

Report for: Housing and Regeneration Scrutiny Panel, 12 September 2019

Title: Section 106 (S106) and Community Infrastructure Levy (CIL) Health Check Report – Action Plan

Report authorised by : Dan Hawthorn, Director of Regeneration, Housing and Planning

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Ward(s) affected: All

Report for Key/ Non Key Decision: Non Key – For Information

1. Describe the issue under consideration

- 1.1 The Housing and Regeneration Scrutiny Panel on 15 January 2019 considered a report on 'S106 and CIL Overview'.
- 1.2 This report does not repeat the background provided in the 15 January 2019 report but instead provides an update on an action arising from that meeting, which was to review the management process of CIL.
- 1.3 The scope of the review has widened and is now known as the **Section 106 (S106) and Community Infrastructure Levy (CIL) Health Check Report**. The Health Check Report is provided as Appendix A and the Council has produced an **Action Plan** provided in the main body of this report.
- 1.4 The report concluded that “Haringey Council has S106 and CIL systems in place which align with the principal legislative and regulatory requirements. There are elements of good practice in the Council’s approach” and “The Assistant Director of Planning maintains a good oversight of the systems including in particular expenditure from the S106 and CIL funds by ensuring compliance with relevant legislation or individual S106 agreements”. However “there are a number of deficiencies that reduce the efficiency, effectiveness and resilience of the service” (paragraphs 11-12). The Action Plan focuses on addressing these deficiencies.

2 Cabinet Member Introduction

- 2.1 N/A

3 Recommendations

- 3.1 This report is for information only.

4 Reasons for decision

4.1 N/A

5 Alternative options considered

5.1 N/A

6 Background information

6.1 A report on 'S106 and CIL Overview' to the Housing and Regeneration Scrutiny Panel on 15 January 2019 said:

A review of the management of CIL collection, spend and reporting was an outstanding item from the Planning Service Improvement programme. A recent review of the CIL process by the Assistant Director has led to the conclusion that, given the level of development expected in the coming years and the level of complexity of the queries received that another post should be proposed in the forthcoming restructure.

In addition a review by a specialist CIL management consultancy will be taking place in February 2019. The initial review by the Assistant Director, after discussion with staff involved in the process and a desktop analysis of the processes, suggests potential matters to be improved following this review would potentially be the procurement of a specialist database, succession planning and improvement of reporting processes.

(Paragraphs 2.38 – 2.39)

6.2 The minutes of this meeting confirmed:

A review of the management process of CIL is due to be carried out by a specialist consultancy in Feb 2019

6.3 In January 2019 the Council commissioned Citiesmode to undertake the independent Health Check. The review undertook research in February and March 2019 including:

- A two-hour workshop with the Assistant Director of Planning, Development Management Team Leaders, the previous Policy Team Leader, the S106 and CIL Monitoring Officer and Finance officers;
- A two-hour meeting with the S106 and CIL Monitoring Officer to go through the existing procedures and databases in detail;
- Telephone interviews with officers involved in the spend of S106 for delivery of projects in their service area; and
- A review of written internal and external policy and procedure documents.

6.4 The Health Check Report setting out the findings from the research was finalised in May 2019 and agreed by the Assistant Director for Planning,

Building Standards and Sustainability in July 2019 and is provided at Appendix A. The report concluded that “Haringey Council has S106 and CIL systems in place which align with the principal legislative and regulatory requirements. There are elements of good practice in the Council’s approach” and “The Assistant Director of Planning maintains a good oversight of the systems including in particular expenditure from the S106 and CIL funds by ensuring compliance with relevant legislation or individual S106 agreements”. However “there are a number of deficiencies that reduce the efficiency, effectiveness and resilience of the service” (paragraphs 11-12).

- 6.5 The detailed commentary and findings of the Health Check can be found in the Report (Appendix A) and are not duplicated here. However, the key issues, recommendations and actions of the report are provided below, making up the Action Plan:

Action Plan

Recommendation / Action extracts from Health Check Report (re-sorted by topic, rather than in the order in the report)	Council Action	Target Date & Status
Issue 1: Roles, responsibilities and process		
Recommendation 1: Develop a Section 106 and CIL manual with protocols that clearly establish who is responsible for which stage this should clarify matters in relation to monitoring (not policy or legal agreements).	Action 1.1: Finalise a CIL Procedure Manual	October 2019 Initial draft started on Monday 19 August 2019
Priority Action 1: Prioritise production of a first draft working manual based on the knowledge of the S106 officer of process in the first instance (wider engagement/ sign up can be programmed in)	Action 1.2: Finalise a S106 Procedure Manual	December 2019
Other Actions: land charge data was not recorded in S106/ CIL records and no evidence of spot checking of this – whether the charge is applied or when it is removed. Particular attention should be given to ensuring Stage 2 (Demand notice) charges stay on for 7 years.	Action 1.3: Include procedures for adding / removing land charge records in the aforementioned Procedure Manuals	As above
Recommendation 4: Instigate a regular programme of training for Development Management officers on CIL. Training of officers should not be considered as a one off and should be carried out on a quarterly basis to deal with staff changes and as a refresher to ensure compliance with regulations and build the capability of officers to administer CIL.	Action 1.4: Undertake training for all Development Management and Land Charges officers on CIL and S106, initially with reference to the CIL Procedure Manual	October 2019
Priority Action 2: Carry out training for all Development Management officers on CIL liability calculations and clarify their role in the S106 monitoring process – including what information and approvals should be fed back to the S106 officer	Action 1.5: ...and a subsequent refereshers with reference to the S106 Procedure Manual	January 2020
Issue 2: Data / recording systems		

Recommendation / Action extracts from Health Check Report (re-sorted by topic, rather than in the order in the report)	Council Action	Target Date & Status
Recommendation 2: Invest in a S106 and CIL database to make monitoring and reporting more efficient, bring records into a single location and standardise approaches to record keeping.	Action 2.1: Initiate procurement for specialist S106/CIL software and initiate making records ready for transfer of records from old to new system	April 2020
Recommendation 2 continued: This will help the council respond to the emerging requirements from Government notably Infrastructure Funding Statements, make reporting easier and provide a more secure platform to hold important information.	Action 2.2: Publish an Infrastructure Funding Statement by the statutory date as required by the CIL (Amendment) (England) (No.2) Regulations 2019	December 2020
Recommendation 2 continued: The Council should buy access to BCIS indices to ensure the index applied is up to date (it may be that the license costs can be shared with other council departments it should be noted that RICS members may be able to access it at a discount).	The CIL (Amendment) (England) (No.2) Regulations 2019 replace the BCIS index of inflation with a new publicly-available RICS CIL Index from 2020 and so purchase of a license is no longer needed	✓ N/A
Recommendation 2 continued: In the interim, regular back-ups of all CIL and S106 files are essential and advice on how to do this from the council's IT support should be sought (other than as per IT standard on the server).	Action 2.3: Create manual 'backup' copies of folders	August 2019
Priority Action 3: Back up of records (CIL and S106 files) securely and regularly (in addition to as per IT standard on the server)	Action 2.4: Seek advice from IT colleagues	August 2019
Other Actions: In addition, neighbourhood CIL pots are not being calculated or recorded correctly as the relevant cap is not being applied. Even though the sums identified are unlikely to differ the system should use the correct method of calculation.	Calculations suggest the cap does not currently apply so there is no need to amend formula.	✓ N/A

Recommendation / Action extracts from Health Check Report (re-sorted by topic, rather than in the order in the report)	Council Action	Target Date & Status
Issue 3: Resource challenges		
Recommendation 3: Expand the CIL and S106 resource to more officer resource to improve systems, minimise resource risk, prepare for new reporting requirements (e.g. infrastructure funding statements) and adopt more proactive approaches that are likely to help optimise receipts and efficiency.	Action 3.1: Draft a Job Description / Person Specification (JD/PS) for a Principal Officer post	October 2019
Recommendation 3 continued: Creating a new S106 and CIL Post at PO4 level to better reflect the existing scope of responsibilities especially in connection to Finance and strategic relationship management. This would also encourage responsibility for more proactive monitoring/ system checks and to introduce new supervisory responsibilities. Linked to this it may be appropriate to provide this role with greater exposure to spend decisions and regular reporting to senior management teams (including in the context of the IFS). This will ensure that there is a greater sense of where the role fits in the council's structure, what it delivers and provide the greater visibility internally that the position requires.	Action 3.2: Job evaluation of JD/PS	December 2019
	Action 3.3: Advertise post	January 2020
Recommendation 3 continued: The existing CIL / S106 officer post (PO2 level) should be retained to focus on day to day S106 monitoring and issuing the required CIL notices.	Action 3.4: Post filled	April 2020
Priority Action 4: take steps advertise for additional resources.		
Recommendation 3 continued: Ensuring that a single manager within planning has a greater role in the day to day management ensuring adherence to the manual/ protocols across the council. They should also ensure that they have oversight of the dedicated S106 and CIL staff resource needs, performance and an awareness of any team member support requirements.	Action 3.5: Ensure Head of Planning Policy, Transport & Infrastructure has management oversight and responsibility for S106 and CIL, with regular 1-1 meetings with the S106 and CIL Monitoring Officer	April 2019 ✓ Post permanently filled on a full time basis with monthly 1-1s and day-to-day line management established
Priority Action 4: Ensure there is more oversight of CIL and S106 tasks at a day to day operational level		

7 Contribution to strategic outcomes

7.1 Improving processes for collecting, spending and reporting on S106 and CIL contributes to many Borough Plan objectives indirectly, but the most explicit Borough Plan reference to S106 and CIL is:

- Outcome 16) Regeneration with social and economic renewal at its heart
- Objective 16)b) Take account of how people feel about the way their local areas are changing, building cohesive and resilient communities
- Action: Seek to bring in external funding and use Section 106 and Community Infrastructure Levy budgets [to] achieve maximum impact

8 Statutory Officers comments (Chief Finance Officer (including procurement), Asisstant Director of Corporate Governance, Equalities)

8.1 N/A

9 Use of Appendices

Appendix A: Section 106 (S106) and Community Infrastructure Levy (CIL) Health Check Report

10 Local Government (Access to Information) Act 1985

[Tuesday 15 January 2019 Scrutiny Panel minutes item 43](#)