



PUBLIC ART THINK TANK

IXIA'S APRIL 2008 PLANNING SYSTEM UPDATE

This update provides a review of the proposed changes to the planning system and their impact on public art. ixia will issue further updates when new information about the changes is made available by the Government.

1. Public Art and the 2007 Planning Bill

During November 2007, the Government introduced a new Planning Bill,ⁱ which is currently before Parliament. The Government's intention is for it to become law by Spring 2009.ⁱⁱ

For a number of years the planning system has been criticised for being unfair, complex and somewhat arbitrary and the complex policy framework was criticised for leading to delays in the development process. The Government has therefore explored methods of improving the system of planning obligations as part of a wider reform of the planning system.

A consultation paper in 2001, *Reforming Planning Obligations: Delivering a fundamental change*, explored the notion of tariffs on development.ⁱⁱⁱ In March 2004, the *Review of Housing Supply* suggested the introduction of a Planning Gain Supplement, an idea pursued by HM Treasury to the point of initial legislation but then abandoned in the Prime Minister's announcement of a programme of draft legislation in July 2007.^{iv}

2. The Community Infrastructure Levy and Planning Obligations

The basic thrust of the 2007 Planning Bill^v is to speed-up the process of determining planning applications and to enable local planning authorities to spend some of the funds currently secured within Section 106 Agreements in a more strategic way. Section 106 Agreements will still exist in relation to on-site requirements but planning obligations relating to a development's social or community infrastructure, which in early papers the Government deemed to include cultural and public art initiatives, will be incorporated into the Community Infrastructure Levy. Local planning authorities will be responsible for collecting the Levy and its application will be determined locally on the basis of a costed infrastructure plan. This may generate additional income as the current system is based simply on the principle that new developments should cover the cost of their impact: the services necessary to facilitate and/or mitigate any adverse effects of developments.

3. The Application of the Community Infrastructure Levy

Government guidance on the application of the Levy by local planning authorities includes the following:

- Each local planning authority will need to account for how the Levy will be spent, detailing a list of costed projects and who will be responsible for delivery;
- Each local planning authority must publish rates by which the Levy is chargeable;
- The Levy should be used to support the aims and objectives of Local Development Frameworks and their supporting documents;
- The Levy can be used to support projects located both within and outside a local planning authority's boundary;
- A local planning authority can pass the Levy to another body to spend;
- Any expenditure already incurred on projects may be reimbursed by the Levy;
- The Levy can be reserved to fund future projects;
- Administrative costs resulting from projects can be covered by the Levy.

In summary, the above guidance places emphasis on local planning authorities and their ability to justify how they will spend and generate the Levy.^{vi}

4. The Future of Public Art and Planning Obligations

Planning obligations within Section 106 Agreements will be retained as the legal means by which negotiated agreements between developers and local planning authorities are secured. Local planning authorities will not be obliged to adopt the Levy.^{vii} In these cases, planning obligations will continue to provide a means of securing developer contributions both on and off development sites. Therefore, ixia's view is that public art will continue to be secured within Section 106 Agreements.

Where the Levy is implemented, it will be complemented by planning obligations within Section 106 Agreements. At present the Government is proposing that planning obligations should focus on issues that relate specifically to the development site.^{viii} Therefore, our opinion is that on-site public art could still be included within Section 106 Agreements.

5. Public Art and the Community Infrastructure Levy

The latest Government proposal regarding the infrastructure that qualifies to be supported by the Levy is:

- roads and other transport facilities;

- flood defences;
- schools and other educational facilities;
- medical facilities;
- sporting and recreational facilities;
- open spaces;
- certain types of affordable housing provision.

The proposal also enables the Government to add to, remove and exclude types of infrastructure from this list.^{ix}

The issue of qualifying infrastructure is central. The introduction of the Levy provides an opportunity for public art and the arts to be recognised on their own terms. At present neither public art nor the arts are included as qualifying infrastructure. If this remains the case they will need to integrate themselves within other agendas in order to benefit from the funding generated by the Levy. This way of working is not new to the public art sector, so it is likely that funding for public art commissions would still be generated. However, the lack of inclusion would hamper a more strategic view of how the planning system could support public art and the arts in general.

6. Standard Charges

A number of local planning authorities have adopted standard charges to simplify the process of establishing developer contributions. This approach is in effect a prototype for the Levy. The local planning authorities that are operating standard charges may or may not choose to develop these into the Levy.

Swindon Borough Council operates standard charges for both public art and its arts service. These are underpinned by policies for public art and for Culture and Leisure, which are contained within the Local Development Framework. These are supported by implementation strategies for public art and the arts within the Borough. The standard charges calculate the contributions to be between £87 and £206 per dwelling for the arts service and between £531 and £1262 per dwelling for public art, with the exact amount per dwelling depending on the number of bedrooms. These contributions are only applied to housing developments. Appropriate contributions for other types of development, for example retail development, are assessed on an individual basis.^x

Standard charges raise a number of issues:

- The levels of standard charges will differ under each local planning authority. The main reason for this is that levels reflect the economic conditions of a place. If a local planning authority is promoting regeneration, it is not in its interest to set standard charges at levels that threaten the financial viability of developments;

- The standard charges promoted by local planning authorities are subject to negotiation with developers;
- The expenditure of funds generated by standard charges may be conditional on the distance between the development site and a public art or arts initiative. This is subject to review under the Levy.

ⁱ Department of Communities and Local Government (DCLG) *Planning Bill 2007 – 2008* (DCLG, 2007)

ⁱⁱ Department of Communities and Local Government (DCLG) *The Community Infrastructure Levy* (DCLG, 2008)

ⁱⁱⁱ Department of Transport, Local Government and the Regions (DTLR) *Reforming Planning Obligations: Delivering a fundamental change* (DTLR, 2001)

^{iv} HM Treasury *Review of Housing Supply* (HM Treasury, 2004)

^v For further information go to <http://www.communities.gov.uk/statements/planningandbuilding/503935>

^{vi} Department of Communities and Local Government (DCLG) *The Community Infrastructure Levy* (DCLG, 2008)

^{vii} Department of Communities and Local Government (DCLG) *The Community Infrastructure Levy*

^{viii} Department of Communities and Local Government (DCLG) *The Community Infrastructure Levy*

^{ix} Department of Communities and Local Government (DCLG) *Planning Bill 2007 – 2008 as amended in Public Bill Committee on the 7.2.2008* (DCLG, 2008)

^x Swindon Borough Council *Developer Contributions for Residential Development* (Swindon Borough Council, 2007)