

DATED

3rd August

2022

HIGH SPEED TWO (HS2) LTD

and

THE LONDON BOROUGH OF HILLINGDON

**PLANNING OBLIGATION BY DEED PURSUANT TO SECTION 106
OF THE TOWN AND COUNTRY PLANNING ACT 1990 AND ASSOCIATED
POWERS**

RELATING TO THE DEVELOPMENT OF LAND AT

RUISLIP GOLF COURSE ICKENHAM ROAD

PLANNING APPLICATION NUMBER: 10737/APP/2020/3359

Planning & Corporate Team
London Borough of Hillingdon
Civic Centre, High Street
Uxbridge, Middlesex
Ref: 3E/04/VA/19644

THIS PLANNING OBLIGATION BY DEED is dated 3rd August 2022

and is made **BETWEEN**:

1. **HIGH SPEED TWO (HS2) LTD** (company number: 06791686) a company incorporated in England and Wales whose registered office is situated at Two Snowhill, Snow Hill Queensway, Birmingham, England, B4 6GA ("The Developer");
2. **THE LONDON BOROUGH OF HILLINGDON** of the Civic Centre, High Street, Uxbridge, Middlesex UB8 1UW ("the Council").

BACKGROUND

- A The Council is the local planning authority for the purposes of the Act in respect of the Land and by whom the obligations in this Agreement are enforceable.
- B The Council has a freehold interest in the Site registered under the Title Numbers at the Land Registry.
- C The Council and the Developer entered into a Lease relating to the Development on 28 July 2021.
- D The Developer has a leasehold interest in the part of the Site given Title No. AGL547359 at the Land Registry and registration of said interest is pending.
- E On 19 October 2020, the Planning Application was submitted to the Council for permission to develop the Site for the purposes and in the manner described in the Planning Application.
- F The Developer intends to develop the Site pursuant to the Planning Permission.
- G The Council resolved at its Major Applications Planning Committee meeting on 15 December 2021 to delegate authority to determine the Planning Application to the Head of Planning, Transportation & Regeneration subject to the prior completion of this Agreement.

H The Council has considered the provisions of the development plan and taken into account planning considerations affecting the Site and considers that in the interests of the proper planning of its area the Development of the Site ought to only be permitted subject to the terms of this Agreement and for that purpose the parties are willing to enter into this Agreement.

THIS DEED WITNESSES AS FOLLOWS:-

OPERATIVE PROVISIONS

1 INTERPRETATION

1.1 For the purposes of the recitals and this Agreement, the following words and expressions shall have the following meaning:

"1990 Act"	means the Town and Country Planning Act 1990 (as amended);
"Authority's Area"	means the administrative area of the Council;
"Commencement of Development"	means the carrying out in relation to the Development of any material operation (as defined within section 56(4) of the 1990 Act) on the Site pursuant to the Planning Permission but (for the purposes of this Agreement) excluding operations consisting of: <ul style="list-style-type: none">- site clearance;- demolition (provided always that such works do not relate to any listed building within the Site);- archaeological investigations and works;- ground investigations;- site survey works;- temporary access construction works;- preparatory or remediation works;

	<ul style="list-style-type: none"> - works for the laying termination or diversion of services; - the erection of any temporary means of enclosure or site notices; - decontamination works; - erection of any fences and hoardings around the Site; and - environmental site investigations, <p>and Commence and Commenced shall be construed accordingly;</p>
"Contribution(s)"	means the Great Crested Newt Pond Contribution;
"Deputy Director of Planning and Regeneration"	means the Council's Deputy Director of Planning and Regeneration or such person as the Council designates as undertaking this role;
"Development"	means the development of the Site pursuant to the Planning Permission;
"First Instalment"	means the sum of £834.58 (Index Linked) multiplied by the number of months remaining on the Natural England Licence for the relevant year before the next year of the Natural England Licence begins;
"Form PO1"	means the form in the substantial format attached at Appendix 1 ;
"Great Crested Newt Pond"	means the pond to be constructed by the Developer on the Site in accordance with the Planning Permission;
"Great Crested Newt Pond Contribution"	means the Index Linked annual sum of £10,015 (Ten Thousand and Fifteen Pounds) (in addition to any other sums relating to outstanding obligations which Natural England may have imposed on the

	<p>Developer within the Natural England Licence) to be provided in accordance with Schedule 1 as a contribution towards maintenance works (set out in the Great Crested Newt Pond Maintenance Scheme) in relation to the Great Crested Newt Pond and which shall be paid annually to the Council for</p> <p>(a) up to year 10 following completion of construction of the Great Crested Newt Pond</p> <p>(b) or such earlier point in time as may be agreed between the Council and the Developer following the Lease being relinquished by the Developer</p>
"Great Crested Newt Pond Maintenance Scheme"	means the Great Crested Newt Pond maintenance scheme (which meets the obligations of the Natural England Licence) approved by the Council and referred to in Appendix 3 demonstrating how the said pond will be maintained;
"Index Linked"	means the application of the formula provided at clause 15 ;
"the Lease"	means the lease entered into between the Developer and the Council dated 28 July 2021 given title number AGL547359 with registration of the lease pending at the Land Registry;
"Natural England Licence"	means the licence entered into between the Developer and Natural England dated 17 March 2017 and any such future licences entered into by both parties in

	respect of the maintenance of the Great Crested Newt Pond;
"Plan"	means the plan attached to this Agreement at Appendix 2 ;
"Planning Application"	means the application for planning permission for remodelling of Ruislip Golf Course, incorporating: reconfiguration of 18 existing hole course into a nine hole course, short game practice area, putting green and six hole academy course; construction of a single storey rifle range; demolition of existing covered driving bays and construction of replacement driving range, including associated floodlights and safety netting; a new drainage system and associated ponds; ecological and landscaping works; realignment and enhancement of the Hillingdon Trail and creation of a new public footpath; excavation of a new channel for the Ickenham Stream (canal feeder); and other associated works under the Council's reference number 10737/APP/2020/3359;
"Planning Obligations Officer"	means the Council's Planning Obligations Officer or such person as the Council designates as undertaking this role;
"Planning Permission"	means the planning permission that may be granted in pursuance of the Planning Application;
"Planning Reference"	means planning reference 10737/APP/2020/3359;
"Project Management and Monitoring Fee"	means the sum equivalent to five percent (5%) of the total Contributions to be used by the Council at its discretion for its costs incurred in administering, monitoring, reviewing and implementing this Agreement;

"RPI"	means the Retail Prices Index published monthly by the Office for National Statistics or, if the Retail Prices Index is no longer maintained, such replacement or alternative index as the Council may determine;
"Site"	means the land subject to the Lease and known as Ruislip Golf Course Ickenham Road and shown for identification purposes only edged red on the Plan and which for the avoidance of doubt does not include the freehold interest registered pursuant to the Title Numbers;
"Title Numbers"	means the following title numbers registered at HM Land Registry: <ul style="list-style-type: none"> a) AGL197152 b) AGL197257 c) MX29027 d) AGL216546 e) NGL225157 f) MX68688
"VAT"	means value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax;
"Working Day"	means any day except Saturday, Sunday and any bank or public holiday and Working Days shall be construed accordingly.

1.2 In this Agreement:

1.2.1 the clause headings do not affect its interpretation;

- 1.2.2 unless the context otherwise requires, words denoting the singular shall include the plural and vice versa and words denoting any one gender shall include all genders and words denoting persons shall include bodies corporate, unincorporated associations and partnerships;
- 1.2.3 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;
- 1.2.4 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;
- 1.2.5 the headings in this Agreement are inserted for convenience only and shall not affect the construction or interpretation of this Agreement;
- 1.2.6 unless otherwise indicated, references to clauses and Schedules are to clauses of and Schedules to this Agreement and references in a Schedule to a Part or paragraph are to a Part of paragraph of that Schedule;
- 1.2.7 where the agreement, approval, consent or an expression of satisfaction is required by the Developer under the terms of this Agreement from the Council that agreement, approval, consent or satisfaction shall be given in writing and shall not be unreasonably withheld or delayed;
- 1.2.8 references to any statute or statutory provision include references to:
 - 1.2.8.1 all Acts of Parliament and all other legislation having legal effect in the United Kingdom as directly or indirectly amended, consolidated, extended, replaced or re-enacted by subsequent legislation; and
 - 1.2.8.2 any orders, regulations, instruments or other subordinate legislation made under that statute or statutory provision;
- 1.2.9 references to the Site include any part of it;
- 1.2.10 references to any party in this Agreement include the successors in title of that party and any person deriving title through or under that party. In addition, references to the Council include any successor local planning authority exercising planning powers under the 1990 Act or any successor local highway authority exercising powers under the 1980 Act;
- 1.2.11 "including" means "including, without limitation";
- 1.2.12 any covenant by the Developer not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing;

1.2.13 without prejudice to the terms of any other provision contained in this Agreement the Developer shall pay all costs, charges and expenses (including without prejudice to legal costs and Surveyor's fees) reasonably incurred by the Council for the purpose of or incidental to the enforcement of any right or power of the Council or any obligation of the Developer arising under this Agreement;

1.2.14 where two or more people form a party to this Agreement, the obligations they undertake may be enforced against them jointly or against each of them individually; and

1.2.15 if any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of the Agreement is to be unaffected.

2 LEGAL BASIS

2.1 This Agreement is made pursuant to section 106 of the 1990 Act. To the extent that they fall within the terms of section 106 of the 1990 Act, the obligations contained in this Agreement are planning obligations for the purposes of section 106 of the 1990 Act and are enforceable by the Council as local planning authority against the Developer without limit of time.

2.2 To the extent that any of the obligations contained in this Agreement are not planning obligations within the meaning of the 1990 Act, they are entered into pursuant to the powers contained in section 111 of the Local Government Act 1972, section 16 of the Greater London Council (General Powers) Act 1974, section 2 of the Local Government Act 2000, section 1 of the Localism Act 2011 and all other enabling powers with the intent that it will bind the Developer and the Security Trustee and their successors in title to the Site.

3 CONDITIONALITY

The obligations contained in the schedules to this Agreement are subject to and conditional upon:

- (i) the grant of the Planning Permission; and
- (ii) Commencement of the Development.

All other parts of this Agreement shall be of immediate force and effect unless otherwise stated.

4 MISCELLANEOUS

4.1 Nothing contained or implied in this Agreement shall prejudice or affect the rights, powers, duties and obligations of the Council in exercise of their functions as local planning authority and their rights, powers, duties and obligations under all public and private statutes, bylaws and regulations may be

as fully and effectually exercised as if the Council were not a party to this Agreement.

- 4.2 Nothing in this Agreement prohibits or limits the right to develop any part of the Site in accordance with a planning permission, other than one relating to the Development as specified in the Planning Application, granted after the date of this Agreement, whether or not pursuant to an appeal.
- 4.3 No waiver (whether express or implied) by the Council of any breach or default by the Developer in performing or observing any of the covenants undertakings obligations or restrictions contained in this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said covenants undertaking or obligation from acting upon any subsequent breach or default in respect of the Developer.
- 4.4 Nothing in this Agreement shall be construed as a grant of planning permission.
- 4.5 Unless expressly agreed otherwise in this Agreement, the covenants in this Agreement shall be enforceable without any limit of time against the Developer and any successors in title to the Site and assigns of the Developer in an interest or estate to the Site or any part or parts of the Site as if that person had also been an original covenanting party in respect of the interest or estate for the time being held by that person.
- 4.6 No party to this Agreement nor its successors in title nor any person deriving title from or under them shall be liable for any breach of any of the planning obligations or other obligations contained in this Agreement after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 4.7 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission is quashed or revoked or otherwise withdrawn or (without the consent of the Developer or their successors in title) is modified by any statutory procedure or expires prior to Commencement of Development.
- 4.8 Insofar as any clause or clauses of this Agreement are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement.
- 4.9 In the event that the planning obligations contained in this Agreement being modified a note or memorandum thereof shall be endorsed upon this Agreement.
- 4.10 The Agreement cannot be amended or discharged without the prior consent in writing of the Developer and the Council or their respective successors in title.

5 THE DEVELOPER'S PLANNING OBLIGATIONS

- 5.1 The Developer covenants with the Council so as to bind the Site to observe and perform the obligations contained in this Agreement and the Schedules hereto.
- 5.2 The Developer agrees to notify the Council's Planning Obligations officer (contact details set out in **clause 12** below) within 7 Working Days of the Lease being relinquished.

6 COSTS

- 6.1 The Developer hereby covenants with the Council that on completion of this Agreement it will pay the Council's reasonable and proper legal costs, together with all disbursements, incurred in connection with the negotiation, preparation, completion and registration of this Agreement.
- 6.2 The Developer will pay to the Council the Project Management and Monitoring Fee within 30 days of the Lease being relinquished. For the avoidance of doubt the Project Management and Monitoring Fee shall be paid in addition to the costs referred to in clause 6.1 above.

7 REGISTRATION OF AGREEMENT

The Developer recognises and agrees that the covenants in this Agreement shall be treated and registered as local land charges for the purposes of the Local Land Charges Act 1975.

8 RIGHT OF ACCESS

- 8.1 Without prejudice to the Council's statutory right of entry the Developer shall permit the Council and its authorised employees and agents upon reasonable written notice to enter the Site at all reasonable times for the purpose of verifying whether or not any obligation arising under the Agreement has been performed or observed.

9. ARBITRATION

- 9.1 Any dispute, controversy or claim arising out of or relating to this Agreement, including any question regarding its breach, existence, validity or termination or legal relationship established by this Agreement shall be finally resolved by arbitration in accordance with the Arbitration Act 1996. It is agreed that:

9.1.1 the tribunal shall consist of one other arbitrator appointed jointly by the parties;

9.1.2 in default of the parties' agreement as to the arbitrator, the arbitrator shall be appointed on either party's request by the President for the time being of the Royal Institution of Chartered Surveyors;

9.1.3 the costs of the arbitration shall be payable by the parties in the proportions determined by the arbitrator (or if the arbitrator makes no direction, then equally); and

9.1.4 the seat of the arbitration shall be London

10. THIRD PARTIES

A person who is not named in this Agreement does not have any right to enforce any term of this Agreement under the Contracts (Rights of Third Parties) Act 1999.

11. NOTICES

11.1 All notices served under or in connection with this Agreement shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party;

11.2 Any notice to be served under or in connection with this Agreement shall be sent to the:

a) Deputy Director of Planning and Regeneration, London Borough of Hillingdon, Civic Centre, High Street, Uxbridge, Middlesex, UB8 1UW and shall cite the Planning Reference for this Agreement; and

b) The Developer at its registered office.

12. FORM PO1

Prior to Commencement of the Development the Developer shall notify the Council that it intends to Commence the Development by completing and sending Form PO1 to the Council addressed to the Planning Obligations Officer, 3 North, London Borough of Hillingdon, High Street Uxbridge UB8 1UW or by email to cil@hillingsdon.gov.uk and shall cite the Planning Reference.

13. CHANGE IN OWNERSHIP

The Developer agrees to provide the Council with immediate written notification of any change in Ownership of any of its interest in the Land occurring before all of the obligations under this Agreement have been discharged (such notice to give details of the transferee's full name and registered office) together with the area of the Land or unit of occupation purchased by reference to a plan and the Planning Reference.

14. CONTRIBUTIONS

14.1 Payment of the Contributions required by this Agreement shall be made on the following basis:

- (a) The Contributions due under this Agreement shall be delivered to the person and address specified in clause 11 above;
- (b) pursuant to the Local Government Act 2003, the Council shall be at liberty to charge the Contributions to a Council revenue account and for the avoidance of doubt it is agreed and declared that this shall be without prejudice to the Council's right to apply the Contributions or any part or parts thereof to revenue purposes or to capital purposes or partly to the one and partly to the other.

14.2 Where any sum is paid for a particular purpose in accordance with this Agreement the Council shall not use the payment otherwise than for that purpose or for such other purpose as the Developer (at its absolute discretion) and the Council may agree in writing.

14.3 In the event that the Contributions or any element or part of the Contributions remain unspent or committed unconditionally to be spent within seven (7) years after the date on which the relevant Contribution was paid to the Council, then the Council shall within 28 days of a written demand return to the Developer the unexpended or uncommitted (as the case may be) part of the Contributions (with any accrued interest).

15. INDEXATION

The Developer agrees with the Council that any sums payable by the Developer under this Agreement shall be increased by the application of the formula $A=B \times C/D$ where:

- (a) A is the sum actually payable on the Specified Date;
- (b) B is the original sum mentioned in this Agreement;
- (c) C is the Index of Retail Prices for the month 2 months before the Specified Date;
- (d) D is the Index of Retail Prices for the month 2 months before the date of this Agreement; and
- (e) C/D is equal to or greater than 1.

16. INTEREST

All costs, payments and expenses payable to the Council under this Agreement shall bear the Interest rate from time to time being charged from the date such payment is due until the payment is received by the Council.

17. VAT

17.1 All consideration given in accordance with the terms of this Agreement shall be exclusive of any VAT properly payable.

17.2 The Developer hereby acknowledges and agrees that if at any time VAT is required to be paid in respect of the Land and the Contributions then to the extent that VAT had not been previously charged in respect of that payment the Council shall have the right to issue a VAT invoice to the Developer and the VAT shall be paid accordingly.

18. JURISDICTION

This Agreement is governed by and interpreted in accordance with the law of England.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

SCHEDULE 1

GREAT CRESTED NEWT POND

The Developer hereby agrees and covenants with the Council as follows:

1. To construct the Great Crested Newt Pond and observe and perform the requirements, recommendations and principles of the Great Crested Newt Pond Maintenance Scheme approved by the Council and set out in **Appendix 3** of this Deed until the Lease is relinquished.
2. Within 30 days of the Lease being relinquished by the Developer, to pay to the Council the First Instalment of the Great Crested Newt Pond Contribution.
3. To pay the remainder of the Great Crested Newt Pond Contribution on the anniversary of the payment of the First Instalment:
 - a. until ten years from the completion of construction of the Great Crested Newt Pond; or
 - b. such earlier point in time as is agreed between the Developer and the Council;following the Lease being relinquished by the Developer

APPENDIX 1
FORM PO1

TO: PLANNING OBLIGATIONS OFFICER

PLANNING AND REGENERATION
LONDON BOROUGH OF HILLINGDON
3N CIVIC CENTRE
HIGH STREET UXBRIDGE
MIDDLESEX UB8 1UW
EMAIL: cil@hillingdon.gov.uk

FORM PO1

SECTION 106/278 LEGAL AGREEMENT

SITE ADDRESS:

PLANNING REFERENCE:

DESCRIPTION OF DEVELOPMENT:

DATE OF COMMITTEE AUTHORISATION:

SECTION 106 OBLIGATIONS

DATE OF IMPLEMENTATION OF DEVELOPMENT:

(i) NOTIFIED TO THE COUNCIL:

(ii) SUBMITTED TO THE COUNCIL WITH THIS FORM:

NB: Please continue of separate sheet(s) if necessary.

**TICK BOX IF THIS FORM IS TO CONSTITUTE THE "FIRST NOTICE"
UNDER THE SECTION 278 HIGHWAY AGREEMENT IF THIS IS THE
"FIRST NOTICE" PLEASE ATTACH THE "FIRST PAYMENT" AS
SPECIFIED IN THE AGREEMENT**

☐

FOR COUNCIL USE

**NB: IF THIS IS THE FIRST NOTICE PASS IMMEDIATELY TO HIGHWAYS
ENGINEERS**

COST CODE: _____

PLANNING COSTS: _____

LEGAL COSTS: _____

OTHER COSTS (IDENTIFY):

MAINTENANCE COSTS (COMMUTED SUM) _____

**INTEREST BEARING ACCOUNT FOR BENEFIT OF OBLIGATIONS
YES/NO**

APPENDIX 2

PLAN

APPENDIX 3

MAINTENANCE STRATEGY

Management and Maintenance of Habitats in Ruislip Golf Course – GCN Pond (recommended by SCS)

Management Task	Frequency
Ponds	
Inspect and ensure clear maintenance access to the pond	Once every five years
Maintenance access around the pond clear of shrubs	Once every five years
Weed control by hand only	Twice a year
Aquatic vegetation management	Every 3 years
Marginal vegetation management	Every 3 years
De-silting	As required
Clearance of leaf fall	Annually
Preventing pond shading	As required (winter months only)
Fish removal	As required (at an appropriate time of year)
Invasive species management	As required
Water levels	As required
Rubbish and pollution management	Yearly
Lowland Meadow - wet	
Maintain plant diversity and open sward conditions	Once every other year
Cutting. Arisings shall be collected and removed	Once every other year
Water levels managed to support wet grassland habitats	Twice a year
Lowland Meadow - dry	
Cutting carried out to height up to 100mm in mid-June - July	Once every other year
Weed control by hand only	Twice a year
Scrub	

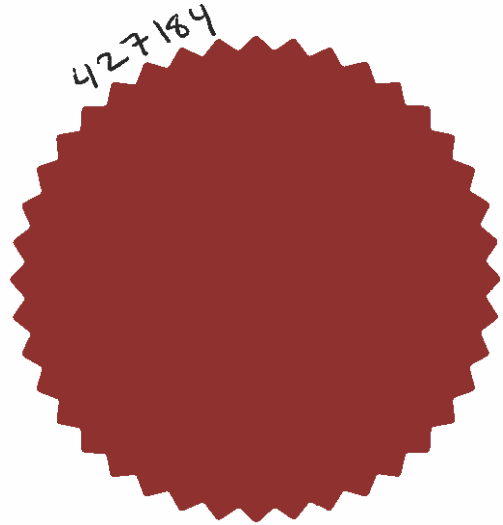
Inspect and ensure scrub do not encroach adjacent habitats	Once every 5 years
Inspect and ensure scrubland do not overgrow into GCN pond	Once every 5 years
Hawthorn/blackthorn scrub shall be cut on a 15-year rotation	15-year rotation
5 of 6 cut for mosaic of bramble at different stage growth	Once every 5 years
Cut and rake half or a third in late summer/autumn.	Every 2 years
Weed control by hand only	Twice a year
Remove and control non-native and invasive species	Twice a year
Hibernacula/ log pile / refugia aftercare	Reviewed yearly for first 3 years then every 10 years

THE COMMON SEAL of the
**MAYOR AND BURGESSES OF THE
LONDON BOROUGH OF HILLINGDON**

was duly affixed to this Agreement
in the presence of:-

MEMBER OF
THE COUNCIL *John Smith*.....

AUTHORISED OFFICER *[Signature]*.....



EXECUTED AS A DEED by

HIGH SPEED TWO (HS2) LTD

acting by two authorised attorneys:-

Attorney signature:

[Signature]

Attorney name: CHRISTOPHER RAYNER

in the presence of:

Witness signature:

[Signature]

Name: ANNA CAMPANELLA

Address: 1 EVERS HOLT STREET
LONDON NW1 2DN

Attorney signature: 

Attorney name: TIMOTHY SMART

in the presence of:

Witness Signature: 

Name: ANNA CAMPANELLA

Address: 1 EVERS Holt STREET
LONDON NW1 2DN