

DATED

10<sup>th</sup> June,

2019

**BARNSELY METROPOLITAN BOROUGH COUNCIL**

and

**COMPANY SHOP LIMITED**

and

**ROUSE HOMES LIMITED**

**AGREEMENT**

under Section 106 of the Town and Country Planning Act 1990 (as amended)  
relating to development on land to the South East of New Road, Tankersley,  
Barnsley, in the County of South Yorkshire

THIS AGREEMENT is made the

10<sup>th</sup>

day of

June.

2019

**BETWEEN:-**

- (1) **BARNSELY METROPOLITAN BOROUGH COUNCIL** of Town Hall, Barnsley, South Yorkshire, S70 2TA ("**Council**") of the first part;
- (2) **COMPANY SHOP LIMITED** (Company Registration No: 01927437) of Wentworth Way, Tankersley, Barnsley, South Yorkshire S75 3DH ("**Owner**") of the second part; and
- (3) **ROUSE HOMES LIMITED** (Company Registration No: 05355540) of 12a-16 North Street, Wetherby, West Yorkshire LS22 6NN ("**Developer**") of the third part.

**WHEREAS**

1. The Council is the local planning authority pursuant to the Town and Country Planning Act 1990 and the local highway authority for the purposes of the Highways Act 1980 for the area in which the Site is situated and is the authority by whom the planning obligations hereby created are enforceable.
2. The Owner is the freehold proprietor of the Site registered at H.M. Land Registry under title numbers SYK311332 and SYK88442.
3. The Developer has an interest in the Site by virtue of a Conditional Contract with the Owner dated 18 September 2018. The intention is that the obligations in this agreement will become binding on the Developer once it acquires the Site pursuant to the Conditional Contract.
4. The Application was submitted to the Council by the Developer for planning permission for the Development.
5. The Council would not have been willing to grant the Planning Permission but for this agreement because of the need to:
  - (i) Secure the provision of Affordable Housing on the Site;
  - (ii) Secure the provision of a financial contribution towards the provision of and/or enhancement of education facilities; and
  - (iii) Secure the provision of a financial contribution towards the provision of public open space.
6. The Owner by entering into this agreement does so to create planning obligations in respect of the Site 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, which may be enforced by the Council against the Owner or any person or persons deriving title from them.

**1 INTERPRETATION**

1.1 In this agreement unless the context otherwise requires the following words and expressions shall have the meanings respectively assigned to them in this Clause:-

**"1990 Act"** means the Town and Country Planning Act 1990 as amended

**"Affordable Housing"** means housing for sale (as Shared Ownership Dwellings) or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with the definition in Annex 2 of the National Planning Policy Framework (or any future guidance or initiative that replaces or supplements it);

**"Affordable Housing Commuted Sum"** means the sum ~~or~~ equal to the difference between:

(i) the Open Market Value of the Affordable Housing Units required to be provided pursuant to this Agreement and

(ii) the price that would be financially viable for a Registered Provider to acquire the Affordable Housing Units

that may be used by the Council in lieu of the provision of Affordable Housing on the Site for the provision of or improvements to Affordable Housing in the following priority areas (1) ~~Tankersley area as defined in the Councils Development Plan Core Strategy; (2) Urban Barnsley as defined in the Councils Development plan core strategy;~~ (3) the Council's administrative area.

*Peristone and Dodworth*

**Affordable Housing Units** means the Dwellings of Affordable Housing comprising Affordable Rent Housing and Shared Ownership to be made available through a Registered Provider in accordance with Clause 3 (or such other mix of tenure as may be agreed between the Council and the Owner) and reference to Affordable Housing Unit shall be construed accordingly;

**"Affordable Rent"** means an affordable rent of no more than 80% of the local market rent for Tankersley;

**"Affordable Rented Dwellings"** has the same meaning as the term "affordable housing for rent" contained in the definition of Affordable Housing contained in the glossary at Annex 2 of the National Planning Policy Framework and comprises one x 3 bed Bedale house type to be provided on Plot 1 and one x 2 bed Malham house type on Plot 16 or such other

locations and house types that may be agreed in writing between the Owner and the Council;

**“Application”** means the application reference number 2018/1361 and registered by the Council on 24 October 2018 for the demolition of existing buildings and residential development of 29 dwellings and associated works on the Site;

**“Chargee”** means any mortgagee or chargee of the Registered Provider or the successors in title to the Registered Provider or such mortgagee or chargee of any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925;

**“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 other than (for the purposes of this agreement and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and “Commence Development” shall be construed accordingly.

**“Council’s Approved List”** means the following Registered Providers: Berneslai Homes Limited, South Yorkshire Housing Association Ltd, Yorkshire Housing Ltd, Guinness Northern Counties Limited, Equity Housing Group Limited, Leeds in Yorkshire Housing Association Ltd, Together Housing Associated Ltd and Wakefield and District Housing Ltd or such other Registered Providers which may be agreed in writing between the Owner and Council from time to time.

**“Development”** means the development of the Site in accordance with the Planning Permission;

**“Dwelling”** means any dwelling (including a house flat or maisonette) to be constructed pursuant to the Planning Permission;

**Eligible Occupier** means a person or household identified in accordance with the Registered Provider’s selection criteria and who satisfies the residential conditions of the definition of Qualifying Person;

**“Education Contribution”** means the sum of £138,938 (one hundred and thirty eight thousand nine hundred and thirty eight pounds) towards the provision of and/or enhancement of education facilities Kirk Balk School in Hoyland and Horizon School in Barnsley or any other school with 5 mile radius of the Development

**“First Occupation”** means the date following completion of the Development to the extent that the Development is capable of beneficial occupation and use for the purposes permitted by the Planning Permission, upon which any part of the Development is first Occupied for the purposes permitted by the Planning Permission which 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.

**First Occupier** means the first occupier for residential purposes of each Dwelling excluding all subsequent occupations;

**Homes England** means Homes England or the Tenant Services Authority as may be applicable or any bodies undertaking the existing functions of Homes England within the meaning of Part I Housing and Regeneration Act 2008 (or as redefined by any amendment, replacement or re-enactment of such Act);

**“Index”** means the Retail Price Index published by the Office for National Statistics or any successor organisation or if that Price Index ceases to exist such index as the Council reasonably nominates;

**“Interest”** means interest at the rate of 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;

**Market Housing Units** means housing to be offered for sale at 100% of the then prevailing open market value excluding the Affordable Housing Units and reference to Market Housing Units will be construed accordingly;

**“Occupation and Occupied”** means occupation for the purposes permitted by the Planning Permission from which the Development benefits 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 “Occupy” shall be construed accordingly;

**“Plan 1”** means the plan annexed hereto with drawing number SK-02 revision D marked Plan 1

**“Planning Permission”** means the planning permission to be granted pursuant to the Application substantially in the form of the draft is annexed in the First Schedule;

**“Practical Completion”** means either:

- (a) 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

- (b) the issue of a buildmark cover note by the NHBC (or other warranty provider); and reference to 'Practically Completed' shall be construed accordingly;

**"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 contract right) in respect of a particular Affordable Housing Unit;
- (a) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit;
- (b) has been granted a shared ownership lease (or similar arrangement) by the Registered Provider in respect of an Affordable Housing Unit and has subsequently purchased all the remaining shares so that the tenant owns the entire Affordable Housing Unit;

**"Public Open Space Contribution"** means the sum of £53,757.14 (fifty three thousand even hundred and fifty seven pounds and fourteen pence) towards the provision of and/or improvement to informal open space and/or sports and/or recreation facilities within the administrative area of the Council;

**"Qualifying Person"** means a person who is an Eligible Occupier and who the Council (or the relevant Registered Provider) is satisfied does not own, or own any interest in, another property, is satisfied that the Affordable Housing Unit will be the person's only residential home

**"Registered Provider"** means a Provider as defined by the Housing and Regeneration Act 2008 or as redefined in any amendment replacement or re-enactment of such Act and registered by the Tenant Services Authority 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 and reference to Providers shall be construed accordingly;

**"Right to Acquire"** means the statutory right of an occupier of an Affordable Dwelling to acquire the freehold or leasehold (as appropriate) of the relevant Affordable Dwelling

**"Shared Ownership Dwellings"** means two Dwellings comprising one x 3 bed Bedale house type to be provided on Plot 2 and one x 2 bed Malham house type to be provided on Plot 17 or such other locations or house types that may be agreed in writing between the Owner and the Council and can include shared equity (shared ownership and equity loans) or discounted sale.

**"Shared Ownership Lease"** means the HCA Lease current at the date of this agreement

**"Staircasing"** means the ability (where applicable in law) of an occupier of an Affordable Dwelling held under a shared ownership arrangement to acquire the remaining equity in the relevant Affordable Dwelling and reference to **"Staircases"** shall be construed accordingly

**"Site"** means the land on the South West side of New Road, Tankersley, Barnsley, shown edged red on Plan 1;

**"Transfer"** means a transfer of the freehold of the Affordable Housing Units that have been delivered and unconditionally released for completion by the Owner and reference to Transfer shall include the term Transferred.

**"Working Day"** means Monday to Friday in each week excluding bank and other public holidays.

## **2 OPERATIVE PROVISIONS**

2.1 The Developer covenants with the Council to observe the restrictions and perform the obligations contained in this agreement following its acquisition of the Site pursuant to the Conditional Contract except that the obligation in clause 2.12 shall be binding on the Developer on the date this agreement is completed.

2.2 The covenants, restrictions and requirements imposed upon the Owner and the Developer 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 and the Developer.

2.3 The expressions "the Council", "the Owner" and "the Developer" shall include their successors in title and assigns.




















2.4 No person shall be liable for breach of any covenant contained in this agreement after he shall have parted with all interest in the Site 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.

2.5 No person shall be liable for any breach of the planning obligations and other provisions of this agreement:

2.5.1 if he shall be an occupier or Protected Tenant of any Dwelling or a purchaser of any Dwelling; or

2.5.2 a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee) or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a **"Receiver"**)) of the whole or any part of the Affordable

**Key**

-  Plot gate access.
-  Plot parking.
-  Plot front door.
-  Plot rear access.
-  Private drive to be Tegalur block paving.
-  Shared surface focal square to be Brindle Harrigbone block paving.
-  Private plot bin storage.
-  Bin collection area.
-  Red line submission boundary.
-  House type reference and plot number.
-  0.9m high post and 2 rail fence.
-  2.0m high screen fence.
-  1.8m high screen fence.
-  2m high screen wall.
-  Private drives to be tarmac.
-  Plot paving and patios to be 450x450 Marshalls natural saxon paving.
-  Affordable units denoting affordable rent tenure.
-  Affordable units denoting intermediate shared ownership.
-  Shed location.

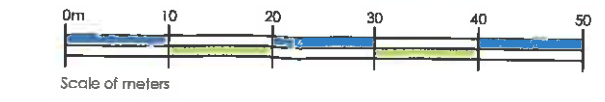


*Handwritten signatures and notes:*  
 [Signature]  
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**Revision.**  
 A/ Amended to suit AS email dated 30/11/18  
 B/ Amended to suit AS email dated 21/02/19  
 C/ Carriageway width enlarged to 6m & layout ammends as RO 14/3/19 email  
 D/ Plots 14 & 15 substituted for Linton Type to RO 02/5/19 email

**Schedule.**

TYPE A23	TYPE NAME	No	Accommodation	GROSS INTERNAL FLOOR AREA (GIA)	SGM	SGM	SGM
Ma	Malmham	3	2 Bed 2 Person	772	71.72	2,316	215.15
Be	Beddis	4	3 Bed 4 Person	698	85.42	3,592	333.70
Ke	Kenington	2	3 Bed 3 Person	1149	106.74	2,298	213.48
St	Studley	4	4 Bed 5 Person	1184	109.99	4,736	439.97
Fu	Fulwood	5	4 Bed 8 Person	1457	135.36	7,285	674.76
Ha	Harewood	2	4 Bed 7 Person	1424	132.29	2,848	264.58
No	Nestall	3	4 Bed 8 Person	1502	141.54	4,506	418.61
Sh	Shelfa	4	4 Bed 8 Person	1695	157.47	6,780	629.84
Li	Linton	2	4 Bed 7 Person	1995	185.34	3,990	370.67
		<b>31</b>				<b>34,304</b>	<b>3203.82</b>



Scale: 1:1000  
 Date: 08/04/19  
 Dig No: 109/19

North

Client: [ ]  
 Site: [ ]  
 Plan: [ ]



Dwellings or any persons or bodies deriving title through such mortgagee or chargee or Receiver **PROVIDED THAT:**

such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Dwellings and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Dwellings to another Registered Provider or to the Council for a consideration of not 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; and if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Dwellings free from the affordable housing provisions in this agreement which provisions shall determine absolutely; or

2.5.3 For the avoidance of doubt the covenants, restrictions and requirements will not be enforced or enforceable against the owner/occupier of any of the Dwellings or their mortgagee.

2.6 This agreement shall not become effective (save for clause 2.12) until the following conditions are satisfied:

2.6.1 the Planning Permission shall have been granted; *and*

2.6.2 except where otherwise stated in this agreement the ~~Planning Permission has been implemented~~ *Commencement of Development*



2.7 If the Planning Permission expires or is revoked or otherwise withdrawn or modified without the consent of the Developer this agreement shall cease to have effect from the date of the said expiration revocation withdrawal or modification (as the case may be) but without prejudice to any rights liabilities or obligations which may have been incurred by or shall have accrued to any party prior to such date

2.8 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.

2.9 The obligations hereby created shall be registered as a Local Land Charge.

2.10 Following the performance and satisfaction of all 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

- 2.11 The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this agreement
- 2.12 The Developer shall pay the Council's reasonable and proper legal fees in respect of the preparation and negotiation of this agreement up to the sum of £1500
- 2.13 No person shall be liable for breach of any covenant contained in this Agreement occurring after he or it has parted with his or its interest in the Site 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);
- 2.14 Where the agreement, approval, consent or expression of satisfaction is required by the Owner or the Developer 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, Building Control and Sustainability Development Services. 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.

### **3 AFFORDABLE HOUSING**

- 3.1 The Owner shall construct and Transfer to the Registered Provider at the price to be agreed with the Registered Provider appearing on the Council's Approved List the freehold of the Affordable Dwellings in accordance with the Planning Permission and the Affordable Dwellings shall be Transferred to the Registered Provider in the following manner:
- 3.1.1 2 Affordable Dwellings prior to the Occupation of 15 Market Housing Units
- 3.1.2 4 Affordable Dwellings prior to the Occupation of 25 Market Housing Units
- 3.2 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 avoidance of doubt, 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.

- 3.3 The Owner will thereafter use reasonable endeavours to exchange contracts with the Registered Provider agreed under paragraph 3.2 above for the sale of the Affordable Housing Units and will keep the Council informed on the Owner's progress.
- 3.4 If the proposed sale does not proceed 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.
- 3.5 If any of the Affordable Housing Units have not been contracted for sale to the Registered Provider within three calendar months of the date of Practical Completion of the last of the Affordable Housing Units or such earlier date agreed in writing by the Council and the Council is satisfied that paragraphs 3.2 to 3.4 above 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.
- 3.6 Any agreement to sell or transfer the Affordable Housing Units to a Registered Provider shall contain the following minimal provisions:
- 3.6.1 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 Units; and
- 3.6.2 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 Market Housing Units.
- 3.7 In the event that an individual occupier of an Affordable Dwelling acquires ownership pursuant to the Right to Acquire and / or Staircasing the proceeds received by the Registered Provider in relation to that transaction will be used exclusively for the provision of new units of Affordable Housing within the District of Barnsley unless otherwise as agreed in writing by the Council.
- 3.8 In the event that the Registered Provider sells an Affordable Housing Unit the proceeds received by the Registered Provider in relation to that transaction will be used exclusively for the provision of new units of Affordable Housing within the District of Barnsley unless otherwise as agreed in writing by the Council.
- 3.9 No individual occupier shall be permitted to acquire ownership of an Affordable Dwelling pursuant to a voluntary right to acquire or voluntary right to buy operated by the Registered Provider unless otherwise as agreed in writing by the Council.

3.10 The Shared Ownership Dwellings identified in clause 3.7 above for shared ownership shall be offered to each Eligible Occupier on a shared ownership leasehold basis such lease to be substantially in the form of the Shared Ownership Lease unless otherwise as agreed in writing by the Council.

3.11 The Registered Provider shall ensure that the relevant land registry restriction in the Shared Ownership Lease shall be placed on the Land Registry Register of Title for the Shared Ownership Dwellings unless otherwise as agreed in writing by the Council.

#### **4 PUBLIC OPEN SPACE CONTRIBUTION**

4.1 The Developer covenants to pay to the Council the Public Open Space Contribution as follows:

4.1.1 The sum of £17,919.05 (seventeen thousand nine hundred and nineteen pounds and five pence) prior to Commencement of Development;

4.1.2 The sum of £17,919.05 (seventeen thousand nine hundred and nineteen pounds and five pence) prior to Occupation of the 15<sup>th</sup> Dwelling; and

4.1.3 The sum of £17,919.05 (seventeen thousand nine hundred and nineteen pounds and five pence) prior to Occupation of the 25<sup>th</sup> Dwelling.

4.2 The Development will not be Commenced until £17,919.05 specified in paragraph 4.1.1 has been paid to the Council and the 15<sup>th</sup> and 25<sup>th</sup> Dwellings shall not be Occupied until the respective contributions in paras 4.1.2 and 4.1.3 .have been paid to the Council

#### **5 EDUCATION CONTRIBUTION**

5.1 The Owner shall pay the Education Contribution to the Council as follows:

5.1.1 The sum of £46,312.67 (forty six thousand three hundred and twelve pounds and sixty seven pence) prior to Commencement of Development;

5.1.2 The sum of £46,312.67 (forty six thousand three hundred and twelve pounds and sixty seven pence) prior to Occupation of the 15<sup>th</sup> Dwelling; and

5.1.3 The sum of £46,312.67 (forty six thousand three hundred and twelve pounds and sixty seven pence) prior to Occupation of the 25<sup>th</sup> Dwelling.

5.2 The Development will not be Commenced until £46,312.67 specified in paragraph 5.1.1 has been paid to the Council and the 15<sup>th</sup> and 25<sup>th</sup> Dwellings shall not be Occupied until the respective contributions in paras 5.1.2 and 5.1.3 have been paid to the Council

#### **6 INDEXATION**

6.1 Any sum payable under this agreement by the Developer 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.

## **7 INTEREST**

7.1 If any payment due by the Owner or the Developer under this agreement is paid late, interest will be payable from the date payment is due to the date of payment.

## **8 COUNCIL'S OBLIGATIONS**

8.1 The Council hereby covenants to apply the Public Open Space Contribution and the Education Contribution and the Affordable Housing Contribution (if appropriate) towards the purposes specified in this agreement.

8.2 In the event that the contributions referred to in 8.1 or any part or parts of them are not expended within ten years of the date of the final payment of the relevant sum then the sum or sums not expended plus interest (if applicable) will be repaid to the person who paid the sums or its nominee.

8.3 The Council shall provide to the Developer such evidence as the Developer shall reasonably require in order to confirm the expenditure of the sums paid by the Developer under this agreement.

8.4 At the written request of the Developer the Council shall provide written confirmation of the discharge of the obligations contained in this agreement when satisfied that such obligations have been performed.

## **9 DISPUTE RESOLUTION**

9.1 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 9.2 and 9.3 to the determination of a person ("Expert").

9.2 Any reference to an Expert in accordance with clause 9.1 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).

9.3 Each of the parties to the dispute referred to an Expert pursuant to clause 9.2 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.

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

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



Borough Secretary/Authorized Signatory



No. 1525  
IN REGISTER

EXECUTED as an AGREEMENT (but not delivered until the date hereof) by COMPANY SHOP LIMITED acting by two Directors or by a Director and its Secretary

Director



Director/~~Secretary~~



EXECUTED as an AGREEMENT (but not

delivered until the date hereof) by  
**ROUSE HOMES LIMITED** acting  
by two Directors or by a Director  
and its Secretary

Director



Director/Secretary





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

**RECOMMENDATION SHEET**

App. No 2018/1361

**Applicant:**  
Rouse Homes Ltd  
c/o Agent

**Agent:**  
ID Planning  
9 York Place  
Leeds  
LS1 2DS

**Description:**  
Demolition of existing buildings and residential development of 29no dwellings and associated works

**Location:**  
Land off New Road  
Tankersley  
Barnsley  
S75 3BQ

**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 amended plans and specifications set out below unless required by any other conditions in this permission.

Planning Layout SK/01D  
Street Scenes SK04 Rev A  
Landscape Masterplan R-2163-1C  
Landscape details R-2163-2A  
Landscape Details R-2163-3A  
Landscape Details R-2163-4A  
Tree Protection Plan R-2163-5A

Malham (semi affordable) - RH30/S/772/T/Op/AS  
Bedale (semi affordable) - RH25/S/898/Op/AS  
Bedale/Malham/Bedale - RH30/S/772/898/S/AS/As/OP  
Kensington-RH14/S/1149/D/OP  
Studley-RH10/S/1167/OP  
Harewood-RH05/S/1429/D/OP  
Fulwood RH42/S/1457/D/OP  
Fulwood plots 23 and 25. RH42/S/1457/D/AS

**Signed**  
**Date**

**Committee**  
**Delegated**

**Signed**  
**Principal Planning Officer**

**Date**

**Signed**  
**Development Control Manager**

**Date**

**Sub-Committee**  
**Section**

**Date**

Nostell- RH02/ST/1500/D/AS  
Shelley- RH34/S/1695/D/OP  
Shelley Plot 11- RH34/S/1695/D/OP  
Shelley Plot 29- RH34/S/1695/D/AS  
Linton - RH69/ST/1995/D/OPP  
Linton Floor Plans - RH69/ST/1995/D/OPP

SG1- Standard Single garage  
DG1 - Standard Double Garage  
Standard Details Quad Garage  
Wall Detail AWD01  
Lap Boarded fence Detail

Reason: In the interests of the visual amenities of the locality in accordance with Local Plan Policy D1 High Quality Design and Place Making.

- 3 The development shall be carried out in accordance with the following approved materials, or similar;

Dwellings and walls in Marshalls 150mm coursed Crowell Pitched Weathered with natural colour mortar.  
Artstone heads, cills, corbels, Yorkstone colour.  
Roof tiles to be Redland Mini Stonewold Slate Grey concrete tile with small matching plain tile to low level canopy roofs.  
Black grain effect fascias and soffits.  
Black rainwater goods.  
Pastel green painted garage doors and composite main entrance door (to 2 and 3 beds).  
Timber faced composite doors to 4 bed house types.  
White PVCU windows and secondary entrance doors.  
Grey Aluminium bi fold doors.  
Paving/patios in 450x450 Marshalls Natural colour Saxon textured.  
Private drives and main estate road in tarmac finish.  
Shared drive serving plots 11 to 15 in Tegular Harvest colour with Penant Grey stretcher edging and charcoal small check kerb block.  
Feature square and hard margin in Marshalls mobility key kerb with Brindle Herringbone block paving.

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.

- 4 Prior to the commencement of development (with the exception of demolition, ground preparatory works, provision of construction facilities i.e.access onto the site, welfare facilities, car parking areas, vehicle turning, materials storage areas, compound set up, securing the site) plans to show the following levels shall be submitted to and approved by the Local Planning Authority; finished floor levels of all buildings and structures; road levels; existing and finished ground levels. Thereafter the development shall proceed in accordance with the approved details.

Reason: To enable the impact arising from need for any changes in level to be assessed and in accordance with Local Plan Policy D, High Quality Design and Place Making.

- 5 Construction or remediation work comprising the use of plant, machinery or equipment, or deliveries of materials shall only take place between the hours of 0800 to 1800 Monday to Friday and 0900 to 1400 on Saturdays and at no time on Sundays or Bank Holidays.

Reason: In the interests of the amenities of local residents and in accordance with Local Plan Policies GD1 General Development Policy and POLL1

Pollution Control and Protection.

- 6 The approved hard landscaping details shall be implemented prior to the occupation of the building(s).  
Reason: In the interests of the visual amenities of the locality and in accordance with Local Plan Policy BIO1 Biodiversity.
- 7 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 other of similar size and species.  
Reason: In the interests of the visual amenities of the locality and in accordance with Local Plan Policy BIO1 Biodiversity.
- 8 Pedestrian intervisibility splays having the dimensions of 2 m by 2 m shall be safeguarded at the drive entrance/exit such that there is no obstruction to vision at a height exceeding 1m above the nearside channel level of the adjacent highway.  
Reason: In the interest of road safety in accordance with Local Plan Policy T4 New Development and Transport Safety.
- 9 The parking/manoeuvring facilities, indicated on the submitted plan, shall be surfaced in a solid bound material (i.e. not loose chippings) and made available for the manoeuvring and parking of motor vehicles prior to the development being brought into use, and shall be retained for that sole purpose at all times.  
  
Reason: To ensure that satisfactory off-street parking/manoeuvring areas are provided, in the interests of highway safety and the free flow of traffic and in accordance with Local Plan Policy T4 New Development and Transport Safety.
- 10 No development shall take place (with the exception of demolition, ground preparatory works, provision of construction facilities i.e.access onto the site, welfare facilities, car parking areas, vehicle turning, materials storage areas, compound set up, securing the site) until:  
  
Full foul and surface water drainage details, including a scheme to reduce surface water run off by at least 30% and a programme of works for implementation, 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.

**Signed**  
**Date**  
**Committee**  
**Delegated**  
**Signed**  
**Principal Planning Officer**  
**Date**  
**Signed**  
**Development Control Manager**  
**Date**

**Sub-Committee**  
**Section**  
**Date**

Reason: To ensure proper drainage of the area in accordance with Local Plan Policy POLL1 Pollution Control and Protection.

- 11 The approved 'Construction Method Statement for Pre-Demolition', 'Construction Method Statement' (by Rouse Homes dated 8th May 2019), 'Traffic Management and Build Route Drawing' and 'Construction Management Plan' shall be adhered to throughout the construction period.

Reason: In the interests of highway safety, residential amenity and visual amenity and in accordance with Local Plan Policy T4 New Development and Transport Safety and Local Plan Policy D1 High Quality Design and Place Making.

- 12 Vehicular and pedestrian gradients within the site shall not exceed 1:12.  
Reason: In the interest of highway safety, in accordance with Local Plan Policy T4 'New Development and Transport Safety'.

- 13 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 Local Plan Policy T4 New Development and Transport Safety.

- 14 The development shall be undertaken in full accordance with the Remediation Implementation Plan, dated 26/03/2019, by Eastwood and Partners (Ref: 42794-002).

Reason - to protect the environment and ensure the site is suitable for the proposed end use, in accordance with Local Plan policy CL1 'Contaminated and Unstable Land.

- 15 With regards to any remedial actions taken, there would be the requirement to provide a validation report to certify any works. This report should include the following.
- Details of who carried out the work.
  - Details and justifications of any changes from the original Remediation Statement.
  - Records of chemical characteristics of any imported capping soils/materials. Any testing suite and threshold levels need to be agreed with the local authority, prior to any sampling being undertaken.
  - Confirmation that capping levels have been achieved
  - Laboratory and in situ test results
  - Records of any materials disposed of off-site and their disposal locations.
  - Confirmation that remediation objectives have been met.

Reason - to protect the environment and ensure the site is suitable for the proposed use, in accordance with Policy CL1 Contaminated and Unstable Land.

- 16 No development (with the exception of demolition, ground preparatory works, provision of construction facilities i.e. access onto the site, welfare facilities, car parking areas, vehicle turning, materials storage areas, compound set up, securing the site) shall take place until a scheme for disposing of surface water by Means of a sustainable drainage system has been submitted to, and approved by, the Local Lead Flooding Authority.  
The scheme shall include the following details:

- Information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- A timetable for its implementation; and
- A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker or any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be implemented in accordance with the approved sustainable drainage scheme and maintained thereafter in accordance with the approved management and maintenance plan.

Reason: To ensure proper drainage of the area in accordance with Local Plan Policy POLL1 Pollution Control and Protection.

- 17 The landscape management of the site shall be carried out in accordance with the approved Landscape Management Document by FDA Landscaping Limited dated April 2019.  
In the interests of the visual amenities of the locality, in accordance with Local Plan Policy D1 'High Quality Design and Place Making'.

- 18 The development hereby approved shall be carried out in accordance with the Tree Protection Plan by FDA Landscape (Ref: R/2163/5A). The approved fencing shall be installed before 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 safeguard existing trees, in the interest of visual amenity in accordance with Local Plan policy D1 'High Quality Design and Place Making'.

- 19 No hedges or trees on the site (except those shown to be removed on the approved plan), or their branches or roots, shall be lopped, topped, felled, or severed. If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such a size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

Reason: To safeguard existing trees/hedges, in the interests of the visual amenities of the locality and in accordance with Local Plan policy D1 'High Quality Design and Place Making' and BIO1 'Biodiversity and Geodiversity'.

- 20 Upon commencement of development details of measures to facilitate the provision of high speed broadband for the dwellings/development hereby permitted, including a timescale for implementation, shall be submitted to and

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approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In order to ensure compliance with policy I1 in the Local Plan and in accordance with paragraphs 112 of the National Planning Policy Framework 2018.

- 21 Prior to commencement of development full details of the mitigation measures identified in the Ecological Survey, 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 Local Plan policy BIO1 'Biodiversity and Geodiversity'.

- 22 Visibility splays, having the dimensions 2.4m x 70m, shall be safeguarded at the junction of the access with New Road such that there is no obstruction to visibility and forming part of the adopted highway.

Reason: In the interest of highway safety, in accordance with Local Plan Policy T4 New Development and Transport Safety.

#### Informative(s)

1	<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).</p> <p>Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water.</p> <p>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>
2	<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> or a similar service provider.</p> <p>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: <a href="http://www.gov.uk/government/organisations/the-coal-authority">www.gov.uk/government/organisations/the-coal-authority</a></p>
3	<p>The granting of planning permission does not effect the status of species such as owls and bats which have protection under other legislation. These may be present, and it is the applicant's responsibility to seek advice on how to avoid damaging operations. Further advice can be obtained from the Countryside Unit in the Planning &amp; Transportation Services, on 01226-772576, or directly from <a href="http://www.naturalengland.org.uk">www.naturalengland.org.uk</a></p>
4	<p>The granting of planning permission does not in any way infer that consent of the landowner is given. Therefore the consent of all relevant landowners is required before proceeding with any development including that of the Council as landowner.</p> <p>If it should transpire that the applicant does not own any of the land included in this consent then it is the responsibility of the applicant to seek all necessary consents and approvals of the landowner.</p>

**Signed****Date****Committee****Delegated****Signed****Principal Planning Officer****Date****Signed****Development Control Manager****Date****Sub-Committee****Section****Date**