

Affordable Housing Commuted Sum Position Statement

For Cabinet on 21 September 2023

Summary

Lead Member: Cllr Hugo Pound – Cabinet Member for Housing and Planning

Lead Director: Paul Taylor- Director of Change and Communities

Head of Service: Gary Stevenson – Head of Housing, Health and Environment

Report Author: Tobi Phillips – Affordable Housing and Enabling Officer

Classification: Public document (non-exempt)

Wards Affected: All

Approval Timetable	Date
Management Board	21 August 2023
Portfolio Holder	02/09/2022
Communities and Economic Development CAB	6 September 2023
Cabinet	21 September 2023

Recommendations

Officer / Committee recommendations as supported by the Portfolio Holder:

1. That the Cabinet approves the Affordable Housing Commuted Sum Position Statement in order to set guidelines when calculating and negotiating a commuted sum in lieu of the onsite delivery of affordable housing.
2. That delegated authority be given to the Head of Housing, Health, and Environment, in consultation with the Portfolio Holder for Housing and Planning, to make any minor amendments to the Affordable Housing Commuted Sum Position.

1. Introduction and Background

- 1.1 A commuted sum is an affordable housing contribution, paid by a developer to a local authority, where the size or scale of development triggers a requirement for affordable housing, but due to set variables, the delivery of affordable housing on-site isn't considered to be viable. A commuted sum is therefore paid in lieu of on-site affordable housing to meet local needs. A sum is negotiated and agreed between the council and the developer for the purpose of providing affordable housing on an alternative site in the local authority.
- 1.2 Acceptance of commuted sums had been a rare occurrence for the council, as affordable housing has generally been delivered on-site. The council had not previously set out procedures on how commuted sums in lieu of affordable housing should be calculated. The council has now received a substantial number of commuted sums within the last couple of years and there is a likelihood that in the future commuted sum payments will happen on a more regular basis due to the economic climate with high increases of labour and material costs resulting in the delivery of onsite affordable housing becoming less financially viable which will lead to the total value of commuted sum continuing to grow.
- 1.3 The requirement for a commuted sum to be paid in lieu of on-site delivery of affordable housing is secured via S.106 planning agreements. Negotiations between the local planning authority and the developer of a site will usually take place at early pre-planning stage
- 1.4 The collection, monitoring, reporting and assignment of S106 affordable housing contributions is now at a stage where the processes would benefit from being refined and more structured like with other Kent Council authorities, such as Sevenoaks District Council and Ashford Borough Council

2. Current position of contributions

- 2.1 The current economic climate poses greater challenges in site viability, as such, there is a greater emphasis on utilising collected commuted sums to meet council objectives to deliver more affordable housing throughout the borough.
- 2.2 Commuted sums, therefore, provide a valuable opportunity for the council to ensure that where delivery of affordable housing on a site isn't viable, alternative provisions can contribute towards the councils' aims of delivering and facilitating more affordable housing to meet local needs.
- 2.3 The council currently holds a total of £5.083 m in affordable housing contributions. Many of these contributions do not have a date specified within the planning agreement by which they must be spent. Where a date has been specified for the contributions to be spent, these range from April 2027 through to August 2031.

- 2.4 Inflation rises across the housing sector which includes several factors such as lending rates, demolition costs, material and labour costs propose greater challenges in the viable delivery of affordable housing within the borough as such there is a greater importance that Local Planning authorities receive a commuted sum amount in lieu of onsite delivery of affordable housing that is of appropriate value.

Affordable Housing Commuted Sum Position Statement

- 3.1 The affordable housing commuted sum position statement aims to provide guidance to developers, Housing Associations and other Registered Providers on the Council's approach to how and when commuted payments in lieu of on-site affordable housing will be considered.
- 3.2 Only in exceptional circumstances will a financial contribution in lieu of on-site affordable housing provision (or broadly equivalent cost) be accepted. This would need to be robustly justified in accordance with the National Planning Policy Framework and may only be accepted if the agreed approach contributes to the creation of mixed and balanced communities.
- 3.3 The position statement sets out two methodologies of calculating commuted sums in lieu of affordable housing.
- 3.4 The calculations consider several variables such as house type, cost of land purchase, postcode area etc to ensure the council is receiving the full value in commuted sum for the provision of onsite affordable housing.
- 3.5 In conjunction with the position statement a commuted sum calculator has been developed utilising the methodologies in the position statement to calculate commuted sums efficiently and accurately.
- 3.6 The key principle underlying the position statement and calculator is that the developer of a scheme should be no worse or better off financially whether they provide the affordable housing on-site or as a commuted sum.
- 3.7 The Commuted Sum Calculator does not assess whether the scheme can afford the policy-compliant amount of affordable housing. Where a developer claims that a scheme is not viable this will be assessed separately through a full analysis of costs and revenues in accordance with planning policy.

4.0 Options Considered

- 4.1 **Option 1** - The Council authorise the use of the affordable housing commuted sum position statement to enable a consistent and uniform guidance method to form a basis of negotiations when calculating commuted sums in lieu of affordable housing further ensuring the council is requesting the full amount value necessary to deliver offsite affordable housing where the delivery of the affordable housing provision is deemed not viable. allowing for minor amendments to be approved by the portfolio holder adjusting for consultation with finance viability consultants. Any major amendments or difference in methodology to be presented to cabinet.
- 4.2 **Option 2** - The Council continues without the affordable housing position statement commuted sum position statement. This means continuing to have an informal ad-hoc arrangement in place regarding how commuted sums are calculated, which potentially risks the council not receiving enough value of offsite affordable housing to deliver other forms of affordable housing equating to less affordable housing being delivered throughout the borough.

5.0 Preferred Option and Reason

- 5.1 **Option 1** is the preferred option that cabinet approve affordable housing position statement commuted sum position statement, as this will provide a transparent mechanism for calculating commuted sums taking into account factors such as the location in the borough of the site and the dwelling type site delivers, which will be beneficial to the local planning authority in making planning decisions addressing affordable housing objectives, also allowing for Head of Housing, Health, and Environment, in consultation with the Portfolio Holder for Housing and Planning, to make any minor amendments to the Affordable Housing Commuted Sum Position.

6.0 Consultation on Options

- 6.1 The Commuted Sum position statement and spending policy have been written with consultation from the Kent Housing Group's Strategic Housing and Enabling Subgroup, and with other Kent Local Authorities adopting similar strategies therefore in a position to provide guidance and framework in Affordable housing commuted sums policies and procedures.
- 6.2 D

Recommendation from Cabinet Advisory Board

- 6.3 The Communities and Economic Development Cabinet Advisory Board were consulted on 6 September 2023 and agreed the recommendations set out in the report be supported.

7.0 Implementation

- 7.1 The Commuted sum policies will be digitally available for access to various stakeholders such as Developers and Registered providers.

3. Appendices and Background Documents

Appendices:

- **Appendix A:** Affordable Housing Commuted Sum Position Statement
- **Appendix B:** Affordable Housing Fund Request Form

4. Cross Cutting Issues

A. Legal (including the Human Rights Act)

Affordable housing position statement should be helpful in calculating the commuted sums and give clarity on spend with in the current climate, and with small quantum's of affordable units not always appealing to RPs, this sort of guidance can be very helpful.

Cheryl Parks Senior Legal advisor Planning- 24/08/2023

B. Finance and Other Resources

Providing Developers with clarity of the methodology to calculate Affordable Housing Commuted Sums should support transparency and help them plan financially to deliver new sites. The calculation methodology adopted in this report is the same as other Districts in Kent, but some consultancy work is being undertaken to verify that this is the most appropriate method for Tunbridge Wells. If there are small amendments that are proposed, they can be made as per recommendation 2, otherwise the report will return to Cabinet.

Jane Fineman Head of Finance and Procurement 29/08/2023

C. Staffing

The Affordable housing commuted sum spending policy will have no implications to staffing.

Tobi Phillips Affordable Housing and Enabling Officer 03/08/2023.

D. Risk Management

The risk in relation to commuted sums the council currently faces

Risk	Consequence	Controls required
Risk of having to return	Loss of existing funding Less affordable Housing delivered.	The recommendations outlines a route to enable the best use of funding, to maximise opportunities

<p>unspent commuted sums, plus interest, in the Council's Affordable Housing Fund if not utilised in a timely manner.</p>		<p>presented through the Affordable Housing Fund and achieve best value for residents.</p>
<p>The increased risk that the delivery of affordable housing in planning applications is increasingly becoming less viable due to economic factors and the council doesn't have procedures in place to optimise commuted sums for affordable housing</p>	<p>Inadequate funding Less affordable housing delivery</p>	<p>The Affordable housing commuted sum policies set out clear calculations for affordable housing which take into account socio-economic variables.</p> <p>Commission viability report that sets out a framework of improving site planning viability</p>

Tobi Phillips Affordable Housing and Enabling Officer **03/08/2023**

E. Environment (inc. Biodiversity) and Sustainability

The Affordable housing commuted sum spending policy help to ensure that the council is receiving the equivalent value in sums for the provision of affordable housing to be utilised to assist in the delivery of affordable housing. Environmental factors such as energy-efficient building requirements and the overall impact a development may have on the surrounding environment will be taken into consideration in any decision to fund affordable housing developments

Tobi Phillips Affordable Housing and Enabling Officer 03/08/2023.

F. Community Safety

The Affordable housing commuted sum spending policy has no implication for community safety or crime with the borough

Tobi Phillips Affordable Housing and Enabling Officer 03/08/2023.

G. Equalities

The Affordable Housing commuted sum spending policy has no equality implications for the council

Tobi Phillips Affordable Housing and Enabling Officer 03/08/2023.

H. Data Protection

The Affordable Housing commuted sum spending policy on data protection.

Tobi Phillips Affordable Housing and Enabling Officer 03/08/2023.

I. Health and Safety

The Affordable Housing commuted sum spending policy has no Health and Safety implications for the council.

Tobi Phillips Affordable Housing and Enabling Officer 03/08/2023.

J. Health and Wellbeing

The Affordable Housing commuted sum spending policy help to ensure that any decision to request or spend affordable housing commuted sums is to enhance the community of Tunbridge Wells therefore having a positive impact on the health and wellbeing of households in housing need.

Tobi Phillips Affordable Housing and Enabling Officer 03/08/2023.