

Dated

14th March

2022

- (1) SOUTH HOLLAND DISTRICT COUNCIL of Council Offices, Priory Road, Spalding, PE11 2XE (the Council); and
- (2) PETER MICHAEL HEANES of Havencombe, 147 Chapelgate, Sutton St James, Spalding, PE12 0ES (the Owner)
- (1) South Holland District Council**

and

INTRODUCTION

- (A) The Council is the local planning authority for the area within which the Properties are situated and is the local planning authority by whom a planning obligation is enforceable.
- (B) The Owner is the freehold owner of the Properties registered under title number LL307168.
- (C) On 20 January 2009 Michael Clifton Heanes, Ruby Heanes and Peter Michael Heanes entered into the Existing Obligation with the Council to secure the provision of 2 rented dwellings at Baulkins Drove, Sutton St James, Spalding.

DEED OF RELEASE**Section 106 of the Town and Country Planning Act 1990**

- (D) The Owner has submitted a request to the Council for the Existing Obligation to be discharged in relation to the Properties. The Council is willing to release and discharge the Properties from the Existing Obligation in accordance with the covenants and conditions contained or referred to in this Deed.

**Relating to a Section 106 Agreement for the
provision of 2 rented dwellings at
Baulkins Drove, Sutton St James, Spalding
(known as 38 & 40 Baulkins Drove)**

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
"Deed"	means this Deed
"Existing Obligation"	means the planning obligation dated 20 January 2009 in respect of planning application H20-0344-08

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

SHDC Reference: LD/H06-0626-21

Date

14th March

2022

BETWEEN

- (1) **SOUTH HOLLAND DISTRICT COUNCIL** of Council Offices, Priory Road, Spalding, PE11 2XE ("the Council"); and
- (2) **PETER MICHAEL HEANES** of Havencombe, 147 Chapelgate, Sutton St James, Spalding, PE12 0EF ("the Owner");

INTRODUCTION

- (A) The Council is the local planning authority for the purposes of the Act for the area within which the Properties are situated and is the local planning authority by who a planning obligation is enforceable.
- (B) The Owner is the freehold owner of the Properties registered under title number LL307168.
- (C) On 20 January 2009 Michael Clifton Heanes, Ruby Heanes and Peter Michael Heanes entered into the Existing Obligation with the Council to secure the provision of 2 rented dwellings
- (D) The Owner has submitted a request to the Council that the Existing Obligation be discharged in relation to the Properties. The Council is willing to release and discharge the Properties from the Existing Obligation in accordance with the covenants and conditions contained or referred to in this Deed.

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
"Deed"	means this deed
"Existing Obligation"	means the planning obligation dated 20 th January 2009 in respect of planning application H20-0344-08

"Market Value"	means market value with vacant possession obtainable on an arm's length transaction without reference to any restrictions imposed in the Existing Obligation
"Plan A"	means the plan attached to this Deed and marked "Plan A"
"Plan B"	means the plan attached to this Deed and marked "Plan B"
"Property A"	means the property and land being 38 Baulkins Drove and registered at HM Land Registry under title number LL307168 and shown for identification purposes edged green on Plan A
"Property B"	means the property and land being 40 Baulkins Drove and registered at HM Land Registry under title number LL307168 and shown shown for identification purposes edged blue on Plan B
"Properties"	means the properties and land being 38 and 40 Baulkins Drove and registered at HM Land Registry under title number LL307168

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 Properties 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.

4. THE OWNER'S COVENANTS

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

5. THE COUNCIL'S COVENANTS

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

6. THE COUNCIL'S COSTS

6.1 The Owners shall pay to the Council on or before completion of this Deed the Council's reasonable legal costs together with all disbursements (if any) incurred in connection with the preparation, completion and registration of this Deed.

7. MISCELLANEOUS

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

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

- 7.3 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. HM LAND REGISTRY

- 8.1 The Council consents to the registration of this Deed and the removal of any entries registered against HM Land Registry title number LL307168 in respect of the Existing Obligation.

9. DISPUTE RESOLUTION

- 9.1 Any dispute, controversy or claim arising out of or relating to this Deed, including any question regarding its breach, existence, validity or termination or the legal relationships established by this Deed, shall be finally resolved by arbitration in accordance with the Arbitration Act 1996. It is agreed that:

- (a) the tribunal shall consist of one arbitrator appointed jointly by the parties;
- (b) in default of the parties' agreement as to the arbitrator, the arbitrator shall be appointed on either party's request by the President for the time being of the Law Society;
- (c) the costs of the arbitration shall be payable by the parties in the proportions determined by the arbitrator (or if the arbitrator makes no direction, then equally).

10. JURISDICTION

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

11. EXECUTION AND DELIVERY

- 10.1 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.

FIRST SCHEDULE
THE OWNER'S OBLIGATIONS

The Owner covenants with the Council as follows:

1. Prior to the Owner signing any contract for the disposition of the freehold interest of the Properties after the date of this Deed the Owner shall appoint an independent valuer being a chartered surveyor with no less than 3 years' post qualification experience and with at least 3 years' experience of the local market to provide a written determination of the Market Value of the Properties as at the date of such determination
2. Immediately upon receipt of the written determination the Owner shall provide to the Council a full copy of the written determination together with evidence that the appointed valuer meets the qualification and experience requirements in paragraph 1 above
3. If the Council disputes the Market Value the Owner acknowledges that any such dispute may be referred by the Council to an independent expert (not being the valuer appointed by the Owner) agreed by the Owner and the Council (and in default of such agreement appointed by the President of the Royal Institution of Chartered Surveyors) being a chartered surveyor with no less than 3 years' post qualification experience and having at least 3 years' experience of the local market who shall act as an expert and not as an arbitrator and whose fees shall be paid by the Council
4. To pay to the Council on or before the date of completion of the first disposition of the freehold interest in the Property A and Property B following the date of this Deed a contribution ("the Affordable Housing Contribution") calculated at twenty percent (20%) of the Market Value of the Properties as determined by the valuer under paragraph 1 or the expert under paragraph 3
5. To pay the Affordable Housing Contribution to the Council by Bank Automated Clearing Service (BACS)

SECOND SCHEDULE COUNCIL'S COVENANTS

The Council covenants with the Owner to:

1. Immediately upon the Council issuing written notice to the Owner that the Affordable Housing Contribution required by paragraphs 4 and 5 of the First Schedule has been received by the Council the planning obligations set out in the Existing Obligation shall be released and discharged insofar as it relates to Property A and Property B.
2. Remove all references to the Existing Obligation from the register of local land charges in respect of the Property A and Property B.

At the presence of

Name of Witness

Signature of witness

Address

Occupation

Witness Name
Witness Address
Witness Occupation
Witness Signature

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

was hereunto affixed
in the presence of:-



Authorised Signatory

A handwritten signature in black ink, likely belonging to the Authorised Signatory.

SIGNED as a **DEED** by

A handwritten signature in black ink, likely belonging to Peter Michael Heanes.

PETER MICHAEL HEANES

in the presence of:

Name of Witness

Signature of witness

A handwritten signature in black ink, likely belonging to the witness.

Address

Occupation

RICHARD MARK HILL
Abbots Manor
10 Spalding Road
Holbeach Lincs PE12 7LP
Solicitor

Saulkins Drove

Scale: 1,250

PLAN A

[Handwritten signature]

[Handwritten signature]



0 25 50 75 m

10-2-2022

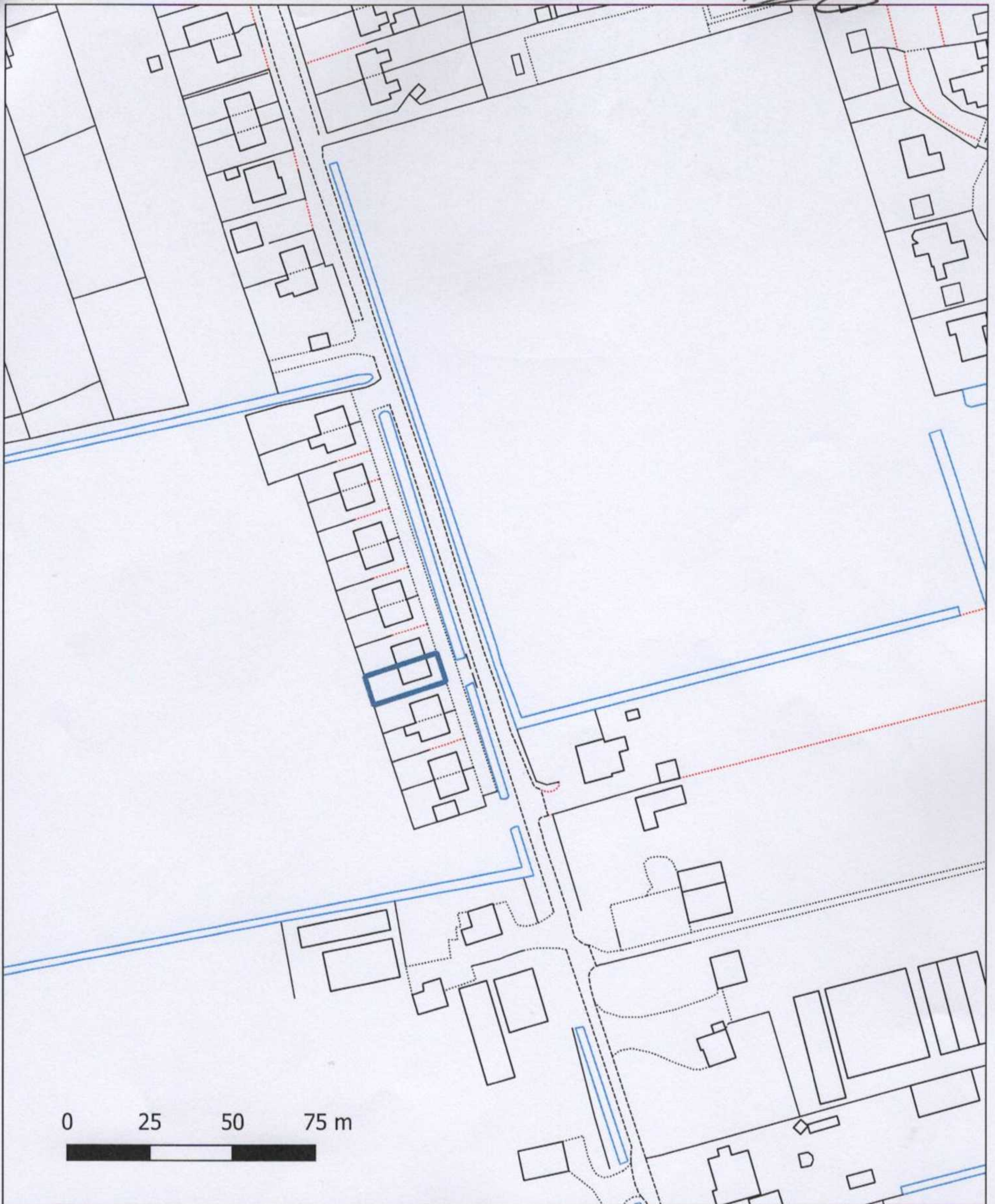
PLAN B

RM

[Signature]

Baulkins Drove

Scale: 1,250



10-2-2022