DATED 19th May 2016

BARNSLEY METROPOLITAN BOROUGH COUNCIL

and

BAPP MANAGEMENT COMPANY LIMITED

AGREEMENT

under Section 106 of the Town and Country Planning Act 1990 (as amended) relating to the former Grove Street Primary School Grasmere Road Barnsley in the County of South Yorkshire

A.C. Frosdick, LL.B. DipLG,
Director Legal & Governance
Town Hall,
Barnsley S70 2TA.

THIS DEED OF AGREEMENT is made the 19th day of May Two Thousand and Sixteen

BETWEEN

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

(2) **BAPP MANAGEMENT COMPANY LIMITED** (Company number 05498711) whose registered office is situate at Norcroft Grange Norcroft Lane Cawthorne Barnsley South Yorkshire S75 4DJ ("the Owner") of the second part.

RECITALS

(1) The Council is the Local Planning Authority for the purposes of this Agreement for the area within which the Land is situated and is the authority by whom the obligations contained in this Agreement are enforceable.

(2) The Owner is the registered freehold proprietor of the Land under land registry title numbers SYK525701 and SYK538157.

(3) The Owners have submitted the Application to the Council and the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this deed.

(4) The parties agree that the obligations contained within this Agreement comply with regulation 122 of the Community Infrastructure Levy Regulations 2010

NOW THIS DEED WITNESSETH AS FOLLOWS:-

DEFINITIONS

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

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

"the Application" means the application for planning permission registered the reference number 2015/0462 submitted to the Council for the demolition of the existing school and erection of 32 dwellings and associated infrastructure;

"the Development" means the development of the Land in accordance with the Planning Permission

"Commencement of Development" means the date upon which any material operation within the meaning of Section 56 (4) of the 1990 Act forming part of the Development begins to be carried out and Commence Development shall be construed accordingly provided that for the avoidance of doubt works of site clearance including demolition shall not amount to Commencement of Development

"Education Contribution" means the sum of £49,168.00 (forty nine thousand one hundred and sixty eight pounds) to be paid to the Council towards the provision or improvement of primary school accommodation within the Central Ward of the Council's administrative area

"Open Spaces Contribution" means the sum of £30,000.00 (thirty thousand pounds) to be paid to the Council towards the provision or improvement of public open spaces within three miles of the boundary of the Land;

"Index" means the All In Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation or if that Price Index ceases to exist such index as the Council reasonably nominates

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

"The Land" means the land described in the First Schedule.

"Plan" means the plan annexed hereto

"Planning Permission" means the planning permission to be granted by the Council pursuant to the Application.

CONSTRUCTION OF THIS DEED

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

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

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

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

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

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

3 LEGAL BASIS

This Agreement is made pursuant to section 106 of the Town and Country Planning Act 1990 section 111 of the Local Government Act 1972 section 1 of the Localism Act 2011 and all other enabling powers and is a planning obligation for the purposes of and as defined in the said Section 106 and the covenants restrictions and requirements imposed on the

Owners herein are enforceable by the Council as local planning authority against the Owners.

4 COMMENCEMENT

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

5 OWNER'S COVENANTS

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

6 MISCELLANEOUS

6.1 The Owners shall pay to the Council on completion of this Deed the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed being £1000.

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

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

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

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

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

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

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

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

6.10 This Deed is governed by and interpreted in accordance with the law of England and Wales.

7 INDEXATION

Any sum payable under this Deed by the Owners 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 payable.

8 INTEREST

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

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

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

No. 2216
IN REGISTER

Authorised signatory

EXECUTED AS A DEED by

Bapp Management Company Limited
acting by a director

Signature of Director:

in the presence of:

Signature of witness
Name (in BLOCK CAPITALS
Address

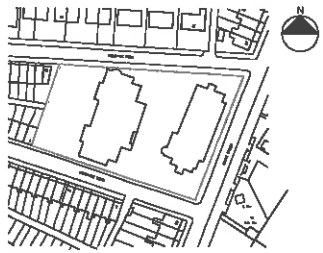
SIMON P ALLIOTT
NOTARY PUBLIC & SOLICITOR
Wosskow Brown Solicitors
31 Regent Street, Barnsley, S70 2HJ

FIRST SCHEDULE

All that land at former Grove Street Primary School Grasmere Road Barnsley South Yorkshire S71 1ES for the purpose of identification shown edged red on the Plan.



SCALE 1/500 @ A1



SCALE 1/1250 @ A1

Revision Date

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CARL LEE	Client
GROVE STREET, BARNSLEY	Job
LOCATION & RED LINE PLAN	Title

DRAWN	CHECKED	DATE	SCALE	
MB		04 2015	AS ISSUED	At stated
			VARIES	VARIES
REVISION	DRAWING STATUS		DRAWING NUMBER	
-	PLANNING		2256_101	

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The Contractor must verify all dimensions on site before making shop drawings or commencing work of any kind. No dimensions to be scaled from this drawing. Architect to be notified of any discrepancies in dimensions immediately.

SECOND SCHEDULE

The Owners hereby covenant with the Council as follows:

1 To pay the Open Spaces Contribution to the Council upon Commencement of Development

2 Not to Commence Development until the Open Spaces Contribution has been paid

3 To pay the Education Contribution to the Council within three months of the Commencement of Development

4 Not to continue to implement the Development until the Education Contribution has been paid in accordance with paragraph 3 above