

**Planning Obligation by Deed of Agreement under
Section 106 of the Town and Country Planning Act
1990**

relating to Land at Stansty Chain Road, Stansty,
Wrexham LL11 4YF

Dated :

15th May

2024

WREXHAM COUNTY BOROUGH COUNCIL (1)

and

CHRISTOPHER HUW MORRIS AND JENNIFER ELIZABETH SHAN THOMAS (2)

and

**PETER DAVID JONES, ROBERT STEVEN JONES AND CYRIL EMLYN JONES
(3)**

~~HSBC UK BANK PLC (4)~~ NR.

and

RUSSELL HOMES (UK) LIMITED (5) (4) NR

Linda Roberts Chief Officer Governance and Customer

Guildhall

Wrexham

LL11 1AY

Ref: NR/158487

DATE

15th May

2024

PARTIES

- (1) **WREXHAM COUNTY BOROUGH COUNCIL** of Guildhall, Wrexham, LL11 1AY ("Council")
- (2) **HUW CHRISTOPHER MORRIS** of 3 Church Court, Church Lane Farndon, Chester Cheshire CH3 6RX and **JENNIFER ELIZABETH SHAN THOMAS** of Plas Celyn Marden Hereford HR1 3EN ("the First Owner")
- (3) **PETER DAVID JONES** of Old Hall Farm Summerhill Wrexham LL114TU, **ROBERT STEVEN JONES** Stansty Lodge Mold Road Wrexham LL11 4YF and **CYRIL EMLYN JONES** of Wood Cottage Wern Bersham LL14 4LY ("the Second Owner")
- ~~(4) **HSBC UK Bank PLC** (Co. Regn. No. 9928412) of Customer Service Centre, BX8 5HB ("the Mortgagee")~~ NR.
- NR (4) (5) **RUSSELL HOMES (UK) LIMITED** (registered co. no. 05075645) of 13, Westpoint Enterprise Park Clarence Avenue, Trafford Park, Manchester M17 1QS ("the Developer")

INTRODUCTION

- (1) The Council is the local planning authority for the purposes of this Deed and the Town & Country Planning Act 1990 (as amended) for the area within which the Site (described in the First Schedule hereto) is situate and is the local planning authority by whom a planning obligation is enforceable
- (2) The First Owner has an interest in the Site in the form of being the freehold owner of that part of the Site which is registered under title number WA976738
- (3) The Second Owner has an interest in the Site in the form of being the freehold owner of that part of the Site which is registered under title number CYM272440
- ~~(4) The Mortgagee has an interest in that part of the Site owned by the Second Owner in the form of a charge dated 29 October 2010 registered in the charges register of title number~~ NR. CYM272440
- (5) The Developer has an interest in the Site in the form of a land agreement with the Owner dated the 5th February 2015 (as amended)

(6) The Application has been submitted to the Council and the parties have agreed to enter into this deed in order to secure the planning obligations contained in this Deed

(7) The Council resolved on the 8 January 2024 to grant the Planning Permission subject to the prior completion of this Deed.

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1 DEFINITIONS

For the purposes of this Deed the following expressions shall have the following meanings:

"Act"	means the Town and Country Planning Act 1990
"Affordable Housing"	subsidised housing which will be available to Eligible Persons including (without limitation) Intermediate Rented Housing, Shared Equity Housing, Shared Ownership Housing and Social Rented Housing and which shall comprise 25% of the Dwellings to be built on Site (rounded down to the nearest whole number)
"Affordable Housing Disposal"	a transfer or lease of one or more of the Affordable Housing Units by the Owner to an RSL
"Affordable Housing Units"	the dwellings provided as Affordable Housing as part of the Development
"Application"	means the application for outline planning permission dated 13th December 2019 submitted to the Council for the Development and allocated reference number P/2019/0923
"Close Family Connection"	members of family as described in Section 113 of the Housing Act 1985
"Commencement of Development"	means the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development pursuant to the Planning Permission begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of surveys of the Site or any part thereof, site clearance, demolition work, earth works, archaeological investigations, investigations for the purpose

of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, hoardings and scaffolding, the temporary display of site notices or advertisements and creation of site access and "Commence Development" or "Commenced Development" shall be construed accordingly

"Commencement of Development of a Dwelling Phase"

the carrying out of a Material Operation within a Dwelling Phase notwithstanding that the Planning Permission may have been implemented

"Development"

means the development of the Site in accordance with the Application

"Dwellings"

means the residential units (including houses, flats or maisonettes) constructed on the Site pursuant to the Planning Permission and which shall include for the avoidance of doubt Market Housing Units and Affordable Housing Units

"Dwelling Phase":

any Phase of the Development that comprises or includes Dwellings

"Eligible Person"

means (unless otherwise agreed between the Owner and the Council) a person as defined in Part 7 of the fifth Schedule

"Equity Price"

70% of the Market Value of a Shared Equity Unit (or a higher percentage to reflect any part (or all) of the Second Charge that has been discharged) as may be applicable pursuant to paragraph 3 of Part 6 of the Fifth Schedule

"First Charge"

a legal charge entered into between a Shared Equity Owner and a mortgagee and which shall secure against a Shared Equity Unit any mortgagees lending (of up to the Equity Price) together with any interest on the debt owed to any mortgagee by the Shared Equity Owner at the time that any mortgagee shall enter into possession together with the costs of enforcing the First Charge and the reasonable

	costs of marketing and disposal of the Shared Equity Unit by any mortgagee
"Index"	All Items Index of Retail Prices issued by the Office for National Statistics
"Interest"	interest at 5 per cent above the base lending rate of the Barclays Bank Plc from time to time
"Intermediate Rented Housing"	Housing units let by an RSL at a rent equal to or less than 80% of the open market rental (being the rent which that unit would secure in the open market as between a willing lessor and a willing lessee acting at arm's length)
"Low Cost Homes Ownership Register"	the register maintained by the Council or its nominated agent for the purposes of providing access to properties at less than market value for persons who cannot afford to buy housing generally on the open market
"Management Company"	means a registered company that has been formed for the purposes of amongst other obligations maintaining the Public Open Space and for complying with and carrying out the requirements of the POS Scheme
"Market Housing Units"	those Dwellings which are general market housing for sale on the open market and which are not Affordable Housing Units
"Market Value"	the price at which the relevant Dwelling might reasonably be expected to be sold at arm's length by a willing seller to a willing buyer with vacant possession on the open market assessed as if it were free from all the affordable housing provisions in this Deed
"Nominated RSL"	An RSL that hold a Second Charge
"Occupation"	the physical use of a Dwelling for a residential purpose as permitted by the Planning Permission but not including occupation by personnel engaged in construction or fitting out, or occupation for marketing and display, or occupation in relation to security operations and Occupy, Occupied and Occupier shall be construed accordingly.

"Owner"	means together the First Owner and the Second Owner
"Person in Housing Need"	a person who cannot afford to rent or buy a home suitable for their needs on the open market
"Phase"	means a reserved matters approval pursuant to the Planning Permission
"Plan A"	means the plan (reference A106224-002 Rev C) exhibited in Appendix 1 hereof
"Planning Permission"	means the outline planning permission subject to conditions to be granted by the Council pursuant to the Application as set out in the Seventh Schedule.
"POS"	means (as applicable) any such areas of open space, trees, hard and soft landscaping, planted features, parking areas, water bodies, SUDs and attenuation, play areas, fencing, bunds, retaining wall, roads, footways, cycleways and/or anything else of a similar or like nature forming part of a Phase of the Development and which do not form part of an individual plot sale
"POS Management Entity"	such body or bodies that is/are nominated or established by the Owner for the long-term maintenance and management of the POS and for the avoidance of any doubt which may include a management company
"POS Management Plan"	the management plan to be submitted to the Council for approval in respect of the management and maintenance of the POS in a Phase (until (as may be applicable) any part of the POS is adopted)
"Practical Completion"	means the issue of a certificate of practical completion by NHBC by way of the usual NHBC cover note
"Primary Education Contribution"	means the sums to be calculated and paid by the Owner to the Council in accordance with the provisions of the Second Schedule of this deed to be used by the Council for the provision of additional primary school requirements as a result of the Development as set out in the Second Schedule

"Redemption Money"	The sum required to discharge the Second Charge
"RSL"	a registered social landlord as defined in Part 1 of the Housing Act 1996
"Second Charge"	A legal charge to be entered into by the Shared Equity Owner for the time being in favour of the Council or a Nominated RSL in respect of up to (as appropriate) 30% of the Market Value of a Shared Equity Unit, subject always to the Second Charge ranking second in the priority to any First Charge
"Secondary Education Contribution"	means the sums to be calculated and paid by the Owner to the Council in accordance with the provisions of the Second Schedule of this deed to be used by the Council for the provision of additional secondary school requirements required as a result of the Development as set out in the Second Schedule
"Shared Equity Disposal"	A disposal to an Eligible Person by a freehold transfer or by a lease (in respect of the initial sale only) for a term of not less than one hundred and twenty-five years (125) (or an assignment thereof in respect of a subsequent sale) of a Shared Equity Unit
"Shared Equity Housing"	a form of affordable housing whereby the purchaser acquires a 100% equity share in an Affordable Housing Unit subject to a Second Charge
"Shared Equity Owner"	a freeholder or a leaseholder (as appropriate) of a Shared Equity Unit
"Shared Equity Unit"	an Affordable Housing Unit sold or available for sale as Shared Equity Housing on the Development
"Shared Owner"	a leaseholder of a Shared Ownership Unit.
"Shared Ownership Disposal"	a disposal by the RSL by way of: (a) lease for a term of not less than 125 years; or (b) transfer or assignment of a Shared Ownership unit

"Shared Ownership Housing"	a form of Affordable Housing which is provided by an RSL on the basis of part rent and part sale
"Shared Ownership Interest"	the specific equity share in the Shared Ownership Unit held by the Shared Owner
"Shared Ownership Unit"	an Affordable Housing Unit sold or available for sale as Shared Ownership Housing
"Site"	means the land edged red on Plan A and described in the First Schedule
"Social Rented Housing"	Affordable Housing Units let by an RSL to be occupied by Eligible Persons at a rental level which complies with the rent benchmarking guidance (from time to time) published by the Welsh Government.
"Staircase"	in respect of Shared Ownership Housing to acquire pursuant to the provisions of the Shared Ownership Disposal a share of the equity in the relevant Shared Ownership Unit in addition to the Shared Owner's Shared Ownership Interest and staircasing and Staircased shall be construed accordingly
"Stansty and Forge Level Cross Contribution"	the sum of £120,000.00 (one hundred and twenty thousand pounds) due to Network Rail <u>towards the cost of the installation of meerkat signal light system</u> less any amount already paid by other developments obliged by the same requirement
(or alternative safety crossing mitigation at Stansty or Forge level crossing) NR.	

2 CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.

- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.
- 2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.6 References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Council and County Council the successors to their respective statutory functions.

3 LEGAL BASIS

- 3.1 This Deed is made in respect of the Owner's interests in the Site pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972 and Section 2 of the Local Government Act 2000 and all other enabling powers.
- 3.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Owner

4 CONDITIONALITY

This Deed is conditional upon:

- (i) the grant of the Planning Permission; and
- (ii) the Commencement of Development;

save for the provisions of Clauses 5.1, 7.1, 8, 14 and 15 (commencement of development, legal costs, mortgagee/developer, jurisdiction and delivery) and any other relevant provisions which shall come into effect immediately upon completion of this Deed.

5 THE OWNER'S COVENANTS

- 5.1 The Owner shall serve on the Council a notice of Commencement of Development not less than two days before Commencement of Development.
- 5.2 The Owner covenants with the Council (subject always to the terms and conditions of this Deed) to comply with the obligations set out in the Second, Third Fourth and Fifth Schedules of this Deed in respect of its interest in the Site.

6 THE COUNCIL'S COVENANTS

- 6.1 The Council covenants with the Owner as set out in the Sixth Schedule.

7 MISCELLANEOUS

- 7.1 The Developer shall pay the Council on completion of this deed the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed in the sum of £2500.00.
- 7.2 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 provided always that this clause shall not affect the right of action

of any person to whom this Deed has been lawfully assigned or becomes vested in law.

- 7.3 This Deed shall be registrable as a local land charge by the Council.
- 7.4 Where the agreement, approval, consent, expression of satisfaction and/or anything of a similar or like nature is required by the Owner from the Council under the terms of this Deed such agreement, approval, consent, expression of satisfaction and/or anything of a similar or like nature shall not be unreasonably withheld or delayed and any such agreement, consent, approval, expression of satisfaction and/or anything of a similar or like nature shall be given on behalf of the Council by the Council's Chief Officer – Economy and Planning and any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.
- 7.5 Following the performance and satisfaction of all the obligations contained in this Deed or an event under Clause 7.7 the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.
- 7.6 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 7.7 This Deed shall cease to have effect (insofar only as it has not already been complied with) if:-
- 7.7.1 the Planning Permission shall be quashed revoked or otherwise withdrawn or (without the consent of the Owner) is modified by any statutory procedure
 - 7.7.2 the Planning Permission shall expire prior to the Commencement of Development; or
 - 7.7.3 the Site is developed under a new planning permission (other than one issued under Section 73 of the Act for variation or discharge of a condition of the Planning Permission) granted after the Planning Permission by the Council or any other competent authority and there has been no Commencement of Development.
- 7.8 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site (or that part of the Site in relation to which the breach relates) but without prejudice to liability for any subsisting breach arising prior to (or upon) parting with such interest.
- 7.8A The Council hereby covenants that where there is more than one Phase the planning obligations relating to a particular Phase are exclusive to that Phase and do not bind, do not apply to, do not restrict and are not be enforceable against, the interests in land comprising any other Phase.
- 7.9 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) before or after the date of this Deed.
- 7.10 No obligation in this Deed shall be construed as binding any individual purchaser (or his mortgagee) or lessee or tenant of any Dwelling constructed on the Site pursuant

to the Planning Permission (save in respect of any provision relating to a Shared Equity Unit relating to an individual purchaser and/or their mortgagee) or against any statutory undertakers in relation to any part of parts of the Site acquired by them for their purposes or for electricity substations, gas governor stations or pumping stations or against anyone whose interest in the Site or any part of it is in the nature of an easement or covenant

NR. 8 MORTGAGEE/DEVELOPER CONSENT

8.1 ~~The Mortgagee hereby acknowledges and declares that this Deed has been entered into by the Owner with its consent and that the Owner's interest in the Site shall be bound by the obligations contained in this Deed and that the security of the mortgage over part of the Site shall take effect subject to this Deed PROVIDED THAT the Mortgagee shall otherwise have no liability under this Deed unless it takes possession of the Site in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.~~ NR.

8.2 The Developer hereby acknowledges and declares that this Deed has been entered into by the Developer with its consent and that the Owner's interest in the Site shall be bound by the obligations contained in this Deed and that its interest in the Site shall take effect subject to this Deed PROVIDED ALWAYS that the Developer shall not be liable for any of the covenants and obligations within this Deed unless it derives title to the Site (or any part thereof) from or through the Owner (save for clause 7.1 which the Developer will be bound by upon completion of this Deed)

9 WAIVER

No waiver (whether expressed or implied) by the Council or Owner of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council or Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

10 CHANGE IN OWNERSHIP

The Owner agrees with the Council to give the Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan (save in respect of the disposal of an individual Dwelling)

11 INDEXATION

Any sum referred to in the Third and Forth Schedules shall be increased by an amount equivalent to the increase in the Index from the date hereof until the date on which such sum is payable (unless otherwise set out herein). NR.

12 INTEREST

If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.

13 VAT

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

14 JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and Wales.

15 DELIVERY

The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

16 SECTION 73 VARIATION

In the event that the Council shall at any time hereafter grant a planning permission pursuant to an application under section 73 of the Act in relation to and/or derived from the Planning Permission, references in this Deed to the Application and the Planning Permission shall be deemed to include any subsequent section 73 applications and planning permissions as aforesaid and this Deed shall henceforth take effect and be read and construed accordingly and PROVIDED ALWAYS (for the avoidance of any doubt) that the operation of this clause 16 shall never require the duplication of any of the obligations in this Deed.

17 DISPUTE RESOLUTION

- 17.1 Should any dispute or difference arise in respect of this Deed the parties to the dispute shall reasonably try to resolve any such dispute informally and which shall include having a senior member of the relevant parties discuss and attempt to resolve informally
- 17.2 Except as to matters of law and subject to any express provisions of this Deed to the contrary any dispute or difference arising between the parties as to any of the provisions of this Deed and/or their respective rights duties or obligations or as to any other matter or thing in any way arising out of or in connection with the subject matter of this Deed which cannot be resolved via 17.1 shall forthwith be referred by the parties or any of them for determination by an independent person (the Expert) of no less than 15 years relevant post qualification professional experience to be agreed upon between the parties and failing such agreement within ten (10) Working Days of any party calling upon the others to agree to be appointed on the application of the parties or any of them by the President for the time being of The Royal Institution of Chartered Surveyors or any successor Institute (the President).
- 17.3 The Expert shall act as an expert and shall be appointed on the basis that he shall make his decision and communicate it to the parties to the dispute within the minimum practicable timescale allowing for the nature and complexity of the dispute such determination to be made in writing giving full reasons therefore and shall (including his decision as to costs) be binding upon the parties save in respect of manifest error fraud and/or error of law.
- 17.4 If the Expert shall die delay or become unwilling or incapable of acting for any reason the President shall in his absolute discretion as he thinks fit in writing discharge the Expert and appoint another in his place.
- 17.5 It is hereby agreed and declared that:-
- 17.5.1 the Expert shall afford to the parties the opportunity to make representations and counter-representations in writing (within the periods and subject to the directions he

shall specify) and shall consider any written representations made by or on behalf of the parties hereto which are received by him within the periods (and pursuant to the directions) he specifies;

- 17.5.2 the Expert shall be entitled to call for such independent expert advice on such matters as he shall think fit;
- 17.5.3 the Expert shall determine the reference in accordance with the planning obligation parameters set by this Deed;
- 17.5.4 the Expert shall have the liberty to set any further reasonable directions either on the application of either party to the dispute or of his own volition (including as to oral representations)
- 17.5.5 the fees and expenses of the Expert shall be as determined by the Expert or failing such determination shall be borne by the Owner.
- 17.6 The provisions of this clause shall not affect the ability of either party to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, any other means of enforcing this Deed and consequential and interim orders and relief.

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

FIRST SCHEDULE
DESCRIPTION OF THE SITE

The Site means the land edged red on Plan A and which is known as "Land at Stansty Chain Road, Stansty, Wrexham LL11 4YF"

The Owner has a freehold interest in the Site.

The First Owner's freehold interest is registered under title number WA976738 recorded on the land registry title as, "land on the north side of Stansty Chain Road, Stansty, Wrexham"

The Second Owner's freehold interest is registered under title number CYM272440 recorded on the land registry title as, "Stansty Lodge, Mold Road, Stansty, Wrexham LL11 4YF"

SECOND SCHEDULE

OWNER'S COVENANTS – PRIMARY EDUCATION CONTRIBUTION AND SECONDARY EDUCATION CONTRIBUTION

Part A - Primary Education Contribution

1. To pay the Primary Education Contribution (towards the provision improvement and extension of primary education facilities at the primary school of Saint Mary's, Ysgol Heulfan, Ysgol Rhosddu and Ysgol Plas Coch) for each Phase in accordance with paragraphs 2 and 3 of this Part A of this Schedule.
2. The Primary Education Contribution for each Phase shall be paid as follows:-
 - a. 33% prior to the Occupation of 15% of the Dwellings in the relevant Phase;
 - b. 33% prior to the Occupation of 30% of the Dwellings in the relevant Phase;
 - c. 34% prior to the Occupation of 65% of the Dwellings in the relevant Phase.

The Primary School Contribution for each Phase shall be calculated as follows:-

Primary Education Contribution: -

A = no of One bedroom apartments x 0 (There is no sum payable in respect of One bedroom apartments)

B = No of Two+ bedroom apartments x £858.00 eight hundred and fifty-eight

C = No of 2 bedroom Dwellings x £1471.00 One thousand four hundred and seventy one pounds

D = No of 3 bedroom Dwellings x £2819.00 Two thousand eight hundred and nineteen pounds

E = No of 4+ bedroom Dwellings x £3800.00 Three thousand eight hundred pounds

Total Primary Education Contribution = the total of A and B and C and D and E

Part B - Secondary Education Contribution

1. To pay the Secondary Education Contribution (towards the provision of an expressive art hub at Ysgol Bryn Alyn) for each Phase in accordance with paragraphs 2 and 3 of this Part B of this Schedule.
2. The Secondary Education Contribution for each Phase shall be paid as follows:-
 - (a) 33% prior to the Occupation of 15% of the Dwellings in the relevant Phase;
 - (b) 33% prior to the Occupation of 30% of the Dwellings in the relevant Phase;
 - (c) 34% prior to the Occupation of 65% of the Dwellings in the relevant Phase.

The Secondary Education Contribution for each Phase shall be calculated as follows:-

Secondary Education Contribution: -

1 = no of One bedroom apartments x 0 (There is no sum payable in respect of one bedroom apartments)

2 = No of Two+ bedroom apartments x £739.00 (seven hundred and thirty nine)

3 = No of 2 bedroom Dwellings x £1293.00 (One thousand two hundred and ninety three pounds)

4 = No of 3 bedroom Dwellings x £3694 (Three thousand six hundred and ninety four pounds)

5 = No of 4+ bedroom Dwellings x £5725 (Five thousand seven hundred and twenty five pounds)

3. Total Secondary Education Contribution = the total of 1 and 2 and 3 and 4 and 5
4. In the event that any part of the Primary Education Contribution and Secondary Education Contribution are paid later than 12 (twelve) months from the Commencement of Development the applicable part payment(s) shall be increased by the same percentage as the percentage increase in the all items figure of the Index of Retail Prices published two months before the date of payment when compared with the all items figure at the said Index in existence at the date of Commencement of Development

THIRD SCHEDULE

OWNER'S COVENANTS – PUBLIC OPEN SPACE AND MANAGEMENT COMPANY

Unless otherwise agreed in writing between the Owner and the Council the Owner covenants with the Council:-

1. Not to allow the Occupation of any Dwelling within a Phase until the proposed POS Management Plan for that Phase has been submitted to and approved by the Council
2. Following completion of the POS within a Phase it shall be managed and maintained in accordance with the approved POS Management Plan (until (as may be applicable) any part of the POS is adopted))
3. Not to allow the Occupation of more than 90% (ninety percent) of the Dwellings in each Phase until the POS for that Phase has been completed in accordance with the Planning Permission to the reasonable satisfaction of the Council (unless otherwise agreed in writing between the Owner and the Council).
4. For the avoidance of any doubt prior to the transfer of any POS in a Phase to the POS Management Entity, the POS in a Phase shall be managed and maintained by the Owner in accordance with the POS Management Plan
5. Where the Owner has submitted the details required under paragraph 1 of this Schedule 3 but the Council has refused to approve such detail within 4 months of submission the Owner may refer the dispute at any time thereafter to the Expert in accordance with clause 17 hereof and upon any such reference to the Expert paragraph 1 of this Schedule 3 shall no longer be enforceable but once the POS Management Plan has been determined by the Expert it shall be the POS Management Plan for the purposes of paragraphs 2, 3 and 4 of this Schedule 3

FOURTH SCHEDULE

**OWNER'S COVENANTS – STANSTY AND FORGE LEVEL CROSSINGS
CONTRIBUTION**

Prior to first Occupation of the Dwellings within the Development the Owner covenants
with the Council to pay to the Council the Stansty and Forge Level Crossings Contribution.

FIFTH SCHEDULE
AFFORDABLE HOUSING

Part 1 - General Obligations

1. To design and construct the Affordable Housing Units (to comprise 25% (rounded down to the nearest whole number) of the total number of Dwellings on Site) in accordance with the Planning Permission and in accordance with the Welsh Housing Quality Standards 2023 (unless otherwise agreed in writing between the Owner and the Council)
2. Not to dispose of the Affordable Housing Units other than to an RSL by way of the Affordable Housing Disposal or to an Eligible Person by way of a Shared Ownership Disposal or a Shared Equity Disposal (as set out in paragraph 1 of Parts 2, 3, 4, 5 and 6 hereof) Provided That the Council and the owners of the Affordable Housing Units may by agreement prescribe terms for the disposal of different types of Affordable Housing not detailed in this Deed (both parties acting reasonably and without delay in agreeing such terms) Provided That such agreement is legally secured by way of a supplemental agreement made under Section 106 of the Act.
3. Give to the Council notice in writing of a disposal of its interest in any Affordable Housing Unit and its interest in any part of the Site (excluding Market Housing Units) occurring before all the obligations in this Deed have been discharged such notice to be given within 10 Working Days of such transfer and giving details of the transferee's full name and usual address (registered office if a company) together with a plan showing the area of the Site transferred.
4. Prior to Commencement of Development of a Dwelling Phase to provide the Council's Chief Officer of Housing the following details in so far as they are known for each Affordable Housing Unit within such Dwelling Phase:
 - 4.1 postal address;
 - 4.2 gross and net floor area;
 - 4.3 anticipated practical completion date (subject to market conditions); and
 - 4.4 plans indicating location, elevations and internal layout.
5. Following Commencement of Development within a Dwelling Phase (or sooner at the Owner's discretion) to approach an RSL as soon as reasonably practicable and to pursue negotiations with all due diligence in order to comply with the obligations contained in this Deed and to offer the Affordable Housing Units (other than those designated as Shared Equity Units) within that Dwelling Phase for sale to an RSL on terms that have due regard to the restrictions affecting such Affordable Housing Units contained in this Deed.

6. Following a written request from the Council, to provide to the Council such information concerning the progress of negotiations for Affordable Housing Disposals with an RSL or Shared Equity Disposals to Eligible Persons (as appropriate) as shall reasonably be required by the Council.
7. Not to use any part of the Site on which the Affordable Housing Units are to be constructed for any purpose other than the provision of Affordable Housing in accordance with this Deed.
8. Not to use the Affordable Housing Units for any purpose other than for the provision of Social Rented Housing, Shared Ownership Housing, Shared Equity Housing and Intermediate Rented Housing (subject to the proviso set out in paragraph 2 of this Part) and to respond to any request from the Council for information as to the tenure of each Affordable Housing Unit within 10 Working Days such request to be made on no more frequent a basis than once every six months.
9. To keep such full and proper records as are reasonably required to demonstrate to the Council strict compliance with the affordable housing obligations contained in this Deed and any supplementary agreement thereto.
10. Not to:- (i) allow the Occupation of more than 50% (fifty percent) of the Market Housing Units within any Dwelling Phase until 60% the Affordable Housing Units within that Dwelling Phase have been constructed, are ready for Occupation and the Owner has commenced active marketing using reasonable endeavours to procure such disposals by way of an Affordable Housing Disposal to an RSL and/or Shared Equity Disposals to Eligible Persons; & (ii) allow the Occupation of more than 90% of the Market Housing Units within any Dwelling Phase until 100% of the Affordable Housing Units within that Dwelling Phase have been constructed, are ready for Occupation and the Owner has commenced active marketing using reasonable endeavours to procure such disposals by way of an Affordable Housing Disposal to an RSL and/or Shared Equity Disposals to Eligible Persons.

Part 2 - Social Rented Housing

1. Not to dispose of the Affordable Housing Units which are provided as Social Rented Housing other than by way of an Affordable Housing Disposal in accordance with the provisions of this Part of this Schedule.
2. No Social Rented Housing shall be:
 - 2.1 let to or occupied by persons other than Eligible Persons; and
 - 2.2 let other than as Social Rented Housing by way of an assured or assured short hold tenancy (or such statutory form of tenancy as may replace such forms of tenancies

from time to time) (subject to the proviso set out in paragraph 2 of Part 1 of this Schedule).

Part 3 - Intermediate Rented Housing

1. Not to dispose of any Affordable Housing Units which are provided as Intermediate Rented Housing other than by way of an Affordable Housing Disposal in accordance with the provisions of this Part of this Schedule.
2. No Intermediate Rented Housing shall be:
 - 2.1 let to or occupied by persons other than Eligible Persons; and
 - 2.2 let other than as Intermediate Rented Housing by way of an assured or assured short hold tenancy (or such statutory form of tenancy as may replace such forms of tenancies from time to time) (subject to the proviso set out in paragraph 2 of Part 1 of this Schedule).

Part 4 - Shared Ownership Housing

1. Not to dispose of any Affordable Housing Unit which is provided as Shared Ownership Housing other than by way of Shared Ownership Disposal to an Eligible Person.
2. To procure that each Shared Ownership Disposal shall incorporate the following terms:
 - 2.1 a right of pre-emption in favour of the relevant RSL; and
 - 2.2 a covenant whereby a Shared Owner who wishes to dispose of their interest in the Shared Ownership Unit (and where the relevant RSL does not wish to exercise the right of pre-emption referred to in paragraph 2.1 of this Part) shall be prevented from disposing of their interest in the Shared Ownership Unit other than to an Eligible Person at no more than Market Value of their Shared Ownership Interest.
3. Not to sub-let or let (other than in accordance with this Part of this Schedule) any Shared Ownership Unit.
4. Shared Owners wishing to dispose of their interest in a Shared Ownership Unit shall comply with any reasonable procedure adopted by the Council (or its nominated agent) from time to time for arranging and administering the disposal to Eligible Persons of interests in affordable housing units such as the Shared Ownership Units.
5. In the event that a Shared Owner wishes to dispose of their interest in a Shared Ownership Unit and such unit has been actively marketed for sale for a period of 12 weeks and no Eligible Person has exchanged unconditional contracts for the purchase of the said unit within that period Provided That:

- 5.1 such unit has been offered for sale pursuant to paragraph 2.1 above and to an RSL or RSLs nominated by the Council and such RSLs have not exchanged unconditional contracts to buy such unit within such period;
- 5.2 the price at which the Shared Ownership Unit has been offered for sale to Eligible Persons is no greater than the Market Value of the Shared Ownership Interest ascertained by agreement between the Shared Owner, any mortgagee of the Shared Owner and the relevant RSL (**Parties**) or failing agreement at the expense of the Shared Owner by an independent qualified valuer appointed by agreement between the Parties or failing agreement by or on behalf of the president for the time being of the Royal Institution of Chartered Surveyors on the application of any party and the decision of such valuer shall be final; and
- 5.3 the Shared Owner has reasonably demonstrated to the Council and the relevant RSL that it has acted in good faith in considering any offers from Eligible Persons

then the Shared Ownership Unit may be sold in the open market at Market Value (provided the relevant RSL consents to such sale) free from the affordable housing restrictions contained in this Deed Provided Further That where an Eligible Person or RSL has been identified as a potential purchaser of the Shared Ownership Unit within the said 12 week period the Shared Owner shall use reasonable endeavours to progress such sale and shall not dispose of the Shared Ownership Unit in the open market unless such potential sale is not completed within a further 12 weeks.

Part 5 - Shared Equity Housing Initial Sales

1. Not to dispose of the Affordable Housing Units provided as Shared Equity Housing other than by way of a Shared Equity Disposal to an Eligible Person at a price no greater than the Equity Price.
2. No Shared Equity Disposal shall be completed without the new Shared Equity Owner simultaneously entering into a Second Charge.
3. That upon first acquiring an interest in a Shared Equity Unit the Shared Equity Owner shall not borrow from any mortgagee nor charge a Shared Equity Unit under a First Charge for a sum in excess of 70% of the Market Value of the Shared Equity Unit without the consent of the Council or the Nominated RSL (as appropriate) providing that nothing in this paragraph shall prevent or prohibit a Shared Equity Owner from later increasing its borrowings from any mortgagee in order to discharge and secure release from the Second Charge.
4. Unless paragraph 8 of Part 5, paragraph 9 of Part 6, Part 9 and/or Part 10 apply) each Shared Equity Disposal shall contain a restriction whereby the Shared Equity Owner who wishes to dispose of their interest in the Shared Equity Unit shall be prevented from making that disposition other than in accordance with Part 6 of this Schedule.

5. In the event that the Shared Equity Unit is sold by a mortgagee in possession without the provisions of this Deed being binding upon it (pursuant to Part 10 of this Schedule 5 hereof), the mortgagee shall, in so far as it is able to from the proceeds of sale of the Shared Equity Unit and in any event only after deduction of any monies owing to the mortgagee pursuant to the First Charge, pay to the Council or Nominated RSL (as appropriate), the Redemption Money upon completion of the sale of the Shared Equity Unit and provide the Council's Chief Officer of Housing (or such other officer undertaking the duties of a chief housing officer) with an account of the amount due pursuant to this paragraph.
6. Not to let (other than by way of a Shared Equity Disposal) or sub-let the Shared Equity Unit.
7. The provisions of this Part of Schedule 5 shall only apply to the initial sale of Shared Equity which means the first disposal of the Shared Equity Housing Unit.
8. In the event that a Shared Equity Unit has been actively marketed (using reasonable endeavours) for sale for a period of six months (which for the avoidance of any doubt may be off-plan) and no Eligible Person has exchanged unconditional contracts for the Shared Equity Unit within that period and no RSL has conditionally contracted to buy such units within such period then the Shared Equity Unit may be sold in the open market at Market Value as a Market Housing Unit free (in perpetuity) from the affordable housing restrictions contained in this Schedule 5 of this Deed Provided That within two working days of legal completion of such sale, a payment of 30% of the sale proceeds (**Commuted Sum**) is paid to the Council by the Owner to be used for the provision of Affordable Housing within the Wrexham County Borough Council administrative area within five years of receipt Provided Further That where an Eligible Person or RSL has been identified as a potential purchaser of the Shared Equity Unit within the said six month period the Owner shall use reasonable endeavours to progress such sale and shall not dispose of the Shared Equity Unit in the open market unless such potential sale is not completed within a further 20 weeks and paragraph 2 of Part 9 of this Fifth Schedule shall apply.
9. The payment of the Commuted Sum is conditional upon that if at any time after the fifth anniversary of the receipt by the Council of the Commuted Sum at the Owner's request then the Council will provide (subject to the Owner paying the Council's reasonable and proper expenses in connection with providing the same) written confirmation as to whether the whole or any part of the Commuted Sum has been expended or committed for expenditure in accordance with paragraph 8 above and in the event that the Council fails within 3 calendar months of such request to provide written confirmation that the whole of the Commuted Sum paid by the Owner to the Council pursuant to paragraph 8 above has been expended by the Council or committed towards the designated purposes within 5 years from the receipt by the Council of the Commuted Sum then the Council shall repay all or part of the Commuted Sum for which that written confirmation has not been given to the person or persons who actually paid the Commuted Sum together with all interest accrued thereon

