

CABINET

12 JUNE 2018

USE OF COMMUTED SUMS - IN LIEU OF ONSITE AFFORDABLE HOUSING DELIVERY

Portfolio Holder:	Councillor Howard Doe, Deputy Leader and Housing and Community Services
Report from:	Richard Hicks, Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive
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This report sets out proposals for how commuted sums received in lieu of affordable housing will be spent by Medway Council.

1. Budget and Policy Framework

- 1.1 Medway Council and Government policy is for affordable housing to be provided on site to meet housing need and create mixed sustainable communities. The process for achieving this is via the Council's section 106 negotiation process.
- 1.2 When the Council is unable to achieve the contribution as built units, a commuted affordable sum can be sought from the developer to enable the delivery of affordable housing on another site. Approval of this Policy, which is a matter for Cabinet, will provide the basis for when it will be appropriate to seek a commuted sum, how it will be calculated and how it will be spent. The Policy is consistent with the Council's planning policies.

2. Background

- 2.1 Currently, affordable housing will be sought by Medway Council on residential developments of 25 or more dwellings, or developments with a gross site area of 1 hectare or more in urban areas in accordance with the Council's Developers Contribution guidelines.
- 2.2 It will also be sought on developments of 15 or more dwellings on developments with a gross site area of 0.5 hectare or more in rural settlements with a population of 3,000 or less. Medway Council's target is to seek a minimum of 25% affordable homes with a tenure mix of 60% affordable

rent and 40% shared ownership. The target is the baseline for negotiations for affordable housing on suitable developments.

- 2.3 Where it has been robustly tested and proven that affordable housing cannot be delivered onsite as set out above, a commuted sum may be accepted. Acceptance of the sum is subject to it being of a value that contributes towards meeting housing needs, comparable to the level that would have been met with on site delivery.
- 2.4 The Council will seek independent scrutiny via a planning consultant of all proposed sums to satisfy itself that the assumptions within it can be agreed in terms of the payment. Payment for such advice will be funded by the developer. In all cases, the decision on whether to accept a financial contribution rather than on site provision will be at the Council's discretion.
- 2.5 The principles applied in the collection and use of commuted sums will be the same as those for other financial planning obligations. They will be secured and dealt with under a Section 106 agreement for the site. The payments will be due when triggers and obligations on the specific planning permission are met.
- 2.6 To date commuted sums have been negotiated on 3 sites for the following amounts:
 - Victory Pier - £500,000 – Overage buy out received in lieu of affordable housing as no registered providers were able to reach the agreed value per affordable received August 2017.
 - Darland Farm - £1,875,000 – Commuted sum in lieu of 11 affordable units negotiated. 50% of the total sum will be paid on the first occupation of the first dwelling and the remaining 50% on the occupation of the 22nd unit.
 - Chatham Waterfront - £655,000 – Commuted sum in lieu of affordable housing agreed on viability grounds. Payment Schedule to be agreed upon full planning permission.
- 2.7 Once each commuted sum is received, Medway Council has 5 years to spend the sums or return them to the developer with interest.
- 2.8 The principles applied in the collection and use of commuted sums will be the same as those for other financial planning obligations, in that they will be secured and dealt with under a Section 106 agreement for the site. The payments will be due when triggers and obligations on the specific planning permission are met. Spend of the sums will be monitored through the Council's housing strategy on a quarterly basis.

3. Advice and analysis

- 3.1 The Cabinet is asked to agree the policy, set out at Appendix 1 to the report, for reasons set out below.
- 3.2 The proposed Policy and proforma are set out in Appendices 1 and 2 to the report. The proposed different funding options have the potential to deliver a

variety of different units for different tenures to meet the needs of Medway's residents.

- 3.3 Medway currently has a high need for affordable rented accommodation with 355 households in Temporary Accommodation at the end of April 2018. Changes in Homes England funding, Medway's Local Housing Allowance Rates and the rent reduction for affordable rented homes have made it difficult for registered providers to deliver Affordable Rented units.
- 3.4 In Medway, the average offer from Registered Providers for rented units is 35% of the open market value compared to 80% for a Shared Ownership unit.
- 3.5 Schemes selected for funding using commuted sums will be appraised on their own merits with an ambition to provide a range of tenures to meet the needs of Medway residents.
- 3.6 Where contributions have been accepted by the Council, they are to be used only for the purpose of delivering affordable housing. Commuted sums could be earmarked to enable the provision of affordable housing through a variety of means, such as:
- To support the new build development of affordable housing or create additional, larger or a different tenure mix within the existing stock.
 - To provide Gap Funding on schemes in order to make it possible for a higher proportion of affordable homes.
 - To fund extra units of affordable housing on alternative sites or additional units outside of those secured under the S106 agreement.
 - To contribute to forward funding / kick-starting of schemes or to reducing funding gaps within pipeline / current affordable housing schemes and other similar initiatives according to scheme circumstances and the funding climate.
- 3.7 A Diversity Impact Assessment has been undertaken on the proposals, as set out in Appendix 3 to the report.

4 Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Committed sums are not spent or assigned	Medway Council has 5 years from the date of receiving the commuted sum in which to spend or assign the funds. After 5 years has passed if the sums remain unspent they must be returned to the developer plus interest accrued.	Monitor the spend and the dates the fees are received.	D3

Risk	Description	Action to avoid or mitigate risk	Risk rating
Developer challenging the spending of the commuted sum	There is a risk that the developer may challenge the way the sums have been spent or what they have been spent on.	Monitor and keep all records in relation to spend and to adopt the policy for spending commuted sums.	E3

5 Consultation

- 5.1 Positive discussions have taken place with Affordable Housing Providers operating in the Medway area. The discussions highlighted some of the possible options for spending the fees to deliver affordable homes.
- 5.2 Discussions have also taken place with modular construction companies around the provision of specialist units created for use as Temporary Accommodation.

6 Financial implications

- 6.1 Once received, the sums are ring-fenced for spending only on affordable housing. If after 5 years they are not spent, they must be returned to the developer plus any interest accrued.
- 6.2 Failure to spend the funds on replacing the provision would likely lead to an increase of applicants on the housing waiting list and an increase to households in temporary accommodation.

7 Legal implications

- 7.1 As set out above, the collection and use of any commuted sum must be in accordance with the requirements of the S106 agreement, which requires its payment. Commuted Sums can only be collected from sites that would be required to provide Affordable Housing in accordance with the Council's Planning Policies

8 Recommendation

- 8.1 The Cabinet is asked to agree the Utilisations of Commuted Sums Policy, as set out in Appendix 1 to the report.

9. Suggested reasons for decision

- 9.1 Approval of the Policy will allow the allocation of commuted sums to deliver affordable housing to meet the housing need of Medway's resident's. Delivering new homes will reduce the financial burden placed on the Council for placing households in temporary accommodation.

Lead officer contact

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Appendices

Appendix 1 - Utilisation of commuted sums policy

Appendix 2 - Medway Council Commuted Sum Bid Proforma

Appendix 3 - Commuted Sums Diversity Impact Assessment

Background papers

Medway Guide to Developer Contributions and Obligations 2018
https://www.medway.gov.uk/downloads/file/2745/medway_guide_to_developer_contributions_and_obligations_2018