

**Deed of obligation pursuant to Section 106 Town and Country
Planning Act 1990 and Other Powers**

relating to land west of Bradmore Road and North of Wysall Road and land west of Wysall,
Nottingham NG12 5QZ

Planning Application: 24/00161/FUL

Planning Appeal reference: APP/P3040/W/25/3375110

Dated 27 **April 2026**

Davill Solar Limited

-and-

John A. Wells Limited

-and-

Timothy Frank Kirk

-and-

Exagen Old Wood Ltd

-and-

Exagen Wymeswold Ltd

-and-

HSBC UK Bank Plc

to

Rushcliffe Borough Council

Contents

1	Definitions and Interpretation	2
2	Legal Basis	6
3	Conditionality	6
4	The Third Owner's Covenants	7
5	The First and Second Owners' Covenants	8
6	The Owners' and Developers' Covenants	8
7	Miscellaneous	8
8	Waiver	9
9	Value added tax	9
10	Mortgagee's consent	9
11	Governing law	9
	Schedule 1 – Developers' and Owners' Covenants	13
	Part 1: Commencement of Development and of the Skylark Mitigation Works	13
	Part 2: Skylark Mitigation Strategy	13
	Part 3: Skylark Mitigation Implementation	14
	Part 4: Skylark Monitoring Report	15
	Schedule 2 – Plan	17

This unilateral deed of obligation is given by

- (1) **DAVILL SOLAR LIMITED** incorporated and registered in England and Wales with company number 15793352 whose registered office is at [REDACTED] (the "First Owner");
- (2) **JOHN A. WELLS LIMITED** incorporated and registered in England and Wales with company number 701875 whose registered address is at [REDACTED] (the "Second Owner");
- (3) **TIMOTHY FRANK KIRK** of [REDACTED] (the "Third Owner");
- (4) **EXAGEN OLD WOOD LTD** incorporated and registered in England and Wales with company number 13440771 whose registered office is at [REDACTED] (the "First Developer");
- (5) **EXAGEN WYMESWOLD LTD** incorporated and registered in England and Wales with company number 13440766 whose registered office is [REDACTED] (the "Second Developer"); and
- (6) **HSBC UK BANK PLC** incorporated and registered in England and Wales with company number 9928412 whose registered office is at [REDACTED] (the "Mortgagee");

To

- (7) **RUSHCLIFFE BOROUGH COUNCIL** of Rushcliffe Arena, Rugby Road, West Bridgford, Nottingham, NG2 7YG (the "Council")

on the terms set out herein.

Recitals

- A The Council is the Local Planning Authority for the purposes of the 1990 Act for the area in which the Development is situated.
- B The First Owner is the registered freeholder of that part of the Site with title absolute registered at the Land Registry under Title Number NT303023 and free from encumbrances that would prevent the First Owner from entering into this Deed.
- C The Second Owner is the registered freeholder of that part of the Site with title absolute registered at the Land Registry under Title Numbers NT467713 and NT516883 and free from encumbrances that would prevent the Second Owner from entering into this Deed.
- D The First Developer has the benefit of the Option Agreements to carry out the Development and is therefore a person interested in the Site within the terms of section 106 of the 1990 Act.
- E The Third Owner is the registered freeholder of the Offsite Skylark Mitigation Land with title absolute registered at the Land Registry under Title Number NT280542 and free from encumbrances that would prevent the Third Owner from entering into this Deed, save as set out within recital F below.

- F The Mortgagee has an interest in the Offsite Skylark Mitigation Land by a Charge dated 17 November 1992 and registered against Title Number NT280542.
- G The Second Developer has the benefit of the Offsite Skylark Mitigation Land Option Agreement to carry out the Skylark Mitigation Works and is therefore a person interested in the Offsite Skylark Mitigation Land within the terms of section 106 of the 1990 Act.
- H Exagen Development Limited, a group company of the First Developer and the Second Developer, submitted the Planning Application. This was subsequently refused by the Council on 19 June 2025 (the "**Refusal**").
- I The Appeal was submitted to the Planning Inspectorate by Exagen Development Limited pursuant to section 78 of the 1990 Act against the Refusal on 24 October 2025.
- J The Owners and the Developers give this deed of unilateral obligation in order to secure the planning obligations contained in this Deed. The covenants contained herein shall bind the Site and the Offsite Skylark Mitigation Land on the terms set out in this Deed and shall be planning obligations for the purposes of Section 106 of the 1990 Act.
- K The Developers are satisfied that the obligations in this Deed are compliant with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and are material considerations for the purposes of determining the Appeal.

1 Definitions and Interpretation

- 1.1 For the purposes of this Deed the following expressions shall have the following meanings unless the context requires otherwise:

1990 Act means the Town and Country Planning Act 1990 (as amended);

Appeal means the appeal made to the Planning Inspectorate against the Refusal and given appeal reference APP/P3040/W/25/3375110;

Commencement of Development means the carrying out in relation to the Development of any material operation as defined by section 56(4) of the 1990 Act but disregarding for this Deed, and for no other purpose, the following operations (1) ground investigations; (2) site survey works; (3) archaeological investigations; and/or (4) erection of any fences and hoardings around the Site;

and "**Commenced**" and "**Commences**" and "**Commence Development**" shall be construed accordingly;

Deed means this deed and any schedules to it;

Developers means the First Developer and Second Developer;

Development means the construction, operation and subsequent decommissioning of a renewable energy park comprising ground mounted solar PV with co-located battery energy storage system (BESS) at the point of connection, together with associated infrastructure, access, landscaping and cabling as set out in detail in the Planning Application;

Inspector means a planning inspector appointing by the Secretary of State to hear/determine the Appeal;

Notice of Approval means written notice that a Skylark Mitigation Strategy has been approved pursuant to this Deed enclosing therewith a complete copy of the approved strategy;

Notice of Commencement means written notice confirming the date that Commencement of Development is intended to occur;

Notice of Subsequent Approval means written notice confirming that a Skylark Monitoring Report has been approved pursuant to the terms of this Deed enclosing a complete copy of the approved Skylark Monitoring Report in question;

Notification Date means a date prior to the skylark nesting season (March-July inclusive) preceding the First Developer, the First Owner and/or the Second Owner's intended date of Commencement of Development;

Offsite Skylark Mitigation Land means the area labelled "Offsite Skylark Mitigation Land" and shown edged blue on the Plan for identification purposes only;

Offsite Skylark Mitigation Land Option Agreement means the Option Agreement dated 23 June 2022 made between (1) the Third Owner, (2) Investacc Limited and the Third Owner (as trustees of the Minerva SIPP for Timothy Frank Kirk) and (3) Exagen SPV05 Wymeswold Ltd (now known as the Second Developer), as varied by a Deed of Variation dated 17 July 2025 made between (1) the Third Owner, (2) Investacc Limited and the Third Owner (as trustees of the Minerva SIPP for Timothy Frank Kirk (0717)) and (3) the Second Developer and further varied by a Deed of Variation dated 26 March 2026 made between (1) the Third Owner and (2) the Second Developer relating to the Offsite Skylark Mitigation Land;

Offsite Skylark Mitigation Works Completion Notice means written notice confirming the date that any Skylark Mitigation Works located on the Offsite Skylark Mitigation Land have been completed;

Onsite Skylark Mitigation Land means the part of the Site labelled "Onsite Skylark Mitigation Land" and shown hatched orange on the Plan for identification purposes only;

Onsite Skylark Mitigation Works Completion Notice means written notice confirming the date that any Skylark Mitigation Works located on the Onsite Skylark Mitigation Land have been completed;

Option Agreements means together:

(a) an Option Agreement dated 3 December 2021 made between (1) John A. Wells Limited and (2) Exagen SPV03 Limited (now Exagen Old Wood Ltd) relating to land at Lodge Farm, Bradmore Road, Wysall, Nottingham NG12 5QR, forming part of the Site; and

(b) an Option Agreement dated 10 March 2023 made between (1) Norman Ernest Davill and (2) Exagen Old Wood Ltd relating to land on the north side of Costock Road, Wysall, forming part of the Site;

Owners means the First Owner, the Second Owner and the Third Owner;

Plan means the site location plan with drawing number LL02A-EXG-00-00-D-K021 P02 and dated 6 March 2026, appended to this Deed at Schedule 2;

Planning Application means the application for planning permission for the Development of the Site submitted by Exagen Development Limited (a group company of the Developers) to the Council, validated on 16 February 2024 with application reference 24/00161/FUL;

Planning Permission means the planning permission granted pursuant to the Appeal as may be varied from time-to-time by a subsequent application pursuant to section 73 of the 1990 Act;

Prescribed Recipients means:

- (a) for the purposes of a Skylark Mitigation Works Notice and the Notice of Commencement required by paragraphs 1 and 2 of Schedule 1 of this Deed or an Offsite Skylark Mitigation Works Completion Notice required by paragraph 6 of Schedule 1 of this Deed:
 - (i) the Council as local planning authority or any successor authority in name and functions; and
 - (ii) the proprietor for the time being of any legal estate (whether freehold or leasehold) registered at HM Land Registry in respect of the Offsite Skylark Mitigation Land;
- (b) for the purposes of an Onsite Skylark Mitigation Works Completion Notice required by paragraph 7 of Schedule 1 of this Deed, the Council; and
- (c) for the purposes of a Notice of Approval required by paragraph 3(a) of Schedule 1 of this Deed or a Notice of Subsequent Approval required by paragraph 16(d) of Schedule 1 of this Deed, the proprietor for the time being of any legal estate (whether freehold or leasehold) registered at HM Land Registry in respect of the Offsite Skylark Mitigation Land;

Relevant Completion Date shall mean the earlier of:

- (a) the date specified in the Offsite Skylark Mitigation Works Completion Notice given pursuant to paragraph 6 of Schedule 1 of this Deed; and
- (b) the date specified in the Onsite Skylark Mitigation Works Completion Notice given pursuant to paragraph 7 of Schedule 1 of this Deed;

Secretary of State shall mean the Secretary of State for Housing Communities and Local Government;

Site means the land west of Bradmore Road and North of Wysall Road and land west of Wysall, Nottingham NG12 5QZ as registered at the Land Registry under title numbers NT303023, NT467713 and NT516883 shown edged red on the Plan for identification purposes only;

Skylark Mitigation Purpose means to mitigate the loss of onsite breeding habitat on the Site upon which the Development is to be carried out, and subsequent displacement of skylark as a result of carrying out the Development;

Skylark Mitigation Strategy means the strategy to be submitted to and approved by the Council pursuant to Part 2 of Schedule 1 of this Deed to satisfy the Skylark Mitigation Purpose and which shall include the Skylark Mitigation Works;

Skylark Mitigation Works means the creation of a skylark habitat on the whole of the field area of the Offsite Skylark Mitigation Land and the Onsite Skylark Mitigation Land pursuant to the Skylark Mitigation Strategy;

Skylark Mitigation Works Notice means notice given on the Notification Date and in accordance with Part 1 of Schedule 1 of this Deed confirming that the First Owner, the Second Owner and/or the First Developer intend to implement the Skylark Mitigation Strategy by carrying out the Skylark Mitigation Works;

Skylark Monitoring Report means a report submitted to and approved by the Council from time to time pursuant to Part 4 of Schedule 1 of this Deed; and

Working Day means any day other than a Saturday or Sunday or public holiday in England, when banks in London are open for business.

- 1.2 Clause headings shall not affect the interpretation of this Deed.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to any party shall include that party's personal representatives, successors and permitted assigns and in the case of the Council the successors to its respective statutory functions.
- 1.8 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 A reference to **writing** or **written** excludes faxes and e-mail.
- 1.11 A reference to **this Deed** or to any other deed or document referred to in this Deed is a reference to this Deed or such other deed or document as varied or novated (in each case, other than in breach of the provisions of this deed) from time to time.
- 1.12 References to Clauses and Schedules are to the Clauses and Schedules of this Deed.
- 1.13 An obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.14 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.