

DATED

8 December

2016

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

**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

8

day of December 2016

Between:

- (1) **DEVON COUNTY COUNCIL** of County Hall Topsham Road Exeter EX2 4QD ("DCC")
- (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) DCC is also a Local Planning Authority for the purposes of the Act and the Highway Authority for the area within which the Land is situated
- (B) This Deed is to vary the Principal Agreement (as herein defined) in respect of so much of the Land as is owned by the Remaining NCP
- (C) The New Community Partners ("NCP") comprise of Taylor Wimpey Hallam Persimmon and Redrow Homes Limited ("Redrow")
- (D) The NCP (excluding Redrow) ("the Remaining NCP") together with Bovis Sovereign Westco and DCH have acquired a freehold of all the Land subject to this Deed of Variation and the NCP (excluding Redrow) continue to carry out the Development
- (E) The Remaining NCP have agreed with DCC (and EDDC) that certain provisions in the Principal Agreement shall be varied in accordance with the terms of this Deed in respect of the provision of footpaths and cycleways to enable the Remaining NCP to carry out the Development on the Land
- (F) The parties hereto have agreed to enter into this Deed to vary the terms of the Principal Agreement in respect of so much of the Land as is owned by the Remaining NCP

## 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 DCC 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)
- 2.2 "Land" means the land edged red on Plan A of this Deed of Variation

- 2.3 The interpretation and expressions defined in the Principal Agreement shall unless the context otherwise requires have the same meaning when used in this Deed
- 2.4 The Definitions and clauses of the Principal Agreement shall be incorporated into this Deed as if the same was set out herein in full
- 2.5 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 NCP (excluding Redrow) and any person or body succeeding to any of the statutory functions of DCC 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 The definition of Plan 4 in the Principal Agreement shall be deleted and replaced with the following definition:

**“Plan 4”** means drawing numbers 10301-100-201 and 10301-100-202 showing the Footway Creation and Improvement Works and marked "Plan 4(a)" and "Plan 4(b)" respectively which together shall comprise Plan 4

- 4.2 The following additional definitions shall be incorporated into the Principal Agreement:

**“Old Rockbeare Bridge and Footway Contribution”** means the sum of £192,500.00 (One Hundred and Ninety Two Thousand Five Hundred Pounds) to be paid to DCC in accordance with the terms of paragraph 4.4 of Schedule 4 and Index Linked from the Date of this Deed of Variation

- 4.3 Schedule 4 (*Footpaths and Cycleways*) of the Principal Agreement shall be deleted and replaced with Schedule 1 of this Deed
- 4.4 The plans at Plan 4(a) and Plan 4(b) in the Principal Agreement shall be deleted and replaced with the plans 10301-100-201 and 202 contained in the Annex to this deed

### **5 FEES**

Upon completion of this Deed of Variation the Remaining NCP shall pay to DCC its 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

**EXECUTED AS A DEED** the parties hereto intend this agreement to take effect as a Deed

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

## SCHEDULE 1

### Schedule 4

#### **Footpaths and Cycleways**

- 4.1 The Owners shall pay the First Footpath Creation Contribution to DCC prior to the First Occupation of more than 500 Dwellings
- 4.2 The Owners shall pay the Second Footpath Creation Contribution to DCC prior to the First Occupation of more than 2000 Dwellings
- 4.3 The Owners shall (subject to all necessary Traffic Regulation Orders being obtained under the provisions of the Road Traffic Regulation Act 1984) carry out the western section of the Footway Creation and Improvement Works in accordance with Plan 4 and the provisions of Appendix 5 such that such works shall be completed prior to First Occupation of 500 Dwellings
- 4.4 The Owners shall pay the Old Rockbeare Bridge and Footway Contribution to DCC upon date of this Deed of Variation to be used by DCC for:
  - (a) the construction of a footway 2m in width along the northern side of the B3174 between the Devon Smithy and the eastern most point of the Land in accordance with Plan 4 (b) and
  - (b) the remedial works required to Old Rockbeare Bridge necessary to enable re-surfacing of the bridge

**Annex**

**Plans to replace Plan 4(a) and Plan 4(b)**

**Construction Design and Management (CDM)**  
**Key Residual Risks**  
 Contractors entering the site should gain permission from the relevant land owners and/or principle contractor working on site at the time of entry. Contractors shall be responsible for carrying out their own risk assessments and for liaising with the relevant services companies and authorities. Listed below are Site Specific key risks associated with the project.

- 1) Overhead and underground services
- 2) Street Lighting Cables
- 3) Working adjacent to water courses and flood plain
- 4) Soft ground conditions
- 5) Working adjacent to live highways and railway line
- 6) Uncharted services
- 7) Existing buildings with potential asbestos hazards

- NOTES:**
1. Do not scale from this drawing.
  2. All dimensions are in metres unless otherwise stated.
  3. Brookbanks Consulting Ltd has prepared this drawing for the sole use of the client. The drawing may not be relied upon by any other party without the express agreement of the client and Brookbanks Consulting Ltd. Where any data supplied by the client or from other sources has been used, it has been assumed that the information is correct. No responsibility can be accepted by Brookbanks Consulting Ltd for inaccuracies in the data supplied by any other party. The drawing has been produced based on the assumption that all relevant information has been supplied by those bodies from whom it was requested.
  4. No part of this drawing may be copied or duplicated without the express permission of Brookbanks Consulting.



- KEY:**
- Shared Route Proposed
  - Shared Route Existing
  - Pedestrian Route Proposed
  - Pedestrian Route Existing
  - Cycle Route Proposed
  - Cycle Route Existing



First Issue MSM RH PAB 11.04.16

**Brookbanks**

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 www.brookbanks.com

EDNC Consortium

East Devon New Community

Footway Works  
 General Arrangement  
 Sheet 1

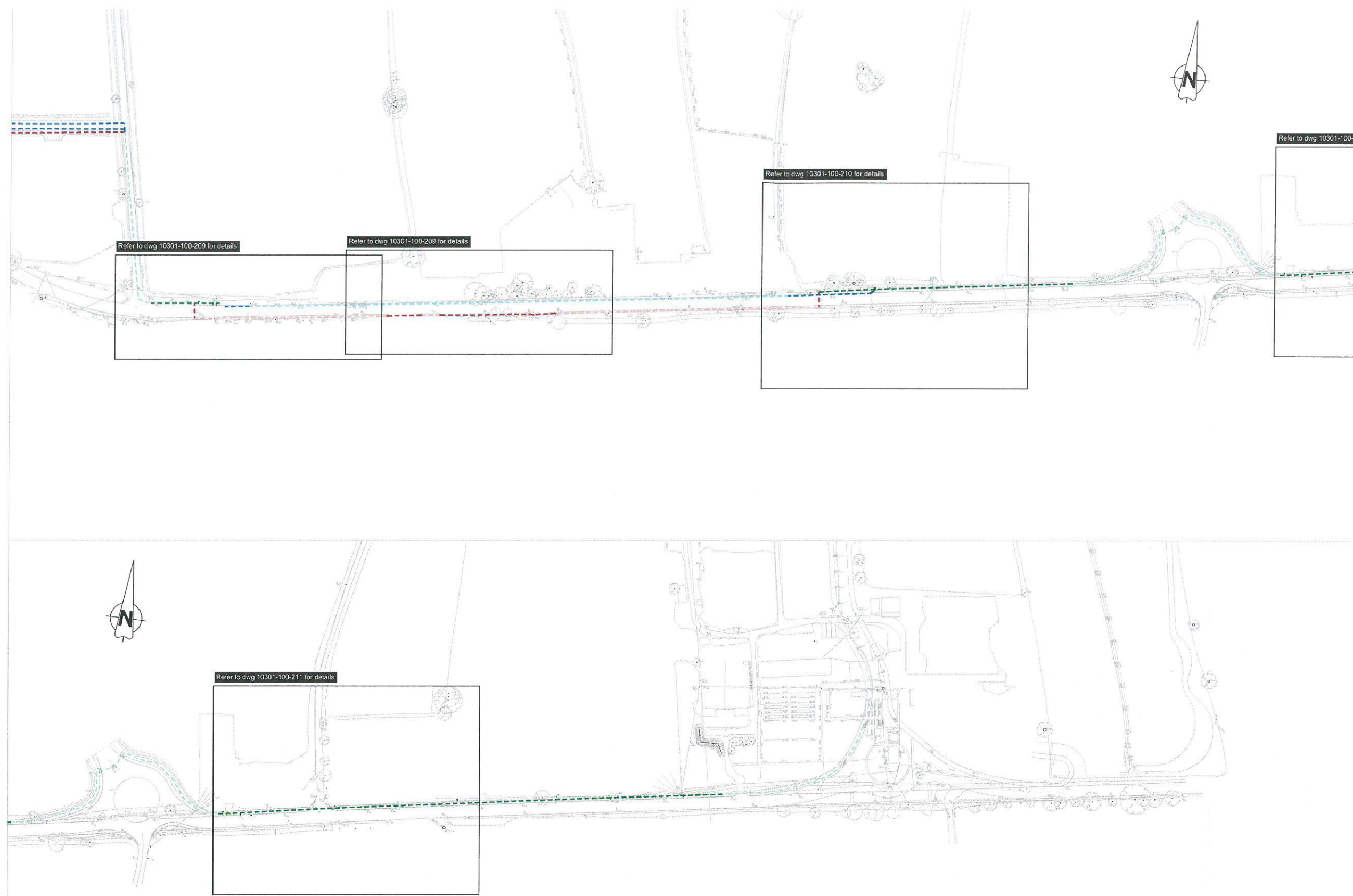
Status	Approval	Checked	RH	Date	11.04.2016
Drawn	MSM	Number	10301-100-201	Rev	-
Scale	1:500	Number	10301-100-201	Rev	-

0 10 20 30 40 50 METRES

UNTIL TECHNICAL APPROVAL HAS BEEN OBTAINED FROM THE RELEVANT LOCAL AUTHORITIES, IT SHOULD BE UNDERSTOOD THAT ALL DRAWINGS ARE ISSUED AS PRELIMINARY AND NOT FOR CONSTRUCTION. SHOULD THE CONTRACTOR COMMENCE SITE WORK PRIOR TO APPROVAL BEING GIVEN, IT IS ENTIRELY AT HIS OWN RISK.

**Construction Design and Management (CDM)  
Key Residual Risks**  
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EDNC Consortium  
 East Devon New Community

Footway Works  
 General Arrangement  
 Sheet 2

Status		Approval		Status Date		April 2016	
Drawn	Checked	Date	Number	Rev	Scale	Number	Rev
MSM	RH	11.04.2016	10301-100-202	-	1:500	10301-100-202	-

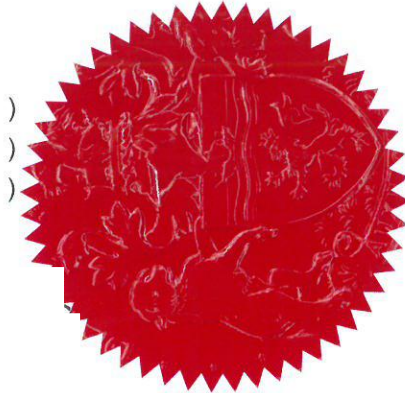
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THE COMMON SEAL of  
DEVON COUNTY COUNCIL was  
hereunto affixed in the presence of:

**A Duly Authorised Officer**

DOCUMENT No. 47649

~~County Solicitor/Assistant County Solicitor~~



**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 )

in the presence of: )