

Dated _____ **2026**

THE COUNCIL OF THE BOROUGH OF KIRKLEES

and

RICHARD KERSHAW AND SAMANTHA GILL

and

REDROW HOMES LIMITED

**Deed of Variation made pursuant to Section 106A of
the Town and Country Planning Act 1990**

**Land at Bradley Villa Farm, Bradley Road,
Huddersfield, HD2 2JX**

Application Refs:

2024/70/91089/W and 2025/70/91172/W

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BETWEEN

- (1) **THE COUNCIL OF THE BOROUGH OF KIRKLEES** of Town Hall, Huddersfield, West Yorkshire, HD1 2TA (**the Council**);
- (2) **RICHARD KERSHAW** of Tib Netherend Farm, Colnebridge, Huddersfield, HD5 0PX and **SAMANTHA GILL** of 6 Fourlands Farm, Little Lepton, Huddersfield, HD8 OLN (**the First Owner**); and
- (3) **REDROW HOMES LIMITED** (Company Registration No.: 01990710) whose registered address is Redrow House, St Davids Park, Ewloe, Deeside, CH5 3RX (**the Second Owner**)

BACKGROUND

- (A) For the purposes of the Act the Council is the local planning authority for the area in which the Site is situated.
- (B) The First Owner is the registered freehold proprietor of that part of the Site which is registered at HM Land Registry partly under Title Number YY113385.
- (C) The Second Owner is the registered freehold proprietor of that part of the Site which is registered at HM Land Registry under Title Number YY186036.
- (D) The Second Owner has submitted the Redrow Application to the Council.
- (E) BDW Trading Limited has submitted the BDW Application to the Council.
- (F) On 18 August 2023 (1) the Council (2) the First Owner and (3) the Second Owner entered into the Original Agreement in respect of the Site.
- (G) The First Owner and the Second Owner are the parties against whom the obligations in the Original Agreement are enforceable. and together comprise **the Owner** for the purposes of the Original Agreement.
- (H) The Council, the First Owner and the Second Owner hereby enter into this Deed in order to vary the terms of the Original Agreement as set out in this Deed.

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

- 1.1. Unless the context otherwise requires all words and phrases defined in the Original Agreement shall have the same meaning in this Deed.
- 1.2. In this Deed the following expressions have the following meanings:

BDW Application	the application made under Section 73 of the Act and validated by the Council on 28 April 2025 with reference 2025/70/91172/W to amend condition 2 (plans) of the Original Planning Permission for the
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	replan of plots 134-187, 191-218 and 256-277 and changes to the approved house types;
BDW Permission	the planning permission that may be granted pursuant to the BDW Application;
Deed	this deed of variation;
Original Agreement	the agreement made under Section 106 of the Act dated 18 August 2023 and made between (1) the Council, (2) Richard Kershaw and Samantha Gill, and (3) Redrow Homes Limited;
Original Planning Permission	the planning permission for the Development issued by the Council on 24 August 2023 under reference number 2021/62/92086/W;
Owner	together the First Owner and the Second Owner;
Redrow Application	the application made under Section 73 of the Act and validated by the Council on 27 November 2024 with reference 2024/70/91089/W to amend condition 2 (plans) of the Original Planning Permission for the replan of plots 39-44, 62-65, 76-90 , and 132-133 and changes to house types;
Redrow Permission	the planning permission that may be granted pursuant to the Redrow Application.

- 1.3. This Deed shall be construed as one with the Original Agreement.
- 1.4. The singular includes the plural and vice versa and words importing any gender include every gender and words importing persons includes firms, companies or corporations sole or aggregate and vice versa.
- 1.5. Where there is more than one person named as a Party and where more than one Party undertakes an obligation all such obligations can be enforced against all Parties jointly and against each Party individually unless there is an express provision otherwise.
- 1.6. 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.
- 1.7. References to clauses paragraphs and schedules are references to clauses paragraphs and schedules to this Deed and are for reference only and shall not affect the construction of this Deed.
- 1.8. To the extent that there is any conflict between the provisions of the Original Agreement and this Deed then the provisions of this Deed shall prevail.
- 1.9. This Deed is conditional upon the grant of the BDW Permission and grant of the Redrow Permission.

2. STATUTORY BASIS

- 2.1. This Deed is made pursuant to Sections 106 and 106A of the Act and binds the Site and as such is enforceable pursuant to Section 106(3) of the Act against the Owner and any person claiming or deriving title to the Site (or any part or parts thereof) through or under the Owner as if that person had been an original covenanting party to this Deed.
- 2.2. Save as varied by Clause 3 below the Original Agreement remains enforceable against the Owner and any person claiming or deriving title to the Site (or any part or parts thereof) through or under the Owner as if that person had been an original covenanting party to the Original Agreement.
- 2.3. To the extent that the covenants, restrictions and requirements in this Deed are not made under Sections 106 and 106A of the Act they are made under Section 1 of the Localism Act 2011 and Section 111 of the Local Government Act 1972 and all other powers so enabling.

3. VARIATIONS

- 3.1. The parties hereby agree that the Original Agreement shall from the date that this Deed comes into effect be read and construed and observed and performed subject to the following variations:

- 3.1.1. The following definitions shall be added to the list of defined terms in Clause 1 of the Original Agreement:

"BDW Application: the application validated by the Council on 28 April 2025 with reference 2025/70/91172/W;"

"BDW Permission: the planning permission that may be granted pursuant to the BDW Application;"

"Redrow Application: the application validated by the Council on 27 November 2024 with reference 2024/70/91089/W;"

"Redrow Permission: the planning permission that may be granted pursuant to the Redrow Application;"

- 3.1.2. The definition of "**Planning Permission**" in Clause 1 of the Original Agreement shall be deleted and replaced with the following definition:

"the planning permission granted by the Council on 24 August 2023 pursuant to the Application and/or the BDW Permission and/or the Redrow Permission (as applicable)";

- 3.1.3. The definition of "**Development**" in Clause 1 of the Original Agreement shall be deleted and replaced with the following wording:

"the development of the Site in accordance with the Planning Permission and/or the BDW Permission and/or the Redrow Permission (as applicable)"

- 3.1.4. A new Clause 21 shall be inserted into the Original Agreement as follows:

"Future Permissions

21.1 *In the event that an application is made pursuant to Section 73 or Section 73B of the Act for an amendment to the Planning Permission and planning permission is granted by the Council in respect of that application then:*

21.1.1 *references to "Planning Permission" and "Development" in this Deed shall thereafter be deemed to include the application made pursuant to Sections 73 or 73B the new planning permission granted pursuant to Section 73 or 73B of the Act and the development permitted by that permission respectively; and*

21.1.2 *this Deed shall apply to and remain in full force in respect of both the Planning Permission and that new planning permission without the need for a further agreement to be entered into pursuant to Section 106 of the Act unless required to do so by the Council.*

in each case PROVIDED THAT:

21.1.3 *nothing in this Clause 21 shall fetter the discretion of the Council in determining any application(s) under Section 73 or 73B of the Act or in requiring new or varied planning obligations whether by way of a new or supplemental deed pursuant to Section 106 and/or Section 106A of the Act; and*

to the extent that any of the Planning Obligations have been discharged in respect of the original Planning Permission nothing shall require the Owner to comply with that obligation again in respect of a planning permission granted under Section 73 or 73B of the Act."

- 3.1.5. The words 'a conveyancer' in the wording of the restriction at Paragraph 2.6 of the Third Schedule to the Original Agreement shall be deleted so that the fourth line of the restriction reads as follows:

"...signed by The Council of the Borough of Kirklees that the provisions..."

- 3.1.6. Plan 2 of the Original Agreement shall be deleted and replaced with drawing BVF-16-02-21 Rev D attached to the Appendix of this Deed.

4. REGISTRATION

- 4.1. This Deed is a local land charge and may be registered as such by the Council.

5. SEVERABILITY

- 5.1. If any provision in this Deed shall in whole or in part be held to be invalid, illegal or unenforceable under any enactment or rule of law such provisions shall to the extent required be severed from this Deed and shall not affect the validity or enforceability of the remaining provisions of this Deed.

6. **THIRD PARTY RIGHTS**

- 6.1. No person who is not a party to this Deed may enforce any terms hereof pursuant to the Contracts (Rights of Third Parties) Act 1999 **PROVIDED THAT** this clause shall not affect any right of action of any person to whom this Deed has been lawfully assigned or becomes vested in law including successors in title to the Site.

7. **COSTS**

- 7.1. The Council acknowledges that the Second Owner has prior to the date of this Deed paid the reasonable legal costs of the Council incurred in the preparation, negotiation and completion of this Deed.

8. **JURISDICTION**

- 8.1. This Deed is governed by and interpreted in accordance with the law of England and the parties submit to the exclusive jurisdiction of the courts of England and Wales.

9. **FIRST OWNER'S FURTHER CONSENT**

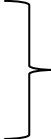
- 9.1. The First Owner acknowledges that this Deed has been entered into by the Second Owner with its consent and that the Second Owner's interest in the Site shall be bound by the covenants and obligations contained in the Original Agreement as varied by this Deed

THE PARTIES HEREBY WITNESS that this document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Executed as a Deed (but not delivered

Until the date of it) by the affixing of

**THE COMMON SEAL of THE COUNCIL OF
THE BOROUGH OF KIRKLEES** in the
presence of



Authorised Sealing Officer

Signed as a deed

(but not delivered until the date hereof) by

RICHARD KERSHAW

In the presence of:

Witness Signature:

Name of Witness:

Address:

.....

Signed as a deed

(but not delivered until the date hereof) by

SAMANTHA GILL

In the presence of:

Witness Signature:

Name of Witness:

Address:

.....

EXECUTED as a **DEED** by

as attorney for

REDROW HOMES LIMITED

in the presence of:-

.....

as attorney for

REDROW HOMES LIMITED

Signature of witness

Name (in BLOCK CAPITALS)

Address: Redrow Homes Limited, St David's Park, Ewloe, Flintshire, CH5 3RX

Appendix – Plan 2

