

DATED

30 January 2020

~~2019~~

- (1) LIDL UK GmbH
and
(2) THE POLICE AND CRIME COMMISSIONER FOR NORTH WALES
to
(3) WREXHAM COUNTY BOROUGH COUNCIL

PLANNING OBLIGATION

pursuant to Section 106 of the

Town and Country Planning Act 1990 (as amended)

relating to the former Police Station known as Eastern Divisional Headquarters,
Bodhyfryd, Wrexham LL12 7BW

Planning Application Number P/2018/0675

THIS DEED OF UNDERTAKING is made the 30 day of January 2020 2019
AND IS GIVEN BY:

- (1) **LIDL UK GmbH** a company registered in Germany with Company Number FC017929 whose UK address service is 19 Worples Road, Wimbledon SW19 4JS ("**Lidl**")
- (2) **The Police and Crime Commissioner for North Wales**, of North Wales Police Headquarters, Glan-Y-Don, Colwyn Bay, Conwy, LL29 8AW ("**Owner**")

TO:

- (3) **WREXHAM COOUNTY BOROUGH COUNCIL** of The Guildhall, Wrexham LL1 1AY ("**Council**")

1 BACKGROUND

- 1.1 The Council is the local planning authority for the purposes of the Act and the housing authority in respect of the area in which the Land is situated
- 1.2 Lidl has made the Planning Application to the Council and is intended to be the owner occupier of a food retail unit at the Application Land.
- 1.3 The Council resolved to grant the Planning Application on 2nd September 2019.
- 1.4 Lidl has entered into an agreement to purchase which is conditional upon the grant of a planning permission pursuant to the Planning Application.
- 1.5 The Owner has agreed to enter into this Deed with the intention that the obligations contained in this Deed may be enforced by the Council against the Owner and its successors in title as hereinafter appears
- 1.6 The Council is minded to grant Planning Permission subject to the Owner entering into this Deed of Unilateral Undertaking to secure the payment of financial contributions towards the provision of upgrading the subway lighting for the subway at Powell Road..

DEFINITIONS

The words and expressions below shall mean as follows:

- 1.1 The "Act" shall mean the Town and Country Planning Act 1990 and that and any other reference to the Act shall include any amending or replacing legislation for the time being in force
- 1.2 The "Application Land" shall mean the former Police Station known as Eastern Divisional Headquarters, Bodhyfryd, Wrexham LL12 7BW as shown edged red on the Plan in respect of which the Owner has made the Planning Application
- 1.3 "Commencement of Development" shall be determined by the carrying out of a "material operation" (as defined in Section 56 of the Act) in accordance with the Planning

Permission but disregarding site and soil surveys and investigations (including archaeological works) and works of excavation demolition site clearance and site preparation and remediation and diversion and laying of services marking-out or pegging-out operations the erection of hoardings and fences and construction of access or service roads (if any) and cognate expressions shall be construed accordingly

- 1.4 The "Development" shall mean the development detailed in the Planning Application or substantially similar to the Development authorised by the Planning Permission]
- 1.5 The "Plan" shall mean the plan annexed to this Deed
- 1.6 The "Planning Application" shall mean the full planning application made by the Owner to the Council (reference no. P/2018/0675) for the erection of Class 1A retail store and Class A1/A3 drive through coffee shop with car parking and servicing areas, access, landscaping and associated works, included relocation of electricity sub-station following demolition of existing buildings and structures.
- 1.7 The "Planning Permission" shall mean the permission given in respect of the Planning Application

NOW THIS DEED WITNESSES as follows:

1 STATUTORY POWERS

This Deed will be registered as a Local Land Charge and is entered into pursuant to Section 106 of the Act and all other statutory and other enabling powers and shall be enforceable accordingly but without prejudice to all and any other means of enforcing them at law or in equity or by statute

2 CONDITION PRECEDENT

The planning obligation contained in this Undertaking shall not be enforceable by the Council until the grant of the Planning Permission by the Council.

3 ENFORCEMENT

The obligation created by this Deed is a planning obligation for the purposes of Section 106 of the Act and is enforceable as such by the Council.

4 THIRD PARTIES

In accordance with Sections 1(2) and 2(3)(a) of the Contracts (Rights of Third Parties) Act 1999 no term of this Deed shall be enforceable by a third party and any term may be rescinded or varied without the consent of any third party

5 SUBSTANTIVE COVENANTS

The Owner and Lidl for and on behalf of themselves and their heirs assigns and successors in title with the intention that the following provisions shall bind their

respective interest in the Application Land jointly and severally covenant with the Council that it will comply with the obligations contained in the schedules to this Deed

5 OPERATIVE DATE

The Deed is conditional on:

- 5.1 The grant by the Council of the Planning Permission
- 5.2 The Commencement of Development
- 5.3 The Council expending the financial contributions received in accordance with Schedules 1 and 2 of this Deed for the purposes therein set out



6 COMMENCEMENT OF DEVELOPMENT

- 6.1 The Owner shall give to the Council seven days written notice of its intention to commence Development and shall confirm in writing within seven days following commencement that Development has commenced

7 LEGAL EFFECT

- 7.1 The obligations hereunder which bind the Owner shall cease to be binding upon and enforceable against the Owner after it has parted with its interest in the Application Land or the part of the Application Land to which such obligation relates without prejudice however to any antecedent breach by the Owner of such obligations.
- 7.2 If the Planning Permission expires within the meaning of Sections 91 92 or 93 of the Act or is revoked or is otherwise withdrawn or modified by any statutory procedure without the consent of the Owner this Deed shall cease to have effect
- 7.3 Nothing in this Deed shall be construed as prohibiting or limiting any right to develop any of the Application Land in accordance with a planning permission (other than the Planning Permission) granted by the Council or the First Secretary of State on appeal or reference to him (or any successor) after the date of this Deed

EXECUTED as a Deed by Lidl and the Owner and delivered the day and year first before written

Executed as a deed by
Lidl UK GmbH

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AUTHORISED SIGNATORY
~~Director~~

AUTHORISED SIGNATORY
~~Director/Secretary~~



The Common Seal of the
Police and Crime
Commissioner for
North Wales
Was hereunto affixed
in the presence of:

.....
[Commissioner][Deputy Commissioner][Chief Finance Office]

Schedule 1
PLANNING OBLIGATIONS

CONTRIBUTION TO SUBWAY LIGHTING

- 1 To pay to the Council within six months of the Commencement of Development the sum of three thousand five hundred pounds (£3,500) (together with any additional sum that may be payable calculated as set out at paragraph 2 below) as a contribution towards the cost to upgrade the subway lighting at Powell Road within the vicinity of the Application Land.
- 2 The sum referred to in paragraph 1 above shall if not paid on the date hereof be increased in accordance with any increases in the Index between that date and the actual payment
- 3 For the avoidance of any doubt, this Deed shall not impose any obligation on the Owner to carry out any works to upgrade the subway lighting at Powell Road and will only require the Owner to pay for such works in accordance with paragraph 1 above.

Appendix 1 Plan

