

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Economy, Transport and Environment
Date:	16 July 2019
Title:	Commuted Sums Policy Guidance
Report From:	Director of Economy, Transport and Environment

Contact name: Stuart Giddings

Tel: 01962 813088

Email: stuart.giddings@hants.gov.uk

Purpose of this Report

1. The purpose of this report is to update the Executive Member for Economy, Transport and Environment on the development of new Commuted Sums Policy Guidance and Commuted Sums Calculator and seek approval in principle for the proposed approach before engagement and consultation with local planning authorities and developers.

Recommendations

2. That the Executive Member for Economy, Transport and Environment approves the proposed Commuted Sums Policy Guidance and Calculator, as appended, and authorises engagement with stakeholders as the next stage of their development.
3. That in the absence of relevant objections that cannot be reasonably overcome arising from stakeholder engagement, authority is delegated to the Director of Economy, Transport and Environment to finalise and implement the Commuted Sum Policy Guidance and Calculator.
4. That authority is delegated to the Director of Economy, Transport and Environment to make future minor amendments and additions to the Commuted Sums Policy Guidance and Calculator in consultation with the Executive Member for Economy, Transport and Environment as appropriate.
5. That authority is delegated to the Director of Economy, Transport and Environment, in consultation with the Director of Corporate Resources, to review the commuted sum discount rate at least once every five years and amend if required to ensure arrangements are reflective of interest rates and construction costs.
6. That the Executive Member for Economy, Transport and Environment approves the revisions to the Highway Maintenance and Management Plan Policy HW6 – New Infrastructure, attached to this report as Appendix 1.

Executive Summary

7. This paper seeks to outline the work undertaken to review the current Commuted Sum Policy (2007) and replace this with up to date policy guidance that reflects national guidance and aligns with Hampshire County Council's Highway Maintenance Management Plan (HMMP) policies.
8. The proposed Commuted Sums Policy Guidance and Calculator should ensure that Hampshire County Council receives fair and adequate commuted sums from future development through robust and transparent processes.

Contextual information

Background

9. In recent years the pressure on all local government funding has increased substantially. Highway authorities are under extreme pressure to maintain the condition of the highway network and to achieve the service standards that users have been accustomed to.
10. The adoption of transport infrastructure assets by Hampshire County Council from new developments result in the County Council, as the Highway Authority, incurring increased maintenance and replacement costs for those assets in perpetuity.
11. To ensure that Hampshire County Council receives fair and adequate levels of support from development, consultants (Atkins) were commissioned to review current processes and assist the development of Hampshire County Council's application of commuted sums. The principles behind the proposal are to ensure full cost recovery and ensure the maintenance of all adopted roads.
12. The Atkins report identified several areas where Hampshire could improve its processes. The two key items were:
 - whilst there is one overarching Hampshire County Council commuted sum policy document, there are a number of associated documents available which refer to Commuted Sums (CS) and how they are calculated. This could potentially be confusing for developers and does not necessarily provide a transparent process or robust audit trail on which CS decisions are based; and
 - Hampshire County Council's current commuted sum policy document was approved by the Executive Member in 2007. This precedes the County Surveyors Society (CSS) Commuted Sums Guidance (2009) and therefore does not necessarily reflect current national guidance.
13. The Atkins report suggested that the application of the following national guidance documents should ensure that the costs of maintaining new infrastructure are adequately provided for in the long term.
 - the CSS Commuted Sums for Maintaining Infrastructure Assets Guidance (2009);
 - the Association of Directors of Environment, Economy, Planning and Transport (ADEPT) Commuted Sums Levied for Traffic Signals Guidance (2014); and
 - the ADEPT Bridges Commuted Sums Guidance (2017).

14. This report outlines the work undertaken in the development of clear and consistent policy guidance, the development of a commuted sums calculator and a comparison between the current and anticipated commuted sums for a sample of Section 38 and Section 278 agreements. This report also identifies the benefits of the proposed guidance and calculator, the potential issues and how these issues can be mitigated.

Policy and Policy Guidance

15. Hampshire County Council's Highway Management Maintenance Plan (HMMP) policy document contains a Policy (HW6) concerning 'New Infrastructure'. This policy relates to all new infrastructure constructed on the public highway and requires construction to be designed and constructed to the appropriate standards. The Policy does not however refer directly to the application of commuted sums for future maintenance; the application of commuted sums is referenced in the policy guidance and procedures.
16. It is proposed that the wording in Policy HW6 is amended so that the application of commuted sums is clear and the new policy guidance is fully referenced, see Appendix 1.
17. The new detailed policy guidance (Appendix 2) has been developed to replace all previous guidance regarding commuted sums for highway maintenance in a concise document which will be made publicly available. The new guidance will be controlled, reviewed annually by the Asset Management Planning Group (AMPG) and form part of the supporting documentation for Policy HW6. The key points of the guidance include:
 - the types of developments and time periods for the application of commuted sums;
 - the asset types and asset elements for which commuted sums may apply;
 - the material specification options described in terms of the commuted sums categories on which the commuted sums will be based; and
 - the method used to calculate commuted sums for each asset type and asset element.

Calculation of Commuted Sums

18. The detailed policy guidance is supported by a commuted sum calculator (Appendix 3). This calculator will be made publicly available and will enable anyone wishing to enter into an agreement with the Highway Authority to calculate the commuted sum for maintenance and, as appropriate, amend their designs to reduce the commuted sum cost by using 'standard' materials and layouts. In many cases the applicant should be able to design a layout where little or no commuted sums would be payable.
19. It is proposed that commuted sums are calculated over a 60 year maintenance period for Section 38s and 30 years for Section 278s. Structures are calculated over a 120 year maintenance period for both Section 38s and Section 278s. These timeframes align with both the CSS and ADEPT guidance

recommendations and reflect the differing whole life maintenance costs associated with these types of development.

20. One of principles outlined in the CSS guidance is the application of a discount rate. Commuted sums are paid upfront so to allow for the fact they will be earning interest, which makes up part of the payment; the guidance recommends a discount rate be applied.
21. The recommended CSS discount rate (2.2%) was set in 2009 when interest rates were higher than inflation. If the discount rate is applied in the current financial climate there would be a significant shortfall in funds received for maintenance over the agreed period as inflation is currently running at a higher level than interest rates. To clarify this further, the current road construction industry inflation rate (3.9%) is significantly higher than the current retail price index inflation rate (2.3%) further exacerbating the issue.
22. It is proposed that Hampshire County Council doesn't apply a discount rate in the short term but monitors interest rates and construction costs and undertakes a periodic review at least every 5 years to allow for fluctuations in volatile construction rates, in consultation with the Director of Corporate Resources, and adjusts this approach if deemed appropriate.
23. To understand the potential effects of the proposed calculator a review was undertaken on a sample of historic development sites (15 Section 38s and 10 Section 278s). Commuted sum costs were calculated using both the current method and the new calculator.
24. Summary of trial results:
 - on average the commuted sum costs using the new calculator were higher;
 - the increase in Section 38 costs was approximately twice the current costs; and
 - the increase in Section 278 costs was approximately 4 times the current costs.
25. However, when the scheme designs were adjusted to use Hampshire County Council preferred standard materials and layouts wherever possible, the costs reduced significantly:
 - CS costs for Section 38s reduced to 21% below current costs;
 - approximately half of the Section 38 sites incurred no CS costs; and
 - CS costs for Section 278s reduced from approx. 4 times above current costs down to approx. 2.5 times above current costs.A detailed summary of the results can be found in Appendix 4.
26. It should be noted that the significantly higher CS costs for Section 278 agreements were predominately due to the increase in costs associated with installing and maintaining traffic signal equipment and structures.
27. CS costs for structures are currently based on 20% of the actual construction cost. Using the ADEPT Bridges element of the new calculator these costs will increase to approximately the full construction cost. The structures team face

significant maintenance funding challenges for large bridges such as Langstone and Redbridge Causeway. To ensure future funding requirements are met, and to avoid significant shortfalls for structures in the future, the increase in CS costs is considered necessary and a more accurate representation of maintenance need.

28. The current CS costs for traffic signal equipment are based on 10% of construction cost. The costs using the new calculator rise significantly. However, the increase is deemed essential to meet future demand. Innovations in traffic control technology has meant traffic signals are increasingly used to add capacity and balance demand due to traffic growth and development. These larger more complex junctions have significantly higher energy, maintenance and replacement costs. They also require new and expensive technologies which are more prone to obsolescence and therefore need to be replaced more frequently.
29. The Countryside Service has been consulted as part of the work to develop the new CS Policy Guidance and the Executive Member for Countryside and Rural Affairs has been made aware.

Benefits and Risks

30. The current CS policy documents have been in existence for many years and therefore do not necessarily reflect current national guidance or Hampshire County Council's current approach. The need to revise the CS process presented a number of opportunities to improve the current situation and deliver some benefits, including:
 - providing up to date detailed guidance in one document and providing a tool to calculate the financial commitment for an applicant;
 - providing a transparent process with a robust audit trail on which commuted sum decisions are made;
 - ensuring that the additional costs of maintaining enhanced materials and layouts are adequately provided for in the long term using asset management lifecycle principles;
 - reducing the highway maintenance burden by promoting resilient material specifications and promoting highway layouts which provide for the needs of highway users;
 - promoting sensible solutions which will minimise whole life costs for the Highway Authority and help to limit non-essential highway infrastructure; and
 - providing developers with options that incur no commuted sums to encourage development and ensure that roads are put forward for adoption.
31. There are concerns that a more comprehensive commuted sum calculator, especially for non-standard designs, layouts and enhanced materials, may deter development in Hampshire and reduce the investment associated with growth in the County. There is also a risk that more developers decide not to offer up new estate roads for adoption, and instead retain them as private roads with a management company to arrange all maintenance activities.

32. It is not possible to assess the impact of these risks before the new process is in operation, but the following considerations have been noted and the process can be amended if these concerns are founded:
- developers will have the option to reduce the commuted sum cost by using standard materials and layouts. The results from the comparison of sample historic Section 38 and Section 278 agreements demonstrated that in many cases it is possible for a development to design a layout where little or no commuted sums would be payable; and
 - this process is based on national guidance but there are various options available to reduce the commuted sum costs. These could include reducing the Section 38 and Section 278 agreement timeframes the commuted sums are calculated over or through the application of a discount rate.
33. Concerns have also been raised that increasing the CS for enhanced materials and non-essential highway land may lead to wholesale use of standard materials and therefore have a negative effect on the aesthetics and 'quality of place' of developments. This comes at a time when developers are placing greater emphasis on enhanced street design and local authorities have ever increasing pressures on their budgets.
34. Clearly there's a balance to be struck between limiting the burden on local authority finances, enhancing quality of place and encouraging the adoption of estate roads. It is the Economy, Transport and Environment Department's intention to work closely with planning authorities and developers in order to achieve this balance for the benefit of Hampshire's residents.
35. The proposed commuted sum process will provide a transparent method for calculating and collecting the necessary level of income required to adequately maintain new infrastructure whilst placing greater onus on Planning Authorities and Developers to provide cost effective and sustainable solutions.

Consultation

36. Engagement with local planning authorities and developers is an important and necessary element in the development of the CS Policy Guidance. This is due to the potentially significant impact the proposed Guidance and Calculator could have on prospective development in the County, the County Council's reputation and the level of funding received for future maintenance.
37. Early stage informal discussions with planning authorities in Hampshire were initiated during the first phases of developing the CS Policy Guidance and this helped shape the draft document. However, it's proposed that further engagement with planning authorities and developers is undertaken to ensure that all viewpoints are considered and reflected in the CS Policy Guidance and Calculator where appropriate.
38. The County Council's recent declaration of a Climate Emergency recognises the need to consider and where possible to address environmental issues in all its activity. In light of this, the next stage of engagement will include an opportunity for planning authorities and developers to suggest sustainable measures both in

terms of making Hampshire more resilient to a changing climate and mitigating future climate change through reducing carbon emissions.

39. It is proposed that in the absence of relevant objections that cannot reasonably be overcome, authority be delegated to the Director of Environment and Transport to finalise and implement the Commuted Sums Policy Guidance and Calculator. If relevant objections that cannot reasonably be overcome are received in response to the consultation, a further report would be brought to the Executive Member for Economy, Transport and Environment as necessary.

Applying Commuted Sums to Hampshire County Council Capital Improvement Schemes

40. The vast majority of capital schemes are funded by Local Enterprise Partnerships (LEPs), DfT, developer contributions or various other local funding mechanisms. Historically the Economy, Transport and Environment Department (ETE) has not obtained commuted sums for highway improvement schemes delivered through the Capital Programme.
41. External grant funding is regularly secured to add to and improve the existing highway network, however, in most cases, this funding does not extend to its future maintenance.
42. Although it's recognised that the capital programme can potentially place a significant burden on the future highway maintenance budget, it is not currently intended to try and secure CS for highway improvement schemes. However, the inclusion of the CS calculator in capital scheme project appraisals will highlight the impact of these schemes and help to make informed decisions on the viability of schemes at an early stage.
43. It should be noted that although CS are not received for capital improvement schemes, an annual allowance is made to the highway maintenance budget to account for the growth of the highway network and increased future maintenance requirements generated by Capital Programme.

Finance

44. The increase in commuted sums paid to Hampshire County Council could potentially be significant for non-standard designs, reflecting the potential scale of increased future maintenance costs from such designs. However, the proposed commuted sum process will provide a transparent method for calculating and collecting the necessary level of income required to adequately maintain new infrastructure whilst placing greater onus on planning authorities and developers to provide cost effective and sustainable solutions.
45. If the implementation of a more comprehensive CS calculator, especially for non-standard designs, is proven to deter development in Hampshire, there are various options available to reduce the CS costs. These could include reducing the timeframes the CS are calculated over for Section 38 and Section 278 agreements or through the application of a discount rate. It is recommended that authority be delegated to the Director of Economy, Transport and Environment,

in consultation with the Director of Corporate Resources where relevant, to make changes such as these.

46. All CS received will be collected and managed by Hampshire Highways Service. All CS collected, other than for Rights of Way, will be recorded and held in a single account to be allocated at any time for the maintenance of Hampshire's transport infrastructure assets. CS received specifically for Rights of Way assets will be paid into the Culture, Communities and Business Services accounts and ringfenced for the Countryside Service.

Performance

47. Asset lifecycles, rates, new products and materials relating to the CS calculator and policy guidance will be reviewed on an annual basis and adjusted as appropriate.
48. The Asset Management Team will continue to liaise closely with ETE Transport teams, specifically the Highway Development Agreement Team, to ensure all feedback from developers is considered and processes adjusted if necessary.

Equalities

49. The recommendations in this report relate to policy and process and will not themselves directly affect levels of service. On this basis, it is not thought that this decision will have an impact on any groups with protected characteristics.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

Hampshire maintains strong and sustainable economic growth and prosperity:	yes
People in Hampshire live safe, healthy and independent lives:	no
People in Hampshire enjoy a rich and diverse environment:	yes
People in Hampshire enjoy being part of strong, inclusive communities:	no

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

Document

Location

None

EQUALITIES IMPACT ASSESSMENT:

1. Equality Duty

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

2. Equalities Impact Assessment:

The recommendations relate to policy and process and will not themselves directly affect levels of service. On this basis, it is not thought that this decision will have an impact on any groups with protected characteristics.