

2015/16 Planning Obligations Annual Monitoring Report

1. Introduction and Background

- 1.1 Section 106 Agreements, also known as Planning Obligations or developer contributions, are typically undertakings by developers or agreements between a Local Planning Authority and a developer in the context of granting planning permission. Their function is to make development acceptable, which would otherwise be unacceptable in planning terms. This typically involves commitment to provide something in-kind on site in a particular form (e.g. affordable housing) or money for the authority to undertake necessary works to mitigate the impact of the development.
- 1.2 This report deals with the financial contributions secured, received and spent from Section 106 Agreements during the 2015/16 financial year.
- 1.3 The introduction of Newham's Community Infrastructure Levy (CIL) provides for an alternative mechanism for development to make a contribution to infrastructure in the borough. Newham's CIL became effective on 1 January 2014. CIL places restrictions on the type of infrastructure that can be secured through Section 106 Agreements.
- 1.4 There will be a transition between the planning permissions which are accompanied by significant infrastructure laden Section 106 Agreements (LBN have numerous long-term, multi-phased schemes) and the planning permissions which will primarily make contributions to infrastructure through CIL, with scaled back Section 106 Agreements.

2. Current Section 106 Systems and Processes

2.1 Negotiation

- 2.1.1. In consultation with the Investment Team, Planning Officers negotiate the heads of terms of Section 106 Agreements with developers, as part of the planning application process. This negotiation is based on the development plan, including the London Plan and Newham's Core Strategy. The London Plan's two main priorities for planning obligations are Affordable Housing and Transport; Planning Officers will seek to secure this mitigation or community benefit first. The Council's priorities remain the delivery of affordable housing and jobs for Newham residents.
- 2.1.2. At a local level, the Core Strategy supports infrastructure delivery that accords with the Core Strategy's objectives including the provision of commensurate levels of family housing, community facilities, education, intelligent infrastructure, open space, local transport and public realm improvements and strategic transport.
- 2.1.3. Since the introduction of Newham's CIL, the types of planning obligations that can be secured has significantly diminished, to focus on site specific mitigation and

non-infrastructure provisions. These include the delivery of affordable housing (including payments in lieu of onsite provision or affordable housing review mechanisms) and employment skills and training for local residents (including the commitment to the use of local labour and suppliers and also proportionate funding towards Workplace). The CIL should be the primary mechanism for most other types of infrastructure, please refer to paragraph 2.6.2.

2.1.4. All planning applications with Section 106 Agreements attached are approved at one of the borough's Development Committees, where the heads of terms of the Section 106 Agreements are outlined to and agreed by Members.

2.2 Signing of the Agreement and Implementation

2.2.1. Once a Section 106 Agreement is signed and planning permission is granted, developers have generally three years within which they can choose to implement their planning permission. If the planning permission is not implemented, the Section 106 Agreement lapses; therefore it is not guaranteed that the Council will receive all financial contributions secured by signed Section 106 Agreements.

2.2.2. If the planning permission is implemented, the Section 106 contributions are due at various stages of the development of the site, which is determined during negotiation and stipulated in the Section 106 Agreement.

2.3 Collection of monies

2.3.1. To help ensure monies are collected in a timely manner all Section 106 Agreements now include a Notification of Implementation form which the developer is required to submit to the Council, this helps the Council know when triggers have been reached.

2.3.2. Compensatory measures are in place, should a developer fail to notify the Council, late payment interest accrues to compensate for any loss of income to the Council.

2.4 Non-financial obligations

2.4.1. Development should in the first instance be managed by conditions attached to a planning permission. However, there are some instances where non-financial matters must be dealt with through a Section 106 Agreement.

2.4.2. There are a range of 'typical' obligations, including the provision and maintenance of on-site affordable housing, the use of local labour and services or providing that future residents do not benefit from parking permits.

2.5 Expenditure of monies

2.5.1. The Investment Team has implemented a Proforma system to provide a clear audit trail for the expenditure of Section 106 monies comprising of three proforma:

- Proforma 1 is sent to the beneficiary service area when an Agreement is signed for the service area to note that there is potentially funding forthcoming
- Proforma 2 is sent to the service areas when the monies are received asking for details of spend including key milestones, resources, risks, project outcomes and benefits; a project manager should be identified
- Proforma 3 is to be completed by the project manager when spend is completed and provides information on outcomes and lessons learnt.

2.5.2. The Council has introduced additional project management controls through Verto. The approval to expend Section 106 monies is subject to two governance procedures which work in tandem.

2.6 Planning Obligations and the Community Infrastructure Levy

2.6.1. The Community Infrastructure Levy (CIL) Regulations were introduced on 6 April 2010. Newham's CIL Charging Schedule became effective on 1st January 2014.

2.6.2. Newham's Regulation 123 List identifies the types of infrastructure that the levy may fund in full or part including, *inter alia*, infrastructure within or enabling access to Strategic Sites, community infrastructure, open space, sports and leisure facilities and local transport infrastructure. The actual list of infrastructure which could be funded via CIL is available at: www.newham.gov.uk/CIL and is the list that was approved by the full Council alongside the Charging Schedule.

2.6.3. There should be no perceived or actual "double dipping" where a developer is required to pay for the same infrastructure twice (i.e. infrastructure which is on the Regulation 123 list cannot also be captured in a Section 106 Agreement).

2.6.4. CIL cannot be used to provide Affordable Housing and other site specific mitigation measures, for example Car Free developments. Therefore, Section 106 Agreements will still be necessary. The introduction of the CIL Regulations has also scaled back the use of Section 106 Agreements and has provided 3 statutory tests which must be passed in order for a planning obligation to be a reason to grant planning permission, in accordance with paragraph 2.1.4.

2.6.5. Newham's CIL rates have remained unchanged since adoption, Newham's CIL Charging Schedule can be found on the Council's website (www.newham.gov.uk/CIL).

2.6.6. The borough's Local Development Scheme has established a timescale for a review of the Newham CIL Charging Schedule.

2.7 How information is reported

- 2.7.1. This is the second full year where applications have been granted planning permission within the context of the CIL regime. The reader of this report should be mindful of the restrictions now imposed on what can be secured via Section 106 Agreements (detailed in Section 3 of this report).
- 2.7.2. The receipt and expenditure of monies in this financial year includes payments for infrastructure secured from planning permissions granted prior to the CIL regime being effective.

3. **Secured Section 106 Financial Contributions**

- 3.1 There were 14 Section 106 Agreements completed between April 2015 and March 2016, 7 of which are Deed of Variations to already approved schemes.
- 3.2 Only where a Deed of Variation amends the amount of monies payable will this be reported to avoid double counting. In general most Deeds of Variation result from the issuing of Section 73 planning approval which changes planning condition(s) and results in a 'new' permission being issued generally along with the mitigation already agreed in the original planning permission.
- 3.3 A total of **£7,620,004** in financial contributions were secured from six Section 106 Agreements. Further details are provided in Table 1: Secured by Purpose
- 3.4 which outlines the total monies secured by types of site specific mitigation.

Table 1: Secured by Purpose

Affordable Housing (off-site provision)	£850,000.00
Highways, (site mitigation works), Parking (CPZ and RPZ contributions) and Environmental Improvements	£6,000
Economic Regeneration/ Workplace (support for employment and skills programmes for local residents and businesses)	£4,500,000
Environmental Health	£14,004
TFL (secured on behalf of TFL)	£2,250,000
TOTAL SECURED	£7,620,004

- 3.5 Table 2: Secured by Agreement provides the financial contributions secured from each development.

Table 2: Secured by Agreement

Site Address	Planning Reference	Total Secured
Royal Victoria Dock Western Extension Dock Road Silvertown E16 1AF	15/00260/FUL	£10,836.00
Land At 91 To 97 Leytonstone Road E15	14/00321/FUL	£102,000.00
Land At Corner Of Shirley Street And St Luke's Square Canning Town E16 1HU	14/03021/FUL	£750,000

249 - 251 Green Street, Forest Gate E7 8LJ	14/03024/FUL	£2,000
Land North Of Royal Albert Dock Millman Road Beckton E16	14/00618/OUT	£6,753,168
Stratford Centre And Morgan House Development Site The Mall, Stratford E15	14/02289/FUL	£2,000.00
TOTAL SECURED		£7,620,004

3.6 Non-financial Section 106 Obligations

3.7 In this reporting year Section 106 Deeds have secured obligations towards:

- Local Labour provisions (4);
- Travel Plan (2);
- Car Club (1); and
- Affordable Housing Review Mechanism (3).

3.8 During the assessment of a planning application where an applicant demonstrates that they are not able to provide a sufficient level of Affordable Housing in their scheme (in line with planning policy) as a Local Planning Authority LBN take a pragmatic approach to enabling development and seek to secure Affordable Housing Review Mechanisms (AHRM).

3.9 Through the use of AHRMs ensures that should viability improve during the development cycle that this uplift will contribute to the shortfall in Affordable Housing for a particular scheme. This approach is in accordance with the Council's Core Strategy.

3.10 AHRMs are recorded non-financial obligations in this report as the funding is contingent upon financial viability and the certainty in delivery is not clear; like all Section 106 monies this should not be relied upon as a guaranteed funding source.

3.11 Summary of Financial and Non-financial Obligations this Reporting Year

3.12 An overview of the Deeds signed this year and what they secured in principle is provided within Table 3: Overview of Planning Obligations for 2015/16.

Table 3: Overview of Planning Obligations for 2015/16

Site Address	Planning Reference	Total Secured £	Local Labour	Goods & Services	Travel Plan	Car Club	Affordable Housing Review Mechanism	Other mitigation
Royal Victoria Dock Western Extension	15/00260/ FUL	£10,836						

Dock Road Silvertown E16 1AF								
Land At 91 To 97 Leytonstone Road E15	14/00321/ FUL	£102,000	*	*				
Land At Corner Of Shirley Street And St Luke's Square Canning Town E16 1HU	14/03021/ FUL	£750,000	*	*			*	*
249 - 251 Green Street, Forest Gate E7 8LJ	14/03024/ FUL	£2,000						
Land North Of Royal Albert Dock Millman Road Beckton E16	14/00618/ OUT	£6,753,168	*	*	*	*	*	*
Stratford Centre And Morgan House Development Site The Mall, Stratford E15	14/02289/ FUL	£2000	*	*	*		*	*

4. Received Section 106 Financial Contributions

- 4.1 Financial contributions paid to the Council as the Local Planning Authority include monies for the borough to spend on specific infrastructure, some to pass on to third parties (such as Transport for London) and some which can be allocated to other strategic infrastructure requirements.
- 4.2 All of the monies received by the Council through this part of the planning process are outlined in Table 4: Received by Purpose and Table 5: Received by Section 106 Agreement.
- 4.3 The Council received a total of **£9,035,613.63** of Section 106 monies in this reporting period. This is broken down into the various beneficiary Service Areas as outlined in Table 4: Received by Purpose.

Table 4: Received by Purpose

Affordable Housing (off-site provision)	1,189,069.77
Highways (including Parking/ Traffic and Transportation/Reduced Parking Fees)	436,672.49
TFL	2,774,205.25
Public Realm/Regeneration	209,186.05
Leisure	26,978.00
Education	31,862.41
Workplace	515,116.95
Health	34,490.63

Environmental Monitoring	45,076.84
Standard Charge	902,514.95
Community Infrastructure	1,505,720.29
Barrier Park East*	1,364,720.00
TOTAL RECEIVED	£9,035,613.63

* This is the final instalment of the agreed Financial Contributions; allocation of funding may now commence.

- 4.4 The 'Standard Charge' referred to in Table is as a result of planning permissions granted by the London Thames Gateway Development Corporation (LTGDC). The LTGDC had a tariff based mechanism to pool contributions from developments for strategic infrastructure. Each of the LTGDC Section 106 Agreements has a slightly different way that the Standard Charge can be spent, an allocation process for these monies is to be established.
- 4.5 Typically site specific mitigation should be spent in the vicinity of the development site. To demonstrate which developments have made financial contributions this year refer to Table 5: Received by Section 106 Agreement.

Table 5: Received by Section 106 Agreement

Planning Reference	Site Address	Total Received
15/00260/FUL	Royal Victoria Dock Western Extension Silvertown E16 1AF	£10,836.00
10/02291/FUL (10/90519/FUMODA)	2 - 12 High Street E15 2PW	£799,688.38
12/01881/OUT	Ivax Quays Albert Basin Royal Docks E16	£1,478,503.47
14/03028/VARDWG (14/01812/FUL)	Newham Sixth Form College Prince Regent Lane E13 8SG	£3,000.00
10/02308/FUL	Land At Corner Of Shirley Street And St Luke's Square (Mezzanine) E16 1HU	£14,694.41
10/90286/FULODA and 10/90285/FUMODA	Plot N24, Stratford City Development	£167,413.72
07/01510/VAR	London City Airport	£50,537.97
10/90641/EXTODA	Stratford City Zone 2and 7 LCR IQL	£3,855,788.74
08/01042/OUT	Barrier Park East North Woolwich E16	£1,537,374.92
13/02356/VAR	Pump Tower (WE8) Tidal Basin Road E16	£152,093.82
11/00856/OUT	Royal Wharf North Woolwich E16	£962,578.20
12/00221/FUMODA	Land at Great Eastern/Angel Lane E15	£3,114.00
TOTAL RECEIVED		£9,035,613.63

4.6 During this financial year a sum of £10,000 became repayable. The Council were unable to adhere to their obligations to deliver mitigation in accordance with Section 106 Agreement associated with planning permission 03/0587. The mitigation was secured in accordance with the Sprowston Mews SPG which was revoked following a decision by the Full Council. Confirmation is sought to ensure the appropriate party is repaid these monies in accordance with the provisions in the Section 106 Agreement.

5. Spent Section 106 Financial Contributions

5.1 A total of £4,667,823.65 of Section 106 monies was spent by beneficiary Service Areas and relevant external stakeholders. Table 6: Spent by Agreement details the projects which have been delivered – funded in part or whole by Section 106 monies.

5.2 Section 106 monies continue to contribute to vital infrastructure necessary as Newham grows.

Table 6: Spent by Agreement

Section 106 Reference and Development Site	Project	Amount Spent
Affordable Housing		£602,180.00
10/90651/VARODA Stratford City Development	New Share - Councils Shared Equity Scheme	£602,180
Environmental Improvements and Public Realm		£274,540.30
06/02261/FUL Former WE1 Deed of Variation, Royal Vic Dock	Leaway Project - Lea Valley Linear Park and Royal Docks	£184,515.66
04/0344 Royal Victoria Dock WE5	Britannia Village community improvements	£45,024.64
05/00118/OUT Little Ilford, Manor Park	Jack Cornwell Centre Improvements	£45,000.00
Highways and Parking		£123,207.05
04/0254 CPZ 113-115 Freemasons RD E1	Custom House - Freemasons Road Parking Review	£34,997.34
06/00127/FUL John St E16 New Rd - Lord Gage Site	Plaistow North PPA	£4,595.54
05/0212	Stratford Parking Project	£4,363.52

10 Vicarage Lane		
12/01385/FUL 232-236 Green Street, Forest Gate E7 8LE	Green Street Project	£17,184.16
11/00088/FUL Travelodge, Royals Business Park	Royal Docks North South Corridor-	£9,531.83
00/0735 339 Katherine Road	Improvements to Katherine Road Corridor	£25,534.66
06/0292/FUL 206 Butchers Road E16	Bus Stop Improvements	£27,000.00
Open Space and Leisure		£787,059.17
00/0967 Royal Victoria Dock Road	Redevelopment of Watersports Centre	£11,701.99
03/2068 Site WE1, Royal Victoria Dock	Redevelopment of Watersports Centre	£742,963.18
06/02043/OUT Chandos Road E15	Play improvements and remedial works at Chandos Road Open Space play area	£10,474.00
13/02101/FUL Land Former 213 To 217 Barking Road	Star Park	£21,920.00
Workplace - Economic Regeneration		£348,284.93
Stratford City Zone 2-7	Construction Training and Recruitment	£348,284.93
Transport for London		£ 2,532,552.20
Stratford City Zone 1	London Buses – Sponsored Route Agreement	£ 2,511,452.20
10/00369/FUL Pump Tower, Former WE8	TFL Crossrail Second Payment	£21,100
TOTAL SPENT		£4,646,823.65

5.3 Table 7: Spent by Purpose provides an overview of the types of infrastructure and mitigation provided by developer funding in the borough.

Table 7: Spent by Purpose

Affordable Housing (off-site)	£602,180.00
Public Realm/Regeneration	£274,540.30
Highways (including Parking/Public Realm/Traffic	£123,207.05

and Transportation/Reduced Parking Fees)	
Open Space and Leisure	£787,059.17
Economic Regeneration/Workplace	£348,284.93
Transport for London	£ 2,532,552.20
TOTAL SPENT	£4,646,823.65

6. Summary

- 6.1 Newham continues to secure commensurate mitigation and community benefits through the planning process, although the introduction of CIL has scaled this back. Development commenced and ongoing in the borough is under pre-CIL (large Section 106) planning permissions with CIL planning permissions also being implemented too.
- 6.2 Mitigation has been secured, received and expended for community benefits by LBN and other stakeholders; a summary of which is in Table 8: Overview of Section 106 monies 2015/16.

Table 8: Overview of Section 106 monies 2015/16

Status:	Section 106 Monies:
Secured	£7,620,004
Received	£9,035,613.63
Spent	£4,646,823.65

- 6.3 Non-financial obligations continue to ensure that development is acceptable to both existing and new residents in the borough.

2015/16 Community Infrastructure Levy (CIL) Report

1. Introduction and Background

- 1.1 Pursuant to Regulation 62 of the Community Infrastructure Regulations 2010 (as amended) (the 'Regulations') a charging authority (the 'Council') is required to report on Community Infrastructure Levy (CIL) receipts and expenditure for a reported year.
- 1.2 Newham's CIL Charging schedule was adopted by full Council on 30 September 2013 and came into effect on 1 January 2014.
- 1.3 The report for 2014/15 was published in the Council's website in accordance with the Regulations (www.newham.gov.uk/cil) and was presented to the Council's Strategic Development Committee on 20 October 2015.
- 1.4 This report summarises the position for the financial year from 1 April 2015 to 31 March 2016. Moving forward this annual report will allow for transparency and enable Members and the public to understand what infrastructure has been enabled and delivered following the receipt of CIL monies.
- 1.5 The types of infrastructure that may be funded by Newham's CIL are outlined in Newham's Infrastructure List or 'Regulation 123 List' which is published on the Council's website.
- 1.6 The Council has adopted the Mayor of London's instalment policy for the payment of CIL which can be found on the Council's website.
- 1.7 The Council has made no provision for a policy for accepting infrastructure payments in lieu of financial contributions.

2. CIL receipts and expenditure

- 2.1 Newham's CIL came into effect on 1 January 2014. This report considers the monies received and expended in the 2015/16 financial year.
- 2.2 For 2014/15, the Council collected a total £1,382,520.00 from three CIL liable developments. £15,125.00 was spent towards the administration of the CIL collection function which left £1,367,395.00 in retained CIL receipts to be brought forward to the following financial year.
- 2.3 In addition to the £1,367,395.00 in CIL receipts carried forward from the previous year, a further £1,758,240.70 from 18 developments (one includes the second instalment of a development that commenced in 2014/15) was collected in CIL receipts in 2015/16. This brings the total of CIL receipts that were available for expenditure in 2015/16 to £3,125,635.70.

- 2.4 In March 2016, a delegated report was signed off by the Head of Planning and Regeneration authorising the allocation of £2,622,300.00 of CIL receipts towards the following:

Infrastructure Project	Allocation £
Leisure Trust / Sports & Leisure Delivery	497,000.00
Strategic Sites / Regeneration	495,600.00
Strategic Sites / Schools including East Ham Town Hall Campus	219,500.00
Education Social Infrastructure	253,200.00
Memorial Park Rugby	560,000.00
Bonnie Downes Playing Fields	17,500.00
Manor Park Fitness Centre	42,000.00
Regatta Centre / Watersports Commission	87,500.00
Community Sports in Schools	145,000.00
City Farm & Nature Reserve	155,000.00
Active Newham Growth	150,000.00
TOTAL	2,622,300.00

- 2.5 The above allocations include costs to facilitate the construction, operation and maintenance costs of the borough's infrastructure, including a range of facilities to enhance the health and wellbeing of Newham's residents such as rugby pitches, playing fields, and community sports facilities. They also include funding for staff costs to facilitate the provision of infrastructure.
- 2.6 In addition to the allocations for expenditure on infrastructure, £141,915.22 was spent towards the administration of the CIL collection function in 2015/16. This plus the £15,125.00 expenditure for CIL administration in 2014/15 brings the total expenditure for CIL administration to £157,040.22 from 1 January 2014 when Newham's CIL first took effect until 31 March 2016. Other funding has supported operational costs to the Council.
- 2.7 During the initial operation of a charging schedule the 5% allocation for CIL administration costs can accrue across the monies collected in the first three years of operating CIL. Regulation 61(8)(a) further provides that the first year of operating CIL begins on the date on which the charging authority's first charging schedule takes effect and ends at the end of the first subsequent full financial year. A total of £3,140,760.70 in CIL receipts was collected from 1 January 2014 until 31 March 2016, of which 5% is £157,038.04 which may be allocated towards CIL administration. This means the total £157,040.22 that has been spent from Newham CIL receipts for CIL administration in 2014/15 and 2015/16 is slightly above the 5% requirement pursuant to Regulation 61(3)(a). An overspend of just £2.18 will be brought forward to 2016/17. This can be remedied in 2016/17 as the regulations allow for this, and it has been established that there are sufficient funds to deal with this.
- 2.8 Regulation 62(4) provides that the report by the charging authority on CIL must include:
- (a) the total CIL receipts for the reported year;
 - (b) the total CIL expenditure for the reported year;
 - (c) summary details of CIL expenditure during the reported year including:-

- (i) the items of infrastructure to which CIL (including land payments) has been applied,
- (ii) the amount of CIL expenditure on each item,
- (iii) the amount of CIL applied to repay money borrowed, including any interest, with details of the infrastructure items which that money was used to provide (wholly or in part),
- (iv) the amount of CIL applied to administrative expenses pursuant to regulation 61, and that amount expressed as a percentage of CIL collected in that year in accordance with that regulation

2.9 The table below provides the details required by Regulation 62(4):

	2015/16 (£)	2014/15 (£)	TOTAL
(a) total CIL receipts	1,758,240.70	1,382,520.00	3,140,760.70
(b) total CIL expenditure	2,764,215.22	15,125.00	2,779,340.22
(c) summary details of CIL expenditure;			
(i) the items of infrastructure to which CIL (including land payments) has been applied	See paragraph 2.4 of this report	NIL	-
(ii) the amount of CIL expenditure on each item	"	NIL	2,622,300.00
(iii) the amount of CIL applied to repay money borrowed, including any interest, with details of the infrastructure items which that money was used to provide (wholly or in part)	NIL	NIL	NIL
(iv) the amount of CIL applied to administrative expenses pursuant to regulation 61, and that amount expressed as a percentage of CIL collected in that year in accordance with that regulation	141,915.22	15,125.00	157,040.22
(d) the total amount of CIL receipts retained at the end of the reported year	361,420.48	1,367,395.00	361,420.48

- 2.10 The Council does not have a policy to enable infrastructure payments, therefore this cannot be reported on.
- 2.11 The requirement set out by Regulation 59A and 59C that the charging authority must allocate at least 15 per cent of CIL (Neighbourhood CIL) on priorities agreed in consultation with the local community relates primarily to charging authorities that have a parish, town or community council. London Borough of Newham does not have a parish, town or community council. Instead, the Council's approach is that the entire borough is considered as one single neighbourhood area for the purpose of Neighbourhood CIL. This means that all decisions on CIL expenditure will be made on a borough-wide basis.

3. Summary of CIL

- 3.1 Similar to Section 106 Agreements there is likely to be a lag in time between planning permission being granted for a chargeable development and the developer implementing their planning permission; allowing for discharging pre-commencement conditions, arranging matters on site and confirming development finance. For CIL, payment is due within 60 days of commencement of development (also keeping in mind Newham's adopted Instalment Policy).

Review of London City Airport's 2015 Annual Performance Report

1. Introduction and Background

- 1.1 On 8th July 2009 the Development Control Committee resolved to grant planning permission at London City Airport (LCA) for an application to increase the number of aircraft movements to 120,000 (total and noise factored) movements. Planning permission 07/01510/VAR was granted on 9th July 2009 subject to a Section 106 Agreement (the 'S106 Agreement').
- 1.2 The S106 Agreement includes a number of obligations to control operations at the Airport which seek to minimise and mitigate the potential and actual impacts of the permitted development. The S106 Agreement covers a range of issues, including noise, air quality, surface transport access, and recruitment of local labour.
- 1.3 LCA is required by the S106 Agreement to submit an Annual Performance Report (APR) to the Council on 1st July each year, summarising their performance against planning controls - the Section 106 Agreement and Planning Conditions - for the preceding calendar year. The Report must then be published on the Airport Consultative Committee website (www.lcacc.org) by 31st July each year.
- 1.4 Although not required by the S106 Agreement, the Council submits a written response to the APR, which is included, in the current case, as Appendix 1 of that document. It should be noted that the Council's response does not deem approval or otherwise of the contents of the APR, but comments as considered appropriate.
- 1.5 LCA has submitted seven Annual Performance Reports to the Council relating to performance in calendar years 2009-2015. This is the fourth year that the Strategic Development Committee has received an overview of these reports.
- 1.6 This report comprises:
 - a brief update on the recent appeal decision;
 - a summary of the main issues covered by the Annual Performance Report;
 - a summary of non-compliance issues; and
 - a review of action required by the Airport on other issues, not relating to compliance.

Updates for 2016 are included where this is considered to assist clarity.

2. Appeal Against Refusal of Permission for Planning Application 13/01228/FUL

- 2.1 On 26th July 2016 the Secretaries of State for Communities and Local Government and Transport issued a decision notice upholding the appeal by LCA against the refusal of planning permission by the Council, as directed by the Mayor of London. The consent comprises works to demolish existing buildings and structures and provide additional infrastructure and passenger facilities (including a taxiway

extension, four upgraded aircraft stands, seven new aircraft stands, a terminal extension, a new passenger pier and associated facilities).

- 2.2 LCA has informed the Council that, subject to matters such as construction procurement and securing various detailed approvals, the target date for the commencement of construction is Spring/Summer 2017. There is an extensive number of planning controls as a part of the consent, comprising Planning Conditions and a S106 Agreement, which will eventually supersede those attached to the 2009 consent. It should be noted that compliance with the 2016 controls is not under consideration in this APR, but will be reported for the first time next year.

3. London City Airport's Annual Performance Report 2015

- 3.1 In summary, overall, the Airport complied with the vast majority of planning controls that applied in 2015. In a relatively small number of cases there were issues of non-compliance, although all of these were assessed by the Council as being minor, with a low level of harm; in the cases of those that have not already been resolved, there are agreed courses of action in place to achieve compliance.
- 3.2 There are a number of matters not directly related to compliance where the Airport has been requested to take further action.
- 3.3 Details of the above are covered in section 4 below.
- 3.4 Much of the information summarised in the APR was reported to the Council throughout the year in accordance with the Airport's monitoring obligations: for example, quarterly reports on the number of aircraft movements, and fortnightly reports on the number of complaints and enquiries with a summary of LCA's responses to those. Communication between the Airport and Council officers is continuous.

4. Summary of the 2015 APR – Main Issues

Education, Employment and Training

- 4.1 The 2009 S106 Agreement requires LCA to use 'reasonable endeavours' to ensure that at least 70% of full time equivalent jobs at the Airport are held by residents from the 'Local Area'¹ including at least 35% held by Newham residents.
- 4.2 On 31st December 2015 there were:
- 40 employers operating on-site
 - 2,099 jobs on-site, of which:
 - 27% were held by Newham residents; and
 - 62% of which were held by 'Local Area' residents.

¹ The 2009 S106 Agreement defines the Local Area as 'the local labour catchment for the Airport comprising the London Boroughs of Newham, Tower Hamlets, Hackney, Waltham Forest, Redbridge, Lewisham, Southwark, Barking and Dagenham, Greenwich, Bexley, Havering and Epping Forest District Council.'

4.3 The Agreement requires LCA to use 'reasonable endeavours' to ensure that at least 70% of the employees of London City Airport itself are 'Local Area' residents and at least 35% are Newham residents.

4.4 On 31st December 2015 there were:

- 592 London City Airport Limited employees, of which:
- 24% were Newham residents; and
- 63% were 'Local Area' residents

However, in terms of those recruited in 2015:

- 27% were Newham residents; and
- 68% were 'Local Area' residents.

4.6 The issues raised by these figures – although the Airport is considered to be compliant with the S106 Agreement - and the means of addressing them are covered in section 7 below.

Noise

Sound Insulation Scheme (SIS)

4.5 The SIS commenced in 2009, was revised and improved in December 2011 and continued to operate throughout 2015. In summary, certain types of properties located within specified areas around the Airport are entitled to specified types of works to be carried out by and at the expense of the Airport. Potential eligible properties are located in Tower Hamlets and Greenwich as well as Newham. The number of eligible properties varies from year to year in line with the variation of noise contours based on the previous year's movements and aircraft mix.

4.6 The SIS is a two tiered scheme, which identifies properties which might be eligible for treatment based on modelled noise exposure levels and when their property was built. Those closest to the Airport (therefore exposed to a higher noise level) are offered enhanced works to their properties.

4.7 Delivery of the SIS is subject to procedures set down in the S106 Agreement. Progress on the SIS is reported annually in the APR; in 2015 the LCA continued to convene two-monthly progress meetings with LBN, to which officers from Tower Hamlets and Greenwich were also invited.

4.8 Table 3.1 in the APR comprises details of properties eligible to benefit from the SIS. Table 1, below, comprises the totals from Table 3.1. For comparison, the figures from 2014 have been included.

Table 1 – Sound Insulation Scheme Progress to 31st December 2015

	Location	Total Eligible Properties	Notified	Works Complete
Total 2014	Various	5,363	100%	34%
Total 2015	Various	5,691	100%	32.4%

- 4.9 In 2015 432 residential premises became eligible for First Tier works with 243 within London Borough of Newham, 10 within the Royal Borough of Greenwich, and 209 within the London Borough of Tower Hamlets. Three public buildings also became eligible.
- 4.10 49 residential premises became eligible for Second Tier works in 2015, all in Newham; no public buildings became eligible.
- 4.11 The issues raised by these figures – although the Airport is considered to be compliant with the S106 Agreement - and the means of addressing them are covered in section 7 below.

Air Quality

- 4.12 The Air Quality Measurement Programme required by the S106 Agreement (AQMP) includes the continued operation of two automatic monitoring stations and a network of diffusion tubes. Information is reported quarterly by the LCA and annually in the APR.
- 4.13 There were no occasions where the statutory air quality objectives, set by The Government for nitrogen dioxide and fine particulate matter (PM₁₀) were exceeded during 2015.

Surface Access

- 4.14 The S106 Agreement includes a number of requirements in relation to surface access to the Airport. There are a number of transport-related documents that guide surface access policy and actions, a number of which are 'interim', pending a decision on the recent appeal. Now consent has been granted, LCA is required, amongst other things, to produce a new Travel Plan prior to first occupation of the CADP development.
- 4.15 A key objective of the current policy documents is to increase the proportion of staff and passengers using sustainable means of travel to and from the Airport.
- 4.16 Current survey figures for staff are out of date and are not considered here, but the 2015 passenger survey, shows a fall of 2 percentage points in the proportion using public transport compared to 2014, albeit still very high compared to other airports.

4.17 Figure 8.1 in the APR, reproduced as Table 2 below, shows the modal split for passengers in 2014 and 2015:

Table 2 – Passenger Surface Access Statistics 2015

Mode	2014 - %	2015 - %
DLR	61	62
Black Cab	9.5	6
Bus	<0.5	0
Total Public Transport	71	69
Minicab	14.3	17
Car (driven away)	5.5	7
Car Other (rental and parked)	4	2
Chauffeur	2	2
Car Parked	Included in 'Other Car'	2
Uber	n/a	1
Transfer	3.5	2
Total Private Transport	29	31

4.18 The issues raised by these figures – although the Airport is considered to be compliant with the S106 Agreement - and the means of addressing them are covered in section 7 below.

Environmental Complaints and Enquiries

4.19 The Airport are required to record complaints and enquiries that are received, together with the response by the Airport. This information is forwarded to the Council fortnightly and reported quarterly to the London City Airport Consultative Committee.

4.20 In 2015 97 complaints were received (95 were received in 2014):

- 86 were related to aircraft noise; 29 of these were from one individual
- two were related to flight paths
- one was related to aircraft frequency; and
- four were related to other factors such as odour and ground noise.

4.22 Six complaints were received directly by the Council in 2015, all relating to noise.

London City Airport Consultative Committee (LCACC)

4.26 Although the LCA is not required to refer to the LCACC in the APR, they have certain obligations regarding the effective functioning of the Committee. In 2016 the LCACC appointed a new secretary and chair, elected a new set of Committee members, and rebuilt their website. These changes appear to have

addressed concerns the Council had voiced regarding members and the website.

- 4.27 Councillors Clark, Holland and Murphy were nominated as Council representatives on the LCACC in 2016. The Airport Monitoring Officer also attends these meetings.

5. Issues of non-Compliance

- 5.1 In 2015 there were six instances recorded by the Council of non-compliance with planning controls. As mentioned above, all of these have been assessed by the Council as minor, causing a low level of harm, and those that have not already been resolved have an agreed course of action in place in order to achieve compliance. In summary, these are:

- 1) Non-compliance recorded prior to 2015: compliance in progress, but not yet complete:

- a) AVRO RJ100 aircraft – noise levels in excess of Category A designation (Planning Condition 7; S106 Agreement: Second Schedule – Paragraph 7)

The number of aircraft operating and the number of flights have been reduced; the noise levels of the remaining aircraft have been reduced; the aircraft is to be replaced by the operator.

- b) Sound Insulation Scheme vent design – change to technical specification (S106 Agreement: Ninth Schedule – Part 5 – Paragraph 7)

This is an improvement on the original design. It was approved in principle by LBN officers but required a Deed of Variation to the S106 Agreement, which was subject to discussion between the Council and the Airport.

NB – 1a) and 1b) have been recorded as single instances of non-compliance rather than recurring.

- 2) Non-compliance recorded in 2015: compliance complete in 2015:

- a) aircraft departure outside designated time slot: August. (Planning Condition 10 - S106 Agreement: Second Schedule – Paragraph 10)

- b) aircraft departure outside designated time slot: October. (Planning Condition 10 - S106 Agreement: Second Schedule – Paragraph 10)

- c) The Airport has put into place a number of measures to try to minimise the chances of this type of breach recurring, as detailed in the 2015 APR. I note that similar issues have occurred in previous years; however, the current measures appear to be sufficient, and at the time of writing the problem has not recurred.

- 3) Non-compliance occurring in 2015 but not reported and recorded until 2016: compliance complete in 2016:

Dornier 328J aircraft – noise levels in excess of Category ‘A’ designation. (Planning Condition 7; S106 Agreement: Second Schedule – Paragraph 7)

A means for reducing noise levels was agreed with the Airport. This has been successful and the D328J has returned to its designated category.

- 4) Non-compliance recorded in 2016 but also affecting 2015: compliance in progress:

Noise Management Scheme (NMS): Penalties and Credits: non-inclusion of financial penalties. (S106 Agreement: Definitions and Fourth Schedule – Part 7 – Paragraph 4). An improved scheme has been agreed in principle with LBN officers and is currently subject to consultation with the airlines operating from LCA. A final submission for approval will be made once consultation is complete.

6. S106 Agreement - Submissions and Approvals

- 6.1 The S106 Agreement requires that the Airport seeks approval from the Council for various matters. The Council can confirm that the following were carried out:

- 1) submission by the Airport to the Council:

- a) a permanent noise category – ‘A’ – for the Bombardier Global 6000 aircraft (through the 2014 APR).

- 2) approval by the Council of the following submissions from the Airport:

- a) Value Compensation Scheme (submitted prior to 2015)
- b) Noise Insulation Payment Scheme (submitted prior to 2015)
- c) a permanent noise category – ‘A’ – for the Bombardier Global 6000 aircraft (through the 2014 APR).

- 3) discussions took place on:

- a) the Aircraft Categorisation Review
- b) the review of the Air Quality Action Plan.

- 4) submission of financial contributions by the Airport on 1st July 2015:

- a) £81,075.95 – Annual Monitoring Payment
- b) £40,537.97 – Parking Contribution.

- 6.2 In the interests of continuity, during 2016 up to the time of writing:

- 1) the Airport submitted the following to the Council for approval:

- a) an amendment to the approved Biodiversity Strategy
 - b) an application for a provisional noise category for the Embraer Legacy 500 aircraft
 - c) a review of the approved LCA Air Quality Action Plan
 - d) a review of the approved LCA Ground Noise Study.
- 2) the Council approved the following submissions from the Airport:
- a) an amendment to the approved Biodiversity Strategy
 - b) a provisional noise category – ‘A’ - for the Embraer Legacy 500 aircraft.
 - c) a permanent noise category – ‘A’ - for the Embraer Phenom aircraft (through the 2015 APR).
- 3) discussions took place on:
- a) the Aircraft Categorisation Review (continuing)
 - b) the Noise Monitoring and Mitigation Strategy.
- 4) Submission of financial contributions from the Airport on 1st July 2016:
- a) £81,157.03 – Annual Monitoring Payment
 - b) £40,578.51 – Parking Contribution

7. Other Issues

Employment

- 7.1 The employment figures for 2015 are disappointing insofar as the proportions of Newham and ‘Local’ residents are lower than in 2014. The reasons for this have been assessed by the Airport and the Council and are given in more detail in the APR. Both parties are committed to continue to work together to address these issues.
- 7.2 For information, the first payment from the Airport due from the new S106 Agreement in support of employment was received by the Council in September 2016, totalling £316,394.75.

Surface Access

- 7.3 The two percentage point drop in the proportion of passengers at the Airport using public transport is of concern. The Airport have committed to work with the Council to investigate why the drop has occurred and what actions need to be taken to reverse the trend. These will be incorporated in the CADP Travel Plan which must be submitted to and approved by the Council prior to the first occupation of CADP; early engagement with the Council on the Travel Plan should commence as soon as possible.

Sound Insulation Scheme

- 7.4 The drop in the proportion of dwellings (1.6 percentage points) that have been treated in 2015 compared to 2014 is also of concern; however, much of the reason for the figure is the delay to the treatment of a number of tower blocks in Tower Hamlets where technical reasons have required changes to the standard works specifications.

Neighbouring Authority Agreements

- 7.5 The S106 Agreement requires the Airport to use 'reasonable endeavours' to enter into 'Neighbouring Authority Agreements' (NAAs) with Greenwich and Tower Hamlets. Essentially an NAA allows each borough to enforce the S106 Agreement in its own area. An NAA was entered into with Greenwich, but Tower Hamlets have so far declined to do so, despite additional approaches by LCY. The protection afforded by the S106 Agreement to residents of Tower Hamlets is not impacted by this.