

**Delivering the Torbay Local Plan
2012-30, a landscape for Success.**

**Planning Obligations and Affordable
Housing Supplementary Planning
Document**

Consultation Draft

September 2016

Delivering the Local Plan: Planning Obligations and Affordable Housing Supplementary Planning Document

Contents

1) INTRODUCTION AND OVERALL APPROACH

Who pays Planning Obligations: S106 and CIL

Restrictions on S106 Obligations

A Note on Thresholds

The Torbay Local Plan 2012-30 A landscape for success

Prioritisation of Developer Obligations

Site Acceptability Matters

Affordable Housing and critical socio-economic infrastructure

Broader Infrastructure from Larger developments

Figure 1.1A S106 Themes and prioritisation

Figure 1.1B S106 Pyramid of Priorities

Figure 1.2 Justification for seeking Planning Obligations in the Adopted Torbay Local Plan 2012-30

2. DEVELOPMENT SITE ACCEPTABILITY MATTERS

Site Access and direct safety works (Local Plan Policy TA2)

Flooding (Local Plan Policies ER1, ER2)

Flooding, Drainage and Sewerage (Local Plan Policies ER1, ER2, W5)

Biodiversity

Development Impacts on Biodiversity

Greater Horseshoe Bat

Table 2.1 Greater Horseshoe Bat Strategic measures.

Cirl Bunting

Recreational impacts on the Berry Head to Sharkham Point component of the South Hams SAC

Off Site Habitat Compensation (biodiversity offsetting)

Protected Sites - locally important sites for biodiversity and geodiversity

Design and active design.

3. AFFORDABLE HOUSING, EMPLOYMENT AND HEALTH

Affordable Housing

Local Plan Policy H2

Tenure Mix

Social Rent

Affordable rent

Intermediate.

Shared ownership

Starter Homes

Self and Custom Build Housing.

Onsite provision or Commuted Sum?

Calculating the Assumed Subsidy

Table 3.1 Assumed costs of providing affordable housing

Table 3.2 Commuted Sum Calculator

Calculation of Viability and Deferred Assessment of Viability

Design and Layout

Registered Providers and Cascade mechanisms

A Note on Thresholds and Starter Homes

Employment

Loss of Employment

Assessing the Cost of Employment

Table 3.3 Assessing the Cost of Employment

Table 3.4 Estimated Employee/Floorspace Ratios (Employment Densities Guide 3rd Edition)

Healthy Communities and Healthcare

Healthy Communities and Health Impact Assessments

Development which creates a specific Health/Social Service need e.g. Care Homes, Sheltered Housing.

Table 3.5 Healthcare Contribution for Accommodation for people in need of care.

Development where there is a need for a Surgery/Local Health Facilities

4. SUSTAINABLE DEVELOPMENT INFRASTRUCTURE

Transport Infrastructure: Sustainable Transport

Table 4.1 TRICS Assessment of trips generated by Development in the Torbay Local Plan 2017-22

Table 4.2 Sustainable Transport S106 Obligations

Education

Numbers of School Age Children per dwelling

Table 4.3 Education Contributions Sought from Dwellings.

Greenspace, Sports and Recreation Contributions

Table 4.4 Open Space Requirements Per Person.

Table 4.5 Cost of Open Space Provision per Person

Table 4.6 Cost of Open Space per Dwelling.

Public Realm improvements.

Waste Management Facilities

Provision of Bin and boxes for new dwellings.

Increasing capacity of waste collection services from larger developments

Cost of Additional RCVs and Recycling Teams arising from development

Table 4.7 Waste Contributions

Difficult to Monitor Uses and Town Centre Management

Table 4.8 Monitoring and Management Contributions

5. IMPLEMENTATION

Types of s106 Obligations

Section 106 Agreements

Mitigation

Mitigation for Existing Uses

Mitigation where there is an Identifiable Social Good (e.g. provides jobs or regeneration benefits).

Mitigation for Job Creation.

Mitigation for Affordable Housing

Viability

Content of Viability Assessments

Where Development is Unviable

Re-negotiating the Terms of the Section 106 Agreement

6). SUMMARY OF LIKELY CONTRIBUTIONS

1) INTRODUCTION AND OVERALL APPROACH

Planning Obligations are an important way of providing the environmental, physical and social infrastructure needed by development. It is also one of the main ways in which affordable housing is provided.

This is a draft document setting out the Council's approach to planning obligations. It provides additional detail to deliver the Adopted Torbay Local Plan 2012-30 as set out in Policy SS7 and paragraph 4.3.25-37 of the Plan. It is important to note that the purpose of this document is to help deliver sustainable development, not to stifle desirable schemes.

Contributions will usually be sought through S106, but sometimes other types of agreement may be more appropriate. In particular S278 Highway Agreements may be a better way of securing works to highways.

Planning Obligations should be considered in conjunction with Community Infrastructure Levy (CIL). CIL Draft Charging Schedule can be read at www.torbay.gov.uk (see below).

Who pays Planning Obligations: S106 and CIL?

Obligations may be sought on planning applications as well as matters requiring Prior Approval, subject to the tests of lawfulness and other restrictions (see below).

The Council's approach is to seek CIL on smaller developments, broadly speaking 10 dwellings or fewer (5 or fewer in the AONB). "Tariff style" contributions may be sought from such sites. The CIL Charging Schedule may be found at www.torbay.gov.uk

Where CIL is sought on smaller sites, the only s106 contributions sought will be specific site acceptability matters. In a very limited number of cases, affordable housing may also be sought on CIL liable developments (i.e. greenfield sites of 11-15 dwellings or 6-15 in the AONB, in accordance with Policy H2).

Larger residential developments, above the threshold for affordable housing will be the subject of negotiation with developers to ensure that an appropriate s106 Agreement provides the infrastructure necessary to make development acceptable in planning terms, including the provision of wider community infrastructure.

It is acknowledged that there may need to be an element of cross subsidy for certain infrastructure, but this approach is considered by the Council to be the fairest and simplest to as many people as possible.

Restrictions on s106 Obligations

S106 Obligations are subject to restrictions set out below. The Council will adhere to these when seeking planning obligations.

All s106 obligations must meet CIL Regs Tests of Lawfulness (set out in regulation 122 of the CIL Regulations 2010 and NPPF paragraph 204). They must be

- Necessary to make the development acceptable in planning terms.
- Directly related to the development
- Fairly and reasonably related in scale and kind to the development.

Because of the impact that affordable housing requirements have on development viability, this is the Council's threshold for CIL (i.e. CIL is not sought from development where affordable housing is provided and vice versa).

Where an obligation is for an item of infrastructure capable of being funded through CIL, the Council will not pool more than 5 obligations towards that piece of infrastructure. This does not apply to non-infrastructure items such as training and monitoring.

A Note on Thresholds

Since the publication of the Local plan, the Court of Appeal has upheld the Government's right to set thresholds for affordable housing and tariff style contributions through written ministerial statement and changes to the Planning Practice. Whilst this does not replace the Local Plan, the Council considers that the PPG and Written Ministerial Statement are material considerations that temper the interpretation of the Local Plan.

Accordingly affordable housing and "tariff style" contributions will only be sought on sites of 11+ dwellings or 6+ in the AONB.

The Government has suggested that a threshold of 10 dwellings should apply for starter homes (see below).

The Torbay Local Plan 2012-30 A landscape for success

The new Torbay Local Plan 2012-30 A landscape for success, was adopted on 10th December 2015. This document, along with neighbourhood plans when adopted, forms the development plan. Planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise (see NPPF paragraph 2). The Local Plan provides the framework for development in Torbay as well as the basis for seeking planning obligations.

Policies for seeking obligations are set out in the Adopted Local Plan 2012-30 (see Figure 2 below). This SPD provides guidance on the implementation of these obligations and sets out how the impact of development can be assessed.

All of the policies in the Local Plan have been assessed for their impact on viability¹. However there may be instances where planning obligations and/or CIL could undermine development viability. The Local Plan undertakes to negotiate with developers to ensure that sustainable development schemes can be built. This SDP sets out the Council's approach to assessing and negotiating viability (see Part 5). Note that the scope to negotiate "site acceptability" requirements is much more limited than of affordable housing or wider "sustainable development" style contributions.

Planning Conditions will be used wherever possible (rather than S106 Obligations).

Prioritisation of Developer Obligations

Policy SS7 "Infrastructure, phasing and delivery of development" sets out the Local Plan's overall strategy for seeking planning obligations. It indicates that contributions will be

¹ Torbay Whole Plan Viability Assessment, Peter Brett Associates, 2014

prioritised, to ensure that the most critical infrastructure is delivered. The Council prioritises Obligations s106 Contributions as follows:

<ul style="list-style-type: none"> • Site Acceptability Matters – essential site specific matters to mitigate the impact of development e.g. access and necessary road improvements, flooding, drainage/sewer capacity, direct biodiversity, landscaping. Planning conditions will be used wherever possible. 	<p>Site acceptability matters apply to all development.</p>
<ul style="list-style-type: none"> • Affordable Housing and critical socio-economic infrastructure (including employment provision and health care on developments giving rise to additional care needs). 	<p>Larger sites of 11+ dwellings/ 6+ in the AONB. All applications with a n employment or health impact</p>
<ul style="list-style-type: none"> • Wider sustainable development style contributions (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) 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 not necessarily essential to render the development physically safe or legal. These are sometimes called “tariff style” contributions, although the council considers that this term can be misleading. 	<p>Will be used to secure broader infrastructure from larger developments in Future Growth Areas (rather than CIL).</p> <p>Mitigation of specific impacts e.g. monitoring or town centre impacts, principally arising from larger development.</p>

These are represented as diagrammatically as concentric rings or a pyramid of priorities (the nearer the base representing the higher priority) in Figures 1 and 1A.

In the context of this document “larger developments” means sites over the threshold for which the Government permits affordable housing or tariff style contributions to be sought.

Other types of developments which have a combined floor space of more than 1,000 sq. m (gross internal area) will be considered as larger developments, although S106 obligations will be sought from smaller commercial developments where there is a need to mitigate their impact on infrastructure etc.

Figure 1 S106 Priority

Community Infrastructure Levy (CIL)

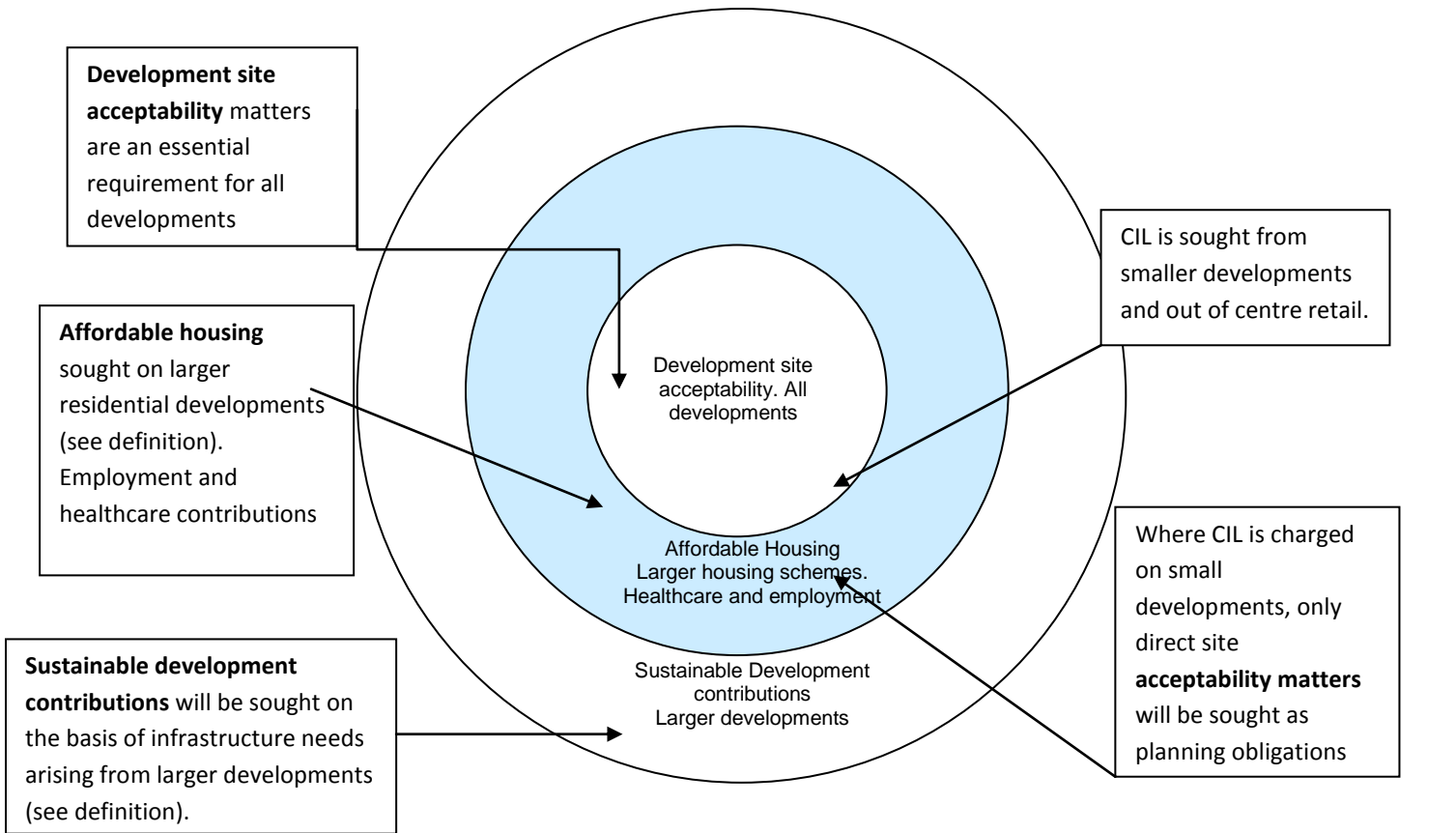


Figure. 1 Proposed Structure of Planning Obligations and Affordable Housing Supplementary Planning Document, and relationship to CIL

Figure 1A S106 Themes and prioritisation

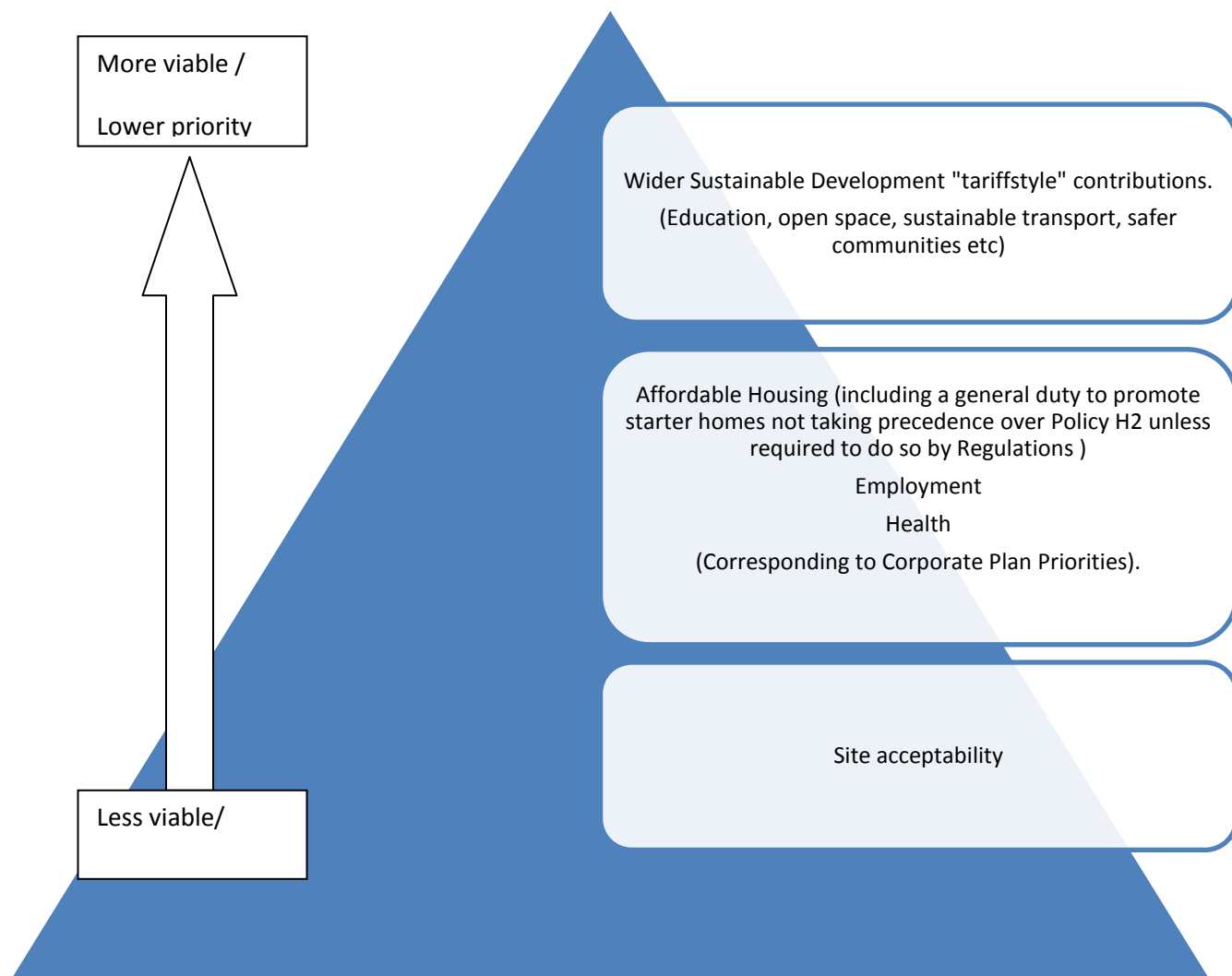


Figure 1A

Figure 1A lists the Policies in the Adopted Local Plan relating to planning obligations, and where they sit within the priorities framework identified above.

Figure 2: Justification for Seeking Developer Obligations in the Adopted Torbay Local Plan 2012-32		
Item	Local Plan Policies/ Reference	Applicable to
Site Acceptability Matters (highest priority)		
Apply to all developments (residential and non-residential). Will be addressed through site design/ condition where possible. Limited scope to negotiate.		
Development Access	TA2 SS6	All development where there is an impact on access. Will be through S278 Agreements where possible.
Drainage and sewerage	ER1, ER2, 6.5.2.18 C3, 6.3.20 SDP2 Paignton town centre SDP3 Western Corridor	All development including domestic extensions and prior approval. S 2-3. Particularly development within coastal location or flood risk zone
Flooding	ER1, ER2, 6.5.2.18 C3, 6.3.20 SDP2 Paignton town centre SDP3 Western Corridor DE1 DE2, DE5 W5	All development within coastal location or flood risk zones 2-3 and 1 where there are other flooding risks (wave action etc.).
Waste water	SS8 W5 6.5.3.23 Buckland WWTW 6.5.3.27	All developments (including Prior approval) see drainage above.
Marine habitats Water quality	NC1, 6.3.2.7 ER2, 6.5.2.18	All development where there is an impact Marine Habitats
Greater horseshoe bat Mitigation	SS1, SS2, SS8, NC1, 4.1.20, 4.1.21, 4.2.19 SDP1, SDP3, SDB1, C1	All development where there is an impact on bat foraging area/flightpaths
Recreational Pressure on Berry Head	SS8, SDB1, NC1 5.3.1, TO1 6.3.2.22 6.3.2.4 6.3.2.5	Residential and tourism development within the Brixham Peninsula area. N.B May also be a CIL item. S106 relates to developments that do not pay CIL.
Cirl buntings	SDT3, SS8, NC1, 6.3.2.5	All development where there is an impact on bat foraging area/flightpaths
Biodiversity-other	SS8, SS9 NC1	All development where there is an impact on habitats
Design	6.1.2.20 DE1, DE2	All development – usually through design/conditions
Affordable Housing, employment and health		
Applies to residential developments above threshold. Proportions of affordable housing have been kept low to safeguard viability. Some scope to negotiate tenure on the basis of viability, subject to an overall development package being in the public interest.		
Regard will need to be had to the provision of starter homes as an element of affordable housing provision in Policy H2.		
Employment provision is essential to delivery of Local Plan Strategy. Some scope to negotiate on the basis of viability, subject to an overall development package being in the public interest.		

<p>Additional healthcare/social services impacts arising from development (for sheltered housing, extra care units and care homes within category of affordable housing. Some scope to negotiate on the basis of viability, subject to an overall development package being in the public interest. Note that the requirement in the Housing and Planning Act 2016 to provide starter homes will affect the delivery of general needs affordable housing.</p>		
Affordable housing- general	Policy H2, 6.4.10, 4.4.1.10	Sites over the threshold
Empty homes/ regeneration	4.5.18, 4.5.32 use of affordable housing contributions to bring empty homes back into use.	Sites where affordable housing is sought as a commuted payment.
Self build housing	H4, 6.4.1.24	Self build homes (whether built as exception site or as a % of affordable homes.
Employment (and early delivery). Employment – contributions towards loss of employment	SS4, SS5, 4.2.274.2.29 6.1.2.15	Commercial development and development entailing the loss or gain of jobs.
Live /Work units	4.2.31	Live work units, either through condition or S106 Obligation.
Healthcare and broader healthy communities	SS10.4 H6 SC1 SS11	Development likely to give rise to healthcare impact (sheltered housing, extra care and care units). Health Impact Assessments on developments likely to impact on health Sites of 50+ dwellings should provide 5% of dwellings to Accessible and Adaptable standard.
<p>Sustainable development infrastructure from larger developments. See definition above (Third priority).</p>		
<p>Applies to larger residential developments above threshold for affordable housing and commercial developments where there is a particular impact which needs to be mitigated (e.g. sustainable transport, town centre management). Whilst not essential for safety or direct operation of the development, such infrastructure is necessary to make development sustainable and therefore acceptable in Planning terms. There is some scope to negotiate on the basis of viability.</p>		
Infrastructure, phasing and delivery of development.	SS7, SS11	Residential developments of 11+ dwellings (or 1000 sq. m)/ 6+ in the AONB. Brownfield sites of 15+ dwellings. Commercial development where there is a need created for infrastructure.
Transport Infrastructure	SS6 4.3.10 (Western Corridor) 4.3.16 (A385 Totnes Road)	Residential developments of 11+ dwellings (or 1000 sq. m)/ 15 dwellings on Brownfield sites. Commercial development where there is an impact on transport infrastructure (excluding the South Devon Link Road).
Green Infrastructure	SS9	Residential developments of 11+ dwellings (or 1000 sq. m)/ 15 dwellings on brownfield sites.
Education	SS10.4 SC3	Development of 11+ dwellings/ 15+ on brownfield sites.

	6.4.3.15, SS5 (Child Poverty and equality of access)	
Sustainable food production	SC4	Residential developments of 30+ dwellings
Sports and Leisure	SC2 DE1 Active design	Residential developments of 11+ dwellings/ Brownfield sites of 15+ dwellings (or 1000 sq. m). Active design principles apply to all developments as far as practical (usually through planning permission).
Town centre management	TC1 TC5 Evening and night time economy 6.1.22	Commercial development which has an impact on town centre management.
Monitoring	6.1.2.15 6.4.1.32	Development which give rise to specific monitoring/ management requirements (e.g. holiday occupancy, HMOs)
Waste management facilities	W1, 6.5.3.6	On-site design for all developments, and sustainable development contribution from larger sites or where recycling cannot be achieved.
Implementation		
Applies to all development. It is intended that most small scale proposals will not require S106 Obligations.		
	Part 7: 7.4, 7.4.2, 7.4.8 et seq 6.4.1.12-18 viability testing	

2). DEVELOPMENT SITE ACCEPTABILITY MATTERS

2. DEVELOPMENT SITE ACCEPTABILITY MATTERS

These relates to works that must be carried out directly to the site to render development workable in physical terms, safety or meeting legal requirements. It includes matters such as access, landscaping, protected species, drainage and flooding.

Many matters can be addressed through the use of conditions rather than requiring a legal Agreement. Conditions will be used where possible. However conditions will not be used to defer considerations that are central to an application's acceptability, such as drainage, flood risk and biodiversity.

Because site impacts are unique to each development it is not practical to set standard formulae. Policies SS2 and the Strategic Development (SD) Policies of the Local Plan set out key infrastructure matters in proposed Future Growth Areas.

Development site acceptability matters will need to be addressed before other obligations can be sought, and there is limited scope to negotiate on them.

This section is not intended to imply that all development is capable of mitigation. Although the Council will endeavour to overcome obstacles to granting permission, some proposals will be unacceptable due to their environmental or other impact.

Site Access and direct safety works (Local Plan Policy TA2)

There is an expectation that developers will pay for access to a development site and/or additional works necessary for safety or operational purposes (e.g. traffic lights, pedestrian crossings, cycle ways, footpaths etc.). Highway works are currently generally provided through s278 of the 1980 Highways Act.

The Council will require site access and associated works to be carried out by the developer under s278 in most instances.

S278 Agreements are not subject to pooling limitations, although the instances where such an issue will arise will be rare. They are subject to restrictions on "double dipping" so highway infrastructure that is funded through CIL (i.e. the South Devon Link Road) cannot be the subject to s278 Agreement.

Matters such as road layout, parking, provision of cycling facilities etc. will usually be dealt with through conditions as part of the development management process (see Policies SS6, TA1-3)..

Flooding (Local Plan Policies ER1, ER2, NPPF paragraphs 103-104, and footnote 20)

The NPPF and Policy ER1 "Flood risk" require development to be located in areas with lowest risk of flooding on the basis of sequential and exceptions tests.

Where (on the basis of the above Policy Framework) development is deemed acceptable subject to flood resilience measures identified in the Flood Risk Assessment; the council will require flood resilience measures to be provided. Policy ER1 (etc.) requires a focus upon sustainable urban drainage and water sensitive urban design. However resilience measures such as water resistant doors, raised floor levels and high level electrical wiring will also be encouraged.

Such matters will usually be dealt with through planning conditions rather than obligations. However details of flood protection measures will be required when proposals are submitted.

Flooding, Drainage and Sewerage (Local Plan Policies ER1, ER2, W5)

Drainage is closely related to the issues of flooding and sewer capacity.

Torbay has been declared a Critical Drainage Area by the Environment Agency (see Policy 6.5.2.13 of the Local Plan). In addition Natural England have raised concern about the impact of combined sewer overflows affecting the candidate Special Area of Conservation (SAC) in Torbay. The Council's evidence² indicates that the impact of "urban creep" and climate change pose a significant risk to Torbay's sewer capacity.

Policies ER2 and W5 sets out a test to ensure that no additional surface water is discharged into shared sewers. Planning proposals, including prior notifications should ensure that all development (including brownfield sites) mimic greenfield run-off rate (or better). The use of SuDS and WSUDS to achieve this is strongly encouraged.

Details of such measures will be required before permission is granted as part of a proposal's Flood Risk Assessment.

As with flooding, matters to do with drainage will normally be dealt with through planning condition and the use of sustainable drainage/ water sensitive urban design will be promoted where possible.

Planning Obligations for off site mitigation will only be accepted as a last resort, and if a suitable project that does not fall foul of pooling restrictions and is implementable can be identified. If this cannot be achieved, proposals will need to be refused.

Developers will require a licence from SWW to connect to foul sewers. Where additional sewerage is required the Council, in liaison with South West Water, will seek to ensure that sufficient capacity is provided to meet the requirements of the whole Future Growth Area. This may mean that earlier phase developers overpay for drainage/flooding measures and provide proportionately less for less critical infrastructure, which will be met by later phases of development.

Biodiversity

In relation to biodiversity the National Planning Policy Framework (NPPF) requires development to minimise impacts on biodiversity and provide net gains where possible (paragraph 109, 114-118)

In accordance with the NPPF, the Local Plan Policy NC1 indicates that there should be no net loss of biodiversity through development and the aim will be to secure net gain.

The approach set out in the following paragraphs is designed to have benefits for developers, local communities and habitats and species.

Development Impacts on Biodiversity

² Assessment of Sewer Capacity In Torbay, AECOM/SWW 2014

Some development sites will undoubtedly impact on biodiversity. The mitigation hierarchy of avoid, mitigate, compensate, enhance should always be followed.

Where impacts cannot be avoided, mitigated or compensated for on the development site, or on other land owned by the applicant, contributions for off-site mitigation or compensation will be sought.

It should be noted that this approach is not a replacement for the protection of those habitats and species covered by legislation. Furthermore, the approach will not be appropriate in all cases e.g. where there will be loss or deterioration of irreplaceable habitats, and development likely to affect habitats and/or species associated with an international site will be subject to assessment under the Habitats Regulations and will not be permitted unless any likely significant effects can be fully mitigated.

Two species of particular importance in relation to development in Torbay are Greater Horseshoe Bats and Cirl Buntings. Further consideration is given to these species below.

In addition, further consideration is given to:

- Recreational impacts on the important habitats associated with the Berry Head to Sharkham Point component of the South Hams SAC;
- Off-site habitat mitigation (biodiversity offsetting) or compensation in the last resort in relation to unavoidable habitat loss on development sites; and
- Protected Sites - locally important sites for biodiversity and geodiversity.

Greater Horseshoe Bat (*Rhinolophus ferrumequinum*)

The greater horseshoe bat (GHB) is a rare species in the UK although it can be found almost anywhere in Torbay. Most records refer to animals at traditional roost sites, commuting along darkened strategic flyways or foraging in sustenance zones.

Natural England has produced the South Hams SAC Greater Horseshoe Bat Consultation Zone Planning Guidance (June 2010). The guidance identifies sustenance (foraging) zones around each of the component roosts of the SAC, as well as the strategic flyways which are most likely to link the SAC roosts.

Those developments located in a greater horseshoe bat strategic flyway or sustenance zone will need to follow the above guidance. Such developments are likely to need a Habitats Regulations Screening Assessment, and potentially a full Appropriate Assessment, to determine whether there are any Likely Significant Effects on the SAC.

Impacts on greater horseshoe bats will need to be mitigated for on the development site, or on other land owned by the applicant. This can normally be achieved through the maintenance of dark corridors and habitat management measures that ensure that there are no detrimental impacts on the ability of the species to navigate and feed and that there are no impacts on the favourable conservation status of the species.

With regard to enhancement for, and improving the resilience of the population of, greater horseshoe bats in Torbay, a number of strategic measures have been identified in conjunction with Natural England as detailed in the table below.

Contributions towards these measures from CIL will be taken via CIL from developments that have paid CIL, but will need to be paid through other mechanisms such as s106 obligations by development that has not paid CIL.

The need to mitigate the impact from any non-CIL chargeable developments, or developments within Future Growth Areas will be determined on a case by case basis. This will be identified through the Habitats Regulations process.

It should be noted that the list of strategic measures is likely to evolve over time and early discussions with regard to potential mitigation and enhancement for Greater Horseshoe Bats are welcomed.

Table 2.1 Greater Horseshoe Bat Strategic measures.

Strategic measure	Cost (at 2016 rates)
New maternity roost provision at Berry Head (Priority project 1)	£80,000
Existing building enhancements to create new roost locations Sharkham Polint, Berry head, Woodhuish Farm (Priority project 2)	£40,000
Land purchase and/or habitat enhancement of existing sites	To be determined on a case by case basis
New survey roosts and on-going monitoring.	

Cirl Bunting (Emberiza cirlus)

Cirl buntings are a rare species in the UK, with a very restricted range. Most of its population is in South Devon, and a survey in 2009 showed that just over 8% of the UK population was in Torbay. The cirl bunting is a UK species of principal importance under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. These species were identified as requiring action under the UK Biodiversity Action Plan and remain conservation priorities under the UK Post-2010 Biodiversity Framework.

In areas where there are historic records of cirl buntings breeding territories, or where suitable habitat is present on a development site, the developer and Torbay Council will either need to accept presence of cirl buntings and agree on the level of presence or undertake specific Cirl Buntings surveys, in accordance with the latest RSPB guidelines, to determine the level of presence.

Where loss of summer breeding or winter cirl bunting habitat is unavoidable, compensatory habitat must be provided. This may be able to be achieved on the development site, or on other land owned by the applicant, although it is acknowledged that the creation and on-going management of suitable arable habitat within a development might be difficult to achieve.

Where suitable mitigation or compensation cannot be provided on site, contributions towards off-site compensation will be sought. Grampian conditions may be used to secure compensation prior to commencement of works.

Torbay Council is working with the RSPB and the Torbay Coast and Countryside Trust (TCCT) to identify potential off-site compensation sites for cirl buntings in Torbay.

Based on this work, a payment in the region of £87,500 (at 2016 costs) per pair of cirl buntings will be required for compensation on land owned by Torbay Council and managed by TCCT. This offsite compensation payment will cover a 25 year management agreement, with a commitment from TCCT to provide on-going management to the end of their current lease agreement on the land (2060). Habitat management will be in line with the cirl buntings habitat requirements set out in the RSPB's Draft Wildlife and Development Guidance Note: cirl buntings (November 2015) and will include monitoring to establish success.

Recreational impacts on the Berry Head to Sharkham Point component of the South Hams SAC

As detailed in Policy NC1 of the Torbay Local Plan, developments comprising new housing or new holiday accommodation within 5km drive distance of the SAC (broadly equivalent to the Brixham SDB1 policy area) will be required to make a financial contribution towards mitigating the impact of additional recreational pressure on the calcareous grassland at the Berry Head to Sharkham Point component of the South Hams SAC.

Contributions from CIL chargeable developments outside Future Growth Areas will be taken via CIL. The need for contributions from any non-CIL chargeable developments, or developments within Future Growth Areas will be determined on a case by case basis. This will be identified through the Habitats Regulations process.

Off Site Habitat Compensation (biodiversity offsetting)

Where impacts on habitats cannot be avoided, mitigated or compensated for on the development site, or on other land owned by the applicant, contributions for off-site habitat compensation will be sought.

In particular there are a number of ***Protected Sites - locally important sites*** (County Wildlife Sites, Other Sites of Wildlife Interest and Unconfirmed Wildlife Sites) across Torbay which have the potential to provide off site compensation through enhanced habitat management. In addition there may be potential for off site compensation on land owned by Torbay Council and managed by TCCT. The need for, and level of, contributions will be determined on a case by case basis.

Protected Sites - locally important sites for biodiversity and geodiversity

Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. Public authorities have a 'duty to have regard for conserving biodiversity' with identified ways to integrate biodiversity in developing its policies, strategies and in managing its land and buildings and developing infrastructure (roads/flood defences) etc.

The Planning Practice Guidance (009 to 013) set out the NPPF requirements to consider biodiversity in the planning system and the importance of the Biodiversity 2020: A strategy for England's Wildlife and Ecosystem Services.

The Torbay Local Plan identifies locally important sites for biodiversity and geodiversity; these include County Wildlife Sites, Other Sites of Wildlife Interest, Unconfirmed Wildlife Sites and Regionally Important Geological Sites. Developments within 500m of these **Protected Sites - locally important sites** are likely to benefit from and/or impact upon them. Accordingly, there may be a need for these developments to contribute towards enhanced management of these sites. Contributions will be modest and the need for, and level of, contributions will be determined on a case by case basis.

Where contributions are sought for off site recreation, they will be treated as "sustainable development contributions" and will not be sought from developments that have paid CIL. Where an application involves the loss of greenspace and/or biodiversity, S106 contributions will be sought to offset their impact as a site acceptability matter.

Mitigation of impact on biodiversity via Planning Contributions SPD for Torbay Council owned Local Wildlife Sites:

Many Local (County) Wildlife sites are owned by Torbay Council and this provides the opportunity to mitigate any remaining net loss of biodiversity through enhancement of LWS elsewhere.

A natural or semi-natural provision cost of 95p per square metre per annum over 20 years will be required, i.e. £19 per sq. m of greenspace lot. Example: a small greenfield residential development resulting in the loss of 50 sq. m may give rise to a s106 maintenance contribution of $95(p) \times 50(\text{sq. m.}) \times 20 (\text{year}) = £950$. Where on-site mitigation can be achieved an element of discount can be applied. These funds would assist with site management and appropriate maintenance to achieve 'positive management' and enhancement.

This Planning Contribution mitigates a site specific impact it is not a "tariff style" contribution. As it is used for greenspace management it is not subject to a pooling limit.

Design and active design.

Policy DE1 of the Local Plan sets out a requirement for development to be well designed and contain a checklist of considerations relating to development's function, visual appeal and quality of open space. Particular attention is drawn to designing out opportunities for crime, anti-social behaviour etc., and liaison with the Police Architectural Liaison Officer on major developments. The Policy also requires the provision of layouts and design which encourage active lifestyles and promote walking, cycling and public transport. Policy DE2 encourages the use of Building for Life Criteria.

Policy DE3 Development amenity sets out a requirement for good layout of dwellings including guidance on space standards, amenity space, parking, bin and storage areas. It sets out a guideline requirement for houses to have 55 sq. m of outside amenity/garden space and flats to have 10 sq. m per unit.

Policy SC1 Healthy Bay requires applicants to have regard to promoting healthy living. Developments of 30 or more dwellings, and smaller scale developments where there is an impact on health will be required to undertake a screening for a Health Impact Assessment.

Such matters are central to the development management process and it is expected that in most instances they will be addressed through conditions and the negotiation of layouts etc. In instances where the promotion of healthy lifestyles etc. cannot be accommodated on-site (but are not essential to the safe or legal operation of a site), contributions will be sought as an equal priority to affordable housing and employment.

Policy SS10 Conservation and the historic environment requires development to contribute towards the character and local distinctiveness of the area. There will be instances where public realm improvements are central to the success of development, particularly in town centre and waterfront areas. In such instances public realm improvements may be prioritised.

3. Affordable Housing Employment and Health

3. AFFORDABLE HOUSING EMPLOYMENT AND HEALTH

This section sets out guidance on the implementation of the Council’s affordable housing, employment and health policies. These will be given the next highest priority in negotiating S106 obligations after direct site acceptability matters have been taken into account. Note however that active design and related matters such as on-site green space provision will often be dealt with through planning condition as part of site acceptability matters

Affordable Housing

Policy H2 of the Adopted Local Plan 2012-30 set out the Council’s affordable housing requirements.

Policy H2 remains the Council’s adopted Local Plan Policy. However the Government has won a Court of Appeal right to set a minimum threshold of 11 dwellings through written ministerial statement. It subsequently amended the Planning Practice Guidance on 21 May 2016 to reflect these minimum thresholds. The WMS, PPG and clearly stated Government intention to restrict affordable housing thresholds are material considerations and it is recommended that affordable housing contributions are *not* sought from dwellings of 1-10 dwellings or 1-5 dwellings in the AONB.

Chapter 1 of the Housing and Planning Act 2016 creates a general duty upon Local planning authorities to promote starter homes. This will be implemented through Regulations. A technical consultation dated March 2016 indicates a preferred option of 20% of dwellings on sites of 10 or more units (or 0.5 ha) should be provided as starter homes, in addition to other affordable housing requirements (pp12-13). However until and unless Regulations come into force, it is recommended that Policy H2 remains the basis for seeking affordable housing. Starter homes may be sought as an element of intermediate affordable housing.

There is likely to be an exemption where the requirement would render sites unviable, but the consultation appears to indicate that other types of affordable housing should be dropped before starter homes (see P14)

The de facto implementation of Policy H2 is set out below

Policy H2

Affordable housing

The provision of affordable housing will be sought on greenfield sites of **3 11** dwellings or more, **unless they are within the AONB or are rural exceptions sites, when a 6 dwelling threshold will apply.** Affordable housing will be sought on ~~and~~ brownfield sites of 15 dwellings or more, to meet the housing needs of local people. Affordable housing will be sought on the following sliding scale, up to thirty percent (30%) of dwellings on qualifying sites:

Net new dwellings/ assessed site capacity	Affordable housing target	Usual method of delivery
--	---------------------------	--------------------------

Development of Brownfield Sites		
3-14 dwellings	Zero	N/A
6-10 dwellings	Zero	N/A
11-14 dwellings	Zero	N/A
15-19 dwellings	15%	Delivered through on site provision. Commuted payments will only be accepted where this would achieve more effective provision of affordable housing, or bring significant regeneration benefits.
20+ dwellings	20%	Delivered on site. Commuted sums will only be accepted where this would achieve more effective provision of affordable housing or bring significant regeneration benefits.
Development of Greenfield Sites		
3-5 dwellings	10%	Usually through commuted payment - Zero unless there is a change to the PPG/WMS
6 -10 dwellings	15% in AONB	Usually through commuted payment: Zero unless there is a change to the PPG/WMS. If the site is within the AONB or a rural exceptions sites, then 15% through commuted payment. This will be payable on completion of units within the development
11--14 dwellings	20%	Delivered through on site provision. Commuted payments will only be accepted where this would achieve more effective provision of affordable housing, or bring significant regeneration benefits.
15-29 dwellings	25%	On site. Commuted sums will only be accepted in exceptional circumstances, where this would achieve more effective provision of affordable housing or bring significant regeneration benefits.
30+ dwellings	30%	On site. 25% affordable housing and 5% self build plots in accordance with Policy H3. Alternatively 30% affordable housing will be accepted where Self Build Plots are not practicable. Self build plots should meet the requirements set out in the Council's self build allocations policy at the time of allocation. <u>To be considered affordable, there is an expectation that serviced plots will be offered at a 20% discount below open market value, to people in housing need living and working in the local area. To cascade to general affordable housing after 12 months).</u>

A site's overall capacity to accommodate dwellings will be taken into account when calculating affordable housing requirement, and artificial sub-division or underdevelopment of sites will be resisted.

Provision of affordable housing, or contributions on smaller sites, will be sought on the basis of one third social rented housing, one third affordable rent and one third shared ownership housing. An element of self-build plots will be sought on larger greenfield sites, in accordance with Policy H3.

A higher level of shared ownership/key worker housing may be agreed where this would aid economic prosperity, regeneration or promote the creation of mixed communities.

Proposals that exceed the minimum affordable housing requirements will be supported subject to other policies in the Plan, including the need to create mixed and balanced communities and meet local needs.

Where developers wish to reduce significantly the level of affordable housing provision, an independent assessment of viability will be required, with the developer underwriting the cost of the viability assessment.

The Council may agree to a reduced scale of affordable housing provision on sites where early delivery is possible.

Where a contribution is agreed in lieu of on-site provision, it should reflect the cost of providing on-site affordable housing.

In order to secure additional investment in disadvantaged areas of Torbay, the Council may agree to a reduction, or zero provision, of affordable homes on sites in those areas. Development of such sites will be expected to provide significant benefits to the creation of more sustainable, balanced communities as assessed against the criteria in Policy SS10.

The explanation to Policy H2 (Paragraphs 6.4.1.6-18) provides additional guidance on tenure natural design and implementation.

The Council seeks up to 30% affordable housing on the basis of the following:

1/3 Social Rent. This should be managed by a Registered Provider (e.g. a Housing Association) or alternative organisation approved by the Council. Social rented housing is homes let on assured or secure tenancies (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.

1/3 Affordable rent Affordable rented housing is let by local authorities or private registered providers of social housing or alternative organisation approved by the Council to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).

1/3 Intermediate. This is an umbrella term for homes for sale or rent at a discount below market rates but above social and affordable rented products. It includes (but is not limited to) shared ownership, discounted market sale and starter homes:

Shared ownership/ Shared Equity Homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.

Starter Homes. The Housing and Planning Bill (2015) introduces a duty on local authorities to promote the supply of starter homes when carrying out their planning functions. Starter

homes are defined as a new dwelling available for purchase by a qualifying first time buyer, to be sold at a discount of 20% below market value subject to a price cap of £250,000.

Qualifying person is currently a person under 40 (sic), although Regulations may introduce other criteria such as nationality or local connection. PPG 55-005 indicates that starter homes should be subject to a s106 agreement requiring them to be offered to first time buyers for a discount of at least 20% below market value and with restrictions that they cannot be resold or let at their open market value for 5 years following the initial sale.

Regulations may impose additional requirements on the provision of starter homes. However until these come into force, starter homes will be considered as an element of intermediate housing. There are likely to be instances where the provision of starter homes may be more achievable on site than other types of affordable housing for example as part of a block of flats.

Note that small homes that sell or rent at the lower end of the housing market simply by virtue of their small size will not be considered as affordable housing.

Self and Custom Build Housing.

In addition Policy H3 of the Local Plan promotes self or custom build housing on exception sites and on sites of 30+ dwellings. However general affordable housing will be accepted in lieu of self build plots if this would facilitate the successful delivery of development.

Self-build and Custom houses are defined as dwellings built by individuals or associations or persons working for them; but exclude the building of a house on a plot acquired from a house builder who builds the house wholly or mainly to plans or specifications decided by the house builder.

Self Build Plots should be provided in accordance with the Councils allocation policy for self build housing. There will be a requirement for affordable self build plots to be offered at a discount of at least 20% below the open market value of such a plot, to someone living or working in Torbay in housing need. If the plot does not sell after 12 months of being marketed, it may cascade out to general needs affordable housing.

As noted above, self build plots may be replaced with general needs affordable housing if there is evidence that this would achieve a more successful or speedy implementation of development, or if there is evidence of higher need for general needs affordable homes. In addition paragraph 6.4.1.13 of the Local Plan indicates that there is a general expectation that self build housing will be reduced prior to other forms of affordable housing.

Note that where affordable self build housing on rural exception sites must meet the acceptability criteria in Policy H3 and C1. In general they will need to adjoin a settlement and be acceptable in terms of landscape and environmental impacts. They are required to be offered to people in housing need with a local connection, and not as speculative open market housing. Self build dwellings on rural exceptions sites will be subject to a planning obligation restricting their resale to people with a strong local connection (i.e. living or working in the area) in perpetuity.

Onsite provision or Commuted Sum?

Policy H2 assumes that affordable housing will be on-site. In particular the provision of starter homes (see above) may be a more effective means of on-site provision where other tenures of affordable housing may be difficult.

Where on-site delivery is not practical the second option will be the provision of alternative service sites or land. Financial contributions in lieu of onsite provision will only be accepted as a last option, and in exceptional circumstances.

However Policy H2 makes provision for financial contributions from smaller sites in exceptional circumstances. These will be calculated on the basis of the assumed subsidy needed to deliver the equivalent affordable housing through the open market, including administrative etc. costs of provision (see below).

Calculating the Assumed Subsidy

The Council will seek affordable housing on the basis of:

1/3 Social rent at an assumed discount of 60% below open market rates

1/3 affordable rent at an assumed discount of 50% below open market rates

1/3 Intermediate housing including shared ownership and starter homes at an assumed minimum discount of 35% below the open market rate (which includes service charges). (Note that this is an average of the likely discount needed for shared ownership and starter homes).

These are the values of affordable housing assessed in the Torbay Whole Plan Viability Testing (PBA 2014, and updated 2016).

Table 3.1 below sets out the Council's assumed cost of providing affordable housing. These will be used when calculating the cost of affordable housing and off-site contributions, where agreed. They include an allowance for administrative expenses and or bringing accommodation up to a satisfactory standard. These will be updated annually to take inflation into account.

Table 3.1 Assumed Cost of Providing Affordable Housing

	New 3-4 bed room house £ per sq. m	New 1-2 bedroom flat £ per sq. m	Average price per new build 3-4 bedroom 80sq m	Average price per new build 1-2 bedroom 55 sq. m					Cost of provision with 20% administrative costs etc.
					Social rent	Affordable rent	Intermediate / Shared ownership	Average assumed cost/contribution	
Torquay	£2,100	£2,300	£168,000	£126,500	60%	50%	35%		
Paignton	£2,000	£2,200	£160,000	£121,000	60%	50%	35%		
Brixham	£2,200	£2,300	£176,000	£126,500	60%	50%	35%		
Torbay	£2,100	£2,267	£168,000	£124,667					

			Assumed price		Assumed cost (reduction below OMV)				
New 3-4 bedroom property			£168,000		£100,800	£84,000	£58,800	81,200	97,440
New 1-2 bedroom property			£126,000		£ 75,600	£63,000	£44,100	60,900	73,080

Note that this table needs to reflect current rates of Commuted payment of £95-£105K per dwelling.

See Torbay Whole Plan Viability Testing: Whole Plan Viability Report, PBA 2014 for assumptions etc.

Policy H2 recognises that the provision of affordable housing is a matter for negotiation. Where on-site provision is being made there may be scope to vary tenure to meet sustainable community or Government policy objectives.

Where commuted sums are accepted, they should match the value of on-site provision as calculated above (and updated for inflation). A requirement calculator is set out in table 3.2 below.

Table 3.2 Affordable Housing Commuted Sum Calculator

20+	20	20%	4.00	73,080
Brownfield sites: houses				
Dwelling range	Number of dwellings	Proportion	No of affordable d	Contribution per dwelling
15 to 19	15	15%	2.25	97,440
20+	20	20%	4.00	97,440
Greenfield sites: assumed houses.				
Dwelling range	Number of dwellings	Proportion	No of affordable d	Contribution per dwelling
11 to 14	11	0.2	2.20	97,440
15 to 29	15	0.25	3.75	97,440
30+	30	0.3	9.00	97,440
Greenfield sites: flats				
Dwelling range	Number of dwellings	Proportion	No of affordable d	Contribution per dwelling
6 to 10 in AONB	6	0.15	0.90	73,080
11 to 14	11	0.2	2.20	73,080
15 to 29	15	0.25	3.75	73,080
30+	30	0.3	9.00	73,080

Calculation of Viability and Deferred Assessment of Viability

Where affordable housing or other s106 requirements are argued to render development unviable, the Council will require an open book viability assessment from the applicant (see Part 5). Where it is agreed that affordable housing would render development unviable then the Council will negotiate an agreed level of provision e.g. increase amount of intermediate housing and in all cases where a reduction is applied the Council will require a deferred contribution arrangement to be in place.

It will, however be noted that paragraph 6.4.1.16 of the Local Plan indicates that proposals will be resisted where the reduction in affordable housing or other community benefits would be reduced to the extent that development is rendered unsustainable.

Design and Layout

Affordable housing should not be distinguishable from open market housing by design. Where possible it should be pepper potted in small clusters throughout a development. Where provided together, different tenures of affordable homes should be provided, and the design of homes should not be noticeably different from the market housing.

Self build units should be provided as serviced plots on greenfield sites of 30+ dwellings. Further guidance will be produced on the implementation of Policy H3 “Self Build Housing”. Where the provision of self build plots is not practicable, for example because of site safety concerns, the provision of general affordable housing in the proportions above will usually be acceptable.

Registered Providers

The Council’s preferred method of delivery of affordable housing is through partner Registered Providers (RPs) or alternative body approved by the Council. Early discussion with the Council and Torbay Development Agency is encouraged to discuss affordable housing delivery.

A Note on Thresholds and Starter Homes

This SPD has been written on the basis of the High Court’s upholding of the Written Ministerial statement and subsequent update to the PPG. Policy H2 of the relevant development plan policy, with the above taken as material considerations.

Should thresholds change, for example as a result of updated guidance or regulations; then the approach taken in the SPD may need to be modified.

The SPD has had regard to local Authorities’ general duty to provide starter homes (introduced in the Housing and Planning Act 2016). However this approach may need to be amended should the Government issue further regulations on Starter Homes.

Employment

Policies SS1, SS4 and SS5 of the Local Plan place a high emphasis on economic growth.

Average GVA per head of population in Torbay in 2013 was £14,225 compared to £23,755 in the UK and £21,163 in the South West. GVA is the lowest in the South West (Cornwall

and Isles of Scilly=£15,403). This makes Torbay the 13th lowest NUTS3 (County and Unitary) area in the UK (about 140 areas).

Policy SS5 and the Strategic Development (SD) policies of the Local Plan seek to achieve a mix of employment uses on major developments and identify a number of sites for mixed use development. These also set out indicative targets for employment, and indicate that the delivery of employment should be achieved through land equalisation, direct provision of serviced sites and or/developer contributions (paragraph 4.2.27). Where live-work units are provided as part of the affordable housing provision, their use will be controlled through condition or S106 Obligations controlling occupancy.

Where sites are identified for mixed use development in the Local Plan, the provision of employment space will be given a high priority in determining obligations sought on site.

Where on-site provision is not practical, the Council may agree developer contributions to help enable the provision of employment elsewhere.

Loss of Employment

Where a development proposal results in the loss of jobs (for example change of use away from hotels, offices etc.), a commuted sum will be required to help create similar employment elsewhere in Torbay, as set out in Policy SS5. This will be given the highest priority after site acceptability matters.

Such contributions will be ring-fenced for investment in regeneration projects and unlocking employment development. A range of projects is set out in the Torbay Economic Strategy 2013-18. They will be used to help provide enabling infrastructure such as site servicing or decontamination costs for regeneration and employment generating schemes.

Where the contributions are used for infrastructure measures (e.g. site servicing), no more than 5 obligations will be pooled for a specific project. However smaller contributions will be targeted at non-infrastructure matters such as training.

Note that contributions do not imply that a change of use away from employment use is acceptable in terms of planning merit. Such applications will be assessed on the basis of Policies in Adopted Torbay Local Plan, particularly **SS5 Employment Space**.

Assessing the Cost of Employment

The Torbay Economic Strategy 2013-18 contains a detailed Action Plan which identifies projects needed to secure economic development. These relate closely to the Employment Land review (PBA 2013) which sets out key employment development areas. The cost of projects identified in the Strategy is around £290m. These will realistically take at least the Local Plan period to implement. This works out at around £4,778 per economically active person in Torbay (60,700). (When un-costed projects are taken into account the likely cost is nearer £500m, which equates to about £8,000 per economically active employee).

The 2008 Planning Contributions and Affordable Housing SPD assessed, based on work carried out by the TDA, that the cost to the public sector in unlocking employment development was 15-20% of the cost of the job. The most recent available data on average

annual wages (full and part time) is set out below. Allowing for 50% on-costs (pensions, NI etc.), is set out in Table 3.3.

Table 3.3. Assessment of the Cost of Providing Jobs

	Median annual earnings	Cost to employer with on costs (x1.5)	Contribution at 20% +hypothetical public sector cost of creating a replacement job.
Full time	£21,940	£32,910	£6,580
Part time	£ 7,830	£11,745	£2,350
All jobs	£16,680	£25,020	£5,004

Annual Survey of Hours and Earnings 2014

The TDA have assessed that the average cost of creating a B class job in Torbay is in the region of £19,000-£22,000 (excluding abnormal costs), whereas nationally a range of £8,000-50,000 has been calculated depending on the project. The LEP and other grant schemes assume a cost of £6-10,000 is a reasonable rule of thumb.

Accordingly, applications which result in the loss of employment will be asked to pay a loss of employment contribution to mitigate the economic impact, on the basis of:

- £ 8,000 per full time job lost
- £ 4,000 per part time job lost

The number of jobs lost will be based on evidence supplied by the applicant (Question xx on the planning application form) and the Employment Densities Guide (3rdⁿ Edition 2015 or subsequent, see Table 3.4), which estimates FTE jobs by floor area. On this basis the loss of employment contribution will be calculated on the basis of:

Number of jobs lost x £8,000 per full time equivalent.

Table 3.4 Estimated Employee/Floorspace Ratios (Employment Densities Guide 3rd Edition)

Use Class	Sub-Category	Sub-Sector	Density (sqm)	Notes
B1a Offices	General Office	Corporate	13	NIA
		Professional Services	12	NIA
		Public Sector	12	NIA
		TMT	11	NIA
		Finance & Insurance	10	NIA
	Call Centres		8	NIA
B1b	R&D Space		40-60	NIA lower densities will be achieved in units with higher provision of shared or communal spaces
B1c	Light Industrial		47	NIA
B2	Industrial & Manufacturing		36	GIA
B8	Storage & Distribution	National Distribution Centre	95	GEA
		Regional Distribution Centre	77	GEA
		'Final Mile' Distribution Centre	70	GEA
Mixed B Class	Small Business Workspace	Incubator	30-60	B1a, B1b – the density will relate to balance between spaces, as the share of B1a increases so too will employment densities.
		Maker Spaces	15-40	B1c, B2, B8 - Difference between 'planned space' density and utilisation due to membership model
		Studio	20-40	B1c, B8
		Co-Working	10-15	B1a - Difference between 'planned space' density and utilisation due to membership model
		Managed Workspace	12-47	B1a, b, c
B8 / Sui Generis	Data Centres	Wholesale	200-950	
		Wholesale Dark Site	440-1,400	
		Co-location Facility	180-540	
A1	Retail	High Street	15-20	NIA
		Foodstore	15-20	NIA
		Retail Warehouse	90	NIA
A2	Finance & Professional Services		16	NIA
A3	Restaurants & Cafes		15-20	NIA
C1	Hotels	Limited Service / Budget	1 per 5 beds	FTE per bed
		Mid-scale	1 per 3 beds	FTE per bed
		Upscale	1 per 2 beds	FTE per bed
		Luxury	1 per 1 bed	FTE per bed
D2	Fitness Centres	Budget	100	GIA
		Mid Market	65	GIA – both types tend to generate between 40-50 jobs per gym
		Family		
	Cinema		200	GIA
	Visitor & Cultural Attractions		30-300	The diversity of the cultural attraction sector means a very wide range exists
Amusement & Entertainment Centres		70	Potential range of 20-100sqm	

Healthy Communities and Healthcare

Policy SC1 of the Local Plan requires development to contribute to improving the health and wellbeing of the community. Torbay has health problems strongly related to its demographic structure and deprivation (see paragraph 6.4.3.1).

All development should seek to promote active design as a site acceptability matter (see above).

Policy SC1 Healthy Bay requires developments of 30 dwellings or more, or developments where there are particular health impacts to carry out a screening for a Health Impact Assessment. Health Impact Assessment and its screening should be proportional to the size and type of development and identify the most effective measures that can be used to improve health and wellbeing. For smaller developments health impacts can be addressed through Design and Access Statements. These will usually be the promotion of active lifestyles through open space provision, cycling facilities (including secure covered storage).

Policy SC4 Sustainable food production requires that developments of 30+ dwellings should include provision of sustainable food production.

Regard will need to be had to the provision of open space and multi-functional green infrastructure for all developments. Where possible these facilities will be sought on-site. Where they are maintained by the Council, at least 10 years maintenance shall be provided through s106 or other financial arrangement. If ongoing maintenance is not funded, details of alternative maintenance arrangements (and funding) should be provided as a condition of granting planning permission.

Healthy Communities and Health Impact Assessments

The Local Plan seeks to help close the gap between the most and least disadvantaged neighbourhoods, as set out in Policy SS11 Sustainable Communities. Policy SS5 seeks to reduce child poverty by a range of measures including provision of affordable housing, education and urban design improvements.

Policy SC1 Healthy Bay requires development of 30+ dwellings or 1000 sq. m to undertake screening of a Health Impact Assessment. Policy SC4 seeks developments of 30 or more developments to consider providing sustainable food production.

Open space and recreation provision are dealt with in the sustainable communities section. However these will be instances where a higher priority is given to matters such as education, public realm, and open space provision in order to achieve healthy Bay objectives.

Development which creates a specific Health/Social Service need e.g. Care Homes, Sheltered Housing.

Torbay has a significantly older population than the national average, due in part to immigration of older people. The most recent (2014 based SNPP) population data estimate that there are about 35,000 people aged 65+ in Torbay, comprised of 25,000 people aged 65-79 and 10,000 people aged 80+. The number is projected to rise to 45,000 by 2030 comprising 29,000 65-80 year olds and 16,100 80+ year olds.

Torbay Council's Joint Commissioning Team and South Devon Clinical Commissioning Group publishes Market Position Statements for Adult Social Care and Support and Children's Services in Torbay, the most recent being for 2016+ ³ This document indicates that demand for adult social care workforce time is growing twice as fast as population growth, at about +1.3% per year compared to 0.6% population growth. It is estimated that the cost of treating the over 85s is likely to increase to about £8.5 million per year in 2020, up from £7.3 million in 2012⁴.

The 2015/16 base budget for adult social care was £39.3 million compared to gross spending of £48.7 million, with £9.4 million paid for by clients. A strong policy objective of the Torbay NHS Healthcare Trust to help people live independently in their own homes for as long as possible. Promoting good health is a key Corporate Plan objective.

In line with the Living Well@Home strategy, about £9.1 million of spending is domiciliary care. This includes a range of care facilities including community nursing, living at home re-enablement, provision of assistive technologies, meals services, night sitting, and respite care is provided by the NHS healthcare trust, Council and other services.

The £9.1 million cost of domiciliary care averages out at about £260 per person aged 65+

Local government is facing unprecedented financial challenges with reduced funding from central government in the face of increasing demand for services. Torbay Council set the 2014/15 budget in February 2014, this included a savings programme totalling £22m to be found over 2 years (2014/15 and 2015/16), which will inevitable result in resources being stretched and services reduced.

It is recognised that an ageing population, and other clients in need of adult social care, will generate a need for specialist accommodation such as sheltered housing, supported housing and extra care units. Policy H6 of the Local Plan deals with accommodation for people in need of care. There is a move away from the use of care homes (use Class C2), but there are likely to be instances where applications are granted, particularly where they provide an improved level of care or specialist facilities to deal with issues such as dementia.

Torbay's pattern of demographics is strongly one of net domestic migration by older people in to Torbay and outward migration of young people. This places a likely demand from some new developments upon health care services.

Accordingly Policy H6 indicates that the council will seek financial contributions to meet the likely healthcare and social service costs arising from care facilities and sheltered accommodation, unless the applicant is able to show that this contribution would not be appropriate.

Where development leads to a specific requirement for additional healthcare/social care facilities, s106 obligations will be sought to address these impacts. This will be based on the cost of helping living independently in their own homes for as long as possible for sheltered, supported and extra care units. In the case of care homes (use Class C2) the contribution will be based on the additional public cost of care in the case of care homes.

³ <http://www.torbay.gov.uk/torbaymps2016.pdf>

⁴ Torbay JSNA 2012/13

Contributions will be based on the likely inward migration into accommodation so that developers are asked to contribute to the additional demand placed on adult social care from developments.

A baseline contribution of £1,300 per unit of sheltered/supported/extra care accommodation (i.e. uses within Class C2) and £2,220 from care homes (uses within Class C3) will be sought. This is based on likely additional cost to adult social care based upon likely need for help, length of stay and likelihood of migrating into accommodation, as set out in table xx below.

Where developers are able to show that they will be providing facilities which will obviate the need for additional adult social care, these figures may be reduced. Contributions will not be sought from affordable units or where developments are restricted to occupancy from Torbay.

Table 3.5 Healthcare Contribution for Accommodation for people in need of care.

(A). Accommodation type	(B). Cost provision for 1 years (£260 x multiplier based on likely need)	(C) Likely cost for 5 years care ((B) x 10 years for sheltered housing and 5 for supported and extra care.	(D) Likelihood of inwards migration from outside Torbay	(E) Contribution per unit (room in the case of Class C2) ((C)/(E))	
Class C3 units					
Sheltered housing	£260 (x1)	£1300	50%	£1,300	
Supported housing	£1300(x5)	£6500	20%	£1,300	
Extra care units	£2600 (x10)	13,000	10%	£1,300	
	Cost per place and Average cost to CCG	Likely cost for 3 years	Likelihood of person migrating from outside Torbay	Contribution per room	
Care home within Class C2	£25,000 of which average cost to CCG of £14,750 (59%)	£44,250	5%	£2,220	

Development where there is a need for a Surgery/Local Centre etc.

The Joint Commissioning Team and health Care trust will keep the need for medical facilities under review as part of the Masterplanning of Future Growth Areas. Where development results in the need for a surgery or other health facility, the Council will seek its provision as part of the s106 Agreement, which should include a delivery timeframe, and fall back option.

Where possible, the provision of residential accommodation will be supported particularly where this would aid delivery of healthcare facilities.

4. Sustainable Development Infrastructure

4. SUSTAINABLE DEVELOPMENT INFRASTRUCTURE

Sustainable development contributions are sought to render development acceptable in planning terms. However they are less urgently essential to health, safety or legal obligations than site acceptability matters.

Sustainable development contributions are not usually sought from development that pays CIL (QV) or sites below the Government's threshold for tariff style contributions, which currently is 11 or more dwellings or 6 within the AONB.

The following sets out figures based on assessments of the likely impact of development. However this should not be construed as a "tariff based approach" per se as each application will need to be assessed in terms of what contributions are necessary to render development sustainable, meet the test of lawfulness. Where contributions related to infrastructure, no more than 5 S106 Obligations will be pooled towards that item of infrastructure.

Transport Infrastructure - Major Road Network and Sustainable Transport

The implementation of sustainable transport measures is regarded by Government as essential to reducing traffic congestion, improving air quality and addressing climate change.

Note that physical works to create safe access for vehicles and pedestrians are sought as site acceptability matters. These will usually be delivered through planning condition, negotiation of site layouts or S278 Agreements. Policy TA3 also promotes the provision of cycle parking and electrical points within developments, which will usually be secured through negotiation of layouts or through planning conditions.

This section deals with sustainable transport matters such as bus contributions, which are sought through S106 Agreements.

Chapter 4 of the NPPF sets out Government's policy on transportation. It requires that development which generates significant amount of traffic should be supported by a Transport Statement or Assessment which considers the opportunities for sustainable transport, provision of safe and suitable access, and whether improvements can be made to limit the impacts of development.

The **Torbay Local Transport Plan 2016-2021** (LTP) contains a range of measures aimed at improving accessibility, air quality, road safety and quality of life and reducing congestion and the impact of transport. The draft Torbay Delivery Plan (January 2016) identifies a range of projects needed to deliver the Local Plan, which cost a total of £5.315 million. The LTP does not include improvements to the A385/Totnes Road which are likely to be required before 2020 if early implementation of development at Collaton St Mary is to be feasible. These are estimated to be in the region of up to £1m.

The above figure does not include the £20 million funding requirement for the South Devon Highway, which is being sought through CIL.

Local authorities are required to support essential community facilities such as transport services and maintain infrastructure stemming directly from development. This puts a considerable long term additional pressure on the Council's ability to provide high service quality and support. "Whole life costing" assesses the true social, environmental and economic cost of any development throughout its useful life. Unless this is met by developer contributions, it has to be borne by the local authority or its council taxpayers.

Much of Torbay's transport infrastructure operates at or over capacity and delivering growth is only likely to be achievable if accompanied by measures to ensure that it does not rely heavily on car borne transport. Failure to meet these objectives would create additional congestion and have negative health impacts e.g. from poor air quality.

Developments in Torbay will be assessed to identify whether they generate net additional trips and should therefore contribute towards sustainable transport.

Contributions will be used for a range of sustainable transport measures identified in the Local Plan and Local Transport Plan or are closely related to the development (either by location or the nature of development).

Sustainable transport contributions will be sought on the basis of a calculation of the additional impact that development has upon the transport network, or other costs to the authority such as bus passes. This includes cumulative impacts.

The figures set out below will be taken as a starting point. Additional obligations may be sought where developments have a greater impact upon traffic generation or create a particular need for ongoing revenue support for equipment and running costs, for example as could arise from out of town retail proposals.

The Council has used Trip Rate Information Computer System (TRICS version 7.3.2) to calculate the number of journeys generated by development. Table xx sets out the likely additional trip rate associated with development over the period to 2017-22 (i.e. the next five years at time of writing) based on development likely to arise in the next five years based on the Local Plan's Strategic Delivery Policies.

Table 4.1 TRICS (7.3.2) Assessment of trips generated by Development in the Torbay Local Plan 2017-22

Development type	Number/floorspace	Trip rate per unit or 100 sq. m	No of trips per day
Dwelling houses	2,750	5.1	14,025
Business (B1, B2, B8)	40,000 sq. m	7.6	3,040
Other employment uses	45,000 sq. m	7.6	3,420
Retail (assume in-town centre)	25,000 sq. m	44	11,000
Tourism, leisure	20,000 sq. m	9.5	1,900
Other (education, healthcare etc.)	20,000sq m	17.5	3,500
			36,885

Based on this it is assessed that the 36,885 additional trips per day will be generated in Torbay by development between 2017-22. Based on the cost of delivering the Local Transport Plan and other Future Growth area highway infrastructure this would equate to £171 per trip generated.

Planning Obligations will be sought from development based on the above trip generation

Table 4.2 S106 Obligations sought from larger development

Development type	Assumed trip rate per unit or 100 sq. m	Contributions per unit or 100 sq. m (trip rate x £171)	Notes
Apartments 1-3 bedrooms	4	£690	

Houses 1-3 bedrooms	5	£860	
Larger dwellings (houses and apartments of 4 or more bedrooms)	6.5	£1,110	
B Class employment and other employment uses	7.6	£1,300	Mitigation will usually be provided for job creation/ regeneration.
Retail – Town Centre (including, Preston and St Marychurch District Centre and Local Centres in built up area)	44	£7,530	Mitigation will usually be provided for in- town centre regeneration and built environment improvements.
Retail –out of town centre (including the Willows and West of Paignton)	120	£20,520	
Tourism, leisure	9.5	£1,620	Mitigation will usually be provided for job creation/ regeneration.
Other (education, healthcare etc.)	17.5	£3,000	S106 Obligations are not sought from publically funded schemes

In calculating obligations, priority will be given to improving accessibility, including availability and capacity of public transport within walking distance (about 400 metres) of the proposed development. In addition, local air quality (particularly the proximity of **Air Quality Action Zones**) will be taken into account. In addition, regard will be had to the level of highways and sustainable transport works provided by the developer (as a development site acceptability matter).

Where possible, Obligations will be collected as S278 Agreements.

Education

Torbay Council has a statutory duty to provide sufficient school places to enable every child between the ages of 4-16 to access a school place under the Education Act 1996 (as amended). Policies SS10 “Sustainable communities”, SC3 “Education skills and local labour” and SC5 “Child poverty” all identify the need to provide education facilities to serve development.

The TDA’s Schools and Capital Planning Manager has indicated that there is a need for both primary and secondary places throughout Torbay. This includes:

- The need for a new 420 place primary school serving Torquay, at an estimated cost of £5.66 m

- The need for a new secondary school serving Torquay, or expansion of existing schools. This is likely to be a 600 space school at a cost of around £10.44m
- The need for two primary schools serving Paignton, at a cost of 11.32m (based on 420 space schools).
- The need for an extension to secondary school or an additional school serving Paignton at a cost of around £10.44m
- The need for an additional primary school serving Brixham, at a cost of £2.85
- Expansion of South Devon College under approved Local Development Order.

The total cost of this is about £40.71 million. Whilst it is not expected that S106 Obligations could cover the entire requirement, it is reasonable for developers to contribute to the additional requirement for school places generated by development.

The Department for Education (formerly DCSF) sets cash flow multipliers for cost per school age child (indexed linked to BCIS public sector cost index). At April 2016, these stood at:

Primary place £12,398

Secondary place £18,954

Sixth form place £20,575

i.e. Based on 11 years at school of which 6 in Primary and 5 in secondary, **this equates to a contribution per average school space of £15,833**. Based on Primary £12,398 per space times 6/11 years in education= £6,763, and secondary £18,954 per space times 5/11 years in education= £9,070).

Numbers of School Age Children per dwelling

To establish the impact of existing and new development proposals on education facilities it is necessary to identify the likely number of pupils that will be generated by individual developments.

Devon County Council (2016) have established (Based on research carried out in 1999, 2009 and 2015) that, on average, each family dwelling (i.e. dwellings with 2 bedrooms or more) generates approximately 0.25 primary aged pupils (ages 5 to 11), 0.15 secondary aged pupils (ages 12 to 16) and 0.06 post 16 (ages 17 to 18). This equates to 0.406 school spaces per dwelling.

The figure in Torbay is assessed to be similar to the rest of Devon at about 0.4 school aged children per dwelling, based on assessment of children arising from development in the West of Paignton.

Multiplying the cost per pupil of £15,833 by the ratio of school aged children per dwelling (0.4) provides a baseline cost of £6,333

It is assumed that no education requirement arises from specialist accommodation for the elderly or from one bedroom dwellings. Accordingly no education contribution is sought from these types of dwelling.

Whilst it is hypothetically more likely that there are more children in larger homes, evidence from the TDA's Schools and Capital Planning Manager suggests that smaller houses, often purchased under help to buy, are equally likely to contain school aged children. Accordingly a relatively minor weighting has been applied for larger dwellings.

The contribution sought from dwellings is set out in table xx

Table 4.3 Education Contributions Sought from Open Market Dwellings.

	Adjustment (multiplier) to overall average of 0.4 children per dwelling	Contribution per dwelling £6,333 x adjustment
Specialist accommodation for the elderly	Zero	0
1 bedroom dwellings	Zero	0
2 bedroom apartments	0.5	£3,170
2 bedroom houses	0.75	£4,750
3 bedroom dwellings	1	£6,330
4 bedroom dwellings	1.25	£7,920
5+ bedroom dwellings	1.5	£9,500

Greenspace, Sports And Recreation Contributions

Active design principles apply to all developments as far as practical, and will be sought as site-acceptability matters usually through conditions.

Policy SC2 "Sport leisure and recreation" of the Adopted Torbay Local Plan sets a framework for planning for recreation developments and proposes a number of recreation facilities. The Countryside, coast and greenspace chapter is also relevant, particularly the coast within Policy C2 and Urban landscape protection areas in Policy C5 which have public access.

It is recognised that the public realm in town centres etc. also provides recreation and makes an additional contribution to the historic and built environment value of the built environment (see Policy SS9).

The Council's **Greenspace Strategy** is an Adopted Supplementary Planning Document (July 2007 and refresh forthcoming) that sets out a requirement for the provision and management of open space for recreation. This contains local standards for Greenspace, These standards are

4.4 Open Space Requirements Per Person.

Type of open space	Hectares per thousand population	Square metres per person
Playing pitches	1.2	12
Multi use games area/equipped facilities for children and young people.	0.2	2
Greenspace	2.5	25
Allotments/sustainable food production	1	10

Public Realm/open space in town centres	N/A	N/A

In practice the Greenspace Strategy found an ample provision of green space (community parks. Town parks, coastal areas, country parks, etc.) but identified funding shortfalls with management. This management and enhancement shortfall has become more acute since the Greenspace strategy was adopted.

The cost of open space provision per person, as per the green space strategy adjusted for inflation is set out in Table xx below

4.5 Cost of Open Space Provision Per Person

	Sq. m per person	Cost of provision per metre	Cost per person
Playing pitches	12	£15.00	£180
Multi use games area/equipped facilities for young people	2	£250	£500
Greenspace	25	£10	£250
Allotments/sustainable food production	10	£20	£200
Public Realm/open space in town centres		£700,000 estimated total cost	Around £80 per new dwelling.
Cost of open space per person			£1,130

Source Greenspace Strategy, adjusted for inflation based on Bank of England Inflation Calculator (CPI) at 1.25%

4.6 Cost of Open Space Per Dwelling.

Estimated Persons Per Dwelling	Cost Per Person	Cost per dwelling
1 bedroom-1.4 persons	£490 (excludes children's play areas)	£690
2 bedroom – 1.9 persons	£740 (half children's play area contribution)	£1,410
3 bedroom – 2.6 persons	£990 (full play park contribution)	£2,580
4 bedrooms -3 persons	£990 (full play park contribution)	£2,970

The provision of open space will be assessed on its merits having regard to the Local Plan and Greenspace Strategy Policy Framework. Regard will be had to the location, capacity and condition of existing open space, as well as the likely demand on it that development generates.

Tables 4.4-4.6 above give a cost per person and dwelling of providing greenspace. However it is recognised that provision will often be in kind through the provision of play parks etc. on site. Where developers make on-site provision, the cost of this will count against any financial contribution (with the exception of maintenance payments noted below).

Where public open space or equipment is provided through a s106 (or other means) by a developer, it should in all cases make financial provision for 10 years maintenance. It is considered by the council that maintenance is essential and therefore these payments should be prioritised. All play space and equipment should be completed to an adoptable standard (currently European Standard EN1776 (Play Areas) and EN1777 (Hard Surfaces)) and agreed by the Head of Community Services.

Where no new open space is provided to serve new dwellings, the Council may seek contributions to ensure that proper provision is maintained within easy walking distance (300m) of the development (for example by improving maintenance, management and equipment at existing facilities). These contributions are likely to relate to projects identified in the Greenspace Strategy Action Plan.

Lifelong learning

The Council, as a unitary authority, has a responsibility to provide a range of lifelong learning services to adults, including adult community learning centres, museums and libraries. Libraries are an important element in reducing social inclusion and reducing the gap in Torbay. They host a range of services including acting as a contact for the Council via the Connections Service.

The cost of £1,053 per year before revenue and £977,000 per year net of revenue (Torbay Budget 2016/17). This equals about equates to £7.30 per person per year.

Torbay's museums and cultural attractions also provide education and lifelong learning as well as contributing to tourism and therefore employment in the area. Torre Abbey is managed directly by the Council, whilst grant support is given to Torquay and Brixham museums. Management agreements exist for Babbacombe and Princes theatres. Palace Theatre in Paignton is directly managed and also operates the Council's youth theatre, known as the Acting Factory.

The total expenditure from museums and theatres is £678,000 which is £216,000 after revenue.

Contributions will be sought from sites of 15+ dwellings in Future Growth Areas (i.e. that do not pay CIL in Torbay) towards lifelong learning. Note that specific projects will be identified that do not breach 5 s106 Obligation pooling limits.

Calculation of Life Long Learning Cost per person

	Net cost of service (after revenue). Source Torbay Council	Cost per person (based on 134,000 population) and average persons per dwelling	Cost per person & per dwelling per 10 years
--	--	--	---

	Budget 2016/17		
Libraries	£977,000	£7.30	£73 per person
Museums and theatres	£216,000	£1.60	£16 per person
Cost per person		£8.90 per year	£89 per person
1 bedroom		1.4	£125
2 bedroom		1.9	£170
3 bedroom		2.6	£232
4+ bedroom		3	£267

Public Realm improvements.

Whilst a figure for public realm enhancements is not indicated in the above, it is estimated that around £700,000 works are required to enhance public areas within town centres associated within town centres, (*Kay Elliot, forthcoming*). Policy SS10 Conservation and the Historic Environment, and the Heritage Strategy (2011) promote conservation led regeneration and improvement of the built environment. Policy SS11 Sustainable communities seeks to enhance the urban environment especially within deprived areas of Torbay.

On the basis of the above, open space contributions will be targeted on public realm improvements for developments in the built up area. In instance where there is a particularly close relationship with development and public realm improvements, they may be prioritised over other contributions.

This also applies to non residential developments which directly impact upon the need for public realm improvements.

Waste Management Facilities

Policy W1 Waste Hierarchy and Paragraph 6.5.3.6 require that all development minimise the generation of waste and encouraging recycling rates.

The waste and recycling collection service, operated by Tor 2 is running at 98% capacity, so new development will generate a need for new waste recycling earl in the Plan period.

All development should make provision for adequate storage of waste and recycling materials. Larger developments (over around 200 dwellings) will need to incorporate on site facilities for the recycling of glass, paper, clothes etc. This can often be achieved through conditions.

Provision of Bin and boxes for new dwellings.

It is estimated that the additional per dwelling cost of providing new dwellings with a bin and boxes, rescheduling collections, and provision of recycling information etc. is around £85 per dwelling.

The Council will seek this from all new residential developments. If applicants chose not to provide this through S106/Unilateral obligations they will need to buy compatible bins and boxes directly from Tor2.

Increasing capacity of waste collection services from larger developments

As noted, Torbay's waste collection service is running at near capacity. Contributions will be sought from larger developments towards the cost of additional waste management facilities. On the basis of the assessed average cost per dwelling of providing additional vehicles etc., a cost of £97 per dwelling will be sought from sites of 15 or more dwellings.

Cost of Additional RCVs and Recycling Teams arising from development

On the basis of a refuse collection vehicle and team being able to service around 4,500 properties in a fortnightly cycle (500 properties x 9.5 effective working days cycle); this would equate to the need for two additional collection teams over the Plan period.

Recycling boxes are currently collected weekly, and assuming the service rates above, would equate to a need for four additional vehicles and teams over the period to 2030.

The Council's environmental Services have indicated that the cost per vehicle would be:

Refuse Collection Vehicle

Vehicle £182,500

Wages £ 51,100

Fuel £13,000

TOTAL £246,600

Recycling Stillage Vehicle

Vehicle £82,500

Wages £34,600

Fuel £ 7,500

TOTAL £124,600

This equates to a total cost of around £1million. Because it is recognised that Council Tax will provide a proportion of this, it is proposed to seek s106 Obligations to contribute based on the cost of vehicles (although in practice moneys may be used for a range of waste management matters). This equates to £863,400 or £97 per dwelling (based on 8,900 dwellings in the Local Plan).

Where developments are unable to provide the Council’s normal waste recycling bin and boxes, an additional charge will be sought to cover the additional cost to the Council of managing waste collections. This is unlikely to apply to development that have paid CIL.

Table 4.7 below sets out waste contributions sought from residential development.

Table 4.7 Waste Management Contributions

	Cost of Bin and Recycling Boxes, and recycling information	Contribution to additional waste and recycling services
Sites of 1-10 dwellings, where normal bin and box recycling system can operate	“Tariff style contributions are not sought from smaller sites. However developers have the option of purchasing bins and boxes at the planning stage. If they chose not to then they will be billed directly by the Council/Tor2	-
Sites of 11+ Dwellings where normal bin and box recycling system can operate.	£75	£97
Developments where there is a reduced capacity to recycle e.g. due lack of recycling facilities	A waste audit will be required to indicate how municipal waste will be managed. Otherwise a contribution will be sought based on the additional cost to the Council Tor of dealing with the waste arising from the development.	£97 per dwelling/unit based on the above.

Difficult to Monitor Uses and Town Centre Management

The Local Plan indicates that s106 Obligations will be sought to monitor development that gives rise to specific monitoring requirements such as holiday occupancy conditions, non-Registered Providers affordable housing (excluding starter homes), town centre management uses and HMOs.

Officer time costs on average £72 per hour, or £245 per half day. Table 4.8 below sets out the types of development that require monitoring and the cost to the council over 5 years. Note that this is not a definitive list and contributions will be sought proportionately to the requirement to monitor.

Policy TC5 “Evening and Night-time economy” indicates that contributions will be sought towards town centre management, maintenance and policing

Note that Monitoring and management contributions are not usually sought for infrastructure items and therefore not subject to pooling restrictions.

Table 4.8 Monitoring Contributions

Use	Monitoring requirement	Cost of Monitoring/ Contribution	Notes
Holiday occupancy	Low	£360	Based on annual visit

conditions			being required
Non-RP Affordable Housing (excluding starter homes)	Low	£360	Based on annual visit being required
Houses in Multiple Occupancy	Medium	£1440	May be reduced where on-site management is provided.
Amusement Arcades, betting shops.	Medium to High	£2,880	Will be applied proportionately to monitoring requirement.
Night time economy uses, alcohol related uses	High	£2,880 per 100 sq. m	Will be applied proportionately to monitoring requirement

5. IMPLEMENTATION

Policy SS7 of the adopted Torbay Local Plan 2012-30 undertakes to prioritise developer Obligations according to:

- The tests of Lawfulness
- Prioritisation of critical infrastructure
- Evidence of viability
- Wider development impact
- Torbay Community Plan themes
- Availability of other funding, including ring fenced government funding and CIL.

As noted above, Planning Conditions will be used wherever possible rather than S106 Obligations.

Types of s106 obligations

With small-scale developments which only require the payment of commuted sums, and where the developer has been notified that the Council is minded to grant planning permission, it may be simpler for the developers to pay the sums through a unilateral undertaking. A unilateral undertaking is a legal document made pursuant to s.106 of the Town & Country Planning Act 1990 under which, in this case, the developer agrees to pay contributions in respect of necessary measures to make the development acceptable in planning terms. If a unilateral undertaking is considered by the Council to be appropriate, a template document will be provided for the developer to complete, sign and return.

A unilateral undertaking can only be entered into by the owner of the land to be developed. An applicant who does not own the land to which the application relates will need to ask the owner to enter in to the undertaking. Where payment is made in advance of granting permission a 10% discount to the commuted sums will be applied and the Council will not impose a charge for its legal costs.

Section 106 Agreements

Where the Council decides to grant planning permission subject to the completion of a S106 Agreement (or S278 Agreement in the case of works to the highway), Matters covered in the s.106 agreement will include (as appropriate):

- Timing of payments and phasing of development
- Nature of obligation and (where a financial contribution) how it will be spent.
- In the case of affordable housing:
 - The number of affordable units
 - The type and size of the properties
 - Arrangements for ensuring that the housing remains affordable in perpetuity
 - Local occupancy condition, where appropriate
 - How the affordable element will be achieved e.g. through the construction of units, transfer of land, or financial or other off-site contribution
 - Any cascade arrangements including the length of time in which to secure funding for rented housing, before which the tenure mix can be re-negotiated and time that units need to be marketed for.
 - A mortgagee in possession clause

- Where appropriate a clause for financial re-assessment and payment of deferred contributions

Developers will be expected to pay the Council's legal costs of drafting S106 Agreements at the current rate of £150 per hour; this rate may be increased in line with inflation and level of complexity of the issues involved.

Mitigation

S106 Obligations are intended to address the net additional impact of development upon the built and natural environment and wider society. On this basis, contributions may be mitigated where development gives rise to particular social, economic or environmental benefits.

Mitigation for Existing Uses The Planning Contributions and Affordable Housing SPD is intended to meet the community (etc.) impact of additional development. Therefore the existing use should be taken into account and contributions sought on the **net additional impact**. Note that this requires applicants to be specific about existing uses and provide details of floorspace.

Mitigation for existing uses cannot remove the need for contributions towards matters that are necessary to the safe operation of the site or meeting legal requirements (i.e. site acceptability matters).

Mitigation where there is an Identifiable Social Good (e.g. provides jobs or regeneration benefits). Where development results in an identifiable social good, for example significant regeneration, built or natural environment or provision of jobs, the authority will take a flexible approach to planning contributions in order to ensure that the social benefits of development are realised.”

Mitigation for Job Creation. Economic Prosperity is a high priority for the Council. Therefore it is particularly important that planning obligations do not impede job creation. On this basis mitigation from “tariff style” contributions will be given for jobs created by development proposals, using the methodology set out in Part above as a starting point.

Affordable Housing “Sustainable development” contributions will not be sought for social rented affordable housing (which for simplicity should include affordable rent), and a 50% discount applied to intermediate housing and starter homes.

Note that this relates to affordable housing within the definition in the NPPF (and starter homes). It does not apply to small “low cost” open market units sold without a discount. In addition, “development site acceptability” matters have to be addressed on affordable housing developments, to make the site safe and workable in physical terms.

Where intermediate housing provides additional sustainability benefits such as exceeding minimum Building Regulations standards, then the Authority will consider relaxing the requirement for sustainable development.

Viability – Content of Viability Assessments

The Local Plan acknowledges that s106 Obligations may be negotiated between the Council and developer. Where it is claimed that planning obligations would render development unviable, the Council will require the developer to carry out a viability assessment at the developer's expense.

An open book accounting approach will be used to assess the viability of the development and must include. However, the Council will have regard to financial confidentiality in publishing these.

- Construction costs at price per sq. m floor area detailing what is included and on what basis;
- Itemised allowances for any other contribution or costs associated with the development including planning obligations contributions due;
- Any abnormal site costs itemised individually;
- Residual land value (where appropriate);
- Any other contractual arrangement such as uplift or claw-back provisions;
- Details of any finance agreements;
- Itemised breakdown of fees associated with purchase and site development;
- Anticipated revenue from the proposed development including a full market research report and offers from Registered Providers and;
- Anticipated developer profit clearly expressed in terms of % of GDV. The Council will allow 20% of GDV on market housing and 6% on affordable units to represent a reasonable level of "normal profit".

A basic development appraisal template is included at Appendix xx setting out the information required. Developers may use their own templates but these must include the exact details to ensure that a clear and consistent approach to viability appraisal is maintained for all sites. Viability assessments should be proportional to the scale and nature of the application.

The open-book accounting approach will expect land prices to reflect current market conditions, current alternative land use value and current policy requirements. The price paid by the developer for the land will not normally be a factor in determining the viability of a site, if they have paid above the assessed open market rate.

Where Development is Unviable

Where a developer demonstrates to the satisfaction of the Council that a proposed scheme is not currently viable with a policy-complaint level of developer contributions **and** the Council consider that there is scope to agree an acceptable development, the Council will agree to reduce S106 and other obligations in order to render development viable, subject to a recalculation of viability as set out below.

Contributions will be reduced in line with the order of priorities set out in Policy SS7 and this SPD (i.e. broader sustainability contributions will generally be relaxed before affordable housing/employment and health contributions). There is no scope to relax site acceptability requirements, although these will generally be addressed through conditions rather than developer contributions.

Where reduced S106 Obligations are agreed, the S106 Agreement will include a clause to secure a further Viability Appraisal/s (at the developer's expense) to be carried out at the end of the development, or at the completion of each phase of larger developments. Any further viability appraisal will only apply to units that have not reached practical completion by an agreed time. This will usually be 3 years from the grant of planning permission, or five years in the case of large developments of 100 dwellings or more, or where outline permission is granted.

If profit of over 20% Gross Development Value (GDV) is achieved by the development, the clause will require the 50% of the additional profit above this profit level to be recouped by the Council up to the amount of contribution that was applicable at the time of the submission of the latest relevant application. Where a reduced level of affordable housing has been provided, the Council will seek increased provision of affordable housing in the later phases of development, subject to sustainable communities and other relevant considerations.

Re-negotiating the Terms of the Section 106 Agreement

Where the developer seeks to re-negotiate previously agreed s106 Obligations the Council will require an open-book viability appraisal to be carried out at the developer's expense.

The assessment must take the form of the viability appraisal template or other form agreed in writing between the developer and the Council providing that the land values, development costs, development values and finance costs all reflect current market conditions.

The findings of the viability appraisal will remain valid for a maximum period of 12 months or, where phasing has been agreed in excess of 12 months, a new viability appraisal will be required for each phase.

Where viability appraisal satisfactorily demonstrates that the development is not currently viable when taking into account the full obligations and contributions required, the Council will agree to re-negotiate s106 Obligations in the order of priority identified above. However, contributions cannot be relaxed to the extent that development would not be in accordance with certain regulatory requirements (such as in the Habitats Directive) or not in the public interest.

Developers will be expected to pay the Council's legal and administrative costs of negotiating and drafting a deed to vary the original s.106 at the current rate of £150 per hour; this rate may be increased in line with inflation and level of complexity of the issues involved.

Summary

The tables below is intended as a summary of contributions that may be sought from development. Although a figure is presented for some items, this is intended to be an assessment of the impact of the development rather than a “tariff” per se.

(6.1) Residential Developments of 1-11 dwellings (1-5 in the AONB)		
	Requirement	Notes
Site acceptability		Applies to all sites
Direct access/safety	Direct provision or as costed by Highways Department	S278 Agreement where possible.
Flooding, drainage and Sewerage	Direct provision, SuDS, requisition from South West Water	Note that Torbay is a Critical Drainage Area
Biodiversity	Mitigation of biodiversity impacts. Through condition or s106 Obligation	Note that indirect impact on South Hams SAC is a CIL item, so developments that pay CIL will not be charged S106 contributions towards this.
Design and Active Design	Through design/conditions	
Built environment improvements and public realm	Through design/conditions.	
Affordable Housing Employment and Health		
Affordable Housing	Greenfield Sites of 6-11 dwellings in the AONB required to pay commuted sum based on 15% provision see table 3.2	Regulations may introduce a requirement for starter homes.
Healthcare	S106 Contributions sought where there is a specific healthcare requirement arising from development e.g. sheltered accommodation. £1,300 per dwelling	Active design is a site acceptability matter (see above).
Employment	Only applies to where application entails the loss of employment. £8,000 per FTE job lost.	
Sustainable Development	Not sought on sites of 10 or fewer dwellings	
Waste management	Option to pay £85 per dwelling at the planning stage.	Permission will not be refused if no waste contribution is made by bins will need to be purchased from the Council/Tor2
Community Infrastructure Levy	Charged on new floorspace	See CIL Charging Schedule

(6.1) Residential Developments of 11+ dwellings (6+ in the AONB)		
	Requirement	Notes
Site acceptability		Applies to all sites
Direct access/safety	Direct provision or as costed by Highways Department	S278 Agreement where possible.
Flooding, drainage and Sewerage	Direct provision, SuDS, requisition from South West Water	Note that Torbay is a Critical Drainage Area
Biodiversity	Mitigation of biodiversity impacts. Through condition or s106 Obligation	Note that indirect impact on South Hams SAC is a CIL item, so developments that pay CIL will not be charged S106 contributions towards this.
Design and Active Design	Through design/conditions	
Built environment improvements and public realm	Through design/conditions.	
Affordable Housing Employment and Health		
Affordable Housing	Onsite provision for Greenfield sites: 11-14= 20% 15-29= 25% 30+ = 30% or 25% plus 5% self build plots Brownfield 15-19= 15% 20+ = 20%	
Healthcare	Development that leads to healthcare needs e.g. Specialist housing for the elderly.	
Employment	Only applies to where application entails the loss of employment. £8,000 per FTE job lost.	
Sustainable Development	Applies only to development that do not pay CIL (i.e. sites of 15+ dwellings within Future Growth Areas).	
Sustainable transport	Apartments 1-3 bedrooms £690 Houses 1-3 bedrooms £860 Larger dwellings £1,110	
Education	1 bedroom dwellings and specialist accommodation= zero 2 bedroom apartments £3,170 2 bedroom houses £4,750 3 bedroom dwellings £6,330 4 bedroom dwellings £7,920 5+ bedroom dwellings £9,500	
Lifelong learning	1 bedroom dwellings £125 2 bedroom dwellings £170	

	3 bedroom dwellings £232 4 bedroom dwellings £267	
Greenspace, sports and recreation	1 bedroom dwellings £690 2 bedroom dwellings £1,410 3 bedroom dwellings £2,580 4+ bedroom dwellings £2,970	
Waste management	£85 (ins and boxes) plus £97	Applies to larger developments <i>plus</i> sites where the Council's bin and box recycling system is difficult to achieve.
Monitoring and management	Only proposals that give rise to particular monitoring issues.	
Community Infrastructure Levy	Applies to dwellings, based on new floorspace. CIL is sought on new dwellings apart from sites of 15+ units in Future growth Areas. For such sites, planning obligations will be used. Where CIL is sought, "tariff style" S106 Obligations will not be sought. S106	