

Community Infrastructure Levy Regulations 2010 (As Amended)

Torbay Council's Revised Proposed Modifications to the Revised Draft Charging Schedules.

**Please note that these replace the former Schedule of Proposed Modifications published in August 2016.
However, any representations received on the earlier Schedule will be considered.**

Torbay Council September 2016

Introduction

This schedule sets out the Council's revised proposed Modifications to its Revised Draft Charging Schedule (RDCS). These Revised Modifications are in response to comments made on the former consultation (which took place between Friday 18th March and Monday 29th April 2016). These were considered by the Council on 11th May 2015. Subsequent to this, the Council's evidence on viability has been reviewed by Burrows Hutchinson Ltd, and the Council's response to this agreed with the Executive Lead for Planning, Transport and Housing. The Charging Zones have also been reviewed.

An accompanying schedule sets out the Council's response to representations made on the RDCS as well as earlier consultations, and sets out the Council's reasons for its approach to CIL in more detail.

The modifications are published for consultation between **Monday 5th September and Monday 17th October 2016** and will be considered by the Independent Examiner examining Torbay's CIL.

In summary these Modifications make the following changes:

- Review of Charging Zones. Changes include the inclusion of the undeveloped coast (Local plan Policy C2) as outside the built up area. Similarly Watcombe Heights and Ilsham Valley (Torquay), and land at Bascombe Road, Churston are considered to have values similar to land outside the built up area. A number of other changes have been made to reflect likely property values more accurately. The revised Charging Zone Maps are published as a 1:5000 map booklet, with the pages corresponding to the Local Plan Policies Map booklet. Note that the maps are designed primarily to be viewed on screen and can be zoomed.
- Seek CIL for sites 1-14 dwellings within Future Growth Areas. (Whilst continuing to use s106 for larger sites in Future Growth Areas).
- Zero rate CIL for sites of 1-3 dwellings in Residential Charging Zone 1 (Inner urban areas based on the 20% most deprived areas). Note that CIL is charged on other residential sites of 1-3 dwellings in the Residential Charging Zones 2, 3 and 4).
- Revisions to instalments policy.
- Clarification of the element of CIL to be spent on the Special Area of Conservation, including ring fencing of £20,000 per annum to ensure no likely significant effects on the SAC from development that has paid CIL.

Modification number	Page/ paragraph	Modification (<u>red underlined</u> denotes new text. Strikethrough indicates deletions).	Comments
M1	4	<p>The Council is intending to charge CIL on residential developments within four charging zones:</p> <ul style="list-style-type: none"> • <u>Areas of lower housing value</u> (based on the built-up area within 20% most deprived area (as indicated in the Indices of Deprivation 2015). • Elsewhere in the built-up area. • Outside the built-up area (<u>Plus Ilsham Valley and Watcombe Heights Torquay, and Bascombe Road, Churston</u>). • Future Growth Areas. <p>The built-up area is defined by the area outside Policy C1 “Countryside and rural economy” <u>or Policy C2 Undeveloped coast</u> areas in the Adopted Torbay Local Plan 2012-30.</p> <p><u>Note that Charging Zones have been reviewed since the Revised Draft Charging Schedule to more accurately reflect viability. They have been published on larger scale, zoom-able OS based maps. These Maps are designed primarily to be viewed electronically, where they can be zoomed into.</u></p>	Clarify Charging Zones following review.
M2	5	Residential schemes <u>of 15 or more dwellings</u> within Future Growth Areas (as proposed in the Adopted Torbay Local Plan 2012-30) will not be charged CIL.	<p>Smaller sites in the Future Growth Areas should pay CIL as there are not likely to be the strategic infrastructure issues associated with these as there are with large developments.</p> <p>However, strategic developments in these</p>

			areas are more likely to have higher infrastructure costs, which can more effectively be funded through s106 Obligations.
M3	5	All charging zones are based on the viability of development within the zones. Whilst <u>strategic</u> sites within Future Growth Areas are likely to be viable with CIL; <u>the Council considers that the higher infrastructure costs associated with larger sites in Future Growth Areas means that they would not be viable with CIL and the s106 Obligations required to render these developments sustainable.</u>	As above.
M4	6	<p>Following further consideration of viability evidence, it was considered appropriate to charge a lower CIL rate in areas of lower housing viability. The <u>urban</u> areas within the 20% most deprived Lower Super Output Areas (LSOAs) in the Indices of Deprivation 2015 are taken as an indicator of areas of lower viability. <u>However, the boundaries have been reviewed to eliminate boundary anomalies.</u></p> <p><u>In response to representations to the Revised Draft Charging Schedule in March 2016, it was considered necessary to review the viability evidence. The subsequent CIL Viability Addendum report by Burrows Hutchinson Ltd has, together with Members' views, informed the modifications set out in this document. Note that the Council considers that small sites in all but the least viable areas (Charging Zone 1) would be viable with CIL.</u></p> <p><u>In addition, the Burrows Hutchinson Viability Addendum recommended that the Charging Zones be reviewed to remove some anomalies with house values, and to publish the maps at a larger scale for clarity. This review of the Charging Zones has been carried out and Modified Maps published.</u></p> <p><u>The CIL documents and Viability Reports are available on the Torbay.gov.uk website at http://www.torbay.gov.uk/council/policies/planning-policies/local-</u></p>	Refer to review of Charging Zone boundaries as above.

		<p>plan/cil/</p> <p>Or by following the link: Torbay.gov.uk-Planning-Planning Policies-Local Plan-S106 and CIL.</p>	
M5	7	<p>Add text to end of paragraph</p> <p><i>This consultation is not about growth levels or potential sites for development. However, it is clear that Torbay will experience an infrastructure funding gap....</i>Overall, the Torbay Infrastructure Delivery Study identified an infrastructure funding shortfall of £160,000 between 2010-31 of which £52,000 is considered to be critical infrastructure.</p>	
M6	8-9	<p>The Revised Draft Charging Schedule sets out four residential Charging Zones:</p> <ol style="list-style-type: none"> 1) “Inner Urban” Built-up areas with lower development viability due to deprivation. Residential developments of 1-3 dwellings within areas of deprivation (Charging Zone 1) will not be charged CIL (i.e. they will be zero rated). Larger sites will be charged CIL. This zone is defined as based on Lower Super Output Areas (LSOAs) within the built-up area which are within the 20% most deprived LSOAs in England in the Indices of Deprivation 2015. (Note that boundaries have been reviewed (to remove anomies in land value in the RDCS). Conditions or s106 Obligations will be sought to address site acceptability matters, and to make development legal in terms of its impact on Habitats Regulations matters etc. 2) Elsewhere in the built-up area. Residential development will be charged CIL. The built up area is defined as areas outside the Policy C1 “Countryside and rural economy” area or Policy C2 “Undeveloped coast area” in the Adopted Torbay Local plan 2012-30, that are not within Zone 1 or a Future Growth Area. 3) Outside the built-up area, plus Watcombe Heights and Ilsham Valley Torquay and Bascombe Road, Churston. Residential development will 	Refer to revisions to Charging Zones

		<p>be charged CIL. This applies to areas within the Policy C1 “Countryside and rural economy” area or <u>Undeveloped coast area within Policy C2.</u></p> <p>4) Future Growth Areas as defined by Adopted Local Plan Policy SS2 and related Strategic Development Policies. This includes the small parts of Future Growth Areas that are within deprived LSOAs. These <u>Sites of 15 or more dwellings</u> will be zero-rated for CIL, but s106/s278 Agreements will be sought to provide infrastructure and affordable housing in these areas. <u>CIL will be sought proposals of 1-14 dwellings at £70 per sq m.</u></p> <p><u>Strategic</u> development within Future Growth Areas will require strategic infrastructure serving the development. Such sites <u>Most applications in Future Growth Areas</u> are likely to be larger in scale, so s106 pooling restrictions are less likely to prevent the delivery of key infrastructure. In addition, s106 Obligations are likely to be required for affordable housing on these sites.</p>																					
M7	9	<p><u>The Council’s residential charging zones for CIL are summarised below and set out more fully in Figures 1-4 below.</u></p> <table border="1"> <thead> <tr> <th><u>Zone</u></th> <th colspan="3"><u>Site size (£ per sq m)</u></th> </tr> <tr> <td></td> <th><u>1-3 dwellings</u></th> <th><u>4-14 dwellings</u></th> <th><u>15+ Dwellings</u></th> </tr> </thead> <tbody> <tr> <td>1. <u>Built up areas based on top 20% deprivation</u></td> <td><u>Zero</u></td> <td><u>£30</u></td> <td><u>£30</u></td> </tr> <tr> <td>2. <u>Elsewhere in the built up area</u></td> <td><u>£30</u></td> <td><u>£70</u></td> <td><u>£70</u></td> </tr> <tr> <td>3. <u>Outside the built up area</u></td> <td><u>£70</u></td> <td><u>£70</u></td> <td><u>£140</u></td> </tr> </tbody> </table>	<u>Zone</u>	<u>Site size (£ per sq m)</u>				<u>1-3 dwellings</u>	<u>4-14 dwellings</u>	<u>15+ Dwellings</u>	1. <u>Built up areas based on top 20% deprivation</u>	<u>Zero</u>	<u>£30</u>	<u>£30</u>	2. <u>Elsewhere in the built up area</u>	<u>£30</u>	<u>£70</u>	<u>£70</u>	3. <u>Outside the built up area</u>	<u>£70</u>	<u>£70</u>	<u>£140</u>	Included as concise summary of CIL Charging Zones.
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4. <u>Future Growth Area</u>	<u>£70</u>	<u>£70</u>	<u>Zero- s106 Obligations will be used to secure infrastructure funding.</u>						
M8	10	<p>Figure 1: Residential Charging Zone 1: Inner Urban Built-up areas <u>based on</u> within the 20% most deprived LSOAs (excluding Future Growth Areas).</p> <p>Note that affordable housing may be sought on greenfield sites of \geq <u>11</u> or more dwellings (see Note 2).</p>	Refer to review of Charging Zones and change to minimum affordable housing thresholds.						
M9	11	<p>Figure 2: Residential Charging Zone 2: <u>Elsewhere in the built up area, excluding “inner urban” areas and Watcombe Heights and Ilsham Valley, Torquay.</u></p> <p>Outside Inner Urban area based on 20% Most Deprived LSOAs, and within the Built Up Area (see Note 3)</p> <table border="1"> <thead> <tr> <th></th> <th>s106</th> <th>CIL</th> </tr> </thead> <tbody> <tr> <td>Developments of 1-3 net new</td> <td>Zero, except for direct site acceptability matters. (Including</td> <td>£30 per sq m of chargeable floor</td> </tr> </tbody> </table>		s106	CIL	Developments of 1-3 net new	Zero, except for direct site acceptability matters. (Including	£30 per sq m of chargeable floor	Refer to review of Charging Zones and change to minimum affordable housing thresholds. Zero CIL for sites of 1-3 dwellings in the built up area.
	s106	CIL							
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		<p>dwellings</p> <p>access, direct highway works, flooding and biodiversity, matters to make development acceptable in terms of Habitats Regulations and other legal matters).</p> <p>Note that affordable housing is sought on greenfield sites of 3-11 or more dwellings (see Note 2).</p>	space.							
		<p>Developments of 4 -14 net new dwellings.</p> <p>Zero, except for direct site acceptability matters (see above).</p> <p>Note that affordable housing is sought on greenfield sites of 3-11 or more dwellings (see Note 2).</p> <p>Affordable housing on greenfield sites, usually by contribution on sites of fewer than 10 dwellings</p>	<p>£70 per sq m of chargeable floor space.</p>							
M10	12	<p>Figure 3: Residential Charging Zone 3: Outside the Built Up Area (i.e. within the Countryside Area <u>or Undeveloped Coast</u>), <u>plus Watcombe Heights and Iisham Valley, Torquay and Bascombe Road, Churston.</u></p> <table border="1"> <thead> <tr> <th></th> <th>s106</th> <th>CIL</th> </tr> </thead> <tbody> <tr> <td>Developments of 1-3</td> <td>Zero, except for direct site acceptability matters.</td> <td>£70 per sq m of chargeable floor</td> </tr> </tbody> </table>			s106	CIL	Developments of 1-3	Zero, except for direct site acceptability matters.	£70 per sq m of chargeable floor	<p>Following a review of Charging Zones it was considered that these sites, although within the (edge of) the built up area, had similarly higher land/property values to sites outside the built up</p>
	s106	CIL								
Developments of 1-3	Zero, except for direct site acceptability matters.	£70 per sq m of chargeable floor								

		<p>net new dwellings</p> <p>(Including access, direct highway works, flooding and biodiversity, matters to make development acceptable in terms of Habitats Regulations and other legal matters).</p> <p>Affordable housing on greenfield sites usually by contribution on sites of fewer than 10 dwellings (see note 2). of <u>11+ dwellings or 6+ in the AONB.</u></p>	<p>space.</p>		<p>area.</p>
		<p>Developments of 4 - 14 net new dwellings</p> <p>Zero, except for direct site acceptability matters (see above).</p> <p>Affordable housing on greenfield sites usually by contribution on sites of fewer than 10 dwellings (see note 2). of <u>11+ dwellings or 6+ in the AONB.</u></p>	<p>£70 per sq m of chargeable floor space.</p>		
M11	13	Figure 4: Residential Charging Zone 4: within Future Growth Areas			

		<u>Developments of 1-14 net new dwellings</u>	<u>Zero, except for direct site acceptability matters (see above).</u>	<u>£70 per sq m of chargeable floor space.</u>	
M12	13	<p>Notes to Residential Charging Zones</p> <p>Note 2: Affordable housing requirements are set out in Policy H2 of the Adopted Torbay Local Plan 2012-30. <u>The Council has regard to material considerations governing site size thresholds: Namely the Written Ministerial Statement of 28/11/2014, PPG paragraph 23b-031 and the Court of Appeal Ruling of 13 May 2016, that affordable housing should not be sought from sites of fewer than 11 dwellings (6 in designated rural areas as commuted payments paid at the completion of units within the development).</u></p> <p>Note 3 Outside the built up area is defined as areas within the Countryside and the rural economy area (Policy C1) <u>or Undeveloped coast (Policy C2)</u> in the Adopted Torbay Local Plan 2012-30. The built up area is defined as areas not so designated. <u>For the purpose of CIL, Watcombe Heights and Ilsham Valley, Torquay and land around Bascombe Road, Churston are within Zone 3.</u></p>			
M13	14	<p>Where retail proposals are submitted as part of major mixed use developments, the Council may offer exceptional relief (as set out in Section 16 below) if this would secure a more sustainable and viable development, particularly where it would secure the early delivery of serviced employment land. <u>Local Plan and NPPF Policies to safeguard the vitality and viability of town centres will be taken into account.</u></p>			Cross reference to planning policy
M14	16	<p>CIL will be sought on residential developments outside Future Growth Areas (excluding sites of 1-3 dwellings in <u>Charging Zone 1</u> deprived SOAs). <u>CIL will also be charged on proposals of 1-14 dwellings within Future Growth Areas.</u> On these sites s106 Obligations only will be sought where they are directly necessary to making development acceptable in terms of direct on- and off-site impact (e.g. access, <u>waste</u>, drainage, biodiversity and flooding).</p>			As above
M15	16	<p>Note that an element of affordable housing is sought on greenfield sites of <u>3-11</u> or more dwellings <u>(6 or more in the AONB)</u>, and brownfield sites of 15 or more dwellings, as set out in Policy H2 of the Adopted Torbay Local <u>Plan (as affected in</u></p>			As above

		<u>implementation by the Planning Practice Guidance and Court of Appeal Ruling).</u>	
M16	16	<ul style="list-style-type: none"> • Direct site acceptability matters (biodiversity, <u>waste</u>, flood prevention, access etc). Affordable housing (as per Policy H2 of the Adopted Local Plan). 	
M17	18	<p>16. Instalments Policy</p> <p>In order to make CIL more affordable, taking developers' cash flow into account, CIL may be paid by instalments as set out below. <u>Note that the Council is able to vary its instalments policy in accordance with S69B of the CIL Regulations 2010 (as amended), Any revised instalments policy will be published on the Council's website.</u></p> <p>Instalments only apply where liability for CIL has been assumed and a commencement notice issued before development commences. Where this is not the case, 100% of CIL becomes payable within 60 days of commencement.</p> <ul style="list-style-type: none"> • Where CIL is less than £5,000 £20,000: 100% within 9 calendar months <u>90 days</u> of commencement of development. • Where CIL is more than £5,000 £20,000: <u>50% within 90 days of commencement of development, the remaining 50% within 180 days of commencement of development.</u> <ul style="list-style-type: none"> ○ 25% within 9 calendar months of commencement of development. ○ 25% within 18 calendar months of commencement of development. ○ 25% within 24 calendar months of commencement of development. ○ 25% within 30 calendar months of commencement of development. 	
M18	19	<p>Before granting discretionary relief, developments must be subject to an independent assessment of viability to be carried out at the applicant's expense. <u>They should indicate that development is not viable with CIL, and that a longer repayment period will not render development viable. Where an extension to the Instalments Policy is agreed, this will need to be published on the Council's</u></p>	

		website for 28 days.		
M19	20	<p>Impacts on South Hams Special Area of Conservation (Berry Head to Sharkham Point, Brixham) arising from:</p> <ul style="list-style-type: none"> • Recreational impacts on limestone grassland; and • The need to increase resilience of the greater horseshoe bat colony through enhancements and monitoring of roosts and habitats; <p>arising from developments that have paid CIL chargeable developments outside Future Growth Areas.</p> <p>An element of CIL spending will prioritised to address off site SAC matters from developments that have paid CIL.</p>	£2m	£2m
M20	20 and Charging Zone Maps.	<p>Appendix 1 Charging Zones Maps</p> <p>Map 1. Residential Charging Zones</p> <p>Zone 1: Urban areas within the 20% most deprived LSOAs (Excluding</p>		

Amendments to Reg 123 List.

		<p>Future Growth Areas).</p> <p>Zone 2: Outside Inner urban zone (based on 20% most deprived LSOAs), and within the Built-Up Area</p> <p>Zone 3: Outside the Built Up Area (i.e. within the Countryside</p> <p>Zone 4: Future Growth Areas</p> <p><u>Residential Charging Zones Maps 1-39 showing Charging Zones 1-4 . Note that the map boundaries/page numbers correspond to the Adopted Local Plan 2012-30. The maps are designed primarily to be viewed on a screen and may be zoomed into. Note that Map 31 (showing land at Bascombe Road, Churston) has been amended slightly from the initial Proposed Modifications.</u></p> <p>Map 2. Commercial Development Charging Zones:</p> <p>Zone C1 Town Centres, St Marychurch and Preston District Centres.</p> <p>Zone C2 out-of-town centre and The Willows District Centre.</p>	
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