GRESFORD HEATH (~~182~~) 208.

DATED 29 APRIL **1999**

WREXHAM COUNTY BOROUGH COUNCIL (1)

BELLWAY HOMES LIMITED(2)

and

MORRIS HOMES LIMITED (3)

A G R E E M E N T

Pursuant to Section 106 of the
Town and Country Planning Act 1990
in respect of the provision
of public open space in connection
with residential development at
Bluebell Lane, Pandy, Gresford, Wrexham

Berwyn Edwards
Chief Legal and Administration Officer
Wrexham County Borough Council
Guildhall
PO Box 1284
Wrexham
LL11 1WF

LP/KSP/PLG1/24(37)

THIS DEED is made the 29 day of April 1999 **BETWEEN WREXHAM COUNTY BOROUGH COUNCIL** of Guildhall, PO Box 1284, Wrexham, LL11 1WF (hereinafter called "the Council") of the first part **BELLWAY HOMES LIMITED** whose registered office is situate at Seaton Burn House, Dudley Lane, Seaton Burn, Newcastle-upon-Tyne, NE13 6BE (hereinafter called "the First Owner") of the second part and **MORRIS HOMES LIMITED** whose registered office is situate at Morland House, 18 The Park, Newton-le-Willows, Merseyside (hereinafter called "the Second Owner") of the third part

WHEREAS

(1) The Council is the local planning authority within the meaning of the Town and Country Planning Act 1990 (hereinafter called "the Act") for the area in which the land described in the First Schedule hereto and the Second Schedule hereto (hereinafter together called "the Land") is situate and by whom the obligations contained in this Deed are enforceable.

(2) The First Owner is the owner in fee simple in possession free from incumbrances of the land described in the First Schedule hereto (hereinafter called "the Red Land").

(3) The Second Owner is the owner in fee simple in possession free from incumbrances of the land described in the Second Schedule hereto (hereinafter called "the Blue Land") the title of the Second Owner being registered at HM Land Registry under title number WA823638.

(4) By an application dated 5th June 1998 which has been allocated code number CB02266 (hereinafter called "the Application") application has been made to the Council for planning permission for the development specified in the Fourth Schedule hereto (hereinafter called "the Development") on the Red Land and the Blue Land and certain adjoining land described in the Third Schedule hereto (hereinafter called "the Green Land").

(5) The Council has decided to grant planning permission for the Development subject to conditions (hereinafter called "the Planning Permission") in accordance with the Application in the form annexed hereto subject to the execution of this Deed without which planning permission for the Development would not have been granted.

NOW THIS DEED which is made in pursuance of Section 106 of the Town and Country Planning Act 1990 **WITNESSETH** as follows:-

1. **The First Owner and the Second Owner** hereby jointly and severally covenant with the Council to perform the obligations set out in the first part of the Fifth Schedule hereto and the First Owner in respect of the Red Land and the Second Owner in respect of the Blue Land hereby severally covenant with the Council to perform the obligation set out in the second part of the Fifth Schedule hereto (such obligations being hereinafter together called "the Obligation").

2. **Nothing in this Deed** shall oblige the Council to expend the sum of money referred to in the Obligation or any other specific sum upon the maintenance of the public open space provision at the Development and the expenditure of the said sum shall be at the sole discretion of the Council in relation to the time when and the location or locations in respect of which it shall be disbursed.

3. **It is hereby agreed** and declared as follows:-

   i The Obligation is a planning obligation for the purposes of Section 106 of the Act.

   ii The Obligation relates to the Land.

   iii The Obligation is enforceable by the Council as local planning authority.

   iv The Council will issue the Planning Permission to the Applicant who made the Application forthwith on completion of this Deed.

   v The expressions "the Council" "the First Owner" and "the Second Owner" shall include their respective successors in title and assigns except for the owner or owners of any completed dwelling standing in whole or in part upon the Land.

NGOR BWRDEISTREF

rol Wrecsam

Wrexham County
BOROUGH COUNCIL

LAMBPIT STREET,
P.O. BOX 1290,
WREXHAM,
LL11 1WL.

31.07.
33515
53314
F MA
D

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: Morris Homes Limited

Code Number: GWE CB02266

Date received: 5th June 1998

Agent: Morris Homes Limited,
Morland House,
18 The Parks,
Newtown Le Willows,
Merseyside, WA12 0JQ.

Decision date:

Town and Country Planning Act 1990
Town and Country Planning (General Development Procedure) Order 1995

Grant of Planning Permission

LOCATION AND DESCRIPTION

LAND OFF BLUE BELL LANE, PANDY, GRESFORD, WREXHAM.

ERECTION OF 133 NO. 3 AND 4 BEDROOM SEMI-DETACHED AND DETACHED TWO STOREY DWELLINGS, CONSTRUCTION OF NEW ACCESS AND ALTERATION TO EXISTING ACCESS TO HIGHWAY.

PARTICULARS OF DECISION
PERMISSION GRANTED
D R A F T
=

01 The development to which this permission relates shall begin not later than the expiration of 5 years from the date of this permission.
02 The development hereby granted shall be carried out strictly in accordance with the amended plan(s) (No. ~~A/G103/SK02 Rob B~~). HB73/P/PLO/REV.H)
03 The existing hedges shall be retained and shall not be cut down, grubbed out or otherwise removed or topped or lopped so that the height of the hedges falls below 2 metre(s) at any point without the previous written permission of the Council. Any hedges removed without permission or dying or being severely damaged within 5 years from the completion of development shall be replaced with hedges of such size and species as may be agreed with the Council.
04 The hedge shown to be removed either side of the proposed access shall be replaced behind the visibility line.
05 No part of the development hereby permitted shall be commenced until a scheme of planting, landscaping and surface treatment for the site has been submitted to and approved by the Council. The scheme shall indicate the number, species, heights and positions of all trees, hedges and shrubs to be planted together with those existing which are to be retained and/or removed and the surface treatment of the land. The positions, heights and materials to be used for any fencing or walls to

JGOR BWRDEISTREF
rol Wrecsam

Wrexham County
BOROUGH COUNCIL

plicant Morris Homes Limited

Code Number GWE CB02266

Agent Morris Homes Limited,
Morland House,
18 The Parks,
Newtown Le Willows,
Merseyside, WA12 0JQ.

Date received 5th June 1998

Decision date

be erected shall also be described.

06 The landscaping scheme to be approved under Condition 5 above shall be implemented during the first planting season following commencement of the development on site unless expressly agreed otherwise by the Local Planning Authority. It shall be fully maintained for a minimum period of five years.

07 The public open space indicated on the approved plan shall be laid out prior to the occupation of the first dwelling on the site and thereafter maintained in accordance with a scheme to be agreed with the Local Planning Authority.

08 The estate roads and footways shall be progressively constructed from the junction with Blue Bell Lane across the frontage of each plot prior to occupation of the building erected thereon.

09 No development shall commence until a scheme of traffic calming measures for Blue Bell Lane has been submitted and approved by the Local Planning Authority. Its measures as approved shall be fully completed in accordance with a timescale to be agreed with the Local Planning Authority.

10 Samples of the external facing and roofing materials shall be submitted for further approval of the Council before development commences.

11 The erection of fencing for the protection of trees and shrubs shall be undertaken before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. The above mentioned fencing shall consist of 1.5 metre high chestnut paling fence erected at the full extent of each tree and shrub. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground within those areas shall not be altered, nor shall any excavations be made without the written permission of the Local Planning Authority.

12 The developer shall afford access to the site at all reasonable time to any archaeologist nominated by the Council and shall allow such persons to observe the excavations as are carried out and to record items of archaeological interest and finds.

REASON(S)

01 To comply with Section 91(3) of the Town and Country Planning Act 1990.
02 To ensure a satisfactory standard of appearance of the development.
03 and 10. To ensure a satisfactory standard of development.
04 05 and 06. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.

GOR BWRDEISTREF
ol Wrecsam

Wrexham County
BOROUGH COUNCIL

ilicant Morris Homes Limited

Code Number GWE CB02266

Agent
Morris Homes Limited,
Morland House,
18 The Parks,
Newtown Le Willows,
Merseyside, WA12 0JQ.

Date received 5th June 1998

Decision date

07 In the interests of the amenities of the future occupants of the residential accommodation.
08 To ensure that the estate road system is constructed to a standard suitable for adoption and, in the interest of traffic safety, is capable of catering for the amount of traffic that is likely to be generated by the proposal.
09 In the interest of highway safety and the amenities of the occupiers of nearby properties.
11 To protect trees which are of significant amenity value to the area.
12 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.

Note(s) to Applicant:

01 The accuracy of the detail plans and drawings forming part of the application documents hereby granted shall remain the responsibility of the developer.
02 You should ensure that any difference between the plans approved under the Town and Country Planning Act and under the Building Regulations is resolved prior to commencement of development, by formal submission of amended plans to the respective Departments of the Council.
03 You are advised that 24 hours notice must be given to the Council's Project Engineer (Drainage) at The Guildhall, Wrexham, prior to making connection to the public foul water sewer.
04 The separate written consent of the Local Highway Authority must be obtained before any work is carried out within the confines of the highway.
05 Your attention is drawn to the observations of the Coal Authority attached to this decision.
06 You are advised to contact the Environment Agency with regards to the lengthy open watercourse, out-falling in the River Alyn, which is in poor condition and requires to be put into good repair prior to on-site development.

Officer appointed for this purpose

Refer to the Statement of Applicant's Rights and General Information enclosed.

vi No party hereto shall be liable for a breach of the Obligation after it shall have parted with all interest in the Land but this provision shall not affect any liability of such party in respect of any antecedent breach of the Obligation in existence at the time such party disposes of the Land.

vii The Obligation shall take effect upon a date which shall be specified by the party intending to implement the Planning Permission in a written notice served upon the Council as being the date upon which the Development is to be commenced (such notice to be served not less than seven days before such date).

viii If the party intending to implement the Planning Permission fails to serve the notice referred to in vii above before commencement of the Development the Obligation shall take effect upon the actual date upon which the Development is begun within the meaning of Section 56 of the Act (as amended).

ix The Obligation is a local land charge and shall be registered as such.

x This Deed will not prevent the Council from exercising its statutory powers under any legislation.

xi If that part of the Obligation which is designated "(b)" in the first part of the Fifth Schedule hereto does not fall to be performed within two years of the date of this Deed the sum specified in such part of the Obligation shall be increased in proportion to the increase in the Index of Retail Prices maintained by the Office of National Statistics between the date of this Deed and the date that such part of the Obligation falls to be performed.

xii The parties to the Transfers by way of which that part of the Obligation described in the second part of the Third Schedule hereto is performed shall bear their own legal costs in connection with such transfer.

xiii The First Owner and the Second Owner will pay to the Council on the date hereof the sum of £300 (three hundred pounds) representing the Council's legal costs of the preparation of this Deed.

xiv The provisions of the joint venture agreement dated 19 February 1999 and made between the First Owner of the one part and the Second Owner of the other part shall not prevent timely compliance with that part of the Obligation set out in the second part of the Fifth Schedule hereto and the First Owner and the Second Owner hereby agree with the Council that Clause 9.4 of the said joint venture agreement shall henceforth be read as if it had included an additional provision reading:-

"(c) any land designated as public open space and to the transfer of such land to the local authority".

4. **The Council undertakes** with the First Owner and the Second Owner that forthwith upon compliance by the First Owner and the Second Owner with the Obligation the Council will apply to the Chief Land Registrar for entry of the Council as registered proprietor of the Public Open Space on the registers of title in accordance with Section 19 (1) of the Land Registration Act 1925 (as amended).

5. **If the Planning Permission** is implemented on the Green Land by the First Owner or the Second Owner or both of them it or they shall comply with that part of the Obligation designated "(a)" in the first part of the Fifth Schedule hereto and that part of the Obligation set out in the second part of the Fifth Schedule in respect of that part of the public open space provision for the Development which lies within the Green Land and shall procure that any mortgagee or mortgagees of its or their interest or interests in the Green Land shall be a party or parties to the transfer by which that part of the Obligation set out in the second part of the Fifth Schedule is complied with and the provisions of Clause 3 vi hereof shall apply to this provision as it does to the Obligation.

IN WITNESS WHEREOF the Council the First Owner and the Second Owner have caused their respective Common Seals to be hereunto affixed the day and year first before written

FIRST SCHEDULE

("the Red Land")

The freehold land situate at Bluebell Lane, Pandy, Gresford, Wrexham edged red on the plan annexed hereto (hereinafter called "the Plan")

SECOND SCHEDULE

("the Blue Land")

The freehold land on the north west side of Bluebell Lane, Pandy, Gresford, Wrexham shown edged blue on the Plan

THIRD SCHEDULE

("the Green Land")

The freehold land and buildings known as Acton Cottage, Pandy, Gresford, Wrexham aforesaid situate adjoining the Blue Land and edged green on the Plan

FOURTH SCHEDULE

("the Development")

"Erection of 133 No. 3 and 4 bedroom semi-detached and detached two-storey dwellings, construction of new access and alteration to existing access to highway".

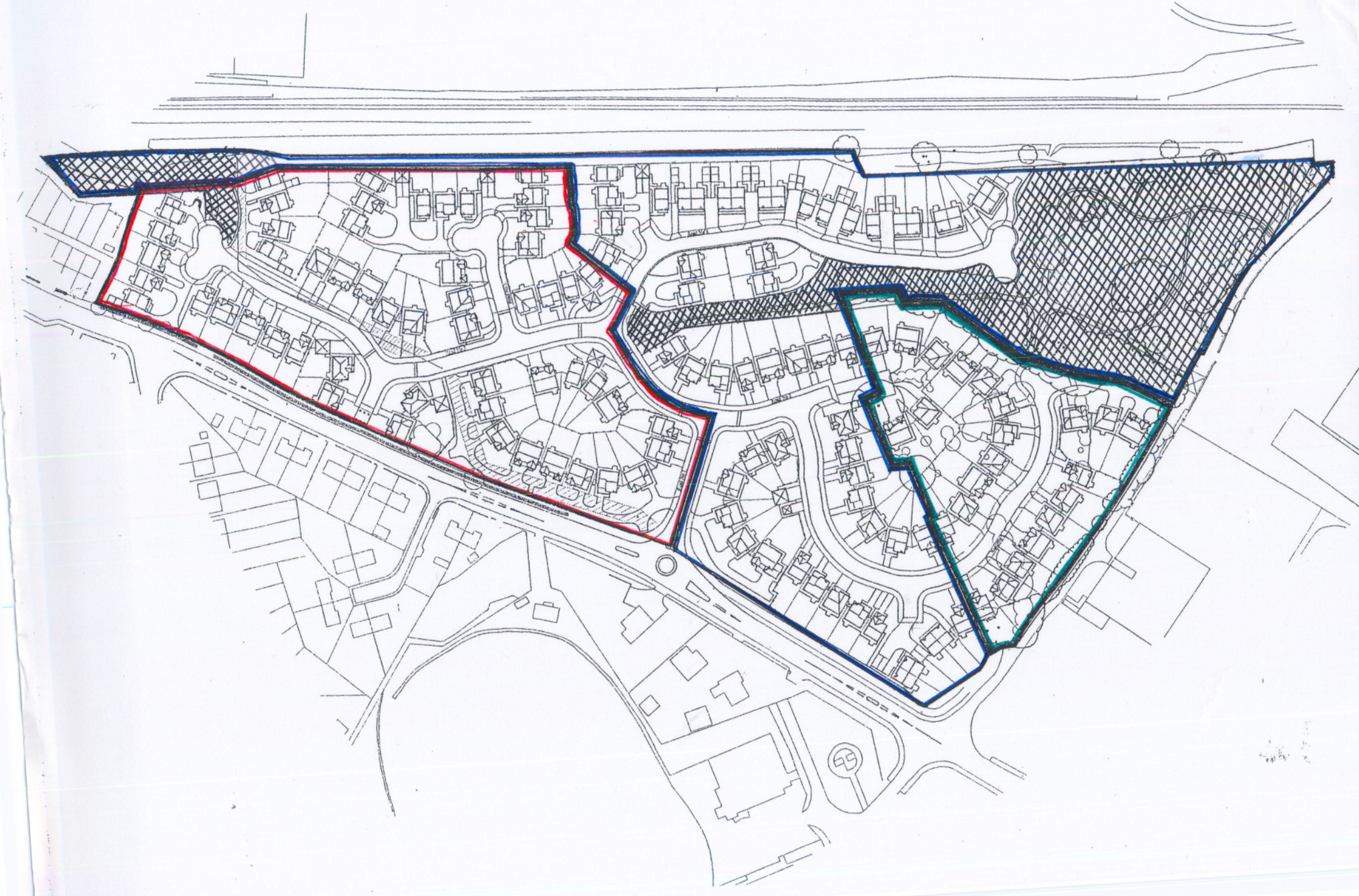
FIFTH SCHEDULE

("the Obligation")

First Part

(a) To maintain the public open space forming part of the Development shown cross hatched on the Plan (hereinafter called "the Public Open Space") for a period of one year from issue by the Council of a certificate under the hand of its Chief Planning Officer to the effect that the Council is satisfied that the Public Open Space has been laid out in accordance with a scheme approved by the Council pursuant to condition 07 of the Planning Permission (the issue of such certificate not to be unreasonably withheld or delayed)

IONS MUST NOT BE SCALED FROM THIS DRAWING



(b) Upon the date of completion of the Transfers or the first of them to be completed to pay to the Council the sum of TWENTY THOUSAND POUNDS (£20,000) representing the cost of future maintenance of the public open space provision at the Development

Second Part

(c) Within twenty one days of the end of the said period of one year to execute a transfer (herein together with the transfer executed by the First Owner or the Second Owner (as the case may be) called "the Transfers") of that part of the Public Open Space lying within its land to the Council in a form including the provisions set out in the Sixth Schedule hereto for the consideration of one pound (£1.00) which sum shall actually be paid

SIXTH SCHEDULE

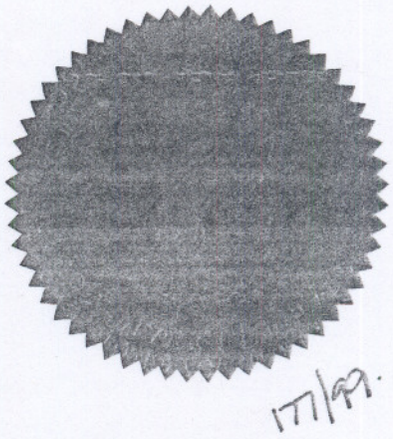
(Provisions to be incorporated in the Transfers)

(a) A covenant by the Council that the Public Open Space shall not be used otherwise than as open space for the public amenity (such covenant to bind each and every part of the Public Open Space for the benefit of the remainder of the Land and the Green Land and each and every part thereof)

(b) A covenant by the Council to maintain the Public Open Space in a condition fit for use as such (such covenant to bind each and every part of the Public Open Space for the benefit of the remainder of the Land and the Green Land and each and every part thereof)

(c) An exception and reservation in favour of the remainder of the Land and the Green Land of rights and easements in respect of light air drainage and conducting media so far as the same shall be in existence at the date of the Transfers or required for the purposes of the carrying out of the Development together with rights of entry upon the Public Open Space to lay inspect repair renew and replace the said drainage and conducting media subject to the proviso that such exceptions and reservations shall not materially restrict prejudice or detrimentally affect any of the landscaping, planting, amenity works or vegetation upon the Public Open Space

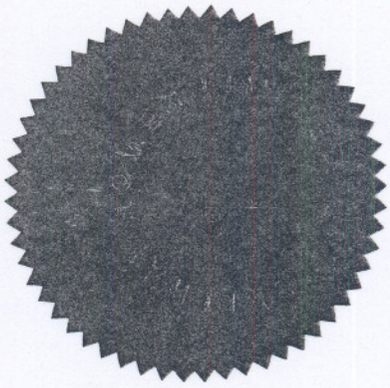
THE COMMON SEAL of
WREXHAM COUNTY BOROUGH COUNCIL
was hereunto affixed in the presence of:-



Mayor

Chief Legal and Administration Officer"

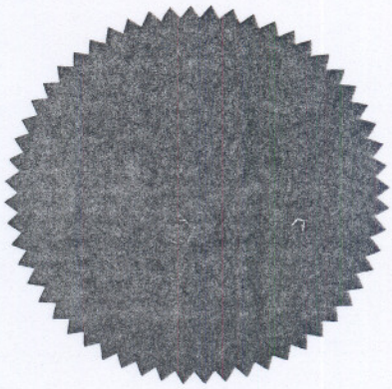
THE COMMON SEAL of
BELLWAY HOMES LIMITED
was hereunto affixed in presence of:-



Director

Secretary

THE COMMON SEAL of
MORRIS HOMES LIMITED
was hereunto affixed in the presence of



Director

~~Secretary~~

As solicitors for Bellway Homes Limited we hereby certify that Recital (2) of this Deed is correct

Dated 29 April 1999 Signed Hill Dickinson

Hill Dickinson
34 Cuppin Street
Chester
CH1 2BN

CERTIFICATE

As solicitors for Morris Homes Limited we hereby certify that Recital (3) of this Deed is correct

Dated 29 April 1999 Signed Hill Dickinson

Hill Dickinson
34 Cuppin Street
Chester
CH1 2BN