

Dated

7TH SEPTEMBER

2011

WREXHAM COUNTY BOROUGH COUNCIL (1)

MR H CUNNAH, MRS E A BARNSELY AND
THE SANTHOUSE PENSIONER TRUSTEE CO. LTD. (2)

- and -

E CUNNAH AND SON LTD (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 an education contribution arising from development on land
at Station Road, (otherwise referred to as "adjoining Gwalia Road"), Pentre
Broughton, Wrexham in the County Borough of Wrexham

Trevor Coxon
Head of Corporate and Customer Services
Wrexham County Borough Council
Guildhall
Wrexham
LL11 1AY

Ref. LP/CLJ/10004151

THIS DEED is made the 7TH day of SEPTEMBER Two thousand and eleven **B E T W E E N WREXHAM COUNTY BOROUGH COUNCIL** of Guildhall, Wrexham, LL11 1AY (hereinafter called "the Council") of the first part **HYWEL CUNNAH** of 64 Broughton Heights, Pentre Broughton, Wrexham aforesaid, **ELIZABETH ANNETTE BARNSELEY** (otherwise known as and hereinafter described as "Elizabeth Barnsley") of 15 Smithfield Drive, Holt, Wrexham aforesaid and **THE SANTHOUSE PENSIONER TRUSTEE COMPANY LIMITED** (Co. Regn. No. 01670940) of Trinity House, Anderson Road, Swavesey, Cambridgeshire, CB24 4UQ (the Trustees of the E. Cunnah and Son Limited Pension Scheme) (hereinafter called "the Owner" of the second part) and **E CUNNAH AND SON LIMITED** (Co. Regn. No. 135196) whose registered office is situate at Black Lane Road, Pentre Broughton, Wrexham aforesaid (hereinafter called "the Tenant") 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 (hereinafter called "the Land") is situate and by whom the obligations contained in this Deed are enforceable.
- (2) The Owner is the owner of the Land in fee simple in possession free from incumbrances.
- (3) The Tenant is the tenant of the Land (together with other land) by virtue of a lease dated 7 October 2003 made between Donald Roberts Cunnah and Marjorie Cunnah (1) and the Tenant (2) and has agreed to join in this Deed in manner hereinafter appearing
- (4) By an application dated 13 May 2011 which has been allocated code number P/2011/0350 (hereinafter called "the Application") application has been made to the

Council for planning permission for the development specified in the Second Schedule hereto (hereinafter called "the Development") on the 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 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** Owner hereby covenants with the Council to perform the obligation (hereinafter called "the Obligation") set out in the Third Schedule hereto
- 2 **THE** Tenant hereby acknowledges that so long as its leasehold interest in the Land (or any extension or renewal thereof) subsists the same shall be subject to the provisions of this Deed
- 3 **IT** is 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 on completion of this Deed
 - (v) the expressions "the Council" "the Owner" and "the Tenant" shall include their respective successors in title and assigns and the persons or corporations comprised in the Owner or any successor in title to the Owner shall each be jointly and severally liable to the Council for the performance of the Obligation

- (vi) no party hereto shall be liable for a breach of the Obligation after they 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 such interest
- (vii) the Obligation shall take effect upon the date hereof
- (viii) the Obligation is a local land charge and shall be registered as such
- (ix) the Owner will pay to the Council on completion of this Deed the sum of one thousand pounds (£1000) representing the Council's legal costs of and incidental to its preparation
- (x) this Deed will not prevent the Council from exercising its statutory powers under any legislation

IF the sum payable pursuant to the Obligation remains unspent or uncommitted for expenditure in whole or in part at any time after the tenth anniversary of the date of the payment thereof to the Council the Council shall (if required by the parties who had paid the same to the Council) repay to those parties the whole or such part of the said sum which has not been so expended nor committed for expenditure together with any interest actually earned thereon by the Council (the Council being under no obligation to obtain the best interest available).

IN WITNESS WHEREOF the Council has executed this agreement as a deed by the affixation of its Common Seal and the persons and corporation comprising the Owner (in the case of the corporation comprised therein acting by two of its directors or one of its directors and the secretary) and the Tenant (acting in a like manner) have executed this agreement as a deed the day and year first before written

FIRST SCHEDULE

("the Land")

Land at Station Road (otherwise referred to as "adjoining Gwalja Road"), Pentre Broughton, Wrexham being the land which is at the date hereof comprised in title number CYM398222 registered at H M Land Registry in the name of the Owner with title absolute.

SECOND SCHEDULE

("the Development")

"Submission of reserved matters pursuant to outline planning P/2008/0570 (Design Appearance, Landscaping, Access and Layout) for residential development 5 No 2 bedroom houses".

THIRD SCHEDULE

("the Obligation")

To pay to the Council within a period of 14 days from the first date upon which three of the dwellings created on the Development are occupied the sum of Nineteen Thousand Eight Hundred Pounds (£19,800) the said sum being payable to the Council as a contribution towards the provision of primary and secondary education facilities within the Gwersyl Bryn Alyn catchment area pursuant to the requirements of the Council's published Local Planning Guidance Note No. 27 entitled "Developer Contributions to Schools" the same to be expended by the Council within the said catchment area and in the manner set out in the said Local Planning Guidance Note.

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



Head of Corporate and Customer Services

EXECUTED as a DEED
by the said HYWEL CUNNAH
in the presence of:-

GARETH V KELLY LL.B LL.M SOLICITOR

Cyril Jones & Co Incorporating
Stanley Williams

19 Grosvenor Road, Wrexham

EXECUTED as a DEED
by the said ELIZABETH BARNLEY
in the presence of:-

GARETH V KELLY LL.B LL.M SOLICITOR

Cyril Jones & Co Incorporating
Stanley Williams

EXECUTED as a DEED
by the said ~~SANTHOUSE PENSIONER~~
TRUSTEE COMPANY LIMITED

by TIMOTHY JAMES CHRISTOPHER ERLAM
one of its directors and
ANDREW DAVID GOSNAY another
of its directors or its secretary
in the presence of:-

Tim ERLAM

A.D. Gosnay

Dawn O'Donnell

EXECUTED as a DEED
by the said E CUNNAH AND SON
LIMITED by HYWEL CUNNAH
one of its directors
and ELIZABETH BARNLEY
another of its directors
or its secretary
in the presence of:-

GARETH V KELLY LL.B LL.M SOLICITOR

Cyril Jones & Co Incorporating
Stanley Williams

19 Grosvenor Road, Wrexham

LL11 1DE

CERTIFICATE

As solicitors for the Owner and the Tenant (as defined in the within written deed) we hereby certify that recitals (2) and (3) thereof are correct

Signed *Cyril Jones* Dated: *7 September* 2011

Cyril Jones and Co
19 Grosvenor Road
Wrexham LL11 1DE