



Community Infrastructure Levy Charging Schedule February 2017

The Community Infrastructure Levy Charging Schedule is available...

on the Torbay Council Website:
www.torbay.gov.uk/strategicplanning

and at Torbay Council's Spatial Planning Office at:
2nd Floor, Electric House, Castle Circus, Torquay TQ1 3DR

If you would like any further information about this document or any aspect of the Torbay Local Plan please use the contact details below:

telephone: (01803) 208804
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Other links that will provide more detailed background information on the spatial planning system include:

National Planning Policy Framework www.gov.uk

The Planning Portal (www.planningportal.gov.uk) is the Government's online service for planning which includes advice and information on the plan-led system

To request this document in an alternative format or language, please contact the Future Planning Team on (01803) 208804.

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Residential Charging Zones Summary Map and Maps 1-39 showing Charging Zones 1-4. Note that the map boundaries/page numbers correspond to the Adopted Local Plan 2012-30. The maps are designed primarily to be viewed on a screen and may be zoomed into (separate document).

Commercial and Non-Residential Development Charging Zones Map: Zone C1 Town Centres, St. Marychurch and Preston District Centres. Zone C2 out-of-town centre, including The Willows District Centre.

1 INTRODUCTION

1.1 Background

- 1.1.1** This is Torbay's Charging Schedule for the Community Infrastructure Levy (CIL). It was the subject of Independent Examination in Autumn 2016, with a Hearing on 9th November 2016. The Examiner's Report was published on 5th December 2016, which recommended that CIL be adopted with modifications. The CIL was approved by full Council on 2nd February 2017.
- 1.1.2** Torbay Council, as Charging Authority, currently intends to levy CIL on developments granted permission on or after Monday 15th May 2017. This date will be confirmed in the Charging Schedule before the Charging Schedule takes effect in accordance with CIL Regulation 28.
- 1.1.3** CIL is a tax levied on development of more than 100 sq m of floorspace, or new-build dwellings. It is intended to help fund the infrastructure needed to support growth in Torbay. It is regulated by the Community Infrastructure Levy Regulations 2010 (as amended).
- 1.1.4** Torbay Council is intending to charge CIL on residential developments within three charging zones:
- Charging Zone 1: Areas of lower housing value (based on the built-up area within 20% most deprived area as indicated in the Indices of Deprivation 2015).
 - Charging Zone 2: Elsewhere in the built-up area (excluding Watcombe Heights, Ilsham Valley, and Bascombe Road).
 - Charging Zone 3: Future Growth Areas and outside the built-up area (plus Ilsham Valley and Watcombe Heights, Torquay, and Bascombe Road, Churston).
- 1.1.5** The built-up area is defined by the area outside Policy C1 "Countryside and rural economy" or Policy C2 "Undeveloped coast" areas in the Adopted Torbay Local Plan 2012-30, although some high value urban areas are also included in Zone 3.
- 1.1.6** The Charging Zones maps have been published on larger scale, OS based maps. These maps are designed primarily to be viewed electronically where they can be zoomed into.
- 1.1.7** Residential schemes of 15 or more dwellings within Charging Zone 3 will not be charged CIL. The Council will continue to negotiate Section 106 Obligations (s106) to cover the infrastructure needed to support their development as well as affordable housing. It is considered that s106 and Section 278 (s278) Highways Agreements are more effective mechanisms for providing the infrastructure required by development in these areas.
- 1.1.8** It is intended to seek CIL on larger out-of-town/district centre retail developments.

1.2 Where to find out more

- 1.2.1** More detailed advice on CIL and the relevant Regulations (with amendments) can be found on the Planning Advisory Service website: <http://www.pas.gov.uk/community-infrastructure-levy>

- 1.2.2** The government's online Planning Practice Guidance (PPG), Part 25 contains detailed advice on CIL and links to relevant Regulations:
<http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/>
- 1.2.3** Other details about CIL can be found on the Planning Portal's CIL page:
<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>
- 1.2.4** CIL forms may be downloaded from the Planning Portal. Note that the "Planning Application-Additional Information Requirements Form" must be submitted with all planning applications. The forms may be downloaded from:
https://www.planningportal.co.uk/info/200126/applications/70/community_infrastructure_levy/5
- 1.2.5** Details of viability evidence and infrastructure requirements are available online at:
www.torbay.gov.uk/CIL

1.3 Who pays CIL?

- 1.3.1** CIL applies to developments that create more than 100 sq m gross internal floorspace of new development, minus the floorspace of any demolished buildings (so long as these have been in lawful use for at least 6 months out of the last 3 years). New-build houses or flats are also liable to CIL even if less than 100 sq m, unless built by a “self-builder” and an exemption is obtained before development commences.
- 1.3.2** CIL only applies to places where people usually go, so does not cover buildings such as electricity sub-stations or plant rooms.
- 1.3.3** Social housing (as defined in the CIL Regulations) is exempt, as are charities so long as the development is used for charitable purposes. Exemption must be claimed before development commences. CIL is not collected if it would be less than £50.
- 1.3.4** Note that CIL is payable on qualifying developments whether they require express planning permission or are permitted under the General Permitted Development Order (as amended) (GPDO), Prior Approval or Local Development Orders (LDOs).
- 1.3.5** CIL will be used to help fund major infrastructure projects set out in the key infrastructure projects list (“Regulation 123” List). Should other infrastructure needs arise that require CIL funding, the Council will publish a revised Regulation 123 List.
- 1.3.6** A “neighbourhood portion” of CIL must be spent in the neighbourhood in which CIL arises. When Neighbourhood Plans have been “made” (i.e. adopted following approval at a local referendum), this will be 25%. The proportion will be 15% until Neighbourhood Plans are approved at referendum.
- 1.3.7** In the case of Brixham, the money will be passed directly to the Town Council. For the “unparished” parts of Torbay (i.e. everywhere except Brixham Town Council area), the Council will hold the money and spend it on matters agreed with the local communities. This will be used to support the infrastructure priorities identified by Community Partnerships and Neighbourhood Forums.

1.4 Social housing and self-build housing exemptions

- 1.4.1** Social housing as defined in Regulation 49 of the CIL Regulations (as amended) and self-build/custom-build housing have a mandatory exemption from CIL.
- 1.4.2** Self-build/custom-build housing is defined in the CIL Regulations (as inserted in 2014). Section 54 of the CIL Regulations (Amendment) 2014 sets out procedures that must be followed in order for self-build exemption to apply. **Exemption can only be claimed before development is commenced.**

2 TORBAY CIL CHARGING SCHEDULE

2.1 Residential Development

2.1.1 The Charging Schedule sets out three residential Charging Zones:

- 1) **“Inner Urban” Built-up areas with lower development viability.** Residential development of more than 3 dwellings will be charged CIL at £30 per sq m. Conditions or s106 Obligations will be sought to address site deliverability matters, and to make development legal in terms of its impact on Habitats Regulations matters etc.
- 2) **Elsewhere in the built-up area.** Residential development of more than 3 dwellings will be charged CIL at £70 per sq m. Charging Zone 2 is defined as areas outside the Policy C1 “Countryside and rural economy” area or Policy C2 “Undeveloped coast area” in the Adopted Torbay Local Plan (2012-30), that are not within Zone 1 or a Future Growth Area. In addition Watcombe Heights, Ilsham Valley Torquay and Bascombe Road, Churston are not within Zone 2 (but are within Zone 3).
- 3) **Future Growth Areas as defined by the Local Plan, plus outside the built-up area, Watcombe Heights and Ilsham Valley, Torquay and Bascombe Road, Churston.** Sites of 15 or more dwellings will be zero-rated for CIL, but s106/s278 Agreements will be sought to provide infrastructure and affordable housing in these areas. CIL will be sought for developments of 1-14 dwellings at £70 per sq m.

2.1.2 The Council’s residential charging zones for CIL are summarised in the following table set out more fully in the following Figures 1 – 4 and Charging Zone Maps. Notes to the tables are set out on page 12. The Charging Zone map pages correspond to the Adopted Torbay Local Plan Policies Map booklet pages. These maps are intended primarily to be viewed electronically and may be zoomed. If an instance arises that a site falls within two charging zones, the zone that the site is substantially within will apply. If equally between two zones, the lower zone will apply.

| Summary of Residential Charging Zones | | | |
|---|---|----------------|--|
| Zone | Number of dwellings and charge (£ per sq m) | | |
| | 1-3 dwellings | 4-14 dwellings | 15+ dwellings |
| 1. Built up areas with lower development viability | Zero | £30 | £30 |
| 2. Elsewhere in the built up area | Zero | £70 | £70 |
| 3. Future Growth Areas, plus outside the built up area, plus Watcombe Heights, Ilsham Valley, Torquay, and Bascombe Road, Churston. | £70 | £70 | Zero - s106 Obligations will be used to secure infrastructure funding. |

Figure 1: Residential Charging Zone 1 Inner Urban Built-up areas based on the 20% most deprived LSOAs (excluding Future Growth Areas).

CIL Charging Schedule and relationship to s106 Obligations: Residential Development (Use Classes C3, C4 and sui generis hostel. See Note 1)

| | s106 (for information) | CIL |
|---|--|---|
| Developments of 1-3 net new dwellings | Zero, except for direct site deliverability matters. (Including access, direct highway works, flooding and biodiversity, matters to make development acceptable in terms of Habitats Regulations and other legal matters). | Zero |
| Developments of 4 -14 net new dwellings. | Zero, except for direct site deliverability matters (see above). Note that affordable housing may be sought on greenfield sites of 3 or more dwellings (see Note 2). | £30 per sq m of chargeable floorspace. |
| Developments of 15+ net new dwellings. | Zero, except for direct site deliverability matters (see above). Note that affordable housing is sought on sites of 15+ dwellings (see Note 2) | £30 per sq m of chargeable floorspace |

Figure 2: Residential Charging Zone 2: Elsewhere in the built up area, excluding Charging Zone 1, and Watcombe Heights and Ilsham Valley, Torquay, and Bascombe Road, Churston.

CIL Charging Schedule and relationship to s106 Obligations: Residential Development (Use Classes C3, C4 and sui generis hostel) (See note 1).

| | s106 for information | CIL |
|--|---|--|
| Developments of 1-3 net new dwellings | Zero, except for direct site deliverability matters. (Including access, direct highway works, flooding and biodiversity, matters to make development acceptable in terms of Habitats Regulations and other legal matters). Note that affordable housing is sought on greenfield sites of 3 or more dwellings (see Note 2). | Zero |
| Developments of 4-14 net new dwellings. | Zero, except for direct site deliverability matters (see above). Note that affordable housing is sought on greenfield sites of 3 or more dwellings (see Note 2). | £70 per sq m of chargeable floor space. |
| Developments of 15+ net new dwellings | Zero, except for direct site deliverability matters (see above). Affordable housing is sought on sites of 15+dwellings. (See Note 2). | £70 per sq m of chargeable floor space. |

Figure 3: Residential Charging Zone 3: Within Future Growth Areas, or Outside the Built Up Area (i.e. within the Countryside Area or Undeveloped Coast), plus Watcombe Heights and Ilisham Valley, Torquay and Bascombe Road, Churston.

CIL Charging Schedule and relationship to s106 Obligations: Residential Development (Use Classes C3, C4 and sui generis hostel (see note 1).

| | s106 for information | CIL |
|---|--|--|
| Developments of 1-3 net new dwellings | <p>Zero, except for direct site deliverability matters. (Including access, direct highway works, flooding and biodiversity, matters to make development acceptable in terms of Habitats Regulations and other legal matters).</p> <p>Affordable housing is sought on greenfield sites of 3+ dwellings (see note 2).</p> | £70 per sq m of chargeable floor space. |
| Developments of 4-14 net new dwellings | <p>Zero, except for direct site deliverability matters (see above).</p> <p>Affordable housing is sought on greenfield sites, of 3+ dwellings.</p> | £70 per sq m of chargeable floor space. |
| Developments of 15+ net new dwellings | <p>s106 Contributions to cover infrastructure needed to make development sustainable:</p> <ul style="list-style-type: none"> • Direct site deliverability matters. • Affordable Housing (see Note 2). • Sustainable development contributions necessary to make the development acceptable in planning terms. | Zero |

Notes to Residential Charging Schedule tables

Note 1: Residential includes dwellings within Use Classes C3 and C4 and sui generis Houses in Multiple Occupation (HMOs). It includes sheltered housing, where extra care is **not** provided.

Extra care housing and student halls of residence will be zero rated for CIL, so long as secured for such use through condition or legal agreement.

Extra Care Housing will be taken to mean: Housing designed with the needs of frailer older people in mind and with varying levels of care and support available on site. People who live in Extra Care Housing have their own self contained homes, their own front doors and a legal right to occupy the property. Extra Care Housing is also known as very sheltered housing, assisted living, or simply as 'housing with care'. It comes in many built forms, including blocks of flats, bungalow estates and retirement villages. It can provide an alternative to a care home. In addition to the communal facilities often found in sheltered housing (residents' lounge, guest suite, laundry), Extra Care includes additional flexible care packages that must be purchased as a condition of occupancy, and additional facilities such as restaurant or dining room, health & fitness facilities, hobby rooms and computer rooms. Domestic support and personal care are available, usually provided by on-site staff. Properties can be rented, owned or part owned/part rented. Occupation is governed by eligibility criteria which prospective residents have to meet".

Sheltered or retirement dwellings which are not extra care units as per the above definition, will be considered to be residential units that are liable to CIL.

CIL is not sought on extensions to dwelling houses, unless these result in the original house being substantially demolished and replaced.

Social Housing, as defined by Regulation 49-50 of the CIL Regulations, is exempt from CIL where the requirements of the CIL Regulations have been met.

Self-build and custom-build housing are exempt from CIL so long as an exemption is claimed before the commencement of development. (See PPG paragraph 25-141-20140612).

Charitable institutions, e.g. churches are exempt from CIL, so long as the development is used primarily for charitable purposes. (See Regulations 43-44 of the CIL Regulations).

Note 2: Affordable housing requirements are set out in Policy H2 of the Adopted Torbay Local Plan 2012-30. The Council has regard to material considerations governing site size thresholds: namely the Written Ministerial Statement of 28/11/2014. However, full Council resolved on 2nd February 2017 to retain the threshold set out in the Adopted Torbay Local Plan.

An element of affordable housing is sought on greenfield sites of 3+ dwellings and brownfield sites of 15 or more dwellings. However, this may be reduced to zero in areas of deprivation, where this would encourage investment. Liability for CIL will also be a material consideration.

Note 3: Outside the built up area is defined as areas within the Countryside and the rural economy area (Policy C1) or Undeveloped coast (Policy C2) in the Adopted Torbay Local Plan 2012-30. The built up area is defined as areas not so designated. For the purpose of CIL, Watcombe Heights and Ilsham Valley, Torquay and land at Bascombe Road, Churston are within Zone 3.

Note 4: Future Growth Areas are designated in the Adopted Torbay Local Plan 2012-30.

2.2 Commercial Development

- 2.2.1** CIL is liable on out-of-town centre retail and food and drink development of more than 300 sq m, at £120 per sq m).
- 2.2.2** The Council's viability evidence indicates that town centre retail would not be viable with CIL. This viability position also applies to St Marychurch and Preston District Centres; but not The Willows District Centre, which operates as an out-of-town retail park.
- 2.2.3** The viability evidence indicates that other commercial/employment uses would not be viable with a CIL.
- 2.2.4** Figure 5 sets out the CIL for commercial development. The Charging Zones Map included at Appendix 1.

| Figure 4: CIL Charging Schedule: Commercial and Non-Residential Development | | |
|--|--|---|
| Type of Development | Development Charging Zone | |
| | 1) Town Centres, St. Marychurch and Preston District Centres | 2) Everywhere else (including The Willows District Centre). |
| Class A1 retail less than 300 sq m. | Nil | Nil |
| Class A1 retail over 300 sq m. (see Note 2). | Nil | £120 per sq m |
| Food and drink (Class A3, A4, A5) (see note 3). | Nil | £120 per sq m |
| Class A2 Financial and Professional services. | Nil | Nil |
| Class B employment uses. | Nil | Nil |
| Class D1 Non-residential institutions (see Note 3). | Nil | Nil |
| Class D2 Assembly and leisure/non residential institutions (see Note 3). | Nil | Nil |
| Class C1 Hotels. | Nil | Nil |
| Class C2 and C2A Residential Institutions (see Note 4). | Nil | Nil |
| Notes to Commercial and non-Residential Charging Zones | | |

Note 1: Charitable institutions, e.g. churches are exempt from CIL, so long as the development is used primarily for charitable purposes. (See Regulations 43-44 of the CIL Regulations).

Note 2: Applies to all A1 retail uses including bulky retail and sui generis retail uses.

Note 3: s106 contributions may be sought where a development has an effect on non-CIL chargeable matters, such as the night time economy; or where site specific mitigation measures are required such as for access.

Note 4: Care Homes are taken to be non-self contained accommodation for persons who, by reason or age or infirmity, are in need of care.

Sheltered or retirement dwellings which are not extra care units as per the above definition, will be considered to be residential units that are liable to CIL.

2.3 Charging Zone Maps

2.3.1. Charging Zone maps are set out in Appendix 1. These are:

- **Residential Charging Zones Summary Map**
- **Residential Charging Zones Maps 1-39** showing Charging Zones 1-3. Note that the map boundaries/page numbers correspond to the Adopted Local Plan 2012-30. The maps are designed primarily to be viewed on a screen and may be zoomed into (separate document).
- **Map 2 Commercial Development Charging Zones:**
 - Zone C1** Town Centres, St. Marychurch and Preston District Centres.
 - Zone C2** Out-of-town centre and The Willows District Centre.

3 TORBAY CIL ACCOMPANYING POLICIES

3.1 Introduction

- 3.1.1** Note that the following sections do not form part of Torbay's CIL Charging Schedule and may be updated without requiring a further Examination. Particular attention will be paid to the review of CIL¹. The Council will still make use of s106 Obligations alongside CIL in order to secure sustainable development. These must meet all of the following tests. They must be:
- 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.
- 3.1.2** From 6th April 2015, no more than 5 s106 obligations for infrastructure matters can be pooled (i.e. collected for one specific project). This does not apply to non-infrastructure items that are not fundable through CIL, such as affordable housing, training or town centre management.
- 3.1.3** The Council will keep the ability to pool obligations under review.
- 3.1.4** S106 Obligations may still be used to secure infrastructure, so long as they meet the above tests, and the Council has indicated that they do not intend to fund that item through CIL.
- 3.1.5** Full details of s106 Obligations are set out in the Planning Contributions and Affordable Housing Supplementary Planning Document (SPD), which was adopted by Council on 2nd February 2017.
- 3.1.6** The SPD targets planning obligations on delivering the new Local Plan's growth strategy and provides more details on the implementation of affordable housing and s106 Obligations. Particular attention is drawn to the need to alleviate flood risk and combined sewer overflows, and to protect priority species such as Greater Horseshoe Bats and Cirl Buntings.

3.2 CIL Chargeable residential developments and s106 Obligations

- 3.2.1** On sites where CIL is payable, s106 Obligations only will be sought where they are directly necessary to making development acceptable in terms of direct on- and off-site impact (e.g. access, drainage, biodiversity and flooding). Where possible these matters will be addressed through planning conditions rather than s106 Obligations.
- 3.2.2** Note that an element of affordable housing is sought on greenfield sites of 3 or more dwellings and brownfield sites of 15 or more dwellings, as set out in Policy H2 of the Adopted Torbay Local Plan. Where development is subject to both CIL and affordable housing requirements, the liability for CIL will be taken into account. Generally s106 obligations (except for site

¹ A new approach to developer contributions: a report by the CIL Review Team was submitted to Government in October 2016.

deliverability matters) will be relaxed before CIL. Further details are set out in the Planning Contributions and Affordable Housing SPD.

3.3 Residential development in Charging Zone 3 and s106 Obligations

- 3.3.1** For sites of 15+ dwellings in Charging Zone 3, the Council will seek s106 Obligations to fund infrastructure needed to support the development.
- 3.3.2** S106 Obligations will be negotiated with developers to secure affordable housing and provide the infrastructure needed for larger residential, commercial and mixed use schemes within Future Growth Areas. This includes, but is not necessarily limited to:
- Direct site deliverability matters (biodiversity, flood prevention, access etc).
 - Affordable housing, employment and health.
 - Sustainable development contributions (education, lifelong learning, sustainable transport, waste management, green infrastructure, recreation, etc).
- 3.3.3** All such contributions will be subject to the tests of lawfulness (see above). Where practical to do so, s278 Highways agreements will be used to carry out improvements to the highway.
- 3.3.4** Further details are set out in the Planning Contributions and Affordable Housing SPD.

3.4 Non-Residential Development and s106 Obligations

- 3.4.1** S106 Obligations may be sought from commercial and other non-residential developments, so long as they meet the tests above and are not items identified in the Regulation 123 List as being funded through CIL.
- 3.4.2** This includes direct site deliverability matters (access, biodiversity, flooding etc), and dealing with the traffic impacts of proposals through sustainable transport. S106- Obligations will be sought to address other impacts of non-residential proposals. For example, where a development has an impact on regulating the night time economy, it could be the subject of a s106 Obligation towards CCTV or town centre management.
- 3.4.3** Further details are set out in the Planning Contributions and Affordable Housing SPD.

3.5 Calculating the Chargeable Amount of CIL

- 3.5.1** CIL will be calculated by multiplying the CIL rate by chargeable floor area and an inflation measure as follows:

$$\text{CIL} = \text{CIL rate} \times \text{gross internal floor area} \times \text{inflation measure}$$

- 3.5.2** The inflation measure is calculated by the increase in the RICS' Building Cost Information Service all-in tender price index from the base year to the date when permission is granted.

3.6 'Assumed Liability' and Commencement Notices

- 3.6.1** Ultimate liability for CIL runs with the land. However, the CIL Regulations encourage someone to assume liability to pay. It is expected that the developer will often “assume liability”. Forms are available on the Planning Portal (see section 1.2 above). Where developers have assumed liability they are required to submit a commencement notice to the Council prior to starting development.
- 3.6.2** CIL becomes payable from the date that chargeable development is commenced. When planning permission is granted, the Council will issue a liability notice setting out the amount payable and the payments procedure, including instalments where the amount payable is more than £5,000 (see the Instalments Policy below).
- 3.6.3** Where no one has indicated that they “assume liability”, and/or no commencement notice is submitted by the developer, 100% of CIL is payable upon commencement of development. This will be identified through the Council’s monitoring process and an inflation measure (as above), surcharge and recovery cost will be applied to late payment.

3.7 Instalments Policy

- 3.7.1** In order to make CIL more affordable, taking developers’ cash flow into account, CIL may be paid by instalments as set out below. Note that the Council is able to vary its instalments policy in accordance with S69B of the CIL Regulations 2010 (as amended). Any revised instalments policy will be published on the Council’s website.
- 3.7.2** Instalments only apply where liability for CIL has been assumed and a commencement notice issued before development commences. Where this is not the case, 100% of CIL becomes payable at commencement.
- **Where CIL is less than £5,000**
100% within 3 calendar months of commencement of development
 - **Where CIL is between £5,001-£10,000**
 - 50% within 3 calendar months of commencement of development
 - 50% within 6 calendar months of commencement of development
 - **Where CIL is between £10,000-£20,000**
 - 34% within 3 calendar months of commencement of development
 - 33% within 6 calendar months of commencement of development
 - 33% within 9 calendar months of commencement of development
 - **Where CIL is more than £20,000**
 - 25% within 3 calendar months of commencement of development
 - 25% within 6 calendar months of commencement of development
 - 25% within 9 calendar months of commencement of development
 - 25% within 12 calendar months (1 year) of commencement of development
 - **Where CIL is more than £100,000**
 - 25% within 6 calendar months of commencement of development
 - 25% within 12 calendar months+ of commencement of development
 - 25% within 18 calendar months of commencement of development
 - 25% within 24 calendar months (2 years) of commencement of development

- 3.7.3** CIL payable is linked to inflation using the RICS' Building Cost Information Services all-in tender price index of construction (updated annually). Therefore, earlier repayment of CIL Instalments is encouraged.
- 3.7.4** Note that in CIL terms, development is considered to have been commenced when any material operation begins on the land. Developers are required to submit a Commencement Notice before development commences. If they do not do this, the Council will not be able to offer payment by instalments or CIL Relief.

3.8 Exceptional Circumstances Relief Policy

- 3.8.1** CIL is not intended to be a negotiated item. The CIL Regulations grants mandatory relief for charities, self-build housing and social housing. These must be claimed before development is commenced. CIL Regulations 55-57 (as amended) set out the circumstances and requirements surrounding exceptional circumstances relief.
- 3.8.2** In order to avoid exceptional circumstances rendering development unviable, the Council will consider offering "exceptional circumstances relief" where:
- The chargeable development is being carried out pursuant to a planning permission that is subject to an enforceable s106 Obligation that makes the development acceptable in planning terms; and
 - Evidence (in the form of an assessment of viability) is provided to demonstrate that paying the full levy would have an unacceptable impact on the development's economic viability; and
 - The relief must not constitute notifiable state aid (see PPG paragraph 25-129), unless the development would otherwise be eligible for mandatory charitable relief.
- 3.8.3** The Council will consider granting exceptional relief to retail elements of large mixed use schemes where this would secure a more sustainable and viable development, particularly the early delivery of "Use Class B" employment land (and the criteria are met). Similarly, the Council will consider granting exceptional relief where developments would assist in the delivery of town centre masterplans. The criteria noted above must apply (i.e. there must be a s106 Obligation in place and a viability assessment has been carried out to indicate that the impact of CIL would render development unviable.
- 3.8.4** Before granting discretionary relief, developments must be subject to an independent assessment of viability to be carried out at the applicant's expense. They should indicate that development is not viable with CIL, and that a longer repayment period will not render development viable.
- 3.8.5** Exceptional Circumstances relief is at the Council's as charging Authority's discretion. It lapses if development is not commenced within 12 months.
- 3.8.6** Where Exceptional Circumstances Relief is granted, it will be published on the Council's website for 28 days.
- 3.8.7** Further details of the Council's arrangements for assessing viability are set out the Planning Contributions and Affordable Housing SPD.

3.8.8 CIL relief must be sought before the commencement of development. This applies to both mandatory and discretionary relief.

3.9 Payments in kind

3.9.1 Payments in kind of land or infrastructure may be accepted in lieu of cash payment of CIL where they will assist with the delivery of items on the Regulation 123 list and comply with the legal requirements (currently set out in Regulation 73A of the CIL Regulations). However, because CIL is applied primarily to smaller developments, it is expected that circumstances where payment in kind apply will be rare.

3.10 State Aid

3.10.1 The proposed CIL rates are derived from the supporting viability evidence and strike an appropriate balance between the desirability of funding infrastructure to support development in Torbay while ensuring that the rates do not prevent development from coming forward. The proposed basis for charging CIL in Torbay is based on viability evidence and no competitive advantages are identified for any development type or organisation which would give rise to any implications with regard to State Aid.

3.11 Review of CIL

3.11.1 The Council will keep CIL rates under review. If there are significant changes to the viability of development, CIL will be revised in accordance with the process set out in the CIL Regulations (or subsequent legislation).

3.12 Regulation 123 List of Key Infrastructure Projects Proposed to Receive CIL

3.12.1 It is intended to use CIL to help fund the following items set out in the Regulation 123 List below. Accordingly, s106 contributions will not be sought towards these items. The Council will publish a revised Regulation 123 List should other matters arise that need to be funded through CIL.

| CIL Critical Infrastructure Item | Total Cost | Funding Shortfall |
|--|--|-------------------|
| South Devon Highway | £130m | £20 Million |
| Impacts on South Hams Special Area of Conservation (Berry Head to Sharkham Point, Brixham) arising from: <ul style="list-style-type: none"> Recreational impacts on limestone grassland between Berry Head and Sharkham Point 10% of CIL, up to £30,000 per year will be ring-fenced to address this. | £384,000 Equal to £29,500 per year over the Local Plan period. Including a need to ring fence 10% of CIL up to £30K per annum to contribute towards addressing recreational impacts upon the grassland. | £384,000 |

APPENDIX 1

Charging Zone Maps

Residential Charging Zones. Summary Map and Maps 1-39 showing Charging Zones 1-3. Note that the map boundaries/page numbers correspond to the Adopted Local Plan 2012-30. The maps are designed primarily to be viewed on a screen and may be zoomed into.

Commercial and Non-Residential Development Charging Zones Map: Zone C1 Town Centres, St Marychurch and Preston District Centres. Zone C2 out-of-town centre, including The Willows District Centre.