



**Date:** 5 July 2017

**Item:** Update on Planning Obligations

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**This paper will be considered in public**

**1 Summary**

1.1 This paper provides the Committee with an end of year update on the Mayor's Community Infrastructure Levy (MCIL), Borough CILs and section 106 (s106) funding that will contribute either to the funding of Crossrail or other (TfL) transport infrastructure.

**2 Recommendation**

2.1 **That the Committee note the report.**

**3 Background**

3.1 TfL is responsible for advising the Mayor on the transport issues associated with planning applications referred to him under the Greater London Authority Act 1999 (GLA Act). TfL Planning attend the weekly Mayoral Planning meetings and are responsible for negotiating appropriate transport mitigation with developers and boroughs to enable developments to function effectively.

3.2 As part of the funding arrangement with government, TfL is to raise £600m towards Crossrail through a combination of the Mayoral CIL and Section 106 (s106) contributions as defined in the Funding of Crossrail Supplementary Planning Guidance (SPG). TfL Planning is overseeing the collection by boroughs of this funding from developments across the capital.

3.3 This annual report provides information on:

- i) Development activity trends;
- ii) Contributions for Crossrail – through the Mayoral CIL and the Crossrail SPG;
- iii) Borough CILs; and
- iv) Section 106 contributions for other transport projects, including the Northern Line Extension.

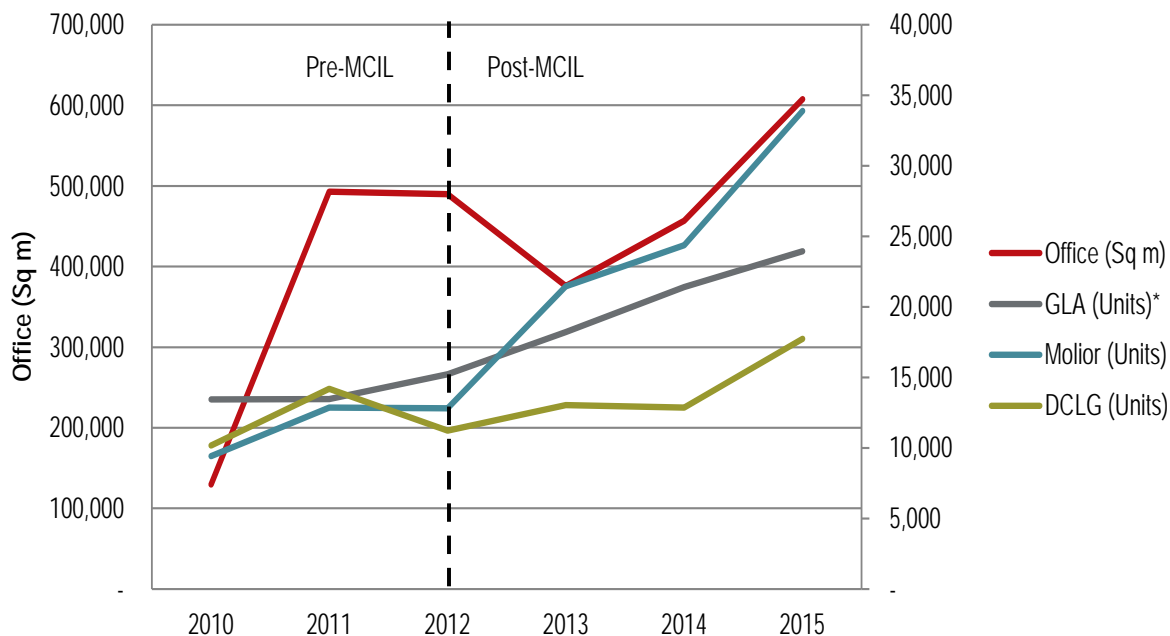
**4 Development Activity**

4.1 The development pipeline includes a number of key stages. These include:

- i) Securing Planning Permission;
- ii) Starting construction;
- iii) Pre-letting, Selling, Letting buildings;
- iv) Completing construction; and
- v) Occupation.

4.2 Securing Planning Obligations is related to the level of development activity and, in particular, the implementation of relevant planning permissions. Development activity in London was considered as part of the 2016 MCIL biennial review. The analysis concluded that with planning application numbers up and development starts stable or increasing since MCIL introduction, development activity across London is not being adversely affected by the scale of charges required by MCIL. Figure 1 illustrates the upward trend in respect of residential and office development over recent years. Of course, development activity is cyclical and MCIL is only one of a number of factors, and a relatively minor one, influencing movement in the property market.

**Figure 1. Office and private residential starts on site.**



Source: JLL/GLA/Molior/DCLG

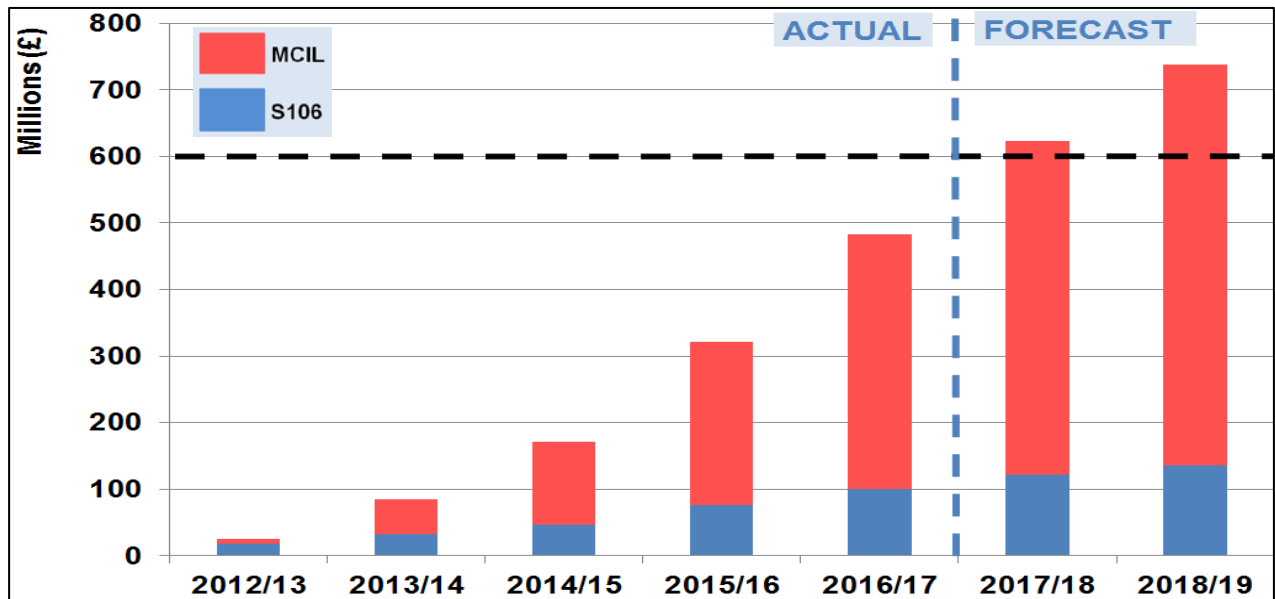
\* GLA completion data used to avoid double counting in start on site data when multiple and duplicate consents are implemented

4.3 TfL actively considers the transport implications of major applications referred to the Mayor each year. The number of referable applications involving transport input during last year again totalled more than 300, although down a little from the year before. Following detailed appraisal it may be necessary to negotiate a package of transport measures when this is required to mitigate the impact of the proposed development. The introduction of CIL has increased the constraints on negotiating s106 contributions and their requirement to be necessary, directly related and reasonably related in scale.

## 5 Developer Contributions towards Crossrail

5.1 Figure 2 (overpage) shows the good progress being made towards reaching the target of £600m for Crossrail from developer contributions. The graphic shows actual receipts to the end of 2016/17, together with forecasts for the two years until March 2019. As shown in the graph, this would result in the target £600m developer contribution to Crossrail being secured a year ahead of schedule.

**Figure 2. Cumulative total of Crossrail funding – Actual & Forecast**

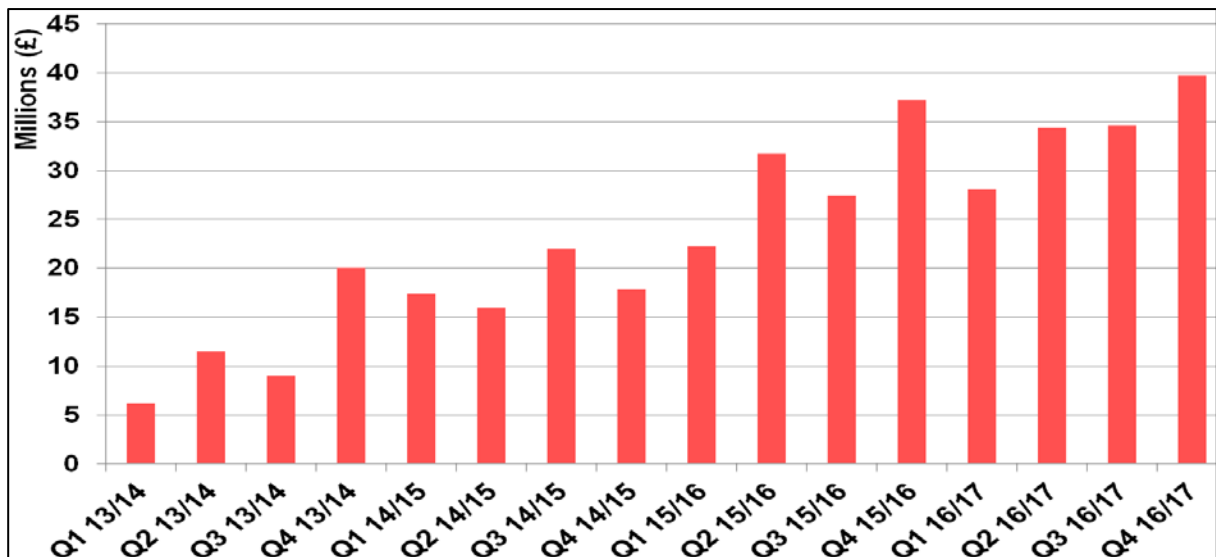


Mayoral Community Infrastructure Levy

5.2 The Mayoral CIL came into effect on 1 April 2012 and covers all development throughout London with a few exceptions (e.g. health and education facilities). Boroughs act as collecting authorities and are responsible for gathering the appropriate Mayoral CIL payments and transferring them to TfL, who administer the CIL on the Mayor's behalf. TfL manages the borough collection of Mayoral CIL via a system of quarterly reporting and transfer of funds to a defined programme. This structure is established and is working well with TfL receiving all funds within a month of the quarter end.

5.3 At the time of the last annual report the total MCIL receipts after three years of Mayoral CIL operation was £245m. Figure 3 (below) highlights that the upward trend in MCIL receipts has continued with £137m being collected during the last year, bringing the total after four years to £382m on a cash basis. A record quarterly income of more than £39.7m was received in Q4 2016/17 but it is not anticipated that this figure is likely to be replicated in the coming quarters.

**Figure 3. Mayoral CIL Receipts – Actual (Cash).**





the MCIL funding arrangements for Crossrail, and therefore quite distinct from the development of MCIL2 proposals supporting Crossrail 2, described in section 8.

### Crossrail Supplementary Planning Guidance (SPG)

- 5.8 The Crossrail SPG requires s106 funding to be secured for Crossrail from certain commercial developments. The initial Crossrail Funding SPG was published in April 2010 and this was most recently updated in March 2016. The SPG is land use (office, retail and hotel) and spatially specific (Central London, the Isle of Dogs and the areas immediately around Crossrail stations). Section 106 funds collected in accordance with the Crossrail SPG during 2016/17 totalled £25m, bringing the total collected since its inception to £101m.
- 5.9 A major contribution for Crossrail was expected from the Wood Wharf development which is not now anticipated to start flowing significantly before 2019.

## **6 Borough CILs**

- 6.1 Borough CIL progress in London has been excellent and far ahead of the picture nationally. Excluding London, around half of authorities nationally have their CILs in place whereas in London there are 31 CILs that have been approved and are currently charging. CIL reporting is retrospective and so the relative value of Borough CIL (BCIL) receipts for 2015/16 totalled about £80m although by the end of next year (2017/18) this figure is expected to reach more than £200m as many BCIL receipts start to ramp up.
- 6.2 As part of developing their CILs boroughs have identified extensive infrastructure needs with funding gaps typically of £150m - £300m. Education is the area which dominates the boroughs' priority for additional funding. However, TfL continues to negotiate and secure CIL income for transport infrastructure wherever possible such as at Elephant & Castle, Northern Line extension, Woolwich Crossrail station and Wandsworth gyratory.
- 6.3 Timescales for putting a CIL in place are substantial as there is a defined process of consultation required on a preliminary draft charging schedule (PDCS), then draft charging schedule, before public examination followed by adoption. Significant work is necessary to produce a PDCS which must be based on viability analysis. Boroughs bringing forward CILs recently have typically taken between two and three years between publishing a PDCS and actually introducing a CIL charge.

## **7 Non-Crossrail Transport Mitigation**

- 7.1 Planning applications that are referred to the Mayor are often approved subject to a package of mitigation measures, some of which may relate to transport in addition to Crossrail funding. The measures that are negotiated by TfL in respect of non-Crossrail transport obligations vary enormously in type and scale. They can include mega-projects such as Brent Cross and Earl's Court, through bus service contributions of hundreds of thousands of pounds, to schemes involving minor works (for example bus stop improvements) which may cost as little as £5k. As well as transport infrastructure obligations defined in the s106 agreement, TfL often benefits from schemes which are delivered directly and do not involve funds

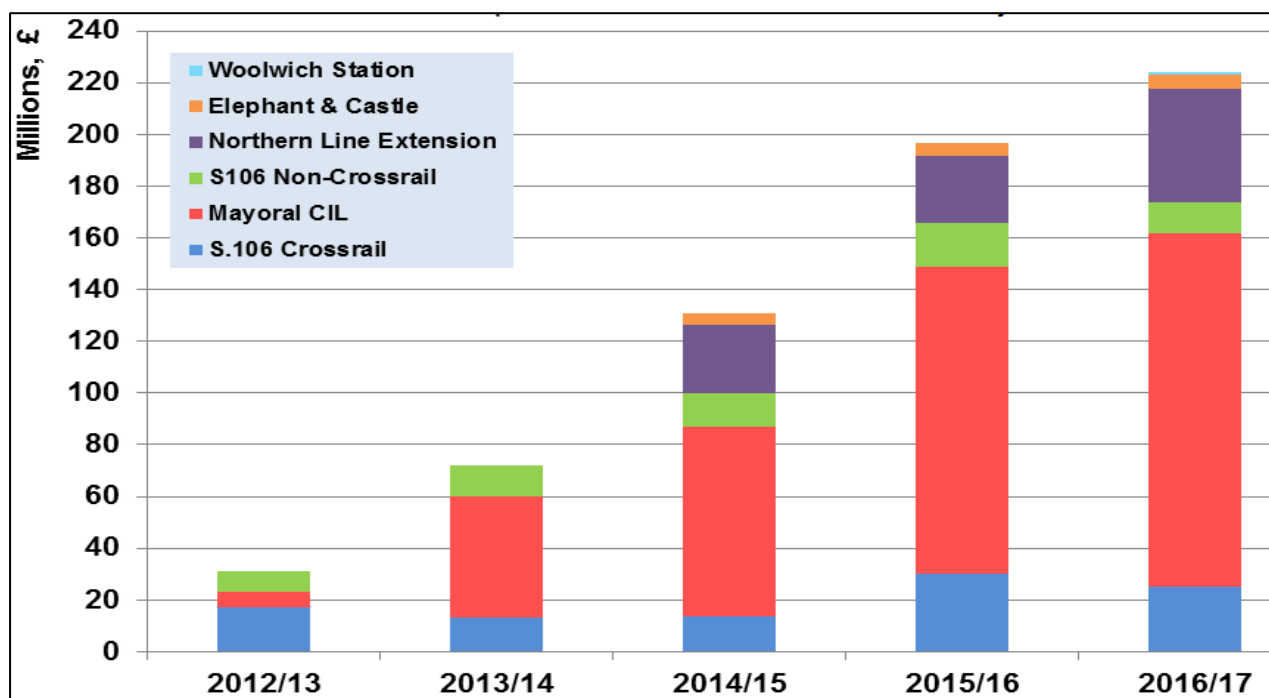
being transferred to TfL. The most notable of these benefits in kind include the bus stations at Stratford and London Bridge. Transport mitigation is also delivered via section 278 agreements for highway improvements on the TfL road network, ranging from small scale improvements such as footway renewal to larger scale works such as at London Bridge station. The value of the highway network capital assets is increased annually by these agreements in the double digit millions via developers at no expense to TfL. This is not reflected within Figure 5.

- 7.2 The advent of CIL and the more defined relationship with s106 agreements will have an impact on the long-term trajectory of s106 funding. It is expected that there will be a reduced scale and number of section 106 agreements that TfL (and boroughs) are likely to be able agree with developers in future as s106 requirements must now be scaled back to directly related site specific issues.
- 7.3 Currently, there are about 600 s106 agreements being actively monitored on a quarterly basis as they potentially may come forward for implementation by TfL. Section 106 delivery is complicated by a number of issues: for example, TfL is only a signatory to less than a dozen of these agreements and is rarely involved in the final detailed provisions agreed between boroughs and developers, and by significant time-lags from the consideration of the planning application to the signing of the s106 and particularly to the trigger for delivery of defined mitigation measures.
- 7.4 There are a number of specific arrangements in particular locations, for example the development of Vauxhall Nine Elms and Elephant & Castle are both subject to arrangements where significant contributions are to be raised towards strategic transport infrastructure. They are each subject to distinct arrangements to ensure money is received related to the delivery of agreed transport infrastructure, with income managed through separate funding agreements by the GLA. Equally, the securing of funds for Woolwich station is also subject to a particular arrangement with Greenwich council.

## **8 Summary and Looking Forward**

- 8.1 Figure 5 illustrates the increasing overall level of transport contributions secured over recent years (and the changing balance between the different components) as a result of improved reporting by both boroughs, and within TfL, and a greater focus on identifying key payments and schemes to be delivered. In 2016/17 these annual contributions exceeded £200m for the first time. While the increase in Mayoral CIL has been the most dramatic, there has also been a significant rise in the value of receipts that have been secured for the Northern Line Extension.
- 8.2 The last year has seen excellent capture of developer receipts for transport with record high annual returns in respect of MCIL, and healthy s106 Crossrail contributions as well as s106 transport mitigation. In respect of the £600m developer contribution to Crossrail, the receipts from 2016/17 provide increasing confidence that the target can be reached a year ahead of schedule. However, as contributions are tied to development activity this view is based on positive future economic conditions.

**Figure 5. Developer contributions towards TfL Projects**



8.3 As previously trailed in the Crossrail Funding Supplementary Planning Guidance (updated March 2016), the intention is to continue with Mayoral CIL after the £600m developer contribution to Crossrail has been secured – in effect MCIL2. This is a vital funding component for Crossrail 2. The transition to a MCIL2 is proposed to take place in April 2019. Public consultation on a MCIL2 Preliminary Draft Charging Schedule is taking place from late June to early August. There will be further consultation on a Draft Charging Schedule prior to an Examination in Public (EiP) which might take place alongside an EiP for the London Plan.

8.4 However, there are two areas where change / challenges could occur. Firstly, as expected there has been an impact on s106 contributions towards the mitigation of transport impacts. The other potential influence is in respect of the Government’s CIL Review that has been undertaken by an appointed taskforce. It has been announced that the government will consider any response to the review as part of the autumn budget statement.

**List of Appendices:** None

**List of Background Papers:**

Supplementary Planning Guidance: Use of planning obligations in the funding of Crossrail and the Mayoral Community Infrastructure Levy (March 2016).

CIL Regulations 2010, as amended 2011, 2012, 2013, 2014, 2015, 2016.

Community Infrastructure Levy Guidance 2014, as amended 2016

2016 Mayoral CIL Biennial Review (February 2017)

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