

DATED

5 AUGUST

2022

SOUTH DERBYSHIRE DISTRICT COUNCIL (1)

DERBYSHIRE COUNTY COUNCIL (2)

TAYLOR WIMPEY UK LIMITED (3)

DEED OF VARIATION

Pursuant to Section 106 and 106A of Town and Country Planning Act 1990 (as amended)
relating to
Land at Deep Dale Lane, Sinfin, Barrow on Trent, South Derbyshire

Taylor Wimpey UK Limited
Legal Services
2 Trinity Court
Broadlands
Wolverhampton
WV10 6UH
(Ref: DC.CW.MM432)

THIS DEED is made the 5th day of August 2022

BETWEEN:

- (1) **SOUTH DERBYSHIRE DISTRICT COUNCIL** of Civic Offices, Civic Way, Swadlincote, Derbyshire DE11 0AH (the "**Council**"); and
- (2) **DERBYSHIRE COUNTY COUNCIL** of County Hall, Matlock, Derbyshire DE4 3AG (the "**County Council**") and
- (3) **TAYLOR WIMPEY UK LIMITED** (Registered Company Number 1392762) whose registered office is situate at Gate House, Turnpike Road, High Wycombe, Buckinghamshire, HP12 3NR ("**the Owner**").

RECITALS

- (A) The Owner is registered as the freehold owner of land at Deep Dale Lane, Sinfin, Barrow on Trent, South Derbyshire being part of the land registered at HM Land Registry with title absolute under title number DY551015 ("**the Site**") as shown edged red on the attached plan ("**the Plan**").
- (B) By way of a transfer the Safeguarded Land as defined in the Original Agreement and shown edged blue on the Plan was transferred by the Owner to Harpur Crewe Limited Liability Company on 23 April 2021.
- (C) The Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 (as amended) ("**the Act**") for the area within which the Site is situated and is capable of enforcing the obligations of the agreement made on the 26 February 2021 under Section 106 of the Act ("**the Original Agreement**").
- (D) The County Council is the Local Highways Authority the Local Education Authority and a local planning authority for the area within which the Site is situated.
- (E) The Site is the subject of a residential outline planning permission reference number 9/2017/0922 and approval of reserved matters reference number DMPA/2021/0397 ("**the Original Permissions**") and the Original Agreement.

- (F) Without prejudice to the covenants in the Original Agreement the parties have agreed to vary the terms of the Original Agreement in accordance with the provisions of the Schedule to this Deed insofar only as they relate to the Site.

NOW THIS DEED WITNESSES as follows:-

1. GENERAL

- 1.1 References to clauses and schedules are to the clauses and schedules of this Deed, unless stated otherwise.
- 1.2 A reference to a paragraph is to the paragraph of the schedule in which the reference is made, unless stated otherwise.
- 1.3 Words importing one gender include all other genders and words importing the singular include the plural and vice versa.
- 1.4 Unless this Deed states otherwise, any reference to any legislation (whether specifically named or not) includes any modification, extension, amendment or re-enactment of that legislation for the time being in force and all instruments, orders, notices, regulations, directions, byelaws, permissions and plans for the time being made, issued or given under that legislation or deriving validity from it.
- 1.5 References to any party in this Deed include the successors in title of that party. In addition, references to the Council include any successor local planning authority exercising planning powers under the Town and Country Planning Act 1990 (or any amendment or variation thereto).
- 1.6 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid, illegal or unenforceable then such invalidity, illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 1.7 A reference to this Deed or to any other deed or document referred to in this Deed is a reference to this Deed or such other deed or document as varied or novated (in each case, other than in breach of the provisions of this Deed) from time to time.
- 1.8 Unless the context requires otherwise, all words and phrases defined in the Original Agreement shall have the same meaning in this Deed (except to the extent that they are expressly varied in this Deed).

2 ENABLING POWERS

This Deed is made pursuant to s 106 and 106A of the Act and any other enabling powers and is supplemental to the Original Agreement and it is acknowledged by the parties that the obligations contained within it are binding on the Site and are enforceable by the Council as local planning authority against the Owner and against its successors in title in respect of its interests in each and every part of the Site provided always that no person shall be liable for any breach of any covenant or obligation in this Deed after it has parted with all of its interest in the Site or the part of the Site in respect of which such breach occurs (save in relation to any antecedent breach which occurs prior to parting with such interest).

3. COMMENCEMENT

The amendments specified in the Schedule to this Deed shall take effect from the date hereof and the obligations in the Original Agreement as so amended shall bind the Site in respect of any development carried out on the Site pursuant to the Original Permissions from the date hereof.

4. THE PARTIES' COVENANTS

- 4.1 The Owner covenants with the Council that in consideration of variations to the Original Agreement set out herein the Owner will be bound by the terms of the Original Agreement as varied in the manner hereinafter appearing and that the terms of the Original Agreement shall be enforceable by the Council in respect of any development carried out on the Site pursuant to the Original Permissions.
- 4.2 The parties hereto agree to vary the Original Agreement in the manner appearing in the Schedule to this Deed save that in all other respects the terms of the Original Agreement shall remain in full force and effect.

5 LOCAL LAND CHARGE

- 5.1 This Deed is a Local Land Charge and shall be registered in the Register of Local Land Charges maintained by the Council.
- 5.2 Following the performance and satisfaction of all the obligations contained in the Original

Agreement as amended by this Deed the Council shall forthwith cancel all the entries made in the register of local land charges in respect of both the Original Agreement and this Deed.

6 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 no part of this Deed shall be enforceable by a third party who is not a party to the Deed and the terms of the Deed may be varied by a deed agreed between the parties without the consent of any third party being required.

7 JURISDICTION

This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England, and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales.

IN WITNESS whereof the parties have executed this document as a Deed the day and year first before written

The Schedule

(Variations to the Original Agreement)

1. From the date hereof the Original Agreement shall be amended insofar only as they relate to the Site in accordance with the following:
 - 1.1 Paragraph 2 of Schedule 2 shall be deleted in its entirety and replaced with:

“Not to Occupy or permit the Occupation of any Dwellings until the Management Company has appointed a named manager to be responsible for liaising with the Council and the owner – occupiers and tenants of the Dwellings and the name and contact details of the manager have been provided to the Council.”
 - 1.2 Paragraph 3 (a) of Schedule 2 shall be deleted in its entirety.
 - 1.3 Paragraph 3 (b) of Schedule 2 shall be deleted and replaced with:

“the manager of the Management Company appointed pursuant to paragraph 2 of this Schedule 2 shall bi-annually distribute to the owner – occupiers and tenants of each and every Dwelling their contact details (include their name, address and telephone number) once the Open Space Areas and / or the LEAP and / or the SUDS have been transferred over to the Management Company;”
 - 1.4 Paragraph 3 (c) of Schedule 2 shall be deleted in its entirety.
 - 1.5 Paragraph 1.1 (a) of Part 1A of Schedule 3 shall be deleted in its entirety and replaced with:

“It has notified the Council whether it has elected to Transfer the Open Space Areas to be provided within that Phase to the Council or to Transfer the same to a

Management Company in accordance with the provisions of Schedule 2 of this Deed;
and”

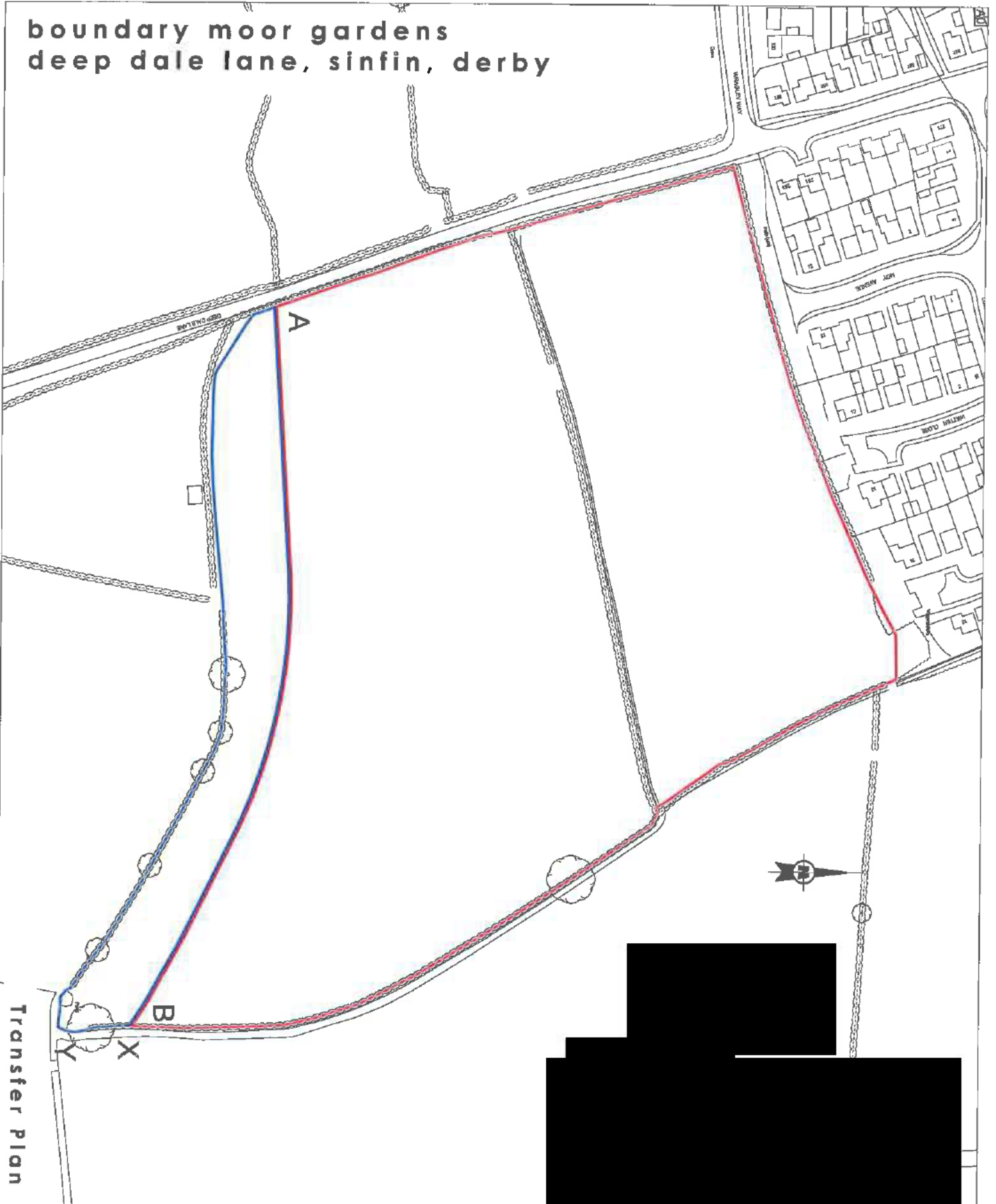
- 1.6 Paragraph 4.2 (a) of Part 3A of Schedule 3 shall be deleted in its entirety and replaced with:

“It has notified the Council whether it has elected to Transfer the LEAP (once constructed in accordance with the provisions below) to the Council or to Transfer the same to a Management Company in accordance with the provisions of Schedule 2 of this Agreement; and”

- 1.7 Paragraph 5.1 of Part 4 of Schedule 3 shall be deleted in its entirety and replaced with:

“The Owner shall not Commence Development of any Phase or permit the Commencement of Development of any Phase until it has notified the Council whether it has elected to Transfer the SUDS (once constructed and laid out in accordance with the provisions below) to the Council or to Transfer the same to a Management Company in accordance with the provisions of Schedule 2 of this Agreement. PROVIDED ALWAYS that the Owner shall not elect to Transfer the SUDS to the Council unless it has also elected to Transfer the LEAP and the Open Space Areas to the Council ”

boundary moor gardens deep dale lane, sinfin, derby



Transfer Plan

Taylor Wimpey Taylor Wimpey 27-29 High Street Derby DE1 1AA 01332 345678 www.taylorwimpey.co.uk				Project No. 3016 Date Nov 2020 Scale 1:500 @A0			
Project Name: boundary moor gardens, deep dale lane, sinfin, derby Project No. 3016 Date Nov 2020 Scale 1:500 @A0				Project No. 3016 Date Nov 2020 Scale 1:500 @A0			
Project No. 3016 Date Nov 2020 Scale 1:500 @A0				Project No. 3016 Date Nov 2020 Scale 1:500 @A0			

Executed as a deed by
TAYLOR WIMPEY UK LIMITED
acting by both its Attorneys in the presence of:

Attorney

David Crouch

Attorney

Signature of witness

Name (in BLOCK CAPITALS)

Address

Occupation

Charlotte Weston
First and Second Floor
Building Two
Trinity Court
Wolverhampton Business Park
WV10 6UH

Assistant Regional Solicitor

Deborah Steele

Executed as a deed by affixing the seal of
DERBYSHIRE COUNTY COUNCIL
in the presence of :-

Authorised Signatory

Director of Legal Services

Number in Seal
Book 2022/833

Executed as a deed by affixing the seal of
SOUTH DERBYSHIRE DISTRICT COUNCIL
in the presence of :-

Chairman

Chief Executive

