



## CABINET – 10TH JULY 2019

**SUBJECT: INFRASTRUCTURE DEVELOPMENT – COMMUTED SUMS**

**REPORT BY: CORPORATE DIRECTOR FOR EDUCATION AND CORPORATE SERVICES**

---

- 1.1 The attached report, which outlined proposals relating to the charging of commuted sums payable by developers for future maintenance and associated works of eligible assets, was considered by the Environment and Sustainability Scrutiny Committee on 25th June 2019, ahead of its presentation to Cabinet.
- 1.2 Members were advised that in view of the current variation in the use and application of commuted sums by different services within the council, it was recommended that a consistent approach be adopted for calculating commuted sum payments from developers for the future maintenance and replacement of adopted assets. Given the increasing emphasis on providing sustainable development and sustainable places to live, local authorities and other public bodies are facing increased pressures which would normally preclude such enhanced developments from being maintained to the appropriate standard unless payment is sought from the developer for the costs involved.
- 1.3 It is intended for both the local authority and developers to use the commuted sum methodology, which will provide a transparent and consistent approach to the calculation of commuted sums, and will place no unacceptable burden on CCBC maintenance budgets or the public purse. The clarity of approach will help remove the uncertainty and risk for developers at an early stage in the development process, and will also provide a sustainably funded mechanism for local authority departments, enabling development to progress with much more certainty regarding the overall requirements and commitment
- 1.4 The Scrutiny Committee were provided with an explanation of the methodology for calculating commuted sums, which will include consideration of estimated future maintenance costs, the periodic discount rate linked to interest rates, and default time period of a development. This methodology has been developed in line with industry standard guidance prepared by the CSS (County Surveyors Society) and has also been recommended by the Welsh Government through the statutory guidance document as part of the statutory Sustainable Drainage Approval Body (SAB) function. Further details were set out in the report,
- 1.5 During the course of the ensuing discussion, Officers provided clarification on the differences between the Community Infrastructure Levy (CIL) and commuted sums, and it was noted that CIL funding is allocated to a central pot for community use, whereas commuted sums are ring-fenced for the future maintenance of eligible assets to be adopted for the lifetime of the development. Members were advised that the use of commuted sums is well established and should not be seen as a new funding source for the Authority. However, there is a need to introduce a consistent approach for the calculation of these sums in order to improve clarity for both developers and the various departments across the local authority.
- 1.6 In response to a query on the rationale for the default time period of a development, Officers explained that these are set in line with CSS guidance (generally 60 years other than significant structures which are 120 years). Members also noted the interrelationship between

the rates of commuted sums, the CIL charge and the amount of affordable housing that can be secured through Section 106 agreements, and the need to strike an appropriate balance across these areas.

1.7 Following consideration of the report, the Environment and Sustainability Scrutiny Committee unanimously recommended to Cabinet that:-

- (i) a consistent approach to the calculation and implementation of charges to developers in relation to commuted sums be implemented, which will cover the future maintenance costs of all eligible infrastructure assets offered for adoption for the lifetime of the development.
- (ii) a requirement be placed on all developers entering into SAB (Sustainable Drainage Approval Body), s.38 and s.278 highway agreements, and s.106 planning agreements or any other type of legal agreement entered into with Caerphilly CBC, to be charged commuted sums for the future maintenance and replacement requirements of the works constructed by them and adopted by the Council;
- (iii) utilisation of a discount rate of 2.0% and lifetime of development of 60/120 years depending on the asset proposed for adoption, be approved;
- (iv) Officers report to the Policy & Resources Scrutiny Committee on a 6 monthly basis in relation to all commuted sums received by the Authority;
- (v) the agreed process be reviewed after 2 years of operation and where alterations are required, a future report be presented to Scrutiny and Cabinet.

1.8 Cabinet are asked to consider the report and the above recommendations.

Author: R. Barrett, Committee Services Officer, Ext. 4245

Appendices:

Appendix 1 Report to Environment and Sustainability Scrutiny Committee on 25th June 2019 - Agenda Item 7



## ENVIRONMENT AND SUSTAINABILITY SCRUTINY COMMITTEE – 25TH JUNE 2019

**SUBJECT: INFRASTRUCTURE DEVELOPMENT – COMMUTED SUMS**

**REPORT BY: INTERIM CORPORATE DIRECTOR - COMMUNITIES**

---

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

- 1.1 To provide scrutiny committee with information to consider in relation to charging developers commuted sums to cover the future maintenance and replacement costs of all eligible infrastructure assets (not privately owned) offered for adoption for the lifetime of the development. A future report will be presented to the cabinet for decision and this report will outline the views of the Scrutiny Committee.

### **2. SUMMARY**

- 2.1 The use of commuted sums for future maintenance is not new, but there is variation in its use and application by different services within the council in relation to new developments. The report recommends a consistent approach for calculating commuted sum payments from developers for the future maintenance and replacement of adopted assets.
- 2.2 The style, location and expectation of development have changed over the last 15 years with more emphasis being placed on providing sustainable development and sustainable places to live. Additionally local authorities and other public bodies have increasing pressures which would normally preclude such enhanced developments from being maintained to the appropriate standard unless payment is sought from the developer for the costs involved.
- 2.3 It is intended that both the local authority and developers use this commuted sum methodology, which will provide a transparent and consistent approach to the calculation of commuted sums. This in turn will place no unacceptable burden on CCBC maintenance budgets or the public purse.
- 2.4 The clarity of approach will help remove the uncertainty and risk for developers at an early stage in the development process. It will also provide a sustainably funded mechanism for local authority departments, enabling development to progress with much more certainty regarding the overall requirements and commitment.

### **3. RECOMMENDATIONS**

The Scrutiny Committee is asked to provide its views on:-

- 3.1 The implementation of a consistent approach to the calculation and implementation of charges to developers in relation to commuted sums. These commuted sums will cover the future maintenance costs of all eligible infrastructure assets offered for adoption for the lifetime of the development.

- 3.2 The requirement for all developers entering into SAB (Sustainable Drainage Approval Body), s.38 and s.278 highway agreements, and s.106 planning agreements or any other type of legal agreement entered into with Caerphilly CBC to be charged commuted sums for the future maintenance and replacement requirements of the works constructed by them and adopted by the Council.
- 3.3 Utilisation of a discount rate of 2.0% and lifetime of development of 60/120 years depending on the asset proposed for adoption.
- 3.4 That officers report to the Policy & Resources (P&R) Scrutiny Committee on a 6 monthly basis in relation to all commuted sums received by the Authority.
- 3.5 That the agreed process is reviewed after 2 years of operation and where alterations are required, a future report is presented to Scrutiny and Cabinet.

#### **4. REASONS FOR THE RECOMMENDATIONS**

- 4.1 The rationale for seeking commuted sums for future maintenance and associated works is to ensure that the local authority has the resources to cover the upkeep, and where appropriate the replacement of, the assets they have adopted from developers.

#### **5. THE REPORT**

- 5.1 The rationale for seeking commuted sums for future maintenance and associated works is to ensure that the local authority has the financial resource to cover the upkeep and replacement of assets they adopt from developers.
- 5.2 A commuted sum is a one-off payment of capital as a contribution towards the future maintenance of eligible assets to be adopted for the lifetime of the development. This is usually 60 years for housing development infrastructure (roads, drainage, etc.) and 120 years for structures (bridges, culverted watercourses, etc.).
- 5.3 Commuted sums generally relate to payments made by developers through a Sustainable Drainage Approval Body (SAB), S38 (Highways Act 1980), S278 (Highways Act 1980), Planning Obligations, also known as S.106 Agreements (Town & County Planning Act 1990), via a legal agreement with the developer. The payment of a commuted sum by a developer discharges them of any future maintenance responsibilities for the adopted assets, upon formal adoption. The obligation, and associated risk, then lies with the adopting party to maintain the asset. Alternatively, a developer may make alternative arrangements for future maintenance responsibilities, (with the exception of the SAB drainage requirements) but this does leave the Local Authority with little or no control over standards or in circumstances where those arrangements are not sustained.
- 5.4 The use of commuted sums for maintenance is well established within the council to cover the maintenance of: highway structures, traffic signals, signalised pedestrian crossings, drainage assets, public open spaces, play areas, etc. However, it is proposed that many other items should be included in this process if they are offered for adoption by the developer.
- 5.5 There has previously been variation in the methodology/use of the calculation of commuted sums across internal council departments. In order for consistency and reasonable best practice, it is proposed that the industry standard guidance "commuted sums for maintaining infrastructure assets" prepared by CSS (County Surveyors Society) is used to calculate sums for all assets being adopted by the local authority. This commuted sums calculations methodology has also been recommended for working out commuted sums by the Welsh Government through the statutory guidance document as part of the statutory SAB function.

5.6 There are a number of variations on the formulae that have been used for calculating commuted sums. The essential feature is that the commuted sum paid is discounted to allow for the fact that it will be earning interest, which will make up part of the maintenance payment required. It is therefore necessary to determine the net present value of a future expense and the following formula is recommended to be used to calculate the maintenance obligations:

- $\sum Mp/(1 + D/100)^T$ , where
- Mp = Estimated future maintenance cost T years from now
- D = Discount rate (effective annual interest rate) (%)
- Commuted sum = Summation of all net present values for appropriate future costs.

#### 5.7 **Maintenance cost (Mp)**

The local authority will use its current contract rates. The maintenance regime is based on 'whole life costing' with the frequency of treatment and or the intervals of replacement, based on planned frequencies, historic information and industry guidance. For non-maintenance items it is also appropriate to add a percentage to the works costs to cover the design and supervision costs, considered to be 12.5%.

#### 5.8 **Periodic Discount Rate (D)**

The recommended discount rate (effective annual interest rate) is 2.0 - 2.2% based on the interest rate and rate of inflation. CCBC utilise a discount rate of 2.0% that is reviewed in accordance with revised CSS (County Surveyors Society) guidance. The use of the discount rate ensures that both the interest earned on the commuted sum, and the effect of inflation in increasing the cash sums eventually required, are taken into account.

#### 5.9 **Time Period (T)**

Where the life of a development is 60 years or more, it is recommended that a period of 60 years is used as the default period for calculating commuted sums for future maintenance. The period of 60 years is conventionally used as the minimum life of housing and assets. The period of 60 years for commuted sums represents a reasonable compromise between covering future costs and the uncertainties over whether they will be required in the future. Commuted sums will need to include for the replacement of assets with a shorter life than the expected time period.

5.10 The exception to the use of this time period is where the local authority would be adopting a substantial structural asset e.g. bridge, culvert. In such cases a time period of 120 years is to be utilised.

Summary of calculation of commuted sums:

- The estimated periodic maintenance cost of the asset to be adopted e.g. maintenance at six monthly intervals.
- Its future cost of renewal or replacement.
- The duration over which the sum is required. The Association of Directors of Planning and Transport (ADEPT) 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 (the whole life of the development).
- 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 the discount rate approx. 2.0 – 2.2%). It is recommended that CCBC use 2.0%.

5.11 As an example, 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 2 years, electrical testing is required every sixth year. The flasher unit and globe will require replacement every 10 years whilst the supporting posts will need to be replaced after 25 years. The electricity costs are based on annual cost of the unit and

consumption. White lining replaced every 5 years and anti-skid surfacing every 10 years. All these costs and time periods will need to be accommodated within the commuted sum calculation.

### **Other Considerations**

- 5.12 Members need to be aware that there is an interrelationship between the rates of commuted sums, the Community Infrastructure Levy (CIL) charge and the amount of affordable housing that can be secured through S.106 Agreements. In short, the greater the commuted sums then the less money that is available for other planning contributions such as affordable housing. It is therefore essential that the Council strikes an appropriate balance between the desire to provide housing for those in need and securing funding for infrastructure, whilst also ensuring that these competing requirements are set at a level that is viable and still enables housing development to progress. There needs to be recognition that within a time of reducing maintenance budgets, this balance has to provide consideration of the additional financial burden placed upon CCBC infrastructure divisions.
- 5.13 Consideration will therefore need to be given to:-
- The complexity and scale of development, the resultant infrastructure requirements and the long term maintenance costs to the Council.
  - The requirement for affordable housing in the area of the development.
  - Other, wider infrastructure requirements such as education, strategic highway infrastructure, etc.
  - The viability of the development after considering all of the above.
- 5.14 The Caerphilly County Borough Local Development Plan (LDP) provides a policy framework for the provision of Section 106 agreements and CIL (which will include affordable housing provision) and the Cabinet/Council are fully involved in setting this framework.
- 5.15 Officers currently report on a 6 monthly basis to P&R Scrutiny Committee on affordable housing provision and in light of the proposals within this report this 6 monthly report will be broadened to include an update on all commuted sums.

## **6. ASSUMPTIONS**

- 6.1 The process for, and calculation of commuted sums will be transparent, and collected monies will be ring fenced to the maintenance and replacement of the asset adopted and allocated to the appropriate departments. An overriding principle is that commuted sums shall be calculated objectively and as fairly as possible to reflect the genuine present day value of predicted future costs which they are designed to service. All calculations are based upon **“Commuted sums for maintaining infrastructure assets”** prepared by CSS (County Surveyors Society). This methodology has been recommended by the Welsh Government through the statutory guidance document as part of the statutory SAB function.
- 6.2 The key financial and time period assumptions for the calculation of commuted sums are outlined in sections 5.8 to 5.10 above.

## **7. LINKS TO RELEVANT COUNCIL POLICIES**

- 7.1 The report links to the Council's Corporate Plan 2018-2023, and contributes to the Well-being Objective 4 and 5:
- Promote a modern, integrated and sustainable transport system that increases opportunity, promotes prosperity and minimises the adverse impacts on the environment.

- Creating a County Borough that supports a healthy lifestyle in accordance the Sustainable Development Principle within the Wellbeing of Future Generations (Wales) Act 2015.

7.2 There are further links to the Infrastructure Service Objectives:

- To promote safe and efficient transport and land drainage infrastructure through quality service delivered by means of cost effective management, maintenance and improvement of the networks.
- To develop engineering solutions and methods which have regard to the value of the natural and built environment and to the principle of sustainable development.
- Effective regulation and Management of flooding/flood risk promotes sustainable development, which does not exacerbate flooding. This links to the Caerphilly County Borough Council (CCBC) Flood Risk Management Strategy and Plan.

7.3 The report also links to the Caerphilly County Borough Local Development Plan up to 2021 and contributes to Objective 20 which seeks to: “Maximise the efficient use of the existing infrastructure and encourage the necessary improvements to the network to sustain necessary levels of development at appropriate locations across the County Borough”

7.4 This report also links to the Council’s Local Biodiversity Action Plan which will help take steps towards halting the decline of species in the South Wales Valleys.

7.5 There are further links to the Countryside Strategy 1998 where it promotes an attractive environment for a range of recreational pursuits rich in biodiversity. Helps support the draft Caerphilly Green Infrastructure Strategy, particularly in matters relating to connectivity by linking habitats together

## 8.0 WELL-BEING of FUTURE GENERATIONS

8.1 This report links directly to the Well-being goals within the Well-being of Future Generations Act (Wales) 2015:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A globally responsible Wales

8.2 It is consistent in all of the five ways of working as defined within the sustainable development principle in the Act that it supports:

8.2.1 **Long Term** – One of Caerphilly’s corporate objectives is to reduce carbon emissions and reduce our contribution to global warming. Multiple biodiversity and a reduction in carbon emissions will be achieved by promoting sustainable development over the long term and also provide a sustainable source of funding for the lifetime of the development.

8.2.2 **Prevention** - CCBC will lead on maintaining and enhancing a biodiverse natural environment with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change.

- 8.2.3 **Integration** – Caerphilly is a borough where people’s physical and mental well-being is maximised and in which choices and behaviours that benefit future health are understood. CCBC will ensure that clean, sustainable green environments are constructed and where water is seen as a valuable resource, with access to public open spaces and play areas. Clean air, open spaces and water are key elements of health and well-being. For instance by working closely with Caerphilly’s Planning and Countryside departments and the local developers CBCC will promote nature based solutions therefore providing quality and functionality of host landscapes providing usable and attractive places for local community users to enjoy. Also connecting local residents to opportunities is an important feature of cohesive communities. Engaging with the community through creative sustainable solutions will offer multi-functionality and successfully integrating sustainable management of water into the surrounding local landscapes. This demonstrates that CCBC promote communities to be caring and environmentally conscious. This in turn helps to create a tidier, more attractive place for residents, visitors and potential inward investors.
- 8.2.4 **Collaboration** - CCBC is innovative, productive and a low carbon local authority which recognises the limits of the global environment & uses resources efficiently and proportionately, and which develops a skilled and well-educated population in an economy which generates wealth and provides employment opportunities. Caerphilly has set up collaborative networks internally (Countryside and Landscape, Parks and Leisure, Urban Renewal, Highway Development and Traffic Management) and there are opportunities to utilise staff within and between organisations to work out the commuted sums. Therefore, sharing knowledge and developing transferable skills. CSS developed the “commuted sums for maintaining infrastructure assets” in conjunction with all 22 authorities in Wales and its use has also been recommended by Welsh Government. Through the commuted sum process the sustainable mechanism of funding will enable replacement when needed in future years without burdening the local authority or the public purse of future generations.
- 8.2.5 **Involvement** - Some of our poorest environmental quality is associated with our most deprived areas. Ensuring that everyone across the county borough has equal access to a clean, green and an attractive environment is a core element of our work, and this is supported throughout Caerphilly’s various services. Where development work is being carried out in these areas then staff will be encouraged to meet local people driving change throughout their communities, this will ensure staff will be more proactive and more invested in community projects. It also gives staff a much better understanding of the drivers and blockers of change within the communities and what is having a real effect on people’s well-being.

## 9. EQUALITIES IMPLICATIONS

- 9.1 An Equality Impact Assessment (EIA) screening has been completed in accordance with the Council’s Strategic Equality Plan and supplementary guidance. No potential for unlawful discrimination and/or low level or minor negative impact has been identified; therefore a full EIA has not been carried out.

## 10. FINANCIAL IMPLICATIONS

- 10.1 The funding secured from the commuted sums will cover all future maintenance costs of all infrastructure assets where adopted for the lifetime of the development.

## 11. PERSONNEL IMPLICATIONS

- 11.1 There are no direct personnel implications from this report.



## **12. CONSULTATIONS**

12.1 All comments received have been taken into consideration and are included in the report.

## **13. STATUTORY POWER**

13.1 Flood and Water Management Act 2010.

13.2 s.101 Local Government Act 1972

13.3 s.19 Local Government Act 2000

13.4 Highway Act 1980

13.5 Town and Country Planning Act 1990

Author: Michelle Johnson – Principal Engineer (Drainage) (johnsm@caerphilly.gov.uk)  
Dave Lucas – Strategic & Development Plan Team Leader

Consultees: Cllr S. Morgan - Deputy Leader and Cabinet Member for Economy, Infrastructure, Sustainability & Wellbeing of Future Generations Champion  
Cllr E. Stenner – Cabinet Member for Environment & Public Protection/Planning  
Cllr L. Phipps – Cabinet Member for Homes & Places  
Cllr DT. Davies - Chair of Environment & Sustainability Scrutiny Committee  
Cllr A. Hussey - Vice Chair of Environment & Sustainability Scrutiny Committee  
Mark S Williams - Interim Director – Communities  
Clive Campbell - Transportation Engineering Manager  
Christopher Adams – Highway Engineering Group Manager  
Mike Headington – Green Spaces and Transport Services Manager  
Phillip Griffiths – Green Spaces Strategy and Cemeteries Manager  
Rhian Kyte – Head of Regeneration and Planning  
Allan Dallimore – Team Leader – Urban renewal and Conservation  
Tim Stephens – Development Control Manager  
Marcus Lloyd - Head of Infrastructure  
Robert Tranter - Head of Legal Services/Monitoring Officer  
Stephen Harris - Interim Head of Business Improvement  
Rob Hartshorn - Head of Public Protection, Community and Leisure Services  
Mike Eedy - Finance Manager  
Paul Adams, Senior Assistant Accountant  
Shaun Watkins - Principal Personnel Manager  
Mark Williams – Interim Head of Property Services  
Anwen Cullinane - Senior Policy Officer – Equalities and Welsh Language  
Sue Ruddock - Insurance and Risk Manager

### **Background Papers:**

- (i). Commuted Sums for Highway Maintenance – Cabinet 31/07/12
- (ii). Commuted Sums for Maintaining Infrastructure Assets – County Surveyors Society (2008)