H09-0613-21

DATED 28th February **2022**

SOUTH HOLLAND DISTRICT COUNCIL

- and -

ASHLEY KING (DEVELOPMENTS) LIMITED

PLANNING OBLIGATIONS BY DEED SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990

- relating to -

Land to the east of Chaffinch Way, Holbeach, Spalding

THIS AGREEMENT IS SIGNED IN COUNTERPARTS

THIS DEED is made on the 28th day of February 2022

BETWEEN:

(1) **SOUTH HOLLAND DISTRICT COUNCIL** of Council Offices, Priory Road, Spalding, PE11 2XE (**"the Council"**); and

(2) **ASHLEY KING (DEVELOPMENTS) LIMITED** (Company Registration No. 04242280) of 1 Goodison Road, Lincs Gateway Business Park, Spalding, Lincolnshire PE12 6FY (**"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) The Owner is freehold owner of part of the Land registered under Title Number LL131615, LL405157 and LL206062.

(C) The Owner is also owner of part of the Land currently unregistered with title having been satisfactorily deduced to the Council.

(D) The Owner has applied to the Council for planning permission for the Land under reference H09-0613-21 for the Development.

(E) The Council resolved on 12 January 2022 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.

(F) The parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.

(G) The parties agree that the planning obligations contained in this Deed are necessary to comply with the requirements of regulations 122 and 123 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:

"Act" means the Town and Country Planning Act 1990 as amended.

"Affordable Dwellings"	means those Dwellings within the Development comprising Affordable Housing being nine (9) of the Dwellings to be provided as part of the Development.
"Affordable Housing"	means affordable housing as described in Annex 2 of the National Planning Policy Framework dated July 2021, or any Planning Policy Statement, Guidance Notes or Circulars which may amend, supplement or supersede it.
"Affordable Housing Contribution"	means a financial contribution calculated in accordance with the affordable housing contribution formula set out at Annex A Part 1 or Part 2 to this Deed
"Affordable Housing Plan"	means the plan identifying the proportion and distribution of the Affordable Housing included within the Development being labelled as the Site Plan and identified as drawing number 75-SL-01 Rev M and attached at Annex B or as otherwise agreed with the Council
"Affordable Housing Provider"	means (a) a body whose function or aim is to provide and manage Affordable Housing (including Affordable Housing of the type and amount proposed within the Development) (b) a provider (pursuant to Part 2 of the Housing and Regeneration Act 2008) registered with Homes England or (c) an alternative affordable housing provider (including but not limited to a housing trust or company, a community land trust or an almshouses society) which has been approved by the Council in writing (such approval not to be unreasonably withheld or delayed).
"Affordable Housing Scheme"	means the scheme for securing the Affordable Housing and detailing the tenure, mix, size and location of the Affordable Housing to be provided as part of the Development and consisting of six (6) Rented Dwellings being delivered as 2 x one-bedroom houses, 3 x two-bedroom houses and 1 x three-bedroom house (plots 37, 48 – 51 and 53) and three (3) Shared Ownership Dwellings being delivered as 2 x two-bedroom houses and 1 x three-bedroom house (plots 38, 47

and 52), as shown, for identification purposes only, on the Affordable Housing Plan unless such other alternative mix, percentage(s) and/or plot(s) is agreed with the Council acting reasonably (and such consent not to be unreasonably withheld or delayed)

"Affordable Rent Dwelling" means an Affordable Dwelling rented to an Eligible Household by a local authority or an Affordable Housing Provider subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable) and where the rent and service charge must not exceed the local housing allowance for the relevant area which is reviewed annually and "Affordable Rent" shall be construed accordingly.

"Application" means the application for Planning Permission for the Development and allocated reference number H09-0613-21.

"Chargee" means a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver)) of the whole or any part of the Affordable Dwellings or any persons or bodies deriving title through such mortgagee or chargee or Receiver

"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 and any other preparatory works that may be agreed in writing with the Council
"Commencement Notice"	means written notice to the Council of the intended date of Commencement of Development.
"Development"	means the residential development of 81 dwellings, associated garaging, roads and sewers, pursuant to the Planning Permission.
"District"	means the District of South Holland.
"Dwelling"	means any unit of residential accommodation constructed pursuant to the Planning Permission.
"Education Authority"	means the Local Education Authority for the area with which the Land is situated.
"Education Contribution"	means the sum of four hundred and four thousand three hundred and thirty seven pounds (£404,337.00) which arises out of the need to provide primary, secondary and sixth form places as a consequence of the Development and the contribution shall be used for the following purposes: (a) £146,593.00 (one hundred and forty six thousand five hundred and ninety three pounds)towards additional primary capacity in Holbeach via the extension of an existing primary school or a new primary school; (b) £220,889.00 (two hundred and twenty thousand eight hundred and eighty nine pounds) towards additional secondary capacity in Holbeach via additional land or buildings; (c) £36,855.00 (thirty six thousand eight hundred and fifty five pounds) towards additional sixth form capacity in Holbeach via additional land or buildings.
"Eligible Household"	means a household whose housing needs are not met by the market at a cost low enough for them to afford. For the

	Rented Dwellings this will be determined in accordance with the Council's housing allocation policy. For the Intermediate Dwellings this will be determined in accordance with the current guidance and standards published by Homes England or as may be agreed between the Council and the Owner
"Health Care Facilities Contribution"	means sum of fifty four thousand four hundred and sixty pounds (£54,460.00) which shall be subject to Indexation to be used for the purpose of co-locating primary and community services in one place to improve efficiency, enable more patients to be seen and increase service availability.
"Health Care Provider"	means the relevant regional health care provider for NHS England.
"Homes England"	means the executive non-departmental public body, sponsored by the Department for Levelling Up, Housing and Communities t and trading as Homes England or such successor body for the time being having or being entitled to exercise the power to regulate affordable housing providers now conferred on such organisation under the Housing and Regeneration Act 2008 or any legislation replacing or amending the same.
"Index"	means the All in Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation or if such index no longer exists such other index as is agreed between the parties.
"Indexation"	means indexed as set out in Clause 12 of this Deed.
"Interest"	means interest at the base rate of Lloyds Bank PLC plus 4%.
"Land"	means the land which is the subject of the Application as described in Schedule 1 against which this Deed may be enforced as shown for identification purposes only edged red on the Plan.

"Market Dwelling"	means a dwelling forming part of the Development which is general market housing for sale or rent on the open market and which is not Affordable Housing
"Nomination Agreement"	means an agreement negotiated between the Council and the Affordable Housing Provider which guarantees the Rented Dwellings will be let on the Council's Housing Register substantially in the form set out and attached hereto at Schedule 5
"Occupation and Occupied"	means occupation for the purposes permitted by the Planning Permission 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.
"Plan"	means the plan attached to this Deed labelled as drawing number 75-LP-01 Rev A being the location plan submitted with the Application.
"Planning Permission"	means the planning permission to be granted by the Council for the Development pursuant to the Application which is subject to this Deed and attached in draft hereto at Schedule 2 or such other planning permissions for the Development granted pursuant to section 73 or 96A of the Act.
"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.
"Protected Person"	means a person who: (a) has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in

force (or any equivalent contractual right) in respect of a particular Affordable Dwelling;

(b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Dwelling;

(c) has been granted a shared ownership lease by the Affordable Housing Provider (or similar equity purchase arrangement where a share of the Affordable Dwelling is owned by the tenant and a share is owned by the Affordable Housing Provider or other body or organisation) in respect of a particular Affordable Dwelling and the tenant has subsequently purchased from the Affordable Housing Provider all the remaining shares so that the tenant owns the entire freehold or leasehold of the Affordable Dwelling.

"Rented Dwellings" means dwellings which are available to rent from an Affordable Housing Provider which will include either Affordable Rent Dwellings or Social Rented Dwellings

"Shared Ownership Dwellings" means housing purchased on a shared equity basis whereby not more than 75 percent and not less than 25 percent of the equity in the relevant dwelling (or in some cases 10 percent) is initially sold to the purchaser by the Affordable Housing Provider with the flexibility to increase their degree of ownership to 100 percent if they so wish and if legislation or applicable policy permits and in respect of which rent is payable on the remaining equity at a level no greater than 2.75%.

"Social Rented Dwellings" means dwellings owned by either the Council or an Affordable Housing Provider which are let at target rents determined by government guidelines through the national rent regime or its equivalent successor document.

"Working Days" means any day other than a Saturday Sunday or public or bank holiday in England.

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:

4.1.1 the grant of Planning Permission and;

4.1.2 the Commencement of Development

SAVE FOR the provisions of Clauses 8, 9.3 and 11 (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 with the Owner 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 Developer 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 Developer shall pay to the Council on or before the date of this Deed:

(a) The Council's reasonable legal costs of £1,000 together with all disbursements (if any) incurred in connection with the preparation, completion and registration of this Deed; and

(b) The sum of £2,500 as a contribution towards the Council's costs in monitoring the implementation 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 owners occupiers or tenants of Dwellings (other than Affordable Dwellings In respect of the obligations contained in Paragraph 1 of Schedule 3) nor against those deriving title from them;

9.8.2 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;

9.8.3 statutory undertakers acquiring an interest in the Land for the purposes of their undertaking;

9.8.4 any mortgagee and/or chargee of the Land (or part of the Land as the case may be) unless such mortgagee and/or chargee has taken possession of the Land (or any part of the Land as the case may be) when it will then be bound by the obligations of the Owner as if it were a person deriving title from any of the Owner; and/or.

9.8.5 save in respect to the obligation contained in Paragraph 1 of Schedule 3 any Affordable Housing Provider.

9.9 The provisions of Paragraph 1 of Schedule 3 of this Deed (Affordable Housing) shall not be binding on a Chargee or any persons or bodies deriving title through such Chargee **PROVIDED THAT** the Chargee has complied with the requirements of paragraph 1.11 of Schedule 3 of this Deed.

9.10 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.

9.11 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. WAIVER

10.1 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.

11. CHANGE OF OWNERSHIP

11.1 The Owner agrees with the Council to give the Council immediate written notice of any change in the ownership of any of their 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 **PROVIDED THAT** this shall not apply in relation to the sale or lease of a single Dwelling or the transfer of part of the Land to a statutory undertaker for the purposes of its statutory undertaking.

12. INDEXATION

12.1 The sums referred to in the Schedules shall be linked to the Index to the intent that the actual amounts to be paid shall be the amounts of the relevant payments as set out in Schedule Three divided by the Index Figure last published prior to the date of this Deed multiplied by the Index Figure last published before the due date for payment and "Indexation" shall be construed accordingly.

13. INTEREST

13.1 If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the actual date of payment.

14. VAT

14.1 Any consideration given under this Deed shall be inclusive of VAT unless expressed otherwise.

15. DISPUTE RESOLUTION

15.1 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.

15.2 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.

15.3 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.

15.4 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.

15.5 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.

15.6 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.

16. SECTION 73 APPLICATIONS

16.1 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.

17. JURISDICTION

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

18. EXECUTION AND DELIVERY

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

19. COUNTERPART

19.1 This Deed may be executed in any number of counterparts, each of which when executed shall constitute a duplicated original, but all the counterparts together shall constitutes the one agreement

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

SCHEDULE 1

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

The Land is known as land to the east side of Chaffinch Way Holbeach Spalding and falling within (a) Title Numbers LL405157; LL206062; and LL131625; and (b) unregistered land title to which deduced via an epitome of title shown for identification purposes only edged red on the Plan.



REV	DATE	DESCRIPTION
A	25.05.2021	SITE BOUNDARY AMENDED

ASHWOOD HOMES

1 Goodison Road, Lincs Gateway Business Park, Spalding, Lincs, PE12 6FY T: 01406 490590

PROJECT:
PROPOSED RESIDENTIAL DEVELOPMENT AT LAND EAST OF CHAFFINCH WAY HOLBEACH

DRAWING TITLE:
LOCATION PLAN

SCALE: 1:2500 @ A4	DATE: 27.04.2021
DRAWN: AR	REV: A

DRAWING No:
75 - LP - 01

SCHEDULE 2

DRAFT PLANNING PERMISSION

Ashwood Homes
1 Goodison Road
Lincs Gateway Business Park
Spalding
PE12 6FY

SOUTH HOLLAND DISTRICT COUNCIL

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: H09-0613-21 **Date of Decision:**

Applicant: Ashwood Homes
1 Goodison Road
Lincs Gateway Business Park
Spalding
PE12 6FY

Location: Land To The East Of Chaffinch Way Holbeach Spalding

Description: Residential development of 81 dwellings, associated garaging, roads and sewers

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:
75-LP-01 Rev A
75-SL-01 Rev L
75-SL-02 Rev J
75-BT-01 Rev K
75-MSL-01 Rev H
A538(R)-001
A732(R)-001
A902(R)-001

AIRE-001
AVON-001
CORONATION-001
DEE-001
HARREN-001
HUMBER-001
LOCK-001
MERE-001
NENE-001
RIBBLE-001
SEVERN-001
SEVERN-002
75-DG-001
75-DGHO-001
75-DSG-001
75-SG-001
075-MCCP-01 Rev C
4253.Balmoral. Ashwood.TPP
4253.Balmoral.Ashwood.AIP
AS2517/1 Rev A1
Preliminary Ecological Appraisal of Land at Balmoral Way, Holbeach (prepared by Hillier Ecology Limited, dated May 2021)
Preliminary Ecological Appraisal of Land at Battlefields Lane/A17, Holbeach (prepared by Hillier Ecology Limited, dated May 2021)
Environmental Noise Assessment (prepared by Acoustic Associates, dated April 2021)
Arboricultural Implications Assessment (prepared by Andrew Belson, dated 27th April 2021)
Transport Assessment (prepared by Inspire Design and Development Ltd, dated May 2021)
Flood Risk Assessment & Drainage Strategy - Land East of Chaffinch Way (prepared by Inspire Design and Development Ltd, dated April 2021)
Flood Risk Assessment & Drainage Strategy - Balmoral Way Phase 2 (prepared by Inspire Design and Development Ltd, dated April 2021)
Archaeological Desk Based Assessment (prepared by Archaeological Project Services, dated April 2021)
Archaeological Desk Based Assessment (prepared by Archaeological Project Services, dated January 2015)
Combined Phase I Desk Study and Phase II Exploratory Investigation - Phase 2 Balmoral Way, Holbeach (prepared by DeoDyne Ltd, dated 28th April 2021)
Combined Phase I Desk Study and Phase II Exploratory Investigation - Land to East of Chaffinch Way, Holbeach (prepared by DeoDyne Ltd, dated 27th April 2021)

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

3 The development hereby permitted shall not be commenced until a written method statement detailing the remediation strategy for land contamination and/or pollution of controlled waters affecting the site and a timetable for their completion has been submitted to, and approved in writing by, the Local Planning Authority (LPA). This shall include details of the proposed verification plan including compliance criteria and

monitoring details.

No deviation shall be made from this scheme without the express written agreement of the LPA. If during redevelopment contamination not previously considered is identified, then the LPA shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspected contamination has been submitted to and agreed in writing by the LPA.

Reason: To ensure the satisfactory remediation of contaminated land and/or waters. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.
This Condition is imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019.

4 A full copy of a verification report (in connection with Condition 3 above) shall be submitted to, and approved in writing by, the Local Planning Authority prior to the first occupation of the development. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post-remediation sampling and monitoring results shall be included in the closure report to demonstrate that the required remediation objectives and criteria has been fully met.

Note: The applicant is advised that the phased risk assessment required by the Contaminated Land Scheme Condition should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 11A.

Reason: To ensure the satisfactory remediation of contaminated land and/or waters.
This Condition is imposed in accordance with Condition 30 of the South East Lincolnshire Local Plan, 2019.

5 The development hereby permitted shall be undertaken in accordance with a Construction Management Plan and Method Statement that shall first be submitted to, and approved in writing by, the Local Planning Authority.

The Construction Management Plan and Method Statement shall include details of;
- how disturbance during the construction process through noise, dust, vibration and smoke shall be minimised;
- the phasing of the development to include access construction;
- the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- wheel washing facilities;
- the routes of construction traffic to and form the site including any off site routes for the disposal and excavated material; and
- a strategy stating how surface water run off on and from the development will be managed during construction and protection measures for any sustainable drainage features. This should include drawing(s) showing how the drainage systems (permanent or temporary) connect to an outfall (temporary or permanent) during construction

The Construction Management Plan and Method Statement shall be strictly adhered to

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throughout the construction period.

NOTE: As asbestos has been noted as present on site, construction shall be undertaken in accordance with the recommendations set out in the Combined Phase I Desk Study and Phase II Exploratory Investigation - Phase 2 Balmoral Way, Holbeach (prepared by DeoDyne Ltd, dated 28th April 2021).

Reason: In the interests of the safety and free passage of those using the adjacent public highway, to ensure that the permitted development is adequately drained without creating or increasing flood risk to land or property adjacent to, or downstream of, the permitted development during construction and to ensure that suitable traffic routes are agreed.
This Condition is imposed in accordance with Policies 2, 3, 4 and 30 of the South East Lincolnshire Local Plan, 2019.

6 Before any dwelling is occupied, all of that part of the estate road and associated footways that forms the junction with the main road and which will be constructed within the limits of the existing highway, shall be laid out and constructed to finished surface levels in accordance with details to be submitted and approved by the local planning authority.

Reason: In the interests of safety, to avoid the creation of pedestrian trip hazards within the public highway from surfacing materials, manholes and gullies that may otherwise remain for an extended period at dissimilar, interim construction levels.
This Condition is imposed in accordance with Policy 2 of the South East Lincolnshire Local Plan, 2019.

7 The permitted development shall be undertaken in accordance with an Estate Road Phasing and Completion Plan, which shall first be approved in writing by the Local Planning Authority. The Plan shall set out how the construction of the development will be phased and standards to which the estate roads on each phase will be completed during the construction period of the development.

Reason: To ensure that a safe and suitable standard of vehicular and pedestrian access is provided for residents throughout the construction period of the development.
This Condition is imposed in accordance with Policy 2 of the South East Lincolnshire Local Plan, 2019.

8 The permitted development shall be undertaken in accordance with a surface water drainage scheme which shall first have been approved in writing by the Local Planning Authority.

The scheme shall:
- be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development;
- provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
- provide attenuation details and discharge rates which shall be restricted to 1.4 litres per second;

- provide details of the timetable for and any phasing of implementation for the drainage scheme; and
- provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.

No dwelling shall be occupied until the approved scheme has been completed or provided on the site in accordance with the approved phasing. The approved scheme shall be retained and maintained in full, in accordance with the approved details.

Reason: To ensure that the permitted development is adequately drained without creating or increasing flood risk to land or property adjacent to, or downstream of, the permitted development.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, 2021.

9 Before the commencement of the development hereby permitted, full details of the existing and proposed site levels and proposed floor levels of the buildings, hard surfaced areas and garden/amenity areas, including any mitigation measures arising as a consequence (for example increased height of boundary treatment), shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed and retained in accordance with the details so approved.

Note: 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: To reduce the risk of flooding of the development. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.
This Condition is imposed in accordance with Policy 4 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, 2021.

10 The development hereby permitted shall be carried out in accordance with the measures set out in the Flood Risk Assessments (dated April 2021) forming part of this planning application, unless otherwise agreed in writing by the Local Planning Authority, in particular the following measures shall be fully implemented before the property is first occupied:

- Finished floor levels shall be set no lower than 3.6 metres above Ordnance Datum (AOD).
- Properties shall have at least 2 storeys.
- Flood resilient construction shall be incorporated up to a minimum level of 300mm above the finished floor levels.

Reason: To ensure that the development does not increase the risk of flooding or be at

DC_DRAFT_DECISION - ODB:951

risk of flooding.
This Condition is imposed in accordance with Policies 3 and 4 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, 2021.

11 The development hereby permitted shall not be commenced until further survey work has been carried out to ascertain whether water voles are present in the drain to the eastern boundary and how they use this drain. Mitigation measures shall be proposed which show how any negative effects to these protected species will be avoided, reduced or managed.

N.B. Survey(s) should be consulted by an ecologist experienced in water vole ecology.

Please see the relevant standing advice for water voles at: https://www.gov.uk/guidance/water-voles-protection-surveys-and-licences

Reason: In the interests of avoiding harm to protected species.
This Condition is imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019.

12 Before the commencement of the development hereby permitted beyond oversite, the approval of the Local Planning Authority is required to a scheme of landscaping and tree planting for the site (including screening of bin collection points) indicating, inter alia, the number, species, heights on planting and positions of all the trees, together with details of post-planting maintenance. Such scheme as is approved by the Local Planning Authority shall be carried out and completed in its entirety during the first planting season following practical completion of the development. All trees, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

NOTE: The submitted landscaping proposals shall demonstrate that Biodiversity Net Gain will be achieved on site, using the Biodiversity Metric 3.0 (or any successor).

Reason: To ensure that the development is adequately landscaped, in the interests of its visual amenity and that of the area in which it is set, and that Biodiversity Net Gain will be achieved.
This Condition is imposed in accordance with Policies 2, 3 and 28 of the South East Lincolnshire Local Plan, 2019 and the Environment Act 2021.

13 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: 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.

14 Before the commencement of development hereby permitted, details of the management and maintenance schedule for the areas of landscaping, incidental open space, refuse/recycling collection points and parking courts/private drives shall be submitted to and approved in writing by the Local Planning Authority. Thereafter these areas shall be maintained in accordance with the approved details.

Reason: To ensure that adequate provision is made for the management and maintenance of the those areas.
This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

15 Notwithstanding the conclusions of the Arboricultural Implications Assessment (prepared by Andrew Belson, dated 27th April 2021), the following tree works shall not be carried out:

- The removal of any of the existing trees within Group F (as indicated on dwg. no. 4253.Balmoral.Ashwood.AIP) or pruning beyond that required to enable the installation of the acoustic fence along the northern boundary; and
- The removal of any of the existing trees within Group G (as indicated on dwg. no. 4253.Balmoral.Ashwood.AIP), except those at the very southern edge of the bund and in close proximity to the pump station.

Reason: To ensure the protection of existing trees, in the interests of the visual amenity of the locality.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 15 of the National Planning Policy Framework, 2021.

16 Three swift nest bricks shall be incorporated within the external walls of the dwellings 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.

17 The development hereby permitted shall be carried out in accordance with the recommendations set out in Section 8.0 of the Preliminary Ecological Appraisal Reports (Land at Balmoral Way and Land at Battlefields Lane/A17) (prepared by Hillier Ecology, dated May 2021).

Reason: In the interests of biodiversity.
This Condition is imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019.

18 The development hereby permitted shall be carried out in accordance with the

recommendations set out in Section 3 of the submitted Environmental Noise Assessment (prepared by Acoustic Associates, dated April 2021).

The acoustic barriers recommended, and indicated on dwg. no. 75-BT-01 Rev K, shall be installed prior to the occupation of any dwelling and retained for the lifetime of the development.

Reason: In the interests of residential amenity.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

19 The water consumption of each 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 each 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

The applicant is reminded that it is an offence under the Wildlife and Countryside Act, 1981 (as amended) to kill, injure, or take (handle) any protected species occupying a place of shelter or protection and also to take, damage or destroy the nest of any wild bird while that nest is in use or being built. If evidence of bats is found before or whilst the work is carried out you are advised to contact Natural England at their Lincoln office (telephone 03000 603900).

In accordance with Section 59 of the Highways Act 1980, please be considerate of causing damage to the existing highway during construction and implement mitigation measures as necessary. Should extraordinary expenses be incurred by the Highway Authority in maintaining the highway by reason of damage caused by construction traffic, the Highway Authority may seek to recover these expenses from the developer.

The permitted development requires the formation of a new/amended vehicular access to plot 81 off Foxes Low Road. These works will require approval from the Highway Authority in accordance with Section 184 of the Highways Act. The works should be constructed in

accordance with the Authority's specification that is current at the time of construction. Relocation of existing apparatus, underground services or street furniture will be the responsibility of the applicant, prior to application. For application guidance, approval and specification details, please visit https://www.lincolnshire.gov.uk/licences-permits/apply-dropped-kerb or contact vehiclecrossings@lincolnshire.gov.uk

All roads within the development hereby permitted must be constructed to an engineering standard equivalent to that of adoptable highways. Those roads that are to be put forward for adoption as public highways must be constructed in accordance with the Lincolnshire County Council Development Road Specification that is current at the time of construction and the developer will be required to enter into a legal agreement with the Highway Authority under Section 38 of the Highways Act 1980. Those roads that are not to be voluntarily put forward for adoption as public highways, may be subject to action by the Highway Authority under Section 219 (the Advance Payments code) of the Highways Act 1980. In all cases, the developer is advised to undertake early discussions with statutory undertakers to co-ordinate the laying of utility services under the highway.

Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works.

The existing ground level of the site must not be raised above the ground level of any surrounding land without further consultation with the Lead Local Flood Authority and Local Planning Authority, to consider suitable mitigation measures to ensure that surface water flood risk is not created or increased to land adjacent to the permitted development.

Phil Norman
Planning Manager
South Holland District Council

21st January 2022

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 OWNER'S COVENANTS

The Owner covenants with the Council as follows:

1. **Affordable Housing**

1.1 Not to Occupy or permit the Occupation of more than 40% of the Market Dwellings until the construction of all Affordable Dwellings has been commenced in accordance with the Affordable Housing Scheme and written notification of that commencement has been received by the Council

1.2 Not to Occupy or permit the Occupation of more than 60% of the Market Dwellings until the construction of all Affordable Dwellings has been certified Practically Complete and has been transferred to the Affordable Housing Provider.

1.3 To use all reasonable endeavours to transfer the Affordable Dwellings which the Owner is obliged to provide under the Affordable Housing Scheme to the Affordable Housing Provider and/or the Council in accordance with paragraph 1.4 below and should the Affordable Housing Provider be a provider (pursuant to Part 2 of the Housing and Regeneration Act 2008) registered with Homes England on terms that accord with relevant funding requirements of Homes England current at the date of construction of the Affordable Housing.

1.4 The transfer shall contain inter alia the following:

1.4.1 a grant in favour of the Affordable Housing Provider of all rights of access passage of services and other rights reasonably necessary for the beneficial enjoyment of the Affordable Dwellings;

1.4.2 reservation of all rights of access and passage of services and rights of entry and all usual covenants reasonably necessary or appropriate for the beneficial enjoyment of the retained parts of the Land;

1.4.3 a covenant by the Affordable Housing Provider not to use the transferred Affordable Housing other than for the purposes of providing Affordable Housing in perpetuity but subject to the exemption clauses at paragraph 1.9 and 1.10 below.

1.5 For the purposes of this Deed "all reasonable endeavours" shall include (but not necessarily limited to) the following:

1.5.1 the Owner diligently undertaking negotiations with all willing Affordable Housing Providers and/or the Council unless and until paragraph 1.7 below applies;

1.5.2 the Owner shall avoid negotiating a sale to any Affordable Housing Provider of only the Shared Ownership Dwellings where this would result in the Owner being unable to secure the transfer of the Rented Housing to an Affordable Housing Provider;

1.5.3 the Owner keeping the Council informed of its progress in negotiating a sale when requested by the Council but in any event on a quarterly basis beginning with the Commencement of Development and proactively taking into account comments made by the Council on that progress

1.6 Where contracts are exchanged with an Affordable Housing Provider pursuant to paragraph 1.3 above to supply a certified copy of such contract to the Council within five (5) Working Days of such contract being completed.

1.7 Where the Affordable Housing Provider is unwilling to take a transfer of an Affordable Dwelling and the Owner has supplied to the Council evidence of the use of all reasonable endeavours to secure a transfer of such Affordable Dwelling to an Affordable Housing Provider (including copies of any offers to and responses from any Affordable Housing Provider) and the Council having taken into account paragraph 1.5 above is satisfied (acting reasonably) that having used all reasonable endeavours the Owner is unable to identify an Affordable Housing Provider willing to purchase the Affordable Dwelling then the Owner shall at the Council's discretion either:

1.7.1 provide instead an alternative tenure of Affordable Housing for that Affordable Dwelling such tenure to be approved in writing by the Council acting reasonably **AND** where any such Affordable Dwelling is a tenure referred to in this Deed then that Dwelling shall be subject to the relevant provisions of this Deed **SUBJECT TO** the Owner paying an Affordable Housing Contribution calculated in line with the Affordable Housing Contribution Formula set out in Annex A Part 1 for the difference in values of the tenure of the Affordable Housing such sum to be used for the provision of off-site Affordable Housing; or

1.7.2 pay to the Council an Affordable Housing Contribution calculated in line with the Affordable Housing Contribution Formula set out in Annex A Part 2 and upon the Council providing written confirmation that such Affordable Housing

Contribution has been received that Affordable Dwelling shall be discharged from the terms of this Deed and the Owner shall be free to sell that Dwelling on the open market to an individual purchaser and the Council shall remove reference to this Deed in the local land charges register in relation to that Dwelling

1.8 All Affordable Housing must be constructed in accordance with such guidance as shall be issued by Homes England or its successor and approved in writing by the Council however in the absence of such guidance or standards shall be constructed to a standard agreed in writing with the Council.

1.9 All Affordable Dwellings shall be evenly integrated and indistinguishable from the Market Dwellings.

1.10 From the date of Practical Completion of the Affordable Dwellings they shall not be used other than for Affordable Housing save that this obligation shall not be binding on:

1.10.1 any Protected Person or any mortgagee of a Protected Person or any person deriving title from a Protected Person or any successor in title thereto and their respective mortgagees and chargees; or

1.10.2 any Chargee provided that the Chargee shall have first complied with the Chargee's Duty contained in paragraph 1.11 below; and

1.10.3 any purchaser from a mortgagee of an individual Affordable Dwelling pursuant to any default by the individual mortgagor

1.11 The affordable housing provisions in this Deed shall not be binding on a Chargee **PROVIDED THAT** such Chargee shall first give written notice to the Council of its intention to dispose of the Affordable Dwellings and shall have used reasonable endeavours over a period of three (3) months from the date of the written notice to complete a disposal of the Affordable Dwellings to another Affordable Housing Provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses **AND** if such disposal has not completed within the three (3) month period, the Chargee shall be entitled to dispose of the Affordable Dwellings free from the affordable housing provisions in this Deed which provisions shall determine absolutely.

2. **Education Contribution**

2.1 Not to Occupy or permit the Occupation of more than 50% of the Dwellings unless and until the Education Contribution has been paid to the Council in full.

3. **Healthcare Facilities Contribution**

3.1 Not to Occupy or permit the Occupation of more than 50% of the Dwellings unless and until the Healthcare Facilities Contribution has been paid to the Council in full.

SCHEDULE 4

COUNCIL'S COVENANTS

The Council covenants with the Owner as follows:

1. **Affordable Housing**

The Council shall co-operate with any Affordable Housing Provider and enter into any Nominations Agreement between the Affordable Housing Provider and the Council (as the case may be).

2. **Education Contribution**

2.1 To notify the Education Authority within 10 Working Days of receipt of the Education Contribution that the Council is in receipt of the Education Contribution.

2.2 To pay the Education Contribution to the Education Authority upon receipt of a document from the Education Authority confirming that they will:

2.2.1 apply the Education Contribution towards the purposes set out in Clause 1, the need of which arises from the Development and for no other purposes whatsoever.

2.2.2 return any unspent part of the Education Contribution to the Council after the expiry of 10 years from the date of receipt of the Education Contribution.

2.3 to pay to the Owner any unspent monies received by them pursuant to paragraph 2.2.2 within 28 days of receipt from the Education Authority or if such sum is not then paid to the Education Authority then to repay to the Owner within 10 years of receipt by the Council of the Education Contribution.

3. **Health Care Facilities Contribution**

3.1 To notify the Health Care Provider within 10 Working Days of receipt of the Health Care Facilities Contribution that the Council is in receipt of the Health Care Facilities Contribution.

3.2 To pay the Health Care Facilities Contribution to the Health Care Provider upon receipt of a document from the Health Care Provider that they will:

3.2.1 apply the Health Care Facilities Contribution for the purposes set out in Clause 1, the need of which arises from the Development and for no other purposes whatsoever; and

3.2.2 return any unspent part of the Health Care Facilities Contribution to the Council after the expiry of five (5) years from the date of receipt of the Health Care Facilities Contribution.

3.3 To pay to the Owner and/or the Developer (whichever shall have paid the Health Care Facilities Contribution to the County Council) any unspent monies received by them pursuant to 2.2.2 within 28 days of receipt from the Health Care Provider.

4. **General**

4.1 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.

4.2 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.

SCHEDULE 5

NOMINATION AGREEMENT

Dated ***20....***

(1) South Holland District Council

and

(2) [REGISTERED PROVIDER]

NOMINATION AGREEMENT

Relating to land at

[LOCATION]

South Holland District Council

Council Offices

Priory Road

Spalding

PE11 2XE

SHDC Reference: LD/

***THIS DEED** is made the day of Two thousand and .....*

BETWEEN

*(1) **SOUTH HOLLAND DISTRICT COUNCIL** of Council Offices Priory Road Spalding PE11 2XE ("the Council"); and*

*(2) **[REGISTERED PROVIDER]** whose registered office is situated at [registered office] ("the Association")*

RECITALS

(A) The Council resolved on [insert date] to grant planning permission for the Development subject to the provision of ..... (...) dwellings to be delivered as affordable housing. The Council has agreed that [..... (...) Rented Dwellings and [..... (...) Shared Ownership Dwellings] shall be provided to meet the obligation to provide affordable housing.

(B) The Association intends to take a transfer of the Rented Dwellings and by this Deed the Association agrees with the Council that the said Rented Dwellings shall be let to occupiers in accordance with the nominations procedure detailed in Clause 4 below allowing the Council to nominate 100% of the initial tenants of each Rented Dwelling and thereafter at least 75% of the tenants of each Rented Dwelling.

(C) The Association intends to take a transfer of the Shared Ownership Dwellings and by this Deed the Association agrees with the Council that the Shared Ownership Dwellings shall be disposed of by the Association in accordance with Clause 5 below

NOW THIS DEED WITNESSES AS FOLLOWS

1. DEFINITIONS

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

"the Development"	*means the erection of .... dwellings on land [insert location] with planning application reference .....*
"District"	*means the District of South Holland*
"Local Housing Need"	*means local housing need as determined by the Council in accordance with the Council's Housing Allocations Policy and for the avoidance of doubt does not include any local connection criteria for the Shared Ownership Dwellings*
"Nomination Notice"	*means a notice served by the Council on the Association providing details of nominated prospective tenants for a Rented Dwelling in accordance with Clause 4.3.3 of this Deed*
"Protected Tenant"	*means (i) any tenant who has:* *(a) exercised the right to acquire pursuant to the Housing Act 1996 or the Housing and Regeneration Act 2008 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a Rented Dwelling; or* *(b) exercised any statutory right to buy (or any equivalent contractual right) in respect of a Rented Dwelling; and* *(ii) any lessee of a Shared Ownership Dwelling*
"Rented Dwellings"	*means the ..... (...) rented dwellings (being plot numbers x, x, x and x on the Development) to be provided as affordable rented dwellings [and (being plot numbers x, x, x and x on the Development) to be provided as social rented dwellings] as defined in Annex 2 of the National Planning Policy Framework dated July 2021 or any replacement amendment or supplemental*

	guidance to it on the land to which the nomination rights contained in Clause 4 shall relate
"Shared Ownership Dwelling"	*means the ..... (...) shared ownership dwellings (being plot numbers x, x, x and x on the Development) as defined in Annex 2 of the National Planning Policy Framework dated July 2021 or any replacement amendment or supplemental guidance to it on the land to which the allocation procedure in Clause 5 shall relate*
"Vacancy Notice"	*means a notice served by the Association giving the Council notice that a Rented Dwelling is available for occupation or re-let as appropriate*
"Working Day"	*means any day other than a Saturday Sunday or public or bank holiday in England*

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 and in the case of the Council, successors to its functions.*

3. NOTICES

3.1 *Any notice or document which is required to be given under the terms of this Deed shall be sent by email and shall be deemed to be sufficiently served if signed by or on behalf of the party issuing the notice.*

3.2 *The Council's email for service is allocations@sholland.gov.uk (or such other email address as the Council may from time to time notify the Association).*

3.3 *The Association's email address for service is [RP Email Address] (or such other email address as the Association may from time to time notify the Council).*

3.4 *Service shall be deemed to be made on the day of transmission if transmitted before 4:00 pm on a Working Day but otherwise on the next following Working Day*

4. NOMINATIONS PROCEDURE: RENTED DWELLINGS

4.1 *Subject to the provisions of this Deed the initial occupiers of each of the Rented Dwellings shall be nominated by the Council*

4.2 *After the initial nominations and subject to the provisions of this Deed the Council shall have the right to nominate the occupiers of at least 75% of all Rented Dwellings which become vacant*

4.3 *Where the Council's rights of nomination apply the following provisions shall apply:*

4.3.1 *the Association shall serve on the Council a Vacancy Notice giving to the Council*

(a) *4 weeks' notice that a Rented Dwelling is ready for occupation in respect of an initial let; and*

(b) *5 Working Days' notice of impending vacancy of a Rented Dwelling in respect of a re-let*

4.3.2 *the Vacancy Notice shall include the following details:*

(a) *address of the Rented Dwelling;*

(b) *weekly rental and any service charges;*

(c) *number of bedrooms and maximum occupancy;*

(d) *age designation; and*

(e) *any other relevant information such as adaptations to the Rented Dwelling*

4.3.3 *The Council shall within ten (10) Working Days (in respect of an initial let) and five (5) Working Days (in respect of a re-let) of receipt of the Vacancy Notice serve on the Association a Nomination Notice containing in priority order details of as many names and addresses of persons known to the Council as being in Local Housing Need as the Council considers appropriate*

4.3.4 *If the initial Nomination is exhausted without the tenancy having been accepted the Association will notify the Council and the Council will have a further period*

of five (5) Working Days within which to provide a further Nomination Notice in accordance with the above provisions

4.3.5 *A Rented Dwelling shall be offered to occupiers in accordance with the following provisions:*

(a) *the tenancy of a Rented Dwelling shall first be offered to the person whose name appears first on the Nomination Notice;*

(b) *if that person shall refuse or fail to accept the offer of a tenancy the Rented Dwelling shall be offered to the person whose name next appears on the Nomination Notice and if that person shall also refuse or fail to accept the offer of a tenancy then this process shall be repeated as often as may be necessary until* ***EITHER*** *the offer of a tenancy has been accepted* ***OR*** *the initial Nomination Notice and any further Nomination Notices have been exhausted without the tenancy having been accepted;*

(c) *where* ***EITHER*** *the initial Nomination Notice and any further Nomination Notices are exhausted without the tenancy having been accepted* ***OR*** *the Council fails to provide a Nomination Notice* ***OR*** *the Council advises that it is not aware of any persons whom it considers to be in Local Housing Need then the Association shall have the right to select the occupier of the Rented Dwelling from its own applications provided such person or persons are in Local Housing Need* ***BUT FOR THE AVOIDANCE OF DOUBT*** *it is hereby agreed that if the Association exercises such a right the tenancy shall not be considered a Council nomination for the purpose of determining the sequence of nominations provided for in this Deed.*

4.3.6 *the Association will notify the Council:*

(a) *within ten (10) Working Days of the end of the acceptance period where the prospective tenant fails to accept a tenancy;*

(b) *within ten (10) Working Days where a prospective tenant provisionally accepts a tenancy;*

(c) *within ten (10) Working Days where a prospective tenant refuses the tenancy including any reasons for refusal given;*

(d) *within ten (10) Working Days of any decision by the Association that the prospective tenant does not meet the Association's criteria including the reasons why the prospective tenant does not meet such criteria; and*

(e) *within three (3) Working Days of the start date of the tenancy*

4.3.7 *the Association will liaise with the Council where the Owner wishes to use for a management transfer any vacancy for which the Council has nomination rights.*

4.4 *the Association shall provide to the Council details of all lettings completed in respect of all Rented Dwellings such returns to be made quarterly to the Council.*

5. ALLOCATION PROCEDURE: SHARED OWNERSHIP DWELLING

5.1 *The Association shall not permit any Shared Ownership Dwelling to be occupied except by a person who satisfies the Help to Buy Agent (or any successor) criteria or the Council's qualifying criteria*

6. DISPUTES AND MEDIATION PROCEDURE

6.1 *Any disputed cases arising from this Deed will be discussed and dealt with by the Council's Housing Options Manager (or successor post) (or such other officer as the Council may from time to time notify the Association) and the Association's [insert post] (or successor post)*

6.2 *If they cannot decide then the Council's Assistant Director of Housing (or successor post) and the Association's [insert post] (or successor post) will discuss the case and make a final decision.*

7. AGREEMENTS AND DECLARATIONS

7.1 This Deed is personal to the Association and the Council and for the avoidance of doubt ***IT IS HEREBY DECLARED*** *that this Deed shall not bind*

7.1.1 any Protected Tenant;

7.1.2 any mortgagee or charge of a Protected Tenant;

7.1.3 any mortgagee or charge of the Association or any receiver (including administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or charge to realise its security or any administrator (howsoever appointed) or the whole or any part of the Rented Dwellings and/or Shared Ownership Dwelling or any persons or bodies deriving title through such mortgagee or charge or Receiver

7.2 The parties hereto agree and declare that the parties hereto shall have the right to vary this Deed in writing if they jointly so wish

Signed on behalf of ***SOUTH***

HOLLAND DISTRICT COUNCIL

Signed on behalf of

[ASSOCIATION]

H09-0613-21

THE COMMON SEAL of)

SOUTH HOLLAND DISTRICT COUNCIL)

was hereunto affixed)

in the presence of:)

Authorised Signatory



C A Marshall
Deputy Chief
Executive SISI

EXECUTED as a **DEED** by a director of)
ASHLEY KING (DEVELOPMENTS))

LIMITED .....

in the presence of:)

Witness signature: .....

Witness name: .....

(BLOCK CAPITALS)

Witness address: .....

ANNEX A

AFFORDABLE HOUSING CONTRIBUTION FORMULA

Part 1

The Affordable Housing Contribution is calculated as follows: *A = (B less C) multiplied by D*

Where:

A = the Affordable Housing Contribution

B = the value of the relevant dwelling if subject to the alternative tenure referred to in paragraph 1.7.1 of Schedule 3 as determined by an independent expert and agreed by all parties

C = the value of the relevant dwelling(s) if subject to the tenure specified in the Affordable Housing Scheme in this Deed as determined by an independent expert or agreed by all parties

D = the Affordable Housing Contribution if not paid within 12-months from the date of calculation will be index linked to the percentage difference between house price inflation (UK House Price Index) and the Index calculated with reference to the figures last published prior to the date 12-months after the date of this Deed and the figure last published prior to the date of payment.

The Affordable Housing Contribution will be paid in full to the Council when no more than 85% of the Market Dwellings are Practically Complete. The costs for re-determining the values of B and C will be fully recharged to the Owner. The independent expert will be appointed and act under Clause 15

Part 2

The Affordable Housing Contribution is calculated as follows: A = *(B less C) multiplied by D*

Where:

A = the Affordable Housing Contribution

B = the open market value of the relevant dwelling if it were not subject to the terms of this Deed as determined by an independent expert and agreed by all parties

C = the value of the relevant dwelling subject to the terms of this Deed as determined by an independent expert and agreed by all parties

D = the Affordable Housing Contribution if not paid within 12-months from the date of calculation will be index linked to the percentage difference between house price inflation (UK House Price Index) and the Index calculated with reference to the figures last published prior to the date 12-months after the date of this Deed and the figure last published prior to the date of payment.

The Affordable Housing Contribution will be calculated by the independent expert appointed and acting under Clause 15 when no more than 60% of the Market Dwellings are Practically Complete and will be paid in full to the Council when no more than 85% of the Market Dwellings are Practically Complete. The Owner will reimburse the Council for the full cost of the independent valuation in all but exceptional circumstances.

ANNEX B

AFFORDABDLE HOUSING PLAN


Track
Drain
Path
A17
BUND
BUND
PUBLIC OPEN SPACE
Lay-by
Lay-by
CR
Ward Bdy
Drain
PUBLIC OPEN SPACE
Drain
Willow House
FOXES LOW ROAD
Drain
Drain
CR
Primrose Holt
The Den
Caerleon
The Cottage
BALMORAL WAY
KINGS ROAD
Und
House Type Schedule - Open Market
House Type Schedule - Rented
House Type Schedule - Shared Ownership
ASHWOOD
HOMES
PROJECT
PROPOSED RESIDENTIAL DEVELOPMENT AT
LAND EAST OF CHAFFINCH WAY
HOLBEACH
DRAWING TITLE
SITE PLAN
DRAWING No.
75 - SL - 01