

This **UNILATERAL PLANNING OBLIGATION** is dated 28th day of July 2020

and is given by **OVERLORD LIMITED** (company number 08794424) whose registered office is at c/o Net World Sports, Bryn Lane, Wrexham Industrial Estate, Wrexham, LL13 9UT ('the Owner')

1. BACKGROUND

- 1.1** The Owner is the registered proprietor of the Owner's Land
- 1.2** Wrexham County Borough Council is the local planning authority and the highway authority ('the Council')
- 1.3** Gardenbreeze Limited (company number 5015873) applied to the Council for outline planning permission to develop the Application Site under application number P/2011/0891 for a B8 storage and distribution warehouse development and associated ecological mitigation area including means of access off Bryn Lane and the layout
- 1.4** The Council initially refused planning application P/2011/0891 and an appeal was made to the Welsh Assembly Ministers against the Council's decision. As a result of the appeal, planning permission for the Application Site was granted on the 6th August 2013 (APP/H6955/A/12/2188910).
- 1.5** An application (LPA Ref P/2016/0327) was submitted to renew planning application P/2011/0891. Planning Application P/2016/0327 was refused at planning committee, and another appeal was made to the Welsh Assembly Ministers against the Council's decision. The application was allowed on appeal on the 4th April 2017 (Ref APP/H6955/A/16/3164652).
- 1.5** The Owner has now acquired the Owner's Land from Gardenbreeze Limited and has made a Section 73 Application to vary planning permission P/2016/0327.
- 1.6** The Owner is willing to give an undertaking to perform the obligations set out in this Unilateral Planning Obligation in the event of the Section 73 Application being allowed and in consideration of the Council releasing the obligations contained in the Unilateral Planning Obligation given by Gardenbreeze Limited and dated 15th day of April 2010
- 1.7** This deed relates to the development of the Application Site pursuant to the Section 73 Application to vary planning permission P/2016/0327 and if that variation is granted in respect of the Application Site any Unilateral Planning Obligation provided prior to the date of this deed shall lapse and be of no further effect
- 1.8** The undertakings in this deed are made by the Owner as they relate to and affect only the Owner's Land. None of the obligations in this deed relate to or affect the Secondary Access.

2. INTERPRETATION

- 2.1** In this Unilateral Planning Obligation:

‘the Act’ means the Town and Country Planning Act 1990

‘approved’ means approved in writing and given for the purpose of this Unilateral Planning Obligation and any such approval shall not be unreasonably withheld or delayed

‘the Applicant’ means Overlord Limited

‘the Application’ means the planning application numbered P/2020/0167 under Section 73 to vary the existing outline permission under reference P/2016/0327 made by the Owner to develop the Application Site for B8 storage and distribution warehouse development and associated ecological mitigation area including means of access off Bryn Lane and the layout

‘the Application Site’ means the land shown edged in red on the Plan

‘the Commencement Date’ means the date on which the Development commences by the carrying out on the Application Site pursuant to a planning permission granted pursuant to the Application of a material operation as defined in Section 56(4) of the Act but for the purposes of this Unilateral Planning Obligation works involving soil investigations, archaeological investigations, demolition, site clearance, site preparation, the diversion and laying of services, the erection of fences and hoardings and the preparation of site access shall not constitute a material operation

‘the Council’ means Wrexham County Borough Council

‘the Development’ means the development of the Application Site proposed in the Application or permitted by planning permission granted pursuant to the Application or carried out substantially in accordance with such planning permission

‘the Ecological Mitigation / Landscape Areas’ means that part of the Owner’s Land to be identified on plans submitted pursuant to condition 1 of the Application and includes the following features:

- New hedgerows
- Specimen/individual trees
- Existing trees
- Existing waterbodies
- New waterbodies
- Proposed Mounding
- Rough grassland
- Species rich grassland
- Woodland/thicket planting
- Amenity Planting
- Amenity grassland
- Hardstanding

‘the Management Framework’ means a landscape management plan, an ecological management plan and an ecological method statement to be submitted to and approved

in writing by the local planning authority pursuant to the requirements of conditions 18 and 19 of the Application

‘the Managing Body’ means the party or parties which shall undertake:

- the management and maintenance of the Ecological Mitigation/Landscape Area;
- the implementation and ongoing management of the interim and proposed Travel Plan

‘the Owner’s Land’ means that part of the Application Site shown edged in red and coloured blue on the Plan, being the freehold land registered under title number CYM781124

‘the Plan’ means the plan attached to this deed

‘the Travel Plan’ means the travel plan required by condition 12 of the Application

- 2.2 Words importing the masculine include the feminine and vice versa
- 2.3 Words importing the singular include the plural and vice versa
- 2.4 Words importing persons include companies and corporations and vice versa
- 2.5 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
- 2.6 Any reference to a clause or schedule or plan is to one in or attached to this Unilateral Planning Obligation
- 2.7 In the absence of contrary provision any reference to a statute includes any statutory modification or re-enactment of it and every statutory instrument direction specification made or issued under the statute or deriving validity from it
- 2.8 References to any party to this Unilateral Planning Obligation 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 the successors to their respective functions as local highway authority and local planning authority
- 2.9 References to the Application Site include any part of it
- 2.10 If any provision is held to be illegal invalid or unenforceable the legality and enforceability of the remainder of this Unilateral Planning Obligation is to be unaffected

3. ENABLING PROVISIONS

This Unilateral Planning Obligation is made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972 and all other enabling powers

4. COMMENCEMENT AND DETERMINATION

- 4.1** This Unilateral Planning Obligation shall come into effect on the grant of planning permission for the Development
- 4.2** If the planning permission granted pursuant to the Application shall expire before the commencement of a material operation or shall at any time be revoked then this Unilateral Planning Obligation shall be determined and shall have no further effect
- 4.3** Nothing in this Unilateral Planning Obligation prohibits or limits the right to develop any part of the Owner's Land or the Application Site in accordance with a planning permission, other than one relating to the Development as specified in the Application, granted after the date of this Unilateral Planning Obligation whether or not pursuant to an appeal

5. COVENANTS WITH THE COUNCIL

The Owner covenants with the Council to comply with the obligations set out in Schedule 1

6. GENERAL

- 6.1** The Owner acknowledges and declares that:
- a.** the obligations contained in this Unilateral Planning Obligation are planning obligations for the purpose of Section 106 of the Act in respect of the Owner's Land
 - b.** this Unilateral Planning Obligation constitutes a deed
 - c.** this Unilateral Planning Obligation is enforceable by the Council
 - d.** this Unilateral Planning Obligation does not nor is intended to confer a benefit on a third party within the meaning of the Contracts (Rights of Third Parties) Act 1999
 - e.** no person shall be liable for any breach of the covenants, restrictions or obligations contained in this Unilateral Planning Obligation after that person has parted with its interest in the Owner's Land or the part of it in respect of which the breach occurs but without prejudice to liability for any breach subsisting prior to parting with such interest
 - f.** this Unilateral Planning Obligation may be registered as a local land charge in the Register of Local Land Charges maintained by the Council in respect of the Owner's Land
 - g.** the Owner has the sole proprietary interest in the Owner's Land

IN WITNESS whereof the Owner has signed this instrument as a Deed the day and year first before written

SCHEDULE 1

Owner's Obligations

Ecological Mitigation / Landscape Areas / Travel Plan

- 1.** Prior to the Commencement Date the Owner shall:
 - 1.1** create, set up or bring into existence such corporate body or bodies as appropriate to fulfil the functions of the Managing Body or Bodies and thereafter to operate or procure the operation of the Managing Body or Bodies as necessary to secure the long term management of the Ecological Mitigation / Landscape Areas
 - 1.2** submit to the Council for approval details of the Managing Body or Bodies which is or are to undertake:
 - a.** the management and maintenance of the Ecological Mitigation / Landscape Areas pursuant to the Management Framework
 - b.** the implementation and ongoing management of the Travel Plan

and for the avoidance of doubt, these obligations shall not preclude the Owner from submitting details of an alternative Managing Body or Bodies to the Council for approval at any stage subject to the payment of the Council's reasonable costs in considering the same
- 3.** The Owner shall co-operate as necessary with all governmental, quasi-governmental or private agencies, charities or trusts with which relationships are required or recommended in the Management Framework and to enter into such relationships with those bodies either contractual or otherwise as are necessary as part of such co-operation
- 4.** The Owner shall lay out such monies necessary to procure (at the relevant times) the implementation by the Managing Body or Bodies of the Management Framework and the Travel Plan and shall ensure that the provisions of the Management Framework and the Travel Plan are observed and performed by the Managing Body or Bodies
- 5.** The Ecological Mitigation / Landscape Areas shall be managed in accordance with the Management Framework for a period of 25 years from the Commencement Date