

DATED 18th November

2021

**BARNSLEY METROPOLITAN BOROUGH COUNCIL**

and

**C.C. PROJECTS**

and

**HARWORTH ESTATES (AGRICULTURAL LAND) LIMITED**

**S106 AGREEMENT**

**Pursuant to Section 106 of the Town and Country Planning Act 1990 in relation to Land  
at South of Darton Lane, Darton, Barnsley  
LPA Reference: 2019/1244**

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THIS Agreement is made the 18th day of November 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) **C.C. PROJECTS** (CRN:01765782) whose registered office is situated at 29 Great Smith Street, London SW1P 3PS ("the Owner") of the second part and
- (3) **HARWORTH ESTATES (AGRICULTURAL LAND) LIMITED** (CRN: 02835767) whose registered office is situated at Advantage House Poplar Way, Catcliffe, Rotherham, United Kingdom, S60 5TR ("the Mortgagee") 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 registered under title number SYK588670
- (3) The Mortgagee has a charge on the Land dated 8 July 2011 detailed in paragraph 5 and 6 of the charges register of title number SYK588670.
- (4) The Owner submitted the Application to the Council. The Council validated the Application on 14 October 2019.
- (5) The Council has agreed to grant Planning Permission for the Development subject to the prior completion of this Agreement.
- (6) The Owner has agreed to enter into this Agreement to create planning obligations in respect of its interest in the Land 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;
- "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 Framework at the date of this Agreement 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 (SAVE THAT 70% of the Affordable Housing Units shall be Affordable Housing for Rent Dwellings and 30% shall be Shared Ownership Dwellings);
  - (b) the location and distribution of the Affordable Housing Units 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 the 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 20% 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;

**"Agreed Price"**

means the sum of £12,000 per Biodiversity Unit;

**"Application"**

means the planning application for the Development carrying reference number 2019/1244;

**"Biodiversity Contribution"**

means a sum calculated by multiplying the Agreed Price by the Off-Site Provision;

**"Biodiversity Units"**

means biodiversity units calculated in accordance with DEFRA Biodiversity Metric v3.0 (or as amended)

**"Chargee"**

means a mortgagee or chargee or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator;

**"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 "*material operation*" 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 Education Contribution, the Off-Site Greenspace Contribution, the Sustainable Travel Contribution, the Biodiversity 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 46 homes, highway works including access off Darton Lane, landscaping, ground works, and other ancillary works pursuant to the Planning Permission;

**"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;

**"Education Contribution"**

means a sum Index Linked as calculated in accordance with the Reserved Matter Approval and the formula specified in section 4, 5 and 6 of the Councils SPD Financial Contributions to Schools adopted May 2019 (a worked example is set out at Appendix 3);

**"Expert"**

has the meaning given in clause 2.5.2;

**"Grassland"**

means 1.74ha of grassland on the western part of the Land shown shaded dark green on Plan 1 to be provided in accordance with the Public Open Space Scheme and Outline Ecology Management Plan

**"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 undertaking the existing functions of Homes England within the meaning of Part I of the Housing and Regeneration Act 2008;

<b>"Index"</b>	means 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;
<b>"Index Linked"</b>	means such increase to the Contributions payable to the Council under this Agreement to account for the change in the specified Index from that last published before the date of the Planning Permission to the date of payment;
<b>"Interest Rate"</b>	means interest at 4 (four) per cent above the base lending rate of the Bank of England from time to time;
<b>"Land"</b>	means all that land on the south side of Darton Lane, Darton, Barnsley registered under title number SYK588670 shown for identification purposes only edged red on the Plan;
<b>"Local Plan"</b>	means the Barnsley Local Plan adopted in January 2019;
<b>"Management Company"</b>	means a limited company with the purpose of managing the Public Open Space and SuDs within the Development in accordance respectively with the POS Management Scheme and the Outline Ecology Management Plan ;
<b>"National Planning Policy Framework"</b>	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);
<b>"Occupation" and "Occupy" and "Occupied"</b>	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:-

In relation to formal recreation space; £560.22 x 1 bed, £824.41 x 2 bed, £989.01 x 3 bed and £1155 x 4 bed

In relation to informal child and youth facilities £503.51 x 2 bed £604.48 x 3bed and £705.47 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 publicly accessible formal recreation open space and child and youth facilities on the Land for the provision of, or improvements to, public open space within 5 km of the boundary of the Land the need for which is required in order to mitigate impacts arising from the Development;

**"Off-Site Provision"**

means 1.264 Biodiversity Units (being the Required Gain less the number of Biodiversity Units to be achieved as gain (being 2.24) via the On-Site Mitigation);

**"On-Site Mitigation"**

means the on-site habitat retention, creation and enhancement (being 37.28 Biodiversity Units, representing a gain of 2.24 Biodiversity Units) set out in the Outline Ecology Management Plan

**"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;

<b>“Open Market Value”</b>	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;
<b>“Outline Ecology Management Plan”</b>	means the Outline Ecology Management Plan (Grassland and SuDS) dated July 2021 submitted with Application, and any other documents supplementing the same or any revisions to or replacement of the Outline Ecology Management Plan approved by the Council in writing.;
<b>“Plan 1”</b>	means the plan attached to this Agreement as Appendix 1;
<b>“Planning Obligations”</b>	means the obligations, conditions and stipulations set out in the First Schedule and <b>“Planning Obligation”</b> shall be construed accordingly;
<b>“Planning Permission”</b>	means outline planning permission that may be granted pursuant to the Application in the form of the draft attached to this Agreement as Appendix 2;
<b>“POS Management Scheme”</b>	<p>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 3.3 of the First Schedule and approved by the Council (or 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:</p> <p>(a) The identity of the Management Company proposed to be engaged to carry out the maintenance and management of the Public Open Space.</p>

- (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 including management of the On Site Mitigation in accordance with the Outline Ecology Management Plan
- (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.

**"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;

**“Publicly Accessible Open Space”**

means the area shaded light green (and referred to as “Publically Accessible Space”) on Plan 1 in the centre of the Land that is to be made publicly accessible and provided pursuant to the Public Open Space Scheme;

**“Public Open Space”**

means the Publicly Accessible Open Space, the SuDs and the Grassland;

**“Public Open Space Scheme”**

a scheme detailing:

- (d) the size location and type of Public Open Space;
- (e) details and specifications for works and materials showing how the Public Open Space will be graded, drained, landscaped, seeded,

planted, laid out and in respect of the Publicly Accessible Open Space provided fit for use by the public;

(f) 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

(g) 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 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) 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 (b) 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;

<b>"Required Gain"</b>	means 3.504 Biodiversity Units, which it is agreed between the Owner and the Council would provide net gain for biodiversity in respect of the Development;
<b>"Reserved Matters"</b>	means the reserved matters applications pursuant to the Planning Permission
<b>"Reserved Matters Approval"</b>	means the approval of all reserved matters for the Development pursuant to the Planning Permission;
<b>"Shared Ownership Dwellings"</b>	means either: <ul style="list-style-type: none"> <li>(a) Dwellings to be made available on a Shared Ownership Lease to persons in accordance with the Registered Provider's policy; or</li> <li>(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 as at the date of this Agreement;</li> </ul>
<b>"Shared Ownership Lease"</b>	means the Homes England lease current at the date of this Agreement relating to protected areas or as may be amended;
<b>"SPD"</b>	means the supplementary planning documents that have been issued by the Council following the adoption of the Local Plan;
<b>"Statutory Undertaker"</b>	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;

<b>"Sustainable Travel Contribution"</b>	means a sum calculated in accordance with the Reserved Matters Approval and the Sustainable Travel SPD Appendix C adopted in November 2019 and agreed in writing by the LPA (Index Linked) (a worked example is set out at Appendix 3);
<b>"SuDs"</b>	means the sustainable urban drainage system to be constructed as part of the Development
<b>"Transfer Values"</b>	means 74% of the Open Market Value for Shared Ownership Dwellings and 50% of the Open Market Value for Affordable Housing for Rent Dwellings;
<b>"Working Day"</b>	means a weekday (Saturdays, Sundays and public holidays and the days between Christmas Day and New Year's Day excepted) and reference to " <b>Working Days</b> " 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 and neuter genders and extend to include a corporation sole or aggregate and all such words shall be construed interchangeable in that manner;
- 1.2.2 References to any Party in this Agreement shall include the successors in title and assigns of that Party subject to the terms of this Agreement 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
- 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:
- 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 The Council covenants with the Owner to comply with its obligations in the Second Schedule and (where applicable) in the First Schedule.
- 2.4 The Mortgagee acknowledges and declares that this Agreement has been entered into by the Owner with its consent and that the Land shall be bound by the obligations contained in this Agreement and that the security of the charge over the Land shall take effect subject to this Agreement PROVIDED THAT the Mortgagee shall have no liability under this Agreement and the provisions in this Agreement shall not be binding on the Mortgagee unless it takes possession of the Land in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.
- 2.5 It is agreed and declared as follows:
- 2.5.1 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 it has parted with 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 they are 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 they are 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 of 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.

2.5.2 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 2.5.3 and 2.5.4 to the determination of a person ("**Expert**").

2.5.3 Any reference to an Expert in accordance with clause 2.5.2 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 in the case of for manifest error and/or fraud).

2.5.4 Each of the parties to the dispute referred to an Expert pursuant to clause 2.5.3 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.

- 2.5.5 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.
- 2.5.6 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.
- 2.5.7 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.
- 2.5.8 The obligations hereby created shall be registered as a Local Land Charge.
- 2.5.9 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.
- 2.5.10 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.
- 2.5.11 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.
- 2.5.12 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.
- 2.5.13 The parties shall act reasonably and in good faith in the performance of their obligations in this Agreement.

- 2.5.14 In the event that a condition to the Planning Permission is 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 as so varied.
- 2.5.15 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 by the Council in respect of the application ("**Section 73 Consent**") (and the Council is satisfied in its reasonable discretion that no revised planning obligations are required as a result of such amendment):
- (a) the definitions of Application, Planning Permission and Development in this Agreement shall be construed to include reference to the planning application for the Section 73 Consent, the Section 73 Consent itself and the development permitted by the Section 73 Consent respectively; and
  - (b) this Agreement shall apply to and remain in full force in respect of the Section 73 Consent without the need for a further agreement to be entered into pursuant to Section 106 of the 1990 Act.
- 2.5.16 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.
- 2.5.17 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 legality, 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 chargees; 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 Save for this paragraph 1.2, the remaining provisions of paragraph 1 of Schedule 1 shall not be binding on a Chargee of the whole or any Affordable Housing Unit or any persons or bodies deriving title through such Chargee PROVIDED THAT:

1.2.1 such Chargee shall first give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Units to another registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses

1.2.2 if such disposal has not completed within the three month period, the Chargee shall be entitled to dispose of the Affordable Housing Unit free from the

Affordable Housing provisions in this Agreement which provisions shall determine absolutely

- 1.3 An Affordable Housing Scheme shall be submitted to the Council for its approval with the application for Reserved Matters 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 20 (twenty) 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 where relevant.
- 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 of the date of:
  - 1.7.1 Commencement of Development; and
  - 1.7.2 Occupation of the first Dwelling; and
  - 1.7.3 Practical Completion of all of the Affordable Housing Units; and
  - 1.7.4 Occupation of 23 (twenty 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 ("**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 or as 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 or as 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 may 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 the last Open Market Dwelling shall not be Occupied until in respect of each Affordable Housing Unit after an 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 or it has been transferred to a Registered Provider.

## **2. OFF-SITE GREENSPACE CONTRIBUTION**

- 2.1 To pay the Off-Site Greenspace Contribution to the Council in the phased instalments and before the deadlines specified in paragraphs 2.2 to 2.3 (inclusive) of this Schedule.
- 2.2 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 has been paid to the Council.
- 2.3 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 has been paid to the Council.

## **3 PUBLIC OPEN SPACE**

- 3.1 Prior to the Commencement of Development to submit the Public Open Space Scheme to the Council and not to Commence Development unless and until the Public Open Space Scheme has been submitted to and approved in writing by the Council
- 3.2 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 works comprised in the Public Open Space Scheme are completed and the Publicly Accessible Open Space is 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.
- 3.3 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 for the future maintenance and management of the Public Open Space **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 within 30 (thirty) Working Days of receipt of the same it shall be deemed that the Council has approved the POS Management Scheme submitted by the Owner.

3.4 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.

3.5 Following the completion of the Public Open Space Works to the Council's reasonable satisfaction and prior to the sale of the penultimate Dwelling to engage a Management Company having first supplied to the Council a certified copy of the Memorandum and Articles of Association of the Management Company, for the purpose of undertaking the future management and maintenance of the Public Open Space, 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 **PROVIDED THAT** it is agreed that it shall be a term of the Management Company's engagement that the Management Company will:

3.5.1 maintain and manage in perpetuity the Public Open Space in accordance with the approved POS Management Scheme; and

3.5.2 comply with the requirements of the approved POS Management Scheme; and

3.5.3 only allow the use of the Publicly Accessible 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.

- 3.6 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.
- 3.7 The Owner shall not:
- 3.7.1 wind up the Management Company; nor
  - 3.7.2 materially alter the constitution of the Management Company in a way that would prevent compliance with this paragraph 3
- without the prior written consent of the Council unless the whole of the Development shall have been demolished.
- 3.8 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 substantive amendments being approved by the Council) direct with the Owner and the Management Company under which the buyer shall:
- 3.8.1 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
  - 3.8.2 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 3.8.1 and 3.8.2 of this Schedule.
- 3.9 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.
- 3.10 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.

3.11 The Owner will procure that public access is allowed to the Publicly Accessible Open Space but subject to the following provisions:

3.11.1 access shall be subject to such reasonable 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 (a copy to be provided to the Council);

3.11.2 the Owner may erect notices on the Publicly Accessible Open Space and access to them may 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

3.11.3 access may be denied by the Owner for and during the maintenance, repair, cleansing or renewal of the Publicly Accessible Open Space or for and during the construction of any building or land abutting it.

3.12 The Owner may close the Publicly Accessible Open Space or any part thereof for reasonable periods by reason of:

3.12.1 emergency;

3.12.2 cleansing, maintenance and repair;

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

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

3.13 For the avoidance of doubt, no public access is to be permitted to the Grassland.

#### **4 SUSTAINABLE TRAVEL CONTRIBUTION**

4.1 To pay the Sustainable Travel Contribution to the Council in the phased instalments and before the deadlines specified in paragraphs 4.2 to 4.3 (inclusive) of this Schedule.

4.2 Not to Occupy more than 25% of the Dwellings to be constructed on the Land until 50% of the Sustainable Travel Contribution has been paid to the Council.

4.3 Not to Occupy more than 75% of the Dwellings to be constructed on the Land until the remaining 50% of the Sustainable Travel Contribution has been paid to the Council.

#### **5 EDUCATION CONTRIBUTION**

- 5.1 To pay the Education 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 Not to Commence the Development until 50% of the Education Contribution has been paid to the Council.
- 5.3 Not to Occupy more than 50% of the Dwellings until the remaining 50% of the Education Contribution has been paid to the Council (resulting in the full 100% contribution payment)

**6 BIODIVERSITY CONTRIBUTION**

- 6.1 To undertake the On-Site Mitigation prior to Occupation of more than 50% of the Dwellings.
- 6.2 To pay the Biodiversity Contribution to the Council prior to Occupation of any Dwellings.
- 6.3 The Biodiversity Contribution shall be expended by the Council on works or projects designed to secure the Required Gain and may be applied to any works or projects as shall be reasonably decided by the Council as representing the next most appropriate use of the funds to secure Required Gain in relation to the Development within their administrative area of the Council.

**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 or committed within 10 (ten) 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 save for in respect of the Biodiversity Contribution which if not expended within 30 (thirty) years of the date of payment then the sum or sums not expended or committed plus interest accrued will be repaid to the Owner or its nominee.

**Grant of Planning Permission**

- 5 To issue the Planning Permission on the date of this Agreement

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

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



Borough Secretary/Authorised Signatory

No. 157  
IN REGISTER

EXECUTED as a DEED by C.C. PROJECTS acting by two directors

Signature of Director: Jana Henning

Signature of Director: [Handwritten Signature]

Executed as a deed by HARWORTH ESTATES (AGRICULTURAL LAND) LIMITED acting by [a director] [its attorney under a power of attorney dated 1 October 2021] in the presence of a witness:

Witness signature: Andrew M Roberts

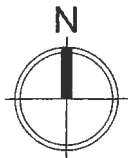
Witness name: ANDREW ROBERTS

Witness address: 14 WELLINGTON DRIVE  
DN9 3FD












Lynda M. Shillan

Name: LYNDA M. SHILLAN

[(as attorney of HARWORTH ESTATES (AGRICULTURAL LAND) LIMITED)]



**KEY**

-  Site Boundary
-  Existing Trees / Vegetation
-  Residential Development
-  Publicly Accessible Space
-  Retained Grassland
-  4m Sewer Buffer
-  3m Overhead Cable Buffer
-  Vehicular Access
-  Pedestrian / Cycle Access
-  Indicative Location of SUDS
-  Existing banking / Landscape buffer



**Appendix 2**  
**(Planning Permission)**



## GRANT OF OUTLINE PLANNING PERMISSION

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO. 2019/1244

To Deloitte LLP  
1 City Square  
Leeds  
LS1 2AL

**DESCRIPTION** Outline planning permission for residential development (Use Class C3) of up to 46 homes, highway works including access off Darton Lane, landscaping, ground works, and other ancillary works. All matters are reserved apart from access.

**LOCATION** Land South of Darton Lane, Darton, Barnsley

Permission is **granted** for the proposals which were the subject of the Application and Plans registered by the Council on 14/10/2019 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 The detailed design submitted with the reserved matters application(s) shall be in accordance with the parameters plan (ref:0708-EA-A-S2020630 Rev E) and shall include the widening of the existing footway along the site frontage to 2m.  
**Reason: To ensure the development is in compliant with Local Plan Policies HS2 and BIO1.**
- 4 Detailed plans shall accompany the reserved matters submission(s) 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.**
- 5 Upon commencement of development details of measures to facilitate the provision of high-speed full fibre broadband for the dwellings/development 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 order to ensure compliance with Local Plan Policy I1.**
- 6 Upon commencement of construction works, details of electric vehicle charge points shall be submitted and approved in writing by the LPA. The EVCPs will have a minimum "Mode 3" (7 kW, 32 AMP) capability and shall be installed in accordance with the approved details prior to first occupation of the development and thereafter in accordance with the approved details.  
**Reason: To ensure the new residential units are provided with infrastructure that conforms with the requirements of LP Policy T3 - New Development and Sustainable Travel.**
- 7 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 CL1 Contaminated and Unstable Land.**

- 8 The site is located within a Coal Authority coal mining referral area due to the probable presence of shallow coal. As detailed in the Wardell Armstrong coal mining risk assessment and Phase one geo-environmental desk top study reports, the land could therefore be at risk from mining legacy risks such as ground instability if shallow coal mine workings are present. Prior to the commencement of development, and as advised by a suitably qualified engineer, site investigations must be undertaken to confirm ground conditions. The site investigation and subsequent development must be undertaken in compliance with Construction Industry Research and Information association publication C758D "Abandoned Mine Workings Manual" where applicable.  
A report detailing the findings of the investigation and any recommended mitigation shall be submitted for approval in writing by the Local Planning Authority, the development thereafter shall be carried out in accordance with the approved details. Responsibility for securing a safe development rests with the developer and/or landowner.  
**Reason: In accordance with Local Plan Policy CL1 Contaminated and Unstable Land and NPPF sections 178 a,b,c. 179 and 170 e & f**
- 9 No building or other obstruction including landscape features shall be located over or within 4 (four) metres either side of the centre line of the public sewer i .e. a protected strip width of 8 (eight) metres, that crosses the site . If the required stand -off distance is to be achieved via diversion or closure of the sewer, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker and that prior to construction in the affected area, the approved works have been undertaken  
**Reason: In order to allow sufficient access for maintenance and repair work at all times in accordance with Local Plan Policies CC3 and CC4.**
- 10 The site shall be developed with separate systems of drainage for foul and surface water on and off site.  
**Reason: In the interest of satisfactory and sustainable drainage and to accord with Local Plan Policies CC3 and CC4.**
- 11 No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage , for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority.  
**Reason: To ensure that the site is properly drained and in order to prevent overloading in accordance with Local Plan Policy CC3 and CC4.**
- 12 No development shall take place unless and until full foul and surface water drainage details have been submitted to and approved in writing by the Local Planning Authority. Thereafter no part of the development shall be occupied or brought into use until the approved scheme has been fully implemented. The scheme shall be retained throughout the life of the development unless otherwise agreed in writing with the Local Planning Authority.  
**Reason: To ensure the proper drainage of the area in accordance with Local Plan Policy CC3 and CC4.**
- 13 The Reserved Matters Application(s) shall be accompanied by a scheme for the provision and implementation of a surface water run-off limitation into the culverted watercourse. Once approved in writing by the Local Planning Authority, the scheme shall be implemented in accordance with an approved programme and details.  
**Reason: To prevent the increased risk of flooding in accordance with Local Plan Policy CC3.**

- 14 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no building or structure shall be placed or erected within 3 metres, measured horizontally, of any watercourse.  
**Reason: To prevent damage to the existing culverted watercourse in accordance with Local Plan Policy CC3.**
- 15 Full details of the structural condition, including CCTV survey, and exact route of the watercourse shall be submitted with the Reserved Matters Application and approved in writing by the Local planning Authority to demonstrate its adequacy and clearance is maintained.  
**Reason: To maintain the structural integrity and proper functioning of the existing culverted watercourse in accordance with Local Plan Policy CC3.**
- 16 The reserved matters application(s) shall include a lighting design strategy for light-sensitive biodiversity in the Darton Lane development. The strategy shall show how external lighting in the Darton Lane development will be installed. Through the provision of external lighting contour plans and technical specifications, it must be clearly demonstrated that it will not disturb or adversely affect the use of the semi-natural areas of the site by bats and other species of wildlife. The strategy shall be informed by the Institute of Lighting Professionals/Bat Conservation Trust, Guidance Note 08/18: Bats and Artificial Lighting in the UK. All external lighting shall be installed in accordance with the specification and locations set out in the strategy and maintained as such. Any luminaries used should be of the LED type which provides a lower intensity of light. Lighting in the warm white spectrum (preferably 2700Kelvin) should be adopted to reduce the blue light component with a wavelength exceeding 550nm. The lighting plan should also take into consideration the light spill from internal areas of the properties and measures to reduce this light spill such as low light transmission glazing.  
**Reason: In accordance with Local Plan Policy BIO1.**
- 17 The reserved matters application(s) shall be accompanied by 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:
- Tree Survey
  - 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 in accordance with policies BIO1 and D1.**
- 18 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 submitted plan(s) (AMA\_20276\_SK008.1, AMA\_20276\_SK008.2, AMA\_20276\_SK008.3, AMA\_20276\_SK008.4 and AMA\_20276\_SK008.5). 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 in accordance with Local Plan Policy T4.**

- 19 The gradient of the vehicular access 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 in accordance with Local Plan Policy T4.**
- 20 Prior to the first occupation of the development hereby permitted (or Prior to the commencement of the use hereby permitted) a visibility splay shall be provided in full accordance with the details indicated on the submitted plan(s) (AMA\_20276\_SK008.1, AMA\_20276\_SK008.2, AMA\_20276\_SK008.3, AMA\_20276\_SK008.4 and AMA\_20276\_SK008.5). 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 in accordance with Local Plan Policy T4.**
- 21 No building or use hereby permitted shall be occupied (or use commenced) until pedestrian visibility splays of 2 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 in accordance with Local Plan Policy T4.**
- 22 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 November 2019 (or its successor). 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 in accordance with Local Plan Policy T4.**
- 23 Before the development is brought into use, that part of the site to be used by vehicles shall be surfaced in a bound permeable material and adequate measures shall be so designed into the proposed access to avoid the discharge of surface water from the site on to the highway.  
**Reason: To ensure adequate provision for the disposal of surface water and to prevent mud/debris from being deposited on the public highway and to prevent the migration of loose material on to the public highway to the detriment of road safety. In accordance with Local Plan Policy T4.**
- 24 The gradient of individual vehicular accesses/driveways shall not exceed 1 in 12 as measured from the edge of adjacent carriageway.  
**Reason: In the interests of the safety of persons using the access and users of the highway in accordance with Local Plan Policy T4.**
- 25 The reserved matters application(s) shall include details of secure and covered parking for bicycles for every dwelling. The scheme shall be implemented and secure cycle parking provided before individual dwellings are occupied.  
**Reason: In interests of encouraging use of sustainable modes of transport in accordance with Local Plan Policy T3.**

- 26 No development shall be commenced until full engineering, drainage and street lighting and construction 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 unless otherwise agreed in writing with the LPA.  
**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 in accordance with Local Plan Policy T4.**
- 27 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 Darton Lane 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 in accordance with Local Plan Policy T4.**
- 28 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:
- The parking of vehicles of site operatives and visitors
  - Means of access for construction traffic
  - Loading and unloading of plant and materials
  - Storage of plant and materials used in constructing the development
  - Measures to prevent mud/debris being deposited on the public highway.
- Reason: In the interests of highway safety and to accord with Local Plan Policy T4.**
- 29 No development shall take place until a survey of the condition of the adopted highway condition to be used by construction traffic has been submitted to and approved in writing by the LPA. The extent of the area to be surveyed must be agreed by the LHA prior to the survey being undertaken. The survey must consist of:
- i. A plan to a scale of 1:1250 showing the location of all defects identified
  - ii. A written and photographic record of all defects with the corresponding location references accompanied by a description of the extent of the assessed area and a record of the date, time and weather conditions at the time of survey.
- On completion of the development, a second condition survey of the adopted highway shall be carried out to identify defects attributable to the traffic associated with the development. It shall be submitted for the written approval of the Local Planning Authority. Any necessary remedial works shall be completed at the developer's expense in accordance with a scheme to be agreed in writing by the Local Planning Authority.
- Reason: To ensure that any damage to the adopted highway sustained throughout the development process is identified and subsequently remedied at the expense of the developer in interests of highway safety.**
- 30 The development hereby permitted shall not be commenced until a Travel Plan has been submitted, approved and signed off by the LPA. The scheme shall then proceed in accordance with the approved details.  
**Reason: To ensure that the development offers a wide range of travel choices to reduce the impact of travel and transport on the environment.**

- 31 The reserved matters application shall be accompanied by an updated Ecological Management Plan and Ecology Addendum, to include detailed monitoring proposals in accordance with the Biodiversity Metric 2.0 Technical Supplement. The monitoring proposals shall include a timetable and methodology for reporting to the LPA at agreed intervals. The updated reports shall be agreed in writing by the LPA and the development and long term ecological management shall be carried out in accordance with the approved details.  
Reason: To ensure that no net loss in biodiversity is achieved in accordance with Local Plan Policy BIO1 and the accompanying Biodiversity and Geodiversity SPD.

DRAFT

## 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 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.

- 2 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](mailto:Streetworks@barnsley.gov.uk) or call to 01226 773555.
- 3 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](mailto:HighwaysDC@barnsley.gov.uk) or call to 01226 773555.
- 4 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](mailto:Streetlighting@barnsley.gov.uk) as soon as possible.
- 5 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.
- 6 Whilst no information is given at this stage about the method of disposal of highway drainage, I am mindful of restrictions on surface water disposal and the emphasis on the use of sustainable solutions. 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.

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.

- 7 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.
- 8 If the developer is to make discharge flows to the existing watercourse he must gain the written agreement of the Land Drainage Authority to discharge flows at an agreed rate - Contact Wayne Atkins (01226 772182)
- 9 If the developer is to carry out works within or in the proximity of any watercourse he must gain the relevant permissions from the Lead Local Flood Authority - Contact Wayne Atkins (01226 772182)
- 10 A permissive path runs alongside and through the proposed development site. Safe public access on the right of way should remain available whenever possible, with no obstruction of or encroachment onto the width of the path, and no building debris, storage of materials or parked vehicles limiting access at any time. Appropriate measures should be taken to protect the public, including fencing if necessary. If safe public access is not possible at any time then a temporary closure should be arranged, providing at least 4 weeks' notice and details of how public access will be managed. For further information contact publicrightsofway@barnsley.gov.uk.

Please be aware that the Council monitors construction sites and open land within the vicinity of 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 any 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.

### Appendix 3

#### Worked example on the basis of Reserved Matters Approval for 46 Dwellings for maximum Education Contribution and Sustainable Travel Contribution

##### Education Contribution

15 pupils per 100 homes - £16k per place

15 x 46/100 x 16,000 = £110,400

##### Sustainable Travel Contribution

Number of residential units x person trip rate x figure per trip

46 x 10 trips per privately owned dwelling x £100 per trip = £46,000