

DATED

4th March,

2021

BARNSELY METROPOLITAN BOROUGH COUNCIL

and

NADIA EILEEN HOBSON

and

ALPHIN PROPERTY LTD

S106 AGREEMENT

**Pursuant to Section 106 of the Town and Country Planning Act 1990 in relation to Land
at Low Valley Farm, Pitt Street, Darfield, Barnsley, S73 9PY**
LPA Reference: 2019/1117

THIS Agreement is made the

4th

day of

March

Two Thousand and

Twenty One

BETWEEN

- (1) **BARNSELY METROPOLITAN BOROUGH COUNCIL** of Town Hall, Barnsley, South Yorkshire, S70 2TA ("the Council") of the first part
- (2) **NADIA EILEEN HOBSON** of Low Valley Pie Farm, Pitt Street, Darfield, Barnsley, S Yorkshire ("the Owner") of the second part and
- (3) **ALPHIN PROPERTY LTD** of (CRN: 09884253) whose registered office is situate at 42-44 Nottingham Road, Mansfield, Nottinghamshire, United Kingdom, NG18 1BL ("the Option Holder") of the third part

hereinafter called the "**Parties**" and reference to "**Party**" shall be construed accordingly.

RECITALS

- (1) By virtue of the 1990 Act the Council is the local planning authority for the purposes of this Agreement for the area in which the Land is situated and is the local planning authority by whom the planning obligations hereby created are enforceable
- (2) The Owner is the registered proprietor with Title Absolute of the Land which is part of the property registered under title number SYK275959
- (3) The Option Holder has an interest in the Land pursuant to the option agreement dated 19 July 2018 and detailed in paragraph 6 of the charges register of title number SYK275959.
- (4) The Option Holder has submitted the Application to the Council.
- (5) The Council would not grant Planning Permission for the Development unless the covenants contained herein were entered in to by the Owner and the Option Holder.
- (6) The Owner and the Option Holder have agreed to enter in to this Agreement to create planning obligations in respect of each of their interests in the Land in favour of the Council pursuant to section 106 of the 1990 Act and to be bound by and observe and

perform the covenants, agreements, conditions and stipulations contained in this Agreement

1 DEFINITIONS

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

"1990 Act" means the Town and Country Planning Act 1990 as amended;

"Adjoining Development Site" means the development site within Allocation HS77 of the Local Plan adjacent to the Land shown for identification purposes edged blue on the Plan;

"Adjoining Development Site Contribution" means the amount calculated by the following formula:
$$£(1,600,000.00 \times B)/(A+B)$$

where:

A = the total number of Dwellings permitted to be constructed on the Land by the Planning Permission; and

B = the total number of Dwellings that could reasonably be expected to be constructed on the Adjoining Development Site;

"Affordable Housing" means subsidised housing that will be available to persons who cannot afford to rent or buy housing generally on the open market and which has the same meaning given to it in annex 2 of the National Planning Policy Framework;

"Affordable Housing Commuted Sum" means if applicable a sum in respect of each Affordable Housing Unit calculated in accordance with section 13 (and other relevant paragraphs) of the SPD re Affordable Housing adopted May 2019;

"Affordable Housing for Rent Dwellings"

has the same meaning as the term "affordable housing for rent" contained in paragraph (a) of Annex 2 of the National Planning Policy to be made available at an Affordable Rent to persons in accordance with the Registered Provider's policy and reference to "Affordable Housing for Rent Dwelling" shall be construed accordingly;

"Affordable Housing Scheme"

means an approved scheme which specifies in relation to the Affordable Housing on the Land:

- (a) the number size and tenure of the Affordable Housing Units;
- (b) the location and distribution of the Affordable Housing within the Land; and
- (c) details of how the proposed design and construction of the Affordable Housing Units will ensure that the Affordable Housing Units are materially indistinguishable (in terms of outward design and appearance) from the Open Market Dwellings of similar size within the Development;

"Affordable Housing Unit Prices"

means a price being not greater than 50% of the Open Market Value of an equivalent open market unit or such other discounted sum agreed with the Registered Provider that is financially viable for a Registered Provider to be able to purchase an Affordable Housing Unit;

"Affordable Housing Units"

means 10% of the Dwellings on the Land (comprising of Affordable Housing for Rent Dwellings and/or Shared Ownership Dwellings) to be provided in accordance with the Affordable Housing Scheme and paragraph 1 of the First Schedule and reference to "**Affordable Housing Unit**" shall be construed accordingly;

"Affordable Rent"	means an affordable rent of no more than 80% of the Market Rent;
"Application"	means the outline planning application for the Development validated by the Council on 17 October 2019 and carrying reference number 2019/1117;
"Chargee"	means any mortgagee or chargee of the Registered Provider and/or an Affordable Housing Unit or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925;
"Commencement of Development"	means the date upon which the Development shall commence by the carrying out on the Land pursuant to the Planning Permission of a material operation as specified in Section 56(4) of the 1990 Act (Save That the term " <i>material operation</i> " shall not include operations in connection with any work of or associated with demolition, site clearance, remediation works, archaeological investigation, environmental investigation, site and soil surveys, construction of any access roads, erection of contractor's work compound, erection of site office or erection of fencing to site boundary) and reference to " Commence Development " shall be construed accordingly;
"Community Interest Company"	means a business with primary social objectives whose surpluses are principally reinvested for that purpose in the community;
"Contributions"	means collectively the Off-Site Greenspace Contribution, the Sustainable Travel Contribution and if applicable the Affordable Housing Commuted Sum;
"Council's Approved List"	means the following Registered Providers:

1. Berneslai Homes Limited;
2. South Yorkshire Housing Association Limited;
3. Yorkshire Housing Limited;
4. Guinness Northern Counties Limited;
5. Equity Housing Group Limited;
6. Leeds and Yorkshire Housing Association Limited;
7. Chevin Housing Association Limited; and
8. Wakefield and District Housing Limited

or such other Registered Provider(s) that may be nominated by the Owner and approved by the Council from time to time;

"Development"

means the development of the Land for residential development of up to 107 Dwellings including internal circulation roads, structural planting and landscaping, an attenuation basin, a children's play area and a footpath (all matters reserved except the location of the vehicular access);

"Dwellings"

means the residential units that may be built on the Land as part of the Development and reference to **"Dwelling"** shall be construed accordingly;

"Estate Road"

means a road within the Development which shall be constructed to adoptable standards with the intention that it is to be adopted by the Council as a public highway;

"Expert"

has the meaning given in clause 2.4.2;

"Head of Planning and Building Control"

means the Head of Planning and Building Control of the Council for the time being or such other officer of the

	Council nominated by him or her for the purposes of this Agreement;
"Homes England"	means Homes England or any body or bodies undertaking the existing functions of Homes England within the meaning of Part I of the Housing and Regeneration Act 2008;
"Index"	means the 12 (twelve) month percentage change in the All Items Retail Price Index published by the Office for National Statistics contained in the Monthly Digest of Statistics (or contained in any official publication substituted therefore) or such other index as may from time to time be published in substitution therefore;
"Index Linked"	means such increase to sum or sums payable to the Council under this Agreement on an annual basis or pro rata per diem from the date of this Agreement to the date of payment based upon the specified Index last published before the date of the decision to approve the grant of Planning Permission or any publication substituted for it;
"Independent Surveyor"	means a member of the Royal Institution of Chartered Surveyors appointed by the Owner at its own cost but first approved by the Council;
"Interest Rate"	means interest at 3 (three) per cent above the base lending rate of the Bank of England from time to time;
"Land"	means all that land at Low Valley Farm, Pitt Street, Darfield, Barnsley, S73 9PY being part of the land registered under title number SYK275959 shown for identification purposes only edged red and edged green on the Plan;
"Local Plan"	means the Barnsley Local Plan adopted in January 2019;

“Management Company”

means a limited company with the purpose of managing the Public Open Space within the Development in accordance with the POS Management Scheme;

"Market Rent"

means the average local market rent for a Dwelling in Barnsley with that number of bedrooms that would be leased between a willing lessor and willing lessee on appropriate lease terms in an arms-length transaction after proper marketing, and where the parties have each acted knowledgeably, prudently and without compulsion;

"National Planning Policy Framework"

means the National Planning Policy Framework as published in February 2019 (as amended in June 2019) by The Ministry of Housing, Communities and Local Government (or any future guidance or initiative that replaces or supplements it);

"Occupation" and "Occupy" and "Occupied"

means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations;

"Off-Site Greenspace Contribution"

means a sum Index Linked calculated in accordance with the following formula for each Dwelling permitted by the Planning Permission:-

£560.22 x 1 bed, £824.41 x 2 bed, £989.01 x 3 bed and £1155 x 4 bed

(as referred to in Appendix 2 of the SPD re Open Space Provision on New Housing Developments adopted May 2019)

to be paid to the Council by the Owner and used by the Council in lieu of the provision of publically accessible formal recreation open space on the Land for the

provision of, or improvements to, public open space within 2 km of the boundary of the Land the need for which is required in order to mitigate impacts arising from the Development;

"Open Market Dwellings"

means the residential units that may be built on the Land as part of the Development excluding the Affordable Housing Units and reference to **"Open Market Dwelling"** shall be construed accordingly;

"Open Market Value"

means an amount for which the property or piece of land should exchange on the date of valuation between a willing buyer and a willing seller in an arm's length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion as proposed by the Owner and approved by the Council or in the absence of agreement as determined by an Independent Surveyor assessed in general accordance with the Appraisal & Valuation Manual of the Royal Institute of Chartered Surveyors as amended from time to time;

"Plan"

means the plan attached to this Agreement as Appendix 1;

"Planning Obligations"

means the obligations, conditions and stipulations set out in the First Schedule and **"Planning Obligation"** shall be construed accordingly;

"Planning Permission"

means outline planning permission that may be granted pursuant to the Application in the form of the draft attached to this Agreement as Appendix 3;

"POS Management Scheme"

means a scheme for the future maintenance and management of the Public Open Space to be submitted by the Owner to the Council in accordance with the provisions of paragraph 4.4 of the First Schedule and approved by the Council (together with any variation of such scheme agreed in writing from time to time

between the Owner and the Council) and the said POS Management Scheme will include the following details:

- (a) The identity of the Management Company proposed to be engaged to carry out the maintenance and management of the Public Open Space.
- (b) What if any interest in the Public Open Space is proposed to be granted to the Management Company.
- (c) The schedule and program of maintenance works to be undertaken in relation to the Public Open Space.
- (d) Any arrangements for ensuring that individual householders have a say or influence over the activities of the Management Company and whether this is to be achieved via the householders being given membership of the Management Company or the Management Company being set up as a Community Interest Company.
- (e) The arrangements for ensuring that individual householders are given detailed breakdowns of the costs properly incurred and showing how the total cost is translated into their individual liability.
- (f) Any restrictions on year on year increases in any service charge and whether such restriction is to be fixed to a relevant cost index;

"Practical Completion"

means either:

- (a) the issue of a certificate signed by a chartered architect which confirms that a specified Dwelling has been constructed in compliance

with building regulations and is completed so as to be fit for habitation as a residential housing unit; or

- (b) the issue of a Buildmark cover note in relation to a Dwelling by the National House-Building Council or such cover note of similar effect from an alternative warranty provider;

“Protected Tenant”

means any tenant who:

- (a) has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit; or
- (b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit; or
- (c) has been granted a Shared Ownership Lease by a Registered Provider (or similar arrangement where a share of the Affordable Housing Unit is owned by the tenant and a share is owned by the Registered Provider) in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the Registered Provider all the remaining shares so that the tenant owns the entire Affordable Housing Unit;

“Public Open Space”

means those parts of the Land to be laid out as open space as specified in any condition(s) annexed to the Planning Permission;

“Public Open Space Scheme”

a scheme detailing:

- (a) the size location and type of Public Open Space;
- (b) details and specifications for works and materials showing how the Public Open Space will be graded, drained, landscaped, seeded, planted, laid out and provided fit for use by the public
- (c) details of the design and layout of any play area, the construction specification, the safety surfacing, materials and play equipment, demonstrating that they meet relevant European safety and disability standards, together with details of fencing, seating for supervising adults and a buffer zone landscaped with low level planting; and
- (d) a specification of the construction method and materials to be used;

"Public Open Space Works"

means the works to be carried out for the laying out of the Public Open Space in accordance with any condition(s) annexed to the Planning Permission;

"Reasonable Endeavours"

means it is agreed by the Parties that the Party under such obligation shall not thereby be required to take proceedings (including any appeal) in any court public inquiry or other hearing but subject thereto such party shall be bound to attempt to fulfil the relevant obligation(s) by the expenditure of such effort and / or sums of money and the engagement of such professional or other advisers as in all the circumstances may be reasonable;

"Registered Provider"

means a registered provider as defined by the Housing and Regeneration Act 2008 (or as redefined by any amendment, replacement or re-enactment of such Act) and registered under the provisions of the Housing and

	Regeneration Act 2008 or any company or other body approved by Homes England for receipt of social housing grant as may be proposed by the Owner and approved by the Council;
"Reserved Matters Approval"	means the approval of reserved matters for the Development pursuant to the Planning Permission;
"Safeguarded Land"	means that part of the Land falling outside the Local Plan allocation reference HS77 and shown for identification purposes only edged green on the Plan;
"Shared Ownership Dwellings"	means either: (a) Dwellings to be made available on a Shared Ownership Lease to persons in accordance with the Registered Provider's policy; or (b) such other housing as approved by the Council that provides a subsidised route to home ownership and which complies with either definition (c) "Discounted market sales housing" or definition (d) "Other affordable routes to home ownership" as set out within Annex 2 of the National Planning Policy Framework;
"Shared Ownership Lease"	means the Homes England lease current at the date of this Agreement relating to protected areas;
"SPD"	means the supplementary planning documents that have been issued by the Council following the adoption of the Local Plan;
"Statutory Undertaker"	means any company corporation board or authority authorised by statute to carry on an undertaking for the supply of any of telephone and television communications electricity gas water and drainage and

	other services any authorised successor to any such undertaking;
"SUDs"	means the sustainable urban drainage system to be constructed as part of the Development;
"SUDs Management Scheme"	means the scheme detailing the ongoing management and maintenance responsibilities in relation to the SUDS and including the details specified in the definition of POS Management Scheme;
"SUDs Scheme"	means the scheme setting out the construction details of the SUDs;
"SUDs Works"	means the works to be carried out in providing the SUDs in accordance with any condition(s) annexed to the Planning Permission;
"Sustainable Travel Contribution"	means a sum Index Linked calculated in accordance with section 5 of the SPD re Sustainable Travel adopted November 2019 to be paid to the Council by the Owner and used by the Council towards purposes identified in the SPD the need for which is required in order to mitigate impacts arising from the Development;
"Working Day"	means a weekday (Saturdays, Sundays and public holidays and the days between Christmas Day and New Year's Day excepted) and reference to "Working Days" shall be construed accordingly.

1.2 Where the context so requires:

- 1.2.1 The singular includes the plural and vice versa and words importing the masculine gender only include the feminine gender and extend to include a corporation sole or aggregate;
- 1.2.2 References to any Party in this Agreement shall include the successors in title and assigns of that Party and in the case of the Council shall include any successor local planning authority exercising planning powers under the 1990 Act;

- 1.2.3 Where a Party includes more than one person any obligations of that Party shall be joint and several;
- 1.2.4 Any covenant by the Owner not to do any act or thing shall be deemed to include a covenant not to knowingly cause permit or suffer the doing of that act or thing;
- 1.2.5 A reference to an Act of Parliament refers to the Act as it applies at the date of this Agreement and any later amendment or re-enactment of it and any regulations or statutory instrument made under it;
- 1.2.6 References to clauses paragraphs and schedules are references to clauses paragraphs and schedules to this Agreement and are for reference only and shall not affect the construction of this Agreement; and
- 1.2.7 Clause headings are for reference only and shall not affect the construction of this Agreement.

2 OPERATIVE PROVISIONS

- 2.1 This Agreement is a planning obligation made in pursuance of Section 106 of the 1990 Act and to the extent that the covenants in this Agreement are not made under Section 106 of the 1990 Act they are made under Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all other powers so enabling.
- 2.2 The Planning Obligations shall not become effective until both of the following conditions are satisfied:
 - 2.2.1 the Planning Permission has been granted; and
 - 2.2.2 (except where stated otherwise in this Agreement) the Commencement of Development.
- 2.3
 - 2.3.1 The Owner hereby covenants with the Council that the Land shall be permanently from the date hereof bound by and subject to the Planning Obligations and the Option Holder acknowledges that its interest in the Land shall be bound by and subject to the Planning Obligations restrictions; and

2.3.2 The Council covenants with the Owner to comply with its obligations in the Second Schedule and (where applicable) in the First Schedule.

2.4 It is agreed and declared as follows:

2.4.1 No party shall be bound by the terms of this Agreement or be liable for the breach of any covenants restrictions or obligations contained in this Agreement:

- (a) occurring after he or it has parted with his or its interest in the Land or the part in respect of which such breach occurs (but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest);
- (b) if he shall be an occupier or tenant of any of the Dwellings or a purchaser of an individual Dwelling (or a mortgagee of an individual Dwelling lending money to such occupier purchaser or tenant);
- (c) (save for the provisions in paragraph 1.1 of the First Schedule) if he shall be an occupier or tenant of any of the Affordable Housing Units or a purchaser of an individual Affordable Housing Unit (or a mortgagee of a Registered Provider or an individual Affordable Housing Unit lending money to such occupier purchaser or tenant);
- (d) if it is a Statutory Undertaker which has an interest in any part of the Land for the purposes of its undertaking.

2.4.2 Any dispute arising between the parties as to their respective rights duties or obligations or as to the failure of the Council to give or confirm its consent where required under this Agreement or as to any other matter or thing arising out of or connected with the subject matter of this Agreement or any failure to agree upon any matter may be referred in accordance with clauses 2.4.3 and 2.4.4 to the determination of a person ("**Expert**").

2.4.3 Any reference to an Expert in accordance with clause 2.4.2 shall be to a reputable person unconnected to any of the parties hereto and experienced in matters to which the subject matter of the dispute relates and who shall be agreed between the parties to the dispute or appointed on the application of any party to the dispute made at any time by the President of the Law Society and the decision of the Expert shall be final and binding upon the parties to

the dispute and the parties hereby agree to act in accordance with the decision (save for manifest error).

- 2.4.4 Each of the parties to the dispute referred to an Expert pursuant to clause 2.4.3 shall be entitled to submit to the Expert representations and cross representations with such supporting evidence as they shall consider necessary and the Expert shall have regard thereto in making his decision which he shall deliver in writing as expediently as possible and the reference to him shall include authority to determine in what manner all the costs of the referral (whether incurred by the parties to the dispute or the Expert himself) shall be paid.
- 2.4.5 Where any notice or confirmation is to be served on the Council under the terms of this Agreement such notice or confirmation shall be sent to Head of Planning and Building Control at Barnsley Metropolitan Borough Council, Westgate Plaza One, PO Box 600, Barnsley, S70 9EZ, quoting the Application reference number 2019/0239.
- 2.4.6 If the Planning Permission shall expire before the Commencement of Development or shall at any time be modified (without the consent of the Owner) (other than a modification under section 73 or 96A of the 1990 Act) or revoked this Agreement shall terminate and cease to have effect and the Council shall immediately remove any entry relating to this Agreement from the Register of Local Land Charges.
- 2.4.7 Nothing in this Agreement shall be construed as restricting the exercise by the Council of any power or discretion exercisable by it under the 1990 Act or under any other Act of Parliament nor prejudicing or affecting the Council's rights powers duties and obligations in any capacity as a local or public authority.
- 2.4.8 The obligations hereby created shall be registered as a Local Land Charge.
- 2.4.9 No person who is not a party to this Agreement may enforce any terms hereof pursuant to the Contracts (Right of Third Parties) Act 1999 provided that this clause shall not affect any right of action of any person to whom this Agreement has been lawfully assigned or becomes vested in law.

- 2.4.10 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted after the date of this Agreement.
- 2.4.11 The Owner shall forthwith pay to the Council its reasonable legal fees incurred in the preparation negotiation and completion of this Agreement of £1,000.00.
- 2.4.12 Wherever this Agreement requires the approval agreement determination or consent of the Council or the Owner such approval agreement determination or consent is not to be unreasonably withheld or delayed.
- 2.4.13 The parties shall act reasonably and in good faith in the performance of their obligations in this Agreement.
- 2.4.14 In the event that a condition or conditions to the Planning Permission is or are varied pursuant to Section 96A of the 1990 Act this Agreement shall continue in full force in respect of the Planning Permission with the relevant condition or conditions as so varied.
- 2.4.15 In the event that an application is made pursuant to Section 73 of the 1990 Act for an amendment to the Planning Permission and planning permission is granted in respect of the application (and the Council is satisfied in its reasonable discretion that no revised planning obligations are required as a result of such amendment) references to Planning Permission in this Agreement shall be to both the Planning Permission and a new planning permission granted pursuant to Section 73 of the 1990 Act and this Agreement shall apply to and remain in full force in respect of that new planning permission without the need for a further agreement to be entered into pursuant to Section 106 of the 1990 Act.
- 2.4.16 If the Council does not receive payment of any money due under this Agreement on the due date the Owner will pay interest on the money concerned to the Council at the Interest Rate from the due date until the date of actual receipt by the Council provided that this sub-clause shall not prejudice any other right or remedy of the Council for the recovery of any money due.

2.4.17 Insofar as any clause or clauses of this Agreement 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 Agreement.

FIRST SCHEDULE
("Planning Obligations")

The Owner hereby covenants with the Council:

1. AFFORDABLE HOUSING

- 1.1 Any Affordable Housing for Rent Dwellings on the Land shall not be used or Occupied other than as Affordable Housing for Rent Dwellings and any Shared Ownership Dwellings on the Land shall not be used or Occupied other than as Shared Ownership Dwellings save that this obligation shall not be binding on:
- 1.1.1 any Protected Tenant or any mortgagee or chargee of any Protected Tenant or any person deriving title from any Protected Tenant or any successor in title thereto and their respective mortgagees and charges; or
 - 1.1.2 any Chargee provided that the Chargee shall have first complied with the obligations at paragraph 1.2 of this Schedule; or
 - 1.1.3 any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor.
- 1.2 A Chargee shall prior to seeking to dispose of any Affordable Housing Units pursuant to any default under the terms of its mortgage or charge give not less than 30 (thirty) Working Days prior notice to the Council of its intention to dispose and:
- 1.2.1 in the event that the Council responds within 30 (thirty) Working Days from receipt of the notice indicating that reasonable arrangements for the transfer of the Affordable Housing Units can be made in such a way as to safeguard them as Affordable Housing then the Chargee shall co-operate with such reasonable arrangements and the Council and the Chargee shall use Reasonable Endeavours to secure such transfer;
 - 1.2.2 if the Council does not serve its response to the notice served under paragraph 1.2.1 of this Schedule within 30 (thirty) Working Days then the Chargee shall be entitled to dispose of the Affordable Housing Units free of the restrictions set out in this Schedule as Open Market Dwellings;
 - 1.2.3 if the Council or any other person cannot within 40 (forty) Working Days of the date of service of its response under paragraph 1.2.1 of this Schedule secure

such transfer then provided that the Chargee shall have complied with its obligations under paragraph 1.2 of this Schedule the Chargee shall be entitled to dispose free of the restrictions set out in this Schedule as Open Market Dwellings;

PROVIDED THAT at all times the rights and obligations in this paragraph 1.2 shall not require the Chargee to act contrary to its duties under the charge or mortgage and the Council must give full consideration to protecting the interest of the Chargee in respect of moneys outstanding under the charge or mortgage.

- 1.3 An Affordable Housing Scheme shall be submitted to the Council for its approval with the Reserved Matter Application and the process for the approval of the Affordable Housing Scheme shall be subject to any variations that may subsequently be agreed in writing between the Council and the Owner **PROVIDED THAT** it is agreed that if the Council does not notify the Owner of its approval or proposed amendments to the Affordable Housing Scheme within the 30 (thirty) Working Days of receipt of the same (or such other period of time that the Council may reasonably require and which may be agreed in writing between the Owner and the Council) it shall be deemed that the Council has approved the Affordable Housing Scheme submitted by the Owner.
- 1.4 Subject to paragraph 1.11 of this Schedule not to cause or permit more than 50% of the Open Market Dwellings to be Occupied until the Affordable Housing Units have been constructed to the same external standard as the Open Market Dwellings and transferred to a Registered Provider at the Affordable Housing Unit Prices and on terms that accord with Homes England funding requirements.
- 1.5 Any transfer of the Affordable Housing Units to a Registered Provider shall be to a Registered Provider appearing on the Council's Approved List.
- 1.6 Any Affordable Housing Units transferred to a Registered Provider shall be transferred with the benefit of the following:
 - 1.6.1 full and free rights of access both pedestrian and vehicular from the public highway to the Affordable Housing Units; and
 - 1.6.2 full and free rights to the passage of water soil electricity gas and other services through the pipes channels wires cables and conduits which shall be

in the adjoining land up to and abutting the boundary to the Affordable Housing Units all such services to be connected to the mains.

1.7 The Owner shall provide the Council with written notice:

1.7.1 of the date of Commencement of Development; and

1.7.2 of the date of Occupation of the first Dwelling; and

1.7.3 of the date of Practical Completion of the Affordable Housing Units; and

1.7.4 of the date of Occupation of 53 (fifty three) of the Open Market Dwellings.

1.8 The Owner shall use its Reasonable Endeavours to market the Affordable Housing Units to a Registered Provider appearing on the Council's Approved List and will promptly upon agreeing heads of terms for a transfer of the Affordable Housing Units to the Registered Provider submit to the Council the name of the chosen Registered Provider for the Council's approval ("**Initial Registered Provider Transfer Terms**") **PROVIDED THAT** it is agreed for the avoidance of doubt that the Owner shall not transfer the Affordable Housing Units to a Registered Provider not appearing on the Council's Approved List subject to any variations to the Council's Approved List that may be agreed in writing between the Council and the Owner from time to time.

1.9 The Owner will thereafter use its Reasonable Endeavours to exchange contracts with the Registered Provider for the sale of the Affordable Housing Units and will keep the Council informed on the Owner's progress.

1.10 If the proposed sale does not proceed in accordance with the Initial Registered Provider Transfer Terms the Owner will continue to use Reasonable Endeavours to exchange contracts with an alternative Registered Provider appearing on the Council's Approved List (subject to any variations to the Council's Approved List that may be agreed in writing between the Council and the Owner from time to time) and will keep the Council informed of the Owner's progress.

1.11 If any of the Affordable Housing Units have not been contracted for sale to a Registered Provider within 6 (six) calendar months of the date of Practical Completion of the last Affordable Housing Unit or such earlier date agreed in writing by the Council then the Owner shall pay the Affordable Housing Commuted Sum to the Council **PROVIDED THAT** such sum shall only be payable in respect of those Affordable Housing Units not already transferred to a Registered Provider and upon such payment the Owner will be

free to offer such Dwellings for sale on the open market free from obligations in this Schedule as Open Market Dwellings.

- 1.12 If the provisions of paragraph 1.11 of this Schedule apply then no more than 73 Open Market Dwellings shall be Occupied until the Affordable Housing Commuted Sum has been paid to the Council in accordance with paragraph 1.11 of this Schedule in relation to any Affordable Housing Units not transferred to a Registered Provider.

2 CONNECTIVITY TO ADJACENT LAND

- 2.1 To construct the Estate Road within the Development to the boundary of the Land with the Adjoining Development Site ensuring that no ransom strips are created which might prejudice links into the Adjoining Development Site **PROVIDED THAT** the Owner shall:

2.1.1 permit the Estate Road and (where applicable and reasonable) all other roads footpaths cycle paths and walkways within the Development to be connected to any similar estate road and other roads footpaths cycle paths and walkways which may at any time in the future be provided on the Adjoining Development Site **PROVIDED THAT** it shall be a condition of the agreement that any adjoining roads footpaths cycle paths and walkways must be constructed to an adoptable standard and then subsequently adopted by the Council; and

2.1.2 (other than the Adjoining Development Site Contribution) make no charge of any description whatsoever for permitting such connection without first having obtained the written approval of the Council.

3 OFF-SITE GREENSPACE CONTRIBUTION

- 3.1 To pay the Off-Site Greenspace Contribution to the Council in the phased instalments and before the deadlines specified in paragraphs 3.2 to 3.3 (inclusive) of this Schedule.
- 3.2 To notify the Council prior to the Occupation of more than 25% of the Dwellings to be constructed on the Land and not to Occupy more than 25% of the Dwellings to be constructed on the Land until 50% of the Off-Site Greenspace Contribution as Index Linked has been paid to the Council.
- 3.3 To notify the Council prior to the Occupation of more than 75% of the Dwellings to be constructed on the Land and not to Occupy more than 75% of the Dwellings to be constructed on the Land until the remaining 50% of the Off-Site Greenspace Contribution as Index Linked has been paid to the Council.

4 PUBLIC OPEN SPACE AND SUDS

- 4.1 Prior to the Commencement of Development to submit the Public Open Space Scheme and the SUDs Scheme to the Council and not to Commence Development unless and until the Public Open Space Scheme and the SUDs Scheme have been submitted to and approved in writing by the Council
- 4.2 Prior to the Occupation of more than 50% of the Dwellings to be constructed on the Land to provide the SUDs in accordance with the approved SUDs Scheme so that the SUDs is operational and not to permit or allow the Occupation of more 50% of the Dwellings to be constructed on the Land until the SUDs has been provided in accordance with the approved SUDs Scheme.
- 4.3 Prior to the Occupation of more than 50% of the Dwellings to be constructed on the Land to provide the Public Open Space in accordance with the approved Public Open Space Scheme so that the Public Open Space is available and safe for public use and not to permit or allow the Occupation of more than 50% of the Dwellings to be constructed on the Land until the Public Open Space has been provided in accordance with the approved Public Open Space Scheme.
- 4.4 Not to Occupy any of the Dwellings (or such other number of Dwellings that may be agreed in writing by the Council) until it has submitted for the written approval of the Council and the Council has approved a POS Management Scheme and a SUDs Management Scheme for the future maintenance and management of the Public Open Space and the SUDs respectively **PROVIDED THAT** it is agreed that if the Council does not notify the Owner of its approval or proposed amendments to the POS Management Scheme and the SUDs Management Scheme within 30 (thirty) Working Days of receipt of the same it shall be deemed that the Council has approved the POS Management Scheme and/or the SUDs Management Scheme (as appropriate) submitted by the Owner.
- 4.5 The Owner shall not permit the Occupation of any Dwelling which has a direct frontage onto the Public Open Space until such part of the Public Open Space in relation to which that Dwelling has a direct frontage has been completed to the reasonable satisfaction of the Council.
- 4.6 Following the completion of the Public Open Space Works and the SUDs Works to the Council's reasonable satisfaction and prior to the sale of the penultimate Dwelling to engage a Management Company (or Management Companies if different

management companies are to be engaged in relation to the Public Open Space and the SUDs), having first supplied to the Council a certified copy of the Memorandum and Articles of Association of the Management Company or Management Companies, for the purpose of undertaking the future management and maintenance of the Public Open Space and SUDs, such engagement to be on terms agreed between the Owner and the Management Company and all further management and maintenance shall be thereafter carried out by the Management Company in accordance with the principles set out in the approved POS Management Scheme and the approved SUDs Management Scheme **PROVIDED THAT** it is agreed that it shall be a term of the Management Company's engagement that the Management Company will:

- 4.6.1 maintain and manage in perpetuity the Public Open Space and the SUDs in accordance with the approved POS Management Scheme and the approved SUDs Management Scheme; and
- 4.6.2 comply with the requirements of the approved POS Management Scheme and the SUDs Management Scheme; and
- 4.6.3 only allow the use of the Public Open Space for public access and recreation and for no other purpose;

AND FURTHER PROVIDED THAT it is agreed that the Owner will comply with the provisions set out in the approved POS Management Scheme until such time as a Management Company has been engaged to undertake the future management and maintenance of the Public Open Space, or the particular element of Public Open Space as the case may be.

- 4.7 The Owner shall not permit the sale of the final Dwelling without having first provided to the Council a certified copy of the Memorandum and Articles of Association of the Management Company.
- 4.8 The Owner shall not wind up the Management Company nor alter the constitution of the Management Company without the prior written consent of the Council unless the whole of the Development shall have been demolished or unless otherwise first agreed in writing by the Council.
- 4.9 The Owner shall ensure and procure that the sale contract of each Dwelling contains a provision that requires the buyer of such Dwelling to covenant substantially in the

following form (with any amendments being approved by the Council) direct with the Owner and the Management Company under which the buyer shall:

- 4.9.1 covenant to pay to the Management Company a pro rata proportion of the reasonable costs and expenses properly incurred by the Management Company in respect of its administration and of insuring and maintaining the Public Open Space; and
 - 4.9.2 covenant that upon any subsequent sale of such Dwelling the buyer will procure that the incoming buyer shall enter into direct covenants with the Management Company in the form of paragraphs 4.9.1 and 4.9.2 of this Schedule.
- 4.10 It is agreed that in the event that the Management Company ceases operating and/or maintaining the Public Open Space the Owner will maintain or will procure the maintenance of the Public Open Space in accordance with the approved POS Management Scheme until such time as a new Management Company has been engaged to undertake the future management and maintenance of the Public Open Space, or the particular element of Public Open Space.
- 4.11 The Owner hereby declares that pursuant to Section 31(6) Highways Act 1980 that the Public Open Space has not been dedicated to the public nor is any use by the public of any part of the Public Open Space to be taken in any way as an intention by the Owner to dedicate the same as highway.
- 4.12 The Owner will procure that public access is allowed to the Public Open Space but subject to the following provisions:
- 4.12.1 access shall be subject to such other requirements and regulations as may from time to time be imposed by the Owner having regard to overriding reasons of safety, security and prudent building management **PROVIDED THAT** such requirements and regulations shall not be imposed without the Council's prior written approval;
 - 4.12.2 the Owner may erect notices on the Public Open Space and access to them will be denied by the Owner for one day each year in order to prevent public rights of way or common rights coming into being; and
 - 4.12.3 access may be denied by the Owner for and during the maintenance, repair, cleansing or renewal of the Public Open Space or for and during the

construction of any building or land abutting it subject to the Council's prior approval.

4.13 The Owner may close the Public Open Space or any part thereof for reasonable periods by reason of:

4.13.1 emergency;

4.13.2 cleansing, maintenance and repair;

4.13.3 at the direction of the emergency services or other lawful authority; and/or

4.13.4 construction activities whilst the Development is being built if in the interests of health and safety.

5 SUSTAINABLE TRAVEL CONTRIBUTION

5.1 To pay the Sustainable Travel Contribution to the Council in the phased instalments and before the deadlines specified in paragraphs 5.2 to 5.3 (inclusive) of this Schedule.

5.2 To notify the Council prior to the Occupation of more than 25% of the Dwellings to be constructed on the Land and not to Occupy more than 25% of the Dwellings to be constructed on the Land until 50% of the Sustainable Travel Contribution as Index Linked has been paid to the Council.

5.3 To notify the Council prior to the Occupation of more than 75% of the Dwellings to be constructed on the Land and not to Occupy more than 75% of the Dwellings to be constructed on the Land until the remaining 50% of the Sustainable Travel Contribution as Index Linked has been paid to the Council.

6 SAFEGUARDED LAND

6.1 The Safeguarded Land may be used:

6.1.1 to locate some or all of the SUDs; and/or

6.1.2 to locate some or all of the Public Open Space; and/or

6.1.3 as otherwise envisaged (excluding the construction of any Dwellings) by the Planning Permission and/or the Reserved Matters Approval

but not for any other development.

SECOND SCHEDULE
("the Council's Covenants")

The Council hereby covenants with the Owner:

General

- 1 The Council will on the reasonable written request of the Owner at any reasonable time or times after any of the Planning Obligations have been fulfilled issue written confirmation thereof and/or at any reasonable time after all of the Planning Obligations have been fulfilled or at any reasonable time after this Agreement ceases to have effect issue written confirmation thereof and thereafter cancel all relevant entries in the Register of Local Land Charges.
- 2 To issue separate receipts on request for any sum or any of the Contributions paid to the Council under this Agreement.

Contributions

- 3 To apply the Contributions towards the purposes specified in this Agreement and not to apply the Contributions for any other purposes and the Council shall (on the reasonable request of the payee or the payee's nominee) provide evidence that the monies have been so applied.

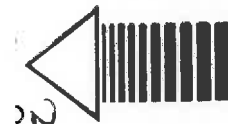
Repayment

- 4 That in the event the Contributions or any part or parts thereof are not expended within 5 (five) years of the date of payment (or the date of payment of the final instalment if applicable) of such payment then the sum or sums not expended plus interest accrued will be repaid to the Owner or its nominee.

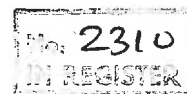
IN WITNESS whereof the parties hereto have executed this Deed the day and year first before written

THE COMMON SEAL of BARNSLEY
METROPOLITAN BOROUGH
COUNCIL was hereunto affixed to this
Deed in the presence of:

)
)
)
)



~~Borough Secretary~~/Authorised Signatory



SIGNED AND DELIVERED as a DEED
by the said NADIA EILEEN HOBSON
in the presence of:-

) J. E. Hobson
) NADIA EILEEN HOBSON
)

Witness Signature: → L Robinson

Witness Name: → LEANNE ROBINSON

Witness Address: → 94 BARNSLEY RD, DARFIELD, BARNSLEY, S40XK, S73 9DD

Witness Occupation: → DENTAL NURSE

EXECUTED as a **DEED** by

ALPHIN PROPERTY LTD

acting by a director in the presence of:

)
)
)



Director

Witness Signature:



Witness Name:

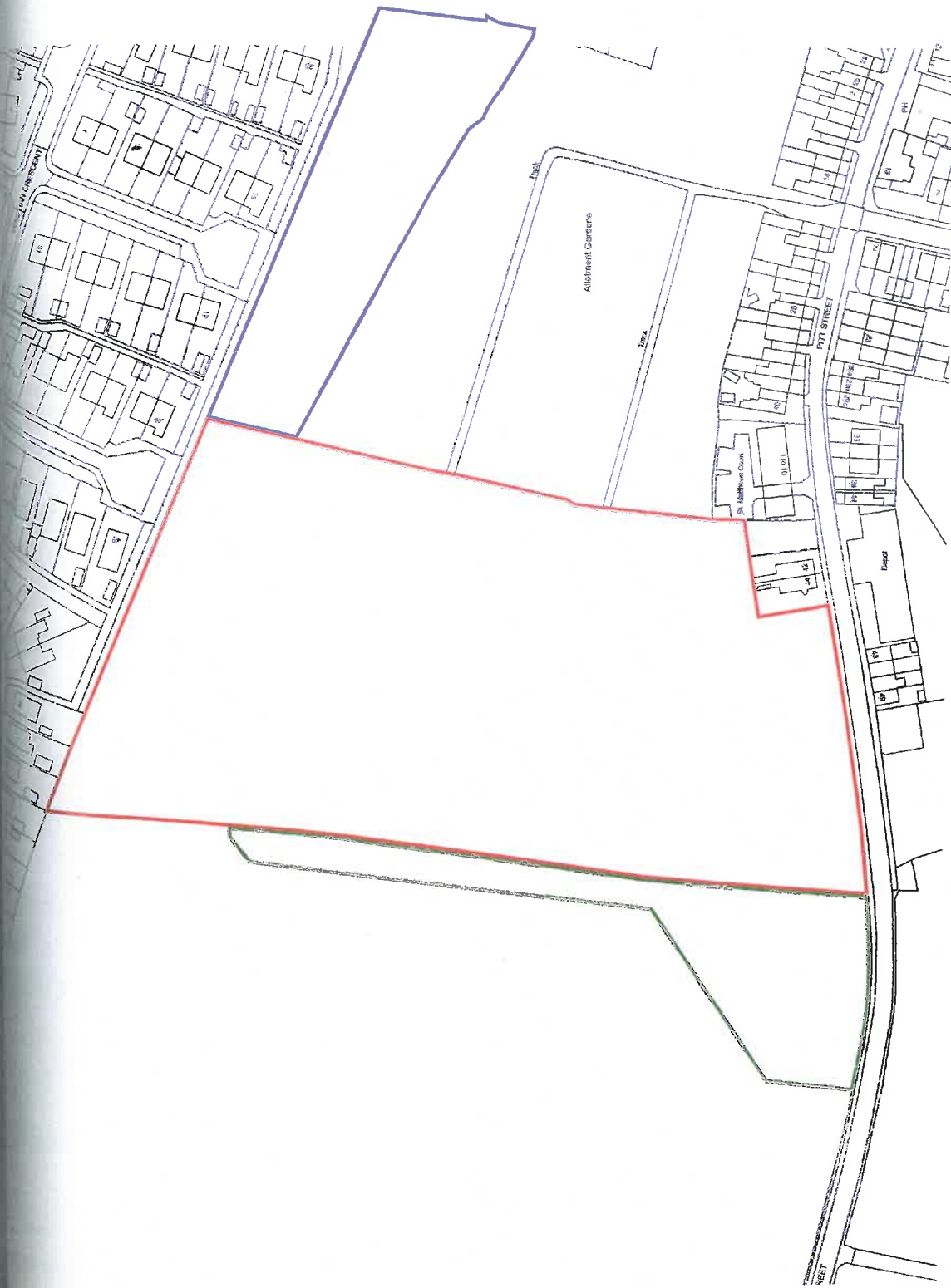
Witness Address:

Richard Jonathan Smith
Partner
Keebles
Commercial House
14 Commercial Street
Sheffield
S1 2AT

Witness Occupation:

.....

Appendix 1
(Plan)



CLIENT: HARTWOOD
PROJECT: LAND AT PITT STREET
WONDSWELL
DRAWING: LEGAL PLAN
S106 PLAN 01
DRAWING NUMBER: P09 4270 901
SCALE @ A2: 1:1000
DATE: 04/11/21
DRAWN: TJS
CHECKED: LB
DATE: 04/01/21



Do not scale off this drawing. Only figure dimensions to be taken from this drawing. Drawings based on Ordnance Survey and/or existing record drawings. Design and construction of any proposed works shall be in accordance with the relevant Building Regulations and Planning Requirements and Approvals. All work shall be carried out in accordance with the relevant Building Regulations and Planning Requirements and Approvals. All work shall be carried out in accordance with the relevant Building Regulations and Planning Requirements and Approvals. All work shall be carried out in accordance with the relevant Building Regulations and Planning Requirements and Approvals.

Appendix 2
(Planning Permission)



BARNSELEY
Metropolitan Borough Council

Place Directorate
Regeneration and Culture
Planning and Building Control

GRANT OF OUTLINE PLANNING PERMISSION

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO. 2019/1117

To Enzygo Ltd
The Byre
Woodend Lane
Cromhall
GL12 8AA

DESCRIPTION Outline planning application for a residential development of up to 107 dwellings including internal circulation roads, structural planting and landscaping, an attenuation basin, a children's play area and a footpath. All matters reserved except the location of the vehicular access.

LOCATION Land at Low Valley Farm, Pitt Street, Darfield, Barnsley, S73 9PY

Permission is **granted** for the proposals which were the subject of the Application and Plans registered by the Council on 17/10/2019 and described above.

THIS DECISION IS SUBJECT TO THE TERMS OF THE AGREEMENT MADE UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED).

The approval is subject on compliance with the following conditions:

- | | |
|---|---|
| 1 | Application for approval of the matters reserved in Condition No. 2 shall be made to the Local Planning Authority before the expiration of three years from the date of this permission, and the development, hereby permitted, shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
Reason: In order to comply with the provision of Section 92 of the Town and Country Planning Act 1990. |
| 2 | The development hereby permitted shall not be commenced unless and until approval of the following reserved matters has been obtained in writing from the Local Planning Authority:-
(a) the layout of the proposed development.
(b) scale of building(s)
(c) the design and external appearance of the proposed development.
(d) landscaping
Reason: In order to allow the Local Planning Authority to assess the details of the reserved matters with regard to the development plan and other material considerations. |

3	Detailed plans shall accompany the reserved matters submission indicating existing ground levels, finished floor levels of all dwellings and associated structures, road levels and any proposed alterations to ground levels. Thereafter the development shall proceed in accordance with the approved details. Reason: To enable the impact arising from need for any changes in level to be assessed in accordance with Local Plan Policy D1 High Quality Design and Place Making.
4	Prior to the submission of any reserved matters application, an archaeological desk-based assessment and archaeological evaluation of the application area will be undertaken in accordance with a written scheme of investigation that has been submitted to and approved in writing by the local planning authority. Drawing upon the results of this investigation stage, a mitigation strategy for any further archaeological works and/or preservation in situ will be approved in writing with the local planning authority and then implemented. Reason: In accordance with Local Plan Policy HE1.
5	No development or other operations being undertaken on site shall take place until the following documents in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction - Recommendations have been submitted to and approved in writing by the Local Planning Authority: • Arboricultural impact assessment • Tree protective barrier details • Tree protection plan • Arboricultural method statement Reason: To ensure the continued wellbeing of the trees in the interests of the amenity of the locality.
6	A landscape management plan, including long term design objectives, 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. The landscape management plan shall be carried out in accordance with the approved plan. Reason: In the interests of the visual amenities of the locality and in accordance with Local Plan Policy BIO1 Biodiversity.
7	The Reserved Matters application shall be accompanied by details of proposals to mitigate the air quality impact of the development including, but not limited to: • Provision of Electric Vehicle Charging Points (Mode 3); • A Full Travel Plan; • Cycle parking / storage facilities for dwellings without a garage; • A site layout to encourage walking, linked to existing footpath / bridleways; These measures will be in accordance with Local Plan Policy and the accompanying guidance contained in the Sustainable Travel SPD and shall take account of the air quality assessment submitted in support of the application. Reason: In accordance with Local Plan Policies Poll1 and T3 alongside the Sustainable Travel SPD.
8	Construction, demolition and deliveries shall only take place between Monday to Friday 0800-1800 and Saturday 0900-1300. There shall be none on Sundays or Bank Holidays.

	Reason: In accordance with Local Plan Policy Poll1.
9	Prior to any construction being undertaken the applicant shall submit to the LPA, for approval, a dust management plan which details how dust will be controlled during the construction stages of the development. Once approved the applicant shall strictly adhere to the dust management plan. Reason: In accordance with Local Plan Policy Poll1.
10	Prior to the commencement of the development details of the provision of an on site water supply or water storage facility along with other dust suppression measures as required shall be submitted to and approved in writing by the LPA. The approved details shall be put in place from the start of the construction period and shall be adhered to for the duration of the construction period. Reason: In accordance with Local Plan Policy Poll1.
11	Upon commencement of development details of measures to facilitate the provision of gigabit-capable full fibre broadband for the dwellings hereby permitted, including a timescale for implementation, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details Reason: In accordance with Local Plan Policy I1.
12	No development shall take place unless and until full foul and surface later drainage details, have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include: • Information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; • A timetable for its implementation; and • A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker or any other arrangements to secure the operation of the scheme throughout its lifetime. 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 unless otherwise agreed in writing with the Local Planning Authority. Reason: To ensure the proper drainage of the area in accordance with Local Plan Policies CC3 and CC4.
13	No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details to be submitted to and approved by the local planning authority before development commences. Reason: To ensure that the site is properly drained and surface water is not discharged to the foul sewerage system which will prevent overloading.
14	The reserved matters submission shall include full details of the mitigation measures identified in the Preliminary Ecological Assessment (ref. CRM.1122.003.EC.R.001) and Ecological impact Assessment (ref. CRM.1122.003.EC.R.002), including a timetable for their implementation. The approved development shall be implemented in accordance with the approved details.

	Reason: To conserve and enhance biodiversity in accordance with Local Plan Policy BIO1.
15	Prior to the commencement of development details of a scheme of highways works to reduce vehicular speeds along Pitt Street shall be investigated. These works shall be completed in accordance with the approved arrangements and a timetable to be agreed by the Local Planning Authority. Reason: In the interests of safe, secure and convenient access and movement, in accordance with Local Plan Policy T4.
16	Prior to the first occupation of the development hereby permitted a vehicular access (and / or pedestrian / cyclist) shall be provided and thereafter retained in at the position shown on the approved plan (P09 4270 101 Rev E) and constructed in accordance with the BMBC highway specification. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway. Reason: To ensure satisfactory access into the site and avoid the carriage of extraneous material or surface water from or onto the highway and in the interests of highway safety.
17	The gradient of the vehicular access and individual vehicular accesses/driveways shall not exceed 1 in 12 as measured from edge of the adjacent carriageway. Reason: In interests of the safety of persons using the access and users of the highway.
18	Prior to the first occupation of the development hereby permitted a visibility splay shall be provided in full accordance with the details indicated on the approved plan. The splay shall thereafter be maintained at all times free from any obstruction exceeding 900mm above the level of the adjacent highway carriageway. Reason: In interests of highway safety.
19	No building hereby permitted shall be occupied until pedestrian visibility splays of 2m x 2m to the back edge of the footway / verge shall be provided at the proposed access (or drive). Nothing shall be erected, retained, planted and / or allowed to grow at or above a height of 0.6m to the rear of the footway/ verge which would obstruct the visibility splay. The visibility splay shall be maintained free of obstruction at all times thereafter for the lifetime of the development. Reason: To ensure drivers have clear and unrestricted views of approaching pedestrians when pulling out onto the public highway, in the interest of highway safety.
20	Prior to the first occupation of the development hereby permitted, parking provision will be in accordance with the standards set out within Barnsley's Parking SPD. Driveways and vehicle parking areas accessed from the approved streets 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.

21	No development shall be commenced until full engineering, drainage and street lighting and constructional details of the streets proposed for highway adoption have been submitted to and approved in writing by the LPA. The development shall, thereafter, be constructed in accordance with the approved details. Reason: To ensure that the internal streets are planned and approved in good time to a satisfactory standard for use by the public in the interests of highway safety.
22	Before any dwelling is first occupied the roads and footways shall be constructed to binder course level from the dwelling to the adjoining public highway at Pitt Street in accordance with details of a completion plan to be submitted and approved in writing by the LPA. Reason: To ensure streets are completed prior to occupation and satisfactory development of the site.
23	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 the interests of highway safety.
24	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 LPA 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.
25	The reserved matters submission shall include means to secure future access into the remaining land allocated under Local Plan Policy HS77. Reason: In the interests of safe, secure and convenient access and movement, in accordance with Local Plan Policy T4.

26	No development works shall begin until a report, endorsed by a competent engineer experienced in ground contamination and remediation, has been submitted and agreed with the Local Planning Authority. The report shall, amongst other matters, include the following:- 1. A survey of the extent, scale and nature of contamination. 2. An assessment of the potential risks to human health, property, adjoining land, groundwaters and surface waters, ecological systems and archaeological sites and ancient monuments. 3. An appraisal of remedial options, and proposal of the preferred option(s). 4. A remediation statement summarising the works to be undertaken (if required). 5. A Validation Report to confirm remediation works have been undertaken (if required). The above must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11. The development shall thereafter be undertaken in full accordance with the submitted report. For further information, see BMBC's Supplementary Planning Guidance 28, "Developing Contaminated Land". Reason: In accordance with Local Plan Policy Poll1.
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Informative(s)

Pursuant to article 31(1)(cc) of the Town and Country Planning (Development Management Procedure) Order 2010 (as amended), the Local Planning Authority have, where possible, made a pre-application advice service available, complied with our Planning Service Charter for Business and otherwise actively engaged with the applicant in dealing with the application.

- 1 The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant).

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstances where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water.

Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at:
<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

- 2 Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of 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 a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property-specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

- 3 The granting of planning permission does not in any way infer that consent of the landowner is given. Therefore the consent of all relevant landowners is required before proceeding with any development including that of the Council as landowner.

If it should transpire that the applicant does not own any of the land included in this consent then it is the responsibility of the applicant to seek all necessary consents and approvals of the landowner.

- 4 The development hereby approved includes the creation of/carrying out of alterations to vehicular access (es). You are advised that before undertaking work on the adopted highway you will require a Section 184 licence from the Highway Authority. The works shall be to the specification and constructed to the satisfaction of the Highway Authority. Fees are payable for the approval of the highway details, and inspection of the works. Further information and an application form are available on the BMBC website at <https://www.barnsley.gov.uk/services/roads-travel-and-parking/parking/dropped-kerbs/> or please contact at email Streetworks@barnsley.gov.uk or call to 01226 773555.
- 5 The development hereby approved includes the carrying out of work 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.
- 6 Roads other than agreed shared private drives shall be constructed to an adoptable standard and offered for adoption on completion under (the provisions) Section 38 of The Highways Act (1980). Engineering and surface water drainage details shall be submitted for inspection and approval in writing by the (Local Planning Authority) Highway Authority before works commence on site. The applicant should make contact with Highways Development Control, Tel. 01226 772033/772170. Email HighwaysDC@barnsley.gov.uk as soon as possible to arrange the setting up of the agreement.
- 7 The use of a soakaway system has to be located outside the carriageway and at least 5m from any building which may affect the layout shown. It should be noted that a commuted sum to be used towards the future maintenance costs of each highway drain soakaway, shall be agreed with and paid to the Council, prior to the issue of the Part 2 Certificate.
- 8 It should be noted that no pipes, culverts, water attenuation tanks or similar greater than 900mm can be placed beneath the area to be defined as public highway. All drainage installed under the Highway is to be adopted by the sewerage undertaker or, in the case of highway drainage, the Local Highway Authority.
- 9 Street lighting design and installation is generally undertaken by the Local Highway Authority. There is a fee payable for this service and the applicant should make contact with the authorities Street Lighting Team, Tel 01226 770770. Email. Streetlighting@barnsley.gov.uk as soon as possible.

- 10 *Access arrangements including shared private drives 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.*
- 11 *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.*

Please be aware that the Council monitors construction sites and open land within the vicinity such sites in an attempt to prevent fly tipping (i.e. unauthorised deposit of waste on land), which is illegal under the Environmental Protection Act 1990. The penalties for fly-tipping can include:

- a fine of up to £50,000 and*
- up to six months imprisonment on conviction.*

Therefore, if necessary, please ensure that all demolition waste and waste associated with the construction of the approved development is disposed of via approved methods and that documents are retained to prove this.

Signed

Dated



Joe Jenkinson
Head of Planning and Building Control

The grant of this consent does not constitute or imply permission, approval or consent by the Local Authority for any other purpose.

NOTES:-

Appeals to the Secretary of State

If you are aggrieved by the decision of the Council to grant permission for the proposed development subject to conditions then you can appeal to the Secretary of State for the Environment, Transport and Regions under Section 78 of the Town and Country Planning Act. If you want to appeal, then you must do so within six months of the date of this notice, using a form which you can get from The Planning Inspectorate, Room 3/24 Hawk Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN.

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions giving under the order. In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based its decision on a direction given by him.

Purchase Notices

If either the Local Planning Authority or the Secretary of State for the Environment, Transport and Regions refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of part VI of the Town and Country Planning Act 1990.

Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference to the application to him. These circumstances are set out in Sections 114 and related provisions of the Town and Country Planning Act 1990.



