

Meeting: Policy Development and Decision Group (Joint Operations Team)

Date: 14 September 2016

Wards Affected: All Wards

Report Title: Review of Planning Contributions and Affordable Housing Supplementary Planning Document

Is the decision a key decision? Yes

When does the decision need to be implemented? Immediately

Executive Lead Contact Details: Mark King, Executive Lead for Planning, Transport and Housing (07873254117 – mark.king@torbay.gov.uk)

Supporting Officer Contact Details: David Pickhaver, Senior Strategy and Project Officer, (01803 208815 – david.pickhaver@torbay.gov.uk)

1. Proposal and Introduction

- 1.1 Following adoption of the Torbay Local Plan 2012-30 and submission of Community Infrastructure Levy (CIL), the Council needs to review its Planning Contributions and Affordable housing Supplementary Planning Guidance (SPD). The existing SPD was adopted in 2008, and has been updated several times (most recently in 2011). It is therefore in need of refreshing to reflect the priorities of the Corporate Plan and Local Plan.
- 1.2 Mayoral sign off is sought for the draft Planning Contributions and Affordable Housing SPD to be published for public consultation.
- 1.3 S106 arrangements will, subject to successful adoption of a CIL Charging Schedule, be scaled back. Tariff style S106 contributions will not be sought from sites (generally small sites) paying CIL. However it is intended to use S106 to seek infrastructure from large sites (15+ dwellings) within Future Growth Areas.
- 1.4 This report recommends priorities for the updated SPD. The agreement of the Policy Development and Decision Group and the Mayor is sought prior to consulting on the SPD.
- 1.5 The SPD will need to be advertised for at least one round of public consultation. Following consultation it will need to be reported to full Council in order to replace

the existing SPD. The SPD cannot make Policy but sets out how the policies in the adopted Local Plan can be implemented.

- 1.6 It is proposed to prioritise S106 Obligations into three bands. This retains the broad approach of the existing SPD. These are:
- 1.7 **Priority 1: Site Acceptability Matters:** Essential site specific matters to mitigate the impact of development and without which planning permission should not be granted e.g. access, flooding, drainage/sewer capacity, direct biodiversity and landscaping. Planning conditions will be used wherever possible. Site acceptability matters apply to all development. Works to the Highway are often achieved through S278 Agreements, which are not subject to all of the restrictions affecting S106 Obligations. For convenience all references to S106 Obligations may also mean S278 Highways Agreements. If the development is sufficiently viable, then issues in the next priority band are considered.
- 1.8 **Priority 2: Affordable Housing, employment and health infrastructure:** including employment provision and health care on developments giving rise to additional care needs. This applies to larger housing schemes (of 11+ units or 6+ in the AONB) or development entailing the loss of employment. Development giving rise to potential healthcare/social service demands such, such as sheltered housing, will be expected to contribute towards the additional care needs arising from the development. This category has the next highest level of priority after site acceptability matters. If the development is sufficiently viable, then issues in the next priority band are considered.
- 1.9 **Priority 3: Sustainable development Infrastructure from Larger developments** (e.g. waste management, education, open space/ recreation, wider environmental/green infrastructure, town centre management etc.) This applies to developments where CIL is not sought (i.e. larger residential developments in Future Growth Areas) and all commercial developments that have an impact which needs to be mitigated. These matters are still required to make development acceptable in planning terms, but are not essential to render the development physically safe or legal.
- 1.10 Note that education contributions are currently within Priority 3 “Sustainable development infrastructure”. A matter for consideration at public consultation is whether they should receive a higher prioritisation.

Figure 1A S106 Themes and prioritisation; General duty to promote starter homes does not replace Policy H2 in terms of affordable housing priority or tenure mix. This is the recommended approach.

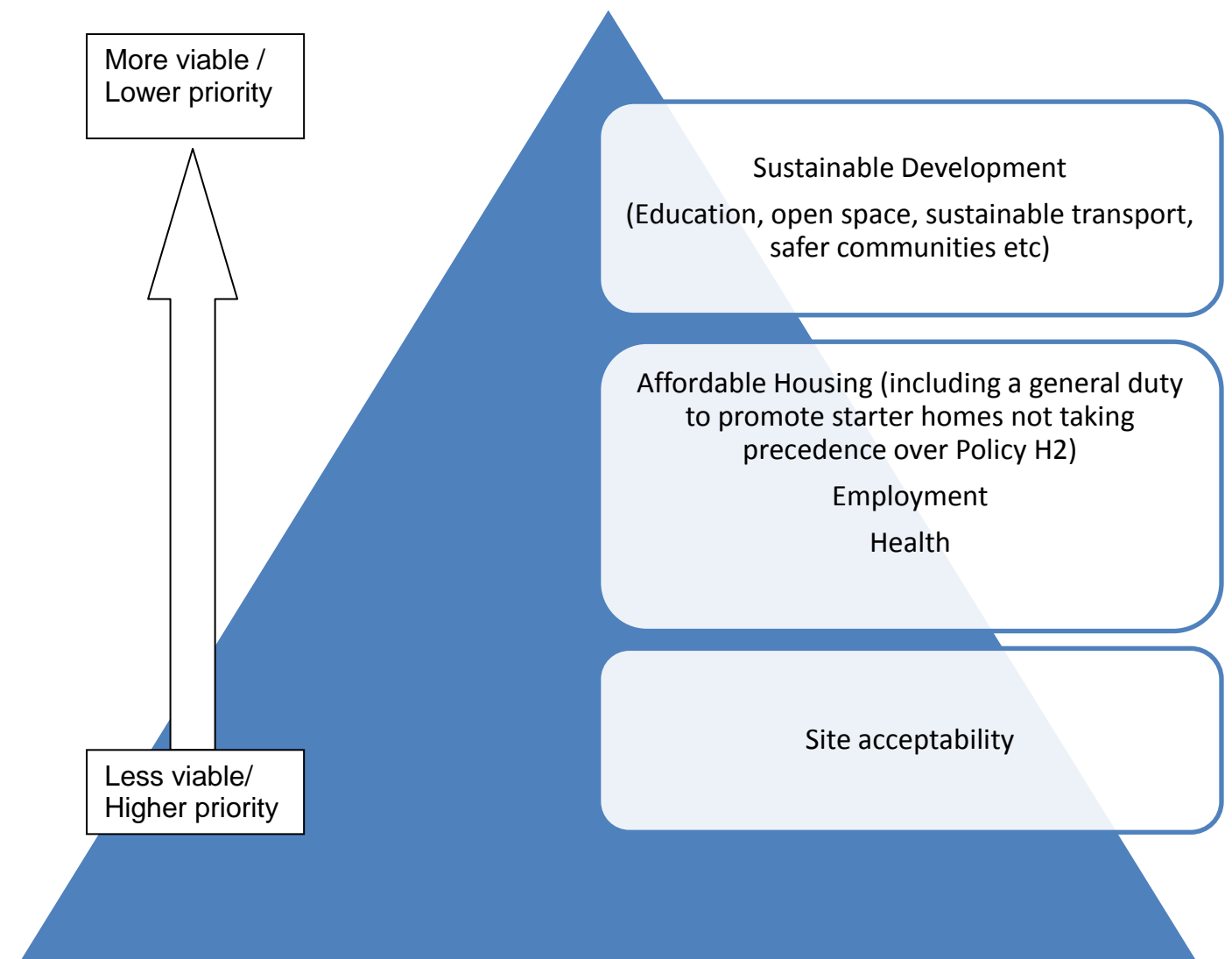


Figure 1A

- 1.11 The SPD will also set out guidance on implementation, including the commissioning of independent viability assessments where developers seek to negotiate reduced S106 Obligations to those set out in the SPD and in the Local Plan. It will also set out instances where mitigation of S106 obligations will be offered for, for example where development achieves town centre regeneration.
- 1.12 The review of the SPD provides formulas for calculating the impact of development, for example upon the need for school spaces. The current SPD (Update 3, approved in 2011) formulas add up to about £5,800 for a 3-4 bedroom house (excluding affordable housing). The draft SPD indicates that contributions will be higher than this at around £10,500 for a 3-4 bedroom house. However they can only be applied to larger sites where CIL is not being levied, and must comply with the tests of lawfulness.

2. Reason for Proposal

- 2.1 S106 Obligations are governed by a number of factors, including legislation, government policy, the Torbay Corporate Plan, the Local Plan, existing Planning Contributions SPD and Proposals for Community Infrastructure Levy (CIL).
- 2.2 The structure recommended in Section 1 above sets a priority for seeking S106 Obligations, which follows Local Plan policies and Corporate Plan priorities of a healthy and Prosperous Torbay.
- 2.3 In practice larger developments almost always require independent assessment of viability, and the structure provides guidance on which matters will be prioritised. Site specific matters will necessarily need to take priority and there is very limited scope to waive these matters for viability reasons. Affordable housing, employment and health items will be given the next highest level of priority, followed by the broader sustainable development contributions.
- 2.4 Each planning application must be determined on its merits and there may be specific material considerations that dictate that a different priority may need to be given to S106 obligations. For example education or urban realm improvements could be given higher priority where there is a particularly urgent need.

3 Recommendation(s) / Proposed Decision

- 3.1 To publish for six week public consultation the Review of Planning Contributions and Affordable Housing Supplementary Planning Document (SPD) as set out at Appendix 1 to the submitted report.
- 3.2 To note that, following consideration of representations received, the SPD, with modifications as necessary, will be considered by the Mayor and submitted to Council for final approval.