

PART B: SUPPORTING STATEMENT AND FOUR-LIMB TEST

This supporting statement is submitted in connection with an application under section 191 of the Town and Country Planning Act 1990 (the "**1990 Act**") for a Certificate of Lawful Existing Use or Development ("**CLEUD**") in respect of building works (demolition) at the former Belmont Care Home and adjacent farmland between Garden House Close and Back Lane, Monk Bretton, Barnsley, S71 2DY (the "**Site**"). The application is made by Yorkshire Housing (the "**Applicant**").

The Applicant seeks to establish, on the balance of probabilities, that the demolition of the former Belmont Care Home, existing farmhouse, and farm buildings constitutes lawful implementation of outline planning permission reference 2019/0991 (the "**Outline Permission**"), granted on 6 April 2021 for "Demolition of former care home, existing farm house and farm buildings and erection of residential development of up to 82 no. dwellings (Outline with all matters reserved apart from means of access)".

Reserved matters were subsequently approved under application reference 2022/0663 (the "**Reserved Matters Approval**") on 19 April 2023 for the residential development of 72 dwellings.

Enclosures

The following documents are appended to this application and are referred to throughout this supporting statement by their enclosure number:

- Enclosure 1: Section 80 Notice dated 2 July 2019
- Enclosure 2: Section 81 Notice dated 12 July 2019
- Enclosure 3: Demolition Phase Plan prepared by E.J. Lidster (Sales) Ltd
- Enclosure 4: Gas disconnection email from Anthony Lidster dated 9 August 2022
- Enclosure 5: Photographs of gas disconnection works (IMG-6222, IMG-6224, IMG-6227)
- Enclosure 6: Officer Report for Reserved Matters application 2022/0663
- Enclosure 7: Planning Condition Tracker
- Enclosure 8: Discharge of Conditions decision letter — 2023/0326 (Conditions 7, 16 and 20 of the Outline Permission)
- Enclosure 9: Discharge of Conditions decision letter — 2023/0336 (Conditions 14 and 19 of the Outline Permission)
- Enclosure 10: Discharge of Conditions decision letter — 2023/0421 (Conditions 3, 6, 8, 9, 15 and 16 of the Reserved Matters Approval)
- Enclosure 11: Discharge of Condition decision letter – 2023/0336 (Conditions 6, 8, 10, 17, 18, 21 and 23 of the Outline Permission)
- Enclosure 12: Legal opinion of Alexander Elliott, Lawyer, Barnsley MBC (17 December 2025)
- Enclosure 13: Google Earth satellite imagery (20 May 2022 and 16 May 2023)
- Enclosure 14: Google Earth street-level imagery (April 2019, September 2020, May 2023 and August 2024)

- Enclosure 15: Sworn statutory declaration of Anthony Lidster, Director, E.J. Lidster (Sales) Ltd
- Enclosure 16: Site plan

Planning History

The planning history of the Site is as it relevant to the CLUED application is as follows:

6 April 2021: Outline planning permission 2019/0991 granted for demolition of the former care home, existing farmhouse and farm buildings and erection of residential development of up to 82 dwellings, with all matters reserved apart from means of access, following completion of a Section 106 Agreement.

19 April 2023: Reserved matters application 2022/0663 approved for 72 dwellings (layout, scale, appearance and landscaping).

Discharge of conditions applications:

- **2022/1157** (submitted 8 November 2022): Conditions 6, 8, 10, 17, 18, 21, 23 and 26 of the Outline Permission.
- **2023/0326:** Conditions 7, 16 and 20 of the Outline Permission.
- **2023/0336:** Conditions 14 and 19 of the Outline Permission.
- **2023/0336:** Conditions 6, 8, 10, 17, 18, 21 and 23 of the Outline Permission.
- **2023/0421:** Conditions 3, 6, 8, 9, 15 and 16 of the Reserved Matters Approval (2022/0663).

Chronology of Demolition Works

The following chronology sets out the key events relating to the demolition works:

2 July 2019: E J Lidster gave notice to Barnsley MBC of the intended demolition of the Belmont Centre, Back Lane, Monk Bretton, under section 80 of the Building Act 1984 (the "Section 80 Notice", Enclosure 1). The notice identified the demolition contractor as E.J. Lidster (Sales) Ltd of Arunden House, Lund Lane, Burton Grange, Barnsley, S71 5PA. Copies were served on adjacent occupiers (including residents of Walkers Terrace and Mauds Terrace) and statutory undertakers (National Grid, Northern Gas Networks, Yorkshire Water, and Yorkshire Electricity).

12 July 2019: Barnsley MBC served a notice under section 81 of the Building Act 1984 on E.J. Lidster Ltd (the "Section 81 Notice", Enclosure 2), specifying the requirements to be complied with during demolition, including shoring up adjacent buildings, weatherproofing exposed surfaces, removing material and rubbish, disconnecting and sealing sewers and drains, making arrangements for disconnection of gas, electricity and water, and taking precautions to minimise noise and dust.

November 2020: The Outline Permission (2019/0991) was approved by the Planning Regulatory Board.

6 April 2021: The decision notice for the Outline Permission was issued following completion of the S106 Agreement.

2021–2022: Demolition of the care home and farm buildings carried out by E.J. Lidster (Sales) Ltd in accordance with the demolition phase plan (Enclosure 3) (a 12-week programme comprising site setup, asbestos removal, internal strip-out, masonry demolition, and foundation excavation).

9 August 2022: Anthony Lidster of E J Lidster confirmed by email (Enclosure 4) that a Cadent engineer had attended the site, verified that the gas service had been disconnected, and that the service pipe had been capped just inside the boundary. Photographs were provided as evidence (Enclosure 5).

November 2022: Demolitions expected to be complete per email from Lidsters.

2022/2023: The Officer Report for the Reserved Matters application (2022/0663) (Enclosure 6) at paragraph 1 of the section 'Site Description' confirmed that "*since the approval of the outline application both the care home and farm buildings have been demolished leaving behind a vacant site including areas of it which are brownfield*".

Important note regarding chronology: The Section 80 and Section 81 Notices are dated July 2019, which predates the grant of the Outline Permission in April 2021. The Section 80 Notice was given in connection with the demolition of the Belmont Centre under the Building Act 1984 regime. The demolition works forming the basis of this CLEUD application are those carried out after the grant of the Outline Permission on 6 April 2021, pursuant to and in accordance with that permission. The Section 80/81 Notices are relied upon as evidence that the demolition was formally notified and regulated by the local authority, and that the works were carried out in a planned, controlled, and lawful manner. The fact that the Building Act notifications preceded the planning permission does not affect the lawfulness of the demolition for planning purposes, provided the demolition works were carried out after the Outline Permission was granted and in accordance with its terms.

The Four-Limb Test

In order for the demolition works to constitute lawful implementation of the Outline Permission, the following four cumulative limbs must be satisfied:

- a) The works constitute a material operation under the s56 (4) of the 1990 Act and are comprised in the development;
- b) The works are more than de minimis, assessed in the proper context of the development;
- c) The works were carried out in accordance with the planning permission; and
- d) The works were not carried out in contravention of any planning condition.

Each limb is addressed in turn below.

Limb 1: Material Operation under Section 56(4) of the 1990 Act

Section 56(2) of the 1990 Act provides that development under a planning permission shall be taken to have begun on the earliest date on which any material operation comprised in the development begins to be carried out.

Section 56(4) defines "material operation" to include, at sub-paragraph (aa), "any work of demolition of a building".

The works carried out on the Site constitute works of demolition of buildings, namely:

- i. The complete demolition of the former Belmont Care Home and all associated structures to the western part of the Site; and
- ii. The complete demolition of Garden House Farm and all associated farm buildings to the eastern part of the Site.
- iii. The demolition works plainly fall within the definition of "material operation" in section 56(4)(aa).

- iv. The demolition works are also "comprised in the development" for the purposes of section 56(2), because:
- (i) The description of development for the Outline Permission (2019/0991) expressly includes "Demolition of former care home, existing farm house and farm buildings";
 - (ii) The description of development for the Reserved Matters Approval (2022/0663) similarly includes "Demolition of former care home, existing farm house and farm buildings";
 - (iii) The conditions of the Outline Permission expressly contemplate demolition as one of the earliest operations to be carried out on site, with multiple conditions containing a carve-out permitting demolition to proceed prior to the discharge of other pre-commencement requirements;
 - (iv) The demolition of the existing buildings was a necessary prerequisite to the construction of the 72 (originally up to 82) dwellings approved under the planning permission.

Evidence relied upon:

- Section 80 Notice dated 2 July 2019 – formal notification of intended demolition (Enclosure 1);
- Section 81 Notice dated 12 July 2019 – Barnsley MBC's formal requirements for the demolition works (Enclosure 2);
- Demolition Phase Plan prepared by E.J. Lidster (Sales) Ltd – 12-week programme of demolition works (Enclosure 3);
- Gas disconnection email dated 9 August 2022 – confirmation of utility disconnection (Enclosure 4);
- Photographs (IMG-6222, IMG-6224, IMG-6227) – visual evidence of gas disconnection works (Enclosure 5);
- Officer Report for 2022/0663 – confirmation by the LPA's own officer that both the care home and farm buildings have been demolished (Enclosure 6);
- Google Earth satellite imagery from 20 May 2022 and 16 May 2023 – aerial evidence of the demolished and cleared site (Enclosure 13); and
- Google Earth street-level imagery from April 2019, September 2020, May 2023, and August 2024 – showing on foot evidence of the progression of demolition (Enclosure 14).

Limb 2: More than de minimis

A material operation need not be extensive, but it must be done for the purpose of carrying out the development and must be more than de minimis. The question of whether sufficient work has taken place is a matter of fact and degree. In *Malvern Hills District Council v Secretary of State for the Environment* [1982] JPL 439, the pegging out of the intended line of a road was held to be sufficient.

In the present case, the demolition works far exceed the de minimis threshold for the following reasons:

- i. The works involved the complete demolition of an entire care home complex and an entire farmhouse and farm buildings complex, not merely a partial demolition or minor enabling works.
- ii. The Demolition Phase Plan (Enclosure 3) describes a substantial 12-week programme comprising five distinct phases:

1. site setup (1 week);
 2. asbestos removal by specialist contractor E4 Environmental (2 weeks);
 3. soft strip of internal furnishings and timber (4 weeks);
 4. demolition and clearance of masonry structures by excavator with grab attachment (3 weeks); and
 5. break-out of foundations and cellars with removal from site (2 weeks).
- iii. The works engaged the regulatory framework under Part III of the Building Act 1984, requiring formal Section 80 notification (Enclosure 1) and the service of a Section 81 Notice (Enclosure 2). Section 80 of the Building Act 1984 does not apply to buildings with a cubic content of not more than 1,750 cubic feet, which confirms that the demolished buildings were of substantial scale.
 - iv. The demolition required the involvement of statutory undertakers for the disconnection of gas, electricity, and water services, as specified in the Section 81 Notice (Enclosure 2). Gas disconnection was confirmed on 9 August 2022 with a Cadent engineer attending the site (Enclosure 4).
 - v. The local planning authority's own officer, in the Officer Report for the Reserved Matters application (Enclosure 6), acknowledged that "*since the approval of the outline application both the care home and farm buildings have been demolished leaving behind a vacant site including areas of it which are brownfield*". The Officer Report also notes that "*demolitions and site clearance works have taken place*" in the context of discussing the arboricultural impact.
 - vi. The demolition was directly referable to the purposes of the permitted development; it was necessary to clear the site to enable the construction of the 72 residential dwellings approved under the Reserved Matters.

The demolition of two entire building complexes, carried out over a 12-week structured programme involving specialist contractors, excavators, and utility disconnections, is plainly and unarguably more than de minimis.

Limb 3: Carried out in accordance with the planning permission

The demolition works were carried out in accordance with the Outline Permission for the following reasons:

- i. **Demolition is expressly comprised in the description of development:** The Outline Permission was granted for "*Demolition of former care home, existing farm house and farm buildings and erection of residential development of up to 82 no. dwellings*". Demolition was therefore a specified and integral component of the development permitted by the Outline Permission.
- ii. **The conditions of the Outline Permission expressly contemplate and facilitate demolition:** Five conditions on the Outline Permission (Conditions 2, 10, 14, 18, and 19) contain an identical carve-out which expressly permits demolition to proceed prior to the discharge of those conditions:

"with the exception of demolition, provision of construction facilities i.e. access onto the site, welfare facilities, car parking areas, vehicle turning, materials storage areas, compound set up, securing the site"

This wording demonstrates the local planning authority's express intention that demolition would be one of the earliest operations carried out on site, and that it was permitted to proceed ahead of the discharge of those particular pre-commencement conditions.

iii. **The condition carve-outs are analysed individually as follows:**

- **Condition 2 (Reserved Matters):** This condition provides that "*The development hereby permitted shall not be commenced (with the exception of demolition...) unless and until approval of the following reserved matters has been obtained in writing from the Local Planning Authority*", namely layout, scale, design and external appearance, and landscaping. The carve-out means that the demolition could lawfully proceed before the Reserved Matters application (2022/0663) was submitted or approved. This is a common mechanism in outline permissions for large residential developments to enable site clearance while detailed design is being finalised.
- **Condition 10 (Construction Method Statement):** This condition provides that "*No development shall take place (with the exception of demolition...) until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority.*" The Construction Method Statement addresses matters relating to the construction phase (parking, access, loading, storage, hoarding, wheel washing, dust and noise control), not the demolition phase. Demolition has its own regulatory framework under the Building Act 1984, as evidenced by the Section 80 and 81 Notices (Enclosures 1 and 2). This condition was discharged under application 2022/1157 (Enclosure 11).
- **Condition 14 (Foul and Surface Water Drainage):** This condition provides that "*No development shall take place (with the exception of demolition...) until (a) Full foul and surface water drainage details... have been submitted to and approved in writing by the Local Planning Authority.*" The drainage condition is concerned with the permanent drainage scheme for the completed development. Demolition works do not create new impermeable surfaces or generate the kind of surface water run-off that this condition is designed to regulate. This condition was discharged under application 2023/0336 (Enclosure 9).
- **Condition 18 (Highway Engineering Details):** This condition provides that "*Prior to commencement of development (with the exception of demolition...) full highway engineering construction details... shall be submitted to and approved in writing by the Local Planning Authority.*" The highway engineering details relate to the internal road layout for the residential development, which has no bearing on the demolition of pre-existing buildings. The non-discharge of Condition 18 is therefore irrelevant to the lawfulness of the demolition works.
- **Condition 19 (Sustainable Urban Drainage Management Plan):** This condition provides that "*No development shall take place (with the exception of demolition...) until details of the maintenance and management plan of the sustainable urban drainage scheme have been submitted to and approved by the local planning authority.*" As with Condition 14, the SuDS management plan is directed at the long-term drainage arrangements for the completed development. The demolition of existing buildings does not engage the sustainable drainage regime. This condition was discharged under application 2023/0336 (Enclosure 9).

iv. **The deliberate inclusion of demolition carve-outs in these five conditions, contrasted with the absence of any such carve-out from Condition 23 (which expressly states "No development, including any demolition and groundworks"), demonstrates that the local planning authority made a conscious and deliberate drafting choice:** Where the authority intended a condition to apply to demolition, it said so expressly. Where it did not, the omission was intentional.

Limb 4: Not carried out in contravention of any planning condition

The demolition works were not carried out in contravention of any planning condition. The conditions on the Outline Permission fall into the following categories in relation to the demolition works:

- **Category 1: Conditions which expressly exclude demolition from their scope (Conditions 2, 10, 14, 18, and 19)**

As set out above, these conditions cannot have been contravened by the demolition works because demolition is expressly carved out from their ambit. It is legally impossible for a condition which does not apply to demolition to be breached by demolition.

- **Category 2: Conditions which expressly include demolition and were discharged prior to the demolition works (Condition 23)**

Condition 23 provides that "*No development, including any demolition and groundworks, shall take place until the applicant... has submitted a Written Scheme of Investigation (WSI) that sets out a strategy for archaeological investigation*". This is the one pre-commencement condition which expressly brings demolition within its scope. Condition 23 was discharged under application 2022/1157, as confirmed by James Hyde's email of 18 December 2025 (Enclosure 11): "SYAS have agreed the condition can be discharged". The demolition works were therefore not carried out in contravention of Condition 23.

- **Category 3: Conditions which are not pre-commencement conditions and are not triggered by demolition**

The remaining conditions on the Outline Permission (Conditions 1, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 15, 16, 17, 20, 21, 22, 24, 25, 26, 27, 28, and 29) are either conditions relating to the submission of details "*upon commencement*", "*prior to occupation*", or "*prior to construction above ground level*", or are operational/compliance conditions that are not triggered by demolition works. None of these conditions was contravened by the demolition works.

For completeness, it is noted that the conditions on the Reserved Matters Approval (2022/0663) are similarly either pre-occupation conditions or upon-commencement conditions that are not triggered by demolition. Multiple conditions on the Reserved Matters have already been discharged under application 2023/0421 (Enclosure 10).

A summary of the condition discharge status is enclosed herewith at Enclosure 7.

Council's own confirmation of Lawful Implementation

It is significant that the Council's own officers have confirmed their view that the planning permission has been lawfully implemented. Alexander Elliott, Lawyer at Barnsley MBC, provided a written opinion on 17 December 2025 (Enclosure 12) in which he stated:

- "*On the facts provided, I am satisfied that the permission has been lawfully implemented and has not lapsed.*"
- "*The demolition constitutes a material start and has lawfully implemented the permission.*"
- "*The permission has not lapsed, and the new owner may proceed, subject to compliance with all remaining conditions.*"

Mr Elliott recommended that if additional certainty is required, the parties should "*consider inviting an application for a Lawful Development Certificate under section 191 TCPA*". This application is submitted pursuant to that recommendation.

James Hyde, Spatial Planning Project Manager at Barnsley MBC, also confirmed that "*the permission is considered extant*" (Enclosure 11).

Conclusion

On the basis of the evidence set out above, the Applicant submits that the demolition of the former Belmont Care Home and Garden House Farm buildings constitutes lawful implementation of the Outline Permission because:

- a) The demolition works are a material operation under section 56(4)(aa) of the Town and Country Planning Act 1990, being "*works of demolition of a building*", and are comprised in the development as expressly described in the permission;
- b) The demolition works are plainly more than de minimis, involving the complete demolition of two building complexes over a 12-week structured programme, as acknowledged by the local planning authority in the Officer Report for 2022/0663 (Enclosure 6);
- c) The demolition works were carried out in accordance with the Outline Permission, which expressly included demolition in the description of development and contained carve-outs in five conditions permitting demolition to proceed ahead of their discharge;
- d) The demolition works were not carried out in contravention of any planning condition: the five conditions with demolition carve-outs do not apply to demolition and the one condition which expressly captures demolition (Condition 23) was discharged prior to the works (Enclosure 11).

The Applicant therefore respectfully requests that a CLEUD be granted confirming that the demolition works have lawfully implemented the Outline Permission and that the development may proceed in accordance with the Outline Permission and the Reserved Matters Approval, subject to compliance with all remaining planning conditions.

Gowling WLG

13 May 2026

APPENDIX 1

Summary of Condition Discharge Status (Outline Permission 2019/0991)

Condition	Subject	Carve-out?	Discharged?	Relevant Demolition? to
1	Time limit	N/A	N/A	No – procedural
2	Reserved matters	Yes	Yes (RM approved 19/04/2023)	Carved out
3	Access arrangements	No	N/A	No – compliance condition
4	Maximum 82 dwellings	No	N/A	No – compliance condition
5	Ground/floor levels	No	N/A	No – RM submission requirement
6	External materials	No	Yes (2022/1157)	Upon commencement
7	Boundary treatments	No	Yes (2023/0326)	Upon commencement
8	Broadband provision	No	Yes (2022/1157)	Upon commencement
9	Construction hours	No	N/A	No – operational condition
10	Construction Method Statement	Yes	Yes (2022/1157)	Carved out
11	Pedestrian visibility splays	No	N/A	No – compliance condition
12	Parking/manoeuvring	No	N/A	No – pre-use condition
13	Surface water run-off	No	N/A	No – compliance condition
14	Foul/surface water drainage	Yes	Yes (2023/0336)	Carved out
15	Redundant vehicular accesses	No	N/A	No – pre-use condition

16	Electric charging vehicle	No	Yes (2023/0326)	No – pre-construction above ground
17	Highway condition survey	No	Yes (2022/1157)	Prior to works commencing – discharged
18	Highway engineering details	Yes	No	Carved out – non-discharge irrelevant
19	SuDS management plan	Yes	Yes (2023/0336)	Carved out
20	Landscape management plan	No	Yes (2023/0326)	No – pre-occupation
21	Tree protection fencing	No	Yes (2022/1157)	Prior to commencement – discharged
22	Buffer strip	No	N/A	No – RM submission requirement
23	Archaeological WSI	No (expressly includes demolition)	Yes (2022/1157)	Applies to demolition – discharged
24	In-curtilage planting	No	N/A	No – post-occupation
25	Out-of-curtilage planting	No	N/A	No – upon commencement
26	Highway improvement works	No carve-out	No	Does not go to core of permission
27	Travel Plan	No	N/A	No – pre-occupation
28	Driveway lengths	No	N/A	No – compliance condition
29	Gradients	No	N/A	No – compliance condition