

Committee(s):	Date(s):
Planning and Transportation Committee	13 December 2016
Subject: The Section 106 and Community Infrastructure Levy Monitoring Report	Public
Report of: Director of the Built Environment	For Information
Report author: Chhaya Patel – Principal Planning Officer Rory Sadler – Planning Obligations Officer	

Summary

The report details the progress made in securing and implementing financial and non-financial planning obligations secured under the Community Infrastructure Levy Regulations 2010 (As amended)(CIL), Section 106 (S106) of the Town and Country Planning Act 1990 (The Act) and The London Plan, in the financial year 2015 to 2016. This report provides an analysis for the period 01 April 2015 to 31 March 2016 and includes a financial summary as at 31 March 2016.

The report is divided into two sections under the titles Section 106 and CIL. Within these sections, an overview of each obligation will be provided along with a brief historic background to both S106 and CIL. In addition, a summary of the policies and rates for both charges will be set out before a financial analysis up until 31 March 2016 is delivered. Both parts of the report include sections covering the future projects funded or made feasible through planning obligations and case studies of projects that have already been delivered through S106 contributions. Further topics reported will include; Allocation of Contributions, Risk Management and the purpose of planning obligations.

Recommendation(s)

Members are asked to note the report.

Main Report

Background

1. This is the first monitoring report since 2012 and the first since the adoption of the Planning Obligations Supplementary Planning Document 2014 and the CIL Regulations 2010 (as amended). The City now collects both City CIL and Mayoral CIL.

Current Position

SECTION 106 PLANNING OBLIGATIONS

2. S106 position as at 31 March 2016:

A total of 99 financial agreements had been signed and had reached the first trigger date (e.g. the Date of Commencement - meaning a development has begun and

may trigger the payment or submission to discharge a planning obligation) with a total negotiated value of £164.6 m; some £128.6 m of this had been received. 12 of these were signed in the monitoring period of this report (April 2015 – March 2016).

In accordance with the City's SPD, the City Corporation seeks financial and non-financial planning obligations on developments where there is a net increase of gross internal area of 500 square metres and above. Table 1 below outlines changes to the thresholds and rates applied to developments since the last monitoring report.

Table 1 – Summary of Financial Requirements (City SPD, 2014)

Development Type	Threshold	S106 obligation
Mayoral Crossrail S106	500m2 GIA Office Retail Hotel	£140 per m2 net increase £90 per m2 net increase £61 per m2 net increase
Affordable Housing (Commercial development)	500m2	£20 per m2 net increase
Affordable Housing (Residential development)	10 or more units	£165,000 per unit Off-Site OR 30% Provision On-Site
Local training, skills, and job brokerage	500m2 GIA (commercial) 10 units or more (Residential)	£3 per m2 net increase
Carbon Offsetting	35% improvement in CO2 emissions over 2013 Building Regulations	£60 per tonne of carbon to be offset over a 30 year period

Additional Planning Obligations Secured

Your committee will be aware that section 106 agreements secure non-financial obligations to achieve wider mitigation measures, which cannot be bound by condition. Table 2 highlights additional planning obligations secured in the monitoring period of this report.

Table 2 – Additional Section 106 Planning Obligations Secured

Department	Non-Financial Obligation
Local Community Facilities and the Environment	Open Space Works
	Site Specific Mitigation
	Evaluation & Design
	Off-Site Public Realm Maintenance
	West Smithfield Project
	Tree Replacement
	Guinness South Project
	Landscaping
Public Lift Provision	

Transportation Improvements	Public Highways
Education	Education
Transport for London	Bank Station Upgrade
	Cycle Hire Provision
	Bus Stop Improvement Works
	Cycle Super Highway
City of London	Monitoring
	Wind Mitigation Survey
	Counter Terrorism
	Television Survey
	Utilities Connection Survey
	Carbon Offsetting Assessment
	Local Procurement
	Local Training, Skills and Job Brokerage Strategy
	Affordable Housing
	And any other site specific mitigation measures as may be required to make the development acceptable

Since the introduction of S106, the overall summary of the financial position as of 31 March 2016 is given in Table 3. This table identifies the scale of activity arising from financial S106 agreements and demonstrates the scale of financial obligations negotiated and secured by the City Corporation. Table 4 represents the distribution of signed contributions.

Table 3 -Summary of Financial S106 Agreements as at 31 March 2016

	Number of Agreements	Value of Agreements	Amount Received	Amount Expended
Signed and Triggered	99	£164.6 m	£128.6 m	£51.8 m
Signed NOT Triggered likely to proceed	49	£62.1 m	-	-
Signed NOT Triggered progress unknown	8	£9.27 m	-	-
Total Signed NOT Triggered	57	£71.3 m	-	-
Grand Total Signed Agreements	156	£235.9 m	£128.6 m	£51.8 m
Agreements not signed but with Committee	11	£9.2 m	-	-

Approval				
Overall Potential Total	167	£245.1 m	£128.6 m	£51.8 m

Table 4 - S106 Signed Potential Contribution Allocation as at 31 March 2016

	April 2010 – March 2012	April 2012 – March 2013	April 2013 – March 2014	April 2014 – March 2015	April 2015 – March 2016	Total
Affordable Housing	£21.3 m	£0.5 m	£28 m	£6.2 m	£3.7 m	£59.7 m
Local Training, Skills and Job Brokerage	£2.5 m	£0.087 m	£0.6 m	£0.8 m	£0.49 m	£4.48 m
Local Community Facilities and the Environment	£29.7 m	£1.1 m	£6.3 m	£7.28 m	£1.4 m	£45.78 m
Transportation Improvements	£14.8 m	£0.46 m	£1.9 m	£3.6 m	£0.4m	£21.16 m
Crossrail	£35.1 m	£1.25 m	£14.9 m	£24.3 m	£16.66 m	£92.21 m
Total	£103.4 m	£3.4 m	£51.7 m	£42.18 m	£22.68 m	£223.36 m

Table 5 – S106 Contributions received and spent as at 31 March 2016

	Affordable Housing	LCE	Training	Transport	Total
Received	£56.2m	£45.6m	£4.4m	£22.5m	£128.6m
Interest	£1.3m	£2.6m	£0.1m	£1.1m	£5.2m
Spent	£18.4m	£22.1m	£3.0m	£8.2m	£51.8m
Balance	£39.0m	£26.2m	£1.5m	£15.3m	£82.0m

As at 31 March 2016, £38.8m in Crossrail Contributions has been received through S106 agreements and this total has been transferred to TfL.

A total of £1.14m worth of contributions has been received towards monitoring purposes as at 31 March 2016. Of this total, £0.4m has been expended and there is a remaining balance of £0.74m.

Projects Funded Through S106 Contributions

Air Quality

Section 106 contributions have been used to support air quality monitoring and data management in the City as major developments potentially generate an increase in servicing and deliveries to and from the site. Therefore S106 contributions are used to support Air Quality monitoring. For example, S106 contributions were used to purchase the PM10 analyser in Farringdon Street for which the data contributes to the City Air Quality Monitoring Network which is managed and made available to the public by Kings College London at www.londonair.org.uk.

Local Procurement

The City of London views local procurement as an effective means of stimulating the economies of neighbouring boroughs, promoting small business growth and associated job creation opportunities for the City's residents.

As part of their S106 obligations, developments that meet the threshold must submit a local procurement strategy prior to starting work on site. The strategy must outline initiatives that will ensure reasonable endeavours are made to spend 10% of the development's goods and services budget with small and medium sized businesses (SMEs) in the City and neighbouring boroughs.

The New Economics Foundation has calculated that every £1 spent with a local supplier is worth £1.76 to the local economy, and only 36 pence of it is spent out of the area. That makes £1 spent locally worth almost 400 per cent more.

Local Procurement Benefits 2015 – 2016:

- £41,525,158 was spent with locally based SMEs in financial year 2015 to 2016 on goods and services such as scaffolding, plant equipment, plant hire, masonry and timber supplies.
- 50 separate contracts were placed with 47 local SMEs.

Local Employment and Training

The City's Economic Development officers are committed to working with our partners in the private and public sectors to raise the skills levels and maximise the employment opportunities of residents in the City and neighbouring boroughs

Local Training, skills and job brokerage is supported by S106 planning obligations in two forms: the requirement that developers sign up to a local training, skills and job brokerage strategy that states their approach to meeting a target of 20% of local labour in the construction phase; and financial contributions to support training and employment initiatives in the City and neighbouring boroughs.

Local Employment and Training Benefits 2015 – 2016:

Construction: local employment is measured in person-hours of employment for residents in the qualifying fringe boroughs. At the end of 2015 - 2016 financial year, development sites in the City had generated 1,909,368 paid hours of construction employment, of which 156,013 (8.2%) came from local employees resident in the City fringe boroughs.

Other employment and training initiatives in the same period delivered the following benefits:

- 66 residents acquired a job through the Cheapside & Aldgate employment programme.
- 261 residents received work-related learning opportunities through programmes such as Career Ready, City Talent, and the Higher Education Access Project.
- 3,298 residents took part in introductions to City-type jobs through programmes such as City Careers, Open House, Future First and Subjects in the City.

Affordable Housing

The City of London requires that 30% of new housing in the City is provided as affordable housing or as a financial contribution equivalent to 60% of the proposed new housing, to deliver affordable housing elsewhere.

The most notable projects that have been through cash in lieu contributions that are currently underway include:

- Avondale Square – Redevelopment of the Community Centre to provide 18 units.
- 1 Tower Bridge, Horace Jone House – 43 Units
- Middlesex Street – 24 Units

City Public Realm

A series of area enhancement strategies set the vision for the future based on the local environment and street scene. The impact of development requires enhancements to be made near to the site. Improvements can include transport improvements or the renovation of public spaces. Over the last fourteen years, in excess of 150 enhancement schemes have been delivered, many of which have been funded through S106 contributions and examples of these are set out below.

Past scheme of note include

- St Pauls Churchyard – winner of the London Planning Awards 2010 - 2011 for 'Best Historic Building Management'
- Cheapside improvement project – Winner of CIHT Award 2013

Recently completed and on-going S106 funded projects of note include:

- St Andrews Holborn - winner of the London Planning Awards 2015 - 2016 for 'Best New Public Space'
- Sculpture in the City (on-going) – Awarded several awards

Those of note that are under construction or within current developments include:

- Mitre Square
- Barts Close
- Aldgate project

Future S106 Projects and Obligations

The Local Plan sets out how the City will develop up to 2026 and beyond and provides the framework for current and future planning obligations. The plan and SPD provide flexibility for the type of obligations sought to change in response to changing circumstances. This is being achieved by introducing new obligations, one example of a future non-financial obligation is for developers to consider, fund and maintain 'Counter-Terrorism Measures' in the vicinity of the site in accordance with Policy 7.13 of the London Plan (March, 2016).

The growing need to support SME's and start-up businesses has also been recognised. Policies 4.1 and 4.8 of the London Plan support the provision of floor space for start-ups. Where appropriate in major developments and if necessary, obligations to secure areas for start-ups are secured in future agreements.

'Consolidated Deliveries' will also feature as a non-financial obligation in accordance with Policy 6.14 of the London Plan. This is necessary to allow continued development, particularly within the Eastern Cluster of the City. Finally, public access to open spaces within developments is a recent concept within the City and 'Access to Roof Gardens' is an obligation that is considered to be significant. Many new developments incorporate roof gardens within their designs.

S106 Financial Contributions that fund infrastructure projects identified within the CIL Regulation 123 List will no longer be sought through S106 agreements. CIL is intended to replace much of the planning obligation's mechanism for the funding of infrastructure. Regulations prevent the double charging of CIL and S106 to fund the same piece of infrastructure. To reflect the changed approach, S106 planning obligations have been scaled back to cover:

- Site-specific mitigation, necessary to make a development acceptable in planning terms.
- Affordable housing Provision.
- Contributions to revenue projects, including training and skills provision;
- Non-financial obligations arising from the development plan to mitigate the impact of the development.

Air Quality – LEN Project

The Mayor of London has awarded the City of London Corporation £990,000 over three years to implement a 'Low Emission Neighbourhood' (LEN) in the Barbican, Guildhall and Barts area. The City Corporation is match funding the Mayor of London's contribution. The City of London LEN is one of five that will be set up across eight boroughs that will come into full effect by the start of 2019. The aim of the LEN is to improve local air quality by reducing the amount of traffic and encouraging and supporting low and zero emission vehicles in the locality.

Officers continue to work on developing a variety of projects to deliver the aims of the LEN, utilising S106 contributions and obligations where necessary.

COMMUNITY INFRASTRUCTURE LEVY

CIL position as at 31 March 2016:

A total of 67 planning applications have been received since 2012 and all were CIL liable; 21 of which contributed £2.8m towards the City CIL (July, 2014). All of the 67 applications contributed a combined total of £12.5m towards the Mayoral CIL.

The Community Infrastructure Levy is a charge on new development and is used to help fund the provision of infrastructure in the City of London. The CIL operates through a charging schedule supported by a 'Regulation 123 list', which outlines the infrastructure that will be funded. CIL will be charged on most new development where there is an increase of more than 100 square metres (sqm) of new floorspace, or one or more new dwellings (irrespective of the increase in floorspace). However some developments may be eligible for relief or exemption from the Community Infrastructure Levy. Further information on relief from CIL can be found in Part 6 of the Community Infrastructure Levy Regulations 2010 (as amended).

The table below outlines the CIL rates charged on new developments where there is an increase in GIA of 100 sqm or above, based on the type of land use and the zone in which the development is located in. Also included are 'Nil Rates' for planning applications which are exempt from CIL due to their proposed use.

Table 6 – Summary of Financial Requirements (City SPD, 2014)

Land Use	Zone	City CIL Rate (£ per m2)	Mayoral CIL Rate (£ per m2)
Offices	City-wide	£75	£50
Residential	Riverside	£150	£50
Residential	Rest of City	£95	£50
Development used wholly or mainly for the provision of medical or health services, except the use of premises attached to the residence of the consultant or practitioner	City-wide	Nil	Nil
Development used wholly or mainly for the provision of education as a school or college under the Education Acts or as an institution of higher education	City-wide	Nil	Nil
Development used wholly or mainly for the operational purposes of the emergency services	City-wide	Nil	Nil
All other uses	City-wide	£75	£50

Infrastructure to be funded by the City CIL in accordance with the 2014 Regulation 123 List includes:

- Community facilities
- Decentralised energy facilities
- Education facilities
- Emergency services facilities
- Flood defence and flood risk alleviation
- Pipe subways
- Play space facilities
- Publicly accessible open space, sports and recreation facilities
- Public health care facilities
- Public realm enhancement
- Transport improvements

City CIL Overview for 2014 – 2016

The overall summary of the financial position for income generated by City CIL between July 2014 and September 2016 is given in Table 7.

Table 7 – City CIL collected between July 2014 and March 2016

Monitoring Period	Amount Received (£)	Number of Applications
July 2014 – March 2015	£152,250.00	1
April 2015 – March 2016	£2,613,926.00	20
Total	£2,766,176.00	21

CIL Contribution Allocation

The City's Priorities Board, reporting to the Resource Allocation Sub-Committee, has been set up to decide the allocation of CIL to progress. Funds for new projects are allocated in accordance with the agreed distribution below:

- CIL Admin – 5%
- Neighbourhood CIL – 15%
- Public Realm and Local Transport – 40%
- Social and Community Enhancement – 10%
- Open Spaces – 5%
- Unallocated Contingency – 25%

Mayoral CIL Financial Overview for April 2012 – March 2016

The Mayoral Community Infrastructure Levy (CIL) applies to new developments granted planning permission on or after 1 April 2012 where there is an increase of more than 100 square metres (sqm) of new floorspace, or one or more new dwellings (irrespective of the increase in floorspace). The Levy will be used towards funding Crossrail and is collected by the London boroughs. CIL liabilities are reported back to TfL on a quarterly basis. The City of London is currently the 7th largest contributor out of the 35 boroughs working with TfL to collect the Mayoral CIL. Table 8 provides an overview for the financial years from April 2012 through to March 2016.

Table 8 – Mayoral CIL collected between April 2012 and March 2016

Year	Received	Number of Applications
April 2012 – March 2013	£1,034,950.00	4
April 2013 – March 2014	£4,132,794.51	13
April 2014 – March 2015	£2,279,790.66	19
April 2015 – March 2016	£5,068,751.98	31
Total	£12,516,287.15	67

City CIL Administration

Administration charges are set at a rate of 5% in accordance with CIL regulations 2010 (as amended). It is proposed to review this charge on a regular basis to ensure that the overwhelming majority of revenue from the levy is directed towards infrastructure provision as stated by the 2011 CIL Overview. Since the levy was first introduced in July 2014, a total of £149,043 has been allocated to the costs associated with administering the levy, £99,941 of which has been spent leaving a CIL admin balance of £49,102.

Mayoral CIL Administration

Since the levy was introduced in April 2012, £500,793 has been allocated for monitoring purposes and £61,932 of that has been spent leaving a balance of £438,861.

Proposals

3. It is proposed that the Mayoral CIL administration fee of 4% per application should be reviewed over the next 6 months to ensure that it covers the City's associated costs accurately.

Corporate & Strategic Implications

4. The Department of the Built Environment has developed a vision to create and facilitate a leading future world-class city. Some examples of the key programmes and projects that are aligned to delivering this vision that are currently and will be supported through S106 contributions and planning obligations are:
 - **Future Streets and Public Realm** – Developing evidence and policy to reallocate more highway space from motor vehicles to people
 - **Future City Smart** – To ensure efficient, secure, resilient and responsive City Infrastructure by supporting excellent public transport and utilities and helping to deliver the Superfast City Programme for excellent wireless, Wi-Fi and wired communications
 - **Future Sustainable City** - To make the City an even more sustainable place by encouraging more travel in the City by sustainable modes such as walking, cycling and public transport.

These key projects form part of both The Department of the Built Environment's Business Plan 2016 – 2019 and the City of London's Corporate Plan 2015 – 2019. The Corporate Plan states that the City's vision is to maintain high quality, accessible and responsive services benefiting its communities, neighbours, London and the nation. Planning obligations have been and will be constructed and delivered in a way that supports and reflects both the City's Departmental and Corporate plans.

Implications – Financial Implications

5. S106 contributions are usually time limited. The report sets out the risk of contributions being unspent and the actions being taken to mitigate this risk of returning unspent sums. Officers have taken action to address this risk by renegotiating S106 agreements or negotiating an extension of time to deliver projects. The amount that is potentially returnable will be reported on in the next Monitoring Report.

There are four main areas of risk to the City in relation to S106 agreements. Taking each of the risks and mitigation in turn:

1. Risk: The City might fail to negotiate satisfactory mitigation.

Mitigation: Supplementary Planning Guidance has been developed to highlight the potential impacts of new development. Extensive consultation with officers, departments and Members is undertaken to identify these and as such this risk has been minimised.

2. Risk: The City, having secured a S106 agreement to mitigate the impact of a development, subsequently fails to ensure that the developer fulfils their obligations (both monetary and non-financial).

Mitigation: There is a dedicated staff resource, funded via S106 contributions, to monitor planning obligations keeping this risk to a minimum. S106 software has been procured which will unify the monitoring and administration process of deeds and obligations. This system will enhance the entire S106 procedure from the drafting of

the deed up to the discharging of the final obligation. Members are advised of progress via individual project reports and through the Monitoring Report.

3. Risk: The City fails to maximise the opportunities provided by monetary contributions to benefit the City in mitigating the impact of development.

Mitigation: The spending department or team is allocated the contribution and an evaluation and design report is prepared in line with the original bid in order to secure satisfactory mitigation. The Project Subgroup, Priorities Board and other committees determine where there is a degree of discretion available in utilising funds to mitigate developments for the wider benefit of the City.

4. Risk: The City fails to deliver the necessary schemes and/or expend all of the contributions received in accordance with and within the time period specified in the agreement, resulting in funding returned to the developer.

Mitigation: Chief Officers responsible for planning and delivering associated schemes are advised of the receipt of funds, the purpose of those funds and the date (or estimated date when only this information is available) by which they must be spent. In cases where the date for paying back principal contributions is approaching, the City may seek with the developer to secure a longer timeframe in which to apply the contribution and deliver a project. This is closely monitored to reduce the risk.

In some cases contributions, particularly in relation to Transportation Improvements, Training Skills and Job Brokerage, Local Community Enhancements and Affordable Housing, are put together (pooled) to secure larger strategic schemes. In such cases the City may plan to spend the contribution closer to the date of return in order that it can be combined with resources secured at a later date. Return dates are usually a set time frame, usually 5, 10 or 20 years, following practical completion of a development.

Unspent Sums

Uncertainty of repayment dates arises in the majority of cases as practical completion has not yet been reached and the repayment date cannot be calculated. Monitoring of development programmes (where the information is available) and regular updates from the Development of the Built Environment's Monitoring Team and the City Surveyor takes place to provide an indication of key milestone dates and informally estimate potential return dates.

In a small number of cases failure by the developer to notify the City of the key milestone date can leave the City uncertain of the time frame to spend a contribution. More recent agreements have a clause which links compliance with the obligation to notify the City of key events with the repayment clause. If the notification clause is not complied with, then the repayment clause would not be triggered.

Conclusion

6. S106 software has been procured which will unify the monitoring and administration process of deeds and planning obligations. This system will enhance the entire S106 procedure from the drafting of the deed up to the discharging of the final obligation. This software will help mitigate many of the

risks discussed in paragraph 1.9 of this report by providing a more efficient and up to date monitoring system.

S106 Financial Contributions that fund infrastructure projects identified within the CIL Regulation 123 List will no longer be sought through S106 agreements. CIL is intended to replace much of the planning obligation's mechanism for the funding of infrastructure. Regulations prevent the double charging of CIL and S106 to fund the same piece of infrastructure. To reflect the changed approach, S106 planning obligations have been scaled back to cover:

- Site-specific mitigation, necessary to make a development acceptable in planning terms;
- Affordable housing;
- Contributions to revenue projects, including training and skills provision;
- Other non-financial requirements arising from the development plan and London Plan as addressed in this report.

S106 contributions have reduced since the introduction of CIL and the supporting policies which has therefore reduced the associated risks covered in paragraph 1.9 of this report.

The City has a robust policy regarding planning obligations and despite challenges experienced by the development industry planning obligations and S106 contributions continue to be secured by the City for our environment, residential and working community. The City will continue to apply contributions in line with government, the Mayor of London and the City's own policy balancing the needs and wants of the City community and environment with the aspirations of the development community.

The Monitoring Report is attached in Appendix 1 - A as it will be published on the City website by 31 December 2016.

Appendices

Appendix 1: The Section 106 and Community Infrastructure Levy Monitoring Report

Background Papers:

- City of London - Corporate Business Plan
- City of London – Department of the Built Environment Business Plan 2016/19
- City of London - Community Infrastructure Levy Regulation 123 List
- City of London - Local Plan, January 2015
- City of London - Planning Obligations Supplementary Planning Document, July 2014
- Crossrail Funding – Supplementary Planning Guidance, TFL March 2016
- The Community Infrastructure Levy Regulations 2010 (As Amended)
- The London Plan March 2016
- Town and Country Planning Act 1990

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