



Pre-Budget Report '06

Planning Gain Supplement (PGS)

Background

Many commentators had been speculating that following the December 2005 consultative process that the Government was going to quietly bury the idea of PGS and formulate another idea for taxing the development value of land. As will be recalled, PGS will tax the rise in value of property which is attributable to the developer obtaining planning permission.

The Chancellor has, however, made it clear that PGS will be introduced, albeit not until 2009.

The other features which were announced in the Pre-Budget Report are:

- (a) PGS will be levied at a moderate rate across the UK;
- (b) PGS will apply to residential and non-residential land;
- (c) A significant majority of PGS revenues would be hypothecated for local infrastructure;
- (d) PGS revenue generated in the devolved administrations, e.g. Scotland, would be returned to the country in which they were generated; and
- (e) Transitional arrangements will aim to ensure that the development already formally in the planning process would not be subject to PGS.

The Government has, however, left outstanding the most important factor, i.e. what will be the rate of PGS?

Future Strategies

At whatever level the rate is set, because it has to be paid before the developer has realised any profit from the development, it is likely that the developer will expect a price adjustment in his favour on the purchase of the land where he will be liable to pay PGS.

Owners of land may have been thinking that they would minimise the PGS charge and thus the price 'chip' by disposing of a minor interest in land but the valuation consultative paper issued on 6 December 2006 (the Valuation Consultation) makes it clear that in assessing values (by reference to which PGS will be charged) it will be assumed that the interest in the land is a freehold interest with vacant possession and free from any encumbrances.

The Valuation Consultation may, however, have opened up one way of minimising the immediate PGS charge. With care it may be possible to secure a generic planning permission at a very early stage of the development process with a number of matters reserved. Payment of PGS could thus be deferred to the date or dates when planning permission is sought for each of those reserved matters.

One of the other consultation documents issued on 6 December 2006, dealt with the payment of PGS and referred to the prospect of the PGS liability of the developer being passed to a third party. Purchasers will be advised to undertake due diligence in this area, seek the necessary indemnities and warranties and potentially also a retention account to deal with this and other matters relating to PGS.

If you have any queries or wish to take any action on the basis of the Pre-Budget Report '06, please contact:

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