

DATED:

8th April

2016

**Planning Obligation by Deed of Agreement
under Section 106 of the
Town and Country Planning Act 1990
relating to Land off and east of Ellesmere Lane,
Penley, Wrexham**

WREXHAM COUNTY BOROUGH COUNCIL (1)

and

JEREMY KENYON TOD RITCHIE AND BARBARA ANN RITCHIE (2)

and

PRIMESAVE PROPERTIES LTD (3)

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

Ref: MWY/ZS/10009392

DATE: 8th April 2016

PARTIES

- (1) **WREXHAM COUNTY BOROUGH COUNCIL** of Guildhall, Wrexham, LL11 1AY (hereinafter referred to as "the Council")
- (2) **JEREMY KENYON TOD RITCHIE** and **BARBARA ANN RITCHIE** of The Grange, Grante Road, Penley, Wrexham (hereinafter referred to as "the Owner")
- (3) **PRIMESAVE PROPERTIES LTD** of London House, Town Walls, Shrewsbury, Shropshire SY1 1TX (hereinafter referred to as "the Developer")

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 Developer 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 7th December 2015 to grant the Planning Permission subject to the prior completion of this Deed.

NOW THIS DEED WITNESSES AS FOLLOWS:

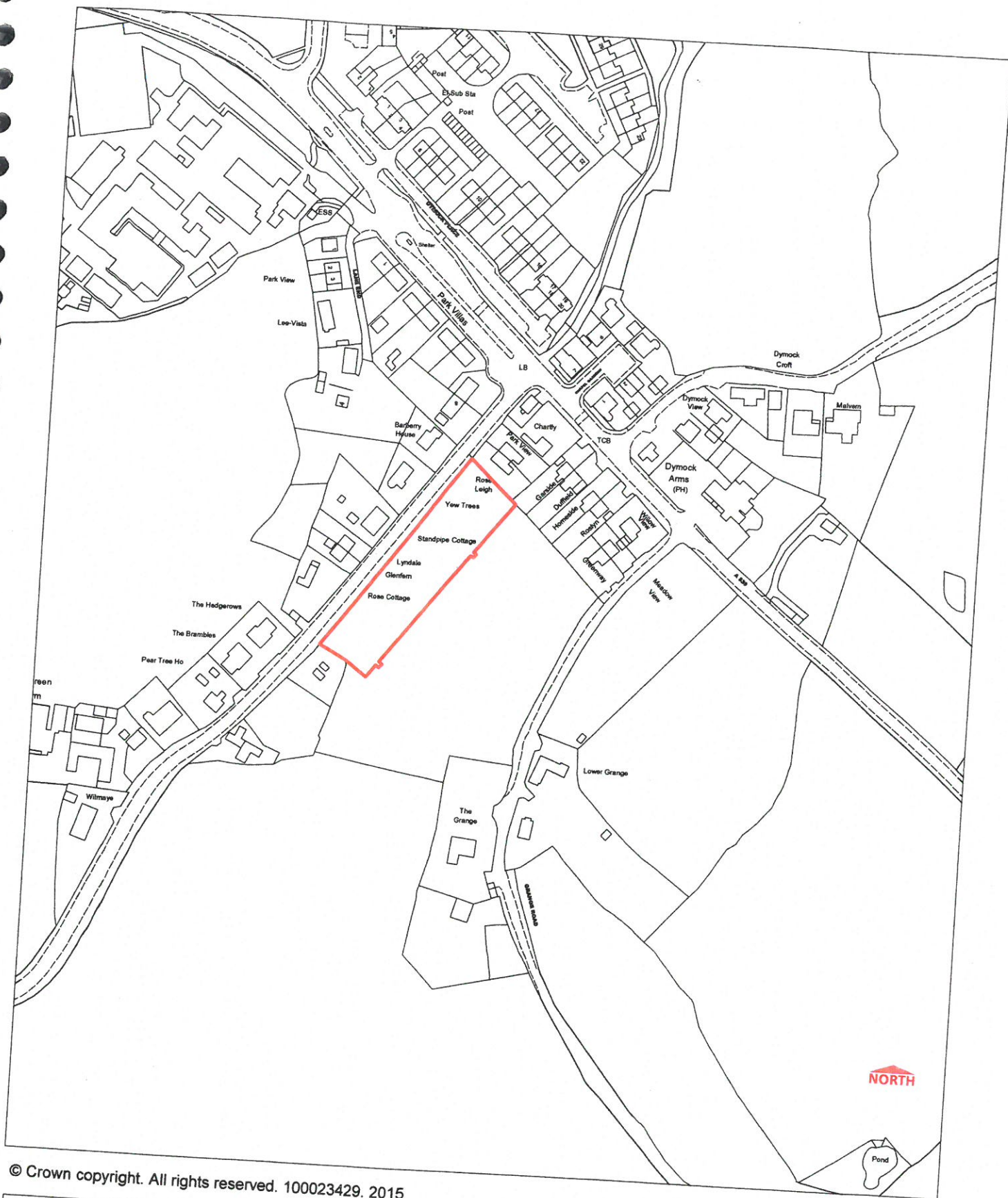
OPERATIVE PART

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 outline planning permission dated 1st June 2015 submitted to the Council for the Development and allocated reference number P/2015/0405



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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: 02/02/2016
Scale: 1:2500
OS Sheet: SJ4139



P/2015/0405
Land off and East of Ellesmere Lane
Penley, Wrexham

wrexham
COUNTY BOROUGH COUNCIL
CYNGOR BWEDDISTREF SIRO
wrecsam

"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
"Disposal"	means a disposal by transfer by the Owner or its successor in title of one or more of the residential units permitted by the Planning Permission
"Education Contribution"	means the sum of £40,848 (forty thousand eight hundred and forty eight pounds) (indexed in accordance with the provisions of this Deed) or such other sum as agreed between the Council and the Developer in writing 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"	the Plan attached to this Deed
"Planning Permission"	the draft full planning permission subject to conditions to be granted by the Council pursuant to the Application as set out in the Second and Third Schedules
"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 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 and Third Schedules.
- 5.2 The Owner shall serve on the Council a notice of Commencement of Development not less than two days before Commencement of Development.

6 THE COUNCIL'S COVENANTS

- 6.1 The Council covenants with the Owner as set out in the Fourth 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 £2,000 (two thousand pounds).
- 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 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 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.

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

Land at The Grange, Grange Road, Penley, Wrexham, LL13 0LS, edged red on the Plan, and registered at the Land Registry with title number WA873145.

SECOND SCHEDULE

Owner's Covenants – Educational Contribution

Prior to the Disposal or occupation, whichever is the earliest, of the first residential unit on the Site, the Owner shall pay the Educational Contribution to the Council and the monies paid shall be used by the Council to provide additional educational facilities within the catchment area of Maelor, Penley Secondary School.

THIRD SCHEDULE

Owner's Covenants – Public Open Space

Definitions

For the purpose of this Schedule, the following definitions apply:-

- 1.1 "the Common Parts" means all those parts of the Development which are not conveyed or to be conveyed to buyers of dwellings forming part of the Development and which include (without this list being exhaustive) access roads and ways (other than those to be adopted by the Council as highway authority), driveways, parking spaces, courtyards, pathways, footways, walls, fences, gates, lawns, shrubs, trees, ponds, hard and soft landscaped areas and planted features.
- 1.2 "the Company" means the company to be formed by the Owner for the purpose of the future management of the Common Parts.
- 1.3 "the Residents" means the purchasers of the individual dwellings constructed on the Site pursuant to the Planning Permission

The Obligation

On Commencement of Development the Owner shall:-

- 2.1 form the Company and produce to the Council certified copies of the memorandum and articles of association and certificate of incorporation thereof.
- 2.2 procure that all Residents shall contemporaneously with the transfer of each such dwelling become a member or shareholder of the Company.
- 2.3 procure that every transfer of a dwelling constructed pursuant to the Planning Permission contains a provision to secure to the Company in perpetuity by way of periodical payments from the purchaser thereof monies sufficient (when aggregated with those from the remainder of the Residents) to enable the Company to maintain the Common Parts to a standard commensurate with reasonable use and enjoyment thereof for domestic purposes arising from residential use of the dwellings on the Development by the Residents and, as necessary, refurbish the same from time to time and the Owner shall lodge with the Council a specimen of the said provisions on a date not later than fourteen days before the completion of the first transfer of any dwelling constructed as part of the Development.
- 2.4 On a date no later than fourteen days after the date when the last of the

2.5 constitute the Company so as to provide that:-

- 2.5.1 at the first annual general meeting thereof which falls due after the date specified in 2.4 above a majority of the directors then holding office shall retire,
- 2.5.2 at every election of directors after the date specified in 2.4 above a majority of the directors thereof shall be chosen from among the Residents.

FOURTH 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 ten years of the date of receipt by the Council EXCEPT with regard to the Educational Contribution where the said ten years 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.

Planning Service
16 Lord Street
Wrexham LL11 1LG
Telephone: 01978 296994
E-mail: planning@wrexham.gov.uk
Web: www.wrexham.gov.uk/planning



Y Gwasanaeth Cynllunio
16 Stryt yr Arglwydd
Wrecsam LL11 1LG
Llinell Gymorth: 01978 296994
E-bost: planning@wrexham.gov.uk
Gwef: www.wrexham.gov.uk/planning

Application for Outline Planning Permission With Some Matters Reserved.
Town and Country Planning Act 1990

Publication of applications on planning authority websites

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

P / 2015 / 0405

1. Applicant Name, Address and Contact Details

Title:	Mr	First name:	Steve	Surname:	Jennings
Company name:	Primesave Properties				
Street address:	London House				
Town/City:	Shrewsbury				
County:					
Country:	United Kingdom				
Postcode:	SY1 1TX				
Telephone number:					
Mobile number:					
Fax number:					
Email address:					

Are you an agent acting on behalf of the applicant? ☒ Yes ☐ No

2. Agent Name, Address and Contact Details

Title:		First Name:	Osian	Surname:	Jones
Company name:	OM architecture & design				
Street address:	45a High Street				
Town/City:	Shrewsbury				
County:	Shropshire				
Country:					
Postcode:	SY1 1ST				
Telephone number:					
Mobile number:	07817239649				
Fax number:					
Email address:	osian@om-architecture.co.uk				

3. Description of the Proposal

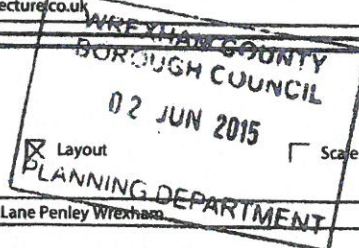
Please indicate all those reserved matters for which approval is being sought:

☒ Access ☐ Appearance ☐ Landscaping

Please describe the proposal:

Outline planning application for the erection of 9 dwellings, access, layout on land to the east of Ellesmere Lane Penley Wrexham

Has the building or works already been carried out? ☐ Yes ☒ No



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1. Site Address Details

Full postal address of the site (including full postcode where available)

House: Suffix:

House name:

Street address: Land off Ellesmere Road

Town/City: Penley

County: County of Wrexham

Postcode:

Description of location or a grid reference
(must be completed if postcode is not known):

Easting: 341862

Northing: 339619

Description:

Outline planning application for the erection of 9 dwellings, to include access and layout. All other matters reserved.

5. Pre-application Advice

Has assistance or prior advice been sought from the local authority about this application?

☒ Yes ☐ No

If Yes, please complete the following information about the advice you were given (this will help the authority to deal with this application more efficiently):

Officer name:

Title: Ms First name: Sharon Surname: Holman

Reference: Correspondence/Meetings with Dave Parker re Penley

Date: 25/03/2015

Details of the pre-application advice received:

The design of the site layout has been agreed through a number of meetings and correspondence.

5. Pedestrian and Vehicle Access, Roads and Rights of Way

Is a new or altered vehicle access proposed to or from the public highway?

☒ Yes ☐ No

Is a new or altered pedestrian access proposed to or from the public highway?

☒ Yes ☐ No

Are there any new public roads to be provided within the site?

☒ Yes ☐ No

Are there any new public rights of way to be provided within or adjacent to the site?

☐ Yes ☒ No

Do the proposals require any diversions/extinguishments and/or creation of rights of way?

☐ Yes ☒ No

If you answered Yes to any of the above questions, please show details on your plans/drawings and state the reference of the plan(s)/drawings(s)

Proposed Site Plan PLO5

7. Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste?

☒ Yes ☐ No

If Yes, please provide details:

Proposed Site Layout PLO5

Have arrangements been made for the separate storage and collection of recyclable waste?

☒ Yes ☐ No

If Yes, please provide details:

Within dwellings

3. Neighbour and Community Consultation

Have you consulted your neighbours or the local community about the proposal?

☐ Yes ☒ No

9. Authority Employee/Member

With respect to the Authority, I am:

- (a) a member of staff
- (b) an elected member
- (c) related to a member of staff
- (d) related to an elected member

Do any of these statements apply to you?

☐ Yes ☒ No

10. Materials

Please state what materials (including type, colour and name) are to be used externally (if applicable):

Walls - description:

Description of existing materials and finishes:

NA

Description of proposed materials and finishes:

NA

Roof - description:

Description of existing materials and finishes:

NA

Description of proposed materials and finishes:

NA

Windows - description:

Description of existing materials and finishes:

NA

Description of proposed materials and finishes:

NA

Doors - description:

Description of existing materials and finishes:

NA

Description of proposed materials and finishes:

NA

Are you supplying additional information on submitted plan(s)/drawing(s)/design and access statement?

If Yes, please state references for the plan(s)/drawing(s)/design and access statement:

☒ Yes ☐ No

Proposed Site Layout Plan PL06

11. Vehicle Parking

Please provide information on the existing and proposed number of on-site parking spaces:

Type of vehicle	Existing number of spaces	Total proposed (including spaces retained)	Difference in spaces
Cars	0	23	23
Light goods vehicles/public carrier vehicles	0	0	0
Motorcycles	0	0	0
Disability spaces	0	0	0
Cycle spaces	0	0	0
Other (e.g. Bus)	0	0	0
Short description of Other	0	0	0

12. Foul Sewage

Please state how foul sewage is to be disposed of:

Mains sewer

☒

Package treatment plant

☐

Unknown

Septic tank

☐

Cess pit

☐☐

Other

Are you proposing to connect to the existing drainage system?

☒ Yes ☐ No ☐ Unknown

If Yes, please include the details of the existing system on the application drawings and state references for the plan(s)/drawing(s):

Penley Planning Statement section 3.23

13. Assessment of Flood Risk

Is the site within an area at risk of flooding? (Refer to the Welsh Government's Development Advice Maps website - <http://data.wales.gov.uk/apps/floodmapping/>)

☐ Yes ☒ No

If Yes, and you are proposing a new building or a change of use, please add details of the proposal in the following table:

Floodplain Area	Residential (Number of units)	Non-residential (Area of land - hectares)
Floodplain C1		
Floodplain C2		

If the proposed development is within an area at risk of flooding you will need to consider whether it is appropriate to submit a flood consequences assessment. (Refer to Section 6 and 7 and Appendix 1 of TAN 15 - <http://wales.gov.uk/topics/planning/policy/tans/tan15/?lang=en>)

Is your proposal within 20 metres of a watercourse (e.g. river, stream or beck)?

☐ Yes ☒ No

Will the proposal increase the flood risk elsewhere?

☐ Yes ☒ No

How will surface water be disposed of?

☐ Sustainable drainage system

☐ Main sewer

☐ Pond/lake

☒ Soakaway

☐ Existing watercourse

14. Biodiversity and Geological Conservation

To assist in answering the following questions refer to the guidance notes on the Planning Portal website (see "Local level requirements and additional documentation"). The notes provide further information on when there is a reasonable likelihood that any important biodiversity or geological conservation features may be present or nearby and whether they are likely to be affected by your proposals. Having referred to the guidance notes, is there a reasonable likelihood of the following being affected adversely or conserved and enhanced within the application site, or on land adjacent to or near the application site?

a) Protected and priority species:

☐ Yes, on the development site

☐ Yes, on land adjacent to or near the proposed development

☒ No

b) Designated sites, important habitats or other biodiversity features:

☐ Yes, on the development site

☐ Yes, on land adjacent to or near the proposed development

☒ No

c) Features of geological conservation importance:

☐ Yes, on the development site

☐ Yes, on land adjacent to or near the proposed development

☒ No

Supporting Information Requirements

Where a development proposal is likely to affect features of biodiversity or geological conservation interest, you will need to submit, with the application, sufficient information and assessments to allow the local planning authority to determine the proposal.

Failure to submit all information required will result in your application being deemed invalid. It will not be considered valid until all information required by the Local Planning Authority has been submitted.

Your Local Planning Authority will be able to advise on the content of any assessments that may be required.

15. Existing Use

Please describe the current use of the site:

Pasture

Is the site currently vacant?

☐ Yes ☒ No

Does the proposal involve any of the following:

Land which is known to be contaminated?

☐ Yes ☒ No

Land where contamination is suspected for all or part of the site?

☐ Yes ☒ No

A proposed use that would be particularly vulnerable to the presence of contamination?

☐ Yes ☒ No

Application advice

If you have said Yes to any of the above, you will need to submit an appropriate contamination assessment.

Does your proposal involve the construction of a new building?

☒ Yes ☐ No

If Yes, please complete the following information regarding the element of the site area which is in previously developed land or greenfield land:

	Previously Developed Land	Greenfield Land
Area of Land (ha) proposed for new development	0.34	0.34

16. Trees and Hedges

Are there trees or hedges on the proposed development site?

☒ Yes ☐ No

And/or: Are there trees or hedges on land adjacent to the proposed development site that could influence the development or might be important as part of the local landscape character?

☐ Yes ☒ No

If Yes to either or both of the above, you may need to provide a full Tree Survey, at the discretion of your local planning authority. If a Tree Survey is required, this and the accompanying plan should be submitted alongside your application. Your local planning authority should make clear on its website what the survey should contain, in accordance with the current 'BS5837: Trees in relation to design, demolition and construction - Recommendations'.

17. Trade Effluent

Does the proposal involve the need to dispose of trade effluents or waste?

☐ Yes ☒ No

18. Residential Units

Does your proposal include the gain or loss of residential units?

☒ Yes ☐ No

Market Housing - Proposed

	Number of bedrooms					Unknown
	1	2	3	4+		
Houses		4	4	1		
Flats/Maisonettes						
Live-Work units						
Cluster flats						
Sheltered housing						
Bedsit/Studios						
Unknown						

Proposed Market Housing Total

9

Overall Residential Unit Totals

Total proposed residential units	9
Total existing residential units	0

Market Housing - Existing

	Number of bedrooms					Unknown
	1	2	3	4+		
Houses						
Flats/Maisonettes						
Live-Work units						
Cluster flats						
Sheltered housing						
Bedsit/Studios						
Unknown						

Existing Market Housing Total

0

19. All Types of Development: Non-residential Floorspace

Does your proposal involve the loss, gain or change of use of non-residential floorspace?

☐ Yes ☒ No ☐ Unknown

20. Employment

If known, please complete the following information regarding employees:

	Full-time	Part-time	Equivalent number of full-time
Existing employees	0	0	0
Proposed employees	0	0	0

21. Hours of Opening

If known, please state the hours of opening (e.g. 15:30) for each non-residential use proposed:

Use	Monday to Friday		Saturday		Sunday and Bank Holidays		Not Known
	Start Time	End Time	Start Time	End Time	Start Time	End Time	

22. Site Area

What is the site area?

3,350 sq. metres

Does your proposal involve the construction of a new building which would result in the loss or gain of public open space?

☐ Yes ☒ No

23. Industrial or Commercial Processes and Machinery

Please describe the activities and processes which would be carried out on the site and the end products including plant, ventilation or air conditioning. Please include the type of machinery which may be installed on site:

NA

Is the proposal for a waste management development?

☐ Yes ☒ No

24. Renewable and Low Carbon Energy

Does your proposal involve the installation of a stand-alone renewable or low-carbon energy development?

☐ Yes ☒ No

25. Hazardous Substances

Is any hazardous waste involved in the proposal?

☐ Yes ☒ No

26. Site Visit

Can the site be seen from a public road, public footpath, bridleway or other public land?

☒ Yes ☐ No

If the planning authority needs to make an appointment to carry out a site visit, whom should they contact? (Please select only one)

☒ The agent ☐ The applicant ☐ Other person

27. Certificates (Certificate B)

Certificate of Ownership - Certificate B

Town and Country Planning (Development Management Procedure) (Wales) Order 2012

I certify/The applicant certifies that I have/the applicant has given the requisite notice to everyone else (as listed below) who, on the day 21 days before the date of this application, was the owner (owner is a person with a freehold interest or leasehold interest with at least 7 years left to run) of any part of the land or building to which this application relates.

Notice recipient

Name	Date notice served
Name: Mr and Mrs J K RITCHIE Number: Suffix: House name: Street: c/o Richard McEvilly, Roger Parry and partners Locality: 20 Salop Road Town: Oswestry Postcode: SY11 2NU	01/06/2015
Name: Number: Suffix: House name: Street: Locality: Town: Postcode:	
Name: Number: Suffix: House name: Street: Locality: Town: Postcode:	
Name: Number: Suffix: House name: Street: Locality: Town: Postcode:	
Name: Number: Suffix: House name: Street: Locality: Town: Postcode:	

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JONES6C

27. Certificates (Certificate B - continued)

Title: First name: Surname:
Person role: Declaration date: ☒ Declaration made

27. Certificates (Agricultural Holdings Certificate)

Agricultural Holding Certificate

Town and Country Planning (Development Management Procedure) (Wales) Order 2012

Agricultural Land Declaration - You Must Select Either A or B

(A) None of the land to which the application relates is, or is part of an agricultural holding.

(B) I have/The applicant has given the requisite notice to every person other than myself/the applicant who, on the day 21 days before the date of this application, was a tenant of an agricultural holding on all or part of the land to which this application relates, as listed below:

Title: First Name: Surname:
Person role: Declaration date: ☒ Declaration Made

28. Declaration

I/we hereby apply for planning permission as described in this form and the accompanying plans/drawings and additional information. I confirm that, to the best of my knowledge, any facts stated are true and accurate and any opinions given are the genuine opinions of the persons giving them.

Date: ☒

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10/06/2015 11:07:52

JONES6C

REPORT OF THE HEAD OF COMMUNITY WELLBEING AND DEVELOPMENT -
7 December 2015

APPLICATION NO:
P/2015 /0405

LOCATION:
LAND OFF AND EAST OF
ELLESMERE LANE PENLEY
WREXHAM
LL13 0LP

DATE RECEIVED:
02/06/2015

COMMUNITY:
Maelor South

CASE OFFICER:
SEH

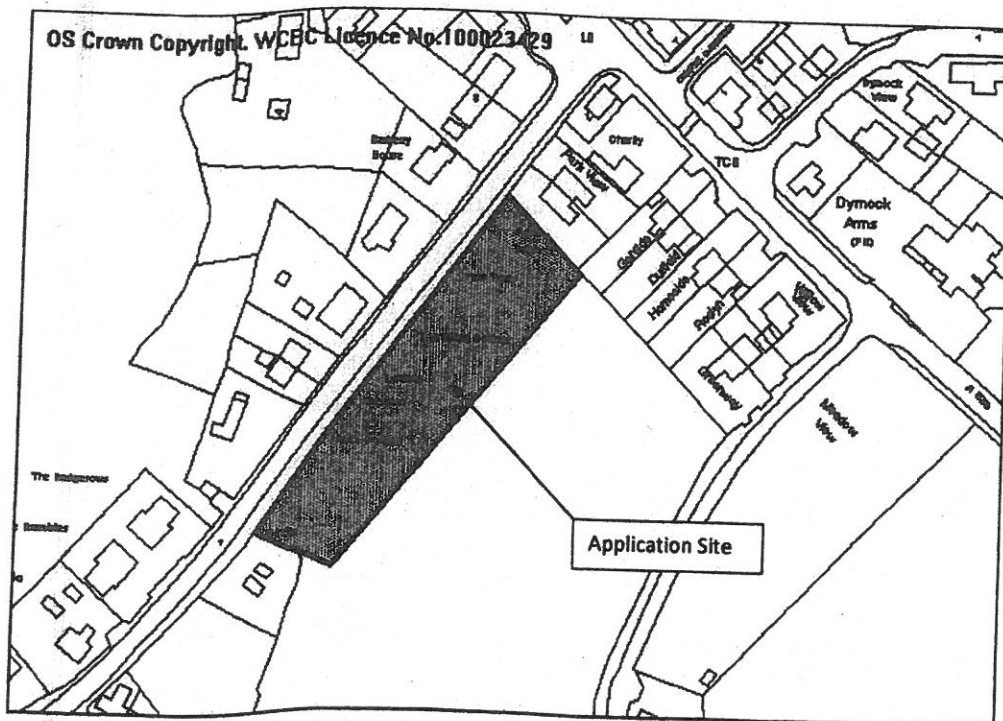
WARD:
Overton

DESCRIPTION:
OUTLINE APPLICATION FOR THE
ERECTION OF 9 DWELLINGS WITH
ACCESS ON TO ELLESMERE LANE -
ALL MATTERS RESERVED EXCEPT
ACCESS AND LAYOUT

AGENT NAME:
OM ARCHITECTURE
AND DESIGN
MR OSIAN JONES

APPLICANT(S) NAME:
PRIMESAVE PROPERTIES

THE SITE



PROPOSAL

This is an outline application (with access and layout unreserved) for residential development consisting of 9 no. 2, 3 and 4 bedroom detached and semi-detached houses. The application includes a design and access

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statement, ecological appraisal, outline drainage and surface water management plan, and indicative landscaping scheme.

HISTORY

None relevant.

DEVELOPMENT PLAN

The site is outside any settlement limit. Policies PS1, PS2, PS3, PS4, GDP1, GDP2, EC2, EC4, EC6, EC13, H5, T8 and T9 of the Wrexham UDP are relevant. Local Planning Guidance Notes Nos. 16 – Parking Standards, 21 – Space around Dwellings, and 32 – Biodiversity and Development are also relevant.

CONSULTATIONS

Community Council:

Objects on the following grounds:

- a) Wrexham may need to provide more houses for its residents, Penley however does not. There are already a significant number of houses of varying sizes for sale and to let within Penley. There are minimal amenities within Penley to support an expanding population.
- b) If the time comes when more housing is required within Penley, there are other more suitable brown field sites which would not impact so greatly on the special landscape area, if they were to be developed. These other sites would also be nearer to the bus route, shop and schools.
- c) Residents of Penley value the open nature of the village. The open views of farmland and the Welsh hills are treasured by residents and visitors alike.
- d) As mentioned, Penley is remote, offering few amenities within the village itself. Increasing the number of homes would, in-turn, increase the amount of car journeys made on the surrounding roads. The roads to the North and South in particular are particularly unable to deal with increased traffic flow safely.

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Local Member:	Objects to the application because it is outside of the settlement limit.
Highways:	No objection subject to recommended conditions (see special considerations section below).
Public Protection:	No objection subject to the imposition of a condition to restrict hours of construction works, and advisory notes in relation to dust management.
Education:	Contributions are required for both primary and secondary education provision in the amount of £40,848.
WG:	The Welsh Government does not hold any detailed survey work for the site. Given experience with the underlying soil type, the evidence I have to hand leads me to expect the site to be dominant ALC Grade 3b.
Welsh Water:	No objection subject to the imposition of a condition securing a comprehensive drainage scheme for the site.
NRW:	A condition is required to secure the submission of a Sustainable Urban Drainage System. No objection to the development provided that the development is carried out under a scheme of RAMs.
Senior Flood Officer:	No objection to the development provided that a condition is attached to the permission to secure SuDS at the site.
Site Notice:	Expired 02/07/2015
Press Notice:	Expired 10/07/2015
Neighbours:	17 letters of objection and online comments: • Housing land shortfall should be met where it is most needed where supporting services can be most efficiently provided; Wrexham is the logical choice; • Planning permission should not be granted just because it contributes to the land supply; • Penley has already had its fair share of new development;

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- There are brownfield sites within Penley better suited to development of this kind;
- The application site in Ellesmere Lane forms part of a larger field that separates frontage development of varied character and age on the west side of the northern section of Ellesmere Lane from open countryside lying to the east of and beyond the settlement. Erection of 9 houses laid out in this unimaginative and linear fashion would unacceptably intrude into attractive unspoilt countryside;
- It would not constitute acceptable "infilling" which is generally defined as 'the filling of a small gap by one or two houses within a substantially developed frontage';
- The land lies entirely outside the settlement boundary previously defined for Penley and is an unsustainable greenfield site;
- Policy H5 (Housing in the countryside). This is not 'infilling'. This scheme would destroy the open nature of a substantial tract of farmland that is indistinguishable from many similar sites within and adjacent to Penley village;
- Policy PS1 (Settlement Limits). This site is patently outside the carefully thought out settlement limits of the village;
- Policy PS2 (Development and the environment). Development of this greenfield site would materially and detrimentally affect countryside, landscape character, open space and the quality of the natural environment;
- Policy S3 (Brownfield land). This policy requires development to occupy previously developed brownfield land comprising vacant, derelict or underused land in preference to the use of greenfield sites. It is disputed that there is no

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brownfield land in Penley. There is not an urgent need for further housing land at this time, in advance of a thorough review of competing sites assessed through the local development plan process;

- Policy PS4 (Settlement pattern). This development would not maintain the existing settlement pattern and character, and would not help reduce the overall need to travel. Many of the new residents would be likely to travel by car to distant places of employment;
- Policy T8 (Parking, transport). The Number 146 bus service referred to by the applicant is not hourly throughout the whole day and does not operate in the evenings and on Sundays;
- Policy GDP1 (Development objectives). Built development here would not accord with the open character of the site and would not make a positive contribution to the appearance of the locality;
- Policy GDP2 (Capacity of infrastructure and community facilities). There is no need for further housing development here to support community facilities. More than 100 new dwellings have been built in the village in recent years, and both primary and secondary schools are believed to be at or beyond capacity. Unlike some rural villages Penley is NOT threatened by a loss of population;
- This proposal is not in any way sustainable.
- Ellesmere Lane carries a significant volume of traffic and the additional 9 dwellings would generate a significant level of additional traffic to the detriment of the safety of all road users;
- The local schools are full;
- Views across the field will be spoilt and existing properties devalued;

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- Development will lead to a loss of privacy;
- The site is known to flood;
- The development would introduce an urban theme to the area;
- Local job opportunities are limited;
- Local sewerage system cannot cope;
- The land is the ideal habitat for Newts;
- Loss of natural daylight will be oppressive on the area;
- Lack of services such as pubs and shops etc;
- Increased noise and dust;
- Existing properties along Ellesmere Lane are a mixture of individual styles from different periods and reflect the nature and character of the Village. Modern style housing along this stretch would not be in keeping with the general look and feel of the area and would be an eyesore.

SPECIAL CONSIDERATIONS

Background: The proposal is in outline but with details relating to access and layout submitted for consideration at this stage. All other matters are reserved for further approval. The main issues to consider relate to the impact of the proposed erection of 9 houses on the openness of the countryside, the character and visual amenities of the area, accessibility to services, ecology and highway safety.

Policy: The proposals do not accord with any of the circumstances set out in policy H5 that permit small scale residential development on sites outside of settlement limits (rural exception site, infilling and agricultural workers dwellings). Additionally, the site would not accord with Policy PS3 which relates to the broad location of development which should utilise brownfield land before Greenfield wherever possible. Ordinarily I would recommend that a planning application be refused for proposals that represent a departure from UDP policies. However the Council is only required to determine planning applications in accordance with an adopted development plan ***unless material considerations indicate otherwise***. Applications should also be considered in relation to up to date national policies.

Planning Policy Wales (PPW) at paragraph 9.2.3 requires local planning authorities to ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing. Members will be aware that the most recently published Joint Housing Land Availability Study

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(JHLAS) (2014) found that Wrexham has a housing land supply of 3.1 years. Dwellings proposed on sites allocated for housing in the UDP and/or already benefitting from planning permission have already been taken into account by the most recent JHLAS. The recently updated Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies (2015) advises that the results of the JHLAS should be treated as a material consideration in determining planning applications for housing. However, it further states that where local planning authorities do not have an adopted Local Development Plan (LDP) or where their UDP is out of date, they will not be able to produce a JHLAS and that means that they will have no 5 year housing land supply.

TAN 1 (paragraph 6.2) advises that the need to increase supply should be ***given considerable weight*** when dealing with planning applications outside of the settlement limit, provided that the development would otherwise comply with national planning policies. The proposal conflicts with UDP policies PS3 and H5, however as already discussed above, the lack of a 5 year land supply is a significant material consideration in favour of the site being developed.

For sites to contribute towards the 5 year housing land supply, they must be free, or readily freed from planning, physical and ownership constraints, and be economically feasible for development. The site is relatively level thus making it a comparatively straightforward site to develop. The entire site is within the ownership of the applicant therefore I am unaware of any ownership issues that would prevent the site from being developed and there are no reasons to believe that the development is unviable.

Planning Policy Wales includes a ***presumption in favour of sustainable development***. The development of the site would broadly accord with this presumption as it is in a sustainable location on the edge of the settlement limit of Penley, and the development would accord with PPW para 4.7.8 which states that development in the countryside should be located within and adjoining settlements where it can best be accommodated in terms of infrastructure, access, and habitat and landscape conservation.

Paragraph 9.2.9 of PPW (to be read in conjunction with paragraph 9.2.8), indicates that a search sequence should be followed by local planning authorities when identifying sites to be allocated for housing. Whilst this doesn't strictly apply to the consideration of planning applications, it nonetheless provides useful guidance. The proposal does not entirely comply with the guidance set out in paragraphs 9.2.8 and 9.2.9 since it is not within existing settlement limits and is not brownfield. However in terms of being located within a sustainable location with accessibility to employment, shops, church, schools etc. the site is within easy access on foot and is just as accessible as those within the adjoining settlement. There is also an hourly bus service to Wrexham, Whitchurch and Oswestry during the day.

Despite the fact that the proposal does not fully comply with policies H5 and PS3, given the sustainable location of the development and its edge of settlement location, I accept that its small scale development for residential

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use in principle would not cause any detrimental harm to the countryside. This is particularly in comparison to the existing development to which this would represent a minor and logical extension which would follow the existing pattern of development on the opposite side of the access road. The development is therefore in compliance with Policy PS1, PS2 and PS4 of the UDP.

Land Classification: Due to the low resolution of the mapping data in this area, Welsh Government (WG) cannot properly predict the classification of the agricultural land. WG records show no detailed survey information for the site but given experience with the underlying soil type it is expected it would be Graded 3b and is not the best and most versatile (BMV) agricultural land. Policy EC2 does not therefore apply and the loss of this relatively small area of agricultural land will have only a minimal impact upon agricultural locally.

Site Layout and Design: The application site is located to the south of the main Village and falls just outside of the settlement limit boundary for the area. This section of Ellesmere Lane has a semi-rural character. Outside of the settlement limit, housing is predominantly, but not exclusively, contained to the western side of the road which forms a linear extension to the main settlement towards the satellite settlement of Hillcrest, Oak Drive and Tudor Drive to the south west. The application site is located directly opposite existing residential development with the layout proposed reflecting the linear layout of the existing dwellings and forming an extension of the adjacent building line to the north. There is no particular strong or distinct architectural character to the existing properties on Ellesmere Lane with most buildings characteristic of their age of construction. Building types also vary and there is a mixture of detached, semi-detached and two-storey dwellings. The layout of the proposed development has again reflected this building variety and would not be out of character with the general built form of Ellesmere Lane.

The site frontage is bounded by a substantial hedge which is to be largely retained with the exception of that to be lost to create the new vehicular access point. This is in the interests of preserving the character and appearance of the site and maintaining its semi-rural appearance, and eases the integration of the new development into its surroundings. A hedge will be planted to the rear of the site to form the boundary with the remaining agricultural land. The site layout plan demonstrates that the site can accommodate the 9 dwellings proposed whilst providing private gardens and off street parking. The houses have been carefully sited to ensure that the development does not turn its back on the highway fronting the site. The dwellings face the highways in order to provide active frontages in the interests of the visual amenities of the area and the development would accord with Policies PS2 and GDP1 of the UDP. The single access point, position of the buildings within the site and the retention of the existing hedge boundary will help maintain the semi-rural character of area.

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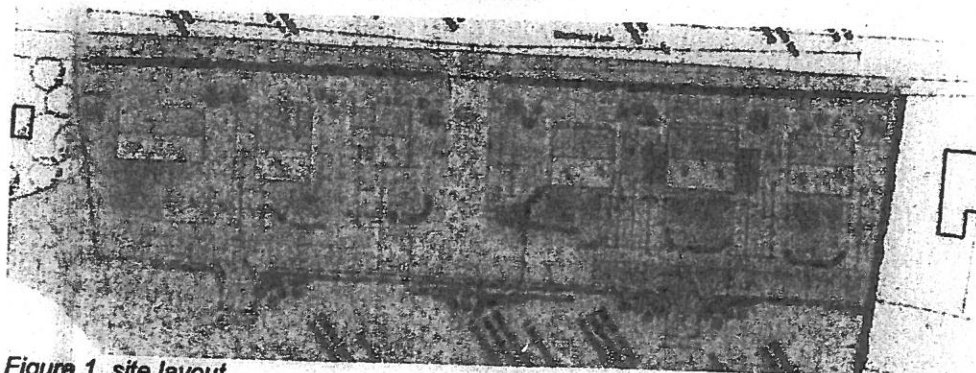


Figure 1. site layout

Residential Amenity: There would be no issues of significant overlooking or loss of light to the existing nearby dwellings arising from the proposed development. The site layout has been carefully designed to meet the separation distances recommended in LPGN No.21 to ensure that the occupiers of the proposed dwellings will enjoy private outdoor spaces and habitable rooms which will also have the benefit of a good level of natural daylight in the interests of the residential amenities of the occupiers. These matters will be further considered as part of the reserved matters application should outline permission be granted.

Highways, Access and Parking: The site is located on Ellesmere Lane which is a classified road subject to a 30 mph speed limit. Assuming typical speeds of 30 mph the proposed access should a visibility spays of 2.4 x 56 metres in both directions, and this has been demonstrated on the submitted indicative site layout plan. Parking provision is in accordance with LPGN No.16. A 2 metre wide footway will be provided just inside the site frontage and a detailed scheme for these works should be submitted for approval prior to work commencing on site (to be secured by condition). There is adequate existing footway provision linking Ellesmere Lane to the Village centre and the traffic generation associated with 9 new houses is not considered to have any detrimental impact upon highway safety.

The developer has indicated that the road will remain private. Manual for Streets suggests that it is possible for streets to remain private as long as a properly constituted body with defined legal responsibilities is established to maintain the street to the common benefit of the residents in perpetuity. This will form part of the S106 agreement to be signed and sealed prior to the granting of planning permission. The development therefore complies with Policies PS4, GDP1, T8 and T9 of the UDP.

Ecology: The ecological assessment submitted has been carried out to a good standard. The existing hedgerow should be maintained at a height of no less than 2 metres and cut no more than once a year. The section of hedgerow to be removed for the new vehicular access should be done outside of the bird nesting season (March-September inclusive). The development should be carried out under a Reasonable Avoidance Method Statement in

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relation to the potential presence of Great Crested Newts in order to ensure that the proposal accords with Policies PS11 and EC6 of the UDP. This will be secured by way of planning condition.

Drainage: There are no objections to the scheme from either Welsh Water (WW) or Natural Resources Wales (NRW), or the Council's senior flood management officer. A comprehensive drainage scheme will be required by planning condition which provides for a scheme of SuDS including on-site soakaways. I have no reason therefore to think that the surface and foul water cannot be properly managed and the development would therefore comply with Policies GDP1 and EC13.

Other Matters: Concerns have been raised in relation to the loss of views across these fields; however there is no right to a view over this land. Further, concern raised in relation to the devaluation of existing properties is not a relevant planning consideration.

CONCLUSION

Whilst representing a departure from two of the policies of the adopted UDP (PS3 and H5), the development of the site is justified in this instance as contributing to the 5 year land supply whilst at the same time being in a sustainable location and providing an acceptable form of development. The current proposal would not be to the detriment of the visual or residential amenities of the area or have an adverse effect upon highway safety, and would comply with all other relevant planning policies including GDP1 (a), PS1, PS2 and PS4 which seek to ensure that development does not harm the appearance of area, that it positively contributes to the appearance of the nearby locality, and is within in a sustainable location which safeguards the amenity of settlement limits against large scale extensions.

RECOMMENDATION A

That the Council enters into an obligation under Section 106 of the Town and Country Planning Act 1990 requiring:-

- Management Company for the future maintenance by the applicant of all communal areas including driveway, footways and hard and soft landscaped areas and planted features.
- Payment of a financial contribution towards the provision of secondary education facilities in the amount of £40,848.

The final form and amount shall be determined by the Head of Community Wellbeing and Development.

RECOMMENDATION B

That if the Obligation pursuant to Section 106 of the Town and Country Planning Act 1990, as detailed above, is not completed within six months of the date of the Committee resolution, the Head of Community Wellbeing and

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Development be given delegated authority to **REFUSE** planning permission for the following reasons:-

- 1 Lack of appropriate maintenance by the applicant of all communal areas including the driveway, footways and hard and soft landscaped areas and planted features.
- 2 Lack of adequate contribution to schools to offset the development.

That the Head of Community Wellbeing and Development is given delegated authority to determine the final form and content of reasons for refusal.

RECOMMENDATION C

Subject to the completion of the S106 obligation, planning permission be **GRANTED** subject to the following conditions:-

CONDITION(S)

1. Approval of the following details shall be obtained from the Local Planning Authority before any part of the development is commenced:
 - a. the scale of the building(s)
 - b. the appearance of the building(s)
 - c. the landscaping of the site
2. Plans and particulars of the reserved matters referred to in condition 1 (above) shall be submitted in writing to the Local Planning Authority before the expiry of three years from the date of this permission. The development shall only be carried out in strict conformity with such details as are approved.
3. The development hereby approved shall be commenced before the expiry of five years from the date of this permission or before the expiry of two years from the date of approval of the last of the reserved matters required to be approved, whichever is the later.
4. 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.
5. 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.
6. No part of the development shall commence until a scheme for the comprehensive and integrated drainage of the site indicating provision for surface water and land drainage has been submitted to and approved in writing by the Local Planning Authority. Any submission should take account of the principles highlighted within the Flood Risk and Drainage Assessment dated September 2015, approved as part of this application. Prior to the submission of those details, an assessment shall be carried out into the potential for disposing of surface water by means of Sustainable urban Drainage Systems (SuDS) in accordance with the principles of sustainable drainage systems set out in Technical Advice Note 15: Development and Flood Risk, and the results of the assessment shall be submitted in writing to

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the Local Planning Authority. Where a SuDS scheme is to be implemented, the submitted details shall:

"Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of receiving ground water and/or surface waters;

* Specify the responsibilities of each party for the implementation of the SuDS scheme, together with a timetable for that implementation; and,

* Provide a timescale for implementation, management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime."

7. No part of the development shall be occupied until the sustainable drainage scheme for the site has been completed in accordance with condition no. 06. The sustainable drainage scheme shall be managed and maintained thereafter in strict accordance with the agreed management and maintenance plan.

8. Details of all of the proposed boundary treatments in and around the site shall be submitted to and approved, in writing, by the Local Planning Authority as part of the reserved matters application. The boundary treatments as are approved shall be fully implemented in strict accordance with the details as are approved prior to first use of the development.

9. The mitigation measures identified within the Flood Risk and Drainage Assessment dated September 2015, approved as part of this application, shall be reflected in the site design to be submitted as part of the reserved matters application.

10. No part of the development shall commence until details of the proposed Reasonable Avoidance Measures (RAMs) have been submitted to and approved in writing by the Local Planning Authority. The details shall include the following:

- a) Details of a tool box talk on the identification and ecology of great crested newts to be made available to all construction staff employed on the project;
- b) Details of an artificial amphibian hibernacula to be constructed adjacent to the site (Details of the design can be found in great crested newt mitigation guidelines - August 2001);
- c) Details of a walk over survey of the site prior to commencement of development, and a destructive search (under the supervision of a licensed great crested newt handler) made of any potential great crested newt habitat (such as rubble piles or sheet materials that are on the site) on the site. Any amphibians found should be relocated to the artificial hibernacula;
- d) Details of storage of material on pallets off the ground, and bulk materials which are to be delivered on site and used within the day of delivery.
- e) Confirmation that excavated trenches will be covered over at the end of each working day with plywood and the edges sealed with sand or soil. Trenches are to be checked each morning for any amphibians. Any amphibians located are to be moved to the artificial hibernacula. The development shall be carried out in strict accordance with the RAMs as are approved.

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11. Prior to first use of the development the site shall be laid out in strict accordance with layout plan no. PL05 Rev C - dated 17/09/2015.
12. Prior to first use of the development hereby approved the vehicular access shall provide visibility splays of 2.4 metres x 56 metres in both directions measured to the nearside edge of the adjoining highway. Within these splays there shall be no obstruction in excess of 1 metre in height above the level of the nearside edge of the adjoining highway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.
13. No private surface water run off shall be permitted to flow from the development site onto the adjoining highway. An Aco drain or similar shall be provided across the approved access to intercept any such run off prior to first use of the development.
14. No part of the development shall commence until a scheme detailing the construction of the following has been submitted to and approved in writing by the Local Planning Authority:
 - 1) Detailed layout, design, drainage, lighting and construction of the proposed new estate roads and footways;
 - 2) Detailed layout, design, drainage and construction of the proposed new 2 metre wide footway fronting the dwellings;
 - 3) A scheme of street lighting along Ellesmere Lane.The scheme as is approved shall be fully implemented prior to first use of the development.
15. 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.
16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting that Order with or without modification), no further development shall take place under Classes A, B, C, D, E, F and G of Schedule 2 Part 1, other than the development hereby granted permission.
17. No part of the development shall commence until a Biosecurity Risk Assessment has been submitted to and approved in writing by the Local Planning Authority. The Assessment shall include appropriate measures to prevent the introduction of Invasive Non Native Species (INNS) during the construction phase, and measures to control INNS as are currently present on site. The measures and proposals shall be fully implemented in strict accordance with the details as are approved.
18. The hedgerow removal required to provide the vehicular access to the site shall only be carried out outside of the bird nesting season which is between the months of March-September inclusive. The remaining hedgerow fronting the development site shall be permanently retained and maintained in perpetuity at a height of no less than 2 metres from ground level.
19. As part of the reserved matters application, an external bat friendly lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented in accordance with the approved details prior to first use / occupation of the development.

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REASON(S)

1. To comply with the provisions of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012.
2. To comply with Section 92 of the Town and Country Planning Act, 1990.
3. To comply with Section 92 of the Town and Country Planning Act, 1990.
4. To protect the amenities of the occupiers of nearby properties.
5. 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.
6. To ensure satisfactory drainage of the site and to avoid flooding.
7. To ensure satisfactory drainage of the site and to avoid flooding.
8. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area and to protect the amenities of the occupiers of nearby properties.
9. To ensure the risk from surface water flooding is sustainably managed for the lifetime of the development.
10. To protect named species/habitats/biodiversity which would otherwise be damaged/lost by the development hereby permitted.
11. In the interests of highway safety.
12. To ensure that adequate visibility is provided at the proposed point of access to the highway.
13. In the interests of highway safety.
14. In the interests of highway safety.
15. In the interests of highway safety.
16. Due to the restricted application site and its relationship with adjoining properties it is considered important to ensure that no additional development as described in the condition is carried out without the permission of the Local Planning Authority.
17. To prevent the spread of Invasive Non Native Species.
18. In order to protect wildlife interests, which are afforded special protection.
19. To protect named species/habitats/biodiversity which would otherwise be damaged/lost by the development hereby permitted.

NOTE(S) TO APPLICANT

The applicant is advised that compliance with condition no. 04 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

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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: - 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.

The Applicant is advised that under the Environmental Protection Act 1990, dust from construction and/or demolition activities can be judged to be causing a statutory nuisance to neighbouring properties. A legal notice can be served requiring that any 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. If a connection is required to the public sewerage system, the developer is advised to contact Dwr Cymru Welsh Water's Network Development Consultants on 0800 917 2652.

The permission hereby granted does not authorise encroachment upon, or interference with, the adjoining property.

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 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.

You are advised that the Highway Authority will require such works to be completed to their satisfaction before they will formally adopt the relevant Highway works for public use and to be maintained at public expense. This will include the provision of a bond to cover the estimated value of such works. The appropriate fees will become due to the Council when the Highway Authority approve the proposed works to be carried out.

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

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advised to obtain full details of the Agreement and ensure that you are able to comply with its terms.



Public Open Space in New Housing Development

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

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Available in alternative formats

The National Playing Field Standard

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

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

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

Local Requirements

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

The local Planning Authority is therefore keen to ensure that:

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



In all cases public open space should:

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

Off Site Provision and Funding

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

Design Brief

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

Standard of Provision

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

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

Financing and Future Maintenance

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

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



wrexham
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wrecsam

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www.wrexham.gov.uk

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



Developer Contributions to Schools

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

Education Planning in Wrexham

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

Available in accessible formats

Background to this Guidance Note

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

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



LOCAL PLANNING GUIDANCE NOTE NO. 27

Criteria

Any developer contribution will be based on the following considerations:

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

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

Table 1: Cost guidelines

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

Notes

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

Worked example for Johnstown Infants School catchment area

For the development of: -

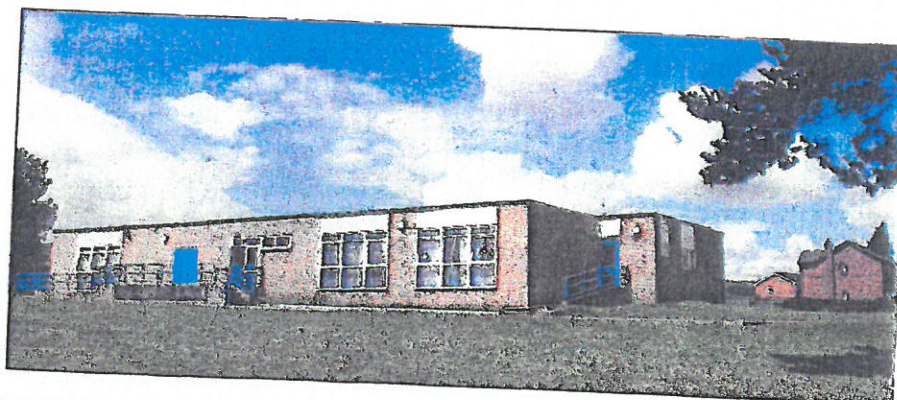
- 10 - 1 bedroom Units
- 10 - 2 bedroom Units
- 10 - 3 bedroom Units
- 10 - 4 bedroom Units

Charges at primary school level

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

Charges at secondary school level

No shortage, no charge.



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

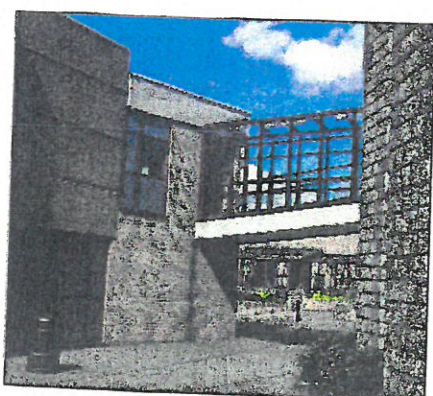
Timing of contributions

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

Cost guidelines

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

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



Schools where contributions are likely to be required

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

Secondary schools

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

Primary schools

Gwersyllt - Bryn Alyn School Catchment

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

Llangollen - Dinas Bran (Denbighshire) School Catchment

No schools

Penley - Maelor School Catchment

Hanmer
Penley Madras
Marchwiell C.P.

Rhosllanerchrugog - Y Grango School Catchment

Johnstown Infants
Johnstown Junior
Penycae C.P.

Rossett - Darland School Catchment

Gresford
Marford C.P.

Ruabon - Rhiwabon (11 to 18 years) School Catchment

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

Wrexham - Clywedog School Catchment

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

Wrexham - St. Joseph's School Catchment

St. Mary's

Wrexham - Rhosnesni School Catchment

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

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

Wrexham Plas Coch C.P.

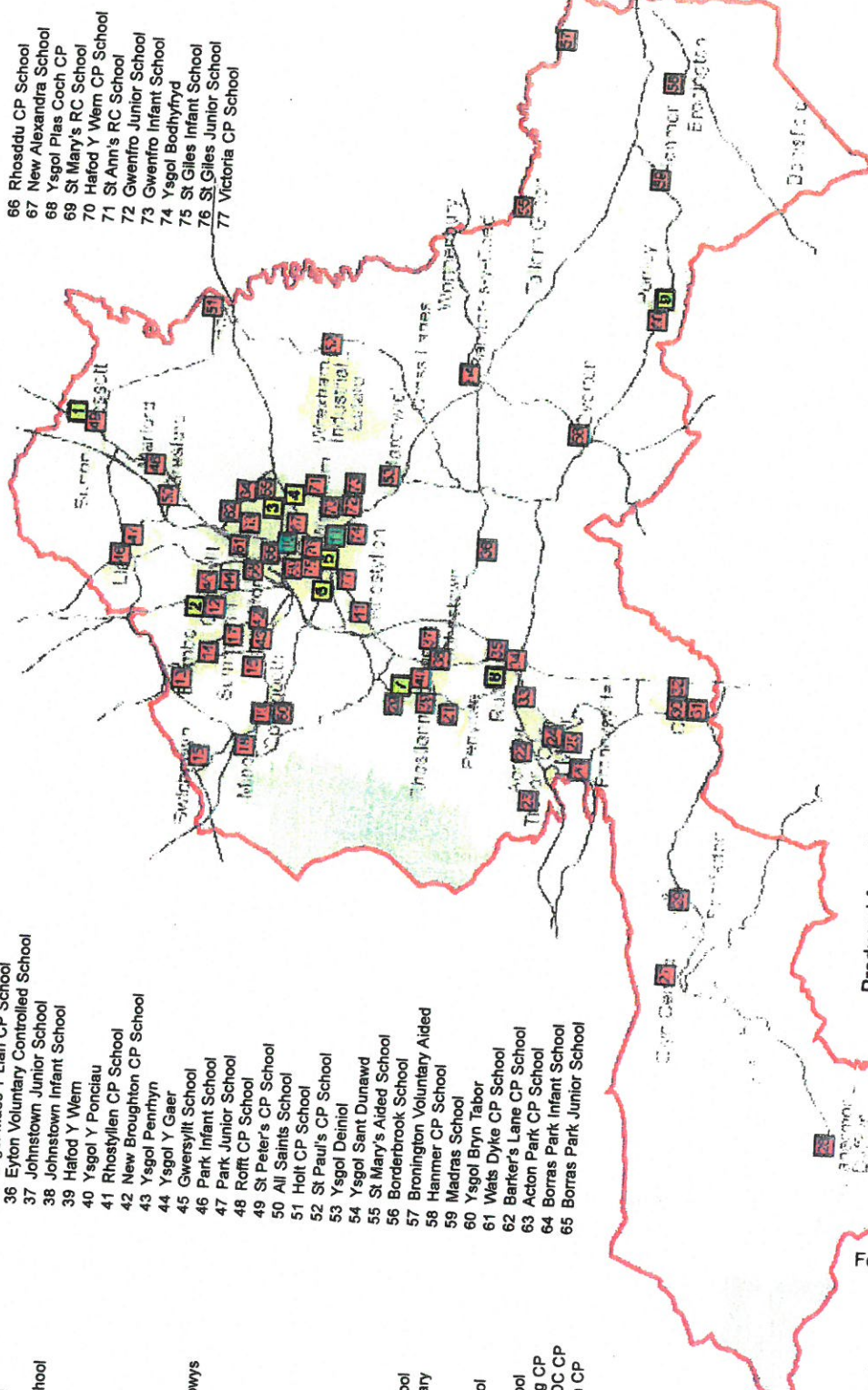
Wrexham County Borough - School Location

SECONDARY SCHOOLS

- 1 Darnall High School
- 2 Bryn Alyn High School
- 3 Rhosnesni High School
- 4 Ysgol Morgan Llwyd
- 5 St Josephs RC High School
- 6 Ysgol Clywedog
- 7 Ysgol y Grango
- 8 Ysgol Rhiwabon
- 9 Ysgol Maelor
- 10 Groves
- 11 St Christophers/Ysgol Powys
- 12 Ysgol Heulan
- 13 Brynbo Aided School
- 14 Black Lane CP School
- 15 Bwlchgwyn CP School
- 16 Brynteg CP School
- 17 Tanyfron CP School
- 18 Minera Voluntary Aided
- 19 Penygelli CP School
- 20 Ysgol I D Hooson CP School
- 21 Penycae Community Primary
- 22 Acrefair CP School
- 23 Garth CP School
- 24 Ysgol Min Y Ddol CP School
- 25 Cefn Mawr CP School
- 26 Ysgol Froncysyllte CP School
- 27 Ysgol Cynndeiw, Glynceiriog CP
- 28 Ysgol Gynradd Llanarmon DC CP
- 29 Ysgol Pontfadog, Llangollen CP
- 30 Chirk Infant School
- 31 Ceirrog Junior School
- 32 Pentre Voluntary Controlled
- 33 Rhosymedre Community Primary School
- 34 St Mary's Church in Wales School
- 35 Ysgol Maes Y Llan CP School
- 36 Eryon Voluntary Controlled School
- 37 Johnstown Junior School
- 38 Johnstown Infant School
- 39 Hafod Y Wern
- 40 Ysgol y Ponciau
- 41 Rhosyllen CP School
- 42 New Broughton CP School
- 43 Ysgol Penrhyn
- 44 Ysgol y Gaer
- 45 Gwersyllt School
- 46 Park Infant School
- 47 Park Junior School
- 48 Refit CP School
- 49 St Peter's CP School
- 50 All Saints School
- 51 Holt CP School
- 52 St Paul's CP School
- 53 Ysgol Deiniol
- 54 Ysgol Sant Dunawd
- 55 St Mary's Aided School
- 56 Borderbrook School
- 57 Broington Voluntary Aided
- 58 Hammer CP School
- 59 Madras School
- 60 Ysgol Bryn Tabor
- 61 Wals Dyke CP School
- 62 Barker's Lane CP School
- 63 Acton Park CP School
- 64 Borras Park Infant School
- 65 Borras Park Junior School
- 66 Rhosddu CP School
- 67 New Alexandra School
- 68 Ysgol Plas Coch CP
- 69 St Mary's RC School
- 70 Hafod Y Wern CP School
- 71 St Ann's RC School
- 72 Gwentfro Junior School
- 73 Gwentfro Infant School
- 74 Ysgol Boddyfryd
- 75 St Giles Infant School
- 76 St Giles Junior School
- 77 Victoria CP School

OTHER SCHOOLS

PRIMARY SCHOOLS



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Adopted March 2004
Revised November 2010

CERTIFICATE

Michael G. J. Cunneen LL.B Solicitor

CYRIL JONES & CO
89 CHESTER ROAD WEST
SHOTTON
FLINTSHIRE CH5 1BZ

[*MICHAEL G.J. CUNNEEN*] of [] as
solicitor for the Owner (as defined in the within written Deed) hereby certifies that
Paragraph (2) of the Introduction to this Deed is correct.

Signed: *Michael G.J. Cunneen*

Dated: *31st Nov* 2016

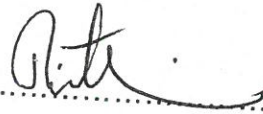
27116

EXECUTED as a DEED by affixing
THE COMMON SEAL of WREXHAM
COUNTY BOROUGH COUNCIL
in the presence of:-




Head of Corporate and Customer Services

EXECUTED as a DEED by
JEREMY KENYON TOD RITCHIE



in the presence of:

Signature of Witness:



Name (in block capitals):

Address:

Michael G. J. Cannock LL.B Solicitor
CYRIL JONES & CO
89 CHESTER ROAD WEST
SHOTTON
FLINTSHIRE CH5 1BZ

Occupation:

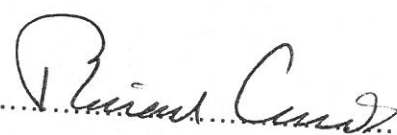


EXECUTED as a DEED by
BARBARA ANN RITCHIE



in the presence of:

Signature of Witness:

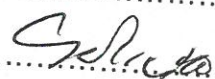


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FLINTSHIRE CH5 1BZ

Occupation:



**EXECUTED as a DEED by
PRIMESAVE PROPERTIES LTD**
and signed by a Director
and the Secretary
or two Directors

Director

Secretary/Director