

Dated 22 December 2022

RIBBLE VALLEY BOROUGH COUNCIL

and

LANCASHIRE COUNTY COUNCIL

and



Deed of Variation

pursuant to Section 106A of the Town and Country
Planning Act 1990 relating to land at Primrose Works,
Primrose Road, Clitheroe

This Agreement is made on the 22nd day of December 2022

By

1. **RIBBLE VALLEY BOROUGH COUNCIL** of Council Offices, Church Walk, Clitheroe, Lancashire, BB7 2RA ("the Council"); and
2. **LANCASHIRE COUNTY COUNCIL** of County Hall, Fishergate, Preston, Lancashire, PR1 8XJ ("the County Council"); and
3. 
("the Owner").

Whereas

- A. The Council is the local planning authority for the purposes of the TCPA 1990 for the area in which the Property 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 education authority for the area within which the Property is situated by whom the obligations contained in schedule 3 of the Original Agreement are enforceable
- C. The Owner is the freehold owner of the Property registered at the Land Registry under Title Numbers LAN149140 and LA691235 and shown edged red on the Plan attached hereto.
- D. The Original Agreement was entered into on 3 March 2020.
- E. The Original Permission was granted on 5 March 2020 subject to the Original Agreement.
- F. The Owner has submitted the Variation Application to the Council to vary condition 2 of the Original Permission and the Council is minded to grant the Variation Permission subject to the prior completion of this Deed.
- G. The parties have agreed to enter into this Deed so as to vary the Original Agreement on the terms set out herein and enable the grant of the Variation Permission.
- H. Subject to the variations as set out in this Deed, the Original Agreement shall remain in full force and effect in respect of the Property.

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. DEFINITIONS

In this Deed unless the context requires otherwise the terms and expressions contained shall have the same meaning as that ascribed to them in the Original

Agreement (including for the avoidance of doubt the Recitals above) and the following terms shall have the following meaning:

“Original Agreement”	means the agreement dated 3 March 2020 made pursuant to Section 106 of the TCPA 1990 (and other enabling legislation) between (1) Ribble Valley Borough Council (2) Lancashire County Council and (3) Ribble Valley Property Development Limited;
“Original Permission”	means the full planning permission subject to conditions dated 5 March 2020 with reference number 3/2019/0954 for the residential use and associated amenities on the Property;
“Variation Application”	means the application made under Section 73 of the TCPA 1990 for the variation of condition 2 of the Original Permission registered by the Council on 19 August 2021 and allocated reference number 3/2021/0710;
“Variation Permission”	means the planning permission subject to conditions to be granted by the Council pursuant to the Variation Application substantially in the form annexed to this Deed;

2. 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 any successor to their statutory functions.

3. LEGAL BASIS

- 3.1 This Deed is supplemental and collateral to the Original Agreement and is made pursuant to Sections 106 and 106A of the TCPA 1990 and the covenants, restrictions and obligations imposed on the Owner 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 and their successors in title.
- 3.2 Insofar as any of the covenants, restrictions and obligations contained in this Deed are not planning obligations within the meaning of the 1990 Act they are entered into pursuant to the powers in Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers.

4. CONDITIONALITY

- 4.1 This Deed is conditional upon the grant of the Variation Permission SAVE FOR the provisions of clauses 6, 7 and 8 which shall take effect immediately upon completion of this Deed.

5. VARIATIONS AND CONTINUING EFFECT OF ORIGINAL AGREEMENT

- 5.1 The parties agree that the Original Agreement shall be varied in accordance with the provisions of the Schedule of this Deed.
- 5.2 The Original Agreement as varied by this Deed shall remain in full force and effect and binding in respect of any Development carried out on the Property pursuant to the Original Permission and the Variation Permission and all references in the **Original Agreement to "this/the Agreement" or "this/the Deed" or similar expressions** shall take effect as references to the Original Agreement as varied by this Deed.
- 5.3 The Owner covenants with the Council that it shall fully perform and observe the covenants, restrictions and obligations contained in the Original Agreement as varied by this Deed.

6. MISCELLANEOUS

- 6.1. Upon completion of this Deed the Owner shall pay to the Council the legal costs of the Council incurred in the negotiation, preparation and execution of this Deed in the sum of £1,000 AND FURTHER the Owner shall pay to the County Council the legal costs of the County Council incurred in the negotiation, preparation and execution of this Deed in the sum of £50,000.
- 6.2. The Council shall register this Deed as a local land charge.
- 6.3. 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 unenforceability of the remaining provisions of this Deed.

- 6.4. 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 under all statutes, bylaws, statutory instruments, orders and regulations or any exercise of their functions as a local authority.
- 6.5. No terms of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party.
- 6.6. Nothing in this Deed shall prohibit or limit or affect in any way the right to develop any part of the Property in accordance with a planning permission issued pursuant to the Act or any other statutory authority other than the Original Permission and the Variation Permission (whether or not on appeal or by any other means) either before or after the date of this Deed.

7. JURISDICTION

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 (as they apply in England) and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales.

8. DELIVERY

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

THE SCHEDULE
Variations to the Original Agreement

The parties hereby agree that the Original Agreement shall be varied as follows:-

1. In clause 1 insert the following new definitions:

"Variation Application" means the application made under Section 73 of the TCPA 1990 registered by the Council on 19 August 2021 and allocated reference number 3/2021/0710 for the variation of condition 2 of the 2020 Permission;

"2020 Permission" means the full planning permission subject to conditions granted by the Council on 5 March 2020 with reference number 3/2019/0954 pursuant to the Planning Application;

"Variation Permission" means the planning permission subject to conditions to be granted by the Council pursuant to the Variation Application, the draft form of which is annexed to the Deed of Variation dated 22 December 2022 made between Ribble Valley Borough Council (1) Lancashire County Council (2) and Ribble Valley Property Development Limited (3).

2. The definition of **"Planning Application"** in clause 1 shall be deleted and replaced with the following:

"Planning Application" means the application for full planning permission for the variation of condition 2 (Plans) of planning permission 3/2019/0954, proposed change of apartment 3 from a two-bedroom apartment to a three-bedroom apartment and reconfiguration of car parking arrangements registered by the Council on 19 August 2021 and allocated reference number 3/2021/0710.

3. The definition of **"Planning Permission"** in clause 1 shall be deleted and replaced with the following:

"Planning Permission" means the 2020 Permission and/or the Variation Permission (as the context requires).

4. Clause 3.1 shall be deleted and replaced with the following:

This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the 2020 Permission and the Variation Permission shall both be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure (other than in respect of an application made under Section 96A of the TCPA 1990) or expires prior to the Commencement of Development

THE APPENDIX
Draft Variation Permission

RIBBLE VALLEY BOROUGH COUNCIL

Department of Development

Council Offices, Church Walk, Clitheroe, Lancashire, BB7 2RA

Telephone: 01200 425111 www.ribblevalley.gov.uk planning@ribblevalley.gov.uk

Town and Country Planning Act 1990

PLANNING PERMISSION

APPLICATION NO: 3/2021/0710

DECISION DATE:

DATE RECEIVED: 06/07/2021

APPLICANT:

Mr R Evans
Ribble Valley Property Development Ltd
Eastham House
Clitheroe Road
Mitton
Clitheroe
BB7 9PH

AGENT:

Mr Peter Hitchen
Peter Hitchen Architects
Marathon House
The Sidings Business Park
Whalley
BB7 9SE

DEVELOPMENT PROPOSED: Variation of Condition 2 (Plans) of planning permission 3/2019/0954. Proposed change of Apartment 3 from a two-bedroom apartment to a three-bedroom apartment. Reconfiguration of car parking arrangements.

AT: Lodematic Ltd Primrose Works Primrose Road Clitheroe BB7 1BS

Ribble Valley Borough Council hereby give notice that **permission has been granted** for the carrying out of the above development in accordance with the application plans and documents submitted subject to the following condition(s):

1. The development has been commenced within the requisite three-year time-period as required by Section 51 of the Planning and Compulsory Purchase Act 2004.

APPLICATION NO. 3/2021/0710

DECISION DATE:

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

Location Plan Rev: A:

Proposed Block B Carpark: A1.4 (Received 19/11/21)

Proposed Block B First Floor A1.5 (Received 19/11/21)

Proposed Block B Second Floor Plan A1.6 (Received 19/11/21)

Proposed Block A Basement and Groundfloor A1.8 (Received 19/11/21)

Proposed Block A First Floor and Second Floor A1.9 (Received 19/11/21)

Proposed Block A Third Floor and Roof Plan A1.10 (Received 19/11/21)

Proposed Elevations A1.11 (Received 19/11/21)

Proposed Site Plan A1.14 (Received 19/11/21)

Courtyard - Balcony A1.15 (Received 19/11/21)

Proposed courtyard Elevations A1.15A (Received 19/11/21)

Proposed Parking Arrangements A1.16A (Received 19/11/21)

Proposed Fire Strategy Plan A1.18 (Received 19/11/21)

Proposed Block A Section A3.3 (Received 19/11/21)

Reason: For the avoidance of doubt and to clarify which plans are relevant to the consent hereby approved.

3. This condition has been previously partially discharged by virtue of planning approval reference: 3/2020/0210. The condition shall be considered fully discharged upon completion of the development in accordance with the approved details.
4. This condition has been previously partially discharged by virtue of planning approval reference: 3/2020/0210. The condition shall be considered fully discharged upon completion of the development in accordance with the approved details.
5. This condition has been previously partially discharged by virtue of planning approval reference: 3/2020/0210. The condition shall be considered fully discharged upon completion of the development in accordance with the approved details.
6. This condition has been previously partially discharged by virtue of planning approval reference: 3/2020/0210. The condition shall be considered fully discharged upon completion of the development in accordance with the approved details.
7. This condition has been previously fully discharged by virtue of planning approval reference: 3/2020/0210. The condition shall be considered fully discharged upon completion of the development in accordance with the approved details.
8. The cycle storage provision hereby approved shall be installed and made available for use prior to first occupation of any of the dwellings hereby approved and thereafter retained.

Reason: To ensure adequate storage for bicycles is provided on site and to encourage sustainable modes of transport.

APPLICATION NO. 3/2021/0710

DECISION DATE:

9. This condition has been previously partially discharged by virtue of planning approval reference: 3/2020/0210. The applicant shall note that the condition requires that the approved bat mitigation provision be retained in perpetuity.
10. This condition has been previously partially discharged by virtue of planning approval reference: 3/2020/0210. The condition shall be considered fully discharged upon completion of the development in accordance with the approved details.
11. This condition has been previously partially discharged by virtue of planning approval reference: 3/2020/0210. The approved soft landscaping scheme shall be implemented in the first planting season following occupation or use of the development, whether in whole or part and shall be maintained thereafter for a period of not less than 10 years to the satisfaction of the Local Planning Authority. This maintenance shall include the replacement of any tree or shrub which is removed, or dies, or is seriously damaged, or becomes seriously diseased, by a species of similar size to those originally planted.

For the avoidance of doubt all trees/hedgerow shown as being retained within the approved details shall be retained as such in perpetuity.

Reason: To ensure the proposal is satisfactorily landscaped and trees/hedgerow of landscape/visual amenity value are retained as part of the development.

12. This condition has been previously partially discharged by virtue of planning approval reference: 3/2020/0586. The condition shall be considered fully discharged upon completion of the development in accordance with the approved details.
13. Foul and surface water shall be drained on separate systems.

Reason: To secure proper drainage and to manage the risk of flooding and pollution.

14. This condition has been previously partially discharged by virtue of planning approval reference: 3/2020/0210. The condition shall be considered fully discharged upon completion of the development in accordance with the approved details.
15. This condition has been previously partially discharged by virtue of planning approval reference: 3/2020/0210. The condition shall be considered fully discharged upon completion of the development in accordance with the approved details.
16. This condition has been previously partially discharged by virtue of planning approval reference: 3/2020/0210. The condition shall be considered fully discharged upon completion of the development in accordance with the approved details.

Note(s)

1. For rights of appeal in respect of any condition(s)/or reason(s) attached to the permission see the attached notes.
2. The applicant is advised that should there be any deviation from the approved plan the Local Planning Authority must be informed. It is therefore vital that any future Building Regulation application must comply with the approved planning application.
3. The Local Planning Authority has endeavoured to work proactively and positively to resolve

APPLICATION NO. 3/2021/0710

DECISION DATE:

issues and considered the imposition of appropriate conditions and amendments to the application to deliver a sustainable form of development.

4.

1	This consent shall be read in conjunction with the S106 agreement dated 3rd of march 2020.
---	--

InformativeText

DIRECTOR OF ECONOMIC DEVELOPMENT AND PLANNING

Notes

Right of Appeal

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

· If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

· If this is a decision to refuse planning permission, or approve with conditions, a householder application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.

· If this is a decision to refuse planning permission, or approve with conditions, a minor commercial application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.

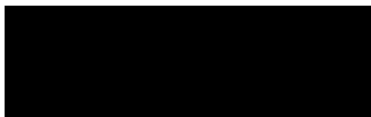
Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000. The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier. In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in section 114 of the Town and Country Planning Act 1990.

Purchase Notices

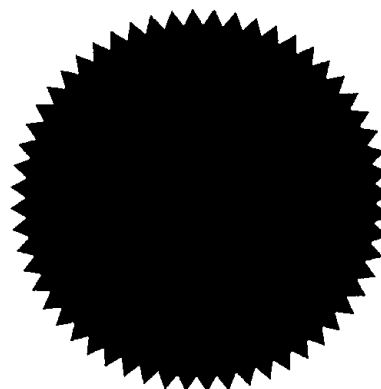
If permission to develop land is refused or granted subject to conditions, whether by the local planning authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, they may serve on the Council of the

**THE COMMON SEAL OF
LANCASHIRE COUNTY COUNCIL**

was hereunto affixed to this Deed
in the presence of:-



Authorised Signatory

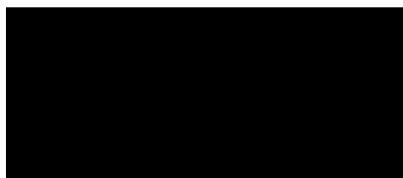


30809

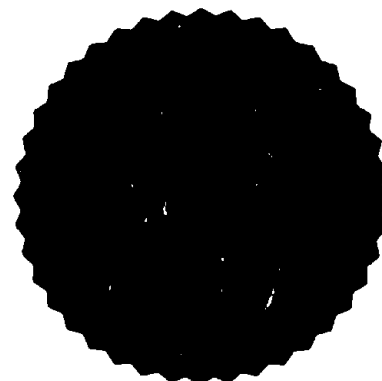
**THE COMMON SEAL OF
RIBBLE VALLEY BOROUGH COUNCIL**

was hereunto affixed to this Deed
in the presence of :-

Mayor



Chief Executive



EXECUTED AS A DEED



1971

acting by a Director

in the presence of

)

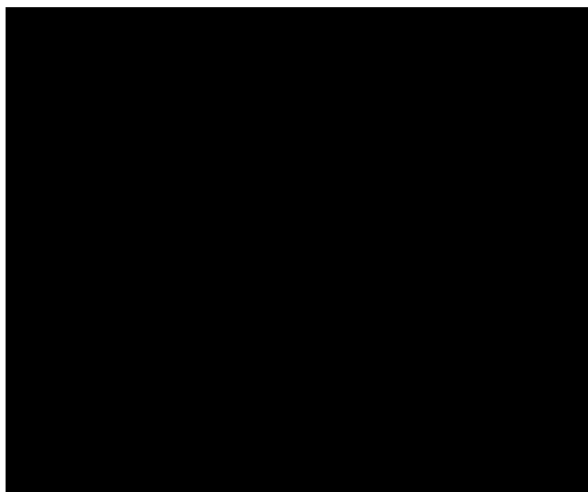
)

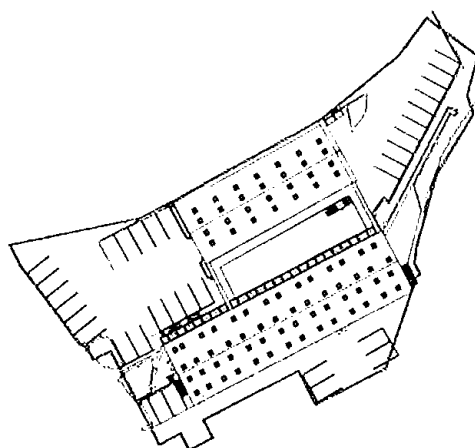
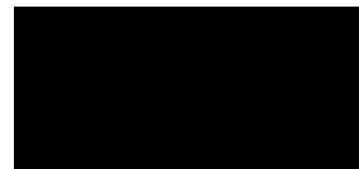
Witness Signature:

Witness Name:

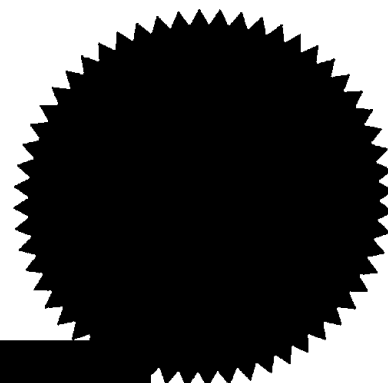
Witness Occupation:

Witness Address:





Authorized Signatory



30809



1

COMBINED LAND REGISTRY

1 : 1250

Reference SD7340NE

Peter Hitchen
rchitects

PROJECT

THE OLD COTTON MILL, PRIMROSE ROAD,
CLITHEROE

SHEET

LAN149140 & LA691235
COMBINED LAND REGISTRY

CLIENT

MR R EVANS

Date
24/05/2022

Project Number
PHA/425

Scale (@ A4)
1 : 1250

REV

Drawn by

JD

Checked by

PH

DRAWING NUMBER

A13.04