



REVIEW OF VISUAL ARTS FUNDING MODELS SECTION 106 AGREEMENTS

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1 EXECUTIVE SUMMARY

This review sets out to examine how funding partnerships using the planning system can be developed in regional contexts to promote contemporary art collecting across England. It looks at how the planning system works and the models developed using Section 106 Agreements to secure public art; it considers the impact of the 2007 Planning Bill and how the introduction of the Community Infrastructure Levy may change current practice and create new opportunities; it examines the published policy standards expected of publicly funded museums with collections and it explores the relative powers of the key stakeholders involved. Finally, it sets out recommendations that could enable Arts Council England to influence the planning system to promote contemporary art at national, regional and local levels. It also identifies the potential risks associated with these recommendations.

Before providing an overview of the review's findings and conclusions, there are three points that should be highlighted:

- The planning system is, for the most part, enabling rather than prohibitive and the system can, and should, support the arts;
- The inclusion of the arts in developments needs to be plan-led and articulated in planning policies and documents. These should demonstrate joined-up thinking with other partners in the delivery of the Sustainable Communities agenda;
- Regeneration and development are driven by the economic principle of demand and supply and may or may not be viable without public subsidy. Therefore, the levels of funding secured through the planning system are determined by the strength of local economies.

1.1 Overview

- Public art has successfully aligned itself with the planning system resulting in an increase in public art commissioning by public and private sector organisations. This tends to be most successful where there are public art advisors and where public art is integrated within planning documents.
- The planning system and public art practice provide no formal barriers to the idea of public art commissions being accessioned to museum collections. In the context of the planning system, public art is always the result of a voluntary agreement between a developer and a local authority, and planning

documents and subsequent planning obligations could therefore include references to a museum collection. However, the idea of linking public art commissions with museum collections is not a recognised part of public art and museum practice.

- Despite artists and arts organisations recognising the potential financial benefits, there are perceived and real barriers to their involvement with the planning system. These include: uncertainty regarding the agendas of the organisations (developers, local authorities etc) that provide the funding; and limited access to and understanding of how the planning system works.
- The Community Infrastructure Levy provides an opportunity for public art and the arts. If the arts are recognised as qualifying infrastructure this could enable them to be strategically funded via the planning system. This could lead to funding being secured to support the acquisition, as well as the commissioning, of public art for museum collections at a regional and local level.
- The standard charges operated by Swindon Borough Council and Walsall Borough Council indicate how the Community Infrastructure Levy could work at a local level to generate funds for the arts and public art commissions that could become part of museum collections.
- Any initiative to use the planning system to build collections must be in line with the acquisitions policy of the museum in question, and commissioning contracts between artists and commissioners would need to be developed to ensure smooth transfer of title.
- Given current pressures on purchasing, storage, conservation, care and access to collections, many museums may not see collecting as a priority. These issues will effect how a museum judges the relevance and future historic significance of items proposed for acquisition, which would need to be reconciled with the uncertainty of the commissioning process. This may result in additional costs and further financial assistance may be required by museums.
- The Arts Council is relatively disempowered when influencing the outcomes of public art at a national level using its existing policy powers. A Planning Policy Statement for the Arts would help the Arts Council in this respect.

- In order to extend its influence over outcomes, the Arts Council could work with those key bodies that have power, define policy and affect the delivery of public art. These include the Department of Communities and Local Government, English Partnerships, the Housing Corporation, regional development agencies, development corporations, regeneration companies, local authorities, local planning authorities, the health sector, the education sector and the private sector.
- The Arts Council has some control and influence over the delivery of public art, particularly at a regional level. This could be used as a basis for developing plans and piloting projects for public art and collections with the development sector, local planning authorities, advisors and museums.
- Local authority public art officers often occupy powerful positions, combining policy power with a close relationship with developers and planners, who are responsible for ensuring the delivery of public art. The Arts Council could investigate ways of harnessing these skills at a local level.
- The key stakeholders who need to work together in order to see public art commissioning support museum collecting policies are those who control the public art process within the planning system and museum curators with responsibility for acquisitions.

1.2 Recommendations

Our recommendations are summarised in the following table:

	National	Regional	Local
Advocacy and Lobbying	A Planning Policy Statement for the Arts. Arts included in qualifying infrastructure for the Community Infrastructure Levy.	Reference to building collections to be included in public art and arts policies and strategies adopted by the development sector and local planning authorities.	Identify formulae to assist local authorities to generate funding for the arts.
Funding	Develop a seed funding programme to support partnership projects.	Support pilot projects in areas where partnerships already exist between the development sector, local planning authorities, advisors and museums.	

	National	Regional	Local
Training and Development	Develop knowledge, skills and awareness within the Arts Council about the planning system. Develop knowledge, skills and awareness among key national and regional arts leaders about the planning system and develop the concept of visioning as the basis of strategic plans.		Introduce workshop programmes to develop knowledge and skills and build networks between arts officers, public art advisors, planners, curators and other museum staff.
Commissioning	Prepare and promote appropriate clauses for public art commissioning contracts to enable commissioned work to be acquired for permanent public collections.		
Research	When the Community Infrastructure Levy is finally determined: - Explore the possibility of creating funds to support the acquisition of art; - Review existing standard charges for calculating levels for the arts.		

1.3 Potential Risks for the Arts Council

- The levels of funding that are raised via the planning system are dependent on prevailing economic conditions. Therefore, it may be difficult to guarantee consistent levels of funding for public art and arts strategies over the long-term.
- The nature of commissioning means that the quality of the final work cannot be guaranteed. Consequently, a museum may refuse to accession a commission to its collection. There may be a financial risk if the Arts Council helps fund the commissioning process.
- When a commission is judged to be acceptable to a collection, a museum may need additional financial assistance in order to purchase and care for the work. These funds may not be available, preventing the work from entering the collection. This poses a risk to the Arts Council in circumstances where it has helped fund the commission.

2 INTRODUCTION

The approach described below has been taken in order to examine how funding partnerships using the planning system could be developed in regional contexts to promote contemporary art collecting across England.

2.1 Methodology

The review was conducted by analysing available literature and data and reviewing options and choices based on existing or planned policies, processes and strategies.

In addition, we conducted telephone interviews with local authority officers and consulted a variety of practitioners in the sector, including Arts Council officers, public art consultants, curators and planners.

2.2 Scope

The review explores what happens, or could happen, within the current legal and policy frameworks, and assesses the implications of proposed imminent changes to the planning system. We have not attempted to make qualitative judgements about what is good or bad public art, although the processes described do affect and influence the selection of artists and the creative scope of the commissioning briefs. We have not been able to find any examples of public art funded via the planning system which is located within museum collections.¹

The review has been conducted from the perspective of an artwork which is not permanently integrated within the architecture and/or landscape architecture of a development. Such an artwork is physically available for inclusion within a collection and its meaning is not dependant on its presentation within a specific location. Permanent works could be part of a museum collection and a commission may also generate secondary material in the form of preliminary drawings and/or maquettes that may be suitable for collections. An example of the former can be found in France where the Fonds Regionals D'Art Contemporain (FRAC) Bourgogne undertakes acquisitions in situ.² An example of the latter is the model for *The Leeds Brick Man* by Antony Gormley which is located within the collection of Leeds Art Gallery.³

Furthermore, this review identifies how the Arts Council might exert its influence to maximise the potential of the planning system for supporting the arts in general. We consider this to be of potentially greater value than the more narrowly defined issue of building collections of contemporary art via the planning system.

2.3 Definitions

Art or the arts: Throughout the review we use the term art or the arts as an inclusive term for the visual and performing arts, including public art, and public art for art produced specifically under the conditions described in the definition below.

Local Planning Authority: A Local Planning Authority is the local authority that is empowered by law to implement the planning system within a particular area in England.⁴

Museum: The term museum includes galleries with collections.

Public art: Public art means different things to different people and sectors.⁵ The etymology of the term is more complex than may first appear, asking questions about the public versus the private and the nature of what we mean by art. For this review, we are focusing on public art that is commissioned using funds generated via the planning system, as it is the exploration of how these funds are applied that is pertinent to the Arts Council's brief.

Public collections: Public collections are permanent collections held by institutions accredited under the Museum, Libraries and Archives Council's accreditation scheme for museums.⁶

2.4 Abbreviations

Perhaps more than any other area of public policy, planning is littered with acronyms. We have therefore taken the decision only to use acronyms that are likely to be familiar to a non-planning reader and to use full titles elsewhere. The acronyms that are used are as follows:

CABE – Commission for Architecture and the Built Environment

DCLG – Department of Communities and Local Government

DCMS – Department of Culture, Media and Sport

LPA – Local Planning Authority

MLA – Museums, Libraries and Archives Council

RDA – Regional Development Agency

RFO – Regularly Funded Organisation of the Arts Council

3 PUBLIC ART AND THE PLANNING SYSTEM

In order to explore how the planning system might be used to help museums build collections it is necessary to understand how it is currently used to support public art.

3.1 The Recent Evolution of Public Art in England

Public art can trace its origins back through the commissioning of artists as part of the development of new towns such as Harlow and Milton Keynes in the 1960s; the Art in the City programme supported by the Stuyvesant Foundation in the 1970s; and the growth of urban regeneration in the early 1980s, which has continued through to the present day.

Throughout the 1970s and 1980s the UK arts sector promoted greater involvement of the arts in the public realm. Initially, this was characterised by two diverse approaches: one following the post-war tradition of monumental sculpture and the other born out of activist and community arts practice in the 1960s and 1970s.

By 1978 the Arts Council of Great Britain had established a fund to support public art and began the process of establishing public art organisations to promote and commission public art. In the late 1980s, Percent for Art was promoted in the UK following models in the USA and Europe. There, public sector organisations implement a mandatory 1% minimum of development construction costs to art. Although non-mandatory⁷ in the UK, many local authorities and other public sector organisations adopted Percent for Art as a means of supporting public art in partnership with the private sector. Percent for Art located public art within public sector policy and the planning system.

Despite Percent for Art being non-mandatory, the commissioning of public art by public and private sector organisations has increased over the last twenty years and this trend looks set to continue.⁸ Research commissioned by DCLG in 2006 identified that the planning obligations used most frequently in urban centres in England were those that secured public art.⁹

3.2 Public Art and the Planning System

Planning is about the sustainable development of cities, towns and the countryside. In England, this follows a system known as the plan-led system, which consists of documents covering national, regional and local planning.¹⁰ Within these documents it is possible to locate support for public art.

3.2.1 National Level

Planning Policy Statements (PPS) are prepared by DCLG in partnership with other Government departments. They are used to explain statutory provisions and to provide guidance to local authorities and others on the delivery of sustainable development through, and the operation of, the planning system.¹¹

Planning Policy Statement 1 (PPS1) sets out the overarching national planning policies. Its key principles state that:

- regional and LPA should ensure that planning promotes outcomes in which environmental, economic and social objectives are achieved together over time;
- sustainable development should involve good design and community engagement.¹²

None of the existing Planning Policy Statements make specific reference to either public art or the arts. A key reason for this is likely to be the weak evidence base regarding the contribution of the arts to regeneration initiatives. Government sponsored research identifies that quantitative evidence is limited, focusing on gross impact rather than net impact, and whilst qualitative evidence suggests investment in public art and the arts may have wider benefits, it is not conclusive.¹³

However, it is standard practice for the public art sector to use the principles described above as the basis of policy development. Furthermore, public art is not excluded from documents that inform the planning system at a national level. It has a recognised role in place-making, which 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. An example is CABI through their publication *By Design – Urban Design and the Planning System*.¹⁴

3.2.2 Regional Level

Regional Assemblies, Regional Government Offices and RDAs implement 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 the public realm in contributing to regional social and economic development. The organisations mentioned above have taken significant steps towards delivering this agenda (which includes public art) by working with CABI and the Arts Council to support regional architecture

centres, design champions, design review panels, and specific public art and arts initiatives.¹⁵ 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 £4.4 million in public art as part of a £13 million cultural programme across the North of England.¹⁶

Regional offices of the Arts Council advise on public art and the arts either directly or through organisations with a regional remit. Their endorsement is often critical in establishing public art and the arts within the policies and initiatives of other regional organisations, and in supporting local authorities to develop and implement public art and arts policies and strategies.

The living places initiative is developing a Culture Planning Toolkit, which is being led by Culture East Midlands and a consortium of national and regional partners. This aims to be a practical step-by-step guide to help sustainable community practitioners integrate culture and sport into their work at regional and local levels.¹⁷

3.2.3 Local Level

Local Development Frameworks are informed by Regional Spatial Strategies and are developed and implemented by local authorities. A Local Development Framework is a folder of documents that include:

- **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 a Proposals Map that illustrates all site-specific policies in all the adopted Local Development Documents. They may also contain Area Action Plans that focus on a specific location, and other Development Plan Documents that can include generic development control policies and can be thematic, looking at, for example, housing, employment or retail development.
- **Supplementary Planning Documents:** 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 documents. Government guidance suggests that achieving effective Supplementary Planning Documents can take up to 12 months.¹⁸

Approximately 61% of local authorities in England have public art policies, strategies and statements linked to the local planning system. Most base these on the advice given by the Arts Council of Great Britain, which is still relevant and states that local authorities can, via the planning system, encourage but not require developers to commission public art.¹⁹

Of the 61%, approximately 18% of local authorities have prepared, or are currently preparing, policies and strategies within Local Development Frameworks that are supported by Supplementary Planning Documents, which include guidance on public art. This level of information enables the local authorities to ensure that developers do not overlook public art.²⁰

3.3 The Planning Process

Local authorities make decisions about planning applications submitted by developers in accordance with policies within Local Development Frameworks and guidance within Supplementary Planning Documents. The basic stages of the planning application process are:

- Pre-application meetings between the developer and the local authority planning officer to discuss the physical, environmental, social and economic impact of the proposed development in relation to the Local Development Framework and Supplementary Planning Documents, the consultation process, planning obligations and to agree the appropriate type of application and the content of Design and Access Statements;²¹
- There then follows a series of stages, culminating in the application being considered by the local authority planning officers or committee. Planning permission may be refused or granted, or granted and challenged if the developer considers the planning obligations unacceptable. For instance, if land prices are falling or unstable a developer may successfully argue that certain obligations threaten the financial viability of developments;²²
- When final planning permission is granted planning obligations are secured within a Section 106 Agreement.

A local authority's requirements for public art should be explained to developers at pre-application meetings. If accepted, the requirements can then be delivered by the developer in line with the planning application process, which for major developments can result in the delivery of public art being secured within Section 106 Agreements.

3.4 Planning Obligations and Section 106 Agreements

Under the current planning system, planning obligations within Section 106 Agreements are contractual agreements between local authorities and developers. They enable local authorities to secure contributions to the infrastructure, amenity and services necessary to facilitate and/or mitigate any adverse effects of developments. Their use should result in development proposals which accord with published national, regional and local planning policies.

The key features of planning obligations within Section 106 Agreements are that they:

- can include financial and/or non-financial contributions on and off development sites;
- can be very detailed and complex in their wording especially on larger phased developments;
- cannot be directly appealed by developers;
- allow the allocation of specific actions to specific parties, bind these parties and run with the land.²³

Technically, a Section 106 Agreement can include both high and low priority planning obligations. High priorities (such as education and health provision, road improvements, parking and open space) are direct consequences and impacts of a development proposal, have a strong basis in methodology, and are dealt with through formulaic solutions. At the other end of the scale there are low priority planning obligations (including public art contributions) which are characterised as community needs, have a weak basis in methodology and are sought through negotiation (see Appendix 7.1 for further information). However, planning obligations for public art are very common. This is due to a combination of factors: the willingness of some developers to commission public art;²⁴ the inclusion of public art within key planning documents; and the negotiation skills of planning, public art and arts officers within some local authorities.

Planning obligations within Section 106 Agreements can be used to fund work both on and off development sites. In Bristol, Neville Gabie is currently undertaking a three year residency as part of the development of a major retail centre and has chosen to produce a series of works that focus on the development site and are research and event-based.²⁵ Also in Bristol, a series of public art commissions entitled *Thinking of the Outside*, which included video, painting and object-based

works by artists such as Susan Hiller, Silke Otto-Knapp and Nathan Coley, were temporarily installed in public spaces and buildings across the city centre in 2005.²⁶

Thinking of the Outside highlights one of the key restrictions of planning obligations, which could be amended by the Government's proposed changes to the planning system as described below. This restriction is that funding secured within Section 106 Agreements can only be spent on or near to the development site that has provided the funding. In 2005, Government changes to the regulations for the use of planning obligations enabled a new approach whereby local authorities could pool financial contributions from a number of developments to support place-wide initiatives.²⁷ Place-wide initiatives are not located within a specific development site but include, for instance, public spaces or social and cultural activities between a number of developments. However, even with this guidance, planners are careful not to take funding too far from the developments that have provided it. As with *Thinking of the Outside*, a common approach is for pooled funding to be spent within the same ward or neighbourhood as the developments.

3.5 Planning Obligations and Unilateral Undertakings

In addition to Section 106 Agreements, public art planning obligations can be secured with another type of legal agreement, a Unilateral Undertaking. The applicant offers this to the LPA either in support of a planning application or a planning appeal. The LPA is not bound to accept a Unilateral Undertaking, and it may not influence the decision taken on the planning application.²⁸ Unilateral Undertakings are used less often than Section 106 Agreements.

3.6 Visions, Policies and Strategies for Public Art

Delivery of public art is assisted when a local authority develops a vision for public art. This creates opportunities for artists to engage with a place in a meaningful way by embedding public art within the planning system and also within the wider corporate policies, strategies and activities of a local authority and its partners. These can include Community Strategies²⁹ and specific cultural, education, health and regeneration initiatives.

The content of Local Development Documents 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 system by including them in Local Development Documents and supporting them with Supplementary Planning Documents. Public

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 and retail development).³⁰

A vision forms the basis of a public art policy and strategy. Current documents issued by Milton Keynes Council and its partners,³¹ Bristol City Council,³² Southampton City Council³³ and Reading Borough Council³⁴ look at a wide vision for public art and consider where, when and how public art will be commissioned within development and as part of place-wide initiatives promoted and adopted by the local authorities and others. Urban Regeneration Companies such as Sunderland Arc³⁵ and Gloucester Heritage³⁶ have adopted place-wide cultural and public art strategies that identify how the planning system is to support their delivery. These documents support both permanent and temporary public art commissions on and off development sites. However, our review has failed to identify any examples of, or references to, a public art commission being funded via the planning system and entering a museum collection.³⁷

3.7 Public Art Advisors

The role of public art advisors (artists, local authority public art officers, public art consultants and public art organisations) is recognised as an important part of the provision of public art. The evaluation of the public art initiative *PROJECT* concluded that organisations receiving the input of artists need support.³⁸

Unless experienced individuals are identified in-house, local authorities often appoint public art advisors to develop visions and policies for public art. This ensures that their development with and adoption by others is informed by knowledge of public art practice.

Once a public art policy has been agreed, there needs to be someone responsible for developing and implementing it. In general, public art advisors within local authorities are found within either the cultural or planning departments. Increasingly, advisors are located within the latter. 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. One such example is Bristol City Council which has a public art officer within its Urban Design Team.³⁹

Where public art advisors are in place there is a key variation in their roles within the context of the planning system and the delivery of public art within development sites. Some project manage public art commissions on behalf of developers whilst others assist them with the appointment of other public art advisors 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 the Arts Council, Architecture Centres funded by CABE and the Arts Council, independent public art consultants and artists. In some cases, public art advisors within local authorities have established steering groups to support their work.⁴⁰ This can assist with the promotion, implementation and evaluation of a public art policy, strategy and Supplementary Planning Document for public art.

Unsurprisingly, the local authorities with the most active public art programmes tend to be those where there are public art advisors and where the provision of public art is integrated within the social, cultural and planning policies owned by the local authorities and their partners. Where this is the case the public art advisors are central to the process of securing funding via the planning system to support permanent and temporary public art commissions that take place on and off development sites.

3.8 Public Art beyond the Planning System

Parallel to the development of public art within the planning system is an increasing concern for, and engagement with, the public realm amongst artists. This has resulted in increasing debates surrounding the development and regeneration of places, and the involvement of artists in this process. Increasingly artists and arts organisations, in particular visual arts organisations and galleries, are responding to the social, economic and political agendas that drive development and regeneration initiatives by working in the public realm. Examples of this are the work of Artangel⁴¹ and Ikon Gallery in Birmingham.⁴²

This activity often happens outside the processes that currently deliver public art through the planning system. Despite artists and arts organisations recognising the potential financial benefits, there are perceived and real barriers to their involvement with the planning system. These include: uncertainty regarding the agendas of the organisations (developers, local authorities etc) that provide the funding; and limited access to and understanding of how the planning system works.⁴³

3.9 Public Art and the 2007 Planning Bill

During November 2007, the Government introduced a new Planning Bill,⁴⁴ which is currently before Parliament. The Government's intention is for it to become law by Spring 2009.⁴⁵

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

A consultation paper in 2001, *Reforming Planning Obligations: Delivering a fundamental change*, explored the notion of tariffs on development.⁴⁶ In March 2004, the *Review of Housing Supply* suggested the introduction of a Planning Gain Supplement, an idea pursued by HM Treasury to the point of initial legislation but then abandoned in the Prime Minister's announcement of a programme of draft legislation in July 2007.⁴⁷

3.9.1 The Community Infrastructure Levy and Planning Obligations

The basic thrust of the 2007 Planning Bill⁴⁸ is to speed-up the process of determining planning applications and to enable local authorities to spend some of the funds currently secured within Section 106 Agreements in a more strategic way. Section 106 Agreements will still exist in relation to on site requirements but planning obligations relating to a development's social or community infrastructure, which in early papers the Government deemed to include cultural and public art initiatives, will be incorporated into the Community Infrastructure Levy. LPA will be responsible for collecting the Levy and its application will be determined locally on the basis of a costed infrastructure plan. This may generate additional income as the current system is based simply on the principle that new developments should cover the cost of their impact: the services necessary to facilitate and/or mitigate any adverse effects of developments.

3.9.2 The Application of the Community Infrastructure Levy

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

- Each local authority will need to account for how the Levy will be spent, detailing a list of costed projects and who will be responsible for delivery;
- Each local authority must publish rates by which the Levy is chargeable;

- The Levy should be used to support the aims and objectives of Local Development Frameworks and their supporting documents;
- The Levy can be used to support projects located both within and outside a local authority's boundary;
- A local authority can pass the Levy to another body to spend;
- Any expenditure already incurred on projects may be reimbursed by the Levy;
- The Levy can be reserved to fund future projects;
- Administrative costs resulting from projects can be covered by the Levy.

In summary, the above guidance places emphasis on local authorities and their ability to justify how they will generate and spend the Levy.⁴⁹

3.9.3 The Future of Public Art and Planning Obligations

Section 106 Agreements will be retained as the legal means by which negotiated agreements between developers and local authorities are secured primarily for on-site requirements. Local authorities will not be obliged to adopt the Levy.⁵⁰ In these cases, planning obligations will continue to provide a means of securing developer contributions on and off development sites. Therefore, ixia's view is that public art will continue to be secured as described in section 3.4.

Where the Levy is implemented, it will be complemented by planning obligations within Section 106 Agreements. At present the Government is proposing that planning obligations should focus on issues that relate specifically to the development site.⁵¹ Therefore, on-site public art could still be included within Section 106 Agreements.

3.9.4 Public Art and the Community Infrastructure Levy

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

- roads and other transport facilities;
- flood defences;
- schools and other educational facilities;

- medical facilities;
- sporting and recreational facilities;
- open spaces;
- certain types of affordable housing provision.

The proposal also enables the Government to add to, remove and exclude types of infrastructure from this list.⁵²

The issue of qualifying infrastructure is central. The introduction of the Levy provides an opportunity for public art and the arts to be recognised on their own terms for their contributions to the delivery of the Government's Sustainable Communities agenda.⁵³ Within the context of the brief for this review the inclusion of public art and the arts could mean that a local authority could investigate the generation of funds for both the commissioning and acquisition of public art for the collection of a local museum.

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

3.9.5 Standard Charges

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

Swindon Borough Council has standard charges for both public art and its arts service. They are underpinned by policies for public art and for Culture and Leisure, which are contained within the Local Development Framework. These are supported by strategies that align public art and the arts with the delivery of the Sustainable Communities agenda within the Borough. The standard charges calculate the contributions to be between £87 and £206 per dwelling for the arts service and between £531 and £1262 per dwelling for public art. The exact amount per dwelling depends on the number of bedrooms. These contributions

are only applied to housing developments. Appropriate contributions for other types of development, for example retail development, are assessed on an individual basis.⁵⁴

During February 2008, Walsall Borough Council adopted its standard charges for public art. It charges £350 per residential dwelling, with all other types of development charged at £5 per square metre for the first 2,000 square metres and £3 per square metre thereafter.⁵⁵ Walsall's public art policy, strategy and the relevant sections of its Supplementary Planning Document for Urban Design have and are being developed by planners working in partnership with the arts service and The New Art Gallery, Walsall.⁵⁶ They aim to raise up to £1 million per year for public art, which will be pooled by the Council and invested by a public art officer in local, neighbourhood and borough-wide public art initiatives identified within the emerging public art strategy.

When considering the two examples above it is important to note the following:

- The levels of standard charges will differ under each local authority. The main reason for this is that levels reflect the economic conditions of a place. If a local authority is promoting regeneration, it is not in its interest to set standard charges at levels that threaten the financial viability of developments;
- The standard charges promoted by local authorities are subject to negotiation with developers;⁵⁷
- The expenditure of funds generated by standard charges may be conditional on the distance between the development site and a public art or arts initiative. This may be subject to review and change under the Levy.

3.10 Conclusions

The key conclusions which can be drawn from our review of public art and the planning system are as follows:

- Public art has successfully aligned itself with the planning system. Despite Percent for Art being non-mandatory and the lack of specific references to public art or the arts within Planning Policy Statements, there has nevertheless been an increase in public art commissioning by public and private sector organisations. However, the lack of explicit references within Planning Policy Statements restricts a strategic view of how the planning system can support public art and the arts. This is unlike sport which is included within a Planning Policy Statement;⁵⁸
- The local authorities with the most active public art programmes tend to be those where there are public art advisors and where the provision of public art is integrated within social, cultural and planning documents adopted by the local authorities and their partners. In these cases public art programmes include commissions that are funded via the planning system and are permanently and temporarily located within the public realm. However, the idea of linking public art commissions with museum collections is not a recognised part of public art practice within local authorities;
- The planning system itself provides no formal barriers to the idea of public art commissions being accessioned to museum collections. The provision of public art either on or off the site of a development is always the result of a voluntary agreement between a developer and a local authority. Therefore, planning obligations within Section 106 Agreements regarding public art could include references to a museum's collection;
- Regeneration and development are driven by the economic principle of demand and supply and may or may not be viable without public subsidy. Therefore, the levels of funding secured through the planning system are determined by the strength of local economies;
- The successful development and implementation of a local authority's public art policy and strategy depends on the skill and knowledge of its public art advisor;
- Despite artists and arts organisations recognising the potential financial benefits, there are perceived and real barriers to their involvement with the

planning system. These include: uncertainty regarding the agendas of the organisations (developers, local authorities etc) that provide the funding; and limited access to and understanding of how the planning system works;

- The standard charges operated by Swindon Borough Council and Walsall Borough Council indicate how the Community Infrastructure Levy could work at a local level. In Swindon, funds are being generated for public art and the revenue programme of the arts service. In Walsall, it is possible to envisage a situation where the standard charge funds public art commissions that become part of the collection of The New Art Gallery, Walsall;
- The introduction of the Levy provides an opportunity for public art and the arts. If they are recognised as qualifying infrastructure this could enable them to be strategically funded via the planning system. Locally, this could lead to funding being secured to support the acquisition as well as the commissioning of public art for a museum's collection. Furthermore, under the Levy, regional strategies for public art and the arts would have the potential to draw funding from multiple local authorities. These strategies could be developed and promoted by regional offices of the Arts Council and their partners. The living places Cultural Planning Toolkit may assist with this process.

4 MUSEUM COLLECTING POLICIES

In order to locate public art commissioned via the planning system within museum collections it is necessary to understand the acquisitions process involved.

4.1 Public Collections

The MLA's accreditation scheme for museums⁵⁹ sets out nationally agreed standards for how museums must develop, care for and manage their collections, and for the services they provide for their users. Accreditation signifies that the organisation: has achieved specific standards in museum management, collection care and public services; is a suitable home for a collection that is part of the nation's heritage; and is worthy to receive support from public sources.

Approximately 1,800 museums throughout the UK are accredited by the MLA. Many of these are owned, managed and funded by local authorities.

4.2 Acquisition Issues for Public Collections

The term acquisition is used here to refer to the process of obtaining legal title to an item with the intention of recording it in the register of a permanent collection. This includes items that are either given to or purchased by a museum.

For an object to be registered in a museum's collection, it must satisfy certain policy standards. These include: care; conflicts of interest; acquisitions not covered by policy; acquisition procedures and disposal procedures. Further details of these standards are given below.

4.2.1 Care

A museum must take into account its ability to provide adequate staffing, storage and care for its collections. Museums are determined to have long-term purpose and there is a strong presumption against the disposal of any item.

The presumption of long-term purpose has implications for how a museum may judge the relevance of an item. Items need to be judged to be suitable for acquisition on the basis of their future historical relevance or significance. Whilst it may be possible to judge this at the time of an item's production, in many cases it may only be possible to judge an item's significance over an extended period of time.

In addition, the resources for purchases, storage, conservation and care of collections are finite and under pressure and a significant proportion of collections in major museums are underused. The Government is looking to museums to

consider imaginative ways of using existing material, including alternative forms of storage and access and long-term loans both within and outside the sector. It is also looking for a framework of strategic partnerships, nationally and internationally, that could ensure that collections are used collaboratively for the widest public benefit. The Government has also asked the museum sector to think more actively about disposal,⁶⁰ a policy initiative that has recently been endorsed by the Museums Association.⁶¹

4.2.2 Conflicts of Interest

A museum must take into account the acquisition policies of other public collections collecting in the same or related areas or subject fields, and consult with these organisations where conflict may arise.

4.2.3 Acquisitions not covered by Policy

Acquisitions made outside a museum's stated policy can only be made in very exceptional circumstances, after proper consideration by the governing body of the museum itself. The interests of other museums must also be considered.

4.2.4 Acquisition Procedures

A museum must be satisfied that it can acquire a valid title to the item in question.

4.2.5 Disposal Procedures

Museums have long-term purpose and there is a strong presumption against the disposal of any item. However, as noted above, the practical considerations of the rising costs of storage, conservation and declining income have led the Government to ask the sector to reconsider this position.

4.3 Public Art and Museums

We have found no examples of public art commissions funded via the planning system being acquired by museums for their collections. However, by cross-referencing the working practices of the public art and museum sectors it is possible to identify the following key issues: collecting policy and commissioning contracts; and organisational culture.

4.3.1 Collecting Policy and Commissioning Contracts

A museum must satisfy itself that any public art produced via the planning system is relevant to their collecting area or subject, that it can be conserved and that it can be made available for public benefit or disposed of if necessary. This process

raises a number of issues for the contract between an artist and the commissioner. These include the following:

- an item cannot be accessioned to a permanent collection until it has been completed and assessed for suitability. Consequently, only a conditional offer of acquisition can be included within a commissioning contract;
- a conditional offer has to indicate whether the artist and commissioner are giving the work to the museum or expecting the museum to purchase the work. If the work is to be purchased, the conditions of purchase could be subject to a separate contract;
- a conditional offer must include reference to the potential disposal of the work. This may include the requirement for payments to the artist, commissioner and others.

4.3.2 Organisational Culture

Technically, the planning system and the public art and museum sectors do not prevent the acquisition of public art commissions for collections. In circumstances where all parties are willing for this to happen, this process could be integrated within museum acquisitions policies, Local Development Frameworks and Supplementary Planning Documents and supported by Section 106 Agreements.

The barriers preventing the museum sector from working in this way include:

- lack of access to and understanding of public art commissioning and the planning system;
- lack of joined-up working between the relevant parties;
- the resource-driven focus on care, storage and display rather than acquisitions.⁶²

4.4 Conclusions

The key conclusions which can be drawn from our review of museum collecting policies are as follows:

- Any initiative to use the planning system to build collections must be in line with the museum's acquisitions policy and commissioning contracts between artists and commissioners would need to be developed to ensure smooth transfer of title;

- The planning system, public art practice and museum policies provide no formal barriers to the idea of public art commissions being accessioned to museum collections;
- Given current pressures on storage, conservation, care and access to collections, many museums may not see collecting as a priority. These issues will effect how a museum judges the relevance and future historic significance of items proposed for acquisition;
- The nature of commissioning is that the quality and relevance of the final work cannot be guaranteed. Consequently, a museum may refuse to accession a commission to its collection;
- When a commission is judged to be acceptable to a collection, a museum may need additional financial assistance in order to purchase and care for the work;
- Barriers to the museum sector's involvement with public art and the planning system include: a lack of access to and understanding of public art commissioning within this context; a lack of joined-up working between the relevant parties; and the resource-driven focus on care, storage and display rather than acquisitions.

5 STAKEHOLDER ANALYSIS

The planning system is a multi-stakeholder process. One of its key objectives is to bring alignment between a variety of partners and policy objectives at national, regional and local levels. Within the planning system stakeholders have varying levels of power and influence.

In order to strengthen the influence that the Arts Council has over public art and museum collections within the context of the planning system it is necessary to understand its current relation to the key stakeholders groups. These are the development sector, LPAs and advisors. To do this we have defined the stakeholders' influence using the following definitions:⁶³

- **Criteria power:** the power of a stakeholder to define goals, aims and purpose. A stakeholder with only criteria power could also be said to have arms-length power;
- **Operational power:** the power of a stakeholder to determine how a service or product is delivered through the allocation of resources, including funding, knowledge or skills;
- **Comprehensive power:** stakeholders with both criteria and operational power;
- **Disempowered:** stakeholders with neither criteria nor operational power.

5.1 Key Stakeholder Groups

The following groups are those that are most relevant to the arts:

5.1.1 The Development Sector

The development sector includes DCLG, English Partnerships, the Housing Corporation⁶⁴, RDAs, development corporations, regeneration companies, the health sector, the education sector, local authorities and private sector developers/investors. Through policy, funding, land deals and development briefs, these stakeholders promote and build developments as part of regeneration initiatives. Stakeholders within this group often have comprehensive power.

In particular, local authority public art and arts officers often occupy powerful positions as they can combine criteria power with a close relationship with planners, who exercise operational power.

5.1.2 Local Planning Authorities

Strictly speaking, LPAs only have operational power. They guide development via Local Development Frameworks, Supplementary Planning Documents and Section 106 Agreements, and assess planning applications for developments as part of regeneration initiatives against national, regional and local planning policies.

However, in order to fulfil these duties they have to interpret local authority and planning policy. This role, and the fact they conduct negotiations with developers, gives LPAs a degree of criteria power.

5.1.3 Arts Council England

Over the last 30 years the Arts Council⁶⁵ has played a key role in the development of public art. It initially promoted public art and Percent for Art and continues to support public art organisations and provide funding for specific public art initiatives and projects.

Despite this influence over the evolution of public art in England, the Arts Council is relatively disempowered with regard to the planning system. In order to influence outcomes it could build partnerships with those bodies and organisations that have criteria and operational power.

At a national level, the Arts Council has access to key Government departments, such as DCMS and DCLG, enabling it to advocate and lobby for more supportive policy and guidance within the planning system.

At a regional level, the Arts Council already advises the development sector (see 5.1.1) and LPAs on public art. Examples of how it does this are:

- Commissions North (Arts Council North East) which uses seed funding to initiate artists' involvement with the development sector. Applications for funding are developed between Commissions North and a stakeholder within the development sector. Funding is then awarded to appoint an artist to a project. The funding is used to organise competitions and pay for initial design work by artists. Commissions North manages the artist selection process. The funding comes from the Arts Council North East's managed funds.⁶⁶ The realisation of the artwork is paid for by the stakeholder and may be secured by the relevant LPA within a Section 106 Agreement,⁶⁷
- Public Art South West (Arts Council South West) which establishes public art policies, strategies and posts within local authorities and LPAs;⁶⁸

- ixia, the public art think tank, which provides critical debate, research, guidance and training involving both the development sector and LPAs.⁶⁹

5.1.4 Advisors

There are a wide range of individuals and organisations that operate within the public art sector, and their relative power to influence policy and resources varies considerably. These include:

- Independent consultants/curators/artists who have their own projects and/or are appointed by the development sector. Though largely operational in their function, often as project managers, they can also be called upon to set criteria by writing policy and strategy documents;
- Art galleries and art organisations funded by the Arts Council who have their own public realm projects or may be appointed by the development sector;
- Commercial galleries who can be appointed by the development sector;
- Museums funded by local authorities and the MLA who have their own public realm projects or may be appointed by the development sector. Currently, these museums' collecting ambitions for contemporary art do not figure in such projects.

5.2 Conclusions

The key conclusions which can be drawn from our stakeholder analysis are as follows:

- The Arts Council is relatively disempowered when it comes to influencing the outcomes of public art at a national level using its existing policy powers;
- A Planning Policy Statement for the Arts would help the Arts Council extend its influence at a national and regional level;
- In order to extend its influence over outcomes, the Arts Council could work with those who have criteria and operational power, in particular the stakeholders within the development sector and LPAs;
- The Arts Council has some control and influence over the delivery of public art, particularly at a regional level. This could be used as a basis for developing plans and piloting projects for public art and collections with the development sector, LPA, advisors and museums;

- Local authority public art officers often occupy powerful positions, combining criteria power with a close relationship with planners, who exercise operational power;
- The key stakeholders who need to work together in order to see public art commissioning support museum collecting policies are those who control public art within the planning system and museum curators with responsibility for acquisitions.

6 RECOMMENDATIONS

These recommendations to the Arts Council are framed around the idea of using the planning system to locate public art commissions within museum collections. However, for the most part, the principles apply to the wider arts agenda and its potential to help deliver the Sustainable Communities agenda.

The recommendations are structured as follows:

	National	Regional	Local
Advocacy and Lobbying	A Planning Policy Statement for the Arts. Arts included in qualifying infrastructure for the Community Infrastructure Levy.	Reference to building collections to be included in public art and arts policies and strategies adopted by the development sector and local planning authorities.	Identify formulae to assist local authorities to generate funding for the arts.
Funding	Develop a seed funding programme to support partnership projects.	Support pilot projects in areas where partnerships already exist between the development sector, local planning authorities, advisors and museums.	
Training and Development	Develop knowledge, skills and awareness within the Arts Council about the planning system. Develop knowledge, skills and awareness among key national and regional arts leaders about the planning system and develop the concept of visioning as the basis of strategic plans.		Introduce workshop programmes to develop knowledge and skills and build networks between arts officers, public art advisors, planners, curators and other museum staff.
Commissioning	Prepare and promote appropriate clauses for public art commissioning contracts to enable commissioned work to be acquired for permanent public collections.		
Research	When the Community Infrastructure Levy is finally determined: - Explore the possibility of creating funds to support the acquisition of art; - Review existing standard charges for calculating levels for the arts.		

6.1 Advocacy and Lobbying

The Arts Council could seek to ensure the following:

- Securing a Planning Policy Statement for the Arts would give the arts legitimacy within the planning system and help to reduce the extensive advocacy work that currently has to take place at a national, regional and local level. It is important that this is not simply about the arts being valued as an instrumental tool, but that the intrinsic value of its innovative and creative aspects are recognised, a position we feel is strategically supported by the *McMaster Review: Supporting excellence in the arts - from measurement to judgement*,⁷⁰
- Ideally, the arts should be listed within the qualifying infrastructure for the Community Infrastructure Levy. However, it is also essential to ensure that the arts are not on the excluded list;
- Promote the inclusion of public art commissions within museum collections to the development sector and LPAs. This could be achieved through strategic partnerships and the inclusion of this way of working within public art and arts policies and strategies adopted by the development sector and LPAs.

6.2 Funding

The Arts Council could:

- develop seed funding programmes that encourage partnerships to be built between the development sector, LPAs, advisors and museum collections;
- support and encourage pilot projects to test the idea in areas where partnerships between some of the key stakeholders already exist. An example of this could be collaboration between Arts Council West Midlands, the planners and arts officers within Walsall Borough Council and The New Art Gallery, Walsall.

6.3 Training and Development

The purpose of training and development is to develop knowledge, shared understanding, and a common language between those who manage the planning system and those in the arts with plans and ideas which might legitimately be delivered using the funds that the planning system generates. In addition, workshops would provide opportunities to discuss and better understand the

different values and outcomes of the various stakeholders. Training and development could provide knowledge, skills and awareness:

- across the Arts Council about how the planning system works so that it can support and advise other stakeholders;
- among key leaders in national and regional arts organisations and museums about how the planning system works, and develop the concept of visioning as the basis for developing strategic plans for the arts;
- among arts officers, public art advisors, planners, curators and other museum staff about the delivery of public art commissions via the planning system that could become part of museum collections.

6.4 Commissioning

The Arts Council's role in commissioning within the planning system is largely one of advocacy and practical support. To pursue the idea of using the planning system to locate public art commissions within museum collections the Arts Council could:

- promote the idea of commissions funded by the development sector entering museum collections to all stakeholders;
- promote the idea that building collections should be included in public art policies and strategies in Local Development Frameworks and Supplementary Planning Documents to LPAs;
- prepare and promote appropriate clauses for commissioning contracts to enable public art to be acquired for permanent collections.

6.5 Research

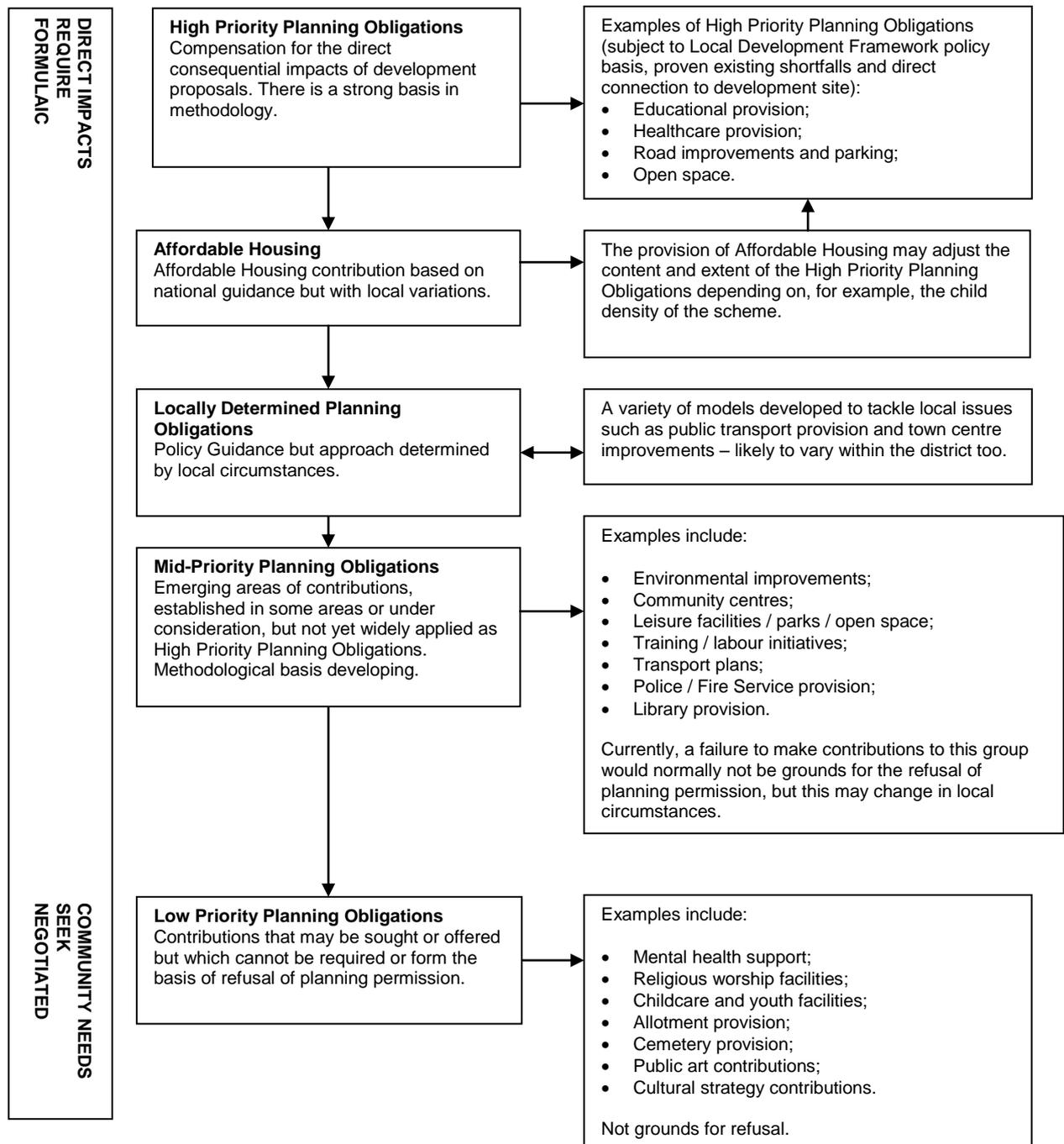
The Levy would appear to offer a number of potential opportunities that need further exploration when the new Planning Bill becomes legislation. The Arts Council could undertake the following research:

- identify formulae to assist local authorities to establish standard charges for public art and the arts;
- explore the possibilities of using the Levy to create regional funds to support the acquisition of public art commissions for collections.

7 APPENDICES

7.1 Priority of Planning Obligations

The table below was created by Chris Marsh for the Office of the Deputy Prime Minister (now DCLG) in 2001.⁷¹



7.2 Bibliography

- Appleton *The return of 'statuemanía'* (www.spiked-online, 2004)
- Bristol City Council *Bristol Public Art Strategy* (Bristol City Council, 2003)
- CABE and DETR *By Design - Urban Design and the Planning System* (CABE/DETR, 2000)
- Carnwath *In the matter of: Arts Council Great Britain: Percent for Art. Advice* (Arts Council Great Britain, 1988)
- Department for Communities and Local Government (DCLG) *Circular 01/2006: Guidance on changes to the development control system* (DCLG, 2006)
- Department of Communities and Local Government (DCLG) *Housing and Regeneration Bill 2007-2008* (DCLG, 2007)
- Department of Communities and Local Government (DCLG) *Planning Bill 2007 – 2008* (DCLG, 2007)
- Department of Communities and Local Government (DCLG) *Planning Bill 2007 – 2008 as amended in Public Bill Committee on the 7.2.2008* (DCLG, 2008)
- Department of Communities and Local Government (DCLG) *Planning Policy Guidance 17: Planning for Open Space, Sport and Recreation* (DCLG, 2002)
- Department of Communities and Local Government (DCLG) *The Community Infrastructure Levy* (DCLG, 2008)
- Department of Culture, Media and Sport (DCMS) *McMaster Review: Supporting excellence in the arts - from measurement to judgement* (DCMS, 2007)
- Department of Culture, Media and Sport (DCMS) *Understanding the Future: Museums and 21st Century Life – The Value of Museums* (DCMS, 2005)
- Department of Transport, Local Government and the Regions (DTLR) *Reforming Planning Obligations: Delivering a fundamental change* (DTLR, 2001)
- Dubowitz *The Cultural Masterplan* (Sunderland Arc Regeneration Company, 2004)

Edited by Claire Doherty, *Thinking of the Outside – New art and the city of Bristol* (University of the West of England and Bristol Legible City in association with Arnolfini, 2005)

Frontier Economics, *Regional Growth* (ODPM, 2004)

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

HM Treasury *Review of Housing Supply* (HM Treasury, 2004)

Hughes G.B. *Construction Review, 2004* (Hughes, 2004)

Land Securities *Annual Report 2006* (Land Securities, 2006)

Museum, Libraries and Archives Council *The Accreditation Scheme for Museums in the United Kingdom Accreditation Standard* (Museums, Libraries and Archives Council, 2004)

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

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

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

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

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

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

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

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)

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

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

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

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

University of Sheffield and the Halcrow Group Limited *Valuing Planning Obligations in England: Final Report* (DCLG, 2006)

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)

Winstanley, Sorabji and Dawson *When the pieces don't fit: a stakeholder power matrix to analyse public sector restructuring* (Public Money and Management, 1995)

8 ENDNOTES

¹ Source: ixia, 2008

² For further information go to http://www.frac-bourgogne.org/index.php?id_lang=2

³ For further information go to http://www.leeds.gov.uk/artgallery/art_sculpt01.html

⁴ The local authority is often the local council. Development corporations, the National Park Authority and the Broads Authority are also local planning authorities.

⁵ Public art is a contested term. However, the idea of artists engaging with the public realm via the planning system and the construction and development process has acquired a common set of understandings. These concern the engagement of artists to provide either contributions to the design and built environment or to engage with the stakeholders affected by new developments. It is in this context that local authorities generally use the term public art.

A wider definition is the spectrum of artistic practice represented by the term public art to encompass art commissioned as a response to the notion of place, art commissioned as part of the designed environment and process-based artistic practice that does not rely on the production of an art object. ixia defines public art as the process of artists responding to the public realm.

⁶ Museum, Libraries and Archives Council *The Accreditation Scheme for Museums in the United Kingdom Accreditation Standard* (Museums, Libraries and Archives Council, 2004)

⁷ Carnwath *In the matter of: Arts Council Great Britain: Percent for Art. Advice* (Arts Council Great Britain, 1988)

When promoting Percent for Art during the 1980s, Arts Council of Great Britain sought a legal opinion regarding the relationship between Percent for Art and the planning system. Robert Carnwath QC's advice can be summarised in the following ways:

- because public art has an impact on the environment then it is appropriate for local authorities to consider public art as a planning issue;
- local authorities can encourage but not require developers to commission public art;
- local authorities cannot require a certain level of financial contribution from a developer towards public art;

-
- to make public art a mandatory requirement within planning would require specific Government legislation.

His advice to local authorities regarding the wording of references to public art within relevant planning documents was:

'The local planning authority will, in appropriate cases, encourage the provision of new works of art as part of schemes of development and, in determining an application for planning permission, will have regard to the contribution made by any such works to the appearance of the scheme and to the amenities of the area'.

⁸ Appleton *The return of 'statuemanía'* (www.spiked-online, 2004)

⁹ University of Sheffield and the Halcrow Group Limited *Valuing Planning Obligations in England: Final Report* (DCLG, 2006)

¹⁰ Office of the Deputy Prime Minister (ODPM) *The Planning System: General Principles* (ODPM, 2005)

¹¹ Office of the Deputy Prime Minister (ODPM) *The Planning System: General Principles*

Planning Policy Statements (PPS) are replacing Planning Policy Guidance (PPG). National policies are also set out in Minerals Policy Statements and Minerals Planning Guidance Notes, Circulars and Parliamentary Statements.

¹² Office of the Deputy Prime Minister (ODPM) *Planning Policy 1: Delivering Sustainable Development* (ODPM, 2005)

¹³ Frontier Economics, *Regional Growth* (ODPM, 2004)

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

¹⁵ For further information go to www.englishsrda.com

¹⁶ The Northern Way *The Northern Way funds iconic works of art* (The Northern Way, 2006)

¹⁷ living places is an alliance of public bodies who believe everyone should benefit from the arts, sport, public space, heritage, museums, libraries and archives, the built environment and the creative industries, regardless of where they live. Its members are the national cultural agencies – the Arts Council, CABE, English Heritage, MLA, the Regional Cultural Consortiums and Sport England, DCLG and DCMS. For further information go to <http://www.living-places.org.uk/>

¹⁸ Office of the Deputy Prime Minister (ODPM) *Creating Local Development Frameworks: A Companion guide to PPS12* (ODPM, 2004)

The key stages for the production of a Supplementary Planning Document (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.

¹⁹ Source: ixia, 2007

²⁰ Source: ixia, 2007

²¹ Department for Communities and Local Government (DCLG) *Circular 01/2006: Guidance on changes to the development control system* (DCLG, 2006)

²² Hughes G.B. *Construction Review, 2004* (Hughes, 2004)

Regeneration is undertaken by the development/construction industry, which in turn is driven by the economic principle of demand and supply and Government policies and incentives. In 2004 to 2005 the output of the construction industry was over £100 billion, £57 billion of which was new construction with the potential to generate funding for the arts via the planning system. In a recession, the planning system will yield less money.

²³ Office of the Deputy Prime Minister (ODPM) *Circular 05/2005: Planning Obligations* (ODPM, 2005)

²⁴ Land Securities *Annual Report 2006* (Land Securities, 2006)

Land Securities states that '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'.

²⁵ For further information go to <http://www.cabotcircus.com/template01.asp?pageid=97>

Neville Gabie is one of a number of artists working on Cabot Circus in Bristol. The development is a joint venture between Land Securities and Hammerson. The public art programme is being managed by *InSite Arts*.

²⁶ Edited by Claire Doherty, *Thinking of the Outside – New art and the city of Bristol* (University of the West of England and Bristol Legible City in association with Arnolfini, 2005)

Thinking of the Outside was part-funded by financial contributions from developments.

²⁷ Office of the Deputy Prime Minister (ODPM) *Circular 05/2005: Planning Obligations*

²⁸ Office of the Deputy Prime Minister (ODPM) *Circular 05/2005: Planning Obligations*

²⁹ 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 organisations to establish the content of Community Strategies. Local Development Frameworks are developed in accordance with the content of Community Strategies.

³⁰ Source: ixia, 2007

³¹ 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)

³² Bristol City Council *Bristol Public Art Strategy* (Bristol City Council, 2003)

³³ Southampton City Council *art people places Southampton Public Art Strategy* (Southampton City Council, 2004)

³⁴ Reading Borough Council *Artists in the City* (Reading Borough Council, 2005)

³⁵ Dubowitz *The Cultural Masterplan* (Sunderland Arc Regeneration Company, 2004)

³⁶ Ginkgo Projects *A place for art* (Gloucester Heritage Urban Regeneration Company, 2006)

³⁷ Source: ixia, 2008

³⁸ *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.

³⁹ Source: ixia, 2008

⁴⁰ Westminster City Council retains a Public Art Panel.

⁴¹ For further information go to <http://www.artangel.org.uk/>

⁴² For further information go to <http://www.ikon-gallery.co.uk/>

⁴³ Source: ixia, 2008

⁴⁴ Department of Communities and Local Government (DCLG) *Planning Bill 2007 – 2008* (DCLG, 2007)

⁴⁵ Department of Communities and Local Government (DCLG) *The Community Infrastructure Levy* (DCLG, 2008)

⁴⁶ Department of Transport, Local Government and the Regions (DTLR) *Reforming Planning Obligations: Delivering a fundamental change* (DTLR, 2001)

⁴⁷ HM Treasury *Review of Housing Supply* (HM Treasury, 2004)

⁴⁸ For further information go to <http://www.communities.gov.uk/statements/planningandbuilding/503935>

⁴⁹ Department of Communities and Local Government (DCLG) *The Community Infrastructure Levy* (DCLG, 2008)

⁵⁰ Department of Communities and Local Government (DCLG) *The Community Infrastructure Levy*

⁵¹ Department of Communities and Local Government (DCLG) *The Community Infrastructure Levy*

⁵² Department of Communities and Local Government (DCLG) *Planning Bill 2007 – 2008 as amended in Public Bill Committee on the 7.2.2008* (DCLG, 2008)

⁵³ The Government's *Our Towns and Cities: The Future – Delivering an Urban Renaissance (The Urban White Paper)* (DETR, 2000), *The Sustainable Communities Plan – Building for the Future* (ODPM, 2003), *Homes for All* (ODPM, 2005) and *People, Places and Prosperity* (ODPM, 2005) 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 and the arts in general.

⁵⁴ Swindon Borough Council *Developer Contributions for Residential Development* (Swindon Borough Council, 2007)

⁵⁵ Walsall Borough Council *Designing Walsall - Supplementary Planning Document for Urban Design* (Walsall Borough Council, 2008)

⁵⁶ The New Art Gallery, Walsall has a permanent collection and temporary exhibition spaces. For further information go to <http://www.artatwalsall.org.uk/index.asp>

⁵⁷ Source: ixia, 2008

⁵⁸ Department of Communities and Local Government (DCLG) *Planning Policy Guidance 17: Planning for Open Space, Sport and Recreation* (DCLG, 2002)

Planning Policy Guidance 17 describes the role of the planning system in assessing opportunities and needs for sport and recreation provision and safeguarding open space which has recreational value.

⁵⁹ Museum, Libraries and Archives Council *The Accreditation Scheme for Museums in the United Kingdom Accreditation Standard*

⁶⁰ Department of Culture, Media and Sport (DCMS) *Understanding the Future: Museums and 21st Century Life – The Value of Museums* (DCMS, 2005)

⁶¹ The Museums Association (MA) is an independent organisation made up of individual museum practitioners and institutions representing Britain's museums and galleries sector. The MA is urging museums to make their collections more dynamic and to include disposal as a routine part of collections development. To this end, they have developed a Disposal Toolkit. The Toolkit is designed to support changes to the MA's Code of Ethics for Museums which encourages transfer of objects that could be better used elsewhere, and, in exceptional circumstances, allows for the sale of objects on the open market. For further information go to http://www.museumsassociation.org/15849&_IXPOS_=manews1.3

⁶² Source: ixia, 2008

⁶³ Winstanley, Sorabji and Dawson *When the pieces don't fit: a stakeholder power matrix to analyse public sector restructuring* (Public Money and Management, 1995)

⁶⁴ Department of Communities and Local Government (DCLG) *Housing and Regeneration Bill 2007-2008* (DCLG, 2007)

The Bill contains provisions to merge the housing investment and regeneration functions of the Housing Corporation and English Partnerships in a new Homes and Communities Agency. The Agency would, by bringing together land and housing, and shifting from grant funding social housing to investing in infrastructure, support the regeneration and delivery of new social and affordable housing, both social and private, and deliver a strategic approach to regeneration. The Agency will also be able to make better use of surplus public sector land and maximise the potential for brownfield development.

⁶⁵ For further information go to <http://www.artscouncil.org.uk/>

⁶⁶ Source: ixia, 2008

⁶⁷ For further information go to <http://www.commissionsnorth.org/>

⁶⁸ For further information go to <http://www.publicartonline.org.uk/>

⁶⁹ For further information go to www.ixia-info.com

⁷⁰ Department of Culture, Media and Sport (DCMS) *McMaster Review: Supporting excellence in the arts - from measurement to judgement* (DCMS, 2007)

⁷¹ Source: Chris Marsh, 2001

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