Agenda No

AGENDA MANAGEMENT SHEET

Name of Committee	**Cabinet**
Date of Committee	**23rd February 2006**
Report Title	**The County Council's Response to Government Consultation on Planning Gain Supplement**
Summary	The Government is consulting on new prospects, and Members are asked to support the responses set out in the report.
For further information please contact	Jasbir Kaur Development Group Tel. 01926 412170 jasbirkaur@warwickshire.gov.uk Ian Marriott Principal Solicitor Tel 01926 412018 ianmarriott@warwickshire.gov.uk
Would the recommended decision be contrary to the Budget and Policy Framework?	~~Yes/~~No
Background Papers	Consultation on the Planning Gain Supplement

CONSULTATION ALREADY UNDERTAKEN:- *Details to be specified*

Other Committees	☐	....
Local Member(s) (With brief comments, if appropriate)	☐	....
Other Elected Members	X	Councillor P Barnes Councillor M Jones Councillor P Morris-Jones } for information
Cabinet Member (Reports to The Cabinet, to be cleared with appropriate Cabinet Member)	X	Councillor C Saint
Chief Executive	☐	....
Legal	X	Ian Marriott - agreed
Finance	☐	....
Other Chief Officers	☐	....

District Councils	☐	....
Health Authority	☐	....
Police	☐	....
Other Bodies/Individuals	☐	....

FINAL DECISION **YES/~~NO~~** *(If 'No' complete Suggested Next Steps)*

SUGGESTED NEXT STEPS :

Details to be specified

Further consideration by this Committee	☐	....
To Council	☐	....
To Cabinet	☐	....
To an O & S Committee	☐	....
To an Area Committee	☐	....
Further Consultation	☐	....

Agenda No

Cabinet - 23rd February 2006

The County Council's Response to Government Consultation on Planning Gain Supplement

Report of the Strategic Director of Environment and Economy

Recommendation
That Cabinet supports the principle of planning-gain supplement and the proposed responses to consultation set out in this report.

1. Executive Summary

1.1 The County Council currently uses S106 planning agreements to recover money directly from developers which is used to improve highways, libraries, education facilities, including sites for schools, fire and rescue and public transport and safe routes to schools. Green Travel Plans are also backed up by an obligation to provide money for the County Council to encourage more sustainable travel if the developer's Plan fails to meet its targets. Agreements are also used to achieve a range of other objectives, such as vehicle routeing and making land publicly accessible, that do not involve the payment of money but generally make the development comply with planning policies and mitigate or offset its local environmental impacts. The Government is now consulting on proposals to replace this system in part with a new Planning Gain Supplement ("PGS").

1.2 The principle of the PGS is to release part of the increase in land value created by the grant of planning permission to help finance the infrastructure needed to stimulate and service growth and ensure that local communities better share in the benefits that growth brings. It was first proposed by Kate Barker in her report on ways of improving the housing supply but would apply to all forms of development. PGS was adopted as the preferred way forward by the Chancellor of the Exchequer and ousts the “Optional Planning Charge”(essentially standardised tarrif payments) previously proposed as the way forward by Office of the Deputy Prime Minister (ODPM). The consultation is being carried out by the Treasury and ODPM jointly.

1.3 Under the Government’s proposals, PGS would be collected by Her Majesty’s Revenue and Customs (“HMRC”). The market value of land immediately before and after the grant of planning permission would be assessed by the landowner/developer and HMRC would doublecheck a proportion of these valuations. PGS would be a simple percentage tax on any increase in value.

The Government has not suggested what the percentage would be but says that it would be “modest”. The tax would be payable only if and when development commences and the Government floats the possibility of payment by instalments where an up front payment of the whole amount would create cash flow problems. Landowners and developers would be allowed to choose which of them would take responsibility for paying the PGS and would notify HMRC accordingly.

1.4 Householder development would be exempt and there could be exemptions or discounts for sites such as contaminated land. There might also be an exemption for small development but the consultation paper indicates that only very small development would be exempt. If development commences without PGS being paid, a stop notice would be served to halt work and the consultation paper suggests that planning authorities might be asked to carry out this enforcement.

1.5 The majority of PGS would be returned to local Government to pay for infrastructure and it seems that local authorities would have considerable freedom to decide exactly how to use the money. The Government says that local Government as a whole would receive more from PGS than it currently receives from Section 106 agreements. Part of PGS would be made available for strategic regional projects, with private sector stakeholders being involved in setting priorities. The consultation paper poses the question whether PGS should returned to areas in line with the amount collected from those areas or whether it should be redistributed in line with the need for development related infrastructure in different areas.

1.6 As a consequence of PGS, the scope of Section 106 agreements would be reduced so that they could only be used to require affordable/social housing and to tackle the impacts of a development in its immediate vicinity. There is a possibility that Section 278 agreements (where the highway authority agrees to carry out road improvements at the expense of a developer) will also be reformed.

1.7 PGS has implications for the County Council as a Minerals and Waste Planning Authority and as an Education, Traffic, Transportation and Fire and Rescue authority as well as a landowner responsible for managing and selling the assets of a public body.

2. The Response of the County Council

2.1 Previous attempts to tax increases in land value have all come to grief, in large part because of their complexity and because efforts to avoid the taxes produced undesirable and unintended consequences. The Government hopes that PGS will succeed by being simple and by being set at a low rate. The benefits of PGS, if successfully implemented, are that:-

(i) It will be consistent, predictable and transparent.

(ii) The delays and expense of negotiating agreements will be reduced.

(iii) The pooling of revenues will allow more rational planning of infrastructure development on the part of local and regional authorities.

The disadvantages are:-

(i) PGS will break the direct link between a specific development and local authority investment.

(ii) A standard tax will achieve "rough justice" rather than a package related to the specific needs arising from a particular development.

(iii) Central Government will have the final say in the recycling of PGS.

2.2 Your officers suggest that the County Council should broadly welcome PGS, subject to a fair and equitable system for recycling it to local authorities.

2.3 The main issues relating to the functions of the County Council are:-

(i) Impact of scaling back on the scope of the S106 agreement.

(ii) The principle of distribution of funds.

(iii) The principle of linkages and allocating resources to the developments.

(iv) Allocating resources.

(v) The implementation, timing and delivering sustainable communities.

(vi) Regeneration projects and relationship to economic growth areas.

(vii) The impact of the PGS on developments by public bodies.

2.4 Although supporting the principle of PGS, consideration should be given to the following:-

(i) An alternative methodology to assess "the uplift" in the value of the site should be put forward for waste operations and mineral extraction sites.

(ii) The distribution of resources should balance economic growth and regenerations projects. PGS directed to regional infrastructure projects should benefit both the regeneration areas and maintain areas that are economic levers of the region. Therefore, there should be a balanced approach in the redistribution of resources.

(iii) Local authorities should be allowed to declare "PGS free zones", or reduce the PGS, so that they can attract the property led regeneration projects that are relevant to their area or regeneration areas.

(iv) The assessment of the liability for brownfield sites should include discounts for recycling and cleaning of materials on site.

(v) The proposed self-assessment of PGS valuations and liability approach might place an additional burden on local planning authorities if they are asked to assist in validating the claims made in respect of valuation. Therefore, money raised from PGS should be allocated to pay for this additional expertise.

(vi) The key to making PGS work is timely distribution of revenues, delivery and linkages to the development yielding the PGS. Therefore, in our view it is critical that local authorities are at the heart of investing this money back into the local community, and the County Council prefers the approach that PGS is redistributed in line with the amount generated in each area.

2.5 These points are reflected in the proposed responses to the specific questions asked by the consultation paper, set out in **Appendix A**. The remainder of this report examines certain key issues in more depth.

3. Sustainable Transport Provision by the Highway Authority

3.1 Sustainable transport measures are important in delivering sustainable developments and accessibility to sites by all travel modes and planning obligations are used to increase the choice of travel and in particular:-

(i) Green Travel Plans contain targets and financial payments should the targets not be met for non-residential developments.

(ii) Pooling of contributions for sustainable modes.

(iii) Traffic calming or traffic management measures.

(iv) Provision of new lighting to improve safety and promote walking.

(v) Safe crossings in towns and residential areas.

(vi) Safer routes to schools.

(vii) Public transport.

(viii) Cycle ways.

(ix) Bus lanes, railway station, bus stop, and information boards.

(x) Signage and directions.

(xi) Commuted sums for the maintenance of the above.

(xii) Funding for the provision/improvement of a bus service.

3.2 Although some of the above could be included in planning conditions, in some cases the use of S106 agreements is more appropriate. Therefore, we suggest that the above measures are retained within the reduced scope of section agreements. If this recommendation is not accepted then these measures would have to be paid for from the PGS. It is critical that the PGS regime should so far as possible retain linkages between proposals and the timely delivery of transport measures to support the proposed development.

4. Local Authorities as Landowners and Developments by Public Bodies

4.1 Public bodies often develop their land as social infrastructure and the PGS would be self-defeating if it added to the costs of doing so. Therefore, social infrastructure projects should be exempt.

4.2 Other public sector development, such as offices or housing, could increase pressure on social infrastructure and applying PGS would make the true costs transparent as well ensuring that the total PGS revenue for an area was a good measure of the level of development activity and thus need. However, levying PGS would essentially recycle money within the public sector in an administratively inefficient way and it is proposed that all local authority development should be exempt.

5. Comments on the Options for Allocating PGS Revenues

5.1 Two options for recycling PGS revenues to the local area are put forward in the consultation document.

Option 1 proposes to distribute PGS revenues to the local level as grants in direct proportion to the revenues raised. This would require the PGS return to identify the local area in which the development site was located. The appropriate proportion could then be recycled back to the local level. This would give local communities and developers greater certainty and clarity, as they would see a direct link between PGS revenues and the funding of the local infrastructure needed to support growth. However, a small proportion should be retained for community structure funds and/or regional projects.

Option 2 would recycle revenues back to the local level as grants on the basis of a formula not specifically connected to PGS revenues raised, but which would reflect the factors revealing the level of development activity and consequent infrastructure need.

The Government invites views on these two options, or suitable alternatives, and on how these options should best be designed to deliver its objectives.

5.2 The majority of PGS revenues would be recycled directly to the local level, a significant proportion would be used to deliver strategic regional and local, infrastructure. The Government proposes that this be done through an expanded and revised Community Infrastructure Fund (CIF). The CIF was established in the 2004 Spending Review, in response to the Barker Review, as a fund worth £200 million over two years to support the transport infrastructure costs required to enable faster housing development in the four Growth Areas.

5.3 To enable the County Council to deliver the infrastructure required in a timely way funding would need to be in place in advance, e.g. an extension of a school to accommodate new pupils generated as a result of a new housing development.

5.4 Social infrastructure including education, public transport, green travel plans, traffic calming, fire and rescue, libraries and town centre initiatives are proposed to be excluded from the S106 agreements. These facilities are necessary for potential communities and employees.

5.5 Option 1 proposes that finance raised would be recycled to the areas where it was generated. It is suggested that this is the preferable Option. Nevertheless, Option 1 should also ensure "timely delivery" to the development cycle of proposals and forwarded to the local authorities responsible for those services.

6. The Impact of Up Front Payment on Small Development Proposals

6.1 Payment of PGS could impact on the cash flow of projects. The current S106 agreements have trigger points in the development and these are often related to the progress of the development. The proposed up-front payment may have a particularly damaging effect on smaller developers with lower cash reserves. Regeneration areas would be particularly vulnerable and development/investment could be impeded in these areas. Therefore, the point of payment for small developments, of certain size, should be delayed.

7. Impact on Minerals and Waste Operations

7.1 Minerals and waste operations are unique developments and the proposed methodology for calculating PGS needs refinement. In particular, it is difficult to value a mineral development before mineral extraction takes place. Therefore, an alternative methodology should be identified with the minerals and waste industry.

7.2 Whilst it is proposed to scale back the scope of S106 agreement the list below should be retained:-

(i) Residents Liaison Groups.

(ii) Lorry routeing agreements.

(iii) Off site highway infrastructure and safety improvements i.e. new signage and safety engineering.

(iv) Off site monitoring of environmental impacts of dust or noise.

(v) Phased extraction.

(vi) Alternative transportation feasibility studies.

JOHN DEEGAN
Strategic Director of Environment and Economy
Shire Hall
Warwick

14th February 2006

Warwickshire County Council's response to the specific questions in the consultation paper on Planning-gain Supplement.

Q 2.1 What further clarifications to the definitions of planning value and current use value (as described in Box 2.2) would be helpful to provide further certainty to developers?

1. Land values and valuing planning gain.

(a) To set average local land values, – it is not clear how this will work equitably. For example, land with lower than average values, that require remediation, or have outstanding s106 obligations could be penalized, and development could be deterred as a result.

The PGS levy is to be based on "full planning permission" because it captures a majority of the land value uplift. Further clarification is needed in the following circumstances:

(a) Adjustment when a site has been devalued as result of allocations in the local development framework?

(b) Sites operating waste recycling, car breakers, and waste transfer stations? The value of land for such operations is dependent of contracts and the efficiency of the operator.

(c) Valuation of landfill sites, sites reclaimed for community use, minerals operations, works / alterations required at existing mineral working, community buildings, schools and other buildings for public use.

(d) Consideration on other developments that could also produced uplift in land values and these are:

Outline applications with separate full planning permissions
Changes of use from one use class to another use class.
Alterations and extensions of commercial buildings.
Alterations and extensions of quarries.
Assessment of sites that would be used for waste operations, transfer stations, car breaking etc.

(i) Most large applications, once granted, seek amendments and change for site development and detail design of roads and sewer/drainage works could also increase the value of the site. Would the up lift be revised in such instances to be equitable?

(ii) The "commencement date" of any planning permission and the actual date when a house is built and sold can differ significantly for major sites this could be 5-10 years. The "meaning of commencement" would need to be defined further because it is well know in the construction industry that only minimal works need to be undertaken to keep a planning permission alive.

Methodology for valuing uplift of land

1. The use of average values is in principle supported but may deter uses that have lower values i.e. scrap yard, waste operations and green composting uses and therefore could deter these lower value uses.

2. The use of site-specific values would appear to be fair, but would be more complicated, and there is potential for more disputes and arbitration would be required.

Even if the government opts for either option further complications would arise on how mixed-use sites would be valued.

Minerals and waste operations are unique developments and would require specific valuation methodology.

The PGS will impact on mineral working in respect of the valuation of the uplift of a site. The precise level and quality of minerals is difficult to value until these have been extracted. Further, the level of saleable minerals is difficult to assess and much of un-saleable or low value minerals are stored on site and reused in restoration of the site.

Minerals operators purchase the mineral rights and the PGS self-assessment return would need to resolve how to value and assess the particular characteristics of mineral sites. Consideration would need to be given to the following:

(i) All minerals contained within a site may not all be sold because lower grade materials are often used for restoration and or, bunds.

(ii) Valuation would need to take account of likely arisings of material from mineral working.

(iii) Demand for aggregates is dependant on the buoyancy of the economy and the construction and prices fluctuate.

(iv) The operations also have to bear the cost of restoration/after use of the site.

Q 2.2 How can the self-assessment of PGS valuations and liability be made as easy to comply with as possible?

The self-assessment should be robust perhaps with a local agent counter signing that assessment forms to certify an assessment.

Q2.3 What information on the condition of land at the granting of full planning permission should be made available to the chargeable person?

Information on the condition of the land does not usually form a part of the application. However, any information submitted for valuation purposes may need to verified by the local authority and this may place additional staffing/expertise and financial costs on the Local Planning Authority and this would need to be funded from PGS.

Chapter 3 - Q 3.1 Should payment of PGS occur at the commencement of development or another point in the development process?

Assuming that the distribution of PGS is tied to the amount generated in an area, PGS should be paid at commencement so that the authority responsible for some of the mitigation measures can programme the required associated infrastructure such as extensions of schools, traffic calming, appropriate traffic orders and library service upgrading.

Q 3.2 Should the Development Start Notice be submitted to the local authority or HMRC?

The notice should be submitted to the HMRC with the “unique property number system” to cross check planning permission. Submitting returns to the local authorities would increase the administration burden on a local authority.

Q3.3 How should the proposed approach to compliance fit with larger, phased developments?

The payment of PGS should be phased to reflect the phase of the scheme.   However, there should be certainty that the monies collected are distributed directly to the authorities responsible for the discharge of the relevant services.

Chapter 4 - Q 4.1 To encourage regeneration, should a lower rate of PGS be applied to brownfield land? What might be the drawbacks?

The definition of brownfield is wide ranging and includes redevelopment of sites in existing use. The drawbacks are that evidence on the remediation measures would need to be verified by an expert and this would require additional resources. However, for sites within regeneration areas local authorities should be able to declare these areas as “PGS free areas” to encourage investment.
For brownfield sites incentives should be given, perhaps of a sliding scale if it can be demonstrated that material on site is recycled/ or cleaned for reuse. Therefore the PGS can be used positively to assist recycling.

Q 4.2 How should a PGS threshold for small-scale development be set? What factors should be considered?

For small developments there should a flat fee based on floor space created i.e. residential, office and employment and car parking.

Chapter 5 - Q 5.1 Does the development-site environment approach proposed here represent an effective and transparent means of reducing the scope of planning obligations?

Yes this would make it clear what is included and what is excluded from the development but it should not be confined to measures in the immediate vicinity of the site. For example, vehicle routeing agreements may tackle potential impacts at a distance from the site.

Q 5.2 How should infrastructure no longer funded through planning obligations be provided, including through the use of PGS revenues?

The proposal would need to provide these through the PGS via use of formulae which reflect the different facilities provided by different authorities, e.g. for education using the DfES Education formula costs per place for 2005/06 are:

Primary: £8,870 and Secondary: £13,929.

For example 100 dwellings would generate one school place for each year group and therefore £150,723 should be allocated to education authority.

For Library service the following formula may be appropriate for every 1,000 people or part created.

Applying the national standards to a housing development accommodating 1,000 people.

Item	Measure	Formula	Cost per 1000 pop
Books for lending or reference	2 volumes minimum per head of population	Population increase x current average cost of books x 2	1000 x £15 x 2 = **£30000**
Sound recordings	100 per 1000 population	Population increase/10 x current average cost of single CD	1000/10 x £10 = **£1000**
Video recordings	10 per 1000 population	Population increase/100 x current average cost of a video	1000/100 x £30 = **£300**
Total new stock to serve new housing for 1000 people			**£31300**
In addition to the initial purchase of stock, annual additions for the following 4 years should be included. After this period the department takes responsibility for renewing stock at this level.			
Annual renewal of book stock	250 volumes per 1000 population per year	Population/4 x average cost of book	1000/4 x £15 = **£3750**
Annual renewal of sound recordings	20 recordings per 1000 population per year	Population/50 x average cost of CD	1000/50 x £10 = **£200**
Annual renewal of videos	4 videos per 1000 population per year	Population/200 x average cost of video	1000/200 x £30 = **£120**
Cost of stock renewal over 4 years to serve new housing for 1000 people			**£16280**
Total cost of new stock and renewal to serve new housing for 1000 people			**£47580**
The Household Library User Survey 1998 (British Library Report 144) shows that 73% of all households are in library membership.			

Chapter 6 - Q 6.1 how should PGS revenues be recycled to the local level for local priorities?

Each responsible authority should have a formula to share out the PGS. Any method should be simple and equitable. The methodology should reflect the level of responsibility of each authority.

Q 6.2 How should PGS revenues be used to fund strategic infrastructure at the regional level?

A proportion of the PGS should be distributed to the Regional Bodies who would divert these funds to meet regional priorities.

Q 6.3 How can local and regional stakeholders, including business, help determine the strategic infrastructure priorities most necessary to unlock housing development?

At the regional level the Regional Bodies, through their devolved decision-making, should determine these matters.

At the local level the relevant regional planning and transport bodies to determine priorities and delivery mechanism in consultation with stakeholders.