

TONBRIDGE & MALLING BOROUGH COUNCIL
PLANNING and TRANSPORTATION ADVISORY BOARD

27 February 2006

Report of the Director of Planning & Transportation

Part 1- Public

Matters for Information

1 PLANNING GAIN SUPPLEMENT: THE FUNDING OF LOCAL INFRASTRUCTURE – GOVERNMENT CONSULTATION

Summary

To advise members of the consultation proposals for a charge to be levied on the uplift on land values arising from the grant of planning permission and the carrying-out of the subsequent development and suggest a recommended response on behalf of the Council.

1.1 What is proposed?

- 1.1.1 The Government has issued a consultation paper on the funding of local infrastructure through development. The following is a brief description published on the Government's own Planning Portal and serves as a useful summary of the outline proposals in the consultation paper.

"The Planning Gain Supplement

The government has signalled its support for some of Kate Barker's key recommendations and launched a consultation on a so-called planning-gain supplement (PGS).

Ministers believe that their proposals represent "a fair, efficient and transparent levy".

John Healey, financial secretary to the Treasury and planning minister Yvette Cooper have insisted that "combined with reforms to the planning obligation system, this represents a principled approach to funding the infrastructure that makes growth possible and acceptable".

They added: "As planning reforms enable more land to be approved for housing, a portion of the wealth created by the planning system should be released for the benefit of the wider community. In this sense, PGS will be largely a local measure, its proceeds recycled to the local level for local priorities and for the vital strategic infrastructure needed for new development."

The main elements of the proposed PGS regime are now clear. It would not be implemented before 2008, it would capture what ministers are saying would be "a modest portion of the value uplift arising on land for which full planning permission has been granted."

PGS would be payable under a self-assessment regime administered by HM Revenue and Customs and payment would not be required until the commencement of development. However, the issue of exactly when the levy would come liable and the exact mechanisms of the new regime are all matters yet to be settled.

The new levy would apply to non-residential as well as residential developments (but not home improvements). Very much under review is whether a lower rate of PGS should be applied to brownfield land and if there should be PGS threshold to exclude small-scale development.

Crucially, PGS revenues would be dedicated to local communities and the provision of infrastructure. At this stage ministers are insisting that the "overwhelming majority" of the money raised would be spent locally, though with the caveat that some money could go on regional or sub-regional infrastructure.

The PGS consultation highlights two options for recycling PGS revenues but the government has said it is open to persuasion on others. It has also signalled that an expanded and revised Community Infrastructure Fund could play a key role in how regional or sub regional infrastructure needs are handled.

Very importantly, the government has stated that PGS would apply across the whole of the United Kingdom. It won't just apply to England and will need primary legislation.

As a consequence of the new arrangements, the government has made it clear that planning obligations would be scaled back to matters relevant to the environment of the development site and affordable housing.

The Office of the Deputy Prime Minister has detailed what it thinks should be included in the new development-site environment approach to planning obligations. Included in the new scope would be the following:

- on-site landscaping*
- on-site roads and traffic calming*
- access road*
- open space*
- mix of uses*
- mix of housing types*
- flood defence*

- *street lighting*
- *phasing and timing of development*
- *landscaping*
- *design coding*
- *environmental improvements*
- *operational effectiveness*

Outside the scope would be such items as: education and health provision; community centres, bus services, fire stations, employment and training, labour initiatives, town centre management, cultural facilities and leisure facilities.

The ODPM has sketched in the principles for matters to be included in new "development-site environment". These fall into three areas.

First, the provision of affordable housing, making it necessary to contribute to the securing of the relevant proportion of affordable housing in a residential or mixed-use development, as required by the application of the Local Development Framework (LDF) policy to the site.

Second, issues around direct replacement/substitution, making it necessary to replace/substitute directly for the loss or damage to a facility or amenity caused by the development.

Finally, there is what the ODPM calls development-site acceptability. This is what is necessary to make the development-site acceptable in terms of such things as:

- *connectivity to access points*
- *physical safety*
- *environmental quality*
- *biodiversity*
- *design or landscaping*
- *archaeological protection*
- *mix of uses*
- *operational effectiveness (of the site and others functionally linked to it)*

The ODPM has made the point that the exact nature and scale of the obligation requirements would still be governed by the existing tests of: relevance to planning; direct relationship to the development; reasonableness; and proportionality.

In the run-up to the introduction of the PGS, the government will be encouraging more local planning authorities to make use of formulaic and standard charge approaches to planning obligations.

The best known is regime established in Milton Keynes where joint working between the LPA, English Partnerships (EP) and local landowners and developers have established a prospectus identifying the infrastructure needed to deliver some 15,000 new homes in the area's "expansion flanks" up to 2016.

This has been converted into a s106 contribution that developers are expected to make which amounts to £18,500 per dwelling plus land for social infrastructure and affordable housing.

In order to overcome any problem with timing differences between expenditure on infrastructure (frontloading) and receipts from developers, EP has agreed to forward-fund the infrastructure and recoup the outlay from developers.

Reponses to the plan so far has been mixed and the government has a challenge on its hands persuading planners, environmentalists, councillors and the development community at large that these new arrangements will do what the administration believes it will.

Key issues to be resolved are whether the scheme is "workable", whether it would accentuate the north-south "divide", whether developers might 'landbank' hoping for a change of government and the disappearance of the levy and whether the new regime would actually increase the amount of affordable housing built and if it might impact adversely on urban regeneration schemes."

- 1.1.2 I have also attached two reports from the planning press which highlight aspects of the proposed arrangements **Annexes 1 and 2**.

1.2 Commentary

- 1.2.1 On the face of it the general intention of this proposal is welcome as the planning system in the current form is, in truth, ill equipped to secure financial benefits for the community from the increase in land values. Nevertheless the current system of S106 obligations does provide a very useful vehicle, if used sensitively, to secure appropriate contributions and any alternative put forward by the government must be expected to make significant improvements in the way that the process works as well as securing the overall increase in cash contributions as the Government intends.

- 1.2.2 In this respect, I feel that there are some essential problems with the proposed approach and these are set out below.

- Notwithstanding what the Government may suggest, the levy of a tax to be paid to Central Government and then returned to be used "locally" to support the introduction of infrastructure could result in a severe erosion of local control. While the consultation document suggests that options could be for monies to be returned to local authorities, there must be a very real risk that

monies are most likely to be “spread” across a Region through the Regional bodies and not repatriated back to the local area where the impact of development will be felt. This is, of course, of great concern for a Borough such as Tonbridge and Malling where contributions would arise but could so easily be spent in the nearby Growth Areas of the Thames Gateway and Ashford.

- I believe that the development industry could quite possibly hold back development in the hope that the tax will be abandoned after the next General Election. Where land has already been held in a land bank this will be even more likely. This would have the perverse impact of reducing the supply of practically available housing land in the short term.
- It is not envisaged that Councils would be able to “bid” to regional bodies for the proceeds of PGS. Therefore there can be no certainty that the specific needs of the locality arising from the development will be available to provide facilities local to the development.
- Somewhat perversely the proposal is that PGS could be discounted for “Brownfield” sites where the costs of development (site cleanup and demolition costs for instance) are higher than on greenfield sites. In TMBC the brownfield development rate is over 90% of all land and therefore we may expect a lower cash injection than elsewhere – again with a breaking of the linkage between the development and the facilities needed to support it.

1.2.3 My initial impression was that the new tax would provide an opportunity to successfully sever the assessment and levying of cash for infrastructure from the planning process. I now believe that it will not be simple to make the proposed system work. The Government believes that the “economies of scale” in its emerging “electronic taxation” procedures will increase the effective value of contributions over and above those levied locally. I wonder how it can be more efficient to send monies via central government back to local level to, say, pay for a school on a large site – rather than this Council negotiate that the developer building the school at cost using his economics of scale when constructing the houses on the site.

1.2.4 What I have said above does not take into account the criticism emerging from all sides of the development and surveying sectors, which, in matters of valuation and the development funding profile, suggest that the Government has not grasped the practical implications of their approach. While the consultation paper identifies some aspects as to how the tax would be levied (it is very short on detail in this respect), it proposes that the levy be applied on the grant of full planning permission. In this it fails to address the fact that many applications are made in outline and also that alternative detailed schemes may be forthcoming. It makes the unrealistic assumption that it will be possible to see the grant of a full planning permission beyond which no additional development will be permitted. It is simply not practical to conclude that there will come a time beyond which no dwelling uplift will occur unless and until the scheme is built out.

1.2.5 There have been many discussions in professional forums in and around Kent concerning the development of more localised tariff approaches to development contributions. The Borough Council is investigating this approach for the Tonbridge Town Centre Area Action Plan. (Milton Keynes has just adopted such an approach and a similar model is to be introduced soon in Ashford). It would require that all potential infrastructure costs are assessed and totalled. The total cost would then be disaggregated back to a dwelling unit and/or commercial floorspace levy. This would maintain the local connection, ensure that contributions are related to site and scheme specific impacts and would be brought forward in a timely fashion to suit the needs of the locality. There is no reason why this system could not also ensure contributions to strategic infrastructure, such as was achieved at the major sites Inquiry where the M20 Junction 4 contributions, were brought forward to fund the whole improvement that is now confirmed to be built. I believe that this would be a better approach to adopt in Tonbridge and Malling although this will still need to be supplemented with s106 contributions on a site by site basis, for instance for affordable housing (as would the proposed PGS system).

1.3 Recommendation

1.3.1 The Government **BE INFORMED** that the Borough Council does not favour the introduction of the Planning Gain Supplement, but would rather see guidance and any necessary legislative changes to allow to enable the development of local tariffs and the pooling of funds in appropriate circumstances.

Background papers:

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Nil

File: B4

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