

DATED 6 August 2015

BARNSELY METROPOLITAN BOROUGH COUNCIL

and

ANGELA PEARS

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 at Crabtree House Firs Lane Hoylandswaine Barnsley S36 7JG in the County of South Yorkshire

A.C. Frosdick, LL.B. DipLG,
Director of Legal and Governance,
Town Hall,
Barnsley S70 2TA.

THIS DEED OF VARIATION is made the *6th* day of *August* Two Thousand and Fifteen

BETWEEN

- (1) **BARNSELY METROPOLITAN BOROUGH COUNCIL** of Town Hall Barnsley South Yorkshire S70 2TA ("the Council") of the first part and
- (2) **ANGELA PEARS** of Crabtree House Firs Lane Hoylandswaine Barnsley S36 7JG ("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 between (1) the Council and (2) the Owner dated 12 March 2013 ("the Original Section 106 Agreement").
- (2) The Owner is the registered proprietor with Title Absolute of the Land under Land Registry Title Numbers SYK279682, SYK352274, SYK352275, SYK352276 and SYK14112.
- (3) The Owner has submitted an application to the Council under section 73 of the Town and Country Planning Act 1990 to vary several conditions attached to the planning permission granted by the Council under reference 2010/1271 (Erection of eco dwelling). This application seeks to vary condition 2 of the said planning permission to allow changes to design and scale of dwelling and remove conditions 8, 9 and 10 in relation to the wind turbine and code for sustainable homes. The updated application is known to the Council by reference 2015/0629 and, if approved, would result in a new planning permission being granted.
- (4) The Council is minded to grant the planning permission pursuant to this updated planning application subject to completion of this Deed of Variation without

which the planning permission would not be granted. The purpose of this Deed of Variation is to ensure that the obligations contained within the Original Section 106 Agreement shall also apply to any development undertaken under a planning permission granted by the Council under planning application 2015/0629.

(5) Any words or phrases which are defined in the Original Section 106 Agreement (as varied) and which appear in this Deed of Variation shall have the same meaning as are associated to them in the Original Section 106 Agreement (as varied) 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 111 of the Local Government Act 1972, Sections 106 and 106A of the Town and Country Planning Act 1990 and all other powers so enabling are to apply.
- 1.3 This Deed of Variation contains planning obligations made pursuant to Section 106 and Section 106A of the Town and Country Planning Act 1990 which are enforceable by the Council and shall bind the Land which is registered with Title Absolute under Land Registry Title Numbers SYK279682, SYK352274, SYK352275, SYK352276 and SYK14112.

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

2 Miscellaneous

- 2.1 The Owner agrees to pay the Council's legal fees in respect of the drafting negotiation and completion of this Deed of Variation in the sum of £500.

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 Clause 1 of the Original Section 106 Agreement shall be amended so as to include a definition of "the Second Planning Permission" which shall read:

"means a planning permission to be granted by the Council pursuant to a planning application known to the Council by reference 2015/0629."

- 2 Clause 1 of the Original Section 106 Agreement shall be amended so as to include an updated definition of "the Development" which shall read:

"means the development of the Land for residential development in accordance with the Planning Permission and/or the Second Planning Permission."

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:-)

T. A. H. L.

Director of Legal and Governance / Authorised Signatory



EXECUTED AS A DEED by)
ANGELA PEARS)
in the)
presence of:-)

APears

Signature

[Signature]

Name of witness: *Laura Smith*

Address: *Ramsdens SOLICITORS
19a Cheapside
Wakefield
WF1 2SD*

Occupation: *Solicitor*