

Adoption Statement: Planning Contributions and Affordable Housing Supplementary Planning Document

In accordance with the Town and Country Planning (Local Planning (England) Regulations 2012 (as amended), the Planning and Compulsory Purchase Act 2004, and the Localism Act 2012.

a) Date of adoption

Torbay Council's Cabinet adopted the Planning Contributions and Affordable Housing Supplementary Planning Document ("the SPD") on Tuesday 13 December 2022.

The SPD replaces the previous 2017 version of the Planning Contributions and Affordable Housing SPD which was adopted in February 2017. The newly adopted SPD will be applied to all new planning applications (including applications for prior approval) received on or after 1 January 2023.

b) Modifications

We first carried out public consultation on a draft version of the SPD in late 2019 / early 2020. We reviewed the representations received and made modifications to the draft SPD, but did not proceed with adoption of the SPD at that time due to uncertainties surrounding the onset of the Covid-19 Pandemic.

Following further updates to the draft SPD during 2021/22, we then carried out a six week period of public consultation from Monday 22 August to Monday 3 October 2022. A full summary of the representations received during each of these public consultations, and the modifications that we made to the SPD in light of them, is provided at Appendix 1.

c) Relevant dates

Any person with sufficient interest in the decision to adopt the SPD may apply to the High Court for permission to apply for judicial review of that decision. Any such application must be made promptly and in any event not later than 3 months after the date on which the SPD was adopted.

d) Further information

The Planning Contributions and Affordable Housing SPD and this Adoption Statement can be viewed at www.torbay.gov.uk/CIL and at www.torbay.gov.uk/spd. They may also be inspected free of charge at Torbay Council's Spatial Planning Office at Tor Hill House, Union Street, Torquay, TQ2 5QW, during normal office hours. Prior appointment is recommended.

Appendix 1: Summary of representations and modifications made

Public Consultation: Monday 22 August to Monday 3 October 2022: Summary of responses

24 responses to the online survey were received. Responses to survey questions are collated below:

What is your age? (23 responses, 1 skipped)

0-17 = 0%
18-24 = 4.3%
25-34 = 0%
35-44 = 13%
45-54 = 30.4%
55-64 = 13%
65-74 = 26.1%
75-84 = 8.7%
85+ = 4.3%

What is your ethnicity? (23 responses, 1 skipped)

White = 91.3%
I would prefer not to say = 8.7%

Do you live in Torbay? (23 responses, 1 skipped)

Yes = 82.6%
No = 17.4%

Which of the following best describes your housing status? (22 responses, 2 skipped)

Renting privately = 4.5%
Renting from a Housing Association = 4.5%
Owner-occupier = 81.8%
Living rent free = 4.5%
Other = 4.5%

Do you work in Torbay? (23 responses, 1 skipped)

Yes = 43.5%

No = 56.5%

Which of the following best describes your employment status? (22 responses, 2 skipped)

Working full-time = 36.4%

Working part-time = 18.2%

Retired = 31.8%

Full time parent/carer = 4.5%

Other = 9.1%

Are you a developer, a planning agent, or someone who is promoting land for development? (23 responses, 1 skipped)

Yes = 8.7%

No = 91.3%

If yes (to Q7), are you currently planning on undertaking a development in Torbay? (2 responses, 22 skipped)

Yes = 100%

If yes (to Q7), how likely are you to undertake a development in Torbay in the next five years? Please explain your answer (2 responses, 22 skipped)

Very likely = 100%

Out of the following types of infrastructure and services, which would be your five highest priorities for investment in Torbay? (23 responses, 1 skipped)

Affordable housing = 12 responses

Police = 9 responses

Healthcare = 8 responses

Public open space = 8 responses

Walking and cycling infrastructure = 8 responses

Employment = 7 responses

Education = 7 responses

Public transport = 6 responses

Road infrastructure = 6 responses

Biodiversity enhancement = 5 responses

Town centre and public realm improvements = 5 responses

Waste and recycling collection = 5 responses
Communication infrastructure / broadband = 3 responses
Drainage and flooding = 3 responses
Sports and recreation facilities = 3 responses
Other = 3 responses
Fire and rescue = 2 responses
Libraries and community centres = 2 responses
Theatres and museums = 2 responses

Do the planning obligations described in the SPD accurately reflect the cost, at 2022 prices, of providing infrastructure? (23 responses, 1 skipped)

Yes = 26.1%
No = 8.7%
I don't know = 65.2%

The contributions in the SPD have been calculated at 2022 prices, and will be reviewed and updated on an annual basis. This will generally involve adjusting for inflation using the Retail Prices Index. Do you agree with this approach? (23 responses, 1 skipped)

Yes = 78.3%
No = 13%
I don't know = 8.7%

The draft SPD includes a 5% administration and monitoring fee charged in addition to all planning contributions sought. This is necessary to ensure that the Council can cover its administrative costs relating to monitoring, collecting, and spending planning contributions. Do you agree with this approach? (23 responses, 1 skipped)

Yes = 87%
No = 13%

In this SPD, planning contributions are calculated based on an assessment that, on average, small homes (37-59 sq. m) accommodate approximately 1.4 persons, small/medium sized homes (60-79 sq. m) accommodate 1.9 persons, medium sized homes (80-109 sq. m) accommodate 2.6 persons, and larger homes (109+ sq. m) accommodate 3 persons. Do you agree with these estimates? (23 responses, 1 skipped)

Yes = 43.5%
No = 17.4%
I don't know = 39.1%

Education contributions have been calculated based on an assessment that an average home (with 2 or more bedrooms) generates approximately 0.11 early years (ages 2-4) pupils, 0.25 primary school pupils, 0.15 secondary school pupils, and 0.06 post-16 pupils. Do you agree with these estimates? (23 responses, 1 skipped)

Yes = 56.5%

No = 4.3%

I don't know = 39.1%

The Government has introduced a new affordable housing product called First Homes. These are newbuild homes sold at a discount of at least 30% on market value and at a price not exceeding £250,000 to qualifying first-time buyers with a combined annual household income not exceeding £80,000. Buyers would need to have saved a deposit and qualify for a mortgage. We are not proposing to incorporate First Homes into Torbay's affordable housing requirements at this stage as we are concerned that this would cause a reduction in the delivery of affordable homes for rent. We are, however, monitoring interest in First Homes with a view to considering it as part of the ongoing work to Update the Torbay Local Plan, and are interested in your views on this new affordable housing product. Do you agree with this approach? (23 responses, 1 skipped)

Yes = 47.8%

No = 39.1%

I don't know = 13%

Would you consider buying a first home? (23 responses, 1 skipped)

Yes = 13%

No = 78.3%

I don't know = 8.7%

The Government's guidance on First Homes allows Local Authorities to increase the level of discount from 30% up to 40% or 50% if there is evidence of a need for this. However, increasing the level of discount could result in fewer of other types of affordable housing (such as affordable rent and shared ownership) being built. If First Homes were to be introduced in Torbay in the future, what level of discount would be most appropriate? (23 responses, 1 skipped)

30% = 56.5%

40% = 17.4%

50% = 13%

The Government's guidance on First Homes allows Local Authorities to impose local eligibility criteria. These local criteria (which could include requiring buyers to have a local connection to the area or being a key worker) apply for the first 3 months of marketing of the property but then fall away if no buyer has been found after 3 months.

If First Homes were to be introduced in Torbay in the future, should local eligibility criteria be included? (22 responses, 2 skipped)

Yes = 86.4%

No = 4.5%

I don't know = 9.1%

Would you like to be kept informed about the Planning Contributions and Affordable Housing SPD? (24 responses, 0 skipped)

Yes = 70.8%

No = 29.2%

More detailed representations are summarised below, along with the council's response.

Ref.	Person/ Organisation and comments	LPA Response
22-1	Sport England	
	<p>In order to meet the requirements of NPPF Paragraph 98, LPAs need to have a strategy (supply and demand analysis with qualitative issues included) covering the need for indoor and outdoor sports facilities, including playing pitches.</p> <p>This evidence should inform the Infrastructure Funding Statement and how CIL is spent. Noted that the Playing Pitch Strategy is in place and recently updated.</p> <p>Noted that the Built Sport Facility Strategy is in place but out of date (as it is more than 5 years old).</p>	<p>As noted, we are currently consulting on an updated Playing Pitch Strategy which will provide this evidence base.</p> <p>We will liaise with Torbay Council's Culture & Events team regarding updating the Sports Facilities Strategy.</p>
	<p>Supports the use of s106 and CIL to fund new or enhanced places for sport, as well as their maintenance, to meet the needs arising from development. Needs to be based on a robust NPPF evidence base. Includes indoor sports facilities (swimming pools, sports halls, etc) as well as playing fields and multi use games courts.</p>	<p>The SPD includes contributions towards increasing and improving sports facilities (including through provision of ancillary facilities where this would improve capacity or quality. The updated Playing Pitch Strategy will provide evidence base, and the Sports Facilities Strategy may need to be updated in the future.</p>
	<p>All new dwellings in the plan period should contribute to new or enhanced sports and recreation facilities.</p>	<p>Contributions towards sports and recreation facilities are included as a 'Sustainable Development' contribution in Section 4.6. This means that it is sought for developments of 15 dwellings or more on sites within CIL Charging Zone 3 (which comprises Future Growth Areas and outside the built-up area).</p>

Ref.	Person/ Organisation and comments	LPA Response
		Residential developments within CIL Charging Zones 2 and 3 will be CIL liable. The Infrastructure Funding Statement sets out how s106/CIL is collected, allocated and spent each year.
22-2	Devon County Council: Planning, Transportation and Environment (Mike Deaton)	LPA Response
	There is a need for Torbay Council and Devon County Council to strategically plan together over education infrastructure given the cross-border movements between Torbay and Newton Abbot.	Noted. This mainly affects school place planning, carried out by the TDA. However, the changes to the SPD bring it into closer alignment with Devon County's approach.
	4.5.6 mentions DCC's s106 policy. This should be expanded to explain the SPD's relationship to DCC's policy in more detail.	Amended accordingly through additional explanation within footnote 85.
	4.2.8 should also state that developer contributions could be sought to fund projects in LCWIPs.	Amended accordingly (see 4.2.9).
22-3	Devon County Council: Ecology (Tom Whitlock)	LPA Response
	2.7.5: Questioned the statement that planning contributions will be sought towards Greater Horseshoe Bat mitigation. Contributions have never been sought for this in the past. How will contributions be spent? Who decides what the contribution is?	The Adopted Local Plan requires impacts on greater horseshoe bats, their sustenance zone and landscape connectivity zone to be properly mitigated (See Policy SS8 and NC1). The SPD text has been revised to provide greater clarity on this. The intention is to ensure that the mitigation identified as necessary through the HRA process is secured either through planning condition or s106 legal agreement. In general, this will be on-site mitigation rather than financial contributions (other than for ecological monitoring), but this will be led by the HRA process.
	2.8.3: There is no detail on how it will be determined which developments outside the Brixham Peninsula will be required to pay contributions towards mitigating recreational impacts on the Berry Head grassland. Who will be responsible for assessing this?	This will need to be assessed on a case by case basis by the Planning Officer taking into account the size of the development, the nature of the proposed use and users of the development, and the extent of open space provided on-site as part of the development. In general, planning contributions for mitigating recreational impacts on the Berry Head grassland will be sought on sites within

Ref.	Person/ Organisation and comments	LPA Response
		5km. However, there may be sites more than 5km away where, due to the specific nature of the development, planning contributions for mitigating recreational impacts may be warranted.
2.9.7:	The SPD states that new housing will cause recreational impacts on the marine SAC, however recent advice from Natural England is that recreational impacts from new housing development on the marine SAC can be screened out. How has this been determined? How will contributions be calculated and how will they be spent?	2.9.7 has been revised accordingly.
22-4	Royal Society for the Protection of Birds	LPA Response
	Emphasised that Torbay Council-owned land which is meant to be used for nature conservation needs to be managed more effectively for cirl buntings. Noted data from a 2016 survey as evidence of this.	<p>It is worth noting that the data from the 2016 survey pre-dates the 2017 SPD which this new version updates, and therefore there may well have been subsequent improvements as a result of planning contributions sought in terms of the 2017 SPD.</p> <p>The SPD has been amended to strengthen ecological monitoring requirements.</p>
	Where cirl bunting habitat is lost, planning contributions should be paid, pooled, and used to deliver larger, enhanced, appropriately located sites for new cirl bunting habitat, with effective management and ongoing monitoring.	Noted- but this is beyond the scope of the current SPD and needs to be introduced as part of the Local Plan Update or in the interim as part of detailed assessment of major planning applications.
	<p>Torbay Council needs to develop a strategic approach to cirl bunting conservation that:</p> <ul style="list-style-type: none"> Maximises the potential for cirls on Torbay's existing land holdings Allocates pooled s106 contributions to purchase and set up new land for cirls Is underpinned by technical advice and support Includes a clear audit trail of the compensatory measures so as to demonstrate net gain 	Noted- but this is beyond the scope of the current SPD and needs to be introduced as part of the Local Plan Update or in the interim as part of detailed assessment of major planning applications.
2.1.1-2:	On-site mitigation for cirl buntings is not supported as it is less effective than the payment of planning contributions to be pooled and used to deliver off-site compensation land.	Noted- but this is beyond the scope of the current SPD and goes to the heart of cirl bunting mitigation set out in the Local Plan (SS8, NC1 etc). There is a general expectation that mitigation should be on site or as close to the lost habitat as possible.

Ref.	Person/ Organisation and comments	LPA Response
2.10.1:	refers to data from the 2009 survey. This should be updated to reflect the results of the 2016 survey.	Amended accordingly.
2.10.2:	Requested a correction in the reference to Wildlife and Development Guidance Note: Cirl bunting.	Amended accordingly.
2.10.3:	Where a developer does not have control of a sufficient area of appropriately located habitat, planning contributions should be paid to Torbay Council to deliver (and ensure in perpetuity management of) compensation habitat.	Noted- see above.
2.16.3-4:	Contributions towards ecological monitoring should also be sought in instances where compensation habitats are provided off site.	Amended accordingly. Also see amendment to 2.10.3.
2.4.5:	In order to protect the marine SAC, development that cannot ensure no increased impact of combined sewer overflows should be refused.	
2.4.7:	The use of SUDS and Water Sensitive Urban Design should be required rather than encouraged.	Policy ER2 of the Local Plan and 2.4.6 of the SPD require that development must not result in any additional surface water being discharged into shared sewers. SUDS and WSUD are one way of achieving that and, while these strategies are encouraged, Policy ER2 sets out a drainage hierarchy which is used to determine acceptable drainage strategies. It is not possible for this SPD to be used to make changes to local planning policies.
2.5.1:	Torbay Council should specifically require a 10% biodiversity net gain.	Policy NC1 includes a requirement for BNG, but does not dictate any particular percentage requirement. While this SPD can encourage that a 10% BNG be achieved, it is not possible for the SPD to go beyond Policy NC1 by making 10% a firm requirement. Planning Practice Guidance states that SPDs cannot introduce new planning policies.
2.7 (GHBs):	Emphasised the necessity for sufficient and effective dark corridors and foraging habitat in the form of appropriately grazed pasture.	The SPD directs readers to the South Hams SAC Greater Horseshoe Bat HRA Guidance which provides more detailed advice. The Local Plan emphasises the need for dark corridors.

Ref.	Person/ Organisation and comments	LPA Response
2.8:	Recommended that Suitable Alternative Natural Green Space (SANG) be provided as part of major development to reduce the use of Berry Head for recreation.	Requirements for public open space as part of major developments are set out in Policy DE3 and SS9 of the Local Plan, and in Section 4.6 of the SPD.
2.12:	Biodiversity offsetting: Larger sites deliver more benefits for biodiversity than small, isolated sites. Prioritise improving habitat connectivity and the quality (and size) of biodiversity sites.	Noted - see above.
2.13:	Design and public realm: should also take account of urban biodiversity enhancement through measures like integral bird boxes, permeable boundary treatments, planting and management of public open space to benefit biodiversity.	Noted - this is a consideration in Policy DE1.
2.15:	Support for measures that encourage and enable walking and cycling over vehicle use.	Noted.
Figure 2.3:	Support for these measures which can also provide benefits for biodiversity.	Noted.
2.15.5:	Where buildings are reused and redeveloped, any existing nesting sites should not be impacted during the nesting season, should be retained where possible, and should be replaced only where loss cannot be avoided.	
22-5	Torbay and South Devon NHS Foundation Trust	LPA Response
Table 1.1	should say that Health Impact mitigations will be sought via s106 contributions rather than CIL.	
3.15.1:	In Brixham there is going to be a need to increase the current health and social care estate, in particular GP services. This should be incorporated.	This paragraph of the SPD summarises relevant policies including Policy HW1 of the Brixham Peninsula Neighbourhood plan which seeks to resist the loss of existing health and social care facilities/services, and seeks to ensure that where existing facilities are to be lost, that they are replaced. This suggestion would require an amendment to the wording of this policy to expand the 'policy ask', which cannot be carried out through an SPD.

Ref.	Person/ Organisation and comments	LPA Response
		That being said. 3.17.9-10 does provide for planning contributions to be sought for unplanned major development on unallocated sites where there can be shown to be a current shortfall in service capacity.
3.15.3:	NHS Foundation Trust reiterate their willingness to assist in drafting a preferred HIA template.	Noted.
3.16.2:	In the final sentence there is reference to other areas that may be prioritised over Open Space and Recreation, however health infrastructure is not one of those, could that please be added.	<p>This paragraph of the SPD means that, whereas open space and recreation will typically be dealt with in terms of “sustainable development contributions” (and therefore only sought for developments of 15+ dwellings within CIL Charging Zone 3, which includes Future Growth Areas, sites outside the built-up area, and sites within Watcombe Heights and Ilisham Valley, Torquay and Bascombe Road, Churston), there will be instances where, due to Healthy Bay objectives, matters including open space, education and public realm will be given additional priority and therefore sought as “site deliverability matters” (which can be applied to developments of all sizes and locations). Healthcare contributions fall within the “affordable housing and critical socio-economic infrastructure” category and are therefore already given greater priority than “sustainable development contributions”.</p> <p>This paragraph has been reworded to improve clarity and to avoid misunderstanding.</p>
3.17.1:	Could the final sentence of this section be slightly amended to: ‘This places additional demands from new developments on healthcare and social services’	<p>This section of the SPD deals with “Development which creates a Specific Health/Social Service Need” which includes developments like care homes and specialist housing where occupants will need higher than average levels of health and social care. This therefore is intended to apply to specific types of housing development to address a specific healthcare need, rather than general needs housing as implied by the suggested rewording.</p> <p>That being said. 3.17.9-10 does provide for planning contributions to be sought for unplanned major development on unallocated</p>

Ref.	Person/ Organisation and comments	LPA Response
		sites where there can be shown to be a current shortfall in service capacity.
	All references to the “South Devon Clinical Commissioning Group” and “Devon Care Commissioning Group” should be changed to the “NHS Devon Integrated Commissioning Board”.	Amended accordingly.
	The reference in 3.17.2 to “Torbay Hospital Services” should be changed to the “Torbay and South Devon NHS Foundation Trust”.	Amended accordingly.
	3.17.8: Table 3.6: Can the council please clarify where the CIL collections from these types of developments are allocated to i.e. Torbay Council, Torbay and South Devon NHS Foundation Trust etc.	Reporting on the allocation and spending of CIL is provided through the Infrastructure Funding Statement. At present healthcare impacts are addressed through s106 contributions. The council could use CIL for healthcare or social care, but that would require a spending policy decision outside the ambit of this SPD.
	3.17.9: Can “need for a surgery or other health facility...” be amended to read “need for additional healthcare capacity either for GP services or other Healthcare facilities...”	Amended accordingly.
	3.17.10: Can “unplanned” be removed from the following “Where unplanned major development comes forward on an unallocated site...” As we would expect that within the current Local Plan and SPD that all developments of over 20 dwellings for an unallocated site will need to be considered for mitigation. Maybe the sentence could read: “Where developments of more than 20 dwellings comes forward on an unallocated site....”	Amended accordingly. Note that 3.17.10 refers to major developments on an unallocated site rather than developments of 20+ dwellings.
22-6	South West Coast Path (Lorna Sherriff)	LPA Response
	The SPD should mention the South West Coast Path and National Trail due to its recreational importance in enabling residents and visitors to walk along Torbay’s coastline. No development that causes a detrimental impact to the trail or people using it should be permitted. While this may be included in the Local Plan and/or Neighbourhood plans, it should also be included in the SPD.	This is adequately addressed through existing planning policies. See: Local Plan Policy SS6: “... maintenance and improvement of the South West Coast Path”. Local Plan Policy SS9: “Existing and proposed green infrastructure, including ... the South West Coast Path, will be protected and managed to safeguard the asset.”

Ref.	Person/ Organisation and comments	LPA Response
		In addition, the explanatory text beneath Policy C2 notes the attractiveness of the coast path for walking and for tourism.
22-7	Devon and Cornwall Police (Survey response)	LPA Response
	Contributions should be sought towards facilities to reduce crime, fear of crime, and anti-social behaviour. Designing Out Crime officers are available to discuss ideas.	Designing out crime is a priority in terms of Policy DE1 of the Torbay Local Plan and will continue to be negotiated as part of detailed site layout and design and secured through planning conditions.
	Requested planning contributions towards essential police infrastructure. Home Office grant only funds revenue expenses and not capital / infrastructure costs.	See discussion in main report. The SPD has strengthened guidance on seeking contributions where there is a specific policing impact. However, a wider decision about using S106 contributions towards policing would need to be made through the Local Plan update.
	Rather than updating contributions with RPI, there may be instances where other indices are more appropriate (e.g. RICS BCIS for building costs).	Noted. The SPD is intended to be flexible to allow consideration of other measures. However, applying an RPI figure is relatively simple.
	If First Homes are Government policy / law, they should be incorporated into local affordable housing policy, and the cost to the developer should be factored into the value of the land (and therefore should not reduce the delivery of other AH tenures).	First Homes are not law but are introduced by Ministerial Statement/ guidance. The SPD do not prevent developers providing First Homes;
22-8	Historic England (Rebecca Harfield)	LPA Response
	SPDs should take account of the need to conserve and enhance the historic environment as set out in Chapter 16 of the NPPF (2021).	Noted.
	2.13.11-12: Support for seeking public realm improvements as part of development, and for contributions towards public realm improvements being prioritised in instances where these are critical to successful town centre and waterfront regeneration.	Noted.
	2.13.5: Text also needs to explain how planning obligations may be used as part of Torbay's overall strategy to deliver the conservation, enhancement and enjoyment of the historic environment that is required in	SPD amended accordingly through the addition of 2.13.13.

Ref.	Person/ Organisation and comments	LPA Response
	<p>Para 190 of the NPPF (2021). There may be instances where development design and planning conditions are insufficient to achieve sustainable development and planning obligations may be necessary.</p>	
	<p>Consideration should be given to how CIL can be used to conserve and enhance the historic environment (noting that some infrastructure are heritage assets). Eg. a new development might require improvements to adjacent open space, but that open space could be historic or even a registered park and garden.</p>	<p>Noted- this may apply to town centre regeneration projects that are CIL liable. However, this would require a decision outside the ambit of this SPD.</p>
22-9	Natural England (Stephanie Parker-Stephenson)	LPA Response
	<p>Natural England are unable to comment on the mitigation of recreational impacts on Berry Head to Sharkham Point as there is insufficient information on the specific mitigation measures to be funded through planning contributions.</p> <p>The SPD should also refer to the 2016 Footprint Ecology report, and specifically the list of management options in Table 6.</p> <p>The SPD should clearly and transparently set out how the tariff has been calculated, including setting out in a table the list of mitigation measures and their costing.</p>	<p>Section 2.8 of the SPD has been revised accordingly, referring to all of the Footprint Ecology reports (2014, 2016 and also the most recent 2022 report), and setting out additional detail on mitigation measures which have been reviewed as part of the 2022 Footprint Ecology report.</p>
22-10	LiveWest	LPA Response
	<p>Support for the inclusion of a transitional period in which the updated SPD will only apply to new applications submitted after adoption.</p>	<p>Noted.</p>
	<p>The provision of both social rent and affordable rent in the same scheme can present challenges if neighbouring tenants occupying identical properties pay different rents. If the site layout and provision of units are well thought out, then this tenure split is generally acceptable.</p>	<p>The SPD uses the tenure mix set out in Policy H2 of the Local Plan (1/3 social rent, 1/3 affordable rent, 1/3 shared ownership), with the only change being that of incorporating other affordable routes to home ownership (that have been introduced since the Local Plan) into a 1/3 intermediate.</p> <p>The point regarding the challenges of incorporating social rent and affordable rent into the same scheme is appreciated, and be one reason why commuted payments may be appropriate.</p>

Ref.	Person/ Organisation and comments	LPA Response
		<p>For registered provider led development, these challenges can be overcome through careful planning of the design and layout. More wholesale changes to the Policy H2 tenure mix would need to be made through the Local Plan Update rather than through this SPD.</p>
	<p>Support for not requiring First Homes at this stage as this would reduce delivery of shared ownership which is likely to be a more affordable and accessible product for first time buyers.</p>	<p>Noted.</p>
	<p>Support for affordable housing and market housing being evenly integrated within a development.</p>	<p>Noted.</p>
	<p>Support for developers being encouraged to engage with RPs early on with respect to affordable housing provision.</p>	<p>Noted.</p>
	<p>Requirement for affordable housing to be retained 'in perpetuity' is not supported because:</p> <ul style="list-style-type: none"> ▪ It prevents tenants from staircasing to full ownership. ▪ It restricts lenders' willingness to fund development that will be subject to restrictions. ▪ The NPPF only refers to retaining AH 'in perpetuity' where this is for rural exception sites. 	<p>3.10.1 states that affordable housing should be provided in perpetuity or the equivalent level of discount recycled into other affordable housing. This provides some flexibility, while responding to the high priority that must be given to affordable housing due to the severity of need within Torbay.</p>
	<p>Unclear whether the SPD seeks loss of employment contributions on employment sites that are no longer in use. This is not supported as it would hinder the delivery of brownfield sites for housing.</p>	<p>In accordance with Policy SS5 of the Local Plan, the SPD does still seek loss of employment contributions for sites that are no longer in use. 5.4.3 of the SPD does allow the council to offer mitigation for certain planning contributions for developments that result in an identifiable public benefit, for example significant regeneration.</p>
	<p>Support for offering mitigation for "sustainable development" contributions for affordable housing where occupancy is restricted in perpetuity to people already living and working in Torbay.</p>	<p>Noted.</p>

Ref.	Person/ Organisation and comments	LPA Response
22-11	Tetlow King, o.b.o. South West Housing Associations' Planning Consortium	LPA Response
	Support for the securing of biodiversity net gain on site.	Noted.
	The SPD needs to include the new definition of affordable housing introduced by the July 2021 NPPF.	Minor amendments have been made and the SPD is considered to be consistent with the definition of affordable housing in the NPPF (2021).
	3.4 (Tenure Mix): some of the new affordable housing tenures are reflected but not all.	The various affordable routes to home ownership set out within the NPPF definition of affordable housing would fall within the 'intermediate housing' category of the affordable housing tenure mix in the SPD. Shared ownership is likely to be the local authorities preferred form of intermediate housing.
	The Council should be receptive to schemes that deliver a range of affordable housing products to cater for a diversity of housing needs.	We consider that the SPD adequately supports diversity within affordable housing provision by seeking 1/3 social rent, 1/3 affordable rent and 1/3 intermediate housing.
	<p>The SWHAPC shares the concerns raised with respect to the impact of First Homes on the delivery of traditional forms of affordable housing.</p> <p>First Homes will help some enter home ownership but will not help as many households as shared ownership currently does.</p>	Noted. First Homes will be considered further as part of a wider review of affordable housing policy within the Local Plan Update.
	Support for the SPDs position with respect to First Homes. The PPG and WMS on First Homes should be treated as guidance and not as mandatory policy requirements.	Noted. First Homes will be considered further as part of a wider review of affordable housing policy within the Local Plan Update.
	3.10: Support for the encouragement of early engagement with Registered Providers as this enables RPS to have an active role in planning and design so as to meet local housing needs and management requirements.	Noted.
	<p>References to affordable housing being secured in perpetuity should be deleted, because:</p> <ul style="list-style-type: none"> ▪ It restricts lenders' and investors' willingness to fund development. 	3.10.1 states that affordable housing should be provided in perpetuity or the equivalent level of discount recycled into other affordable housing. This provides some flexibility, while responding to the high priority that must be

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	<ul style="list-style-type: none"> ▪ Restrictive; prevents affordable housing stock from being recycled in response to local circumstances; prevents tenants from staircasing to full ownership. ▪ Inconsistent with the NPPF which only refers to 'in perpetuity' in relation to rural exception sites. 	<p>given to affordable housing due to the severity of need within Torbay.</p> <p>Given the shortage of land in Torbay, retaining affordable homes as affordable, or reusing receipts to provide new homes is something that the SPD should seek to achieve.</p>
22-12	Savills (o.b.o. Vistry Homes)	LPA Response
	<p>The size and tenure of affordable homes should be a matter for negotiation on a site by site basis, taking into account specific local housing need, and what is appropriate to the location of the planning application.</p> <p>Resistance to a rigid AH tenure mix as this is not sufficiently flexible and can harm other planning considerations.</p>	<p>Local Plan Policy H2 and the SPD state the council's desired affordable housing tenure mix of 1/3 social rent, 1/3 affordable rent and 1/3 intermediate, but provide an element of flexibility for consideration of site specific matters. The delivery of affordable homes for rent is a high priority for the council due the nature of local need.</p> <p>This may be negotiated at application stage, but there is a very pressing need for affordable homes for rent; so it is appropriate that the SPD promotes it.</p>
	<p>Support for biodiversity net gain on new development, but the requirement should be for "no net loss of biodiversity" rather than the SPD providing a specific percentage gain.</p>	<p>The SPD is consistent with Policy NC1 of the Local Plan which states that "where there is an identified residual impact on biodiversity, proposals will be expected to deliver a net gain in biodiversity through the creation or provision and management of new or existing habitats". The SPD cannot be used to make changes to Local Plan policy.</p> <p>When a specific percentage net gain becomes mandatory through the Environment Act, this will take priority.</p>
	<p>Support for energy efficiency, however the SPD should say that new homes must be built in line with building regulations. Proposing standards that go beyond BRs would impact on development viability.</p>	<p>Policies SS14 and ES1 of the Local Plan provide the policy framework for energy efficiency and low carbon development. The SPD provides more detailed guidance on strategies that can be adopted to fulfil these policies. The SPD does not itself impose new quantitative measures of energy performance; this is best considered as part of the ongoing Local Plan Update.</p>
	<p>The SPD needs to be sufficiently flexible to adapt to rapid change, as stated in the NPPF.</p>	<p>We feel that the SPD provides an appropriate level of flexibility to facilitate effective implementation.</p>

Ref.	Person/ Organisation and comments	LPA Response
22-13	Copperfield (o.b.o. Taylor Wimpey)	LPA Response
	<p>Improvements to the wider strategic transport network should be funded through CIL.</p> <p>The financial burden for strategic highway improvements needs to be shared by all developments, not only by allocated sites.</p>	<p>The main recipient of CIL is the South Devon Highway. If all strategic transport were to be funded through CIL, then the council would need to substantially revise its CIL Charging Schedule to levy it on major development (rather than rely on S106 for sites within CIL Charging Zone 3 as at present). This may be a useful suggestion, but is beyond the scope of this SPD.</p>
	<p>Safeguarding road widening corridors should only be in instances where the Local Transport Plan has identified a specific need for this, otherwise it's wasteful.</p>	<p>Noted.</p>
	<p>If contributions are sought in instances where parking standards are relaxed due to the site being in a sustainable location, they must comply with tests of lawfulness (incl. reasonably related) and must specifically be spent on local parking provision or modal shift projects.</p>	<p>Agreed. All planning obligations sought need to meet the tests of lawfulness. At the same time, parking shortages and resultant conflict can be a significant issue, so it is appropriate that resolving these matters is given a high priority in the SPD.</p>
	<p>2.2.10 unnecessarily replicates local plan policies and can be removed for brevity.</p>	<p>2.2.10 draws attention to neighbourhood plan policies which are also relevant to this section. Given that the neighbourhood plans were adopted relatively recently, it is beneficial for the SPD to draw attention to these policies which developers, planning agents and the public may be less familiar with.</p>
	<p>Support for clarity regarding on-site waste provision.</p>	<p>Noted.</p>
	<p>2.4.2: While flood resilience measures (flood doors etc) on sites outside of flood plains may be encouraged, they should not be required as this would not meet the tests of lawfulness (necessary).</p>	<p>The SPD does not do this. However, Torbay has significant flooding and drainage issues.</p>
	<p>2.4.3: Should be reconsidered. Inappropriate for detailed design information on flood resilience to be provided at outline application stage. Should be acceptable for this to be delivered by planning condition and subsequent Reserved Matters.</p>	<p>The ability to mitigate flood risk and make development safe for its lifetime goes to the heart of whether development is acceptable; so it is appropriate to seek at outline stage.</p>
	<p>2.4.11: As per Barratt Homes Ltd v Welsh Water 2009, it is for the statutory undertaker to</p>	<p>Noted.</p>

Ref.	Person/ Organisation and comments	LPA Response
	<p>plan and provide sufficient sewerage capacity to accommodate growth. Sites within the Future Growth Areas have now been allocated for many years. Torbay needs to ensure that the statutory undertaker is planning and undertaking necessary works to accommodate growth.</p>	
2.4.11:	<p>Greater clarity is needed. Where early developments within a Future Growth Area are required to 'over pay' for flooding/drainage measures, the cost must be deducted from other planning contributions. Developers should not have to 'over pay' for sewerage measures as these must be addressed by the statutory undertaker.</p>	<p>This is a longstanding clause in the SPD. It refers to the need to the first developer needing to contribute to essential infrastructure, rather than use up residual capacity and burden later phase developments with undue infrastructure costs. Ideally such matters should be addressed through site-equalisation agreements and spelled out in Masterplans; but this is complicated to achieve in practice. Amend SPD to remove the word "overpay"</p>
2.5:	<p>Support for biodiversity enhancement within or alongside development. Reference should be made to the Environment Act 2021 (and any mandatory requirements that it will bring) rather than earlier acts. Need for flexibility with respect to on- or off-site provision.</p>	<p>Amended accordingly. The local authority will have regard to the full detailed requirements regarding BNG when this becomes mandatory. The Local Plan Update will address this.</p>
2.7.5:	<p>Torbay Council should work proactively with the developer to identify appropriate mitigation.</p>	<p>Noted and agree.</p>
2.8:	<p>Contributions such as those for mitigation of recreational impacts on the Berry Head grassland must be charged for all developments, not just allocated developments, as impacts are equally attributable.</p>	<p>A planning contribution towards mitigation of recreational impacts on the Berry Head grassland is sought on all new housing and tourist accommodation developments within 5km, regardless of whether or not sites are allocated.</p>
2.9:	<p>Need for evidence base (how impacts arise; zones of influence) to justify the seeking of any planning obligations, particularly with respect to recreational impacts.</p>	<p>The LPA will have regard to ecology studies which identify the need for planning obligations to mitigate recreational impacts on marine and coastal ecology.</p>
2.13:	<p>Questioned the need to re-affirm policies which are in the adopted Development Plan.</p>	<p>This is a fair comment. However the SPD does need to provide the policy justification for seeking planning obligations, and it also helps to draw attention to policies including Neighbourhood Plan policies which were more recently adopted.</p>

Ref.	Person/ Organisation and comments	LPA Response
	<p>2.15: Improvements to energy efficiency should primary be led by building regulations. PPG states that planning policies can go beyond building regulations but that policies relating to energy performance standards for residential development should only go up to the equivalent of Level 4 of the Code for Sustainable Homes.</p>	<p>Policies SS14 and ES1 of the Local Plan provide the policy framework for energy efficiency and low carbon development. The SPD provides more detailed guidance on strategies that can be adopted to fulfil these policies. The SPD does not itself impose new quantitative measures of energy performance; this is best considered as part of the ongoing Local Plan Update.</p>
	<p>2.15: Resistance to district heating networks becoming a necessary route of exploration given that the industry is focused on plot-by-plot technology (heat pumps, solar panels).</p>	<p>Policy ES1 of the Local Plan requires the submission of an energy statement with all major development, and promotes following the energy hierarchy. Decentralised heating, cooling and power systems form part of that energy hierarchy, and so this already forms part of the policy framework. The SPD provides more detail on district heat networks within this framework. Notwithstanding the energy industries emphasis on plot-based solutions, it is right for opportunities for district heat networks to be sought.</p>
	<p>2.15: The strategies described in Figure 2.3 should be seen as examples and not requirements.</p>	<p>The SPD and the Local Plan require the submission of energy statements for all major developments. Figure 2.3 gives examples of strategies that should be considered within the energy statement.</p>
	<p>2.16: Unclear whether monitoring contributions are sought per dwelling or per development site. More clarity on monitoring contributions is required.</p>	<p>The notes in Table 2.4 have been expanded to improve clarity and to clearly specify whether the contribution is per unit or per development site. The amount of each contribution are considered to accurately reflect the work required by an officer to retrieve the original planning permission, familiarise themselves with the details of the permission, undertake desktop assessment and research, and undertake a site visit if necessary. Amounts may be adjusted upwards or downwards depending on the complexity of the case.</p>
	<p>2.16: For ecological monitoring contributions, developers should be able to appoint an ecologist to undertake the monitoring work as an alternative to paying a financial contribution to the local authority to appoint an ecologist. Ecologists work under a professional code of conduct and developers should be free to undertake a procurement process.</p>	<p>Given the 30 year timeframe for ecological monitoring, there is a clear likelihood that the ownership and operation of the site will change during the monitoring period. How would monitoring be secured in the long term and in instances where the developer who originally contracted the ecologist moves on?</p>

Ref.	Person/ Organisation and comments	LPA Response
		Payment of a financial contribution allows the local authority to flexibly manage the need to monitor ecological mitigation works across the Bay on an ongoing basis, and is the preferred approach. Deviations from this may be able to be negotiated as part of the negotiation of the s106 legal agreement.
Table 3.1: Are the affordable housing thresholds and percentage requirements for developments between 10 and 30+ units based on up-to-date evidence and viability testing?		Policy H2 of the Local Plan sets the affordable housing policies for Torbay. The SPD reiterates the affordable housing thresholds and requirements but with an allowance for the requirement in NPPF Para 64 that affordable housing should only be sought for major development. The SPD cannot be used to fundamentally change affordable housing policies; this would need to be through the ongoing Local Plan Update.
The requirement for self-build plots (5% on greenfield developments of 30+ dwellings as part of the affordable housing provision) needs to be evidence based. While the flexibility regarding self build is welcomed, it should be a developer choice in the absence of evidence.		Policy H2 of the Local Plan and the SPD both provide flexibility regarding the provision of self-build and the local authority works with developers on a case by case basis with due regard to practicalities, local demand and viability.
The SPD should clearly state that, where commuted sums for affordable housing are agreed, the LPA must name projects on which the contribution will be spent and the timeframe for this.		This would be for S106 agreements to specify. But there is a need for flexibility. It would too specific to link commuted sums to a particular scheme. So long as the commuted sum is used to provide affordable housing in the housing market area (i.e. Torbay), then it is likely to be lawful.
The SPD needs to be subject to viability assessment. It would be detrimental to housing delivery if the SPD pushed all sites into open book viability testing.		We have sought to only increase planning contributions reasonably and proportionately, and have sought to avoid a 'real terms' increase in overall s106 obligations. The 2017 SPD was informed by viability testing in 2014 and 2016. The Local Plan Update will be subject to a whole plan viability assessment.
Distributing affordable housing in clusters throughout a development is generally supported, subject to flexibility regarding the complexities of managing apartment blocks.		The distribution of affordable housing within developments that include apartment blocks can be negotiated with officers on a case by case basis.
Support for wheelchair adapted housing, but the SPD should be aligned with building regulations and reference M4(2) or M4(3) dwellings. M4(2) may be more deliverable on sloping sites.		Policy H6 of the Local Plan states that 5% of dwellings within developments of 50+ dwellings should be wheelchair accessible to M4(2) standard. The SPD has been amended

Ref.	Person/ Organisation and comments	LPA Response
		to be consistent with Policy H6, including referring specifically to M4(2). Although these dwellings are often the affordable housing. Policy H6 refers to 5% of all of developments of 50+ dwellings , not just the affordable housing element.
	Support for flexibility regarding affordable housing tenure mix and dwelling types.	Noted. The SPD sets out the desired tenure mix of 1/3 social rent, 1/3 affordable rent, 1/3 intermediate. Dwelling types of affordable housing should align with the dwelling types in the development as a whole.
	When seeking loss of employment contributions, in order for the contribution to meet the tests of lawfulness (specifically, fairly and reasonably related), Torbay Council would need to demonstrate that there is a need for that employment land in the first place. Housing or other uses may be better suited.	Due to the nature of Torbay's economic profile, there is a strong need to retain existing employment land or provide compensation for its loss.
22-14	Brixham Town Council	LPA Response
	Requested that the statement in 1.7.2 that "25% of the total CIL receipts, referred to as the "Neighbourhood Portion", must be spent in the area in which the development arises" be changed to "25% of the total CIL receipts from development within the Brixham boundary are passed to Brixham Town Council to spend on infrastructure".	Noted – this is consistent with the CIL Regulations.
	Requested the following addition to 5.8: "Torbay Council will maintain a robust system for monitoring planning contributions which is open and transparent, making information regarding planning contributions available specifically highlighting the collection, allocation, and expenditure".	The annual Infrastructure Funding Statement will provide this information.
22-15	Councillor James O'Dwyer	LPA Response
	Proposed changes to the affordable housing thresholds and percentage requirements to (i) make the respective affordable housing 'ask' for greenfield and for brownfield developments more equal and proportionate, and (ii) increase the delivery of affordable housing overall.	These proposals would be a direct change to Policy H2 and would therefore need to be achieved through the Local Plan Update. Agree that it would be desirable to do, but is beyond the scope of the SPD.
	Proposed changes to improve the size of affordable homes delivered through s106.	Policy H2 and the SPD both require tenure neutral design, but the SPD will be reviewed

Ref.	Person/ Organisation and comments	LPA Response
		<p>to ensure that there is sufficient emphasis on the size of affordable homes.</p> <p>Policy changes would need to be through the Local Plan Update. There would be scope to negotiate (fewer) but larger homes as part of S106 negotiations.</p>
Energy efficiency of new homes. New housing should be required to meet a certain EPC level.		Noted- see above
The affordable housing tenure mix does not meet the real evidenced need and does not take into account the full definition of affordable homes.		The tenure mix is set out in Policy H2. The SPD is consistent with the revised definition in the 2021 NPPF, although has a greater emphasis on affordable homes for rent, due to the nature of local need.
22-16	D Gray, The PG Group (Survey response)	LPA Response
Agree that the SPD accurately reflects infrastructure costs at 2022 prices.		Noted
Support for planning contributions being reviewed annually and increased with RPI.		Noted
Support for the charging of a 5% administration and monitoring fee over and above planning contributions sought.		Noted
Contributions should be sought towards funding additional officers within Council departments.		Support- but this may not meet the tests of lawfulness if sought as a planning obligation. The local authority seeks to promote the use of Planning Performance Agreements.
Agree with the figures used in the SPD on number of people per household, and pupil yield for new dwelling.		Noted
First Homes should be included. They would help meet the needs of first time buyers thereby helping address the ageing population, and would help address the proliferation of second homes.		Noted. First Homes will be considered further as part of a wider review of affordable housing policy within the Local Plan Update. The SPD does not stop developers providing the affordable home ownership element of affordable housing as First Homes if they wish to do so. But generally other products such as shared ownership are preferred by registered providers.

Ref.	Person/ Organisation and comments	LPA Response
	A 50% discount for first homes should be adopted. Given the £/sq ft of new homes, this discount is necessary for affordability.	Noted- but will need to be assessed through the Local Plan.
	If First Homes were to be included, local eligibility criteria should be required.	Noted. First Homes will be considered further as part of a wider review of affordable housing policy within the Local Plan Update.
22-17	K Maddison (Survey response)	LPA Response
	Developers should also make contributions towards: <ul style="list-style-type: none"> ▪ Seed capital for shares in new business ▪ Improving the planning department 	Noted- but beyond the scope of what the Local Plan seeks. The SPD has been updated to emphasise local training agreements.
	Homes need to be larger.	Policy DE3 of the Local Plan adopts the Government's Nationally Described Space Standards as policy. These standards set out minimum floor space standards for homes.
	First Homes should be incorporated into Torbay's affordable housing policy to enable young people to own their homes. Electing not to contribute to a rentier economy.	First Homes will be considered as part of the Torbay Local Plan Update. It should be noted that, regardless of whether or not First Homes are incorporated into local planning policy, Paragraph 65 of the National Planning Policy Framework requires that 10% of homes in major developments be for affordable home ownership. This requirement in Paragraph 65 of the NPPF is a material consideration and has weight in planning decisions. The SPD still seeks 1/3 of affordable housing to be intermediate housing (principally shared ownership) which does provide affordable routes to home ownership.
	Affordable homes should be better quality and should be energy and insulation future proofed.	Noted
22-18	V Crees (Survey response)	LPA Response
	Solar panels should be incorporated into urban developments as a part of the street furniture.	Noted- the SPD has added guidance on energy efficiency.
	First Homes should be included - Home ownership should be the first priority when it comes to affordable housing policy.	Noted. First Homes will be considered further as part of a wider review of affordable housing policy within the Local Plan Update.
	Support for contributions towards the provision of allotments.	Noted
22-19	O Stairmand (Survey response)	LPA Response

Ref.	Person/ Organisation and comments	LPA Response
	Contributions should be sought for new doctors and dentist surgeries.	See discussion about healthcare contributions in the main report.
	New homes should have electric car charging facilities.	The Local Plan requires these.
	Trees that are chopped down should be replaced.	This is covered in the SPD
	Contributions should be sought for social centres.	This is covered by the SPD
	New homes should be restricted to local people.	This would need to be considered through the Local Plan.
	<p>Regarding First Homes:</p> <ul style="list-style-type: none"> ▪ Raised the matter of fairness with respect to access to discounted home ownership. ▪ Leasehold properties should not be allowed. ▪ Should have to be marketed for at least 6 months before local eligibility criteria can fall away. ▪ Should be for people who have lived/worked in the local area for at least 2 years. ▪ Should not be sold to other local authorities. 	Noted. First Homes will be considered further as part of a wider review of affordable housing policy within the Local Plan Update. The requirement that local eligibility criteria fall away after 3 months of active marketing is a requirement within Government policy and is therefore not something that the Local Authority would have control over.
	No further greenfield development.	The SPD does not allocate land for housing and cannot introduce new policy requirements regarding brownfield/greenfield development. The ongoing Local Plan Update deals with housing allocations.
22-20	A Griffey	LPA Response
	Proposed a means of affordable housing delivery whereby people without direct descendants can leave their properties to the council to sell at a 1/3 discount to a household on the housing waiting list.	Interesting idea.
22-21	Westward Housing Group (Survey response)	LPA Response
	Planning contributions towards Exeter Airport could be considered. (Responding to survey question regarding what 'other' types of	This is something that would be best considered as part of the ongoing Local Plan Update. If introduced, it may be something that is appropriate for specific types of

Ref.	Person/ Organisation and comments	LPA Response
	infrastructure may warrant planning contributions.)	developments (eg. conference facilities, etc.) which generate a need for air travel rather than something sought for all residential developments. The transport hierarchy is relevant, and the emphasis will always be to promote sustainable modes of travel.
	Agree that the SPD accurately reflects the costs, at 2022 prices, of providing infrastructure.	Noted.
	Support for the charging of a 5% administration and monitoring fee over and above the planning contributions sought.	Noted.
	Support for the figures used in the SPD to equate average dwelling floor space to average number of occupants in the household.	Noted.
	Support for the figures used in the SPD for average pupil yield per household.	Noted.
	Not supportive of introducing First Homes. Affordable housing delivery is already low, and FH would further reduce overall AH delivery.	Noted. First Homes will be considered further as part of a wider review of affordable housing policy within the Local Plan Update. Evidence of how First Homes and Shared Ownership respectively impact on overall development viability would be welcomed.
	IF First Homes were to be introduced: <ul style="list-style-type: none"> ▪ A 40% discount would be appropriate. ▪ Local eligibility criteria would be appropriate provided that they are not too onerous as this would hinder mortgages and re-sales. 	Noted. First Homes will be considered further as part of a wider review of affordable housing policy within the Local Plan Update.
	Agree with the approach of annual reviewing and updating planning contributions; updating with RPI.	Noted.
22-22	Local Spark: Torbay Community Supported Development CIC (Survey response)	LPA Response
	If First Homes were to be included, they should be for existing Torbay residents or for established key workers.	Noted. First Homes will be considered further as part of a wider review of affordable housing policy within the Local Plan Update.

Ref.	Person/ Organisation and comments	LPA Response
	Support for seeking contributions towards land for growing food.	Noted. Planning contributions towards allotments are provided for in terms of Section 4.6 of the SPD.
	Support for the requirements regarding energy.	Noted.
22-23	N Stacey (Survey response)	LPA Response
	Development should be designed to complement the character of the area and spaciouly laid out with no eye sores or overcrowding.	Policy requirements for the design and layout of developments are set out in the Torbay Local Plan (see Policy DE1) and the Neighbourhood Plans.
	Development should take into account possible misuse and degradation.	This matter is best dealt with through planning conditions requiring operational management plans where the need arises due to the location and nature of the development. Section 2.14 (which provides for seeking planning contributions towards town centre impacts and management of uses that could contribute to community conflict) and Section 2.16 (which provides for monitoring contributions towards uses including HMOs and holiday lets) of the SPD are relevant.
	Not supportive of increasing planning contributions with RPI. This could stifle the viability of developments.	The intention is for planning contributions to be reviewed on an annual basis in consultation with the Cabinet Member for Infrastructure, Environment and Culture. This will generally involve increasing contributions in line with an appropriate inflationary measure, although the appropriateness of this will need to be considered at the time of the review.
	Not supportive of a 5% admin fee being charged over and above planning contributions. It should take into account capital costs which could increase disproportionately.	The charging of a 5% admin fee over and above planning contributions is a change from the 2017 SPD in which the 5% admin fee is 'top-sliced' from the planning contribution itself, thereby reducing the financial contribution towards that item of infrastructure. We consider that this change is necessary to cover the administrative costs associated with s106 obligations in a way that does not hamper the delivery of the infrastructure necessitated by the development. A wider review of planning obligations will be undertaken as part of the ongoing Local Plan

Ref.	Person/ Organisation and comments	LPA Response
		Update which will also include a whole Plan viability assessment.
	Homes should be larger in size.	Policy DE3 of the Local Plan adopts the Government's <u>Nationally Described Space Standards</u> as policy. These standards set out minimum floor space standards for homes.
	Older homes are better built than new homes.	
22-24	The Coal Authority	LPA Response
	Torbay Council lies outside the defined coalfield and therefore the Coal Authority has no specific comments to make. The Coal Authority does not need to be made aware of future drafts, updates, or emerging Plans.	Noted. We have updated our consultation database accordingly.
22-25	L Dransfield (Survey response)	LPA Response
	<p>Planning contributions should be sought towards:</p> <ul style="list-style-type: none"> ▪ Tree planting ▪ Protecting the natural environment ▪ Sea defences 	<p>Section 4.6 (which seeks to secure public open space as part of developments) and Section</p> <p>Mitigatory tree planting is commonly sought as part of planning applications in line with Policy C4 of the Local Plan.</p>
	If First Homes were to be included, local eligibility criteria should be required. Too many properties are bought and used as second homes by people who do not live within the South West.	Noted. First Homes will be considered further as part of a wider review of affordable housing policy within the Local Plan Update. The Local Plan Update is proposing a Principal Occupancy clause.
22-26	G Beckley (Survey response)	LPA Response
	Not supportive of local connection criteria (in response to the question of First Homes). People from outside will boost neighbourhoods and bring diversity.	Noted. First Homes and any relevant local connection criteria will be considered further as part of a wider review of affordable housing policy within the Local Plan Update.
	Affordable housing for rent should be prioritised and rents should be capped at the Local Housing Allowance rates. Not everyone wants or can afford to buy, even with government subsidised schemes.	The SPD provides for a range of tenures including 1/3 social rent, 1/3 affordable rent and 1/3 intermediate, in accordance with Policy H2 of the Local Plan.
	Planning contributions should meet the specific needs in the immediate locality.	Planning obligations need to meet the Reg 122 tests of lawfulness: necessary to make the development acceptable in planning terms; directly related to the development; and

Ref.	Person/ Organisation and comments	LPA Response
		<p>fairly and reasonably related in scale and kind to the development.</p> <p>In most instances infrastructure needs from a development will arise in the immediate locality of that development. However, there may be instances where planning contributions may need to fund infrastructure some distance away (for example education contributions for secondary schools or Post 16 will generally be spent to improve provision at the nearest secondary school/Post 16 facility, however the nearest school may not be in the immediate locality). Subject to the planning obligation meeting the tests above, this would be considered acceptable.</p> <p>It may also be worth noting that, in accordance with Planning Legislation, 25% of CIL (the 'neighbourhood portion') is spent within the neighbourhood plan area.</p>
	<p>There needs to be a more supportive political approach to housing delivery.</p>	
22-27	E Snelson (Survey response)	LPA Response
	<p>New homes should be provided with large garages.</p>	<p>Policy TA2 and Appendix F of the Local Plan set the policy requirement for garages of 6m x 3.3m for a single garage (or larger if the garage is the only means of cycle storage or general storage). Changes to this policy requirement would need to be made through the Local Plan Update.</p>
	<p>If First Homes were to be included, local eligibility criteria (live and work in Torbay, live in the property at least 11 months a year) should be applied. Too many homes used as second homes. Affordable homes being used by other local authorities to discharge their housing duties.</p>	<p>Noted. First Homes and any relevant local connection criteria will be considered further as part of a wider review of affordable housing policy within the Local Plan Update.</p> <p>It is worth noting that the current Local Plan consultation seeks views on the merits of including a 'principal occupancy' policy requirement in which new dwellings would only be permitted to be used as a primary place of residence (and not as a second home or holiday let, unless specifically permitted as such).</p>

Ref.	Person/ Organisation and comments	LPA Response
	Developers must build the infrastructure first before commencing the rest of the development.	The phasing of the various elements of a development can be a complex matter that is best addressed on a case-by-case basis through the planning conditions and/or s106 Legal Agreement pertaining to the permission. While the general approach is to secure the delivery of infrastructure prior to housing development, there may be instances where the specific phasing
	Even if developers build GP surgeries, there needs to be funds to staff them.	<p>Section 3.17 of the SPD states that planning contributions towards additional healthcare capacity may be sought for unplanned major developments on unallocated sites in instances where a shortfall is evidenced.</p> <p>A 'blanket' requirement for all new homes to contribute towards the funding of new healthcare facilities would amount to a new policy requirement that would have a material impact on development viability and on infrastructure priorities within the Local Plan. This would need to be made through the ongoing Local Plan Update.</p>
	Housing needs to meet local housing needs and be affordable. Resistance to second homes.	
22-28	J Clarke (Survey response)	LPA Response
	Resistance to second homes.	
22-29	The Diocese of Exeter (Survey response)	LPA Response
	The SPD appears to make little (cf. section 3.15) or no reference to the provision of community facilities of a more general type i.e. community halls and other meeting spaces. This should include (in section 4) facilities that enable the provision of services, including those that are statutorily required, such as churches. The need for the provision of such services and facilities increases with the size of the area of development; their provision should certainly be included in respect of developments in future growth areas.	Section 4.7 (Lifelong Learning) of the SPD has been expanded to also reference the need for development to enable access to community facilities such as community halls.
22-30	J Butler (Survey response)	LPA Response

Ref.	Person/ Organisation and comments	LPA Response
	There is a need for developers to contribute towards new doctors' surgeries.	<p>Section 3.17 of the SPD states that planning contributions towards additional healthcare capacity may be sought for unplanned major developments on unallocated sites in instances where a shortfall is evidenced.</p> <p>A 'blanket' requirement for all new homes to contribute towards the funding of new healthcare facilities would amount to a new policy requirement that would need to be made through the ongoing Local Plan Update.</p>
	Developer contributions need to be spent in the immediate locality.	See above.
	Emphasised the need for social housing.	Policy H2 of the Local Plan seeks 1/3 of affordable housing delivered through s106 obligations to be social rent, as well as 1/3 to be affordable rent.
	The SPD underestimates the average pupil yield.	The pupil yield is based on research carried out by Devon County Council in 1999 and cross-checked against developments in 2009 and 2015.
	Raised concern with the quality of new build homes.	Development amenity is address through Policies DE3 and SS11 of the Local Plan.
	New housing should meet local housing needs.	
	Even with a 50% discount First Homes would not be affordable in Torbay as people cannot afford a deposit.	
	If First Homes were to be introduced, local eligibility criteria should apply for the first 6 months of marketing rather than only 3 months.	<p>First Homes will be considered further as part of a wider review of affordable housing policy within the Local Plan Update.</p> <p>The requirement that local eligibility criteria fall away after 3 months of active marketing is a requirement within Government policy and is therefore not something that the Local Authority would have control over.</p>
	Not supportive of further development in Brixham.	This SPD does not allocate land for development. The Torbay Local Plan Update deals with housing allocations.
22-31	Joseph Singleton (Survey response)	LPA Response

Ref.	Person/ Organisation and comments	LPA Response
	Contributions towards co-housing developments and retrofit projects should be sought.	Noted. The Local Plan does not consider co-housing schemes, but it could be considered as part of the Local Plan.
22-32	Marie Sokell (Survey response)	LPA Response
	If First Homes were to be introduced, keeping the discount at 30% would potentially benefit more people.	First Homes will be considered further as part of a wider review of affordable housing policy within the Local Plan Update.
	If First Homes were to be introduced, local eligibility criteria should apply for the first 6 months of marketing rather than only 3 months.	The requirement that local eligibility criteria fall away after 3 months of active marketing is a requirement within Government policy and is therefore not something that the Local Authority would have control over.
22-33	Hazel Patterson (Survey response)	LPA Response
	Introducing First Homes would be unfair unless everyone gets the same discount.	First Homes will be considered further as part of a wider review of affordable housing policy within the Local Plan Update.
22-34	Ian Sharratt (Survey response)	LPA Response
	Developers should make contributions to mitigate: <ul style="list-style-type: none"> ▪ Local disruption during construction work. ▪ Environmental damage if building on greenfield sites. 	Major development usually has to comply with a Construction Management Plan and mitigate the impact they have on greenfield sites.
	Developers should contribute towards the social housing budget. For many, affordable rent is not affordable.	Policy H2 of the Local Plan sets out the affordable housing requirements for developments. In general developers are required to provide affordable housing (which includes 1/3 social rent, 1/3 affordable rent, 1/3 intermediate) on site rather than via financial payments towards off-site provision.
	A 5% administration and monitoring fee is insufficient; the fee should be higher.	Noted- but capped by government advice.
	The figures used in the SPD to equate average dwelling floor space to average number of occupants in the household are too low.	Noted, but we would need clearer evidence. The Census shows a large number of single person households.
	First Homes should be incorporated into local affordable housing policy, but alongside an energetic approach to increase the delivery of rented tenures.	First Homes will be considered further as part of a wider review of affordable housing policy within the Local Plan Update.
22-35	Louise Richards (Survey response)	LPA Response

Ref.	Person/ Organisation and comments	LPA Response
	If First Homes were to be introduced, a 30% discount is appropriate as this would enable more affordable housing to be delivered overall.	First Homes will be considered further as part of a wider review of affordable housing policy within the Local Plan Update.
	If First Homes were to be introduced, local eligibility criteria should apply. Local people are being priced out of the market by holiday homes and people retired to the area.	Noted.
22-36	Fi Darby (Survey response)	LPA Response
	First Homes should be incorporated into local affordable housing policy at a 30% discount and with local eligibility criteria.	

2019 Public Consultation: Summary of responses

Note that the following comments were provided and responded to in 2019 and may therefore be superseded by subsequent comments and responses provided in the 2022 consultation.

Ref number	Person/organisation and comments	LPA Response
19-1	Waste Management	
	<p>Several minor amendments suggested in relation to adoptable standards, recycling caddy.</p> <p>Recovery of cost of new bins/containers at planning stage would allow for more effective recovery of money.</p> <p>The Council needs new recycling vehicles - replace the aged fleet and to increase the capacity for collection. Each vehicle can collect from approximately 630 households per day, collections are weekly, so over the 5 day working week can collect from approx. 3,150 properties. The cost of one of the recycling collection vehicles is £146,626. So per property the cost of a new recycling vehicle is £46.55.</p>	Noted. The SPD has been updated to consider new vehicles.

<p>Residual waste - Each vehicle can collect from approximately 1100 households per day, collections are fortnightly, so over the 10 day working fortnight can collect from approx. 11,000 properties. The cost of one of the refuse collection vehicles is £167,445. So per property the cost of a new refuse collection vehicle is £15.22.</p> <p>There will be a need for additional recycling facilities/site in the future.</p>		
19-2	Natural England	LPA Response
<p>Need information about mitigation of Berry Head to Sharkham Point.</p>		<p>Noted. There has been no change from the Footprint Ecology Report. A S106 Obligation can now be sought for development in the Brixham Peninsula, due to changes in the CIL Regulations.</p>
19-3	Woodland Trust	LPA Response
<p>Amend SPD to refer to strengthen requirement to achieve net gain in biodiversity and align with Nature Recovery Plan.</p> <p>2.6.2 refer to habitats and species. SPD should align with DEFRA Metric for biodiversity net gain (when mandated) - 2.11.2 does not do this.</p> <p>Transport and public realm schemes should also provide green infrastructure as part of an integrated approach.</p> <p>Refer to the Woodland Access Standard: No person should live more than 500 m from one area of accessible woodland of 2ha + in size. There should be at least one area of woodland of 20+HA within 4km of homes.</p>		
19-4	Torbay and South Devon NHS Foundation Trust	LPA Response
<p>S106 contribution sought to meet shortfall in NHS services.</p>		<p>Requiring this as a 'roof tax' on all new housing would be a significant policy change beyond the scope of Policy H6 of the Local Plan, and would have a material impact on development viability and on infrastructure priorities within the Local Plan.</p>

		Section 3.17 of the SPD states that planning contributions towards additional healthcare capacity may be sought for unplanned major developments on unallocated sites in instances where a shortfall is evidenced. It needs to be considered as part of the ongoing Local Plan Update.
19-5	Historic England	LPA Response
	Support reference to prioritisation of public realm works. However there may be other cases where s106 contributions towards understanding, conservation, access or appreciation of specific heritage assets and historic environment may be appropriate (NPPF paras 34, 54-57)	Noted
19-6	Tetlow King for South West Housing Associations	LPA Response
	The Document needs to reflect the revised definition of affordable housing in the 2019 NPPF	Noted – revise definition to be consistent with the NPPF annex 2.
	Refer to entry level exception sites for first time buyers.	Entry Level exception sites would require a revision to Policy C1 of the Local Plan.
	Support for section 3.1 - engagement with registered providers	Noted.
	Securing affordable housing in-perpetuity is not practical for a number of reasons and restricts staircasing.	The NPPF definition of affordable housing allows for any subsidy (public or private) to be recycled. It is important that this principle is set out in the SPD.
19-7	Stride Treglown for Abacus/Deeley Freed	LPA Response
	Support change to affordable housing threshold to reflect the 2019 NPPF	Noted
	Inserted paragraph 22.2.2 needs clarification: “Where traffic levels proposed by a development rely on a bus service/ patronage or other “modal shift” measures and the service or provision is not adequate, this will be a site deliverability matter where the measures are necessary to render junction or road capacity acceptable in planning terms.	

2.2.7 Road widening decisions should be part of pre-applications with developers	Agree- but a note in the SPD is useful to set out the aspiration of the council to enable future highways improvements.	
Section 2.7 Update the reference on Greater Horseshoe Bats to the 2019 Guidance.		
Object that the SPD changes in relation do not accord with the Footprint Ecology Report. 5km zone of influence is not roughly equivalent to the SDB1 area.	This would require a change to Policy SDB1 and para 5.4.1.2 of the Local Plan.	
Section 2.10 Protection of local sites should be quantified in the SPD if it is to be included at this stage.		
<p>2.12 NP references to design and active design are not necessary as they would not generally require a S106 obligation.</p> <p>2.13 Energy efficiency measures are not usually secured through S106 and therefore not appropriate to include in the SPD</p>	<p>This text (and diagram) was added to highlight the Council's emphasis on active design and energy efficiency.</p> <p>The SPD is clear that conditions/ design should be used to achieve a range of "site deliverability" matters in preference to S106 Obligations.</p> <p>Energy efficiency and active design are covered in the Local Plan and the SPD does not impose additional costs on developers.</p>	
<p>3.10.3 Should be clarified as does not make complete sense:</p> <p>Whilst the Local Plan (and Neighbourhood Plan specify matters such as tenure mix, dwelling types etc., the Council will seek to interpret these flexibly to maximize the delivery of affordable housing is encouraged to discuss affordable housing delivery. Accordingly, it is helpful for developers work with a registered provider at application stage to agree matters such as tenure mix, size and location of affordable housing and similar matters.</p>	<p>Noted. Revise to:</p> <p>"Whilst The Local Plan (and Neighbourhood Plans) specify matters such as tenure mix, dwelling types etc., the Council will seek to interpret these flexibly to maximize the delivery of affordable housing. Early engagement is encouraged to discuss affordable housing delivery. Accordingly, it is helpful for developers work with a registered provider at application stage to agree matters such as tenure mix, size and location of affordable housing and similar matters."</p>	
4.6 support simplification of the way in which education contributions are calculated.	Support noted.	
19-8	Pegasus Group for English Care Villages	LPA Response

Formulae for S106 should be addressed in Local Plans, not SPDs, and supported by viability testing.	Setting out formulae in SPDs adds flexibility and is more easily updated. They need to relate to development plan requirements.
Formulaic changes should not be applied to specialist housing for older people.	These have been revisited at 2022. They only apply to open market proposals that do not restrict occupancy to local people.
Costs have been varied without updated viability testing.	
The SPD should be clear that affordable housing can only be sought from Class C3 housing development.	Affordable housing can be sought from dwellings irrespective of whether they are Class C3 or C2.