

Decision Pathway – Report



PURPOSE: Key decision

MEETING: Cabinet

DATE: 06 June 2023

TITLE	Commuted Sums Policy		
Ward(s)	Citywide		
Author: Nick Pates	Job title: Area Highways Maintenance Team Manager		
Cabinet lead: Cllr Donald Alexander, Cabinet Member for Transport	Executive Director lead: John Smith, Interim Executive Director Growth and Regeneration		
Proposal origin: BCC Staff			
Decision maker: Cabinet Member Decision forum: Cabinet			
Purpose of Report: To seek approval to introduce a Commuted Sums policy to levy capital payments for the ongoing maintenance of assets.			
Evidence Base: <ol style="list-style-type: none"> 1. Commuted sums can be defined as “A payment of a capital sum by an individual, authority or company to the highway authority, local authority or other body, as a contribution towards the future maintenance of an asset to be adopted or transferred” (County Surveyors’ Society (CSS)¹, 2008 2. The policy sets out the standards by which Bristol City Council (BCC) should approve materials used in the creation and maintenance of adoptable highway assets and identifies those materials for which Commuted Sums for future maintenance activities can be collected. 3. It is intended to provide a transparent and consistent approach to the levying of Commuted Sums so that increased clarity for developers is provided, by enabling Commuted Sum requirements to be considered at an early stage of the development process. 4. The policy should allow greater innovation and a more varied palette of materials as limits the risk of maintenance of the unknown. 5. BCC already levies Commuted Sums for some developments but lacks a policy setting this out. 6. The policy is in line with ADEPT guidance and has been developed after benchmarking other Local Authorities. 7. Commuted Sums to be applied to all non-approved materials and assets identified within the policy 8. A discount rate is applied to all sums collected, which is in keeping with Adept guidance and other local authorities 9. Commuted Sums to be considered on a case-by-case basis and the Transport and Highways Operational 			

Board (THOB) should be the escalation forum for challenges to the application of commuted sums.

10. Example Commuted Sums costs:

- Pigmented HRA for a 2km long, 3m wide cycle track - £28,533
- Rainwater Garden (144m²), 20yr design life. £15,984 installation cost. 20year maintenance and replacement cost - £49,915
- Small Signal Junction. £157k installation cost. 20year maintenance and one-off replacement costs - £136,083

Cabinet Member / Officer Recommendations:

That Cabinet

1. Approve the Commuted Sums Policy as set out in Appendix A.
2. Authorise the Executive Director Growth and Regeneration in consultation with the Cabinet Member Transport to take all steps required to implement the policy and make minor amendments as required.
3. Note that officers will continue to consider whether commuted sums can be applied to grant funded projects.

Corporate Strategy alignment:

- Supports delivering a resilient city that works towards decarbonisation in which assets are maintained sustainably.

City Benefits:

1. Ensures assets are fit for purpose
2. Reduces revenue burden
3. Clarity for developers
4. Supports innovation

Consultation Details: N/A

Background Documents: [ADEPT Bridges Commuted Sums Guidance 2017 \(amended\)](#) | [ADEPT \(adeptnet.org.uk\)](#)

Revenue Cost	£0	Source of Revenue Funding	
Capital Cost	£0	Source of Capital Funding	
One off cost <input type="checkbox"/>	Ongoing cost <input type="checkbox"/>	Saving Proposal <input type="checkbox"/>	Income generation proposal <input checked="" type="checkbox"/>

Required information to be completed by Financial/Legal/ICT/ HR partners:

1. Finance Advice:

The report is seeking to introduce a Commuted Sums Policy to provide a transparent and consistent approach to charging a contribution to developers towards the future maintenance of all non-approved materials and assets identified within the policy.

There are no associated costs to introducing the policy within BCC, it will ensure the income contributions from developers are more consistent and they will continue to be considered on a case-by-case basis.

Commuted Sums are levied on some developments, but this policy would standardise much of the process, adding clarity for developers at an earlier stage in the process.

The BCC Commuted Sums Policy is in line with industry guidance and from benchmarking other local authorities. The Association of Directors of Environment, Economy, Planning and Transport (ADEPT) have produced guidance notes setting out best practice for the application of commuted sums, including understanding whole life costs to ensure undue burdens are not placed on maintenance budgets and the public purse, which has shaped the BCC Policy.

The BCC Policy calculates the commuted sums objectively and as fairly as possible, so all future costs over the given timescale are discounted to the net present value (NPV). This reflects the genuine present-day value of predicted future costs which they are designed to service. At the design stage, the materials used, need careful consideration to ensure they provide a balance of being suitable and the financial burden of the future maintenance and replacement costs to BCC.

Clarity is being sort and consideration is required on whether commuted sums can be applied to grant funded projects – once the position is understood this will need communicating to the Service.

Finance Business Partner: Kayode Olagundoye. Interim Finance Business Partner, Growth & Regeneration, 19 May 2023

2. Legal Advice: Section 38(6) Highways Act 1980 provides the highway authority with power to request commuted sums when adopting a new highway. Case law (Redrow Homes Ltd v Knowsley MBC [2014] EWCA Civ 1433) has confirmed that this statutory provision can include the requirement to pay commuted sums as part of a s.38 highways agreement.

Section 278(3) Highways Act 1980 provides the highway authority with power to request commuted sums when allowing works to take place on the existing highway.

To comply with general public law principles, any commuted sum payments sought should be reasonable i.e. sufficient to cover the anticipated cost to the Council, and transparent in its calculation.

Legal Team Leader: Joanne Mansfield 22 May 2023

3. Implications on IT: No implications on IT to this activity

IT Team Leader: Alex Simpson – Senior Solution Architect 17 April 2023

4. HR Advice: There are no HR implications evident

HR Partner: Celia Williams, HR Business Partner 5 April 2023

EDM Sign-off	John Smith, Interim Executive Director Growth and Regeneration	12 April 2023
Cabinet Member sign-off	Cllr Donald Alexander, Cabinet Member for Transport	13 April 2023
For Key Decisions - Mayor's Office sign-off	Mayor's Office	5 May 2023

Appendix A – Further essential background / detail on the proposal Commuted Sums Policy	YES
Appendix B – Details of consultation carried out - internal and external	NO
Appendix C – Summary of any engagement with scrutiny	NO
Appendix D – Risk assessment	YES
Appendix E – Equalities screening / impact assessment of proposal	YES
Appendix F – Eco-impact screening/ impact assessment of proposal	YES
Appendix G – Financial Advice	NO
Appendix H – Legal Advice	NO

Appendix I – Exempt Information	NO
Appendix J – HR advice	NO
Appendix K – ICT	NO
Appendix L – Procurement	NO