



Tuesday, 6 September 2016

POLICY DEVELOPMENT AND DECISION GROUP (JOINT OPERATIONS TEAM)

A meeting of **Policy Development and Decision Group (Joint Operations Team)** will be held on

Wednesday, 14 September 2016

commencing at **2.00 pm**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus, Torquay, TQ1 3DR

Members of the Committee

Councillor Amil
Councillor Excell
Councillor Haddock
Councillor King

Councillor Manning
Councillor Mills
Councillor Parrott
Mayor Oliver

A prosperous and healthy Torbay

For information relating to this meeting or to request a copy in another format or language please contact:

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POLICY DEVELOPMENT AND DECISION GROUP (JOINT OPERATIONS TEAM)

AGENDA

1. Election of Chairman/woman

To elect a Chairman/woman of the Policy Development and Decision Group (Joint Operations Team) for the 2016/2017 Municipal Year.

2. Apologies

To receive apologies for absence.

3. Appointment of Vice-Chairman/woman

To consider appointing a Vice-Chairman/woman of the Policy Development and Decision Group (Joint Operations Team) for the 2016/2017 Municipal Year.

4. Declarations of Interest

- (a)** To receive declarations of non pecuniary interests in respect of items on this agenda

For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

- (b)** To receive declarations of disclosable pecuniary interests in respect of items on this agenda

For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(Please Note: If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)

Part A - Policy Development

5. Urgent Items

To consider any other items the Chairman decides are urgent.

6. Local Transport Plan Implementation Plan (Policy Framework)

To consider the submitted report setting out the proposed consultation document for the Local Transport Plan Implementation Document.

(Pages 4 - 19)

7. **Review of Planning Contributions and Affordable Housing Supplementary Planning Document (Policy Framework)** (Pages 20 - 78)
To consider the submitted report setting out the proposed consultation document for the above document.
8. **Parking Strategy 2016-2021 - Mayor's Final Proposed Strategy (Policy Framework)** (To Follow)
To consider the submitted report on the above.
9. **Capital Investment Fund** (Pages 79 - 96)
To consider the submitted report on the criteria and governance for the Capital Investment Fund and to make recommendations to the Council.
- Part B - Mayoral Decisions**
10. **Disposal of Long Lease - Waterpark, Go-kart Site and Peter Pan Area, Goodrington Sands, Tanners Road, Goodrington, Paignton** (Pages 97 - 113)
To consider the submitted report on the above lease.
11. **Torre Valley North Lease** (Pages 114 - 130)
To consider the submitted report in respect of a lease of land at Torre Valley North.
12. **Exclusion of press and public**
To consider passing a resolution to exclude the press and public from the meeting prior to consideration of the following item on the agenda on the grounds that exempt information (as defined in paragraph 7 of Schedule 12A of the Local Government Act 1972 (as amended)) is likely to be disclosed.
13. **Housing Benefit and Council Tax Support Risk Based Verification Policy** (Pages 131 - 155)
To consider the submitted report on the above.

Agenda Item 6



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

Date: 14 September 2016

Wards Affected: All

Report Title: Local Transport Plan – Implementation Plan

Is the decision a key decision? Yes

When does the decision need to be implemented? Immediately

Executive Lead Contact Details: Cllr Mark King, Executive Lead for Planning, Transport and Housing, 07873 254117, mark.king@torbay.gov.uk

Supporting Officer Contact Details: Andrew Gunther, Senior Planning and Public Health Officer, 01803 208815, andrew.gunther@torbay.gov.uk

1. Proposal and Introduction

- 1.1. The Devon and Torbay Local Transport Plan (LTP) Strategy 2011-2026 provides strategic context and sets out how transport should be delivered within Torbay. This document provides an overarching strategy across Torbay and Devon for investing in the transport network across all modes of transport.
- 1.2. Sitting underneath the main LTP strategy are a series of more detailed implementation or delivery plans which provide more detail on the projects which will be funded and delivered during any five year period. Devon County Council and Torbay Council each have separate delivery plans relating to projects and investment occurring in each area. However, both sets of plans conform with the overall LTP Strategy.
- 1.3. Torbay Council's previous Implementation Plan expired this year and therefore the Council is required (by the Transport Act 2000) to provide an updated document on how it intends to deliver the Devon and Torbay Local Transport Plan Strategy over the next five years.
- 1.4. The Council previously carried out two rounds of consultation (in November 2015 and in February 2016) on regarding a new Implementation Plan. The results of that consultation have helped to influence the preparation of the final document together with engagement with Council Members and Senior Officers.
- 1.5. Appendix 2 contains the proposed 'Torbay Local Transport Implementation Plan 2016-2021' which details how the Council intends to deliver transport projects over

forward thinking, people orientated, adaptable - always with integrity.

the next five financial years, beginning 2016/17. This Implementation Plan sets out a proposal to use Integrated Transport Block Funding (received annually as grant from the Department for Transport) to support a number of committed projects over the next 2 years. It also supports a process for the development of additional future projects which is based on an evidence based approach, the detailed development of business cases and the delivery of projects which are evaluated in the context of the Council Capital Plan budget and the Council's Capital Plan Prioritisation Matrix. This approach is intended to ensure integrated delivery of transport infrastructure with other Council projects and that they respond holistically to Council priorities.

2. Reason for Proposal

- 2.1 As the Local Transport Plan forms part of the Council's Policy Framework formal consultation is required before the Plan is submitted to Council for approval.

3. Recommendation(s) / Proposed Decision

- 3.1 To publish for four week consultation the Torbay Local Transport Implementation Plan 2016-2021 as set out at Appendix 2 to the submitted report.
- 3.2 To note that, following consideration of representations received, the Torbay Local Transport Implementation Plan, with modifications as necessary, will be considered by the Mayor and submitted to Council for final approval.

Appendices

Appendix 1: Supporting Information and Impact Assessment

Appendix 2: Torbay Local Transport Implementation Plan 2016-2021

Agenda Item 6

Appendix 1

Supporting Information and Impact Assessment

Service / Policy:	Local Transport Implementation Plan
Executive Lead:	Cllr Mark King
Director / Assistant Director:	Kevin Mowat

Version:	1	Date:	06/09/16	Author:	Andrew Gunther
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Section 1: Background Information	
1.	<p>What is the proposal / issue?</p> <p>Torbay Council's previous Implementation Plan expired this year and therefore the Council is required (by the Transport Act 2000) to produce a new plan to set out how it intends to deliver the Devon and Torbay Local Transport Plan Strategy over the next five years.</p>
2.	<p>What is the current situation?</p> <p>The Council delivers transport projects according to the priorities set out in the Devon and Torbay Local Transport Plan Strategy and other Council policy framework documents. The previous Local Transport Implementation Plan identified all projects for delivery over a five year period (2011/12-2015/16).</p> <p>The new plan for delivery of transport projects over the next 5 years (2016/17-2021/22 - see Appendix 2) contains a list of projects which the Council is already committed to delivering and an approach for the development of further projects within this timeframe. This project development approach involves investing resources in developing detailed schemes on the basis of robust businesses cases which provide value for money and respond to agreed Council priorities.</p>
3.	<p>What options have been considered?</p> <p>An alternative option to the proposal set outlined in this report would be to identify a list of new projects which the Council is committed to funding over the next 5 years. This option was considered less favourable than that of developing schemes in further detail for later approval as the Council would have less surety that the projects would be delivering value for money and the best outcomes for Torbay in terms of health and prosperity.</p>
4.	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan 2015-19?</p> <p>This proposal will support the delivery of a 'Prosperous and Healthy Torbay'. According to the Implementation Plan, transport projects will be delivered</p>

	<p>according to the approval of successful business cases which specifically meet the ambitions, principles and delivery objectives of the Corporate Plan. The Council's Capital Plan Prioritisation Matrix specifically assesses projects on how well they meet Corporate Plan priorities, therefore transport projects which are ultimately delivered will have been required to have scored strongly in terms of delivering the ambitions and principles of the Corporate Plan. For instance projects will score better which promote physical activity, access to services and growth of employment, support the delivery of the Council's town centre Masterplans and reduce deprivation/inequalities.</p>
5.	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>Everybody in Torbay, as persons who directly uses any element of the transport network to travel (by foot, cycle, bus, train and car) will be potentially impacted by this proposal. In directly, people will be affected as the transport network has an impact on the economy, services and users.</p>
6.	<p>How will you propose to consult?</p> <p>Two previous rounds of consultation have been carried out regarding the development of the new Implementation Plan. The responses to the consultation have helped inform the final version of the plan alongside further discussion with Council Members and Senior Officer engagement.</p> <p>The consultation methods for both round of consultation included targeted letters and e-mails to persons on Torbay Council's Spatial Planning consultation database (which includes statutory consultation bodies, local groups and stakeholders as well as persons who have specifically registered to be notified regarding Spatial Planning consultations) as well as wider promotion to the general public through press releases, being made available on the Council's website and through visible communication methods such as the display of posters in Torquay Town Centre. As part of the consultation, a questionnaire was developed to illicit answers to specific issues.</p>

Section 2: Implications and Impact Assessment

7.	<p>What are the financial and legal implications?</p> <p>There are no additional budgetary resource implications on the Council budget. Transport projects will continue to be funded by the Council through the Integrated Transport Block funding (which will become part of overall Capital budget). The Council will also continue to access additional funding outside the Council budget from sources such as the Local Enterprise Partnership, the Department for Transport and planning contributions made from developmental growth in Torbay to assist the development of capital transport investment.</p>
8.	<p>What are the risks?</p> <p>If the recommendation is not adopted, the Council will not be fulfilling its duty under the Transport Act 2000 to update its Local Transport Plan every 5 years. Although the strategy element is still live (Devon and Torbay Local Transport Strategy 2011-2026) the Implementation element is now out of date and due for renewal. Without an update, the Council risks finding it difficult to access external funds (e.g. from the Department of Transport) and will not have an agreed plan in place to strategically support investment in the transport network which may lead to lack of implementation and uncoordinated delivery which does not deliver best value for the Council.</p>
9.	<p>Public Services Value (Social Value) Act 2012</p> <p>The impacts of any transport scheme on the economic, social and environmental well-being of Torbay, which is within the scope of the Public Services Value Act 2012, will be assessed through the approach to developing projects, outlined on page 6 of the Implementation Plan and the use of the Council's Capital Plan Prioritisation Plan Matrix. Additional assessment of environmental impacts, only where required by environmental regulations such as the Habitats Directive or the Environment Impact Assessment Directive (including associated Regulations), will be undertaken as part of individual scheme development.</p>
10.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>A detailed evidence base for the Local Transport Plan Strategy can be found on the Council's website. In addition, other evidence based documents such as the Joint Strategic Needs Assessment and the evidence base for the Local Plan has been used to inform this proposal.</p> <p>Fundamentally, the approach recommended in this Implementation Plan is based on using the evidence base which the Council has available to</p>

	<p>understand the transport needs of Torbay, use the evidence to develop business cases and schemes, and carry out monitoring and evaluation of schemes during and after delivery which will in turn inform future project development and needs assessment. This is a method of project development based on good practice in terms of taking an evidence-based approach to delivering best outcomes.</p>
11.	<p>What are key findings from the consultation you have carried out?</p> <p>Consultation has been carried out on two separate occasions on earlier versions of the Implementation Plan. Consultation responses showed that consultees supported investment in schemes which assist walking and cycling (highest priority), public transport (2nd highest priority) and private vehicles (3rd highest priority). 72 separate ideas for schemes were put forward as part of the consultation and a wide range of responses were received in terms of priority for those individual schemes.</p>
12.	<p>Amendments to Proposal / Mitigating Actions</p> <p>The Torbay Local Transport Implementation Plan 2016-2021, recommended for adoption, features a change in emphasis from previous consultation versions of the plan in terms of developing projects to take an evidence-based approach and a more detailed project development strategy involving additional resource to be expended on the development of business cases. This approach responds to the need for projects to be integrated with the delivery of Council investment elsewhere in the built environment e.g. through Masterplans (to take a holistic approach) and deliver outcomes which ensure transport infrastructure is best meeting Corporate Plan priorities.</p>

Equality Impacts

13	Identify the potential positive and negative impacts on specific groups		
	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people	The provision of public transport provides opportunities to increase social mobility amongst older and younger persons.		
People with caring Responsibilities			No differential impact
People with a disability	Investment in the highway network, including ring fencing budget to tackle road safety, will help to improve conditions for people with physical mobility issues.		
Women or men			No differential impact
People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			No differential impact
Religion or belief (including lack of belief)			No differential impact
People who are lesbian, gay or bisexual			No differential impact
People who are			No differential impact

transgendered			
People who are in a marriage or civil partnership			No differential impact
Women who are pregnant / on maternity leave			No differential impact
Socio-economic impacts (Including impact on child poverty issues and deprivation)	Invest in transport infrastructure, responding to the capital plan matrix, ensure that projects must score strongly in terms of ameliorating deprivation and improving health/economic outcomes. Additional monitoring through the		
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	The proposal will lead to transport projects being implemented which score highly against delivering direct health outcomes (e.g. increased physical activity) and indirect outcomes such as economic improvement. Targeted investment to reduce deprivation will help to reduce health inequalities. Taking an evidence based approach, coupled with robust monitoring and evaluation is a methodology which is familiar to the development of effective public health interventions and should help to deliver better overall outcomes for projects,		

		including but not exclusive to just public health issues.		
14	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	The Torbay Local Transport Implementation Plan 2016-2021 sets out a flexible framework for the delivery and development of capital transport projects in Torbay over a 5 year period. The Plan embraces corporate priorities. When changes are made in Council policy, those with transport implications should respond to the existing policy framework including this plan.		
15	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	The Torbay Local Transport Implementation Plan 2016-2021 sets out a flexible framework for the delivery and development of capital transport projects in Torbay over a 5 year period. The Plan embraces corporate priorities. When changes are made in other public services/policy, those with transport implications should respond to the existing policy framework, including this plan.		

Torbay Local Transport Implementation Plan 2016 – 2021

Draft

September 2016

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THE IMPLEMENTATION PLAN

1.1 About this Implementation Plan

This document sets out the approach the Council will take to delivering transport projects and investment over the next 5 years (2016/17 – 2020/21). This plan will deliver investment in the transport network across all modes of travel including walking, cycling, public transport and roads.

1.2 Building on a record of success

1.2.1 Track record

Torbay Council has a good track record of delivering investment in the transport network to support the needs of the economy and community. As well as investing the Council's own funds, the authority has been successful in securing significant external funding through the Government's Local Pinch Point Fund, the Heart of the South West Local Economic Partnership and contributions from developments to deliver schemes. For instance, this has included the delivery of significant improvements along the Western Corridor, reversal of traffic into Torquay Town Centre, road junction improvements and cycle links in Torquay Gateway. In addition, the Council continues to make progress to deliver a new train station at Edginswell. The Council has delivered the new South Devon Highway creating a new link of strategic importance in terms of dramatically improving connectivity from/to Torbay to the rest of the region.

1.2.2 Funding transport improvements

Torbay Council receives an annual capital expenditure grant (Integrated Transport Block) from government to deliver transport projects. The Department for Transport grant for the next five years is expected to be around £5.3 million (£1,063,000 annually). In this plan, some of the funding is committed towards the delivery of ongoing projects and the remainder will be allocated to projects which meet Council priorities. This plan proposes that the Integrated Transport Block becomes part of the wider Torbay Council capital projects budget to support integrated delivery of projects across Torbay. Other than committed projects which are outlined in this plan, the development of future projects for delivery (phased across each of the 5 years) will be based upon a detailed understanding of transport needs and an understanding of how those projects can deliver best value in terms of resource allocation and to maximise the benefits to the community. It's a project development approach which is designed to deliver quality transport schemes for all transport users.

The Council can also bid for money that may become available from other grant sources (e.g. additional government funding, the Local Enterprise Partnership, other public bodies, the wider capital plan) and/or seek contributions from new development in Torbay for appropriate projects. These funding sources may be used in conjunction with funding from the Integrated Transport Block (as match funding), Torbay will seek opportunities to combine funding in order to increase investment in transport infrastructure.

1.3 The Strategy – Devon and Torbay Local Transport Plan 2011-2026

This Implementation Plan for Torbay, acts as a delivery mechanism for a wider Local Transport Plan (LTP) Strategy which Torbay Council shares jointly with Devon County Council.

The LTP has five key objectives to deliver the vision:

- Deliver and support new development and economic growth
- Make best use of the transport network and protect the existing transport asset by prioritising maintenance
- Work with communities to provide safe, sustainable and low carbon transport choices
- Strengthen and improve the public transport network
- Make Devon the 'Place to be naturally active'

Sitting underneath the main LTP strategy are a series of more detailed implementation or delivery plans which provide more detail on the exact projects which will be funded and delivered during a five year period. Devon County Council and Torbay Council each have separate delivery plans relating to projects and investment occurring in each area. However, both sets of plans feed into the overall LTP Strategy. This plan replaces the previous Torbay LTP Implementation Plan which ran for 5 years from adoption in 2011.

1.4 A Prosperous and Healthy Torbay

Torbay Council's Corporate Plan 2015-2019 places emphasis on two objectives being of central importance to everything the Council does – a prosperous economy and a healthier community.

1.4.1 Connections within Torbay, connecting people and places, goods and services

The transport network supports our economy and the overall quality of life of people in the Bay by connecting people, goods and services. As well as providing opportunities to increase overall mobility, a sustainable transport network makes it easier for people to undertake a greater proportion of their journeys by walking, cycling and using public transport, as well as by car. Sustainable transport investment provides opportunities to improve the quality of public spaces and road junction improvement (supporting town centre Masterplans), improve road safety across the network for all users, support successful bus service provision, and improved opportunities to travel by rail. The benefits of investment in sustainable transport are well evidenced and positively impact on both economy and health for example:

- a healthier and more physically active population
- reduced air and environmental pollution
- reduced road traffic congestion and accidents
- reduced noise and vibration
- increased community well-being
- better functioning social support networks

In this way, sustainable transport has a strong influence on the health of the population in Torbay. The projects delivered in the context of this plan will play an important part in creating a 'Prosperous and Healthy Torbay'. The relationship between economy and health is two-way. Improved economic conditions such as greater levels of employment and higher pay are linked to better health outcomes.

Equally, improved health can benefit the economy by producing a healthier workforce and reduced burdens on public health and care services, many of which are provided by the Council and its partners.

Related Council strategies such as the Healthy Torbay Strategy, the Torbay Economic Strategy, the town centre Masterplans and the Local Plan are important to delivering a prosperous and healthy Torbay and therefore will play a key role in informing transport project development.

1.4.2 Connectivity to/from Torbay, to national and international markets

Transport infrastructure has a key role to play in supporting the success of Torbay as an economy. The Council has made great strides in delivering better connectivity by road with the delivery of the South Devon Highway. This vital link will need to be supported by complimentary improvements to the wider Torbay transport highway network. The Council will also seek to improve links by rail from existing stations and to deliver Edginswell Train Station. Investment in the walking and cycling network, both within Torbay and working with partners to deliver improvements to the strategic cycle network across our boundary (e.g. improving connections to Torbay from adjacent areas such as Newton Abbot and Totnes) will play a key role in reducing congestion, increasing mobility and contributing to a healthier Torbay. Making the most of Torbay's cycle hub, the Torbay Velopark, allied with effective management of Torbay's infrastructure in terms of leisure cycling and walking routes provides an opportunity to attract increased visitor trips to Torbay and stimulate the tourism economy.

1.4.3 The Implementation Plan – a plan for investment in capital transport infrastructure

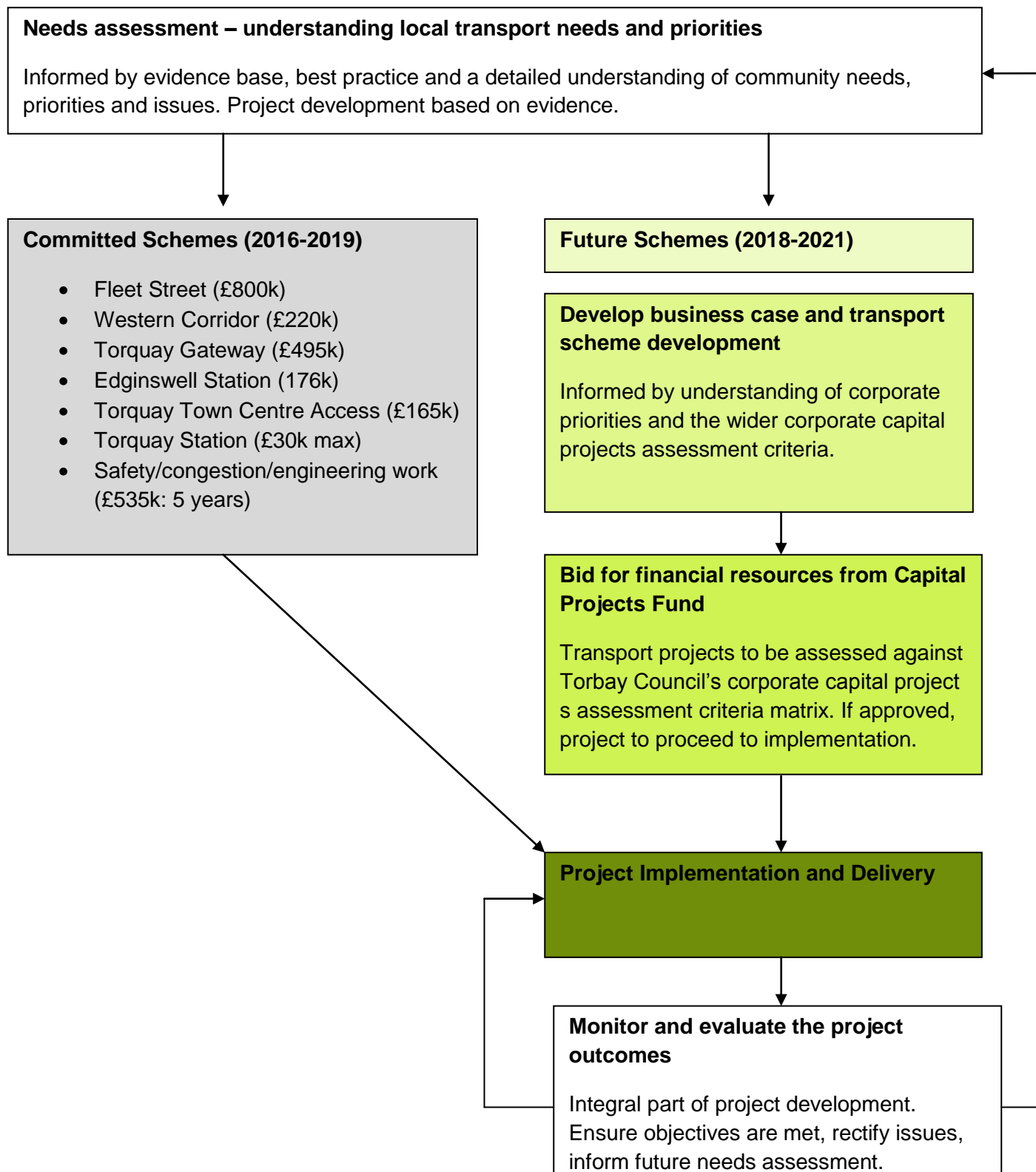
Note that this Implementation Plan is about delivering against capital expenditure (fixed assets). It does not include revenue expenditure. The Council will also look to explore opportunities to support projects like improved bus and rail services that may require revenue funding but they are unable to be funded specifically through this plan.

Funding for the maintenance of the highway infrastructure is also not within the scope of this plan. The Council receives a separate government grant for the maintenance of roads, footways, cycleways, bridges, retaining walls, street lighting, traffic signals, other structures and equipment. The current allocation to maintain Torbay's transport infrastructure is becoming increasingly challenging due to increasing costs and reducing budgets. However, projects delivered in the context of this Implementation Plan can impact on future Council maintenance costs. For instance, we know that encouraging more journeys to be undertaken by alternative means to the private car can reduce pressure and costs – every 1% increase in vehicular traffic, results in a 0.48% increase in costs for road carriageway maintenance.

2 LTP IMPLEMENTATION PLAN – DELIVERING PROJECTS

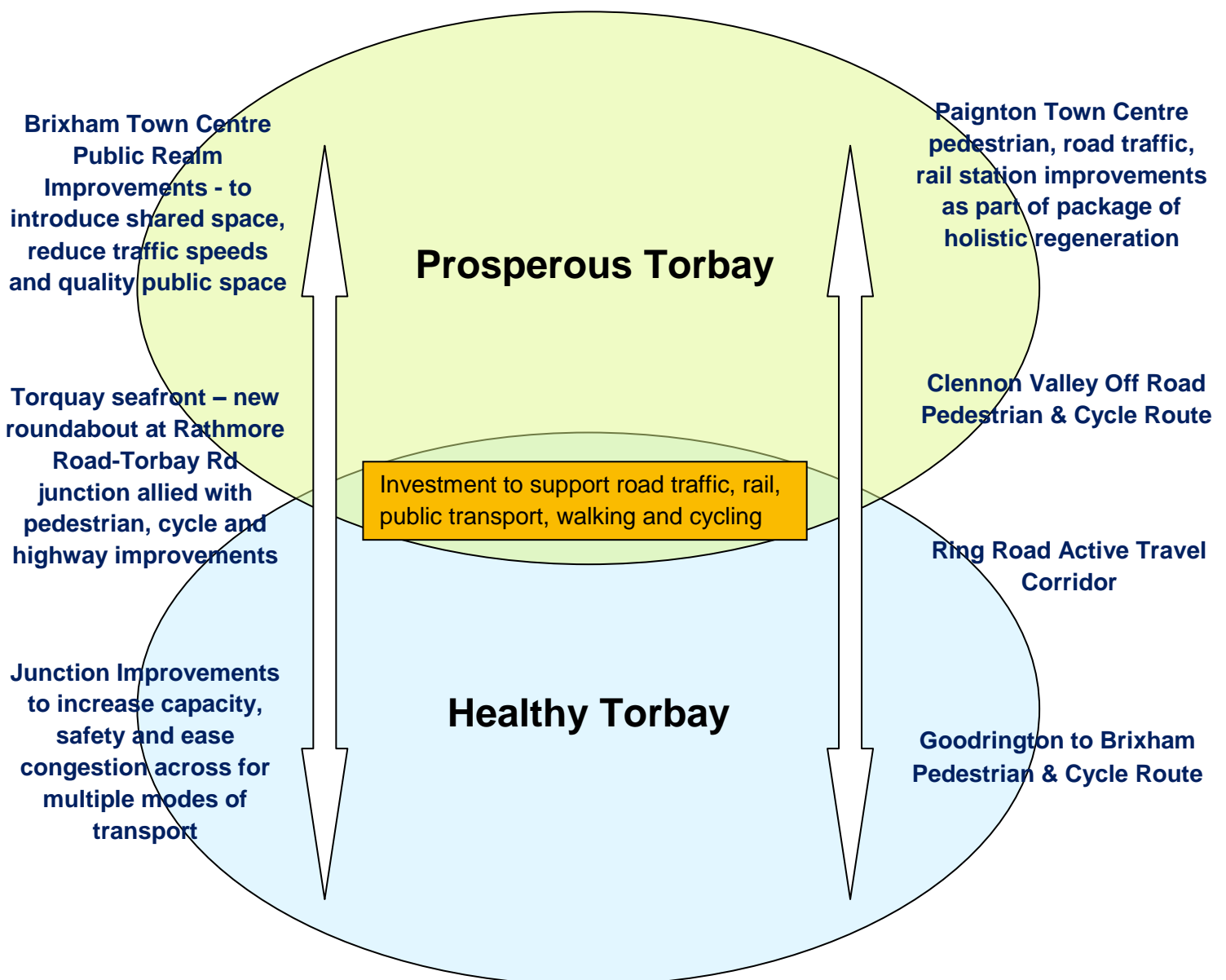
2.1 Process Diagram

The process for delivering transport projects within the scope of this 5 year Implementation Plan is outlined below:



Appendix A – Illustration of future schemes which could be delivered between 2016-2021

The diagram below illustrates some of the projects which could be delivered in Torbay through this plan over the next 5 years. The list is not intended to be exhaustive (additional projects will arise during the course of the plan) or represent a list of future commitments but does provide an indication of some potential opportunities which could be investigated further. Projects with strong business cases will be considered for delivery.



Agenda Item 7



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

Date: 14 September 2016

Wards Affected: All Wards

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

Is the decision a key decision? Yes

When does the decision need to be implemented? Immediately

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

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

1. Proposal and Introduction

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

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

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

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

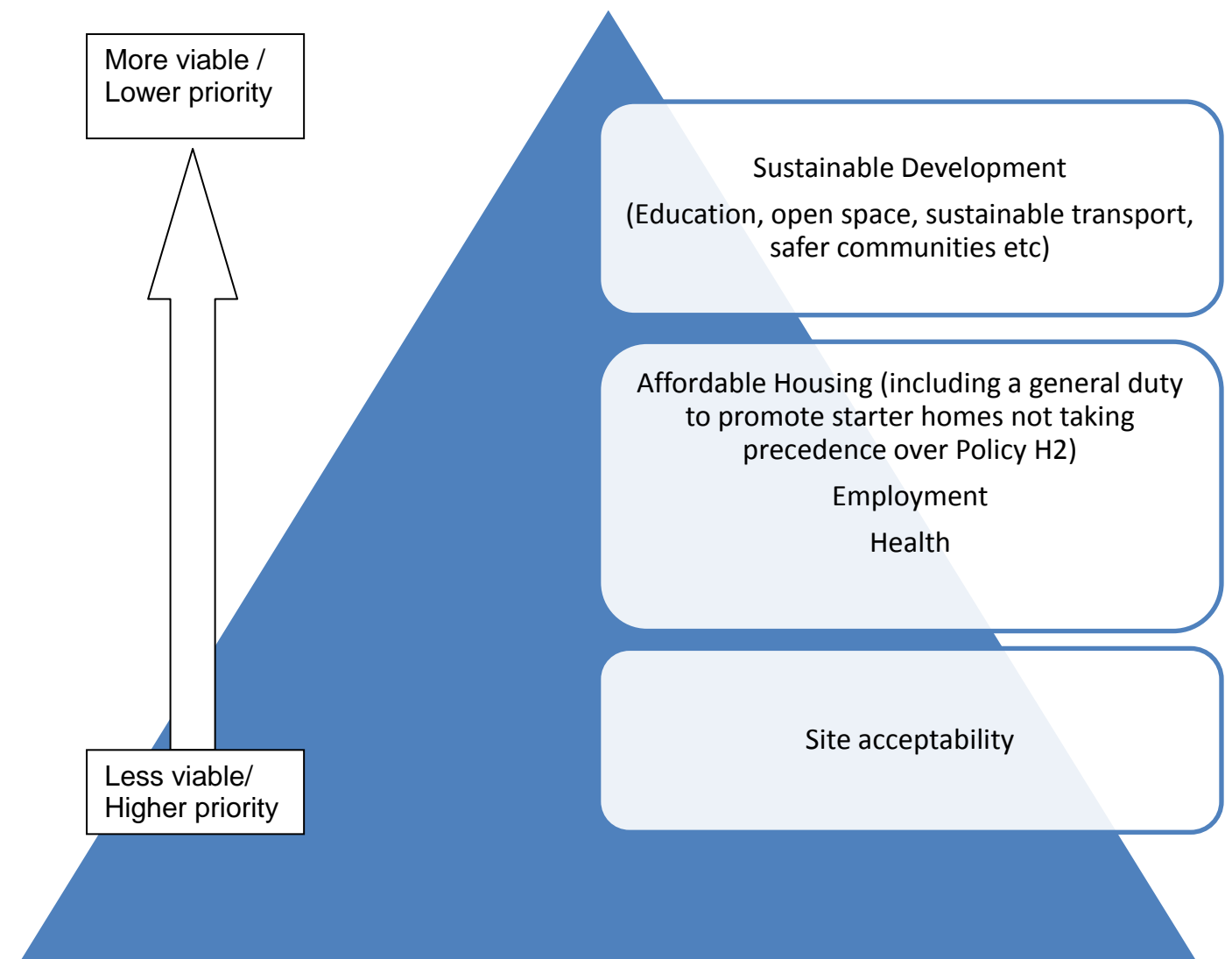


Figure 1A

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

2. Reason for Proposal

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

3 Recommendation(s) / Proposed Decision

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

**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

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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)

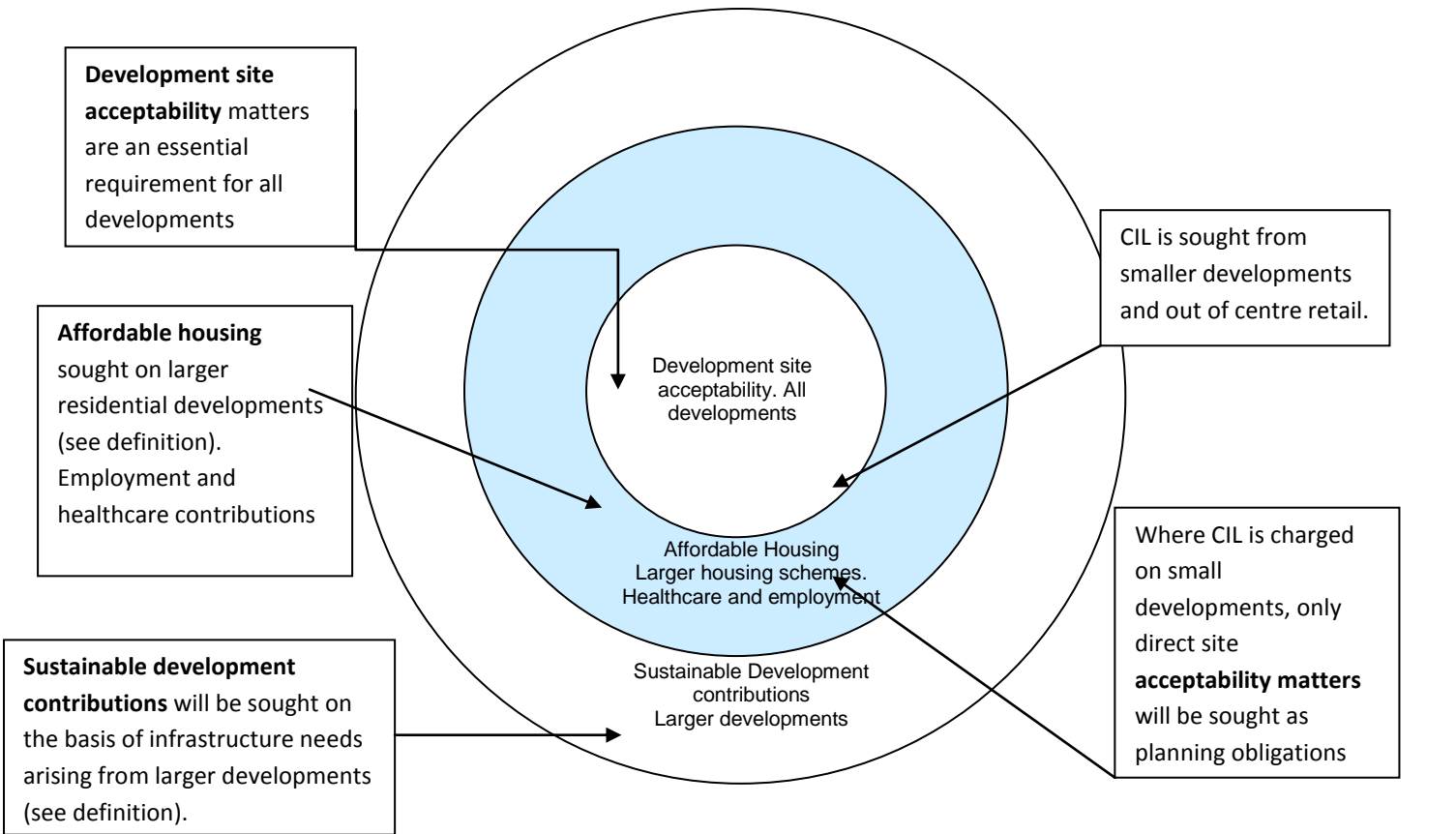


Figure. 1 Proposed Structure of Planning Obligations and Affordable Housing Supplementary Planning Document, and relationship to CIL

Figure 1A S106 Themes and prioritisation

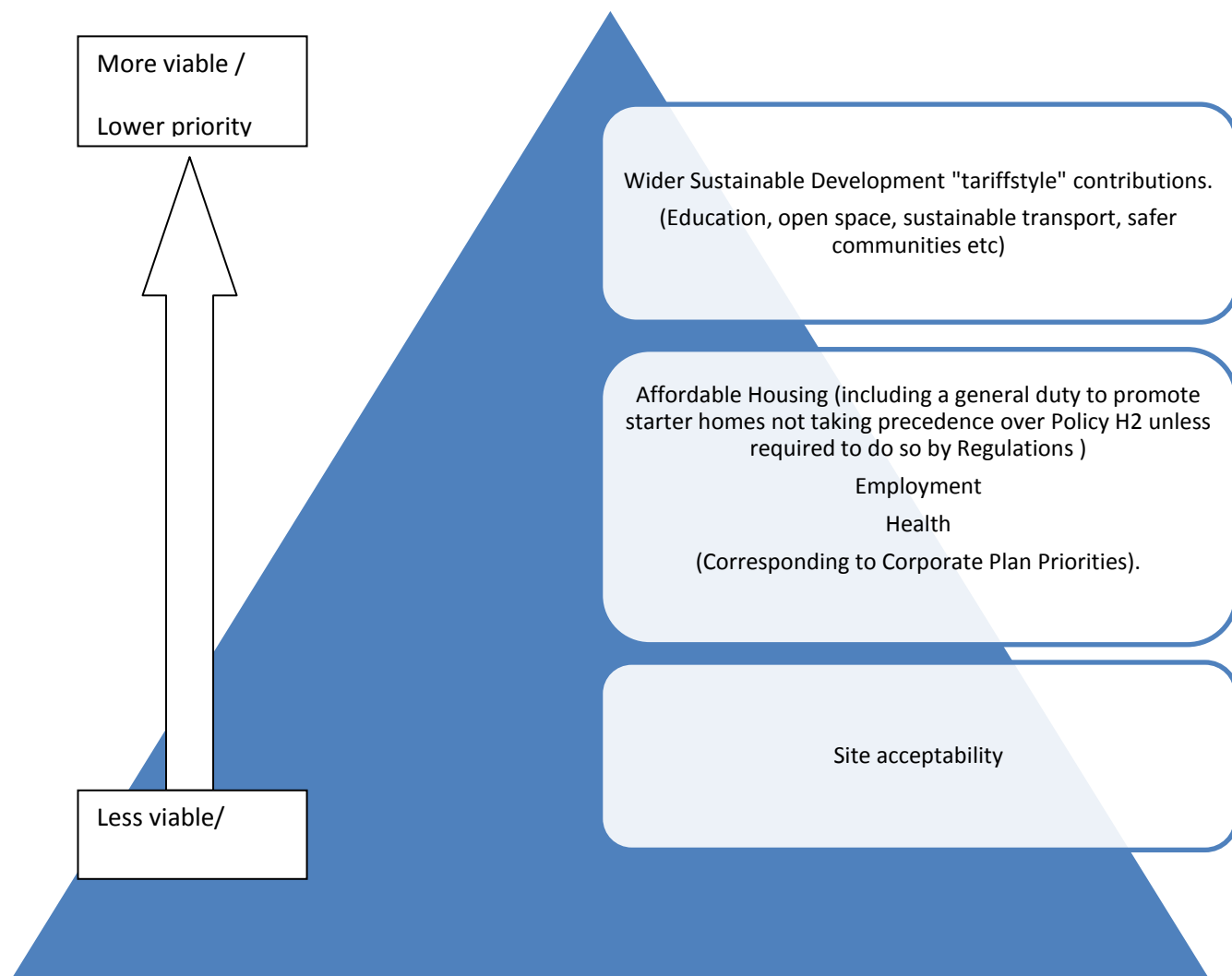


Figure 1A

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
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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
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	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	



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

Date: 14 September 2016

Wards Affected: All Wards in Torbay

Report Title: Capital Investment Fund

Is the decision a key decision? Yes

When does the decision need to be implemented? Immediately

Executive Lead Contact Details: Mayor Gordon Oliver, 01803 207001,
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Supporting Officer Contact Details: Martin Phillips, Chief Accountant, 01803 207285,
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1. Proposal and Introduction

1.1 Building on the Council approval of a £10m investment fund in February 2016 and linking to the Efficiency Plan and the Transformation Programme, this report expands the fund proposal by £40m and provides criteria for both the investments made by the fund and details the proposed governance arrangements around the management of the investment fund. In addition the report proposes investment to increase future NNDR revenues within Torbay.

1.2 Examples of good practice used by other local authorities with similar funds have been incorporated into this document.

2. Reason for Proposal

2.1 To make investments in property (within and outside Torbay) in order to increase revenue streams, this report sets out an appropriate strategy for acquiring properties and setting up and managing a portfolio.

2.2 To make investments in Torbay to increase its revenue stream from NNDR, this report sets out an appropriate strategy for acquiring properties, making investments and capital loans.

3. Recommendation(s) / Proposed Decision

It is proposed that the following recommendations will be made to the Council at its meeting on 22 September 2016:

- 3.1 That the Investment Fund be increased by £40 million to a total of £50 million to be initially funded by prudential borrowing, with the revenue costs associated with that borrowing (MRP and interest costs) to be funded from the investment returns or higher NNDR income.
- 3.2 That the Investment Strategy for the fund as detailed within Appendix 1 be approved.
- 3.3 That the governance of fund as detailed within paragraph 7.4 be approved.
- 3.4 That the Chief Executive be delegated authority to set up a delivery team including sourcing external support if required, to be funded from the investment returns.
- 3.5 That the Chief Executive be delegated authority to make any changes to the Strategy, in consultation with the Mayor, Group Leaders, Section 151 Officer and Executive Head of Business Services.

The Policy Development and Decision Group (Joint Operations Team) is asked to report directly to Council on any recommendations it may have following its consideration of this report.

4. Background Information

- 4.1 Council approved prudential borrowing of £10 million to enable acquisition of properties (both within and outside Torbay), with the borrowing costs to be funded from future rental income in February 2016.
- 4.2 In addition, as part of its efficiency plan and transformation programme, the Council intends to use this Investment Fund to increase its future NNDR taxbase income by investing capital resources within Torbay to stimulate growth. Capital resources could be a combination of asset purchase, co-investment in projects or capital loans.
- 4.3 For the sake of clarity the following descriptions have been used;
 - “Investments – Yield” .These are property purchases where the objective is to increase rental income to the Council
 - “Investments – Taxbase” .These are property purchases where the objective is to increase NNDR or Council tax income to the Council
 - “Investments – Loans or Co Investment” .These are loans to business for capital expenditure where the objective is to increase rental income to the Council or to increase NNDR or Council tax income to the Council. Co

Investment is where the Council with another investor provides finance or jointly purchases a property.

- “Property Purchase” – property to include purchase of land and/or buildings.

- 4.4 To provide a significant boost, show clear leadership and ambition for growth, and to achieve a greater scale of return it is proposed to increase the fund value by £40 million to £50 million.
- 4.5 A detailed Business Case will be required for every investment/acquisition, setting out the potential future performance of the investment/asset together with projected disposal price or capital value at the end of the borrowing period. An example template shown is attached at Appendix Two. Internal Rate of Return calculations will be carried out to model expected cash flows over the term.
- 4.6 The Council will have to borrow to fund this strategy. Currently (July 2016) Public Works Loan Board (PWLB) rates are at historic lows. If borrowing is taken at the current low rates in advance of cash flow requirements there will be a short term “cost of carry” as the borrowing rates are approx 1.5% above current money market investment returns, however in the long term this provides a greater opportunity for significant return on investments
- 4.7 Any investments arising from “Masterplan” delivery will be approved and funded outside of this Fund. In addition any investments made under the Treasury Management Strategy (such as money markets, property funds etc) are outside of this Fund.
- 4.8 It will be essential to realise future income that sufficient capacity is allocated to manage this Investment Fund as soon as Council approval is given. The net returns assume that the ongoing costs of the fund management will be met from future returns. In the short term there will be some initial management costs which will be funded from the Invest for Income reserve, up to a value of £50,000.
- 4.9 This report sets out the proposed investment strategy (appendix 1) and covers the following:
 - Background
 - Objective
 - Scope
 - Strategy
 - Yield
 - Sector spread
 - Locations
 - Target Assets
 - Assessment of Risks
- 4.10 Inevitably the Strategy will be subject to revision as the Council’s knowledge and experience of operating such a fund increases. It is proposed that the Chief Executive is given delegated authority by Council to revise the Strategy if it is in the

best interests of the Council in consultation with Mayor, s.151 Officer and Group Leaders.

4.11 A summary table of the key considerations for the Fund is set out in the table below:

	Investment - Yield	Investment - Taxbase	Investment- loans & co investment
Objective	Increase revenue streams	Increase NNDR & Council Tax income	Increase revenue streams Increase NNDR & Council Tax income
Governance			
Business case (see appendix two for example)	Yes	Yes	Yes
Review by S151 & Fund Manager	Yes	Yes	Yes
Legal Due Diligence	Yes	Yes	Yes
Decision maker	Chief Executive	Chief Executive	Chief Executive
Consultees	S151, Mayor, Group Leaders	S151, Mayor, Group Leaders	S151, Mayor, Group Leaders
Informed	OSB Chair	OSB Chair	OSB Chair
Reporting Performance	Quarterly to SLT, MEG, OSB & Investment Board (Audit Committee)	Quarterly to SLT, MEG & OSB & Investment Board (Audit Committee)	Quarterly to SLT, MEG & OSB & Investment Board (Audit Committee)
Criteria			
Scope	Maximum £50m in total		
Maximum individual Purchase	£5m	£5m	£2m
Valuation of asset	Yes	Yes	If applicable
Condition Survey	Yes	Yes	If applicable
Assessment of Asset Life	Yes	Yes	If applicable

Independent Assessment of Residual value	Yes	Yes	If applicable
Security required	-	-	Yes – minimum 75% of investment/loan
Target Assets for Acquisition	Yes – in strategy	-	-
Yield	Rental	NNDR	Loan repayments or rental
Minimum Yield Required (before costs)	6.5% of purchase price (or 2% above estimated borrowing costs)	Increased NNDR income (after multiplier) and/or rental yield equivalent to 6.5% of purchase price	6.5% of investment value (or 2% above estimated borrowing costs) If capital loan prevailing borrowing rates + 2%
Benchmarked Yield (linked to rate/size)	Yes	Yes	Yes
Sector Diversification – retail, leisure, office & industrial	Yes - retail, leisure, office and industrial	Yes - retail, leisure, office & industrial	Yes - retail, leisure, office and industrial
Risk Appetite	Risk averse	Moderate risk – linked to NNDR yield	Risk averse – linked to security
Lease	Tenants of strong financial standing and minimum 5 year unexpired lease term	Tenants of strong financial standing and minimum 5 year unexpired lease term	If applicable
Location	National (UK)	Torbay	Torbay
Location – Diversity	25% in any one Council area	100% Torbay	100% Torbay
Reputational Issues	No “sin” assets or tenants	No “sin” assets or tenants	No “sin” assets or tenants
Financial Assumptions			
MRP	50 years land and 40 years buildings or life of asset	50 years land and 40 years buildings or life of asset	As applicable

Interest Costs used in appraisal	New Borrowing Rates	New Borrowing Rates	New Borrowing Rates
SDLT & other purchase costs	Part of purchase price	Part of purchase price	-
Fund Management Costs & ongoing client costs	0.50% of purchase price	0.50% of purchase price	0.50% of loan or investment
“Green Book” Financial profile over life of asset (IRR)	Yes	Yes	Yes

5.0 Other Councils

5.1 Other Councils have started similar investment funds including Luton and Harrow Councils. Details of Harrow’s Fund and Investment Strategy are available on their website:

<http://www.harrow.gov.uk/www2/documents/s131517/Invest%20Property%20Strategy%20-%20Main%20Report.pdf>

5.2 Analysis of Investment Funds already set up by other Local Authorities has been used in preparing this report. For illustration, the figures declared for one such fund over a two year period are given below:

New purchases (gross, 5 properties)	£19,900,000
Rental Income per annum	£1,650,000
Gross Income yield	8.30%
Assumed financing costs (4% interest; 2.5% MRP)	£1,290,800
Net Income	£359,200 (1.8% on capital)

5.3 Eastleigh Council has been used as a LGA case study. The LGA summary stated the following:

“Eastleigh Borough Council’s main area of commercialisation has been in respect of property. They have actively been pursuing the purchase of a range of property assets which generate a high investment yield. By 2015, expenditure (financed principally by borrowing) will have reached over £100 million and includes a range of assets such as shops, banks, pubs and offices (one of which, following refurbishment, is now their headquarters).”

Its innovative to property management now means the Council is landlord to a high profile mix of businesses including B&Q, Lloyds Bank, Wetherspoons, Matalan, Halfords, Pets at Home, Costa Coffee and Travelodge as a result of the freehold purchase of land and buildings over the last five years .

The most ambitious acquisition has been the Ageas Bowl, home of Hampshire Cricket, where the council is investing £40 million, including the construction of a 4 Hilton Hotel.*

Assets owned by Council have risen, according to the latest valuation, from £55 million to £188 million. Revenue surplus after borrowing and other costs is almost £2.5 million per annum. The assets contribute to regeneration, economic and employment objectives. For example, the Ageas Bowl alone is forecast to generate £55 million in direct and indirect economic benefits annually and 500 additional jobs”.

6 Existing Investment Properties

- 6.1 The Council already holds a portfolio of non-operational properties within Torbay for investment purposes, managed on its behalf by the Torbay Economic Development Company (TDA) with the client function undertaken by the Executive Head of Business Services.

7. Staffing, Management and Delegation

- 7.1 Existing expertise within the TDA (and/or expertise to be recruited to by the TDA) is best placed to provide management of the Investment Fund (subject to an agreement between the two parties) supported where required by the Council's Finance and Legal sections with the client function undertaken by the Executive Head of Business Services.
- 7.2 It is proposed that a valuation be obtained for each property purchase and consideration needs to be given to further obtaining specialist expertise to actively manage market presence, acquisition & disposal and portfolio mix for this larger investment.
- 7.3 The above costs and any other associated purchase costs such as legal fees, property searches etc will be met by applying a 1% (of purchase price) one off cost, to be funded from the estimated return.
- 7.4 The following decision making process is proposed:
- a) The Chief Executive is given delegated authority by Council to approve any investment or purchase within the fund in consultation with Mayor, S151 Officer, Group Leaders and Executive Head of Business Services. The Overview and Scrutiny Co-ordinator will be informed prior to any investment/purchase.
 - b) Any use of the Investment Fund is to be in line with approved criteria as outlined in the Investment Strategy. (Appendix 1)

- c) Audit Committee and the Mayor (as Executive Lead for Finance) be requested to meet as an Investment Board to review the performance of the Investment Fund on a quarterly basis.
- d) All investments or purchases to be subject to a (documented) review by S151 Officer, Monitoring Officer, Fund Manager and Executive Head of Business Services.
- e) The Chief Executive is given delegated authority by Council to revise the Strategy if it is in the best interests of the Council in consultation with Mayor, S151 Officer, Group Leaders and Executive Head of Business Services.

8. Legal

- 8.1 Local authorities have broadly drawn powers allowing them to invest and to borrow, in each case either for purposes relevant to the performance of any of their functions or generally for the prudent management of their financial affairs (s1 and s12 of the Local Government Act 2003).
- 8.2 They may also acquire property by agreement located either inside or outside of their borough for the purposes of any of their functions, including their investment functions, or otherwise for the benefit, improvement or development of their area (s120 of the Local Government Act 1972).
- 8.3 Furthermore, they may also take any action (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions, which would again include their investment functions (s111 of the Local Government Act 1972).
- 8.4 The council will need to ensure that in exercising its investment and borrowing functions to expand its property portfolio, any actions are reasonable and proportionate and for proper purposes consistent with the Council's prudential regime and its investment strategy. Investment decisions also need to be taken mindful at all times the council's fiduciary duties to ensure the sound management of the public finances.
- 8.5 Legal due diligence will be required on all property acquisitions, to include a review of title and ownership, and searches and enquiries of the vendor, in order to ascertain relevant liabilities and restrictions connected with the subject property. The results of the legal enquiries, and any associated risks, should be considered prior to any decision to enter into contract.
- 8.6 On any sale of an investment property the Council will be required to obtain best consideration in accordance with s123 of the Local Government Act 1972. Usually this will be achieved by placing the property onto the open market or otherwise, in respect of a sale agreed off market, demonstrating by way of professional valuation that it is achieving no less than market value for the property.

8.7 In all purchases, in particular on any loans, State Aid implications will need to be assessed.

9 Financial Implications

9.1 The potential income from this investment Fund has been estimated as follows. These figures will be included in the Efficiency Plan and as applicable included in future year budget proposals.

Year	Investments In year £m	Income Return @ 1.5% over costs £000's	Cumulative Income Return £000's
2016/17	5	75	75
2017/18	10	150	225
2018/19	15	225	450
2019/20	20	300	750
Total	50		

9.2 The 1.5% return above costs is considered to be a prudent target, although returns above this level will be aimed for.

9.3 It is proposed to allocate a sum of £50m (an increase of £40m) to be available for the purchase of an Investment Fund which will be added to the capital budget and will be funded from prudential borrowing with the ongoing revenue costs funded from future income.

9.4 It is likely that the source of funds will be the Public Works Loans Board where Interest rates for periods of 45 years are currently in the range around 2.0% (2.5% used as prudent). Where possible the TDA will support the Council in using LEP support to gain access to the lower PWLB rate (by 0.2%) for projects that meet certain criteria. Any capital expenditure incurred by the Council necessitates a minimum revenue provision (MRP) of 2% if the principal repayment is spread equally over 50 years. If asset life is assessed as lower, then the MRP period will be adjusted accordingly.

9.5 As a guide if £50m is borrowed and expended the additional annual costs to the revenue budget will be £2.250m (4.5%). If long term borrowing rates increase then the costs may rise accordingly.

9.6 The draft Investment Strategy states that a minimum gross yield of 6.5% (or 2% above borrowing costs) is required from an investment property to ensure an additional income stream for the authority after accounting for capital financing costs. 0.5% of the return will be allocated to an earmarked reserve to cover any "asset" costs associated with the purchase, ongoing portfolio management and legal, repair, void costs etc.

Cost	% Rental	% NNDR	% Loan	Costs per annum for £1m Cost
Minimum Target Return	6.5%	6.5%	4.5%	£65,000
Less:				
MRP	2%	2%	-	£20,000
Interest Costs	2.5%	2.5%	2.5%	£25,000
Asset Costs	0.5%	0.5%	0.5%	£5,000
Net Return	1.5%	1.5%	1.5%	£15,000

- 9.7 For loans, where there is a clear assumption that the loan will be repaid then no MRP will be applicable, therefore the minimum interest rate will be 2% above interest costs (subject to state aid compliance).
- 9.8 For purchases to increase NNDR, the target return is still 6.5% however this will need to be assessed for each purchase linked to the estimated increase in the Council's 49% share of NNDR collected. In addition, as DCLG is currently consulting on reforms to the NNDR retention scheme leading to the Council by end of Parliament retaining at least 98% of NNDR income, each scheme will need to be reviewed in light of any DCLG proposals.
- 9.9 In relation to tax; if the properties are to be held directly by the Council then there should be no Corporation Tax or Capital Gains issues arising.
- 9.10 VAT implications will be considered in all purchases to ensure that optimum arrangements are put in place.
- 9.11 Stamp Duty Land Tax (SDLT) will be payable on purchases which will be included in the purchase cost of the investment.
- 9.12 On all purchases financial due diligence will be undertaken with all partners, and tenants and where applicable appropriate security/guarantees will be obtained.

Appendices:

Appendix 1: Investment Strategy

Appendix 2: Business Case for Investment Template

Background Documents:

Capital Investment Plan – Council February 2016

Investment Fund Strategy:

September 2016 revision

Background

As part of its efficiency plan and transformation programme the Council needs to increase its future local taxbase income (Council tax and NNDR) by investing capital resources within Torbay to stimulate growth. Capital resources could be a combination of asset purchase, co investment in projects or capital loans.

As clarification the following descriptions have been used

- “Investments – Yield” .These are property purchases where the objective is to increase rental income to the Council
- “Investments – Taxbase” .These are property purchases where the objective is to increase NNDR or Council tax income to the Council
- “Investments – Loans or Co Investment” .These are loans to business for capital expenditure where the objective is to increase rental income to the Council or to increase NNDR or Council tax income to the Council. Co Investment is where Council with another investor provides finance or jointly purchases.
- “Property Purchase” – property to include purchase of land and/or buildings

This appendix sets out an appropriate strategy for the management of the Investment Fund including purchases/investments. The strategy adopted should reflect a suitable balance between the risks inherent in the types of property/investments to be acquired and the financial rewards obtainable whilst limiting risks appropriately. In addition, the portfolio of investments being acquired should be diversified in order to spread risks via a balanced portfolio, such diversification principally being across geographical location and the use type of properties held.

The risks of investing in property may be mitigated through the acquisition of assets with secure, long income streams. This needs to be balanced against the requirement for a given level of income yield on capital invested in a careful and controlled manner, with specific analysis of risk criteria carried out in the ‘due diligence’ stage prior to the completion of each purchase.

Objective:

	Investment - Yield	Investment - Taxbase	Investment- loans & co investment
Objective	Increase revenue streams	Increase NNDR & Council Tax income	Increase revenue streams Increase NNDR & Council Tax income

To invest in commercial investment properties to provide income (rental or increased NNDR or a combination of both) from investments with a minimum income return over the medium-term of 6.5%

(or 2% above capital costs) on capital invested, through a balanced strategy of acquisition, retention and management of good quality property investments.

The objective is specifically to acquire income-producing property in order to enhance Council revenue streams in combination with investments in potential development sites and development schemes within Torbay. Long-term growth of capital values is also an objective where possible but not a key focus.

Scope:

	Investment - Yield	Investment - Taxbase	Investment- loans & co investment
Scope	Maximum £50m in total		

Strategy:

	Investment - Yield	Investment - Taxbase	Investment- loans & co investment
Maximum individual Purchase	£5m	£5m	£2m

Achieving a spread of risk across a greater number of assets and by acquiring properties across the range of different property asset classes, namely retail, leisure, office and industrial, is to be desired, however it has to be recognised that opportunities to do this may not arise, and ultimately if individual business cases are robust groupings in any individual property class should not pose any increased risk to the Council.

The principle of being relatively risk-averse by limiting fresh investment to properties with minimum unexpired lease terms of five years at the date of acquisition, and with tenants of strong financial standing, will be adopted.

Properties will be acquired to hold rather than to dispose.

Minimum and maximum yield

	Investment - Yield	Investment - Taxbase	Investment- loans & co investment
Yield	Rental	NNDR	Loan repayments or rental
Minimum Yield Required (before costs)	6.5% of purchase price (or 2% above estimated borrowing costs)	Increased Council NNDR income (after multiplier) equivalent and/or rental yield to 6.5% of purchase price (or 2% above estimated borrowing costs)	6.5% of investment value (or 2% above estimated borrowing costs) If capital loan prevailing borrowing rates + 2%
Maximum Yield	10%	10%	10%

Benchmarked Yield (linked to rate/size)	Yes	Yes	Yes
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Acquisitions of assets will be pursued at a target minimum yield (before costs) of 6.5% and, as a guide to potential risk, maximum yield of 10.0%. Assets producing initial yields in excess of 10.0% are likely to exhibit high risk characteristics, such as very short unexpired leases, or financially weak or insubstantial tenants, or obsolete buildings and are therefore to be avoided. Assets with a projected yield of over 10% will be discounted unless officers can demonstrate that risk characteristics are acceptable and avoid very short unexpired leases, financially weak tenants or obsolete buildings.

Sector spread

	Investment - Yield	Investment - Taxbase	Investment- loans & co investment
Sector Diversification – retail, leisure, office & industrial	Yes - retail, leisure, office and industrial	Yes - retail, leisure, office and industrial	Yes - retail, leisure, office and industrial

Traditionally the highest returns come from the office and industrial sub-sectors. Offices can provide an income return of 5.5% in quality in-town areas and between 7.5% and 8.5% for reasonable quality offices in regional and sub-regional centres. Industrial income yields can range from 6.0% up to 7.5% for acceptable quality assets. The retail sub-sector for prime retail property is lower than comparable office/industrial assets with typical yields ranging between 5% and 7% for high quality in-town properties. On this evidence it is likely that predominantly office and industrial/warehouse will be targeted for acquisition with a lesser emphasis on retail. Leisure and mixed use investments will also be eligible under the strategy.

Residential property tends to be management intensive and requires specialist expertise. It is therefore proposed that this sector is excluded from the Investment Fund strategy.

Locations

	Investment - Yield	Investment - Taxbase	Investment- loans & co investment
Location	National (UK)	Torbay	Torbay
Location – Diversity	25% in any Council area	100% Torbay	100% Torbay

Torbay would be the preferred location for fresh acquisitions of investment properties, so that reinvestment is retained within the local economy and any additional capital expenditure is made in the local area. However, there is a finite and limited supply of property within the local area, and of that supply only a small proportion may be available for purchase at any time. A wider area should also be considered for fresh acquisitions. Taxbase investments, loans and co investments will be for investments only within the Torbay area.

Target assets

The following assets will be sought;

1. Retail investments with the following characteristics;

- Lot sizes between £1m and £5m
- Good locations in town centres or in good out-of-town retail clusters/parks
- Well let to sound tenants on leases with a minimum of five years unexpired terms
- Income yield range from 6.5% to 10.0%

2. Office investments with the following characteristics;

- Lot sizes between £1m and £5m
- Modern specification, likely to be built since 1990
- Good locations in commercially strong town/city centres or in good out-of-town business parks
- Well let to sound tenants on leases with a minimum of five years unexpired terms
- Multi-let properties to be considered with average unexpired lease terms of 3 years, subject to a spread of expiry dates
- Income yield range from 6.5% to 10.0%

3. Industrial/Warehouse investments with the following characteristics;

- Lot sizes between £1m and £5m
- Modern specification with flexible standard layout, built since 1980
- Good locations on major road routes and good access to motorways
- Well let to sound tenants on leases with a minimum of five years unexpired terms
- Multi-let properties to be considered with average unexpired lease terms of 3 years, subject to a spread of expiry dates
- Income yield range from 6.5% to 10.0%

4. Leisure investments, such as public houses, restaurants and health & fitness centres with similar characteristics as above will also be sought.

5. Mixed-use investments would also be potentially suitable additions to the portfolio. These may include a mixture of commercial uses or a mixture of retail and office use. Again, similar characteristics as set out above for office investments will apply.

6. Residential investment – tends to be significantly more management intensive than the types of commercial property investment envisaged under this strategy and requires specialist residential management expertise, so is proposed to be excluded from the strategy under the proposals set out in this report.

Assessment of risks

	Investment - Yield	Investment - Taxbase	Investment- loans & co investment
Independent Valuation of asset	Yes	Yes	If applicable
Condition Survey	Yes	Yes	If applicable
Independent Assessment of Asset Life	Yes	Yes	If applicable
Independent Assessment of Residual value	Yes	Yes	If applicable
Security required	-	-	Yes – minimum 75% of investment/loan
Risk Appetite	Risk averse	Moderate risk	Risk averse
“Green Book” Financial profile over life of asset (IRR)	Yes	Yes	Yes
Lease	Tenants of strong financial standing and minimum 5 year unexpired lease term	Tenants of strong financial standing and minimum 5 year unexpired lease term	If applicable
Reputational Issues	No “sin” assets or tenants	No “sin” assets or tenants	No “sin” assets or tenants

A rigorous assessment of all risks is required in each case of fresh investment in order firstly to value each property and then to check its suitability for inclusion in the portfolio. The risks fall into two categories, firstly economic and property market risks in specific property market sub-sectors and locations and secondly asset-specific risks (as set out below). These can be measured and an assessment made of the likely future performance of the investment carried out based on the ranges of likely future rental growth of the property and also the projected disposal price or capital value at the end of the period over which the cash flow analysis is being measured. Financial returns are modelled over a medium-term horizon of five years, based on proposed offer prices, to determine the acceptability of each investment, and can be compared against general market forecasts. Internal Rate of Return (IRR) calculations will be carried out to model the expected cash flows from each investment. The anticipated returns can be modelled on different bases to reflect the range of risks applicable in each case, to ensure that forecast returns properly reflect the measured risks. In this way a Business Case is put together to support each recommended property acquisition.

Asset-specific risks

Income and capital returns for property will depend principally on the following five main characteristics;

- Location of property
- Building specification quality
- Length of lease unexpired
- Financial strength of tenant(s)

- Rental levels payable relative to current open market rental values

Location – this is the single most important factor in considering any property investment. In the retail sector prime or good secondary locations in major regional or sub-regional shopping centres are likely to provide good long-term prospects, or alternatively prime locations in sub-regional or market towns.

Industrial and warehouse property has a wider spectrum of acceptable locations with accessibility on good roads to the trunk road and motorway network being the key aspect.

Experienced knowledge will be required to ensure that good locations are selected where property will hold its value in the long term.

Building specification quality – In office property especially it is important to minimise the risk of obsolescence in building elements, notably mechanical and electrical plant. Modern, recently-built office and industrial property should be acquired to ensure longer-term income-production and awareness of the life-cycle of different building elements and costs of replacement is critical in assessing each property's merits. For town centre retail property trends have been towards larger standard retail units being in strongest demand from retailers.

Length of lease unexpired – At present capital values are highest for long-term leased property and values tend to reduce significantly when unexpired lease terms fall below five years, as owners expect significant capital expenditure to be necessary when leases expire and tenants may not renew leases and continue to occupy. Fresh investments should be made ensuring that diminishing lease terms will not either adversely affect capital value or that significant capital expenditure and voids are experienced. A strategy to dispose of investments before unexpired lease terms reach terms of shorter than three years should be adopted.

Financial strength of tenant(s) – assessment will be required of each tenant of potential acquisitions through analysis of their published accounts and management accounts where necessary. Risk of tenant default in rent payment is the main issue but the relative strength of a tenant's financial standing also impacts upon capital value of property which is let to that tenant and careful analysis of financial strength is a key part of due diligence prior to purchase of investments.

Rental levels – following the banking crash in 2007/8 rental levels fell across most occupier markets, particularly in office and retail markets. As a result rents payable on leases that were granted before 2007 may be at levels which are higher than current rental values. Rents in some sub-sectors have recovered back to pre-2007 levels but care is required in all purchases to assess market rents local to each property to check whether rents payable under leases are above or below current levels, as this will impact on whether growth in rents in the future will be fully reflected in the specific property being analysed.

Environmental and regulatory risks - Risks such as flooding and energy performance are taken into account during the due diligence process on every property purchase.

Reputational risks - A policy on specific types of commercial tenant which may not be acceptable to the Council such as tobacco, gambling or alcohol-related companies should be adopted. Properties tenanted by such companies would not then be considered for purchase. However, this would not necessarily protect the Council in the event of a future transfer of any tenancy to a prohibited company.

INVESTMENT FUND

BUSINESS CASE FOR INVESTMENT

1. INVESTMENT NAME AND ADDRESS

2. STRATEGY OBJECTIVE

3. COMPLIANCE WITH STRATEGY OBJECTIVE – NON-FINANCIAL

- Sector and target assets
- Location
- Building specification
- Management and maintenance obligations
- Lease arrangements
- Quality of tenants

4. COMPLIANCE WITH STRATEGY OBJECTIVE – FINANCIAL (Completion of Appendix with commentary as below)

- Purchase price
- Estimated exit value
- Building survey results
- Rental income
- Outgoings
- Estimated voids
- Cashflow
- Costs including stamp duty, legal fees, survey fees, letting costs
- Management and maintenance obligations
- IRR Calculation

5. LEGAL ISSUES (to include)

- Review of title and ownership

- Liabilities and restrictions

6. RISK ASSESSMENT

- Economic and Property Market

- Asset-specific –eg location, building quality, length of lease, financial strength of tenant, rent payable

- Environmental and regulatory

- Reputational

7. RECOMMENDATION

8. REVIEW

- Chief Finance officer

- Monitoring officer

- Investment Fund Manager



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

Date: 14 September 2016

Wards Affected: Goodrington with Roselands

Report Title: Disposal of Long Lease - Waterpark, Go-kart Site and Peter Pan Area, Goodrington Sands, Tanners Road, Goodrington, Paignton (Mayoral Decision)

Is the decision a key decision? Yes

When does the decision need to be implemented?

Executive Lead Contact Details: Councillor Nicole Amil, Executive Lead for Tourism, Culture and Harbours, Tel 01803 207122, Email: nicole.amil@torbay.gov.uk

Supporting Officer Contact Details: Fran Hughes, Assistant Director Community and Customer Services, Tel 01803 208002, Email fran.hughes@torbay.gov.uk / Karen Howe, Valuer TDA, Tel 01803 207918, E-mail: karen.howe@tedcltd.com

1. Proposal and Introduction

- 1.1 Due to the ending of the non-renewable lease for the Waterpark, Goodrington in November 2016, a tender process was undertaken for the granting of a new long lease commencing on 2nd November 2016 for the area of the existing Waterpark, Go-Kart area and Peter Pan Area. This area is shown edged red (with the exclusion of the ground floor area dotted blue) and edged blue on the attached plan number EM2663 at Appendix 2. An area slightly larger than the blue area may be required to facilitate a new water attraction and therefore the lines are indicative and subject to minor alteration.
- 1.2 Only one bid was received from the tender, and further discussions with this Bidder have taken place. It is proposed that a 25 year non renewable lease be granted to the bidder, with lease break options in favour of the Council at certain intervals.
- 1.3 A decision is required by the Mayor whether to grant a 25 year lease with lease break options in favour of the Council to the successful bidder.
- 1.4 As part of the tender the bidder set out a series of investment proposals in the facility which will enhance the site which will be of benefit to residents, visitors and to the Council. Granting a 25 year Lease gives the bidder sufficient security to allow this investment to happen but does limit the Councils options on the waterpark site for the next 10 years.

2. Reason for Proposal

Decisions on acquisitions or disposal of land in excess of £250,000 require approval by the Mayor.

3. Recommendation(s) / Proposed Decision

- 3.1 That the granting of a 25 year Lease with lease break options in favour of the Council (the 1st break option at year 10 and intervals thereafter) be approved for the red and the blue area shown on the Plan EM 2663 at Appendix 2 to the submitted report with authority being delegated to the Assistant Director (Corporate and Business Services) in consultation with the Torbay Development Agency's Head of Asset Management to approve the detailed terms of the Lease.

Appendices

Appendix 1: Supporting Information and Impact Assessment

Appendix 2: Plan EM2663 - Area to be leased edged red and edged blue

Exempt Appendix 3: Confidential commercially Sensitive Information

Background Documents

None additional all included in Exempt Appendix 3

Supporting Information and Impact Assessment

Service / Policy:	Communities and Customer Services
Executive Lead:	Councillor Nicol Amil
Director / Assistant Director:	Fran Hughes, Assistant Director – Community & Customer Services

Version:	3	Date:	19/08/2016	Author:	Karen Howe/Fran Hughes
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Section 1: Background Information	
1.	<p>What is the proposal / issue?</p> <p>The tender of the long Lease of the Waterpark, Go-kart and part of the Peter Pan area, Goodrington, Paignton has been undertaken through the Council's procurement process and a successful bidder has been identified. Only one bid was received.</p> <p>Further negotiations have taken place with the sole bidder and it is now proposed that 25 year lease be granted with lease break options in favour of the Council at intervals commencing at year 10 in the lease. The annual rental to be around £35,000 per annum, with an additional uplift in rent based on a percentage of turnover and regular rent reviews throughout the lease period. This rental level allows for a large capital investment by the bidder in the first five years of the contract. The proposed lease would be a full repairing lease with no right to renew at the end of the term.</p>
2.	<p>What is the current situation?</p> <p>The Waterpark was built in the 1980's by a Company called Rush & Thompkins, who then went bust in the 1990's. The then manager was granted a lease which was surrendered in 2009 due to the Tenant's financial difficulties.</p> <p>The existing Tenant, was successful in a tender for the site in 2009 and was granted a 5 year non renewable lease from the Council to run the waterpark.</p> <p>Due to the on-going large OJEU tender for the whole Clennon Valley, the Tenant was granted a 2 year short term lease, to enable the Waterpark to be run and to await the outcome of the OJEU procurement process.</p> <p>The OJEU Procurement did not progress and the existing Tenant's lease expires on 1 November 2016. The Tenant does not have any rights to renew the lease and therefore the site went out to tender.</p> <p>The area to the north of the Waterpark is the old Go-kart track site, as shown on plan number EM2663 at Appendix 2. This area is vacant at the moment</p>

	<p>and was included in the tender.</p> <p>The area to the south of the Waterpark known as the Peter Pan area was also included in the Tender as an additional option, shown edged blue at Appendix 2. External consultation in the form of a legal Notice for Disposal of Open Space has been carried out for the possible leasing of this area.</p> <p>As there was only one bidder, further detailed negotiations with the successful bidder were undertaken to decrease the length of the proposed Lease and improve the financial offer to the Council stated in the Tender.</p> <p>The benefits of a long lease for the waterpark, ex-go kart site and Peter Pan area being granted are annual income for the Council, investment and new attractions at the site.</p>
<p>3.</p>	<p>What options have been considered?</p> <p>The tender option considered was re- letting the attraction for up to a maximum of 40 years, thus giving the potential bidders the flexibility to bid for a long lease and providing investment in the operation, or a shorter lease. Other options include:</p> <ul style="list-style-type: none"> • Close the existing facility (as there is no option to extend the lease); • Offer a tender for the site, as is, as a waterpark; • Offer a tender of the site, to expand the offer on the site (including Go-Kart Track and Peter Pan area). • To consider the site as a part of a wider redevelopment opportunity across Goodrington/Clennon Valley <p>Further discussions with the sole bidder have been undertaken to improve the offer to the Council.</p>
<p>4.</p>	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan 2015-19?</p> <p>Principles:</p> <ul style="list-style-type: none"> • Use reducing resources to best effect <p>Targeted actions:</p> <ul style="list-style-type: none"> • Working towards a more prosperous Torbay • Promoting healthy lifestyles across Torbay • Ensuring Torbay remains an attractive and safe place to live and visit <p>Ambitions : Working towards a more prosperous Torbay</p>
<p>5.</p>	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>The potential Lease was included in the Council’s Forward Plan, reference I023108.</p>

	<p>The Local Ward Councillors have been consulted and made aware of the proposals.</p> <p>A Legal Notice has been advertised for the Disposal of Open Space for the Peter Pan Area, where the public can object in writing to the Council. The closing date for objections was 29th June 2016. One objection was received after the closing date.</p> <p>The proposal involves some alterations, and any development will be submitted through the Planning process.</p>
<p>6.</p>	<p>How will you propose to consult?</p> <p>As stated above in Paragraph 5.</p>

Section 2: Implications and Impact Assessment

7. What are the financial and legal implications?

Financial Implications of Decision

On completion of the long Lease, the Council would have an increased annual rent receipt for the property, and maintenance and improvement conditions from the new Tenant. By entering into a long lease for this attraction however, the Council limits its option for any future redevelopment of the site for the next 10 years.

If the Council were to trigger the landlord break option from year 10 then a compensation payment will be due to the tenant. This reflects the initial investment in the asset and also encourages and promotes ongoing investment without the fear of the Council breaking the lease. This compensation payment will be tapered and will reduce year on year from year 10 to 25.

Legal Implications

The Disposal of Open Space Notice for the area edged blue at Appendix 2 was advertised in the Local Newspaper and one objection was received after the closing date.

The one objection to the Disposal of Open Space of the Peter Pan Area mentions an Urban Protection Order; however, initial Legal advice in consultation with Planning and Natural Environment confirms that the Peter Pan Area is not covered by the Urban Landscape Protection Order of Goodrington Park and Roundham.

There may need to be a negotiated alteration of a 3rd party accessway to facilitate the ideal attraction arrangement.

A new Lease to be agreed and completed.

8. What are the risks?

- If the tender proposals and further negotiated terms are not implemented, the Council will need to go out to tender again, or look at different options for the site rather than a waterpark.
- If the tender proposals are implemented, this will limit the Councils ability to consider any future redevelopment of the site for the next 10 years.
- If the Council decides not to grant a lease then the existing facility will

	<p>close in November 2016 and remain closed until a redevelopment opportunity is identified.</p> <ul style="list-style-type: none"> • Not achieving planning permission for the tender submission as proposed
9.	<p>Public Services Value (Social Value) Act 2012</p> <p>Yes, and the process has been the subject of a formal procurement process and was market tested.</p>
10.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>The tender for a lease of up to 40 years for the site was market tested through a full Council procurement exercise. A marketing strategy for the site was also implemented. However, the interest in the site was limited.</p> <p>Further negotiations with the only successful bidder were undertaken and a 25 year lease with lease break options in favour of the Council is now being recommended.</p> <p>In accordance with the Council's Asset Management Plan, the asset was market tested.</p>
11.	<p>What are key findings from the consultation you have carried out?</p> <p>One objection to the Disposal of Open Space Notice for the Peter Pan Area was received after the closing date.</p>
12.	<p>Amendments to Proposal / Mitigating Actions</p> <p>Further negotiations with the successful bidder have taken place to clarify certain issues, in particular the length of the lease and financial return to the Council.</p>

Equality Impacts

13	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people	Additional facilities provided for families and young people within the terms of the lease.		
	People with caring Responsibilities			Granting of a new Lease should have a neutral impact, and there should be no differential impact
	People with a disability			Granting of a new Lease should have a neutral impact, and there should be no differential impact
	Women or men			Granting of a new Lease should have a neutral impact, and there should be no differential impact
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			Granting of a new Lease should have a neutral impact, and there should be no differential impact
	Religion or belief (including lack of belief)			Granting of a new Lease should have a neutral impact, and there should be no differential impact
	People who are lesbian, gay or bisexual			Granting of a new Lease should have a neutral impact, and there should be no differential impact
	People who are transgendered			Granting of a new Lease should have a neutral impact, and there

			should be no differential impact
	People who are in a marriage or civil partnership		Granting of a new Lease should have a neutral impact, and there should be no differential impact
	Women who are pregnant / on maternity leave		Granting of a new Lease should have a neutral impact, and there should be no differential impact
	Socio-economic impacts (Including impact on child poverty issues and deprivation)		Granting of a new Lease should have a neutral impact, and there should be no differential impact
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)		Granting of a new Lease should have a neutral impact, and there should be no differential impact
14	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	Loss of open space on the Peter Pan area	
15	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	None aware of.	



Document is Restricted

Agenda Item 10

Appendix 4

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

Document is Restricted

Agenda Item 11



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

Date: 14 September 2016

Wards Affected: Cockington with Chelston / Tormohun

Report Title: Torre Valley North Sports Lease

Is the decision a key decision - No

When does the decision need to be implemented? As soon as possible

Executive Lead Contact Details: Mayor (Mayor Gordon Oliver) Executive Lead for Finance and Regeneration, 01803 207001

Supporting Officer Contact Details: Kevin Mowat, Executive Head of Business Services, 01803 208428, kevin.mowat@torbay.gov.uk

1. Proposal and Introduction

- 1.1 In 2012, following an approach to Torbay Council, lease terms were offered to the Torre Valley Sports Group CIC (Community Interest Company) for a 40 year lease of Torre Valley North Playing Fields, this was initially for a rent of £4,000 pa. However, during negotiations Torbay Council suggested that it wanted to see investment in the playing fields. As a consequence, to ensure that the lease to the Torre Valley Sports Group CIC was viable and sustainable, for the tenant, it was agreed that the rent payable would be reduced from £4,000 pa to £2,000 pa for the first 5 years of the term. The discussions were in principle and subject to contract. Also, during negotiations the lease term was reduced to 30 years at the request of the National Playing Fields Association as they hold a Deed of Dedication over the site.
- 1.2 Following protracted discussions the lease was finally ready to be signed and completed in April 2016. However, in February 2016 the Council's Corporate Asset Management Plan 2015 ~ 2019 was updated and a new version adopted by the Council. This Plan forms an important part of the Council's Policy Framework.
- 1.3 The revision version of the Corporate Asset Management Plan inserted the following statement, "*Due to the financial challenges facing the Authority and the possible future reductions in Revenue Support Grants (RSG), unless there is specific approval at Full Council to the contrary, the Council will always seek to*

maximise the full market receipt for their assets whether by way of freehold disposal or leasehold interest".

- 1.4 The rent previously agreed with Torre Valley Sports Group CIC is some 50% below the market rent that could be achieved for this playing field.
- 1.5 It is now appropriate to grant a lease to the Torre Valley Sports Group CIC that is in accordance with the 'overarching sports lease strategy' identified in the revised Corporate Asset Management Plan. The aim of the generic approach to sports leases is to provide a speedier, more consistent and transparent approach, for all concerned, which will hopefully help to reduce further delays and manage the expectations of the clubs. It is also expected that this generic approach will introduce more certainty, consistency and transparency to lease process.
- 1.6 Although the recommendation is that this lease is to be granted at the appropriate market rent it is also proposed that a 30 month rent free period should be offered so that the average rent over the first five years is equivalent to the originally agreed rent of £2,000 pa, which was an offer made by the Council in good faith. This proposal also recognises the change in the Council's policy, which has occurred during the protracted period of lease negotiations and which has resulted in a higher rent position. The previous discussions had been in principle and were always subject to contract.

2. Reason for Proposal

- 2.1 The Corporate Asset Management Plan 2015 ~ 2019 is a Policy Framework document and as stated the Council will always seek to maximise full market rent. Any reductions below market rent would need to be agreed by the Council prior to authority being given and the lease completed. A decision is therefore required by the Council to grant a sports lease which is below market rent for a period of 30 months.
- 2.2 It is appropriate to give the Torre Valley Sports Group CIC time to submit an application to the Council for a grant to offset the market rent (a grant in lieu of rent), in accordance with the procedure set out in the amended Corporate Asset Management Plan.

3. Recommendation(s) / Proposed Decision

- 3.1 That the granting of a 30 year full repairing lease to Torre Valley Sports Group CIC (Community Interest Company) at the appropriate market rent be approved.
- 3.2 That authority is delegated to the Assistant Director of Corporate & Business Services, in consultation with the Executive Head of Business Services and the Torbay Development Agency, to approve the detailed terms of the lease.
- 3.3 That, in light of the protracted delays and the revised higher rental figure, the Assistant Director of Corporate & Business Services be authorised to offer a rent

free period of 30 months, to allow the Torre Valley Sports Group CIC time to submit an application to the Council for a grant to offset the market rent.

Appendices

Appendix 1: Supporting Information and Impact Assessment

Background Documents

Report ~ Torre Valley North Playing Field – Background to the proposal (Head of Schools Commissioning – September 2013)

Corporate Asset Management Plan – February 2016

<http://www.torbay.gov.uk/DemocraticServices/documents/s27873/Appendix%20%20-%20Corporate%20Asset%20Management%20Plan%20Final%20Version.pdf>

Review of the provision of grants in lieu of rent – Report to the Overview & Scrutiny Board (March 2004)

Expression of Interest for a Community Asset Transfer - prepared by Sport Torbay Limited, August 2015

Torbay Sports Facilities Strategy – April 2014

Torbay Playing Pitch Strategy – April 2014

Supporting Information and Impact Assessment

Service / Policy:	Corporate Asset Management Plan
Executive Lead:	Mayor (Mayor Gordon Oliver) Executive Lead for Finance and Regeneration
Director / Assistant Director:	Anne-Marie Bond, Assistant Director – Corporate & Business Services

Version:	6	Date:	08/07/16	Authors:	Kevin Mowat/ Fran Hughes/ John Tyas
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Section 1: Background Information

1. What is the proposal / issue?

Rent for a new lease to Torre Valley Sports Group CIC (Community Interest Company) had previously been negotiated at £2,000 pa. The discussions were in principle and subject to contract. However, in February 2016 the Council's Corporate Asset Management Plan 2015 ~ 2019 was updated and a new version adopted by the Council. This Plan forms an important part of the Council's Policy Framework. The revision inserted the following statement, "*Due to the financial challenges facing the Authority and the possible future reductions in Revenue Support Grants (RSG), unless there is specific approval at Full Council to the contrary, the Council will always seek to maximise the full market receipt for their assets whether by way of freehold disposal or leasehold interest*".

A subsequent market rental valuation has now been completed for the Torre Valley North playing fields, with the market rent estimated to be in the region of £3,350 ~ £6,000 pa.

The TDA reached this market valuation range by using comparable data from Teignbridge District Council and Plymouth City Council. Evidence was also taken from existing leases such as the Torquay Recreation Ground. Whilst not providing direct comparables the TDA also discussed market rents with surveyors at Exeter City Council and also knowledge was gained from East Devon District Council to obtain the market 'tone', as well as the range of values from those council areas.

In accordance with the Council's Corporate Asset Management Plan, Council approval is needed for any leasehold disposal at less than market rent.

2.

What is the current situation?

As a response to escalating pupil numbers in 2012/13 Cockington School was identified as needing to expand. To facilitate this expansion there was a need to utilise land at Torre Valley North (TVN). During the Spring/Summer 2013, Children's Services and Cockington School took over some of the TVN land to increase the size of the playground in order to increase the size of the school. In doing so it affected the ability of the various sports to be carried on at TVN due to reduced pitch sizes. As a result, Children's Services put forward proposals in which it was agreed that as compensation for the land taken away they would transfer £127,000 to the Council to assist with improvements to the playing fields. The Council's Capital Plan was amended in Q3 2013/14 with the transfer of the £127,000 funds from Cockington Primary School expansion scheme to the Council to compensate for the school's encroachment onto TVN. This money was held by the then Residents and Visitors Services area to carry out the works, subject to receipt of quotes being received.

The £127,000 is capital funding and has to be spent on "eligible" capital expenditure. Once the eligible works were complete then the agreement was that the balance of the money would be available as a grant to Torre Valley Sports Group CIC, the proposed Lessee. This was built into the draft Heads of Terms being negotiated at the time.

Initially the lease negotiations started at a quoting rent of £4,000 pa. In subsequent negotiations that followed it was agreed the proposed rent would be reduced to £2,000 pa in order to assist the tenant in building up revenue and membership. This equated to approximately a 50% reduction in the full market rent for the TVN sports field. However, as is normal practice the discussions were in principle and subject to contract.

A lease was then drafted on this basis and was due to be completed in April 2016. However, amendments to the Council's Corporate Asset Management Plan 2015 ~ 2019, in February 2016, has meant that officers are required to offer Torre Valley Sports Group CIC a leasehold disposal at the full market rent, which will be at the original figure of £4,000 pa.

Given the protracted delays and the revised higher rental figure it is proposed that a 30 month rent free period should be offered so that the average rent over the first five years is equivalent to the originally agreed rent of £2,000 pa, which was an offer made by the Council in good faith.

The tenant will be able to apply for a grant to offset the market rent in the future and the tenant will be able to exercise a break clause if they cannot sustain their commitments. Furthermore, the grant period can be aligned with the time of the rent review and/or break option.

Also, it is now appropriate to grant a lease to the Torre Valley Sports Group CIC that is in accordance with the 'overarching sports lease strategy' identified in the revised Corporate Asset Management Plan. The aim of the generic approach to sports leases is to provide a speedier, more consistent and transparent approach, for all concerned, which will hopefully help to reduce further delays and manage the expectations of the clubs.

Furthermore, the Council will not normally offer grant support to tenant organisations that are not affiliated to or are a member of a recognised national body/voluntary organisation. This requirement is included to ensure that a tenant organisation has appropriate rules & regulations; and is required to follow best practice in such matters as safeguarding, protecting young children, financial probity and equality. It is expected that the organisation will have the relevant policies for such matters and can therefore demonstrate a corporate social responsibility.

In 2014/15 the revenue budget for sports leases was reduced by £25,000 in lieu of the anticipated savings being released from clubs taking out 40 year leases. The anticipated savings have not been made and therefore this remains a budget pressure.

The Council's ability to provide support for sports clubs in the Bay has clearly worsened since the expansion of Cockington School and when negotiations commenced with the Torre Valley Sports Group CIC. In the draft Heads of Terms being negotiated at the time it was suggested that once the "eligible" capital works were complete then the agreement was that the balance of the money would be available as a grant to Torre Valley Sports Group CIC, the proposed Lessee. It is the view of officers that this is no longer appropriate and would not be an equitable use of the funding. It is the Council which has suffered the detriment of the land being taken by the School rather than the clubs. It is now proposed that, the remaining balance of the £127,000 capital sum allocated as compensation for land taken to expand facilities at Cockington Primary School, be used initially to undertake modifications to the playing fields at Torre Valley North such that they are reinstated to the same standard that existed prior to the extension of the school.

The Torre Valley Sports Group CIC would be able to make an early application for the use of any remaining funds so that they can further improve the facilities at Torre Valley North. Torbay Sports Council will be able to advise the Council on how best to use any funding that remains.

<p>3.</p>	<p>What options have been considered?</p> <p>The following options have been considered:</p> <p>Offer the lease at below the market rent During early stage discussions the rent for the lease was reduced from a quoted £4,000 pa down to £2,000 pa. This 50% reduction was to ensure that the tenant, Torre Valley Sports Group CIC was viable and sustainable and given time to build up revenue in order to pay the rent. It should also be noted that the Lease allows the rent to be reviewed to the appropriate market rent every 5 years. Therefore, the Council would at regular intervals have further opportunity to obtain a market rent from this property at each rent review during the lease term.</p> <p>If the CIC are granted a lease at below market rent then this will set a precedent for other sports clubs in Torbay.</p> <p>Seek the full market rent from the commencement of the lease Having looked at market comparable evidence for similar playing field sites throughout Devon, the market rent has been assessed for this property at between £3,350 and £6,000 per annum. Therefore, the proposed rental terms of the lease with the Tenant would fall within this range.</p> <p>Seek the full market rent from commencement of the lease but offer a rent free period This would allow the tenant to make an application for a grant to offset the market rent in the future. A rent free period of 30 months (2½ years) would equate to an average rent of £2,000 pa for the first five years. This is the option recommended.</p> <p>Offer a lease with a peppercorn rent This is outside of Council policy and there is no business case to justify this option.</p>
<p>4.</p>	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan 2015-19?</p> <p>This decision to grant a lease at Torre Valley North is not a corporate priority. However, it does support the Corporate Plan ambitions of being a Healthy Torbay in promoting a healthy lifestyle and ensuring Torbay remains an attractive and safe place to live.</p>

<p>5.</p>	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>The outcome regarding the rent could affect the Tenant and any of the clubs that hire the ground from them, as well as the Council as Landlord. The tenant has already stated that if the rent were to increase they would look at increasing the hiring charges to the clubs that use the ground. The lease is currently drafted whereby the hire charges to the clubs that use TVN is capped at not more than 15% more or less than the Council would reasonably charge for using similar facilities elsewhere in the Bay.</p>
<p>6.</p>	<p>How will you propose to consult?</p> <p>Discussions have been ongoing and the lease has already been agreed but 'subject to contract', therefore, any further consultation following the Council's decision would be with the tenant, Torre Valley Sports Group. Draft reports and appendices were considered by the Overview & Scrutiny Board and sent to the Torbay Sports Council for suggestions and comment. Representatives from Torbay Sports Council and the Torre Valley Sports Group CIC were asked to speak at the Overview & Scrutiny Board on 6th July 2016.</p>

Section 2: Implications and Impact Assessment

<p>7.</p>	<p>What are the financial and legal implications?</p> <p>Financial Implications of Decision</p> <p>There is an assumption that the Council would save the maintenance costs for this site. However, these are part of a wider package of maintenance costs arranged within the TOR2 contract. It is anticipated that the earliest any cashable saving could be realised from the change in maintenance liability will be 2019, at the end of the current contract period with TOR2.</p> <p>The rent receipt is expected to be £4,000 pa less any rent free period.</p> <p>There will also be a financial precedent set if the full £127,000 is allocated to the new CIC in compensation for the loss of sports facilities. Currently, Torre Valley North Playing Fields is a Council asset, with sports clubs hiring the facility as and when required. Therefore, it is the Council which has suffered the detriment of the land being taken by the School rather than the clubs. When this was discussed in 2012/13 the Council's financial position was different.</p>
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<p>8.</p>	<p>What are the risks?</p> <p>Risks to Council</p> <p>If the rent is agreed at full market rent then there is no risk to the Council as it is within the Council's Asset Management Plan.</p> <p>If the rent is agreed at a level below market rent then this would be contrary to the Council's Asset Management Plan.</p> <p>If the Council determines a rent higher than they have been negotiating with the CIC, due to the recent change in Asset Management Plan then there is a small risk of reputational damage for the Council with the CIC and other sports users. The Torre Valley Sports Group CIC could make a formal complaint against the Council.</p> <p>Any remaining balance from the £127,000 could be utilised to support a wide range of other sports facilities across the Bay and need not be linked directly to Torre Valley North.</p> <p>Risk to the CIC</p> <p>If the rent was increased to the full market rent then there is a risk that the Tenant would find it difficult to meet the rental commitments through the term of the lease and would have to increase the rental charges to the community using the facilities, which may deter participation. However, a rent free period would help to mitigate this risk and the tenant could apply for a grant to offset the market rent. Also, as an ultimate option the tenant would have a right to break the lease.</p>
<p>9.</p>	<p>Public Services Value (Social Value) Act 2012</p> <p>Not applicable as procurement of services or the provision of services together with the purchase or hire of goods or the carrying out of works not required as part of this decision</p>
<p>10.</p>	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>Comparable evidence from sport leases from Plymouth City Council, Teignbridge District Council and Exeter City Council has been obtained as well as reviewing data from completed leases within Torbay Council. This data has helped inform the calculation of the market rent.</p>

<p>11.</p>	<p>What are key findings from the consultation you have carried out?</p> <p>Torbay Sports Council were consulted on these proposals and they provided feedback to the Overview and Scrutiny Board. The views of the Torbay Sports Council can be summarised as follows :-</p> <p><i>“Torbay Sports Council do not agree with the Council to charging Market Rent on Sporting Facilities. Torbay Sports Council proposes that all Sports Leases not for profit organisations have a peppercorn rent up to a maximum of £500 a year and this is put before full Council. This includes old, current and future leases.”</i></p> <p>The Sports Council also stated that :-</p> <p><i>“If the lease is agreed, Torbay Council will save £630,000 over 30 years. Also, if market rent is charged at this facility then sports charges will increase between 150% and 200% for Rugby, Cricket and Athletics; which will not be affordable for the sports clubs.”</i></p> <p>On the matter of the £127,000 capital sum the Sports Council confirmed their view that <i>“any balance that was left after improvements to Torre Valley North was to be used by Torre Valley North Group on the improvements to Torre Valley North. Torbay Sports Council to monitor future payments”</i>.</p> <p>The Torre Valley Sports Group CIC were consulted and they do not agree with the proposal for a market rent but they appreciate that a 30 month rent free period would provide them with an average rent of £2,000 pa over the first 5 years and £2,000 pa was a rent figure that they had previously agreed. They would like to use the £127,000 capital sum to re-instate the playing pitches at Torre Valley North and then retain the balance for use towards further improvements. In particular the CIC have indicated that they would use any surplus funding to provide match-funding towards a new Pavilion and changing facility as well as a 60 metre indoor running track.</p> <p>Torre Valley Sports Group CIC would therefore like some clarification over what will happen to the remaining balance of the £127,000 after the pitches are realigned as originally proposed. They have also asked for confirmation about the tenant’s break clause and officers have confirmed that the tenant will have a right to break at each rent review. Furthermore they have requested assurances that they would not require planning permission for the extension of the bank at the southern end of the ground or that if consent was required that it would not be withheld. Officers are not in a position to provide these assurances. Finally, Torre Valley Sports Group CIC have indicated that they would be willing to sign an agreement to lease whilst the above issues are discussed.</p>
<p>12.</p>	<p>Amendments to Proposal / Mitigating Actions</p> <p>See above.</p>

Equality Impacts

13	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people	A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.	Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.	
	People with caring Responsibilities	A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the	Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.	

	<p>respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>		
<p>People with a disability</p>	<p>A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>	<p>Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.</p>	
<p>Women or men</p>	<p>A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote</p>	<p>Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.</p>	

	equality.		
People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>	A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.	Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.	
Religion or belief (including lack of belief)	A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.	Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.	

<p>People who are lesbian, gay or bisexual</p>	<p>A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>	<p>Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.</p>	
<p>People who are transgendered</p>	<p>A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>	<p>Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.</p>	

<p>People who are in a marriage or civil partnership</p>	<p>A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>	<p>Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.</p>	
<p>Women who are pregnant / on maternity leave</p>	<p>A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>	<p>Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.</p>	

<p>Socio-economic impacts (Including impact on child poverty issues and deprivation)</p>	<p>A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>	<p>Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. This may reduce participation in sport. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.</p>	
<p>Public Health impacts (How will your proposal impact on the general health of the population of Torbay)</p>	<p>A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>	<p>Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. This may reduce participation in sport. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.</p>	

14	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	N/A
15	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	N/A



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

Date: 14 September 2016

Wards Affected: All Wards

Report Title: Housing Benefit and Council Tax Support Risk Based Verification Policy (Mayoral Decision)

Is the decision a key decision? No

When does the decision need to be implemented? 1 October 2016

Executive Lead Contact Details: Councillor Mark King, Executive Customer Services, mark.king@torbay.gov.uk

Supporting Officer Contact Details: Bob Clark, Executive Head Community and Customer Services, 01803 207420, bob.clark@torbay.gov.uk

1. Proposal and Introduction

- 1.1 The Council has been given the opportunity to implement Risk Based Verification into its Housing Benefit and Council Tax Support assessment processes by the Department of Work and Pensions (DWP).
- 1.2 Currently when a resident applies for these benefits they must provide a substantial amount of original evidence. The same level of verification is applied to all customers, irrespective of their circumstances and this is both costly and inefficient.
- 1.3 Risk Based Verification assesses the information provided on the application form and allocates the case to a risk category. If someone is in a low-risk category they may only be required to submit basic identification and National Insurance Number information. This targeted approach has shown to be more effective at identifying fraud and error, whilst also reducing costs and improving the customer journey.
- 1.4 To introduce this new approach the Council is required by the DWP to have a Risk Based Verification Policy in place that is approved by the Mayor and the Section 151 Officer.

2. Reason for Proposal

2.1 Implementing Risk Based Verification will reduce the necessity for customers to contact the Council through more expensive methods such as face to face, and decrease the need to produce original documents to support their claim resulting in a reduction in the number of customer contacts, lower volumes of scanning and indexing and less information requests.

2.2 To summarise, the main reasons for implementing Risk Based Verification are as follows:

- Introduce a more efficient administration process that will result in a reduction in officer time. This will allow resources to be deployed more effectively and result in a reduction in administration costs.
- Significantly reduce the claim verification process for customers, which will improve processing times.
- Supports the cross-skilling of customer service advisors as the administration process is simplified for low risk cases.
- Improves customer satisfaction as on average Housing Benefit and Council Tax Support will be paid much quicker, duplication reduced and fewer avoidable calls.
- Identify potentially fraudulent cases and taking the appropriate action.

3. Recommendation(s) / Proposed Decision

3.1 That the Risk Based Verification Policy for Housing Benefit and Council Tax Support set out at Exempt Appendix 2 to the submitted report be approved.

Appendices

Appendix 1: Supporting Information and Impact Assessment

Appendix 2: Risk Based Verification Policy (Publication - exempt under paragraph 7 Part 1 of Schedule 12A to the Local Government Act 1972 as it contains information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime)

Appendix 3: Department of Work and Pensions Circular S11/2011

Supporting Information and Impact Assessment

Service / Policy:	Housing Benefit and Council Tax Support Risk Based Verification
Executive Lead:	Cllr Mark King, Executive Customer Services, mark.king@torbay.gov.uk
Director:	Bob Clark, Executive Head Community and Customer Services, 01803 207420. Bob.clark@torbay.gov.uk

Version: 1	Date: 14 September 2016	Author: Kevin Michell
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Section 1: Background Information	
1.	<p>What is the proposal / issue?</p> <p>1.1 To implement Risk Based Verification.</p> <p>1.2 Risk Based Verification is a method of applying different levels of checks to different circumstances, depending on a complex mathematical risk profile given to each customer. The process works on a risk matrix which has been based on many years of experience and statistical information about which types of benefit claims present a particular risk. The data can also be matched against data for other local authorities to ensure that customers do not have a duplicate claim in progress. The higher the deemed risk, the higher amount of resource will be used to establish that the claim is correct.</p> <p>1.3 Local authorities that have adopted Risk Based Verification have shown that this type of approach is very effective, both in identifying fraud and error and also in reducing the overall cost of verifying claims. It has an immediate impact on work processes because resources are targeted more effectively and in many cases the overall timescales for processing new claims have improved.</p>
2.	<p>What is the current situation?</p> <p>2.1 Housing Benefit and Council Tax Support provides financial assistance for people receiving low income and benefits as help towards paying their rent and Council Tax.</p> <p>2.2 The number of new applications and changes processed in 2015/16 was around 58,000, or 1,100 items a week. During the first quarter of this financial year it has also averaged around this amount.</p> <p>2.3 Processing times for new claims are calculated from the date of the application to the date all information is received. This means if the information is not returned promptly by the customer it will have an adverse effect on performance, which is not within the control of the Council.</p> <p>2.4 The type of supporting information had historically been determined by the Department for Work and Pensions' verification framework and the Council has had to adhere to these standards in order to satisfy external auditors as part of the annual subsidy certification process.</p>

	<p>2.5 A risk based approach will alleviate these pressures as the amount of time involved in processing new claims and address changes will be greatly reduced for low risk cases. It will also support the consolidation of resources through the cross-skilling of processors and advisors, which will enable current workloads to be maintained with the reduced staffing levels.</p>
3.	<p>What options have been considered?</p> <p>3.1 Progress with the implementation of Risk Based Verification.</p> <p>3.2 Continue with the present system of verifying the same amount of evidence for all new claims and address changes. However, this is a more time consuming and costly process when compared to the benefits of Risk Based Verification.</p>
4.	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan 2015-19?</p> <p>4.1 The introduction of Risk Based Verification will provide a quicker and less onerous service for many of the council's customers supporting the council's aspiration to deliver better and more efficient front line services.</p>
5.	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>There has been no consultation as the policy will benefit all stakeholders by reducing the burden of evidence that needs to be supplied for claims verification purposes and reducing processing times of claims.</p>
6.	<p>How will you propose to consult?</p> <p>Not applicable for this proposal.</p>

Section 2: Implications and Impact Assessment

7.	<p>What are the financial and legal implications?</p> <p>7.1 Implementation and on-going costs of the Risk Based Verification technology are contained within existing budgets.</p> <p>7.2 The contract for the Risk Based Verification IT system will run for two years and will be re-evaluated twelve months after implementation.</p> <p>7.3 There is a mandatory requirement to have a Risk Based Verification Policy that details risk profiles, verification standards and the minimum number of claims to be checked, which is set out in Appendix 2.</p> <p>7.4 The policy complies with the recommendations from the Department of Work and Pensions outlined in Housing Benefit and Council Tax Benefit Circular HB/CTB S11/2011, see Appendix 3. It should be noted that this policy will be the basis on which the Council is audited. For this reason, the policy is approved by the Mayor and the Council's Section 151 Officer.</p>
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- 7.5 External auditors will check during the annual certification process that the Council has followed its Risk Based Verification Policy. Failure to do so could result in subsidy implications, meaning there could be a cost to the Council. This will be monitored closely to ensure that subsidy is not affected.
- 7.6 The verification levels laid out in Torbay's Policy is common practice and has been live in a number of other local authorities who have not had their subsidy claims challenged in this respect during their annual audit.
- 7.7 The policy must be reviewed annually but not changed in-year as this would complicate the audit process.

8.

What are the risks?

8.1 The risks are as follows:

No	Risk	Likelihood	Impact	Mitigation
1	Fraud and error will exist in low risk claims and will not be detected	Medium	Low	Ensure software will escalate a proportion of claims from low to medium risk
2	Staff having difficulties in adapting to new procedures and processes	Medium	Medium	Engage and involve staff, provide regular updates. Comprehensive training sessions will be provided prior to implementation plus ongoing support once live.
3	Cases are incorrectly escalated to a high risk score	Medium	Medium	Monitor to ensure that only the appropriate cases escalated to a high risk score
4	Loss of HB subsidy if the Policy is adopted inappropriately	Low	High	The Department for Work and Pensions requirements for the policy are set out in this report and the Council's policy has been adapted from those successfully used by other councils

8.2 The Risk Based Verification software package is delivered with reports that enable the scheme to be monitored. Blind-sampling is automated within the system to validate the process. This will move a sample of those cases identified as low and high risk to medium risk status and therefore mitigate the risk of error in the allocation of the risk category.

6.1 Furthermore assessment staff are able to increase the risk category at any time should they have concerns about an individual case. However they must never reduce a risk rating. The Risk Based Verification procedure will detail when and how this will be applied and monitored.

<p>9.</p>	<p>Public Services Value (Social Value) Act 2012</p> <p>9.1 The Council is contracted to the software supplier Civica Open Revenues to administer Council Tax, Non-Domestic Rates, BID, Housing Benefit and Council Tax Support and Crisis Support.</p> <p>9.2 To implement Risk Based Verification additional software is required that will enable the core system to fully integrate with the electronic claim form and the risk rating solution.</p> <p>9.3 Due to compatibility, the additional integration software can only be provided by our current supplier. The risk rating software, which is provided by Call Credit, can only be supplied under licence through our current software supplier, Civica Open Revenues. As a result a waiver for the procurement has been obtained.</p>
<p>10.</p>	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>10.1 This scheme has been piloted in other local authorities and rolled out nationally from November 2011, allowing the Council to benefit from experiences of others.</p> <p>10.2 The process of applying for Housing Benefit and Council Tax Support involves the completion and submission of an application form as well as providing supporting evidence.</p> <p>10.3 The Council has complied with the Department of Work and Pensions' Verification Framework since 2003. The main feature of the Verification Framework is the requirement for the customer to provide all relevant original documents relating to their specific claim.</p> <p>10.4 Rather than requiring all customers to provide original supporting documents covering all aspects of their claims, Risk Based Verification assesses information supplied in the application form and allocates the case to a risk category.</p> <p>10.5 For the purposes of applying verification on a risk basis, each application will be ranked into one of three categories, Low, Medium and High.</p> <p>10.6 The risk category is determined by proprietary software using statistical information and risk propensity data gathered over many years about what type of claim represents what type of risk.</p> <p>10.7 The software is integrated with the benefit processing software and on-line electronic forms. When a customer submits an on-line claim / application form, it is immediately risk scored with the relevant evidence requirement being displayed to the customer before the claim is finally submitted.</p> <p>10.8 The requirements for each risk group in Torbay's Policy are:</p> <p>Low Risk - the only checks to be made on cases treated as low risk are original documents to prove identity and National Insurance Number and, if the customer is a student, original documents to prove formal confirmation of status.</p> <p>Medium Risk - cases in this category must have the same checks as low risk plus declared documentary proof for every type of income or capital. The documentation can be photocopies or digital images in this instance.</p>

	<p>High Risk - all high risk cases must have the same checks as low risk plus original documentation for each declared type of income or capital.</p> <p>10.9 In line with Department of Work and Pensions guidance it is expected that around 55% of cases will be Low Risk, 25% Medium and 20% High. Baseline data has been gathered to record against Torbay's caseload so that this pattern can be monitored against DWP expectations.</p>
<p>11.</p>	<p>What are key findings from the consultation you have carried out?</p> <p>Not applicable for this proposal.</p>
<p>12.</p>	<p>Amendments to Proposal / Mitigating Actions</p> <p>Not applicable for this proposal.</p>

Equality Impacts

<p>13</p>	<p>Identify the potential positive and negative impacts on specific groups</p> <p>10.10 Risk Based Verification assigns a risk rating to each benefit claim.</p> <p>10.11 When a risk rating is assigned no account is taken of ethnicity, gender, religion or any of the other equality strands in determining the level of verification required.</p> <p>10.12 Risk Based Verification does not have any direct equality and diversity issues as all cases are treated the same.</p> <p>10.13 Where it is intended to carry out visits, these will be undertaken by a trained visiting officer. These officers are used to carrying out visits to the vulnerable, elderly and disabled, as these groups of claimants are often unable to access council services in any other way. They are also able to carry out visits to people whose first language is not English.</p>		
	<p>Positive Impact</p>	<p>Negative Impact & Mitigating Actions</p>	<p>Neutral Impact</p>
<p>Older or younger people</p>			<p>No adverse impact has been identified.</p>
<p>People with caring Responsibilities</p>			<p>No adverse impact has been identified.</p>
<p>People with a disability</p>			<p>No adverse impact has been identified.</p>
<p>Women or men</p>			<p>No adverse impact has been identified.</p>
<p>People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i></p>			<p>No adverse impact has been identified.</p>
<p>Religion or belief (including lack of belief)</p>			<p>No adverse impact has been identified.</p>
<p>People who are lesbian, gay or bisexual</p>			<p>No adverse impact has been identified.</p>
<p>People who are transgendered</p>			<p>No adverse impact has been identified.</p>
<p>People who are in a marriage or civil partnership</p>			<p>No adverse impact has been identified.</p>

	Women who are pregnant / on maternity leave			No adverse impact has been identified.
	Socio-economic impacts (Including impact on child poverty issues and deprivation)			No adverse impact has been identified.
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)			No adverse impact has been identified.
14	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	Not applicable for this proposal.		
15	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	Not applicable for this proposal.		

Agenda Item 13

Appendix 2

By virtue of paragraph(s) 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

Housing Benefit and Council Tax Benefit Circular

Department for Work and Pensions

1st Floor, Caxton House, Tothill Street, London SW1H 9NA

HB/CTB S11/2011

SUBSIDY CIRCULAR

WHO SHOULD READ	All Housing Benefit (HB) and Council Tax Benefit (CTB) staff
ACTION	For information
SUBJECT	Risk-Based Verification of HB/CTB Claims Guidance

Guidance Manual

The information in this circular does not affect the content of the HB/CTB Guidance Manual.

Queries

If you

- want **extra copies of this circular/copies of previous circulars**, they can be found on the website at <http://www.dwp.gov.uk/local-authority-staff/housing-benefit/user-communications/hbctb-circulars/>
- have any queries about the
 - **technical content of this circular**, contact
Email: HBCTB.SUBSIDYQUERIES@DWP.GSI.GOV.UK
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Risk-Based Verification of HB/CTB Claims Guidance

Introduction

1. This guidance outlines the Department's policy on Risk-Based Verification (RBV) of Housing Benefit and Council Tax Benefit (HB/CTB) claims.

Background

2. RBV allows more intense verification activity to be focussed on claims more prone to fraud and error. It is practiced on aspects of claims in Jobcentre Plus (JCP) and the Pension Disability and Carers Service (PDCS). Local authorities (LAs) have long argued that they should operate a similar system. It is the intention that RBV will be applied to all Universal Credit claims.
3. Given that RBV is practised in JCP and PDCS, the majority (up to 80%) of HB/CTB claims received in an LA may have been subject to some form of RBV. Already 16 LAs operate RBV. Results from these LAs have been impressive. In each case the % of fraud and error identified has increased against local baselines taken from cells 222 and 231 of the Single Housing Benefit Extract (SHBE). In addition, in common with the experience of JCP and PDCS there have been efficiencies in areas such as postage and storage and processing times have improved.
4. We therefore wish to extend RBV on a **voluntary basis** to all LAs from April 2012.

This guidance explains the following;

- What is RBV?
- How does RBV work?
- The requirements for LAs that adopt RBV
- How RBV claims will be certified
- What are the subsidy implications?

What is RBV?

5. RBV is a method of applying different levels of checks to benefit claims according to the risk associated with those claims. LAs will still be required to comply with relevant legislation (Social Security Administration Act 1992, section 1 relating to production of National Insurance numbers to provide evidence of identity) while making maximum use of intelligence to target more extensive verification activity on those claims shown to be at greater risk of fraud or error.
6. LAs have to take into account HB Regulation 86 and Council Tax Benefit Regulation 72 when verifying claims. The former states:

“a person who makes a claim, or a person to whom housing benefit has been awarded, shall furnish such certificates, documents, information and evidence in connection with the claim or the award, or any question arising out of the claim or the award, as may reasonably be required by the relevant authority in order to determine that person’s entitlement to, or continuing entitlement to housing benefit and shall do so within one month of being required to do so or such longer period as the relevant authority may consider reasonable.”

Council Tax Benefit Regulation 72 is similar.

7. These Regulations do not impose a requirement on authorities in relation to what **specific** information and evidence they should obtain from a claimant. However, it does require an authority to have information which allows an **accurate assessment** of a claimant’s entitlement, both when a claim is first made and when the claim is reviewed. A test of reasonableness should be applied.

How does RBV work?

8. RBV assigns a risk rating to each HB/CTB claim. This determines the level of verification required. Greater activity is therefore targeted toward checking those cases deemed to be at highest risk of involving fraud and/or error.
9. The classification of risk groups will be a matter for LAs to decide. For example, claims might be divided into 3 categories:
 - **Low Risk Claims:** Only essential checks are made, such as proof of identity. Consequently these claims are processed much faster than before and with significantly reduced effort from Benefit Officers without increasing the risk of fraud or error.
 - **Medium Risk Claims:** These are verified in the same way as all claims currently, with evidence of original documents required. As now, current arrangements may differ from LA to LA and it is up to LAs to ensure that they are minimising the risk to fraud and error through the approach taken.
 - **High Risk Claims:** Enhanced stringency is applied to verification. Individual LAs apply a variety of checking methods depending on local circumstances. This could include Credit Reference Agency checks, visits, increased documentation requirements etc. Resource that has been freed up from the streamlined approach to low risk claims can be focused on these high risk claims.
10. We would expect no more than around 55% of claims to be assessed as low risk, with around 25% medium risk and 20% high risk. These figures could vary from LA to LA according to the LA’s risk profiling. An additional expectation is that there should be more fraud and error detected in high risk claims when compared with medium risk claims and a greater % in medium risk than low risk. Where this proves not to be the case the risk profile should be revisited.
11. LAs may adopt different approaches to risk profile their claimants. Typically this will include the use of IT tools in support of their policy, however, the use of clerical systems is acceptable.

12. Some IT tools use a propensity model¹ which assesses against a number of components based on millions of claim assessments to classify the claim into one of the three categories above. Any IT system² must also ensure that the risk profiles include 'blind cases' where a sample of low or medium risk cases are allocated to a higher risk group, thus requiring heightened verification. This is done in order to test and refine the software assumptions.
13. Once the category is identified, individual claims cannot be downgraded by the benefit processor to a lower risk group. They can however, exceptionally, be upgraded if the processor has reasons to think this is appropriate.

The requirements for LAs that adopt RBV

14. RBV will be voluntary. However, all LAs opting to apply RBV will be required to have in place a **RBV Policy** detailing the risk profiles, verification standards which will apply and the minimum number of claims to be checked. We consider it to be good practice for the Policy to be examined by the authority's Audit and Risk Committee or similar appropriate body if they exist. The Policy must be submitted for Members' approval and sign-off along with a covering report confirming the Section 151 Officer's (section 85 for Scotland) agreement/recommendation. The information held in the Policy, which would include the risk categories, should not be made public due to the sensitivity of its contents.
15. The Policy must allow Members, officers and external auditors to be clear about the levels of verification necessary. It must be reviewed annually but not changed in-year as this would complicate the audit process.
16. Every participating LA will need a robust baseline against which to record the impact of RBV. The source of this baseline is for the LA to determine. Some LAs carry out intensive activity (along the lines of the HB Review) to measure the stock of fraud and error in their locality. We suggest that the figures derived from cells 222 and 231 of SHBE would constitute a baseline of fraud and error currently identified by LAs.
17. Performance using RBV would need to be monitored monthly to ensure its effectiveness. Reporting, which must be part of the overall Policy, must, as a minimum, include the % of cases in each risk category and the levels of fraud and error detected in each.

How RBV claims will be certified?

18. Auditors will check during the annual certification that the subsidy claim adheres to the LA's RBV Policy which will state the necessary level of verification needed to support the correct processing of each type of HB/CTB claim. The risk category will need to be recorded against each claim. Normally the LA's benefit IT/clerical system will allow this annotation.

¹ Whilst DWP is of the opinion that the use of IT will support the success of RBV, it does not in anyway endorse any product or company

² The same safeguard must be applied to clerical systems

Other considerations

19. The sample selection for HB/CTB cases will not change i.e. 20 cases will be selected for each headline cell on the claim form. The HB COUNT guidance used by the external auditors for certification will include instructions for how to deal with both non-RBV and RBV cases if selected in the sample. For non-RBV cases, the verification requirements will remain the same i.e. LAs will be expected to provide all the documentary evidence to support the claim.

What are the subsidy implications?

20. Failure by a LA to apply verification standards to HB/CTB claims as stipulated in its RBV Policy will cause the expenditure to be treated as LA error. The auditor will identify this error and if deemed necessary extrapolate the extent and, where appropriate, issue a qualifying letter. In determining the subsidy implications, the extrapolation of this error will be based on the RBV cases where the error occurred. For this reason, it is important that RBV case information is routinely collected by ensuring that LA HB systems incorporate a flag to identify these RBV cases. If sub-populations on RBV cases can not be identified, extrapolations will have to be performed across the whole population in the particular cell in question.
21. We will now work with the respective audit bodies to incorporate this into the COUNT guidance. If you have any queries please contact Manny Ibiayo by e-mail HBCTB.SUBSIDYQUERIES@DWP.GSI.GOV.UK