

PLANNING GAIN SUPPLEMENT – WHAT NEXT?

The Government last week issued the Housing Green Paper entitled 'Homes for the Future: More Affordable, More Sustainable'. The Paper seeks views on a wide range of proposals to increase the supply of new housing, to provide well designed and greener homes and to provide more affordable homes to both buy and rent.

The Green Paper also invites further comment on the role the planning system could play in helping to harness the value of planning permission to generate additional infrastructure funding.

The Government has already made clear in both the Pre-Budget Report 2006 and in Budget 2007 that it continues to believe that the proposed Planning Gain Supplement (PGS) represents "a workable and effective instrument". It remains the Government's preferred option for capturing additional planning gain and this is confirmed in the Green Paper which states:

"the Planning-Gain Supplement (PGS) remains the Government's preferred option for securing more of the benefits conferred by the planning system to support housing growth."

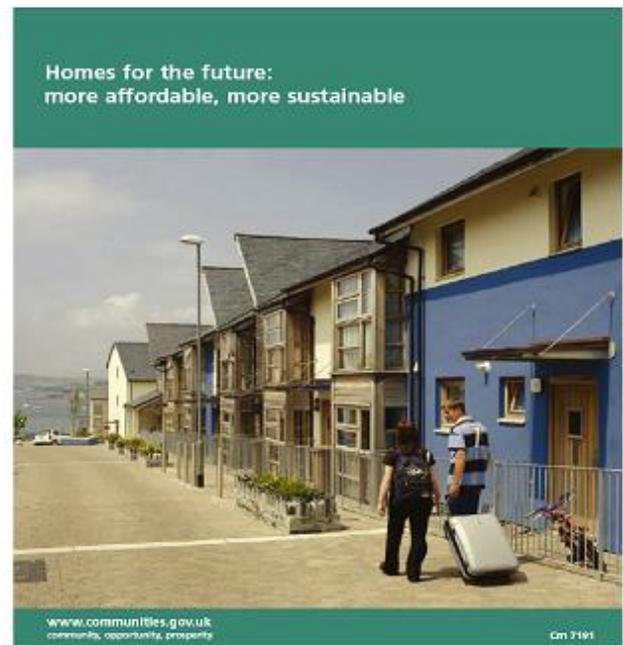
(It should be stressed that whilst the proposals are contained within a Green Paper on Housing, the proposals for PGS - or any alternative - are likely to be applied to all forms of commercial development.)

The Planning-Gain Supplement Bill is provisionally contained within the third session legislative programme of the current Parliament. However, before legislating, the Government wants to be sure PGS is the best option.

Accordingly the Green Paper not only outlines the key features of the Government's preferred option for PGS, but also the main alternative approaches which have been raised in consultations undertaken so far, and invites further comments from stakeholders.

The Green Paper indicates that if, prior to the Pre-Budget Report in October 2007, a better way can be found to secure greater benefit to local communities through 'planning gain' then Government will be prepared to defer next session's legislation. In the meantime the Government will continue to prepare for legislation on PGS in the next session of Parliament.

The Housing Green Paper can be downloaded from: <http://www.communities.gov.uk/index.asp?id=1511890> . Comments need to be sent to the Department of Communities and Local Government no later than **15 October 2007**.



PGS: THE BACKGROUND

The Government believe that it is right in principle that the public should share in the uplift in value that arises when planning permission is granted.

In 2001, it consulted on a potential "tariff-based" approach, and in 2003 on an Optional Planning Charge. On both occasions the development industry expressed concerns about these proposed approaches. Proposals for the Planning Gain Supplement were originally recommended by the Barker Report in 2004.

The Government subsequently consulted on detailed proposals for the PGS in 2005 and, as part of the 2007 Budget, it confirmed that was also looking at levels of infrastructure need and the range of mechanisms for delivering this infrastructure.

In the light of representations received on previous consultations, the Government is now providing local authorities, stakeholders and developers a further opportunity to make comments on PGS and discuss alternatives. The Green Paper presents an important (and possibly final) opportunity to make your views known – on PGS or any of the alternatives that have been proposed to date.

PLANNING GAIN SUPPLEMENT - WHAT NEXT?...Continued

Planning Gain Supplement - Proposed Features

Based on consultations undertaken to date, the key features of the proposed PGS would be as follows:

- PGS would be levied at a "*modest rate*" to ensure that incentives to develop land are preserved;
- In England, planning obligations agreed under section 106 powers would be scaled back;
- In England, "*at least*" 70% of PGS revenues would be paid directly to the Local Planning Authority which granted the planning permission to which the PGS liability is attached;
- Payments would be made on a regular basis to ensure that local authorities could deploy PGS receipts in a timely way to support infrastructure growth; Authorities would be expected to use PGS resources to secure delivery of infrastructure in accordance with the objectives identified in their statutory Local Development Framework;
- The remaining share of all PGS revenues raised in a region would be returned to that region. Regions would also have access to a fund for spending in support of regional infrastructure priorities in pursuit of the objectives identified in the Regional Spatial Strategy;
- PGS would not be introduced earlier than 2009.

PGS - The Alternatives

The Green Paper outlines four alternative approaches:

- **Approach A:** This would be based on a lower PGS rate, with a lesser scale-back of planning obligations. These would continue to be based on the tests already contained in Circular 5/05 'Planning Obligations', rather than scaled-back to the extent proposed in the Government's 2006 consultation document. This could provide more certainty about local revenue streams that both local authorities and developers. In keeping with the Government's preferred option, all PGS revenues would continue to be returned to the region from which they were raised for investment in infrastructure.
- **Approach B:** A Planning-gain Supplement limited to greenfield sites. Again, planning obligations would continue to be based on the tests in Circular 5/05 but PGS would only be levied on "greenfield" sites on the basis that these sites experience higher value uplift when planning permission is granted.
- **Approach C:** An expanded system of planning obligations. This would require amendment Circular 5/05 to remove some, or all, of the

existing policy restrictions. Local authorities could then develop policies seeking standard charges to both mitigate the impact of development and fund infrastructure. Charges would be contained within the LDF, and clearly linked to infrastructure need, with an evidence base justifying the charge level for different types of development; and

- **Approach D:** A statutory planning charge. The Government could legislate to allow local authorities to require standard charge is to be paid for infrastructure need, enabling them to capture planning gain more systematically. This would enable all local authorities to require developers to pay average standard charges, based on the total costs of infrastructure in an area. Milton Keynes is often cited by stakeholders as a model, but in practice it is a very special arrangement which relies on voluntary agreements with developers and on similar land values across a range of sites. A statutory charge would make it easier for local authorities to collect contributions to infrastructure costs in areas in which a large proportion of developments are of smaller-scale.

Chase & Partners Comment

The Government's invitation to re-consult on PGS at this stage is interesting. It leads to the following questions:

- Give the potential importance of PGS to the entire development industry why is this further phase of consultation buried in a Green Paper regarding housing delivery?
- Given its apparent commitment to PGS, why is the Government re-consulting on the very principles of the approach? Is it having second thoughts about the workability of the current PGS proposals?
- Given the pressing need to deliver new homes and supporting infrastructure, is there concern that an adaptation of the current system of planning obligations may be more expedient than introducing a new – and potentially complex – system of capturing development value?
- Despite assurances that S106 contributions will be 'scaled back', to what extent will PGS simply become a supplementary "tax" on development?
- What assurances does anyone really have that any funds raised through PGS will actually be used to deliver the required infrastructure in both a timely and effective manner?

If you would like to discuss the Green Paper, please contact either Graham Chase or Huw Williams at Chase & Partners on the number below or email hpw@chaseandpartners.co.uk