

Dated *26th June* 2020

South Hams District Council

And

Devon County Council

And



And

Bloor Homes Limited

Section 106 Agreement

Relating to Land at Filham

Ivybridge

Devon

Planning Application: 3703/18/OPA

CONTENTS

Clause	Heading	Page
1	DEFINITIONS.....	2
2	INTERPRETATION.....	11
3	LEGAL BASIS.....	11
4	OWNERS' COVENANTS.....	12
5	COUNCIL'S COVENANTS.....	12
6	COUNTY COUNCIL'S COVENANTS.....	12
7	SCOPE OF THE OBLIGATIONS.....	12
8	FINANCIAL MATTERS.....	13
9	CHANGE IN OWNERSHIP.....	13
10	SERVICE OF NOTICES.....	13
11	ACCESS TO THE LAND.....	14
12	NOTICE OF COMMENCEMENT OF DEVELOPMENT.....	14
13	SECTION 73 APPLICATIONS AND FUTURE PERMISSIONS.....	14
14	DISPUTE RESOLUTION.....	15
15	JURISDICTION.....	15
16	DEVELOPER CONSENT.....	15
SCHEDULE 1	Owners' Covenants with the Council.....	21
SCHEDULE 2	Owners' Covenants with the County Council.....	27
SCHEDULE 3	Covenants on Behalf of the Council.....	30
SCHEDULE 4	Covenants on behalf of the County Council.....	31
SCHEDULE 5	Indexation Formula and Plymouth Sound and Estuaries Contribution Formulae	32
APPENDIX 1	Section 73 Agreement.....	34
APPENDIX 2	Plan 1 – Site Location Plan.....	36
APPENDIX 3	Plan 2 – Open Space Plan.....	38
APPENDIX 4	Phasing Plan.....	40
APPENDIX 5	Highway Works.....	42
APPENDIX 6	Alternative Highway Works.....	47

DATE:

26th June

2020

PARTIES:

- (1) [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

(6) **DEVON COUNTY COUNCIL** of County Hall, Topsham Road, Exeter, Devon, EX2 4QD (the "County Council").

RECITALS

- (A) The Council is the local planning authority for the purposes of the Act for the Administrative Area in which the Land is situated.
- (B) The County Council is a local planning authority, local highway authority and local education authority for the purposes of the Act for the Administrative Area in which the Land is situated.
- (C) The Owners own the freehold estate in the Land with title absolute under title numbers DN594072, DN566957 and DN624826 subject to the entries disclosed on the Property, Proprietorship and Charges Registers of the said Titles and any existing highway rights but otherwise free from encumbrances.
- (D) The Developer has options to purchase the Land.
- (E) The Developer has submitted the Application to the Council.
- (F) The Council is minded to grant the Permission subject to prior completion of this Agreement.

1 DEFINITIONS

In this Agreement:

"Act"	means the Town and Country Planning Act 1990;
"Administrative Area"	means the District of South Hams;
"Affordable Housing"	means affordable housing available to specific eligible households whose needs are not met by the market as set out within the glossary at Annex 2 of the National Planning Policy Framework and being permanent dwellings to be let as Affordable Rented Units or disposed of as Intermediate Housing Units pursuant to this Agreement;
"Affordable Housing Provider" or "AHP"	means a registered provider as defined in the Housing and Regeneration Act 2008 who is registered with Homes England or any other provider of Affordable Housing first approved in writing by the Council;
"Affordable Housing Scheme"	means a scheme to be submitted for Phase 1 and Phase 2 of the Development detailing the type, size and location of the Affordable Housing Units to be provided within Phase 1 and Phase 2;
"Affordable Housing Unit"	means 30% of the total number of Dwellings to be delivered as Affordable Housing pursuant to this Agreement delivered as either Affordable Rented Units or Intermediate Housing Units pursuant to this Agreement;
"Affordable Rented Unit"	means 50% of the Affordable Housing Units which shall be let by an AHP to be offered at a rent not exceeding 80% of the local market rents plus service charge;
"Air Quality Contribution"	means the sum of one hundred and seventy three thousand pounds (£173,000.00) Index Linked payable to the County Council and to be used for the provision of a traffic and air quality mitigation scheme to be used in Ivybridge;
"Alternative Highway Scheme"	means the alternative highway scheme as shown on Drawing 173396_G_20 Rev A annexed to this Agreement at Appendix 6 or such other drawing as is agreed between the County Council and the Developer to be laid out in the event that TRO 1 is not approved;
"Alternative Highway Works"	means the highway works to be carried out on the Land in accordance with Drawing 173396_G_20 Rev A annexed to this Agreement at Appendix 6 or such other drawing as is agreed

between the County Council and the Developer to deliver the Alternative Highway Scheme;

- "Application"** means the application for planning permission registered by the Council on 26 November 2018 for the Development and given reference number 3703/18/OPA;
- "BCIS Index"** means the All In Tender Price Index published by the Building Cost Information Service of the Royal Institute of Chartered Surveyors;
- "Biodiversity Contribution"** means the sum of twenty five thousand seven hundred and twenty nine pounds and twenty five pence (£25,729.25) Index Linked towards off site biodiversity measures to deliver enhancements to or creation of new habitats to mitigate the impact of the Development and secure a net gain in relation to biodiversity;
- "Commencement of Development"** means the carrying out of a material operation on the Land pursuant to the Permission as defined in Section 56 (4) of the Act other than operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, erection of any temporary means of enclosure, the temporary display of site notices or advertisements, the provision of contractors' offices and compounds or the construction of the footpath to be provided from the Land to the public highway and similar phrases such as "Commence Development" and "Commence" shall be construed accordingly;
- "Consumer Price Index"** means the rate of consumer price inflation published in the United Kingdom to measure the change in prices of goods and services
- "Designated Person"** means any person or persons who immediately prior to the occupation of an Intermediate Housing Unit has a Local Connection with Devon and the expression and the expression "Designated Persons" shall be construed accordingly;
- "Development"** means the development of the Land pursuant to the Permission for the hybrid application for the erection of up to 200 dwellings, comprising the following: Phase 1 - detailed application for the erection of 94 dwellings (C3), formation of access with Exeter Road (B2131), new spine road, internal roads and footpaths, surface water infiltration ponds, landscaping, ground and utilities works and associated infrastructure; and Phase 2 - outline application for up to 106 dwellings (C3) with all matters

reserved except for access; strategic landscaping, surface water drainage works, highway works and diversion and associated infrastructure;

"Devon Home Choice" means the choice based letting scheme introduced in the County of Devon;

"Devon Home Choice Register" means the register of persons most in need of housing accommodation who have registered to bid for properties made available through Devon Home Choice. Council or housing association homes which become vacant are advertised on this register and applicants can 'bid' for properties they are interested in. Each property is allocated to the bidder in the greatest level of housing need;

"Dwelling" means a residential unit constructed on the Land pursuant to the Permission being both Affordable Housing Units and Open Market Dwellings;

"Expert" means a person of not less than 10 (ten) years recent and relevant experience of the matter in dispute as may be appointed by the parties to this Agreement;

"Footway Improvements Contribution" means the sum of one hundred and twenty seven thousand pounds (£127,000.00) Index Linked payable to the County Council towards footway improvements between the Development access junction/B3213 and the Rutt Lane B3213 junction;

"Grant Funding" means grant funding provided by Homes England or any successor in function thereof;

"Highway Works" means the highway works to be carried out on the Land in accordance with the provisions of Schedule 2 of this Agreement and plans annexed to this Agreement at Appendix 5;

"Homebuy Agent" means Help to Buy South West Limited (company number 01683645) whose registered office is at Park House, Church Lane, St. George, Bristol BS5 7AG or such other organisation(s) as may be designated by Homes England as being responsible in relation to the area in which the Land is situated for the marketing of the Intermediate Housing Units the assessment of the eligibility of those applying to purchase them and the direction of appropriate applicants to local schemes which best meet their needs;

"Index Linked" means where any provision of this Agreement provides for a sum to be increased in accordance with the index a sum

calculated in accordance with the indexation formula set out at Part A of Schedule 5 to this Agreement;

"Interest Rate"	means 4% above the Barclays Bank base rate calculated on a day to day basis from time to time in force;
"Intermediate Housing Unit"	<p>means 50% of the Affordable Housing Units to be disposed of pursuant to a shared ownership lease (of not less than 99 years) in the standard form of the Affordable Housing Provider and in accordance with the requirements of Homes England whereby the Dwelling is let by an Affordable Housing Provider and:</p> <p>(a) the leaseholder acquires an initial equity share in the Affordable Housing Unit; and</p> <p>(b) the purchaser pays to the Affordable Housing Provider a rent in respect of the remaining unsold equity of up to 2.75% of the unsold equity, with the right of the occupier to purchase further percentages of the Dwelling up to 100% or such similar equivalent means of tenure;</p>
"Land"	means the land shown edged red on the Plan 1 namely land at Filham, Ivybridge, Devon;
"Landscape and Ecology Management Plan" or "LEMP"	means details (including a plan) setting out the management and maintenance arrangements for the parts of the Open Space identified in the LEMP for each Phase (to be managed for biodiversity, ecology and landscape purposes both on the Land and off-site);
"Local Allocations Policy"	means the policy adopted by the Council in December 2017 to ensure locally based allocations for Affordable Housing Units (pursuant to Section 167(2E) of the Housing Act 1996) together with any revisions thereof;
"Local Connection"	means a local connection to the Administrative Area of the Council having regard to the local connection criteria set out in the Local Allocations Policy applicable at the date when the relevant Affordable Housing Units are being allocated (or in the event of there being no Local Allocations Policy in force such other criteria as may be agreed by the Council in writing);
"Local Equipped Area of Play" or "LEAP"	means a local equipped area of play (with an activity zone of at least 400m ² and at least 5 items of equipment) and a minimum 20m buffer between the activity zone and the habitable room façade of dwellings and 10m buffer between the activity zone and adjacent dwelling boundaries to be delivered in Phase 2 of the Development (unless otherwise agreed with the Council) and shown indicatively in the locations edged green on Plan 2

or such other area of land of a size or location as may be otherwise agreed in writing between the Council and the Owners;

"Local Landscape Area for Play" or "LLAP"

means an area for play (with an activity zone of at least 100m² and at least 3 items of equipment) or a local landscaped area providing natural play features to be delivered in Phase 1 of the Development (unless otherwise agreed with the Council) and shown indicatively in the location edged green on Plan 2 or such other area of land of a size and location as may be otherwise agreed in writing between the Council and the Owners **AND FOR THE AVOIDANCE OF DOUBT** any Local Landscaped Area for Play must be considered to be of play value determined by the Council to equate to or exceed the play value of an equipped activity zone;

"Management Company"

means an existing management company or a management company set up by the Owner to fund manage and maintain the Open Space and SUDS and which is limited by guarantee, or such other management entity or body (including a Town or Parish Council) as may be first approved in writing by the Council;

"Mortgagee"

means the mortgagee or chargee of either:

- (a) an individual Affordable Dwelling where the mortgagor has defaulted on the particular mortgage; or
- (b) the AHP or any receiver (including an administrative receiver) 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;

"Mortgagee's Duty"

means the tasks and duties set out in Paragraph 10 to Schedule 1;

"NHS Healthcare Contribution"

means the sum of eighty thousand nine hundred and twenty five pounds (£80,925.00) payable towards the cost of increasing the gross internal area (GIA) of the Ivybridge Health Centre and Highland Health Centre as required by NHS Devon Clinical Commissioning Group to adequately serve the estimated increase in patient numbers as a result of the Development;

"Obligations" and "Obligation"

means the planning obligations, covenants, requirements and restrictions on the part of the Owners contained in this Agreement;

"Occupation" or "Occupy"	means occupation for residential use permitted by the Permission but not including occupation by personnel engaged in construction, fitting out, decoration, marketing, display or security operations;
"Occupier"	means a person who occupies a Dwelling for the purposes of a residential dwelling/residential use;
"Open Market Dwelling"	means a Dwelling which is for sale on the open market and which is not an Affordable Housing Unit;
"Open Space"	means the areas of the Land to be delivered as public open space shown indicatively in hatching on Plan 2 or of such other size or location as may be otherwise agreed in writing between the Council and the Owners and which shall include the LLAP in Phase 1 (unless otherwise agreed by the Council), LEAP in Phase 2 (unless otherwise agreed by the Council), SUDS for each Phase and any unadopted footpaths through said open space (if applicable) AND FOR THE AVOIDANCE OF DOUBT this term will also include areas of incidental open space falling outside the curtilage or control of any Dwelling;
"Open Space Specification"	means written details and specifications for the laying out and provision of the Open Space for each Phase (including the LLAP in Phase 1 and LEAP in Phase 2) and the SUDS including the standard of the maintenance and management to be undertaken and a timetable for the laying out of the Open Space Works AND FOR THE AVOIDANCE OF DOUBT this shall include all Open Space and Play Areas and any areas of incidental open space which fall outside the curtilage of any Dwelling;
"Open Space Works"	means the works required to lay out and deliver the Open Space, Local Equipped Area for Play and or Local Landscape Area for Play and the SUDS in each Phase in accordance with the Open Space Specification;
"Parties"	means the Council, the County Council, the Owners and the Developer and all successors in title thereto;
"Permission"	means such conditional planning permission as may be granted by the Council in respect of the Application;
"Phase"	means Phase 1 or Phase 2 as appropriate;
"Phase 1"	means that part of the Land as shown marked 'Phase 1' on the Phasing Plan;

"Phase 2"	means that part of the Land as shown marked 'Phase 2' on the Phasing Plan;
"Phasing Plan"	means the plan attached to this Agreement at Appendix 4 with reference SLP: 02 Rev A;
"Phase 1 Sports Contribution"	means the sum of ninety six thousand nine hundred and eighty one pounds and twenty one pence (£96,981.21) Index Linked (comprising sixty nine thousand five hundred and eighty three pounds and fifty pence (£69,583.50) in capital and twenty seven thousand three hundred and ninety seven pounds and seventy one pence (£27,397.71) in maintenance) to be used towards the provision of off – site sports and recreation improvements required as a result of the Development;
"Phase 2 Sports Contribution"	<p>means the sum to be calculated in accordance with the following formula in respect of Phase 2 – and is broken down as follows:</p> <p>Capital = A x £329, where: A = number of Occupiers (based on the total number of Dwellings within Phase 2 x 2.25);</p> <p>Maintenance = A x B x C, where: A = number of Occupiers (based on the total number of Dwellings within Phase 2 x 2.25); B = 12.7 (m2/person requirement for playing pitches); and C = £10.20 (20 year cost/m2 for maintenance of playing pitches);</p>
"Plan 1"	means the plan attached to this Agreement at Appendix 2 showing the Land with drawing number SLP01 Rev A;
"Plan 2"	means the plan attached to this Agreement at Appendix 3 showing the Open Space with reference A106760 LA100[B];
"Play Areas"	means any area of land which is to be used or is used as a Local Equipped Area for Play or a Local Landscape Area for Play in either Phase;
"Play Facilities Contribution"	means the sum of twenty five thousand nine hundred and seventy one pounds and fifty pence (£25,971.50) Index Linked to be paid to the Council for the provision of off–site play facilities in Ivybridge town centre required to mitigate the Development;
"Plymouth Sound and Estuaries Contribution"	means the index linked sum to be calculated in accordance with paragraph 20 of Schedule 1 towards minimising the recreational impacts identified within the Plymouth Sound and Estuaries EMS;

"Plymouth Sound and Estuaries EMS"	means the Plymouth Sound and Estuaries European Marine Site;
"Practical Completion"	means the issue of a certificate of practical completion by the Owners' qualified agent or in the event that the Development is constructed by a party other than the Developer the issue of a certificate of practical completion by that other party's qualified agent;
"Primary Education Contribution"	means the Index Linked sum of one thousand two hundred and sixty-two pounds and eighty-one pence (£1,262.81) per Dwelling towards primary education in Ivybridge;
"Protected Tenant"	any tenant who: <ul style="list-style-type: none"> (a) has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit; or (b) has exercised any statutory protected right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit; or (c) has been granted a shared ownership lease by an Affordable Housing Provider in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the Affordable Housing Provider all the remaining shares so that the tenant owns the entire Affordable Housing Unit; or (d) has purchased a shared equity dwelling and has purchased the retained share from the Affordable Housing Provider or the Council;
"RPI Index"	means Index Linked in accordance with RPI All Items Index;
"Secondary Education Contribution"	means the Index Linked sum of one thousand nine hundred and seven pounds and thirteen pence (£1,907.13) per Dwelling to be used towards expansion and/or improvements at Ivybridge Community College;
"Section 73 Agreement"	means a short form agreement substantially in the form of that attached at Appendix 1;
"SUDS"	means the sustainable drainage system infrastructure to form part of the Development the detail and specification of which

shall be submitted to and approved by the Council as part of the Open Space Specification;

"Sustainable Travel Voucher"	means a voucher to be provided by Owner which shall entitle the holder to redeem the voucher on application against the cost of using sustainable travel modes (such as the cost of bus travel in the vicinity of the Land or the cost of bicycles or cycling equipment) of two hundred and fifty pounds (£250) per Dwelling in respect of public transport and fifty pounds (£50) per Dwelling in respect of cycle provision;
"Travel Pack"	means a package of travel information produced and provided to the residents of the Development by the Owner aimed at encouraging residents of the Development to use sustainable modes of transport (including a location plan of bus stops near to the Land, a bus timetable and bus route plan, cycle route map and any other information which the Council and the County Council considers appropriate towards promoting sustainable transport objectives);
"Travel Plan"	means a plan to assess and mitigate the transport impacts of the Development in order to promote sustainable development;
"TRO 1"	means the traffic regulation for the closure of Davids Lane;
"TRO 1 Contribution"	means the sum of five thousand pounds (£5000) Index Linked to be paid to the County Council which is to be used towards TRO 1;
"TRO 2 Contribution"	means the sum of five thousand pounds (£5000) Index Linked to be paid to the County Council which is to be used towards a 30mph speed limit area extension (traffic regulation order) on B3213;
"TRO 1 Longstop Date"	means the date which is 12 months from and including the date of this Agreement;
"Welcome Pack"	means a welcome pack for new residents containing a Travel Pack a Sustainable Travel Voucher and any other information, which the Owners or the Council or County Council consider appropriate in promoting sustainable transport objectives;
"Working Days"	means any Monday to Friday (other than any statutory or bank or public holiday).

2 INTERPRETATION

In this Agreement, except where the context requires otherwise:

- 2.1 The singular includes the plural, the masculine includes the feminine, and vice versa.
- 2.2 References to Clauses and Schedules are to the Clauses in and Schedules to this Agreement.
- 2.3 Reference to any party having an interest in the Land affected by this Agreement shall include any successor in title of that party to the Land or to any part of it.
- 2.4 Reference to any party having a statutory function referred to in this Agreement shall include any successor to that statutory function.
- 2.5 Reference to any Act or Statutory Instrument shall include any subsequent amendment or re-enactment of it.
- 2.6 Where any Obligation applies to more than one person who has an interest in the Land or that part of the Land to which an Obligation relates, their liabilities shall be joint and several.
- 2.7 The Clause and Paragraph headings herein are for ease of reference only and shall not affect the interpretation of this Agreement.
- 2.8 A reference to writing or written does not include faxes.

3 LEGAL BASIS

- 3.1 This Agreement is made pursuant to Section 106 of the Act and all other enabling powers and enactments which may be relevant for the purpose of giving validity hereto or facilitating the enforcement of the Obligations herein contained with the intent to bind the Owners respective interests in the Land and to the intent that the Obligations on the part of the Owners herein contained falling within the provisions of Section 106 of the Act shall be planning obligations for the purposes of Section 106 of the Act and are enforceable by the Council and separately by the County Council as local planning authorities against the Owners and their respective successors and assigns of each and every part of the Land AND IT IS HEREBY ACKNOWLEDGED BY ALL THE PARTIES that the Obligations contained in this Deed are:

- (a) necessary to make the Development acceptable in planning terms;
- (b) directly related to the Development; and
- (c) fairly and reasonably related in scale and kind to the Development

in accordance with the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010.

- 3.2 Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 the Obligations shall not be enforceable by anyone who is not a party to this Agreement or successor in title to any party to this Agreement or any person or body succeeding to any of the statutory functions of any party to this Agreement.

- 3.3 The Obligations are Local Land Charges and shall be registered as such by the Council.
- 3.4 Nothing in this Agreement is or amounts to or shall be construed as a planning permission within the meaning of Section 336 of the Act.
- 3.5 For the avoidance of doubt save as lawfully permitted nothing herein contained or implied shall prejudice or affect the Council's or the County Council's powers, duties or obligations in relation to its functions pursuant to all public and private statutes bye-laws orders and regulations which may be as fully and effectively exercised in relation to the Land as if this Agreement had not been exercised.

4 OWNERS' COVENANTS

The Owners covenant on behalf of themselves and their successors in title to the Land to observe and perform the Obligations set out in Schedules 1 and 2 which shall bind the Land (and every part of it) as planning obligations under Section 106 of the Act.

5 COUNCIL'S COVENANTS

The Council covenants to observe and perform the relevant covenants contained in Schedule 3.

6 COUNTY COUNCIL'S COVENANTS

The County Council covenants to observe and perform the relevant covenants contained in Schedule 4.

7 SCOPE OF THE OBLIGATIONS

- 7.1 With the exceptions of Clauses 8, 10, and 15 (which shall take effect immediately) this Agreement is conditional on the grant and issue of the Permission and the Commencement of Development on the Land.
- 7.2 No person shall be liable for any breach of an Obligation occurring after that person has parted with all of its interest in the Land or the part in respect of which such breach occurs (but without prejudice to liability for any subsisting breach arising prior to parting with such interest) and shall only be responsible for complying with the terms of this Agreement in respect of any part of the Land which is the subject of the Obligations attached to the part of the Land in which its interest subsists.
- 7.3 The Obligations shall not be binding on nor enforceable against any statutory undertaker or other person who acquires any part of the Land or any interest in it for the purposes of the supply of electricity gas water drainage telecommunication services.
- 7.4 The obligations shall not be binding against any individual owner or occupier of a Dwelling or any mortgagee or chargee of such individual owner or occupier or any person deriving title from such individual owner or occupier or any successor in title thereto and their respective mortgagees and chargees.

7.5 The Obligations shall not be binding or enforceable against any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and chargees.

7.6 Where any mortgage is created over the Land, not being a mortgage in respect of Affordable Housing, then that mortgagee (or those mortgagees) shall not be personally liable for any breach of the obligations in this deed unless committed at a time when the mortgagee is in possession or exercising their right under a power of sale of the part of the Land to which such breach relates.

8 FINANCIAL MATTERS

8.1 The Owners agree to pay to the Council and the County Council on the date of completion of this Agreement the reasonable legal costs of the Council and the County Council in respect of the negotiation, preparation, execution and completion of this Agreement.

8.2 If the Owners fail to settle any account that may be properly and duly rendered to the Owners within fourteen (14) Working Days of dispatch the sum due shall accrue interest at the Interest Rate from the date payment is due until the date of actual payment.

8.3 The Owner shall pay a monitoring fee of five thousand pounds (£5,000) to the Council prior to Commencement of the Development towards the costs reasonably and properly incurred by the Council in monitoring compliance with this Agreement.

9 CHANGE IN OWNERSHIP

The Owners agree to give the Council and the County Council written notice of any change in ownership of any of its interests in the Land (save for those disposals relating to Dwellings) as soon as reasonably practicable following the change of ownership occurring before all the Obligations under this Agreement have been discharged such notice to give full details of the transferee's name and address together with a plan of the area of the Land transferred.

10 SERVICE OF NOTICES

10.1 Any notice or other written communication to be served upon a Party or given by one Party to any other under the terms of this Agreement shall be deemed to have been validly served or given if delivered by hand or sent by recorded delivery post to the Party upon whom it is to be served or to whom it is to be given or as otherwise notified for the purpose by notice in writing PROVIDED THAT delivery by hand will only be effective upon the delivering Party receiving a written receipt.

10.2 The address for any notice or other written communication shall be within the United Kingdom.

10.3 A notice or other communication shall be served or given:

(a) On the Owners at the addresses set out above or such other address as shall be notified in writing to the Council and the County Council from time to time.

(b) On the Developer at the address set out above or such other address as shall be notified in writing to the Council and the County Council from time to time.

- (c) On the Council at the address set out above or such other address as shall be notified in writing to the Owners and the Developer from time to time marked for the attention of the Council's Legal Department.
- (d) On the County Council at the address set out above or such other address as shall be notified in writing to the Owners and the Developer from time to time marked for the attention of the County Council's Legal Department.

11 ACCESS TO THE LAND

The Owners hereby agree and declare that permission shall be granted to authorised officers of the Council or the County Council upon reasonable notice and request and at reasonable times (except in an emergency) to gain access to the Land in order to monitor compliance with the terms of this Agreement.

12 NOTICE OF COMMENCEMENT OF DEVELOPMENT

The Owners shall give to the Council or the County Council ten (10) Working Days prior written notice of its intention to Commence the Development pursuant to the Permission.

13 SECTION 73 APPLICATIONS AND FUTURE PERMISSIONS

13.1 In the event that any new planning applications are made in respect of the Development pursuant to section 73 of the Act then, subject to agreement between the parties (or their successors) evidenced by the signing of a Section 73 Agreement, with effect from the date that the new planning permission (referred to in a Section 73 agreement) is granted pursuant to section 73 of the Act:

- (a) the obligations in this Deed shall (in addition to continuing to bind the land in respect of the permission) relate to and bind the land in respect of any planning permission granted pursuant to section 73 of the Act which is referred to in the Section 73 Agreement; and
- (b) the definitions of Application, Development and Permission in this Deed shall be construed to include references to any applications under section 73 of the Act, the planning permission(s) granted thereunder and the development permitted by such subsequent planning permission(s)

provided that nothing in this clause shall fetter the discretion of the Council in determining any application(s) under section 73 of the Act or the appropriate nature and/or quantum of section 106 obligations in so far as they are materially different to those contained in this Deed and required pursuant to a determination under section 73 of the Act whether by way of a new deed or supplemental deed pursuant to section 106 of the Act or a modification agreement pursuant to section 106A of the Act.

13.2 Nothing in this Deed shall prohibit or limit the right to develop any part of the land in accordance with a planning permission (other than the permission) granted after the date of the permission.

14 DISPUTE RESOLUTION

If there is any dispute or difference between the Owners, the Council, the County Council or any of them arising out of this Agreement (other than a dispute or difference relating to a question of law or in relation to the interpretation of this Agreement) the Owners the Council and/or the County Council may agree that the matter in dispute will on the application of any of the Parties hereto be referred to the Expert and it is further agreed that:

- (a) the determination of the Expert will be final and binding on the Parties hereto save in the case of manifest error or fraud;
- (b) the Parties will be entitled to make representations and counter-representations in accordance with such timetable as the Expert directs;
- (c) the Expert's costs will be borne in such proportions as they may direct failing which the Parties will each bear their own costs of the reference and determination and the Expert's costs calculated by dividing the Expert's costs by the number of sides to the reference; and
- (d) the Expert may be replaced by a fresh appointee in the event of them becoming at any time unable or unwilling for any reason to proceed to discharge their function and such fresh appointee will be appointed in the same manner as the Expert.

PROVIDED THAT the provisions of this Clause shall be without prejudice to the right of any party to seek the resolution of any matter relating to the Agreement by the Courts and/or in accordance with Section 106 (6) of the Act and the referral of any matter to the Expert shall not prejudice, prevent or delay the recourse of any party to the Courts or to the provisions of Section 106 (6) of the Act for the resolution of any matter arising from the Agreement.

15 JURISDICTION

This Agreement is governed and interpreted in accordance with the law of England.

16 DEVELOPER CONSENT

The Developer acknowledges and declares that this Agreement has been entered into by the Owners with its consent and that the Land shall be bound by the obligations contained in this Agreement PROVIDED THAT the Developer shall otherwise have no liability under this Agreement unless and until it acquires a freehold interest in the Land in which case it will be bound by the obligations as a person deriving title from the Owners.

SCHEDULE 1

Owners' Covenants with the Council

The Owners hereby covenant with the Council as follows:

PART 1 - AFFORDABLE HOUSING

- 1 Subject to the provisions of this Schedule the Affordable Housing Units are hereby designated as Affordable Housing and shall not be occupied other than as Affordable Housing.
- 2 To submit an Affordable Housing Scheme in respect of a Phase (if different to that agreed at reserved matters approval) to the Council for approval (such approval not to be unreasonably withheld and to be deemed approved if no response is received twenty (20) Working Days from receipt by the Council of the Affordable Housing Scheme) before Commencement of Development within that Phase.
- 3 To construct and provide the Affordable Housing Units in accordance with the minimum requirements of Homes England's Design and Quality Standards 2007 for unit size achieving a minimum score of 41% (forty one per cent) for unit size.
- 4 Unless otherwise agreed in writing with the Council the Affordable Housing Units in Phase 1 shall be provided and occupied as:

Affordable Rent (50%) 14 units	No.	SQFT	Size Standard	Build Standard
1 bed 2 person Maisonette GF	2	538	NDSS	M4 (3) Cat 3
1 bed 2 person Maisonette FF	2	647	NDSS	M4 (1) Cat 1
2 bed 4 person House	6	850	NDSS	M4 (2) Cat 2
3 bed 5 person House	4	1001	NDSS	M4 (2) Cat 2
Total	14			

Intermediate Housing Units (Shared Ownership) (50%) 14 units	No.	SQFT	Size Standard	Build Standard
2 bed 4 person House	7	850	NDSS	M4 (2) Cat 2
3 bed 5 person House	2	1001	NDSS	M4 (2) Cat 2
3 bed 5 person House	5	1001	NDSS	M4 (1) Cat 1
Total	14			

The Phase 2 Affordable Housing Scheme will be confirmed at reserved matters application but will follow the Affordable Housing Units as detailed below (unless otherwise agreed in writing by the Council). Should the overall numbers of Affordable Housing Units increase or decrease, the number of each unit type to be provided will be amended in accordance with the percentage proportion by unit type for each tenure, unless otherwise agreed with the Council.

Affordable Rent (50%) 16 units	No.	SQFT	Size Standard	Build Standard	Percentage
1 bed 2 person Maisonette GF	2	538	NDSS	M4 (3) Cat 3	12.5%
1 bed 2 person Maisonette FF	2	647	NDSS	M4 (1) Cat 1	12.5%
1 bed 2 person Maisonette GF	2	538	NDSS	M4 (1) Cat 1	12.5%

1 bed 2 person Maisonette FF	2	647	NDSS	M4 (1) Cat 1	12.5%
2 bed 4 person House	3	850	NDSS	M4 (2) Cat 2	19%
3 bed 5 person House	5	1001	NDSS	M4 (2) Cat 2	31%
Total	16				100%

Intermediate Housing Units (Shared Ownership) (50%) 16 units	No.	SQFT	Size Standard	Build Standard	Percentage
2 bed 4 person House	8	850	NDSS	M4 (2) Cat 2	50%
3 bed 5 person House	5	1001	NDSS	M4 (2) Cat 2	31%
3 bed 5 person House	3	1001	NDSS	M4 (1) Cat 1	19%
Total	16				100%

MECHANISM OR PROVISION OF AFFORDABLE HOUSING

- 5 The Owners shall use their reasonable endeavours enter into a contract for the sale of the Affordable Housing Units with an AHP within six (6) months of the date of this Agreement.
- 6 If the Owners have not contracted to sell the Affordable Housing Units to an AHP within six (6) months of the date of this Agreement (despite having used their reasonable endeavours to do so) the Owners shall demonstrate to the Council in writing why it was unable to do so and **PROVIDED THAT** the Council (acting reasonably) is satisfied that reasonable endeavours have been undertaken by the Owners to secure a contract with an AHP in respect of the Affordable Housing Units the Owners and the Council shall use reasonable endeavors to seek to agree an alternative mix or tenure of the Affordable Housing Units within twenty (20) Working Days to be agreed in writing with due consideration to the viability of the Development.
- 7 From the date of Practical Completion of the Affordable Housing Units those units shall not be used other than for Affordable Housing and shall only be occupied by persons with a Local Connection in accordance with the Local Allocations Policy.
- 8 The Affordable Housing Units shall only be occupied by Designated Persons who cannot afford to rent or buy housing generally available on the open market immediately prior to Occupation.
- 9 The Affordable Housing Units shall be provided as follows:
 - 9.1 No more than 50% (fifty per cent) of the Open Market Dwellings in a Phase shall be Occupied until 50% of the Affordable Housing Units in a Phase have been transferred to an AHP;
 - 9.2 No more than 70% (seventy per cent) of the Open Market Dwellings in a Phase shall be Occupied until 70% of the Affordable Housing Units in a Phase have been transferred to an AHP; and
 - 9.3 No more than 80% (eighty per cent) of the Open Market Dwellings in a Phase shall be Occupied until all of the Affordable Housing Units in a Phase have been transferred to an AHP.

- 9.4 Prior to the first Occupation of any Dwelling the Owners shall notify the Council in writing of the name of the Affordable Housing Provider to whom the Affordable Rented Units and the Intermediate Housing Units shall be transferred,

PROVIDED THAT the requirements of this paragraph 9 shall only apply where the Owners have entered into a contract with an Affordable Housing Provider for the purchase of the Affordable Housing Units.

MORTGAGEE'S DUTY

- 10 The Mortgagee shall prior to seeking to dispose of any Affordable Housing Unit pursuant to any default under the terms of its mortgage or charge give prior written notice ("Mortgagee's Notice") to the Council of its intention it dispose and:
- 10.1 in the event that the Council responds within two (2) months from receipt of the Mortgagee's Notice indicating that arrangements for the transfer of the Affordable Dwellings can be made in such a way as to safeguard them as Affordable Housing and to secure repayment of all sums outstanding under the terms of the relevant security documentation (including all accrued principal monies, interest and reasonable and proper costs and expenses) then the Mortgagee shall cooperate with such arrangements and use his reasonable endeavours to secure such transfer;
- 10.2 if the Council does not serve its response to the Mortgagee's Notice served under paragraph 10.1 within the two (2) months then the Mortgagee shall be entitled to dispose of the Affordable Dwellings free from the restriction set out in this Part 1 of Schedule 1 which provisions shall determine absolutely;
- 10.3 if the Council or any other person cannot within three (3) months of the date of receipt of the Mortgagee's Notice secure such transfer then provided that the Mortgagee shall have complied with its obligations under this paragraph 10 the Mortgagee shall be entitled to dispose of the Affordable Dwelling free from the restrictions set out in this Part 1 of Schedule 1 which provisions shall determine absolutely provided that at all times the rights and obligations in this paragraph 10 shall not require the Mortgagee to act contrary to its duties under the mortgage or charge and that the Council must give full consideration to protecting the interest of the Mortgagee in respect of monies outstanding under the mortgage or charge.

NOMINATIONS – AFFORDABLE RENTED UNITS

- 11 Not to allocate the Affordable Rented Units except in accordance with Devon Home Choice Register subject to the Local Allocations Policy and each Affordable Rented Unit shall only be let to a person:
- 11.1 who falls within Bands A to D of the selection and allocations criteria set out in Devon Home Choice; and
- 11.2 who is considered by the AHP to be in need of the accommodation; and
- 11.3 who has a Local Connection with the Administrative Area of the Council with first preference to applicants with a Local Connection to the parish of Ugborough, with second preference to

applicants with a Local Connection to the parish of Ivybridge with third preference to applicants with a Local Connection to South Hams.

- 12 In the event of a conflict between the Local Allocations Policy and Devon Home Choice the Local Allocations Policy shall take precedence.
- 13 In the event that Devon Home Choice or the Devon Home Choice Register ceases to operate an alternative allocation method shall be approved by the Council in writing prior to any further allocations.

NOMINATIONS – INTERMEDIATE HOUSING UNITS

- 14 In so far as it is lawfully able to do so the Owners shall ensure that the Intermediate Housing Units are disposed of only to persons who:
 - 14.1 are Designated Persons; and
 - 14.2 have been chosen by the AHP from the list of eligible applicants which the AHP shall request from the Homebuy Agent provided that if there shall not be sufficient suitable applicants on such list or if any suitable applicants fail to proceed with the purchase within three (3) months of being made an offer by the AHP then the AHP shall be entitled to dispose of the Intermediate Housing Unit to a person of its own choosing who is unable to afford the purchase of suitable accommodation on the open market **PROVIDED THAT** the AHP shall use its reasonable endeavours to dispose of the Intermediate Housing Unit to persons from such list of eligible applicants.

PART 2 – OTHER OBLIGATIONS

15 OPEN SPACE AND SUDS

- 15.1 Not to cause or permit the Commencement of Development in a Phase unless or until the Open Space Specification has been submitted to and approved by the Council such approval not to be unreasonably withheld or delayed and to be deemed approved if no response is received sixty (60)days from submission.
- 15.2 To carry out the Open Space Works in accordance with the Open Space Specification.
- 15.3 Not to part with the ownership or possession of any part of the Open Space or SUDS unless and until the ongoing maintenance and management of the Open Space and SUDS has been secured and provided for in accordance with the terms of the Open Space Specification.
- 15.4 Not to cause or permit the Occupation of more than 50% (fifty per cent) of the Dwellings in any Phase unless or until the Open Space Works for that Phase have been completed in accordance with the Open Space Specification to the reasonable satisfaction of the Council
- 15.5 Once the Open Space Works have been completed in accordance with the Open Space Specification to:

- (a) maintain and manage (or procure the maintenance and management of) the Open Space and the SUDS in accordance with the Open Space Specification to the reasonable satisfaction of the Council;
- (b) keep the Open Space available for public use in perpetuity (unless otherwise agreed in writing by the Council); and
- (c) if so required by the Open Space Specification prior to Practical Completion of 50% (fifty per cent) of the Dwellings to form a Management Company to manage the Open Space and SUDS in accordance with this paragraph and thereafter without delay to transfer the Open Space to the said Management Company or to put in place any alternative management regime as may have been approved by the Council pursuant to the Open Space Specification in accordance with the timescales set out therein and to the reasonable satisfaction of the Council

16 LANDSCAPE AND ECOLOGY MANAGEMENT PLAN

- 16.1 Not to cause or permit the Commencement of Development in respect of a Phase unless and until the Owner has submitted the Landscape and Ecology Management Plan for that Phase to the Council for approval.
- 16.2 Not to cause or permit the Commencement of Development in respect of a Phase unless and until the Council has approved the Landscape and Ecology Management Plan for that Phase.
- 16.3 To implement the approved Landscape and Ecology Management Plan in respect of the parts of the Open Space identified in the LEMP for each Phase in accordance with the details and timescales set out therein and to manage and maintain (or procure the management or maintenance of) the measures set out therein in perpetuity.

17 NHS HEALTHCARE CONTRIBUTION

- 17.1 The Owners shall prior to Occupation of 10% (ten per cent) of the Dwellings within Phase 1 pay 50% (fifty per cent) of the NHS Healthcare Contribution directly to the NHS Devon Clinical Commissioning Group.
- 17.2 The Owners shall prior to Occupation of 50% (fifty per cent) of the Dwellings within Phase 1 pay the balance of the NHS Healthcare Contribution directly to the NHS Devon Clinical Commissioning Group.

18 SPORTS CONTRIBUTION

- 18.1 The Owners shall prior to Occupation of 1st Dwelling within Phase 1 pay the Phase 1 Sports Contribution to the Council towards the provision of off – site sports and recreation improvements at either Erme Valley Playing Fields Ivybridge Rugby Club, Ivybridge College, sports provision at Moorhaven and or the football ground at Twinaways Hillhead Cross required as a result of the Development.
- 18.2 The Owners shall prior to Occupation of 1st Dwelling within Phase 2 pay the Phase 2 Sports Contribution to the Council to be used towards the provision of off – site sports and recreation improvements required as a result of the Development.

19 PLAY FACILITIES CONTRIBUTION

19.1 Subject to the provisions of paragraph 5.2, the Owners shall pay the Play Facilities Contribution to the Council prior to Occupation of 90% (ninety per cent) of the Dwellings to be erected on Phase 1.

19.2 In the event that the Owners provide and make available for public use the LEAP on Phase 2 within 2 years from the date upon which 90% (ninety per cent) of the Dwellings to be erected on Phase 1 are Occupied (or such other timeframe as may be agreed in writing between the Owners and the Council) the Council shall promptly repay the Play Facilities Contribution in full.

20 PLYMOUTH SOUND AND ESTUARIES CONTRIBUTION

20.1 To pay the Plymouth Sound and Estuaries Contribution to be calculated upon the per dwelling formula provided in Part B of Schedule 5 prior to 50% (fifty per cent) of the Dwellings in Phase 1 being Occupied.

20.2 Not to cause or permit the Occupation of more than 50% (fifty per cent) of the Dwellings in Phase 1 unless and until all of the Plymouth Sound and Estuaries Contribution has been paid to the Council.

21 BIODIVERSITY CONTRIBUTION

21.1 To pay the Biodiversity Contribution prior to 50% (fifty per cent) of the Dwellings in Phase 1 being Occupied.

21.2 Not to cause or permit the Occupation of more than 50% (fifty per cent) of the Dwellings in Phase 1 unless and until all of the Biodiversity Contribution has been paid to the Council.

22 HIGHWAY WORKS

22.1 Prior to the Commencement of Development the Owners shall submit a scheme to light Davids Lane between the Development boundary and Godwell Lane to be agreed by the Council and the County Council such approval not to be unreasonably withheld or delayed with the agreed scheme being completed prior to Occupation of the 10th Dwelling.

22.2 The 10th Dwelling shall not be Occupied without the scheme in paragraph 22.1 above being completed.

SCHEDULE 2

Owners' Covenants with the County Council

The Owners covenant with the County Council as follows:

1 PRIMARY EDUCATION CONTRIBUTION

The Owners shall pay the Primary Education Contribution to the County Council as follows:

- 1.1 50% (fifty per cent) of the Primary Education Contribution shall be paid prior to Occupation of 10% of the Dwellings.
- 1.2 The Owners shall not to cause, permit or otherwise allow Occupation of more than 10% (ten per cent) of the Dwellings unless and until 50% (fifty per cent) of the Primary Education Contribution has been paid to the County Council.
- 1.3 The remaining 50% (fifty per cent) of the Primary Education Contribution shall be paid prior to Occupation of 50% (fifty per cent) of the Dwellings.
- 1.4 The Owners shall not to cause, permit or otherwise allow Occupation of more than 50% (fifty per cent) of the Dwellings unless and until the remaining 50% (fifty per cent) of the Primary Education Contribution has been paid to the County Council.

2 SECONDARY EDUCATION CONTRIBUTION

The Owners shall pay the Secondary Education Contribution to the County Council as follows:

- 2.1 50% (fifty per cent) of the Secondary Education Contribution shall be paid prior to Occupation of 10% (ten per cent) of the Dwellings.
- 2.2 The Owners shall not to cause, permit or otherwise allow Occupation of more than 10% (ten per cent) of the Dwellings unless and until 50% (fifty per cent) of the Secondary Education Contribution has been paid to the County Council.
- 2.3 The remaining 50% (fifty per cent) of the Secondary Education Contribution shall be paid prior to Occupation of 50% (fifty per cent) of the Dwellings.
- 2.4 The Owners shall not to cause, permit or otherwise allow Occupation of more than 50% (fifty per cent) of the Dwellings unless and until the remaining 50% (fifty per cent) of the Secondary Education Contribution has been paid to the County Council.

3 WELCOME PACK

Prior to the Commencement of Development the Owners are to submit to (and obtain the written approval of) the **County Council** (in consultation with the Council) the Travel Pack and the Welcome Pack which shall be provided to the first occupant(s) of each Dwelling and once written consent from the **County Council** is received the Owners shall produce and provide the Travel Pack and Welcome Pack to the first occupant(s) of each Dwelling.

4 TRAVEL PLAN

- 4.1 Prior to the Commencement of Development the Owner is to submit the Travel Plan to the County Council in consultation with the Council for written approval such approval not to be unreasonably withheld or delayed and to be deemed approved if no response is received thirty (30) days from submission.
- 4.2 The Owner shall implement the Travel Plan and shall then monitor and review the Travel Plan for the lifetime of the Development and every six (6) months produce a report to the County Council summarising the effectiveness of the Travel Plan and shall use reasonable endeavours to incorporate any of the County Council's feasible recommendations.

5 TRO 1 CONTRIBUTION and TRO 2 CONTRIBUTION

- 5.1 The Owner shall pay the TRO 1 Contribution to the County Council prior to Commencement of the Development
- 5.2 In the event that TRO 1 is not approved by the TRO 1 Longstop Date despite the County Council using reasonable endeavours to ensure that it is so approved, then the Alternative Highway Scheme shall be delivered in accordance with paragraph 7 of this Schedule.
- 5.3 The Owners shall pay the TRO 2 Contribution to the County Council prior to the Commencement of Development.

6 HIGHWAY WORKS

- 6.1 The Owners covenant to enter into a highways agreement(s) pursuant to section 278/38 of the Highways Act 1980 with the County Council to carry out the following:
- (a) Prior to the Occupation of any Dwelling to complete the off - site highway works shown on drawing 173396_G_03 Rev H annexed hereto.
 - (b) To complete the off - site highway works shown on Drawing 173396_G_10 Rev D annexed hereto prior to the Occupation of any Dwelling.
- 6.2 No Dwelling is to be Occupied until works shown on Drawing 173396_G_03 Rev H and Drawing 173396_G_10 Rev D are practically complete.
- 6.3 Prior to the Commencement of Development the Owners shall submit a scheme to light Davids Lane between the Development boundary and Godwell Lane to be agreed by the Council and the County Council such approval not to be unreasonably withheld or delayed with the agreed scheme being completed prior to Occupation of the 10th Dwelling.
- 6.4 The 10th Dwelling shall not be Occupied without the scheme in paragraph 6.3 above being completed.
- 6.5 Prior to Occupation of the 1st Dwelling the works shown on drawing 173396_G_18 shall be completed PROVIDED THAT the Owners shall be under no obligation to carry out and complete such works unless and until the County Council has secured the relevant traffic regulation order pursuant to the provisions of paragraph 4 of Schedule 4 of this Deed.

- 6.6 Prior to Occupation of the 1st Dwelling the works shown on drawing 173396_G_17 shall be completed PROVIDED THAT the Owners shall be under no obligation to carry out and complete such works unless and until the County Council has secured the relevant traffic regulation order pursuant to the provisions of paragraph 4 of Schedule 4 of this Deed.
- 6.7 The 1st Dwelling shall not be Occupied without the works shown on drawing 173396_G_18 and 173396_G_17 being completed PROVIDED THAT the Owners shall be under no obligation to carry out and complete such works unless and until the County Council has secured the relevant traffic regulation order pursuant to the provisions of paragraph 4 of Schedule 4 of this Deed.
- 6.8 In the event that the County Council has not secured the TRO 1 by the TRO 1 Longstop Date the Owners shall provide the Alternative Highway Access pursuant to the provisions of paragraph 7 of this Schedule.

7 ALTERNATIVE HIGHWAY ACCESS

- 7.1 Further to paragraph 5.2 of this Schedule in the event that the County Council notifies the Owners that the TRO 1 is not approved or the TRO 1 is not secured by the TRO 1 Longstop Date the Owners covenant to submit a planning application for the Alternative Highway Works within 12 (twelve) months of said notification (such notification to include the deadline for submitting the planning application) and, upon receipt of planning approval for the Alternative Highway Works, covenant:
- (a) to enter into the necessary highways agreement(s) with the County Council to carry out the Alternative Highway Works in order to deliver the Alternative Highway Scheme such highways agreement shall take into account any necessary changes to the highways works;
 - (b) to practically complete the Alternative Highway Works prior to the use by vehicles (excluding construction traffic) and by the public at large of any part of any estate road which crosses Davids Lane;
 - (c) Save for where the estate road crosses such parts of Davids Lane which are already highway maintainable at public expense, the estate road will not be made available for use by vehicles (excluding construction traffic) by the public at large unless and until the Alternative Highway Works are completed.
- 7.2 For the avoidance of doubt from either the date the County Council notifies the Owners that the TRO 1 is not approved or the TRO 1 Longstop Date (whichever is earlier) the restrictions on Occupation pursuant to paragraphs 6.6 to 6.8 of this Schedule shall cease to have effect.

8 AIR QUALITY CONTRIBUTION

The Owners shall pay the Air Quality Contribution to the County Council prior to Commencement of Development

9 FOOTWAY IMPROVEMENTS CONTRIBUTION

The Owners shall pay the Footway Improvements Contribution to the County Council prior to Commencement of Development.

SCHEDULE 3

Covenants on Behalf of the Council

The Council hereby covenants with the Owners:

- 1 Any financial contribution paid to the Council under this Agreement shall be used only for the purpose as defined herein.

- 2 That should the financial contributions payable to the County Council pursuant to this Agreement or any part thereof remain unspent or uncommitted 10 (ten) years from the date of payment to the County Council then the County Council shall repay the unspent or uncommitted part of the relevant contribution to the party who paid the contribution together with interest at the rate of 1% below the base rate of Barclays Bank Plc or 0% (zero per cent) whichever is higher from time to time in force for the period from the date of payment to the date of refund.

SCHEDULE 4

Covenants on behalf of the County Council

The County Council hereby covenants with the Owners:

- 1 That should the financial contributions payable to the County Council pursuant to this Agreement or any part thereof remain unspent or uncommitted 10 (ten) years from the date of payment to the County Council then the County Council shall repay the unspent or uncommitted part of the relevant contribution to the party who paid the contribution together with interest at the rate of 1% below the base rate of Barclays Bank Plc or 0% (zero per cent) whichever is higher from time to time in force for the period from the date of payment to the date of refund.
- 2 The County Council hereby covenants with the Owners that any financial contributions paid to the County Council under this Agreement shall be used only for the purpose as defined herein.
- 3 The County Council hereby covenants that they shall enter into a highways agreement(s) pursuant to section 278/38 of the Highways Act 1980 which are required as a result of the Highway Works and/or the Alternative Highway Works (as applicable in accordance with the provisions of this Agreement) as soon as reasonably practicable following completion of this Deed.
- 4 The County Council hereby covenants that they shall promptly apply for, and use all reasonable endeavours to promptly secure, the relevant traffic regulation orders required in order for the highway works required pursuant to this Deed to be delivered within the timescales required by this Deed.

SCHEDULE 5

Indexation Formula and Plymouth Sound and Estuaries Contribution Formulae

PART A

Indexation Formula

1. Where any provision of this Agreement provides for any sum to be increased in accordance with this the indexation provisions, at the date or dates upon which the increased sum is calculated the following formula shall be used:

$$C = \text{£Y} \times \frac{B}{A}$$

A

Where:

A is the value of the BCIS Index last published before the said date hereof in the case of contributions which are Index Linked and payable to the County Council or RPI Index last published before the said date hereof in the case of contributions which are Index Linked and payable to the Council;

and

B is the value of such index last published before the said calculation has been paid;

and

C is the sum in question after application of this formula;

and

£Y is the sum to which this formula is applied;

Provided that if the BCIS Index or RPI Index shall cease to exist, there shall be substituted such other index as shall be specified in writing by the Council or the County Council (as appropriate) acting reasonably.

PART B

Plymouth Sound and Estuaries Contribution Formulae

Dwelling Size	Contribution per dwelling
1 bedroom	£236.62
2 bedroom flat	£330.92

2 bedroom house	£435.89
3 bedrooms	£467.91
4+ bedroom house	£507.05

Provided that the Plymouth Sound and Estuaries Contribution Formulae. will increase annually at a rate equivalent to the Consumer Price Index

APPENDIX 1

Section 73 Agreement

BETWEEN

- (1) **South Hams District Council** of (the "**Council**")
- (2) **Devon County Council** of County Hall, Topsham Road, Exeter, Devon, EX2 4QD (the "**County Council**");
- (3) [*the relevant Owner(s) of the Land*] of [*insert address*]
- (4) [*the relevant mortgagee(s) of the Land (if any)*] of [*insert address*]

WHEREAS

- (A) In this Agreement all terms in uppercase shall unless otherwise indicated herein have the meaning given to that term in the section 106 agreement dated [*insert date*] between (1) South Hams District Council; (2) Devon County Council; (3) David John Skelley and David Christopher Skelley; (4) Frederick Norman Phillip Northmore, Frederick Ford Northmore and Rose Northmore; and (5) Frederick Ford Northmore and Rose Northmore Andrew Raymond Squires and Lucy Ann Heard; (6) Bloor Homes Limited (the "**Principal Agreement**").
- (B) The Principal Agreement relates to and binds the Land.
- (C) An application has been made pursuant to section 73 of the Act to carry out the Development without complying with condition [*insert condition number*] attached to the Permission pursuant to planning application reference [*insert planning application reference of Section 73 application*] (the "**Section 73 Application**").
- (D) The Council is minded to grant planning permission pursuant to the Section 73 Application (the "**Section 73 Permission**") subject to the completion of this Agreement.
- (E) Clause [xx] of the Principal Agreement permits the Parties to enter into this short form agreement in order to confirm that the obligations contained in the Principal Agreement shall be equally as applicable to the Section 73 Permission as they are to the Permission as more specifically set out in that clause.

NOW THEREFORE

- (1) The parties hereto hereby agree:
 - (a) that pursuant to and in accordance with Clause [xx] of the Principal Agreement the provisions of the Principal Agreement shall be enforceable against the Section 73 Permission and the development authorised thereby; and
 - (b) that a copy of this agreement shall be lodged by the Council with Local Land Charges and noted on the Land Charges Register accordingly.

(2) The Council hereby agreed that it will issue the Section 73 Permission as soon as reasonably practicable but in any event within seven days of the date hereof

IN WITNESS whereof the parties hereto have (where such party is an individual) signed this agreement or (where such part is a body corporate) had this agreement signed on their behalf by a director, secretary or other person authorised in that regard the day and year first above appearing

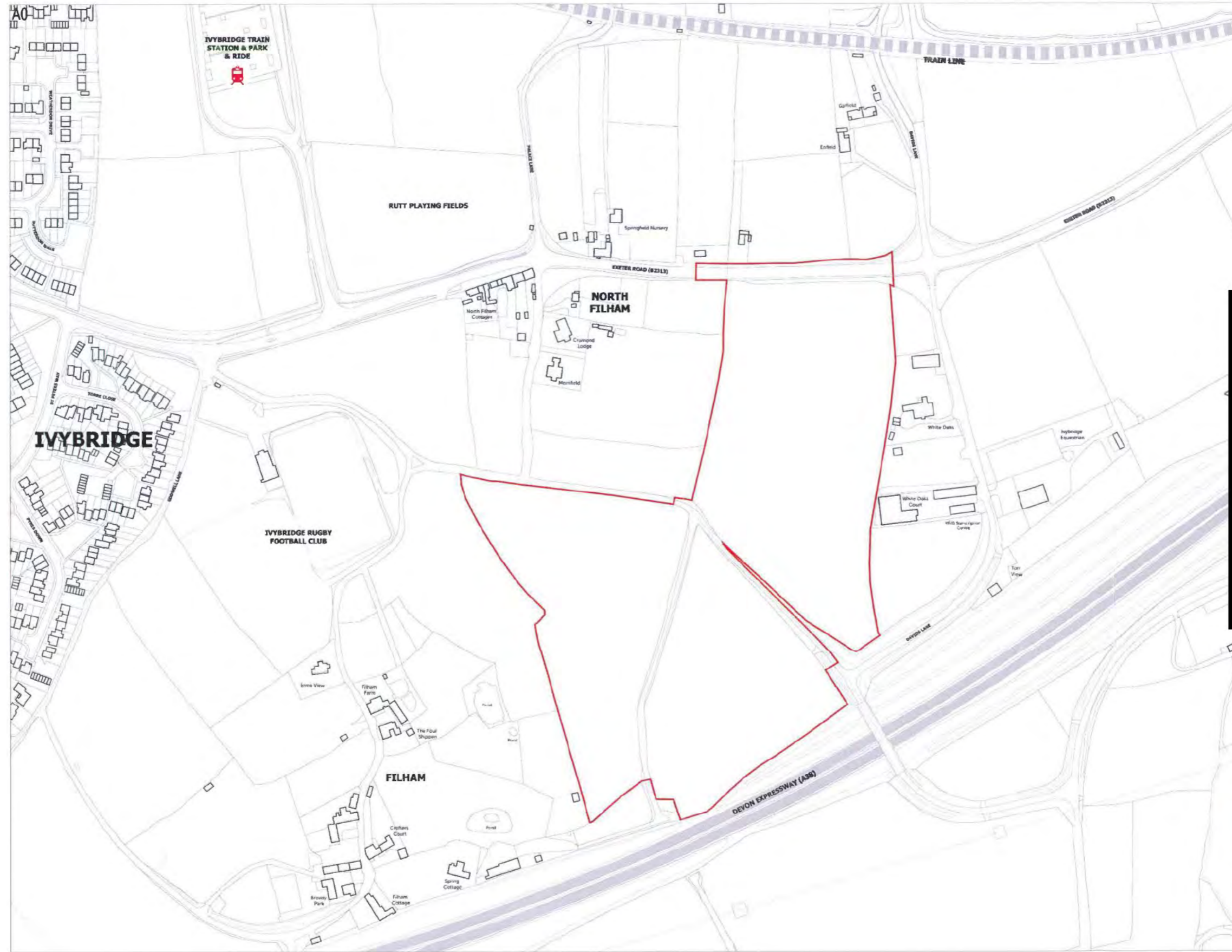
Signed on behalf of
SOUTH HAMS DISTRICT COUNCIL

Signed on behalf of
DEVON COUNTY COUNCIL

Signed on behalf of [**OWNER(S)**]

APPENDIX 2

Plan 1 – Site Location Plan



NOTES
 1. This site location plan is for information only and does not constitute a planning application.
 2. The site location plan is based on the current planning and zoning information available at the time of preparation.
 3. The site location plan is subject to change without notice.
 4. The site location plan is not to be used for any other purpose.

KEY
 [Symbol] Subboundary



Project
 Land at North Filham
 Ivybridge
 For: Bloor Homes (South West)

Project
 Site Location Plan - 01

DATE	BY	APPR	CHECK
1.10.00 (P AD)		27.04.18	TB
A106760	SLP-01		A

APPENDIX 3

Plan 2 – Open Space Plan



Land at North Filham,
Ivybridge


**Landscape
Masterplan**

LA 100

Key

-  Application boundary.
-  Existing trees.
Structures to be avoided within root protection areas.
Potential for 'no-dig' solutions where practicable, subject to arboricultural advice.
-  Existing hedges.
-  **Proposed trees:** to provide structure and height throughout the development, and shading in the summer months. Native tree species to be planted where appropriate and flowering trees to provide additional seasonal interest.
Large / medium specimen tree species to be planted where appropriate or specimen shrubs with seasonal interest where space is restricted. Rear garden trees to be positioned to avoid garages and other structures.

Trees to be positioned where sufficient soil is available to avoid the need for tree grilles and underground soil crates. Typical soil volume per medium-large tree is 30 cubic metres, or 20 cubic metres per tree where two or more trees share the same area, with a minimum depth of 900mm.
-  **Proposed native hedge:** to provide new habitat corridors and to provide additional landscape amenity interest and enhance existing boundaries.
-  **Proposed native planting:** to enhance existing boundaries, close/reduce gaps in hedges and to help screen and filter the development from long-distance views. Structure planting blocks to be created where there is sufficient space. Plant species to be native and of local provenance.
-  **Grassland:** mixture of long grass, species-rich grass and wildflower meadows, to provide colour and texture across the development and offer biodiversity enhancements.
-  **Amenity grass:** for informal recreation. Verges to include bulb planting at key locations / at open spaces.
-  **Play areas:** incorporating features for natural play opportunities such as play boulders, stepping logs, bark mulch, hazel coppice.
-  **Infiltration basins:** incorporating native grass species and a naturalistic management regime to enhance the green infrastructure of the site. Properties to front/side onto the green spaces.
-  **Pedestrian links:** to provide footpath routes throughout the development and connections to the wider landscape.

0 20 40 60 80 metres  North

Scale 1:1,000 @ A1

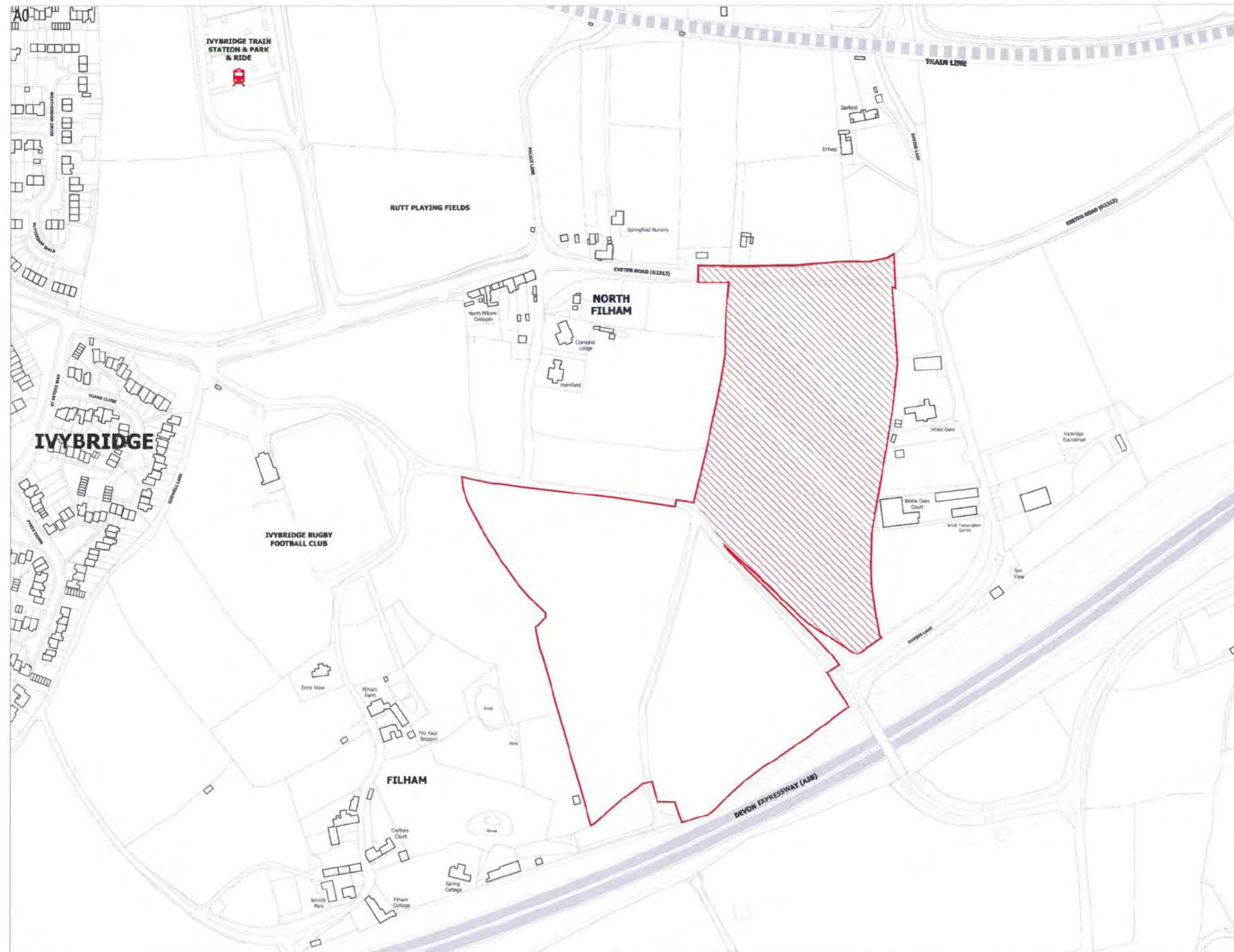
A106760 LA100[B].dwg 19 December 2019

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APPENDIX 4

Phasing Plan



NOTES
 The proposed site is shown in red hatched on this map. It is not intended to be a detailed site plan. It is intended to show the location of the site in relation to the surrounding area. It is not intended to show the details of the site or the surrounding area. It is not intended to show the details of the site or the surrounding area. It is not intended to show the details of the site or the surrounding area.

KEY
 [Red hatched box] Proposed site location
 [Dotted line box] Public open space

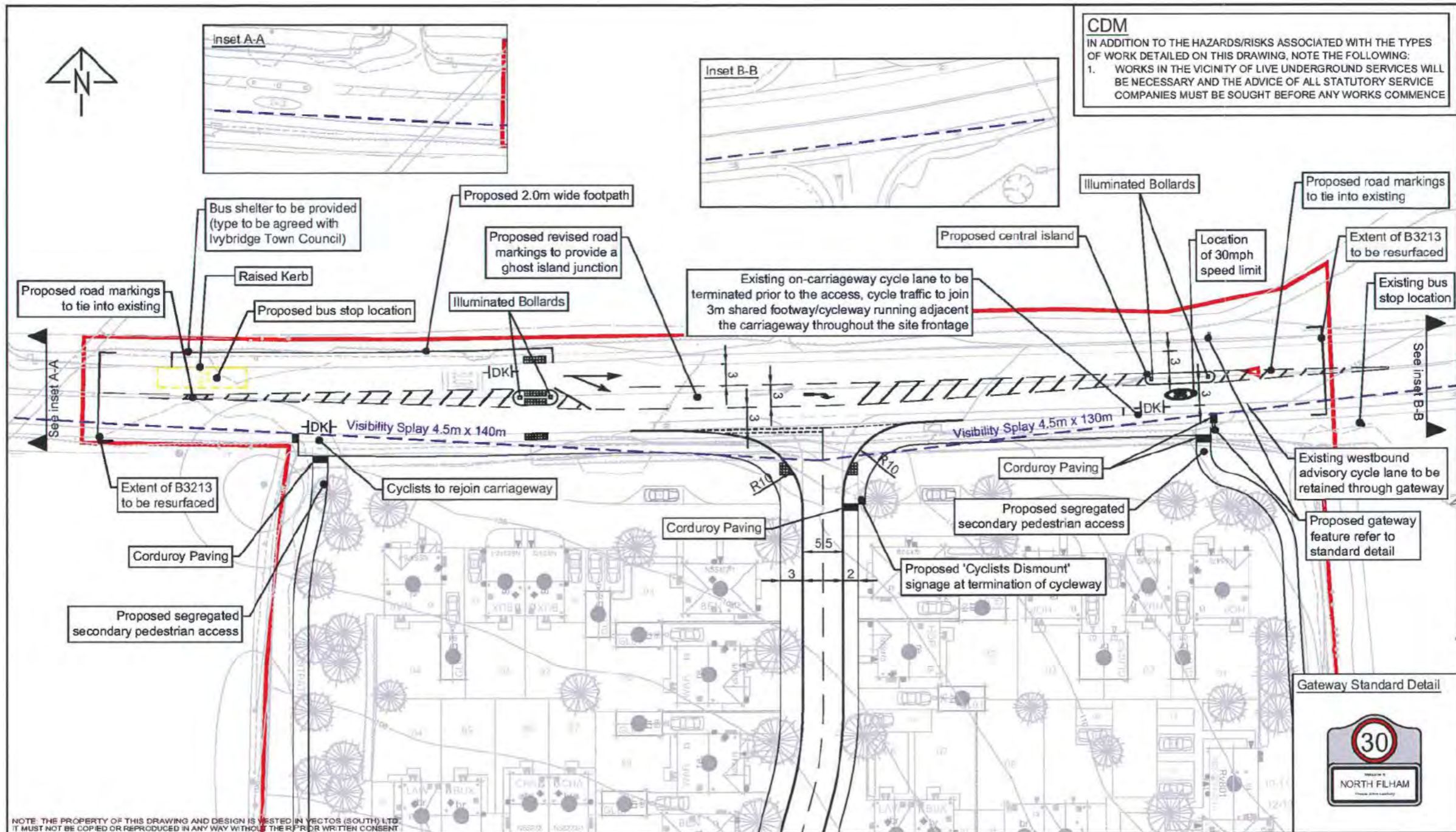
Urban & Landscape Design

Site Location Plan - 02

Scale: 1:1000
 Date: 27.04.18
 Project: Land at North Filham, Ivybridge
 For: Bloor Homes (South West)
 Drawing No: A106760 SLP-02 A

APPENDIX 5

Highway Works



CDM
 IN ADDITION TO THE HAZARDS/RISKS ASSOCIATED WITH THE TYPES OF WORK DETAILED ON THIS DRAWING, NOTE THE FOLLOWING:
 1. WORKS IN THE VICINITY OF LIVE UNDERGROUND SERVICES WILL BE NECESSARY AND THE ADVICE OF ALL STATUTORY SERVICE COMPANIES MUST BE SOUGHT BEFORE ANY WORKS COMMENCE

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REV	DETAILS	DRAWN	CHECKED	DATE
C	Red line boundary updated	BJB	JL	05.10.2018
D	Bus stop included	CJM	MA	06.02.2019
E	Notes included	CJM	MA	27.02.2019
F	Footpath and visibility splays amended	CJM	MA	13.03.2019
G	Gateway feature added	CJM	MA	29.04.2019
H	Bollards added to central island	CJM	MA	27.11.2019

STATUS:
INFORMATION ONLY

Key
 — Site Boundary

Notes
 1. Street lighting design, all signage/lining design and highway drainage design to be undertaken at the detailed design stage

PROJECT: Land at Filham, Ivybridge

DRAWING TITLE: Proposed Access Arrangement

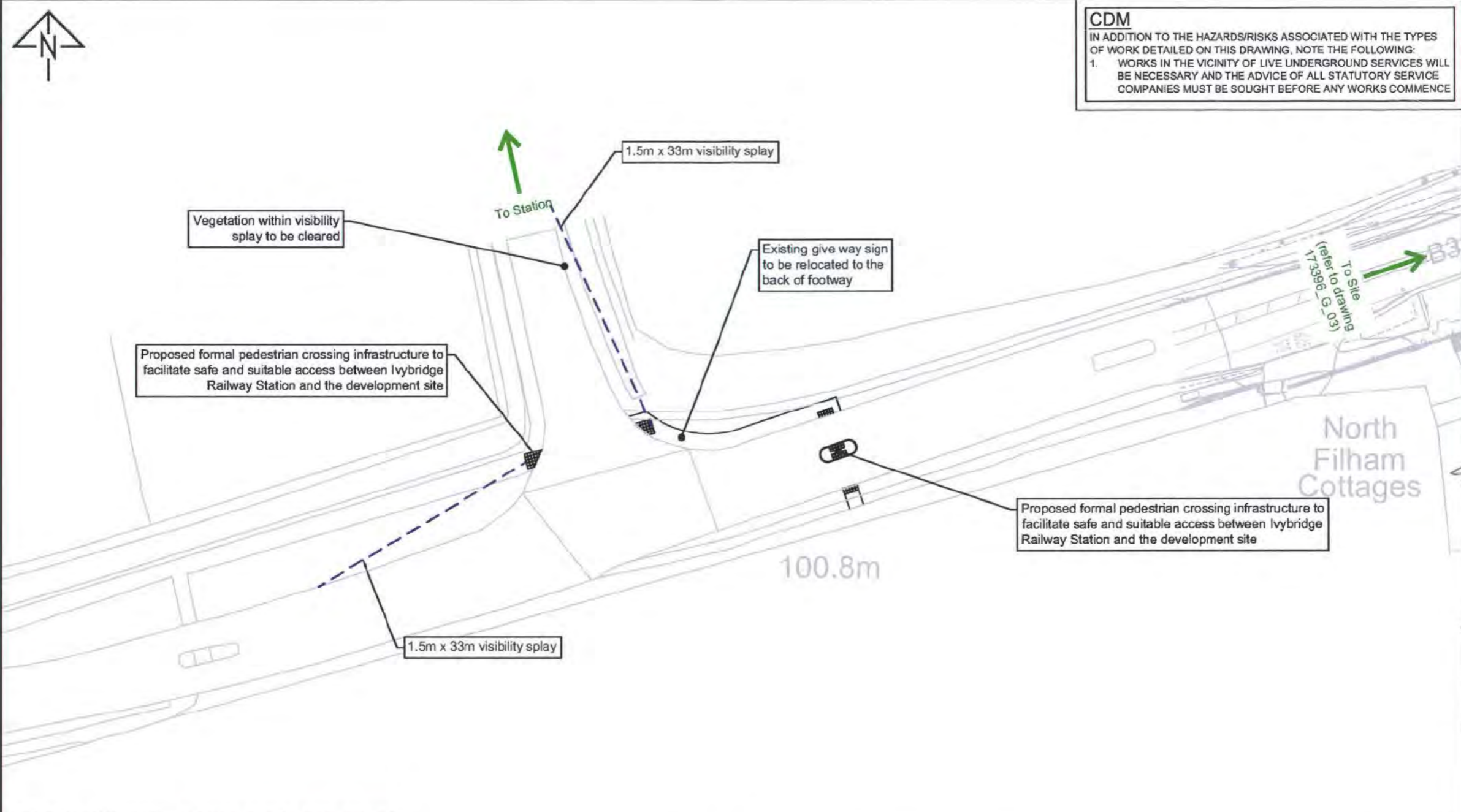
DRAWN: BJB CHECKED: JL DATE: 09.11.2017 SCALES: 1:500 @ A3

CLIENT: Bloor Homes

vectos
 transport planning specialists

Broad Quay House, Prince Street, Bristol, BS1 4DJ
 t: 0117 905 8888 e: enquiries@vectos.co.uk

DRAWING NUMBER: 173396_G_03 REVISION: H



CDM
 IN ADDITION TO THE HAZARDS/RISKS ASSOCIATED WITH THE TYPES OF WORK DETAILED ON THIS DRAWING, NOTE THE FOLLOWING:
 1. WORKS IN THE VICINITY OF LIVE UNDERGROUND SERVICES WILL BE NECESSARY AND THE ADVICE OF ALL STATUTORY SERVICE COMPANIES MUST BE SOUGHT BEFORE ANY WORKS COMMENCE

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REV.	DETAILS	DRAWN	CHECKED	DATE
A	Pedestrian visibility added	CJM	MA	07.02.2019
B	Pedestrian crossing amended	CJM	MA	25.02.2019
C	Refuge facility amended	CJM	MA	20.03.2019
D	Pedestrian refuge removed	CJM	MA	29.04.2019

Notes:

1. For Proposed Access Arrangement drawing refer to 173396_G_03
2. Topographic Survey as per Dando Surveying LTD drawing
3. Preliminary design is subject to review at detailed design stage

STATUS: **INFORMATION ONLY**

PROJECT: **Land at Filham, Ivybridge**

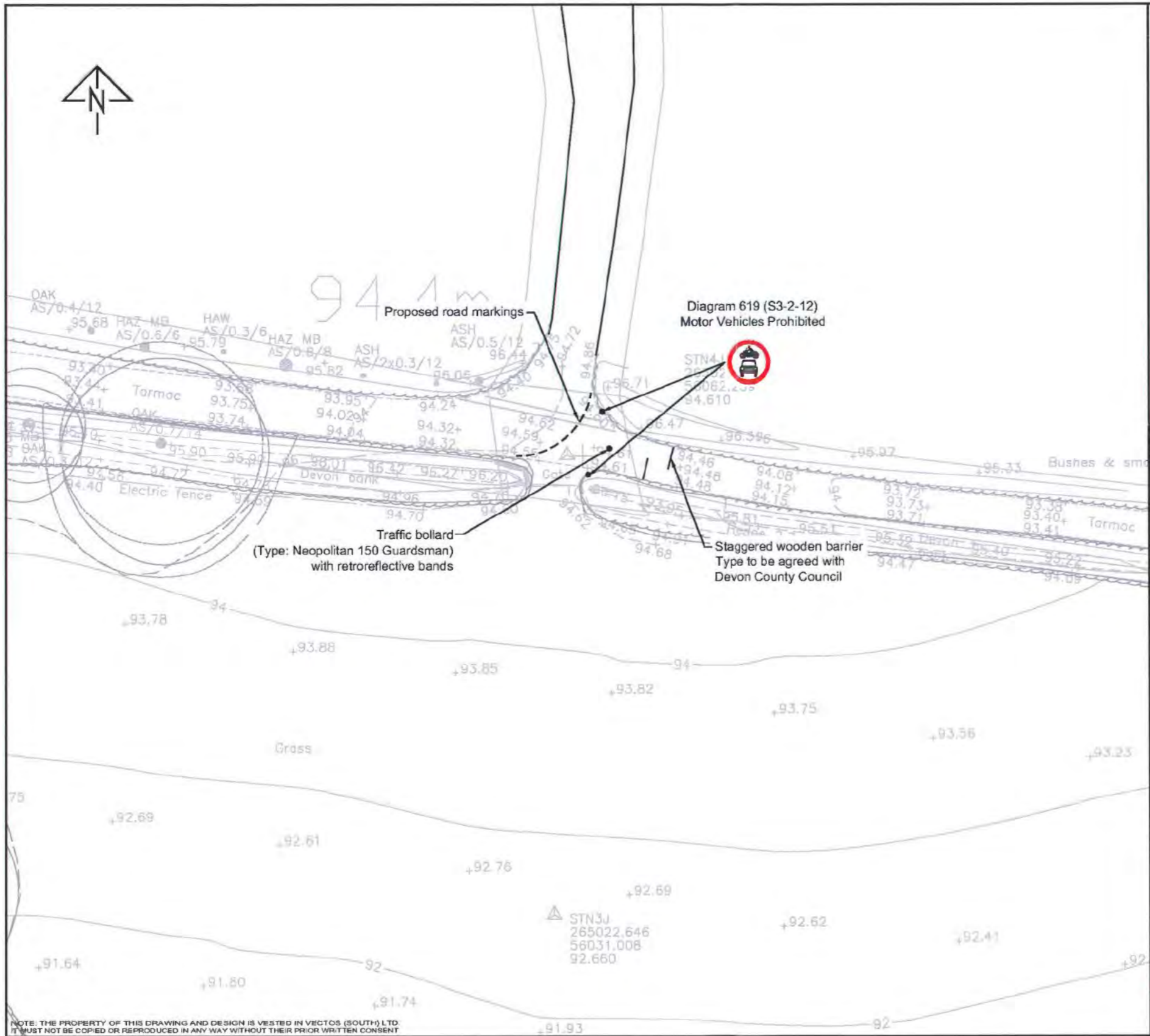
CLIENT: **Bloor Homes**

DRAWING TITLE: **Ivybridge Railway Station
Pedestrian Network Improvements**

Broad Quay House, Prince Street, Bristol, BS1 4DJ
 t: 0117 905 8888 e: enquiries@vectos.co.uk

DRAWN: BJB CHECKED: JL DATE: 21.08.2018 SCALES: 1:500 @ A3

DRAWING NUMBER: 173396_G_10 REVISION: D



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A	Drawing title amended	CJM	MA	27.11
REV	DETAILS	DRAWN	CHECKED	DATE

STATUS:
INFORMATION ONLY

CLIENT:
Bloor Homes

PROJECT:
Land at Filham, Ivybridge

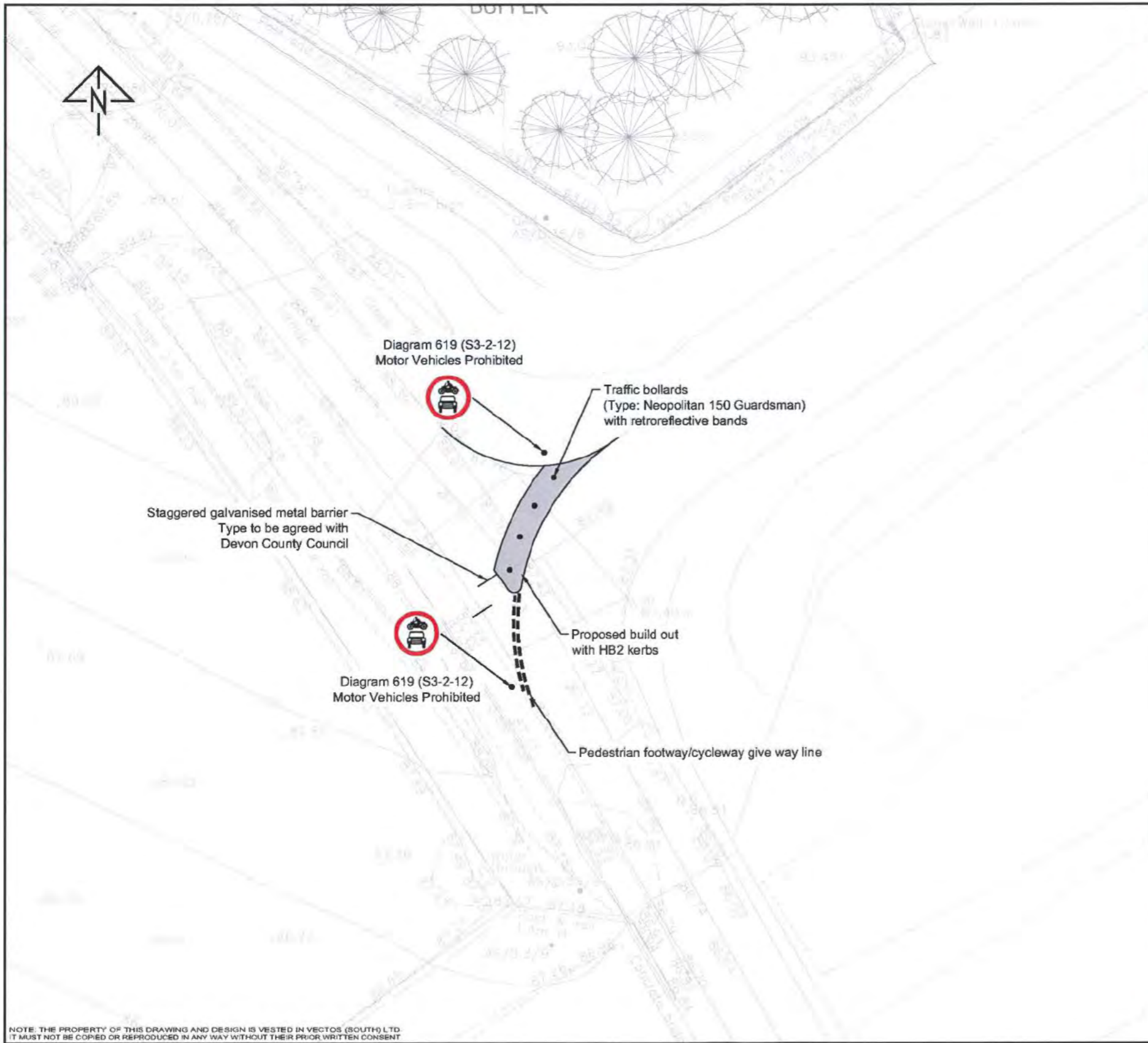
DRAWING TITLE:
Traffic Regulation Order
Drawing (2 of 2)
West of Site

SCALE:
1:250 @ A3

DRAWN:	CJM	CHECKED:	MA	DATE:	12.11.2019
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DRAWING NUMBER:	173396_G_18	REVISION:	A
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REV	DETAILS	DRAWN	CHECKED	DATE
B	Staggered barrier amended	CJM	MA	11.02
A	Drawing title amended	CJM	MA	27.11

STATUS:
INFORMATION ONLY

CLIENT:
Bloor Homes

PROJECT:
Land at Filham, Ivybridge

DRAWING TITLE:
Traffic Regulation Order
Drawing (1 of 2)
East of Site

SCALE:
1:250 @ A3

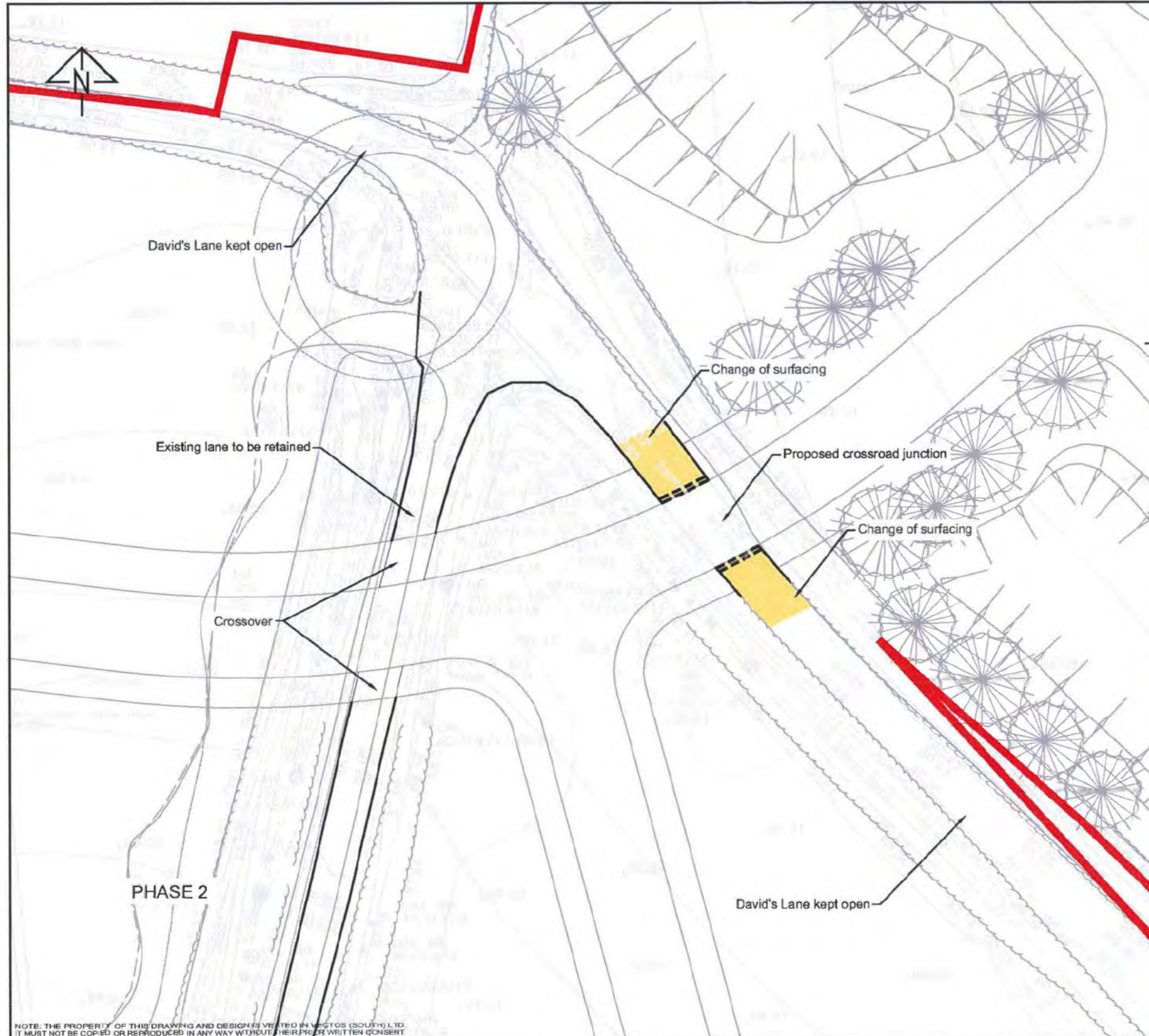
DRAWN:	CJM	CHECKED:	MA	DATE:	12.11.2019
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t: 0117 905 8888 e: enquiries@vectos.co.uk

DRAWING NUMBER:	173396_G_17	REVISION:	B
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APPENDIX 6

Alternative Highway Works



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REV.	DETAILS	DRAWN	CHECKED	DATE
A	Cross road junction amended	CJM	MA	19.02.2020

STATUS: INFORMATION ONLY

CLIENT: Bloor Homes

PROJECT: Land at Filham, Ivybridge

DRAWING TITLE: Alternative Proposals for Davids Lane Access (Indicative Only)

SCALE: 1:250 @ A3

DRAWN	CHECKED	DATE
CJM	MA	18.02.2020

Network Building, 97 Tottenham Court Road, London W1T 4TP
t: 020 7580 7373 e: enquiries@vectos.co.uk

DRAWING NUMBER: 173396_G_20 REVISION: A