

DATED

18th November

2020

RIBBLE VALLEY BOROUGH COUNCIL

and

LANCASHIRE COUNTY COUNCIL

and

BDW TRADING LIMITED

**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

Planning Application Reference 3/2020/0782

Knights PLC  
Two St. Peter's Square  
Manchester  
M2 3AA

We certify this to be a true copy of the original.

*Ward Hadaway*

WARD HADAWAY SOLICITORS  
SANDGATE HOUSE, 102 QUAYSIDE  
NEWCASTLE UPON TYNE NE1 3DX

23.11.2020

Ref: SJ/ADA791/1459

THIS DEED OF VARIATION is made the 18<sup>th</sup> day of November 2020

**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").

## **1 BACKGROUND**

- 1.1 This Deed of Variation ("the Supplemental Variation") is supplemental to the Section 106 Agreement dated 24 February 2015 made between Nicholas Guyle Gendre Starkie (1) The Clitheroe Auction Mart Company Limited (2) John Howard Taylor, Samantha Anne Howard and Sarah Jane Howard (4) the Council (5) and the County Council (6) ("the Original Agreement") and a Deed of Variation dated 22 July 2019 made between Ribble Valley Borough Council (1) Lancashire County Council (2) and BDW Trading Limited (3) ("the Original Variation").
- 1.2 The Owner is the Registered Proprietor of the Site as defined in the Section 106 Agreement and whose title is registered as a Freehold title at the Land Registry under Title Number LAN223498.
- 1.3 The Owner, the Council and the County Council are entering into this Supplemental Variation to alter the terms of the Original Agreement and the Original Variation in respect of the Site as detailed in the schedule to this Deed.
- 1.4 Save as set out in this Deed of Variation the Owner, the Council and the County Council agree to observe and perform the covenants and other matters set out in the Original Agreement and the Original Variation.
- 1.5 All definitions and interpretations of words and phrases in this Supplemental Variation shall be governed by the meanings described in the Original Agreement unless otherwise set out herein.

## **2 STATUTORY PROVISIONS**

- 2.1 This Deed is made pursuant to the provision of Section 106A of the 1990 Act, section 111 of the Local Government Act 1972, and any other enabling powers.

- 2.2 The obligations in this Deed shall be enforceable by the Council and the County Council against the Owner.
- 2.3 This Deed is supplemental to the Original Agreement and the Original Variation which shall continue in full force and effect.
- 2.4 This Deed shall come into effect upon the date of this Deed.
- 2.5 Where any obligation under the Original Agreement and the Original Variation has been complied with that obligation shall be deemed to have been complied with under the Original Agreement and the Original Variation as varied by this Deed.

### **3 LAND CHARGES**

- 3.1 This Deed shall be registered as a local land charge by the Council.

### **4 THIRD PARTY RIGHTS**

- 4.1 No provisions of this Deed of Variation shall be enforceable under the Contract (Rights of Third Parties) Act 1999.

### **5 GOVERNING LAW**

- 5.1 The 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.

### **6 DELIVERY**

- 6.1 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

**EXECUTED ASA DEED** on the date specified at the commencement hereof.

## SCHEDULE

From and including the date of this Deed the Owner, the Council and the County Council hereby acknowledge and agree that the Original Agreement and the Original Variation shall be read and construed as varied by the provisions set out in this Schedule below:-

1. Clause 1.1.10 : **DELETE** the existing Mortgagee Definition and **ADD** the following new definition:-

“A Mortgagee” means any 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 charge to realise its security or any receiver (however appointed) including a housing administrator (each a Receiver)) of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such mortgagee or charge or Receiver”.

2. **INSERT** New Clause 1.1.61 : “Protected Tenant” means any Occupier of an Affordable Housing Unit who shall exercise a statutory entitlement to buy or acquire the relevant Dwelling or any Shared Ownership lessee exercising the right to staircase to 100% of the equity share of a Dwelling or any successor in title either directly or indirectly”.

3. Clause 1.1.56 : **AMEND** this clause to read :-

“Staircase” means the exercise by the occupier to the Shared Ownership Lease of the right to acquire 100% of the equitable interest in the Shared Ownership Unit by paying a percentage of the market value to the Registered Social Landlord after which the rent payable on the part retained by the Registered Social Landlord shall be reduced proportionately”

4. Schedule 2 paragraph 5.1.2 - **DELETE** entirely

5. Schedule 2 paragraph 5.2 : **ADD** the words “whether or not” before the words “in possession”.

6. Schedule 2 paragraph 5.2 : **DELETE** the period of “four months” and **ADD** the period of “three months”.

7 Schedule 2 paragraph 5.3 : The timescales mentioned in Clause 5.3 shall be amended so the whole procedure takes only three months.

8 Schedule 2 paragraph 5.3.1. : **DELETE** the words "best endeavours" and **ADD** the words "reasonable endeavours".

9. Schedule 2 paragraph 5.3.3 : **DELETE** Clause 5.3.3.

10. Schedule 2 New paragraph 5.4 : **INSERT** the following new paragraph :-

"5.4 The provisions of paragraph 5.1 of this Schedule shall not be binding on a Protected Tenant who has exercised a statutory right to buy or acquire a Dwelling or an Occupier who has purchased 100% of the equity of a Shared Ownership Unit".