

 <b>Brent</b>	<p style="text-align: center;"><b>Resources and Public Realm Scrutiny Committee</b> 5 September 2017</p> <p style="text-align: center;"><b>Report from the Strategic Director for Regeneration and Environment</b></p>
For Information	
<b>Update on Recommendations of S106 and Community Infrastructure Task Group</b>	

## **1.0 Summary**

- 1.1 In early 2016 a S106 and Community Infrastructure Task Group was commissioned by the Resources and Public Realm Scrutiny Committee. It made its recommendations to the Scrutiny Committee on 12<sup>th</sup> July 2016. These recommendations, subject to three modifications, were accepted by the Scrutiny Committee. The Scrutiny Committee resolved that a progress report against the recommendations should be submitted to it in the future.
- 1.2 This report sets out progress against the modified recommendations. This has been done against the Red/Amber/Green assessment requested. The majority of the progress has been adjudged to be green or completed (13). For the remainder the majority are identified as amber (10), whilst one is red and one is considered not applicable.

## **2.0 Recommendations**

- 2.1 The report is for comment.

## **3.0 Detail**

### **Background**

- 3.1 Planning legislation provides for the potential adverse impacts of development to be addressed in order to make that development acceptable. This includes the provision of necessary physical and social infrastructure both on the development site and off it. This is addressed through the application of a mixture of mechanisms. These include the design of the development and, where necessary subject to statutory tests, associated conditions, planning obligations and Community Infrastructure Levy (CIL).

- 3.2 The Council regularly employs both Section 106 planning obligations (S106) and CIL towards the provision of necessary infrastructure. Since the commencement of Brent CIL on 1<sup>st</sup> July 2013, S106 are now rarely used for financial contributions towards infrastructure and as such the value of funds attained through S106 is rapidly diminishing annually. In the financial year 16/17 £1.73 million was received through S106. CIL contributions are however much higher. In the financial year 16/17 £8.43 million was received through CIL.
- 3.3 In early 2016 a S106 and Community Infrastructure Task Group was commissioned by the Resources and Public Realm Scrutiny Committee. This Task Group undertook a wide ranging review. It focussed primarily on the administration and implementation of planning obligations and Brent's Community Infrastructure Levy. It made its recommendations to the Scrutiny Committee on 12<sup>th</sup> July 2016. These recommendations, subject to three modifications, were accepted by the Scrutiny Committee. The Scrutiny Committee resolved that a progress report against the recommendations should be submitted to it in the future.

### **Progress against the recommendations**

- 3.4 When considered against a Red/Amber/Green (RAG) assessment, the majority of the progress has been adjudged to be green or completed (14). For the remainder the majority are identified as amber (9), whilst one is red and one is considered not applicable. The RAG assessment is included in Appendix 1.
- 3.5 Whilst progress on the whole has been positive, the Committee should note that progress has also been slowed by resource constraints and the need to meet other priority projects as set out in the service plan. Subsequent to Scrutiny's consideration of the Task Group's recommendations positive news is the agreed restructure of Planning. This will bring additional resource to the S106/CIL team and Planning Policy. Nevertheless, recruitment to the posts has not yet been completed. Six additional posts are yet to have new starters. Appointment to the CIL/S106 posts has unfortunately been hindered through a lack of suitable candidates applying, both on an interim (from July 16) and permanent basis (May 17).

### **Greens/Completed.**

- 3.6 Since the Task group recommendations, the process of spending Neighbourhood CIL has been implemented. Much work has gone into awareness raising of the funds available and the initial round of bids for the £3.2 million that was available to the end of the financial year 16/17. Reaction appears to have been very positive. There has been strong interest from communities in identifying priority themes for spend within their areas, and bidding for funds will be on a 6 monthly basis.
- 3.7 In terms of S106 funds, Cabinet in June 17 approved £6.19 million of projects. This covered a mixture of education, transportation, employment and skills, landscape, parks and open spaces and transfer to external organisations (TfL & Ealing) as required in S106 obligations. There has been engagement with Councillors and communities in the delivery of much of the S106 funded projects, which will continue. A recent example is S106 Street Tree Planting with associated Mayor's funding

which has won a Forestry Commission award for its pro-active work in engaging with local communities in delivering these projects.

- 3.8 The Statement of Community Involvement has been updated and adopted by the Council in July 2017. This provides greater clarity on how developers should engage with local communities during the pre-application process. The Planning Policy Team is currently providing support to Neighbourhood Planning Groups where it has been requested. The majority of support has been given to Harlesden who are actively progressing their plan and near to the point of submission of their Plan for examination. Officers have also supported Kilburn Neighbourhood Forum and a potential Stonebridge Forum.
- 3.9 There has been an improvement in S106 performance with additional training undertaken to provide greater capacity and resilience to changes of personnel within the legal team. Additional support is also provided when appropriate via external sources.

### **Ambers**

- 3.10 In terms of Leadership in CIL/S106 and clear responsibility, there has been some progress in appointment of an officer, but as indicated, recruitment to other posts has not been successful, which has had an impact on addressing this issue.
- 3.11 There has been some agreement on the principle of spend on Strategic CIL in relation to specific projects, e.g. Wembley Park infrastructure by Cabinet (July 17) Notwithstanding this, the mechanisms for spending strategic CIL are still being developed for agreement by the Council's Corporate Management Team and the Cabinet. Work continues on this with a view to taking a paper for agreement as a priority, and the intention is for the Portfolio Holder to take a report to Cabinet within a few months.
- 3.12 Monitoring of S106s on both financial and non-financial matters does occur. Following audit there has been a concerted and successful effort to collect outstanding payments/debts. A more pro-active approach to this on an on-going basis and CIL implementation/collection will improve noticeably when new staff are recruited.

### **Reds**

- 3.13 The issue of the level of CIL contributions versus affordable housing contributions is one that will not be easily resolved. Notwithstanding Scrutiny's recommendations, there has not been a clear direction from Cabinet that it requires this matter to be addressed as a priority. The CIL went through a significant consultation process and was subject to public examination by a Planning Inspector who considered it to be viable and balanced in the face of known policy requirements. This included 50% affordable housing.
- 3.14 A typical 70 sq.m. market dwelling (2 bed) currently generates £17,875 of Brent CIL, of which £16,981 is available for strategic and neighbourhood CIL spend. CIL however is subject to numerous exemptions which significantly reduce the overall

amount collected from development. These include discounting the existing floorspace deemed to be in use at the time of the permission, social housing relief (all affordable policy compliant affordable housing pays no CIL) and self-build relief. As such the CIL attained in 15/16 of £9.89 million and S106 of £3.04 million (which includes all CIL and S106 attained from commercial developments too) needs to be considered against the 1582 net additional dwellings delivered. A contribution of essentially £8,200 per dwelling towards infrastructure.

- 3.15 Affordable housing requires significant subsidy from developers to make it work. Affordable dwellings typically generate 60-70% of market value for the developer (i.e. their level of subsidy is 30%-40%). In the context of the actual CIL collected from developments there would need to be a significant reduction in rates for it to have a meaningful impact on affordable housing delivery levels. This obviously ultimately would reduce average contributions towards infrastructure received. This is a sensitive issue with existing communities who want to be sure that proposed development will not undermine existing access to facilities.

## **Conclusion**

- 3.16 There has been noticeable progress in relation to the majority of recommendations made by the Task Group and Scrutiny. Moving forward there should continue to be improvements, particularly with the introduction of a full complement of staff through the restructure of Planning being implemented. This will lead to a much more proactive approach by the S106/CIL team and Planning Policy. The issue of the appetite for CIL review is something that needs further investigation with Cabinet as part of the Local Plan adoption process.

## **4.0 Financial Implications**

- 4.1 This report is primarily for information and comment by Scrutiny and as such there are no specific financial implications arising.

## **5.0 Legal Implications**

- 5.1 None specifically from this report.

## **6.0 Diversity Implications**

- 6.1 The Equality Act 2010 introduced a new public sector equality duty under section 149. It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Council must, in exercising its functions, have "due regard" to the need to:

1. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
2. Advance equality of opportunity between people who share a protected characteristic and those who do not.

3. Foster good relations between people who share a protected characteristic and those who do not.

6.2 S106 obligation and CIL receipts are used to address the infrastructure requirements of new communities. These often address the requirements of those more dependent on public provision of such facilities in the absence of their ability to meet their needs through private purchase of such facilities. Typically groups with protected characteristics are more likely to be dependent on public facilities as they represent higher proportions of those within lower income groups. All Council projects are subject to Equalities Screening to identify the extent to which they address the needs of these groups.

## **7.0 Staffing/Accommodation Implications (if appropriate)**

7.1 None specifically related to this report.

### **Background Papers**

[Scrutiny Task Group on Community Infrastructure Levy \(CIL\) and Section 106](#)  
Resources and Public Realm Scrutiny Committee Tuesday 12 July 2016

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