

PINS  
Planning Inspectorate  
QUADIENT  
69 Buckingham Avenue  
Slough  
SL1 4PN

Our reference CHSI/51217801/O166943378.5/CHSI

Your reference APP/P3040/W/25/3375110

**26 March 2026**

Dear PINS

**Planning appeal reference APP/P3040/W/25/3375110**

**Appellant: Exagen Development Limited**

**Site: Land west of Bradmore Road and North of Wysall Road and land west of Wysall, Nottingham, NG12 5QZ**

We are instructed by the Appellant in relation to the preparation of a unilateral deed of obligation ("Deed") pursuant to Section 106 of the Town and Country Planning Act 1990 in support of the above referenced appeal.

A copy of the Deed is appended to this note. We would be grateful if the Deed and this note could be shared with the Inspector. We have summarised the terms of the Deed in order to assist the Inspector in her consideration of its terms.

The defined terms set out in this note are as defined in the Deed.

### **Background**

The Appellant understands that in order for the Development to be acceptable in planning terms, it is necessary to secure skylark habitat mitigation works. The Appellant's agent has previously submitted to you a draft Deed and an explanatory letter dated 6 March 2026 and a further draft Deed and updated explanatory letter on 18 March 2026 which was discussed at the virtual Inquiry session on that same date. Since then, the Appellant has continued to negotiate the terms of the Deed with the Council and the relevant landowners. The Appellant, the Council, Osborne Clarke and the Third Owner's solicitor Roythornes agreed the form of the Deed on a Microsoft Teams call on Tuesday 24 March 2026. The Deed appended to this letter corrected a small number of drafting inconsistencies, including

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typographical and cross-referencing errors throughout the document and this has subsequently been approved by the Appellant, the Council, Osborne Clarke and the First and Second Owners' solicitor for submission.

The Appellant and the Council have agreed that a Skylark Mitigation Strategy is to be agreed prior to the Skylark nesting season, preceding the intended date of Commencement of Development. The Skylark Mitigation Works approved under the strategy will be delivered prior to the same nesting season. Development will not be Commenced until the Skylark Mitigation Works are delivered in accordance with the Skylark Mitigation Strategy.

### **Parties**

The parties to the Deed are (1) Davill Solar Limited ("First Owner"), (2) John A. Wells Limited ("Second Owner"), (3) Timothy Frank Kirk ("Third Owner"), (4) Exagen Old Wood Ltd ("First Developer"), (5) Exagen Wymeswold Ltd ("Second Developer") and (6) HSBC UK Bank Plc ("Mortgagee").

The Mortgagee will not be liable for the obligations in the Deed unless and until it becomes a mortgagee in possession of the Offsite Skylark Mitigation Land (Clause 10).

### **Offsite Skylark Mitigation Land**

The Offsite Skylark Mitigation Land is the land outlined in blue on the Plan.

### **Onsite Skylark Mitigation Land**

The Onsite Skylark Mitigation Land forms part of the Site, falls within the Second Owner's ownership and is the land hatched orange on the Plan.

### **Site**

The Site is the land on which the proposed solar farm and co-located battery energy storage system will be constructed pursuant to the Planning Permission.

### **Statutory powers**

The Deed is given pursuant to Section 106 of the Town and Country Planning Act 1990 (Clause 2.1). The Developers believe that the obligations set out in the Deed meet the statutory criteria set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 as amended and may, therefore, constitute a reason for granting planning permission for the Development.

### **Boilerplate clauses**

Clauses 1.2 – 2 and 7 – 11 are standard boilerplate clauses. If the Inspector has any questions in relation to these clauses we would be happy to address them.

We would bring to the Inspector's notice Clause 3.3 which is a "blue pencil" clause enabling her to reduce, vary or vitiate any of the obligations in the Deed if she believes that they are not a material consideration in the granting of the Planning Permission.

### **Covenants**

Clauses 3.4 – 3.7 set out a series of covenants and conditions relevant to the Third Owner's obligations. As the timing of delivery of the Skylark Mitigation Works and Commencement of Development will be in the control of those with an interest in the Site, notices are to be given to the Third Owner of the approval of the Skylark Mitigation Strategy, and subsequently the completion of the Skylark Mitigation Works and the approval of amendments to the strategy in light of the proposals set out in the Skylark Mitigation

Reports, in order for the Third Owner to know when its obligations set out in Clause 4 and Schedule 1 are due to be performed.

Clause 4 sets out the Third Owner's covenants to (in summary):

- (i) implement the Skylark Mitigation Strategy;
- (ii) to comply with the strategy until the Development is decommissioned in accordance with the Planning Permission;
- (iii) not to permit or allow activities that would prevent the Skylark Mitigation Purpose from being achieved;
- (iv) not do or permit anything to be done that would prevent ongoing compliance with the strategy;
- (v) to implement the requirements of the Skylark Monitoring Reports; and
- (vi) to comply with the Skylark Monitoring Reports.

These covenants are given in so far as they relate to the Offsite Skylark Mitigation Land, being the land in which the Third Owner has a freehold interest.

Clause 5 sets out similar covenants to those set out in Clause 4, but are given in so far as they relate to the Onsite Skylark Mitigation Land by the First Owner and Second Owner insofar as these relate to the Site.

The covenants given in Schedule 1 of the Deed are separated into four parts. In summary:

#### **Part 1**

- (i) The Development will not be Commenced until a Notice of Commencement has been served on the Council.
- (ii) The Skylark Mitigation Works will not be implemented until a Skylark Mitigation Works Notice is served on the Prescribed Parties, such notice will be given prior to the skylark nesting season (March-July inclusive) preceding the intended date of Commencement of Development.

#### **Part 2**

- (i) The Skylark Mitigation Works shall not be Commenced, nor shall the Commencement of Development be permitted until the Skylark Mitigation Strategy has been submitted to and approved by the Council and Notice of Approval has been given to the Prescribed Parties.
- (ii) The Skylark Mitigation Works will be implemented on the Onsite Skylark Mitigation Land and the Offsite Skylark Mitigation Land in accordance with the approved Skylark Mitigation Strategy prior to the skylark nesting season (March-July inclusive) preceding the intended date of Commencement of Development.

#### **Part 3**

- (i) An Offsite Skylark Mitigation Works Completion Notice and an Onsite Skylark Mitigation Works Completion Notice will be issued to the Council and the Prescribed Parties following completion of the relevant Skylark Mitigation Works.
- (ii) Following the issuing of the notices, the Council will be permitted to inspect the Onsite Skylark Mitigation Land and the Offsite Skylark Mitigation Land to assess if the Skylark Mitigation Strategy has

been duly implemented. Access will also be permitted thereafter to enable the Council to ensure ongoing compliance with the terms of the Skylark Mitigation Strategy.

(iii) Development will not be Commenced until any reasonable remedial works required by the Council have been completed to its satisfaction, or in the absence of such requirements upon confirmation (which shall be deemed after 20 Working Days of receipt of the relevant completion notices) that the Skylark Mitigation Strategy has been complied with.

(iv) Development will not be Commenced, or ongoing construction or operation permitted, in the event of an unresolved material breach of the Skylark Mitigation Strategy.

#### **Part 4**

(i) The Skylark Mitigation Report will be submitted to the Council two calendar years following the Relevant Completion Date, and then the fourth, sixth, eighth and tenth anniversaries of the Relevant Completion Date, and every four years thereafter until the Development is decommissioned in accordance with the Planning Permission. Where it is reasonably necessary in order to achieve the Skylark Mitigation Purpose for the Skylark Mitigation Works to be amended, those amendments will be implemented as approved by the Council.

If the Inspector has any questions about the terms of the Deed, I would be glad to address these in writing in advance of the online inquiry session scheduled for Friday 27 March 2026, or I am happy to discuss the terms of the Deed further at the online inquiry session as I will be attending to represent the Appellant.

Yours sincerely

Christian Silk

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