

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

**relating to Land at Five Crosses Inn Ruthin
Road Bwlchgwyn Wrexham LL11 3UT**

Dated : 28th April 2016

WREXHAM COUNTY BOROUGH COUNCIL (1)

and

NEWRIVER TRUSTEE 7 LIMITED and NEWRIVER TRUSTEE 8 LIMITED (2)

and

HATFIELD PHILIPS AGENCY SERVICES LIMITED (3)

T Coxon

Head of Corporate and Customer Services

Guildhall

Wrexham

LL11 1AY

Ref: LL/020035

DATE

28th April

2016

PARTIES

- (1) **WREXHAM COUNTY BOROUGH COUNCIL** of the Guildhall, Wrexham LL1 ("Council") and
- (2) **NEWRIVER TRUSTEE 7 LIMITED** and **NEWRIVER TRUSTEE 8 LIMITED** both of 13 Street, St Helier, Jersey, JE4 5UT ("the Owner") and
- (3) **HATFIELD PHILIPS AGENCY SERVICES LIMITED** of 34th Floor, 25 Canada Square, Canary Wharf, London, E14 5LB ("the Mortgagee")

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 property described in the First Schedule hereto is situate and is the local planning authority by whom a planning obligation is enforceable.
- (2) The Owner is the registered proprietor of the Site.
- (3) The Mortgagee is the mortgagee of the Site under a legal charge dated 18th December 2013 and registered at HM Land Registry on 6th February 2014.
- (4) The Owner has submitted the Application to the Council and the parties have agreed to enter into this deed in order to secure the planning obligations contained in this Deed.
- (5) The Council resolved on the 7th March 2016 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:

"1990 Act"

the Town and Country Planning Act 1990.

"Application"

the application for outline/full planning permission dated 25th August 2015 submitted to the Council for the

Development and allocated reference number P/2015/0644.

"Commencement of Development"

the date on which any Material Operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Commence Development" shall be construed accordingly.

"Development"

the development of the Site consisting as set out in the Application.

"Retail Store"

means any retail unit constructed on the Land pursuant to the Planning Permission.

"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.

"Material Operation"

means a material operation as defined in Section 56 subsection 4(a) to (e) of the 1990 Act to implement the Planning Permission.

"Occupation"

means use of the Retail Store for retail sales 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.

"the Plan"

the Plan attached to this Deed.

"Planning Permission"

the full planning permission subject to conditions to be granted by the Council pursuant to the Application and attached to this Deed as Appendix 1.

"Site"

the land subject to this Deed as shown for the purpose of identification only edged red

on the Plan and more particularly described in the First Schedule.

"Traffic Regulation Order"

means such an order, temporary or permanent in nature, made for the site in accordance with the provisions of the Road Traffic Regulation Act 1984.

"Traffic Regulation Order Consultation and Implementation Contribution"

means the sum of £3,000.00 indexed in accordance with this deed to be paid by the Owners to the Council in accordance with the provisions of Schedule 2.

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 pursuant to Section 106 of the 1990 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



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Head of Community Wellbeing & Development
Planning Services
6 Lord Street, Wrexham LL11 1LG

Town & Country Planning Act 1990 **Section 106 Obligation**



P/2015/0644
Five Crosses Inn, Ruthin Road
Bwlchgwyn, Wrexham



Date: 09/03/2016
Scale: 1:2500
Sheet: SJ2751

Shared/policy/graphic/mapinfo/devc/section106

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 4(ii), 7.1, 14 and 15 (commencement of development, legal costs, jurisdiction, delivery fees) any other relevant provisions which shall come into effect immediately upon completion of this Deed.

5 THE OWNER'S COVENANTS

- 5.1 The Owner covenants with the Council on behalf of themselves and their successors in title to the Site to:

5.1.1 comply with the obligations relating to the Traffic Regulation Order Consultation and Implementation Contribution and set out in the Second Schedule to this Agreement

- 5.2 The Owner shall serve on the Council a notice of Commencement of Development not less than 7 (seven) days after Commencement of Development

6 THE COUNCIL'S COVENANTS

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

7 MISCELLANEOUS

- 7.1 The Owner 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 £1,500.00
- 7.2 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 7.3 This Deed shall be registrable as a local land charge by the Council.
- 7.4 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council under the terms of this Deed 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 Community Wellbeing and Development 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 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 In the event that the Council shall at any time hereafter grant a planning permission pursuant to an application made under section 73 of the 1990 Act in respect of the conditions in the Planning Permission (and for no other purpose whatsoever) references in this Deed to the Application, Planning Permission and Development shall (unless the Council requires otherwise) be deemed to include any such subsequent planning applications granted as aforesaid and this Deed shall henceforth take effect and be read and construed accordingly and this Deed shall be endorsed with the following words in respect of any future Section 73 application relating to the Planning Permission:

"The obligations in this Deed relate to and bind the Land in respect of which a new planning permission referenced [] has been granted pursuant to Section 73 of the Town and Country Planning Act 1990 (as amended)"

- 7.8 This Deed shall cease to have effect (insofar only as it has not already been complied with) if:-

7.8.1 the Planning Permission shall be quashed revoked or otherwise withdrawn or (without the consent of the Owner) is modified by any statutory procedure

7.8.2 the Planning Permission shall expire prior to the Commencement of Development; or

7.8.3 the Site is developed under a new planning permission granted after the Planning Permission by the Council or any other competent authority and there has been no Commencement of Development.

- 7.9 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 but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

- 7.10 This Deed shall not be enforceable against owner-occupiers or tenants of any Retail Unit constructed pursuant to the Planning Permission nor against those deriving title from them.

- 7.11 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) after the date of this Deed.

8 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.

9 MORTGAGEE'S CONSENT

The Mortgagee acknowledges and declares that this Deed has been entered into by the Owner with its consent and that the Site shall be bound by the obligations contained in 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 and the Mortgagee will not be liable for any breach of this Agreement occurring prior to the date on which the Mortgagee takes possession of the Site.

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

11

INDEXATION

Any sum referred to in the Second Schedule 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.

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

The Owner enters into this Deed in their capacity as trustee of NewRiver Retail Property Unit Trust No. 4 and as such any liability on their part pursuant to this Deed is limited to the assets held by them for the time being as trustee of NewRiver Retail Property Unit Trust No. 4.

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

FIRST SCHEDULE

Description of the Site

All that parcel of land being part of the Five Crosses Inn, Ruthin Road, Minera, Wrexham, LL11 3UT which is registered at Land Registry in the name of the Owner with title absolute under title number WA757924 and shown for the purpose of identification only edged in red on the Plan

1.

SECOND SCHEDULE

Owner's Covenants –Traffic Regulation Order Consultation and Implementation Contribution

1. To pay to the Council within 7 (seven) days of the Commencement of Development the Traffic Regulation Order Consultation & Implementation Contribution and the monies paid shall be used by the Council to carry out the Traffic Regulation Order works in accordance with the Planning Permission

THIRD SCHEDULE

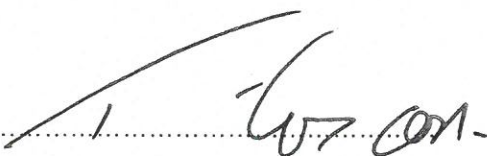
Council's Covenants - Discharge of obligations

1. The Council covenants with the Owner to use the Traffic Regulation Order Consultation and Implementation Contribution, ("the Contribution") received from the Owner under the terms of this Deed for the purpose specified in this Deed for which it is paid
2. The Council covenants with the Owner to repay such amount of any of the Contribution made by the Owner to the Council under this Deed which have not been expended in accordance with the provisions of this Deed within 5 years of the date of receipt by the Council commencing from the date of receipt by the Council of the final payment in accordance with the provisions of the Second Schedule hereto together with Interest from the date of the payment to the date of refund.

EXECUTED as a DEED on the date specified as the commencement of this Agreement.

EXECUTED as a DEED by affixing
the Common Seal of
WREXHAM COUNTY BOROUGH COUNCIL
in the presence of:





Head of Corporate and Customer Services

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EXECUTED as a deed)
for and on behalf of)
NEWRIVER TRUSTEE 7 LIMITED)
a company incorporated in Jersey)
acting by []
and[] being persons
who, in accordance with the laws of
that territory, are acting under the
authority of that the company)

Order - SIMON VARDON
Signature of authorised signatory

Order - PHILIP TURPIN
Signature of authorised signatory

EXECUTED as a deed)
for and on behalf of)
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Order - SIMON VARDON
Signature of authorised signatory

Order - PHILIP TURPIN
Signature of authorised signatory

EXECUTED as a deed)

for and on behalf of)

HATFIELD PHILIPS AGENCY)

SERVICES LIMITED by)

[] in the presence of:)

MATT CARSON



Director

Matt Carson

Witness Signature



Witness Name

HBAMA Heloyan

Address

34th floor
25 Canada Square
London E14 5LB

Occupation

APPENDIX 1

Draft Planning Permission

son

...suance of its powers under the Acts an Orders
...ed to below, the County Borough Council as Local
...ing Authority, hereby determines your application in
...ance with the particulars and plans comprising the
...ation

Applicant NEW RIVER RETAIL PROPERTY UNIT TRUST NO. 4 Code Number MIN P/2015/0644

PETER BRETT ASSOCIATES OXFORD PLACE 61 OXFORD STREET MANCHESTER M1 6EQ Date Received 25/08/2015 Decision Date

Town and Country Planning Act, 1990

Location of application

FIVE CROSSES INN, RUTHIN ROAD, BWLCHGWYN, WREXHAM, LL11 3UT

Description of application

ERECTION OF CLASS A1 (RETAIL) CONVENIENCE STORE WITH ASSOCIATED CAR PARKING, ACCESS ARRANGEMENTS, LANDSCAPING AND ATM MACHINE

In reaching this decision the Council has had regard to the relevant policies in the Wrexham Unitary Development Plan which are as follows:-

GDP1 Development objectives
PS1 Settlement limits
PS2 Development and the environment
S6 Local need shopping
T8 Parking

Revision	Date	Description of Decision
0		Planning permission issued

Particulars of decision that permission be GRANTED Subject to the following:-

Condition(s)

1. The development hereby permitted shall be commenced before the expiry of five years from the date of this permission.
2. The development shall only be carried out in strict accordance with the amended plan(s) dated 15 January 2016.
3. No development shall take place until a Service and Delivery Management Plan ("the SDMP") for both the existing public house and the proposed retail store, to include (but not be limited to) the details of the timing

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and frequency of deliveries, the type of delivery vehicles to be used, delivery vehicle movements (incorporating staggered deliveries), management of car parking to facilitate the manoeuvring of delivery vehicles and details to control and/or prevent access during non-operational times has been submitted to and approved in writing by the local planning authority. The SDMP as agreed shall be implemented in accordance with the approved details.

4. No deliveries of goods to or collection of refuse from the retail unit hereby approved shall take place outside the hours of 07.30 and 22.00 hours on Mondays to Saturdays and between 10.00 and 18.00 hours on Sundays, with the exception of delivery of newspapers.

5. No part of the development shall commence until a scheme indicating the detailed layout, design, drainage and construction of the following has been submitted to and approved in writing with the Local Planning Authority:

a) Widening / improvements to the existing footways on the corner of B5426 Minera Hall Road including extension to footway along western side of Ruthin Road to proposed splitter island (proposed and existing footways to be 2m wide).

b) Provision of 1.4m wide splitter island across A525 Ruthin Road in approximate position of the existing public house car park entrance, providing 2.9m minimum width running lanes.

c) Provision of 1.4m wide splitter island across Minera Hall Road junction with Ruthin Road including associated dropped kerbs / tactile.

d) Improvements to kerb radius / footway on south east corner of B5430 Gwernygaseg Road junction.

e) Construction of footway alongside public house along Gwernygaseg Road.

f) Construction of new car park access and reinstatement of existing access to full height footway construction.

g) Re-location of existing light column on corner of proposed car park access.

The details as approved shall be fully implemented prior to first use of the retail store.

6. No development shall take place until samples of the materials to be used in the construction of the external facing and roofing of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

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7. No part of the development shall commence until a scheme to deal with potential contamination at the site has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include a phased investigation approach to identify the extent of contamination and any measures required to remediate the site, including post-development monitoring.

8. No part of the development shall be occupied until a Verification Report which demonstrates that the remedial works approved as part of condition no. 7 above have been satisfactorily carried out, has been submitted to and approved in writing by the Local Planning Authority.

9. The rating level of any noise generated by air handling plant associated with the development shall not exceed the pre-existing background level by more than 5dB(A) at any time. The noise levels shall be determined at the nearest noise sensitive premises and measurements and assessment shall be made in accordance with BS4142:1997 'Method of Rating Industrial Noise Affecting Mixed Residential and Industrial Areas'.

10. The retail unit hereby permitted shall not be open to customers outside the following times: 07.00 hours to 23.00 hours on any day.

11. No development shall take place until a Travel Plan has been submitted to and approved in writing by the local planning authority. The Travel Plan shall include details of a Travel Plan co-ordinator, staff travel survey, measures to encourage the use of sustainable transport, walking and cycling initiatives, publicity and marketing, setting of targets and monitoring and review of the Travel Plan together with a timetable for the implementation of each of the elements. The Travel Plan shall be implemented in accordance with the approved details and remain operational for the life of the development.

12. A Final Travel Plan shall be submitted to and approved in writing by the Local Planning Authority following the first anniversary of first use of the development.

13. The site shall be developed in accordance with the ground and / or floor levels indicated on the approved plans. No changes to floor levels or external ground levels shall be made without the prior written approval of the Local Planning Authority.

14. Within six months of the first use of the development, trees and shrubs shall be planted on the site in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority.

15. The landscaping scheme including the paving and footpath areas submitted and approved in connection with condition no. 14 shall be fully implemented in all respects within three months of the first use of the building with the exception of soft landscaping which shall be carried out in the first

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planting season (November to March) or seeding season (April to September) following the first use.

16. The landscaping scheme as carried out in connection with condition no. 14 shall be retained for a minimum of three years. Within this timescale, any planting becoming severely damaged or seriously diseased, or is in poor physiological condition and/or are removed without the written permission of the Local Planning Authority shall be replaced with trees or shrubs and within a timescale all to be submitted to and approved in writing by the Local Planning Authority.

17. The landscaping details to be submitted in connection with condition 15 above shall indicate details for a maximum maintained height of 0.5m above the nearside edge of the carriageway.

18. Notwithstanding the timescales given in connection with condition 15 above, the retail use of the building shall not be used until a 1.2m high fence has been fully erected along the boundary adjacent to Nos 14 - 17 Aldergrove Place, and the fence shall thereafter be permanently retained.

19. Details of any external lighting for the site (including lighting for the shared parking area) shall be submitted to and approved in writing by the Local Planning Authority, and the lighting for those areas shall be maintained in accordance with the approved scheme unless first agreed in writing with the Local Planning Authority.

20. The retail use hereby approved shall not be used until the new vehicular access provides visibility splays of 2.4m x 43m in both directions as measured to the nearside edge of the adjoining highway. Within these splays there shall be no obstruction in excess of 1m in height above the level of the adjoining highway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.

21. The on-site parking spaces (23 no.) and turning facilities as shown on the approved site layout plan(s) 14015-T29-010 Rev G, shall be fully laid out, surfaced and drained prior to first use of the retail store. The spaces shall thereafter be permanently retained as a shared parking facility in connection with both the retail store and the public house. No segregation of spaces between the uses shall be made, and the spaces and turning facilities shall be maintained in a useable condition for those designated purposes.

22. The cycle parking facilities as shown on the approved plan shall be fully provided before the retail store is first use, and thereafter these facilities shall be maintained for use by customers.

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23. No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system

24. Construction works shall not take place outside 07.30 hours to 18.00 hours Mondays to Fridays and 08.00 hours to 14.00 hours on Saturdays nor at any time on Sundays or Bank Holidays.

25. No part of the building shall be located within the 3m of centreline of the 150mm public sewer which crosses the site.

26. No part of the development shall commence until an appropriate Dust Management Scheme has been submitted to and approved in writing by the Local Planning Authority. The dust mitigation measures as are approved shall be fully implemented for the entire duration of the construction phase.

27. No part of the development shall commence until a Construction Traffic Management Plan including provisions for contractor parking has been submitted to and approved in writing by the Local Planning Authority and the Plan as is approved has been fully implemented.

Reason(s)

1. To comply with Section 91(3) of the Town and Country Planning Act, 1990.

2. To ensure that the development fully complies with the appropriate policies and standards.

3. To ensure that deliveries to the site do not cause a nuisance to adjoining residential occupiers, in the interests of the amenities of the area, and also to ensure that delivery vehicles do not cause excessive obstruction to parking facilities on site during operational hours or discriminate parking of adjacent highways.

4. To protect the amenities of the occupiers of nearby properties.

5. To ensure that the site is made more accessible for customers arriving by foot, to help ensure that on-site parking facilities are adequate for the scale of the development based upon its location next to a busy classified road and in the interests of highway and pedestrian safety.

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6. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
7. In the interests of the amenities of the future occupants of the buildings
8. In the interests of the amenities of the future occupants of the buildings
9. To protect the amenities of the occupiers of nearby properties.
10. To protect the amenities of nearby residential property.
11. In the interests of highway safety.
12. To support the Council's approved Integrated Transport Strategy and to reduce dependency on the motor vehicle.
13. To ensure that the development fully complies with the appropriate policies and standards.
14. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
15. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
16. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
17. To ensure that clear views of the car park area is maintained from the adjacent highway (Ruthin Road) to ensure that car borne customers have a clear view of the site before entering the site, to prevent congestion at this location.
18. To protect the amenities of nearby occupants of residential property.
19. In order to protect the amenities of local residents.
20. In the interests of highway safety.
21. To ensure that adequate parking and turning is provided and maintained within the site, in the interests of highway safety.
22. To ensure that the site operates with the benefit of suitable cycle parking facilities, in the interests of making the site accessible for non-car customers.
23. To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.
24. To protect the amenities of adjacent residents.
25. It is unclear from the submitted plans as to whether the integrity of the public sewer will be adequately protected by the development, and the distance is required to prevent damage thereto.
26. To protect the amenities of the occupiers of nearby properties.
27. In the interests of highway safety.

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M1 6EQ

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Note(s) to applicant

You are advised that this grant of planning permission was made following the completion of an Agreement under Section 106 of the Town and Country Planning Act. Before undertaking any work under this permission you are advised to obtain full details of the Agreement and ensure that you are able to comply with its terms.

This permission is granted subject to the above conditions. Some conditions may require your attention prior to you carrying out any work on the proposal. These conditions are known as ""conditions precedent"". You should be aware that it is important that you comply with any ""conditions precedent"". If you do not, then any work you undertake on the development subject of this permission would not have planning permission.

In respect of condition 25 above, the location of the 150mm public sewer is shown approximately in the position marked on the attached Statutory Public Sewer Record. Under the Water Industry Act 1991 Dwr Cymru / Welsh Water has rights of access to its apparatus at all times. No part of the building will be permitted within 3 metres either side of the centreline of the public sewer unless separate agreement has been first obtained.

The applicant is advised that compliance with condition no. 09 does not provide an exemption from the statutory noise nuisance provisions of the Environmental Protection Act 1990. Any complaints received relating to noise from the development during the permitted hours may still be investigated using the Council's Standardised Procedure for Dealing with Noise Nuisance Complaints and legal action may be taken where appropriate.

The applicant is advised that the Council has the option to control construction noise by serving a Control of Pollution Act 1974, Section 60, Notice where deemed necessary, and failure to comply with such a Notice can result in prosecution. For further information and advice regarding construction noise please contact the Council's Housing and Public Protection Department on 01978 315300.

Burning of waste generated from construction activities is not considered to be an appropriate method of disposal and action may be taken as follows:

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- Under the Environmental Protection Act 1990 anyone found disposing of construction site waste by burning is likely to be in breach of their duty of care with regard to waste disposal;
- Under the same Act an abatement notice may be served where smoke is judged to be causing a nuisance to neighbouring properties. Failure to comply with the requirements of the notice can result in prosecution;
- Under the Clean Air Act 1993 it is an offence for a commercial activity to burn anything that gives rise to dark smoke.

To prevent offences under the above named Acts there should be no bonfires on the site, to include the prohibition of the burning of cleared vegetation. The applicant should contact the Council's Housing and Public Protection Department on 01978 315300 for further advice and information.

Applicants are advised that compliance with condition no. 26 does not provide an exemption from the statutory nuisance provisions of the Environmental Protection Act 1990. Under the Act dust from any type of activity can be judged to be causing a statutory nuisance to neighbouring properties. A legal notice can be served requiring that the dust nuisance is abated and failure to comply with the requirements of the notice can result in prosecution. The applicant should contact the Council's Housing and Public Protection Department on 01978 315300 for further advice and information.

Further advice on compliance with condition no. 07 may be obtained by contacting the Council's Environmental Protection Team on 01978 315733. Should the investigation identify contamination issues that may affect receptors other than the site users e.g. groundwater, then it is recommended that these works are also addressed in consultation with the Housing and Public Protection Department prior to commencement of works on site.

This permission does not authorise any advertisements on or within the site. Those matters are subject to separate legislation i.e. Town and Country Planning (Control of Advertisements) Regulations, 1992.

You should ensure that any difference between the plans approved under the Town and Country Planning Acts and under the Building Regulations is resolved prior to commencement of development, by formal submission of amended plans.

Applicant NEW RIVER RETAIL
PROPERTY
UNIT TRUST, NO. 4

Code Number MIN P/2015/0644

Agent PETER BRETT
ASSOCIATES
OXFORD PLACE
61 OXFORD STREET
MANCHESTER
M1 6EQ

Date Received 25/08/2015

Decision Date

The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at: <https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. Further information is available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority.

You are advised that any works to implement condition 5 above will also require separate permission of the Highways Authority under Section 278 of the the Highways Act, and those works will need to be constructed to a standard suitable for adoption by the Council for future maintenance at public expense. The works will need to be completed to the Highway Authority satisfaction

Applicant	NEW RIVER RETAIL PROPERTY UNIT TRUST, NO. 4	Code Number	MIN P/2015/0644
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before they can be fully adopted. This will include the provision of a bond to cover the estimated value of such works.

With regards to the Travel Plan, it is recommended that the developer contracts Jessica Pritchard - Regional Travel Plan Co-ordinator on Tel: 01352 704544 to discuss the proposed content of any Final Travel Plan.

In respect of the Traffic Regulation Order (TRO), you are advised to liaise with the Traffic Section (contact Darren Green) on tel no. 01987 729643 to implement the required TRO.

You are advised that the new fencing to be erected along the boundary with Aldergrove Place will make it more difficult for residents to maintain their sloping ground area between the site and the main finished ground levels of the adjoining residential site. The residents accordingly would welcome discussion(s) with the owner(s) to see how this slope can be made more manageable for the future on their behalf during the construction phase of the development.



**Officer Appointed for this purpose
Head of Community Wellbeing and Development**

Refer to the Statement of Applicant's Rights and General Information enclosed or refer to the following link:-

http://www.wrexham.gov.uk/english/planning_portal/publications/info_sheets.htm