

PINS  
Planning Inspectorate  
QUADIENT  
69 Buckingham Avenue  
Slough  
SL1 4PN

Our reference CHSI/10014811/O167229182.4/CHSI  
Your reference APP/P3040/W/25/3375110

**9 April 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**

### **Background**

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.

The agreed form of the Deed was submitted to PINS and Rushcliffe Borough Council on the morning of the 26<sup>th</sup> March (with a further minor amended version issued that afternoon) and as agreed at the last virtual session of the public inquiry on the 27<sup>th</sup> March 2026 a period of consultation was allowed until the 7<sup>th</sup> April 2026 for interested parties to review and comment on the Deed and associated plan. During this period comments were received from one Interested Party, Mr Reid. The purpose of this letter is to respond to the comments received.

### **Response to Comments from Mr Reid**

Mr Reid submitted representations to the Council and PINS on the 6<sup>th</sup> April; these were the only comments received on the Deed during the period of consultation. Mr Reid's comments are not repeated here but in summary raise a concern that there are no financial penalties set out in the Deed in the event of a breach of the planning obligations.

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The Deed is a unilateral deed of obligation as opposed to a multilateral agreement. It cannot, therefore, impose obligations on the Council as the Council are not giving covenants, and this would include requiring specific enforcement steps to be taken. In any event, a local planning authority would not expect its discretion in terms of enforcement measures to be fettered by the terms of a deed as Section 106 of the Town and Country Planning Act 1990 (the "Act") provides local authorities with appropriate enforcement powers, including by way of an injunction (Section 106 (5) of the Act) and permitting entry onto land to carry out operations and to recover costs (Section 106 (6) of the Act).

Deeds of planning obligation are not used to levy financial penalties (other than interest on overdue payments) as financial penalties do not ensure that planning obligations are complied with or performed. It is the setting out of restrictions on development, including its continued construction or operation (as set out in the Deed) and the enforcement of planning obligations, including restrictions through the exercise of the powers set out in Section 106 of the Act that ensure that planning obligations are complied with or performed, and the planning purposes for which those planning obligations have been given are achieved.

The approach taken to the Deed is, therefore, standard and a well-trodden path. The Council will have the power to enter the on-site or off-site skylark mitigation land to carry out necessary works and to recover the costs of such intervention from the owners/developers. Alternatively, and a more likely scenario would be that the Council would seek an injunction to either:

- (i) compel performance, which would include producing a Skylark Mitigation Strategy for approval, implementing it, complying with its terms, and managing and monitoring it (as appropriate) throughout the lifetime of the Development, or
- (ii) to prevent activities that are contrary to and in breach of the requirements of the skylark mitigation planning obligations, or
- (iii) to prevent the Development from being commenced, continuing or being operated (as appropriate) in the event of any such breach.

All of these are compelling enforcement steps and would indirectly have the effect of a financial penalty.

If the Inspector has any specific questions about the comments from Mr Reid, we would be glad to address these in writing to enable the Inspector to then close the inquiry.

Yours sincerely

Christian Silk

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