

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 23 November 2020	<b>Meeting Name:</b> Cabinet Member for Climate Emergency, Planning and Transport
<b>Report title:</b>		Adopt the amendment to the Section 106 Planning Obligations and Community Infrastructure Levy (CIL) Supplementary Planning Document 2015 – Carbon Offset – Green Fund Calculation Clause	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Planning Policy Officer	

## RECOMMENDATION

1. That the Cabinet Member for Climate Emergency, Transport and Planning agrees to adopt the amendment to the S106 and CIL Supplementary Planning Document 2015 in relation to the cost per tonne of carbon as set out on page 21 of S106 and CIL SPD from £60 per tonne of carbon to £95 per tonne of carbon.

## BACKGROUND INFORMATION

2. This is an Addendum to the Section 106 Planning Obligations and Community Infrastructure Levy (CIL) Supplementary Planning Document 2015 (S106 and CIL SPD). This Addendum is relevant to any planning application that is required to meet 40% onsite reduction in carbon under the Core Strategy or the New Southwark Plan policies (which ever document forms part of the adopted Development Plan at that time).
3. The S106 and CIL SPD sets out the financial contributions that are required where targets cannot be met onsite for affordable housing, archaeology, children's play space, employment and enterprise, outdoor amenity space, public realm measures, student housing, transport, wheelchair accessible housing and carbon offset.
4. LB Southwark has declared a Climate Emergency. Where net zero carbon cannot be achieved onsite it is crucial that the carbon emitted from new development is offset. Therefore, LB Southwark requires a financial contribution to offset the carbon emitted carbon.

5. The cost of this contribution is set by LB Southwark. This must also be compliant with the carbon price set out in the London Plan. This financial contribution is collected into the Carbon Offset Fund. This fund is intended solely to offset carbon emissions from development.
6. It is proposed that this cost be increased in line with the London Plan price to ensure that it is are compliant and can aim to reach net carbon zero by 2030. By increasing the price, the payment of a financial contribution is disincentivised and the reduction of carbon onsite is encouraged. By increasing the carbon price, there is more money to spend per tonne on offsetting the carbon emitted from new development. This increases the ability of the fund to reduce carbon emissions, as the spending potential of the Carbon offset ratio has increased.
7. This is part of our wider work to review the carbon off-set charge.

### **Section 106 agreements – Carbon Offset Fund Contribution**

#### *Southwark Carbon Price*

8. LB Southwark currently set out the price per tonne of Carbon as £60. This is proposed to be increased to £95 to align with the New London Plan. The GLA are currently requiring a carbon price of £95 for its own development.

#### *GLA Carbon Price*

9. Chapter 9 Sustainable Infrastructure of the London Plan references under the reasons for Policy SI 2 Minimising greenhouse gas emissions that a nationally recognised non-traded price of £95/tonne has been tested as part of the viability assessment for the London Plan which boroughs may use to collect offset payments.
10. The GLA's Carbon Price is set out in the Mayor's Supplementary Planning Guidance and is only referenced in emerging policy. This policy has been assessed at public examination and the delay with the London Plan is not as a result of issues with this section.
11. This carbon price will be updated in Appendix 1 of the S106 and CIL SPD to reflect this change in price. This carbon price will be set out in the New Southwark Planning policy NSP69 Energy as part of the policy review to reflect the Climate Emergency.

12. This price will be reviewed further as part of a policy strategy to ensure further carbon reduction onsite to continue to address the Climate Emergency.
13. If the amendment is adopted the recommendation will be implemented immediately.

## **KEY ISSUES FOR CONSIDERATION**

### *Recommendations - Amendment to the S106 and CIL Supplementary Planning Document 2015*

14. In light of the GLA's updated cost of carbon, we propose to include the following update to the sentence within the S106 and CIL SPD 2015 to update the cost per tonne of carbon as set out on page 21 from £60 per tonne of carbon to £95 per tonne of carbon.

## **Policy implications**

15. The proposed amendment to the S106 and CIL SPD will support existing policy P69 Energy of the New Southwark Plan. This policy makes reference to the S106 and CIL SPD.
16. This amendment increases the financial contribution required when carbon reduction onsite has not been achieved.
17. This increase is being proposed to align with the New London Plan. This is set out in Chapter 9 Sustainable Infrastructure of the London Plan references under the reasons for Policy SI 2 Minimising greenhouse gas emissions. The GLA's Carbon Price is set out in the Mayor's Supplementary Planning Guidance and is only referenced in emerging policy, as set out above.
18. The expected outcome is that new development will either reduce carbon emissions onsite to a greater extent, or the applicant will pay a higher financial contribution for not doing so. Therefore, the Carbon Offset Fund will have increased monies and have increased potential to offset the carbon emitted.
19. This aligns with the Climate Emergency declared by LB Southwark in March 2019.
20. There are no foreseen actual or potential legal or financial consequences of taking the recommended course of action or not taking it until the GLA adopts the New London Plan. In which case,

we will not be in compliance with the New London Plan, LB Southwark planning policy must be in compliance with the adopted London Plan unless it can justify otherwise.

### **Community impact statement**

21. The Public Sector Equality Duty (PSED) contained in Section 149 (1) of the Equality Act 2010 imposes a duty on public authorities (including the Council) to have, in the exercise of their functions, due regard to three “needs” which are central to the aims of the Act:
  22. The need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act.
  23. The need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it. This involves having due regard to the need to:
    - a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
    - b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
    - c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
24. The need to foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to tackle prejudice and promote understanding.
25. The protected characteristics are: race, age, gender reassignment, pregnancy and maternity, disability, sexual orientation, religion or belief, sex, marriage and civil partnership.
26. The council has given due regard to the above needs and rights where relevant.
27. The increase in the cost of carbon is anticipated to have positive impacts on all protected characteristics because it will reduce carbon emissions in the borough and ensure that LB Southwark can mitigate against the Climate Emergency. This will reduce the impacts of Climate Change on all local residents.

### **Resource implications**

28. There are no additional resource implications from the proposed amendment to the S106 and CIL SPD.

### **Financial implications**

29. There are no financial implications associated with the recommendations set out within this report.
30. The recommendation is to increase the carbon offset fund charging rate from £60 to £95 per tonne of carbon. It is difficult estimate the incremental income generated from the increase of the rate as the earnings from the carbon offset fund are not incremental to S106 but are instead index linked.
31. Any future income received due to the implementation of the recommendations of this report will be ring-fenced to deliver carbon emissions savings off-site through a variety of projects.
32. Staffing and any other costs connected with this report to be contained within existing departmental revenue budgets.

### **Consultation**

33. Consultation on this amendment to the S106 and CIL SPD is not proposed as the consultation on this new carbon price has been completed by the GLA as part of consultation on the New London Plan. It is set out as a suitable and viable carbon price for all London boroughs. It will not be consulted on further by LB Southwark.
34. It is understood that the £95 cost of carbon is now being required of schemes referral to the GLA.

### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

#### **Head of Procurement**

35. Comments from the head of procurement not sought.

#### **Director of Law and Democracy**

36. The Council is most concerned about carbon emissions and has declared a climate emergency. The aim is for new developments to emit zero carbon emissions and developers are regularly challenged concerning this at Planning Committee.
37. Where a development cannot achieve zero carbon emissions on site, then the carbon emitted is required to be off-set by a payment. This is presently set at £60 per tonne and this report seeks authority to increase this to £95 per tonne. This higher figure reflects current practice by the GLA and

is also referenced in the draft New London Plan. An Examination in Public for the New London Plan took place between January 2019 and May 2020 and an Intend to Publish version was issued in January 2020. The Plan has yet to be adopted as the Secretary of State raised certain concerns and these are still being considered and discussed between officers at the GLA and the Secretary of State's department.

38. However, as indicated in paragraph 8 of this report, the issue of carbon emissions and any compensatory payment was not amongst the concerns raised by the SoS. Accordingly, this part of the draft New London Plan can be considered as a material consideration carrying significant weight for London Boroughs when reaching planning decisions.
39. The report considers the impact of this decision on those being part of a group having a protected characteristic within the Equality Act 2010. It is anticipated that the increase in the cost for developers will actually have a positive impact for those with a protected characteristic.

#### **Strategic Director of Finance and Governance (CE 20/056)**

40. The report is requesting the Cabinet Member for Climate Emergency, Planning and Transport to adopt the amendment to the S106 and CIL Supplementary Planning Document 2015 in relation to the cost per tonne of carbon as set out on page 21 from £60 per tonne of carbon to £95 per tonne of carbon.
41. The strategic director of finance and governance notes that there are no financial implications associated with the recommendations set out within this report and any income generated from carbon offset fund recommendations will be ring-fenced to deliver carbon emissions savings off-site through a variety of projects.
42. Staffing and any other costs relating connected with this report will be contained within existing departmental revenue budgets.

#### **Other officers**

43. Comments from other officers have not been sought.

## **BACKGROUND DOCUMENTS**

Background Papers	Held At	Contact
S106 and CIL Supplementary Planning Document	<a href="https://www.southwark.gov.uk/assets/attach/14555/EIP49-Section-106-Planning-and-CIL-SPD-2015-.pdf">https://www.southwark.gov.uk/assets/attach/14555/EIP49-Section-106-Planning-and-CIL-SPD-2015-.pdf</a>	Planning Policy Team planningpolicy@southwark.gov.uk
Proposed Changes to the Submitted Version of the New Southwark Plan (August 2020)	<a href="https://www.southwark.gov.uk/assets/attach/19868/EIP27A-Proposed-Changes-to-the-submitted-New-Southwark-Plan-2020-Clean-version-.pdf">https://www.southwark.gov.uk/assets/attach/19868/EIP27A-Proposed-Changes-to-the-submitted-New-Southwark-Plan-2020-Clean-version-.pdf</a>	Planning Policy Team planningpolicy@southwark.gov.uk

## APPENDICES

No.	Title
None	

## AUDIT TRAIL

<b>Lead Officer</b>	Juliet Seymour – Planning Policy Manager	
<b>Report Author</b>	Lauren Wilkinson – Planning Policy Officer	
<b>Version</b>	Final	
<b>Dated</b>	19 November 2020	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments Included</b>
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>	19 November 2020	