

Date: 4 July 2018

Item: Update on Income from Developers through Planning Obligations

This paper will be considered in public

1 Summary

- 1.1 This paper provides the Committee with an end of year update on the Mayor's Community Infrastructure Levy (MCIL), Borough CILs and section 106 funding that will contribute either to the funding of Crossrail or other (TfL) transport infrastructure.

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 City Planning is responsible for negotiating appropriate transport mitigation with developers and boroughs to enable developments to function effectively.
- 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 section 106 contributions as defined in the Funding of Crossrail Supplementary Planning Guidance (SPG). TfL City Planning is overseeing the collection by boroughs of this funding from developments across the capital.
- 3.3 This annual report provides information on:
- (a) development activity trends;
 - (b) contributions for Crossrail – through the Mayoral CIL and the Crossrail SPG;
 - (c) borough CILs; and
 - (d) section 106 and other development related contributions for other transport projects, including the Northern Line Extension.

4 Development Activity

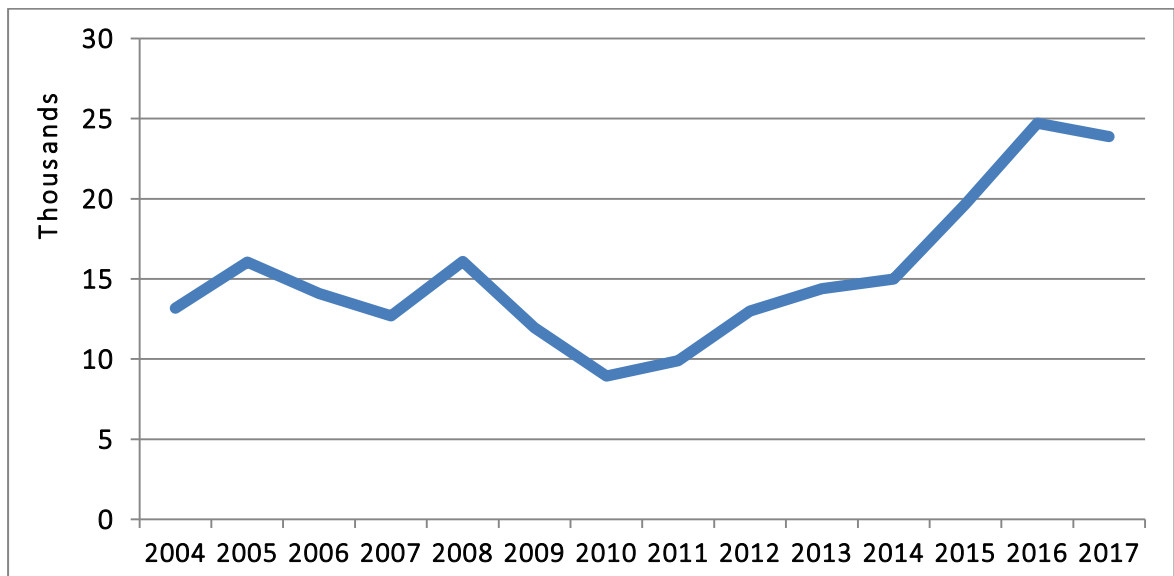
4.1 The development pipeline includes a number of key stages. These include:

- (a) securing planning permission;
- (b) starting construction;
- (c) pre-letting, selling, letting buildings;
- (d) completing construction; and
- (e) occupation.

4.2 Securing planning obligations is related to the level of development activity and, in particular, the implementation of relevant planning permissions. The 2016 MCIL Biennial Review identified that planning application numbers had risen and development starts had been stable or increasing since MCIL introduction. Figure 1 illustrates the overall upward trend in respect of residential development completions over recent years, although there was a slight decline in 2017. Residential has been the dominant land use floorspace being built over the last decade in London, making up about three-quarters of all development that has been delivered.

4.3 Of course, development activity is cyclical and related to many wider factors, and commentators are currently divided on potential future movement in the property market. More detailed analysis and consideration will form part of the 2018 MCIL Biennial Review.

Figure 1. London residential completions* 2004-2017



Source: Estates Gazette: London Residential Market Analysis Report 2018.

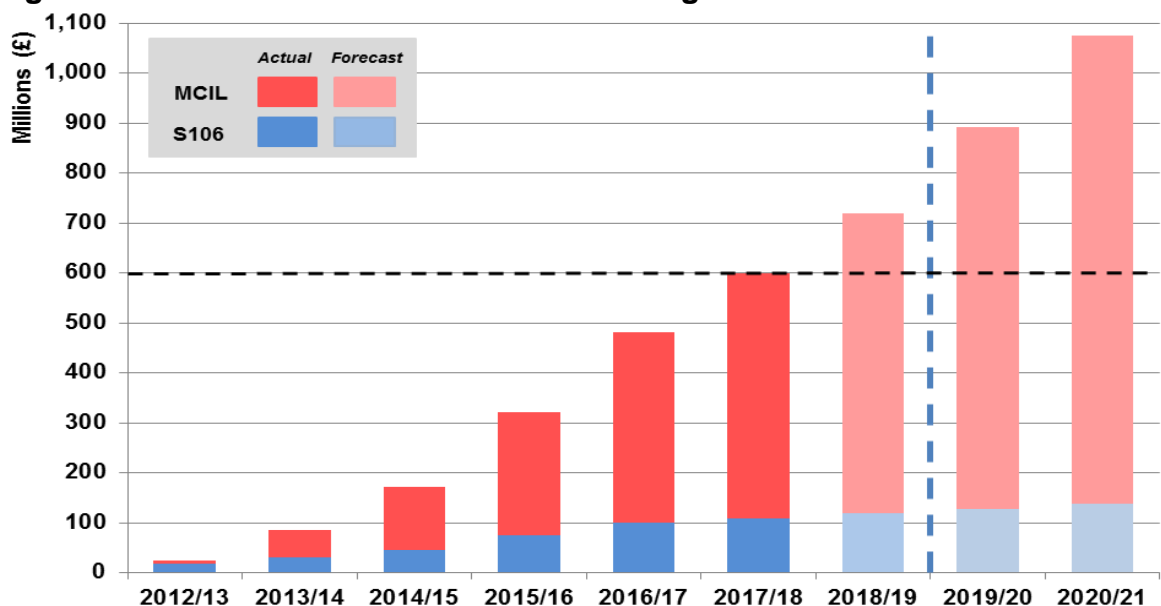
* Private units only, for developments of 10 units or more.

4.4 TfL actively considers the transport implications of major applications referred to the Mayor each year. The number of referable applications involving transport input was 322 last year, which is a little above the average for development proposals considered in recent years. Following detailed appraisal it may be necessary to negotiate a package of transport measures when this is required to mitigate the transport impact of the proposed development – although the introduction of CIL has significantly increased the constraints on negotiating section 106 contributions and the requirement that they be necessary, directly related and reasonably related in scale to the development proposal in question.

5 Developer Contributions towards Crossrail

5.1 Figure 2 (below) shows the excellent progress made in securing developer contributions towards Crossrail. The graphic shows actual receipts to the end of 2017/18, together with forecasts for the three years until March 2021. At the end of the financial year 2017/18, a combined total of £599.3m in receipts had effectively resulted in the target £600m developer contribution to Crossrail being secured a year ahead of schedule.

Figure 2. Cumulative total of Crossrail funding – Actual & Forecast

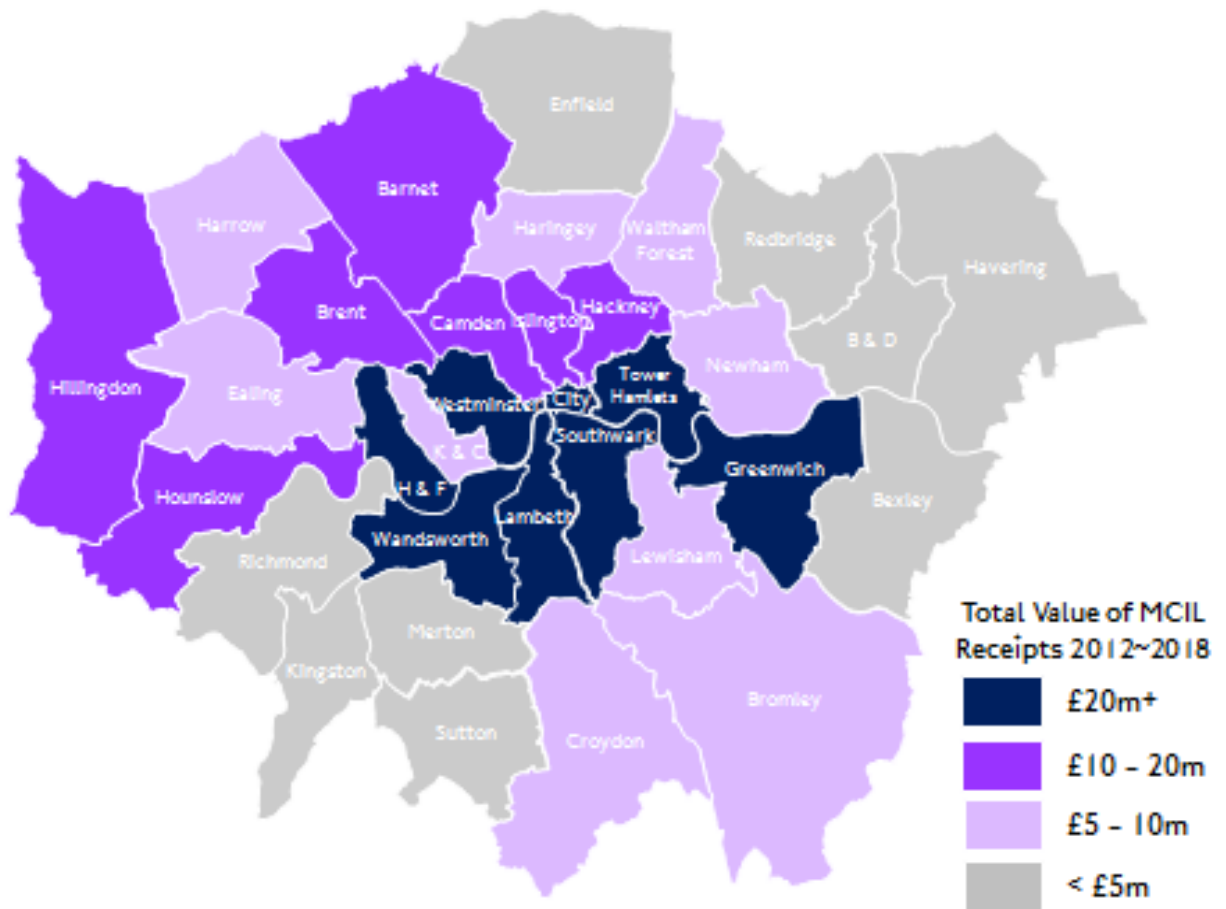


Mayoral Community Infrastructure Levy

5.2 The Mayoral CIL came into effect on 1 April 2012 and covers all development throughout London with a few exceptions (e.g. health and education facilities). 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 is established and is working well with TfL receiving all funds within a month of the quarter end.

- 5.3 Figure 2 (above) highlights the increase in total MCIL receipts. After six years of operation, these have now reached £490m on a cash basis. However, the 2017/18 receipts at £109m are down by 20 per cent compared to the previous year's record returns, although the number of MCIL payments over the course of the year has continued to increase, totalling almost 2,400 over 2017/18. Particular influences on this have been: fewer very large scale payments (in 2016/17 there were three exceptionally large development payments generating £20m); and significant decreases in floorspace being developed in central London compared to increases in outer London boroughs where MCIL tariffs are lower. Future annual MCIL receipts are expected to exceed £100m again next year and the totals anticipated to increase going forward, as shown above.
- 5.4 The ramping up of Mayoral CIL receipts since its introduction in 2012 and, overall, sustained returns have provided confidence that the MCIL income stream can be a reliable and important contributor to strategic transport infrastructure such as the Crossrail projects. However, future MCIL returns will continue to be dependent on a stable property market related to economic activity, and could also be affected by any future revisions to the CIL regime or regulations currently under consideration by government.
- 5.5 Figure 3 maps the variation in MCIL receipts secured across London since MCIL was introduced in 2012. High receipt generating boroughs are concentrated in central/inner London either side of the river. This central London focus reflects higher charging rates (reflecting greater viability) together with a high volume of floorspace being developed. Ten boroughs have generated 60 per cent of the £490m of MCIL raised to date. All but nine boroughs have secured more than £5m over the six year period, with the lower receipt boroughs having an outer London focus and seven of the nine authorities bordering counties outside London.

Figure 3. Comparison of Mayoral CIL collected by boroughs to date.



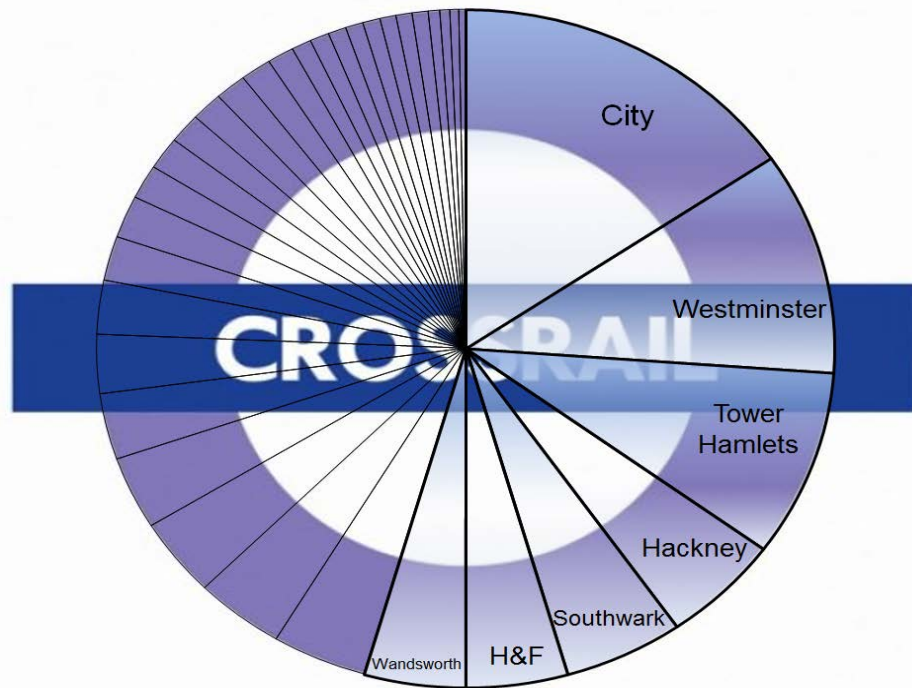
5.6 CILs are expected to be reviewed on a regular basis and the Mayoral CIL has been subject to two biennial reviews to date. These reviews are specific to the MCIL funding arrangements for Crossrail and are therefore quite distinct from the development of MCIL2 proposals supporting Crossrail 2. The current MCIL arrangements and operation are constantly being monitored, with an example of change being the modification to MCIL instalment arrangements which were effected earlier this year. A further review (MCIL Biennial Review 2018) will be undertaken later this year.

Crossrail Supplementary Planning Guidance (SPG)

5.7 The Crossrail SPG requires section 106 funding to be secured for Crossrail from certain commercial developments. The initial Crossrail Funding SPG was published in April 2010 and this was most recently updated in March 2016. 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). Section 106 funds collected in accordance with the Crossrail SPG during 2017/18 totalled £8m, bringing the total collected since its inception to £109m.

5.8 The policy was developed in advance of the Mayoral CIL. As previously reported, the interaction between the MCIL and Crossrail section 106 contributions is such that a significant part of what would have been section 106 is now collected as CIL – so the section 106 contributions continue to decline. A major contribution for Crossrail was expected from the Wood Wharf development which is not anticipated to start flowing significantly until next year at the earliest.

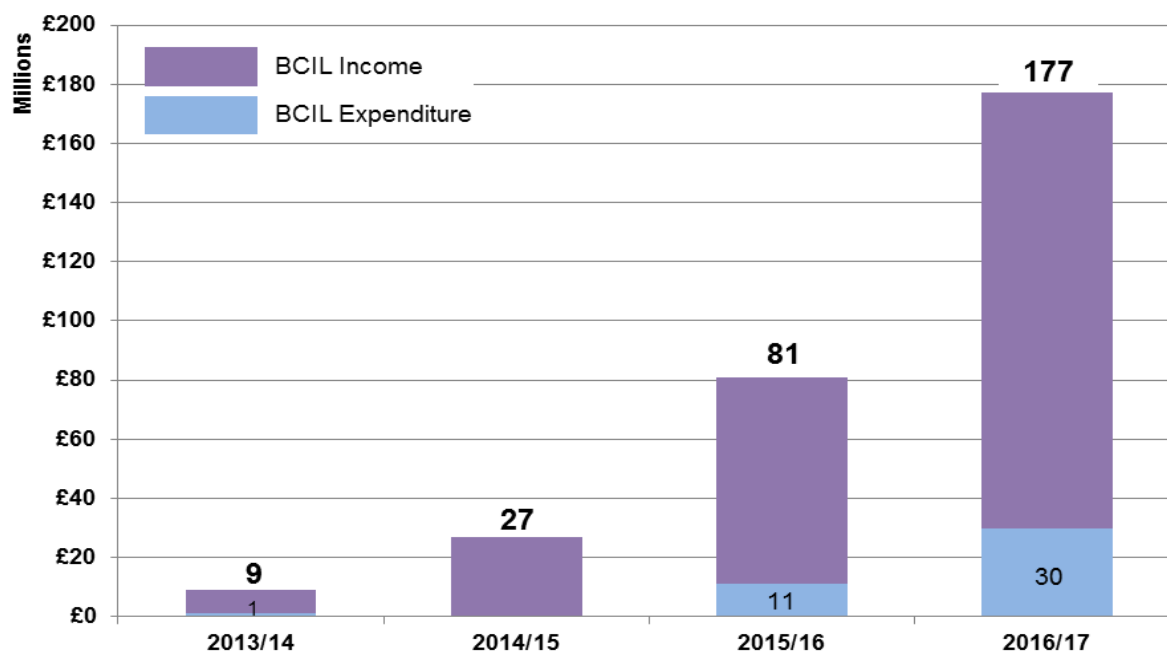
Figure 4. Proportionate developer contributions to Crossrail by borough. Cumulative £599m of Mayoral CIL and Crossrail section 106



6 Borough CILs

6.1 Progress in implementing Borough CILs in London has advanced significantly ahead of the picture nationally. In London there were 31 CILs in place and charging by summer 2016, at which time most authorities across the rest of the country had yet to put a CIL in place. CIL reporting is retrospective with figures published annually in December for the previous financial year, and so Figure 5 can only illustrate the relative value of Borough CIL (BCIL) receipts up until 2016/17. Boroughs retain all income from BCIL receipts.

Figure 5. Borough CIL 2016/17



- 6.2 It can be seen that receipts across the 31 charging authorities have cumulatively ramped up significantly over the last couple of years – to £177m in total for boroughs in 2016/17. The effect of receipts ramping up is well established as more planning permissions secured prior to CIL introduction (and typically lasting for three years) are decreasingly influential and then receipts generally level out as CIL becomes established. This applies to the status of most BCILs and explains why the increase next year is likely to be considerably more modest, but it is still likely to result in annual receipts (to boroughs collectively) of more than £200m.
- 6.3 Unlike the Mayor, boroughs are not confined to spending CIL receipts on transport and there are many competing demands for the funding. As part of developing their CILs, boroughs have each identified extensive infrastructure needs with funding gaps typically of £150m – £300m, with education being the area which dominates the boroughs' priority for additional funding. This makes it difficult to secure funding for transport. However, TfL continues to secure CIL income for transport infrastructure wherever possible, such as for Northern Line Extension, Elephant & Castle, Woolwich Crossrail station, and Wandsworth gyratory.

7 Non-Crossrail Transport Mitigation

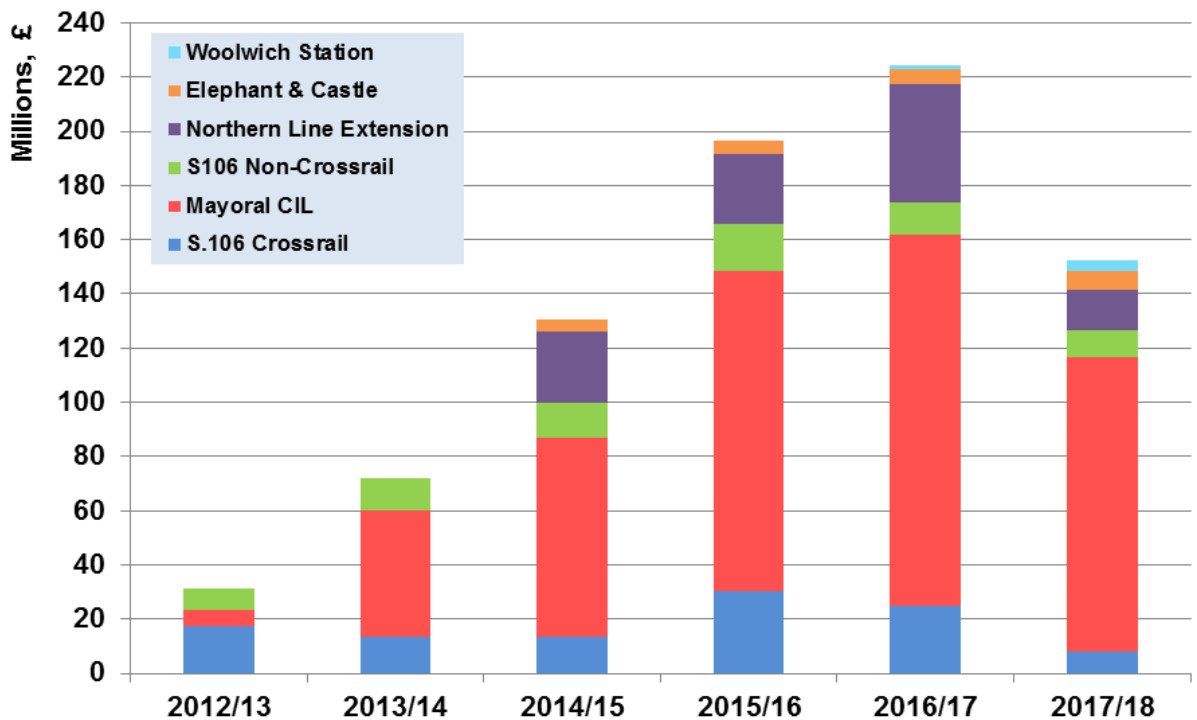
- 7.1 Planning applications that are referred to the Mayor are often approved subject to a package of mitigation measures, some of which may relate to transport. The measures that are negotiated by TfL in respect of non-Crossrail transport obligations vary enormously in type and scale. They can include mega-projects such as Brent Cross and Earl's Court, through bus service contributions of hundreds of thousands of pounds, 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 a range of schemes which are delivered directly and do not involve funds being transferred to TfL. The most notable of these benefits in kind include the bus stations at Stratford and London Bridge.
- 7.2 Currently, there are about 600 section 106 agreements being actively monitored by TfL on a quarterly basis as they (potentially) come forward for implementation. Section 106 delivery is complicated by a number of issues. For example, TfL is a signatory to less than a dozen of these agreements and rarely involved in the final detailed provisions agreed between boroughs and developers, and there are also significant time-lags from the consideration of the planning application to the section 106 being signed but more particularly to the trigger for delivery of defined mitigation measures.
- 7.3 Of the £20m of potential transport improvements negotiated during 2017/18, the majority was in respect of bus service enhancements (£10.5m) and improvements to be delivered on the TfL Road Network (TLRN) (£7m). About 40 per cent of the funding negotiated relates to a handful of development proposals such as Hanover Square (£2m), UCL East (£1.8m) and The Mall, Walthamstow (£1.5m).
- 7.4 The advent of CIL and the more defined relationship with section 106 agreements is having a significant impact on the long-term trajectory of section 106 funding. It is expected that there will generally be a reduced scale and number of section 106 agreements that TfL (and boroughs) are likely to be able agree with developers in future as section 106 requirements must now be scaled back to directly related site specific issues. Figure 6 illustrates the impact on section 106 contributions towards the mitigation of transport impacts which was expected given that CIL was meant to significantly replace it in terms of funding infrastructure.
- 7.5 Not shown within the graph below are distinct arrangements that fall outside the legal definition of the specific developer funding streams identified but that have been directly negotiated as part of the development process. Some of these can be substantial. In particular this year, we have negotiated £56m funding for a package of transport improvements in Croydon, including tram and bus improvements, walking and cycling investment and highway improvements to the TLRN, from the Croydon Growth Zone linked to development at the Whitgift Centre and regeneration of the town centre.

- 7.6 There are also a number of other detailed arrangements in particular locations, for example 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 each subject to distinct arrangements to ensure money is received related to the delivery of agreed transport infrastructure, with income managed through separate funding agreements by the GLA. Equally, the securing of funds for Woolwich station is also subject to a particular arrangement with Greenwich council.
- 7.7 Transport mitigation is also delivered via section 278 agreements for highway improvements on the TfL road network, ranging from small scale improvements such as footway renewal to larger scale works such as at London Bridge station. The value of the highway network capital assets is increased annually by these agreements in the double digit millions via developers at no expense to TfL. This is not reflected within Figure 6.

8 Summary and Looking Forward

- 8.1 Figure 6 captures a number of the specific developer contribution revenue streams identified in section 7 above, although as explained there are other notable financial contributions to TfL secured via other means. The graph below illustrates a generally increasing overall level of transport contributions secured over recent years (and the changing balance between the different components) as a result of improved reporting by both boroughs, and within TfL, and a greater focus on identifying key payments and schemes to be delivered. In 2017/18, these annual contributions have fallen for the first time in a number of years. The two key components behind the reduced receipts last year are the fall of almost £30m in Mayoral CIL receipts due to the fall in the number of exceptionally large developments being implemented, together with Northern Line Extension contribution payments reducing by a third in accordance with the agreed payment structure.
- 8.2 Within this increasingly challenging context, we are nonetheless seeking to continue to maximise developer contributions. Alongside this we are ensuring our monitoring and collection mechanisms continue to be robust and responsive to any changes.

Figure 6. Developer contributions towards TfL Projects



8.3 The capture of developer receipts for transport still represents a very significant contribution to a range of important infrastructure across the capital. In respect of the £600m developer contribution to Crossrail, the receipts from 2017/18 have effectively secured the original target a year ahead of schedule. Mayoral CIL contributions have been, and will continue to be, a very important financial contributor to both Crossrail projects. As contributions are tied to development activity the level of contributions going forward will also be a reflection of future economic conditions.

8.4 The intention is to continue with Mayoral CIL (in effect MCIL2) as this is a vital funding component for Crossrail 2. Consultations on both MCIL2 Preliminary and Draft Charging Schedules were undertaken in summer 2017 and earlier this year. The next stage will be an Examination in Public, which is currently programmed for September 2018 with a transition to a MCIL2 proposed to take place in April 2019, subject to the outcome of the Examination.

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 (March 2016).

CIL Regulations 2010, as amended 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018.

Community Infrastructure Levy Guidance 2014, as amended 2016.

2016 Mayoral CIL Biennial Review (February 2017).

Contact Officer: Lucinda Turner, Director of Spatial Planning
Number: 020 3054 7133
Email: LucindaTurner@tfl.gov.uk