

## LAND AT RECTORY FARM YATTON

APPEAL Ref: APP/D0121/W/24/3343144

### Response to Inspector's Adjournment Note Relating to The Area Covered by the S106 Agreement

#### The Inspector's Requirement is as follows:

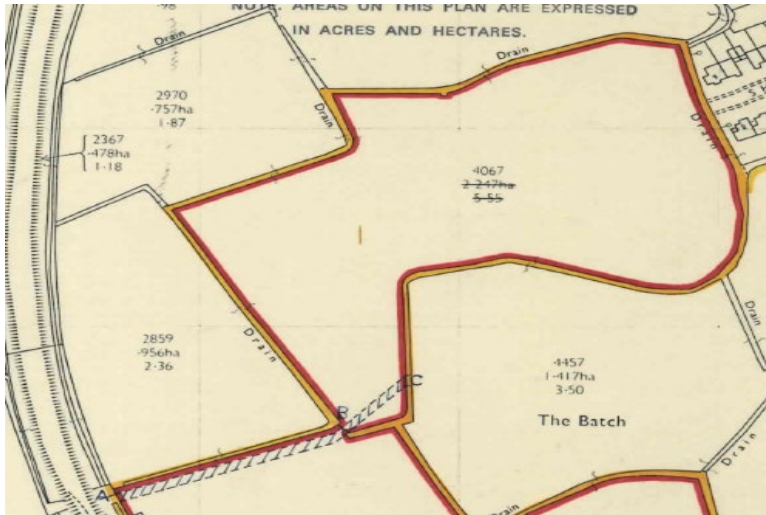
*By Friday 11 October the appellant will confirm whether any obligation, whether by agreement or undertaking, will apply to the whole of the application site or to some other area (and if so what area)*

There are 3 issues to be dealt with in relation to this

- 1- The northern boundary review of the site
- 2- The Bat Mitigation land
- 3- The remainder of the site.

#### The Northern Boundary

- 1 In summary the request to remove a strip of land from within the land bound by the s106 agreement has been withdrawn.
- 2 In dealing with this matter the council have subsequently raised an additional issue in relation to this same boundary. This being that it appears to the council that the application boundary includes land from within the adjoining land to the north (i.e. outside of the title number AV125643). It is therefore proposed to amend the boundary along the north of the site such that this extends only to the southern bank of the drain running along this northern boundary. The amended plan is attached.
- 3 The explanation for this is set out below but to be entirely clear this is not an attempt to reintroduce the removal of the strip of land by the "back door", the intention is to include all land owned by the owners and or controlled by the Appellant.
- 4 The issue relates to which side of the drain that runs along the northern boundary that the title boundary falls on. Below is an excerpt from the title plan for title number AV124643. Along the northern boundary can be seen a reference to a drain shown by 2 parallel lines. In this location there is both a red and a yellow line and together these lines extend to the northern bank of the drain.



- 5 The original red line application boundary plan was drawn to that northern side of the drain as shown below



- 6 Comparing this to the title plan for the land to the north that appears to show the boundary of that title extending to the southern side of the drain. In other words it appears to show the application red line extending onto the neighbouring land, which is not the intention.
- 7 Importantly the Shadow Habitats Regulations Assessment has drawn its boundary to the south of the hedge line in this vicinity. Whilst the resolution of the plan does not enable close examination this does indicate that hedge and ditch are outside of the land assessed.



- 8 It is therefore proposed to use the amended red line plan for the s106 agreement extending only to the southern edge of the drain as attached. This is not an attempt to exclude any land owned by the landowners of the appeal site but only the address the council's concerns. If the council have a concern in this regard the Appellant is content to use the original red line plan to mark the boundary of the land bound by the s106. That will ensure all land within the owners ownership is bound (but clearly cannot bind any land outside of their control).

#### **Bat Mitigation Land**

- 9 This is a more straight forward matter to cover. The Bat Mitigation Land is outside of the s106 Agreement land and will not be referred to in the s106 Agreement. The Bat Mitigation Land is bound by a condition as was the case in the previous appeal to the south of the appeal site. It is understood this is agreed by the Council.

#### **The Remainder of the Site**

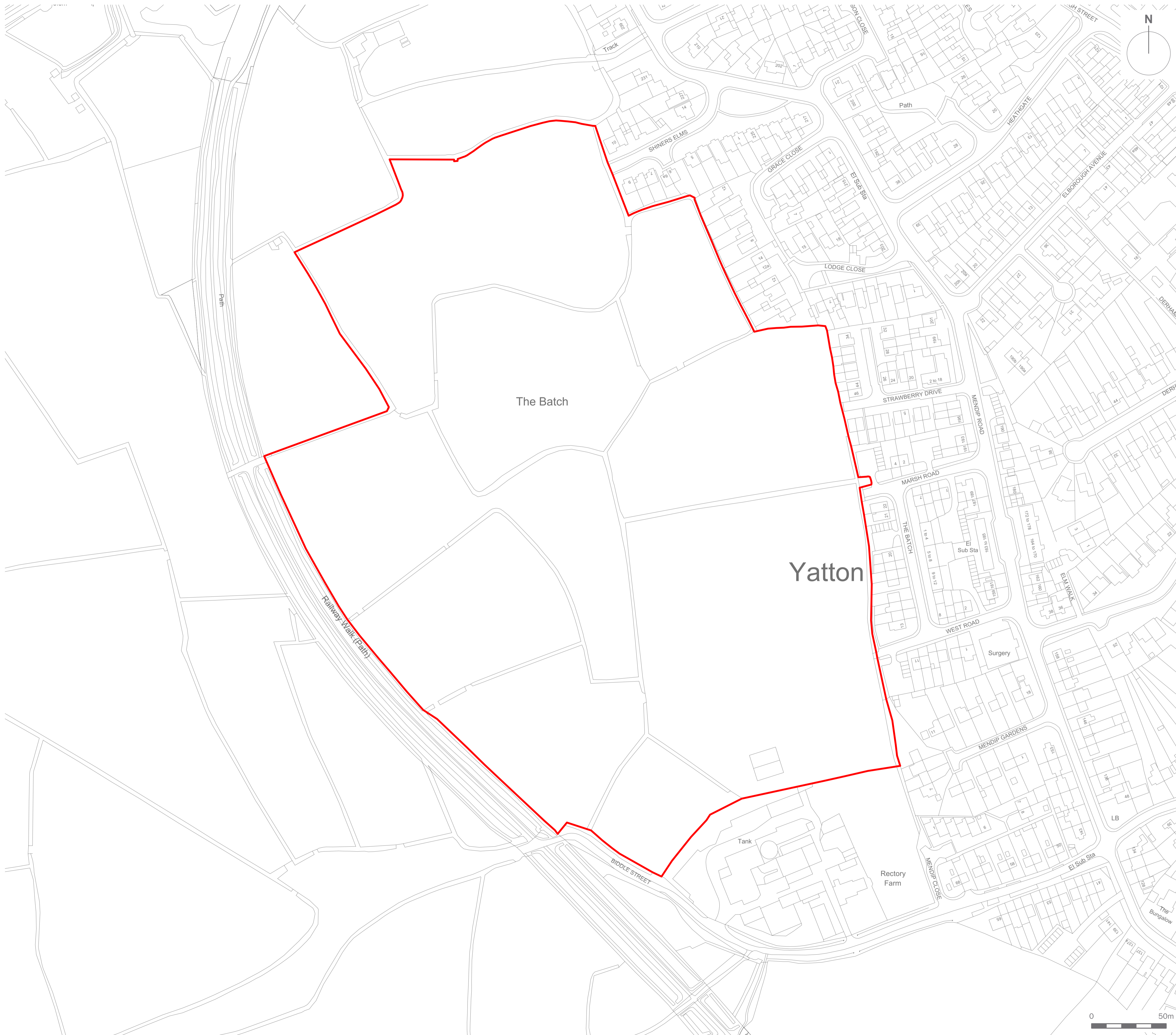
- 10 In relation to the remainder of the land within the application site the Appellants propose to use the amended red line plan as attached to bind all of that land. As has been pointed out to the council there are areas within the site that lie outside of the registered title of the owners. These areas relate to drains which run across the site and which are unregistered. Enquiries have been made on behalf of the Appellant but it has not been possible to establish ownership. It is highly likely that the only persons with an interest in those drains are the owners of the rest of the site but that cannot be confirmed. This is not uncommon in this area. By way of example referring back to the title plan for Title AV 125643 there is a system of drains in the southern part of the site in the shape broadly of an upside down "Y" as shown below. This falls outside of the registered title but within the site.



- 11 By proposing that the plan attached to the s106 agreement includes all of this land within the application all rights of ownership in the hands of the owners will be bound by the s106 Agreement.
- 12 To be clear in relation to this aspect of the matter there is nothing further the Appellant can do to bind these areas into the s106 agreement. It is not believed this causes an issue as no third party is known to exist and these areas have been used as part of the rest of the land owned by the owners and the Appellant envisages doing likewise.
- 13 To ensure procedural propriety the application was advertised and Certificate C was used.

#### **In Conclusion**

- 14 The request for the strip of land on the northern boundary to be removed is withdrawn.
- 15 It is proposed to amend the red line plan on that boundary to properly reflect the land ownership position. But, the Appellant is content to retain the existing red line plan if that is preferred by the council.
- 16 The Bat Mitigation Land is not included within the land bound by the s106 Agreement
- 17 The remainder if the site is to be fully bound into the s106 agreement to the extent owned by the owners of the land
- 18 These matters have been drawn to the attention of the council but a response has not yet been obtained. This being in part because the requirement for this information was only received yesterday



 Site Boundary (13.72ha)

client  
**Persimmon Homes Severn Valley**

project title  
**Land at Rectory Farm (North),  
 Yatton, North Somerset**

drawing title  
**Site Location Plan**

date	<b>11 OCTOBER 2024</b>	drawn by	<b>PDa</b>
drawing number	<b>edp7842_d008c</b>	checked	<b>GHo</b>
scale	<b>1:1,250 @ A1</b>	QA	<b>OSh</b>



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