



## PLANNING BULLETIN

### THE PLANNING GAIN SUPPLEMENT – A FAIR TAX ON DEVELOPERS AND LANDOWNERS?

#### Background

The Office of the Deputy Prime Minister, in association with HM Treasury and HM Revenue and Customs, has published for public consultation until 27 February 2006 its paper on proposals to introduce a “planning gain supplement” (PGS).

The paper is in response to Kate Barker’s independent review of housing supply. This paper recommended that the Government should capture a portion of the land value uplift arising from the grant of planning permission. This money would then be used to develop more land for housing – especially affordable housing.

Both John Healey MP, Financial Secretary to HM Treasury and Yvette Copper MP, Minister for Housing and Planning, state that

*“We believe that combined with reforms to the planning obligations system, this represents a principled approach to funding infrastructure that makes growth possible and acceptable. As planning reforms enable more land to be approved for housing, a portion of wealth created by the planning system should be released for the benefit of the wider community.”*

#### Summary of proposals

In summary, the paper proposes the following:

- PGS would not be implemented before 2008.
- PGS would capture a “modest portion” of the value uplift arising on land which full permission has been granted.
- PGS would be payable under a self assessment regime administered by HM Revenue and Customs (HMRC).
- Payment would not be required until the commencement of development
- A “Development Start Notice” would identify a chargeable person before commencement of development.
- PGS would apply to non residential as well as to residential development land.
- Planning obligations to be scaled back to matters relevant to the environment of the development site and affordable housing and
- PGS revenues would be dedicated to local communities and the provision of infrastructure.



## Comments

The PGS is in effect a “betterment levy” or development land tax. The proposal raises a whole host of planning and development issues which no doubt the property industry will be making strongly to the Government.

In no particular order of importance, we highlight some key points of concern.

### 1. Will the PGS stifle development?

The paper states that “PGS would be set a modest rate to capture a portion of the land value uplift created by the planning process.”

The paper is noted for the absence of indicating what that “modest rate” might be.

However, quite clearly if the rate is set too high this will affect the viability of a development and could ultimately mean that developers do not develop and land is left idle (often on brownfield sites subject to abnormal site development costs) until values rise to such an extent that the developer’s receives the normal return on his risk to develop.

What is clear, however, is that PGS if implemented, in association with the proposed “scaled back planning obligation requirements,” would make the commercial viability of developments an important material planning consideration; hitherto this has not been the case.

The introduction of PGS would therefore means that Local Planning Authorities will need to understand more the intricacies of development appraisals in order to implement both the regional and local development strategy.

### 2. What is PGS to used for?

There does seem to be various views as to what PGS is to be used for:

- **To only fund more affordable housing?**


The Barker report’s objectives were to increase the supply of affordable housing. The PGS was to be levied only on the grant of residential consent so as finance affordable housing and other social infrastructure to support new residential communities.

- **To deliver regional planning objectives**

The PGS consultation document now proposes that the PGS should apply to all developments and that:

*“the revenues generated by PGS 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 and contribute to long-term sustainability.”*

However, the paper states that *“while the majority of PGS revenues would be recycled directly to local level, a significant proportion would be used to deliver strategic regional, as well as local infrastructure.”*



The Government proposes that this be done through an expanded and revised Community Infrastructure Fund (CIF). The CIF was established in the 2004 Spending Review, in response to the Barker review, as a fund worth £200m over two years to support the transport infrastructure costs required to enable faster housing development in the four growth areas.

- [To help make up the shortfall in central Government finance?](#)

An alternative approach could be said that PGS has been introduced because central government needs to find alternative mechanisms to finance identified housing and social infrastructure needs; the PGS approach offers, from the Government's perspective, a pragmatic way forward to help meet the funding shortfalls.

### **3. Double Whammy - scaled back section 106 contributions?**

Recognising that PGS could, at one stroke, make a development not commercially viable, it is proposed to scale back section 106 agreements to a “development- site environment approach.”

Planning obligations would be defined on a statutory basis to only relating to only

- The provision of affordable housing
- Direct replacement substitution for the loss or damage to a facility caused by the development or
- In order to make the site acceptable (in terms of access, mix of uses, landscaping, design, archaeology).

The provision of affordable housing (which still is the most significant development costs) is still part of the section 106 and yet PGS is supposed to be paying for affordable housing; financial contributions to education and health care needs generated by the development are de minimus compared to the costs associated with providing 50% affordable housing on site.

In the meantime, the paper still does not explicitly state that the PGS revenues will be for Local Government coffers only. As a result, Local Planning Authorities are unlikely to want to give up financial or other contributions that they are currently working on in their Local Development Documents by setting tariffs based on the quantum of development for education or health or other community benefits.

### **4. Implementation**

PGS also raises the following issues as to how it is to be implemented. The following points are of note.

- [PGS is only payable on the grant on full planning permission](#)

Consequently, PGS is not payable on the grant of outline permission or when a local development document identifies a site specific land use, or indeed, where



Government policy changes make more sites suitable for development than others.

Given that major schemes are often only granted outline consent before agreeing the details (reserved matters) it can be foreseen that individual landowners will have protected negotiations on land values and hence how much PGS each will have to pay either on the grant of the final reserved matters or where it chosen to submit individual applications in accordance with the outline consents masterplan.

- [PGS is only payable when development commences.](#)

The Courts will also no doubt have to re-examine whether development has actually commenced.

- [Need for valuation advice](#)

The PGS will require independent advice as to the value of its current use value (CUV) and the planning value (PV) of land on the grant of the full permission.

It is almost bound to be the case that valuations will be disputed and the role of the Lands Tribunal will increase.

- [Householder applications](#)

Home improvements are not to be subject to PGS – however, these have yet to be defined and may be another tax in the waiting for homeowners.

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