

ROSSENDALE BOROUGH COUNCIL

Development Control Service

**Council protocol for the delivery of commuted
sums and planning obligations**

1.0 INTRODUCTION

- 1.1 Planning Obligations are sought by the Council from developers during the process of negotiation and prior to and after the determination of planning applications in accordance with National Government Guidance and Planning Legislation. These will be in the form of a legal agreement/unilateral undertaking to ensure that developers provide or contribute towards the reasonable cost of the physical infrastructure required by their developments, (eg roads) and elements of social infrastructure (eg shops, a school, community facilities, open space, affordable housing), which will be needed by local residents.
- 1.2 Planning Obligations will also be sought where necessary to secure the retention, enhancement or replacement of features of nature conservation interest. In appropriate circumstances commuted sum payments will be sought from developers for the future maintenance of some aspects of the development, eg in the case of funding for public transport, revenue support of services for a period, in the case of small areas of open space, recreational facilities, children's play space, woodland or landscaping proposals of benefit to the development itself rather than to the wider public. Payments and their timescale will be related in scale and kind to the development proposed.
- 1.43 Where Planning Obligations are required by the Council, the Council will generally require the provision to be in the form of on site facilities to support the proposed development. However, the Council will exceptionally consider the receipt of a commuted sum to provide new off site facilities or improve an existing off site facility (eg existing facilities for recreation, the provision of affordable housing).
- 1.4 There is a need for better co-ordination of the process within the Council and improved ownership of the process by particular services. There are currently no specific procedures in place to specify how the Planning Obligations should be sought and delivered.
- 1.5 The purpose of a Council protocol for dealing with Planning Obligations and Commuted Sums is that it will provide a robust, clear and consistent Council wide set of procedures. It will be both efficient and effective in ensuring that Planning Obligations and Commuted Sums are to be provided to the Council's requirements. It will ensure that Commuted Sums in particular are used by the Council to deliver positive community benefits for the residents of Rossendale in accordance with the aims and priorities of the Community Strategy, Council Corporate Priorities, the Housing Strategy and in accordance with Best Value principles. There is a need also to record Planning Obligations achieved on a register for public inspection.

The Council will be agreeing to adopt the Lancashire County Council SPD on Planning Obligations and this protocol should be read in conjunction with that document and future SPD's.

- 1.6 The following Services will be involved in implementing this protocol:

Planning and Building Control Services
Legal Services
Financial Services
Street Scene & Liveability
Housing Strategy and Regeneration Team

2.0 OWNERSHIP AND RESPONSIBILITY

2.1 Pre-application Discussions

- 2.1.1 Where a landowner/developer contacts the Council to discuss the development of a site, the appropriate Planning Case Officer in discussion with the Senior Planning Officers will consider the establishment of a development team depending upon the nature of the proposals. This may be before or after the submission of a planning application. This will involve officers from different services and may include, amongst others, representatives from the Environment Agency, Lancashire County Highways and United Utilities.
- 2.1.2 The first meeting will establish the Council's individual requirements in respect of any Planning Obligations such as affordable housing and sustainable transport measures, open space, play area, sports pitches including Commuted Sums required and how these are to be delivered. The developer will be provided with a copy of the Lancashire County Council Planning Obligation SPD and future SPD's when they are available, which will determine the type, size, nature and location of the obligations and when they are to be provided. Particular members of the development team will be responsible for identifying the justification for and the size and calculation. The Senior Planning Officer will ensure that Legal Services receive instructions as to the contents of the Legal Agreement. In addition each Service will need to specify to the Senior Planning Officer the timing of the provision of a Planning Obligation/Commuted Sum so that this can be included in the legal agreement. Even in the case of smaller sites, Planning Obligations may be required. If no Development Team is set up the Case Officer will be responsible for contacting the appropriate Service to discuss their requirements and then agree the obligation with the developer.
- 2.1.3 Once the obligation has been agreed by the Council and accepted by the developer, the Senior Planning Officer will process the application and assuming the proposal is acceptable to the Authority, recommend approval of the proposal.
- 2.1.4 Prior to the application being approved under delegated powers or decided at Development Control Committee, the Case Officer will request the applicant or their advisers to prepare a draft Legal Agreement which may comprise a unilateral undertaking, for the consideration of the Council's Solicitors. Depending on the detail of the "heads of terms", a number of Council Officers may be involved in agreeing the contents of the Legal Agreement. The officer's report will set out the nature of the Planning Obligations required and details of commuted sums to be provided. It will be necessary to include detailed figures in the Legal Agreement, which incorporate the retail price index. This is particularly important in the case of commuted sums for maintenance of public open space when adoption is subsequent to the signing of the Legal Agreement.
- 2.1.5 However, it will be responsibility of the Case Officer in discussion with the Solicitor and appropriate Services to ensure that the contents of the Legal Agreement are acceptable to the Service and the Council. The Legal Agreement should wherever possible be prepared before but can be after a decision is made on the planning application.

2.2 The Issuing of a Planning Permission

- 2.2.1 Once the Planning Obligations/Commutated Sums have been agreed by the Council and the appropriate Legal Agreement issued, a Completion Certificate (copy attached as Appendix 1) is to be sent by the Council's Solicitor to the Planning and Building Control Service together with a signed copy of the Legal Agreement, for the attention of the Senior Planning Officer and to other relevant Services such as Housing Strategy, Street Scene and Liveability. The Planning Case Officer will confirm the contents of the Agreement through signature on the appropriate form (Appendix 2). The planning permission will then be issued.
- 2.2.2 Legal Services should also send a copy of the completion certificate and copy of the agreement to the Land Charges Team for entry on the Land Charges Register.
- 2.2.3 It should be noted that certain facilities which will need to be provided as part of development such as open space and play/recreational facilities may also be provided by way of a planning condition.

2.3 Following the Issuing of Planning Permission

- 2.3.1 The Technical Assistant will ensure that copies of the planning permission are sent to relevant services. Heads of Service will be required to note the triggers in the agreement or conditions attached to a planning permission so as to discern when Planning Obligations are to be implemented or when Commuted Sums are due, for example on the completion of the X house or by a specific date or when conditions are to be met. This is to ensure that they can plan ahead to spend the Commuted Sums and deliver the appropriate projects as set out in the Legal Agreement and that such projects are included in the Service Plans and budgeted for.
- 2.3.2 Where the delivery of a Planning Obligation/Commutated Sum is related to the start or a particular phase of or completion of the development, the Building Control Manager will be responsible for ensuring that the particular Service is notified of the start and progress and completion of the development. This is particularly important in relation to the adoption and maintenance of public open space. In order for the Building Control Manager to estimate when development has been started, a phase completed or all the development completed it will be necessary for the Building Control Manager to be issued with a notification (copy attached as Appendix 3) that the planning permission has been issued. The Building Control Manager will need to monitor progress on all sites. The notification will be the responsibility of the Support Services Manager.
- 2.3.3 In addition the Building Control Manager will be responsible for checking the progress of development against the triggers in the agreement. The Building Control Manager will be responsible for requesting by e-mail the Sundry Debtors Section of Finance to issue one invoice to be sent to the developer/applicant to request payment of the Commuted Sum, which includes the total amount set out in the Legal Agreement inclusive of all Services. Individual Services are to be kept informed by e-mail where specified in the Legal Agreement. (Where a site is not inspected by Building Control officers details of the start and finish only of the development can be provided by the Building Control Manager to all Services). If a trigger in the Legal Agreement related to the completion of a phase of a site not inspected by Building control, the planning case officer will be responsible for checking progress on site and informing Finance and other Services as necessary in accordance with 2.3.3

- 2.3.4 Each Head of Service or their nominated representative will be responsible for ensuring that the Planning Obligation is implemented or the Commuted Sum used for the specified project according to any requirements set out in the Legal Agreement i.e. to the agreed timescale. It will be necessary for each Service to establish their own procedures to ensure that Planning Obligations are delivered.
- 2.3.5 Payment is to be made only to Financial Services.
- 2.3.6 When payment is requested, Financial Services will be responsible for allocating the amount to be received to a particular dedicated service budget code by site and topic, which has been established by agreement with the appropriate Service and to notify the Service within 3 days of the receipt of the payment. It will be the responsibility of the Service to ensure that the money is spent on the relevant project.
- 2.3.7 Where the requirements of the Legal Agreement are not delivered after one month of the request being made or being due, Finance will instruct Legal Services to pursue the delivery of the contents of the Legal Agreement to the satisfaction of the Council. Individual Services are to be kept informed of progress by Finance.
- 2.3.8 On an annual basis, Financial Services and all services are to produce a progress Statement of Commuted Sums received, for particular projects and progress on project implementation for Management Team.

2.4 Monitoring of Planning Obligations/Commuted Sums

- 2.4.1 All individual services are to be responsible for monitoring the delivery of Planning Obligations and Commuted Sums by site and the spending of Commuted Sums to ensure that the monies are spent on appropriate projects as set out in the Planning Officer's report and those, which support service objectives, Council Priorities and the Community Strategy.

2.5 Public Inspection of Planning Obligations

To ensure that the process of requiring and receiving Planning Obligations and Commuted Sums is robust and transparent and complies with Government Guidance and Planning Legislation, a Public Register of Planning Obligations will be retained and updated by the Development Control Service. This will be the responsibility of the Team Leader Development Control.

**THE PROCESS OF DELIVERING PLANNING OBLIGATIONS
AND THE ROLE OF THE NOMINATED SERVICE**

ELEMENT OF PROCESS	SERVICES INVOLVED
1 Pre-application discussions	Case Officer and Development Team or Case Officer and appropriate Service
2 Establishing contents of Legal Agreement following collection of evidence/consultation requirements set by SPD Decision on planning applications	Case Officer, advice from other Services as necessary to Case Officer and Solicitor
3 Completion of Legal Agreement	Solicitor/Case Officer
4 Completion Certificate and Legal Agreement to Planning and Building Control Services for Case Officer and to other Services as necessary including Land Charges	Solicitor/Legal Services, other Services
5 Request to issue Decision, completion of form	Case Officer
6 File prepared and Decision Notice signed and decision issued Building Control Manager notified	Team Leader, Development Control
7 Copy of planning permission to relevant services	Team Leader Development Control
8 Building Control Manager to ensure Finance and other Services are informed of start of development, and other triggers in Legal Agreement. On Non Building Control Inspected Sites, the responsibility rests with the Planning Case Officer. Finance to be requested to issue invoice, other Services notified.	Building Control Manager/Case Officer
9 Any payments received by Finance are to be allocated to service budget codes for spending on appropriate projects as set out in Legal Agreement.	Head of Finance Individual Services
10 Any obligations not delivered in accordance with Legal Agreement, Finance are to request Legal Services to take necessary legal action. Other Services to be kept informed of progress	Finance/Legal
11 All services are to monitor receipt and spending of Commuted Sums/implementation of Planning Obligations. These should be recorded on a common database accessible in the form of a matrix on a shared drive to all Services. Set up by Finance with individual Services to update as necessary and track progress.	All services

Element of Process**Services Involved**

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| 12 | A copy of the list of Planning Obligations/Commutated Sums to be kept by Planning Control on public register | Support Services Manager of Planning and Building Control |
| 13 | Annual Statement to be produced by Finance and other Services on Commuted Sums received, projects to be implemented and progress of implementation | All Services/Management Team |

The following Services/Teams will be party to this protocol:

Service/Teams	Officer	Telephone	E-Mail
Planning and Building Control	Adrian Harding Neil Birtles (Case Officers)	01706 238646 01706 238642	adrianharding@rossendalebc.gov.uk neilbirtles@rossendalebc.gov.uk
Street Scene and Liveability	Jason Foster	01706 252551	jasonfoster@rossendalebc.gov.uk
Housing Strategy and Regeneration	Steve Jackson Gary Parsons	01706 252401 01706 252402	stevejackson@rossendalebc.gov.uk garyparsons@rossendalebc.gov.uk
Finance	Phil Seddon	01706 252465	philseddon@rossendalebc.gov.uk
Legal Services	Linda Fisher	01706 252447	lindafisher@rossendalebc.gov.uk

ROSSENDALE BOROUGH COUNCIL

**NOTICE OF COMPLETION OF
S.106 LEGAL AGREEMENT**

TO:

FROM:

LEGAL FILE NO: PCON/106/

The following has been completed:

Planning Ref: APP/

Proposal: _____

Completion Date (as on Deed) _____

Parties _____

Terms _____

Receipt of Money _____ Amount _____

Request of payments _____

Details _____

Others _____

Commuted Sum _____ Amount _____

** Planning permission can now be issued*

LEGAL AGREEMENT CONFIRMATION FORM

**Planning
Application No**

APP/200 /

Site Details

Date Legal Agreement signed

Confirmation that planning permission can be issued and legal agreement checked

Name: _____ Date: _____

Signature: _____

Our Ref:

Please Contact:

Date:

Dear Sir/Madam

APPLICATION:

LOCATION:

PROPOSAL:

APPLICANT:

This application has now been considered by the Council and it has been approved subject to a Section 106 Legal Agreement.

Yours faithfully,

Brian Sheasby
Team Leader, Development Control

FURTHER INFORMATION

This leaflet is one of a series of advice notes for users of the Service which provides details of new procedures aimed at improving services.

The Council actively encourage views from its customers on service improvements. If you wish to make any comments about the contents of this leaflet, have comments or suggestions to make or require any advice or information on Development Control.

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If you would like a summary of this information in large print, on audio cassette or in a language other than English, please let us know and we will be happy to arrange it.

Please telephone 01706 238603 or Contact Communications Section, Futures Park, Bacup



اگر آپ کو ان معلومات کا خلاصہ بڑے حروف میں، آڈیو کیسٹ پر یا انگریزی کے علاوہ کسی اور زبان میں درکار ہے تو براۓ مہربانی ہمیں بتائیں، ہم بخوشی آپ کے لیے اس کا انتظام کریں گے۔

برائے مہربانی 01706217777 پر ٹیلیفون کریں یا پھر کیوبتی کیشن سکشن سے اس پتہ پر رابطہ قائم کریں:

Communications, Rossendale Council, P O BOX 74, Bacup, OL13 0WU