

DATED

20<sup>th</sup> July 2026

**PLANNING OBLIGATION BY WAY OF UNILATERAL UNDERTAKING UNDER SECTION  
106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 RELATING TO LAND AT  
LAND TO EAST OF CAT HILL LANE, HOYLANDSWAINE, BARNSELY**

between

**RACHEL SMITH**

and

**BARNSELY METROPOLITAN BOROUGH COUNCIL**

## CONTENTS

---

### CLAUSE

|                                         |   |
|-----------------------------------------|---|
| 1. Interpretation .....                 | 2 |
| 2. Statutory provisions .....           | 4 |
| 3. Covenants with the Council.....      | 4 |
| 4. Release .....                        | 4 |
| 5. Determination of deed.....           | 4 |
| 6. Local land charge .....              | 5 |
| 7. Ownership.....                       | 5 |
| 8. <i>No fetter of discretion</i> ..... | 5 |
| 9. Waiver.....                          | 5 |
| 10. Agreements and declarations.....    | 5 |
| 11. Third party rights.....             | 5 |
| 12. Value Added Tax .....               | 5 |
| 13. Governing law .....                 | 6 |

This deed is dated

**Parties**

- (1) **RACHEL SMITH** of Don Villa, Whams Road, Hazlehead, Crow Edge, Sheffield, S36 4HJ ("**The Owner**")
- (2) **BARNSELY METROPOLITAN BOROUGH COUNCIL** of Town Hall, Barnsley, South Yorkshire, S70 2TA ("**The Council**")

**BACKGROUND**

- (A) The Council is the local planning authority for the purposes of the TCPA 1990 for the area in which the Property is situated.
- (B) The Owner has submitted the Application given reference 2026/0165 in relation to the proposed Development of the Property. The Owner and the Council wish to secure that the Development proposed in the Application is not prejudiced by incompatible development pursuant to the Existing Planning Permission reference 2024/0984. The Owner has agreed to execute this section 106 agreement by unilateral obligation to make appropriate provision for the control of future development under the Existing Planning Permission.

**Agreed terms**

**1. Interpretation**

The following definitions and rules of interpretation apply in this deed.

**1.1 Definitions:**

**Application:** means the planning application submitted by the Owner to the Council given reference 2026/0165 and forgoing of permission for previous development under planning permission 2024/0984.

**Commencement of Development:** the carrying out in relation to the Development of any material operation as defined by section 56(4) of the TCPA 1990

**Commenced and Commences** shall be construed accordingly.

**Commencement Date:** the date of Commencement of Development.

**Development:** the development of the Property described in the Planning Application.

**Existing Planning Permission:** means the planning permission under reference 2024/0984.

**Existing Development:** means the development approved under the Existing Planning Permission.

**Plan:** the attached plan so marked.

**Property:** the freehold land to the east of Cat Hill Lane, Hoylandswaine, Barnsley, subject to the Application and illustrated by the Plan.

**Planning Permission:** the planning permission to be granted by the Council in respect of the Application.

**TCPA 1990:** the Town and Country Planning Act 1990.

- 1.2 Clause headings shall not affect the interpretation of this deed.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.6 A reference to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.7 A reference to the Council shall include the successors to its respective statutory functions.
- 1.8 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 A reference to **writing** or **written** excludes faxes and email.
- 1.11 References to clauses are to the clauses of this deed.

1.12 Any words following the term(s) **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.13 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

## **2. Statutory provisions**

2.1 This deed constitutes a planning obligation for the purposes of section 106 of the TCPA 1990.

2.2 The obligations contained in clause 3 of this deed are planning obligations for the purposes of section 106 of the TCPA 1990 and are entered into by the Owner with the intention that they bind the interests held by in the Property and their respective successors and assigns.

2.3 The obligations contained in clause 3 of this deed are enforceable by the Council in accordance with section 106 of the TCPA 1990.

## **3. Covenants with the Council**

The Owner covenants with the Council:

3.1 Following the grant of the Planning Permission the Existing Development approved under the Existing Planning Permission will not be Implemented and no works whatsoever shall be carried out under the Existing Planning Permission.

3.2 Following the grant of the Planning Permission the Council shall be entitled to revoke the Existing Planning Permission by an order under section 99 of the 1990 Act and the Owner undertakes not to object to such an order made by the Council in these circumstances.

## **4. Release**

No person shall be liable for any breach of an obligation, restriction or covenant contained in this deed after parting with all of its interest in the Property, except in respect of any breach subsisting prior to parting with such interest.

## **5. Determination of deed**

This deed shall be determined and have no further effect if the Planning Permission:

- (a) expires before the Commencement of Development;
- (b) is quashed following a successful legal challenge.

**6. Local land charge**

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

**7. Ownership**

- 7.1 The Owner warrants that no person other than the Owner has any legal or equitable interest in the Property.

**8. No fetter of discretion**

Nothing (contained or implied) in this deed fetters or restricts the Council's statutory rights, powers, discretions and responsibilities.

**9. Waiver**

No failure or delay by the Council to exercise any right or remedy provided under this deed or by law constitutes a waiver of that or any other right or remedy. No single or partial exercise of that right or remedy prevents or restricts the further exercise of that or any other right or remedy.

**10. Agreements and declarations**

The parties agree that:

- (a) nothing in this deed constitutes a planning permission or an obligation to grant planning permission; and
- (b) nothing in this deed grants planning permission or any other approval, consent or permission required from the Council in the exercise of any other statutory function.

**11. Third party rights**

A person who is not a party to this deed does not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed.

**12. Value Added Tax**

- 12.1 Each amount stated to be payable by the Council or the Owner to the other under or pursuant to this deed is exclusive of VAT (if any).

- 12.2 If any VAT is at any time chargeable on any supply made by the Council or the Owner under or pursuant to this deed, the party making the payment shall pay the other an amount equal to that VAT as additional consideration on receipt of a valid VAT invoice

**13. Governing law**

This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law 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.

Signed as deed by **Rachel Smith**  
in the presence of:

.....  
Witness  
Witness name:  
Witness occupation: