
PLANNING GAIN SUPPLEMENT

1 SUMMARY

- 1.1 This report explains the Government's proposals to introduce a Planning Gain Supplement (PGS), effectively a tax on the increase in the value of land resulting from the grant of planning consent, and resultant reforms to the system of planning obligations.
- 1.2 A response to the consultation paper is required by the 27 February 2006.

2 BACKGROUND

- 2.1 In 2004, Kate Barker published her review of housing supply and recommended the introduction of a PGS to capture a portion of the land value increases or "uplift" created by the planning process.
- 2.2 Following the publication of the Barker report, the Government has agreed in principle to the introduction of a PGS and this consultation paper now seeks views on the detailed arrangements.

3 THE PROPOSALS

- 3.1 The proposal is that PGS would be set at a modest rate to capture a portion of the land value uplift, in order to create additional infrastructure while providing incentives to bring land forward for development.
- 3.2 The revenues generated by PGS, it is suggested, would be dedicated to local communities to manage the impacts of growth, and to funding the local and strategic infrastructure necessary to support and stimulate new development.

Calculating PGS liability

- 3.3 The "planning gain" would be calculated as the difference between the land value with full planning permission (planning value or pv) and the value of the land in its current use as permitted by the planning system (current value or cv). A PGS rate (not specified in the consultation) would be applied to the difference between the two values.
- 3.4 The "actual" value of the land would provide the basis for the calculation and it is anticipated that there would be a self assessment requirement placed on the chargeable person with that assessment being checked by HM Revenue & Customs and (HMRC) and the Valuation Office Agency (VOA).

Payment of PGS

- 3.5 It is proposed that payment of PGS should not be required until development commences, recognising the cash flow problems that might arise if it was paid earlier.

- 3.6 A developer would be required to declare their intention to commence development through the Development Start Notice procedure. If development commenced without such a notice, the development in question would be unlawful, and a Development Stop Notice could be issued. It is suggested that local authorities would be invited to work with HMRC and ODPM on structuring these processes.

Scope of PGS

- 3.7 It is anticipated that uplift should be captured from both residential and non-residential developments, on the basis of a single rate.
- 3.8 It may be appropriate though to apply a lower rate of PGS for brown field sites to reflect the Government's commitment to such sites being developed in preference to green field.
- 3.9 Home improvement proposals would be excluded from PGS, and there could also be a threshold for contributions. The government though favours an approach without thresholds to avoid unwanted distortions in the market and to minimise complexity.

Financing Infrastructure

- 3.10 The consultation document considers the problems associated with the current S106 planning obligations, and suggests that PGS could fund the majority of requirements except for those relating to the environment of the development site and affordable housing.
- 3.11 Under the new arrangements, the matters to be dealt with through planning obligations and those outside the scope would be:

Included in new scope	Outside new scope of planning obligations
On-site landscaping	Education provision
On-site roads and traffic calming	Health provision
Access road	Community centre
Open space	Bus service
Mix of uses	Fire station
Mix of housing types	Employment and training
Flood defence	Labour initiatives
Street lighting	Town centre management
Phasing and timing of development	Cultural facilities
Landscaping	Leisure facilities
Design coding	
Environmental improvements	
Operational effectiveness	

Allocation of PGS Revenues

- 3.12 The consultation document suggests that the majority of PGS revenues will be recycled directly to the local level for local priorities and that the overwhelming majority will be recycled within the region from which they derived.
- 3.13 Two options are suggested for distribution. The first would be as grants in direct proportion to the revenues raised. The second would be to base payments on a formula related to the infrastructure needs in an area.
- 3.14 Whilst the majority of PGS revenues would be recycled directly to the local level, the report points out that a significant proportion would be used to delivery strategic regional, as well as local, infrastructure. This would be achieved through an expansion of the community infrastructure Fund (CIF) established in the 2004 spending review.

4 DISCUSSION

- 4.1 The consultation paper includes a series of questions and suggested responses are provided in appendix 1 to this report. These questions do not though address broader concerns with the principle of the proposed new arrangements.
- 4.2 The PGS contributions would be collected directly by the government and there is no guarantee whatsoever that they will be allocated back to the district in which they were originally generated. So, for example, it could be that funds are allocated by the government for an infrastructure project some distance away from the district which generated the initial contribution. Individual LPAs will not have a free hand, as now, in determining how any funds collected will be spent.
- 4.3 Furthermore, there is no indication in the consultation paper on how funds will be divided between Councils. So, as explained above, some money might come back to the originating Council, but equally there is every chance of it being diverted to major regional infrastructure projects. This is particularly the case given the proposal that cash collected will go to bolster the community infrastructure fund.
- 4.4 The intention is that PGS will be paid by developers directly to HMRC, but without a high level of transparency in relation to the funds paid by a developer, it will be extremely difficult for local councils to even be aware of the level of contributions.
- 4.5 Despite the government's assurances, it is difficult to see how a self assessment system of payments will not be open to abuse and manipulation by developers. At least the existing arrangements for S106 contributions are clear, though the legal aspects can be time consuming.

- 4.6 PGS would only be paid when a development commences on site. There is therefore considerable scope for a developer to delay commencement and as a result payment of the PGS. In addition, there is likely to be a real problem in dealing with contributions on large development sites; should such contributions be paid in one lump or in phased payments, and which body will decide and administer the arrangements?
- 4.7 The payment of PGS is of course predicated on there being development. Areas of little or no growth could as a result lose out and this could place greater pressure on the growth areas to deliver.
- 4.8 It is also important to take into account housing market fluctuations: these would impact on PGS payments. Furthermore, the tax could defer housing development even though under supply has been identified as a key problem.
- 4.9 The proposed Development Start Notice procedure and the possible issue of enforcement notices where development is identified as being unlawful will require to be managed and it is most likely the burden for dealing with the procedure will fall on local authorities.

5 ENVIRONMENTAL IMPLICATIONS

- 5.1 The existing arrangements for achieving improvements to the local area through Section 106 obligations ensure that those improvements can be addressed to the local area. It is not clear that a PGS will ensure the same level of resources will be available since wider regional infrastructure projects may very well take precedence to the disadvantage of the local area.

6 RECOMMENDATION

- 6.1 It is proposed that the Committee **RESOLVES**

That, subject to comments from Members, this report forms the basis of the Council's response to the Planning Gain Supplement consultation document.

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Background Papers:-

None

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APPENDIX 1

Issues for Consultation – Proposed Response

- Q.2.1 What further clarifications to the definitions of planning value and current use value (as described in Box 2.2) would be helpful to provide further certainty to developers?

The definitions of pv and cv are clear in principle, but other than a 'risk-based' assessment of the PGS return, it is far from clear how developers and landowners will be prevented from manipulating the system. It must be borne in mind there will be thousands of PGS returns to be processed and this will create a layer of bureaucracy that must be paid for. If staff and IT resources are not adequate however, the proposed system is not likely to function effectively.

- Q.2.2 How can the self-assessment of PGS valuations and liability be made as easy to comply with as possible?

It is not easy to answer this question since there is a certain level of complication and bureaucracy arising from centralising the system in the way proposed.

- Q.2.3 What information on the condition of land at the granting of full planning permission should be made available to the chargeable person?

The system, if introduced, must be as transparent as possible and the chargeable person must therefore have access to all relevant information.

- Q.3.1 Should payment of PGS occur at the commencement of development or another point in the development process?

At the commencement of development does not seem unreasonable though developers may very well seek to delay a start.

- Q.3.2. Should the Development Start Notice be submitted to the local authority or HMRC?

It does not seem to make any sense to submit the Start Notice to the local authority if the process is centralised: it would surely only result in the local authority then passing the information on. There is significant concern about the administrative procedures and process in dealing with Start Notices and enforcement.

- Q.3.3 How should the proposed approach to compliance fit with larger, phased developments?

If a larger site has outline consent, then payment could be linked to commencement on individual reserved matter sections. Alternatively, on

larger sites that obtain full planning consent it may be that payment would need to be phased in accordance with an agreement negotiated with the developer. Of course, this arrangement could result in difficulties and it is not clear HMRC would have the capacity to negotiate an agreement with individual developers: this might mean another administrative burden being passed to local authorities.

- Q.4.1. To encourage regeneration, should a lower rate of PGS be applied to brown field land? What might be the drawbacks?

Yes probably. That having been said, a rededicated brown field site in the right location could have a very high value. Alternatively brown field land in some parts of the country might be prevented from redevelopment if there is any PGS to be paid. A flat rate reduction for brown field land might not be sensitive enough and cases might need to be considered on their merits – a further complication.

- Q.4.2. How should a PGS threshold for small-scale development be set? What factors should be considered?

This is the difficulty of employing the PGS as opposed to a ‘roof tax’ on new housing development. There is no doubt whatsoever that if a PGS is to be employed it should apply to all development so that a payment would apply even for a single house. The cumulative effect of planning consents for small numbers of new houses on infill plots, for example, can be considerable. If PGS is to fund wider infrastructure requirements all development should contribute.

- Q.5.1. Does the development-site environment approach proposed here represent an effective and transparent means of reducing the scope of planning obligations?

Certainly, providing a list of matters that could be included in a new S106 ‘environment approach’ improves transparency. However, it also removes the flexibility that exists with the current arrangements whereby LPAs can negotiate on matters specific to the site and area. Reducing the scope must therefore also have the effect of reducing the potential benefits for the local area. A significant position of the benefits that could be released from a development will be collected centrally and therefore likely to be lost from the local area.

- Q.5.2. How should infrastructure no longer funded through planning obligations be provided, including through the use of PGS revenues.

This will of course depend on the infrastructure. It must be borne in mind that it was often the developer who made arrangements to provide the infrastructure improvements and the centralised collection of PGS will not allow such an arrangement in the future. Therefore, highway

improvements would presumably have to be carried out by the Highway Authority, education improvements by the Education Authority, health improvements by the PCT, etc. These authorities would presumably need to submit bids for improvements and a mechanism would be required to determine allocations. It is not clear that the CIF would be the appropriate mechanism.

- Q.6.1. How should PGS revenues be recycled to the local level for local priorities?

Through the Local Planning Authority.

- Q.6.2. How should PGS revenues be used to fund strategic infrastructure at the regional level?

The danger is that PGS will all be diverted to regional infrastructure projects and there is a likelihood that transport will be the major beneficiary.

- Q.6.3. How can local and regional stakeholders, including business, help determine the strategic infrastructure priorities most necessary to unlock housing development?

Presumably the preparation of Regional Plans, Local Transport Plans, Health Plans, etc would provide the framework. There could only be a bargaining process to determine the priorities from the many possibilities.