

DATED

30th SEPTEMBER

2010

WREXHAM COUNTY BOROUGH COUNCIL (1)

- and -

BELLWAY HOMES LIMITED (2)

Duplicate

AGREEMENT

Pursuant to Section 106 of the Town and Country Planning Act 1990
in respect of land at Former Dusseks Site Watery Road Wrexham

T Coxon
Chief Legal and Democratic Services Officer
Guildhall
Wrexham
LL11 1AY
(Ref: SWD/CLJ/10002293)

THIS AGREEMENT is made on the 30th day of SEPTEMBER 2010

BETWEEN:-

(1) **WREXHAM COUNTY BOROUGH COUNCIL** of Guildhall Wrexham
LL11 1AY ("the Council")

and

(2) **BELLWAY HOMES LIMITED** (Company No 00670176) whose
registered office is situate at Seaton Burn House Dudley Lane Seaton
Burn Newcastle upon Tyne NE13 6BE ("the Owner")

RECITALS

- A The Council is the Local Planning Authority for the purposes of Section 106 of the Act in respect of the Land.
- B The Owner is the owner of the freehold interest in the Land registered at the Land Registry under Title Number CYM378318.
- C There are no other legal interests in the Land.
- D The Owner has submitted the Reserved Matters Application to the Council.
- E The Council is minded to approve the reserved matters in response to the Reserved Matters Application but considers that in the exercise of its statutory powers and duties and in order to bind the Land the Owner should enter into this Deed of Agreement in order to secure the planning obligations contained herein.

NOW THIS DEED WITNESSES AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

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

"Act" means the Town and Country
Planning Act 1990

"Affordable Housing" means the provision of the Affordable
Housing Units by means of either
Discounted Sale Housing, DHD
Housing, Shared Ownership Housing
or Social Rented Housing

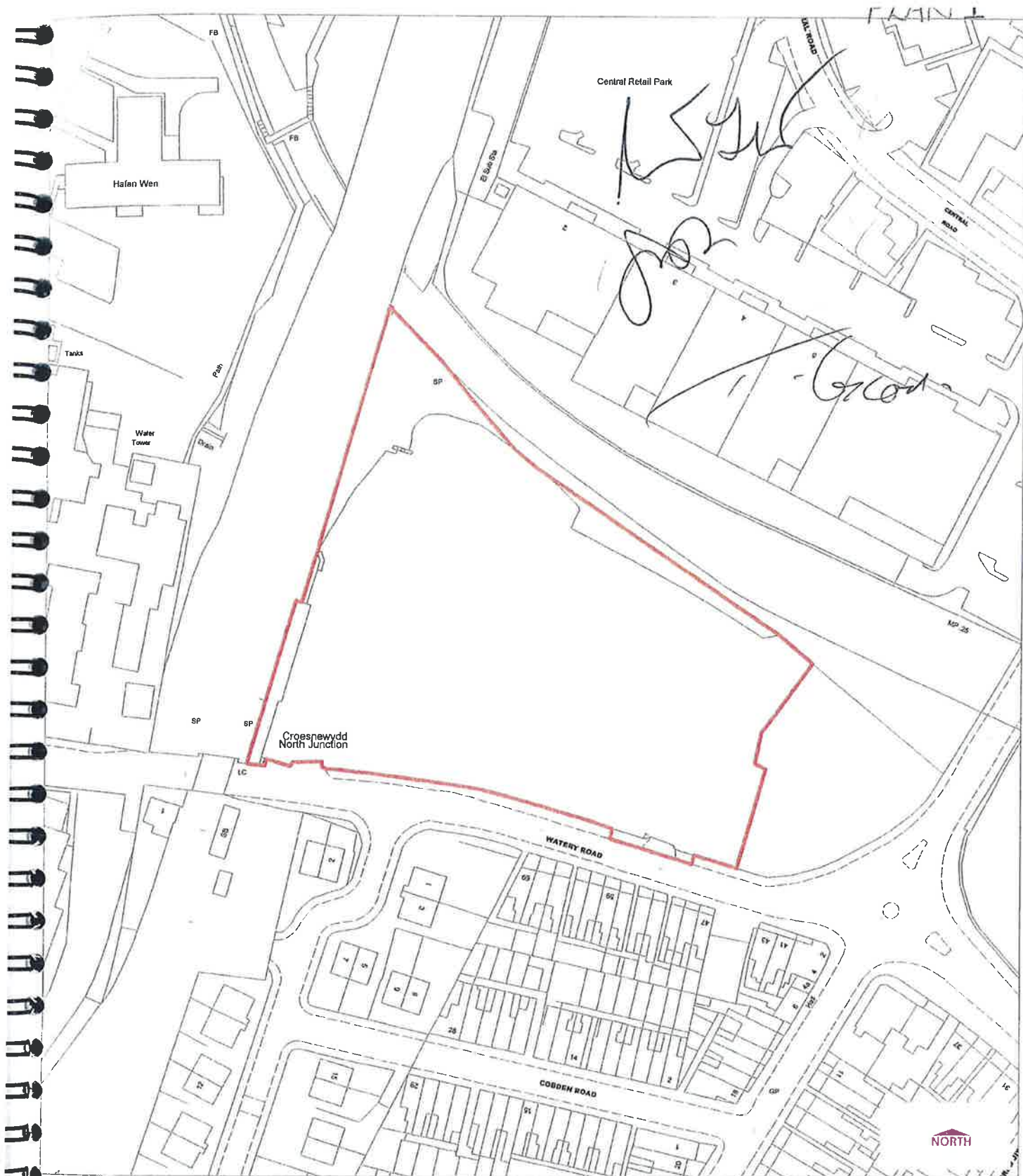
"Affordable Housing Transfer"	means a TP1 transfer of either a freehold interest or leasehold interest of not less than 125 years of the Affordable Housing Units by the Owner to the Registered Social Landlord
"Affordable Housing Units"	means the 20 Dwelling Units for Affordable Housing to be provided in the Development being Plots 7, 8, 9, 10, 17, 18, 21, 22, 23, 24, 25, 36, 37, 38, 50, 51, 52, 64, 65 and 66 and comprising ten type A 2 bedroom apartments and four type C 2 bedroom apartments shown edged red on Plan 2 and two type C 3 bedroom 2 storey mews and four type S 2 bedroom 2 storey mews shown edged red on Plan 3.
"CHPPO"	means the Council's Chief Housing and Public Protection Officer for the time being in post or his duly appointed representative or any successor post with responsibility for housing
"Close Family Connection"	means members of family as described in Section 113 of the Housing Act 1985
"Commence"	means the carrying out of a material operation as defined by Section 56 (4) of the Act in accordance with the Planning Permission and "Commencement" shall be construed accordingly and the expression "Commencement Date" shall mean the date on which the Development shall Commence
"Communal Areas"	means the external communal areas within the Development including the hard and soft landscaped areas, bike store and bin store
"Development"	means the development of the Land in accordance with the Planning Permission

"Discounted Sale Housing"	means Affordable Housing Units sold or available for sale by way of a Discounted Housing Lease and "Discounted Sale Housing Unit" shall refer to any single Dwelling provided as such
"Discounted Housing Disposal"	means a lease for a term of not less than 125 years or a freehold disposal of an Affordable Housing Unit to an Eligible Person for a premium or consideration equal to but not more than the Discounted Value on terms that include those set out in Part 5 of the Third Schedule
"DHD Housing"	means Affordable Housing Units sold or available for sale by way of a Discounted Housing Disposal and "DHD Unit" shall refer to any single Dwelling provided as such
"DHD Owner"	means the owner of the freehold or leasehold of a DHD Unit
"DHD Transfer"	means a lease or TP1 transfer effecting a Discounted Housing Disposal
"Discounted Housing Lease"	means a lease for a term not less than 125 years of a Discounted Sale Housing Unit granted by the Registered Social Landlord to an Eligible Person at a premium equal to or not more than the Discounted Value on terms which include those set out in Part 3 of the Third Schedule hereto
"Discounted Value"	means 65% of the Market Value
"Dwelling"	means a residential dwelling comprising a house or a flat within the Development
"Education Contribution"	means the sum of £156,800 to be utilised to increase school capacity in primary schools in the Wrexham Clywedog catchment area.

"Eligible Person"	means a person as defined in Part 6 of the Third Schedule hereof
"First Occupation Date"	means the date on which the first dwelling unit in the Development is first occupied for residential use (excluding any use for construction, fitting out or marketing of the dwelling unit)
"Index"	means the all items index of retail prices issued by the Office for National Statistics or any successor organisation
"Interest"	means 4% above the base lending rate from time to time of Nat West Bank Plc compounded annually
"Land"	means the land situate at the Former Dusseks Site Watery Road Wrexham and shown edged red on Plan 1
"Management Company"	means the management company established in accordance with the provisions of Part 1 of the First Schedule hereof
"Management Plan"	means the management plan for the management of the Communal Areas, On Site Public Open Space and Parking areas within the Development to be submitted to and approved in writing by the Council in accordance with Part 1 of the First Schedule hereof
"Market Value"	means (in respect of any Affordable Housing Units other than the Social Rented Housing) the price at which the Affordable Housing Unit might reasonably be expected to be sold leasehold at arm's length by a willing seller to a willing buyer with vacant possession taking into account all encumbrances to which the Affordable Housing Unit is subject (other than the affordable housing obligations contained in this Agreement)

or if such sum cannot be agreed the Market Value shall be determined by an independent qualified valuer appointed by agreement between the parties or failing agreement by the President for the time being of the Royal Institution of Chartered Surveyors and the cost of the independent qualified valuer shall be paid by the parties to the referral in such proportions as the valuer shall specify and the valuer shall be entitled to make awards as to costs

"Occupy" and "Occupation"	means use of a Dwelling for residential use (excluding any use for construction fitting out or marketing of the Dwelling)
"On Site Public Open Space"	means the area shown coloured green on Plan 4 to be laid out as public open space in accordance with the Planning Permission
"Parking Areas"	means the areas designated for parking within the Development and includes the area designated for the Watery Road Residents Parking Scheme
"Person in Housing Need"	means a person who by reason of their limited income is unable to purchase a home suitable for their needs on the open market
"Plan 1", "Plan 2", "Plan 3" & "Plan 4"	means the plan so marked annexed hereto and "Plans" shall be construed accordingly
"Planning Permission"	means the planning permission issued by the Council under ref: P/2006/0890 on 17 November 2006 as varied by planning permission issued by the Council under reference P/2008/0525 on 13 June 2008 incorporating as appropriate the Reserved Matters Approval
"Public Open Space"	means the sum of £76,000 to be



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Town and Country Planning Act 1990 Section 106 Obligation
P/2009/0903 - Former Dussek Site, Watery Road, Wrexham.

Chief Planning Officer
 Lambpit Street, Wrexham LL11 1AR
 Telephone 01978 292017. Fax 01978 292502

Date : 08/03/2010 Scale 1:1250 SJ3250



FLANKS
key for Secretary

HOUSE TYPE MIX					
A	2 BED 4 STOREY APT	599	SQFT	44	26359
B	2 BED 4 STOREY APT	687	SQFT	4	2748
C	2 BED 4 STOREY APT	620	SQFT	4	2480
D	2 BED 4 STOREY APT	612	SQFT	4	2448
C	3 BED 2 STOREY MEWS	733	SQFT	15	10895
S	2 BED 2 STOREY MEWS	765	SQFT	7	5495
KE	3 BED 2 STOREY MEWS	769	SQFT	2	1538
TOTAL		52060	SQFT	80	

1.8m. High Close Boarded Timber Screen Fence

1.8m. Brick Wall

2.5m Close Boarded Timber Screen Fence

Rear Garden division

Garden Gate

illustrative tree & shrub planting - refer to detailed scheme

Private parking courts finished in tarmac with green chippings

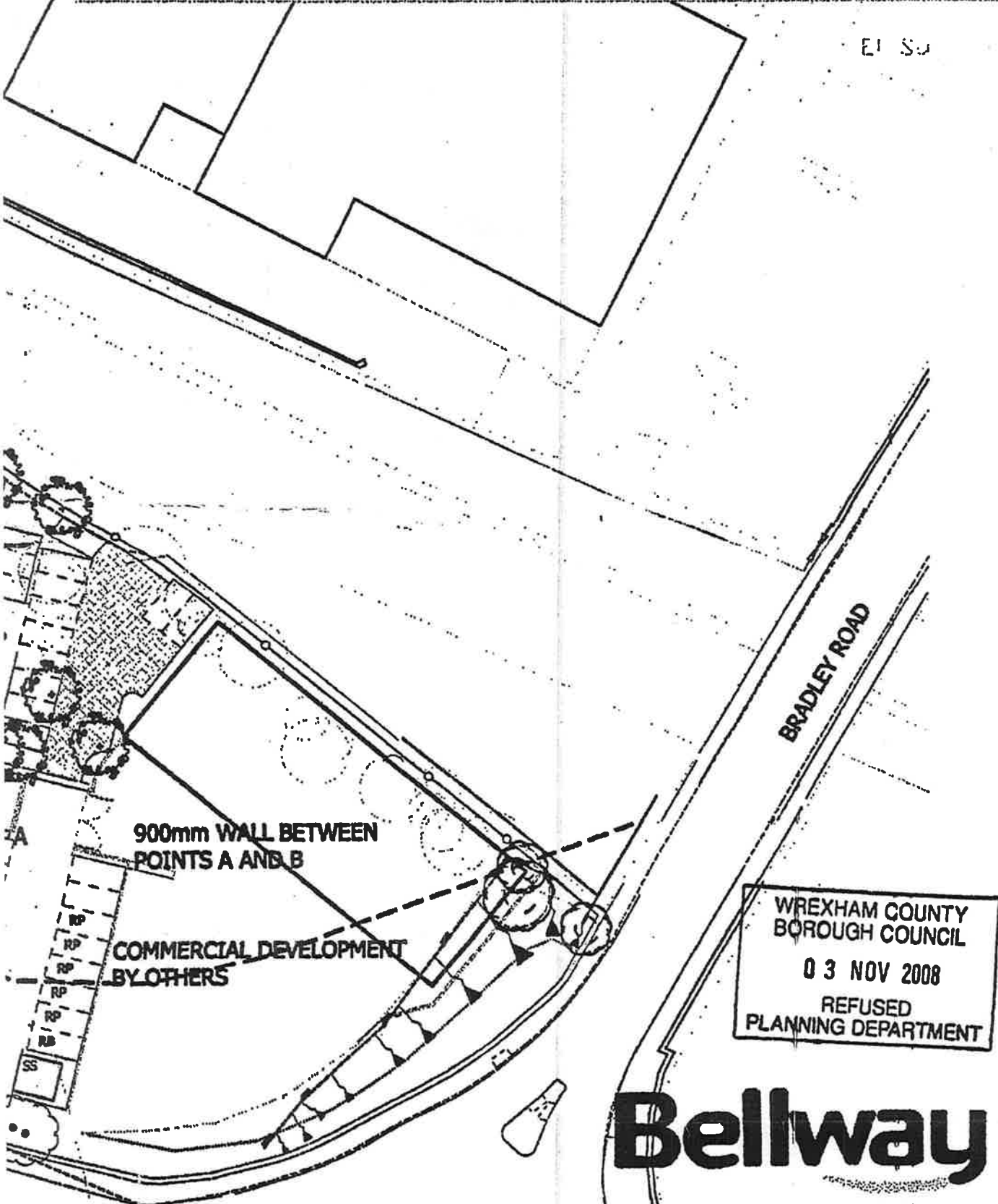
Parking bays edged with block pavers and surfaced in black tarmac

Trees to be removed (TPO trees along Watery Road frontage only to be approved following approval of landscape proposal)

Reserved parking for Watery Road residents

Line of flood plain

Rumble strips in raised setts



WREXHAM COUNTY BOROUGH COUNCIL
03 NOV 2008
REFUSED PLANNING DEPARTMENT

Bellway
(WEST LANCASHIRE)

12 SPACES TO BE RETAINED FOR USE BY EXISTING WATERY ROAD RESIDENTS

HEIGHT OF WALL WITHIN VISIBILITY 1.0M. (CAREFULLY REMOVE COCK PING, LOWER REMAINDER OF WALL (ING).)

REV G: PARKING AND PLANTING BEDS AMENDED 24-10-08 TJA
REV F: PARKING AND PLANTING BEDS AMENDED TO LPA COMMENTS 23-10-08 TJA
REV E: WALL ADDED TO RESIDENTS PARKING 21-10-08 TJA
REV D: BOUNDARY TO PLOT 1 AMENDED, PARKING SPACE DELETED AND PATH TO REAR OF PLOT 12 EXTENDED ALL TO LANDSCAPE/PLANNING OFFICER COMMENTS 30-09-08 TJA
REV C: REAR BOUNDARY AMENDED TO ACCORD WITH TITLE PLAN 05-09-08 TJA
REV B: APARTMENT FOOTPRINT UPDATED, PLOTS REPOSITIONED, PARKING ADJUSTED, WALL TO WATERY ROAD ANNOTATED 30-07-08 TJA
REV A: AMENDED TO PLANNERS COMMENTS 19-06-08 TJA

CLIENT	
BELLWAY HOMES WEST LANCASHIRE	
PROJECT	
FORMER DUSSEKS SITE, WATERY ROAD, WREXHAM	
DRAWING TITLE	
PLANNING LAYOUT	
DATE	DRAWN
29.03.08	TJA
SCALE	NUMBER
1/500 @A2	
Asda Planning & Design Ltd Arkway House Station Road Chester CH1 3DN Tel: 01244 263964 Fax 1: 0870 705 3356 Email: info@asdepd.co.uk	

WALKER ROAD, WREXHAM.

Drain



RAILWAY LINE

RAILWAY LINE

(302sqm)

1.

17/12/54

1

LEVEL CROSSING

WALL TO MATCH EXISTING
TO BE CONSTRUCTED
ACROSS REDUNDANT SITE
ENTRANCE

WATERY ROAD

PEDESTRIAN ACCESS TO
CAR PARK

**EXISTING TPO TREES TO
BE REMOVED UPON APPROVAL
OF NEW LANDSCAPE SCHEME**

INDICATIVE PROPOSED SUB
STATION (REFER TO SPECIAL
DETAILS)

MAXIMUM
DISPLAY TO
AND HEN
REPLACE

WALL TO BE REALIGNED BEHIND
HATCHED AREA. AREA TO BE GIVEN
OVER TO LOCAL AUTHORITY TO
ENABLE HIGHWAY IMPROVEMENTS.
ALL DISCUSSIONS WITH RAILTRACK
TO BE COUNCILS RESPONSIBILITY.

NOTES:

- 1) all blueprints to be checked by client
- 2) all boundaries to be checked against title by client
- 3) for details of external works, retaining walls, highways surfacing etc refer to engineers details
- 4) for details of landscaping proposals etc refer to separately specialist drawing
- 5) unless otherwise stated, all hard landscaping to be in bluestone



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Chief Planning Officer
Lampit Street, Wrexham LL11 1AR
Telephone 01978 292017 Fax 01978 292502

Date : 14/06/2010 Scale 1:1250 SJ3250

 Land referred to

Town and Country Planning Act 1990
Planning Code P/2009/0903 - Former Dusseks Site,
Watery Road, Wrexham.



Contribution"	utilised to carry out improvement to the existing facilities at Belle Vue Park
"Registered Social Landlord"	means a body registered pursuant to the Housing Act 1996 or any register replacing the register under the Housing Act 1996 or any other affordable housing provider or providers approved by the Council
"Reserved Matters Application"	means application ref no: P/2009/0903 for approval of matters reserved under the Planning Permission in respect of the Development
"Reserved Matters Approval"	means the approval of reserved matters subject to conditions to be issued by the Council pursuant to the Reserved Matters Application
"Shared Owner"	means a leaseholder under a Shared Ownership Lease
"Shared Ownership Housing"	means Affordable Housing Units sold or available for sale by Shared Ownership Lease
"Shared Ownership Lease"	means a lease of an Affordable Housing Unit granted by a Registered Social Landlord to an Eligible Person for a term of not less than 125 years containing the terms set out in the Third Schedule hereof at a premium of between 25% and 90% of Market Value and requires the Eligible Person to pay rent to the Registered Social Landlord in respect of the remaining percentage of the value of the leasehold
"Social Rented Housing"	means Affordable Housing Units let by the Registered Social Landlord in accordance with Part 4 of the Third Schedule hereof
"Staircase"	means in respect of Shared Ownership Housing to acquire pursuant to the provisions of the Shared Ownership Lease a share of the equity in the relevant Affordable

Housing Unit in addition to the tenant's existing share up to a maximum share of the equity in the relevant Affordable Housing Unit and "staircasing" shall be construed accordingly

"Unrestricted Housing Unit"

means those dwelling units to be erected in the Development which are not to be Affordable Housing Units and "Unrestricted Housing" shall be construed accordingly

"Watery Road Residents Parking Scheme"

means the scheme approved as part of the Reserved Matters Application for the provision of parking for residents of no's 47 through to 69 (odds only) Watery Road Wrexham (see Annexure A)

1.2 Interpretation

1.2.1 A reference in this Agreement to an Act of Parliament or to any order regulation statutory instrument or the like shall include a reference to any amendment or re-enactment of the same.

1.2.2 Words importing the masculine gender include the feminine gender and vice versa. Words in the singular include the plural and vice versa and words importing individuals shall be treated as importing corporations and vice versa.

1.2.3 Any heading or side notes are for ease of reference only and shall not affect the construction of this Agreement.

1.2.4 Wherever an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually unless there is an express provision otherwise.

1.2.5 References to any Party shall include the successors in title to that Party and any person deriving title through or under that Party and in the case of the Council the successors in title to their statutory functions.

2 LEGAL BASIS

2.1 This Agreement is made pursuant to Section 106 and 106A of the Act, Section 111 of the Local Government Act 1972 and Section 2 of the Local Government Act 2000 and all other enabling powers.

2.2 The obligations imposed by this Agreement relate to the Land and are binding on the Owner pursuant to Section 106 of the Act.

2.3 The obligations contained herein are planning obligations for the purposes of Section 106 of the Act and are enforceable by the Council as local planning authority.

3 CONDITIONALITY

3.1 This Agreement is conditional upon:

- i) the issue of the Reserved Matters Approval; and
- ii) the Commencement of Development

save for the provisions of clauses 8.2, 11.1, 11.6, 11.9 and 12.3, jurisdiction, delivery and legal costs clauses, which shall come into effect immediately upon completion of this Agreement.

3.2 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked, or otherwise withdrawn or expires prior to the Commencement of Development.

4 OWNER'S COVENANTS

The Owner hereby covenants with the Council:

- 4.1 to comply with the obligations relating to the management of Communal Areas, On Site Public Open Space and Parking Areas set out in Parts 1 and 2 of the First Schedule to this Agreement;
- 4.2 to comply with the obligations to pay contributions set out in the Second Schedule to this Agreement;
- 4.3 to comply with the obligations relating to the provision of Affordable Housing set out in the Third Schedule to this Agreement;
- 4.4 to give notice in writing to the Council's Chief Planning Officer of the Commencement Date within 14 days thereof.

5 COUNCIL'S COVENANTS

The Council hereby covenants with the Owner:

- 5.1 to use all sums received from the Owner under the terms of this Agreement for the purposes specified in this Agreement for which they are to be paid or for such other purposes for the benefit of the Development as the Owner and the Council shall agree;

5.2 upon request to pay to the Owner (here meaning the party which shall actually have paid the relevant sum or sums) such amount of any payment made by the Owner to the Council under this Agreement which has not been expended or committed in accordance with the provisions of this Agreement (unless otherwise stated) within five years of the date of receipt by the Council of the final such payment together with such interest thereon as the relevant sum has earned in the hands of the Council but the Council shall be under no obligation to maximise such interest whilst the relevant contribution is in its hands;

5.3 upon request to provide to the Owner reasonable evidence as to the expenditure of the sums paid by the Owner under this Agreement.

6 LOCAL LAND CHARGE

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.

7 NON-ENFORCEMENT

7.1 Any owner or occupier of a completed Unrestricted Housing Unit shall not be liable for any breach of the covenants conditions or restrictions contained in this Agreement save the requirements of paragraphs 6 and 7 of Part of the First Schedule.

7.2 Any owner or occupier of a completed Dwelling which is an Affordable Housing Unit shall only be liable for any breach of the affordable housing obligations contained in the Third Schedule hereof to the extent that such breach is in respect of the Dwelling Unit of which he or she is the owner or occupier.

8 PROVISION OF INFORMATION

8.1 The Owner shall provide to the Council such information on the progress of the Development, including the phasing thereof and occupation of dwellings, at such times and as may be required by the Council.

8.2 The Owner shall give to the Council immediate notice in writing of a transfer of:-

8.2.1 its interest in any Affordable Housing Unit;

8.2.2 its interest in any part of the Land (excluding individual Unrestricted Housing Units) occurring before all the obligations in this Agreement have been discharged

such notice to give 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.

9 NOTICES

9.1 Any notice or other written communication to be served upon any party or given by one party to any other under the terms of this Agreement shall be deemed to have been validly served or given if delivered by hand or sent by ordinary first class post or sent by recorded delivery post to the party upon whom it is to be served or to whom it is to be given or otherwise notified.

9.2 A notice or communication shall be served or given:

9.2.1 on the Owner at its usual address (registered office if a company) or such other address as shall be notified in writing to the Council from time to time;

9.2.2 on the Council at Guildhall Wrexham LL11 1AY or such other address as shall be notified in writing to the Owner from time to time.

9.3 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.

10 DISPUTE RESOLUTION

If any difference or dispute arises between the parties hereto touching or concerning their respective rights duties liabilities or obligations under or by virtue of this Agreement the same shall be referred to a member of the Royal Institution of Chartered Surveyors ("RICS") to be agreed between the parties or failing agreement upon request by one party for arbitration that party may after 21 days of that request by him request that an arbitrator be appointed by the President for the time being of RICS or his duly authorised deputy on the application of either party and in this respect such referral shall be construed as a submission to arbitration within the meaning of the Arbitration Act 1996 or any statutory modification or re-enactment thereof for the time being in force.

11 JURISDICTION AND LEGAL EFFECT

11.1 This Agreement shall be governed by and interpreted in accordance with the law of England and Wales.

11.2 In so far as any clause or clauses of this Agreement are found (for whatever reason) to be invalid, illegal or unenforceable, that invalidity,

illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement.

- 11.3 No waiver (whether express or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.
- 11.4 Nothing herein contained or implied shall prejudice or affect the rights powers duties and obligations of the Council in exercise of its functions as a local authority highway authority and local planning authority and the rights powers duties and obligations of the Council under all public and private statutes and 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 the 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.
- 11.5 Any approval given under this Agreement or for the purpose of this Agreement shall not be deemed to be approval for any other purpose whatsoever.
- 11.6 The parties to this Agreement do not intend any of its terms to be enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to this Agreement save for the avoidance of doubt it is declared that the planning obligations contained herein are enforceable by any successor local planning authority to the Council exercising planning powers under the Act.
- 11.7 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council under the terms of this Agreement, such agreement approval or consent or expression of satisfaction shall be in writing and shall not be unreasonably withheld or delayed.
- 11.8 The provisions of this Agreement (other than this clause which shall be of immediate effect) shall be of no effect until this Agreement has been dated.

12 INDEXATION INTEREST AND COSTS

- 12.1 Any sum to be paid to the Council under the Second Schedule hereof and being due more than twelve months after the date of this Agreement shall be increased by an amount equivalent to the increase in the Index from 12 months after the date of this Agreement until the date such sum is due and payable.

12.2 If any payment due under this Agreement is paid late Interest shall be payable from the date payment is due until the date of payment.

12.3 The Owner shall pay to the Council on the signing hereof the sum of £2500 in respect of the Council's legal costs for the preparation and execution of this Agreement;

IN WITNESS whereof the Owner and the Council have executed this Agreement as a **DEED** the day and year first before written

THE FIRST SCHEDULE

PART 1

MANAGEMENT OF COMMUNAL AREAS, ON SITE PUBLIC OPEN SPACE AND PARKING AREAS

- 1 Not to allow the occupation of any Dwelling until:
 - 1.1 a copy of the proposed Articles and Memorandum of Association of the proposed management company has been submitted to and approved in writing by the Council; and
 - 1.2 a management company which shall be a registered limited company has been formed for the purposes of complying with the Management Plan; and
 - 1.3 a management plan for the future management and maintenance of the Communal Areas, On Site Public Open Space and Parking Areas has been submitted to and approved in writing by the Council.
- 2 To submit to the Council the Articles and Memorandum of Association and Certificate of Incorporation of the Management Company within four weeks of its incorporation.
- 3 Not to allow more than 25% of the Unrestricted Housing Units in the Development to be occupied until the freehold or long leasehold of the Communal Areas, On Site Public Open Space and Parking Areas have been transferred to the Management Company except as herein provided free from incumbrances other than existing title matters and to submit a certified copy of the transfer and the enabling Management Company's board minute and resolution to the Council in evidence thereof.
- 4 To plant, lay out and construct the Communal Areas, On Site Public Open Space and Parking Areas in accordance with details approved by the Council and in accordance with the Planning Permission.
- 5 To maintain and manage the Communal Areas, On Site Public Open Space and Parking Areas in accordance with the Management Plan.
- 6 To procure that all purchasers of a freehold or leasehold interest in the dwelling units comprised in the Development shall become members of the Management Company prior to occupation of each individual dwelling unit with a view and to the intent that they can influence the carrying out of the Management Plan in accordance with the provisions of this Agreement.
- 7 To procure that a restriction is entered on the proprietorship register of all purchasers of individual dwelling units comprised in the

Development to secure compliance with paragraph 6 above substantially 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 [] or its conveyancer that the provisions of Clause [] of the transfer dated [] and made between [] have been complied with"

- 8 Not to use the On Site Public Open Space for any other purpose whatsoever than as open grassed area nor to cause, permit or allow any structures or other obstructions whatsoever to be erected within the On Site Public Open Space.
- 9 Not to use the area designated as permanent parking spaces for Watery Road residents in the Watery Road Residents Permanent Parking Scheme for any purposes other than as parking spaces available free of charge in connection with the residential properties known as numbers 47 through to 69 (odds only) Watery Road, Wrexham as set out in the said Scheme.

THE FIRST SCHEDULE

PART 2

CONDITIONS TO BE IMPOSED ON THE OWNER AND THE MANAGEMENT COMPANY

The Owner agrees to comply with and to ensure that the Management Company complies with the provisions of this Part 2:

A Conditions Imposed

- 1 To observe and perform the provisions of the Management Plan.
- 2 To be responsible for the maintenance, upkeep and works to the Communal Areas, On Site Public Open Space and Parking Areas in accordance with the Management Plan.
- 3 To ensure that trees within the development which have died or are dying or are diseased or dangerous or likely to become dangerous are treated, lopped or topped insofar as it may be necessary for the prevention of danger.
- 4 In the event that any tree or shrub planting shall die or have to be removed to consult with the Council as to whether the tree or trees or shrub planting needs to be replaced and if required so to do to carry out such replanting as is agreed between the Council and the Owner/Management Company within the time or in the planting season agreed with the Council following such consultation.
- 5 Not to erect any buildings or structures or deposit any waste or alter ground levels or light fires within the landscape areas.

B Performance of Work

To employ only a reputable and experienced consultant or contractor to undertake all works under the measures contained in the Management Plan.

C Management Plans Review Procedure

- 1 By no later than the tenth year anniversary of the date of the transfer transferring the ownership of the Communal Areas, On Site Public Open Space and Parking Areas ("the Review Date") to procure the commencement of a re-assessment of management tasks and specific work programmes set out in the Management Plan and shall forward such resurveys and reassessment to the Council within three calendar months of the Review Date.

- 2 The Council shall within six calendar months of the Review Date of receipt of the resurveys and reassessment referred to in paragraph C1 above give written notice to the Management Company of either of its agreement to the terms of the said resurvey and reassessment or its non-acceptance thereto and its comments upon or objections to the terms of the said resurveys and reassessment and the Management Company and the Council shall thereafter endeavour to reach agreement upon the terms of the said resurvey and assessment save that if the terms thereof have not been agreed by the anniversary of the review date then the Council or the Management Company shall refer the terms of the said resurveys and reassessment and the comments upon or objections thereto to the expert who shall be appointed in accordance with Clause 8 of this Agreement who shall determine the terms of the said resurveys and reassessment and who shall act under the provisions of this paragraph.
- 3 From a date which shall be
 - 3.1 the date upon which the Council and the Management Company shall have agreed the terms of the resurveys and reassessment; or
 - 3.2 the date upon which the expert appointed under paragraph C2 shall have communicated his determination of the terms of the resurveys and assessments under paragraph C2 above

the said resurveys and reassessments shall thereafter form the Management Plan and shall henceforth be complied with in accordance with the above terms of this Agreement
- 4 To thereafter repeat the above process beginning with the commencement of resurveys and a reassessment in paragraph C1 above commencing on the tenth year anniversary of the review date calculated in accordance with paragraph C1 above and at ten yearly intervals thereafter and the above paragraphs shall be construed accordingly.

THE SECOND SCHEDULE

PAYMENT OF CONTRIBUTIONS

- 1 The Owner shall pay to the Council the Contributions in accordance with this Schedule and for the avoidance of doubt it is acknowledged that the obligation to pay such contributions is not conditional upon receiving any demand, request, invoice or other communication from the Council.
- 2 Education Contribution
To pay the Education Contribution on the First Occupation Date.
- 3 Public Open Space Contribution
To pay the Public Open Space Contribution on the First Occupation Date.

THE THIRD SCHEDULE

PART 1

THE AFFORDABLE HOUSING OBLIGATION

- 1 To design and construct the Affordable Housing Units in accordance with the Planning Permission and where appropriate and where a Registered Social Landlord needs this as a prerequisite of obtaining funding the Welsh Assembly Government's Development Quality Requirements: Design Standards and Guidance applicable at the date of this Agreement.
- 2 To construct the Affordable Housing Units contemporaneously with the Unrestricted Housing in each phase of the Development.
- 3 Not to dispose of the Affordable Housing Units either by way of sale or transfer of any freehold or leasehold interest other than to a Registered Social Landlord or by way of a Discounted Housing Disposal.
- 4 Not to allow more than 50% of the Unrestricted Housing Units to be occupied until all the Affordable Housing Units in that phase have been constructed in compliance with Paragraphs 1 and 2 above are ready for occupation and have been disposed of by way of an Affordable Housing Transfer to a Registered Social Landlord or by way of Discounted Housing Disposals.
- 5 Prior to the First Occupation Date, to provide to the CHPPO the following details for each Affordable Housing Unit:
 - a) Postal Address
 - b) Gross and net floor area
 - c) Anticipated Practical Completion Date
 - d) Plans indicating Location, elevations and internal layout.
- 6 Upon receipt of the Approval of Reserved Matters to approach a Registered Social Landlord without delay and to pursue negotiations with all reasonable due diligence in order to comply with the obligations contained in this Agreement and to offer the Affordable Housing Units for sale to a Registered Social Landlord on terms that have due regard to the fact that the acquiring party is a Registered Social Landlord acquiring the Affordable Housing Units for the purpose of providing affordable housing.
- 7 To provide to the Council such information concerning progress of negotiation with the Registered Social Landlord as shall reasonably be required.

- 8 To ensure that the Affordable Housing Transfer and/or DHD Transfer contains such provisions as are required to give effect to the affordable housing obligations contained in this Agreement.
- 9 To give to the Council notice in writing of the completion of any Affordable Housing Transfer or DHD Transfer within 14 days thereof.
- 10 Not to use 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.
- 11 The RSL shall give notice in writing to the CHPPO upon the disposal or letting of each Affordable Housing Unit in accordance with the terms of this Agreement within 28 days of such disposal or letting and providing such details as the CHPPO may reasonably require.
- 12 In selecting Eligible Persons to whom Affordable Housing Units are to be allocated to give priority to persons whose names are on the housing waiting lists and low cost housing register held by the Council in its capacity as local housing authority or those held by the Registered Social Landlord.
- 13 To keep such full and proper records as are reasonably required to demonstrate strict compliance with the affordable housing obligations contained in the Third Schedule to the Council.
- 14 The provisions of the Third Schedule shall not be binding on a mortgagee in possession of an Affordable Housing Unit or a bona fide purchaser for value thereof from such a mortgagee in possession or any receiver appointed by such mortgagee (except a purchaser which is a Registered Social Landlord)

PROVIDED THAT:-

- 14.1 such mortgagee or chargee in possession exercising any power of sale shall first have used reasonable endeavours over a period of three months in consultation with the CHPPO to dispose of the Affordable Housing Unit to a Registered Social Landlord; and
- 14.2 the CHPPO shall have certified in writing (such certification not to be unreasonably withheld or delayed) that he is satisfied that the mortgagee has without success used reasonable endeavours to dispose of the Affordable Housing Unit to a Registered Social Landlord over a three month period.

THE THIRD SCHEDULE

PART 2

TERMS TO BE INCLUDED IN A SHARED OWNERSHIP LEASE

- 1 A right of pre-emption in favour of the Registered Social Landlord.
- 2 Provisions which prevent the acquisition (whether by way of Staircasing or otherwise) by a Shared Owner of an interest in the Affordable Housing Unit in excess of 90%.
- 3 A provision preventing the Shared Owner from letting or sub-letting the Affordable Housing Unit.
- 4 A covenant whereby a Shared Owner who wishes to dispose of their interest in the Affordable Housing Unit (and where the Registered Social Landlord does not wish to exercise the right of pre-emption referred to in paragraph 1 above) shall be prevented from disposing of their interest in the Affordable Housing Unit other than to a Person in Housing Need and who is also an Eligible Person for a sum equal to the same percentage of the Market Value as the Shared Owner then holds pursuant to the Shared Ownership Lease.
- 5 A provision which ensures that the Affordable Housing Unit shall remain affordable housing by way of a requirement upon each successive lessee to obtain at the time of a disposal of the Shared Ownership lease a covenant from the assignee in favour of the Registered Social Landlord in the terms set out in paragraph 4 above.
- 6 A requirement that the Shared Owner shall enter a restriction on the register of the Shared Owner's title 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 written certificate signed by the proprietor for the time being of the estate registered under title number *[insert title number of the Registered Social Landlord for the Affordable Housing Unit]* that the provisions of paragraphs 4 and 5 of Part 2 of the Third Schedule of the planning obligation entered into between Wrexham County Borough Council (1) and Bellway Homes Limited (2) dated 30th September 2010 have been complied with"

THE THIRD SCHEDULE

PART 3

REQUIREMENTS OF A DISCOUNTED HOUSING LEASE

- 1 A right of pre-emption at the Discounted Value in favour of the Registered Social Landlord.
- 2 A provision preventing the purchaser from letting or subletting the Affordable Housing Unit.
- 3 A covenant whereby a Discounted Sale Housing unit owner who wishes to dispose of their interest in their Affordable Housing Unit and where the Registered Social Landlord does not wish to exercise the right of pre-emption referred to in paragraph 1 above shall be prevented from disposing of their interest other than
 - 3.1 to a Person in Housing Need and who is also an Eligible Person, and
 - 3.2 for a price no greater than the Discounted Value.
- 4 A provision which ensures that the Affordable Housing Unit shall remain affordable housing by way of a requirement upon each successive lessee to obtain at the time of disposal of the Discounted Housing Lease a covenant from the assignee in favour of the Registered Social Landlord in the terms set out in paragraph 3 above.
- 5 A requirement that the lessee shall enter a restriction on the register of the lessee's title 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 written certificate signed by the proprietor for the time being of the estate registered under title number [*insert title number of the Registered Social Landlord for the Affordable Housing Unit*] that the provisions of paragraphs 3 and 4 of Part 3 of the Third Schedule of the planning obligation entered into between Wrexham County Borough Council (1) and Bellway Homes Limited (2) dated *30th September* 2010 have been complied with"

THE THIRD SCHEDULE

PART 4

REQUIREMENTS OF SOCIAL RENTED HOUSING

- 1 The Social Rented Housing must not be let to or occupied by persons other than Persons in Housing Need who are also Eligible Persons.
- 2 The Social Rented Housing must not be let other than by way of an assured or assured short hold tenancy, at a rent which complies with the rent bench making guidance published by the Welsh Assembly Government .
- 3 To manage the Social Rented Housing in accordance with the Regulatory code for Housing Associations in Wales issued by the Welsh Assembly Government in 2005 or any successor Regulatory Code in force in Wales.

THE THIRD SCHEDULE

PART 5

REQUIREMENTS OF A DISCOUNTED HOUSING DISPOSAL

- 1 No DHD Owner shall transfer a DHD Unit without first having notified the Council in writing of their intention to dispose of the DHD Unit ("Disposal Notice").
- 2 The Council may within 10 Working Days of receipt of a Disposal Notice notify the DHD Owner in writing of the Council's nominated RSL ("Nominated RSL").
- 3 The Nominated RSL may within 10 Working Days of receipt by the Council of a Disposal Notice notify the DHD Owner in writing of the Nominated RSL's intention to purchase the DHD Unit ("Purchase Notice").
- 4 If the Nominated RSL serves a Purchase Notice within the said 10 Working Days then the DHD Owner shall attempt to agree the Market Value of the DHD Unit ("Purchase Price") with the Nominated RSL and in the event that the Purchase Price has not been agreed within 10 Working Days of the date of receipt by the DHD Owner of the Purchase Notice then either the DHD Owner or the Nominated RSL may refer the determination of the Purchase Price to an expert pursuant to clause 11.

- 5 If:
- 5.1 the Council has failed to nominate an RSL within the period specified in paragraph 2 of this Part; or
 - 5.2 the Nominated RSL has failed to serve a Purchase Notice within the period specified in paragraph 3 of this Part; or
 - 5.3 the Nominated RSL has failed (through no fault of the DHD Owner) to complete a transfer of the DHD Unit within 15 Working Days of the agreement or determination of the Purchase Price

then the DHD Owner may transfer his interest in the DHD Unit to an Eligible Person in accordance with this Part of this Schedule.

- 6 DHD Owners wishing to dispose of their interest in a DHD Unit shall comply with any reasonable procedure adopted by the Council from time to time for arranging and administering the disposal to Eligible Persons of affordable housing units such as DHD Units.

- 7 Not to sub-let or let any DHD Unit.

- 8 Not to dispose of a DHD Unit for a price which exceeds 65% of the Market Value or the percentage at which the DHD Owner acquired the DHD Unit whichever is the lower.

- 9 On the first disposal of a DHD Unit and each subsequent disposal thereof a restriction shall be entered on the proprietorship register of the DHD Unit 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 written certificate signed by a conveyancer that the provisions of the Third Schedule of the Agreement dated 30th Sept 2010 between WREXHAM COUNTY BOROUGH COUNCIL (1) BELLWAY HOMES LIMITED (2) have been complied with or that they do not apply to the disposition"

THE THIRD SCHEDULE

⁶ PART ~~X~~

DEFINITION OF AN ELIGIBLE PERSON

An Eligible Person means a Person who is in Housing Need who:-

- 1 has resided personally or who has had a Close Family Association in the Brynyffynnon Community Council Area for a continuous period of one year immediately preceding the proposed occupation of an Affordable Housing Unit; or

- 2 is in permanent full time employment at a location within Brynyffynnon Community Council Area and has been in such employment for a period of six months immediately preceding the proposed occupation of an Affordable Housing Unit; or
- 3 has previously resided or had a Close Family Association in the Brynyffynnon Community Council Area or has been in employment therein for a continuous period of five years;

PROVIDED THAT

- 4 if no person meeting the requirements in paragraphs 1 – 3 above can be identified from the housing waiting lists held by the CHPPO and a period of not less than four weeks has elapsed after an advertisement seeking such a person has been placed in a newspaper circulating in the Wrexham locality then the references in paragraphs 1 – 3 above to the Brynyffynnon Community Council Area shall be treated as if they included references to the Esclusham, Grosvenor, New Broughton, Offa and Coedpoeth Community Council Areas 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;

PROVIDED FURTHER THAT

- 5 where no person who qualifies or who can be regarded as qualifying as an Eligible Person pursuant to paragraph 4 above can be identified from the sources mentioned therein after at least one advertisement has been placed in a newspaper circulating in the locality then after a period of not less than eight weeks the references in paragraphs 1 – 3 above to the Brynyffynnon Community Council area shall be treated as if they included reference to the Wrexham County Borough Council area 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;

PROVIDED FURTHER THAT

- 6 if no applicant qualifies under paragraph 5 above within 12 weeks, then any other person who in the opinion of the Registered Social Landlord or the Council is in housing need shall be treated as an Eligible Person.

CERTIFICATE

As Solicitors for the Owner (as defined in the within written Deed of Agreement) we hereby certify that Recitals B and C hereof are correct.

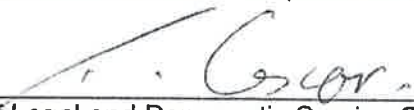
Signed



Dated 20th September 2010

Glaisyers Solicitors LLP
One St James's Square
Manchester M2 6DN

**THE COMMON SEAL of
WREXHAM COUNTY BOROUGH COUNCIL**
was hereunto affixed in the presence of:

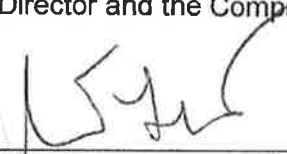


Chief Legal and Democratic Services Officer



216/10(c)

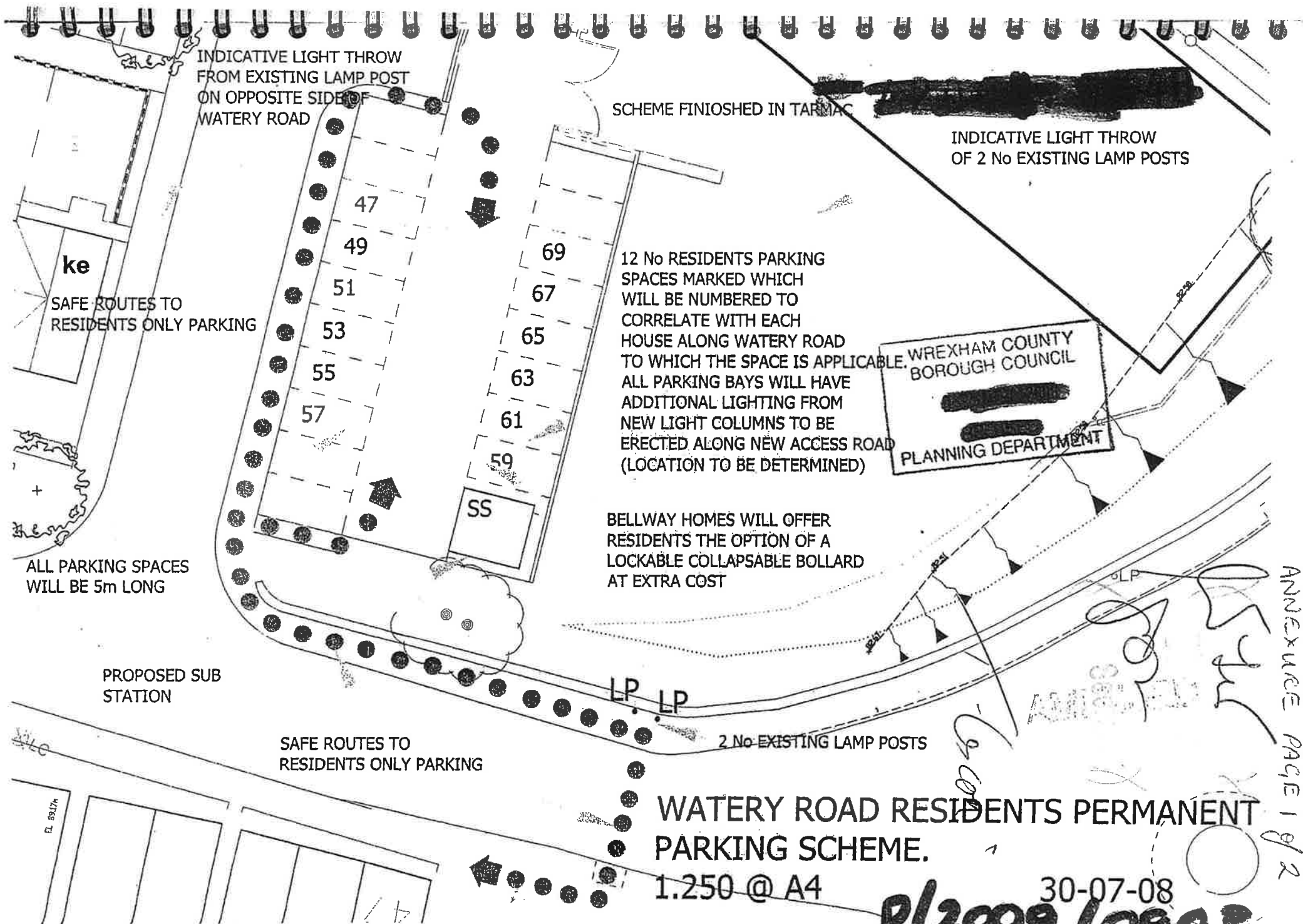
**EXECUTED AS A DEED BY
BELLWAY HOMES LIMITED**
acting by two of its Directors or a
Director and the Company Secretary



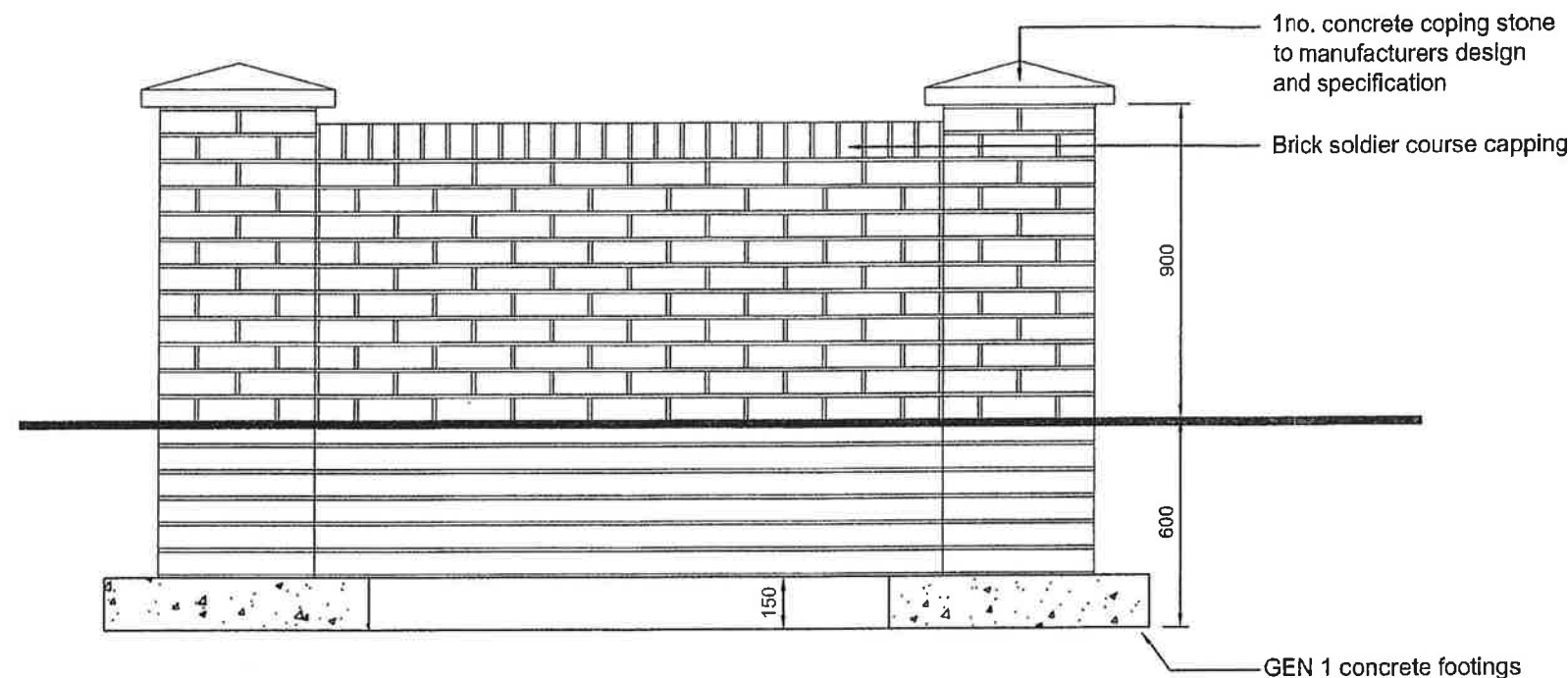
Director



Director/Secretary



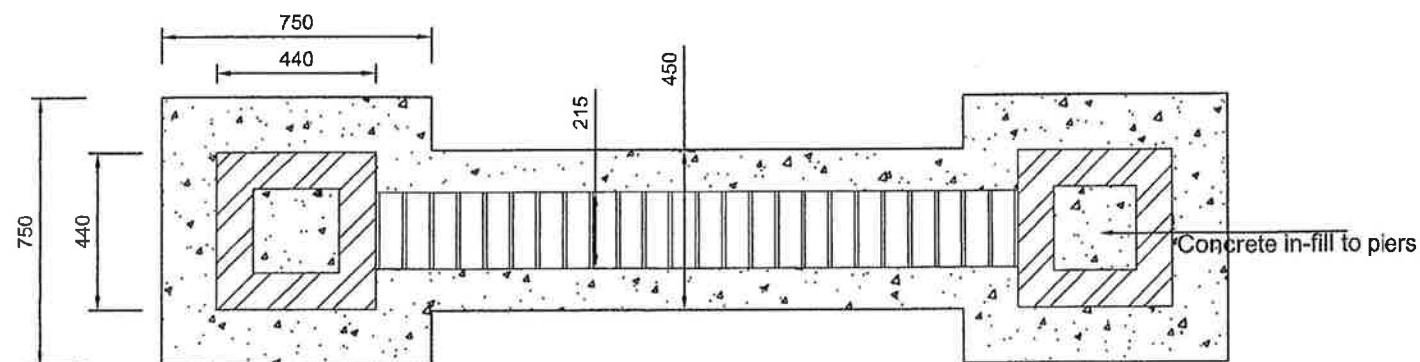
Note: Piers to be placed at points A and B, at the corner return and then at approximately 4.8m centres along the length of the wall to correspond with parking bays. Size of piers can be adjusted to suit available space once parking bays etc have been set out.



PIERS TO BE LOCATED, WHERE POSSIBLE AT END OF WALL.

Elevation

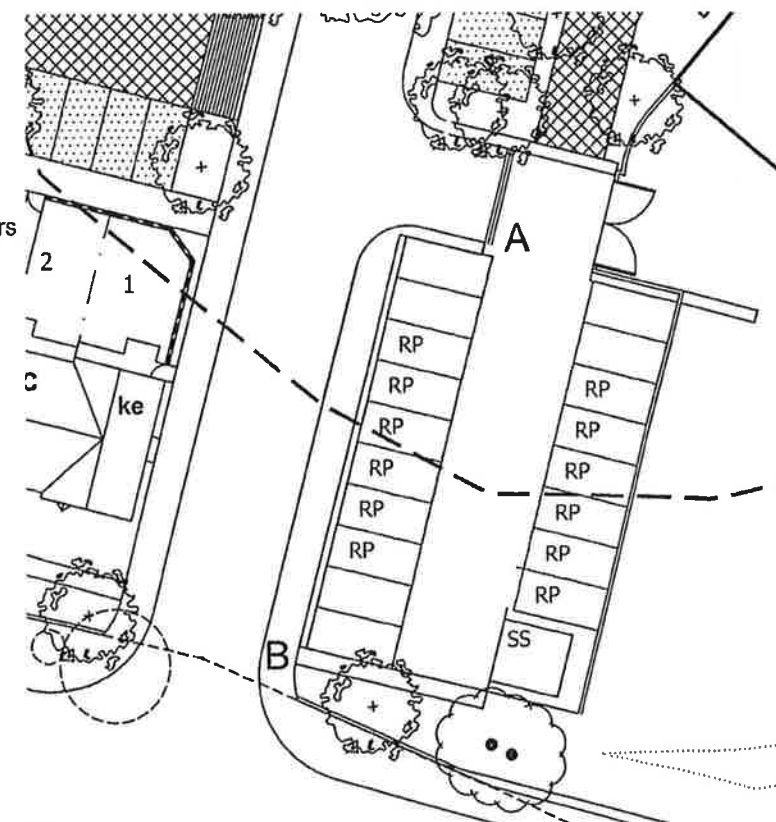
AMENDED



Plan

900mm High Wall

WALL TO BE LOCATED BETWEEN POINTS A AND B WITH PIERS AT ENDS AND CHANGE OF DIRECTION WHERE POSSIBLE



NOTES

1. No dimensions are to be measured from this drawing.

Handwritten signatures and initials:
 PSZ
 X for
 AMENDED
 G. Co.

Rev.	Date	Amendment	Chkd
A	22/02/10	PIER NOTE ADDED TO LPA REQUEST	TJA

Bellway

(WEST LANCASHIRE)

(a member of Bellway Plc Group of Companies)

Bellway Homes Ltd

2 Alderman Road, Liverpool, L24 9LR.

Tel: 0151 486 2900 Fax: 0151 336 9393

Project

Standard Boundary Treatment / Fence Details

Subject

900mm High Brick Wall & Piers

Scale 1:20 Date March 08 Drawn AT Checked

Drawing No. BH/WL/SD/FD033 Revision A

Note
 All specifications, materials and workmanship to be in accordance with current NHBC and Building Regulations.
 Main drainage to comply with Sewers for Adoption current edition.
 Highways to be in accordance with Local Authority specification.
 Do not scale from this drawing.
 All dimensions to be verified with the drawing office.

Cad File Name : R:/ARCHITECTS/ARCHITECTS/STANDARD DETAILS

AMENDED

Planned 1996