



## REGENERATION AND ENVIRONMENT SCRUTINY COMMITTEE – 17TH JULY 2012

**SUBJECT: COMMUTED SUMS FOR HIGHWAY MAINTENANCE**

**REPORT BY: CHIEF EXECUTIVE**

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### **1. PURPOSE OF REPORT**

- 1.1 To seek Members comments on the principle of charging developers commuted sums to cover the future maintenance costs of non-standard highway apparatus offered for adoption by them and the time period to be covered by such commuted sums.

### **2. SUMMARY**

- 2.1 The report recommends a consistent approach to the determination and calculation of commuted sum payments from developers for future maintenance aspects of adopted highway assets.

### **3. LINKS TO STRATEGY**

- 3.1 The Council, as Highway Authority, enters into Highway Agreements with Developers to adopt newly built roads that are constructed to its satisfaction for future maintenance at public expense.
- 3.2 Engineering Services Division objective: to represent and safeguard highway users' interests against activities and development detrimental to users.

### **4. THE REPORT**

- 4.1 The Council in its role of Highway Authority has a statutory responsibility for the management and maintenance of the highway network that includes a need to keep the network safe for its users. Traditionally, highway maintenance budgets have been insufficient to meet the real needs of the network and developers have not fully contributed to the true cost of maintaining non-standard highway infrastructure.
- 4.2 The rationale for seeking commuted sums for future highway maintenance and associated works is to ensure that Highway Authorities have the resources to cover the upkeep and, where appropriate, the replacement of the assets they have adopted from developers and for which the additional funding received from Welsh Government through Revenue Support Grant is insufficient.
- 4.3 A commuted sum is a one-off payment of a capital sum as a contribution towards the future maintenance of an asset to be adopted. Commuted sums generally relate to payments made by developers through Section 106 Planning Agreements (under the Town & County Planning

Act) or Highway Agreements (under the Highways Act) for the maintenance of 'non-standard' and 'extra-over' highway features brought about as a result of development activity that place an extra burden on the maintenance budget. The payment of the commuted sum discharges the developer of any future maintenance responsibility for the adopted assets.

- 4.4 For some time, commuted sums have been required to cover the maintenance of such items as highway structures, traffic signals, signalised pedestrian crossings and drainage assets, but it is proposed that many other items should be charged for, such as enlarged areas of highway at a road junction or a shared surface housing square, for materials used outside the usual Specification, for heritage lighting systems, for any sustainable urban drainage system to be adopted by the Highway Authority and flood risk management measures.

#### Calculation of the Commuted Sum

- 4.5 The calculation of a commuted sum depends upon:

- The estimated periodic maintenance cost of the asset to be adopted.
- Its future cost of renewal or replacement.
- The time period before expenditure will be incurred.
- The length of time to be covered by the commuted sum and,
- The effective annual interest rate that will provide a return on the sum invested prior to its expenditure after the effects of inflation have been taken into account (called a discount rate).

- 4.6 A zebra crossing provides a useful illustration of the type of costs to be incurred: from day 1 the flasher units will consume electricity each day, the unit will require cleaning every other year, electrical testing is required every sixth year, the flasher unit and globe will require replacement every ten years whilst the supporting post will need to be renewed after 25 years. If the commuted sum required to cover these costs is to cover a greater period of time than 25 years, all these costs and time periods need to be accommodated by the calculation.

- 4.7 Back in 2002 the Cabinet and Council resolved to apply a 150-year period for commuted sums in respect of structures. This period was suggested because the interest gained on the sum invested effectively 'reduces' future costs and on this basis all future costs after 150 years are also covered. Also of relevance is the assumption that structures will have a lifespan of 120 years, so a commuted sum covering 150 years would provide the finance for a replacement structure within its calculation.

- 4.8 The Association of Directors of Planning and Transport (formerly the County Surveyors Society) recommends commuted sums for structures should be calculated to cover a 120 year period and that the period for other items should be 60 years. Appendix 1 illustrates the current approach to commuted sums of all Welsh Unitary Authorities.

- 4.9 Given that the ratio between 120 years and 60 years is 2:1 and that Caerphilly has already adopted a period of 150 years for its structures, it is recommended that a period of 75 years be used in the calculation of commuted sums for all items other than structures, for which the existing 150 year period should remain.

- 4.10 Also for calculation purposes where enlarged areas of highway are proposed, it is recommended that the standard construction should be taken to be a 5.5m wide carriageway with two 2.0m wide footways.

- 4.11 A proposed list of items for which commuted sums should be calculated, with prices based on a 75-year period, is attached as Appendix 1. The Commuted Sums shown thereon are based on 2011 prices and these would need to be updated each year. This will need to be reviewed annually to ensure the sums remain up to date and that any additional items are added. The lengths of time charged in respect of commuted sums by other Welsh Councils are also listed in Appendix 1.

## **5. EQUALITIES IMPLICATIONS**

- 5.1 An **Eqla screening** has been completed in accordance with the Council's Equalities Consultation and Monitoring Guidance and no potential for unlawful discrimination and/or low level or minor negative impact have been identified, therefore a full Eqla has not been carried out.

## **6. FINANCIAL IMPLICATIONS**

- 6.1 All commuted sums received will be retained within the Engineering Services Division's budgets to help reduce the deficit in the Highway Maintenance budget. An actual figure cannot be calculated or even estimated because the amount received depends on the character and quantum of work undertaken by developers.

## **7. PERSONNEL IMPLICATIONS**

- 7.1 None.

## **8. CONSULTATIONS**

- 8.1 As listed below.

## **9. RECOMMENDATIONS**

- 9.1 The views of the Scrutiny Committee are sought for the following recommendations:
- 9.1.1 That all developers entering into Highway Agreements with the Highway Authority be charged commuted sums via the legal agreements entered into for the future maintenance requirements of the works constructed by them and adopted by the Highway Authority for the costs associated with non-standard features that are not 'covered' by the Revenue Support Grant.
- 9.1.2 That the time period to be used in calculating the commuted sums for all other items than structures should be 75 years.
- 9.1.3 That the time period to be used in calculating the commuted sums for highway structures should remain at 150 years.
- 9.1.4 That officers review and update, as considered necessary, the calculated commuted sums in Appendix 2 annually and the need for any additional items.
- 9.1.5 That all commuted sums monies received be retained within Engineering Services Division budgets for future expenditure on highway maintenance use and in the specific asset categories, for structures and non structures.
- 9.1.6 That 'standard' construction be taken to mean a 5.5 metre wide carriageway with two 2.0 metre wide footways and street lighting.
- 9.1.7 That Members endorse the recommendations within the report, prior to consideration by Cabinet.

## **10. REASONS FOR THE RECOMMENDATIONS**

10.1 Definition of the circumstances from which commuted sums would be become chargeable.

## **11. STATUTORY POWER**

11.1 Ss.38 & 278, Highways Act 1980.

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Background Papers: Previous 2002 report to Cabinet on Commuted Sums for Highway Structures (Minute 1227 of 29 January 2002 and Council Minute No. 1621 of 7th March 2002 refers)

Appendices:  
Appendix 1 Current Welsh LA's Approach To Commuted Sums  
Appendix 2 Commuted Sums Item List with Costs