



**Heseltine Bray
& Welsh Solicitors**

Date: 12th September 2023
Our Ref: DCR/S
Your Ref:
Direct Dial: 01226 210777

29 Church Street
Barnsley
S70 2AL

TEL: 01226 210777
FAX: 01226 210007
info@hbw-law.co.uk
www.hbw-law.co.uk

Hirst Architects



Dear Sirs

**Re: Land at Beevor Street Barnsley
Our Mutual Client: Matthew Shields**

My client has requested me to give advice and interpretation on rights reserved over Land at the South West side of Beevor Street Barnsley registered at HM Land Registry under title number SYK300484.

In particular I am asked to focus on any rights that relate to either vehicular and pedestrian access and rights to park vehicles.

There are two important entries on the title register that relate to the reservation of rights which the land remains subject to:

Entry A6 refers to rights contained in a transfer dated 23rd June 2011 between (1) Rockwood Global Limited and (2) Standard Life Trustee Company Limited. This deed contains access rights to pass and repass over such parts of the retained land as are necessary to gain access to and from Beevor Street.

It is clear that there are rights necessary to access the land which is edged red but that the rights only extend over the parts of SYK300484 "*as are necessary for access*".

Entry A3 refers to rights contained in a Transfer of land dated 26th November 1990 between (1) Barnsley Metropolitan Borough Council and (2) K & R Mawby Limited. This deed refers to a right of way with or without vehicles over and along the parts of the land "*as shall be deemed common yard and roadway for the purpose of gaining access to and from the property*".

The drafting of the rights does not refer to a plan so a specific area cannot be visually identified when looking at the deed. However, the wording of the right purposefully refers to the area as a "*common yard*" and so therefore to define the meaning we must look at the natural meaning that can be attached to the wording.

In my view the most appropriate meaning to attach to this is that it relates to such parts of SYK300484 that are shared by two or more people or groups for the purpose of gaining access to and from their properties.



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Registered in England and Wales. Company Registration Number 10720506
VAT Number 334 5470 63

Registered Office: 29 Church Street, Barnsley, South Yorkshire, S70 2AL
A list of directors is available for inspection at the registered office
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Had it been intended for the rights to be exercised over all of the land then there would have been no need for the Deed to refer to only the parts that are deemed as common, the deed could simply have referred to the land as a whole. In my view it can therefore safely be concluded that the deed, whilst dealing with granting of rights that are reserved over SYK300484, was intending to limit the extent of the rights so that they only referred to the parts of land that required common access by multiple Proprietors rather than applying to all of it. Any parts of SYK300484 that are not required for access by more than one is not therefore common.

My interpretation is that the rights of access are limited only to the parts of SYK300484 that are necessary for multiple users in common with one another to gain access to and from the Properties for their lawful purpose and as they were constructed as of 26th November 1990. The express rights referred to in the title do not extend to any rights for parking of vehicles.

I understand that you are dealing with an application for planning permission and are giving consideration to the following:

1. The need to make allowance for third parties to park on SYK300484.
2. The need to make allowance for third party access.

In light of the above rights I would comment as follows:

1. There are no legal entries contained in the title that establish there are any express easements relating to parking rights- and nor are there any entries noted to suggest that a third party has attempted to protect any such rights. I can see no evidence in the title that there is any obligation to extend any consideration for third parties to park on the land.
2. As long as development can be constructed in such a way that the area of SYK300484 that is common to multiple users remains open for access and egress to be exercised consistently with the existing and historical use then the rights of access are not being interfered with.

