DATED 22nd September **2021**

BARNSLEY METROPOLITAN BOROUGH COUNCIL

and

SAUL CONSTRUCTION LTD

Section 106 of the Town and Country Planning Act 1990 (as amended)

AGREEMENT AND PLANNING OBLIGATION

Relating to Land at Hall Gardens, Brierley, Barnsley, S72 9HT

Application No. 2019/1530

THIS AGREEMENT is made the 22nd day of September 2021

BETWEEN

(1) **BARNSLEY METROPOLITAN BOROUGH COUNCIL** of Civic Hall, Eldon Street, Barnsley, South Yorkshire, S70 2JL (**"Council"**) of the first part;

(2) **SAUL CONSTRUCTION LTD** (Company Number 01106632) of Burntwood Office Park, Brierley Common, Barnsley, South Yorkshire, S72 9ET (**"Owner"**) of the second part;

1 DEFINITIONS AND INTERPRETATION

1.1 In this **AGREEMENT** the following words shall have the meaning set out below: -

"1990 Act"	means the Town and Country Planning Act 1990 (as amended);
"Application"	means the application for residential development of 36 no. dwellings and associated works including associated garages and parking pursuant to application reference 2019/1530
"Commencement of Development"	means the carrying out of a material operation pursuant to the Planning Permission in accordance with the provisions of section 56(4) of the 1990 Act **Save That** the term *"material operation"* shall not include operations in connection with any work of or associated with demolition site preparations drainage works site clearance remediation works environmental investigation site and soil surveys erection of contractors work compound erection of site office erection of fencing and hoardings to site boundary and diversion of any services;
"Community Garden"	means the part of the Public Open Space shown edged green on plan the POS Plan in relation to which the Owner will liaise with the Representative of Local Residents and will exercise reasonable endeavours to incorporate the wishes expressed by the Representative of Local Residents in relation to the design of the Public Open Space.

"Community Interest Company"	means a business with primary social objectives whose surpluses are principally reinvested for that purpose in the community;
"Development"	means the development of the Site in accordance with the Planning Permission;
"Dwelling"	means a residential unit that may be built on the Site in accordance with the Planning Permission and reference to "**Dwellings**" shall be construed accordingly;
"Education Contribution"	means the sum of £208,000 (two hundred and eight thousand pounds) to be paid by the Owner to the Council for the provision of additional spaces at schools within the North East planning area the need for which is required in order to mitigate impacts arising from the Development;
"Index Linked"	means index linked from the date of this Agreement to the Retail Price Index until the date payment of such sum or sums as in this Agreement are due to be paid such index linking to be equivalent to any increase or decrease in such sums in proportion to the increase or decrease in the Retail Price Index;
"Retail Price Index"	means the 12 (twelve) month percentage change in the All Items Retail Price Index published by the Office for National Statistics contained in the Monthly Digest of Statistics (or contained in any official publication substituted therefore) or such other index as may from time to time be published in substitution therefore
"Interest Rate"	means interest at 4 (four) per cent above the base lending rate of the Bank of England from time to time and in every case compounded on the first day of June and December in each year;
"Management Company"	means a limited company with the purpose of managing the Public Open Space within the Development in accordance

	with the POS Management Scheme;
"Occupation"	means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in the construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and 'Occupy' and 'Occupier' shall be construed accordingly;
"Open Space Contribution"	means the sum of £32,000 (thirty two thousand pounds) to be paid by the Owner to the Council and to be applied by the Council towards delivery of open space within the vicinity of the Development;
"Plan"	means the plan attached to this Agreement at Appendix 1 marked "Plan";
"Planning Permission"	means a planning permission issued by the Council pursuant to the Application substantively in the form attached at Schedule Three;
"POS Management Scheme"	means a scheme for the future maintenance and management of the Public Open Space to be submitted by the Owner to the Council in accordance with the provisions of paragraph 2.2 of Schedule One and approved by the Council (together with any variation of such scheme agreed in writing from time to time between the Owner and the Council) and the said POS Management Scheme will include the following details; (a) The identity of the Management Company proposed to be engaged to carry out the maintenance and management of the Public Open Space. (b) What if any interest in the Public Open Space is proposed to be granted to the Management Company. (c) The Schedule and program of maintenance works to be undertaken in relation to the Public Open Space.

	(d) Any arrangements for ensuring that individual householders have a say or influence over the activities of the Management Company and whether this is to be achieved via the householders being given membership of the Management Company or the Management Company being set up as a Community Interest Company. (e) Details of the liaison with the Representative of Local Residents and how that has been incorporated into the POS Management Scheme. (e) The arrangements for ensuring that individual householders are given detailed breakdowns of the costs properly incurred and showing how the total cost is translated into their individual liability. (f) Any restrictions on year on year increases in any service charge and whether such restriction is to be fixed to a relevant cost index;
"Public Open Space"	means that part of the Land to be laid out as open space including the Community Garden in accordance with the a condition(s) annexed to the Planning Permission as shown edged red on Drawing No. R/2308/2 appended to this Agreement as Appendix 2 and marked "POS Plan";
"Public Open Space Works"	means the works to be carried out for the laying out of the Public Open Space in accordance with the Planning Permission;
Representative of Local Residents	Means Robert Cox or such other individual as may be notified to the Owner from time to time.
"Site" and "Land"	means the land at Hall Gardens, Brierley, Barnsley, S72 9HT shown for identification purposes only edged red on the Plan;
"Statutory Undertaker"	means any company corporation board or authority at the date of this Agreement authorised by statute to carry on an undertaking for the supply of telephone and television communications electricity gas water or drainage and any authorised successor to any such undertaking; and

"Sustainable Travel Contribution"	means the sum of £27,000 (twenty seven thousand pounds) calculated in accordance with section 5 of the SPD 'Sustainable Travel' (November 2019) to be paid to the Council by the Owner and used by the Council towards purposes identified in the SPD 'Sustainable Travel' (November 2019) the need for which is required in order to mitigate impacts arising from the Development;
"Working Day"	means a weekday (Saturdays, Sundays and public holidays and the days between Christmas Day and New Year's Day excepted) and reference to "Working Days" shall be construed accordingly.

1.2 Where the context so requires: -

1.2.1 The singular includes the plural and vice versa and words importing the masculine gender only include the feminine gender and extend to include a corporation sole or aggregate;

1.2.2 References to any party shall include the successors in title of that party;

1.2.3 Where a party includes more than one person any obligations of that party shall be joint and several;

1.2.4 Any covenant by the Owner not to do any act or thing shall be deemed to include a covenant not to cause permit or suffer the doing of that act or thing;

1.2.5 References to clauses paragraphs and schedules are references to clauses paragraphs and schedules to this Agreement and headings to clauses paragraphs and Schedules in this Agreement are for reference only and shall not affect the construction of this Agreement.

2 RECITALS

2.1 The Council is the local planning authority for the purposes of the 1990 Act for the area within which the Site is situated and is the authority by whom the obligations hereby created are enforceable.

2.2 The Owner is the freehold proprietor of the Site in part with title pursuant to a transfer dated 19.8.2021 of registered title SYK521445 in the course of registration at H.M. Land Registry and part pursuant to a transfer dated 9.8.21 of part of title SYK491189 in the course of registration at H.M. Land Registry and to be allocated new title SYK692749

2.3 The Owner has submitted the Application for the Development to the Council.

2.4 The Council is satisfied that the Development is such as may be approved by the Council under the 1990 Act subject to conditions and subject to the obligations and restrictions contained in this Agreement.

2.5 The Owner by entering into this Agreement does so to create planning obligations in favour of the Council pursuant to Section 106 of the 1990 Act and to be bound by and observe and perform the covenants agreements conditions and stipulations hereinafter contained on the terms of this Agreement.

3 OPERATIVE PROVISIONS

3.1 This Agreement is made pursuant to Section 106 of the 1990 Act and to the extent that the covenants in this Agreement are not made under Section 106 of the 1990 Act they are made under Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 all other powers so enabling and is a planning obligation for the purposes thereof and the covenants contained herein shall bind the Site.

3.2 The Council is the local planning authority by whom the provisions of this Agreement are enforceable.

3.3 The planning obligation comprised in this Agreement shall not become effective until the following conditions are satisfied: -

3.3.1 the Planning Permission has been granted; and

3.3.2 except where otherwise stated in this Agreement, the Commencement of Development.

3.4 The Owner covenants with the Council to observe and perform the planning obligations contained in the First Schedule.

3.5 The Council covenants with the Owner to observe and perform its obligations contained in the Second Schedule.

3.6 The Owner shall pay to the Council its reasonable legal fees not exceeding £1,000 on or before the completion hereof.

4 MISCELLANEOUS PROVISIONS

4.1 In this Agreement the expressions "the Owner" shall where the context so admits be deemed to include their respective successors in title and assigns and the expression "the Council" shall include its successor authority.

4.2 No party shall be bound by the terms of this Agreement or be liable for the breach of any covenants restrictions or obligations contained in this Agreement (but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest): -

4.2.1 occurring prior to he or it acquiring an interest in the Site in respect of which such breach occurs;

4.2.2 occurring after he or it has parted with his or its interest in the Site in respect of which such breach occurs;

4.2.3 if he or it shall be an occupier or owner or tenant of a Dwelling;

4.2.4 if it is a Statutory Undertaker which has an interest in any part of the Site for the purposes of its undertaking.

4.3 If the Planning Permission expires prior to the Commencement of Development or is revoked or otherwise withdrawn or modified without the consent of the Owner or their successors in title this Agreement shall cease to have effect from the date of the said expiration revocation withdrawal or modification (as the case may be) but without prejudice to any rights liabilities or obligations which may have been incurred by or shall have accrued to any party prior to such date.

4.4 Except for the Planning Permission nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission granted (whether or not on appeal) after the date of this Agreement.

4.5 Any dispute arising between the parties as to their respective rights duties or obligations or as to the failure of the Council to give or confirm its consent where required under this Agreement or as to any other matter or thing arising out of or connected with the subject matter of this Agreement or any failure to agree upon any matter may be referred in accordance with clause 4.6 below to the determination of an independent Chartered Surveyor.

4.6 Any reference to an independent Chartered Surveyor in accordance with clause 4.5 above shall be to a reputable Chartered Surveyor unconnected to any of the parties hereto and experienced in commercial development matters who shall be agreed between the parties to the dispute or appointed on the application of any party to the dispute made at any time by the President of the Royal Institution of Chartered Surveyors or his duly appointed deputy and the decision of such independent Chartered Surveyor shall be final and binding upon the parties to the dispute and the parties hereby agree to act in accordance with the decision (save for manifest error) and if the parties to the dispute shall agree in writing such reference shall be deemed to be a reference to an expert (and not an arbitrator) but shall otherwise be deemed to be a reference to an arbitrator pursuant to the Arbitration Act 1996 and if any Chartered Surveyor shall act as an expert pursuant to the terms of this clause 4.6 then each of the parties to the dispute shall be entitled to submit to him representations and cross representations with such supporting evidence as they shall consider necessary and he shall have regard thereto in making his decision which he shall deliver in writing as expediently as possible and the reference to him shall include authority to determine in what manner all the costs of the referral (whether incurred by the parties to the dispute or the Chartered Surveyor himself) shall be paid.

4.7 The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

4.8 The planning obligation hereby created by this Agreement shall be registered as a Local Land Charge.

4.9 In the event that a condition or conditions to the Planning Permission is or are varied pursuant to Section 96A of the 1990 Act this Agreement shall continue in full force in respect of the Planning Permission with the relevant condition or conditions as so varied.

4.10 In the event that an application is made pursuant to Section 73 of the 1990 Act for an amendment to the Planning Permission and planning permission is granted (whether or not on appeal) in respect of the application (and the Council is satisfied that no revised planning obligations are required as a result of such amendment) references to Planning Permission in this Agreement shall also include the new planning permission granted pursuant to Section 73 of the 1990 Act and this Agreement shall apply to and remain in full force in respect of that new planning permission without the need for a further agreement to be entered into pursuant to Section 106 of the 1990 Act.

5 WAIVER

5.1 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 Agreement 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 CHANGE IN OWNERSHIP

6.1 The Owner agrees with the Council to give the Council prompt written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Agreement have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan **PROVIDED THAT** this obligation shall not apply to the disposal by the Owner of any Dwellings constructed on the Site or of any land to a Statutory Undertaker for the purpose of their undertaking.

7 VAT

7.1 All consideration given in accordance with the terms of this Agreement shall be inclusive of any value added tax properly payable.

8. INDEXATION

8.1 All financial contributions payable to the Council shall be Index Linked.

8.2 Where reference is made to an index and that index ceases to exist or is replaced or rebased then it shall include reference to any index which replaces it or any rebased index (applied in a fair and reasonable manner to the periods before and after rebasing under this deed) or in

the event the index is not replaced, to an alternative reasonably comparable basis or index as the Council shall advise the Owner in writing.

9 INTEREST

9.1 If the Council does not receive payment of any money due under this Agreement on the due date the Owner will pay interest on the money concerned to the Council at the Interest Rate from the due date until the date of actual receipt by the Council provided that this sub-clause shall not prejudice any other right or remedy of the Council for the recovery of any money due

10 JURISDICTION

10.1 This Agreement is governed by and interpreted in accordance with the law of England and Wales.

11 DELIVERY

11.1 Subject to clause 3.3 the provisions of this Agreement (other than this clause which shall be of immediate effect) shall be of no effect until this Agreement has been dated.

SCHEDULE ONE

(Owner's Planning Obligations)

PART A – NOTICE

1. The Owner shall notify the Council in writing not less than 14 (fourteen) days prior to the intended date of the Commencement of Development. This notice shall state the intended date of the Commencement of Development.

PART B – PUBLIC OPEN SPACE

2.1 To provide the Public Open Space in accordance with the Planning Permission to the reasonable satisfaction of the Council.

2.2 Not to permit the Occupation of any of the Dwellings (or such number of Dwellings that may be agreed in writing by the Council) until it has submitted for the written approval of the Council and the Council has approved a POS Management Scheme for the future maintenance and management of the Public Open Space PROVIDED THAT it is agreed that if the Council does not notify the Owner of its approval or proposed amendments to the POS Management Scheme within 30 (thirty) Working Days of receipt of the same (or such other period of time that the Council may reasonably require and which may be agreed in writing between the Owner and the Council) it shall be deemed that the Council has approved the POS Management Scheme submitted by the Owner.

2.3 The Owner shall not permit the Occupation of more than 28 (twenty eight) Dwellings (or such other number of Dwellings that may be agreed in writing by the Council) until the Public Open Space has been completed in accordance with the Planning Permission and a condition(s) thereto to the reasonable satisfaction of the Council

2.4 The Owner shall form a Management Company (and provide to the Council a certified copy of the Memorandum and Articles of Association of the Management Company) for the purpose of undertaking the future management and maintenance of the Public Open Space, prior to the sale of any of the Dwellings on the Site.

2.5 The Owner shall not permit the Occupation of more than 28 Dwellings (or such other number of Dwellings that may be agreed in writing by the Council) until the Public Open Space has been completed in accordance with the Planning Permission to the reasonable satisfaction of the Council.

2.6 Following the completion of the Public Open Space Works to the Council's reasonable satisfaction to engage a Management Company (having first supplied to the Council a certified copy of the Memorandum and Articles of Association of the Management Company) for the purpose of undertaking the future management and maintenance of the Public Open Space, prior to the sale of the penultimate Dwelling on terms agreed between the Owner and the Management Company in consultation with the Council and all further management and maintenance shall be thereafter carried out by the Management Company PROVIDED THAT it is agreed that it shall be a term of Management Company's engagement that the Management Company will:

2.6.1 maintain and manage in perpetuity the Public Open Space in accordance with the approved POS Management Scheme; and

2.6.2 comply with the requirements of the approved POS Management Scheme; and

2.6.3 only allow the use of the Public Open Space for public access and recreation and for no other purpose;

AND FURTHER PROVIDED THAT it is agreed that the Owner will comply with the provisions set out in paragraphs 2.6.1 to 2.6.3 of this Schedule until such time as a Management Company has been engaged to undertake the future management and maintenance of the Public Open Space.

2.7 The Owner shall not wind up the Management Company nor alter the constitution of the Management Company without the prior written consent of the Council unless the whole of the Development shall have been demolished or unless otherwise first agreed in writing by the Council.

2.8 The Owner shall ensure and procure that the sale contract of each Dwelling contains a provision that requires the buyer of such Dwelling to covenant substantially in the following form direct with the Owner and the Management Company under which the buyer shall:

2.8.1 covenant to pay to the Management Company a pro rata proportion of the reasonable costs and expenses properly incurred by the Management Company in respect of its administration of insuring and maintaining the Public Open Space; and

2.8.2 covenant that upon any subsequent sale of such Dwelling he will procure that the incoming buyer shall enter into direct covenants with the Management Company in the form of paragraphs 2.7.1 and 2.7.2.

2.9 The Owner hereby declares that pursuant to Section 31(6) Highways Act 1980 that the Public Open Space has not been dedicated to the public nor is any use by the public

of any part of the Public Open Space to be taken in any way as an intention by the Owner to dedicate the same as highway.

2.10 The Owner will procure through the constitution of the Management Company that the Management Company will allow public access to the Public Open Space but subject to the following provisions:

2.10.1 access shall be subject to such other requirements and regulations as may from time to time be imposed by the Management Company having regard to overriding reasons of safety, security and prudent building management PROVIDED THAT such requirements and regulations shall not be imposed without the Council's prior written approval;

2.10.2 the Owner may erect notices on the Public Open Space and access to them will be denied by the Management Company for one day each year in order to prevent public rights of way or common rights coming into being; and

2.10.3 access may be denied by the Management Company for and during the maintenance, repair, cleansing or renewal of the Public Open Space or for and during the construction of any building or land abutting it subject to the Council's prior approval.

2.12 The Owner will procure through the constitution of the Management Company that the Public Open Space or any part thereof may be closed for reasonable periods by reason of:

2.12.1 emergency;

2.12.2 cleansing, maintenance and repair;

2.12.3 at the direction of the emergency services or other lawful authority; and / or

2.12.4 construction activities whilst the Development is being built if in the interests of health and safety.

[redacted]

PART C - COMMUNITY GARDEN

3.1 in relation to the design of the Public POS Management Scheme and the Open Space Works as each applies to the community garden To liaise with the Representative of Local Residents prior to the submission of POS Management Scheme and to exercise reasonable endeavours to incorporate the wishes expressed by the Representative of Local Residents Community Garden.

PART D - OPEN SPACE CONTRIBUTION

4.1 The Owner covenants to pay to the Council the Open Space Contribution prior to the Occupation of the eighteenth Dwelling and not to permit the Occupation of the nineteenth Dwelling before the payment of the Open Space Contribution to the Council.

PART E – EDUCATION CONTRIBUTION

5.1 The Owner covenants to pay to the Council the Education Contribution in accordance with the following phased stages:

5.1.1 50% of the Education Contribution prior to the Commencement of Development; and

5.1.2 The further 50% balance of the Education Contribution prior to the Occupation of the eighteenth Dwelling.

5.4 Not to permit the Commencement of the Development until the part of the Education Contribution referred to at paragraph 5.1.1 has been paid to the Council and not to permit the Occupation of the nineteenth Dwelling before the payment of the part of the Education Contribution referred to in paragraph 5.1.2 has been paid to the Council.

PART F – SUSTAINABLE TRAVEL CONTRIBUTION

6.1 The Owner covenants to pay to the Council the Sustainable Travel Contribution prior to the Occupation of the eighteenth Dwelling and not to permit the Occupation of the nineteenth Dwelling before the payment of the Sustainable Travel Contribution to the Council.

SCHEDULE TWO

(Council's Obligations)

The Council covenants with the Owner that:

1. It shall issue the Planning Permission within five working days hereof.

2. Upon a written request from the Owner, it shall promptly provide written confirmation of the fulfilment of the obligations contained in this Deed and cancel all related entries on the Register of Local Land Charges.

3. It shall hold the Education Contribution, Open Space Contribution and the Sustainable Travel Contribution in an interest bearing account or in separate accounts as the Council shall in its discretion decide.

4. It shall apply the Open Space Contribution towards delivery of the open space within the vicinity of the Development.

5. It shall apply the Education Contribution towards the provision of additional school places at within the North East planning area the need for which is required in order to mitigate impacts arising from the Development .

6. In the event that the Open Space Contribution, or Education Contribution, or Sustainable Travel Contribution or any part or parts thereof are not expended or committed within ten years of the date the were paid to the Council then the sum or sums not expended plus interest accrued from time to time will be repaid to the person who paid the sum or sums or their nominee.

SCHEDULE THREE

(Draft Decision Notice)

BARNSLEY
Metropolitan Borough Council

Place Directorate
Regeneration and Culture
Planning and Building Control

GRANT OF PLANNING PERMISSION

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO. 2019/1530

To Mr P Justice
Saul Homes
Burntwood Office Park
Brierley Common
Brierley
Barnsley
S72 9ET

DESCRIPTION Residential development of 36 no. dwellings and associated works including associated garages and parking - AMENDED SITE AREA (REDLINE) TO INCLUDE ADJACENT GREENSPACE AND AMENDED LAYOUT PLANS

LOCATION Land at Hall Gardens, Brierley, Barnsley, S72 9HT

Permission is **granted** for the proposals which were the subject of the Application and Plans registered by the Council on 07/02/2020 and described above.

THIS DECISION IS SUBJECT TO THE TERMS OF THE AGREEMENT MADE UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED).

The approval is subject on compliance with the following conditions:

1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
Reason: In order to comply with the provision of Section 91 of the Town and Country Planning Act 1990.

2 The development hereby approved shall be carried out strictly in accordance with the amended plans and specifications as approved:

Site Location Plan SH/HG/00 Rev B
Site Layout SH/HG/01 Rev C
House Type 'Aspen' - SH/ST/06
House Type 'Chestnut' SH/ST/10 Rev A
House Type 'Collingwood' SH/ST/12 Rev A
House Type 'Hawthorne' SH/ST/30 Rev A
House Type 'Holly' SH/ST/46
House Type 'Laurel and Hemlock' SH/ST/36
House Type 'Maple' SH/ST/38
House Type 'Marlowe' SH/ST/28 Rev A

House Type 'Mountain Ash' SH/ST/16 Rev A
House Type 'Mulberry' SH/ST/40
House Type 'Rosewood' SH/ST/42
House Type 'Rowan' SH/ST/22
House Type 'Swaine' SH/ST/24
House Type 'Willows' SH/ST/26 Rev B
Garages SH/ST/32
unless required by any other conditions in this permission.
Reason: In the interests of the visual amenities of the locality in accordance with Local Plan Policy D1 High Quality Design and Place Making.

3 Prior to the commencement of development plans to show the following levels shall be submitted to and approved by the Local Planning Authority; finished floor levels of all buildings and structures; road levels; existing and finished ground levels. Thereafter the development shall proceed in accordance with the approved details.
Reason: To enable the impact arising from need for any changes in level to be assessed and in accordance with Local Plan Policy D1, High Quality Design and Place Making.

4 Upon commencement of development details of the proposed external materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
Reason: In the interests of the visual amenities of the locality and in accordance with Local Plan Policy D1 High Quality Design and Place Making.

5 Upon commencement of development a plan indicating the position of boundary treatment(s) to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed before the dwelling is occupied. Development shall be carried out in accordance with the approved details and shall thereafter be retained.
Reason: In the interests of the visual amenities of the locality and the amenities of occupiers of adjoining property in accordance with Local Plan Policies GD1 General Development Policy and D1 High Quality Design and Place Making.

6 Upon commencement of development details of measures to facilitate the provision of high speed full fibre broadband for the dwellings/development hereby permitted, including a timescale for implementation, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
Reason: In order to ensure compliance with Local Plan Policy I1.

7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no enlargement, improvement or other alteration of plot 19, which would otherwise be permitted by Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority, and no garages or other outbuildings shall be erected.
Reason: To safeguard residential amenity in accordance with Local Plan Policy GD1.

8 Construction or remediation work comprising the use of plant, machinery or equipment, or deliveries of materials shall only take place between the hours of 0800 to 1800 Monday to Friday and 0900 to 1400 on Saturdays and at no time on Sundays or Bank Holidays.
Reason: In the interests of the amenities of local residents and in accordance with Local Plan Policies GD1 General Development Policy and POLL1 Pollution Control and Protection.

9 No development, including any demolition and groundworks, shall take place until the applicant, or their agent or successor in title, has submitted a Written Scheme of Investigation (WSI) that sets out a strategy for archaeological investigation and this has been approved in writing by the Local Planning Authority. The WSI shall include:

The programme and method of site investigation and recording.
The requirement to seek preservation in situ of identified features of importance.
The programme for post-investigation assessment.
The provision to be made for analysis and reporting.
The provision to be made for publication and dissemination of the results.
The provision to be made for deposition of the archive created.
Nomination of a competent person/persons or organisation to undertake the works.
The timetable for completion of all site investigation and post-investigation works.

Thereafter the development shall only take place in accordance with the approved WSI and the development shall not be brought into use until the Local Planning Authority has confirmed in writing that the requirements of the WSI have been fulfilled or alternative timescales agreed.
Reason: To ensure that any archaeological remains present, whether buried or part of a standing building, are investigated and a proper understanding of their nature, date, extent and significance gained, before those remains are damaged or destroyed and that knowledge gained is then disseminated in accordance with Policy HE6.

10 The site shall be developed with separate systems of drainage for foul and surface water on and off site.
Reason: In the interest of satisfactory and sustainable drainage to accord with Local Plan Policy CC3 and CC4

11 No development shall take place unless and until full foul and surface water drainage details have been submitted to and approved in writing by the Local Planning Authority. Thereafter no part of the development shall be occupied or brought into use until the approved scheme has been fully implemented. The scheme shall be retained throughout the life of the development unless otherwise agreed in writing with the Local Planning Authority.
Reason: To ensure the proper drainage of the area in accordance with Local Plan Policy CC3.

12 No development shall be commenced until full engineering, drainage and street lighting and constructional details of the streets proposed for highway adoption have been submitted to and approved in writing by the LPA. The development shall, thereafter, be constructed in accordance with the approved details unless otherwise agreed in writing with the LPA.
Reason: To ensure that the internal streets are planned and approved in good time to a satisfactory standard for use by the public in the interests of highway safety in accordance with Local Plan Policy T4.

13 Before any dwelling is first occupied the roads and footways shall be constructed to binder course level from the dwelling to the adjoining public highway at Hall Gardens in accordance with details of a completion plan to be submitted and approved in writing by the LPA.
Reason: To ensure streets are completed prior to occupation and satisfactory development of the site in accordance with Local Plan Policy T4.

14 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:

i. The parking of vehicles of site operatives and visitors
ii. Means of access for construction traffic
iii. Loading and unloading of plant and materials
iv. Storage of plant and materials used in constructing the development
v. Measures to prevent mud/debris being deposited on the public highway.

Reason: In the interests of highway safety in accordance with Local Plan Policy T4.

15 No development shall take place until a survey of the condition of the adopted highway condition to be used by construction traffic has been submitted to and approved in writing by the LPA. The extent of the area to be surveyed must be agreed by the LHA prior to the survey being undertaken. The survey must consist of:

i. A plan to a scale of 1:1250 showing the location of all defects identified
ii. A written and photographic record of all defects with the corresponding location references accompanied by a description of the extent of the assessed area and a record of the date, time and weather conditions at the time of survey.

On completion of the development, a second condition survey of the adopted highway shall be carried out to identify defects attributable to the traffic associated with the development. It shall be submitted for the written approval of the Local Planning Authority. Any necessary remedial works shall be completed at the developer's expense in accordance with a scheme to be agreed in writing by the Local Planning Authority.
Reason: To ensure that any damage to the adopted highway sustained throughout the development process is identified and subsequently remedied at the expense of the developer in interests of highway safety in accordance with Local plan Policy T4.

16 No works shall commence on site until a scheme for the parking of bicycles has been submitted to and approved in writing by the LPA. The scheme shall be fully implemented before the development is first occupied (or brought into use) and thereafter retained for this purpose.
Reason: In interests of encouraging use of sustainable modes of transport in accordance with Local Plan Policy T3.

17 Prior to the commencement of construction works, details of EVCP's shall be submitted to and approved in writing by the LPA. The works shall be installed in accordance with the approved details prior to first occupation of the development and thereafter retained in accordance with the approved details.
Reason: In interests of promoting sustainable travel opportunities in accordance with Local Plan Policy T3.

18 The gradient of the vehicular access shall not exceed 1 in 12 for the first 5m (or longer if in connection with a commercial development) into the site as measured from edge of the adjacent carriageway.
Reason: In interests of the safety of persons using the access and users of the highway in accordance with Local Plan Policy T4

19 No building or use hereby permitted shall be occupied (or use commenced) until pedestrian visibility splays of 2 x 2m to the back edge of the footway / verge shall be provided at the proposed access (or drive). Nothing shall be erected, retained, planted and / or allowed to grow at or above a height of 0.6m to the rear of the footway/ verge which would obstruct the visibility splay. The visibility splay shall be maintained free of obstruction at all times thereafter for the lifetime of the development.
Reason: To ensure drivers have clear and unrestricted views of approaching pedestrians when pulling out onto the public highway, in the interest of highway safety in accordance with Local Plan Policy T4.

20 Prior to the first occupation of the development hereby permitted, the proposed accesses, driveways, on-site car and cycle parking, and turning shall be laid out in accordance with the approved plan. Driveways and vehicle parking areas accessed from the approved streets must be properly consolidated and hard surfaced and drained into the site and subsequently maintained in good working order at all times thereafter for the lifetime of the development.
Reason: To ensure that there are adequate parking facilities to serve the development which are constructed to an acceptable standard in accordance with Local Plan Policy T4.

21 No building or use hereby permitted shall be occupied (or use commenced) until details of arrangements for the future management and maintenance of proposed carriageways, footways, footpaths and landscaped areas not put forward for adoption as maintainable at public expense within the site have been submitted to and approved in writing by the LPA. On occupation of the first dwelling (or building) within the site, the streets shall be maintained in accordance with the approved management and maintenance details.
Reason: To ensure that all private streets and landscaped areas are appropriately managed and maintained to ensure the safety of all users in accordance with Local Plan Policy T4.

22 The development hereby permitted shall not be commenced until an updated addendum Travel Plan has been submitted, approved and signed off by the LPA.
Reason: To ensure that the development offers a wide range of travel choices to reduce the impact of travel and transport on the environment.

23 No development or other operations being undertaken on site shall take place until the following documents in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction - Recommendations have been submitted to and approved in writing by the Local Planning Authority:

- Tree protective barrier details
- Tree protection plan
- Arboricultural method statement

Reason: To ensure the continued wellbeing of the trees in the interests of the amenity of the locality.

24 Upon commencement of development, full details of soft landscaping works, including details of the species, positions and planted heights of proposed trees; together with details of the position and condition of any existing trees and hedgerows to be retained shall be submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of the visual amenities of the locality and in accordance with Local Plan Policy D1 High Quality Design and Place Making.

25 All in curtilage planting, seeding or turfing comprised in the approved details of landscaping (plan refs) shall be carried out on each plot no later than the first planting and seeding season following the occupation of the individual dwellinghouse/s; and any trees or plants which die within a period of 5 years from first being planted, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
Reason: In the interests of the visual amenities of the locality, in accordance with Local Plan policies GD1 'General Development' and D1 'High Quality Design and Place Making'.

26 All out of curtilage planting, seeding or turfing comprised in the approved details of landscaping (plan refs) shall be carried out in full in accordance with a timetable to be submitted to and approved in writing by the Local Planning Authority upon commencement of development. Thereafter the landscaping shall be carried out in accordance with the approved details and timescales.
Reason: In the interests of the visual amenities of the locality, in accordance with Local Plan policies GD1 'General Development' and D1 'High Quality Design and Place Making'.

27 Prior to commencement of development, full details of the Ecological Mitigation proposed on site, including a timetable for their implementation and details securing the long term management, shall be submitted to and approved in writing by the Local Planning Authority. This shall include retention and enhancement of the existing hedgerow along the northern and north-eastern boundary of the site. The development shall be implemented in accordance with the approved details.
Reason: To conserve and enhance biodiversity in accordance with Local Plan Policy BIO1.

Informative(s)

Pursuant to article 31(1)(cc) of the Town and Country Planning (Development Management Procedure) Order 2010 (as amended), the Local Planning Authority have, where possible, made a pre-application advice service available, complied with our Planning Service Charter for Business and otherwise actively engaged with the applicant in dealing with the application.

1 The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant).

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water.

Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at:
https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

2 Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property-specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority.

3 The granting of planning permission does not in any way infer that consent of the landowner is given. Therefore the consent of all relevant landowners is required before proceeding with any development including that of the Council as landowner.

If it should transpire that the applicant does not own any of the land included in this consent then it is the responsibility of the applicant to seek all necessary consents and approvals of the landowner.

4 The granting of planning permission does not effect the status of species such as owls and bats which have protection under other legislation. These may be present, and it is the applicant's responsibility to seek advice on how to avoid damaging operations. Further advice can be obtained from the Countryside Unit in the Planning & Transportation Services, on 01226-772576, or directly from www.naturalengland.org.uk

5 Public Rights of Way may be affected during the construction stage of this development, and you should contact Mrs Sarah Ford (tel: 01226 772696) or Mr Mike Gibson (tel: 01226 772569) to discuss the possible need for a temporary closure or diversion.

6 The development hereby approved includes the construction of new highway. To be considered for adoption and on-going maintenance at public expense, it must be laid out and constructed to the BMBC engineering standard details and to the terms of phasing of the development. You are advised that you must enter into a highway agreement under s38 of the Highways Act 1980. The development will be bound by the Sections 219 to 225 of the Highways Act 1980 (the Advances Payments Code). Fees are payable for the drafting of the agreement, approval of the highway details and inspection of the works. For more information or to apply, please contact Highways Development Control on email HighwaysDC@barnsley.gov.uk or call to 01226 773555 prior to any work commencing on site. Please note that it is necessary to gain all technical and legal approvals for all street road details from the LHA prior to submission of such approved details to the LPA to discharge condition 15 of this consent.

7 Access arrangements including shared private drives should conform to Approved Document B Volume 1 Part B5 Sect. 13. They should be constructed to withstand a minimum carrying capacity of 26 Tonnes without deflection.

8 The development hereby approved includes the carrying out of work on the adopted highway. You are advised that before undertaking this work you must enter into a highway agreement with the Council under S278 of the Highways Act, 1980, specifying the extent of works, the works, and the terms and conditions under which these are carried out. Fees are payable for the drafting of the agreement, approval of the highway details and inspection of the works. For more information or to apply, please contact Highways Development Control at email HighwaysDC@barnsley.gov.uk or call to 01226 773555.

9 Whilst no information is given at this stage about the method of disposal of highway drainage, I am mindful of restrictions on surface water disposal and the emphasis on the use of sustainable solutions. The use of a soakaway system has to be located outside the carriageway and at least 5m from any building which may affect the layout shown. It should be noted that a commuted sum to be used towards the future maintenance costs of each highway drain soakaway, shall be agreed with and paid to the Council, prior to the issue of the Part 2 Certificate.
Agreement should be sought for all pipes, culverts, water attenuation tanks or similar greater than 900mm that are proposed to be placed beneath the area to be defined as public

highway. All drainage installed under the Highway is to be adopted by the sewerage undertaker or, in the case of highway drainage, the Local Highway Authority.

10 Street lighting design and installation is undertaken by the Local Highway Authority. There is a fee payable for this service and the applicant should make contact with the authorities Street Lighting Team, Tel 01226 770770. Email. Streetlighting@barnsley.gov.uk as soon as possible.

11 Fees associated with the required condition survey together with any necessary remedial works and any relevant s278 agreement are to be borne by the developer. The applicant should make contact with Highways Development Control, Tel. 01226 772033/772170. Email. HighwaysDC@barnsley.gov.uk for further information prior to commencement.

Please be aware that the Council monitors construction sites and open land within the vicinity of such sites in an attempt to prevent fly tipping (i.e. unauthorised deposit of waste on land), which is illegal under the Environmental Protection Act 1990. The penalties for fly-tipping can include:

- *a fine of up to £50,000 and*
- *up to six months imprisonment on conviction.*

Therefore, if necessary, please ensure that all demolition waste and waste associated with the construction of any development is disposed of via approved methods and that documents are retained to prove this.

Signed Dated

Joe Jenkinson
Head of Planning and Building Control

The grant of this consent does not constitute or imply permission, approval or consent by the Local Authority for any other purpose.

NOTES:-

Appeals to the Secretary of State

If you are aggrieved by the decision of the Council to grant permission for the proposed development subject to conditions then you can appeal to the Secretary of State for the Environment, Transport and Regions under Section 78 of the Town and Country Planning Act. If you want to appeal, then you must do so within six months of the date of this notice, using a form which you can get from The Planning Inspectorate, Room 3/24 Hawk Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN.

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions giving under the order. In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based its decision on a direction given by him.

Purchase Notices

If either the Local Planning Authority or the Secretary of State for the Environment, Transport and Regions refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of part VI of the Town and Country Planning Act 1990.

Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference to the application to him. These circumstances are set out in Sections 114 and related provisions of the Town and Country Planning Act 1990.

IN WITNESS whereof the parties hereto have executed this Agreement the day and year first before written

The **COMMON SEAL** of **BARNSLEY**)
METROPOLITAN)
BOROUGH COUNCIL was)
hereunto affixed in the presence of:-)

Authorised Signat [redacted]

No. 71
IN REGISTER

EXECUTED AS A DEED (but not delivered)
until the date hereof) by)
SAUL CONSTRUCTION LTD acting)
by a director in the presence of a witness)

[redacted]

Witness Signature [redacted]
Name
Address

Occupation