

Date: 21 June 2023

Item: Annual Update on Third-Party Funding Secured Through Spatial Planning

This paper will be considered in public

1 Summary

1.1 This paper provides an update on third-party funding related to developer contributions and other sources targeted at supporting sustainable development. It gives an overview of developer contributions and other third-party funding, including Mayoral Community Infrastructure Levy (MCIL), which is used to repay Crossrail financing; Section 106 (S106)¹; Borough CIL (BCIL); the Housing Infrastructure Fund (HIF); and Levelling Up Fund (LUF). The Spatial Planning team continues to explore opportunities to secure funding to contribute towards the delivery of the Mayor’s Transport Strategy (MTS), including key TfL priorities such as Step Free Access (SFA). Table 1 summarises the amounts that have been negotiated / secured during 2022/23.

Table 1: Summary of third-party income in 2022/23

	Funding highlights 2022/23			
	Funding Source	Project	Amount £m	
Developer contributions	Mayoral CIL	Elizabeth line (Crossrail)	£168.2	
	Section 106	Various sites	Received	£9.6
			Negotiated	£37.9
	Borough CIL	Hounslow West station step-free access	£1.0	
	Section 278 ²	Various projects Secured	£18.1	
Other third-party	Levelling Up Fund (First Round)	Four projects in Ealing, Newham, and Tower Hamlets (funding secured)	£56.2	

¹ S106 of the Town and Country Planning Act 1990

² A Section 278 agreement, is a section of the Highways Act 1980 which allows developers to enter into a legal agreement with the Highways Authority to make alterations and improvements to a public highway, as part of a planning application.

	Levelling Up Fund (Second Round)	Colindale and Leyton London Underground stations (funding awarded)	£43.0
		Five projects in Camden, Barking & Dagenham, Hackney, Lewisham, Sutton (funding awarded)	£113.8

- 1.2 As can be seen, we have collected £168.2m in MCIL receipts, which is the highest amount since MCIL was introduced in 2012. Additionally, £37.9m of further S106 has been negotiated this year, while £9.6m was received from existing agreements. The Section 278 (S278)³ programme which includes 311 projects to the value of £150m delivered £17m of capital investment, as well as around £1.1m revenue funding (to cover TfL staff costs, etc).
- 1.3 We have been focusing on leveraging funding to support key objectives around SFA to ensure inclusive growth. During 2022/23, we successfully bid for £1m BCIL funding to progress design proposals for improved SFA at Hounslow West station. We also negotiated £10m in S106 for SFA and entrance/exit improvements (including an extra gate) at West Hampstead station. Our bid with the Greater London Authority (GLA) for Levelling Up funding was successful, and we have provisionally been awarded £43m to be used for improvements at Colindale and Leyton Underground stations to make them step free, as well as providing additional capacity to support the delivery of new, affordable homes.
- 1.4 In terms of improvements to our highways network, we secured £1.5m to improve the A41 Finchley Road corridor, while the S278 Nova bus contraflow scheme in Victoria was opened in February 2023 enables shorter bus journey times for several bus routes. This was fully funded by the developer at a total cost of £40m and delivered in collaboration with TfL's Spatial Planning team. The scheme will improve both safety and bus journey times.
- 1.5 In the first round of LUF, Newham, Ealing, and Tower Hamlets boroughs were successful in securing £56.2m for four transport proposals. The second round of the LUF closed in January 2023, and Barking & Dagenham, Camden, Hackney, Lewisham and Sutton boroughs were successful in securing funding amounting to £113.8m. TfL will work with all successful boroughs from both rounds to deliver these projects and to support any future bids.
- 1.6 In addition, work continues to deliver projects where funding was agreed in previous financial years. For example, under the Docklands Light Railway (DLR) HIF award we have issued a notice of intention to order 11 trains and works are ongoing for the design and construction of Beckton depot.
- 1.7 Given continued financial challenges, it is important for the Spatial Planning team to be proactive in seeking additional sources of funding. Developer contributions

³ A S278 agreement between the developer and Highway Authority is entered into when a developer has obtained full planning permission and the layout of the proposed development requires them to modify, alter, or reconstruct the adopted highway. Where TfL is the highway authority, we work with developers to deliver highways and public realm improvements at no cost to TfL.

and third-party funding plays a critical role in delivering MTS transport objectives as well as unlocking new homes and ensuring growth is sustainable, and we will continue to pursue opportunities to fund schemes.

2 Recommendation

2.1 The Committee is asked to note the paper.

3 Background

3.1 This report provides information for the 2022/23 financial year on:

- (a) contributions for Crossrail through the Mayoral CIL and the Crossrail Supplementary Planning Guidance (SPG);
- (b) BCILs introduced by the boroughs, City of London, and Mayoral Development Corporations expenditure;
- (c) S106 and other developer contributions for transport projects; and
- (d) other funding mechanisms contributing to transport such as LUF.

3.2 TfL's Spatial Planning team assesses the transport impacts of proposed developments and negotiates appropriate transport mitigations with developers and boroughs, to enable developments to function effectively and ensure good growth. The team is responsible for:

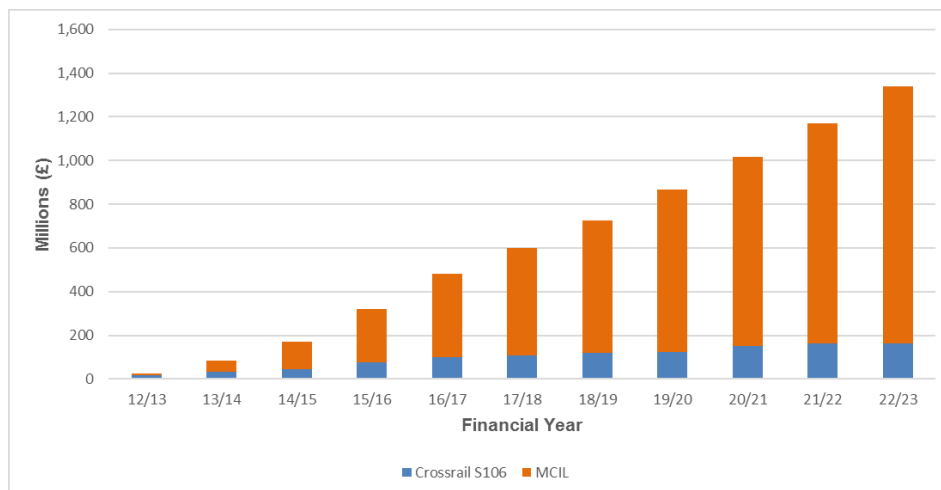
- (a) advising the Mayor on the transport issues associated with planning applications of potential strategic importance referred to him under the Town and Country Planning (Mayor of London) Order 2008 (referable applications). TfL Spatial Planning attends the weekly Mayoral and Deputy Mayoral Planning meetings to ensure that TfL's requirements and priorities are understood; and
- (b) responding to consultations carried out by local planning authorities within London on the transport implications of planning applications which are not referable to the Mayor.

3.3 There were more than 380 applications referred to the Mayor during 2022/23. The amount of developer income secured relates to the level of development activity and the implementation of planning permissions. Development activity tends to be cyclical, and it is strongly influenced by local, national, and international factors, including the continued impact of the war in Ukraine, commodity prices impacting building costs, inflation, and UK's departure from the European Union. This past year's development activity has also been impacted by uncertainties related to fire safety requirements.

4 MCIL

- 4.1 The value of MCIL and Crossrail SPG⁴ receipts since 2012 is set out in Figure 1. By the end of 2022/23 cumulative receipts from both sources amounted to £1.34bn - with more than £1bn from MCIL payments (£1.18bn) and £161.3m in Crossrail SPG contributions.

Figure 1: Cumulative MCIL and Section 106 Crossrail receipts



- 4.2 MCIL becomes payable on commencement of development and the number of individual payments can therefore act as an indicator of the level of development activity. Figure 2 presents the trends in total annual MCIL receipts and the number of payments since MCIL was introduced in 2012. This shows that there was a ramp up of MCIL payments to 2016/17 as developments subject to MCIL commenced. During the last six years payments numbers have averaged at 2,350 payments per year, with payments falling below this during the coronavirus pandemic (2020/21) and in 2022/23 due to inflation, rising build costs and interest rates, and the impact of this on development activity.
- 4.3 Meanwhile, in 2022/23 annual receipts from MCIL reached £168.2m, the highest annual return since charging commenced, showing a positive effect of the higher MCIL2 rates and macro policies⁵ introduced in 2020/21 to help the development sector during the coronavirus pandemic.

MCIL2 Biennial Review

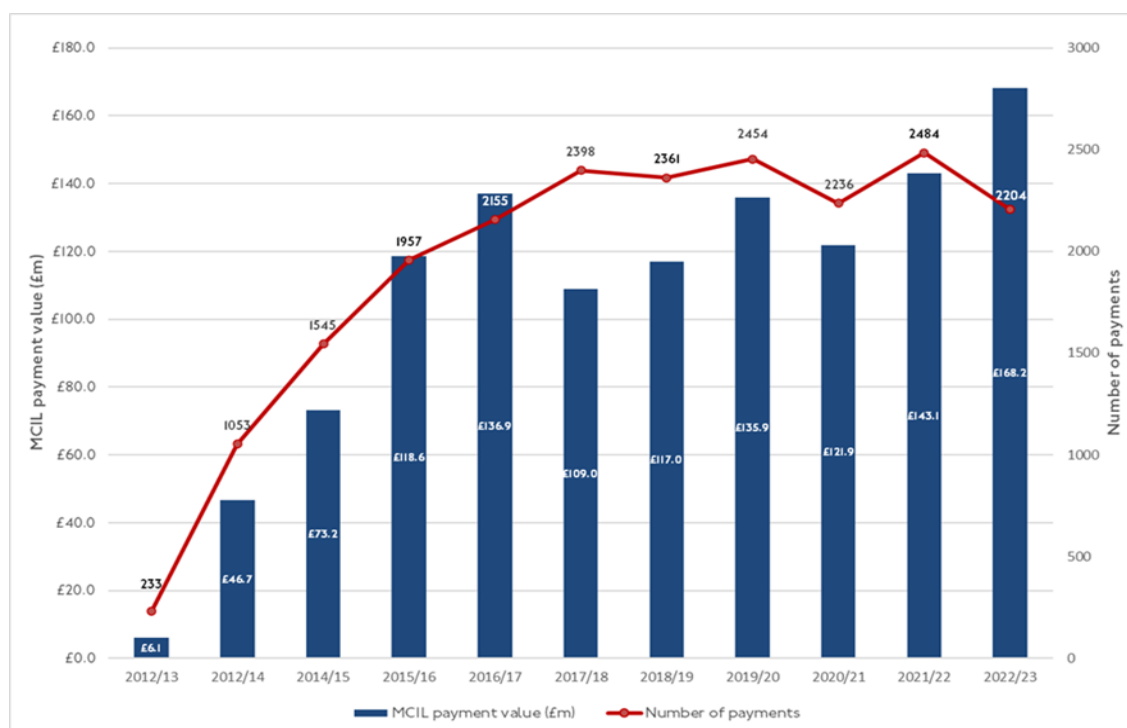
- 4.4 As part of the Mayor's commitment to monitor the operation of MCIL, a biennial review was undertaken in 2022. This found that that the MCIL2 charge rates, charge bands and boundaries, and operational arrangements in respect of MCIL were working well and no revisions were proposed at this stage – particularly considering the poor economic forecast for 2023. We continually monitor MCIL

⁴ While the Crossrail Funding Planning Obligations SPG (2016) was superseded by MCIL2 in 2019, funds are sometimes received from historic planning permissions. SPG receipts help pay for Crossrail. Funds are received from retail, office and hotel developments within central London, the Isle of Dogs, and from developments within 1km of a Crossrail station.

⁵ Quantitative easing and controlled inflationary and interest rates during the pandemic.

income and rates, and work is now underway to consider potential opportunities and options for change in the longer-term.

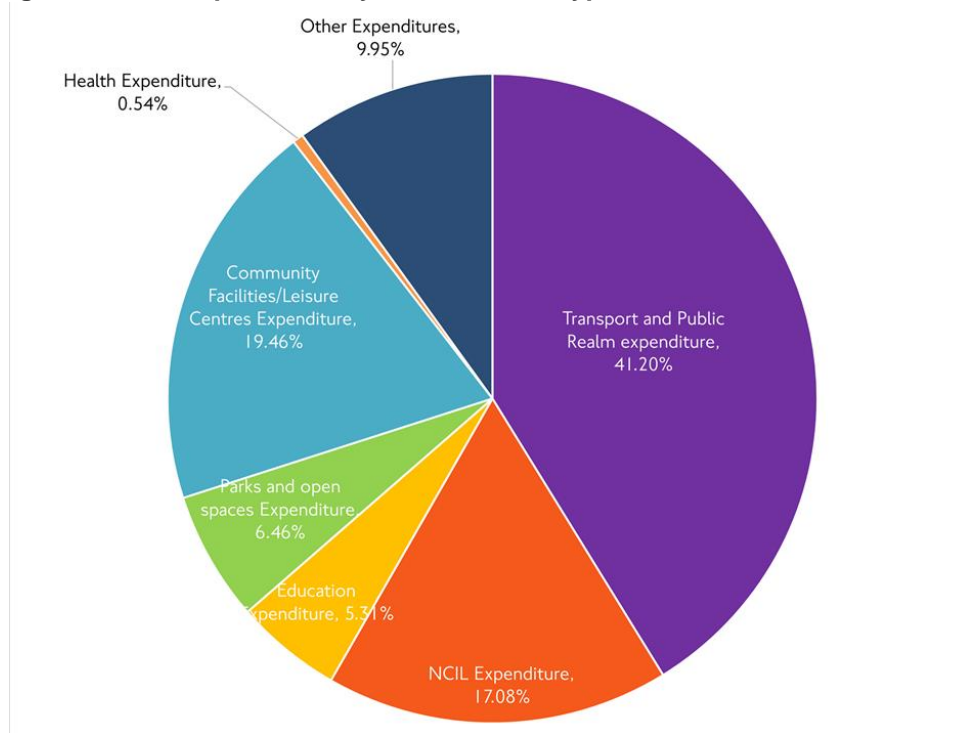
Figure 2: Annual MCIL receipts and number of payments since April 2012



5 Borough CIL

- 5.1 The boroughs, City of London, and Mayoral Development Corporations (MDCs), in their capacity as local planning authorities, can set BCIL rates and collect this funding which goes towards the provision, improvement, replacement, operation or maintenance of infrastructure.
- 5.2 BCIL receipts make a significant contribution to the delivery of a range of infrastructure projects across London (currently, only Ealing and Old Oak and Park Royal Development Corporation (OPDC) are without an adopted BCIL in place). We are looking at opportunities across London to enhance joint working.
- 5.3 BCIL expenditure increased in 2021/22 from £111m in 2020/21 to just under £133m, although this is not as high as pre-pandemic levels (£168m 2019/20). Of the £133m spent, more than half (£67m) was spent by Wandsworth (£15m), Tower Hamlets (£13m), Brent (£12m), Lambeth (£10m), Hammersmith and Fulham (£10m), and Croydon (£7m).
- 5.4 Figure 3 shows a breakdown of BCIL spend in 2021/2022 by infrastructure type. Around 42 per cent (£77m) was spent on transport and public realm which has supported the delivery of the MTS. Examples of transport and public realm projects funded include improvements to the public realm and transport improvements in Wembley costing around £7m, highways improvements in Camden and Croydon costing around £4m each, ongoing improvements at Elephant and Castle (£5m) and an increase in the number of electric vehicle charging points and low emission fleet vehicles in Westminster and Wandsworth respectively.

Figure 3: BCIL expenditure by infrastructure type 2021/22



TfL and BCIL

- 5.5 The London Plan reflects the fundamental importance of transport to sustainable growth and unlocking sites for development. Future BCIL allocations (as set out in the borough infrastructure funding statements published online) indicate that there is currently just over £92m of BCIL allocated that has yet to be spent with over 53 per cent of this allocated to 'transport and public realm'.
- 5.6 This year, TfL negotiated a BCIL contribution for step free access at Hounslow West station. We also secured BCIL for a viability study for a new pedestrian crossing in Camden on the Transport for London Road Network. If viable, this scheme will increase the safety of people walking, and Camden have indicated that we could bid for further BCIL to deliver the scheme in future.
- 5.7 We will continue to work with BCIL charging authorities to identify opportunities to deliver shared transport priorities for the potential allocation of BCIL funds and take a proactive role in supporting charging authorities who are looking to allocate funding from their BCIL income towards transport priorities within their area.

NCIL

- 5.8 A portion of BCIL funds collected, between 15 and 25 per cent, is required to be spent in consultation with the local community and is known as Neighbourhood CIL (NCIL). NCIL spend in 2021/22 was the third highest area of expenditure at 10 per cent (£26.5m) While these are often smaller projects, they represent another opportunity for TfL to engage with communities to help secure improvements to transport infrastructure and deliver projects that reflect the needs of the local community.

6 Section 106 agreements

- 6.1 Planning applications, whether referable or not, are often approved subject to a package of transport mitigation measures which reflect negotiations by TfL Spatial Planning with developers and the local planning authority. We seek to ensure that transport requirements are prioritised as far as possible and aim to ensure that developments promote active travel, contribute appropriately to public transport, and minimise adverse traffic impacts.
- 6.2 The measures that are negotiated vary in type and scale but must accord with the legal test for S106 planning obligations (directly related to the development, necessary to make the development acceptable in planning terms, and fairly and reasonably related in scale and kind to the development) as defined by the Town and Country Planning Act 1990 and The Community Infrastructure Levy Regulations 2010. These obligations can cover works at any scale from multimillion pound projects to small – but still important and impactful - interventions such as wayfinding and bus stop improvements.
- 6.3 TfL negotiated a total of £37.9m in S106 contributions in 2022/23 (this is a decrease on the previous year due to several factors). Most of this year's contributions were secured for bus network improvements (£21m).
- 6.4 As well as planning obligations requiring financial contributions, Spatial Planning secures mitigations delivered as works 'in-kind'. These are built out by developers, often on-site, and can be significant in both cost and scale. A noteworthy example this year is the O2 Centre Masterplan, which includes safeguarding for land within the site for a future entrance to Finchley Road station.
- 6.5 In 2022/23, 59 new S106 agreements were negotiated with funding due to come to TfL and works 'in-kind' to be delivered by developers. This brings the total number currently being monitored to 972. S106 receipts received by TfL in 2022/23 (relating to previously negotiated s106 agreements) totalled just under £10m.
- 6.6 TfL Spatial Planning also negotiates and manages the delivery of highway improvements on the Transport for London Road Network under S278 agreements, ranging from small scale works such as footway renewal to larger scale improvements. The total value usually amounts to millions of pounds each year, often delivering critical infrastructure that contributes to the delivery of Healthy Streets and Vision Zero. These schemes are funded and maintained by developers at no expense to TfL. We currently have 311 projects in our programme worth c£150m. In 2022/23, more than 50 projects were completed, with associated spend during that year of £17m, including the completion of the Nova bus contraflow scheme in Victoria (total value £40m) and the conclusion of works on Nine Elms Lane.

7 Other third-party funding

Growth Fund

- 7.1 The TfL Growth Fund has leveraged significant amounts of third-party funding (from developers, boroughs, and Government) to deliver transport improvements which enable the delivery of sustainable growth. The Growth Fund's portfolio of schemes secured c£100m in third-party funding against £93m spend on 13 projects up to 2029/30 (including Colindale and Walthamstow Central), demonstrating the power of leveraging third-party funding.
- 7.2 The latest Business Plan has identified the need to continue this approach to support Good Growth, alongside a focus on the delivery of step-free access. As a result, the Growth Fund is being transformed into a new Sustainable Housing and Accessibility Fund (SHA Fund) with an initial capital allocation of £48m. The SHA Fund will be a programme of transport projects that unlock homes and regeneration where transport acts as a constraint, deliver accessibility improvements to unlock the public transport network for more Londoners and bring in third-party investment. Initial prioritisation and development of a pipeline of projects is underway.

Levelling Up Fund

- 7.3 The second round of LUF was launched in 2022, with results announced in January 2023. The £4.8bn fund aims to support capital investment in local culture, regeneration, and transport infrastructure up to 2024/25 (round 1) and 2025/26 (round 2).
- 7.4 In the first round, London received a total of £56.2m for transport schemes. We are working with the successful boroughs to deliver their projects⁶.
- 7.5 In the second round, TfL and GLA also submitted a joint application that provisionally secured £43m to be used for improvements at Colindale and Leyton Underground stations. The funding will match £14m (previously negotiated S106 and borough CIL) from Barnet and developers as well as £9m in borough CIL from Waltham Forest. The successful bid is the result of collaborative working with both boroughs and will make the two stations step free, as well as providing additional capacity to support the delivery of new, affordable homes. A full business case is currently being prepared to be submitted to the Department for Transport to unlock the funding and deliver both projects.
- 7.6 In addition, we supported a number of successful borough bids with sustainable transport elements:
- (a) Hackney, £19m: improvements to public spaces (eg Town Hall Square, Hackney Central library) and new creative workspace;

⁶ Newham received £40m for a new bridge over the River Lea and a series of 15 minute neighbourhoods, Ealing received £7m for Northolt station to White Hart roundabout and Tower Hamlets received £9m for Whitechapel Road.

- (b) Lewisham, £19m revitalised town centre marketplace, new flagship culture and business hub, and improvements to walking and cycling infrastructure;
 - (c) Camden, £8m, cycling and walking improvements and accessible facilities and green spaces;
 - (d) Barking & Dagenham, £11m, new homes, safeguarded jobs, and reduced crime; and
 - (e) Sutton, £14m, double the number of trains running to Belmont station and improved connectivity to the London Cancer Hub.
- 7.7 The Government recently announced the third round of LUF which has an overall budget of £1bn. The process for applications is expected to mirror previous rounds and is another opportunity to bring forward much needed schemes in London.

Royal Docks Enterprise Zone

- 7.8 The Royal Docks Enterprise Zone Delivery Plan (EZ) was approved by the Mayor and is a programme that seeks to transform the Royal Docks and accelerate the delivery of commercial space within the area. The GLA is to forward fund the EZ delivery plan through prudential borrowing, to be repaid from business rates generated over the life of the EZ. Developer contributions will also contribute to infrastructure required in the area. Investment by the EZ is expected to make a significant contribution to upgrading key DLR stations and TfL has received £3.75m to support feasibility and design work on several stations.
- 7.9 Following a review of the programme in 2022, the Pontoon Dock design have now been taken up to the concept design stage and the detailed design work on Royal Victoria has been undertaken. TfL is separately exploring funding options to deliver dynamic wayfinding improvements at Canning Town station.

Housing Infrastructure Fund (HIF)

- 7.10 The HIF is a government capital grant programme of up to £5.5bn which the Department for Levelling Up, Housing, Communities (DLUHC) expects to deliver hundreds of thousands of homes across England. Grant funding has been awarded to local authorities on a competitive basis for new infrastructure that will unlock homes in the areas of greatest demand.
- 7.11 In previous years we successfully bid for projects including interventions for the DLR and the East London line (ELL) to unlock new homes in Newham and Tower Hamlets, and Southwark and Lewisham respectively. On the DLR HIF bid, TfL was originally awarded £281m from Government to purchase additional DLR trains to expand Beckton DLR depot and contribute to the cost of enabling works at Poplar DLR depot. This is now £257.5m reflecting some changes in scope. This year, we have issued notice of intention to order 11 trains (reduced from 14 in the original agreement), the Beckton land acquisition is now complete, and the design and construction of the depot is on schedule. Discussions relating to Poplar are continuing.

- 7.12 The DLR HIF is one of the largest single contributions that TfL can make to delivering the new homes and jobs pillar of the MTS. Up to 12,000 homes will be delivered.
- 7.13 The ELL HIF programme was awarded £80.1m from Government to increase the capacity of the core section of the line from 16 to 18/20 trains per hour, expand Surrey Quays station and a new station at Surrey Canal Road. In total the ELL HIF programme schemes will unlock around 14,000 homes.
- 7.14 Surrey Quays station upgrade, signalling, power, and bus station improvements are now in contract with Morgan Sindall. Planning permission was granted for the station upgrade and TfL power upgrade procurement has commenced. An Invitation to Tender has been issued for the signalling upgrade. Finally, discussions with suppliers are progressing for the Canada Water bus station upgrade.
- 7.15 We are in discussion with Government regarding funding the next phase of work (Surrey Canal station and train stabling).

Work with Homes England and DLUHC

- 7.16 Homes England has been working with TfL as co-developers on the business case for a potential extension of the Dockland Light Railway to Thamesmead and Beckton Riverside, leading the housing and development workstream. The Strategic Outline Case has recently been submitted to Government, alongside a funding request for feasibility work.

Third-party feasibility funding

- 7.17 TfL's position remains financially challenging, and we are continuing to seek contributions from third parties for feasibility work on important transport projects. Feasibility funding from the OPDC (£300k in 2021/22) has been used to progress feasibility studies on North Acton station and wider strategic modelling in the Old Oak Common area. Likewise, £760k from Network Rail has been used to further develop TfL views on how it could respond to their aspirations for redevelopment of Victoria station.

8 Conclusion and next steps

- 8.1 Leveraging third-party funding and developer contributions has become increasingly important to deliver transport infrastructure and improvements in London. While there are some risks associated with this type of funding, it allows us to deliver key priorities and stretch our funding (e.g. SFA schemes) and, it has been fundamental to some of our most high-profile recent success stories such as the Northern line and Barking Riverside extensions which would not have been delivered without it. It also ensures that value is captured from beneficiaries of the schemes.
- 8.2 However, looking forward, there are a number of concerns. Market data shows a reduction in planning applications, reflecting a tightening up of liquidity in commercial banking lending in 2023 as well as the impacts of uncertainty around fire safety requirements. While this has not reduced workload - due to the complexity of many of the developments, ongoing changes to existing planning

permissions and continued pre-application activity - this could impact MCIL and S106 receipts going forward. There are also some increasing concerns around viability which could squeeze transport contributions. Crucially, there is also the prospect of the implementation of Government reforms to the existing system of developer contributions via the Levelling Up and Regeneration Bill (the Bill).

- 8.3 The Bill proposes that an Infrastructure Levy (IL) replace both the current CIL and S106 systems with one levy – although MCIL is to be retained in its current form. At the time of writing this report, a Technical Consultation is being undertaken by DLUHC which sets out proposals for how the IL will operate in practice. It may be some time before these changes are enforced as DLUHC proposes a ‘test and learn’ approach to IL prior to wider national roll out. TfL will have to adjust its approach to third-party funding at this time but we, and many other parties, have significant concerns about the implications in practice for the delivery of infrastructure and affordable housing.
- 8.4 Nonetheless we will continue to identify and leverage opportunities. This is key to delivering not just new homes but modal shift, carbon reduction and other priorities set out in the London Plan and the MTS. It is imperative that we focus on building and maintaining relationships and engaging effectively with funding partners to ensure we capitalise on opportunities and continue to deliver vital transport improvements to underpin sustainable growth.

List of appendices to this report:

None

List of Background Papers:

MCIL2 Charging Schedule: Mayor of London Community Infrastructure Levy 2 Charging Schedule (January 2019)

Supplementary Planning Guidance: Use of planning obligations in the funding of Crossrail and the Mayoral Community Infrastructure Levy (March 2016).

Community Infrastructure Levy Charging Schedule – Mayor of London (February 2012)

CIL Regulations 2010, as amended 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018 and 2019

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