

58043

DATED

11th January 2019

2018

BROADLAND DISTRICT COUNCIL

and

NORFOLK COUNTY COUNCIL

and

PERSIMMON HOMES LIMITED

and

SAGE HOUSING LIMITED

DEED OF VARIATION

Pursuant to Section 106A of the

Town and Country Planning Act 1990 (as amended)

relating to

LAND AT WHITE HOUSE FARM, BLUE BOAR LANE, SPROWSTON, NORFOLK

Planning Application Ref: 20080367

Devonshires Solicitors

30 Finsbury Circus

London

EC2M 7DT

Tel: 0207 628 7576

Ref: TXM.SAG5.48

THIS DEED of VARIATION is made on the 11th of January 2019
2018-
BETWEEN

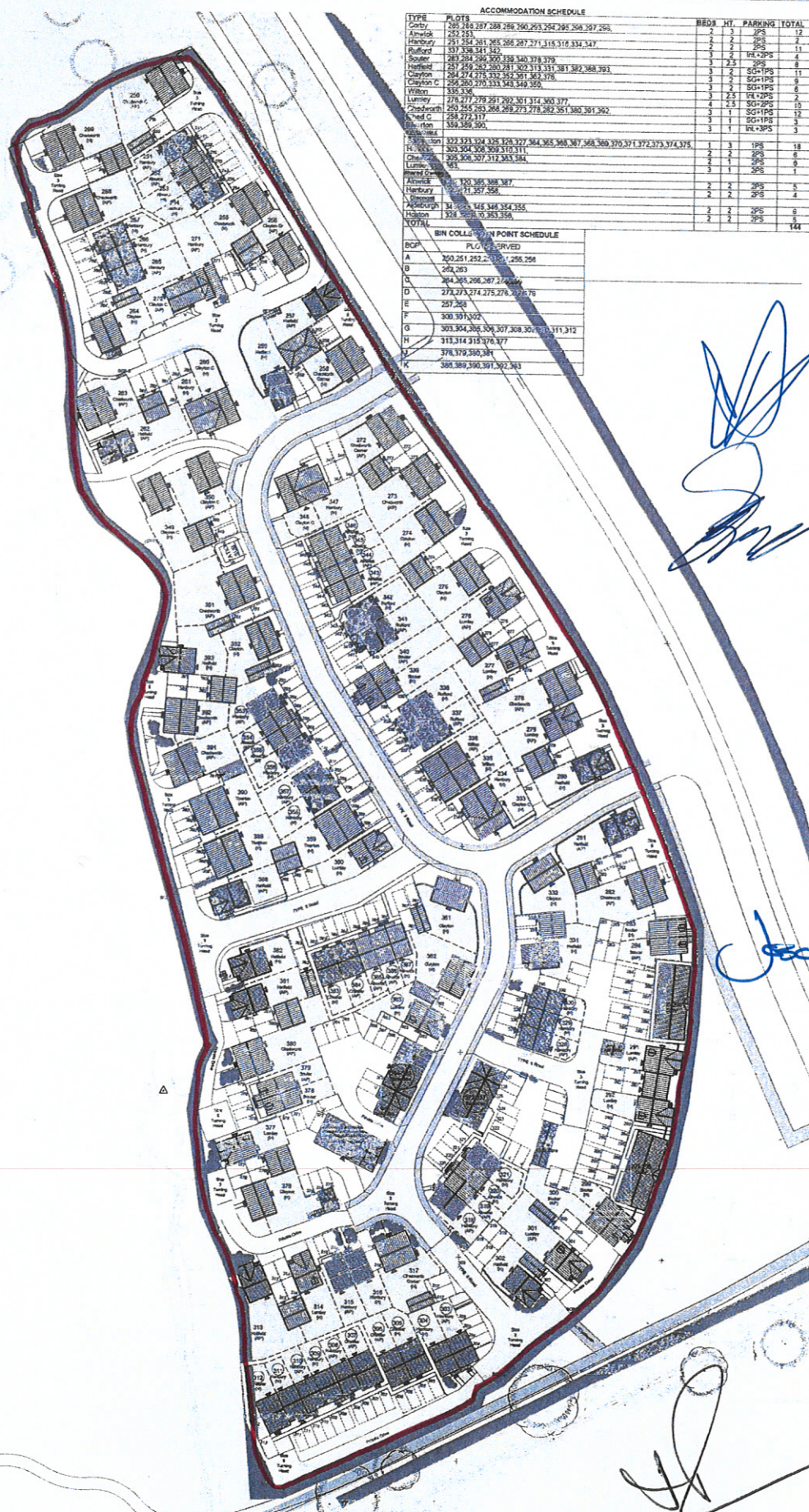
- (1) **BROADLAND DISTRICT COUNCIL** of Thorpe Lodge Yarmouth Road Thorpe St Andrew Norwich NR7 0DU ("the District Council")
- (2) **NORFOLK COUNTY COUNCIL** of County Hall Martineau Lane Norwich NR1 2DH ("the County Council")
- (3) **PERSIMMON HOMES LIMITED** (Co. Regn. No. 04108747) of Persimmon House, Fulford, York, YO19 4FE ("the Owner")
- (4) **SAGE HOUSING LIMITED** (Company Number 05489096 and Registered Provider Number 4636) whose registered office is at 4th Floor Manning House, 22 Carlisle Place, London, SW1P 1JA ("Sage");

WHEREAS

1. The District Council is the local planning authority for the purposes of the Act for the area within which the Site is situated and are the authorities by whom the planning obligations contained in this Deed are enforceable.
2. The Owner and Sage are the registered proprietor of the Parcels.
3. By a Transfer (of land within Parcel 3) dated 29 June 2018 and an Agreement for Sale (in respect of land within Parcel 4) dated 2018, Sage acquired an interest in the Parcels.
4. The Owner and Sage have requested that the Original Agreement is varied in respect of the Parcels (only) by the terms of this Agreement. The remainder of the Site will remain bound by the terms as set out in the Original Agreement.
5. The District Council considers it expedient and in the interests of the proper planning of its area and having regard to its statutory function that this Agreement which is a supplemental agreement to the Original Agreement be entered into for the purpose of securing satisfactory arrangements for the development of the Property.

NOW THIS DEED WITNESSES AS FOLLOWS:

1 DEFINITIONS



ACCOMMODATION SCHEDULE									
TYPE	PLOTS	BEDS	HT	PARKING	TOTAL				
Conty	285 286 287 288 289 290 291 292 293 294 295 296 297 298	2	2	2	12				
Ample	299 300 301 302 303 304 305 306 307 308 309 310 311 312	2	2	2	12				
Harbour	313 314 315 316 317 318 319 320 321 322 323 324 325 326	2	2	2	12				
Rufford	327 328 329 330 331 332 333 334 335 336 337 338 339 340	2	2	2	12				
Seaton	341 342 343 344 345 346 347 348 349 350 351 352 353 354	2	2	2	12				
Harfield	355 356 357 358 359 360 361 362 363 364 365 366 367 368	2	2	2	12				
Clayton	369 370 371 372 373 374 375 376 377 378 379 380 381 382	2	2	2	12				
Clayton C	383 384 385 386 387 388 389 390 391 392 393 394 395 396	2	2	2	12				
Wilson	397 398 399 400 401 402 403 404 405 406 407 408 409 410	2	2	2	12				
Lumley	411 412 413 414 415 416 417 418 419 420 421 422 423 424	2	2	2	12				
Pharadon	425 426 427 428 429 430 431 432 433 434 435 436 437 438	2	2	2	12				
Red C	439 440 441 442 443 444 445 446 447 448 449 450 451 452	2	2	2	12				
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TAYLOR WIMPEY DEVELOPMENT

Head of Democratic Services and Monitoring Officer

[illegible]

Joseph Carl



SCALE 1:500

Drawing: Planning Layout/ Landscaping Scheme

Scale@A:	Drawn By:	Date:	Rev:
1:1:500@A1	MW	May 2016	G


PERSIMMON

Southwestern Homes (Virginia) Ltd.
 Development Manager
 Corville Road Works
 2nd Fl. Broad
 London, UK
 Tel: 01527 516784

Blue Boar Lane, Sprowston
Land Parcel 4

In this Agreement where the context so admits all expressions shall have the meanings given to them by the Original Agreement save that the following expressions shall have the following meanings:-

"Act"	Means the Town and Country Planning Act 1990
"the Original Agreement"	The Agreement under Section 106 of the Act made between (1) the District Council (2) the County Council (3) Peter Willoughby Furnivall and other (3) the Owner (4) Taylor Wimpey UK Limited (5) Hopkins Homes Limited and (6) Barclays Bank Limited and dated 23 May 2011.
"Parcels"	The parts of the Land known as parcels 3 and 4 as shown for indicative purposes only edged red on the plans annexed to this Deed.
"the Land"	has the same meaning as in the Original Agreement.

2 CONSTRUCTION OF THIS DEED

- 2.1 The definitions and rules of interpretation in this Clause apply in this Deed.
- 2.2 All references in this Deed to Clauses in the Original Agreement are to Clauses within the Original Agreement.
- 2.3 Clause headings shall not affect the interpretation of this Deed.
- 2.4 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 2.5 A reference to a company shall include any company, corporation or other body corporate, whether and however incorporated or established.
- 2.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 2.7 A reference to a party shall include that party's representatives, successors or permitted assigns and in the case of the District Council the successors to its respective statutory functions.
- 2.8 A reference to a statute or statutory provisions is a reference to it as it is in force at the date of this Deed and shall include any subordinate legislation made under the statute or statutory provision.

- 2.9 References to clauses, schedules and plans (unless the context otherwise requires) are to clauses, schedules and plans of this Deed.
- 2.10 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of the individually.

3 LEGAL BASIS

- 3.1 This Agreement is made pursuant to all powers enabling the parties and in particular Section 106 of the Act and Section 111 of the Local Government Act 1972.
- 3.2 The obligations imposed upon the Owner and Sage by this Agreement create planning obligations pursuant to Section 106 of the Act and are enforceable by the District Council as local planning authorities against the Owner and Sage and their successors in title and assigns and the persons claiming under or through them (save as expressly excluded by Original Agreement as varied by this Deed).

4 VARIATION TO THE ORIGINAL AGREEMENT

In so far as it affects the Parcels, the Original Agreement shall be varied as follows:

- 4.1 The Definition of "Affordable Rental Units at clause 1.1 shall be deleted and replaced with the following Definition
- " Dwellings to be let by a Registered Provider with an appropriate agreement with the Homes England for the provision of affordable rents being controls that limit the rent to no more than 80 per cent of local market rents including any service charges and shall not exceed the local housing allowance for that area or as otherwise agreed with the Council in writing"
- 4.2. The Definition of "Shared Ownership Lease" at clause 1.1 shall be deleted and replaced by the following Definition
- "a lease in a form approved by Homes England or where there is no such form in a form approved by the Council such lease to provide for the following:
- not more than 75% and not less than 25% of the equity (or such other percentages the Council may agree) shall be initially sold to the purchaser by the Provider
 - power to the purchaser to increase their ownership up to 100% if they so wish

- an initial rent not exceeding 2.75% of the value of the equity retained by the Provider subject to annual increases not exceeding Retail Price Index (All Items) published by the Office for National Statistics (or if such index ceases to be published such other index as the Council shall reasonably determine) plus 0.5% or such other rent as complies with the requirements from time to time of the Homes England"

4.3 A new clause 22 shall be added as follows:

"22.1 A mortgagee of the Land will not incur any liability for any breach of the obligations contained in this Agreement unless and until it becomes a mortgagee in possession of the Land or appoints a receiver or administrative receiver under a security.

22.2 The obligations in this Agreement will not be enforceable against the individual owners or occupiers or mortgagees of any Dwellings constructed on the Land pursuant to the Planning Permission"

4.4 Paragraph 10 of the First Schedule shall be deleted in its entirety and replaced with the following:-

"10. Not to use the Affordable Housing Units for any purpose other than Affordable Housing in accordance with the approved Affordable Housing Scheme PROVIDED THAT the obligations contained in this Schedule shall not be binding upon:

10.1 a person acquiring an interest in an Affordable Housing Unit under a statutory right to buy or acquire or a voluntary right to buy scheme under the Housing and Planning Act 2016;

10.2 an occupier of a Shared Ownership Dwelling who has staircased under a Shared Ownership Lease to acquire 100% of the leasehold or freehold interest or by a person who has acquired 100% of a Shared Ownership Dwelling;

10.3 a mortgagee or chargee (or any receiver (including an administrative receiver or administrator) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such

mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a "Receiver") of the whole or any part of the Affordable Housing Unit or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT it is has first complied with the following:

- a) such mortgagee or chargee or Receiver shall first give notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Units to another Affordable Housing Provider or to the District Council or County Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest, costs and expenses; and
- b) if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Housing Units free from the obligations contained in this Schedule which provisions shall determine absolutely in relation to the affected Affordable Housing Units

10.4 all persons or bodies deriving title under or through any persons or bodies referred to in this paragraph 10 (including their successors in title)"

4 REGISTRATION

This Agreement shall be registered as a local land charge in the Register of Local Land Charges maintained by the District Council and a notice in the Charges Register at Land Registry

5 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it

IN WITNESS whereof this instrument has been executed as a Deed the date and year first before written

EXECUTED as a **DEED** by

affixing the Common Seal of

BROADLAND DISTRICT COUNCIL

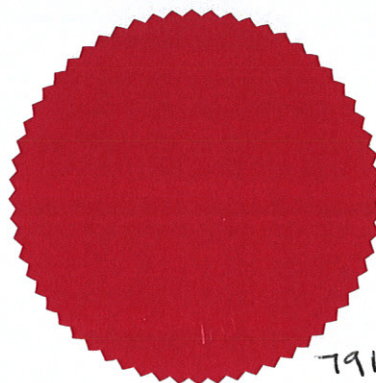
in the presence of

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7912

M. Muel

Head of Democratic Services and
Monitoring Officer

Sealing Officer

EXECUTED as a **DEED** by

affixing the Common Seal of

NORFOLK COUNTY COUNCIL

in the presence of

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43287

Hugh Ferguson

Sealing Officer

HUGH
FERGUSON

Authorised to sign on behalf of Chief Legal Officer

EXECUTED as a DEED by

PERSIMMON HOMES LIMITED

Acting by its Attorneys

Andrew Graham Dunn]

) 

) Attorney

In the presence of:

Witness Signature

) G. Kelley

Witness Name

) G. KELLEY

Witness Address

PERSIMMON HOMES LIMITED
Persimmon House
Bankside 100
Peachman Way
Broadland Business Park
Norwich
NR7 0WF

Witness Occupation

) Administration Manager
& Pt to Regional M.D.

And

MARTIN CHARLES WILLIAM DAVIDSON

[]

) 

) Attorney

In the presence of:

Witness Signature

) G. Kelley

G. KELLEY

Witness Name

PERSIMMON HOMES LIMITED
Persimmon House
Bankside 100
Peachman Way
Broadland Business Park
Norwich
NR7 0WF

Witness Address

Witness Occupation

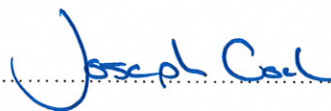
) Administration Manager
& Pt to Regional M.D.

EXECUTED as a **DEED** by

SAGE HOUSING LIMITED acting by

two directors or a director and its secretary or

one director and a witness:



Director



Director/Secretary/Witness

Witness Name (in BLOCK CAPITALS):

Address:

Occupation: