

Planning and Public Art

SUPPLEMENTARY PLANNING GUIDANCE

1.0 Aims:

1.1 The aim of this guidance is to:

- Outline the current activities of the Council in achieving public art works; and
- Establish a shared understanding and terms of reference for public art in the planning process.

2.0 Definition

2.1 The importance of siting art in public places has been recognised ever since towns and cities were first built, with statues and fountains in town centres, and murals, carvings and decorations on public buildings. More recently, local authorities have been encouraged to continue this tradition, and so policies have been formulated to ensure that, as new public spaces are created and new buildings erected, those commissioning and developing these new places are encouraged to include works of art.

2.2 The term 'public art' refers to works of art that are commissioned and designed by artists for particular buildings or sites which are accessible to the public. Public art is art for the public specifically designed by artists for the purpose of public display (i.e. it is beyond artist's work merely shown in public spaces).

2.3 Public art is always site specific, and can take many forms that may include sculptures, benches, fencing, paving, seating, furniture, murals, mosaics, windows, flooring, gateways and banners. It may be found in a variety of public locations, both in and out of doors.

2.4 It can be a permanent or temporary piece, as an integral part of a building, or free-standing in an open space. It can be large or small scale reflecting or contrasting with the built, natural, urban or rural environment in which it is to be located. Materials and processes used to develop the piece can involve woodwork, stone carving, metal work, painting, glasswork, lighting, photography and textiles.

2.5 The regional Arts Council defined public art (in its Public Art Strategy of June 1997) as:

"Works of art and craft of any scale created by artists as permanent or ephemeral features for locations that are freely accessible to the public qualify for the term "public art". These works may be commissioned by all kinds of patrons in the widest definition of community - from the public and private sectors to organisations of local communities of interest - or may be created from an opportunity developed by artists themselves"

3.0 The Role of Public Art

3.0 Public art has an important role to play in furthering key elements of the Council's strategic objectives and the provision of public art works results in the following benefits:

- Civic or corporate pride and identity;
- Public enjoyment;
- Economic and/or social skills renewal;
- Encouraging public involvement in design and creation;
- Environmental improvement, conservation or regeneration;
- The sign posting of a particular location; and
- Improving the quality of life.

3.1 Each public art commission has unique qualities and is produced for specific reasons. There are general underlying principles relating to the role of public art that can achieve specific benefits. The following successes from previous public art projects can be identified:

- Interest and distinctiveness have been added to the district;
- The local environment has been improved;
- Local pride has been generated;
- People have been brought together to work with arts professionals and learn new skills;
- Public art projects have been used as a tool to engage and consult with the local communities;
- Tourism has benefited;
- The life and aspirations of the local area have been reflected in the creation of the art feature; and
- Investment and interest have been attracted into an area.

4.0 Vale of White Horse District Council's Approach and Policy on Public Art

Background

4.1 The District Council is committed to public art and has published an Arts Development Strategy and has a strong aim within its arts development programme to *"use the arts to improve the physical environment"*.

4.2 Led by current examples of public art across the Vale, the Strategy will be developed and shared with the private sector, artists and potential partners. This will set out a programme looking at decorative and functional areas of work such as signage and street furniture, as well as indoor display areas in non-arts venues.

4.3 'Percent for art' is a term adopted by the Arts Council of England in 1996 which recommended that large new building schemes should contribute to the visual enhancement of the environment along with contributions to the local infrastructure (such as schools, highways, play areas and public open spaces).

- 4.4 A 'percent for art' scheme works on the basis that a sum of money is set aside to spend on art. Local authorities throughout the country have successfully adopted this approach.

The 'Public Art' Policy in the Local Plan

- 4.5 A 'public art' policy was included in the Vale of White Horse Local Plan adopted in July 2006 and reads as follows:

'Public Art

4.13 Throughout history, towns have been enhanced by the use of decorative arts, crafts and design, from historic monuments and sculptures to innovative designs of clocks, signs, fencing, gateways and decorative paving. The aim in providing public art is to improve the quality of new developments by producing a more stimulating environment which will enhance the appearance of the district and provide a higher quality of heritage for future generations to enjoy. The Council will seek to support and promote the arts in association with new development in a variety of locations. This is consistent with the Council's Arts Development Strategy (2001–2005). This seeks to encourage developers of public and private buildings to devote a proportion of their expenditure to the provision of a public work of art i.e. art that is accessible to local people. Works of art can give quality, character and human scale to new development. They can make a positive contribution to the character of an area, especially if they draw inspiration from local themes or associations and the use of decorative art to improve the 'sense of place' can be widely appreciated by the public.

4.14 Advice on public art can be obtained from the Council or from Southern Arts. On all sites of half a hectare or more the Council will seek the provision of public art. Major developers will be expected to set aside a proportion of the capital budget of their schemes (the Arts Council has recommended 1% of the contract sum) to commission works of art to benefit the community and the environment. Care and sensitivity is obviously needed in the selection and placing of works, especially in more heavily used public spaces. The Vale Council's Art Strategy explains that the aim to use the arts to improve the physical environment will be developed and shared with planners, the private sector, artists and potential partners including local people and communities.

POLICY DC4

IN DEVELOPMENTS ON ALL SITES OF 0.5 OF A HECTARE OR MORE THE PROVISION OF PUBLIC ART WHICH MAKES A SIGNIFICANT CONTRIBUTION TO THE APPEARANCE OF THE SCHEME OR THE CHARACTER OF THE AREA, OR WHICH BENEFITS THE LOCAL COMMUNITY WILL BE SOUGHT.

5.0 Criteria for Public Works of Art

- 5.1 All works of art should conform to the ethos of why the District Council supports public art (as set out in the definition of public art in section 2 of this guidance). Discussions with the District Council's planning service and Arts Development

Manager are important to ensure the quality of work commissioned. Works of art commissioned should:

- be to the highest quality;
- be designed and created by professional artists;
- generally have local relevance/significance (if not to the site then to the local area);
- seek to include public participation and involvement where appropriate;
- document and publicise the project to further the public understanding of art; and
- where possible be of economic and/or social benefit.

6.0 The Role of Vale of White Horse District Council Arts Development Manager

6.1 The Arts Development Manager can assist in development, support and responsibility for the creation of art for public places. This includes:

- advocacy for commissioning new works;
- advice and information for developers and community organisations;
- contracting artists;
- public consultation;
- project management;
- fund raising;
- developing partnerships with public and/or private sector organisations; and
- endorsing final designs as its role as a local planning authority.

7.0 Public Art Projects in the Vale

7.1 Since a percent for art policy has been adopted there have been a number of major public art project commissions from private funding (through legal agreements associated with planning permissions) and public grants (through the Regional Arts Lottery Fund) that have attracted over £300,000 of non-Council funding. Examples include:-

- The entrance/gateway feature by artist, Robert Kilvington for Tilsley Park Sports Centre, Abingdon 1997;
- The light installation by artist Martin Richman 2000 for the Thames Valley Police Headquarters, Abingdon;
- Glasswork by Jane MacDonald, and mosaic by Michael Gamble and Susan Wenyon for the White Horse Tennis and Leisure Centre in Abingdon (opened in July 2002);

- An installation by Walter Jack for a courtyard at the former Morland's Brewery site in Abingdon (completed in June 2003);
- An installation for the courtyard at Neave Mews, Abingdon (completed 2005);
- Installation at New Barn Close, Grove (completed 2005);
- Installation of work entitled "as old as the hills" at Folly Park, Faringdon (completed Sept 2004);
- Installation of stone sculpture at Letcombe Park, Wantage (completed 2006).

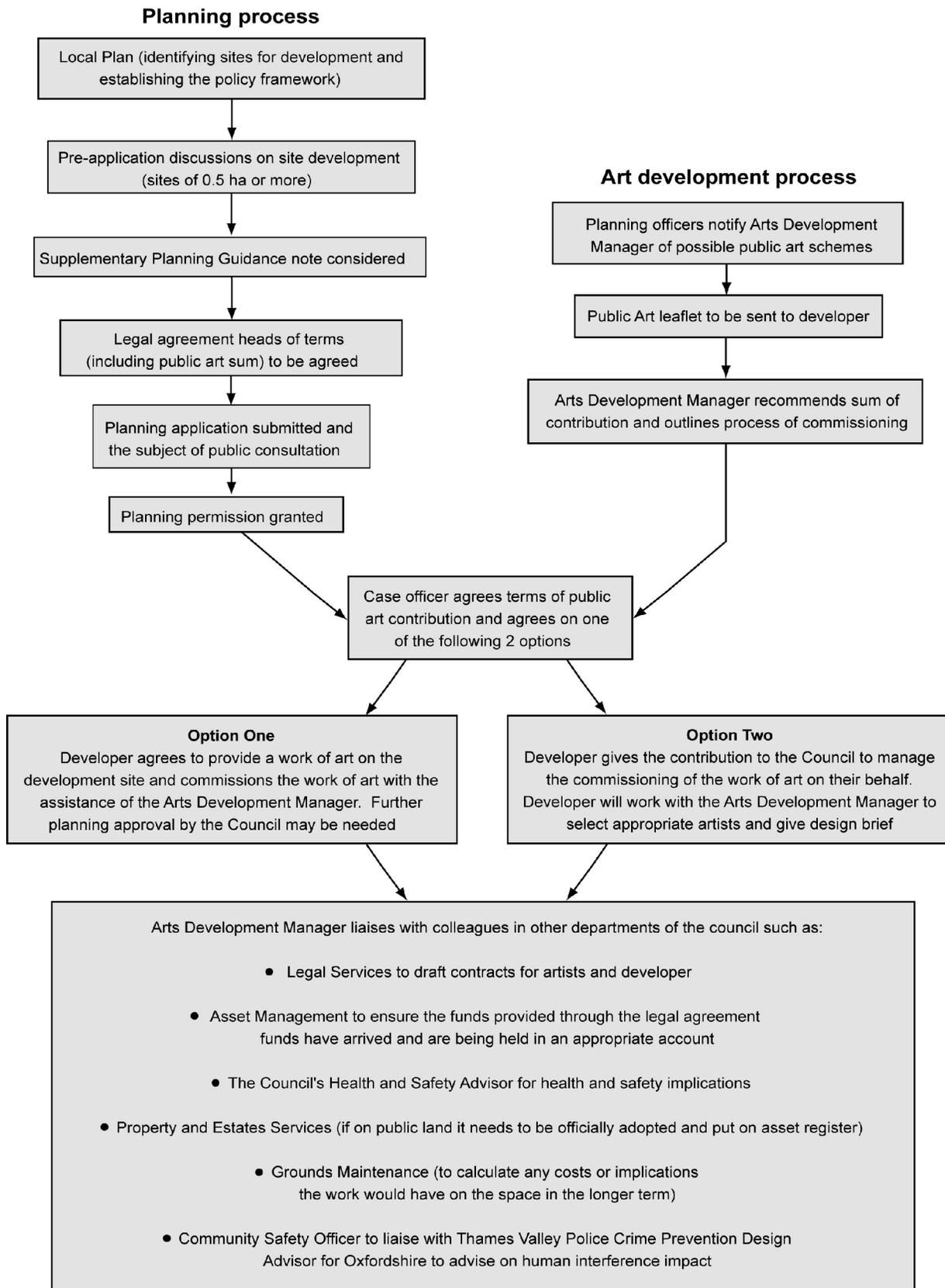
7.2 A number of other projects are currently under consideration in association with new development proposals.

- The Maltings, Abingdon, Persimmon Homes
- Penlon site, Radley Road, Abingdon, Kingsoak Homes
- Abbey Grounds, Abingdon

7.3 Other public art projects in the Vale (not commissioned through the District Council) include:

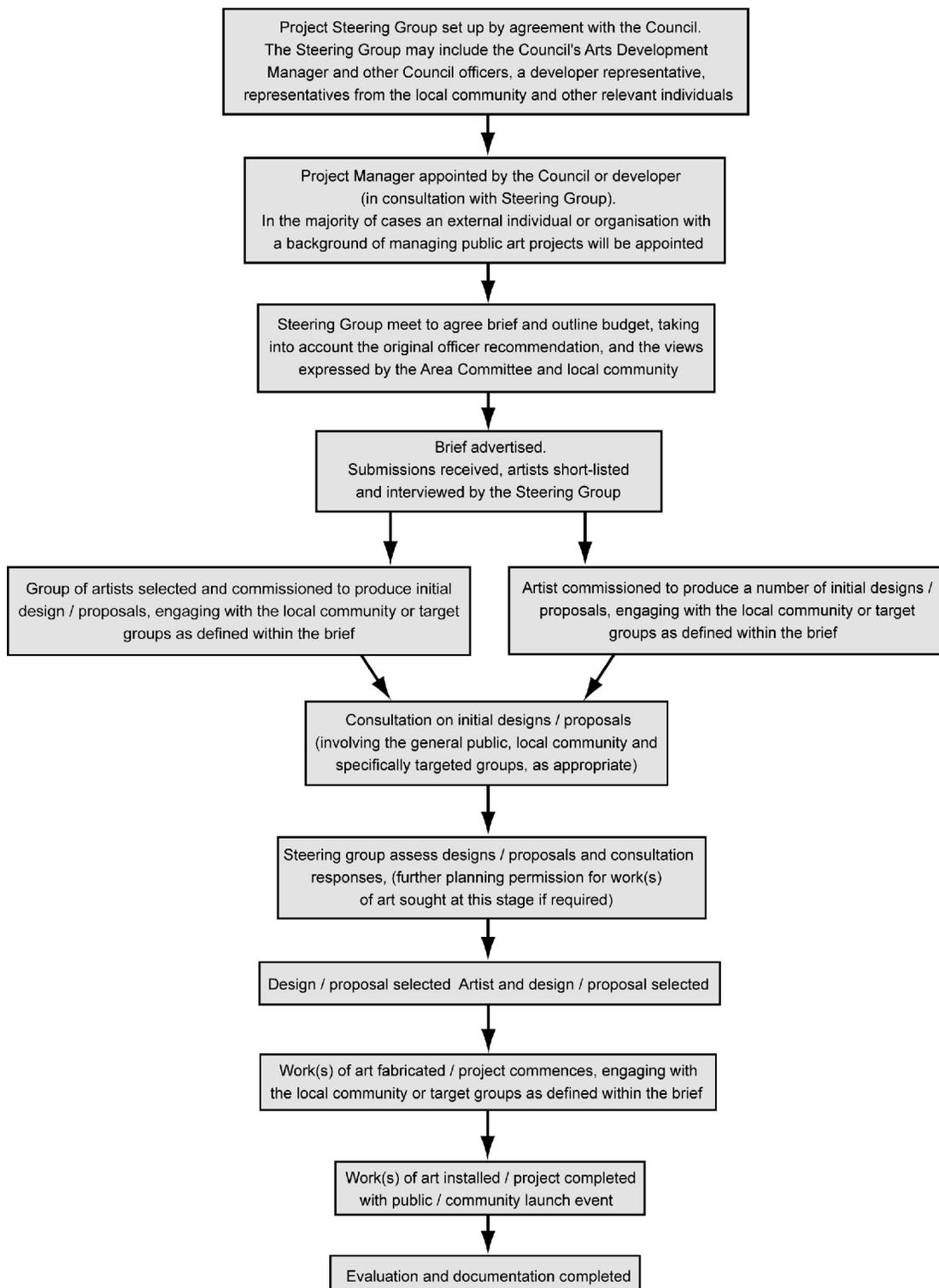
- Grove Library stained glass window
- Faringdon Leisure Centre
- Grove Millennium Green carving
- Betjeman Millennium Park (2000 – 2002): The Letcombe Brook Charitable Trust commemorated poet John Betjeman, one of Wantage's most famous residents, by creating a woodland park in the centre of the town. To celebrate his life and work, the group commissioned Oxfordshire based artist, Alec Peever, to carve selected quotes from John Betjeman's poems. The result was this stunning poetry trail of six stone-carved features to surprise and delight passers by. The Regional Arts Lottery Programme and the Esmee Fairbairn Foundation funded the project.
- Longcot Community Sculpture, summer 2003: The village of Longcot achieved 'Awards for All' funding to commission local resident and sculptor, Pat Elmore, to run open workshops in stone carving and create a permanent carved feature for the village wildlife garden.

8.0 Current Process for Acquiring Contributions to and Commissioning Public Art



9.0 The Process for Commissioning Public Art

Commissioning process overview (as detailed in appendix 1)



10.0 Frequently Asked Questions

10.1 What sort of site has a 'Public Art' requirement?

Public Art contributions apply to:

- Any large scale buildings to which the public have access
- Leisure, commercial or housing developments on sites measuring over 0.5 hectares
- Major capital developments on behalf of the District Council

10.2 How is the fee agreed?

The sum of money will take into account management fees, interview and design costs, artist's fees, fabrication costs, installation, marketing and maintenance. These costs can be negotiated according to how much the developer can contribute towards costs in kind, (i.e. managing the project directly, assisting with the installation or using their in house engineering or marketing experts). Costs in kind will need to be defined in the legal agreement. Precedents with recent projects have charged between £200 and £300 per unit of housing.

10.3 Where should the art work be sited?

Works achieved through the development of a single site through this process should be sited so as to be visible to the public and reasonably related to the development. Often developments also include contributions to open space and play areas to be maintained by the Council. These areas lend themselves to the works of art enhancing developments of the open spaces, although greater sums or contributions may be needed to assist with the maintenance schedule. Contributions to off site provision may be considered where justified.

10.4 Who should approve final designs?

A steering committee for each project (comprising the developer, a planning officer and the Arts Development Manager) will oversee each stage of a project. The steering group will agree the final design.

10.5 What are the planning requirements for implementing a work of art?

Art work secured as part of a planning permission to be provided on site is normally considered as part of discharging the landscape conditions. Off-site provision may require a separate application for planning permission. Advice on whether or not planning permission will be required for a particular work of art can be obtained from the case officer in the Council's Development Control Team.

10.6 What is normally included in legal agreements

The following items will normally be included in the legal agreements:

1. The amount of contribution;
2. The date for the implementation of the art work;
3. The ownership (including insurance and maintenance responsibilities) of the final piece; and
4. Agreement on not altering the work without the Council's and/or artist's approval.

The two types of wording the Council normally uses in legal agreements are set out below.

Option One – when the developer agrees to provide the work of art;

“Before development commences, a scheme shall be agreed for work(s) of art to a value of £X on the land identified on the approved plan (or such location as may otherwise be agreed in writing with the Council). The development shall be undertaken in accordance with the details as approved and the work(s) of art shall be provided (before the building is brought into use / before the Xth residential unit is occupied / before X percentage of the development is complete, etc.).

Thereafter, the work(s) of art to be maintained in a clean and tidy condition in perpetuity or until decommissioned. The work(s) of art may not be decommissioned before [date] without the prior approval of the Council.”

Option Two – When the developer makes a financial contribution to the Council to commission the work of art in partnership

“On commencement of the development to pay to the Council the sum of £X towards work(s) of art to be provided by the Council (on the development or in the vicinity of the site). The contribution may be used to cover any relevant costs, including (but not limited to) those associated with project management, commissioning, fabrication and ongoing maintenance.

[And if appropriate]

To prepare the site for the work(s) of art as agreed with the Council, up to a maximum value of £X.”

Commissioning Process

This section of the guidelines is a step by step guide to good principles in the commissioning process. These are recommendations of good practice that reflect the Council's policy on public art.

a) Early planning of projects

Opportunities for commissioning artists and craftspeople should be considered at the earliest stage of a project and wherever possible at the design stage. This enables the greatest potential for artists to contribute to a project, rather than limiting them to prescribed outcomes.

b) Establishing clear management procedures

A steering group and a commission manager should manage each project. The steering group should include representation from all key parties to the commission (this may include the developer, architect, landscape architect, the Arts Development Manager, other local authority officers, and a representative of a community group). The steering group will oversee the commission from start to finish.

The steering group should include a designated commission manager with responsibility for taking care of the detailed management of the commission and organising steering group meetings. The commissioner could give consideration to employing a specialist agency or freelance worker to act as commission manager.

c) Selecting artists

Clear selection procedures should be established for commissions, and artists selected on the basis of the criteria identified in the artist's brief. Selection should be made by open or limited competition, or by direct invitation. A policy of equality of opportunity should be adhered to.

The Arts Development Manager will search for artist locally and nationally (from Axis database, Arts Council South East and the Crafts Council) and, where appropriate, advertise in order to select between 15 and 20 artists for the steering group to select a final 6 for final interviews. There are two options for how this process can work:

1. Short-listed artists to be invited for an on-site discussion and to tender for the commission by submitting a design proposal and project plan. Tender proposals should be paid for (about £500 each); or
2. Artists will be invited to be interviewed, based on their previous work. Expenses and time should be paid for (it is standard practice to pay an artist for this time between £75 and £150 per interview).

d) Establishing a brief

All commissions, however small, should be accompanied by an artist's brief which should aim to foster, rather than restrict, the creativity and imagination of the artist. The artist's brief should include the following information:

- General description of the project
- Aims and objectives of the commission
- Description of the artist's role
- Appointment procedure
- Membership and responsibilities of the steering group
- Details of team members, role and responsibilities
- Management of the project
- Plans for community consultation and involvement
- Maintenance and durability
- Timetable
- Budget
- Artists copyright position and clarifications of ownership
- Planning requirements if needed
- Consideration of risk and impact on local community and amenities

e) Establishing budget

A detailed budget should be included within the artist's brief, which provides details of income and expenditure. A breakdown of the income and expenditure should consider the following:

- Management costs (if any)
- Advertising and selection costs
- Artist's design fee (which will include research and consultation time)
- Artist's commission fee
- Materials and fabrication costs
- Additional consultancy costs (e.g. engineers for risk assessments, installation or fabrication)
- Lighting and signage of the work
- Travel expenses
- Public involvement - workshop and exhibition expenses (if any)
- Insurance and public liability costs
- Costs of installation and site preparation
- Transport and security
- Maintenance
- Documentation, publicity and inauguration costs
- Contingency
- Evaluation

f) Time plans for projects

An example of a time plan is set out below. A time plan should be agreed with the artist and the steering group at the time of signing a contract. It is intended to clarify the intentions and expectations of a project to avoid misunderstandings further down the line.

Responsibilities/ tasks	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
Arts Development Manager												
Select Artists												
Send letters of contract and information packs to artists												
Develop formal contracts												
Administrate Steering Group meetings												
Marketing and small exhibitions												
Create links with local organisations and groups												
Assist in Risk Assessments												
Council insurance												
Studio visits during fabrication												
Assist in installation												
Unveiling/ launch												
Artist												
Research site and how work can be developed												
Work with local people (if appropriate)												
Assist with providing information for publicity and exhibitions												
Design work												
Costing of fabrication												
Present work to steering group												
Work with Arts Development Manager to prepare to report Risk Assessment												
Fabricate work												
Transport work												
Install work												
Steering Group meetings												
Establish Brief												
Select Artists												
Interview Artists												
Meet and brief the artists												
Design consultation												
Contract between all parties												
Design approval												

Responsibilities/ tasks	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
Guide through fabrication and installation												
Payment stages												

g) Community consultation and participation

Commissioners should consider appropriate ways of involving the public in new projects.

These may include:

- Community consultation on schemes
- Artist’s residencies
- Workshops
- Exhibitions
- Presentation and talks

Advice on community involvement can be sought from the Arts Development Manager at Vale of White Horse District Council.

h) Contracts

Commissioned artists should be issued with contractual agreements. All contracts will be drafted and issued by the Vale of White Horse District Council, Legal Services, guided by the model contracts as recommended by the Artists Newsletter (AN publications, PO Box 23, Sunderland SR4 6DG).

It may be necessary for some projects to operate under two phases of contract; one for the research and development phase (which could be a letter of contract) and a second stage to cover the design, fabrication and installation of the work. A possible contract template is set out below.

EXAMPLE ARTIST’S COMMISSION CONTRACT	
DATED: 2006	
The parties to this agreement are:	
THE DEVELOPER	XXXXXXXX
ARTIST	XXXXXXXX
COUNCIL	Vale of White Horse District Council

Abbey House
Abingdon
Oxfordshire
OX14 3JE

Background

1. Under the terms of an Agreement dated **XXXXXXX** made between The Council (1) and The Developer (2) (the Agreement) it was agreed that there would be provided on land at **XXXXXXX site location XXXXXX** (the Development) which is owned by the Developer a Work of Art

2. There were two payments to be made under the Agreement. The sum of **£XXXXX** which was to be paid prior to commencement of development on site and when requested by the Council a further sum of **£XXXXXX**

2. DEFINITIONS

2.1 The Work of Art is the Work of Art and is described in Schedule 1

2.2 The commission fee is the sum paid to the Artist for the Work of Art by the Council

2.3 Completion is when all parties agree that the installation of the Work of Art preparatory works and making good on site to be carried out by the Artist and Developer as set out in Schedule 2 have been completed and certified by the Council no later than

2.4 A defect is any excessive shrinkage or other faults to the Work of Art which appear within the defects liability period and are due to materials or workmanship not in accordance with this Agreement

2.5 The defects correction period is four weeks or such longer period as may be agreed by the parties and defects liability period is 52 weeks from completion

2.6 The programme is the timetable for delivery of the Work of Art as specified in Schedule 3

2.7 The site for the Work of Art is situated in the

[2.8The sub contractors are the consulting structural engineers, the manufacturers and employees of the Artist]

3 OBLIGATIONS OF THE ARTIST

3.1 The Artist will provide the Work of Art as specified in Schedule 1 by the completion date

3.2 Subject to the Developer retaining overall responsibility for the co-ordination of the installation of the Work of Art on site the Artist will comply with his obligations under Schedules 2 and 3

3.3 The Artist will keep the Council fully informed of progress with the project for the duration of the contract

3.4 The Artist will exercise all reasonable skill, care and diligence in undertaking and carrying out the Work of Art

3.5 The Artist will notify the Council and the Developer when the Work of Art has been completed

4 OBLIGATIONS OF THE DEVELOPER

4.1 The Developer will undertake all preparatory site works and making good and will comply with its obligations set out in Schedule 2

4.2 The Developer will allow the Artist and his sub contractors reasonable access to the site, by prior arrangement, for the duration of this contract

5 OBLIGATIONS OF THE COUNCIL

5.1 The Council will pay to the Artist the commission fee of **£XXXXXXX** (inclusive of VAT) for the work of art in the following instalments:-

X
X

5.2 The Artist will provide the Council with an invoice for each instalment and the Council will pay the Artist within 21 days of the submission of the relevant invoice

6 INDEMNITIES AND INSURANCE

6.1 The Artist undertakes that the Work of Art is original and indemnifies the Developer and the Council against any infringement of copyright or other third party rights

6.2 The Artist shall ensure that his sub-contractors provide written warranties in accordance with the structural engineers specifications that the casting and welding processes involved in the construction of the Work of Art will ensure the maximum strength and durability of the Work of Art

6.3 The Artist will insure the Work of Art against loss or damage for the sum of **£XXXXXX**. up to date of delivery to the Development

6.4 The Artist will provide the following insurances when he or his sub-contractors are working on site:-

[6.4.1 Employers Liability cover of £10,000,000 (ten million pounds)]

[6.4.2 Public Liability insurance of £2,000,000 (two million pounds)]

7 BUILDING REGULATIONS

7.1 The Developer will obtain any necessary building regulation approval for the Work of Art

8 TITLE AND RIGHTS TO MATERIAL

8.1 The ownership of the Work of Art will initially be transferred on completion to the Council

8.2 Copyright in the Work of Art will remain at all times with the Artist. The Artist asserts his moral right to be identified as the Artistic creator of the Work of Art in accordance with section 78 of the Copyright Designs and Patents Act 1988 on all occasions when the designs or any permitted reproduction is exhibited, published or issued to the public

8.3 The Developer and the Council shall each have a non-exclusive royalty free licence to make or authorise to be made any photograph of the Work of Art and to include or authorise the inclusion of the Work of Art in any record, publication, film, video or television broadcast intended to promote the Work of Art, excluding sales to others or other commercial exploitation

8.4 The Developer and the Council shall credit the Artist as creator of the Work of Art whenever it is reproduced, published or exhibited by the Developer or contractor

9 DEFECTS

9.1 The Artist shall make good entirely at his own cost any defect in the Work of Art notified to him in writing by the Council within the defects correction period within the defects liability period

10 MAINTENANCE

10.1 The Artist will submit a maintenance schedule for the future maintenance of the Work of Art to the Council on completion for consideration by the Council

10.2 The Council will be responsible for maintaining the Work of Art after completion in accordance with the terms of the Agreement

11. TERMINATION AND DISPUTES

11.1 The Artist may terminate this contract if the Council is in default of any of its obligations under this contract and fails to remedy the default within a 10 day period following written notification by the Artist of the default

11.2 The Council may terminate this contract if the Artist is in default of any of his obligations under this contract and fails to remedy the default within a 10 day period following written notification by the Council of the default

11.3 In the event of the termination of this contract under clause 11.1 and 11.2 the Council will pay to the Artist the fees under clause 5 on a pro-rata basis for all work completed in accordance with Schedule 1 at termination

11.4 No party shall be treated as being in default under this contract for any failure to perform its obligations under this contract caused directly or indirectly from any act of god, act or consequence of war, enemy action, fire, terrorism, riots, civil commissions, strikes, lock-out, local disturbances, requisitions by or under the order of government or public or Council or any other cause beyond the control of the parties

11.5 Any party to this contract may refer any dispute arising under or in connection with this contract to a mediator nominated by Southern and South East Arts being part of the Regional Arts Council for settlement. Each party shall bear its own costs in connection with such referral

11.6 Should the Artist die or become incapacitated before completion the Artist’s successor in title will be entitled to receive and retain payment for all work done by the Artist pursuant to this contract. The Council will own all work done up to the death or incapacity of the Artist forming part of the Work of Art and will have the right to finish the Work of Art to the original design via the Artist’s nominee

Signed by

..... (all parties)

In the presence of

.....

Signed by

etc

i) Risk Assessment of the work

Full risk assessments for large works of art should be completed with the assistance of structural engineers. However at the design proposal stage obvious risks to the work and to

members of the public should be acknowledged and considered. An example of a risk assessment used in a previous public art project is set out below.

Area of risk	Detail of risk	Consideration of risk	Action
Workshops	Workshop space		Basic Health and safety procedures will be applied to space
	Tools		Smaller and less heavy tools (hammers and chisels) have been purchased for use by the public
	Children at workshops		
	Other risks		All participants will be briefed in the hazards of working in this way.
The sculpture in situ	Materials		
	Shape		
	Size		
	Form and wholes		
	Installation		
	Ground preparation needed		
Long term risks	Weather/ natural elements risk		
	Human risk		
	Public Liability		

j) Evaluation and Documentation

If the District Council has directly managed the project the Council's Arts Development Manager will write an evaluation report that documents the process and success of the project. Commissions should be documented at key stages of the project and the Arts Manager of the District Council should keep a set of images. Leaflets and postcards of the projects should be considered as this assists with the publicity and profile of the project and increases the longevity of the publicity and public profile of the work.

