



Unilateral Planning Obligation

under Section 106 of the Town and
Country Planning Act 1990

- (1) The Secretary of State for Transport
- (2) Ashford Borough Council
- (3) Kent County Council

relating to land at on the north side of Highfield
Lane Sevington

Dated 20[•]

[•Draft] [•]: [•date] [•(TLT)]

DRAFT SUBJECT TO FURTHER INSTRUCTIONS

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Schedule 1 The Owner's obligations to the Borough Council

Schedule 2 The Owner's obligations to the County Council

This Unilateral Planning Obligation is made the [•] day of [•] 20[•]

And given by:

- (1) The Secretary of State for Transport c/o the Department for Transport of Great Minster House 33 Horseferry Road, London, SW1P 4DR (**Owner**)
to
(2) Ashford Borough Council of International House, Dover Place, Ashford, Kent TN23 1HU (**Borough Council**) and
(3) Kent County Council, Sessions House, County Hall, Maidstone, Kent, United Kingdom, ME14 1XQ (the **County Council**)

1 Definitions and interpretation

- 1.1 In this Unilateral Planning Obligation the following expressions shall where the context so requires or admits have the following meanings:

Act	the Town and Country Planning Act 1990 (as amended) or any re-enactment or modification thereof for the time being in force
Additional Church Works Contribution (Remainder)	means the remaining balance of the corresponding sum secured under the Original S106 Agreement and the payment of the Church Works Contribution Remainder being Twenty-Three Thousand Nine Hundred and Sixty-One Pounds and Two pence (£23,961.02) for the funding of the Church Works
Additional Pedestrian and Cycle Connection Contribution	means the sum of Three Thousand Four Hundred and Sixteen pounds and Thirty-Seven pence (£3,416.37)
Application	the application made by the Owner to the Secretary of State pursuant to Section 293D of the Act for full planning permission to develop the Application Site under reference number CROWN/2025/0000002
Application Site	the land shown edged red on Plan 1, being land at the Sevington Inland Border Facility registered at the Land Registry under title numbers K917394 (part) and TT113567 (part), and for the avoidance of doubt this Unilateral Planning Obligation is not intended to bind or be enforceable against any part of title numbers TT29528 or SGL792369 which is in different ownership
CIL Regulations	the Community Infrastructure Regulations 2010 (as amended)
Church Works	means upgrade and repair works to St. Mary's Church, Sevington in order to help enable the church to meet the long-term needs of the local community

Church Works Contribution (Remainder)	means the remaining balance of the corresponding sum secured under the Original S106 Agreement Two Hundred and Three Thousand Five Hundred and Seventy-Eight Pounds and Ninety-Three Pence (£203,578.93) for the funding of the Church Works (which for the avoidance of doubt shall be added to the £40,000.00 part payment already received by the Borough Council pursuant to the Original S106 Agreement)
Decision Letter	the letter containing the decision of the Planning Inspector in respect of the Application
Development	such development as may be authorised by the Planning Permission
Habitat Enhancement Works	the works set out in the Landscape Ecological Management Plan required to be approved by the Borough Council under condition 11 to the Planning Permission
Junction 10A Works Contribution	means the sum of Four Million Nine Hundred and Seventy-Three Thousand and Twelve Pounds and Eighty-Three Pence (£4,973,012.83) as a proportionate contribution towards the 'developer funding' of Junction 10A of the M20 in accordance with Policy TRA1 of the Ashford Local Plan 2030
Lease	means a lease dated 26 September 2022 and made between the Owner and SEPN, registered at the Land Registry under title number TT145751
Off Site BNG Land	the land edged blue on Plan 2, being land registered at the Land Registry under title numbers K404050, K421661, K582395, K582400, K582401, K582402, K584552, and K917394 (part)
Original Section 106 Agreement	the agreement dated 13 September 2017 made between the Borough Council (1) the County Council (2) and Friends Life Limited (3)
Pedestrian and Cycle Connection Improvement Contribution	means the sum of Thirty-Eight Thousand Three Hundred and Twenty-Seven Pounds and Forty Pence (£38,327.40) for the funding of Improvements to facilitate improved pedestrian and cycle connections between the Site and Duckworth Close, Willesborough
Plan 1	means drawing reference 5861-CA-ZZ-ZZ-DR-A-0001-P02 attached to this Unilateral Planning Obligation
Plan 2	means drawing reference 20982103-WAT-XX-XX-GS-N-75102 attached to this Unilateral Planning Obligation

Plan 3	means drawing reference PLAN 3 attached to this Unilateral Planning Obligation
Planning Inspector	the inspector appointed by the Secretary of State to determine the Application
Planning Permission	the planning permission granted pursuant to the Application
Previous Planning Obligation	the planning obligations contained in the unilateral undertaking executed by the Owner in favour of the Borough Council on 7 October 2025
PRoW Improvements Contribution	means the sum of Eighty-Eight Thousand Pounds (£88,000) for the improvement of approximately 670 metres of footpath AE363 between Blind Lane and Mersham, the relevant length of footpath AE 363 being shown for identification only on Plan 3
Relevant Date	<p>means</p> <p>(a) the date six weeks after the grant of the Planning Permission if no legal proceedings have been issued by any person to challenge the validity of the Planning Permission by that date, or</p> <p>(b) if such legal proceedings are issued, the date seven days after the final determination of such legal proceedings (including for the avoidance of doubt the expiry of any period allowed for an appeal) and any necessary determination or re-determination by the Secretary of State or Planning Inspector</p>
Resurfacing Contribution	means the sum of Nineteen Thousand Pounds (£19,000) for the Resurfacing Works
Resurfacing Works	<p>(a) resurfacing so much of the footpath running alongside the eastern side of Church Road that lies between the zebra crossing at the entrance to the staff car park and a point approximately 30 metres south-southwest of that zebra crossing and</p> <p>(b) installing surface water drainage in the adjacent parts of Church Road to reduce the issue of water pooling.</p>
SEPN	means South Eastern Power Networks PLC (company number 03043097) whose registered office is at Newington House 237 Southwark Bridge Road London SE1 6NP or any successor organisation

Supplementary Junction 10A Works	the widening of the A20 eastbound approach to Junction 10A of the M20, the signalisation of the A20 westbound approach and the corresponding section of the circulatory carriageway
Supplementary Junction 10A Works Contribution	means the sum of One Million, Four Hundred and Thirty-Six Thousand, One Hundred and Twenty-Two Pounds and Sixty-Eight Pence (£1,436,122.68) for the Supplementary Junction 10A Works
Working Day	any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory bank holiday and Working Days shall be construed accordingly
1.2	In this Unilateral Planning Obligation, unless the context otherwise requires:
1.2.1	any reference to a statute or a provision of a statute shall be construed as a reference to that statute or provisions as amended, re-enacted or extended at the relevant time;
1.2.2	any reference to a person shall be construed as a reference to any person, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) or one or more of the foregoing;
1.2.3	any reference to the singular shall include the plural and vice versa;
1.2.4	any reference to the masculine gender shall include the feminine and neuter and vice versa;
1.2.5	the table of contents and headings are inserted for ease of reference only and shall not affect the construction of this Unilateral Planning Obligation;
1.2.6	where any party comprises two or more persons, any obligations of that party in, under or arising from this Unilateral Planning Obligation is undertaken by or binding upon such two or more persons jointly and severally;
1.2.7	references to any party to this Unilateral Planning Obligation include its successors-in-title and permitted assignees and in the case of any local authority shall also include any successor in function;
1.2.8	references to numbered clauses, schedules or paragraphs are references to the relevant clauses or schedules in this Unilateral Planning Obligation or the relevant paragraph of this Unilateral Planning Obligation respectively;
1.2.9	all payments in accordance with the terms of this Unilateral Planning Obligation shall be exclusive of any VAT payable in respect thereof.

2 Background

- 2.1 Each of the Borough Council and the County Council is a Local Planning Authority as defined in the Act and a Local Planning Authority for the purposes of planning obligations imposed pursuant to the provisions of Section 106 of the Act.
- 2.2 The Owner is the owner in fee simple in possession of the Application Site and the Off Site BNG Land, with title absolute registered at HM Land Registry under title numbers K917394, Part TT113567, K582400 and K582395 which are subject to the Lease

together with K404050, K421661, K582401, K582402 and K584552 (it is not intended that title numbers TT29528 and SGL792369 be bound by the obligations in this Unilateral Planning Obligation).

- 2.3 The Application has been submitted to the Secretary of State for Planning Permission for the development of the Application Site as described in the Application.
- 2.4 The Owner has submitted the Application and is willing to give an undertaking to perform the obligations set out in this Unilateral Planning Obligation in the event of the Application being granted.
- 2.5 It is not intended that this Unilateral Planning Obligation binds SEPN in its capacity as lessee under the Lease.
- 2.6 The Owner gave an undertaking to perform the Previous Planning Obligations in a Deed dated 7 October 2025. The obligations set out in this Unilateral Planning Obligation replace the equivalent obligations set out in the Previous Planning Obligations.
- 2.7 The Owner is willing to give an undertaking to perform the obligations set out in this Unilateral Planning Obligation in order to facilitate the grant of Planning Permission by ensuring that the Borough Council and the County Council can regulate the Development by securing the benefits contained in this Unilateral Planning Obligation.
- 2.8 If the Planning Inspector concludes in his Decision Letter that any of the planning obligations set out in this Unilateral Planning Obligation are incompatible with any one of the tests for planning obligations set out at regulation 122 of the CIL Regulations, and accordingly attached no weight to that obligation in determining the Application then the relevant obligation shall from the date of the Decision Letter cease to have effect and the Owner shall be under no obligation to comply with them.

3 Condition precedent

- 3.1 Except as set out in this clause 3, this Unilateral Planning Obligation takes effect on the date of its completion.
- 3.2 The obligations set out in Schedules 1 and 2, and clauses 1, 2 and 5 so far as they relate to those obligations:
 - 3.2.1 are conditional on the grant of the Planning Permission; and
 - 3.2.2 shall only have effect on the dates set out in relation to those obligations in Schedule 1 or Schedule 2.

4 Statutory provisions and covenants

- 4.1 This Unilateral Planning Obligation is entered into pursuant to the provisions of section 106 of the Act and section 111 of Local Government Act 1972 and shall be deemed to be planning obligations in respect of the Application Site for the purposes of that section 106 but without prejudice to all and any other means of enforcing them at law or in equity or by statute.
- 4.2 The covenants and obligations created by this Unilateral Planning Obligation are planning obligations for the purposes of section 106 of the Act and are enforceable by the Borough Council and County Council as Local Planning Authorities.
- 4.3 This Unilateral Planning Obligation shall cease to have effect in respect of any then outstanding obligations save for any obligations that have fallen due and not been complied with in the event that the Planning Permission is
 - 4.3.1 quashed as a result of legal proceedings,

- 4.3.2 revoked or
 - 4.3.3 modified without the Owner's consent.
- 4.4 No person will be liable for any breach of this Unilateral Planning Obligation unless they hold an interest in that part of the Application Site in respect of which such breach occurs or hold such an interest at the date of the breach provided that the person shall remain liable for any antecedent breach.

5 Obligations

- 5.1 The Owner covenants with the Borough Council as set out in Schedule 1.
- 5.2 The Owner covenants with the County Council as set out in Schedule 2.
- 5.3 Where any of the obligations set out in Schedule 1 requires the payment or release of a sum that is also required to be paid under the Previous Planning Obligation, then, notwithstanding the date on which that sum is paid, payment or release of that sum under Schedule 1 discharges the equivalent obligation under the Previous Planning Obligation.

6 Waiver

- 6.1 No delay or failure on the part of any party in enforcing any provision in this Unilateral Planning Obligation shall be deemed to be a waiver or create a precedent or in any way prejudice any party's rights under this Unilateral Planning Obligation.
- 6.2 The rights and remedies provided in this Unilateral Planning Obligation are cumulative and are additional to any rights or remedies provided by law.

7 Miscellaneous

- 7.1 If any party defaults in the payment when due of any sum payable under this Unilateral Planning Obligation (whether pursuant to a court order or otherwise) the liability of that party in default shall be increased to include interest on such sum from the date when such payment was due until the date of actual payment at a rate of 4% above the base rate from time to time of Barclays Bank plc such interest shall accrue from day to day and shall be compounded annually.
- 7.2 The Owner hereby consents to the registration of this Deed as a Local Land Charge.
- 7.3 If any provision in this Unilateral Planning Obligation shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions hereof shall not in any way be deemed thereby to be affected or impaired.
- 7.4 Nothing in this Unilateral Planning Obligation shall prohibit or limit the right to develop any part of the Application Site in accordance with any planning permission (other than the Planning Permission) granted after the date of the Planning Permission **save for** if the Borough Council grant a planning permission pursuant to an application to vary or amend the Planning Permission made by the Owner under section 73 of the Act the covenants and provisions of this Unilateral Planning Obligation shall be deemed to bind the varied permission and to apply in equal terms to the new planning permission unless that application to vary the Planning Permission is itself supported by a completed planning obligation under section 106 of the Act and/or completed deed of variation under section 106A of the Act.
- 7.5 This Unilateral Planning Obligation constitutes a Deed.
- 7.6 On completion of this Unilateral Planning Obligation and receipt of a valid invoice or statement of account, the Owner shall pay to the County Council the reasonable and

proper legal costs of the County Council incurred in respect of the negotiation of this Deed.

- 7.7 On completion of this Unilateral Planning Obligation and receipt of a detailed fee note, the Owner shall pay to the Borough Council the reasonable and proper legal costs of the Borough Council incurred in respect of the negotiation of this Deed.

8 Third Parties

The Owner declares and confirms that with the exception of any person who becomes an Owner of the Application Site no term of this Unilateral Planning Obligation is enforceable under the Contract (Rights of Third Parties) Act 1999 by a person who is not a party to this Unilateral Planning Obligation.

9 Notices

- 9.1 Any notice to the Owner from the Borough Council or the County Council under this Unilateral Planning Obligation shall be in writing, and shall be duly served if it is delivered personally or sent by special delivery post to the Owner's address as is given in this Unilateral Planning Obligation and marked for the attention of Deputy Director – Group Property, or such other address as it may notify to the Council in writing from time to time.
- 9.2 Any notice to the Borough Council shall be in writing and shall be duly served if it is delivered personally or sent by special delivery post to the Borough Council's address as it is given in this Unilateral Planning Obligation and marked for the attention of the Developer Contributions Monitoring Officer or such other address as the Borough Council may notify to the Owner in writing from time to time.
- 9.3 Any notice to the County Council shall be in writing and shall be duly served if it is delivered personally or sent by special delivery post to the County Council's address as it is given in this Unilateral Planning Obligation and marked for the attention of the Head of Law, quoting reference LS/SBO/KEN015:001144, or such other address as the County Council may notify to the Owner in writing from time to time.

10 Governing law

This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

Schedule 1

The Owner's Obligations to the Borough Council

1 Junction 10A Works Contribution

- 1.1 The Owner covenants to pay to the Borough Council so much of the Junction 10A Works Contribution as has not already been paid to the Borough Council within 14 days of the Relevant Date.
- 1.2 The Owner covenants to release that sum which has already been paid by the Owner to the Borough Council and held pursuant to a letter dated 29 March 2023 from the Strategic Development & Delivery Manager to Head Operational Policy & Infrastructure Delivery Future Borders Policy within 14 days of the grant of the Planning Permission.

2 Pedestrian and Cycle Connection Improvement Contribution and the Additional Pedestrian and Cycle Connections Improvement Contribution

- 2.1 The Owner covenants to release to the Borough Council the Pedestrian and Cycle Connection Improvements Contribution and held pursuant to a letter dated 29 March 2023 from the Strategic Development & Delivery Manager to Head Operational Policy & Infrastructure Delivery Future Borders Policy within 14 days of the grant of the Planning Permission
- 2.2 The Owner covenants to pay to the Borough Council the Additional Pedestrian and Cycle Connection Improvements Contribution within 14 days of the Relevant Date.

3 Church Works Contribution (Remainder) and the Additional Church Works Contribution (Remainder)

- 3.1 The Owner covenants to release to the Borough Council the Church Works Contribution (Remainder) which has already been paid by the Owner to the Borough Council and held pursuant to a letter dated 29 March 2023 from the Strategic Development & Delivery Manager to Head Operational Policy & Infrastructure Delivery Future Borders Policy within 14 days of the grant of the Planning Permission
- 3.2 The Owner covenants to pay to the Borough Council the Additional Church Works Contribution (Remainder) within 14 days of the Relevant Date.

4 Off Site Habitat Enhancement Works

- 4.1 The Owner covenants to carry out the Habitat Enhancement Works to the Off Site BNG Land within 36 months of the date of the grant of Planning Permission, notify the Borough Council of the completion of the Habitat Enhancement Works as soon as reasonably practicable after completion, and to maintain the Off Site BNG Land for a period of 30 years from the date of completion of the Habitat Enhancement Works.

Schedule 2

The Owner's Obligations to the County Council

1 Supplementary Junction 10A Works

Subject to the County Council proposing to the Owner within 9 months of the Relevant Date a scheme for the implementation of the Supplementary Junction 10A Works, the Owner shall pay the Supplementary Junction 10A Works Contribution to the County Council within 4 weeks of the scheme for the implementation of Supplementary Junction 10A Works being approved by the Owner (such approval not to be unreasonably withheld or delayed).

2 PRoW Improvement Works

If at any time within 6 months of the Relevant Date, the County Council proposes to the Owner a scheme for the improvement of footpath AE363 between Blind Land and Mersham corner, and

- (i) notifies the Owner that all of the owners of the land comprised in footpath AE363 between Blind Lane and Mersham corner have given the County Council written confirmation that they agree to the upgrade of footpath AE363, or
- (ii) notifies the Owner that the County Council intends to exercise its powers under the Highways Act 1980 to carry out improvement works to footpath AE363 without landowner consent,

the Owner shall pay to the County Council the PRoW Improvement Contribution within 4 weeks of the Owner approving the County Council's scheme (such approval not to be unreasonably withheld or delayed).

3 Resurfacing Works

Subject to the County Council proposing to the Owner within 3 months of the Relevant Date a scheme for the implementation of the Resurfacing Works, the Owner shall pay to the County Council the Resurfacing Contribution within 4 weeks of the Owner approving the County Council's scheme (such approval not to be unreasonably withheld or delayed).

Plan 1

Commented [AT1]: Revised site plan

Plan 2

Commented [AT2]: Off Site BNG Plan

Plan 3

Commented [NE3]: PROW Plan

In witness whereof this deed has been duly executed by the Secretary of State for Transport
the day and year first before written

**Executed as a deed by affixing the
Common Seal of THE SECRETARY OF
STATE FOR TRANSPORT**
in the presence of:

[Director/Secretary]