

Internal Audit Report

Community Infrastructure Levy (CIL) and Section 106 (S106) – Phase II, Expenditure, January 2018

To: Deputy Chief Executive, LBB
Strategic Director - Environment, LBB
Director of Growth and Development, LBB
Director of Finance, LBB
Commissioning Lead - Planning, LBB
Strategic Lead - Commercial, LBB
Commercial Advisor, LBB
Head of Finance, LBB
Finance Manager, LBB
Operations Director, Re
Associate Director, Planning, Re
Head of Performance and Risk, Re
Programme Support and Controls Manager, Re
Head of Strategic Planning, Re
Infrastructure Planning Team Manager, Re
Service Director - Highways, Re
Head of Business, Enterprise and Skills, Re
Operations Director, CSG
Head of Finance – Closing and Monitoring, CSG
Head of Finance, CSG

From: Internal Audit Executive, LBB

We would like to thank management and staff of Re, CSG and LBB for their time and co-operation during the course of the audit.

Executive Summary

Assurance level	Number of recommendations by risk category				
Limited Assurance	Critical	High	Medium	Low	Advisory
	-	3	1	2	1
Scope					
<p>The purpose of this two phase review was to review the design and operating effectiveness of key controls associated with the administration of the Council's CIL scheme and S106 agreements. Phase I, completed in May 2017, focussed on income. This phase (Phase II) focussed on expenditure, benefits monitoring and governance.</p>					
Summary of findings					
<p>We found that RE and Council management are proactively addressing some known issues with the controls and processes around CILs and S106. This includes:</p> <ul style="list-style-type: none"> - Recruitment in 2016/17 of experienced key staff into the RE Planning Obligations team. - Improvement of oversight and governance of CIL infrastructure spending through a CIL and S106 Officers Group (CSOG). This is chaired by the Director for Development and Regeneration, was established in April 2017 and has met monthly since that time (excluding August). To secure CIL and S106 funding, officers write and present proposals to the Group which considers the requests and then makes a recommendation to approve or reject the proposal when it reaches the Assets and Capital Board. The Group are also responsible for reviewing the progress of S106 projects and expenditure and to review the progress of allocation and expenditure of neighbourhood CIL. Due to the recent formation of the Group we were unable to comment on the operating effectiveness of this control at the time of the audit, although we did find evidence to confirm that bids were being proposed and approved in line with our expectations. - Management confirmed that they were undertaking a reconciliation of all CIL and S106 schemes to ascertain allocation and expenditure agreed to date. - The CIL and S106 schedules were maintained within Excel spreadsheets to assist in the management of charges and agreements. At our Phase I audit we commented that the manual nature of the process heightens the risk of data accuracy issues arising due to fraud or error. Management confirmed that the Exacom database system has been procured and is currently being implemented with CIL notices now being issued through Exacom. The Strategic Planning Infrastructure Team are currently migrating information from the manual spreadsheets into Exacom with approximately 90% and 10% of, respectively, the historic CIL and S106 data now being held within Exacom (November 2017). The implementation of the Exacom system will reduce reliance on the manual monitoring spreadsheet and will facilitate more effective monitoring and oversight through improved reporting. <p>We found that improvements needed to be made with regard to the monitoring of CIL and S106 expenditure and identified a number of control</p>					

weaknesses. These should be addressed as part of the work being undertaken by management to improve this area.

This audit has identified 3 high, 1 medium and 2 low risk findings. We have also raised one advisory recommendation.

We identified the following issues as part of the audit:

Roles, Responsibilities and Decision Making (finding 1, high rated)

- There are a number of different teams involved in the administration of Community Infrastructure Levy (CIL) and S106 expenditure. Processes involve several departments within the Council, Re, CSG Finance and HB Public Law. Due to the number of teams involved in the process and the number of individuals within some of those teams, there are a number of dependencies and we found a lack of clarity and awareness around respective responsibilities in the administration, allocation and draw down of CIL and S106 expenditure.
- Problems were exacerbated by key posts within the Planning Obligations team being vacant during part of 2015/16 and 2016/17, and turnover of staff in other areas.
- We also found a lack of clarity over the authorisation required for CIL/S106 funding drawdowns.

CIL and S106 Expenditure and Monitoring (finding 2, high rated)

We inspected the S106 Schedule and found a lack of clarity around expenditure information in the S106 monitoring schedule. A full reconciliation of the data is underway to confirm whether up to £1,459,350.44 has been spent within required time periods. The move to the EXACOM system is facilitating reconciliation, but this key task is incomplete and is necessary to ensure issues are remedied. Without resolution of this matter the funds could potentially be reclaimed. A clear position on the matter and resolution of issues is required rapidly.

Specific development non-financial obligation tracking and verification (finding 3, high rated)

We selected a sample of 12 specific S106 schemes and for the 6 where there were non-financial development obligations we traced to ensure the delivery of these had been appropriately verified. We found exceptions with 2/6 schemes (33%). The exceptions related to Affordable Housing, Travel Plans and Apprenticeship schemes. The governance arrangements were not clear in this area in that agreements had been made with developers but these were not clearly documented and had not been reported to Committee.

Administrative CIL (finding 4, medium rated)

We found a number of issues relating to the treatment of CIL to be spent on administrative expenses:

- At the time of the audit, for administrative expenses relating to Barnet CIL there was a lack of evidence and no clear audit trail to confirm the administrative CIL expenditure made to date and to ensure it had been in line with the legislation.

- For administration expenses relating to Mayoral CIL we found that £127,560.54 related to a narrative of 'Designated and Regulatory Services Management'. We were not provided with a detailed breakdown of this cost and therefore cannot provide assurance that this expenditure specifically related to CIL administration.
- We found that funding relating to CIL administration expenditure had been carried forward from 2016/17 but this was not in-line with the legislature.

Identification and management of infrastructure investment needs and priorities (finding 5, low rated)

Regulation 123 of the Community Infrastructure Levy Regulations requires charging authorities to set out a list of those projects or types of infrastructure that it intends to fund, or may fund, through CIL. We found that it is not clear how the Council's Regulation 123 list has been formulated and whether it has been informed by an up to date and detailed infrastructure needs assessment for the Borough.

Publication of the Regulation 62 report (finding 6, low rated)

We found that the 2015/16 Regulation 62 report had not been published until the summer of 2017 despite a statutory deadline of publication by 31st December 2016.

2. Findings, Recommendations and Action Plan

Ref	Finding	Risks	Risk category	Agreed actions
1.	<p>Roles, Responsibilities and Decision Making</p> <p><i>General roles and responsibilities – We found:</i></p> <ul style="list-style-type: none"> - There are a number of different teams involved in the administration of Community Infrastructure Levy (CIL) and S106 expenditure. Processes involve several departments within the Council, Re, CSG Finance and HB Public Law as well as several boards and officer groups; and - Due to the number of teams involved in the process there are a number of dependencies and a lack of clarity and awareness around respective responsibilities in the administration of CIL and S106 expenditure. <p><i>Authorisation of CIL/S106 funding drawdown</i></p> <p>At the time of the audit, Assets and Capital Board (ACB) reviewed schemes/projects for inclusion on the capital programme. The capital budget/programme is approved at Policy & Resources Committee. This governance and decision making process authorises the commencement of the capital project, it does not authorise the funding source.</p> <p>Whilst the CIL/S106 officer group (CSOG) reviews the proposed drawdown of CIL/S106 funds to support infrastructure investment we found ambiguity around where these drawdowns are authorised and who has the requisite decision making powers for drawdowns. For example there was ambiguity around whether a delegated powers report was necessary to support drawdowns being</p>	<p>If key stakeholders are not identified and engaged in decision making and oversight of the CIL fund then amounts may not be used in line with local infrastructure needs resulting in resident dissatisfaction.</p>	<p>High</p>	<p>a) The Council, RE and CSG Finance will agree a protocol all areas relating to the expenditure of CIL and S106 monies to ensure everyone is aware of their roles and responsibilities and accountabilities and ensure there is effective oversight between the three parties. This will be prepared by Re in its role “providing support for the end-to-end [Planning Obligation] process with support from CSG and LBB”.</p> <p>The Deputy Chief Executive will formally approve and issue the protocol document.</p> <p>One agreed and finalised HBPL will be provided with a copy so they are aware of the agreed processes that will be followed by Re, CSG and LBB relating to the agreed expenditure of CIL and S106 monies.</p> <p>Responsible officers:</p> <p>Deputy Chief Executive, LBB Commissioning Lead - Planning, LBB Head of Strategic Planning, RE Head of Finance, CSG</p>

Ref	Finding	Risks	Risk category	Agreed actions
	<p>made.</p> <p>We selected four capital schemes, two which were to be paid for wholly or in part by S106 and two by CIL. In the Capital Plan reported to the Policy & Resources (P&R) Committee neither of the two schemes to be funded by CIL was reported as such; they were noted as being funded from 'Capital Receipts'. This was an error in the drafting and approval of the P&R papers as this should have read 'Capital Reserve' or 'Infrastructure Reserve' (i.e. CIL or New Homes Bonus). We consider there is an opportunity to increase oversight of CIL spending by more clearly documenting schemes within P&R Committee papers which are to be funded by CIL.</p>			<p>Target date: 30 April 2018.</p> <p>b) The Schemes of Delegation for the Deputy Chief Executive, the Commissioning Director for Environment and the Director of Resources will be reviewed by LBB Commissioning to ensure clarity around who has the delegated authority to draw down CIL and S106 capital and revenue funding.</p> <p>Responsible officers: Deputy Chief Executive, LBB Commissioning Lead - Planning, LBB</p> <p>Target date: 30 April 2018.</p> <p>c) The Schemes of Delegation will then be followed when CIL and S106 funding is drawn down i.e. depending on value this will be decided by the appropriate Area Committee / Chief Officer / Summary DPR to enable funds to be spent effectively and efficiently.</p> <p>Responsible officer: Assistant Director of Finance, CSG</p> <p>Target date: 30 April 2018</p>

Ref	Finding	Risks	Risk category	Agreed actions
				<p>d) When providing finance clearance, CSG Finance and LBB's Head of Finance will ensure Policy & Resources Committee papers clearly indicate schemes to be funded by CIL. Any substitutions will be clearly reported through the budget update reports and Re will be informed. The process to be followed will be agreed in the protocol document (see recommendation 1(a)).</p> <p>Responsible officers: Head of Finance, LBB Assistant Director of Finance, CSG Head of Finance, CSG</p> <p>Target date: 30 April 2018</p>
2.	<p><u>S106 and CIL expenditure and monitoring</u></p> <p><u>S106</u> – S106 income is held (on trust) by the Council on behalf of developers. It is managed on the Council's behalf by CSG and RE. A monitoring spreadsheet is maintained by the RE Planning Obligations team that captures all S106 schemes in place. The schedule captures key information regarding schemes in place including key conditions such as expiry dates. Upon reviewing a sample of 12 specific S106 schemes to confirm that the details recorded in the tracker were accurate as well as reviewing the tracker and considering how the schedule supports the management of S106 schemes we found:</p>	<p>If S106 amounts are not used in line with the terms of agreements and relevant legislation then the Council may have to repay funds to developers.</p> <p>If the Council does not make use of available funds then the planned benefits of the CILs and S106 agreements may not be realised.</p>	High	<p>a) RE Management and CSG Finance will ensure the reconciliation of RE monitoring data with CSG Integra data is completed. This will include cross-referring to the Uniform system.</p> <p>Responsible officers: Head of Strategic Planning, RE Head of Finance, CSG</p> <p>Target date: 28 February 2018</p>

Ref	Finding	Risks	Risk category	Agreed actions
	<ul style="list-style-type: none"> - There is no proactive, systematic review of the schedule to identify and manage schemes that are approaching their expiry date. - Some schemes had officially 'expired' before balances have been spent; therefore there is a risk that developers could ask for the S106 funding to be returned. Management have stated that in practice this rarely happens; - Upon reviewing the schedule 69 S106 schemes were listed as having an unspent/unallocated balance which in aggregate totals £1,459,350.44; - Management highlighted there are discrepancies between the records held between Re and CSG relating to income, allocations and expenditure against S106 agreements. There is an ongoing programme to reconcile all income received against individual S106 agreements and associated expenditure to verify the actual position to inform future allocations and drawdowns; - For one S106 scheme the expiry date field had been completed with a '?' meaning it was not possible to determine the expiry date from the schedule and therefore does not facilitate effective oversight and monitoring; - For 1/12 (8%) a copy of the original S106 agreement to confirm that details held within the schedule were complete and accurate; and - For 1/12 (8%) the details of the expiry date within the tracker did not match that within the agreement. <p>Once a S106 is sealed by HB Public Law a copy is sent to</p>			<p>b) The Chair of the CSOG will ensure that CSOG meetings include discussion of funds coming to the end of their expiry date.</p> <p>Responsible officer: The Chair of the CSOG</p> <p>Target date: 28 February 2018.</p> <p>c) A protocol will be agreed which details the proactive engagement which will be undertaken with services across the Council to ensure effective awareness of available funds and that suitable projects are identified and progressed in a timely manner (see recommendation 1a). This will ensure that there is effective oversight of said funds and they can be effectively monitored to reduce the likelihood of reaching expiry date.</p> <p>Responsible officers: Deputy Chief Executive, LBB Commissioning Lead - Planning, LBB Head of Strategic Planning, Re Head of Finance, CSG</p> <p>Target date: 30 April 2018.</p>

Ref	Finding	Risks	Risk category	Agreed actions
	<p>the Planning Obligations email box. This is picked up by Planning Obligations team who incorporate the agreement into the schedule. As part of our testing, to give assurance over the completeness of the S106 schedule maintained by the Planning Obligations team, we asked HB Public Law (HBPL) for a list of the S106 cases they have worked on. We would then have reconciled this with the S106 Schedule used by Planning Obligations. However, at the time of drafting this report HBPL were yet to provide this list.</p> <p>It should be noted the Council has agreed to fund (from CIL administration contributions) and Re is now implementing the Exacom system to support stronger CIL and S106 administration. This has the possibility to alleviate some of the weaknesses identified above through reducing reliance on an unsecured shared monitoring spreadsheet as well as facilitating the potential for more effective monitoring and oversight through improved reporting. Management assert that the system will be up and running by Q4 2017/18.</p> <p><u>CIL</u> - CIL income is held (owned) by the Council and managed on the Council's behalf by CSG and RE. Since the inception of the CIL scheme in 2013 the Council has collected approximately £33m to be invested in local infrastructure. At the time of audit testing approximately £11m has been spent to date and £22m remains to be spent and has been allocated within the Capital Programme.</p> <p>The Capital Programme across the Council has suffered slippage in the past few years which has resulted in CIL allocations not delivering within the financial years to which they are programmed. It is not clear whether the Council is proactively considering the phasing of CIL expenditure</p>			<p>d) RE management will ensure all priority S106 agreements are transferred from the excel spreadsheet to EXACOM. On the transfer of data from RE management will ensure that:</p> <ul style="list-style-type: none"> - all relevant S106 agreements are held on file; - all relevant fields within EXACOM are correct and match S106 agreements; and - all relevant fields with EXACOM accurately provide details of how funds have been applied. <p>Priority schemes will be those which:</p> <ul style="list-style-type: none"> - have not yet commenced; - were signed on or after 1 Jan 2015; - finance records following the reconciliation indicate there is a balance; and - EXACOM indicates the scheme has commenced but there are empty fields within the database. <p>Responsible officer: Head of Strategic Planning, RE</p> <p>Target date: 30 April 2018.</p> <p>e) RE and LBB management will</p>

Ref	Finding	Risks	Risk category	Agreed actions
	<p>and whether there are infrastructure investment opportunities that can be prioritised and progressed to utilise available funds. See finding 5, Identification and management of infrastructure investment needs and priorities.</p>			<p>agree a strategy for transferring non-priority S106 agreements from excel into EXACOM. On the transfer of data from RE management will ensure that:</p> <ul style="list-style-type: none"> • all relevant S106 agreements are held on file; • all relevant fields within EXACOM are correct and match S106 agreements; and • all relevant fields with EXACOM accurately provide details of how funds have been applied. <p>Responsible officers: Commissioning Lead – Planning, LBB Head of Strategic Planning, RE</p> <p>Target Date: 30 April 2018</p> <p>f) In line with the protocol (see action 1a), when making approved changes to use of S106 or CIL funds within revenue budgets or Capital Programme, including substitutions, CSG Finance will continue to ensure they liaise fully with RE management to ensure full compliance with S106 and CIL legal controls (as this data is not held in finance systems). RE Management will then use this</p>

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				<p>occasion to retain full and accurate records of how funds are being applied.</p> <p>Responsible officer: Head of Strategic Planning, RE Head of Finance, CSG</p> <p>Target date: 30 April 2018</p>
3.	<p><u>Specific development non-financial obligation tracking and verification</u></p> <p>Specific non-financial development obligations are set out as part of planning permissions granted as well as S106 agreements as required. Upon confirmation of these agreements HB Public Law (HBPL) send an email to the responsible team and the obligations are incorporated into the relevant team's tracker/pipeline and the delivery of these obligations is monitored at a devolved service level.</p> <p>We selected a sample of 12 specific S106 schemes (see Finding 3 above) and for the 6 where there were non-financial development obligations we traced to ensure the delivery of these had been appropriately verified. We found exceptions with 2/6 schemes (33%):</p> <ul style="list-style-type: none"> - For 1/6 (16%) we noted that there was an obligation for the developer to create apprenticeships as part of the construction process. At the time of our fieldwork evidence could not be provided to demonstrate the service had verified that the developer has provided apprentices in line with the agreement. Management confirmed that they are currently undergoing a historic reconciliation of non-financial obligations and ensuring that developers have 	<p>If non-financial development obligations are not monitored and validated then benefits may not be delivered as part of developments in line with requirements and the opportunity to agree a suitable remedy may be missed.</p>	<p>High</p>	<p>a) RE Management will complete their historic reconciliation of non-financial obligations and start to take any action necessary as a result of this reconciliation.</p> <p>Responsible officers: Head of Strategic Planning, RE Infrastructure Planning Manager, RE Service Director - Highways, RE Head of Business, Enterprise and Skills, RE</p> <p>Target date: 30 April 2018</p> <p>b) A protocol will be developed (see action 1a) to clearly document the roles and responsibilities of parties in the monitoring and delivery of obligations, including where delivery is not in-line with the S106 agreement. Records of delivery will be maintained on file.</p>

Ref	Finding	Risks	Risk category	Agreed actions
	<p>delivered S106 obligations in full. They are also devising a process to ensure that there is a robust monitoring process in place going forward;</p> <ul style="list-style-type: none"> - For 1/6 (16%) there was a requirement for the developer to submit travel plans. We inspected the tracker used by the Travel Team which stated that the Travel Plans have not yet been signed off. This has yet to be completed and the site has been occupied since December 2016 and therefore the creation of a retrospective travel plan may be of less value than one completed and agreed on time; and - For 1/6 (16%) the affordable housing requirement within the Affordable Housing Officers pipeline did not match that within the S106 agreement. The site had not been 'triggered' yet and work had not been commenced onsite. Management confirmed that this was a documentation error within the pipeline tracker document only and that the S106 agreement is always revisited when sites move towards completion. <p>Planning obligations are legal deeds which need to be formally altered. If planning obligations are not met, a proportionate remedy should be agreed with the developer.</p>			<p>Responsible officers: Head of Strategic Planning, RE Infrastructure Planning Manager, RE Service Director - Highways, RE Head of Business, Enterprise and Skills, RE</p> <p>Target date: 30 April 2018</p> <p>c) As part of their meetings the CSOG will challenge of delivery of non-financial obligations within S106 agreements.</p> <p>Responsible officer: The Chair of the CSOG</p> <p>Target date: 28 February 2018.</p> <p>d) Where planning obligations are found not to have been met without prior agreement, RE management will pursue an appropriate remedy with the developer.</p> <p>Responsible officers: Head of Strategic Planning, RE Infrastructure Planning Manager, RE Service Director - Highways, RE Head of Business, Enterprise and</p>

Ref	Finding	Risks	Risk category	Agreed actions
				<p>Skills, RE</p> <p>Target date: 31 March 2018</p> <p>e) For transparency, a summary of non-financial obligations delivered through S106 schemes will be incorporated into the Annual Regeneration and Growth Programme Report which is due to be presented to the Assets, Regeneration and Growth Committee in March 2018.</p> <p>Responsible officer: Programme Support and Controls Manager, RE</p> <p>Target date: 12 March 2018</p>
4.	<p><u>Administrative CIL</u></p> <p>Re administer CIL on behalf of the Council and process CIL for Barnet and on behalf of the Mayor or London / Transport for London. Once a site becomes 'triggered' (i.e. work starts on-site) Re issue a charge notice to the developer who pays the CIL directly to the Council. Mayoral CIL is then reimbursed to TfL quarterly.</p> <p>Regulation 61 of the CIL Regulations allows:</p> <ul style="list-style-type: none"> - A charging authority to apply a maximum of 5% of CIL to administrative expenses incurred by it in connection with CIL; and - A collecting authority which collects CIL on behalf of a charging authority may apply that CIL to administrative expenses incurred by it in connection with that 	<p>If the Council does not make use of available funds then the community will be missing out on important new infrastructure improvements.</p> <p>If Administrative CIL is not clearly recorded and monitored then use of CIL monies could be not in line with legislative restrictions, either through fraud or error.</p>	Medium	<p>a) LBB Commissioning and CSG Finance, together with RE Planning Obligations staff, will complete their reconciliation of admin expenses received and spent to date to ensure historic expenditure has been spent in full accordance with Regulation 61 of the CIL legislature. This will allow for clarity between spends on Neighbourhood and Administrative CIL.</p> <p>Responsible Officers: Commissioning Lead – Planning, LBB;</p>

Ref	Finding	Risks	Risk category	Agreed actions
	<p>collection. In Barnet Re administer the CIL and 4% of all Mayor CIL collected is retained to cover administrative costs.</p> <p>a) <u>Barnet CIL</u></p> <p>Management informed us that £197,920.29 of Barnet Administration CIL was applied in 2016/17. We asked for a breakdown of this expenditure and were supplied with a list of spend relating to Neighbourhood CIL (the 15% of the CIL 'pot' assigned for use by Local Area Committees), not Administration CIL.</p> <p>Provision 61 of the CIL regulations requires the Council to produce a report which documents the amount of CIL applied to administrative expenses and that amount expressed as a percentage of CIL collected in the year. We noted that this report is due for publication by 31st December 2017 and that LBB Management had confirmed that this statistic was 'to be confirmed following historic reconciliation'.</p> <p>b) <u>Mayoral CIL</u></p> <p>Management informed us that £213,638.56 of Mayor Administration CIL was spent in 2016/17. We asked for a list of expenditure made against this figure and were informed that:</p> <ul style="list-style-type: none"> - £127,560.54 related to a narrative of 'Designated and Regulatory Services Management'. We were not provided with a detailed breakdown of this cost and therefore cannot provide assurance that this expenditure specifically related to CIL administration; and 			<p>Finance Manager, LBB; Infrastructure Planning Manager, RE Head of Finance, CSG</p> <p>Target date: 23 December 2017</p> <p>b) CSG Finance will ensure any errors from 2016-17 regarding use of CIL administration funds are taken into consideration within the 2017-18 calculations prior to publication by RE of the Regulation 62 notice.</p> <p>Responsible officer Head of Finance, CSG</p> <p>Target date: 23 December 2017</p> <p>c) CSG Finance will ensure that going forwards all carried over funds are appropriately processed in line with the legislature.</p> <p>Responsible officer: Head of Finance, CSG</p> <p>Target date: 23 December 2017</p> <p>d) LBB Finance will ensure there is agreement between Re, CSG and the Council about historic and future allocations of administrative expenditure relating to CIL in line</p>

Ref	Finding	Risks	Risk category	Agreed actions
	<p>- £86,078.06 related to the salaries and on-costs of Commissioners at LBB. The funding for these posts should have been allocated from Barnet CIL not Mayoral CIL.</p> <p>We found authorisation from the CSG Finance Manager but considered monies relating to the administration portion of CIL should be assigned by someone with the appropriate authority under the relevant scheme of delegation.</p> <p><i>c) Rolling forward of funds between years</i></p> <p>The CIL legislation states that between years one to three of the scheme authorities can only spend an aggregate maximum of 5% and 4% of, respectively, Barnet and Mayoral administrative CIL collected over years 1-3. For year four and subsequent years expenditure cannot exceed that collected within the year (i.e. administrative CIL cannot be carried forward at all after year three)</p> <p>We noted that the CIL scheme in Barnet commenced in May 2013 and as such:</p> <ul style="list-style-type: none"> - Year 1 is all CIL collected up to the end of 2014/15 - Year 2 is all CIL collected in 2015/16 - Year 3 is all CIL collected in 2016/17 - Year 4 is all CIL collected in 2017/18, at which point expenditure cannot exceed that collected within the year. <p>We inspected the spreadsheet which detailed the high level movements within CIL accounts and for 2016/17 we found that:</p> <ul style="list-style-type: none"> - For Barnet CIL £599k was carried over at the end of 			<p>with the appropriate scheme of delegation.</p> <p>Responsible officer: Finance Manager, LBB</p> <p>Target date: 23 December 2017</p> <p>e) RE Management will maintain clear records to support the allocation of administrative CIL. This will enable the publication by RE of an accurate and complete Regulation 62 notice by 31st December 2017.</p> <p>Responsible officer: Infrastructure Planning Manager, RE</p> <p>Target Date: 23 December 2017</p> <p>(see Finding 6, Expenditure and Benefits monitoring – CIL – Regulation 62 report)</p> <p>f) The Commissioning Lead – Planning will become the Budget Manager in Integra for the Administrative CIL funds to ensure there is effective oversight and challenge of spends.</p> <p>Responsible officers: Commissioning Lead – Planning,</p>

Ref	Finding	Risks	Risk category	Agreed actions
	<p>2016/17 and £736k is currently forecast to be carried over at the end of 2017/18. The historic carry forward is in part due to historic problems with the management of the scheme, which the service has been resolving over the past six months. Any amount that is not required for administrative purposes should be returned to the main CIL Infrastructure 'pot' as per the regulations by the closure of 2017/18 accounts.</p> <p>- For Mayoral Administrative CIL expenditure was £1,687.94 more than permitted under the regulations (there was a carryover of £1,687.97 which was not permitted in accordance with the regulations). <i>However the recent reconciliation of administrative expenses has resolved the draw down errors that caused this money to be carried forward.</i></p>			<p>LBB; Finance Manager, LBB; Infrastructure Planning Manager, RE Head of Finance, CSG</p> <p>Target date: 31 January 2018</p>
5.	<p><u>Identification and management of infrastructure investment needs and priorities</u></p> <p>Regulation 123 of the Community Infrastructure Levy Regulations requires charging authorities to set out a list of those projects or types of infrastructure that it intends to fund, or may fund, through CIL. We found:</p> <ul style="list-style-type: none"> - It is not clear how the Council's Regulation 123 list has been formulated and whether it has been informed by a detailed infrastructure needs assessment for the Borough; - The Council's Regulation 123 list is dated 01 May 2013. The list states it will be reviewed and updated every year however it is not clear whether this has happened and revised lists have been created; and - It is not clear how the Regulation 123 list is being 	<p>If the Regulation 123 list is not properly maintained then individual developments could be unlawfully charged for the same infrastructure items through both Section 106 Agreements and the CIL</p>	<p>Low</p>	<p>RE management and the Council will agree an approach to ensure that the Council's Regulation 123 list is brought up to date. Any changes to the Regulation 123 list will be presented to the Council's Policy and Resources Committee in November 2018.</p> <p>Responsible officers:</p> <p>Commissioning Lead – Planning, LBB Head of Strategic Planning, RE</p> <p>Target date: 30 November 2018</p>

Ref	Finding	Risks	Risk category	Agreed actions
	used to (a) inform the capital programme and (b) guide decision making regarding CIL drawdown.			
6.	<p><u>Expenditure and Benefits monitoring – CIL – Regulation 62 report</u></p> <p>At the time of the audit the Regulation 62 report for 2015/16 had not been uploaded onto the website by 31 December 2016 as required by the legislature.</p> <p>The regulations require the council to document ' the amount of CIL applied to administrative expenses pursuant to regulation 61, and that amount expressed as a percentage of CIL collected in that year in accordance with that regulation. The report stated that this was 'Tbc following historic reconciliation'.</p>	If CIL expenditure and benefits are not clearly recorded and monitored then there may be ambiguity whether use of CIL monies is in line with legislative restrictions	Low	<p>RE will ensure that complete and accurate Regulation 62 reports are uploaded onto the Council's website by the end of the calendar year, as prescribed by the regulations.</p> <p>Responsible officer: Infrastructure Planning Manager, RE</p> <p>Target date: Implemented</p>

Advisory findings

REF	FINDING	RECOMMENDATION
7	<p>Exacom and Integra interface</p> <p>At present information regarding S106 and CIL schemes is managed through manual spreadsheets and financial information regarding income and expenditure is recorded on the Integra general ledger system. The reconciliation of information regarding underlying schemes and associated financial information, such as whether income has been received and whether expenditure has been incurred, is dependent on a very manual process that happens on a periodic basis. For example expenditure information is only mapped to S106 schemes on an annual basis.</p> <p>The Council has agreed to fund (through CIL administration funds) and Re is now implementing the Exacom system to support CIL and S106 administration which will reduce reliance on the manual monitoring spreadsheets in place to capture scheme information.</p> <p>We understand that an interface between Exacom and Integra is not possible. This would have enabled the automatic mapping of financial data to schemes to enable this information to be available in one location in real time.</p>	<p>Whilst an automated interface may not be possible RE management should use the Exacom system implementation as an opportunity to improve system design to facilitate easier and quicker reconciliations between scheme and financial data. This could be achieved through ensuring there are common unique identifiers used in both systems. At the time of testing it was not clear these design principles had been explored and confirmed.</p>

Appendix 1: Definition of risk categories and assurance levels in the Executive Summary

Risk rating	
Critical 	<p>Immediate and significant action required. A finding that could cause:</p> <ul style="list-style-type: none"> Life threatening or multiple serious injuries or prolonged work place stress. Severe impact on morale & service performance (e.g. mass strike actions); or Critical impact on the reputation or brand of the organisation which could threaten its future viability. Intense political and media scrutiny (i.e. front-page headlines, TV). Possible criminal or high profile civil action against the Council, members or officers; or Cessation of core activities, strategies not consistent with government's agenda, trends show service is degraded. Failure of major projects, elected Members & Senior Directors are required to intervene; or Major financial loss, significant, material increase on project budget/cost. Statutory intervention triggered. Impact the whole Council. Critical breach in laws and regulations that could result in material fines or consequences.
High 	<p>Action required promptly and to commence as soon as practicable where significant changes are necessary. A finding that could cause:</p> <ul style="list-style-type: none"> Serious injuries or stressful experience requiring medical many workdays lost. Major impact on morale & performance of staff; or Significant impact on the reputation or brand of the organisation. Scrutiny required by external agencies, inspectorates, regulators etc. Unfavourable external media coverage. Noticeable impact on public opinion; or Significant disruption of core activities. Key targets missed, some services compromised. Management action required to overcome medium-term difficulties; or High financial loss, significant increase on project budget/cost. Service budgets exceeded. Significant breach in laws and regulations resulting in significant fines and consequences.
Medium 	<p>A finding that could cause:</p> <ul style="list-style-type: none"> Injuries or stress level requiring some medical treatment, potentially some workdays lost. Some impact on morale & performance of staff; or Moderate impact on the reputation or brand of the organisation. Scrutiny required by internal committees or internal audit to prevent escalation. Probable limited unfavourable media coverage; or Significant short-term disruption of non-core activities. Standing orders occasionally not complied with, or services do not fully meet needs. Service action will be required; or Medium financial loss, small increase on project budget/cost. Handled within the team. Moderate breach in laws and regulations resulting in fines and consequences.
Low 	<p>A finding that could cause:</p> <ul style="list-style-type: none"> Minor injuries or stress with no workdays lost or minimal medical treatment, no impact on staff morale; or Minor impact on the reputation of the organisation; or Minor errors in systems/operations or processes requiring action or minor delay without impact on overall schedule; or Handled within normal day to day routines; or Minimal financial loss, minimal effect on project budget/cost.
Level of assurance	
Substantial 	<p>There is a sound control environment with risks to key service objectives being reasonably managed. Any deficiencies identified are not cause for major concern. Recommendations will normally only be Advice and Best Practice.</p>
Reasonable 	<p>An adequate control framework is in place but there are weaknesses which may put some service objectives at risk. There are Medium priority recommendations indicating weaknesses but these do not undermine the system's overall integrity. Any Critical recommendation will prevent this assessment, and any High recommendations would need to be mitigated by significant strengths elsewhere.</p>
Limited 	<p>There are a number of significant control weaknesses which could put the achievement of key service objectives at risk and result in error, fraud, loss or reputational damage. There are High recommendations indicating significant failings. Any Critical recommendations would need to be mitigated by significant strengths elsewhere.</p>
No 	<p>There are fundamental weaknesses in the control environment which jeopardise the achievement of key service objectives and could lead to significant risk of error, fraud, loss or reputational damage being suffered.</p>

Appendix 2 – Analysis of findings

Area	Critical		High		Medium		Low		Total
	D	OE	D	OE	D	OE	D	OE	
Expenditure and benefits monitoring - CIL	-	-	1	1	-	1	-	1	4
Expenditure and benefits monitoring - S106 agreements	-	-		1	-	-	-	-	2
Governance	-	-		-	-	-	-	1	2
Total	-	-	1	2	-	1-	-	2	6 (in total)

Key:

- Control Design Issue (D) – There is no control in place or the design of the control in place is not sufficient to mitigate the potential risks in this area.
- Operating Effectiveness Issue (OE) – Control design is adequate, however the control is not operating as intended resulting in potential risks arising in this area.

Timetable					
Terms of reference agreed:	Fieldwork commenced:	Fieldwork completed:	Draft report issued:	Management comments received:	Final report issued:
13/2/17	21/8/17	25/10/17	12/12/17	09/01/18	18/01/18

Appendix 3 – Identified controls

Area	Objective	Risks	Identified Controls
Expenditure and benefits monitoring - CIL	Expenditure in relation to CIL charges is used appropriately, and in line with budgeted amounts.	<i>If the Council does not make use of available funds then the community will be missing out on important new infrastructure improvements.</i>	As of April 2017, the Council's Assets and Capital Board (ACB) agreed to a new process which saw the creation of the CIL/S106 Officers Group (CSOG) which reports to the ACB. The objectives and proposed agenda of CSOG are documented in the ACB report 'CIL Governance' which was presented to the Board in April 2017.
	Specific legislative restrictions around CIL expenditure in relation to administration costs are complied with – Up to 4% Mayoral and 5% Barnet CIL can be used for administration.	<i>If the Council does not make use of available funds then the community will be missing out on important new infrastructure improvements.</i>	CSG Finance (Closing and Monitoring) hold a list of the Barnet and Mayoral admin CIL including amounts brought forward from the previous year, income, expenditure and funding to be carried forward to the subsequent year. Drawdowns are approved by the Finance Business Partner for Re. <u>Control Design Issue</u> <ul style="list-style-type: none"> - We found there was a lack of clarity regarding the roles, responsibilities and decision making regarding CIL and S106 expenditure (Finding 1) <u>Operating Effectiveness Issue:</u> <ul style="list-style-type: none"> - At the time of the audit, for administrative expenses relating to Barnet CIL there was a lack of evidence and no clear audit trail to confirm the administrative CIL expenditure made to date and to ensure it had been in line with the legislation (Finding 4). - For administration expenses relating to Mayoral CIL we found that £127,560.54 had been spent against 'DRS Management Fees' but we could not be supplied with evidence of what this related to (Finding 4). - We found that funding relating to CIL administration expenditure had been carried forward from 2016/17 but this was not in-line with the legislature (Finding 4)
	Reporting of CIL receipt and expenditure is done in accordance with the regulations – Regulation	<i>If the Council does not make use of available funds then the community will</i>	The Authority's Monitoring Report, which is published on the Council's website, includes a section on CIL and acts as the Council's Regulation 62 report. <u>Operating Effectiveness Issue:</u>

	62 report to be published for financial year before the end of the calendar year.	<i>be missing out on important new infrastructure improvements</i>	<ul style="list-style-type: none"> - We found that the Section 62 Report was not published within the timeframes stipulated by the CIL regulations (Finding 6).
	Neighbourhood Portion of CIL is spent in accordance with the regulations and the local process that has been agreed by Barnet Council	<i>If the Council does not make use of available funds then the community will be missing out on important new infrastructure improvements</i>	<p>Each of the three area Committees have an annual budget (15% of receipts (and 25% for redevelopment projects within the constituency) which is capped at £150K. LBB has produced guidance on its rationale for this which was presented and agreed at the Council's Policy and Resources Committee on 9 July 2015.</p> <p>Officers or Members present proposals to the relevant Area Committee who then formally approve spend.</p>
Expenditure and benefits monitoring - S106 agreements	<i>Expenditure in relation to S106 agreements and CIL charges is used appropriately, and in line with budgeted amounts.</i>	If the Council does not make use of available funds then the planned benefits of the S106 agreements may not be realised.	<p><u>New Process</u></p> <p>The Officer wishing to make a bid must complete a CIL/S106 Funding bid which requires information to be included such as summary, sponsor, timescales, strategic alignment and whether the scheme is on infrastructure and can be linked to the Council's Regulation 123 list. Capital costs and deliverables must be included alongside project constraints, contingencies and risks.</p> <p>The CSOG (CIL and S106 Officers Group) review and approve bids to be presented to the Assets and Capital Board (ACB) for formal approval.</p> <p><u>Previous Process</u></p> <p>The Capital Plan documents S106/CIL funding by project which is approved by the Council's Policy and Resources Committee. Any changes are made through changes to the CSG Capital book which is then approved by the Committee.</p> <p><u>Control Design Issues:</u></p> <ul style="list-style-type: none"> - We found there was a lack of clarity regarding the roles, responsibilities and decision making regarding CIL and S106 expenditure (Finding 1); - There is no proactive, systematic review of the s106 schedule to identify and manage schemes that are approaching their expiry date (Finding 2). - Management confirmed there are discrepancies between the records held between Re and CSG (Finding 2)

			<p><u>Operating Effectiveness Issue</u></p> <ul style="list-style-type: none"> - Upon reviewing the S106 schedule some schemes showed as having unspent/unallocated balances and there were instances where the S106 schedule did not fully reflect the details of the S106 agreement in place (Finding 2) - We could not be provided with all the S106 agreements within the schedule (Finding 2)
	<p><i>Expenditure is linked to expiry periods for funds to ensure that funds are spent in accordance with the scheme</i></p>	<p><i>If S106 amounts are not used in line with agreements in place or in line with relevant legislation then the Council may have to repay funds.</i></p>	<p>Once sealed, HBPL send a copy of the agreement to Planning Obligations Team (Re) via email. Planning Obligations Officers incorporate the agreement into the S106 schedule.</p> <p>For non-financial agreements, HBPL send an email to the relevant team who incorporate the agreement into their trackers or pipeline.</p> <p><u>Control Design Issue</u></p> <ul style="list-style-type: none"> - We found that there was no proactive systematic review of the schedule to identify and manage scheme that are approaching their expiry (Finding 2);
	<p><i>Non-financial S106 specific development obligations are delivered in line with agreements.</i></p>	<p><i>If non-financial development obligations are not monitored and validated then benefits may not be delivered as part of developments in line with requirements</i></p>	<p>Each Team delivering non-financial obligations hold their own schedule/tracker/pipeline to monitor obligations and ensure compliance with the agreement.</p> <p><u>Control Design Issue:</u></p> <ul style="list-style-type: none"> - We found exceptions related to Affordable Housing, Travel Plans and Apprenticeship schemes. The governance arrangements were not always clear regarding delivery of non-financial S106 obligations (Finding 3).
<p>Governance</p>	<p><i>CIL expenditure is efficient and delivers new and improves existing infrastructure in a cost effective way.</i></p>	<p><i>If key stakeholders are not identified and engaged in decision making and oversight of the CIL fund then</i></p>	<p>For Barnet CIL</p> <p><u>CSOG</u> (CIL and Section 106 Officers Group) is attended by Strategic Planning Group Members and as required, LBB/ Re Service Areas and Commissioners</p> <p><u>ACB (Assets and Capital Board)</u>: Attendees are from across the Council (Chief Exec, Deputy Chief Exec and Commissioners) as well as senior management from CSG and Re (</p>

		<p><i>amounts may not be used in line with local infrastructure needs resulting in resident dissatisfaction.</i></p>	<p><u>Policy and Resources Committee: Members</u></p> <p>For Neighbourhood CIL</p> <ul style="list-style-type: none"> - Area Committee Budget Applications Guidelines were published for 2017/18 - Reports are made to each Area Committee which document all spends and agreements in place. The document includes budget allocation and monitoring of agreed spends, such as actuals, predicted spends as well as date of committee approval. These are made publically available for challenge and scrutiny. <p><u>Control Design Issue:</u></p> <ul style="list-style-type: none"> - We found there was a lack of clarity regarding the roles, responsibilities and decision making regarding CIL and S106 expenditure as well as delivery of non-financial obligations (Findings 1) <p><u>Operating Effectiveness Issue:</u></p> <ul style="list-style-type: none"> - We found that it is not clear how the Council’s Regulation 123 list has been formulated and whether it has been informed by an up to date and detailed infrastructure needs assessment for the Borough (Finding 5).
<p><i>There is sufficient oversight of the CIL scheme to ensure strategic objectives are met.</i></p>		<p><i>If key stakeholders are not identified and engaged in decision making and oversight of the CIL fund then amounts may not be used in line with local infrastructure needs resulting in resident dissatisfaction</i></p>	<p>See controls listed above.</p>
<p><i>Appropriate parties are involved in decision making to ensure the allocation of funds is</i></p>		<p><i>If key stakeholders are not identified and engaged in decision making and oversight</i></p>	<p>See controls listed above.</p>

	<i>equitable.</i>	<i>of the CIL fund then amounts may not be used in line with local infrastructure needs resulting in resident dissatisfaction</i>	
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Appendix 4 – Internal Audit roles and responsibilities

Limitations inherent to the internal auditor's work

We have undertaken the review of *Community Infrastructure Levy (CIL) and Section 106 (S106) – Phase II, Expenditure*, subject to the limitations outlined below.

Internal control

Internal control systems, no matter how well designed and operated, are affected by inherent limitations. These include the possibility of poor judgment in decision-making, human error, control processes being deliberately circumvented by employees and others, management overriding controls and the occurrence of unforeseeable circumstances.

Future periods

Our assessment of controls is for the period specified only. Historic evaluation of effectiveness is not relevant to future periods due to the risk that:

- the design of controls may become inadequate because of changes in operating environment, law, regulation or other; or
- the degree of compliance with policies and procedures may deteriorate.

Responsibilities of management and internal auditors

It is management's responsibility to develop and maintain sound systems of risk management, internal control and governance and for the prevention and detection of irregularities and fraud. Internal audit work should not be seen as a substitute for management's responsibilities for the design and operation of these systems.

We endeavour to plan our work so that we have a reasonable expectation of detecting significant control weaknesses and, if detected, we shall carry out additional work directed towards identification of consequent fraud or other irregularities. However, internal audit procedures alone, even when carried out with due professional care, do not guarantee that fraud will be detected.

Accordingly, our examinations as internal auditors should not be relied upon solely to disclose fraud, defalcations or other irregularities which may exist.