
Local Development Framework Working Group

4th December 2006

Report of the Director of City Strategy

Commuted Sum Payments for Open Space in New Developments

Summary

1. This report seeks comments on a revised approach towards implementing policy L1c (Provision of New Open Space in Development), with regard to commuted sum payments towards open space provision in new developments. It asks Members to consider a more structured commuted sum payments process for use in considering planning applications for residential and employment, retail and leisure uses where appropriate.

Background

2. Policy L1c - Provision of New Open Space in Development (attached in Annex A) was approved by Members in April 2005, as part of the 4th Set of Changes to the Local Plan. This policy outlines that in certain circumstances, a commuted sum payment may be acceptable instead of on-site provision. However, the policy does not specify the amount of commuted sum payment in monetary form. The Council however, has developed a set of robust commuted sum figures for children's equipped open space, informal open space and outdoor sports facilities, based on up to date 2006 prices for upgrade costs from the Building Costs Information Service Tender Price Index 3rd Quarter Figures, as approved by the Royal Institute of Chartered Surveyors and are updated annually, in April. These figures were also quoted in Appendix 5 of the Draft Open Space Supplementary Planning Guidance (SPG), considered by Members at Planning Committee on 24th May 2006. Members will recall that at a Local Development Framework (LDF) Working Group meeting on 24th August, a decision on approving the SPG was deferred pending the outcome of a PPG17 Assessment.
3. Development Control (DC) officers are presently applying policy L1c, but are considering costs on a site by site basis in consultation with the Lifelong Learning and Leisure Section of the Council. This approach is not transparent to applicants and developers. Clearly, this situation is far from ideal, and DC officers are getting increasingly concerned that such an approach could be questioned at appeal.

4. Therefore, members are being asked to consider the proposed commuted sum payments figures outlined in Annex B of this report. This would give the Council a more robust basis for considering planning applications involving commuted sum payments for open space.

Consultation

5. Following consultation with the Council's Lifelong Learning and Culture section, the proposed figures were included in the draft Open Space SPG. Public consultation on the consultation draft of the SPG took place between 21st November 2005 and 13th January 2006. In total, 120 objections and supports on all aspect of the SPG were received. In terms of specific comments received in relation to commuted sum payments together with Officers responses, these are shown on Annex C.
6. Through the consultation process, some respondents claimed that the figures were too high. However, the figures for children's equipped play space, informal amenity open space and outdoor sports facilities, quoted in the SPG were derived from a range of improvement schemes for children's play space, amenity open space and sports pitches, undertaken in the City during 2005 and 2006, giving an average costing. In relation to sports pitches, the figure is taken from a range of sports pitches, not just football. To ensure that payments from developers keep pace with inflation, it is proposed that these costs are updated on 1st April of each year. This will be based on the Building Cost Information Service Tender Price Index 3rd Quarter Figures, provided by the Royal Institute for Chartered Surveyors.

Options

7. There are two options for members to consider: Firstly, a set of commuted sum payment figures to accompany policy L1c. Secondly, to continue using the commuted sum figures, on a site by site basis.

Analysis

8. If option 1 (Approve the commuted sum payments as outlined in Annex B of this report for development control purposes) were to be agreed, this would be based on up to date figures, based on the 2006 prices for upgrade costs from the Building Costs Information Service Tender Price Index 3rd Quarter Figures, as approved by the Royal Institute of Chartered Surveyors, and would be updated annually in April. Consequently, this would give a degree of certainty and accountability towards the Council's approach towards requiring commuted sum payments towards open space, and would strengthen the Council's case at planning appeals, by quoting figures approved by Members. However, because the figures are higher than those figures already used, developers may be reluctant to agree to such figures.
9. However, if option 2 (Continue using the commuted sum figures, on a site by site basis) were to be agreed by Members, it would give less certainty and accountability to the commuted sum process, and risk the Council's approach

being questioned at appeal. This issue is becoming an increasing concern from development control officers.

10. Based on the above considerations, officers, in consultation with Development Control, consider that Option 1 above (Approve the commuted sum figures as outlined in Annex B of this report) would be the most appropriate option to take at this stage.

Corporate Priorities

11. The option outlined above accords with the following Corporate Strategy Priorities:
 - Improve the actual and perceived condition and appearance of the city's streets, housing estates and publicly accessible spaces;
 - Improve the health and lifestyles of people who live in York, in particular among groups whose levels of health are the poorest.

Implications

12. The following implications have been assessed.
 - **Financial** – *Proposal is likely to increase the amount of money the Council receives from commuted sum payments for open space.*
 - **Human Resources (HR)** - *None*
 - **Equalities** - *None*
 - **Legal** - *None*
 - **Crime and Disorder** - *None*
 - **Information Technology (IT)** - *None*
 - **Property** - *None*
 - **Other**

Risk Management

13. In compliance with the Council's risk management strategy. There are no risks associated with the recommendations of this report.

Recommendations

14. Members are asked to recommend to Planning Committee that they:

- 1) Approve the Commuted Sum payment figures shown in Annex B to this report to support the application of Policy L1c of the 4th Set of Changes to the City of York Local Plan.

Reason: To give a degree of certainty and accountability towards the Council's approach towards requiring commuted sum payments towards open space.

Contact Details

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Chief Officer's name

*Bill Woolley
Director of City Strategy*

Report Approved

Date 23/11/06

Specialist Implications Officer(s) None

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Background Papers:

- a) Draft Supplementary Planning Guidance: Open Space in New Developments – A Guide for Developers (24th May 2006);
- b) Planning Committee Report – Open Space in new developments – a guide for developers (24th May 2006);
- c) LDF Working Group Report – Open Space Supplementary Planning Guidance update (24th August 2006)

Annexes

Annex A – Policy L1c (Provision of New Open Space in Development) from the 4th Set of Changes to the City of York Local Plan;

Annex B - Proposed Commuted Sum Payment figures for development control purposes:

Annex C - Summary of comments on Commuted Sum Payments received to the Consultation Draft Open Space SPG.

Annex A

City of York Draft Local Plan Incorporating the 4th Set of Changes (April 2005) Policy L1c (Provision of New Open Space in Development)

Developments for all housing sites or commercial proposals over 2,500m² gross floor space will be required to make provision for the open space needs of future occupiers. This should be provided in addition to any area required for landscaping.

For sites of less than 10 dwellings a commuted sum payment will be required towards off site provision.

For sites of 10 or more dwellings, an assessment of existing open space provision accessible to the proposed development site including its capacity to absorb additional usage will be undertaken. This is to ascertain the type of open space required and whether on-site or a commuted sum payment for off-site provision is more appropriate (this will include the cost of land purchase), based on individual site circumstances.

The level of provision or commuted sum equivalent will be based on the following figures (a breakdown of these figures for each dwelling will be provided in a Supplementary Planning Guidance document covering open space).

The following provision of open space (or commuted sum equivalent) will be required:

- a) 0.9ha per 1,000 population / or 1,000 employees of informal amenity open space;

In addition, for housing developments:

- b) 1.7ha per 1,000 population of sports pitches;
- c) 0.7ha per 1,000 population for children's equipped playspaces.

Applicants will be expected to enter into a Section 106 Agreement towards ensuring the provision and future maintenance (whether by means of a commuted sum payment or by some other means) of the open space facility for a period of 10 years.

Rest homes and nursing homes will only be expected to provide amenity open space. Single bedroom dwellings and student accommodation will not be expected to provide children's playspaces.

11.12 The Council considers that all residents should have access to safe, attractive and useable public open space and the Local Plan Strategy aims to promote accessible open space in new residential, employment, retail and leisure developments.

- 11.13 Policy L1c aims to secure open space of a useable and maintainable standard in new residential, employment, retail and leisure developments. The thresholds for the policy to come into force have been chosen to ensure the deliverability of open space of a size, which will be of use to the community who will use it and would be viable for applicants to provide.
- 11.14 Where residential applications are for less than 10 dwellings, in most cases, a commuted sum payment towards open space provision will be acceptable. In residential developments of 10 or more dwellings and commercial developments of 2,500m² gross floor space an assessment will be undertaken of existing open space in the vicinity of the proposed development. The results of this assessment will help to determine what form the open space should take and whether it should be provided on-site, or a commuted sum payment should be made towards off-site provision (this will include the cost of land purchase). The assessment should also consider whether existing non-public open space or sports pitches can be brought into public usage.
- 11.15 A commuted sum payment will also be expected from applicants to cover future maintenance of open space, in accordance with Circular 1/97. A period of 10 years will be applied when calculating the maintenance payment to ensure that the open space can become an established feature within the local community.
- 11.16 Policy L1c should be read in conjunction with any planning advice note produced by the Council on open space at that particular time.

Annex B: Proposed Commuted Sum Payment figures for development control purposes:

Breakdown of commuted sum payments for residential and commercial developments

Where it is established that a commuted sum payment is required in lieu of provision of open space on site, the following standards will apply:

For residential developments:

The table below shows the commuted sum payments required in residential developments. Commuted sum payments will be secured by a Section 106 Agreement.

In most situations, the commuted sum payment will be made towards increasing capacity and access of existing provision, as outlined in the table below. However, in situations where commuted sum payments are to be made for the provision of new open space, appropriate land values at the time of determining the planning application would need to be considered in addition to the figures shown below, to allow for the purchase of new land.

Commuted sum required per dwelling for increasing capacity and access of existing provision

No of bedrooms in a single dwelling	Children's equipped Play Space (£)	Informal Amenity Open Space (£)	Outdoor Sports Facilities (£)
1	£N/A	£150	£230
2	£725	£295	£455
3	£1445	£440	£680
4	£2170	£590	£905
5+	£2890	£735	£1130

(Source: Based on 2006 prices for upgrade costs from the Building Costs Information Service Tender Price Index 3rd Quarter Figures, as provided by the Royal Institute of Chartered Surveyors. The figures are updated annually in April)

For employment, retail and leisure developments:

Where a commuted sum payment is required for informal amenity open space provision a payment of £150 per employee would be required, based on 9m² of open space per employee. The figure of £150 is based on the equivalent amount per person for providing informal amenity open space in residential developments.

Annex C: Summary of comments on Commuted Sum Payments received to the Consultation Draft Open Space SPG.

<u>Summary of consultee's comments</u>	<u>Officer response</u>
<p>The cost of outdoor sport is considered unreasonable if this relates to the provision of grassed playing pitches. Sport England has provided information on the cost of provision in the 1st Quarter of 2005 of a range of new leisure and sports facilities – a 100m x 64m grass pitch costs £53,000, or £8.28 per m². This compares with the CYC figure of £12.64 per m² (£215 per 17m²) – approx 30% higher than Sport England's figure. CYC does not make any justification for the cost of provision of amenity open space – there is no national average to provide comparison. However, as the provision is higher than the proposed outdoor sport at £15.55per m², the level set is considered unreasonably high.</p>	<p>The figures for children's equipped play space, informal amenity open space and outdoor sports facilities, quoted in Appendix 5 have been derived from a range of improvement schemes for children's play space, amenity open space and sports pitches, undertaken in the City during 2005 and 2006, giving an average costing. In relation to sports pitches, the figure is taken from a range of sports pitches, not just football. To ensure that payments from developers keep pace with inflation, it is proposed that these costs are updated on 1st April of each year. This will be based on the Building Cost Information Service Tender Price Index 3rd Quarter Figures, provided by the Royal Institute for Chartered Surveyors. The effect for 2006 is that the costs in the Table will need to be increased by 4.7%.</p>
<p>ODPM Circular 05/2005 makes clear financial payments should only be made in the circumstances that they are necessary and are fairly and reasonably related in scale and kind to the proposed development and reasonable in all other respects. The Councils proposed policy fails these important tests.</p> <p>Appendix 5: The basis for calculations of commuted sums should be given. In line with Circular 05/2005, the derivation should be set out in the document so that it can be subject to proper public consultation.</p>	<p>It is agreed that financial payments must be fair and reasonably related to the proposed development, which is considered to be the case. The commuted sums for off site provision in Table 5 are derived from a range of sports pitch, amenity open space and playground improvement schemes undertaken in the City during 2005/2006. To ensure that payments from developers keep pace with inflation, it is proposed that these costs are updated on 1st April each year. This will be based on the Building Cost Information Service Tender Price Index 3rd quarter figures provided by the RICS. Therefore, the sums proposed meet the 05/2005 Circular Tests. An audit trail can be provided if required to justify the commuted sum payments.</p>
<p>No contribution required specifically for local parks, unless they are covered by informal amenity open space requirements – is this deliberate? Are there any parks within CYC area, which</p>	<p>Informal Amenity Open Space includes parks, which tend to be multifunctional in terms of open space provision.</p>

could benefit from expenditure?	
<p>The SPG places much emphasis on S106 Agreements, but fails to understand the potential difference between open spaces provided for differing purposes – for example amenity; human recreation inc children’s play, sport and passive recreation, and for wildlife and biodiversity e.g. in paragraph 3.2. The document fails to define the types of open space and differentiate between them. This is necessary, as different types of development require different types of open space.</p>	<p>The SPG is intended to be used for the consideration of open space for amenity, human recreation / play and passive recreation and sport, rather than specifically for wildlife and biodiversity considerations. However, where new open space brings forward wildlife and biodiversity benefits, this will be encouraged where it does not lead to conflict between human and wildlife use (For example, intensive human recreational use destroying wildlife habitats). In order to clarify this, it is suggested that Paragraph 1.5 of the SPG should have the following sentence added:</p> <p>“The SPG covers open space where it is primarily for the purpose of recreation (passive and active), play and sport. However, where such uses do not conflict with nature conservation, biodiversity may also form an important element of such open space. The SPG does not cover landscaping schemes in developments, unless it is primarily designed for passive human recreation, play and sport.”</p>
<p>There is no hint of detail for any arrangement for CYC to liaise with the Parish to assist with open space provision or to facilitate transferring of funds etc. This may allow developers to build higher density on their land, exacerbating the problem of open space shortage – no amount of money can compensate for this! The lack of dialogue in this SPG is a concern.</p>	<p>Where a commuted sum payment is requested, either by Unilateral Agreement or Section 106 Agreement, the Council’s Leisure Department would consider how and where the money would be spent within a parish or ward. The decision would be based on a number of issues including the provision within adjacent wards and parishes, where this could have an impact on local provision in the vicinity of the application site.</p>
<p>It is difficult to understand how developers can provide open space when clearly no space exists and S106 commuted sums</p>	<p>On site provision would be encouraged in most cases, where the site is capable of providing the open space. Where a commuted sum</p>

<p>offer no real value in seeking to improve open space provision.</p>	<p>payment is required in lieu of on site provision, in normal circumstances, the payment would be used within the recommended walking distances outlined in Table 1 of the SPG, from the development. However, where there is clearly no existing open space capable of greater usage within the appropriate walking distance, then the commuted sum should be used at the most accessible open space to the development site, beyond the catchment. However, there may be rare situations where new open space will need to be provided. In such circumstances, land acquisition costs may also need to be taken into account.</p>
<p>Off site contributions should be increased in relation to on-site. Clearly there are financial and saleability benefits to a developer providing off site space. It seems that if a developer provides the space on site that they not only lose development land and incorporate an often-unpopular facility (to some house buyers) but will also have to pay around £1000 for maintenance (based on a 3 bed house). This seems high given that the commuted sum payments for play facilities for a 3-bedroom house is 'only' £1380 and obviously there is no land cost as well.</p>	<p>The SPG requires provision on-site, except for developments fewer than 10 dwellings and where the minimum size of open space outlined in paragraph 4.6 of the SPG cannot be achieved, or the site itself is physically too small (such as high density developments) for the required amount of open space. In instances where off site provision is necessary, the commuted sum via a planning obligation will be necessary. The commuted sums for off site provision in Table 5 are derived from a range of sports pitch, amenity open space and playground improvement schemes undertaken in the City during 2005/2006. To ensure that payments from developers keep pace with inflation, it is proposed that these costs are updated on 1st April each year. This will be based on the Building Cost Information Service Tender Price Index 3rd quarter figures provided by the RICS. Therefore, the opportunity to raise the commuted sums in terms of off-site provision would not be feasible.</p>

