

Dated 28th March

2024

**Deed of Agreement made pursuant to Section 106 of the Town and Country
Planning Act 1990**

**Land west of the Dearne Valley Parkway, and south of Kestrel Way, Birdwell,
Barnsley**

BARNSLEY METROPOLITAN BOROUGH COUNCIL

and

CARNELL MANAGEMENT SERVICES LIMITED

DATE 28th March 2024

PARTIES

- (1) **BARNSELY METROPOLITAN BOROUGH COUNCIL** of Town Hall Barnsley South Yorkshire S70 2TA (the Council).
- (2) **CARNELL MANAGEMENT SERVICES LIMITED** (Co. Regn. No 03880158) whose registered address is 3370 Century Way, Thorpe Park, Leeds LS15 8ZB (the Owner).

BACKGROUND

- (A) By virtue of section 1 of the 1990 Act the Council is the local planning authority for the area in which the Site is situated and by whom the Planning Obligations hereby created are enforceable.
- (B) The Owner is the proprietor of the freehold title to that part of the Site which is registered at the Land Registry under Title Number SYK688432
- (C) The Owner has submitted the Application to the Council for planning permission for the Development.
- (D) The Council has resolved to grant the Planning Permission subject to the prior completion of this Deed.
- (E) The Owner by entering into this Deed do so to create planning obligations in respect of the Site pursuant to section 106 of the 1990 Act and agree to be bound by and to observe and perform the covenants agreements conditions and stipulations hereinafter contained.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 In this Deed the following expressions shall have the following meanings:

1990 Act	the Town and Country Planning Act 1990.
Agreed Price	means the sum of £25,000.00 (twenty five thousand pounds) per required biodiversity unit;
Application	the application for planning permission for the Development which was submitted to the Council on behalf of the Owner and which was given reference number 2023/0815.
Chargee	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 Units or any persons or bodies deriving title through such mortgagee or chargee or Receiver.

Commencement of Development	the date upon which the Development is begun by the carrying out on the Site pursuant to the Planning Permission of a material operation as specified in section 56(4) of the 1990 Act SAVE THAT for the purposes of this Deed the term "material operation" shall not include any operations undertaken in connection with or associated with demolition, site clearance, archaeological investigations, investigations for the purpose of assessing ground conditions, remediation works, environmental investigation, site and soil surveys, diversion and laying of services, erection of a contractor's work compound, erection of a site office, erection of fencing to the site boundary and/or the temporary display of site notices or advertisements and Commence Development shall be construed accordingly.
Default Interest Rate	4% per annum above the base rate from time to time of the Bank of England.
Development	Construction of 7no commercial industrial units in 6no. blocks (Use classes E(g)(ii), E(g)(iii), B2 and B8) and associated external works,
Offsite Biodiversity Net Gain Contribution	the sum of £535,750 (five hundred and thirty five thousand seven hundred and fifty pounds) calculated at the Agreed Price to be paid by the Owner to the Council and to be used by the Council towards the provision of and/or improvements to works and projects securing the Offsite Required Biodiversity Gain
Plan	the plan appended hereto at Schedule 1.
Planning Obligations	the obligations, conditions and stipulations set out at Schedules 3 and 4 of this Deed and the term Planning Obligation shall be construed accordingly.
Planning Permission	a planning permission permitting the Development granted by Council pursuant to the Application substantially in accordance with the description of development and list of conditions set out at Schedule 2 of this Deed.
Offsite Required Biodiversity Gain	means 21.43 biodiversity units (based on the Development), calculated in accordance with the DEFRA Biodiversity Metric v3.1
Site	all that Site known as Land west of the Dearne Valley Parkway, and south of Kestrel Way, Birdwell, Barnsley shown edged red on the Plan.
Statutory Undertaker	any company corporation board or authority at the date of this Deed authorised by statute to carry on an undertaking for the supply of telephone or television communications, electricity, gas, water, or

drainage and any authorised successor to any such undertaking.

Valuer a chartered surveyor (being a member of the Royal Institution of Chartered Surveyors) appointed by agreement between the Owner and the Council to act as an independent expert in the determination of the Open Market Value where required in accordance with this Agreement.

Working Day any day from Monday to Friday inclusive which is not Christmas Day, Boxing Day, Good Friday, Easter Monday or a Statutory Bank Holiday.

- 1.2 Reference in this Deed to any enactment shall be construed as a reference to that enactment as amended extended or re-enacted or repealed by or under any other enactment and shall include all instruments orders and regulations for the time being made, issued or given under that enactment.
- 1.3 Words importing one gender shall be construed as importing any gender and words importing the singular shall be construed as importing the plural and vice versa.
- 1.4 Any words denoting natural persons shall include legal persons and vice versa.
- 1.5 References to clauses paragraphs and schedules are references to clauses paragraphs and schedules to this Deed.
- 1.6 The expression Owner shall include their successors in title and assigns.
- 1.7 The expression Council shall include any successor authority to its statutory functions under the 1990 Act.
- 1.8 Where a party includes more than one person any obligations of that party shall be joint and several.
- 1.9 Clause headings shall not affect the construction of this Deed.
- 1.10 Any phrase introduced by the terms 'including' 'include' 'in particular' or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2. STATUTORY BASIS

- 2.1 This Deed secures planning obligations made pursuant to section 106 of the 1990 Act and is enforceable pursuant to section 106(3) of the 1990 Act against the Owner and any person claiming or deriving title to the Site (or any part or parts thereof) through or under the Owner as if that person had been an original covenanting party to this Deed.
- 2.2 This Deed is enforceable by the Council as local planning authority for the purposes of the 1990 Act.
- 2.3 To the extent that the covenants, restrictions and requirements in this Agreement are not made under section 106 of the 1990 Act they are made under section 1 of the Localism Act 2011 and section 111 of the Local Government Act 1972 and all other powers so enabling.

3. CONDITIONS PRECEDENT

- 3.1 This Deed is conditional upon and does not become effective unless and until the Planning Permission is granted.
- 3.2 Clause 4 of this Deed is further conditional upon and does not become effective unless and until the Commencement of Development.

4. COVENANTS & DECLARATIONS

- 4.1 The Owner covenants with the Council to comply with the Planning Obligations in this Deed at Schedule 3.
- 4.2 The Council covenants with the Owner to comply with the obligations in this Deed at Schedule 4.
- 4.3 The Owner hereby acknowledges that its interest in the Site is bound by the covenants, restrictions and obligations in this Deed.

5. EXCLUSIONS AND RELEASE

- 5.1 No party shall be bound by the terms of this Deed or be liable for the breach of any Planning Obligation:
 - 5.1.1 after it has parted with its interest in the Site or the part in respect of which such breach occurs (but without prejudice to liability for any subsisting breach prior to parting with such interest);
 - 5.1.2 if it is a Statutory Undertaker which has an interest in any part of the Site for the purposes of its undertaking; or
- 5.2 If the Planning Permission:
 - 5.2.1 expires before the Commencement of Development; or
 - 5.2.2 is at any time revoked or modified (without the consent of the Owner) pursuant to Part IV of the 1990 Act

this Deed shall determine and cease to have effect.

- 5.3 No obligation in this Deed shall be binding on or enforceable against any chargee or mortgagee from time to time who shall have the benefit of a charge or mortgage of or over any part of the Site (or any receiver appointed by such chargee or mortgagee) unless and until such chargee, mortgagee or receiver (or any person appointed by them) has taken or entered into possession of the Site or part thereof in which case it shall also be bound by the covenants, restrictions and obligations in this Deed as if it were a person deriving title from an original covenanting party.

6. REGISTRATION

- 6.1 This Deed is a local land charge and shall be registered as such by the Council.

6.2 Following either:

6.2.1 the performance and satisfaction of all the Planning Obligations contained in this Deed; or

6.2.2 the determination of this Deed in accordance with Clause 5.2;

the Council shall upon the written request of the Owner as soon as reasonably practicable effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.

7. NON-FETTER AND WAIVER

7.1 Nothing in this Deed restricts or is intended to restrict the proper exercise at any time by the Council of any of its statutory powers, functions or discretions.

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

7.3 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted before or after the date of this Deed.

8. SECTION 73 OF THE 1990 ACT

If an application is made under section 73 of the 1990 Act in respect of the Planning Permission to carry out the Development without complying with a condition or conditions to which the Planning Permission is subject (a S73 Application) then in the event that the Council is minded to approve such S73 Application:

(a) if the Council considers that the Planning Obligations contained in this Deed are both sufficient and necessary to make the development proposed by such S73 Application acceptable in planning terms then references to Planning Permission in this Deed shall be deemed to also be references to that new planning permission and the Parties agree that this Deed shall apply to and remain in full force in respect of both that new planning permission and the Planning Permission without the need for a further deed to be made pursuant to section 106 of the 1990 Act; or

(b) if the Council considers that additional or modified planning obligations are necessary to make the development proposed by such S73 Application acceptable in planning terms then for the avoidance of doubt nothing in this Clause 8 shall fetter the Council's ability in the exercise of its proper planning judgment to require the completion of such further deed made pursuant to section 106 of the 1990 Act as it considers necessary and in such case Clause 8(a) shall be disregarded.

9. INTEREST

If any sum or amount has not been paid to the Council by the date it is due then the sum payable shall attract interest on that sum or amount at the Default Interest Rate and such interest shall accrue on a daily basis for the period from the due date to and including the actual date of payment.

10. VAT

All payments given in accordance with this Deed shall be exclusive of any value added tax properly payable.

11. SEVERANCE

If any provision in this Deed shall in whole or in part be held to be invalid, illegal or unenforceable under any enactment or rule of law such provisions shall to the extent required be severed from this Deed and shall not affect the validity or enforceability of the remaining provisions of this Deed.

12. CHANGE OF OWNERSHIP

The Owner agrees with the Council to give the Council written notice within 10 Working Days of any change in proprietorship of any of its interests in the Site occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site purchased by reference to a plan notification

12.1 Any notice, request, demand or other written communication to be given or served under this Deed must be in writing and must be:

12.1.1 delivered by hand; or

12.1.2 sent by pre-paid first class post or other next working day delivery service.

12.2 Any notice, request, demand or other written communication to be given or served under this Deed must be sent to the relevant party as follows:

12.2.1 to the Head of Planning and Building Control at Barnsley Metropolitan Borough

at Council, Westgate Plaza One, PO Box 600, Barnsley, S70 9EZ,
quoting the Application reference number 2021/1661;

12.2.2 to the Owner at the address given at the start of this deed

or as otherwise specified by the relevant party by notice in writing to each other party

12.3 Any notice, request, demand or other written communication given or served in accordance with Clause 13.1 or Clause 13.2 shall be deemed to have been received:

- 12.3.1 if delivered by hand, on signature of a delivery receipt provided that if delivery occurs after 5.00 pm on a Working Day, or on a day which is not a Working Day, the notice shall be deemed to have been received at 9.00 am on the next Working Day; or
- 12.3.2 if sent by pre-paid first class post or other next working day delivery service, on the Working Day after posting.
- 12.4 A notice, request, demand or other written communication given under this deed shall not be validly given if sent by e-mail.
- 12.5 This Clause 12 does not apply to the service of any proceedings or other documents in any legal action.

13. DISPUTE RESOLUTION

- 13.1 Where the agreement, approval, consent or expression of satisfaction is required by any party under the terms of this Deed such agreement, approval, consent or expression of satisfaction shall not be unreasonably withheld or delayed.
- 13.2 Any dispute or disagreement arising under this Deed which has been identified by notice in writing by one party to the other(s) and which has not been resolved within 20 Working Days (or such lesser period as may be agreed) of the date of receipt by the other party(s) of such written notice may be referred at the instance of any party for determination by an Expert whose decision (except in cases of manifest error or fraud) shall be final and binding on the parties.
- 13.3 The following provisions and terms of appointment shall apply to such disputes or disagreements:-
 - 13.3.1 the Expert shall be agreed between the parties or, in default of agreement within 10 Working Days of receipt of the notice in Clause 14.2 above, shall be appointed or identified by the following persons:
 - (a) in the case of disputes relating to land or valuation matters the President of the Royal Institution of Chartered Surveyors;
 - (b) in the case of disputes relating to planning or design matters the President of the Royal Town Planning Institute; or
 - (c) in the case of any other dispute the President of the Bar Council.
 - 13.3.2 the Expert shall act as an expert and not as an arbitrator
 - 13.3.3 the Expert shall be required to give notice of their appointment to each of the parties (Expert's Notice) and thereafter:
 - (a) the persons calling for the determination shall make written submissions to the Expert and the other parties within 20 Working Days of receipt of the Expert's Notice;

- (b) the other parties shall have 20 Working Days from the receipt of such written submission (or such extended period as the Expert shall allow) to respond;
- (c) the Expert shall disregard any representations made out of this time; and
- (d) the Expert may request further information or documentation and the parties shall comply with any requests by the Expert for further information or documentation within a reasonable time;
- (e) to the extent not provided for by this clause the Expert may in their reasonable discretion determine such other procedures to assist with the conduct of the determination as they consider just or appropriate including (to the extent considered necessary) instructing professional advisers to assist them in reaching their determination

13.3.4 the Expert shall make his decision within 20 Working Days of the close of the period for submissions of written representations;

13.3.5 the Expert's decision shall be in writing and shall give reasons for the decision; and

13.3.6 each party shall bear its own costs and the Expert's costs will be payable in the determination of the Expert.

13.4 If the Expert dies or becomes unwilling or incapable of acting, or does not deliver the decision within the time required by this clause then:

13.4.1 either party may apply to the relevant body as per Clause 14.3.1 to discharge the Expert and appoint a replacement Expert with the required expertise; and

13.4.2 Clause 14.3 shall apply to the new Expert as if they were the first Expert appointed.

14. THIRD PARTY RIGHTS

No person who is not a party to this Deed may enforce any terms hereof pursuant to the Contracts (Rights of Third Parties) Act 1999 PROVIDED THAT this clause shall not affect any right of action of any person to whom this Deed has been lawfully assigned or becomes vested in law including successors in title to the Site.

15. COSTS

The Owner shall on (or prior to) the date hereof pay the reasonable legal costs of the Council incurred in the preparation, negotiation and completion of this Deed in the sum of £1500.

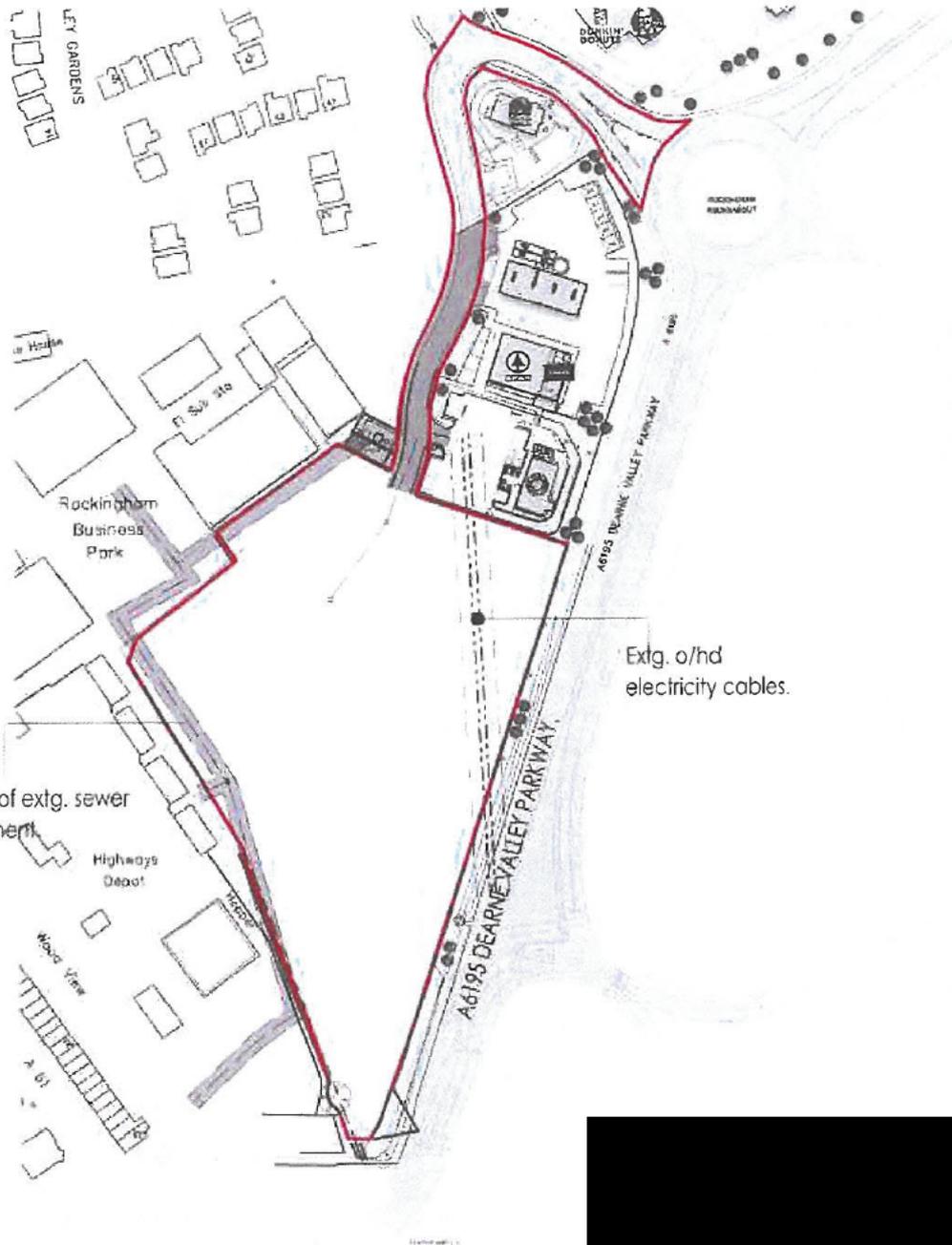
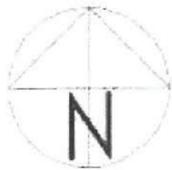
16. JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

SCHEDULE 1

The Plan



Note. This drawing is based on the topographical survey by Ramowski Clarke Ltd, ref. 3508-02-b, dated 05/23

This drawing is subject to Client & Planning approval.

Site boundary line to be confirmed.

In accordance with CDW Regulations 7, 11 and 16, any significant risks (as defined in the Approved Code of Practice paragraph 133) relating to the design features shown on this drawing have been identified and are annotated thus:

No significant risks have been identified

Significant risks have been identified - refer to notes on drawing for information on residual risks and any control measures to be employed.

Sign on the ground (Designated Risk Assessment) shown but not on this plan.

Rev	Description	By	Date
P1	Issued for Information.	SW	02/22
P2	Plan updated.	SW	06/22
P3	Plan & red line updated.	SW	07/23

Project Proposed Development, Rockingham.			
Client Carnell Management Services Ltd.			
Title Red Line Plan.			
Drawing Status PLANNING.			
Project Ref	Drawn	Date	Scale
12215	SW	Feb. '22	1:2500 @AA
Drawing/Document Reference			
12215 - WMS - XX - XX - DR - A - 10004 - S8 - P3			

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SCHEDULE 2

Draft Description of development, conditions and informatives

**Development; Construction of 7 no commercial industrial units in 6no. blocks
(Use classes E(g)(ii), E(g)(iii), B2 and B8) and associated external works.**

Approved Plans- insert in Plans Condition

Location Plan, Project Ref: 12215, Drawing Ref: WMS - XX - XX - DR - A -
10004 - S8 - P3

Proposed Site Plan, Project Ref: 12215, Drawing Ref: WMS - XX - XX - DR - A
- 10003 - S8 - P16

Site Plan – Fencing, Project Ref: 12215, Drawing Ref: WMS - XX - XX - DR - A
- 10007 - S8 - P4

Site Plan – Surfacing, Project Ref: 12215, Drawing Ref: WMS - XX - XX - DR -
A - 10006 - S8 - P5

Unit 1 - Proposed Elevations, Project Ref: 12215, Drawing Ref: WMS - 01 - ZZ
- D - A - 10601 -S8 - P6, Received: 20/12/2023

Unit 1 - Proposed Floor Plans & GA Section, Project Ref: 12215, Drawing Ref:
WMS - 01 - ZZ - D - A - 10401 -S8 - P6

Unit 1 – Proposed Roof Plan, Project Ref: 12215, Drawing Ref: WMS - 01 - ZZ
- D - A - 10451 -S8 - P2

Unit 2 - Proposed Elevations & GA Section, Project Ref: 12215, Drawing Ref:
WMS - 02 - ZZ - D - A - 10602 -S8 - P6, Received: 20/12/2023

Unit 2- Proposed Floor Plans, Project Ref: 12215, Drawing Ref: WMS - 02 - ZZ
- D - A - 10402 -S8 - P6

Unit 2- Proposed Roof Plan, Project Ref: 12215, Drawing Ref: WMS - 02 - ZZ -
D - A - 10452 -S8 - P2

Unit 3 – Proposed Elevations, Project Ref: 12215, Drawing Ref: WMS - 03 - ZZ
- D - A - 10603 -S8 - P6, Received: 20/12/2023

Unit 3 – Proposed Floor Plans, Project Ref: 12215, Drawing Ref: WMS - 03 - ZZ
- D - A - 10403 -S8 - P6

Unit 3- Proposed Roof Plan, Project Ref: 12215, Drawing Ref: WMS - 03 - ZZ -
D - A - 10453 -S8 - X P2

Unit 4- Proposed Elevations & GA Section, Project Ref: 12215, Drawing Ref:
WMS - 04 - ZZ - D - A - 10604 -S8 - P6, Received: 20/12/2023

Unit 4 – Proposed Plans, Project Ref: 12215, Drawing Ref: WMS - 04 - ZZ - D -
A - 10404 -S8 - P6

Unit 4 – Proposed Roof Plan, Project Ref: 12215, Drawing Ref: WMS - 04 - ZZ
- D - A - 10454 -S8 - P2

Unit 5/6 – Proposed Elevations, Project Ref: 12215, Drawing Ref: WMS - 05 -
ZZ - D - A - 10605 -S8 - P6, Received: 20/12/2023

Unit 5/6 – Proposed Floor Plan, Project Ref: 12215, Drawing Ref: WMS - 05 - ZZ - D - A - 10405 -S8 - P6
Unit 5/6 – Proposed Roof Plan, Project Ref: 12215, Drawing Ref: WMS - 05 - ZZ - D - A - 10455 -S8 - P2
Unit 7 – Proposed Elevations, Project Ref: 12215, Drawing Ref: WMS - 07 - ZZ - D - A - 10607 -S8 - P6, Received: 20/12/2023
Unit 7- Proposed Floor Plan, Roof Plan & GA Section, Project Ref: 12215, Drawing Ref: WMS - 07 - ZZ - D - A - 10407 -S8 - P6
Landscape Proposals – Sheet 1 of 2, Drawing No: LL02, Rev: D, Received: 18/12/2023
Landscape Proposals – Sheet 2 of 2, Drawing No: LL03, Rev: D, Received: 18/12/2023
Preliminary Ecological Appraisal, Ref: SF 3387, Rev: A, Received: 18/12/2023
Biodiversity Net Gain Assessment, Ref: SF3387, Rev: A, Received: 18/12/2023
Arboricultural Survey Report, Ref: SF3387, Rev: D, Received: 18/12/2023
Arboricultural Impact Assessment Plan, Drawing No: A1A01, Rev: D, Received: 18/12/2023
Travel Plan, Ref: RHC-22-065-TP, Rev: A, Received: 6/11/2023
Gatic Channel Details, Dwg No: D701, Rev: 2
Drainage Construction Details, Dwg No: D700, Rev: 1
Proposed Manhole Schedules, Dwg No: D201, Rev: 3
Proposed Drainage Plan, Dwg No: D200, Rev: 3
Engineering Schematic Plan, Dwg No: D100, Rev: 6
Flood Risk Assessment, Ref: RWO/FRAY22018, Version: 1
Landscape and Ecology Management Plan, Ref: SF3387
Preliminary Risk Assessment and Coal Mining Assessment, Ref: 350525-R01 (00)

Ecology

The development shall be completed in line with the recommendations in the Preliminary Ecological Appraisal December 2023, Biodiversity Net Gain Assessment December 2023 and the Defra Metric December 2023 and the conditions of the planning permission. All the recommendations shall be implemented in full according to the timescales laid out, and thereafter permanently maintained for the stated purposes of biodiversity conservation.

Reason: In the interests of long term biodiversity, in accordance with Local Plan Policy BIO1.

Notwithstanding the submitted details, prior to the commencement of works, details of external/internal lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall be reviewed and produced by a suitably qualified ecologist and clearly demonstrate that lighting will not adversely impact wildlife using key corridors, foraging and commuting features and roosting sites. The details shall include, but are not limited to, the following:

- Identification of areas/features on site that are particularly sensitive e.g. breeding, resting, foraging and commuting sites;
- A drawing showing dark corridors and buffer areas;
- A report and drawings showing how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent species using their territory or having access to breeding sites/resting places, this should include;
- Technical descriptions, design or specification of external lighting to be installed including shields, cowls or blinds where appropriate;
- A description of the luminosity of lights and their light colour;
- A drawing(s) showing the location and where appropriate the elevation and height of the light fixings;
- Methods to control lighting control (e.g. timer operation, Passive Infrared Sensors (PIR)); and
- Lighting contour plans, both horizontal and vertical where appropriate, taking into account hard and soft landscaping.

Reason: In the interests of long term biodiversity, in accordance with Local Plan Policy BIO1.

Prior to the commencement of development, details of external/internal lighting shall be submitted to and approved in writing by the Local Planning Authority. The details/report shall be produced by a suitably qualified ecologist and clearly demonstrate that lighting will not adversely impact wildlife using key corridors, foraging and commuting features and roosting sites. The lighting shall be maintained thereafter in accordance with these details.

Reason: In the interests of long term biodiversity, in accordance with Local Plan Policy BIO1.

Notwithstanding the submitted details, no development shall take place (including demolition, ground works and vegetation clearance) until a Construction Environmental Management Plan - Biodiversity (CEMP-B) has been submitted to and approved in writing by the local planning authority. The CEMP-B shall include, but not necessarily be limited to, the following:

- Risk assessment of potentially damaging construction activities;
- Identification of 'biodiversity protection zones';
- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- The location and timing of sensitive works to avoid harm to biodiversity features (e.g. daylight working hours only starting one hour after sunrise and ceasing one hour before sunset);

- Use of protective fences, exclusion barriers and warning signs, including advanced installation and maintenance during the construction period;
- The times during construction when specialists ecologists need to be present on site to oversee works;
- Responsible persons and lines of communication;
- The role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person(s);

Reason: In the interests of long term biodiversity, in accordance with Local Plan Policy BIO1

Drainage No development shall take place unless and until full foul and surface water drainage details, including Yorkshire Water Permission to discharge, have been submitted to and approved in writing by the Local Planning Authority. Thereafter no part of the development shall be occupied or brought into use until the approved scheme has been fully implemented. The scheme shall be retained throughout the life of the development.

Reason: To ensure the proper drainage of the area.

No development shall commence until full details of permission of the private drain owner and calculations to prove the adequacy of the existing private drain connection have been submitted to and approved in writing by the Local planning Authority.

Reason: To ensure the proper drainage of the area.

National Highways

Prior to the commencement of the development hereby permitted a Construction Traffic Management Plan shall be submitted to and approved in writing BY the Local Planning Authority (in consultation with the Highway Authority for the M1 motorway. The plan should seek to minimise construction movements via the M1 during peak hours and shall include as a minimum:

- construction vehicle movements,
- construction operation hours,
- a routing and signing strategy for construction vehicles to and from site, construction delivery hours,
- expected number of construction vehicles per day during the period of construction.
- Wheel wash facilities

Construction shall be carried out in accordance with the approved plan.

Reason: To ensure the safe and continued operation of the Strategic Road Network.

Pollution/Environmental Health

Before use of any Unit within the proposed development commences, a Noise Impact Assessment shall be undertaken to determine the noise impact from that Unit.

The assessment will seek to demonstrate that, at the nearest noise sensitive receptor, the noise levels arising from operational activities will not exceed the background sound levels set out in the 'Noise Impact Assessment; Site Address: Proposed Development, Birdwell, Barnsley, S70 5SZ' produced by Nova Acoustics dated 9th May 2023, ref: NP-009288. If the assessment indicates a potential exceedance of these background levels, mitigation measures shall be identified to reduce the impact.

The assessment must be carried out by a suitably qualified acoustic consultant/engineer and follow the principles contained in BS 4142:2014 Methods for rating and assessing industrial and commercial sound.

The results of this assessment shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented before the Unit is first occupied or the use commences and shall be thereafter maintained.

Reason: To reduce or remove adverse impacts on health and the quality of life, especially for people living and/or working nearby, in accordance with Local Plan Policy POLL1.

Between the hours of 07:00 and 23:00 the sound levels from the development site, measured at the boundary of the nearest noise sensitive receptor, shall not exceed 52dB LAeq, 15min.

Reason: To reduce or remove adverse impacts on health and the quality of life, especially for people living and/or working nearby, in accordance with Local Plan Policy POLL1

Between the hours of 23:00 and 07:00 the sound levels from the development site, measured at the boundary of the nearest noise sensitive receptor, shall not exceed 39dB LAeq, 15min.

Reason: To reduce or remove adverse impacts on health and the quality of life, especially for people living and/or working nearby, in accordance with Local Plan Policy POLL1

During construction the following shall be adhered to:

(i) Except in case of emergency, operations should not take place on site other than between the hours of 08:00 - 18:00 Monday to Friday and between 09:00 - 13:00 on Saturdays. There should be no working on Sundays or Public Holidays. At times when operations are not permitted work shall be limited to maintenance and servicing of plant or other work of an essential or emergency nature. The Local Planning Authority should be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

(ii) Heavy goods vehicles shall only enter or leave the site between the hours of 08:00 - 18:00 on weekdays and 09:00 - 13:00 Saturdays and no such movements shall take place on or off the site on Sundays or Public Holidays (this excludes the movement of private vehicles for personal transport).

(iii) Best practicable means shall be employed to minimise dust. Such measures may include water bowsers, sprayers whether mobile or fixed, or similar equipment. At such times when due to site conditions the prevention of dust nuisance by these means is considered by the Local Planning Authority in consultations with the site operator to be impracticable, then movements of soils and overburden shall be temporarily curtailed until such times as the site/weather conditions improve such as to permit a resumption.

(iv) Effective steps shall be taken by the operator to prevent the deposition of mud, dust and other materials on the adjoining public highway caused by vehicles visiting and leaving the site. Any accidental deposition of dust, slurry, mud or any other material from the site, on the public highway shall be removed immediately by the developer.

Reason: To reduce or remove adverse impacts on health and the quality of life, especially for people living and/or working nearby, in accordance with Local Plan Policy POLL1

South Yorkshire Mining Advisory Service

The site has been identified to be at risk from potential coal mining legacy.

Intrusive site

Investigations must therefore be undertaken as advised for in the RSK Environment Ltd Preliminary Risk Assessment and Coal Mining Risk Assessment report ref: 350525-R01 dated August 2022. The site investigations and subsequent development must be undertaken in compliance with Construction Industry Research and Information Association publication C758D "Abandoned mine workings manual" where applicable. A report detailing the findings of the investigation and any recommended mitigation shall be submitted for approval in writing by the Local Planning Authority prior to commencement on site. The development thereafter shall be carried out in accordance with the approved details. In the case of further stabilisation works

being required, then the condition will not be discharged until details of such works have also been submitted. Responsibility for securing a safe development rests with the developer and/or landowner.

Reason: To ensure that the development is in accordance with National Planning Policy Framework paragraphs 189, 190 and 180 (e & f).

Yorkshire Water

The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems should extend to the points of discharge to be agreed.

Reason: In the interest of satisfactory and sustainable drainage.

There shall be no piped discharge of surface water from the development prior to the

completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:

- i) evidence that other means of surface water drainage have been properly considered and why they have been discounted; and
- ii) the means of discharging to the public sewer network at a rate not exceed 3.5litres per second.

Reason: To ensure that no surface water discharges take place until proper provision has been made for its disposal.

Trees

No construction works shall take place and no construction equipment/plant shall be brought onto site until the tree protection measures are erected in accordance with Arboricultural Impact Assessment Plan, Rev: D, Drawing No: AIA01 (received 18/12/2023). Thereafter the tree protection measures shall remain in place until the completion of construction.

Reason: To ensure the continued wellbeing of the trees in the interests of the amenity of the locality.

Natural England

Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to the local planning authority and agreed in writing by Natural England. The development shall then be

carried out in accordance with that document in addition to the submitted preliminary ecological appraisal.

Reason: In the interests are protecting the ecological value at nearby SSSIs.

The mitigation measures included in the preliminary ecological appraisal (Job Number: 3387, Rev A, December 2023) in regard to water quality shall be strictly implemented in accordance with that document. The mitigation included in Air Quality Assessment (Document Ref: 5887r2, dated: 4/7/2023) shall be implemented in accordance with that document. Should any measures be amended then Natural England shall be informed.

Reason: In the interests are protecting the ecological value at nearby SSSIs.

Use

Any Ancillary Trade Counter use (sui generis) shall extend to no more than 10% of the floor plan area of each building hereby permitted and shall at all times remain ancillary to E(g)(ii), E(g)(iii), B2 and B8 uses.

Reason: To ensure that the primary operations carried out at the hereby approved units remain within the uses supported at employment allocations and that any ancillary uses do not dilute employment operations.

Notwithstanding the provisions of the Town and Country Planning (use Classes)(Amendment)(England) Regulations 2020, (or any Order revoking or re-enacting that Order with or without modification, other than ancillary office use, Class E uses which would otherwise be permitted by that Order shall be limited to Class E(g)ii and E(g)iii.

Reason: To ensure the majority of the site remains in employment use as set out in in accordance with the Hoyland North Masterplan and Local Plan Policy ES14.

Design

The design details and specification of the proposed glass panels shall be submitted to the local planning authority and agreed in writing prior to its installation. If required a physical sample must be provided.

Reason: To ensure that the appearance of the building accords with the requirements of policy D1.

The design details and specification of the proposed brickwork shall be submitted to the local planning authority and agreed in writing prior to its installation. If required a physical sample must be provided.

Reason: To ensure that the appearance of the building accords with the requirements of policy D1.

No advertisement vinyl and/or other signage shall be installed on the external appearance on any building, apart from within the specified 'signage zones' as shown on the approved elevations. All signage will be subject to advertisement consent.

Reason: To ensure that the appearance of the building accords with the requirements of policy D1.

A landscape management plan, including long term design objectives, timescale for implementation, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved by the Local Planning Authority prior to the occupation of the development or any part thereof, whichever is the sooner, for its permitted use. Thereafter the approved landscape management plan shall be fully implemented for the duration of the development.

Reason: In the interests of the visual amenities of the locality and in accordance with Local Plan Policy BIO1 Biodiversity.

Broadband

Upon commencement of development details of measures to facilitate the provision of gigabit-capable full fibre broadband for the development hereby permitted, including a timescale for implementation, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: In order to ensure compliance with Local Plan Policy I1 and in accordance with paragraphs 42 and 43 of the National Planning Policy Framework.

Highways DC

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:

- i. The parking of vehicles of site operatives and visitors
- ii. Means of access for construction traffic
- iii. Loading and unloading of plant and materials

- iv. Storage of plant and materials used in constructing the development
- v. Measures to prevent mud/debris being deposited on the public highway.

Reason: In interests of highway safety and equalities in accordance with Local Plan Policy T4.

No development shall take place until a survey of the condition of the adopted highway condition to be used by construction traffic has been submitted to and approved in writing by the LPA. The extent of the area to be surveyed must be agreed by the LHA prior to the survey being undertaken. The survey must consist of:

- i. A plan to a scale of 1:1250 showing the location of all defects identified
- ii. A written and photographic record of all defects with the corresponding location references accompanied by a description of the extent of the assessed area and a record of the date, time and weather conditions at the time of survey.

On completion of the development, a second condition survey of the adopted highway shall be carried out to identify defects attributable to the traffic associated with the development. It shall be submitted for the written approval of the Local Planning Authority. Any necessary remedial works shall be completed at the developer's expense in accordance with a scheme to be agreed in writing by the Local Planning Authority.

Reason: To ensure that any damage to the adopted highway sustained throughout the development process is identified and subsequently remedied at the expense of the developer in interests of highway safety as per Local Plan Policy T4.

Prior to the first occupation of the development hereby permitted, the proposed on-site car and cycle parking, and turning shall be laid out in accordance with the approved plan. Areas to be used by vehicles must be properly consolidated and hard surfaced and drained into the site and subsequently maintained in good working order at all times thereafter for the lifetime of the development.

Reason: To ensure that there are adequate parking facilities to serve the development which are constructed to an acceptable standard in accordance with Local Plan Policy T3.

The Travel Plan hereby approved shall be implemented in accordance with the measures set out therein. Within three months of occupation, evidence of the implementation of measures set out in the Travel Plan shall be prepared, submitted to and agreed in writing with the LPA unless alternative timescales are agreed in writing.

Reason: In interests of encouraging use of sustainable modes of transport in accordance with Local Plan Policy T3 and T4.

INFORMATIVES

Bird Nesting Season

The works should be undertaken outside of the bird nesting season (March-August inclusive). Should this not be possible then a suitably qualified ecologist should undertake a nesting bird check no more than 48 hours prior to the start of works. Should active nests be found, works should cease until the nests are no longer active and the chicks have fledged and the ecologist has deemed the area to be free of nesting birds.

If a protected species (such as any bat, great crested newt, badger, barn owl or any nesting bird) is discovered using a feature on site that would be affected by the development or related works all activity which might affect the species at the locality should cease. You should then seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. This action is necessary to avoid possible prosecution and ensure compliance with the Wildlife & Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2017 (as amended), the Protection of Badgers Act 1992 and the Wild Mammals Act 1996. This advice note should be passed on to any persons or contractors carrying out the development/works.

Great Crested Newts (European Protected Species)

There is a low risk that Great Crested Newt (GCN) may be present at the application site. The Local Planning Authority considers it would be unreasonable to require the applicant to submit a survey because this could be considered disproportionate to the scale and the likely impacts of the development. However, the application site lies within an amber impact zone as per the modelled district level licence map, which indicates that there is suitable habitat for GCN within the area surrounding the application site. Therefore, anyone undertaking this development should be aware that GCN and their resting places are protected at all times by The Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act

1981 (as amended). Planning permission for development does not provide a defence against prosecution under this legislation or substitute the need to obtain a protected species licence if an offence is likely. If GCN are discovered during site preparation, enabling or construction phases, then all works must stop until the advice of a professional/suitably qualified ecologist and Natural England is obtained, including the need for a licence. The following recommendations are provided to further reduce the likelihood of impacts on this species:

- Any trenches left overnight should be covered or provided with ramps to prevent GCN from becoming trapped;
- Any building materials such as bricks, stone etc. should be stored on pallets to discourage GCN from using them as shelter; and
- Any demolition materials should be stored in skips or similar containers rather than in piles on ground.

If a bat or evidence of the presence of bats is discovered on site prior to or during development all work should stop immediately. A licensed bat consultant or Natural England must be contacted and works implemented only in accordance with methods advised by them. This advice note should be provided to any persons/contractors carrying out the development along with the contact details of a relevant ecological consultant. This action is necessary to avoid possible prosecution and ensure compliance with the Wildlife & Countryside Act 1981 (as amended), The Conservation of Habitats and Species Regulations 2017.

Ground Investigations and groundworks- Coal Authority

Under the Coal Industry Act 1994 any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority since these activities can have serious public health and safety implications. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain permission to enter or disturb our property will result in the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property.

Shallow coal seams- Coal Authority

In areas where shallow coal seams are present caution should be taken when carrying out any on site burning or heat focused activities.

South Yorkshire Police

Whilst it is accepted that with the introduction in 2016, of Approved Document Q of the Building Regulations, it is no longer appropriate for local authorities to attach planning conditions relating to technical door and window standards, it is encouraged that the planning authority note the experience gained by the UK Police service over the past 28 years in this specific subject area.

That experience has led to the provision of a physical security requirement considered to be more consistent than that set out within Approved Document Q of the Building Regulations (England);

Specifically, the recognition of products that have been tested, to the relevant security standards, but crucially that they are also fully certificated by an independent third party, who are accredited by UKAS (Notified Body).

This provides assurance that products will have been produced, in a controlled manufacturing environment, in accordance with the specifiers aims and minimises misrepresentation of the products by unscrupulous manufacturers/suppliers, and leads to the delivery on site, of a more secure product.

For a complete explanation of certified products please refer to the Secured by Design guidance documents which can be found on the website www.securedbydesign.com

There is also a Secured by Design regarding security measures that should be considered during the construction phase.

Highways

Access arrangements should conform to Approved Document B Volume 1 Part B5 Sect. 13. They should be constructed to withstand a minimum carrying capacity of 26 Tonnes without deflection.

Should there be a requirement for any offsite highway works or works be carried out on the adopted highway, you are advised that before undertaking this work you must enter into a highway agreement with the Council under S278 of the Highways Act, 1980, specifying the extent of works, the works, and the terms and conditions under which these are carried out. Fees are payable for the drafting of the agreement, approval of the highway details and

inspection of the works. For more information or to apply, please contact Highways Development Control at email HighwaysDC@barnsley.gov.uk or call to 01226 773555.

Fees associated with the required condition survey together with any necessary remedial works and any relevant s278 agreement are to be borne by the developer. The applicant should make contact with Highways Development Control, Tel. 01226 772033/772170. Email. HighwaysDC@barnsley.gov.uk for further information prior to commencement.

SCHEDULE 3

1 OFFSITE BIODIVERSITY

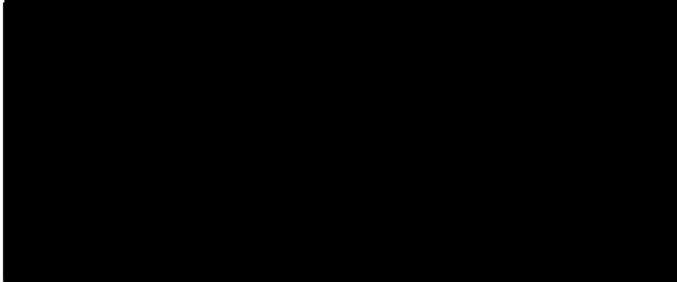
- 1.1 The Owner will pay the Offsite Biodiversity Net Gain Contribution to the Council in the phased instalments and before the deadlines specified in paragraphs 2.2 to 2.3 of this Schedule
- 1.2 The sum of £267,875 (two hundred and sixty seven thousand eight hundred and seventy five pounds) shall be paid to the Council prior to Commencement of the Development and the development shall not be Commenced until the said sum has been paid to the Council
- 1.3 The second and final instalment of £267,875 (two hundred and sixty seven thousand eight hundred and seventy five pounds) shall be paid to the Council prior to Occupation of the Development and the development shall not be Occupied until the said sum has been paid to the Council

SCHEDULE 4

Council's Covenants

1. The Council shall issue separate receipts on request for any sum paid to it under this Deed;
2. The Council shall place the Offsite Biodiversity Net Gain Contribution in an interest bearing account or in separate accounts as the Council shall at its discretion decide.
3. The Council shall not apply the Offsite Biodiversity Net Gain Contribution for any purpose other than for the purposes set out within this Deed;
4. In the event that the Offsite Biodiversity Net Gain Contribution (or any part or parts thereof) is not expended or committed within 30 (thirty) years of the date of payment then the sum or sums not expended plus interest accrued shall be repaid to the party that paid it or their nominee as soon as reasonably practicable; and
5. The Council shall respond to any request to account for the sums expended within 28 (twenty eight) Working Days of that request being made.

Executed as a deed by affixing the common seal of **BARNSELY METROPOLITAN BOROUGH COUNCIL** in the presence of a duly authorised signatory:



EXECUTED as a DEED
by
CARNELL MANAGEMENT SERVICES
LIMITED)

Acting by a Director.....)

