

DATED THIS 26 DAY OF March 2021

(1) ARUN DISTRICT COUNCIL

(2) WEST SUSSEX COUNTY COUNCIL

(3) PERSIMMON HOMES LIMITED

DEED OF MODIFICATION UNDER
SECTIONS 106 AND 106A OF THE
TOWN AND COUNTRY PLANNING
ACT 1990

Relating to Land North of Toddington Lane, Littlehampton BN117PP (ref LU/47/11
and LU/164/20/PO)

Arun District Council
Maltravers Road
LITTLEHAMPTON
BN17 5LF
DX57406 LITTLEHAMPTON

Ref: DPS 8156

Date:

26 July

2021

PARTIES:

1. **ARUN DISTRICT COUNCIL** of Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF ("the District Council")
2. **WEST SUSSEX COUNTY COUNCIL** of County Hall, West Street, CHICHESTER, West Sussex PO19 1RQ ("the County Council")
3. **PERSIMMON HOMES LIMITED** (Company Registration No.04108747) whose registered office is Persimmon House Fulford York YO194FE ("the Owner")

WHEREAS

- A The District Council is the Local Planning Authority, the Local Housing Authority and the Local Authority responsible for Leisure and Open Spaces for the administrative area in which the Land is situated
- B The County Council is a county planning authority and the highway authority, the authority responsible for education functions and the authority responsible for the provision of libraries and fire and rescue services
- C The Owner is now the freehold owner of the land registered under title number WSX52527
- D On 23 January 2013 a planning agreement ("The Principal Agreement") was executed under seal between the District Council, the County Council the Littlehampton Town Council and various owners as identified in that agreement
- E The Principal Agreement has been varied and amended by deeds of variation dated 9 October 2017, 1 November 2017, 11 September 2018, 21 December 2018 and 3 April 2020 ("**the Deeds of Variation**")
- F The Owner has applied to the Council under reference LU/337/20/PO to modify the Principal Agreement because of unexpected delays in the delivery of the bypass due to the Coronavirus
- G The District Council has determined that the application for modification be approved and be documented by way of a deed of modification
- H This deed of modification is supplemental to and to the extent that its contents so provide, modifies the Principal Agreement to the extent only that the Principal Agreement relates to the Land

- I The provisions of this Deed bind the Land, the parties to this Deed and their successors in title

NOW THIS DEED WITNESSETH as follows:

1. **Interpretation**

- 1.1 In this Deed unless otherwise stated the following expressions shall where the context so admits have the following meanings:

"Land"	means Land North of Toddington Lane, Littlehampton BN117PP as shown for the purposes of identification edged in red on the Plan;
"Plan"	means the plan attached to this Deed as Appendix 1;
"Principal Agreement"	means the deed dated 23 January 2013 between the parties listed therein in relation to planning permission LU/47/11, LU/346/14/PL and LU/182/15 and as varied by the Deeds of Variation;
"Planning Obligation Application"	means the application by the Owner to modify the Principal Agreement under reference LU/337/20/PO;
"Planning Obligation Determination"	means the determination in respect of the Planning Obligation Application;

- 1.2 Unless the context otherwise requires, all words and phrases defined in the Principal Agreement shall have the same meaning in this Deed.
- 1.3 Clause heading shall not affect the interpretation of this Deed.
- 1.4 A **"person"** includes a natural person, corporate or unincorporated body (whether or not having a separate legal personality).
- 1.5 A reference to a **"company"** shall include any company, corporation or other body corporate, where and however incorporated or established.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and vice versa.
- 1.7 Unless the context otherwise requires a reference to one gender shall include a reference to other genders.

- 1.8 A reference to any party shall include that party's representatives, successors and permitted assigns and to any person deriving title through or under the party and in the case of the District Council and the County Council the successors to their respective statutory functions.
- 1.9 Unless the context otherwise requires a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.10 Unless the context otherwise requires a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.11 A reference to "**writing**" and "**written**" does not include fax or email.
- 1.12 Any words following the terms "**including**", "**include**", "**in particular**", "**for example**" or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.13 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 them individually.

2. Legal Basis

- 2.1 This Deed is made under Section 106 and 106A of the Act and its purpose is to modify the Principal Agreement with the intention that the planning obligations contained in the Principal Agreement shall also apply to development to be undertaken in accordance with the Planning Obligation Application save for any modifications contained within this Deed .
- 2.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations under Section 106 and Section 106A of the Act and are enforceable by the Council (and County Council (as appropriate)) in accordance with Section 106 of the Act as local planning authorities against the Owner.
- 2.3 The planning obligations contained in this Deed shall bind the Land.

3. Commencement

This Deed shall come into effect on the date first mentioned herein.

4. Modification of the Principal Agreement

The parties agree that the Principal Agreement shall be modified as set out in Appendix 2 to this Deed.

5. Continuation of the terms of the Principal Agreement

It is hereby agreed and declared by the Parties that saving and excepting as expressly provided for by the provisions of this Deed the covenants and provisions contained in the Principal Agreement shall continue to have full force and effect.

6. Costs

- 6.1 The Owner covenants with the District Council prior to the completion of this Deed to pay to the Council the sum of £850 (eight hundred and fifty pounds sterling) being the District Council's reasonable legal costs and disbursements in connection with this Deed.
- 6.2 The Owner covenants with the County Council prior to completion of this Deed to pay to the County Council the County Council's reasonable legal costs and disbursements in connection with this Deed.

7. Miscellaneous

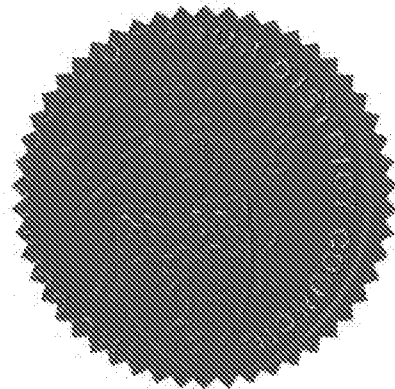
- 7.1 Unless expressly stated to the contrary, the provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Deed and no person or persons other than the Parties shall have any rights under it nor shall it be enforceable by any person other than the Parties.
- 7.2 Upon completion this Deed shall be registered as a Local Land Charge by the Council.

8. Governing Law and Jurisdiction

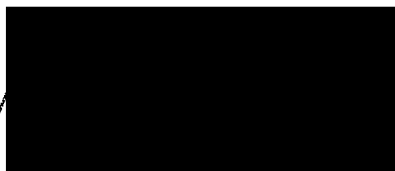
- 8.1 This Deed is governed by and interpreted in accordance with the law of England and the parties submit to the jurisdiction of the courts of England.

This Agreement is executed as a deed by the parties and is delivered and takes effect on the date at the beginning hereof:

THE COMMON SEAL of ARUN)
DISTRICT COUNCIL)
was affixed to this deed in the)
presence of:)



Authorised Signatory

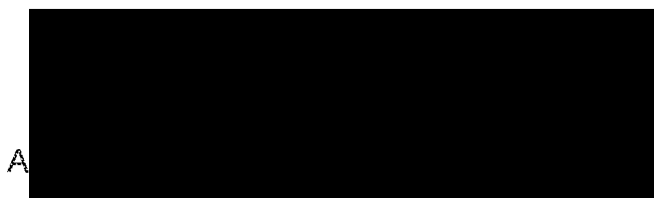
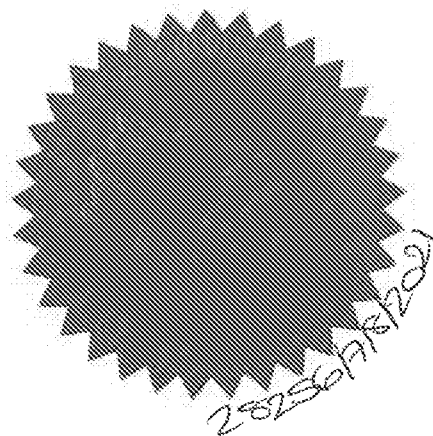


Name: *EO WIND C-BRIEN (PROPERTY LAWYER)*

Seal Book No. *41 / 221*

THE COMMON SEAL of)

WEST SUSSEX COUNTY COUNCIL)
was affixed to this deed in the presence of:)



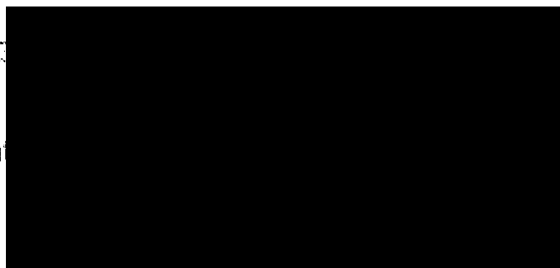
Seal Book No: }

EXECUTED as a DEED by
PERSIMMON HOMES LIMITED

Acting by two attorneys

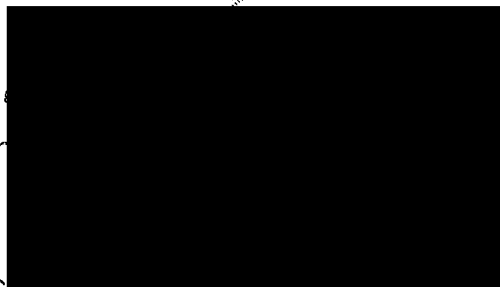
Attorney sign

Attorney name (print)



Attorney sign

Attorney name (print)

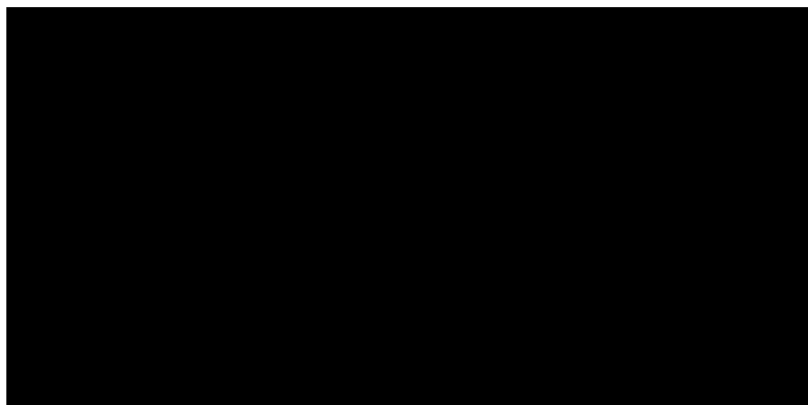


Both in the presence of

Witness signature

Witness print name

Witness address



APPENDIX 1

NOTES

DO NOT SCALE FROM THIS DRAWING.
ALL CONTRACTORS MUST VISIT THE SITE AND BE RESPONSIBLE FOR TAKING AND CHECKING DIMENSIONS. ALL CONSTRUCTION INFORMATION SHOULD BE TAKEN FROM FIGURED DIMENSIONS ONLY.
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16/12/2011

23-25 Great Britain Street, London, EC2V 0EN T: +44 (0)20 7317 1781 F: +44 (0)20 7317 1781 W: www.jtp.co.uk
Project: North Littlehampton
Drawing No: Red Line Plan
John Thompson & Partners
Author: GRL
Checked: AFJABL
Date: 18/02/2011
Scale: 1:2500 (1:500 @ A3)
Drawing: GRL_004

Appendix 2

SCHEDULE 10 OF THE PRINCIPAL AGREEMENT (Highway Works)

Paragraph 1 of Schedule 10 to the Principal Agreement (as varied by the deed of variation dated 11 September 2018) to be modified by the addition of new definitions as follows:

"The Southern Bypass and Bridge Works" means a southern bypass and bridge including the footpath and cycleway from the Site across the railway line shown in principle on drawing number Highways Plan 5 annexed to this Deed;

"The Fitzalan Link Stage 2 Works" means the construction of the Fitzalan Link works stage 2 from the A259 to the Academy including a new roundabout on the A259 and the realignment of Highdown Drive and a new link to the Highdown Drive shown in principle on drawing number Highways Plan 9, Fitzalan Link (Sheet 1 of 2) and Fitzalan Link (Sheet 2 of 2) annexed to this Deed;

Paragraph 8 of Schedule 10 to the Principal Agreement (as varied by the deed of variation dated 11 September 2018) to be modified as follows: -

8.1 The Owners covenant with the District Council and County Council not to Occupy more than 450 dwellings until it has first completed: (a) The Southern Bypass and Bridge Works and (b) the Internal Distributor Road.

8.2 The Owners covenant to have constructed The Southern Bypass and Bridge Works and the Internal Distributor Road by the 31st December 2021."

Paragraph 12 of the Principal Agreement shall be deleted in full and replaced with the following:

"12. The Owners covenant with the District Council and the County Council to complete the Fitzalan Link Stage 2 Works prior to the first Occupation of more than 400 Dwellings or by the 30 June 2021 (whichever shall be the earlier)."

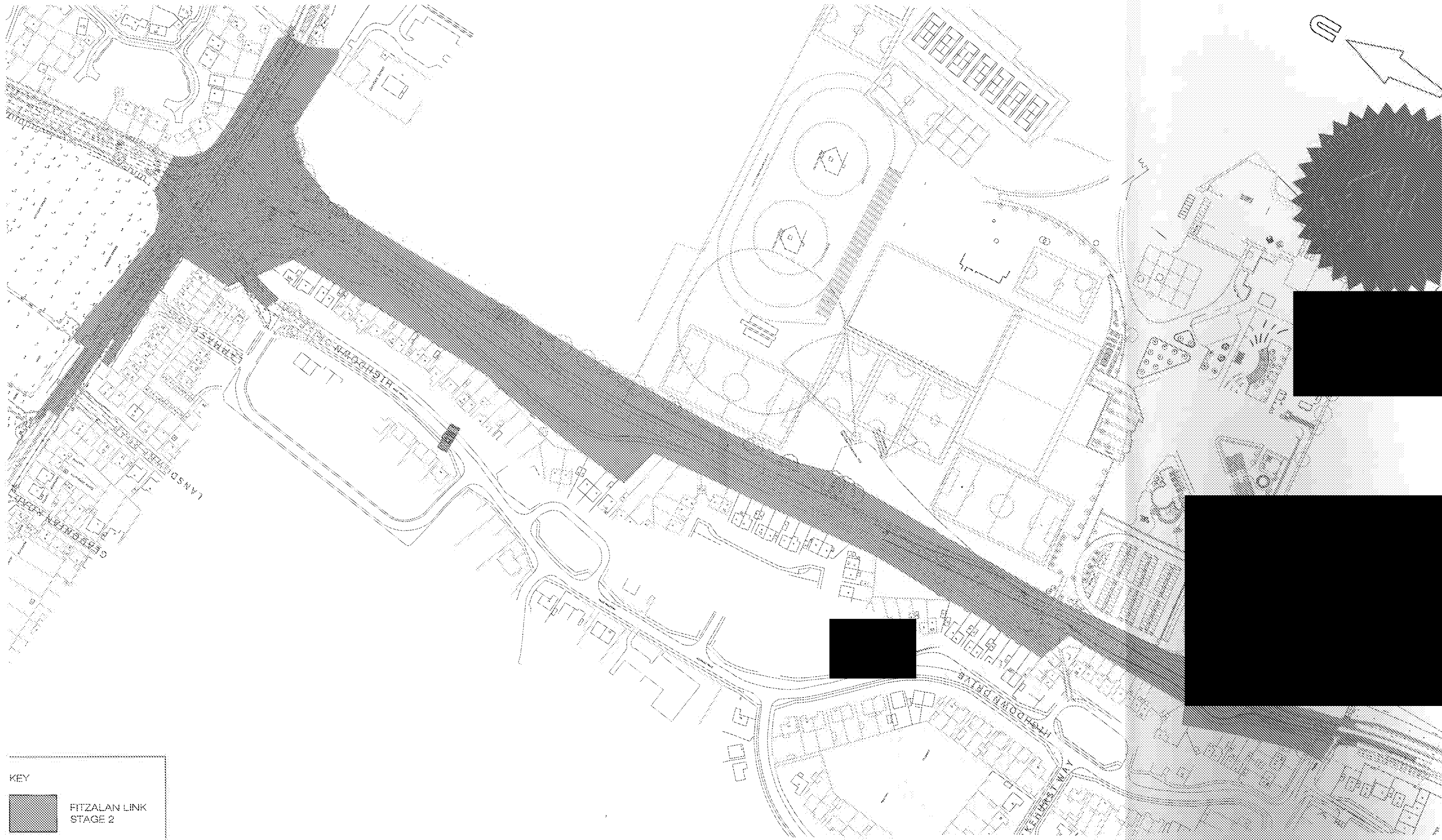
ANNEX 1

Highways Plan 5

Highways Plan 9

Fitzalan Link (Sheet 1 of 2)

Fitzalan Link (Sheet 2 of 2)



KEY



FITZALAN LINK
STAGE 2

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client

GRENCORE GROUP

project

TODDINGTON LANE, LITTLEHAMPTON

title

HIGHWAY WORKS (S106)
FITZALAN LINK
STAGE 2

scale 1:2500

drawn by AJB

checked by OJN

date DECEMBER 2020

cad file TLHW9.DWG

drawing number

LEGAL AGREEMENT PLAN 9

rev.

P2



KEY



SOUTHERN BYPASS + BRIDGE

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GRENCORE GROUP

project

TODDINGTON LANE, LITTLEHAMPTON

title

HIGHWAY WORKS (S106)
SOUTHERN BYPASS + BRIDGE

scale 1:2000

drawn by AJB

checked by QJN

date DECEMBER 2020

cad file TLHW5.DWG

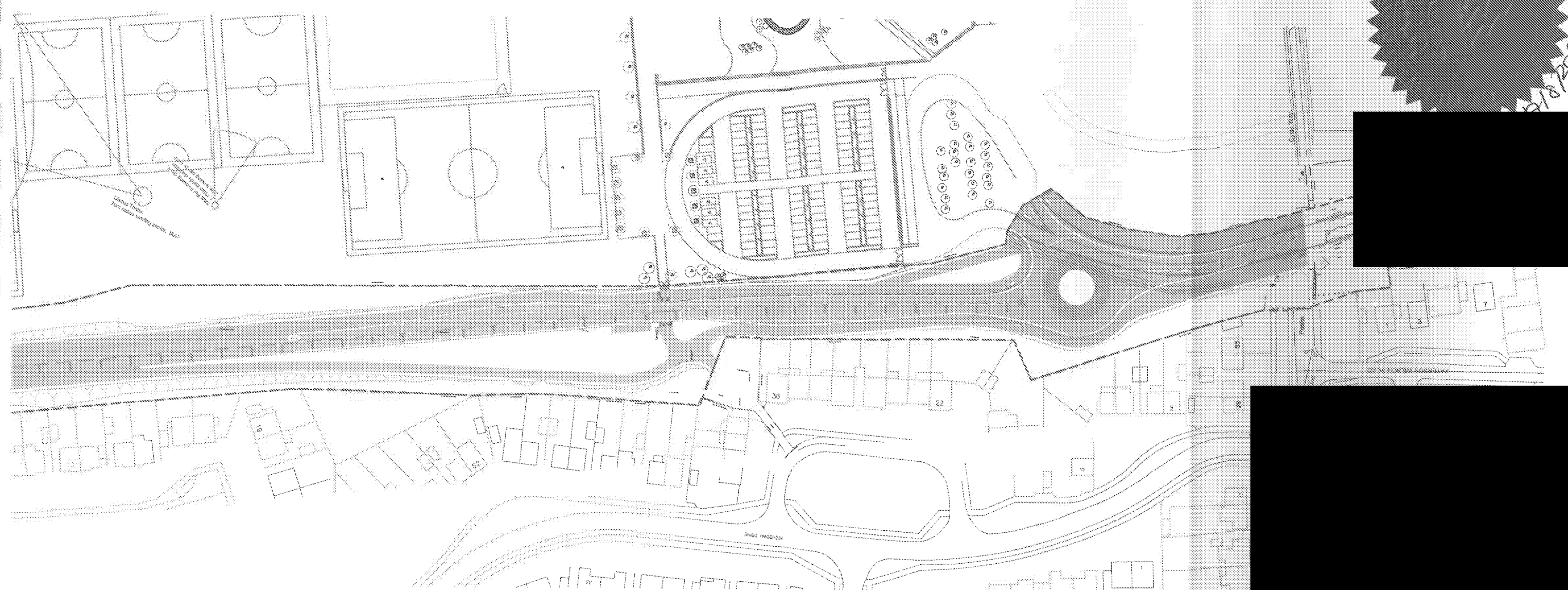
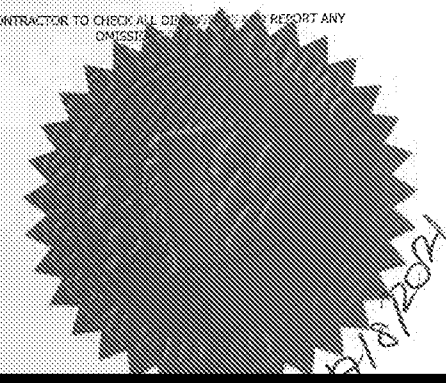
drawing number

LEGAL AGREEMENT PLAN 5

rev.

P2

CONTRACTOR TO CHECK ALL DIMENSIONS AND REPORT ANY OMISSIONS



REV	DESCRIPTION	BY	CHK/APP	DATE
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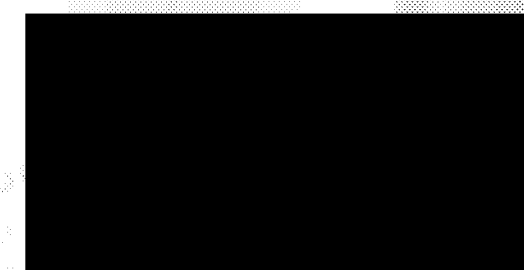
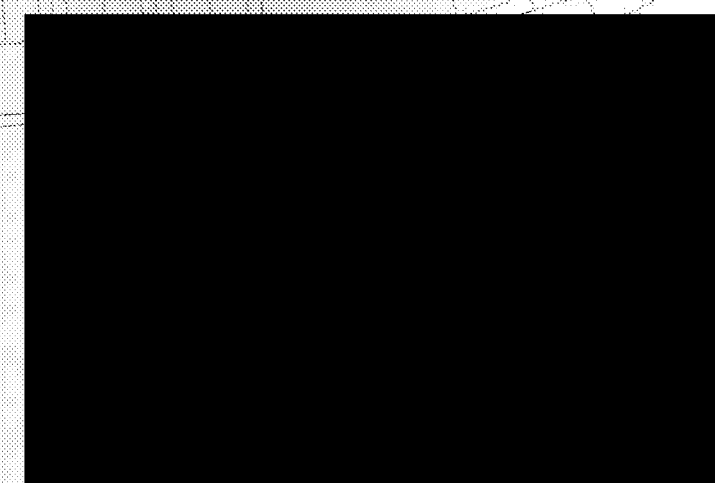
Project
NORTH LITTLEHAMPTON
SOUTHERN BYPASS WORKS

Drawing Title
PHL-WYG-SC78-LP-FL7 Location Plan

Revision Title (Sheet 2 of 2)

Rev	By	Date	Checked	Date	Approved	Date
1.1	200	18	18	20		
Project No.	Order No.	Drawn No.	Revised No.	Revision		
A028161	4128		PHL-WYG-SC78-LP-FL7			

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REV	DESCRIPTION	BY	CHK	APP	DATE
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NORTH LITTLEHAMPTON
SOUTHERN BYPASS WORKS

Drawing Title:
PHFL-WYG-S276-LP-PL6 Location Plan

Flizalan Link (Sheet 1 of 2)

Scale	By	Drawn	Date	Checked	Date	Approved	Date
1:1,000		LE	17.05.20				
Project No.	Office	Type	Drawing No.	Revision			
AC08161	4124		PHFL-WYG-S276-LP-PL6				