



**PLANNING GAIN SUPPLEMENT  
RESPONSE FROM LONDON FIRST  
27 FEBRUARY 2006 - DRAFT**  
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1. London First is a business lobby group established in 1992 to improve and promote London. London First lobbies for the infrastructure needed by the capital to retain its a world city status, to stimulate growth and facilitate regeneration. An effective planning system is an essential part of this to facilitate the development needed to accommodate economic and population growth in a sustainable way.
2. London First welcomes the Government's recognition in the Planning Gain Supplement (PGS) consultation document that crucial infrastructure investment should be funded by taxation. Infrastructure investment is critical to support and stimulate growth. London needs considerable investment in a range of infrastructure, including transport, to support forecast population and economic growth. Most critical among this is Crossrail which is urgently needed to support London's world city functions in central London and facilitate regeneration in the east. We welcome the inter-departmental review as part of the Comprehensive Spending Review assessing what infrastructure is needed to support growth.
3. London First does not support the proposal for PGS as we do not believe that it will aid more and better development, speed up planning decisions or improve the quantum or certainty of infrastructure funding. We also consider that whilst Kate Barker's proposal was predicated on, and could work for, greenfield urban extensions, PGS would not work for mixed use schemes on brownfield sites in a city like London.
4. London first has responded in full to the consultation on PGS [appendix one]. Our response is summarised as follows:
  - Land value uplifts are already captured through the existing taxation regime.
  - It is more appropriate for the occupiers of developments to pay for the infrastructure they use rather than seeking to fund it through the development process which represents a low tax base.
  - PGS represents an inefficient tax which would be expensive to administer. Although the purpose is to tax land value uplifts, it is charged to the developer and assumes that the cost will be passed on to the landowner.

- PGS is predicated on very specific examples of residential development on greenfield sites previously used for agriculture where a large increase in land value is generated and easily identifiable. It does not work for mixed use developments on brownfield sites in areas such as London. It should therefore be limited to greenfield cases.
- The rationale for and structure of PGS relates to residential development which is one class of development. Government policy promotes mixed use development. Other types of development such as commercial in London are critical to the capital's competitiveness and nation's economic well-being. The effects and impacts in these cases have not been considered.
- The proposal requires developers to pay the tax before any value is realised at the same time that they have to invest considerably in the development process.
- It is not apparent how infrastructure needed to support development and ensure it is sustainable, such as education and health facilities, will be delivered in a certain and timely manner. Any delay in delivery could undermine the Government's objectives of creating sustainable communities by increasing the strain on existing infrastructure such as schools and the transport system.
- In practice Section 106 is unlikely to be scaled back meaning that developers will be expected to pay considerably more. Negotiations are also unlikely to be quicker.
- The cost of PGS and Section 106 is likely to make many marginal developments unviable and will therefore serve to undermine the Government's objectives of increasing housing supply and encouraging regeneration. It will also lead to an increase in refurbishment rather than redevelopment, reducing investment in the built environment, undermining London's competitiveness and reducing productivity.

## COMMITTEE INQUIRY QUESTIONS

### Factors which should be taken into account in determining the rate of the supplement and the level at which it should be set:

5. The rate of PGS should reflect the following:
  - The need to increase housing supply and therefore encourage more development: the Mayor is currently proposing to increase London's annual housing target by 36% to seek to meet the needs of population growth and the unmet backlog of demand. Policy should therefore be seeking to encourage rather than discourage further development. Increasing the taxation on the production of a good is unlikely to increase its supply.
  - Planning policy which encourages mixed use brownfield regeneration which is more complex and costly than greenfield residential development.
  - The need to encourage investment in the built environment to improve the environment as well as improve productivity.
6. If PGS was to be introduced under the rationale of taxing development to fund the infrastructure needed to support that development, those developments that do not create demands on existing infrastructure or require new infrastructure should be not be required to pay PGS.
7. The application of PGS to minor development is likely to deter development and act as a disincentive to invest in the existing built stock. In London where the quality of the commercial stock is critical to attract internationally mobile corporates and the quality of the public realm and other developments such as retail is crucial to tourism, this could have a significant adverse economic effect.
8. If PGS were to be introduced, a minimum threshold should be set to exclude development not creating demands on infrastructure and to ensure that development is still encouraged.
9. The following should therefore be excluded from PGS:
  - Advertisements
  - Signage
  - Telecommunications equipment
  - Change of use
  - Temporary uses where planning permission is required
  - External improvements such as to cladding/design/public realm
  - Internal works where planning permission is required
  - Where the increase in net gross floorspace is less than a specified %
  - Variations of conditions such as hours of operation where a new planning permission is issued
  - Infrastructure development such as landscape works, roads, rail-linked development, waste, energy
  - Development undertaken by or for public bodies

### **How the supplement should reflect subsequent uses such as social housing**

10. We consider that the likely impact of PGS will be negative on social housing supply. The supply of social housing is in most cases dependent on the provision of market housing, as it is secured through the planning process. If development becomes unviable because of the imposition of additional taxation in the form of PGS this will reduce both the supply of market and social housing, exacerbating existing shortages.

### **How the revenue from the supplement should be distributed and appropriate uses**

11. If PGS were to be introduced the revenue should be collected regionally and distributed to strategic infrastructure necessary to support and promote growth as well as to address local impacts of development. National collection with intra and inter-regional redistribution would be bureaucratic adding large and unnecessarily administration costs. PGS could only ever contribute to broader Government infrastructure investment and would not be able to replace it.
12. At a time when Government policy is to increase development and community involvement in the planning process, it is critical that communities see direct benefits from development, beyond the development itself. The Section 106 process has been effective at visibly demonstrating community benefits. Without this, opposition to development is likely to increase.
13. If communities are uncertain when crucial infrastructure will be delivered to support new development such as schools, healthcare or transport investment, concern over strain on local infrastructure will increase opposition to development. The Section 106 process clearly ties provision of new infrastructure (physically and through funding) to the development process. It is unclear how PGS will ensure timely and certain delivery of key infrastructure, an essential prerequisite to sustainable development.

### **Whether and, if so, how the planning gain supplement should be used to encourage development of brownfield sites**

14. The rate of PGS should at the very least be substantially reduced for brownfield sites. More appropriately they should be exempt. This would reflect planning policy in promoting brownfield development as well as the increased cost and complexity of such developments.
15. The cost of assessing the liability of a brownfield scheme is likely to be higher because of the inherent complexity of development.

## **The potential impact of the supplement on s106 arrangements negotiated through the planning system**

16. We do not believe that Section 106 negotiations will be quicker as a result of PGS or in practice will be “scaled back.” The Section 106 process has improved considerably over the past couple of years including earlier and better co-ordinated negotiations. Whilst practice could be improved further, we remain of the view that negotiated agreements reflecting the nature of the development and its impacts create better agreements and better development. The Government might consider that targets for Planning Delivery Grant be linked to the conclusion of Section 106 Agreements as this marks the point at which the planning consent is implementable, rather than as at present the point of resolution to grant.
17. Under the proposed new regime disputes are likely to centre on what is appropriately covered in the “development site” approach as well as how matters raised in the Transport and Environmental Assessments are addressed.
18. Negotiated planning obligations create better development and better Section 106 Agreements which are reflect individual site circumstances. Where Section 106 Agreements can significantly delay development it is frequently because the local authority does not support the principle of development and uses the process as another mechanism for frustration and delay.
19. How infrastructure necessary for the development, but funded through PGS, will be delivered in a timely and certain manner is a critical issue. This is particularly important for matters raised in Transport and Environmental Impact Assessments and where addressing them is a condition of planning permission. If a condition links infrastructure provision to phasing failure to provide, for example additional school facilities would stall development.
20. Section 106 agreements may include two-way obligations such as to require the local authority to provide crucial infrastructure such as school places. How this would be achieved from PGS funding requires explanation.
21. Timely provision of new education or health infrastructure will be critical for a new residential development to be sustainable and for its occupants, a key Government objective. It will also be critical in allaying concerns of existing residents who may oppose development if they are concerned about local school and health provision. To be sustainable and viable any PGS proposal must address this.
22. Major new developments may include new schools, health centres or transport facilities. How this will be addressed under scaled back Section 106 and through new funding arrangements from PGS is unclear.

**Appendix One: Response to the consultation on Planning Gain Supplement  
RESPONSE FROM LONDON FIRST  
22 FEBRUARY 2006**

Planning Gain Supplement Consultation  
Room 2-32  
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- 1 London First is a business lobby group established in 1992 to improve and promote London. London First lobbies for the infrastructure needed by the capital to retain its status as a world city, to stimulate growth and facilitate regeneration. An effective planning system is an essential part of this to facilitate the development needed to accommodate economic and population growth in a sustainable way.
- 2 London First supports the introduction of Planning Gain Supplement on greenfield sites only. We do not consider that it is appropriate or viable to seek to introduce it on brownfield development.

**Infrastructure Funding**

- 3 We welcome the Government's recognition that infrastructure investment is needed to support population and economic growth and that it should be funded by general taxation. Infrastructure investment is critical to support and stimulate growth. London needs considerable investment in a range of infrastructure, including transport, to support forecast population and economic growth. Most critical among this is Crossrail which is urgently needed to support London's world city functions in central London and facilitate regeneration in the east. We welcome the inter-departmental review as part of the Comprehensive Spending Review assessing what infrastructure is needed to support growth.
- 4 "Keeping the UK Competitive", written by CEBR for London First in February 2006 highlights the importance of infrastructure investment in London to the UK. London's large infrastructure projects have a strong track record of delivering positive return on investment. The investment package outlined in the report would boost GDP by £6.6 billion, with the dividend split equally between London and the rest of the UK: investing in London benefits the UK. The investment would create over 100,000 jobs in the UK (only half in London) and increase exports by £2.3 billion. Private sector investment would be increased by £4.5 billion annually. Investment would be self financing on an ongoing basis from 2009/10 and would lead to additional net public sector revenues of £4 billion per annum by 2017/18.

- 5 Infrastructure projects including the East London Line extension, Thames Gateway Bridge, Silvertown Crossing and Crossrail impact directly on labour and social mobility and complement the skills investment identified in “Keeping the UK Competitive”. ([www.keepingtheukcompetitive.com](http://www.keepingtheukcompetitive.com)).
- 6 London First does not consider that the proposed Planning Gain Supplement (PGS) is an efficient or appropriate way to seek to fund infrastructure. Moreover, the focus of the consultation paper is on value capture rather than infrastructure delivery.
- 7 The delivery of new infrastructure from transport to schools and health facilities is critical to make development sustainable. Uncertainty regarding the likelihood and timing of delivery would undermine this and is likely to increase communities’ resistance to development at a time when the Government is trying to encourage it.
- 8 Land value uplifts created by the planning system or market conditions are already captured through the existing taxation regime through domestic and non-domestic rates, Stamp Duty, Capital Gains Tax and the Corporation Tax of property companies and developers. Introducing a new tax will reduce and redistribute revenues from these other taxes. Additionally development contributes to local infrastructure and services through planning obligations. Affordable housing requirements, in particular in London where the Mayor seeks 50% of new supply to be affordable, already represent a tax on land values especially as the use of the Affordable Housing Toolkit requires applicants to demonstrate that they cannot meet the target and to justify grant allocation.
- 9 The existing taxation system, such as capital gains tax, could be amended to recover more of the uplift created by planning for greenfield development, by charging a higher rate. The resultant funds could then be invested in infrastructure.
- 10 More appropriate than seeking to tax the development process would be to ensure that those that occupy the developments and therefore use the infrastructure contribute, i.e. through council tax and business rates. Higher rates, perhaps with differential levels of rates on new developments for a period of time, would feed back to land values by depressing achievable rents and sale values. Charging the user/beneficiary of the new infrastructure would be more appropriate in taxation terms. One such mechanism to do this is tax increment financing whereby the additional rates revenue generated by development is hypothecated to fund the infrastructure needed to support it.
- 11 The provision and funding of local services and the relationship between central and local government in this regard is the subject of the current review by Sir Michael Lyons. Any proposal for PGS should reflect the conclusions and recommendations of this research.

## **Planning Obligations**

- 12 London First and its members recognise the importance of planning obligations in making development acceptable and addressing local needs. We believe that the best planning obligations are those that are negotiated and tailored to individual circumstances for different sites in different areas. Whilst this can add time to the planning process, this need not be the case where there is a desire to conclude negotiations quickly. Increasingly local authorities are following best practice through starting discussions in tandem with those on the application, involving all relevant departments and ensuring fast resolution. London First supports the use of standard clauses and formulae where appropriate to speed and negotiations. It is likely that we would support the standardised planning agreement/wording which is being promoted by ODPM. However, given the complexity of much of the development in London which is brownfield and contains a mix of uses, we consider that it is fundamental that obligations reflect the individual circumstances of a development.
- 13 Section 106 agreements together with affordable housing requirements have proved to be a more effective tax on development than any of the previous attempts at development land tax. If it is considered that this is insufficient with respect of greenfield development we propose this is addressed specifically for these cases through PGS.

## **Brownfield development**

- 14 We are deeply concerned that while the proposed PGS might work on a greenfield urban extension where former farmland is redeveloped for residential use; seeking to adopt such an approach in an urban setting will not work and will ultimately serve to frustrate development. Previous attempts at development land tax led to a reduction in development as landowners and developers waited for a change of Government and the removal of the tax. We cannot afford to risk this happening again. London is the economic driver of the country. A failure to provide the best quality accommodation for business could lead companies to choose to locate in other European cities such as Paris and Frankfurt. London's population is forecast to grow by 800,000 by 2016, it is critical that sufficient new homes and other facilities are developed to support this. The introduction of PGS could pose a real threat to London's future if the development needed to support and promote growth does not happen.
- 15 Whilst the consultation document acknowledges that a lower rate may be applied to brownfield development, the cost to the applicant/developer of assessment will remain high and could be higher for brownfield development given its complexity.

- 16 Land value increases generated by the planning system or market changes are already captured through the existing taxation regime: principally the rating system, Capital Gains Tax, Stamp Duty and Corporation Tax of property companies and developers. Value increases are essential to make development viable. It is not until alternative use values, less development costs, exceed existing use value that development will happen. This process is essential to renew the existing built stock, bring back derelict land into beneficial use and facilitate population and economic growth. The marginal nature of such calculations is evidenced in the low rate of development in areas such as the Thames Gateway. Any attempt to further tax development is likely to make marginal development unviable and therefore undermine the Government's objectives to increase housing supply and facilitate regeneration. Whilst development in central London development is less marginal, an increase in taxation may lead owners to refurbish rather than redevelop properties. This will undermine London's international competitiveness if the real estate stock is of poor quality and will forgo wider benefits of development such as public realm improvements.
- 17 The original Barker proposal and the Government's proposal remain predicated on a narrow set of cases where large value increases are generated by the rezoning of agricultural land for residential development which creates a consequent need for infrastructure investment in these urban extensions. This is clearly illustrated in Table 1.1 where the significant value differential is from changes of use from agricultural land. The PGS proposal is clear and valid for these instances where there is an easily identified uplift, the planning process has created a substantial change in value and the nature of development demands the provision of significant new infrastructure. **We therefore urge the Government to limit the introduction of the proposed PGS to these greenfield cases and exclude it from existing urban areas where it is likely to frustrate development.**

### **An Efficient Tax**

- 18 An efficient tax is one that is transparent, cheap to administer and fair. When Lawson repealed the 1976 Development Land Tax Act in 1985 he stated that the cost of administering the tax was 20% of the revenue. Given the complexities in valuing the proposed PGS this is likely to be the case again.
- 19 The purpose of PGS is to tax the windfall increase in land values generated by the grant of planning permission, but the tax is paid by the developer. It is therefore assumed that the tax is passed back to the landowner through the purchase price. This is a considerable assumption, unsupported by evidence, making the tax is neither transparent nor fair.

## **A Political Tax**

- 20 Previous development land taxes were repealed by the successor government. It is therefore likely that if PGS is introduced in 2008, rather than increasing development, it will lead to a cessation while landowners and developers wait for the next election in 2009/10. This would undermine the Government's objective of increasing housing supply and could be damaging to the economy and London's international competitiveness.

## **A "Modest" Rate**

- 21 The consultation paper repeatedly states that the rate for PGS will be modest. However, we think this is unlikely based on the information in the paper. Paragraph 6.4 states that local government "will overall receive more funding through PGS than raised through Section 106." The paper goes on to say that the "overwhelming majority" of PGS funds will be recycled within the region.

## **Increasing Development and the Quality of Development**

- 22 Recent government policy has focussed on increasing development and increasing the quality of development. We consider that the proposed PGS will undermine these objectives. Uncertainty over infrastructure delivery is likely to increase local resistance to development as will the potential loss of benefits such as local training initiatives. Increasingly opposition to development is the result of concern about the impact on local services.
- 23 By increasing the complexity and cost of development PGS could result in less development as those less experienced and expert are put off by the increased entry price.
- 24 Increased development costs through increased tax on development could lead to poorer quality development as other costs are reduced including those of design and public realm.

## **Effect on Land Supply**

- 25 The focus of the consultation paper is on housing supply with little regard to the need to increase land supply to facilitate this. Land owners must be incentivised to bring forward redundant and under-used sites for development.
- 26 In London many of the major residential/mixed use development sites are former public sector land (hospitals, MOD), industrial sites or utilities. The supply of public sector land is likely to increase as the Government continues to review its needs and implement asset management strategies at all levels, an initiative raised in the response to the Barker report. The effect of PGS for these sites, if the developer reduces the price of the land to take account of the PGS liability, would be to reduce the revenue available to be recycled into these public services.

- 27 If fewer sites are developed as a result of PGS it will reduce housing supply as well as the supply of affordable housing which is contingent on market developments. This would especially be the case where there is an overage agreement whereby the landowner receives a proportion in planning uplift or the sale value. This practice is becoming increasingly common.

### **The Role of Planning**

- 28 The role of the planning system is about securing the best use of land whilst ensuring that development is appropriate and its impacts addressed. We are concerned that through the proposed PGS planning will become part of the tax infrastructure and that this important role will be undermined. We would run the risk, the adverse consequences of which are evident in the United States, of decisions about the location and nature of development being driven by revenue considerations rather than the best use of land.

### **Clarification and further detail**

- 29 Whilst we recognise that this is a very early part of the consultation process, it is hard to fully consider and respond to the proposals given the lack of detail of how PGS might work.

- 30 We therefore request clarification/further information on the following issues:

- The likely rate and estimated yield from PGS – although the rate is describes as “modest,” the rate will be critical in evaluating the impact on development. The estimated yield is critical in assessing the impact on infrastructure funding.
- The process for subsequent reviews of the PGS rate. There is concern that what starts as a modest rate could quickly be increased.
- The mechanism to redistribute revenues locally, regionally and inter-regionally, including approximate proportions for each, and how much of the revenue might be retained by the Treasury.
- The relationship between PGS and cross-cutting review as part of the Comprehensive Spending Review.
- How timely and certain delivery of infrastructure needed to support development will be ensured.
- How infrastructure priorities will be established including resolution of regional and local differences between spending priorities.
- How disputes about self assessment valuations would be resolved.
- The Development Start Notice procedure, how long it will take and who will administer the notice.

31 **London First's response to Planning Gain Supplement can be summarised as follows:**

- Land value uplifts are already captured through the existing taxation regime.
- It is more appropriate for the occupiers of developments to pay for the infrastructure they use rather than seeking to fund it through the development process which represents a low tax base.
- PGS represents an inefficient tax which would be expensive to administer. Although the purpose is to tax land value uplifts, it is charged to the developer and assumes that the cost will be passed on to the landowner.
- PGS is predicated on very specific examples of residential development on greenfield sites previously used for agriculture where a large increase in land value is generated and easily identifiable. It does not work for mixed use developments on brownfield sites in areas such as London. It should therefore be limited to greenfield cases.
- The rationale for and structure of PGS relates to residential development which is one class of development. Government policy promotes mixed use development. Other types of development such as commercial in London are critical to the capital's competitiveness and nation's economic well-being. The effects and impacts in these cases have not been considered.
- The proposal requires developers to pay the tax before any value is realised at the same time that they have to invest considerably in the development process.
- It is not apparent how infrastructure needed to support development and ensure it is sustainable, such as education and health facilities, will be delivered in a certain and timely manner. Any delay in delivery could undermine the Government's objectives of creating sustainable communities by increasing the strain on existing infrastructure such as schools and the transport system.
- In practice Section 106 is unlikely to be scaled back meaning that developers will be expected to pay considerably more. Negotiations are also unlikely to be quicker.
- The cost of PGS and Section 106 is likely to make many marginal developments unviable and will therefore serve to undermine the Government's objectives of increasing housing supply and encouraging regeneration. It will also lead to an increase in refurbishment rather than redevelopment, reducing investment in the built environment, undermining London's competitiveness and reducing productivity.

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## Planning Gain Supplement Consultation Paper

### 1. Introduction

- 32 London First recognises the urgent need to increase housing supply. However, housing development is one type of development and Government policy [for example PPS1 and PPS6] promotes mixed use development. In London, commercial development is critical to supporting the London and national economy. We are concerned at the suggested introduction of PGS on all classes of development to address one issue. Paragraph 1.1 states that “the Government is committed to improving housing supply” and 1.4 couches proposals in the terms “if the Government is to achieve its housing ambitions”. Greater exploration is needed of the impact of the proposal on commercial and mixed use developments and objectives in this regard.
- 33 Box 1.1 states that the Government wishes to “use tax measures to extract some of the windfall gain that accrues to landowners from the sale of their land for residential development.” However, the proposed tax is to be levied on developers and is therefore achieving this objective contingent on developers passing back the cost to landowners. One of the principles of a good tax is that it should be paid by those who receive the benefit.
- 34 The process of passing back the cost is relatively straightforward where a developer purchases land from a farmer, although a change in the rate of PGS between sale and the grant of permission would distort this. The proposition is different in the instance of a property company redeveloping its portfolio when leases expire. These two scenarios are highly distinct. In the latter case development is likely to be desirable to maintain efficient land use and achieve wider environmental and planning objectives.
- 35 Paragraph 1.9 states that “PGS would be set at a modest rate to capture a portion of land value created by the planning process.....while preserving incentives to bring forward land for development.” If the Government were to introduce PGS it might consider an escalating rate of PGS as time passes from the grant of permission to encourage sites to be developed quickly.
- 36 The inclusion [table 1.1] of average land values across England for different classes of development is meaningless and over-simplifies the situation as it masks considerable variances. The figures used are not applicable to London and ignore that in many places there will be alternative use values. It also ignores the many instances of low or negative existing use values coupled with the need for significant infrastructure and other investment such as decontamination necessary to facilitate development. This applies to much of the Thames Gateway, a national and regional priority area for regeneration.
- 37 Whilst we note that the PGS rate is described as being “modest” greater detail is required as to how it will be established and reviewed. To provide assurance that it will not increase significantly after introduction, the Government should commit not to increase it more than the rate of inflation for the first three years after introduction, enabling a reduction if market conditions require one.

## Objectives

- 38 **To finance additional investment to support housing growth:** later we raise concerns about how PGS revenues will be allocated and what infrastructure will be funded. Whilst we strongly support the need to invest in infrastructure to support housing and economic growth, we question whether PGS is the most appropriate and efficient mechanism to do this. Assessing the impact would be aided by the inclusion of estimates of the amount of money PGS is expected to yield, bearing in mind that the yield will be sensitive to the rate and that if it is too high development will not happen thereby undermining the Government's objective of increasing housing supply.
- 39 **Help local communities share the benefits of growth and manage impacts:** the extent to which PGS aids local communities will depend on how funds are redistributed. The current planning obligations system enables local communities to benefit from development, beyond the development itself, and addresses impacts of development.
- 40 **Provide a fairer, more efficient and transparent means of capturing land value uplift:** land value uplifts are currently captured through the existing taxation system, principally through capital gains tax, stamp duty and corporation tax. Kate Barker raised concerns about the efficiency of Capital Gains Tax with respect to some agricultural land sales. These represent a small proportion of overall transactions and could be addressed through amendments to that regime. In our view the current taxation system in this regard is fair, efficient and transparent.
- 41 **Create a flexible value capture system which responds to market conditions:** the current proposal, even with a lower rate for brownfield development, does not respond adequately to different conditions and is essentially predicated on instances of residential development on re-zoned agricultural land. Such a scenario does not apply to London or other urban areas. The extent to which the proposal could be responsive in the future is unclear. On the contrary, there is a real risk that whilst the rate might be set low it is increased annually in the Budget as it will not be viewed as politically controversial to do so.
- 42 We therefore consider that the proposal does not meet the Government's stated objectives and that these can, and to some extent are, being met through existing regimes.

## **2. Valuing Planning Gain**

### **The levy base**

- 43 Whilst the grant of planning permission might trigger an increase in value on paper, this is unrealised and also marks the point at which the applicant has to commit to considerable investment in the development process. This is particularly problematic for long-term phased regeneration projects which could take two decades to complete and several years to make any money.
- 44 Whilst the sale of land/the interest might be more problematic to calculate, it would be more equitable as it would represent the realisation of the increased value. This would be more appropriate on multi-phased schemes.

### **Calculating the PGS liability**

- 45 The valuation assumption of an unencumbered freehold with vacant possession is unreasonable and unrealistic for complex urban regeneration schemes where this is unlikely to be the case. In such instances after planning permission is granted there is a complex process of unifying the different interests which can be costly and time consuming.
- 46 Current use value calculation should take account of “hope” value such as from an allocation in a Local Development Document for a higher value use which would be reflected in the value of the land.
- 47 Will the valuation exclude the elements of development that the developer is required to provide by the Section 106 agreements or that will be provided from PGS revenues such as a road or community facility?
- 48 Paragraph 2.8 states that “the expected cost of developing the land, including remediation costs, could affect the Planning Value.” To be equitable and not discriminate against complicated brownfield regeneration schemes, the calculation would have to deduct all the costs of development (including achieving unencumbered freehold status with vacant possession) and therefore represent a residual value.
- 49 As PGS is levied on the difference between the current use and planning value, applicants will want to maximise the former and reduce the latter. This will act as a deterrent to pre-letting development which would increase the planning value.
- 50 Valuation is proposed to be on the day of the grant of permission. If the market deteriorates between this point and commencement development could become unviable and will therefore not happen. Indeed the consequence is likely to be a further planning application with a view to fixing a later valuation date – wasting time and resources for both the applicant and the planning authority.
- 51 On phased schemes account should be taken of the value generated by earlier phases of the development in the valuation of later stages so as not to penalise the developer.

### **Actual valuations and self assessment**

- 52 We agree that valuation would have to be done on an individual basis rather than seeking to apply averages which in an area such as London would be too broad.
- 53 We are concerned that given the likely number of qualifying developments for PGS. In 2004/5 514,000 planning applications were granted permission. Excluding householder permissions 241,580 permissions were granted equating to 4,646 per week. Even if a small proportion are to be inspected this would still be a large number.
- 54 Further information is required on how disputes about self assessment would be resolved and the process for validation and challenge. To avoid delay to development as the developer establishes the PGS liability, the verification of valuation needs to be swift and the opportunity for challenge limited to a brief, specified period.
- 55 Commercial valuations are far more complex than those for residential schemes and involve professional assessments and judgements on issues such as the likely rent, lease length, any break clauses, and fit out and rent free periods.
- 56 On phased developments valuations will need to relate to final approval of reserved matters for each stage. The development will therefore be subject to a series of valuations, Development Start Notice (DSNs) and PGS liabilities.
- 57 The cost of the valuation process will be high, especially for long-term phased schemes and will represent an additional cost to the developer.
- 58 Self assessments should not be open to public inspection.

### **3. Paying Planning Gain Supplement**

- 59 We do not agree that [para 3.5] requiring payment of PGS on commencement of development would better address cash flows. Commencement represents the point at which the developer has to invest in construction before having realised any gains. At King's Cross Central, a major mixed use regeneration project, the developer will have to invest over £80 million in infrastructure to support development on commencement. The project will not show profit until later phases. A complex major regeneration scheme such as King's Cross Central is the type of development the planning system encourages, but would be made difficult with the introduction of PGS.

60 We therefore consider that if PGS was to be introduced payment would not be required until the completion of development and therefore value increases are realised. To be workable PGS must enable phased payments, which are common under the existing Section 106 regime, where payment is triggered by agreed dates or events. This is especially important on long term phased developments. This in part could be addressed through the resolution of reserved matters on outline applications but will need to be more flexible to avoid frustrating development. However, valuation in these circumstances would be highly complex, problematic and costly.

### **The Development Start Notice**

61 Further information is required regarding the DSN procedure in particular how long it is expected to take and who would administer the notice.

62 We are concerned that given the number of developments likely to be liable for PGS, 4,646 developments per week, the process of verifying the DSN could add significant delay to the development process, undermining the Government's objectives of speeding up development and increasing productivity. Developers would not start on site until the DSN is verified and their liability is clear.

## **4. Scope**

### **Greenfield and brownfield land**

63 We consider that PGS would frustrate brownfield development and would serve to make many marginal developments unviable, in many cases these are the regeneration schemes the Government seeks to encourage. The introduction of PGS in London would frustrate development and undermine the Government's objectives of increasing housing delivering and supporting economic growth.

64 As the PGS has been modelled on greenfield urban extensions where considerable land value increases are generated through rezoning agricultural land for residential development we urge the Government to limit its introduction to these circumstances and exclude London and other urban areas.

65 If the Government were to persist with PGS in urban areas/on brownfield sites we would suggest that the rate for brownfield land should be very low to still encourage development. The cost of assessment for brownfield sites is likely to be higher than for greenfield developments reflecting the complexity of development.

### **Minimum Thresholds**

66 If the rationale of PGS is to tax development to fund the infrastructure needed to support that development, those developments that do not create demands on existing infrastructure or require new infrastructure should be not be required to pay PGS.

- 67 The application of PGS to minor development is likely to deter development and act as a disincentive to invest in the existing built stock. In London where the quality of the commercial stock is critical to attract internationally mobile corporates and the quality of the public realm and other developments such as retail is crucial to tourism, this could have a significant adverse economic effect.
- 68 We therefore propose that if PGS were to be introduced, a minimum threshold should be set to exclude development not creating demands on infrastructure and to ensure that development is still encouraged. The following should therefore be excluded from PGS:
- Advertisements
  - Signage
  - Telecommunications equipment
  - Change of use
  - Temporary uses where planning permission is required
  - External improvements such as to cladding/design/public realm
  - Internal works where planning permission is required
  - Where the increase in net gross floorspace is less than a specified %
  - Variations of conditions such as hours of operation which result in the issuing of a new planning permission
  - Infrastructure development such as landscape works, roads, rail-linked development, waste, energy
  - Development undertaken by or for public bodies

## **5. Financing Infrastructure through the Planning System**

- 69 Paragraph 6.4 states that “a significant majority of PGS revenues will be recycled directly to the local level for local priorities.” It goes on to state that the “overwhelming majority of funds will be recycled within the region from which they are derived.” Consequently some PGS revenues will be redistributed inter-regionally. This implies that the rate of PGS will be not be modest as, in addition to what is already paid in Section 106, it will need to be high enough to raise funds for redistribution within the region as well as between regions. We are therefore gravely concerned that far from being modest the rate of PGS will be high and will frustrate development.
- 70 The example of Milton Keynes provided in Box 5.3 shows how the current system can achieve the Government’s stated objectives without the need to introduce additional taxation. It should be noted that the Milton Keynes example applies to a clearly defined area for an urban extension where growth is achieved by rezoning former agricultural land. It was also established in a rising market.

## **The case for scaling back planning obligations**

- 71 Whilst we recognise that negotiating planning obligations can delay development, this can be addressed through a number of simple improvements to the current process, some of which are already becoming standard practice such as the use of standard formulae and clauses, starting negotiations earlier and setting out clearer local policy which adheres to national policy. The Government might also consider that targets for Planning Delivery Grant be linked to the conclusion of Section 106 Agreements as this marks the point at which the planning permission is implementable, rather than as at present the point of resolution to grant.
- 72 We do not consider that the proposed scaling back of the scope of Section 106 agreements is likely to reduce the length of negotiations. Disputes are likely to centre on what is appropriately covered in the “development site” approach as well as how matters raised in the Transport and Environmental Assessments are addressed. Many of the areas proposed to be removed from Section 106 are those that are less contentious and do not delay negotiation. Affordable housing, which will remain part of the S106 process tends to represent the most significant delay to development.
- 73 Negotiated planning obligations create better development and better Section 106 Agreements which are reflect individual site circumstances. Where Section 106 Agreements can significantly delay development it is frequently because of inadequate resource and co-ordination in the local authority and that the terms of the agreement were not sufficiently clear or detailed when the resolution to grant was passed. This can be dealt with through best practice guidance and through changing the emphasis of Government targets.
- 74 Whilst we support greater consistency and transparency in planning, the system must also enable local circumstances to be reflected in individual decisions and developments. Whilst Table 5.1 illustrates the different approaches of local authorities to planning obligations, it shows nothing of the different circumstances or physical characteristics of those areas.
- 75 Concerns about [para 5.13] “fairness” or “competitive or market distortions” can to a large degree be addressed through refinements to the existing system. However, it should be recognised that it is not possible, nor necessarily desirable, to create a level playing field across the country for developments as conditions are dictated by the different physical, economic, environmental and social characteristics of sites. The planning system is established on the principle of each case on its own merits.

## The development-site environment approach

- 76 The principles of the new approach set out in Box 5.4 do not provide reassurance that planning obligations will in fact be scaled back. The test of “development site acceptability: i.e. necessary to make the development-site acceptable” is too broad and could be used to argue for the inclusion of almost anything within an obligation. We therefore do not agree that this approach [para 5.17] would reduce the scope of matters covered by planning obligations, nor does it place limits on the size of contributions. We do not consider that reducing disparities between local authorities is necessarily important, especially as development conditions vary so considerably between them. If local authorities adopt an anti-development approach this can and should be dealt with through other mechanisms.
- 77 We welcome the statement that [para 5.18] PGS is considered to be only one source of funding for infrastructure not secured through obligations.
- 78 Any review of how PGS might work with Highways Agreements would have to ensure timely delivery of new highways/improvements to support development.
- 79 We support rationalisation of affordable housing requirements and prevention of attempts to maximise land value capture through them and consider that the Government should do this irrespective of PGS. It should be noted that affordable housing requirement calculations in many areas, in particular London, require an assessment of viability to demonstrate what the development can support and what grant is required. It is likely that one impact of PGS could be to reduce viability (by increasing costs) and would therefore reduce the affordable housing requirement and total output which would undermine the Government’s objective of increasing affordable housing supply.
- 80 Most critical, however, is how infrastructure necessary for the development, but funded through PGS, will be delivered in a timely and certain manner. This is especially important for matters raised in Transport and Environmental Impact Assessments and where addressing them is a condition of planning permission. If the local authority requires provision of infrastructure before a development can be started or occupied. For example, if the authority links infrastructure provision to phasing failure to provide, for example additional school facilities would stall development.
- 81 Section 106 agreements may include two-way obligations such as to require the local authority to provide crucial infrastructure such as school places. How this would be achieved from PGS funding requires explanation.
- 82 Timely provision of new education or health infrastructure will be critical for a new residential development to be sustainable and for its occupants, a key Government objective. It will also be critical in allaying concerns of existing residents who may oppose development if they are concerned about local school and health provision. To be sustainable and viable any PGS proposal must address this.

- 83 Any proposal must also address providing land for new facilities. A major new development may include a new school or health centre or transport facilities. How this will be addressed under scaled back Section 106 and through new funding arrangements from PGS is unclear.
- 84 The Milton Keynes roof tax enables developers to provide “works in kind” which are set off against liabilities for the roof tax. PGS would need to allow for this to ensure provision of crucial community facilities.
- 85 Labour and training initiatives are a vital part of making developments acceptable locally and ensuring existing residents benefit and are embraced with current Section 106 arrangements which provide a trigger for provision. The Paddington Brokerage ensured that local residents benefited from construction jobs as well as those created by the developments’ occupants. Such initiatives are vital in achieving the Government’s stated objective that the community shares in the benefits of growth and should be encouraged. If the funding is provided through PGS it is not clear how and when initiatives will be delivered.

## **6. Allocating Planning Gain Supplement Revenues**

### **Revenue allocation principles**

- 86 We note that [para 6.4] the “significant majority” of revenues will be recycled at the local level for local priorities. This is said to help local communities “share better the benefits of growth.” We consider that planning obligations enable communities to share such benefits. We would welcome clarification of what the “local level” is (borough/ward?) and how priorities will be agreed.
- 87 We would we welcome clarification of the process by which local and regional stakeholders determine infrastructure priorities and how any difference between local and regional priorities might be resolved.
- 88 Notwithstanding our considerable concerns regarding the desirability and feasibility of PGS, if the Government were to introduce it we consider that funds should be collected regionally, not nationally. The Regional Planning Body (RPB) would then redistribute them locally in the context of an agreed framework with the local authorities and business.

### **Options for allocation**

- 89 The first option for allocation: distribution in direct proportion to revenues raised is more equitable and should therefore be adopted should PGS be introduced. However, further information is required on how and when that redistribution occurs and the nature of funding (capital and revenue?). Given the limited scope to raise money in London as over 90% of development is brownfield, in order to fund the infrastructure needed to support development, especially in the Thames Gateway, PGS revenues would need to be reallocated to London.

- 90 Explanation is required of the overall process for redistribution given that the “significant majority” of revenues will be distributed locally and the “overwhelming majority” will be recycled regionally. What proportion would therefore be distributed between regions for strategic infrastructure and what proportion would be retained by the Treasury for other purposes? How would priorities be decided for nationally strategic inter-regional infrastructure, for example Crossrail?
- 91 We note [para 6.10] that the Government is undertaking a cross-cutting review as part of the 2007 Comprehensive Spending Review to assess what infrastructure is needed to support growth and ensure resources are targeted to support this. We would welcome clarification of the relationship between this review and PGS.

### **Transition**

- 92 Given the uncertainty caused by the proposed introduction of PGS we urge the Government to make a swift decision whether to proceed. Uncertainty is bad for the development process and is likely to lead to a reduction in development.
- 93 If the Government decides to introduce PGS we strongly recommend that it is not applied retrospectively or to the resolution of reserved matters on existing outline permissions on phased developments. This is critical for long term schemes being planned now where negotiations may be starting on what the Section 106 Agreement might encompass where planning permission is unlikely to be granted until after 2008.
- 94 We would recommend that the Government pilots the concept first in a greenfield growth area location.