

DATED

8th December

2017

THIS AGREEMENT

BETWEEN

**THE COUNCIL OF THE BOROUGH OF KIRKLEES**

and

**BDW TRADING LIMITED**

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**DEED OF VARIATION**

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Under Section 106 of the Town and Country Planning Act 1990  
relating to land at the former Flockton Green Working Men's Club,  
Barnsley Road, Flockton

THIS AGREEMENT is made the

8<sup>th</sup> day of

December

2017

**BETWEEN:**

**(1) THE COUNCIL OF THE BOROUGH OF KIRKLEES** of the Town Hall Huddersfield West Yorkshire HD1 2TA (hereinafter called "the Council") of the first part; and

**(2) BDW TRADING LIMITED** (CRN: 03018173) whose registered office is situate at Barratt House, Cartwright Way, Forest Business Park, Bardon Hill, Coalville, LE67 1UF (hereinafter called "**the Developer**") of the second part.

**WHEREAS:-**

1. This Deed of Variation is supplemental to an agreement entered into pursuant to Section 106 of the Town and Country Planning Act 1990 ("the 1990 Act") between (1) the Council, (2) the Developer and (3) Flockton Green Limited dated 21 November 2016 ("the Principal Deed") relating to land at the former Flockton Green Working Men's Club, Barnsley Road, Flockton ("the Site").
2. The Developer is the registered proprietor with absolute title of the Site registered at HM Land Registry under Title Number YY80889 and is the successor in title to Flockton Green Limited.
3. The Council is the Local Planning Authority against whom the obligations in the Principal Deed and this Deed of Variation are enforceable.
4. The Developer has submitted an application to the Council under section 73 of the 1990 Act to vary condition 2 of planning permission 2016/62/91158/E and this section 73 application is known to the Council by reference 2017/70/92501/E.
5. The Council is minded to grant planning permission pursuant to this updated section 73 application subject to completion of this Deed of Variation without which planning permission would not be granted. The purpose of this Deed of Variation is to ensure that the obligations contained within the Principal Deed will also apply to any development undertaken under a planning permission that may be granted by the Council under reference 2017/70/92501/E.

**NOW IT IS HEREBY AGREED** between the parties as follows:-

1. This Deed of Variation is made pursuant to the statutory provisions and in consideration of the covenants contained herein and for the avoidance of doubt it is agreed and declared that the said

covenants are ones to which section 111 of the Local Government Act 1972, Sections 106 and 106A of the Town and Country Planning Act 1990 and all other powers so enabling are to apply. The planning obligations contained in this Deed of Variation are enforceable by the Council and shall bind the Site.

2. The parties mutually agree to vary and supplement the terms of the Principal Agreement so that the Principal Agreement shall from the date hereof be read and construed as follows:-

2.1 Clause 1.1 of the Principal Deed shall be amended so as to include the following new definition of Second Application:

**"Second Application"** means the application submitted by the Developer under section 73 of the 1990 Act for the variation of condition 2 (Plans) on application 2016/91158 for erection of 87 dwellings and demolition of existing working men's club, which is known to the Council by reference 2017/70/92501/E.

2.2 Clause 1.1 of the Principal Deed shall be amended so as to include an updated definition of "Planning Permission" which shall read as follows:

**"Planning Permission"** means the planning permission granted by the Council pursuant to the Application or a planning permission that may be granted pursuant to the Second Application

3. The Principal Agreement, as amended, is in all other respects hereby confirmed and shall remain in full force and effect.

**IN WITNESS WHEREOF** the parties hereto have caused this Deed of Variation to be executed as a Deed on the day and year first before written.

THE CORPORATE COMMON SEAL of )  
THE COUNCIL OF THE BOROUGH )  
OF KIRKLEES was hereunto affixed )  
but not delivered until the date hereof )  
In the presence of:- )



~~Assistant Director - Legal, Governance  
& Monitoring /~~Authorized Signatory

SIGNED and DELIVERED as a DEED )  
(but not delivered until the date hereof) by )  
and D. HUDSON )

as the Attorney in the name of )  
BDW TRADING LIMITED )  
in exercise of the power conferred upon )  
them by a Power of Attorney )  
dated 15 May 2015 )  
in the presence of:- )

MARTIN PURDY  
COMMERCIAL DIRECTOR

Witness Signature

Name

Address

Occupation

**DATED**

**2017**

**THE COUNCIL OF THE BOROUGH OF KIRKLEES**

**and**

**BDW TRADING LIMITED**

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