

APPENDIX K

PLANNING ADVICE NOTE 3: PERCENTAGE FOR ART

Percentage for Art

About Supplementary Planning Guidance

The Minister for Planning and Environment may publish guidelines and policies (supplementary planning guidance) in respect of; development generally; any class of development; the development of any area of land; or the development of a specified site¹.

Supplementary planning guidance may cover a range of issues, both thematic and site specific, and provides further detail about either, policies and proposals in the Island Plan, or other issues relevant to the planning process. It can also be used to provide information about how the planning system operates.

Where relevant, supplementary planning guidance will be taken into account, as a material consideration, in making decisions.

Supplementary planning guidance is issued in a number of different forms including:

Advice notes, which offer more detailed information and guidance about the ways in which Island Plan policies are likely to be operated, interpreted and applied in decision making;

Policy notes, which can be issued by the Minister, following consultation with key stakeholders, in-between reviews of the Island Plan, to supplement and complement the existing planning policy framework;

Masterplans, development frameworks and planning briefs provide more detailed information and guidance about the development of specific sites and areas of the Island; and

Practice notes, which aim to provide information about how the planning system's protocols and procedures operate.

The current supplementary planning guidance is listed and can be viewed on the States of Jersey website at www.gov.je/planningguidance. Hard copies of all supplementary planning guidance can be obtained from Planning and Building Services, Department of the Environment, South Hill, St Helier, JE2 4US, telephone: +44 (0)1534 445508, email: planning@gov.je

Quick guide to the Percentage for Art process

The following is a quick guide to the process for delivering Percentage for Art. More detailed information is provided in the following pages.

1. Percentage for Art contribution is agreed between the developer and the planning officer based on 0.75% of the total construction cost of the development.
2. The developer contracts a public arts advisor (page 13) or an artist/craftsperson in order to start developing the Public Art Statement outlining the proposed art. The Planning and Environment Department have identified art advisors who can assist developers with the process of procuring public art.
3. The artist, art advisor or developer produces a Public Art Statement informed by the strategy of the Council for Culture's Public Art Panel (available from autumn 2008). See Appendix 1 for Public Art Statement template.
4. The Public Art Statement is submitted to the Planning Department for approval by the Minister (note: the Public Arts Statement can be submitted at the same time as a planning application if the developer wishes).
5. The Public Art Statement will outline: what art is to be produce and by whom (photographic examples of the artist's other work; details of dimensions; details of theme and relevance to the areas); where it will be located; how much it will cost (budget breakdown showing artists costs; art advisors commission; installation etc); when it will be installed; how it will be maintained and who it will belong to.
6. The developer is advised not to commission the art work prior to the Public Art Statement being agreed by the Minister.
7. Planning permits will not be issued prior to the Public Art Statement being approved by the Minister. Delivery against the Statement will be a condition of planning approval.
8. If relevant, the developer may need to submit an additional planning application or request a minor amendment to their existing planning application, to take account of any public art which requires such approval, for example sculptures (see page 13).

Introduction

Jersey's collection of public art proudly reflects its history and identity. Evidence elsewhere has proven the potential of public art to enhance the quality of public places and to contribute to local distinctiveness and cultural identity. It has also demonstrated the potential of public art to attract visitors and to reflect and generate confidence, with consequential economic benefits.

Percentage for Art is an internationally recognised funding mechanism where developers are encouraged to allocate a percentage of the capital costs of any new building(s), refurbishment or landscaping scheme towards the provision of public art.

Public recognition of the benefits of public art, together with Percentage for Art as a funding mechanism, will allow a much wider range of opportunities to be explored and for the Island to assert its cultural identity and to express its confidence in the future.

Purpose of guidance

This guidance has been produced to offer advice to those involved in the development process where the provision of Percentage for Art, as part of the overall environmental improvement, will be encouraged. It provides a definition for public art and Percentage for Art; describes what the benefits are; identifies when it will be sought and encouraged; and outlines how it can be procured as part of a development project.

Who is it for?

This guidance is of relevance to;

- sponsors of major development – landowners and developers, both private and public – where the provision of a Percentage for Art will be strongly encouraged; and those sponsors wishing to incorporate public art within their proposals;
- planners, architects, landscape architects and others who have a responsibility for and interest in the quality of the built and rural environment;
- other organisations and individuals who have an interest in public art.

Percentage for Art: policy context

The 2002 Island Plan supports public art as a way of adding to the enjoyment of buildings and spaces and reinforcing the Island's cultural identity. Policy BE12 states that:

The Planning and Environment Committee will seek to negotiate the voluntary allocation of an appropriate percentage of design and development costs to the provision of public art. Agreements will be sought where it is considered that;

- both the scale and location of a new development are appropriate for the inclusion of public art; and
- the provision of public art would enhance the public's enjoyment of the building or space.

The States' Cultural Strategy, approved in September 2005, adds further support by seeking to:

- Strengthen the existing Percent for Art policy for all future developments, both public and private

The Strategy recommends that supplementary planning guidance is issued to developers and others on the implications and practical implementation of the Percentage for Art policy.

What is public art?

The Commission for Architecture and the Built Environment (CABE) offers a definition of public art as;

"permanent or temporary works of art visible to the general public, whether part of the building or free standing; can include sculpture, lighting effects, street furniture, paving, railings and signs"

Although traditionally public art has consisted mainly of monuments, sculptures and fountains, a much wider range of possibilities are available today. Forms of artistic expression employed in public art projects have broadened greatly over the past 20 years or so, resulting in changes about what is understood by the term public art. There are a number of reasons for this:

- changes in technology and, in particular, developments in digital technology;
- the possibilities of art as a public process, and not always the expression of the artist alone;
- the recognition of art as a valuable process leading to other educational objectives (particularly with children and young people);
- the role of art in reinforcing identity.

As a consequence of this broadening of the definition of public art, it is considered more valuable to focus on the defining elements that characterise public art which are;

- that a professional artist or craftsperson is commissioned;
- that the work should be unique; and
- that the work is publicly accessible.

Under the aegis of this broader, more contemporary definition, examples of public art include;

- sculptures, monuments, memorials, fountains (including the restoration of existing statuary);
- signs, maps, text, inscriptions;
- floorworks such as paving, pebbles, mosaics, tiles, ceramics;
- wallworks such as glass, murals, ceramics, photography;
- festivals including music, dance, poetry;
- street furniture including seating, lighting, railings, gates, clocks;
- new media including film, video, light, sound, holographics;
- hard and soft landscaping and "hortisculpture";
- creative educational/ environmental and community projects;
- artist-in-residence schemes

It may be that semi-permanent and temporary works or artistic events or cultural festivals within public spaces will best meet area based strategies. Percentage for Art contributions may also be considered for the care of existing works that have no formal or adequate maintenance agreement, or for their restoration: in these cases, there should be some relationship between the work to be restored and/or maintained and the development. Percentage for Art contributions for temporary works, events and restoration and maintenance of existing works are likely to be exceptions rather than the norm.

It is envisaged that the majority of Percentage for Art contributions will be on-site and integral to the development of that site. In accord with the objective of seeking to enhance the quality of the built environment, the Minister for Planning and Environment wishes to give encouragement to the injection of artistic creativity and craftsmanship into the design of buildings and spaces. The Minister will support the incorporation of high quality features and finishes into the fabric of buildings and spaces as a Percentage for Art contribution where creativity and high levels of craftsmanship can be demonstrated.

What is important is that Percentage for Art contributes to and/ or is complementary to policy objectives for art, culture and the enhancement of the public realm and the built environment. The Council for Culture's Public Arts Panel established by the Education, Sport and Culture Department is producing a Public Arts Strategy for Jersey in Autumn 2008. All Percentage for Art contributions will need to accord with this strategy.

What are the benefits of public art?

There are many benefits to the strong encouragement and procurement of public art in Jersey: these benefits can operate at a strategic 'Island-wide' level and/or be realised at a local/site level.

At a strategic level, of value to the Island, public art can;

- express Jersey's cultural identity and engender pride and ownership;
- enhance the quality and experience of the Island's public realm;
- create a contemporary image for Jersey;
- celebrate cultural diversity and confidence in Jersey;
- promote cultural production by local artists;
- promote collaborative working;
- play a role in community development.

At a local level, of value to a development, public art can;

- contribute to a sense of place and the character and identity of an area;
- raise the profile of the developer and presents a positive image;
- be an effective marketing tool;
- attract people;
- add value to and create uniqueness for the development project;
- contribute to environmental improvements

Percentage for Art: when does it apply?

In development schemes, where it is felt that the inclusion of art will be of public benefit, a contribution to public art of up to 0.75 percent of the total construction cost of the development will be encouraged.

In general, and in common with best practice elsewhere this is likely to be applied to development projects of a more significant scale. On this basis, the following development thresholds will be used to determine where Percentage for Art will be strongly encouraged as an element of a development project.

- residential development of 5 or more dwellings;
- residential development of 0.25ha (0.6 acres or 1.4 verges) or more;
- non-residential development of 500sq.m or more;
- non-residential development on a site of 1ha (2.5 acres or 5.6 verges) or more.

The potential encouragement of Percentage for Art contributions may be instigated in one of the following ways:

- by planning officers encouraging applicants to consider a Percentage for Art contribution, dependent upon the nature, scale and location of development, as part of the planning application process based on published thresholds;
- as a factor identified in approved and adopted development briefs and regeneration strategies for specific sites or areas;

In all cases, the process will be facilitated and led by the Planning and Environment Department. The final decision about the nature and form of Percentage for Art contributions to be derived from the development process rests with the Minister for Planning and Environment.

The States of Jersey has already shown its commitment in this important area by endorsing Percentage for Art in the Island Plan and there will, therefore, be an expectation that it will wish to set an example. Accordingly, the Minister for Planning and Environment will seek to secure a commitment from those preparing briefs for new public/ community buildings such as libraries, schools, hospitals, health and community centres that public art will be included, to be secured through the Percentage for Art mechanism, and from those leading on area or site based regeneration/ improvement initiatives such as the St. Helier Development and Regeneration Strategy, the development of the St Helier Waterfront and the procurement of the Town Park. The Minister will, however, have regard to the public benefit inherent in public schemes and will seek to encourage, through agreement, the sponsoring Minister or other public agency to include an appropriate and commensurate public art contribution in the development of public projects.

The Minister for Planning and Environment will also seek to secure a commitment from public bodies in support of the future maintenance of new public art, where it is situated on public land.

Examples of projects offering scope for public art include;

- major new public and private developments including commercial – retail, office, industrial and agricultural - residential, tourism, leisure and community projects;
- heritage, cultural and tourism initiatives;
- town centre redevelopment/ regeneration projects including traffic and transport and environmental improvement schemes;
- landscaping, woodland, coastal, park and public open space schemes;
- signage and interpretation;
- restoration of important buildings/ architectural features.

Enlightened developers, and those with past experience of incorporating public art will see Percentage for Art as a real opportunity. It is hoped that those new to the policy will reap the many benefits outlined above.

How much is Percentage for Art?

This will depend upon the following factors:

- location, scale, type, and setting of the development;
- design context and extent of public use of the development;
- whether the art is an integral part of the development or in a nearby public space;
- whether the artist has been commissioned as part of the development team;
- maintenance and liability issues;
- other development costs, including the provision of on- and off-site infrastructure

Developers will be encouraged to provide up to 0.75% of the total construction cost of a development for public art: this relates to the physical cost of developing the site and includes the cost of building and the provision of infrastructure. This figure or level of contribution is not, however, prescriptive and the level of contribution will be determined on a site by site basis through negotiation and agreement.

It is possible that, where appropriate, all or some of the agreed funds may, through negotiation and agreement, be pooled and held in a restricted account for specified future public art opportunities/ initiatives. This will be the exception rather than the norm and might apply where developments adjoin a common space or, in the case of an area-based development or regeneration strategy, where there is a clear policy direction or proposal that has been formally considered and adopted, and which may also have involved public consultation.

The extent, form and use of Percentage for Art contributions will be the subject of agreement with development sponsors through the use of planning obligation agreements and/or conditions attached to development permits.

Making it happen

Procurement options

Developers are strongly advised to consider their proposed Percentage for Art contribution at the earliest opportunity so that the work is integral to the planning of the scheme, rather than added on at the end of the process.

Public art can be procured in a variety of ways, including;

- employing an artist or craftsperson at an early stage of the development to work with the architect, landscape architect, and/or other members of the development team to secure an artistic input as an integral design element of the project;
- commissioning specific works on or around the building or space;
- making a financial contribution towards public art. This could include contributions for specific artworks and/or form part of a wider fund for future public art initiatives.

Alternatively, it may be a combination of the above. Where a site is to be delivered in phases, the developer should present a public art strategy for the whole site.

Where parties agree that it is not feasible to spend the public art contribution on the development site, it may be held by the Planning and Environment Department in a fund (to be used within a designated time period or returned), and either used for a public art project off-site, or be used as a part contribution towards a bigger public art project. This will be the exception rather than the norm and might apply where developments adjoin a common space or, in the case of an area-based development or regeneration strategy, where there is a clear policy direction or proposal that has been formally considered and adopted, and which may also have involved public consultation.

It is envisaged that the majority of Percentage for Art contributions will be on-site and integral to the development of that site. In accord with the objective of seeking to enhance the quality of the built environment, the Minister for Planning and Environment wishes to give encouragement to the injection of artistic creativity and craftsmanship into the design of buildings and spaces. The Minister will support the incorporation of high quality features and finishes into the fabric of buildings and spaces as a Percentage for Art contribution where creativity and high levels of craftsmanship can be demonstrated.

The Department recognises that procuring public art is a specialisation and to assist in the process has sought to identify Public Art Advisors to assist developers with the realisation of their art (see below).

Establishing budgets

It is important to establish a realistic budget as early as possible. The budget may therefore include the following:

- contribution towards provision of professional public art advice;
- selection costs – advertising, fees and expenses for those shortlisted;
- project management fees – someone experienced in managing public art projects other than the artist or craftsperson should usually supervise the project;
- artist's design fees;

- commission – if payable to the Public Art Advisor or artist depending on how the artist was procured;
- materials and fabrication costs;
- installation costs including the costs of all the associated infrastructure, foundations, landscaping, paving, lighting etc and including professional fees for structural engineer/ surveyor etc. Where artworks are temporary, costs for the removal of the artwork and restoration of the site should also be included;
- transport and security costs;
- other professional and legal costs;
- insurances;
- documentation, education, marketing/ PR, opening/ launch event costs;
- maintenance costs, where appropriate;
- contingency – based on an assessment of risk.

Writing the brief

Public art should look beyond individual developments and should seek to contribute to wider regeneration and cultural development objectives in Jersey. To facilitate this process the Council for Culture's Public Art Panel established by ESC is developing a Public Arts Strategy (available Autumn 2008) which will outline a broad policy framework for public art. This Public Arts Strategy should form the basis of all briefs given to artists or art advisors as the Minister will consider it when determining all Percentage for Art contributions.

It is important that all briefs set the parameters and opportunities for the project without giving all the answers, so that the artist/ craftsperson can think creatively about the project. Normally the brief should contain some or all of the following:

- the general and specific aims of the commission relative to the development project and public art in Jersey;
- a scaled site plan showing relevant information;
- site context and possible themes to be explored;
- the role of the artist – eg as community facilitator, member of design team, lead artist, project manager etc. It is important to identify which skills are required before commissioning anyone;
- performance and maintenance specification for the work – how long should it last, exposure to the elements, risk of vandalism, health and safety considerations etc;
- the budget and what it is to be spent on. For example the artist's budget may include for design production and installation but may not include project management/ supervision and associated works eg hard landscaping, lighting etc;
- time scale which may be critical eg for a planned opening, in which case a penalty clause may be incorporated into the contract documentation;
- is a planning permit required and if so who will be responsible for this and what implications will it have on the programme;
- information about the selection process

Selecting an artist / craftsperson

The developer can select an artist or craftsperson themselves or commission a Public Art Advisor to do it on their behalf. Commissioning of artists and craftspeople is generally done in one of three ways:

- commissioning a named artist based on reputation and suitability for the project. This method may be beneficial where the programme prohibits a longer competition process, or where an unusual range of skills are required. For example if an artist is brought in at a very early stage to become part of the design team his or her ability to work with the architect and others is important;
- limited competition where a shortlist of suitable candidates (usually no more than 5) are invited to submit proposals. In order to encourage serious entries it is often beneficial to pay a nominal fee and be specific about what is expected by way of a presentation. It is advisable to contact the artist after they have received the brief and invitation, and confirm with them that they will be making a submission. This is an effective method in that it provides a range of possibilities at reasonable cost;
- open competition where invitations are published through appropriate publications such as Artists Newsletter and arts organisations (nationally) and other media locally. Artists are invited to submit examples of work together with a CV and a shortlist is generated from this. The shortlist will be issued with a brief and at this point the process will be similar to that of a limited competition. Clearly this approach requires more time and money but may have benefits, particularly with high profile/high budget projects, where there may be value in the added publicity.

The process must be clearly justified at each stage to ensure its transparency. It is also important to remember that the cultural identity of a place is influenced by the work both of indigenous artists whose link to the community can give them special insights, and the work of artists from elsewhere who bring experiences and sometimes techniques not otherwise available. Proposals should normally be selected on the basis of merit i.e. the extent to which they accord with the brief. However, the increasing number of talented artists in the Island should encourage the commissioning of work by local artists, and establishing competitions directed at Jersey artists in circumstances where their local insight is especially relevant.

In addition there may be opportunities to involve Jersey artists working under a lead artist from elsewhere so that skills and techniques can be disseminated among local practitioners. Other forms of mentoring could also be explored that could benefit local artists, especially those training at Highlands School of Art, who may wish to become professional artists.

Selection criteria

Selection criteria should be drawn up for each project. These should of course be based upon the extent to which the proposal meets the conditions of the brief but should also consider the following characteristics, which, depending on the project, may be appropriate:

- to be unique rather than derivative;
- to be imaginative and distinctive;
- to be relevant to Jersey;
- to integrate well;
- to be thought provoking and stimulating;
- to be challenging and experimental;

- to be engaging, inspiring or reflective;
- to be diverting or amusing in some way;
- to contribute to the quality of the environment/ development;
- to contribute to the community;
- to contribute to the character of an area;
- to comply with the principles contained in this guidance;

Public Art Statement

Where a Percentage for Art contribution is agreed details of the proposed scheme must be submitted in the form of a Public Art Statement. This Statement, which must be consistent with the Public Art Strategy, will normally include the following;

- details of level of financial contribution to public art relative to the construction cost of the development including a budget breakdown;
- detailed models/ drawings of the proposals in the context of the development and the locality;
- a justification as to how the proposed public art relates to the development proposal and the site. Also, this to include a justification as to how the public art relates to the public realm, the character and identity of Jersey, and any objectives for public art in the Island;
- details of the commissioning process and the selected artist(s)/ craftsperson;
- timescales for the development and implementation of public art;
- details of ownership and maintenance of public art, to include a comprehensive specification of maintenance and its funding. In some instances, this should include similar details for the de-commissioning of public art;

A sample Public Art Statement template is attached at Appendix 1.

Ownership and maintenance

If the work is on public land it will be in public ownership and responsibility for maintenance will be with the appropriate public body with funds, for a limited period of maintenance, being included in the commissioning budget. If the work is on private land or forms part of a privately owned development, then it will be owned by the owner of the development, who will be responsible for maintenance. In all cases a schedule for maintenance and health and safety assessment should be provided by the artist, details of which should be provided in the Public Art Statement, as set out above.

Planning permission

If a sculpture, or similar, is to be provided and it is on site, the developer will need to request that a *minor amendment* is made to the relevant planning permission. The developer will need to provide the following information:

- sketches or a maquette of the art work
- dimensions of the art work

- a scaled plan, clearing showing the proposed location of the art

If it is on public land, or on private land that is not part of the development, planning permission will be required. The developer will need to submit a full planning application, unless the developer is a public body.

Public art advice

It is recognised that art is a specialisation, and whilst the delivery of an art project, once ready to be implemented, is not dissimilar to a development project, defining the brief and commissioning public art requires specialist input, if work of high quality, of benefit to the built environment and of cultural value to the Island, is to be secured: for this, specialist input – based on professional knowledge and experience of public art- is required.

Developers may already have relationships or connections with art professionals. The Planning and Environment Department has, however, sought to identify individuals and/or agencies who may be able to assist developers with the realisation of public art. The following is a list of recommended and approved advisors.

Raewyn Greggain, Jersey Arts Trust

St. James, St. James Street, St. Helier, Jersey JE2 3QZ
t. 01534 617521 e. raewyn.greggain@jerseyartstrust.com

Philip Hewat-Jaboor

La Maison de la Fontaine, Le Mont Perrine, St Lawrence, JE3 1GZ;
t. 861181 e. phj@philiphewatjaboor.com

muf architecture/art

49-51 Central Street, London, EC1V 8AB
t. 020 7251 4004 e. studio@muf.co.uk w: www.muf.co.uk

PFA Consultants Limited

Roche de la Mer, Greve d'azette, St. Clement JE2 6PX
t 07797725002 e. Pfaconsultants@gmail.com

Ray Banks, Jersey Public Sculpture Trust

20 Grosvenor Street, St Helier , JE2 4QR
t. 01534 615953 e. raybanks1938@yahoo.co.uk

Christopher Clifford BA (HONS) MA

Private & Public Ltd, 11 Uplands Drive, St. John's Road, St. Helier, Jersey, JE2 3UD
t. 01534 863559 or 07797714186 e. chris@privateandpublic.com
w. www.privateandpublic.com

Appendix 1: Public Art Statement (template)

Planning application number	Development address	Developer
Art Advisor (if appointed) or details of commissioning process (if relevant)		
Name of artist		
Nationality/residency of artist		
Description of work		
Dimensions of work		
Explanation/justification of how work relates to the public realm and meets the PfA criteria and strategy		
PfA commitment (0.75% of total build costs)		
Breakdown of costs (if relevant to include) • Artist fees • Materials • Art Advisors commission • Insurance • GST @3% • Installation • Maintenance • Shipping		
Location (please describe) • Integral to development (eg: gates; path) • Interior (eg: art in reception visible from exterior) • Private land - part of development (amendment to planning application required) • Private land – not part of development (additional planning application required) • Public land (additional planning application required)		
Location map included (if relevant)		
Details of ownership and maintenance		