

Appendix 1

S106 and Community Infrastructure Levy Task Group Recommendations - Update August 2017

Recommendation	RAG	Commentary
South Kilburn		
<p>1 The successes of the South Kilburn Project engagement strategies and consultation activities is used as a benchmark when considering how to manage developments across the borough.</p>	Green	<p>The Councils Community Engagement strategy is currently being reviewed - led by Corporate Partnerships & Engagement.</p> <p>The Planning Statement of Community Involvement has been updated and is now adopted. This encourages developers of major planning applications to undertake early engagement with the community to explain their proposed development and seek feedback before an application is submitted to the Council.</p> <p>Whilst the work at South Kilburn has been good, much of the engagement is undertaken by consultants who are paid for out of the development value generated through the regeneration of the area. Whilst officers do try to engage as much as possible, similar levels of funding are not always available in other parts of the Council.</p>
Policy		
<p>2 There is no clear leadership or responsibility on who is in charge on CIL and S106 and the task group recommend that a named officer assumes direct responsibility, accountability and operates in a more transparent way.</p>	Amber	<p>An officer was appointed (July 2016) to oversee CIL Spend. A restructure of the Planning Department is being implemented which includes 2 additional CIL/S106 officers. The first advertisement of the posts did not generate anybody to shortlist and the posts remain vacant. A review of the job description is underway and a re-advertisement will follow. In the meantime, responsibility for CIL and S106 sits with the Head of Planning and Team Leader Policy and Projects</p>
<p>3 A public register is created (taken from the bi annual report and statement) detailing the infrastructure projects that are being funded directly through CIL receipts.</p>	Amber	<p>The register is available in the annual CIL report published on the Brent website although no Strategic CIL funds have been allocated to date. An update of neighbourhood CIL projects given funding will occur once the allocation process for this round of spend has been completed.</p>
<p>4 The council review its affordable housing policy and the relationship between s106 and CIL, once the Mayor of London announces its housing policy. As part of the review, a forensic independent analysis should be commissioned and reported back in a joint session to the Resources & Public Realm Scrutiny Committee and Cabinet on how the council is meeting its affordable housing targets in light of the introduction of CIL and the Mayor of London targets for social housing.</p>	Amber	<p>CIL cannot be used for affordable housing, however the Housing Strategy - which includes agreeing an approach to affordable housing provision in Brent - is being reviewed. This is being led by Housing Policy and Strategy. The emerging Local Plan will contain a planning policy on affordable housing provision.</p> <p>A review of the impact of CIL on affordable housing has not been commenced and is not currently within the work programme. Any such review would be dependent against recruitment to vacant posts in Planning Policy and wider consideration against the work programme of Planning Policy/Regeneration.</p>
<p>5 The council ensures that there is better understanding of planning performance in dealing with planning applications – both planning and legal team. This should be done by producing easy to understand guidance via the councils website.</p>	Green	<p>There is a Planning Obligations SPD available on the Brent website. Planning performance is monitored and reported as part of the quarterly, corporate performance indicators. There is monitoring of the performance in relation to S106 obligations and regular meetings to review a list of progress on S106s. Additional training has been progressed within the legal department to ensure greater capacity and resilience to deal with planning work and potential loss of staff. Additional capacity is also provided by external legal resource when appropriate.</p>

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<p>6 The council carry out a review of delegated powers given to officers for spending limits and prioritisation of CIL/ S106 receipts for projects. All variations to CIL and S106 agreements be published quarterly and an agenda item at planning committee policy meetings.</p>	Green	<p>Completed for Neighbourhood CIL - See Cabinet report February 2017. Completed for S106 - See Cabinet Report June 2017. Strategic CIL - still in progress, however this process will be managed via the Capital Programme Annual reports are produced covering both CIL and S106 All variations are discussed with the Chair of the Planning Committee, major variations are discussed with the whole Committee. Such variations are rare and becoming even more so since CIL has replaced S106 for funding infrastructure spend.</p>
<p>7 The planning department conduct an annual review of S106 agreements and that where developers have not complied with the agreement action plans are included with that report. The task group recommend that that report is considered annually at a planning committee policy meeting and is available for scrutiny.</p>	Amber	<p>A review of financial obligations has been completed - See June 2017 Cabinet Report When the new appointments to the Policy team to work on CIL/S106 are in place a more proactive approach to non financial obligations can be taken. As set out in response to Issue 2, this is reliant on successful recruitment to posts which has proven to be more problematic than was anticipated.</p>
Engagement		
<p>8 The council invite the voluntary sector to submit proposals demonstrating the value they can add to supporting the expansion of Neighbourhood Forums. The council's expectation of the voluntary sector to include setting up viable community action groups, accessing available government funds, organising up to standard training.</p>	Amber	<p>The Council has resolved not to implement Community Action Groups and to continue with the Brent Connects model. The Statement of Community Involvement adopted July 2017 sets out how the Council supports potential and existing Neighbourhood Forums. Planning does not currently have the resources to be pro-active to the level anticipated by the Scrutiny recommendations.</p>
<p>9 The current engagement and consultation process with residents is inadequate and it is recommended that where CIL receipts are to be spent, at least 25% of resident respond, the demographic make-up should be reflective of the population and the location concerned.</p>	Green	<p>A new process to consult on and approve Neighbourhood CIL (NCIL) spend was approved by Cabinet in February 2017. A six-week consultation to identify strategic funding priorities for each of the five CIL Neighbourhoods took place in Spring 2017, seeking suggestions for community led projects. 675 responses were received. First round of NCIL projects proposals will close on 30 July 2017, and the second round in December 2017. The level of response anticipated by the Scutiny recommendation is unlikely to be achieved; as a comparison the turn out in the by-election for the Kensal Green ward in 2015 was 20%.</p>
<p>10 There is wider consultation with residents groups, faith groups, the business sector, residents associations and elected members before the Community Action Groups go live. The Community Action Groups have clear objectives linked to delivery of Community Development Plan objectives.</p>	Not Applicable	<p>Community Action Groups are no longer being taken forward by the Council.</p>
<p>11 Elected ward members are involved in the decision making process for developments within their wards. Elected members should also be informed any planning applications in their wards with the view of engaging concerned residents and neighbourhood forums.</p>	Green	<p>A weekly email is sent to Members listing all planning applications received that week in their wards. Any comments made by a councillor on a planning application are recorded, and form part of the officer assessment and report.</p>

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<p>12 Provide neighbourhood forum training and support in whichever capacity is possible, in order for residents to create independent and sustainable Neighbourhood forums.</p>	Green	<p>This support is provided by Planning Policy and Projects when requested, however resource is currently limited and the priority is on progressing the Local Plan, which in itself involves engaging with existing Neighbourhood Forums and other resident/community groups. Support is currently being provided to the emerging Harlesden Neighbourhood Plan, but a more pro-active approach is currently not possible given scarce resources and the priority of the Local Plan.</p>
<p>13 Support at the highest strategic level a Brent Developers Forum consisting of elected members and active developers in the borough which meets quarterly to review existing development projects and engages in forward planning. The task group recommend that a subcommittee of the developer's forum works with Community Action Groups to deliver added value to CIL projects.</p>	Amber	<p>Community Action Groups are no longer being taken forward, however the Registered Providers Forum is being reviewed. It is intended to establish a developer forum by the end of 2017. Developers are also being engaged with on the call for sites and on the emerging local plan. High level strategic meetings are regularly held with Quintain and St George's (Northfields site) to review progress.</p>
<p>14 Geographical Information System (GIS) mapping support is provided for voluntary sector organisations and neighbourhood forums, in order for these groups to access site previously and currently being developed.</p>	Completed	<p>This is provided when requested</p>
<p>15 Up-to-date information is provided about S106 /CIL that it is easily accessible and shared online and regularly email to members, neighbourhood forums and voluntary sector.</p>	Green	<p>The Brent website has been updated to provide up to date information about CIL www.brent.gov.uk/cil This includes the CIL annual report Each S106 agreement is also available online, and there is an annual S106 Cabinet report (Latest report June 2017)</p>
Funding		
<p>16 A bi –yearly report and financial statement is provided, outlining CIL receipts every six months showing the income and expenditure on specific projects funded through CIL. receipts should be provided to the Cabinet. An annual Report summarising CIL receipt income and expenditure should be published and presented to the Full Council annually together with a draft forward plan of strategic projects to be funded over the next year.</p>	Amber	<p>The CIL regulations require an annual report showing income and expenditure to be produced and published. This is available on the Brent website www.brent.gov.uk/cil NCIL will be updated once shortlisting for Round 1 projects is completed (Summer 2017) A forward plan of strategic infrastructure projects will be presented via the Capital Programme</p>
<p>17 Neighbourhood CIL receipts are accounted for and a reporting and expenditure mechanism is established between the Council and designated Neighbourhood Planning Forums.</p>	Green	<p>An annual report is produced and published on the Brent website www.brent.gov.uk/cil The Brent website will be updated once shortlisting for Round 1 projects is completed (Summer 2017)</p>
<p>18 A more flexible allocation of CIL receipts beyond schemes that are prioritised through the Regeneration Benefits Assessment Tool (RBAT). The task group recommend that the Council review the Regeneration Benefits Assessment Tool (RBAT) after it has been operating for three years.</p>	Amber	<p>All strategic infrastructure projects will be agreed and funded via the Capital Programme. The prioritisation mechanism for allocation of funds has yet to be confirmed.</p>
<p>19 Consideration is given for borough CIL receipts use in the wider local communities (in both areas with and without Neighbourhood Planning Forums).</p>	Completed	<p>Neighbourhood CIL Receipts are allocated across five broad 'CIL Neighbourhoods' (15% of CIL receipts) and to any Neighbourhood Forum with an adopted plan (25% of CIL receipts). Sudbury Town Residents Association is currently the only Neighbourhood Forum with an adopted plan</p>
Future planning		

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<p>20 A review of its CIL viability assessment test is commissioned to see if all the CIL receipts rates are viable and that it is not deterring the council's policy objectives in achieving its affordable housing targets.</p>	Red	<p>There will always only be a limited amount of development value that can be captured for 'developer contributions' (CIL, S106 obligations or affordable housing). National planning policy around viability means that affordable housing will always be the flexible element as CIL is fixed and cannot be negotiated with the landowner or Council, whilst affordable housing can. There would have to be an appreciable change in Brent's CIL levels to impact on affordable housing percentages achieved as the subsidy for rented properties required are so high, which raises the issue of how to pay for infrastructure requirements associated with development.</p> <p>A review of the impact on affordable housing has not been commissioned and is not currently within the work programme.</p>
<p>21 Maximise the expertise and resources, directly or in kind of the development community and facilitate in partnership with CVS Brent, dialogue between developers and community/residents and neighbourhoods forums to work on community issues.</p>	Green	<p>Joint working is being encouraged via Neighbourhood CIL funding proposals</p> <p>The Statement of Community Involvement also encourages developers to consult with the community early on, on major schemes, and report on their engagement at application stage. Major applications are now presented to the Planning Committee at pre-application stage for councillor input, including raising anticipated community concerns.</p>
<p>22</p> <p>We recommend that S106 agreements are available to the Planning Committee as part of planning committee reports. We recommend the council review the viability of travel plans and ensure that detailed travel plans are included in all reports going to the planning committee. The council's planning officers should provide an in-depth and detailed briefing of the developments with regard to viability, CPZ and travel plans to the planning committee before the application is made.</p>	Green	<p>Head of Terms are set out in each planning committee report.</p> <p>A detailed travel plan to be provided with the submission of the planning application and the planning conditions/S106 require a revised travel plan to be submitted (for LPA approval) 3-6 months after occupation with a completed baseline survey. Continuous monitoring is then carried out following TfL's standardised approach and this is detailed in the condition/S106. Travel plans secured under planning conditions/ S106 are monitored and enforced by Westtrans, who delegate an officer to look after Brent's Travel Plan.</p>
<p>23</p> <p>Council planning negotiators ensure that agreements are aligned with council priorities in order to take full advantage of future development/regeneration opportunities; this includes priorities such as social value and employment and that Portfolio Holders have an oversight of this.</p>	Green	<p>S106 obligations are governed by a statutory tests; they have to be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. Officers do pursue types of social value that the Committee seeks where they meet the statutory tests. The Head of Employment, Skills & Enterprise is reviewing the training planning obligations SPD, but the council is not able to insist that obligations are used for this purpose.</p>
<p>24</p> <p>The task group recommend that at least half of the Planning Committee members serve two years terms at any given time and all committee members and relevant committee members involved in housing and regeneration receive relevant up to date training on planning development and viability policy and practice issues.</p>	Amber	<p>The membership of the Planning Committee is determined by the political groups at their AGMs. In the current municipal year all the substantive committee members have at least one year's previous experience of being on the committee. Training is compulsory at the start of the year, and further topics are provided (to date, this year the Committee members have had training on decision making and planning law, affordable housing and viability, the planning policy framework, and NCIL).</p>
<p>25</p> <p>The task group recommend regular strategic meetings on future regeneration issues is held between officers, the cabinet and chair of planning committee.</p>	Green	<p>Officers and Cabinet meet regularly</p> <p>The new planning pre application process means Members are more informed about proposed developments</p>