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REPORT TO:	STREETS, HOMES AND ENVIRONMENT SCRUTINY SUB-COMMITTEE 16 March 2021
SUBJECT:	SECTION 106 AND COMMUNITY INFRASTRUCTURE LEVY (CIL)
LEAD OFFICER:	Heather Cheesbrough – Director of Planning and Strategic Transport Steve Dennington, Head of Spatial Planning
CABINET MEMBER:	Councillor Colin Lewis, Cabinet Member Culture and Regeneration
PERSON LEADING AT SCRUTINY COMMITTEE MEETING:	Councillor Colin Lewis, Cabinet Member Culture and Regeneration

CORPORATE PRIORITY/POLICY CONTEXT/AMBITIOUS FOR CROYDON:

Sustainable development and growth in the borough is planned through the Local Plan, alongside the need to deliver the necessary infrastructure and services. Section 106 agreements and Community Infrastructure Levy are obligations attached to planning permission and these financial contributions are used to fund in full or in part infrastructure necessary to mitigate the impact of completed development.

Planning policies that are used to determine planning applications and the required financial contributions align with the Corporate Plan vision and actions.
[Corporate Plan for Croydon 2018-2022](#)

For example, the Corporate Plan 2018 – 2022 includes a number of references to infrastructure being essential to meet the needs of the borough’s current population, the growth of the borough and to support inward investment. The collection and assignment of the borough’s Section 106 income and Community Infrastructure Levy make a valuable contribution to providing the infrastructure needed by the current and future population of the borough.

FINANCIAL IMPACT:

Section 106 and Community Infrastructure Levy collected by the Council funds in full or in part infrastructure necessary to mitigate the impact of development outlined in the Local Plan.

The Section 106 and Community Infrastructure Levy functions of management, monitoring, collection and recovery are overseen and processed by the Council’s CIL and Section 106 Team, which is funded from CIL administration income and Section 106 monitoring income.

ORIGIN OF ITEM:	This item forms part of the Sub-Committee's work programme.
BRIEF FOR THE COMMITTEE:	To consider details on the Section 106 income Community Infrastructure Levy (CIL)

1. EXECUTIVE SUMMARY

1.1 This report sets out for Members of the Committee the background to the management, collection and assignment of the borough's Section 106 income Community Infrastructure Levy (CIL).

1.2 This Scrutiny Report focusses on the following.

Background to Section 106 and CIL;
 What Section 106 and CIL income has been received;
 Section 106 and CIL assignment; and,
 Section 106 and CIL information availability.

2. COMMUNITY INFRASTRUCTURE LEVY (CIL) AND SECTION 106

Background

2.1 The Council, as Local Planning Authority, when required secures Section 106 Agreements as a requirement of the grant of planning permission to secure the mitigation measures necessary to make a development acceptable in planning terms. This includes securing financial contributions towards infrastructure types and projects. It is important to note that a Section 106 Agreement is specific to the parent development and only addresses mitigation for that development.

2.2 CIL was introduced by the Government in 2010 as a mechanism for Councils to levy development to make a contribution to the infrastructure that is necessary to mitigate the impact of development across their area. The Council introduced its CIL Charging Schedule in April 2013 and the Council's charging rates are set out below. This remains the Council's current Charging Schedule. However, it should be noted that CIL is indexed linked and the rate increases each year on 1st April.

Use	Proposed CIL rate £ per m ²	
	Croydon Metropolitan Centre	Rest of the Borough
Residential – Dwelling Houses (C3)	0	120
Business (B1, B2-B8)	120	0
Institutions (C2) (D1)	0	
All other uses	120	

2.3 CIL in accordance with CIL Regulations and guidance is collected on a borough wide basis and can be assigned on a borough wide basis, regardless of the location of the contributing development. This is intended to enable the Council to make strategic borough wide decisions regarding infrastructure delivery and CIL assignment. CIL also differs from Section 106 in that it is levied on a much wider range of developments. This spreads the cost of funding infrastructure over more developments and provides certainty as to how much developers will have to pay.

Section 106 and Community Infrastructure Levy Income

Section 106 Income

2.4 The Council's Section 106 balance as at December 2020 was £4.7m. This balance is sub-divided into the heads of terms for infrastructure types and projects as set out in the parent Section 106 agreements. This understanding is important as Section 106 income can only be assigned in accordance with the parent Section 106 agreement in terms of infrastructure type, project and / or the location defined in the agreement.

Section 106 – Head of Term	Balance
Affordable Housing	£1,026,483.00
Air Quality	£148,328.50
Bus Improvements	£80,590.42
Carbon Offset	£536,910.66
Culture	£51,679.49
East Croydon Station	£298,657.56
Education	£278,845.18
Employment and Skills Training	£298,098.00
Environmental Improvements	£27,466.00
Equality Programme	£21,957.00
Footways & Pedestrian Environment	£2,468.12
Health	£106,728.05
Highways	£84,375.29
Libraries	£62,942.00
Open Space	£431,248.77

Parking	£25,000.00
Public Art	£26,500.93
Public Realm	£450,548.97
Renewable Energy	£56,964.00
Skyline	£1,000.00
Sustainable Transport	£514,448.59
Tree Planting & Maintenance	£14,282.75
West Croydon	£172,781.56
TOTAL	£4,718,322.84

Community Infrastructure Levy

Borough CIL Income

2.5 In order for CIL to be collected for a development it must both be CIL liable and be commenced. CIL has been levied on liable granted planning consents post April 2013. The table below sets out gross CIL income 2013 – 2020.

Borough CIL collected	Year
£208,000	13/14
£1,435,350	14/15
£3,435,548	15/16
£2,640,627	16/17
£10,387,852	17/18
£8,963,243	18/19
£9,290,468	19/20

2.6 As of the 31 March 2020 a total of £12,544,171 of CIL was available to spend.

Governance and Assignment

2.7 The Council's Infrastructure Finance Group (IFG) was established in July 2012. It oversees the processes for providing access to possible funding of projects from Section 106 Agreements and CIL. The group also leads on the management, monitoring, collection and recovery of the borough's Section 106 Agreements and CIL income. IFG then reports quarterly to the Council's Capital Board on Section 106 income, recovery and assignment. IFG and Capital Board oversee the assignment of Section 106 and CIL income in accordance with the relevant planning legislation, CIL Regulations and the Council's annual budget report.

Section 106 Assignment

2.8 A total of £3,582,344 of Section 106 income was assigned to specific projects during 2019/20 in accordance with the Section 106 parent agreement and Infrastructure Finance Group Terms of Reference. These projects are listed in Appendix 2 of the Council's Annual Infrastructure Funding Statement 2019/20 (background paper to this report).

2.9 During 2019/20 a total of £775,674 of money secured under Section 106 agreements was spent on specific projects across the borough. These projects

are listed in Appendix 3 of the Council's Annual Infrastructure Funding Statement 2019/20 (background paper to this report).

Community Infrastructure Levy Assignment

2.10 Regulation 121A of the Community Infrastructure Levy Regulations 2010 (as amended) requires the Council to produce a statement of the infrastructure (CIL Infrastructure List) projects or types of infrastructure which the charging authority (Council) intends will be, or may be, wholly or partly funded by CIL. This broadly covers all infrastructure projects and types, except for sustainable transport and highway that are secured through Section 106 and / or Section 278 highway agreements.

2.11 The Council's current CIL infrastructure List includes the following infrastructure projects and types.

- Provision, improvement, replacement, operation or maintenance of education facilities
- Provision, improvement, replacement, operation or maintenance of health care facilities
- Provision, improvement, replacement, operation or maintenance of those projects listed in the Connected Croydon Delivery Programme dated April 2013 and any projects as may be added to the said Programme after April 2013 as approved by Cabinet.
- Provision, improvement, replacement, operation or maintenance of public open space
- Provision, improvement, replacement, operation or maintenance of public sports and leisure
- Provision, improvement, replacement, operation or maintenance of community facilities

2.12 In the period 2013 – 2018, £6,069,995 of borough CIL was as assigned as follows.

2013/2018

Education – Secondary Estate	£1,213,999
Education – Permanent Expansion	£1,213,999
Fairfield Halls	£1,213,999
Thornton Heath Public Realm	£1,213,999
Ashburton Library	£1,213,999
Total	£6,069,995

2.13 In the two most recent financial years of assignment, Borough CIL has been spent as follows.

2018/2019

Purpose	LOCATION/DESCRIPTION OF SPEND	£
Special Educational Needs	St Nicholas School, Reedham Drive	£3,379,000
Community	Fieldway Cluster	£642,000
Public realm improvements	Thornton Heath	£1,254,000
	Total	£5,275,000

2019/2020

Purpose	LOCATION/DESCRIPTION OF SPEND	£
Special Educational Needs	St Nicholas School, Reedham Drive	£4,672,000
Permanent Expansion	Heathfield Academy, Aberdeen Road	£83,000
Permanent Expansion	Heavers Farm, Dinsdale Gardens	£26,000
Permanent Expansion	Christ Church School, Montpelier Road	£1,000
Permanent Expansion	Smitham Primary School, Portnalls Road	£60,000
The library buildings -	Ensure buildings are efficient and fit for purpose and provide attractive, accessible, modern, flexible community spaces that are both professional and welcoming and make the best use of space for the council and their communities	£1,607,000
	Total	£6,449,000

2.14 Looking forward, based on current CIL balances and forecast CIL receipts, it has been assumed that £6.8m of Borough CIL income will be available to support the Council's capital programme and fund in full or in part infrastructure types or projects that form part of the Council's CIL Infrastructure List and Infrastructure Delivery Plan. Also, £2m of Borough CIL income has been assigned to the Council's Education Estates Strategy as agreed by Cabinet on Monday 18th January 2021 and £2.1m has been assigned to Leisure, libraries and open space maintenance. The specific projects to enjoy borough CIL funding will be defined through the governance of the Infrastructure Finance Group and Capital Board to ensure Section 106 and CIL legislative compliance.

- 2.15 The Community Infrastructure Levy (Amendment) Regulations 2013 allow for up to 15% to be spent on the provision, improvement, replacement, operation or maintenance of infrastructure; or anything else that is concerned with addressing the demands that development places on Croydon. This is commonly referred to as the CIL Locally Meaningful Proportion.
- 2.16 In boroughs without parish councils the equivalent amount of CIL to that which would have gone to parish councils can be spent in the same way as a parish council could spend the money. With Croydon not having parishes, 15% of the gross CIL collected can be spent anywhere within the borough as CIL Local Meaningful Proportion.
- 2.17 The CIL Local Meaningful Proportion balance at 01/04/20 was £3,917,016.
- 2.18 The Local Meaningful Proportion will fund the Community Ward Budgets for 2020/21. For 2019/20, the projects funded are listed in Appendix 3 of the Council's Annual Infrastructure Funding Statement 2019/20 (as a background document to this report). The Council's current policy is to assign the CIL Local Meaningful Proportion to Community Ward Budgets, which enables the Council through Councillors to engage with communities on how best to spend the Local Meaningful Proportion, whilst respecting what the Local Meaningful Proportion should be assigned to in terms of infrastructure or addressing the demands that development places on an area.
- 2.19 Also, as set out in the September 2020 Cabinet Emergency Budget Report, CIL Local Meaningful Proportion will significantly contribute to the costs of the 2020/21 Community Fund Projects that meet the CIL Regulation requirements. The final figure will be reported in the Annual Infrastructure Funding Statement 2020/21.
- 2.20 It should be acknowledge other models regarding CIL Local Meaningful Proportion assignment exist across London. Some models seek suggestions for projects from the public, others from just community groups and others arrive at projects through Ward Members.

Current situation and Publication

- 2.21 Information on Section 106 and CIL can be found on the Council's website under Community Infrastructure Levy and Section 106 pages. This includes the Annual Infrastructure Funding Statement, which is published annually. This report summarises the amount of developer contributions on balance, collected and spent in the previous financial year. The 2019/20 Annual Infrastructure Funding Statement can be viewed as a background document to this report. The Section 106 balance sheet is circulated to all Ward Members on a quarterly basis. Finally, allocation of Section 106 income to projects through IFG can be viewed via the Section 106 Public Tracker.

CONTACT OFFICER: Steve Dennington – Head of Spatial Planning

APPENDICES: None

BACKGROUND DOCUMENTS:

The Infrastructure Funding Statement published annually is available here.

https://new.croydon.gov.uk/sites/default/files/2021-02/Infrastructure_Funding_Statement_2019-2020.pdf