

DEED OF VARIATION

**Pursuant to Section 106
Town and Country Planning Act 1990**

relating to

Land at the Shorncliffe Garrison

TAYLOR WIMPEY UK LIMITED

and

SECRETARY OF STATE FOR DEFENCE

and

SOUTHERN HOUSING GROUP LIMITED

And

TOWN AND COUNTRY HOUSING GROUP

and

SHEPWAY DISTRICT COUNCIL

and

KENT COUNTY COUNCIL

THIS DEED is made the

9

day of

January

2017⁸

BETWEEN

- (1) **TAYLOR WIMPEY UK LIMITED** (company number 01392762) whose registered office is at Gate House, Turnpike Road, High Wycombe, Buckinghamshire HP12 3NR (the "First Owner"); and
- (2) **SECRETARY OF STATE FOR DEFENCE c/o DEFENCE INFRASTRUCTURE ORGANISATION** of Burgoyne 1-4, Burgoyne Barracks, Shorncliffe, Folkestone, Kent CT20 3HA ("the Second Owner")

Parties (1) and (2) collectively referred to as the "Owner"

- (3) **SOUTHERN HOUSING GROUP LIMITED** (Registered Society No: 31055R) whose registered office is at Unit 1, The Eurogate Business Park, Ashford, TN24 8SB (the "First Affordable Housing Provider")
- (4) **TOWN AND COUNTRY HOUSING GROUP** (Company number 30167R) whose registered office is at Monson House, Monson Way, Tunbridge Wells, Kent TN1 1LQ (the "Second Affordable Housing Provider")

Parties (3) and (4) collectively referred to as the "Affordable Housing Providers"

- (5) **SHEPWAY DISTRICT COUNCIL** of the Civic Centre, Castle Hill Avenue, Folkestone, Kent CT20 2QY (the "Council")
- (6) **KENT COUNTY COUNCIL** of County Hall, Maidstone, Kent ME14 1XQ ("the County Council")

RECITALS

- A An Agreement pursuant to section 106 of the Town and Country Planning Act 1990 dated 17 December 2015 was entered into by (1) TAYLOR WIMPEY UK LIMITED (2) SECRETARY OF STATE FOR DEFENCE (3) SHEPWAY DISTRICT COUNCIL and (4) KENT COUNTY COUNCIL relating to the Property ("the Principal Agreement").
- B The First Owner the Second Owner the First Affordable Housing Provider The Second Affordable Housing Provider the Council and the County Council ("the Parties") agree the need for the planning obligations contained in this Deed for the benefit of the Development (as defined in both the Principal Agreement and as varied by this Deed) and the interests of the proper planning of the area.
- C The First Affordable Housing Provider is the freehold owner of part of the Property under title number TT45431.
- D The Second Affordable Housing Provider is entitled to be registered at the Land Registry as the proprietor of that part of the Property comprising plots 125-127 (inclusive), 145-149 (inclusive) and 182-196 (inclusive) on the Stadium Estate and plots 256-262 (inclusive) on the St Martin's Plain Estate (shown edged red on the attached plans with reference 21101-HATP-STA-001 and 21102-HATP-SMP-001) pursuant to a transfer dated 16 November

2016 made between Taylor Wimpey UK Limited (1) and Town and Country Housing Group (2).

E The Parties have agreed to vary the terms of the Principal Agreement insofar as it relates to the Property in a manner hereinafter appearing.

F The Planning Permission (as defined in the Principal Agreement) was granted for the Development pursuant to the Planning Application (as defined in the Principal Agreement).

1 OPERATIVE PROVISIONS

1.1 This Deed is entered into pursuant to section 106 section 106A of the Act and section 1 of the Localism Act 2011 and all other enabling powers and shall be a planning obligation and together with the Principal Agreement will permanently run with the Property and both shall be enforceable by the Council and the County Council against the Owner and their heirs successors in title their assigns and persons claiming under or through it.

1.2 The Principal Agreement shall be varied in the manner set out in clause 3 of this Deed.

1.3 The definitions, clauses, obligations and provisions of the Principal Agreement shall remain in full force and effect except as varied or added to by this Deed and shall continue to be applicable to the Property in respect of the Development as defined in the Principal Agreement and remain to be performed to the extent that they have not already been performed.

1.4 Save where the context otherwise requires the expressions used in this Deed shall have the same meaning or meanings as those stated in the Principal Agreement.

1.5 This Deed shall take effect upon the date of this Deed.

2 COVENANTS BY THE OWNER

2.1 The Owner and the Affordable Housing Providers covenant to comply with their obligations in the Principal Agreement as varied by this Deed.

2.2 Subject to clause 4.7 of the Principal Agreement (as varied by this Deed) the First Affordable Housing Provider covenants to comply with the obligations as in the Principal Agreement as varied by this Deed so far as the obligations relate to that part of the Property in the ownership of the First Affordable Housing Provider (as set out in recital C) but for the avoidance of doubt the First Affordable Housing Provider will continue to be bound by the provisions of the Principal Agreement in respect of any subsequent tranches of the Property that may be transferred to them in the future.

2.3 Subject to clause 4.7 of the Principal Agreement (as varied by this Deed) the Second Affordable Housing Provider covenants to comply with the obligations in the Principal Agreement as varied by this Deed so far as the obligations relate to that part of the Property in the ownership of the Second Affordable Housing Provider (as set out in recital D) but for the avoidance of doubt the Second Affordable Housing Provider will continue to be bound by the provisions of the Principal Agreement in respect of any subsequent tranches of the Property that may be transferred to them in the future.

3 AGREED CHANGES TO PRINCIPAL AGREEMENT

The Parties agree that the Principal Agreement is varied as set out below:

- 3.1 Clause 4.7 of the Principal Agreement shall be amended by inserting the following wording at the end of the clause:

"or (save for the obligations contained in Schedule 1) the Affordable Housing Provider and/or any owner or occupier of the Affordable Housing Land following the transfer of the Affordable Housing Land pursuant to Paragraph 8 of Part I of Schedule 1 of this Agreement"

- 3.2 Paragraph 8 of Part I of Schedule 1 of the Principal Agreement is deleted and replaced with the following:

"To deduce a good and marketable freehold title to the Affordable Housing Land and to transfer the Affordable Housing Land with full title guarantee and with vacant possession to an Affordable Housing Provider free of any registered charge"

- 3.3 Paragraph 9.2 of Part I of Schedule 1 of the Principal Agreement shall be deleted and replaced with the following:

"9.2 any mortgagee or chargee of an Affordable Housing Provider (or a receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee to realise its security or any administrator (including a housing administrator) each ("a Receiver") and their successors in title or any person deriving title through such mortgagee chargee or Receiver provided that the mortgagee chargee or Receiver shall have first complied with the requirements set out in Part II of this Schedule"

- 3.4 Paragraph 1 of Part II of Schedule 1 of the Principal Agreement shall be deleted and replaced with the following:

"A mortgagee or chargee or Receiver wishing to exercise any power of sale or leasing in respect of any of the Affordable Housing Units shall use reasonable endeavours over a period of twelve weeks from the date the Council is notified in writing of such intention to dispose of the Affordable Housing Units to either an Affordable Housing Provider or the Council at a consideration not less than the amount due and outstanding to the mortgagee or chargee or Receiver including all accrued principal monies, interest and costs and expenses incurred by the mortgagee or chargee or Receiver"

- 3.5 Paragraph 2 of Part II of Schedule 1 of the Principal Agreement shall be deleted and replaced with the following:

"If the mortgagee or chargee or a Receiver is unable within the said period of twelve weeks to enter into a binding contract with an Affordable Housing Provider or the Council for the disposal of the Affordable Housing Units in accordance with paragraph 1 of this Part then the mortgagee or chargee or Receiver shall be free to sell the Affordable Housing Units on the open market free of the restrictions in this Schedule."

NE Rows 2, 3 and 5 are

3.6 The table in paragraph 2.1 of Schedule 4 of the Principal Agreement shall be deleted and replaced with the following table:

1	2	3	
Church Road Access	M181/200 Rev B	Prior to Occupation of the 300th Dwelling	SL NE
Royal Military Road Access	M181/201 Rev A	Prior to Occupation of the 300 th Dwelling 294	SL NE
Horn Street/Cheriton High Street Signal Junction	M181/205 Rev B	Prior to Occupation of the 300 th Dwelling	
Horn St Bridge - Option 1 - Junction Improvement (Change in Priority)	M181/203 Rev B	Prior to Occupation of the 300th Dwelling	SL NE
A20 Cheriton High Street/Cheriton Interchange	M181/211 Rev -	Prior to Occupation of the 300 th Dwelling	
St Martins Plain Access	M181/213 Rev -	Prior to Occupation of the 300th Dwelling	SL NE

4 LOCAL LAND CHARGE

This Deed shall be registered as a local land charge by the Council.

5 COUNCIL'S COSTS

The Second Affordable Housing Provider shall pay the Council's reasonable legal costs of the preparation and completion of this Deed.

6 THIRD PARTY RIGHTS

A person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed.

IN WITNESS of which the Parties have executed this agreement as a Deed and have delivered it upon dating the day and year first before written

SIGNED as a deed by
TAYLOR WIMPEY UK LIMITED
acting by a Director
in the presence of:

Signature of w

Name (Capita

Address.....

The CORPORATE SEAL of THE
SECRETARY OF STATE FOR DEFEN
hereunto affixed is authenticated by:

Authorised signatory

Authorised signatory

EXECUTED as a deed by affixing the
common seal of TOWN AND COUNTRY

Authorised Signatory

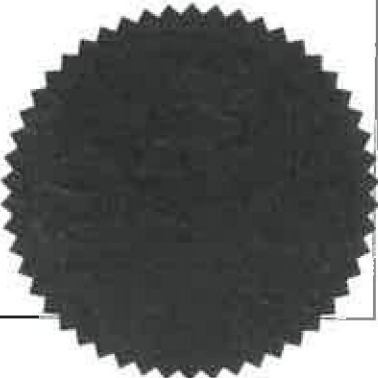
Common seal



EXECUTED as a deed by affixing the
common seal of SHEPWAY DISTRICT
COUNCIL in the presence of:

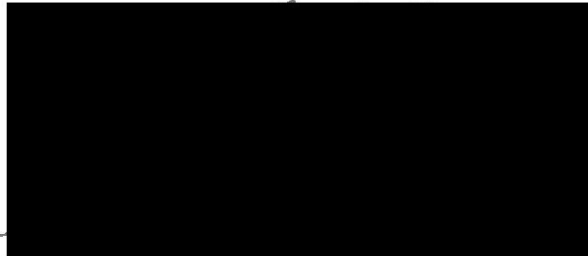
Authorised signatory

Common seal

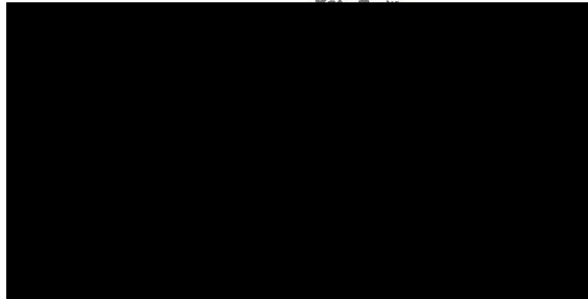


6720
16.5 each

EXECUTED as a deed by affixing the
common seal of **KENT COUNTY COUNCIL**
in the presence of:

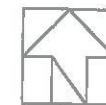


EXECUTED as a deed by affixing the
common seal of **SOUTHERN HOUSING
GROUP LIMITED** in the presence of:



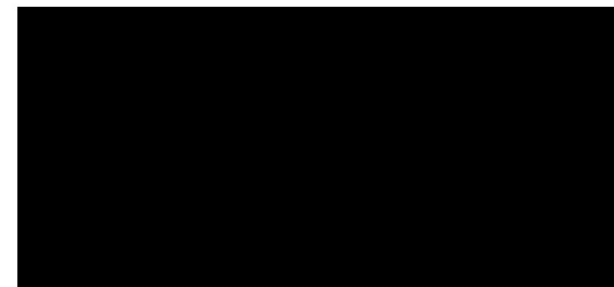


LEGAL BOUNDARY



NORTH POINT

Handwritten signature and initials 'KN'.



THE CONTRACTOR SHALL
IT IS THE SUB-CONTRACTOR'S RESPONSIBILITY TO
WITH BUILDING REGULATIONS AND TO COMPLY WITH THE
PRACTICE.

PROJECT

PHASE 1 - STADIUM
SHORNCIFFE

DRAWING

HA TRANSFER PLAN

SCALE
1:1250

DATE
15.11.16

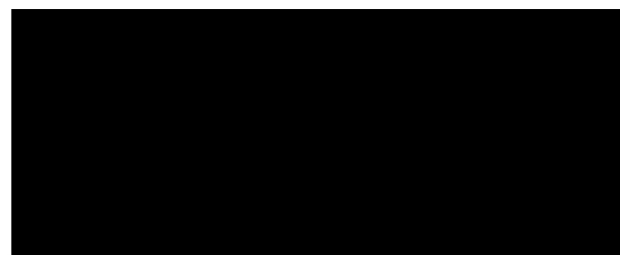
DRAWN BY
TWSE

DRAWING NUMBER
21102-HATP-STA-001

BCDEF

TAYLOR WIMPEY SOUTH EAST
WEALD COURT
103 TONBRIDGE ROAD
HILDENBOROUGH
KENT, TN11 9HL
TEL: 01732-839000
FAX: 01732-839030

Taylor Wimpey



Handwritten number '1105-0017'.

SEAL
NO 33312



Handwritten text '105000'.

Handwritten number '5770'.

Handwritten text 'S12596' and 'p'.

SEAL
No. 33312



THE CONTRACTOR SHALL CHECK ALL DIMENSIONS ON SITE
IT IS THE SUB-CONTRACTOR'S RESPONSIBILITY TO ENSURE COMPLIANCE
WITH BUILDING REGULATIONS AND CURRENT CODES OF PRACTICE.

PROJECT
PHASE 1 - ST MARTINS PLAIN
SHORNCIFFE

DRAWING
HA TRANSFER PLAN

DATE
13.10.16

DRAWN BY
TWSE

CHECKED BY
AIBIC

21102-HATP-SMP-001

Taylor Wimpey

TAYLOR WIMPEY SOUTH EAST
WILLOW COURT
100 TOWNSEND ROAD
KENT, TN11 8JL
TEL: 01782 828288
FAX: 01782 828290



570
10.3.16

S12690

