DATED 17 June **2015**

PLANNING AGREEMENT

between

SOUTH HOLLAND DISTRICT COUNCIL

And

HAYCROFT HOMES LIMITED

And

SECURE TRUST BANK PLC

Agreement under
Section 106 Town & Country Planning Act 1990

relating to land at Station Road, Holbeach, Spalding, Lincolnshire

Planning Ref: H09-0018-14
Legal Ref: HP/SH008.489

Legal Services Lincolnshire
County Offices
Newland
Lincoln
LN11YS

THIS DEED is made the 17th day of June 2015

PARTIES

(1) SOUTH HOLLAND DISTRICT COUNCIL of Council Offices Priory Road Spalding in the County of Lincoln ("the Council")

(2) HAYCROFT HOMES LIMITED (Company Registration Number 05577605) of Seas End Road, Moulton Seas End, Spalding in the County of Lincoln ("the Owner")

(3) SECURE TRUST BANK PLC (Company Registration Number 00541132) of 1 Arleston Way, Solihull B90 4LH ("the Mortgagee")

RECITALS

A. The Council is the local planning authority for the purposes of the Act for the area in which the Land is situated

B. The Owner is the freehold owner free from incumbrances of that part of the Land shown edged red on the Plan

C. The Mortgagee has a registered charge dated 14 July 2014 affecting title numbers LL217129 and LL344679

C. The Owner has submitted the Application to the Council

D. The Council has granted planning permission for the Development the subject of the Application and the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed

E. This Deed is made pursuant to Section 106 of the Act

F. The covenants restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority

NOW THIS DEED WITNESSES AS FOLLOWS

1. **DEFNITIONS**

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

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

Application	means the planning permission granted by the Council on 19 November 2014 under reference number H09/0018/14 and the application received on 1 April 2015 under s73 of the Act under reference number H09-0298-15 to vary the planning permission for the Development
Commencement of the 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 site clearance demolition work archaeological investigations investigations for the purpose of assessing ground conditions remedial work in respect of any contamination or other adverse ground conditions diversion and laying of services erection of any temporary means of enclosure the temporary display of site notices or advertisements
Development	means the erection of 51 dwellings and the conversion of Station House into 4 dwellings on the Land in accordance with the Application
Dwelling	means any residential unit to be constructed on the Land as part of the Development
Index	means the All Items Index of Retail Prices issued by the Office for National Statistics
Interest	means interest at four (4) per cent above the base lending rate of Bank of England from time to time
Land	means the land on the west side of Station Road, Holbeach, Spalding against which this Deed may be enforced as shown edged red on the Plan and registered at the Land Registry under title numbers LL344679, LL250889 and LL217129
Occupation	means occupation for the purposes permitted by the Development but not including occupation by personnel engaged in construction fitting out or decoration or occupation for marketing or display or occupation in relation to security operations
Open Space Contribution	means the sum of one thousand nine hundred and seventy five pounds and 10 pence (£1975.10)
Plan	means the plan attached to this Deed

2. CONSTRUCTION OF THIS DEED

2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or 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 interchangeable in that manner

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 instrument, orders, plans, regulations, permissions and directions for the time being made issued or given under that Act or deriving validity from it

2.6 The expression "the Owner" shall include his successors in title and assigns

2.7 The expression "the Council" shall include its successors as the local planning authority for the area in which the Land is situated

3. CONDITIONALITY

3.1 This deed is conditional upon

(i) the grant of planning permission for the Development and
(ii) the Commencement of the Development

save for the provisions of paragraph 1 of the First Schedule which shall come into effect immediately upon completion of this Deed

4. THE OWNER'S COVENANTS

4.1 The Owner covenants with the Council as set out in the First Schedule

5. THE COUNCIL'S COVENANTS

5.1 The Council covenants with the Owner as set out in the Second Schedule

6. MISCELLANEOUS

6.1 Nothing herein contained or implied shall give or be construed as giving rights

privileges powers or enforceability other than to the parties executing this document and their successor (if any) as defined herein and the provisions of the Contract (Rights of Third Parties) Act 1999 and any benefits or rights which could arise therefrom are otherwise expressly excluded to the intent that no third party within the meaning of that Act shall have any rights of enforcement in respect of any matter herein contained

6.2 This Deed shall be registrable as a local land charge by the Council

6.3 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed

6.4 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

6.5 This deed shall cease to have effect (insofar only as it has not already been complied with and with the exception of paragraph 1 of the First Schedule where any payments due thereunder remain outstanding) if the planning permission for the Development the subject of the Application shall be quashed revoked or otherwise withdrawn or (without the consent of the Owner) it is significantly modified by any statutory procedure or expires prior to the Commencement of the Development

6.6 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Land but without prejudice to liability for any subsisting breach arising prior to parting with such interest

6.7 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 planning permission for the Development the subject of the Application) granted (whether or not on appeal) after the date of this Deed

6.8 No obligations or liabilities arising under paragraphs 1-3 of the First Schedule of this deed shall be enforceable against:

6.8.1 purchasers lessees or occupiers of the Dwellings nor the mortgagee or mortgagee in possession of any such persons or receiver appointed by a mortgagee in possession of such person; or

6.8.2 a statutory undertaker after the transfer of statutory apparatus and/or any land upon or in which the statutory apparatus is situated by the Owner to that statutory undertaker

7. **WAIVER**

7.1 No waiver (whether expressed or implied) by the Council or 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 Owner from enforcing any of the relevant terms or condition or for acting upon any subsequent breach or default

8 **INDEXATION**

8.1 The Open Space Contribution shall be increased by an amount equivalent to any increase in the Index from the date hereof until the date on which such sum is payable

8.2 In the event that the Index shall be discontinued an independent chartered surveyor shall be appointed (in the absence of agreement as to his identity) by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors) to determine in his absolute discretion what would have been the likely figure for the said Index if it had been so continued as at the date of payment of the Open Space Contribution and the decision of such surveyor (acting as an expert and not an arbitrator) shall be final and binding on the Council and the Owner and the cost of his appointment shall be met according to the determination of such surveyor or failing such determination each party shall bear its own costs

9 **INTEREST**

9.1 If any payment due under this Deed is paid late Interest will be payable from the date payment is due to the date of payment

10 **VAT**

10.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable

11 **DISPUTE**

11.1 Any dispute between the parties arising as to the true effect or meaning of this Deed or the implementation of any of the provisions contained hereunder or any matters arising from this Deed may be referred to a person to be agreed upon by the parties or failing agreement within twenty (20) working days after any such party has given the other a written request to concur in such appointment a person to be appointed on the request of either party by the President of the Law Society of England and Wales or the President of the Royal Institute of Chartered Surveyors as appropriate for the time being. The appointee (acting as an expert and not an arbitrator) shall receive submissions from the parties within twenty (20) working days of his appointment and shall undertake as a condition of his appointment to issue his decision within forty (40) working days of the date of his appointment and his decision shall be final and binding on the Council and on the Owner and the cost of his appointment shall be met according to his determination or failing such determination each party shall bear its own costs

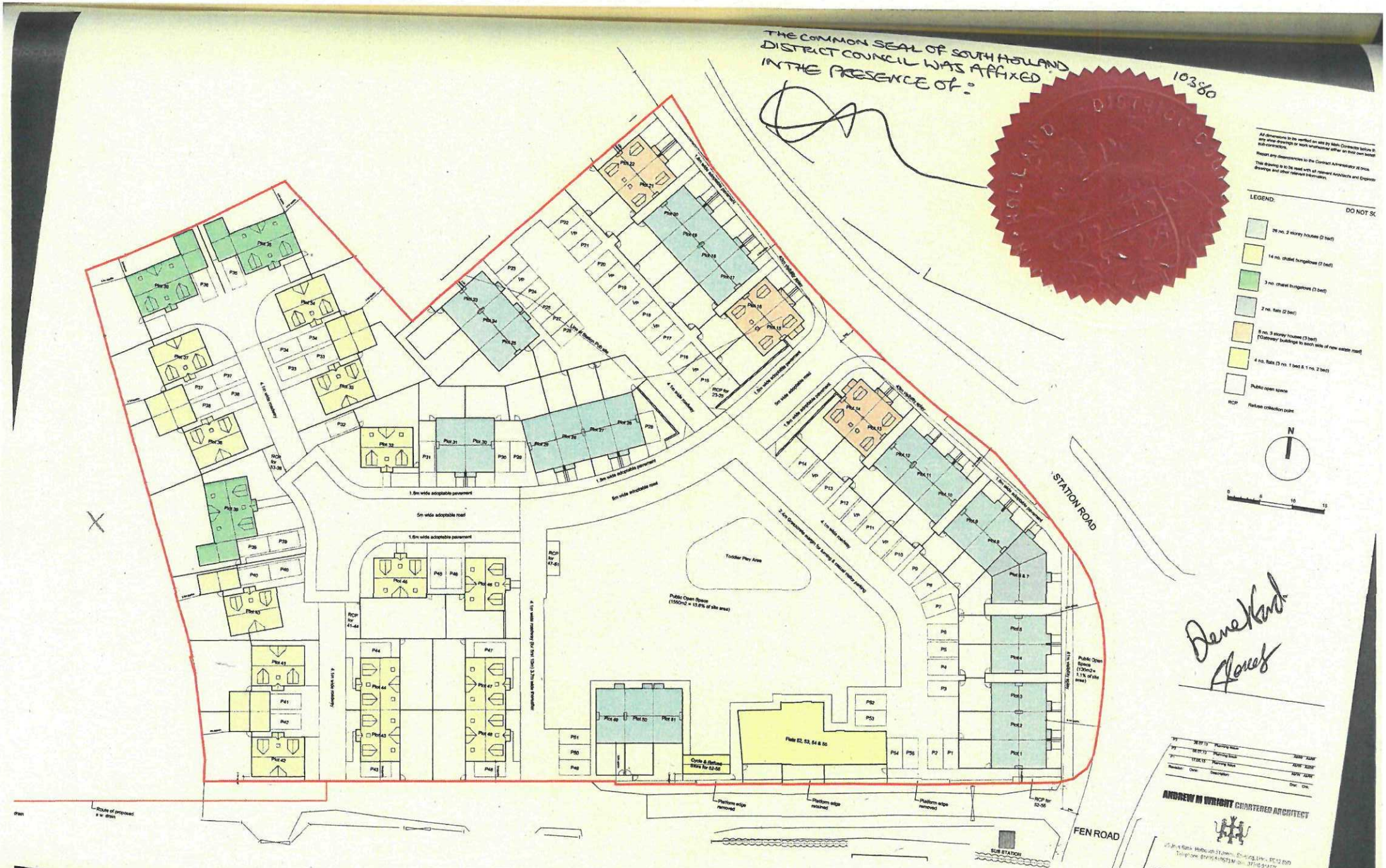
12 JURISDICTION

12.1 This Deed is governed by and interpreted in accordance with the law of England and Wales

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 AFFIXED IN THE PRESENCE OF:-

10380



Dene Kirk Homes

ANDREW M WRIGHT CHARTERED ARCHITECT

Former Garage & Public House Site
Station Road
Holbeach
Lincs

Proposed Site Plan

Heycroft Homes Ltd

FIRST SCHEDULE
(The Owner's covenants)

The Owner hereby covenants

1. to pay to the Council on completion of this Deed the reasonable administrative and legal costs of the Council incurred in relation to the preparation and execution of this Deed

2. to give the Council immediate written notice of any change in 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 transferee's full name and registered office (if a company or usual address if not) together with the area of the Land or unit of Occupation purchased by reference to a plan

3. subject to clause 8 above (indexation) to pay to the Council the Open Space Contribution prior to the Occupation of 50% of the Dwellings on the Land

SECOND SCHEDULE

(The Council's covenants)

The Council covenants with the Owner to use the Open Space Contribution for the provision or maintenance of children's play equipment in Holbeach and (except with the written consent of the Owner being such owner as paid the Open Space Contribution to the Council) for no other purpose

10381

THE COMMON SEAL of)

SOUTH HOLLAND DISTRICT COUNCIL)

was hereunto affixed in the presence of)

Authorised Signatory

EXECUTED AS A DEED by)

HAYCROFT HOMES LIMITED)

in the presence of

Witness Signature:

Name: Graham John Wakefield

Address: Holbeach Lincs

Occupation: Solicitor

and DELIVERED
EXECUTED AS A DEED by)

SECURE TRUST BANK PLC)
acting by a Director or its
~~in the presence of~~ duly appointed
Attorney under a Power of Attorney
dated 24 February 2015

MARK GOISE KEVIN VENN

in the presence of :
~~Authorised signatory~~

Witness Signature:

Witness Name:

Witness Address:

Witness Occupation: