

DATED 29th November 2022

BARNSLEY METROPOLITAN BOROUGH COUNCIL (1)

-and-

WICKERSLEY HOMES LIMITED (2)

DEED OF VARIATION

made pursuant to Section 106 and 106A
of the Town and Country Planning Act 1990 (as amended)

In connection with an Agreement and Planning Obligation, dated 23 April 2020,
made under Section 106 of the Town and Country Planning Act 1990 (as amended)

and relating to

land at Former Burton Grange Nursery, Abbey Lane, Lundwood, Barnsley.

THIS DEED is made the 29th day of November, 2022

BETWEEN:

- (1) **BARNSELY METROPOLITAN BOROUGH COUNCIL** of Town Hall, Barnsley, South Yorkshire, S70 2TA ("the Council") of the first part; and
- (2) **WICKERSLEY HOMES LIMITED** (Co. Regn. No. 09536663) of 77 Francis Road, Edgbaston, Birmingham B16 8SP.. ("the Owner") of the second part.

1. DEFINITIONS & INTERPRETATION

1.1 In this Deed the following words and expressions shall have the following meanings:

- "Deed" means this deed;
- "Section 106 Agreement" means the agreement made pursuant to Section 106 of the 1990 Act dated 23 April 2020 and made between (1) Barnsley Metropolitan Borough Council and (2) the Owner.
- "S73 Permission" Means the planning permission approval granted pursuant to application reference 2021/1415.

1.2 Where the context so requires:

- 1.2.1 all the words and expressions beginning with capital letters in this Deed shall have the same meanings ascribed to them in the Section 106 Agreement and shall be construed accordingly;
- 1.2.2 the singular includes the plural and vice versa and words importing the masculine gender only include the feminine gender and extend to include a corporation sole or aggregate;
- 1.2.3 references to any party includes the successors in title of that party;
- 1.2.4 where a party includes more than one person any obligations of that party shall be joint and several;
- 1.2.5 references to clauses paragraphs and schedules are references to clauses paragraphs and schedules to this Deed and are for reference only and shall not affect the construction of this Deed.

2. RECITALS

- 2.1 The Council is the local planning authority for the purpose of the 1990 Act for the area within which the Site is situated and is the authority by whom the obligations hereby created are enforceable.
- 2.2 This Deed is supplemental to the Section 106 Agreement and varies the Section 106 Agreement only to the extent set out in this Deed.
- 2.3 The Owner is now the registered proprietor with absolute title of the Site registered with HM Land Registry under title number SYK638833.
- 2.4 The Council and the Owner have agreed that the Section 106 Agreement shall be varied as set out in clause 3 of this Deed and the parties have agreed to enter into this Deed in order to vary the terms of the Section 106 Agreement accordingly.

3. OPERATIVE PROVISIONS

- 3.1 This Deed is made pursuant to section 106 and 106A of the 1990 Act and all other powers so enabling and is a planning obligation for the purposes thereof with the intent that it shall bind the interests of the Owner and its successors in title to each and every part of the Site and its assigns as provided in these clauses and in the clauses of the Section 106 Agreement.
- 3.2 Words and expressions in this Deed shall have the same meanings as in the Section 106 Agreement save to the extent that this Deed otherwise provides.
- 3.3 The parties hereto hereby mutually agree to vary and supplement the terms of the Section 106 Agreement as set out in the Schedule hereto.

4. IT IS HEREBY AGREED AND DECLARED AS FOLLOWS:

- 4.1 This Deed shall be construed as one with the Section 106 Agreement.
- 4.2 The provisions of the Section 106 Agreement continue to be enforceable by the Council and to bind the Site in all respects save for as varied by this Deed, but for the avoidance of doubt the alterations and amendments hereby made shall to the extent only that they are material supersede specific provisions to the contrary in the Section 106 Agreement as varied by this Deed and the Section 106 Agreement as varied by this Deed shall always be read together (*mutatis mutandis*) with the latter to that extent predominating.

4.3 No person who is not a party to this Deed 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 Deed has been lawfully assigned or becomes vested in law.

4.4 The obligations hereby created shall be registered as a Local Land Charge.

4.5 The Owner shall pay to the Council its reasonable legal fees incurred in the preparation negotiation and completion of this Deed.

SCHEDULE

Supplemental Covenants in respect of the S73 Permission

1. Any and all references to the term "Planning Permission" in the Original Agreement shall also be deemed to be references to the S73 Permission.

2. The Original Agreement shall be enforceable against the S73 development undertaken pursuant to the S73 Permission and any and all references to the term "Development" in the Original Agreement shall be deemed to also be references to the S73 Development as permitted by the S73 Permission.

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

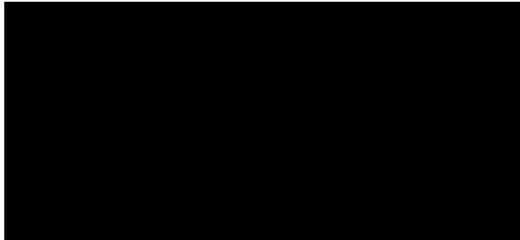


THE COMMON SEAL of BARNESLEY)
METROPOLITAN BOROUGH)
COUNCIL was hereunto affixed to this)
Deed in the presence of:)



~~Borough Secretary~~/Authorised Signatory

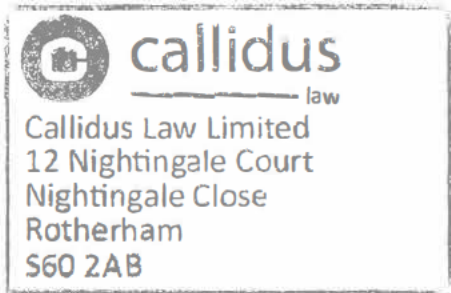
EXECUTED as a DEED)
by WICKERSLEY HOMES LIMITED)
acting by)



Director:



Director/Secretary



Copyright and Obligations:

Copyright for this drawing is vested in INK Architectural Design LTD from who written consent must be obtained prior to copying or reproducing. All work to comply with Planning and Building Regulations approved plans. Do not scale drawing, use dimensions and levels shown in metric and check all dimensions on site prior to commencing or ordering materials. IF IN DOUBT ASK. Any discrepancies should be reported immediately before proceeding. All materials to be used in strict accordance with manufacturer's instructions. Should a public sewer be found within 3m of the development it will be necessary to carry out works as requested by the Local Authority under the requirements of Section 25 of the Public Health Act 1936. The contractor should also agree the requirements for lighting, power, decorations and fittings with the client prior to tendering. Whilst every care is taken during the site survey, no responsibility is to be borne by INK Architectural Design LTD as to any expense incurred. Furthermore, the builder should estimate an allowance for such unknown operations. These works may need the involvement of a planning supervisor and a principal contractor under the Construction Design and Management Regulations. It is the responsibility of the owner/client to serve a notice on the adjoining or adjacent neighbours (if required) for the proposed works under the party wall act 1996 explanatory booklets can be obtained free of charge from the D.O.E. publications despatch centre, Blackhorse Road, London, SE9 6TT. Tel 01816191911 or fax 01816940099

House Type Schedule:

- PLOT 1 - 3 Bed semi-detached house 101.5 m² / 1092.50 ft²
- PLOT 2 - 3 Bed semi-detached house 101.5 m² / 1092.50 ft²
- PLOT 3 - 2 Bed detached bungalow 70.18 / 755.41 ft²
- PLOT 4 - 2 Bed detached bungalow 70.18 / 755.41 ft²

Private Driveway:

- Private driveway to be 4.5m wide minimum
- Carriageway to be finished in tarmacadam with charcoal colour kerb edging to either side
- Driveways to individual dwellings to be finished in block paving (colour TBA)

Boundary Treatments:

- 1.8m high vertical timber boarded fence
- 0.9m high metal railings

Landscaping:

- All front and rear garden areas to be turfed. Select individual low level shrubs to be planted to each garden.

External Materials:

PLOT 1&2 External walls to be facing brick to match existing dwellings to surrounding area. Final specification TBC

PLOT 3,4 & GARAGE External walls to be course grit sandstone to match traditional walling to Monk Bretton Priory. Final specification TBC

New roof covering to be good quality artificial riven slates with matching ridges bed in mortar

Pointing to external walls to be recessed 2 to 3mm to gently concave (not strap pointed) to Plots 3,4 & Garage

Gutters to be ogee profile on rise and fall brackets with circular fall pipes to Plots 3,4 & Garage, PVC fascias and soffits to Plots 1&2. Rainwater goods to be black

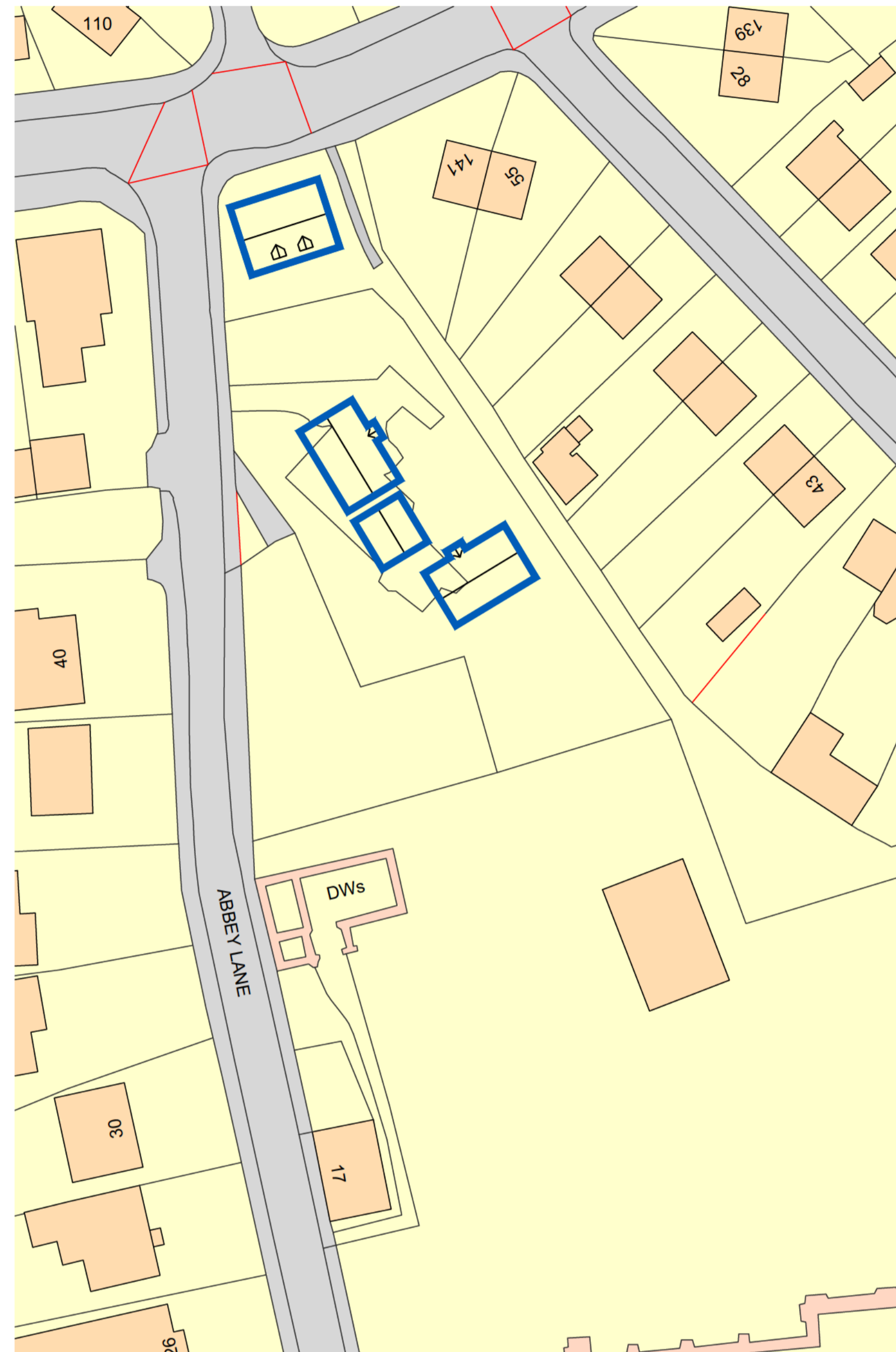
Windows, doors and frames to be mounted 75mm into the reveal and finished in RAL 7016 (anthracite) to plots 3,4 and Garage. Windows to Plots 1 & 2 to be white uPVC.

Drainage:

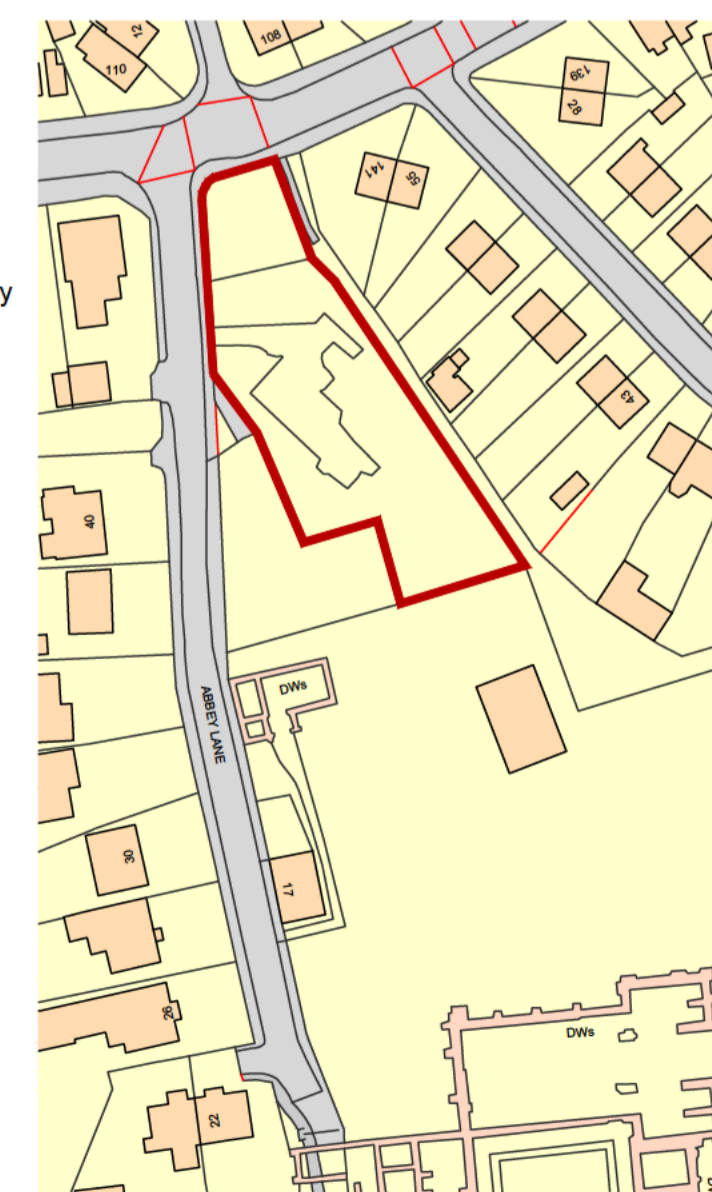
- Foul water drainage is to discharge into the existing public foul sewers located in Abbey Lane
- Surface water drainage to discharge into new soakaway construction within private driveway as shown.



Schematic Site Plan 1:200



Proposed Location Plan 1:500



Existing Location Plan 1:1250

Rev	Note	Date
A	Amendment to provide 4no units in lieu of 5no	Aug 19
B	Plots 1 & 2 amended to semi-detached houses	Oct 19
C	Further amendments to satisfy LA comments	Oct 19

Project:	Proposed Residential Development Former Burton Grange Nursery Site Abbey Lane, Lundwood	
The Client:	A Shade Greener	
Drawing Title:	Scheme Site Layout Plan	
Drawing No / Rev:	19012-002	Rev C
Drawing Scale & Date:	As Shown	May 2019

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