

DATED

21 April

2016

WREXHAM COUNTY BOROUGH COUNCIL (1)

- and -

PARKHILL ESTATES LIMITED (2)

- and -

BRYMBO DEVELOPMENTS LIMITED (3)

- and -

COLIN CORNES (4)

AGREEMENT

Pursuant to Section 106 of the Town and Country Planning Act 1990
in respect of land at Former Brymbo Steelworks, Brymbo, Wrexham

Trevor Coxon
Head of Corporate and Customer Services
Guildhall
Wrexham
LL11 1AY
(Ref: P/2009/0122)

THIS AGREEMENT is made on the 21 day of April 2016

BETWEEN:-

- (1) **WREXHAM COUNTY BOROUGH COUNCIL** of Guildhall, Wrexham LL11 1AY ("the Council")
- (2) **PARKHILL ESTATES LIMITED** (Company No. 02635632) of Fernhill Estate Office, Fernhill Road, Sutton, Newport, Shropshire TF10 8DJ ("the First Owner")
- (3) **BRYMBO DEVELOPMENTS LIMITED** (Company no. 00936369) c/o Parkhill Estates Limited, Fernhill Estate Office, Fernhill Road, Sutton, Newport, Shropshire TF10 8DJ ("the Second Owner")
- (4) **COLIN CORNES** of The Paddock, Fernhill Road, Sutton Newport Shropshire TF10 8DJ **acting by his Attorney Martin Green** of 10 Elm Court Arden Street Stratford upon Avon CV37 6PA ("the Mortgagee")

RECITALS

- A The Council is the local planning authority for the purposes of Section 106 of the Act in respect of the Land.
- B The First Owner is the freehold owner of the part of the Land registered at the Land Registry under Title Number CYM418353 subject to the Security but otherwise free from encumbrances which would prevent the First Owner entering into this Deed.
- C The Second Owner is the freehold owner of the parts of the Land registered at the Land Registry under Title Number WA705202 subject to the Security but otherwise free from encumbrances which would prevent the Second Owner entering into this Deed.
- D The Mortgagee is the holder of the Security in relation to the Land.
- E The Second Owner has submitted the Planning 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.
- F The Council is minded to grant the Planning Permission subject to conditions pursuant to the Planning Application subject to the prior completion of this Deed.

NOW THIS DEED WITNESSES AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

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

"Act" means the Town and Country Planning Act

1990 (as amended)

"Affordable Housing"	means the provision of the Affordable Housing Units to Eligible Persons by means of either Discounted Sale Housing, Shared Ownership Housing or Social Rented Housing
"Affordable Housing Transfer"	means a TP1 transfer of either a freehold interest or leasehold interest of not less than 125 years of the Affordable Housing Units by the Owners to the Registered Social Landlord
"Affordable Housing Units"	means 25% of the Dwellings which are to be provided for Affordable Housing, the size, type and location of which shall be approved by the Council prior to the Commencement of Development
"Close Family Connection"	means members of family as described in Section 113 of the Housing Act 1985
"Commencement of Development"	means the carrying out of a material operation as defined by Section 56(4) of the Act in accordance with the Planning Permission and the expression "Commencement Date" shall mean the date on which the Commencement of Development occurs
"Community Council Area"	means the administrative area of Brymbo Community Council or any successor authority or body
"Development"	means the development of the Land in accordance with the Planning Permission
"Discounted Sale Housing"	means Affordable Housing Units sold or available for sale by way of a Discounted Housing Lease or Discounted Housing Disposal and "Discounted Sale Housing Unit" shall refer to any single Dwelling provided as such
"Discounted Housing Lease"	means a lease of an Affordable Housing Unit granted by a Registered Social Landlord to an Eligible Person for a term of not less than 125 years at a premium equal to or not more than the Discounted Value on terms which include those set out in Part 3 of the Second Schedule
"Discounted Sale Owner"	means a leaseholder or freeholder of a

Discounted Sale Housing Unit

"Discounted Value"	means 65% of the Market Value
"Dwelling"	means a residential dwelling comprising a house or a flat within the Development
"Eligible Person"	means a person as defined in the Third Schedule
"First Occupation Date"	means the date on which the first Dwelling in the Development is first Occupied for residential use
"HCWD"	means the Council's Head of Community Wellbeing and Development for the time being in post or his duly appointed representative or any successor post with responsibility for development
"HHP"	means the Council's Head of Housing and Public Protection for the time being in post or his duly appointed representative or any successor post with responsibility for housing
"Index"	means the all items index of retail prices issued by the Office for National Statistics or any successor organisation
"Interest"	means 4% above the base lending rate from time to time of Nat West Bank Plc compounded annually
"Land"	means the land situate at Former Brymbo Steelworks, Brymbo, Wrexham shown edged red on the Plan
"LPGN10"	means the Council's Local Planning Guidance Note No. 10 – Public Open Space in New Housing Development, adopted in April 1993 and last updated in August 2008 (or any future policy or guidance that replaces or supplements it)
"Management Company"	means the management company established in accordance with the provisions of Part 1 of the First Schedule
"Management Funding"	means the sum of £20,000 (twenty thousand pounds) to be paid to the Management Company in accordance with Part 1 of the First Schedule to enable it to perform the Management Plan in

perpetuity

"Management Plan"

means the management plan for the management of the Public Open Space to be submitted to and approved in writing by the Council in accordance with Part 1 of the First Schedule

"Market Value"

means (in respect of any Affordable Housing Units other than the Social Rented Housing) the price at which the Affordable Housing Unit might reasonably be expected to be sold freehold/leasehold as appropriate at arm's length by a willing seller to a willing buyer with vacant possession taking into account all encumbrances to which the Affordable Housing Unit is subject (other than the affordable housing obligations contained in this Deed) or if such sum cannot be agreed the Market Value shall be determined by an independent qualified valuer appointed by agreement between the parties or failing agreement by the President for the time being of the Royal Institution of Chartered Surveyors and the cost of the independent qualified valuer shall be paid by the parties to the referral in such proportions as the valuer shall specify and the valuer shall be entitled to make awards as to costs

"Occupation", "Occupy" and
"Occupied"

means use of a Dwelling for residential use (excluding any use for construction, fitting out or marketing of the Dwelling)

"Owners"

means the First Owner and the Second Owner

"Person in Housing Need"

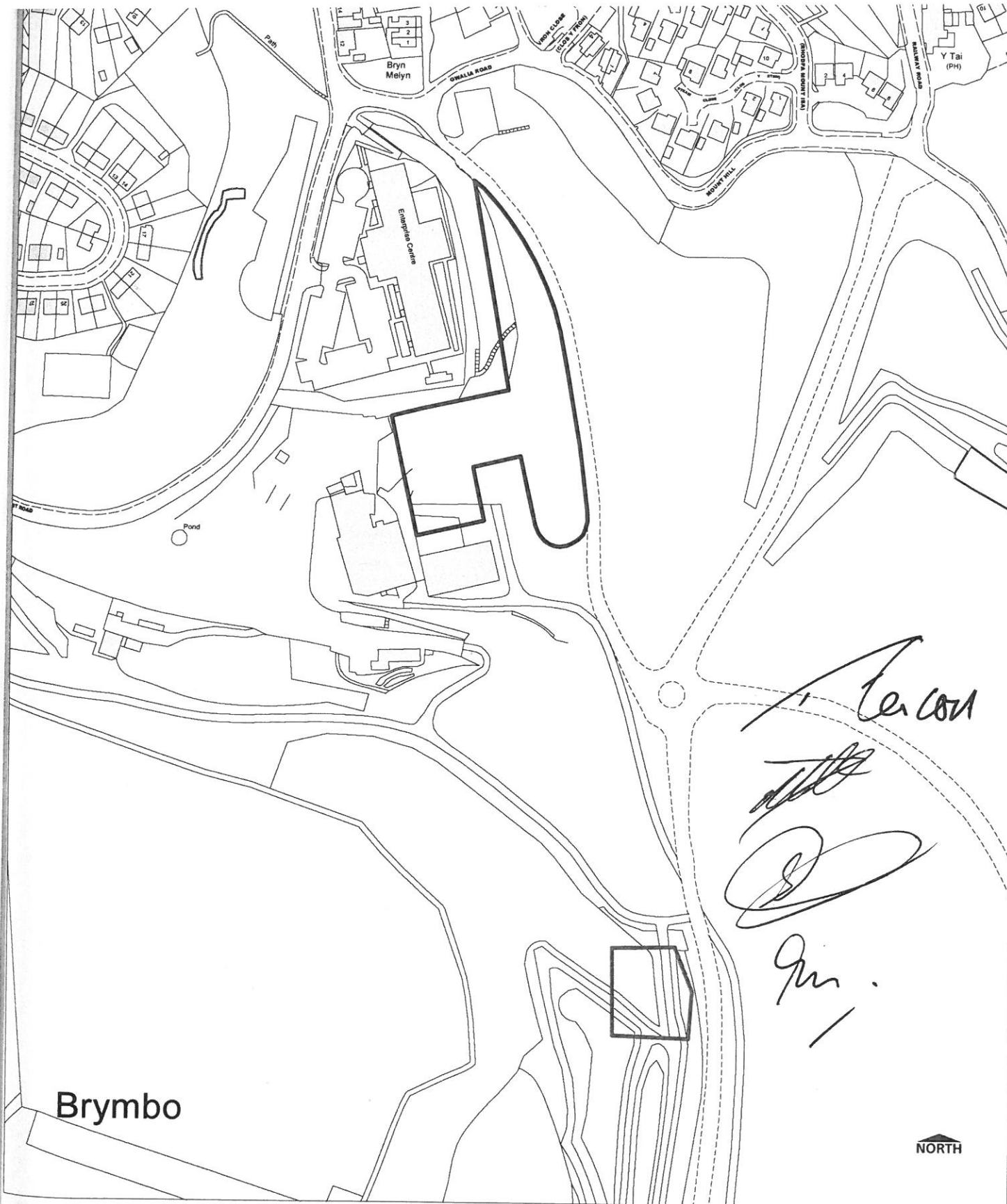
means a person who by reason of their limited income is unable to purchase a home suitable for their needs on the open market

"Phase"

means a phase of the Development being an area of the Land for which an application is made to the Council for approval of reserved matters pursuant to the Planning Permission or such area(s) of the Land as may be agreed in writing between the Owners and the Council

"Plan"

means the plan annexed hereto



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Town & Country Planning Act 1990 Section 106 Obligation



P/2009/0122
Land at Former Brymbo Steelworks, Wrexham.



Public Open Space

13/07/2012
Scale 1:2500 @ A4
SJ 2953

wrexham
COUNTY BOROUGH COUNCIL
CYNGOR BWRDEISTREF SIROL
wrecsam

"Planning Application"	means application no. P/2009/0122 in respect of the variation of condition no. 2 of planning permission reference P/2005/1487 (to extend the period of time within which to make an application for approval of reserved matters) for the Development of the Land for residential development consisting of two apartment blocks
"Planning Permission"	means the planning permission subject to conditions to be issued by the Council pursuant to the Planning Application in accordance with the draft annexed to this Agreement
"Play Area"	means a children's play area of a minimum size of 640m ² to be laid out and equipped within the Public Open Space
"Public Open Space"	means an area of land to be laid out as public open space off-site within the area of land edged green on the Plan, which shall be of a minimum area of 0.64 hectares in accordance with the minimum standard of 0.4 hectares per 50 dwellings contained in LPGN10
"Registered Social Landlord"	means a body registered pursuant to the Housing Act 1996 or any register replacing the register under the Housing Act 1996
"Security"	means a registered charge of the Land and other property dated 12 February 2016 made between (1) the First Owner, (2) the Second Owner and (3) the Mortgagee
"Shared Owner"	means a leaseholder under a Shared Ownership Lease
"Shared Ownership Housing"	means Affordable Housing Units sold or available for sale by way of a Shared Ownership Lease
"Shared Ownership Lease"	means a lease of an Affordable Housing Unit granted by a Registered Social Landlord to an Eligible Person for a term of not less than 125 years containing the terms set out in Part 2 of the Second Schedule at a premium of between 25% and 90% of Market Value and requires the Eligible Person to pay rent to the

	Registered Social Landlord in respect of the remaining percentage of the value of the leasehold
"Social Rented Housing"	means Affordable Housing Units let by the Registered Social Landlord in accordance with Part 4 of the Second Schedule
"Staircase"	means in respect of Shared Ownership Housing to acquire pursuant to the provisions of the Shared Ownership Lease a share of the equity in the relevant Affordable Housing Unit in addition to the tenant's existing share up to a maximum share of the equity in the relevant Affordable Housing Unit and "staircasing" shall be construed accordingly
"Unrestricted Housing Unit"	means a Dwelling which is not an Affordable Housing Unit and "Unrestricted Housing" shall be construed accordingly
"Working Day(s)"	means any day falling between Monday and Friday (both days inclusive) upon which the clearing banks in the City of London are open for normal business which is not Good Friday or a statutory bank holiday

1.2 Interpretation

- 1.2.1 A reference in this Deed to an Act of Parliament or to any order regulation statutory instrument or the like shall include a reference to any amendment or re-enactment of the same.
- 1.2.2 Words importing the masculine gender include the feminine gender and vice versa. Words in the singular include the plural and vice versa and words importing individuals shall be treated as importing corporations and vice versa.
- 1.2.3 Any heading or side notes are for ease of reference only and shall not affect the construction of this Deed.
- 1.2.4 Wherever an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually unless there is an express provision otherwise.
- 1.2.5 References to any Party shall include the successors in title to that Party and any person deriving title through or under that Party and in the case of the Council the successors in title to their statutory functions.

- 1.2.6 Reference in this Deed to any recital, clause, paragraph or schedule is, unless the context otherwise requires a reference to the recital, clause, paragraph or schedule in this Deed so numbered.

2 LEGAL BASIS

- 2.1 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.
- 2.2 The obligations created by this Deed relate to the Land and are binding on the Owners pursuant to Section 106 of the Act.
- 2.3 The obligations contained in this Deed are planning obligations for the purposes of Section 106 of the Act and are enforceable as such by the Council as local planning authority against the Owners and the Mortgagee.
- 2.4 The obligations contained in this Deed are:-
- 2.4.1 necessary to make the Development acceptable in planning terms;
 - 2.4.2 directly related to the Development; and
 - 2.4.3 fairly and reasonable related in scale and kind to the Development.

3 CONDITIONS AND DURATION

- 3.1 This Deed is conditional upon:-
- 3.1.1 the grant of the Planning Permission; and
 - 3.1.2 the Commencement of Development
- save for the provisions of clauses 4.1 (only in respect of Part 1, paragraph 1 of the First Schedule), 6, 8, 10, 11, 13, 14 and 15 which shall come into effect immediately upon completion of this Deed.
- 3.2 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after parting with his entire interest in the Land but without prejudice to liability for any subsisting breach arising before parting with that interest or in parting with that interest.
- 3.3 Nothing in this Deed shall prevent compliance with any obligation pursuant to it before that obligation comes into effect under this clause 3 and no such early compliance shall amount to a waiver of the effect of this clause 3.
- 3.4 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission is quashed, revoked or otherwise withdrawn or (without consent of the Owners) it is modified by any statutory procedure or expires prior to the Commencement of Development.

4 OWNERS' COVENANTS

The Owners hereby covenant with the Council:

- 4.1 to comply with the obligations relating to the management of Public Open Space set out in the First Schedule;
- 4.2 to comply with the obligations relating to the provision of Affordable Housing set out in the Second Schedule;
- 4.3 to give notice in writing to the HCWD of the Commencement Date within 14 days thereof.

5 COUNCIL'S COVENANTS

The Council hereby covenants with the Owners:

- 5.1 to use all sums received from the Owners for the purposes specified in this Deed for which they are to be paid;
- 5.2 upon request in writing to pay to the Owners (here meaning the party which shall actually have paid the relevant sum or sums) such amount of any payment made by the Owners to the Council which has not been expended or committed in accordance with the provisions of this Deed within five years of the date of receipt by the Council of the final such payment if payable in instalments together with such interest thereon as the relevant sum has earned in the hands of the Council but the Council shall be under no obligation to maximise such interest whilst the relevant contribution is in its hands;
- 5.3 upon request in writing to provide to the Owners reasonable evidence as to the expenditure of the sums paid by the Owners under this Deed.

6 LOCAL LAND CHARGE

This Deed is a Local Land Charge for the purposes of the Local Land Charges Act 1975 and will be registered as such by the Council.

7 NON-ENFORCEMENT

- 7.1 Any owner-occupier or tenant of a completed Unrestricted Housing Unit shall not be liable for any breach of the covenants conditions or restrictions contained in this Deed with the exception of any breach of the provisions of paragraphs 7 and 8 of Part 1 of the First Schedule to the extent that such breach is in respect of the Dwelling of which he or she is the owner-occupier or tenant.
- 7.2 Any owner-occupier or tenant of a completed Dwelling which is an Affordable Housing Unit shall only be liable for any breach of the provisions of paragraphs 7 and 8 of Part 1 of the First Schedule and any breach of the Affordable Housing obligations contained in the Second Schedule to the extent that such breach is in respect of the Dwelling of which he or she is the owner-occupier or tenant.

- 7.3 The provisions of the Second Schedule shall not be binding on a mortgagee in possession of a Dwelling which is an Affordable Housing Unit or a bona fide purchaser for value thereof from such a mortgagee in possession or any receiver appointed by such mortgagee (except a purchaser which is a Registered Social Landlord)

PROVIDED THAT:-

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

8 MISCELLANEOUS

- 8.1 The Owners shall pay the Council's reasonable legal costs for the preparation and execution of this Deed.
- 8.2 Nothing in this Deed shall create any rights in favour of any person pursuant to the Contracts (Rights of Third Parties) Act 1999 save for the avoidance of doubt it is declared that the planning obligations contained in this Deed are enforceable by any successor local planning authority to the Council exercising planning powers under the Act.

9 NOTICES

- 9.1 Any notice or other written communication to be served upon any party or given by one party to any other under the terms of this Deed shall be deemed to have been validly served or given if delivered by hand or sent by ordinary first class post or sent by recorded delivery post to the party upon whom it is to be served or to whom it is to be given or otherwise notified.
- 9.2 A notice or communication shall be served or given:
- 9.2.1 on the Owners at their usual address or such other address as shall be notified in writing to the Council from time to time;
- 9.2.2 on the Council at Guildhall, Wrexham LL11 1AY or such other address as shall be notified in writing to the Owners from time to time.
- 9.3 Any notice or other written communication to be given by the Council shall be deemed valid and effectual if on its face it is signed on behalf of the Council by an officer or duly authorised signatory.

10 DISPUTE RESOLUTION

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

11 JURISDICTION AND LEGAL EFFECT

11.1 This Deed shall be governed by and interpreted in accordance with the law of England and Wales as they apply in Wales.

11.2 In so far as any clause or clauses of this Deed are found (for whatever reason) to be invalid, illegal or unenforceable, that invalidity, illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.

11.3 No waiver (whether express or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.

11.4 Nothing herein contained or implied shall prejudice or affect the rights powers duties and obligations of the Council in exercise of its functions as a local authority highway authority and local planning authority and the rights powers duties and obligations of the Council under all public and private statutes and byelaws orders and regulations may be fully and effectually exercised in relation to the Land or any part thereof and any works executed thereon as if the Deed had not been executed by the Council and in particular nothing in this Deed shall restrict the Council and/or any other local authority from exercising powers of compulsory purchase in respect of any part of the Land.

11.5 Any approval given under this Deed or for the purpose of this Deed shall not be deemed to be approval for any other purpose whatsoever.

11.6 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not an appeal) before or after the date of this Deed.

12 INDEXATION AND INTEREST

12.1 Any sum to be paid to the Council and being due more than twelve months after the date of this Deed shall be increased by an amount

equivalent to the increase in the Index from the date of this Deed until the date such sum is due and payable.

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

13 CHANGE IN OWNERSHIP

The Owners and the Mortgagee agree with the Council to give the Council immediate written notice of any change in ownership of any of their interests in the Land 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 Land or unit of occupation purchased by reference to a plan.

14 MORTGAGEE'S CONSENT

- 14.1 The Mortgagee consents to the giving of the obligations contained in this Deed on the part of the Owners.

- 14.2 The Mortgagee acknowledges and declares that the Land shall be bound by the restrictions and obligations contained in this Deed and that the Security over the Land shall take effect subject to this Deed and this Deed shall be binding on its successors in title **PROVIDED THAT** the Mortgagee shall otherwise have no liability under this Deed unless it takes possession of any part of the Site in which case it too will be bound by the obligations as if it were a person deriving title from the Owners.

15 DELIVERY

The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

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

FIRST SCHEDULE

PART 1

MANAGEMENT OF PUBLIC OPEN SPACE

- 1 Not to allow the Commencement of Development until:
 - 1.1 a copy of the proposed Articles and Memorandum of Association of the Management Company has been submitted to and approved in writing by the Council;
 - 1.2 a Management Company which shall be a registered limited company has been formed for the purposes of complying with the Management Plan with Articles and Memorandum of Association approved in writing by the Council in accordance with paragraph 1.1 above;
 - 1.3 an application for full planning permission has been submitted to the Council and full planning permission has been granted in respect of the construction of the Play Area and in respect of any material change in use which may occur as a result of the construction and laying out of the Public Open Space; and
 - 1.4 the Management Plan has been submitted to and approved in writing by the Council.
- 2 To submit to the Council the Articles and Memorandum of Association and Certificate of Incorporation of the Management Company within four weeks of its incorporation.
- 3 Not to allow more than 25% of the Unrestricted Housing Units in the Development to be Occupied until the freehold or long leasehold of the Public Open Space has been transferred to the Management Company and except as herein provided free from incumbrances other than existing title matters and to submit a certified copy of the transfer and the enabling Management Company's board minute and resolution to the Council in evidence thereof.
- 4 To pay the Management Funding to the Management Company prior to the transfer of the freehold or long leasehold of the Public Open Space to the Management Company in accordance with paragraph 3 above provided however that the Management Funding shall be paid as restricted funds to be used solely for the purposes of performing the approved Management Plan and to submit to the Council a certified copy of the Management Company's board minute and resolution to accept the Management Funding on that basis.
- 5 Not to transfer the freehold or long leasehold of the Public Open Space to the Management Company until the Management Funding has been paid to the Management Company in accordance with paragraph 4 above.

- 6 Not to allow any Dwellings in the Development to be Occupied until the Play Area has been laid out, constructed and equipped in accordance with the planning permission to be obtained pursuant to paragraph 1.3 above.
- 7 Without prejudice to paragraph 6 above, to plant, lay out and construct the remainder of the Public Open Space in accordance with the full planning permission to be obtained pursuant to paragraph 1.3 above and in accordance with the requirements of LPGN10 prior to the Occupation of more than 75% of the Dwellings.
- 8 To procure that all purchasers of a Dwelling shall become members of the Management Company on and for the duration of their Ownership of that Dwelling with a view and to the intent that they can influence the carrying out of the Management Plan in accordance with the provisions of this Deed.
- 9 To enter a restriction on the proprietorship register for each Dwelling to secure compliance with paragraph 8 above substantially in the following terms:

"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate is to be registered without a certificate signed by its conveyancer that the provisions of paragraph 8 of Part 1 of the First Schedule of the Agreement dated [insert date of this Deed] entered into between [insert details of parties to this Deed] have been complied with"
- 10 Not to use the areas of the Public Open Space which do not form part of the Play Area for any other purpose whatsoever than as open grassed areas nor to cause, permit or allow any structures or other obstructions whatsoever to be erected within these areas of the Public Open Space without the prior written approval of the Council.

PART 2

CONDITIONS TO BE IMPOSED ON THE OWNERS AND THE MANAGEMENT COMPANY

The Owners agree to comply with and to procure that the Memorandum and Articles of Association of the Management Company will provide that the Management Company will comply with the following provisions of this Part 2:

- 1 To observe and perform the provisions of the Management Plan to the reasonable satisfaction of the Council.
- 2 To be responsible for the maintenance, upkeep and works to the Public Open Space in accordance with the Management Plan.
- 3 To ensure that trees within the Development which have died or are dying or are diseased or dangerous or likely to become dangerous are treated, lopped or topped insofar as it may be necessary for the prevention of danger.

- 4 In the event that any tree or shrub planting shall die or have to be removed to consult with the Council as to whether the tree or trees or shrub planting needs to be replaced and if required so to do to carry out such replanting as is agreed between the Council and the Owners/Management Company within the time or in the planting season agreed with the Council following such consultation.
- 5 Not to erect any buildings or structures or deposit any waste or alter ground levels or light fires within the Public Open Space without the approval in writing of the Council
- 6 To employ only reputable and experienced consultants or contractors to undertake all works under the measures contained in the Management Plan.

SECOND SCHEDULE

PART 1

THE AFFORDABLE HOUSING OBLIGATION

- 1 To design and construct the Affordable Housing Units in accordance with details approved by the Council and the Planning Permission and the Welsh Government's Development Quality Requirements: *Design Standards and Guidance*.
- 2 Upon Commencement of Development to approach a Registered Social Landlord without delay and to pursue negotiations with all due diligence in order to comply with the obligations contained in this Deed and to offer the Affordable Housing Units for sale to a Registered Social Landlord on terms that have due regard to the fact that the acquiring party is a Registered Social Landlord acquiring the Affordable Housing Units for the purpose of providing affordable housing.
- 3 To provide to the Council such information concerning progress of negotiations with the Registered Social Landlord pursuant to paragraph 2 above as shall reasonably be required by the Council.
- 4 To construct the Affordable Housing Units contemporaneously with the Unrestricted Housing in the Development or in each Phase (as the case may be).
- 5 Not to dispose of the Affordable Housing Units either by way of sale or transfer of any freehold or leasehold interest other than to a Registered Social Landlord.
- 6 Prior to the First Occupation Date of any Dwelling within a Phase, to provide to the HHPP the following details for each Affordable Housing Unit of any Dwelling within a Phase:
 - a) postal address;
 - b) gross and net floor area;
 - c) anticipated practical completion date; and
 - d) plans indicating location, elevations and internal layout.
- 7 Not to allow more than 50% of the Unrestricted Housing Units in the Development or a particular Phase to be Occupied until all the Affordable Housing Units in the Development or the relevant Phase (as the case may be) have been constructed in accordance with paragraph 4 above and are ready for Occupation and have been disposed of by way of an Affordable Housing Transfer to a Registered Social Landlord.
- 8 To ensure that the Affordable Housing Transfer contains such provisions as are required to give effect to the obligations contained in this Agreement.
- 9 To give to the Council notice in writing of the completion of the Affordable Housing Transfer within 14 days thereof.

- 10 Not to use the Affordable Housing Units for any purpose other than the provision of Affordable Housing in accordance with the terms of this Agreement.
- 11 The Registered Social Landlord shall give notice in writing to the HHPP upon the disposal or letting of each Affordable Housing Unit in accordance with the terms of this Agreement within 28 days of such disposal or letting and providing such details as the HHPP may reasonably require.
- 12 In selecting Eligible Persons to whom Affordable Housing Units are to be allocated to give priority to persons whose names are on the housing waiting lists and low cost housing register held by the Council in its capacity as local housing authority or those held by the Registered Social Landlord.
- 13 To keep and provide to the Council upon request such full and proper records as are reasonably required by the Council to demonstrate strict compliance with the affordable housing obligations contained in this Second Schedule.

PART 2

TERMS TO BE INCLUDED IN A SHARED OWNERSHIP LEASE

The following terms shall be included in any Shared Ownership Lease granted by the Registered Social Landlord:

- 1 A right of pre-emption in favour of the Registered Social Landlord.
- 2 Provisions which prevent the acquisition (whether by way of Staircasing or otherwise) by a Shared Owner of an interest in the Affordable Housing Unit in excess of 90%.
- 3 A provision preventing the Shared Owner from letting or sub-letting the Affordable Housing Unit.
- 4 A covenant whereby a Shared Owner who wishes to dispose of their interest in the Affordable Housing Unit (and where the Registered Social Landlord does not wish to exercise the right of pre-emption referred to in paragraph 1 above) shall be prevented from disposing of their interest in the Affordable Housing Unit other than to a Person in Housing Need and who is also an Eligible Person for a sum equal to the same percentage of the Market Value as the Shared Owner then holds pursuant to the Shared Ownership Lease.
- 5 A provision which ensures that the Affordable Housing Unit shall remain affordable housing by way of a requirement upon each successive lessee to obtain at the time of a disposal of the Shared Ownership Lease a covenant from the assignee in favour of the Registered Social Landlord in the terms set out in paragraph 4 above.
- 6 A requirement that the Shared Owner shall enter a restriction on the register of the Shared Owner's title at the Land Registry in the following terms:-

"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate is to be registered without a written certificate signed by the proprietor for the time being of the estate registered under title number [insert title number of the Registered Social Landlord for the Affordable Housing Unit] that the provisions of paragraphs 4 and 5 of Part 2 of the Second Schedule of the planning obligation entered into between [insert details of this Deed] have been complied with"

PART 3

REQUIREMENTS OF A DISCOUNTED HOUSING LEASE

The following terms shall be included in any Discount Housing Lease granted by the Registered Social Landlord:

- 1 A right of pre-emption at the Discounted Value in favour of the Registered Social Landlord.
- 2 A provision preventing the purchaser from letting or subletting the Affordable Housing Unit.
- 3 A covenant whereby a Discounted Sale Housing unit owner who wishes to dispose of their interest in their Affordable Housing Unit and where the Registered Social Landlord does not wish to exercise the right of pre-emption referred to in paragraph 1 above shall be prevented from disposing of their interest other than:
 - 3.1 to a Person in Housing Need who is also an Eligible Person;
and
 - 3.2 for a price no greater than the Discounted Value.
- 4 A provision which ensures that the Affordable Housing Unit shall remain Affordable Housing by way of a requirement upon each successive lessee to obtain at the time of disposal of the Discounted Housing Lease a covenant from the assignee in favour of the Registered Social Landlord in the terms set out in paragraph 1, 2, 3 and 5 above and below.
- 5 A requirement that the lessee shall enter a restriction on the register of the lessee's title at the Land Registry in the following terms:-

"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate is to be registered without a written certificate signed by the proprietor for the time being of the estate registered under title number [insert title number of the Registered Social Landlord for the Affordable Housing Unit] that the provisions of paragraphs 3 and 4 of Part 3 of the Second Schedule of the planning obligation entered into between [insert details of this Deed] have been complied with"

PART 4

REQUIREMENTS OF SOCIAL RENTED HOUSING

The following terms shall apply to any Social Rented Housing let by the Registered Social Landlord:

- 1 The Social Rented Housing must not be let to or occupied by persons other than Persons in Housing Need who are also Eligible Persons.
- 2 The Social Rented Housing must not be let other than by way of an assured or assured short hold tenancy, at a rent which complies with the rent benchmarking guidance published by the Welsh Assembly Government.
- 3 To manage the Social Rented Housing in accordance with the Regulatory Framework for Housing Associations Registered in Wales issued by the Welsh Government in 2011 or any successor Regulatory Framework or Code in force in Wales from time to time.

THIRD SCHEDULE

DEFINITION OF AN ELIGIBLE PERSON

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

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

PROVIDED THAT

- 4 if no person meeting the requirements in paragraphs 1 - 3 above can be identified from the housing waiting lists held by the HHPP and a period of not less than four weeks has elapsed after an advertisement seeking such a person has been placed in a newspaper circulating in the Wrexham locality then the references in paragraphs 1 - 3 above to the Community Council Area shall be treated as if they included references to other community council areas to be determined by the Council, and any person who satisfies one of the said criteria by virtue of such treatment shall be regarded as an Eligible Person for the purposes of this agreement;

PROVIDED FURTHER THAT

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

PROVIDED FURTHER THAT

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

ANNEX

Draft Planning Permission

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

Applicant	BRYMBO DEVELOPMENTS LTD	Code Number	BRY P/2009/0122
Agent	PARKHILL ESTATES LTD MR M FERGUSON FERNHILL ESTATE OFFICE FERNHILL ROAD NEWPORT SHROPSHIRE TF10 8DJ	Date Received	18/02/2009
		Decision Date	

DRAFT

Town and Country Planning Act, 1990

Location of application

, FORMER BRYMBO STEELWORKS, , BRYMBO, WREXHAM, , LL11 5BT

Description of application

VARIATION OF CONDITION NO. 2 OF PLANNING PERMISSION CODE NO. P/2005/1487 TO EXTEND PERIOD OF TIME WITHIN WHICH TO MAKE APPLICATION FOR APPROVAL OF RESERVED MATTERS (CONSTRUCTION OF 2 NO. APARTMENT BLOCKS).

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

CLF5	Open space requirements from new residential developments
EC11	Archaeology
EC13	Surface water run-off
EC16	Derelict land
EC6	Biodiversity Conservation
GDP1	Development objectives
GDP2	Capacity of infrastructure and community facilities
H1	Housing allocations
H2	Residential development within settlements
H7	Affordable housing within new developments
PS1	Settlement limits
PS2	Development and the environment
PS3	Brownfield Land

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PS4	Settlement Pattern
PS8	Transport network
T6	Primary and core highway network
T8	Parking
T9	Walking, cycling and horse riding routes

Revision	Date	Description of Decision
0		Planning permission issued

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

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 layout of the building(s)
 - b. the scale of the building(s)
 - c. the appearance of the building(s)
 - d. the means of access to the site and building(s)
 - e. 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 thereby approved.
3. The development hereby permitted shall be begun before the expiry of five years from the date of this permission or two years from the date of approval of the last of the reserved matters required to be approved, whichever is the later.
4. No part of the development hereby permitted shall be commenced until full details of both hard and soft landscape works for the site have been submitted to and approved in writing by the Local Planning Authority. The

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works shall be implemented in accordance with a timescale to be approved in conjunction with the scheme of details.

5. All hard and soft landscape works shall be carried out in accordance with the approved details as set out in Condition 4. The works shall be carried out within 3 months of the first use of the development with the exception of soft landscaping which shall be carried out in the first planting season (November to March) or seeding season (April to September) following the first use.
6. Development shall not begin on site until a scheme to deal with potential contamination at the site has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include a phased investigation approach to identify the extent of contamination and any measures required to remediate the site, including post-development monitoring. Where remediation works are required, the development shall not be occupied/used until a Validation Report to show that the works have been satisfactorily carried out has been submitted to and approved in writing by the Local Planning Authority.
7. No development shall take place until a scheme of foul drainage and surface water drainage has been submitted to and approved by the Local Planning Authority. The approved scheme shall be complete before the development is occupied
8. Details of floor and ground levels shall be submitted to the Local Planning Authority before any part of the development is commenced and the development shall only be carried out in strict conformity with such details as are thereby approved.
9. The development shall not be occupied until the Spine Road connecting Brymbo village with Brymbo Link Road is completed to a standard suitable for adoption by the Highway Authority. Road construction shall be completed in accordance with a timescale to be agreed in writing with the Local Planning Authority before development commences.
10. As part of the reserved matters all details for the estate road junctions onto the proposed spine road shall be submitted to and approved by the local

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planning authority, including details for the provision and maintenance of visibility splays commensurate to the speed of traffic along the proposed spine road. Within the splays to be formed nothing shall be allowed to grow or be placed to exceed a height of 1 metre above ground level of the adjoining carriageway.

11. Development shall only be carried out in strict accordance with the approved plans or with any amendments thereto approved in writing by the Local Planning Authority.

12. Construction works, ancillary works and the use of plant or machinery audible at or beyond the site boundary shall only be carried out between the hours of 07:30 and 18.00 (Monday to Friday) and 08:00 to 14:00 (Saturday) and at no time on Sundays or Bank Holidays.

13. Prior to the commencement of development, a programme of sustainable works shall be submitted for the written approval of the Local Planning Authority. The approved programme shall be implemented in accordance with a timescale to be agreed with the Local Planning Authority.

14. The developer shall afford access at all reasonable times to an archaeological organisation acceptable to the Local Planning Authority and shall allow them to observe the excavations and record items of interest and finds. Notification of the commencement date, information as to whom the archaeologist should contact on site and the name of the archaeological organisation retained by the developer shall be given to the Local Planning Authority in writing not less than 10 days before any development commences.

15. No development shall be permitted until a Traffic Impact Assessment has been submitted to and has been approved in writing by local planning authority. The TIA shall include investigation into the A525 / Brymbo Link Road junction and also public transport provision.

16. A report detailing a scheme of mitigation measures for Great Crested Newts and other amphibians within the site shall be submitted to and approved by the Local Planning Authority. Any mitigation measures required shall be implemented in accordance with time scales to be agreed as part of the measures before development commences on site.

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Reason(s)

1. To comply with the provisions of the Town and Country Planning (General Development Procedure) Order, 1995 (as amended)
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 ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
5. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
6. In the interests of the amenities of the future occupants of the buildings
7. To ensure satisfactory drainage of the site and to avoid flooding.
8. To ensure a satisfactory standard of appearance of the development.
9. To ensure satisfactory access to the site and to ensure that the development integrates with the existing communities.
10. In the interests of highway safety.
11. To ensure that the development fully complies with the appropriate policies and standards.
12. To protect the amenities of the occupiers of nearby properties.
13. To meet the criteria set out in the Local Planning Guidance Note 22.
14. The site is considered to be of considerable archaeological interest and it is important that the opportunity created by the development to expose the history of the land is not lost.
15. To ensure no detrimental impact on the adjoining local highway network and to ensure the provision of an adequate public transport system.
16. In order to protect wildlife interests, which are afforded special protection.

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Note(s) to applicant

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

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

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

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

In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted.

Any intrusive activities which intersect, disturb or enter any coal seams, coal

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proposed spine road and separation distances from the proposed dwellings to the east of the site (application P/2005/1485). It is considered that the proposed buildings should be set back a minimum of 10 metres from the proposed spine road.

The plans submitted with the application are for illustration only and are not approved as part of this outline permission.

Officer Appointed for this purpose
Head of Community Wellbeing and Development

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

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

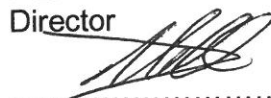
THE COMMON SEAL of
WREXHAM COUNTY BOROUGH COUNCIL
was hereunto affixed in the presence of:




.....
Head of Corporate and Customer Services

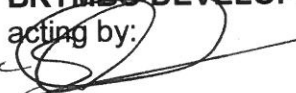
EXECUTED as a DEED by
PARKHILL ESTATES LIMITED
acting by:


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Director


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Director/Company Secretary

42/11/99

EXECUTED as a DEED by
BRYMBO DEVELOPMENTS LIMITED
acting by:


.....
Director


.....
Director/Company Secretary

EXECUTED as a DEED by
COLIN CORNES
acting by his attorney
MARTIN GREEN


.....

in the presence of:

Witness signature:

Witness name (Printed):  ELIZABETH WHEELER

Witness address:

Lodders Solicitors LLP
Number Ten Elm Court Arden Street
Stratford upon Avon CV37 6PA