

Dated

29 October

2024

(1) South Holland District Council

and

(2) Robert Ronald Stevenson and Rowena Jackson Stevenson

PLANNING OBLIGATION BY DEED
Section 106 of the Town and Country Planning Act 1990

Relating to land at 120 Westhorpe Road, Gosberton, Spalding

South Holland District Council
Council Offices
Priory Road
Spalding
PE11 2XE

SHDC Reference: LD/H08-0493-24

Date

29 October

2024

BETWEEN

- (1) **SOUTH HOLLAND DISTRICT COUNCIL** of Council Offices, Priory Road, Spalding, PE11 2XE ("the Council"); and
- (2) **ROBERT RONALD STEVENSON and ROWENA JACKSON STEVENSON** of Beck Farm Lodge, Fen Road, Donington, Spalding, PE11 4XE ("the Owner");

INTRODUCTION

- (A) The Council is the Local Planning Authority for the purposes of the Act for the area within which the Land is situated.
- (B) Further to completion of a transfer of the Land registered with HM Land Registry under title number LL417419 dated 29 October 2024 and made between (1) Tawny Homes Ltd and (2) the Owner, the Owner is entitled to be registered as the legal freehold owner of the Land and an application has been made to HM Land Registry to enable such registration to take place.
- (C) The Tawny Homes Ltd has via their agent applied on behalf of the Owner to the Council for planning permission for the Land under reference H08-0493-24 for a replacement Dwelling.
- (D) The Council resolved under delegated authority to grant Planning Permission for the Development in accordance with the Application subject to the Owner entering this Deed without which Planning Permission for this Development would be refused.
- (E) The parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.
- (F) The parties agree that the planning obligations contained in this Deed are necessary to comply with the requirements of regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

NOW THIS DEED WITNESSES AS FOLLOWS:**1. DEFINITIONS**

For the purposes of this Deed the following expressions shall have the following meanings:

"2015 Act"	means the Self-build and Custom Housebuilding Act 2015 as amended
"Act"	means the Town and Country Planning Act 1990 as amended
"Application"	means the application for Planning Permission for the Development and allocated reference number H08-0493-24
"Commencement of Development"	means the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of: • access; • site clearance; • demolition work; • archaeological investigations; • investigations for the purpose of assessing ground conditions; • remedial work in respect of any contamination or other adverse conditions; • the laying or diversion of services; • the erection of hoardings or other temporary means of enclosure; and • the temporary display of site notices or advertisements; • any other works as may be approved in writing by the Council (acting reasonably)
"Commencement Notice"	means written notice to the Council of the intended date of Commencement of Development

"Development"	means the residential development of the Land for one Self-Build Dwelling, pursuant to the Planning Permission
"District"	means the district of South Holland
"Land"	means the land as described in Schedule 1 against which this Deed may be enforced as shown edged red for identification purposes only on the Plan but excluding the access road for the purposes of enforcement of this Deed
"Plan"	means the plan attached to this Deed labelled as drawing number 24/659/PA/005A being the Planning (Garage, Block and Location Plans) drawing submitted with the Application
"Planning Permission"	means the planning permission to be granted by the Council which is subject to this Deed and substantially in the form attached in draft hereto at Schedule 2
"Practical Completion"	means the completion of a Dwelling to a standard which is wind and watertight and fit for its intended use in terms of heating, plumbing, electrics and sanitation and "Practically Complete" shall be construed accordingly and a completion certificate issued pursuant to the then current Building Regulations shall be conclusive evidence that a Dwelling is practically complete
"Self-Build Dwelling"	means the residential accommodation constructed pursuant to the Planning Permission and substantially meets the definition in the 2015 Act

"Working Days"	means any day other than a Saturday Sunday or public or bank holiday in England
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2. CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause, paragraph, schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph, schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeably.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.
- 2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that act or deriving validity from it.
- 2.6 References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party to the Land or any part thereof and in the case of the Council, successors to its functions.

3. LEGAL BASIS

- 3.1 This Deed is made pursuant to Section 106 of the Act, Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and Section 93 of the Local Government Act 2003 and all other enabling powers with the intent that the covenants and obligations shall run with the Land.
- 3.2 The covenants, restrictions and obligations imposed upon the Owner under this Deed are planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Owner.

4. CONDITIONALITY

4.1 This Deed and the obligations contained herein are conditional upon:

- (a) the grant of Planning Permission and;
- (b) the Commencement of Development

SAVE FOR the provisions of Clauses 8, 9.3 and 12 (legal costs, local land charge and change of ownership clauses) and any other relevant provisions which shall come into effect immediately upon completion of this Deed.

5. THE OWNER'S COVENANTS

5.1 The Owner covenants with the Council as set out herein.

6. THE COUNCIL'S COVENANTS

6.1 The Council covenants to comply with its obligations as set out herein.

7. NOTICES AND RECORD KEEPING

7.1 Any notices required to be served pursuant to this Deed shall be deemed to have been properly served if delivered by hand or sent by recorded or special delivery to the principal address or registered office (as appropriate) of the relevant party or other such other address as may be notified by one party to other from time to time.

7.2 The Owner shall serve the Commencement Notice upon the Council at least 20 Working Days prior to the Commencement of the Development.

8. THE COUNCIL'S COSTS

8.1 The Owner shall pay to the Council on or before the date of this Deed the Council's reasonable legal costs of £1,250 together with all disbursements (if any) incurred in connection with the preparation, completion and registration of this Deed.

9. MISCELLANEOUS

9.1 Nothing contained or implied in this Deed shall prejudice or affect the rights, discretions, powers and duties of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of the functions as a local authority.

- 9.2 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 9.3 This Deed shall be registerable as a local land charge by the Council.
- 9.4 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council under the terms of this Deed such agreement, approval, consent or expression of satisfaction shall not be unreasonably withheld or delayed.
- 9.5 Insofar as any clause or clauses of this Deed 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 Deed.
- 9.6 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) modified by any statutory procedure or expires prior to the Commencement of Development.
- 9.7 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after they shall have irrevocably parted with their entire interest in the Land or part of the Land but without prejudice to liability for any subsisting breach arising in relation to that part prior to parting with such interest.
- 9.8 This Deed shall not be enforceable against:
- 9.8.1 any party solely as a result of such party possessing an interest in the Land relating to subsoil of land which has been adopted by the Council or any other relevant public body as maintainable at public expense;
 - 9.8.2 statutory undertakers acquiring an interest in the Land for the purposes of their undertaking;
 - 9.8.3 any mortgagee or chargee exercising their charge;
- 9.9 Representatives of the Council may enter upon the Land at any reasonable time upon reasonable prior written notice to ascertain whether the terms of this Deed are being or have been complied with.
- 9.10 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.

10. SECTION 73 APPLICATIONS

- 10.1 It is agreed between the parties that where planning permission is issued in relation to the Development pursuant to an application under section 73 of the Act this Deed shall continue to bind the Development and shall be in full force and effect subject to and in accordance with the provisions contained herein **AND PROVIDED THAT** in the event that upon receipt of a relevant application under section 73 of the Act the Council considers that the obligations contained in this Deed should be varied or amended it is agreed and acknowledged that the Council retain the right to refuse such application unless and until a deed of variation or alternative agreement has been entered into to secure the appropriate obligation.

11. WAIVER

- 11.1 No waiver (whether expressed or implied) by the Council or the Owner of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council or the Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

12. CHANGE OF OWNERSHIP

- 12.1 The Owner agrees with the Council to give the Council 20 Working Days' written notice of any change in the ownership of any of its interest in the Land occurring before all the obligations under this Deed have been discharged such notice to give details of the transferees name and address together with details of the part of the Land disposed of.

13. DISPUTE RESOLUTION

- 13.1 In the event of any dispute or difference arising between any of the parties to this Deed in respect of any matter contained in this Deed such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed by agreement between the parties or in the absence of agreement as to the identity of the person by

or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute.

- 13.2 In the absence of agreement as to the appropriateness of the professional body then such question may be referred by any party to the president for the time being of the Royal Institution of Chartered Surveyors for him to determine the appropriate professional body.
- 13.3 Any person appointed pursuant to this clause shall act as an expert and his decision shall be final and binding on the parties in the absence of manifest error or fraud.
- 13.4 The expert's costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.
- 13.5 Any expert shall be appointed subject to the express requirement that a decision is reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than forty Working Days after appointment.
- 13.6 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten Working Days written submissions and supporting material and each party will be entitled to make a counter written submission on the other party's original submission within a further ten Working Days.

14. JURISDICTION

- 14.1 This Deed is governed by and interpreted in accordance with the law of England.

15. EXECUTION AND DELIVERY

This Deed is executed as a deed by the parties and is delivered on the date first hereinbefore written

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

The **COMMON SEAL** of **SOUTH HOLLAND DISTRICT COUNCIL** was hereunto affixed in the presence of:-



Joan Kiley

Authorised Signatory

SIGNED as a **DEED** by
ROBERT RONALD STEVENSON
in the presence of:



Name of Witness

Signature of witness

Address

Occupation

Susan D Clarkson.
Susan Clarkson.
4 Mallards Reach, Denington Spalding PE11 4YB
Retired

SIGNED as a DEED by
ROWENA JACKSON STEVENSON
in the presence of:

[Handwritten signature]

Name of Witness *Susan D Clarkson.*
Signature of witness *Susan Clarkson*
Address *4 Mallards Reach, Donington, Spalding PE11 4YB*
Occupation *Retired*

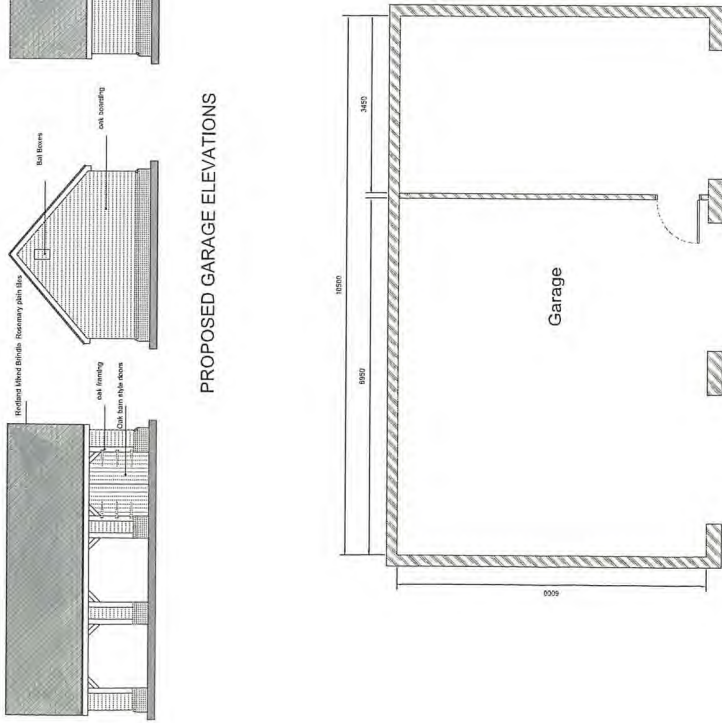
SCHEDULE 1

DETAILS OF THE OWNER'S TITLE, AND DESCRIPTION OF THE LAND

The Land is known 120 Westhorpe Road, Gosberton, Spalding, pending registration with HM Land Registry and shown edged red for identification purposes only on the Plan.

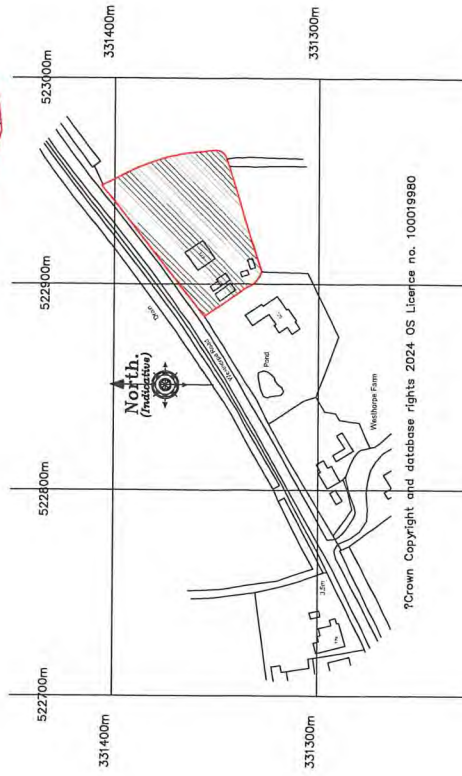
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PROPOSED GARAGE ELEVATIONS



PROPOSED GARAGE FLOOR PLAN

PROPOSED BLOCK PLAN



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SCHEDULE 2
PLANNING PERMISSION

T A C Architects
14 Old Fendike Road
Weston Hills
Spalding
Lincolnshire
PE12 6DD

Council Offices
Priory Road
Spalding
Lincolnshire
PE11 2XE

Admin 01775 764723
DC Officers 01775 761161
Facsimile 01775 762937

planningadvice@sholland.gov.uk

www.sholland.gov.uk

TOWN AND COUNTRY PLANNING ACT 1990

DRAFT APPROVAL

Reference: H08-0493-24

Date of Decision:

Applicant: Tawny Homes
The Chestnuts
Reservoir Road
Surfleet
Spalding
PE11 4DH

Location: 120 Westhorpe Road Gosberton Spalding Lincolnshire

Description: Proposed Replacement Dwelling

South Holland District Council hereby give notice that permission has been GRANTED (or equivalent) subject to the following condition(s):

- 1 The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and/or documents:

Application Form
24/659/PA/005A
24/659/PA/003
24/659/PA/004

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 Prior to the first occupation of the dwelling hereby permitted, the existing dwelling on the site shall be demolished and all rubble and associated materials cleared from the site.

Reason: To ensure that the existing dwelling is demolished.

This Condition is imposed in accordance with Policy 22 of the South East Lincolnshire Local Plan, 2019.

- 4 Where trees are shown on drawing number 24/659/PA/005A to be retained on site they shall be protected during construction work as follows:

i) chestnut pale or similar fencing 1.5 metres in height shall be provided around the trees to be retained before development is commenced at a minimum distance from the trunks equal to the spread of the crowns of the trees. No materials, equipment, site huts, fuels or other items shall be placed or stored within the areas enclosed by the fencing so erected and the ground levels within those areas shall not be altered, nor shall any excavation be made,

ii) no burning of materials or other items shall take place within 3 metres of the crown spread of any of the trees to be retained;

iii) no services shall be routed under the spread of the crowns of the trees to be retained;

iv) no retained tree shall be cut down, up-rooted, destroyed, topped or lopped unless first agreed in writing by the Local Planning Authority;

v) if any tree which is to be retained dies or is to be removed it shall be replaced within six months thereafter with a tree of such size and species which shall be first be agreed in writing by the Local Planning Authority.

Reason: To ensure the protection of trees on the site.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and Section 15 of the National Planning Policy Framework, December 2023.

- 5 The materials of the external surfaces (brickwork, roof tiles, windows and doors) of the development hereby permitted shall be carried out in accordance with the details outlined within the application form and approved plans, with the exception of those required by Condition 3 above.

Reason: In the interests of the architectural and visual integrity of the overall development and the visual amenity of the area in which it is set.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

- 6 Three swift nest bricks shall be incorporated within the external walls of the dwelling hereby approved and shall be retained thereafter.

Reason: In the interests of biodiversity.

This Condition is imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019.

- 7 Prior to its installation, details of the proposed boundary treatments, including a schedule of fencing levels, heights and materials, and details of the size and species of any hedging, shall be submitted to and approved in writing by the Local Planning Authority,

and the details so approved shall be implemented in full before the development is first brought into use and retained thereafter.

Note: Should the current hedging on site be retained, this should be clearly specified within the subsequent submission of details. Where levels are raised above existing ground levels, the submission shall be supported by cross-sectional drawings showing the relationship with adjoining uses and buildings to enable the Local Planning Authority to be satisfied that sufficient mitigation measures will be in place.

Reason: In the interests of the character and appearance of the development and the amenity of the area in which it is set including the amenity of nearby occupiers.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

- 8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order or Statutory Instrument revoking and re-enacting that Order), none of the following developments or alterations shall be carried out.

- i) the erection of freestanding curtilage buildings or structures including car ports, garages, sheds, greenhouses, pergolas or raised decks;
- ii) the erection of house extensions including dormer windows, conservatories, garages, car ports, porches or pergolas;
- iii) alterations including the installation of replacement or additional windows or doors and the installation of roof windows.

Reason 1: To ensure that the Local Planning Authority retains control over the future extension and alteration of the development, in the interests of its architectural and visual integrity, levels of residential amenity and the visual amenity and character of the area within which it is set.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and and Section 12 of the National Planning Policy Framework, December 2023.

- 9 The water consumption of the dwelling hereby permitted should not exceed the requirement of 110 litres per person per day (as set out as the optional requirement in Part G of the Building Regulations 2010 and the South East Lincolnshire Local Plan, 2019). The person carrying out the work must inform the Building Control Body that this duty applies. A notice confirming the requirement for the water consumption has been met shall be submitted to the Building Control Body and Local Planning Authority, no later than five days after the completion of the individual dwelling.

Reason: To protect the quality and quantity of water resources available to the district.

This Condition is imposed in accordance with Policy 31 of the South East Lincolnshire Local Plan, 2019.

Notes:

The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance,

planning policies and representations that have been received during the public consultation exercise, and by identifying matters of concern within the application and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at <http://planning.sholland.gov.uk/OcellaWeb/planningSearch>



Phil Norman
Assistant Director - Planning and Strategic Infrastructure
South Holland District Council

8th October 2024

BUILDING REGULATIONS:

This decision refers only to planning permission as granted under the Town and Country Planning Act 1990. The works that you are proposing may also require Building Regulations and this planning permission does not give authority under Building Regulations to commence work. Please contact the Building Control section for further information on 01775 764557 or bcadmin@sholland.gov.uk

SCHEDULE 3
THE OWNERS' COVENANTS

The Owner covenants with the Council as follows:

1. To build a Self-Build Dwelling in accordance with the Planning Permission which meets the definition of self-build and custom housebuilding in the 2015 Act.

SCHEDULE 4
COUNCIL'S COVENANTS

The Council covenants with the Owner as follows:

1. GENERAL

- 1.1 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall as soon as practically possible effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.
- 1.2 At the written request of the Owner the Council shall provide written confirmation of the full or partial discharge of the obligations given for the benefit of the Council contained in this Deed when satisfied that such obligations have been performed.