

DATED 20 April 2015

**BARNSLEY METROPOLITAN BOROUGH COUNCIL (1)**

-and-

**DAVID RICHARD MACKRILL & ELIZABETH ANNE CARBY & JOSEPH DAVID  
GERALD CARBY (2)**

-and-

**JAMES EDWARD MAKINGS & JULIE ELIZABETH MAKINGS (3)**

-and-

**BDW TRADING LIMITED (4)**

-and-

**HSBC BANK PLC (5)**

**AGREEMENT**

under Section 106 of the Town and Country Planning Act 1990 (as amended)  
relating to land off Haigh Head Road and Haigh Lane, Hoylandswaine, Barnsley

**WALKER MORRIS**

Kings Court  
12 King Street  
LEEDS  
LS1 2HL  
Tel: 0113 2832500  
Fax: 0113 2459412  
Ref: CAS/BL.4-8964

THIS AGREEMENT (signed as a deed) is made the 20<sup>th</sup> day of April

2015

**BETWEEN: -**

- (1) **BARNSELY METROPOLITAN BOROUGH COUNCIL** of Smithies Lane Depot, Smithies Lane, Barnsley S71 1NL ("**Council**") of the first part; and
- (2) **DAVID RICHARD MACKRILL** of 4 Greenacre Drive, Upper Denby, Huddersfield HD8 8UP and **ELIZABETH ANNE CARBY** and **JOSEPH DAVID GERALD CARBY** of Beets House, Haigh Head Road, Hoylandswaine, Sheffield S36 7LY ("**First Owner**") of the second part; and
- (3) **JAMES EDWARD MAKINGS** and **JULIE ELIZABETH MAKINGS** of The Bungalow, Hunger Hill Farm, Hoylandswaine, Sheffield ("**Second Owner**") of the third part; and
- (4) **ELIZABETH ANNE CARBY** of Beets House, Haigh Head Road, Hoylandswaine, Sheffield S36 7LY ("**Third Owner**"); of the fourth part; and
- (5) **BDW TRADING LIMITED** (Company No. 03018173) whose registered office is situate at Barratt House, Cartwright Way, Forest Business Park, Bardon Hill, Coalville, Leicestershire LE67 1UF ("**Developer**") of the fifth part; and
- (6) **HSBC BANK PLC** (Company No. 14259) 40-41-42 of Mortgage Service Centre, P.O. Box 1546, Sheffield S1 2UJ whose registered office is situate at 8 Canada Square London E14 5HQ ("**Mortgagee**").

## 1 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following expressions shall have the following meanings:

### DEFINITIONS

#### GENERAL DEFINITIONS

- "1990 Act" means the Town and Country Planning Act 1990 as amended;
- "Affordable Housing" means subsidised housing that will be available to persons who cannot afford to rent or buy housing generally on the open market and which has the same meaning given to it in annex 2 of the National Planning Policy Framework;

**"Affordable Housing  
Commutated Sum"**

means if applicable the sum of: -

Affordable Rented Dwellings

1. £103,956.00 (one hundred and three thousand nine hundred and fifty six pounds) for the 2 bed Affordable Rented Dwelling – bungalow;
2. £94,143.00 (ninety four thousand one hundred and forty three pounds) per 3 bed Affordable Rented Dwelling – house;

Intermediate Dwellings

3. £86,306.00 (eighty six thousand three hundred and six pounds) per 3 bed Intermediate Dwelling – house;

that may be paid to the Council by the Owner and used by the Council in lieu of the provision of Affordable Housing on the Land for the provision of, or improvements to, existing Affordable Housing elsewhere within the Council's area;

**"Affordable Housing  
Contribution"**

means the sum of £851,521.00 (eight hundred and fifty one thousand five hundred and twenty one pounds) Index Linked to be paid to the Council by the Owner and used by the Council in lieu of part provision (15%) of Affordable Housing on the Land for the provision of, or improvements to, existing Affordable Housing elsewhere within the Council's area the need for which directly arises from the Development;

**"Affordable Housing Units"**

means 7 Dwellings of Affordable Housing comprising of the Intermediate Dwellings and the Affordable Rented Dwellings to be provided in accordance with paragraph 1 of the First Schedule and "Affordable Housing Unit" shall be construed accordingly;

**"Affordable Housing Unit"**

means the prices of the Affordable Housing Units that shall

**Prices"**

be a minimum of:

1. £59,361.00 (fifty nine thousand three hundred and sixty one pounds) in respect of the 2 bed Affordable Rented Dwelling – bungalow; and
2. £65,116.00 (sixty five thousand one hundred and sixteen pounds) in respect of the 3 bed Affordable Rented Dwellings – houses; and
3. £72,953.00 (seventy two thousand nine hundred and fifty three pounds) in respect of the 3 bed Intermediate Dwellings;

**"Affordable Rent"**

means an affordable rent of no more than 80% of the Market Rent;

**"Affordable Rented Dwellings"**

has the same meaning as the term "affordable rented housing" contained in the definition of Affordable Housing contained in the glossary at Annex 2 of the National Planning Policy Framework and comprises 6 Dwellings in total consisting of 2 no. 2 bed bungalow to be constructed on plots 16 and 67; and 4 no. 3 bed houses to be constructed on plots 17 to 20 (inclusive) or such other locations and / or house types / sizes that may be agreed in writing between the Owner and the Council from time to time such properties to be made available at an Affordable Rent to persons in accordance with the Registered Provider's policy;

**"Application"**

means the application reference number 2014/0754 and registered by the Council on 16 July 2014 for residential development for 67 dwellings and associated infrastructure;

**"Assistant Director of Planning and Regulatory Service"**

means the Assistant Director of Planning and Regulatory Service of the Council for the time being or such other officer of the Council nominated by him or her for the purposes of this Agreement;

<b>"Chargee"</b>	means any mortgagee or chargee of the Registered Provider or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925;
<b>"Commencement of Development"</b>	means the date upon which the Development shall commence by the carrying out on the Land pursuant to the Planning Permission of a material operation as specified in Section 56(4) of the 1990 Act Save That the term " <i>material operation</i> " shall not include operations in connection with any work of or associated with demolition site clearance remediation works environmental investigation site and soil surveys erection of contractors work compound erection of site office erection of fencing to site boundary and reference to " <b>Commence Development</b> " shall be construed accordingly;
<b>"Council's Approved List"</b>	means the following Registered Providers: Berneslai Homes Limited; South Yorkshire Housing Association Limited; Yorkshire Housing Limited; Guinness Northern Counties Limited; Equity Housing Group Limited; Leeds and Yorkshire Housing Association Limited; Chevin Housing Association Limited; and Wakefield and District Housing Limited or such other Registered Provider(s) that may be agreed in writing between the Owner and the Council from time to time;
<b>"Development"</b>	means the development of the Land in accordance with the Planning Permission;
<b>"Dwellings"</b>	means the residential units that may be built on the Land as part of the Development and reference to " <b>Dwelling</b> " shall be construed accordingly;
<b>"Education Contribution"</b>	means the sum of £91,312.00 (ninety one thousand three hundred and twelve pounds) Index Linked to be paid by the Owner to the Council as its total contribution towards the

provision of and or improvement to primary school educational facilities within the Wards of Penistone East Ward and Penistone Ward in order to provide 13 primary school places the need for which directly arises from the Development;

**"First Occupier"**

means the first occupier for residential purposes of each Dwelling excluding all subsequent occupations and reference to "First Occupation" shall be construed accordingly;

**"Head of Planning, Building Control and Sustainability Development Services"**

means the Head of Planning, Building Control and Sustainability Development Services of the Council for the time being or such other officer of the Council nominated by him or her for the purposes of this Agreement;

**"Hoylandswaine Primary School Car Park Contribution"**

means the sum of £40,000.00 (forty thousand pounds) Index Linked to be paid by the Owner to the Council as its total contribution towards the provision of a car park at Hoylandswaine Primary School the need for which directly arises from the Development;

**"Independent Surveyor"**

means a member of the Royal Institution of Chartered Surveyors appointed by the Owner but first approved by the Council and reference to "Independent Surveyors" shall be construed accordingly;

**"Index"**

means the 12 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;

**"Index Linked"**

means such increase to sum or sums payable to the Council under this Agreement on an annual basis or pro rata per diem from the date of this Agreement to the date of payment based upon the specified Index last published before the date of the decision to approve the grant of

	Planning Permission or any publication substituted for it;
<b>"Interest Rate"</b>	means interest at 3 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;
<b>"Intermediate Dwellings"</b>	has the same meaning as the term "intermediate housing" contained in the definition of Affordable Housing contained in the glossary at Annex 2 of the National Planning Policy Framework and comprises 1 Dwelling in total consisting of 1 no. 3 bed house to be constructed on plot 21 or such other locations and / or house types that may be agreed in writing between the Owner and the Council from time to time such properties to be made available at an Intermediate Rent to persons in accordance with the Registered Provider's policy;
<b>"Intermediate Rent"</b>	means an intermediate rent up to 80% of the Market Rent;
<b>"Land"</b>	means all that land off Haigh Head Road and Haigh Lane, Hoylandswaine, Barnsley shown for identification purposes only edged red on Plan 1;
<b>"Market Rent"</b>	means the average local market rent for a Dwelling in Barnsley with that number of bedrooms that would be leased between a willing lessor and willing lessee on appropriate lease terms in an arms-length transaction after proper marketing, and where the parties have each acted knowledgeably, prudently and without compulsion;
<b>"National Planning Policy Framework"</b>	means the National Planning Policy Framework as published in March 2012 by the Department for Communities and Local Government (or any future guidance or initiative that replaces or supplements it);
<b>"Occupation" and "Occupy"</b>	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 and the expression "Occupants" shall be construed accordingly;

**"Off-Site Open Space Contribution"**

means the sum of £115,233.68 (one hundred and fifteen thousand two hundred and thirty three pounds and sixty eight pence) to be paid to the Council by the Owner and used by the Council in lieu of the provision of publically accessible open space on the Land for the provision of, or improvements to, public open space within the vicinity of the Land the need for which directly arises from the Development;

**"Open Market Dwellings"**

means the residential units that may be built on the Land as part of the Development excluding the Affordable Housing Units and reference to "Open Market Dwelling" shall be construed accordingly;

**"Owner"**

means collectively the First Owner and the Second Owner and the Third Owner;

**"Plan 1"**

means the plan attached to this Agreement and marked "Plan 1";

**"Plan 2"**

means the plan attached to this Agreement and marked "Plan 2";

**"Planning Permission"**

means a planning permission to be granted pursuant to the Application substantially in the form of the draft is annexed in the Third Schedule;

**"Practical Completion"**

means either:

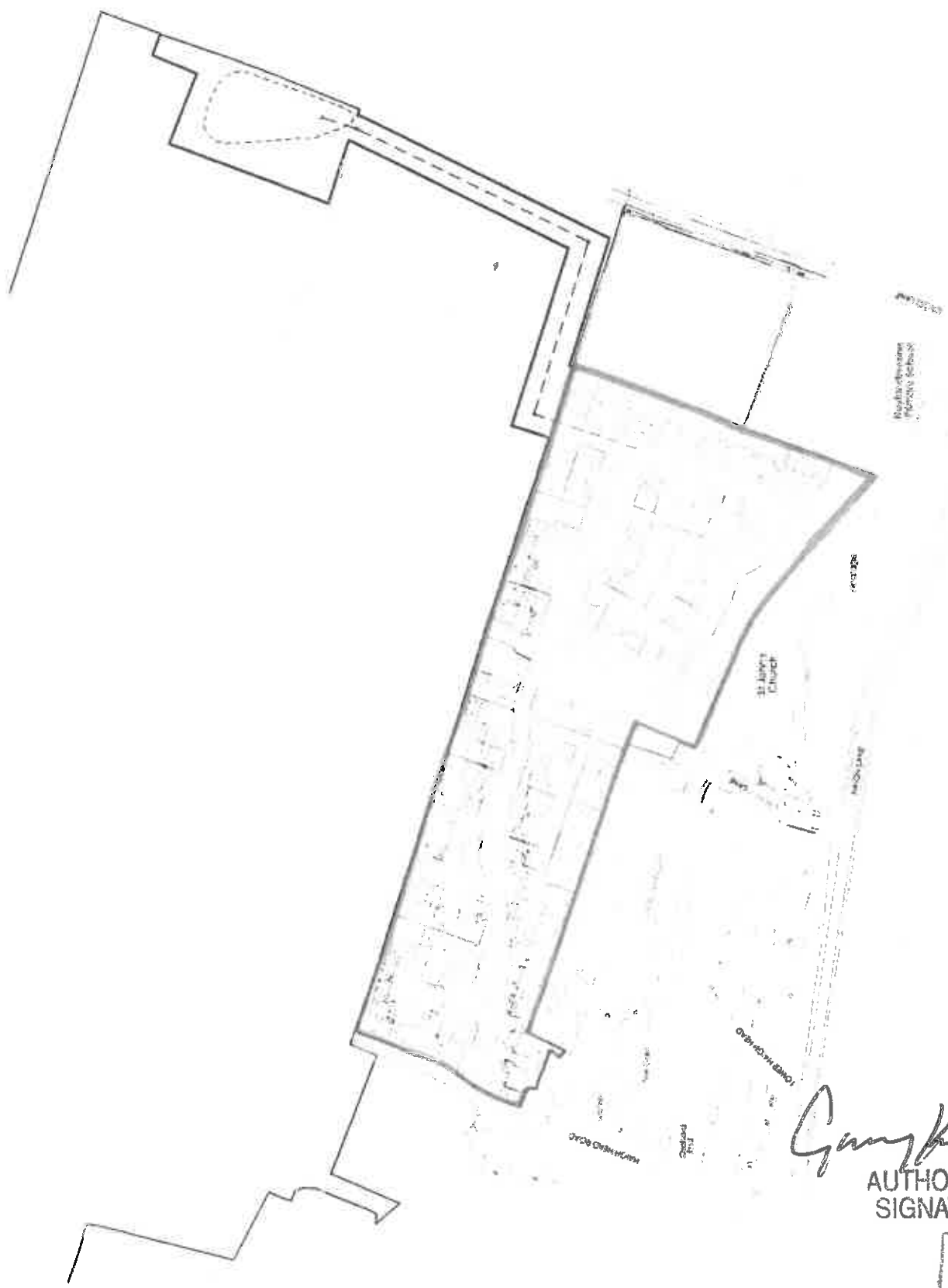
1. the issue of a certificate signed by a chartered architect which confirms that a specified Dwelling has been constructed in compliance with building regulations and is completed so as to be fit for habitation as a residential housing unit; or
2. the issue of buildmark cover note by the National

"Plan 1"

Per Pro  
HSBC Bank plc  
Manager *[Signature]*



Address Church Lane Newbury, Berkshire RG13 2AN	Location Plan 15-1P / 01	Scale 1:1000	Date 20/01/01
 Square in five <b>David Wilson Homes</b> <small>1000 Church Lane, Newbury, Berkshire, RG13 2AN</small>			



*[Signature]*  
AUTHORISED  
SIGNATORY

No. 1436  
IN REGISTER

# Church Lane, Hoylandswaine Planning Layout

Per Pro  
HSBC Bank plc  
Manager *[Signature]*

House type schedule

Code	Description	Area	Volume	Value
100	100	100	100	100
200	200	200	200	200
300	300	300	300	300
400	400	400	400	400
500	500	500	500	500
600	600	600	600	600
700	700	700	700	700
800	800	800	800	800
900	900	900	900	900
1000	1000	1000	1000	1000
1100	1100	1100	1100	1100
1200	1200	1200	1200	1200
1300	1300	1300	1300	1300
1400	1400	1400	1400	1400
1500	1500	1500	1500	1500
1600	1600	1600	1600	1600
1700	1700	1700	1700	1700
1800	1800	1800	1800	1800
1900	1900	1900	1900	1900
2000	2000	2000	2000	2000
2100	2100	2100	2100	2100
2200	2200	2200	2200	2200
2300	2300	2300	2300	2300
2400	2400	2400	2400	2400
2500	2500	2500	2500	2500
2600	2600	2600	2600	2600
2700	2700	2700	2700	2700
2800	2800	2800	2800	2800
2900	2900	2900	2900	2900
3000	3000	3000	3000	3000
3100	3100	3100	3100	3100
3200	3200	3200	3200	3200
3300	3300	3300	3300	3300
3400	3400	3400	3400	3400
3500	3500	3500	3500	3500
3600	3600	3600	3600	3600
3700	3700	3700	3700	3700
3800	3800	3800	3800	3800
3900	3900	3900	3900	3900
4000	4000	4000	4000	4000
4100	4100	4100	4100	4100
4200	4200	4200	4200	4200
4300	4300	4300	4300	4300
4400	4400	4400	4400	4400
4500	4500	4500	4500	4500
4600	4600	4600	4600	4600
4700	4700	4700	4700	4700
4800	4800	4800	4800	4800
4900	4900	4900	4900	4900
5000	5000	5000	5000	5000
5100	5100	5100	5100	5100
5200	5200	5200	5200	5200
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5700	5700	5700	5700	5700
5800	5800	5800	5800	5800
5900	5900	5900	5900	5900
6000	6000	6000	6000	6000
6100	6100	6100	6100	6100
6200	6200	6200	6200	6200
6300	6300	6300	6300	6300
6400	6400	6400	6400	6400
6500	6500	6500	6500	6500
6600	6600	6600	6600	6600
6700	6700	6700	6700	6700
6800	6800	6800	6800	6800
6900	6900	6900	6900	6900
7000	7000	7000	7000	7000
7100	7100	7100	7100	7100
7200	7200	7200	7200	7200
7300	7300	7300	7300	7300
7400	7400	7400	7400	7400
7500	7500	7500	7500	7500
7600	7600	7600	7600	7600
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8100	8100	8100	8100	8100
8200	8200	8200	8200	8200
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8500	8500	8500	8500	8500
8600	8600	8600	8600	8600
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8900	8900	8900	8900	8900
9000	9000	9000	9000	9000
9100	9100	9100	9100	9100
9200	9200	9200	9200	9200
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9500	9500	9500	9500	9500
9600	9600	9600	9600	9600
9700	9700	9700	9700	9700
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9900	9900	9900	9900	9900
10000	10000	10000	10000	10000

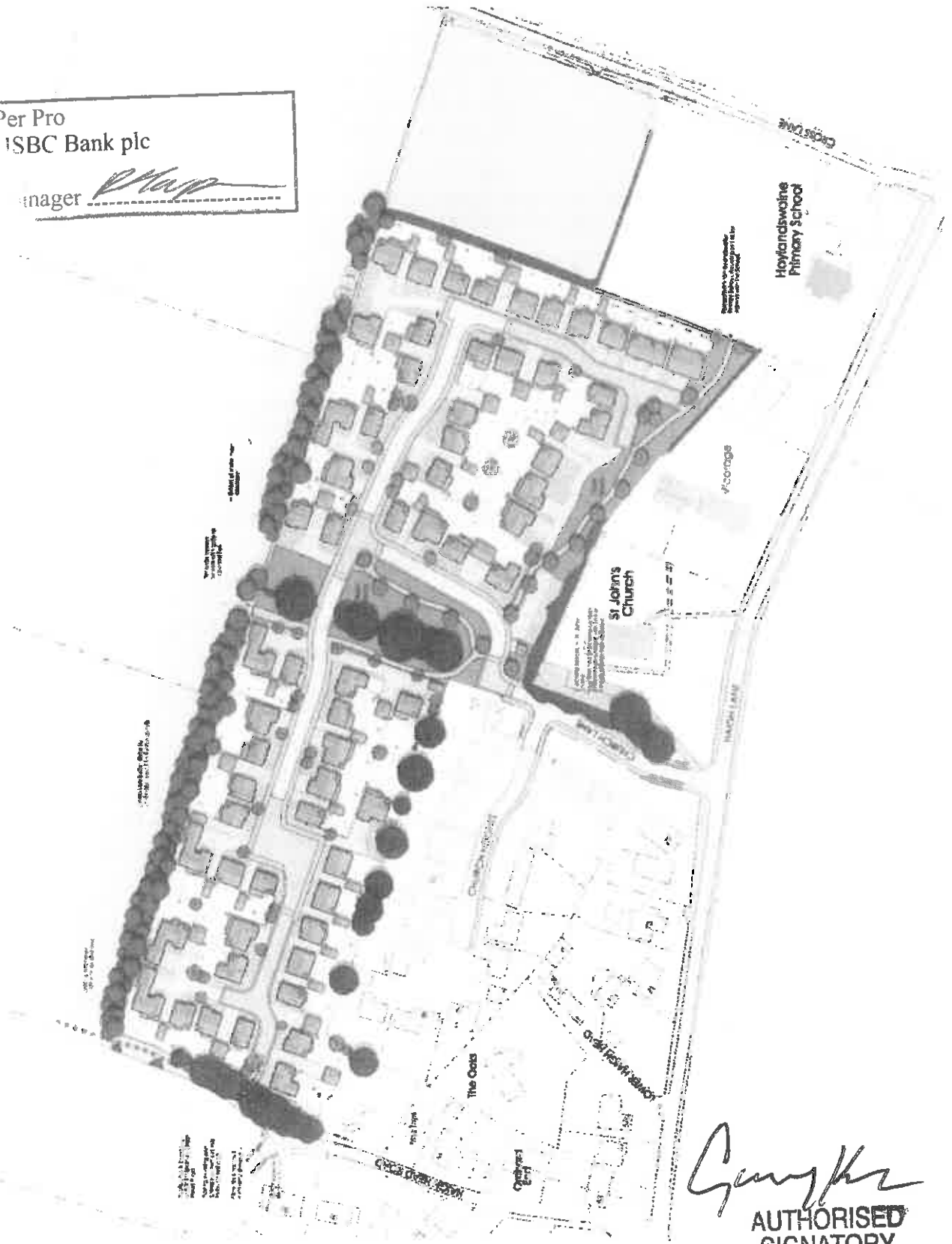


**Legend**

- 10m Buffer Zone
- 20m Buffer Zone
- 30m Buffer Zone
- 40m Buffer Zone
- 50m Buffer Zone
- 60m Buffer Zone
- 70m Buffer Zone
- 80m Buffer Zone
- 90m Buffer Zone
- 100m Buffer Zone
- 110m Buffer Zone
- 120m Buffer Zone
- 130m Buffer Zone
- 140m Buffer Zone
- 150m Buffer Zone
- 160m Buffer Zone
- 170m Buffer Zone
- 180m Buffer Zone
- 190m Buffer Zone
- 200m Buffer Zone

"Plan 2"

Church Lane	
Hoylandswaine	
Planning Layout	
Project No.	HS/PL/7/01
Scale	1:500
Date	Dec 2003
David Wilson Homes The City Centre, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.	



*[Signature]*  
**AUTHORISED SIGNATORY**

**No. 1436  
 IN REGISTER**

BY THIS POWER OF ATTORNEY given the 5<sup>th</sup> day of August two thousand and fourteen HSBC Bank plc ('the Bank') incorporated in England with registered number 14259 and having its Registered Office at 8 Canada Square, London E14 5HQ appoints **RICKY ETHAN HARPER** to be the attorney of the Bank in the name of the Bank and on its behalf to do or execute as the act and deed of the Bank or otherwise to execute any deed or sign any document:

1. required to discharge, release, surrender, convey, re-convey, transfer, re-transfer, assign, re-assign, postpone or defer or otherwise regulate the priority of, firstly, any mortgage, charge, standard security or other security vested in the Bank of any heritable or moveable or real or personal property comprised therein and, secondly, any bond, guarantee, undertaking or indemnity or any other similar engagement in favour of the Bank, and thirdly, any indebtedness secured by any of the foregoing;
2. required to convey assign or transfer any heritable or moveable or real or personal property pursuant to any powers contained in any mortgage or charge held by the Bank;
3. required to create, grant, release or vary or to confirm or consent to the creation, granting, release or variation of any right, privilege, estate or interest in any heritable or moveable or real or personal property the subject of any mortgage, charge, standard security or other security vested in the Bank;
4. being a bond, guarantee, undertaking or indemnity or any other similar engagement by the Bank;

and generally for all or any of these purposes to act as the Bank's attorney and declares that each of the powers granted by this Power shall be read separately and in no way to be limited by reference to any other of such powers.

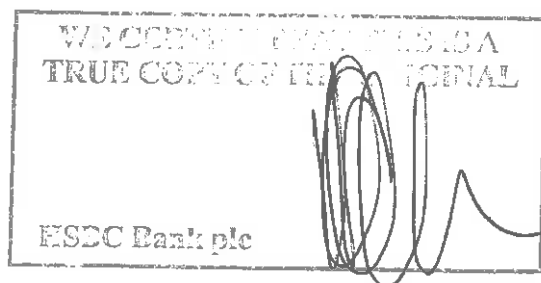
This Power of Attorney will expire twelve months from the date hereof unless previously revoked by the Bank.

IN WITNESS WHEREOF HSBC Bank plc has caused its common seal to be affixed to this deed the day and year first above written.

The COMMON SEAL of HSBC Bank plc was hereunto affixed in the presence of:

  
.....  
Authorised Signatory

  
.....  
Authorised Counter Signatory



House-Building Council;

**"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; or
- (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;

**"Reasonable Endeavours"**

means it is agreed by the parties that the party under such obligation shall not thereby be required to take proceedings (including any appeal) in any court public inquiry or other hearing but subject thereto such party shall be bound to attempt to fulfil the relevant obligation(s) by the expenditure of such effort and / or sums of money and the engagement of such professional or other advisers as in all the circumstances (including any adverse commercial implications to the party to perform such obligation) may be reasonable;

**"Registered Provider"**

means a 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 the Homes and Communities Agency for receipt of social housing grant as may be proposed by the Owner and approved by the Council;

**"South Yorkshire Annual Travel Pass"**

means the TravelMaster Annual Pass valid for all buses, trams and trains for 12 months from the date of issue by the South Yorkshire Passenger Transport Executive for its South Yorkshire Zone or any successor annual travel card and reference to "South Yorkshire Annual Travel Passes" shall be construed accordingly;

**"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;

**"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 in this Agreement shall include the successors in title and assigns of that party and in the case of the Council shall include any successor local planning authority exercising planning powers under the 1990 Act;
- 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 A reference to an Act of Parliament refers to the Act as it applies at the date of this Agreement and any later amendment or re-enactment of it and any regulations or statutory instrument made under it;

1.2.6 References to clauses paragraphs and schedules are references to clauses paragraphs and schedules to this Agreement and are for reference only and shall not affect the construction of this Agreement; and

1.2.7 Clause headings are for reference only and shall not affect the construction of this Agreement.

## 2 RECITALS

2.1 By virtue of the 1990 Act the Council is the local planning authority for the purposes of this Agreement for the area in which the Land is situated and is the Authority by whom the planning obligations hereby created are enforceable.

2.2 The First Owner is the registered proprietor with absolute title of the part of the Land registered at HM Land Registry under Title Number SYK418965.

2.3 The Second Owner is the registered proprietor with absolute title of the parts of the Land, together with other land which is not included in the Land, registered at HM Land Registry under Title Numbers SYK457922 and SYK534464.

2.4 The Third Owner is the registered proprietor with absolute title of the part of the Land registered at HM Land Registry under Title Number SYK407832.

2.5 The Developer has an interest in the part of the Land: -

2.5.1 registered at HM Land Registry under Title Number SYK418965 by way of an option agreement dated 30 June 2014 and made between the First Owner and the Developer; and

2.5.2 registered at HM Land Registry under Title Numbers SYK457922 and SYK534464 by way of an option agreement dated 30 June 2014 and made between the Second Owner and the Developer; and

2.5.3 registered at HM Land Registry under Title Number SYK407832 by way of an option agreement dated 30 June 2014 and made between the Third Owner and the Developer.

2.6 The Mortgagee has an interest in the part of the Land ("**Charged Land**") registered under SYK534464 by way of a registered charge dated 8 December 2006 and made between the Second Owner and the Mortgagee.

2.7 The Application was submitted to the Council on behalf of the Developer for planning permission for the Development.

2.8 The Council would not grant Planning Permission for the Development unless the planning obligations contained herein were entered into by the Owner.

2.9 The Owner by entering into this Agreement does so to create planning obligations in respect of the Land and each part of it 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.

### **3 OPERATIVE PROVISIONS**

3.1 This Agreement is a planning obligation made in pursuance of Section 106 of the 1990 Act as substituted by Section 12 of the Planning and Compensation Act 1991 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 and all other powers so enabling.

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

3.2.1 the Planning Permission has been granted; and

3.2.2 (except where stated otherwise in this Agreement) the Commencement of Development.

3.3 Subject to clause 3.2: -

3.3.1 The Owner hereby covenants with the Council that the Land shall be permanently from the date hereof bound by and subject to the restrictions and provisions regulating the Development and use thereof specified in the First Schedule and the Developer acknowledges that its interest in the Land will be bound by the planning obligations in the First Schedule; and

3.3.2 The Council covenants with the Owner to comply with its obligations in the Second Schedule.

3.4 It is agreed and declared as follows: -

3.4.1 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: -

- (a) occurring after he or it has parted with his or its interest in the Land or the part in respect of which such breach occurs (but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest);
- (b) if he shall be an occupier or tenant of any of the Dwellings or a purchaser of an individual Dwelling;
- (c) if it is a Statutory Undertaker which has an interest in any part of the Land for the purposes of its undertaking.

3.4.2 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 clauses 3.4.3 and 3.4.4 to the determination of a person ("**Expert**").

3.4.3 Any reference to an Expert in accordance with clause 3.4.2 shall be to a reputable person unconnected to any of the parties hereto and experienced in matters to which the subject matter of the dispute relates and 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 Law Society and the decision of the Expert 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).

3.4.4 Each of the parties to the dispute referred to an Expert pursuant to clause 3.4.3 shall be entitled to submit to the Expert representations and cross representations with such supporting evidence as they shall consider necessary and the Expert 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 Expert himself) shall be paid.

- 3.4.5 Where any notice or confirmation is to be served on the Council under the terms of this Agreement such notice or confirmation shall be sent to Head of Planning, Building Control and Sustainability Development Services at Barnsley Metropolitan Borough Council, Westgate Plaza One, PO Box 600, Barnsley, S70 9EZ, quoting the Application reference number 2014/0754.
- 3.4.6 If the Planning Permission shall expire before the Commencement of Development or shall at any time be modified (without the consent of the Owner) or revoked this Agreement shall terminate and cease to have effect and the Council shall immediately remove any entry relating to this Agreement from the Register of Local Land Charges.
- 3.4.7 Nothing in this Agreement shall be construed as restricting the exercise by the Council of any power or discretion exercisable by it under the 1990 Act or under any other Act of Parliament nor prejudicing or affecting the Council's rights powers duties and obligations in any capacity as a local or public authority.
- 3.4.8 The obligations hereby created shall be registered as a Local Land Charge.
- 3.4.9 No person who is not a party to this Agreement may enforce any terms hereof pursuant to the Contracts (Right of Third Parties) Act 1999 provided that this clause shall not affect any right of action of any person to whom this Agreement has been lawfully assigned or becomes vested in law.
- 3.4.10 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted after the date of this Agreement.
- 3.4.11 The Developer shall pay to the Council its reasonable legal fees incurred in the preparation negotiation and completion of this Agreement.
- 3.4.12 Wherever this Agreement requires the approval agreement determination or consent of the Council or the Owner such approval agreement determination or consent is not to be unreasonably withheld or delayed.
- 3.4.13 The parties shall act reasonably and in good faith in the performance of their obligations in this Agreement.

- 3.4.14 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.
- 3.4.15 While the First Owner acts in the capacity of trustees no individual trustee is to be personally liable for any breach of their obligations under this Agreement except to the extent of the value of the trust fund or estate held by them at the time they receive written notice of any claim.
- 3.4.16 The Mortgagee consents to the giving of the obligations on the part of the Second Owner in relation to the Charged Land.
- 3.4.17 The Mortgagee acknowledges that the part of the Charged Land is bound by the restrictions and obligations contained in this Agreement and that this Agreement will be binding on its successors in title and agrees to be bound by them in the event that it becomes a mortgagee in possession but that its liability will cease once it has parted with its interest in the Charged Land (without prejudice to its liability for any subsisting breach of covenant prior to parting with such interest). For the avoidance of doubt, the Mortgagee or any of its representatives including any receivers appointed shall only be liable for any breach of this Agreement if itself caused the breach whilst mortgagee or any of its representatives including any receivers in possession and shall in no circumstances be liable for any pre-existing breach. The Mortgagee or any of its representatives including any receivers appointed shall have no liability after it has discharged its security or has disposed of the Charged Land which is subject to its security whether by sale or otherwise save for any liabilities under this Agreement which were initiated whilst they were a mortgagee in possession.

**FIRST SCHEDULE**  
(“the Owner's Covenants”)

The Owner hereby covenants with the Council: -

1. **AFFORDABLE HOUSING**

**On-Site Affordable Housing Provision**

1.1 The Affordable Rented Dwellings shall not be used or Occupied other than as Affordable Rented Dwellings and the Intermediate Dwellings shall not be used or Occupied other than as Intermediate Dwellings save that the Affordable Rented Dwellings may be used as Intermediate Dwellings and the Intermediate Dwellings may be used as Affordable Rented Dwellings with the written permission of the Assistant Director of Planning and Regulatory Service and further this obligation shall not be binding on:

1.1.1 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 charges;

1.1.2 any Chargee provided that the Chargee shall have first complied with the obligations at paragraph 1.2 of this Schedule; or

1.1.3 any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor.

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

1.2.1 in the event that the Council responds within 30 Working 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 shall use its best endeavours to secure such transfer;

1.2.2 if the Council does not serve its response to the notice served under paragraph 1.2.1 of this Schedule within 30 Working Days then the Chargee shall be entitled to dispose of the Affordable Housing Units free of the restrictions set out in this Schedule as Open Market Dwellings;

1.2.3 if the Council or any other person cannot within 40 Working Days of the date of service of its response under paragraph 1.2.1 of this Schedule secure such transfer then provided that the Chargee shall have complied with its obligations under paragraph 1.2 of this Schedule the Chargee shall be entitled to dispose free of the restrictions set out in this Schedule as Open Market Dwellings

**PROVIDED THAT** at all times the rights and obligations in this paragraph 1.2 shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council must give full consideration to protecting the interest of the Chargee in respect of moneys outstanding under the charge or mortgage.

- 1.3 The plot locations of the Affordable Housing Units have been agreed between the Council and the Owner and are indicated on Plan 2.
- 1.4 Subject to paragraph 1.10 of this Schedule not to cause or permit more than 40 of the Open Market Dwellings to be Occupied until all of Affordable Housing Units have been constructed to the same external standard as the Open Market Dwellings and transferred to a Registered Provider at the Affordable Housing Unit Prices and on terms that accord with the Homes and Communities Agency funding requirements current at the date of this Agreement.
- 1.5 The Affordable Housing Units shall be transferred to a Registered Provider with the benefit of the following:
- 1.5.1 full and free rights of access both pedestrian and vehicular from the public highway to the Affordable Housing Units; and
  - 1.5.2 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.
- 1.6 The Owner shall provide the Council with notice upon the Practical Completion of each Affordable Housing Unit.
- 1.7 The Owner shall use its 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 Council's approval (such approval not to be unreasonably withheld or delayed) ("**Initial Registered Provider Transfer Terms**") **PROVIDED THAT** it is agreed for the avoidance of doubt that

the Owner shall not transfer the Affordable Housing Units to a Registered Provider not appearing on the Council's Approved List subject to any variations to the Council's Approved List that may be agreed in writing between the Council and the Owner from time to time.

- 1.8 The Owner will thereafter use Reasonable Endeavours to exchange contracts with the Registered Provider for the sale of the Affordable Housing Units and will keep the Council informed on the Owner's progress.
- 1.9 If the proposed sale does not proceed in accordance with the Initial Registered Provider Transfer Terms the Owner will continue to use Reasonable Endeavours to exchange contracts with an alternative Registered Provider appearing on the Council's Approved List (subject to any variations to the Council's Approved List that may be agreed in writing between the Council and the Owner from time to time) and will keep the Council informed of the Owner's progress.
- 1.10 If any of the Affordable Housing Units have not been contracted for sale to the Registered Provider within nine calendar months of the date of Practical Completion of the Affordable Housing Unit or such earlier date agreed in writing by the Council and the Council is satisfied that paragraphs 1.7 to 1.9 of this Schedule have been complied with then the Owner shall pay the Affordable Housing Commuted Sum to the Council **PROVIDED THAT** such sum shall only be payable in respect of those Affordable Housing Units not already transferred to a Registered Provider and upon such payment the Owner will be free to offer such dwellings for sale on the open market free from the obligations in this Schedule as Open Market Dwellings.
- 1.11 Any agreement to sell or transfer the Affordable Housing Units to a Registered Provider shall contain the following minimal provisions:
- 1.11.1 The grant by the Owner of all rights of access and passage of services and other rights reasonably necessary to the beneficial enjoyment of the Affordable Housing Unit; and
- 1.11.2 A reservation of all rights of access and passage of services and rights of entry reasonably necessary for the benefit of the remainder of the Open Market Dwellings.

**Off-Site Affordable Housing Provision**

- 1.12 To notify the Council prior to the Commencement of Development and not to Commence Development until £425,760.50 of the Affordable Housing Contribution as Index Linked has been paid to the Council.

1.13 To notify the Council prior to Occupation of more than 30 Dwellings and not to Occupy more than 30 of the Dwellings until the balance of £425,760.50 of the Affordable Housing Contribution as Index Linked has been paid to the Council.

2. **EDUCATION CONTRIBUTION**

2.1 To notify the Council prior to the Commencement of Development and not to Commence Development until £45,656.00 of the Education Contribution as Index Linked has been paid to the Council.

2.2 To notify the Council prior to the Occupation of more than 30 of the Dwellings and not to Occupy more than 30 of the Dwellings until the balance of £45,656.00 of the Education Contribution as Index Linked has been paid to the Council.

3. **HOYLANDSWAINE PRIMARY SCHOOL CAR PARK CONTRIBUTION**

3.1 To notify the Council prior to the Commencement of Development and not to Commence Development until the Hoylandswaine Primary School Car Park Contribution as Index Linked has been paid to the Council.

4. **OFF-SITE OPEN SPACE CONTRIBUTION**

4.1 To notify the Council prior to the Commencement of Development and not to Commence Development until £57,616.84 the Off-Site Open Space Contribution as Index Linked has been paid to the Council.

4.2 To notify the Council prior to the Occupation of more than 30 Open Market Dwellings and not Occupy more than 30 of the Dwellings until the balance of £57,616.84 of the Off-Site Open Space Contribution as Index Linked has been paid to the Council.

5. **SOUTH YORKSHIRE ANNUAL TRAVEL PASS**

5.1 On the date of the sale of a Dwelling to the First Occupier the Owner shall offer in writing to the First Occupier of that Dwelling to supply, or to procure the supply of, at the Owner's expense a single South Yorkshire Annual Travel Pass **PROVIDED THAT** it is hereby agreed that: -

5.1.1 the Owner shall not be obliged to offer to provide more than one South Yorkshire Annual Travel Pass per Dwelling irrespective of the number of occupiers living in the relevant Dwelling; and

5.1.2 in the event the First Occupier of a Dwelling does not accept the offer of a South Yorkshire Annual Travel Pass within 25 working days of the date of the offer by the Owner the Owner's liability under this paragraph 5 in relation to that Dwelling shall cease and determine; and

5.1.3 the obligation on the part of the Owner contained in this paragraph 5.1 shall only apply for so long as South Yorkshire Annual Travel Pass are obtainable on the open market at a cost to the Owner which shall be no greater than the price payable by members the public for such South Yorkshire Annual Travel Pass; and

5.1.4 the Owner's maximum liability in connection with providing South Yorkshire Annual Travel Passes in accordance with paragraph 5 of this Schedule shall be limited to and in any event shall not exceed £33,858.00.

5.2 In the event that the First Occupier accepts the offer made by the Owner in accordance with paragraph 5.1 of this Schedule to provide or procure the provision of to that First Occupier a South Yorkshire Annual Travel Pass within 25 working days of receiving notification of acceptance from the First Occupier.

**SECOND SCHEDULE**  
(“the Council’s Covenants”)

The Council hereby covenants with the Owner: -

**General**

- 1 The Council will on the reasonable written request of the Owner at any reasonable time or times after any of the planning obligations under this Agreement have been fulfilled issue written confirmation thereof and / or at any reasonable time after all of the planning obligations under this Agreement have been fulfilled or at any reasonable time after this Agreement ceases to have effect issue written confirmation thereof and thereafter cancel all relevant entries in the Register of Local Land Charges.
- 2 To issue separate receipts on request for any sum or contribution paid to the Council under this Agreement.

**Contributions**

- 3 To apply, if applicable, the Affordable Housing Commuted Sum towards the purposes specified in this Agreement and not to apply the Affordable Housing Commuted Sum for any other purposes and the Council shall (on the reasonable request of the payee or the payee's nominee) provide evidence that the monies have been so applied.
- 4 To apply the Affordable Housing Contribution towards the purposes specified in this Agreement the need for which directly arises from the Development and not to apply the Education Contribution for any other purposes and the Council shall (on the reasonable request of the payee or the payee's nominee) provide evidence that the monies have been so applied.
- 5 To apply the Education Contribution towards the purposes specified in this Agreement the need for which directly arises from the Development and not to apply the Education Contribution for any other purposes and the Council shall (on the reasonable request of the payee or the payee's nominee) provide evidence that the monies have been so applied
- 6 To apply the Hoylandswaine Primary School Car Park Contribution towards the purposes specified in this Agreement the need for which directly arises from the Development and not to apply the Hoylandswaine Primary School Car Park Contribution for any other purposes and the Council shall (on the reasonable request of the payee or the payee's nominee) provide evidence that the monies have been so applied.

- 7 To apply the Off-Site Open Space Contribution towards the purposes specified in this Agreement the need for which directly arises from the Development and not to apply the Education Contribution for any other purposes and the Council shall (on the reasonable request of the payee or the payee's nominee) provide evidence that the monies have been so applied.

**Repayment**

- 8 That in the event the Affordable Housing Contribution and / or the Education Contribution and / or the Hoylandswaine Primary School Car Park Contribution and / or the Off-Site Open Space Contribution and / or, if applicable, the Affordable Housing Commuted Sum or any part or parts thereof are not expended within five years of the date of payment (or the date of payment of the final instalment if applicable) of such payment then the sum or sums not expended plus interest accrued will be repaid to the Owner or its nominee.

**THIRD SCHEDULE**  
**("Draft Decision Notice")**

7

## RECOMMENDATION SHEET

App. No 2014/0754

**Applicant:**  
BDW Trading  
Vico Court  
Ring Road  
Lower Wortley  
Leeds  
LS12 6AN

**Agent:**  
Mr Mark Johnson  
Johnson Brook  
Regent House  
5 Queen Street  
Leeds  
LS1 2TW

**Description:**  
Residential development of 67no.  
dwellings and associated infrastructure.

**Location:**  
Land at Church Lane  
Hoylandswaine  
Barnsley

**Outline:**

**Recommendation: Approved Subject to Legal Agreement**

**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 following plans and specifications as approved unless required by any other conditions in this permission:-

Location Plan - KSL Designs (HS-LP/01 rev 0)  
Planning Layout - HS-PL / 01 Rev F  
36186/011 Rev B 'Highway Access and Road Construction Details  
House type 469 Elevations (AD-469/01)  
House type 469 Floor Plans (AD-469/02)  
House type 454 Elevations (AD-454/01)  
House type 454 Floor Plans (AD-454/02)  
House type 497 Elevations (AD-497/01)  
House type 497 Floor Plans (AD-497/02)  
House type 500 Floor Plans (AD-500/02)  
House type 500 Elevations (AD-500/01)  
House type 500C Elevations (AD-500C/01)  
House type 500C Floor Plans (AD-500C/02)  
House type 534 Elevations (AD-534/01)  
House type 534 Floor Plans (AD-534/02)

**Signed**

**Date**

**Committee**

**Delegated**

**Signed**

**Principal Planning Officer**

**Date**

**Signed**

**Development Control Manager**

**Date**

**Sub-Committee**

**Section**

**Date**

House type 536 Elevations (AD-536/01)  
House type 536 Floor Plans (AD-536/02)  
House type 546 Elevations (AD-546/01)  
House type 546 Floor Plans (AD-546/02)  
House type 383 Elevations (AD-383/01)  
House type 383 Floor Plans (AD-383/02)  
Berrington Elevations and Plans (AD-BER/01)  
Garage Single (GS/01)  
Garage Double (GD/01)  
Garage Twin (GT/01)  
Garage Triple (GT/01)

Reason: In the interests of the visual amenities of the locality and in accordance with LDF Core Strategy Policy CSP 29, Design.

- 3 The finished floor levels for the dwellings shall be in substantial accordance with Eastwood and Partners drawing numbers 36186/019 and 36186/20 rev C in accordance with final plans to be submitted and approved by the Local Planning Authority prior to the commencement of development. The plans shall detail 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 LDF Core Strategy Policy CSP 29, Design.

- 4 No development shall take place until full details of the proposed external materials have been 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 LDF Core Strategy Policy CSP 29, Design.

- 5 Pedestrian intervisibility splays, having the dimensions 2m x 2m, shall be safeguarded at the drive entrance/exit such that there is no obstruction to visibility at a height exceeding 1m.

Reason: In the interest of highway safety, in accordance with Core Strategy Policy CSP 26.

- 6 Visibility splays, having the dimensions 2.4m x 43m, shall be safeguarded at all the internal road junctions such that there is no obstruction to visibility.

Reason: In the interest of highway safety, in accordance with Core Strategy Policy CSP 26.

- 7 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:

Measures to prevent parking at the junction of Church Lane/Haigh Lane, and the northern side of Church Lane

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 Core Strategy Policy CSP 26.

8

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:

- The parking of vehicles of site operatives and visitors
- Means of access for construction traffic
- Loading and unloading of plant and materials
- Storage of plant and materials used in constructing the development
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- Wheel washing facilities
- Measures to control the emission of dust and dirt during construction
- Measures to control noise levels during construction

Reason: In the interests of highway safety, residential amenity and visual amenity, in accordance with Core Strategy Policies CSP 26 and CSP 40.

9

Vehicular and pedestrian gradients within the site shall not exceed 1:12.

Reason: In the interest of highway safety, in accordance with Core Strategy Policy CSP 26.

10

Prior to any works commencing on-site, a condition survey (including structural integrity) of the highways to be used by construction traffic shall be carried out in association with the Local Planning Authority. The methodology of the survey shall be approved in writing by the Local Planning Authority and shall assess the existing state of the highway. On completion of the development a second condition survey shall be carried out and shall be submitted for the written approval of the Local Planning Authority, which shall identify defects attributable to the traffic ensuing from the development. 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: In the interest of highway safety, in accordance with Core Strategy Policy CSP 26.

11

Prior to the occupation of the development a draft Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall indicate measures that will be put in place to encourage travel by modes other than the private car, and allow for regular reporting and monitoring to be undertaken. Subsequently, within six months of the site becoming operational, a detailed travel plan shall be submitted to the Local Planning Authority and once approved, it shall be fully implemented and retained as such thereafter.

Reason: In the interest of promoting use of public transport, in accordance with Core Strategy Policy CSP 25.

12 No development shall take place until:

- (a) Full foul and surface water drainage details, including a scheme to reduce surface surface water run-off by at least 30% and a programme of works for

Signed

Date

Committee

Delegated

Signed

Principal Planning Officer

Date

Signed

Development Control Manager

Date

Sub-Committee  
Section

Date

implementation, have been submitted to and approved in writing by the Local Planning Authority:

(b) Porosity tests are carried out in accordance with BRE 365, to demonstrate that the subsoil is suitable for soakaways;

(c) Calculations based on the results of these porosity tests to prove that adequate land area is available for the construction of the soakaways;

Thereafter no part of the development shall be occupied or brought into use until the approved scheme has been fully implemented and the scheme shall be retained throughout the life of the development.

Reason: To ensure proper drainage of the area, in accordance with Core Strategy policy CSP4.

- 13 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority, full details of both hard and soft landscaping works, including details of the species, positions and planted heights of proposed trees and shrubs; together with details of the position and condition of any existing trees and hedgerows to be retained. The approved hard landscaping details shall be implemented prior to the occupation of the buildings.  
Reason: In the interests of the visual amenities of the locality, in accordance with Core Strategy Policy CSP 29.
- 14 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which die within a period of 5 years from the completion of the development, 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 Core Strategy Policy CSP 29.
- 15 A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas for a minimum of 5 years, shall be submitted to and approved by the Local Planning Authority prior to the occupation of the development or any part thereof, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out in accordance with the approved plan.  
Reason: In the interests of the visual amenities of the locality, in accordance with Core Strategy Policy CSP 29.
- 16 Prior to the commencement of development or other operations being undertaken on site in connection with the development, the following documents prepared in accordance with BS5837 (Trees in Relation to Construction 2005: Recommendations) shall be submitted to and approved in writing by the Local Planning Authority:

Tree constraints plan (TCP)  
Tree protection plan (TPP)  
Arboricultural method statement (AMS)

No development or other operations shall take place except in complete accordance with the approved methodologies. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be

maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced off in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

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

- 17 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 Core Strategy Policy CSP 40.
- 18 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the position of boundary treatment to be erected. The boundary treatment shall be completed before the dwelling is occupied. Development shall be carried out in accordance with the approved details.  
Reason: In the interests of the visual amenities of the locality and the amenities of occupiers of adjoining property in accordance with Core Strategy policy CSP 29.
- 19 The dwellings shall achieve a Code Level 3 in accordance with the requirements of the Code for Sustainable Homes: Technical Guide (or such national measure of sustainability for house design that replaces that scheme). No dwelling shall be occupied until a Final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.  
Reason: In the interest of sustainable development in accordance with Core Strategy Policy CSP2.
- 20 Prior to commencement of development, details of a scheme to reduce the developments carbon dioxide emissions by at least 15% below levels permissible under part L of the 2010 Building Regulations by using decentralised, renewable or low carbon energy sources or other appropriate design measures 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 and upon completion of the development a report shall be submitted to and approved by the Local Planning Authority demonstrating that at least a 15% reduction in carbon dioxide emissions has been achieved. In the event that the use of other decentralised, renewable or low carbon energy sources or other appropriate design measures are also required to achieve a 15% reduction in carbon dioxide emissions, full details of such proposals and a timetable for their implementation shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The approved details shall be implemented in accordance with the approved timetable and all the approved measures shall be retained as operational thereafter.

Signed

Date

Committee

Delegated

Signed

Principal Planning Officer

Date

Signed

Development Control Manager

Date

Sub-Committee

Section

Date

Reason: In the interest of sustainable development, in accordance with Core Strategy policy CSP5.

- 21 Prior to commencement of development full details of the mitigation measures identified in the JCA Limited Ecological Survey report ref 11385/DR rev 1, including a timetable for their implementation, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To conserve and enhance biodiversity in accordance with Core Strategy Policy CSP 36.

- 22 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 Core Strategy Policy CSP 30.

- 23 No building or other obstruction shall be located over or within 5.0 (five) metres either side of the centre line of the large diameter water mains or within 3.0 (three) metres either side of the centre line of the sewer which cross the site unless otherwise agreed with Yorkshire Water.

Reason: In order to allow sufficient access for maintenance and repair work at all times.

- 24 No development shall commence until details for the provision of grit bins within the development have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to occupation of the dwellings, or an alternative timetable to be agreed with the Local Planning Authority.

Reason: In the interest of highway safety, in accordance with Core Strategy Policy CSP 26.

**Informative(s)**

1	This permission shall not be construed as granting rights to carry out works on, under or over land not within the ownership, or control, of the applicant.
2	<p>The applicant should note the informative comments provided in the following formal consultation responses received by the Local Planning Authority:-</p> <p>Senior Engineer - Drainage and Highways 17th July 2014 EA response 6th August 2014 SYAS - 28th October 2014</p>
3	<p>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.</p> <p>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). Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at: <a href="https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries">https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries</a></p> <p>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.</p> <p>Property specific summary information on past, current and future coal mining activity can be obtained from: <a href="http://www.groundstability.com">www.groundstability.com</a></p> <p>If any of the 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 website at: <a href="http://www.gov.uk/government/organisations/the-coal-authority">www.gov.uk/government/organisations/the-coal-authority</a></p>

**Signed**

**Date**

**Committee**

**Delegated**

**Signed**

**Principal Planning Officer**

**Date**

**Signed**

**Development Control Manager**

**Date**

**Sub-Committee**

**Section**

**Date**

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

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



Borough Secretary/Authorised Signatory

No. 1436  
IN REGISTER

EXECUTED AS A DEED BY )  
DAVID RICHARD MACKRILL )  
in the presence of: )

Signature

Name of witness

Address

Occupation

EXECUTED AS A DEED BY )

ELIZABETH ANNE CARBY )

in the presence of: )

Signature

Name of witness

Address

Occupation

EXECUTED AS A DEED BY )

JOSEPH DAVID GERALD CARBY )

in the presence of: )

Signature

Name of witness

Address

Occupation

**EXECUTED AS A DEED BY** )  
**JAMES EDWARD MAKINGS** )  
in the presence of: )

Signature

Name of witness

Address

Occupation

**EXECUTED AS A DEED BY** )  
**JULIE ELIZABETH MAKINGS** )  
in the presence of: )

Signature

Name of witness

Address

Occupation

SIGNED and DELIVERED as a DEED )  
(but not delivered until the date hereof) by )

and )

as the Attorney in the name of )  
BDW TRADING LIMITED )  
in exercise of the power conferred upon )  
them by a Power of Attorney )  
dated 16 September 2014 )  
in the presence of:- )

Witness Signature

Name

Address

Occupation

IN WITNESS WHEREOF this document )  
which is intended to take effect as a DEED has )  
been duly executed by a duly authorised Official )  
of the Bank as Attorney of the Bank the day and )  
year first above written )

SIGNED AND DELIVERED

by



Attorney of  
HSBC Bank Plc

in the presence of: -

Witness:

Address:

Occupation:

) Signed as a Deed by:-   
RICKY ETIMAN HARPER  
As Attorney for HSBC Bank plc  
In the presence of:-   
DAVID MATTHEW SANDERSON  
HSBC Bank plc  
PO Box 6308, Coventry, CV3 9LB  
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