Allerdale Borough Council
Delegated Decision – May 2018

Committed Sums Policy (Affordable Housing)

The Reason for the Decision
To ensure that the Council has in place a policy detailing how it intends to spend committed sum payments which have been made in lieu of affordable housing provision.

Summary of options considered
The Council needs to decide whether it wishes to:

1. Adopt a formal policy to ensure that committed sums made in lieu of affordable housing provision are used for the purposes of affordable housing and to minimise the risk of challenge from developers;

2. Continue to have an informal / ad hoc arrangement in place and to agree committed sum spending on a case by case basis, or;

3. Do nothing and repay the Commuted Sum paid in lieu of affordable housing provision to the developer in line with the deadline negotiated as part of the section 106 planning obligation.

Recommendations
The Council supports the introduction of a formal approach in which to utilise committed sums funding paid in lieu of affordable housing provision, that provides a clear process for managing developer contributions and takes account of the need to deliver affordable housing.

The Head of Strategy, Policy and Performance is asked to approve the adoption of the policy as detailed in this report.

Financial / Resource Implications
None

Legal / Governance Implications
None

Community Safety Implications
None

Health and Safety and Risk Management Implications
None
1.0 Introduction

1.1 This is a new policy which seeks to introduce a formal approach to spending monies accrued through Commuted Sums which have been paid in lieu of affordable housing provision arising from developments which are in Allerdale but outside the boundary of the Lake District National Park planning authority.

1.2 The Lake District National Park planning authority does not accept commuted sums in lieu of affordable housing. Housing developments in the Lake District National Park must provide local occupancy housing and local affordable housing when the threshold is reached.

2.0 Content (to include alternative options considered)

2.1 The Council may receive commuted sums through developer contributions to support the delivery of affordable housing, in accordance with Local Plan Policy S21: Developer Contributions. Other legislation such as the Town and Country Planning Act 1990 also enables the Council to request commuted sum payments where appropriate.

2.2 Where the Council receives a commuted sum in lieu of affordable housing provision from a developer contribution, currently there is no clear approach on how the commuted sum should then be utilised.

2.3 Appendix 1 sets out existing commuted sums received by the Council in lieu of affordable housing and outstanding commuted sums which are to be provided in lieu of affordable housing.
2.4 All commuted sums are negotiated as part of the Section 106 planning obligation.

2.5 The section 106 planning obligation contains a deadline for spending commuted sums. If the commuted sum has not been spent within that given period, the developer is entitled to have the money repaid.

2.5.1 The deadline for expenditure is determined through negotiation. The Council’s preferred option is a deadline of five years from when the money is received.

2.5.2 Five years gives enough scope for the Council to identify and execute the best method of improving or increasing affordable housing stock in a Locality, whilst retaining the concept that the development has directly contributed to that change.

2.6 This policy sets out a range of options for the Council to spend commuted sums paid to them in lieu of affordable housing provision (section 5 – Scope of the Policy), and it is this approach that we are seeking the Council to adopt.

3.0 Proposed Policy

3.1 The proposed policy aims to provide a range of options, as set out in section 5.3 of the policy to support the delivery of affordable housing provision.

4.0 Consultation

4.1 The Council has consulted internally and has also consulted with an existing commuted sum contributor.

4.2 This policy reflects their comments.

5.0 Recommendations

5.1 The Head of Strategy, Policy and Performance is asked to approve the adoption of the policy as detailed in this report.

6.0 Conclusion

6.1 This policy seeks to manage an agreed approach to spending commuted sums from developer contributions received by the Council in lieu of affordable housing provision. The commuted sum funding, whilst may not be a significant amount in some instances, it can however contribute to the wider options as set out in the Policy, (section 5.3).

Vivien Steadman, Research, Performance and Intelligence Officer (Housing)
Andrea Smith, Policy Manager (Housing)

Approved by Head of Strategy, Policy and Performance (Delegated Decision) following consultation with Corporate Management Team and Senior Management Team

Signed: .............................................. Date: 24/5/18
Committed Sums Policy
(Affordable Housing)
- March 2018
**Document title**  | Commuted Sums Policy (Affordable Housing)
---|---
**Document author**  | Vivien Steadman, Research, Performance and Intelligence Officer (Housing)
**Who is accountable for this policy/strategy?**  | Andrea Smith, Policy Manager (Housing)
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### Revision History

<table>
<thead>
<tr>
<th>Date</th>
<th>Version</th>
<th>Summary of Changes</th>
<th>Section(s) Changed</th>
</tr>
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<tbody>
<tr>
<td>March 2018</td>
<td>1.0</td>
<td>Keep VERY brief</td>
<td>New policy</td>
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**Equalities Impact Assessment** This must be done each time a policy/strategy is fundamentally revised

**Assessment date**  | January 2018
**Assessment location**  | This Policy will allow the Council to spend commuted sums that have been paid in lieu of affordable housing provision on projects to develop new affordable stock or retain existing affordable stock as set out in this policy.
1.0 Introduction

1.1 Allerdale Local Plan seeks to ensure that future housing and employment growth is sustainable and community needs are met. Therefore, the Council will expect new developments to fund or contribute to the necessary physical and social infrastructure improvements and subsequent maintenance, in accordance with Policy S21: Developer Contributions.

1.2 In accordance with the Town and Country Planning Act 1990, the Council may enter into an agreement with the landowner and any other party with an interest in the land requiring a sum or sums to be paid to the authority on specified dates or periodically (section 106(1)(d)), it can require the payment of a specified amount or an amount determined in accordance with the instrument by which the obligation is entered into and, if it requires the payment of periodical sums, require them to be paid indefinitely or for a specified period (section 106(2)(c)).

1.3 These improvements will be secured in two ways. Some will be agreed through the planning application process and the delivery can therefore be secured through a planning condition. Alternatively their delivery will be the subject of a planning obligation, which can be secured through either a Section 106 Agreement or a Unilateral Undertaking.

1.4 In most circumstances a Section 106 Agreement would be the most appropriate method of securing such obligation, as they are entered into by the Council (and County Council where relevant) and the developer/landowner, allowing the parties to negotiate and agree on the terms of the Agreement. However there will be occasions where the use of Unilateral Undertakings may be appropriate. This is a Planning Obligation entered into solely by the landowner or developer. It will only be deemed appropriate in circumstances where the agreement consists solely of the payment of financial contributions and does not require the Council to be placed under any covenant or obligation.

2.0 Legislative and national policy context

2.1 The ability for the Council to use planning obligations comes from Section 106 of the Town & Country Planning Act 1990, as amended by Section 12 of the 1991 Planning and Compensation Act and the Localism Act 2011. These set out the legislative background against which planning obligations may be sought. Further legislation and guidance is sent out in the National Planning Policy Framework (NPPF), the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and the Planning Policy Guidance (PPG).
3.0 Local policy context

3.1 The Allerdale Local Plan (Part 1) adopted in July 2014 sets out the strategic context for the Allerdale Plan Area and will be complemented by Part 2: Site Allocations Document, to be prepared in line with the timescales set in the Local Development Scheme.

3.2 The Local Plan (Part 1) contains a number of policies that, in order for a development to be compliant, may necessitate the use of planning obligations.

3.2.1 Policy S8 of the Local Plan sets out the approach to the delivery of affordable housing as part of open market housing development within the Allerdale Plan Area.

3.2.2 Policy S8 stipulates that all affordable housing provision must be on-site, unless exceptional circumstances dictate otherwise. This is where the Council is satisfied that the developer can demonstrate an exceptional circumstance exists that dictates an alternative form of provision would offer greater social benefits and maximise affordable housing delivery.

3.3 The Allerdale Local Plan Supplementary Planning Document – Developer Contributions (July 2017) provides greater clarity and certainty to developers, landowners and the community regarding the types of obligation that the Council may seek to secure from developments and the formulae and changes which the Council would seek to apply.

3.4 The Allerdale Local Plan Supplementary Planning Document – Developer Contributions (July 2017) dictates the sequential approach to off-site delivery to be: 1. Alternative Site 2. Off-site purchase 3. Financial Contribution (Committed Sum)

3.5 This policy applies to commuted sum payments in lieu of affordable housing relating to developments in Allerdale that are NOT part of the Lake District National Park planning authority.

3.5.1 The Lake District National Park planning authority sets out its approach towards spending commuted sum payments in its Housing Provision Supplementary Planning Document.

4.0 Financial Contribution (Committed Sum)

4.1 All commuted sums for affordable housing will be secured through the use of a Section 106 agreement, which will include phasing of payments where appropriate.
4.2 Paragraph 2.16 of The Allerdale Local Plan Supplementary Planning Document – Developer Contributions (July 2017) sets out the formula to calculate commuted sums.

4.2.1 For the purposes of calculating commuted sums payable in lieu of affordable housing on-site, for affordable/social rented units the sum shall be equal to the difference between the open market valuation of the units for which a need has been identified and the purchase price that a Registered Provider would be willing to pay for those units. For intermediate (Low Cost Home Ownership) units the sum shall be equal to the difference between the open market valuation of the units for which a need has been identified and the discounted purchase price at which those units would be offered.

5.0 Scope of the Policy

5.1 This Commuted Sums Policy (Affordable Housing) will be used to inform how Allerdale Borough Council will spend monies paid to them in lieu of affordable housing provision.

5.2 Monies accrued through payments made in lieu of affordable housing provision will be spent in the Locality where the development that has generated them is situated. The Locality is defined by the Allerdale Local Plan (Part 1) July 2014, or any subsequent policy detailing the strategy to meet the needs of local communities for housing, employment, retail and leisure, while balancing the need to protect the natural and built environment.

5.3 Monies accrued through payments made in lieu of affordable housing provision will be spent in one of the following ways:

- the purchase of existing private sector housing by the Council for use as affordable housing, either managed by themselves or a Registered Provider or other not-for-profit housing provider.
- the purchase of land by the Council for the development of affordable housing, either by themselves or another developer
- the purchase of other assets by the Council for the development of affordable housing, either by themselves or another developer
- delivering investment in long-term empty private sector stock to bring it up to Decent Homes standard and make available as affordable housing by either selling to a Registered Provider, or other not-for-profit housing provider, or by the owner renting it at an affordable rent
- providing funding to a Registered Provider, or other not-for-profit housing provider, to deliver affordable housing
- providing funding to a Registered Provider, or other not-for-profit housing provider, to improve existing social housing.
- providing financial support to a Community Land Trust for the delivery of affordable housing.
5.4 Monies accrued through payments made in lieu of affordable housing provision will be spent before the repayment deadline specified in the section 106 planning obligation for that development.

6.0 Developers paying a commuted sum in lieu of affordable provision will be made aware of this Policy before signing a Section 106 agreement.

7.0 The Council, through Planning Services, will monitor annually monies paid in lieu of affordable housing provision received through Section 106 agreements, and the expenditure of the commuted sum.

8.0 This policy will be reviewed every three years to ensure that payments made in lieu of affordable housing provision are being put to the best use to further the delivery of affordable housing in Allerdale.