



Planning Contributions and Affordable Housing Supplementary Planning Document December 2022

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1 INTRODUCTION

1.1 Introduction and Overall Approach

- 1.1.1** Planning Obligations are legal agreements made under Section 106 of the Town and Country Planning Act 1990. They are an important way of providing the environmental, physical and social infrastructure needed by development. They are also one of the main ways in which affordable housing is provided.
- 1.1.2** Planning obligations may be given in an agreement with the Council or in a unilateral undertaking. For simplicity, both are referred to in this document as s106 Agreements. In general, the terms “planning obligation” and “planning contribution” are used interchangeably and include both financial and non-financial obligations.
- 1.1.3** This document sets out the Council’s approach to planning obligations. It provides additional detail to deliver the Adopted Torbay Local Plan 2012-30 (the Local Plan) as set out in Policy SS7 and paragraphs 4.3.25-37 of the Plan. It also draws attention to relevant policies in the approved Neighbourhood Plans. It is important to note that the purpose of this document is to deliver sustainable development, not to stifle desirable schemes.
- 1.1.4** This document provides an interim update on the previous version of this document which was adopted by Council on 2nd February 2017. In summary these changes update the Supplementary Planning Document (SPD) as follows:
- Take into account the February 2019 and July 2021 updates to the National Planning Policy Framework (NPPF).
 - Set out recent changes to national planning policy and guidance pertaining to the delivery of affordable housing, and acknowledge these as material considerations.
 - Make changes in line with updated CIL Regulations and Planning Practice Guidance (including the removal of pooling restrictions and restrictions on use of s106).
 - Simplify the SPD and remove snags from the 2017 document.
 - Increase contributions to 2022 prices (based on Retail Price Index increase of 25.6% increase between February 2017 and May 2022, unless another measure is indicated) and make it clear that contributions will be updated in line with inflation in the future.
 - Seek contributions based on dwelling floorspace rather than number of bedrooms (see table 4.1 page 44).
 - Provide guidance on mitigating impacts on coastal and marine ecology.
 - Provide for the Council to seek education contributions towards early years, further education and SEND¹, where necessary. This is in addition to education contributions already sought for primary and secondary school places.
 - Include a 5% administration and monitoring fee to be charged over and above all planning contributions sought.
- 1.1.5** This updated SPD will be applied to all new planning applications submitted on or after 1 January 2023. Planning applications that were submitted on 31 December 2022 or before will continue to be assessed in terms of the 2017 version of this SPD, however this updated SPD

¹ Special Educational Needs and Disability.

may be relevant and relied upon where it clarifies any requirements, provides additional guidance or corrects errors.

- 1.1.6** While planning contributions will usually be sought through s106 Agreements, sometimes other types of agreement may be more appropriate. Section 278 (s278) Highway Agreements will usually be the preferred way of securing works to highways.
- 1.1.7** The SPD is relevant to both residential and commercial developments. Planning contributions are sought to mitigate the impact of development. It is often easier to set out the impacts arising from residential development as a formula. However, where commercial or other development impacts upon matters such as highways, biodiversity, flooding, town centre management etc., planning contributions will be sought to mitigate their impact. Obligations will not be sought where there is no reasonable link between the development and contribution. For example, commercial development is unlikely to result in a need to make education contributions.
- 1.1.8** Where formulas are set out for ‘Sustainable Development’ contributions², it is emphasised that these are a starting point to seek to quantify the impact of development. Planning contributions will not be sought as a ‘roof tax’ but must relate to matters necessary to make development acceptable in planning terms.
- 1.1.9** This SPD does not provide an exhaustive list of all types of planning obligations that may be sought. There may be instances where other bespoke planning obligation(s) not described in this SPD may be required due to the specific impacts of the development, subject to the Tests of Lawfulness, and this does not preclude the Council from seeking such an obligation.

1.2 Who pays Planning Contributions? Section 106 and CIL

- 1.2.1** 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).
- 1.2.2** In addition to planning contributions, local authorities can also apply a Community Infrastructure Levy (CIL) to fund the infrastructure needed to support development. The Council’s CIL Charging Schedule and maps of the CIL Charging Zones can be viewed at <https://www.torbay.gov.uk/cil>.
- 1.2.3** The Council’s approach is to seek CIL on smaller developments, and on larger developments in the built up area.
- 1.2.4** Where CIL is sought on smaller sites, only planning contributions relating to specific ‘Site Deliverability’ matters³ will be sought. In a limited number of cases, affordable housing may also be sought on CIL liable developments. In such instances development viability will be taken into account to ensure that sustainable brownfield sites are not unduly restricted. This SPD sets out various exemptions that may apply where development brings an identifiable social benefit.
- 1.2.5** Larger residential developments in CIL Charging Zone 3 (i.e., fifteen dwellings or more, outside the built up area, or in Future Growth Areas) will be the subject of negotiation with

² See the definition of ‘Sustainable Development’ contributions in table 1.1 below.

³ See the definition of ‘Site Deliverability’ matters in table 1.1 below.

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.

- 1.2.6** It is acknowledged that there may need to be an element of cross subsidy for certain infrastructure, as this approach is considered by the Council to be the fairest and simplest to as many people as possible.

1.3 Restrictions on Planning Obligations

- 1.3.1** All planning obligations must meet the CIL Regulations Tests of Lawfulness (set out in Regulation 122 of the CIL Regulations 2010 and NPPF paragraph 57). They must be:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

- 1.3.2** Because of the impact that affordable housing and other infrastructure requirements can have on development viability for larger sites, the Council currently seeks to address infrastructure issues arising from such sites through planning contributions, rather than CIL.

- 1.3.3** Where appropriate, planning contributions may be pooled towards projects and may be used to reimburse the Council where it provides infrastructure in advance using other funds (for example on phased developments where infrastructure is provided in advance and contributions may not become payable until the later stages of development). It is important that s106 Agreements are worded to allow sufficient flexibility regarding how contributions can be spent, so long as alternative projects comply with the above Tests of Lawfulness.

1.4 Subdivision of Plots or Sites

- 1.4.1** The council will resist the artificial sub-division of plots or under-development of sites where this would reduce or avoid liability to planning contributions or affordable housing. Where adjoining sites in the same ownership would trigger the need for affordable housing or other contributions taken as a whole, the Council will consider whether the site should be treated as a single site irrespective of sub-division into phases or development in parcels. This could trigger a retrospective request if contributions have been avoided at earlier stages through plot sub-division etc.

- 1.4.2** The Adopted Local Plan (paragraph 6.4.1.11) assumes as a starting point that sites can deliver at least 30 dwellings per hectare (gross) when taking into account their liability to provide affordable housing, although site specific factors will be taken into account.

1.5 Prioritisation of Planning Obligations

- 1.5.1** Local Plan 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 prioritised, to ensure that the most critical infrastructure is delivered. The Council prioritises s106 Obligations as follows:

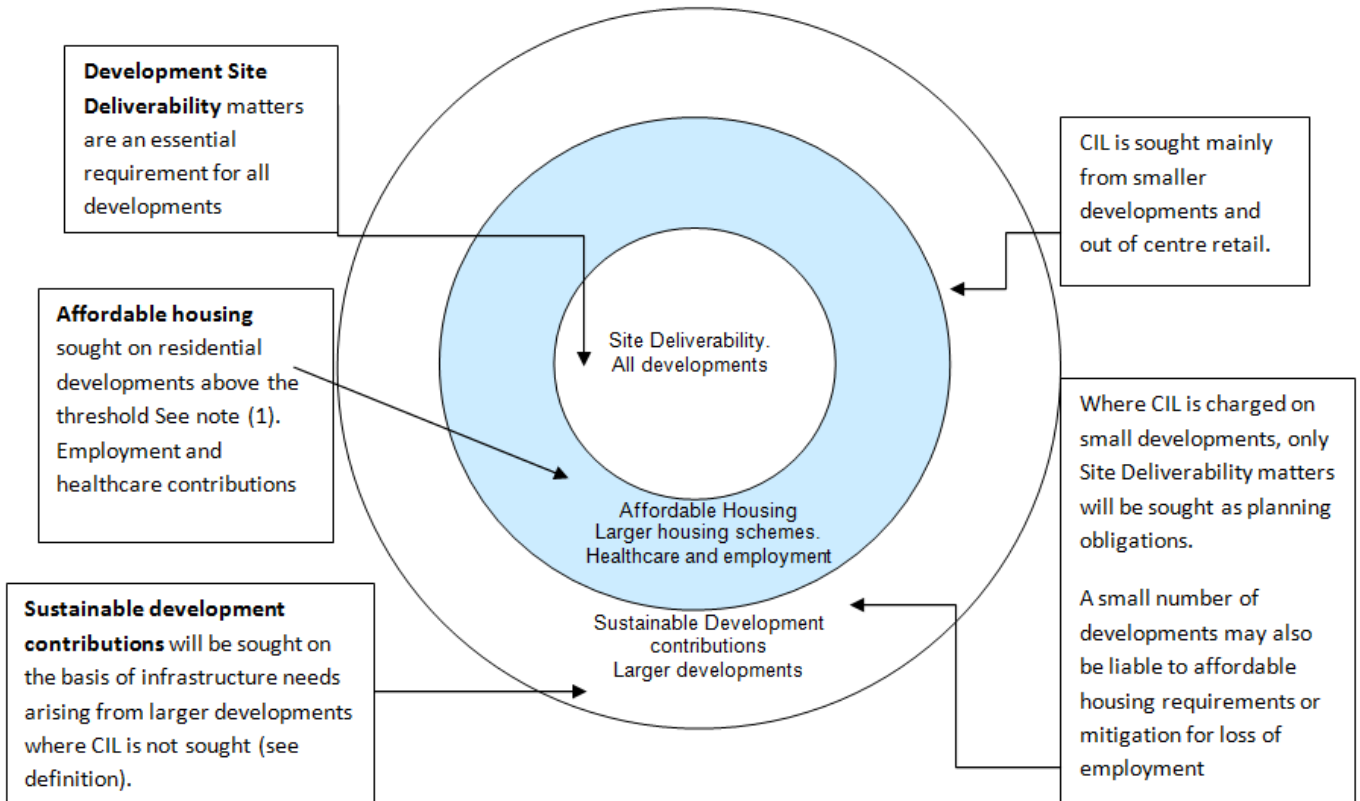
Table 1.1 Prioritisation of planning obligations

<p>‘Site Deliverability’ Matters – essential site specific matters to mitigate the impact of development e.g., access and necessary road improvements, flooding, drainage/sewer capacity, direct biodiversity and geodiversity, landscaping and on-site waste management. Compliance with legal requirements such as Habitats Regulations, and monitoring the delivery of such mitigation.</p>	<p>Site Deliverability matters apply to all development.</p> <p>Planning conditions will be used wherever possible.</p>
<p>Affordable Housing and critical socio-economic infrastructure (including employment provision and health care on developments giving rise to additional care needs).</p>	<p>Affordable housing See note on thresholds. Applies to greenfield sites of 10+ dwellings (or 3+ dwellings in the AONB), and previously developed sites of 15+ dwellings.</p> <p>Where vacant buildings (other than those which have been abandoned) are being reused or redeveloped, affordable housing contributions will normally be reduced by a proportionate amount of floorspace as advised in NPPF paragraph 64 provided there are no over-riding development plan reasons for seeking affordable housing. Liability to CIL will be taken into account.</p> <p>Employment and healthcare: All development with an employment or health impact.</p>
<p>Wider ‘Sustainable Development’ style contributions e.g., waste management, education, open space/recreation, wider environmental/green infrastructure, etc.</p> <p>This applies to developments where CIL is not sought (i.e., larger residential developments in Future Growth Areas etc.) and all commercial developments that have an impact which needs to be mitigated.</p> <p>These matters are required to make development acceptable in planning terms but are not necessarily essential to render the development physically safe or legal. These are sometimes called ‘tariff style’ contributions.</p>	<p>‘Sustainable Development’ contributions will be used to secure broader infrastructure from larger developments in Future Growth Areas (rather than CIL).</p> <p>The SPD sets out figures based on an assessment of likely impacts.</p> <p>Mitigation of specific impacts principally arising from larger development.</p> <p>Note that there is no lower threshold for such contributions, but sustainable development contributions are not usually sought from development that pays CIL or from affordable housing units.</p>

1.5.2 These are represented diagrammatically in Figure 1.2.

1.5.3 In the context of this document 'larger developments where CIL is not sought' refers to residential developments of 15 or more dwellings (net) in Charging Zone 3 where a zero rate of CIL is sought, but where the Council seeks to address the infrastructure needs arising from development through planning obligations.

Figure 1.2: S106 Priorities: Structure of the Planning Obligations and Affordable Housing SPD and relationship to CIL



Note 1: Affordable Housing is defined in the adopted Local Plan (Appendix A) and National Planning Policy Framework (NPPF). The threshold for affordable housing is set out in Policy H2 of the Local Plan, however paragraph 64 of the NPPF is a material consideration and, other than in exceptional circumstances, the NPPF threshold will be applied. The tenure mix for affordable housing is set out in Policy H2 and in Section 3.4 of this SPD, with NPPF paragraph 65 and Government guidance on First Homes⁴ also being material considerations.

Note 2: Policy H2 and Policy SS11 of the Local Plan indicates that the Council may agree reduced affordable housing provision where this would secure significant benefits to disadvantaged areas, including enhancement of the local natural or built environment. These would need to be central to the delivery of the site so as to render it a 'site deliverability' matter. Regard will be had to development viability, particularly where developments that achieve regeneration benefits are liable for CIL as well as affordable housing.

⁴ See the Written Ministerial Statement of 24 May 2021 <https://questions-statements.parliament.uk/written-statements/detail/2021-05-24/hlws48> and Government guidance on First Homes <https://www.gov.uk/guidance/first-homes> .

1.6 Neighbourhood Plans

- 1.7.1** Torbay has area wide coverage of neighbourhood plans, which were approved at referendum on 2 May 2019 and “made” (which means adopted) by full Council on 19th June 2019. There is a neighbourhood plan for Torquay (TNP), Paignton (PNP), and Brixham Peninsula⁵ (BPNP). The Neighbourhood Plans are part of the development plan with legal weight in decision making. The Policies of the Neighbourhood Plans take precedence over the non-strategic policies of the Local Plan (and non-strategic elements of the Local Plan Policies)⁶.
- 1.7.2** The Neighbourhood Plan policies will primarily impact on “site deliverability” matters such as design, ecology, drainage etc. that must be sought as a highest priority from developments. They also set out supporting text and Community Aspirations relevant to matters such as affordable housing. They do not change the structure of “sustainable development” contributions sought, although they may affect the priority given to particular issues. The Neighbourhood Forums (and Brixham Town Council) are consultees on planning applications. In addition, 25% of the total CIL receipts, referred to as the “Neighbourhood Portion”, must be spent in the area in which the development arises.

⁵ It should be noted that a new Neighbourhood Area and Forum comprising the villages of Broadsands, Churston and Galmpton Neighbourhood Forum Area was approved by Council on 4th November 2021, with the boundary of the Brixham Peninsula Neighbourhood Area also being adjusted. Any subsequently made Neighbourhood Plan pertaining to Broadsands, Churston and Galmpton will also form part of the development plan.
<https://www.torbay.gov.uk/bcg-np/>

⁶ See [Section 38\(5\) of the Planning and Compulsory Purchase Act 2004](#) which requires that any conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.

2 SITE DELIVERABILITY MATTERS

2.1 Introduction

- 2.1.1** Site deliverability matters relate to works that must be carried out directly to the site to render development workable in physical terms, or to meet safety or legal requirements. It includes matters such as access, landscaping, protected species, drainage and flooding.
- 2.1.2** Many matters can be addressed through the use of planning conditions rather than requiring a s106 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.
- 2.1.3** Because site impacts are unique to each development, it is not practical to set standard formulae. Policy SS2 and the Strategic Delivery (SD) policies of the Local Plan set out key infrastructure matters in proposed 'Future Growth Areas'. Neighbourhood Plans also set out local requirements.
- 2.1.4** Site deliverability matters will need to be addressed before other planning contributions can be sought, and there is limited scope to negotiate on them.
- 2.1.5** This section is not intended to imply that all proposed 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.

2.2 Site Access and Direct Safety Works (Local Plan Policy TA2)

- 2.2.1** There is an expectation that developers will pay in full for access to a development site including off site works and/or additional works necessary for safety or operational purposes (e.g., traffic lights, pedestrian crossings, cycle ways, footpaths etc.). The development's impact on junction and road capacity in the immediate vicinity of the site (allowing for a reasonable period of traffic growth, usually five years) will also be considered as a site deliverability matter.
- 2.2.2** Where traffic levels proposed by a development are contingent 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.
- 2.2.3** However, impacts on the wider transport network not directly related to junctions etc. in the immediate vicinity of the site will be considered as sustainable development contributions.
- 2.2.4** Works on the highway are currently generally provided through s278 of the 1980 Highways Act.
- 2.2.5** Matters such as the internal road layout, parking, provision of cycling facilities etc. will usually be dealt with through conditions as part of the development management process (Local Plan Policies SS6, TA1 to TA3). The council will usually require roads to be built to an

adoptable standard. They should provide necessary access to later phases of development by providing highway land to the edge of sites in order to prevent the creation of ransom strips.

- 2.2.6** Where sites are adjacent to main roads (particularly the major road network), they should make provision for future road widening or related improvement works. Layouts should avoid placing buildings or other private areas up to the road without an adequate buffer to allow for future improvements.
- 2.2.7** Details of the Council's highways standards are set out in the 'Highways Design Guide for New Developments' and in the 'Highways Development Control: Standing Advice for Minor Development Applications'. <https://www.torbay.gov.uk/highways-design-guide/>
- 2.2.8** Policy TA3 of the Local Plan promotes the provision of cycle parking and electric vehicle charging points within developments, which will usually be secured through negotiation of layouts or through planning conditions. Major developments likely to have significant transport implications will be required to provide travel plans setting out measures to enable active travel and to avoid a reliance on single occupancy car use. As set out in Section 2.16 of this SPD, a monitoring contribution will be sought towards the Council monitoring the effective implementation of travel planning measures.
- 2.2.9** The planning system seeks to encourage higher densities of development in locations that are well served by public transport. Accordingly, parking standards are likely to be relaxed in town centres. However, where parking provision is below the standards set out in Local Plan Policy TA3/ Appendix F, contributions will be sought as a site deliverability matter to ensure the quantity, quality, safety, security and accessibility of off-site parking, as well as wider measures to promote accessibility for pedestrians, cyclists and public transport users.
- 2.2.10** Development in Torquay must have regard to TNP Policies TTR1 Access to Primary Schools, TTR2 Sustainable communities, THW5 Access to Sustainable transport and THW6 Cycle storage and changing facilities. Development in Paignton must have regard to Policies PNP1(d) Residential Development and PNP1(h) Sustainable transport. Development in Brixham must have regard to Policies BH8 Access to new dwellings and T1 Linking new development to travel improvements.

2.3 On-site Waste provision

- 2.3.1** All development must make provision for adequate storage of waste and recycling on site, within easy reach of kerbside collection points as a site deliverability matter and required by Local Plan Policy W1. PNP1(d) Residential Development and PNP1(e) Commercial Development both require a specific provision to be made on site in Paignton. Layouts must provide sufficient space, including turning for waste collection vehicles. As noted above, roads should be built to an adoptable standard.
- 2.3.2** Where waste and recycling are to be transferred off site from a waste collection point within the development then this should be via an adopted road. If that will not be the case, it will be necessary to secure agreement with the approved waste collection company to ensure that refuse and waste will be collected from the development. This will be secured by s106 Agreement.

2.4 Flooding, Drainage and Sewerage (Local Plan Policies ER1, ER2, W5, NPPF Chapter 14)

- 2.4.1** The NPPF and Policy ER1 'Flood risk' require development to be located in areas with the lowest risk of flooding on the basis of sequential and exception tests.
- 2.4.2** 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 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.
- 2.4.3** Such matters will usually be dealt with through planning conditions if possible. However, details of flood protection measures will be required when proposals are submitted (i.e., cannot be left to planning conditions).
- 2.4.4** Drainage is closely related to the issues of flooding and sewer capacity.
- 2.4.5** Torbay has been declared a Critical Drainage Area by the Environment Agency (see Policy ER1 and 6.5.2.13 of the Local Plan). In addition, Natural England has raised concern about the impact of combined sewer overflows affecting the Marine Special Area of Conservation (SAC) in Torbay. The Council's evidence⁷ indicates that the impact of "urban creep" and climate change pose a significant risk to Torbay's sewer capacity.
- 2.4.6** Policies ER2 and W5 set out a test to ensure that no additional surface water is discharged into shared sewers. Planning proposals, including prior approvals, must ensure that all developments (including brownfield sites) mimic the 1 in 10 year greenfield run-off rate (or better) from the impermeable area of the development.
- 2.4.7** The use of Sustainable (Urban) Drainage Systems (SUDS) and Water Sensitive Urban Design (WSUDs) to achieve this is strongly encouraged.
- 2.4.8** Details of such measures will be required as part of the Flood Risk Assessment submitted with the application and must be fully carried out as approved by the Council prior to the development being occupied.
- 2.4.9** As with flood resilience measures, drainage will be dealt with through planning condition and the use of sustainable drainage/water sensitive urban design will be promoted where possible.
- 2.4.10** Planning obligations for off-site mitigation will only be accepted as a last resort, and if a suitable and implementable project can be identified. If this cannot be achieved, proposals will be refused.
- 2.4.11** Developers will require a license from South West Water (SWW) to connect to foul sewers. Where additional sewerage is required the Council, in liaison with SWW, 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

⁷ Assessment of Sewer Capacity in Torbay, AECOM/SWW 2014

and provide proportionately less for less critical infrastructure, which will be met by later phases of development.

- 2.4.12** TNP Policy TE7 Marine management policy is relevant to applications close to the coastline in Torquay. Policies PNP1(i) Surface Water, PNP1 Area Wide part (iv) and PNP15 Flood and Sea Defences are relevant to applications in Paignton.

2.5 Biodiversity

- 2.5.1** The NPPF requires development to enhance public access to nature, to minimise impacts on biodiversity, and to provide net gains where possible through integrating biodiversity improvements into the design of developments (NPPF paragraphs 174-182).
- 2.5.2** The Environment Act 2021 (and Section 40 of the Natural Environment and Rural Communities Act 2006) places a duty on all Local Authorities to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. They should identify ways to integrate biodiversity in developing policies, strategies, in managing land and buildings and developing infrastructure (roads/flood defences etc.).
- 2.5.3** In accordance with the NPPF, Local Plan Policy NC1 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 of new, or management of existing, habitats. In addition, Schedule 14 of the Environment Act 2021 makes provision for planning permission to be granted subject to a condition to secure biodiversity net gain, and biodiversity net gain will become mandatory through the amendment of the Town & Country Planning Act which is currently expected in the winter of 2023/24.
- 2.5.4** The approach set out in the following paragraphs is designed to have benefits for developers, local communities, habitats and biodiversity.

2.6 Development Impacts on Biodiversity

- 2.6.1** Some development sites will undoubtedly impact on biodiversity. The mitigation hierarchy of avoid, mitigate, compensate, enhance should always be followed. The Policy framework is set out in Policies SS8 and NC1 of the Local Plan as well as Neighbourhood Plan Policies. In particular, see Policies TS1, TE3-6 of the TNP; Policies PNP1 Area Wide (a and f), PNP1(c)-Design Principles (2) of the PNP and Policy E8 of the BPNP.
- 2.6.2** Where impacts cannot be avoided, mitigated or compensated for on a development site or on other land owned by the applicant, contributions for off-site mitigation or compensation will be sought subject to the solution being in the public interest, deliverable, and capable of being maintained in perpetuity in a manner that will ensure protection and enhancement of the species affected.
- 2.6.3** 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. Development likely to affect habitats and/or species associated with a European site will be subject to assessment under the Habitats Regulations and will not be permitted where there are likely significant harmful impacts, either alone or in combination with other development.

2.6.4 Where proposals rely on mitigation measures to avoid likely significant effects on Habitats Regulations protected species or habitats (such as greater horseshoe bats or calcareous grasslands at Berry Head), such applications will need to be subject to Appropriate Assessment, and effects cannot be screened out by mitigation measures⁸.

2.6.5 The following deals with specific biodiversity related issues of importance to Torbay:

- Greater horseshoe bats (GHB) (*Rhinolophus ferrumequinum*) associated with the Berry Head to Sharkham Point component of the South Hams Special Area of Conservation (SAC);
- Recreational impacts on the Berry Head to Sharkham Point component of the South Hams SAC (Calcareous grassland and other habitats);
- Impacts on coastal and marine habitats and species (including the Lyme Bay to Torbay SAC and the Torbay Marine Conservation Zone);
- Cirl buntings (*Emberiza cirlus*);
- Protected Sites – locally important sites for biodiversity and geodiversity;
- Off-Site Habitat Compensation (biodiversity offsetting).

2.7 Greater Horseshoe Bats associated with the South Hams SAC, especially Berry Head to Sharkham Point

2.7.1 The greater horseshoe bat (GHB) is a rare species in the UK with a significant proportion of the population found in South Devon. The South Hams Special Area of Conservation (SAC) was designated in part to ensure the favourable conservation status of this population of GHBs. Local Plan Policies SS8 and NC1, Brixham Peninsula Neighbourhood Plan Policy E8 and Paignton Neighbourhood Plan Policy PNP1-Area Wide (f) are relevant.

2.7.2 The South Hams SAC Greater Horseshoe Bat HRA Guidance⁹, published in October 2019, provides guidance on how this population of GHBs will be conserved. The Guidance updates and replaces the South Hams SAC GHB Consultation Zone Planning Guidance published by Natural England in 2010.

2.7.3 The guidance identifies Sustenance Zones¹⁰ and the Landscape Connectivity Zone¹¹; important components of the South Hams SAC which are mapped on the Devon County Council Environment Viewer¹². Development proposals within these areas will need to follow the above guidance. Such developments are likely to need a Habitats Regulations Screening Assessment to determine whether there are any likely significant effects on the SAC. Where

⁸ See the European Court of Justice ruling in *People over Wind & Sweetman v Coillte Teoranta* case C-323/17 on 12 April 2018.

⁹ See <https://www.torbay.gov.uk/media/13699/sac-greaterhorseshoebats.pdf>

¹⁰ Sustenance Zones comprise the area within 4km of designated roosts which includes critical foraging and commuting habitat for greater horseshoe bats. Note: The Sustenance Zone for Berry Head is based on a sustenance area equivalent to a 4km radius circle.

¹¹ The Landscape Connectivity Zone comprises the area that includes a complex network of commuting routes used by the SAC population of greater horseshoe bats and providing connectivity between the designated roosts.

¹² See <https://www.devon.gov.uk/environment/environmental-maps>

mitigation measures are required to avoid likely significant effects, a full Appropriate Assessment will then be required.

2.7.4 Impacts on GHBs will need to be mitigated for on any development site, or on neighbouring land controlled by the applicant where such solution is deliverable. This can often be achieved through the enhancement 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 adverse impacts on the favourable conservation status of the species.

2.7.5 For developments that are likely to impact upon the GHB population and habitat, be it from the development alone or through 'in-combination' impacts from other plans and developments, the Habitats Regulations process will be followed to identify necessary mitigation measures. Such measures will be secured through planning conditions or s106 Agreements as necessary, and planning contributions towards the monitoring of ecological mitigation will be sought as set out in section 2.16 below to ensure that mitigation measures are implemented effectively. If impacts cannot be appropriately mitigated, applications will be refused.

2.8 Recreational Impacts on Berry Head to Sharkham Point

2.8.1 Recreational use of the calcareous grassland at the Berry Head to Sharkham Point component of the South Hams SAC has the potential to cause degradation through scrub encroachment, erosion by walkers and eutrophication through dog fouling. As detailed in Policy NC1 of the Local Plan, all residential, tourism and other development likely to increase recreational pressure upon the grassland will be required to make a financial contribution towards mitigating the impact.

2.8.2 Recreational impacts and recommended mitigation measures were assessed through a number of reports by Footprint Ecology in 2014¹³ and 2016¹⁴ as part of the Local Plan HRA. Footprint Ecology reviewed the recommended mitigation in 2022¹⁵. The primary zone of influence is a 5km distance, which is roughly equivalent to the Brixham Peninsula area as defined by Local Plan Policy SDB1¹⁶. Planning contributions will be used to deliver mitigation as recommended in the Footprint Ecology reports, including:

- Increased ranger presence
- Face to face engagement with visitors to the site

¹³ See Lake, S. & Liley, D. (2014). [Recreational Impacts on Berry Head: Additional Habitats Regulations Assessment work for the Torbay Local Plan](#). Unpublished report for Torbay Council, Footprint Ecology. Mitigation measures discussed at paras. 6.14-23.

¹⁴ See: (i) Lake, S. & Underhill-Day, J. (2016). [Berry Head scrub, grazing and visitor plan](#). Unpublished report by Footprint Ecology for Torbay Coast and Countryside Trust; and (ii) Panter, C. & Lake S. [Berry Head Visitor Survey](#), summer 2016. Footprint Ecology/Torbay Coast and Countryside Trust.

¹⁵ See Lake, S., Wilson, P. & Liley, D. (2022). Berry Head recreational impacts mitigation review, 2022. Report by Footprint Ecology for Torbay Council. Report will be made publicly available on the Torbay Council website.

¹⁶ For sites that are located towards the periphery of the Brixham Peninsula area (Policy SDB1), or in instances where the need for mitigation is disputed, a strict 5km distance taken "as the crow flies" and taking into account the likely impact of the development upon the SAC, will be used.

- Information boards / interpretation panels
- Site signage / signposting
- Measures to promote alternative walking routes elsewhere in Torbay
- Updating and maintaining the visitor centre
- Co-creating / reviewing codes of conduct with key user groups (dog walking, angling, climbing)
- Implement licensing system for commercial dog walkers
- Monitoring of rare plants and vegetation
- Grazing by livestock
- Scrub management

2.8.3 The cost of carrying out the mitigation recommended within the Footprint Ecology reports was estimated to be £384,000, which equates to £482,304 as at May 2022 when adjusted for inflation. The 2014 Footprint Ecology report assessed that 44% of visits were from Brixham. Overall, 42% of visitors were local residents and 58% were tourists. Based on 660 dwellings allocated for the Brixham Peninsula in the Local Plan, this indicates a cost (as at May 2022¹⁷) of £135 per new dwelling in the Brixham Peninsula towards management/reduction of impacts on the Berry Head grassland¹⁸. Whilst the figure for non-residential development is not so easy to calculate, a cost (as at May 2022) of £186 per holiday unit/ bedroom accounts for the higher proportion of visitors being tourists.

2.8.4 Contributions may exceptionally be sought from outside the Brixham Peninsula (Local Plan Policy SDB1) area where it is likely that development could impact on the Berry Head grassland. This will be based on a case-by-case assessment by the council, taking into account the nature and size of the development and its intended users, and the extent of on-site public open space delivered as part of the development.

2.8.5 Given that this planning contribution is an HRA requirement, funds paid to mitigate recreational impacts on the Berry Head grassland will need to be collected, allocated and spent separately from other contributions, and used to deliver the HRA mitigation.

2.9 Impacts on Coastal and Marine Habitats and Species

2.9.1 Torbay's coastal and marine environment is a natural asset that supports significant biodiversity and attracts people to live, work, and holiday in the Bay. Torbay's diverse coastline, beaches, inlets and bays form part of the green infrastructure network, provide a range of important ecological goods and services, and enable the Bay's maritime economy and growing eco-tourism sector. Certain activities need to be carefully managed to avoid harming the integrity of nationally and internationally important coastal and marine habitats and species. Local Plan policies NC1, SS8, SS9 and TO3 are relevant, as are Policies TE5-7 of the Torquay Neighbourhood Plan, Policies E1, E8 and J5 of the Brixham Peninsula Neighbourhood Plan, and Policies PNP1 Area Wide (f) and PNP1(c)2 of the Paignton Neighbourhood Plan.

¹⁷ To be adjusted with inflation based on the Retail Price Index.

¹⁸ Based on the locally attributable impact of residential development – 44% of 42% residential visitors being from Brixham (i.e., 18.48% of all visits). $18.48\% \text{ of } £482,304 = £89,130$ divided by 660 proposed dwellings = £135.05 per dwelling. For holiday developments 44% of 58% = 25.52% of visitors being from Tourists staying in the Brixham Peninsula.

- 2.9.2** Planning obligations will be sought to avoid and mitigate the potential impacts of development on Torbay's coastal and marine habitats, and specifically on the protected features of Torbay's two marine ecological designations:
- 2.9.3** The **Lyme Bay and Torbay Special Area of Conservation**¹⁹ extends to over 31,000ha (split into two discrete areas) within the Western English Channel off the coast of Devon and Dorset. The marine SAC is an internationally important European Site designated due to the presence of reef and sea cave habitats which support rare species and significant biodiversity.
- 2.9.4** The **Torbay Marine Conservation Zone (MCZ)**²⁰ is a nationally important area of conservation covering an inshore area of 20 sq. km between Oddicombe Beach and Sharkham Point, from the coastline out to a depth of 30m. The MCZ was designated to ensure the favourable conservation status of the intertidal and subtidal habitats which support significant biodiversity and marine wildlife. This includes Torbay's seagrass beds²¹ which provide habitat for species including (amongst many others) the nationally rare long-snouted seahorse, and act as nursery areas including for species of commercial importance such as bass and cuttlefish.
- 2.9.5** Any development that is capable (alone or in combination with other plans or projects) of affecting the protected features of the marine SAC and/or MCZ, including through recreational impacts associated with development, will need to be subject to ecological assessment. Potential impacts on the marine SAC will require HRA Screening and, where impacts cannot be ruled out or mitigation is considered necessary, a full HRA Appropriate Assessment will be required. Potential impacts on the MCZ will require an MCZ Assessment.
- 2.9.6** Where impacts on the protected features of the marine SAC and/or MCZ can be adequately mitigated, this will be secured through planning conditions and/or s106 Agreements, and planning contributions towards the monitoring of ecological mitigation will be sought as set out in section 2.16 below. Where impacts cannot be adequately mitigated, planning applications cannot be approved.
- 2.9.7** Development will be assessed in terms of its potential to contribute to increased recreational use of Torbay's coastal and marine environments. Recreational activities such as rock pooling and exploring, coasteering, sea swimming, diving, kayaking and paddleboarding, boat use, and fishing (including bait collection) all have the potential to impact on the protected features and habitats of the marine SAC and MCZ. Officers will have due regard to ecology studies and guidance on recreational impacts on the marine SAC and MCZ. Where deemed necessary, planning contributions may be sought towards managing Torbay's coastal and marine environments and mitigating the impacts of increased recreational use.
- 2.9.8** While all developments should be considered in terms of their potential impacts on marine ecology, projects relating specifically to new or expanded facilities for kayaks, paddleboarding, wild swimming, personal watercraft, coasteering or other activities, or tourist

¹⁹ See guidance on the Lyme Bay and Torbay marine SAC at: <https://sac.jncc.gov.uk/site/UK0030372>

²⁰ See guidance on the Torbay MCZ at: <https://www.gov.uk/government/publications/marine-conservation-zone-2013-designation-torbay>

²¹ See the maps and information about Torbay's seagrass beds at: <https://www.tor-bay-harbour.co.uk/media/1231/torbays-seagrass-beds.pdf>

accommodation directly linked to these activities, are considered to have strong links to increased recreational use of the coast, and will therefore need particular consideration.

2.9.9 It should be noted that works affecting the marine SAC and/or MCZ may also require a Marine Licence from the Marine Management Organisation.

2.10 Cirl buntings

2.10.1 The cirl bunting is a rare bird species in the UK, with a very restricted range. Most of its population is in South Devon, and a survey in 2016 showed that 7.8% 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. The cirl bunting is also protected under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) and is a red listed bird of conservation concern.

2.10.2 In areas where there are historic records of cirl bunting breeding territories, or where suitable habitat is present on a development site, the developer and Torbay Council will either need to accept the presence of cirl buntings and agree on the level of presence, or undertake specific cirl bunting surveys in accordance with the Wildlife and Development Guidance Note: Cirl Bunting (Devon County Council, Teignbridge District Council, Torbay Council and RSPB, 2017) to determine the level of presence.

2.10.3 Where loss of summer breeding or winter cirl bunting habitat is unavoidable, suitable compensatory habitat must be provided. This is unlikely to be achieved on the development site but may be able to be achieved on other appropriately located land owned by the applicant within Torbay. In such instances the developer will need to undertake, via a S106 Agreement, that land within their control will be provided and managed for the lifetime of the development for the benefit of cirl buntings. The S106 Agreement will need to set out the agricultural planting and management practices proposed and make financial provision for the LPA to monitor the compensation land in accordance with Section 2.16 of this SPD.

2.10.4 Where suitable mitigation or compensation cannot be provided on site or on other land owned by the applicant within Torbay, contributions towards off-site compensation will be sought, provided that this can be satisfactorily secured, and appropriate land identified.

2.10.5 Torbay Council is working with the RSPB and the Torbay Coast and Countryside Trust (TCCT) and reviewing other landholdings to identify potential off-site compensation sites for cirl buntings in Torbay.

2.10.6 A payment of £109,665 (as at May 2022²²) per pair of cirl buntings will be required for compensation for those sites which are owned by Torbay Council and managed by TCCT. The offsite compensation payment covers management and monitoring costs for the lifetime of the development (at least 25 years).

²² To be adjusted with inflation based on the Retail Price Index. For reference, the amount was £87,313 at 2015 prices.

- 2.10.7** Further details can be found within the ‘Wildlife and Development Guidance Note: Cirl Bunting (Devon County Council, Teignbridge District Council, Torbay Council and RSPB, 2017)’ <https://www.devon.gov.uk/environment/wildlife/wildlife-and-geology-planning-guidance>

2.11 Protected Sites - locally important sites for biodiversity and geodiversity

- 2.11.1** The Local Plan identifies locally important sites for biodiversity and geodiversity. These include County Wildlife Sites (CWS), Other Sites of Wildlife Interest (OSWI), Unconfirmed Wildlife Sites (UWS) and Regionally Important Geological Sites (RIGS). In addition, Local Plan Policies NC1 and C4 seek to protect veteran trees and woodland. Developments within 500m of locally important sites are likely to impact upon and/or benefit from them. Accordingly, there may be a need for these developments to contribute towards enhanced management of these sites. Contributions will be determined on a case-by-case basis based on an assessment of the impact on biodiversity and the requirement in Policy NC1 to achieve a net gain in biodiversity.

2.12 Off-Site Habitat Compensation (Biodiversity Offsetting)

- 2.12.1** Where impacts on locally important sites (including CWS, OSWI, UWS and RIGS) cannot be avoided, mitigated or compensated for on the development site, or on other local land owned by the applicant, contributions for off-site habitat compensation will be sought provided such solution can be delivered satisfactorily.
- 2.12.2** For small (typically householder) developments that involve the loss of local habitat, a contribution of £31.25 (as at May 2022²³) per sq. m of lost habitat will be sought (calculated on the basis of £1.25 per sq. m habitat loss per year for 25 years). For example, a loss of 100 sq. m of habitat would result in a contribution of £3,125 (£1.25 x 25 years x 100 sq. m).
- 2.12.3** For larger developments contributions will be determined on a case-by-case basis.
- 2.12.4** Contributions will be used to provide off-site habitat enhancements in accordance with management plans, including site assessments where necessary. There are a number of locally important sites across Torbay which have the potential to provide off-site compensation through enhanced habitat management. These include County Wildlife Sites, Other Sites of Wildlife Interest and Unconfirmed Wildlife Sites (as set out in Appendix D of the Local Plan). In addition, there may be potential for off-site compensation on other land, including land owned by Torbay Council and managed by the Council or TCCT.
- 2.12.5** Consideration will be given to other biodiversity obligations or on-site provision to avoid ‘double counting’, i.e., financial contributions will only be sought to compensate for a net loss of biodiversity. This planning contribution mitigates a site-specific impact and is therefore a site deliverability matter.

²³ To be adjusted with inflation based on the Retail Price Index. For reference, the amount was £25 per sq. m (£1 per sq. m x 25 years) as at Feb 2017.

2.13 Design, Active Design and Public Realm

- 2.13.1** Local Plan Policy DE1 ‘Design’ sets out a requirement for development to be well designed and contains a checklist of considerations relating to the development’s function, visual appeal and quality of open space. Particular attention is drawn to designing out opportunities for crime and anti-social behaviour etc. in liaison with the Police Architectural Liaison Officer on major developments. The council will work constructively to consider the policing needs arising from development. The Policy also requires the provision of layouts and design which encourage active lifestyles and promote walking, cycling and public transport (referred to as ‘active design’²⁴). Local Plan Policy DE2 encourages the use of the criteria set out in Building for Life 12. This has now been replaced by Building for a Healthy Life²⁵, which provides clear guidance on designing healthy neighbourhoods that support active travel and access to greenspace.
- 2.13.2** Local Plan Policy DE3 ‘Development amenity’ sets out a requirement for good layout of dwellings including guidance on space standards, amenity space, road layout, 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 DE3 also indicates that developments should be designed to minimise the opportunities for crime and help avoid community conflict: for example, by providing adequate parking and secure storage facilities for cycles etc. Policy W1 requires development to make provision for storage of recycling and waste materials.
- 2.13.3** Local Plan Policy SC1 ‘Healthy Bay’ requires applicants to promote 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. Further details about health considerations in Planning are set out in the Healthy Torbay SPD (April 2017): <https://www.torbay.gov.uk/spd>.
- 2.13.4** 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 development design and layouts etc.
- 2.13.5** Local Plan Policy SS10 ‘Conservation and the historic environment’ requires development to contribute towards the character and local distinctiveness of the area. The Torbay Heritage Strategy 2021-2026²⁶ provides guidance to protect and enhance Torbay’s cultural heritage and historic environment, promoting development that respects and finds inspiration from the distinct characters throughout the Bay.
- 2.13.6** Local Plan Policy SS11 ‘Sustainable communities’ sets out a range of measures to regenerate community investment areas, including protecting and enhancing the built environment or creating better accessibility and connections serving the local community. Helping to promote healthy lifestyles, for example through promoting walking and cycling, will also be given a high priority in these areas.

²⁴ See Sport England’s guidance on Active Design at: <https://www.sportengland.org/how-we-can-help/facilities-and-planning/design-and-cost-guidance/active-design>

²⁵ See the Building for a Healthy Life design toolkit at: https://www.udg.org.uk/sites/default/files/publications/files/14JULY20%20BFL%202020%20Brochure_3.pdf

²⁶ The Torbay Heritage Strategy 2021-2026 is available at: <https://www.torbay.gov.uk/torbay-heritage-strategy/>

- 2.13.7** The Neighbourhood Plans all set out detailed design Policies. These will need to be incorporated into development layouts and design. Developments in Torquay should meet the requirements of **Torquay Neighbourhood Plan** Policies TH2 Designing out Crime, TH5 Sustainable later life homes, TH8 Established Architecture, Health and Wellbeing Policies THW1-6, TT2 Change of Use in Conservation Areas and Listed Buildings, and area specific policies. Policy TJ2 requires all new residential development to have superfast fibre optic broadband connected or provision for retrospective fitting.
- 2.13.8** The **Paignton Neighbourhood Plan** contains various design requirements within Policy PNP1 Area wide policy, including PNP1(c) Design principles, PNP1 Towards a sustainable low carbon economy PNP1(g) designing out crime as well as area specific policies.
- 2.13.9** **Brixham Peninsula Neighbourhood Plan:** Policy BH5 Good Design and the town and village design statements. Policy J2 requires the provision of fibre optic cabling.
- 2.13.10** Built environment improvements (such as the removal of clutter or poor quality later additions, use of sympathetic materials etc.) should be central to development proposals. The additional costs of providing these will be taken into account in the negotiation of s106 or s278 Agreements (see paragraph 4.4.37 of the Local Plan).
- 2.13.11** Improvements to the public realm, including urban spaces and the fabric of buildings etc. that face onto them, are critical elements of regeneration that improve quality of life for residents and visitors alike, and help reduce deprivation in town centre areas. Masterplans have been prepared for Torquay and Paignton Town Centres.
- 2.13.12** There will be instances where public realm improvements are central to the success of development, particularly in town centre and waterfront areas. In many instances, public realm improvements can be achieved through conditions and good design of development and its environs. This applies to residential and non-residential developments. There may also be instances where planning obligations to provide off-site public realm improvements are justified. In cases where there is a particularly close relationship with development and public realm improvements, these may be prioritised over other contributions. This could include contributions towards improving the public realm through (amongst other things) hard and soft landscaping, street furniture, outdoor seating areas, lighting, public art, events spaces and other placemaking initiatives.
- 2.13.13** The council has a legal duty to protect heritage assets, including the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990. A high priority will be given to conserving and enhancing heritage assets such as listed buildings and Conservation Areas through the careful negotiation of the layout and design of proposals affecting such assets. The clear expectation will be for heritage impacts to be addressed on site. There may however be exceptional instances where bespoke planning obligations are sought to secure related heritage gains through off-site improvements (such as public realm improvements within Conservation Areas or in the setting of listed buildings), or actions that improve public access, appreciation or enjoyment of heritage assets, where this can be shown to avoid or mitigate heritage harm resulting from a development. This will be on a case-by-case basis taking into account evidence such as the Heritage Strategy and Conservation Area appraisal

documents, as well as Historic England guidance²⁷. Off-site improvements would need to be to land or buildings that are Council-owned or under the same control as the development site, and would be secured through s106 Agreements. In many instances off-site mitigation of heritage harm will not be possible, and heritage harm may result in applications being refused.

2.14 Town Centre Impacts, Night-time Economy and Management of Potential Community Conflict

2.14.1 Mitigating Town Centre Impact. Local Plan Policy TC3 of the Local Plan sets out sequential and impact tests for considering proposals for main town centre uses (as defined by the NPPF). Where the Council considers that out of centre development should be approved subject to the impact on centres (as designated in Local Plan Policy TC2) being mitigated, a planning contribution towards town centre management and/or regeneration will be sought. This contribution will be based on the assessed impact on designated centres over five years. The likely degree of actual conflict on centres will also be taken into account (for example genuinely bulky goods sales are likely to impact less than general retail).

2.14.2 Monitoring Night-Time Economy Uses and other uses that could generate community conflict. Local Plan Policy TC5 “Evening and night-time economy” indicates that contributions will be sought towards town centre management, maintenance, provision and maintenance of CCTV, and policing. Contributions may be sought from development that can reasonably be considered likely to create noise, nuisance or community conflict such as alcohol related uses, gambling uses, or amusement arcades, to monitor and mitigate their impact, for example through CCTV or policing. Contributions will need to be based on an assessment of the impact of development and measures needed to mitigate impacts. The council will work in cooperation with the Police and other services to identify these needs and mitigate them where this would meet the tests of lawfulness. This should not be taken to imply that all development is capable of being made acceptable through planning contributions. Nor do they remove the requirement to seek to minimise potential nuisance and conflict through good design.

2.15 Energy Efficiency, Low Carbon Development and Climate Change

2.15.1 Policies ES1 and SS14 of the Local Plan seek to minimize carbon emissions from development. Applications for major development should include an Energy Statement setting out how energy efficiency, low carbon design, and climate resilience has been incorporated into the development, including strategies as set out below.

2.15.2 Local Plan Policy ES1 seeks to ensure that carbon emissions associated with energy use for new and existing buildings are limited. All major development should make it clear how low-carbon design has been achieved. It is recommended that the following sequential energy hierarchy is followed:

²⁷ See Section 24 of “The Historic Environment in Local Plans: Historic Environment Good Practice Advice in Planning: 1”. Available at: <https://historicengland.org.uk/images-books/publications/gpa1-historic-environment-local-plans/gpa1/>

1. Reducing energy demand (for heating and cooling) through siting and design.
2. Using energy efficient measures and materials in the fabric of the building.
3. Using decentralised heating, cooling and power systems.
4. Using on-site or near-site renewable technologies.

Table 2.1 Following the sequential energy hierarchy

Energy Hierarchy	Explanation
Step 1: Conserve energy by reducing demand through siting and design.	<ul style="list-style-type: none"> • How does the form, siting and orientation of the buildings, and the landscaping, reduce energy use? • How has the orientation and massing of the building been optimised to allow useful solar gains and prevent significant overshadowing in winter? • Is there a ventilation strategy in place and is the fabric of the building designed to have good levels of air tightness and to avoid overheating?
Step 2: Use energy efficiently within the fabric of the building.	<ul style="list-style-type: none"> • Reducing how much energy a building needs through firstly improving the fabric of the building (known as the ‘fabric first’ approach). This means installing and maximising insulation in the walls, floors and roofs; energy efficient windows and doors, and an effective ventilation system. • Improving the fabric of the building reduces the need for heating in the first place; space heating during the winter months accounts for around 65% of the total energy demand in a new home²⁸. • Where developments adopt Passivhaus²⁹ / BREEAM³⁰ principles to provide energy efficient buildings in accordance with Policy ES1, this will be given great weight in the planning balance.
Step 3: Use decentralised heating, cooling and power systems.	<ul style="list-style-type: none"> • Once the demand for energy has been minimised by the fabric first approach above, the Energy Statement should set out how any remaining energy demand for heating (including for hot water) will be met. • District heat networks provide an energy efficient and cost-effective way of meeting the energy demands of buildings. A heat network uses one source of heating to distribute heat via pipes to multiple buildings on a local network (see figure 2.2 below)³¹. • Heat networks require a specific mix of uses and the presence of ‘anchor loads’ that provide a critical mass for their operation.
Step 4: Use on-site or near-site renewable energy	<ul style="list-style-type: none"> • Once the building is as energy efficient as it can be, the use of on-site renewable energy should be maximised to meet as much of the remaining energy needs of the building as possible. • Renewable heating technologies: <ul style="list-style-type: none"> ○ Ground source heat pumps, air source heat pumps, and others³². (Note that gas boilers are being phased out by the Government and it is best practice to not use any form of fossil fuel based heating systems.) ○ Solar thermal for heating water. • Renewable power generating technologies: <ul style="list-style-type: none"> ○ Photovoltaic panels (roof or ground mounted)³³.

²⁸ Source: Net Zero Carbon Toolkit. Authors: Levitt Bernstein, Elementa, Passivhaus Trust and Etude commissioned by West Oxfordshire, Cotswold and Forest of Dean District Councils, funded by the LGA Housing Advisers Programme. Available at: <https://www.southoxon.gov.uk/net-zero-carbon-toolkit/>

²⁹ See https://www.passivhaustrust.org.uk/what_is_passivhaus.php for more information.

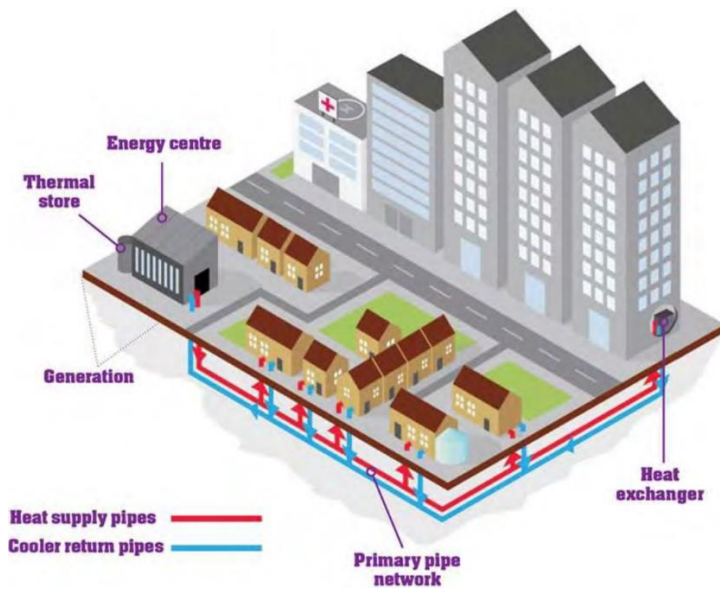
³⁰ See <https://bregroup.com/products/breeam/breeam-technical-standards/> for more information.

³¹ See page 23 of the Net Zero Carbon Toolkit for more information.

³² See pages 22-24 of the Net Zero Carbon Toolkit for more information.

³³ See pages 26-28 of the Net Zero Carbon Toolkit for more information.

Figure 2.2 Diagram of a typical district heat network (Source: Net Zero Carbon Toolkit)



2.15.3 Policy SS14 also seeks to ensure that development is adapted for, and resilient to, a changing climate. Resilience to climate change, including extreme weather events, should be fully considered as part of the design, layout, form and location of development. Proposals should make the most of opportunities to:

- Limit the potential for summertime overheating within buildings as well as their surrounding external environment;
- Conserve water supplies and minimize the risk and impact of flooding;
- Avoid responses to climate impacts which lead to increases in energy use and greenhouse gas emissions.

It is recommended that Energy Statements submitted as part of major applications also address these considerations:

Figure 2.3 Adaptations for a changing climate

Objective	Explanation
1. Limit the potential for summertime overheating within buildings as well as the surrounding external environment.	<ul style="list-style-type: none"> • Increased use of ponds, roadside swales, flood balancing lakes and fountains. • Orientation of buildings and streets to reduce excessive solar gain and catch breezes. • Cool pavement materials on roadways or large parking areas. • Planting, shading and advanced glazing systems to reduce solar heat gain. • Materials to prevent penetration of heat, including use of cool building materials and green roofs and walls. • Increasing ventilation and removing heat using fresh air (only effective when outside air is cool). • For more examples see pages 20-23 of the UKCIP Climate Change Adaptation by Design³⁴.
2. Conserve water supplies and minimise risk and impact of flooding.	<ul style="list-style-type: none"> • Use of waterbutts. • Catchment approach including upland/upstream tree planting. • Impermeable surfaces can be replaced by SUDS, such as permeable pavement, gravel or grass so that water can soak away, local green spaces, tree and soil restoration. • Green roofs to reduce runoff and ease pressure on drainage systems. • Flood resilient measures, including raising floor levels, electrical fittings and equipment; rain proofing and overhangs to prevent infiltration of heavy rain around doors and windows; temporary free-standing barriers which hold back floodwater from properties. • For more examples see pages 26-29 of the UKCIP Climate Change Adaptation by Design. • For areas near to the coast given consideration given to increase in sea-level rise see separate flood policies for details. • Good practice advice is available on page 61 of the RTPI's Climate Crisis guide³⁵.
3. Avoiding responses to climate impact which lead to increases in energy use and greenhouse gas emissions.	The strategies set out above and in Table 2.1 help minimise energy use and avoid energy intensive responses to climate impacts.

2.15.4 Buildings should be re-used where possible to save embodied energy which would otherwise be lost through demolition, and to limit the production of construction waste. Where demolition is unavoidable, opportunities should be sought to salvage re-usable building materials such as natural stone

2.15.5 As outlined in Policy SS14, Carbon offsetting may be appropriate for development proposals with an exceptionally high carbon footprint/intensity, including those as identified through the Environmental Impact Assessment process. Carbon offsetting may be sought through s106

³⁴ See the UKCIP Climate Change Adaptation by Design document available at: https://www.ukcip.org.uk/wp-content/Wizard/CC_by_design.pdf

³⁵ See the RTPI's guidance entitled "The Climate Crisis: A Guide for Local Authorities on Planning for Climate Change", available at: https://www.rtpi.org.uk/media/9379/tcpa-rtpi-climate-guide_oct-2021_final.pdf

Agreements where necessary based on a case-by-case assessment of the impacts of the development. Where the need for carbon offsetting is identified, the Energy Statement must also include an offset strategy. It is up to the developer to specify how they will offset any remaining, residual emissions that arise from the development.

- 2.15.6** Development should carefully manage the dual challenges of conserving the historic environment and improving energy efficiency. Regard should be had to guidance³⁶ provided by Historic England on retrofitting historic buildings, including their ‘whole building approach’ to retrofit.
- 2.15.7** Policy ES2 of the Local Plan offers support, in principle, to proposals for new renewable and low-carbon energy generating systems at all scales, as standalone development proposals or integrated within developments. Importantly, local energy generation increases energy security and helps reduce fuel poverty.
- 2.15.8** **Neighbourhood Plan Policies on Energy Efficiency and Low Carbon Development.** - Policy PNP1(f) of the Paignton Neighbourhood Plan states that development within Paignton should incorporate sustainable construction measures.

2.16 Monitoring Contributions

- 2.16.1** The Local Plan indicates that planning contributions will be sought to monitor development that gives rise to specific monitoring requirements such as holiday occupancy conditions, annexes to dwellings (where a separate dwelling would not have been permitted or would be liable for other contributions as a separate dwelling), non-Registered Providers of affordable housing, houses in multiple occupation (HMOs), ecological mitigation and monitoring the implementation of travel plans. Note that the Neighbourhood Plans also contain Policies on town centre management and HMOs – see Policies TNP TT1, PNP1(g) as well as detailed policies for town centres, harbours and tourism areas.
- 2.16.2** Table 2.4 below sets out the types of development that require specific monitoring, and the total cost to the council over a minimum of 5 years. Note that this is not a definitive list and contributions will be sought proportionately to the requirement to monitor.

³⁶ See the Historic England guidance documents available at: <https://historicengland.org.uk/advice/technical-advice/energy-efficiency-and-historic-buildings/>

Table 2.4 Monitoring contributions (as at May 2022³⁷)

Use	Monitoring Contribution	Notes
Holiday occupancy conditions	£1,500	Based on 1 full day data assessment and/or site visit per annum for 5 years, charged at £300 per day. Cost is per unit. However, a discount may be applied for multiple units.
Domestic annexes	£750	Based on 1/2 day data assessment and/or site visit per annum for 5 years, charged at £300 per day. Sought where an annexe is self-contained or substantially self-contained, and permission would not be granted for a separate dwelling (or permission for a separate dwelling would require additional conditions or contributions). Cost is per unit.
Non-RP Affordable Housing (where monitoring is required)	£1,500	Based on 1 full day data assessment and/or site visit per annum for 5 years, charged at £300 per day. Cost is per unit. However, a discount may be applied for multiple units.
Houses in Multiple Occupancy	£1,500	Based on 1 full day data assessment and/or site visit per annum for 5 years, charged at £300 per day. Cost is per unit. May be reduced where on-site management is provided. The figure will be based on the assessment of Development Management and other stakeholders about the impact of the development and cost of managing and/or monitoring.
Ecological Mitigation Works	£4,800	Based on 2 full days data assessment and/or site visit per annum for years 1, 3, 5, 10, 15, 20, 25 and 30, charged at £300 per day. Cost is per development site. This figure would be typical of a large major development (e.g., 100 dwellings) requiring significant ecological monitoring. The figure will be adjusted upwards or downwards according to the complexity of the ecological mitigation and the level of monitoring required.
Travel Plans	£1,500	Based on 1 full day data assessment and/or site visit per annum for 5 years, charged at £300 per day.

2.16.3 Monitoring of Ecological Mitigation. The effectiveness of ecological mitigation relies on appropriate monitoring. Where mitigation measures or compensation land are necessary in order to address the ecological impacts of a development and to secure a net gain in biodiversity (as sought by Local Plan Policy NC1), the Council will also seek a monitoring contribution to enable a suitably qualified ecologist to ensure that the mitigation measures or compensation land have been implemented appropriately and are being maintained effectively, and to identify any remedial works where necessary.

2.16.4 The monitoring contribution sought will be proportionate to the nature of the ecological mitigation measures required, and the level of monitoring need that they give rise to. It is anticipated that many ecological mitigation measures would give rise to a need for two full days of monitoring per annum, carried out on years 1, 3, 5, 10, 15, 20, 25 and 30 of the development. Charged at a rate of £300 per day (as at May 2022), this results in a total monitoring contribution of £4,800. The level of monitoring required will depend on the complexity and extent of the ecological mitigation, and the monitoring contribution sought will be increased accordingly on a case by case basis.

³⁷ Costs to be adjusted for inflation in accordance with the Retail Prices Index.

3 AFFORDABLE HOUSING, EMPLOYMENT AND HEALTH

3.1 Introduction

3.1.1 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 planning contributions after direct site deliverability matters have been taken into account. Note however, that active design and related matters such as on-site open space provision will often be dealt with through planning condition as part of site deliverability considerations.

3.2 Affordable Housing

3.2.1 Local Plan Policy H2 'Affordable Housing' sets out the Council's affordable housing requirements. Policy SC5 "Child poverty" also promotes affordable housing and other measures to help reduce child and fuel poverty. The Council's Housing Strategy³⁸ is also an important consideration.

3.2.2 Local Plan Policy H2 remains the Council's adopted Local Plan Policy in relation to Affordable Housing. However, in line with paragraph 64 of the NPPF (2021)³⁹ the council will not seek affordable housing on non-major⁴⁰ developments, other than in designated rural areas (in Torbay this is the AONB). As noted in Part 2, the Council will resist the artificial division of plots, or underdevelopment of sites to reduce liability to affordable housing or other planning obligations.

3.2.3 This requirement in NPPF paragraph 64 does not impact on the threshold for brownfield sites/ previously developed land (where the local plan threshold is 15 dwellings), or for sites within the AONB (where the threshold for greenfield sites is 3 dwellings).

³⁸ See the Council's Adopted Housing Strategy 2020-2025 here: <https://www.torbay.gov.uk/housing-strategy/>

³⁹ Paragraph 64 of the NPPF states: "Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount. (Defined in footnote 30 as equivalent to the existing gross floorspace of the existing buildings. This does not apply to vacant buildings which have been abandoned)". This is a material consideration but does not supersede the development plan.

⁴⁰ The definition of "major development" includes (amongst other types of developments) developments of 10 or more dwellings or, where the number of dwellings is not yet known, developments on sites where the site area is 0.5ha or more. It also includes developments comprising new floorspace of 1000sq. m. or more (regardless of the number of dwellings).

Table 3.1 De facto affordable housing thresholds taking into account NPPF paragraph 64 as a material consideration

Net new dwellings/ assessed site capacity	Affordable housing target	Method of delivery
Development of Brownfield Sites/ Previously Developed Land		
1 -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. Brownfield credit may apply (paragraph 64 of the NPPF).
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. Brownfield credit may apply (paragraph 64 of the NPPF).
Development of Greenfield Sites		
3 - 5 dwellings	Zero (other than in the AONB, and developments of 1000sqm or more)	Zero except for development in the AONB. In the AONB a commuted payment based on 10% affordable housing provision will be sought on sites of 3 or more net new dwellings. 10% affordable housing provision will be sought on developments comprising new floorspace of 1000sq. m. or more.
6-9 dwellings	Zero (other than in the AONB, and developments of 1000sqm or more)	Zero except for development in the AONB. In the AONB a commuted payment based on 15% affordable housing provision will be sought (see text below). 15% affordable housing provision will be sought on developments comprising new floorspace of 1000sq. m. or more.
10 dwellings	15%	Usually through commuted payment based on 15% affordable housing provision will be sought (see text below).
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%	Delivered through on-site provision. 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%	Delivered through on-site provision. 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.

3.2.4 The Government policy offering brownfield relief will be taken into account and will in particular be given weight on developments that pay CIL. The Council will not however apply the relief where it considers buildings have been recently made vacant, run down, or left vacant with the intention of gaining planning permission.

3.2.5 Sites comprising a mix of brownfield and greenfield land⁴¹. There will be instances where part of a site comprises of brownfield land and the rest comprises of greenfield land. In such instances, the affordable housing requirement will be adjusted according to the relative proportions of greenfield and brownfield land on the site, as set out in the example below. The affordable housing requirement will be calculated for the site as a whole rather than being calculated separately for the brownfield and greenfield components of the site. However, where a site is substantially brownfield or greenfield, it will be treated as such.

Example: Development of 50 dwellings on a 1.5ha site of which 0.2ha is brownfield:

- As per Table 3.1 above, the affordable housing requirement for a development of 50 dwellings is 30% for greenfield and 20% for brownfield.
- Proportion of the site comprising of brownfield = $0.2\text{ha} / 1.5\text{ha} = 13.33\%$
- Proportion of the site comprising of greenfield = $1.3\text{ha} / 1.5\text{ha} = 86.67\%$
- Affordable housing requirement = $(13.33\% \times 20\%) + (86.67\% \times 30\%) = 2.67\% + 26\% = 28.67\%$
- Total number of affordable homes required = $28.67\% \times 50 = 14.34$ affordable homes

3.2.6 The explanation to Policy H2 (Paragraphs 6.4.1.6-18) provides additional guidance on tenure neutral design and implementation. It sets out the Council's approach to delivering affordable housing as part of mixed and balanced communities. Paragraph 6.4.1.2 indicates that sites should not be artificially subdivided or phased to avoid liability for affordable housing. This should apply both to new sites and the subdivision/redevelopments of existing buildings. Regard will be had to space standards set out in the explanation to Local Plan Policy DE3.

3.2.7 Dwelling types, mix and location should be provided in agreement with the Council's Housing Manager⁴², to accord with the needs of Registered Providers in the Borough. The range of affordable housing dwelling types should be consistent with that of the development as a whole. See Section 3.9 below for further guidance on the design and layout of affordable housing.

3.2.8 The requirement to provide Affordable Housing will apply to all proposals for residential development where the threshold is exceeded (whether as a result of one or more than one planning application), including (but not limited to): new build, conversions, mixed use schemes, phased developments and schemes providing housing for people receiving care or support, including supported and extra care housing developments. Note that Policy H2 of the Local Plan is not phrased in terms of a specific Use Class.

3.3 Neighbourhood Plan Policies

3.3.1 Torquay. The Torquay Neighbourhood Plan (TNP) includes Policies **TH3** "Future Growth Area Priorities", **TH4** "Affordable homes from greenfield developments", and a Community Aspiration for increased affordable housing (page 15). Policy **TH4** indicates a sequential preferred order for affordable homes of on-site provision, mixed on-site and off-site provision, with commuted payment being the last preference. Several community aspirations support the delivery of affordable housing.

⁴¹ The definition of Previously developed land (also called "brownfield") is set out in the Glossary of the NPPF.

⁴² Or other person who the Council has put in place to carry out the housing functions.

- 3.3.2 Paignton.** Policy PNP1(c) supports the delivery of affordable housing to meet the Local Plan's strategic needs.
- 3.3.3 Brixham Peninsula.** Development within the Brixham Peninsula area will need to conform to **Policy BH1 and BH2** of the approved BPNP. **Policy BH1** seeks on site provision of affordable homes as a first preference. Off-site contributions will be considered where this would result in a larger number of affordable homes being provided, but only if directly allocated towards the physical provision of affordable homes within the Brixham Peninsula. **Policy BH1.3** provides a cascade mechanism for commuted sums to be released for wider provision if not used within the Brixham Peninsula.
- 3.3.4 Policy BH2** of the Brixham Peninsula Neighbourhood Plan sets a **local occupancy** requirement for new affordable homes in the Peninsula. In practice this is likely to be achieved through priority being given to qualifying residents as part of the Devon Home Choice bidding process, having regard to the Council's other legal obligations. Policies **BH4.3** and **BH9** consider affordable housing exception sites.

3.4 Tenure Mix

- 3.4.1** The Council seeks the delivery of affordable housing on the basis of the following:

1/3 Social Rent: Social rented properties are 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 Homes England.

1/3 Affordable Rent: Rental properties let by Local Authorities, by private registered providers of social housing, or by alternative organisations 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 and other low-cost home ownership: Intermediate housing 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 equity (shared ownership and equity loans), discounted market sale, intermediate rent (but not affordable rented housing), starter homes, discounted market sales housing and "other affordable routes to home ownership" identified in the NPPF (2021). It may also include self-build housing where provided as affordable housing.

- 3.4.2** The Government has introduced First Homes, a new discounted market sale product, through a Written Ministerial Statement (WMS) and guidance published on 24 May 2021⁴³. First Homes are sold at a discount⁴⁴ of at least 30% against market value and at a price⁴⁵ no

⁴³ See <https://questions-statements.parliament.uk/written-statements/detail/2021-05-24/hlws48> and <https://www.gov.uk/guidance/first-homes>

⁴⁴ Local Authorities have discretion to require a higher discount of either 40% or 50% if need for this is evidenced.

⁴⁵ Local Authorities have discretion to apply a lower price cap if need for this is evidenced. This price cap applies to the first sale only.

higher than £250,000 to a qualifying first time buyer⁴⁶ with a combined annual household income⁴⁷ not exceeding £80,000. Local Authorities have the discretion to require additional local eligibility and affordability criteria which apply for the first 3 months of active marketing.

- 3.4.3** Engagement with the Torbay Strategic Housing Board and Council officers in Housing has revealed some concern with respect to the impacts of introducing First Homes, and most notably the impact on the delivery of affordable rent. Torbay faces a severe need for affordable housing, and households face particularly severe consequences if their need for affordable homes to rent is not met. While the Council recognises that this WMS and guidance are a material consideration in planning decisions, First Homes are unlikely to be the Council's preferred form of affordable housing and have therefore not been incorporated into policy at this stage. The Council will monitor interest in, and delivery of, First Homes and continue to negotiate the most appropriate mix of housing types to meet local needs, based on the tenure mix in Policy H2. First Homes will be considered as part of a wider review of affordable housing policies as part of the ongoing Torbay Local Plan Update.
- 3.4.4** Paragraph 65 of the NPPF seeks at least 10% of homes within major developments to be delivered as affordable home ownership, unless this would exceed the level of affordable housing required in the area, or seriously prejudice the ability to meet the identified housing needs of specified groups. Certain other exemptions are indicated. The Council recognises that this is a material consideration in planning decisions.
- 3.4.5** 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 to be affordable housing.

3.5 Self and Custom Build Housing

- 3.5.1** Self-build and custom houses are defined as dwellings built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual; but excludes the building of a house on a plot acquired from a housebuilder who builds the house wholly or mainly to plans or specifications decided by the housebuilder. This SPD uses the term "self-build" to include custom build housing.
- 3.5.2** Local Plan Policy H3 sets out the council's policy on self-build housing. It allows provision of self-build plots as part of the affordable housing provision on larger housing sites (30+ dwellings). Where offered as part of the affordable housing offer, developers will be expected to provide serviced plots for sale to qualifying households within the Council's waiting list. The s106 Agreement will need to agree an appropriate discount, site management and claw back mechanism for recycling any subsidy below market price into affordable housing if the property is sold within a specified period (of not less than 5 years from completion). Note that Local Plan Policy H3 requires self-build plots to be completed within three years of commencement.
- 3.5.3** Practice suggests that it is usually simpler and more effective for the affordable housing requirement to be met on sites through standard affordable housing, managed by registered

⁴⁶ First time buyer is defined in paragraph 6 of schedule 6ZA of the Finance Act 2003 for the purposes of Stamp Duty Relief.

⁴⁷ Local Authorities have discretion to require a lower household income if need for this is evidenced.

providers. In any event, there is an expectation that the provision of self-built housing will be reduced prior to other forms of affordable housing.

3.6 On-Site Provision or Commuted Sum?

3.6.1 Policy H2, Neighbourhood Plan policies, and the NPPF all indicate that affordable housing will be on-site. Financial contributions in lieu of on-site provision, or the provision of alternative serviced sites or land, will only be accepted in exceptional circumstances where this would achieve more effective provision of affordable housing or bring significant regeneration benefits.

3.6.2 In exceptional circumstances in which commuted sums are accepted, these will be calculated on the basis of the assumed subsidy needed to deliver the equivalent affordable housing through the open market, including administrative costs. Developers will need to show that a commuted sum for off-site provision achieves an enhanced affordable housing offer or bring significant regeneration benefits.

3.7 Calculating Commuted Sums

3.7.1 The council will assess the cost of providing affordable housing, taking account of the value that such housing has in terms of how much occupants would pay for it and rental streams. The value will be below the full open market value. The values of affordable housing in relation to open market value are assessed in the Torbay Whole Plan Viability Testing (PBA 2014, and updated January 2016, and the Housing and Economic Need Assessment (2022). These are set out below, along with the tenure mix as described above:

- 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 at an assumed average minimum discount of 35% below the open market rate (which includes service charges).

3.7.2 The average discount of an affordable dwelling can be calculated as: $(0.33 \times 0.6) + (0.33 \times 0.5) + (0.33 \times 0.35) = 0.483 = 48.3\%$.

3.7.3 This equals out as an average affordable dwelling being worth 52% of the value of an equivalent open market dwelling. In other words, there is an average private (developer) subsidy assumed of 48% of the value of an open market dwelling.

House Price Data

3.7.4 Table 3.2 below sets out average house prices at June 2016 and April 2022, based on Land Registry data (June 2016 being the baseline of the previous SPD). Overall house prices increased by 39.86% over this period, with a slightly weaker increase in the price of flats. For reference, inflation according to RPI was 27.18% over the same period.

Table 3.2 Torbay house prices, June 2016-Feb 2022 (Land Registry)

	Average prices June 2016	Average prices April 2022	Change 2016-22
Detached	301,793	441,014	46.13%
Semi-detached	202,166	293,515	45.19%
Terrace	157,987	224,450	42.07%
Flats	124,794	160,673	28.75%
All properties	182,741	255,585	39.86%

3.7.5 On the basis of house price data, and taking into account house price increases since June 2016, an average house is likely to cost around £280,000 and a flat/ smaller property of up to 79 sq. m around £190,000 (as at April 2022)⁴⁸.

3.7.6 Given that affordable housing will be delivered as newbuild homes, it is important to take account of the relative values of newbuild homes and of existing homes within the resale market. Land Registry data provides an average price of £281,929 for newbuild homes and £245,122 for existing homes as at February 2021, which equates to an effective ‘new build premium’ of 15.02%. Applying this newbuild premium to the values used in 3.7.5 above, an average newbuild house is likely to cost around **£322,000** and an average newbuild flat/smaller property of up to 79 sq. m around **£218,500** as at April 2022.

3.7.7 Table 3.3 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 bringing second hand homes up to an acceptable standard. Table 3.3 sets out the assumed cost of providing affordable dwellings including an additional 10% to account for the costs associated with using the commuted payment to deliver affordable homes elsewhere.

Table 3.3 Assumed cost of providing affordable housing/commuted sum

Affordable housing type	Market value of newbuild dwelling	Value of assumed subsidy at 48% of market value	Cost of provision with 10% administrative costs (rounded to nearest £100)
Smaller dwellings (37-79 sq. m)	£218,500	£104,880	£115,400
Medium sized houses (80+ sq. m)	£322,000	£154,560	£170,000

3.7.8 Where commuted sums are accepted, they should match the value of on-site provision as calculated above i.e., £115,400 per smaller dwelling (79 sq. m gross internal area and less) and £170,000 for dwellings of 80+ sq. m gross internal floor area) at April 2022. These values will need to be adjusted to account for average house prices at the time of the assessment. There is no need to round contributions to the nearest whole number where off-site provision is agreed. (However, note that Policy BH1 of the Brixham Peninsula Neighbourhood Plan seeks the residual payment owed on part of a dwelling to be provided as a contribution: e.g., if affordable housing liability is for 3.4 dwellings then the BPNP would

⁴⁸ These prices are broadly consistent with the gross development values used in previous viability studies carried out for Torbay by Peter Brett and Associates in [2014](#) and [2016](#) and by Burrows Hutchinson in [2016](#) when subsequent house price increases are taken into account.

seek 3 affordable units on site and a commuted sum for the 0.4 of a dwelling (0.4x £170,000= £68,000)).

3.8 Calculation of Viability and Deferred Assessment of Viability

- 3.8.1** Where on-site provision is being made there may be scope to vary tenure to meet sustainable community or Government policy objectives. In particular, paragraph 64 of the NPPF seeks 10% of homes on site to be available for affordable home ownership, which is likely to indicate an increased level of affordable home ownership products on smaller sites. Policy SS11 of the Local Plan is relevant to Community Investment Areas.
- 3.8.2** 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. In addition, attention is drawn to paragraph 58 of the NPPF which indicates that there is an onus on the applicant to justify the need for a viability assessment, and paragraph 2 of PPG on viability which states that the price paid for land is not a relevant justification for failing to accord with the relevant plan policies⁴⁹. Viability assessments will be made publicly available as per paragraph 21 of PPG on viability and should reflect best practice as set out in national planning guidance.
- 3.8.3** Where affordable housing or other s106 requirements are argued to render development unviable⁵⁰, the Council will require the applicant to provide an open book viability assessment at their cost. Where, on the basis of the viability assessment, it is agreed that affordable housing would render development unviable, the Council will negotiate an agreed level of provision. This may be either an increase in the relative proportion of intermediate housing, or a reduction in the number of affordable homes but retention of social rented housing (taking into account the NPPF requirement to provide 10% of homes in major developments as affordable home ownership products). In all cases where a reduction in the percentage of affordable housing is agreed, the Council will require a deferred contribution arrangement to be in place. Procedures for carrying out viability assessments and deferred contributions are set out in part 5 'Implementation'.

3.9 Design and Layout

- 3.9.1** To promote inclusive communities, affordable housing should not be distinguishable from open market housing by design and must integrate seamlessly into the layout of the development. The mix of new affordable housing on each development site should be representative of the mix of market dwellings in terms of the types and sizes (including number of bedrooms) being provided.

⁴⁹ See PPG 10-002-20190509

⁵⁰ In accordance with PPG 10-018-20190509, an assumption of 15-20% of gross development value will be considered a suitable return to developers.

- 3.9.2** Where possible it should be 'pepper potted'⁵¹ in more than one cluster throughout a development (i.e., not all in one place). As a guideline, clusters of 10-12 affordable homes are appropriate on sites of up to 100 dwellings, and 20-24 on sites of 100 dwellings or more.
- 3.9.3** Where being provided together, different tenures of affordable homes should be distributed in such a way that avoids large numbers of social rented and affordable rented products being adjacent to each other.
- 3.9.4** Provision of affordable units should be made as early as practical in the development, having regard to layout and other matters above. The timing of provision will be set out in the S106 Agreement.
- 3.9.5** **Wheelchair Adapted Housing.** Policy H6 of the Local Plan states that 5% of dwellings on developments of 50+ dwellings should be provided as wheelchair accessible housing to Building Regulations Part M4(2). Devon Home Choice figures for Torbay demonstrate that there is a clear need for Affordable Housing that is wheelchair accessible, and the council has a strong preference for the wheelchair accessible housing to be provided as part of the Affordable Housing provision.
- 3.9.6** The wheelchair accessible housing is to be built in accordance with the most up to date Council's Wheelchair Accessible Specification or any amended version in force at the time of reserved matters or full application submission.

3.10 Registered Providers

- 3.10.1** Affordable housing must be retained as such in perpetuity (or the equivalent level of discount recycled into other affordable housing), and there is a strong council preference for affordable housing to be provided and managed by a registered provider. Letting should be through Devon Home Choice or in accordance with a specific local lettings arrangement as agreed with the Council. Within the Brixham Peninsula affordable housing providers will need to adhere to the local occupancy requirements in Policy BH2 of the Brixham Peninsula Neighbourhood Plan.
- 3.10.2** Early discussion with the Council's Housing Strategy and Enabling Officer (or other person carrying out the council's affordable housing delivery function) is encouraged.
- 3.10.3** 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. Accordingly, it is helpful for developers to work with a registered provider at application stage to agree matters such as tenure mix, size and location of affordable housing and similar matters.
- 3.10.4** Registered provider applications for affordable housing schemes that exceed the requirements of Policy H2 will be supported subject to other plan considerations. The Council may be able to relax the need for a s106 Agreement, so long as there is a grant nomination agreement with the Council, which secures the provision of affordable housing in perpetuity to above the development plan requirements.

⁵¹ A form of mixed tenure development in which social housing and privately owned housing are integrated evenly within the same development.

3.11 Affordable Housing and Other Planning Obligations

3.11.1 Where provided and managed by a registered provider with a mechanism to ensure provision in perpetuity, affordable housing units will be omitted from the calculation of any applicable 'sustainable development' contributions. However, site deliverability matters must still be addressed. Affordable housing is entitled to mandatory CIL Exemption, so long as this is sought before the commencement of development.

3.12 Employment

3.12.1 Earnings and gross value added (GVA) in Torbay are below the national and regional average, and there are significant areas of employment deprivation. There has been no net increase in Torbay based jobs since the early 2000s, and Torbay's job-density⁵² is significantly below the national and regional average. Policies SS1, SS4 and SS5 of the Local Plan place a high emphasis on economic growth, and net job growth. Employment is also promoted by Policies TJ1 of the TNP, Policy PNP1 of the PNP, and Policies J1, J3 and J4 of the BPNP. All the Neighbourhood Plans contain policies relevant to employment areas, including harbour and tourism areas. Policy PNP1-Area Wide (i) seeks job led growth and housing provision to be kept in balance in Paignton.

3.12.2 Policy SS5 and the Strategic Delivery (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 employment provision, their use will be controlled through condition or s106 Agreement controlling occupancy.

3.12.3 Where sites are identified for mixed use development in the Local Plan, the early provision of employment space will be given a high priority in determining obligations sought on site, as indicated in Policy SS2(ii) of the Local Plan.

3.12.4 For mixed use schemes, early engagement with the TDA (Torbay Development Agency) is encouraged during the planning stages to ensure that the specific types of employment space delivered respond well to local demand.

3.12.5 Developments which propose an under-provision of employment space against the requirements of Policy SS5 and any applicable Masterplans will be assessed on the basis of the impact on the economic prosperity of Torbay, the appropriate mix of uses within a locality and on amenity, and may be refused. Policy SS5 seeks 25% of major mixed use developments to be for what was at the time Class B (now Class B1, B2, E(g) space. The Council has a clear preference for the on-site delivery of employment space. In exceptional circumstances the Council may agree to the payment of planning contributions to help enable the provision of employment (or infrastructure etc. that supports or enables employment) elsewhere.

3.12.6 The Council will seek Local Employment and Skills Plans from all developments as set out in Policy SC3 of the Local Plan. This will be given a high priority by the Council and will be

⁵² The proportion of jobs per working age person, where 1 equals a workplace job for each person of working age. At 2020 Torbay's job density was 0.74 compared to 0.88 in the South West and 0.84 in Great Britain.

secured using planning conditions or incorporated into s106 Agreements. Whilst the use of local labour is relevant to all schemes, it will be particularly relevant to development proposals where a degree of exception to usual planning policies is being sought.

3.13 Loss of Employment

- 3.13.1** Where a development proposal results in a net loss of jobs, either through changes of use from existing employment uses (such as hotels, offices etc.) to non-employment uses (such as housing), or through the development of land that is allocated as employment land (for example in adopted masterplans) for non-employment uses, this will be assessed in accordance with Policy SS5 of the Local Plan and relevant neighbourhood plan policies and national guidance. This includes an assessment of the proposal's impact on the economic prosperity of Torbay, the appropriate mix of uses within a locality and on amenity.
- 3.13.2** Proposals for the loss of employment space will be assessed on their planning merit and will not always be agreed. Where the loss of employment space is agreed, the payment of planning contributions to help enable the provision of employment (or employment supporting infrastructure etc.) elsewhere in Torbay will be required. Provision in this SPD for planning contributions to be sought in lieu of on-site provision of employment space should not be taken to mean that this will always be agreed.
- 3.13.3** Employment contributions will be used to help deliver regeneration in accordance with the adopted town centre Masterplans, and to fund initiatives to support economic growth led by the Council's emerging Economic Growth Strategy and Action Plan⁵³. Contributions will also be used to help provide enabling infrastructure such as site servicing or decontamination costs for regeneration and enabling employment generating schemes.
- 3.13.4** In order to improve Torbay's economic profile and achieve job growth, loss of employment contributions will be given the highest priority after Site Deliverability and affordable housing matters.
- 3.13.5** It is noted that change of use of some employment related activities can be carried out under a "prior approval" regime rather than needing full planning permission. Proposals will also need to be considered in the round. The cost of providing other public benefits, such as the removal of unsightly later additions to buildings, may be considered as mitigation against loss of employment contributions.
- 3.13.6** Where proposals deliver a net increase in jobs within Torbay (i.e., proposals for employment uses), these can be treated as mitigation from broader sustainable development contributions, where there is a viability issue with development. However, such mitigation cannot be provided for site deliverability matters as this could render developments unsafe or unlawful.

⁵³ The Torbay Economic Growth Strategy is the subject of public consultation during July-October 2022, and is expected to be adopted by late 2022/early 2023 at which point it will replace the existing adopted Economic Strategy 2017-2022. The Economic Growth Strategies emphasise the importance of creating higher value added jobs. This is not meant to underplay the social value of other jobs; but Torbay's main problem at the time of writing is low GVA/wages rather than high unemployment. An Action Plan will be developed after adoption of the Economic Growth Strategy.

3.14 Assessing the Cost of Employment

3.14.1 The cost of creating jobs has been calculated based on recent council/TDA directly delivered employment schemes, and the public cost of delivering these. The cost of delivering employment land in Torbay is high because of a shortage of sites, and ground conditions on land that is allocated. These are:

- Torbay Business Park - £6.5M circa 90 jobs: circa £70k per job
- Claylands Phase 1: £7.5M (due to abnormal costs) for approximately 30 new jobs: circa £250k per job.
- EPIC, White Rock - £8M for circa 100 new jobs: Approximately £80k per job.
- Torbay Business Park unit E £1.5M. Circa 20-25 jobs: Circa £60k per job.
- Lymington Road – Approximately £6.32M (due to abnormal costs). Likely to provide 38 jobs: Circa 166k per job.

3.14.2 On the basis of the above, the lowest assessed public cost of creating a Class B2, B8 or E(g)⁵⁴ job is £60,000. However, the advice from the Divisional Director Economy, Environment and Infrastructure is that the minimum justifiable cost is £25,000 per full time equivalent (FTE) job, based on the ability to fund some of the shortfall by grants or other means. It is more difficult to reach a figure for non-industrial jobs. In line with previous versions of the SPD a 50% rate is assumed i.e., £12,500 per FTE job.

3.14.3 Accordingly, applications which result in a net loss of employment will be asked to pay a loss of employment contribution to mitigate the economic impact. This applies to:

- Changes of use away from an existing employment use
- The development of land that is allocated in a Masterplan or Future Growth Area for employment or for major mixed use development, for non-employment uses. As noted, Policy SS5 of the Local Plan seeks at least 25% of such areas to be industrial (Class B2, B8 or E(g) (former B1) uses).

3.14.4 On the basis of the above figures, loss of employment contributions will be sought at a rate (as at May 2022) of:

- £25,000 per Class B2, B8, or Class E(g) class job lost or not provided.
- £12,500 per non Class B2, B8, or E(g) job lost or not provided (unless evidence can be provided that jobs provided will generate higher Gross Value Added).

3.14.5 The number of jobs lost will be based on the last use, or the proposed masterplan allocation, based on the Employment Densities Guide (3rd Edition 2015) which estimates FTE jobs by floor area, and on any applicable evidence supplied by the applicant. Whilst it is noted that the use classes have been superseded by Use Class E, reference to the pre-2020 use classes is considered by the council to remain helpful as a reference point to assess likely employment, and as a proxy for likely employment loss.

⁵⁴ The Local Plan was written before the Use Classes Order was changed in 2021. Jobs within the former B1 Use Class of business/light industry are now classed as E(g). The Local Plan considers a range of types of employment and not just jobs within the former Class B employment use classes.

Table 3.5 Estimated employee/floorspace ratios (Employment Densities Guide 3rd Edition, 2015).

This is included for guidance, although some uses have been replaced by Class E.

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

3.15 Healthy Communities and Healthcare

- 3.15.1** Policy SC1 'Healthy Bay' of the Local Plan requires development to contribute to improving the health and wellbeing of the community. Torbay has health problems closely related to its demographic structure and deprivation (see paragraph 6.4.3.1 of the Local Plan). Brixham Peninsula Neighbourhood Plan Policy HW1 'Retention of current health and social care estates' is also relevant, as is Paignton Neighbourhood Plan Policy PNP26- Clifton with Maidenway (a) 'Provision of community facilities'.
- 3.15.2** All development should seek to promote active design as a site deliverability matter (see above).
- 3.15.3** Policy SC1 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 proportionate 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. Key measures include the promotion of active lifestyles through open space provision, cycling facilities (including secure covered storage).
- 3.15.4** Policy SC4 'Sustainable food production' requires that developments of 30+ dwellings should include provision of sustainable food production.
- 3.15.5** Policy PNP1(c) of the Paignton Neighbourhood Plan also seeks to increase local food production capacity.
- 3.15.6** Regard should 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, a commuted sum to fund 25 years maintenance shall be provided through s106 Agreements or other financial arrangement. If ownership of public open space is not transferred to the council, details of alternative maintenance arrangements (including evidence that such arrangements will be adequately funded in perpetuity) must be provided and secured through a s106 Agreement⁵⁵.
- 3.15.7** Torbay Council adopted the Healthy Torbay Supplementary Planning Document in April 2017. <https://www.torbay.gov.uk/council/policies/planning-policies/local-plan/spd/>. This is currently being updated.

3.16 Healthy Communities and Health Impact Assessments

- 3.16.1** 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.

⁵⁵ See Section 4.6 of this SPD for further detail on what is required when maintenance of open space is to be provided through a management company.

3.16.2 Planning obligations relating to open space, sports and recreation, and education are dealt with in the section below on ‘sustainable development contributions’. This means that they will typically only be sought on developments that do not pay CIL. However, there will be instances where, in order to achieve Healthy Bay objectives on sites where these considerations are particularly important, planning obligations relating to matters such as education, public open space, sports and recreation will be prioritised and therefore treated as ‘site deliverability matters’. Public realm improvements may also be particularly important to achieving Healthy Bay objectives, but are already treated as a ‘site deliverability matter’.

3.17 Development which creates a Specific Health/Social Service Need (e.g., Care Homes, Specialist Housing)

3.17.1 The population of Torbay is significantly older than the national average. Torbay’s population growth is driven by net domestic migration by older people into Torbay and outward migration of young people. This places a demand from some new developments on local healthcare and social services.

3.17.2 Adult Social Care is the largest part of Torbay’s budget at £46.1 million in 2022/23. As a small unitary authority, with an aging population and complex care needs, Torbay is hit particularly hard by the increasing cost of care.

3.17.3 From October 2015, Torbay’s adult community health and social care integrated with Torbay and South Devon NHS Foundation Trust to form a single Integrated Care Organisation. Local government and the NHS are facing unprecedented financial challenges with reduced funding from central government in the face of increasing demand for services.

3.17.4 A clear policy objective of the Torbay and South Devon NHS Foundation Trust is to help people live independently in their own homes for as long as possible. Promoting good health is a key Corporate Plan objective. The Joint Commissioning Team and NHS Devon Integrated Commissioning Board publishes Market Position Statements for Adult Social Care and Support and Children’s Services in Torbay⁵⁶. 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.

3.17.5 An ageing population will generate a need for specialist accommodation such as sheltered housing, supported housing and extra care units. Such accommodation can help people live independently for longer and reduces the adult social care costs. However, accommodation for the elderly may attract a further increase in inward migration, which is likely to compound needs and create further health and social care costs for Torbay. This is likely to be at the lower end of the spectrum of need, for example age-restricted retirement housing rather than extra-care units or care homes.

3.17.6 Local Plan Policy H6 deals with accommodation for people in need of care. A Housing Learning and Improvement Network (LIN) report (2019) identifies an oversupply of residential care beds (of 188 beds by 2035) but a need to expand nursing care (370 beds by 2035). There is a move away from the use of traditional care homes, but new purpose built homes may be approved where they provide additional facilities such as dementia or nursing care.

⁵⁶ <http://www.torbay.gov.uk/torbaymps2016.pdf>

3.17.7 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. This is based upon the additional cost arising to Torbay Council Adult Social Services arising from specialist accommodation that attracts inwards migration to the area. It is not levied on accommodation that is restricted to occupancy by local people (or people with a strong local connection), or to affordable units provided by a registered provider. Mitigation will also be given for additional facilities such as specialist dementia accommodation (that would not be Social Services funded).

3.17.8 Extra care units are zero rated for CIL purposes, where they meet the definition set out in the CIL Charging Schedule⁵⁷. Policy H2 of the Local Plan seeks affordable housing from all dwellings, not just those within Use Class C3, and is applicable to all accommodation laid out as a dwelling, irrespective of its use class.

Assessing the Additional Cost to Torbay Social Services

3.17.9 Policy H6 does not seek to recoup the whole cost of elderly care, only that additional cost likely to be incurred in Torbay by specialist accommodation such as care villages. The contribution as set out in the 2017 SPD (updated for inflation to a cost as at May 2022) will be sought, as per table 3.6 below.

Table 3.6 Health and Social care contributions for people in need of care (as at May 2022)

(A). Accommodation type	(B). Cost provision for 1 year of care (£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)	(F) Contribution sought updated for inflation*
Self-contained units (with their own kitchen, bathroom and front door)					
Age restricted housing with minimal care	£260 (x1)	£2,600	50%	£1,300	£1,630
Supported housing	£1,300 (x5)	£6,500	20%	£1,300	£1,630
Extra care units	£2600 (x10)	£13,000	10%	£1,300	£1,630
Care Homes and nursing homes (not self-contained accommodation).					
	Cost per place and Average cost to ICB**	Likely cost for 2 years	Likelihood of person migrating from outside Torbay	Contribution per room	
Care home within Class C2	Average cost to ICB of £14,750	£29,500	5%	£1,475	£1475 per room

*This is not levied where accommodation is restricted to occupancy from people in Torbay or with a strong local connection, or where additional specialist facilities are provided (e.g., dementia or specialist nursing care). **ICB= Integrated Commissioning Board.

⁵⁷ <https://www.torbay.gov.uk/cil/>

Development where there is a need for additional healthcare capacity

- 3.17.10** The Torbay and South Devon NHS Foundation Trust and NHS Devon Integrated Commissioning Board report funding shortages across a wide range of services, including a shortage of capacity in 14 out of 18 surgeries in Torbay. This has a knock-on effect of increasing demands on other health care facilities, particularly Torbay Hospital. Where major development comes forward on an unallocated site in an area where there is evidence of a current shortage of capacity, be it for GP surgeries or for other healthcare facilities, planning contributions will be sought to address the impacts of the development on health service provision. This will be based on a case-by-case assessment of the impacts of the development on local health services.
- 3.17.11** 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 fallback option.

4 SUSTAINABLE DEVELOPMENT INFRASTRUCTURE

4.1 Introduction

- 4.1.1** 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 Deliverability matters.
- 4.1.2** Sustainable development contributions will not be sought from development floorspace that pays CIL.
- 4.1.3** Sustainable development contributions will be sought from developments where the Council has chosen to negotiate planning contributions to address the infrastructure requirements needed to serve the development, rather than levy CIL. Regard will be had to the likely impact on development viability and the infrastructure needs generated by the development.
- 4.1.4** The following sections set out figures based on assessments of the likely impact of development, subject to the tests of lawfulness (see above).
- 4.1.5** Specific projects will ideally be identified, which meet these tests. However, it is also important to recognize that there may be several potential projects that could meet the objective of making development acceptable in planning terms, and it is important that s106 Agreements are worded with sufficient flexibility to allow contributions to be spent on projects of equivalent benefit to the development. Contributions may be pooled, subject to the legal tests.
- 4.1.6** In the case of larger developments, provision of many of the items identified will take place on-site, for example sustainable transport measures beyond direct access requirements, provision of open space and multi-use games areas. These can often be secured through planning condition. The provision of “in kind” facilities or land will be counted against financial contributions sought, although the Council will require a mechanism to be identified to ensure long-term maintenance of open space etc. The council’s preferred method of delivery is through the transfer of public open space and the payment of a commuted sum, under s106, towards ongoing (25 year) maintenance. Where the open space, roads etc. are not transferred to the council, maintenance should be secured through the provision of a properly constituted and funded management company and provide in-perpetuity maintenance. This must be clearly communicated to buyers and a dispute resolution mechanism put in place in relation to service charges, standards of maintenance etc.
- 4.1.7** This section includes the following matters:
- Transport Infrastructure - Sustainable Transport and Major Road Network.
 - Education
 - Public Open Space/Sports and recreation
 - Lifelong learning and other community spaces.
 - Waste management

4.1.8 This SPD is expressed in terms of gross internal floor space, based on the nationally described space standards (see page 197 of the Adopted Local Plan) to provide typical dwelling type and number of bedrooms. Because there is flexibility to make internal changes to dwellings⁵⁸ or use rooms for different purposes, floorspace rather than the stated number of bedrooms will be used as the basis for seeking contributions. In the case of outline permissions, an approximate likely floorspace figure will be agreed with the applicant, based on feasibility drawings where available. Where the floorspace at reserved matters is significantly larger (more than +10%) additional contributions may be sought.

Table 4.1 Typical floorspace per dwelling type

General description	Floorspace range	Typical of dwelling type (for information only)
Sui generis Houses in Multiple Occupation ⁵⁹	Per room (excluding communal areas)	N/A
Smaller apartments	37 – 59 sq. m	“Studio” apartments 1-2 bedroom apartment
Smaller medium size dwellings	60 – 79 sq. m	2-3 bedroom apartments Smaller 2 bedroom house
Medium size dwellings	80 – 108 sq. m	3-4 bedroom houses
Larger dwellings	109+ sq. m	4-6 bedroom houses

4.2 Transport Infrastructure - Sustainable Transport and Major Road Network

4.2.1 Sustainable modes of transport including walking, cycling and public transport help enable movement and access for residents in a way that improves health and wellbeing, creates more liveable urban environments, improves air quality, prevents the negative impacts associated with traffic congestion and car-dominated development, and helps address climate change.

4.2.2 Policy TA1 states that developments should be in sustainable locations that are accessible by a variety of modes of transport, and should be designed such that sustainable modes of transport are promoted as an integral part of developments, having regard to the hierarchy of sustainability:

- (i) Walking;
- (ii) Cycling;
- (iii) Public transport;
- (iv) Car sharing;
- (v) Low/ultra-low emission vehicles; and
- (vi) Private (high emission) transport.

4.2.3 Paragraph 74 of the NPPF (2021) specifically emphasises that large scale development must provide residents with “a genuine choice of transport modes”.

4.2.4 It is reiterated that physical works to create safe access to, and movement within developments for vehicles, cyclists and pedestrians are sought as Site Deliverability matters

⁵⁸ Subject to limited controls such as the need for listed building consent.

⁵⁹ Not including Class C4 small HMO.

(see part 2 of this SPD). These will usually be delivered through planning condition, negotiation of site layouts or S278 Agreements.

- 4.2.5** This section deals with wider sustainable transport matters. These are necessary to make development acceptable in terms of mitigating its effect on wider transport infrastructure, but go beyond the provision of direct access to the site and its immediate links to the transport network.
- 4.2.6** Chapter 9 of the NPPF sets out Government policy on transportation. It requires that development which generates a significant amount of traffic should be supported by a Transport Statement or Assessment setting out measures to promote sustainable transport, provision of safe and suitable access, and whether improvements can be made to limit the impacts of development.
- 4.2.7** Local Plan Policies SS6 and TA1 set a framework for seeking sustainable transport measures. Torquay Neighbourhood Plan Policies TTR1-2 and THW1-6, Paignton Neighbourhood Plan Policies PNP1(h), PNP2(d), PNP3(d), PNP5, PNP6, PNP12, PNP7(f), PNP17 and PNP22, and Brixham Peninsula Neighbourhood Plan Policy T1 are relevant.
- 4.2.8** The Local Transport Action Plan 2021-2026⁶⁰ sets a framework for a range of projects across all modes and allocates in full the grant funding from central government. The areas of investment cover road safety, reducing congestion, and improving access for all. 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 taxpayer.
- 4.2.9** Given that much of Torbay's transport infrastructure operates at or over capacity, the promotion of sustainable transport through improvements to the wider network is a vitally important enabler of growth. A reliance on car-borne transport will exacerbate congestion and negatively impact on health and well-being, quality of life, air quality and climate change. Planning contributions may also be used to deliver projects set out within the Local Cycling and Walking Infrastructure Plan (LCWIP).

4.3 Sustainable Transport Obligations

- 4.3.1** Developments in Torbay will be assessed to identify whether they generate net additional trips and should therefore contribute towards sustainable transport.
- 4.3.2** Sustainable transport contributions will be sought on the basis of a calculation of the additional impact that development has upon the wider transport network, or other costs to the authority such as bus passes in the case of specialist developments.
- 4.3.3** 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. In particular

⁶⁰ The third and final five-year implementation plan of the Devon and Torbay Local Transport Plan 2011-2026.

where development has significant effects on the requirement for safe and convenient parking, which is not provided on site, contributions may be sought as a site deliverability matter as outlined in Part 2 above.

4.4 Assessing the Cost of Additional Trips

4.4.1 The Council has used the Trip Rate Information Computer System (TRICS)⁶¹ to calculate the approximate number of journeys generated by development in accordance with the strategic delivery policies in the Local Plan. It is assessed that development in Torbay over a five year period will generate approximately 37,000 additional trips.

4.4.2 Based on the cost of delivering the Local Transport Plan and other Future Growth Area highway infrastructure, this would equate to £215 per trip (as at May 2022). This reflects the figure sought in the 2017 SPD adjusted for inflation according to RPI.

4.4.3 Planning contributions will be sought from development based on likely additional trip generation.

Table 4.2 S106 Sustainable Transport Obligations sought from development (as at May 2022)

Development type bedrooms/typical floorspace range	Assumed trip rate per unit or 100 sq. m	Impact per unit or 100 sq. m (trip rate x £215)
Small dwellings 37-59 sq. m.	4	£860
Small/Medium size dwellings 60-79 sq. m.	5	£1,075
Medium sized dwellings 80-108 sq. m.	6	£1,290
Larger dwellings 109+ sq. m.	6.5	£1,398
Sui Generis HMOs (per bedroom).	1.9	£409
Specialist accommodation for the elderly (C2 or C3).	2.1	£452
Class E(g), B2 and B8 employment and other employment uses not listed below.	7.6	£1,634
Retail – Town Centre (including, Preston and St Marychurch District Centre and Local Centres in the built up area).	44	£9,460
Retail – out of town centre (including the Willows and West of Paignton but not counting other district or local centres).	120	£25,800
Restaurants/Pub/restaurants- town, district or local centre ⁶² .	43	£9,245
Drive Through Restaurants, Takeaways (in all locations) and out of centre restaurants/ pubs/ takeaways ⁶³ .	120	£25,800
Tourism, leisure.	9.5	£2,043
Other (education, healthcare etc.) Sustainable development contributions are not sought from publicly funded schools or healthcare, but may be sought from non-publicly funded developments. Site deliverability matters must however be addressed ⁶⁴ .	17.5	£3,763

4.4.4 These figures will be used as a starting point and will be adjusted according to the level of highways and sustainable transport works provided by the developer (as a development Site Deliverability matter or through negotiated direct provision). Regard will also be had to the

⁶¹ The 2017 SPD was based on TRICS version 7.3.2. These have been cross referenced against version 7.6.1.

⁶² A contribution will also be sought from outside seating areas based on 50% of the charge sought for inside areas.

⁶³ A reduced contribution (akin to the town centre contribution) will be sought where restaurants are within sustainable out of centre locations such as Core Tourism Investment Areas or similar tourism areas.

⁶⁴ Note that where sustainable transport measures are needed to provide highway capacity, they are considered to be site deliverability matters.

cost of providing other mitigations to transport such as measures incorporated in Travel Plans etc.

4.4.5 Obligations will be sought to deliver the sustainable transport improvements and works to the wider highways network that are necessary to make development acceptable in broader planning terms. Mitigation will usually be provided for job creation/ town centre regeneration.

4.4.6 Priority will be given to projects which:

- Improve road safety,
- Promote active travel (i.e., walking, cycling),
- Improve capacity and accessibility, including the quality and availability of public transport,
- Improve local air quality (proximity to Air Quality Management Areas⁶⁵ will be taken into account).

4.4.7 In line with Policy SS6 and as appropriate, the Council may require sustainable transport contributions for the improvement of the strategic transport system including (but not limited to) the proposed improvements set out in Policy SS6.

4.5 Education

4.5.1 Torbay Council has a statutory duty under the Education Act 1996 (as amended) to provide sufficient school places to enable every child between the ages of 4-16 to access a school place. Local Plan Policies SS11 'Sustainable communities', SC3 'Education skills and local labour' and SC5 'Child poverty' all identify the need to provide education facilities to serve development.

4.5.2 The total cost of meeting the education demand arising from the anticipated level of growth in the Local Plan 2012-30 is about £40.71 million. Whilst it is not expected that planning contributions could fund the entire requirement, it is reasonable for developers to contribute to the additional requirement for school places generated by development. This has most recently been confirmed by the non-statutory Department for Education (DfE) guidance "Securing developer contributions for education" (April 2019)⁶⁶. The Planning Practice Guidance also expects planning contributions towards school places⁶⁷.

4.5.3 In accordance with government guidance, the level of contribution required from developers will be based upon the latest DfE school place scorecards⁶⁸ available at the time of the assessment. The DfE school place scorecards provide an all-England average cost to provide an additional school place through school expansions and through new schools, which is then adjusted using a regional weighting and for inflation. As per guidance, the cost per school place for Early Years (ages 2 to 4) is the same as for Primary, the cost per school place for Post-16 is the same as for Secondary, and the cost for school places for pupils with Special Educational Needs and Disabilities (SEND) is four times that of mainstream school places⁶⁹. Given that additional school places may be provided through extensions to existing

⁶⁵ AQMAs are currently being reviewed.

⁶⁶https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793661/Securing_developer_contributions_for_education.pdf

⁶⁷ PPG 23b-008-20190315

⁶⁸ See <https://www.gov.uk/government/collections/school-places-scorecards>. The latest scorecard currently available is for 2021 (published 30th June 2022).

⁶⁹ The cost per school place for SEND is set at four times the average of Primary and Secondary school places.

schools or through new schools, or specialist provision within them, the figure has been averaged out.

Table 4.3 Capital cost per school place

Education infrastructure	Cost per place (as at 2021)
Primary & Early Years New Build	£21,990
Primary & Early Years Extension	£18,367
Primary & Early Years	£20,179
Secondary & Post-16 New Build	£26,627
Secondary & Post-16 Extension	£25,503
Secondary & Post-16	£26,065
SEND New Build	£97,234
SEND Extension	£87,740
SEND	£92,487

4.5.4 A significant and growing area of need in Torbay is that of young people with Special Educational Needs and Disabilities (SEND). Planning contributions will be used to support young people (aged 0 to 25) with SEND either through providing a place at a special school or through adapting mainstream schools to meet their needs. The table below sets out the breakdown of mainstream and SEND pupils in Torbay as at January 2022:

Table 4.4 Breakdown of mainstream and SEND pupils in Torbay (January 2022)

Education Need	Pupil Numbers (% of total)
SEND (including pupils with an Educational Health Care Plan)	1,467 (7.6%)
Mainstream	17,837 (92.4%)
Total pupils	19,304

4.5.5 To establish the impact of proposed residential developments on education facilities it is necessary to identify the likely number of pupils that will be generated by individual developments.

4.5.6 Devon County Council has assessed⁷⁰ that an average dwelling (with 2 bedrooms or more) generates approximately:

Table 4.5 Average pupil yield per dwelling

Category	No. of pupils per dwelling
Early years (ages 2 to 4)	0.11
Primary school (ages 5 to 11)	0.25
Secondary school (ages 12 to 16)	0.15
Post-16 (ages 17 to 18)	0.06

⁷⁰ Based on Devon County Council's 'Education Approach for Developer Contributions' guidance. These figures are from empirical research by Devon County Council, based on a door to door survey in 1999, cross checked against an analysis of completed housing in the Kings/Clyst Heath area in 2009 and in Cranbrook in 2015. See <https://www.devon.gov.uk/planning/planning-policies/pupil-place-planning/>. While Torbay Council is a unitary authority and therefore not bound by Devon County Council policy, this primary research is considered to be an accurate representation of the pupil yield arising from residential development within the region.

- 4.5.7** Multiplying the average pupil yield per dwelling by the cost of providing an additional school place in each respective category provides an average capital cost⁷¹ per dwelling of meeting the educational needs arising from development, set out in table 4.6 below.
- 4.5.8** To account for the relationship between dwelling size and pupil yield, the average pupil yields in Table 4.4 above have been redistributed on the basis that smaller dwellings are assumed to have a slightly lower pupil yield and larger dwellings a slightly higher pupil yield⁷². Pupil yields per dwelling have also been adjusted based on the percentage split between mainstream (92.4%) and SEND (7.6%) places.
- 4.5.9** It is assumed that specialist accommodation for the elderly, rooms in HMOs, and 1 bedroom dwellings (which for simplicity we are assuming to be dwellings with a floorspace of less than 60 sq. m) will have a pupil yield of zero. Accordingly, an education contribution will not be sought for these types of dwellings.

Table 4.6 Capital cost of providing school places (as at 2021)

Dwelling size (approx. no. of bedrooms for information only)	Pupil yield per dwelling	Capital cost per place school	Cost per dwelling
Early years			
HMO (per bedroom)	0	£20,179	0
37-59 sq. m (1 bed)	0	£20,179	0
60-79 sq. m (2 beds)	0.083	£20,179	£1,675
80-108 sq. m (3 beds)	0.102	£20,179	£2,058
109+ sq. m (4+ beds)	0.120	£20,179	£2,421
Primary schools			
HMO (per bedroom)	0	£20,179	0
37-59 sq. m (1 bed)	0	£20,179	0
60-79 sq. m (2 beds)	0.176	£20,179	£3,552
80-108 sq. m (3 beds)	0.222	£20,179	£4,480
109+ sq. m (4+ beds)	0.268	£20,179	£5,408
Secondary schools			
HMO (per bedroom)	0	£26,065	0
37-59 sq. m (1 bed)	0	£26,065	0
60-79 sq. m (2 beds)	0.111	£26,065	£2,893
80-108 sq. m (3 beds)	0.139	£26,065	£3,623
109+ sq. m (4+ beds)	0.166	£26,065	£4,327
Post-16			
HMO (per bedroom)	0	£26,065	0
37-59 sq. m (1 bed)	0	£26,065	0
60-79 sq. m (2 beds)	0.046	£26,065	£1,199
80-108 sq. m (3 beds)	0.055	£26,065	£1,434
109+ sq. m (4+ beds)	0.065	£26,065	£1,694
SEND			
HMO (per bedroom)	0	£92,487	0
37-59 sq. m (1 bed)	0	£92,487	0
60-79 sq. m (2 beds)	0.034	£92,487	£3,145
80-108 sq. m (3 beds)	0.043	£92,487	£3,977
109+ sq. m (4+ beds)	0.051	£92,487	£4,717

⁷¹ This is the capital cost of delivering an additional school place only, and does not include revenue costs and or other costs such as IT, school transport, etc.

⁷² For the purposes of this assessment, it has been assumed that dwellings of 80-108 sq. m will produce an average pupil yield, that dwellings of 60-79 sq. m will produce an approximately 20% lower pupil yield, and dwellings of 109+ sq. m will produce an approximately 20% higher pupil yield.

- 4.5.10** The contributions set out in table 4.6 will only be sought where the TDA's Schools and Capital Planning Manager or other responsible officer identifies an existing or projected school capacity shortfall to which the proposed development will contribute. Where there is sufficient capacity within certain categories of schools but a shortfall in others, only the contribution towards the category of school in which there is a capacity shortfall will be sought.
- 4.5.11** As set out above, education contributions will only be sought from sites where the Council has opted to use planning contributions rather than CIL to fund the infrastructure needed by a development. Obligations will be spent on specific projects that provide for the need that developments generate for school places.
- 4.5.12** Where schools are provided on site, as is proposed in several Future Growth Areas, it may be preferable to seek a contribution in kind in terms of provision of free, serviced and safeguarded land⁷³. S106 Agreements should allow a sufficient timeframe for schools to be built out, and a fall back mechanism to allow financial contributions to be sought in lieu of land should, at the expiry of this period, the education need arising from the development remains but has been met elsewhere.
- 4.5.13** The Council will endeavour to use s106 education contributions to provide school places or other educational improvements close to the development. However, because catchment areas are Bay-wide, and providing school places in one location can have a knock-on effect of freeing up places closer to a development, this may not always be practicable.

4.6 Public Open Space, Sports and Recreation

- 4.6.1** Active design principles apply to all developments as far as practical, and will be sought as a site deliverability matter, usually through conditions. Residential developments are expected to provide **public open space** as part of their layouts to match the types of open space likely to be needed by residents, and should enable a good level of access to sport, leisure and recreation facilities.
- 4.6.2** Where new development generates a need for public open space and/or sports and recreation facilities, or exacerbates an existing deficiency, new provision will be required. The provision may be by way of on-site facilities or an off-site financial contribution to ensure that proper provision is maintained within the vicinity of the development (for example by improving maintenance, management and equipment at existing facilities).
- 4.6.3** Open space delivered as part of development must be available for use by the general public and retained as such in perpetuity.
- 4.6.4** While open space will typically comprise outdoor areas or facilities, there may be instances where open space planning contributions are used to provide new, or to improve or maintain existing, indoor sports and recreation facilities (such as public swimming pools) where a specific need is identified.
- 4.6.5** Local Plan Policy SC2 'Sport leisure and recreation' of the Local Plan sets a framework for planning for new recreation developments and proposes a number of recreation facilities. Policy SS9 'Green Infrastructure' of the Local Plan is also relevant as is the Countryside,

⁷³ See paragraph 24 of the [DFE Securing developer contributions for education guide \(2019\)](#).

coast and greenspace chapter, particularly the undeveloped coast within Policy C2, and Policy C5 'Urban landscape protection areas', where these have public access.

4.6.6 All three Neighbourhood Plans place a high priority upon the provision, improvement and protection of open space. They identify a network of protected Local Green Spaces, most of which will have public access.

4.6.7 The Council's Greenspace Strategy is an adopted SPD (July 2007). An in-house refresh of standards and costs was carried out in 2017 as part of the preparation of the 2017 version of this SPD. These may be incorporated into an updated Strategy. The Greenspace Strategy contains local standards for open space as set out in table 4.7.

Table 4.7 Open space requirements per person

Type of open space	Hectares per thousand population	Sq. m per person
Playing pitches	1.2	12
Other Sport and Recreation Facilities (e.g., Multi Use Games Areas, outdoor fitness equipment etc)	0.2	2
Equipped play facilities for children and young people	0.2	2
Open space (including but not limited to parks and gardens, amenity space, natural and semi-natural spaces and beaches and promenades)	2.5	25
Allotments/sustainable food production*	0.22	2.2

* Added since 2007 Strategy

4.6.8 The National Society of Allotment and Leisure Gardeners (NSALG) recommends that the minimum provision should be 20 standard plots (300 sq. yd/250 sq. m) per 1,000 households. This equates to 5,000 sq. m (20 plots of 250 sq. m) per thousand households or 5 sq. m per household. This equates to about 2.2 sq. m per person.

4.6.9 The cost of open space provision per person and per dwelling, as per the current Greenspace Strategy is set out in tables 4.8 and 4.9 respectively. The costs have been adjusted for inflation according to RPI to provide a cost as at May 2022.

Table 4.8 Cost of open space provision per person (as at May 2022)

Type of open space	Sq. m per person	Cost of provision per sq. m	Cost per person
Playing pitches	12	£18.80	£226
Other Sport and Recreation Facilities (e.g., Multi Use Games Areas (MUGAs), outdoor fitness equipment etc).	2	£78.50	£157
Equipped play facilities for young people	2	£314	£628
Open space (including but not limited to parks and gardens, amenity space, natural and semi-natural spaces and beaches and promenades)	25	£12.60	£315
Allotments/sustainable food production	2.2	£37.70	£83
Cost of open space per person			£1,409

Source Greenspace Strategy (updated by Residents and Visitors Services to reflect current costs and standards, 2016). Adjusted for inflation based on RPI to May 2022 prices.

Table 4.9 Cost of open space per dwelling (as at May 2022)

Size of dwelling	Cost Per Person	Assumed number of persons (for info)	Elements of cost	Breakdown of cost by element (table 4.7 x assumed no of persons.)	Total Cost per dwelling (assuming no onsite provision)
Sui generis Houses in Multiple Occupation	£781 (excludes equipped play facilities for young people, but includes other sport and recreation facilities, on the basis that these may be used by adults).	1 per letting room	Playing Pitches	£226	£781 per room
			Other Sport and Recreation Facilities	£157	
			Equipped play facilities for young people	-	
			Greenspace/Open space	£315	
			Allotments/sustainable food production	£83	
37-59 sq. m	£781 (excludes equipped play facilities for young people, but includes other sport and recreation facilities, on the basis that these may be used by adults).	1.4	Playing Pitches	£316.40	£1,093
			Other Sport and Recreation Facilities	£219.80	
			Equipped play facilities for young people	-	
			Greenspace/Open space	£441	
			Allotments/Sustainable food production	£116.20	
60-79 sq. m	£1,095 (50% of equipped play facilities for young people)	1.9	Playing Pitches	£429.40	£2,081
			Other Sport and Recreation Facilities	£298.30	
			Equipped play facilities for young people	£596.60	
			Greenspace/Open space	£598.50	
			Allotments/sustainable food production	£157.70	
80-108 sq. m	£1,409 (full play park contribution)	2.6	Playing Pitches	£587.60	£3,663
			Other Sport and Recreation Facilities	£408.20	
			Equipped play facilities for young people	£1,632.80	
			Greenspace/Open space	£819	
			Allotments/sustainable food production	£215.80	
109 sq. m+	£1,409 (full play park contribution)	3	Playing Pitches	£678	£4,227
			Other Sport and Recreation Facilities	£471	
			Equipped play facilities for young people	£1,884	
			Greenspace/Open space	£945	
			Allotments/sustainable food production	£249	

4.6.10 The provision of open space will be assessed on its merits having regard to the Local Plan, the Neighbourhood Plans, and other evidence such as the Greenspace Strategy and the Playing Pitch Strategy. Table 4.8 above provides a breakdown of the public open space by element. Where sums will go to different parts of the council or partner organisations (such as SWISCo), it will be necessary for the S106 Agreement to distinguish between them.

4.6.11 The consideration of whether open space provision should be on or off-site will depend on:

- The size of the development;
- The extent, location, capacity and condition of existing open space; and
- The likely demand that the development will generate.

4.6.12 Table 4.9 above gives a cost per dwelling of providing public open space. However, it is recognized that provision will often be in-kind through the provision of play parks etc. on site. Most large developments will be expected to provide public open space as part of their layouts. Where developers make on-site provision, the cost of this will be discounted against any financial contribution (with the exception of maintenance payments noted below).

4.6.13 Table 4.10 below provides a guideline for when open space should be on-site or off-site. There may be local circumstances where it is considered appropriate to deviate from this.

4.6.14 Public open space provision (whether on-site or off-site) should match the type of space likely to be used by residents. For example, elderly persons' developments will not require children's play facilities.

4.6.15 Provision will be a matter for negotiations with developers and pre-application discussions are urged to achieve successful development outcomes.

Table 4.10 Guideline thresholds for on-site open space provision and off-site financial contribution

Type of open space	Scale of development				Comments
	Major development				
	1 - 10 dwellings	11 - 49 dwellings	50 - 199 dwellings	200+ dwellings	
Playing pitches	Off-site	Off-site	Off-site	On-site/ Off-site	There may be occasional instances where on-site playing pitches are considered suitable. This is likely to be on larger sites.
Other Sport and Recreation Facilities (e.g., Multi Use Games Areas, outdoor fitness equipment etc).	Off-site	Off-site	On-site/ Off-site	On-site	
Equipped play facilities for young people: Local Areas for Play (LAPs) aimed at very young children (also known as doorstep play areas). Locally Equipped Areas for Play (LEAPs) aimed at children who can go out and play independently (also known as community play areas). Neighbourhood Equipped Areas for Play (NEAPs) aimed at older children	Off-site	On-site/ Off-site	On-site	On-site	For sites of between 10 and 49 dwellings a split of on-site provision of a LAP and off-site contribution to a LEAP, or sole off-site contribution to a LEAP will be considered. Sites over 50 dwellings will normally need to provide both a LAP and LEAP. It is noted that one quality play space catering for a range of age groups is preferred to two separate play spaces. Sites over 500 dwellings will also need to provide a NEAP.

(also known as destination play areas).					
Greenspace/Open space (including but not limited to parks and gardens, country parks, amenity space, natural and semi-natural spaces and beaches and promenades)	On-site/ Off-site	On-site/ Off-site	On-site/ Off-site	On-site	Major developments should generally provide greenspace on site. However, the availability of large parks or other public open space within easy walking distance will be taken into account and contributions may be sought for management of off-site greenspace/ beaches where this would achieve an improved standard of provision.
Allotments/sustainable food production	Off-site	On-site/ Off-site	On-site/ Off-site	On-site	Local Plan Policy SC4 sets out those developments of over 30 dwellings should include provision for sustainable food production, including allotments, proportionate to the scale of the development. Off-site contributions towards provision of new allotment sites or improvements / extensions of existing sites may be sought in lieu of on-site provision.

4.6.16 Where no new open space is provided to serve new dwellings, but the development is within an appropriate distance of an existing area of open space, the Council may seek contributions to ensure that the said area of open space is appropriately retained, enhanced and maintained. Local play parks and informal space should be within easy walking distance (300m) of the development. However, people are likely to travel further for facilities such as sports pitches, beaches etc. Contributions for management of off-site greenspaces/beaches may be sought where these are within easy walking distance and investment in them represents an improved quality of provision.

4.6.17 Planning contributions towards playing pitches and/or sports and recreation may be used to upgrade existing pitches or facilities through the provision of ancillary facilities (such as changing rooms) where there is evidence that this would help meet the open space needs of the development by increasing the capacity or quality of existing playing pitches and/or sports and recreation facilities serving the area in which the development is located.

4.6.18 Where public open space or equipment is provided by a development through a s106 Agreement, it may be transferred to the Council or retained and managed by the developer or a management company. In all cases financial provision must be made for maintenance. The Council's preferred method of securing public open space is a transfer of the facilities to the Council and payment of a commuted sum for future maintenance for at least 25 years. However, management companies may be acceptable providing that (i) they are accountable to residents of the development, (ii) future funding is secured and any fees charged are proportionate, (iii) they operate an effective dispute resolution process, (iv) provision is made for continuing the maintenance in perpetuity, including in the event of the management company ceasing to exist, (v) start-up funding is provided to ensure the company can operate from first occupation of the development or use of the facility and until management can be fully financed by other means (e.g. resident contributions), (vi) the existence of a private management company is clearly identified to prospective buyers of properties. Details of how this is achieved should be set out in a S106 Agreement.

- 4.6.19** All play space and equipment should be completed to an adoptable standard (currently British Standard EN1776 (Play Areas) and EN1777 (Hard Surfaces) and agreed by the council.
- 4.6.20** Where on-site facilities are provided, the Council will use a s106 Agreement (or other similar means) to secure the following:
- Definition of the extent and type of provision (including a plan). Note that specific quality standards for all open spaces, including play spaces (LAPs, LEAPs and NEAPs) will be set out in a future update of the Greenspace Strategy.
 - Design, initial establishment, implementation and completion measures.
 - Future maintenance specification and funding arrangements to ensure maintenance in perpetuity (i.e., a minimum of 25 years where ownership is transferred to the council, and in perpetuity where maintenance is to be via a private management company).
 - Future ownership and management arrangements.
 - Rights of public access and use in perpetuity.
- 4.6.21** Any off-site contributions and payment of commuted sums for Council adoption of open spaces, equipment and recreation facilities will also be secured by s106 Agreement (or other similar means). Agreements will clearly set out the rights and responsibilities of each party.

4.7 Lifelong Learning

- 4.7.1** Torbay is a unitary authority with responsibility to provide a range of lifelong learning services to adults, including adult community learning centres, museums and libraries. It also manages two theatres and various cultural attractions such as Torre Abbey, which are in need of investment. Libraries are an important element in reducing social exclusion and reducing the inequality gap in Torbay. From April 2018 they have been managed by Libraries Unlimited. Torbay's museums and cultural attractions also provide education and lifelong learning as well as contributing to tourism and therefore employment in the area. Policy A&C1 of the BPNP specifically protects cultural facilities.
- 4.7.2** The council's contributions to libraries in Torbay is £822,000 (Torbay Budget 2022/23). Torbay Council's net contribution to museums and Torre Abbey (2022/23) is £396,000 and to theatres is £68,000. The combined cost of these lifelong learning facilities is £1.286m or around £9.50 per person in Torbay/ £95 over ten years.
- 4.7.3** A contribution per dwelling (based on floorspace) towards lifelong learning will therefore be sought from developments that do not pay CIL according to the table below. Note that specific projects or capital items of spending, reasonably related to the development must be identified.
- 4.7.4** Policy SS11 requires development to enable people to access community facilities such as community halls. The need for such facilities will be kept under review. It may often be more effective to improve existing facilities or to fund longer opening hours etc. There is clearly an overlap between community facilities, education and recreation facilities, and the Local Plan encourages community use of schools where possible.

Table 4.11 Calculation of lifelong learning cost per dwelling (as at May 2022)

Dwelling size (no. of bedrooms for information only)	Persons per household	Cost per dwelling
HMO	As permitted or licensed	£112 per resident
37-59 sq. m (1 bed)	1.4	£157
60-79 sq. m (2 bed)	1.9	£214
80-108 sq. m (3 bed)	2.6	£292
109+ sq. m (4+ beds)	3	£337

4.8 Waste Management Facilities

- 4.8.1** Local Plan Policy W1 Waste Hierarchy and paragraph 6.5.3.6 require that all development minimises the generation of waste and enables recycling. The on-site provision of storage for bins, recycling boxes and food waste caddies is sought via developer contributions and provided on site before development is occupied. The council's waste storage guidance⁷⁴ should be followed for residential developments.
- 4.8.2** Policy W2 requires a Waste Audit and five year Waste Management Plan to be carried out for all major and significant waste generating developments (be they commercial or residential), proportionate to the scale of the proposal.
- 4.8.3** The additional cost of providing new dwellings with bins, recycling boxes and food waste caddies and provision of recycling information etc. is around £90 per dwelling (as at Jan 2022). The Council will seek the cost of bins, recycling boxes and food waste caddies from all new residential developments as a sustainable development contribution. If they choose not to do so, then they will be billed directly by the Council/SWISCo.
- 4.8.4** Where development creates additional costs in terms of municipal waste, the Council may seek to recuperate these through s106. These will be based on the additional capital cost to the Council.

Waste Collection Costs

- 4.8.5** Torbay's waste and recycling service, operated by SWISCo since April 2020, is operating close to capacity. In addition, there is a need to decarbonise the fleet of vehicles to make them less reliant on fossil fuels. New residential development will therefore generate a need for new waste and recycling services in the Plan period. While Council Tax covers some of the operational costs associated with waste and recycling services, the council will seek planning contributions towards the capital cost of purchasing waste collection vehicles, as follows.
- 4.8.6** Each recycling collection vehicle costs £146,626 (as at Jan 2020). Given that each recycling collection vehicle can collect from approximately 630 households per day or 3150 households per week (noting that recycling is collected on a weekly basis), this equates to a cost of £46.55 per household. Adjusted for inflation, the cost is £54.00 (as at May 2022).
- 4.8.7** Each residual waste collection vehicle costs £167,445 (as at Jan 2020). Given that each residual waste collection vehicle can collect from approximately 1,100 households per day or

⁷⁴ See the guidance on 'Refuse Storage for New and Converted Residential Properties' at: <https://www.torbay.gov.uk/waste-storage-guidance/>

11,000 households per fortnight (noting that residual waste is collected on a fortnightly basis), this equates to a cost of £15.22 per household. Adjusted for inflation, the cost is £17.66 (as at May 2022). Therefore, the council will seek a planning contribution of £72 (as at Jan 2022) per dwelling towards the purchasing of waste collection vehicles. These planning contributions may also be spent on measures to decarbonise the fleet of waste collection and/or street cleansing vehicles.

Residual Waste Disposal Costs

- 4.8.8** On average in Torbay, each household generates 500kg of waste per year, of which 42% (210 kg) is recycled. Based on 2.1 people per household, this equates to about 240kg per year per person of which about 100kg is recycled and 140kg is residual waste requiring disposal.
- 4.8.9** The recycling rate falls to about 22% in instances where a communal recycling system operates (for example in many blocks of flats and in Houses in Multiple Occupation), which equates to about 180kg of non-recycled ('residual') waste per person.
- 4.8.10** At the time of the 2017 version of this SPD, the cost to the Council to dispose of residual waste was calculated at £100 per tonne, or around £14 per person per year based on 0.14 tonne x £100. In instances where a communal recycling system operates, it was calculated that this figure rises to £19 per year based on 0.19 tonne x £100 i.e., £5 per person per tonne more than where the standard bin and box system operates. Adjusted for inflation, the additional cost is £6.30 per person as at May 2022.
- 4.8.11** It is important to increase recycling rates for financial and environmental reasons. As noted, Torbay's waste collection service is operating at capacity.
- 4.8.12** Where developments are unable to provide the Council's normal waste recycling bin and boxes, or where waste and recycling are managed in communal bins (for example many blocks of flats and Houses in Multiple Occupation), evidence shows that recycling rates are lower due to cross contamination of bins/boxes. On this basis, a waste management plan will be required to set out measures to ensure recycling within such developments. Where this is not done, an additional charge will be sought to cover the additional cost to the Council in terms of residual waste disposal.
- 4.8.13** This will be based on a cost of £63 per person (representing 10 years of £6.30 being the additional cost of disposal as calculated above). A development's liability for CIL will be taken into account.
- 4.8.14** Table 4.12 below sets out waste contributions sought from residential/specialist accommodation development.

Table 4.12 Waste management contributions (as at May 2022)

	Cost of Bin, Recycling Boxes, food waste caddy and recycling information	Contribution towards waste collection vehicles	Contribution towards additional residual waste disposal
Developments where normal bin, box and caddy recycling system can operate	<p>£90 per dwelling.</p> <p>Developers have the option of paying for bins/boxes/caddies at the planning stage. If they choose not to do so, then they will be billed directly by the Council/SWISCo when the development is brought into use.</p>	£72 per dwelling.	None.
Developments where there is a reduced capacity to recycle e.g., lack of recycling facilities or communal bins and collected by the council/SWISCo (i.e., municipal waste)	<p>£90 per dwelling.</p> <p>Developers have the option of paying for bins/boxes/caddies at the planning stage. If they choose not to do so, then they will be billed directly by the Council/SWISCo when the development is brought into use.</p>	£72 per dwelling/room as appropriate.	<p>£63 per dwelling/room as appropriate.</p> <p>In instances where a submitted waste management plan robustly demonstrates that an acceptable rate of recycling will be achieved, the need for this additional charge may be reduced or waived.</p>

5 IMPLEMENTATION

5.1 Introduction

5.1.1 Local Plan Policy SS7 states that, in seeking planning obligations, regard will be had 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.

5.1.2 As noted above, planning conditions will be used wherever possible rather than planning obligations. Site Deliverability matters can often be addressed through site layout or conditions. “Sustainable development” contributions are not sought from developments that pay CIL.

5.2 Section 106 Unilateral Undertakings

5.2.1 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 can be faster and less expensive for the developer to pay the sums through a unilateral undertaking. A unilateral undertaking is a legal document made under s106 of the Town & Country Planning Act 1990 under which the developer agrees to pay contributions in respect of necessary measures to make the development acceptable in planning terms. If a unilateral undertaking is appropriate, a template document will be provided for the developer to complete, sign and return.

5.2.2 For straightforward small scale developments (e.g., a single planning contribution), developers may be given the option of payment of the contribution at the same time as submission of the unilateral undertaking in the Council’s standard form, prior to the issue of consent. Additional legal fees would not then be incurred.

5.2.3 Where however a developer wishes to delay payment of the contribution (e.g., until commencement of development) or otherwise wishes to amend the Council’s standard form, developers will be expected to pay the Council’s legal costs of reviewing the unilateral undertaking. Details of current legal fees will be provided on request.

5.3 Section 106 Agreements

5.3.1 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 s106 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, or similar safeguard for the council.
 - Where appropriate a clause for a re-assessment of financial viability and payment of deferred contributions.
- Monitoring and other fees.

5.3.2 Developers will be expected to pay the Council's legal costs of drafting s106 Agreements. Details of current legal fees will be provided on request.

5.3.3 Developers will be expected to pay the Council's costs of approving or reviewing schemes or plans required by s106 Agreements (e.g., subsequent approval of management schemes or review of subsequent viability assessments).

5.4 Mitigation

5.4.1 Planning contributions are intended to address the net additional impact of development upon the built and natural environment and wider society. On this basis, wider sustainable development contributions may be mitigated where development gives rise to demonstrable social, economic or environmental benefits. 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 Deliverability matters), nor are they an alternative to high quality design.

5.4.2 **Mitigation for Existing Uses.** The Planning Contributions and Affordable Housing SPD is intended to mitigate or compensate the 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 and last use.

5.4.3 **Mitigation where there is an Identifiable Social Good.** Where development results in an identifiable public benefit, for example significant regeneration, built or natural environment improvements, 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. This could include the removal of inappropriate later additions to buildings to restore their historic character (see policies SS10, and TO2 of the Local Plan, and TT2 of the Torquay Neighbourhood Plan).

5.4.4 **Mitigation for Job Creation.** Economic Prosperity is a high priority for the Council. Therefore, it is particularly important that planning contributions do not impede job creation. On this basis, mitigation from "sustainable development" contributions will be given for

permanent jobs created by development proposals, using the methodology used to calculate employment contributions in Part 3 as a starting point.

5.4.5 Mitigation for Exemplary Low Carbon Development. Where developments achieve an exemplary standard of energy efficiency and/or low carbon development (for example achieving Passivhaus standards, or similar), the Council may consider offsetting certain relevant sustainable development contributions in proportion to the benefits derived from the sustainability measures being implemented.

5.4.6 Affordable Housing. “Sustainable development” contributions will not be sought from affordable housing units where full nomination rights are given to Torbay Council or occupancy is restricted in perpetuity to people already living and working in Torbay (or a mechanism provided whereby the subsidy is recycled into other affordable housing). This includes “First Homes”.

5.5 Viability – Content of Viability Assessments

5.5.1 The Local Plan acknowledges that planning contributions may be negotiated between the Council and developer. Where it is claimed that planning contributions would render development unviable, the Council will require the developer to carry out a viability assessment at the developer’s expense. The Council may also require the developer to pay for a critical review of the viability assessment and a re-appraisal of the proposed development if it deems it necessary.

5.5.2 Calculation of viability will usually be based on residual land value (i.e., a calculation that the value of land after development costs, policy requirements and contributions remains sufficient for a willing developer to bring forward development). It should follow the guidance set out in the (National) Planning Practice Guidance. Viability assessments should be proportionate, simple and transparent and include an executive summary. They will be publicly available as per the advice in the PPG. It is noted that the price paid for land is not a relevant justification for failing to accord with the relevant plan policies⁷⁵.

5.6 Where Development is Unviable

5.6.1 Where a developer demonstrates to the satisfaction of the Council that a proposed scheme is not currently viable with a policy-complaint level of planning obligations and the Council considers, as a balanced planning judgement, that there is scope to agree an acceptable development, the Council may agree to reduce s106 and other obligations in order to render development viable, subject to a recalculation of viability as set out below.

5.6.2 In such circumstances, planning obligations will be reduced in accordance with the prioritisation set out in this SPD (i.e., broader Sustainable Development contributions will be relaxed before affordable housing, loss of employment and health contributions). There is no scope to relax Site Deliverability requirements, although these will generally be addressed through conditions rather than planning contributions. Regard will be had to the priorities for S106 obligations noted in Policy SS7 in relation to any proposed relaxation of planning obligations due to a lack of development viability.

⁷⁵ PPG 10-002-20190509

- 5.6.3** Where reduced planning contributions are agreed and the approved development is completed more than 3 years after the grant of planning permission, the s106 Agreement will include a clause to secure a further viability appraisal/s (at the developer's expense) to be carried out in accordance with a timetable set out in the s106 Agreement. In the case of a housing development, a dwelling will only be considered completed when the building completion certificate (or equivalent) is issued.
- 5.6.4** If the profit as calculated in the further viability re-appraisal exceeds 20% Gross Development Value (GDV) the developer will be required to pay an additional contribution equivalent to 50% of the profit above 20% GDV.
- 5.6.5** All valuations will be required to comply with standards issued by such bodies as the Royal Institution of Chartered Surveyors.
- 5.6.6** Where a reduced level of affordable housing has been provided, the Council will seek increased provision of on-site affordable housing in the later phases of development, subject to sustainable communities and other relevant considerations, and for any remaining under-provision to be the subject of a planning contribution for off-site provision.
- 5.6.7** A ceiling on the contributions/affordable housing provision will be imposed to ensure the developer does not contribute more than the full amount of contribution that would have been paid had the development been fully viable. Generally, this ceiling would be the full contribution that would have been due on the date of the s106 Agreement, with the ceiling being index linked to the date any new contribution is paid.

5.7 Re-negotiating the Terms of the Section 106 Agreement

- 5.7.1** The Council has discretion to renegotiate s106 Agreements but is under no obligation to do so. There is no right of appeal against a refusal to renegotiate s106 Agreements that are less than five years old. On this basis the Council will generally only renegotiate s106 Agreements where it considers this to be in the public interest, for example where it would provide net benefits to the community, environment etc.
- 5.7.2** Where a s106 Agreement is more than five years old, an application can be made (under S106A of the Town and Country Planning Act) to the local planning authority to change the obligation where it no longer serves a useful purpose, or could be modified to continue to serve a useful purpose.
- 5.7.3** Where the developer seeks to re-negotiate previously agreed s106 Agreements, the Council will require proportionate viability appraisal to be carried out at the developer's expense (insofar as this is relevant to the matter that the developer is seeking to renegotiate). Where the Council agrees (as a matter of planning judgement) to reduce contributions, this will be subject to the process of deferred calculation of viability as set out above. Developers will be expected to pay the Council's legal costs of drafting a deed to vary the original s106 Agreement.

5.8 Monitoring and Spending of Section 106 Obligations

- 5.8.1** An administration and monitoring charge of 5% will be applied to all planning contributions as standard. This will be an additional charge over and above the planning contributions sought, and will contribute towards meeting the costs incurred by the Council in monitoring compliance with s106 Agreements including triggers, and in the collection, allocation and spending of planning contributions.
- 5.8.2** Where practicable, the Council will spend planning contributions within five years of the contribution being paid. The legal agreement will accordingly need to be worded flexibly to allow contributions to be used for alternative projects, within the Tests of Lawfulness, to enable contributions to be spent.
- 5.8.3** The Council may charge developers for additional costs it encounters associated with monitoring s106 clause triggers or similar matters.
- 5.8.4** Unless stated otherwise, this SPD is set at May 2022 prices. Planning contributions will be reviewed annually and adjusted for inflation in accordance with the Retail Prices Index (RPI) to provide a costing that remains up to date. The SPD will be updated accordingly on an annual basis. Planning contributions secured by S106 Agreements will be index-linked in line with the RPI.

6 SUMMARY

6.1 Introduction

- 6.1.1** The tables below are intended as a summary of contributions that may be sought from development. It is a guide only and in the case of any conflict the main provisions of the SPD take precedence over this summary. Although figures are presented for some items, these are intended to be an assessment of the likely impact of the development and will not be sought as a tariff.
- 6.1.2** Planning contributions will be based on evidence of need for different items of infrastructure, and any financial contributions sought will be adjusted for inflation based on RPI. The Council will have regard to the evolving nature of government and guidance and legislation on s106 and CIL.
- 6.1.3** In this SPD and summary table, a floorspace upper limit includes part of a square metre so for example an upper limit of 59 sq. m includes any floorspace less than 60 sq. m. Planning contributions may also apply to commercial developments, which must be determined on a case by case basis.

Table 6.1 Summary of contributions sought from residential development

	Requirement	Notes
Site Deliverability		
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, including woodland, impacts and compensation for losses. Through condition or s106 Obligation.	
Design and Active Design (including landscaping and public realm)	Through design/conditions. In exceptional circumstances through s106 Obligation.	
Town centre management and night-time economy	Developments that have an impact on town centres, etc or generate a need for additional monitoring.	

Monitoring	Holiday occupancy: £1,500 per unit. Domestic annexes: £750 per unit. Non-RP Affordable Housing (excl. First Homes): £1,500 Ecological mitigation: £4,800. HMOs: £1,500. Travel Plans: £1,500.	1 day monitoring per annum for 5 years. ½ day monitoring per annum for 5 years. ½ day monitoring per annum for 5 years. Variable depending on the nature of ecological mitigation. Approx. 2 days monitoring per annum for years 1, 3, 5, 10, 15, 20, 25 and 30. 1 day monitoring per annum for 5 years. 1 day monitoring per annum for 5 years.
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Affordable Housing Employment and Health

Affordable Housing	Regard will be had to paragraph 64 of the NPPF which indicates that affordable housing will not be sought from non-major developments other than in designated rural areas (i.e., AONB in Torbay). Affordable housing is sought from greenfield sites of 3+ dwellings in the AONB and 10+ dwellings elsewhere. Affordable housing is sought from dwellings on previously developed land of 15+ dwellings.	
Healthcare	Sought on specialist accommodation that gives rise to health/social care needs. £1,630 per Class C3 dwelling. 1,475 per care home room or other Class C2 bedspace.	Active design is a Site Deliverability matter (see above). S106 Contributions sought where there is a specific additional healthcare requirement arising from development e.g., sheltered accommodation.
	May also be sought on a case-by-case basis for unplanned development on unallocated sites in areas where there is an identified shortfall in local service provision (e.g., GP surgeries).	
Employment	£25,000 per full time equivalent (FTE) job lost for Use Classes B2, B8 or E(g). £12,500 per FTE jobs lost for other use classes.	Applies to all development which entails the loss of employment. Liability for CIL will be taken into account. The Council will seek to negotiate local labour arrangements with developers.

Sustainable Development

	Generally applies only to developments that do not pay CIL.	See CIL Charging Schedule. In all cases planning contributions will need to meet the tests of lawfulness. https://www.torbay.gov.uk/council/policies/planning-policies/local-plan/cil/
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The following are a guideline and should not be taken as a tariff. Contributions will be sought up to the amounts indicated below, depending on the nature of the need identified. Costs as at May 2022:

Dwelling size (Gross internal floor area)	Sustainable transport	Education*	Public open space**	Lifelong learning
HMO (per room)	£409	0	£781	£112
37-59 sq. m	£860	0	£1,093	£157
60-79 sq. m	£1,075	£12,464	£2,081	£214
80-108 sq. m	£1,290	£15,572	£3,663	£292
109+ sq. m	£1,398	£18,567	£4,227	£337

*These figures reflect a situation where there are capacity constraints across all age ranges/school types (i.e., early years, primary school, secondary school, post-16 and SEND). Contribution will be decreased accordingly where the capacity shortfall is only for certain age ranges/school types.

**Any on-site provision should be deducted from this total. Excludes financial contributions towards maintenance of open space which are in addition to the above.

Waste management	£90 per dwellings for bins and boxes and adjustment to collection services.	Bins and boxes applies to all new dwellings unless purchased from SWISCo separately. <i>Plus</i> developments where the Council's bin and box recycling system is difficult to achieve.
	£72 per dwelling towards the cost of waste collection vehicles.	
	Additional cost of £63 per dwelling/bedroom for residual waste disposal where there is reduced capacity to recycle (e.g., communal bins).	Sought for developments where the Council's normal bin and box recycling system is unable to operate (e.g., HMOs and some blocks of flats), unless a waste management plan robustly demonstrates that adequate rates of recycling will be achieved.
Community Infrastructure Levy	<p>Based on new floorspace. CIL is sought on new dwellings apart from sites of 15+ units in Charging Zone 3. For such sites, planning contributions will be used. See the CIL Charging Schedule for more information.</p> <p>Where CIL is levied, 'sustainable development' contributions will not be sought, but other obligations may apply.</p> <p>See CIL Charging Schedule. https://www.torbay.gov.uk/council/policies/planning-policies/local-plan/cil/</p> <p>A "Neighbourhood Portion" of 25% of CIL receipts will be spent in the Neighbourhood Forum/Town Council area in which development occurs.</p>	