



PUBLIC ART THINK TANK

**RESPONSE TO THE GOVERNMENT'S CONSULTATION ON THE NATIONAL
PLANNING POLICY FRAMEWORK (NPPF)**

24th FEBRUARY 2011

KEY CONTACT:

**Jonathan Banks
Chief Executive
ixia, the public art think tank
Unit 114
The Custard Factory
Gibb Street
Birmingham
B9 4AA**

T: 0121 753 5301

E: Jonathan.Banks@ixia-info.com

W: www.ixia-info.com

ABOUT IXIA

ixia is England's public art think tank. We promote and influence the development and implementation of public art policies, strategies and projects by creating and distributing knowledge. We work with arts and non-arts policy makers and delivery organisations within the public and private sectors, curators, artists and the public. ixia is a charity and a regularly funded organisation of Arts Council England (ACE).¹

PURPOSE OF THIS NOTE

This note has been prepared by ixia in response to the Department of Communities and Local Government's (DCLG) invitation to organisations and individuals to offer suggestions on the priorities and policies which should be included within the National Planning Policy Framework (NPPF). DCLG's overall aim for the NPPF is to provide a shorter, more decentralised and less bureaucratic approach to the articulation and implementation of national planning policy statements, circulars and guidance documents.²

RESPONSE - PUBLIC ART AND THE NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

ixia requests that the NPPF makes reference to public art, either independently or as part of a definition of culture, cultural infrastructure and cultural activities. This will:

- complete and formalise the conflation of public art and the planning system. This has its origins in the Advice given on the subject by Robert Carnwath QC to the Arts Council of Great Britain (ACGB) in 1988.³ The subject was reviewed and updated in the Advice given by Ian Dove QC to ixia in 2009. Ian Dove QC's Advice stated that it is now possible for Local Planning Authorities (LPA) to require rather than merely encourage public and private sector organisations to fund public art projects;⁴
- reflect the reference to cultural infrastructure within the list of infrastructure types that can be funded by the Community Infrastructure Levy (CIL). The reference is included within *The Community Infrastructure Levy: An overview*, which was published by DCLG during November 2010;⁵
- support and further the recent co-operative work of DCLG and the Department for Culture, Media and Sport (DCMS) via the Living Places partnership;⁶
- provide clarity and add weight to the status, role and funding of public art within and via the planning system and in support of the delivery of the Government's localism agenda.

BACKGROUND INFORMATION - PUBLIC ART AND THE PLANNING SYSTEM

In 1988, ACGB asked Robert Carnwath QC to provide Advice on the 'powers of local authorities to require, or encourage, developers to devote a proportion of their capital expenditure to art'. ACGB sought this Advice as part of its promotion of the commissioning of

¹ www.ixia-info.com

² www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicyframework/

³ Robert Carnwath QC, *In the matter of: Arts Council of Great Britain: Percent for Art. Advice* (Arts Council of Great Britain, 1988)

⁴ Ian Dove QC, *Public Art and the Planning System, Advice* (No5 Chambers, 2009)

⁵ Department of Communities and Local Government (DCLG), *The Community Infrastructure Levy: An overview* (DCLG, 2010), p.6

⁶ www.living-places.org.uk

public art by public and private sector organisations and the public art funding mechanism, Percent for Art.⁷ The QC's Advice included guidance on the wording of a public art policy within a local plan. This was: 'The local planning authority will in appropriate cases encourage the provision of new works of art as part of schemes of development, and in determining an application for planning permission will have regard to the contribution made by any such works to the appearance of the scheme or to the amenities of the area.'⁸

The subsequent circulation and promotion of the QC's Advice by ACGB and its successor in England, ACE, led to the inclusion of public art and Percent for Art statements, policies and strategies in documents used by LPA to guide and secure regeneration and development projects. In addition, public art as part of place-making began to be promoted by national organisations that advised national, regional and local government, other public sector organisations and the private sector on architecture, urban design and public space. For example, by CABE in *By Design - Urban Design and the Planning System*⁹ and *Creating Excellent Buildings - A guide for Clients*,¹⁰ and English Partnerships and The Housing Corporation (now the Homes and Communities Agency) in the *Urban Design Compendium*.¹¹

During 2006, ixia found that approximately 61% of LPA in England made reference to public art and/or Percent for Art in documents relating to the planning system. Furthermore, guidance¹² and research on planning obligations commissioned by the last Government,¹³ in addition to ixia's own review,¹⁴ showed that when a developer and a LPA agreed on the provision of public art, then planning conditions and planning obligations were used to secure its development and delivery on and/or off development sites. Indeed, it is worth noting here that the last Government's research identified that public art was the most common planning obligation within major urban centres,¹⁵ and its guidance provided advice to LPA on the wording of planning obligations for public art.¹⁶

The development and implementation of the sustainable communities agenda by the last Government placed social, economic and environmental aims and objectives at the centre of public policy. This enabled numerous regeneration and development projects to be progressed with the support of public and/or private sector investment, and led to a series of ongoing changes to how the planning system planned for, and assessed, these projects. *Planning Policy Statement 12* stated: 'The planning system has been substantially reformed to embed community responsive policy-making at its heart and to make contributing to the achievement of *sustainable development* a statutory objective. The new *spatial planning* system exists to deliver positive social, economic and environmental outcomes, and requires planners to collaborate actively with the wide range of stakeholders and agencies that help to shape local areas and deliver local services.'¹⁷ In response, ixia asked Ian Dove QC to

⁷ Percent for Art is an internationally understood funding mechanism for public art. Its use should result in a public or private sector organisation allocating a minimum of 1% of the total cost of any type of development to the commissioning of artists.

⁸ Robert Carnwath QC, *In the matter of: Arts Council of Great Britain: Percent for Art. Advice* (Arts Council of Great Britain, 1988)

⁹ CABE and DETR, *By Design – Urban Design and the Planning System* (CABE/DETR, 2000), p.14

¹⁰ CABE, *Creating Excellent Buildings – A guide for Clients* (CABE, 2003), p.98

¹¹ Llewelyn-Davies, *Urban Design Compendium* (English Partnerships and The Housing Corporation, 2000), p.103

¹² The Law Society, *Model planning obligation (section 106) agreement* (DCLG, 2006), p.17

¹³ University of Sheffield and the Halcrow Group Limited, *Valuing Planning Obligations in England: Final Report* (DCLG, 2006), p.49, 50, 51

¹⁴ ixia, *Public Art and the planning system and process in England. Guidance on a Supplementary Planning Document for Public Art* (ixia, 2007)

¹⁵ University of Sheffield and the Halcrow Group Limited, *Valuing Planning Obligations in England: Final Report* p.50

¹⁶ The Law Society, *Model planning obligation*, p.17

¹⁷ Department of Communities and Local Government (DCLG), *Planning Policy Statement 12: creating strong safe and prosperous communities through Local Spatial Planning* (DCLG, 2008)

review the work of Robert Carnwath QC and to provide new Advice regarding the relationship between the provision of public art and the planning system. In summary, Ian Dove QC's Advice, which was published during May 2009, stated that:

- both permanent and temporary public artworks located on and off development sites are capable of amounting to a material consideration in the planning system;
- public art can be required by a LPA and, if it is not provided, can be the reason for refusing planning permission for a development; and
- for the above to happen a LPA must explicitly embed the details of the provision of public art within their development frameworks, supplementary planning documents and specific design briefs.¹⁸

In October 2009, ixia and the Living Places partnership responded to DCLG's document, *Detailed proposals and draft regulations for the introduction of the Community Infrastructure Levy: Consultation*.¹⁹ In 2009, the Living Places partnership was a joint initiative between DCLG and DCMS. The aim of the initiative was to ensure that all communities benefited from cultural facilities such as museums, libraries, art and sport as well as making better use of cultural heritage.²⁰

Central to ixia's and the Living Places partnership's responses to DCLG's document were: that culture, as well as sport and recreation, was included on the list of infrastructure types that can be funded by CIL; and that public art was included in the definition of culture and was independently listed as an infrastructure type.

During November 2010, DCLG published *The Community Infrastructure Levy: An overview*. It stated that the definition of community infrastructure in *The Planning Act 2008* allows CIL to be used to fund cultural infrastructure.²¹

¹⁸ Ian Dove QC, *Public Art and the Planning System, Advice*

¹⁹ Department of Communities and Local Government (DCLG), *Detailed proposals and draft regulations for the introduction of the Community Infrastructure Levy: Consultation* (DCLG, 2009)

²⁰ www.living-places.org.uk

²¹ Department of Communities and Local Government (DCLG), *The Community Infrastructure Levy: An overview*, p.6