

Dated

20th December 2022

2022

(1) SOUTH HOLLAND DISTRICT COUNCIL

and

(2) MINSTER PROPERTY GROUP (PINCHBECK) LIMITED

and

(3) ELIZABETH JILL WARRICK

PLANNING OBLIGATION BY DEED

Section 106 of the Town and Country Planning Act 1990

Relating to land east of Surfleet Road, Pinchbeck
Spalding

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

SHDC Reference: LD/ H14-0557-22

THIS AGREEMENT IS SIGNED IN COUNTERPARTS

Date

20th December

2022

BETWEEN

- (1) **SOUTH HOLLAND DISTRICT COUNCIL** of Council Offices, Priory Road, Spalding, PE11 2XE ("the Council"); and
- (2) **MINSTER PROPERTY GROUP (PINCHBECK) LTD** (company reg. no. 13512897) whose registered office is situated at 10-12 Barnes High Street, Barnes, London, United Kingdom, SW13 9LW ("the Developer"); and
- (3) **ELIZABETH JILL WARRICK** of Fenleigh Farm, Bertie Fen, Pinchbeck, Spalding, PE11 3SR ("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 the freehold owner of the Land free from encumbrances pursuant to the Assent dated 1 February 1994 between (1) The Personal Representatives of Mrs Dorothy Joan Benner and (2) Elizabeth Jill Warrick ("the Assent").
- (C) The Developer has also via his agents applied to the Council for outline planning permission for the Land under reference H14-0557-22 for the Development.
- (D) The Council resolved on 20 October 2022 to grant the Permission for subject to the Owner entering this Deed without which the Permission would be refused.
- (E) The parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.

(F) The parties agree that the planning obligations contained in this Deed are necessary to comply with the requirements of regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

NOW THIS DEED WITNESSES AS FOLLOWS:

1. DEFINITIONS

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

"2015 Act"	means the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016)
"Act"	means the Town and Country Planning Act 1990 as amended
"Application"	means the outline planning application submitted to the Council for the Development under reference H14-0557-22
"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 (as appropriate) 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
"County Council"	means Lincolnshire County Council
"Development"	means the development of 4 self-build Dwellings on the Land pursuant to the Permission
"District"	means the district of South Holland
"Dwelling"	means dwelling to be constructed pursuant to the Permission to be secured either as a "self-build housebuilding plot", or as a "custom housebuilding" plot for the purposes of section 1 (A1) and (A2) of the 2015 Act
"Education Authority"	means the Local Education Authority for the area within which the land is situated being the County Council
"Education Contribution"	means the Secondary Education Contribution for Secondary Education Contribution Purpose (as appropriate) serving the Development limited to a maximum contribution of twelve thousand four hundred and forty pounds and fifty pence ((£12,440.50) subject to Indexation
"Eligibility Criteria"	means any individual(s) and/or association of individual(s) (as the case may be) who are:

	(a) aged 18 and over UK, EEA or Swiss National Citizen
"Healthcare Contribution"	means a contribution of six hundred and sixty pounds (£660) per Dwelling for the Healthcare Contribution Purpose serving the Development
"Healthcare Contribution Purpose"	means the use of the Healthcare Contribution towards the expansion in capacity through remodelling/changes to layout or extension to existing facilities within the Market Deeping & Spalding Primary Care Network (PCN) at Munro Medical Centre, The Spalding GP Surgery and Beechfield Medical Centre. Alternatively the contribution may be used for the purpose, where appropriate, to support expansion in capacity at an alternative general practice site as required to the 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 Ministry of Housing, Communities & Local Government 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 11 of this Deed
"Interest"	means interest at the base rate of Lloyds Bank PLC plus 4%
"Interested Parties"	means the individuals and associations of individuals who are seeking to acquire a Serviced Plot of Land within the District and are registered with the Council on the Self-Build Register or any individual(s) and/or association of individual(s) (as the case may be) that acquire a Serviced Plot of Land and who meet the Eligibility Criteria (unless otherwise agreed in writing with the Council)
"Land"	means the land as described and edged red on the plan appended at Schedule 1 bearing reference 20050 0150 P01 against which this Deed may be enforced excluding any publically maintainable highway in respect of which the obligations of this Deed shall not apply nor be enforceable against
"Local Multiplier"	means the percentage multiplier of 2% to reflect the average build cost in Lincolnshire
"Occupation" and "Occupied"	means occupation for the purposes permitted by the 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.
"Permission"	means the outline planning permission to be granted for the Development pursuant to the Application 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 relevant Building Regulations shall be conclusive evidence that a Dwelling is practically complete.
"Secondary Education Contribution"	means the Secondary Pupil Product multiplied by the cost multiplier of twenty five thousand and three pounds (£25,003) multiplied by the Local Multiplier to which the Index shall be added
"Secondary Education Contribution Purpose"	means towards secondary education provision in the Spalding secondary planning area
"Secondary Pupil Product"	means the sum of the number of 2-bedroom Dwellings multiplied by 0.09 plus the number of 3-bedroom Dwellings multiplied by 0.17 plus the number of 4 plus-bedroom Dwellings multiplied by 0.27

"Self-Build Register"	means the register of individuals and associations of individuals who are seeking to acquire Serviced Plots of Land in the District for their own self-build and custom housebuilding which the Council is required to keep under section 1(1) of the 2015 Act
"Serviced Plot of Land"	means a plot of land on the Land for a Self-Build/Custom Build Dwelling that meets the definition in section 5(1) of the 2015 Act
"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 under this Deed are planning obligations pursuant to Section 106 of the Act and may be enforced by the Council.

4. CONDITIONALITY

4.1. This Deed and the obligations contained herein is conditional upon:

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

SAVE FOR the provisions of this clause and clauses, 8, 9, 10 and 14 to 18 and 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 provided that the obligations in Schedule 2 shall only bind and be enforceable against the Land and its respective owner(s).

6. THE COUNCIL'S COVENANTS

6.1. The Council covenants to comply with its obligations as set out herein and in Schedule 3.

7. NOTICES AND RECORD KEEPING

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

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

8. MISCELLANEOUS

8.1. 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.

8.2. On completion of this Deed, the Owner shall pay to the Council their reasonable legal costs that have been incurred in the negotiation and completion of this Deed.

8.3. No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.

8.4. This Deed shall be registerable as a local land charge by the Council.

8.5. 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.

8.6. 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.

8.7. This Deed shall cease to have effect (insofar only as it has not already been complied with) in respect of the Permission (as appropriate) if the 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 pursuant to the Permission (as appropriate).

8.8. 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 in respect of which such breach occurs) but without prejudice to liability for any subsisting breach arising in relation to that part prior to parting with such interest AND FOR THE AVOIDANCE OF DOUBT neither the reservation of any rights or the inclusion of any covenants or restrictions over the Land in any transfer of the Land (or any part or parts of the Land) shall constitute an interest for the purposes of this clause.

8.9. This Deed shall not be enforceable against:

8.9.1. owners occupiers or tenants of Dwellings nor against those deriving title from them;

8.9.2. 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;

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

8.10. 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.

8.11. 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 Permission) granted (whether or not on appeal) after the date of this Deed.

9. WAIVER

9.1. 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.

10. CHANGE OF OWNERSHIP

10.1. The Owner agrees with the Council to give the Council immediate written notice of any change in the ownership of any of its interest in the Land occurring before all the obligations under this Deed have been discharged such notice to give details of the transferees name and address together with details of the part of the Land disposed of PROVIDED THAT this shall not apply in relation to the sale or lease of a single Dwelling

11. INDEXATION

11.1. 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 2 and 3 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.

12. INTEREST

12.1. 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.

13. VAT

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

14. DISPUTE RESOLUTION

14.1. 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.

14.2. 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.

14.3. 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.

14.4. 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.

14.5. 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.

14.6. 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.

15. SECTION 73 APPLICATIONS

15.1. 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 that 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.

16. JURISDICTION

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

So much of the Land as is contained within the Assent.

17. EXECUTION AND DELIVERY

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

18. COUNTERPARTS

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

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

14.3. Any person appointed pursuant to this clause shall be deemed to have accepted the terms and conditions of the Deed and shall be bound by the law of England.

14.4. The Deed shall be deemed to have been executed and delivered on the date of the last of the above clauses to be signed by the parties.

14.5. Any person appointed pursuant to this clause shall be deemed to have accepted the terms and conditions of the Deed and shall be bound by the law of England.

14.6. The Deed shall be deemed to have been executed and delivered on the date of the last of the above clauses to be signed by the parties.

15. APPLICATION OF THE DEED

15.1. It is agreed between the parties that where the Deed is applied to a particular case, the Deed shall be deemed to have been executed and delivered on the date of the last of the above clauses to be signed by the parties.

16. JURISDICTION

SCHEDULE 1

Land Plan

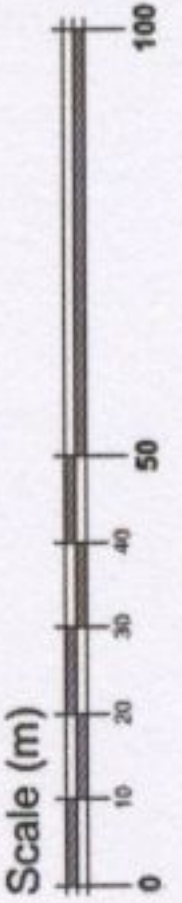
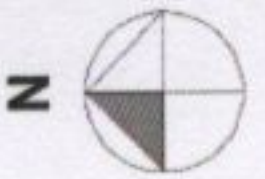
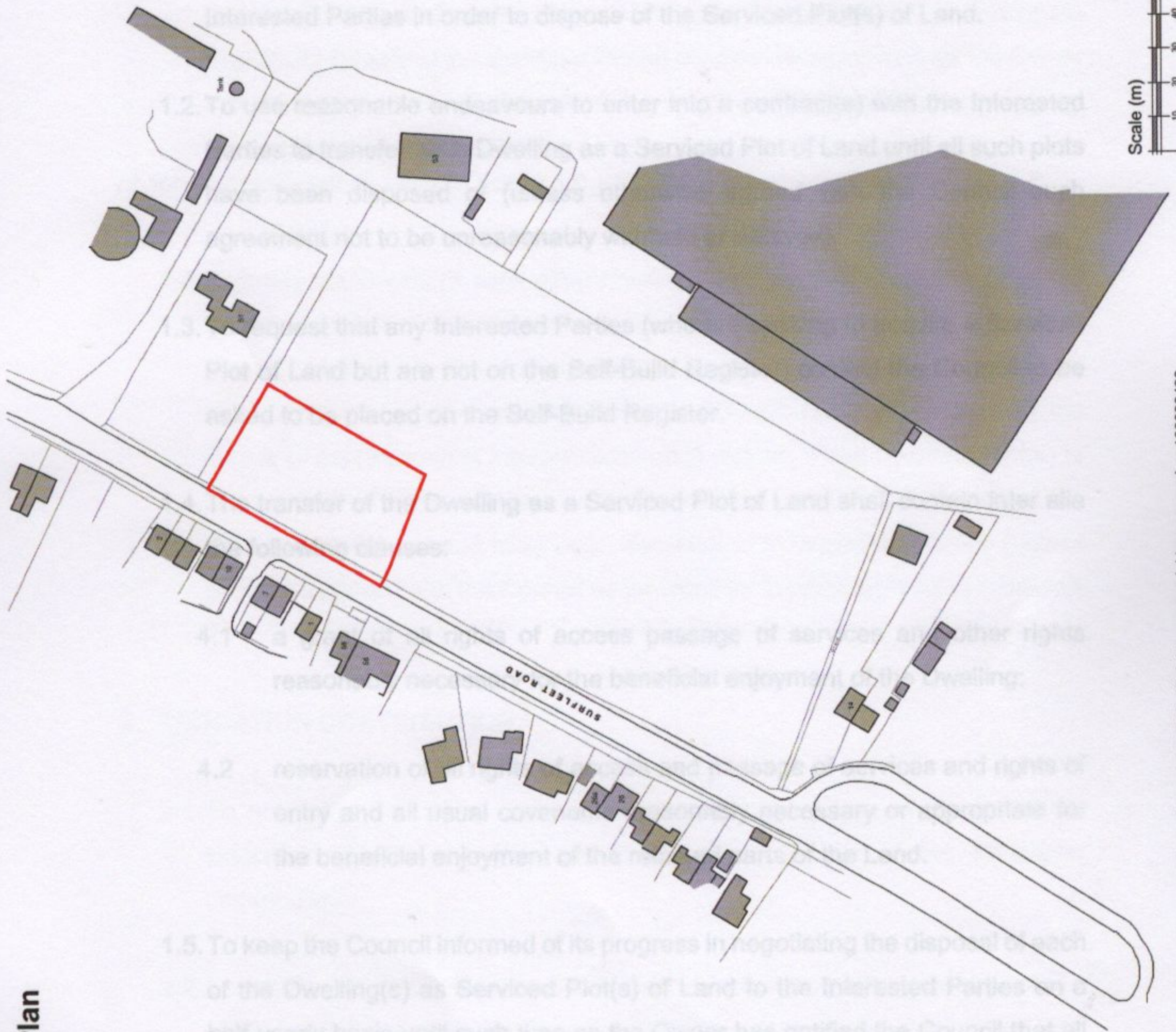
So much of the Land as is contained within the Assent.



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Site Location Plan

Scale: 1:1250



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MINSTER
PROPERTY GROUP

JEPA
ARCHITECTURE & PLANNING
11-13 High Street
Preston, Lancashire PR1 1AB

Minster Property Group Ltd.
Proposed Residential Development at
Land off Sunfleet Road,
Preston

Site Location Plan
Planning
1:1250
JAG
20050 0150 P01

SCHEDULE 2

THE OWNER'S COVENANTS

The Owner covenants with the Council in respect of the Permission as follows:

1. DWELLINGS

1.1. To provide to the Council within 14 Working Days of the grant of the Permission the contact details of the person who will liaise on behalf of the Owner with the Interested Parties in order to dispose of the Serviced Plot(s) of Land.

1.2. To be responsible and liable to enter into a contract with the Interested Parties to dispose of the Serviced Plot(s) of Land until all such plots have been disposed of (whether or not the plots are disposed of by the Owner or any other person) and to be bound by the terms of such contract.

1.3. To ensure that any Interested Parties to the disposal of the Serviced Plot(s) of Land but are not on the Self-Build Register are placed on the Self-Build Register.

1.4. To ensure that the transfer of the Dwelling as a Serviced Plot of Land shall be subject to the following conditions:

4.1. The transfer of the Dwelling shall be subject to the following conditions:

4.2. reservation of the right of access passage of services and other rights of entry and all usual covenants and conditions necessary or appropriate for the beneficial enjoyment of the land and the Dwelling.

1.5. To keep the Council informed of its progress in negotiating the disposal of each of the Dwelling(s) as Serviced Plot(s) of Land to the Interested Parties on a half-yearly basis until such time as the Owner has notified the Council that all of the Serviced Plot(s) of Land have been disposed of to Interested Parties (unless otherwise agreed in writing).

SCHEDULE 2

THE OWNER'S COVENANTS

The Owner covenants with the Council in respect of the Permission as follows:

1. DWELLINGS

- 1.1. To provide to the Council within 14 Working Days of the grant of the Permission the contact details of the person who will liaise on behalf of the Owner with the Interested Parties in order to dispose of the Serviced Plot(s) of Land.
- 1.2. To use reasonable endeavours to enter into a contract(s) with the Interested Parties to transfer each Dwelling as a Serviced Plot of Land until all such plots have been disposed of (unless otherwise agreed with the Council such agreement not to be unreasonably withheld or delayed).
- 1.3. To request that any Interested Parties (who are seeking to acquire a Serviced Plot of Land but are not on the Self-Build Register) contact the Council to be asked to be placed on the Self-Build Register.
- 1.4. The transfer of the Dwelling as a Serviced Plot of Land shall contain inter alia the following clauses:
 - 4.1 a grant of all rights of access passage of services and other rights reasonably necessary for the beneficial enjoyment of the Dwelling;
 - 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.
- 1.5. To keep the Council informed of its progress in negotiating the disposal of each of the Dwelling(s) as Serviced Plot(s) of Land to the Interested Parties on a half-yearly basis until such time as the Owner has notified the Council that all of the Serviced Plot(s) of Land have been disposed of to Interested Parties (unless otherwise agreed in writing).

- 1.6. Where contracts are exchanged with a purchaser of a Dwelling to supply a certified copy of such contract to the Council within fourteen (14) Working Days of such contract being completed **PROVIDED THAT** the copy shall redact any commercially sensitive information.

2. HEALTHCARE CONTRIBUTION

- 2.1. To pay the Healthcare Contribution for each Dwelling to the Council prior to Occupation of that Dwelling.

3. EDUCATION CONTRIBUTION

- 3.1. To pay the Education Contribution for each Dwelling to the Council prior to Occupation of that Dwelling.

SCHEDULE 3

COUNCIL'S COVENANTS

The Council covenants with the Owner as follows:

1. DWELLINGS

1.1. Within 2 (two) months of the grant of the Permission to contact and inform Interested Parties on the Self-Build Register of the existence of the Permission and the Council shall continue to contact and inform Interested Parties of the availability for sale of the Serviced Plot(s) of Land until such time as the Owner has notified the Council that all of the Serviced Plot(s) of Land have been disposed of to Interested Parties (unless otherwise agreed with the Council as provided for in paragraph 1.2 of Schedule 2).

1.2. To notify the Owner or such other nominated person of the contact details of the Interested Parties that have expressed an interest in acquiring a Serviced Plot of Land on the Development within twenty eight (28) Working Days of receipt of the expression of interest and the Council shall continue to notify the Owner of expressions of interest received in respect of the Serviced Plot(s) of Land until such time as the Owner has notified the Council that all of the Serviced Plot(s) of Land have been disposed of to Interested Parties (unless otherwise agreed with the Council as provided for in paragraph 1.2 of Schedule 2).

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 binding written commitment from the Education Authority confirming that they will:

2.2.1. apply the Education Contribution towards the Primary Education Purpose, Secondary Education Purpose and the Sixth-Form Education Purpose, the need of which arises from the Development (as appropriate) 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 final Education Contribution.

2.3. To pay to the person who made the payment 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 person who made the payment within 10 years of receipt by the Council of the final Education Contribution.

3. HEALTHCARE CONTRIBUTION

3.1. To notify the Health Care Provider within 10 working days of receipt of the Healthcare Contribution that the Council is in receipt of the Healthcare Contribution.

3.2. To pay the Healthcare Contribution to the Health Care Provider upon receipt of a binding written commitment from the Health Care Provider that they will:

3.2.1. apply the Healthcare Contribution for the purposes of Healthcare Purpose, the need of which arises from the Development (as appropriate) and for no other purposes whatsoever; and

3.2.2. return any unspent part of the Healthcare Contribution to the Council after the expiry of 10 years from the date of receipt of the final Healthcare Contribution.

3.3. To pay to the person who made the payment any unspent monies received by them pursuant to 3.2.2 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 person who made the payment within 10 years of receipt by the Council of the final Healthcare Contribution.

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 without unreasonable delay 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.

The **COMMON SEAL** of **SOUTH
HOLLAND DISTRICT COUNCIL**

was hereunto affixed
in the presence of:-



Authorised Signatory



EXECUTED AS A DEED by
ELIZABETH JILL WARRICK
in the presence of:

Witness:

Witness Name:

Witness Address:

Witness Occupation:

EXECUTED and DELIVERED as a
DEED by **MINSTER PROPERTY
GROUP (PINCHBECK) LIMITED**
acting by a Director in the
presence of:

.....
Signature of Director

Signature of Witness:

Name of Witness (block capitals):

Witness Address:

Witness Occupation:

EXECUTED AS A DEED by)

ELIZABETH JILL WARRICK)

in the presence of:)

Witness:

Witness Name:

Witness Address:

Witness Occupation: