

<p>Cabinet</p> <p>4 April 2017</p>	 TOWER HAMLETS
<p>Report of: Infrastructure Planning Team, Place Directorate</p>	<p>Classification: Unrestricted</p>
<p>Section 106 (S106) and Community Infrastructure Levy (CIL) Income Reporting through the Infrastructure Delivery Framework:</p> <p style="text-align: center;">CIL and S106 Account Summary Report to Quarter Three 2016-17</p>	

Lead Member(s)	<p><u>Covering Cabinet Report</u> Councillor Rachel Blake, Cabinet Member for Strategic Development</p>
Originating Officer(s)	<p><u>Covering Cabinet Report</u> Owen Whalley, Divisional Director, Planning and Building Control, Place Directorate</p> <p><u>CIL Collection, Allocation and Expenditure Report to Close of Q3 2016/17</u> Matthew Pullen, Infrastructure Planning Manager, Place Directorate</p> <p><u>S106 Income and Balance Report December 2016</u> Andy Simpson, Business Improvement & S106 Programme Manager, Governance, Directorate</p>
Wards affected	All
Key Decision?	<u>For noting purposes only</u>
Community Plan Theme	A Great Place to Live; A Fair and Prosperous Community; A Safe and Cohesive Community; A Healthy and Supportive Community

1. EXECUTIVE SUMMARY

- 1.1 This document has been prepared in order for the Mayor in Cabinet to note the latest position regarding the CIL and S106 income and balance held by the Council, as at the close of quarter three 2016/17.

2. RECOMMENDATIONS

2.1 The Mayor in Cabinet is recommended to:

1. Note the latest quarterly position of the Council's CIL and S106 income and balance.

3. REASONS FOR THE DECISIONS

3.1 The reasons for the decision sought in this report are to:

1. Ensure that information relating to CIL and S106 receipts is transparent, and in compliance with the Mayor's Transparency Protocol.
2. Ensure that relevant decisions relating to the funding and delivery of infrastructure projects using CIL and S106 income are appropriately informed.

4. ALTERNATIVE OPTIONS

4.1 No alternative options identified. This paper is for information-sharing purposes in the interests of transparency and to help inform decision making.

5. BACKGROUND

5.1 The approach to reporting CIL and S106 income, allocation and expenditure information was approved by the Mayor in Cabinet on the 4th October 2016. This included the provision of quarterly reports on the Council's CIL and S106 income and balance to Cabinet.

5.2 Summary information relating to CIL and S106 income, and the balance held by the Council as at the close of quarter three of the 2016-17 financial year, has been appended to this report.

5.3 Appendix A relates to CIL and shows a current balance of circa £24.7m. It also details information on the income the Council has received:

- Since the adoption of the Charging Schedule;
- In the previous financial year;
- In the current financial year to date.

- 5.4 Appendix B shows that the current overall S106 balance is circa £82.7m, and sets out the balance of funds held by contribution type (i.e. Heads of Terms).
- 5.5 The allocation of funding to projects is undertaken by the Infrastructure Delivery Framework, which is supported by an extensive evidence base. The evidence base identifies infrastructure needs, forecast future needs and identified projects to meet the need.
- 5.6 S106 and CIL are contributions from developers towards the delivery of infrastructure and are not intended to pay for all the costs associated with delivering the entire infrastructure needed in an area. Therefore CIL and S106 funds available need to be considered to deliver priority projects. The prioritisation process is supported by the Infrastructure Delivery Framework and associated evidence base and needs to precede development of each project.
- 5.7 Infrastructure projects are also considered as part of the Council's emerging Capital Strategy, to ensure that wider funding and delivery options are taken account of.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 This report provides an update on the Community Infrastructure Levy and Section 106 contribution balances held by the Council as at 31st December 2016.
- 6.2 The total balance of Section 106 resources that had accrued at the end of December 2016 was approximately £82.70 million with a Community Infrastructure Levy balance of £24.66 million.
- 6.3 It must be stressed that this report only shows the balances held and does not detail expenditure incurred during the financial year that will be financed through these resources, longer term spending commitments that have been entered into, nor financing that is ring-fenced for particular purposes. With effect from the 2017-18 financial year reporting for Section 106 and CIL will be included within the Corporate Budget Monitoring reports that are considered on a quarterly basis by the Mayor in Cabinet.
- 6.4 Funding decisions in relation to Section 106 and CIL resources are made in accordance with the Infrastructure Delivery Framework Governance Proposals that were approved by the Mayor in Cabinet on 4th October 2016.
- 6.5 Section 106 resources often come with time constraints and, whilst it is important that these resources are not lost, the prioritisation of projects needs to be seen in the context of the council's Capital Strategy, with delivery progress being reported to Cabinet through the regular budget monitoring of the Capital Programme as outlined above. Certain receipts

are ring-fenced for specific purposes, with many ultimately being passed to statutory organisations such as Transport for London or National Health Service partners. The Council does however have discretion over the use of significant levels of Section 106 resources.

- 6.6 It is important that a sufficiently broad planning horizon continues to be implemented to reduce the risk of funding being lost but also to avoid the crowding out of other important capital priorities due to funding imperatives. These processes need to operate not only for Section 106 and CIL funded schemes but across the whole of the council's capital resources.
- 6.7 Payments of Section 106 and CIL resources to external bodies can potentially be determined to be grants which require the approval of the Grants Determination Sub-Committee.

7 LEGAL COMMENTS

- 7.1 This report provides an update on the Council's CIL and S106 income and balance.
- 7.2 CIL is a planning charge, introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. It came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010 ('the 2010 Regulations').
- 7.3 CIL is a pounds per square metre charge on most new development and must be used to help deliver infrastructure to support the development of the area. It can be used to provide new infrastructure, increase the capacity of existing infrastructure or to repair failing existing infrastructure, if this is necessary to support development.
- 7.4 The CIL can be used to fund a wide range of infrastructure, including transport, flood defences, schools, hospitals, and other health and social care facilities. This definition allows the levy to be used to fund a very broad range of facilities such as play areas, parks and green spaces, cultural and sports facilities, schools, district heating schemes and police stations and other community safety facilities. This flexibility gives the Council the opportunity to choose what infrastructure it needs to deliver the London Plan.
- 7.5 There are limitations, and to be relevant infrastructure it must be infrastructure that is listed on the Council's Regulation 123 list. This is a list published pursuant to Regulation 123 of the 2010 Regulations which sets out the infrastructure projects or types of infrastructure that the Council intends will be, or may be, wholly or partly funded by CIL within Tower Hamlets.
- 7.6 The Council are required (pursuant to Regulation 59F) to apply a portion of CIL receipts as 'the neighbourhood portion'. This Council has decided

that in respect of all areas in the borough that a 25% portion will be applied and has chosen 4 neighbourhood portion areas (as shown in Appendix A). The Council are expected to engage with the communities where development has taken place and agree with them how best to spend the neighbourhood portion.

- 7.7 The Council are required to spend any monies received pursuant to a s.106 agreement in accordance with the terms of that agreement. It is therefore important to consider the provisions of each agreement when allocating monies to a particular project. Whilst some agreements allow for a particular contribution to be spent on a type of infrastructure or project across the borough as a whole, other agreements are more specific in requiring that a contribution be linked more closely to the locality of the development. Under most agreements the Council will have a limited period of time to spend the contribution (normally 5-10 years from receipt) and if the contribution is not spent within this period, the monies will have to be returned to the person who paid the monies with interest.
- 7.8 As noted above, to the extent that the spending of the monies amounts to a grant, then currently the directions made under sections 15(5) and 15(6) of the Local Government Act 1999 (the Directions) by the Secretary of State on the 16th of January 2017 apply. These Directions provide that until the 31st of March 2017 any functions exercised by the Council in respect of grants shall be under the direction and to satisfaction of the Commissioners. It noted that by the time this report is considered in Cabinet these directions will no longer apply and it is likely that new directions will have been issued. To the extent that there are any new directions relating to the Council's grant functions these will need to be followed.
- 7.9 There are no further direct legal implications arising out of this report and legal implications, if any, will be considered in forthcoming reports where specific decisions are required.

8 ONE TOWER HAMLETS CONSIDERATIONS

- 8.1 This report relates to the reporting of CIL and S106 income, which is associated with the allocation of planning contributions to deliver infrastructure in the borough. Reporting this information allows for the objectives of One Tower Hamlets, and those of the Community Plan to be accounted for in decision-making, and in infrastructure planning and delivery.
- 8.2 It is considered that infrastructure projects that are subsequently funded by the Council's CIL and S106 income highlighted in this report will reduce inequality and foster cohesion in the borough.

9 BEST VALUE (BV) IMPLICATIONS

- 9.1 The proposal set out in this document aligns with the Council's Best Value Duty and has been formed with consideration of the Best Value Strategy and Action Plan.
- 9.2 The proposal represents an improvement in the way the Council's functions are exercised, and has regard to economy, efficiency and effectiveness, as it adds a layer of oversight to the allocation of funding collected through planning contributions to deliver infrastructure.

10 SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 10.1 The process proposed in this document will ensure effective oversight in the use of planning contributions to deliver infrastructure. This will mean that matters such as achieving a sustainable environment will be appropriately accounted for when allocating funding for infrastructure.

11 RISK MANAGEMENT IMPLICATIONS

- 11.1 The proposals set out in this report seek to add levels of oversight to the allocation of planning contributions to infrastructure projects, and ensure this process is well informed. This will help mitigate the risk of funding not being allocated to the most needed infrastructure projects.

12 CRIME AND DISORDER REDUCTION IMPLICATIONS

- 12.1 The proposals set out in this report will enable the effective delivery of infrastructure using planning contributions. This can include infrastructure projects that will help reduce crime and disorder and decrease anti-social behaviour.

13 SAFEGUARDING IMPLICATIONS

- 13.1 Not applicable.

Linked Reports, Appendices and Background Documents

Linked Report

- None

Appendices

Appendix A: CIL Collection, Allocation and Expenditure Report to Close of Q3 2016/17

Appendix B: S106 Income and Balance Report December 2016

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- None

Officer contact details for documents:

Matthew Pullen, Infrastructure Planning Manager, Place Directorate

Tel: 020 7364 6363