

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

relating to the Former Belmont Hotel Belmont
Road Wrexham LL13 7PW

Dated : 9 May 2016

WREXHAM COUNTY BOROUGH COUNCIL (1)

and

JOHN OLIVER ALLEN (2)

T Coxon

Head of Corporate and Customer Services

Guildhall

Wrexham

LL11 1AY

Ref: ND/10008269

DATE 9 May 2016

PARTIES

- (1) **WREXHAM COUNTY BOROUGH COUNCIL** of Guildhall Wrexham LL11 1AY
("Council")
- (2) **JOHN OLIVER ALLEN** of Belmont Hotel 2-4 Belmont road Wrexham LL13 7PW ("the Owner")

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 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.
- (4) The Council resolved on the 9th December 2014 to grant the Planning Permission subject to the prior completion of this Deed.

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1 DEFINITIONS

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

"Act"	the Town and Country Planning Act 1990
"Application"	the application for full planning permission dated 17 th September 2014 submitted to the Council for the Development and allocated reference number P/2014/0725
"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
"Education Contribution"	means the sum of £11,760.00 (indexed in accordance with the provisions of this Deed) to be paid by the Owner to the Council in accordance with the provisions of the Second Schedule
"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.
"Plan A"	the Plan A attached to this Deed
"Planning Permission"	the draft full planning permission subject to conditions to be granted by the Council pursuant to the Application
"Practical Completion"	issue of a certificate of practical completion by NHBC by way of the usual NHBC cover note
"Site"	the land subject to this Deed as shown edged red on the Plan A and more particularly described in the First Schedule.

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

4 CONDITIONALITY

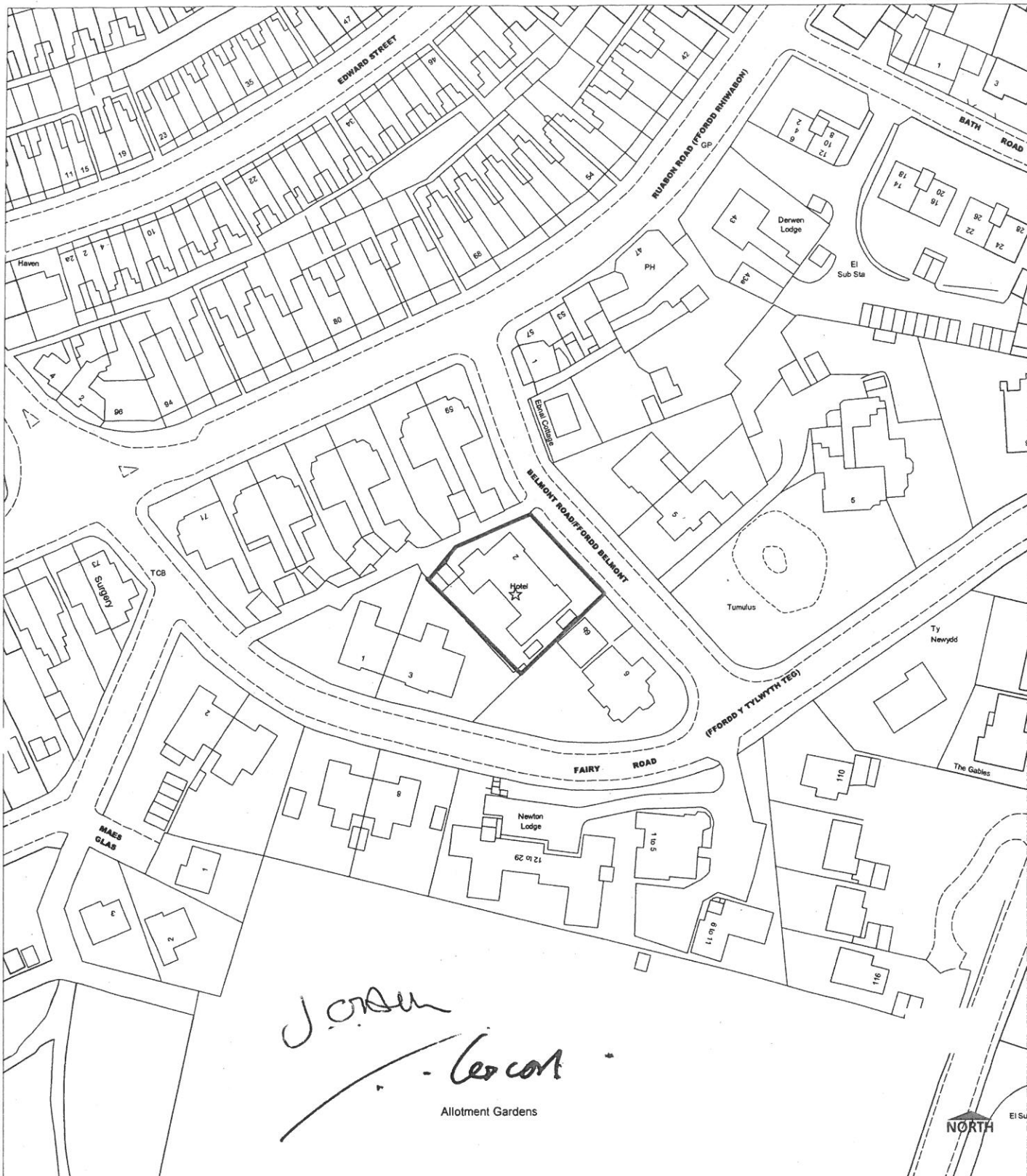
This Deed is conditional upon:

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

save for the provisions of Clauses 5.2, 7.1, 13 and 14 (commencement of development, legal costs, jurisdiction and delivery) fees and any other relevant provisions which shall come into effect immediately upon completion of this Deed.

5 THE OWNER'S COVENANTS

- 5.1 The Owner covenants with the Council as set out in the Second Schedule.
- 5.2 The Owner shall serve on the Council a notice of Commencement of Development not less than two days before Commencement of Development.



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

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

Date: 09/12/2014
Scale: 1:1250
OS Sheet: SJ3349



P/2014/0725
Belmont Hotel, Belmont Road
Wrexham

wrexham
COUNTY BOROUGH COUNCIL
CYNGOR BWRDEISTREF SIROL
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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 £1000.00
- 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 and Wellbeing 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 This Deed shall cease to have effect (insofar only as it has not already been complied with) if:-
- 7.7.1 the Planning Permission shall be quashed revoked or otherwise withdrawn or (without the consent of the Owner) is modified by any statutory procedure
- 7.7.2 the Planning Permission shall expire prior to the Commencement of Development; or
- 7.7.3 the Site is developed under a new planning permission (other than one issued under Section 73 of the Act for variation or discharge of a condition of the Planning Permission) granted after the Planning Permission by the Council or any other competent authority and there has been no Commencement of Development.
- 7.8 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 7.9 This Deed shall not be enforceable against owner-occupiers or tenants of dwellings constructed pursuant to the Planning Permission nor against those deriving title from them.

- 7.10 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 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

10 INDEXATION

Any sum referred to in the Second Schedules shall be increased by an amount equivalent to the increase in the Index from the date hereof until the date on which such sum is payable.

11 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.

12 VAT

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

13 JURISDICTION

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

14 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.

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 former Belmont Hotel Belmont Road Wrexham LL13 7PW which is registered at H M Land Registry in the name of the Owner with title absolute under title numbers WA982195 and WA505160 and shown edged in red on Plan A

SECOND SCHEDULE

EDUCATIONAL CONTRIBUTION

Within twenty one (21) days of completion of the sale of the third flat within the Development the Owner shall pay the Educational Contribution to the Council and the monies paid shall be used by the Council to provide additional primary educational facilities within Victoria Junior Primary School, Poyser Street, Wrexham LL13 7RR

In pursuance of its powers under the Acts and Orders referred to below, the County Borough Council as Local Planning Authority, hereby determines your application in accordance with the particulars and plans comprising the application

Applicant	MR J ALLEN	Code Number	WRO P/2014/0725
Agent	BLUEPRINT ARCHITECTURAL SERVICES LTD MR D EDWARDS REDWITHER BUSINESS CENTRE ABBAY ROAD WREXHAM INDUSTRIAL ESTATE WREXHAM LL13 9XR	Date Received	24/09/2014
		Decision Date	

D R A F T

Town and Country Planning Act, 1990

Location of application

BELMONT HOTEL, BELMONT ROAD, WREXHAM, LL13 7PW

Description of application

CONVERSION AND EXTENSION OF HOTEL TO FORM 6 NO. FLATS WITH ASSOCIATED PARKING, VEHICULAR AND PEDESTRIAN ACCESS.

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

EC7	Conservation Areas
GDP1	Development objectives
PS2	Development and the environment
T8	Parking

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 details shown on the approved drawing(s) numbered A032/004 Sheets 1 of 2 and 2 of 2 Rev B and contained within the application documentation.
3. Prior to first use of the development the site shall be laid out in strict accordance with layout plan(s) No. A032/003 Sheet 1 of 1 Rev B.

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4. No land drainage run-off or surface water shall be permitted to discharge or connect to the public sewerage system, either directly or indirectly, and foul and surface water shall be drained separately from the site.
5. Notwithstanding the details contained on the approved plan no part of the existing northern western facing boundary wall, including its return where it is attached to the existing building, shall be removed.
6. Prior to its installation, the material and colour / finish of all new and replacement fascias and soffits on the north western, north eastern and south eastern elevations of the existing building and extension hereby approved shall be first agreed in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the details as may be agreed.
7. Prior to their installation on the building, a specification of rainwater goods shall be submitted to and approved in writing by the Local Planning Authority. The details shall fully describe the proposed materials, fixing method, decorative/protective finishes and include cross sections. Works shall only be carried out in strict accordance with such details as approved.
8. Prior to their installation on the building, drawings to the scale 1:5 and 1:20 fully detailing all new or replacement windows and doors shall be submitted to and approved in writing by the Local Planning Authority. The details shall fully describe the proposed materials and decorative/protective finishes. The works shall only be carried out in strict accordance with such details as are approved.
9. Prior to their use on the development samples of all external facing materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in strict accordance with such details as are approved.
10. Prior to the first use of the development hereby approved, a bin store and cycle storage facilities shall be implemented strictly in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The scheme as implemented shall be retained thereafter.
11. All works in relation to the implementation of this permission, including deliveries to and / or leaving the site, shall be undertaken only between the hours of 7.30 and 18.00 Monday to Friday, and 08.00 to 14.00 on a Saturday, and at no time on a Sunday or a Bank Holiday.

Applicant MR J ALLEN

Code Number WRO P/2014/0725

Agent BLUEPRINT
ARCHITECTURAL
SERVICES LTD
MR D EDWARDS
REDWITHER BUSINESS
CENTRE
ABBAY ROAD
WREXHAM INDUSTRIAL
ESTATE
WREXHAM
LL13 9XR

Date Received 24/09/2014

Decision Date

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. In the interests of highway safety.
4. To protect the integrity of the public sewerage system and prevent hydraulic overloading of the public sewerage system. To protect the health and safety of existing residents and to ensure no detriment to the environment.
5. The wall is considered to be a prominent feature within the conservation area which makes a positive contribution to the street scene.
6. To ensure the works reflect the character and appearance of the building.
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8. To ensure the works reflect the character and appearance of the building.
9. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
10. To ensure that the development provides for safe and sustainable transport options and to ensure that bins are stored in the interests of the visual amenity of the area.
11. To protect the amenities of the occupiers of nearby properties.

Note(s) to applicant

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.

You are advised that building work which involves work on an existing wall shared with another property, building on the boundary with a neighbouring property or excavating near a neighbouring building may require the separate

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consent of the neighbour under the provisions of the Party Wall Act. If you require further information or advice please contact the Building Control Section on 01978 292050.

The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include:

- Collapse of shallow coal mine workings.
- Collapse of, or risk of entry into, mine entries (shafts and adits).
- Gas emissions from coal mines including methane and carbon dioxide.
- Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide.
- Transmission of gases into adjacent properties from underground sources through ground fractures.
- Coal mining subsidence.
- Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips.

Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas.

In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through

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drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted.

Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. 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 Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

All works relating to this development which are audible beyond the site boundary should be carried out only between 7.30 and 18.00 hrs Monday to Friday, and 08.00 to 14.00 hrs on a Saturday, and at no time on a Sunday or a Bank Holiday. Outside these times, any works which are audible beyond the site boundary have the potential to cause unreasonable disturbance to neighbouring premises.

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.

The applicant should adhere to the times given above wherever possible. For further information and advice regarding construction noise please contact the

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Council's Housing and Public Protection Department on 01978 315300.

Some public sewers and lateral drains may not be recorded on Dwr Cymru Welsh Water's maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist Dwr Cymru Welsh Water, the applicant is advised to contact the Operations Contact Centre at Dwr Cymru on 0800 085 3968 to establish the location and status of the sewer. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.



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

THIRD SCHEDULE

Council's Covenants

Discharge of obligations

- 1 The Council covenants with the Owner to use the Educational Contribution ("the Contribution") received from the Owner under the terms of this Deed for the purpose specified in this Deed for which they are paid
2. The Council covenants with the Owner that it will repay the Owner 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 10 years of the date of receipt by the Council such period shall commence 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.

CERTIFICATE

.....of **ALLINGTON HUGHES LAW** as solicitors for the
Owner (as defined in the within written Deed) hereby certify that the First Schedule of this
Agreement is correct.

Signed

Dated:

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

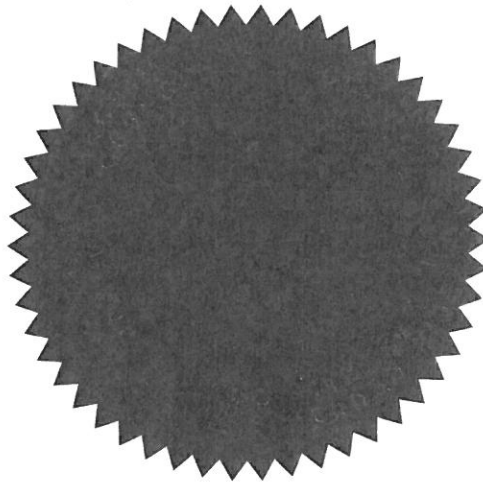
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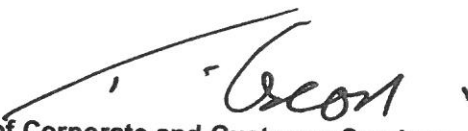
THE COMMON SEAL of

WREXHAM COUNTY BOROUGH COUNCIL

in the

presence of:-

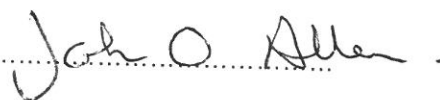



Head of Corporate and Customer Services

56/16(a)

EXECUTED as a Deed by

JOHN ALLEN


in the presence of:



Ian M. Edwards Solicitor
Allington Hughes Law
10 Grosvenor Road
Wrexham. LL11 1SD
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