

# PLANNING GAIN SUPPLEMENT RESPONSE IN PRINCIPLE & POSSIBLE OPTIONS FOR CHANGE

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Changes to Planning Obligations: a Planning Gain Supplement Consultation, DCLG 2006  
Paying PGS: a Planning Gain Supplement Technical Consultation Paper, HMRC 2006  
Valuing Planning Gain: a Planning Gain Supplement Consultation Paper, HMRC 2006

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**RTPI**

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# 1. Introduction

The Royal Town Planning Institute is the leading professional body for spatial planners in the United Kingdom. It is a charity with the purpose to develop the art and science of town planning for the benefit of the public as a whole. It has over 20,000 members who serve in government, local government and as advisors in the private sector.

This document represents a joint response to the following consultation papers:

- Changes to Planning Obligations: a Planning-gain Supplement Consultation, DCLG 2006
- Paying PGS: a Planning-gain Supplement Technical Consultation Paper, HMRC 2006
- Valuing Planning Gain: a Planning-gain Supplement Consultation Paper, HMRC 2006

The response has been formed drawing together internal consultations and the results of meetings with members and a range of related professional entities with an interest in the broad field of planning and development in the UK.

The RTPI is conscious that there are commercial taxation as well as planning implications of the PGS proposals. This paper includes pointers towards possible directions for change to PGS proposals and notes that these need to be evaluated in a balanced manner that includes consideration of taxation as well as planning implications. For this reason the RTPI has collaborated in forming this response with taxation specialists in the legal practice of Halliwells LLP.

Halliwells LLP is a commercial law firm, with offices in Manchester, Liverpool, London and Sheffield. Halliwells has specialist departments which deal with commercial property, planning and corporate tax matters. The corporate tax department of Halliwells provides all necessary support and advice in the area of corporate tax. This involves advising on the taxation of issues relating to the wide variety of commercial transactions undertaken by the firm including property taxation and VAT. The corporate tax department has provided initial evaluations of concept feasibility in taxation law terms, together with commercial judgements based on experience derived from the provision of taxation legal advice.

## 2. Response in Principle

### *Summary*

*The RTPI supports the principle of capturing increases in land values arising from the grant of planning permission. It also agrees that effective and fair means are needed to ensure timely contributions from developers and landowners to the infrastructure costs directly and indirectly related to the development of their land. However, the PGS proposal as consulted upon is not ready to proceed to implementation. There are too many critical questions of technical effect and economic impact that are unresolved to allow this proposal to proceed. As a bare minimum, a significant period of option development and re-evaluation is required.*

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Having reviewed the Pre-budget Statement and recent consultation papers from HM Revenue and Customs (HMRC) and the Department of Communities and Local Government (CLG), RTPI has substantial concerns that the Planning Gain Supplement (PGS) proposals as currently articulated will not work.

Our primary concerns are as follows.

- The PGS is sought to be implemented as a UK wide measure, but the consulted proposals have a difficult and unresolved relationship with devolved or potentially devolved aspects of the planning systems for nations other than England. A robust means of responding to the needs of devolved administrations needs to be considered and provided for.
- The PGS as sought to be implemented assumes that rates of land disposal and development will remain at broadly current levels. This is an assumption that fails to take into account that one response to this measure might be for substantial elements of the property and development sector to reduce their activity and investment. This is a message that has been consistently delivered to the RTPI by stakeholders with commercial property interests. It will be critical to ensure that, if implemented, a PGS retains the confidence of the property and development sector and retains or indeed enhances the rate of land release necessary to bring about necessary development. Our conversations with stakeholders suggest that one key means to achieve that end would be to demonstrate a much closer linkage between any scheme and the timely delivery of clearly necessary infrastructures. This is an issue that we develop further in the remainder of this paper.
- The PGS as currently proposed is likely to be unduly slow, uncertain in timing and effect and to have high administrative costs, due largely to the proposal for a central collection bureaucracy, combined with a means for allocation of the proceeds to local government as the major recipient. Particularly, there seems to have been an assumption that uplift valuation processes will not prove to be contentious and that there will not be large numbers of disputes that require timely resolution whereas practical experience of pre-development valuations is that they lead to uncertainty and disputes. The proposed system does not appear able to respond to these concerns, which again bears on business confidence and the capacity of local government to deliver necessary infrastructures. This suggests a need to consider an assessment and collection mechanism that is more closely

attached to the assessment of infrastructure need and cost and to the existing (largely local government) systems that collect and process data about land holding and development or set and collect local revenues (Council Tax).

- The PGS as currently proposed requires the developer to pay tax levied by reference to a hypothetical value that is self assessed and then subject to audit. If a PGS were to be introduced in the Government's current proposed form and contrary to the recommendations in this paper, then it is considered that it should be calculated by reference to the actual sale price of the property to the developer (i.e. the person who applies for planning permission) at the point of sale, if at that point the current planning policy status of the land was clear. If there has been no such recent sale within a reasonable period of time or the planning policy status of the land at the point of most recent sale was not clear, then PGS should be charged by reference to the current market value of the actual interest owned by the person who has sought and obtained the relevant planning permission and any such valuation should reflect the actual state of the land.
- The PGS as currently proposed will expose developers to undue risk and uncertainty in the financing and delivery of their proposals, due to the need for payment of PGS prior to on-sale and hence for additional finance and finance costs, and due also to the valuation uncertainties inherent in the proposed assessment regime. This will affect business confidence. It will add to the initial costs of developing land with the developer having to borrow to finance the additional cost of PGS, as it is considered extremely unlikely that vendors of land will routinely accept a downward price adjustment to reflect the entirety of the developer's PGS liability. The extent to which PGS affects the price and/or value of the development land will, of course, depend upon market conditions. Although, the conventional, residual valuation method of valuing development land means that the quantum of the anticipated PGS would almost inevitably be taken into account when determining the price and/or value of the development land. Fundamentally, the PGS as currently proposed requires that developers pay tax on an unrealised gain. There appears to be no particular reason why payments should fall due at the time proposed, and this paper examines means of fitting payment more closely into the development finance process.
- The PGS as currently proposed will make the integrated delivery of major development proposals and the infrastructure necessary to support them more complicated than at present and more complicated than it need otherwise be in a soundly developed PGS system. It will reduce opportunities for advance and/or timely provision of necessary off-site infrastructures. It will reduce or even eliminate opportunities for the contribution of infrastructures in kind – as money's worth. It will break the link between development and some of the benefits potentially delivered by it. Funds for off site infrastructure will be likely to arrive late having regard to the need generated by a development. Local government will either have to act as banker and borrow against future PGS receipts to provide infrastructure, or accept that provision will be delayed. This delay is greatly to be avoided as it can lead to significant decisions being taken by the users of a development that detract from its overall sustainability. (For example, in a new residential development, the failure to provide effective public transport in advance of or closely sequenced to the release of housing to the market, can result in thousands of new households needing to acquire and run two cars instead of one. This is a lifestyle decision that is hard to reverse and that also impacts adversely in terms of carbon emissions, road congestion and reduces the likely usage and economic viability of public transport, when it is provided.) Further, there will be no clear link between the quantum of PGS receipts and the actual cost of providing necessary infrastructure, suggesting that funding 'shortfalls' may emerge.

For these reasons, means to enhance the nexus between infrastructure need, cost and a PGS are explored further in this paper.

- The PGS as currently proposed does not make clear precisely how funds will be channelled to local government, regional bodies and or directly to infrastructure providers, to what classes of infrastructure and on what criteria infrastructure will be eligible to draw down PGS receipts. Concerns have been expressed about the potential to establish a 'circularity', in which development to provide infrastructure is liable for a PGS payment, whilst potentially also being a beneficiary of PGS distribution. Classes of PGS exemption for defined types of infrastructure have not been properly thought through. This paper examines options to address these issues.
- The PGS as currently proposed will not enable sufficient flexibility to respond to differences of performance in regional and local infrastructure requirements and land markets and may act as a perverse cost disincentive to otherwise desirable development in some regional locations. This suggests a need to consider some mechanism of at least regional variability in the rate of any PGS, an issue responded to by options examined in this paper.
- The PGS as currently proposed is not based in emerging good practice in infrastructure planning (such as contributions policies, tariffs and roof taxes) to best advantage and therefore will have unduly high administrative costs. There is scope to develop from and to generalise existing good practice in the preparation and application of tariff and development contributions schemes, such as the Milton Keynes or Ashford tariffs, or development contributions practice overseas.

These concerns have been reinforced by detailed conversations between RTPI members, associated professionals and planning and development sector stakeholders and in the collaborative work undertaken with Halliwells LLP.

For these reasons, the RTPI has formed the view that it is not appropriate to respond to the detailed questions posed in the consultation papers as these pre-suppose that a system of the type outlined in those papers is workable. As the issues outlined above are of a fundamental nature, the RTPI does not consider that the system as currently proposed is workable.

That being said, the RTPI has a basic policy position that supports the principle of recovering a proportion of land value uplift due to planning decision making (or a justified proxy for this) and devoting the proceeds of that recovery to the provision of community goods made necessary by new use and development. A PGS has this function, which as a policy objective should not be lost sight of.

The development of a PGS also provides an opportunity to respond to the following issues.

- Practice in the scope and collection of infrastructure funding through Section 106 and related provisions in devolved administrations has been patchy and there are locations where best practice methods have not been adopted. There are opportunities to broaden and systematise infrastructure funding mechanisms that require to be identified and pursued.
- Many small scale planning applications have not hitherto merited the development of an individually negotiated Section 106 or equivalent agreement, but a PGS has the potential to deliver an additional revenue stream to deal with the incremental infrastructure demands of such new use and development. However, it must be recognised that rates should be struck at a level that will not substantially penalise beneficial development, particularly where this is exposed to other cost considerations such as the need to remediate land

and/or the relatively low expected profitability of otherwise necessary development in some regional or remote locations.

It has been asserted that only 7% of substantial commercial projects and 40% of housing developments required section 106 agreements in 2003/04<sup>1</sup>. PGS will represent a potentially extra liability for those developers who are not currently made subject to financial contributions pursuant to section 106<sup>2</sup>. This poses a benefit, in that any proposal holds out the prospect of significantly adding to public infrastructure revenues. However, it also holds out a challenge: additional charging or taxation must be seen as delivering direct benefits to communities, landowners and developers. Additional charging or taxation must also be set at a rate that will not significantly adversely change the development market behaviours that deliver the sustainable development required by society, such as additional housing.

The purpose of the remainder of this paper is to set out how practical steps might be taken to address the issues set out above, whilst retaining the essential working nature of a PGS as a charge or levy on uplift (or a proxy for this), and its benefit as a means of providing genuinely additional revenue to fund infrastructure provision to meet demand generated by development.

- Section 3 describes and evaluates four broad types of option for the further development of a PGS proposal, expressing a preference for one of these.
- Sections 4 to 9 identify issues that need to be addressed by any successful option, but focussing on the approach taken by the preferred option discussed in this paper. The issues are:
  - the relationship between the timing of PGS assessment, collection of revenues and the development finance process;
  - the identification of a basis for variation or exemption where PGS payment would be unfair or inappropriate;
  - the possible use of a tax or charge credit scheme to enable section 106 or equivalent agreements to continue to holistically address the infrastructure needs of a site and for their the value to be offset against PGS liability;
  - the need for a clear relationship between any PGS and infrastructure planning processes emerging from HM Treasury's parallel review of Infrastructure for Housing Growth;
  - the need for a clear and expeditious dispute resolution system about PGS liability; and
  - the need for a systematic and careful response to the implementation issues arising outside England, if PGS is to apply in the other nations of the UK.

In this respect, particular attention is drawn to issues identified by the RTPI in Scotland (see Section 9) that whilst addressing the particular concerns of the profession in that nation, also identify broader principles of potential relevance to other nations and devolved administrations.

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<sup>1</sup> Although conversations with the Greater London Authority suggest that there is some doubt over the validity of this figure.

<sup>2</sup> House of Commons Communities and Local Government Committee Report (November 2006), as cited in Richard Holme, 'Taxation', 22 February 2007, 226.

### 3. Can a PGS System Work? Evaluated Options and their Components

#### *Summary*

*If any PGS is to proceed, government should commit to a fundamental re-evaluation of issues and options.*

*This section examines four broad types of option that could be further evaluated, concluding that a local collection option is broadly to be preferred as offering the best fit of data, administrative skill and revenue requirement and hence the lowest likely administrative costs. However, the approach taken here is based on a relatively swift desktop evaluation: considerable further work in option development is required by government and this section aims to provide an example framework for such work.*

*That being said, as a bare minimum, the RTPI takes the view that if a PGS in the currently proposed form is to be implemented, a means of deferring payment until the completion of development (or phases of that development) should be found, as should a means of enabling the making of an integrated agreement to contribute necessary infrastructure in cash or kind that can be offset against tax liability, without artificial barriers as to the types of infrastructures that can and cannot be funded from PGS receipts.*

*This section also explains the key components of some options that form the basis for the further discussion of issues in the following sections of this paper.*

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This section examines options for the possible development of a PGS and its relationship with infrastructure planning processes. The options considered are based on some common language and components that are discussed first. The options are then outlined and evaluated.

#### **System Components and Terminology**

The remainder of this paper makes reference to a number of system components that either exist or are proposed. The key components and the terminology are set out below.

<b>Term</b>	<b>Abbreviation</b>	<b>Description</b>
Planning Gain Supplement	PGS	Used to include the current Government proposal and a range of options for change outlined below.
Development Plan	Includes RSS and LDF: others not abbreviated	All statutory development plans in England, Scotland, Wales or Northern Ireland. This includes the Regional Spatial Strategy (RSS) and the Local Development Framework (LDF) in England.

Term	Abbreviation	Description
Local or Multi Area Agreement	LAA and MAA	Agreements between local government and a wide range of local and regional delivery and service entities
Infrastructure Plan <sup>3,4</sup>	IP	A plan prepared in partnership between an administration (at national, regional or local level) and infrastructure providers, that sets out infrastructure needs for a defined area and period
Infrastructure Plan and Programme <sup>5</sup>	IP and P	An IP that is costed and formed into a development plan document
Infrastructure Cost Attribution Model <sup>6</sup>	ICAM	A software based tool that itemises infrastructures and their costs, applies costs or cost proportions to catchment areas and unitises these to measures, eg an infrastructure cost/hectare for a defined proposed use. An ICAM is the mechanism whereby an IP and P can be used to calculate and charge out liabilities for the payment of PGS.
PGS Receipts Distribution Model	PRDM	This is conceptually related to an ICAM. It is an adjunct model that supports the apportionment of PGS receipts to individual infrastructure and service providers or to project commissioning funds, based on the terms of an agreement between the infrastructure partners, probably through a LAA/MAA.

<sup>3</sup> Infrastructure Plans as described here already exist in some UK locations and are found and described in the RTPI research, Effective Practice in Spatial Planning (EPiSP), RTPI, UCL and Deloitte, 2007 (forthcoming).

<sup>4</sup> Infrastructure Plans as described here also form an emerging option for further development in HM Treasury's ongoing review 'Infrastructure for Housing Growth'.

<sup>5</sup> IP and P is a new term, developed from the IPs observed in EPiSP research, and including the characteristics of statutory Development Contributions Plans (DCPs) prepared under the Victorian Planning and Environment Act 1987, Part 3B - Development Contributions (Sections 46H - 46Q), where a similar system is widely used.

<sup>6</sup> The concept underlying an ICAM as described here is drawn from techniques initially developed by Marcus Spiller, Past President, Planning Institute of Australia and Director of Spiller Gibbins Swan, a specialist economics and planning consultancy (<http://www.sgs-pl.com.au/>). The concept has been developed using Victoria's Development Contributions Plan statutory framework and is now able to support a municipality or place based multi-subject infrastructure levy, or a subject based levy (eg for drainage), with charges attributed to developments ranging from major housing schemes to individual windfall sites. It is also based on ideas developed for the Mernda Strategy Plan (a metropolitan fringe new town plan in the City of Whittlesea, Victoria) by Chris de Silva and Jason Shaw.

Term	Abbreviation	Description
Section 106 Agreement	s106	An agreement made pursuant to section 106 of the Town and Country Planning Act 1990 under which a developer may make an infrastructure contribution in cash or kind. References to S106 should be taken to incorporate references to similar powers under Scottish legislation, section 75 of the Town and Country Planning (Scotland) Act 1997 and to other similarly conceived mechanisms.

## Evaluated Options

This paper examines four broad options for the collection and distribution of revenues for PGS purposes. These are as follows:

- **Option 1: Local Collection and Precept Up**
- **Option 2: Regional Collection and Distribution**
- **Option 3: National Collection and Distribution**
- **Option 4: Option 3 with Restructured and Delayed Payment**

These are individually described and evaluated in the following pages of this section. That being said, there is still considerable capacity to add to or vary the options described here.

### Option 1: Local Collection and Precept Up

This is the highest preference of the options tested in this paper. It retains the most direct link between development plans and plan-making, identified infrastructure needs and costs and any eventual PGS liability. It also links strongly to existing administrative resources in local government, in the assessment and collection of information about construction (for the building control purposes), about property holding and charges on property (local land charges) and revenue assessment and collection (Council Tax).

Essentially, it exhibits the characteristics of a charge rather than a tax, and furthermore should not be identified as being a tax which is collected and administered by HMRC. It is considered that branding a payment as a tax is likely to attract the attention of the tax avoidance industry, generating additional costs and complexities. Charge payers receive a transparent demonstration of the purpose to which their PGS payment is put and the relationship between their payment and infrastructure needs generated by their use and development proposal, through the preparation of a local infrastructure plan and programme (IP and P), although the maximum chargeable amount should be guided by data on land value uplift due to the grant of planning permission, ensuring that the charge retains a proportional relationship to the performance of land markets.

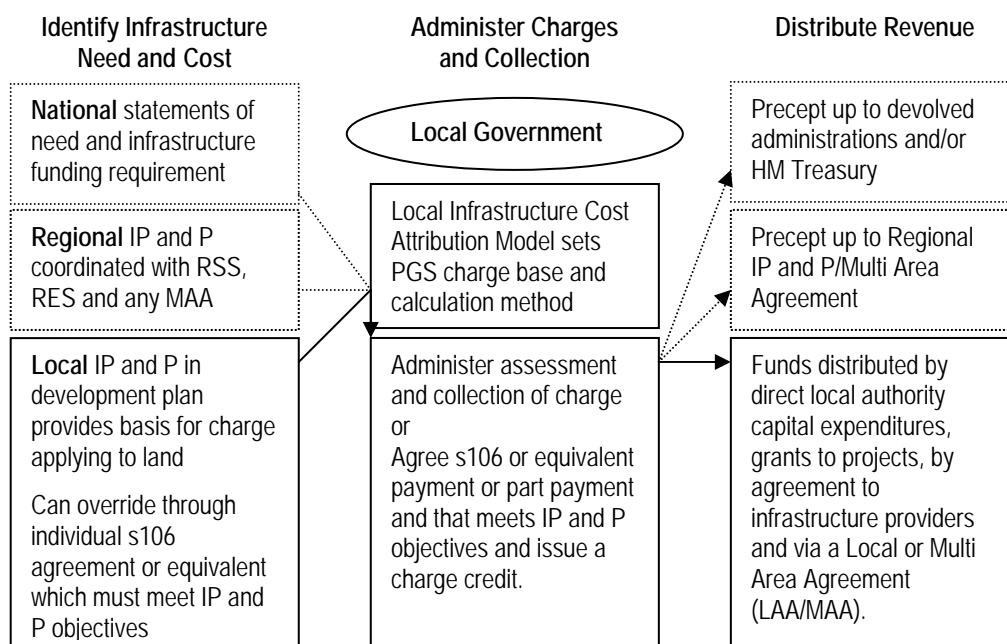
Existing local government planning, building and revenue systems hold much of the data to enable this system to be administered. This proposal systematises and generalises the beneficial lessons from examples such as the Milton Keynes and Ashford tariff or roof tax to provide the collection approach.

It also enables continued individualised section 106 or equivalent fund collection for special cases – mostly large individual sites – but ensures that these must have a ‘best practice’ and an LDF basis to continue. It clarifies the boundary line between PGS and individualised agreements and enables a ‘charge or tax credit’ to be given to a party who has advance paid against necessary infrastructure requirements in an individualised agreement.

It enables precepts of PGS receipts to be made upwards from local government to regional and national entities, to fund regional and national infrastructures.

Figure 1 below provides a schematic representation of Option 1. Table 1 on page 12 identifies its technical characteristics, likely implementation requirements, benefits and disbenefits.

Figure 1: Option 1 Diagram



### Option 2: Regional Collection and Distribution

This option is the least preferred of those evaluated by the RTPI, largely because the regional institutions in England currently lack the human and financial resources, means of democratic accountability and direct control over data necessary to effectively or efficiently make or administer the local and transparent IP and P that the RTPI considers should be at the heart of any PGS system. Whilst the same is not true at the devolved administration level, much additional model testing is required to fit this option to delivery in these locations.

The English regional tier also lacks any existing mechanism to collect and distribute revenues. It also lacks the community accountability desirable for a direct charge or tax setting tier of government.

There will be a need for PGS funding for regional tier infrastructures and Options 1 and 2 contain the potential for a regional precept or distribution of PGS receipts to meet the needs of a costed Regional IP and P.

Table 2 on page 13 identifies its technical characteristics, likely implementation requirements, benefits and disbenefits.

#### **Options 3 and 4:**

##### **National Collection and Distribution**

##### **Including the Delay and Restructuring of Payment**

These options are based on the current PGS proposal in that they would be nationally collected. The primary difference between them is that Option 4 includes:

- a delay in the point at which the tax falls due, to enable the completion of development or relevant phases of it; and
- the retention of a capacity to use section 106 or equivalent contributions to address the holistic infrastructure requirements of a project, both on and off site, with an associated tax offset mechanism.

Such approaches are less preferred than Option 1 because they make the direct link offered by Option 1 between the identified infrastructure needs of a site or proposal, an IP and P and the charge or tax payment hard to maintain. They still might cause substantial adverse devolved administration, regional and regeneration effects if charged at a standard national rate.

If such options were to proceed, it is considered essential to restore the direct capacity of systematically calculated section 106 or equivalent payments to address the entire infrastructure needs of a major site or proposal (Option 4). This concept is explored further in Table 4 and then in section 6 below, which examines a tax credit or charge credit regime that could achieve such an end.

Similarly, it is considered essential for the Government to consider means of delaying the payment of PGS until the completion of the development or relevant phases of it. If the due date for the payment of PGS was delayed to completion of the development or phase and actual realisation of the development gain, this would overcome one of the key commercial objections to the proposed PGS, namely the payment of tax (out of borrowed funds) on unrealised and at that stage hypothetical gains<sup>7</sup>. However, that would still not make Option 4 a preferred option, as amongst other effects, it fails to deliver transparency as between the payment made by the developer and the infrastructure needs generated by the development, except where a section 106 or equivalent agreement is entered into. Option 1 above is substantially to be preferred in this regard.

Table 3 on page 15 identifies the characteristics, likely implementation requirements, benefits and disbenefits of Option 3. Table 4 on page 16 performs the same functions for Option 4.

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<sup>7</sup> Source: Halliwells LLP

Table 1. Option 1: Local Collection and Precept Up

<b>Characteristics</b>	<p>PGS would be collected as local charge, enabling direct attribution to fund local infrastructure needs, identified in a local infrastructure plan (IP). This should be a development plan document (eg the Local Development Framework (LDF)) which would provide an independent means of recourse to stakeholders, concerned that they were unduly or burdensomely charged: via the examination process. It should reflect the requirements of any Local Strategic Partnership (LSP) and Local (or Multi) Area Agreement (LAA/MAA).</p> <p>A precept could be paid to cover regional infrastructures identified in a regional IP associated with the Regional Spatial Strategy (RSS) and the Regional Economic Strategy (RES), which could again be part of the development plan and subject to examination.</p> <p>An additional precept could be paid to cover national infrastructures, although there would also be a strong argument that the PGS could be simplified if such funding were addressed through existing national taxation revenues</p> <p>Such a model would need to be configured to meet the particular requirements of the development plan and local government systems in Scotland and Wales. Subject to the implementation of administrative reform, the approach for Northern Ireland would require separate consideration.</p>
<b>Implementation requirements</b>	<ul style="list-style-type: none"> <li>▪ A local infrastructure plan and programme (IP and P), entailing a statement of need for a local area, with agreement to deliver by providers, included in the development plan. If precepts up were to operate, a regional and even a national IP and P could be required.</li> <li>▪ An infrastructure cost attribution model (ICAM), determining the catchment area and percentage cost apportionment for each infrastructure item in the IP.</li> </ul>
<b>Implementation requirements continued</b>	<ul style="list-style-type: none"> <li>▪ A means of revenue collection (which could be by way of section 106 or similar agreements or a new statutory 'infrastructure contributions' (IC) mechanism, most probably within the planning legislation).</li> <li>▪ A capacity to make individualised agreements to include the advance or otherwise more timely or convenient provision of infrastructures in kind or cash contributions, to procure infrastructure better tailored to the needs of a site or a development process. These would potentially be capable of being offset against PGS liability.<sup>8</sup></li> </ul>

<sup>8</sup> See 'Tax or Charge Credits' in section 6 below.

## Benefits

- The concept is more of a charge to address identified needs and less of a tax.
- It enables the setting of a local charge, responding to actual identified infrastructure needs and to issues such as local land and development market performance.
- It can respond directly to brownfield and contaminated land remediation costs and other unforeseen infrastructure and cost elements, typically on larger sites.
- It links closely to existing planning and building systems for strategy, payments and enforcement purposes and to Council Tax revenue and land charges systems for information about land and collections experience.
- Unlikely to require any new legislation or entail major extra administrative costs.

## Disbenefits

- It requires the systematic development of local practice in IP and IC processes.
- It does not deliver a new direct revenue source to the Treasury

Table 2. Option 2: Regional Collection, Distribution and Precept Up

## Characteristics

PGS would be collected as regional charge, enabling direct attribution to fund regional infrastructure goods, distribution to local government within the region and precept-up to cover national infrastructure costs.

A grant would be paid to cover local infrastructures identified in a local IP.

An additional precept could be paid to cover national infrastructures, although there would also be a strong argument that the PGS could be simplified if such funding were addressed through existing national taxation revenues

Such a model would need to be configured to meet the particular requirements of the administrative systems in Scotland, Wales and Northern Ireland. Subject to consultations within those nations, such an option would probably be delivered by the devolved nations administrative machinery rather than by a tier between nation and local government.

## Implementation requirements

- A regional or devolved nation infrastructure plan and programme (IP and P), entailing a statement of need for a region or nation, with agreement to deliver by providers, included in the development plan (RSS) or other national planning framework. These plans would need to draw on local IP and Ps that would still be required to provide information about needs at the level below the devolved region or nation. If precepts up were to operate, a national IP and P would be required.

<b>Implementation requirements continued</b>	<ul style="list-style-type: none"> <li>▪ An infrastructure cost attribution model (ICAM), determining the catchment area and percentage cost apportionment for each infrastructure item in the IP, although this would need to draw on local content.</li> <li>▪ A means of revenue collection (which could be by way of section 106 or similar agreements or a new statutory 'infrastructure contributions' (IC) mechanism, most probably within the planning legislation). Again, this would require strong engagement with local government, or the establishment of a currently largely absent regional administrative structure.</li> <li>▪ A capacity to make individualised agreements to include the advance or otherwise more timely or convenient provision of infrastructures in kind or cash contributions, to procure infrastructure tailored to the needs of a site or a development process. These would potentially be capable of being offset against PGS liability.</li> </ul>
<b>Benefits</b>	<ul style="list-style-type: none"> <li>▪ This option would establish the first direct revenue base for English regions and would reinforce the revenue for devolved nations.</li> </ul>
<b>Disbenefits</b>	<p>These are substantial.</p> <ul style="list-style-type: none"> <li>▪ A new centre of expertise in development finance and revenue collection would have to be established at the regional level. This would duplicate expertise present at the local government and the national (HMRC) level, tending to increase administrative costs and reduce potential benefits.</li> </ul>
<b>Disbenefits continued</b>	<ul style="list-style-type: none"> <li>▪ The English regions lack the clear accountability mechanisms that would make them a natural home for a taxation measure.</li> <li>▪ Additional costs of new administrative machinery.</li> </ul>

Table 3. Option 3: National Collection and Distribution

<b>Characteristics</b>	PGS would be collected as national tax with distribution through local government, Local Area Agreements and Multi Area Agreements (LAA/MAA) within the region, with a percentage revenue retention to cover national infrastructure costs.
<b>Implementation requirements</b>	<p>Implementation would largely be as set out in the consultation papers: however, special consideration would need to be given to:</p> <ul style="list-style-type: none"> <li>▪ Anti-avoidance legislation so as to minimise the loss or avoidance of PGS revenue due from the developer at the payment date.</li> </ul>

**Implementation requirements**

- The relationship between implementation in England and the devolved nations.

**Benefits**

- The option utilises HMRC background in tax administration.

**Disbenefits**

These are substantial and are broadly identified in Section 2 of this paper. However, in addition:

- HMRC lack expertise in the development and infrastructure field.
- HMRC lack direct intelligence of infrastructure needs and development processes, meaning that much data would have to be shared or double collected with local government, lowering the cost benefit offered by the tax.
- This option fails to draw on the substantial experience and information resource on planning, building and local taxation present in local government.
- Any taxation based measure is likely to attract the attention of the tax minimisation industry.
- Anti-avoidance measures to counteract tax minimisation are likely to be complex.
- Costs of legislation, administration and enforcement.

Table 4. Option 4: Option 3 with Restructured and Delayed Payment

<b>Characteristics</b>	PGS would be collected as a national tax with distribution to local government, Local Area Agreements and Multi Area Agreements within the region, with a percentage revenue retention to cover national infrastructure costs.
<b>Implementation requirements</b>	<p>In addition to those needed to implement the currently proposed regime PGS regime:</p> <ul style="list-style-type: none"><li>▪ The retention of section 106 and related agreements as a means of settling all infrastructure requirements and funding arrangements for a proposal, including a tax offset measure broadly as outlined above.</li><li>▪ Anti-avoidance legislation so as to minimise non-payment of PGS by the developer at the payment date.</li></ul>
<b>Benefits</b>	<ul style="list-style-type: none"><li>▪ Tax is only paid at the time the developer has realised the gain. This would be seen as being a fairer time at which to impose a tax.</li></ul>
<b>Disbenefits</b>	<ul style="list-style-type: none"><li>▪ The payment date to the Government does not match the date or dates on which the relevant authority has to pay for infrastructure expenditure which is needed to make the development work.</li><li>▪ This issue could be resolved by the Government setting the PGS rate at such a level as includes an effective rate of interest the Government would be charged if it borrowed against the developer's future PGS liability, to fund the necessary infrastructure projects.</li><li>▪ Again, avoidance and anti-avoidance measures are likely to prove complex and costly.</li><li>▪ Costs of legislation, administration and enforcement.</li></ul>

## 4. When and How Should PGS Fall Due?

### *Summary*

*One key concern with the current PGS proposals has been that the tax would fall due prior to the completion of the development process and hence involve the developer in additional finance costs to cover the payment of the tax. This section proposes that a future developer of land should be able to obtain an estimate of its probable PGS liability in respect of a proposed use or development at any time, including prior to purchase of the relevant land. Furthermore, it is proposed that whilst the likely extent of PGS liability would need to be declared at the point of a grant of planning permission, the charge should not fall due until the development gain is realised, which would amount to completion, disposal or the passage of a reasonable period of time for these events to have occurred.*

*Furthermore, it is proposed that PGS should be relate to the costs of relevant infrastructure projects needed for the sustainable development of the site, the locality and the region in which it is located and not to the hypothetical value of land.*

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The PGS as proposed has a substantial capacity to disrupt the development finances of projects, because the tax is proposed to fall due at the point of value uplift and hence before the completion of any development which capitalises on that value. Such an approach is likely to increase the borrowing required to fund development and hence to increase costs to be handed on to the eventual purchaser.

- This paper below proposes a mechanism of decoupling the direct linkage between land value uplift and the PGS, instead attaching it to necessary infrastructure costs. If such an approach is taken, there is no reason in principle why the point of collection should not be moved to the point of realisation of the development. This could be the point of actual physical completion (determinable by the local planning authority with reference to data required under the building control system), a point of realisation through sale or lease of an interest in the land (controllable through local land charges) or the passage of a maximum period of time deemed to be reasonable without either of these events occurring. This approach is best fitted to Option 1. That being said, even if PGS were to be implemented broadly as proposed by the Government (See options 3 and 4) there is no reason in principle why the due date for payment of PGS should not also be moved to the point of realisation of the development.
- On some major development where the holistic coordination of infrastructure provision is desirable, or where the payment of the assessed PGS would otherwise appear to be unfair or inappropriate<sup>9</sup> in policy terms, this paper also proposes that there should be a capacity for ideally a local planning authority to establish a rebate policy. Such a policy could apply to the timing and or the quantum of the charge or tax. It should be noted that such a policy could be locally based and hence open to concerns about geographical divergence of practice. It could also be based on centrally or devolved administration based regulation or circular guidance, ensuring consistency in application.

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<sup>9</sup> See Section 5.

- This paper also proposes that there should be a capacity to make individualised planning gain agreements under section 106 of the Town and Country Planning Act 1990 that would override generic PGS liability or take effect as a tax or charge credit. If on a major development, a local authority or infrastructure provider was placed in the position of having to incur major up-front servicing costs, a section 106 agreement would be used and this could trigger payment at any time after the grant of planning permission, negotiated to the satisfaction of the parties. It could include a staged payment process.
- Other concerns relating to timing could be put to rest by the PGS liability calculation method (ICAM) proposed below<sup>10</sup>. If the method proposed in this paper were to be used, a developer could obtain an in-principle statement of PGS liability for a proposed use or development at any time, even on land not owned by that person. Such a statement should be stated as holding good within a set percentile variance for a given period, say 6 months or 1 year from issue. This would enable the developer to calculate the financial viability of their proposal and the effect of their exposure to PGS liability upon this with considerably greater certainty than under the current proposal.

The approach to be taken to the timing of PGS liability and the role and availability of any in-principle statement of PGS liability requires to be developed further and set out in a future consultation paper.

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<sup>10</sup> See Section 7.

## 5. Unfair or Inappropriate Payment

### *Summary*

*One key concern with the current PGS proposals is that it may levy payment on sites and in circumstances where the proposed development is such that payment would be unfair or inappropriate. This paper proposes a means of calculating payment based on a local Infrastructure Policy and Programme (IPand P). This could include the setting of criteria to determine circumstances in which payment either in whole or part was not fair or appropriate.*

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There will be some cases in which it would be unfair or inappropriate to charge a full PGS levy. Examples include land used for community services or facilities, but which has the development potential for a higher value use, such as business or residential use. If for example, land is set aside within a residential development to provide a community hall, there might be an argument that it should not be subject to the full cost of a PGS based on the infrastructure costs of servicing housing. Similarly, land set aside to be developed as a free to user sports ground, public park or open space should probably not make any PGS payment.

- There could be two approaches to such land.
- Firstly, the proposed use for the land could be to host an infrastructure eligible to receive PGS funding. If this is the case, a principle against the 'circularity' of funds should apply and the land should be exempt from the payment of PGS in respect of an infrastructure in receipt of PGS funding.
- Secondly, the local planning authority could be empowered to make policies, declaring that in certain circumstances a PGS payment was not fair or appropriate in either whole or part. This would form the basis for a limited system of PGS rebates, although as outlined above, consistency may also require the preparation of a national or devolved administration body of guidance, setting the principles by which this should occur.

The principles and details of any controls against the 'circularity' of funds, exemptions and or rebates would need to be developed further in a consultation paper.

## 6. Tax or Charge Credits

### *Summary*

*One of the main concerns with the current PGS proposals is that PGS is paid by reference to a hypothetical gain before the gain is realised<sup>11</sup>.*

*PGS is calculated by reference to a hypothetical pre-development valuation which will lead to uncertainty and disputes. There is no 'contractual link' between the payment of PGS and the delivery of some (largely off-site) relevant infrastructure projects necessary to the sustainability of the development, leaving the developer and communities exposed if and to the extent that the relevant infrastructure projects are not provided.*

*There should be a means of ensuring that, where it is necessary and appropriate to do so, such a contractual link can be fully reinstated, and, to the extent that they serve objectives set in an Infrastructure Plan and Programme (IP and P), any payments made under such a mechanism should be capable of being offset against otherwise payable PGS as a credit.*

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Under the current system, a developer agrees to pay a sum of money or to contribute infrastructure in kind and in return knows that either it or the local planning authority will ensure the various off-site infrastructure projects will be completed, for example, increased school capacity at a nearby school or a new route to the nearest railway station. On that basis the developer can both price and market their development as benefiting from the infrastructure and the local planning authority (and affected communities) can be assured of its provision.

The PGS as proposed removes the direct link between the payment or contribution in kind made by the developer and the obligation of the developer and or any public authority to ensure that a basket of off-site services notionally considered to be capable of receiving funds from PGS receipts are provided. The removal of this link has been raised as a substantial concern by public authorities, professionals and commercial interests involved in the preparation of this paper alike. For this reason, it is viewed as critical that any implemented PGS option should remove the artificial distinction between PGS and s106 fundable infrastructures as set out in the CLG consultation paper. Any new system should allow entry into a new style s106 or 'PGS Agreement' where all reasonable infrastructure costs can be met in cash or kind, whether on or off site. The powers to make such agreements are already present in existing planning legislation. Any such agreement should be capable of being offset against base PGS liability.

- Entry into a new style of s106 agreement (the "PGS Agreement") whereby the PGS liability of the developer is linked to the cost of the relevant infrastructure items (where those costs are to be funded by the developer) would preserve that link.
- In respect of developments where an IP and P structure was in place it would be possible to quantify the amount of charge/tax that was needed from the developer to fund the off-site infrastructure, amounting to the developer's obligation pursuant to the

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<sup>11</sup> See Section 4 above.

PGS Agreement. It should then be possible for the developer to 'pay' this obligation either in money or in money's worth.

- For example, if the infrastructure costs were, say, £10m and it was considered that of these costs £2m would be borne by the developer pursuant to, say, a school extension, then the developer would have a choice of paying that £2m in cash as and when PGS was due or payable or to procure that the relevant school extension was built on or before the relevant time (i.e. the time agreed and set out in the PGS Agreement). The specifications of any direct infrastructure provision would be agreed between the developer and the local planning authority and recorded in the PGS Agreement.
- If PGS is payable at the date of the realisation of the development, then the developer would simply submit a return to the PGS assessing authority which would have appended to it the PGS Agreement which would show an initial liability of £X (based upon the infrastructure cost of the development) and would on the return show the amount paid by virtue of providing some or all of the infrastructure projects leaving the balance (if any) of PGS liability which would be due and payable.
- If, alternatively, PGS is payable within 60 days of the issue of the development notice (as is currently intended) then it appears appropriate that the upfront amount paid by the developer in respect of that liability will be reduced by the amount agreed to be 'paid' in money or monies worth pursuant to any PGS Agreement.
- If and to the extent that the developer fails whether in whole or in part to provide the money or monies worth due under a PGS agreement by the relevant delivery date for the infrastructure, then there would be a late payment of all due PGS and interest and penalties would be applied to that late payment.

## 7. Relationships with Infrastructure Plans

### *Summary*

*Another key concern with the current PGS proposals has been their incompletely demonstrated linkage to infrastructure demand, infrastructure delivery and infrastructure planning processes. This section proposes a route towards better linkage and suggests ways towards the identification of a certain class of beneficiary infrastructures for the distribution of PGS revenues.*

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A major concern expressed about the current PGS proposals has been that there is insufficient clarity about the purposes to which PGS receipts would be put and the relationship between those purposes and the means of revenue distribution.

The PGS has been justified from the outset as a means of providing revenue to support the development of infrastructures made necessary by development processes. This paper proposes that this linkage should be maintained in any new option development exercise.

For this reason, it will be necessary for any future options development work to demonstrate clearly how PGS links to infrastructure plan (IP) processes.

A means to achieve this could be as follows.

- A local planning authority would prepare a rolling infrastructure plan and programme (IP and P). This would be a document in the development plan but would require to be reviewed regularly: annually would be desirable.
- It appears axiomatic that an infrastructure should not be capable of benefiting from PGS receipts unless it is incorporated in the IP and P and hence in the development plan. This approach would have a number of benefits. It would provide a clear financial incentive to a local planning authority to prepare a sound IP and P and maintain it up to date. It would provide a clear financial incentive for all infrastructure providers to collaborate in the development of the IP and P. It would make transparent to landowners, developers, spatial and financial planners the extent of the potential liability at any given time and place. It would enable a person who was concerned that an ineligible infrastructure was being charged for, that a charge rate was unduly high or a catchment area was too broad to make this point known before or during the development plan examination process – if needs be seeking a formal recommendation for change to the Plan.
- The IP and P would list and locate all infrastructures that are eligible for the receipt of PGS funding to support their development, the value of those infrastructures and an indexation mechanism to ensure that PGS receipts did not become devalued with the passage of time. It would essentially take the form of a list of eligible infrastructures, their likely costs, and a map of their location.
- In developing the IP and P, it would be necessary to consider the essential characteristics of an eligible infrastructure: what makes an infrastructure one that should of principle receive PGS funding? It would also be necessary determine whether the local planning authority could decide whether an individual infrastructure was eligible, or whether eligibility would be centrally determined, with the local planning authority then able to select

individual eligible recipients, but not to introduce new classes of recipient? The essential characteristics of an eligible infrastructure are likely to be that it is necessary for the sustainable social, economic and environmental performance of a community, and that it is not one in which there is a fully functional market for its provision, in the sense that proper provision would typically require direct investment or service provision by local government or related public authorities or services, or that it would normally be in receipt of a subsidy to ensure adequate provision. Similarly it would appear necessary to clarify that PGS was to fund capital development or augmentation of infrastructures required by development, but not their ongoing revenue costs once developed. It should be clear that ongoing revenue costs should normally be met from an appropriate mixture of general and local taxation, licence fees and other user charges. PGS should fund the transitional capital costs due to development.

- A necessary related procedure would be the formation of an infrastructure charging attribution model (ICAM). The ICAM would set out the proportion of infrastructure value to be charged to the PGS for each eligible infrastructure, the proportion to be charged to general local or national taxation revenue and the proportion to be provided by the market/private developer or financed for recovery through user charging. The ICAM would determine the geographic catchment area for each eligible infrastructure and hence from where the PGS payment for that infrastructure would be drawn. Finally the ICAM would settle whether any particular use or development characteristics justified a PGS discount or surcharge, based on their tendency to under or over use a particular class of infrastructure, when compared with a base use or development type (which would probably be residential).
- Experience suggests that the ICAM would be a computer model supported by a Geographical Information System (GIS) with property references – similar to that used for planning and council tax purposes in many local authorities. Each individual eligible infrastructure catchment area would be represented by a mapped polygon that would attach to a PGS charging table for that infrastructure. This would generate a PGS micropayment for each property in that polygon expressed at a standard rate: £/ha. The potential PGS liability for a site would be a sum of the micropayments for each eligible infrastructure polygon in which the site rested. Infrastructures such as a preschool may have a geographically small polygon, whereas infrastructures such as a heavy rail upgrade may have a geographically large polygon. The extent of the polygon should be based on reasonable assumptions, derived from research, about the likely geographic extent of usage (catchment area) for the particular infrastructure.
- A further related procedure would be the formation of a PGS receipts distribution model (PRDM). The PRDM would essentially be a mirror image of the ICAM, in which aggregate receipts per property were disaggregated and attributed to individual infrastructure projects and payments made to reflect the appropriate proportion of infrastructure value set in the ICAM as being chargeable to the PGS.

Whilst this sounds complex, work undertaken in Australia<sup>12</sup> has demonstrated that it can be undertaken and then managed with relative ease using existing computer systems.

There are a number of related benefits to a robust IP and P process that could also be explored:

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<sup>12</sup> See table of terms in Section 2.

- Regional or devolved administration IP and Ps and ICAMs could be prepared and a precept up from local PGS receipts could be made for each local planning authority within a regional/devolved administration IP and P area.
- Similarly, a national IP and P could be prepared, derived from the proposed national statements of need for infrastructure, although there is an argument that national infrastructures should also be financed from general taxation.
- At the local level, an IP and P can also provide a means of short circuiting compulsory purchase proceedings. For example, if land for an infrastructure has to be acquired, it can nevertheless be included in an IP and P, which can attribute the acquisition costs to the PGS. At any point, the local planning authority can make a payment out of PGS funds to acquire the land at any value up to an acquisition cost ceiling allowed for in the IP and P. This can provide a powerful means of enabling private treaty settlements in advance of compulsory purchase proceedings, expediting the availability of the land and hence the delivery of the infrastructure.

One important principle should be established, namely the principle against the 'circularity' of PGS payments. If an infrastructure is agreed to be an eligible infrastructure to receive PGS payments, then the land required for use and development associated with the provision of that infrastructure should be exempt from PGS. The local planning authority should be authorised to certify that exemption.

Finally, an interesting side effect of the proposed IP and P and ICAM process is that PGS ceases to be either a tax or a charge directly on the uplift of land value due to a planning process, which can be particularly difficult to calculate. Instead, it becomes a charge based on the actual or predicted costs of a basket of necessary infrastructures, which is quite easy to calculate.

Clearly, when determining that basket of necessary infrastructures and drawing up its IP and P, the local planning authority should have regard to the capacity of planning proposals to deliver an uplift in land value. Guidance should be provided such that it should not seek to impose a PGS charge that would represent more than a reasonable percentage of predicted uplift over the IP and P period. If more than such a percentage is arguably necessary to provide eligible infrastructures, then there is an argument that some measure of external regeneration funding is required, or that the development of the land for the proposed use is not economically viable or sustainable and should not proceed.

As a result of this approach, it would no longer be necessary to base individual PGS assessments on the value of land, or uplift in the value of land. Self assessment would also no longer be required, as the ICAM would produce clear, simple and certain liability assessments made by the planning authority in each case.

## 8. Dispute Resolution

### *Summary*

*Another key concern with the current PGS proposals has been the absence of a clear understanding of the scope and potential effects of disputes around valuation and the potentially delaying effect of these on the carrying out of development. This section proposes directions of investigation for dispute resolution mechanisms, concluding that these must lead to expeditious and certain results.*

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A major concern expressed about the current PGS proposals has been that disputes about uplift valuation for PGS purposes have the potential to become unduly complicated, to delay major development proposals and even to affect their overall economic viability. It appears critical to give thought to the development of an expeditious dispute resolution process that allows the quantum of PGS liability on a proposal for a site to be struck and applied with certainty.

- Clearly, if a PGS were to proceed using the IP and P and ICAM process outlined above, there would be a means of challenging the decision to allocate a particular infrastructure as eligible to obtain PGS receipts and the quantum of those receipts and the attribution of that infrastructure to land. This would be via the examination of the IP and P prior to its approval as a development plan document.
- The ICAM would also remove the need for the 'self assessment' mechanism in the current PGS proposal that has been the subject of many stakeholder concerns. As such, the quantum of individual site PGS liability could be determined with much greater ease and there would be far less scope for challenge.
- However, in the limited cases of dispute, it would be valuable for there to be an expeditious means of dispute resolution that did not expose the development process to the risk of substantial delays or costs. It should be possible to seek the declaration of say a tax inspector, an independent accredited valuer or other such appropriately qualified person, that an in-principle statement of PGS liability is either correct, or incorrect. Such a declaration would be made following an examination of the statement of liability together with the IP and P and the demonstrated calculations derived from the ICAM. It would be a relatively simple arithmetical exercise and could be completed swiftly. If a dispute resolution process found an error in the operation of the ICAM, this could clearly have implications for other PGS payers, and an audit of collections should then be triggered.
- There is an argument that there should be a strictly limited range of justifications to propose that whilst technically correct, an in principle statement of PGS liability should be set aside because it is not fair or in the public interest to charge the subject site to the extent proposed. The tax or charge credit regime set out above provides a means of removing a site from the PGS regime and subjecting it to an individualised negotiated payment, still subject to the over-arching objectives of the IP and P, but in which the precise quantum of liability could be varied. A person who was concerned that PGS should be varied should be required to enter the credit regime, where, if they still disputed the quantum of charge, planning permission would be refused but there would be recourse to an appeal under section 78 of the Town and Country Planning Act 1990. As part of an appeal, a Planning Inspector could resolve the final quantum of liability.

A new consultation paper on PGS should examine and set out the principles and details of a dispute resolution system that distinguishes between questions of planning merit and technical error in PGS calculation.

## 9. Devolved Administrations' Considerations

### *Summary*

*Another key concern with the current PGS proposals has been its apparent UK wide application, whilst the detail provided in the consultation documents has strongly focussed on English law, regulation, administrative arrangements and social and economic conditions. This section incorporates the commentary of the RTPI in Scotland and calls for any chosen option to address devolved administrations' issues with much greater clarity than the current proposals.*

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This section is intended to provide a devolved administrations' dimension to the RTPI's UK response to the PGS consultations and is closely based on particular comments provided by the RTPI in Scotland. It is not intended to support any one option for PGS development drawn out above, rather seeking to establish basic principles that should be accepted before proceeding to apply PGS to nations other than England. Consideration also needs to be given to the different circumstances and issues relating to Wales and Northern Ireland.

Particular devolved nations concerns include the following:

- The PGS is intended to apply to the United Kingdom as a whole, however, the CLG consultation document only concerns proposed changes to the system of planning obligations in England. Whilst the consultation on PGS in Scotland has usefully included key stakeholder groups, it has been limited when compared with the extensive consultation which has just taken place on the detailed provisions of the new Planning etc (Scotland) Act 2006. It will be important to ensure that the full implications of the devolved settlement for any UK wide PGS are understood and consulted upon. Similar considerations arise in Wales and Northern Ireland.
- The complex and bureaucratic arrangements for the new proposals emerge at a time when new planning legislation in Scotland seeks to establish a planning system which is fast, inclusive and transparent. The addition of PGS to planning obligations under s75 of the Scottish Act (equivalent to s106) would only lead to greater complexity.
- There are considerable tensions with other principles of the new Scottish planning legislation. The new Scottish Act is based on the principle that the effects of planning applications are considered and mitigated through local engagement. Under the new Planning etc (Scotland) Act, Section 75 Agreements remain a key tool in bringing improvements to accompany developments at the local level in Scotland. The RTPI in Scotland support the continuing implementation and evolution of this policy framework. The RTPI in Scotland supports the Scottish Executive's response to the earlier consultation round on PGS, which suggested that the disconnection of infrastructure provision from individual applications implied by PGS and accompanying restriction on planning obligations would appear to militate against the principle of local engagement. That being said, these concerns can also be expressed for the UK as a whole.
- The new proposals lack precision and clarity regarding regional and local redistribution processes and purposes. This is a key issue which has been addressed for the UK as a whole above, but will require to be addressed for devolved administrations in a manner

that is agreed with them, as it may require to be supported by new legislation, regulations or procedures at devolved administration level

- The rate of PGS also bears strongly on the performance of the land and development market and hence economies of devolved nations and requires to be developed further with an understanding of potential economic effects within and in agreement with the devolved administrations.
- Much of the experience upon which the PGS proposals are based is not applicable in Scotland where the issues arising from regional overheating and from the expanding application of developer contributions have not been experienced to the same extent as in England, and where potential disincentives to development arising from the proposals are more likely to occur in areas of regeneration and across the large remote rural areas.
- Given the significant differences in the Scottish economy and in the nature of the provision of housing developments, the RTPI in Scotland consider that there would be a strong case to remove public bodies and registered social landlords from liability for PGS, and to give further consideration to its application to small scale developments and brownfield sites, an approach also supported by the RTPI Policy Officer for Ireland in respect of Northern Ireland. This underpins the consideration of options for exemptions addressed more broadly above that are likely to have a UK wide application.
- Similarly, the RTPI Policy Officer for Ireland has commented that it will not be possible for the PGS to be applied in the same manner in Northern Ireland as it could be in England. In part this comment recognises the substantial differences between the economies of Northern Ireland and England, but it also recognises the geographic reality of a land frontier. If the tax burden for developers were perceived as becoming too onerous in Northern Ireland, it is relatively easy for developers to choose to operate in the Republic of Ireland, suggesting that smaller taxation changes might have greater economic effects than similar changes in England.

## 10. What Next?

Having examined a range of issues and options bearing on the PGS proposals currently subject to consultation, this paper **recommends** as follows.

- 1. The PGS proposal as currently subject to consultation should not proceed, because it has not been demonstrated to be workable.**
- 2. Significant additional option development and evaluation is required to enable any PGS to be brought forward, to ensure that benefits are maximised and adverse effects are minimised.**

This paper has set out some mechanisms that have the potential to enable existing section 106 and equivalent agreements to form the core of a systematic system of infrastructure plan (IP) preparation, taking a lead from work done in locations such as Milton Keynes and in Australia.

It must clearly be acknowledged that the infrastructure plan (IP) and infrastructure charges attribution model (ICAM) approaches set out in this paper require to be 'road tested' to ensure their applicability to a range of UK locations and applications, broadly:

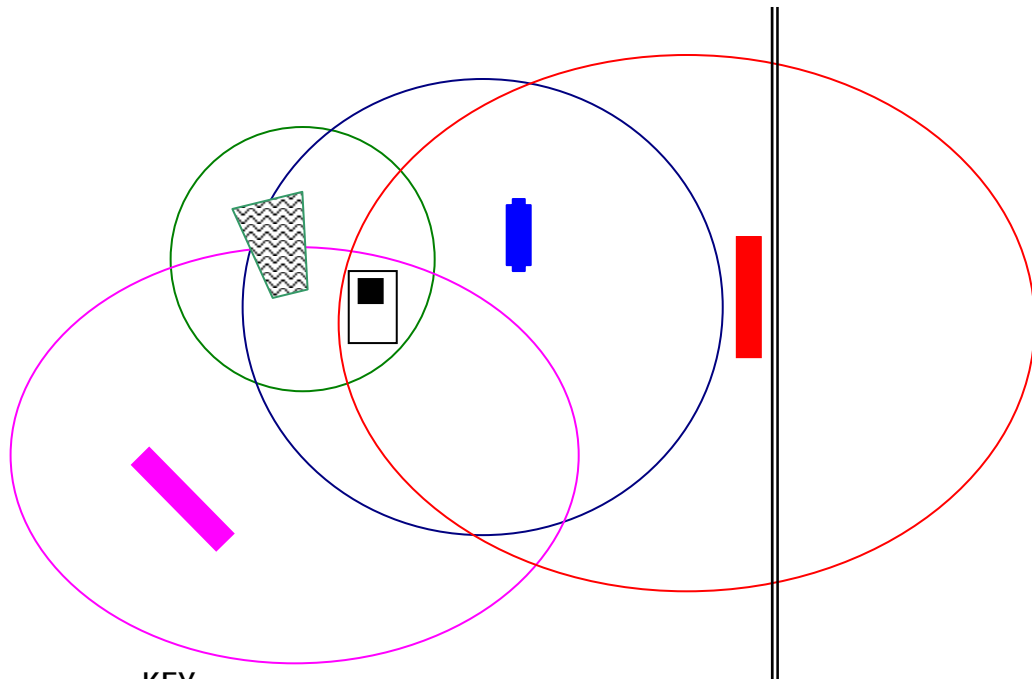
- in growth locations such as Milton Keynes, where the ideas in this paper are closest to having achieved a proof of concept;
- in complex inner city/urban localities;
- in suburban localities;
- in declining industrial locations;
- in rural and remote areas;
- in respect of corridors where major infrastructures are proposed; and
- ensuring that the likely legislative, policy and administrative requirements of devolved administrations are identified and responded to.

Such work should be undertaken by the preparation of a shadow IP and ICAM, running alongside the existing planning gain mechanisms used in a sample of locations addressing the above or similar criteria, enabling the prediction and attribution of potential revenues, for assessment against current revenues. An evaluation of costs and benefits in different location types should then be undertaken.

The RTPi would be happy to work closely with the government to bring about such a test.

## APPENDIX

### How Does an ICAM Work?



#### KEY

All indicated infrastructures and catchment areas are notional.



The 'development site' subject to PGS charge, notionally for residential use.



A school site, benefiting from PGS drawdown to provide extra accommodation, and the 'catchment area' within which residential development is charged for a proportion of this.



A local park, benefiting from PGS drawdown to improve recreational facilities, and the 'catchment area' within which residential development is charged for a proportion of this.



A community hall to be constructed using PGS drawdown, and the 'catchment area' within which residential development is charged for a proportion of this.



A station to which access improvements are to be provided from PGS drawdown, and the 'catchment area' within which residential development is charged for a proportion of this.

The example above shows a notional ICAM in which a range of new infrastructures or infrastructure improvements are assigned **geographical catchment areas** (polygons using a Geographical Information System (GIS) for charging purposes).

A proportion of the known cost of each infrastructure or improvement is then assigned as due to the effects of new use or development and a proportion to other general capital funds: the cost share is fully variable in principle.

This cost can also be shared in different proportions according to the different infrastructure demands due to a basket of mixed types of use and development. For example, it could be agreed that new residential use needs to contribute to a defined education infrastructure catchment and that new business use need not, that new business use needs to make a greater contribution than residential to transport infrastructure and that the benefits of town centre open space might be equally shared.

The amount of land within each catchment area is known and the cost proportion and mix due to be charged to any new use or development can be calculated for a land unit, typically an **infrastructure type cost/hectare of proposed use or development type**.

When an applicant makes a proposal, the ICAM will be provided with the land area of the site and a description of the proposed use or development. This data will be used to apportion a bespoke share of infrastructure costs for all the catchment areas that the site falls into and which are relevant to the proposed use or development type. This generates an **apportioned aggregate infrastructure charge**. This is essentially the PGS payment that is due.

It follows that the likely value of such a charge can be notionally calculated for any land area or proposed use or development and can be advised to a proponent at any time.

An ICAM also requires to have an agreed **infrastructure indexation mechanism**, to ensure that the funds that it calls for do not devalue over the inter-review life of the tool. However, the ICAM and the IP and P on which it relies must also be kept under regular review.

## Links to Overseas ICAM References

The Victorian Planning and Environment Act 1987, Part 3B - Development Contributions (Sections 46H - 46Q) provides a developed statutory framework for what amount to a PGS. There is a link to a copy of the legislation below:

[http://www.dms.dpc.vic.gov.au/Domino/Web\\_Notes/LDMS/PubLawToday.nsf/0/72df64b9bbadb89eca256ec3000084ef/\\$FILE/87-45a074.pdf](http://www.dms.dpc.vic.gov.au/Domino/Web_Notes/LDMS/PubLawToday.nsf/0/72df64b9bbadb89eca256ec3000084ef/$FILE/87-45a074.pdf)

The standard (regulatory) requirements for a Victorian Development Contributions (IP) Plan can be seen at this link:

[http://www.dse.vic.gov.au/planningschemes/aavpp/45\\_06.pdf](http://www.dse.vic.gov.au/planningschemes/aavpp/45_06.pdf)

The following links show pages from Whittlesea City Council LDF and proposals map with individual DCP (IP) requirements for Mernda, a new town proposal with a target population of 35,000 (DCP07, 08 and 09 on the plan).

General proposals map 13 shows a pattern of LDOs to implement a district centre and residential areas for a new town:

<http://www.dse.vic.gov.au/planningschemes/whittlesea/Maps/whittlesea13zn.pdf>

DCP map 13 shows where IP levies for the new town proposal apply:

<http://www.dse.vic.gov.au/planningschemes/whittlesea/Maps/whittlesea13dcpo.pdf>

A summary page for DCP09 lists the elements of infrastructure and the contribution sought per developable hectare:

[http://www.dse.vic.gov.au/planningschemes/whittlesea/ordinance/45\\_06s09\\_wsea.pdf](http://www.dse.vic.gov.au/planningschemes/whittlesea/ordinance/45_06s09_wsea.pdf)