ALL0385-1311

DATED 5th September **2024**

PLANNING AGREEMENT

between

(1) SOUTH HOLLAND DISTRICT COUNCIL

and

(2) ALLISON HOMES LIMITED

and

(3) HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED

Deed of Variation pursuant to Section 106 & 106A of the Town and Country Planning Act 1990 (as amended)

relating

Land North of Roman Road Moulton Chapel Spalding

Council Offices
Priory Road
Spalding
Lincolnshire
PE11 2XE

Planning Ref: H13-1215-18/ H13-0483-24

THIS DEED is made the 5th day of September 2024

BETWEEN

1) **SOUTH HOLLAND DISTRICT COUNCIL** of Council Offices, Priory Road, Spalding, Lincolnshire, PE11 2XE ("the Council"); and
2) **ALLISON HOMES LIMITED** (Co. Reg. No. 06235048) of Fleet House, Cygnet Road, Hampton, Peterborough, PE7 8FD ("the Owner"); and
3) **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED** (Co. Reg. No. 06447555) of 8 Canada Square, London E14 5HQ ("the Mortgagee").

WHEREAS:

(A) The Council is the local planning authority for the purposes of the Act for the area within which the Land is situated and by whom the obligations and covenants contained in this Deed are enforceable.

(B) The Owner is the freehold owner of that part of the Land known as land lying to the North of Roman Road, Moulton Chapel and to which this Deed relates which is registered at HM Land Registry under title number LL183859.

(C) The Mortgagee has a charge over the Land which is registered at HM Land Registry under title number LL183859.

(D) The Principal Agreement was entered into for the purpose of regulating the development of the Land pursuant to the Original Planning Permission.

(E) The Owner has submitted the 2024 Planning Application to the Council pursuant to S73 of the Act.

(F) The parties have agreed to enter into this Deed in order to vary the Principal Agreement to bind the terms of the Principal Agreement to apply equally to the 2024 Planning Permission.

(G) This Deed of Variation relation to the provisions of the Principal Agreement so far as they relate to the Land.

It is agreed as follows:

1. DEFINITIONS AND INTERPRETATION

In interpreting this Deed:

1.1. The words definitions and expressions used in the Principal Agreement shall have the same meanings as if set out herein verbatim unless so varied below.

1.2. Unless otherwise stated in this Deed the expressions “the Council” and "the Owner" shall include the successors in title to that party and to any person deriving title through or under that party and in the case of “the Council” the successors in title to their respective statutory functions.

1.3. Where appropriate the singular includes the plural and vice versa. Words importing one gender include all other genders.

1.4. Where for the time being there are two or more persons within the meaning of any party hereto obligations expressed or implied and made or to be made by or with such party shall be made by or with such party jointly and severally.

1.5. 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.

1.6. In this Deed the following terms and expressions shall have the following meaning:

2024 Planning Application	means the section 73 application to vary condition 2 (approved plans) of the Original Planning Permission and given the Council's reference number H13-0483-24
2024 Planning Permission	means the permission issued pursuant to the 2024 Planning Application
Original Planning Permission	means the full planning permission granted by the Council under application number H13-1215-18 on 8 March 2021
Planning Permission	means the Original Planning Permission and/or the 2024 Planning Permission (whichever shall be built out on the Land as the case may be)
Principal Agreement	means the agreement dated 3 March 2021 entered into pursuant to Section 106 of the Act by (1) the

	Council (2) James Douglas Braybrooks (3) Doris Brenda Carrott and (4) Larkfleet Limited

2. AGREEMENTS AND DECLARATIONS

2.1. This Deed is:

2.1.1. made pursuant to Sections 106 and 106A of the Act;

2.1.2. a planning obligation for the purposes of Section 106 of the Act;

2.1.3. made with the intent to bind the Owner's freehold interest in the Land;

2.1.4. enforceable by the Council as Local Planning Authority; and

2.1.5. executed as a Deed.

3. EFFECTIVE DATE

3.1. This Deed shall come into effect upon the grant of the 2024 Planning Permission save for the provisions of clauses 4.1.3 (legal costs) and 8.2 (land charges) which will come into effect immediately on completion of this Deed.

4. OWNER'S COVENANTS

4.1. The Owner covenants with the Council

4.1.1. to comply with its obligations as set out at Schedule 1 of this Deed;

4.1.2. to continue to comply with its obligations as set out in the Principal Agreement insofar as they are not varied by this Deed; and

4.1.3. to pay to the Council on completion of this Deed the reasonable legal costs of the Council in preparing negotiating and completing this Deed.

5. COUNCIL'S COVENANTS

5.1. The Council covenants with the Owner to continue to comply with its obligations as set out in the Principal Agreement insofar as they are not varied by this Deed.

6. MORTGAGEE CONSENT

6.1. The Mortgagee enters into this Deed to confirm that the Land shall be bound by the obligations contained in this Deed PROVIDED THAT the Mortgagee shall otherwise have no liability under this Deed or the Principal Agreement unless it takes possession

of the Land in which case it too will be bound by the obligations as if it were a person deriving title from the Owner PROVIDED FURTHER THAT the Mortgagee shall not in any event be liable for any breach of this Deed or the Principal Agreement unless it shall have caused such breach to have occasioned and for the avoidance of doubt any receiver or manager (including an administrative receiver) appointed by such Mortgagee and/or appointed pursuant to the Law of Property Act 1925 will not be bound by this Deed or the Principal Agreement.

7. S73 APPLICATIONS

7.1. In the event that the Council shall at any time hereafter grant a planning permission pursuant to a planning application made under section 73 of the Act in respect of the conditions relating to the Planning Permission or shall approve an application by the Owner for a non-material amendment relating to the Planning Permission (and for no other purposes whatsoever) references in this Deed to the Application and the Development shall be deemed to include any such subsequent planning applications and planning permissions granted as aforesaid and the Deed shall henceforth take effect and be read and constructed accordingly PROVIDED THAT nothing in this clause will fetter the discretion of the Council in determining any planning application made under Section 73 of the Act and the appropriate planning obligations required in connection with the determination of any such planning application and any such further planning obligation or amendment by deed in connection with any planning permission arising further to any planning application made under Section 73 of the Act in the event the Council, acting reasonably, considers it necessary.

8. DECLARATIONS

8.1. A person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term hereof provided that this clause shall not affect any right of action of any person to whom this Deed is lawfully assigned or in whom it becomes vested in law.

8.2. The planning obligations hereby created by this Deed shall be registered as a Local Land Charge by the Council.

IN WITNESS whereof this Deed has been duly executed as a deed by all parties hereto the day and year first above written

SCHEDULE 1

VARIATION TO THE PRINCIPAL AGREEMENT

Upon the grant of the 2024 Planning Permission, the Principal Agreement shall be varied as follows:

1. The following definitions shall be inserted into the Principal Agreement

2024 Planning Application	means the section 73 application to vary condition 2 (approved plans) of permission H13-1215-18 and given the Council's reference number H13-0483-24
2024 Planning Permission	means the permission issued pursuant to the 2024 Planning Application
Original Planning Permission	means the full planning permission granted by the Council under application number H13-1215-18 on 8 March 2021

2. The definition of "Affordable Dwellings" in the Principal Agreement shall be deleted and replaced with:

"Affordable Dwellings" means those Dwelling within the Development comprising Affordable Housing being 12 of the total number of Dwellings to be provided as part of the Development and for the purposes of this Deed means those Dwellings comprising Affordable Housing and consisting of 8 Rented Dwellings being delivered as 5 two-bedroom houses (plot numbers 135, 137, 127, 128 and 136) and 3 three-bedroom houses (plot numbers 108, 109 and 110) and 4 Shared Ownership Dwellings being provided as 4 three-bedroom houses (plot numbers 138, 139, 143 and 144) which are shown, for identification purposes only, on the Affordable Housing Plan unless such other alternative mix, percentages(s) and/or Plots(s) is agreed with the Council acting reasonably (such consent not to be unreasonably withheld or delayed)."

3. The definition of "Affordable Housing Plan" in the Principal Agreement shall be deleted and replaced with:

"Affordable Housing Plan" means the plan identifying the proportion and distribution of the Affordable Housing included within the Development labelled as drawing L181-AH-01 and

attached at Annex B or as otherwise agreed with the Council (acting reasonably and such consent not to be unreasonably withheld or delayed)."

4. The definition of "Planning Permission" in the Principal Agreement shall be deleted and replaced with:

"Planning Permission": means the Original Planning Permission and/or the 2024 Planning Permission (whichever shall be built out on the Land as the case may be)"

5. Clause 8.9.6 in the Principal Agreement shall be deleted and replaced with:

Approved by all parties 04/09/24 LVD

"an Affordable Housing Provider (save for the provisions of Schedule 3 relating to the use and occupation of the Affordable Dwelling(s) only which shall be binding on an Affordable Housing Provider) and (subject to paragraph 1.11 of Schedule 3) a Chargee"

6. The following Clause shall be inserted in the Principal Agreement as a new Clause 8.12:

"Any future mortgagee shall have no liability under this Deed unless it takes possession of the Land in which case it too will be bound by the obligations as if it were a person deriving title from the Owner PROVIDED FURTHER THAT any future mortgagee shall not in any event be liable for any breach of this Deed unless it shall have caused such breach to have occasioned and for the avoidance of doubt any receiver or manager (including an administrative receiver) appointed by such future mortgagee and/or appointed pursuant to the Law of Property Act 1925 will not be bound by this Deed."

7. The following Clause shall be inserted in the Principal Agreement as a new Clause 16:

"16. S73 APPLICATIONS

In the event that the Council shall at any time hereafter grant a planning permission pursuant to a planning application made under section 73 of the Act in respect of the conditions relating to the Planning Permission or shall approve an application by the Owner for a non-material amendment relating to the Planning Permission (and for no other purposes whatsoever) references in this Deed to the Application and the Development shall be deemed to include any such subsequent planning applications and planning permissions

granted as aforesaid and the Deed shall henceforth take effect and be read and constructed accordingly PROVIDED THAT nothing in this clause will fetter the discretion of the Council in determining any planning application made under Section 73 of the Act and the appropriate planning obligations required in connection with the determination of any such planning application and any such further planning obligation or amendment by deed in connection with any planning permission arising further to any planning application made under Section 73 of the Act in the event the Council, acting reasonably, considers it necessary."

8. Paragraph 1.2 in Schedule 3 of the Principal Agreement shall be deleted and replaced with:

"Not to Occupy of permit the Occupation of more than 60% of the Market Dwellings until:

a) the construction of all Affordable Dwellings has been certified Practically Complete; and

b) have been transferred to the Affordable Housing Provider; and

c) the Nomination Agreement has been entered into between the Affordable Housing Provider and the Council,

unless otherwise reasonably agreed with the Council.

9. Paragraph 1.11 in Schedule 3 of the Principal Agreement shall be deleted and replaced with:

"*1.11 The affordable housing provisions in this Deed shall not be binding on 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 PROVIDED THAT:*

1.11.1 such mortgagee or chargee or Receiver 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 months from the date of the written notice to complete a disposal of the Affordable Dwellings to another registered 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

1.11.2 if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Dwellings free from the affordable housing provisions in this Deed which provisions shall determine absolutely"

10. The Council and the Owner agree that all other provisions of the Principal Agreement shall continue fully in effect and shall remain fully enforceable.

11. Annex B in the Principal Agreement shall be deleted and replaced with the plan appended as Annex A to this Deed.

ANNEX A

Affordable Housing Plan

TREATMENT POND

SUDS

POS

BCP 1

BCP 2

BCP 3

BCP 4

BCP 5

BCP 6

NOTE: ALL DIMENSIONS, MATERIALS AND WORKMANSHIP IN ACCORDA
BUILDING REGULATIONS.
DO NOT SCALE FROM THIS DRAWING. ALL DIMENSIONS TO BE VERIFI

ORIGINAL SIZE 1000MM - THIS PRINT MAY BE

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

H13-0483-24

Authorised Signatory: Jason King AD Housing

EXECUTED AS A DEED by)
ALLISON HOMES LIMITED)
Acting by a Director in the presence of:)

Witness Signature

Witness name

Witness address

Deborah Brown
Fleet House
Cygnet Road
Hampton
Peterborough
PE7 8FD
Solicitor

EXECUTED AS A DEED by
HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED
acting by its attorney / director

SHARAD KHATRI
Authorised Signatory

Witnesses by:

Witness Name: IAN TSANG

Witness Address: HSBC Bank Plc
8 Canada Square
London
E14 5HQ