

Dated

26th March

2024

(1) South Holland District Council

and

(2) Keston Fields Limited

and

**(3) David Ralph Hull, Margaret Jane Hull,
Christopher Richard Hull, Peter David Hull**

and

(4) Paragon Development Finance Limited

PLANNING OBLIGATION BY DEED

Section 106 of the Town and Country Planning Act 1990 (as amended)

relating to

Land at Mill Green Road, Spalding

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

SHDC Reference: LD/H14-0078-23

Date

26th March

2024

BETWEEN

- (1) **SOUTH HOLLAND DISTRICT COUNCIL** of Council Offices, Priory Road, Spalding, PE11 2XE ("the Council"); and
- (2) **DAVID RALPH HULL, MARGARET JANE HULL, CHRISTOPHER RICHARD HULL and PETER DAVID HULL** of Keston Nurseries, Mill Green Road, Spalding, Lincolnshire PE11 3PU ("the First Owner"); and
- (3) **KESTON FIELDS LIMITED** (Co. Reg. no 11504334) whose registered office is at The Stables, Church Walk, Daventry NN11 4BL. ("the Second Owner"); and
- (4) **PARAGON DEVELOPMENT FINANCE LIMITED** (Co. reg no 03901943) whose registered office is at Paragon House, 51 Homer Road, Solihull B91 3QJ ("the Land Chargee")

"together shall be known as Parties or individually as Party"

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) Lincolnshire County Council is the Education Authority for the purposes of the Act for the area within which the Land is situated and it has been agreed between the Parties that they shall not be included as a Party to this Deed and the Council will collect the Education Contribution and distribute to Lincolnshire County Council in accordance with the terms of this Deed.
- (C) The First Owner is the registered proprietor of the freehold interest in the Land registered under HM Land Registry title number LL185321 and is free from encumbrances.
- (D) The Second Owner is the registered proprietor of the freehold interest in the Land registered under HM Land Registry title number LL402121 and is subject to a charge in favour of the Land Chargee
- (E) The Land Chargee has an interest in the Land by way of a registered charge dated 18 December 2020 on HM Land Registry title number LL402121 made between the Second Owner and the Land Chargee.

- (F) The Owners are entering into this Deed with the intent that the planning obligations contained herein bind their respective interest in the Land and any successors in title and assigns.
- (G) The Second Owner intends to carry out the Development and has via their agent submitted the Application to the Council for the Development of the Land under reference H14-0078-23.
- (H) The Council has resolved under delegated authority to grant the Planning Permission for the Development in accordance with the Application subject to the Owners entering into this Deed without which Planning Permission for the Development would be refused.
- (I) 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 regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

NOW THIS DEED WITNESSES AS FOLLOWS:

1. DEFINITIONS

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

"Act"	means the Town and Country Planning Act 1990 (as amended)
"Additional First Homes Contribution"	means in circumstances where a sale of a First Home other than as a First Home has taken place in accordance with paragraphs 5.8, 5.9 or 7 of Schedule 4, the lower of the following two amounts: (a) 30% of the proceeds of sale; and (b) the proceeds of sale less the amount due and outstanding to any Mortgagee of the relevant First Home under relevant security documentation which for this

	purpose shall include all accrued principal monies, interest and reasonable costs and expenses that are payable by the First Homes Owner to the Mortgagee under the terms of any mortgage but for the avoidance of doubt shall not include other costs or expenses incurred by the First Homes Owner in connection with the sale of the First Home and which for the avoidance of doubt shall in each case be paid following the deduction of any SDLT payable by the First Homes Owner as a result of the disposal of the First Home other than as a First Home.
"Affordable Dwellings"	means those Dwellings within the Development comprising three (3) Affordable Housing being 25% of the total number of 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 September 2023, or any Planning Policy Statement, Guidance Notes or Circulars which may amend, supplement or supersede
"Affordable Housing Plan"	means the plan which shows the Housing Scheme which includes the First Homes and is to be submitted with the Housing Scheme
"Application"	means the application for planning permission for the Development and allocated reference number H14-0078-23

"Armed Services Member"	means a member of the Royal Navy the Royal Marines the British Army or the Royal Air Force or a former member who was a member within the five (5) years prior to the purchase of the First Home, a divorced or separated spouse or civil partner of a member or a spouse or civil partner of a deceased member or former member whose death was caused wholly or partly by their service
"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
"Commencement Notice"	means written notice to the Council of the intended date of Commencement of Development
"Compliance Certificate"	means the certificate issued by the Council confirming that a Dwelling is being disposed of as a First Home to a purchaser meeting the Eligibility Criteria (National) and unless paragraph 5.2 of Schedule 4 applies also meets the Eligibility Criteria (Local)
"Development"	means the erection of 13 dwellings and construction of internal roads with associated landscaping and areas of open space pursuant to the Planning Permission
"Development Standard"	means a standard to fully comply with the following:- (a) "Technical housing standards – nationally described space standards" published by the Department for Communities and Local Government in March 2015 (b) all national construction standards and planning policy relating to

	design which may be published by the Secretary of State or by the Council from time to time (c) Part 2 of Secured by Design standards published by Police Crime Prevention Initiatives Limited (d) Optional requirement M4(2) of Building Regulations 2010 (Part M) (Accessible and Adaptable Dwellings) and the same may be amended by written agreement of the Parties in accordance with paragraph 5.1
"Dwelling"	means any unit of residential accommodation constructed pursuant to the Planning Permission
"Discount Market Price"	means a sum which is the First Home Market Value discounted by at least 30%
"Disposal"	means a transfer of the freehold or (in the case of a flat only) the grant or assignment of a leasehold interest in a First Home other than: (a) a letting or sub-letting in accordance with paragraph 6 of Schedule 4 (b) a transfer of the freehold interest in a First Home or land on which a First Home is to be provided before that First Home is made available for Occupation except where the transfer is to a First Homes Owner (c) an Exempt Disposal and "Disposed" and "Disposing" shall be construed accordingly

"Education Authority"	means the Local Education Authority for the area within which the land is situated.
"Education Contribution"	means a sum that shall be calculated per dwelling in line with the Education Contribution Formula as set out in Annex A to this Deed which arises out of the need to provide Primary School and Secondary School places the contribution of which shall be used towards Education Purpose
"Education Purpose"	Means for the provision of additional Primary School places in the Spalding West primary planning area and additional Secondary School places in the Spalding Secondary area
"Eligibility Criteria (National)"	means criteria which are met in respect of a purchase of a First Home if: (a) the purchaser is a First Time Buyer (or in the case of a joint purchase each joint purchaser is a First Time Buyer); and (b) the purchaser's annual gross income (or in the case of a joint purchase, the joint purchasers' joint annual gross income) does not exceed the Income Cap (National).
"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 Shared Ownership 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
"Exempt Disposal"	means the Disposal of a First Home in one of the following circumstances: (a) a Disposal to a spouse or civil partner upon the death of the First Homes Owner (b) a Disposal to a named beneficiary under the terms of a will or under the rules of intestacy following the death of the First Homes Owner (c) Disposal to a former spouse or former civil partner of a First Homes Owner in accordance with the terms of a court order, divorce settlement or other legal agreement or order upon divorce, annulment or dissolution of the marriage or civil partnership or the making of a nullity, separation or presumption of death order (d) Disposal to a trustee in bankruptcy prior to sale of the relevant Dwelling (and for the avoidance of doubt paragraph 7 of Schedule 4 shall apply to such sale) Provided that in each case other than (d) the person to whom the disposal is made complies with the terms of paragraph 6 of Schedule 4
"First Home"	means a Dwelling which may be disposed of as a freehold or (in the case of flats only)

	as a leasehold property to a First Time Buyer at the Discount Market Price and which on its first Disposal does not exceed the Price Cap and "First Home Unit/s" and "First Homes" shall be construed accordingly and for the avoidance of doubt and in respect of this Deed only reference to First Home does not include Affordable Housing the Council does acknowledge that First Homes are to be considered a tenure of affordable housing pursuant to the National Planning Policy Framework document
"First Homes Costs"	means the sum of one hundred and fifty pounds (£150) or the amount published in the Council's Fees and Charges document on the Council's website (whichever is greater) per each First Homes Unit built on the Land as part of the Development
"First Homes Owner"	means the person or persons having the freehold or leasehold interest (as applicable) in a First Home Unit other than: (a) the Owner; or (b) a developer or other entity to which the freehold interest or leasehold interest in a First Home or in the land on which a First Home is to be provided has been transferred before that First Home is made available and is disposed of for Occupation as a First Home;

	(c) the freehold a tenant or sub-tenant of a permitted letting under paragraph 6 of Schedule 4
"First Time Buyer"	means a first time buyer as defined by paragraph 6 of Schedule 6ZA to the Finance Act 2003
"Health Care Facilities Contribution"	means the sum of £660 per Dwelling which shall be subject to any increases in accordance with the HealthCare Contribution Formula as set out at Annex B to the Deed to be used for the purposes of expanding in capacity through remodelling/changes to layout or extension to existing facilities within the South Lincolnshire Rural and Spalding Primary Care Networks (PCNs) at Munro Medical Centre, Beechfield Medical Centre and/or Gosberton Medical Centre or alternatively the funding may where appropriate be used to support expansion in capacity at an alternative general practice site as required to meet the local population health need.
"Health Care Provider"	means the relevant regional health care provider for Lincolnshire Integrated Care Board
"Homes England"	means the executive non-departmental public body, sponsored by the Department for Levelling Up, Housing and Communities 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
"Housing Scheme"	means the scheme submitted as part of the Reserved Matters Application and details the design, tenure, mix, size and location of the Dwellings and Affordable Housing to be provided as part of the Development of which 25% shall be First Homes and comprise of 2 x two-bedroom houses and 1 x three-bedroom house as shown on the Affordable Housing Plan, unless such other alternative mix, percentage(s) and/or plot(s) (or as otherwise agreed by the Council at its absolute discretion)
"Income Cap (National)"	means eighty thousand pounds (£80,000) or such other sum as may be published for this purpose from time to time by the Secretary of State and is in force at the time of the relevant disposal of the First Home
"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 13 of this Deed
"Interest"	means interest at the base rate of Lloyds Bank PLC plus 4%
"Land"	means the land as described in Schedule 1 against which this Deed may be enforced as shown 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 or a First Home
"Market Value"	means the open market value as assessed by a Valuer of Dwelling as confirmed to the Council by the First Homes Owner and assessed in accordance with the RICS Valuation Standards (January 2014 or any such replacement guidance issued by RICS) and for the avoidance of doubt shall not take into account the 30% discount in the valuation
"Mortgagee"	means in relation to First Home Units only any financial institution or other entity regulated by the Prudential Regulation Authority and the Financial Conduct Authority to provide facilities to a person to enable that person to acquire a First Home including all such regulated entities which provide Shari'ah compliant finance for the purpose of acquiring a First Home
"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.
"Owners"	means the First Owner and the Second Owner

"Plan"	means the plan attached at Appendix 1 to this Deed labelled as drawing number LDC2902a-PL-01 being the Site 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.
"Price Cap"	means the amount for which the First Home is sold after the application of the Discount Market Price which on its first Disposal shall not exceed Two Hundred and Fifty Thousand Pounds (£250,000) or such other amount as may be published from time to time by the Secretary of State
"Reserved Matters Application"	means an application for Reserved Matters Approval pursuant to the Planning Permission
"Reserved Matters Approval"	means an approval granted by the Council pursuant to the Reserved Matters Application

"SDLT"	means Stamp Duty Land Tax as defined by the Finance Act 2003 or any tax replacing it of like effect
"Secretary of State"	means the Secretary of State for Levelling Up, Housing and Communities from time to time appointed and includes any successor in function
"Valuer"	means a Member or Fellow of the Royal Institution of Chartered Surveyors being a Registered Valuer appointed by the First Homes Owner and acting in an independent capacity
"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 Owners 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 Owners.

4. CONDITIONALITY

- 4.1 This Deed and the obligations contained herein are conditional upon:
- (a) the grant of Planning Permission; and
 - (b) the Commencement of Development
- SAVE FOR** the provisions of Clauses 8, 9.3 and 12 (legal costs, local land charge and change of ownership clauses) and any other relevant provisions which shall come into effect immediately upon completion of this Deed.

5. THE OWNERS' COVENANTS

- 5.1 The Owners covenants with the Council as set out herein.

6. THE COUNCIL'S COVENANTS

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

7. NOTICES AND RECORD KEEPING

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

- 7.2 The Owners 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 Owners 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 £2,750 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 Owners 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 Owners) 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 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.

9.9 The provisions of paragraph 1 of Schedule 3 of this Deed (Affordable Housing) shall not be binding on a Chargee or Mortgagee or any persons or bodies deriving title through such Chargee or Mortgagee **PROVIDED THAT** the Chargee or Mortgagee has complied with the requirements of paragraphs 7 – 7.4 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. LAND CHARGEES CONSENT

10.1 The Land Chargee acknowledges and declares that this Deed has been entered into by the Owners with its consent and that the Land shall be bound by the obligations contained in this Deed and that the security of the mortgage over the Land shall take effect subject to this Deed **PROVIDED THAT** the Land Chargee shall otherwise have no liability under this Deed unless it takes possession of the Land and has itself caused the breach whilst mortgagee in

possession of the Land and the Land Chargee shall not be liable for any pre-existing breach

11. WAIVER

- 11.1 No waiver (whether expressed or implied) by the Council or the Owners 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 Owners from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

12. CHANGE OF OWNERSHIP

- 12.1 The Owners agrees with the Council to give the Council written notice as soon as practically possible of any change in the ownership of any of its interest in the Land occurring before all the obligations under this Deed have been discharged such notice to give details of the transferees name and address together with details of the part of the Land disposed of.

13. INDEXATION

- 13.1 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 Schedules Three and Five 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.

14. INTEREST

- 14.1 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.

15. VAT

- 15.1 Any consideration given under this Deed shall be done in such a way that the VAT liability is borne by the Owners and not the Council.

16. DISPUTE RESOLUTION

- 16.1 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.
- 16.2 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.
- 16.3 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.
- 16.4 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.
- 16.5 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 (40) Working Days after appointment.
- 16.6 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten (10) 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.

17. SECTION 73 APPLICATIONS

- 17.1 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.

18. JURISDICTION

18.1 This Deed is governed by and interpreted in accordance with the law of England and the jurisdiction of the courts of England.

19. EXECUTION AND DELIVERY

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

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

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



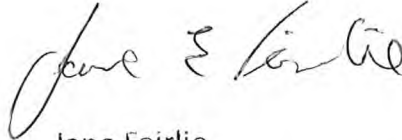
Authorised Signatory



SIGNED as a DEED by
PETER DAVID HULL
in the presence of:



Name of Witness
Signature of witness
Address
Occupation



Jane Fairlie
North Holland, Mill Green Rd
Spalding, PE11 3PU
Technical Manager

SIGNED as a DEED by
CHRISTOPHER RICHARD HULL
in the presence of:



Name of Witness LOUISE CLIFTON

Signature of witness 

Address Roythornes, 14 Park Row, Nottingham. NG1 6JH.

Occupation Solicitor.

SIGNED as a DEED by
DAVID RALPH HULL
in the presence of:



Name of Witness LOUISE CLIFTON

Signature of witness 

Address Roythornes, 14 Park Row, Nottingham. NG1 6JH.

Occupation Solicitor.

SIGNED as a DEED by
MARGARET JANE HULL



in the presence of:

Name of Witness

LOUISE CLIFTON.

Signature of witness



Address

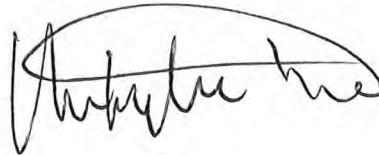
Roythornes, 14 Park Row, Nottingham, NG1 6JH.

Occupation

Solicitor.

EXECUTED as a DEED by

KESTON FIELDS LIMITED



acting by a Director and its

Secretary or two Directors

Signature of Director



Signature of Secretary/Director

Signed as a deed by **THOMSON SNELL AND PASSMORE LLP**

as attorney for **PARAGON DEVELOPMENT FINANCE LIMITED** under a power of attorney dated **[DATE] 19 October 2023**

in the presence of:

.....

SIGNATURE OF ATTORNEY as attorney for **PARAGON DEVELOPMENT FINANCE LIMITED**

.....*Priestley*.....

SIGNATURE OF WITNESS

NICOLE PRIESTLEY
NAME OF WITNESS [IN BLOCK CAPITALS] ~~N~~

ADDRESS OF WITNESS

OCCUPATION OF WITNESS

SOLICITOR

Thomson Snell & Passmore LLP
Heathervale House
2 - 4 Vale Avenue
Tunbridge Wells
Kent
TN1 1DJ

*Roythornes
amends
8/3/24*

SCHEDULE 1

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

The Land is known as land at Keston Nurseries (former) Mill Green Road, Pinchbeck, Spalding, PE11 3PU and falling within HM Land Registry Title Numbers LL185321 and LL402121 and shown edged red on the Plan.

SCHEDULE 2
DRAFT PLANNING PERMISSION

SCHEDULE 3

THE OWNERS'S COVENANTS

The Owners covenant with the Council as follows:

1. HOUSING SCHEME

- 1.1 Prior to Commencement of Development the Housing Scheme shall be submitted to the Council as part of the Reserved Matters Application.
- 1.2 Not to Occupy or permit the Occupation of more than 50% of the Market Dwellings until the construction of the First Homes has been commenced in accordance with the Housing Scheme and written notification of that commencement has been received by the Council
- 1.3 Not to Occupy or permit the Occupation of more than 70% of the Market Dwellings until the construction of all the First Homes has been certified practically complete.

2. EDUCATION CONTRIBUTION

- 2.1 To pay the Education Contribution to the Council before the Occupation of 50% of the Dwellings pursuant to the Planning Permission
- 2.2 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 To pay the Health Care Facilities Contribution to the Council before Occupation of 50% of the Dwellings pursuant to the Planning Permission.
- 3.2 Not to Occupy or permit the Occupation of more than 50% of the Dwellings unless and until the Health Care Facilities Contribution has been paid to the Council in full.

SCHEDULE 4

FIRST HOMES

1. OBLIGATIONS

Unless otherwise prior agreed in writing by the Council the Owner with the intention that the following provisions shall bind the Land covenants with the Council as below save that

- 1.1 paragraphs 2, 3, and 4 of this Schedule 4 shall not apply to a First Homes Owner;
- 1.2 paragraphs 5 and 6 of this Schedule 4 apply as set out therein but and for the avoidance of doubt where a First Home is owned by a First Homes Owner they shall apply to that First Homes Owner only in respect of the First Home owned by that First Homes Owner; and
- 1.3 Paragraph 7 of this Schedule 4 applies as set out therein.

2. CLUSTERING

- 2.1 The First Homes shall not be visually distinguishable from the Market Dwellings based upon their external appearance.
- 2.2 The internal specification of the First Homes shall not by reason of their being First Homes be inferior to the internal specification of the equivalent Market Dwellings but, subject to that requirement, variations to the internal specifications of the First Homes shall be permitted

3. TYPE AND DISTRIBUTION

- 3.1 The mix of First Homes provided within the Development shall be in accordance with the Affordable Housing Plan.

4. DEVELOPMENT STANDARD

- 4.1 All First Homes shall be constructed to no less than the standard applied to the Market Dwellings.

5. DELIVERY MECHANISM

- 5.1 The First Homes shall be marketed for sale and shall only be sold (whether on a first or any subsequent sale) as First Homes to a person or person(s) meeting
 - 5.1.1 the Eligibility Criteria (National); and
 - 5.1.2 the Eligibility Criteria (Local) (if any)
- 5.2 If after a First Home has been actively marketed for three (3) months (such period to expire no earlier than three (3) months prior to Practical Completion) it has not been possible to find a willing purchaser who meets the Eligibility Criteria (Local), paragraph 5.1.2 shall cease to apply.
- 5.3 Subject to paragraphs 5.6 to 5.10 no First Home shall be Disposed of (whether on a first or any subsequent sale) unless not less than 50% of the purchase price is funded by a first mortgage or other home purchase plan with a Mortgagee
- 5.4 No First Home shall be Disposed of (whether on a first or any subsequent sale) unless and until:
 - 5.4.1 The Council has been provided with evidence that:
 - 5.4.1.1 the intended purchaser meets the Eligibility Criteria (National) and unless paragraph 5.2 applies also meets the Eligibility Criteria (Local) (if any);
 - 5.4.1.2 the Dwelling is being Disposed of as a First Home at the Discount Market Price; and
 - 5.4.1.3 the transfer of the First Home includes:
 - a) a definition of the "Council" which shall be *South Holland District Council, Council Offices, Priory Road, Spalding, PE11 2XE*
 - b) a definition of "First Homes Provisions" in the following terms:
"means the provisions set out in paragraph 5.1 – 5.9 of Schedule 4 of the S106 Agreement a copy of which is attached hereto as the Annexure."
 - c) A definition of "S106 Agreement" means the agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) dated

made between (1) the Council and (2) David Ralph Hull, Margaret Jane Hull, Christopher Richard Hull, Peter David Hull and (3) Keston Fields Limited and (4) Paragon Development Finance Limited

- d) a provision that the Property is sold subject to and with the benefit of the First Homes Provisions and the Transferee acknowledges that it may not transfer or otherwise Dispose of the Property or any part of it other than in accordance with the First Homes Provisions

- e) a copy of the First Homes Provisions in an Annexure

5.4.2 The Council has issued the Compliance Certificate and the Council hereby covenants that it shall issue the Compliance Certificate within twenty eight (28) days of being provided with evidence sufficient to satisfy it that the requirements of paragraphs 5.3 and 5.4.1 have been met

5.5 On the first Disposal of each and every First Home to apply to the Chief Land Registrar pursuant to Rule 91 of and Schedule 4 to the Land Registration Rules 2003 for the entry on the register of the title of that First Home of the following restriction:

"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by [Local Authority] of [address] or their conveyancer that the provisions of clause XX (the First Homes provision) of the Transfer dated [Date] referred to in the Charges Register have been complied with or that they do not apply to the disposition"

5.6 The owner of a First Home (which for the purposes of this clause shall include the Owner and any First Homes Owner) may apply to the Council to Dispose of it other than as a First Home on the grounds that either:

- 5.6.1 the Dwelling has been actively marketed as a First Home for six (6) months in accordance with Clauses 5.1 and 5.2 of this Schedule 4

(and in the case of a first Disposal the six (6) months shall be calculated from a date no earlier than six (6) months prior to Practical Completion) and all reasonable endeavours have been made to Dispose of the Dwelling as a First Home but it has not been possible to Dispose of that Dwelling as a First Home in accordance with paragraphs 5.3 and 5.4.1 of Schedule 4; or

5.6.2 requiring the First Homes Owner to undertake active marketing for the period specified in paragraph 5.6.1 before being able to Dispose of the Dwelling other than as a First Home would be likely to cause the First Homes Owner undue hardship

5.7 Upon receipt of an application served in accordance with paragraph 5.6 the Council shall have the right (but shall not be required) to direct that the relevant Dwelling is disposed of to it at the Discount Market Price

5.8 If the Council is satisfied that either of the grounds in paragraph 5.6 above have been made out it shall confirm in writing within twenty eight (28) days of receipt of the written request made in accordance with paragraph 5.6 that the relevant Dwelling may be Disposed of:

5.8.1 to the Council at the Discount Market Price; or

5.8.2 (if the Council confirms that it does not wish to acquire the relevant Dwelling) other than as a First Home

and on the issue of that written confirmation the obligations in this Deed which apply to First Homes shall cease to bind and shall no longer affect that Dwelling apart from paragraph 5.10 which shall cease to apply on receipt of payment by the Council where the relevant Dwelling is disposed of other than as a First Home

5.9 If the Council does not wish to acquire the relevant Dwelling itself and is not satisfied that either of the grounds in paragraph 5.6 above have been made out then it shall within twenty eight (28) days of receipt of the written request made in accordance with paragraph 5.6 serve notice on the owner of the First Home setting out the further steps it requires the owner of the First Home to take to secure the Disposal of a Dwelling as a First Home and the timescale (which shall be no longer than six (6) months). If at the end of that period the owner of the First Home has been unable to Dispose of the Dwelling as a First Home they may serve notice on the Council in accordance with paragraph 6.6

following which the Council must within twenty eight (28) days issue confirmation in writing that the Dwelling may be Disposed of other than as a First Home

- 5.10 Where a Dwelling is Disposed of other than as a First Home or to the Council at the Discount Market Price in accordance with paragraphs 5.8 or 5.9 above the owner of the First Home shall pay to the Council forthwith upon receipt of the proceeds of sale the Additional First Homes Contribution
- 5.11 Upon receipt of the Additional First Homes Contribution the Council shall:
 - 5.11.1 within twenty eight (28) Working Days of such receipt provide a completed application to enable the removal of the restriction on the title set out in paragraph 5.5 where such restriction has previously been registered against the relevant title
 - 5.11.2 apply all monies received towards the provision of Affordable Housing
- 5.12 Any person who purchases a First Home free of the restrictions in this Schedule 4 and Schedule 3 (where relevant) pursuant to the provisions in paragraphs 5.9 and 5.10 shall not be liable to pay the Additional First Homes Contribution to the Council.

6. USE

Each First Home shall be used only as the main residence of the First Homes Owner and shall not be let, sub-let or otherwise Disposed of other than in accordance with the terms of this Deed **PROVIDED THAT** letting or sub-letting shall be permitted in accordance with paragraphs 6.1 – 6.4 below.

- 6.1 A First Homes Owner may let or sub-let their First Home for a fixed term of no more than two (2) years, provided that the First Homes Owner notifies the Council in writing before the First Home is Occupied by the prospective tenant or sub-tenant. A First Homes Owner may let or sub-let their First Home pursuant to this paragraph more than once during that First Homes Owner's period of ownership, but the aggregate of such lettings or sub-lettings during a First Homes Owner's period of ownership may not exceed two (2) years.
- 6.2 A First Homes Owner may let or sub-let their First Home for any period provided that the First Homes Owner notifies the Council and the Council consents in writing to the proposed letting or sub-letting. The Council

covenants not to unreasonably withhold or delay giving such consent and not to withhold such consent in any of circumstances (a) – (f) below:

- a) the First Homes Owner is required to live in accommodation other than their First Home for the duration of the letting or sub-letting for the purposes of employment;
- b) the First Homes Owner is an active Armed Services Member and is to be deployed elsewhere for the duration of the letting or sub-letting;
- c) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to escape a risk of harm;
- d) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of relationship breakdown;
- e) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of redundancy; and
- f) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to provide care or assistance to any person.

6.3 A letting or sub-letting permitted pursuant to paragraph 6.1 or 6.2 must be by way of a written lease or sub-lease (as the case may be) of the whole of the First Home on terms which expressly prohibit any further sub-letting.

6.4 Nothing in this paragraph 6 of Schedule 4 prevents a First Homes Owner from renting a room within their First Home or from renting their First Home as temporary sleeping accommodation provided that the First Home remains at all times the First Home Owner's main residence.

7. MORTGAGEE EXCLUSION

The obligations in paragraphs 1 – 6 of this Schedule 4 shall not apply to any Mortgagee or any receiver (including an administrative receiver appointed by such Mortgagee or any other person appointed under any security documentation to enable such Mortgagee to realise its security or any administrator (howsoever appointed (each a Receiver)) of any individual First Home or any persons or bodies deriving title through such Mortgagee or Receiver **PROVIDED THAT:**

- 7.1 such Mortgagee or Receiver shall first give written notice to the Council of its intention to Dispose of the relevant First Home; and

- 7.2 once notice of intention to Dispose of the relevant First Home has been given by the Mortgagee or Receiver to the Council the Mortgagee or Receiver shall be free to sell that First Home at its full First Home Market Value and subject only to paragraph 7.3
- 7.3 following the Disposal of the relevant First Home the Mortgagee or Receiver shall following the deduction of the amount due and outstanding under the relevant security documentation including all accrued principal monies, interest and reasonable costs and expenses pay to the Council the Additional First Homes Contribution.
- 7.4 following receipt of notification of the Disposal of the relevant First Home the Council shall:
 - 7.4.1 forthwith issue a completed application to the purchaser of that Dwelling to enable the removal of the restriction on the title set out in paragraph 5.5; and
 - 7.4.2 apply all such monies received towards the provision of Affordable Housing

8. THE COUNCIL'S ADMINISTRATIVE COSTS

- 8.1 The Owners shall pay to the Council the First Homes Costs within 10 Working Days of the Disposal of the initial and subsequent sale of each First Home by the Owners to a First Homes Owner

SCHEDULE 5

COUNCIL'S COVENANTS

The Council covenants with the Owners as follows:

1. EDUCATION CONTRIBUTION

- 1.1 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.
- 1.2 To pay the Education Contribution to the Education Authority upon receipt of a document from the Education Authority confirming that they will:
 - 1.2.1 apply the Education Contribution towards the Education Purpose, the need of which arises from the Development; and
 - 1.2.2 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.
- 1.3 to pay to the Owners any unspent monies received by them pursuant to paragraph 1.2.2 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.

2. HEALTH CARE FACILITIES CONTRIBUTION

- 2.1 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 HealthCare Facilities Contribution.
- 2.2 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:
 - 2.2.1 apply the Health Care Facilities Contribution for the purposes expanding in capacity through remodelling/changes to layout or extension to existing facilities within the South Lincolnshire Rural and Spalding Primary Care Networks (PCNs) at Munro Medical Centre, Beechfield Medical Centre and/or Gosberton Medical Centre. Alternatively the funding may where appropriate be used to support expansion in capacity at an alternative general practice site as

required to meet the local population health need, the need of which arises from the Development and for no other purposes whatsoever; and

- 2.2.2 return any unspent part of the Health Care Facilities Contribution to the Council after the expiry of 10 years from the date of receipt of the Health Care Facilities Contribution.
- 2.3 To pay to the Owners any unspent monies received by them pursuant to 2.2.2 within 28 days of receipt from the Health Care Provider or if such sum is not then paid to the Health Care Provider then to repay to the Owner within 10 years of receipt by the Council of the Health Care Facilities Contribution.

3. GENERAL

- 3.1 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.
- 3.2 At the written request of the Owners 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.

Annex A

Education Contribution Formula

Please note the contributions will be calculated by working out the total number of each type of house proposed within the development ranging from 2 bedroom houses to 4+ bedroom houses which will then be multiplied by the PPR as set out below:

Primary School Places

Relevant PPR (Pupil Productivity Ratio)

House Type (category)	Number of homes in each category	PPR	Total number of primary places
2 Bedroom		0.09	
3 Bedroom		0.17	
4+ Bedroom		0.33	
Grand Total			

Total number of Primary Places x **£18,007** (Primary Cost Multiplier*) = Contribution (£)
 Contribution x **2.00** (Local Multiplier **) = **Total Contribution to be paid for Primary Places**

Secondary School Places

Relevant PPR (Pupil Productivity Ratio)

House Type (category)	Number of homes in each category	PPR	Total number of primary places
2 Bedroom		0.09	
3 Bedroom		0.17	
4+ Bedroom		0.27	
Grand Total			

Total number of Secondary Places x **£25,003** (Secondary Cost Multiplier*) = Contribution (£)

Contribution x **2.00** (Local Multiplier **) = **Total Contribution to be paid for Secondary Places**

* Multipliers are reviewed and the most current multiplier should be used at the time of payment of the contribution

** to reflect the average build cost in Lincolnshire

NB: The number of pupils is determined as a whole number so any pupil numbers are rounded down to the nearest whole number

Annex B
HEALTHCARE CONTRIBUTION FORMULA

	Average list size per GP	Required m2	£ per m2	Total cost	£per person
GP team	1,800	170	2,300	£391,000	217
GP furnishings	1,800			£20,000	12
					229
Contingency requirements @ 20%					46
Total per resident					275
Total per dwelling (resident x 2.4)					660

The Table above shows the contribution formula which is based on the needs of a Primary Care Health Team and associated administration support. By applying average national list sizes to these groups and identifying the required area and furnishing, a total of £275 per patient is determined. This figure is multiplied by 2.4 (the average number of persons per dwelling for the South Holland area) to provide a funding per dwelling of £660

NB The figures may be reviewed and the most current figure published at the time of the payment of the contribution should be used

APPENDIX 1
PLAN

