



**PUBLIC ART AND THE PLANNING SYSTEM AND PROCESS IN
ENGLAND**

**GUIDANCE ON A SUPPLEMENTARY PLANNING DOCUMENT
FOR PUBLIC ART**

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ABOUT IXIA

ixia is the think tank for public art practice. Its aim is to provide an independent and objective view of the factors that affect the quality of artists' work in the public realm by undertaking research and enabling debate.

ixia works with artists, policy makers and delivery organisations within the public and private sectors.

ixia's approach is collaborative ensuring that partners inform its work.

ixia transfers knowledge and information through publications, consultancy, conferences and training.

ixia is a charity and regularly funded organisation of Arts Council England.

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EXECUTIVE SUMMARY

This review is aimed at all those involved with public art commissioning and the Local Authority planning system. It has been conducted in response to the growing amount of public art provided via the planning system and process in England and focuses on how these two areas of work relate to each other. The findings have been used to provide guidance on the preparation and content of a Supplementary Planning Document for public art. This aims to secure the appointment of public art expertise and artists at the inception of developments, and support the provision of public art away from development sites.

ixia has conducted the review in consultation with artists, Local Authority public art and planning officers, planning consultants, public art consultants and developers.

The review identifies that:

- There is growing evidence of support for public art, but that its impact is limited by narrow definitions and restrictive practice
- A vision, policy, strategy and expertise in public art are key strategic success factors
- A consistent set of good practice principles has evolved, although are not consistently applied
- New approaches to planning negotiation can open lateral opportunities to extend public art

The guidance sets out the following content, which should be included in a Supplementary Planning Document for art:

- The Local Authority's vision for public art, its policy and strategy
- The wider policy context
- A definition of public art
- The benefits of public art
- The principles of good practice
- The rationale for the use of public art expertise
- How the public art policy will be applied to specific regeneration areas and development sites
- Descriptions of public art statements for the provision of public art by developers
- Description of the process for the provision of public art by a Local Authority that is funded by developers

The Supplementary Planning Document should enable developers to prepare public art statements for inclusion within planning applications that are secured within Section 106 planning obligations and planning conditions, or to secure financial contributions within Section 106 planning obligations to support place-wide public art initiatives promoted and adopted by a Local Authority.

1. INTRODUCTION

A significant and growing amount of public art commissioned within England is a result of developments that require planning permission, or have a connection to the planning system and process. The strong influence that planning can have on the nature and process of public art commissioning, and the lack of recent systematic guidance on the subject, has prompted ixia to carry out a review of how the two areas of work relate to each other.

This document sets out the findings of the review, and gives guidance on how to create opportunities for public art commissioning within the planning system and process in England. It is aimed at those who get involved with public art commissioning and the Local Authority planning system and process, including artists, Local Authority public art and arts officers, planning officers, those involved in regeneration and design, and those who advise Local Authorities on this subject, including public art consultants and organisations, and Arts Council England specialist officers. The document will also be of interest to developers and their design, planning, public art and other consultants.

The document aims to equip the reader with accurate information about current policy, practice and definitions as well as providing information about the benefits of public art commissioning. For non-planners, it gives explanatory background to the basic workings and relevant definitions of both the system and process aspects of planning (see Appendix 1). It gives guidance on the inclusion of public art within the Local Development Framework process, and, in Section 2, identifies the importance of vision, public art policies and strategies. Section 3 recommends in detail the role and content of a Supplementary Planning Document for public art.

Summary of Key Acronyms:

ACE	Arts Council England
CABE	Commission for Architecture and the Built Environment
LDD	Local Development Document
LDF	Local Development Framework
LDS	Local Development Scheme
PPG	Planning Policy Guidance
PPS	Planning Policy Statement
RA	Regional Assembly
RDA	Regional Development Agency
SA	Sustainability Appraisal
SPD	Supplementary Planning Document
SPG	Supplementary Planning Guidance

2. A REVIEW OF PUBLIC ART AND THE PLANNING SYSTEM AND PROCESS IN ENGLAND

2.1 Review Process

The review was led by ixia in consultation with artists, Local Authority public art and planning officers, planning consultants, public art consultants and developers. The work included detailed desk research, encompassing web and print publications, meetings with individuals and group discussions.

The review included four areas of activity:

- i. Consideration of the current guidance and thinking on planning and public art commissioning given by national and regional organisations, and on current practice as shown by recent projects and literature in the public art sector.
- ii. An assessment of the number of Local Authorities in England that intend to include public art policies, strategies and Supplementary Planning Documents (SPDs) within their Local Development Frameworks (LDFs). This was done by assessing the Local Development Schemes (LDS) that all Local Authorities had to submit to the Government by the end of March 2005. (LDS outline the details of and timetables for, the production of all the documents and policies that will be included within an LDF).
- iii. Consideration of the advice given by Local Authorities regarding public art via their LDFs, SPDs and other documents, against criteria drawn from relevant existing evaluation of public art, in particular PROJECT¹. This was done through desk-based research, and discussion with a core group representing different aspects of the public art sector.
- iv. Consultation, discussion and debate with the core group of contributors to develop this document.

There are variations in the planning systems and processes for England, Scotland, Wales and Northern Ireland, so it is important to note that the content of this document relates only to England. However, in general, the principles are applicable to other countries within the UK.

2.2 Reasons for the Review

A number of factors have contributed to the need for this review:

- i. Public art commissions by public and private sector organisations are increasing. In *The return of 'statuemanía'* Appleton cites *The Benefits of Public Art* by Selwood, which identified that in 1984 there were an estimated 550 works of "modern public art" in Britain, and that in the following 10 years a further 750 were created. Appleton also found that a national survey up to 2001, carried out by the Public Monuments and Sculpture Association, revealed that in the decade of the

¹ PROJECT was a public art initiative that ran from 2004 to 2006, supported by Commission for Architecture and the Built Environment (CABE) and Arts & Business (A&B), managed by Public Art South West and evaluated by Comedia in 2006. Go to www.publicartonline.org.uk for further details.

1990s there were over six times more sculptures than there were between 1900 and 1909².

- ii. There is an absence of national guidelines regarding public art and the planning system and process and the experience at a regional and local level has not been reviewed since *Percent for Art: A Review* was published by the Arts Council of Great Britain in 1991³.
- iii. Review and evaluation of recent public art initiatives, (e.g. PROJECT), has provided up to date guidance on good practice for public art⁴.
- iv. The Government's *Our Towns and Cities: The Future – Delivering an Urban Renaissance (The Urban White Paper)*⁵, *The Sustainable Communities Plan – Building for the Future*⁶, *Homes for All*⁷ and *People, Places and Prosperity*⁸ all inform the development and implementation of public policy at a national, regional and local level. This in turn guides public and private sector investment in urban and rural regeneration projects, and therefore provides a policy context for artists working in the public realm.
- v. A number of recent changes in Government legislation and guidance have influenced those parts of the planning system and process that affect public art commissioning. The changes are:
 - The Planning and Compulsory Purchase Act 2004 which places sustainable communities and development at the centre of a planning system that links national, regional and local planning policies. The Act introduced LDFs, containing local planning policies, and SPDs which give details on the implementation of these policies⁹. The Act and the supporting Circular 01/2006 also revised the definitions of *outline* and *reserved matters* planning applications and required developers to submit Design and Access Statements with either *outline* or *full* planning applications¹⁰ (see Appendix 1).
 - In relation to Section 106 of the Town and Country Planning Act 1990 the Government introduced new guidance in Circular 05/2005 on the use of planning obligations by Local Authorities. This includes advice on their application, their essential fulfillment by developers and public sector infrastructure providers on development sites where viability is an issue, maintenance payments and the pooling of financial contributions¹¹.

² Appleton *The return of 'statuemanía'* (www.spiked-online, 2004), p.1

³ Shaw *Percent for Art: A Review* (Arts Council of Great Britain, 1991)

⁴ Comedia *PROJECT: Evaluation Report* (Public Art South West, 2006)

⁵ Urban Task Force *Our Towns and Cities: The Future – Delivering an Urban Renaissance (The Urban White Paper)* (Department of the Environment, Transport and the Regions (DETR), 2000)

⁶ Office of the Deputy Prime Minister (ODPM) *Sustainable Communities Plan – Building for the Future* (ODPM, 2003)

⁷ Office of the Deputy Prime Minister (ODPM) *Homes for All* (ODPM, 2005)

⁸ Office of the Deputy Prime Minister (ODPM) *People, Places and Prosperity* (ODPM, 2005)

⁹ Office of the Deputy Prime Minister (ODPM) *The Planning System: General Principles* (ODPM, 2005)

¹⁰ Department for Communities and Local Government (DCLG) *Circular 01/2006: Guidance on changes to the development control system* (DCLG, 2006)

¹¹ Office of the Deputy Prime Minister (ODPM) *Circular 05/2005: Planning Obligations* (ODPM, 2005)

2.3 Review Findings

The review identifies that there is growing evidence of support for public art, but that its impact is limited by narrow definitions and restrictive practice. It identifies the strategic importance of a vision, policy, strategy and public art expertise as key success factors, and acknowledges the evolution of a consistent set of good practice principles. It also points to new approaches to planning negotiation that open lateral opportunities to extend public art.

Eleven distinct trends, broadly grouped under *policy and evidence*, *practice* and *opportunities* were identified, together with a general caveat with regards to possible changes to the use of planning obligations.

Policy and Evidence

- There is support for public art commissioning in statutory and strategic documents concerned with planning, design and the built environment at national, regional and local levels.
- Non Local Authority public sector and commercial organisations are increasingly commissioning public art.
- Notwithstanding its intrinsic value, there is documentation that supports the perceived instrumental benefits of public art.

Practice

- Growth in support does not necessarily ensure good practice and innovative approaches.
- Practice varies and can be restrictive.
- A vision, policy and strategy for public art are extremely important.
- Recent research projects have shown a consistent set of good practice principles.
- The development and implementation of a vision, policy, strategy and good practice requires the involvement public art expertise.

Opportunities

- Not all developments require commissioning on-site and a strategic approach can be taken.
- A strategic approach to off-site public art commissioning can also take place where developments have only marginal viability.
- Public art commissioning can be achieved through other routes within the activities of Local Authorities, as well as by encouragement through the planning system and process.

Uncertainty

There may be changes in the planning system in the next few years.

2.3.1 There is support for public art commissioning in statutory and strategic documents concerned with planning, design and the built environment at national, regional and local levels:

National Level

- The Government's Planning Policy Guidance Notes (PPG) and their replacement Planning Policy Statements (PPS) set out national policies on different aspects of planning and advise Local Authorities in the preparation of LDFs. Although they do not make specific references to public art they do state that sustainable development should involve good design and community engagement, aspects that artists can influence (see Appendix 2).
- The Town and Country Planning Act 1990¹², Circular 05/2005¹³ and Circular 11/95¹⁴ give Local Authorities express powers to use planning obligations and planning conditions to control and manage the social, physical, environmental and economic impact of developments. Government guidance¹⁵ and research¹⁶ on planning obligations, plus ixia's review, show that when a developer and a Local Authority agree on the provision of public art then planning conditions and Section 106 planning obligations can be used to secure its development and delivery.
- The Planning and Compulsory Purchase Act 2004, amendments in 2006 to The Town and Country Planning (General Development Procedure) Order 1995 and Circular 01/2006 require a developer to submit a Design and Access Statement with either an *outline* or *full* planning application. In response to the context of a development proposal, a Statement should explain and justify the ideas regarding design and access that have informed the drawings and reports included in a planning application, and set out how these ideas will guide the future development of the proposal (see Appendix 1). A Local Authority uses a Statement to assess development proposals and should refuse to register a planning application if a Statement is not included¹⁷. Government guidance suggests that the impact of public art on developments should be shown within planning applications and their related Design and Access Statements¹⁸.
- Public art as part of place-making is acknowledged by national organisations that advise national, regional and local government, other public sector organisations and the private sector on architecture, urban design and public space. For example, by CABI in *By Design – Urban*

¹² HM Government *Town and Country Planning Act 1990* (Office of Public Sector Information (OPSI), 1990)

¹³ Office of the Deputy Prime Minister (ODPM) *Circular 05/2005: Planning Obligations*

¹⁴ Department of Environment (DoE) *Circular 11/95: Use of conditions in Planning permission* (DoE, 1995)

¹⁵ The Law Society *Model planning obligation (section 106) agreement* (DCLG, 2006), p.17

¹⁶ University of Sheffield and the Halcrow Group Limited *Valuing Planning Obligations in England: Final Report* (DCLG, 2006), p.49, 50, 51

¹⁷ Department for Communities and Local Government (DCLG) *Circular 01/2006: Guidance on changes to the development control system*

¹⁸ HM Government *The Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2006* (Office of Public Sector Information (OPSI), 2006), p.2

*Design and the Planning System*¹⁹ and *Creating Excellent Buildings – A guide for Clients*²⁰, and English Partnerships and The Housing Corporation in the *Urban Design Compendium*²¹ (see Appendix 2).

Regional Level

- The nine Regional Assemblies (RA) and Regional Development Agencies (RDA) have developed Regional Economic Strategies that progress the economic conditions of regions, and Regional Spatial Strategies that provide a regional level planning framework. These recognise the role of the built environment and public realm in contributing to the social and economic development of their regions. RAs and RDAs have taken significant steps towards delivering this agenda, including public art, by working with CABI and ACE to support regional Architecture Centres, design champions and design review panels, and specific arts and public art initiatives²². For example, in 2006, as part of the Northern Way initiative, Yorkshire Forward, Northwest Regional Development Agency and One NorthEast announced a joint investment of £4.4million in iconic public art as part of a £13million cultural programme across the North of England²³.
- Most regional offices of ACE advise on public art either directly or through organisations with a regional remit. Their participation is critical in establishing public art within the policies and initiatives of RAs and RDAs and in supporting Local Authorities to develop and implement public art policies, strategies and SPD for public art²⁴.

Local Level

- Approximately 61% of Local Authorities in England have public art policies, strategies and statements linked to the local planning system and process²⁵. Most base these on advice given by the Arts Council of Great Britain, which is still relevant and states that local authorities can, via the planning process, encourage developers to commission public art²⁶.

Of the 61% approximately 18% of Local Authorities have prepared, or are currently preparing, policies and strategies within LDF development documents (LDD) that are supported by SPDs, which include guidance regarding public art²⁷. These levels of information within the new planning system enable the Local Authorities to ensure that public art is not overlooked by developers.

¹⁹ CABI and DETR *By Design – Urban Design and the Planning System* (CABI/DETR, 2000), p.14

²⁰ CABI *Creating Excellent Buildings – A guide for Clients* (CABI, 2003), p.98

²¹ Llewelyn-Davies *Urban Design Compendium* (English Partnerships and The Housing Corporation, 2000), p.103

²² For further information go to www.englishsrda.com

²³ The Northern Way *The Northern Way funds iconic works of art* (The Northern Way, 2006)

²⁴ For further information go to www.artscouncil.org.uk

²⁵ Source: ixia

²⁶ Carnwath *In the matter of: Arts Council of Great Britain: Percent for Art. Advice* (Arts Council Great Britain, 1988)

²⁷ Source: ixia

2.3.2 **Other public sector and commercial organisations are increasingly commissioning public art.** London Arts in Health Forum has identified that more than 300 artists will work in London's hospitals during 2007 and that ninety per cent of the new hospital buildings which have been developed over the past three years by London's Trusts have some form of integrated art²⁸. A number of large and influential commercial developers, such as Land Securities, are investing in public art in order to support their activities. With regard to the development of Cardinal Place in London and its public art with a value of £1million, Land Securities state '*we create buildings that appeal to people who live and work in and around them, by providing beautiful gardens, clean environments, places to meet and space for public art*'²⁹.

2.3.3 **Notwithstanding its intrinsic value, there is documentation that supports the perceived instrumental benefits of public art.** This includes research into large-scale regeneration as well as individual projects.

- Evans and Shaw³⁰ defined the three areas where the arts could have impact: economic regeneration, environmental (physical) regeneration and social regeneration. The impact of the arts on social regeneration is also well documented by Shaw³¹.
- Arts Council England's document *The power of art, visual arts: evidence of impact, regeneration, health, education and learning* demonstrates through a number of case studies that the arts have helped reclaim derelict buildings and land, generate pride in areas, increase the sense of local ownership of urban and rural centres and develop distinct cultural identities³².
- A case study on the Brightmet Estate in Bolton detailed in *Culture at the Heart of Regeneration* demonstrates the role of the arts in engaging communities. Here Brightmet Arts, with funding from Bolton Housing Department's Percent for Art policy, worked closely with local residents. Through a process of active participation the arts have been instrumental in changing the image of the area and enhancing personal identity and levels of social cohesion. 92.6% of adult residents felt that involvement with the arts had provided local people with something positive to build on³³.
- The evaluation carried out on the PROJECT scheme (detailed at 2.1.iii) looked at the impetus for involving artists within regeneration projects. The majority of those involved felt that public art presented an opportunity for innovation. Public art was seen '*by some developers as bringing in to a scheme elements which give distinctiveness, character and identity, because these are indices of value and quality, and therefore add commercial value*'. For others, public art was seen as a way of improving a

²⁸ London Arts in Health Forum *London Hospitals: the use of the arts in acute trusts* (London Arts in Health Forum, 2007)

²⁹ Land Securities *Annual Report 2006* (Land Securities, 2006), p.63, 66

³⁰ Evans and Shaw *The contribution of culture to regeneration in the UK: a review of evidence* (DCMS, 2004)

³¹ Shaw *What's art got to do with it? Briefing paper on the role of the arts in neighbourhood renewal* (ACE, 2003)

³² Arts Council England (ACE) *The power of art, visual arts: evidence of impact, regeneration, health, education and learning* (ACE, 2006)

³³ Department for Culture, Media and Sport *Culture at the Heart of Regeneration* (DCMS, 2004)

development's chance of receiving planning permission and as a means of engaging local communities within the process of developing a regeneration project³⁴.

- In *Public Art in Private Places: Commercial Benefits and Public Policy*, Roberts, Salter and Marsh found that developers 'saw the provision of public art as part of a strategy or package to raise the quality of their developments'. For occupiers, 62% of those surveyed 'recognised that the contribution which public art made to their buildings image was significant'³⁵.
- Roberts, Salter and Marsh also noted that the context of public art was seen to be beneficial where it was located within a quality environment³⁶. CABE found that 81% of people said they were interested in how the built environment looks and feels, with over a third saying they were 'very interested' and another third wanting more of a say in the design of buildings and spaces. 85% of people agreed with the statement 'better quality buildings and public spaces improve the quality of people's lives' and thought the quality of the built environment made a difference to the way they felt³⁷.

2.3.4 Growth in support does not necessarily ensure good practice and innovative approaches. The review has found that despite this widespread promotion and support, a significant amount of current public art guidance limits the roles of artists by promoting narrow definitions of public art. Definitions tend towards placing permanent products (e.g. statues, metalwork, glasswork) above process (e.g. temporary installations and events, consideration of the overall qualities of a development, dialogue with design professionals and local people). In addition, many public art strategies created for specific development sites take too confined a view, focusing purely on the footprint of an individual development and not taking into account the wider cultural, social and physical characteristics of a place. (Current practice in public art as reviewed by the Art and Architecture Journal (www.artandarchitecturejournal.com) and ixia (www.ixia-info.com) shows the range of approaches that artists might take when working in the public realm.)

2.3.5 Practice varies and can be restrictive. The review has found that most Local Authorities advise developers to consider public art at the inception of developments. Where artists are to inform the physical aspects of developments some Local Authorities use the planning application process as the basis of clear guidance about how to do this, but some do not, and as a consequence restrict opportunities for artists.

In the case of the former, Local Authorities advise developers to include conceptual and material details of public art in either *outline* and *reserved matters* planning applications or *full* planning applications, and secure its delivery within planning obligations and planning conditions. By doing this,

³⁴ Comedia *PROJECT: Evaluation Report*, p.11

³⁵ Roberts, Salter and Marsh *Public art in private places: commercial benefits and public policy* (University of Westminster Press, 1993), p.1, 11

³⁶ Roberts, Salter and Marsh *Public art in private places: commercial benefits and public policy*, p.1

³⁷ CABE *The Value of Good Design*, (CABE, 2001), p.2

Local Authorities are enabling developers to appoint public art expertise and artists at a very early stage. The advantage is that they can collaborate with others (local people, design professionals etc) and fully explore and integrate ideas that relate to the provision of buildings and public spaces.

In this case either Percent for Art³⁸ or other calculations³⁹ can be helpful in establishing an initial and indicative level of investment specifically for public art, but this is often superseded by the detailed work of public art expertise and artists. This is because the timing of their appointments enables them to increase investment by influencing how other budgets are spent e.g. budgets for community engagement, buildings and public realm.

On the other hand, some Local Authorities do not provide clear guidance that fully aligns the influence that artists can have on the built environment with all the stages and functions of the planning application process. This means that discussions with developers about public art begin at a late stage in the preparation of planning applications. At best, these discussions result in the identification of sites and financial contributions, and, at worst, only financial contributions are agreed. In both cases, opportunities are then offered to, and progressed by, artists after planning permissions for developments have been granted.

Two key issues emerge when the provision public art is not fully aligned with the planning process. Firstly, developers are discouraged from involving public art expertise and artists at the inception developments, so significant opportunities for public art are lost. Artists are excluded from first discussions with stakeholders (local people, amenity groups, Local Authorities etc) and the design professionals working on developments. Therefore, they are unable to contribute to Design and Access Statements, design and other principles (master-plans) for *outline* and *reserved matters* planning applications, and the detailed design of buildings and open spaces for *full* planning applications. Secondly, the methods of calculating investment in public art appear arbitrary against ways of determining other planning obligations (where more formulaic and soundly justified calculations are used to assess contributions to local education provision, social housing, open space etc).

This adversely affects the extent to which artists can influence the physical aspects of developments. It can result in isolation from the overall process of realising a development because public art is viewed as an add-on. It can mean a restrictive commission brief because a developer does not want to revisit aspects of a development that have already been agreed with the Local Authority and other stakeholders. It can result in insufficient levels of funding, because budgets can be set as a by-product of negotiations that balance the financial viability of a development against planning obligations.

³⁸ During the 1980's research into precedents for public art led to the Arts Council of Great Britain promoting Percent for Art. In the USA and Europe public sector organisations implement a mandatory 1% minimum of construction costs to public art commissions within their developments and encourage the private sector to do the same. Although it was not made mandatory in the UK, Local Authorities and other public sector organisations adopted Percent for Art, which when applied is done so within their own developments and via the local planning authority on sites developed by public and private sector developers.

³⁹ Some Local Authorities apply a figure per square metre of gross internal floor-area of a development to calculate a financial contribution for public art.

Lack of early engagement can also prevent full consideration of whether or not artists should inform the physical aspects of developments. When their involvement in this aspect is not regarded as appropriate, some Local Authorities advise developers to consider on-site temporary public art and off-site temporary and permanent public art as alternatives. For the latter, some Local Authorities have costed public art initiatives that determine the level of investment from developers. Where this is not the case, Local Authorities use either Percent for Art or other calculations to establish this level. As with physical aspects of developments this way of working can result in arbitrary financial contributions. Whichever the approach, Local Authorities use Section 106 planning obligations to secure investment for public art.

Further findings regarding how developers can support the provision of public art away from their development sites are contained within sections 2.3.9 and 2.3.10 of this document.

- 2.3.6 A vision, policy and strategy for public art are extremely important.** The review highlighted that delivery is assisted when a vision for public art is developed by a Local Authority. When this creates opportunities for artists to engage with a place in a meaningful way it does so by embedding public art within the planning process and also within the wider corporate policies, strategies and activities of a Local Authority and its partners. These can include Community Strategies⁴⁰ and specific community, cultural, education, health and regeneration initiatives.

A vision forms the basis of a public art policy and strategy. Current documents issued by Milton Keynes Council, Milton Keynes Partnership and Central Milton Keynes Project Team⁴¹, Southampton City Council⁴² and Reading Borough Council⁴³ look at a wide vision for public art and consider where, when and how public art will be commissioned within developments and as part of place-wide initiatives promoted and adopted by the Local Authorities and others. Urban Regeneration Companies such as Sunderland ARC⁴⁴ and Gloucester Heritage⁴⁵ have adopted place-wide cultural and public art strategies that identify how the planning process is to support their delivery.

The content of LDF development documents (LDD) informs a Local Authority's vision, policy and strategy for public art by providing information about the development of places. Local Authorities promote the implementation of public art policies and strategies via the planning process by including them in LDDs and supporting them with public art SPDs. Public

⁴⁰ Principal Local Authorities (County Councils, District Councils, Greater London Authority, London Borough Councils, the Councils of the Isles of Scilly) are required by Government to adopt Community Strategies. These aim to promote and improve the economic, social and environmental well-being of places. Local Authorities work with local people, community groups and public and private sector organizations to establish the content of Community Strategies. Local Development Frameworks are to be developed in accordance with the content of Community Strategies.

⁴¹ Public Art Unit *Public Art – A Strategy for Milton Keynes 2006 – 2012* (Milton Keynes Council, Central Milton Keynes Project Team and Milton Keynes Partnership, 2006)

⁴² Southampton City Council *art people places Southampton Public Art Strategy* (Southampton City Council, 2004)

⁴³ Reading Borough Council *Artists in the City* (Reading Borough Council, 2005)

⁴⁴ Dubowitz *The Cultural Masterplan* (Sunderland Arc Regeneration Company, 2004)

⁴⁵ Ginkgo Projects *A place for art* (Gloucester Heritage Urban Regeneration Company, 2006)

art policies and strategies can be included in and inform core strategies that set out the spatial plan for the delivery of developments, site-specific allocations of land for specific types of development, area action plans that guide developments in specific locations (e.g. a village or individual neighbourhood) and other documents that can include generic development control policies and be thematic (e.g. housing, retail development and culture)⁴⁶.

2.3.7 Current thinking and recent research projects have shown a consistent set of good practice principles. ixia's review of public art practice, and recent research and evaluation, show that there are some widely-recognised standards of practice that should be met. These reflect the experience and knowledge within the public art sector and recent research projects have served to support these principles. ixia has summarised these as:

- clarity of intention on behalf of the commissioner
- the appointment of artists at the inception of development projects
- commitment to the project on behalf of all parties
- the allocation of adequate rates of pay and contracts for artists
- the input of public art expertise⁴⁷ (see 2.3.8 below)

Comedia's evaluation of the investment in public art via PROJECT supports these principles. The following two findings were the most significant elements of the evaluation:

- Engagement of an artist from an early stage in a development project, in good circumstances, brings about a positive change of mindset and working practice among the other professionals involved.
- When artists are working in a development milieu and expected to contribute their professional expertise and creativity, they should be engaged on the same terms as the other professionals involved⁴⁸.

2.3.8 The development and implementation of a vision, policy, strategy and good practice requires the involvement of public art expertise. The role of public art expertise (artists, local authority public art officers, public art consultants, public art organisations) is recognised as an important part of the provision of public art. ACE investment via the National Lottery has historically been predicated on the input of specialist advice, and the specific input that this can have on the process of delivery. *'Artists in general lack professional support networks, and artists in this unusual situation (collaborative working) even more so'; in addition 'organisations receiving the input of artists also need support, particularly when this is breaking new ground.'*⁴⁹

Unless experienced individuals are identified in-house, Local Authorities appoint public art expertise (artists, public art consultants and public art organisations) to develop visions and policies for public art. This ensures that

⁴⁶ Source: ixia

⁴⁷ For further information go to www.ixia-info.com

⁴⁸ Comedia, *PROJECT: Evaluation*

⁴⁹ Comedia *PROJECT: Evaluation*

their development with and adoption by stakeholders is informed by knowledge of public art practice. Stakeholders can include local people, community organisations, local politicians, local authority officers, artists, arts professionals, design professionals, and public and private sector developers.

Once a public art policy has been agreed, there needs to be someone responsible for developing and implementing it. In general, public art expertise within Local Authorities is found within either the cultural or planning departments. Increasingly it is located within the latter, as this fosters greater understanding of the relationship between public art and planning policies, strategies and processes that guide the social and physical development of places. For example, Bristol City Council has a public art officer within its Urban Design Team.

Where public art experts are in place there is a key variation in their roles within the context of the planning system and process and the delivery of public art within development sites. The variation is that some project manage public art commissions on behalf of developers, while others assist them with the appointment of other public art expertise to undertake project management. In this case, the public art sector provides a number of options for managing public art commissions. These include public art and arts organisations funded by ACE, Architecture Centres funded by CABE and ACE, independent public art consultants and artists⁵⁰.

In some cases, public art experts within Local Authorities have established steering groups to support their work. This can assist with the promotion, implementation and evaluation of a public art policy, strategy and SPD for public art. A steering group can include artists, arts professionals, design professionals, local politicians, local authority officers, representatives of local community groups and developers. Either in addition or as an alternative to this, public art expertise within Local Authorities can also refer to local and regional design review panels for support and views regarding the provision of public art as part of developments. Design review panels are promoted by CABE, supported by RDAs and managed by architecture centres, and can include public art as well as urban design, architectural and other expertise. In the west midlands, ACE has established Explore, a regional public art initiative that works with the regional design review panel to provide guidance on public art to local authorities and developers⁵¹.

- 2.3.9 **Not all developments require commissioning on-site and a strategic approach can be taken.** Government guidance to Local Authorities promoted in their advisory document Circular 05/2005 supports an approach whereby Local Authorities can pool financial contributions from a number of developments to support place-wide initiatives⁵². By place-wide initiatives, *ixia* means locations not within the actual development site, but which could include, for instance, public spaces between a number of developments, or social and cultural activities, where the project is more appropriately commissioned by the Local Authority. These initiatives are identified within LDF development documents and public art policies and strategies as

⁵⁰ For further information go to www.artscouncil.org.uk, www.architecturecentre.net and www.publicartonline.org.uk

⁵¹ For further information go to www.artscouncil.org.uk

⁵² Office of the Deputy Prime Minister (ODPM) *Circular 05/2005: Planning Obligations*

involving artists. This approach is applied to developments that are not seen as having a significant impact on the social and physical characteristics of their immediate environments, and therefore investment is spent on artists' work which has a greater impact elsewhere. This approach is referred to as pooled funding in the document.

- 2.3.10 A strategic approach to off-site public art commissioning can also take place where developments have only marginal viability.** Some developments, especially in regeneration areas, may not in themselves be viable, i.e. after acquiring the land and undertaking remediation and infrastructure work, the final scheme may not be viable without public subsidy. In these cases, the Local Authority can be tempted to encourage developments to happen by reducing their expectations for planning obligations. However, Circular 05/2005 makes it clear that where such circumstances arise, it is important to consider the role of public sector infrastructure providers in making a 'balance of contributions'. This means making good the financial shortfall in order to deliver all necessary local infrastructure, which can include public art⁵³. For example, English Partnerships (Communities England) have been involved as a partner in a number of marginal developments where public art initiatives have been integrated within public realm projects⁵⁴.
- 2.3.11 Public art commissioning can be achieved through other routes within the activities of Local Authorities, as well as by encouragement through the planning system and process.** The local planning system and process, through policy, an SPD and then the agreement of planning obligations and planning conditions is one way of delivering public art. However, a Local Authority can also be pro-active by working with artists as part of its own building, public realm and community initiatives. Local Authorities can also build in the encouragement of artist involvement at the earliest stage of a development undertaken by others by inclusion of a public art requirement in development briefs and land agreements for land it sells to developers. This means that public art commissioning is a "given" part of the development long before the planning application process is reached.
- 2.3.12 There may be changes in the planning system in the next few years.** Government has considered various possible changes to planning obligations since 2001 and is currently suggesting 'reining back' section 106 agreements to cover mainly affordable housing and site specific requirements while other traditional areas of obligations, such as education, would be collected via a centrally collected Planning Gain Supplement⁵⁵. If this proposal is adopted, then it will be in 2009 at the earliest⁵⁶.

⁵³ Office of the Deputy Prime Minister (ODPM) *Circular 05/2005: Planning Obligations*

⁵⁴ English Partnerships (Communities England) is currently working with ixia to further develop its involvement with public art.

⁵⁵ Department for Communities and Local Government (DCLG) *Changes to Planning Obligations: a Planning-gain Supplement consultation* (DCLG, 2006)

⁵⁶ ixia is monitoring the Government's proposal for Planning Gain Supplement and will provide input and guidance whenever necessary.

3. GUIDANCE ON THE PREPARATION AND CONTENT OF A SUPPLEMENTARY PLANNING DOCUMENT (SPD) FOR PUBLIC ART

Introduction

Through consideration of the findings of the review, ixia has developed guidance on the content of a Supplementary Planning Document (SPD) for public art. The guidance includes references to background and advocacy information, as well as advice on the practical requirements of public art commissioning linked to the planning process.

The guidance takes the form of a specific SPD for public art, but should also be used in SPDs where public art is included alongside other policies relating to development sites. In either case, SPDs should not exist in isolation, and should connect to a public art policy and strategy contained within all relevant LDF development documents (LDD), other relevant SPDs and guidance on the preparation of Design and Access Statements. These levels of information are required to ensure that Local Authorities can pro-actively promote public art via the planning system and process.

Background

The Government states that SPDs play an important role in the planning system. They in effect replace Supplementary Planning Guidance (SPG) as the non-statutory and detailed means to develop and apply broad-based policies identified within LDFs. SPDs carry more weight than SPGs in the decision-making process for planning applications. This is because they connect with a policy and have complied with the requirements for community involvement (consultation) and sustainability appraisal (see below). Existing SPGs are to be provisionally retained and can form part of the evidence base and production of new SPD⁵⁷.

Stages in Production of an SPD

The key stages identified for the production of an SPD are:

- evidence gathering (for public art this might include sourcing evaluation of the social, environmental and economic impact of public art, good practice relating to commissioning via planning and other means)
- preparation of draft SPD
- statutory public consultation on draft SPD
- representations and finalisation of SPD
- adoption, monitoring and review

According to Government guidance achieving effective SPDs can require a commitment of resources, and production time can take up to 12 months⁵⁸.

Integrated within the process of producing an SPD is a Sustainability Appraisal (SA). The purpose of an SA is to assess the social, environmental and economic effects of an SPD. For a public art SPD the extent of an appraisal should be informed by the aims and objectives of the Local Authority's public art policy and strategy. An author

⁵⁷ Office of the Deputy Prime Minister (ODPM) *Creating Local Development Frameworks: A Companion guide to PPS12* (ODPM, 2004)

⁵⁸ Office of the Deputy Prime Minister (ODPM) *Creating Local Development Frameworks: A Companion guide to PPS12*

of an SPD for public art should consult with Local Authority planning officers in order to define the extent of an SA.

Summary Content of an SPD for Public Art

In summary, the content should include:

- A vision – the Local Authority’s approach to why it commissions artists, and a summary of its policy and strategy.
- An explanation of the wider policy context.
- A definition of public art.
- The benefits of public art.
- The principles of good practice.
- A description of and rationale for the use of public art expertise.
- Information about how the public art policy will be applied to specific regeneration areas and development sites, including a description of public art as part of place-wide initiatives adopted and promoted by the Local Authority, and where developers will be advised to support these.
- Descriptions of public art statements for the provision of public art by developers.
- Description of the process for the provision of public art by a Local Authority that is funded by developers.

These sections are now outlined in detail below.

3.1 VISION

There is a need for an agreed vision for public art by a Local Authority (see 2.3.6), which should be identified within its public art policy and strategy. The location of these within all relevant LDF development documents (LDD), other relevant SPDs and guidance on the preparation of Design and Access Statements should be referenced within the SPD for public art.

- **The Policy** should state why a Local Authority pro-actively promotes the delivery of high quality public art via the planning system and process
- **The Strategy** should describe how and where the public art policy will be implemented and provide guidance on how to commission public art. In general, public art strategies should include information on:
 - the public art policy
 - the national, regional and local policy context for the public art policy and strategy
 - how and where the Local Authority will apply the public art policy and strategy to its own capital developments and development briefs
 - how and where the Local Authority will apply the public art policy and strategy via the planning system and process
 - public art initiatives that are integrated within place-wide public realm and other plans adopted and promoted by the Local Authority
 - public art initiatives that assist with the public’s understating of public art and with the professional development of artists and others
 - the roles of the Local Authority’s and other public art expertise and artists
 - good practice principles for sourcing, appointing and working with public art expertise and artists (Public Art South West via www.publicartonline.org.uk and the Artists’ Information Company via www.a-n.co.uk provide current guidance)
 - community engagement

- ownership
- maintenance and de-commissioning
- the role of the public art SPD

3.2 CONTEXT

The SPD should note the policy context which supports the Local Authority's approach towards public art, as outlined in Section 2.3.1 of this document. (See also more detailed text and references in Appendix 2). This includes:

- at a national level, the Government's Planning Policy Guidance (PPG) and Statements (PPS) (see Appendix 2), the Town and Country Planning Act 1990⁵⁹ and Circulars 05/2005⁶⁰ and 11/95⁶¹, the Planning and Compulsory Purchase Act 2004⁶² and Circular 01/2006⁶³, plus guidance issued by organisations such as CABE⁶⁴ and English Partnerships and the Housing Corporation⁶⁵.
- at a regional level, Regional Economic Strategies and Regional Spatial Strategies, and the policies and strategies of regional offices of ACE.
- at the local level, relevant policies within development documents in LDF, SPDs, guidance on Design and Access Statements, and relevant sections of other strategies to which public art can contribute e.g. quality of design, cultural and community strategies.

3.3 DEFINITION OF PUBLIC ART

The SPD should include a definition of public art which ensures that developers do not limit their scope and thinking when considering the possibilities for working with artists. Public art is widely diverse, but many Local Authorities and other organisations use restrictive definitions which place emphasis on product and not process. ixia recommends that when searching for a definition of public art it is most helpful to regard it as:

a process of engaging artists' creative ideas in the public realm

SPD can help expand definitions of public art by identifying the main roles that artists can have. These are:

- artists as members of design teams, working collaboratively and contributing to the use and form of developments through research, reflection and propositions in relation to context

⁵⁹ HM Government *Town and Country Planning Act 1990*

⁶⁰ Office of the Deputy Prime Minister (ODPM) *Circular 05/2005: Planning Obligations*

⁶¹ Department of Environment (DofE) *Circular 11/95: Use of conditions in Planning permission*

⁶² HM Government *The Planning and Compulsory Purchase Act 2004* (Office of Public Sector Information (OPSI), 2004)

⁶³ Department for Communities and Local Government (DCLG) *Circular 01/2006: Guidance on changes to the development control system*

⁶⁴ CABE and DETR *Design – Urban Design and the Planning System*, and CABE, *Creating Excellent Buildings – A guide for Clients*

⁶⁵ Llewelyn-Davies *Urban Design Compendium*

- artists working to creatively engage with communities in order to explore and articulate issues of significance
- artists working as commentators and provocateurs producing either permanent, temporary or process-based public art⁶⁶

3.4 PERCEIVED BENEFITS OF PUBLIC ART

The SPD should articulate and reference the perceived benefits of public art, to encourage individuals and organisations to get involved and illustrate that it is not a fringe activity or a small add-on to a development. There is a body of literature which can be used to illustrate the broader perceived benefits of arts and culture, as well as specific references to public art. References can be found at section 2.3.3 of this document. It is useful to summarise the perceived benefits clearly, relating to both physical and social aspects, as well as referencing research and literature, e.g.

- generate pride in an area
- increase sense of ownership
- develop cultural identity
- change an image
- engage with local communities
- create distinction, character and identity
- contribute to quality of life, through good design and high quality surroundings

It is important to note here that despite the research listed, public art is a developing activity, and there is a continuing need to evaluate its contribution to the development of places⁶⁷.

3.5 PRINCIPLES OF GOOD PRACTICE FOR PUBLIC ART

Review of public art practice has led to good practice principles being advocated and there are some recognised standards of practice that should be met. These reflect the experience and knowledge within the public art sector and recent research projects have served to support these principles, as detailed in section 2.3.7.

Within the SPD, it is useful to spell out some of the basic requirements of good practice. Comedia's evaluation of PROJECT found that artists were best placed to contribute successfully when the following issues were addressed, and provides a good starting point:

- **Clarity** – it works best when the artist and the other professionals involved are clear about what the artist's role is and what they are expected to do. (This means agreed briefs, contracts, approval mechanisms and outputs or outcomes).
- **Timely appointment** – if the artist is to contribute effectively to planning and developing a project, they have to be in place early.

⁶⁶ For further information go to www.ixia-info.com

⁶⁷ To this end, ixia has developed a toolkit, training course and database for evaluating public art. For further information go to www.ixia-info.com

- **Management** – capacity has to be made available in a project to ensure that the artist’s involvement is managed and supported (i.e. the inclusion of public art expertise)
- **Remuneration** – if artists are expected to contribute in like-manner to other professionals they should be accordingly properly paid.
- **Support** – a facilitated peer group network of artists working in such situations would be beneficial to the success of projects. Organisations receiving the input of artists also need support, particularly when this is breaking new ground⁶⁸.

3.6 PUBLIC ART EXPERTISE

ixia advises Local Authorities to appoint public art expertise (artists, local authority public art officers, public art consultants, public art organisations) within planning departments to lead on the long-term development, implementation and evaluation of public art policies, strategies and SPDs. SPDs should advocate to developers that the involvement of public art expertise as an essential part of good practice.

Where a Local Authority has public art expertise, it is particularly important that the SPD states their role in relation to project management. If the public art expertise does not undertake project management on behalf of developers, they and the SPD should provide guidance regarding the sourcing, appointment and role of other public art expertise.

In general, the key areas of work that would be undertaken by public art expertise, within the context of the planning system and process and the other activities of the Local Authority are:

- development, adoption and review of the vision for public art that should inform a Local Authority’s public art policy and strategy, SPD for public art, other documents and the working practices of different departments of the Local Authority and their partners
- development, implementation and review of the process used to realise public art via the planning process. This process includes pre-application discussions with developers, their appointment of public art expertise and artists, the development and implementation of public art commissions and the Local Authority’s planning approval and control process for these
- development of place-wide public art initiatives that are integrated within public realm and other plans adopted and promoted by the Local Authority, which will be supported by developments
- application of the principles of good practice for public art identified by the evaluation of PROJECT⁶⁹
- evaluation of public art commissioning

⁶⁸ Comedia *PROJECT: Evaluation*

⁶⁹ Comedia *PROJECT: Evaluation*

The roles that public art expertise can undertake within specific developments include:

- liaising with the Local Authority regarding the expectations for development sites described in their public art policy and strategy, SPD and other documents
- considering the role of public art in relation to the proposed characteristics of development sites
- preparing briefs, and preparing and managing contracts and budgets
- researching and managing the selection of artists
- management of artists' ongoing projects – particularly liaison between client/design team and artist
- securing required approvals from the Local Authority and other relevant organisations
- assistance with publicity/PR/launches/documentation
- evaluation of public art commissioning

3.7 AREA AND SITE INFORMATION

In accordance with the Local Authority's public art policy and strategy and the amount and volume of development that exists in a place, an SPD for public art should summarise where and how a Local Authority will seek their application. This application should support public art as part of development sites and place-wide public art initiatives integrated within public realm and other plans adopted and promoted by the Local Authority. The latter should also be described within the SPD.

A Public art SPD should identify:

- capital projects undertaken by the Local Authority
- regeneration areas
- area action plans
- public and private sector development sites
- thresholds regarding planning applications (meaning development proposals that are above or below a number of units or site size)

3.8 PROCESS

SPDs for public art should give clear guidance to developers about the process of providing public art.

In accordance with the findings described in Section 2.3.5, and in acknowledgment of the good practice principles identified by PROJECT⁷⁰ and included in Sections 2.3.7 and 3.5, ixia recommends that Local Authorities give guidance to developers that enables:

⁷⁰ Comedia *PROJECT: Evaluation*

- consideration of how development sites will support the aims and objectives of a Local Authority's public art policy and strategy, SPD and other relevant documents
- the appointment of public art expertise and artists at the inception of developments, and aligns the provision of public art with all the stages and functions of the planning application process

On this basis ixia recommends that guidance within public art SPD advises the following:

Provision of public art by developers

Local Authorities should enable developers to appoint public art expertise and artists at the inception of developments to prepare **public art statements** for inclusion within either *outline* or *full* planning applications. The key principles of public art statements are that:

- they clearly demonstrate to Local Authorities and other stakeholders how developers have provided and will provide opportunities for artists on and off development sites
- they are informed by and included in all consultation initiatives regarding developments
- when appropriate they include drawings and reports contained within planning applications and Design and Access Statements that have been influenced by artists
- they enable Local Authority planning officers to advise on routes to planning permissions for public art commissions which have affected and will affect the physical aspects of developments⁷¹
- their approval by Local Authority public art expertise, planning officers and/or planning committees is part of the formal approval of planning applications
- the further development and implementation of their content is secured within planning obligations and planning conditions

Provision of public art by Local Authorities which is funded by developers

Local Authorities should enable developers to either appoint public art expertise or directly agree financial contributions secured within Section 106 planning obligations to support place-wide public art initiatives as part of public realm and other plans adopted and promoted by Local Authorities. Financial contributions should be calculated against the costs of initiatives.

⁷¹ If the work of an artist is fully integrated within the physical aspects of a proposed development, then this could be considered within the same planning application drawings and reports as the development itself. Depending on its size and location, a free-standing piece of public art may be considered 'development' under the definition stated in the Town and Country Planning Act 1990, in which case planning permission will be required. Similarly, public art that alters the physical character of an existing building could require the submission of a planning application.

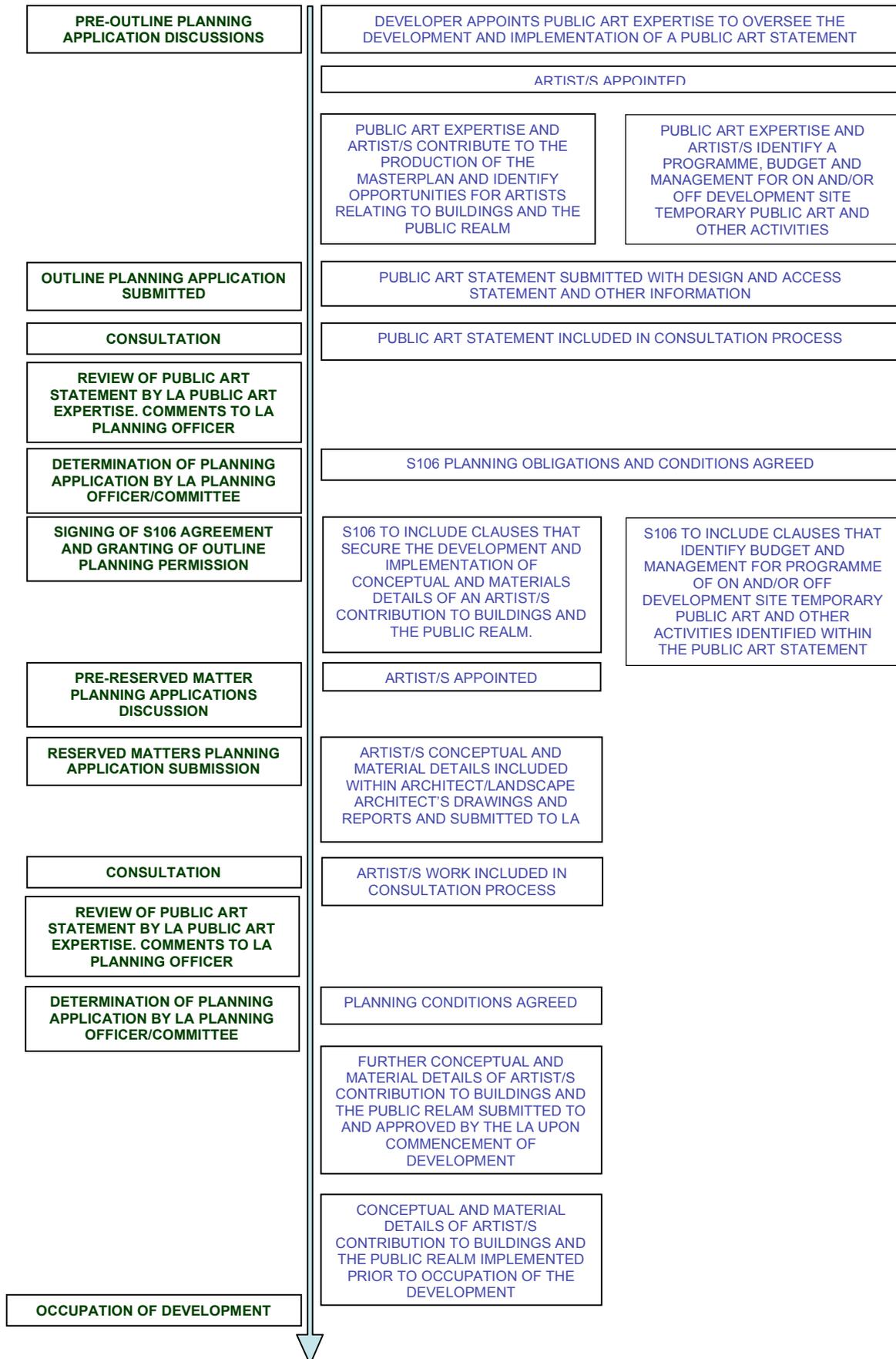
Examples

The following pages of this document contain three flow charts showing hypothetical examples of the development and implementation of the above within the planning process. Flow charts 1 and 2 identify the process of developing and implementing public art statements within large scale developments subject to *outline* and *reserved matters* planning permissions and *full* planning permissions. They assume that there is public art expertise within a Local Authority, and that the developers have been assisted with the appointment of other public art expertise and artists at the inception of the developments. Flow chart 3 identifies the process for the pooling of funds from developers by the Local Authority to support public art initiatives that are integrated within place-wide public realm and other plans adopted and promoted by the Local Authority. For this example, it is assumed that there is public art expertise within a Local Authority and that the developer may or may not choose to appoint other public art expertise to advise on discussions regarding the financial contribution.

Following flow charts 1 and 2 are descriptions of the content of public art statements. All three examples assume that Section 106 planning obligations have been applied to the developments, therefore following the flow charts is wording for planning obligations that secure the content of the public art statements and pooled funding. The wording of planning conditions is only suggested for *reserved matters* planning applications.

Note: the wording of planning obligations and planning conditions are included in this document to illustrate how they relate to the contents of public art statements provided by developers and their financial support for the provision of public art provided by Local Authorities. Actual SPDs should not include wording other than to state that planning obligations and planning conditions will be used to secure the provision of public art.

**FLOW CHART 1
PUBLIC ART PROCESS FOR AN OUTLINE AND RESERVED MATTERS PLANNING APPLICATION**



FLOW CHART 1 PUBLIC ART PROCESS FOR AN OUTLINE AND RESERVED MATTERS PLANNING APPLICATION

CONTENT OF A PUBLIC ART STATEMENT

In accordance with a Local Authority's public art policy, strategy and SPD, a public art statement for a significant development site requiring an *outline* planning permission and the approval of *reserved* matters planning applications could contain the following information. This example shows a large, high profile development where the Local Authority is looking for a number of strands within the public art statement:

- description of the relationship between the public art statement and the Local Authority's public art policy and strategy
- details of the appointed artist's contribution to defining the development's master plan
- descriptions of work that will be realised through collaboration between the appointed artist, other artists, architects and other design professionals (The conceptual and material details of which are to be included within *reserved matters* planning applications)
- a programme of on-site and off-site temporary public art
- timescales for the development and implementation of all the public art commissions
- details of the commissioning process for other artists
- training opportunities for less experienced artists and public art managers
- details of ownership, maintenance and de-commissioning of public art, which will be located on land owned and maintained by either the developer or the Local Authority
- budget allocations relating to all of the above
- 'trigger' points for delivering public art that inform the wording of planning obligations between the developer and the Local Authority

WORDING OF PLANNING OBLIGATIONS

In accordance with the above the planning obligations within the Section 106 agreement could request the following:

- that in accordance with the approved public art statement the conceptual and material details of public art relating to the development's buildings and public realm are to be submitted for approval by the Local Authority as part of relevant *reserved matters* planning applications
- that subsequent to the above any further conceptual and material details of public art relating to the development's buildings and public realm are to be submitted to, and approved by, the Local Authority prior to commencement of development
- that subsequent to the above, the approved conceptual and material details of public art relating to the development's buildings and public realm are to be implemented prior to the beneficial occupation of the relevant phases of the development
- that at an agreed time (to be specified in the clause which, for example, could be upon the signing of the S106 agreement or upon the commencement of development) the developer allocates an index-linked sum (to be specified in the

clause) either retained by the developer or paid to the Local Authority (to be specified in the clause) for the development and implementation of temporary public art commissions, managed by either the developer or the Local Authority (to be specified in the clause) in accordance with the programme described within the approved public art statement

- that at an agreed time (to be specified in the clause which, for example, could be upon the signing of the S106 agreement or upon the commencement of development) the developer allocates an index-linked sum (to be specified in the clause) either retained by the developer or paid to the Local Authority (to be specified in the clause) for the development and implementation of local training initiatives relating to public art, managed by either the developer or the Local Authority (to be specified in the clause) in accordance with the programme described within the approved public art statement
- that at an agreed time (to be specified in the clause which, for example, could be prior to the occupation of the development or after the developer has maintained the buildings and land for a year) the developer will provide the Local Authority with a maintenance and de-commissioning schedule for public art within buildings and land that are to be maintained by either the developer or the local authority
- that at an agreed time (to be specified in the clause which, for example, could be prior to the occupation of the development or after the developer has maintained the buildings and land for a year) and in accordance with the approved maintenance and de-commissioning schedule the developer will pay an index-linked sum (taken from the schedule and specified in the clause) to the Local Authority for the maintenance and de-commissioning of public art within buildings or land adopted by the Local Authority (including the Local Highway's Authority)

WORDING OF PLANNING CONDITIONS

Planning conditions should be used if further information about public art shown within a *reserved matters* planning application is required by a Local Authority. In this case the wording of planning conditions could request the following:

- that any further conceptual and material details of public art identified within the approved public art statement and *reserved matters* planning applications and relating to the development's buildings and public realm are to be submitted to and approved by the Local Authority prior to commencement of development
- that subsequent to the above the approved conceptual and material details of public art relating to the development's buildings and public realm are to be implemented prior to the beneficial occupation of the relevant phase of the development

**FLOW CHART 2
PUBLIC ART PROCESS FOR A FULL PLANNING APPLICATION**



FLOW CHART 2 PUBLIC ART PROCESS FOR A FULL PLANNING APPLICATION

CONTENT OF A PUBLIC ART STATEMENT

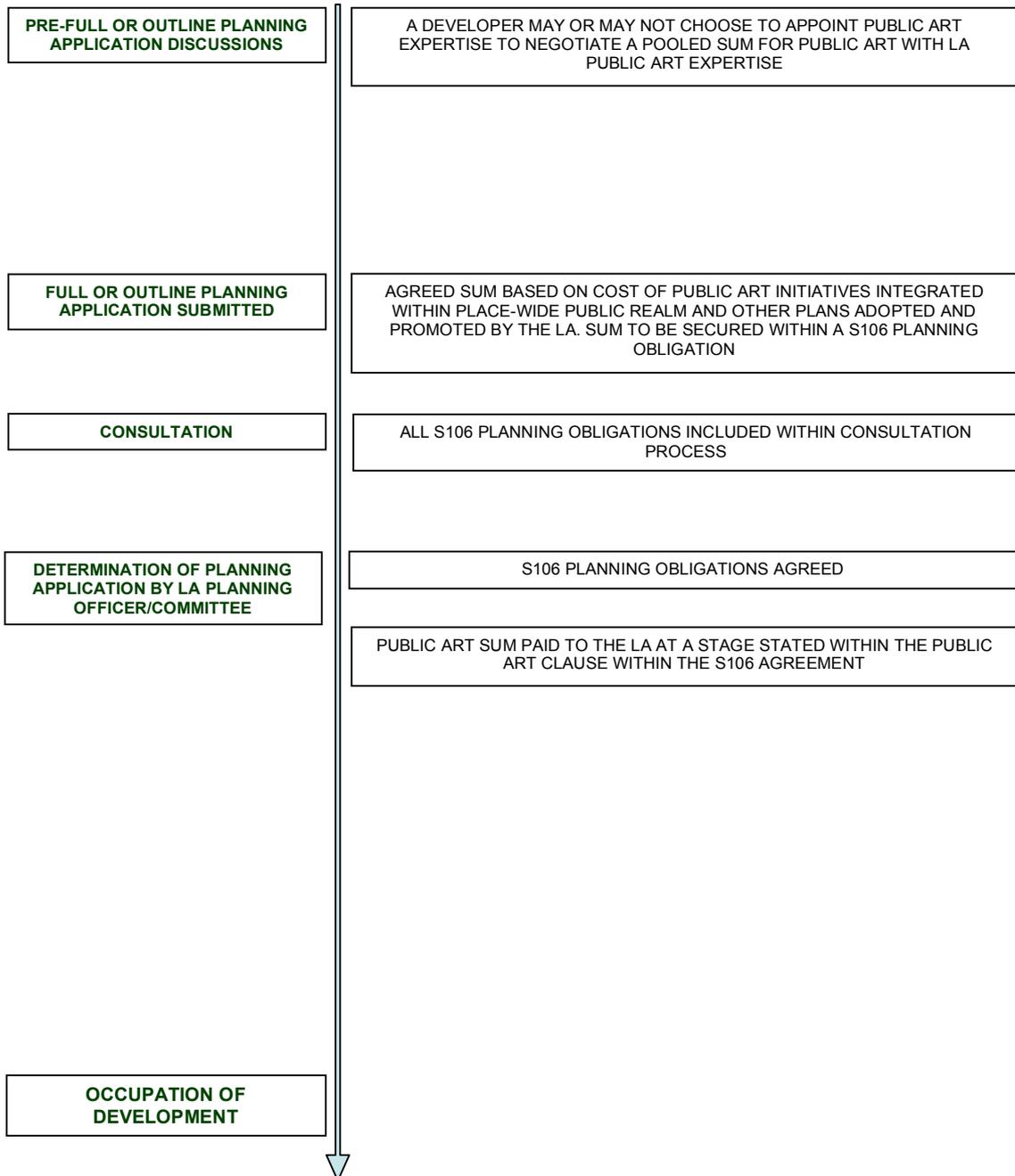
A public art statement for a major development site requiring a *full* planning permission could contain the same information as for an *outline* planning application, plus conceptual and material details of public art integrated within the development's buildings and public realm.

WORDING OF PLANNING OBLIGATIONS

Planning obligations within Section 106 agreements could request the following:

- that any further conceptual and material details of public art identified with the approved public art statement and relating to the development's buildings and public realm are to be submitted to and approved by the Local Authority prior to commencement of development
- that subsequent to the above the approved conceptual and material details of public art relating to the development's buildings and public realm are to be implemented prior to the beneficial occupation of the relevant phases of the development
- that at an agreed time (to be specified in the clause which, for example, could be upon the signing of the S106 agreement or upon the commencement of development) the developer allocates an index-linked sum (to be specified in the clause) either retained by the developer or paid to the Local Authority (to be specified in the clause) for the development and implementation of temporary public art commissions, managed by either the developer or the Local Authority (to be specified in the clause) in accordance with the programme described within the approved public art statement
- that at an agreed time (to be specified in the clause which, for example, could be upon the signing of the S106 agreement or upon the commencement of development) the developer allocates an index-linked sum (to be specified in the clause) either retained by the developer or paid to the Local Authority (to be specified in the clause) for the development and implementation of local training initiatives relating to public art, managed by either the developer or the Local Authority (to be specified in the clause) in accordance with the programme described within the approved public art statement
- that at an agreed time (to be specified in the clause which, for example, could be prior to the occupation of the development or after the developer has maintained the buildings and land for a year) the developer will provide the Local Authority with a maintenance and de-commissioning schedule for public art within buildings and land that are to be maintained by either the developer or the Local Authority
- that at an agreed time (to be specified in the clause which, for example, could be prior to the occupation of the development or after the developer has maintained the buildings and land for a year) and in accordance with the approved maintenance and de-commissioning schedule the developer will pay an index-linked sum (taken from the schedule and specified in the clause) to the Local Authority for the maintenance and de-commissioning of public art within buildings or land adopted by the Local Authority (including the Local Highway's Authority)

**FLOW CHART 3
PUBLIC ART PROCESS FOR THE POOLING OF FUNDING FROM DEVELOPERS**



FLOW CHART 3 PUBLIC ART PROCESS FOR THE POOLING OF FUNDING FROM DEVELOPERS

GUIDANCE

The pooling of funding could apply to developments requiring either *outline* and *reserved matters* or *full* planning permissions, which are not seen as having significant impact on the social and physical characteristics of places. In these cases, public art expertise and planning officers within Local Authorities and developers could agree that developers make financial contributions to support public art initiatives integrated within place-wide public realm and other plans adopted and promoted by Local Authorities. The sums should be determined by the costs of the initiatives. The costs could be applied to either one or proportionately to a number of developments. In the case of the latter, the sums could be based on the gross internal floor-area provided by developments.

For the pooling of funding it may not be necessary for the developer to appoint public art expertise, as negotiations could be undertaken directly between the developer and the Local Authority.

WORDING OF PLANNING OBLIGATION

A planning obligation within a Section 106 agreement could request the following:

- that at an agreed time (to be specified in the clause which, for example, could be upon the signing of the S106 agreement or upon the commencement of development) the developer agrees to pay an index-linked sum (to be specified in the clause) to the Local Authority to support the development and implementation of public art initiatives integrated within place-wide public realm and other plans adopted and promoted by the Local Authority and identified within the Local Authority's public art policy and strategy

APPENDIX 1

THE PLANNING SYSTEM AND PROCESS IN ENGLAND – KEY PRINCIPLES AND DEFINITIONS

This section provides a basic description of the key principles of the planning system and process in England, and provides definitions of the planning terms used in this document.

The planning system and process provide the framework that guides the submission of planning applications by developers and their assessment by Local Authority planning officers, planning committees and others.

1. THE PLAN-LED SYSTEM

Planning is about how the future of cities, towns and the countryside is planned for and decided upon in a sustainable way. In England this follows a system that was updated by the Government via the Planning and Compulsory Purchase Act 2004. The system is known as the plan-led system and consists of guidance and plans covering national, regional and local planning.

National planning policies are set out in Planning Policy Statements (PPS) and Planning Policy Guidance notes (PPG), Minerals Policy Statements (MPS) and Minerals Planning Guidance Notes (MPG), Circulars and Parliamentary Statements. Those most relevant to public art are included in Appendix 2 of this document.

At the **regional** level, Regional Spatial Strategies (RSS) provide a regional level planning framework for the regions of England. They set out such things as how many homes are needed to meet future demand, or whether the region needs a new major retail centre or additional transport infrastructure. RSS replaced Regional Planning Guidance and are produced by the nine English Regional Assemblies (RA).

RSS inform **Local Development Frameworks** (LDF) at the Local Authority level. The LDF replaces the previous system of County level Structure Plans and District level Local Plans, and Unitary Development Plans for Unitary authorities. An LDF is a folder of documents which must include a Local Development Scheme (LDS), Local Development Documents (LDD), a Statement of Community Involvement (SCI) and an Annual Monitoring Report. LDF can also include Supplementary Planning Documents (SPD) which replace Supplementary Planning Guidance (SPG):

- **Local Development Schemes** set out a programme for the production of Local Development Documents over a three-year period and had to be submitted to Government by the end of March 2005.
- **Local Development Documents** must include a Core Strategy that sets out the spatial plan for the delivery of developments in accordance with a Local Authority's Community Strategy, Site-specific Allocations of land for specific types of development, and an adopted Proposals Map that illustrates all site-specific policies in all the adopted LDD. Local Development Documents may also contain Area Action Plans that focus on a specific location and provide a mechanism for ensuring that appropriate development takes place, and other Development Plan Documents that can include generic development control policies and be thematic, for example housing, employment and retail development.

- **Statements of Community Involvement** show how and when Local Authorities intend to consult local communities and other stakeholders when preparing documents within the LDF.
- **Annual Monitoring Reports** are submitted to the Government by Local Authorities to assess the progress and effectiveness of LDF. Annual Monitoring Reports can also highlight if changes to Local Development Schemes are required.
- **Supplementary Planning Documents** (SPD) expand or add details regarding the implementation of policies laid out, or a saved policy in an existing Local Authority Plan. They can take the form of design guides, area development briefs, a master plan or issue-based documents⁷².

Sustainable Development is central to the reformed planning system. Sustainability appraisal is now a mandatory part of the production of RSS, LDF and SPD. The appraisal process assesses the economic, social and environmental impact of these documents. The extent of the appraisal process can vary depending on the type and potential impact of the document being appraised. At a national level PPS11 and PPS12 together with the guidance contained in Sustainability Appraisal of Regional Spatial Strategies and Local Development Frameworks set out in detail the operation of the plan-led system and sustainability appraisal⁷³.

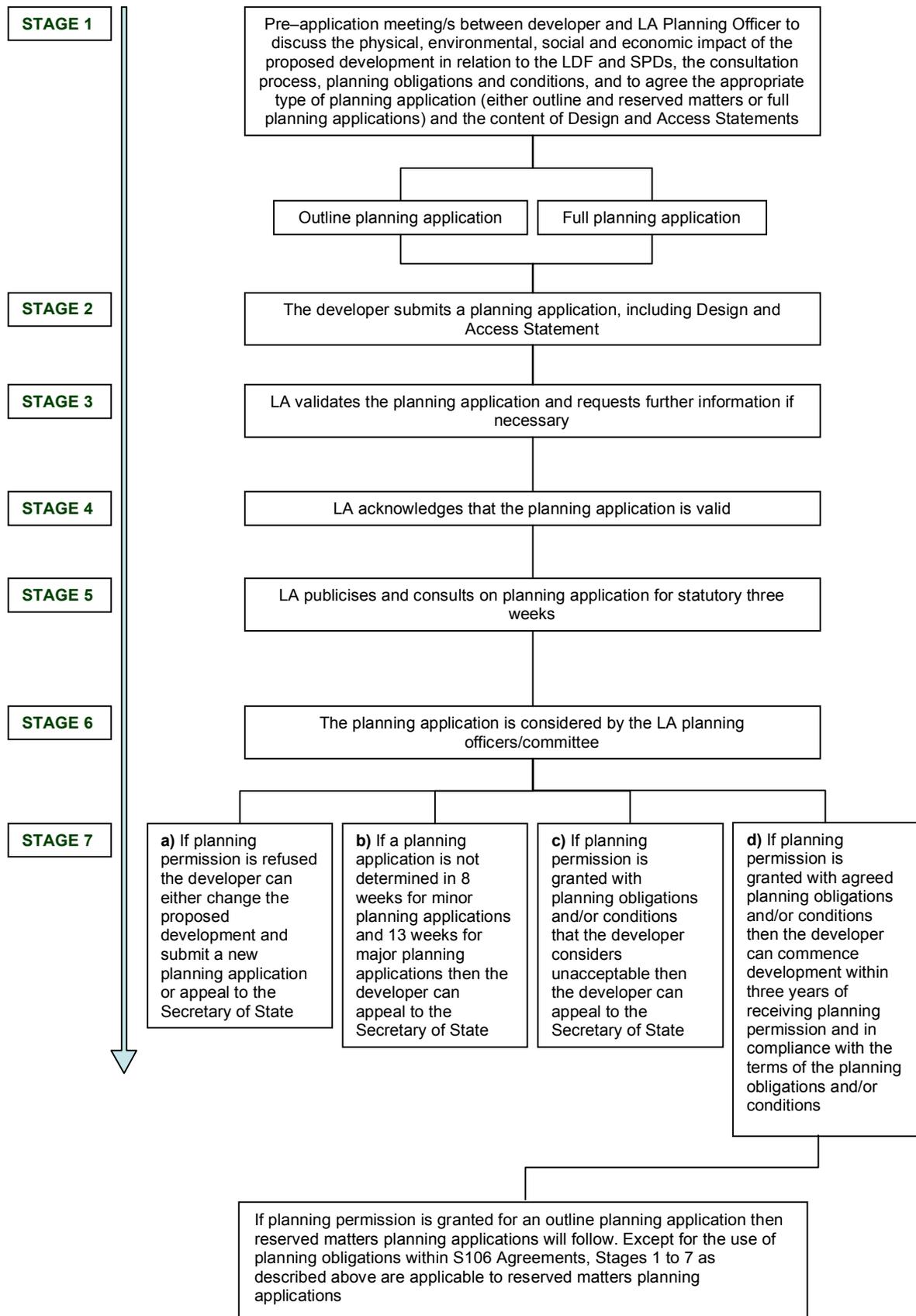
2. THE PLANNING PROCESS

Local Authorities make decisions about planning applications in accordance with policies within LDF and guidance within SPD. The basic stages of the planning application process for either an *outline* and *reserved matters* planning application or *full* planning application are as follows.

⁷² Office of the Deputy Prime Minister (ODPM) *Creating Local Development Frameworks: A Companion guide to PPS12*

⁷³ Office of the Deputy Prime Minister (ODPM) *Sustainability Appraisal of Regional Spatial Strategies and Local Development Frameworks* (ODPM, 2005)

THE PLANNING PROCESS



3. DEFINITIONS OF PLANNING TERMS

The following definitions explain the planning terms used in this document.

3.1 PLANNING APPLICATIONS

A developer will submit either *outline* and *reserved matters* or *full* planning applications, depending on the scale of the development and the requirements of the Local Authority. In addition, the Government has introduced new regulations that mean Local Authorities require developers to provide Design and Access Statements as part of planning applications.

The type of planning application determines the level of information required by a Local Authority for all aspects of a development, including public art.

3.1.1 Full Planning Applications

A *full* planning application is made when a defined scheme has been developed. This would typically include detailed building and public realm designs, a schedule of land-uses and details of means of access to the site and buildings that are proposed. Applications are to be accompanied by Design and Access Statements and some will require Environmental Impact Assessments (EIA) to be submitted. The latter is an assessment of the likely human environmental health impact and risk to ecology that a development may have.

3.1.2 Outline Planning Applications

Outline planning applications are prepared when a vision for a site is established without a defined scheme in place. *Outline* planning applications enable the applicant and a Local Authority to establish an agreement "in principle" to the amount and nature of a development, without the developer being committed to a particular form of design or layout. Planning permission is granted subject to the subsequent approval of *reserved matters* as described in the following section (Appendix 1 3.1.3) of this document.

Government's recent amendments to the Town and Country Planning (General Development Procedure) Order 1995 and its introduction of the requirement for developers to submit Design and Access Statements, mean that *outline* planning applications have to demonstrate clearly how development proposals have responded to planning policies and the social, economic and physical context of development sites. As a minimum, *outline* planning applications should always include information on use, the amount of development, indicative layout, scale parameters (height, width and length of buildings) and indicative access points⁷⁴. However, ixia's research indicates that in accordance with Government guidance local authorities often require developers to provide a more substantial level of information under the above headings. This level of information is sometimes known as a master-plan.

⁷⁴ Department for Communities and Local Government *Circular 01/2006: Guidance on changes to the development control system*

3.1.3 Reserved Matters

Approval of *reserved matters* is the process of seeking approval for those aspects that were not dealt with in an *outline* planning permission. The list below sets out all the issues that need to be approved at one of the two stages of the process (*outline* or *reserved matters*) if a *full* planning application is not made.

- **Access** - accessibility to and within the site for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.
- **Appearance** - aspects of the building or place within the development which determine the visual impression of the building or place.
- **Landscaping** - including virtually any hard or soft landscaping feature.
- **Layout** - the way in which the buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.
- **Scale** - the height, width and length of each building proposed within the development in relation to its surroundings⁷⁵.

3.1.4 Design and Access Statements

The Planning and Compulsory Purchase Act 2004 requires *outline* and *full* planning applications to be accompanied by Design and Access Statements, and Circular 01/2006 provides guidance on their preparation, use and status. Key points about a Statement are as follows:

- Its content should explain the design principles and components that have and will continue to inform the development and how access issues have and will be dealt with.
- Its content should be developed in response to planning policies and the physical, social and economic context of a development site.
- It should not be used as a substitute for drawings and other material required to be submitted as part of the planning application itself.
- The level of detail required in a Statement depends on the type of planning application and the complexity of development sites.
- It enables a Local Authority and other stakeholders (local people, amenity groups etc) to guide and assess a development proposal against planning policies and the physical, social and economic context of a development site.
- Local Authorities that receive planning applications without Statements should not register them.

⁷⁵ Department for Communities and Local Government *Circular 01/2006: Guidance on changes to the development control system*

The design component of a Statement should provide information about:

- **Amount of development** - the amount of development proposed for different uses (residential, commercial etc), how this will be distributed across the site, how the proposal relates to the sites' surroundings, and what consideration is being given to ensure equal access to different parts of the development.
- **Layout** - the way in which buildings, routes and open spaces are provided and relate to each other and to buildings and spaces surrounding the development.
- **Scale** - the height, width and length of a building or buildings in relation to its surrounding.
- **Landscaping** - the treatment of private and public spaces through hard and soft measures. Statements should also explain how landscaping will be maintained.
- **Appearance** - the aspect of a place or building that determines the visual impression it makes, including its architecture, materials, decoration lighting, colour and texture.

The access component of a Statement relates to access to the development and therefore does not relate to internal and external aspects of individual buildings. It should explain the following:

- how access arrangements will ensure that all users will have equal and convenient access to buildings and spaces and the transport network, and how this will be provided over the long term
- the policy adopted in relation to access and how policies within LDF development Document (LDD) have been taken in to account. This should include information on any consultation undertaken by the developer and should make particular reference to the inclusion of disabled people
- access for emergency services⁷⁶

3.2 PRE-APPLICATION MEETINGS

The Government's Planning Policy Statement 1 (PPS1) advises that pre-application meetings are essential in order to front-load and streamline the planning process⁷⁷. Some Local Authorities find resourcing these meetings difficult, but they are perhaps the most important stage of the planning process and are encouraged by ixia.

3.3 PLANNING CONTROLS

The planning system and process provides common mechanisms that are used to control and manage development. In general, these common mechanisms are Planning Obligations and Planning Conditions and are explained below.

⁷⁶ Department for Communities and Local Government *Circular 01/2006: Guidance on changes to the development control system*

⁷⁷ Office of the Deputy Prime Minister (ODPM) *Planning Policy Statement 1: Delivering Sustainable Development* (ODPM, 2005)

3.3.1 Planning Obligations

Planning Obligations, usually agreed under section 106 of the Town and Country Planning Act 1990 and guided by Circular 05/2005, are secured within private legal agreements (known as Section 106 agreements) between Local Authorities and developers.

Section 106 planning obligations enable Local Authorities to secure contributions to the infrastructure, amenity and services necessary to facilitate and/or mitigate any adverse effects of developments. There are no set rules at a national level about the size or type of developments that should attract planning obligations. The outcome of their use should be that development proposals are made to accord with published local, regional and national planning policies.

Recent Government research found that Section 106 planning obligations were currently used to cover a wide range of matters in addition to public art. These include affordable housing, open space and the environment, transport and travel schemes, community and leisure facilities, health and education⁷⁸.

Key features of Section 106 planning obligations are that they cannot be directly appealed, can include financial and/or non-financial contributions on and off development sites, can be very detailed and complex and allow the allocation of specific actions to specific parties⁷⁹.

Local Authorities can only insist that the granting of planning permission is subject to Section 106 planning obligations at the *outline* or *full* planning application stages. However, a developer can also commit to offering planning obligations through a unilateral undertaking. The impact of both is to secure planning obligations that run with the land following the granting of planning permission and bind the existing and subsequent owners of the land until the planning obligations are discharged⁸⁰.

3.3.2 Planning Conditions

The Town and Country Planning Act 1990 allows Local Authorities to grant planning permission subject to conditions, and Circular 11/95 provides guidance on their use. According to the Circular, Local Authorities can apply conditions as they see fit as long as they relate to local, regional and national planning policies. They form part of a planning permission and limit and control the way in which a development may be implemented and used. For example, they can require the detailed design of buildings and open spaces to be approved by the Local Authority prior to commencement of development, and provide undertakings regarding environmental and noise issues⁸¹. Other features of planning conditions are that they can be appealed, cannot include financial contributions and cannot allocate responsibilities to particular parties⁸².

⁷⁸ University of Sheffield and the Halcrow Group Limited *Valuing Planning Obligations in England: Final Report*

⁷⁹ Department for Communities and Local Government (DCLG) *Changes to Planning Obligations: a Planning-gain Supplement consultation*, p.23

⁸⁰ Office of the Deputy Prime Minister (ODPM) *Circular 05/2005: Planning Obligations*

⁸¹ Department of Environment (DofE) *Circular 11/95: Use of conditions in Planning permission*

⁸² Department for Communities and Local Government (DCLG) *Changes to Planning Obligations: a Planning-gain Supplement consultation*, p.23

APPENDIX 2

GUIDANCE AND STATEMENTS

1. PLANNING POLICY GUIDANCE AND STATEMENTS

The key documents listed below all supplement Government's various Planning Policy Guidance and their replacement Planning Policy Statements. Further details can be found at the Department for Communities and Local Government's website, www.communities.gov.uk.

PPS1 DELIVERING SUSTAINABLE DEVELOPMENT says:

'Good design ensures attractive, usable, durable and adaptable places and is a key element in achieving sustainable development. Good design is indivisible from good planning.' (para 33)

'Planning policies should promote high-quality inclusive design in the layout of new developments and individual buildings in terms of function and impact, not just for the short term but over the lifetime of the development. Design which fails to take the opportunities available for improving the character and quality of an area should not be accepted.' (key principle (iv), para 13)

'Good design should contribute positively to making places better for people.' (para 34)

'High-quality and inclusive design should be the aim of all those involved in the development process.' (para 35)

'Planning authorities should prepare robust policies on design and access...based on stated objectives for the future of the area and an understanding and evaluation of its present defining characteristics.' (para 36)

'Planning authorities should have regard to good practice set out in *By design – urban design in the planning system: towards better practice*. (ODPM, CABE 2000)' (para 37)

'Community involvement is an essential element in delivering sustainable development and creating sustainable and safe communities. In developing the vision for their areas, planning authorities should ensure that communities are able to contribute to ideas about how that vision can be achieved, have the opportunity to participate in the process of drawing up the vision, strategy and specific plan policies, and to be involved in development proposals.' (key principle (vi), para 13)

PPS3 HOUSING, says:

'Good design is fundamental to the development of high quality new housing, which contributes to the creation of sustainable, mixed communities'. (para 12)

'Reflecting policy in PPS1, good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted.' (para 13)

'Local Planning Authorities should develop a shared vision with their local communities of the type(s) of residential environments they wish to see and develop design policies that set out the quality of development that will be expected for the local area, aimed at:

- Creating places, streets and spaces which meet the needs of people, are visually attractive, safe, accessible, functional, inclusive, have their own distinctive identity and maintain and improve local character.
- Promoting designs and layouts which make efficient and effective use of land, including encouraging innovative approaches to help deliver high quality outcomes.' (para 14)

PPS6 PLANNING FOR TOWN CENTRES says:

'It is essential that town centres provide a high-quality and safe environment if they are to remain attractive and competitive. Well designed public spaces and buildings, which are fit for purpose, comfortable, safe, attractive, accessible and durable, are key elements which can improve the health, vitality and economic potential of a town centre. Policies for the design of development for main town centre uses, regardless of location, and for development in town centres, should promote high quality and inclusive design, in order to improve the character and quality of the area in which such development is located and the way it functions.' (para 2.19)

PPS7 SUSTAINABLE DEVELOPMENT IN RURAL AREAS, says:

'Very occasionally the exceptional quality and innovative nature of the design of a proposed, isolated new house may provide [this] special justification for granting planning permission.' (para 11)

'Planning authorities should take a positive approach to innovative, high-quality contemporary designs that are sensitive to their immediate setting and help to make country towns and villages better places for people to live and work.' (para 12)

'Planning authorities should ensure that development...contributes to a sense of local identity and regional diversity and be of an appropriate design and scale for its location, having regard to the policies on design contained in *PPS1* and supported in *By design*.' (para 12)

PPS12 LOCAL DEVELOPMENT FRAMEWORKS, says:

'In preparing local development documents (LDDs) LPAs must include policies on design and access... *PPS1* makes clear that good design...is crucial to the delivery of sustainable development, not separate from it.' (para 1.12)

'Well-designed development responds well to the local physical, social and economic context, being safe, clean, attractive and accessible for all users. LDDs should therefore include policies that set out strategic design and access objectives in line with *PPS1* and relevant good practice.' (para 1.13)

'LDDs relating to specific areas could usefully inform the implementation of strategic design policies by including design policies that relate to local conditions and objectives.' (para 1.14)

PPG13 TRANSPORT, says:

'LPAs should actively manage the pattern of urban growth to make the fullest use of public transport...and seek by the design and layout of developments and areas, to secure community safety and road safety.' (para 6)

'When thinking about new development, and in adapting existing development, the needs and safety of all in the community should be considered from the outset...taking account of the importance of good design.' (para 29)

PPG15 PLANNING AND THE HISTORIC ENVIRONMENT, says:

'The design of new buildings intended to stand alongside historic buildings needs very careful consideration. In general it is better that old buildings are not set apart, but are woven into the fabric of the living and working community.' (para 2.11)

'New buildings do not have to copy their older neighbours in detail. Some of the most interesting streets include a variety of building styles, materials and forms of construction, of many different periods, but together forming a harmonious group.' (para 2.14)

PPG17 PLANNING FOR OPEN SPACE, says:

'Local networks of high quality and well-managed open space help create urban environments that are attractive, clean and safe and can play a major part in improving people's sense of well being.' (page 2)

'LPAs should...audit open space facilities... Audits of quality will be particularly important as they will allow Local Authorities to identify potential for increased use through better design, management and maintenance.' (page 3)

'New open spaces should improve the quality of the public realm through good design.' (page 20)

2. REFERENCES TO STATEMENTS FROM OTHER NATIONAL ORGANISATIONS

Creating Excellent Buildings – A Guide for Clients (CABE, 2003) says 'Artists can best become involved at the start of the process, so that they can contribute conceptually to a project – if you use them to bolt-on art work at the end, opportunities are missed and results may be unsatisfactory. If your project has a percent for art policy, you could appoint a lead artist to formulate a creative direction, and advise on how to involve other artists and arts organisations. Using an artist can add considerably to the distinctiveness of your scheme – it may be a factor that makes one bid stand out from the rest in a tendering process.'

By Design – Urban Design and the Planning System (CABE/DETR, 2000), says 'The work of artists should be integrated into the design process at the earliest possible stage if it is to be used effectively.'

Urban Design Compendium (English Partnerships and the Housing Corporation, 2000) says 'Public art can make a major contribution to giving a place character and identity, bringing people into and through places.'

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