

DATED

4th April

2014

WREXHAM COUNTY BOROUGH COUNCIL (1)

- and -

GOWER HOMES LIMITED (2)

- and -

THE SIDINGS MANAGEMENT COMPANY (WREXHAM) LTD (3)

AGREEMENT

Pursuant to Section 106 of the Town and Country Planning Act 1990
in respect of the former Remploy site, Railway Road/Stansty Road, Stansty, Wrexham

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

DP/10007183

THIS AGREEMENT is made on the 4th day of April 2014

BETWEEN:-

- (1) **WREXHAM COUNTY BOROUGH COUNCIL** of Guildhall Wrexham LL1 1AY ("the Council"); and
- (2) **GOWER HOMES LIMITED** (Company registration number 01204658) whose registered office is at 8 Temple Row, Wrexham, LL13 8LY ("the Owner"); and
- (3) **THE SIDINGS MANAGEMENT COMPANY (WREXHAM) LTD** (Company Registration number 8877852) whose registered office is at 7 Grosvenor Street, Chester, CH1 2DD ("the Management Company")

RECITAL

- (A) The Council is the the local housing authority and the Local Planning Authority for the purposes of Section 106 of the 1990 Act for the area in which the Land is situated
- (B) The Owner is the owner of the freehold interest in the Land registered at the Land Registry under Title Number CYM264537.
- (C) The Council has resolved to grant the Planning Permission subject to this Agreement being entered into prior to the granting of the Planning Permission to secure the provision of public open space and the provision of Affordable Housing without which the Planning Permission would not be granted
- (D) The Management Company has been incorporated to acquire the Public Open Space and to undertake obligations in respect thereof
- (E) The parties have agreed to enter into this Agreement in order to secure the objectives referred to in (C) above

NOW THIS DEED WITNESSES as follows:-

1. DEFINITIONS

In this document unless the contrary intention appears the following terms shall have the following meanings:

"1990 Act"	means the Town and Country Planning Act 1990 as amended
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"Affordable Housing"

means subsidised housing which will be available to Eligible Persons including (without limitation) Intermediate Rented Housing, Shared Equity Housing, Shared Ownership Housing and Social Rented Housing

"Affordable Housing Disposal"

means a transfer or lease of one or more of the Affordable Housing Units by the Owner to an RSL

"Affordable Housing Unit(s)"

means that part of the Development comprising 12 Dwellings being plots 3, 4, 5, 6, 13, 17, 18, 19, 20, 22, 36 and 37 shown edged blue on Plan 2 and comprising 6 x 1 bedroom Dwellings, 4 x 2 bedroom Dwellings and 2 x 3 bedroom Dwellings

"CDM Regulations"

means the Construction (Design and Management) Regulations 2007 including any modification extension or re-enactment of them or any other regulations of a similar nature in force at any time during the course of the Development

"Close Family Connection"

means members of family as described in Section 113 of the Housing Act 1985

"Commencement of Development"

means the carrying out on the Land of any Material Operation

"Development"

means the development of the Land in accordance with the Planning Permission

"Development Requirements"

means:

- (i) in accordance with the Planning Permission; and
- (ii) in accordance with current building regulations; and



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PLAN 1

Head of Community Wellbeing and Development
Planning Services
16 Lord Street, Wrexham
LL11 1LG
Telephone 01978 292017
planning@wrexham.gov.uk

Town & Country Planning Act 1990
Section 106 Obligation



P/2013/0519
Former Remploy Site, Railway Road and
Stansty Road, Stansty, Wrexham

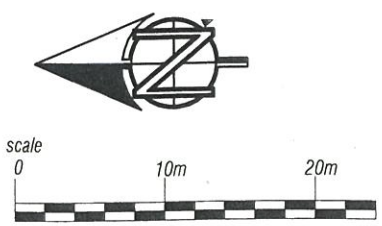
09/12/2013
Scale 1:2500
SJ3251





- Key:
- 7no. Denbigh
 - 24no. Kendal
 - 12no. Durham/Hampton
 - 4no. Whitby

Plan 2.



Amendment A: 02-10-13 minor amendments
 Amendment B: 17-10-13 layout/highway amendments
 Amendment C: 23-10-13 layout/highway amendments
 Amendment D: 13-11-13 layout/highway amendments
 Amendment E: 14-11-13 layout/highway amendments
 Amendment F: 15-11-13 layout/highway amendments
 Amendment G: 18-11-13 layout/highway amendments
 Amendment H: 17-12-13 sub station position

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Parry Davies Architects.		Chartered Architects.			
PROJECT TITLE	Land at Railway Road, Wrexham			DATE	CHK
				SEPT 2013	
DRWG. TITLE	Site Layout Plan			SCALE	REV
				1:500 @ A3	
				DRWN	
				RSG	
				DRWG. NOS.	
				12.5407/1	
Barclays Buildings, High Street, St Asaph, LL17 ORF		Tel: 01745 585517 Fax: 01745 582162. E-mail: PDPArchitects@aol.com			

	(iii) in accordance with the CDM Regulations
"Dwelling"	means any residential unit (including a house flat or maisonette) constructed on the Land pursuant to the Planning Permission which shall include for the avoidance of doubt Market Housing Units and Affordable Housing Units
"Eligible Person"	means a person as defined in Part 7 of the Second Schedule hereto
"Equity Price"	means 80% of the Market Value of a Shared Equity Unit
"First Charge"	means a legal charge entered into between a Shared Equity Owner and a Mortgagee and which shall secure against a Shared Equity Unit any Mortgagees lending (of up to the Equity Price) together with any interest on the debt owed to any Mortgagee by the Shared Equity Owner at the time that any Mortgagee shall enter into possession together with the costs of enforcing the First Charge and the reasonable costs of marketing and disposal of the Shared Equity Unit by any Mortgagee
"Freeholder RSL"	means the RSL that owns the freehold of a Shared Ownership Unit
"Implementation Notice"	means the notice to be served in writing by the Owner upon the Council when Commencement of Development has occurred
"Intermediate Rented Housing"	means housing units let by an RSL at a rent equal to or less than 80% of the open market rental (being the rent which that unit would secure in the open market as between a willing

"Land"

lessor and a willing lessee acting at arms length) or the maximum amount of Local Housing Allowance which would be payable for such a unit means the land situate at Railway Road and Stansty Road, Stansty, Wrexham and shown edged red on Plan 1 for the purposes of identification only

"Low Cost Home Ownership Register"

the register maintained by the Council or its nominated agent for the purpose of providing access to properties at less than market value for persons who cannot afford to buy housing generally on the open market

"Market Housing Units"

those Dwellings which are general market housing for sale on the open market and which are not Affordable Housing

"Market Value"

means (in respect of any Affordable Housing Units other than the Social Rented Housing and Intermediate Rented Housing) the price at which the Affordable Housing Unit might reasonably be expected to be sold at arm's length by a willing seller to a willing buyer with vacant possession

"Material Operation"

means a material operation as defined in Section 56 subsection 4(a) to (e) of the 1990 Act to implement the Planning Permission

"Mortgagee"

means any mortgagee for the time being of the First Charge

"Nominated RSL"

means an RSL that holds a Second Charge

"Occupation"

means use of a Dwelling for residential use but not including occupation by

	personnel engaged in construction fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and "Occupied" shall be construed accordingly
"Person in Housing Need"	means a person who cannot afford to rent or buy a home suitable for their needs on the open market
"Plan 1"	means the plan numbered 1 annexed to this Agreement
"Plan 2"	means the plan numbered 2 annexed to this Agreement
"Planning Application"	means the application for Planning Permission for the Development of the Land submitted to the Council and given reference number P/2013/0519
"Planning Permission"	means the grant of planning permission substantially in the form of the draft annexed to this Agreement as Appendix 1 issued by the Council pursuant to the Planning Application and any associated reserved matters approval(s)
"POS Scheme"	means the scheme relating to the implementation and management of the Public Open Space submitted to and approved in writing by the Council in accordance with Condition Number 11 of the Planning Permission
"POS Transfer"	means a transfer of the Public Open Space to the Management Company
"Public Open Space"	means the areas of the Land shown edged green on Plan 2
"Redemption Money"	means the sum required to discharge the Second Charge

"RSL"

means a registered social landlord as defined in Part 1 of the Housing Act 1996

"Second Charge"

means a legal charge to be entered into by the Shared Equity Owner for the time being in favour of the Council or a Nominated RSL in respect of up to 20% of the Market Value of a Shared Equity Unit, subject always to the Second Charge ranking second in priority to any First Charge

"Shared Equity Disposal"

means a disposal to an Eligible Person by a freehold transfer or by a lease for a term of not less than 125 years (or an assignment thereof) of a Shared Equity Unit

"Shared Equity Housing"

means a form of affordable housing whereby the purchaser acquires a 100% equity share in an Affordable Housing Unit subject to a Second Charge and with a restriction in perpetuity upon the future sale price of it

"Shared Equity Owner"

means a freeholder or a leaseholder (as appropriate) of a Shared Equity Unit

"Shared Equity Unit"

means an Affordable Housing Unit sold or available for sale as Shared Equity Housing on the Development

"Shared Ownership Disposal"

means a disposal by the RSL by way of:-

(i) lease for a term of not less than 125 years; or

(ii) transfer or assignment of a Shared Ownership Unit

"Shared Ownership Housing"	means a form of Affordable Housing which is provided by an RSL on the basis of part rent and part sale
"Shared Owner"	means a leaseholder of a Shared Ownership Unit
"Shared Ownership Interest"	means the specific equity share in the Shared Ownership Unit held by the Shared Owner
"Shared Ownership Unit"	means an Affordable Housing Unit sold or available for sale as Shared Ownership Housing
"Social Rented Housing"	means Affordable Housing Units let by an RSL to and to be occupied by Eligible Persons at a rental level which complies with the rent bench marking guidance (from time to time) published by the Welsh Government
"Staircase"	means in respect of Shared Ownership Housing to acquire pursuant to the provisions of the Shared Ownership Disposal a share of the equity in the relevant Shared Ownership Unit in addition to the Shared Owner's Shared Ownership Interest and "Staircasing" shall be construed accordingly
"Working Days"	means any day falling between Monday and Friday (both days inclusive) upon which the clearing banks in the City of London are open for normal business which is not Good Friday or a statutory bank holiday

2 INTERPRETATION

- 2.1 A reference in this Agreement to an Act of Parliament or section of such Act or to any order regulation statutory instrument or the like shall include a reference to any replacement modification amendment or re-enactment of the same
- 2.2 Wording importing the masculine gender includes the feminine and neuter genders and vice versa.

- 2.3 Words in the singular include the plural and vice versa.
- 2.4 Words importing individuals shall be treated as importing firms companies corporations authorities and other bodies and vice versa
- 2.5 Any heading or side notes are for ease of reference only and shall not affect the construction of this Agreement
- 2.6 Covenants made hereunder
 - 2.6.1 if made by more than one person are made jointly and severally; and
 - 2.6.2 are to the intent that the same bind whomsoever shall become successor or successors in title to the Land
- 2.7 Where in this Agreement 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 Agreement

3 FORMAL REQUIREMENTS

- 3.1 The Council enters into this Agreement in pursuance of its powers under Section 106 of the 1990 Act Section 2 of the Local Government Act 2000 and Section 111 of the Local Government Act 1972 and all other enabling powers in that regard
- 3.2 The obligations imposed by this Agreement relate to the Land and are binding on the Owner and its successors in title pursuant to Section 106 of the 1990 Act
- 3.3 The obligations imposed by this Agreement are planning obligations for the purposes of Section 106 of the 1990 Act and are enforceable as such by the Council as local planning authority without limit of time
- 3.4 This Agreement is a Local Land Charge for the purposes of the Local Land Charges Act 1975 and will be registered as such by the Council

4 OPERATIVE PROVISIONS

- 4.1 The Owner hereby covenants with the Council on behalf of itself and its successors in title to each and every part of the Land to:
 - 4.1.1 comply with the obligations relating to Public Open Space set out in Parts 1 and 2 of the First Schedule to this Agreement
 - 4.1.2 comply with the obligations set out in the Second Schedule to this Agreement relating to the provision of Affordable Housing
 - 4.1.3 pay to the Council on the signing hereof the sum of Two thousand pounds (£2000) in respect of the Council's legal costs for the preparation and execution of this Agreement

- 4.1.4 serve upon the Council (addressed to the Council's Head of Community Wellbeing and Development) the Implementation Notice within 10 Working Days from but not including the date of Commencement of Development
- 4.1.5 give to the Council notice in writing of a disposal of its interest in any Affordable Housing Unit and its interest in any part of the Land (excluding Market Housing Units) occurring before all the obligations in this Agreement have been discharged such notice to be given within 10 Working Days of such transfer and giving details of the transferee's full name and usual address (registered office if a company) together with a plan showing the area of the Land transferred
- 4.2 The Management Company hereby covenants with the Council to comply with the obligations in relation to the Public Open Space set out in Part 2 of the First Schedule to this Agreement

5 AGREEMENTS AND DECLARATIONS

- 5.1 Nothing contained or implied in this Agreement shall prejudice or affect the discretions rights powers duties and/or obligations of the Council in the exercise of its functions as a local authority housing authority and local planning authority and the discretions rights powers duties and/or obligations of the Council under all public and private statutes byelaws orders and regulations may be fully and effectually exercised in relation to the Land or any part thereof and any works executed thereon as if this Agreement had not been executed by the Council and in particular nothing in this Agreement shall restrict the Council and/or any other local authority from exercising powers of compulsory purchase in respect of any part of the Land;
- 5.2 Nothing in this deed shall create any rights in favour of any person pursuant to the Contracts (Rights of Third Parties) Act 1999 save for the avoidance of doubt it is declared that the planning obligations contained in this deed are enforceable by any successor local planning authority to the Council exercising planning powers under the Act.
- 5.3 Other than in relation to the continuing obligations of an RSL in paragraph 5 of Part 4, and paragraphs 8 and 10 of Part 6 of the Second Schedule, and of a mortgagee in paragraph 5 of Part 5 and paragraph 5 of Part 6 of the Second Schedule, and of the Owner in paragraph 8 of Part 5 of the Second Schedule, no person shall be liable for any breach of any of the planning obligations or other provisions of this deed after parting with his entire interest in the Land but

without prejudice to liability for any subsisting breach arising before parting with that interest or in parting with that interest.

- 5.4 In the event that any difference or dispute arises between the parties in connection with their respective rights duties liabilities or obligations under or by virtue of this Agreement (including sums of money and the construction of this Agreement) then such difference or dispute shall be referred to for determination by an appropriately qualified independent expert (of not less than ten years standing) experienced in the relevant matter ("the Expert") to be agreed between the parties or in default nominated on the application of any party by the President (or other available officer able to make such appointment) of the Royal Institution of Chartered Surveyors ("RICS") Provided That the provisions of this clause shall not prejudice prevent or delay the right of any party to seek the resolution of any matter relating to this Agreement by the Courts and/or in accordance with Section 106(6) of the 1990 Act

5.5 The expressions "the Owner", "the Council" and "the Management Company" shall include their respective successors in title

- 5.6 If any of the terms obligations and/or covenants in this Agreement or the application thereof to any party or circumstances shall to any extent be invalid or unenforceable the same shall be severable from the remainder of this Agreement and the remainder of this Agreement or the application of such terms obligations and/or covenants to parties or circumstances other than as to which such terms obligations and/or covenants is held invalid or unenforceable shall not be affected thereby and each of the other terms obligations and/or covenants of this Agreement and the Planning Permission shall be valid and be enforceable to the full extent permitted by law

- 5.7 Any notice or other written communication shall be validly served if delivered to the relevant party by hand or if sent by ordinary first class post or recorded delivery post:

5.7.1 in the case of the Council at the Guildhall Wrexham LL11 1AY or such other address as shall be notified in writing to the Owner from time to time

5.7.2 in the case of the Owner to the addresses given in this Agreement or such other addresses of such parties as may be notified in writing to the Council from time to time

5.7.3 any notice or other written communication to be given by the Council shall be deemed valid and effectual if on its face it is signed on behalf of the Council by an officer or duly authorised signatory

- 5.8 The provisions of the Second Schedule (except for paragraph 5 of Part 5 and Part 6 thereof) shall not be binding on a mortgagee in possession of an Affordable Housing Unit or a bona fide purchaser for value thereof from such a mortgagee in possession or any receiver appointed by such mortgagee (except a purchaser which is an RSL)

PROVIDED THAT:-

- 5.8.1 such mortgagee or receiver shall first have used reasonable endeavours over a period of three months in consultation with the Council's Head of Housing and Public Protection Officer to dispose of the Affordable Housing to an RSL or otherwise in accordance with the Second Schedule; and
- 5.8.2 the Council's Head of Housing and Public Protection Officer shall have certified in writing (such certification not to be unreasonably withheld or delayed) that they are satisfied that the mortgagee has without success used reasonable endeavours to dispose of the Affordable Housing to an RSL or otherwise in accordance with the Second Schedule, over a three month period

THE FIRST SCHEDULE

Public Open Space

Part 1

1. On the first disposal of each Dwelling to require the purchasers thereof and their successors in title to become members of the Management Company with a view and to the intent that they can influence and contribute to the compliance with the obligations of this Schedule and to procure that a restriction is entered on the Proprietorship Register of all individual Dwellings in the following form:
"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate is to be registered without a certificate signed by a conveyancer that the provisions of paragraph 3 of Part 1 of the First Schedule of an Agreement dated [4th April 2014] made between Wrexham County Borough Council (1) Gower Homes Limited (2) and The Sidings Management Company (Wrexham) Ltd (3) have been complied with"
2. To pay to the Management Company a fair and reasonable proportion (with the intention that the sum of all contributions from the Dwellings on the Land shall equal 100%) of the outgoings of the Management Company incurred in complying with the relevant obligations of this Schedule

3. Not to allow more than 22 Dwellings to be Occupied until the POS Transfer has been completed and a certified copy of the POS Transfer has been submitted to the Council in evidence thereof

Part 2

1. To observe and perform the provisions of the POS Scheme and monitor and review it at least every 5 years and to obtain the approval of the Council to any amendments thereto so as to ensure that they remain appropriate and relevant over time
2. To plant lay out and construct, and provide play equipment on, the Public Open Space in accordance with the POS Scheme the Planning Permission and this Agreement
3. To comply with the POS Scheme and to maintain and manage in perpetuity the Public Open Space and any play equipment erected thereon in accordance with the POS Scheme the Planning Permission and this Agreement
4. Not to use the Public Open Space for any purpose whatsoever other than as public open space for the benefit of the Development being landscaped and open grassed areas and as a play area nor cause permit or allow any structures other than play equipment in accordance with the Planning Permission or other obstructions whatsoever to be erected within the Public Open Space or deposit any waste or alter ground levels or light fires within the Public Open Space
5. Not to affix to any trees on the Land any items or structures likely to occasion damage to any such tree

THE SECOND SCHEDULE

Affordable Housing

Part 1 – General Obligations

1. To design and construct the Affordable Housing Units in accordance with the Planning Permission and the Development Requirements
2. Not to dispose of the Affordable Housing Units other than to an RSL by way of the Affordable Housing Disposal or to an Eligible Person by way of a Shared Ownership Disposal or a Shared Equity Disposal (as set out in

paragraph 1 of Parts 2 3 4 5 and 6 hereof) Provided That the Council and the owners of the Affordable Housing Units may by agreement prescribe terms for the disposal of different types of Affordable Housing not detailed in this Agreement (both parties acting reasonably and without delay in agreeing such terms) provided that such agreement is legally secured by way of a supplemental agreement made under Section 106 of the 1990 Act

3. Prior to the Commencement of Development to provide the Council's Head of Housing and Public Protection the following details in so far as they are known for each Affordable Housing Unit:
 - a) postal address
 - b) gross and net floor area
 - c) anticipated practical completion date (subject to market conditions)
 - d) plans indicating location, elevations and internal layout
4. Following receipt of the decision notice confirming the grant of the Planning Permission to approach an RSL as soon as reasonably practicable and to pursue negotiations with all due diligence in order to comply with the obligations contained in this Agreement and to offer the Affordable Housing Units (other than those designated as Shared Equity Units) for sale to an RSL on terms that have due regard to the restrictions affecting such Affordable Housing Units contained in this Agreement
5. Following a written request from the Council, to provide to the Council such information concerning the progress of negotiations for Affordable Housing Disposals with an RSL or Shared Equity Disposals to Eligible Persons (as appropriate) as shall reasonably be required by the Council
6. Not to use the land on which the Affordable Housing Units are to be constructed for any purpose other than the provision of Affordable Housing in accordance with this Agreement
7. Not to use the Affordable Housing Units for any purpose other than for the provision of Social Rented Housing Shared Ownership Housing Shared Equity Housing and Intermediate Rented Housing (subject to the proviso set out in paragraph 2 of this Part) and to respond to any request from the

Council for information as to the tenure of each Affordable Housing Unit within 10 Working Days such request to be made on no more frequent a basis that once every sixth months

8. To keep such full and proper records as are reasonably required to demonstrate to the Council strict compliance with the affordable housing obligations contained in this Agreement and any supplementary agreement thereto.
9. Not to allow the Occupation of more than 22 Dwellings on the Land until a total of 5 Affordable Housing Units have been constructed, are ready for Occupation and have been disposed of (or evidence has been provided to the Council that the Owners are actively marketing and have used reasonable endeavours to procure such disposals) by way of an Affordable Housing Disposal to an RSL and/or Shared Equity Disposals to Eligible Persons
- 10 Not to allow the Occupation of more than 44 Dwellings on the Land until all the Affordable Housing Units have been constructed, are ready for Occupation and have been disposed of (or evidence has been provided to the Council that the Owners are actively marketing and have used reasonable endeavours to procure such disposals) by way of an Affordable Housing Disposal to an RSL and/or Shared Equity Disposals to Eligible Persons
11. To enter a restriction on the title register of each of the Affordable Housing Units at HM Land Registry in the following terms:-

“no disposition of the Registered Estate (other than a charge) by the proprietor of the registered estate is to be registered without a certificate signed by a conveyancer that the provisions of the Second Schedule of the Agreement dated 4 April 2014 between Wrexham County Borough Council (1) Gower Homes Limited (2) and The Sidings Management Company (Wrexham) Ltd (3) have been complied with”
- 12 On each Shared Equity Disposal and Shared Ownership Disposal the owner thereof shall pay to the Council or the RSL nominated by the Council a sum equivalent to 0.50% of the Market Value of the percentage share purchased by an Eligible Person on completion of that sale, to cover the costs of the

Council or the RSL nominated by the Council in administering the Low Cost Home Ownership Register

Part 2

Social Rented Housing

1. Not to dispose of the Affordable Housing Units which are Social Rented Housing Units other than by way of an Affordable Housing Disposal in accordance with the provisions of this Part of this Schedule
2. No Social Rented Housing Unit shall be:
 - 2.1 let to or Occupied by persons other than Eligible Persons; and
 - 2.2 let other than by way of an assured or assured short hold tenancy (or such statutory form of tenancy as may replace such forms of tenancies from time to time), as Social Rented Housing

Part 3

Intermediate Rented Housing

1. Not to dispose of any Affordable Housing Units which are provided as Intermediate Rented Housing other than by way of an Affordable Housing Disposal in accordance with the provisions of this Part of this Schedule.
2. No Intermediate Rented Housing shall be:
 - 2.1 let to or occupied by persons other than Eligible Persons; and
 - 2.2 let other than as Intermediate Rented Housing; and
 - 2.3 let other than by way of an assured or assured short hold tenancy (or such statutory form of tenancy as may replace such forms of tenancies from time to time).

Part 4

Shared Ownership Housing

1. Not to dispose of any Affordable Housing Unit which is provided as Shared Ownership Housing other than by way of Shared Ownership Disposal to an Eligible Person
2. To procure that each Shared Ownership Disposal shall incorporate the following terms:
 - 2.1 A right of pre-emption in favour of the Freeholder RSL
 - 2.2 A covenant whereby a Shared Owner who wishes to dispose of their interest in the Shared Ownership Unit (and where the Freeholder RSL does not wish to exercise the right of pre-emption referred to in paragraph 2.1 of this Part) shall be prevented from disposing of their interest in the Shared Ownership Unit other than to an Eligible Person at no more than Market Value of their Shared Ownership Interest
3. Not to sub-let or let (other than in accordance with this Part of this Schedule) any Shared Ownership Unit.
4. Shared Owners wishing to dispose of their interest in a Shared Ownership Unit shall comply with any reasonable procedure adopted by the Council (or its nominated agent) from time to time for arranging and administering the disposal to Eligible Persons of interests in affordable housing units such as the Shared Ownership Units.
5. In the event that a Shared Owner wishes to dispose of their interest in a Shared Ownership Unit and such unit has been actively marketed for sale for a period of 16 weeks and no Eligible Person has exchanged unconditional contracts for the purchase of the said unit within that period, PROVIDED THAT
 - such unit has been offered for sale pursuant to paragraph 2.1 above and to an RSL or RSLs nominated by the Council and such RSLs have not exchanged unconditional contracts to buy such unit within such period and
 - the price at which the Shared Ownership Unit has been offered for sale to Eligible Persons is no greater than the Market Value of the Shared Ownership

Interest ascertained by agreement between the Shared Owner, any mortgagee of the Shared Owner, and the Freeholder RSL ('the Parties') or failing agreement at the expense of the Shared Owner by an independent qualified valuer appointed by agreement between the Parties or failing agreement by or on behalf of the president for the time being of the Royal Institution of Chartered Surveyors on the application of any party and the decision of such valuer shall be final and

- the Shared Owner has reasonably demonstrated to the Council and the Freeholder RSL that it has acted in good faith in considering any offers from Eligible Persons

Then the Shared Ownership Unit may be sold in the open market at Market Value (provided the Freeholder RSL consents to such sale) free from the affordable housing restrictions contained in this Agreement PROVIDED FURTHER THAT where an Eligible Person or RSL has been identified as a potential purchaser of the Shared Ownership Unit within the said 16 week period the Shared Owner shall use reasonable endeavours to progress such sale and shall not dispose of the Shared Ownership Unit in the open market unless such potential sale becomes abortive

6. Following the sale of a Shared Ownership Unit on the open market pursuant to paragraph 5 above, the Council consents to the Shared Owner removing the restriction set out at paragraph 11 of Part 1 above from the title of the Shared Ownership Unit at the Land Registry

Part 5

Shared Equity Initial Sales

- 1 Not to dispose of the Affordable Housing Units provided as Shared Equity Housing other than by way of a Shared Equity Disposal to an Eligible Person at a price no greater than the Equity Price.
- 2 No Shared Equity Disposal shall be completed without the new Shared Equity Owner simultaneously entering into a Second Charge

- 3 That upon first acquiring an interest in a Shared Equity Housing Unit the Shared Equity Owner shall not borrow from any Mortgagee nor charge a Shared Equity Housing Unit under a First Charge for a sum in excess of 80% of the Market Value of the Shared Equity Housing Unit without the consent of the Council or the Nominated RSL (as appropriate) providing that nothing in this paragraph shall prevent or prohibit a Shared Equity Owner from later increasing its borrowings from any Mortgagee in order to discharge and secure release from the Second Charge
- 4 Each Shared Equity Disposal shall contain a restriction whereby the Shared Equity Owner who wishes to dispose of their interest in the Shared Equity Housing Unit shall be prevented from making that disposition other than in accordance with Part 6 of this schedule
- 5 In the event that the Shared Equity Housing Unit is sold by a mortgagee in possession without the provisions of this Agreement being binding upon it (pursuant to clause 5.8 hereof), the Mortgagee shall, in so far as it is able to from the proceeds of sale of the Shared Equity Housing Unit and in any event only after deduction of any monies owing to the Mortgagee pursuant to the First Charge, pay to the Council or Nominated RSL as the Council may determine, the Redemption Money within one week of completion of the sale of the Shared Equity Housing Unit and provide the Council's Head of Housing and Public Protection (or such other officer undertaking the duties of a chief housing officer) with an account of the amount due pursuant to this paragraph.
- 6 Not to let (other than by way of a Shared Equity Disposal) or sub-let the Shared Equity Housing Unit.
- 7 The provisions of this Part of the Second Schedule shall only apply to the initial sale of Shared Equity Housing which means the first disposal of the Shared Equity Housing Unit

8 In the event that a Shared Equity Unit has been actively marketed for sale for a period of six months and no Eligible Person has exchanged unconditional contracts for the Shared Equity Unit within that period AND no RSL has unconditionally contracted to buy such units within such period then the Shared Equity Unit may be sold in the open market at Market Value free from the affordable housing restrictions contained in the Second Schedule of this Agreement PROVIDED THAT within two working days of legal completion of such sale, a payment of 20% of the sale proceeds ("Commutated Sum") is paid to the Council by the Owners to be used for the provision of Affordable Housing within the Wrexham County Borough Council administrative area within five years of receipt PROVIDED FURTHER THAT where an Eligible Person or RSL has been identified as a potential purchaser of the Shared Equity Unit within the said six month period the Owners shall use reasonable endeavours to progress such sale and shall not dispose of the Shared Equity Unit in the open market unless such potential sale becomes abortive

9 If at any time after the fifth anniversary of the receipt by the Council of the Commuted Sum the Owners request then the Council will provide (subject to the Owners paying the Council's reasonable and proper expenses in connection with providing the same) written confirmation as to whether the whole or any part of the Commuted Sum has been expended or committed for expenditure in accordance with paragraph 8 above and in the event that the Council fails within 3 calendar months of such request to provide written confirmation that the whole of the Commuted Sum paid by the Owners to the Council pursuant to paragraph 8 above has been expended by the Council or committed towards the designated purposes within 5 years from the receipt by the Council of the Commuted Sum then the Council shall repay all or part of the Commuted Sum for which that written confirmation has not been given to the person or persons who actually paid the Commuted Sum together with all interest accrued thereon

Part 6
Shared Equity Housing Subsequent Sale

- 1 Not to dispose of the Affordable Housing Units provided as Shared Equity Housing other than by way of a Shared Equity Disposal to an Eligible Person at a price no greater than the Equity Price
- 2 That no Shared Equity Disposal shall be completed without the new Shared Equity Owner simultaneously entering into a Second Charge
- 3 That upon first acquiring an interest in a Shared Equity Housing Unit the Shared Equity Owner shall not borrow from any Mortgagee nor charge a Shared Equity Housing Unit under a First Charge for a sum in excess of 80% of the Market Value of the Shared Equity Housing Unit without the consent of the Council or the Nominated RSL (as appropriate) providing that nothing in this paragraph shall prevent or prohibit a Shared Equity Owner from later increasing its borrowings from any Mortgagee in order to discharge and secure release from the Second Charge
- 4 No Shared Equity Owner shall transfer the Shared Equity Housing Unit without first having notified the Council or its Nominated RSL (as appropriate) in writing of their intention to dispose of the Shared Equity Housing Unit.
- 5 In the event that the Shared Equity Housing Unit is sold by a mortgagee in possession without the provisions of this Agreement being binding upon it (pursuant to clause 5.8 hereof), the Mortgagee shall, in so far as it is able to from the proceeds of sale of the Shared Equity Housing Unit and in any event only after deduction of any monies owing to the Mortgagee pursuant to the First Charge, pay to the Council or Nominated RSL (as appropriate), the Redemption Money within one week of completion of the sale of the Shared Equity Housing Unit and provide the Council's Head of Housing and Public Protection (or such other officer undertaking the duties of a chief housing officer) with an account of the amount due pursuant to this paragraph.

- 6 Not to let (other than by way of a Shared Equity Disposal) or sub-let the Shared Equity Housing Unit.
- 7 In the event that a Shared Equity Housing Unit has been actively marketed for sale for a period of 16 weeks and no Eligible Person has exchanged unconditional contracts for the purchase of the Shared Equity Housing Unit within that period, PROVIDED THAT
 - the price at which the Shared Equity Housing Unit has been offered for sale to Eligible Persons is no greater than its Market Value ascertained by agreement between the Shared Owner, any mortgagee of the Shared Owner, and the Nominated RSL ('the Parties') or failing agreement at the expense of the Shared Owner by an independent qualified valuer appointed by agreement between the Parties or failing agreement by or on behalf of the president for the time being of the Royal Institution of Chartered Surveyors on the application of any party and the decision of such valuer shall be final and
 - the Shared Equity Owner has reasonably demonstrated to the Council that it has acted in good faith in considering any offers from Eligible Persons and
 - such unit has also been offered for sale to the Nominated RSL and any other RSL or RSLs put forward by the Council and that such RSL(s) have not exchanged unconditional contracts to buy such unit within such periodthen the Shared Equity Housing Unit may be sold in the open market at Market Value free from the affordable housing restrictions contained in this Agreement PROVIDED FURTHER THAT where an Eligible Person or RSL has been identified as a potential purchaser of the Shared Equity Housing Unit within the said 16 week period the Shared Equity Owner shall use reasonable endeavours to progress such sale and shall not dispose of the Shared Equity Housing Unit in the open market unless such potential sale becomes abortive
- 8 In the event that the Shared Equity Housing Unit is sold on the open market pursuant to paragraph 7 the Shared Equity Owner shall pay the Redemption Money to the Council or the Nominated RSL (as appropriate) to redeem the Second Charge within two days of legal completion PROVIDED THAT such funds received by the Council or the Nominated RSL (as appropriate) shall be used for the provision of Affordable Housing within the Wrexham County

Borough Council administrative area as agreed between the Council and the nominated RSL within five years of receipt

- 9 Following receipt by the Council or Nominated RSL of the Redemption Money in the circumstances set out in paragraphs 5, 7 or 10 hereof the Council consents to the owner of the Shared Equity Housing Unit removing the restriction set out at paragraph 11 of Part 1 above from the title of the Shared Equity Housing Unit at the Land Registry
- 10 Nothing in this Part shall prevent or prohibit a Shared Equity Owner from paying the Redemption Money to the Council or the Nominated RSL (as appropriate) in order to discharge the Second Charge PROVIDED THAT the Redemption Money received by the Council or the Nominated RSL (as appropriate) shall be applied for the provision of Affordable Housing within the administrative area of Wrexham County Borough Council as agreed between the Council and the nominated RSL within five years of receipt
- 11 It is acknowledged that where a Shared Equity Owner disposes of a Shared Equity Housing Unit to an RSL pursuant to paragraph 7 above the RSL shall not be required to enter into a Second Charge and may use or dispose of such unit (as appropriate) to provide Affordable Housing in accordance with any of the methods of doing so permitted by this Agreement
- 12 The provisions of this Part of the Second Schedule shall only apply to the sale of Shared Equity Housing after the initial sale

Part 7

Definition of an "Eligible Person"

1. An Eligible Person means a Person in Housing Need identified from the Low Cost Home Ownership Register or the Council's housing waiting list (as appropriate) who:-
 - 1.1 has resided personally or who has had a Close Family Association in the Rhosddu Community Council Area for a continuous period of one

year immediately preceding the proposed Occupation of an Affordable Housing Unit; or

- 1.2 is in permanent full time employment at a location within the Rhosddu Community Council Area and has been in such employment for a period of six months immediately preceding the proposed occupation of an Affordable Housing Unit; or

or

- 1.3 has previously resided in the Rhosddu Community Council Area for a continuous period of five years; or
- 1.4 has previously had a Close Family Association in the Rhosddu Community Council Area for a continuous period of five years; or
- 1.5 has previously been in employment in the Rhosddu Community Council Area for a continuous period of five years

2. Provided That if:

- 2.1 no person meeting the requirements in paragraph 1 above can be identified from the Low Cost Home Ownership Register or the Council's housing waiting list (as appropriate); and
- 2.2 a period of not less than four weeks has elapsed after an advertisement seeking a person who meets the requirements of paragraph 1 has been placed in a newspaper circulating in the Wrexham locality

then the references in paragraph 1 of this Part to the Rhosddu Community Council Area shall be treated as if they included references to the Gwersyllt, Broughton, Offa, Caia Park, Acton and Gresford Community Council Areas and any person who satisfies one of the said criteria by virtue of such treatment shall be regarded as an Eligible Person for the purposes of this Agreement

3. Provided Further That where no person who qualifies or who can be regarded as qualifying as an Eligible Person pursuant to paragraph 2 of this Part can be identified from the sources mentioned therein after at least one advertisement has been placed in a newspaper circulating in the locality then after a period of not less than eight weeks the references in paragraph 1 of this Part to the Rhosddu Community Council area shall be treated as if they included reference to the Wrexham County Borough Council area and any person who satisfies the said criteria by virtue of such treatment shall be regarded as an Eligible Person for the purposes of this Agreement

4. Provided Further That if no applicant qualifies under paragraph 3 above within 12 weeks, then any other person who in the opinion of the RSL or Council (as appropriate) is a Person In Housing Need shall be treated as an Eligible Person

CERTIFICATE

[*JOHN MARTELL*] of [*WACKER*] as solicitors for the Owner (as defined in the within written Deed) hereby certify that Recitals B and C thereof are correct.

Signed

Dated *31-3* 2014

[Signature]
[Signature]

EXECUTED as a DEED on the date specified at the commencement of this Agreement

Executed as a deed by affixing
the Common Seal of
WREXHAM COUNTY BOROUGH COUNCIL
in the presence of:



[Signature]

Head of Corporate and Customer Services

93/14

EXECUTED AS A DEED by
the above-named
GOWER HOMES LIMITED
acting by its director
MICHAEL WILLIAM FORGRAVE
in the presence of:

Michael William Forgrave

Signature of witness:

Name:

Address:

John Martin Lewis 31/3/14
Solicitor with
Walker Smith & Way
23 Chester St
Wrexham

EXECUTED AS A DEED by
the above-named
THE SIDINGS MANAGEMENT
COMPANY (WREXHAM) LTD
acting by its director
MICHAEL WILLIAM FORGRAVE
in the presence of:

Michael William Forgrave

Signature of witness:

Name:

Address:

(as above) *31/3/14*

APPENDIX 1
Draft Planning Permission

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



DRAFT

Applicant	MESSRS FORGRAVE AND DAVIES GOWER HOMES LTD WITH REMPLOY LTD	Code Number	WRR P/2013/0519
Agent	PARRY DAVIES PARTNERSHIP MR RICHARD GRATTON BARCLAYS BUILDING HIGH STREET ST ASAPH DENBIGHSHIRE LL170RF	Date Received	19/07/2013
		Decision Date	

Town and Country Planning Act, 1990

Location of application

FORMER REMPLOY SITE, RAILWAY ROAD AND STANSTY ROAD,
STANSTY, WREXHAM LL11 2DN

Description of application

DEMOLITION OF FACTORY AND ERECTION OF 47 DWELLINGS (MIX OF
DETACHED, SEMI-DETACHED AND TERRACED) AND CONSTRUCTION
OF NEW VEHICULAR AND PEDESTRIAN ACCESS

In reaching this decision the Council has had regard to the relevant policies in
the Wrexham Unitary Development Plan which are as follows:-

CLF5	Open space requirements from new residential developments
EC4	Hedgerows, Trees and Woodland
GDP1	Development objectives
H2	Residential development within settlements
H7	Affordable housing within new developments
T8	Parking

Particulars of decision that permission be GRANTED
Subject to the following:-

Condition(s)

Applicant MESSRS FORGRAVE AND
DAVIES GOWER HOMES
LTD WITH REMPLOY LTD

**Code
Number**

WRR P/2013/0519

Agent PARRY DAVIES
PARTNERSHIP
MR RICHARD GRATTON
BARCLAYS BUILDING
HIGH STREET
ST ASAPH
DENBIGHSHIRE
LL170RF

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Date**

1. The development hereby permitted shall be commenced before the expiry of five years from the date of this permission.
2. Prior to their use on the development samples of all external facing and roofing materials shall be 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.
3. Each new dwelling hereby permitted shall be constructed to achieve a minimum Code for Sustainable Homes Level 3 and achieve a minimum of 1 credit under category 'Ene1 - Dwelling Emission Rate' in accordance with the requirements of the Code for Sustainable Homes: Technical Guide Version 3. The development shall be carried out entirely in accordance with the approved assessment and certification
4. Construction of any dwelling hereby permitted shall not begin until an 'Interim Certificate' has been submitted to the Local Planning Authority, certifying that a minimum Code for Sustainable Homes Level 3 and a minimum of 1 credit under 'Ene1 - Dwelling Emission Rate', has been achieved for that individual dwelling or house type in accordance with the requirements of the Code for Sustainable Homes: Technical Guide Version 3.
5. Prior to the occupation of the individual dwelling hereby permitted, a Code for Sustainable Homes 'Final Certificate' shall be submitted to the Local Planning Authority certifying that a minimum Code for Sustainable Homes Level 3 and a minimum of 1 credit under 'Ene1 - Dwelling Emission Rate', has been achieved for that dwelling in accordance with the requirements of the Code for Sustainable Homes: Technical Guide Version 3.
6. No part of the development shall commence until a scheme for the comprehensive and integrated drainage of the site indicating provision for foul water, surface water and land drainage has been submitted to and approved in writing by the Local Planning Authority. Prior to the submission of those details, an assessment shall be carried out into the potential for disposing of surface water by means of Sustainable urban Drainage Systems (SuDS) in accordance with the principles of sustainable drainage systems set out in Technical Advice Note 15: Development and Flood Risk, and the results of the assessment shall be submitted in writing to the Local Planning Authority. Where a SuDS scheme is to be implemented, the submitted details shall:
 - i) Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and

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the measures taken to prevent pollution of receiving ground water and/or surface waters;

ii) Specify the responsibilities of each party for the implementation of the SuDS scheme, together with a timetable for that implementation; and,
iii) Provide a timescale for implementation, management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

7. No development / works shall commence until the applicant has secured the maintenance of an on-site watching brief by a suitably qualified archaeologist during construction works in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. In the event of the discovery of important archaeological features outside of the scope of the watching brief, all works shall cease until otherwise advised in writing by the Local Planning Authority.

8. Within three months of commencement of development, full details of a hard and soft landscaping scheme together with a timescale for implementation of works shall be submitted to and approved in writing by the Local Planning Authority.

9. The landscaping scheme submitted and approved in connection with condition no. 08 shall be fully implemented in all respects within the agreed timescale and in strict accordance with the approved scheme.

10. Boundary treatment shall be carried out in strict accordance with the details shown on the approved drawing titled: ROADS AND FENCES. No dwelling shall be occupied until the front, side and rear boundaries have been enclosed with the walls and fences shown on that drawing.

11. Development shall not commence until details of the layout and landscaping of the open space area shown on approved drawing titled: Site Layout Plan has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the siting, size, layout and appearance of a children's equipped play area.

12. Within 6 months of the first occupation of the final dwelling in Phase 1 or within 12 months of the first occupation of any dwelling hereby granted permission, whichever is the sooner, the scheme required by condition 10, to include the provision of a children's equipped play area, shall have been implemented in full. For the purposes of this condition, Phase 1 comprises of

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plots 1-14 (exclusive) and 38-47 (exclusive) as shown on approved drawing no: 12.5407/1 Revision G, Site Layout Plan.

13. No dwelling shall be occupied until a pedestrian footway has been provided along the full length of the site frontage in accordance with a scheme that has first been submitted to and approved in writing by the Local Planning Authority.

14. Plots 34-42 shall not be occupied until a 2.0m wide footway has been provided along the full length of their rear boundaries in accordance with a scheme that has first been submitted to and approved in writing by the Local Planning Authority.

15. The estate roads and footways shall be progressively constructed to base coat standard from the junctions with Stansty Road and Railway Road across the frontage of each plot prior to occupation of the building erected thereon.

16. No dwelling shall be occupied until improvements to the bus stop located opposite the junction of Stansty Road and Railway Road has been improved in accordance with a scheme that has first been submitted to and approved in writing by the Local Planning Authority.

17. No dwelling shall be occupied until Traffic Regulation Order has been implemented along the full extent of the site frontages with Stansty Road and Railway Road in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority.

18. Prior to first occupation of plots 1-14 (excluding) and plots 46 and 47 the access onto Railway Road shall provide visibility splays of 2.4 metres x 56 metres in both directions measured to the nearside edge of the adjoining highway. Within these splays there shall be no obstruction in excess of 1 metre 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.

19. Prior to first occupation of plots 15-39 (exclusive) the access onto Stansty Road shall provide visibility splays of 2.4 metres x 56 metres in both directions measured to the nearside edge of the adjoining highway. Within these splays there shall be no obstruction in excess of 1 metre 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.

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20. Prior to their first occupation each dwelling shall be provided with off - street parking in accordance with the details shown on the approved drawing titled: ROADS AND FENCES.

21. Prior to the first occupation of any dwelling hereby granted permission a trespass proof fence of at least 1.8m high shall be erected along the full length of the eastern boundary of the site in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority. The fence shall thereafter be permanently retained and maintained.

22. No dwelling shall be occupied until it has been fitted with glazing in accordance with the specifications set out in Section 6: Glazing Assessment and Appendix 1 of the NHBC Acoustic Services Environmental noise & Vibration Survey and Assessment dated 8 October 2013

23. No dwelling shall be occupied until an acoustic fence has been erected along the full length of the east boundary of the site in accordance with the specifications set out in Section 8: Acoustic Fence of the NHBC Acoustic Services Environmental noise & Vibration Survey and Assessment dated 8 October 2013. The fence shall thereafter be permanently retained and maintained.

24. 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.

25. 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.

Reason(s)

1. To comply with Section 91(3) of the Town and Country Planning Act, 1990.
2. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
3. To comply with the requirements for sustainable buildings published by the Welsh Government (Planning Policy Wales Edition 5 (2012))
4. To comply with the requirements for sustainable buildings published by the Welsh Government (Planning Policy Wales Edition 5 (2012))

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5. To comply with the requirements for sustainable buildings published by the Welsh Government (Planning Policy Wales Edition 5 (2012))
6. To ensure satisfactory drainage of the site and to avoid flooding.
7. The site contains archaeological remains which it is essential should be protected from damage.
8. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
9. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
10. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
11. In the interests of the visual amenities of the site and the amenity of occupiers of the development.
12. In the interests of the amenity of occupiers of the development.
13. In the interests of pedestrian safety.
14. In the interests of pedestrian safety.
15. In the interests of highway safety.
16. In the interests of providing improved access to public transport.
17. In the interests of the visual amenities of the site and the amenity of occupiers of the development.
18. To ensure that adequate visibility is provided at the proposed point of access to the highway.
19. To ensure that adequate visibility is provided at the proposed point of access to the highway.
20. To provide for the parking and turning of vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
21. To protect the railway from unauthorised access.
22. In the interests of ensuring the amenity of future occupiers of the development.
23. In the interests of ensuring the amenity of future occupiers of the development
24. In the interests of highway safety.
25. To protect the amenities of the occupiers of nearby properties.

Note(s) to applicant

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Prior to any works commencing on site, to include the demolition of existing buildings, a method statement and risk assessment must be submitted to Network Rail's Asset Protection Engineer (AssetProtectionWales@networkrail.co.uk) for approval prior.



Officer Appointed for this purpose
Head of Community Wellbeing and Development

Refer to the Statement of Applicant's Rights and General Information enclosed or refer to the following link:-

[http://www.wrexham.gov.uk/english/planning_portal/publications/info_sheets.h](http://www.wrexham.gov.uk/english/planning_portal/publications/info_sheets.htm)
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