

Sustainable Development Select Committee		
Title	Update - use of section 106 and CIL	
Contributors	Head of Planning	Item 5
Class	Part 1 (open)	29 November 2016

1. Purpose

- 1.1. This report is prepared to respond to matters raised by the Sustainable Development Select Committee (SDSC) at its meetings on 22nd October 2015, 18th April 2016 and 12th May 2016 which led to the consideration of the emerging processes for allocating Community Infrastructure Levy (CIL) funds and Section 106 (S106). This was presented in a response to the Mayor and Cabinet referral on 25th October 2016. It also updates on progress with the review of viability reports and the operation of S106 review mechanisms.

2. Recommendations

- 2.1. The Select Committee is asked to note the content of the report and direct any questions to officers.

3. Policy context

- 3.1. The contents of this report are consistent with the Council's Sustainable Community Strategy policies 'Empowered and Responsible' and the 'Clean, Green and Liveable' policy. This is through rolling out a pilot scheme that allows communities to have a greater influence in how some S106 /CIL monies could be spent and developing a policy statement for working with neighbourhood forums. The collection of S106 / CIL funds serve to support the Clean, Green and Liveable Sustainable Community Strategy policy.
- 3.2. The 22 October 2015 report to SDSC outlines the legislative and policy context in relation to section 106 and CIL.

4. Background

- 4.1. The Sustainable Development Select Committee held a meeting on 25th October 2016 at which they considered a response to the referral on the use of section 106 and Community Infrastructure Levy funds. In particular, the report highlighted emerging proposals on the allocation of the 'neighborhood proportion' of CIL. This followed reports on 22nd October 2015, 18th April 2016 and 12th May which addressed S106 and CIL spend and collection.

5. Update on the progress with the approach to the allocation of S106 and CIL

- 5.1 Officers have been reviewing the existing approval processes for the allocation of S106 and CIL to ensure that they are fit for purpose and transparent. As a result of this review, changes to the PID templates have been made and a review of the relationship of the S106 Board with the Regeneration Board has taken place. Officers

are currently trialing an approach whereby a single, annual process for the agreement of capital and S106/CIL funds for the following year is introduced. Bids were made over the summer period and are being evaluated by the Regeneration & Capital Programme Delivery Board alongside Finance. It is proposed that these are then ratified by the Regeneration Board before the end of the calendar year and then published as part of the annual budget reported to Mayor & Cabinet.

- 5.2 It is hoped that this process will allow for greater Member involvement as well as certainty of funding and better allocation of limited resources. It will also standardise and streamline governance and approvals and allow for the more strategic use of S106 and CIL funds which will be reported as part of the budget. There will still be a dual role for the existing S106 board for those smaller sums and revenue expenditure not captured by the Regeneration Board but its future role is likely to be more limited.
- 5.3 Alongside the review of processes, it is proposed to publish details of S106 and CIL monies collected annually and set out the funding and decision making process. This move towards greater transparency will require improved usage of the Council's website. Recruitment to an existing vacant post with responsibility for the management of information, customer liaison and the planning web pages has taken place to ensure that this is a core part of the planning function.
- 5.4 The Council is required to have a process for ensuring that neighbourhood areas, where development takes place, directly benefit from infrastructure investment via a proportion of the CIL collected; the local proportion. There is no model proposed by the Government, although guidance does highlight an expectation of community involvement in developing local infrastructure priorities. The Government also encourages Councils to use existing structures and processes, rather than introduce further decision making processes.
- 5.5 As highlighted in the report to the SDSC on 25th October 2016, the Council already operates a process for the allocation of some S106 sums where Ward Assemblies work with designated officers from the council who will liaise with relevant departments to develop deliverable schemes that meet local priorities. However since CIL has less restricted scope than S106 (in that funds are not limited to a specific infrastructure type) there is an opportunity to develop schemes more holistically around local priorities.
- 5.6 The options for consulting with the community and ensuring greater Member involvement have been considered. It is proposed that the CIL local proportion be allocated on the basis of wards and guided by ward assemblies and their identified local priorities (and/or neighbourhood plan if relevant). In those areas with a neighbourhood plan, a greater proportion of CIL would be allocated for spend in accordance with the CIL Regulations. Officers do not consider that a separate process should be undertaken for those areas with a neighbourhood plan which, to be adopted, would be subject to a local referendum. It is therefore proposed that neighbourhood forum representatives take part in the ward assembly process.
- 5.7 Opportunities for a 'project bank' continue to be explored and officers currently consider that this could be an effective way to ensure genuine engagement. This would allow for elements of a participatory budgeting approach whereby the community are able to propose schemes and make decisions on what to fund using the CIL local proportion. This process would require additional dedicated resource to set up and manage and further consideration therefore needs to be given to the detail

of the process so that it can be appropriately implemented and managed. It is envisaged that potential schemes are submitted annually for their consideration for inclusion on the 'project bank' list. Inclusion will need to be subject to set criteria to ensure that the legal limitations for CIL spend are taken into account and it is anticipated that there would be a process established for Member engagement at this stage. The resultant short list would then be put forward for public consultation via the ward assemblies. The list would be published on the Council's website, including updates on if and when funding becomes available.

- 5.8 It is inevitable that 'project bank' will identify projects that meet the criteria but that may still not have funding available to bring them forward. It will therefore be important to seek to manage expectations about what is achievable but it is hoped that this increased transparency would enable local communities to understand why certain schemes are not taken forward, and potentially for local communities to assist with making such proposals more viable/deliverable.
- 5.9 Officers continue to work towards having the new processes in place and had initially hoped to consult on the process in Autumn 2016, trialling the approach in Evelyn ward. Due to the postponement of the ward assembly, it is now proposed to take this forward in the new year and a specific S106 and CIL ward assembly meeting has been arranged for mid January. This will not delay beginning implementation of the new approach for the new financial year.

Update of review of viability mechanisms

- 5.10 Officers were asked to undertake a review of viability review mechanisms following a referral at 22nd October 2015 SDSC to determine whether the system is working as Members understand it. It was recognised in the officer response that this was a significant piece of work and that it would require external consultant support. This work is well underway and is due to complete by January 2017. The following schemes are being reviewed:

10 Sept 2009 Renaissance, Loampit Vale
11 Feb 2010 Heathside & Lethbridge
4 Nov 2010 Marine Wharf West, Plough Way (revised 7 January 2015)
2 Dec 2010 Neptune Works, Grinstead Road
23 June 2011 Cannon Wharf, Plough Way (revised 29 March 2012)
13 Oct 2011 Surrey Canal/New Bermondsey
8 Mar 2012 The Deptford Project, Deptford Station
18 Apr 2013 Lewisham Gateway (second phase 11 December 2014)
2 May 2013 Faircharm, Creekside
8 January 2014 Catford Greyhound Stadium
3 April 2014 Marine Wharf East, Plough Way (revised 9 June 2015)
30 April 2015 Kent Wharf, Creekside
29 October 2015 Deptford Wharves, Evelyn Street

- 5.11 Where the evidence can be established the report is looking at: the sum paid for the site; the sales values achieved compared to the estimates; where there is a review mechanism whether this has been triggered and the outcome and what if any additional levels of contribution have been achieved, including additional affordable housing and/or affordable housing payments. The report will also advise how each of the schemes has progressed.

6. Financial implications

6.1 There are no specific financial implications arising from this report per se.

7. Legal implications

7.1 There are no legal implications arising from this report.

8. Equalities implications

8.1 Lewisham's Comprehensive Equalities Scheme (CES) 2012-16 describes the Council's commitment to equality for citizens, service users and employees. The CES is underpinned by a set of high level strategic objectives which incorporate the requirements of the Equality Act 2010 and the Public Sector Equality Duty:

- tackle victimisation, harassment and discrimination
- to improve access to services
- to close the gap in outcomes for citizens
- to increase understanding and mutual respect between communities
- to increase participation and engagement

9. Environmental implications

9.1 There are no specific environmental implications arising from this report

10. Conclusion

10.1 An update setting out progress since the response to the 1st June SDSC referral is provided in section 5 of this report.

Background documents

Report to Sustainable Development Select Committee 22nd October 2015.

<http://councilmeetings.lewisham.gov.uk/ieListDocuments.aspx?CId=136&MId=3906>

Report to Mayor and Cabinet 13 January 2016.

<http://councilmeetings.lewisham.gov.uk/ieListDocuments.aspx?CId=139&MId=3864>

Report to Sustainable Development Select Committee 12th May 2016.

http://councilmeetings.lewisham.gov.uk/documents/s43532/4_SDSC_UseS106andCILreport12052016.pdf