

Report of	Meeting	Date
Head of Development and Regeneration	Development Control Committee	14.02.06

## **PLANNING-GAIN SUPPLEMENT: CONSULTATION PAPER**

### **PURPOSE OF REPORT**

1. To inform members of a consultation paper on proposals for a planning-gain supplement. The consultation paper seeks views and comments on the proposals to be submitted to the HM Treasury by 27<sup>th</sup> February 2006.

### **CORPORATE PRIORITIES**

2. The proposed planning-gain supplement has the potential to help the Council to deliver a range of improved services, provided a significant proportion of revenues are made available to the Borough Council for its own spending priorities. Any revenues received could be used for a variety of purposes that should help make the Borough greener, cleaner and safer.

### **RISK ISSUES**

3. The report contains no risk issues for consideration by Members, as it relates to an initial consultation paper providing information on how a planning-gain supplement might operate. Further consultation is likely to take place if it is to be pursued.

### **BACKGROUND**

4. The current planning obligation (section 106 agreements) system is a tool that can help make development acceptable that would otherwise be unacceptable in planning terms. Planning obligations usually take the form of negotiated legal agreements that enable local authorities to require developers to provide public services or financial contributions in order to make development acceptable. However, negotiations can be protracted and complicated, the process can lack transparency and certainty and it does not always result in necessary improvements to local infrastructure.
5. In November 2003 the Government produced a consultation paper outlining proposals to improve the system by introducing an optional planning charge. Its aim was to bring predictability and simplification, while retaining flexibility to allow planning applicants to negotiate a planning obligation agreement if they preferred.
6. The Government has committed itself to improving housing supply and further reforming the planning system for housing delivery. Economist Kate Barker was commissioned to carry out an independent review of housing supply and in 2004 produced a report entitled "Delivering stability: securing our future housing needs". This agreed that the introduction of the optional planning charge would be an improvement on the current planning obligations system, but some weaknesses were highlighted.

7. So instead the Barker report recommended the introduction of a planning-gain supplement (PGS). PGS is a tax measure to extract some of the windfall financial gain that accrues to landowners from the sale of their land for development. This gain can then be used to help fund infrastructure, allowing communities to gain greater benefits from new development in their areas.
8. The Government agree with this approach in principle and have produced this consultation document, outlining possible proposals for the introduction of PGS and seeking views. As well as proposing PGS, this paper also proposes scaling back the scope of the current planning obligations system, which would operate alongside PGS. However, if PGS is not introduced the Government retain an interest in enacting the optional planning charge.
9. At present the planning obligation system remains in force and Circular 05/2005 was produced last year to clarify the basis on which planning obligations should be assessed and to give further guidance on the process of securing obligations. Good practice guidance on using planning obligations is due in the near future.

## **KEY ELEMENTS OF PGS**

10. It is stated that PGS and scaled-back planning obligations will be assessed against the following objectives, which are:
  - To finance additional investment in local and strategic infrastructure necessary to support housing growth, while preserving incentives to develop;
  - To help local communities to better share the benefits of development growth and manage its impacts;
  - To provide a fairer, more efficient and more transparent means of capturing a modest proportion of land value uplift arising from new development; and
  - To create a flexible “value capture” system that responds to market conditions and does not inappropriately distort decisions between different types of development.
11. The Government propose that PGS will be set at a modest rate to capture a proportion of the land value uplift that arises on land for which full planning permission is granted, while preserving incentives to bring land forward for development. No detail is given as to the “modest rate”, but it is highlighted that whilst the average value per hectare of mixed agricultural land in the UK was £9,287 (January 2005), when planning permission is granted for residential use the average value increases to £2,460,000. The comparative figure for permitted B1 business use is £749,000. Significant increases also occur when permission is granted for other uses. Therefore, the Government argues that it is fair that a proportion of this wealth created by the planning system should be released for the benefit of the wider community.
12. Increases in land value can occur throughout the planning process, but the Government proposes that the granting of full planning permission is the most suitable event on which to base the levy. The base for calculating PGS would be the “planning gain”, which is the difference between the land value with full planning permission and the value of the land in its current use as permitted by the planning system. PGS would then be payable under a self assessment regime administered by HM Revenue and Customs.
13. However, payment of PGS would not be required at the granting of full planning permission because:
  - several applications are possible relating to the same piece of land;
  - landowners/developers may never implement the planning permission; and
  - no person with a clear liability to pay the PGS would necessarily emerge.

Instead payment of PGS would be required when development commences. The Government proposes the creation of a statutory "Development Start Notice", which would require validation for development to lawfully proceed. It would also identify the person chargeable for the purposes of PGS liability. The self assessment regime would place the requirement for carrying out valuations on the chargeable person.

14. If PGS is to be introduced it would not be prior to 2008, after further consultation, to allow transitional arrangements to be made.
15. The Government intends PGS to apply to both residential and non-residential development, although much of the reasoning behind the proposals arises from research based on the housing development market. Consideration is being given to a lower rate of PGS for brownfield sites to try to encourage the use of these for development. It is not intended that PGS will apply to householder developments such as house extensions. Whether any thresholds are required, for example to exclude smaller developments from PGS, is still under review.
16. Practice between local authorities in terms of contributions sought through the current planning obligations system varies considerably. This could lead to difficulties in terms of introducing the PGS. Therefore, the Government is proposing scaling back planning obligations to matters relating solely to the development site environment and the provision of affordable housing. The scope of planning obligations would be defined on a statutory basis as:
  - The provision of affordable housing
  - Direct replacement or substitution for the loss or damage to a facility or amenity caused by the development
  - Works necessary to make the development site acceptable in terms of attributes such as site access, safety, environmental quality, biodiversity, design or landscaping, archaeology, mix of uses and operational effectiveness.
17. Revenues from the PGS would be used to help fund other matters not covered above such as education provision, health provision, community centres, bus service provision, leisure facilities, employment and training initiatives etc. The PGS system would operate alongside the scaled back planning obligations system.
18. It is stated that the PGS will be an essentially local measure, with a significant majority of revenues recycled directly to the local level for local priorities. The Government proposes either grant funding in direct proportion to PGS revenues from the local area, or an alternative approach based on a formula relating to for example the level of development in an area. No detail is given as to the proportion of revenues that would be recycled back to the local level. A significant proportion of revenues would be used to deliver "strategic regional infrastructure".

## **IMPLICATIONS FOR THE BOROUGH**

19. Proposals to improve the planning obligation system are welcome. However, this consultation paper on a proposed PGS and scaled-back planning obligations lacks detail and it remains to be seen whether these proposals could be beneficial for the Borough.
20. Areas of the country with the highest level of new development could potentially gain most from PGS. Areas of low growth or development restraint would receive fewer benefits. Whilst it is intended that PGS is applicable to both residential and non-residential development, if housing provision figures for the Borough remain at a low level in the forthcoming Regional Spatial Strategy, potential for investment through PGS in the Borough would be limited.

21. The consultation paper states that PGS will be set at a modest rate, but no information is given about what constitutes a “modest rate”. If the rate is set too high it could affect viability, which could be a particular issue on brownfield sites, which may have higher site development costs. Consideration is being given to a lower rate of PGS for brownfield sites but no detail is given in the consultation paper. Little attention is paid to non-residential development such as employment sites where the PGS could be a significant disincentive to bringing forward job creation proposals.
22. PGS depends on accurate land valuations. However, there could be difficulties in agreeing valuations and disputes could arise, potentially delaying the process.
23. Two options are suggested for recycling PGS revenues to the local level, but little detail is given and there is no definition of “local level”. Crucially, the amount of PGS that would be recycled to the local level is not discussed. Instead one of the options refers to an “appropriate proportion”, and it is clear that a significant proportion of PGS would be used to deliver strategic regional infrastructure. This would result in some of the revenues raised from development in Chorley being used elsewhere, with potentially little or no benefit for the Borough. If the proportion used for regional infrastructure is high, the link between new development and infrastructure improvements, funded through PGS, will be less clear to local communities.
24. At the local level the Borough and County Councils and a variety of other agencies provide key services and facilities. The paper states that PGS would be used to address local priorities, but how it would be distributed amongst organisations with a variety of different responsibilities and priorities is unclear and could be contentious. The provision of infrastructure to serve new development is emphasised, but there is no discussion of the role PGS could play to fund vital services or infrastructure for existing communities. There is also little emphasis on the key role that PGS could play in helping to improve community access to jobs, services and facilities, which is essential for sustainable communities.
25. Whilst scaling back planning obligations and introducing a statutory definition of their scope may give greater clarity to their use and make negotiations less complex, it raises serious issues regarding the funding of other vital infrastructure. There is no certainty that this will be funded by PGS or other methods. Consequently essential infrastructure that would have been sought under the old planning obligation system may not be provided, resulting in a worse situation than at present. The current planning obligations system offers useful flexibility for both local authorities and developers and certainty over the provision of specific facilities, which may not be the case with the PGS/scaled back planning obligation system. Also uplift in the value of land does not necessarily equate with the level of infrastructure needs.
26. The introduction of PGS could result in a rise in applications prior to the 2008 date and an increase in workload for development control planners as landowners seek to avoid PGS. Thereafter, it could hold back needed development.
27. If the Government decides to proceed with PGS and to scale back the role of planning obligations it will have implications for the proposed Planning Contributions Development Plan Document that the Council intends to produce. Therefore, the progress of PGS will need to be carefully monitored.

## **CONCLUSION**

28. The proposed PGS highlights important issues over the funding of essential infrastructure and services. It has the potential to help fund a range of improved services and facilities in the Borough, provided a significant proportion of revenues are made available for local spending priorities. However, critically no detail is given as to the amount of PGS that would be recycled to the local level and there is a danger that a significant amount of

revenues would be used to fund regional infrastructure, of little or no benefit to the Borough. The proposed scaling back of planning obligations raises serious issues regarding the funding of other vital infrastructure and there is no certainty that this will be funded by PGS or other methods.

29. PGS is primarily designed to help deliver infrastructure improvements in growth areas, rather than areas such as Chorley where current regional policies promote housing development restraint. If the housing provision figures for the Borough in the forthcoming Regional Spatial Strategy remain low this would limit the potential for investment through PGS in the Borough. The consultation paper lacks clarity in many areas and without this it remains unclear how beneficial PGS could actually be for the Borough and how much, if any, extra funding could be made available to the Borough Council for spending priorities.

#### **COMMENTS OF THE DIRECTOR OF FINANCE**

30. No comments received.

#### **COMMENTS OF THE HEAD OF HUMAN RESOURCES**

31. There are no HR implications associated with this report.

#### **RECOMMENDATION**

32. That comments outlining the concerns highlighted in this report and as set out in Appendix 1 are submitted to the HM Treasury.

JANE MEEK  
HEAD OF DEVELOPMENT AND REGENERATION

<b>Background Papers</b>			
<b>Document</b>	<b>Date</b>	<b>File</b>	<b>Place of Inspection</b>
Planning Gain Supplement: A Consultation	December 2005		Gillibrand Street Offices, Chorley

  

<b>Report Author</b>	<b>Ext</b>	<b>Date</b>	<b>Doc ID</b>
Stephen Lamb	5282	26/01/06	PGS Report

The consultation paper seeks comments on the following questions.

- 2.1 What further clarifications to the definitions of planning value and current use value would be helpful to provide further certainty to developers?

*This is a detailed valuation matter for developers. No comments.*

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

*This is a complex matter and clear guidance should be produced.*

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

*Sufficient basic information on land condition to allow a thorough valuation.*

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

*Infrastructure needs to be well planned ahead and much should really be in place before development begins. Therefore, payment of PGS would be preferable at an earlier stage in the process. However, it is appreciated that this is problematic for landowners/developers and could prove complex to successfully achieve.*

- 3.2 Should the Development Start Notice be submitted to the local authority or HM Revenue and Customs?

*The Development Start Notice requires validation. No detail is given as to what this process involves, but it may be practical and useful for the Development Start Notice to be submitted to the local authority, who are able to monitor the development.*

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

*The issue of compliance for larger phased sites is complex and further research on likely implications of PGS is needed.*

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

*A higher proportion of development is likely to take place in on brownfield land in the future and a lower rate of PGS would be necessary, because it is likely that some of these sites will incur additional costs over greenfield sites. There is a danger that PGS could be a significant disincentive to bringing forward job creation proposals, particularly in regions that are lagging behind economically and on brownfield sites, which is undesirable in terms of both the Government's own strategic policies, such as the Northern Way Growth Strategy, and also the economic regeneration objectives of local Councils. Therefore, PGS should not be levied on employment development that supports strategic objectives such as those in the Northern Way Growth Strategy. Conversely, the rate of PGS levied in regions such as the South East and London, which experience high levels of economic growth, should be increased substantially.*

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

*All new development has infrastructure requirements so ideally should contribute to PGS. Thresholds add to complexity and may alter developer's behaviour as they try to avoid the PGS requirement. Therefore, if a threshold is set it should be limited.*

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

*The development-site environment approach appears sensible in principle, but only if it is certain that other infrastructure requirements will be funded by PGS or other methods. Otherwise essential infrastructure that would have been sought under the old planning obligation system may not be provided, resulting in a worse situation than currently exists.*

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

*It is essential that PGS or other mechanisms ensure that this infrastructure continues to be provided. A clear list of infrastructure that will no longer be funded should be drawn up and existing funding mechanisms specific to the different types of infrastructure assessed, to see how they could work with PGS.*

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

*The PGS revenues should be recycled back through the local planning authority that gave consent to the development. Distribution as between agencies (for example in two-tier areas) should be a matter for local agreement and not prescriptive.*

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

*The major impacts of the majority of developments in most regions are local and the mitigation of these should have the first call on PGS revenues if introduced. Strategic infrastructure should continue to be funded through current arrangements without top-slicing or earmarking of revenues generated within recipient regions. Exceptionally large developments requiring strategic infrastructure should be subject to special arrangements and perhaps a less 'modest' rate of tax.*

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

*Strategic infrastructure priorities should continue to be identified in regional and sub-regional level strategies and input from local and regional stakeholders sought through the normal consultation channels.*