

# FREETHS

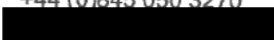
23<sup>rd</sup> March 2022.

(1) BARNSELY METROPOLITAN BOROUGH  
COUNCIL

(2) 

Agreement pursuant to section 106 of the Town  
and Country Planning Act 1990

Relating to land on the south side of Hay Green  
Lane, Birdwell, Barnsley

Ref: 1526/PVW/2005889/97  
Direct Tel: +44 (0)845 050 3682  
Fax No: +44 (0)845 050 3270  
Email: 

THIS AGREEMENT is made the 23<sup>rd</sup> March, 2022

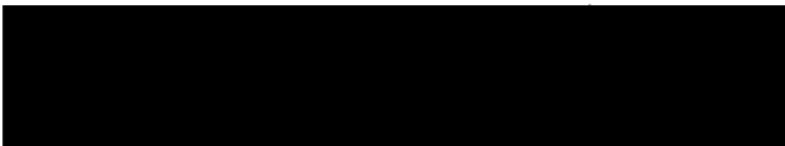
**BETWEEN**

(1) the Council

**BARNSLEY METROPOLITAN BOROUGH COUNCIL**

of The Town Hall, Church Street, Barnsley, S70 2TA

(2) the Owner



**BACKGROUND**

- (A) By virtue of the Act the Council is the local planning authority for the purposes of this Agreement for the area in which the Site is situated and is the local planning authority by whom the planning obligations hereby created are enforceable.
- (B) The Owner is the registered proprietor with absolute title in respect of the Site registered at the Land Registry under title number SYK631129.
- (C) The Application has been submitted to the Council for the Development.
- (D) The Council would not grant Planning Permission for the Development unless the covenants contained herein were entered in to by the Owner.
- (E) The Owner has agreed to enter in to this Agreement to create planning obligations in respect its interest in the Site in favour of the Council pursuant to section 106 of the Act and to be bound by and observe and perform the covenants, agreements, conditions and stipulations contained in this Agreement.

**1. DEFINITIONS**

1.1. In this agreement the following words and phrases have the meanings shown opposite in addition to the definitions given in the description of the parties and the Background

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

Affordable Housing means housing to be provided to eligible households whose needs are not met by the market and which meets the definition in Annex 2 of the National Planning Policy Framework

Commencement of Development means the carrying out of material operation as defined in section 56(4) of the Act save that for the purposes of this Agreement the term is not to include operations in connection with site clearance, demolition, archaeological investigation, for the purposes of assessing contamination, remedial action in respect of any contamination, or of assessing the need for any diversion and laying of services and the erection of means of enclosure for the purposes of site security and / or the display of advertisements and the expression "Commence" and "Commencement of development" is to be construed accordingly.

Councils Approved List means the following Registered Providers:  
Berneslai Homes Limited, South Yorkshire Housing Limited; Yorkshire Housing Limited; Guinness Northern Counties Limited; Equity Housing Group Limited; Leeds and Yorkshire Housing Association Limited; Together Housing Association Limited ; and Wakefield and District Housing Limited or such other Registered Provider(s) that may be agreed in writing between the Owners and the Council from time to time

Development means the residential development of the Site pursuant to the Planning Permission for up to 118 dwellings and associated works

Dwelling means any dwelling to be constructed on the Site pursuant to the Planning Permission

Highway Contribution means the sum of £10,000 (ten thousand pounds) to be expended towards the renewal of the zebra crossing on Sheffield Road

Index	means the Building Costs Information All-in Tender Price Index published by the Royal Institution of Chartered Surveyors or such official publication as may substitute or replace it
Index Linked	means adjusted in accordance with clause 13
Interest	means interest at a rate of 4% (four per cent) above the base lending rate of Barclays Bank Plc from time to time
Market Dwellings	means those Dwellings that form part of the Development which are general market housing for sale on the open market and which are not Affordable Housing and "Market Dwelling" shall be construed accordingly
Occupation and Occupied	means occupation for the purposes permitted by the Planning Permission 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.
Off Site Formal Recreation Contribution	<p>means the sum to be calculated on the basis of:</p> <ul style="list-style-type: none"> <li>• £693.01 (six hundred and ninety three pounds and one penny) per 1 bedroom Dwelling</li> <li>• £1,524.32 (one thousand five hundred and twenty four pounds and thirty two pence) per 2 bedroom Dwelling</li> <li>• £1,828.63 (one thousand eight hundred and twenty eight pounds and sixty three pence) per 3 bedroom Dwelling</li> <li>• £2,135.73 (two thousand one hundred and thirty five pounds and seventy three pence) per 4+ bedroom Dwelling</li> </ul>

Index Linked to be used towards the following improvements to the Birdwell Common Recreation Ground or to another recreation area within Hoyland:

- Additional play equipment to upgrade the Child and Youth provision from LEAP to NEAP standard;
- Improvements to access footpaths, lighting, pedestrian gateways and to provide welcoming signage/notice boards;
- Improvement to the existing sports pitches, changing facilities, grass sward and drainage improvements; and
- Provision of additional extra heavy standard trees, spring bulbs and landscaping works to the wider public open space

Plan 1

the plan attached to this Agreement at the First Schedule and marked Plan 1

Planning Application

outline planning application with all matters reserved apart from means of access for the Development validated by the Council on 30 June 2020 and carrying reference number 2020/0577

Planning Permission

means the planning permission to be issued pursuant to the Planning Application a draft of which is annexed at the Second Schedule

Practical Completion

means the issue a certificate of practical completion by the Owner's architect or in the event that the Development is constructed by a party other than the Owner the issue of a certificate of practical completion by that other party's architect

Primary Education Contribution

means the sum to be calculated on the basis of the following formula:

Formula

No of Primary Pupil Places Generated by the Development x Cost Per Primary Pupil Place  
where:

- No of Primary Pupil Places Generated by the Development = 0.21 x number of dwellings to be constructed as part of the Development rounded up or down to the next whole pupil number;
- Cost Per Primary Pupil Place = £16,000 (sixteen thousand pounds);

Index Linked to be used towards improvements to Birdwell Primary School in the first instance and if it cannot be spent at this school then it can be used towards improvements to the following schools:

- Hoyland Common Primary School;
- Hoyland Springwood Primary School;
- St Helen's Catholic Primary School; or
- West Meadows Primary School

Protected Tenant

means any tenant who:

(a) has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit;

(b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit; or

(c) has been granted a shared ownership lease by a Registered Provider (or similar

arrangement where a share of the Affordable Housing Unit is owned by the tenant and a share is owned by the Registered Provider) in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the Registered Provider all the remaining shares so that the tenant owns the entire Affordable Housing Unit

Registered Provider

means the registered provider as defined by the Housing and Regeneration Act 2008 (or as redefined by any amendment, replacement or re-enactment of such act) and registered under the provisions of the Housing and Regeneration Act 2008 or any company or other body approved by Homes England for receipt of social housing grant as may be proposed by the Owner and approved by the Council

Reserved Matters Application

means an application for reserved matters approval pursuant to the Planning Permission

Secondary  
Contribution

Education

means the sum to be calculated on the basis of the following formula

Formula

No of Secondary Pupil Places Generated by the Development x Cost Per Secondary Pupil Place  
where:

- the No of Secondary Pupil Places Generated by the Development = 0.15 x number of dwellings to be constructed as part of the Development rounded up or down to the next whole pupil number;
- the Cost Per Secondary Pupil Place = £16,000 (sixteen thousand pounds)

to be used towards the provision of an extension to Kirk Balk Academy

Shared Ownership Housing	means housing where an initial equity share of between 25% and 75% is sold by the Registered Provider with a rent charged on the unsold equity of the dwelling
Site	means the land against which this Agreement may be enforced shown edged red on Plan 1
Social Rented Housing	means an Affordable Housing Unit to be rented at a level set in accordance with guideline target rents set by Homes England as determined through the national rent regime
Sustainable Travel Contribution	means the sum of £124,800 (one thousand and twenty four thousand eight hundred pounds) Index Linked to be used towards the costs of upgrading the existing footpath Prow 40 to provide a public right of way comprising a bridleway
Working Days	means any day other than a Saturday and a Sunday and Bank or Public holiday.

## 2. CONSTRUCTION

- 2.1. Where in this Agreement 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 Agreement.
- 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 severally 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 Agreement shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council the successors to its statutory functions.
- 2.7. The headings and contents list are for reference only and shall not affect construction.

### **3. STATUTORY PROVISIONS**

- 3.1. This Agreement is a planning obligation made in pursuant of section 106 of the Act and to the extent that the covenants in this Agreement are not made under section 106 of the Act they are made under section 111 of the Local Government Act 1972 and Section 1 of the Local Government Act 2000.
- 3.2. The covenants, restrictions and requirements imposed upon the Owner under this Agreement create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Owner.

### **4. CONDITIONALITY**

- 4.1. This Agreement is conditional on:
- (i) the grant of the Planning Permission: and
  - (ii) the Commencement of Development pursuant to the Planning Permission

Save for the provision of clauses 7, 9, 10, 15, 16 and 17 which shall come into effect immediately upon completion of this Agreement.

### **5. THE OWNER'S COVENANTS WITH THE COUNCIL**

- 5.1. The Owner hereby covenants with the Council subject to clause 4.1 above to observe and perform the restrictions and obligations contained in the Third Schedule to this Agreement.

### **6. THE COUNCIL'S COVENANTS WITH THE OWNER**

- 6.1. The Council hereby covenants with the Owner to observe and perform the covenants contained in the Fourth Schedule to this Agreement.

### **7. AGREEMENTS AND DECLARATIONS**

The parties agree and declare

- 7.1. No provisions of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 7.2. This Agreement shall be registrable as a local land charge by the Council  
Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council under the terms of this Agreement, 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
- 7.3. Following the performance and satisfaction of all of the obligations contained in this Agreement the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement
- 7.4. Insofar as any clause or clauses of this Agreement 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 Agreement
- 7.5. This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner and the Developer) it is modified by any statutory procedure or expires prior to the Commencement of Development
- 7.6. If pursuant to clause 7.5 this Agreement shall terminate and cease to have effect the Council shall upon request remove any entry relating to this Agreement from the Register of Local Land Charges
- 7.7. No person shall be liable for any breach of any of the planning obligations or other provisions of this Agreement after it shall have parted with its interest in the Site or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest and the retention of a right of way or easement of the Site shall not constitute an interest for the purposes of this clause
- 7.8. This Agreement shall not be enforceable against:
- 7.8.1 owner-occupiers or tenants of Dwellings constructed pursuant to the Planning Permission nor against those deriving title from them;
  - 7.8.2 anyone whose only interest in the Site or any part of it is in the nature of the benefit of an easement or covenant or as the owner of the sub soil of any highway within the Site;
  - 7.8.3 any person whose only interest in the Site or any part of it is an estate or interest in any subterranean stratum of mineral or other matter;
  - 7.8.4 any statutory undertaker acquiring any part of the Development or the Site to be held for public purposes, any owner of any electricity sub-station and/or

gas governor site and/or pumping station to other supply installation nor those deriving title from them

7.9. The obligations contained in Parts 2, 3 and 4 of the Third Schedule shall not be binding on:

7.9.1 any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and chargees;

7.9.2 any Chargee nor any successors in title to any Chargee or those deriving title from any Chargee;

7.9.3 any Registered Provider

7.10. Any mortgagee or chargee for the time being shall not be personally liable for any breach of the obligations in this deed unless committed or continuing at a time when the mortgagee or chargee is in possession of all or any part of the Property

7.11. Nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Agreement nor shall any payment be due to the Council pursuant to this Agreement as a result of any development carried out pursuant to such later planning permission

7.12. Nothing contained or implied in this Agreement shall prejudice or affect the rights discretions powers duties and obligations of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of its functions as a local authority

7.13. In the event that:

7.13.1 the Council shall at any time hereafter grant a planning permission pursuant to an application made under section 73 or 73A of the Act (or any re-enactment thereof) in respect of the conditions in the Planning Permission; and

7.13.2 the Council and the Owner shall agree as such in writing by exchange of correspondence

references in this Agreement to the Planning Application and the Planning Permission shall be deemed to include any such subsequent planning applications and planning permissions granted as aforesaid and this Agreement shall henceforth take effect and be read and construed accordingly

## 8. WAIVER

8.1. No waiver (whether expressed or implied) by the Council or the Owner 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 or the Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

**9. CHANGE IN OWNERSHIP**

9.1. The Owner agrees with the Council to give the Council immediate written notice of any change in ownership of any of their 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.

**10. COUNCIL COSTS**

10.1. The Owner agrees to pay the Council on execution of this Agreement the Council's reasonable costs and disbursements of an incidental to the preparation and execution of this Agreement in the sum of £1,000.

**11. DISPUTE RESOLUTION**

11.1. In the event of any dispute or difference arising between any of the parties to this Agreement in respect of any matter contained in this Agreement such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.

11.2. In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 11.1 or as to the appropriateness of the professional body then such question may be referred by either part to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.

- 11.3. Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight working days after the conclusion of any hearing that takes place or twenty-eight working days after he has received any file or written representation.
- 11.4. The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten working days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten working days.

## **12. NOTICE**

- 12.1. Any notice required to be given under this Agreement shall be in writing and shall be delivered personally, or sent by pre paid first class post or recorded delivery or by commercial courier, to any person required to receive the notice at its address as set out below:
- 12.1.1 Council: C/O Head of Planning and Building Control, The Town Hall, Church Street, Barnsley, S70 2TA
- 12.1.2 Owner: at the address stated in this Agreement
- 12.2 Any notice shall be deemed to have been duly received:
- 12.2.1 if delivered personally, when left at the address and for the contact referred to in this clause;
- 12.2.2 if sent by pre paid first class post or recorded delivery, at 9.00am on the second working day after posting; or
- 12.2.3 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed

## **13. INDEX LINKING**

- 13.1. The contributions referred to in paragraph 1.8 of Part 1, Part 2, Part 3 and Part of the Third Schedule shall be increased by an amount equivalent to the increase in the Index from the date hereof until the date on which such sum is due.

## **14. INTEREST**

- 14.1. If any payment under this Agreement is paid late Interest will be payable from the date the payment is due to the date of actual payment.

**15. JURISDICTION**

15.1. This Agreement is governed by and interpreted in accordance with the law of England and the parties submit to the jurisdiction of the courts of England and Wales.

**16. DELIVERY**

16.1. The provision of this Agreement (other than this clause which shall be of immediate effect) shall be no effect until this Agreement has been dated.

**17. EXECUTION**

17.1 This Agreement may be executed in separate counterparts and such counterparts when executed and delivered shall be an original.

**EXECUTION AND DELIVERY**

This document is executed as a deed and is delivered on the date stated at the beginning of this deed

**FIRST SCHEDULE**

**Plan 1**



Central Garage

Shelter

SHEFFIELD ROAD (A61)

133.6m

HAY Green Court

Weather Cottages

131.2m

SUB

SUB

SUB

SUB

SUB

SUB

SUB

SUB

**SECOND SCHEDULE**

**Draft Planning Permission**



**BARNLSLEY**  
Metropolitan Borough Council

Place Directorate  
Regeneration and Culture  
Planning and Building Control

## GRANT OF OUTLINE PLANNING PERMISSION

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO. 2020/0577

To Carter Jonas  
9 Bond Court  
Leeds  
LS1 1JZ

**DESCRIPTION** Residential development of up to 118 dwellings and associated works (Outline with all matters reserved apart from means of access)

**LOCATION** Land south of Hay Green Lane, Birdwell, Barnsley

Permission is **granted** for the proposals which were the subject of the Application and Plans registered by the Council on 30/06/2020 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 not be commenced unless and until approval of the following reserved matters has been obtained in writing from the Local Planning Authority:-
  - (a) the layout of the proposed development.
  - (b) scale of building(s)
  - (c) the design and external appearance of the proposed development.
  - (d) landscaping

**Reason: In order to allow the Local Planning Authority to assess the details of the reserved matters with regard to the development plan and other material considerations.**

- 2 Application for approval of the matters reserved in Condition No. 1 shall be made to the Local Planning Authority before the expiration of three years from the date of this permission, and the development, hereby permitted, shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

**Reason: In order to comply with the provision of Section 92 of the Town and Country Planning Act 1990.**

- 3 Detailed plans shall accompany the reserved matters submission that broadly reflect the Illustrative Masterplan (17 5085 11 Revision E) and which also indicate existing ground levels, finished floor levels of all dwellings and associated structures, road levels and any proposed alterations to 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 in accordance with LP Policies GD1 - General Development and D1 - High Quality Design and Placemaking**
- 4 The development hereby approved shall comply with the biodiversity mitigations and compensation measures set out in the approved documents cited below unless otherwise superseded by an amended layout at reserved matters stage. Any layout changes shall require submission of a revised ecological report that quantifies no net loss of Biodiversity resulting from development of the site.  
- Appendix B DEFRA 2.0 - Calculation Tool (08-02-2021)  
- Habitat Retention - Figure 2 - 9/2/2021  
- Post-Development Habitats - Figure 3 - 9/2/2021  
- Proposed Off-site Habitats - Figure 5 - 10/2/2021  
**Reason: In order to secure appropriate biodiversity and ecology mitigation and enhancement in accordance with Local Plan Policy BIO1 Biodiversity and Geodiversity and NPPF Paragraph 175 (a)**
- 5 Prior to the commencement of development, details shall be submitted to and approved in writing by the Local Planning Authority of arrangements which secure the following highway improvement works:  
(i) Provision of access substantially in accordance with (a) Proposed Access Arrangement Inc Visibility Splays (18039.GA.01) & (b) Proposed Ped/Cycle Access (18039.GA.02)  
(ii) Renovation of Sheffield Road Zebra Crossing  
(iii) Signing/lining/bollards at the junction of Sheffield Road & Hay Green Lane;  
(iv) Resurfacing/reconstruction of footway/carriageway;  
The works shall be completed in accordance with the approved details and a timetable to be submitted to and approved in writing by the Local Planning Authority.  
**Reason: In the interest of highway safety, in accordance with LP Policy T4 - New Development and Transport Safety.**
- 6 Prior to the first occupation of the development hereby permitted 1no. vehicular access from Hay Green Lane onto the site and 3no. pedestrian & cycle accesses in various locations (1no. to Hay Green Lane, 1no. to Birdwell Recreation Ground and 1no. to PROW40) shall be provided and thereafter retained at the position shown on the approved plan and constructed in accordance with the BMBC highway specification. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.  
**Reason: To ensure satisfactory access into the site and avoid the carriage of extraneous material or surface water from or onto the highway and in the interests of highway safety in accordance with LP Policies T3 New Development and Sustainable Travel and T4 New Development and Transport Safety.**

- 7 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 and in accordance with LP Policy T4 New Development and Transport Safety.**
- 8 Before the development is brought into use, that part of the site to be used by vehicles shall be surfaced in a bound permeable material and adequate measures shall be so designed into the proposed access to avoid the discharge of surface water from the site on to the highway.  
**Reason: To ensure adequate provision for the disposal of surface water and to prevent mud/debris from being deposited on the public highway and to prevent the migration of loose material on to the public highway to the detriment of road safety in accordance with LP Policy T4 New Development and Transport Safety.**
- 9 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 Hay Green Lane 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 LP Policy T4 New Development and Transport Safety.**
- 10 The gradient of the vehicular access shall not exceed 1 in 12 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 LP Policy T4 New Development and Transport Safety.**
- 11 Prior to the first occupation of the development hereby permitted a visibility splay shall be provided in full accordance with the details indicated on the approved plan. The splay shall thereafter be maintained at all times free from any obstruction exceeding 900mm above the level of the adjacent highway carriageway.  
**Reason: In interests of highway safety in accordance with LP Policy T4 New Development and Transport Safety.**
- 12 No building or use hereby permitted shall be occupied 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 and in accordance with LP Policy T4 New Development and Transport Safety.**

- 13 Prior to the first occupation of the development hereby permitted, parking provision will be in accordance with the standards set out within Barnsley's Parking SPD. 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 LP Policy T4 New Development and Transport Safety.**
- 14 The gradient of individual vehicular accesses/driveways shall not exceed 1 in 12 as measured from the edge of adjacent carriageway.  
**Reason: In the interests of the safety of persons using the access and users of the highway in accordance with LP Policy T4 New Development and Transport Safety.**
- 15 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 and thereafter retained for this purpose.  
**Reason: In the interests of encouraging use of sustainable modes of transport in accordance with LP Policy T3 New Development and Sustainable Travel.**
- 16 The driveway length in front of garage(s) shall be at least 6m (5.5m with the use of a roller shutter door) measured from the garage doors to the highway boundary.  
**Reason: To ensure parked vehicles do not overhang the adjoin public highway thereby adversely affecting highway users in accordance with LP Policy T4 New Development and Transport Safety.**
- 17 No development shall take place until a survey of the condition of the adopted highway 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 LP Policy T4 New Development and Transport Safety.**
- 18 The development hereby permitted shall not be commenced until a detailed site specific 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 in accordance with LP Policy T3 New Development and Sustainable Travel.**

- 19 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:
- Arboricultural impact assessment
  - Tree protective barrier details
  - Tree protection plan
  - Arboricultural method statement
- Reason: To ensure the continued wellbeing of the trees in the interests of the appearance and biodiversity of the area in accordance with LP Policies D1 High Quality Design and Placemaking and Bio1 Biodiversity and Geodiversity.**
- 20 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.**
- 21 Prior to the submission of any reserved matters application, an archaeological evaluation of the application area will be undertaken in accordance with a written scheme of investigation that has been submitted to and approved in writing by the local planning authority. Drawing upon the results of this investigation stage, a mitigation strategy for any further archaeological works and/or preservation in situ will be approved in writing with the local planning authority and then implemented.
- Reason: To ensure that the site is archaeologically evaluated in accordance with an approved scheme and that sufficient information on any archaeological remains exists to help determine any reserved matters and to comply with Barnsley Local Plan Policy HE6 – Archaeology.**
- 22 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 Policies GD1 - General Development and UT2 - Utilities Safeguarding.**
- 23 No building or other obstruction including landscape or drainage features shall be located over or within 3 metres either side of the centre line of the 300mm public sewer that crosses the site; no drainage features shall be located over or within 3 metres either side of the centre line of the 100mm public sewer i.e. a protected strip width of 6 (six) metres. Furthermore, no trees shall be planted within 3 metres of the centre line of the aforementioned sewerage. If the required stand-off distances are to be achieved via diversion or closure of the sewers, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker and that prior to construction in the affected area, the approved works have been undertaken.
- Reason: To allow sufficient access for maintenance and repair work of underground drainage infrastructure in accordance with LP Policy UT2 Utilities Safeguarding.**

- 24 No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority.  
**Reason: To ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the public sewer network in accordance with LP Policy UT2 - Utilities Safeguarding.**
- 25 Prior to commencement of development, details of proposals to mitigate the air quality impact of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. The mitigation strategy shall take account of the proposals within the developer's Operational Phase Air Quality Assessment and the Barnsley MBC Air Quality and Emissions Good Practice Planning Guidance.  
**Reason: In the interests of minimising the impact of the proposal on air quality in accordance with Policy Poll1 of the Local Plan.**
- 26 Upon commencement of development, the location and specification of 1no. Electric Vehicle Charging Point per dwellinghouse shall be submitted to and approved in writing by the LPA. The ECVP will have a minimum 'Mode 3' [7kW (32AMP)] capability and shall be installed on the site in accordance with the approved details prior to first occupation of the development and thereafter retained in accordance with the approved details.  
**Reason: To ensure the new residential units are provided with infrastructure that conforms with the requirements of LP Policy T3 - New Development and Sustainable Travel.**
- 27 Prior to the commencement of any development works, a remediation scheme, endorsed by a competent engineer experienced in ground contamination, shall be submitted to the local Planning Authority for approval. This report shall, amongst other matters, include the following:-  
1. Methodology to identify and remove any contaminated material.  
2. Details of any Gas Protection measures required.  
3. The subsequent validation that the site has been satisfactorily remediated and that the development of the site can be safely undertaken and occupied.  
The development shall thereafter be undertaken in full accordance with the submitted reports.  
**Reason: To protect the health of future residents and the wider environment in accordance with LP Policy CL1 - Contaminated and Unstable Land.**
- 28 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 LP Policy Poll1 - Pollution Control and Protection**

- 29 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. loading and unloading of plant and materials
  - iii. storage of plant and materials used in constructing the development
  - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - v. wheel washing facilities
  - vi. measures to control the emission of dust and dirt during construction including confirmation of the type of water supply in place for construction (dust management plan)
  - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works
  - viii. measures to mitigate noise during demolition, earth movements and construction (noise management plan).
- Reason: To protect the amenity of adjacent residents and the safe movement of vehicles along Hay Green Lane in accordance with LP Policies Poll1 - Pollution Control and Protection and T4 - New Development and Transport Safety.**
- 30 Detailed drawings in a Reserved Matters application shall adhere to section 5.2 of the noise impact assessment (WYG - A116533 - Issue 2) in that all properties are fitted with the glazing specified in that report. Additionally, habitable rooms in properties with facades along the western and southern boundaries of the site facing Sheffield Road and the Dearne Valley Parkway should have the provision of a means of alternative ventilation in the form of trickle vents with a minimum specification of 32 dB Dn,e,w.
- Reason: To ensure the amenity of future occupiers of the site in accordance with LP Policies GD1 - General Development and Poll1 - Pollution Control and Protection.**
- 31 Upon commencement of development details of measures to facilitate the provision of gigabit-capable full fibre broadband for all dwellings 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: To ensure adequate infrastructure for the dwellings in accordance with LP Policy I1 - Infrastructure and Planning Obligations.**
- 32 The layout at reserved matters will provide a separation distance of 30m to the future NEAP and 20m from the existing LEAP within the Birdwell Recreation Ground relative to any residential curtilages that are proposed.
- Reason: To ensure the amenity of future residents in accordance with LP Policy GD1 - General Development.**
- 33 All in curtilage planting, seeding or turfing comprised in the approved details of landscaping 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 a document following completion of the development shall be submitted evidencing the implementation of the in-curtilage landscaping scheme. 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'.**

34 All out of curtilage planting, seeding or turfing comprised in the approved details of landscaping 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'.**

DRAFT

- 7 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](mailto:HighwaysDC@barnsley.gov.uk) for further information prior to commencement.
- 8 In respect of the future layout, there will be a need to provide turning heads on cul-de-sacs and the developer should be aware that the dwellings by the entrance to the site that have car parking spaces on Hay Green lane may not be acceptable.
- 9 Alteration to the layout in these areas is likely to be required and will incur the need for density of 40 dwellings per HA to be achieved elsewhere within the site.
- 10 The back to back 'quad' units located in the western section of the site shall not be a permitted form of development unless they are proposed as a block of apartments. The density of units will have to be found elsewhere, possibly through the erection of three storey units or with parking within the confines of the building envelope. The windows on the block of apartments, if proposed, will require careful placement of windows to avoid privacy implications for surrounding curtilages while maintaining outlook for habitable rooms.
- 11 Where gardens on the indicative layout are <60sqm this denotes that the property will be restricted to two bedrooms in size. Study rooms or similar, will be accepted at the ground floor but not at the first floor if they are <7sqm in floor space.
- 12 Consideration for existing boundary treatments for existing dwellinghouses, particularly existing dry stone walls, will be necessary as a part of the layout at reserved matters which may include the need to separate these walls through further boundary treatment placed a sufficient distance away to allow maintenance while preventing damage to the dry stone walls. There will be a need to ensure that separation distances between boundaries and windows for existing and proposed plots/dwellinghouses are in line with the guidance set out within the SPDs Design of Housing Development.
- 13 The developer is encouraged to apply for the secure by design accreditation via the following website: <https://www.securedbydesign.com/services/sbd-awards>. The South Yorkshire Police Architectural Liaison Officer has advised that the site is highly likely to be able to achieve Gold Standard with careful attention paid to windows and doors.
- 14 At reserved matters stage, the materials used in the construction of dwellings along the eastern edge of the development will be adequately sympathetic to the setting of the listed building (as per the site policy).
- 15 The applicant is advised of the need to comply with Northern Powergrid's Guidance on Overhead Line Clearances (NSP/004/011) as well as the need to consult Northern Powergrid with the proposed layout prior to Reserved Matters stage to ensure that all practices for construction are in line with Health and Safety requirements.
- 16 The location of any substation or other power related structures should be indicated on plans submitted at reserved matters stage to ensure sympathetic siting within the site.
- 17 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/coalauthority](http://www.gov.uk/coalauthority)

- 18 The Barnsley MBC Sustainable Travel Supplementary Planning Document requires installation of electric vehicle charge points, the details of which are in the table below.

Residential 1 charging point per unit (dwelling with dedicated parking), or 1 charging point per 10 spaces (unallocated parking)

It is recommended the electric vehicle charge points are demonstrated to be "mode 3", minimum 7 kW (32 AMP). Further information on this requirement can be found within appendix 4 of the Barnsley MBC Air Quality and Emissions Good Practice Planning Guidance (<https://www.barnsley.gov.uk/media/14078/pdc-2020-mar-bmbc-aqe-technical-planning-guidance-v12.pdf>).

- 19 What is Gigabit-capable full fibre?

Full-fibre networks use fibre optic cables to connect the exchange directly to each premise. Full-fibre connections are capable of delivering speeds greater than 1 gigabit per second (Gbps; 1 Gbps is equal to 1000 Mbps). Full-fibre networks are more reliable than copper-based networks and cheaper to maintain and operate. Full-fibre networks are also important for supporting high capacity mobile broadband networks, particularly future 5G networks. Full-fibre networks, also referred to as fibre-to-the-premises (FTTP) or fibre-to-the-home (FTTH), consist of fibre optic cables running from the local exchange directly to each premises. Fibre optic cables transmit data using light and can carry more data with faster speeds and significantly less signal loss with distance compared to copper cables. Gigabit-capable connections can also be delivered via technologies such as cable (DOCSIS 3.1) and fixed wireless access.

Developers will be asked to consider installing gigabit-capable full fibre infrastructure from multiple network operators in order to provide choice and competition to consumers.

Occupiers should be able to access broadband ideally from a choice of at least two network operators upon occupation of the premises. Developers should also consider their ability to upgrade the infrastructure in the future in order to minimise disruption to occupiers/users.

Developers should consider the following design principles: minimise and/or mitigate against the visual presence of infrastructure on the façade of buildings, minimise physical obstructions on footpaths and cycle ways, maximise the use of recessed infrastructure, carefully consider the location of cabinets to minimise visual clutter in the street scene.

- 20 Gigabit-capable full fibre Network Operators:

Openreach:

Information applies to new residential and commercial developments:

Developer information: <https://www.openreach.com/fibre-broadband/fibre-for-developers/registering-your-site>

Rate card for 1-19 plots: <https://www.openreach.com/content/dam/openreach/openreach-dam-files/images/fibre-broadband/fibre-for-developers/registering-your-site/Rate%20card%20website.pdf>

The benefits of installing full fibre network:

[https://www.openreach.com/content/dam/openreach/openreach-dam-files/images/fibre-broadband/fibre-for-developers/registering-your-site/OR\\_10965\\_Small%20build%20A5%20tri-fold%20leaflet\\_04%20WEB.pdf](https://www.openreach.com/content/dam/openreach/openreach-dam-files/images/fibre-broadband/fibre-for-developers/registering-your-site/OR_10965_Small%20build%20A5%20tri-fold%20leaflet_04%20WEB.pdf)

Virgin Media : <https://www.virginmedia.com/lightning/network-expansion/property-developers>

CityFibre:  
CityFibre only invests in full fibre networks, which means fibre at every point in the network, including the final leg from the street cabinet. With no reliance on copper infrastructure, our connections are the best way to ensure your buyers receive gigabit-speed, consistent and reliable internet connectivity. Provide a future-proof network capable of 10Gbit/s and beyond.

Sites of 10+ plots - free issue of ducts, chambers & lids and ancillary items to site and payment of approved works to developer. Dedicated locally based City Planner for rapid and consistent turnaround of site design. CityFibre are interested in smaller plots of <10 and will provide further support and information on a site by site basis.

Register your site and for more information: <https://www.cityfibre.com/property/>

Hyperoptic: <https://hyperoptic.com/>

Gigaclear: <https://www.gigaclear.com/>

This list is not exhaustive.

For further information on other technologies available:

<http://www.superfastsouthyorkshire.co.uk/technologies>

21 Evidence: Installation of gigabit-capable full fibre broadband in new developments:

The types of evidence that can be submitted include:

- A contract or invoice for the installation of the physical infrastructure and the connection to gigabit-capable full fibre broadband (must match the stipulation in the original requirement by the Local Authority)
- Confirmation of the speed that will be achieved by the gigabit-capable full fibre broadband infrastructure, from the network operator

Other support:

The Superfast South Yorkshire Team is available to offer advice and discuss connectivity solutions to new sites with developers and can be emailed at

[hello@superfastsouthyorkshire.co.uk](mailto:hello@superfastsouthyorkshire.co.uk)

For more information please visit:

<http://www.superfastsouthyorkshire.co.uk/sfsy/developments>

On the Statutory Sewer Map, there is a 375 mm diameter public combined sewer and a 100 mm diameter public combined sewer recorded to cross the site. It is essential that the presence of this infrastructure is taken into account in the design of the scheme. It would appear that the 375mm public sewer is unlikely to be affected by building-over proposals but the proposed attenuation pond does appear to be very close. The pond and its retaining structures must be at least 3 metres away from the centre line of the sewer i.e. a protected strip width of 6 metres.

With regard to the 100mm sewer, houses are shown over/close to the pipe and a "build over" may be acceptable (via Building Regulations) but the pond should not be located over the pipe. A proposal by the developer to alter/divert the 100mm public sewer will be subject to Yorkshire Water's requirements and formal procedure in accordance with Section 185 Water Industry Act 1991. Although I appreciate that the application is for outline permission only and therefore subject to change at reserved matters stage, the submitted site layout details are not acceptable to Yorkshire Water. It appears that structures will be located over/close to the line of the sewers which, if permitted, could jeopardise Yorkshire Water's ability to maintain the sewerage network. I strongly advise the developer to amend the layout prior to submission of reserved matters. For further information, the developer should contact our Developer Services Team: telephone 0345 120 84 82 (option 1) or email [technical.sewerage@yorkshirewater.co.uk](mailto:technical.sewerage@yorkshirewater.co.uk)

2) Yorkshire Water has no objection in principle to:  
1) The proposed proposal to divert or abandon the 100 mm diameter public sewer subject to connectivity survey results. 2) The proposed separate systems of drainage on site and off site 3) The proposed amount of domestic foul water to be discharged to the public combined sewer network 4) The proposed point of discharge of foul water to the public 375mm combined sewer crossing the site submitted on drawing 5568 - JPG - SW - 00 - DR - D - 1401 (revision P01) dated 07/05/2020 prepared by JPG which also shows surface water is proposed to be drained to watercourse. The developer should also note that the site drainage

details submitted have not been approved for the purposes of adoption or diversion. If the developer wishes to have the sewers included in a sewer adoption/diversion agreement with Yorkshire Water (under Sections 104 and 185 of the Water Industry Act 1991), they should contact our Developer Services Team (tel 0345 120 84 82, email: [technical.sewerage@yorkshirewater.co.uk](mailto:technical.sewerage@yorkshirewater.co.uk)) at the earliest opportunity. Sewers intended for adoption and diversion should be designed and constructed in accordance with the WRc publication 'Sewers for Adoption - a design and construction guide for developers' 6th Edition, as supplemented by Yorkshire Water's requirement.

*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.

DRAFT

**THIRD SCHEDULE**  
**AFFORDABLE HOUSING**

**PART 1 - AFFORDABLE HOUSING**

1. The Owner covenants with the Council as follows:-
  - 1.1 Not to Commence Development unless and until an Affordable Housing Scheme has been submitted to and approved in writing by the Council, thereafter the approved Affordable Housing Scheme shall be complied with.
  - 1.2 That the Affordable Housing Units shall not, unless otherwise agreed in writing with the Council, be used of Occupied other than as Affordable Housing subject to paragraphs 1.3 to 1.11 below.
  - 1.3 Not to cause or permit the more than 60% of the Market Dwellings to be Occupied until the Affordable Housing Units have been constructed and subject to paragraph 1.8 below transferred to a Registered Provider.
  - 1.4 The Affordable Housing Units shall be transferred to a Registered Provider together with the benefit of the following rights:
    - 1.4.1 full and free rights of access both pedestrian and vehicular from the public highway to the Affordable Housing Units;
    - 1.4.2 full and free rights to the passage of water soil electricity gas and other services through the pipes channels wires cables and conduits which shall be in the adjoining land up to and abutting the boundary to the Affordable Housing Units all such services to be connected to the mains
  - 1.5 The Owner shall provide the Council notice within 14 days of the Practical Completion of the Affordable Housing Units.
  - 1.6 The Owner shall use reasonable endeavours to market the Affordable Housing Units to a Registered Provider appearing on the Council's Approved List and will promptly upon agreeing heads of terms for a transfer of the Affordable Housing Units to the Registered Provider submit to the Council the name of the chosen Registered Provider for the Councils approval (such approval not to be unreasonably withheld or delayed) ("the Initial Registered Provider Transfer Terms"). For the avoidance of doubt the Owner shall not transfer the

1.11 Any Chargee shall prior to seeking to dispose of any of the Affordable Housing Units pursuant to any default under the terms of its mortgage or charge shall give not less than 30 days prior notice to the Council of its intention to dispose and:

1.11.1 in the event that the Council responds within 30 days from receipt of the notice indicating that arrangements for the transfer of the Affordable Housing Units can be made in such a way as to safeguard them as Affordable Housing then the Chargee shall co-operate with such arrangements and use its reasonable endeavours to complete such transfer;

1.11.2 if the Council does not serve its response to the notice served under paragraph 1.11.1 of this Part 1 of the First Schedule within the 30 days then the Chargee and any successors in title to the Chargee shall be entitled to dispose free of the restrictions set out in this Part 1 of the Third Schedule which shall from the time of completion of the disposal cease to apply

1.11.3 if the Council or any other person cannot within 30 days of the date of service of its response under paragraph 1.11.1 of this Part 1 of the First Schedule complete such transfer then provided that the Chargee shall have complied with its obligations under paragraph 1.11.1 of this Part 1 of the First Schedule then Chargee and any successor in title to the Chargee shall be entitled to dispose free of the restrictions set out in this Part 1 of the Third Schedule which shall from the time of completion of the disposal cease to apply

PROVIDED THAT at all times the rights and obligations in paragraph 1.11 of this Part 1 of the First Schedule shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Chargee shall not be required to complete a disposal of the whole or any part of the Affordable Housing Units for a consideration less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses.

## **PART 2 – PRIMARY AND SECONDARY EDUCATION CONTRIBUTIONS**

2. The Owner covenants with the Council as follows:

2.1 to pay 50% of the Primary Education Contribution and 50% of the Secondary Education Contribution to the Council prior to the Occupation of any Dwellings;

2.2 not to Occupy or permit the Occupation of any of the Dwellings unless and until 50% of the Primary Education Contribution and 50% of the Secondary Education Contribution have been paid to the Council;

- 2.3 to pay the remaining 50% of the Primary Education Contribution and 50% of the Secondary Education Contribution to the Council prior to the Occupation of more than 50% of the Dwellings;
- 2.2 not to Occupy or permit the Occupation of more than 50% of the Dwellings unless and until the remaining 50% of the Primary Education Contribution and the remaining 50% of the Secondary Education Contribution have been paid to the Council

**PART 3- SUSTAINABLE TRAVEL CONTRIBUTION**

- 3. The Owner covenants with the Council as follows:
  - 3.1 to pay the Sustainable Travel Contribution to the Council prior to the Commencement of the Development and
  - 3.2 not to Commence the Development unless and until the Sustainable Travel Contribution has been paid to the Council.

**PART 4 – OFF SITE FORMAL RECREATION CONTRIBUTION**

- 4. The Owner covenants with the Council as follows:
  - 4.1 to pay 60% of the Off Site Formal Recreation Contribution to the Council prior to the Commencement of Development;
  - 4.2 not to Commence Development or allow the Commencement of Development unless and until 60% the Off Site Formal Recreation Contribution has been paid to the Council;
  - 4.3 to pay the remaining 40% of the Off Site Formal Recreation Contribution to the Council prior to the Occupation of more than 50% of the Dwellings; and
  - 4.4 not to Occupy or allow the Occupation of more than 50% of the Dwellings unless and until the remaining 40% of the Off Site Formal Recreation Contribution has been paid to the Council.

**PART 5 – HIGHWAYS CONTRIBUTION**

- 5. The Owner covenants with the Council as follows:
  - 5.1 to pay the Highway Contribution prior to the Occupation of any Dwellings; and
  - 5.2 not to Occupy or permit the Occupation of any of the Dwellings unless and until the Highway Contribution has been paid to the Council

**FOURTH SCHEDULE**  
**The Council's covenants with the Owner**

- 1 The Council hereby covenants with the Owner:
  - 1.1 to issue the Planning Permission within 7 days of the completion of this Agreement
  - 1.2 to place the Primary Education Contribution, the Secondary Education Contribution, the Off Site Formal Recreation Contribution, the Sustainable Travel Contribution, the Highway Contribution and any Affordable Housing Contribution in an interest bearing account or in separate accounts as the Council shall in its discretion decide
  - 1.3 not to apply the Primary Education Contribution, the Secondary Education Contribution, the Off Site Formal Recreation Contribution, the Sustainable Travel Contribution, the Highway Contribution and any Affordable Housing Contribution for any purpose other than for the purposes set out in this Agreement;
  - 1.4 that in the event that the Primary Education Contribution, the Secondary Education Contribution, the Off Site Formal Recreation Contribution, the Sustainable Travel Contribution, the Highway Contribution and any Affordable Housing Contribution (as appropriate) or any part or parts thereof are not expended or committed within 10 (ten years) of the date on which the final instalments of the relevant contribution is due then such amount of the Primary Education Contribution, the Secondary Education Contribution, the Off Site Formal Recreation Contribution, the Sustainable Travel Contribution, the Highway Contribution and any Affordable Housing Contribution (as appropriate) as remains unexpended or uncommitted plus interest accrued shall be repaid to the person who made the payment(s).
  - 1.5 in the event that an Affordable Housing Contribution is paid by the Owner to the Council the Council shall exercise reasonable endeavours to use the Affordable Housing Contribution towards the provision of Affordable Housing within a 5 mile radius of the Site but in the absence of achieving this objective the Affordable Housing Contribution may be expended on provision of Affordable Housing within the administrative District of Barnsley.

**EXECUTED as a DEED** (but not )  
Delivered until dated) by affixing )  
The Common Seal of )  
**BARNESLEY METROPOLITAN** )  
**BOROUGH COUNCIL** )

No. 323  
IN REGISTER



In the presence of:

Job Title..... *HEAD OF LEGAL*

**SIGNED as a DEED by**

in the presence of:

Witness' Signature

Witness' Name:

Witness' Address:

**SIGNED as a DEED by**

in the presence of:

Witness' Signature

Witness' Name:

Witness' Address: