

# THE VALE OF GLAMORGAN UNITARY DEVELOPMENT PLAN 1996 - 2011

## PUBLIC ART

### SUPPLEMENTARY PLANNING GUIDANCE



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## APPENDIX 1 (Summary of Public Consultation)

## **1 INTRODUCTION**

This Supplementary Planning Guidance (SPG) has been prepared in the context of Planning Policy Wales (March 2002) as additional information to the Adopted Vale of Glamorgan Unitary Development Plan 2005 (UDP).

This document has also been written to support the Council's Public Art Strategy for the Vale of Glamorgan and A Practice Guide for Barry and the Waterfront. These documents set out the Council's aspirations for the implementation of its adopted Percent for Art Policy across the Vale of Glamorgan and to also identify opportunities for public art within Barry and its Waterfront. They also provide local, national and international examples of good practice and comprehensive advice and information on potential sources for supplementary funding to assist in enhancing the scope and benefits of a commissioned project. Copies of these documents are available on the Council's website [www.valeofglamorgan.gov.uk](http://www.valeofglamorgan.gov.uk) .

The purpose of the document is to provide concise information to all parties involved in the provision and commissioning of public art within the Vale of Glamorgan and also to set out the Council's requirements for the provision of public art within developments and the public realm. The aim being to encourage developers to be proactive by considering the incorporation of public art at the earliest stage.

## **2 STATUS OF THE GUIDANCE**

This document is non-statutory in nature since only the policies in the Development Plan can have the special status afforded by S54A of the Town and Country Planning Act, 1990 (As Amended), in determining planning applications. However, the Welsh Assembly Government advises that SPG may be taken into account as a material consideration, the weight afforded to it being increased if it has been prepared in consultation with the general public and interested parties and it has been the subject of a Council resolution.

Before being adopted as Supplementary Planning Guidance, the Guidelines were subject to public consultation and were amended to take into account comments received during the consultation process. A summary of the representations received, and the Council's response to these representations is given at Appendix 1.

### 3 PERCENT FOR ART

To support its commitment of achieving high standards of design in developments and the enhancement of public places the Council adopted a Percent for Art Policy in July 2003. The policy was adopted to acknowledge the recognition of the role that artists can have in enhancing and improving the quality of the public domain:

“The Council will seek to negotiate a minimum of one percent of the costs of all capital developments for public art within major developments. The Percent for Art fund will be set aside for works of art complementary or integrated within that development”

For the purposes of this guidance, major developments are defined in the Town and Country planning (General Development Procedure) Order 1995 as:

- The erection of 10 more dwellings, or where this is unknown the site area of 0.5 hectare or more; and
- In other cases where floorspace to be created exceeds 1,000 square metres (gross) or the site area is 1 hectare or more.
- All waste developments, meaning any development designed to be used wholly or mainly for the purposes of treating, storing, processing or disposing of refuse or waste materials.

The Council strives to lead by example and therefore the policy extends to:

- Developments on public land or property owned by the Vale of Glamorgan Council;
- Regeneration schemes;
- Public realm developments such as parks, open spaces; and
- New public buildings and strategic highway developments



Image: Approach to Barry Waterfront. Photo: Betina Skovbro © courtesy of CBAT.

## 4 WHAT IS PUBLIC ART?

Artists and their work have played a significant role in urban, rural development and regeneration programmes and in town centre improvement schemes across the UK. In almost every urban or rural major development programme in the UK, the inclusion of artists and artworks is a major benefit and is now viewed as the rule rather than the exception. In Wales, examples of where public art has been successfully integrated within development structures in the public realm can be found in Cardiff, Wrexham, Swansea, Caerphilly and Newport.



Image: Andrew Stonyer, 'Pulse'. Photo: Courtesy of the artist.



Image: Stefan Gec, Deep Navigation, Cardiff, 2001.  
Photo: Kiran Ridley © courtesy of CBAT.

Whilst the traditional notion of public art as a statue on a plinth can still be effective, the integration of public art within developments, design and features has seen a diversification in public works of art. Public art is now found in the form of seating, street furniture, glassworks, banners, railings and security features, signage, new media, and temporary or community projects. Similarly, the lighting of architectural and other features is considered as an accessible form of public art that can also add value to the public realm by helping transform buildings and spaces. Consequently the sheer diversity of practice has brought about a blurring of boundaries between what may or may not be considered 'art'.

It is for this reason that it is important for commissioners, architects, and developers and for the general public to be clear from the outset about what does or does not constitute public art. Therefore the Council considers that for the purposes of this guidance the following definition encapsulates the ethos of public art:

**Art that is the original work of a living, professional artist and is created for a particular place, commissioned by or working in collaboration with others such as architects, landscape designers, planners, developers, arts officers, and community representatives. Such work can be:**

- *Permanent Works such as large-scale three-dimensional artworks, bespoke street furniture, commemorative works or integrated two and three-dimensional works.*
- *Temporary, Ephemeral or Time-Based Commissions such as festivals, publications, works with a limited and defined lifespan.*
- *Interior Commissions where there is unhindered access to the public all or most of the time.*

## **5 IMPLEMENTATION**

### Amount of contribution

The best way for developers to contribute to public art activity is to set aside a minimum of 1% of their project budget specifically for the commissioning of art from a professional artist or craftsman. The Council will require the developer to determine the precise amount of the Public Art contribution by providing a detailed written estimate of the building costs of their proposal through the application of a nationally recognised building price index.

In addition to the commissioning of the actual piece of public art, developers should ensure that the budget factors in the cost for:

- Artist recruitment and selection
- Artists fees and fabrication
- Specialist advice and project management
- Linked education programmes
- Installation and maintenance
- Future management and maintenance of the completed work

The Council prefers that all public art shall be provided on site and integral to the overall scheme. However, there may be instances where the Council agrees to a monetary contribution, for example where site conditions restrict on site provision or for a larger piece of art, which may require funding from several schemes. Under such circumstances the Council would hold these contributions in a designated fund until such time when sufficient funds are available to cover the cost of the alternative piece of art or until a suitable alternative site is found.

Where a contribution can be negotiated, the Council will seek to secure Percent for Art funding either through planning conditions or, where this cannot be achieved, through Section 106 Agreements. This agreement is legally binding and will normally include details of:

- The scope and scale of the works
- The type of work to be pursued
- The role of the artist(s)
- The timing of the project in the overall capital programme
- The identification of budgets and committed overall costs
- A statement on future maintenance responsibilities and costs
- De-commissioning.



Image: Howard Bowcott, Sea Sails, Penarth Marina,  
 Photo: Betina Skovbro © courtesy of CBAT.

## 6 POLICY CONTEXT

The role which public art can play in the enhancement of the built environment is recognised in Technical Advice Note (TAN) 12 Design:

“Focusing public art at key locations, at important junctions, meeting places or entry points can enhance existing townscape features and help to make the area more legible. There is considerable scope for integrating public art into the townscape, ranging from the dramatic to the subtle, from traditional free-standing landmark sculpture to the innovative design of functional objects” (para. 5.41 refers)

Similarly, the Vale of Glamorgan UDP highlights the importance of good design in the enhancement of the urban, rural and natural environments of the Vale of Glamorgan. In particular Strategic Policy 1 and Policy ENV 25 Design of New Developments encourage the use of good design to enhance the built and natural environment.

## **7 COMMISSIONING PROTOCOL**

Where public art is required, the Council shall expect applications to be accompanied by an outline proposal for public art. Similarly, if the site has been the subject of a development brief, an initial investigation of the potential for public art should already have been made.

Whilst the developer can solely undertake the commissioning artworks, it will more usually involve a local arts organisation whose specialist knowledge will not only provide links with art workers and the community, but also information on the potential for securing additional finance. In cases where a developer has no experience in procuring public art the Council will require a reputable arts agency to be engaged in the artist selection and commissioning process.

In most cases the developer, arts organisation assisted by the Council's Arts Development Officer, shall undertake the selection and commissioning process outlined in the guidelines below. There will however be instances where the Council may deem it necessary to convene a Public Art Panel to assist in the selection and commission of public art works, for example where public art forms a key element in the regeneration of an area or on strategic development sites.

The Council Arts Development Officer will also advise whether the applicant should propose a process of consultation with the community and the form that this should be taken. If public consultation is required, it is anticipated that a representative from the local community and/or ward member shall be invited to participate in the artist selection process.

## **8 SUBMISSION REQUIREMENTS**

At outline application stage, or where an artist is part of a development team the following details are required:

- Outline of proposal and involvement of artist,
- Demonstration of how the scheme will contribute to quality of environment, development and community (as part of a Design Statement),
- Evidence of complying with this SPG,
- Any intended selection process,
- Budget allocation,
- Details of future care and maintenance.

At full application stage, or reserved matters, the following details are required:

- Detailed proposals for incorporating public art into a development, building or space,
- Demonstration of how scheme will contribute to quality of environment, development and community (as part of a Design Statement),
- Description of commission or selection process,
- Evidence of complying with this SPG,
- Budget and funding details,
- Details of future care and maintenance.



Image: 'SWICA - Barry Carnival Procession', Photo: Tracey Harding.

## 9 COMMISSIONING GUIDELINES

The Council does not wish to be prescriptive about the integration of artworks in developments, as each project should be unique in its scope, approach and appearance. Consequently, the following sections offer best practice guidance on key stages involved in identifying opportunities, artist selection and for the commissioning of art in the built environment.

### Stage 1 – Assessment of Opportunities

Since the most successful forms of art are those integrated with the design of the building or its landscape this initial phase should identify opportunities for the integration of artists' work within the planned development and developers are encouraged to suggest forms in which public art can be incorporated.

## Stage 2- Artist Brief

Artist selection will normally involve the drafting of an artist's brief setting out the context, background and technical information relating to the scheme as well as to set out what is required and expected of the artist and of the resulting artwork. The brief does not need to be lengthy, but should contain all relevant information and requirements and should strike a balance between being open enough to allow an artist room to be an artist, and detailed enough to ensure a professional outcome.

As an indication, the brief should include the following information:

- aims and objectives of the commission
- context, history of project, maps, drawings, special requirements etc.
- description of artist's role
- details of the project team and their roles and responsibilities (including specialist project management for the commission)
- description of site and conditions (take into account accessibility, impact, safety and financial implications and, where possible, involve the artist in selecting the site)
- degree of community participation, who will manage the process etc
- timetable and phasing, including deadline, short-listing and interview date (if applicable)
- budget
- planning permissions required
- description of and criteria for selection process
- maintenance and durability requirement and who will be responsible for maintenance
- artist's copyright position and clarification of ownership of work
- documentation required or planned
- any review period planned
- decommissioning policy where applicable

## Stage 3 Artist Selection

Best practice indicates that the details contained within the artist brief should also form the criteria by which artists are short-listed and finally selected. This approach is advised as this avoids the possibility of choices being made on the basis of personal taste and subjectivity.

Artist selection will usually be undertaken by the commissioner (developer), the architect, the appointed public art agency and the Council's Arts Development Officer, the Art Panel

(where convened). Where public consultation has been undertaken a representative of the local community or ward member should also be invited on to the selection panel. Members of the selection panel should be involved from the earliest stages and should see the process stages through to completion



Above: Amber Hiscott, Waterfall [Glass work] Wales Millennium Centre. Courtesy of the artist and CBAT.

Above Right: Andrew Rowe, Window Grills, Cardiff. 2000. Courtesy of the artist and CBAT.

## Stage 4 Collaboration

Following the appointment of the artist(s), best practice recommends that the artist is closely involved in the design process, particularly where the proposed public art is integrated into the fabric of buildings or associated public realm. Best practice indicates that this approach will obtain the best results in terms of design quality and best value in development. This design phase will include:

- Management of design process to the satisfaction of the developer and design team.
- Site meeting and client meeting with artists and design team
- Establish and monitor community workshop phase (where necessary)
- Monitor and assess workshop and design processes
- Administrative support, contractual and financial management
- Quality and financial assessment of artists' designs
- Agree artist designs with client and design team
- Submission of development detailed planning application together with detailed artwork designs

## Stage 5 Commencement of Build Programme and Artist Fabrication

On receipt of full planning permission and in line with the development's build programme, it is recommended that the artist(s) and public art consultant or commissioning agency be appointed by the client to oversee the integration of the artworks within the development. However, in some instances it may be better to delay fabrication or installation until the development is well established. This avoids the risk of damage or potential vandalism. The siting and installation can also act as an opening or launch of a scheme.

In the case of bespoke artworks fabricated by the artist(s), a 3-way contract between the artist, client and commissioning agency or freelance consultant is recommended that covers all responsibilities undertaken by the separate parties and liabilities as indicated in Contracts section below.

Duties within this final phase include:

- Management of commissioning process to completion of works
- Client and design team meetings with artists, commissioning agency or freelance consultant, contractors and sub-contractors
- Further public consultation as necessary
- Administrative support, contractual and financial management
- Management of artist and/or sub-contractor fabrication of artwork/s
- Final site visits, any snagging, hand over and certified completion



Image: 'Bute Street Works', Photo: Courtesy of CBAT.

## 10 CONTRACTS

A successful commission programme within any development needs to be implemented within a solid contractual framework, endorsed by all parties. This framework will describe the aims and objectives, responsibilities and liabilities of the client, artist(s), and commissioning agent. Responsibility for drafting the contracts should lie with the commissioning agent under the direction of the client. Contractual arrangements may vary according to the circumstances of projects but, in general, should adhere to the following pattern:

- Consultancy contract or agreement between Client and Commissioning Agent
- Design agreement with appointed Artist(s) to secure design proposal(s)
- Three way contract between Client, Artist(s) and Commissioning Agent, to secure implementation of the agreed work(s)
- Standard sub-contractual agreements

Contracts should cover the following:

- Responsibilities and obligations of the contracted parties
- Relevant Insurance's
- Fees
- Commissioning period (start and completion date)
- Provision of services by the contracted parties
- Copyright and ownership
- Health and Safety Issues
- Maintenance Obligations
- Ownership and Duty of Care
- Duration of location or display of the work in the public domain

## 11 LEGAL OWNERSHIP AND MAINTENANCE

Where a work is part of the public realm offered for adoption to the Council, the Council will require an assessment of the maintenance requirements and this cost is included as an inseparable part of the public realm provision. In this instance, the Council will seek commuted sums to ensure the long-term maintenance of such pieces through the use of section 106 agreements.

The Council considers maintenance to be the responsibility of the owner of the property or infrastructure the commission forms part of and this responsibility should be included

in any transfer of ownership. Whenever possible, maintenance of the artwork should be included in regular maintenance schedules for all aspects of the property or infrastructure. When public art is commissioned with insufficient thought to long-term maintenance the result is that the effects of general wear and tear, damage, vandalism, dirt and simple deterioration are not prevented or rectified, the asset is devalued, and the reputations of all those involved are placed at risk.

Maintenance does not need to be a burden. Careful planning during the Commissioning Process appropriate precautions and the effective identification and application of resources are crucial in avoiding the pitfalls.

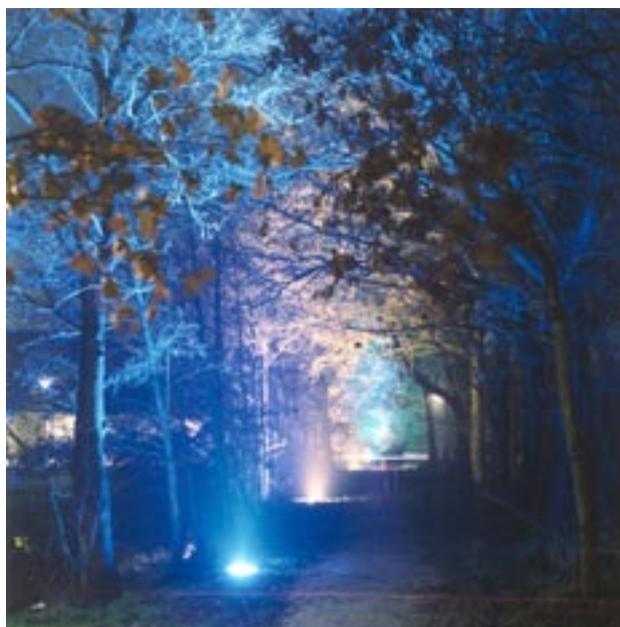


Image: Northern Lights, Lillian Roosenboom, The Netherlands © courtesy of the artis and CBAT.

## 12 FURTHER INFORMATION

There are various specialist public art agencies and consultants in England, Scotland and Wales, who are able to advise on and manage all aspects of commissioning Public Art. The agencies listed below provide further advice on working with artists and funding opportunities as well as details on artist and commissioning agencies that have experience in the development of Public Art projects.

Arts Council of Wales [www.artswales.org.uk](http://www.artswales.org.uk)

Arts & Business Cymru [www.aandb.org.uk](http://www.aandb.org.uk)

Public Art South West [www.publicartonline.org](http://www.publicartonline.org)

CBAT The Arts & Regeneration Agency [www.cbat.co.uk](http://www.cbat.co.uk)

## 13 CONTACTS

Arts Development Officer  
The Docks Office  
Barry Docks  
Barry  
CF63 4RT  
Telephone: (01446) 707714  
E-mail: TCHarding@valeofglamorgan.gov.uk.

Planning and Transportation Policy  
The Docks Office  
Barry Docks  
Barry  
CF63 4RT  
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## APPENDIX 1

### Summary of Public Consultation on the draft Supplementary Planning Guidance, Public Art

Representor	Paragraph/Section	Comment	Council response	Change
Barry Town Council	General	<p>Barry Town Council is most supportive of the intention to integrate a diverse range of public art within future development for the enjoyment of all.</p> <p>However, it is felt that public art must: -</p> <ul style="list-style-type: none"> <li>• Be appropriate in terms of its location, function and form.</li> <li>• The quality of design and finish should be high.</li> <li>• And in certain circumstances works might record local history or reflect the maritime and industrial influence, which have helped shape the town of Barry.</li> </ul>	<p>The Council welcomes the support from Barry Town Council.</p> <p>In producing the guidance, the Council has sought to avoid being prescriptive so as to encourage a diverse collection of public art works. However, issues regarding location, function, and form and quality of finish will be considered as part of any proposal for public works of art. Similarly the opportunity to procure public art that reflects the maritime and industrial history will be sought where appropriate. This is explored in more detail within the Practice Guide for Barry and the Waterfront.</p>	No change proposed
Barry Town Council	General	<p>Fewer well-chosen works of quality would seem far preferable to a large number of less appropriate pieces.</p>	<p>It is the Council's aspiration to encourage a diverse range of public artworks within the Vale of Glamorgan, the form and nature of these will be dependent on the location of development and the form of the development proposed.</p> <p>The overall aim of the SPG is to encourage public art that adds value and interest to new buildings and public open</p>	No change proposed

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### Summary of Public Consultation on the draft Supplementary Planning Guidance; Public Art

Representor	Paragraph/Section	Comment	Council response	Change
Barry Town Council	General	Long-term maintenance is considered crucial to the success of public art and has a means of sustaining visual amenity. The future upkeep of works needs to be a key element in the commissioning process. The use of section 106 agreements, where appropriate, is welcomed.	The Council welcomes the support from Barry Town Council.	No change proposed
Design Commission for Wales	General	We are pleased to see detailed guidance, informed by best practice including international examples, supported by a detailed strategy and consider this to be a very helpful suite of material that will be welcomed by the development sector due to its clarity and consistency.	The Council welcomes the support from the Design Commission for Wales	No change proposed
Design Commission for Wales	General	We would welcome slightly stronger emphasis on the nature of integrated works in relation to lighting and other environmental projects which might add further value to schemes. This is implicit but could perhaps be explicit.	In producing the guidance, the Council has sought to avoid being prescriptive so as to encourage a diverse collection of public art works. However, the Council accepts that further recognition of the value that lighting and other environmental projects, such as landscaping can make to the public realm. Therefore the Council proposes to include references to these elements, whilst maintaining the non-prescriptive and flexible approach of the guidance.	Amend section 4, paragraph 2 to read:  Whilst the traditional notion of public art as a statue on a plinth can still be effective, the integration of public art within developments, design and features has seen a diversification in public works of art. Public art is now found in the form of seating, street

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Representor	Paragraph/Section	Comment	Council response	Change
J Cheesman St Donats	General	<p>In an age when many of our towns and cities are in danger of becoming carbon copies of one another; when high street chain stores use the same architecture colours and corporate logos at all their venues, often regardless of their setting, then public art in all its forms is more important than ever. It can be quirky, thought provoking, up lifting, startling, controversial, calming; it can be used to make the mundane interesting and the utilitarian more pleasing to the eye; in many cases it adds another dimension to our cultural or historical heritage.</p> <p>Having read through the above document, it is very heart warming to realise that people who are in a position to have real influence over this aspect of our environment are giving it such thorough and detailed consideration. If all that is written here is indeed put into practice, I am certain that our lives will be the richer. I shall be watching future development with great interest and eager anticipation. Every effort to bring some sense of individuality and personal ownership into our lives must be readily applauded.</p>	<p>The Council welcomes your support and enthusiasm to the public art guidance and the public art strategies for the Vale of the Glamorgan.</p> <p>The Council is committed towards the implementation of its' public art strategy and is currently seeking to secure public art works in a number of Council lead regeneration projects.</p>	<p>furniture, glassworks, banners, railings and security features, signage, new media, and temporary or community projects. Similarly, the lighting of architectural and other features is considered as an accessible form of public art that can also add value to the public realm by helping transform buildings and spaces.</p> <p>No change proposed.</p>

## VALE OF GLAMORGAN COUNCIL

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Above: Brian Fell, 'All Hands', 2002, Cardiff. Courtesy of the artist and Chandler KBS, Norwest Holst & CBAT.