

South Bank and Waterloo Neighbours

Draft Policy on Development Funding

1. Introduction and Purpose of the Policy.

The aim of this policy is to augment the provisions of the adopted South Bank and Waterloo Neighbourhood Plan in relation to planning gain, CIL and S106 (see Appendix A) and to amplify the processes relating to the SoWN Projects List. The policy reflects SOWN's wish to influence, in both boroughs:

- a) the content of s106 agreements resulting from planning applications
 - b) the allocation of neighbourhood CIL arising from developments in the SOWN area
 - c) to the extent possible, the allocation of strategic CIL,
- with the aim of maximising community benefit and sustainability in the SOWN area.

SOWN is a broad and representative community organisation, with a mandate derived from the overwhelming approval of the Neighbourhood Plan in the referendum, including a Projects List and provision for updating it. The maintenance of an up-to-date projects list, maintained as a live document with maximum local input, is key to the effective implementation of this policy. The role set out for SOWN in this Policy also reflects the strong feeling among residents and stakeholders in South Bank and Waterloo that the neighbourhood community, its residents and workers, suffer all the impacts and pressures arising from the intense development in the area, yet benefit only on a very small scale from the large amounts of development funding arising from local developments.

2. Definitions and Guidance relating to S106 and CIL

2.1 S106 Planning Obligations

The National Planning Policy Framework (NPPF) refers to S106 obligations on developers as follows: 204. Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

The introduction of CIL did not replace Section 106 agreements, but it did result in a tightening up of the s106 tests, requiring that S106 agreements should be focused on addressing the specific mitigation required by a new development, with CIL addressing the broader impacts of development.

For s106, both boroughs have policies and processes providing for pre-application engagement and consultation, which SOWN should use to influence the content of s106 agreements for developments in the SoWN area and nearby.

2.2 Community Infrastructure Levy (CIL)

CIL is charged on developments at a rate per square metre depending on location and use and the Council collecting the levy 'must apply the levy revenue it receives to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area'.

NPPG (para 143) states that the levy may '*be used to fund a very broad range of facilities such as play areas, open spaces, parks and green spaces, cultural and sports facilities, healthcare facilities, academies and free schools, district heating schemes and police stations and other community safety facilities*'.

CIL is divided into two headings: Strategic CIL, to be spent in accordance with the borough's Infrastructure Development Plan; and Neighbourhood CIL, to be spent in accordance with neighbourhood priorities.

Appendix C sets out the boroughs' current priorities for Strategic CIL, including items relevant to the South Bank and Waterloo neighbourhood.

In relation to Neighbourhood CIL both boroughs should have regard to National Planning Practice Guidance (NPPG) which summarises in para 144 that in areas with neighbourhood plans

a) neighbourhood CIL should be 25% (uncapped) and that

b) local authority consults with community about how funds can be used, including to support priorities laid out in neighbourhood plans.

Para 145 sets this out in more detail.

(see Appendix B for relevant extracts from NPPG, especially highlighted sections).

For the 25% neighbourhood funding, the definition of what the funds can be used for is broader than for the remaining 75%, comprising:

- i. *The provision, improvement, replacement, operation or maintenance of infrastructure*
- ii. *Anything else that is concerned with addressing the demands that development places on an area.*

SOWN's ability to influence S106 agreements and the allocation of CIL will therefore need different approaches, and its approach to CIL will need to recognise that for Strategic CIL (the 75%), its capacity to influence will be more limited, whilst with Neighbourhood CIL, having regard to NPPG, SOWN can reasonably expect to have a significant role in the allocation process.

3. The SOWN Approach to S106 and CIL.

3.1 Influencing S106 Agreements

SOWN will aim to influence the content of S106 negotiations and agreements, within the scope of statutory guidance on Planning Obligations (see 2.1 above), both through early pre-app discussions with developers and engagement with the relevant local authority, or with both Councils where there are cross-borough implications or opportunities.

In Lambeth SOWN will seek to ensure that discussions on planning obligations form part of emerging Lambeth pre-application procedures, based on the process set out in Lambeth's Statement of Community Involvement, para 3.10 of which states:

The council will consult statutory consultees where required by legislation... The council will also reach out to other consultees who are likely to have an interest in the proposed development. Where appropriate this may include neighbours, local amenity groups, specific interest groups, other non-statutory organisations...

https://www.lambeth.gov.uk/sites/default/files/pl-statement-of-community-involvement-sep-2015_0.pdf

Southwark lays out the following principles in a draft Statement of Community Involvement consulted on in 2020:

We will require a developer to provide an Engagement Plan for the pre-application stage so that we can ensure that they are reaching the right people and engaging in the right ways for this audience. We will ask them to find out about the impact their proposals could have on different groups, how they will mitigate any negative impacts, and how their development will foster good community relations. This is also taken into account throughout the planning application stage.

We will ensure developers engage with the community early in the process, through the Development Consultation Charter, so that the community can truly be involved with developments affecting their area.

SOWN will use these processes as the basis of strong representations to the local authority at the earliest possible stage of a proposed development as to what mitigation is needed in line with the NPPF criteria above. The aim should be to secure the Councils' support for prioritising mitigation of local impacts over payments which are less clear in their mitigation effect. The SOWN approach should be based on those projects in the most up-to-date SOWN Projects List which are relevant to

mitigating the impact of any particular development but will recognise that a development may have specific impacts needing mitigation which have not been covered in the Projects List.

3.2 Existing or Agreed s106 Funding

In both boroughs there will be S106 funds which have been paid over by developers but not yet allocated or spent. There are in addition signed S106 agreements relating to developments which have not yet started, or where payments have not yet been triggered. SOWN will aim to collate information on these potential S106 funds and, where the agreement provides scope to do so, identify, if or when they come forward, where they could contribute to items on the SOWN projects list.

3.3 Neighbourhood CIL

3.3.1 Lambeth

Lambeth previously resolved to allocate its neighbourhood CIL via its Community Local Investment Plans (CLIPs). It consulted on its proposed Waterloo CLIP in 2017, but never published the outcome. With the adoption of the Neighbourhood Plan the matter needs to be re-addressed and SOWN urgently wishes to engage with Lambeth on a process which reflects the referendum outcome and the guidance statement above that *'The use of neighbourhood funds should therefore match priorities expressed by local communities, including priorities set out formally in neighbourhood plans'*. There is further wording in the guidance to this effect: *Where a neighbourhood plan has been made, the charging authority and communities should consider how the neighbourhood portion can be used to deliver the infrastructure identified in the neighbourhood plan as required to address the demands of development.*

This Development Funding Policy will be revised to take account of the processes that are established following that discussion. Ward Councillors, for whom the guidance specifies an important role, should be part of the discussion and of any future process agreed.

3.3.2 Southwark

The council has introduced Community Investment Plans (CIPs) to guide the spending of local CIL in a ward, based on the priority themes. The process is overseen by the relevant Ward Forum which in the case of the Southwark part of the SOWN area is chaired by Cllr David Noakes. To support this process Southwark commissioned a consultation on priority projects for Borough and Bankside and St George's Wards which SOWN members fed into. Initial allocations have been made on the basis of that process. SOWN should maintain active contact with Cllr Noakes and the Council's Regeneration Team on next steps.

Only a small section of these two Wards lies in the SOWN area. To date there have been no major applications in the Southwark part of the SOWN area. When such development comes forward SOWN will need to engage with Southwark to give effect to Southwark's own guidance which states that: *where there is an adopted neighbourhood plan the priorities that have been approved in that plan may guide the projects identified; unless there is a clear reason for doing otherwise.* SOWN should also engage fully with local Southwark Ward Councillors on these matters.

3.4 Strategic CIL and other Funding Sources

There are some projects in the Projects List which may more appropriately be supported by Strategic CIL or other statutory funding sources. These opportunities should be monitored by the Development Funding Group with the aim of advancing the major projects, and to protect Neighbourhood CIL to bring forward projects which would not be eligible for Strategic CIL. Additional information is in Appendix C, together with a links to the borough's Infrastructure Development Plans which are intended to guide CIL spending.

4. The SOWN Projects List

The maintenance of an up-to-date SOWN Projects List is an essential feature of this policy and should form the basis of local community engagement and engagement with the tow boroughs. The current list is at [link to SOWN website](#).

The Projects List should:

- Reflect the policies and aspirations of the Neighbourhood Plan
- Be a 'live' document, available on the SOWN website, and continuously updated
- Be open to comments, feedback and suggestions for additional relevant projects from all in the neighbourhood
- Identify a project lead/contact for each project
- Indicate the stage of development a project has reached, which may range from ready to deliver (i.e. with an accurate cost estimate and all necessary approvals) to an outline idea needing feasibility studies, design, development, costing and, in all likelihood, seed funding.
- Indicate, where a project is sufficiently developed, what funding is sought via development funding (S106 or CIL) and what will or may be available from other sources.
- Identify, if relevant, the fit with the strategies of the relevant borough, in order to reinforce the case for development funding.

The process for managing, updating, and refining the Projects List should include:

- Publicising the list and inviting comments and additions, to be undertaken using all of SOWN's communications resources.
- Moderating and clarifying projects and their status for inclusion in the list, to be undertaken by the SOWN Development Funding Group
- Iterative communication with project leads/contacts to ensure information (e.g. the stage of project development, costs, funding sources) is accurate and up-to-date, to be undertaken by the SOWN Development Funding Group.
- Full engagement with Ward Councillors who will participate in or receive all necessary communication from the Development Funding Group.

The Projects List will be used by SOWN in all engagement with the boroughs about prioritising and allocating funds, a process which, will be led by the Steering Group with input from the Development Funding Group. In promoting and agreeing priorities for funding with the Councils the Steering Group will have regard to

- the deliverability of the project - there is a risk associated with prioritising projects which are not sufficiently developed to be sure of proceeding.
- The need for seed funding for projects which need further development before they are prioritised for delivery funding.
- The availability of potential funding sources other than planning gain.

5. SoWN Actions and Resources

This policy requires four strands of SoWN action:

- a) continued engagement with the neighbourhood community to inform projects and priorities
- b) engagement with developers to influence s106 agreements
- c) engagement with both boroughs on all relevant development funding matters
- d) continuous updating of the Projects List

Implementation of this policy is clearly a high priority for SoWN but also potentially very demanding. The Steering Group needs urgently to establish the resources needed to implement SoWN's role in the actions and processes set out above, with input from the Development Funding Group.

Appendix A (from adopted South Bank and Waterloo Neighbourhood Plan)

8.7 Policy & guidance: Planning gain & mitigation

Key issues

- Policies and guidance relating to the negotiation, collection and defrayal of Section 106 and Community Infrastructure Levy do not relate to a specific theme but are cross cutting. They have been developed by a number of the working groups and a separate group established to consider the defrayal of developer contributions.
- One of the key issues relates to a perceived disconnect between the community and negotiations between the council and developers on how to defray S106 and CIL. Local people assert that they should have a much greater say on how the impact of development should be mitigated since the impact is experienced most locally.
- The London Eye S106 agreement presents an example of the successful local defrayal of revenue S106. A local partnership of businesses, residents and the council determine annually how revenue should be spent according to a set of environmental priorities. A community chest grant fund is managed by a local community organisation and voluntary and community groups can apply for amounts up to £10,000 annually for projects which benefit the neighbourhood. SoWN has proposed a similar mechanism for the defrayal of CIL (see Section 9 - Implementation & Delivery).
- The need for further revenue to maintain infrastructure in the area is paramount. A report prepared by Volterra Consultants for South Bank Employers Group in 2013 and updated in 2016 indicates that declining public investment in management and maintenance of the area has the capacity to limit the economic growth of the area. Consultation with other local delivery groups reflects this view and an appropriate balance must be sought between delivering new infrastructure through capital spend and managing existing through revenue.

Policy P17: Planning gain & mitigation

P17 Subject to requirements and implications of regulations 122 and 123 of the CIL Regulations, where developments create an ongoing and significant cost implication for the management and maintenance of the neighbourhood area outside the development's demise, revenue Section 106 funding to mitigate the impacts should be secured from the development.

Rationale for policy

Policy P17 – Revenue funding is required to protect and maintain capital investment. The London Eye Revenue S106 model is exemplar of local management of services via ongoing funding and a similar mechanism would be appropriate for other developments which significantly increase footfall (and therefore litter, maintenance requirements and security measures).

Revenue funding could be generated either via a commuted sum, proportion of turnover or proportion of service charges on operators occupying new developments. Alternatively developers could provide a revenue generator to the community or Council, such as a retail unit or land.

Planning gain & mitigation: Other guidance

Obligations included within S106 agreements should be reported clearly and transparently by the local planning authority within the committee or delegated report. The obligations should reflect mitigating measures on which the local community have been fully consulted.

9. Implementation & Delivery

Delivering the Neighbourhood Plan

Part of the appeal of neighbourhood planning to local people is the increased role of the community through the establishment of neighbourhood fora and a neighbourhood development plan in developing local priorities for investment. The implementation and delivery of the priorities and projects in this neighbourhood plan will require funding to be secured. Government guidance on the neighbourhood portion of CIL states:

The Community Infrastructure Levy should support and incentivise new development, particularly by placing control over a meaningful proportion of the funds raised with the neighbourhoods where development takes place.

National Planning Policy Framework, March 2012

In England, communities that draw up a neighbourhood plan or neighbourhood development order (including a community right to build order), and secure the consent of local people in a referendum, will benefit from 25 per cent of the level revenues arising from the development that takes place in their area.

Planning Practice Guidance, June 2014

Where a neighbourhood plan has been made, the charging authority and communities should consider how the neighbourhood portion can be used to deliver the infrastructure identified in the neighbourhood plan as required to address the demands of development.

Planning Practice Guidance, June 2014

Southwark Council's supplementary Planning guidance on Section 106 Planning Obligations and Community Infrastructure Levy (April 2015 and January 2017 addendum) reflects the requirements set out in government guidance as follows:

Southwark Council will spend at least 25% of CIL on projects in the local area, whether there is an adopted neighbourhood Plan or not, using the following sequence of areas to identify relevant projects:

- Areas with an adopted neighbourhood Plan
- Opportunity areas/action areas
- SPD areas (other than individual sites/buildings)
- Community council areas (for those areas which are not covered by any of the above).

Lambeth Council has made similar commitments in relation to neighbourhood CIL expenditure at cabinet level.

Section 106 agreements – secure financial and other obligations from developers and are entered into as a condition of planning permission being granted, in order to mitigate the impacts of the development for which planning permission is being sought. Legislation and government guidance requires such obligations to be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. Other sources of funding are likely to become available from time to time and these will be reviewed regularly by SoWN together with the Councils and other stakeholders.

SoWN's Role

SoWN is the neighbourhood forum established under the provisions of the Localism Act, and recognised by both Lambeth and Southwark Councils as the designated body to prepare a neighbourhood plan for the designated area which contains parts of both Councils' administrative areas. SoWN has some 500 members and is administered by an elected Steering Group of 32 including residents, employees, businesses, third sector organisations, public bodies and ward councillors, providing broad representation across the South Bank and Waterloo Community. One of SoWN's prime objectives is to monitor the implementation of the Neighbourhood Plan, providing input into the priorities for S106 agreement obligations to mitigate the immediate impacts of developments. SoWN's working groups have collaborated to develop a set of projects that are intended to act as targets for the neighbourhood portion of CIL and, where appropriate, S106 developer contributions. These projects are put forward by the local community and represent examples of locally supported projects which fulfil the policy objectives of this plan.

SoWN's Objectives

In line with the above, SoWN's objectives are more particularly to:

- ensure there is local input into S106 agreements to mitigate the immediate impact of individual developments in the neighbourhood plan area, including where such agreements can support the projects list which forms part of the plan, in line with the plan's objectives, priorities and projects;
- play a leading role with both Councils in facilitating communication between the Councils, the community and relevant local bodies in reaching agreement on the expenditure of S106 funds and other funding to ensure that consensus is secured locally and the Councils have a clear single point of contact and information.

Implementation and Future Policy Changes

SoWN is aware that projects and programmes will evolve, priorities will change, and costs and the flow of funding will fluctuate, meaning that mechanisms will be required for SoWN to update and reprioritise plan aspirations and secure local consensus to the outcomes of this process on at least a bi-annual basis, including where appropriate securing agreement from other neighbourhood fora in the vicinity. SoWN will continue to maintain a Planning Gain Group, which will include ward councillors from both Councils to work with those Councils to review the projects list in this neighbourhood plan, as the list is updated and/or listed projects are implemented. SoWN intends to work actively with the Councils and other bodies in identifying, pursuing and securing all other sources of funding available to secure the implementation and delivery of the Neighbourhood Plans' projects and priorities.

APPENDIX B - National Planning Practice Guidance, Community Infrastructure Levy

<https://www.gov.uk/guidance/community-infrastructure-levy#spending-the-levy>

Para 143 What can the Community Infrastructure Levy be spent on?

The levy can be used to fund a wide range of infrastructure, including transport, flood defences, schools, hospitals, and other health and social care facilities (for further details, see [section 216\(2\) of the Planning Act 2008](#), and [regulation 59](#), as amended by the [2012](#) and [2013 Regulations](#)). This definition allows the levy to be used to fund a very broad range of facilities such as play areas, open spaces, parks and green spaces, cultural and sports facilities, healthcare facilities, academies and free schools, district heating schemes and police stations and other community safety facilities. This flexibility gives local areas the opportunity to choose what infrastructure they need to deliver their relevant plan (the Development Plan and the London Plan in London). Charging authorities may not use the levy to fund affordable housing.

Local authorities must spend the levy on infrastructure needed to support the development of their area, and they will decide what infrastructure is needed.

The levy can be used to increase the capacity of existing infrastructure or to repair failing existing infrastructure, if that is necessary to support development.

In London, the regulations restrict spending by the Mayor to funding roads or other transport facilities, including Crossrail, to ensure a balance between the spending priorities of the London boroughs and the Mayor.

Para 145 Where there is no parish or town council, who receives the neighbourhood portion?

Communities without a parish or town council can still benefit from the neighbourhood portion. If there is no parish or town council, the charging authority will retain the levy receipts but should engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding. Charging authorities should set out clearly and transparently their approach to engaging with neighbourhoods using their regular communication tools for example, website, newsletters, etc. The use of neighbourhood funds should therefore match priorities expressed by local communities, including priorities set out formally in neighbourhood plans.

The law does not prescribe a specific process for agreeing how the neighbourhood portion should be spent. Charging authorities should use existing community consultation and engagement processes. This should include working with any designated neighbourhood forums preparing neighbourhood plans that exist in the area, theme specific neighbourhood groups, local businesses (particularly those working on business led neighbourhood plans) and using networks that ward councillors use. Crucially this consultation should be at the neighbourhood level. It should be proportionate to the level of levy receipts and the scale of the proposed development to which the neighbourhood funding relates.

Where the charging authority retains the neighbourhood funding, they can use those funds on the wider range of spending that are open to local councils (see [‘Can the levy be used to deliver Suitable Alternative Natural Greenspace?’](#), and [regulation 59C](#)). In deciding what to spend the neighbourhood portion on, the charging authority and communities should consider such issues as the phasing of development, the costs of different projects (for example, a new road, a new school), the prioritisation, delivery and phasing of projects, the amount of the levy that is expected to be retained in this way and the importance of certain projects for delivering development that the area needs. Where a neighbourhood plan has been made, the charging authority and communities should consider how the neighbourhood portion can be used to deliver the infrastructure identified in the

neighbourhood plan as required to address the demands of development. They should also have regard to the infrastructure needs of the wider area.

The charging authority and communities may also wish to consider appropriate linkages to the growth plans for the area and how neighbourhood levy spending might support these objectives.

APPENDIX C - Strategic CIL in Lambeth and Southwark

1. Strategic CIL in Lambeth

The key document the allocation of strategic CIL is the updated Infrastructure Development Plan, which underpins the case for the CIL Charging Schedule recently approved by Lambeth Cabinet. This document

<https://modern.gov.lambeth.gov.uk/documents/s114042/Appendix%20C%20-%20Infrastructure%20Delivery%20Plan%20January%202020.pdf>

is a wish list, totalling far more than is ever likely to be available from CIL, but does contain some local elements or borough-wide areas of investment where funding could be sought for local initiatives, as follows:

Climate Change Response and Air Quality: Low Emission Neighbourhoods; Retrofitting Lambeth's schools and public/community buildings; Combined Heat and Power Schemes – Vauxhall and South Bank; Borough-wide Flood Risk Reduction Schemes.

Health and social care: New Primary Care Centre in Waterloo

Community Facilities and Libraries: Oasis Academy Johanna Primary School/Replacement Waterloo Library; Upgrade of Community Facilities (including youth and play).

Parks and Green Infrastructure: Borough-wide programme of parks and green infrastructure improvements (implies this is a LBL parks programme but no reason why others e.g. Bernie Spain Gardens should not benefit); Separate reference to Extension of Jubilee Gardens in accordance with Local Plan policy, with statement 'Management and maintenance costs arising directly from growth can in principle be funded by developer Contributions'.

Transport/Public Realm: Electric Vehicle Charging Infrastructure ; Healthy Route Network - Borough wide infrastructure improvements for walking and cycling ; Low Traffic Neighbourhoods - Area based improvements to reduce traffic and enable walking and Cycling; Secure cycle parking - Bike hangars, onstreet visitor cycle parking, parking at transport interchanges ; Waterloo City Hub and Waterloo Road, described as Reconfiguration of Junction to allow for new open space, new bus station, new direct links from Station to South Bank and upgrades to adjoining streets including Sandell St, Exton St, Mephram St. Improvements to Waterloo Road/Bayliss Road/The Cut Junction, with identified funding of £31.4m(TfL; LBL and CIL/S106); Waterloo Public Realm Projects, listed as Spine Route (Upper Ground /Belvedere Road/Concert Hall Approach); Emma Cons Garden and junction/Millennium Green; 'Play Trail'; Neighbourhood enhancement and 'Low Line' between Waterloo East and Vauxhall (Lambeth Bridge Road); Victory Arch Square ; The Cut.

2. Strategic CIL Southwark

The Southwark IDP has similar headings and categories but no specific projects in or even near the SoWN area. The chances of securing or influencing strategic CIL allocations in Southwark are probably more limited, but where headings overlap, e.g. improving walking and cycling routes, and green infrastructure, a cross borough approach should be adopted.