

Planning Contributions and Affordable Housing: Priorities and Delivery

Supplementary
Planning
Document

Consultation Statement



Regulation 17
Draft



LDD6

November
2007

Torbay Local Development
Framework

**Planning Contributions and Affordable
Housing: Priorities and Delivery**
Supplementary Planning Document

Regulation 17 Draft

Consultation Statement

Local Development Document LDD6

Torbay Council

November 2007

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Key terms and abbreviations used in the new planning system

Local Development Framework (LDF)

Local Development Scheme (LDS)

Local Development Document (LDD)

Development Plan Document (DPD)

Supplementary Planning Document (SPD)

Sustainability Appraisal (SA)

Statement of Community Involvement (SCI)

Section 106 Agreement (s106)

Department for Communities and Local Government (DCLG)

This document can be made available in a range of languages, on tape, in Braille, large print and in other formats. For further information please contact 01803 208804

1. INTRODUCTION

Background

- 1.1 The Planning Contributions and Affordable Housing Supplementary Planning Document (SPD) forms part of the Torbay Local Development Framework. It is one of a number of Local Development Documents (LDD6) identified in the Torbay Local Development Scheme. It has been prepared alongside a related Sustainability Appraisal.
- 1.2 The Planning Contributions and Affordable Housing (PCAH) SPD has been drawn up to supplement relevant saved policies in the Adopted Torbay Local Plan 1995 - 2011. Planning contributions are intended to secure benefits or safeguards for the community to compensate for the impact of development. They are a major way in which affordable housing is provided. The SPD therefore provides guidance on what Torbay Council wishes to seek from developers in the way of planning contributions and the provision of affordable housing.
- 1.3 This LDD has been the subject of specific stages of consultation and participation. The PCAH and related Sustainability Appraisal have undergone an initial informal consultation, followed by a more formal 'Pre - Regulation 17' stage of consultation. The current 'Regulation 17 Draft' represents the final formal public participation version of the SPD prior to its scheduled adoption by the Council in February 2008.

Requirement for Consultation Statement

- 1.4 The Town and Country Planning (Local Development) (England) Regulations 2004 require the Council to prepare a Consultation Statement prior to the adoption of a Supplementary Planning Document.
- 1.5 This Consultation Statement summarises the consultation undertaken to date, outlining details of key stakeholders and other parties involved in the preparation of the SPD. It also presents a summary of the main issues raised through this consultation and how these issues have been addressed by the SPD and the Sustainability Appraisal.
- 1.6 It therefore illustrates how the consultation process meets the requirements of the Regulations referred to above [Regulation 17 (1) (b)] and its compliance with the

emerging Torbay Statement of Community Involvement, which sets out the overarching LDF consultation framework.

2. CONSULTATION AND ENGAGEMENT PROCESS

Planning Contributions and Affordable Housing - First Draft

- 2.1 The first draft of the Planning Contributions and Affordable Housing Supplementary Planning Document (SPD) was produced in January 2006 in accordance with the LDF Work Programme, which interprets the Local Development Scheme at a detailed level. This early version set out the objectives, scope, structure and preliminary text for internal officer consultation via the Torbay LDF Officer Steering Group. This Group includes officers spanning the full range of corporate involvement in the LDF process, including areas relating to planning, conservation and urban design, building control, landscaping and tree management, strategic planning, strategic transportation, strategic environmental policy, economic development, tourism, highways, public health and licensing, culture and recreation, housing, coast and countryside management, and community planning, partnership and corporate consultation.
- 2.2 The document was circulated by email and the consultation period lasted four weeks during January / February 2006. Further internal consultation took place during March / April.
- 2.3 The comments received were reflected in the revised text that formed the basis of the ensuing Pre-Regulation 17 Draft.

Planning Contributions and Affordable Housing – Pre-Regulation 17 Draft

- 2.4 A draft of this version of the Planning Contributions and Affordable Housing SPD was placed before the Council's Local Development Framework Working Party (comprising Councillors and serviced by Strategic Planning officers) on 24 May 2006. The document was agreed for publication and consultation. This decision was authorised by the Strategic Director for Community Services and the Cabinet Member for Community Services under the Council's scheme of delegated powers (Director's Decision No. 18/06) dated 16 June 2006.

- 2.5 The Guide was published for a four week stakeholder consultation between 19 June and 14 July 2006, together with the related Sustainability Appraisal. Consultation took place in the context of Regulation 2 (1) (see 1.4 above). This process involved sending a letter together with the PCAH SPD, SA, PCAH Summary Leaflet, PCAH What is it? Leaflet and SA What is it? Leaflet to approximately 55 'specific consultation bodies', inviting comments on the SPD. As well as the bodies specified in Regulation 2(1), the Council has included the Torbay Strategic Partnership and the twelve Ward Partnerships (now renamed Community Partnerships) as consultees, to ensure that appropriate formal links are maintained with preparation of the Torbay Community Plan.
- 2.6 In addition, about 410 'general consultation bodies' were also sent notification letters, together with the relevant Summary Leaflet and What is it? Leaflet. An Internal Memorandum and relevant documents and leaflets were sent to twenty one officers, including those on the LDF Officer Steering Group. Reference copies were made available at Torbay Council's Community Services Offices in Torquay, and in Libraries and Connections Offices throughout Torbay. Documents were made accessible via the Torbay Council Local Development Framework website www.torbay.gov.uk/ldf . Comments were invited by email via a dedicated email address planningcontributions@torbay.gov.uk and by letter and fax.
- 2.7 The Pre-Regulation 17 Draft sought comments on possible ways of organising the Supplementary Planning Guidance. In particular, three options were described:
- (1) Status Quo.** This would formalise the existing system of setting contributions for affordable housing (sites over 15 units / 0.5 ha), education, public transport, and other site environment issues as the need arises (e.g. CCTV, landscaping).
- (2) Tariff Approach.** This would introduce a Development Tariff approach to seek contributions as a roof tax that would be allocated according to corporate priorities.
- (3) Mixed Approach.** This would seek to model the SPD to reflect Government Guidance to seek contributions for (a) affordable housing (b) on-site mitigation (c) broader sustainable communities infrastructure. Broader infrastructure contributions could be levied on a tariff based approach.

2.8 There were 13 (external) representations on the SPD Consultation. A full analysis of comments made is set out in Appendix 4. A summary of the matters raised by these representations is set out below.

Option 1 Status Quo Approach

2.9 No objections were received to the principle of this approach, although it was noted to be out of date. However it was indicated that the approach is in need of updating and concern was expressed that the approach may not be delivering best value for the Council. Conversely there was support for Option 1 on the basis that it builds on existing Adopted Local Plan policies. Moreover, it also builds on current development management practice and developer expectations and is less likely to undermine development viability than other options. 3 objections argued that some contributions – particularly education – were not sought on the basis of need arising from the development.

2.10 However Option 1 received sufficient support to be considered as a basis for the SPD, at least as an interim measure until the Local Development Framework Core Strategy is adopted.

Option 2 Tariff Based Approach

2.11 There were 5 strong objections to this approach. The approach would not allow for the on-site provision of affordable housing, or other types of ‘in kind’ provision. It would also be in danger of breaking the link between needs arising from development and the level of S106 Agreements.

2.12 A tariff could provide certainty for developers and help towards making best use of pooled contributions particularly for off-site infrastructure. However there are limits to how far a tariff approach can be pushed without breaking the link between development and contributions sought. The need for on-site provision of affordable housing etc is considered to render a purely based tariff approach unworkable.

Option 3 Mixed Approach

2.13 This approach had 3 comments in support and 3 objections. It was considered to be the option that achieved best value for the Council and reflects emerging good practice.

- 2.14 The main concern was that it could overload development with requirements and therefore harm development viability. In addition, off-site community infrastructure should not be levied without reference to need arising from the development.
- 2.15 The viability issue is noted. This approach may go some way further than the framework justified in Circular 5/2005 and the Adopted Torbay Local Plan. In particular, adopting a two dwelling affordable housing threshold could prove very problematic, and it would be more appropriate to introduce a ten dwelling threshold in recognition of the viability issues associated with implementation of a very low threshold.

Additional Comments on the Pre-Regulation 17 Draft

- 2.16 In addition to the above, representations were received that dealt with the following matters:

General

- Concern over the level of contributions and development viability / too high S106 requirements would stifle development.
- Objections to tariff based approach for education contributions, not based on need arising from developments. Need to meet tests of Circular 5/2005.
- Non-residential development could make contributions for other infrastructure etc. needs e.g. community art or safer communities.
- Support for a clear and simple SPG – should not be over complicated
- SPG should clarify when conditions can be used – conditions are preferable to a legal agreement
- Contributions should be sought for policing (Devon and Cornwall Constabulary).

Affordable Housing

- Support for prioritising affordable housing (South West Registered Social Landlord Consortium).

- Objections to requirements for affordable housing: reducing the site size threshold would harm viability of smaller sites, objection that exceptional need for affordable housing is not proven.
- Objections to specific methods of calculating subsidy on affordable housing: no single method emerged as a clear winner. Developers favoured free-land only approach whereas Housing Corporation/RSL Consortium wanted a method that maximises developer subsidy, such as a supportable deficit approach.
- Objection/comment that social rented housing is only one form of affordable housing and is increasingly a “transitional” tenure. There is an increasing need for intermediate housing. Government policy is to increase home ownership and SPD should include intermediate/homebuy products. Intermediate housing is less expensive than social housing: can overcome viability problems.
- Objection/comment that intermediate housing for young working families is needed to increase prosperity whereas social housing is primarily for economically less productive people.
- Affordable housing is expensive to provide and should not incur other planning contributions.

Sustainable Transport

- Support for principle of transportation contributions – essential to sustainable transport network and development of Torbay. (Highways Agency and DCC)

3. SUSTAINABILITY APPRAISAL

- 3.1 The Pre-Regulation 17 Draft Supplementary Planning Document was the subject of a Sustainability Appraisal (Torbay Council 2006) in accordance with the Regulations. The key findings of this Sustainability Appraisal were as follows:

Option 1: This option is beneficial in providing a very site-specific approach designed to meet the exact needs arising as a result of the development. This will be

beneficial in addressing a number of key sustainability issues. However this options offers limited scope to introduce new contributions for example for culture or arts. It would also preclude the updating of contributions by, for example, lowering the threshold for affordable housing provision.

Response: The beneficial outcomes from a “status quo” approach are noted. The need to reduce thresholds for affordable housing is considered to justify going beyond a purely “status quo” approach. The SA also flagged up need to promote walking and cycling, public transport, crime prevention, open space, coastal management, nature conservation, economic diversity, sustainable drainage, waste and minerals. The Pre-Regulation 17 Draft notes most of these. Where they are essential to the physical working of a development they are treated as “site environment” considerations. Minerals is considered to fall largely outside the scope of the SPD (see however Policies MS, M1 and M2 of the Adopted Torbay Local Plan).

Viability is likely to be a critical issue: there are many demands on s106 funding. The proposed SPD seeks to set priorities for targeting S106 contributions.

Option 2: This option is beneficial in allowing contributions to be made for a wide variety of sustainability issues. However its approach to distributing this finance has some serious problems. Option 2 loses the direct link between site specific issues and contributions sought. As finance gained will be allocated on the basis of corporate priorities this may mean finance requested for one sustainability issue, e.g. open space may be reallocated for other uses higher up the corporate priority list or even to another geographical areas within Torbay away from the site. This may lead to concentration on a small number of key sustainability issues and neglect of other sustainability issues (culture/ heritage/ open space) which are of similar importance and the neglect of which may have long term negative and cumulative impacts on local quality of life. The option is unlikely to deal effectively with affordable housing, which should be provided on site where possible rather than via a financial contribution.

Response: Severing the link between a development and the contribution sought is considered to be a serious problem, particularly with regard to affordable housing.

Option 3: This option provides opportunities to cover a range of sustainability issues, many of which apply at a site specific level, providing opportunities to closely match needs arising from a development with the contributions sought. It also provides opportunities for new contributions to be sought for areas such as art and wildlife conservation

Response: The Pre-Regulation 17 Draft approach seeks to capture some of the benefits of a “mixed approach” (see above). A key concern with the “Mixed approach” is that it could result in a very long “wish list” which could impact on viability.

3.2 The Pre-Regulation Draft SPD sought to reflect the outcomes of this initial sustainability appraisal process.

3.3 The Draft Regulation 17 Supplementary Planning Document (ie current stage) has been subject to further sustainability appraisal (Enfusion 2007). The Sustainability Appraisal undertaken finds that the majority of the SPD performs well against SA Objectives and will bring a number of sustainability benefits to the Torbay area (P31). Key themes to emerge from this Sustainability Appraisal are:

- Need to adopt a robust approach to **sustainable transport**. Consideration should be given to treating public transport contributions as a site environment matter. Transport has an important cumulative impact on congestion, air quality and global warming. Response: Matter is being reviewed.
- **Importance of green infrastructure** (open space, biodiversity, energy efficiency etc). The SPD should not assume that all impacts on biodiversity, open space etc can be satisfactorily mitigated. Some development will be unacceptable to its effect on environmental matters. (Response: Agree, amend SPD wording to reflect this).
- **Flooding issues.** Development on flood plains (or areas prone to flooding) is problematic. SPD should refer to the sequential approach in PPS25. In addition, flood defence works will raise the development costs and reduce the affordability of housing in these areas. (Response: Agree that reference to PPS25 and the

sequential test therein is appropriate. However the SPD is not a site allocation development and the decision where to locate new housing will come through the Core Strategy and site specific development plan documents. It is noted that there will be greater costs with providing flood protection measures, but these are vital site acceptability matters).

- **Energy efficient design.** The promotion of energy efficient design is supported. Seeking Code for Sustainable Homes Level 4 where there is additional Housing Corporation funding is welcome. However, objectives could be better achieved by requiring Code for Sustainable Homes level 3 as a standard baseline (Level 3 is 25% energy efficiency improvement on 2006 Building Regulations). The SPD could usefully refer to BREEAM standards for commercial development. (Response: Agree, amend SPD to reflect this).

- **Affordable housing.** The need for affordable housing is an important sustainability matter. Reducing thresholds to 10 dwellings will have clear sustainability benefits. Concern is raised about increased building costs due to matters such as energy efficient design, but other sustainability benefits arising from these are noted. (Response: Noted. Energy efficient design also reduces heating etc costs, which benefits occupiers of such housing).

- **Compensation for the loss of employment land** could result in increased cost of brownfield housing. (Response: Noted, but Torbay has a pressing need for better employment opportunities: The lack of well paid jobs is a significant factor in Torbay's affordability crisis).

4. PLANNING CONTRIBUTIONS AND AFFORDABLE HOUSING – REGULATION 17 DRAFT

- 4.1 Following consultation on the Pre-Regulation 17 Draft SPD, it was considered appropriate that the subsequent Regulation 17 Draft SPD followed a methodology that contained elements of Option 1 “Status Quo” and Option 3 ‘Mixed Approach’.

- 4.2 A critical issue will be ensuring that contributions are pitched at a fair level that does not

harm development viability. In addition it will be necessary to structure obligations differently for different types of development.

4.3 The revised SPD is structured around the following themes.

(1) Development site acceptability contributions

(2) Affordable housing

(3) Sustainable development contributions

(4) Implementation

4.4 The preferred approach is intended to reflect current guidance (particularly Circular 5/2005) on the structuring of planning obligations. It should also create a framework to target obligations also to meet areas of greatest need and the Community Plan's priorities.

4.5 The SPD would need to be revised if a planning tariff or similar measure were to be introduced through the forthcoming Planning Reform Bill. Moreover the structure is likely to be a temporary one as the Torbay Local Development Framework will introduce new development plan policy.

4.6 A draft of the Regulation 17 version of the PCAH SPD including the afore-mentioned amendments was placed before the Council's Local Development Framework Working Party on 14 September 2007. A number of issues were raised in discussion with Members in relation to the approach taken by the SPD and the various matters that were considered to be appropriate for each of the above four themes illustrated above. The findings of the Sustainability Appraisal were also summarised.

4.7 The document was agreed for publication and consultation, subject to minor text amendments suggested Members. This decision was authorised by the Strategic Director for Community Services and the Cabinet Member for Transport and Planning under the Council's scheme of delegated powers (Director's Decision No.28/07).

5. COMPLIANCE WITH THE STATEMENT OF COMMUNITY INVOLVEMENT (SCI)

5.1 The Council's Statement of Community Involvement was adopted by the Council in May

2007. Section 4 relates specifically to the consultation process for Local Development Documents and 4.18 focuses on Supplementary Planning Documents in particular. The consultation process employed for the Planning Contributions and Affordable Housing SPD has accorded with the consultation principles and practice advocated in the SCI. These procedures have also complied with the Torbay Council Corporate Consultation and Engagement Strategy.

- 5.2 In addition the Planning Contributions and Affordable Housing document has been identified in the Council's Forward Plan, alongside the other related LDF documents contained in the Local Development Scheme.

6. NEXT STAGES

- 6.1 The Regulation 17 stage represents the final formal period of consultation for the Planning Contributions and Affordable Housing document prior to its adoption by the Council. The Planning Contributions and Affordable Housing Regulation 17 Draft will be published for a formal six week public participation stage between 5 November and 14 December 2007, together with the related Sustainability Appraisal.
- 6.2 Notice of Regulation 17 Public Participation will be published in the formal notices section of the local newspaper (Herald Express) on Friday 2 and Friday 9 November 2007. Consultation will again take place in the context of Regulation 2 (1). This process will involve sending a letter to approximately 55 'specific consultation bodies', inviting comments on the SPD. The correspondence will be accompanied by the PCAH SPD, SA Non-Technical Summary, PCAH Summary Leaflet, PCAH What is it? Leaflet, Notice of Regulation 17 Public Participation, Notice of Supplementary Planning Document Matters and Statement of Availability.
- 6.3 In addition, some 530 'general consultation bodies' will also be sent notification letters, together with the three Notices referred to above and the relevant Summary and What is it? Leaflets. An Internal Memorandum and relevant documents, Notices and leaflets will be sent to relevant Council officers, including those on the LDF Officer Steering Group.

6.4 Reference copies will be made available at Torbay Council's Community Services Offices in Torquay and in Libraries and Connections Offices throughout Torbay. Documents will be accessible on the Torbay Council website www.torbay.gov.uk/ldf . Comments will be invited by email via a dedicated email address planningcontributions@torbay.gov.uk or by use of an on-line questionnaire available from the Local Development Framework website. For those unable to access electronic means of communication, representations will also be invited by letter or fax. Documents will also be made available in different formats and languages on request.

APPENDICES

1. Notice of Regulation 17 Public Participation
2. Notice of Supplementary Planning Document Matters
3. Statement of Availability
4. Representations received at Pre-Regulation 17 Issues and Options stage, and Council responses*

*(*This Appendix summarises, and responds to, representations raised at the Pre-Regulation 17 'Issues and Options' stage, which was published in June 2006. Particular attention is drawn to the importance of not undermining viability by over-ambitious contributions, particularly for social rented housing).*

Torbay Council

PLANNING AND COMPULSORY PURCHASE ACT 2004
Town and Country Planning (Local Development) (England) Regulations 2004

DRAFT PLANNING CONTRIBUTIONS AND AFFORDABLE HOUSING: PRIORITIES AND DELIVERY**Supplementary Planning Document****Notice of Regulation 17 Public Participation**

Torbay Council has prepared a **Draft Planning Contributions and Affordable Housing Supplementary Planning Document (PCAH SPD)** for formal public participation under Regulation 17 of the above Regulations. It provides guidance to the community on what the Council wishes to seek from developers in the way of planning contributions and provision of affordable housing in Torbay. This SPD forms part of the Torbay Local Development Framework (LDF). It is accompanied by a **Planning Contributions and Affordable Housing Sustainability Appraisal (PCAH SA)** and related **Non-Technical Summary**, which considers the environmental, economic and social impacts of the SPD. A **Planning Contributions and Affordable Housing Consultation Statement (PCAH CS)** has also been published for information, setting out the issues arising from consultations undertaken during its preparation. The Local Development Framework will eventually form the basis for decisions on spatial planning within Torbay to 2026.

The Council is consulting the public on the SPD and Sustainability Appraisal to ensure that all participants in this process have an opportunity to make their views known. **The consultation period runs from 5 November to 14 December 2007.**

Copies of the PCAH SPD, PCAH SA and Non-Technical Summary, and PCAH CS are available for public inspection, free of charge, from 5 November on the Council's web site www.torbay.gov.uk/ldf and at the following locations during normal opening hours:

Community Services Directorate, Roebuck House, Abbey Road, Torquay TQ2 5TF
Connections (Torquay), Town Hall, Castle Circus, Torquay TQ1 3DR
Connections (Paignton), 56 Palace Avenue, Paignton TQ3 3HF
Connections (Brixham), New Road, Brixham TQ5 8TA
Torquay Reference Library, Lymington Road, Torquay TQ1 3DT
Paignton Library, Courtland Road, Paignton TQ3 2AB
Churston Library, Broadsands Road, Paignton TQ4 6LL
Brixham Library, Market Street, Brixham TQ5 8LZ

These documents may be downloaded from the above website free of charge or purchased from the above locations, priced £5.00 (except the PCAH SA, which is £10.00) including postage.

Please send your comments in support of or in objection to the Planning Contributions and Affordable Housing SPD and Sustainability Appraisal by electronic means wherever possible, using the on-line questionnaire available from www.torbay.gov.uk/ldf or by using the dedicated email address planningcontributions@torbay.gov.uk. If you are unable to use electronic methods you can also comment by post to the Strategic Planning Group, Community Services, Torbay Council, Floor 3, Roebuck House, Abbey Road, Torquay TQ2 5TF, or by fax (01803 208882). Paper copies of the questionnaire are also available at the above locations. If you have any queries, telephone 01803 208804. **Your comments must be received by 4.00pm on Friday 14 December 2007.**

In making a response to the Planning Contributions and Affordable Housing document, a request may also be made to be notified at a specified address when the SPD has been adopted.

Michael Yeo, Strategic Director for Community Services Torbay Council - November 2007

Torbay Council

DRAFT PLANNING CONTRIBUTIONS AND AFFORDABLE HOUSING: PRIORITIES AND DELIVERY**NOTICE OF SUPPLEMENTARY PLANNING DOCUMENT MATTERS**

In accordance with Regulation 17 of The Town and Country Planning (Local Development) (England) Regulations 2004, the following details form part of the arrangements relating to consultation on the Council's Planning Contributions and Affordable Housing Supplementary Planning Document:

Title of Document:	Planning Contributions and Affordable Housing: Priorities and Delivery Supplementary Planning Document Regulation 17 Draft
Proposed subject matter:	Planning contributions are intended to secure benefits or safeguards for the community to compensate for the impact of development. They are a major way in which affordable housing is delivered. The Planning Contributions and Affordable Housing (PCAH) SPD therefore provides guidance to the community on what the Council wishes to seek from developers in the way of planning contributions and provision of affordable housing in Torbay. <i>(This Supplementary Planning Document is one of a series of Local Development Documents (LDD6) that will form part of the Torbay Local Development Framework when adopted. The LDF will eventually form the basis for decisions on spatial planning and land use within the administrative area of Torbay).</i>
Area of Document:	The Planning Contributions and Affordable Housing Supplementary Planning Document relates to all of the administrative area of Torbay Council
Consultation period:	Representations in support of or in objection to the PCAH SPD are invited during the statutory consultation period which runs from 5 November to 14 December 2007. Responses should be received by 4.00pm on Friday 14 December 2007.
Address to which responses should be sent:	Representations should be sent by electronic means wherever possible, using the on-line questionnaire on www.torbay.gov.uk or via the dedicated email address planningcontributions@torbay.gov.uk . Comments can also be made by post to the Strategic Planning Group, Community Services, Torbay Council, Floor 3, Roebuck House, Abbey Road, Torquay TQ2 5TF, or by fax (01803 208882). Paper copies of the questionnaires are also available at the consultation locations. <i>(If you have any queries, please telephone 01803 208804).</i>
Requests to be notified:	In making a response to the Planning Contributions and Affordable Housing SPD, a request may also be made to be notified at a specified address when the Guide has been adopted.

Torbay Council - November 2007

*Torbay Local Development Framework 2005 – 2026
 Planning Contributions and Affordable Housing: Priorities and Delivery
 Supplementary Planning Document - Regulation 17 Draft Consultation Statement
 Torbay Council - November 2007*

Torbay Council**DRAFT PLANNING CONTRIBUTIONS AND AFFORDABLE HOUSING: PRIORITIES AND DELIVERY****STATEMENT OF AVAILABILITY**

In accordance with Regulation 17 of The Town and Country Planning (Local Development) (England) Regulations 2004, the following details form part of the arrangements relating to consultation on the Council's Planning Contributions and Affordable Housing Supplementary Planning Document:

The Regulation 17 **Draft Planning Contributions and Affordable Housing Supplementary Planning Document**, related **Sustainability Appraisal** and **Non-Technical Summary**, and **Consultation Statement** are available for public inspection free of charge during the consultation period, which runs between 5 November and 14 December 2007, at the following locations:

Community Services Directorate,
Roebuck House, Abbey Road, Torquay TQ2 5TF
(9.00am to 5.00pm Monday to Thursday, 9.00am to 4.00pm Friday, except Bank Holidays)

and

Connections (Torquay), Town Hall, Castle Circus, Torquay TQ1 3DR

Connections (Paignton), 56 Palace Avenue, Paignton TQ3 3HF

Connections (Brixham), New Road, Brixham TQ5 8TA

Torquay Reference Library, Lymington Road, Torquay TQ1 3DT

Paignton Library, Courtland Road, Paignton TQ3 2AB

Churston Library, Broadsands Road, Paignton TQ4 6LL

Brixham Library, Market Street, Brixham TQ5 8LZ

(Please check individual Connections Offices and Libraries for details of normal opening arrangements)

Copies of the Planning Contributions and Affordable Housing Supplementary Planning Document, related Sustainability Appraisal and Non-Technical Summary, and Consultation Statement may also be viewed and downloaded free of charge on the Council's website www.torbay.gov.uk/ldf. Further information relating to availability of documents, prices (where appropriate), the Notice of Regulation 17 Public Participation and the Notice of Supplementary Planning Document Matters can also be viewed or downloaded at this website.

Torbay Council – November 2007

APPENDIX 4

Representations raised at Pre-Regulation 17 Consultation Stage

Torbay Local Development Framework. Document Title: LDD 6 Planning Contributions and Affordable Housing Supplementary Planning Document Pre-Regulation 17 Consultation (July 2006) - Responses & Actions

Date Rcvd:	Electronic Y/N	LDF Rep.	Comment	From (Name & Organisation)	Status *	Comment/Representation	Nature of Response	TBC Response	TBC proposed action and additional notes	Date action taken
28/07/06	Yes		1	South West Regional Assembly	S	Refer to Development Policy – D: Infrastructure and Development in Draft RSS	Gob	Agree	Refer to RSS Development Policy 'D' in draft SPD	
27/07/06	Yes		2	Housing Corporation		SPD – clear and easy to read	Sup	Noted	N/A	
				Housing Corporation		Concerned that discounted land method of calculating commuted payments does not yield sufficient value	Obj	Noted/ Dis-Agree	Noted. Discounted land calculation is proposed in latest (2007) PGS Consultation. However it is likely to be complicated in practice.	
14/07/06	Yes		3	Devon County Council	S	Document is easy to understand	Sup	Noted	Noted	
14/07/06	Yes		3	Devon County Council	S	Transport contributions should be included – particularly sustainable transport. Transport should be considered at the design stage and not as an option.	Sup Gob	Agree	Noted .Sustainable Transport is in the scope of the SPD. General point of design goes beyond scope of SPD (but is noted)..	
			3	Devon County Council	S	Clarify when S106 used and when conditions are appropriate. Conditions should be used where possible.		Agree	Ensure that SPD notes that conditions should be used rather than S106 Obligations where possible. However some matters e.g. Affordable housing require a S106 Agreement	
	Yes		3	Devon County Council	S	More and more things are being added to the shopping basket - danger of stifling housing supply. Need to ensure that obligations sought are related to the development.	Obj	Agree - this is a critical issue	Need to be circumspect about extent of contributions is accepted.	
14/07/06	Yes		4	Network Rail	S	Where development is being used to enable transport infrastructure works, planning contributions should be relaxed.	Obj	Noted. Agree in Principle	This concept would inform negotiations on S106.	
				Network Rail	S	Pooling of contributions for public transport is appropriate.	Gob	Noted	Refer to paras B21 – 24 and B33 – 35 of Circular 5/2005.	
				Network Rail	S	Mixed approach – (Option 3) supported	Sup	Noted		

				Network Rail	S	Consult Network Rail on Reg 17 of SPD	Gob	Noted	<i>Network Rail are a statutory consultee</i>
				Network Rail	S	Affordable Housing is only one call on S106 contributions. Not all sites can get Social Housing Grant. Too high demands for social housing can stifle development.	Obj	Noted	<i>Accept that viability is a critical issue.</i>
				Network Rail	S	The SPG should be more flexible in affordable housing tenure – greater use of shared ownership or key worker housing can overcome barriers to development.	Obj	Noted	<i>Need for Housing Corporation funding is noted. 2003 HNS identified that main need is for social rented accommodation. However Economic Prosperity is likely to increase the emphasis on intermediate housing.</i>
	Yes	5		Highways Agency	S	Support a comprehensive approach to public transport and cycling to reduce the impact on the A38.	Sup	Agree	<i>Noted – planning contributions are sought for public transport</i>
		5		Highways Agency	S	Support option 1 – status quo approach complies with 5/2005.	Sup	Noted	
				Highways Agency	S	Tariff Approach – option 2 – would not reflect guidance in 5/2005 and is not tailored to meet local needs.	Obj to option 2	Agree	<i>Tariff approach (option 2) is not likely to be practicable</i>
	Yes	5		Highways Agency	S	Mixed approach – ‘optimum response’ to meet Council’s objectives. However cannot rely solely on emerging (2005) PGS consultation	Sup Obj	Agree	<i>Support is noted. The Government has issued a revised consultation on PGS which appears to confirm approach. However accept that SPD cannot pre-empt a PGS regime. It is more practicable to reflect current policy /fiscal framework and amend SPD at an early stage to reflect material considerations that arise (e.g. PGS).</i>
	Yes	6		Devon Maritime Forum	G	No specific observations	N/A		<i>Noted</i>
	No	7		Tetlow King for South West RSL Consortium	G	Support general approach of SPD and emphasis on affordable housing Support status quo approach	Sup	Agree	<i>Noted</i>
		7		Tetlow King for SW RSL Consortium	G	Object to Tariff Approach (Option 2) as would not supply on-site affordable housing.	Obj	Agree	<i>Noted – option 2 (Tariff Approach) not likely to be feasible for this reason</i>

		7		Tetlow King for SW RSL Consortium	G	Support Mixed Approach (Option 3)	Sup	Agree	<i>Noted</i>
				Tetlow King for SW RSL Consortium	G	Affordable housing should be exempt from other S106 contributions	Obj	Part Disagree	<i>Agree that affordable housing is providing a "public good". However it also generates a need for wider community infrastructure. There will be cases where affordable housing should pay other S106 obligations, especially for sustainable transport. Proposed approach to affordable housing does prioritise it on qualifying sites (ie residential developments of 10+ dwellings)</i>
				Tetlow King for SW RSL Consortium	G	Object to free serviced land equivalent method of calculating commented sums; support method of using supportable deficit instead.	Obj		<i>Agree. Supportable deficit appears to be the simplest and most practicable method.</i>
		7		Tetlow King for SW RSL Consortium	G	Would welcome further involvement/discussions	Gob	Noted	<i>Noted – Tetlow King are a consultee included on the consultee database.</i>
13/07/06	N	8		RPS for Devon & Cornwall Constabulary	G	S106 should be used to support community policing – would meet tests in 5/2005 and PPS1 as well as Community Plan objectives.	Proposal	Noted/agreed	<i>Noted and part agree. There needs to be a link to the development. More appropriate to fund specific programme linked to development. Would form part of 'wider infrastructure'. Would help with Community Plan targets for stronger communities.</i>
		8		RPS for Devon & Cornwall Constabulary	G	Status Quo approach – support but needs updating.	Sup/Gob	Agree	<i>Agree with D&CC's observations.</i>
		8		RPS for Devon & Cornwall Constabulary	G	Tariff Based approach – objection. Inflexible and uncertain where revenue will go.	Obj	Agree	
		8		RPS for Devon & Cornwall Constabulary	G	Mixed approach (option 3) support. Community policing should be included.	Sup/Pro	Agree	<i>See above Community Policing would meet Community Plan objectives for Stronger Communities.</i>
29/06/06	Yes	9		Torbay Voluntary Service	G	Option 3 – mixed approach support	Sup	Noted	<i>As set out in the main text, a pure "Mixed Approach" may go beyond the scope of Circular 5/2005 and Adopted Torbay Local Plan.</i>
12/07/06	No	10		Home Builders Federation (HBF)	G	Planning obligations must meet the tests in 5/2005 and be related to development. Object to pooled contributions where not related to development.	Obj	Agree	<i>Accept that tests of 5/2005 must be met. (Although Government's PGS consultation tacitly accepts that scope has been stretched with off-site contributions).</i>

12/07/06	No	10		HBF	G	Need to increase overall supply of housing in order to increase affordable housing supply. Over ambitious targets for contributions will stifle development.	Obj	Agree – But beyond Scope of SPD	Accept need to increase housing supply. But this is a matter for RSS/ Core Strategy. Agree that viability is a vital issue.
12/07/06	No	10		HBF	G	Object to level of affordable housing being sought without identification of individual sites.	Obj	Disagree	Torbay traditionally has relied on small sites for large amount of housing supply. PPS3 now is relevant Government policy and SPD meets the guidance therein. Specific sites will be identified in the Core Strategy and site specific development plan documents.
12/07/06		10		HBF	G	Affordable housing needs to be justified by Housing Market Assessment – not just Housing Needs Survey	Obj	Agree	Agree. Exeter and Torbay Housing Market Assessment (ORS 2007) indicates a very high need for affordable housing.
12/07/06		10		HBF	G	Affordable housing should meet criteria in Para 10 of 6/98. Object to lower threshold and blanket requirement for contributions.	Obj	Disagree	PPS3 has superseded 6/98. This allows lower thresholds (Para 29(4)).
12/07/06		10		HBF	G	Object to education facilities – not related to level of need, or impact of development – unjustifiable blanket charge	Obj	Part Agree	Agree that a blanket formula for education cannot be justified without reference to need for additional facilities.
12/07/06		10		HBF	G	Object to tariff approach – not in accordance with 5/2005. Pre-payment would not be feasible due to cash flow.	Obj	Agree	Accept these concerns about the feasibility of a tariff based approach
12/07/06	N	10		HBF	G	Object to lower threshold for affordable housing – ignores viability and economies of scale that make smaller sites less viable	Obj	Noted –	Possible under PPS3. Agree that 2 dwellings would be unduly low to introduce in a SPD. Suggest a 10 dwelling threshold.
12/07/06		10		HBF	G	Pooled contributions cannot be applied as a blanket formula but must relate to the impact of development	Obj	Part disagree	5/2005 accepts the use of pooled contributions. It is agreed that this must relate to the impact of development.
12/07/06	Y	11		Turner Holden for Barratt Homes	G	Contributions need to reflect tests in circular 5/2005	Obj	Agree	Agree that these tests are relevant
12/07/06	Y	11		Turner Holden for Barratt Homes	G	Object to education contributions based on a standard formula	Obj	Part Agree	Agree that formula must be based on need and existing approach needs revising to reflect this.
12/07/06	Y	11		Turner Holden for Barratt Homes	G	Object to transport contributions based on a standard formula	Obj	Disagree	Accept that contributions must be related to need. However principle of using S106 to promote sustainable travel is an important principle in sustainable development.

12/07/06	Y	11		Turner Holden for Barratt Homes	G	Viability must be taken into account in calculating developer contributions	Obj	Agree	<i>Agree viability is a key consideration. Retaining a higher affordable housing threshold will reduce the impact on viability.</i>
12/07/06	Y	11		Turner Holden for Barratt Homes	G	Object to reducing affordable housing thresholds – level of need in Torbay is not exceptional for Devon	Obj	Noted	<i>Accept issue of viability. See above and appendix 2. Propose to introduce a 10 dwelling threshold..</i>
12/07/06	Y	11		Turner Holden for Barratt Homes	G	Social rented housing is a transitional tenure – new forms of tenures are being developed to enable people affordable home ownership	Obj	Part Agree	<i>Agree that a range of types of affordable housing exist. Main need in Torbay is for social rented accommodation according to 2003 HNS. However the Community Plan priority for economic prosperity would point towards more key worker/ intermediate housing..</i>
12/07/06	Y	11		Turner Holden for Barratt Homes	G	Status quo approach Option 1 support	Sup	Noted	<i>Proposed Reg 17 Draft 1 retains a large amount of the Status Quo approach.</i>
12/07/06	Y	11		Turner Holden for Barratt Homes	G	Tariff approach Option 2 – object strongly	Obj	Agree	<i>Agree with problems with the Tariff approach</i>
12/07/06	Y	11		Turner Holden for Barratt Homes	G	Mixed approach – object. Would increase level of contributions	Obj	Disagree	<i>Accept viability concerns. However thrust of Government policy (eg in Homes for All) is that developers should contribute to wider sustainable community objectives</i>
12/07/06	Y	11		Turner Holden for Barratt Homes	G	Broadly support grant based approach Option B for contributions towards affordable housing.	Sup	Noted	<i>Developer support noted. However, assuming an automatic level of grant does not overcome uncertainty for the Council in that Public funding may not be available for affordable housing. Supportable Deficit approach overcomes this problem...</i>
28/06/06	No		12	Strategic Land Partnership	G	Support lower threshold for affordable housing – will relieve pressure on larger sites	Sup	Agree	<i>Support for a 'tapered' lower threshold is noted. However in the light of above comments, consider the matter through the Core Strategy.</i>
28/06/06	No			Strategic Land Partnership	G	Too many obligations should not be placed on residential development – matters such as public art more appropriate for retail development	Obj/ Gob	Agree	<i>Agree. This is a useful principle. Need to tailor obligations to the type of application.</i>
28/06/06	No			Strategic Land Partnership	G	Tenure of affordable housing – up to date assessment needed. Shared ownership housing has longer term community benefits in terms of encouraging young couples to buy housing and allow them to stay in Torbay and strengthen the community	Obj	Agree	<i>Housing Market Assessment has been carried out and SPD notes other indicators of housing need.</i>

28/06/06	No			Strategic Land Partnership	G		Shared ownership housing can be secured in perpetuity	Obj	Note d	<i>If the intention of shared ownership housing is to help first time buyers it is counter intuitive to restrict the right to staircase out. SPD seeks to ensure that affordable housing capital receipts are recycled in Torbay. .</i>
28/06/06	No			Strategic Land Partnership	G		Matters such as public art should be sought from retail and other developments likely to benefit from them	Gob	Agree	<i>Agree that this is a useful principle need to tailor obligations to the type of application.</i>
28/06/06	No			Strategic Land Partnership	G		Tariff approach support – simple for developers. Should relate to needs generated by development	Sup	Noted	<i>Note support – but does not provide a way of achieving onsite delivery of affordable housing</i>
28/06/06	No			Strategic Land Partnership	G		Status quo approach – object	Obj	Agree	<i>Agree that this approach needs updating. However do not consider this to be an objection in principle.</i>
28/06/06	No			Strategic Land Partnership	G		Mixed approach – object – developer likely to be asked to pay too much	Obj	Partly Agree	<i>Accept that viability is a key issue. However the mixed approach can in principle be designed to avoid excessive demands being made on developers.</i>
12/07/06	Y			Levvel Consulting for McCarthy & Stone	G		SPD does not confirm to Adopted Local Plan policies. In particular attempt to reduce thresholds should come through DPD rather than SPD	Obj	Noted	<i>Accept that SPD does not make policy. NB Policy H6 of the Adopted Torbay Local Plan allows for lower thresholds. Critical test is likely to be PPS3 Para 29A.</i>
12/07/06	Y			Levvel Consulting for McCarthy & Stone	G		Availability of background evidence is flawed – need for a Housing Market Assessment. Should consider affordable housing in broader context including the economy.	Obj	Noted	<i>Accept that HNS is in need for review. A Housing Market Assessment has been carried out and the SPD notes other indicators of housing need. Agree that affordable housing needs to be viewed in the context of the wider economy .</i>
12/07/06	Y			Levvel Consulting for McCarthy & Stone	G		Mixed and balanced communities can be helped by other types of affordable housing other than social rented housing	Obj	Noted	<i>Accept the need to provide range of affordable housing. However there is a need for social housing as well as intermediate tenures. . HMA work points to high level of need.</i>
12/07/06	Y			Levvel Consulting for McCarthy & Stone	G		SPD does not consider deliverability and financial implications of affordable housing requirements	Obj	Part Disagree	<i>The SPD does acknowledge that viability is a relevant consideration. Issues and options paper did take this into account in detailed assessment of different models for affordable housing.</i>
12/07/06	Y			Levvel Consulting for McCarthy & Stone	G		Object to reducing threshold	Obj	Accept	<i>Torbay has a pressing need, as evidenced by the HMA. Agree that a 2 dwelling threshold is too low to set in SPD. However it is considered that a 10 dwelling threshold is justifiable having regard to high level of need and likely continued reliance on small sites for the next 3-5 years.</i>

12/07/06	Y			Levvel Consulting for McCarthy & Stone	G		Object to overly complicated methods of calculating subsidy should be based on open land price minus affordable housing land price. Legality issues with supportable deficit	Obj	Partly Disagree	<i>Accept need for simplicity. Serviced land is not the only way to achieve this and serviced land approach is also complicated. Do not consider that the supportable deficit approach would have legality issues.</i>
12/07/06	Y			Levvel Consulting for McCarthy & Stone	G		Competition between affordable housing providers is in the public interest	Obj	Disagree	<i>Competition between RSLs will bid up price with landowners and result in poor use of public money.</i>
12/07/06	Y			Levvel Consulting for McCarthy & Stone	G		Commutated sums can be useful	Sup	Agree	<i>Agree in principle but should only be in exceptional circumstances. There is a severe shortage of sites in Torbay. Commuted sums must be sufficient to provide an equivalent level of affordable housing elsewhere.</i>
12/07/06	Y			Levvel Consulting for McCarthy & Stone	G		Torbay HSSA indicates that current affordable housing stock is 5,072 social units: need in 2011 projected to be 4,500 dwellings. Therefore oversupply of social rented claimed.	Obj	Disagree	<i>Other evidence of affordable housing need e.g Rowntree (2004) Housing Waiting List, Housing Market Assessment all point to a need for affordable housing. In addition, ignores loss of social housing through right to buy. Levvels analysis ignores that much rented housing is occupied under secure tenancies by people who could afford more. This issue is dealt with at length in the HMA.</i>
12/07/06	Y			Levvel Consulting for McCarthy & Stone	G		Need to consider whole market including role of intermediate housing/low cost home ownership	Obj	Agree	<i>Agree that housing market assessment should do this. This has been addressed in the HMA.</i>
12/07/06	Y			Levvel Consulting for McCarthy & Stone	G		Focus on social rented housing will lead to polarisation and reduce choices for local people	Obj	Noted	<i>Accept principle . Need to balance the need for social rented housing with other sustainability objectives vis economy and need for mixed communities. However affordable housing is a Government and council priority.</i>
12/07/06	Y			Levvel Consulting for McCarthy & Stone	G		SPD fails to adhere to tests of soundness due to detailed objections noted above	Obj	Disagree	<i>Tests of soundness in PPS12 (Para 3-10) do not apply to SPD. Notwithstanding this, consider that tests of soundness are addressed and will be further interrogated through Regulation 17 draft. Compliance with 5/2005 and PPS3 are likely to be more important.</i>

Note regarding Status column:

S = 'Specific' consultee

G = 'General' consultee

The structure of the Local Development Framework

