

**Supplemental Deed of Agreement under
Section 106 and Section 106A of the Town
and Country Planning Act 1990**
relating to the development of Land at
Home Farm Main Road Deeping St Nicholas
Spalding

Application number H03-0161-17

Dated 24th July 2026

- (1) SOUTH HOLLAND DISTRICT COUNCIL
- (2) EMERALD HOMES GROUP LIMITED

DATE

24th July

2026

PARTIES

- (1) SOUTH HOLLAND DISTRICT COUNCIL of Council Offices Priory Road Spalding
Lincolnshire PE11 2XE (the Council); and
- (2) EMERALD HOMES GROUP LIMITED (Company Registration 11885020) whose
registered office is situated at South Lincs Plant Hire & Sales Enterprise Way,
Pinchbeck, Spalding, Lincs, PE11 3YR (Freehold Owner).

RECITALS

- A The Council is the local planning authority for the purposes of the 1990 Act for the
area in which the Site is situated.
- B The Freehold Owner is the freehold owner of the Site free from encumbrances.
- C On 20th December 2021, the Council and the Freehold Owner's predecessors
entered into the Original Agreement.
- D On 25th February 2026, the Council and the Freehold Owner entered into the
Supplemental Agreement.
- E Without prejudice to the terms of the other covenants contained in the Original
Agreement the parties have agreed to vary the terms of Original Agreement and the
Supplemental Agreement as set out in this deed.
- F This agreement is made under section 106A of the TCPA 1990 and is supplemental
to the Original Agreement and the Supplemental Agreement.
- G It is agreed that the requirements of this Deed meet the requirements of Regulation
122 of the Community Infrastructure Levy Regulations 2010 and are a) necessary to
make the Development acceptable; (b) directly related to the Development; and, (c)
fairly related in scale and kind to the Development.

AGREED TERMS

1. INTERPRETATION

The following definitions and rules of interpretation apply in this deed.

1.1 Definitions:

Original Agreement: the agreement made under section 106 of the TCPA 1990 dated 20th December 2021 between (1) the Council and (2) Mark Hildred, Bryan Turner and Paul Jeffrey Thompson and (3) National Westminster Bank Plc.

Supplemental Agreement: the agreement made under section 106 of the TCPA 1990 dated 25th February 2026 between (1) the Council and (2) the Freehold Owner.

- 1.2 Unless the context otherwise requires, all words and phrases defined in the Original Agreement shall have the same meaning in this deed.
- 1.3 Clause headings shall not affect the interpretation of this deed.
- 1.4 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 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 or 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 Unless the context otherwise requires, references to clauses are to the clauses of this deed.
- 1.11 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.
- 1.12 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

2 Statutory provision

This deed is made pursuant to the provisions of sections 106 and 106A of the TCPA 1990, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 **OR** section 2 of the Local Government Act 2000 and any other enabling powers.

3 Variations to the Original Agreement

- 3.1 The new clause inserted into the Original Agreement pursuant to clause 3.4 of Supplemental Agreement shall be deleted and replaced with the following:

"17. VIABILITY REVIEW

- 17.1 *In the event that that 80% of the Dwellings comprising the Development are not practically complete within 4 years of 25th February 2026, the Council may appoint a suitably qualified Viability Assessor to undertake the Viability Assessment.*
- 17.2 *Where the Council notifies the Owner that they have appointed a Viability Assessor to carry out the Viability Assessment pursuant to clause 17.1 above the Owner will within 4 weeks of such notification provide the Council with all such details as it may require to enable the Viability Assessor to carry out the said viability assessment.*
- 17.3 *The Council shall provide to the Viability Assessor all such details as required pursuant to clause 17.2 within 10 Working Days of receipt.*
- 17.4 *The Owner shall be responsible for and shall, within 10 Working Days of the demand reimburse the Council for any fees and expenses reasonably incurred by the Viability Assessor arising in relation to its appointment pursuant to clause 17.2 above.*
- 17.5 *The assessment of profit shall be carried out on the same basis as used by the Viability Assessor at S106A application stage (Application Ref H03-1042-25) having regard to the Benchmark Land Value, Gross Development Value, Construction Costs, Abnormal Development Costs, Village Hall Delivery Costs, Sales and Marketing costs, Professional Fees, Finance Costs and Land Acquisition Fees including Stamp Duty Land Tax.*
- 17.6 *Where the Viability Assessor concludes in the Viability Assessment that the level of profit has or will exceed 17.5% then any level of profit over and above the first 17.5% identified in the Viability Assessment shall be shared equally (i.e. 50/50) between the Owner and the Council.*
- 17.7 *In the event of dispute between the Owner and the Council/Viability Assessor in relation to the level of profit concluded by the Viability Assessment then the matter will be referred to an Independent Expert as per Clause 16*

- 3.2 A new Clause 9.2 shall be inserted into the Original Agreement as follows:

The obligations contained in this Deed shall not be enforceable against any mortgagee or chargee of the whole or any part of the Land from time to time or any person deriving title from such mortgagee or chargee unless and until any such party takes possession of the Land (or any part thereof to which such obligation relates) in which case it will

be bound by the obligations as a person deriving title from the Owner PROVIDED THAT neither any mortgagee or chargee or person deriving title through such mortgagee or charge will be liable for any breach of the obligations contained in this Deed unless committed at a time when that person is in possession of the Land (or any part of it to which such obligation relates)."

- 3.3 In all other respects the Original Agreement (as varied by this the Supplemental Agreement and this Deed) shall remain in full force and effect.

4 Covenants to the Council

The Freehold Owner covenants to observe and perform the covenants, restrictions and obligations contained in the Original Agreement as varied by the Supplemental Agreement and this Deed.

5 Local land charge

This Deed shall be registered as a local land charge.

6 Endorsement

Promptly following completion of this Deed the Council shall endorse a memorandum of variation on the Original Agreement in the following terms:

"This Agreement has been varied by a supplemental agreement dated [DATE] and made between South Holland District Council and the Freehold Owner"

7 Council's costs

The Freehold Owner shall pay to the Council on or before the date of completion of this deed, the Council's reasonable and proper legal costs together with all disbursements incurred in connection with the preparation, completion and registration of this deed.

8 Value added tax

- 8.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly paid.
- 8.2 If at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this Deed then to the extent that VAT has not been previously charged in respect of that supply the party making the supply shall have the right to issue a VAT invoice to the party to whom the supply was made and the VAT shall be paid accordingly.

9 Third party rights

A person who is not a party to this Deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed.

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.

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

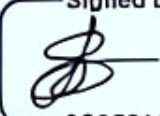
IN WITNESS this document has been signed as a Deed and delivered on the date first above written

THE COMMON SEAL of)
SOUTH HOLLAND DISTRICT COUNCIL)
was hereunto affixed in the presence of:-)



Authorised Signatory 
Print Name M. HOGAN
Job Title DIRECTOR GROWTH

Executed as a deed by **OLIVER TOOKMAN**
pursuant to a power of attorney dated
3 June 2025 in their capacity as attorney for
EMERALD HOMES GROUP LIMITED in the
presence of:

Signed by: 
2066C911089A1449
SIGNATURE OF WITNESS

Ben Sinclair
.....
WITNESS NAME

South Lincs Plant Hire, Enterprise Way, Spalding, Lincolnshire, PE11 3YR
.....
WITNESS ADDRESS

Signed by: 
09E06A587842486
Oliver Tookman