

Planning Contributions and Affordable Housing Supplementary Planning Document.

Update 3: Economic Recovery Measures, April 2011.

1 Introduction

- 1.1 The housing and development industry remains fragile in Torbay, whilst there remains a very pressing need for housing and economic regeneration. It is important that S106 Agreements facilitate and do not impede development and economic regeneration. Therefore the Council have produced a third Update to its Planning Contributions and Affordable Housing SPD. This Update is intended to stimulate economic activity by ensuring that developer contributions do not stifle development.
- 1.2 This Paper provides an interim update to practice on s106 developer contributions. It was approved by Council on March 24, 2011 and supplements, but does not replace, the adopted Planning Contributions and Affordable Housing Supplementary Planning Document (2008). It replaces previous updates, specifically the June 2010 “Economic Recovery Measures” paper. This paper will be reviewed if the economy changes significantly. In any event it will need to be replaced by April 2014 or when the Council adopts a Community Infrastructure Levy (or Single Unified Local Tariff if this replaces CIL).
- 1.3 This Update Paper has 3 main purposes:
- To provide measures to stimulate the economy during the difficult economic climate.
 - To ensure that the Council’s Section 106 policy accords with the requirements of Circular 5/2005, the Community Infrastructure Levy Regulations 2010 and changes to Government policy on affordable housing.
 - To clarify legal and practical matters which have arisen from the SPD and Updates.

2. Measures to Stimulate the Economy During the Difficult Economic Climate.

- 2.1 The Adopted Planning Contributions and Affordable Housing Supplementary Planning Document (adopted February 2008) divides developer contributions into 3 “circles”:
- **Development site acceptability:** This covers matters that are essential to make a site work in physical terms, such as access and flood protection.
 - **Affordable housing:** The Council seeks 30% affordable housing on developments of 15 or more dwellings, of which three quarters should be for social rent. (See section 6 below on the new affordable rent tenure).
 - **Sustainable Development:** This covers matters such as transport, education, safer communities and greenspace that are sought to ensure that development is sustainable in a boarded sense, taking into account Community Plan Priorities.
- 2.2 Affordable housing is often the largest component in S106 requirements. In Torbay affordable housing is usually built by the developer and sold to a registered housing provider (such as a housing association), at a discount below open market price. This discount equates to the private (or developer) subsidy. The discount is determined by:
- What the affordable housing provider can afford to pay for housing based on rental incomes etc.
 - Homes and Communities Agency funding. This has fallen and councils are advised to assume zero grant. HCA funding will be targeted at providing the Government’s new affordable rent product.

- Any other public funding such as from New Growth Points.
Social housing is more expensive to provide than intermediate housing (e.g. shared ownership) because the rental levels are lower. However the most pressing need is for social rented housing and s106 is an important way in which affordable housing is provided. There are therefore close links between the SPD and the Housing Strategy. The Government is introducing a new tenure of “affordable rented” housing. This is rented by registered providers at up to 80% of market rents.
- 2.3 Sustainable Development Contributions are calculated on the basis of an assessment of the need for education, open space etc generated by the development. The scope for their use is regulated by Circular 5/2005 and the Community Infrastructure Levy Regulations 2010.
 - 2.4 Viability is at the heart of s106 negotiations. PPS3, paragraph 29 sets out that: **“Local Planning Authorities will need to undertake an informed assessment of the economic viability of any thresholds and proportions of affordable housing proposed, including their likely impact upon overall levels of housing delivery and creating mixed communities”**. A Court of Appeal decision relating to Blyth Valley (2008) established that the viability of affordable housing percentage is “a central feature of PPS3 Policy and is not peripheral, optional or cosmetic”.
 - 2.5 The Council commissioned Baker Associates to carry out an assessment of economic viability (November 2008). This indicated that 30% affordable housing is viable in most instances in a “normal” market. Belvedere Vantage produced an updated assessment of viability at May 2010. This report found that 30% affordable housing and other planning contributions could be achieved on good sites with a modest level of grant. However, where pessimistic assumptions were made about matters such as grant or development costs, 30% affordable housing would not be viable. The Belvedere Vantage report recommended that a headline figure of 30% affordable housing be retained, but be accompanied by mechanisms to test schemes that are unable to meet the target.
 - 2.6 Baker Associates were appointed in February 2011 to carry out an infrastructure delivery study, which will entail further assessment of viability. The findings of this, and other relevant research, will be taken into account when considering viability related matters.
 - 2.7 This Update Paper seeks to build on the recommendations of the Belvedere Vantage report. It also identifies other instances where planning obligations can be mitigated if the application helps to achieve Community Plan or Mayor’s Vision objectives. These measures will be reviewed regularly, especially when there is a significant change in the property market.
- ### 3. Reducing Planning Contributions Where Development would not be Viable
- 3.1 This section looks at circumstances where the council would reduce the affordable housing and other s106 requirements. The Adopted Planning Contributions and Affordable Housing SPD sets out a formal process for testing viability using independent assessors for which the applicant pays (see page 48 of the SPD). This process has worked well in providing the Council with an informed and independent assessment of viability.
 - 3.2 Where the requested s106 package is argued to render a development unviable, the Council will request that an independent assessment of viability is carried out by a mutually agreed independent valuer/viability assessor. Developers will be expected to

- enter into open book negotiations, but their commercial confidentiality will be respected and protected.
- 3.3 The independent assessment cannot provide binding arbitration, but the council will take its recommendations into account when considering applications where viability is identified as a problem. In such instances the council agree one or more of the following measures:
- 3.4 **Agree a delay in s106 payments/ provision of affordable units.** A specific payment or provision date should be agreed to prevent sites becoming encumbered in the future. For example contributions to be payable on completion of 50% of the dwellings or (date) whichever is sooner. Precise details will need to be negotiated through the development management process.
- 3.5 **Agree a reduction in tenure mix to allow a greater amount of intermediate housing** (subject to agreement with the Council's Affordable Housing Manager). Such an approach would need to be subject to a arrangement whereby a registered housing provider would purchase dwellings at a price reflecting intermediate housing or affordable rent (i.e. lower than market housing but above social rented levels) but would be entitled to let them as social housing should they be successful in securing the necessary public subsidy etc. Note that the Government is amending the definition of affordable housing by the introduction of an "affordable rent" tenure (see paragraph 6.10 below). Applicants should discuss the Council's affordable housing requirements with the Affordable Housing Manager as soon as possible).
- 3.6 **Agree a reduction in the amount of affordable housing and/or sustainable development contributions.** Where viability is shown to be incapable of mitigation by phasing payments or a different tenure mix, the Council will agree to reduce affordable housing and other sustainable development contributions to a level where development would be viable.
- 3.7 The Council will normally follow the independent assessor's advice on what constitutes a reasonable rate of developer profit. It is noted that the HCA suggest that in the current market this is around 20% of gross development value (see paragraph 2.6 of the Belvedere Vantage report).
- 3.8 In return for agreeing a reduced contribution/affordable housing provision, the Council will seek a "deferred calculation" of financial contributions as part of a s106 agreement. This will require the developer to agree to pay additional contributions at an agreed later stage, if viability improves to such an extent that development would still be viable with additional s106 payments. This will usually require another assessment of viability to be carried out at an agreed time/trigger point towards the end of the project, when costs and profit are more certain. The details of such an assessment will need to be set out in the s106 Agreement.
- 3.9 Section 106 contributions cannot be used purely as a tax on development profits (Circular 5/2005 B7). However, the purpose of the deferred calculation arrangement is to secure some contribution that would normally have been required in accordance with 5/2005, but were foregone by the Authority because of viability considerations that were accepted at the time the planning application was being determined. At no time will the developer be required to provide more in the way of contributions than would ordinarily be due under the provisions of the SPD.
- 3.10 A reduction in affordable housing will be agreed as a means of achieving early completion of development. Therefore the council will require the s106 agreement to

specify that dwellings approved with a reduced (or zero) affordable housing provision should be should be completed within a reduced period of time from permission being granted. The following periods are for guidance only and will need to be agreed on a case by case basis.

- Over 20% affordable housing (i.e. over two thirds the normal 30% requirement): normal 3 year permission will apply (with an overage clause).
- Between 10-20% affordable housing (i.e. between one and two thirds the normal requirement): Will be subject to a s106 requirement that dwellings should be completed with 5 years. A normal affordable housing requirement will apply to any dwellings not completed within 5 years of the date of permission being granted, (to avoid mothballing once a development has been commenced).
- Reduction to less than 10% affordable housing: A s106 agreement will require all dwellings to be completed within 2 years of the date of permission. A normal affordable housing requirement will apply to dwellings not completed within 2 years of the date of permission. (To avoid mothballing once a development has been commenced).

3.11 The s106 agreement will need to specify a reporting arrangement and payment timescale. A benchmark of 60 working days for the disposal to be reported and 20 working days for payments is suggested. The developer will be required to use all reasonable endeavours to ensure that open market dwellings are disposed off at the best value obtainable.

3.12 If possible the Council/ partner affordable housing provider will seek additional public funding to enable affordable housing to be provided, even if a private subsidy is not viable. The Council will work with developers and affordable housing providers to seek Homes and Communities Agency funding for developments. However, it is acknowledged that public subsidy is likely to be tight in the near future.

4. (a) Mitigation where there is an Identifiable Social Good (e.g. Meets Community Plan and/or Mayors Vision Objectives).

4.1 This section looks at circumstances where the council will reduce section 106 requirements in recognition that a development creates a social or economic benefit. Paragraph 7.50 of the Saved Adopted Torbay Local Plan indicates that: *“(3) where development results in an identifiable social good, for example redeveloping brownfield sites or cleaning contaminated land, or provision of social housing, the authority will take a flexible approach to planning contributions in order to ensure that the social benefits of development are realised.”*

4.2 The Community Plan “Turning the Tide for Torbay” and Mayor’s Vision both emphasise the importance of economic regeneration, particularly on Mayor’s Vision sites that are transformational to Torbay’s economic prospects. Ensuring that the planning system promotes regeneration is vital to making it the spatial expression of the Community Plan.

4.3 **On-site Abnormal Costs.** The SPD identifies issues such as energy efficiency, flood protection, cleaning up contamination etc as development site acceptability (“inner circle”) measures. Brownfield development may be more expensive than greenfield development due to additional cleanup costs etc. These “abnormal costs” may be counted against sustainable development contributions.

4.4 **Affordable Housing** Paragraphs 3.45-3.48 of the SPD indicate that “sustainable development” contributions are not sought for social rented affordable housing, and a

50% discount applied to intermediate housing. Note that this relates to affordable housing within the definition in PPS3 (2006 and amended 2011) and reiterated at 6.10 below. It does not apply to small “low cost” open market units. In addition, “development site acceptability” matters have to be addressed on affordable housing developments, to make the site safe and workable in physical terms.

- 4.5 Where intermediate housing provides additional sustainability benefits such as exceeding minimum required Code for Sustainable Homes standards (i.e. above Level 3, which is currently required by Building Regulations for all new homes), then the Authority will consider relaxing the requirement for (“outer circle”) sustainable development contributions.
- 4.6 **Mitigation for Economic Prosperity (jobs created by applications).** Economic Prosperity is the central objective in the Community Plan and Mayor’s Vision. Therefore it is particularly important that planning obligations do not impede job creation. On this basis it is recommended that mitigation is given against additional jobs created by developments on the basis of the logic applied in Figure 11 of the SPD, which roughly estimates the public cost of creating a B class job at £4,125.
- 4.7 On this basis it is suggested that mitigation is given for developments that create net additional jobs as follows:
- B class jobs or other high value jobs (per annum salary of £20K+): £4,130.
 - Non B class/ lower- medium value jobs (paying less than £20K a year): £2060 per job.
- These should be taken as full time equivalent jobs.
- 4.8 Whilst house building and other construction undoubtedly helps economic prosperity, it would not be practicable to calculate the employment creation in the building-out of permissions.
- 4.9 **Mitigation for Existing Uses** The Planning Contributions and Affordable Housing SPD is intended to meet the community (etc) impact of additional development. Therefore the existing use should be taken into account and contributions sought on the **net additional impact**. Note that this requires applicants to be specific about existing uses.
- 4.10 The above measures will be considered as part of the calculation of the net impact of the development, and the consequent s106 contribution sought to make development acceptable. Therefore, no viability test or reduced permission period will be imposed as a result of these measures.
- 4.11 **Minor Applications (9 or fewer dwellings).** Contributions should be reasonably related to the impact of the proposed development.
- 4.12 The likely turnover or added value arising from development are relevant considerations when coming to a view on viability. If the contribution requested exceeds the likely yearly turnover of a business or value added by a development, then there is a prima facie case that it is not reasonable and could be reduced. This approach inevitably involves discretion in the development management process. Officers are entitled to make professional judgements about likely viability on smaller developments where a formal viability assessment would prove disproportionately expensive. Of course, if agreement cannot be arrived at, an assessment of viability by an independent third party may be required.

5. Note on Ensuring that the Council's Policy on s106 Developer Contributions Accords with Legislation.

- 5.1 Planning contributions must meet the requirements of Circular 5/2005, including tests of reasonableness. The Community Infrastructure Levy Regulations 2010 came into force on 6 April 2010. These gave local authorities the ability to raise a levy on new buildings or dwellings. They also limited the scope to use s106 agreements.
- 5.2 Under the CIL Regulations (Section 122) it is now **unlawful** for a local planning authority to seek a planning obligation for a development that is capable of being charged CIL, if the Obligation does not meet all of the following tests:
a) Necessary to make development acceptable in planning terms.
b) Directly related to the development; and
c) Fairly and reasonably related in scale and kind to the development.
These stipulations apply from April 2010 whether or not a planning authority has a CIL in place. After 6 April 2014 (or on the adoption of a CIL if sooner) the Regulations limit the pooling of S106 contributions to 5 developments.
- 5.3 In terms of the Adopted Planning Contributions and Affordable Housing SPD, development site acceptability (inner circle) and affordable housing (middle circle) items are not affected.
- 5.4 Until 2014 (or the adoption of a CIL if sooner) Sustainable Development contributions can still be charged so long as the 3 tests above are met, i.e. the development gives rise to a need that the contribution addresses.
- 5.5 The SPD was drafted to comply with Circular 5/2005 tests of reasonableness. The formulae set out in the SPD seek to measure the impact of a development as a basis of calculating contributions: they are not intended as a tariff based approach per se. *However, it will now be necessary to demonstrate that S106 contributions will be spent locally to an application in order to address a need for infrastructure etc arising from that development.* This test should be applied before a s106 sustainable development contribution is sought.

6. Clarification of How the SPD Should be Interpreted

- 6.1 This Section clarifies interpretation of the Planning Contributions and Affordable Housing Supplementary Planning Document and seeks to make the guidance clearer and easier to implement.

Calculation of Contributions on the Basis of Floorspace.

- 6.2 For consistency all contributions should be calculated on the basis of **gross internal floor space** and not bedrooms. This is to make the SPD consistent and reduce complexity. Planning does not control the use of rooms within a dwelling, and floor area rather than number of bedrooms is a better measure of dwelling size.
- 6.3 The Homes and Communities Agency (then as English Partnerships) set out the following standards in 'Places Homes People Policy Guidance' (November 2007). These are similar to the range set out in the SPD.

English Partnerships 2007 Space Standard	SPD Ranges	Typical of Dwelling Type
51 SQM	Up to 54 SQM	1 Bedroom 2 Persons Homes
66 SQM	55-74 SQM	2 Bedroom 3 Person Homes
77 SQM		2 Bedroom 4 Person homes
93 SQM	77- 94 SQM	3 Bedroom 5 Person Homes
106 SQM	95 119 SQM	4 Bedroom 6 Person Homes
-	120 QSM	Larger properties

- 6.4 Therefore, the **gross internal floor space** of all proposed dwellings will need to be calculated, and ideally provided by the applicant. In addition the floorspace and use of buildings should be completed (Q23 on the application form). Not providing this information at the outset could delay the processing of the application, or result in existing uses not being fully taken into account when calculating mitigation.

Threshold for Contributions

- 6.5 Smaller developments must also contribute towards mitigating any adverse impacts they may have, individually and collectively, on Torbay. Consequently there is no minimum threshold for contributions. This approach also avoids creating perverse incentives, or unintended consequences (such as artificial division of planning units), which could result in no contributions towards mitigation of adverse impacts. Due to the cost of drafting and monitoring S106 Agreements, applicants for smaller schemes, specifically those where the contribution would be less than about £5,000 will be encouraged to pay the contribution before grant of permission in exchange for an agreement by the Council to return these sums in the event that development does not get planning permission. In seeking financial contributions from smaller schemes, regard will be had to the need for them to be reasonable (as per Circular 5/2005), and the need to avoid imposing undue costs on businesses. In addition, regard will be had to whether the application is a standalone scheme or affects part of a larger planning unit (e.g. a block of holiday apartments).
- 6.6 For simplicity all contributions will be rounded to the nearest £10.

Development Site Acceptability Matters:

- 6.7 These are necessary to make development work in physical terms, for example the creation of a junction or footpath. They have to be worked out on a case by case basis. Where possible conditions should be used instead of s106 Agreements, if they can achieve the intended outcome. Conditions cannot require a financial contribution.
- 6.8 Paragraph 2.18 of the SPD seeks £50 (rounded down) per dwelling for waste and recycling facilities.

Affordable Housing

- 6.9 Although house prices have fallen, there remains a pressing need for affordable housing (see box below). 30% of residential developments of 15 or more units is sought for affordable housing. The target is for 75% (of the 30% affordable housing) to be for rent. Affordable housing must normally be provided in kind and on site. Off site contributions are only accepted in exceptional circumstances. Section 3 above sets out criteria when affordable housing requirements may be relaxed in order to stimulate development, where there is a viability problem.
- 6.10 Since the adoption of the SPD the Government has introduced the new tenure of affordable rented housing, and has consulted on amending the definition of affordable housing in PPS3. The proposed revised definition of affordable housing in Annex B, **Affordable Housing definition: Consultation, February 2011** is as follows:

“Affordable Housing

Affordable housing includes social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Affordable housing should:

- Meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices
- Include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision.

Social rented housing is:

Rented housing owned and managed by local authorities and registered social landlords, for which guideline target rents are determined through the national rent regime. The proposals set out in the Three Year Review of Rent Restructuring (July 2004) were implemented as policy in April 2006. It may also include rented housing owned or managed by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency as a condition of grant.

Affordable rented housing is:

Rented housing provided by registered providers of social housing, that has the same characteristics as social rented housing except that it is outside the national rent regime³, but is subject to other rent controls that require it to be offered to eligible households at a rent of up to 80 per cent of local market rents.

Intermediate affordable housing is:

Housing at prices and rents above those of social rent, but below market price or rents, and which meet the criteria set out above. These can include shared equity products (e.g. HomeBuy), other low cost homes for sale and intermediate rent but does not include affordable rented housing”.

- 6.11 It is intended that Affordable Rented Housing will allow providers to raise additional funding, based on these higher potential rents. Therefore, as an interim measure, affordable rented housing will be sought as an element of development and treated as social housing for planning purposes. More details are set out in Planning Policy Statement 3: Planning for Housing - Technical change to Annex B, Affordable Housing definition: Consultation, February 2011. **Applicants are advised to contact the Affordable Housing Manager at the earliest opportunity to discuss proposals.**

Box 2 Housing Requirement

PPS3 requires local authorities to prepare Strategic Housing Market Assessments (SHMA) to provide evidence of housing need. The Exeter and Torbay SHMA was published in December 2007. Its assessment of the 5 year housing requirement is for 4087 dwellings, of which 49.4% should be social rented, 11.7% intermediate and 38.9% market.

Evidence from waiting list figures is that there is an overwhelming need for all types and sizes of accommodation.

Affordability

Affordability of housing has recently been measured by the ratio of house prices to average (median) earnings. A ratio of more than 3.5 indicates a problem with affordability. The ratio peaked at about 11.5 times earnings in 2006, but has subsequently fallen (see below). The effect of the credit crunch has been to reduce mortgage availability. However although house prices, and the ratio of earnings/house prices are falling, the need for affordable housing is likely to increase.

	(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Median Gross Annual Pay (ASHE 2008)	Median Lower Quartile Annual Pay	Average House Price	Lower Quartile House Price (approx)	Ratio of Average House Prices to Median Gross Pay (3/1)	Ratio of average house prices to lower quartile pay (3/2)	Ratio of lower quartile house prices to lower quartile pay (4/2)
Torbay	15,899	10,677	150,164	115,000	9.4	14.1	10.8
South West	19,297	11,911	159,704	125,000	8.3	13.4	10.5
England and Wales	20,973	12,759	152,898	120,000	7.3	12	9.4

Annual Survey of Hours and Earnings 2008, Land Registry 2009.

House prices fell by 14.6% in Torbay between April 2008 and April 2009. This was less than the 16.2% fall in England and Wales and 18% fall for the South West over the same period.

Sustainable Development Contributions.

- 6.12 The attached table (appendix 1) is intended as an aid to calculating sustainable development contributions. Contributions are sought to make development sustainable in broad terms, based on delivering on Community Plan Themes. Because of the CIL Regulations (see above), it will be necessary to ensure that contributions go towards a specific project, the need for which arises at least partly from the development. The tables cannot cover every eventuality and should therefore be taken as a guideline. The guiding principle is that contributions are sought to compensate or mitigate the impact of development in accordance with the legal

requirements of Circular 5/2005 and the CIL Regulations,(or subsequent law/guidance such as the Localism Bill).

- 6.13 **Sustainable Transport.** Contributions only apply to net additional development that creates additional traffic on the road network (paragraph 4.20). The traffic generated by existing uses will need to be deducted from the assessed level of traffic generated by the proposal use. It would be a disincentive to bringing vacant land into use not to mitigate for its former use. Therefore the lawful use of a vacant site will be taken as the baseline for the existing level of traffic generation.
- 6.14 Holiday apartments will be calculated at 50% of the residential rate set out in figure 10 of the SPD. This reflects that they are likely to generate fewer trips than permanent residential accommodation in a yearly period, and many will be off-peak.

Sustainable Transport Contributions for Holiday Apartments.

Floor area	Contribution
Up to 54 SQM	£630
55-74 SQM	£860
75-94 SQM	£1170
95-119 SQM	£1350
120 + SQM	£1810

- 6.15 **Hotels and Catering.** Sustainable transport contributions for hotels based on unadjusted TRICS calculations are very high and could act as a disincentive to a very desirable form of development. One explanation is that the TRICS-derived figures in Figures 8 and 9 include out of town catering such as drive-thru restaurants. In addition there is a case to argue that many hotel related trips will be off peak and non-car borne. Therefore the average cost is less than the average trip cost for all trips. On this basis, the baseline for Hotel and Catering developments will be amended as follows. The list of uses is not exhaustive. In calculating contributions, the Council will strive to assess the impact of development on the transport network, using TRICS as a starting point and also taking other evidence and considerations into account.

Amended Sustainable Transport Contributions Sought from Hotels and Catering (Revises Figure 9, p36 of the SPD).

Sector/location	Trips per 100 Sqm/Contribution per 100sqm (unadjusted)	Amendment	Contribution sought per 100 sqm
Serviced accommodation in the Built up area/ Core Tourism Areas	78.791/ £28,758	25% of total divided by 2 (to reflect high level of off peak trips, and non-car borne trips once people arrive)	£3,590
Serviced accommodation outside the urban area	78.791/ £28,758	50% of total (divided by 2 to reflect high level of off peak trips)	£7,190
Class A3/4/5 Food and drink in town centre	78.791/ £28,758	Treat as retail unless more precise data on impact is available, since traffic generation likely to be similar to in-town retail.	£10,200
Class A3/4/5 Outside built up	78.791/ £28,758	Treat as retail in absence of more precise TRICS data, since traffic	£63,350

area (e.g. drive thrus)		generation is likely to be similar to out of centre retail.	
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- 6.16 **Sustainable Transport Contributions for Elderly Persons Accommodation.** Bus Passes create a significant additional cost to the Council (around £4.4 Million in 2008-9). On this basis sheltered accommodation will be charged sustainable transport contributions at the full rate in the SPD. Class C2 residential institutions will be charged at the rate in Figure 9 of the SPD (£13,020 per 100 sq m).

Sustainable Transport Contributions for dwellings, including Sheltered Housing. (Amends Figure 10 of the SPD).

Floor area	Contribution sought (per dwelling)
Up to 54 sq m	£1260
55-74 sq m	£1720
75-94 SQM	£2350
95-119 SQM	£2710
120 + SQM	£3610

- 6.17 **Compensation for Loss of Employment.** Figure 11 of the SPD indicates that applications resulting in the loss of class B jobs should make a contribution of £4,120 per job (measured on floorspace: see p38 of the SPD). This is intended to apply to changes of use to residential or other non-job generating uses. It is not intended to apply to changes of use to other employment generating uses (even if outside the “B” use classes). PPS4 (paragraph 4) clearly indicates that such uses must be considered as economic development. Most studies indicate that the majority of jobs in Torbay over the next 20 years will come from non-B uses such as leisure, health and public services. Paragraph 4.27 of the SPD recognises the need for flexibility in order to avoid harming local businesses or organisations. It is also not intended to apply where it could impact negatively on regeneration schemes such as promoted in the Mayor’s Vision.

- 6.18 **Stronger Communities.** Contributions towards Stronger Communities apply to developments of 10 or more dwellings.

Contribution for Stronger Communities (per dwelling, on developments of 10+ dwellings). (No Change from Figure 12 of the SPD, apart from measurement by floor area).

Floor area	Stronger Community Contribution
Up to 54 sq m	£90
55-74 sq m	£130
75-94 sq m	£170
95-119 sq m	£200
120 + sq m	£200

- 6.19 Non residential developments which give rise to particular safer community issues (e.g. licensed premises) will be charged contributions based on a case by case assessment of their impact. This is likely to need consultation with relevant bodies such as Safer Communities Partnership: <http://www.torbay.gov.uk/safercommunities>

- 6.20 Out of centre retail developments may give rise to a need for increased town centre management or marketing to offset the negative effect of out of town shopping on town centres. This will need to be calculated with regard to the spending potentially diverted from town centres, and be ring fenced for specific town centre enhancement or management projects.
- 6.21 **Education and Lifelong Learning** Advice from the Council's Children's Services is currently that there is no need for additional secondary school places in Torbay. There is a primary school places need in Paignton but not Torquay or Brixham. On this basis no education contributions should be sought for applications in Brixham or Torquay.
- 6.22 Education contributions in Paignton should reflect the cost of primary schooling only, which is 6 years out of 13 (i.e 54%). This comes to £830 for 2 bedroom dwelling (based on 54% of £1549 in Figure 13 of the SPD). This should be sought as follows, reflecting that larger properties will be more likely to contain children:

Primary Education Contributions: Paignton only (Amends Figure 13 of the SPD).

Floor area	
Up to 54 sq m	0
55-74 sq m	£410
75-94 sq m	£830
95-119 sq m	£1240 (x 1.5 baseline contribution)
120 + sq m	£1660 (x2 baseline contribution)

- 6.23 **Lifelong Learning.** This is sought from all dwellings (including sheltered housing) as per Figure 14 of the SPD. It contributes towards libraries. There will be a need for Cultural services to identify needs arising from development.

Lifelong Learning Contributions (No Change from Figure 14 of SPD, other than measurement by floor area).

Floor area	
Up to 54 sq m	£160
55-74 sq m	£220
75-94 sq m	£300
95-119 sq m	£410
120 + sq m	£470

- 6.24 **Greenspace and Recreation.** Open space contributions for dwellings are set out in Figure 17 of the SPD. A rate of £550 applies to sheltered accommodation, which excludes the cost of equipment for school children. Green space and recreation contributions still apply to developments that include private amenity space (e.g. gardens). However, where public open space is provided as a planning obligation, this may be counted against contributions. In such cases the Authority will still seek that either the developer ensures maintenance in the future or, if the open space is to be transferred to the Council, contributions are made towards maintenance for 10 years.

Greenspace and Recreation Contribution per dwelling (No Change from Figure 17 of SPD, other than measurement by floor area).

These figures are given as a guideline, based on the Greenspace Strategy. In calculating contributions, officers will assess the need for open space generated by the

development, using the Greenspace Strategy as a starting point, and also taking other evidence and considerations into account. It has generally been assumed that holiday apartments generate about 50% of the demand for local open space compared to permanent residential accommodation.

Floor area	
Up to 54 sq m	£550
55-74 sq m	£1120
75-94 sq m	£2050
95-119 sq m	£2370
120 + sq m	£2370

7. Implementation Issues

7.1 This section sets out advice on implementation of the SPD including contributions for hard to monitor uses, how the Council will deal with viability issues and the administrative process of negotiating and preparing s106 agreements.

7.2 **Hard to Monitor Uses.** Paragraphs 5.6- 5.8 of the SPD seek contributions for hard to monitor uses. This only applies to developments that raise particular issues that require monitoring, such as non-RSL provided affordable housing, or holiday occupancy conditions. It does not apply to all developments. Contributions towards hard to monitor uses is sought on the basis of the following:

Hard to Monitor Contributions (Amends Paragraph 5.8 of the SPD)

Schemes of up to 10 dwellings/ Non major applications.	£200 per unit up to £2000 (for 10 units)
Each 10 units over 10 (or part thereof).	£200

7.3 Developers shall pay the Council's legal/administrative costs of preparing and/or approving s106 Agreements. These costs are charged on a time basis, currently £100 per hour. A typical agreement will cost around £500, however more complex ones involving matters such as affordable housing or deferred calculation of contributions will cost more. Further guidance on this issue can be obtained from the Council's Legal Section.

7.4 **Deferred Calculation.** Where a reduced planning contribution or provision of affordable housing is agreed on the basis of viability, the Council will operate a deferred calculation of contributions, which is described in detail at section 3 above.

**Planning Contributions and Affordable Housing Supplementary Planning Guidance
(Adopted February 2008 and Updated June 2010).**

Appendix 1: Guideline to Calculating Contributions for Residential Developments

Developer Contribution	Dwelling Type				
Floor area (1sq m = 10.76 sq ft)	45-54 Sq M	55-74Sq M	75-94 Sq M	95-119 Sq M	120 Sq M+
(Typical dwelling type) For info only calculations should be based on gross internal floor area.	1 bed Flat	2 bed	3 Bedrooms	3 or 4 Bedrooms	Larger properties 4+ bedrooms
Site Acceptability Contributions	Have to be carried out to make development work in physical terms				
Waste Management	£50	£50	£50	£50	£50
Affordable Housing	Only where 15+ dwellings				
Sustainable Development Contributions	Where development gives rise to a wider need that is a Community Plan priority, especially where there is a gap in other funding (see para 4.8 (p32))				
Sustainable transport – net increase in traffic generated. Also applies to sheltered flats. 50% rate applies to holiday flats.	£1,260	£1,720	£2,350	£2,710	£3,610
Loss of employment	Only applies where there is loss of B1/B2/B8 uses.				
Stronger Communities	Only applies to developments of 10+ dwellings. (£90) (£130) (£170) (£200) (£200)				
Education – Applies to Primary school provision in Paignton only.	Not on 1 bed dwellings.	£410	£830	£1240	£1,660
Lifelong learning – libraries	£160	£220	£300	£410	£470
Greenspace and recreation (assuming no on-site public open space provision)	£550	£1,120	£2,050	£2,370	£2,370
Implementation					
Monitoring-	Only on difficult to monitor uses e.g. non-RSL housing or Holiday Flats				
	£200 per dwelling up to £2000 9 for 10 units). £200 per 10 dwellings thereafter.				
Sub Total	£2020	£3520 (Pgn) £3110 (Bxm/Tqy)	£5580 (Pgn) £4750 (Tqy/Bxm)	£6780 (Pgn) £5540 (Tqy/Bxm)	£8160 (Pgn) £6500(Tqy/Bxm)
5% Administration Charge (where sub total is over £5,000).	£2,120	£3,700 (Pgn) £3270 (Bxm/Tqy)	£5860 (Pgn) £4990 (Tqy/Bxm)	£7120 (Pgn) £5820 (Tqy/ Bxm)	£8570 (Pgn) £6830 (Tqy/Bxm)
Discount for early payment at signing of S106/ Undertaking = 5%	£100	£180 (Pgn) £160 (Tqy/Bxm)	£280 (Pgn) £240(Tqy/Bxm)	£340 (Pgn) £280 (Tqy/Bxm)	£410 (Pgn) £330 (Tqy/Bxm)

Notes: Figures for guidance only. Figures rounded to nearest £10. Figures will be mitigated by existing use and direct on-site provision e.g. of public open space.

The Level of contributions sought should be **reasonable** within tests of 5/2005 and related to a specific project/item, the need for which is created by the development.