

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **CABINET**

DATE: **TUESDAY, 16TH JUNE 2015**

REPORT BY: **CHIEF OFFICER (COMMUNITY AND ENTERPRISE),**
CHIEF OFFICER (PLANNING AND ENVIRONMENT)

SUBJECT: **USE OF COMMUTED SUMS**

1.00 PURPOSE OF REPORT

- 1.01 To seek the approval of Cabinet for the proposed utilisation of commuted sums (derived for the purposes of providing affordable housing).
- 1.02 To seek approval for a revision to Local Planning Guidance No.9 in respect of 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 of the proposed development.
- 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, as defined by policy HSG10 of the Unitary Development Plan.
- 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 in the first instance, it is always assumed that affordable housing will be provided on the site 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 needs 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 Unitary Development Plan 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 financially 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 would ideally 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 Section 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. Local Planning Guidance Note 9 was recently the subject to amendments at the Planning Strategy Group meeting on 22nd May 2015. A tracked changes version of LPG9, showing the amendments agreed by Planning Strategy Group is appended to this report.

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 Grant to support Social Housing Development.

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. In addition the Council's Assets Programme Board will receive reports and act as the approving body for schemes.

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. Section 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 Cabinet approve the process for the acceptance, calculation use and monitoring of commuted sums as outlined in this report and Local Planning Guidance Note No.9 – Affordable Housing
- 4.02 That Cabinet approve the revised Local Planning Guidance Note No.9 as appended to this report.

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 Number 9 – Affordable Housing (Revised) Amendments shown are approved by Planning Strategy Group.

LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS

None.

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