

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **HOUSING OVERVIEW & SCRUTINY COMMITTEE**

DATE: **WEDNESDAY, 15 OCTOBER 2014**

REPORT BY: **CHIEF OFFICER (COMMUNITY AND ENTERPRISE)**

SUBJECT: **USE OF COMMUTED SUMS**

1.00 **PURPOSE OF REPORT**

1.01 To seek the support and views of Members for the proposed utilisation of commuted sums (derived for the purposes of providing affordable housing).

2.00 **BACKGROUND**

2.01 A commuted sum is an amount of money paid by a developer to the council, where the size or scale of a development triggers a requirement for affordable housing (24 units or one hectare), but it is not possible to achieve appropriate affordable housing on the site.

2.02 This route will be followed only where more direct provision of affordable homes has been explored and the council is satisfied that it is not workable given the particular circumstances.

2.03 The money will be used to provide affordable housing on an alternative site. It is therefore appropriate that the level of payment should relate to the financial value a developer would have to expend to meet the cost of the council's 30% on site provision.

2.04 The principles applied in the collection and use of these payments are very similar to those for other planning obligations. They will be dealt with through a legal agreement (under section 106) related to the land, which triggers obligations once the specific planning permission is implemented.

3.00 **CONSIDERATIONS**

3.01 **What is the council's approach to the use of commuted sums?**

Government policy states it is always assumed that affordable housing will be provided on the land which is the subject of a planning application, in order to contribute to mixed communities. This is supported by Welsh Government Technical Advice Note (TAN) 2 Planning and Affordable Housing.

- 3.02 However, where it can be justified, off site provision, or a payment in lieu, of broadly equivalent value of providing the affordable housing on site may be accepted, as long as it will contribute to the creation of mixed communities in the local authority area. This acknowledges affordable housing need to be an authority wide issue, although in the first instance the council will review priorities for it in terms of local needs and pipeline schemes at the time.
- 3.03 Flintshire County Council Policies HSG3, HSG5, HSG10 & HSG11 enables the council to accept a commuted sum towards the provision of affordable housing on an alternative site where it is not possible to incorporate affordable housing within a scheme.
- 3.04 However, where a commuted sum is to be considered the onus is placed on the applicant to demonstrate why it is not possible to provide the affordable housing on site. The applicant also needs to show that other options, such as cross subsidy between rented and shared equity/shared ownership units and providing the affordable housing on another site have been considered and why they were discounted.
- 3.05 If the applicant cannot make the scheme work including the level of affordable housing contribution (whether related to the affordable homes equivalent it is based on, or the sum calculated) or that the affordable homes cannot be delivered on the application site; a financial appraisal should accompany the planning application to justify the proposed revised approach and the scope the scheme offers.
- 3.06 The council may need to seek independent scrutiny of this evidence to satisfy itself that the assumptions within it can be agreed in terms of the payment. Payment for such advice will usually be paid for by the developer. The rationale for this is that the council has a planning policy which the applicant is seeking not to comply with, with respect to a particular scheme. In order to assess the applicant's appraisal, if the council needs to seek advice, it is reasonable for the applicant to bear the costs in these circumstances.

3.07 How will the money be used?

The council will use financial commuted sums in a number of ways and will require the flexibility to do so to be reflected in its approach and in the S.106 agreement. Where such contributions are accepted, the strategy (Flintshire's Local Planning Guidance Note No.9) will continue to provide an additional affordable housing enabling tool, which is important in terms of the current uncertain investment climate.

3.08 Commuted sums will be earmarked to enable the provision of affordable housing through a variety of means e.g.

1. Financial contribution towards the development of both affordable rented accommodation and low cost home ownership schemes.
2. The development of supported housing schemes at affordable rents and key worker initiatives.
3. Initiatives that support regeneration projects such as offering loans to tackle empty homes or poor housing conditions, in return for affordable housing nominations for an agreed number of years.
4. Affordable self-build projects.
5. The purchase of land for affordable housing.
6. Mortgage Rescue
7. Top up and/or replacement of Social Housing Grant (SHG)

3.09 An element of each commuted sum may also be used to contribute towards the council's revenue and associated administration costs in facilitating the above and/or developing a more strategic approach to affordable housing policy and investment across the county.

3.10 Wherever possible the policy of the council will be to spend monies derived from commuted sums within the same Community Council area as they were generated. However, it is recognised that exceptions to this policy may be required where: -

1. There are no feasible suitable sites available within the locality, nor are they likely to become available within five years of receipt of the commuted sum.
2. An affordable housing development opportunity arises within a neighbouring Community Council area and the affordable housing provided on the alternative site would be of greater or equal benefit in meeting the housing need.
3. No suitable sites have become available and there are two years or less remaining before the sum must be spent or returned to the developer. In such circumstances, subject to the terms of any legal agreement entered in to with the developer, the commuted sum can be spent on supporting affordable housing within an adjoining community council area. If no suitable sites/housing need exists within the immediate adjoining areas then this test will be sequentially applied to neighbouring areas until such a site/need is identified.

3.11 How will this be monitored?

A record will be kept and monitored of all sums received and how they have been spent, via the council's monthly capital monitoring exercise.

3.12 As previously outlined these arrangements will be the subject of an agreement under Section 106 of the Town and Country Planning Act 1990.

3.13 Generally, the council will expect the following to be incorporated in the S.106 agreement: -

1. The agreed sum to be index linked on an annual basis from the date of the Committee resolution on the planning permission until the date of the actual payment. S.106 agreements can take time to complete so it will be important for applicants to consider the requirements at an early stage, working closely with the council.
2. The timing/trigger for the payment to be made, for example on the commencement of the development; or 50% on commencement and 50% when 50% of the units have been sold/occupied. The specifics of this to be discussed and agreed.
3. Penalty interest will be payable on late payments.
4. The council will have up to 5 years from when the sum was received in which to spend the contribution.
5. Priority will be given to schemes that provide affordable housing in the same community council area as the sum was received (subject to the sequential test as set out in paragraph 3.10).

3.14 How will this be managed?

1. The council will use commuted sums to develop affordable housing within 5 years from the date the sum was received.
2. The council will return un-spent commuted sums, with accrued interest to the developer, if they are not spent for the purposes for which they were sought within a 5 year period from the date the money is paid to the council.
3. The values of commuted sums will need to be regularly updated. The approach and assumptions will be monitored and reviewed if necessary, depending on delivery experiences. In any event, the approach is intended to cope with an element of flexibility in its application.
4. The payment is to be index linked from the date of the Agreement to the date the money is due to be paid to the council.
5. The council will normally aggregate financial contributions from different sites and will spend the contributions in the way that best achieves the council's and local community's priorities for affordable housing. The number of units resulting from expenditure may be more or less than the number of units used to calculate the contribution as dwelling types, tenure, specifications and other aspects will vary from scheme to scheme.

4.00 RECOMMENDATIONS

- 4.01 That Members support the process for the acceptance, calculation use of commuted sums as outlined in this report and Local Planning Guidance Note No.9 – Affordable Housing
- 4.02 That a further review of this Policy take places in April 2015, with view to implementing the Community Infrastructure Levy (CIL), which when implemented will replace the Section 106 commuted sums regime.

5.00 FINANCIAL IMPLICATIONS

- 5.01 The council is in receipt of financial contributions for affordable housing arising through S.106 obligations. The council currently holds £400,000 of commuted sums which are held separately from council funds are linked to their originating schemes so that legal obligations in respect of those sums can be met.

6.00 ANTI POVERTY IMPACT

- 6.01 Commuted sums are used for the provision of affordable housing giving access to a home for those who may not otherwise be in a position to afford one.

7.00 ENVIRONMENTAL IMPACT

- 7.01 All affordable homes built meet modern standards for energy efficiency. The environmental impact is also considered and mitigated during the construction phase.

8.00 EQUALITIES IMPACT

- 8.01 The provision of affordable housing ensures that all of the county's residents have a greater opportunity access their own home.

9.00 PERSONNEL IMPLICATIONS

- 9.01 There are no personnel implications arising as a result of this report.

10.00 CONSULTATION REQUIRED

- 10.01 No consultation is required.

11.00 CONSULTATION UNDERTAKEN

- 11.01 No consultation has been undertaken.

12.00 APPENDICES

12.01 Local Planning Guidance Note No.9 – Affordable Housing

LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS

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