

Hackney Community Infrastructure Levy and Section 106 Update for Skills, Economy and Growth Scrutiny Commission Meeting 6th December 2019

December 2019

Background

1. The Community Infrastructure Levy (CIL) is a charge applied to development to help pay for strategic infrastructure to address the cumulative impacts of development. The Hackney CIL charging schedule was adopted at the Full Council meeting 25 February 2015 and came into effect on 1 April 2015 and is now charged alongside the Mayor of London CIL which is transferred to TfL to pay for strategic transport and currently applied to the Queen Elizabeth Line (Crossrail 1).
2. CIL charges generally apply to all development comprising one or more net residential units or more than 100 square metres of net floor space as prescribed in legislation. Hackney's CIL charge rates are set out in the table below. The charge applies to developments that have been granted planning permission since April 2015, and is only payable once those developments start construction. Affordable housing is exempt from CIL (as are other developments¹).

Type of Development and Zone	Hackney CIL (£ per sqm)
Residential – Zone A	£190
Residential – Zone B	£25
Residential – Zone C	£55
Residential – Zone D	£0
Offices – City Fringe	£50
Offices – Rest of Borough	£0
Large Format Retail ¹ – whole Borough	£150
Other Retail – City Fringe	£65
Other Retail – Rest of Borough	£0
Hotel – City Fringe	£80
Hotel – Rest of Borough	£55
Student Housing – whole Borough	£373
All Other Uses, including development of operational buildings by the emergency services	£0

3. The way CIL receipts can be spent is also prescribed legislation. Hackney CIL receipts can be spent in two key ways to support development across Hackney. The majority of receipts (80%) are spent on borough-wide infrastructure provision to mitigate the impacts of cumulative development in the borough. Expenditure of this portion of CIL is linked to the Council's capital programme and is limited to use on infrastructure to support

¹ <https://hackney.gov.uk/hcil#what>

cumulative development. It can be applied to the provision, maintenance or operation of physical infrastructure.

4. A smaller proportion of CIL - 15% (capped at £100 per dwelling plus indexation) - is known as 'Neighbourhood CIL', NCiL. This portion is required to be spent in consultation with communities or neighbourhoods and can be used more widely on any projects that support the development of the area and is not limited to infrastructure. In areas where there is a neighbourhood plan this increases to 25%. A 5% charge of CiL due is collected for setting, collecting and monitoring CIL.
5. Other development mitigations for new development that fall outside the definition of infrastructure for CIL purposes are secured through Section 106; this includes most employment and training measures along with other site specific requirements such as securing affordable housing. Certain highways works on or adjacent to the site are also still secured through Section 106.

Update on CIL expenditure

6. Hackney has collected £24m in CIL since April 2015. This includes £7.4m collected in 2018/19 when a number of larger permissions began construction. As reported to the Council's Cabinet in September 2019, the Council has already applied £17.1 million of borough-wide CIL funding to projects in 2017/18 and 2018/19 through the delivery of its capital programme. This includes contributions towards new and improved infrastructure across the borough such as new facilities at Hackney Marshes, improvements to the Narrow Way in Hackney Central and a new adult day centre, development of the Britannia mixed-use development (school and leisure centre), libraries and parks infrastructure (a list of these projects is also included as Appendix 1 for ease of reference). Although not capable of paying for large infrastructure projects by itself, CIL is a crucial element of the overall funding package to enable delivery of key infrastructure as demonstrated by these projects.
7. The Council has accumulated just over £3.5 million of NCIL in the same time period. To date, it has not been allocated or spent as it has taken some time to build up funds following the construction of 'CIL liable' planning permissions.
8. Prior to CIL adoption, it was initially proposed that this NCIL would be split between 5 neighbourhood CIL areas. However, this would skew investment towards areas in the south of the borough with the highest CIL rates and receipts and away from areas such as Woodberry Down which has a zero CIL rate. As agreed by Cabinet in September 2019, a borough-wide aggregated NCIL Fund will be created with two elements:
 - a) a borough-wide element which focuses on the delivery of arts and cultural events that bring communities together including the Hackney Carnival and Discover Young Hackney.
 - b) a neighbourhood allocation for ward-level (or cross-ward) project proposals where bids for NCIL funds would be invited (including from service areas across the Council, and from voluntary, community and not for profit sectors) on a bi-annual basis for assessment and evaluation by an officer-led Area Regeneration Steering Group.
9. The approval process of CIL (including NCIL) and s106 contributions was reviewed in April 2019 and agreed by the CIL and s106 Corporate Board and involves recommended allocations for the use of CIL and NCIL being put forward for agreement by the Board and

Lead Members to ensure they comply with legislative restrictions on the use of CIL/NCIL before consideration for approval by Cabinet. NCIL will be facilitated by the Planning Service (with significant input and partnership working with Finance, Area Regeneration, Communications, and relevant Service Areas) using the Exacom ICT system to ensure legal compliance with the associated Planning legislation. The decision on the allocation of NCIL funds would be based on whether the proposal meets the terms of the CIL Regulations 2010 (as amended) and,

- reflects the priorities of the Council including the Manifesto, Community Strategy, Corporate Plan, Local Plan, Cultural Strategy and Inclusive Economy Strategy and any area specific regeneration proposals/plans.
- supports and where possible mitigates the impacts of development, with a focus on people and an inclusive economy.
- is in accordance with the local communities' priorities.
- identifies and agrees any longer-term revenue implications have been identified where appropriate
- has a focus on social value, as well as offering value for money.
- includes alternative funding sources to NCIL have been sought and match funding can be secured (which can be in-kind volunteering not just monetary contribution).
- identifies delivery partners suitable to the scale and cost of the project.
- can be delivered within a set period of time and appropriate risk assessments have been undertaken.
- benefits the wider community having regard to the equalities duties under the 2010 Equalities Act.

10. The detailed process for bidding for NCIL and the associated timetable for allocations is being developed by officers. It is anticipated that the first round of NCIL allocations will be made in 2020.
11. The Council's approach to the future spend of CIL (including NCIL) and s106 will be set out in an Annual Infrastructure Funding Statement (AIFS) which is a new legislative requirement under the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 that came into force on 1st September 2019. The AIFS will replace the Regulation 123 list and will set out the infrastructure projects or types of infrastructure that will be wholly or partly funded by CIL alongside details of CIL and S106 receipts and spend. The first AIFS must be published by December 2020 to report on the financial year 19/20.

Current Approach Securing Employment and Training Measures

12. As highlighted in paragraph 5 above, s106 remains the main mechanism for securing contributions related to employment and training. This type of contribution falls outside of the definition of infrastructure that CIL can be applied to. All s106 requirements must meet governments tests for their use as set out in the CIL Regulations 2010 (as amended) namely that they must be:
 - (a) Necessary to make the development acceptable in planning terms;
 - (b) Directly related to the development; and
 - (c) Fairly and reasonably related in scale and kind to the development.
13. The Council's current requirements are set out in the Planning Obligations Supplementary Planning Document (2015) and updated draft 2020 and include a range of measures related to employment and training which are monitored and supported by the Council's

Employment and Skills Service. These s106 requirements that are sought in connection with major developments include the following measures:

- **The submission Employment and Training Skills Plan** to ensure that the opportunities are available to Hackney’s residents including specific actions such as working with local schools, participation in job fairs and recruitment events; and promotion of careers in construction and in the operational use phase of the development.
 - A minimum target of **30% of the workforce as Local Labour** during the construction and demolition phase and during the first 5 years of operation from the first occupation of the development.
 - Agreement to engage with local suppliers directly and to supply the Council’s Economic Development team with a full **Procurement Plan** identifying the services and materials that will be sourced for the lifetime of the project and the location of the suppliers they have been sourced from.
14. The Council also secures financial contributions to support training, employment and local procurement during construction phase and occupation which is applied to projects delivered by the Council’s Employment and Skills Service. This sum is calculated in line with the supplementary planning guidance linked to the scale of development and the likely number of employees. Since April 2015 the Council has **received £5,515,000** in funding:

Financial Year	Employment and Training Funding Received
2015/16	63,650
2016/17	1,200,000
2017/18	2,489,000
2018/19	1,762,270

Note: Some of this funding, in particular receipts 2015/16 will relate to permissions granted prior to 2015

15. In addition, for very large development with construction contracts of £2m of more, there is also a requirement for the employment of least one full framework apprentice for every £2m of contract value. The apprenticeship(s) are aimed at residents in Hackney in the various building trades (such as brick laying, carpentry, electrical, plumbing and plastering and new method of construction). If site/ development limitations mean this cannot be achieved a payment in lieu of this provision of £7,000 per apprentice is negotiated.
16. Linked to this agenda and to address the increasing level of unaffordable workspace for businesses in the borough, the Council also introduced an Affordable Workspace policy in the Council’s Development Management Local Plan. Since 2013, the planning service has secured 8,603.5 sqm of affordable workspace through S106 agreements to 2017/18.

Future Approaches Securing Employment and Training Measures

17. The Council is soon to adopt its new borough-wide local plan 2033, known as LP33, which will be the key strategic planning document used to direct and guide development in the borough up to 2033. Linked to this, officers are will be updating the Council’s existing Planning Obligations Supplementary Planning Document (2015) to align it with the new

policies. It is anticipated that this will be consulted on early in 2020 in order to be adopted alongside the new local plan.

18. Section 106 will continue to be the main mechanism for securing employment and training measures related to development. It is intended that approaches summarised above and currently included the 2015 guidance are rolled forward in any replacement guidance. The policy requirements related to providing affordable workspace established in the Council's Development Management Local Plan 2013 are retained and extended in the new Local Plan LP33.

Appendix 1: Hackney CIL Expenditure

Ref	Name/Description	Status	Project Type	Service	Finance Year	Ward	CIL Spend Total
513	Hackney CIL - Oswald Street Day Centre	Completed	HCIL12 3 H and S Care	Health and Community Services	2017	Kings Park (M)	195,000.00
518	Hackney CIL - Primary School Programme - Woodberry Down	Completed	HCIL12 3 Education	The Learning Trust	2017	Woodber ry Down Ward	307,293.00
519	Hackney CIL - Narrow Way Improvements	Completed	HCIL12 3 Strat Transport	Streetsce ne	2017	Hackney Central Ward	1,045,296. 00
520	Hackney CIL - Highways Planned Maintenance	Completed	HCIL12 3 Strat Transport	Streetsce ne	2017		3,745,701. 09
521	Hackney CIL - Hackney Marshes Improvements	Completed	HCIL12 3 Open Space	Parks Team	2017	Hackney Wick Ward	3,237,805. 20
522	Hackney CIL - Hackney Wick Station	Completed	HCIL12 3 Strat Transport	TfL	2017	Hackney Wick Ward	508,006.71

CIL Drawdown 17/18	
Project	£
Woodberry Down Primary School	307,293
Oswald Street Day Centre	195,000
Hackney Marshes	3,237,805
Highways Planned Maintenance	3,745,701
Hackney Central Council funded	1,045,296
Hackney Wick Regeneration	508,007
	9,039,102

CIL Drawdown 18/19	
Project	£
Haggerston Science Lab	370,197
Britannia Site	6,100,000
Library Management System	66,604
Library Capital Works	125,111
Library Self-Issue Machines	20,854
Mabley Green All Weather Pitch	124,484
Abney Park	240,193
Parks Strategy - Infrastruct	832,410
Park Trees H&S Works	176,412
Hoxton Market	12,191
Hackney Street Markets Strat	31,544
	8,100,000

Ends.