

This Unilateral Planning Obligation is dated

and is given by:

GARDENBREEZE LIMITED (company number 5015873) whose registered office is at The Marketing Suite Unit D, Baron Way, Kingmoor Business Park, Carlisle CA6 4SJ ('the Owner')

1. BACKGROUND

- 1.1 The Owner is the registered proprietor of the Owner's Land
- 1.2 Wrexham County Borough Council is the local planning authority and the highway authority
- 1.3 The Applicant has by planning application number P/2011/0891 applied to the Council for outline planning permission to develop the Application Site for B8 storage and distribution warehouse development and associated ecological mitigation area including means of access off Bryn Lane and layout
- 1.4 The Council has by a decision notice dated 22 June 2012 refused the Application
- 1.5 The Applicant has appealed to the Welsh Assembly Ministers (Welsh Assembly Government) against the Council's decision and the Owner is willing to give an undertaking to perform the obligations set out in this Unilateral Planning Obligation in the event of the appeal being allowed
- 1.6 This Deed relates to the development of the Application Site pursuant to planning application number P/2011/0891 and if permission is granted in respect of the Application Site any Unilateral Planning Obligation provided prior to the date of this Deed shall lapse and be of no further effect

2. INTERPRETATION

- 2.1 In this Unilateral Planning Obligation:

'the Act'	means the Town and Country Planning Act 1990
'approved'	means approved in writing and given for the purpose of this Unilateral Planning Obligation and any such approval shall not be unreasonably withheld or delayed
'the Applicant'	Kingmoor Park Properties Limited and Norbert Dentressangle Logistics Limited
'the Application'	means the planning application numbered P/2011/0891 made by the Applicant to develop the Application Site for B8 storage and distribution warehouse development and associated ecological mitigation area including means of access off Bryn Lane and layout
'the Application Site'	means that part of the Owner's Land as is shown edged red on Plan 1

'the Commencement Date' means the date on which the Development commences by the carrying out on the Application Site pursuant to a planning permission granted pursuant to the Application of a material operation as defined in Section 56(4) of the Act but for the purposes of this Unilateral Planning Obligation works involving soil investigations, archaeological investigations, demolition, site clearance, site preparation, the diversion and laying of services, the erection of fences and hoardings and the preparation of site access shall not constitute a material operation

'the Council' means Wrexham County Borough Council

'the Development' means the development of the Application Site proposed in the Application or permitted by planning permission granted pursuant to the Application or carried out substantially in accordance with such planning permission

**'the Ecological Mitigation/
Landscape Areas'** means that part of the Application Site identified on Plan 2 and includes the following features:

- New hedgerows
- Specimen/individual trees
- Existing trees
- Existing waterbodies
- New waterbodies
- Proposed Mounding
- Rough grassland
- Species rich grassland
- Woodland/thicket planting
- Amenity Planting
- Amenity grassland
- Hardstanding

'the Management Framework' means the document annexed to this Unilateral Planning Obligation as Annex 1 entitled 'Landscape and Ecological Management Framework' prepared by HOW Planning LLP dated June 2013 addressing the management and maintenance of the Ecological Mitigation Area/Landscape Area together with any amendments to the document as approved in writing by the local planning authority at any time

'the Managing Body' the party or parties which shall undertake:

- the management and maintenance of the Ecological Mitigation/Landscape Area;
- the implementation and ongoing management of

the interim and proposed Travel Plan
as approved in writing by the Council

**'the Managing Body
Approval Fee'**

the Council's reasonable and proper costs in assessing and approving the details of the Managing Body

'the Owner's Land'

means the freehold land registered under title number CYM171875 at Kingmoor Park Wrexham, Bryn Lane, Wrexham Industrial Estate

'Plan 1'

means the plan attached to this deed with reference 5000

'Plan 2'

means the plan attached to this deed with reference 1253C

'the Transport Contribution'

means the sum of £10,000 to fund enhancements to public transport by the provision of up to two new bus stops in Bryn Lane including shelters and raised kerbs

'the Travel Plan'

means the travel plan shown in draft and attached to this Unilateral Planning Obligation as Annex 2 to be finalised pursuant to the planning permission granted pursuant to the Application

- 2.2 Words importing the masculine include the feminine and vice versa
- 2.3 Words importing the singular include the plural and vice versa
- 2.4 Words importing persons include companies and corporations and vice versa
- 2.5 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
- 2.6 Any reference to a clause or schedule or plan is to one in or attached to this Unilateral Planning Obligation
- 2.7 In the absence of contrary provision any reference to a statute includes any statutory modification or re-enactment of it and every statutory instrument direction specification made or issued under the statute or deriving validity from it
- 2.8 References to any party to this Unilateral Planning Obligation 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 the successors to their respective functions as local highway authority and local planning authority
- 2.9 References to the Application Site include any part of it
- 2.10 If any provision is held to be illegal invalid or unenforceable the legality validity and enforceability of the remainder of this Unilateral Planning Obligation is to be unaffected

3. **ENABLING PROVISIONS**

This Unilateral Planning Obligation is made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972 and all other enabling powers

4. **COMMENCEMENT AND DETERMINATION**

4.1 This Unilateral Planning Obligation shall come into effect on the grant of planning permission for the Development

4.2 If the planning permission granted pursuant to the Application shall expire before the commencement of a material operation or shall at any time be revoked then this Unilateral Planning Obligation shall be determined and shall have no further effect

4.3 Nothing in this Unilateral Planning Obligation prohibits or limits the right to develop any part of the Owner's Land or the Application Site in accordance with a planning permission, other than one relating to the Development as specified in the Application, granted after the date of this Unilateral Planning Obligation whether or not pursuant to an appeal

5. **COVENANTS WITH THE COUNCIL**

5.1 The Owner covenants with the Council:

- (a) to make the financial contribution set out in Schedule 1
- (b) to comply with the obligations set out in Schedule 2

6. **GENERAL**

6.1 The Owner acknowledges and declares that:

- (a) the obligations contained in this Unilateral Planning Obligation are planning obligations for the purpose of Section 106 of the Act in respect of the Application Site
- (b) this Unilateral Planning Obligation constitutes a deed
- (c) this Unilateral Planning Obligation is enforceable by the Council
- (d) this Unilateral Planning Obligation does not nor is intended to confer a benefit on a third party within the meaning of the Contracts (Rights of Third Parties) Act 1999
- (e) no person shall be liable for any breach of the covenants restrictions or obligations contained in this Unilateral Planning Obligation after that person has parted with its interest in the Application Site or the part of it in respect of which the breach occurs but without prejudice to liability for any breach subsisting prior to parting with such interest
- (f) this Unilateral Planning Obligation may be registered as a local land charge in the Register of Local Land Charges maintained by the Council in respect of the Application Site

- (g) the Owner has the sole proprietary interest in the Application Site and that there are no third party interests which would require any other party to give this Unilateral Planning Obligation

IN WITNESS whereof the Owner has signed this instrument as a Deed the day and year first before written

SCHEDULE 1

Contribution

The Owner covenants with the Council to pay to the Council the Transport Contribution on or before the Commencement Date

SCHEDULE 2

Owner's Obligations

1. Ecological Mitigation/Landscape Areas/Travel Plan

1.1 Prior to the Commencement Date the Owner shall:

1.1.1 create set up or bring into existence such corporate body or bodies as appropriate to fulfil the functions of the Managing Body or Bodies and thereafter to operate or procure the operation of the Managing Body or Bodies as necessary to secure the long term management of the Ecological Mitigation/Landscape Areas

1.1.2 submit to the Council for approval details of the Managing Body or Bodies which is or are to undertake:

1.1.2.1 the management and maintenance of the Ecological Mitigation/Landscape Areas pursuant to the Management Framework

1.1.2.2 the implementation and ongoing management of the interim and proposed Travel Plan

For the avoidance of doubt, these obligations shall not preclude the Owner from submitting details of an alternative Managing Body or Bodies to the Council for approval at any stage subject to the payment of the Council's reasonable costs in considering the same.

1.2 Prior to the Commencement Date the Owner shall pay to the Council the Managing Body Approval Fee.

1.3 The Owner shall co-operate as necessary with all governmental quasi governmental or private agencies charities or trusts with which relationships are required or recommended in the Management Framework and to enter into such relationships with

those bodies either contractual or otherwise as are necessary as part of such co-operation.

- 1.4 The Owner shall lay out such monies necessary to procure the implementation by the Managing Body or Bodies of the Management Framework and the Travel Plan and shall ensure that the provisions of the Management Framework and the Travel Plan are observed and performed by the Managing Body or Bodies.
- 1.5 The Ecological Mitigation/Landscape Areas shall be managed in accordance with the Management Framework for a period of 25 years from the Commencement Date.
- 1.6 Following the expiry of the period referred to in paragraph 1.5 above the Owner shall undertake a review of the Management Framework and submit a revised Management Framework to the Council for consideration.

Executed as a Deed by)
GARDENBREEZE LIMITED acting)
by a Director in the presence of:)

)

Director



Witness signature



Witness details:

Kathryn Noble

Name: Kathryn Noble

Address: 1 Southwaite Rd

Low Heskett

Carlisle

CA4 0ES