

# Final Internal Audit Report

## CIL/S106: Use of Funds

### February 2025

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Assurance Level	Issues Identified	
Substantial	Priority 1	0
	Priority 2	1
	Priority 3	4

#### Confidentiality and Disclosure Clause

This report ("Report") was prepared by Forvis Mazars LLP at the request of London Borough of Croydon and terms for the preparation and scope of the Report have been agreed with them. The matters raised in this Report are only those which came to our attention during our internal audit work. Whilst every care has been taken to ensure that the information provided in this Report is as accurate as possible, Internal Audit have only been able to base findings on the information and documentation provided and consequently no complete guarantee can be given that this Report is necessarily a comprehensive statement of all the weaknesses that exist, or of all the improvements that may be required.

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**Please refer to the Statement of Responsibility in Appendix 3 of this report for further information about responsibilities, limitations, and confidentiality.**

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1. Terms of Reference
2. Definitions for Audit Opinions and Identified Issues
3. Statement of Responsibility

## **1. Introduction**

- 1.1. As a local authority, Croydon Council has wide-ranging responsibilities around spatial planning, development and building control, largely governed through the Town and Country Planning Act 1990.
- 1.2. Under Section 106 of the Town and County Planning Act 1990, the Council may attach obligations to the grant of planning permission on various matters to be met by the developer. This may include commitments made by the developer around physical works, or payments made to the Council for specific purposes, such as improvements to local infrastructure. These agreements are known as S106 Agreements.
- 1.3. Additionally, under the Community Infrastructure Levy (CIL) Regulations 2010 (as amended), the Council can require a levy called CIL to be paid on new developments. Unlike S106 Agreements, CIL is not agreed on a case-by-case basis but applied uniformly to most new developments at a pre-determined rate. In addition to local CIL, the Greater London Authority (GLA) can charge CIL to developers in the Borough, which the Council collects on its behalf.
- 1.4. Some funds paid as part of a S106 Agreement must be used by the Council for their agreed purpose within a negotiated claw back period, or else can be clawed back by the developer. As a result, it is important that funding is monitored and promptly used for its intended purpose. There is no clawback for CIL funding, but it is still important for the Council's strategic objectives that funding is spent effectively.
- 1.5. The CIL and S106 team (as part of the Spatial Planning, Growth Zone, and Regeneration Service) are responsible for the collection, management, and allocation of CIL and S106 funds. Project Officers at the Council are invited monthly to bid for CIL funds and S106 funds that are not locked by specific conditions to support their project delivery. It is the primary function of the Infrastructure Finance Group (IFG) to scrutinise any bids for CIL/S106 funding and the IFG has the delegated authority to approve bids up to £100,000. Bids over £100,000 must also be approved by the Capital Board. Further authorisations may be sought by the NHS Estates Board, Parks Programme Board, Head of Education Services, and Head of Transport where the funding directly relates to these areas.
- 1.6. The audit was undertaken as part of the agreed Internal Audit Plan for 2024/25. The objectives, approach and scope are contained in the Audit Terms of Reference at Appendix 1.

## 2. Key Issues

### Priority 2 Issue

Sample testing of ten projects that had CIL/S106 funding approved between June 2023 and June 2024 identified five cases of 'Open Space' contributions where appropriate approvals from Parks Programme Board or equivalent was not provided or evidenced on the bid form. In addition, there were:

- Two cases where the bid form had not been signed by the individual requesting the funds for the project.
- One case where appropriate approval by the IFG was not detailed on the bid form and the bid form referenced an outdated governance group (Growth Board) that was no longer in use. **(Issue 1)**

The Priority 3 findings are included under item 4 below.

### 3. Actions and Key Findings/Rationale

#### Control Area 3: Use of Funds – Responsibilities, Allocations & Oversight

Priority	Action Proposed by Management	Detailed Finding/Rationale - Issue 1
	<p>A review of the Bid forms has been undertaken to ensure the most up to date correct terms, departments and authorisations are listed.</p> <p>Any relevant updates, heads of terms and adjustments to the IFG Terms of reference will be drafted for approval if needed falling the update of the bid forms.</p> <p>The message to use only the Bid forms issued via the invitation email or the official intranet page will also be issued on a monthly basis.</p> <p>The Bid forms will have signed approvals, and the emailed confirmations attached.</p>	<p><b>Expected Control</b></p> <p>In order to request CIL/S106 funds, project officers and those responsible to deliver projects corporately are required to fill out CIL/S106 bid forms. These require an overview of the project to be detailed, as well as the total cost of the project, funds required and a signature from the individual requesting the funds. The project officer then presents the bid at an Infrastructure Finance Group (IFG) meeting where the IFG scrutinise the bid before giving approval for funds to be released for the project.</p> <p>Where a project is less than £100,000, only IFG approval is required. If the funds required are greater than £100,000, approval from the Capital Board is required as stated in the IFG terms of reference. Additional authorisations may be sought from the NHS Estates Board, Parks Programme Board, Head of Education Services, and Head of Transport where the funding directly relates to these areas. Finally, all project funding is to be referred to the Council's Spend Control Panel (SCP) for final sign off.</p> <p><b>Finding/Issue</b></p> <p>A sample of ten projects that had CIL/S106 funding approved between June 2023 and June 2024 were selected for testing to establish whether bid forms had been appropriately completed and scrutinised by the IFG. Review found the following exceptions:</p>

the IFG TOF.		<ul style="list-style-type: none"> <li>One case where there was no evidence of IFG approval or signature on the bid form. Evidence of IFG approval was found in the IFG meeting minutes where the case was approved, however this was not reflected on the bid form, which only included a 'Group Approval' field for sign-off. It was noted that the form was signed by the chair of the Capital Control Board as the funding requested exceeded £100,000. However, the field for this signature was labelled 'Growth Board.' The Head of Spatial Planning, Growth Zone and Regeneration advised that the Growth Board no longer existed, and approval now came from the Capital Board. However, the bid form had not been updated to indicate this change. Additionally, Internal Audit was provided no evidence that this funding was approved by the Spend Control Panel.</li> <li>Five cases for 'Open Space' contributions, where no approval was evidenced on the bid form by the Parks Programme Board or Equivalent. The Head of Spatial Planning, Growth Zone and Regeneration advised that due to resourcing cuts following the Council's first section 114 notice, this board no longer existed in its original capacity. As such, the authorisation for such contributions now likely sits with the Head of Department, but the written procedures had not been updated to indicate this change, and no evidence of such approval was provided for these cases.</li> </ul>
Responsible Officer	Deadline	<ul style="list-style-type: none"> <li>Two cases where the bid form had not been signed by the individual requesting the funds for the project. In both cases, the names of relevant officers were present on the form, however they had not signed and dated the relevant section.</li> </ul>
LAH Team	Completed	<p><b>Risk</b></p> <p>Where Bid forms are not completed consistently, or completed forms are not retained, there is a risk that inappropriate or inadequate bids may be approved.</p>

		<p>Where the template Bid forms is not kept up to date, and old or unused sections are not removed, there is a risk that the completed forms do not capture all required detail to satisfy the process and authorisations required as per the IFG's terms of reference.</p>
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		<p>Both of these may result in funding being approved without all relevant requirements being met, and authorisations having been obtained, resulting in financial loss for the Council.</p>
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#### 4. Priority 3 Issues

Agreed action	Findings
<p><b><u>Control Area 1: Legislative, Organisational and Management Requirements</u></b></p> <p><b><u>Action proposed by management:</u></b></p> <p>Update to the Infrastructure Delivery Plan (IDP) to be undertaken in 2024 alongside the revised Local Plan to be ready for submission in the Autumn. The IDP should be a “living document” that could be updated at any time. The IDP relies upon input from infrastructure delivery providers both within the Council and externally. The document should be used to manage infrastructure delivery in the borough.</p> <p><b><u>Responsible Officer:</u></b> Planmaking Team Leader</p> <p><b><u>Deadline:</u></b> Completed</p>	<p><b>Expected Control</b></p> <p>The Council has an Infrastructure Delivery Plan (IDP) that demonstrates how infrastructure will support the development and growth set out in the Local Plan for the next 20 years.</p> <p>The IDP is updated on an annual basis to include new planned projects, the cost of these and the sources of funding that will be used (though not necessarily amounts).</p> <p><b>Issue/Finding</b></p> <p>Review of the current IDP that was available on the Council’s website confirmed that the 2022 version was available to the public. The IDP states that it is to be updated and reviewed each year. The Plan Making Team Leader advised that a 2023 version was not prepared, and the intention was for a new version to be prepared in the summer of 2024, alongside the revised local plan submission to the Secretary of State.</p> <p><b>Risk</b></p> <p>Where medium/long term planning documents are not regularly reviewed and updated there is a risk that the feasibility of plans are not considered in line with current conditions.</p>
<p><b><u>Control Area 1: Legislative, Organisational and Management Requirements</u></b></p> <p><b><u>Action proposed by management:</u></b></p>	<p><b>Expected Control</b></p> <p>The Council have an overarching policy document that outlines the roles and responsibilities of individuals charged with managing and allocating</p>



Agreed action	Findings
<p>Complete Transformation programme (CIL and S106 Action Plan as approved by the Planning Transformation Board) which has requirements for legislative oversight and change for the department to ensure processes work with other sections.</p> <p>The most recent Manual is under review and being updated to include process notes and templates for matters such as email correspondence. The index will be fixed once the final version of the document and page numbers are known.</p> <p>The CIL billing flowchart 0602012, CIL finance process map 050811, CIL Notice production (002) and CIL Recovery flowchart 2 060212 will be updated and included in the reviewed manual. A focus on the updated processes from other sections will be taken to ensure best practice and the most efficient use of skills and approaches is being undertaken.</p> <p>The aim is to have one comprehensive document inclusive of appendices and links to relevant information meant formatting issues arose.</p> <p>Policy and procedure documents will be kept up to date and subject to regular review (e.g. three-</p>	<p>CIL/S106 funds. The policy document includes details on key processes that the CIL/S106 team and Council as a whole follow with regards to managing and allocating CIL/S106 funds.</p> <p>Policy and procedure documents are kept up to date and are subject to regular review (e.g. three-year review cycle). The date of review is clearly displayed on the document as well as date of next review and name of the reviewer/author.</p> <p><b>Issue/Finding</b></p> <p>It was established that the Council have a number of internal procedure and process map documents that are used by staff to guide CIL/S106 related workflows. These include:</p> <ul style="list-style-type: none"> <li>• CIL billing flowchart 0602012</li> <li>• CIL finance process map 050811</li> <li>• CIL Notice production (002)</li> <li>• CIL Recovery flowchart 2 060212</li> </ul> <p>Review of all four process documents found these did not include the date of the document, author, or date of next review.</p> <p>The Council also have a CIL Manual which is an overarching policy document that outlines procedures for managing and allocating CIL and roles and responsibilities around CIL and S106. Review of the manual found that it was incomplete with large parts being unformatted, appendices left blank, and many parts highlighted for update. The manual was dated March 2023. Review confirmed that this manual was available to CIL/S106 Team</p>

Agreed action	Findings
<p>year review cycle). The date of review will be clearly displayed on the document as well as date of next review and name of the reviewer/author.</p> <p><b><u>Responsible Officer:</u></b> LAH Team</p> <p><b><u>Deadline:</u></b> Completed</p>	<p>members on the Council's SharePoint. When queried about the completion status of the document the CIL S106 Reporting Officer advised that the document was not completed and that it has been delayed due to the Council going through a period of transformation, with an aim for completion by the end of 2024.</p> <p><b>Risk</b></p> <p>Where policies and procedures are not dated and do not contain a date of next review there is a risk that staff use out of date procedure documents and follow processes that are no longer used which may result in ineffective/inappropriate management and allocation of CIL/S106 funding.</p>
<p><b><u>Control Area 1: Legislative, Organisational and Management Requirements</u></b></p> <p><b><u>Action proposed by management:</u></b></p> <p>Any changes or updates made will be completed in line with the legislative framework for CIL/Sec 106.</p> <p><b>Community Infrastructure Levy in Croydon - A Guide (Feb 2014)</b></p> <p>The updates for the CIL Guide ensuring the current information is correct will be made with attention to the forms to be completed and CIL rates.</p>	<p><b>Expected Control</b></p> <p>Croydon provide developers with up-to-date guidance documents on its website that provide information on CIL/S106 contributions and set out the criteria on which S106 and CIL contributions are determined.</p> <p><b>Issue/Finding</b></p> <p>Review of Croydon's CIL/S106 webpage confirmed that a number of guidance documents were made available to developers. Review of the documents found that the following had not been reviewed or updated within the previous three years:</p> <ul style="list-style-type: none"> <li>• Community Infrastructure Levy in Croydon - A Guide (Feb 2014)</li> <li>• S106 Planning Obligations in Croydon and their relationship to the Community Infrastructure Levy (Nov 2019).</li> </ul>

Agreed action	Findings
<p><b>S106 Planning Obligations in Croydon and their relationship to the Community Infrastructure Levy (Nov 2019).</b></p> <p>This document is currently under review and will be made into a Supplementary Planning Document. The document involves a large number of internal infrastructure providers who all seek and receive section 106 payments as a result of development. The guidance document levies charged and how they are spent. this process has commenced but given the changes post Covid and the 114 notices the projects this involves were either stopped or suspended so the update is taking longer than expected. This should be completed by the end of 2025.</p> <p><b><u>Responsible Officer:</u></b> Planmaking Team Leader</p> <p><b><u>Deadline:</u></b> 31 March 2026</p> <p><b><u>Control Area 2: Receipting and Monitoring of CIL/S106 Funds</u></b></p> <p><b><u>Action proposed by management:</u></b></p> <p>A review of the process undertaken is under scrutiny of the current Transformation programme.</p>	<p><b>Risk</b></p> <p>Where guidance documents are not regularly reviewed and, where appropriate, updated there is a risk that outdated guidance is provided to developers which may result in issues in the collection and charging of CIL.</p> <p><b>Expected Control</b></p> <p>The Council have a schedule that details all projects that have had S106/CIL funding approved. The schedule includes key details such as the amount of funding agreed, approval dates from the IFG and Capital Board (if applicable) and details of any clawback conditions for funds.</p> <p><b>Issue/Finding</b></p>

Agreed action	Findings
<p>Regarding the Tracker the approval listed previously under Growth Board where spend was under £100K was used to record the Spend Control Panel Approval Date. The head of the column was not changed to indicate Spend Control approval but it was used by the team to track whether this had gone through. The inclusion of those dates was un-necessary as all expenditure requires Spend Control approval. The tracker has been updated to detail the Capital Board decision and date of approval. The Tracker column for Growth Board has been hidden with a note saying that it is no longer in existence but retained for information purposes such as FOI requests.</p> <p>The Bid recording sheets have been assessed and updated to reflect current and correct procedures. Continued reviews will be made to ensure the information published is relevant and correct. There are columns for recording Spend Control Panel, Capital Board and the IFG and department approvals.</p> <p><b>Responsible Officer:</b> LAH Team</p> <p><b>Deadline:</b> Completed</p>	<p>It was confirmed that the Council had a S106 Expenditure Tracker that detailed all projects that S106/CIL funds have been spent on and details if the funds are subject to clawback. Review of this tracker found that columns titled "Growth Board Approval - date" and "Growth Board Decision - Approved/Declined" had been completed with dates as recent as May 2024.</p> <p>The Head of Spatial Planning, Growth Zone and Regeneration advised that the Growth Board no longer exist and that this section of the tracker had likely been completed to evidence Capital Board approval. However, upon inspection, several projects with funding below £100,000 had evidence of approval in these columns, despite not requiring approval from the Capital Board for these amounts. The Head of Spatial Planning, Growth Zone and Regeneration and their team were unable to advise why these columns had been filled out and what the approvals in the columns related to.</p> <p><b>Risk</b></p> <p>Where tracker documents are not regularly updated and columns relating to old processes, governance boards or approvals are present there is a risk that colleagues incorrectly complete rows in the tracker resulting in ineffective tracking of funding provided for projects.</p>

## AUDIT TERMS OF REFERENCE

### CIL/S106 – Use of Funds

#### **1. INTRODUCTION**

- 1.1 As a local authority, Croydon Council has wide-ranging responsibilities around spatial planning, development and building control, largely governed through the Town and Country Planning Act 1990.
- 1.2 Under Section 106 of the Town and County Planning Act 1990, the Council may attach obligations to the grant of planning permission on various matters to be met by the developer. This may include commitments made by the developer around physical works, or payments made to the Council for specific purposes, such as improvements to local infrastructure. These agreements are known as S106 Agreements.
- 1.3 Additionally, under the Community Infrastructure Levy (CIL) Regulations 2010 (as amended), the Council can require a levy called CIL to be paid on new developments. Unlike S106 Agreements, CIL is not agreed on a case-by-case basis but applied uniformly to most new developments at a pre-determined rate. In addition to local CIL, the Greater London Authority (GLA) can charge CIL to developers in the Borough, which the Council collects on its behalf.
- 1.4 Some funds paid as part of a S106 Agreement must be used by the Council for their agreed purpose within a negotiated claw back period, or else can be clawed back by the developer. As a result, it is important that funding is monitored and promptly used for its intended purpose. There is no clawback for CIL funding, but it is still important for the Council's strategic objectives that funding is spent effectively.
- 1.5 This audit was part of the agreed Internal Audit Plan for 2024/25

#### **2. OBJECTIVES AND METHOD**

- 2.1 The overall audit objective was to provide an objective independent opinion on the adequacy and effectiveness of controls / processes.
- 2.2 The audit for each control / process being considered:
  - Walked-through the processes to consider the key controls;
  - Conducted sample testing of the identified key controls, and
  - Reported on these accordingly.

### 3. SCOPE





- 3.1 This audit, focused on CIL and S106 funding management and allocation, was undertaken as part of the 2024/25 Internal Audit Plan. The specific scope included the following areas and recommendations:

Control Areas/Risks	Issues Raised		
	Priority 1 (High)	Priority 2 (Medium)	Priority 3 (Low)
Legislative, Organisational and Management Requirements	0	0	3
Receipting and Monitoring of CIL/S106 Funds	0	0	1
Use of Funds – responsibilities, Allocations & Oversight	0	1	0
Monitoring & Internal Reporting	0	0	0
<b>Total</b>	<b>0</b>	<b>1</b>	<b>4</b>

### Definitions for Audit Opinions and Identified Issues

In order to assist management in using our reports:

We categorise our **audit assurance opinion** according to our overall assessment of the risk management system, effectiveness of the controls in place and the level of compliance with these controls and the action being taken to remedy significant findings or weaknesses.

	Full Assurance	the system objectives, and the controls are constantly applied.
	Substantial Assurance	While there is basically a sound system of control to achieve the system objectives, there are weaknesses which may put this achievement at risk.
	Limited Assurance	There are significant weaknesses in key areas of system controls and non-compliance that puts achieving the system objectives at risk,
	No Assurance	Controls are non-existent or extremely weak, leaving the system open to the high risk of error, abuse and reputational damage.

Priorities assigned to identified issues are based on the following criteria:

<b>Priority 1 (High)</b>	Fundamental control weaknesses that require immediate attention by management to action and mitigate significant exposure to risk.
<b>Priority 2 (Medium)</b>	
<b>Priority 3 (Low)</b>	the value for money of the review area.

## Statement of Responsibility

We take responsibility to London Borough of Croydon for this report which is prepared on the basis of the limitations set out below.

The responsibility for designing and maintaining a sound system of internal control and the prevention and detection of fraud and other irregularities rests with management, with internal audit providing a service to management to enable them to achieve this objective. Specifically, we assess the adequacy and effectiveness of the system of internal control arrangements implemented by management and perform sample testing on those controls in the period under review with a view to providing an opinion on the extent to which risks in this area are managed.

We plan our work in order to ensure that we have a reasonable expectation of detecting significant control weaknesses. However, our procedures alone should not be relied upon to identify all strengths and weaknesses in internal controls, nor relied upon to identify any circumstances of fraud or irregularity. Even sound systems of internal control can only provide reasonable and not absolute assurance and may not be proof against collusive fraud.

The matters raised in this report are only those which came to our attention during the course of our work and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made. Recommendations for improvements should be assessed by you for their full impact before they are implemented. The performance of our work is not and should not be taken as a substitute for management's responsibilities for the application of sound management practices.

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