

Joint Scrutiny Committee



Listening Learning Leading



Report of Head of Development and Housing

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Wards affected: (VALE ONLY) All

Cabinet member responsible: Cllr Elizabeth
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Use of Affordable Housing Commuted Sums

Purpose of Report

1. To inform Scrutiny of recommendations to be made South and Vale Cabinets concerning the guidance that Council Officers should follow when developing projects that could be funded using commuted sums received from developers (in lieu of delivering affordable housing that cannot, for good reasons, be delivered on the development site).

Strategic Objectives

2. The aim is to ensure that commuted sums contribute towards the provision of new affordable housing in South and Vale of White Horse

Background

3. The councils' Affordable Housing Planning Policies require that affordable housing units be delivered on the site where planning permission has been granted.

4. Where it is accepted that on-site delivery is not possible, and viability is not the issue, then any other appropriate sites can be considered for delivery providing such alternative sites are capable of meeting their own affordable housing obligation prior to any additional provision.
5. Where it is not possible to provide the affordable housing units elsewhere, a lieu commuted sum payment in lieu will be required.
6. Acceptance of a commuted sum has been a very rare occurrence for both councils as affordable housing has generally been delivered on-site.
7. On-site delivery has always been considered most important as opportunities to deliver these homes elsewhere are very limited. This has been particularly difficult over the last five years with government direction for affordable housing secured through S106 agreements to be delivered grant-free. In addition, there is a paucity of any council-owned land that could be adequate for even the smallest housing schemes.
8. However, the Local Plans for both councils now also allow for a commuted sum to be sought where the policy compliant level of affordable housing results in a 'part' unit (i.e where 35% of a site in the Vale of White Horse and 40% of a site in South Oxfordshire does not result in an exact number of whole affordable units).
9. There is a likelihood that in the future commuted sum payments will happen on a more regular basis and, whilst individually these sums may be relatively small, the total value of commuted sum receipts will continue to grow.
10. S106 agreements generally require the council to spend, or commit to spend, commuted sums received within a specified timescale. If they have not been used or allocated for use, a developer may, after the specified period, seek a return of a commuted sum payments.
11. It is therefore important that both councils have an agreed protocol to enable timely and appropriate use of these monies.

Current position for the Vale of White Horse

12. Receipts currently held total approximately £820,000
13. In general, these funds need to be spent on delivering affordable housing within the district. However, the following sums received need to be spent within the vicinity of the original development site as required by the relevant S106 agreement:

Amount	Site of original development
£150,000	Warnborough College, Boars Hill
£280,000	Old Gaol, Abingdon (plus £720,000 expected over next 4 years)

Current position for South Oxfordshire

14. Receipts currently held total approximately £600,000.
15. There is a general requirement to use these funds to provide a similar level of affordable housing elsewhere in the district, and where possible and appropriate, to achieve this provision in the vicinity of the original development.

Options open to both South Oxfordshire and Vale of White Horse

16. As these payments are made in lieu of the provision of new-build affordable housing it is also expected that these payments will enable new-build provision elsewhere within the same district.
17. When considering how commuted sums can best be used, a number of potential opportunities exist, as follows
18. **Option 1** – to meet a shortfall in the delivery of rented accommodation, or increase the range of affordable tenures

Viability issues are increasingly arising due, for example, to the impact of the 1% rent reduction imposed on Registered Providers (RP) over the next 4 years, or site specific constraints (such as exceptional infrastructure costs). These factors negatively impact on that site's ability to deliver a policy compliant level of affordable housing. It is anticipated that viability will increasingly be challenged due to these factors and general economic uncertainty. In such circumstances, commuted sums could be used to meet a likely shortfall in delivering rented accommodation on new development sites and/or extend the range of housing tenures available on new sites, by supporting sites which have the potential to deliver an expanding, more innovative housing offer that meets an identified local need.

Option 2 – to provide new affordable housing that meets specialist needs.

Land owned by the district or county council, or an RP, could provide an opportunity for the development of a small cluster of housing for people with specialist needs such as learning or physical disabilities, or mental health issues. Such sites are likely to need additional financial support to achieve delivery, and commuted sums could be used to provide such support.

19. **Option 3 – to provide new affordable housing for people with a strong local connection.**

Commuted sum payments can assist where a rural exception site providing affordable housing for people with a strong local connection is at risk of delivery due to exceptional costs such as land contamination or other environmental conditions.

20. The use of commuted sum payments to assist in the delivery of new affordable housing related to the above three opportunity areas, would likely be in the form of a direct grant to a Registered Provider.
21. However in some cases, depending on viability, it may be appropriate to provide commuted sums as a reimbursable investment, so the Councils receive a return on the invested commuted sums.

Recommendations

22. It is recommended that;

Commuted sums be used solely for the purpose of encouraging the delivery of new-build affordable housing as outlined on Options 1, 2 and 3 i.e. where the new affordable housing:

- (a) meets a shortfall in the delivery of rented accommodation, or increases the range of affordable tenures
- (b) provides new affordable housing that meets specialist needs
- (c) provides new affordable housing for people with a strong local connection.

Financial Implications

23. The use of commuted sum payments does not involve any financial input from the councils unless there is a requirement for the councils to provide additional funding to enable fulfilment of a particular scheme.

Legal Implications

24. The requirement for a commuted sum to be paid in lieu of on-site delivery of affordable housing is secured within a S106 legal agreement. It is necessary to adhere to any specific constraints such as a time limit for the sum to be spent, or restrictions around locality for alternative provision.

Risks

25. A S106 agreement may stipulate that the council must spend, or have committed to spend, any commuted sum within a specified timescale. However, in any case, a developer may after a period of time seek a return of a commuted sum payments made which have not been used or allocated for use.

Other Implications

26. None

Conclusion

27. Commuted sums provide a valuable opportunity for the councils to ensure that where delivery of affordable housing on a site is not possible, alternative provision can contribute towards the councils' aims of delivering affordable homes to meet local need. In addition, the Homes and Communities Agency takes a more positive view of Registered Provider bids for various funding programmes where, and if appropriate, there is confirmed financial commitment from the local authority.
28. There is a need for guidance to be approved for the spending of commuted sums, which allows for the appropriate and timely use of these payments to provide new-build affordable housing.

Background Papers

None