

DATED 26th January 2018

(1) WREXHAM COUNTY BOROUGH COUNCIL

(2) PROSPECT ESTATES LIMITED

(3) SVENSKA HANDELSBANKEN AB (PUBL)

AGREEMENT

Pursuant to Section 106 of the Town and Country Planning Act 1990
in respect of the former Air Products site, Llangollen Road, Acrefair, Wrexham

T Coxon
Head of Corporate and Customer Services
Guildhall
Wrexham
LL11 1AY

DP/10005268

THIS AGREEMENT is made on the

day of

2018

BETWEEN:-

- (1) **WREXHAM COUNTY BOROUGH COUNCIL** of Guildhall, Wrexham LL1 1AY ("the Council");
- (2) **PROSPECT ESTATES LIMITED** (company registration number 3189093) of Prospect Court, 2 Courthouse Street, Otley LS21 1AQ ("the Owner"); and
- (3) **SVENSKA HANDELSBANKEN AB (PUBL)** (incorporated in Sweden) (UK company registration number FC014392) of Leeds Wellington Street Branch, 9th Floor, WestOne, 114 Wellington Street, Leeds LS1 1BA ("the Chargee").

RECITALS

- (A) The Council is the local planning authority for the purposes of Section 106 of the 1990 Act for the area in which the Land is situated and is the authority by whom the obligations hereby contained are enforceable.
- (B) The Owner is the owner of the freehold interest in the Land being part of the land registered at the Land Registry with title absolute under Title Number CYM643503.
- (C) The Chargee holds a registered charge dated 30 September 2014 over the Land.
- (D) The Owner warrants to the Council that there are no other legal interests in the Land.
- (E) The Owner has submitted the Planning Application to the Council for the Development of the Land.
- (F) The Council has resolved to grant the Planning Permission subject to this Agreement being entered into prior to the granting of the Planning Permission to secure the provision of public open space, the improvement of education facilities within the area by the payment of the Education Contribution and the provision of Affordable Housing without which the Planning Permission would not be granted.
- (G) The parties have agreed to enter into this Agreement so as to create planning obligations in favour of the Council pursuant to Section 106 of the 1990 Act and to be bound by and observe and perform the covenants hereinafter contained.

NOW THIS DEED WITNESSES as follows:-

1. DEFINITIONS

In this document unless the contrary intention appears the following terms shall have the following meanings:

"1990 Act"	means the Town and Country Planning Act 1990 as amended;
"Acceptable Cost Guidance"	means the Acceptable Cost Guidance issued by the Welsh Government to RSL's as guidance on the acceptability of total scheme costs for grant purposes;
"Affordable Housing"	means subsidised housing which will be available to Eligible Persons including Discounted Sale Housing, Intermediate Rented Housing, Shared Equity Housing, Shared Ownership Housing and Social Rented Housing;
"Affordable Housing Disposal"	means a transfer or lease of one or more of the Affordable Housing Units by the Owner to an RSL;
"Affordable Housing Scheme"	means a scheme to be submitted to and approved in writing by the Council in accordance with condition 17 of the Planning Permission and the Council's Local Planning Guidance Note No. 28 entitled "Affordable Housing" (a copy of which is annexed at Appendix 1) setting out details of the location, tenure mix and unit size and specification (for the purpose of assessing compliance with the Development Quality Requirements) of the Affordable Housing Units to be provided as part of the Development;
"Affordable Housing Unit(s)"	means the Dwellings provided as Affordable Housing in accordance with an approved Affordable Housing Scheme;
"CDM Regulations"	means the Construction (Design and Management) Regulations 2015 including any modification, extension or re-enactment of them or any other regulations of a similar nature in force from time to time;

"Close Family Connection"	means members of family as described in Section 113 of the Housing Act 1985;
"Commencement of Development"	the date upon which the Development shall begin by the carrying out of a material operation in accordance with the provisions of section 56(4) of the 1990 Act and "Commence Development" shall be construed accordingly;
"Community Council Area"	means the administrative area of Cefn Community Council or any successor to that council;
"Completion of Construction"	means the date upon which a valid certificate of completion shall have been issued in respect of the relevant number of Dwellings for the purposes of the Building Act 1984 and the Building Regulations 2010;
"Development"	means the development of the Land in accordance with the Planning Permission;
"Development Quality Requirements"	means the Welsh Government's Development Quality Requirements: Design Standards & Guidance (July 2005) or any replacement document from time to time setting out minimum space standards and technical specifications for affordable housing in Wales;
"Development Requirements"	means in accordance with: (i) the Planning Permission, (ii) all current building regulations, (iii) the CDM Regulations, and (iv) the Development Quality Requirements;
"Discounted Sale Disposal"	means a disposal of a Discounted Sale Unit by the Owner by way of:- (i) lease for a term of not less than 125 years, or (ii) transfer;
"Discounted Sale Housing"	means a form of Affordable Housing where the purchaser acquires a 100% equity share in a Discounted Sale Unit with a restriction in perpetuity upon the future sale price of it at 75% of Market Value;

"Discounted Sale Owner"	means a leaseholder or freeholder of a Discounted Sale Unit;
"Discounted Sale Unit"	means an Affordable Housing Unit sold or available for sale as Discounted Sale Housing;
"Dwelling"	means any residential unit (including a house, flat or maisonette) constructed on the Land pursuant to the Planning Permission which shall include for the avoidance of doubt Market Housing Units and Affordable Housing Units;
"Education Contribution"	means a sum calculated in accordance with Table 1 and the notes thereto on pages 2 and 3 of the Council's published Local Planning Guidance Note No. 27 entitled "Developer Contributions to Schools" (a copy of which is annexed at Appendix 2) in relation to primary schools only and according to the type and number of Dwellings comprised in the Development as defined by the Reserved Matters Approval;
"Eligible Person"	means a person eligible for Affordable Housing as defined in Part 8 of the Third Schedule hereto;
"Equity Price"	means 75% of the Market Value of a Shared Equity Unit;
"First Charge"	means a legal charge entered into between a Shared Equity Owner and a Mortgagee and which shall secure against a Shared Equity Unit any Mortgagee's 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 disposing of the Shared Equity Unit by any Mortgagee;
"Freeholder RSL"	means an RSL that owns the freehold interest in a Shared Ownership Unit;

"Head of Housing"

means the Council's head of department or chief officer for the time being in post with responsibility for housing;

"Head of Planning"

means the Council's head of department or chief officer for the time being in post with responsibility for town and country planning;

"Implementation Notice"

means the notice to be served in writing by the Owner upon the Council when Commencement of Development has occurred;

"Index"

means the all items index of retail prices issued by the Office for National Statistics or any successor organisation;

"Interest"

means interest at 5% (five per cent) above the base lending rate of Barclays Bank plc from time to time;

"Intermediate Rented Housing"

means 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 arms length) or the maximum amount of Local Housing Allowance which would be payable for such a unit;

"Land"

means the land situate at Llangollen Road, Acrefair, Wrexham and shown for the purposes of identification only edged red on the Plan;

"LPGN10"

the Council's Local Planning Guidance Note No. 10 – Public Open Space in New Housing Development, adopted in April 1993 and last updated in August 2008, a copy of which is annexed at Appendix 3;

"Low Cost Home Ownership Register"

the register maintained by the Council or its nominated agent for the purpose 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 such body or bodies that is nominated or established by the Owner for the long-term maintenance and management of the Public Open Space and the Play Area in accordance with the First Schedule;

"Management Plan"

means the management plan to be submitted to and approved in writing by the Council in respect of the management and maintenance of the Public Open Space and the Play Area in perpetuity by the Management Company;

"Market Housing Units"

those Dwellings which are general market housing for sale on the open market and which are not Affordable Housing;

"Market Value"

means (in respect of any Affordable Housing Units other than the Social Rented Housing and Intermediate Rented Housing) the price at which the Affordable Housing Unit might reasonably be expected to be sold at arm's length by a willing seller to a willing buyer with vacant possession as determined based on the average figure of valuations given by three independent RICS registered surveyors operating in the administrative area of the Council;

"Mortgagee"

means any mortgagee for the time being of the First Charge;

"Nominated RSL"

means an RSL approved in writing by the Council in accordance with Part 1 of the Third Schedule;

"Occupation"

means use of a Dwelling for residential use but not including occupation by personnel engaged in construction fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and **"Occupied"** shall be construed accordingly;

"Person in Housing Need"

means a person who cannot afford to rent or buy a home suitable for their needs on the open market;

“Phase”

means a phase of the Development being an area of the Land for which an application is made to the Council for a Reserved Matters Approval pursuant to the Planning Permission;

"Plan"

means the plan attached hereto;

"Planning Application"

means the application for outline planning permission for the Development of the Land submitted to the Council and given reference number P/2016/0505:

"Planning Permission"

means the grant of planning permission by the Council pursuant to the Planning Application and any associated Reserved Matters Approval(s);

“Play Area”

means a play area and associated grassed area to be laid out, constructed and equipped by or on behalf of the Owner on the Play Area Land, such area to be a minimum area of 400m² and to include grass matting safety surfacing or as may be otherwise approved in writing by the Council;

“Play Area Land”

means an area of the Land of a minimum area of 2,400m² which is to be laid out as an open grassed area and on which the Play Area is to be constructed or such other dimensions as may be approved in writing by the Council for the Play Area Scheme;

“Play Area Scheme”

means a scheme to be submitted to the Council for approval containing details as to the location of the proposed Play Area on the Play Area Land and the fencing, levelling and landscaping works which are to be carried out and the play equipment which is to be installed in accordance with the First Schedule;

“POS Scheme”

means a scheme for the works comprised in the laying out and provision of the Public Open Space together with a timetable for commencement and completion of such works to be submitted to and approved in writing by the Council in

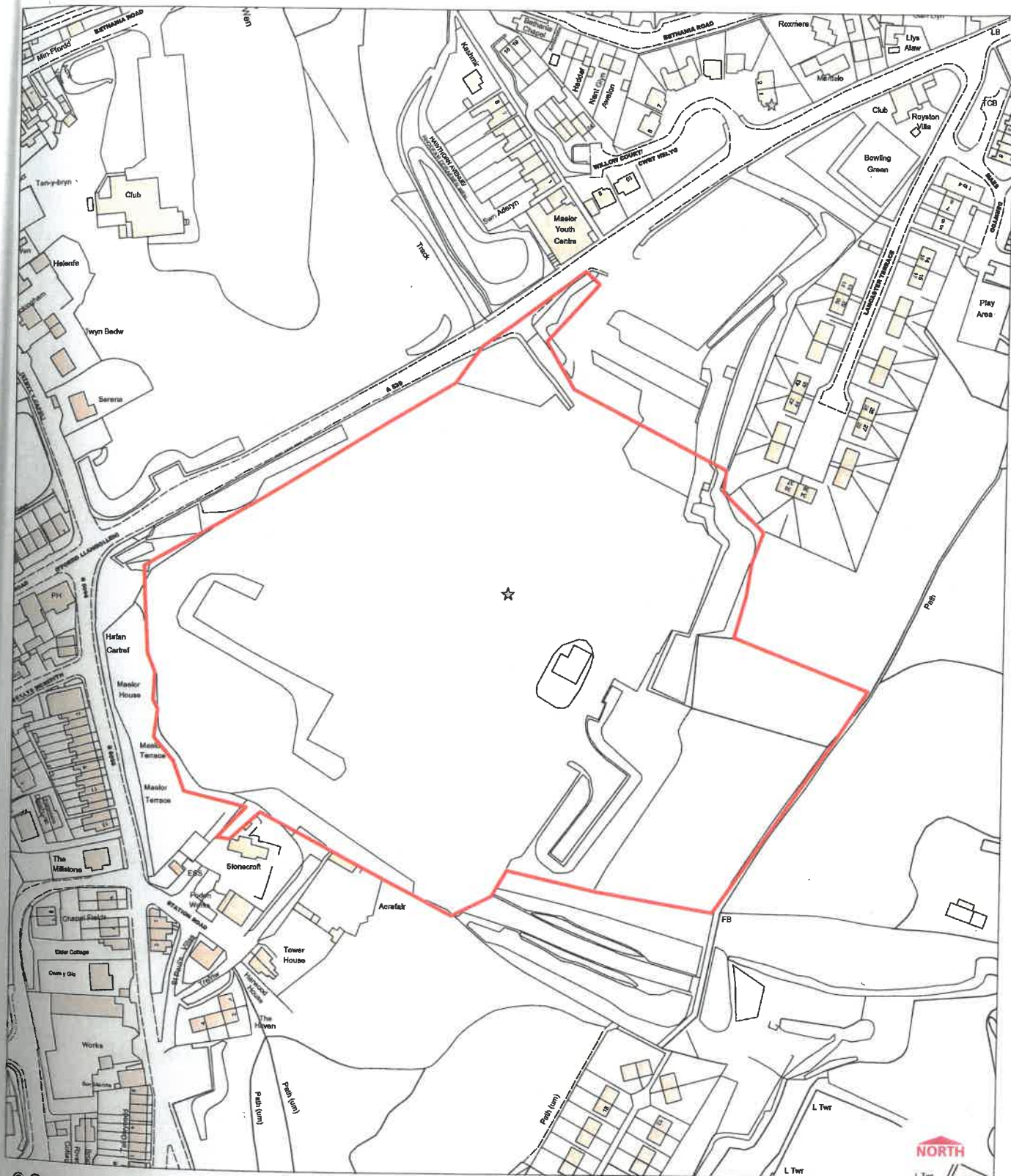


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16 Lord Str
LL11 1LG**

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Head of Environment and Planning
Environment and Planning Department
16 Lord Street, Wrexham
LL11 1LG

27/03/2017
Scale 1:2500
SJ 2843

Town & Country Planning Act 1990
Section 106 Obligation



P/2016/0505
Former Air Products Site, Llangollen Road,
Acrefair, Wrexham

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COUNTY BOROUGH COUNCIL
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	accordance with the Planning Permission;
"Practical Completion"	means the issue of a certificate of practical completion by the Owner's architect or in the event that the Development or any part thereof is constructed by a party other than the Owner the issue of a certificate of practical completion by that other party's architect;
"Public Open Space"	means the areas of the Land which are to be provided as public open space in accordance with details to be approved by a Reserved Matters Approval and managed in accordance with the provisions of the First Schedule, the combined total of which shall be in accordance with the minimum standard of 0.4 hectare per 50 Dwellings contained in LPGN10 or such other dimensions as may be approved in writing by the Council;
"Redemption Money"	means the sum required to discharge the Second Charge;
"Reserved Matters Approval"	means the grant of any application for reserved matters approval required pursuant to the Planning Permission;
"RICS"	means the Royal Institution of Chartered Surveyors or any successor institution of similar repute;
"RSL"	means a registered social landlord as defined in Part 1 of the Housing Act 1996;
"Second Charge"	means a legal charge to be entered into by a Shared Equity Owner for the time being in favour of the Council or a Nominated RSL in respect of 25% of the Market Value of a Shared Equity Unit, subject always to the Second Charge ranking second in priority to any First Charge;
"Shared Equity Disposal"	means a disposal to an Eligible Person by transfer or by lease for a term of not less than 125 years (or an assignment thereof) of a Shared Equity Unit;

"Shared Equity Housing"	means a form of affordable housing whereby the purchaser acquires a 100% equity share in an Affordable Housing Unit subject to a Second Charge and with a restriction in perpetuity upon the future sale price of it;
"Shared Equity Owner"	means a freeholder or leaseholder (as appropriate) of a Shared Equity Unit;
"Shared Equity Unit"	means an Affordable Housing Unit sold or available for sale as Shared Equity Housing on the Development;
"Shared Ownership Disposal"	means a disposal of a Shared Ownership Unit by an RSL by way of (i) a lease for a term of not less than 125 years; or (ii) a transfer or assignment;
"Shared Ownership Housing"	means a form of Affordable Housing which is provided by an RSL on the basis of part rent and part sale;
"Shared Owner"	means a leaseholder of a Shared Ownership Unit;
"Shared Ownership Interest"	means the specific equity share in the Shared Ownership Unit held by a Shared Owner;
"Shared Ownership Unit"	means an Affordable Housing Unit sold or available for sale as Shared Ownership Housing;
"Social Rented Housing"	means Affordable Housing Units let by an RSL to and to be occupied by Eligible Persons at a rental level which complies with the rent benchmarking guidance published by the Welsh Government from time to time;
"Social Rented Housing Unit"	means an Affordable Housing Unit let by an RSL as Social Rented Housing;
"Staircase"	means 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 Affordable Housing Unit in addition to the Shared Owner's existing Share Ownership Interest and "Staircasing" and "Staircased" shall be construed accordingly;

"Working Days"

means any day falling between Monday and Friday (both days inclusive) upon which the clearing banks in the City of London are open for normal business which is not Good Friday or a statutory bank holiday.

2 INTERPRETATION

- 2.1 A reference in this Agreement to an Act of Parliament or section of such Act or to any order regulation statutory instrument or the like shall include a reference to any replacement modification amendment or re-enactment of the same.
- 2.2 Wording importing the masculine gender includes the feminine and neuter genders and vice versa.
- 2.3 Words in the singular include the plural and vice versa.
- 2.4 Words importing individuals shall be treated as importing firms, companies, corporations, authorities and other bodies and vice versa.
- 2.5 Any heading or side notes are for ease of reference only and shall not affect the construction of this Agreement.
- 2.6 Covenants made hereunder if made by more than one person are made jointly and severally.
- 2.7 Reference to any party to this Agreement shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council the successors to its statutory functions.
- 2.8 Where in this Agreement reference is made to any clause, paragraph, Schedule or Appendix such reference (unless the context otherwise requires) is a reference to a clause, paragraph, Schedule or Appendix in this Agreement.

3 STATUTORY REQUIREMENTS

- 3.1 This Agreement is made pursuant to Section 106 of the 1990 Act, Section 2 of the Local Government Act 2000, Section 111 of the Local Government Act 1972 and all other enabling powers.
- 3.2 The obligations imposed by this Agreement relate to the Land and are binding on the Owner, the Chargee and their respective successors in title pursuant to Section 106 of the 1990 Act.
- 3.3 It is HEREBY AGREED that:
 - 3.3.1 the covenants contained herein are planning obligations for the purposes of Section 106 of the 1990 Act with the intent that they shall be enforceable

by the Council as local planning authority without limit of time against the Owner, the Chargee and their respective successors in title; and

3.3.2 that such planning obligations 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.

4 LOCAL LAND CHARGE

- 4.1 This Agreement is a local land charge for the purposes of the Local Land Charges Act 1975 and will be registered as such by the Council.
- 4.2 The Council will upon receipt of a written request of the Owner or its successors in title, at any time after the obligations set out herein have been fulfilled in their entirety to the satisfaction of the Council, issue written confirmation thereof and if requested shall thereafter cancel all related entries in the register of local land charges.

5 CONDITION PRECEDENT

- 5.1 This Agreement is conditional upon:
 - 5.1.1 the grant of the Planning Permission;
 - 5.1.2 the grant of the Reserved Matters Approval; and
 - 5.1.3 the Commencement of Development
- SAVE FOR the provisions of clauses 1, 2, 3, 4.1, 7.1 (only in respect of paragraph 1 of the First Schedule and paragraphs 1 to 6 (inclusive) of the Third Schedule), 7.2, 7.4, 9, 10, 11, 13, 14, 17 and 20 which take effect immediately upon completion of this Agreement.

6 CONDITION SUBSEQUENT

If the Planning Permission for the Development has not been implemented by the carrying out of a material operation in accordance with the provisions of Sections 56, 91, and 93 of the 1990 Act or is revoked or modified in whole or in part (other than an approval of an application by or on behalf of the Owner) or quashed or declared unlawful as a result of legal proceedings then this Agreement shall absolutely determine and become null and void but without prejudice to the rights of either party against the other in respect of any antecedent breach.

7 THE OWNER'S COVENANTS

- 7.1 The Owner hereby covenants with the Council on behalf of itself and any person deriving title to any part of the Land from the Owner so as to bind the Land, to fully observe and perform the obligations in this Agreement including those obligations set out in the Schedules and hereby agrees that the Land shall be subject to the obligations, restrictions and provisions specified herein, such obligations being planning obligations for the purpose of Section 106 of the 1990 Act.
- 7.2 The Owner agrees to pay to the Council on the signing hereof the Council's reasonable and proper legal costs for the preparation and execution of this Agreement.
- 7.3 The Owner covenants to serve upon the Council (addressed to the Council's Head of Planning) the Implementation Notice within 10 Working Days from but not including the date of Commencement of Development.
- 7.4 The Owner agrees to give to the Council notice in writing of any disposal of its interest in the Land (or part thereof) occurring before all the obligations in this Agreement have been discharged such notice to be given within 10 (ten) 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 Land transferred.

8 THE COUNCIL'S COVENANTS

- 8.1 The Council hereby covenants with the Owner to observe and perform the obligations on its part in this Agreement including those obligations set out in the Schedules.
- 8.2 The Council hereby covenants:
 - 8.2.1 to use the Education Contribution paid pursuant to the Second Schedule towards the provision/improvement or extension of education facilities at Acrefair Primary School, Wrexham and/or Ysgol Rhiwabon, Wrexham;
 - 8.2.2 at the written request of the Owner to provide written confirmation of the discharge of obligations contained in this Agreement when satisfied that such obligations have been performed; and
 - 8.2.3 at the written request of the Owner to repay to the person who first paid such monies any balance of the Education Contribution and any Interest

thereon which remains unexpended 10 (ten) years from the date of payment.

9 CHARGEES CONSENT

The Chargee acknowledges and declares that this Agreement has been entered into by the Owner with its consent and that the Land shall be bound by the obligations contained in this Agreement and that the Chargee's security shall take effect subject to this Agreement PROVIDED THAT the Chargee shall otherwise have no liability under this Agreement unless it takes possession of the Land in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

10 MISCELLANEOUS

Nothing contained or implied in this Agreement shall prejudice or affect the discretions, rights, powers, duties and/or obligations of the Council in the exercise of its functions as a local authority, housing authority, education authority and local planning authority and the discretions, rights, powers, duties and/or obligations of the Council under all public and private statutes byelaws, orders and regulations may be fully and effectually exercised in relation to the Land or any part thereof and any works executed thereon as if this Agreement had not been executed by the Council and in particular nothing in this Agreement shall restrict the Council and/or any other local authority from exercising powers of compulsory purchase in respect of any part of the Land.

11 THE CONTRACTS ACT

Nothing in this Agreement shall create any rights in favour of any person pursuant to the Contracts (Rights of Third Parties) Act 1999 save for the avoidance of doubt it is declared that the planning obligations contained in this Agreement are enforceable by any successor local planning authority to the Council exercising planning powers under the 1990 Act.

12 LIABILITIES

12.1 Other than in relation to the continuing obligations of an RSL in paragraph 5 of Part 4 and paragraphs 8 and 10 of Part 7 of the Third Schedule, and of a mortgagee in paragraph 5 of Part 6 and paragraph 5 of Part 7, no person shall be liable for any breach of any of the planning obligations or other provisions of

this Agreement after parting with their entire interest in the Land but without prejudice to liability for any subsisting breach arising before parting with that interest or in parting with that interest.

12.2 The covenants contained in this Agreement shall not be enforceable against any individual owner-occupier or tenant of a Dwelling save for the provisions relating to Affordable Housing set out in the Third Schedule which shall, subject to the provisions of clause 16, be enforceable against Discounted Sale Owners, Shared Owners and Shared Equity Owners.

12.3 The covenants contained in this Agreement shall not be enforceable against a statutory undertaker after the transfer of statutory apparatus by the Owner to the statutory undertaker for the purposes of its undertaking.

13 DISPUTE RESOLUTION

In the event that any difference or dispute arises between the parties in connection with their respective rights duties liabilities or obligations under or by virtue of this Agreement (including sums of money and the construction of this Agreement) then such difference or dispute shall be referred to for determination by an appropriately qualified independent expert (of not less than 10 (ten) years standing) experienced in the relevant matter ("**the Expert**") to be agreed between the parties or in default nominated on the application of any party by the President (or other available officer able to make such appointment) of RICS PROVIDED THAT the provisions of this clause shall not prejudice prevent or delay the right of any party to seek the resolution of any matter relating to this Agreement by the Courts and/or in accordance with Section 106(6) of the 1990 Act.

14 DECLARATIONS

If any of the terms obligations and/or covenants in this Agreement or the application thereof to any party or circumstances shall to any extent be invalid or unenforceable the same shall be severable from the remainder of this Agreement and the remainder of this Agreement or the application of such terms obligations and/or covenants to parties or circumstances other than as to which such terms obligations and/or covenants is held invalid or unenforceable shall not be

affected thereby and each of the other terms obligations and/or covenants of this Agreement shall be valid and be enforceable to the full extent permitted by law.

15 NOTICES

15.1 Any notice or other written communication shall be validly served if delivered to the relevant party by hand or if sent by ordinary first class post or recorded delivery post:

15.1.1 in the case of the Council at the Guildhall, Wrexham LL11 1AY or such other address as shall be notified in writing to the Owner from time to time;

15.1.2 in the case of the Owner to be addressed to Law Department and Real Estate Department at the address given in this Agreement or such other address as may be notified in writing to the Council from time to time; and

15.1.3 in the case of the Chargee at the address given in this Agreement or such other address as may be notified in writing to the Council from time to time.

15.2 Any notice or other written communication to be given by the Council shall be deemed valid and effectual if on its face it is signed on behalf of the Council by an officer or duly authorised signatory.

16 MORTGAGEES

The provisions of the Third Schedule (except for paragraph 5 of Parts 6 and 7 thereof) shall not be binding on:

16.1 a mortgagee in possession of an Affordable Housing Unit or any receiver appointed by such mortgagee (except a purchaser which is an RSL) PROVIDED THAT:

16.1.1 such mortgagee or receiver shall first have used all reasonable endeavours over a period of 3 (three) months in consultation with the Council's Head of Housing to dispose of the Affordable Housing to an RSL or otherwise in accordance with the Third Schedule; and

16.1.2 the Council's Head of Housing shall have certified in writing (such certification not to be unreasonably withheld or delayed) that they are satisfied that the mortgagee has without success used all reasonable endeavours to dispose of the Affordable Housing to an RSL or otherwise in accordance with the Third Schedule, over a 3 (three) month period;

- 16.2 any leaseholder of a Shared Ownership Unit who has Staircased out to 100% or their mortgagee or chargee or successor in title; or
- 16.3 any occupier of a Social Rented Housing Unit who has exercised their statutory right to buy or acquire and their mortgagees and successors in title.

17 NON-PROHIBITION ON DEVELOPMENT

Nothing in this Agreement shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Agreement.

18 COUNCIL'S CONSENT OR APPROVAL

Where the agreement, approval, consent or expression of satisfaction is required by the Owner or the Chargee from the Council under the terms of this Agreement such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the Council by the Head of 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.

19 INDEXATION AND INTEREST

- 19.1 Any sum to be paid under this Agreement shall be increased by an amount equivalent to the increase in the Index from the date of this Agreement until the date such sum is due and payable.
- 19.2 If any payment due under this Agreement is paid late the Owner will pay Interest thereon on a day to day basis from the date the payment is due to the date when such payment is made.

20 JURISDICTION

- 20.1 This Agreement is governed by and interpreted in accordance with the laws of England and Wales as they apply in Wales.
- 20.2 The Courts of England and Wales are to have non-exclusive jurisdiction in relation to any disputes between the parties arising out of or related to this Deed. This clause operates for the benefit of the Council, who retains the right to sue

the Owner and the Chargee and enforce any judgment against the Owner and the Chargee in the courts of any competent jurisdiction.

EXECUTED as a deed by the parties on the day and year first hereinbefore appearing.

FIRST SCHEDULE

Public Open Space and Play Area

1. Not to Commence Development or allow the Commencement of Development until:
 - 1.1 the proposed POS Scheme, Play Area Scheme and Management Plan have been submitted to and approved in writing by the Council;
 - 1.2 details of the proposed Management Company including its corporate structure, directors and officers, proposed articles of association and the mechanism of ensuring that the Management Company has sufficient funds to enable it to implement and complete the Management Plan and Play Area Scheme have been submitted to and approved in writing by the Council; and
 - 1.3 the Management Company has been incorporated in accordance with the details approved by the Council pursuant to paragraph 1.2 above.
2. To submit to the Council certified copies of the articles of association and certificate of incorporation of the Management Company within 4 (four) weeks of its incorporation.
3. On the first disposal of each Dwelling to require the purchasers thereof and their successors in title to become members of the Management Company with a view and to the intent that they can influence and contribute to the compliance with the obligations set out in this Schedule and to procure that a restriction is entered on the proprietorship register of each individual Dwelling in the following form:

"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate is to be registered without a certificate signed by a conveyancer that the provisions of paragraph 3 of the First Schedule of an Agreement dated [] made between (1) Wrexham County Borough Council (2) Prospect Estates Limited and (3) Svenska Handelsbanken AB (Publ) have been complied with."

4. To pay to the Management Company a fair and reasonable proportion (with the intention that the sum of all contributions from the Dwellings on the Land shall equal 100%) of the outgoings of the Management Company incurred in complying with the relevant obligations set out in this Schedule or to pay to the Management Company such other funding as may have been identified and approved in accordance with paragraph 1.2 above.
5. To lay out the Play Area Land and construct and complete the Play Area in accordance with the approved Play Area Scheme prior to Practical Completion of 50% of the Dwellings.
6. To lay out the Public Open Space and make it available for public use strictly in accordance with the approved POS Scheme including the timetable for implementation and completion approved as part thereof.
7. Not to Occupy 60% of the Dwellings until it has completed a freehold transfer of the Public Open Space and the Play Area Land to the Management Company and certified copies of the transfer and enabling Management Company board minute and resolution have been submitted to the Council in evidence thereof.
8. To provide in the transfer of the Public Open Space and the Play Area Land a covenant in the following terms:

"The Transferee hereby covenants in fee simple in perpetuity to observe and perform the covenants agreements obligations and stipulations contained or referred to in the First Schedule of an Agreement dated [] made between (1) Wrexham County Borough Council (2) Prospect Estates Limited and (3) Svenska Handelsbanken AB (Publ) AND to observe and perform the requirements of the Management Plan referred to therein."
9. To maintain and manage the Public Open Space and the Play Area Land in perpetuity in accordance with the Management Plan, the Planning Permission and this Agreement.
10. Not to use the Public Open Space for any purpose whatsoever other than as public open space for the benefit of the Development being landscaped and open

grassed areas nor cause, permit or allow any structures (other than play equipment erected on the Play Area in accordance with the Play Area Scheme) or other obstructions whatsoever to be erected within the Public Open Space or deposit any waste or alter ground levels or light fires within the Public Open Space.

11. Not to affix to any trees on the Land any items or structures likely to occasion damage to any such trees.

SECOND SCHEDULE

Education Contribution

1. To pay the Education Contribution to the Council in the following instalments:
 - 1.1 25% (twenty five per cent) prior to Occupation of 25% of the Dwellings;
 - 1.2 a further 25% (twenty five per cent) prior to Occupation of 50% of the Dwellings;
 - 1.3 a further 25% (twenty five per cent) prior to Occupation of 75% of the Dwellings;
 - 1.4 the final 25% (twenty five per cent) prior to Occupation of 90% of the Dwellings.
2. Not to Occupy or permit the Occupation of the percentages of Dwellings referred to in paragraphs 1.1 to 1.4 (inclusive) until the corresponding instalment of the Education Contribution has been paid to the Council in full.

THIRD SCHEDULE

Affordable Housing

Part 1 – General Obligations

1. To identify and submit details of the proposed Nominated RSL to the Council prior to submission of an application for Reserved Matters Approval.
2. Upon receiving written notice from the Council that the details of the proposed Nominated RSL submitted under paragraph 1 above are approved, to agree the proposed Affordable Housing Scheme with the Nominated RSL and to submit to the Council for approval an Affordable Housing Scheme providing for no less than 25% (twenty-five per cent) of the Dwellings to be Affordable Housing Units prior to Commencement of Development.
3. Not to Commence Development until the proposed Affordable Housing Scheme has been approved in writing by the Council.
4. To design and subsequently construct the Affordable Housing Units in accordance with the approved Affordable Housing Scheme and the Development Requirements.
5. Prior to the Commencement of Development to provide the Council's Head of Housing with the following details in so far as they are known for each Affordable Housing Unit:
 - a) postal address;
 - b) gross and net floor area;
 - c) anticipated date of Practical Completion; and
 - d) plans indicating location, elevations and internal layout.
6. Following receipt of the decision notice confirming the grant of the Planning Permission, to approach the Nominated RSL as soon as reasonably practicable and to pursue negotiations with all due diligence in order to comply

with the obligations contained in this Agreement and to offer the Affordable Housing Units (other than those designated as Discounted Sale Units and Shared Equity Units) for sale to the Nominated RSL on terms that have due regard to the restrictions affecting such Affordable Housing Units contained in this Agreement.

7. Following a written request from the Council to provide to the Council such information concerning the progress of negotiations for Affordable Housing Disposals with the Nominated RSL or Discounted Sale Disposals/Shared Equity Disposals to Eligible Persons (as appropriate) as shall reasonably be required by the Council.
8. In the event that a transfer of the Affordable Housing Units (other than those designated as Discounted Sale Units and Shared Equity Units) to the Nominated RSL is unable to be completed despite the Owner having used its best endeavours to achieve such transfer, to identify and submit details of an alternative RSL to the Council and upon approval of those details to pursue negotiations with that RSL with a view to completing a transfer of the Affordable Housing Units (other than those designated as Discounted Sale Units and Shared Equity Units) to that RSL.
9. Not to dispose of the Affordable Housing Units other than to an RSL by way of an Affordable Housing Disposal or to an Eligible Person by way of a Discounted Sale Disposal or a Shared Equity Disposal in accordance with Parts 2 to 8 (inclusive) of this Schedule 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 Agreement (both parties acting reasonably and without delay in agreeing such terms) provided that such agreement is legally secured by way of a supplemental agreement entered into with the Council under Section 106 of the 1990 Act.
10. Not to use the part(s) of the Land on which the Affordable Housing Units are to be constructed for any purpose other than the provision of Affordable Housing in accordance with this Agreement and the approved Affordable Housing Scheme.

11. To keep such full and proper records as are reasonably required to demonstrate to the Council strict compliance with the approved Affordable Housing Scheme and the obligations contained in this Schedule and any agreement supplemental agreement.
12. Not to allow the Occupation of more than 50% (fifty per cent) of the Market Units for each Phase (with the number of Affordable Housing Units required for each Phase adjusted to reflect any excess number of Affordable Housing Units created in a prior Phase) until the Affordable Housing Units for that Phase have been constructed, are ready for Occupation and have been disposed of by way of an Affordable Housing Disposal to the Nominated RSL or such other RSL approved pursuant to paragraph 8 above and/or by way of Discounted Sale Disposals/Shared Equity Disposals to Eligible Persons.
13. To ensure that the total consideration payable by an RSL for the construction and transfer of each Affordable Housing Unit shall be no more than 58% (fifty-eight per cent) of the Acceptable Cost Guidance.
14. To enter a restriction on the title register of each of the Affordable Housing Units at the Land Registry in the following terms:

"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate is to be registered without a certificate signed by a conveyancer that the provisions of the Third Schedule of the Agreement dated _____ between (1) Wrexham County Borough Council (2) Prospect Estates Limited and (3) Svenska Handelsbanken AB (Publ) have been complied with."
15. On each Shared Equity Disposal, Shared Ownership Disposal and Discounted Sale Disposal the owner thereof shall pay to the Council or the RSL nominated by the Council a sum equivalent to 0.5% of the market value of the percentage share purchased by an Eligible Person on completion of that sale, to cover the costs of the Council or the RSL nominated by the Council in administering the Low Cost Home Ownership Register.

Part 2 – Discounted Sale Housing

1. Not to dispose of any Affordable Housing Unit which is provided as Discounted Sale Housing other than by way of a Discounted Sale Disposal to an Eligible Person.
2. Not to dispose of a Discounted Sale Unit to an Eligible Person for a price which exceeds 75% (seventy five per cent) of the Market Value.
3. No Discounted Sale Owner shall transfer a Discounted Sale Unit without first having notified the Council's Housing and Public Protection Department (or any successor to that department) in writing of their intention to dispose of the Discounted Sale Unit (such notice being referred to elsewhere in this Part 2 as a **"Disposal Notice"**).
4. The Council may within 20 (twenty) Working Days of receipt of a Disposal Notice notify the Discounted Sale Owner in writing of the identity of an RSL.
5. The RSL(s) may within 20 (twenty) Working Days of receipt by the Council of the Disposal Notice notify the Discounted Sale Owner in writing of the RSL's intention to purchase the Discounted Sale Unit (such notice being referred to elsewhere in this Part 2 as a **"Purchase Notice"**).
6. If an RSL serves a Purchase Notice within the said 20 (twenty) Working Day period then the Discounted Sale Owner shall attempt to agree the Market Value of the Discounted Sale Unit (the **"Purchase Price"**) with the RSL and in the event that the Purchase Price has not been agreed within 15 (fifteen) Working Days of the date of receipt by the Discounted Sale Owner of the Purchase Notice then either the Discounted Sale Owner or the RSL may refer the calculation of the Purchase Price to an expert pursuant to the terms of clause 13 of this Agreement.
7. If:
 - 7.1 the Council has failed to notify the Discount Sale Owner of the identity of an RSL within the period specified in paragraph 4 of this Part 2; or

- 7.2 the RSL has failed to serve a Purchase Notice within the period specified in paragraph 5 of this Part 2; or
 - 7.3 the RSL has failed (through no fault of the Discounted Sale Owner) to complete the transfer of the Discounted Sale Unit within 20 (twenty) Working Days of the agreement or determination of the Purchase Price,
- then the Discounted Sale Owner may transfer their interest in the Discounted Sale Unit to an Eligible Person in accordance with the provisions of this Part 2.
8. Not to sub-let or let any Discounted Sale Unit.

Part 3 – Social Rented Housing

1. Not to dispose of the Affordable Housing Units which are Social Rented Housing Units other than in accordance with the provisions of this Part 3.
2. No Social Rented Housing Unit shall be:
 - 2.1 let to or Occupied by persons other than Eligible Persons; and
 - 2.2 let other than by way of an assured or assured short hold tenancy (or such statutory form of tenancy as may replace such form of tenancies from time to time) as Social Rented Housing.

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 by an RSL 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 Freeholder RSL;
 - 2.2 a covenant whereby a Shared Owner who wishes to dispose of their interest in the Shared Ownership Unit (and where the Freeholder RSL

does not wish to exercise the right of pre-emption referred to in paragraph 2.1 of this Part 4) 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 4) 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 20 (twenty) weeks and no Eligible Person has exchanged unconditional contracts for the purchase of the said Shared Ownership Unit within that period then PROVIDED THAT:
 - 5.1 such Shared Ownership Unit has been offered for sale pursuant to paragraph 2.1 above and to an RSL or RSLs nominated by the Council and such RSL(s) have not exchanged unconditional contracts to buy such Shared Ownership 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 as confirmed in writing by the Freeholder RSL as being agreed; and
 - 5.3 the Shared Owner has reasonably demonstrated to the Council and the Freeholder RSL that it has acted reasonably and 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 Freeholder RSL consents to such sale) free from the restrictions contained in this Schedule PROVIDED FURTHER THAT where an Eligible Person or an RSL has been identified as a potential purchaser of the Shared Ownership Unit within the said 20 (twenty) week period the Shared Owner shall

use all reasonable endeavours to progress such sale and shall not dispose of the Shared Ownership Unit in the open market unless such potential sale becomes abortive.

6. Following any sale of a Shared Ownership Unit on the open market pursuant to paragraph 5 above, the Council consents to the Shared Owner removing the restriction set out at paragraph 14 of Part 1 of this Schedule from the title of the relevant Shared Ownership Unit at the Land Registry.

Part 5 – Intermediate Rented Housing

1. Not to dispose of any Affordable Housing Units which are provided as Intermediate Rented Housing other than in accordance with the provisions of this Part 5.
2. No Affordable Housing Unit shall be:
 - 2.1 let to or occupied by persons other than Persons in Housing Need who are Eligible Persons;
 - 2.2 let other than as Intermediate Rented Housing; or
 - 2.3 let other than 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).

Part 6 – 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. 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 the Equity Value of the Shared Equity Unit without the written consent of the Council or the Nominated RSL (as appropriate) PROVIDED 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. 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 this Part 6.
5. In the event that the Shared Equity Unit is sold by a mortgagee in possession without the provisions of this Agreement being binding upon it (pursuant to clause 16 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 the Council may determine, the Redemption Money within 1 (one) week of completion of the sale of the Shared Equity Unit and provide the Council's Head of Housing 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 6 shall only apply to the initial Shared Equity Disposal of a Shared Equity Unit.
8. In the event that a Shared Equity Unit has been actively marketed for sale for a period of at least 6 (six) months from the date such Shared Equity Unit becomes available for Occupation and no Eligible Person has exchanged unconditional contracts for the Shared Equity Unit within that period AND no RSL has unconditionally contracted to buy such Shared Equity Unit within such period then the Shared Equity Unit may be sold on the open market at Market Value free from the affordable housing restrictions contained in this Schedule PROVIDED THAT within 2 (two) Working Days of legal completion of such sale, a payment of 25% of the sale proceeds ("**the Commuted Sum**") is paid to the Council by the Owners to be used for the provision of Affordable Housing within

the administrative area of the Council within 5 (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 6 (six) month period the Owners shall use all reasonable endeavours to progress such sale and shall not dispose of the Shared Equity Unit on the open market unless such potential sale becomes abortive.

9. If at any time after the fifth anniversary of the receipt by the Council of the Commuted Sum the Owners request in writing then the Council will provide (subject to the Owners 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 (three) calendar months of such request to provide written confirmation that the whole of the Commuted Sum paid by the Owners to the Council pursuant to paragraph 8 above has been expended by the Council or committed towards the designated purposes within 5 (five) years from the receipt by the Council of the Commuted Sum or the relevant part thereof 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.

Part 7 – Shared Equity Housing Subsequent 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. 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 the Equity Value of the Shared Equity Unit without the consent of the Council or the Nominated RSL (as appropriate) PROVIDED 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. No Shared Equity Owner shall transfer their Shared Equity Unit without first having notified the Council or its Nominated RSL (as appropriate) in writing of their intention to dispose of the Shared Equity Unit.
5. In the event that the Shared Equity Unit is sold by a mortgagee in possession without the provisions of this Agreement being binding upon it (pursuant to clause 16 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 within 1 (one) week of completion of the sale of the Shared Equity Unit and provide the Council's Head of Housing 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. In the event that a Shared Equity Unit has been actively marketed for sale for a period of 20 (twenty) weeks and no Eligible Person has exchanged unconditional contracts for the purchase of the Shared Equity Unit within that period then PROVIDED THAT:
 - 7.1 the price at which the Shared Equity Unit has been offered for sale to Eligible Persons is no greater than its Market Value as confirmed in writing by the Nominated RSL as being agreed;
 - 7.2 the Shared Equity Owner has reasonably demonstrated to the Council that it has acted in good faith in considering any offers from Eligible Persons; and
 - 7.3 such Shared Equity Unit has also been offered for sale to the Nominated RSL and any other RSL or RSLs put forward by the Council and that such RSL(s) have not exchanged unconditional contracts to buy such Shared Equity Unit within such period,

then the Shared Equity Unit may be sold on the open market at Market Value free from the affordable housing restrictions contained in this Agreement PROVIDED

FURTHER THAT where an Eligible Person or RSL has been identified as a potential purchaser of the Shared Equity Unit within the said 20 (twenty) week period the Shared Equity Owner shall use all reasonable endeavours to progress such sale and shall not dispose of the Shared Equity Unit in the open market unless such potential sale becomes abortive.

8. In the event that a Shared Equity Unit is sold on the open market pursuant to paragraph 7 above the Shared Equity Owner shall pay the Redemption Money to the Council or the Nominated RSL (as appropriate) to redeem the Second Charge within two days of legal completion PROVIDED THAT such funds received by the Council or the Nominated RSL (as appropriate) shall be used for the provision of Affordable Housing within the administrative area of the Council as agreed between the Council and the Nominated RSL within 5 (five) years of receipt.
9. Following receipt by the Council or Nominated RSL of the Redemption Money in the circumstances set out in paragraphs 5, 7 or 10 hereof the Council consents to the owner of the Shared Equity Unit removing the restriction set out at paragraph 14 of Part 1 of this Schedule from the title of the relevant Shared Equity Unit at the Land Registry.
10. Nothing in this Part 7 shall prevent or prohibit a Shared Equity Owner from paying the Redemption Money to the Council or the Nominated RSL (as appropriate) in order to discharge the Second Charge PROVIDED THAT the Redemption Money received by the Council or the Nominated RSL (as appropriate) shall be applied for the provision of Affordable Housing within the administrative area of the Council as agreed between the Council and the nominated RSL within 5 (five) years of receipt.
11. It is acknowledged that where a Shared Equity Owner disposes of a Shared Equity Unit to an RSL pursuant to paragraph 7 above the RSL shall not be required to enter into a Second Charge and may use or dispose of such Shared Equity Unit (as appropriate) to provide Affordable Housing in accordance with any of the methods of doing so permitted by this Agreement.
12. The provisions of this Part 7 shall only apply to the sale of Shared Equity Housing after an initial Shared Equity Disposal.

Part 8 – Definition of an “Eligible Person”

1. An Eligible Person means a Person in Housing Need identified from the Low Cost Home Ownership Register or the Council's housing waiting list (as appropriate) who:
 - 1.1 has resided personally or who has had a Close Family Connection in the Community Council Area for a continuous period of 1 (one) year immediately preceding the proposed Occupation of an Affordable Housing Unit; or
 - 1.2 is in permanent full-time employment at a location within the Community Council Area and has been in such employment for a period of at least 6 (six) months immediately preceding the proposed Occupation of an Affordable Housing Unit; or
 - 1.3 has previously resided in the Community Council Area for a continuous period of at least 5 (five) years; or
 - 1.4 has previously had a Close Family Connection in the Community Council Area for a continuous period of at least 5 (five) years; or
 - 1.5 has previously been in employment in the Community Council Area for a continuous period of at least 5 (five) years.
2. PROVIDED THAT if:
 - 2.1 no person meeting the requirements in paragraph 1 above can be identified from the Low Cost Home Ownership Register or the Council's housing waiting list (as appropriate); and
 - 2.2 a period of not less than 4 (four) weeks has elapsed after an advertisement seeking a person who meets the requirements of paragraph 1 has been placed in a newspaper circulating in the Wrexham locality PROVIDED THAT the Owner will only be responsible for placing such advertisement on the first disposal of the relevant Affordable Housing Units,

then the references in paragraph 1 of this Part 8 to the Community Council Area shall be treated as if they included references to the administrative areas of the Penycae Community Council, Llangollen Rural Council, Chirk Community Council and Ruabon Community Council and any person who satisfies one of the said criteria by virtue of such treatment shall be regarded as an Eligible Person for the purposes of this Agreement.

3. PROVIDED FURTHER THAT where no person who qualifies or who can be regarded as qualifying as an Eligible Person pursuant to paragraph 2 of this Part 8 can be identified from the sources mentioned therein after (in the case of the initial disposal of an Affordable Housing Unit) at least one advertisement has been placed in a newspaper circulating in the locality then after a period of not less than 8 (eight) weeks the references in paragraph 1 of this Part 8 to the Community Council Area shall be treated as if they included reference to the administrative area of the Council and any person who satisfies the said criteria by virtue of such treatment shall be regarded as an Eligible Person for the purposes of this Agreement.
4. PROVIDED FURTHER THAT if no applicant qualifies under paragraph 3 of this Part 8 within 12 (twelve) weeks, then any other person who in the reasonable opinion of the Council having consulted the relevant RSL is a Person In Housing Need shall be treated as an Eligible Person.

APPENDIX 1

Local Planning Guidance Note No. 28 – Affordable Housing

This is one of a series of local planning guidance notes amplifying local planning proposals in a clear and concise format with the objective of improving application standards.



28. AFFORDABLE HOUSING

This leaflet provides a guide to supplementary information required in connection with applications for Affordable Housing.

Introduction

This guidance note amplifies Unitary Development Plan policies aimed at securing affordable housing through the planning system. It will form a material consideration in the determination of all relevant planning applications.

This revised guidance note was adopted by the Council in February 2013, following extensive public consultation.

Background

Some local people have genuine difficulties in securing affordable housing. The problems associated with affordability are caused by a range of factors - influencing supply and demand. Supply has become more restricted due to a significant decline in the numbers and availability of council housing, rises in house prices, accessibility of mortgage finance and limited supply and relatively high rent levels in the private rented sector. At the same time demand has increased due to newly forming and smaller households, growing numbers of older people and inward migration. The planning system is one of the

most important mechanisms to secure affordable housing to meet the needs of those unable to compete in the local housing market.

Planning Policy Context

The Wrexham Unitary Development Plan (UDP) sets the local planning policy context for the delivery of affordable housing in the County Borough. This Local Planning Guidance Note amplifies the following UDP policies:

Policy H7 requires an element of affordable housing to be provided on developments of 25 or more dwellings. The Council will normally expect that 25% of the total site capacity to be provided as affordable housing. It will not be acceptable to deliberately sub-divide or phase the total development in an attempt to avoid this threshold.

Policy H7: Affordable Housing

**Policy H8: Affordable Housing
(Rural Exception Sites)**

In rural areas where it can be demonstrated that local affordable housing needs cannot be met within existing settlement limits policy H8 allows for up to 5 affordable homes to be accommodated on rural exception sites located on the edge of settlements provided the site forms a logical extension to settlement pattern and the proposed development reflects the surrounding townscape and landscape. Such sites are not intended for individual self-build homes or for cross-subsidy schemes where dwellings sold at full market value to subsidise the provision of affordable housing elsewhere.

What Is Affordable Housing?

Affordable housing is defined by the Welsh Government in Technical Advice Note 2: Planning and Affordable Housing as: housing where there are secure mechanisms in place to ensure that it is accessible to those who cannot afford market housing, both on first occupation and for subsequent occupiers.

Affordable housing includes:

Social rented housing: Housing provided by local authorities and Registered Social Landlords (RSLs)

Intermediate Housing: Housing where the prices or rents are above those of social rented properties but are below market house prices or rents. Options for intermediate housing can include:

Intermediate Rent: Properties purchased at a discount by an RSL and let at a rent that is greater than social rent but less than market rent levels on an assured or assured short hold tenancy.

Shared Equity: Properties where an RSL owns a percentage of a property and the remainder is purchased by the occupier. If the occupier subsequently sells the property the RSLs receives a share of the sale price equivalent to its share of the property. It may also possible for the occupier to buy part or all of the RSL's share over time. The RSL's share of the sales proceeds is recycled to support the provision of affordable housing elsewhere.

The Council expects affordable housing to be delivered through planning obligations, provided at nil public subsidy. However Social Housing Grant, which is provided by the Welsh Government, may be available for some developments. Developers are advised to contact Affordable Housing Officer prior to the submission of a formal planning application to discuss the availability of Social Housing Grant.

The affordable housing tenures required for individual developments should reflect local housing need. It is likely that the Council will seek to secure a mix of social rent and intermediate affordable dwellings in many cases.

Affordable Housing Need And Delivery

The Council relies on housing needs surveys to determine the amount of affordable housing required across the County Borough. These are updated regularly and developers should contact the Council to ensure that their development proposals take account of the most up to date information (see contact details below).

Affordable housing required under policy H7 should be provided, in order of preference, in the following ways:

1. **On-site provision** as an integral part of the development proposed. The Council will normally expect affordable housing to be provided on site however off site provision or the payment of commuted sums in lieu of on or off site provision may be considered where:

- it has been demonstrated that on-site provision is unfeasible; or
- it will better meet the affordable housing needs of the area.

2. **Off site provision** should be on land in the same Community Council area as the application site or on land in an area of high demand for affordable housing as identified by the Affordable Housing Officer.

3. **Commuted sums** will only be accepted where it has been demonstrated that the developer, either by themselves or in partnership with an affordable housing provider such as an RSL is unable to deliver on or off site provision.

The commuted sum will need to be paid prior to the completion of the facilitating development and will be required to reflect the equivalent provision which should have been provided on the site based on the market value of the dwellings being built. The Council's priorities for spending commuted sums will be (in order of priority):

- To support delivery of the Wrexham County Borough Affordable Housing Project;
- To support direct provision of affordable housing elsewhere in Wrexham County Borough, either with or without Social Housing Grant support, in partnership with RSLs.
- To support shared equity schemes in partnership with RSLs.

In many cases the affordable housing referred to in section 3 above will result in a fraction of a dwelling. For example 25% of 25 dwellings = 6.25 dwellings. Where this occurs the Council will expect the fraction to be provided as a commuted sum calculated as a percentage of the market value of the dwellings being built on the site.

Viability: Only in cases where the viability of the whole development is genuinely threatened will the affordable housing requirements reduced. All costs associated

with the development (including requirements for public open space, contributions to schools and affordable housing) should be taken into account at the negotiation stage of land acquisition and be reflected in the purchase price of the site. Developers will be expected to provide the Council with a full viability assessment when proposing to provide affordable housing at a rate less than 25% of the total site capacity or when seeking to vary the affordable housing commitments of existing planning permissions

Design And Management

The location and design of all affordable dwellings must be shown on the plans submitted with a full planning or reserved matters application. New affordable housing must:

- reflect identified local need in terms of tenure and type of property;
- in the case of housing supported by Social Housing Grant, comply with Welsh Government's Development Quality Requirements in terms of floor space for the property type;
- be visually integrated into a development in terms of design and site layout;
- be distributed throughout a development and not result in all of the affordable housing being concentrated in one part of the site;
- be subject to a legal agreement made under Section 106 of the Town and Country Planning Act 1990 to ensure affordability in perpetuity (see below).



Permitted development rights may be removed from affordable houses in order to maintain the properties at a size likely to ensure they remain affordable - particularly for rural exception schemes delivered in accordance with policy H8. from affordable houses in order to maintain the properties at a size likely to ensure they remain affordable - particularly for rural exception schemes delivered in accordance with policy H8.

Section 106 Legal Agreements

Section 106 agreements (S106) will be used to secure affordable housing provision and/or commuted sums on all relevant sites. The following heads of terms will be common to all S106 agreements involving affordable housing:

- Type, tenure and mix of affordable housing units proposed (either on or off site);
- The timing of the delivery of the affordable homes in relation to the delivery of the general market housing, including reference to any phasing of development;
- Arrangements for the future management, ownership and retention of the property at an affordable price;
- Nomination rights for the Council to put forward people from the council's housing waiting list and affordable housing register for at least 75% of the affordable dwellings as prospective tenants/purchasers of the dwellings;
- Details of the commuted sum and timing of commuted sum payments at these levels of aid.

Useful Contacts

Pennaf Housing Group
72 Fford William Morgan
St. Asaph Business Park
Denbighshire
LL17 0JD
Tel: 01745 538300
www.pennaf.co.uk

Cymdeithas Tai Clwyd
54 Stryd Y Dyffryn
Denbigh
Denbighshire
LL16 3 BH
Tel: 0345 2303140
www.taiclwyd.com

Wales & West Housing Association
3 Alexandra Gate
Ffordd Pengam
Tremorfa
Cardiff
CF24 2 UD
Tel: 0800 052 2526
www.wwha.net

contact

Community Wellbeing and Development
16 Lord Street, Wrexham LL11 1LG

Telephone: 01978 292016
E-mail: planning@wrexham.gov.uk

Adopted April 2005 Updated April 2013

APPENDIX 2

Local Planning Guidance Note No. 27 – Developer Contributions to Schools



Developer Contributions to Schools

This is one of a series of local planning guidance notes designed to amplify policy GDP2 in the Wrexham Unitary Development Plan (UDP) and identifies the circumstances and locations in which developer contributions to the provision of education facilities, such as additional classrooms, will be necessary. The (UDP) was adopted by the Council in February 2005 and this note is a material consideration in the determination of all relevant planning policies.

Education Planning in Wrexham

For education planning purposes links between certain infant and junior schools and between junior/primary schools and secondary schools in groups throughout the County Borough are maintained. The Council's School Admissions Policy grants parental preference, unless to do so would prejudice the efficient and effective use of its resources. Over 96% of pupils are allocated places in accordance with their parents' first preference.

Background to this Guidance Note

Local authorities find themselves under increasing financial pressure to meet the educational needs arising from residential development. Cumulatively, even relatively small developments can have a significant financial impact on the provision of school places. Welsh Office Circular 13/97 'Planning Obligations' makes provision for developer contributions to offset the negative consequences of development provided there is guidance on this in the local development plan. The Wrexham UDP provides this guidance through Policy GDP2 on Capacity of Infrastructure & Community Facilities.

The rest of this note sets out further information on how this Policy will be applied.



Criteria

Any developer contribution will be based on the following considerations:

- It will only apply to proposed developments of four or more residential units, whether by new build, conversion or changes of use. Developments should not be deliberately sub-divided or phased in an attempt to avoid this threshold. Where the development has been split or phased, the resulting cumulative number of dwellings will be used to calculate the financial contribution.
- It will only apply to schools deemed to have a shortage of places taking into account other residential developments within the area and after addition of the extra pupils likely to be generated by the proposed development.
- The number and type of proposed residential units (large or small houses, bungalows or apartments). More detail is given in Table 1.
- The likely ratio of pupils per housing unit applicable to the appropriate school or schools at both primary and secondary level.
- The location of the development and likely impact on existing schools. This will be assessed using the same criteria as the Council's Schools Admissions Policy in relation to proximity and feeder schools. A map of school catchment areas is available from the Planning Department.

If the potential pupils generated by the proposed development cannot be accommodated within existing schools then a commuted payment will be calculated by multiplying the additional places required by the pupil cost figure (see Table 1) to produce the commuted sum to be included in the planning obligation. Contributions by way of a release of land for a new school or direct construction may be considered as

Table 1: Cost guidelines

School Type	No. of pupils generated by each 2-3 bed house	Building Cost Multiplier £	Contribution £
Primary 4 - 11 years	0.28	7000	1960
Secondary 11 - 16 years	0.20	10000	2000
Post 16	0.04	12000	480
Totals			
School with 6th Form	0.52		4440
School without 6th Form	0.48		3960

Notes

- Building cost multipliers are based on Department for Education guidelines, pupil allocations and average building cost assessment.
- 1 bedroom and accommodation for the elderly no charge. 2/3 bedrooms standard charge (shown above). 4 + bedrooms plus 20%.
- School Catchment Areas are secondary schools and their feeder primary schools plus current Council policy on pupil proximity to schools.
- School population assessments to be reviewed annually.

Worked example for Johnstown Infants School catchment area

For the development of: -

- 10 - 1 bedroom Units
- 10 - 2 bedroom Units
- 10 - 3 bedroom Units
- 10 - 4 bedroom Units

Charges at primary school level

10 - 1 bedroom	no charge
10 - 2 bedroom	standard charge = £19600
10 * £1960	
10 - 3 bedroom	standard charge = £19600
10 * £1960	
10 - 4 bedroom	standard charge +20% = £23520
10 * £2352	

Charges at secondary school level

No shortage, no charge.



an alternative to payment of a commuted sum at the Council's discretion.

Timing of contributions

Any built educational provision will need to be completed to reflect the planned occupation of the homes. For larger developments phased payment will be considered to fit construction and occupation programmes.

Cost guidelines

The following guidelines are designed to give prospective developers an idea of the possible implications of their proposals:

- Every 100 houses produces around 28 primary age pupils and around 20 secondary age pupils.
- For developments that generate 100 pupils and above consideration will be given to a new school on a new site dependent on location and future growth potential of the area and the applicant will be expected to contribute in proportion to the number of school places the development generates.
- The Council will specify the nature of the works or the area which the contribution will finance, which may include a completely new school.
- Where a contribution is required, a draft Section 106 Agreement should accompany the planning application. Wrexham County Borough Council's Section 106 templates are available on request from the Planning department.



Schools where contributions are likely to be required

The list below shows schools where contributions are likely to be required. At all other schools there is likely to be some spare capacity to accommodate some development. This is not a definitive list, but a guide to developers.

Secondary schools

Bryn Alyn, Gwersyllt	(11 to 16 years)
Maelor, Penley	(11 to 18 years)
Darland, Rossett	(11 to 18 years)

Primary schools

Gwersyllt - Bryn Alyn School Catchment

Brymbo Aided, St Mary's
Brynteg C.P.
Gwersyllt C.P.
New Broughton C.P., Ysgol
Penrhyn
Pentre Broughton C.P.
Tanyfron C.P.

Llangollen - Dinas Bran (Denbighshire) School Catchment

No schools

Penley - Maelor School Catchment

Hanmer
Penley Madras
Marchwiell C.P.

Rhosllanerchrugog - Y Grango School Catchment

Johnstown Infants
Johnstown Junior
Penycae C.P.

Rossett - Darland School Catchment

Gresford
Marford C.P.

Ruabon - Rhiwabon (11 to 18 years) School Catchment

Acrefair C.P.
Ruabon Maes y Llan C.P.
Ruabon St. Mary's

Wrexham - Clywedog School Catchment

Bwlchwyn C.P.
Marchwiell C.P.
Rhostyllen C.P.
Victoria C.P.
St Giles

Wrexham - St. Joseph's School Catchment

St. Mary's

Wrexham - Rhosnesni School Catchment

Acton Park C.P.
Alexandra C.P.
Barkers Lane C.P.
Borras Park
Rhosddu C.P.

Wrexham - Morgan Llwyd (11 to 18 years) School Catchment

Wrexham Plas Coch C.P.

Wrexham County Borough - School Location

SECONDARY SCHOOLS

- 1 Darland High School
- 2 Bryn Alyn High School
- 3 Rhosnesni High School
- 4 Ysgol Morgan Llwyd
- 5 St Josephs RC High School
- 6 Ysgol Clywedog
- 7 Ysgol y Grango
- 8 Ysgol Rhiwabon
- 9 Ysgol Maelor

OTHER SCHOOLS

- 10 Groves
- 11 St Christophers/Ysgol Powys

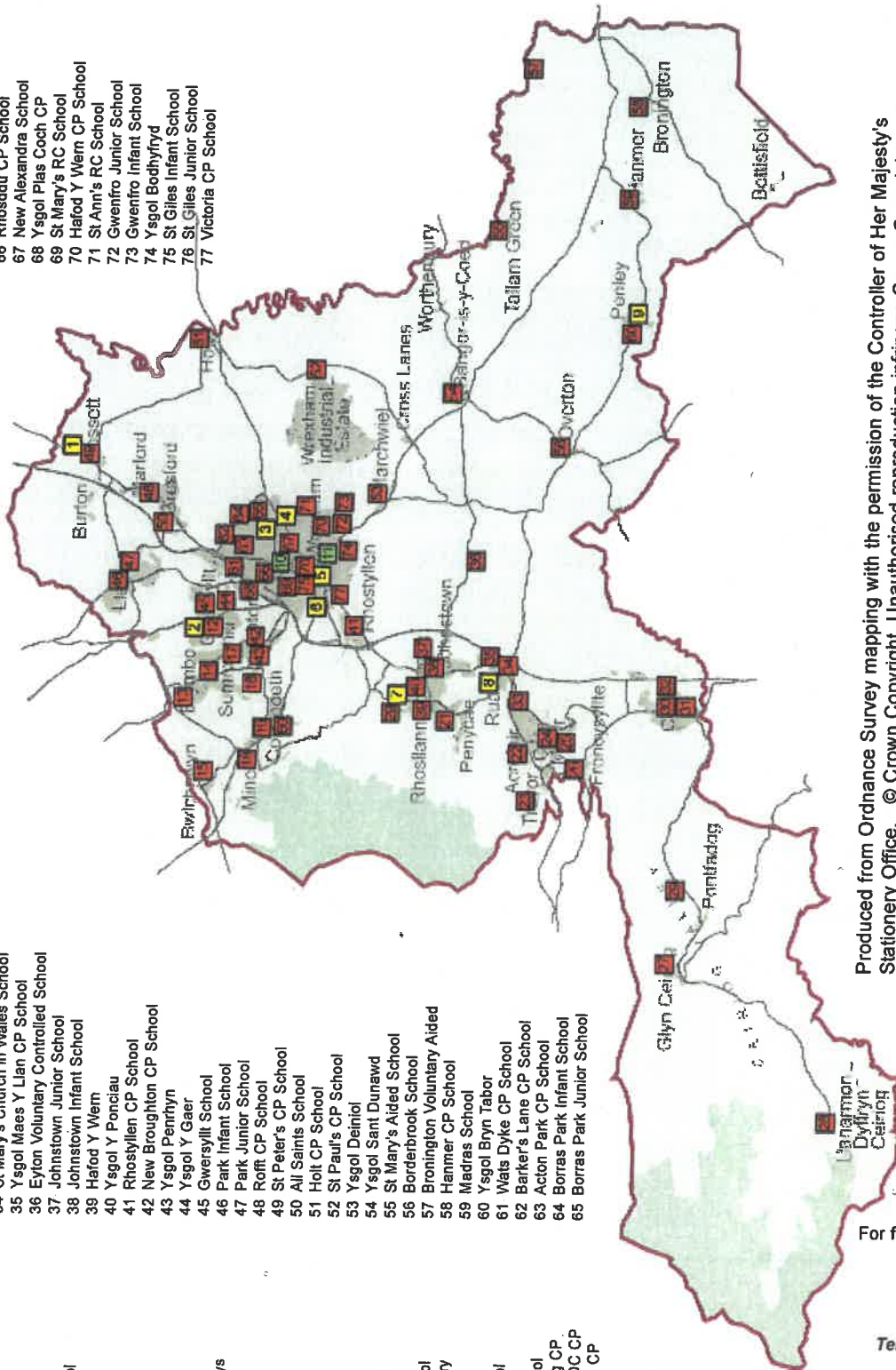
PRIMARY SCHOOLS

- 12 Ysgol Heulan
- 13 Brynbo Aided School
- 14 Black Lane CP School
- 15 Bwlchgwyn CP School
- 16 Brynteg CP School
- 17 Tanyfron CP School
- 18 Minera Voluntary Aided
- 19 Penygelli CP School
- 20 Ysgol ID Hoosen CP School
- 21 Penycae Community Primary
- 22 Acrefair CP School
- 23 Garth CP School
- 24 Ysgol Min Y Ddol CP School
- 25 Cein Mawr CP School
- 26 Ysgol Francysyllte CP School
- 27 Ysgol Cynndelw, Glynceiriog CP
- 28 Ysgol Gynradd Llanamnon DC CP
- 29 Ysgol Pontfadog, Llangollen CP
- 30 Chirk Infant School
- 31 Ceirrog Junior School
- 32 Pentre Voluntary Controlled

33 Rhosymedre Community Primary School

- 34 St Mary's Church in Wales School
- 35 Ysgol Maes Y Llan CP School
- 36 Eyclon Voluntary Controlled School
- 37 Johnstown Junior School
- 38 Johnstown Infant School
- 39 Hafod Y Wern
- 40 Ysgol Y Ponclau
- 41 Rhosyllen CP School
- 42 New Broughton CP School
- 43 Ysgol Penrhyn
- 44 Ysgol Y Gaer
- 45 Gwersyllt School
- 46 Park Infant School
- 47 Park Junior School
- 48 Rofft CP School
- 49 St Peter's CP School
- 50 All Saints School
- 51 Holt CP School
- 52 St Paul's CP School
- 53 Ysgol Deiniol
- 54 Ysgol Sant Dunawd
- 55 St Mary's Aided School
- 56 Borderbrook School
- 57 Bronington Voluntary Aided
- 58 Hanmer CP School
- 59 Madras School
- 60 Ysgol Bryn Tabor
- 61 Wats Dyke CP School
- 62 Barker's Lane CP School
- 63 Acton Park CP School
- 64 Borras Park Infant School
- 65 Borras Park Junior School

- 66 Rhosddu CP School
- 67 New Alexandra School
- 68 Ysgol Plas Coch CP
- 69 St Mary's RC School
- 70 Hafod Y Wern CP School
- 71 St Ann's RC School
- 72 Gwenton Junior School
- 73 Gwenton Infant School
- 74 Ysgol Boddyfryd
- 75 St Giles Infant School
- 76 St Giles Junior School
- 77 Victoria CP School



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Adopted March 2004
Revised November 2010

APPENDIX 3

Local Planning Guidance Note No. 10 – Public Open Space in New Housing Development



Public Open Space in New Housing Development

This is one of a series of local planning guidance notes amplifying development plan proposals in a clear format, with the objective of improving design standards. Public open space makes an important contribution to people's quality of life, providing opportunities for informal recreation and enhancing the visual appearance of an area. The proposal and guidelines which follow have therefore been prepared and adopted by the Council to foster a better standard of design and to clarify methods of financing future maintenance costs. By taking note of the advice contained in this leaflet it is hoped that developers will have a better understanding of public open space requirements and funding. These guidelines cannot cover all situations and applicants and agents are advised wherever the circumstances are unusual to discuss their proposals with a planning or landscape officer prior to the formal submission of an application.

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Available in alternative formats

The National Playing Field Standard

The National Playing Fields Association (NPFA) has proposed a standard of 6 acres (2.43 hectares) of public open space per 1000 population comprising:

- 4 acres (1.62 ha) of playing fields. These should be suitable for youth and adult use; facilities include pitches, bowling greens, tennis courts and athletics tracks.

- 1.5 acres (0.61 ha) of informal public open space, such as informal play space and landscaped amenity areas.
- 0.5 acres (0.20 ha) of children's equipped playground facilities.

Local Requirements

A recent survey of public open playing space in Wrexham County Borough revealed that there is a shortage of public open space (particularly playing fields and playgrounds) in the majority of communities when compared with the NPFA standard.

The local Planning Authority is therefore keen to ensure that:

- a) adequate public open space is provided within new housing developments.
- b) developers should enter into legal agreements in order that funding can be provided for the future maintenance of open spaces and play equipment.
- c) exceptionally, in suitable limited cases where new developments are in close proximity to existing council owned play and amenity provision, developers should enter into legal agreements in order that funding can be provided to enhance, upgrade, augment and maintain the existing facilities in lieu of providing provision on site.



In all cases public open space should:

- be well related to dwellings but not so as to cause nuisance to residents (e.g. kicking of balls against a dwelling). Furthermore, location, design, layout and lighting should seek to ensure peace of mind for users and to minimise creating opportunities for vandalism and crime;
- be designed and laid out for easy maintenance;
- be usable. The provision of small pieces of land resembling vacant building plots has little value either in recreational or visual terms and are often difficult to maintain. Of greater value is the provision of one structured and reasonably sized informal open space supplemented, where appropriate, by minor landscaped areas;
- incorporate existing public footpaths or rights of way or establish new public rights of way;
- incorporate and where possible enhance existing site features such as landforms, trees, hedgerows, vegetation, water features and wildlife habitats;
- except in exceptional circumstances, be contained within the site and designed as an integral part of the development. It is essential that the open space contributes to the character of the development and does not represent merely a grassed area tacked onto the development as an afterthought;
- in the case of children's play equipment, should be visible and well located, with safe pedestrian access, to ensure that small children can play in safety. Play equipment and surfaces should be designed and installed to the relevant safety standards, B.S.E.N.1176/1177; and
- be of an acceptable standard of design and layout to enable future maintenance by the Council.

Design Brief

In some instances, particularly where sites have been allocated in the development plan, it may be the case that the Planning Department has produced a design brief for the site indicating the type, contents, position, size etc of the open space required. In these cases it is vital that early discussions between the applicant and the Planning Department are undertaken. This may help to speed up the determination of applications which may otherwise be delayed should the proposals for public open space be deemed unsatisfactory. Irrespective of whether a design brief has been prepared, the Council will look favourably upon any imaginative and innovative schemes which are presented and which broadly satisfy the standards outlined above.

Standard of Provision

The following Council standards will assist in working towards a level of provision of public open space in new housing developments in line with the NPFA standards outlined above.

- Public open space should be provided in all new housing developments at a minimum level of **0.4 hectares per 50 dwellings**, for all schemes of 10 dwellings or more.
- Provision should include an equipped children's play area(s), and/or informal open spaces, and, where the necessary open space requirements is 0.6 hectares or more, a playing field(s).

Off Site Provision and Funding

In suitable developments of less than 20 dwellings the local Planning Authority may agree that there is adequate equipped council owned play and amenity provision in close proximity to the proposed development, which could be used by the new residents rather than having provision supplied on site. The existing provision must be safely and easily accessible, not involving the crossing of main roads. In such cases the developer must enter into a legal agreement with the Council to pay the commuted sum referred to above. This money would then be used to upgrade, enhance, augment and maintain the agreed existing provision.

Financing and Future Maintenance

Developers will be required to maintain the public open space provided on their sites for a period of twelve months from satisfactory completion, and as a condition to any approval, must enter into a legal 'commuted sums' agreement with the Council for the future maintenance of the site, for a ten year period. The current charge is £1000 per dwelling to cover maintenance costs for a ten year period which was set in August 2008.

Where developers would like to increase the number of dwellings at a later stage, the amount of public open space and commuted sum required will be increased accordingly. The commuted sum figure of £1000 per dwelling will be subject to an review, to ensure that it keeps pace with real current costs. It is likely that this figure will rise with the rate of inflation. The Planning Department should be contacted to see what the current figure is at the time of the planning application. Some developers prefer to make their own arrangements for the maintenance of open space. Typically, these involve the establishment of a company to carry out the maintenance work, and residents of the development become shareholders. Whereas there is no objection in principle to such arrangements, each case will be considered on its own merits and in particular provision for future maintenance must be demonstrated to the Council's satisfaction. Where such arrangements are approved an appropriate agreement with the Council will be required incorporating the arrangements which have been approved.



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Adopted April 1993; revised July 1998, updated August 2008.

**THE COMMON SEAL of
WREXHAM COUNTY BOROUGH COUNCIL**

was hereunto affixed in the presence of:

[Signature]

Head of Corporate and Customer Services



EXECUTED as a DEED by

PROSPECT ESTATES LIMITED

acting by a Director *[Signature]*

Director's name (Printed) *John E. Lund*

in the presence of:

Name (in block capitals): *DAVID J. EVANS*

Address: *Regent House 5 Queen St Leeds LS1 2TW*

Occupation: *Solicitor*

SIGNED as a DEED for and on behalf of

SVENSKA HANDELSBANKEN AB (PUBL)

Signature (1)

Name

PRIME AUTHORISED SIGNATORY

in the presence of:

Witness's signature

Witness's name

Executed as a deed on behalf of
SVENSKA HANDELSBANKEN AB (publ),
a public banking Company incorporated in Sweden, by
MICHAEL HARVEY
and
DAVID ROBERTSON
being persons who, in accordance with the laws of that
territory, are acting under the authority of the Company.