

Date: 27 November 2012

Item 9: Update on Planning Obligations

This paper will be considered in public

1 Summary

- 1.1 TfL is responsible for advising the Mayor on the transport issues associated with planning applications referred to him under the Greater London Authority Act 1999 (GLA Act). TfL staff attend the weekly Mayoral Planning meetings and are involved in negotiating transport mitigation with developers and boroughs.
- 1.2 The issue of how effective TfL is at negotiating contributions from developers for transport infrastructure was raised by the Committee in the past. The Committee will be provided with an annual update on TfL's work in this area. This paper provides the Committee with an update on:
- (a) Section 106 funding and delivery for developments that will contribute to the funding of Crossrail and other transport projects;
 - (b) the Mayor's and boroughs' Community Infrastructure Levies; and
 - (c) government proposals in the Growth and Infrastructure Bill to reform the planning system and the implications for planning obligations.

2 Recommendation

- 2.1 That the Committee note the report.

3 Development Activity

- 3.1 Receipts from developers are directly related to development activity. The economic conditions of the last few years have seen a significant downturn in development activity and as a result there have been fewer implemented planning permissions, particularly those involving major development proposals. However, the number of applications for planning permissions referred to the Mayor shown in Figure 1 continues to be a reasonably steady figure and is a reliable barometer for planned development activity; there are also signs that there may be an upturn in construction activity.

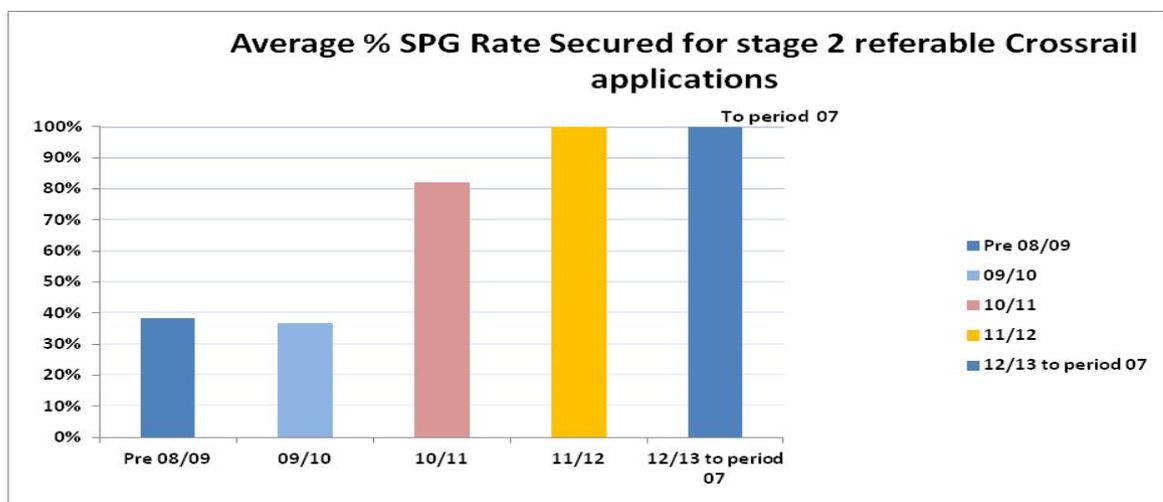
Figure 1



Crossrail Supplementary Planning Guidance

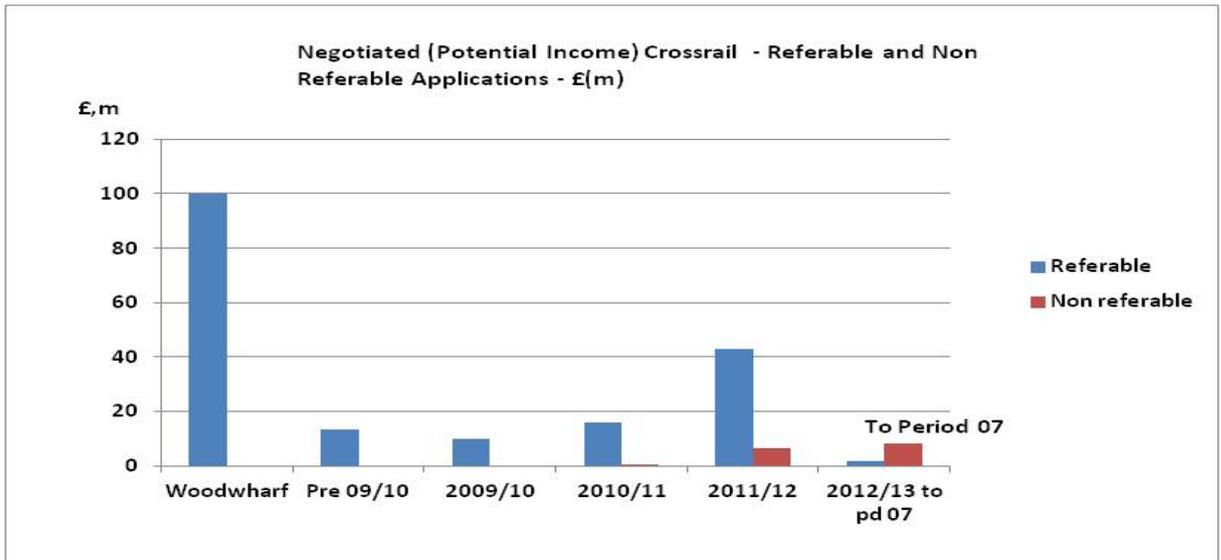
- 3.2 In total £300m is needed via Section 106 agreements from developments subject to the Crossrail Supplementary Planning Guidance (SPG) in line with the Crossrail funding agreement. The SPG applies to office, retail and hotel developments and the areas where the SPG applies are confined to Central London, the Isle of Dogs and the areas immediately around Crossrail stations. The policy applies to all relevant developments, not just strategic developments referred to the Mayor. After the SPG was published all developments were expected to pay 100 per cent of the rate (dependent on use); before that time TfL and the Mayor had accepted obligations with a lower figure as the policy had not been through all the stages before approval.
- 3.3 Figure 2 illustrates the increase in the percentage of the SPG rate subsequent to its start in July 2010, with all applications during 2012/13 meeting the SPG in full, and normally due on commencement (although a 20 per cent discount applies if schemes are started before 31 March 2013).

Figure 2



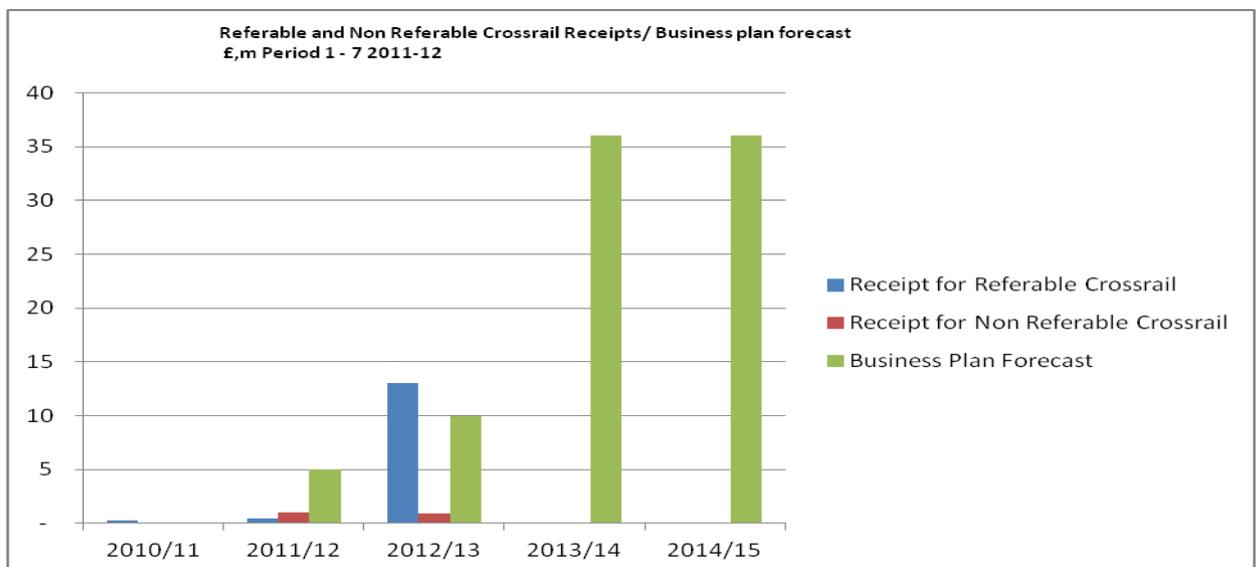
3.4 In total, £197m has been negotiated from developers and Figure 3 illustrates the sums by year in accordance with the Crossrail SPG, with Wood Wharf site shown separately as the £100m negotiated represents a third of the total. However, there is some doubt concerning whether the consented scheme will be developed as the Canary Wharf Group is now looking at alternative proposals that are more viable in the current economic climate.

Figure 3



3.5 To date, £15.8m has been paid to TfL for Crossrail from 22 different developments. 12 out of the 22 applications were paid during this financial year 2012/13 (see Appendix 1 for the full list of sites where Crossrail contributions have been paid and Appendix 2 for the list of sites where contributions have been negotiated). Figure 4 shows the anticipated Crossrail receipts as set out in the Business Plan compared with what has been paid.

Figure 4



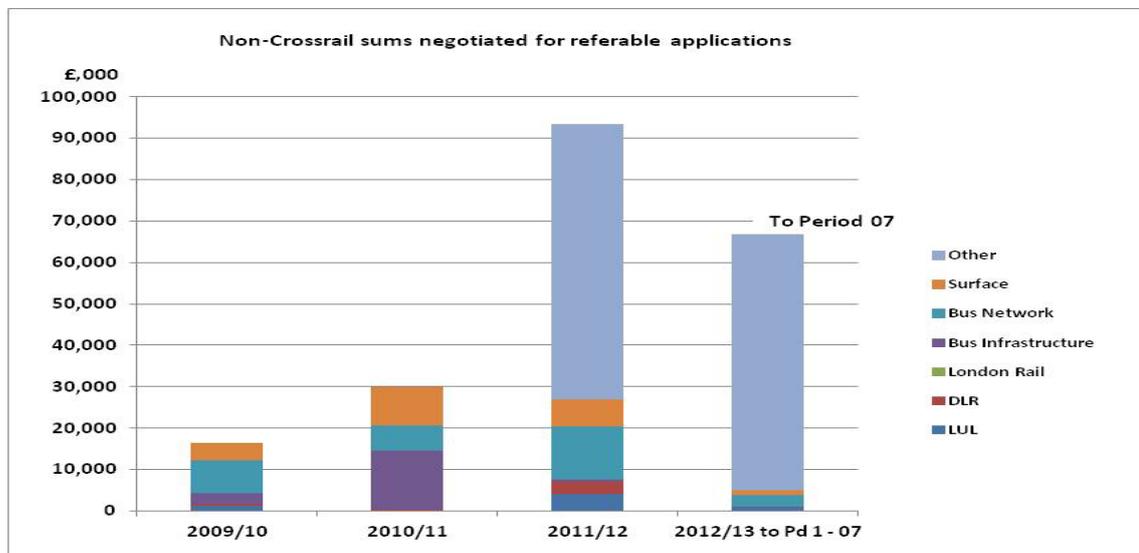
Forecasting s106 income

- 3.6 It is forecast that approximately £17m will be collected from s106 agreements in the financial year 2012/13. This includes £14m that has been paid already and £3.4m which will be payable in the second half of the financial year. If the construction market becomes more buoyant in the winter/spring 2013 and development activity continues at the same rate as in first half of the financial year, there is a possibility that s106 receipts will exceed £20m in this financial year.
- 3.7 While TfL is on target to deliver the income predicted in the Business Plan for this year, the current profile has £36m for next year. Given the uncertain nature of the conversion of planning consents into actual s106 payments, it is not easy to try and forecast total s106 receipts in future financial years. TfL is working with Jones Lang LaSalle consultancy to provide market intelligence on progress with key development sites and this will assist in forecasting future income from developers.

Non-Crossrail Transport Mitigation

- 3.8 Planning applications that are referred to the Mayor are generally approved with a package of mitigation measures, some of which will relate to transport in addition to Crossrail funding. The measures that are negotiated by TfL non-Crossrail transport obligations vary enormously in type and scale, from mega-projects such as New Covent Garden Market, Nine Elms (£51m+), Surrey Canal Triangle (£17m+) and New London Bridge (£15m+) through to schemes involving minor works (for example bus stop improvements) which may cost £5k.
- 3.9 As well as transport infrastructure defined in the s106, TfL often benefits from schemes which are delivered directly and do not involve funds being transferred to TfL. The most notable of these are benefits in kind, which could include bus stations as at Stratford and London Bridge.

Figure 5

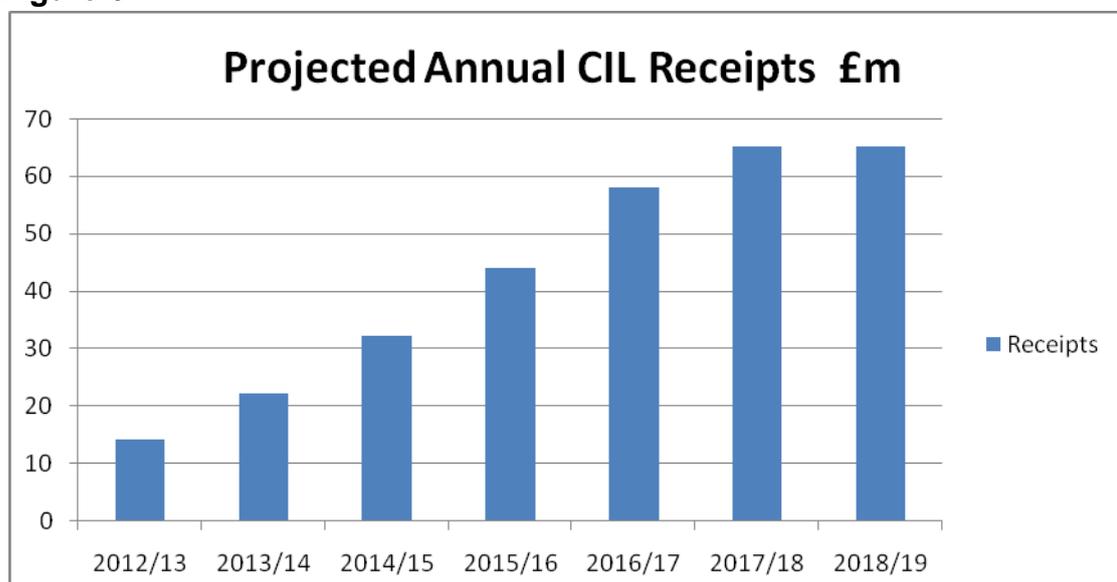


- 3.10 Figure 5 shows the sums negotiated for non-Crossrail transport mitigation over the last three and a half years. The large 'other' sums generally reflect the sums negotiated under the Vauxhall, Nine Elms, Battersea (VNEB) tariff, a large proportion of which will be for the Northern Line Extension. In total, £389m has been negotiated from developments in the VNEB area (£214m from Battersea Power Station) based on the DIFS tariff for all infrastructure in the area, albeit a large proportion will be for the Northern Line Extension.
- 3.11 The London Plan gives priority to Crossrail when negotiating transport mitigation, which means that other transport mitigation may be reduced in scale if the development is to remain viable.

Mayoral Community Infrastructure Levy

- 3.12 The Mayoral Community Infrastructure Levy (CIL) came into effect on 1 April 2012. It covers all development throughout London with a few exceptions (health and education facilities) and is expected to raise another £300m for Crossrail. While the Mayor is the 'Charging Authority' and determines his CIL rates across London, it is the 34 authorities (all 33 boroughs and the London Legacy Development Corporation) that are the 'Collecting Authorities'. They need to apply the Mayor's CIL and collect the money, on the Mayor's behalf, and transfer it to TfL.
- 3.13 It has been agreed with the boroughs that CIL receipts will be paid on a quarterly basis to TfL. The first transfer of contributions was in October 2012 and totalled £240,000. This very small sum was expected as the CIL could only be collected from developments permitted after April 2012 where these works had commenced on site and where payments were made after a 60 day period. Most significant developments do not start on site for a year or so after the consent. Boroughs have also informed us that they have issued CIL Demand notices of a value of £1.8m and this indicates that an income of £3m to 5m is possible this financial year from CIL, on the assumption that TfL accounts for the April payments in the 2012/2013 year.
- 3.14 The cumulative profile of forecast CIL funding coming to TfL is as shown in Figure 6.

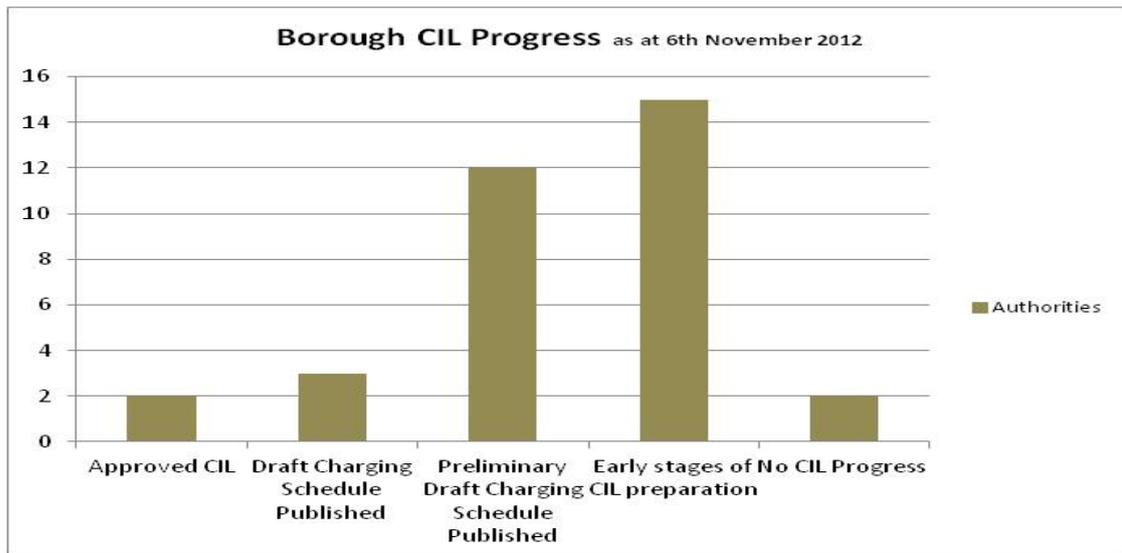
Figure 6



Borough CILs

- 3.15 Boroughs also have the powers to develop their own CIL's for funding a range of infrastructure as well as transport (but not affordable housing for which a s106 agreement remains the mechanism). The Mayor's CIL is confined to funding transport infrastructure. More than half the boroughs are expected to have proposals approved or out to consultation by the end of 2012 (see Figure 7).

Figure 7



- 3.16 A GLA/TfL officer CIL steering group has supported boroughs as they have progressed their CIL proposals. In addition, TfL's property advisors have reviewed the viability evidence to ensure that any proposed borough rate, when combined with the Mayor's CIL, will not make development unviable. TfL has taken the opportunity to review the list of transport projects on which the boroughs are intending to spend CIL to verify assumptions about any TfL support and funding (for example for the London Borough of Southwark CIL, TfL has pressed the authority to ensure CIL receipts help pay for the Elephant & Castle transport mitigation package). This has highlighted the need for a much better and more consistent approach to infrastructure planning across London and TfL is keen to work with the GLA on this. This will also help when the case for additional resources for London is made in the future.
- 3.17 The London Assembly's Planning Committee is reviewing CIL. It wants to understand how a strategic approach to setting a CIL by the boroughs can be adopted, ensuring that proposals remain viable and avoid a negative impact on regeneration and growth in all parts of London. TfL has contributed to the response from the GLA to questions raised by the Committee. The Committee is due to report in January 2013.

4 Planning for Growth

- 4.1 As part of a recent series of initiatives to encourage growth, the Government has announced proposals to streamline the planning system and has published the Growth and Infrastructure Bill. For sometime the development industry has

expressed concern about the cost of s106 planning obligations; many of which relate to developments that were permitted in a more favourable economic climate and include obligations that can no longer be afforded with increased costs or decreased values. In addition the industry has also expressed concern about the new CIL regime, as it had expected CIL to replace s106 agreements and not operate alongside them In London. The level of the borough CILs (not the Mayor's) are raising concerns.

- 4.2 In response, the Government wants to empower developers to have the right to ask councils for the obligations for affordable housing to be amended where they can demonstrate that the requirements are making the development unviable. Should the local authority refuse, the applicant could appeal to the Secretary of State. Any new agreement would cease after three years and return to the original agreement. The Mayor has asked that he would have the power to call in such applications once submitted to the borough. TfL will need to be involved in any renegotiations of s106 agreements, to ensure that essential transport mitigation is not affected.

List of appendices to this report:

Appendix 1: Developments that have paid a s106 Crossrail contribution

Appendix 2: Developments where a s106 Crossrail contribution has been negotiated but development has not started or the trigger point not reached

List of Background Papers:

London Plan 2011

London Plan Proposed Early Minor Alterations 2012

Draft Supplementary Planning Guidance: Use of planning obligations in the funding of Crossrail and the Mayoral Community Infrastructure Levy Nov 2012

Growth and Infrastructure Bill 2012

Contact Officer: Alex Williams, Director of Borough Partnerships
Number: 020 7126 4284
Email: alexwilliams@tfl.gov.uk

Appendix 1

Developments that have paid a s106 Crossrail contribution

Borough	Application site / address	Mayor's Decision Stage2	Crossrail funding £	Land Use	Date funds with TfL
Southwark	156-172 Tooley St/Shand St	22/05/2006	235,000	Office	Occupation
Southwark	61-63 Great Suffolk Street	04/08/2010	136,743.20	Mixed	On commencement
Westminster	St James's Gateway. Piccadilly / Jermyn St.	26/08/2009	285,229.78	Office	On commencement
City	5 Broadgate	18/05/2011	5,925,072	Office	On commencement
Westminster	W4 & W5 Regent Street, Westminster	01/09/2010	555,335	Office & Retail	£653k On commencement of 1st building; £490k – 2 nd building
Westminster	Former Middlesex Hospital Site	07/03/2012	3,359,999	Mixed	Prior to commencement
City	Bloomberg Place	27/03/2012	2,247,338	Mixed	On or before commencement
City	52 - 60 Holborn Viaduct	01/09/2011	33,731	Office	On or prior to commencement
City	Finsbury Circus House, 12-15 Finsbury Circus (north),	19/08/2010	180,664	Office	On or prior to commencement
City	St Paul's House, 8-12 Warwick Lane	28/10/2011	63,128	Office	On commencement
Southwark	65 Southwark Street, London	09/08/2010	209,899.51	Mixed	Prior to commencement
City	20 Fenchurch St	31/10/2011	423,115	Mixed	On Occupation
ODA	M1, M2-M6, M7 and M8 zone 1 Stratford city	23/05/2011	15,200	Retail	21 days from date of S106
City	8– 10 New Fetter Lane	31/10/2011	82,678	Office	On commencement
Westminster	14-28 Oxford Street and 3 Tottenham court road	12/11/2010	74,219	Retail	Prior to commencement
City	Centurion House 3- 24 Monument Street	09/05/2011	76,743	Mixed	On commencement
Westminster	Manchester Square Fire Station	02/01/2011	54,484	Hotel	Prior to commencement

Borough	Application site / address	Mayor's Decision Stage2	Crossrail funding £	Land Use	Date funds with TfL
Westminster	Ham Yard Project Site	13/10/2010	134,186	Mixed	prior to Occupation
Westminster	8 Balderton Street, London	12/10/2011	56,640	Hotel	Prior to commencement
Westminster	5 & 6 St James's St and 10-11 Babmaes St	13/08/2012	183,830	Mixed	To confirm
Westminster	St James's House, 23-24 King Street, St James's	13/06/2011	72,884	Office	Prior to commencement
Southwark	St Ives House, 22 Lavington Street	03/02/2012	131,849	Office	31/03/2012
City	63 St Mary Axe	31/10/2011	176,375	Office	Prior or on commencement
Westminster	Kingsgate House, Victoria	01/12/2011	950,315	Office	-
Total Receipt for Crossrail Applications			15,772,906		

Appendix 2

Developments where a s106 Crossrail contribution has been negotiated but development has not started or the trigger point not reached

Borough	Application site / address	Mayor's Decision Stage2	Crossrail funding £	Land Use	Date funds with TfL
Westminster	2 – 14 Baker Street	18/03/2009	40,000	Office	-
City	12 – 14 and 43 New Fetter Lane	18/03/2009	200,000	Office	Before occupying 75% of net office space.
Westminster	Selborne House, 62 Buckingham Gate	01/04/2009	380,000	Office	Occupation of net additional floorspace (16,249m ²)
City	Seal House, 1 Swan Lane	21/04/2009	243,975	Office	Before occupying up to 30% of net office space.
Camden	50 - 57 High Holborn	29/04/2009	117,677	Office	<i>At the occupation of 50% and 100% of the B1 element.</i>
Westminster	VTI 2	01/07/2009	1,200,000 ¹	Office	Prior to first occupation
Westminster	VTI 2 (Revised Application)	19/01/2012	88,540 ⁴	Mixed	Prior to commencement
Westminster	VTI 2 (Revised Application)- Victoria Circle	14/08/2012	79,047 ⁴	Mixed	Prior to commencement
Westminster	W4 & W5 Regent Street, Westminster	01/09/2010	490,000	Office & Retail	£653k On commencement of 1st building; £490k – 2 nd building
Camden	132-142 Hampstead Road	23/09/2009	800,720	Office	1 st 50% on 50% B1oc. 2 nd 50% on 100% oc.
Camden	132-142 Hampstead Road [#]	23/09/2009	1,020,591	Office	1 st 50% on 50% B1oc. 2 nd 50% on 100% oc.
Westminster	Howick Place	07/10/2009	120,000	Office	Prior to 50% occupation
Hackney	Bishops Place, Worship St.	07/12/2009	3,114,440	Office	
Southwark	New London Bridge House	15/04/2010	2,000,000	Office	Prior to first occupation
Westminster	Marble Arch House	28/04/2010	94,000	Office	Within 14 days of > 50% occupation
Hackney	151-157 City Road	28/04/2010	129,000	Hotel	£2.57m prior to occupying building 1 ; £548k b4 occupying building 2
Westminster	8-10 Grafton Street & 22-24 Bruton Lane	16/06/2010	324,005	Office	On or before commencement
Hackney	10 East Road (New Roman House) E1	07/07/2010	188,100	Office	One year prior to occupation

Borough	Application site / address	Mayor's Decision Stage2	Crossrail funding £	Land Use	Date funds with TfL
City	Sugar Quay	25/01/2011	1,235,888	Office & Retail	On or before commencement
City	International House, Mitre Square	02/03/2011	3,219,417	Office & Retail	On or before commencement
Hackney	Crown Place 1, City Fringe	02/03/2011	4,778,642	Office & Retail	50% payable commencement and 50% 1st occupation
Southwark	One Tower Bridge (Potters Fields)	30/03/2011	103,000	Mixed	-
Southwark	231 - 241 Blackfriars Road	06/04/2011	394,517	Mixed	On Commencement
Westminster	18 – 20 Hanover Square	01/06/2011	419,494	Mixed	-
Westminster	Merchant Square	16/06/2011	3,576,823	Mixed	On commencement of development of each building
City	St Alphage House, London Wall	19/07/2011	3,921,585	Mixed	On commencement
Hackney	Principal Place, Worship Street#	26/07/2011	10,713,938	Mixed	On or before commencement
Camden	80 Charlotte St. & 65 Whitfield St. (The Saatchi Block)	18/09/2011	1,628,135	Mixed	-
Southwark	32 – 40 Blackfriars	11/10/2011	900,619	Mixed	-
Westminster	North Westminster Community School	02/11/2011	2,037,779	Mixed	Prior to commencement
Islington	210-218 Old Street, 10-100 City Road; 32-37 Feathersone st & 13-15 Mallow St.	02/11/2011	1,818,123	Mixed	-
City	1 New Street Square	16/11/2011	1,827,619	Mixed	-
Westminster	Tranchard House, Soho - 19 - 25 Broadwick Street	03/09/2012	68,640	Mixed	-
Westminster	Claridges Hotel, 47 - 57 Brook street. Mayfair. London	29/07/2010	162,240	Hotel	On commencement
Southwark	246 -250 Waterloo Road, London	27/08/2010	88,776	Office	Prior to commencement
City	30 – 32 Lombard Street	24/01/2011	272,630	Office	On or prior to commencement
City	Fleet Building, 40 Shoe Lane London	02/06/2010	1,605,366	Office	On commencement

Borough	Application site / address	Mayor's Decision Stage2	Crossrail funding £	Land Use	Date funds with TfL
City	Sugar Quay, Lower Thames street	24/01/2011	135,888	Mixed	On or prior to commencement
City	98 Fetter Lane	31/10/2011	213,573	Mixed	Prior to commencement
Islington	42-50 York Way	21/04/2011	89,187	Office	On commencement
Islington	The Turnmill, 63 Clerkenwell Road	17/10/2011	144,594	Mixed	Prior to commencement
Camden	1 Mabledon Place, London	30/09/2011	87,127	Office	On or prior to demolition
Islington	96 - 100 Clerkenwell Road	21/04/2011	362,228	Office	On commencement
Islington	257 (formerly known as 259) City Road, N1	21/04/2011	139,603	Office	Occupation of the commercial floorspace
Westminster	140 Park Lane, London W1K 7AA	31/05/2011	32,640	Hotel	On commencement
Westminster	39 Victoria Street.	13/02/2012	118,962	Mixed	Prior to commencement
City	100 Cheapside	31/10/2011	528,898	Mixed	Prior to commencement
City	30 Old Bailey	31/10/2011	2,496,410	Mixed	On commencement
City	St Clements House, 27-28 Clements Lane	09/05/2012	95,900	Office	On or prior to commencement
City	125 Wood Street	09/05/2012	273,907	Office	On or prior to commencement
City	100 Bishopsgate	09/05/2012	2,161,069	Office	On commencement
City	101 Moorgate	26/04/211	107,148	Mixed	On or prior to commencement
City	24-26 Minories	01/03/2011	137,662	Hotel	On or prior to commencement
Southwark	Former Lambeth College, Tooley Street	11/05/2012	301,962	Hotel	On commencement
Southwark	Railway Arches at 169 Tower Bridge Road.	11/05/2012	138,422	Office	On commencement
Southwark	Bear Gardens, 1 & 2 Rose Alley.	11/05/2012	294,040	Mixed	Prior to occupation
Westminster	1A Page Street, London, SW1P 4PQ	27/03/2012	223,452	Office	Prior to commencement
Islington	Epworth House, 25-35 City Road, EC1Y 1AA	19/04/2012	91,790	Mixed	On or prior to commencement
Islington	3 and 10 Finsbury Square, EC2A 1AE	26/07/2012	803,094	Office	On or prior to commencement
Tower Hamlets	25 Churchill Place, Canary Wharf	04/08/2008	655,217	Office	50% on commitment; 25% + 12 months; 25% + 24 months
Tower Hamlets	1 Park Place, Canary Wharf	15/09/2008	10,714,149	Office	£3.6m const of 1st fl. £3.6m const of 20 th fl £3.52m completion

Borough	Application site / address	Mayor's Decision Stage2	Crossrail funding £	Land Use	Date funds with TfL
Tower Hamlets	Wood Wharf	30/10/2008	100,000,000	Office	Staged in relation to each of the 6 blocks above 12.75 AOD
Tower Hamlets	Riverside South	04/03/2009	2,000,000	Office	Pay TfL prior to Occupation, or pro rata re floorspace
Tower Hamlets	Hertsmere House	07/10/2009	4,000,000	Office	Pay TfL. Stages: £0.5m>Impl'tion £1.5m>5,000s.m £2m>30% of net office floorspace
Tower Hamlets	Beagle House	29/06/2010	847,520	Office	25% on commencement; 25% + 12 months; 50% prior to 1st occupation
Tower Hamlets	25 Churchill Place [#]	07/07/2010	1,062,000	Office	On Commencement
Tower Hamlets	40 Marsh Wall,	06/10/2010	424,627	Hotel	Within 1 month of Commencement day
Tower Hamlets	Norton Folgate Fleur de Lis Street (Nicholls and Clarke Site)	24/08/2011	1,572,477	Mixed	-
Tower Hamlets	Royal Mint Street	29/02/2012	1,201,522	Mixed	On Commencement
Tower Hamlets	15 - 17 Leman Street and 1a Buckle Street. Aldgate	02/05/2012	642,900	Hotel	-
Tower Hamlets	London Fruit & Wool Exchange	10/10/2012	2,026,716	Mixed	-
Tower Hamlets	Silvex House, Quaker Street	22/03/2011	125,149	Mixed	On commencement
Tower Hamlets	West of Dandridge House and Land of Spital Square	19/08/2011	96,696	Mixed	Prior to commencement/prior to Occupation
Tower Hamlets	Greenheath Business Centre	19/08/2011	21,268	Office	Prior to commencement
Tower Hamlets	68-80 Hanbury Street, London, E1 5JL	24/11/2011	24,660	Office	Prior to commencement
Tower Hamlets	Bounded by Folgate St and Blossom Street	04/01/2011	1,572,477	Mixed	On commencement
LTGDC	206-214 High Street Stratford	12/03/2010	57,000 ²	Office	25% of total contribution on implementation and 75% on occupation
Newham	Silvertown Quays, Royal Docks	19/01/2011	627,040	Mixed	-
Newham	Site We8 The Pumping Station Site	23/03/2011	64,290	Mixed	On Commencement

Borough	Application site / address	Mayor's Decision Stage2	Crossrail funding £	Land Use	Date funds with TfL
Newham/LT GDC	Minoco Wharf, Silvertown	27/03/2012	538,000	Mixed	-
Newham	Land West of Royal Victoria Dock Tidal Basin Road. Silvertown. London	04/10/2010	46,500	Mixed	Due on 1st Occupation Date
Redbridge	Goodmayes Retail Park, 850-860, High Road	06/10/2011	58,176	Retail	On commencement
Total Planning Application Crossrail Contributions Negotiated			181,548,381		