

# Planning Contributions and Affordable Housing: Priorities and Delivery

Adopted  
Supplementary  
Planning  
Document

**SUMMARY LEAFLET**



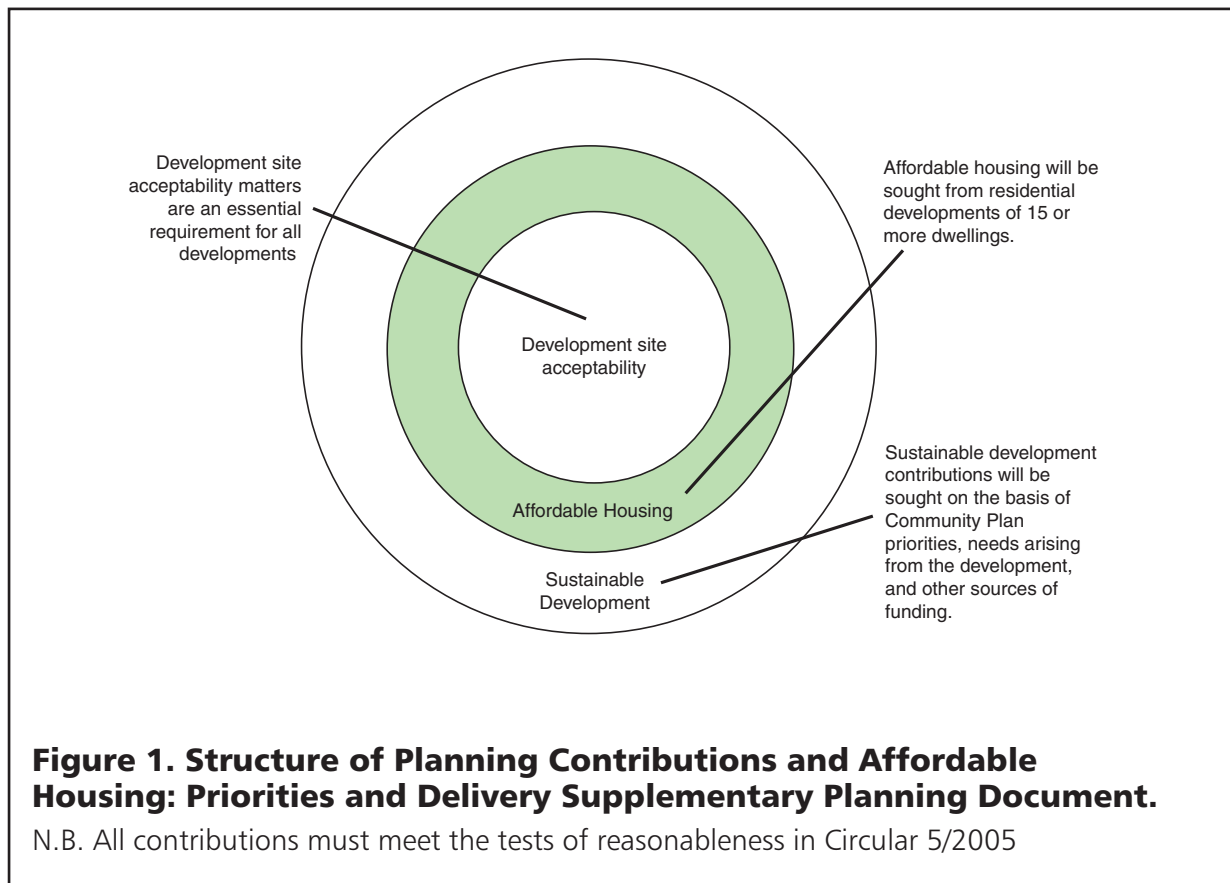
## Introduction

Planning contributions are an important way of providing the physical and social infrastructure needed by development. They are also one of the main ways in which affordable housing is provided. Their use is governed by Circular 5/2005, which sets out various tests of reasonableness. Planning contributions are also referred to as planning obligations and Section 106 Agreements.

This is a summary of Torbay Council's Supplementary Planning Document (SPD) on Planning Contributions and Affordable Housing. The SPD was adopted by the Council in February 2008 following consultation on two earlier versions, namely the 'Pre-Regulation 17 Draft' (June 2006) and the 'Regulation 17 Draft' (November 2007). It shows how the Council intends to use developer contributions. The SPD provides detailed guidance on the implementation of Policies in the Saved Adopted Torbay Local Plan 1995 – 2011.

The SPD covers the following matters:

- (1) Development site acceptability contributions**
- (2) Affordable housing**
- (3) Sustainable development contributions**
- (4) Implementation**



## (1) Development site acceptability contributions

Development site acceptability contributions are sought to make development acceptable in terms of its direct impact on the site. This section does not imply that all environmental impacts are capable of mitigation and there will be instances where development is not acceptable. Such matters will be considered on the basis of policies in the Saved Adopted Torbay Local Plan 1995-2011.

Development site acceptability covers matters such as:

- Direct site access, including provision of sustainable transport infrastructure such as cycle tracks, footpaths and bus stops. (These are often provided under Section 278 Agreements)
- Direct replacement/substitution
- Physical safety
- Environmental quality
- Flood protection (N.B. proposals in areas prone to flooding will need to satisfy the sequential approach set out in Planning Policy Statement 25)
- Energy efficiency
- Biodiversity
- Landscaping
- Conservation and design
- Archaeological protection

Where possible, these will be achieved through planning conditions, rather than the use of S106 Agreements.

## (2) Provision of affordable housing

**Policies H5 and H6** of the Adopted Torbay Local Plan set out a requirement for affordable housing. Government Policy on planning for affordable housing is stated in Planning Policy Statement (PPS)3 (2006).

### **Definitions and requirements for affordable housing**

**Affordable housing** is defined as “social rented and intermediate housing, provided at a subsidy below market rate to households whose needs are not met by the market” (see PPS3).

**Social rented housing** is rented housing owned and managed by registered social landlords or other bodies, for which guideline subsidised rents are set through the national rent regime.

**Intermediate housing** is housing provided at prices and rents above those of social rent, but below market price or rents. It includes shared equity products (eg HomeBuy), other subsidised homes for sale and intermediate rent.

“Low cost market housing” (i.e small dwellings likely to sell or rent at the lower end of the housing market) is **not** affordable housing within the PPS3 definition. However it is a useful form of market housing for people requiring a small dwelling or entering the housing market.

### **Requirement for affordable housing**

Thirty percent (30%) affordable housing will be sought on all developments of 15 or more dwellings, including sheltered accommodation. The target tenure mix is three quarters for social rent and one quarter for intermediate housing.

The Council's preferred method of delivery is through a **Registered Social Landlord (RSL)**. At least five percent of this should be accessible by wheelchair users.

Affordable housing should be provided on-site. Financial contributions in lieu of on-site provision will only be considered in very exceptional circumstances. Where accepted, they should be at least sufficient to buy the same number of new properties on the open market in a similar location of the size and type that would have been provided on site, plus an additional 10% conveyancing/site identification/planning fee.

### **Setting the level of subsidy for affordable housing**

Affordable housing is normally built by the developer and transferred to the RSL. The Section 106 Agreement will set a maximum price that an RSL will pay a developer for the transfer of completed dwellings. This figure is based on how much an RSL can afford to pay for a property based on its rental value and likely grant levels. This figure is likely to be lower than the open market price.

This method will set a target level for private (i.e developer/landowner) subsidy. Where public subsidy is not available to pay the target transfer values of affordable housing, the Council will consider increasing the level of intermediate housing, so long as these are provided through a partner RSL or community land trust.

The supportable affordable housing transfer prices are set out in the Supplementary Planning Document, but will be subject to regular review.

### **Design and distribution**

Affordable housing should normally be provided in small clusters of no more than 5 units, which are pepper-potted around the development. Affordable housing should be to the same design standards and quality of materials as market housing, and should be 'tenure blind' – i.e. tenure should not be evident from location or appearance, and should meet Housing Corporation Scheme Design Standards. The Council will encourage a high level of energy efficient design.

### **Other planning obligations on affordable housing**

Direct site acceptability measures must be carried out in order to permit a development to physically proceed and apply to all developments. As a general principle, sustainable development infrastructure contributions will not be sought on social rented housing and a 50% discount will be applied on on-site intermediate housing units provided through an RSL. Where off-site contributions are made in lieu of on-site provision, the full rate of sustainable community infrastructure contributions will apply.

## **(3) Sustainable development contributions**

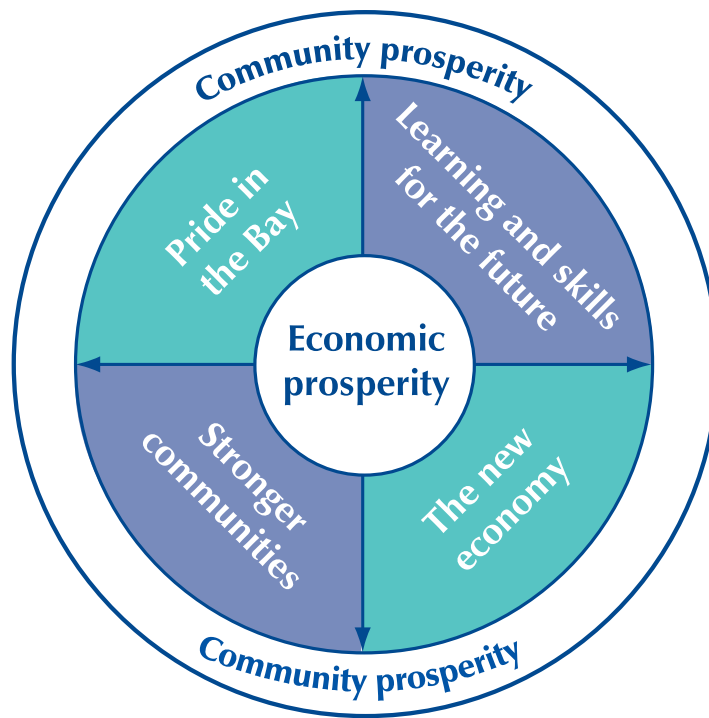
The Government is clear that development should contribute to the creation of sustainable communities. The **Adopted Torbay Local Plan** sets out several policies on planning contributions. In particular **Policy CF6 'Community Infrastructure Contributions'** states:

***"Where additional social, physical or environmental infrastructure is needed in order for development to go ahead, appropriate contributions, fairly and reasonably related in terms of scale and kind to the proposed development, will be sought from the developers."***

The Torbay Community Plan 2007+, **"Turning the Tide for Torbay"** was approved by Council in March 2007. Figure 2 summarises its key priorities, which gravitate towards the need to promote economic prosperity.

In prioritising particular sustainable development contributions, regard will be had to Community Plan priorities, the needs arising from the development and availability of alternative sources of funding.

**Figure 2. Key Priorities in the Torbay Community Plan**



The Council may seek sustainable development infrastructure in the following areas:

### **Sustainable transport**

Direct works to the highway to provide bus lanes, cycle paths etc are required as a “development site acceptability matter” as set out in Section 1 above. In addition, sustainable transport contributions will be used for revenue support towards subsidised bus services and other sustainable transport facilities. The SPD sets out a range of contributions that will be sought. These are calculated on the basis of costs to the transport network generated by the development.

### **Compensation for loss of employment**

Where a development proposal results in the loss of jobs (for example change of use away from offices or workshops), a commuted sum will be required to help create similar employment elsewhere in Torbay. Contributions are calculated on an assessment of the cost to the public sector of providing replacement jobs in Torbay. Note that contributions do not imply that a change of use is acceptable in terms of planning merit and proposals. Such applications will be assessed on the basis of Policies in the Adopted Torbay Local Plan (particularly Policy E6 ‘Retention of Employment Land’).

### **Stronger communities**

A contribution may be sought to provide street wardens on larger residential developments where anti social behaviour has been raised as a concern.

Commercial developments such as licensed premises may be asked to contribute towards public safety measures such as street wardens, CCTV, and street cleansing.

### **Learning and skills for the future**

Education and lifelong learning contributions will be sought where there is a particular shortfall in provision, which would be exacerbated by the development.

### **Greenspace and recreation contributions**

The provision of public open space and contributions to manage open spaces will be assessed on its merits having regard to the Torbay Local Plan and the Torbay Local Development Framework Greenspace Strategy Supplementary Planning Document.

## (4) Implementation

### Unilateral undertakings

These will only be accepted where an up-front payment is made and there are no other outstanding matters. Where there are outstanding matters or payments, a bi-lateral Section 106 Agreement will be required, in order to protect the Council's interests. Developers will be expected to pay the Council's legal/ administrative costs of processing legal agreements at a rate of £100 per hour.

### Timing of payments

S106 Agreements should specify the timing of payments. The Council will encourage payment before development commences, and this should be the standard for larger commercial developments. A 5% discount will be applied where full payment is made upon signing of the Section 106 Agreement or Unilateral Undertaking. Where cash-flow matters require phased payments, particularly on smaller residential developments, 50% payment should be on commencement of development, and the remainder on completion of 50% of the development.

### Administration/monitoring of S106 agreements

Some proposals will impose costs upon the local authority to monitor and enforce. This is particularly the case with holiday flats or chalets and non-registered social landlord affordable housing. Where S106 Contributions have "trigger points" these can have a large burden on the Council in terms of monitoring and enforcement. In such instances a contribution will be sought help monitor/enforce the appropriate use.

### Viability issues

The Council employs specialist consultants to provide independent third party advice on development viability. Where developers argue that S106 requirements would render development unviable, they will be required to provide details of development costs on an open book, but confidential, basis. Developers will be expected to pay the cost of this viability assessment.

### Liaison with the local authority

Early discussion with the Council's Planning and Development Services Division and the Council's Sustainable Transport Officer and Affordable Housing Coordinator is advised in order to determine the type and level of contribution that may be required.

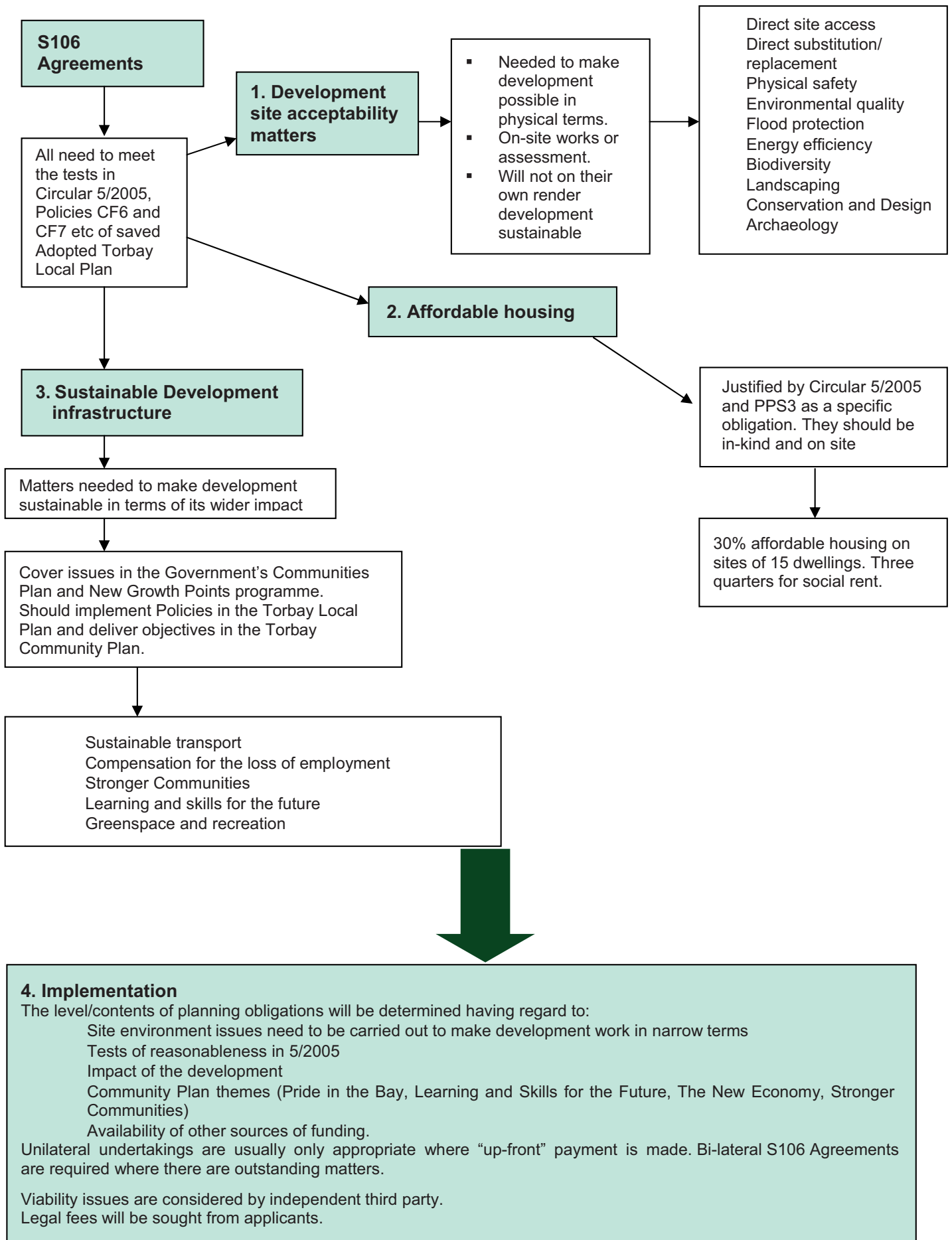
## Where to find out more about the Planning Contributions and Affordable Housing Supplementary Planning Document

The Planning Contributions and Affordable Housing SPD is part of the emerging Local Development Framework being prepared by Torbay Council. It is accompanied by a **Sustainability Appraisal (SA)**, which is available electronically and as a paper copy. The SA also has its own **Non-Technical Summary Leaflet**. In addition, an associated **Habitats Regulations Assessment Screening Report** has been prepared. There is more information on this and the Local Development Framework in general at [www.torbay.gov.uk/ldf](http://www.torbay.gov.uk/ldf)

For further information you can contact the Strategic Planning Group at Torbay Council by phoning us on **01803 208804** or e-mailing us at [planningcontributions@torbay.gov.uk](mailto:planningcontributions@torbay.gov.uk). You can also write to us at: **Planning Contributions and Affordable Housing, Strategic Planning Group, Community Services, Torbay Council, Floor 3, Roebuck House, Abbey Road, Torquay TQ2 5TF.**

**Please read the Supplementary Planning Document...this will have a major effect on the way Torbay provides affordable housing and other infrastructure for the community.**

**Figure 3. Flow Chart for the Calculation of Planning Obligations**



# The structure of the Local Development Framework

