

Date: 27 November 2013

Item 10: Update on Planning Obligations

This paper will be considered in public

1 Summary

- 1.1 TfL is responsible for advising the Mayor on the transport issues associated with planning applications referred to him, progressing section.106 contributions where TfL is delivering transport mitigation, and overseeing the collection of £600m towards Crossrail from developments across the capital.
- 1.2 This paper provides the Committee with an update on the Mayor's and boroughs' Community Infrastructure Levies (CILs) and section 106 funding that will contribute to the funding of Crossrail and other transport projects.

2 Recommendation

- 2.1 **That the Committee note the report.**

3 Background

- 3.1 TfL is responsible for advising the Mayor on the transport issues associated with planning applications referred to him under the Greater London Authority Act 1999 (GLA Act). TfL staff attend the weekly Mayoral Planning meeting and are responsible for negotiating appropriate transport mitigation with developers and boroughs.
- 3.2 As part of the funding arrangement with government, TfL is to raise £600m towards Crossrail through a combination of the Mayoral CIL and the Funding of Crossrail Supplementary Planning Guidance (SPG).
- 3.3 The Committee will be provided with an annual update on TfL's work in this area and this paper provides information on:
 - (a) Section 106 funding and delivery for developments that will contribute to the funding of Crossrail and other transport projects;
 - (b) the Mayor's and boroughs' CILs.

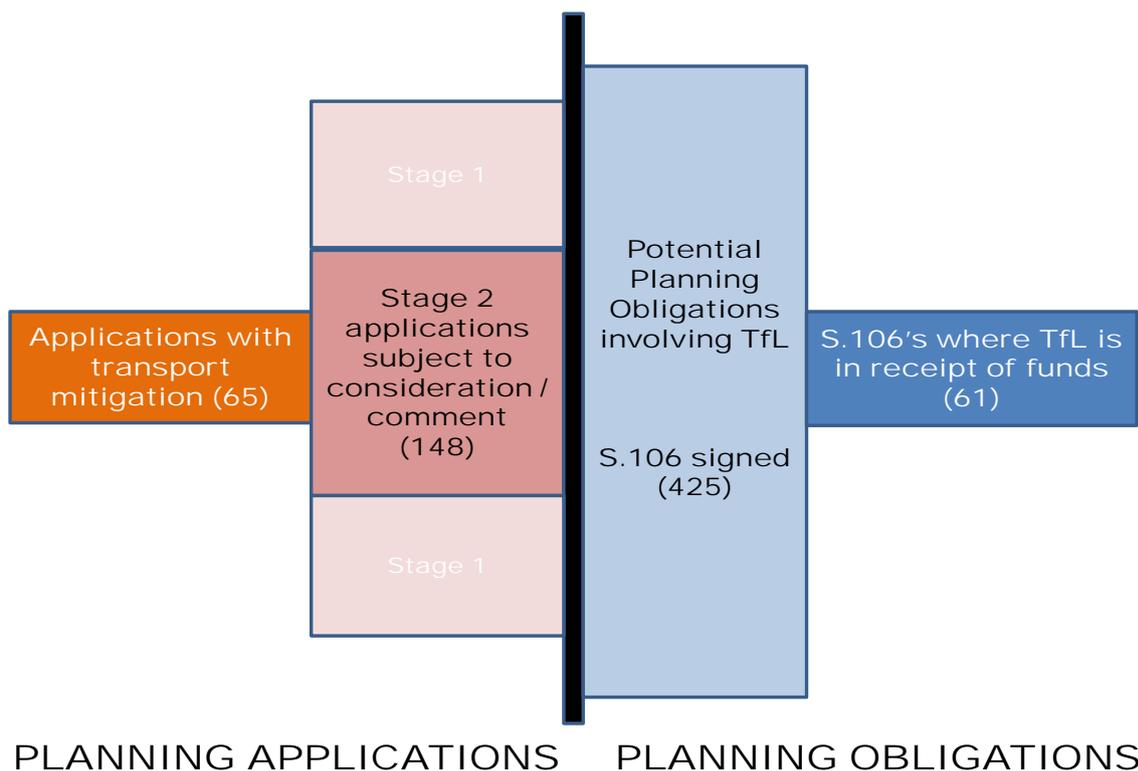
4 Development Activity

- 4.1 There are a number of promising signs that development activity is increasing. The volume of office development under construction is now 0.9m sqm, compared to a corresponding figure of 0.25m two and a half years ago. The National Housing Builders Council (NHBC) research indicates a 61 per cent increase in new houses being registered in London compared to a year ago, whilst London also expects to see a six per cent growth in hotel supply over the

next 18 months. Whether the upturn in construction activity continues to grow will be subject to a range of economic influences.

- 4.2 The number of major planning applications being referred to the Mayor has been fairly steady in the last four years, in the mid two hundreds, but have risen to 340 for the last twelve months in respect of Stage 1 & 2 applications, thus supporting the view that there is an increase in development activity. TfL is actively involved in the assessment of all of the major applications referred to the Mayor and negotiates a package of transport measures when this is required to mitigate their impact.
- 4.3 Figure 1 helps illustrate the volume of transport mitigation involving delivery by TfL. To the left of the graphic is an indication that about 40 per cent of referable applications considered at Stage 2 required transport mitigation to be delivered by TfL, with many more involving local transport measures. To the right is an indication of the number of signed TfL transport related agreements that have accumulated over the years, of which 61 have funds with TfL for scheme delivery. Many of these planning permissions will never be delivered and the timing of those that do come forward is outside the control of TfL.

Figure 1. Planning application / obligation activity for the last 12 months

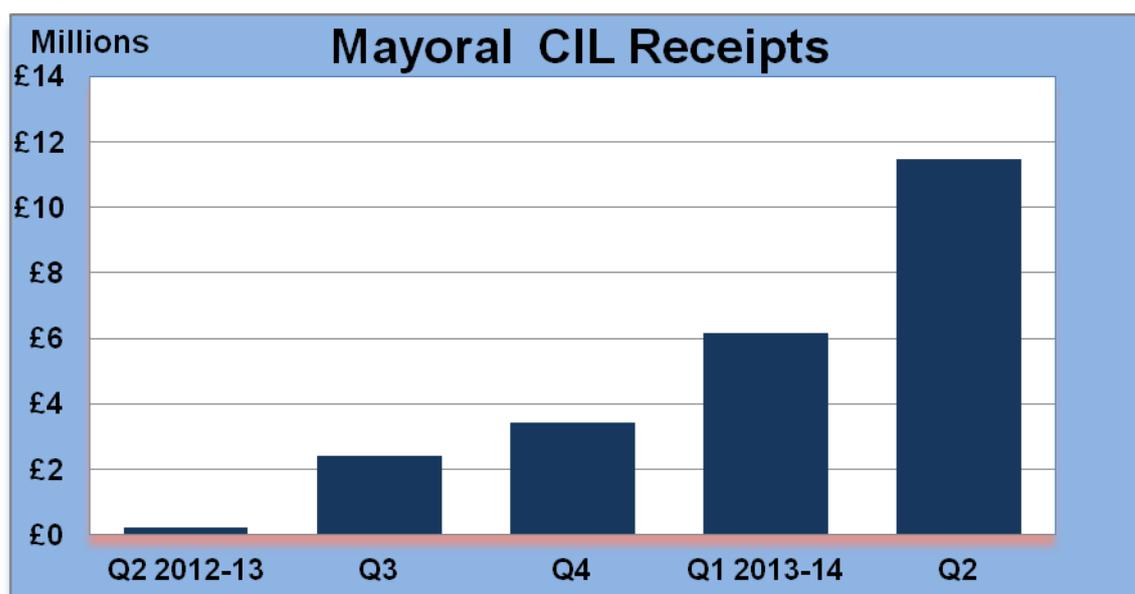


- 4.4 Some large sums for transport mitigation have been negotiated in respect of several major developments over the last few months including, Earl's Court (£58.2m), Sainsbury's Nine Elms (£16.2m), and Vauxhall Square (£8.7m). These sums relate only to measures to be delivered by TfL.

5 Mayoral Community Infrastructure Levy (CIL)

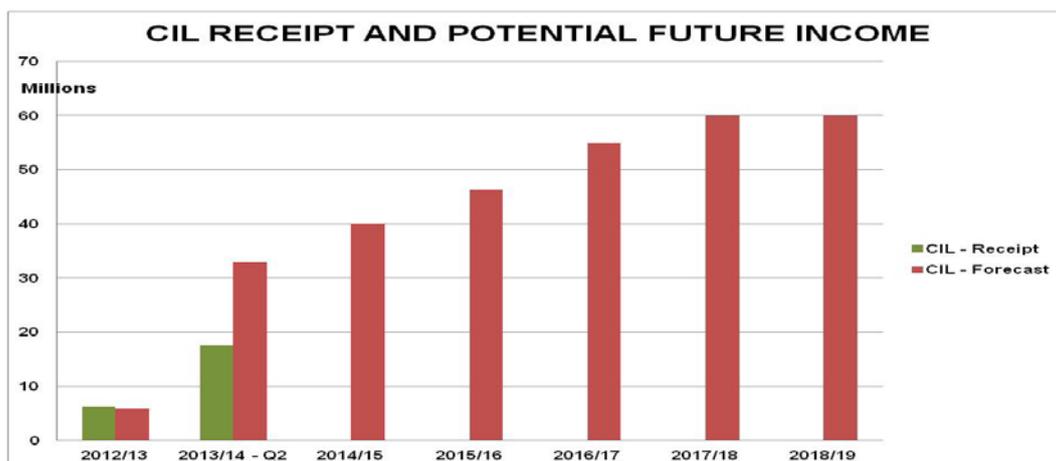
- 5.1 The Mayoral CIL came into effect on 1 April 2012. It covers all development throughout London with a few exceptions (health and education facilities) and is expected to raise another £300m for Crossrail. Boroughs act as collecting authorities and are responsible for gathering the appropriate Mayoral CIL payments and transferring them to TfL, who administer the CIL on the Mayor's behalf. TfL manages the borough collection of Mayoral CIL via a system of quarterly reporting and transfer of funds to a defined programme. This structure has been in operation for the last 18 months and is working well with TfL receiving all funds within a month of the quarter end.
- 5.2 The last report on this issue was considered by the Committee in November 2012 and at that time indicated that only £240,000 had been collected. A year on and, as anticipated, there has been a significant and continued growth in quarterly CIL receipts bringing the current total after 18 months to £23.8m. The last three month period covering July – September 2013 (Q2 2013/14) has seen significantly the highest level of quarterly CIL receipts to date as illustrated in Figure 2. The collection of £11.5m in Mayoral CIL contributions during Quarter 2 is almost twice the level of contributions that were collected during the whole of the first financial year of CIL (2012/13).

Figure 2. Mayoral CIL receipts by quarter



- 5.3 Figure 3 shows the income to date set against the Business Plan targets for CIL. The half-year figure of £17.7m indicates that receipts this year (2013/14) are likely to exceed initial expectations, which has resulted in an upwards projection within the Quarter 2 revision of the TfL Business Plan.

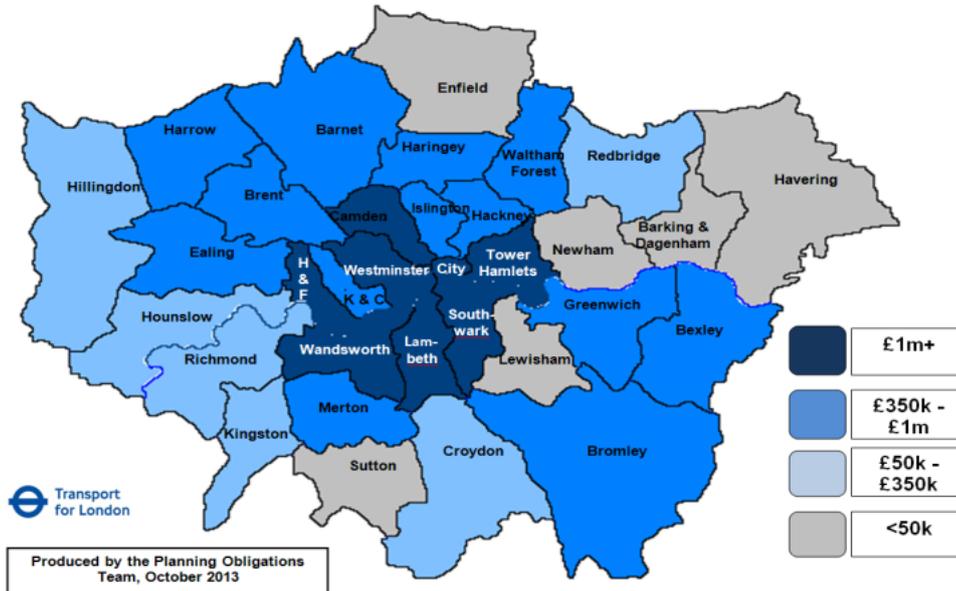
Figure 3. Mayoral CIL receipts (to Q2 for 2013/14) and Annual Business Plan projections



- 5.4 Submissions from the boroughs are analysed on a quarterly basis and TfL raises queries with boroughs where necessary. As borough's own CILs are adopted it will be possible to interrogate their annual reports to ensure Mayoral CIL receipts are aligned with those received in respect of the borough CIL.
- 5.5 The value of Demand Notices issued in Q2 (£5.4m) indicates that the level of Quarterly CIL returns may be levelling off, at least in the short term. If previous returns are a reasonable guide then it is likely that the £11.5m in quarter 2 will not be achieved in quarter 3. The Business Plan figure for CIL in 2013/14 was £21m but expectations are now that receipts are more likely to be in the range £30m – £40m.
- 5.6 It is still too early to be certain and CIL reports will need to be subject to continued quarterly review. Of particular interest from the January returns will be:
- the level of total receipts;
 - the number of payments that make up the total receipts;
 - the value of total receipts that are Large (>£250k) or Base (<£250k); and
 - the number and value of demand notices.
- 5.7 Of the £23.8m of Mayoral CIL collected for Crossrail, more than 70 per cent has been generated by only nine of the 33 boroughs. Figure 4 shows the distribution of income collected across London which, as expected, has a central London focus.

Figure 4. Comparison of Mayoral CIL collected by boroughs

Total Mayoral CIL Collected April 2012-September 2013

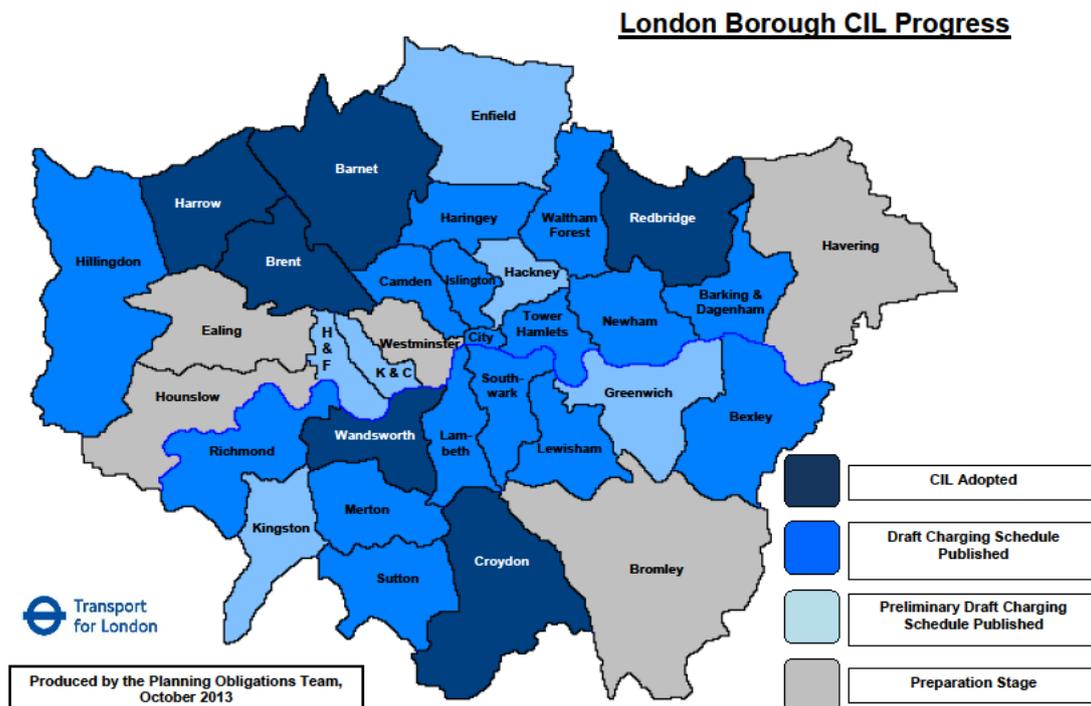


5.8 CILs are required to be reviewed on a regular basis and at the Examination in Public for the Crossrail CIL TfL agreed to reconsider the rates in Spring 2014 when consideration will be given to issues such as whether the CIL rates set continue to be appropriate, if allowing a form of discretionary relief is justified, and what have been the impacts of CIL on the delivery of affordable housing.

6 Borough CILs

6.1 CIL progress in London has been good and six boroughs now have an Adopted CIL in place. Figure 5 illustrates the progress made by boroughs in developing their own CIL schedules via the process of consulting on a Preliminary Draft schedule, then a Draft schedule, before adoption. Only five boroughs have yet to publish proposals.

Figure 5. Current Status of Borough CILs



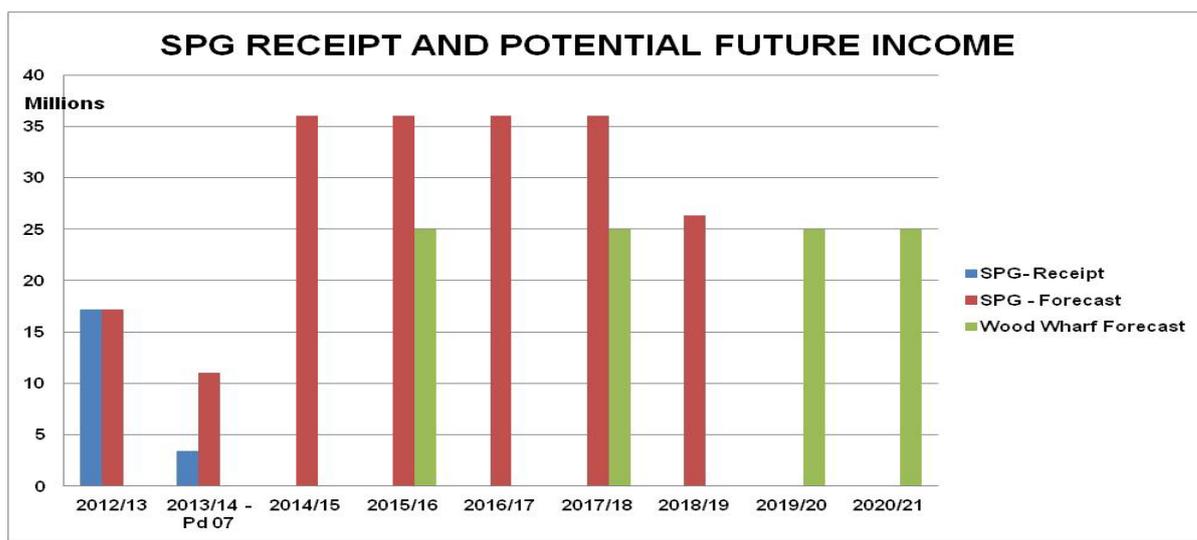
- 6.2 TfL established and hosts the CIL Collection Group, which meets every two months and is well attended by boroughs across London and by the Department for Communities and Local Government. It provides an opportunity to discuss practical issues, sharing knowledge and experience, providing mutual support and ensuring a consistent approach to meeting the demands of collecting the Mayoral (and borough) CIL.
- 6.3 GLA / TfL officer CIL steering group has also supported boroughs as they have progressed their CIL proposals. This reviews the viability evidence provided by the boroughs to support their CILs to ensure that any proposed borough rate, when combined with the Mayor's CIL, remains viable and avoids a negative impact on regeneration and growth in all parts of London.
- 6.4 TfL has responded to the consultations on all of the borough CIL proposals and seeks to ensure that they take account of the Crossrail CIL and SPG and also include the relevant transport projects in their infrastructure plans.

7 Crossrail – Supplementary Planning Guidance (SPG)

- 7.1 The Crossrail SPG requires funding to be secured for Crossrail from certain commercial developments. The initial Crossrail SPG was published in July 2011, and this was updated in April 2013. The SPG is land use (office, retail and hotel) and spatially specific (Central London, the Isle of Dogs and the areas immediately around Crossrail stations). Up until the end of Period 7, the funds collected through the Crossrail SPG during 2013/14 was £3.4m, bringing the total collected since its inception to £22.3m.

7.2 The policy was developed in advance of the Mayoral CIL and under the regulations CIL is taken first and this sum is counted as a credit towards any sum payable as a result of the Crossrail SPG. It is important to note that the introduction of CIL is having an impact on the level of receipts likely to be achieved through the Crossrail SPG. In the longer term this could mean a higher proportion of the income needed for Crossrail from developments comes from CIL instead of the SPG

Figure 6. Crossrail SPG receipts and Q2 Business Plan projections.



7.3 The provisions of the Crossrail SPG allowed for an initial reduction of 20 per cent for the three year period ending on the 31 March 2013. The revised Crossrail SPG, published earlier this year, extended the discount period until 31 March 2014, at a rate of 10 per cent. The introduction of the Mayoral CIL and the extension of the discount period to 31 March 2014 has also had an impact on Crossrail SPG receipts. The Business Plan figure SPG receipts in 2013/14 was £23m but expectations are now that receipts are more likely to be in the range £8m – £15m.

7.4 The nature of Crossrail SPG payments is that large developments coming forward can enhance income for a particular year and in 2012/13 four applications alone generated £9.3m including £5.9m as a result of the Broadgate development. So far during 2013/14 less than £5m has been received with the majority having been generated from applications not referred to the Mayor. The policy applies to both Referable and Non-Referable applications, with the larger developments (and therefore larger contributions) tending to come from the former.

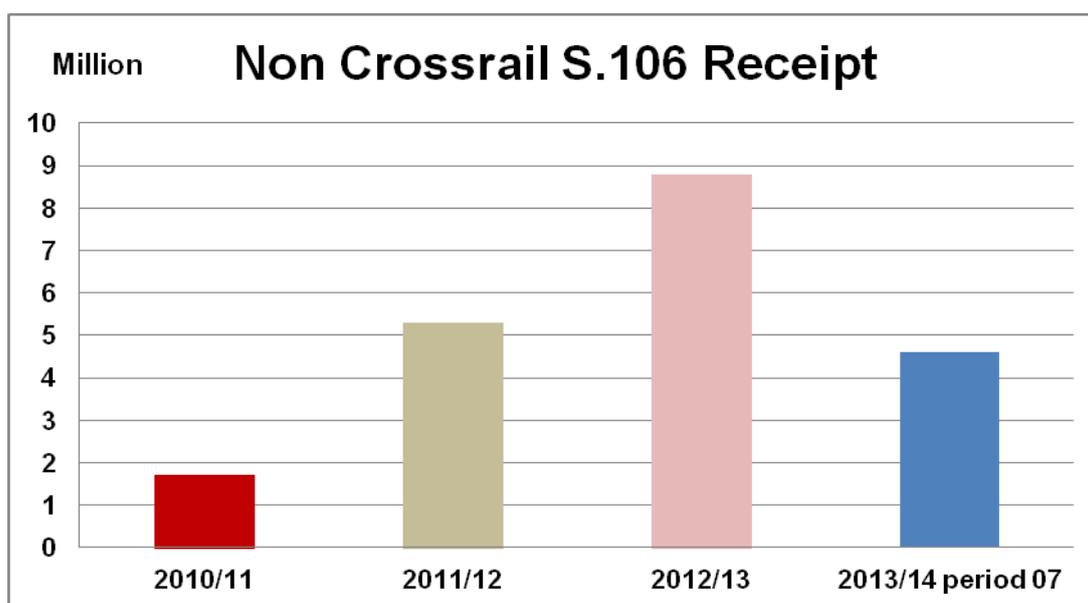
7.5 Looking forward, the Crossrail funding streams total £600m by March 2019. Of this, only £46m had been received at the end of Q2 if you total up the CIL and SPG income. Both streams relate to property development and will vary according to the market; both are difficult to forecast. For technical reasons, the balance of the target is also likely to change, with the CIL target being more than £300m and the Crossrail section 106 target reducing by an equivalent amount. If the strong recent CIL performance continues, then the CIL target looks achievable; the section 106 target looks in doubt, especially as £100m of it was originally expected from the Wood Wharf development where a new application is expected to be submitted imminently. The first biennial review of CIL will happen

in 2014. It is probably too early to recommend any major changes in rates or otherwise; TfL will, however, continue to monitor development and receipts carefully.

8 Non-Crossrail Transport Mitigation

- 8.1 Planning applications that are referred to the Mayor are often approved subject to a package of mitigation measures, some of which will relate to transport in addition to Crossrail funding. The measures that are negotiated by TfL non-Crossrail transport obligations vary enormously in type and scale, from mega-projects such as Brent Cross and Earl’s Court through to schemes involving minor works (for example bus stop improvements) which may cost as little as £5k. As well as transport infrastructure obligations defined in the section 106 agreement, TfL often benefits from schemes which are delivered directly and do not involve funds being transferred to TfL. The most notable of these are benefits in kind, which could include bus stations as at Stratford and London Bridge.
- 8.2 Figure 7 illustrates the increasing level of transport contributions secured over recent years and the expectation is that this year’s figure (2013/14) should exceed the value of last year’s receipts and is currently approaching the £5m mark.

Figure 7. Transport mitigation receipts (non Crossrail) received by TfL



- 8.3 The development of Vauxhall Nine Elms and Elephant & Castle are both subject to arrangements where significant contributions are to be raised towards strategic transport infrastructure. They are subject to distinct monitoring arrangements.
- 8.4 During May through to July 2013 TfL Internal Audit undertook a review of the adequacy and effectiveness of the controls for the section 106 recovery processes. The September 2013 interim report identified areas of improvement including prioritising boroughs to target and engaging with TfL businesses and boroughs (as appropriate) to secure transfer of section 106 funding to TfL; introducing a system whereby significant variances in the section 106 receipts can be escalated; and documenting procedures for the delivery side of the section 106 processes including a risk register. These issues are being addressed via an

action plan which should see further enhancement in the management of TfL delivered transport mitigation.

List of Appendices:

None

List of Background Papers:

Supplementary Planning Guidance: Use of planning obligations in the funding of Crossrail and the Mayoral Community Infrastructure Levy (April 2013)

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