

DATED

15th February

2018

BARNSELY METROPOLITAN BOROUGH COUNCIL (1)

-and-

JANET CLAYTON & ALAN WILFRED CLAYTON & CHRISTINE IDA WATSON (2)

-and-

BDW TRADING LIMITED (3)

AGREEMENT

under Section 106 of the Town and Country Planning Act 1990 (as amended)
relating to land on the North West side of Lee Lane, Royston, Barnsley

WALKER MORRIS LLP

Kings Court
12 King Street
LEEDS
LS1 2HL
Tel: 0113 2832500
Fax: 0113 2459412
Ref: CAS/BL.4-10477

THIS AGREEMENT (signed as a deed) is made the *1st* day of *February* 2018

BETWEEN: -

- (1) **BARNSELY METROPOLITAN BOROUGH COUNCIL** of Smithies Lane Depot, Smithies Lane, Barnsley S71 1NL ("**Council**") of the first part; and
- (2) **JANET CLAYTON** and **ALAN WILFRED CLAYTON** of 65 Summer Lane, Royston, Barnsley, S71 4HP and **CHRISTINE IDA WATSON** of 88 Applehaigh View, Royston, Barnsley, S71 4JG as trustees of the Lee Lane Settlement Trust ("**Owner**") of the second part; and
- (3) **BDW TRADING LIMITED** (Company No. 03018173) whose registered office is situate at Barratt House, Cartwright Way, Forest Business Park, Bardon Hill, Coalville, Leicestershire LE67 1UF ("**Developer**") of the third part;

1 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following expressions shall have the following meanings:

DEFINITIONS

GENERAL DEFINITIONS

- "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 Units"** means 16 Dwellings of Affordable Housing comprising of the Intermediate Dwellings and the Affordable Rented Dwellings to be provided in accordance with paragraph 1 of the First Schedule and "**Affordable Housing Unit**" shall be construed accordingly;
- "Affordable Housing Unit Prices"** means a price that is financially viable for a Registered Provider to be able to purchase an Affordable Housing Unit taking into account the table annexed in the Fourth

Schedule (as updated by the Council from time to time) in relation to rent chargeable and process paid by Registered Providers;

"Affordable Rent"

means an affordable rent of no more than 80% of the Market Rent;

"Affordable Rented Dwellings"

has the same meaning as the term "affordable rented housing" contained in the definition of Affordable Housing contained in the glossary at Annex 2 of the National Planning Policy Framework and comprises eight Dwellings in total consisting of eight x two bed houses to be constructed on plots 16, 17, 18, 23, 24, 25, 39 and 40 or such other locations and/or house types/sizes that may be agreed in writing between the Owner and the Council from time to time such properties to be made available at an Affordable Rent to persons in accordance with the Registered Provider's policy;

"Application"

means the application reference number 2016/1490 and registered by the Council on 9 December 2016 for residential development for 164 dwellings and associated works;

"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;

"Chargee"

means any mortgagee or chargee of the Registered Provider or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925;

"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 environmental investigation site and soil surveys erection of contractors work compound erection of site office erection of fencing to site boundary and reference to **"Commence Development"** shall be construed accordingly;

"Council's Approved List"

means the following Registered Providers: Berneslai Homes Limited; South Yorkshire Housing Association Limited; Yorkshire Housing Limited; Guinness Northern Counties Limited; Equity Housing Group Limited; Leeds and Yorkshire Housing Association Limited; Chevin Housing Association Limited; and Wakefield and District Housing Limited or such other Registered Provider(s) that may be agreed in writing between the Owner and the Council from time to time;

"Development"

means the development of the Land in accordance with 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 the sum of £217,774.00 (two hundred and seventeen thousand, seven hundred and seventy four pounds) Index Linked to be paid by the Owner to the Council as its total contribution towards the provision of and or improvement to primary school educational facilities that serve Royston in order to provide or improve primary school places the need for which directly arises from the Development;

"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;

"Index"

means the 12 month percentage change in 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;

"Index Linked"

means such increase to sum or sums payable to the Council under this Agreement on an annual basis or pro rata per diem from the date of this Agreement to the date of payment based upon the specified Index last published before the date of the decision to approve the grant of Planning Permission or any publication substituted for it;

"Interest Rate"

means interest at 4 per cent above the base lending rate of the Bank of England from time to time and in every case compounded on the first day of June and December in each year;

"Intermediate Dwellings"

has the same meaning as the term "intermediate housing" contained in the definition of Affordable Housing contained in the glossary at Annex 2 of the National Planning Policy Framework and comprises eight Dwellings in total consisting of two x two bed houses to be constructed on plots 8 and 9 and six x three bed houses to be constructed on plots 54, 55, 56, 57, 160 and 161 or such other locations and/or house types that may be agreed in writing between the Owner and the Council from time to time such properties to be made available at an Intermediate Rent to persons in accordance with the Registered Provider's policy;

"Intermediate Rent"

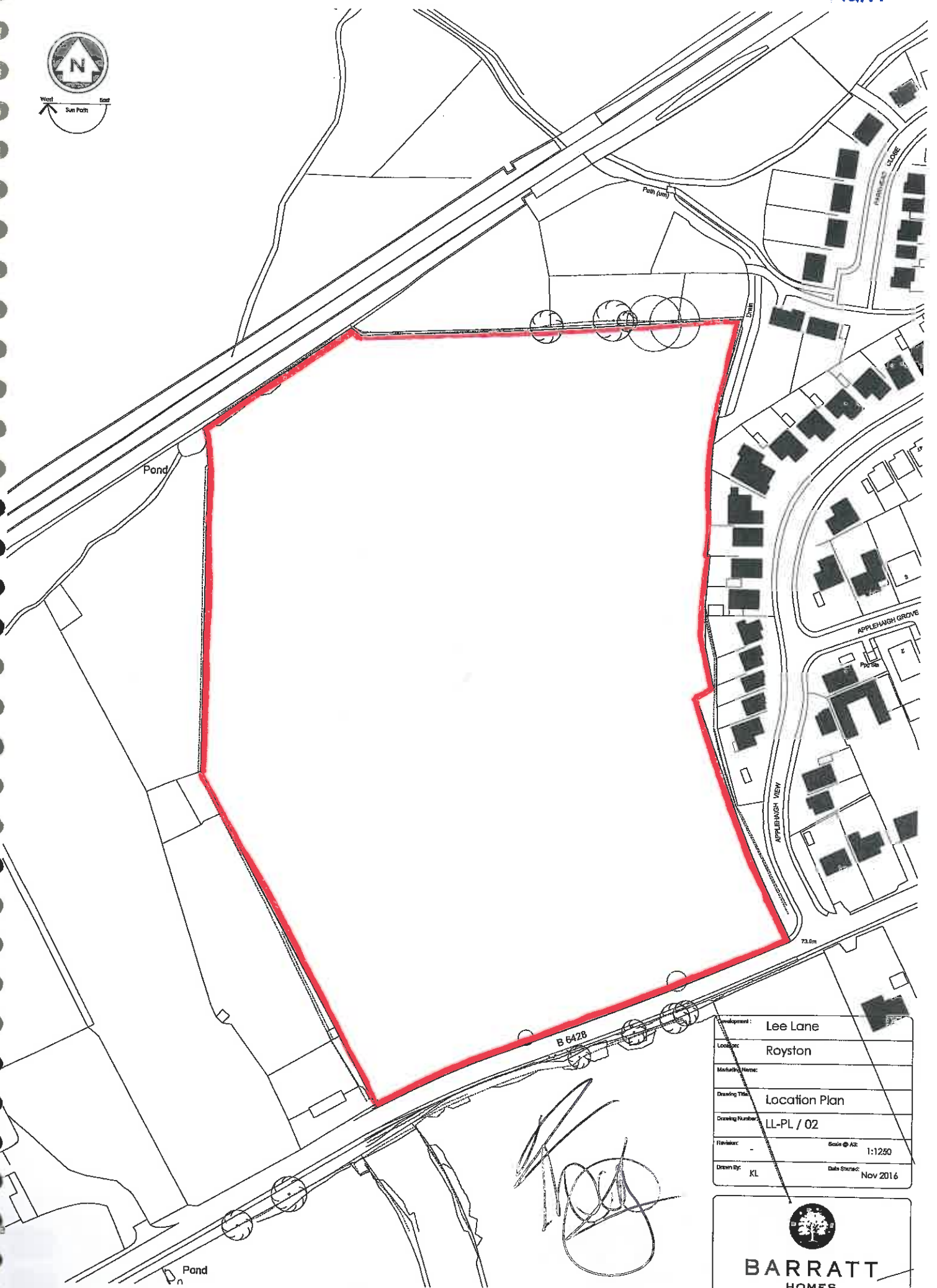
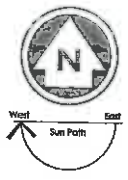
means an intermediate rent up to 80% of the Market Rent;

"Land"

means all that land on the North West side of Lee Lane, Royston, Barnsley shown for identification purposes only edged red on Plan 1;

"Market Rent"	means the average local market rent for a Dwelling in Barnsley with that number of bedrooms that would be leased between a willing lessor and willing lessee on appropriate lease terms in an arms-length transaction after proper marketing, and where the parties have each acted knowledgeably, prudently and without compulsion;
"National Planning Policy Framework"	means the National Planning Policy Framework as published in March 2012 by the Department for Communities and Local Government (or any future guidance or initiative that replaces or supplements it);
"Occupation" and "Occupy"	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 and the expression "Occupants" shall be construed accordingly;
"Off-Site Open Space Contribution"	means the sum of £164,000.00 (one hundred and sixty four thousand pounds) Index Linked calculated in accordance with Appendix 2 of the SPD 'Open Space Provision on New Housing Developments' to be paid to the Council by the Owner and used by the Council in lieu of the provision of publically accessible formal recreation open space 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 directly arises from the Development;
"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;
"Plan 1"	means the plan attached to this Agreement and marked "Plan 1";
"Plan 2"	means the plan attached to this Agreement and marked

"Plan 1"



Development:	Lee Lane
Location:	Royston
Marketing Name:	
Drawing Title:	Location Plan
Drawing Number:	LL-PL / 02
Revision:	Scale @ A2: 1:1250
Drawn By:	KL Date Started: Nov 2016



**BARRATT
HOMES**

Raynham House, 2 Capital Park, Morley, Leeds LS27 0WH
Tel: 0113 507 8850

Lee Lane, Royston Affordable Layout



Legend

-  Affordable Intermediate units
-  Affordable rented units

Development:	Lee Lane
Location:	Royston
Marketing Name:	
Drawing Title:	Affordable
Drawing Number:	LL-PL125
Revision:	Scale @ A0
Drawn By:	KL
Date Drawn:	Jan 2018



**BARRATT
HOMES**

Rainham House, 2 Chapel Park, Mosley, Leeds LS27 0WE
Tel: 0113 207 6889

"Plan 2";

"Planning Permission"

means a planning permission to be granted pursuant to the Application substantially in the form of the draft is annexed in the Third Schedule;

"Practical Completion"

means either:

1. 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
2. the issue of buildmark cover note by the National House-Building Council;

"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;

"Reasonable Endeavours"

means it is agreed by the parties that 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 (including any adverse commercial implications to the party to perform such obligation) may be reasonable;

"Registered Provider"

means 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 any company or other body approved by the Homes and Communities Agency for receipt of social housing grant as may be proposed by the Owner and approved by the Council;

"Statutory Undertaker"

means any company corporation board or authority at the date of this Agreement authorised by statute to carry on an undertaking for the supply of telephone and television communications electricity gas water or drainage and any authorised successor to any such undertaking;

"Working Day"

means a weekday (Saturdays, Sundays and public holidays and the days between Christmas Day and New Year's Day excepted) and reference to "**Working Days**" 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 gender and extend to include a corporation sole or aggregate;

- 1.2.2 References to any party in this Agreement shall include the successors in title and assigns of that party 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 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 are for reference only and shall not affect the construction of this Agreement; and
- 1.2.7 Clause headings are for reference only and shall not affect the construction of this Agreement.

2 RECITALS

- 2.1 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 Authority by whom the planning obligations hereby created are enforceable.
- 2.2 The Owner is the registered proprietor with absolute title of the Land registered at HM Land Registry under Title Number SYK207513.
- 2.3 The Developer has an interest in the Land by way of an ~~option~~^{o/c.} agreement dated 3 November 2016 and made between the Owner and the Developer.
- 2.4 The Application was submitted to the Council on behalf of the Developer for planning permission for the Development.
- 2.5 The Council would not grant Planning Permission for the Development unless the planning obligations contained herein were entered into by the Owner.

2.6 The Owner by entering into this Agreement does so to create planning obligations in respect of the Land and each part of it in favour of the Council pursuant to Section 106 of the 1990 Act and to be bound by and observe and perform the covenants agreements conditions and stipulations hereinafter contained.

2.7 The parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Agreement and agree that the obligations comply with regulation 122 of the Community Infrastructure Levy Regulations 2010.

3 OPERATIVE PROVISIONS

3.1 This Agreement is a planning obligation made in pursuance of Section 106 of the 1990 Act as substituted by Section 12 of the Planning and Compensation Act 1991 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.

3.2 The planning obligations comprised in this Agreement shall not become effective until the following conditions are satisfied: -

3.2.1 the Planning Permission has been granted; and

3.2.2 (except where stated otherwise in this Agreement) the Commencement of Development.

3.3 Subject to clause 3.2: -

3.3.1 The Owner hereby covenants with the Council that the Land shall be permanently from the date hereof bound by and subject to the restrictions and provisions regulating the Development and use thereof specified in the First Schedule and the Developer acknowledges that its interest in the Land will be bound by the planning obligations in the First Schedule; and

3.3.2 The Council covenants with the Owner to comply with its obligations in the Second Schedule.

3.4 It is agreed and declared as follows: -

3.4.1 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 he or it has parted with his or 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 he shall be an occupier or tenant of any of the Dwellings or a purchaser of an individual Dwelling;
- (c) if it is a Statutory Undertaker which has an interest in any part of the Land for the purposes of its undertaking.

3.4.2 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 3.4.3 and 3.4.4 to the determination of a person ("**Expert**").

3.4.3 Any reference to an Expert in accordance with clause 3.4.2 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 for manifest error).

3.4.4 Each of the parties to the dispute referred to an Expert pursuant to clause 3.4.3 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.

3.4.5 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 2016/1490.

- 3.4.6 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 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.
- 3.4.7 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.
- 3.4.8 The obligations hereby created shall be registered as a Local Land Charge.
- 3.4.9 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.
- 3.4.10 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.
- 3.4.11 The Developer shall forthwith pay to the Council its reasonable legal fees incurred in the preparation negotiation and completion of this Agreement.
- 3.4.12 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.
- 3.4.13 The parties shall act reasonably and in good faith in the performance of their obligations in this Agreement.
- 3.4.14 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.

3.4.15 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.

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

FIRST SCHEDULE
("the Owner's Covenants")

The Owner hereby covenants with the Council: -

1. AFFORDABLE HOUSING

Affordable Housing Provision

1.1 The Affordable Rented Dwellings shall not be used or Occupied other than as Affordable Rented Dwellings and the Intermediate Dwellings shall not be used or Occupied other than as Intermediate Dwellings save that the Affordable Rented Dwellings may be used as Intermediate Dwellings and the Intermediate Dwellings may be used as Affordable Rented Dwellings with the written permission of the Head of Planning and Building Control and further this obligation shall not be binding on:

1.1.1 any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and charges;

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 A Chargee shall prior to seeking to dispose of any Affordable Housing Units pursuant to any default under the terms of its mortgage or charge give not less than 30 Working Days prior notice to the Council of its intention to dispose and:

1.2.1 in the event that the Council responds within 30 Working Days from receipt of the notice indicating that arrangements for the transfer of the Affordable Housing Units can be made in such a way as to safeguard them as Affordable Housing then the Chargee shall co-operate with such arrangements and shall use its best endeavours to secure such transfer;

1.2.2 if the Council does not serve its response to the notice served under paragraph 1.2.1 of this Schedule within 30 Working Days then the Chargee shall be entitled to dispose of the Affordable Housing Units free of the restrictions set out in this Schedule as Open Market Dwellings;

1.2.3 if the Council or any other person cannot within 40 Working Days of the date of service of its response under paragraph 1.2.1 of this Schedule secure such transfer then provided that the Chargee shall have complied with its obligations under paragraph 1.2 of this Schedule the Chargee shall be entitled to dispose free of the restrictions set out in this Schedule as Open Market Dwellings

PROVIDED THAT at all times the rights and obligations in this paragraph 1.2 shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council must give full consideration to protecting the interest of the Chargee in respect of moneys outstanding under the charge or mortgage.

1.3 The plot locations of the Affordable Housing Units have been agreed between the Council and the Owner and are indicated on Plan 2.

1.4 Subject to paragraph 1.10 of this Schedule not to cause or permit more than:

1.4.1 25% of the Open Market Dwellings to be Occupied until 5 Affordable Housing Units (3 Affordable Rented Dwellings and 2 Intermediate Dwellings);

1.4.2 50% of the Open Market Dwellings to be Occupied until 10 Affordable Housing Units (6 Affordable Rented Dwellings and 4 Intermediate Dwellings);

1.4.3 90% of the Open Market Dwellings to be Occupied until all of 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 the Homes and Communities Agency funding requirements current at the date of this Agreement.

1.5 The Affordable Housing Units shall be transferred to a Registered Provider with the benefit of the following:

1.5.1 full and free rights of access both pedestrian and vehicular from the public highway to the Affordable Housing Units; and

1.5.2 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.

- 1.6 The Owner shall provide the Council with written notice upon the Practical Completion of the 5th, 10th and final Affordable Housing Unit and upon Occupation of 25%, 50% and 90% of the Open Market Dwellings.
- 1.7 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 for the Council's approval (such approval not to be unreasonably withheld or delayed) ("**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 that may be agreed in writing between the Council and the Owner from time to time.
- 1.8 The Owner will thereafter use 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.
- 1.9 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 that 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.
- 1.10 Any agreement to sell or transfer the Affordable Housing Units to a Registered Provider shall contain the following minimal provisions:
- 1.10.1 The grant by the Owner of all rights of access and passage of services and other rights reasonably necessary to the beneficial enjoyment of the Affordable Housing Unit; and
- 1.10.2 A reservation of all rights of access and passage of services and rights of entry reasonably necessary for the benefit of the remainder of the Open Market Dwellings.

2. EDUCATION CONTRIBUTION

- 2.1 To notify the Council prior to the Occupation of the Dwellings and not to Occupy the Dwellings until 50% of the Education Contribution as Index Linked has been paid to the Council.

2.2 To notify the Council prior to the Occupation of more than 82 of the Dwellings and not to Occupy more than 82 of the Dwellings until the remaining 50% of the Education Contribution as Index Linked has been paid to the Council.

3. **OFF-SITE OPEN SPACE CONTRIBUTION**

3.1 To notify the Council prior to the Commencement of Development and not to Commence Development until 50% of the Off-Site Open Space Contribution as Index Linked has been paid to the Council.

3.2 To notify the Council prior to the Occupation of more than 82 of the Dwellings and not to Occupy more than 82 of the Dwellings until the remaining 50% of the Off-Site Open Space Contribution as Index Linked has been paid to 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 under this Agreement have been fulfilled issue written confirmation thereof and / or at any reasonable time after all of the planning obligations under this Agreement 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 contribution paid to the Council under this Agreement.

Contributions

- 3 To apply the Education Contribution towards the purposes specified in this Agreement and not to apply the Education Contribution 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.
- 4 To apply the Off-Site Open Space Contribution towards the purposes specified in this Agreement and not to apply the Off-Site Open Space Contribution 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

- 5 That in the event the Education Contribution and / or the Off-Site Open Space Contribution or any part or parts thereof are not expended within 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.

THIRD SCHEDULE
("Draft Decision Notice")

RECOMMENDATION SHEET**App. No** 2016/1490**Applicant:**

Barratt Homes
 Yorkshire West
 Raynham House
 2 Capitol Close
 Morley
 Leeds
 LS27 0WH

Agent:

Mark Johnson
 Johnson Mowat
 Coronet House
 Queen Street
 Leeds
 LS1 2TW

Description:

Residential development of 164 no.
 dwellings and associated works
 (Amended Plans)

Location:

Land at Lee Lane
 Royston
 Barnsley
 S71 4RT

Outline:**Recommendation: Approved Subject to Legal Agreement****Conditions:**

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
 Reason: In order to comply with the provision of Section 91 of the Town and Country Planning Act 1990.
- 2 The development hereby approved shall be carried out strictly in accordance with the plans, documents and specifications as approved (see below) unless required by any other conditions in this permission.

Plans;

Planning Layout Drawing - LL-PL/01-E
 Materials Layout - LL-ML/01
 Construction Management Plan - LL-CMP/02
 Alderney Plans and Elevations - BALD 00CD
 Barton Plans and Elevations - BBAT 00CE, C1
 Collaton Plans and Elevations - BCLA 00CD
 Ennerdal Plans and Elevations - BENN 00CE
 Eskdale Plans and Elevations - BESK 00CD, CS
 Kenley Plans and Elevations - BKNL 00CE, C1
 Kingsley Plans and Elevations - BKEY 00CD
 Maidstone Plans and Elevations - BMAI 00CE, C1
 Palmerstone Plans and Elevations - BPMS 00CE, C1

Signed**Date****Committee****Delegated****Signed****Principal Planning Officer****Date****Signed****Development Control Manager****Date****Sub-Committee****Section****Date**

Ripon Plans and Elevations - BRIP 00CD
Windermere Plans and Elevations - BWIE 00CD
Woodcote Plans and Elevations - BWO0 00CE, C1

Documents;
Bat Survey - R-2722-02
Geoenvironmental Appraisal - 2366/1
Flood Risk Assessment Report - November 2016
Arboricultural Report & Impact Assessment - AWA1741

Reason: In the interests of the visual amenities of the locality and in accordance with LDF Core Strategy Policy CSP 29, Design.

- 3 The external materials shall be in accordance with the approved materials layout Ref: LL-ML/01. The development shall be carried out in accordance with the approved details.
Reason: In the interests of the visual amenities of the locality and in accordance with Core Strategy Policy CSP 29, Design.
- 4 Upon commencement of development a plan indicating the position of boundary treatment(s) to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed before the dwelling is occupied. Development shall be carried out in accordance with the approved details and shall thereafter be retained.
Reason: In the interests of the visual amenities of the locality and the amenities of occupiers of adjoining property and in accordance with Core Strategy Policy CSP 29, Design.
- 5 Prior to the commencement of development plans to show the following levels shall be submitted to and approved by the Local Planning Authority; finished floor levels of all buildings and structures; road levels; existing and finished 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 and in accordance with Core Strategy Policy CSP 29, Design.
- 6 Construction or remediation work comprising the use of plant, machinery or equipment, or deliveries of materials shall only take place between the hours of 0800 to 1800 Monday to Friday and 0900 to 1400 on Saturdays and at no time on Sundays or Bank Holidays.
Reason: In the interests of the amenities of local residents and in accordance with Core Strategy Policy CSP 40, Pollution Control and Protection.
- 7 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
 - The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - Wheel washing facilities
 - Measures to control the emission of dust and dirt during construction
 - Measures to control noise levels during constructionReason: In the interests of highway safety, residential amenity and visual amenity and in accordance with Core Strategy Policy CSP 26, New

Development and Highway Improvement, and CSP 29, Design.

- 8 The parking/manoeuvring facilities, indicated on the submitted plan, shall be surfaced in a solid bound material (i.e. not loose chippings) and made available for the manoeuvring and parking of motor vehicles prior to the development being brought into use, and shall be retained for that sole purpose at all times.
- Reason: To ensure that satisfactory off-street parking/manoeuvring areas are provided, in the interests of highway safety and the free flow of traffic and in accordance with Core Strategy Policy CSP 26, New Development and Highway Improvement.
- 9 Pedestrian intervisibility splays having the dimensions of 2 m by 2 m shall be safeguarded at the drive entrance/exit such that there is no obstruction to vision at a height exceeding 1m above the nearside channel level of the adjacent highway.
- Reason: In the interest of road safety in accordance with Core Strategy Policy CSP 26, New Development and Highway Improvement.
- 10 Vehicular and pedestrian gradients within the site shall not exceed 1:12.
- Reason: In the interest of highway safety, in accordance with Core Strategy Policy CSP 26.
- 11 Prior to any works commencing on-site, a condition survey (including structural integrity) of the highways to be used by construction traffic shall be carried out in association with the Local Planning Authority. The methodology of the survey shall be approved in writing by the Local Planning Authority and shall assess the existing state of the highway. On completion of the development a second condition survey shall be carried out and shall be submitted for the written approval of the Local Planning Authority, which shall identify defects attributable to the traffic ensuing from the development. 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: In the interest of highway safety, in accordance with Core Strategy Policy CSP 26.
- 12 Development shall not commence until details of the phasing of the development has been submitted and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.
- Reason: To ensure a safe and adequate highway network, in accordance with Core Strategy Policy CSP 26.
- 13 Prior to commencement of development full highway engineering construction details, (including highway retaining structure, and phasing of the highway works) shall be submitted to and approved in writing by the Local Planning Authority. Development shall proceed in accordance with the approved

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details.

Reason: In the interest of highway safety, in accordance with Core Strategy Policy CSP 26.

- 14 No development shall take place until full foul and surface water drainage details, including a scheme to reduce surface water run-off by at least 30%/maintain or reduce existing Greenfield run-off rates and a programme of works for implementation, 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 and the scheme shall be retained throughout the life of the development.

Reason: To ensure proper drainage of the area, in accordance with Core Strategy policy CSP4.

- 15 No development shall take place until a scheme for disposing of surface water by means of a sustainable drainage system is approved by the Local Planning Authority. The scheme shall include the following details:
- Information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - A timetable for its implementation; and
 - A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker or any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be implemented in accordance with the approved sustainable drainage scheme and maintained thereafter in accordance with the approved management and maintenance plan.

Reason: To ensure proper, sustainable drainage of the area in accordance with Core Strategy Policy CSP 3.

- 16 Upon commencement of development full details of the LEAP standard play area (include a minimum 5 items of play equipment) and Youth Provision, alongside management responsibilities and maintenance schedules and a programme for installation, shall be submitted for approval in writing by the Local Planning Authority. The approved details shall be implemented in accordance with the agreed timetable for installation.
- Reason: In the interests of residential amenity to ensure adequate provision of public open space to meet local needs in accordance with Policy CSP 35 of the Core Strategy.

- 17 Upon commencement of the development the following landscaping details shall be submitted to, and approved in writing by, the Local Planning Authority. The approved details shall be retained thereafter:
- i) proposed finished levels or contours;
 - ii) public open areas;
 - iii) soft landscaping;
 - iv) means of enclosure;
 - v) other vehicle and pedestrian access and circulation areas;
 - vi) hard surfacing materials;
 - vii) minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting etc); and
 - viii) proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines, indicating lines, manholes, supports etc.)

Reason: In the interests of the visual amenities of the locality, in accordance with Core Strategy Policy CSP 29.

- 18 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which die within a period of 5 years from the completion of the development, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the visual amenities of the locality, in accordance with Core Strategy Policy CSP 29.

- 19 A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas for a minimum of () years, shall be submitted to and approved by the Local Planning Authority prior to the occupation of the development or any part thereof, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out in accordance with the approved plan. In the interests of the visual amenities of the locality, in accordance with Core Strategy Policy CSP 29.

- 20 No building or other obstruction including landscape features shall be located over or within 3.0 (three) metres either side of the centre line of the sewer i.e. a protected strip width of (6) metres, that traverses 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.

Reason: In order to allow sufficient access for maintenance and repair work at all times

- 21 No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the 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, surface water is not discharged to the foul sewer network

- 22 No development within any phase, including any demolition and groundworks, shall take place until the applicant, or their agent or successor in title, has submitted a Written Scheme of Investigation (WSI) that sets out a strategy for archaeological investigation within that phase and this has been approved in writing by the Local Planning Authority. The WSI shall include:
The programme and method of site investigation and recording.
The requirement to seek preservation in situ of identified features of importance.

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Date

Committee

Delegated

Signed

Principal Planning Officer

Date

Signed

Development Control Manager

Date

Sub-Committee

Section

Date

The programme for post-investigation assessment.
The provision to be made for analysis and reporting.
The provision to be made for publication and dissemination of the results.
The provision to be made for deposition of the archive created.
Nomination of a competent person/persons or organisation to undertake the works.
The timetable for completion of all site investigation and post-investigation works.

Thereafter each phase of the development shall only take place in accordance with the approved WSI and each phase shall not be brought into use until the Local Planning Authority has confirmed in writing that the requirements of the WSI have been fulfilled for that phase or alternative timescales agreed.

Reason: To ensure that any archaeological remains present, whether buried or part of a standing building, are investigated and a proper understanding of their nature, date, extent and significance gained, before those remains are damaged or destroyed and that knowledge gained is then disseminated.

- 23 No development shall commence until full details of the structural condition (including CCTV survey of any culverted section) and the exact route of the watercourse have been submitted to the Local planning Authority. In the event that any culverted section is in need of repair, or that the watercourse channel is in need of clearance/dredging works, then a repair scheme / works schedule shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall proceed in accordance with the approved details.

Reason: To demonstrate its fitness for purpose and proper functioning of the existing watercourse.

- 24 Upon commencement of development details of measures to facilitate the provision of high speed broadband for the dwellings 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 Core Strategy policy CSP 42, policy I1 in the emerging Local Plan and in accordance with paragraphs 42 and 43 of the National Planning Policy Framework.

- 25 Prior to the commencement of development, details shall be submitted to and approved in writing by the Local Planning Authority of arrangements which secure the following highway improvement works:

- Provision of a roundabout at the junction of the site access with Lee Lane;
- Measures to reduce speeds on Lee Lane;
- Measures to prevent parking at the new junction;
- Provision of /any necessary alterations to street lighting;
- Provision of / any necessary alterations to highway drainage;
- Any necessary resurfacing/reconstruction;
- Any necessary signing/lining

The works shall be completed in accordance with the approved details and a timetable to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and the free flow of traffic in accordance with Core Strategy policy CSP 26.

Informative(s)

1	<p>The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.</p> <p>It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at: https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries</p> <p>Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.</p> <p>Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com</p> <p>If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. Further information is available on website at: www.gov.uk/government/organisations/the-coal-authority</p>
2	<p>The granting of planning permission does not effect the status of species such as owls and bats which have protection under other legislation. These may be present, and it is the applicant's responsibility to seek advice on how to avoid damaging operations. Further advice can be obtained from the Countryside Unit in the Planning & Transportation Services, on 01226-772576, or directly from www.naturalengland.org.uk</p>
3	<p>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</p>

Signed

Date

Committee

Delegated

Signed

Principal Planning Officer

Date

Signed

Development Control Manager

Date

Sub-Committee

Section

Date

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.

FOURTH SCHEDULE
("Affordable Housing Unit Prices")

Intermediate sale/rent Housing Rural West, Penistone, Dodworth, Darton and Barugh

House Types	Total Average Sqm	Total Average Price	Minimum Design Guide Size Sqm	Average Value based on Design Guide Sqm	Average Payment by RHP to Developer 2015	Average Payment by RHP to Developer 2014
1 bed 1 person flat	61	£103,500	46	£78,049	£52,000	
1 bed 2 person flat	61	£103,500	47	£79,745	£52,767	
2 bed 3 person flat	61	£94,375	62	£95,922	£59,067	
2 bed bungalow	67,5	£159,944	62	£146,911	£96,312	
2 bed 3 person house	71	£142,165	62	£124,144	£79,733	£64,256
3 bed 4 person house	94	£168,728	77	£138,213	£98,213	£72,953
4 bed 5 person house	115	£218,900	93	£177,023	£123,483	£104,536
4 bed 6 person house	119	£222,924	101	£189,204	£131,250	

Intermediate sale/rent Housing in other areas within the Borough

House Types	Total Average Sqm	Total Average Price	Minimum Design Guide Size sqm	Average Value based on Design Guide Sqm	Average Payment by RHP to Developer 2015	Average Payment by RHP to Developer 2014
1 bed 1 person flat	49	£69,950	46	£65,977	£39,108	
1 bed 2 person flat	49	£69,950	47	£67,411	£40,573	
2 bed 3 person flat	56	£70,231	62	£77,909	£44,583	
2 bed bungalow	62	£115,329	62	£115,329	£71,580	
2 bed 3 person house	62	£93,583	62	£94,215	£56,688	£55,800
3 bed 4 person house	81	£117,716	77	£112,298	£71,421	£70,950
4 bed 5 person house	84	£152,752	93	£133,920	£88,575	£85,000
4 bed 6 person house	107	£154,896	101	£145,210	£92,025	

Affordable Rented Housing Rural West, Penistone, Dodworth, Darton and Barugh					
House Types	Minimum Design Guide Sqm	Average Value based on Design Guide Sqm	Average Weekly Target Rent	Average Payment by RHP to Developer 2015	Average Payment by RHP to Developer 2014
1 bed 1 person flat	46	£78,049	£69.98	£43,125	
1 bed 2 person flat	47	£79,745	£71.77	£43,598	
2 bed 3 person flat	62	£95,922	£80.41	£51,443	
2 bed bungalow	62	£146,911	£95.09	£65,225	
2 bed 3 person house	62	£124,144	£88.87	£59,467	£55,833
3 bed 4 person house	77	£138,213	£101.35	£67,853	£65,116
4 bed 5 person house	93	£177,023	£112.50	£80,065	£76,933
4 bed 6 person house	101	£189,204	£117.54	£84,087	

Affordable Rented Housing in other areas within the Borough					
House Types	Minimum Design Guide Sqm	Average Value based on Design Guide Sqm	Average Weekly Target Rent	Average Payment by RHP to Developer 2015	Average Payment by RHP to Developer 2014
1 bed 1 person flat	46	£65,977	£71.28	£37,075	
1 bed 2 person flat	47	£67,411	£73.50	£41,725	
2 bed 3 person flat	62	£77,909	£80.69	£49,274	
2 bed bungalow	62	£115,329	£88.81	£54,700	
2 bed 3 person house	62	£94,215	£84.76	£56,480	£50,896
3 bed 4 person house	77	£112,298	£94.57	£64,063	£59,350
4 bed 5 person house	93	£133,920	£113.24	£77,975	£71,830
4 bed 6 person house	101	£145,210	£115.69	£79,700	

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

PEB 24/10/17 min 62

No. 811
L.P. REGISTER

EXECUTED AS A DEED BY
JANET CLAYTON 
as trustee of the Lee Lane Settlement Trust

in the presence of:

Signature 

Name of witness SIOBHAN HEAVERSEGE

Address 2 ST AUSTELL PRIVE
BROUGH GREEN
Occupation BARNESLEY STS ILC-
CARE ASSISTANT

**EXECUTED AS A DEED BY
ALAN WILFRED CLAYTON
as trustee of the Lee Lane Settlement Trust**

A W Clayton

in the presence of:

Signature

David A. Wright

Name of witness

DAVID A. WRIGHT.

Address

MKB SOLICITORS LLP
1-11 Huddersfield Road
BARNSELY S70 2LP
www.mkbsolicitors.co.uk

Occupation

Solicitor

**EXECUTED AS A DEED BY
CHRISTINE IDA WATSON
as trustee of the Lee Lane Settlement Trust**

e Watson

in the presence of:

Signature

S Fox

Name of witness

MISS STEPHANIE FOX

Address

*48 CHEVET VIEW
ROYSTON
BARNSELY S71 4RZ*

Occupation

SALES ASSISTANT

SIGNED and DELIVERED as a DEED)
(but not delivered until the date hereof) by)

D. COE

and)

as the Attorney in the name of ~~D. COE~~)

BDW TRADING LIMITED)

in exercise of the power conferred upon)

them by a Power of Attorney)

dated 12 May 2017)

in the presence of:-)

Witness Signature 

Name **M. DRAKE**

Address **Barratt & David Wilson
Raynham House
2 Capitol Close
Morley
Leeds
LS27 0WH**

Occupation **SENIOR LAND MANAGER**