

Dated 14 October 2021

RIBBLE VALLEY BOROUGH COUNCIL

- and -

LANCASHIRE COUNTY COUNCIL

-and-

TAYLOR WIMPEY UK LIMITED

- and -

BDW TRADING LIMITED

Deed of Variation

pursuant to Section 106A of the Town and Country
Planning Act 1990 relating to land west of Whalley
Road and south west of Barrow near Clitheroe
Lancashire

(Planning Permission Reference No. 3/2019/0012)

THIS DEED is made the 14th day of October 2021

BETWEEN:

1. **RIBBLE VALLEY BOROUGH COUNCIL** of Council Offices Church Walk Clitheroe Lancashire BB7 2RA ("**the Council**").
2. **LANCASHIRE COUNTY COUNCIL** of County Hall Fishergate Preston Lancashire PR1 BXJ (the "**County Council**")
3. **TAYLOR WIMPEY UK LIMITED** (Company Registration Number 01392762) whose registered office address is at Gate House, Turnpike Road, High Wycombe HP12 3NR ("**Taylor Wimpey**").
4. **BDW TRADING LIMITED** (Company Registration Number 3018173) whose registered office is at Developer House Cartwright Way Forest Business Park Bardon Hill Coalville Leicestershire LE67 1UF ("**BDW**").

WHEREAS:

- A. The Council is the local planning authority for the purposes of the TCPA 1990 for the area in which the Site is situated.
- B. The County Council is the local planning authority for the purposes of Section 336 of the TCPA 1990 and is the authority by whom the County Obligations (as defined in the Principal Section 106 Agreement) are enforceable.
- C. Taylor Wimpey is the owner of the part of the Site registered at Land Registry under title number LAN229318.
- D. BDW is the owner of the remainder of the Site registered at Land Registry under title number LAN229463.
- E. The Site is bound by the terms of the Principal Section 106 Agreement.
- F. Without prejudice to the terms of the other covenants contained in the Principal Section 106 Agreement the parties have agreed to vary the terms of the Principal Section 106 Agreement as set out in this deed.
- G. The Principal Section 106 Agreement (as varied by this Deed) shall remain in full force and effect in respect of the Site.

NOW THIS DEED WITNESSES AS FOLLOWS:-

1. DEFINITIONS & INTERPRETATION

- 1.1 For the purposes of this deed the following words and expressions shall have the following meanings:

"Appendix 1"	means the schedule attached at Annexure 2 to this Deed
"Owners"	means Taylor Wimpey and BDW jointly and severally
"Principal Section 106 Agreement"	means the agreement dated 30 August 2019 made under section 106 of the TCPA 1990 between (1) the Council (2) the County Council (3) Barrow Lands Co. Limited (4) Taylor Wimpey and (5) BDW as varied by a Memorandum of Agreement dated 5 October 2020 between Taylor Wimpey (1) and the Council (2)
"Revised Plan 2"	means the plan annexed to this deed at Annexure 1.
"the Site"	has the meaning as set out in the Principal Section 106 Agreement.
"the TCPA 1990"	means the Town and Country Planning Act 1990 (as amended).

- 1.2 Unless defined in this Deed or the context otherwise requires, all words and phrases defined in the Principal Section 106 Agreement shall have the same meaning in this deed.
- 1.3 Clause headings shall not affect the interpretation of this deed.
- 1.4 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to any party shall include that party's personal representatives, successors or permitted assigns and in the case of the Council and the County Council the successors to its respective statutory functions.
- 1.8 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

- 1.9 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 Unless the context otherwise requires, references to clauses are to the clauses of this deed.
- 1.11 Any words following the terms *including, include, in particular, for example* or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.12 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

2. STATUTORY PROVISION

- 2.1 This deed is supplemental and collateral to the Principal Section 106 Agreement and is made pursuant to the provisions of sections 106 and 106A of the TCPA 1990, section 111 of the Local Government Act 1972 and any other enabling powers.
- 2.2 The covenants, restrictions and obligations imposed upon the Owners under this Deed are planning obligations for the purposes of section 106 of the TCPA 1990 and are enforceable by the Council as local planning authority against the Owners and their successors in title.
- 2.3 This Deed shall take effect immediately upon the date hereof.

3. VARIATIONS TO THE PRINCIPAL SECTION 106 AGREEMENT

- 3.1 Plan 2 of the Principal Section 106 Agreement shall be deleted and replaced with the Revised Plan 2
- 3.2 The definition of "Affordable Housing Units" shall be deleted from Clause 1 of the Principal Section 106 Agreement and replaced with the following:

"Affordable Housing Units" the Affordable Housing to be provided on the Site shown coloured purple, blue, green and brown on Plan 2 and in accordance with the Affordable Housing Mix and shall be 30% of the total number of Dwellings a certain number of which equates to 7.5% of the total number of Dwellings which shall be Bungalows comprising Over 55 Accommodation.

- 3.3 The definition of "Affordable Rented Units" to be deleted from Clause 1 of the Principal Section 106 Agreement and replaced with the following:

"Affordable Rented Units" those Affordable Housing Units to be provided on the Site and to be constructed in accordance with the Planning Permission and the provisions of this Agreement and to be made available at an Affordable Rent which are the nine (9) no. Dwellings shown coloured brown on Plan 2 that are to be

provided as Affordable Rented Units for the Elderly and the fourteen (14) no. Dwellings shown coloured blue on Plan 2 save where agreed otherwise by the Council and the term "Affordable Rented Unit" shall be construed accordingly.

- 3.4 The definition of "Shared Ownership Units" to be deleted from Clause 1 of the Principal Section 106 and replaced with the following:

***"Shared Ownership Units"** those Affordable Housing Units which are to be owned and managed by a Registered Provider such that they shall be occupied on the basis of a Shared Ownership Lease which are the thirty eight (38) no. Dwellings shown shaded purple on Plan 2 and the nine (9) no. Dwellings that are to be provided as Shared Ownership Units for the Elderly shown coloured green on Plan 2 save where agreed otherwise with the Council.*

- 3.5 Insert the new definition "Affordable Housing Mix" in Clause 1:

***"Affordable Housing Mix"** means the mix of Affordable Housing Units as set out in Part 1 of Appendix 1:*

- 3.6 Insert the new definition "Elderly Over 55 Accommodation" in clause 1:

***"Elderly Over 55 Accommodation"** save where agreed otherwise a Dwelling that shall not be occupied by a person who is not disabled and/or is under the age of 55 years except that in circumstances of a married couple or civil partnership is not less than 55 years of age or is disabled"*

- 3.7 Insert the new definition "M4(2) Compliant Accommodation" in clause 1:

***"M4(2) Compliant Accommodation"** means a Dwelling in relation to which all internal arrangements of the unit of accommodation/dwelling shall accord with the specifications and requirements of category 2 housing as defined in M4(2) of Approved Document M (Volume 1 2015) of the Building Regulations 2010 (or any subsequent revisions)"*

- 3.8 The following paragraph 1.2.3 shall be included in Schedule 3:

1.2.3 The Affordable Housing Units shall be constructed and provided strictly in accordance with Plan 2 and the Affordable Housing Mix

- 3.9 Paragraph 2.3 of Schedule 3 shall be deleted and replaced with the following:

2.3 For the avoidance of doubt, save where agreed otherwise, the nine (9 no.) Affordable Rented Units shown coloured brown on Plan 2 shall comprise Affordable Rented Units for the Elderly and be provided as Bungalows and shall be subject to the restrictions in paragraphs 2.1 and 2.2 of this Schedule and used and occupied as Over 55 Accommodation.

- 3.10 Paragraph 3.3 of Schedule 3 shall be deleted and replaced with the following:

3.3 For the avoidance of doubt, save where agreed otherwise, the nine (9 no.) Shared Ownership Units shown coloured green on Plan 2 shall comprise Shared Ownership Units for the Elderly and be provided as Bungalows and shall be subject to the restrictions in paragraphs 3.1, 3.2 and 3.3 of this Schedule and used and occupied as Over 55 Accommodation.

- 3.11 The heading of paragraph 4 of Schedule 3 shall be deleted and replaced with the following heading:

Open Market Dwellings

- 3.12 Paragraph 4.1 shall be deleted and shall be replaced with the following paragraph 4.1 and the additional paragraphs 4.2 and 4.3:

4.1 Save where agreed otherwise nine (9) of the Open Market Dwellings shown coloured red on Plan 2 shall be constructed and provided as Over 55 Accommodation and shall be constructed strictly in accordance with Plan 2 and Part 2 of Appendix 1;

4.2 Save where agreed otherwise nine (9) of the Open Market Dwellings shall be constructed and provided as Elderly Over 55 Accommodation as shown shaded yellow on Plan 2 and shall be constructed strictly in accordance with Plan 2 and Part 3 of Appendix 1;

4.3 Save where agreed otherwise nine (9) of the Open Market Dwellings shall be constructed and provided as M4(2) Compliant Accommodation as shown shaded light blue on Plan 2 and shall be constructed strictly in accordance with Plan 2 and Part 4 of Appendix 1.

- 3.9 Appendix 1 shall be attached to the Principal Deed as a new Appendix after the execution provisions.

3.10 Save as varied by this Deed, the Principal Section 106 Agreement is in all other respects hereby confirmed and shall remain in full force and effect in respect of the Site and the Owners covenant with the Council and the County Council that it shall fully perform and observe the covenants set out in the Principal Section 106 Agreement on the terms set out therein as varied by this Deed.

4. MISCELLANEOUS

- 4.1 This deed shall be registered as a local land charge.
- 4.2 Upon completion of this Deed, the Owners shall pay to the Council the legal costs of the Council incurred in the negotiation, preparation and execution of this Deed.
- 4.3 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.
- 4.4 Nothing in this Deed shall be construed or implied so as to prejudice or affect the rights, discretions, powers, duties and obligations of the Council and the County Council under all statutes, bylaws, statutory instruments, orders and regulations or any exercise of their functions as a local authority.

5. ENDORSEMENT

- 5.1 Promptly following completion of this deed the Council shall endorse a memorandum of variation on the Principal Section 106 Agreement in the following

terms: *"This Agreement has been varied by a supplemental agreement dated [DATE] and made between [PARTIES]."*

6. VALUE ADDED TAX

6.1 All consideration given in accordance with the terms of this deed shall be exclusive of any VAT properly paid.

6.2 If at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this deed then to the extent that VAT has not been previously charged in respect of that supply the party making the supply shall have the right to issue a VAT invoice to the party to whom the supply was made and the VAT shall be paid accordingly.

7. THIRD PARTY RIGHTS

7.1 A person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed.

8. GOVERNING LAW

8.1 This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales.

9. DELIVERY

9.1 The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

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

THE COMMON SEAL of)
RIBBLE VALLEY BOROUGH COUNCIL)
Was affixed in the presence of:)

Mayor:



Chief Executive:



THE COMMON SEAL of LANCASHIRE
COUNTY COUNCIL

Was affixed in the presence of:



Authorised Signatory:

Name:

EXECUTED as a DEED by
TAYLOR WIMPEY UK LIMITED
by two authorised attorneys
in the presence of:-

Signature of witness

Name (in BLOCK CAPITALS)

Address.....

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EXECUTED AS A DEED on behalf of BDW TRADING LIMITED by any two of JASON ANDREW CORNER and/or ANTHONY JAMES SUTTON and/or BERNARD WILLIAM ROONEY and/or IAN THOMAS DURBAND and/or ANDREW TAYLOR and/or STEVEN ROBERT JACKSON and/or ANTHONY ROY UNSWORTH and/or ANDREW RHYS NICHOLSON and/or GRAHAM EDWARD SWANN as joint attorneys in exercise of the powers conferred on them by a Power of Attorney dated 10/03/2021] who have hereunto set the name of BDW TRADING LIMITED in the presence of:


Barratt & David Wilson Homes
2ND Floor
303 Bridgewater Place
Birchwood Park
Warrington
WA3 6XF

**Annexure 1
Revised Plan 2**

1. The Board of Directors of the Corporation shall have the authority to issue and sell shares of common stock of the Corporation, including the authority to determine the price and terms of such sale, and to execute and deliver the certificates of stock to the purchasers thereof.

2. The Board of Directors of the Corporation shall have the authority to execute and deliver the certificates of stock to the purchasers thereof.

3. The Board of Directors of the Corporation shall have the authority to execute and deliver the certificates of stock to the purchasers thereof.

4. The Board of Directors of the Corporation shall have the authority to execute and deliver the certificates of stock to the purchasers thereof.

5. The Board of Directors of the Corporation shall have the authority to execute and deliver the certificates of stock to the purchasers thereof.



**AFFORDABLE HOMES & M4 (2)
COMPLIANT DWELLINGS**

- Legend**
- Affordable Shared Ownership
 - Affordable Rent
 - Affordable Shared Ownership Bungalow & Over 55
 - Affordable Rent Bungalow & Over 55
 - Over 55 Accommodation
 - Elderly Over 55 Accommodation
 - M4 (2) Accommodation



Baldwin Design
Consultancy Ltd

- Revisions**
- A - 19.10.20: Plot 56, 62, 65, 113 Floor 10/11 housing removed. Plot 56, 62, 65 & 113 Floor 10/11 housing added. Over 55s housing added to plots 5, 6, 11-12, 30, 42, 51, 54 & 56. Key updated.
 - B - 22.10.20: New 10/11 completed. Plot 113 removed. Key updated to suit.
 - C - 23.02.21: Over 55s housing removed from plots 11-12 & added to plots 13 & 19.
 - D - 21.07.21: Over 55s housing removed from plots 3 & 56 & added to plots 55 & 58. Key updated.
 - E - 04.08.21: Over 55s housing removed from plots 47 & added to plot 52.
 - F - 18.02.21: Key updated.

PLANNING DRAWING
Residential Development
Land off Whalley Road, Barrow.

Drawn by: **DAW/WHM/AF/AM/1**

Drawn	CUW	CUW	Date
1:500	F	F	26/03/22

Checked by: **AF**

Checked	AF	AF	Date
1:500	F	F	26/03/22

Whalley Road, Barrow.

Authorized Signatory

Annexure 2

Appendix 1

Plot Number	House Type	Part 1		Beds	Tenure Mix	Over 55
		Floor Area SqFt				Accommodation Y/N
19	Semi Detached	771		2	Shared Ownership	N
20	Semi Detached	771		2	Shared Ownership	N
21	Semi Detached	910		3	Shared Ownership	N
22	Semi Detached	910		3	Shared Ownership	N
23	Semi Detached	771		2	Shared Ownership	N
24	Semi Detached	771		2	Shared Ownership	N
79	End Terrace	771		2	Shared Ownership	N
80	Mid Terrace	771		2	Shared Ownership	N
81	End Terrace	771		2	Shared Ownership	N
82	End Terrace	771		2	Shared Ownership	N
83	Mid Terrace	771		2	Shared Ownership	N
84	End Terrace	771		2	Shared Ownership	N
89	Semi Detached	771		2	Rent	N
90	Semi Detached	771		2	Rent	N
91	Semi Detached	771		2	Rent	N
92	Semi Detached	771		2	Rent	N
93	Semi Detached	910		3	Rent	N
94	Semi Detached	910		3	Rent	N
95	Semi Detached	910		3	Rent	N
96	Semi Detached	910		3	Rent	N
97	Semi Detached	910		3	Shared Ownership	N
98	Semi Detached	910		3	Shared Ownership	N
99	Bungalow	545		1	Shared Ownership	Y
100	Bungalow	545		1	Shared Ownership	Y
101	Bungalow	545		1	Shared Ownership	Y
102	Bungalow	545		1	Shared Ownership	Y
103	Bungalow	545		1	Shared Ownership	Y
104	Bungalow	545		1	Rent	Y
105	Bungalow	545		1	Rent	Y
106	Bungalow	545		1	Rent	Y
108	Semi Detached	910		3	Shared Ownership	N
109	Semi Detached	910		3	Shared Ownership	N
110	Semi Detached	910		3	Shared Ownership	N
111	Semi Detached	910		3	Shared Ownership	N
118	End Terrace	926		3	Shared Ownership	N
119	Mid Terrace	926		3	Shared Ownership	N
120	End Terrace	926		3	Shared Ownership	N
121	End Terrace	750		2	Shared Ownership	N
122	Mid Terrace	750		2	Shared Ownership	N
123	Mid Terrace	750		2	Rent	N

124	End Terrace	750	2	Rent	N
131	Bungalow	540	1	Rent	Y
132	Bungalow	540	1	Rent	Y
133	Bungalow	540	1	Rent	Y
134	Bungalow	540	1	Rent	Y
135	Bungalow	540	1	Rent	Y
136	Bungalow	540	1	Rent	Y
137	Bungalow	540	1	Shared Ownership	Y
138	Bungalow	540	1	Shared Ownership	Y
139	Bungalow	540	1	Shared Ownership	Y
140	Bungalow	540	1	Shared Ownership	Y
141	End Terrace	750	2	Rent	N
142	Mid Terrace	750	2	Rent	N
143	Mid Terrace	750	2	Rent	N
144	End Terrace	750	2	Rent	N
158	End Terrace	750	2	Shared Ownership	N
159	Mid Terrace	750	2	Shared Ownership	N
160	End Terrace	750	2	Shared Ownership	N
170	End Terrace	750	2	Shared Ownership	N
171	Mid Terrace	750	2	Shared Ownership	N
172	Mid Terrace	750	2	Shared Ownership	N
173	End Terrace	750	2	Shared Ownership	N
189	End Terrace	750	2	Shared Ownership	N
190	Mid Terrace	750	2	Shared Ownership	N
191	Mid Terrace	750	2	Shared Ownership	N
192	End Terrace	750	2	Shared Ownership	N
207	End Terrace	750	2	Shared Ownership	N
208	Mid Terrace	750	2	Shared Ownership	N
209	Mid Terrace	750	2	Shared Ownership	N
210	End Terrace	750	2	Shared Ownership	N

Part 2
Over 55 Accommodation

Plot Number	House Type	Floor Area SqFt	Beds	Type
150	Type 50	750	2	Semi/Mews
151	Type 50	750	2	Semi/Mews
152	Type 50	750	2	Semi/Mews
213	Type 50	750	2	Semi/Mews
214	Type 50	750	2	Semi/Mews
218	Type 50	750	2	Semi/Mews
219	Type 50	750	2	Semi/Mews
220	Type 50	750	2	Semi/Mews
221	Type 50	750	2	Semi/Mews

Part 3
Elderly Over 55 Accommodation

Plot Number	House Type	Floor Area SqFt	Beds	Type
6	Gosford	866	3	Semi
35	Braxton	1092	3	Semi
38	Coltham	1259	4	Detached
51	Gosford	866	3	Semi
52	Gosford	866	3	Semi
54	Gosford	866	3	Semi
70	Gosford	866	3	Semi
13	Easedale	931	3	Detached
30	Easedale	931	3	Detached

Part 4
M4(2) Compliant Accommodation

Plot Number	House Type	Floor Area SqFt	Beds	Type
28	Coltham	1259	4	Detached
33	Coltham	1259	4	Detached
43	Coltham	1259	4	Detached
50	Coltham	1259	4	Detached
55	Coltham	1259	4	Detached
60	Coltham	1259	4	Detached
63	Coltham	1259	4	Detached
68	Coltham	1259	4	Detached
75	Coltham	1259	4	Detached