

Dated 10 December 2025

BARNSLEY METROPOLITAN BOROUGH COUNCIL (1)

AND

BELLWAY HOMES LIMITED (2)

DEED OF VARIATION

Further to a S.106 Agreement dated 27 August
2025 relating to development at Wood Walk,
Hoyland, Barnsley Application 2023/0988

DATED

10 December

2025

THIS DEED is made by:

- (1) **BARNSELY METROPOLITAN BOROUGH COUNCIL** of Town Hall, Barnsley, South Yorkshire S70 2TA (the "**Council**"); and
- (2) **BELLWAY HOMES LIMITED** incorporated and registered in England and Wales with company number 00670176 whose registered office is at Woolsington House, Woolsington, Newcastle Upon Tyne NE13 8BF (the "**Owner**")

Together the "**Parties**".

RECITALS:

- (A) The Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 (as amended) ("**the Act**") for the area within which the Site is situated and by whom the obligations contained in the Original Section 106 Agreement are enforceable.
- (B) The Owner is the registered proprietor of the Land registered with title absolute at HM Land Registry under Title Number SYK706623.
- (C) On 27 August 2025 the parties thereto entered into the Original Section 106 Agreement.
- (D) The Council acknowledges that at the date of this deed it has received £32,327.80 (thirty-two thousand three hundred and twenty-seven pounds and eighty pence) as part payment of the Original Off-Site Public Open Space Contribution.
- (E) The Owner acknowledges that there is an outstanding Surplus Payment to be paid by the Owner to the Council.
- (F) The Owner has submitted an application under section 73 of the Act in relation to the Land. As a result of this application, there has been a change in bedroom mix and consequently the Off-Site Public Open Space Contribution has been re-calculated.
- (G) Without prejudice to the terms of the other covenants contained in the Original Section 106 Agreement the Parties hereto have agreed to enter into this Deed of Variation to vary the definition of Off-Site Public Open Space Contribution.

1 INTERPRETATION

- 1.1 The following definitions and rules of interpretation apply in this Deed of Variation.

Original First Off-Site Public Open Space Contribution: the sum of £32,327.80 (thirty-two thousand three hundred and twenty-seven pounds and eighty pence) payable under the Original Section 106 Agreement as per clause 2.1 of Schedule 5.

Original Off-Site Public Open Space Contribution: the sum of £129,311.21 (one hundred and twenty-nine thousand three hundred and eleven pounds and twenty-one pence).

Original Section 106 Agreement: the agreement made under Section 106 of the Act dated 27 August 2025 and made between Barnsley Metropolitan Borough Council (1) and Bellway Homes Limited (2).

Surplus Payment: an outstanding payment of £1,874.60 (one thousand eight hundred and seventy-four pounds and sixty pence), being the outstanding balance of the Original First Off-Site Public Open Space Contribution, as adjusted in this Deed of Variation to reflect the agreed contribution amount.

- 1.2 Where in this Deed of Variation reference is made to any clause, paragraph, Schedule or recital such reference is a reference to a clause, paragraph, Schedule or recital in this Deed of Variation or the Original Section 106 Agreement as the context dictates.
- 1.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all words shall be construed interchangeable in that manner.
- 1.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.
- 1.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 1.6 References to any party to this Deed of Variation shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council the successors to their respective statutory functions.
- 1.7 References to "the parties" shall mean the parties to this Deed of Variation and reference to a "party" shall mean any one of the parties.
- 1.8 The headings are for reference only and shall not affect construction.
- 1.9 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

1.10 In this Deed unless the context otherwise requires the words and expressions contained herein shall have the same meaning as that ascribed to them in the Original Section 106 Agreement.

2 STATUTORY AUTHORITY

2.1 This Deed of Variation is made pursuant to the provisions of sections 106 and 106A of the Act, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and any other enabling powers.

2.2 The covenants given by the Owner under clause 3 of this Deed of Variation create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Owner and any person deriving title in the Site or any part of it from the Owner.

2.3 The provisions of this Deed shall come into effect on the date hereof.

3 VARIATION OF THE ORIGINAL SECTION 106 AGREEMENT

The Parties agree that from the date of this Deed of Variation the Original Section 106 Agreement shall be amended as set out below.

3.1 The definition of "Off-Site Public Open Space Contribution" shall be deleted in its entirety and replaced with the following new definition:

Off-Site Public Open Space Contribution a sum of £136,809.61 (one hundred and thirty six thousand eight hundred and nine pounds and sixty one pence) to be paid by the Owner to the Council as a contribution towards providing off-site public open space required as a result of the Development.

3.2 For the avoidance of doubt, subject to the amendments set out in clause 3.1 above, the Original Section 106 Agreement shall continue in full force and effect.

4 COVENANTS TO THE COUNCIL

4.1 The Owner covenants to observe and perform the covenants, restrictions and obligations contained in the Original Section 106 Agreement as varied by this Deed of Variation.

4.2 The Owner covenants with the Council that, within 14 days of the date of this deed, it shall pay to the Council the Surplus Payment.

5 RELEASE

5.1 The Owner shall not be liable for a breach of any of its obligations under this Deed of Variation (save for antecedent breaches) after it shall have parted with all of its interests in the Site or such parts thereof in respect of which the breach occurs.

5.2 Nothing in this Deed of Variation shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission granted (whether or not on appeal) after the date of this Deed of Variation.

6 LOCAL LAND CHARGE

This Deed of Variation is a local land charge and the parties agree that it shall be registered as such by the Council.

7 DUTY TO ACT REASONABLY

All parties to this Deed of Variation acknowledge that they are under a duty to act reasonably and (without prejudice to generality) if any deed consent approval or expression of satisfaction is due from one party to another under the terms of this Deed of Variation the same shall not be unreasonably withheld or delayed.

8 NO FETTER ON DISCRETION OR WAIVER

8.1 Nothing contained or implied in this Deed of Variation shall prejudice or affect the rights discretions powers duties and obligations of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.

8.2 No waiver (whether expressed or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed of Variation shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.

9 SEVERABILITY

If any part of this Deed shall be declared unlawful or invalid by a court of competent jurisdiction then (to the extent possible) the remainder of this Deed shall continue in full force and effect.

10 CONTRACT (RIGHTS OF THIRD PARTIES) ACT 1999

Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 no part of this Deed of Variation Deed shall be enforceable by a third party who is not a party to this Deed of Variation and for the avoidance of doubt the terms of this Deed of Variation may be varied

by deed between the parties and their successors in title and the Council without the consent of any such third party.

11 COUNCIL'S COSTS

The Owner shall pay to the Council on or before the date of completion of this Deed of Variation the Council's reasonable and proper legal costs together with all disbursements incurred in connection with the preparation, completion and registration of this Deed of Variation.

12 JURISDICTION

This Deed of Variation is governed by and interpreted in accordance with the law of England and the parties submit to the non-exclusive jurisdiction of the courts of England.

13 DELIVERY

This Deed of Variation is for the purposes of the Regulatory Reform (Execution of Deeds and Documents) Order 2005 a deed and for the avoidance of doubt this Deed of Variation shall be deemed not delivered despite being executed by the parties until such time as it is dated.

EXECUTED as a DEED by
BELLWAY HOMES LIMITED
Acting by an attorney
in the presence of a witness:

)Attorney

Witness S

Witness N

Witness A

Bellway Homes Limited
Woolsington House
Woolsington
Newcastle upon Tyne
NE13 8BF

Executed as a Deed (but not delivered

Until the date of it) by the affixing of

THE COMMON SEAL of

BARNESLEY METROPOLITAN BOROUGH COUNCIL

Authorised Sealing Officer

Print name

