

DATED:

22nd February

2016

**Planning Obligation by Deed of Agreement
under Section 106 of the
Town and Country Planning Act 1990
relating to Land adjoining and east of Fairleigh,
Station Road, Overton, Wrexham**

WREXHAM COUNTY BOROUGH COUNCIL (1)

and

FARQUHAR DEVELOPMENTS LIMITED (2)

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

Ref: MWY/ZS/10009059

DATE: 22nd February 2016

PARTIES

- (1) **WREXHAM COUNTY BOROUGH COUNCIL** of Guildhall, Wrexham, LL11 1AY
(hereinafter referred to as "the Council")
and
- (2) **FARQUHAR DEVELOPMENTS LIMITED** (company registration number 3307489)
whose registered office is at 4 Smithfield Street, Oswestry, Shropshire, SY11 2EG
(hereinafter referred to as "the Owner")

INTRODUCTION

- (1) The Council is the Local Planning Authority for the purposes of this Deed and the Town & Country Planning Act 1990 (as amended) for the area within which the property described in the First Schedule hereto is situate and is the Local Planning Authority by whom a Planning Obligation is enforceable.
- (2) The Owner is the registered proprietor of the Site.
- (3) Mr Mark Jones c/o agent David Parker Planning Associates, Belgrave House, 15 Salop Road, Oswestry SY11 2NR has submitted the Application to the Council and the Owner and the Council have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.
- (4) The Council resolved on the 1st June 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 25th July 2014 submitted to the Council for the Development and allocated reference number P/2014/0592

“Commencement of Development”	the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and “Commence Development” shall be construed accordingly
“Development”	the development of the Site consisting as set out in the Application
“Education Contribution”	means the sum of £17,856 (seventeen thousand eight hundred and fifty six pounds) 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 outline planning permission subject to conditions to be granted by the Council pursuant to the Application as set out in the Fourth Schedule
“Practical Completion”	issue of a Certificate of Practical Completion by NHBC by way of the usual NHBC cover note

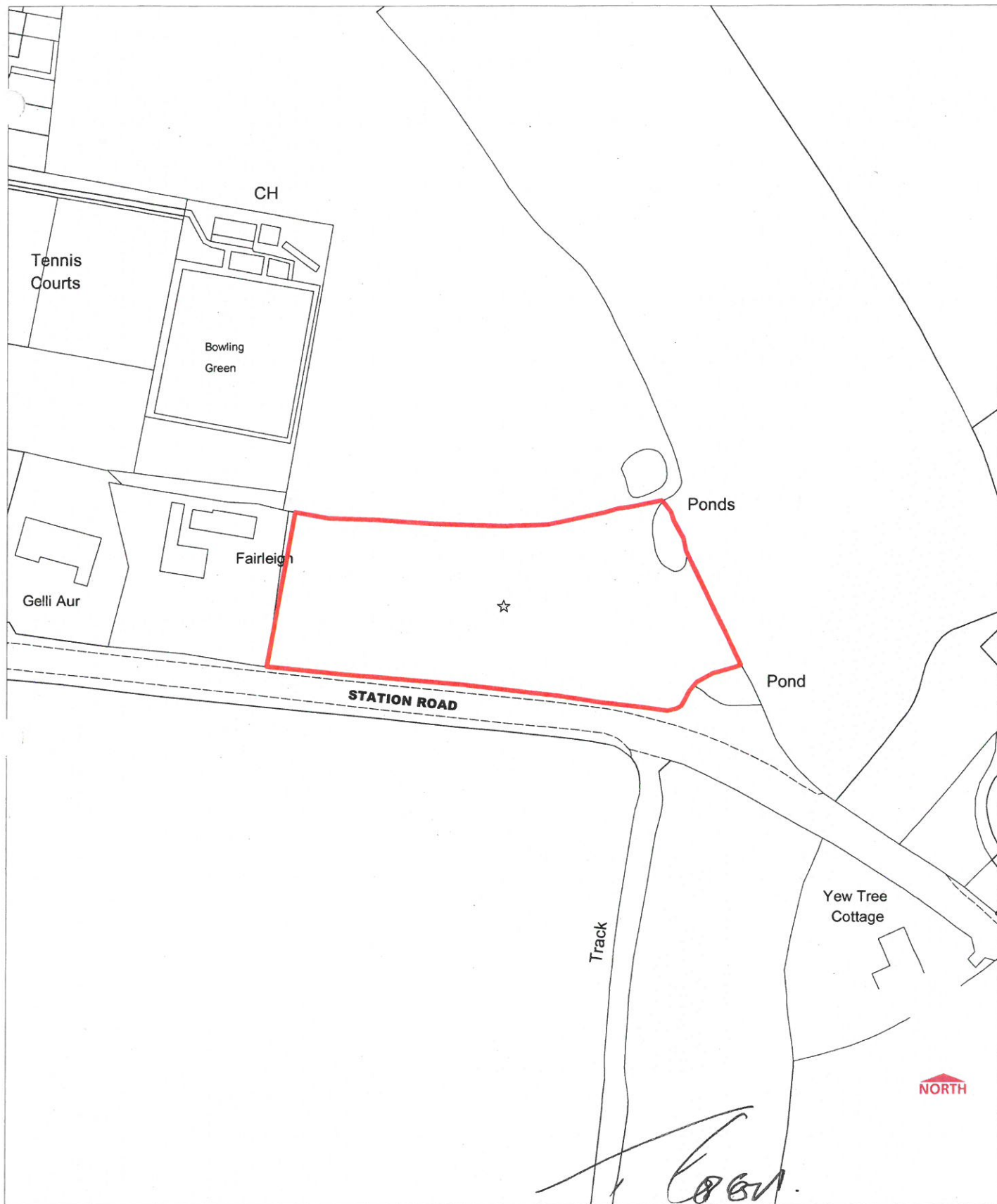
“Site” the land subject to this Deed as shown edged red on the Plan and more particularly described in the First Schedule

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



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L. C. 06/11

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

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

Date: 03/06/2015
Scale: 1:1250
OS Sheet: SJ3741



P/2014/0592
Land adjoining and East of
Fairleigh, Station Road, Overton
Wrexham

wrexham
COUNTY BOROUGH COUNCIL
CYNGOR BWRDEISTREF SIROL
wrecsam

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 and 15 (commencement of development, legal costs, jurisdiction, delivery and monitoring clauses) fees and any other relevant provisions which shall come into effect immediately upon completion of this Deed.

5 THE OWNER'S COVENANTS

5.1 The Owner covenants with the Council as set out in the Second Schedule.

5.2 The Owner shall serve on the Council a notice of Commencement of Development not less than two days before Commencement of Development.

6 THE COUNCIL'S COVENANTS

The Council covenants with the Owner as set out in the Third Schedule.

7 MISCELLANEOUS

7.1 The Owner shall pay the Council on completion of this deed the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed in the sum of £1,000 (one 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 on the north side of Station Road, Overton, Wrexham, edged red on the Plan,
and registered at the Land Registry with title WA923447.

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 Education 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

Council's Covenants - Discharge of obligations

- 1 The Council covenants with the Owner to use the Educational Contribution ("the Contributions") 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 Contributions 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.

FOURTH SCHEDULE

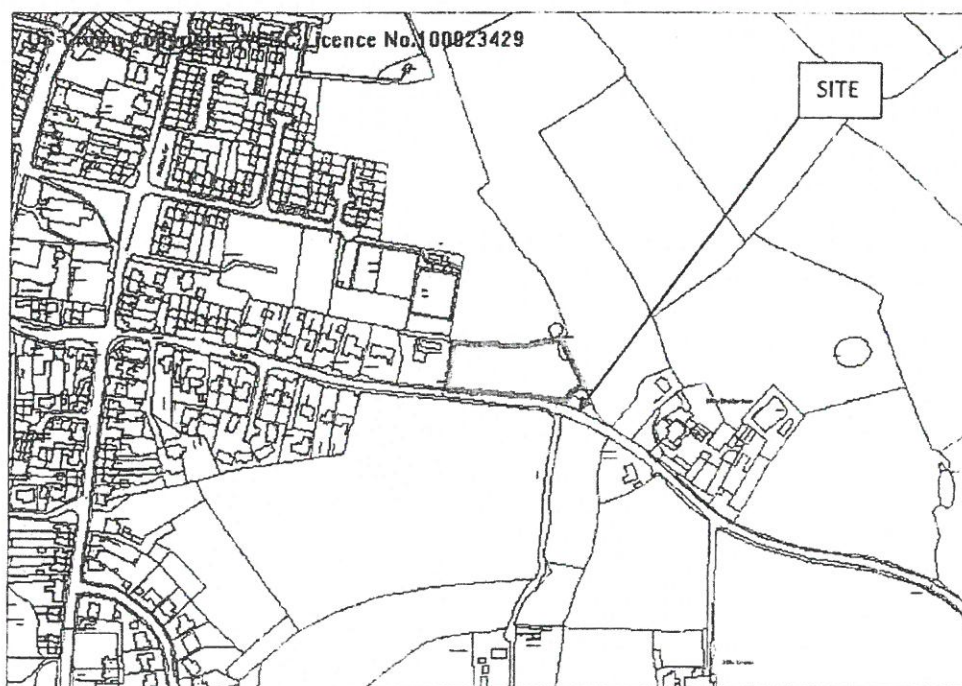
Planning Permission P/2014/0592

REPORT OF THE HEAD OF COMMUNITY WELLBEING AND DEVELOPMENT –
1 June 2015

APPLICATION NO: P/2014 /0592	LOCATION: LAND ADJOINING AND EAST OF FAIRLEIGH STATION ROAD OVERTON WREXHAM LL13 0LJ	DATE RECEIVED: 07/08/2014
COMMUNITY: Overton	DESCRIPTION: OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT WITH MATTERS RESERVED EXCEPT ACCESS.	CASE OFFICER: KH
WARD: Overton	APPLICANT(S) NAME: MR MARK JONES	AGENT NAME: DAVID PARKER PLANNING ASSOCIATES MR D PARKER

THE SITE

Located on the eastern edge of Overton and off the northern side of Station Road. Land comprises a small enclosed paddock measuring (0.95 acres) in area. Fairleigh an existing residential property lies to the immediate west.

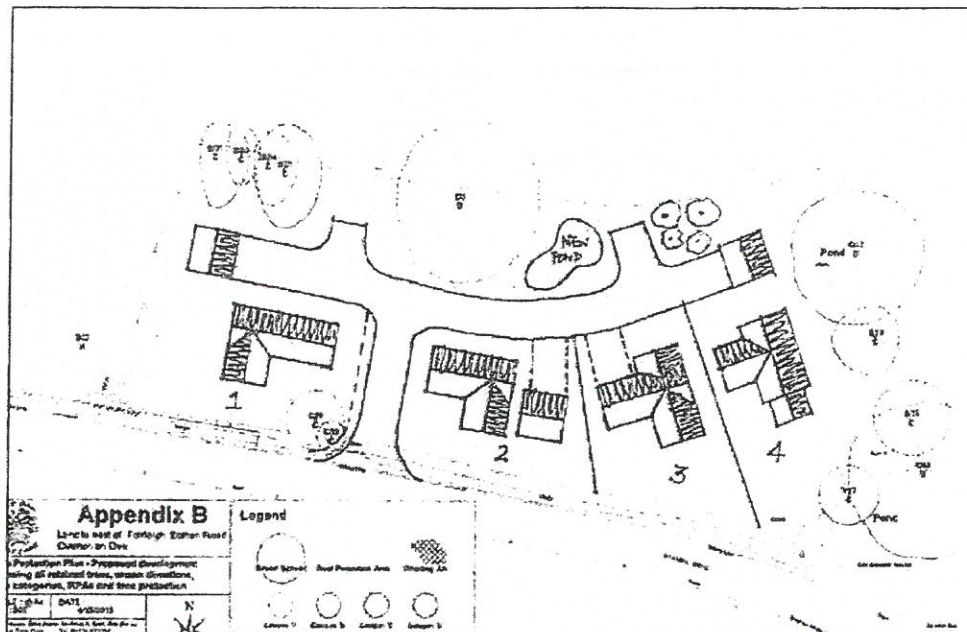


PROPOSAL

Outline application (initially for six dwellings) for four dwellings with access arrangements submitted for approval. Scale, layout, appearance and

**REPORT OF THE HEAD OF COMMUNITY WELLBEING AND DEVELOPMENT –
1 June 2015**

landscaping are all reserved for subsequent approval. The indicative site layout is shown below.



Indicative layout plan

HISTORY

None.

DEVELOPMENT PLAN

Outside the settlement of Overton and within a Special Landscape Area. Policies PS1, PS2, GDP1, EC5 and MW9 refer.

CONSULTATIONS

Community Council:	Outside settlement limit and within a Special Landscape Area. Six dwellings is too intensive for the site, concerns regarding visibility at access and concern regarding sewerage arrangements.
Local Member:	Outside settlement so should be refused. However, knowing the site well, it would not be an intrusive addition to the village. Six houses is too intensive for the site but the site could accommodate three houses. It would be insensitive to allow over intensive development in this location.
Public Protection.	No objections but condition required regarding working hours during construction period.

REPORT OF THE HEAD OF COMMUNITY WELLBEING AND DEVELOPMENT –
1 June 2015

Highways:	No objections subject to acceptable access. The development site would be served by a 5m and carriageway serving the estate should be minimum of 4.8m. Submitted plans indicate adequate lateral and forward visibility splays. Site would enable maximum parking.
Welsh Water:	Conditions required.
NRW:	No objections. To ensure the development does not have a detrimental impact on Great Crested Newts a Reasonable Avoidance Measures Strategy will be required prior to commencement of any works. Bat survey satisfactory.
Neighbours:	Two letters of objection from same household on the following grounds: - Outside settlement and special landscape area - Sewerage system cannot cope with additional development - Septic tank outlet from their property runs the length of the site - Does not constitute infill - Design of development and additional residential development will harm the rural character of the area - Concerned regarding visibility at access and highway safety
Press Notice:	Expired 26.09.2014
Site Notice:	Expired 24.09.2014

SPECIAL CONSIDERATIONS

Policy: The proposal does not accord with any of the circumstances set out in Policy H5 of the UDP that permit small scale residential development on sites outside of settlement limits.

In addition to being outside of the settlement boundary, the land is within a Special Landscape Area and an area where resources of sand and gravel should be safeguarded.

Whilst there would be a departure from the UDP, the Council is only required to determine planning applications in accordance with an adopted development plan unless material considerations indicate otherwise. In this particular case the site provides a natural and logical extension to the settlement limit with the site adjoining Overton Settlement on the Western boundary. The site is enclosed by established boundary trees and hedgerow and the development will be well integrated into the rural landscape which will help minimise the impact in the Special Landscape Area and help minimise nearby and more distant viewpoints. The site is sustainable with close proximity to the centre of Overton with its plethora of facilities. With regard to policy MW9 and protection of Mineral Resources, it would not be economically

REPORT OF THE HEAD OF COMMUNITY WELLBEING AND DEVELOPMENT –
1 June 2015

viable to extract sand and gravel and due to the proximity of residential properties it would not be appropriate. Much of the mineral resource has already been sterilised by the existing settlement.

I am satisfied that from a policy perspective development of the site is acceptable.

Highways: The proposed development site is located on the A539 Station Road which is a classified road subject to a 30mph and any proposed access in this location would normally be required to provide a visibility splay of 2.4 x 70m in both directions, and forward visibility providing a stopping sight distance of 70m for vehicles approaching the proposed access from the east. The submitted layout plan indicates the provision of adequate lateral and forward visibility splays which exceed the above requirements.

Access width and kerb radii at the junction with Station Road are acceptable. A footpath is recommended linking the proposed development site to the existing 1.4m wide footpath fronting two nearby properties. A suitable turning head will be required on site to facilitate refuse wagons/deliveries. The site is large enough to accommodate maximum parking standard requirements.

No highway objections subject to conditions with reference to the above.

Ecology: An extended phase I habitat survey – Great Crested Newt has been undertaken to a satisfactory standard with no GCN found in any ponds within 100m of the site. However, to ensure no detrimental impact from the development a Reasonable Avoidance Measures Strategy (RAMS) will be required. Provision of a pond on site will also be required.

A suitable bat survey also accompanies the application, with no evidence that trees on site were used for bat roosts but bats are using the site to forage. A condition should be attached to control external lighting in the interests of bats using the site for foraging.

NRW and the Council's Ecologist have no objections.

Visual Impact: As referred to previously, the site is a natural extension to the settlement and well enclosed with existing mature trees and hedging on the boundaries. Design will also be important and a sensitive high quality design will be required at the Reserved Matters Stage. Whilst I am aware of the Local Members comments regarding restricting the development to three properties, subject to design and scale the site could potentially accommodate four properties.

I am satisfied that the proposed development will not compromise the character of the Special Landscape Area.

CONCLUSION

Whilst representing a departure from the Wrexham UDP, I am satisfied that the site provides a natural extension to the settlement and can be successfully integrated into the rural environment. The applicant has demonstrated that development can be accommodated within the site without compromising existing mature trees and the site will respect the Special Landscape Area Character. Sensitive design at the Reserved Matters application will also be important.

Subject to appropriate conditions, ecology and highway issues will be fully addressed. My recommendation is however in three parts to reflect the requirement for education payments.

RECOMMENDATION A

That the Council enters into an obligation under Section 106 of the Town and Country Planning Act to secure payment of financial contributions to a school provision.

That the Head of Community Wellbeing and Development be given delegated powers to approve the final form and content of the obligation.

RECOMMENDATION B

Upon completion of the Planning obligation that 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 layout of the building(s)
 - b. the scale of the building(s)
 - c. the appearance of the building(s)
 - d. 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. No part of the development shall commence until samples of all external facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in strict accordance with such details as are approved.

REPORT OF THE HEAD OF COMMUNITY WELLBEING AND DEVELOPMENT –
1 June 2015

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 how foul water, surface water and land drainage will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be implemented in accordance with a timescale to be agreed as part of the submitted details and maintained thereafter.
7. 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.
8. The Reserved Matters application shall provide full details of a turning head constructed to adoptable standards to serve the proposed development site. The scheme as approved shall be provided prior to the first occupation of any of the dwellings hereby approved and retained thereafter in a useable condition thereafter.
9. The Reserved Matters application shall provide full details of a proposed new pond on the site.
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.
11. No equipment, machinery, plant or materials of any kind in connection with the development shall be brought onto the site until tree protection fencing and ground protection measures have been implemented in strict accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The details should include specification and location for the fencing. Nothing shall be stored or placed in any area fenced

REPORT OF THE HEAD OF COMMUNITY WELLBEING AND DEVELOPMENT –
1 June 2015

in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made.

12. The tree protection fencing and ground protection measures approved in connection with condition no. 11 shall be kept in place until all external site works have been completed and the removal of the fencing has been approved in writing by the Local Planning Authority.

13. No part of the development shall commence until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in strict accordance with the Method Statement as is approved. The Method Statement shall include the following:

- 1) A specification for tree protection fencing and ground protection measures that comply with British Standard 5837:2012;
- 2) A Tree Protection Plan showing the location of the trees to be removed and retained with their crown spreads, Root Protection Areas, Construction Exclusion Zones, and location of protective fencing and ground protection measures accurately plotted;
- 3) A full specification for any access, driveway, path, underground services or wall foundations within retained tree Root Protection Areas or Construction Exclusion Zone, including any related sections and method for avoiding damage to retained trees;
- 4) Details of general arboricultural matters including proposed practices with regards to cement mixing, material storage and fires;
- 5) Details of the frequency of supervisory visits and procedures for notifying the findings of such visits to the Local Planning Authority;
- 6) Method for protecting retained trees during demolition works;
- 7) Details of all proposed tree works, including felling and pruning.

14. The following activities should not be carried out under any circumstances:

- 1) No fires should be lit within 10 metres of the nearest point of the canopy of any retained tree.
- 2) No works, including earth works and the bringing onto site of machinery or materials shall proceed until the approved tree protection measures are put in place, with the exception of the approved tree works.
- 3) No equipment, signage, fencing, tree protection barriers, materials, components, vehicles or structures shall be attached to or supported by a retained tree.
- 4) No mixing of cement or use of other materials or substances shall take place within tree root protection areas or tree construction exclusion zones, or close enough to these that seepage or displacement of those materials or substances could cause them to enter tree root protection areas or tree construction exclusion zones.
- 5) No alterations or variations to the approved works or tree protection schemes shall be carried out without the prior written approval of the Local Planning Authority.

15. Within three months of commencement of development, full details of a hard and soft landscaping scheme together with a plan indicating the positions, design, materials and type of boundary treatment and timescale for

REPORT OF THE HEAD OF COMMUNITY WELLBEING AND DEVELOPMENT –
1 June 2015

implementation of works shall be submitted to and approved in writing by the Local Planning Authority.

16. The landscaping scheme including the paving and footpath areas submitted and approved in connection with condition no. 15 shall be fully implemented in all respects within three months of the first use of the building 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.

17. The planting scheme implemented in connection with condition no. 16 shall be permanently retained. Any planting which becomes severely damaged or seriously diseased, or is in poor physiological condition and/or are removed without the written permission of the Local Planning Authority shall be replaced within the next available planting season by trees or shrubs of similar size and species to those originally required to be planted.

18. The total number of dwellings hereby permitted shall be restricted to a maximum of four (4) units.

19. There shall be no gates or other means of enclosure across the vehicular access point within 5 metres of the highway boundary.

20. 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.

21. Prior to the first use of the development hereby approved the proposed access shall provide the lateral and forward visibility splays indicated on the approved site layout plan. Within these splays there shall be no obstruction in excess of 1m 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.

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 ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
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 that effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment or the existing public sewerage system.
7. To protect the amenities of the occupiers of nearby properties.
8. To facilitate the turning of refuse vehicles/delivery vehicles within the curtilage of the site.
9. To provide adequate compensation for the loss of existing habitat.

REPORT OF THE HEAD OF COMMUNITY WELLBEING AND DEVELOPMENT –
1 June 2015

10. To protect named species/habitats/biodiversity which would otherwise be damaged/lost by the development hereby permitted.
11. To ensure that the retained trees are adequately protected during development in the interests of amenity.
12. To ensure that the retained trees are adequately protected during development in the interests of amenity.
13. To ensure the work is carried out to accepted arboricultural practices for the long term wellbeing of the tree(s).
14. To ensure that hard surfacing does not cause harm to retained trees in the interests of visual amenity.
15. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
16. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
17. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
18. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
19. In the interest of the free and safe movement of traffic on the adjacent highway and to ensure the formation of a safe and satisfactory access.
20. In the interests of highway safety.
21. To ensure that adequate visibility is provided at the proposed point of access to the highway.

NOTE(S) TO APPLICANT

The applicant is advised that compliance with condition no. 7 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 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

REPORT OF THE HEAD OF COMMUNITY WELLBEING AND DEVELOPMENT –
1 June 2015

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.

The proposed access/footway should be constructed to a standard suitable for adoption by the Council for future maintenance at the public expense and the developer will need to enter into an agreement with the Council under s38/278 of the Highways Act 1980.

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 Council assumes that the proposed estate road will not be adopted and will remain private. The Council would recommend that a private Management Company is established to maintain the estate road, footways and parking areas in perpetuity.

An existing public footpath runs along the eastern boundary of the development site and must not be interfered with. I would recommend that the applicant liaises with the Council's Public Rights of Way Section (contact Sean Hanratty on tel: 01978 729761 to discuss the proposed development).

RECOMMENDATION C

That if an obligation pursuant to Section 106 of the Town and Country Planning Act 1990 is not completed within six months of the date of the committee resolution, the Head of Community Wellbeing and Development be given delegated authority to REFUSE the application for the following reason:

01 The development would not make provision for the required education contributions to offset the impact of the development. The proposal as such would be contrary to the Wrexham Unitary Development Plan policies GDP2 and Local Planning Guidance Note 27.

*Discussed and added to agenda
noted.*

WREXHAM COUNTY BOROUGH COUNCIL PLANNING COMMITTEE

MEETING OF 1 JUNE 2015

Thank You

ADDENDUM

This report summarises information received since the Agenda was compiled including, as appropriate, suggested amendments to recommendations in the light of that information. It also lists those people wishing to address the Committee.

Where the Council has received a request to address the Committee, the applications concerned will be considered first in the order indicated in the table below. The remaining applications will then be considered in the order shown on the original agenda unless indicated by the Chair.

ITEM 4 – DEVELOPMENT CONTROL APPLICATIONS

Page Nos	Community	Planning Ref	Speaker Against	Speaker For
84 – 95	ABE	P/2014/0845	√	√
109 – 114	CHI	P/2015/0111		√

PAGES 84–95 ABE P/2014/0845

Land at Clywedog Road North, Wrexham Industrial Estate, Wrexham

SPEAKERS: AGAINST – Samantha Nicholls (Neighbour)
 FOR – Colin D'Oyley (Representing Applicant)

Applicant's Submission

The applicant has requested that the application be DEFERRED to enable provision of additional information to address the odour issues.

Recommendation

That the application be DEFERRED to enable further consideration of the additional information that will be submitted.

PAGES 109–114 CHI P/2015/0111

Unit 2 St Mary's Precinct, Church Street, Chirk, Wrexham

SPEAKER FOR – Christopher Norcross (Representing Applicant)

Submissions

Applicant submission. Following comments from the applicant:

- Use will not compete with other food and drink uses directly
- Will add vitality to the area by occupying an empty unit
- Less traffic in day compared to previous use
- Parking congestion will not be increased compared to previous use
- Public parking is relatively close
- Other late night uses in close proximity
- Extraction equipment will be effective in controlling odour

- Peak times of business will be when other commercial uses are closed

Observations

The main report has considered the comments raised by the applicant.

Recommendation

As main report.

ALL OTHER ITEMS WILL BE TAKEN IN ORDER SHOWN ON THE ORIGINAL AGENDA

PAGES 74-83 OVE P/2014/0592

Representations

Additional comments on re-consultation, reducing number of properties from 6 to 4: Community Council:

- Original objections to application still stand regardless of the reduction in numbers
- Other residents in village have voiced concern over the extension to the village
- Only remedial works should be carried out on trees and not removal.

Observations

Delete Condition 21 and include additional conditions:

- 21 Prior to first use of the development hereby approved the vehicular access shall provide visibility splays of 2.4 metres x 70 metres in both directions measured to the nearside edge of the adjoining highway. Within these splays there shall be no obstruction above the level of the adjoining carriageway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility. (Reason: To ensure that adequate visibility is provided at the proposed point of access to the highway).
- 22 Prior to the first use of the development hereby approved the vehicular access shall provide a forward visibility splay providing a stopping sight distance of 70m for vehicles approaching from the east along Station Road. (Reason: To ensure that adequate visibility is provided at the proposed point of access to the highway).
- 23 The proposed internal access roads and footways serving the development site shall be maintained in perpetuity by a private management company. (Reason: In the interests of highway safety).
- 24 The vehicular access/estate road hereby approved shall be a minimum width of 4.8 metres incorporating 6m kerb radii. (Reason: To ensure the formation of a safe and satisfactory access).
- 25 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 and construction of the proposed new footway / carriageway.
 The scheme as is approved shall be fully implemented prior to first use of the development. (Reason: In the interests of highway safety).
- 26 Prior to the first use of the development, details of a 2.0m wide footway linking the proposed development site to the existing 1.4m footway fronting Gelli Aur / Fairleigh, which have been previously agreed with the Local Planning Authority, shall be implemented in accordance with those details. (Reason: In the interests of pedestrian safety).

The applicant's attention should be drawn to item nos 1, 2, 3, 4 & 5 of the supplementary notes

- The proposed access/footway should be constructed to a standard suitable for adoption by the Council for future maintenance at the public expense and the developer will need to enter into an agreement with the Council under s.38/278 of the Highways Act 1980.

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.

- I assume that the proposed estate road will not be adopted and will remain private. I would recommend that a Private Management Company is established to maintain the estate road, footways and parking areas in perpetuity.
- No private surface water shall be permitted to flow from the development site onto the adjoining highway. An Aco drain or similar shall be constructed across the access to intercept any such run-off.
- An existing public footpath (PROW no. 18 – Overton) runs along the eastern boundary of the development site and must not be interfered with. I would recommend that the applicant liaises with our Public Rights of Way Section (contact Sean Hanratty on Tel: 01978 729761) to discuss the proposed development.
- With regards to a proposed soakaway relating to Fairleigh that may be on the land this will need to be addressed privately.

PAGES 119-122 GWE P/2015/0171

Observations

Additional Condition:

04 No part of the development hereby approved shall commence until a copy of a 'Build Over' agreement between the land owner and Welsh Water in respect of the public sewer which crosses the site has been deposited with the Local Planning Authority and the applicant has received written confirmation that this condition has been formally discharged. (Reason: To protect the integrity of the public sewer and avoid damage thereto).

Recommendation

As main report with additional condition.

PAGES 123-125 CEF P/2015/0192

Observations

Error in conclusion – should read: "a fence which could be in place"

Note to Applicant:

The proposed fence enclosing the existing car park on the western part of the application site shall be erected at pavement level and not on the existing perimeter wall to the raised planting beds.

Observations

Correction to the first part of the paragraph in the background section of the main report. The building is Grade II listed and probably dates to the early 18th Century but was substantially remodelled in the early 19th Century. The present elevation details appear to be from the latter period. The mass of the roof, together with the moulded stone eaves cornice, and the brick stacks suggest that the general form of the building is however 18th Century. The building was originally used as a dwelling, however the last known use is a library.

Recommendation

Remains unaltered.

PAGES 143-147 LLR P/2015/0230

Submissions

Objection on the basis that a previous Visitor Questionnaire indicated the existing facilities were not sufficient. This was taken out of season when existing facilities were closed. As such the scheme is based on inaccurate information.

Observations

With regard to the additional objection, whilst I appreciate existing facilities exist, the existing facilities are not considered sufficient for the site and the proposal seeks to increase the availability of both food and drink for the established visitor base and future increases in footfall.

Recommendation

As main report.

PAGES 148-155 OVE P/2015/0249

Applicant's submissions

I have recommended that a note to applicant be attached to the planning permission to advise that works associated with its implementation (ie construction works) should only be undertaken between the hours of 7.30 and 18.00 Monday to Friday, 08.00 to 14.00 on a Saturday and at no time on a Sunday or a Bank Holiday. The applicant has requested that the note be amended to advise that implementation works should only take place between the hours of 7.30am and 7pm 7 days a week - including bank holidays.

Observations

Notes to applicants provide advice and information rather than a specific instruction. As such if construction works were to take place outside of the times specified in the note, I would not be able to take enforcement action.

Nevertheless, in light of the fact that the proposed development will take place within the curtilage of a cheese factory that operates 24 hours a day, 7 days a week, a main road and around 80 metres from the nearest dwelling, it is unlikely that construction times proposed by the applicant will have a significant or harmful impact upon amenity. I therefore intend to revise the advisory note accordingly.

Recommendation

That the second advisory note be amended as follows:

All works in relation to the implementation of this permission, including deliveries to and / or leaving the site, shall only be undertaken between the hours of 7.30am and 7pm on any day.

PAGES 167-171 HOL P/2015/0264

Applicant's submissions

The applicant has submitted amended plans. The amendments are as follows:

- i) The SPAR signs to the front and side elevation will comprise white lettering and the corporate logo on a dark grey satin finish fascia. The proposed white post office sign will remain as previously proposed;
- ii) The sign to be installed on the side elevation of the building has been reduced in size from 4.26 metres wide to 2.8 metres wide.

Observations

The amendments are an improvement and mean the signs will now be far less noticeable.

Recommendation

Remains unaltered.



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.



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%
10 * £2352	= £23520

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

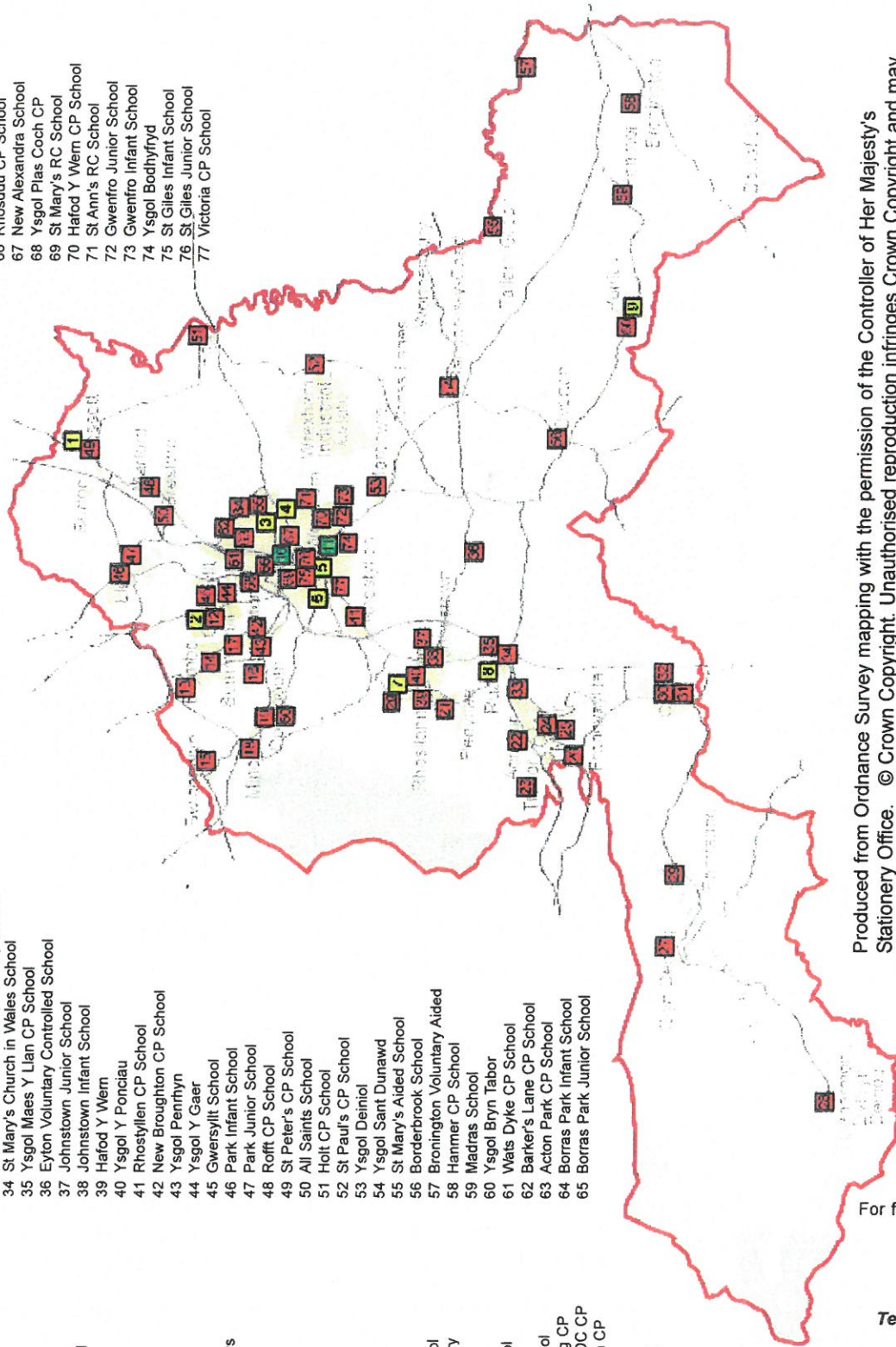
- 1 Darland High School
 - 2 Bryn Alyn High School
 - 3 Rhosnesni High School
 - 4 Ysgol Morgan Llwyd
 - 5 St Josephs RC High School
 - 6 Ysgol Clywedog
 - 7 Ysgol y Grango
 - 8 Ysgol Rhiwabon
 - 9 Ysgol Maelor
- OTHER SCHOOLS
- 10 Groves
 - 11 St Christophers/Ysgol Powys

PRIMARY SCHOOLS

- 12 Ysgol Heulan
- 13 Brymbo Aided School
- 14 Black Lane CP School
- 15 Bwlchwyn 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 Francysyllte CP School
- 27 Ysgol Cynnddelw, Glynceirig CP
- 28 Ysgol Gynradd Llanarmon DC CP
- 29 Ysgol Pontfadog, Llangollen CP
- 30 Chirk Infant School
- 31 Ceiriog 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 Eytton Voluntary Controlled School
- 37 Johnstown Junior School
- 38 Johnstown Infant School
- 39 Hafod Y Wern
- 40 Ysgol Y Pontclau
- 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 Rofft 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 Bronington Voluntary Aided
- 58 Hammer CP School
- 59 Madras School
- 60 Ysgol Bryn Tabor
- 61 Wats 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 Gwefro Junior School
- 73 Gwefro Infant School
- 74 Ysgol Boddyfryd
- 75 St Giles Infant School
- 76 St Giles Junior School
- 77 Victoria CP School



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Adopted March 2004
Revised November 2010

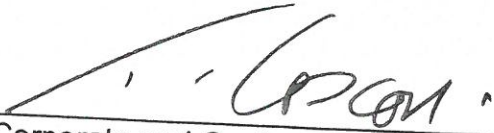
CERTIFICATE

JAMES FELTON of Setfords Solicitors, Jenner House, 1A Jenner House, Guildford, Surrey, GU1 3PH 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: *James Felton*

Dated: *23/11* 2015

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



Head of Corporate and Customer Services



359/15(a)

EXECUTED as a DEED by
FARQUHAR DEVELOPMENTS LIMITED
and signed by a director and the
~~secretary or two directors~~ in the presence of:-


Director

Director/Secretary

WITNESSED BY :-
LAURA DERWAS
TRINITY HOUSE
6 ROFT ST.
OSWESTRY
SY11 2ET

W Derwas.



