

DATED 18<sup>th</sup> June, 2020

**BARNSELY METROPOLITAN BOROUGH COUNCIL**

And

**JAGUAR ESTATES LIMITED**

And

**WORTLEY CONSTRUCTION LIMITED**

**AGREEMENT**

under Section 106 of the Town and Country Planning Act 1990 relating to land  
on the West Side of Carrs Lane, Cudworth, Barnsley,

A.C. Frosdick, LL.B. DipLG,  
Executive Director Core Services  
Solicitor to the Council  
Barnsley Metropolitan Borough Council  
Town Hall,  
Barnsley, S70 2TA.

THIS DEED OF AGREEMENT is made the 18<sup>th</sup> day of June.  
Two Thousand and Twenty

between

- (1) BARNSELY METROPOLITAN BOROUGH COUNCIL of Town Hall  
Barnsley South Yorkshire S70 2TA ("the Council") of the first part and
- (2) JAGUAR ESTATES LIMITED (Co. Regn. No. 2190562) of 201 High  
Street, Ecclesfield, Sheffield, S35 9XB ("the First Owner") of the second part  
and
- (3) WORTLEY CONSTRUCTION LIMITED (Co. Regn. No. 1048904) of 78  
Marsh Lane, Shepley, Huddersfield HD8 8AP. ("the Second Owner") of the  
third part

#### RECITALS

- (1) The Council is the Local Planning Authority for the purposes of this  
Deed for the area within which the land described in the First Schedule hereto  
("the Land") is situated and is the Authority by whom the obligations contained  
in this Deed are enforceable
- (2) The First and Second Owners are jointly the registered proprietor of the  
Land registered under Land Registry Title Number SYK379803
- (3) The parties have agreed to enter into this Deed in order to secure the  
planning obligations contained in this Deed and agree that the obligations  
comply with regulation 122 of the Community Infrastructure Levy Regulations  
2010.

**NOW THIS DEED WITNESSETH AS FOLLOWS: -**

**DEFINITIONS**

1 For the purposes of this Deed the following expressions shall have the following meanings

**“the 1990 Act”** means the Town and Country Planning Act 1990 (as amended)

**“the Application”** means the outline planning application with the reference number 2019/0718 submitted to the Council to construct the development

**“the Commencement of Development”** means the actual date upon which the Development is begun by the carrying out of any material operation as defined by Section 56(4) of the Town and Country Planning Act 1990 and **“Commence Development”** is to be construed accordingly

**“the Development”** means the development of the Land by the erection of 10 no. dwellings and associated works in accordance with the Planning Permission

**“Dwellings”** means the residential units that may be built on the Land as part of the Development and reference to **“Dwelling”** shall be construed accordingly

**“the Education Contribution”** means the sum of £64,000 (sixty four thousand pounds) to be applied towards the provision of and/or improvement to primary and secondary school educational facilities within the North East Area as defined in the Councils Supplementary Planning Document; Financial Contributions To Schools adopted May 2019

**“the First Payment”** thirty-two thousand pounds (£32,000) of the Education Contribution

**"Interest"** means interest at 4 per cent above the base lending rate of Barclays Bank Plc from time to time or should this rate cease to exist such other bank lending rate as the Council may reasonably nominate

**"the Land"** means the freehold land described in the First Schedule hereto against which this Deed may be enforced.

**"Occupation and Occupied"**: means occupation for the purposes permitted by the Planning Permission from which the Development benefits but not including occupation by personnel engaged in construction fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and "Occupy" shall be construed accordingly.

**"Owner"** means the First and Second Owner collectively.

**"the Plan"** means the plan annexed hereto

**"the Planning Permission"** means a planning permission to be granted pursuant to the Application

**"the Second Payment"** thirty-two thousand pounds (£32,000) of the Education Contribution

**"Statutory Undertaker"** means any company corporation board or authority at the date of this Deed authorised by statute to carry on any undertaking for the supply of telephone and television communications electricity gas water or drainage and any authorised successor to such undertaking

## **CONSTRUCTION OF THIS DEED**

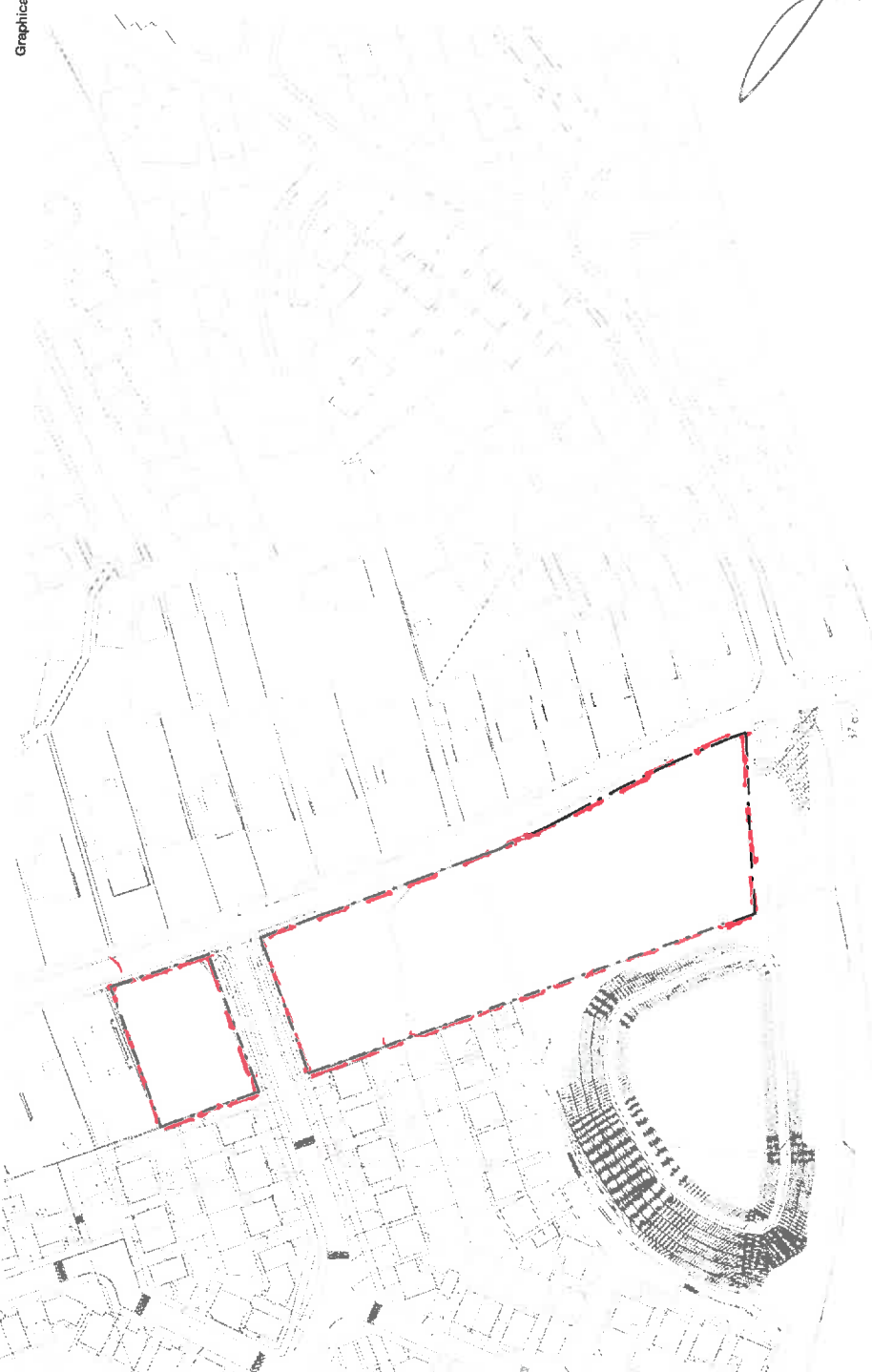
2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.

Graphical Scale 1:1250



All drawings should be read in conjunction with the entire PL Series drawings. Full details and specifications will be provided following approval of the planning application and through a formal Building Control submission prior to commencement of site works & construction.

- - - Application Boundary
- - - Additional Ownership Boundary



*N. M.*  
*W. M. J.*  
*J. M.*

**Site Location Plan**  
 1:1250

Rev	Planning Issue	Description	Date	LW	By
A			01/05/19		

CLB - PA - PL - 001

**Site Location Plan**

274-2018  
 Cairns Lane, Outworth

25/04/19  
 1:1250 @ A3

2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.

2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.

2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.

2.6 References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Council the successors to its statutory functions.

### **LEGAL BASIS**

3 This Deed is made pursuant to section 106 of the Town and Country Planning Act 1990 section 111 of the Local Government Act 1972 section 2 of the Local Government Act 2000 and all other enabling powers and is a planning obligation for the purposes of and as defined in the said Section 106 and the covenants restrictions and requirements imposed on the Owner herein are enforceable by the Council as the local planning authority against the Owner

### **COMMENCEMENT**

4 The planning obligations comprised in this Deed shall not become effective until the Planning Permission has been granted:

### **OWNER AND COUNCIL COVENANTS**

5.1 The Owner covenants with the Council as set out the Second Schedule

5.2 The Council covenants with the Owner as set out in the Third Schedule

### **MISCELLANEOUS**

6.1 The Owner shall pay to the Council on completion of this Deed the sum of £1000.00 (on which no VAT shall be payable) in respect of the legal costs of the Council incurred in the negotiation, preparation and execution of this Deed.

6.2 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999

6.3 This Deed shall be registrable as a local land charge by the Council.

6.4 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council or by the Council from the Owner under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the Council by the Head of Planning and Building Control and any notices shall be deemed to have been properly served if sent by recorded delivery or special delivery to the principal address or registered office (as appropriate) of the relevant party.

6.5 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall upon receipt of a written request by the Owner immediately effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.

6.6 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.

6.7 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Land but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

6.8 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.

6.9 No waiver (whether expressed or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

6.10 No person shall be liable for any breach of the planning obligations and other provisions of this Deed if:

(a) they shall be an occupier or tenant of any Dwelling or a purchaser of any Dwelling; or

(b) it is a Statutory Undertaking which has an interest in any part of the Land for the purpose of its undertaking.

6.11 No person shall be bound by any obligations, rights and duties contained in this Deed and/or be liable for any breach of a covenant and/or obligation contained in this Deed after they shall have parted with all interest in the Land or the part in respect of which such obligation relates or such breach occurs

but without prejudice to liability for any subsisting breach of covenant arising prior to parting with their interest.

6.12 Nothing contained in this Deed shall give, or be construed as giving, any rights, privileges, powers or enforceability other than to the Council and to the specific person executing this Deed as the Owner and their respective successors (if any) as defined in this Deed and the provisions of the Contracts (Rights of Third Parties) Act 1999 and any benefits or rights which could arise from it are expressly excluded to the intent that no other third party within the meaning of that Act shall have any rights of enforcement in respect of any matter contained in this Deed

6.13 This Deed shall cease to have effect (in so far only as it has not already been complied with) if the Planning Permission shall be revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of the Development and in accordance with clause 6.5 the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.

#### **INTEREST**

7 If any payment due by the Owner under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.

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

### **FIRST SCHEDULE**

All that land on the West side of Carrs Lane, Cudworth, Barnsley, registered at the Land Registry with other land with title number SYK379803 and for the purpose of identification shown edged red on the Plan

### **SECOND SCHEDULE**


- 1 The Owner covenants to pay the First Payment prior to or on the Commencement of Development and without prejudice to this there is to be no Commencement of the Development until the First Payment is paid to the Council.
- 2 The Owner covenants to notify the Council in writing prior to the Occupation of more than 5 Dwellings and not to Occupy more than 5 Dwellings until the Second Payment has been paid to the Council

### **THIRD SCHEDULE**

- 1 The Council covenants to repay the Education Contribution to the Owner upon written request if the Contribution has not been expended or committed to be expended for the purposes described in the Education Contribution definition within 10 years from its receipt by the Council.
2. To grant the Planning Permission as soon as reasonably practicable following the date of this Deed.
3. At the written request of the Owner the Council shall promptly provide written confirmation of the discharge of the obligation contained in this Deed following the Second Payment being paid to the Council.

THE COMMON SEAL of BARNSELY )  
METROPOLITAN BOROUGH )  
COUNCIL was hereunto affixed to this )  
Deed in the presence of:- )

Executive director Core Services/  
Legal Services Director/  
Authorised Signatory

  
JASON FIELD

No 2022  
IN REGISTER


EXECUTED AS A DEED by )

JAGUAR ESTATES LIMITED )

acting by



Director

Witness Signature: 

Witness Name: Angela Lambert

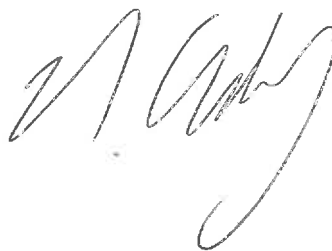
Witness Address: Sunny Bank View  
Sheffield Road  
High Green  
Sheffield S35 4JB.

Witness Occupation: Office Manager.

EXECUTED AS A DEED by )

WORTLEY CONSTRUCTION LIMITED)

acting by )



Director

Witness Signature: ~~A Lambert~~

Witness Name: Angela Lambert

Witness Address: Sunny Bank View  
Sheffield Road  
High Green,  
Sheffield S35 7JB.

Witness Occupation: Office Manager.