

Date: 17 August 2017

Dave Whittaker,
Airport Monitoring Officer,
London Borough of Newham,
Newham Dockside,
London, E16 2QU.

Dear Dave

**RE: LBN NOTIFICATION OF BREACHES OF PLANNING CONTROL
PLANNING PERMISSION REF. 07/01510/VAR**

1. I refer to your letter dated 15 August 2017 which states two alleged breaches of compliance with Part 5 of the Sixth Schedule of the Section 106 Agreement attached to the above permission, summarised as follows:

- Late submission of the 2016 Annual Performance Report (APR) to the Council; and
- Late publication of the 2016 APR on the Airport Consultative Committee website.

2. For clarity the relevant obligation at Part 5 of the Sixth Schedule of the 2009 Section 106 Agreement (Part 5) is as follows: *“In pursuance of any obligation under this deed to report to the Council on the performance of or compliance with the terms of this deed, the Airport Companies shall provide the Council with the Annual Performance Report by 1 July each calendar year in respect of performance and compliance in the preceding calendar year (January to December) and shall publish the Annual Performance Report on the website for the Airport Consultative Committee by 31 July in each calendar year...”*

Late submission of APR

3. The draft APR (without appendices) was shared with Officers for review on 17 May 2017. Extensive comment and drafting revisions with the Council followed over the next 6 weeks, culminating in the final complete draft of the APR including appendices being issued on 27 June 2017. A few very minor amendments were subsequently suggested by the Council which were incorporated into the final 2016 APR submitted to the Council via email on 30 June 2017 and via a separate web link which electronically transferred the large appendices. An email acknowledging receipt of the 2016 APR by the Council was sent the same day and the Airport considers that the obligations of the S106 were discharged.
4. As is then standard procedure the Council undertook a period of review to prepare its formal letter responding to the 2016 APR. Draft copies of the Council's formal letter were sent to the Airport dated 3 July 2017 and 21 July 2017. At no time did the

Council raise the issue of the apparent absence of the final appendices either in those letters or in any other contact with the Airport. The first time it was raised by the Council was on 26 July 2017, and in response the Airport re-issued all the appendices to the Council the very same day.

Late publication of the APR on the LCACC Website

5. The Airport understands that, due technical difficulties, the LCACC website was not accessible on 31 July 2017 and as such the 2016 APR and its appendices could not be uploaded until 24 hours later on 1 August 2017.
6. The LCACC website is not under the control of the Airport, albeit the Airport endeavours to provide technical support as best it can if requested to do so by the Chairman. In this case the Airport was requested to assist the LCACC on 31 July 2017 and did so to help resolve the difficulties.
7. Notwithstanding the above, the Airport made the 2016 APR and its appendices available on its own website on 31 July 2017. The public therefore had access to the full 2016 APR on the date prescribed in the S106, and on the LCACC website a mere one day later.
8. There has been no public disadvantage caused and the Airport has acted in an open and transparent manner.

Airport Position

9. The Airport does not accept that it failed to provide the Council with the 2016 APR by 01 July 2017. The requirements of Part 5 of the Sixth Schedule of the S106 have been complied with in that respect.
10. The Airport is highly disappointed that the Council is choosing to cite a S106 breach in respect of a matter over which the Airport has no control and when in any event it had made the full 2016 APR report publically available on the legally date specified.

Yours sincerely,



Rachel Ness
Director of Infrastructure Strategy and Planning