



Addendum to the Section 106 Planning Obligations and CIL SPD (2015)

January 2017

WHAT IS THIS DOCUMENT?

The Section 106 Planning Obligations and Community Infrastructure Levy (CIL) SPD, April 2015, provides detailed guidance on the use of section 106 planning obligations alongside the community infrastructure levy. It outlines how we will use s106 planning obligations to address the site specific negative impacts of development and explains how Southwark negotiates the most common section 106 (s106) planning obligations.

This document is an addendum to Southwark's adopted Section 106 Planning Obligations and CIL SPD, April 2015. It explains how we will use section 106 planning obligations and CIL in the Old Kent Road opportunity area (OA) and provides guidance on our approach to negotiating section 106 contributions for transport infrastructure for applicable developments within part of the opportunity area. As well as the adopted Section 106 Planning Obligations and CIL SPD, 2015, this document should be read alongside the Old Kent Road area action plan (AAP) which is currently at draft stage.

THE INFRASTRUCTURE NEEDED TO DELIVER GROWTH ON THE OLD KENT ROAD

We are planning for 20,000 new homes and 5000 additional jobs in the Old Kent Road opportunity area. Upwards of 40,000 new people living in the area will require improvements to infrastructure including public transport, open space, schools, public realm, etc. This is explained in more detail in the draft Old Kent Road AAP.

We anticipate that this will cost in the region of £1.5 Billion and may be funded from a variety of sources (see tables 1 and 2 below). Funding generated by CIL and section 106 planning obligations will make a key contribution towards the cost of delivering this infrastructure.

In line with the adopted Section 106 and Planning Obligations and CIL SPD we will also help deliver local projects in addition to those listed above; at least 25% of CIL funds will be spent locally on projects listed in the Community Infrastructure Project Lists (CIPL) or where relevant on projects listed in an adopted neighbourhood plan.

Table 1: Old Kent Road infrastructure projects by phase

Plan phase	Population growth	Infrastructure required	Who is involved?	Cost	Funding sources
2015/16 – 2020/21	1430	1 primary school	LB Southwark, Academies, Free Schools, Developers	£7.5M	CIL Investment by education providers DfE funding
2021/22 – 2025/26	10435	1 primary school, 1 secondary school	LB Southwark, Academies, Free Schools, Developers	£16M	CIL. Investment by education providers DfE funding.
		New open spaces (former Surrey Canal green route)	LB Southwark, Developers	£6M	Direct provision by developers on-site; CIL and grant applications for off-site facilities. CIL and grant applications
		Primary substation	UK Power Networks, LB Southwark, Developers	£16M (excluding land costs)	
2026/27 – 2030/31	14844	3 primary schools	LB Southwark, Academies, Free Schools, Developers.	£22.5M	Off-site subsidy through CIL; Investment by education providers DfE funding.
		New open spaces (Mandela Way and Gas Works)	LB Southwark, Developers	£6.5M	Direct provision by developers on-site; CIL and grant applications for off-site facilities
2031/32 – 2035/36	14334	2 primary schools 1 secondary school	LB Southwark, Academies, Free	£23.5M	Off-site subsidy through CIL; Investment by education providers

		New open spaces (Mandela Way and Gas Works)	Schools, Developers LB Southwark, Developers	£5M	DfE funding. Direct provision by developers on-site; CIL and grant applications for off-site facilities
TOTAL	41043				

Table 2: Old Kent Road infrastructure projects delivered across multiple phases

Project	Who is involved?	Funding	Timescales
Bakerloo Line extension (feasibility studies and tunnelling) (portion of line which is within the Old Kent Road OA)	LB Southwark, LB Lewisham, TfL, GLA	£855 million Funding sources likely to include CIL, TfL and Treasury	Throughout all delivery phases
Two stations on the BLE	LB Southwark, LB Lewisham, TfL, GLA	£397.9 million Funding sources likely to include s106 planning obligations prior to the revision of the CIL Charging Schedule; CIL, TfL and Treasury	Throughout all delivery phases
Improvements to walking and cycling facilities and routes	LB Southwark, TfL, Developers	Cost tbc; In kind provision on-site, s106 planning obligations and TfL	Throughout all delivery phases
Improvements to bus infrastructure and services	LB Southwark, TfL	Cost: tbc; s106 planning obligations, TfL	Throughout all delivery phases
Enhancements to Old Kent Road public realm	LB Southwark, TfL	Cost: tbc; In kind provision on-site, s106 planning obligations, TfL	Throughout all delivery phases
Improvements to existing open spaces	LB Southwark, Developers	£12M? CIL and grant applications	Throughout all delivery phases
Decentralised energy network	Energy Services Company (ESCo), LB Southwark, Developers	£57.5-63.6 Million (depending on option implemented). An ESCo could pay the capital costs and recoup these through connection	Phased delivery through to 2026

		and heat charges	
Strategic SUDS	Thames Water, LB Southwark, Developers	Tbc. Anticipated funding from s106. Potential funding from Thames Water.	Throughout all delivery phases
Upgrade access to superfast broadband	Broadband providers, LB Southwark, Developers	~£3 Million. Funded by digital providers through agreements with developers and service charges	Phased delivery through to 2026
Health facilities	LB Southwark, NHS Southwark CCG	£15.5M CIL and NHS funding?	2026-2031?
Sports facilities	LB Southwark, Commercial leisure providers	£15M Private investment; CIL if need for new public facilities arises	Timescale will be identified if monitoring indicates need for new facilities
Play facilities	LB Southwark, Developers	Direct provision by developers on-site; Section 106 and grant applications for off-site facilities	Throughout all delivery phases
Early years care	LB Southwark, Developers, Commercial providers	Direct provision by developers and private investment	Throughout all delivery phases

REVISION OF CIL

Our 2015 CIL charging schedule sets CIL rates of £200 per sqm and £50 per sqm for residential developments in CIL charging zones 2 and 3 respectively. The CIL Regulations establish a mechanism for inflating CIL using the Building Cost Information Service (BCIS) All-in-Tender Price Index. By 2017 Southwark's residential CIL charges are forecast to be £218 p/sqm in zone 2 and £54 in zone 3 (based on BCIS February 2016 update). We are revising our CIL charging schedule to charge £218 for residential development across the Old Kent Road opportunity area. Examination and adoption is planned for late 2017. CIL charging rates in other CIL zones and for other uses will be updated in line with the All-in-Tender Price Index. We will review our CIL charging schedule again in 2018.

APPROACH TO SECTION 106 PLANNING OBLIGATIONS IN THE OLD KENT ROAD OPPORTUNITY AREA

Across the opportunity area section 106 planning obligations will be sought where necessary to mitigate the impact of development, in line with the approach set out in the adopted Section 106 Planning Obligations and CIL SPD (2015). This will include the need to mitigate the impact of development on transport capacity, including through improvements to surface public transport and facilities for people walking and cycling, prior to the delivery of the Bakerloo Line extension which is projected to be around 2030. Development will also need to pay the Mayoral CIL and Southwark CIL.

In addition, in the period prior to adopting a revised CIL charging schedule, major developments located in the south of the opportunity area (see hatched area in Figure 1 below) which provide 100 or more residential homes will be expected to contribute towards the cost of delivering the transport infrastructure projects listed below. We will ordinarily expect the contribution to be £164 per square metre of residential floorspace, subject to the legal test of regulation 122 of the Community Infrastructure Levy Regulations 2010 as amended. Affordable housing will be exempt. Contributions from large scale non-residential development of over 10,000sqm floorspace will be negotiated on a case by case basis.

The funds secured via this obligation will be directed to the following infrastructure projects:

- Old Kent Road Station 1 (Northern station) on the Bakerloo Line extension
- Old Kent Road Station 2 (Southern station) on the Bakerloo line extension

The value of this obligation will be indexed to the All-in-Tender Price Index and will be updated annually. It will be calculated using the gross internal area (GIA) of the development and will be applied to new residential floorspace (existing residential floorspace can be offset).

Funds will be strictly managed by the council and will only be allocated to those projects listed above. In accordance with section 123 of the CIL Regulations 2010 (as amended) we will not pool more than five separate planning obligations towards any one of these infrastructure items; and we will not seek to use this charge to fund any infrastructure projects identified on our Regulation 123 list.

The NPPG advises that authorities should ensure they are clear about what infrastructure is needed and what will be paid for via CIL and via section 106 planning obligations. There should be no actual or perceived 'double dipping' with developers paying twice for the same item of infrastructure through CIL and section 106 planning obligations. By amending our Regulation 123 List (see below) we will further clarify which infrastructure will be funded by which route. We will ensure robust monitoring measures are in place to avoid any 'double dipping' in practice.

When the revised CIL charging schedule is adopted (which we anticipate will be in 2017) this particular obligation will no longer be sought.

REGULATION 123 LIST

Our Regulation 123 List is a list of those infrastructure projects or types for which we will not seek to negotiate section 106 planning obligations; these projects or types of infrastructure may be funded partly or wholly by CIL.

The current Regulation 123 List identifies a range of projects for funding via CIL including existing primary school expansion, health facilities, open space improvements to district parks and the Bakerloo Line extension (BLE).

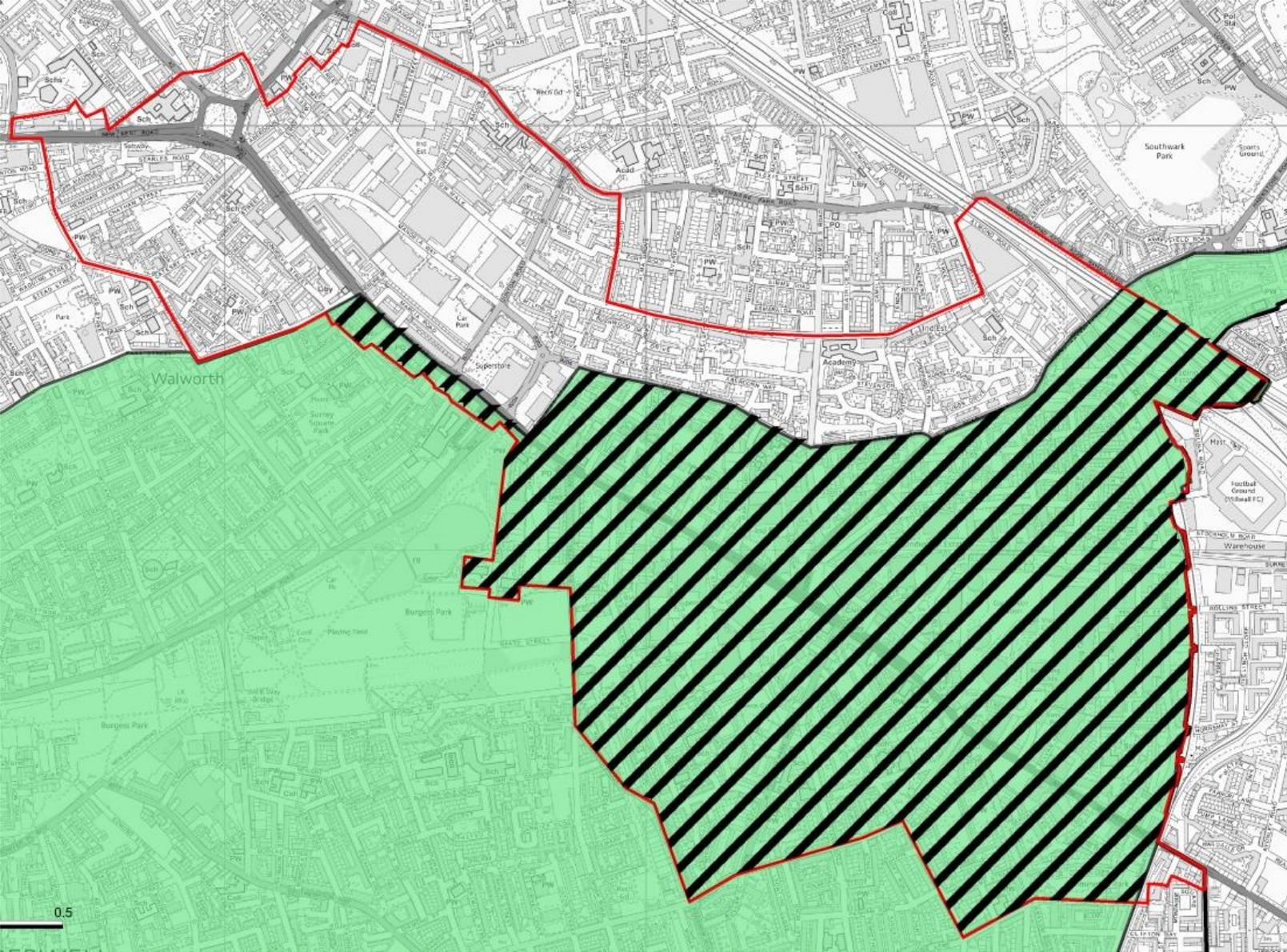
When the existing CIL charging schedule and Regulation 123 List were developed we had limited information on the BLE. In particular we did not know where the stations would be located and how many would be appropriate within the Old Kent Road opportunity area. Based on ongoing joint working with the GLA and TfL we now have a more detailed understanding of the proposed route of the BLE and the location and size of two new BLE stations required to support the planned growth in the opportunity area.

Based on this new evidence and to support delivery of the BLE station infrastructure, we propose to amend our Regulation 123 List for the period in which the s106 transport tariff is in place to clarify that contributions towards construction of the two BLE stations in the opportunity area will be secured via s106 rather than CIL. Contributions to delivery of the BLE itself, excluding the stations, will continue to be secured via CIL.

The revised Regulation 123 list is being consulted on alongside this addendum.

The Regulation 123 list will be revised again when the CIL charging schedule is adopted (anticipated to be in late 2017) to indicate that we will no longer seek to negotiate section 106 planning obligations for funding land and infrastructure costs for delivering the two stations in the Old Kent Road Opportunity Area. From this point on CIL will be used to contribute towards all elements of the BLE (i.e. stations and tunnels).

Figure 1: Map showing CIL charging zone 3 (green), OKR OA boundary (red) and area where section 106 will be negotiated for transport infrastructure (hatched)



REASONS

The CIL regulations require that s106 planning obligations 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.

The section 106 planning obligation set out above is necessary to deliver the specific infrastructure projects identified, which are critical to unlocking delivery of 20,000 new homes in the opportunity area. Evidence suggests that an increase in land values will be required to deliver the densities and numbers of homes envisaged in the 20 year timescale of the AAP. Improvements to transport infrastructure including the BLE will play a key part in increasing values and accelerating growth. Delivery of these improvements is therefore critical to realising the scale of growth planned for the AAP.

The design of the BLE, including the requirements for new stations, was not known in detail when Southwark's 2015 CIL was put in place and therefore are not reflected in the existing CIL arrangements. By introducing this section 106 planning obligation we will ensure that we can secure funding towards the delivery of the BLE stations in a timely manner, helping to unlock growth.

Cumulatively, all developments in the opportunity area will impact on the existing transport networks and will require mitigation. Similarly, all development benefit from the delivery of this infrastructure. It is therefore fair and reasonable that development should pay a contribution towards these costs.

We are committed to revising CIL to take into account the latest evidence on infrastructure requirements and to help reduce the funding gap and deliver the infrastructure required to support growth in the opportunity area. The section 106 obligation proposed here is therefore an interim measure prior to our planned introduction of revised CIL charges for the opportunity area in 2017.

The value of the obligation has been informed by viability testing of notional and real developments in the opportunity area to ensure that the charge remains reasonable and related in scale to development. This work indicated the combination of CIL and planning obligations would equate to a small percentage of overall costs and therefore it would have limited impact on the viability of developments. In accordance with the NPPF (paragraphs 173-175) the viability testing assessed the likely cumulative impacts on development of all existing and proposed local standards and policy requirements, including affordable housing requirements and sustainability requirements to ensure that that development viability was not undermined.

The value of the obligation has been set having regard to the need to secure the Bakerloo Line extension stations and the need to ensure that most development is not made unviable as a result of the obligation. No changes are proposed to the CIL/section 106 burden in zone 2.