



Government Response to the
Communities and Local
Government Committee's Report
on Planning-gain Supplement

December 2006



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Presented to Parliament By
the Secretary of State for Communities and Local Government
by Command of Her Majesty
December 2006

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INTRODUCTION

The House of Commons Communities and Local Government Committee published its report on Planning-gain Supplement (PGS) on 7th November 2006.

We are grateful to the Committee for this contribution to work being done by Government to develop PGS.

Since the publication of the Committee's report, the Government has made further announcements on PGS at the 2006 Pre-Budget Report. The Government announced that it will move forward with the implementation of PGS if, after further consultation, it continues to be deemed workable and effective as a means of financing additional investment in infrastructure. The Government has also published the accompanying consultation papers:

- *Valuing Planning Gain – a Planning-gain Supplement consultation (published by HM Revenue and Customs (HMRC) and the Valuation Office Agency (VOA));*
- *Paying PGS – a Planning-gain Supplement technical consultation (published by HMRC); and*
- *Changes to Planning Obligations – a Planning-gain Supplement consultation (published by Communities and Local Government).*

Many of the Committee's recommendations are similar to proposals announced at 2006 Pre-Budget Report or are on issues on which the Government are consulting further.

The Government's response to each of the Committee's recommendations is set out in detail below

THE GOVERNMENT'S PROPOSALS

Recommendation

1. We urge the Government to consider a range of means to secure for the public benefit a portion of land value uplift which results from the granting of planning permission. Such consideration should include comparative cost-benefit analyses of PGS and scaled-back Section 106 arrangements on the one hand and, on the other, a fully effective utilisation by local authorities of Section 106 powers, including possible reforms and enhancements. (Paragraph 8)

The Government has looked closely at alternative models, such as the Optional Planning Charge and planning tariffs, but continues to believe that a workable and effective PGS, alongside a scaled-back planning obligations system, is the right approach to securing a portion of land value uplift for public benefit. Compared to approaches based on the planning obligations regime, PGS represents a fairer means of releasing land value. In particular, because liability to PGS is based on the available land value, rather than the cost of infrastructure, PGS is more proportionate and should not inhibit development on marginal sites. Further, it is possible to apply PGS to a wider range of developments, thereby sharing the contribution made by developers and landowners more evenly. Many respondents to our 2005 consultation, and indeed to Kate Barker's earlier consultation, suggested

that the Government consider other means to secure a portion of land value uplift. Indeed, the Government have supported a number of innovative schemes using section 106 powers, and tariff-style approaches such as that used at Milton Keynes. However, we do not believe that these measures have the same potential as PGS.

THE LEVY BASE

Recommendation

2. We agree with the Government that the granting of planning permission is the most appropriate point at which to calculate PGS liability as it is a clearly identifiable point in the planning process and would capture the majority of any land value uplift. It should, however, be defined as the point at which sufficient planning permission has been granted in order for development to commence. (Paragraph 10)

The Government agree with the Committee that the point of valuation should be defined as that at which sufficient planning permission has been granted in order for development to commence. The valuation date will therefore in practice be the date of the letter that informs the applicant that full planning permission has been granted by the relevant planning authority. Where an outline planning permission is granted the valuation date will be the date of the letter stating that the final “reserved matters” application is approved, thereby allowing commencement of development. Further detail on this proposal is set out in the “*Paying PGS*” paper.

CALCULATING PGS LIABILITY AND VALUATION METHODOLOGY

Recommendation

3. We agree that actual valuations should be used in the calculation of current use value and planning value for PGS purposes. (Paragraph 15)

The Government welcome this recommendation. Using actual valuations should prove fairer for developers and, combined with self-assessment procedures, will be cost effective to administer. The consultation paper, “*Valuing planning gain*” sets out for consultation more detail on the valuations that will be needed for PGS.

VALUATIONS

Recommendation

4. Standard definitions and procedures will be critical to the success of PGS and thus will determine the extent to which it can contribute to the provision of infrastructure and growth in housing supply. We recommend that the Government conduct a further round of consultation with industry and other stakeholders specifically on definitions and procedures relating to current use value and planning value. Such consultation has to be concluded prior to any implementation of PGS. (Paragraph 16)

The Government agree that standard valuation definitions and procedures will be critical to the success of PGS and need to be fully understood by the development industry and other stakeholders. The Government have already discussed the definitions of planning value and current use value with a number of valuation

experts and practitioners during the 2005-6 consultation period and beyond. Two further consultation papers were issued by HMRC and the VOA at 2006 Pre-Budget Report dealing with valuation definitions (“*Valuing planning gain*”) and procedures (“*Paying PGS*”).

Recommendation

5. We prefer the Government’s proposal that developers should be responsible for calculating current use value and planning value, drawing on the existing expertise within the private sector, through a system of self-assessments monitored and endorsed by the Valuation Office. (Paragraph 17)

The Government welcome this recommendation. The Government published plans in “*Paying PGS*” for PGS to be administered through a system of self-assessment, making developers responsible for providing valuations of current use value and planning value. These valuations will be monitored and risk assessed by HMRC and the VOA, and the Valuation and Lands Agency in Northern Ireland.

Recommendation

6. We recommend that the Government set a minimum value of zero for current use value. This would reduce any perverse disincentive to brownfield site development which PGS could otherwise represent. (Paragraph 18)

The Government agree that in practice the current use value should never be less than zero. “*Valuing planning gain*” proposes that if a residual valuation of the land produces a negative CUV figure then the CUV will be set at £Nil.

Recommendation

7. We recommend that calculations of current use value and planning value reflect actual site conditions, including implemented planning permissions, as well as actual patterns of land ownership and actual liabilities and interests. No assumption of freehold vacant possession should be made. (Paragraph 19)

The Government agree that the current use value and planning value should reflect actual site conditions. The consultation document “*Valuing planning gain*” sets out more detail on the costs to be reflected in the valuations, for example, the costs of remediating land and the costs of planning obligations.

However, the Government do not agree that the valuations should reflect the different interests in land. The Government consider that developers will be able to reflect the costs of PGS in the course of the normal commercial negotiations that take place with the owners of interests in the land when land is to be developed. An assumption of a notional unencumbered freehold interest with vacant possession (FHVP) would simplify the valuations needed and mean that only one person would need to account to HMRC for the PGS liability of a development site. Without the assumption of FHVP, separate valuations of the current use value and planning value would be needed for each interest in land comprising the development site, multiplying the number of taxpayers for each development and increasing the administrative burden for landowners and HMRC. The Government wish to avoid such administrative complexities and burdens by developing a simple flat-rate tax that is levied at a modest rate.

SELF-ASSESSMENT APPROVAL

Recommendation

8. We recommend that the Government work with the Home Builders' Federation and other stakeholders to develop a pre-clearance system for PGS self-assessments and that such a system be incorporated into the PGS regime. (Paragraph 20)

The Government will continue to explore with stakeholders whether it would be practicable to develop a pre-clearance system for PGS self-assessments. There are a number of practical difficulties inherent in introducing such a system, which would increase complexity and administrative burdens. For example, where a "pre-commencement agreement" between HMRC and a developer was based on an outline planning permission, it might need to be revisited several times until the final reserved matters had been settled, immediately before development started. Paragraphs 2.22 to 2.26 of the consultation paper "*Paying PGS*" discuss these issues and seek stakeholders' views on whether a pre-clearance system that would address these problems could be devised.

PGS LIABILITY AND OPTION AGREEMENTS

Recommendation

9. We welcome the Government's willingness to consider the impact of PGS on development on land with option agreements. Any special arrangements will need to be agreed and promulgated prior to the implementation of PGS. (Paragraph 21)

The Government will continue to explore with stakeholders the impact of PGS on developers who acquire land under option agreements. The Government recognise the importance of providing information to enable markets to adjust, and will therefore consider how best to introduce PGS in a way that is fair and efficient, in order to achieve Government objectives, including facilitating growth.

SCOPE

Recommendation

10. We welcome the proposed broadening in the scope of development gain capture and endorse the proposal that liability should be based on the land value uplift achieved rather than on the nature of the development. (Paragraph 22)

The Government agree that a broader scope for capturing land value uplift would be fairer to different types of developers and that it is important to maintain the proportionate nature of the levy.

THE PGS RATE

Recommendation

11. We recommend that the Government provide us with regular updates on the progress of its research into the impact of PGS on the markets for housing and land. (Paragraph 23)

The Government will continue to examine the impacts of PGS on land and property markets. As Kate Barker's Review of Housing Supply suggested, at a modest rate, PGS could be levied efficiently and would not create disincentives to bring land forward for development.

The impact of PGS on the supply of land will depend upon final decisions on its rate and scope, which will in turn, depend on exemptions and minimum thresholds. If PGS were introduced, it would be accompanied by a full Regulatory Impact Assessment, assessing the impact of PGS on the development market.

Recommendation

12. While we accept that in some specific instances PGS may generate less revenue than the current regime would, the important question is whether PGS can generate additional revenue overall. (Paragraph 26)

The Government share the Committee's view that in respect of particular sites, PGS may not generate more revenue than could be obtained through planning obligations, particularly given that PGS would be levied at a modest rate.

PGS should have a wider base than the current regime of planning obligations. As the "Valuing Planning Obligations in England" report from Sheffield University and the Halcrow Group concluded, only 6.9% of all major and minor planning permissions had a planning obligation attached to them in 2003-4. The Government believe that overall the PGS proposals will raise additional revenues over and above the current planning obligations system.

Overall yield will depend on the rate and scope of PGS, which will in turn depend on any exemptions and minimum thresholds. Further announcements are expected on PGS in Spring 2007.

Recommendation

13. It is clear that extensive further research and statistical analysis is required to enable the Government to determine the rate at which PGS should be set. (Paragraph 30)

The Government agree that before any further decisions are made further modelling work is required to enable the rate at which PGS is set to be determined. The Government remains committed to levying PGS at a modest rate in order to preserve incentives to develop.

Recommendation

14. In making its determination of the PGS rate, the Government will need to strike a balance between setting the rate too high, which could discourage development and encourage avoidance, and setting it at a rate which will cover the additional costs of administering the tax, generate a surplus over current arrangements and provide a contribution to investment in strategic infrastructure. It will need to make a strong case to support its determination if the rate does not fall within the anticipated range if the proposals are to retain credibility. In any case, we would expect the analysis and statistical modelling supporting the Government's determination to be made publicly available and open to widespread scrutiny. (Paragraph 32)

The Government agree that it will be important to strike the right balance between raising additional revenues and preserving incentives for development in setting the PGS rate. As proposed in *Planning-gain Supplement: a consultation* (HM Treasury, HMRC & Office of the Deputy Prime Minister 2005), PGS would be set at a modest rate across the UK in order to generate additional revenue for investment in infrastructure at the local and regional levels while preserving incentives for development to come forward. This principle will guide decisions about the PGS rate. The Government will continue to work with stakeholders to consider the impact of PGS on development. If PGS were introduced, the Government would make clear in its Regulatory Impact Assessment the benefits of PGS against the costs of administration and its impact on industry.

CHANGING THE PGS RATE

Recommendation

15. We welcome the Government’s understanding that it would be impractical to vary the PGS rate frequently. The need to keep revisions to a minimum makes it all the more important to establish a workable rate at the outset. (Paragraph 33)

The Government welcome this recommendation.

POINT OF PAYMENT

Recommendation

16. None of our witnesses favoured requiring payment at the point at which full liability is established. We agree with the Government that to do so would be impractical. (Paragraph 34)

The Government welcome this recommendation. Under the proposed model for administering PGS, liability for PGS would not arise until after a developer had applied for a PGS Start Notice, signifying they intended to commence development.

DEFINITION OF COMMENCEMENT AND START OF WORKS

Recommendation

17. We recommend that the Government and stakeholders reach a mutually agreeable and robust definition of commencement of development prior to the introduction of PGS. (Paragraph 35)

The Government welcome this recommendation. “*Paying PGS*” invites stakeholders’ views (at paragraph 4.4) on whether the current definition of commencement of development defined by section 56(4) of the Town and Country Planning Act 1990 is satisfactory for PGS purposes.

DEFERRED PAYMENTS

Recommendation

18. We recommend that the Government permit phased PGS payments particularly in relation to those large sites where development itself is phased. (Paragraph 37)

The Government accepts this recommendation, insofar as it relates to sites where development itself is phased. As set out in the consultation papers published at 2006 Pre-Budget Report, each final “reserved matters” approval for each individual phase would constitute a separate PGS event for large developments that receive outline permission for a number of phases.

The Government do not agree that all developers should be able to phase their PGS payments where there is no phasing through the planning system. Such a system of instalments would be unduly costly to administer, jeopardising the Government’s wish to retain a modest rate for PGS.

Recommendation

19. One implication of a deferred payment scheme would be to increase the gap to be bridged by forward funding and therefore increase the size of the initial dowry required from Government. (Paragraph 38)

The Government share the Committee’s concern that a deferred payment scheme could increase the gap to be bridged by forward funding. The Government are undertaking further detailed work on allocating PGS revenues as part of the Comprehensive Spending Review 2007 (CSR07) Policy Review into Supporting Housing Growth. This review is considering ways to ensure that resources and delivery mechanisms across Government are targeted so as to help deliver the national, regional and local infrastructure necessary to support future housing and population growth, including through the forward funding of infrastructure.

REVENUE COLLECTION

Recommendation

20. We concur that it is appropriate for central Government to collect PGS payments. (Paragraph 39)

The Government welcome this recommendation. “*Paying PGS*” sets out the general proposals for how HMRC would collect PGS revenues.

MARGINAL SITES

Recommendation

21. We find no grounds for PGS exemptions or discounts for developments of marginal viability. (Paragraph 41)

The Government welcome this recommendation. Maintaining a broad scope with a wide base would enable PGS to be levied at a modest rate with a reduced risk of creating economic distortions or avoidance opportunities.

BROWNFIELD SITES

Recommendation

22. We are not persuaded by the case for discounts against or exemptions from PGS liability in respect of developments on brownfield land. (Paragraph 46)

The Government consulted on whether a lower rate of PGS should be applied to brownfield land and many respondents suggested that because lower values associated with brownfield sites would be reflected in PGS valuations, a lower brownfield rate would not encourage regeneration. At 2006 Pre-Budget Report, the Government accepted this assessment, but will continue to examine this issue and whether other instruments could better create incentives for regeneration, such as a more targeted Land Remediation Relief tax credit.

SMALL-SCALE DEVELOPMENTS AND A MINIMUM THRESHOLD

Recommendation

23. We recommend a minimum threshold for PGS liability which puts very small-scale developments, including home improvements, outside the scope of PGS liability. This threshold should be set at a very low level to preserve PGS revenue and to prevent market distortions. (Paragraph 48)

The Government welcome this recommendation. The Government remain of the view that PGS should not be applied to household improvements, and is considering also the position of small-scale non residential development. Further work will be done on the scope of PGS before further announcements on this issue.

CONCLUSIONS ON EXEMPTIONS AND DISCOUNTS

Recommendation

24. The Government should resist all calls to grant exemptions and discounts other than for very small-scale developments. To do so would increase the complexity of the tax and risk market distortions. There is a risk that financial advantages for developments desirable in policy terms will have the perverse effect of encouraging local authorities to permit the kinds or locations of development being discouraged in order to increase their revenue-take. Where exemptions and discounts have been sought to drive certain desirable behaviours, other mechanisms can be used to achieve the same ends. Where exemptions and discounts have been sought to maintain project viability, the arguments that PGS threatens viability are not convincing. The Government should keep PGS as transparent, straightforward and cost effective as possible. (Paragraph 50)

The Government welcome this recommendation and are undertaking further work on the scope of PGS, but are not minded to make exemptions beyond those for home improvements and small-scale non-residential development. The Government are keen to set a very low minimum threshold.

TIMING OF THE PROVISION OF INFRASTRUCTURE

Recommendation

25. The Government is silent on how it will ensure that PGS supports infrastructure in a timely and predictable way. We would welcome clarification from the Government on this specific point. (Paragraph 51)

The Government agree that PGS needs to support infrastructure delivery in a timely and predictable way. The Government are undertaking further detailed work on allocating PGS revenues as part of the CSR07 Policy Review into Supporting Housing Growth. This review aims to determine the social, transport and environmental infrastructure implications of housing growth in different spatial forms and locations, establish a framework for sustainable and cost-effective patterns of growth, and ensure that departmental resources are targeted to support growth. The review will report to the Chief Secretary to the Treasury as part of CSR 07.

Recommendations 26-29

26. Ministers suggested that local authorities could secure funds to provide timely infrastructure through a “prudential borrowing regime” in which they could take out loans against expected PGS receipts. If the Government is to proceed with this suggestion, we will require regular updates on progress and further clarification on the details of the operation of the scheme. (Paragraph 53)

27. The proposal that local authorities should borrow against expected PGS receipts is entirely unattractive. It would be an unnecessarily expensive option for local authorities. Moreover, the primary purpose of PGS is to provide the resources for infrastructure to free up land for development and support housing growth, not to enable local authorities to acquire debt. That would be a retrograde step from the existing arrangements. Servicing debt is not an appropriate use for PGS Revenue. (Paragraph 54)

28. Local solutions to forward funding could be permitted to persist alongside the national PGS regime. This may be a particularly appropriate solution for growth areas and areas where there is a single body able to provide forward funding, as there is in Milton Keynes. (Paragraph 56)

29. A substantial element of Government forward funding to enable infrastructure to be provided in a timely manner is essential to the successful operation of PGS. Without substantial forward funding there is no way that PGS can deliver the certainty for local authorities and developers which is essential if the tax is to be effective and to carry the confidence of stakeholders. We are adamant that the Government should not proceed with PGS unless and until it has made provision to bridge the time difference between the need for expenditure and the receipt of PGS funding. (Paragraph 57)

The Government have not yet taken a view on the mechanisms that might be used to help deliver forward funding of infrastructure, for example the use of prudential borrowing powers.

The Government accept that further work is needed to examine how a move to PGS could deliver the certainty for local authorities and developers that infrastructure would be provided in a timely manner. Further work on the forward funding of development related infrastructure is being taken forward as part of the CSR07 Policy Review into Supporting Housing Growth.

In particular, the Government intend to carry out further work on how a move to PGS would affect those areas where local solutions to forward funding, such as Milton Keynes, are in operation, so as to minimise the impact on infrastructure delivery.

FUNDING STRATEGIC INFRASTRUCTURE

Recommendations 30-32

30. We welcome the Ministers' commitment that the PGS revenues allocated to strategic infrastructure will be additional to rather than instead of funds already provided through other means. (Paragraph 59)

31. We recommend that the criteria and priorities for strategic infrastructure funding are determined through a broad and inclusive process, incorporating the views of not only regional and sub-regional bodies but all statutory planning consultees. (Paragraph 60)

32. The Government will need to provide a significant element of pump-priming in respect of strategic infrastructure as well as forward funding local infrastructure requirements. (Paragraph 61)

The Government welcome the Committee's recommendations on funding strategic infrastructure (Recommendations 30-32). The Chancellor announced at Budget 2006 that PGS revenues would be separate from the local government funding settlement to serve as an incentive to support growth. Further detailed work as part of the CSR07 Policy Review into Supporting Housing Growth is looking at options for improving infrastructure delivery planning at the local and regional level.

IMPACT ON THE SUPPLY OF AFFORDABLE HOUSING

Recommendation

33. We welcome the Minister's assurance that the Department of Communities and Local Government was working to establish the reasons behind the shortfall between Section 106 affordable housing commitments and delivery. We look forward to seeing the outcomes of this research. (Paragraph 65)

Communities and Local Government's recent research, carried out by Sheffield University and Halcrow Group consultants showed that the value of affordable housing contributions delivered in 2003-4 was less than the value of contributions agreed.

A recent report by the Joseph Rowntree Foundation "*Delivering affordable housing through section 106: outputs and outcomes*" (2006) examined the reasons for the difference between the amount of affordable housing agreed and delivered on the ground. The study found that there was a time lag between the granting of planning permissions and the completion of developments which to some extent explained

the gap between the amount of affordable housing granted planning permission and the amount completed in the same year. The anecdotal evidence considered by the researchers suggested that other factors may also be relevant such as changes in economic climate; changes in ownership as development progressed; inadequate section 106 agreements and monitoring by local authorities; and incentives to developers to provide the minimum possible level of affordable housing. There was also evidence of multiple applications relating to one site, of which none or only one is built out.

However, the Joseph Rowntree Foundation report concluded that once development started on a site, the contents of the section 106 agreement were usually delivered in the majority of cases.

Recommendation

34. We recommend strongly that the Government, through planning guidance and target setting, ensure that meeting affordable housing targets is not jeopardised in favour of revenue raising. (Paragraph 67)

The Government welcome the Committee's recommendation. "*Changes to planning obligations*" makes clear that in setting a new legal and policy basis for affordable housing contributions as part of the new arrangements for planning obligations, affordable housing targets should be met more effectively through scaled-back planning obligations. This should help to ensure that the delivery of affordable housing is safeguarded under the new arrangements.

The new arrangements for planning obligations will also be supported by the Government's new Planning Policy Statement 3: *Housing (PPS3)*, published in November 2006. PPS3 will underpin the delivery of the Government's key housing policy objective to deliver more high quality market and affordable homes and will give local authorities the discretion to set thresholds lower than the national indicative minimum site-size threshold for affordable housing, where viable and practicable.

Recommendation

35. We recommend that the local authorities remain free to require developers' contributions to affordable housing even where such provision is not co-located with the related development. Local authorities should also be able to use PGS revenue to support affordable housing where appropriate. (Paragraph 68)

PPS3 continues the presumption that affordable housing contributions by developers through planning obligations will be provided on the development site so that they contribute towards creating a mix of housing. However, where it can be robustly justified, off-site provision of a financial contribution in lieu of on-site provision (of broadly equivalent value) may be accepted as long as the agreed approach contributes to the creation of mixed communities in the local authority area. These arrangements will not be affected by the scaling back of planning obligations.

The Government have not yet taken a final decision on the use of PGS revenues. The Government proposed at 2006 Pre-Budget Report that at least 70 per cent of PGS revenues would be hypothecated for infrastructure priorities in the local area from where the revenues derived.

Recommendation

36. Retaining affordable housing within the scope of planning obligations is wholly appropriate: it will serve to ensure that affordable housing has the first call on any land value uplift and it will provide a means to deliver sustainable mixed communities. Even so, if the potential for PGS to increase the supply of affordable housing is to be fully realised, the Government needs to increase the scope of developments subject to Section 106 agreements beyond the current limits, to ensure affordable housing is eligible to benefit from PGS receipts and to facilitate more local authorities making fully effective use of planning obligations. (Paragraph 69)

The Government welcome the Committee's support for its proposal to retain affordable housing within the scope of planning obligations.

The lowering of the national indicative minimum site size threshold to sites of 15 units and above for affordable housing contributions, and flexibility for local planning authorities to set lower thresholds where viable and practicable, will serve to increase the number of developments subject to section 106 agreements.

The Government are also now consulting on the ways in which affordable housing would be delivered through a scaled-back system of planning obligations in "*Changes to Planning Obligations*", including proposals for a clearer legal and policy basis and certainty over the value of contributions that could be required.

In August 2006, the Government also published a Practice Guidance and model planning obligations agreement with the Law Society with the aim of improving the development, implementation and negotiation of planning obligations.

ALLOCATING PGS REVENUE

Recommendation

37. The entirety of any surplus after allocations to local authorities and to strategic infrastructure should also be allocated to development-related infrastructure and not absorbed into general Government funds. The local authority distribution formula should allow for an element of targeting resources to areas of greatest need. It is essential however, that any targeting is not undertaken to the extent that it would risk undermining the link between particular developments and local infrastructure provision. There should be a statutory undertaking that a majority of PGS revenue is returned to the local area affected by the development. A clear funding formula should be used to determine precisely how much revenue is returned to each local authority. (Paragraph 73)

The Government committed at 2006 Pre-Budget Report that at least 70 per cent of PGS revenues would be hypothecated for local infrastructure priorities and would be returned to the local authority area in which they were generated, based on the amount of revenues raised. Local authorities would therefore be able to take a view as to where exactly to invest in infrastructure. 2006 Pre-Budget Report also confirmed that remaining PGS funds would be returned to the regions to help finance regional strategic projects.

The Government are undertaking further policy development on the actual financial mechanisms to return PGS revenues to the local authority areas.

Recommendation

38. John Healey MP, Financial Secretary to the Treasury, said that the Government “would have to find a way, I think, of making sure that [PGS] operated transparently so that it was obvious to those in any local authority area what the gains were from any potential development”. We agree. We recommend that the Government also, through transparent means, make available data enabling comparisons between the hypothetical benefits that would have accrued in a particular area under Section 106 and that are realised under PGS. (Paragraph 74)

If PGS were introduced, the Government would expect to make available information on the PGS revenues raised in each local authority area.

However, the Government believe that ensuring that data is available to allow a comparison between the hypothetical benefits of section 106 agreements and PGS would result in a disproportionate increase in the burden on local planning authorities to provide the hypothetical section 106 data and therefore does not intend to require local authorities to produce this analysis.

Recommendation

39. We agree with the Minister in this regard: **perverse decision-making for financial gain is no more likely to occur under a PGS regime than under current arrangements and that “ultimately, local authorities have to take responsible decisions in the interests of the whole community and they are democratically accountable for those decisions [...] to the extent that sports and recreation ought to be part of other planning systems and planning strategies”.** (Paragraph 75)

The Government envisage giving local authorities responsibility for spending PGS, having regard to the arrangements for infrastructure planning being developed in the CSR07 Policy Review into Supporting Housing Growth. The recent Local Government White Paper demonstrated Government’s commitment to empowering local authorities to exercise strategic leadership, and to allowing local communities to hold authorities to account.

TRANSITIONAL ARRANGEMENTS

Recommendation

40. We recommend that these arrangements include a short period only between any announcement that PGS will be introduced and the date on which the scheme comes into effect, with special transitional arrangements for those areas committed to a tariff-based model where a longer timeframe of preparation may be required. All applications for planning permission made before the announcement should be exempt from PGS (and subject to the existing range of Section 106 arrangements) regardless of the date of determination. (Paragraph 76)

The Government announced at 2006 Pre-Budget Report that PGS transitional arrangements would ensure that development which had already received outline planning permission before the appointed date would not be subject to PGS. The Government also made clear that PGS would not be introduced before 2009. Further discussions with stakeholders on transitional arrangements will take place before further announcements are made including the interaction of the arrangements with specific tariff-style section 106 agreements.

IMPACT ON THE PLANNING SYSTEM

Recommendation

41. Ensuring that the scope of scaled-backed Section 106 arrangements is not subject to the same vagaries of interpretation will be critical to retaining the credibility of the new tax. We welcome, therefore, the Government's statement that "the scope of planning obligations would be defined on a statutory basis". (Paragraph 77)

The Government welcome the Committee's support for the objective of defining the scope of planning obligations in England on a statutory basis. The Government recognise the challenges of doing so and the importance of engaging with stakeholders in developing a suitable instrument.



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