DATED 9th July 2020

BARNSLEY METROPOLITAN BOROUGH COUNCIL

and

TAYLOR ESTATES LIMITED

DEED OF VARIATION

Pursuant to Section 106 and Section 106A of the Town and Country Planning Act 1990 (as amended) relating to development on land 155 Wakefield Road, Barnsley, S71 1NG

THIS DEED OF VARIATION is made the 9th day of July Two Thousand and Twenty

BETWEEN

(1) **BARNSLEY METROPOLITAN BOROUGH COUNCIL** of Town Hall, Barnsley, South Yorkshire, S70 2TA ("the Council") of the first part and

(2) **TAYLOR ESTATES LIMITED** of (CRN: 04260959) whose registered office is situate at Moor Valley, Mosborough, Sheffield, England, S20 5BB ("the Owner") of the second part

RECITALS

(1) This Deed of Variation is supplemental to an agreement entered into pursuant to Section 106 of the Town and Country Planning Act 1990 dated 5th November 2013 between (1) the Council and (2) Taylor Estates Limited ("the Original Section 106 Agreement").

(2) The Owner is the registered proprietor with Title Absolute of the Site which is registered under title number SYK78588.

(3) The Owner was granted planning permission under planning application number 2008/1700 to redevelop the Site ("the Planning Permission").

(4) The Owner has subsequently submitted an application under section 73 of the 1990 Act under planning application number 2019/1227 (the "2019 Application") for amendment to conditions attached to the Planning Permission.

(5) This Deed of Variation seeks to amend the Original Section 106 Agreement to ensure that the obligations set out in it also applies to the planning permission granted pursuant to the 2019 Application.

(6) Any words or phrases which are defined in the Original Section 106 Agreement and which appear in this Deed of Variation shall have the same meaning as are associated to them in the Original Section 106 Agreement unless a contrary intention appears from this Deed of Variation.

NOW THIS DEED WITNESSETH AS FOLLOWS:-

1 Variation

1.1 It is hereby agreed between the parties to this Deed of Variation that the Original Section 106 Agreement is varied in the manner set out in the Schedule to this Deed of Variation and the Original Section 106 Agreement shall remain in full force and effect and the amendments contained in this Deed of Variation shall take effect as if they were included in the Original Section 106 Agreement.

1.2 This Deed of Variation is made pursuant to the statutory provisions and in consideration of the covenants contained herein and for the avoidance of doubt it is agreed and declared that the said covenants are ones to which section 106 and Section 106A of the Town and Country Planning Act 1990 and section 111 of the Local Government Act 1972, and all other powers so enabling are to apply.

1.3 This Deed of Variation contains planning obligations made pursuant to Section 106 and varied pursuant to Section 106A of the Town and Country Planning Act 1990 which are enforceable by the Council and shall bind that part of the Land which is registered under Land Registry title number SYK78588.

1.4 The provisions of this Deed of Variation shall have immediate effect upon the completion of this Deed

2. Section 73 Clause

If the parties shall so agree in writing in relation to any Planning Permission granted as a result of any application under Section 73 of the 1990 Act affecting the Planning Permission the parties shall comply with the terms of this Deed as if the definition of the Planning Permission in this Deed had been replaced by the description of the said planning permission granted as a result of any application under Section 73 of the 1990 Act affecting the Planning Permission with the intention that the provisions of this Deed will apply as if the definition of the Planning Permission in this Deed were the new planning permission granted as a result of such application and a memorandum of that agreement shall be endorsed on the face of this Deed which is recorded on the public register.

3. Governing Law

This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

4. Contractual Rights of Third Party

No term of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party.

5. Costs

The Owner shall pay to the Council on completion of this Deed the reasonable legal costs of the Council for the sum of £500 incurred in the negotiation preparation and execution of this Deed.

Schedule

The parties hereby mutually agree to vary and supplement the terms of the Original Section 106 Agreement so that the Original Section 106 Agreement shall from and including the date of this Deed of Variation be read and construed as follows:

1. Recital (3) of the Original Section 106 Agreement shall be deleted and replaced with the following replacement recital: *The Owner has the benefit of a planning permission granted under reference 2008/1700 and has applied for a planning permission under s73 of the 1990 Act*:

2. Recital (4) of the Original Section 106 Agreement shall be deleted and replaced with the following replacement recital: *The parties have agreed to enter into this Deed in order to secure planning obligations contained in this Deed.*

3. The following new definitions shall be inserted into clause 1 of the Original Section 106 in the following terms;

4. "***Planning Permission***" *means the Planning Permission and any future permission that may be granted by the Council under section 73 of the 1990 Act including without limitation any permission granted in respect of the 2019 Application*

5. ***"2019 Application"*** *means the application submitted to the Council under reference 2019/1227*

IN WITNESS whereof these presents have been duly executed as a Deed by the parties hereto the day and year first before written

THE COMMON SEAL of Barnsley)
Metropolitan Borough Council was)
hereunto affixed to this Deed in the)
presence of:-)

Director of Legal and Governance/Authorised Signatory

No. 2037
IN REGISTER

EXECUTED as a **DEED** by

TAYLOR ESTATES LIMITED

acting by STEPHEN JOHN TAYLOR, a director, S. J. Tay
in the presence of:

Witness Signature.....

Name.....MICHAEL JOHN GODBEHERE.....

Address.....22 BOWMAN CLOSE, GLEADLESS
.....S12 3LR.....

Occupation.....CARAGE OWNER.....