

DATED 8th December 2017

BARNSELY METROPOLITAN BOROUGH COUNCIL

and

TOGETHER HOUSING ASSOCIATION LIMITED

DEED OF VARIATION

Pursuant to Section 106 and Section 106A of the Town and Country Planning Act
1990 (as amended) relating to development on land at Kings Street Hoyland
Barnsley in the County of South Yorkshire

A.C. Frosdick, LL.B. DipLG
Executive Director Core Services
Town Hall
Barnsley
S70 2TA

THIS DEED OF VARIATION is made the 8th day of December Two Thousand and Seventeen

BETWEEN

(1) **BARNSELY METROPOLITAN BOROUGH COUNCIL** of Town Hall Barnsley South Yorkshire S70 2TA ("the Council") of the first part and

(2) **TOGETHER HOUSING ASSOCIATION LIMITED** (Co-operative and Community and Benefit Society No:28687R) of Bull Green House Bull Green Halifax HX1 2EB of the second part ("**Owner**").

RECITALS

(1) This Deed of Variation is supplemental to an agreement entered into pursuant to Section 106 of the Town and Country Planning Act 1990 between (1) the Council and (2) D J Atkinson Construction Limited dated 2nd February 2017 ("the Section 106 Agreement") in respect of land at Kings Street Hoyland ("the Land").

(2) The Owner is entitled to be registered as the freehold proprietor with Title Absolute of the Land under Land Registry Title Number SYK555160, SYK516051 and SYK607537 pursuant to a transfer between the Council and D J Atkinson Construction Limited and a transfer from D J Atkinson to Together Housing Association Limited both dated 15th February 2017 and has made an application for the land to be so registered. The Council is the freehold owner subject to this interest.

(3) This Owner has applied for a varied planning permission under section 73 of the Town and Country Planning Act 1990 and this Deed ensures that the obligations contained in the Original Section 106 Agreement apply to any new varied planning permission issued

(5) Any words or phrases which are defined in the Section 106 Agreement and which appear in this Deed of Variation shall have the same meaning as are associated to them in the Section 106 Agreement unless a contrary intention appears from this Deed of Variation.

NOW THIS DEED WITNESSETH AS FOLLOWS:-

1 Variation

- 1.1 It is hereby agreed between the parties to this Variation Agreement that the Section 106 Agreement is varied in the manner set out in the Schedule to this Deed of Variation and the Section 106 Agreement shall remain in full force and effect and the amendments contained in this Variation Agreement shall take effect as if they were included in the Section 106 Agreement.
- 1.2 This Deed of Variation is made pursuant to the statutory provisions and in consideration of the covenants contained herein and for the avoidance of doubt it is agreed and declared that the said covenants are ones to which section 111 of the Local Government Act 1972, Section 106 and Section 106A of the Town and Country Planning Act 1990 and all other powers so enabling are to apply.
- 1.3 This Deed of Variation contains planning obligations made pursuant to Section 106 and varied pursuant to Section 106A of the Town and Country Planning Act 1990 which are enforceable by the Council and shall bind the Land and the Additional Land.

- 1.4 The provisions of this Deed of Variation shall have immediate effect upon the completion of this Deed.

2 Miscellaneous

- 2.1 The Owner agrees to pay the Council's legal fees in respect of the drafting, negotiation and completion of this Deed of Variation in the sum of £500.
- 2.2 The Owner warrants that there are no other interests in the Land other than those outlined in recital paragraph (2) above.

Schedule

The parties hereby mutually agree to vary and supplement the terms of the Section 106 Agreement so that the Section 106 Agreement shall from and including the date of this Deed of Variation be read and construed as follows:

1. The Interpretations section of the Section 106 Agreement shall be amended so as to replace the definition of "Planning Permission" with the following wording

"Planning Permission" means the planning permission reference number 2016/1105 for the erection of 30 Dwellings on the Site AND/OR planning permission reference number 2017/0737

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

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

Authorised Signatory

710

EXECUTED as a **DEED** by affixing the Common Seal of)
TOGETHER HOUSING
ASSOCIATION LIMITED)

In the presence of

A. Garrard

Authorised signatory

Authorised signatory

