

Date: 17 July 2014

**Item 14: Update on Planning Obligations**

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**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 to enable developments to function effectively and is overseeing the collection of £600m towards Crossrail from developments across the capital.
- 1.2 Two years after its introduction, this report provides the Committee with an end of year update on the Mayoral Community Infrastructure Levy (MCIL), borough CILs and section 106 funding that will contribute either to the funding of Crossrail or other transport infrastructure.
- 1.3 In terms of securing £600m from the Crossrail funding streams by March 2019 the picture is mixed. There is increasing confidence in securing £300m from the Mayoral CIL, whereas the £300m income from the Crossrail SPG is looking less certain. In this context we may need to reassess the balance of these targets, with the CIL target being more than £300m and the Crossrail SPG element reducing by an equivalent amount.

**2 Recommendation**

- 2.1 **The Committee is asked to note the paper.**

**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 attends the weekly Mayoral Planning meetings and is 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 Over recent years, this Committee has been provided with an annual update which has historically taken place during November, the latest being 27 November 2013. This report has been prepared to provide data for the latest complete financial year, rather than a point during the year. The intention is that future annual reports will provide complete financial analysis and be provided around this time of year. This report provides information on:

- (a) the MCIL and borough CILs;
- (b) section 106 funding (secured through the Crossrail SPG) that will contribute to the funding of Crossrail; and
- (c) section 106 funding for other transport measures, delivered by TfL, as mitigation for development impacts.

## **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. There are a number of sources that indicate that development activity is increasing in London, particularly in respect of the residential sector. Appendix 1 provides data from analysts who monitor development activity.

4.3 TfL actively considers the transport implications of about 300 of the major applications referred to the Mayor each year. Following detailed appraisal it may be necessary to negotiate a package of transport measures when this is required to mitigate the impact of the proposed development.

## **5 Mayoral Community Infrastructure Levy (MCIL)**

5.1 The MCIL came into effect on 1 April 2012. It covers all development throughout London with a few exceptions (e.g. health and education facilities) and was initially expected to raise £300m for Crossrail. Boroughs act as collecting authorities and are responsible for gathering the appropriate MCIL payments and transferring them to TfL, who administers the CIL on the Mayor's behalf. TfL manages the borough collection of MCIL via a system of quarterly reporting and transfer of funds to a defined programme. This structure is established and working well with TfL receiving all funds within a month of the quarter end.

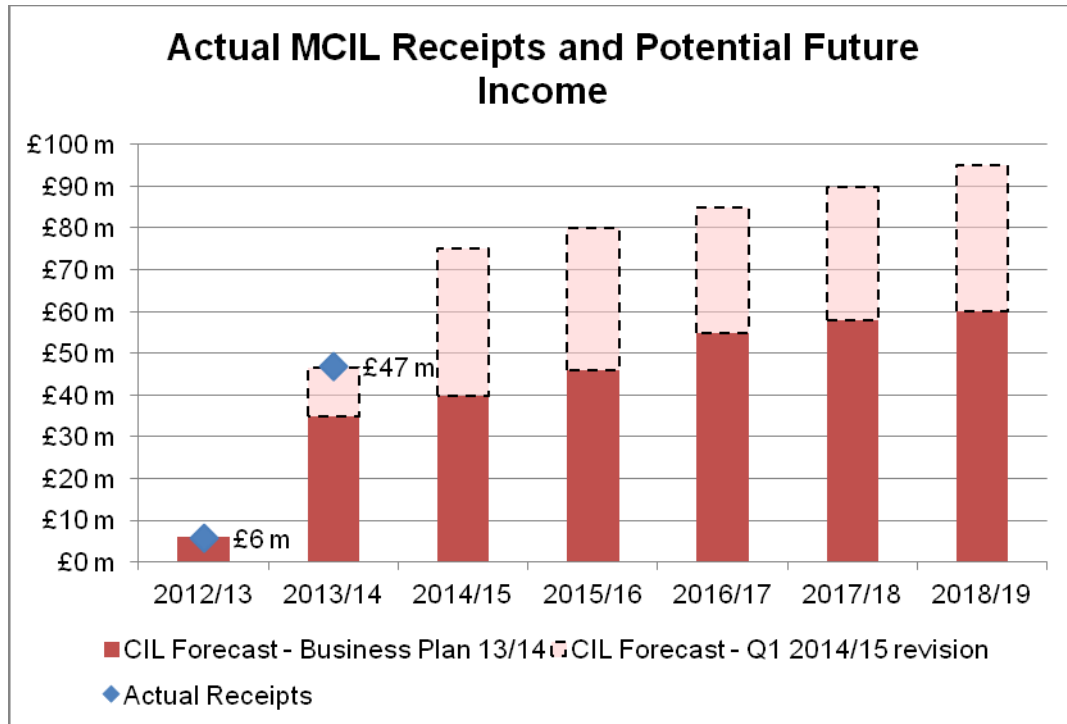
5.2 The last report on this issue was considered by the Committee in November 2013. At that time a Quarter 2 payment of £11.5m brought the total MCIL receipts after 18 months to £24m. Figure 1 highlights that the upward trend in MCIL receipts has continued with almost £30m being collected during the last six months, bringing the total after two years to £53m. This does not include a £13m accrual / adjustment, which follows accounting guidelines and relates to the CIL Demand Notices issued during Quarter 4 2013/14 but for which payment is likely to be paid during 2014/15. There is likely to be a receipt of around £20m for the Quarter 1 2014/15 period.

**Figure 1. MCIL receipts by quarter**



- 5.3 CILs are required to be reviewed on a regular basis and the Mayor agreed to undertake a review after two years of operation. 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. It is expected that the Mayor will consider a report in August 2014.
- 5.4 There is increasing confidence in securing £300m but it is still relatively early and a clear pattern of receipts has yet to be established. Future MCIL returns will continue to be related to economic activity and could also be affected by revisions to the CIL Regulations, which came into effect on 24 February 2014. The revised regulations include an exemption for self builders and an increase in the vacancy period in which credit is given for a previous unused building on the site to three years from one.
- 5.5 In terms of securing £600m from the Crossrail funding streams by March 2019 the picture is mixed. Both streams relate to property development and will vary according to the market. Both are difficult to forecast. The balance of the target is also likely to change, with the CIL target being more than £300m and the Crossrail SPG element reducing by an equivalent amount (see paragraph 7.2).
- 5.6 Figure 2 shows the income to date set against the Business Plan projections for CIL. The £47m receipts for the financial year 2013/14 exceeded initial expectations. This has resulted in a significant upwards projection within the current revision of the TfL Business Plan. If these projected receipts were to be achieved, and sustained, the £300m could be secured during 2017, and a potential Mayoral CIL in the range £400m - £480m could be collected by the end of financial year 2018/19.

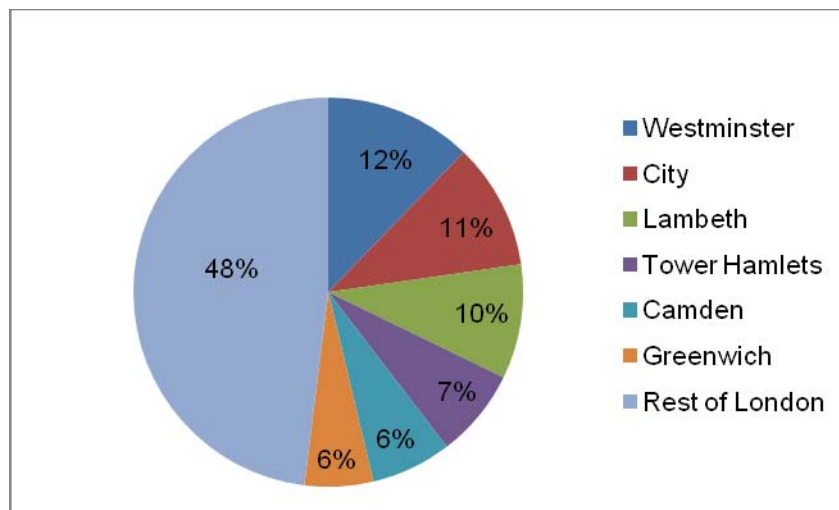
**Figure 2. Mayoral CIL receipts and Annual Business Plan projections**



5.7 Analysis of MCIL receipts shows a steady flow of around £7m each quarter from 300+ developments where payments are less than £250k. By contrast, receipts from larger developments are volatile. In Quarter 4 last year £13m of £20m was generated from 12 large developments.

5.8 Of the £53m of MCIL collected for Crossrail, more than half has been generated by only six of the 33 boroughs, five of them in Central London.

**Figure 3. Comparison of MCIL collected by boroughs**

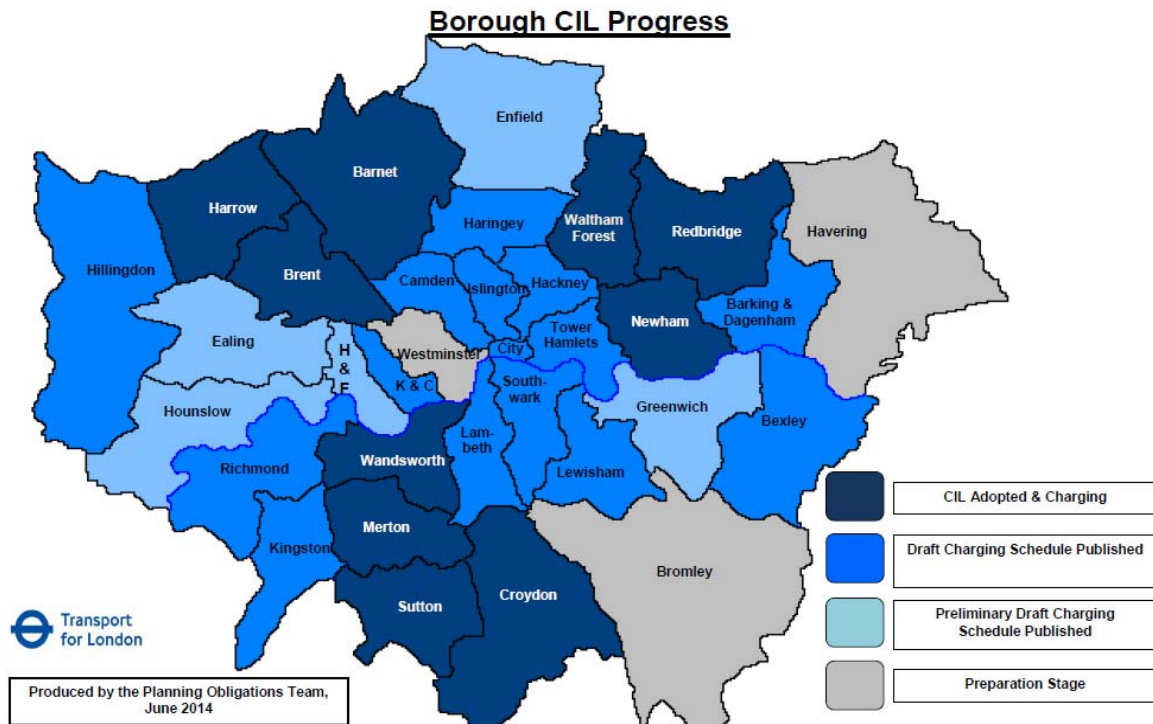


## 6 Borough CILs

6.1 Borough CILs matter because they should be compatible with the MCIL and SPG and because they are a potential source of funding for transport – for example from Greenwich for Woolwich station, or Wandsworth and Lambeth for the Northern Line Extension.

6.2 CIL progress in London has been good and far ahead of the picture nationally. Across the country more than half of eligible councils have yet to even publish plans for consultation whereas in London only three boroughs have yet to publish CIL proposals (Westminster, Havering and Bromley). Ten boroughs (eleven from 1 July as the City go live) now have an Adopted CIL in place for which they are charging relevant developments. Figure 4 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.

**Figure 4. Current Status of Borough CILs**



6.3 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.

6.4 A TfL / GLA officer CIL steering group has also supported boroughs as they have developed 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 MCIL, remains viable and avoids a negative impact on regeneration and growth in all parts of London.

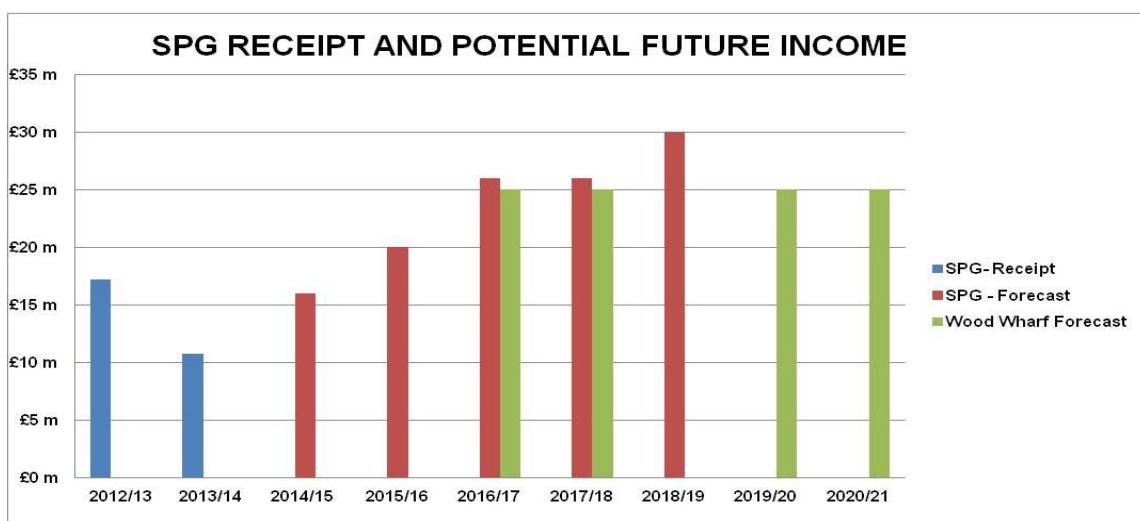
6.5 As part of developing their CILs, almost all boroughs have identified extensive infrastructure needs with funding gaps of £150m or more. There is a substantial variation across London in the level of annual CIL receipts anticipated. For example, there are a number of boroughs expecting around £1m p.a. (for example Sutton) compared to more than ten times that amount anticipated in boroughs such as Islington.

- 6.6 TfL has responded to the consultations on all 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.
- 6.7 The CIL Regulations require authorities to produce a list of infrastructure which will, or may be, wholly or partly funded by CIL. The identification of projects or types of infrastructure on the Regulation 123 list, however, does not signify any commitment to deliver it. TfL is working with boroughs where there is the potential to obtain borough CIL income. Typically, this will involve a process that requires a Council decision, probably at Cabinet level to secure significant CIL income for major projects such as helping fund Five Ways (Croydon) or Wandsworth Gytratory.

## 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). Funds collected through the Crossrail SPG during 2013/14 totalled £13m, bringing the total collected since its inception to £32m. The £13m total for 2013/14 is significantly less than the £23m that formed part of the forecast.
- 7.2 The policy was developed in advance of the MCIL. The CIL did not change the total amount to be collected for commercial uses covered by the SPG, but part of what would have been SPG section 106 is now collected as CIL. So in due course the targets will probably need to be adjusted.
- 7.3 Figure 5 sets out the current forecast. The total for Crossrail SPG may reach about £150m by the end of 2018/19. In addition there will be the receipt from the Wood Wharf development of up to £100m. Both TfL and the GLA objected strongly to Tower Hamlets’ CIL proposals at the recent Examination In Public as they would reduce Wood Wharf receipts and other potential receipts from other commercial developments in the Isle of Dogs. There is also a current planning permission for Wood Wharf in progress.

**Figure 5. Crossrail SPG receipts and Quarter 2 Business Plan projections.**



## **8 Non-Crossrail Transport Mitigation**

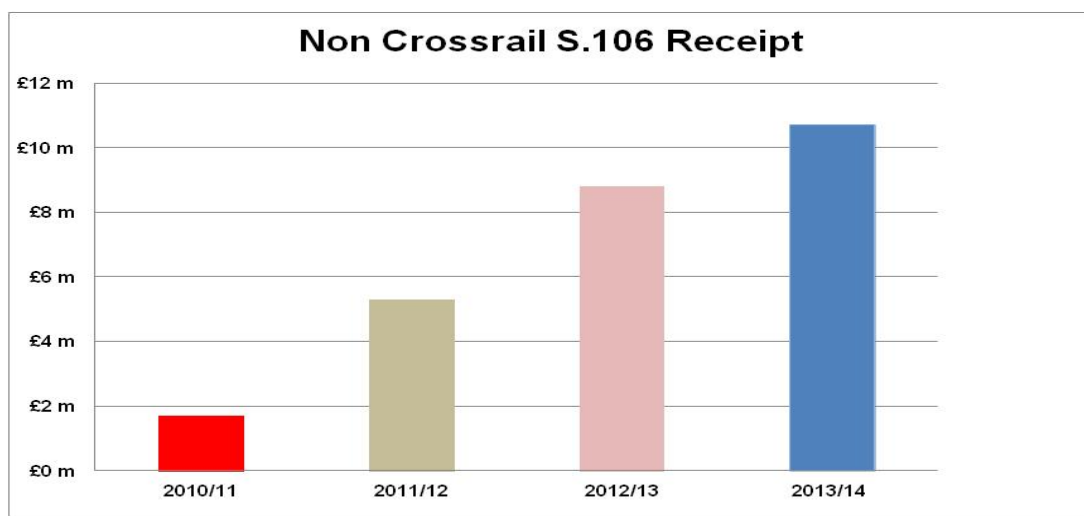
- 8.1 Planning applications that are referred to the Mayor are often approved subject to a package of mitigation measures, some of which may relate to transport in addition to Crossrail funding. The measures that are negotiated by TfL in respect of non-Crossrail transport obligations vary enormously in type and scale. They can include mega-projects such as Brent Cross and Earl's Court through 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 The advent of CIL will have an impact on the scale and number of section 106 agreements that TfL (and boroughs) are likely to be able to agree with developers in future. This is because the rationale for CIL was to provide a tool for local authorities to ensure key infrastructure priorities are delivered to facilitate growth and the economic benefit of the wider area. Once the levy is introduced section 106 requirements should be scaled back to matters directly related to a specific site.
- 8.3 Currently, there are 528 section 106 agreements being actively monitored on a quarterly basis as they potentially may come forward for implementation by TfL. Over the last four years, a planning obligation monitoring system has been developed, working closely across all boroughs, to produce quarterly reports on all relevant agreements and obtain copies of all the legal agreements.
- 8.4 TfL is only a signatory to less than a dozen of these agreements and is rarely involved in the wording or detailed provisions of the section 106 between boroughs and developers. Typically, there will also be a significant time-lag from the consideration of the planning application to the signing of the section 106 and particularly to the trigger for delivery of defined mitigation measures.
- 8.5 At present a fifth of these agreements involve boroughs holding developer funds where a section 106 agreement identifies that TfL is likely to be required to deliver transport infrastructure. During 2014/15, detailed monitoring and reporting on section 106 will continue to meet the new management regime developed as a result of the recent audit process. The focus of further work will be on those planning obligations where boroughs are reported to be in receipt of developer funds. This will involve:
- (a) liaison with borough officers to confirm funding availability;
  - (b) acting as coordinator between the borough and relevant TfL businesses to secure agreement on defining the form of mitigation;
  - (c) working with boroughs to improve the timely and efficient transfer of funds to TfL, against a background of 33 boroughs who operate under varying political and financial approval constraints and systems;
  - (d) working with TfL businesses to seek delivery of section 106 schemes, despite this typically involving unplanned, unprogrammed and low-value works; and

(e) improving the reporting by TfL businesses in respect of scheme delivery.

8.6 The objective of this activity will be to reduce significantly the number of schemes currently identified within the section 106 database where boroughs indicate they are holding developer funding and where TfL expect to be required to deliver transport mitigation.

8.7 Figure 6 illustrates the increasing level of transport contributions secured over recent years 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. There is an expectation that the advent of CIL will constrain the scope of section 106 contributions in future, although site-specific transport mitigation will still be necessary.

**Figure 6. Transport mitigation receipts (non Crossrail) received by TfL**



8.8 The 2013/14 section 106 receipts are formed of a range of payments, with examples across TfL. These include million pound plus contributions towards Tottenham Hale gyratory or towards the Bromley by Bow station works. There were also significant bus service payments related to Westfield Stratford shopping centre and the development of Barking Riverside, and a number minor contributions to infrastructure such as a Cycle Hire Docking Station.

8.9 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 monitoring arrangements to ensure the money is received when we need it to deliver the agreed transport infrastructure in these areas.



**List of Appendices:**

Appendix 1: Economic Data

**List of Background Papers:**

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

Community Infrastructure Levy Regulations 2010, as amended 2011,2012,2013,2014.

Community Infrastructure Levy Guidance (February 2014)

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## Economic Data.

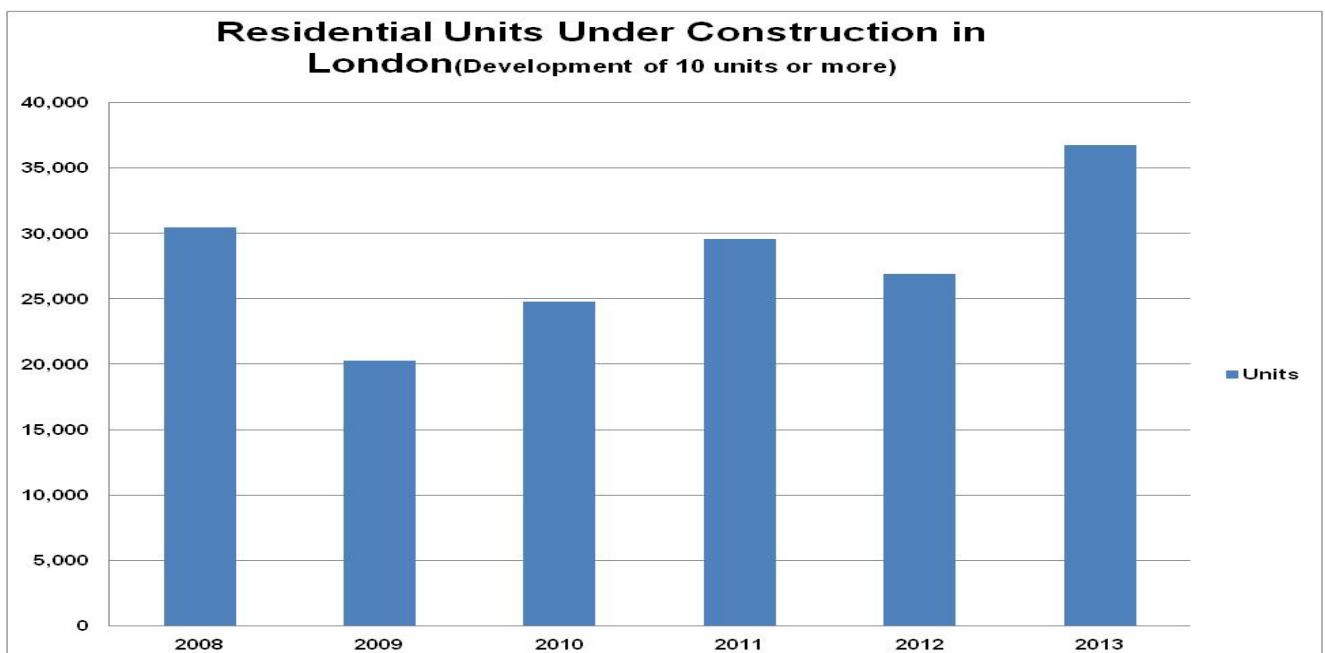
### Office

According to Deloitte<sup>1</sup> the volume of office floorspace under construction in London has been fairly steady at around 9m sq ft for the last two and a half years. This is significantly higher than the volumes of 2010, but below the peaks reached during 2002/03 and 2007/08. With office new starts at their lowest level since 2010 (1.3m sq ft), the expectation is for a spike in new space being delivered during 2014, followed by a significant fall in construction completions in the following couple of years.

### Residential

In terms of the residential market, Estates Gazette data<sup>2</sup> indicates a boom in house building in London. The number of residential starts at the end of 2013 was the highest it has ever been in all of the 18 years that London Residential Research has been monitoring the market. The following graph (Figure 1) shows the recent variation in residential construction activity with 2013 data swollen by this increase in starts. Whether the upturn in construction activity continues to grow will be subject to a range of economic influences.

**Figure 1. Residential Construction in London.**



<sup>1</sup> London Office Crane Survey – Summer 2014.

<sup>2</sup> Estates Gazette LOREMA 2014 (16 May 2014)