



Shulmans^{LLP}

Dated 29 March 2019

(1) CITY OF BRADFORD
METROPOLITAN DISTRICT
COUNCIL

(2) THE MOST NOBLE
PEREGRINE ANDREW MORNAY
DUKE OF DEVONSHIRE

(3) CLIVE PIETER DE RUIG,
HEATHER JANE HANCOCK AND
JOHN DAVID SEBASTIAN BOOTH

DEED OF VARIATION

Pursuant to Section 106 and
Section 106A of the Town and
Country Planning Act 1990 (as
amended) relating to development
on land at Higher Shann Farm,
Shann Lane, Keighley, West
Yorkshire

10 Wellington Place
Leeds
LS1 4AP
Ref: EZT/BA

THIS DEED OF VARIATION is made the 29 day of March 2019

BETWEEN

- (1) **CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL** of City Hall, Bradford, West Yorkshire, BD1 1HY ("the Council") of the first part;
- (2) **THE MOST NOBLE PEREGRINE ANDREW MORNLY DUKE OF DEVONSHIRE** of 21 Buckingham Gate, London, SW1E 6LS ("the Owner") of the second part; and
- (3) **CLIVE PIETER DE RUIG, HEATHER JANE HANCOCK and JOHN DAVID SEBASTIAN BOOTH** care of Currey and Co of 21 Buckingham Gate, London, SW1E 6LS ("the Trustees") of the third part.

RECITALS

- 1 This Deed of Variation is supplemental to:
 - (a) an agreement entered into pursuant to Section 106 of the 1990 Act between (1) the Council (2) the Owner and (3) Peter Anthony Bostock and Clive Pieter De Ruig dated 3 September 2013 relating to the development of land at and known as Higher Shann Farm, Shann Lane, Keighley, West Yorkshire as authorised by outline planning permission for application number 12/04674/MAO granted on 6 September 2013 ("the Original Section 106 Agreement"); and
 - (b) a deed of variation entered into pursuant to Section 106 and 106A of the 1990 Act relating to the Original Agreement between (1) the Council (2) the Owner and (3) Anthony Bostock and Clive Pieter De Ruig dated 13 September 2016 ("the 2016 Deed of Variation").
- 2 The Council is the Local Planning Authority for the purposes of the 1990 Act for the area within which the Site is situated.
- 3 The Owner is the owner of the Site as registered at HM Land Registry under Title Number WYK873899 and the Trustees have an interest in the Site pursuant to agreements for sale dated 3 November 1926 and 26 November 1950 noted in the Charges Register of that title.
- 4 The Owner has by an application registered by the Council with reference number 18/01755/MAR on 30 April 2018 applied for reserved matters approval in respect of the Development and on 10 January 2019 the Council resolved to grant such approval subject to (inter alia) the parties hereto entering into a deed of variation to the Original Section 106 Agreement (as varied by the 2016 Deed of Variation) to implement a number of speed reduction measures on Shann Lane in accordance with the Department for Transport's "Local Transport Note – Traffic Calming LTN 1/07" published March 2007.
- 5 The parties hereto have agreed that the Original Section 106 Agreement (as varied by the 2016 Deed of Variation) shall remain subject to the provisions in the 2016 Deed of Variation and shall further be varied in accordance with the Council's resolution referenced

at paragraph (4) above and this Deed of Variation seeks to amend the Original Section 106 Agreement to secure these amended provisions.

- 6 Any words or phrases which are defined in the Original Section 106 Agreement (as varied by the 2016 Deed of Variation) and which appear in this Deed of Variation shall have the same meaning as are associated to them in the Original Section 106 Agreement (as varied by the 2016 Deed of Variation) unless a contrary intention appears from this Deed of Variation.

NOW THIS DEED WITNESSETH AS FOLLOWS:

1 VARIATION

- 1.1 It is hereby agreed between the parties to this Deed of Variation that the Original Section 106 Agreement (as varied by the 2016 Deed of Variation) is varied in the manner set out in the Schedule to this Deed of Variation and the Original Section 106 Agreement (as varied by the 2016 Deed of Variation) shall remain in full force and effect and the amendments contained in this Deed of Variation shall take effect as if they were included in the Original Section 106 Agreement (as varied by the 2016 Deed of Variation).
- 1.2 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, Section 106 and Section 106A of the Town and Country Planning Act 1990 and all other powers so enabling are to apply.
- 1.3 This Deed of Variation contains planning obligations made pursuant to Section 106 and varied pursuant to Section 106A of the Town and Country Planning Act 1990 which are enforceable by the Council and shall bind the Site as registered under Land Registry title number WYK873899.
- 1.4 The provisions of this Deed of Variation shall have immediate effect upon the completion of this Deed

2 IT IS HEREBY AGREED AND DECLARED AS FOLLOWS:

- 2.1 The provisions of the Original Section 106 Agreement (as varied by the 2016 Deed of Variation) continue to be enforceable and to bind the Site in all respects save for as varied by this Deed, but for the avoidance of doubt the alterations and amendments hereby agreed shall to the extent only that they are material supersede specific provisions to the contrary in the Original Section 106 Agreement.
- 2.2 A person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term hereof provided that this Clause shall not affect any right of action of any person to whom this Deed is lawfully assigned or in whom it becomes vested in law.
- 2.3 Any words or phrases which are defined in the Original Section 106 Agreement (as varied by the 2016 Deed of Variation) and which appear in this Deed of Variation shall have the

same meaning as are associated to them in the Original Section 106 Agreement (as varied) unless a contrary intention appears from this Deed of Variation.

- 2.4 This Deed shall be registered as a Local Land Charge.
- 2.5 The Trustees shall pay to the Council its reasonable legal fees on completion of this Deed in the sum of £500.00.
- 2.6 The Trustees shall incur no personal liability as a result of the covenants given by them herein and any liability incurred by the Trustees shall be limited to the assets held by the Trustees from time to time on behalf of the Chatsworth Settlement Trust

Schedule 1

The parties hereby mutually agree to vary and supplement the terms of the Original Section 106 Agreement (as varied by the 2016 Deed of Variation) so that the Original Section 106 Agreement (as varied) shall from and including the date of this Deed of Variation be read and construed as follows:

1 The plan numbered HSN-ARP-XX-XX-DR-CH-00005 Rev P01 appended to this Deed of Variation shall be inserted into the Original Agreement

2 Clause 1.1 (Definitions) of the Original Section 106 Agreement shall be amended to delete the definition of Development which shall be substituted with the following:

"Development" means the development of the Site by the erection of up to 128 Dwellings with means of access by provision of two new accesses from Shann Lane and Broadlands respectively pursuant to the Application as qualified by the Reserved Matters Application;

3 Clause 1.1 (Definitions) of the Original Section 106 Agreement shall be amended so as to include an amended definition of "Off-Site Highway Works" which shall include the following additional wording:

5. Alterations to Shann Lane to include the Speed Reduction Measures as shown for illustrative purposes only on the Shann Lane Speed Reduction Measures Plan PROVIDED THAT all such works to be shown on more detailed drawings to be agreed between the Council and the Owner;

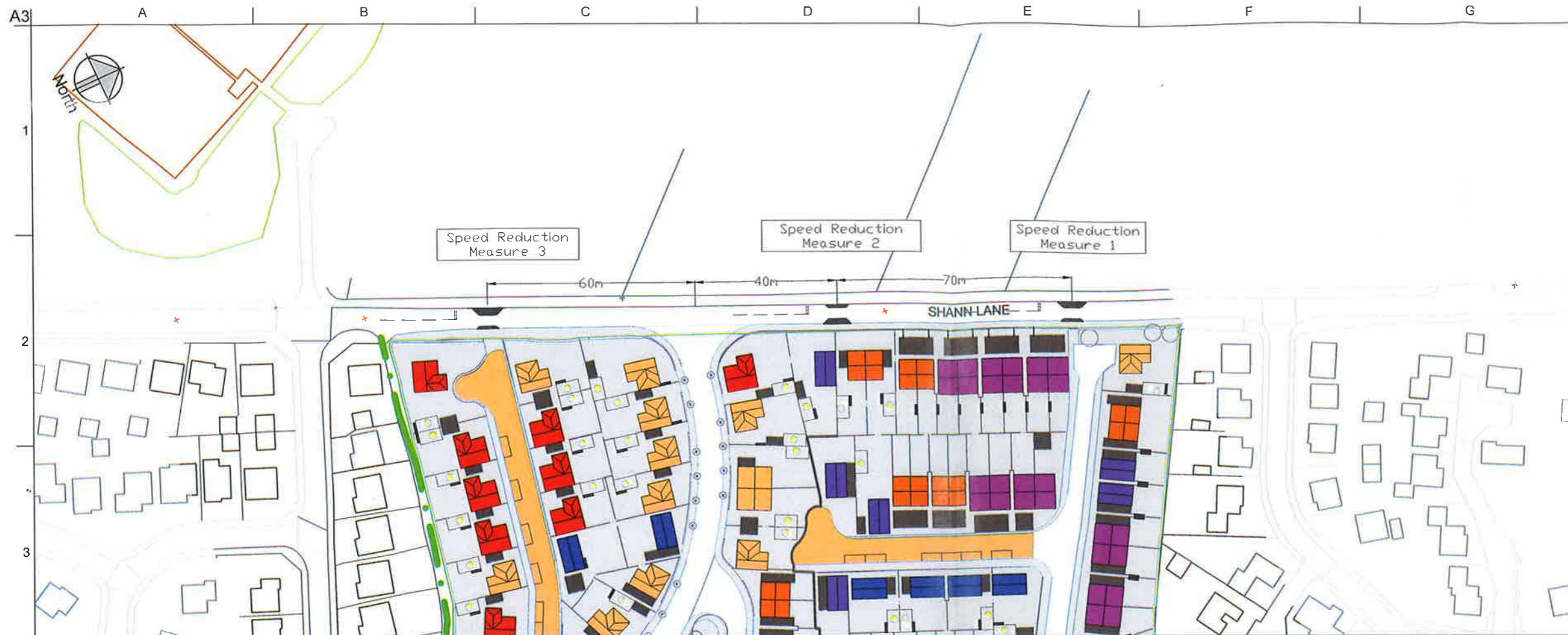
4 Clause 1.1 (Definitions) of the Original Section 106 Agreement shall be amended so as to include the following new definitions:

"Reserved Matters Application" shall mean the application for reserved matters submitted to the Council pursuant to application reference 18/01755/MAR requesting consideration of access (other than at Broadway and Shann Lane), appearance, landscaping, layout and scale on land at Shann Lane, Keighley

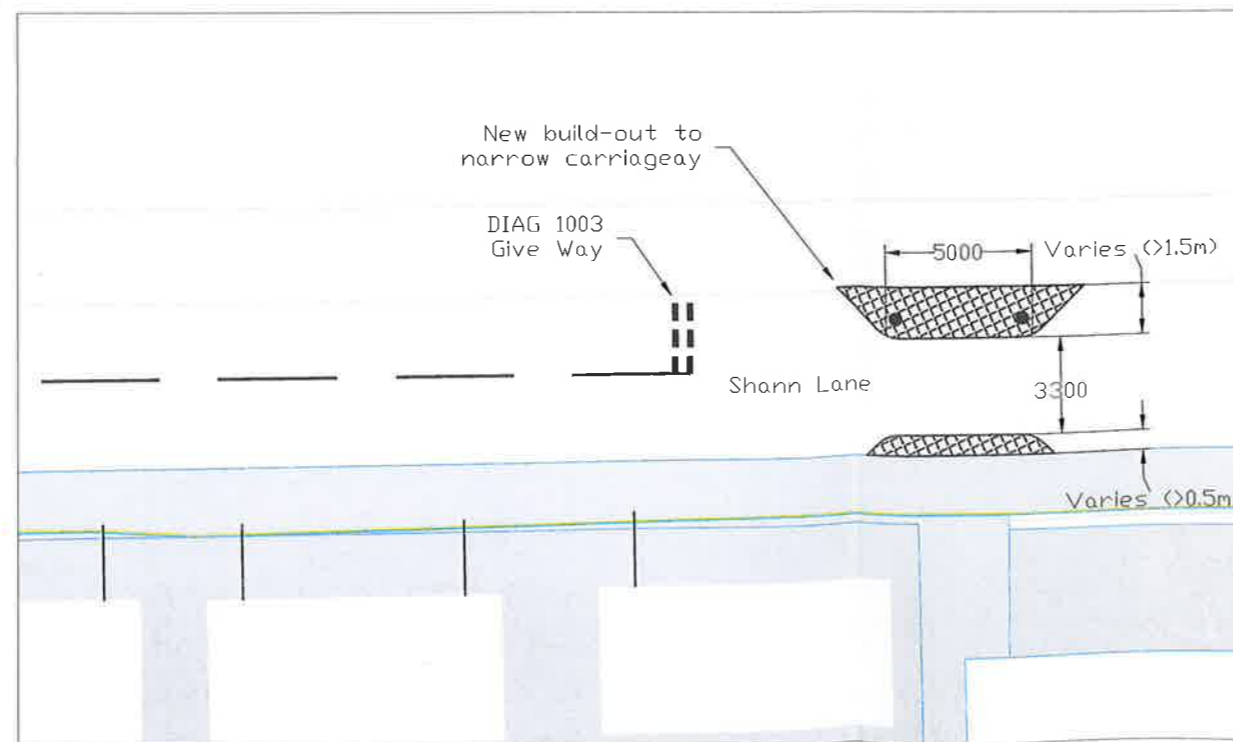
"Reserved Matters Approval" shall mean the approval of the Reserved Matters Application substantially in the form attached at Schedule 2 to this Agreement

"Shann Lane Speed Reduction Measures Plan" shall mean the plan numbered HSN-ARP-XX-XX-DR-CH-00005 Rev P01 showing the Speed Reduction Measures to be undertaken on Shann Lane as appended to this Agreement;

"Speed Reduction Measures" means those measures to be undertaken on Shann Lane to ensure that vehicles travel within the speed limit as set out in the attached "Shann Lane Speed Reduction Measures Plan".



General Arrangement 1:1000



Carriageway Narrowing Typical Detail 1:250
Measure 1

- Notes:
1. Layout based on Lathams drawing no.: 7280_03_01
 2. Preliminary Traffic calming measures on Shann Lane.
 3. Proposed Carriageway Narrowing with priority for vehicles travelling in a southbound direction (up-hill).
 4. Narrowings to be designed in accordance with Local Transport Note LTN 1 / 07 - Traffic Calming.

x/s Edward

x/s [Signature]

x/s [Signature]

x/s [Signature]

[Signature]

P01	20 04 18	AM	NJB	HS
Issue for Planning				
Rev	Date	By	Chkd	Appd

ARUP

Admiral House, Rose Wharf,
78, East Street, Leeds, LS9 8EE,
Tel +44(0)113 242 8498 Fax +44(0)113 242 8573,
www.arup.com

Client

Project Title
High Shann, Keighley

Drawing Title
Speed Reduction Measures

Scale at A3
As shown

Role
Transport

Suitability
For Information

Arup Job No
259524

Rev
P01

Name
HSN-ARP-XX-XX-DR-CH-00005

Schedule 2

Draft Reserved Matters Approval

PVVRCM **RECOMMENDATION PREVIEW**

Application No: 18/01755/MAR

Address:

Land At Shann Lane
Keighley
West Yorkshire

Description: Reserved matters application for 128 dwellings approved by outline permission 12/04674/MAO requesting consideration of access (other than at Broadway and Shann Lane), appearance, landscaping, layout, and scale
The outline planning application was not an environment impact assessment application.

Recommendation: GRANT

Conditions or Reasons for Rejection:

1. The development hereby approved shall only be carried out in accordance with:

- i) 7280_08_30_00 Rev B- Proposed Unit 1 Plans and Elevations
- ii) 7280_08_30_01 Rev B- Proposed Unit 2 Plans and Elevations
- iii) 7280_08_30_02 Rev B- Proposed Unit 3 Plans and Elevations
- iv) 7280_08_30_03 Rev B- Proposed Unit 4 Plans and Elevations
- v) 7280_08_30_04 Rev B- Proposed Unit 5 Plans and Elevations
- vi) 7280_08_30_05 Rev B- Proposed Unit 6 Plans and Elevations
- vii) 7280_08_30_06 Rev B- Proposed Unit 7 Plans and Elevations
- viii) 7280_08_30_07 Rev B- Proposed Unit 8 Plans and Elevations

- ix) 7280_08_10_01 REV I- Proposed Site Masterplan
- x) 7280_08_10_02 REV E- Proposed Parking and Waste Management Plan
- xi) 7280_08_10_03 REV D- Proposed Landscape Plan
- xii) 7280_08_10_04 REV E- Proposed Material Distribution Plan
- xiii) 7280_08_10_05 REV C- Proposed Roof Plan
- xiv) 7280_08_10_06 REV E- Electric Vehicle Charging Points

- xv) 7280_08_20_02 REV A- Proposed Section 1
- xvi) 7280_08_20_03 REV B- Proposed Section 2
- xvii) 7280_08_20_04 REV B- Proposed Elevations 1
- xviii) 7280_08_20_05 REV C- Proposed Elevations 2
- xix) 7280_08_06 REV A- Proposed Elevations 3
- xx) 7280_08_20_07 REV C- Proposed Section 3

- xxi) HSN-ARP-XX-XX-DR-CH-00001 REV P01- Proposed Layout Highway Cross Sections
- xxii) HSN-ARP-XX-XX-DR-CH-00001 REV P01- Visibility Splays
- xxiii) HSN-ARP-XX-XX-DR-CH-00002 REV P01- Vehicle Swept Path Analysis
- xxiv) HSN-ARP-XX-XX-DR-CH-00005 REV P01- Speed Reduction Measures

NB. This does not include conditions/footnotes which are automatically imposed on the decision notice.

Reason: For the avoidance of doubt as to the terms under which this planning permission has been granted.

2. Before development above damp proof course commences on site, arrangements shall be made with the Local Planning Authority for the inspection of all external facing and roofing materials to be used in the development hereby permitted. The samples shall then be approved in writing by the Local Planning Authority and the development constructed in accordance with the approved details.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and to accord with Policies DS1 and DS3 of the Core Strategy Development Plan Document.

3. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent equivalent legislation) no development falling within Classes A to E of Part 1 of Schedule 2 of the said Order shall subsequently be carried out to the development hereby approved without the prior express written permission of the Local Planning Authority.

Reason: To safeguard the amenities of occupiers of adjoining properties and to accord with Policies DS3 and DS5 of the Core Strategy Development Plan Document.

4. No retaining walls shall be constructed on the site to which this decision notice relates, except where details have been submitted to and approved in writing by the Local Planning Authority of the precise location, height and face treatment of the retaining wall. All retaining walls shall only be constructed in accordance with the approved details.

Reason: To ensure that only appropriate retaining walls are constructed, to accord with Policy DS1, DS2, DS3, DS4 and DS5 of the Core Strategy.

5. In the first planting season following the completion of the development, or as may otherwise be agreed in writing by the Local Planning Authority, the landscaping proposals and new tree planting shall be implemented at the site in accordance with details shown on the approved Landscape Proposals drawing reference 7280_08_10__03 REV D dated 4/12/18 and received by the Council on 7/12/18.

Any trees or plants comprising the approved landscaping that become diseased or die, or which are removed or damaged within the first 5 years after the completion of planting shall be removed and a replacement landscape planting using the same or similar species/specifications shall be planted in the same position no later than the end of the first available planting season following the demise of the original landscape planting.

Reason: In the interests of visual amenity and to accord Policies EN5, DS2 and DS3 of the Core Strategy Development Plan Document.

6. Notwithstanding the details provided on the submitted plans details of the design, height and materials of boundary treatments to the plot curtilages shall be submitted to and approved in writing by the Local Planning Authority. The details so approved shall then be provided in full prior to the first occupation of the development and shall thereafter be retained as long as the development subsists.

NB. This does not include conditions/footnotes which are automatically imposed on the decision notice.

Reason: In the interests of amenity and privacy and to accord with Policies DS1 and DS5 of the Local Plan Core Strategy.

7. The electric vehicle charging points as illustrated on drawing reference 7280_08_10_06 REV E dated 4.12.18 and received on 7/12/18 shall be installed prior to the first occupation of the residential units. The electrical circuits shall comply with the Electrical requirements of BS7671: 2008 as well as conforming to the IET code of practice on Electric Vehicle Charging Equipment installation 2012 ISBN 978-1-84919-515-7 (PDF). All electric vehicle charging points shall be clearly marked as such and their purpose explained to new occupants within their new home welcome pack/travel planning advice.

Reason: To facilitate the uptake of low emission vehicles by staff and visitors and to reduce the emission impact of traffic arising from the development in line with the council's Low Emission Strategy and National Planning Policy Framework (NPPF).

8. The surface water drainage infrastructure serving the development shall be managed in strict accordance to the terms and agreements, over the lifetime of the development, as set out in a Surface Water Drainage Maintenance and Management document to be submitted to the Lead Local Flood Authority for approval.

Reason: In the interest of satisfactory drainage and to accord with policy EN7 of the Core Strategy Development Plan Document.

9. Before any part of the development is brought into use details of the proposed garages shall be submitted to and approved in writing by the local planning authority.

Reason : To ensure appropriate design arrangements and to accord with Policies DS1 and DS5 of the Core Strategy.

10. Before works commence above DPC level on any of the units hereby approved a scheme shall be submitted to and approved in writing by the Local Planning Authority showing full details of the revised public right of way which is incorporated to run through the site (as shown on the approved plans). The approved scheme shall show full details of the width, gradient, surface treatment and boundary treatment (including any walls and fences) and shall include, where necessary any means of screening to prevent overlooking from raised areas of the footway into adjacent residential properties. The approved scheme shall also fully take into account the need to accommodate a public right of way that maintains satisfactory levels of public safety in relation to designing out crime objectives. The approved scheme shall also set out timeframe for the completion of all works set out in this planning condition. The approved scheme shall thereafter be fully implemented in accordance with the timeframe agreed in accordance with this condition and the details and measures incorporated shall thereafter be retained at all times unless written approval is given by the Local planning Authority to change or amend the details.

Reason: To ensure that a satisfactory safe pedestrian right of way is incorporated though the site that retains satisfactory residential amenity and to accord with policies DS1 and DS5 of the Core strategy and the provisions of the NPPF in relation to creating safe and inclusive places and maintaining residential amenity.

NB. This does not include conditions/footnotes which are automatically imposed on the decision notice.

NB. This does not include conditions/footnotes which are automatically imposed on the decision notice.

IN WITNESS whereof these presents have been duly executed as a Deed by the parties hereto the day and year first before written

99494B.

THE COMMON SEAL of)
CITY OF BRADFORD METROPOLITAN)
DISTRICT COUNCIL)



was hereunto affixed in the presence of: -)
Authorised by the City Solicitor

James

EXECUTED as a DEED by)
THE MOST NOBLE PEREGRINE)
ANDREW MORNAY DUKE OF DEVONSHIRE) xD

*Devonshire
by his attorney
Edward Pinks* x

In the presence of:

Witness name: *Brown*

Address: *33 Queen Anne Street
London
W1G 9HY*

Occupation: *Secretary*

EXECUTED as a DEED by

) Clive de Ruig by his attorney

CLIVE PIETER DE RUIG

) X  X

In the presence of:

Witness name: 

Address: SUSANNA BROWN
33 Queen Anne Street
London W1G 9HY


Occupation: 

EXECUTED as a DEED by

) 

HEATHER JANE HANCOCK

) X  X

in the presence of: 

Witness name: CHLOE SKYRME

Address: WESTMINSTER
LONDON
SW1A 9EX

Occupation: ASSISTANT PRIVATE SEC

EXECUTED as a DEED by

JOHN DAVID SEBASTIAN BOOTH

)
) X *JD Sebastian Booth* X

in the presence of:

S J

Witness name:

SARAH JARMAN

Address:

*9 LEONARD COURT
BURTON ST, WCIH 9XX*

Occupation:

ASSISTANT