

DATED 26th February 2018

BARNSELY METROPOLITAN BOROUGH COUNCIL

and

SITE 4 INVESTMENTS LIMITED

DEED OF VARIATION

Pursuant to Section 106 and Section 106A of the Town and Country Planning Act 1990 (as amended) relating to development on land at Hill Top Farm Gawber in the County of South Yorkshire

A.C. Frosdick, LL.B. DipLG,
Assistant Chief Executive
(Legal and Governance),
Town Hall,
Barnsley S70 2TA.
PG/254/00381

THIS DEED OF VARIATION is made the 26th day of February Two Thousand and Eighteen

BETWEEN

(1) **BARNESLEY METROPOLITAN BOROUGH COUNCIL** of Town Hall Barnsley South Yorkshire S70 2TA ("the Council") of the first part and

(2) **SITE 4 INVESTMENTS LIMITED** (CRN: 8514638) of 12 Victoria Road Barnsley South Yorkshire S70 2BB ("the Owner") of the second part

RECITALS

(1) This Deed of Variation is supplemental to an agreement entered into pursuant to Section 106 of the Town and Country Planning Act 1990 between (1) the Council and (2) the Owner dated 4 April 2014 ("the Original Section 106 Agreement") and a deed of variation under section 106 between the Council and the Owner dated 12th May 2015 ("the First Deed of Variation") and a deed of variation under section 106 between the Council and the Owner dated 5th July 2016 ("the Second Deed of Variation").

(2) The Owner is the registered proprietor with Title Absolute under title number SYK547700 of the Land.

(3) The parties have agreed to enter into this Deed of Variation to ensure that the obligations entered into under the Original Section 106 Agreement as varied by the First Deed of Variation and the Second Deed of Variation apply to any planning permission granted pursuant to the 2017/1588 Application.

(4) Any words or phrases which are defined in the Original Section 106 Agreement (as varied) and/or which appear in the First Deed of Variation and/or the Second Deed of Variation shall have the same meaning in this Deed of Variation unless a contrary intention appears from this Deed of Variation

NOW THIS DEED WITNESSETH AS FOLLOWS:-

1 Variation

- 1.1 It is hereby agreed between the parties to this Deed of Variation that the Original Section 106 Agreement (as varied) is varied in the manner set out in the Schedule to this Deed of Variation and the Original Section 106 Agreement shall remain in full force and effect and the amendments contained in this Deed of Variation shall take effect as if they were included in the Original Section 106 Agreement
- 1.2 This Deed of Variation is made pursuant to the statutory provisions and in consideration of the covenants contained herein and for the avoidance of doubt it is agreed and declared that the said covenants are ones to which section 111 of the Local Government Act 1972, Section 106 and section 106A of the Town and Country Planning Act 1990 and all other powers so enabling are to apply.
- 1.3 This Deed of Variation contains planning obligations made pursuant to Section 106 and varied pursuant to Section 106A of the Town and Country Planning Act 1990 which are enforceable by the Council.
- 1.4 The provisions of this Deed of Variation shall have immediate effect upon the completion of this Deed

- 2 The Owner shall on the date of this Agreement pay the Council's reasonable legal fees in connection with this Agreement of £500.

Schedule

The parties hereby mutually agree to vary and supplement the terms of the Original Section 106 Agreement so that the Original Section 106 Agreement shall from and including the date of this Deed of Variation be read and construed as follows:

1. The definition of "**Planning Permission**" in clause 1 shall be replaced with the following:

"Planning Permission" means the planning permission granted by the Council pursuant to the Application; and/or the planning permission granted by the Council given the planning reference number 2014/1511; and/or the planning permission granted by the Council given the planning reference number 2017/1588"

IN WITNESS whereof these presents have been duly executed as a Deed by the parties hereto 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:-)

Executive Director Core Services/
Legal Services Director/
Authorised Signatory

PAS 2013/17/23 Min (8(1))

No. 828
IN REGISTER

EXECUTED AS A DEED by)
SITE 4 INVESTMENTS LIMITED)
acting by:)

Director

Director/Secretary
in the presence of

Jill Leece
Solicitor
Newman & Bond Solicitors
The Old Grammar School
35 Church Street
Barnsley S70 2AP