

**Dated**

**2021**

**RIBBLE VALLEY BOROUGH COUNCIL**

**and**

**LANCASHIRE COUNTY COUNCIL**

**and**

**BDW TRADING LIMITED**

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**Deed of Variation**

pursuant to Section 106A of the Town and Country  
Planning Act 1990 relating to land off Waddington Road  
Clitheroe Lancashire BB7 2DE

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**This Agreement** is made on the                      day of                      2019

**By**

1. **RIBBLE VALLEY BOROUGH COUNCIL** of Council Offices Church Walk Clitheroe Lancashire BB7 2RA ("the Council") and
2. **LANCASHIRE COUNTY COUNCIL** of PO Box 78 County Hall Preston Lancashire PR1 8XJ ("the County Council") and
3. **BDW TRADING LIMITED** of Barratt House, Cartwright Way, Forest Business Park, Bardon Hill, Coalville, Leicestershire, LE67 1UF ("the Owner")

**Whereas**

- A. The Council is the local planning authority for the purposes of the 1990 Act (as defined in the Original Agreement) for the area in which the Site (as defined in the Original Agreement) is situated and the authority by whom the obligations contained in this Deed and the Original Agreement are enforceable
- B. The County Council is the highway authority for the area within which the Site is situated and is also a local planning authority for the purposes of the 1990 Act by whom the obligations under Schedule Five of the Original Agreement are enforceable
- C. The Owner is the Registered Proprietor of the Site as defined in the Original Agreement and whose title is registered as a freehold title at the Land Registry under Title Number LAN223498
- D. A Section 106 Agreement was entered into between Nicholas Guy le Gendre Starkie (1), The Clitheroe Auction Mart Company Limited (2), John Howard Taylor, Samantha Anne Howard and Sarah Jane Howard (3), the Council (4) and the County Council (5) on 24 February 2015 ("the Original Agreement")
- E. Outline planning permission was granted on 6 March 2015 for the construction of up to 275 dwellings with access from to the Site under reference number 3/2014/0597 ("the Original Planning Permission").
- F. A further planning permission pursuant to section 73 of the 1990 Act was granted by the Council on 22 July 2019 to vary conditions 27 and 28 of the Original Planning Permission to allow 49 houses to be occupied on the Site before all S.278 works (highway adoption/improvements) have been completed under reference 3/2019/0056 ("the Second Planning Permission").
- G. A s106A deed of variation was entered into between the Council (1) the County Council (2) and BDW Trading Limited (3) on 22 July 2019 pursuant to the Second Planning Permission ("the First Deed of Variation").

- H. A further Deed of Variation was entered into between the Council (1), the County Council (2) and BDW Trading Limited (3) on 18 November 2020 to amend the affordable housing provisions in the Original Agreement as varied by the First Deed of Variation ("the Second Deed of Variation")
- I. The parties hereto have agreed to enter into this Deed with the Council and the County Council to amend the Original Agreement as varied by the First Deed of Variation and the Second Deed of Variation.
- J. All references, clauses, definitions and paragraphs refer to the Original Agreement as varied by the First Deed of Variation and the Second Deed of Variation (unless expressly stated otherwise) and are used in this Deed.

**NOW THIS DEED** is made pursuant to section 106A of the 1990 Act and is a planning obligation for the purposes of that section and **WITNESSES** as follows:

1. **VARIATIONS**

The parties hereby agree that the Original Agreement as varied by the First Deed of Variation and the Second Deed of Variation shall remain in full force and effect save as expressly varied by the Schedule.

2. **REGISTRATION AS A LAND CHARGE**

The Council shall register this Deed as a local land charge.

3. **GOVERNING LAW**

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.

4. **CONTRACTUAL RIGHTS OF THIRD PARTY**

No term of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party.

**IN WITNESS** of which the parties have executed this Deed on the date first written above

**THE SCHEDULE**  
**Variations to the Original Agreement**

1. The parties hereby agree that the following amendments shall be made to the Original Agreement as varied by the First Deed of Variation and the Second Deed of Variation:-
  - 1.1. Paragraph 4 of Schedule 5 shall be deleted in its entirety.

DRAFT

**EXECUTED AS A DEED**

(but not delivered until the date hereof) by the affixing of

**THE COMMON SEAL OF**

**RIBBLE VALLEY BOROUGH COUNCIL:**

In the presence of:

.....  
Authorised Signatory

**EXECUTED AS A DEED**

(but not delivered until the date hereof) by the affixing of

**THE COMMON SEAL OF**

**LANCASHIRE COUNTY COUNCIL:**

In the presence of:

.....  
Authorised Signatory

DRAFT

**Executed as a Deed** on behalf  
of **BDW Trading Limited** by

(Name) ..... (Signature).....

in exercise of the powers  
conferred on them by a

Power of Attorney dated [            ]

who have hereto set the name  
of **BDW Trading Limited**

in the presence of:

Witness Signature .....

Witness Name .....

Witness Address .....

.....

And

**Executed as a Deed** on behalf  
of **BDW Trading Limited** by

(Name) ..... (Signature).....

in exercise of the powers  
conferred on them by a

Power of Attorney dated [            ]

who have hereto set the name  
of **BDW Trading Limited**

in the presence of:

Witness Signature .....

Witness Name .....

Witness Address .....

.....