

DATED

16th November

2018

East Devon District Council (1)
and
Taylor Wimpey Developments Limited (2)
and
Hallam Land Management Limited (3)
and
Persimmon Homes Limited (4)

FURTHER MITIGATION CONTRIBUTION AND AFFORDABLE HOUSING DEED OF VARIATION

to an Agreement made under Section 106 of the Town and Country Planning Act 1990 dated 29 October 2010 (and as subsequently amended) made between East Devon District Council (1) Devon County Council (2) Taylor Wimpey Developments Limited (3) and Hallam Land Management Limited (4) Persimmon Homes (South West) Limited (5) Redrow Homes Limited (6) the Owners (7) and the Chargees (8) relating to land north of Rockbeare Devon (Cranbrook)

This Deed is made the

16th

day of November

2018

Between:

- (1) **EAST DEVON DISTRICT COUNCIL** of Knowle Sidmouth Devon EX10 8HL ("EDDC")
- (2) **TAYLOR WIMPEY DEVELOPMENTS LIMITED** whose registered office is at 80 New Bond Street London W1S 1SB ("Taylor Wimpey")
- (3) **HALLAM LAND MANAGEMENT LIMITED** whose registered office is at Banner Cross Hall Sheffield S11 9PD ("Hallam")
- (4) **PERSIMMON HOMES LIMITED** whose registered office is at Persimmon House Fulford York YO1 4RE ("Persimmon")

Background

This Deed is supplemental to an agreement dated 29 October 2010 made under section 106 of the Act section 111 of the Local Government Act 1972 and section 2 of the Local Government Act 2000 and the Highways Act 1980 between East Devon District Council (1) Devon County Council (2) Taylor Wimpey Developments Limited (3) and Hallam Land Management Limited (4) Persimmon Homes (South West) Limited (5) Redrow Homes Limited (6) the Owners (7) and the Chargees (8) relating to land north of Rockbeare, Devon (Cranbrook)

Introduction

The terms and expressions defined in the Principal Agreement shall unless defined in this Deed of Variation or the context otherwise requires have the same meaning when used in this Deed of Variation

- (A) EDDC is the Local Planning Authority for the purposes of the Act for the district within which the Land is situated
- (B) This Deed is to vary the Principal Agreement (as herein defined) in respect of the Land
- (C) This Deed is made in accordance with section 106A of the Act section 111 of the Local Government Act 1972 and section 1 of the Localism Act 2011
- (D) The New Community Partners ("NCP") now comprise of Taylor Wimpey Hallam and Persimmon following Redrow Homes Limited having no further interest in the Land
- (E) The NCP have acquired a freehold of all the Land subject to this Deed of Variation
- (F) It has been determined that further steps are required to address the impact of the Development on European protected sites and species
- (G) The parties hereto have agreed to enter into this Deed to vary the terms of the Principal Agreement in respect of the Land to:
 - amend the required level of Affordable Housing within the Phase 4 Land from 30% to 28.675% and
 - require the payment of a contribution towards the cost of survey and mitigation

works in relation to the Exe Estuary and Pebblebed Heaths SPA and SAC

1 OPERATIVE PROVISIONS

- 1.1 In pursuance of sections 106A of the Act section 111 of the Local Government Act 1972 and section 1 of the Localism Act 2011 and all other enabling provisions powers it is **HEREBY AGREED AND DECLARED** by and between the parties as follows:
- 1.2 This Deed of Variation shall become effective upon the date of completion hereof
- 1.3 Save as varied by this Deed of Variation the Principal Agreement shall remain in full force and effect
- 1.4 This Deed of Variation is entered into under Section 106 and 106(A)(1)(a) of the Act and creates planning obligations for the purposes of the Act and is enforceable by the EDDC as local planning authority

2 INTERPRETATION

In this Deed of Variation the following definitions shall apply:

- 2.1 "the Principal Agreement" means the agreement dated 29 October 2010 made under section 106 of the Act between East Devon District Council (1) Devon County Council (2) Taylor Wimpey Developments Limited (3) and Hallam Land Management Limited (4) Persimmon Homes (South West) Limited (5) Redrow Homes Limited (6) the Owners (7) and the Chargees (8) relating to land north of Rockbeare Devon (Cranbrook) as varied by:
- (a) A deed of variation dated 26 November 2013 made between East Devon District Council (1) Devon County Council (2) Taylor Wimpey Developments Limited (3) Hallam Land Management Limited (4) Persimmon Homes (South West) Limited (5) Bovis Homes Limited (6) Sovereign Living Limited (7) and Westco Properties Limited (8)
 - (b) A deed of variation dated 26 November 2013 made between East Devon District Council (1) Devon County Council (2) Taylor Wimpey Developments Limited (3) Hallam Land Management Limited (4) Persimmon Homes Limited (5) Bovis Homes Limited (6) Sovereign Living Limited (7) and Westco Properties Limited (8)
 - (c) A deed of variation dated 24 November 2014 made between East Devon District Council (1) Devon County Council (2) Taylor Wimpey Developments Limited (3) Hallam Land Management Limited (4) Persimmon Homes Limited (5) Bovis Homes Limited (6) Sovereign Living Limited (7) Westco Properties Limited (8) and Devon and Cornwall Housing Limited (9)
 - (d) A deed of variation dated 13 May 2016 made between East Devon District Council (1) Devon County Council (2) Taylor Wimpey Developments Limited (3) Hallam Land Management Limited (4) Persimmon Homes Limited (5) Bovis Homes Limited (6) Sovereign Living Limited (7) Westco Properties Limited (8) and Devon and Cornwall Housing Limited (9)

(e) A deed of variation dated 8 December 2016 made between Devon County Council (1) Taylor Wimpey Developments Limited (2) Hallam Land Management Limited (3) Persimmon Homes Limited (4)

(f) A deed of variation dated 18th May 2018 made between East Devon District Council (1) Devon County Council (2) Taylor Wimpey Developments Limited (3) Hallam Land Management Limited (4) Persimmon Homes Limited (5)

2.2 The interpretation and expressions defined in the Principal Agreement shall unless the context otherwise requires have the same meaning when used in this Deed

2.3 The Definitions and clauses of the Principal Agreement shall be incorporated into this Deed as if the same was set out herein in full

2.4 References to clauses paragraphs schedules and appendices are references to the Principal Deed unless the contrary intention is shown

3 ENFORCEMENT

No third party other than successors in title to the Owners and any person or body succeeding to any of the statutory functions of EDDC shall have any right to enforce the terms of this Deed pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise a right of veto over any future or further variation to the Principal Agreement

4 VARIATION PROVISIONS

4.1 From the date of this Agreement the terms of the Principal Agreement shall be amended as follows:

4.2 The following definitions shall be amended as follows:

"Affordable Housing Base Mix"	means the mix of tenure for the Affordable Housing in each Sub-Phase of the Development (except for the Phase 1 Dwellings) which shall be as follows: (i) 10% of the total number of Dwellings in the Sub Phase shall be Social Rented Units and within the Phase 4 Land the said percentage shall be 9.56% (ii) 20% of the total number of Dwellings in the Sub-Phase shall be HomeBuy Units and within the Phase 4 Land the said percentage shall be 19.12%
"Affordable Housing Optimum Mix"	means the tenure mix for the Affordable Housing in each Sub-Phase of the Development (except for the Phase 1 Dwellings) which shall be as follows: (i) 16.5% of the total number of Dwellings in the Sub Phase shall be Social Rented Units and within the Phase 4 Land the said percentage shall be 15.77% (ii) 13.5% of the total number of Dwellings in the Sub Phase shall be HomeBuy Units or other Intermediate

	Tenure as agreed in writing by EDDC and within the Phase 4 Land the said percentage shall be 12.90%
"Affordable Housing Phasing Requirement"	means the requirement that 30% of the total number of Dwellings proposed to be constructed by reference to a Detailed Approval for each Phase shall be RP Units other than for the Phase 4 Land on which the requirement shall be 28.675% and 10% of the total number of Dwellings shall be Affordable By Design Units unless otherwise agreed in writing by EDDC or through operation of this Agreement

4.3 The following definitions shall be added to the Principal Agreement

"Further Mitigation Contribution"	means the sum of Eight Hundred and Eighty Nine Pounds and Ninety Five Pence £889.95 per Dwelling to be paid by the Owners to EDDC under the terms of paragraph 26.6 of Schedule 26 as a contribution towards the cost of further survey work and mitigation measures at the Exe Estuary and Pebblebed Heaths SPA and SAC
"Phase 4 Land"	Means the part of the Land shown edged red on Plan 31 and which comprises Phase 4 of the Development together with the Education Campus Released Land the Town Centre Land and also the Ingram Land which shall in total be developed for a maximum number of One Thousand One Hundred and Thirty Seven (1137) Dwellings and within which a reduced Affordable Housing requirement shall apply
"Plan 31"	Means the drawing number showing the Phase 4 Land
"Quarter Day"	Means 25 March, 24 June, 29 September -, 25 December

4.4 The following paragraphs shall be added to the end of Schedule 26 (Exe Estuary and Pebblebed Heaths SAC and SPA)

"Further Mitigation Contribution

26.6 In respect of any Dwellings permitted by a Detailed Approval granted after the 16th November 2018 to pay EDDC the Further Mitigation Contribution in payments to be made on each Quarter Day in respect of those Dwellings of which the Commencement of Construction has occurred in the quarter preceding any such payment

- 26.7 EDDC shall use the Further Mitigation Contribution to carry out surveys projects and works that are designed to mitigate the impact of the Development on the Exe Estuary and Pebblebed Heaths SAC and SPAs (and for ancillary expenditure to such purposes) in accordance with the South East Devon European Site Mitigation Strategy dated 9th June 2014 or such other strategy as may be adopted by EDDC or as may otherwise be agreed from time to time with the Owners
- 26.8 The portion of the Further Mitigation Contribution collected in respect of each Dwelling shall be reduced to reflect the cost of any mitigation measures that are agreed (in the absolute discretion of the Owners) to be undertaken by the Owners on the Land such sum and the consequent reduction in the Further Mitigation Contribution shall be agreed in writing between the Owner and EDDC
- 26.9 For the avoidance of doubt the mitigation measures that the Owners may provide in accordance with paragraph 26.8 above may include the provision of Sustainable Alternative Natural Green Space ('SANGS') either on the Land or elsewhere and in the event that the Owners do provide such mitigation any Further Mitigation Contribution already paid to the Council may be repaid to the Owners as a contribution to the cost of the delivery of such SANGS in addition to the reduction to any Further Mitigation Contribution which has not yet been paid PROVIDED ALWAYS that the land value of any SANGS provided shall be agreed between the Owners and EDDC with the parties acting reasonably
- 26.10 The cost of any such mitigation works undertaken by the Owners under 26.8 shall be determined under the provisions of Clause 20 (Disputes) in absence of agreement between the parties
- 26.11 On each Quarter Day the Owners shall provide written notice to EDDC of the number of Dwellings on which the Commencement of Construction has taken place in the preceding quarter "
- 4.5 Plan 31 shall be attached to the Principal Agreement in the form labelled as such and attached as Appendix 1 to this Deed

5 FEES

Upon completion of this Deed of Variation the NCP shall pay to EDDC their legal costs in preparing amending and completing this Deed of Variation

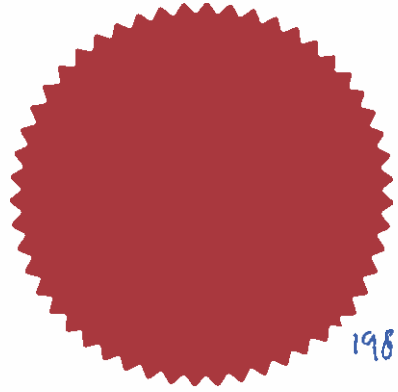
6 COUNTERPARTS

This Deed of Variation may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement

IN WITNESS whereof this Deed of Variation was executed and delivered as a deed on the day and year first above written

EAST DEVON DISTRICT COUNCIL was hereunto)
affixed in execution as a deed)
in the presence of:

Wj



EXECUTED as a DEED by)
TAYLOR WIMPEY DEVELOPMENTS)
LIMITED acting by its attorneys)
in the presence of:)

EXECUTED as a DEED by)
HALLAM LAND MANAGEMENT)
LIMITED acting by two directors or a)
director and the Secretary)

Director

Director/Secretary

EXECUTED as a DEED by)
PERSIMMON HOMES)
LIMITED acting by its attorneys)

.....
[Name of First Attorney]

.....
[Name of Second Attorney]

in the presence of:

Witness signature

Name:.....

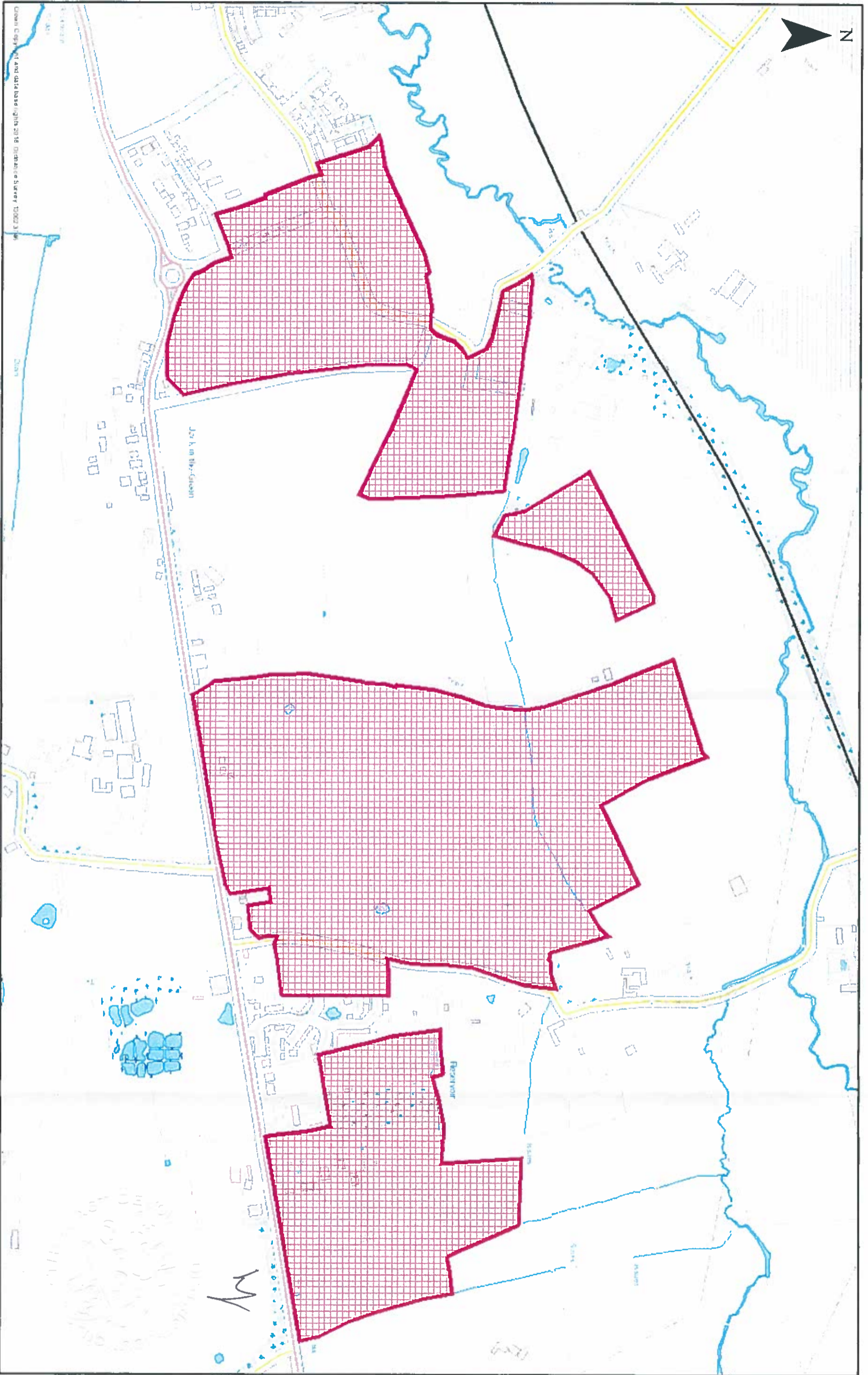
Address:.....

Occupation:

APPENDIX 1

Plan 31 The Phase 4 Land

10/1/2018



Plan 31

