DATED 4TH DECEMBER **2017**

BARNSLEY METROPOLITAN BOROUGH COUNCIL

and

HARWORTH ESTATES LIMITED

AGREEMENT

under Section 278 of the Highways Act 1980 and Section 111 of the Local Government Act 1972 relating to highway improvements at Mapplewell Town Centre, Barnsley, South Yorkshire

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

THIS AGREEMENT is made the 4th day of December Two thousand and seventeen

BETWEEN

1. **BARNSLEY METROPOLITAN BOROUGH COUNCIL** of the Town Hall Barnsley South Yorkshire S70 2TA **("the Council")**
2. **HARWORTH ESTATES LIMITED** (Company Registration Number 02173536) whose registered office is situate at Advantage House, Popular Way, Catclifee, Rotherham, S60 5TR **("the Company")**

INTERPRETATION

In this Agreement:-

"the Act" means the Highways Act 1980 as amended by the New Roads and Street Works Act 1991

"the CDM Regulations" means the Construction (Design and Management) Regulations 2007

"the Certificate of Completion" means the certificate to be issued by the Highways Officer upon the satisfactory completion of the Works

"the Company" includes the successors in title of the Company

"the Conditions of Contract" means the Institution of Civil Engineers - Conditions of Contract with such additions or amendments thereto as may be approved by the Highways Officer

"the Development" means the development at the Site for which planning permission has been granted under reference 2014/0452 dated 23rd March 2015

"the Drawings" means the drawings listed and attached at Schedule 1 hereto

"the Final Certificate" means the certificate to be issued by the Highways Officer once the provisions of clause 4.3 hereof have been fully complied with to the entire satisfaction of the Highways Officer

"the Highway" means the highways called Towngate Spark Lane Blacker Road and Greenside at Mapplewell Barnsley

"the Highways Officer" means the Head of Highways Engineering and Transportation for the time being of the Council and includes any professional officer appointed by him for the purpose of the supervision or inspection of the Works

"the Maintenance Period" means a period of twelve calendar months from the date of the issue of the Certificate of Completion

"the Site" means the former North Gawber Colliery site off Carr Green Lane/Spark Lane at Mapplewell Barnsley

"the Supervision Fee" means the sum of £16,731.00 (sixteen thousand seven hundred and thirty one pounds) being the fees which are estimated will be incurred by the Council in checking and approving the drawings site inspections and administration of the Works of which the sum of £5,000.00 (five thousand pounds) has already been paid to the Council and receipt of which is hereby acknowledged

"the Security Deposit" means the sum of £167,586 (one hundred and sixty seven five hundred and eighty six pounds) being the sum required to be deposited with the Council by the Company as security for the satisfactory completion of the Works

"the Specification" means the Specification for Highway Works published by HMSO with all amendments up to the date hereof

"the Works" means the works described generally in Schedule 2 hereto and indicated in outline on the Drawings and includes any amended or additional works as provided for herein

Clause headings are for ease of reference only and shall not form part of this Agreement for the purposes of its construction or interpretation

WHEREAS

(1) The Council is the Highway Authority for the purposes of the Act

(2) The Company has obtained planning permission for the Development of the Site and the Council and the Company are desirous that the Works shall be carried out to improve the amenity of the area

(3) The Company has agreed to execute or procure the execution of the Works as agent for and on behalf of the Council

(5) This Agreement is made pursuant to Section 278 of the Act and Section 111 of the Local Government Act 1972 and the Council is satisfied that it will be of benefit to the public

(6) Nothing herein contained shall operate to restrict or prejudice the powers duties and rights of the Council under the Highways Act 1980 and the New Roads and Street Works Act 1991

NOW IT IS HEREBY AGREED by and between the parties as follows:-

1. EXECUTION OF THE WORKS

1.1 The Company shall at its own expense for the purpose of carrying out the Works:-

(a) carry out surveys as required by the Highways Officer of the Highway and the Site

(b) carry out site investigation works

(c) appoint a designer approved by the Highways Officer to design a scheme for the Works (including all necessary drawings and documents to be approved by the Council) **("the Approved Documents")**

(d) appoint a contractor approved by the Highways Officer for the construction of the Works in accordance with a form of contract which shall be approved by the Highways Officer **("the Contract")**

1.2 The Company shall:

(a) procure the provision in writing of a programme and timetable for the Works which shall be submitted to and approved by the Highways Officer prior to the commencement of the Works or any part thereof **("the Approved Programme")**

(b) upon the request of the Highways Officer procure the provision of a written programme and timetable for any temporary traffic arrangements or any other measures which may be necessary or required in connection with the carrying out of the Works which shall be submitted to and approved by the Highways Officer prior to the commencement of the Works or any part thereof and shall comply with any further requests of the Highways Officer at any time during the carrying out of the Works

(c) procure that the Works are carried out at its own expense in a good and workmanlike manner with proper and suitable materials to the reasonable satisfaction of the Highways Officer in accordance with the Specification and the Approved Documents and once commenced to proceed diligently with the Works and to use reasonable endeavours to complete the Works in accordance with the Approved Programme

(d) before the commencement of the Works take whatever steps are necessary to locate and identify any services apparatus and equipment of any utility company Local Authority or other body which is situated in on under or over the Highway or which may otherwise be affected by the Works and shall supply to the Highways Officer copies of all consultations which have been carried out copies of all consents and approvals obtained and details of any diversion or other works required to any services equipment or apparatus affected by the Works **("Apparatus Works")**

(e) carry out and complete the Apparatus Works at its own expense and in the same manner as the Works

(f) procure compliance with all conditions and requirements imposed by any utility company local authority or other body in respect of any services equipment or apparatus affected by the Works

(g) give the Highways Officer free access to such parts of the Site as are reasonably necessary for the proper inspection of the Works

(h) procure that the Works are undertaken pursuant to the CDM Regulations

(i) ensure the Works comply in every respect with the latest edition of Chapter 8 of the Traffic Signs Manual published by the Department of Transport

(j) at its own expense arrange for all materials and soils in connection with the Works to be tested by a UK Accreditation Service (NAMAS) accredited laboratory to ensure they are of a satisfactory standard and shall submit the test results to the Highways Officer and meet the costs of any further testing required by the Highways Officer

1.3 In the event the Highways Officer determines that any variations to the Works are required the Highways Officer shall notify the Company as soon as reasonably practicable of any revised or additional works which may be necessary and the Company shall carry out and complete the revised or additional works at its own expense and in the same manner as the Works

2. CONSENT TO WORK IN THE HIGHWAY

2.1 The Council shall during such hours of working as may be agreed in advance with the Highways Officer permit the Company or its approved contractor (hereinbefore referred to) to enter upon the Highway for the purpose of carrying out the Works and all matters in connection with the Works

3. FEES AND COSTS

3.1 The Company shall on completion of this Agreement pay the remaining balance of the Supervision Fee in the sum of £11,731.00 (eleven thousand seven hundred and thirty one pounds) to the Council

3.2 In the event the fees incurred by the Council exceed the Supervision Fee the Highways Officer shall provide a certified estimate or estimates of the increased fees and the Company shall pay the sum or sums due within 28 days of receiving a written request therefor

3.3 The Company shall upon completion of this Agreement pay to the Council the sum of £1,000.00 being the Council's legal fees for the preparation and completion of this Agreement

4. CERTIFICATES AND MAINTENANCE PERIOD

4.1 The Company may at any time when it believes the Works have been substantially completed notify the Highways Officer in writing whereupon the Highways Officer shall make arrangements to inspect the Works and the Highways Officer shall if the Works have been completed to his satisfaction issue the Certificate of Completion to the Company or the Highways Officer shall notify the Company of any outstanding items and the Company shall provide the Highways Officer with a program for their completion

4.2 The Company shall at its own expense maintain the Works throughout the Maintenance Period and shall make good any defects or damage arising or occurring during that period to the satisfaction of the Highways Officer

4.3 After the expiration of the Maintenance Period the Company shall submit to the Highways Officer in an electronic format 'as-built' drawings and the whole of the Health and Safety file pursuant to the CDM Regulations and then provided the Company has made good any defects or damage to the

Works to the entire satisfaction of the Highways Officer and provided that all monies due to the Council hereunder have been paid the Highways Officer shall issue the Final Certificate to the Company

4.4 For the avoidance of doubt the covenants on the part of the Company contained in clause 6 of this Agreement shall not be affected by the issue of the Final Certificate

5. **IT IS HEREBY AGREED AND DECLARED** as follows:-

5.1 That for the purpose of carrying out its obligations under this Agreement but for no other purpose whatsoever the Company will act as agent for and on behalf of the Council

5.2 The Company is to act as the only client in respect of the Works pursuant to the CDM Regulations

5.3 Any monies due to be paid under the provisions of this Agreement shall be paid within twenty eight days of the due date or if not paid within that period shall bear interest at 3% above the Base Rate of Barclays Bank Plc for the time being such interest being payable from the due date to the date of payment

5.4 Once executed the Contract shall be deemed incorporated in this Agreement insofar as it is applicable and does not conflict with the provisions herein

5.5 The Company shall not assign its rights and obligations arising under this Agreement without the prior written consent of the Council

6. **COMPENSATION AND INDEMNITY**

6.1 The Company will on demand reimburse the Council with all expenditure it may properly incur in relation to any valid and proper claims made pursuant to section 66 of the Highways Act 1980 the Noise Insulation Regulations 1975 or Part I of the Land Compensation

Act 1973 arising from the use of the Highway as altered by the Works and the roads constructed by the Works together with the reasonable legal costs and surveyor's fees incurred either by the Council or any third party whose costs the Council is legally obliged to pay in connection with the processing and settlement of any such claims

6.2 The Company will indemnify and keep indemnified the Council against all costs actions proceedings claims demands damages and losses of whatever nature arising out of the non-observance non-performance or other breach of the Company's obligations under this Agreement and all claims demands damages and losses of whatever nature which may be suffered by the Council due to any reason connected with the carrying out of the Works

6.3 The Company shall insure or shall procure that the contractor carrying out the Works shall insure against any damage loss or injury which may occur to any property or person arising by or out of the execution of the Works otherwise than due to any act or omission of the Council and such insurance shall be effected prior to the commencement of the Works with an insurer on terms approved by the Council (such approval not to be unreasonably withheld or delayed) for at least the sum of £10,000,000 for each and every claim

7. DETERMINATION BY THE COUNCIL

7.1 In the event the Company fails to perform or observe any of the covenants or obligations herein contained or if a receiving order in bankruptcy is made against the Company or if the Company is wound up or enters into a composition or arrangement (otherwise than for the purpose of amalgamation or reconstruction) the Council may without prejudice to any of its rights claims or remedies against the Company for such non-performance or non-observance determine this Agreement by notice in

writing to the Company sent to the address stated in this Agreement Subject always to the provisions of clauses 8 and 9 hereof

8. DEFAULT POWERS

8.1 Without prejudice to clause 7 hereof if the Company fails to execute or complete the Works in accordance with the Company's obligations hereunder the Council shall be entitled to execute or complete the Works in default by its own employees contractors or otherwise and to recover from the Company the reasonable and proper costs incurred by the Council thereby as certified in writing by the Highways Officer provided that this default power shall only be exercisable by the Council after at least twenty eight days notice of intention has been given in writing to the Company

9. SECURITY DEPOSIT

9.1 The Company shall prior to the commencement of the Works pay the Security Deposit to the Council

9.2 Upon the issue of the Certificate of Completion the sum of the Security Deposit shall be reduced to a sum equal to ten percent of its original sum and the Council shall arrange as soon as practicable thereafter to refund the sum of the excess to the Company

9.3 As soon as practicable after the issue of the Final Certificate the Council shall refund the remaining sum of the Security Deposit to the Company

9.4 If at any time the Company fails to observe or perform any of the covenants on the Company's part herein contained or to pay any sums due from the Company to the Council under this Agreement or if circumstances shall arise which would entitle the Council to terminate this Agreement then without prejudice to any other rights and remedies of the Council against the Company under this Agreement or under statutory powers the Council shall be entitled to deduct the amount of any costs and expenditure which

INFORMATION WITHIN THIS DRAWING IS NOT NECESSARILY PRODUCED TO SCALE.
ALWAYS USE FIGURED DIMENSIONS AND CO-ORDINATES - IF IN DOUBT, ASK.

KEY:

- Tactile Paving
- Area of Road with Speed Cushion to be Resurfaced with Red Additives
- Ramp to Speed Cushion
- Area of existing Tarmac Footway to be Replaced with Marshalls 450x450 sawn paving slabs (or similar).
- Area of road to be resurfaced with tarmac
- Area of new surfacing to be overlaid with red anti skid.
- Area to have Kerbs Removed and Replaced
- Extent of new edgings in front of cafe and hairdressers

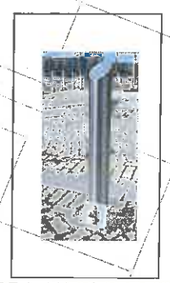


IMAGE 1 - FURNITUBE ZENITH BOLLARDS WITH YELLOW LUMINOUS BAND AND MITRED TOP

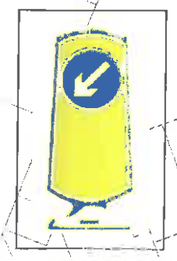


IMAGE 2 - SOLABOLL BOLLARD

IMAGE 3 - VICA SL ROUND BAR SEAT IN BLUE

IMAGE 4 - BELLITALIA LINEAR ARTEMIDE WHITE CONCRETE PLANTERS

IMAGE 5 - MARSHALLS OLLERTON FIN CYCLE STANDS

NOTES

1. Street furniture selected from Barnsley Town Centre, Public Spaces Strategy. The final position of all street furniture is to be agreed with the Highway Authority.
2. Where kerbs are to be replaced, existing drop kerbs to be replaced like for like, unless otherwise requested.
3. For Highway Construction details, refer to drawing 38192/002.
4. All statutory undertakers covers to be adjusted to finished level.
5. Any areas of failed binder course are to be replaced as necessary after an inspection of the milled surface by the Highway Authority.
6. The new kerb heights will be the maximum possible whilst still maintaining a minimum 1 in 60 fall across the footway from back to front subject to a maximum kerb height of 125mm. Where this is not possible the matter will be referred to the Highway Officer prior to laying of the new kerbs.
7. New planters are to be filled with suitable compost and seasonal bedding plants. Species are to be agreed at a later date.

REV	DESCRIPTION	SIG	CHK	DATE
A	First Issue.			
B	Footway surfacing amended to suit Clients comments.	JB	RG	28.08.15
C	Updated to suit latest scheme.	KP	AL	23.03.16
D	Extent of works modified.	JA	AL	16.09.16
E	Street furniture updated. New kerb dimensions added. Notes updated.	JA	AL	15.11.16
F	Street furniture layout amended. Bollard and planter specification updated. Carriageway resurfacing area reduced.	KP	AL	15.11.16
G	Note 6 revised & note 7 added. Bollards revised. Anti skid indicated.	GB	AL	02.03.17

HARWORTH ESTATES

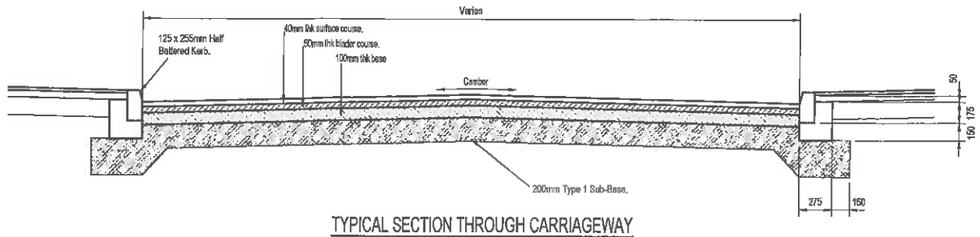
MAPPLEWELL TOWN CENTRE

HIGHWAY IMPROVEMENTS

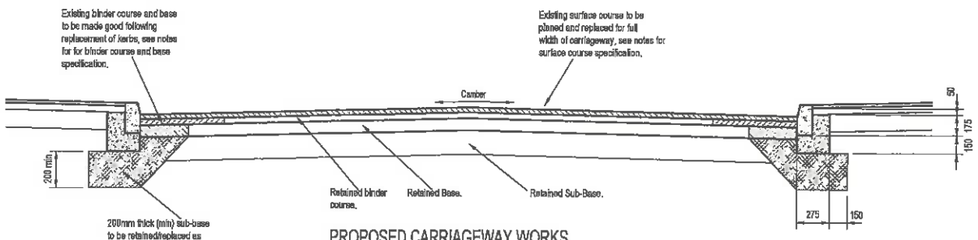
Eastwood & Partners CONSULTING ENGINEERS
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SCALE WHEN PLOTTED AT A1	DRAWING STATUS
1:250	TENDER

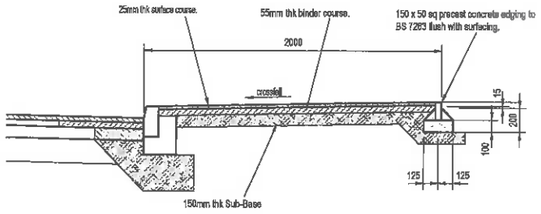
DRAWN	CHECKED	DATE	DRAWING NUMBER	REV
JB	RB	16.06.15	38192/001	G



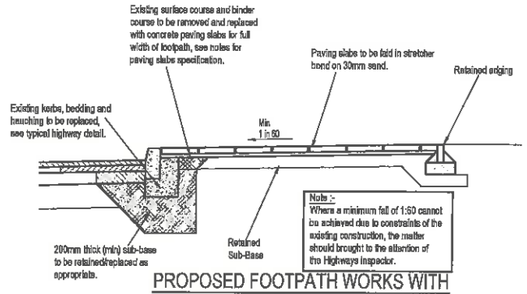
TYPICAL SECTION THROUGH CARRIAGEWAY



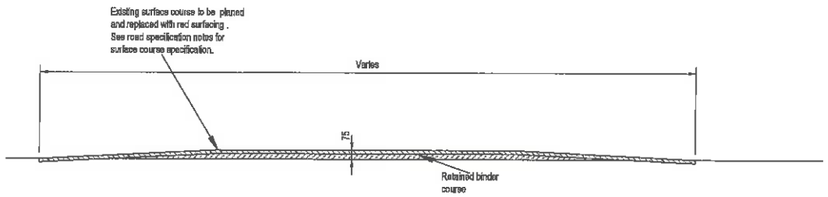
PROPOSED CARRIAGEWAY WORKS -TYPICAL SECTION



TYPICAL SECTION THROUGH FOOTPATH.

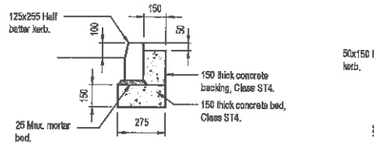


PROPOSED FOOTPATH WORKS WITH PAVING SLABS -TYPICAL SECTION



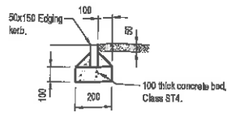
TYPICAL SECTION THROUGH SPEED RAMP (TOWNGATE & BLACKER ROAD)

SCALE 1:50



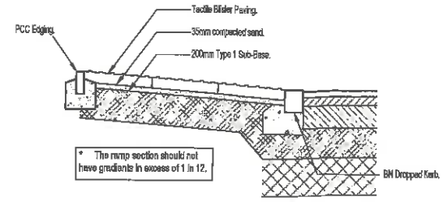
TYPICAL HIGHWAY KERB DETAIL

Scale 1:20



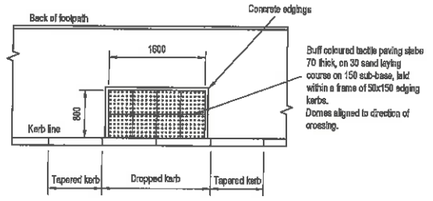
TYPICAL FOOTPATH EDGING KERB DETAIL

Scale 1:20



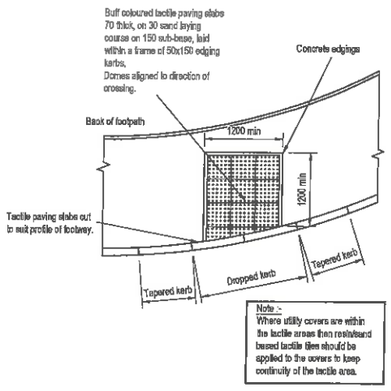
TACTILE BLISTER PAVING CONSTRUCTION DETAILS

Scale 1:20



TYPICAL PEDESTRIAN CROSSING TACTILE PAVING CROSSING DETAIL.

SCALE 1:50



TYPICAL PEDESTRIAN CROSSING TACTILE PAVING CORNER DETAIL.

SCALE 1:50

INFORMATION WITHIN THIS DRAWING IS NOT NECESSARILY PRODUCED TO SCALE. ALWAYS USE FIGURED DIMENSIONS AND CO-ORDINATES - IF IN DOUBT, ASK.

NOTES

1. ROAD SPECIFICATION

SURFACE COURSE
40mm thk - AC14 surf 40/60 (PSV 65) to BS EN 13108-1.

Note: The pedestrian crossings on Greenside and Spark Lane to have new surface course overlaid with red activfelt.

BINDER COURSE
50mm thk - AC 20 bin 100/150 to BS EN 13108-1.

BASE (ROADBASE)
100mm thk - AC 32 base to BS EN 13108-1.

SUB-BASE
200mm thk - type 1 granular sub-base to South Yorkshire Lab. Spec. No 19. Must be free from extraneous matter. Weeds must be removed and the sub-grade sprayed with total weedkiller.

2. FOOTPATH SPECIFICATION - PAVING SLABS

SURFACE COURSE
50mm thick - 450x450mm Marshalls buff colour concrete saxon paving slabs in stretcher bond laid on 30mm compacted sand.

SUB-BASE
150mm thk -type 1 granular sub-base to South Yorkshire Lab. Spec. No 19. Must be fre from extraneous matter. Weeds must be removed and the sub-grade sprayed with total weedkiller.

3. GENERAL NOTES

The formation, whether in cut or fill, shall be prepared, profiled and THOROUGHLY COMPACTED as required by clauses 612 and 616 of the DOT Specification for Highway Works.

Over excavation below road formation is to be backfilled with Type 1 granular sub-base material, well compacted in layers not exceeding 225mm.

Blast furnace slag and limestone aggregate are not allowed in the carriageway binder course unless it is to be covered within 6 weeks.

REV	DESCRIPTION	SIG	CHK	DATE
C	Paving slab specification amended. Pedestrian crossing details updated.	KP	AL	23.01.17
B	Footway option 2 omitted. Tactile paving corner detail added. Notes updated to suit BMBC comments.	JA	AL	15.11.16
A	First issue.			

HARWORTH ESTATES

MAPPLEWELL TOWN CENTRE

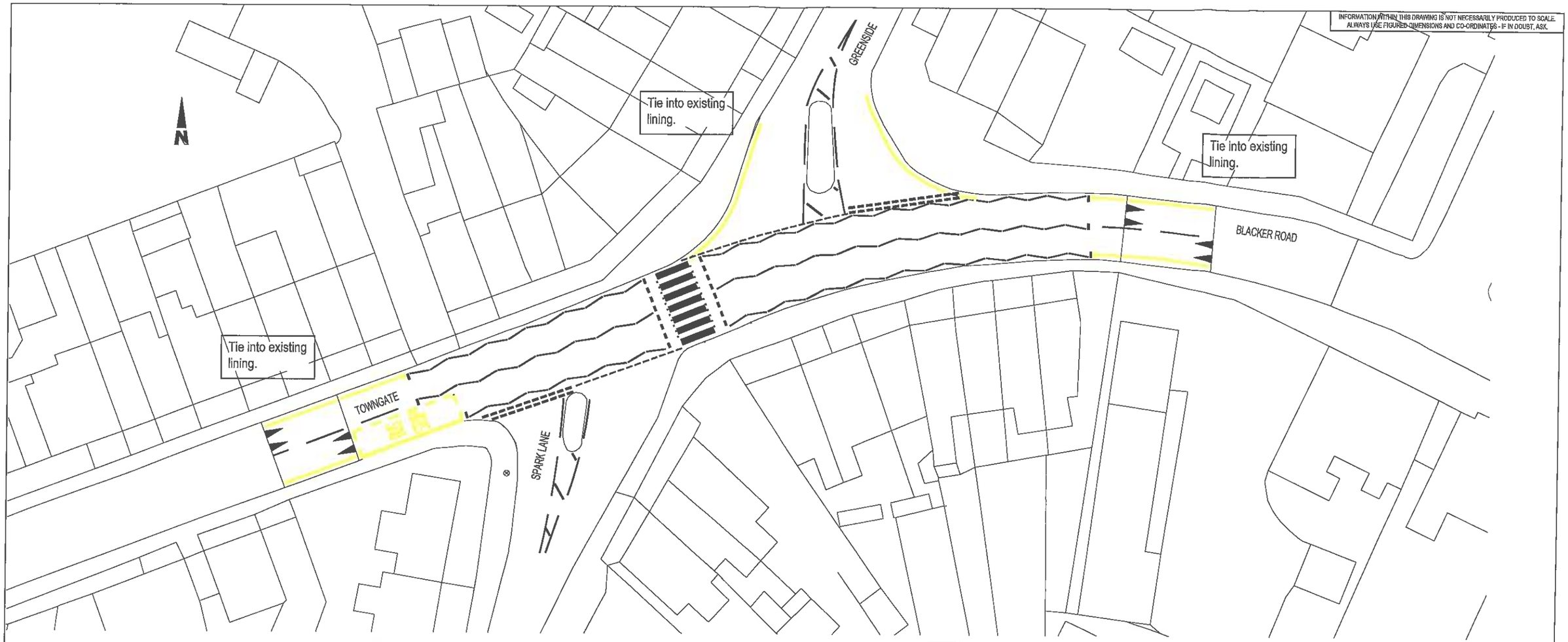
HIGHWAY CONSTRUCTION DETAILS

Eastwood & Partners
CONSULTING ENGINEERS
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Sheffield
S11 9AS
Tel 0114 255 4554
Fax 0114 255 4330
mail@eastwoodandpartners.com
www.eastwoodandpartners.com

SCALE WHEN PLOTTED AT A1	DRAWING STATUS
1:50 1:25 1:20	PRELIMINARY

DRAWN	CHECKED	DATE	DRAWING NUMBER	REV
KP	AL	23.03.16	38192/002	C

INFORMATION WITHIN THIS DRAWING IS NOT NECESSARILY PRODUCED TO SCALE.
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LINING KEY – NTS

YL/1017/75

WA/1038/4000

WL/1003/200

WL/1004/100

WL/1009/100

WL/1040
Edge – 4m line, 2m gap. 100mm wide
Hatch – 3m offsets, 150mm wide

WL/1062/1850

YL/1025.1 – 1m LINE, 1m GAP 100mm wide
CONTINUOUS LINE – 200mm LINE
TEXT – 1600mm HIGH

Zebra crossing to dia. 1001.3

Stainless Steel road studs with serrated faces to dia 1055.1 @ 500mm centres

2

NOTES

1. This drawing to be read in conjunction with all Eastwood & Partners drawings with the prefix 38192/***
2. All lining must comply with the Traffic Signs Regulations and General Directions 2016

REV	DESCRIPTION	SIG	CHK	DATE
A	First issue.			

HARWORTH ESTATES

MAPPLEWELL TOWN CENTRE

LINING PLAN

Eastwood & Partners CONSULTING ENGINEERS
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SCALE WHEN PLOTTED AT A1	DRAWING STATUS
1:200	CONSTRUCTION

DRAWN	CHECKED	DATE	DRAWING NUMBER	REV
KP	AL	15.11.16	38192/004	A

SCHEDULE 2

THE WORKS

(a) Footway paving and re-kerbing

(b) Carriageway resurfacing

(c) Provision of bollards, planters, benches, cycle racks

(d) Lining

(e) Any other works ancillary to the above.

EXECUTED by the parties hereto as a Deed the day and year first before written

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

Director of Legal & Governance/Authorised Signatory

No. 706
IN REGISTER

EXECUTED as a Deed)
by ~~affixing~~)
~~the Common Seal of~~)
HARWORTH ESTATES LIMITED
~~in the presence of~~:-
acting by:

Director (PHIL WILSON)

Director/~~Secretary~~ (ANDREW KIRKHAM)