

Rebecca Larder
Planning and Building Control
Barnsley Council
PO Box 634
Barnsley
S70 9GG

05 June 2026

Dear Rebecca,

Application for a Deed of Variation of Section 106 Agreement dated 01 October 2024 relating to Land at the Former William Freeman Site, Wakefield Road, Mapplewell, Barnsley

Countryside Partnerships (UK) Limited (trading as Vistry) are acting as Agents on behalf of the current landowner Purico Landinvest Ltd to submit this application for a Deed of Variation pertaining to the Section 106 Agreement dated 01 October 2024 relating to Land at Former William Freeman Site, Wakefield Road, Mapplewell.

Please find enclosed with this application the following documents submitted to support this deed of variation:

- Deed of Variation Heads of Terms
- Site Location Plan
- Affordable Housing Scheme Plan (reference: VWYM2-PHS-XX-XX-DR-A-07005 P03)
- This Covering Letter

Background

An Outline Planning application was submitted in 23 February 2018 seeking consent for *“Residential development for up to 102 dwellings with associated infrastructure and access (Outline with All Matters Reserved apart from access)”* under reference: 2017/1718. This was approved 24 October 2018 subject to conditions.

A Reserved Matters application was submitted in 2021 seeking consent *“Reserved Matters (appearance, landscaping, layout and Scale) application for development of 91 homes, structural planting and landscaping, surface water attenuation and associated infrastructure in connection with outline planning permission 2017/1718 (Outline planning for up to 102 homes) (Amended Plans)*. This was approved on 08 October 2024 subject to conditions.

Condition 1 of this permission requires the development hereby permitted shall be begun before the expiration of two years from the date of this approval (ie by 8 October 2026).

A Section 73 application was submitted to the Council on 22 May 2026 and received and validated on 01 June 2026 (reference: 2026/0412) seeking consent *“Variation of conditions 2 (Approved Plans), 3 (Levels), 4 (Air Quality Mitigation), 5 (Trees), 6 (Highways Adoption Plan), 10 (Cycle Parking),*

11 (Noise Mitigation), 13 (Boundary Treatment to Plots 1-7), 15 (CEMP) and 16 (Hampton Windows) of planning application 2021/1405 : Reserved matters (appearance, landscaping, layout and Scale) application for development of 91 homes, structural planting and landscaping, surface water attenuation and associated infrastructure in connection with outline planning permission 2017/1718 (Outline planning for up to 102 homes) (Amended Plans). The application is necessary to bring the approved house types up to current Building Control Standards and to enable Vistry to quickly deliver this permission. Furthermore, amendments were needed to correctly reference the appropriate planning drawings on the Decision Notice. The application is currently under determination.

Vistry are currently in the process of acquiring the site, with contracts due to be exchanged and completion within the next few weeks. Vistry are also negotiating contracts with Vico Homes Limited, the proposed Registered Provider for this scheme, in respect of the S106 affordable homes to be provided on site, together with some additional grant funded affordable homes.

This deed is made pursuant to Section 106A of the Town and Country Planning Act and the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992. Section 106A permits a modification after the expiry of the relevant period (i.e five years) or where there is a mutual agreement with the local authority. A Planning Performance Agreement has been signed by both the Council and Countryside Properties (UK) Limited which includes the need for this Section 106 Deed of Variation.

Schedule 3(2) of the Modification and Discharge of Planning Obligations Regulations notes an application shall include:

- a) The information required by the application form;
- b) A map identifying the land to which the obligation relates; and
- c) Such other information as the applicant considers relevant to the determination of the application.

Application Form

In the absence of an application form provided by the local planning authority the following is provided in accordance with the Regulations.

- a) The applicant is Countryside Properties (UK) Limited (trading as Vistry) who are acting as agents on behalf of the landowner Purico Landinvest Ltd. Countryside Properties (UK) Limited address is 11 Tower View, Kings Hill, West Malling, ME19 4UY.
- b) The land to which the application relates is the site known as Former William Freeman Site, Wakefield Road, Mapplewell, Barnsley. Countryside Properties (UK) Limited are due to exchange contracts with the current landowner to purchase the site, with completion expected within the next few months. It is our intention to complete on the land before entering into this S106. A Site Location Plan is provided alongside this letter to clearly identify the site in question.
- c) The planning obligations to which this modification application relates are set out in the Draft Heads of Terms supporting this application. Changes are being sought regarding the definitions referred to in Clause 1 Definitions and Interpretations and deletions of definitions. Variations are required to the agreed contributions for education and off-site open space. There are several variations required to Schedule 1, Part 1 and Part 2 to ensure consistency with best practice and expand and clarify the existing clauses to accommodate these changes.
- d) See below for the reasons for applying for the modification;
- e) This cover letter and accompanying documentation provides the necessary information to enable the authority to determine this application. Should any further information be required, please do not hesitate to request this.

Reasons for Modification

The accompanying Draft Heads of Terms set out the areas to which this Deed of Variation (DoV) will relate. The reason for applying for the modification and discharge of the obligations result from Clause 8 of the Principle Agreement (signed 01 October 2024). Clause 8 identifies that if/when an application is made under Section 73 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 to 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 judgement 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.

A Section 73 Application reference: 2026/0412 has been submitted, triggering the need for this Deed of Variation in accordance with paragraph b above. The slightly altered housing mix requires an uplift to the Education and Off-Site Open Space Contributions, as calculated in accordance with the Council's Supplementary Planning Documents. The sums contained within the Principal Agreement therefore, need to be increased through this DoV, ensuring simplicity.

We are also seeking changes within Clause 1 Definitions and Interpretation. These changes will ensure that this DoV is consistent with the Section 73 application and National Housing Federation terminology, the updated contributions and latest glossary of terms in the NPPF (2024). This will ensure that the DoV is unambiguous and reflects updated legislation and guidance.

Furthermore, Countryside Properties (UK) Limited are purchasing the site from Purico Landinvest Ltd (the Owners) and Clause 13 of the Principal Agreement requires notice is given to the authority of a change in land ownership. This change can be picked up through this Deed with Countryside Properties (UK) Limited identified as the new landowner for the purposes of this Deed.

As mentioned, the introduction of the housetypes substitutions through the S73 application (2026/0412) are necessary to comply with the changes to Planning Policy, Planning Guidance and Legislation and advances in Building Control Regulations since the Reserved Matters approval. These changes will allow Countryside Properties (UK) Limited trading as Vistry to get on site quickly to deliver these much needed homes under the approvals.

The plans submitted in support of the Section 73 permission includes an Affordable Housing Plan (reference: VWYM2-PHS-XX-XX-DR-A-07005 P03) clarifying the details of the location, numbers, type and tenure of the affordable housing provision as agreed through the Reserved Matters approval (2021/1405). The Affordable Housing Scheme is required by Schedule 1 (Part 1), Clause 1.1 and Outline Planning Permission (2017/1718) Condition 21. The Plan (VWYM2-PHS-XX-XX-DR-A-07005 P03) submitted in support of this Deed of Variation provides the detail necessary to discharge this Clause. It was agreed through the PPA that this discharge could be wrapped up within this DoV. The Affordable Housing Plan is proposed to be included as Plan 2 within the DOV, removing the need for an additional application to discharge this Clause.

Another amendment introduced by this DoV is the substitution of the National Housing Federation precedent Mortgagee in Possession clause wording to ensure consistency with current best practice. Accompanying which are a small number of amendments required to expand and clarify the existing release clauses. The details of how this is to be done will be agreed with the Local Authority through the Drafting of the Deed of Variation. These changes are technical in nature and do not alter the overall intent or obligations of the Principal Agreement.

We consider that subject to the proposed modifications the obligations would better serve the purpose if it had effect of the modifications specified in this application. The changes will provide for circumstances where a Registered Provider (RP) defaults on loan payments or other loan/ mortgage terms and a mortgagee takes control of the RP's interest in affordable housing units as assets against which their loan is secured.

The changes proposed will allow for another RP or Barnsley Council to purchase the affordable housing units within a specified timeframe; where units are not purchased within this period, they can be released from affordable tenure, enabling the mortgagee to dispose of the units in order to regain some or all of the loan they have provided. A similar approach has recently been agreed between Countryside Properties (UK) Ltd and Barnsley Council for the site Land at Wakefield Road, Mapplewell (known as the Phase I site).

We would be grateful if the Council could confirm that they are satisfied with this approach and that the proposed wording meets the requirements under the relevant clause of the Section 106 Agreement.

Conclusion

This covering letter set out the reasons for the proposed modifications to the 01 October 2024 Section 106 Agreement for Land at Former William Freeman Site, Wakefield Road, Mapplewell.

This covering letter with accompanying Heads of Terms, Affordable Housing Scheme Plan and Site Location Plan should provide the necessary information to allow a decision to be made as to whether the obligations within the Principal Agreement would serve their purpose equally well if it had effect subject to the modifications specified in this application, that it shall have effect subject to those modifications.

Should you find that you require any further information to assist with making a decision, please do not hesitate to contact me.

Yours sincerely

Kat Crisp
Planning Manager