



Dorset County Council

Commuted Sums

A guide to the application and calculation of commuted sums payable by Developers in association with Section 38, Section 278 and other highway agreement works

This document is guidance only, and should not be construed as legally binding upon the Council. The guidance may be updated and subject to change. It is recommended that you obtain your own independent legal advice on any agreements referred to within this guidance.

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Definitions

Adopt (Adoption) – The process by which DCC accept the maintenance of highway infrastructure at public expense.

Bridge Management Code – The UK Roads Liaison Group document entitled ‘Management of Highway Structures – Code of Practice’.

Commuted Sum(s) – A sum payable by a Developer to DCC as a contribution towards the future maintenance of an asset which will be adopted by the Council.

Developer – An individual or organisation promoting a development.

Dorset County Council (DCC) – DCC is the highway authority responsible for the construction, maintenance, operation, use and control of the Existing Highway.

Existing Highway – Highway maintainable at public expense.

Highway – A way over which the public have a right to pass and re-pass unhindered.

Highway Agreement – A legal agreement made between DCC and the Developer. DCC will enter in to such an agreement where it is satisfied that the works to the Existing Highway will be of benefit to the public. The Developer (or their Contractor) will be responsible for executing the works on the Existing Highway in accordance with the terms of the agreement.

Local Planning Authority – The public authority whose duty it is to carry out specific planning functions for a particular area. In Dorset this is a function currently undertaken by the District and Borough Councils.

Net Present Value – the value at the present time of a sum of money, in contrast to its future value when considered with the effects of interest and inflation.

Periodic Discount Rate – The effective annual interest rate (%), calculated to ensure that both the interest earned on the commuted sum, and the effect of inflation in increasing the cash sums eventually required, are taken into account.

RPI – The retail prices index (RPI) is one of the two main measures of consumer inflation produced by the Office for National Statistics.

RPI-X – A measure of inflation equivalent to the Retail Price Index (RPI) but excluding mortgage interest payments. The retail prices index (RPI) is one of the two main measures of consumer inflation produced by the United Kingdom's Office for National Statistics.

Section 38 Agreement – A legal agreement made pursuant to Section 38 of the Highways Act 1980 that provides for dedication of a road or other way as a Highway, and an

agreement to adopt the Highway at a specified point in time. This agreement is made between DCC and the freehold owner of the land who is willing and has the power to dedicate the road or other way as Highway. DCC will enter in to such an agreement where it is satisfied that the proposed development meets the requirements set out in its Adopted Highway Policy (PoIIDH5003).

Section 278 Agreement - A legal agreement made pursuant to Section 278 of the Highways Act 1980, which enables DCC, where it is satisfied that it will be of benefit to the public, to execute works on the Existing Highway. This agreement is made between DCC and the Developer.

Standard Construction Specification – The DCC publication entitled ‘Specification for the Construction and Drainage of New Streets’ (November 2014).

SuDS – Sustainable drainage systems

1. Introduction

The aim of this document is to offer a transparent and consistent approach to commuted sums levied under Highway Agreements made with Dorset County Council in order to reduce uncertainty and risk for developers at an early stage in the development process.

The Council's approach to commuted sums is based upon the County Surveyors Society (CSS) guidance document "Commuted Sums for Maintaining Infrastructure Assets" (2009).

The Highways Act 1980 provides the statutory basis for DCC to seek a commuted sum as a contribution towards the maintenance of assets which are to be adopted by the Council as maintainable at public expense.

Where a commuted sum is required it will be payable by the Developer to DCC in accordance with the provisions of a Section 38 Agreement, Section 278 Agreement or a Highway Agreement.

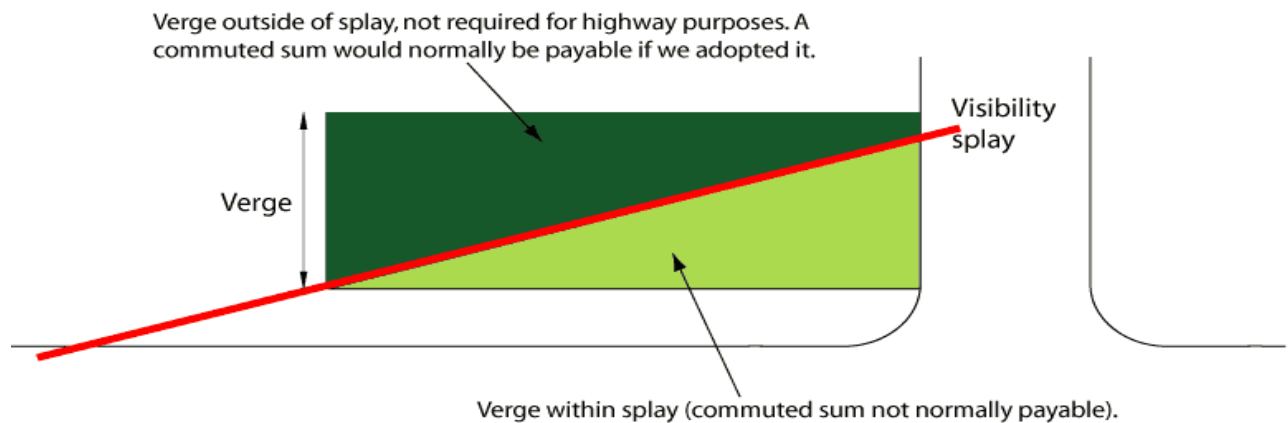
2. General Requirements

It is advisable to involve the DCC's Transport Development Management and Highway Development teams, as well as the Local Planning Authority in consultations at an early stage of preparing your development proposals, as this may have a bearing on the level of commuted sums levied.

Where DCC agrees to adopt the following commuted sums shall be levied:

- landscaping within the proposed Highway, including trees;
- additional areas proposed for adoption but which exceeding usual highway design standards and which are not required for the safe functioning of the Highway (including areas of grass – See Example Visibility Splay Diagram below);
- decorative / heritage style street lighting columns;
- highway structures (including safety and noise fencing);
- traffic signal equipment;
- materials and construction types outside of the Council's Standard Construction Specification;
- unusual or additional street furniture;
- the disposal of contaminated waste from interceptors;
- landscaping maintenance of SuDS; and
- unusual drainage systems such as on-line storage, hydro-breaks, pumping stations, SuDS, or kerb drainage systems;

Please note that this is not an exhaustive list, and that there may be other assets for which the payment of a commuted sum may be appropriate.



Example Visibility Splay Diagram

3. Calculating Commuted Sums

Commuted Sums will be calculated by DCC using the formula detailed within the County Surveyors Society guidance document “Commuted Sums for Maintaining Infrastructure Assets” (2009).

The essential feature of this formula is that the commuted sum paid is discounted to allow for the fact that the sum will earn interest between the point in time at which it is paid and the time at which a maintenance payment is required. It is therefore necessary to determine the net present value of all future maintenance expenses using the following formula:

$$\text{Commuted Sum} = \sum \left(\frac{M_p}{\left(1 + \frac{D}{100}\right)^T} \right)$$

Where:

Commuted sum = summation of all net present values for appropriate future costs

M_p = Estimated future maintenance cost ‘T’ years from now (£)

D = The Periodic Discount Rate (effective annual interest rate - %)

T = Time period before expenditure will be incurred (years)

Maintenance Cost (M_p):

The highway authority will use either appropriate contract rates current at the time of calculation, or rates detailed within the SPONS Civil Engineering and Highway Works Price Book to determine maintenance costs.

The maintenance regime will be based on a ‘whole life costing’ approach with the frequency of treatment, and/or the intervals of replacement based on either planned frequencies or historic information. For example, for areas of carriageway surfacing that attract a commuted sums allowance will be made for planning out and replacing the materials after 30 and 60 years. It may also be appropriate to add a percentage to the works costs to cover the highway authority’s future design and supervision costs.

The Periodic Discount Rate (D):

The Periodic Discount Rate or effective annual interest rate is calculated as follows:

$$D = \left(\left(\frac{1.045}{1.0225} \right) - 1 \right) \times 100 = 2.2\%$$

Where:

D = The Periodic Discount Rate

1.045 = An interest rate of 4.5% based on long-term neutral base rate

1.0225 = An inflation rate of 2.25% based on RPI-X (that is RPI excluding mortgage payments).

This formula ensures that both the interest earned on the commuted sum, and the effect of inflation in increasing the cash sums eventually required, are taken into account.

Time period (T):

A time period of 60 years will normally be used to calculate commuted sums, with the exception of highway structures where a 120 year period will apply.

The CSS guidance document recommends that a 60 year time period represents a reasonable compromise between covering future costs and the uncertainties over whether they will be required in the future.

Where the Council will be adopting a substantial asset (e.g. a bridge) and/or where the need for the asset is long-term it is reasonable to seek commuted sums to cover replacement of the asset, provided that there is a strong likelihood that it will be needed for a period longer than 60 years. The Bridge Management Code recommends the use of a 120 year life span for a new structure.

Committed sum calculations will include for periodic replacement of assets with a shorter design life than the appropriate time period (T).

DCC will calculate the final value of any appropriate commuted sums following technical approval of the detailed design of a particular scheme / development, and will provide the developer with details of the assets for which they have been levied, the associated sums which have been determined and the rates used in the calculation of these sums

4. Further Guidance

If you require any further guidance on the application or calculation of commuted sums please contact Dorset County Council's Highway Development team at DLI@dorsetcc.gov.uk