

LONDON CALLING

The Journal of the London Branch of the RTPI

April 2006



Question from the Chair:

What does the new RTPI London Region do for you?

Welcome to the first issue of London Calling in 2006. I'm Vicky Wilshaw, a Senior Planner at CB Richard Ellis and I'm the first RTPI London Region Chair.

The RTPI London Branch became the RTPI London Region on 1st January. The reasons for the change are well documented on the RTPI website.

What hasn't changed is the RTPI London Region's commitment to provide:

- A range of affordable (and often free) events for Members and,
- The opportunity to network.

We had a fantastic turnout for our first event of the year. This was a seminar on the Planning Gain Supplement. Our thanks go to Simon Ricketts, SJ Berwin, for speaking at the event and to Meeta Kaur, SJ Berwin, for organising it. Our next events include:

- The Young Planners' Quiz – 26th April 2006

Further details to be announced shortly.

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RTPI London Regional Chair, Vicky Wilshaw

Please give us your full details when booking events to help us give priority to London Region RTPI Members.

None of these events are possible without volunteers. They make up the Regional Activities Committee and their details are listed on the back page.

Tell us about any ideas you have for future events.

Our newest committee member is Hannah Baker. Hannah is a consultant at Atis Real Weatheralls and she is our 2006 Events Co-ordinator.

Please email londonbranch@rtpi.org.uk if you (or your company) are interested in:

- Sponsoring an event.
- Joining the Regional Activities Committee

I look forward to meeting you at future events.

Planning Gain Supplement

... will it work?

Simon Ricketts of S J Berwin, LLP gave a presentation to members of the RTPI London region of the contents of the Planning Gain Supplement Consultation paper issued by HM Treasury, and his view as to the practicality of the proposals in the consultation paper. Brian Whiteley reports on the seminar discussion.

Introduction

The 2003 Barker Review wanted a step change in housing provision – and the capture of resultant windfall land value gains to fund the infrastructure needed for additional housing growth. It recommended PGS for residential development and in its initial response the Government (in the 2004 Budget) agreed to the principle of PGS. Following this, on 5th December, 2005 the Treasury issued a consultation paper which announced that it was going to take the PGS proposal forward, which it saw as a “fair, efficient & transparent levy”, and apply it to most types of development.

The main proposed elements of PGS:

- It would not come into effect before 2008 and would be pitched to capture a “modest” portion of planning values uplift (perhaps 20%)
- Developers would pay PGS under a self-assessment regime, administered by HM Revenue & Customs
- A valuation would be required at the date of the grant of planning permission & then at the commencement of works – when the tax would be due to be paid
- PGS would apply to non-residential schemes as well as to residential schemes
- Domestic development would be excluded
- A lower rate might be levied on brownfield sites
- The Section 106 planning obligations system would be scaled back to cover matters relevant to the environment of a site and

- affordable housing
- Revenues raised would be dedicated to local communities and the provision of infrastructure

Valuing Planning Gain:

The consultation paper identified three key requirements for PGS:

- A clearly identifiable levy base – the majority of value uplift occurs with the grant of full permission / final approval of reserved matters and that is the time at which PGS is to be calculated
- A clearly identified person liable for paying PGS
- An effective enforcement system

PGS would be calculated as follows:

- $\text{Planning Uplift Value} = \text{Planning Value (i.e. the value as planning permission is issued)} - \text{Current Use}$

Value (the value of a site in its current permitted use; this will usually be less than the current market value)

- $\text{PGS Liability} = \text{PGS rate} \times \text{Uplift Value}$

Assessing a current use value can be complicated by issues such as mixed site ownership, mixed uses and factors such as restrictive covenants; and there are several unresolved valuation issues in the consultation paper, e.g.:

- Is the assumption of freehold vacant possession realistic, e.g. where an application simply relates to an upper floor of a building, how will the valuation be carried out, given that this would not normally involve a separate freehold interest?



How will PGS affect new developments?

- What factors might be excluded from a valuation? – e.g. noise / other attenuation measures or aspects of a site's surroundings affecting its value (e.g. public transport links)
- Large sites might entail a number of full & outline consents making the relevant date for PGS assessment complex – e.g. where a developer divides a large site into different parts and obtains full permission for each either at the same time or consecutively, what effect will this have on Planning Value?

Liability for PGS

PGS has to be assessed before, and is paid upon, the start of works – a developer has to serve a “Development Start Notice” to mark this – yet the consultation paper is unclear whether it is the developer or landowner who then pays the PGS. Development could also be slowed if developers and key tenants for large schemes need to firstly decide who pays PGS.

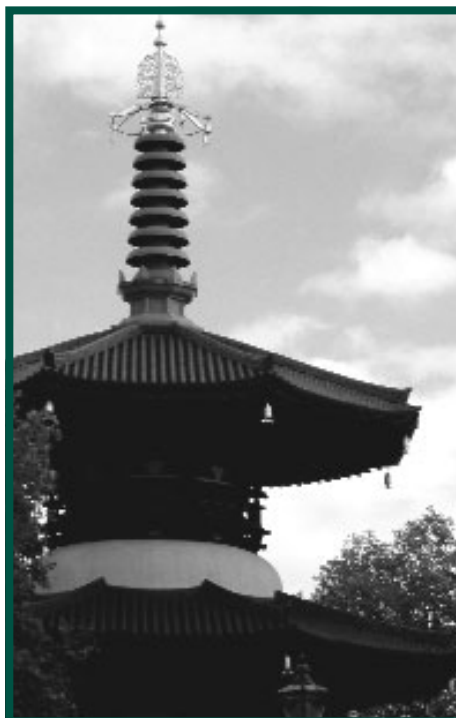
It would be unlawful to start development until a DSN is served – yet enforcing this could be difficult. PGS is to be policed by HM Revenue & Customs. It is not inconceivable that they might audit PGS self-assessments, possibly some time after a development starts, or is completed. This could be complex again if the PGS valuation was originally too low. Who pays any shortfall might not be easy if a developer has since closed / stopped trading. Developers might be required to take out indemnities or protection bonds from the outset to guard against this happening.

Other issues which might arise are cases where agreements might be open to challenge by third parties – e.g. aggrieved adjoining landowners – or if a development proceeds without proper planning consent and there is then an issue as to who should pay PGS.

Scope of the PGS Tax

A single rate of tax is normally to be used – except for a lower levy for very small schemes or brownfield sites.

There might be difficulties in defining exactly what a “brownfield” site is (e.g. see the list of



Spot the Building Competition!

The winner of the “Spot the Building Competition” in the last London Calling was Pat Whelan of PRP Architects. Pat correctly identified the building as Daniel Libeskind's Post Graduate Building for London Metropolitan University on the Holloway Road. Pat wins a £10 voucher for Waterstones. Thanks to all those who entered. This month's building is above. Answers please by 30th April to jon.barker@atkinsglobal.com

qualifications in PPG 3); changes of use may or may not yet be included in the scope of the tax; and it is unclear whether PGS will apply to a variety of development categories, e.g. :

- variations of conditions – e.g. re hours of operation or identity of operator
- minor extensions or improvements
- telecommunications proposals
- infrastructure development, e.g. landscape works, roads, rail-linked development, waste treatment or energy generation proposals
- development within SPZs, under Local Development Orders, under Parliamentary Bills and / or Transport & Works Act Orders
- agricultural development
- and development by public bodies – e.g. for schools & hospitals

Other aspects of PGS include:

- It would be an allowable business expense.
- Section 106 agreements would still be retained – e.g. to secure affordable housing development. It is likely new advice would be needed on S 106s.
- Some works in kind might still attract PGS – they could not be offset or excluded.
- There is no ring fencing of PGS to prevent local authorities from

spending the revenue generated as they wish, i.e. developers will have no certainty that infrastructure improvements or community facilities, etc., not being provided by a S 106 agreement (which gives them contractual assurance) will be delivered via the return of PGS monies to the relevant authority.

Final Thoughts . . .

- The proposed 2008 introduction of PGS might stimulate development pressure on some sites as developers try to avoid its implementation.
- Whether PGS will be more effective at funding infrastructure provision is doubted by some observers, e.g. by the Mayor of London regarding its ability to help fund the Crossrail scheme.
- PGS may have the effect of slowing down the planning process further.
- The system is probably too complex (would a Milton Keynes roof tax be simpler?) – and more measures might yet be needed to block some of the potential loopholes.

With thanks to Brian Whiteley, Development Planning Group, London Borough of Waltham Forest. More details of this seminar can be found on the London Region website at <http://london.rtpi.org.uk>

Young Planners' Quiz

26th April 2006 at 6:30pm

Slug & Lettuce, Stoney Lane, Aldgate, E1 7BH
(nearest tube station is Aldgate)

Organised by the RTPI London Region
Sponsored by Judd Farris.

To enter you need a group of up to 5 players per team.

Simply register by sending an e-mail to
londonbranch@rtpi.org.uk
by 21st April 2006 together with
names of your team and team members.

This event is free and open to all planners under 35 years of age
(both RTPI members and non-members).



Some competitors at last years Young Planners' Treasure Hunt

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London Region Contacts 2006

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