatix Advisory interview (right)



Infrastructure requirements are shifting, with covid accelerating some socioeconomic trends.

The change in working patterns necessitated by the pandemic looks set to remain in some form. At the start of 2022, 84 per cent of workers who had to work from home because of the pandemic said they plan to continue hybrid working in future. The rise in remote and hybrid working will have an impact on transport and digital infrastructure.

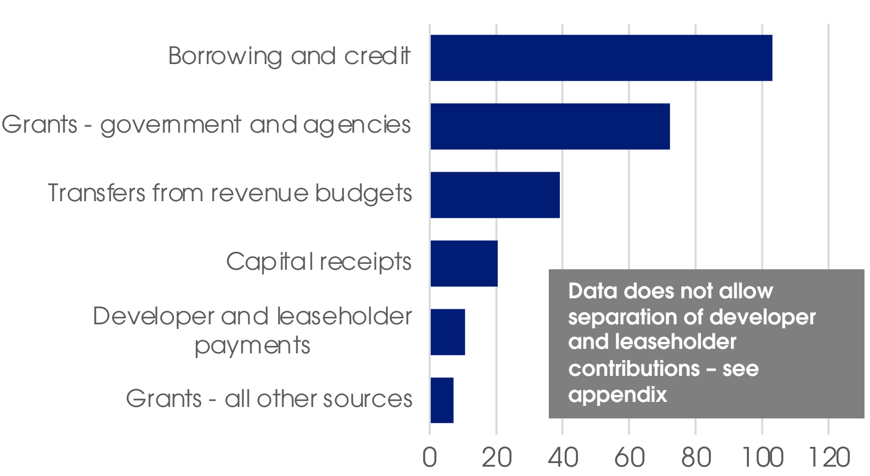
Over three quarters of adults say they have made lifestyle changes to help tackle climate change, and the rise in green values means housing and its supporting infrastructure will increasingly need to be tailored to a low-carbon society. And the demands that come with an ageing population will continue to have an impact on the need for health and social care facilities, as the number of people aged 85 and over is projected to almost double by 2045.

Delivering infrastructure requires the coordination of many sources of funding and finance.

Councils' spending returns show how their own capital expenditure is funded from a variety of sources. Not all capital spend by councils is on infrastructure, and less on infrastructure linked to new development. Nonetheless, this data provides insights into the complexity of funding packages for infrastructure.

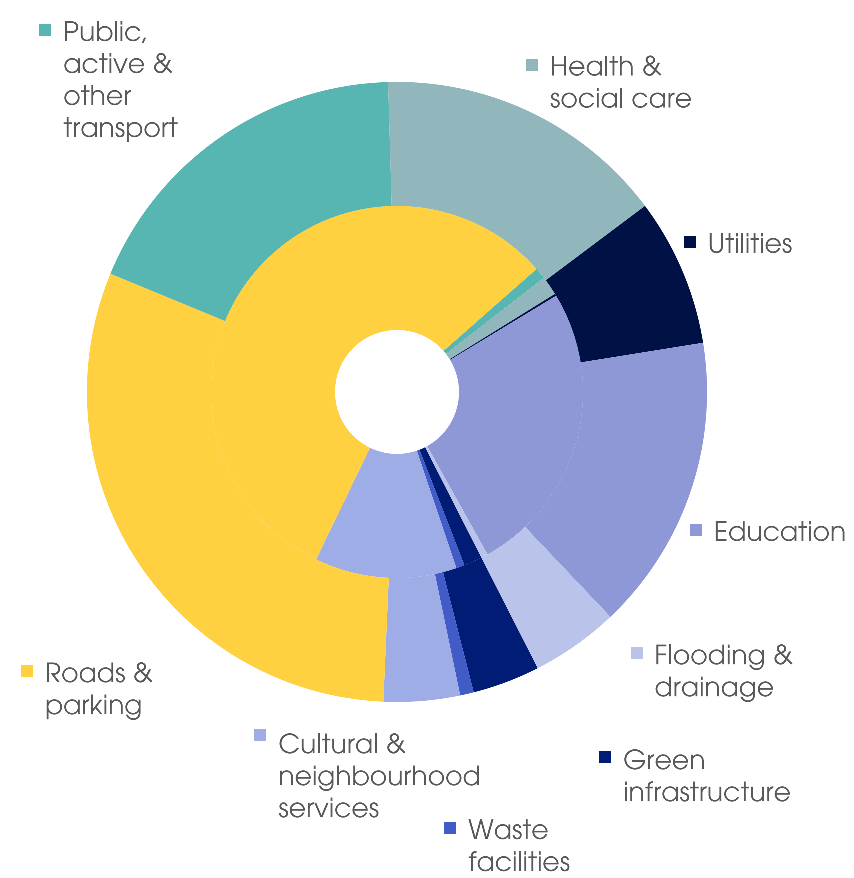
In 2020/21, the largest source of funding – 41 per cent of the total – was from borrowing and credit. A further 29 per cent was from grants from the government and its agencies. Only four per cent came from developer and leaseholder payments. The role of mayors or directly-elected leaders will be important here - acting as convenors and coordinators for their area.

Sources of funding for capital expenditure
English local authorities, 2020/21, £ billion



Source: Office for National Statistics (top right); Department for Levelling Up, Housing and Communities (bottom)

Service breakdown of Infrastructure requirement (outer) versus local authority capital expenditure on infrastructure (inner)
Four selected county areas, 2016-2038 (outer), 2017/18 – 2020/21 (inner)



Infrastructure needs assessments by county areas suggest that council spend is disproportionately low in some service areas. On current trends, infrastructure provision for health and social care and transport other than highways will need to be picked up by other providers.

The four ceremonial county areas of Kent and Medway, Staffordshire and Stoke-on Trent, Surrey, and Hertfordshire are currently spending a total of over £700 million per year on infrastructure from upper-tier and lower-tier authority budgets. (This is taken from local authorities' capital spending returns, using the entries that best represent infrastructure, and is in 2020-21 prices.) This spending is shown on the inner ring on the left. Over half of this spend is on roads and parking. About a quarter of it is on education and about an eighth on cultural and neighbourhood services.

However, the needs of the county area are much higher. Kent and Medway alone projects an infrastructure requirement over the period 2017 to 2031 of around £1.2 billion per year at 2020/21 prices. This will need to be delivered by a range of providers, including utilities companies, developers and others from across the public and private sectors.

The outer ring shows the breakdown of this wider infrastructure need across the four ceremonial county areas. The requirement is still high for roads and parking, education and cultural and neighbourhood services. However, around a fifth of the requirement is for other transport, a seventh is for health and social care and a thirteenth for utilities. Thus, on current trends, much of the need for these facilities will need to be met by other providers.

Source Staffordshire, Surrey, Kent and Hertfordshire County Councils, Department for Levelling Up, Housing and Communities and Pragmatix Advisory analysis

Challenges are highly area-specific

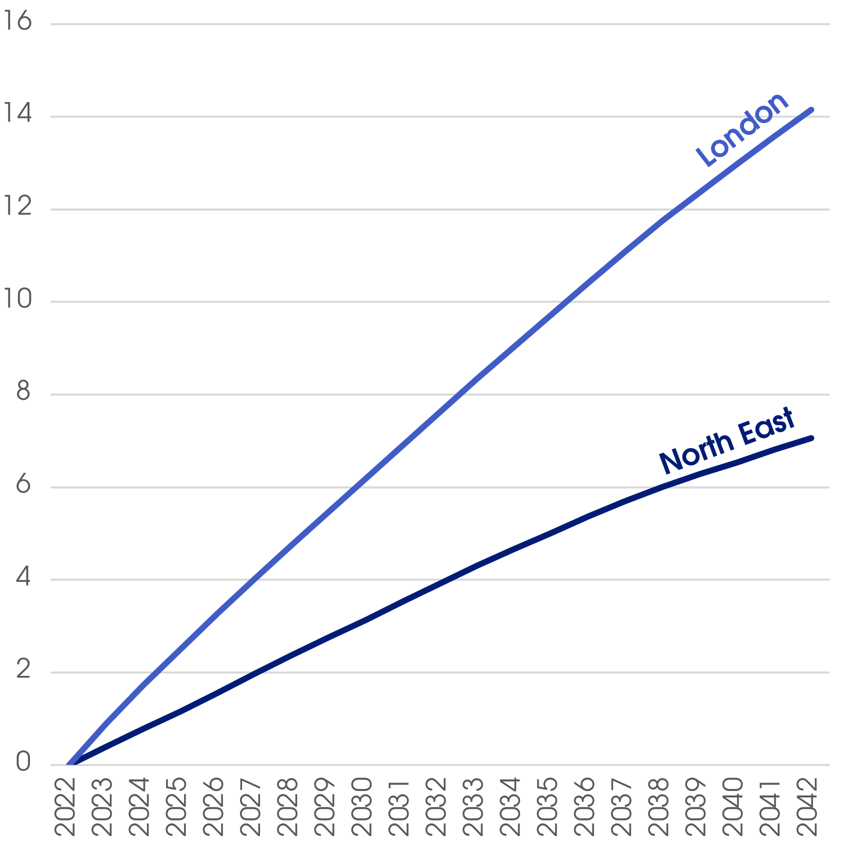
The demand and potential for building local infrastructure vary widely across the country. There is also considerable geographical variation in the assets built and the funding mix used to pay for them.

England's geographic communities vary widely, in terms of their existing demand for new dwellings, the sizes of sites for development, the potential for connectivity, the number of tiers of governance and the number and nature of developers.

In particular, areas with stronger prospects for population growth and economic growth will often have more planned development. Sites in these localities are usually more profitable for developers and consequently have greater prospects for raising developer contributions.

Conversely, areas with weaker growth prospects are likely to struggle to raise developer contributions. This difference in demand can be seen at the regional level. The number of households in the North East is projected to increase by around seven per cent in the next twenty years – just half the rate in London. However, there is also significant variation within regions.

Percentage increase in number of households
London and North East, change on 2022, per cent



Source: Department for Levelling Up, Housing and Communities

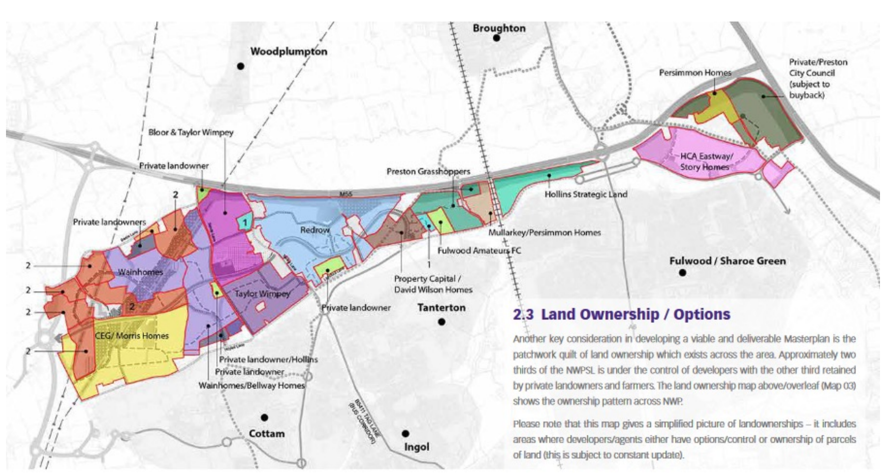
Some geographies have little to no land available for large developments.

Half of the Isle of Wight, for example, is covered by an Area of Outstanding Natural Beauty. Thirteen sites of Special Scientific Interest make up the Thames Basin Heaths Special Protection Area, limiting development in the eleven local planning authorities it extends over. Coastal communities and areas with significant flood plains will also be limited in their growth.

Geography can also make connection to infrastructure more costly and involved for some developments. This includes physical connections such as water and sewerage, energy, communications and digital networks, but also transport connectivity to local amenities.

Area of Outstanding Natural Beauty
Isle of Wight, 2022

Land ownerships in North West Preston
North West Preston masterplan, 2017



The size of development sites and the mix of developers and landowners can affect delivery and funding.

Larger sites tend to be more self-contained for more aspects of infrastructure. For instance, a large development may support a primary school or even a secondary school on its own. This can make it easier to negotiate planning gain.

In a town undergoing major expansion, there may be many developers and landowners involved – for example, there are at least seventeen landowners in the North West Preston masterplan area. Moreover, different developers may have different attitudes towards catering to their homes' infrastructure needs. Both of these factors can affect which developer contribution mechanisms are used.

Source: Office for National Statistics (top right); Preston City Council (bottom left)

Infrastructure needs vary widely across the country.

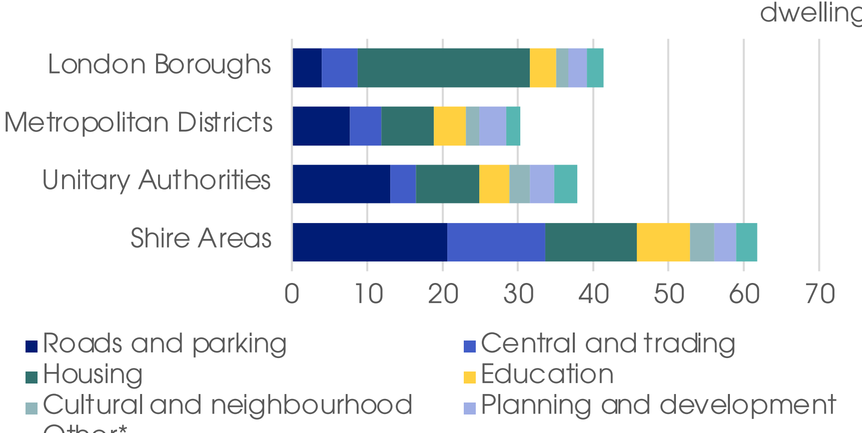
Shire areas can be sparse. This, together with Transport for London being responsible for the red route network, could explain why capital spend on roads per net additional dwelling by shire counties and districts is over five times higher than by London boroughs.

Sparsity also affects expenditure on schools. School rolls are often smaller in rural areas, particularly for primary schools, meaning a greater expenditure is needed per pupil.

Other factors can also affect spending needs. For example, some areas have significant port infrastructure to maintain, while others have major bridge links. Retirement areas will generally need less investment in schools, but more in health and social care.

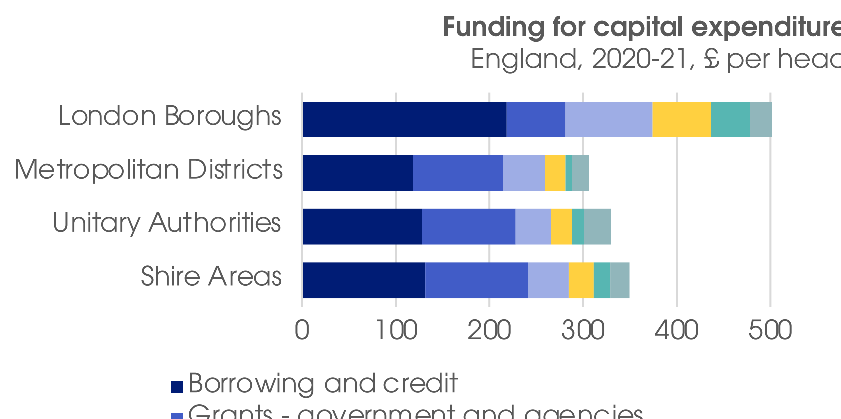
Local authority capital expenditure on infrastructure by service

England, 2020-21, £ thousand per net additional dwelling



Funding for capital expenditure

England, 2020-21, £ per head



The funding sources which pay for infrastructure also vary between different parts of the country.

Higher land values in London make a difference to the funding mix. London boroughs spend on average more than twice as much per head from capital receipts as either shire areas or unitary areas. Funding from developer and leaseholder contributions in London boroughs is more than twice that in shire areas and more than three times that in unitary areas.

This leaves shire and unitary areas more dependent on government grants. Nonetheless, total funding for capital expenditure per head is significantly higher in the London boroughs than in other authorities.

*Note: 'Other' includes green infrastructure; health and social care; public, active and other transport; flooding and drainage; waste facilities; utilities; and other environmental and regulatory. Source: Department for Levelling Up, Housing and Communities and Pragmatix Advisory analysis

Economic problems affect infrastructure costs

Rising inflation, government borrowing and interest rates present new challenges for infrastructure financing.

The current economic environment is causing new difficulties for the construction of infrastructure.

Prices in construction are rising, just as they are in the rest of the economy. Construction output prices – the total cost of building – rose by twelve per cent between June 2021 and June 2022.

We heard from one district council for which this inflation, coupled with the scale of development in its area, meant that its entire Community Infrastructure Levy fund was used up. Its City Deal funding became crucial to the development and it is trying to access funding from other streams.

We have heard from another authority in which inflation is threatening the viability of a programmed development. They are trying to contain it within the contingency set in the scheme's budget, but are concerned that external funding may be withdrawn if the budget is exceeded.

Borrowing costs are also affected by the economic and fiscal climate. The costs of government borrowing affect on-lending costs through the Public Works Loan Board. If loans are obtained from commercial sources, the costs of financing these will be affected by rising interest rates.

Source: Office for National Statistics

Reforming the system requires strategic vision

Shaping the sustainable growth of communities requires a long-term, strategic vision to be shared between providers, planners and developers. This a crucial missing piece in the government's current focus on planning and infrastructure.

Planning for strategic infrastructure lay with upper-tier authorities for 40 years. One county council told us that these planning powers had enabled them to instil growth strategies into local markets. However, in 2004, this responsibility was transferred to regional bodies, paving the way for the introduction of elected regional assemblies – which never happened. In 2011, with a sharp political focus on community-level decision-making, regional spatial strategies were replaced with the 'duty to cooperate.'

For most of England, there is no strategic planning function beyond this duty. However, devolution deals can specify different arrangements for strategic planning – as in the case of the Liverpool City Region. The demise of strategic planning has become a roadblock to developing a shared, strategic vision for sustainable communities. One developer told us that "strategic planning is the biggest loss in the last 20 years."

A county-level strategy which sets out a vision for sustainable communities could provide a stimulus to this involvement. The County Councils Network has developed proposals for a strategic planning function to be carried out in the context of modern structures of governance.

1964-2004	• Structure plans produced by upper-tier authorities • These set out spatial strategy, housing and strategic infrastructure priorities for their area
2004-2011	• Regional planning bodies produce regional spatial strategies • Upper tier keeps responsibility for minerals and waste planning and assists with monitoring, review and sub-regional planning
2011-2022	• Strategic planning managed through duty to cooperate (except in midlands, where it is exercised by statutory joint planning committee) • Upper tier keeps responsibility for minerals and waste planning
2022	• Levelling Up and Regeneration Bill contains schedule which would replace legislation containing duty to cooperate

Responsibility for strategic planning
England, 1964-2022

Royal Town Planning Institute's principles of good infrastructure planning

1. A shared vision of place with clear objectives
2. Specific infrastructure priorities identified to achieve that vision, aligned to funding sources
3. Effective and early engagement to align planning and delivery
4. Capacity, knowledge and resources
5. Continuous learning and dissemination

Both developers and councils want planning to be based on a shared vision of place.

In our conversations with developers, they stressed that what they wanted from the planning system was clarity, certainty and simplicity. They do not want providers pulling them in different directions during the planning process. This requires all providers to have a set of shared goals, rooted in the specific needs of each development. Such a vision can be provided through a strategic level infrastructure plan – as one developer put it to us.

We heard from some councils of the difficulties that could be encountered if key infrastructure partners were not engaged sufficiently early in the process. One large unitary recommended involving all of them in developing local planning documents.

The government's renewed focus on planning and infrastructure as the keys to growth provides an opportunity to develop a better system, but at present it is silent on strategic planning.

The only clear proposal in the Planning for the Future white paper on strategic planning is the removal of the Duty to Cooperate. One of the three 'pillars' of the paper is 'Planning for infrastructure and connected places.' This focuses exclusively on the financial mechanisms for delivering contributions from developers – proposing a national Infrastructure Levy – and says nothing about the wider system.

This limited focus persists into the Levelling Up and Regeneration Bill. The Bill sets out how the Infrastructure Levy would work. But this is not grounded in any meaningful plan for how infrastructure can be coordinated at the strategic level or how long-term financing packages can be facilitated.

Source: Royal Town Planning Institute (top left); Department for Levelling Up, Housing and Communities (bottom)

Current system

Section 106

- Obligations which are fixed during planning process
- Covers both on-site infrastructure and affordable housing
- Paid at agreed 'trigger points'

CIL

- Standing charge, based on floorspace
- Neighbourhood portion
- Covers off-site infrastructure
- Optional (can be zero rate)
- Paid in instalments after work commences
- Regulations prevent borrowing against it (except Mayor of London)

Proposed system

Section 106

- Obligations which are fixed during planning process
- Covers on-site infrastructure only
- Paid at agreed 'trigger points'

Infrastructure Levy

- Standing charge, based on sale value above threshold
- Neighbourhood portion?
- Covers both affordable housing and off-site infrastructure – and potentially more
- Compulsory
- Paid at end
- The Government has stated its intention to permit borrowing against the Levy

The proposed Infrastructure Levy has many of the flaws of CIL.

Planning obligations relate to items of infrastructure which are required for a single development, so the Community Infrastructure Levy (CIL) was introduced to pay for items where there is a cumulative need across many developments (see appendix).

However, an official review of the levy in 2016 found that it was not meeting expectations. It had not been implemented in many authorities for various reasons, often concerning viability. Where it had been implemented, it was often set at low rates.

The review recommended replacing it with a Local Infrastructure Tariff. This would be set at a low level, based on market value. In combined authority areas, it would be supplemented by a Strategic Infrastructure Tariff. Six years later, the Strategic Infrastructure Tariff has not been implemented.

A local replacement for Community Infrastructure Levy, the Infrastructure Levy, is contained in the Levelling Up and Regeneration Bill. This would be based on market value, but rather than being set a low rate, the government expects it to capture more value from developments. It would also be mandatory across England.

However, the government has produced no evidence that the levy would be viable in areas of the country in which CIL is not already viable. This was queried by one county we spoke to, saying "those areas will be in real difficulty."

Furthermore, one developer we spoke to pointed out that planning authorities would end up adopting 'lowest common denominator' rates to ensure viability, as the first authorities adopting CIL did.

Source: House of Commons Library; Hansard; Pragmatix Advisory interviews

Spending on infrastructure may actually reduce under the Infrastructure Levy as it's currently proposed.

Despite not providing evidence that it would raise greater sums than CIL, the Infrastructure Levy will be spent in more ways:

- Intended spend on infrastructure would be set out in new Infrastructure Delivery Plans
- It would also be spent on affordable housing – in place of Section 106, which would be further constrained
- The original bill allows the levy to be spent in other ways, such as on services, and this has been extended by amendment
- A contribution to the costs of planning administration

However, the government has committed to "taking a test-and-learn approach to introducing the levy" (see appendix).

Borrowing may not be significantly freed up, especially for county-level assets, without wider reforms of the system. One theoretical advantage over CIL is that borrowing against the levy will be permitted. However, councils can only borrow when they are confident of repaying both principal and interest or of receiving payment. Developments carry significant risk of timely and full delivery. As one unitary council put it to us, "spending money you're not guaranteed to get is an issue."

Furthermore, the default charging authority is the local planning authority. This, in the words of one county, would make the Infrastructure Levy "a big brother to CIL." In two-tier areas, this would usually prevent borrowing against it for county-level infrastructure. There is little to ensure that levy rates account for all stakeholders' needs, to deliver sustainable communities.

Source: Pragmatix Advisory interviews

County Councils Network publications on strategic planning

County areas are an appropriate level for strategic planning, and the County Councils Network has proposals for governance structures to develop strategic plans.

The developers we spoke to took the view that the infrastructure levy should be based on a strategic-level infrastructure plan. It should be grounded in what is economically viable for developers to pay and be clear about what it is paying for. This transparency would be beneficial to developers, local authorities, infrastructure providers and the local community.

County areas have the scale to draw up long-term visions to influence infrastructure. County and unitary authorities provide a range of strategic infrastructure at scale – for example, in highways, they can take action in one area to take pressure off other parts of transport network. They told us that they are also increasingly focusing on carbon / environmental impact, such as retrofitting, building green infrastructure and facilitating active travel.

Decision-making structures in England have changed since the upper-tier strategic planning role was abolished in 2004. Any mechanism for developing a county-wide strategic vision would need to be rooted in the world as it exists now. It must involve councils, developers, landowners, regional governance structures and bodies such as Homes England, water authorities and the Environment Agency.

The County Councils Network has developed proposals of just this form for improving strategic planning in England. The final report by the County Councils Network and Catriona Riddell Associates proposed establishing an 'Accountable Strategic Planning Body' to carry out strategic planning, with three options proposed for this decision-making body (see appendix). It also proposed a 'Strategic Planning Advisory Body', which would scrutinise and advise the Accountable Strategic Planning Body.

Source: County Councils Network (left)

Key messages from this section	Relevant recommendations
The United Kingdom is lagging behind competitors in infrastructure investment. Increasing investment is critical to levelling up areas with sluggish local economies.	-
Trends in society mean that greater investment in infrastructure will be needed in the future, to ensure the development of sustainable communities.	-
The challenges of providing infrastructure vary widely by geography, land availability, funding available and mixes of developers and landowners. Consequently, solutions to these challenges will need to be flexible and managed locally, so that they can be adapted to local circumstances.	R8, R11, R19, R24, R27
Solutions will also need to cater for rising and unpredictable prices and costs of borrowing.	R23
The demise of strategic planning is keenly felt by both developers and councils. Developers want clarity about what they will be expected to contribute towards, before they submit planning applications.	R10, R19, R20, R22
Meeting this demand for clarity requires a holistic view of what infrastructure and housing is needed across an area. Assessing this can only be done on a county-wide basis.	R2, R3, R6, R7, R8
Upper-tier authorities have a key role in coordinating infrastructure across their area. They also provide or commission much of it themselves. Councils' ability to spend on infrastructure is limited, meaning that other providers will need to spend proportionately more on some classes of infrastructure, or gaps in provision will widen.	Most recommendations
The government has worked up detailed plans for a change in the developer contribution regime. It has said little on the importance of strategic planning. The plans for an Infrastructure Levy have many of the flaws of the Community Infrastructure Levy. Without being embedded in a wider package of reform, it may not increase investment in infrastructure, and indeed could actually reduce it under current proposals.	R15, R16, R17, R18

Developers' contributions to infrastructure

There are two main mechanisms for developers to contribute. Both have strengths but also significant weaknesses and together form a relatively small part of the funding mix for sub-national infrastructure.

- The scale of England's need for sub-national infrastructure means that this cannot all be supplied from developer contributions.
- Section 106 should be viewed as a tool in the planning system – which can be highly flexible and responsive to specific needs of each development, but can also confront developers with many uncoordinated demands.
- Without end goals shared by the planning authority, the developer, statutory consultees and other infrastructure and housing providers, infrastructure is put in active competition with affordable housing for funding.
- Funding from developer contributions varies greatly. Lower sums are often raised from new developments in the north and midlands and in areas with lower existing levels of housing growth. Policy based solely on the situation in London will consequently not be appropriate for the rest of the country.
- In many parts of the country, the Community Infrastructure Levy is either not implemented, or is never applied to the same development as Section 106. It can be slow to build up and put to use.
- In some two-tier areas, county councils find it difficult to access CIL. It can be heavily skewed towards community facilities, while Section 106 is focused on affordable housing, leaving little for county-level infrastructure.

Developer contributions can't deliver everything

Developer contributions form a relatively small part of the funding mix for economic infrastructure.

Contributions can never exceed what a developer is able to pay. This needs to be taken into account when setting rates for the Community Infrastructure Levy. Planning authorities have to balance their requirements with a need to set a rate sufficiently low to avoid discouraging development. The costs of administering the levy also need to be covered.

It is also the key issue when determining contributions such as Section 106 and section 278 through planning negotiations. This is frequently contested and is decided through viability assessments.

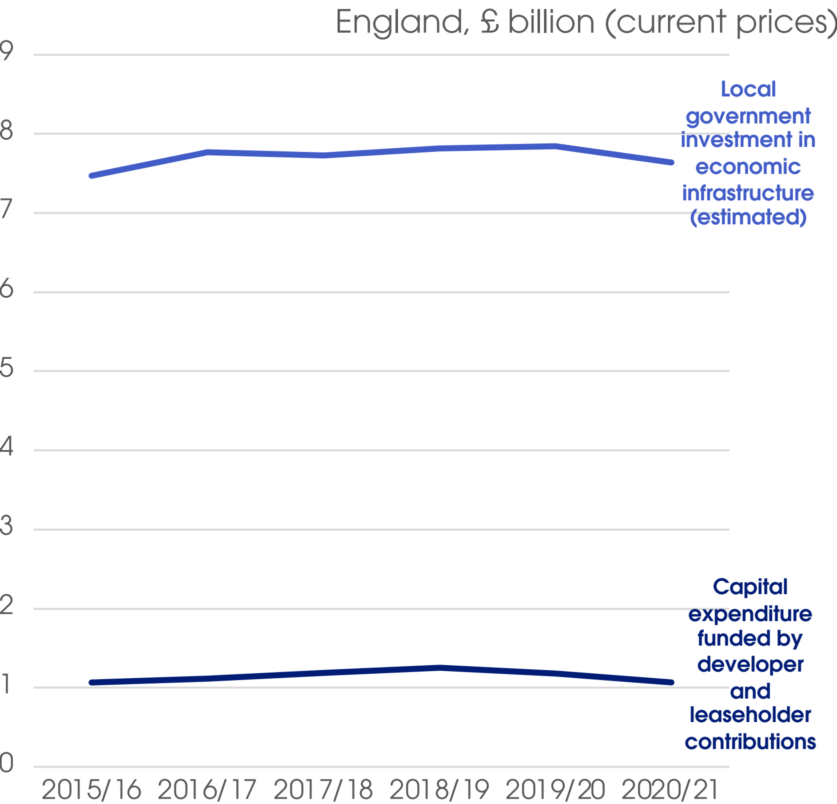
Developer contributions and leaseholder contributions together (see appendix) never exceeded sixteen per cent of English local government expenditure on economic infrastructure over the last six years. And this excludes spending on social infrastructure, such as education and social care.

Furthermore, they are unevenly distributed around the country – contributions outside London are much lower than those in the capital.

When national policy on developer contributions is drawn up, it needs to reflect an understanding that while it may be possible to capture more value uplift than at present, it can only ever cover a fraction of total infrastructure needs.

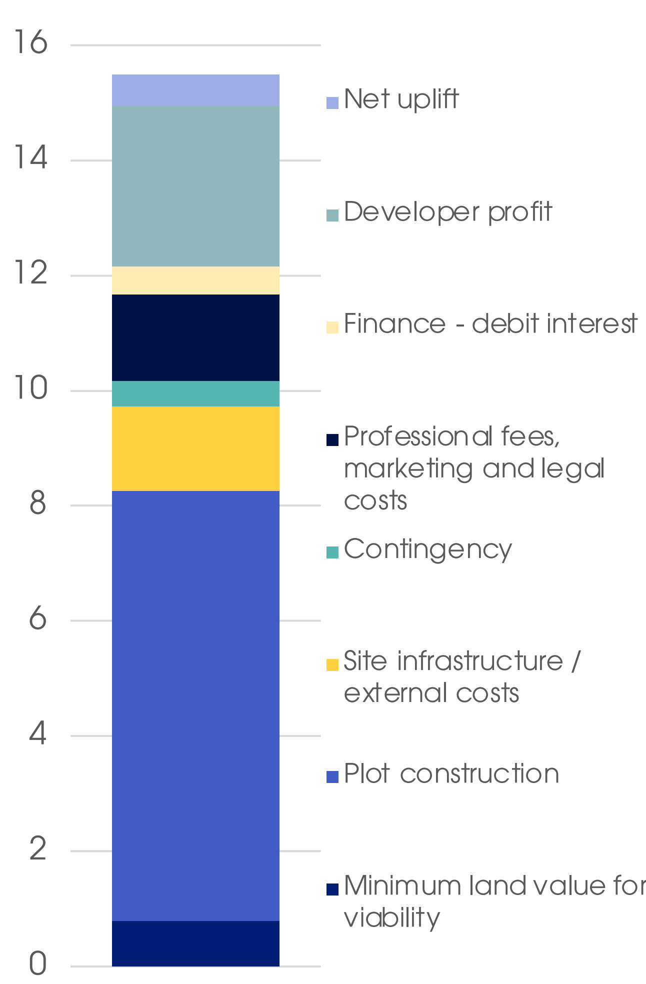
Developer and leaseholder contributions and councils' economic infrastructure investment

England, £ billion (current prices)



Source: Department for Levelling Up, Housing and Communities and Office for National Statistics

Breakdown of market value of development by cost
Illustrative development in north east without affordable housing, £ million



There is often little headroom for developer contributions within the costs of a development.

For example, consider a typical development of 80 two-storey houses on previously developed land in the north east of England. From the figures published by one unitary authority, we estimate that around 64 per cent of the market sale value consists of the cost of constructing the dwellings themselves, services, financing and contingencies.

The developer will usually contribute to the provision of site infrastructure / external costs directly. In our example, using the figures published by the unitary council, this amounts to nine per cent of market sale value. This includes "'standard' requirements for roadways, drainage, all services, parking, footpaths, landscaping and any other typical construction costs that falls outside the curtilage of the dwellings." (For some properties, there may also be additional costs such as remediation works, decontamination or flood mitigation works, but we have excluded these from our example.)

The developer's profit is around eighteen per cent of the market value – assuming no affordable housing on the site. This rate of return reflects the high risks inherent in construction leading to sales on the open market.

Land value, at the lowest value the landowner would accept, accounts for around five per cent of the sale value. This only leaves three per cent 'net uplift', available for contributing to local authority infrastructure costs.

The developer's expenditure on land is subject to a separate negotiation from that over the planning application. Local authorities sometimes question whether this cost could be driven down, leaving a greater margin for infrastructure. But a marginal reduction in this cost would not be a game-changer for infrastructure.

However, lower risk developments can carry a lower profit margin. For example, developers know at the start that affordable homes will be transferred in bulk at point of delivery. For these, the profit falls to around six per cent. Reducing the risk of developments can therefore substantially increase the margin for infrastructure.

Source: CP Viability Ltd for Durham Council and Pragmatix Advisory analysis

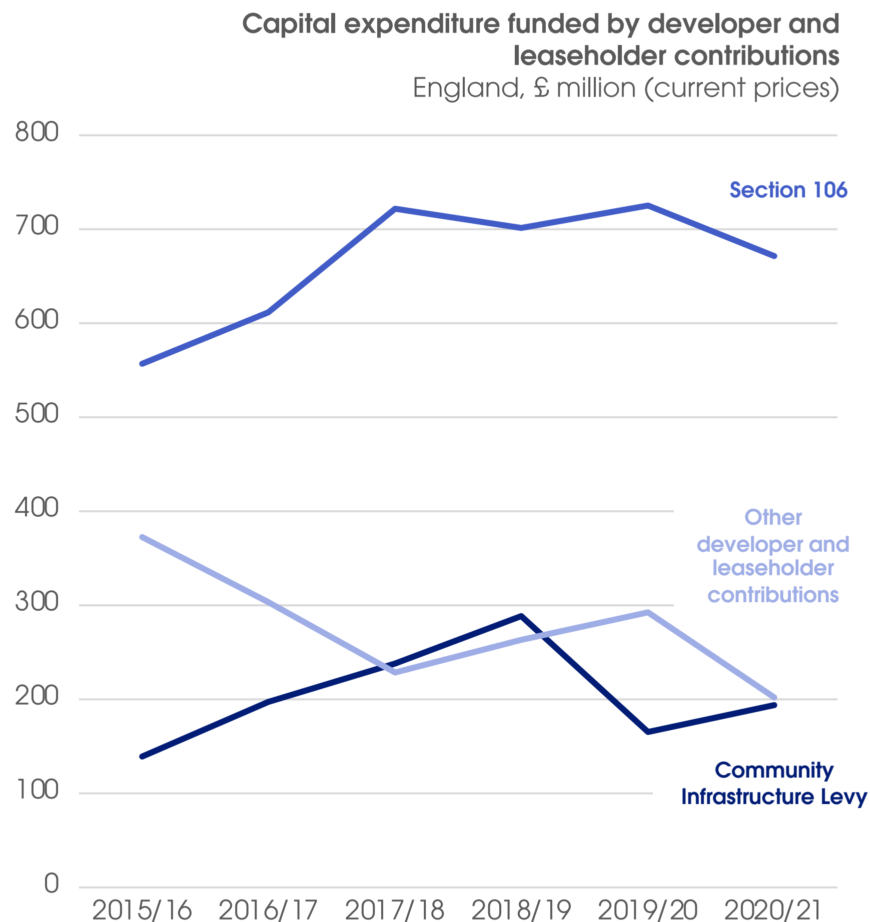
Planning obligations are crucial to delivery

The delivery of sub-national infrastructure is managed through the planning system. Policy should build on the system's strengths, while tackling its weaknesses.

The planning system provides the flexibility to deliver infrastructure which is specific and appropriate to each development. As a long-standing mechanism for funding infrastructure, planning obligations (see appendix) are well understood by both local authorities and developers. They provide the majority of developer and leaseholder contributions to English councils' capital expenditure.

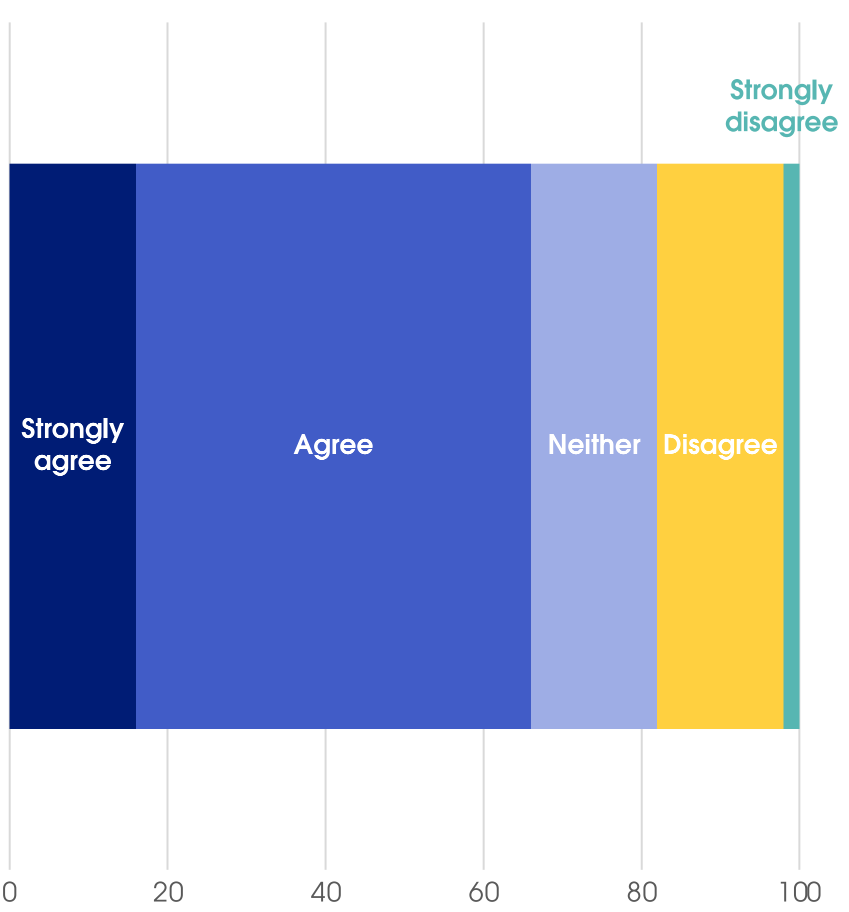
However, without a vision for a development shared between the planning authority and the statutory consultees, a developer may be faced with uncoordinated demands from many infrastructure and housing providers. The total obligations for affordable housing and infrastructure can be more than the developer will accept is financially viable. This leads to lengthy negotiations and trade-offs between these needs, with many developments subject to viability assessments or later renegotiation.

In areas that have seen low economic growth and prosperity, the profitability of developments is often low. There is then little uplift that can be captured, resulting in low levels of developer contributions – reinforcing existing disadvantage, rather than levelling up.



Source: Pragmatix Advisory interviews and Housing, Communities and Local Government Committee (left); Department for Levelling Up, Housing and Communities (right)

Opinions on whether Section 106 increases time from application to completion
Survey of English local planning authorities, 2018/19, per cent



Planning obligations work well for site-specific needs, but can be opaque and slow things down.

Section 106 should be seen as part of the planning system, not simply as a funding mechanism. In the words of one developer we spoke to, "Section 106 is bigger than just paying money over - it's all about managing development." This system provides a nuanced, sophisticated route for agreeing specific items for a single development.

Developers appreciate its flexibility, specificity and the way it is rooted in the development in question. One told us "Section 106 has the advantage of specifying exactly what's happening on site – what the development can't go ahead without." Another said that it provides "the flexibility for dealing with the sites - they're all different - dealing with the sites in their context; it also allows us to control perspective."

However, when there is a lack of clarity about what developers are expected to pay for, this can lead to long and complex negotiations. One told us: "I just want somebody to tell me what the amount of money is – and how the pot it goes into will be divided up."

In 2019, an academic study commissioned by the government sent a survey to planning officers in local planning authorities. 81 per cent of respondents agreed or strongly agreed that "negotiating Section 106 creates a delay in granting planning permission." Two thirds of local planning authorities agreed or strongly agreed that Section 106 "creates an increase in the time from application submitted to development completion."

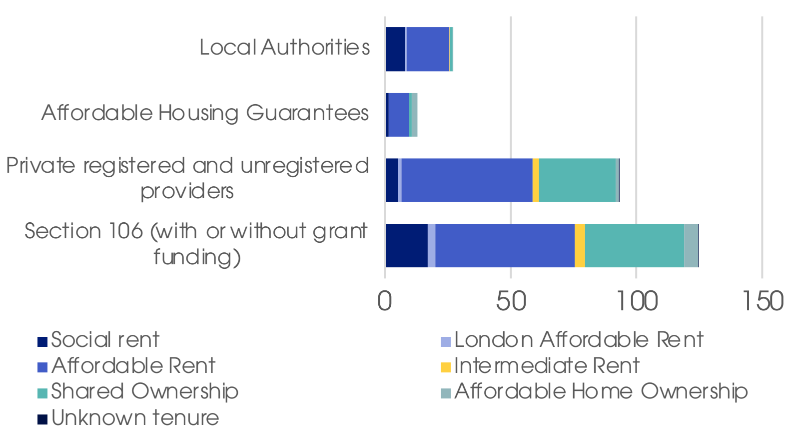
Source: Department for Levelling Up, Housing and Communities (left and right); Pragmatix Advisory interviews (right)

Planning obligations are used for affordable housing as well as infrastructure.

Planning obligations are imposed on developers not just for infrastructure but also for affordable housing. Planning authorities aim for developers to deliver a specific percentage of affordable housing, set out in local plans.

Over the period of the latest Affordable Homes Programme, more homes have been delivered by schemes which use Section 106 than any other scheme type, across all tenure types.

Nevertheless, Government policy on affordable housing is seen as confused. As one county council put it, "The Government's policy on affordable housing is all over the place. What is the strategy?"



Affordable home completions by scheme type
England, thousands

60
50
40
30
20
10
0
2008/09 2009/10 2010/11 2011/12 2012/13 2013/14 2014/15 2015/16 2016/17 2017/18 2018/19 2019/20 2020/21

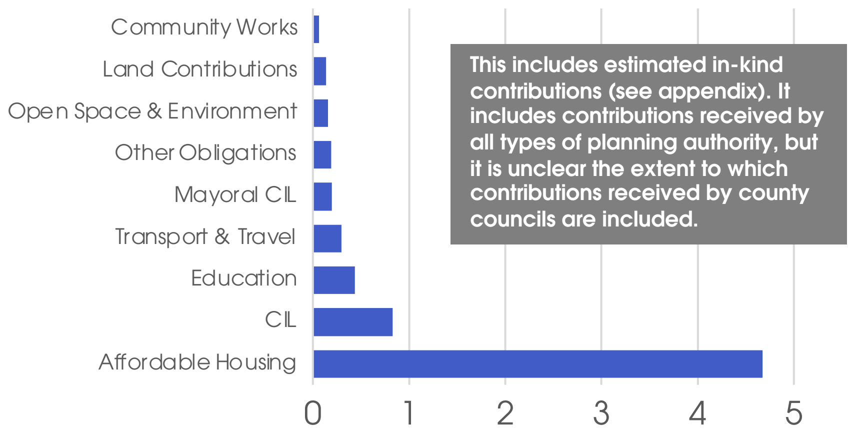
Private registered and unregistered providers
Section 106 (with or without grant funding)
Affordable Housing Guarantees
Local Authorities

Planning negotiations put affordable housing in direct competition with infrastructure for Section 106 funding.

Affordable housing reduces developers' margins. Many of the councils we interviewed spoke of a tension in the planning system between providing infrastructure and affordable housing. This agrees with existing evidence. As the leader of Buckinghamshire Council put it, in his evidence to the Housing, Communities and Local Government Committee, "Everybody says, 'There is just not enough money left to fund all of the things you want.'"

We heard from both developers and local authorities that affordable housing can on occasion get squeezed in planning negotiations - this sometimes involves viability tests.

Source: Department for Levelling Up, Housing and Communities



Affordable homes dominate developer contributions at the national level.

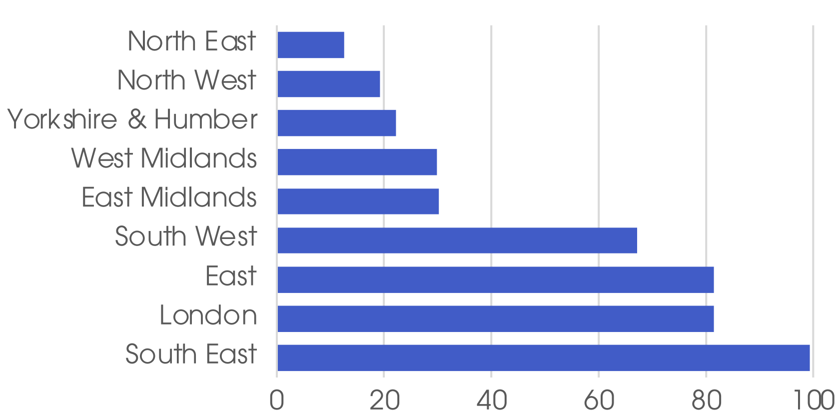
Despite the squeeze on affordable housing in planning negotiations, the level of affordable housing need across the country is such that affordable homes still dominate developer contributions at the national level.

The 2019 academic study found that affordable housing constituted two thirds of the nominal value of all developer contributions entered into in 2018/19. This limits the availability of planning obligations for infrastructure. We also heard that developers can be more favourable to contributing to some types of infrastructure than to others.

Section 106 payments contribute far less to infrastructure in the north and midlands than in the south.

Regional differences in underlying demand and the potential margins available to developers are reflected in the scale of developer contributions to infrastructure. Consequently, expenditure funded by Section 106 receipts is far smaller in the North of England and the Midlands than in the South.

Indeed, payments in lieu of affordable housing in London alone (see appendix) were more than the total funded from all Section 106 payments and the Community Infrastructure Levy combined, in any region in the Midlands or the North.



Source: Department for Levelling Up, Housing and Communities

Areas with low existing demand receive the least investment from Section 106 payments.

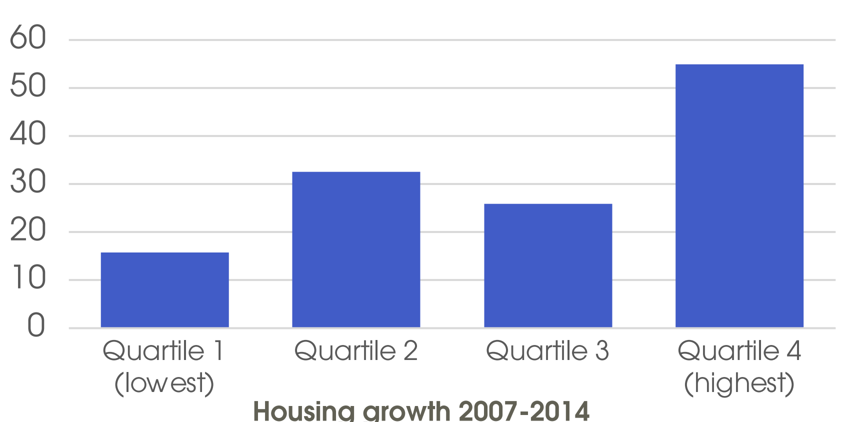
A quarter of planning authorities had an increase of up to 3.4 per cent in their number of dwellings between April 2007 and April 2014.

Section 106 payments for these authorities financed an average expenditure of £16 per head of population, over the following seven years (based on 2020 population figures).

At the other extreme, a quarter of planning authorities had an increase of six per cent or more in dwelling numbers. Expenditure per head from Section 106 for these averaged £55 - nearly three and a half times as much.

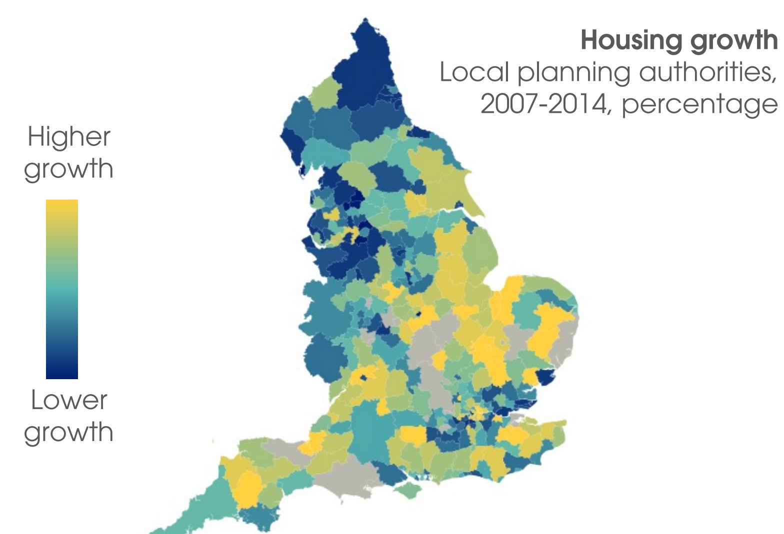
Average spend financed by Section 106*, by prior housing growth

296 local planning authorities, 2015/16-2020/21, £ per head



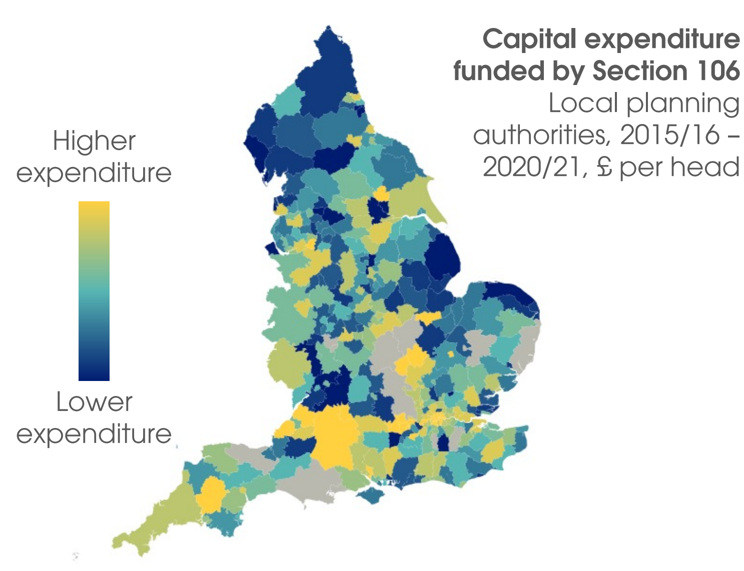
Housing growth

Local planning authorities, 2007-2014, percentage



Capital expenditure funded by Section 106

Local planning authorities, 2015/16 – 2020/21, £ per head



*Note: Values exclude commuted sum payments for affordable housing. Source: Department for Levelling Up, Housing and Communities and Pragmatix Advisory analysis

CIL is not functioning as it should

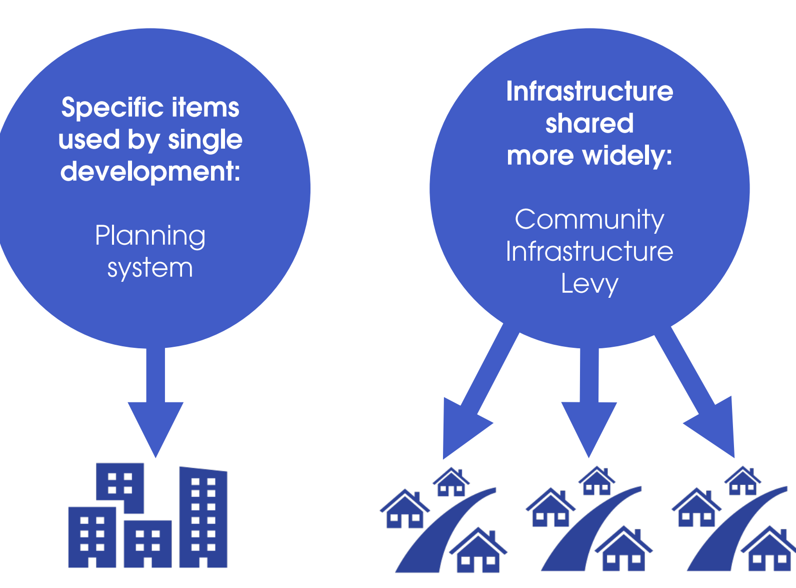
The Community Infrastructure Levy is intended to sit alongside the planning system, to deliver offsite infrastructure. However, it is not in place across much of England, and where it is, it often displaces Section 106.

Many of our interviewees, including developers, were clear that Community Infrastructure Levy is intended to pay for offsite assets. These will generally be items of infrastructure which are shared beyond a single development.

The levy has some strengths. As a standing charge which is spent on specified infrastructure, it provides transparency and predictability to developers. This reduces the need for complex planning negotiations.

However, like Section 106, CIL usually raises more money in areas that have already experienced significant growth. Indeed, many local planning authorities have not even introduced a Community Infrastructure Levy, believing it will not be viable in their area or would reduce overall contributions.

In addition, developments will usually contribute incrementally to the need for infrastructure across a wider area and also require site-specific infrastructure. For developers to contribute to both, Section 106 and CIL would need to be levied on the same development. However, in most of the country, this rarely happens.

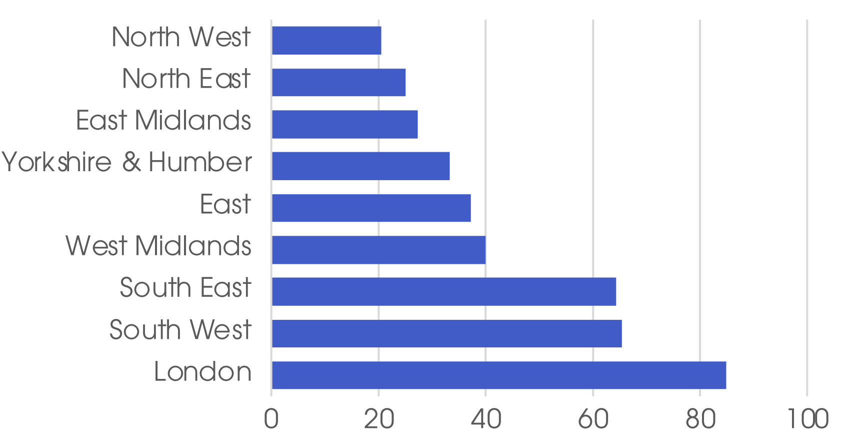


Many local planning authorities have not introduced the Community Infrastructure Levy at all.

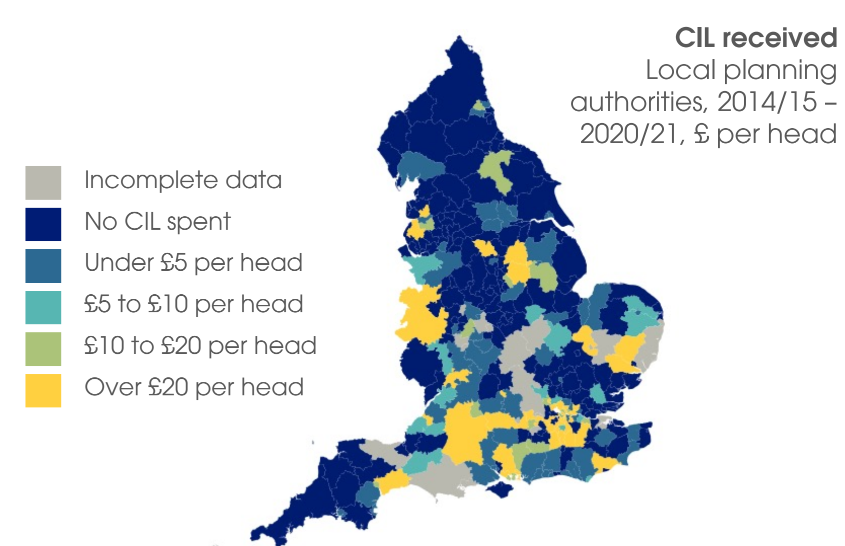
Authorities have told us that they have not introduced it because it would not be viable – only raising minimal amounts. Others may not have done so because it would displace larger Section 106 receipts, cutting the overall payments for infrastructure.

The proportion of authorities receiving any Community Infrastructure Levy is much higher in the South than in the Midlands or North. In the North West, only one in five planning authorities received any levy between 2014/15 and 2020/21.

Local Planning Authorities receiving Community Infrastructure Levy
291 English authorities, 2014/15 to 2020/21, per cent



CIL received
Local planning authorities, 2014/15 – 2020/21, £ per head

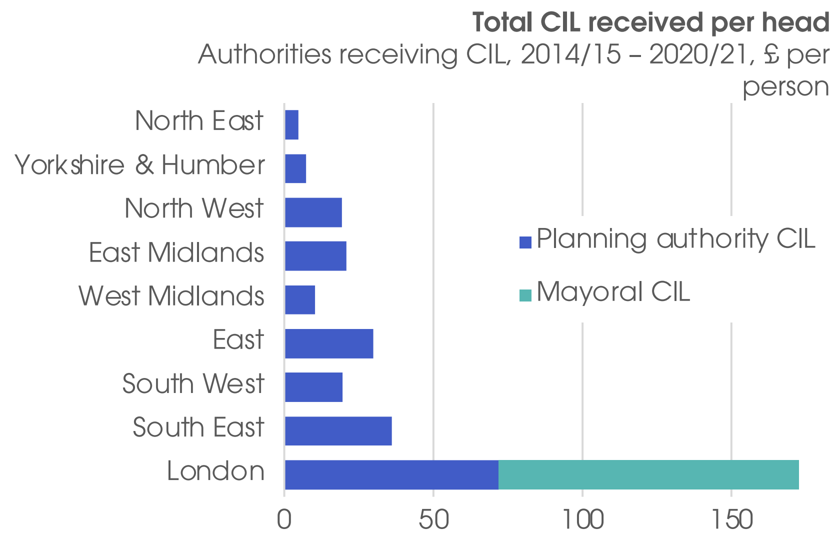


Nonetheless, where it is levied, authorities find advantages to using it in particular circumstances.

One large unitary authority told us that the levy takes time to learn to use well. There is a need to be clear on what it is going to deliver. Despite many exemptions, it can be used for many different assets, and is "the better tool for larger, strategic projects."

One district council told us that the scale of their development meant that a holistic approach was needed. The levy was better suited to this than planning obligations were.

Source: Department for Levelling Up, Housing and Communities and Pragmatix Advisory analysis (top right and bottom left); Pragmatix Advisory Interviews with local authorities (bottom right)



CIL raised is lower in midlands and north

Even where the Community Infrastructure Levy is in use, the North and Midlands often raise less than their southern counterparts. As a result, the total sum raised from the levy is far lower: London boroughs in total receive seven times more Community Infrastructure Levy per net home built than shire areas and thirteen times more than metropolitan areas.

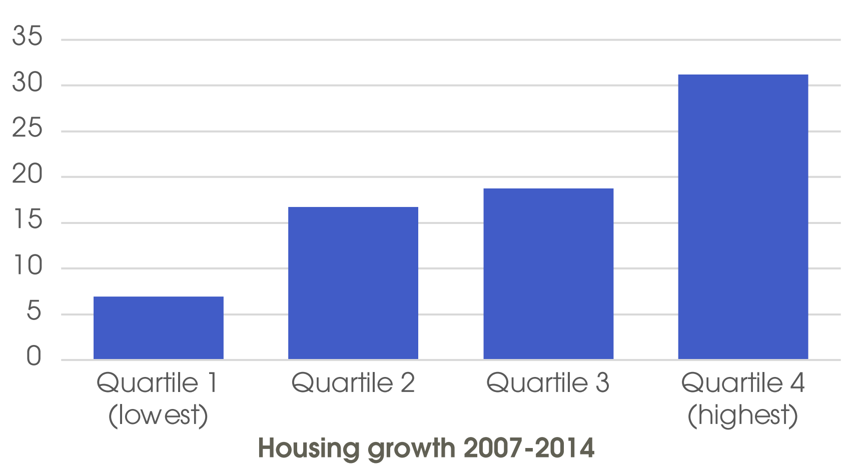
As well as the Community Infrastructure Levy raised by the London boroughs, there is a "Mayoral CIL" in London, raised by the Greater London Authority. This increases the gap between London and other parts of the country.

National policy on developer contributions needs to be made in full awareness of this difference between north and south. In particular, no evidence has been produced that the Infrastructure Levy would reduce this disparity and be more viable in the North and Midlands than the CIL is.

Areas with low existing demand receive the least investment from the Community Infrastructure Levy.

Each quartile with stronger housing growth during the 2007-2014 period both received and spent more from the levy in the municipal years 2014/15 to 2020/21, than the next strongest. The quarter of authorities with the strongest housing growth (right-hand bar on the chart to right) received and spent over 4.5 times as much as the quarter with lowest housing growth.

Thus areas with low-quality amenities and poor connectivity do not have their infrastructure gap filled through this route. Conversely, areas which have already seen high demand receive more investment into the future. One county council told us that the levy is easier to implement in affluent areas but provides no income from brownfield developments. This runs counter to the prevailing policy of levelling up.

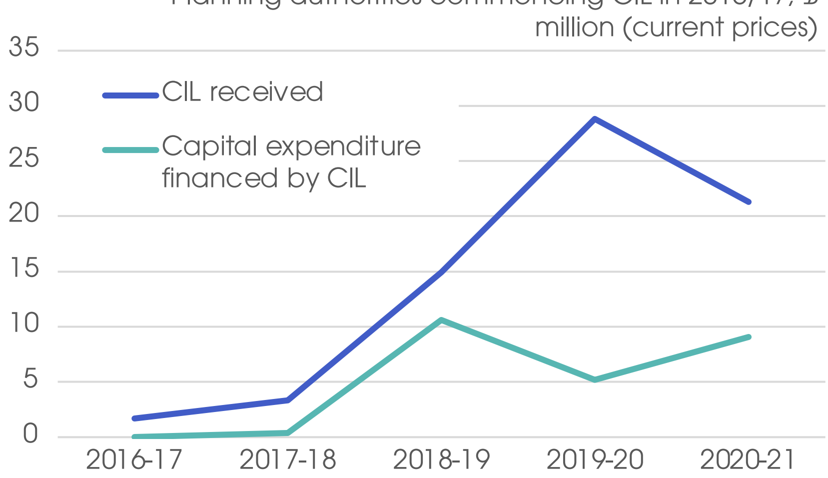


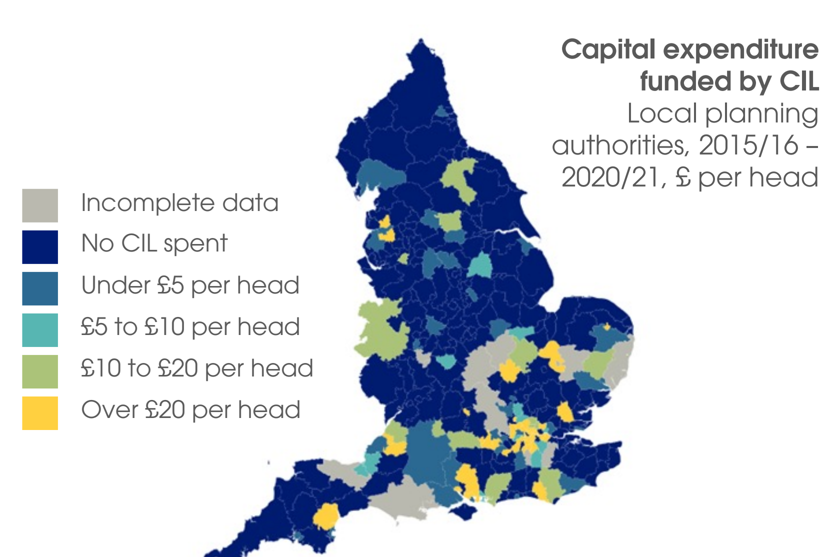
Source: Department for Levelling Up, Housing and Communities and Pragmatix Advisory analysis

Infrastructure delivery can be slow using the levy, and this affects the nature of the schemes it can be used for.

The CIL is paid by instalments after commencement on site into a levy fund. It cannot therefore be used for upfront funding for infrastructure relating to the development. Furthermore, the fund is then accessed for expenditure through an application process. This can lead to considerable delays after collecting the levy before it is spent.

As the CIL Review Team put it in their 2016 report, "the timing and distribution of payments means that there is a risk that time lags will occur in off-site infrastructure delivery which may impact on scheme delivery, phasing and marketability."



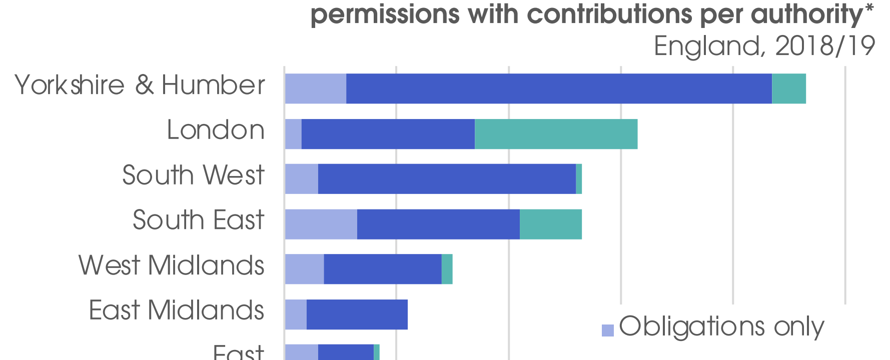


Only a third of local planning authorities spent any CIL on capital works in the period 2015/16 to 2020/21.

Two authorities we spoke to described the levy as "clunky." One told us that it takes time to build up and the other that it takes time to deliver. Even a district that was relying on it for the delivery of a major town expansion pointed out that it could not deliver everything, especially where frontloading was needed.

Of the ten local planning authorities that launched their levy between June 2018 and March 2019, none collected any CIL in 2018/19 and none of them had used CIL for capital expenditure by the end of March 2021.

Source: Department for Levelling Up, Housing and Communities and Pragmatix Advisory analysis



It is rare outside the south of England for both CIL and planning obligations to be applied to the same development.

In London, planning obligations and the Community Infrastructure Levy are often used for the same sites. But in most of the country, it is much rarer. The two mechanisms are widely seen as alternative approaches.

Not all authorities are convinced that using both for a single site is legal. Indeed, one authority we spoke to had to resort to taking legal advice – which stated clearly that it was. Even where legality is not seen as a barrier, planning authorities often believe that this would result in many viability challenges. This forces a choice between the two mechanisms.

*Obligations in this chart include Section 106 and section 278 agreements and unilateral undertakings (see appendix); Source: Department for Levelling Up, Housing and Communities

There are extra challenges in two-tier areas

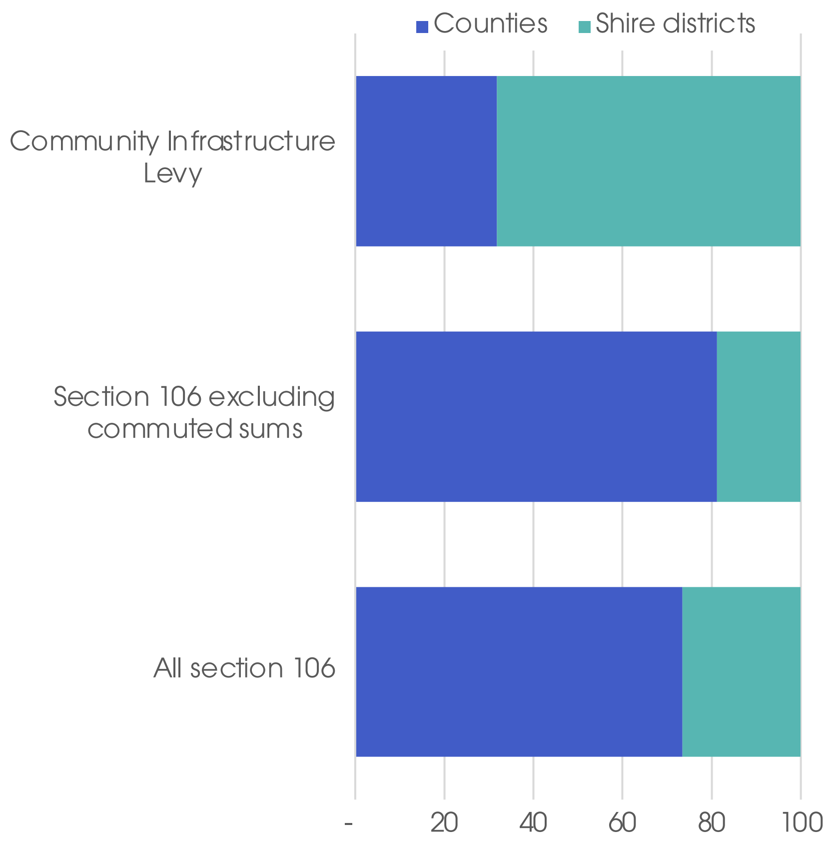
The relative funding for strategic infrastructure depends on the relationship between districts, counties and developers.

In two-tier areas, district councils are both the planning authorities and the levying authorities for CIL. This primacy in the process can lead to strategic infrastructure needs being under-represented in developer contributions.

County councils are involved in negotiations to as statutory consultees, for example as highways authorities (see appendix). But not all infrastructure-related functions are statutory consultees, and not in all circumstances. If it's not managed well, this relationship can hold up planning negotiations and delay the release of funding from planning obligations.

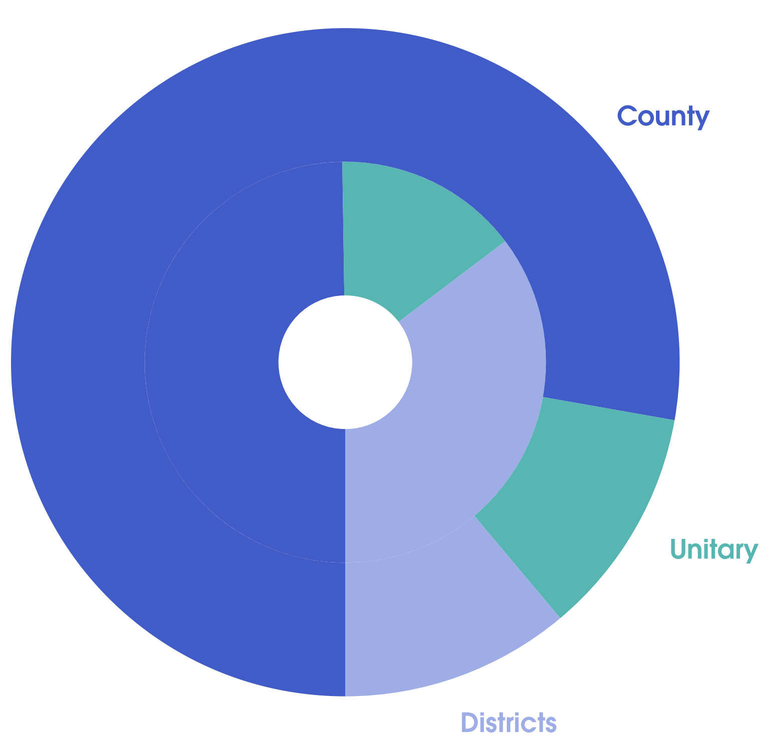
Similarly, county access to CIL funding varies widely. The introduction of CIL can see county receipts of Section 106 fall, with planning obligations focused on affordable housing. The shortfall may not be recovered through CIL, which is often focused on community facilities, to the detriment of strategic infrastructure. But where the relationship between the tiers is strong, CIL can contribute significantly to county-level priorities.

This emphasises the importance of all stakeholders agreeing a clear set of goals prior to planning applications being submitted. Without this, strategic infrastructure is likely to suffer ongoing under-investment, holding back levelling up in rural areas.



Source: Department for Levelling Up, Housing and Communities and Pragmatix Advisory analysis

Expendíture need by principal body (outer) versus infrastructure Section 106 receipts (inner)
Ceremonial county, 2017-2031 (outer), 2019/20 (inner)



Lack of coordinated vision and procedure can create challenges. It can hold up the negotiation of planning obligations and delay their use.

One developer told us how much harder planning negotiations usually were in two-tier areas. Each team from each council involved in a negotiation could have its own agenda and believe its own assets were the most important. The developer was most keen to keep the district council on side, as the district council took the planning decisions.

There can also be difficulties for county councils in accessing Section 106. One county council told us that its Section 106 collection starts when construction starts, but the planning authorities often were not informing it of this.

The share of Section 106 funding going to county councils can be lower than their requirements imply. In one ceremonial county area, analysis by the upper-tier councils breaks down the infrastructure requirement to 2031 by principal body for delivery. Of the funding needed by the local authorities, between three-quarters and four-fifths is required by the county council.

However, of the Section 106 infrastructure funding retained within local government in 2019/20, our analysis indicates around half was received by the county council.

But Section 106 funding is also used for affordable housing and other non-infrastructure spend. The proportion of total Section 106 receipts which goes to the county council is therefore lower, at an estimated 40 per cent.

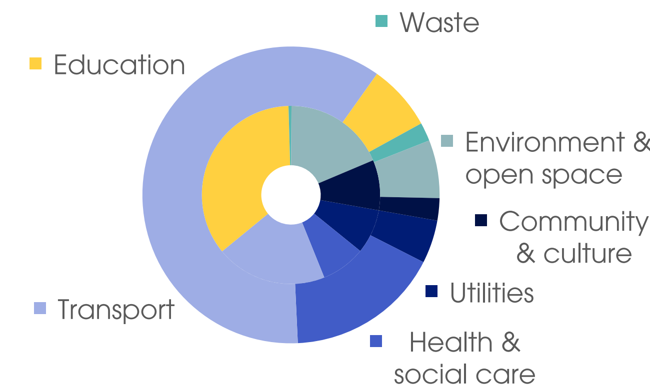
Source: Indicative councils (left); Department for Levelling Up, Housing and Communities and Pragmatix Advisory (right)

The relative underfunding of counties from Section 106 contributions can result in investment being skewed away from infrastructure with greatest need.

Our analysis of Infrastructure Funding Statements in the ceremonial county finds that an estimated nineteen per cent of Section 106 receipts in 2019/20 went to affordable housing and one per cent to other non-infrastructure spend such as monitoring fees.

Of the rest, under a third related to transport and health and social care. By contrast, the upper-tier authorities' analysis of infrastructure needs shows that over three quarters of the infrastructure requirement relates to transport and health and social care.

Infrastructure requirement (outer) versus Section 106 receipts (inner)
Ceremonial county, 2017-2031 (outer), 2019/20 (inner)



Different application processes for CIL in one county area
Pragmatix advisory interview with county council

Annual system

Six-monthly system

Rolling system

No formal application system

County councils across England are struggling to access CIL.

We heard of difficulties accessing this funding from many of the county councils we spoke to – along with a lack of consistency in the process used.

Counties told us that their districts can have different processes for applying. In one case, all five CIL-charging districts have different processes. Some of these were much more onerous than others.

Source: Indicative councils and Department for Levelling Up, Housing and Communities and Pragmatix Advisory analysis (top); Pragmatix Advisory (bottom)

Despite districts consulting and cooperating with county councils, CIL funding is often skewed away from critical strategic infrastructure.

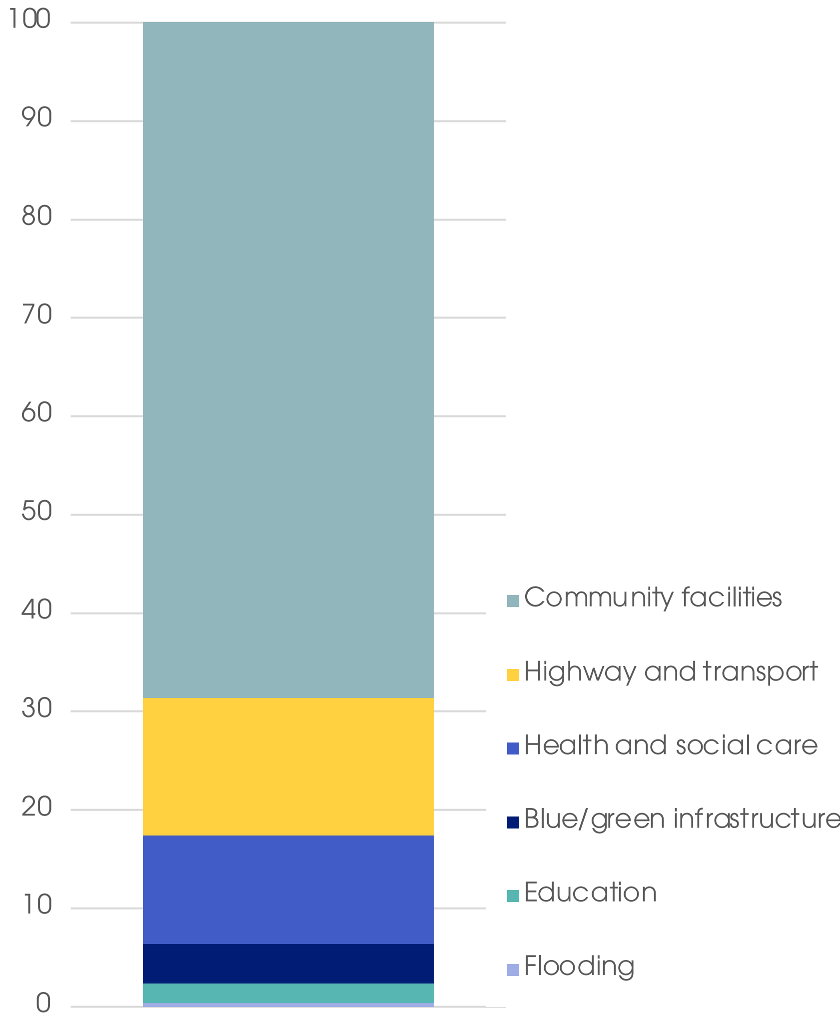
An infrastructure delivery plan is drawn up in consultation with the county council (see appendix). This has a major bearing on CIL allocation. Government guidance also states that districts and counties "must consult and should collaborate" in setting the levy and "should work closely with them in setting priorities for how the levy will be spent". Nonetheless, the funding from CIL may not reflect the infrastructure needs of the area.

In one district we looked at, allocations of CIL are decided by a board of district councillors, according to criteria. These include being identified in the district's Infrastructure Delivery Plan and "supporting and being clearly related to proposed or allocated development in the District". This district has decided to pay all town and parish councils 25 per cent of receipts, regardless of whether they have a neighbourhood plan.

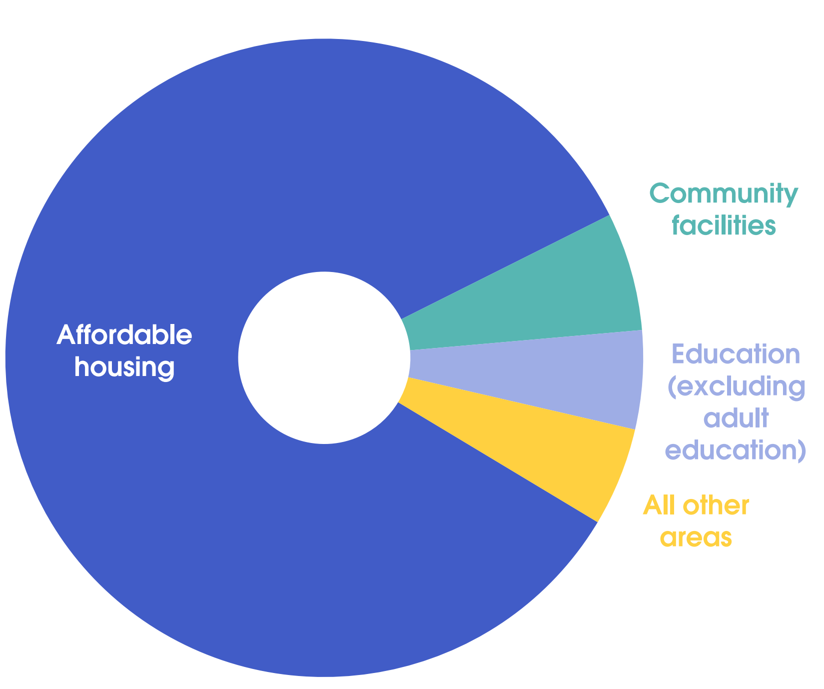
Between its introduction and 2020/21, of the levy not spent on the neighbourhood portion or administration, 69 per cent was spent on community facilities. The Infrastructure Delivery Plan implies that these community facilities include libraries and youth services facilities, for which the lead delivery body is the county council. However, only a around a quarter of the funding went to the key strategic infrastructure areas of transport, education and health and social care.

However, we heard about another district in the same county which has reached an agreement with the county council so that 35 per cent of all CIL raised will be paid to the county. The county can spend the money on the infrastructure it considers to be a priority. There will be regular meetings between the two councils to ensure that the priorities remain the same and the money is being spent appropriately.

Infrastructure spend of Community Infrastructure Levy
First district, 2014 to 2020/21, per cent



Source: Indicative district and county councils



There is an interplay between the contribution mechanisms. When districts introduce CIL, this can reduce the Section 106 funding received by the county.

We also looked at the Infrastructure Funding Statements for the two districts in the ceremonial county which had collected CIL for longest.

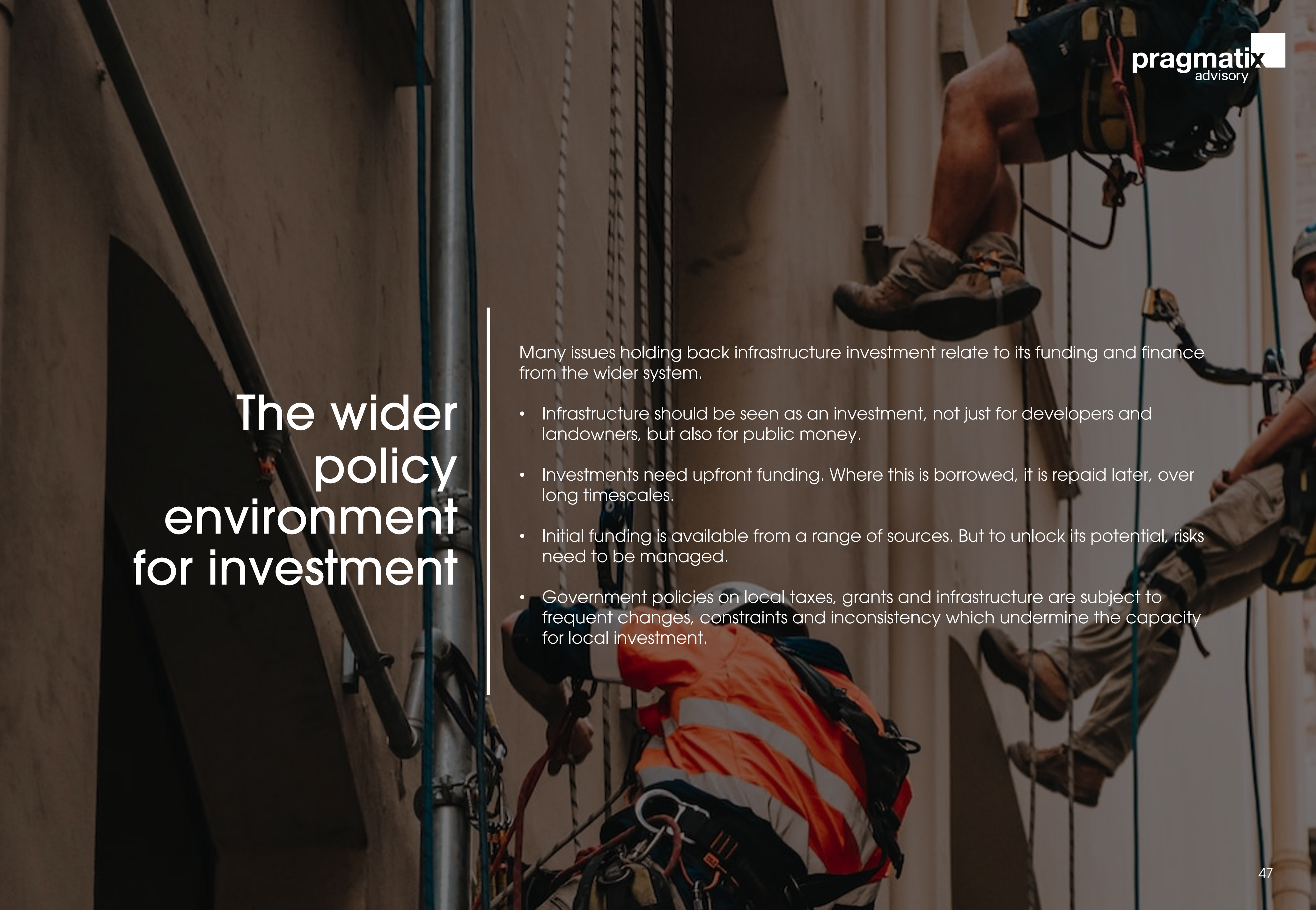
For the first district, the statement contains a breakdown of Section 106 receipts between 2011 and 2016. Over this period, 84 per cent was spent on affordable housing. Six per cent was received for community facilities – not including libraries or public art. Only five per cent was provided for education and five per cent for all other types of infrastructure.

For the other district, the Infrastructure Funding Statement for 2020-21 explains that the levy has replaced other developer contributions for most types of infrastructure.

Another county council told us that most of its districts had implemented CIL. Since this time, its abilities to negotiate Section 106 agreements and the sums flowing from them had "been significantly depleted." It was receiving £20 million per year four financial years ago; by 2020/21 this had fallen to £2 million. This fall was not covered by CIL, as it had only received funding from one district's CIL fund.

Source: Indicative district councils; Pragmatix Advisory interviews

Key messages from this section	Relevant recommendations
Developer contributions are limited by what will make a development unaffordable. In total across England, they form a relatively small but vital part of the funding mix for infrastructure.	-
Planning obligations are a well-understood mechanism that can work well for funding site-specific infrastructure. But if planning negotiations don't start with a clear vision for what is needed, they can end up being lengthy and tortuous, with trade-offs between different classes of infrastructure, and indeed with affordable housing.	R10, R16, R19
In two-tier areas, these issues can be exacerbated. When a district council introduces CIL, Section 106 may be focused more closely on affordable housing, resulting in a fall in funding for the county council. This may not be replaced by CIL, which is often focused on providing community facilities, at the expense of other types of infrastructure. However, where partnership working between tiers is strong, these issues can be overcome.	R4, R6, R8, R10-14, R8, R19
Both Section 106 and CIL have wide geographic variations in the amount they raise. Many planning authorities do not levy CIL at all, believing it would not be viable. There is also an issue with the levels at which CIL is set, reflecting concerns over viability from the charging authorities. Where they are imposed, both forms of contribution raise less in the midlands and north than in London and the south. And in particular, they raise less in areas of lower historic housing growth.	R11, R15, R23, R24, R27, R28
CIL does have advantages over Section 106 for some types of development, particularly larger, strategic projects, but it can be slow to build up and to deliver infrastructure. In two-tier areas, county councils can find it difficult to access the funding.	R3, R8, R10, R12-14, R17, R20, R21, R23-26
Section 106 is limited to site-specific infrastructure, while CIL is intended to be used for non-site specific infrastructure. But while most developments require both types of infrastructure, outside London and the south east, the two mechanisms are rarely used for the same developments.	R10, R11, R14, R19
It is vital for all stakeholders to agree a clear set of goals prior to planning applications being submitted. Without this, strategic infrastructure is likely to suffer ongoing under-investment, holding back levelling up in rural areas.	R2, R4, R7, R8, R10, R20-22



pragmatix advisory

The wider policy environment for investment

Many issues holding back infrastructure investment relate to its funding and finance from the wider system.

- Infrastructure should be seen as an investment, not just for developers and landowners, but also for public money.
- Investments need upfront funding. Where this is borrowed, it is repaid later, over long timescales.
- Initial funding is available from a range of sources. But to unlock its potential, risks need to be managed.
- Government policies on local taxes, grants and infrastructure are subject to frequent changes, constraints and inconsistency which undermine the capacity for local investment.

Investment policy is changeable and fragmented

Given that developer contributions can't deliver everything, there is a need to ensure that the remainder of infrastructure needs are covered from other sources. This is particularly the case in areas that currently have an infrastructure deficit and have low existing demand for development.

In addition, facilities need to be available at appropriate points in the lifecycle of a development. This requires funding to be available at specific times, including significant funding prior to housebuilding commencing. But developer contributions do not provide up-front funding for infrastructure.

It is not just the private sector that gains financially from sustainable development – the public sector does too, through increased tax yields. But this funding accrues after the development is completed.

There are various sources that could provide upfront funding, but most would require credit arrangements to access. For borrowing and credit to work efficiently, future funding needs to be far more certain. This requires ways of managing project risk and more certainty around the local authority financing regime.

Even with such measures, there would still be a role for grant funding, especially in areas with poor infrastructure provision and barriers to investment. For most of England, funding is currently fragmented across short-term, competitive grants. This is starting to change through devolution deals, such as those recently signed with Norfolk and Suffolk.

Major highway improvements need to be ready by the time there are people to use them – usually before any new residents move in

Homes need to be connected to utilities before they are occupied

Waste disposal facilities need to be ready before pressure on existing ones gets too high, but collection will scale up with number of residents

On-site parks and leisure facilities are best completed before residents move in; ones in surrounding areas will need to be expanded/improved as population grows

New schools and classrooms only become viable with a sufficient number of pupils, but want to avoid moving pupils between schools as much as possible

Needs for health and social care facilities will change as residents age

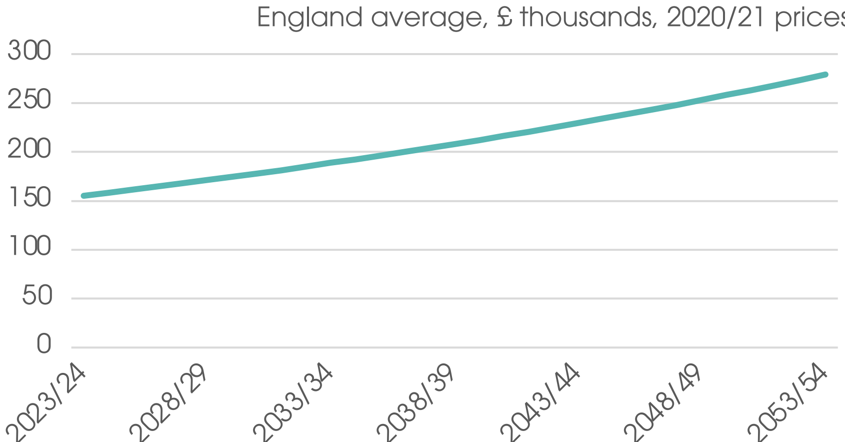
Key delivery times for facilities

Both residential and business developments generate a substantial return to the public sector, through increased tax yields.

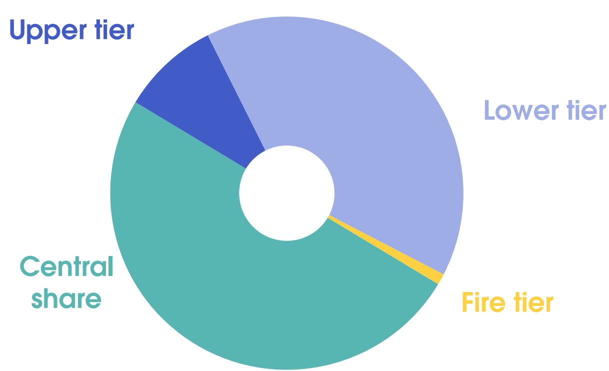
From residential developments, local authorities receive council tax for the lifetime of the development. For example, based on recent trends, a typical 80-dwelling development completed in 2022/23 would generate over £6 million over 30 years, at the average council tax rates for England.

Business developments will pay business rates, half of which are retained by local government and half of which are paid to central government, to be returned as grants. The businesses occupying them will also pay corporation tax and their employers and employees will pay national insurance and income tax.

Projected council tax income from an 80-dwelling development
England average, £ thousands, 2020/21 prices



Shares of business rate income
English areas without higher rate retention, 2022/23



However, the tax yields accruing to local authorities are heavily dependent on government policy.

Over recent decades, the government has used various methods for constraining council tax increases. Currently, this is done by imposing thresholds beyond which an authority needs to hold a referendum for approval. These thresholds are set annually. The amount of council tax yield that is clawed back through the business rate retention system will change if there is a 'reset' of the system.

Business rate income depends upon a wide range of factors, most of which are determined directly by government policy. These include exemptions and reliefs, the central and local shares, the splits between tiers of local government, policy on levy/safety net payments and resets of the retention system.

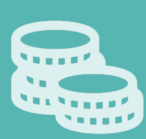
Source: Department for Levelling Up, Housing and Communities, Office for National Statistics and Pragmatix Advisory analysis (top right); Department for Levelling Up, Housing and Communities (bottom left)

Traditional local authority investment. Borrowing from the Public Works Loan Board, banks or building societies. There may also be a contribution from capital receipts.

UK Infrastructure Bank. Launched in 2021. Provides lending to local authorities (at lower rate than Public Works Loan Board) and to private sector.

Investment by public or private sector partners. For example, this could be through a joint venture or public-private partnership.

Pension funds. The government is asking Local Government Pension Funds to invest up to 5% of assets in projects which support local areas. There are complications around conflicts of interest and authorities' duty to act in scheme members' best interests. But wider pension fund sector is also increasingly interested infrastructure investment.



Other financial institutions. Bonds may be issued directly by the authority or through the new UK Municipal Bonds Agency. Some local authorities have raised capital through peer-to-peer lenders and other innovative finance.

Community investment. If local residents, businesses and community groups feel ownership of a project, they may be willing to invest, through shares or local Real Estate Investment Trusts. Councils could offer benefits for investors in community assets – for example, discounts at a leisure centre for investors. More likely to provide meaningful levels of funding in areas which are already prospering.

Possible sources of upfront funding for infrastructure

In its 2020 policy paper *Planning for the Future*, the Government spoke of its commitment to 'infrastructure first.' But neither developer contributions nor tax yields can provide this under the current system. However, sources of funding are emerging for upfront investment.

There is a tension between early funding and provision of infrastructure and adequate cashflow for developers. Neither Section 106 nor CIL funding is available before the development starts. Even so, payments are made before developers see a return on their investment.

To help developers, the government is proposing that payments of the Infrastructure Levy would be made after completion. Similarly, the tax yields resulting from development do not accrue until after the development is completed.

There are various sources of funding that are or could be used for investment in the earliest stages of a development. Councils borrow and use receipts for capital expenditure. Many have entered joint ventures or similar arrangements in recent years, to lever in private sector capital.

The local government sector has started issuing bonds in recent years. Transport for London's bonds are funding an extension to the Northern Line, while the North London Waste Authority is using them to help rebuild a waste-to-energy plant. Birmingham and Warrington have also issued bonds, while West Berkshire issued a Community Municipal Investment through Abundance Generation to raise funding for green infrastructure.

Croydon has invested pension funds in infrastructure and the Greater Manchester Pension Fund in local housing.

To maximise investment in development, risks need to be reduced. Mechanisms are needed to manage project risk. Local tax yields resulting from development should not be subject to continual government tinkering.

If future tax yields and/or future developer contributions are to be used as part of a funding package for early infrastructure delivery, credit arrangements need to be made. However, credit is hard to arrange when there is significant uncertainty over the levels and scheduling of repayment. This is particularly true for local authorities, which have responsibilities for the sound management of public money – as expressed through the Prudential Code.

One source of this uncertainty is project risk. The main project risk is that delays to a development result in additional years of interest payments. Changes to a development could also reduce income. In addition, at present, there is considerable risk to budgets from inflationary pressures and interest costs. Mechanisms for managing these risks could help to maximise developer contributions, as well as facilitating local authority borrowing and credit arrangements.

The other source is political risk. A funding package for a large development may involve grants, borrowing and developer contributions – and be dependent on all of them. Changes to the grant regime or changes affecting council income can put it at risk.

The business rate system, in particular, is subject to almost annual change, particularly to thresholds and reliefs. This is not a sensible basis for planning long-term funding packages for developments.

A small number of developments in England are exempt from various changes to the business rates system: Enterprise Zones, three New Development Deals and a regeneration project for Brent Cross. The government has not permitted any further exemptions, for accounting reasons.

Tax Increment Financing

This is the name given to a mechanism of borrowing for projects against consequent uplifts in tax yields. It is used in many other countries, including Canada and across the United States. When Business Rate Retention was introduced in England, there was a high profile announcement by the Deputy Prime Minister that such borrowing against future business rate growth would become a reality. However, it was limited to three New Development Deals – in Newcastle-Gateshead, Sheffield and Nottingham – a regeneration project in London and a tube line extension.

The Newcastle-Gateshead New Development Deal, for example, involved borrowing just £92 million against future business rates. But this has unlocked the regeneration of four sites. The construction in just two of these has included a Crowne Plaza hotel, a 35,000 square foot Grade A office building, a multi-storey car park, a University Technical College and a 1,000 capacity, a Grade II* listed cultural venue, an award-winning Urban Sciences Building and laboratory and office building dedicated to life science research, development and commercialisation.

Source: Clouston Group; Newcastle Helix

Grant funding is still needed to unblock sites and bridge funding gaps.

The market has the tendency to replicate existing patterns of investment, in the following sense. In an area where the local economy is struggling partly as a result of poor infrastructure provision, demand for housing is likely to be low. This makes it difficult to assemble a business case for investment.

While reducing project risk and political risk will facilitate greater local authority borrowing and credit, there will still be cases where the barriers to growth are such that further state intervention is needed. That is, where grant funding is needed to "seed" development and "unblock" sites. There may also be other pressures requiring funding, such as when inflationary pressures and the pace or scale of developments exceed identified budgets.

Capital grants paid to local authorities
England, 2015/16 to 2017/18, number

■ Sample of grants ■ Number not paid following year

50
40
30
20
10
0

2015/16 2016/17 2017/18

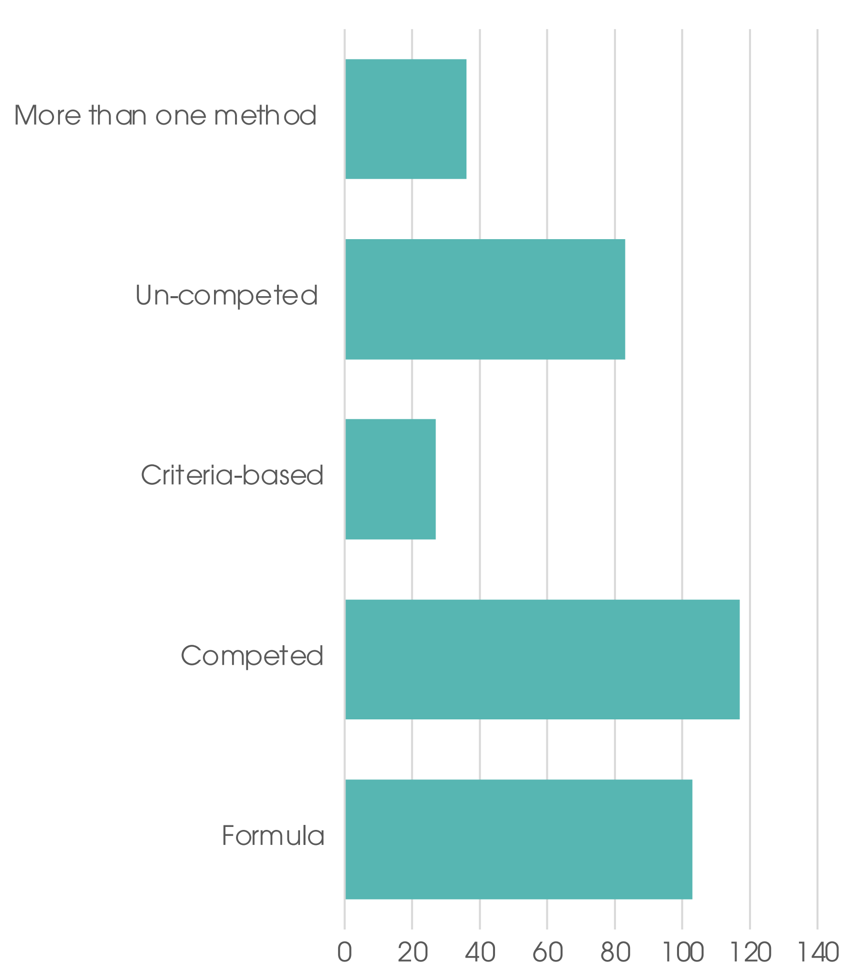
Government policy on infrastructure funding is not joined up and is subject to frequent change.

There have been numerous high-profile grant programmes for levelling up in recent years. But overall, funding is fragmented across many short-term programmes which are focused on specific government priorities of the moment – there is no system-wide approach.

One council officer we spoke to talked of "hundreds of different funding streams." Indeed, a 2020 study identified 72 separate capital grants paid to English local authorities between 2015/16 and 2018/19. It is likely there were more. The study found there to be a lot of "churn" in grants provided. Of the grants paid in the first three years, 24 to 38 per cent were not paid the following year.

Source: Department for Communities and Local Government (top right); Local Government Association (bottom)

Allocation methods for capital and revenue grants to councils
England, sample of 366 grants, 2015/16-2018/19, number of grants



Funding and national infrastructure policy need to be joined up and long-term. They need to allow county areas to determine for themselves the best use of funding and objectives for local economic growth.

Council resources are often tied up in competitive bidding. One county council officer we spoke to described how bids with short windows eat into resources. The county council supports its district councils with funding bids, based on shared objectives.

Grants allocated by competition in recent years include funds directed towards infrastructure and regeneration:

- Levelling Up Fund
- Housing Infrastructure Fund
- Towns Fund (as part of Town Deal application)
- Coastal Communities Fund

In our interviews with county councils, we heard calls for multi-year settlements and devolution of infrastructure funding to county areas. We were told that there was a "system for schools and GP surgeries, but not for playing fields."

This goes wider than grant funding – policy across government should reflect these principles. For example, the introduction of the standard method for assessing local housing need does not take local economic growth and strategic objectives into account. This makes it difficult for councils to pursue these objectives.

Source: Local Government Association (left)

Key messages from this section	Relevant recommendations
Developments generate uplifts in tax yields - but these are heavily dependent on government policy.	R24
'Infrastructure first' requires upfront funding. There are many sources for this, most of which involve some form of borrowing or credit arrangement or investment by a third party.	R25, R26
For investment to be substantially increased, risks need to be reduced. This requires hedging against project risks such as delays, inflation, and changes to plans and interest rates. It also requires greater certainty over the parameters of local taxes, so that they may be borrowed against, and over future grant funding.	R23, R27, R28
Grant funding needs to be long-term and not subject to competitive bidding, while government policy on infrastructure and housing needs to be more joined up.	R27, R28

Building a better system

Our study of infrastructure funding and delivery have led us to recommend a package of reforms.

- Prosperity and growth across England can only be achieved through strategies based on specific local issues. Investing in infrastructure is a key part of this.
- Changes to the developer contribution regime can increase investment, but will not be sufficient. A wider package of reform is needed, with the developer contributions regime based on the principles of this reform.
- Infrastructure needs to be seen as a long-term investment, which requires greater certainty than the current system accommodates. This, in turn, needs a clear local vision of what sustainable communities will look like and how to get there. There is also a need for greater certainty about what funding will be available, and for local flexibility over how it can be spent.
- County Councils Network's proposals for Accountable Strategic Planning Bodies provide a strong mechanism for developing a long-term strategic vision. This could be used as a basis for planning applications, and help to pool and allocate funding for infrastructure providers. Until such time as these bodies can be established, existing structures can be used for partnership working, supported by devolution deals.
- Mechanisms for further managing the risks inherent in development should be explored with the government.
- Fiscal and financial devolution would boost investment. Greater control over future local taxes, such as through government guarantees, would enable greater borrowing against tax uplifts. Devolving long-term capital funding to strategic planning areas would facilitate investment in priority local assets.

Shared vision helps everyone deliver

A strategic vision for an area can form the basis for planning applications. If providers, planners and developers have all been involved in drawing it up, this can simplify the planning process.

In two-tier areas, this requires districts and counties to work together to ensure their strategies are in alignment. A shared vision would balance levelling up with achieving growth sustainably. It would also set out who makes and receives what funding for infrastructure, at what times.

Much can be achieved with improved collaboration. However, formal mechanisms would ensure that each local body is clear about its role in the process, and that every part of the country benefits.

County Councils Network, working with Catriona Riddell Associates, have proposed an 'accountable strategic planning body' for each county-level area (see appendix). This would form the basis of an ideal mechanism for developing a strategic vision for the area. However, in the absence of these bodies, existing structures can be utilised and the Levelling Up and Regeneration Bill provides an opportunity for improvement.

An 'adaptive approach' can help to systematise delivery, reducing overspends and overruns. But a constructive dialogue with government would be required to overcome systemic barriers to adequate funding.

Strategic Infrastructure Plans

Planning authorities map out the infrastructure needs of their area in their infrastructure delivery plan (see appendix). Upper-tier authorities often work up a long-term, strategic vision for their area, based on available evidence of socio-economic and demographic trends.

Some county areas have combined both approaches, carrying out or commissioning an in-depth study of population and housing growth patterns and the infrastructure needed to support this growth. These may be done by a single county council or a partnership covering a single county council area. Or it may cover a ceremonial county area containing both a county council and unitary councils - such Staffordshire and Stoke-on-Trent, and Kent and Medway.

They are undertaken at the council or partnership's own initiative, rather than because of a specific legal obligation to do so. Consequently, they go under a variety of names. Also, some are viewed simply as external advice and others more as key council statements of local need.

Source: Staffordshire, Surrey, Kent and Hertfordshire County Councils

Greater Norwich Partnership

Broadlands and South Norfolk district councils recognise that settlements in their areas form a functional economic area with Norwich. The district councils have come together with Norwich City Council, Norfolk County Council, the Broads Authority and the New Anglia Local Enterprise Partnership to work in partnership on planning, infrastructure and development. Governance bodies have been set up to deliver a shared aspiration to improve outcomes for the Greater Norwich area.

The roles of these bodies include:

- preparing and monitoring a joint Local Plan
- ensuring the Greater Norwich Infrastructure Plan accords with it
- advising on the development of the Local Transport Plan implementation strategies
- providing strategic direction, monitoring and coordination of the City Deal and the Growth Programme
- pooling Community Infrastructure Levy, identifying and securing other funding and investing it for the benefit of the whole area.

The Local Investment Fund receives all CIL apart from the neighbourhood and administrative portions. It helps fund essential infrastructure to unlock projects that may otherwise have been delayed, opening up strategic sites for housing or employment development.

This approach – pooling funding and allocating it according to a shared vision for the area – ensures that the money is used for the greatest possible benefit of the area.

Providing a cohesive planning process would better benefit local areas.

From our conversations with developers and local authorities, it is clear that in too many cases, detailed discussions about infrastructure happen during negotiations over individual planning applications. This can lead to an unnecessarily adversarial approach or to tortuous, multi-party negotiations.

The planning process can be streamlined when all parties involved in the planning and delivery of sustainable settlements have worked up a shared strategic vision in advance of any planning applications. Such a vision can then form a solid foundation for basing all future applications on.

In Germany, the Netherlands and France, this proactive approach drives up development quality and facilitates sustainable, positive economic outcomes, as recognised in a report for the Royal Town Planning Institute, *Planning as 'market maker'*.

Elements of this approach can be seen around England in different locations, such as county-level studies of growth and infrastructure needs. Another example is where areas have developed partnerships for delivering a new settlement or the sustainable expansion of existing settlements, with appropriate governance structures.

Source: Greater Norwich Development Partnership, Greater Norwich Growth Board, County Councils Network and Pragmatix Advisory interview

A strategic vision would balance levelling up with achieving growth sustainably. It would also set out who makes and receives what funding for infrastructure, at what times.

This vision for the county, sub-region or region would be based on:

- Robustly mapping out housing growth, including different types of provision, and the infrastructure required to support it
- Identifying and overcoming barriers in communities with low quality of life and a struggling economy
- Ensuring communities are sustainable, including in areas which are already anticipating strong growth
- Building in resilience to economic shocks

It would draw on all relevant existing evidence, such as the evidence base of sub-national transport bodies and that contained in planning documents. It would have regard to all relevant existing strategies.

It would also set out which bodies would provide which assets, and how they are to be funded – including long-term repayment / financing of any credit arrangements. This funding plan would set out expected planning obligations. Grant funding and levy contributions would be pooled, and allocated to providers according to the funding plan.

This would ensure that the infrastructure funding requirements that are expected of developers are made clear to them before the planning application stage, providing them with confidence about how much they will be contributing. This transparency would benefit developers, local councils and communities. The vision could also form the basis for an 'earn back' deal with the government for sharing uplifts in national tax yields.

Developer contributions in Durham

Durham is a unitary authority which has not implemented the Community Infrastructure Levy. However, it has developed detailed and clear guidance for developers on the developer contributions it does collect. This is set out in a Supplementary Planning Document.

It explains what contributions will be expected in terms of:

- Housing
- Green Infrastructure (including open space and sport and recreation)
- Education (primary and secondary)
- Health
- Habitats Regulations Assessment and biodiversity net gains

It sets out monetary formulae that are used to calculate the default contributions for each of these, with worked examples. This policy is informed by a report into viability which Durham commissioned from independent property experts, CP Viability Ltd. Having a policy based on such a study has reduced the extent to which the authority is challenged over viability.

Source: Durham Council and Pragmatix Advisory interview

Beaulieu

Beaulieu is a joint development between Countryside and L&Q. It is in a well-connected part of Essex, to the north east of Chelmsford. The developers appreciate being able to work with governance structures which include both the county and district council, at both member and officer level. There is a formal agreement between the developers and the councils to have structured sessions to address issues arising. This provides a clear, logical pathway for decision making and delivery.

The housing development will be supported by a new railway station and relief road. It is conceived as a series of individually designed neighbourhoods that connect to its historic environment and surrounding countryside.

Much can be achieved with enhanced collaboration and working relationships can be improved over time.

Ad hoc arrangements are highly dependent on good working relationships between all the parties involved. These can be improved with focused effort and a willingness to engage.

For example, in Nottinghamshire, considerable efforts have been made to create closer working between the county and district councils. Their planning teams now have regular meetings to tackle "stuck" issues, share intelligence, build inter-personal relationships and identifying forward planning solutions.

The collaborative approach can have many benefits. For county councils, it can help districts to become aware of the challenges they are facing. For districts, it can allow them to pool planning teams, providing enhanced capacity. It can also allow counties to supply expertise that they might otherwise have to commission individually from the private sector.

Source: Countryside Properties PLC and Pragmatix Advisory interview

However, formal mechanisms could provide a more stable, robust framework for planning infrastructure – such as that proposed by County Councils Network.

Far more could be achieved with formal mechanisms for collaboration on strategic planning, with appropriate statutory powers and roles. This would provide all partners with clarity over their roles and that these would be respected, particularly when issues of contention arise. It would also provide certainty that these roles would continue into the future, and not end due to leadership changes or for reasons of political expediency.

These mechanisms should provide a route for all levels of governance and all developers and infrastructure providers in an area to work together on a shared vision for that area. This would include upper-tier and lower-tier authorities, as well as regional bodies and town and parish councils. They should have sufficient flexibility to allow them to be adapted to local circumstances and governance, while setting out relationships to other bodies clearly.

The reports by County Councils Network and Catriona Riddell Associates for 'Accountable Strategic Planning Bodies' propose such a mechanism. These propose that local areas could collectively choose from three options for such bodies. Whichever 'Accountable Strategic Planning Body' they select would prepare a multi-decade Strategic Growth Plan and a rolling ten-year Strategic Delivery Programme. These would collectively constitute a 'strategic vision' for the area.

This body would be scrutinised and advised by a 'Strategic Planning Advisory Body.' Its membership would include representatives of all relevant local authorities and public bodies; other partners would be brought in as needed. It would ensure that the growth plan is prepared collaboratively with all relevant stakeholders from public, private and civic society.

County Councils Network published three reports on Strategic Planning from 2018 to 2021. Two of these, *Planning Reforms and the Role of Strategic Planning* and *The Future of Strategic Planning in England*, collectively developed specific governance models and proposals for strategic planning documents.

Option	Description
Accountable strategic partnership	• A partnership between all local authorities for the area, with majority voting • Strategic planning responsibility would be formalised through deal/contract with central government
Accountable authority	This would either be • a directly-elected leader, with the responsibility formalised through a devolution deal, or • the upper-tier authority, or a lead upper-tier authority acting as 'Strategic Planning Authority'
Secretary of State	Fall-back option. Only to be used where: • there is no agreement across local authorities on another option, or • where the strategic planning area is of national significance

Options for Accountable Strategic Planning Body
The Future of Strategic Planning in England

Existing structures can be adapted to starting working up strategic plans. The Levelling Up and Regeneration Bill provides opportunities to improve on these.

In the absence of a system of Accountable Strategic Planning Bodies and Strategic Planning Advisory Bodies, existing statutory and non-statutory partnerships and joint working can be used to for similar purposes. Examples of such arrangements include:

- Mayoral Combined Authorities, using their powers to develop spatial development strategies
- Statutory joint strategic plans
- Non-statutory strategic planning and infrastructure frameworks
- Growth boards

Such arrangements could be supported by a devolution deal. The government has committed to support proposals to pool local authority functions in deals which improve services and increase efficiency.

The Levelling Up and Regeneration Bill could be amended to allow for county councils to have a statutory role in developing:

- The proposed Infrastructure Delivery Strategies, which would set out the infrastructure which the Infrastructure Levy would pay for.
- The proposed Joint Spatial Development Strategies.

These could form components of a strategic vision for an area.

Whichever approach is taken, lower-tier authorities would remain the local planning authorities, managing the planning process.

Source: Jorik Kleen via Unsplash (photo); Department for Levelling Up, Housing and Communities (text)

An ‘adaptive approach’ can help to systematise delivery, reducing overspends and overruns. But a constructive dialogue with government would be required to overcome systemic barriers to adequate funding.

There would be advantages to using an adaptive approach to planning out infrastructure construction. This involves committing to a core pipeline of vital schemes, while setting out options for additional schemes that can be added if prudent at a later point.

This process would help to identify any systemic barriers causing continued underfunding of infrastructure and affordable housing. This should form the basis of a continuing dialogue with the government.

Adaptive approach

In its *Rail Needs Assessment for the Midlands and the North* (final report), the National Infrastructure Commission identifies "a long history of overspends and cost increases on major rail projects." It proposes an 'adaptive approach' to tackle this.

This approach is embedded in a philosophy that a plan should be well costed and not overpromise, with focused investments "in places where they are most valuable and form part of a wider economic strategy."

The idea is to commit to a core pipeline of affordable, stable investments that align with strategic objectives. This set should have a clear funding profile and rigorous costings and should not be reopened. There could then be clear options either to enhance these schemes or add further schemes later. If further funding is available and can be committed, the decisions to progress further enhancements or schemes should be taken within a set framework. They should only be delivered where:

- it is clear the pipeline of core schemes is delivering on time and to budget
- complementary investments are being made that increase the likelihood of investments contributing to transformation
- they are sufficiently developed with robust cost ranges

Source: National Infrastructure Commission and Pragmatix Advisory interview

In summary, an ideal system for planning, funding and delivering strategic infrastructure would be based on the Accountable Strategic Planning Bodies and Strategic Planning Advisory Bodies set out in *The Future of Strategic Planning in England*. Community-level infrastructure would continue to be planned by local planning authorities. These would work with the strategic planning bodies to ensure their visions are consistent with each other.

We recommend that…
R1. The government should work with local government to introduce the Accountable Strategic Planning Bodies and Strategic Planning Advisory Bodies set out in The Future of Strategic Planning in England. These would cover county, city region or combined authority geographies.
R2. The Accountable Strategic Planning Bodies should draw up long-term strategic visions for their areas, consisting of Strategic Growth Plans and Strategic Delivery Programmes. This strategic planning process would involve all levels of governance and all key infrastructure providers. It would draw on evidence from all partners in the process, including the evidence base of sub-national transport bodies, and any other relevant evidence.
R3. These strategic visions should map out housing growth and supporting infrastructure needs over a period of decades. They should identify a funding package to construct and finance the infrastructure needs set out in them. For each asset, a lead partner should be identified which would receive and manage the funding.
R4. Local planning authorities should work with the Accountable Strategic Planning Bodies to ensure that the strategic visions are in alignment with Local Plans and proposed community-level infrastructure.
R5. The government should engage with the Accountable Strategic Planning Bodies and Strategic Planning Advisory Bodies on a regular basis to identify systematic barriers causing underfunding of infrastructure and affordable housing.

Until such time as Accountable Strategic Planning Bodies and Strategic Planning Advisory Bodies can be established, existing mechanisms can be used more effectively than at present, for planning and delivering infrastructure across county-wide areas. The Levelling Up and Regeneration Bill provides an opportunity to improve these mechanisms.

We recommend that…
R6. Schedules 7 and 11 of the Levelling Up and Regeneration Bill should be amended to allow for county councils to have a statutory role in developing the proposed Infrastructure Delivery Strategies and Joint Spatial Development Strategies.
R7. In county areas, all levels of government from neighbourhood to sub-regional should work together to map out housing growth and supporting infrastructure needs over a period of decades. This can be done using existing statutory and non-statutory partnerships and joint working arrangements.
R8. Local planning authorities should work with their partners in these arrangements to ensure that these strategic visions are in alignment with Local Plans and their Infrastructure Delivery Strategies. These strategic visions should identify a funding package to construct and finance the infrastructure needs set out in them. For each asset, a lead partner should be identified which would receive and manage the funding.
R9. The government should support such partnerships with devolution packages. These would provide for strategic planning to be undertaken at county level, with county councils working in partnership with district councils and neighbouring unitary authorities (where applicable). The devolution framework should be revised, acknowledging that this function may form part of future County Deals. The government should engage with the partnerships on a regular basis to identify systematic barriers causing underfunding of infrastructure and affordable housing.

Funding reform needed to turn vision into reality

Developing a strategic vision is pointless unless there is the funding to deliver it. Reforms are needed to give the long-term certainty needed for investment.

Those who are involved in delivering infrastructure and housing will know best how to raise, manage and spend funding in an appropriate way for their area. Devolution provides an opportunity to think big about how the system can be reformed.

An increase in developer contributions on its own cannot provide the funding for all of England's communities to prosper – particularly where the value uplift provided by market forces is low. Given the variation in England's geographic communities, developments and potential for raising different types of funding, a toolbox is needed for funding infrastructure.

A strategic vision for an area can provide a clear foundation for planning applications. It can ensure that funding is directed to the relevant providers. But to maximise the growth of sustainable communities, further steps are needed to de-risk development finance and reform grant funding.

A mechanism is needed for managing project risk, such as underwriting or mutual insurance. Reducing political risk requires long-term certainty over the systems of local taxes and grant funding. With greater certainty in the system, there will be greater scope for both developer contributions and borrowing. These can be used to increase investment in sustainable development, which will create an uplift in value and increase tax yields.

While the appropriate measures can increase investment from local resources, grant funding will still be needed as seed funding to 'unstick' sites and overcome hurdles that the market can't – 'levelling up.' Such funding should be long-term, devolved and not subject to competition.

Sites need both site-specific and shared infrastructure. The government should provide clarity on this.

We repeatedly heard in our interviews that planning agreements are the appropriate route for delivering site-specific infrastructure. There is widespread agreement between local authorities and developers on this. A levy, on the other hand, is more suitable for infrastructure shared between sites.

Section 106 is already limited to being used for site-specific infrastructure, by the Community Infrastructure Levy Regulations 2010. Imposing further limits on its use is unlikely to be helpful. It should be retained for all sizes of development.

Developments of all sizes will, in general, need both site-specific infrastructure and infrastructure which is shared with other areas, including at county and regional level. Consequently, both planning obligations and a levy will be needed to pay for them. Official guidance should provide clarification that the levy is to pay for cumulative infrastructure needs, that aren't covered by Section 106, and so sites will generally incur both.

> CCN members are concerned that the Levy would not be sufficient to fund the required infrastructure that development would require in addition to affordable housing. Whilst we appreciate that authorities will have differing priorities and the levy will not be able to fund everything, it is vitally important that both are delivered and authorities are not pressured into making extremely difficult decisions and trade-offs as a result.
>
> **County Councils Network, Consultation response to *Planning for the Future White Paper*, 2020**

Firm evidence is needed that the Infrastructure Levy will increase funding for infrastructure.

There is a distinct lack of evidence from the government that switching the basis of the levy from floorspace to sale value will significantly increase receipts. Yet the government is aiming for it to cover gaps in infrastructure, contribute as much to affordable housing as Section 106 currently does, contribute to costs of planning administration and, perhaps, to provide services.

The CIL Review of 2016 and our own analysis has highlighted the extent of the viability problem with CIL across the country. It seems unlikely that a nationally mandated change of levy basis will solve this problem everywhere. If the government is determined to go ahead with this, it should produce robust evidence to show the scale of benefit from this proposal.

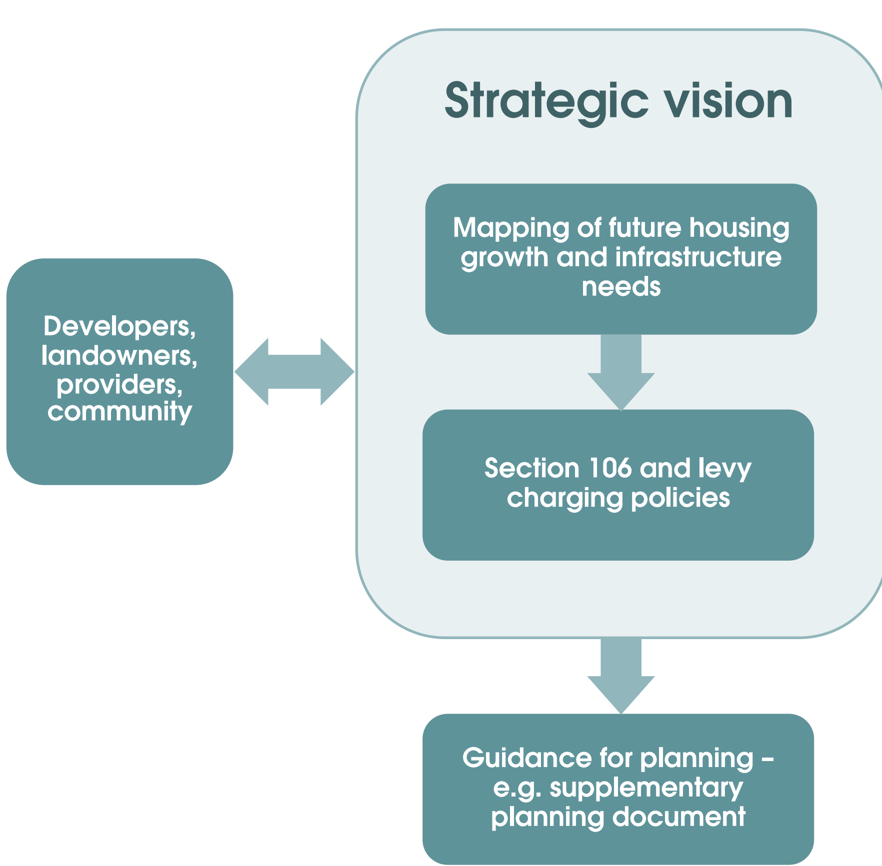
Flexibility is needed in developer contributions, not nationally mandated changes.

It would make more sense for councils, or partnerships of councils, to determine the most appropriate basis for charging a levy in their area, within a framework as set out below.

This would be selected in consultation with developers through the strategic planning mechanisms, drawing on analysis of what is likely to work best locally.

Local government can work with central government and the private sector to determine a framework within which such choices can be made, to ensure an appropriate level of consistency for developers.

Source: Countryside Properties PLC (photo)



Partnerships using a strategic vision to set developer contribution policies

A strategic vision drawn up by partnerships of councils would provide clarity over charging.

Ideally, we would like to see councils working in partnership to pool levy contributions, as happens with Greater Norwich. There could be a comprehensive system of such partnerships across England, as proposed by the County Councils Network. Failing this, under the current system, councils can come together purely on their own initiative to form such partnerships.

Either way, the partnership could draw up a strategic vision for its area, which would consider the funding of affordable housing and infrastructure in the round. This would provide a basis for setting Section 106 and levy charging policies. Planning authorities then consult on their details through the partnership and set them out in for guidance in planning applications, as Durham has done.

The strategic vision would ensure that contributions are paid to the appropriate bodies – those leading on delivery. The charging authority for the levy would remain the local planning authority, unless the partnership decided that a county council was the more appropriate body to collect contributions. (There is scope within the Levelling Up and Regeneration Bill for the government to make a county council the charging authority – see appendix.)

But contributions would then be paid into a pool. The strategic vision would also set out which bodies are to manage the funding of each area or item of infrastructure. This would provide a basis for apportioning the levy fund.

Where no partnership is in place to agree and pool levy contributions, they should be split between tiers.

Government should work with local government, developers and other stakeholders to determine an appropriate basis for the default apportionment.

This should be based on the requirements of each tier to invest in infrastructure – lower tier, upper tier, and where relevant, neighbourhood / town / parish councils and combined authorities / regional governance.

Should the Infrastructure Levy be implemented as planned, there should also be statutory duties for district councils to engage with their county councils – both in drawing up their Infrastructure Delivery Plans and in setting their charging rates.

> The Government should work with the Local Government Association (LGA) to provide additional resources, training and advice to local planning authorities to ensure that they are able to negotiate robustly with developers and that local authorities are consistently able to contract for the appropriate level of planning obligations.
>
> **Housing, Communities and Local Government Committee, *Land Value Capture*, 2018**

Benchmarks and best practice

- Engaging all tiers of governance and all providers in long-term planning
- Engaging all tiers of governance and all providers in handling individual planning applications
- Involving developers in long-term planning and providing clarity to them for submitting planning applications
- Ensuring funding is distributed appropriately and efficiently

Role for organisations representing local government

There is an important role for organisations representing local government in improving the system, through disseminating best practice.

Organisations such as the Local Government Association and its special interest groups can work with developers and landowners to promote best practice and establish benchmarks for good practice.

This would provide nuanced solutions to challenges in the planning system, which are responsive to local circumstances. This is likely to be far more effective than trying to impose national solutions by government order. However, best practice is only likely to be widely adopted if planning departments are sufficiently resourced.

De-risking the system will unblock borrowing

Steps need to be taken to ensure borrowing against a levy is possible in practice for infrastructure providers. Until this point is reached, payments should be in instalments.

Neither Section 106 nor CIL funding is available before the development starts. Government's proposal for an infrastructure levy mean that no developer funding for strategic infrastructure or affordable housing is available until after completion.

To counter this, the government proposes to allow borrowing against the levy. However, simply permitting borrowing legally does not ensure that councils can actually do this. Unless it is possible for all infrastructure providers to borrow against a levy with sufficient certainty, payments should continue to be in instalments from commencement.

The key to unlocking greater borrowing against both developer contributions and tax uplifts is de-risking the system. Investment in local growth is currently bedevilled by two types of uncertainty: project risk and political risk. These have two effects:

- Developers need to cover their costs. If the costs are uncertain, they need a larger margin to cover these. This leaves less for infrastructure and affordable housing.
- They make credit arrangements more difficult to enter into, putting up a barrier to 'infrastructure first.'

Producing a strategic vision would itself provide some reduction of project risk. It would provide clarity to developers and potential funders as to what they will be funding, reducing the need for long negotiations with uncertain outcomes.

Development has inherent project risks and central and local government should explore ways to hedge against these. Employing best practice in putting together a strategic vision, such as using an adaptive approach, could further reduce the uncertainty around timely delivery within budget.

However, development is inherently an uncertain enterprise, and these risks cannot be managed away entirely. This is particularly the case at present, when costs are rising rapidly and difficult to predict.

For borrowing for infrastructure by the private sector, principal and interest may be guaranteed through the UK Guarantees Scheme, run by the UK Infrastructure Bank.

The government should explore with local government and developers whether the UK Guarantees Scheme is sufficient to hedge against these remaining project risks, or whether it needs to be improved, expanded or supplemented. For example, whether similar guarantees are needed for council capital expenditure, or whether infrastructure investments could be covered by a mutual insurance scheme, funded and run by the local government sector, with government support.

> In short, levelling up cannot be done from Whitehall. Local councils need to be empowered to deliver and held accountable for doing so.
>
> **National Infrastructure Commission, *Infrastructure, Towns and Regeneration*, 2021**

Guarantees by government which would unlock new financing packages

- Exempting developments from changes to parameters of the business rate system when there is borrowing against future business rates
- Exempting developments from changes to the parameters of the council tax system and from increased equalisation when there is borrowing against future council tax income
- Maintaining infrastructure grant funding sufficient for long-term financial planning

Greater fiscal autonomy for local authorities would unlock greater investment.

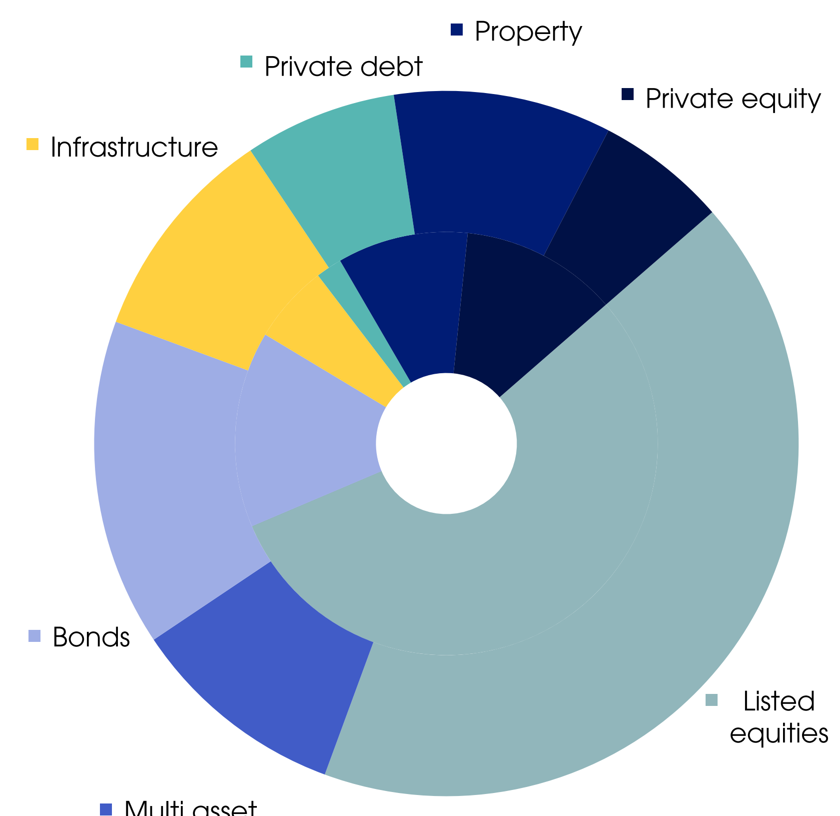
Government should explore with local government ways of devolving grant funding and tax raising powers. This should include greater control over the parameters of the taxes already collected by local authorities, business rates and council tax.

New options for revenue raising and greater control over existing funding streams would allow financing packages to be put together for more ambitious, transformative projects. This could include, for example, raising revenue from road user charging. Such charging could support infrastructure to tackle climate change while discouraging carbon emissions. Borrowing against future income could be boosted by guarantees from government to not make changes which could reduce these income streams. But there remains a question of how this could be guaranteed, in particular with changes in government.

Infrastructure assets should be seen as long-term investments which require stable long-term financing packages. For devolution to sub-national bodies to be meaningful, it must be accompanied by a corresponding level of financial autonomy for them. They need to be sufficiently confident of future income to invest in local growth, which will bring a considerable financial return to the public sector over time. Exemption from the effects of changes to local taxes is currently curtailed by an overly-rigid application of fiscal rules, which derives from overly-centralised management of public finances.

Further funding for repaying borrowing and credit could come from 'earn back' or 'gain share' arrangements with the government, similar to those in Greater Manchester and the Greater Cambridge City Deal. Under these arrangements, if local investment in infrastructure results in increased yield for national taxes, the government would provide financing back to these areas. These arrangements would be made through devolution deals, with such deals more likely to help to build financing packages in an economic environment in which the relative effects of borrowing costs and inflation are better known than at present.

Asset allocation in local government pension funds
Warwickshire, long-term target 2022 (outer), Cambridgeshire Pension Fund, benchmark 2021 (inner)



De-risking and further government support for investor organisations could, in combination, unlock substantial investment from new sources.

With sufficient de-risking, upfront funding need not come solely from the traditional route: lending from the Public Works Loan Board financed by gilt sales.

Private sector financing can be levered in, including from partners in the development, for example through joint ventures. This can be underwritten through the UK Guarantees Scheme. The UK Infrastructure Bank can also lend directly, both to private companies and local authorities.

Innovative finance – such as investment by pension funds or through peer-to-peer lenders – may also become more accessible. This is particularly the case where there is a community interest in the assets being constructed, or where they are in particularly sought-after sectors, such as renewable energy. Different financial instruments will generally cater for different risk-reward-liquidity profiles. For example, programmes with higher risk or volatility of returns but a higher average rate of return over time, might be more suitable for share capital than bond capital. Pension funds will look for long-term, stable returns.

Some of these sources already have significant investment in infrastructure. For example, the London Collective Investment Vehicle (CIV) for local government pensions has committed £1.3 billion to infrastructure. Further unlocking the potential of these sources is difficult, for a whole host of practical reasons, such as pension funds' fiduciary duties (duties to act always in scheme members' best interests). But the government needs to keep working with the investor organisations to find solutions. It will take time to expand these sources of funding, but the potential gains are substantial.

Source: Cambridgeshire Pension Fund, Warwickshire Pension Fund (left); London CIV (right)

Grant funding should be long-term, allocated to unblock growth and spent according to local priorities.

Infrastructure projects require long-term financing packages. Grant funding may need to be a part of this mix, particularly where local economies are sluggish or there are particular barriers to market investment for a development. This grant funding needs to be stable over sufficient periods to make the project viable.

Under devolution deals, local areas have been given far greater discretion over how substantial funding is spent. The Autumn Statement committed the government to exploring "single departmental-style settlements" with two mayoral combined authorities, and considering them for others. This should be considered for county areas, particularly where there is a strategic vision drawn up by a partnership of authorities. This could be used to apportion funding to infrastructure providers according to their needs. The funding would be managed in accordance with best practice, in a similar way to a regional funding allocation.

To be most effective, capital grant funding should be:

- Long term, with certainty over future receipts
- Available to all authorities who need it, not granted through time-consuming competitions, or only to mayoral areas
- Accessible to all tiers of local government, including when working in partnership with other bodies
- Allocated according to need, particularly to areas with existing infrastructure challenges and barriers to raising money from other sources
- Spent in support of locally determined growth strategies, with maximum local discretion over how it is spent

This would provide the greatest potential for growth and generating savings to the public sector.

Our report calls for a new partnership between Whitehall and Town Hall to level up the country, with county and unitary authorities receiving devolved five year infrastructure budgets to support their own economic growth strategies for the towns in their area.

National Infrastructure Commission, *Infrastructure, Towns and Regeneration*, 2021

Ideally, we would like to see a system of Accountable Strategic Planning Bodies and Strategic Planning Advisory Bodies across England. These would map out future housing growth and infrastructure needs and form a vehicle for planning authorities to consult on developer contributions policies. They would pool and distribute levy contributions to infrastructure providers.

In the absence of this system, councils can come together on their own initiative to form partnerships under existing structures, which would fulfil the same roles.

We recommend that…

R10. Partnerships operating across county or wider areas should consider the funding of infrastructure and affordable housing in the round. These should include lower- and upper-tier authorities and have a structured engagement with all infrastructure providers, developers, landowners, and community representatives. Where they exist, community-level and regional governance bodies should also be engaged. (For example, town and parish councils, combined authorities and subnational transport bodies.)

Local planning authorities should use this analysis as a basis for setting Section 106 and levy charging policies and use the body to consult on the details. The policies should be set out in guidance, which provides clarity to developers about what they will pay and what the charges will be spent on.

Preferably, these partnerships would set the charging basis for a levy on developments, for example, floorspace or final value.

We recommend that…

R11. These partnerships should be empowered to determine the most appropriate basis for charging a levy in their area, within a framework drawn up through a process of dialogue between the government, developers and local government. The selection of the basis by the partnerships should draw on local economic analysis and consultation with developers.

In two-tier areas where no partnership is established, it is still vital that county councils receive an appropriate level of developer funding for non-site specific infrastructure, and that they have an input into setting this.

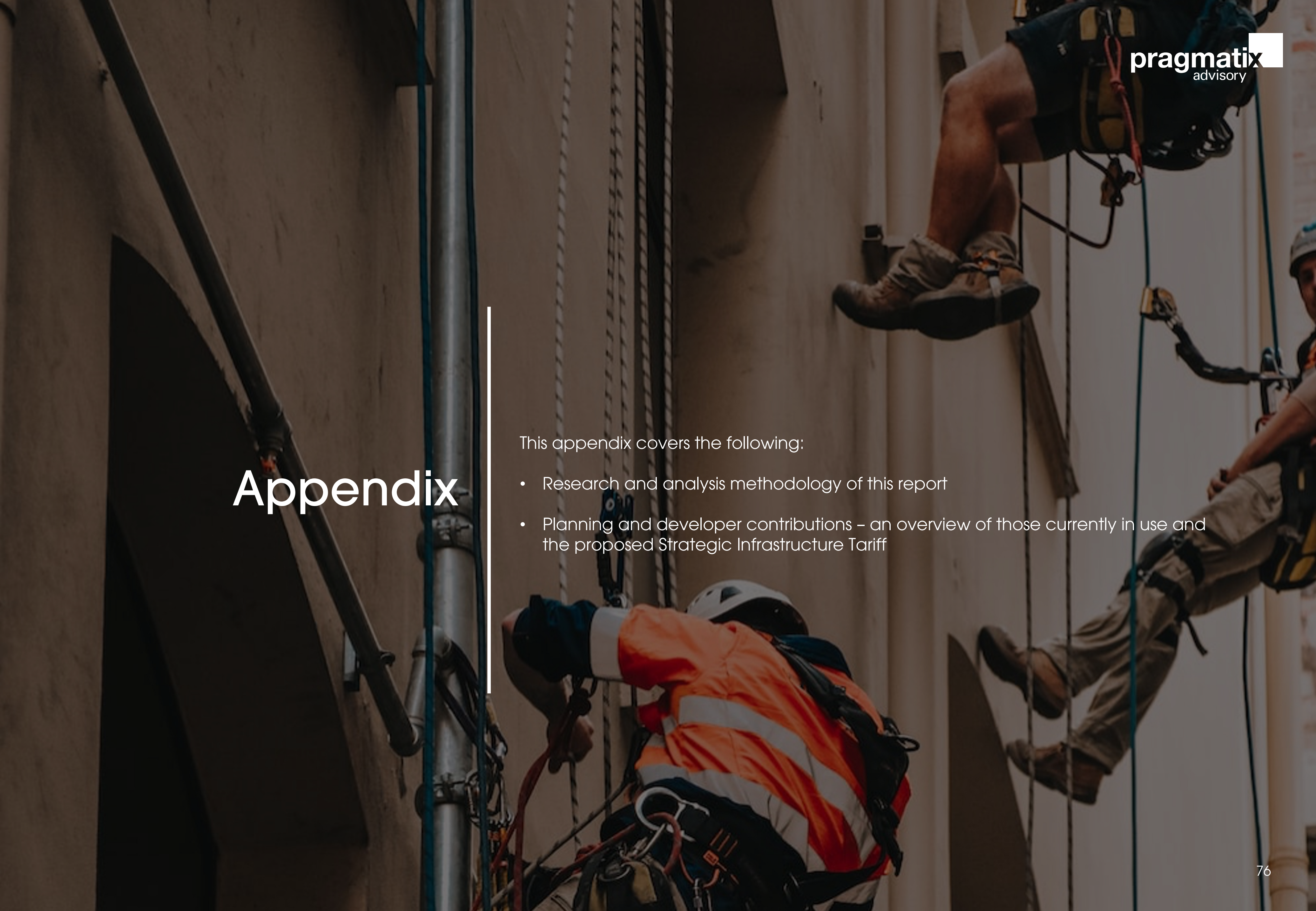
We recommend that…
R12. In two-tier areas, there should be a statutory duty for district councils to work with their county councils in drawing up any documents which feed into the levy-setting process (such as Infrastructure Delivery Strategies under the proposed Infrastructure Levy regime).
R13. In two-tier areas, there should be a statutory duty for district councils to work with their county councils in the preparation of their levy charging schedules.
R14. Government should work with local government, developers and other stakeholders to determine an appropriate basis for a default apportionment of the development levy – whether this is CIL or the proposed infrastructure levy. This should be based on the requirements of each tier to invest in non-site specific infrastructure – lower tier, upper tier, and where relevant, neighbourhood / town/ parish councils and combined authorities / regional governance.

If the government is to proceed with steps to introduce the Infrastructure Levy, there are vital steps they must take.

We recommend that…
R15. The government should carry out research to show how the basis of a levy affects the level of receipts it generates. This should take into account geographical variations, particularly in the sale value of developments and the minimum land value for viability. Decisions on mandatory changes to the levy basis should not be made without this.
R16. Section 106 should continue to be subject to the three legal tests imposed by the Community Infrastructure Levy Regulations 2010. There should not be further restrictions imposed on its use, for any size of development.
R17. County councils should be given an input into the test-and-learn approach being adopted by the government.
R18. Funding should not be diverted away from infrastructure. The clauses of the bill which permit the levy to be used for purposes other than infrastructure or affordable housing should be removed.

There are many steps that the government should take to promote infrastructure investment, which apply regardless of the progress of the Levelling Up and Regeneration Bill, or the structures used for strategic planning.

We recommend that…
R19. The government should clarify in official guidance that any levy is to pay for cumulative infrastructure needs, while Section 106 contributes to site-specific requirements, and so sites will generally incur both.
R20. Local Government organisations should work with developers and landowners to promote best practice and/or establish benchmarks, in relation to partnership working on planning and funding infrastructure, including between tiers and with other providers.
R21. The government and local government should work together to ensure that planning departments are sufficiently staffed and trained to implement best practice. Challenges in the planning system are addressed through this and local strategic planning arrangements, rather than by the imposition of blanket national policies.
R22. The National Planning Policy Framework should be strengthened and sets out that devolved bodies such as Mayoral Combined Authorities and County Combined Authorities consider matters of spatial distribution and strategic infrastructure and other issues. These should be addressed through Spatial Development Strategies as outlined in the Levelling Up and Regeneration Bill, or other strategic planning frameworks that may be agreed through a devolution deal.
R23. The government should explore with local government and developers ways of managing the risk inherent in development, including a) expanding or supplementing the system of guarantees from the UK Infrastructure Bank and b) local government mutual insurance.
R24. The government should explore with local government options for fiscal devolution. For a 'quick win,' it should construct a programme for exempting developments from changes to local taxes, where the taxes are being borrowed against. This could be based on the New Development Deal programme. Setting planning fees locally should also be explored.
R25. The government should continue to work with investor organisations to tackle barriers to greater investment in infrastructure by the financial and community sectors.
R26. Until the uncertainties of development financing are managed sufficiently to allow prudent borrowing on a larger scale, payments of any levy should continue to be in instalments. Without this, developments could stall for lack of upfront infrastructure.
R27. County and unitary areas should receive devolved rolling five year infrastructure budgets to support their growth strategies. These budgets should at least include all existing grant funding for infrastructure and should not be dependent on having a directly-elected mayor. Where partnerships of authorities have drawn up strategic visions for their areas, these would manage the infrastructure budgets, in accordance with their strategic visions.
R28. Capital grant funding should be long term and not subject to competition, with very few exceptions.



pragmatix advisory

Appendix

This appendix covers the following:

- Research and analysis methodology of this report
- Planning and developer contributions – an overview of those currently in use and the proposed Strategic Infrastructure Tariff

Research and analysis methodology

Interviewees :

- County councils
- Unitary councils
- District councils
- Developers
- Department for Education
- National Infrastructure Commission
- Infrastructure and Projects Authority

We have drawn from a wide variety of sources and worked within the limitations of available data.

This report was informed by:

- Interviews
- Desk-based research
- Our own analysis, using published datasets
- A roundtable and a meeting with council leaders, both hosted online by County Councils Network

One particular challenge with the analysis in this report is determining what constitutes infrastructure within the data we use. Some useful datasets do not group spend into 'infrastructure' and 'non-infrastructure' spend or value. Also, there is no universally accepted definition of infrastructure, so where it is specified within datasets, the definition is not always consistent between datasets. We have therefore had to develop a working definition of 'infrastructure' and make judgement calls as to how this is applied to each dataset.

We have also used data on local authorities' sources of funding for capital expenditure from the Department for Levelling Up, Housing and Communities. In this data, it is impossible to separate out funding from developer contributions besides Section 106 and CIL from leaseholder payments and potentially some other sources.

The data we have worked with has its limitations. We have had to make judgement calls in delineating 'infrastructure'.

In our analysis, infrastructure spend and asset value are drawn from four datasets. The table shows the definitions we have used for each measure cited.

We have used data from capital outturn returns, published by the Department for Levelling Up, Housing and Communities. This provides a breakdown of the sources of local authorities' capital budgets. One category in this breakdown is 'Grants from private developers and leaseholders, etc.'. From 2015-16, this is broken down further, into:

- Section 106 payments for affordable housing (commuted sums)
- Other Section 106 amounts
- Capital expenditure financed by the community infrastructure levy (CIL)'
- Other

Unfortunately, no comprehensive description of what comprises 'Other' seems to exist. However, in the guidance notes for the form, local authorities are told to

"Include contributions from private developers. Include leaseholder contributions made specifically towards the cost of capital works on the premises of which the leaseholder's property forms part."

Pages	Measure	Definition
16, 20, 29	Local authority capital expenditure on infrastructure	Data is taken from Capital Outturn Returns. We've taken spend on "Acquisition of land and existing buildings" and "New construction, conversion and renovation" to be infrastructure. Spend on vehicles, plant and equipment is excluded.
13	Value of infrastructure capital/ built infrastructure assets	Data is taken from an Office for National Statistics dataset on gross capital stock. Buildings and structures other than dwellings are taken to be infrastructure, along with land improvement.
21	Construction Output Price Index - infrastructure	This price index was produced by the Building Cost Information Service (BCIS) on behalf of the Department for Business, Innovation and Skills (BIS). No adjustments have been made to it.
42, 43	Infrastructure Section 106 receipts for ceremonial county	Data is taken from Infrastructure Funding Statements for the councils in the area. These describe the projects the money has been spent on. We have made judgements about which count as infrastructure.
44	Infrastructure spend of Community Infrastructure Levy	By this, we simply mean spend that is not on the neighbourhood or administrative portions.

Infrastructure measures used in report analysis

Planning and developer contributions

Developers mostly contribute to infrastructure through two different mechanisms. Both are key parts of the funding mix for infrastructure.

Development charges have been covered by legislation since at least 1947.

Section 106 planning obligations were introduced in 1990, while the Community Infrastructure Levy (CIL) was introduced in 2010.

Other sources of developer contributions include section 278 agreements on highway improvements, and unilateral undertakings.

A review of CIL in 2016 proposed replacing it at planning authority level with a 'Local Infrastructure Tariff'. This would have been supplemented by a Strategic Infrastructure Tariff for combined authority areas.

West Yorkshire's Devolution Deal sets out an intention to confer a power to raise a Strategic Infrastructure Tariff, alongside conferring a strategic planning power on the Mayor. However, this has been put on hold, pending reforms to the planning system.

Year	Legislation/regulations
1947	Town and Country Planning Act
1967	Land Commission Act
1975	Community Land Act
1976	Development Land Tax Act
1990	Town and Country Planning Act
2010	CIL Regulations (introduced under Planning Act 2008)
2013, 2014, 2019	CIL Amendment Regulations
2022	Levelling Up and Regeneration Bill

Select primary and secondary legislation implementing or affecting developer contributions

Source: Department for Levelling Up, Housing and Communities

Section 106

Section 106 is the most significant mechanism for developers to contribute and usually relates to site-specific infrastructure.

Section 106 of the *Town and Country Planning Act 1990* permitted developers to enter into a 'planning obligation' with the local planning authority for any of four purposes. One of these is a requirement to make a payment or payments to the authority.

Usually, the planning authority negotiates a package of obligations during the course of the planning process. The developer and the authority are both parties to the resulting agreement. This is known as a Section 106 agreement. It has become the main source of funding from developers. The payments are made at agreed 'trigger points,' based on dwellings completed.

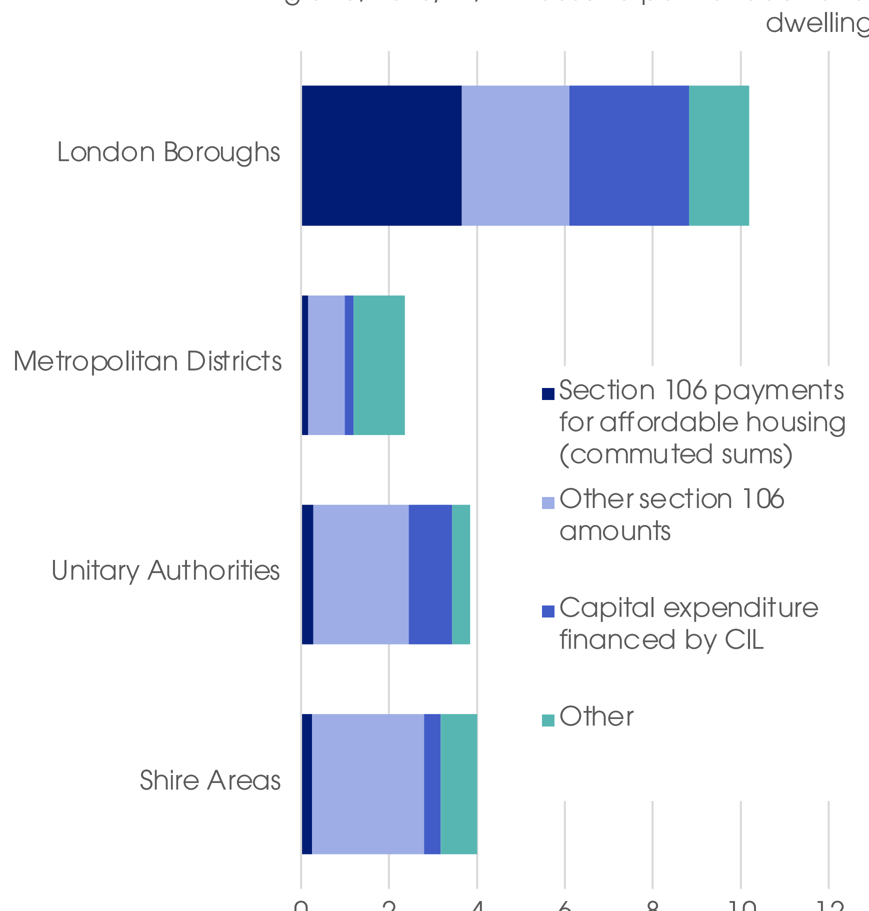
When the Community Infrastructure Levy was introduced in 2010, the government decided to focus Section 106 on infrastructure specific to the site of the development. To this end, they introduced three legal tests for applying planning obligations.

Four purposes of Section 106

1. Requiring a sum or sums to be paid to the authority
2. Restricting the development or use of the land in any specified way
3. Requiring specified operations or activities to be carried out in, on, under or over the land
4. Requiring the land to be used in any specified way

Three legal tests for applying Section 106

1. Necessary to make the development acceptable in planning terms
2. Directly related to the development
3. Fairly and reasonably related in scale and kind to the development.



Section 106 contributions can be made in kind or in lieu of affordable housing.

Not all value provided by developers under Section 106 is provided by direct payments. They can also provide land or assets which they construct themselves. These are known as 'in-kind contributions.'

There is no data source that records the value of in-kind contributions for each planning authority. A 2019 academic study commissioned by the government stated that "Calculating the value of in-kind contributions is very complex and some LPAs indicated that they were unable to estimate the value." The report's authors were therefore compelled to estimate the value of these contributions. They estimated that £42 million of in-kind contributions were received in 2018/19, compared with £384 million from direct payments.

Given the relatively small scale and the lack of data, we largely exclude these contributions from our analysis, except where stated.

Where there are physical constraints preventing a developer from providing the level of affordable housing required by the council's core strategy or local plan, they can make a "commuted sum" payment in lieu of this. These payments are much larger for London boroughs than they are outside London.

Source: Department for Levelling Up, Housing and Communities and Pragmatix Advisory analysis

Assessing infrastructure needs at the planning authority level is necessary for drawing up Local Plans

Planning applications are submitted to and decided by local planning authorities. These are assessed using both a collection of local planning documents called the Local Development Framework, and national policy and guidance on planning. Where it has been agreed, the Local Plan forms a key part of the Local Development Framework.

A planning authority's infrastructure needs are set out in its Infrastructure Delivery Plan. It consults with the providers of infrastructure in putting together its Infrastructure Delivery Plan – in two-tier areas, this includes teams in the county council.

When the Local Plan is drawn up, it takes into account a range of evidence, including the latest iteration of the Infrastructure Delivery Plan.

County councils only have a guaranteed role in planning negotiations when they are statutory consultees.

In two-tier areas, the planning authorities are district councils. However, there are legal requirements on planning authorities to consult with particular bodies in specific circumstances, covered under a range of primary and secondary legislation.

In two-tier areas, some of these statutory consultees are the county council acting in a particular capacity. For example, for developments likely to have a significant impact on traffic, the county council is a statutory consultee in its role as the Highway Authority.

The Community Infrastructure Levy

The Community Infrastructure Levy was introduced in 2010 to cover a range of deficiencies with the Section 106 regime.

Over time, the scope and complexity of planning obligations grew. Developers were concerned about the time and costs involved in negotiation and the lack of clarity about what would be expected of them. To avoid these deficiencies, the levy was designed as a simple development tax.

Planning authorities draw up a schedule of tariffs and specify the types of infrastructure the receipts will be spent on. This schedule draws on the assessment contained in the latest iteration of the Infrastructure Delivery Plan and takes into account viability (how much the authority assesses that developers are able to pay). Consequently, developers know what they will need to pay before they submit a planning application, and what types of infrastructure the payment covers.

Since 2013, there has been a requirement for a proportion of funding received to be spent on the priorities of the neighbourhood in which the development takes place. This is 25 per cent where there is a neighbourhood plan in place and fifteen per cent where there is not. In areas with a town or parish council, the levying authority must transfer this portion to the town or parish council. They may transfer more.

The Community Infrastructure Levy regulations prohibit councils from borrowing against the levy. However, there is an exception for the Mayor of London. Also, councils are permitted to repay prior expenditure from the levy.

Aim of CIL

- Simple flat rates for developers – avoid negotiations
- For infrastructure needs resulting from cumulative development
- For benefits to the community

What CIL can be spent on

- 2010-2019: infrastructure specified in Regulation 123 list
- 2019 onwards: infrastructure specified in Infrastructure Funding Statement
- 2013 onwards: neighbourhood portion
- 2010-2019 could not be used alongside Section 106 to fund same infrastructure project

Payments in and out

- Developers pay in instalments on dates after commencement on site
- Planning authority receives funding into a ringfenced fund
- Planning authority (usually) sets out criteria for allocating funding and process for applying for it

An official review of the Community Infrastructure Levy found that it was flawed.

The review in 2016 highlighted the centrality of viability to the charge-setting process. The resulting 'lowest common denominator' level meant that larger developers were contributing far less than they could afford.

It also meant that many planning authorities had decided not to implement a levy at all, falling back on Section 106. This contained exemptions for smaller developments, so these were still not contributing to infrastructure. There was consequently a patchwork of levying and non-levying authorities across the country, which particularly concerned the review team.

Issues identified with CIL

- Charge-setting process focuses on viability rather than local infrastructure needs
- 'Lowest common denominator' approach to viability
- Many authorities had not adopted CIL for various reasons, often concerning viability
- Patchwork of CIL and non-CIL authorities
- Less money raised than envisaged
- Continuing reliance on Section 106 more extensive than envisaged
- Causes tensions between authorities in two-tier areas

Issues with the Community Infrastructure Levy (CIL)
Official review, 2016

Local Infrastructure Tariff

- Set using national formula, based on local market values
- Low level

Section 106 regime

- Reforms such as additional Section 106 for large developments, with strengthened legal tests

Strategic Infrastructure Tariff

- Set by Mayor but billed and collected by planning authority
- Low level and limited to small number of projects of benefit to wider area

Proposals for developer contributions
Official review, 2016

The review proposed replacing the levy with a 'Local Infrastructure Tariff'.

This would be set using a national formula based on local market value. It would be set at a low level which does not seek to cover all infrastructure needs. It also proposed reforms to the Section 106 regime, which would help the regime to cover the remaining infrastructure needs. In particular, for large / strategic developments, local authorities should be able to negotiate additional and specific Section 106 arrangements. These would be subject to strengthened legal tests.

Finally, in combined authority areas, it was recommended that the Mayor have a power to levy a Strategic Infrastructure Tariff, just as the Mayor of London can levy a Mayoral Community Infrastructure Levy. This would be used for one or two specific infrastructure projects.

Proposed Infrastructure Tariff

West Yorkshire Devolution Deal

Subject to ratification of the deal by all partners and the statutory requirements referred to within this document, including the consent of all councils affected and parliamentary approval of the secondary legislation implementing the provisions of this Deal.

HM Treasury

Ministry of Housing, Communities & Local Government

City of BRADFORD

Calderdale Council

Kirklees Council

Leeds City Council

Wakefield council

The government has proposed a Strategic Infrastructure Tariff but not implemented it.

The Autumn Budget in 2017 proposed a Strategic Infrastructure Tariff for both Combined Authorities and planning joint committees with statutory plan-making functions. No details were given. It also encouraged the use of the tariff for the Cambridge – Milton Keynes – Oxford corridor.

It was consulted on in 2018 as part of a consultation on CIL. In its response to the consultation, the government stated that under existing legislation, it could and would permit Combined Authorities with strategic planning powers to implement the tariff. In the longer term, it "will bring forward proposals for allowing joint planning committees to charge the tariff, and will review options for giving other groups the power to levy a Tariff."

In 2020, the tariff was included in the West Yorkshire Devolution Deal as a power that could be requested by the Combined Authority. However, in 2021, an addendum was added to the deal that this would not be available while the government was carrying out planning reforms. Instead, this power or an equivalent would be conferred "when the position is clearer."

Source: Department for Levelling Up, Housing and Communities

Infrastructure levy

A levy based on local market value was taken forward in the Planning for the Future White Paper.

The idea of a local levy based on market value was not mentioned in the short Planning for the Future policy paper released in March 2020, but the Planning for the Future White Paper was published in August 2020. This proposed "a new, consolidated 'Infrastructure Levy.'" There were four proposals on it and twelve questions, spread across six pages.

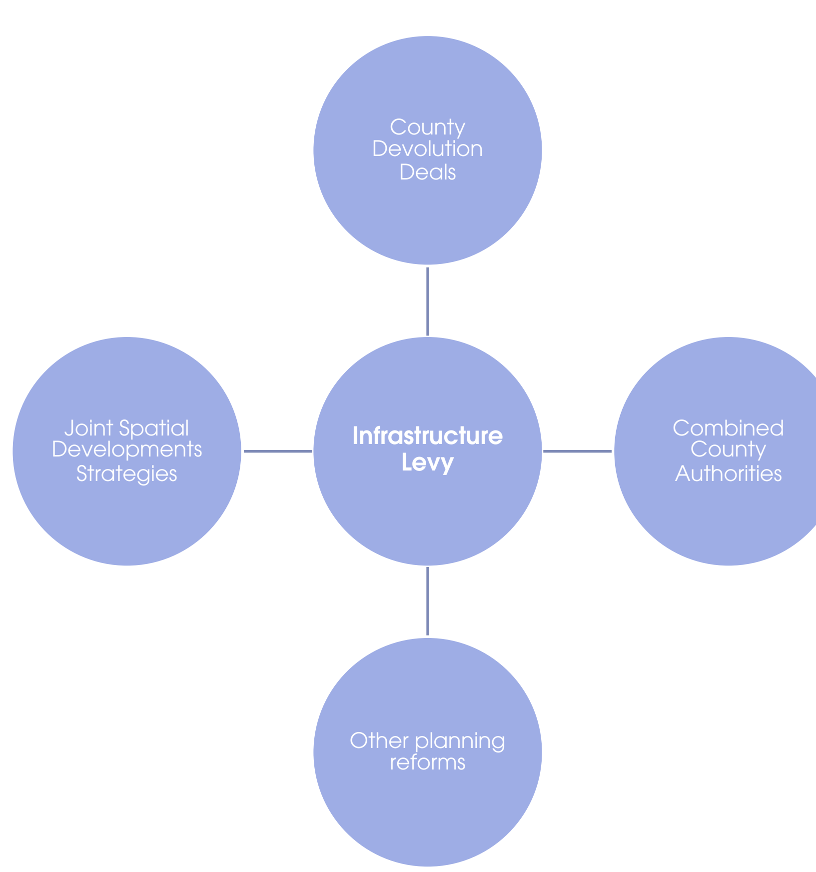
It has now been cast in proposed legislation, with further changes.

The Infrastructure Levy appears in the Levelling Up and Regeneration Bill in Schedule 11. It has passed its Committee Stage and been reported to the House of Commons.

The charging basis will be set by regulation, but it is intended to remain as set out in the White Paper. It is still proposed to be mandatory for all planning authority areas. However, rates would now be set locally. These would be informed by an Infrastructure Delivery Strategy, which appears to play the same role that Infrastructure Funding Statements do for CIL. They would also take into account economic viability of development and matters relating to the value of land.

Proposals for Infrastructure Levy in White Paper	Current proposals for Infrastructure Levy
Charged as fixed proportion of development value above threshold	Charged as a fixed proportion of development value above a threshold – will be set in regulations
Mandatory	Mandatory
Nationally set rate or rates	Rates set by charging authority in charging schedule
Accompanied by the abolition of planning obligations	Planning obligations will remain, but not for affordable housing, and limited to largest sites
Could be extended to capture changes of use through permitted development rights	Could be extended to capture changes of use through permitted development rights
Should deliver affordable housing provision	Should deliver affordable housing provision
Neighbourhood portion (as for CIL)	Neighbourhood and administration portions – by regulation
Option of allowing it to be spent more broadly than infrastructure and affordable housing, once "core obligations" have been met	Can be spent more broadly than infrastructure and affordable housing – in original bill; extended by amendment in committee

Source: Department for Levelling Up, Housing and Communities; House of Commons Library; UK Parliament



Related matters in the Levelling Up and Regeneration Bill

The levy will be implemented by lower-tier authorities by default over several years, using a "test-and-learn" approach. CIL will be "switched off" behind it.

The rates "or other criteria" for determining developers' liabilities would be set by a "charging authority." By default, this would be the local planning authority, but could be changed to any other district, metropolitan district, London borough or even county council by regulation. Joint committees established under the *Planning and Compulsory Purchase Act 2004* could exercise "specific functions" under regulation, if they include a planning authority.

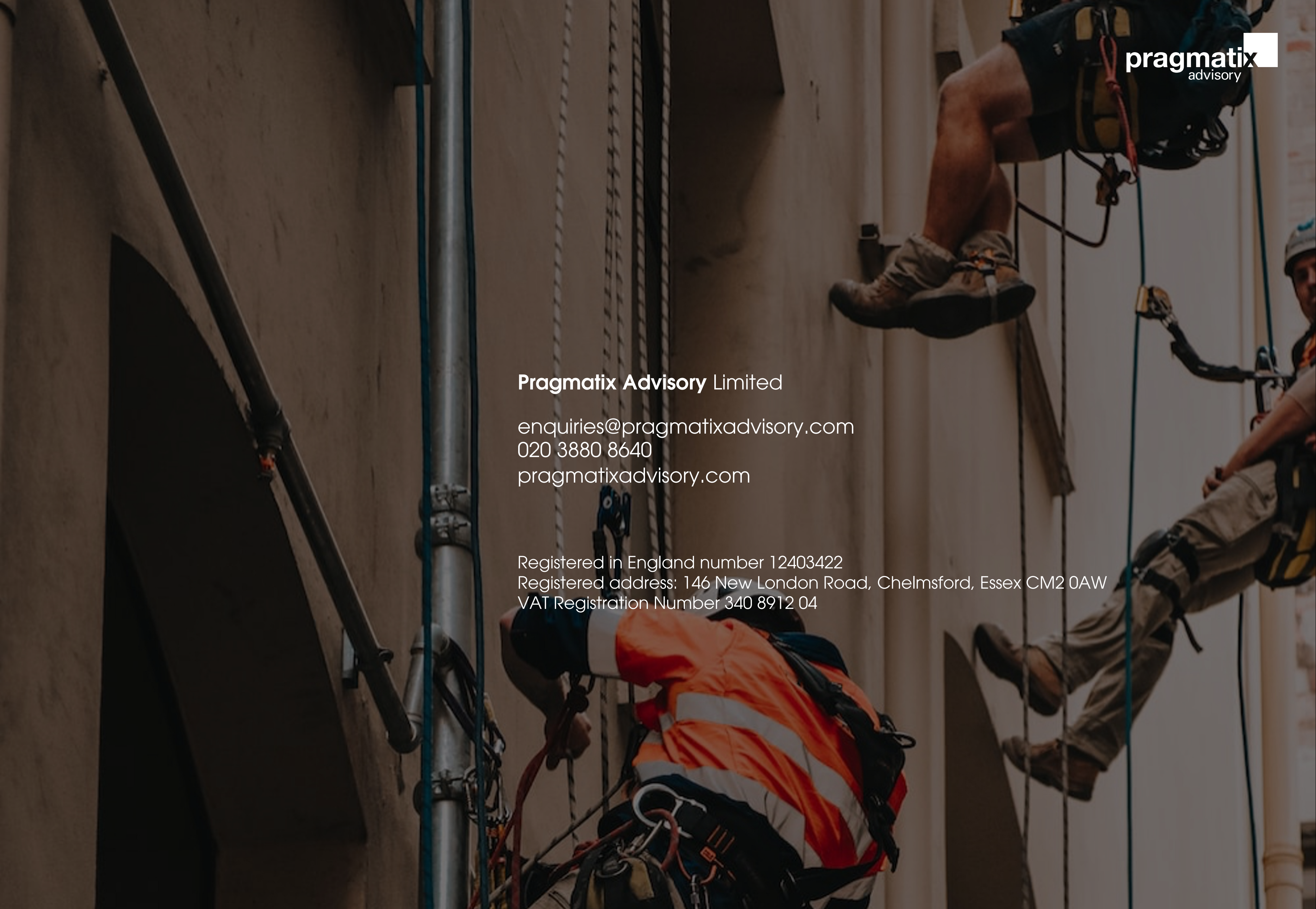
It will be rolled out nationally over several years, using a "test-and-learn" approach - careful monitoring and evaluation, "in order to design the most effective system possible." This will allow CIL to be "switched off" gradually as it launches in each area.

The planning system provides further options for agreements.

For some simple applications, developers may propose as part of the application to make payments – again under Section 106. This is known as a 'unilateral undertaking' and the planning authority is not party to the deed for such an arrangement, which can speed up the planning process.

Section 278 of the *Highways Act 1990* covers alterations or improvements to a public highway, and may require developers to make payments for administration costs and, where appropriate, for maintenance. Section 38 of the *Highways Act 1980* provides a mechanism for transferring roads built by developers to the highway authority, and is supported by a cash deposit or bond, which the authority can call on in case of default or developer liquidation.

Source: Department for Levelling Up, Housing and Communities; House of Commons Library; UK Parliament



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