

NORTHUMBERLAND

Northumberland County Council

Planning Services

Commuted Sums (Section 106 Agreements)

**Developer Fund for Affordable Housing
Protocol**

November 2016

Commuted Sums (Section 106 Agreements) Developer Fund for Affordable Housing Protocol

Introduction

As part of the planning process the Council collects payments in lieu of on-site affordable homes on some sites. This document describes the framework which the Council will use to ensure those payments will facilitate the development of further affordable homes or make existing affordable homes more sustainable.

What is Affordable Housing?

The Council uses the NPPF definition of affordable homes which is:

'Affordable housing: Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.'

Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.

Affordable rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable). Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.

Homes that do not meet the above definition of affordable housing, such as "low cost market" housing, may not be considered as affordable housing for planning purposes'

The definition of homes that are classified by the Council as affordable may be amended at any time to take account of any changes to the NPPF, including those that are currently proposed, for example Starter Homes.

What is commuted sum funding?

When a developer submits a planning application for housing, the number of proposed homes may trigger a need for affordable housing in line with the Council's Core Strategy.

Government guidance states that, in the interests of creating mixed and balanced communities, affordable housing should be provided on-site and integrated with the market housing wherever possible. Therefore, the main objective of the Council is to deliver the affordable homes on-site as part of a new development. However, on some developments this may not be possible and there may be sound planning or housing reasons where off site delivery can be robustly justified and it may be acceptable to take an off-site **commuted sum** of broadly equivalent value in lieu of part or all of the affordable housing provision on a site.

When this happens the developer must pay the Council money to enable the equivalent affordable housing to be built on another site. This payment is called a **commuted sum** and it is agreed and secured via a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended), commonly known as an S106 Agreement. These are a legal mechanism which make a development proposal acceptable in planning terms that would not otherwise be acceptable.

Where firm scheme details and likely property costs are known, the schedule of Open Market Values and Contributions set out in **Table 1** below will be used to calculate a suggested Off Site Affordable Housing Contribution (OSAHC) per dwelling that will give developers an indication of the full OSAHC of their proposed scheme. The commuted sum due will be based on the average Open Market Value of the properties that will be produced by the development and having regard to the actual number of each unit type.

Developers will need to provide evidence supporting Open Market Values within their planning application documents by providing credible evidence from local estate agents and RICS (Royal Institute of Chartered Surveyors) approved formal valuation reports.

To calculate the OSAHC sum for the site as a whole, the following should be applied:

- **The number of units the site will produce will be multiplied by 15% or other percentage in line with the affordable housing policy requirement set out in the emerging Core Strategy, to give the number of affordable units the site should support;**
- **This number will then be multiplied by the contribution indicated by the Open Market Value shown on the schedule to give the total monetary value that the site should contribute to providing affordable housing off-site.**

Where a commuted sum is payable but the full amount is considered not viable, a reduced sum may be agreed with the NCC Senior Surveyor; more detailed information about site development costs will then be required.

If there is any dispute then the District Valuer may be engaged to give a final decision on development viability and on the commuted sum that is appropriate.

Section 106 Agreements will be used to ensure that any commuted sums are linked to the Open Market Valuations provided and will contain clauses so that in the event of actual sales exceeding the original estimates, the commuted sum will be reviewed in an upward only direction.

Table 1

Proposed schedule of costs to be applied to arrive at a suggested Off Site Affordable Housing Contribution (OSAHC) per dwelling:

Average Open Market value	Contribution per Affordable Dwelling/Unit
Up to £120,000	NIL
£121,000 - £150,000	£7,500
£150,001 - £200,000	£15,000
£200,001 - £250,000	£22,500
£250,001 - £300,000	£30,000
£300,001 - £350,000	£37,500
£350,001 - £400,000	£45,000
£400,001 - £450,000	£52,500
£450,001 - £500,000	£60,000
£500,001 - £550,000	£67,500
£550,001 - £600,000	£75,000
£600,001 - £650,000	£82,500
£650,001 - £700,000	£90,000
£700,001 - £750,000	£97,500
£750,001 - £800,000	£105,000
£800,001 - £850,000	£112,500
£850,001 - £900,000	£120,000
£900,001 - £950,000	£127,500
£950,001 - £1,000,000	£135,000
Above £1,000,000	by negotiation

NB. The first valuation bracket on the schedule will not realise an OSAHC as scheme costs are likely to cancel out any differential between land, build and associated costs, reasonable profit and sales revenue.

How can the commuted sums collected by the Council be used?

The starting point is that the money should be used to meet the identified need for affordable homes and will be used to deliver affordable housing on alternative sites within the wider County and improve or make more effective use of the existing housing stock for affordable housing purposes. Occasionally the sums received are restricted for use in particular locations.

Projects must be located on specific sites or in specific geographical areas and reflect priorities detailed in the Core Strategy.

The Council encourages the development and improvement of affordable housing; new homes, improving existing affordable homes and related processes.

Applicants should consider good design, energy efficiency, future management and sustainability

Examples of projects that may be considered for funding are:

- building new affordable homes;
- improvement to existing homes to make them affordable and sustainable;
- initiatives that will help to support the development of sustainable, long-term affordable homes;
- funding the affordable element of supported housing schemes;
- buying houses offered to the council under the Right of First Refusal, related to the Right to Buy provisions to be let at affordable rent; and
- buying land for affordable housing.

The Council is keen to ensure that money is not lost on aborted schemes or paid at risk at project conception stage and each application will be assessed accordingly.

How much funding is available?

The level of funding available will depend upon the amounts collected at the time and requests from other projects in the same area. This means funding can be limited and sometimes there will be no funding available.

Who can apply?

Applications can be made by not-for-profit organisations, such as:

- Registered Providers
- Community land trusts
- Other housing providers approved by the council

Individuals or businesses are not eligible for funding.

How can I apply for funding?

Proposals should be discussed at the earliest opportunity with the council's Affordable Housing Team: housing.proposals@northumberland.gov.uk

The Affordable Housing Officers will be able to discuss your project and highlight identified housing needs for the area in which your project is located eg bungalows for older people or discount market value homes for young families.

What happens next?

Applications for funding should be made by completing the Housing Developer Fund application form. It is expected that by this stage a detailed and costed project plan will have been developed to enable the application to be assessed objectively. This will include key development points or 'milestones' which the council will use to measure the progression of the project and pay tranches of funding at appropriate stages. It is expected that applicants will combine funding from other sources to fund the total project cost.

Applications will be considered by a cross-service Officer panel which will meet according to the timetable below and which will make recommendations for approval (applications of more than £100k may be subject to a longer approval process).

The panel will consist of officers from several disciplines including Head of Planning Services, Head of Housing, Section 106 Officer, an Affordable Housing Officer and Strategic Estates.

Upcoming Housing Developer Fund Panel Meetings: 2016/17 and 2017/18

Panel date meeting	Deadline for receipt of applications	Result of application by:
Thursday 9th March 2017	Friday 17th February 2017	Friday 24th March 2017
Thursday 8th June 2017	Friday 19th May 2017	Friday 23rd June 2017
Thursday 7th September 2017	Friday 18th August 2017	Friday 22nd September 2017
Thursday 7th December 2017	Friday 17th November 2017	Friday 22nd December 2017
Thursday 8th March 2018	Friday 16th February 2018	Friday 23rd March 2018