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Dated: 16th March ~~2016~~ 2017

WREXHAM COUNTY BOROUGH COUNCIL (1)

-and-

BRYMBO DEVELOPMENTS LIMITED (2)

-and-

PARKHILL ESTATES LIMITED (3)

Section 106A Town & Country Planning Act 1990 modification of planning obligation of 11 July 2014

relating to land at former Brymbo Steelworks, Brymbo, Wrexham

Planning Application P/2016/0626 to vary Planning Permission P/2012/0817



THIS AGREEMENT is made on 16th March ~~2016~~ 2017

BETWEEN:

(1) WREXHAM COUNTY BOROUGH COUNCIL of The Guildhall, Wrexham LL11 1AY ("the Council")

(2) BRYMBO DEVELOPMENTS LIMITED (Company Number 00936369) whose registered office is at Fernhill Estate Office, Fernhill Road, Sutton, Newport, Shropshire, TF10 8DJ ("the Owner")

(3) PARKHILL ESTATES LIMITED (Company Number 02635632) whose registered office is at Fernhill Estate Office, Fernhill Road, Sutton, Newport, Shropshire, TF10 8DJ (" the Second Owner")

(4) COLIN CORNES of The Paddock, Fernhill Road, Sutton Newport, Shropshire TF10 8DJ ("the Chargee")

BACKGROUND

(1) The Council is the local planning authority for the purposes of this Deed and the Town & Country Planning Act 1990 (as amended) for the area within which the property is situate and is the local planning authority by whom a planning obligation is enforceable.

(2) The Owner is the registered proprietor of (inter alia) the Supermarket Development Land, the Spine Road Site and the Heritage Site title to which is registered at Land Registry under title numbers CYM194878 and WA705202 free from incumbrances as defined in the Original Agreement.

(3) The Second Owner is the registered proprietor of (inter alia) the Housing Development Site title to which is registered at Land Registry under title number CYM418357 free from incumbrances as defined in the Original Agreement.

(4) The Second Owner has submitted an application for a variation to conditions 2 and 3 of the Original Planning Permission to extend the time for submission of plans and particulars of the reserved matters and extend the period in which development can be commenced and given the Council's reference P/2016/0626.

(5) The Chargee has a charge over the Housing Development Site and the Supermarket Development Site dated 12 February 2016 and has agreed to be a party to this Deed to acknowledge the obligations contained therein.

(5) The parties have agreed to enter into this deed in order to secure the planning obligations contained in this Deed.

(6) The Council resolved on the 5th September 2016 to grant planning permission on the terms applied for in application reference P/2016/0626 ('the Planning Permission') and as per the draft decision notice at Appendix 2 subject to the prior completion of this Deed.

OPERATIVE PROVISIONS

1. **INTERPRETATION**

1.1 In this Agreement, the following words and expressions have the following meanings:

"Act"	the Town and Country Planning Act 1990 as amended
"Original Agreement"	means the agreement dated 11th July 2014 and made between The Council (1) and The Owner (2) and annexed hereto at Appendix 1

2. **STATUTORY PROVISIONS**

2.1 This Agreement:

2.1.1 is made pursuant to the provisions of Section 106A of the Act;

2.1.2 is made with the intent to bind the Owners' freehold interest in the Land as defined in the Original Agreement;

2.1.3 is enforceable by the Council as local planning authority; and

2.1.4 is executed as a deed.

2.2 Where no definition is shown in this Agreement the definition in the Original Agreement shall apply to the term in question.

3. **MODIFICATION OF THE ORIGINAL AGREEMENT**

3.1 The Council, the Owner and Second Owner agree that the Original Agreement shall be modified as follows:

3.2 The definition of Housing Development Planning Application at Paragraph 2.2 is deleted and replaced with the following:

3.2.1 "Housing Development Planning Application" means "the planning application given reference P/2016/0626 for the variation of condition 2 and 3 of the planning permission given the Council's reference number P/2012/0817"

4. **OBLIGATIONS**

4.1 The Second Owner agrees to pay the Council upon completion of this Agreement the reasonable legal fees incurred in connection with the negotiation and completion of this Agreement, up to a maximum of £750.

5. **CHARGEES' CONSENT**

5.1 The Chargee hereby acknowledges and declares that this Agreement has been entered into by the First Owner and Second Owner with its consent and that the Housing Development Site and Supermarket Development Site shall be bound by the obligations contained herein and that its respective interests in the Housing Development Site and Supermarket Development Site shall take effect subject to this Agreement.

5.2 A mortgagee or chargee shall have no liability under this Agreement unless and until he takes possession of all or part of the Land in which case it will be bound by the obligations as owner of the Land.

6. **DECLARATION**

Other than as varied by this Agreement, the Original Agreement will continue in full force and effect.

7. **EXECUTION AND DELIVERY**

This document is executed as a deed and is delivered on the date stated at the beginning of this deed.

EXECUTED AS A DEED by affixing
the Common Seal of

WREXHAM COUNTY BOROUGH COUNCIL

in the presence of:

Head of Corporate and Customer Services



EXECUTED AS A DEED by affixing
the Common Seal of

BRYMBO DEVELOPMENTS LIMITED

in the presence of:

Director

Director/Secretary

EXECUTED AS A DEED by affixing
the Common Seal of

PARKHILL ESTATES LIMITED

in the presence of:

Director

Director/Secretary

Signed as a deed by **COLIN CORNES**
acting by his attorney MARTIN GREEN
in the presence of:

Signature.....

Signature of witness.....

Name (in BLOCK CAPITALS) ELIZABETH WHEELER.

Address: .....
Lodders Solicitors LLP
Number Ten Elm Court Arden Street
Stratford upon Avon CV37 6PA

APPENDIX 1

Original Agreement

DATED 11 July 2014

(1) WREXHAM COUNTY BOROUGH COUNCIL

(2) BRYMBO DEVELOPMENTS LIMITED

(3) PARKHILL ESTATES LIMITED

AGREEMENT

Pursuant to Section 106 of the Town and Country Planning Act 1990 in respect of land at Former Brymbo Steelworks, Brymbo, Wrexham

THIS AGREEMENT is made on the 11th day of JULY 2014

BETWEEN:-

(1) WREXHAM COUNTY BOROUGH COUNCIL of Guildhall, Wrexham LL11 1AY ("the Council")

(2) BRYMBO DEVELOPMENTS LIMITED (Company Registered Number: 00936369) of Fernhill Estate Office, Fernhill Road, Sutton, Newport, Shropshire TF10 8DJ ("the Owner")

(3) PARKHILL ESTATES LIMITED (Company Registered Number:02635632) of Fernhill Estate Office, Fernhill Road, Sutton, Newport, Shropshire TF10 8DJ ("the Second Owner")

1. BACKGROUND

1.1 For the purposes of the 1990 Act, the Council is the local planning authority for the administrative area within which the Land is located and the person who is entitled to enforce the obligations contained in this Deed.

1.2 For the purposes of the 1980 Act, the Council is the local highway authority for the area in which the Land is situated.

1.3 The Owner is the freehold owner of the Supermarket Development Site free from encumbrances.

1.4 The Second Owner is the freehold owner of the Housing Development Site free from encumbrances.

1.5 The Owner is the freehold owner of the Spine Road Site.

1.6 The Owner is the freehold owner of the Heritage Site free from encumbrances.

1.7 Pursuant to the Housing Development Planning Application and the Supermarket Development Planning Application the Owner has applied to the Council for outline planning permission for the Housing Development and the Supermarket Development.

1.8 The Housing Development and the Supermarket Development lie within the site of the former Brymbo steelworks for which outline permission was granted in 1997 under planning ref: CB00016 for reclamation and development of the site and which included construction of a road across the site to connect the

communities of Brymbo and Tanyfron. The said road has been constructed in part during development of parts of the former Brymbo steelworks site for housing but the northerly part (the Spine Road) has only been constructed to formation level due to lack of funding.

1.9 The construction of the Spine Road will provide the highway infrastructure which is necessary to connect the communities of Brymbo and Tanyfron and to facilitate development of a large area of previously developed land not currently in beneficial use.

1.10 On 2 September 2013 the Council having regard to the Unitary Development Plan and other material considerations resolved to grant Planning Permission for the Housing Development and the Supermarket Development subject to completion of this Deed on the basis that together the Housing Development and Supermarket Development will provide a source of funding for construction of the Spine Road and may provide a contribution to the development of the Heritage Site.

1.11 The Spine Road has the benefit of detailed planning permission (Ref BRY P/2010/0516).

OPERATIVE PROVISIONS

2. INTERPRETATION

2.1 In this Deed, the following words and expressions have the following meanings

"**1980 Act**"	the Highways Act 1980.
"**1990 Act**"	the Town and Country Planning Act 1990.
"**Associated Necessary Costs**"	means the actual additional costs related to the funding of the construction of the road including consultancy fees local highway authority fees necessarily incurred together Welsh Water fees necessarily incurred with a contingency sum in connection with the construction of the Spine Road in accordance with the Highways Agreement to an adoptable standard.
"**Base Course Level**"	means both the base course and the binder course (formerly known as the road base and base course respectively).

"**Bond**"	a bond in the Bond Sum to be entered into by the Owner/Second Owner with Lloyds TSB Bank PLC or another Bank being a member of the London Bankers Clearing House in favour of the Council to guarantee the due performance of the terms and conditions of the Highways Agreement in the form set out in Schedule 2.
"**Bond Sum**"	the sum of £1,703,514 which is equivalent to the Spine Road Construction Cost (£1,521,071) plus £182,443 for Associated Necessary Costs. It is anticipated that upon issue of the Interim Certificate, the Bond Sum will reduce to 25% of the original sum but this is at the absolute discretion of the Council.
"**Commencement of Development**"	means the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Housing Development the Supermarket Development or the Spine Road Development begins to be carried out providing the following shall not so count as a material operation for the purposes of this Deed: site investigations or surveys
"**Completed**"	means the Interim Certificate (as defined in the Highways Agreement) has been issued for that part of the work
"**the Council**"	means Wrexham County Borough Council, The Guildhall, Wrexham LL11 1AY.
"**Dwelling**"	means any dwelling built pursuant to the Housing Development Planning Permission
"**Final Certificate**"	means the certificate issued under clause 6.3 of the Highways Agreement
"**the Heritage Area**"	means the wider heritage area including, in particular all built heritage assets whether they lie within the Heritage Site or not

"**the Heritage Site**"	means part of the freehold property title to which is registered at the Land Registry under title number WA705202 and is shown edged red on Plan 6
"**the Highways Agreement**"	means the agreement pursuant to Sections 38 and 278 of the 1980 Act in the form set out in Schedule 1.
"**the Housing Development**"	means the development of the Housing Development Site by the erection of residential premises pursuant to the Housing Development Planning Permission.
"**the Housing Development Planning Application**"	means the application for outline planning permission for the carrying out of the Housing Development, made by the Owner on 28 November 2012, allocated the reference BRY P/2012/0817.
"**the Housing Development Planning Permission**"	means the planning permission which may be granted in pursuance of the Housing Development Planning Application upon completion of this Deed.
"**the Housing Development Site**"	means the freehold property forming part of the former Brymbo steelworks, title to which is registered at HM Land Registry under Title Number CYM418357 and is shown edged red on Plan 1.
"**Implementation Notice**"	means a notice in the respect of the Housing Development Planning Permission or the Supermarket Development Planning Permission as the case may be being a written notice to be in the form attached at Appendix 1 to be served by the person who on the date of service is the owner of the Housing Development Site or the Supermarket Development Site as the case may be on the Council not later than 5 working days prior to commencement of the Implementation Works.

"Implementation Works"	means any works representing Commencement of Development of the Housing Development Planning Permission or the Supermarket Development Planning Permission as the case may be.
"Interim Certificate"	means the certificate issued under clause 6.1 of the Highways Agreement
"the Land"	means the Housing Development Site the Heritage Site the Spine Road Site and the Supermarket Development Site or any part thereof.
"Occupation"	means the occupation for the purposes permitted by the Housing Development Planning Permission or the Supermarket Development Planning Permission as the case may be 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.
"Plan 1", "Plan 2", "Plan 3", "Plan 4", "Plan 5", "Plan 6"	means the plan so marked attached to this Deed at Schedule 3 and "Plans" shall be construed accordingly.
"Proceeds"	means the money received by the Owner from the disposal of the Housing Development Site and Supermarket Development Site together
"the Spine Road"	means a roadway along the route shown shaded **blue** on Plan 3 and marked as sections C, D, F and G on Plan 4.
"the Spine Road Construction Cost"	means the sum of £1,521.071 being the anticipated cost as at 17 April 2014 of carrying out the works required for the completion and proper execution of the Spine Road in accordance with the Highways Agreement to an adoptable standard, excluding the Associated Necessary Costs.

"the Spine Road Development"	means the development of the Spine Road pursuant to the Spine Road Planning Permission.
"the Spine Road East Limb"	means that part of the Spine Road marked as section G on Plan 4.
"the Spine Road Planning Permission"	means the planning permission which was granted under reference P/2010/0516 or any superceding permission.
"the Spine Road Site"	means the freehold property forming part of the former Brymbo steelworks, title to which is registered at HM Land Registry under Title Numbers WA705202 and CYM194878 and is shown shaded **yellow** on Plan 5.
"the Spine Road West Limb"	means that part of the Spine Road marked as section F on Plan 4.
"the Supermarket Development"	means the development of the Supermarket Development Site by the erection of a supermarket and small retail units and associated car parking pursuant to the Supermarket Development Planning Permission.
"the Supermarket Development Site"	means the freehold property forming part of the former Brymbo steelworks, title to which is registered at the Land Registry under Title Number WA705202 and is shown edged red on Plan 2.
"the Supermarket Development Planning Application"	means an application for outline planning permission for the carrying out of the Supermarket Development made by the Owner on 28 November 2012 allocated the reference BRY P/2012/0816.
"the Supermarket Development Planning Permission"	means the planning permission which may be granted in pursuance of the Supermarket Development Planning Application upon completion of this Deed.

	"Working Day(s)"	means Mondays to Fridays (excluding days that in England and Wales are public holidays) inclusive

2.2 In this Deed:

2.2.1 the heading of a clause does not affect its interpretation;

2.2.2 the Schedules and Appendices form part of this Deed and shall have effect as if set out in full in the body of this Deed;

2.2.3 unless otherwise indicated, references to clauses plans Schedules and appendices are to clauses plans Schedules and appendices in this Deed;

2.2.4 references to any statute or statutory provision include references to:

2.2.4.1 that statute or statutory provision as from time to time amended extended re-enacted consolidated or replaced; and

2.2.4.2 any orders, regulations, instruments or other subordinate legislation made under that statute or statutory provision whether before or after the date of this Deed.

2.2.5 references to the Land and the Site include any part thereof;

2.2.6 references to any party in this Deed include the successors in title to that party and any person deriving title through or under that party and in the case of the Council the successors in title to their statutory functions;

2.2.7 "including" means "including, without limitation";

2.2.8 An obligation in this Deed on a person not to do any act or thing includes an obligation not to permit or allow the doing of that act or thing;

2.2.9 where two or more people form a party to this Deed, the obligations they undertake may be enforced against them all jointly or against each of them individually; and

2.2.10 if any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the reminder of the Deed is to be unaffected.

2.3 The parties to this Deed do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a

party to it save for the avoidance of doubt it is declared that the planning obligations contained in this deed are enforceable by any successor to the Council exercising planning powers under the 1990 Act.

2.4 Nothing in this deed shall prohibit or limit the right to develop any part of the Supermarket Development Site or the Housing Development Site or the Spine Road Site in accordance with a planning permission, excluding the Supermarket Development Planning Permission or the Housing Development Planning Permission, granted, whether or not on an appeal, after the date of this deed.

3. **EFFECT OF THIS DEED**

3.1 This Deed is made pursuant to section 106 and 106A of the 1990 Act, Section 111 of the Local Government Act 1972 Section 2 of the Local Government Act 2000 and section 1 of the Localism Act 2011 and all other enabling powers.

3.2 The obligations contained in this Deed are planning obligations which bind the Land and are binding on the Owner and the Second Owner pursuant to section 106 of the 1990 Act.

3.3 The obligations contained in this Deed 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.

3.4 This Deed is a local land charge for the purposes of the Local Land Charges Act 1975 and will be registered as such by the Council.

3.5 The obligations contained in this Deed are:-

3.5.1 necessary to make the development acceptable in planning terms;

3.5.2 directly related to the development; and

3.5.3 fairly and reasonably related in scale and kind to the development.

3.6 The obligations in this Deed will not be enforceable against:

3.6.1 statutory undertaker after the transfer of the statutory apparatus and any land upon or in which the statutory apparatus is situated by the Owner to that statutory undertaker

3.7 No person will be liable for any breach of the terms of this Deed occurring after the date on which they part with their interest in the Land or the part of the Land in respect of which such breach occurs, but they will remain liable for any breaches of this Agreement occurring before that date. Neither the reservation of any rights or inclusion of covenants or restrictions over the Land in any transfer of the Land will constitute an interest for the purposes of this clause 3.7

4. **COMMENCEMENT**

The provisions of this Deed shall have immediate effect upon the completion of the Deed SAVE FOR clauses 5.1 and 5.2.3 which shall only have effect upon and from the date upon which the Housing Development Planning Permission and the Supermarket Development Planning Permission have both been granted.

5. **OBLIGATIONS OF THE PARTIES**

5.1 The Owner and Second Owner covenant with the Council

Spine Road

5.1.1 to enter into the Highways Agreement and the Bond on the date of this Deed;

5.1.2 to construct the Spine Road in accordance with the provisions of the Highways Agreement;

5.1.3 to notify the Council's Head of Community Well-being and Development in writing of the date of commencement of the construction of the Spine Road within 5 Working Days thereof;

General

5.1.4 not to carry out any Implementation Works before the service of the Implementation Notice;

5.1.5 not to carry out any Implementation Works on the Housing Development Site pursuant to the Housing Development Permission or on the Supermarket Development Site pursuant to the Supermarket Development Permission prior to the Commencement of Development of the Spine Road;

Housing Development

5.1.6 not to allow the Occupation of any Dwelling constructed on the Housing Development Site until the Spine Road excluding the Spine Road East Limb but including the Spine Road West Limb has been constructed to Base Course Level;

5.1.7 not to allow the Occupation of more than 80% of the Dwellings comprising the Housing Development until the Spine Road excluding the Spine Road East Limb but including the Spine Road West Limb has been Completed;

5.1.8 not to allow the Occupation of more than 90% of the Dwellings comprising the Housing Development until the Spine Road has been Completed to include both the Spine Road East Limb and the Spine Road West Limb;

Supermarket Development

5.1.9 not to allow the Occupation of the Supermarket Development until the Spine Road excluding the Spine Road East Limb but including the Spine Road West Limb has been Completed;.

Heritage Site

5.1.10 to provide to the Council full financial details relating to the disposal of the Housing Development Site and Supermarket Development Site to include the sale price heads of terms of sale and associated costs within 5 working days of each disposal;

5.1.11 to provide to the Council within 28 days of the issue of the Final Certificate full details of the actual construction costs for the Spine Road including the actual Associated Necessary Costs in order that the Council can verify the Proceeds against the costs

5.1.12 in the event that the Proceeds exceed the actual Spine Road Construction Costs plus the actual Associated Necessary Costs a sum equivalent to the excess shall be paid to the Council within 3 calendar months of the date of the Final Certificate or of receipt by the Owner and Second Owner of the final Proceeds whichever is the later or such other date as may be agreed by the Council to be applied for the benefit of the Heritage Area in a manner to be agreed between the Owner of the Heritage Site with the Council's Head of Community Well-being and Development in consultation with the Council's Head of Assets and Economic Development and in the absence of agreement to be determined in accordance with Clause 9.

5.2 The Council undertakes

5.2.1 to issue the Planning Permission upon the completion of this Agreement;

5.2.2 to enter into the Highways Agreement so as to facilitate the adoption of the Spine Road;

5.2.3 upon request in writing to pay to the Owner (here meaning the party which shall actually have paid the sum) such amount of any payment made by the Owner to the Council which has not been expended or

committed in accordance with the provisions of this deed within 10 years of the date of receipt by the Council of the sum together with such interest thereon as the relevant sum has earned in the hands of the Council but the Council shall be under no obligation to maximise such interest SAVE THAT if clause 9 has been invoked in respect of the manner in which the monies shall be spent repayment may only be requested if monies have not been expended or committed within 5 years of a determination under clause 9.

6. **TERMINATION OF THIS DEED**

6.1 This Deed will come to an end if:

6.1.1 the Housing Development Planning Permission or the Supermarket Development Planning Permission is quashed or revoked before any Implementation Works are carried out so as to render this Deed or any part of it irrelevant, impractical or unviable;

6.1.2 the Housing Development Planning Permission or the Supermarket Development Planning Permission expires before any Implementation Works are carried out

SAVE THAT if construction of the Spine Road has commenced the provisions of the Highways Agreement shall remain in full force and effect and any obligations arising thereunder shall remain enforceable by the Council as local highway authority pursuant to the terms of the said Highways Agreement.

7. **NOTICES**

7.1 Any notice, demand or any other communication served by any party under this Deed is to be delivered by hand or sent by first class post, pre-paid or recorded delivery PROVIDED ALWAYS the Implementation Notice shall only be validly served if it is delivered by way of recorded delivery.

7.2 Any notice, demand or any other communication served is to be sent to the addresses set out above or to such other address as one party may notify in writing to the others at any time as its address for service:

7.3 Unless the time of actual receipt is proved, a notice, demand or communication sent by the following means is to be treated as having been served:

7.3.1 if delivered by hand, at the time of delivery:

7.3.2 if sent by post, on the second working day after posting; or

7.3.3 if sent by recorded delivery, at the time delivery was signed for

7.4 If a notice, demand or any other communication is served after 4.00pm in a working day, or on a day that is not a working day, it is to be treated as having been served in the next working day.

8. **COSTS**

The Owner and Second Owner shall pay to the Council on the signing hereof the sum of £3,500 in respect of the Council's legal costs in respect of the preparation and execution of this deed together with the local planning authority's management fee of £250.

9. **DISPUTE RESOLUTION**

If any difference or dispute arises between the parties hereto touching or concerning their respective rights duties liabilities or obligations under or by virtue of this deed the same shall be referred to a member of the Royal Institution of Chartered Surveyors ("RICS") to be agreed between the parties or failing agreement upon request by one party for arbitration that party may after 21 days of that request by him request that an arbitrator be appointed by the President for the time being of RICS or his duly authorised deputy on the application of either party and in this respect such referral shall be construed as a submission to arbitration within the meaning of the Arbitration Act 1996 or any statutory modification or re-enactment thereof for the time being in force.

10. **Value Added Tax**

All sums paid or to be paid in accordance with the terms of this Deed shall be exclusive of any Value Added Tax ("VAT"). If at any time VAT becomes chargeable in respect of any supply made in accordance with the terms of this Schedule then, to the extent that VAT had not previously been charged in respect of that supply, the person making the supply shall have the right to issue a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly.

11. **JURISDICTION AND LEGAL EFFECT**

11.1 This deed shall be governed by and interpreted in accordance with the law of England and Wales.

11.2 No waiver (whether express or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.

11.3 Nothing herein contained or implied shall prejudice or affect the rights powers duties and obligations of the Council in exercise of its functions as a local authority highway authority and local planning authority and the rights powers duties and obligations of the Council under all public and private statutes and 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 the deed had not been executed by the Council and in particular nothing in this deed shall restrict the Council and/or any other local authority from exercising powers of compulsory purchase in respect of any part of the Land.

11.4 Any approval given under this deed or for the purpose of this deed shall not be deemed to be approval for any other purpose whatsoever.

The parties have executed this agreement as a Deed and it is delivered and takes effect on the date stated at the beginning of it.

SCHEDULE 1

HIGHWAYS AGREEMENT

DATED 2014

BRYMBO DEVELOPMENTS LIMITED

- and -

WREXHAM COUNTY BOROUGH COUNCIL

AGREEMENT

for the construction and adoption of roads
on land at Brymbo, Wrexham and at the junctions of Railway Road and Mount Hill, Wrexham and Blast Road, High Street and Gwalia Road, Wrexham
under the Highways Act 1980 Sections 38 and 278

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

Ref: TS/10005795

THIS AGREEMENT is made the day of **2014**

BETWEEN:

(1) **BRYMBO DEVELOPMENTS LIMITED** whose registered office is situated at Fernhill Estate Office, Fernhill Road, Sutton, Newport, Shropshire TF10 8DJ (Company Registration No. 00936369) ('the Developer') and

(2) **WREXHAM COUNTY BOROUGH COUNCIL** of Guildhall, Wrexham LL11 1AY ('the Council').

NOW IT IS AGREED as follows:

1 Definitions and Interpretation

In this Agreement:

1.1 'the Appropriate Officer' means the highway engineer or other appropriate officer for the time being of the Council,

1.2 'the Bond' means the bond to be entered into by the Developer with Lloyds Bank plc or another Bank being a member of the London Bankers Clearing House in favour of the Council to guarantee the due performance of the terms and conditions of this Agreement in accordance with the terms of the s106 Agreement

1.3 'the Existing Roads' means the existing highways maintainable at public expense shown shaded green on Plan A,

1.4 'the Final Certificate' means the certificate issued under Clause 6.3 of this Agreement,

1.5 'the Interim Certificate' means the certificate to be issued under Clause 6.1 of this Agreement,

1.6 'the Land' means the land being described as land at Brymbo, Wrexham shown on Plan B being the land identified by title numbers CYM194878 and WA705202,

1.7 'the Maintenance Period' means the period of 12 months from the date of the Interim Certificate,

1.8 'Plan A' means the drawing numbered P 47067923/058 Rev. 03 annexed to this Agreement which has been approved by the Council,

1.9 'Plan B' means the drawing numbered P 47067923/059 Rev. 03 annexed to this Agreement which has been approved by the Council,

1.10 'the Planning Permission' means the obligations set out in BRY P/2010/0516 or any superceding permission as granted by the Council,

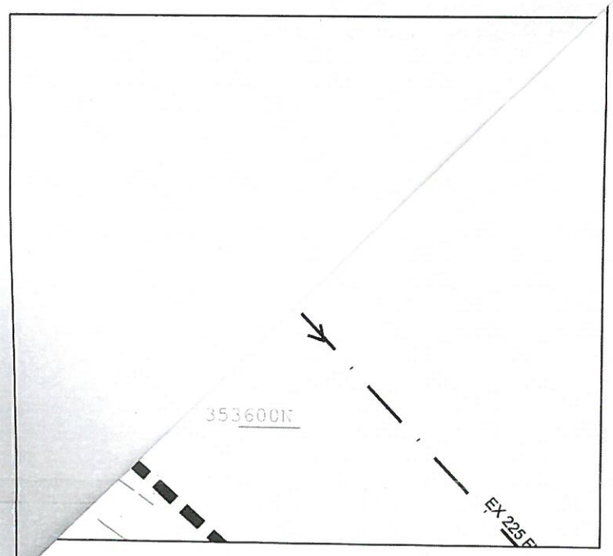
This drawing is for Preliminary purposes only and is subject to amendment during design development. UNDER NO CIRCUMSTANCES MUST THIS DRAWING BE USED FOR CONSTRUCTION PURPOSES

NOTES

1. IF RECEIVED ELECTRONICALLY IT IS THE RECIPIENT'S RESPONSIBILITY TO PRINT TO THE CORRECT SCALE. ONLY WRITTEN DIMENSIONS SHALL BE USED.

KEY

- S104 SURFACE WATER DRAIN.
- S104 FOUL WATER DRAINAGE.
- HIGHWAY DRAIN GULLY AND CONNECTION.
- HIGHWAY DRAIN AND CARRIER PIPE
- PRIVATE FOUL WATER CONNECTION.
- PRIVATE STORM WATER CONNECTION.
- CULVERT IN RIPARIAN OWNERSHIP
- S104 SEWER EASEMENT.
- EXISTING HIGHWAY LAND
- LAND TO BE DEDICATED AS HIGHWAY
- PROPSED STREET LIGTHING



			03
		12.02.14	02
	DC/GAL	23.08.12	01
	By / Check	Date	Suffix

LIMINARY

O DEVELOPMENTS LTD

BRYMBO DEVELOPMENT
BRYMBO
WREXHAM

Drawing Title

SECTION S278
PLAN
PLAN A

Drawn	Checked	Approved	Date
SJC	CEH		16.12.13
URS Internal Project No. 47067923		Suitability N/A	
Scale @ A1 1:500		Zone / Mileage N/A	

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Drawing Number	Rev
P 47067923/58	03

This drawing is for Preliminary purposes only and is subject to amendment during design development. UNDER NO CIRCUMSTANCES MUST THIS DRAWING BE USED FOR CONSTRUCTION PURPOSES

NOTES

1. IF RECEIVED ELECTRONICALLY IT IS THE RECIPIENT'S RESPONSIBILITY TO PRINT TO THE CORRECT SCALE. ONLY WRITTEN DIMENSIONS SHALL BE USED.

KEY

- S104 SURFACE WATER DRAIN.
- S104 FOUL WATER DRAINAGE.
- HIGHWAY DRAIN GULLY AND CONNECTION.
- HIGHWAY DRAIN AND CARRIER PIPE
- PRIVATE FOUL WATER CONNECTION.
- PRIVATE STORM WATER CONNECTION.
- CULVERT IN RIPARIAN OWNERSHIP
- S104 SEWER EASEMENT.
- LAND TO BE DEDICATED AS HIGHWAY
- PROPSED STREET LIGTHING

CUT LINE

03		
02		
01	04.09.12	
	Date	Check

MINARY

DEVELOPMENTS LTD

BRYMBO DEVELOPMENT
BRYMBO
WREXHAM

Drawing Title

SECTION 38 PLAN
PLAN B

Drawn	Checked	Approved	Date
SJC	CEH		16/12/13
URS Internal Project No.		Suitability	
47067923		N/A	
Scale @ A1		Zone / Mileage	
1:1000		N/A	

This document has been prepared in accordance with the scope of URS' appointment with its client and is subject to the terms of that appointment. URS accepts no liability for any use of this document other than by its client and only for the purposes for which it was prepared and provided. Only written dimensions shall be used.
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URS Infrastructure & Environment UK Limited
3 Pemberton House,
Stafford Court, Stafford Park,
Telford, Shropshire, TF3 3AP
Telephone (01952) 235600
Fax (01952) 235650
www.urs.com

URS

Drawing Number	Rev
P 47067923/59	03

1.11 'the Roads' means the roads to be constructed on the Land by the Developer in connection with the Section 38 Works as set out and shown on Plan B,

1.12 'the s106 Agreement' means the s106 entered into on the same date as this Agreement between Wrexham County Borough Council, Parkhill Estates Limited, Brymbo Developments Limited and the Welsh Ministers,

1.13 'the Section 278 Works' means the improvements, alterations and additions to the Existing Roads as shown on Plan A,

1.14 'the Section 38 Works' means the construction of the Roads including but not limited to the carriageway, footway, street lighting columns and gullies and shown on Plan B,

1.15 'the Specification' means all plans, documents and drawings deposited with and agreed by the Council in respect of the Section 38 and Section 278 Works outlined in Schedule 1 to this Agreement

1.16 words importing one gender shall be construed as importing any other gender,

1.17 words importing the singular shall be construed as importing the plural and vice-versa,

1.18 words importing persons shall be construed as importing a corporate body or a partnership and vice-versa,

1.19 where any party comprises more than one person the obligations and liabilities of that party under this Agreement shall be joint and several obligations and liabilities of those persons, and

1.20 the clause headings do form part of this Agreement and shall not be taken into account in its construction or interpretation.

2 Background

2.1 The Council is:

2.1.1 the local Highway Authority for the County Borough of Wrexham and

2.1.2 the Local Planning Authority by whom the Planning Permission is enforceable.

2.2 The Developer is registered as proprietor of the Land with an absolute freehold title under title numbers CYM194878 and WA705202.

2.3 The Developer intends to carry out the Section 38 Works on the Land and the Section 278 Works in accordance with Plan A and Plan B and the Specification.

2.4 The Developer desires that upon completion the Roads should become highways maintainable at the public expense.

2.5 The Developer also wishes to carry out work on the Existing Roads.

2.6 This Agreement is entered into pursuant to the Highways Act 1980, Sections 38 and 278.

2.8 The Council has agreed with the Developer that subject to payment of the cost of inspection of the Section 38 Works and their maintenance in a proper manner on the terms and conditions of this Agreement, the Council will do and procure all acts and things necessary for the taking over and adoption of the Roads as highways maintainable at the public expense.

2.9 The Council is satisfied that the Section 278 Works are of benefit to the public.

3 Bond

3.1 The Developer shall not commence the s278 Works or the s38 Works until the Bond has been executed and delivered to the Council.

4. The Section 38 Works: Construction of the Roads

4.1 Junctions

Where the Roads join an existing highway the Roads to that highway shall be constructed at the expense of the Developer and to the satisfaction of the Appropriate Officer.

4.2 Construction of the Section 38 Works

4.2.1 The Developer shall at his own expense construct the Section 38 Works or cause the Section 38 Works to be constructed in accordance with Plan B and the Specification approved by the Council and in all respects to the satisfaction of the Appropriate Officer, provided that any amendment to Plan B or the Specification shall be previously approved in writing by the Council and the work comprised in the amendment shall not be commenced until notification in writing of approval has been received by the Developer.

4.2.2 The Developer shall complete the Section 38 Works or any part of them as soon as is practicable and in any case not later than twelve months after the commencement of the Section 38 Works.

5 The Section 278 Works: on the Existing Highway

5.1 Liabilities of the Developer

The Developer shall carry out the Section 278 Works at his own expense and as agent for the Council in accordance with Plan A and the Specification and in all respects to the satisfaction of the Appropriate Officer within twelve months of the commencement of the s278 Works.

5.2 Statutory undertakers

The Developer shall pay all charges that may be levied on the Council or the Developer by any of the statutory undertakers in respect of removal, protection or alteration of any of their apparatus necessitated by the Section 278 Works.

6 Provisions applying to both the Section 38 Works and the Section 278 Works

6.1 The Interim Certificate

After the completion of the Section 38 Works and the Section 278 Works in accordance with this Agreement the Appropriate Officer shall issue the Interim Certificate to the Developer stating that those works have been carried out to his satisfaction and during the Maintenance Period the Developer shall execute all such works of repair, reconstruction or rectification of any and all defects and imperfections and of any and all other faults of whatsoever nature that may be required of him in writing by the Appropriate Officer.

6.2 Parties' obligations during the Maintenance Period

During the Maintenance Period:

6.2.1 the Developer shall at his own expense maintain the Section 38 Works and the Section 278 Works to enable safe use by vehicles and pedestrians to the satisfaction of the Appropriate Officer, and

6.2.2 the Council shall at its own expense undertake routine maintenance of and be responsible for payment for energy for all street lights and illuminated traffic signs.

6.3 Final Certificate

If upon the expiration of the Maintenance Period the Appropriate Officer is satisfied that the Section 38 Works and the Section 278 Works have been duly and properly maintained and are not then subject to any defects, and all other obligations under this Agreement have been performed and that an agreement pursuant to Section 104 of the Water Industry Act 1991 has been entered into by the Developer with the relevant sewerage undertaker, he shall issue the Final Certificate to the Developer stating that the Section 38 Works are suitable for adoption and shall procure the adoption of the Roads by the Council as highways maintainable at the public expense.

6.4 Issue of certificates for part

Notwithstanding the provisions of this Agreement, the Appropriate Officer may in his absolute discretion

6.4.1 issue an Interim Certificate and a Final Certificate in respect of such part or parts only of the Section 38 Works and the Section 278 Works as are from time to time constructed and maintained in accordance with this Agreement, and Clauses 6.1 and 6.3 shall apply accordingly to such part or parts of the Existing Roads or the Roads as are from time to time the subject of such certificates; and

6.4.2 agree to reduce the Bond proportionately.

6.5 Notice and access to be given to Appropriate Officer

The Developer shall:

6.5.1 before commencing the Section 38 Works or the Section 278 Works give 5 working days notice in writing to the Appropriate Officer of his intention to do so, and if such notice is not given by 2014 works shall be deemed to have commenced on 2014

6.5.2 during the progress of the Section 38 Works or the Section 278 Works and until the issue of the Final Certificate give to the Appropriate Officer and any person or persons duly authorised by him free access to any part of the Section 38 Works or the Section 278 Works,

6.5.3 permit him or them to inspect the Section 38 Works or the Section 278 Works and all or any materials used or intended to be used in the Section 38 Works or the Section 278 Works, and

6.5.4 give effect to any requirements made or instructions given by the Appropriate Officer or any person duly authorised by him, including the removal of specimens for analysis or other examination, for securing that the Section 38 and Section 278 Works conform to Plan A and to Plan B and the Specification, and are executed to the satisfaction of the Appropriate Officer.

6.6 No erection of overhead services

The Developer shall not at any time give consent to any service undertaking or supplier whether statutory or otherwise for the erection of overhead services in the Existing Roads or the Roads without the written consent of the Appropriate Officer being first obtained, and the location and the disposition of underground services shall follow best practice.

6.7 Default provisions

If the Developer:

6.7.1 fails to perform or observe any of the conditions, covenants, agreements or obligations on the part of the Developer contained in this Agreement or described or referred to on Plan A or Plan B or the Specification, or

6.7.2 fails to proceed with the Section 38 Works and the Section 278 Works in respect of the Existing Roads or the Roads or any of them to the satisfaction of the Appropriate Officer (whose decision shall be conclusive), or

6.7.3 fails to complete the Section 38 Works and the Section 278 Works within the time limits set out in this Agreement, or

6.7.4 being a company is wound up either voluntarily (except for the purpose of reconstruction or amalgamation) or compulsorily or being an individual becomes bankrupt or in either case enters into composition with its or his creditors, or

6.7.5 suffers any distress or execution to be levied against its or his goods, or

6.7.6 is the subject of the appointment of a receiver,

the Council shall (after twenty one days' notice in writing to the Developer of its intention so to do) have the right to exercise any powers whatsoever enabling it to carry out or cause to be carried out the Section 38 Works or any part of them in respect of the Roads or any part of them, or the Section 278 Works or any part of them in respect of the Existing Roads or any part of them, and to remedy any defect in them before their adoption as highways maintainable at the public expense.

6.8 Notice of default in respect of part

Where the Council serves a notice under Clause 6.7 of this Agreement in respect of any of the Existing Roads or the Roads or part of them, the service of the notice shall not in any way relieve the Developer from the performance and observance of the conditions covenants agreements or obligations on his part contained in this Agreement in respect of the rest of the Existing Roads or the rest of the Roads or part of them included in this Agreement, whether or not specified in the notice, and so far as such other Road or Roads or parts of them are concerned the terms of this Agreement shall remain in full force and effect.

6.9 Recovery of costs

If the Council serves a notice under Clause 6.7 of this Agreement and carries out the Section 38 Works and the Section 278 Works or any part of them or causes them to be carried out, the Council shall be entitled to recover the cost of doing so from the Developer including any Necessary Associated Costs, as defined in the 106 Agreement whether internal or external.

6.10 Indemnity

The Developer on behalf of himself and his successors in title or assigns, undertakes and agrees with the Council that if any claim for compensation damages, charges, costs or expenses arises in connection with or incidental to the carrying out of the Section 38 Works or the Section 278 Works (including claims relating to infringement or destruction of any right, easement or privilege and claims under Parts I and II of the Land Compensation Act 1973) or anything done or omitted to be done before issue of the Final Certificate, he will hold the Council harmless and safely indemnified from the claim FOR THE AVOIDANCE OF DOUBT such indemnity shall cease upon the date six years from the grant of the Final Certificate

6.11 Dedication of Land

Upon the issue of the Final Certificate or certificates as provided for in this Agreement the Developer shall give up and dedicate to the public

6.11.1 the Land on which the Section 38 Works are constructed or such part of the Land as is covered by the Final Certificate to the intent that the Land shall become a public highway up to and including the boundary of the Land with other land as indicated on Plan B; and

6.11.2 the land shaded clay brown on which the Section 278 Works are constructed or such part of the said land as is covered by the Final Certificate to the intent that the said land shall become a public highway up to and including the boundary of the said land with other land as indicated on Plan A

6.12 Costs of agreement

The legal costs of the Council in connection with the preparation, sealing and completion of this Agreement (and in relation to a Deed of Grant of Easement in respect of land owned by the Council under title number CYM502891) in the sum of two thousand pounds (£2,000.00) shall be paid by the Developer prior to the completion of this Agreement (and the Deed of Grant of Easement described in this Clause 6.12) to the Head of Corporate and Customer Services for the Council.

The Developer shall also pay prior to the commencement of the s278 Works s38 Works of this Agreement (and the Deed of Grant of Easement described in this Clause 6.12) to the Head of Corporate and Customer Services for the Council a fee in the sum of one hundred and six thousand, four hundred and seventy five pounds (£106,475) in respect of the inspection by the officers, employees or agents of the Council of the works executed by the Developer under this Agreement.

6.13 Adoption not to include drains

It is agreed that the adoption of the Roads as highways maintainable at the public expense shall not include the adoption as part of such highways of the drains or sewers to be constructed by the Developer but subject to this exception the adoption shall include the surface water drains, gullies and connections shown on the Plan B.

6.14 Service of notices

6.14.1 Any notice required to be given to the Developer under this Agreement shall be deemed to have been properly served if it is sent by the Council by pre-paid recorded delivery post to the Developer at the address given at the head of this Agreement.

6.14.2 Any notice required to be given by the Developer to the Council (which expression shall include the Appropriate Officer) shall be deemed to be properly served if sent by pre-paid recorded delivery post to the Head of Housing, Public Protection and Environment of the Council at the address given at the head of this Agreement.

6.15 Value Added Tax

All sums paid or to be paid in accordance with the terms of this Agreement shall be exclusive of any Value Added Tax ("VAT"). If at any time VAT becomes chargeable in respect of any supply made in accordance with the terms of this Agreement then, to the

extent that VAT had not previously been charged in respect of that supply, the person making the supply shall have the right to issue a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly.

6.17 Construction (Design and Management) Regulations 2007

If applicable, the Developer shall assume the obligations of the client for the purposes of the Construction (Design and Management) Regulations 2007 ("CDM Regulations") and will ensure that the execution of the works to construct the Roads complies with the CDM Regulations and in the course of carrying out such obligations the Developer shall:-

(i) make an election in accordance with Paragraph 8 of the CDM Regulations that it is to be treated for the purposes of the CDM Regulations as the only client (when there is more than one client as defined in the regulations) in respect of the works to construct the Roads;

(ii) appoint a CDM Co-ordinator and a principal contractor in respect of the works to construct the Roads and take all steps as are in the circumstances reasonable to ensure that each is provided with the relevant information to enable him to perform his duties under the CDM Regulations;

(iii) allow sufficient time and resources to enable the CDM Co-ordinator and principal contractor to comply with their obligations relating to health and safety matters arising from the regulations and to co-operate with them to that end;

(iv) notify the CDM Co-ordinator and principal contractor of any change in circumstances relating to the works to construct the Roads of which it is or ought reasonably to be aware which may affect the health and safety of persons involved or likely to become involved in the works to construct the Roads;

(v) secure and deliver to the Council as soon as practicable after the date of completion of the works to construct the Roads (but in any event not later than three months after that date) a copy of the health and safety file prepared maintained and completed as required by the CDM Regulations;

(vi) include in the design all information relating to design and materials which might reasonably affect the health and safety of persons involved in the works to construct the Roads and its maintenance and repair.

6.18 Jurisdiction

This deed shall be governed by and interpreted in accordance with the law of England and Wales

SCHEDULE 1

Specification for the Section 38 and Section 278 Works

Improvement to highway at the junction of Railway Road and Mount Hill, Wrexham and at the junction of Blast Road, High Street and Gwalia Road, Wrexham and highway works on land at Brymbo, Wrexham as detailed in the Planning Permission and on Plan A and Plan B

IN WITNESS whereof the parties hereto have executed this instrument as a Deed the day and year first before written

EXECUTED as a DEED by
BRYMBO DEVELOPMENTS LIMITED
and signed by:-

.....
Director

.....
Director/Company Secretary

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

_____
Head of Corporate and Customer Service/
Legal Services Manager

SCHEDULE 2

BOND

DATED 2014

BRYMBO DEVELOPMENTS LIMITED

- and -

LLOYDS BANK PLC

-and-

WREXHAM COUNTY BOROUGH COUNCIL

BOND

---

supporting an Agreement
for the construction and adoption of roads
on land at Brymbo, Wrexham and at the junctions of Railway Road and Mount Hill, Wrexham and Blast Road, High Street and Gwalia Road, Wrexham
under the Highways Act 1980 Sections 38 and 278

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

Ref: TS/10005795

THIS BOND is made the day of **2014**

BETWEEN:

(1) **BRYMBO DEVELOPMENTS LIMITED** whose registered office is situated at Fernhill Estate Office, Fernhill Road, Sutton, Newport, Shropshire TF10 8DJ (Company Registration No. 00936369) ('the Developer') and

(2) **LLOYDS BANK PLC** whose registered office is situated at 25 Gresham Street, London EC2V 7HN (Company Registration No. 00002065) but whose office for service is located at Trade Services Guarantees, PO Box 63, Two Brindley Place, Birmingham B1 2AB ('the Surety'),

(3) **WREXHAM COUNTY BOROUGH COUNCIL** of Guildhall, Wrexham LL11 1AY ('the local Highway Authority')

1 Background

1.1 The Developer has entered into an Agreement pursuant to the Highways Act 1980 Sections 38 and 278 with the local Highway Authority ('the Highway Agreement') to carry out highway works on land at Brymbo, Wrexham and at the junctions of Railway Road and Mount Hill, Wrexham and Blast Road, High Street and Gwalia Road, Wrexham which are more particularly described in the Highway Agreement.

1.2 The Developer has entered into a further agreement pursuant to s106 of the Town and Country Planning Act 1990 (the 'Planning Agreement') which requires them to enter into this bond to guarantee the performance of the obligations under the Highway Agreement

1.3 This Bond is supplemental to the Highway Agreement and the Planning Agreement.

1.4 The Surety has agreed to guarantee the due performance of the Highway Agreement in the following manner.

2 The Surety's covenants

The Surety covenants with the local Highway Authority as follows:

2.1 The Surety will in all respects guarantee the due and proper performance of the Highway Agreement and the due observance and punctual performance of all the obligations, duties, undertakings, covenants and conditions by or on the part of the Developer and to be observed and performed by it which are set out in the Highway Agreement (collectively 'the Obligations'), which guarantee shall extend to include any variation of or addition to the Highway Agreement.

2.2 If the Developer in any respect or for any reason fails or is unable to carry out observe or perform all or any of the Obligations (unless relieved of any of the Obligations by any condition of the Highway Agreement or by the decision of a

court or tribunal of competent jurisdiction) then the Surety shall be liable for, and shall indemnify the local Highway Authority against, all losses, damages, costs and expenses whatsoever that may be incurred by the local Highway Authority by reason of or in consequence of any default or inability on the part of the Developer in performing any of the Obligations under the Highway Agreement, to the extent that such losses, damages, costs and expenses may be claimed by the local Highway Authority against the Developer under the Highway Agreement, up to a maximum aggregate sum of one million seven hundred and three thousand five hundred and fourteen pounds (£1,703,514).

3 Avoidance of obligation

The Surety shall not be discharged or released from this Bond by:

3.1 any agreement, concession, conduct, forbearance or indulgence granted to the Developer under the Highway Agreement or any alteration to the terms of the Highway Agreement, or

3.2 any other compromise or settlement of any dispute between the local Highway Authority and the Developer (but so that the local Highway Authority shall not pursue against the Surety a remedy contrary to the terms of any such compromise or settlement in so far as the Developer has complied with such terms).

4 Duration of bond

This Bond is a continuing guarantee and:

4.1 shall remain in operation until the earlier of:

4.1.1 all the Obligations of the Developer under the Highway Agreement have been satisfied or performed in full as evidenced by the issue of the Final Certificate to the Developer

4.1.2 the Surety has paid to the local Highway Authority all the sums payable by the Developer to the local Highway Authority under the terms of the Highway Agreement provided that the total sum payable by the Surety shall not exceed one million seven hundred and three thousand five hundred and fourteen pounds (£1,703,514).

4.2 is in addition to and not in substitution for any other security which the local Highway Authority may at any time hold for the performance of such obligations, and

4.3 may be enforced without first having recourse to any alternative security and without taking any other steps or proceedings against the Developer

5 Disclaimer of the Agreement

The Surety's obligation and liability under this Bond shall continue notwithstanding any disclaimer of the Highway Agreement by a liquidator or administrator appointed of the Developer, and in the event of such a disclaimer the Highway Agreement shall for the purposes of this Bond be deemed to continue.

6 Surety's liability no greater than the Developer's liability

This Bond shall not be construed as placing any greater liability upon the Surety than is upon the Developer under the terms of the Highway Agreement.

7 Jurisdiction

This Bond shall be governed by and construed in accordance with the law of England and Wales.

EXECUTED as a DEED by
BRYMBO DEVELOPMENTS LIMITED
and signed by:-

.....
Director

.....
Director/Company Secretary

EXECUTED as a Deed but not delivered until the date hereof by LLOYDS BANK PLC acting by an Authorised Signatory:-

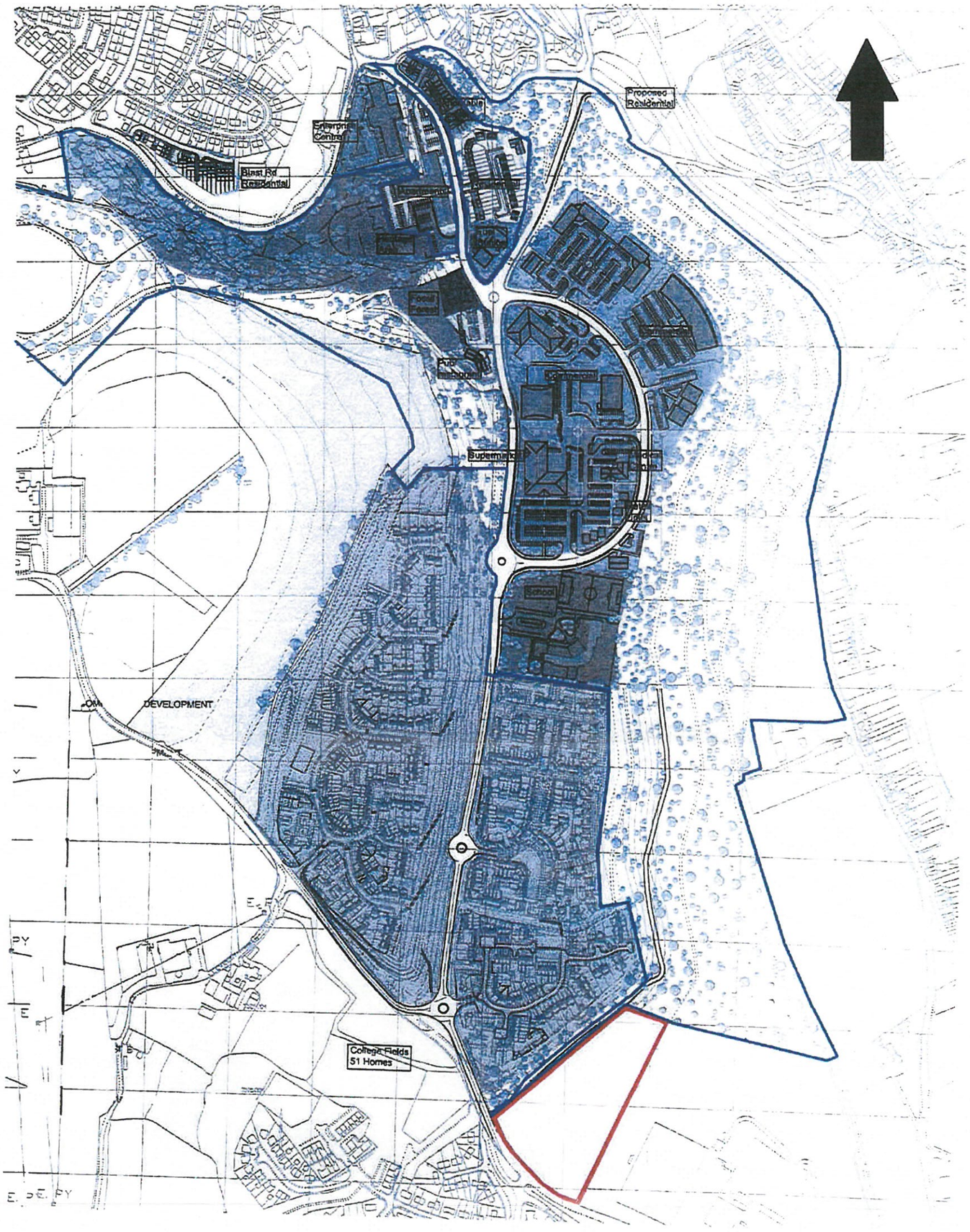
.....
Duly Authorised Signatory

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

Head of Corporate and Customer Services

Schedule 3

PLANS 1-6



SCALE = 1 : 5000

BRYMBO DEVELOPMENTS LTD

PROPOSED HOUSING: LOCATION

PARKHILL

PLAN 1

BRYMBO

Enterprise Centre

Affordable Housing

Apartments

Hedges Area

Fossil Forest

Commercial

Commercial

Commercial

Medical Centre

Supermarket Site

School Site

KENT RUBB...

PROPOSED SUPERMARKET: LOCATION PLAN
P270 - 200 Rev. a.
Scale 1:2500 (at A3)

Barron Design Limited
Estates Office
Bell Meadow Business Park
Pulford
Chester
CH4 9EP

Tel. 01244 570671

BRYMBO DEVELOPMENTS LTD

MASTERPLAN

PARKHILL

PLAN 2



BRYMBO DEVELOPMENTS LTD

MASTERPLAN

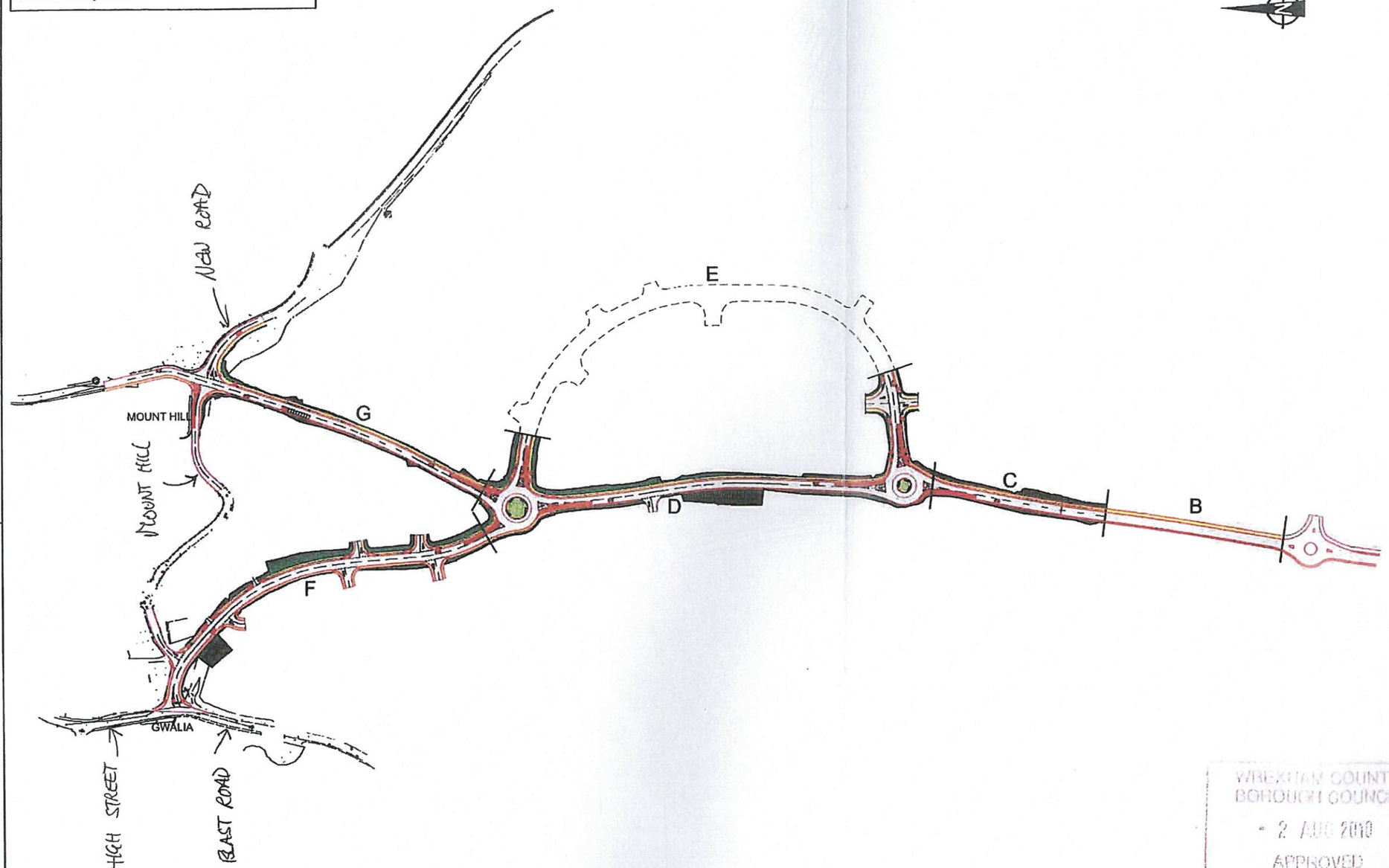
PARKHILL

PLAN 3

THE SPINE ROAD

P / 2010 / 0516

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KEY:

- CARRIAGEWAY
- FOOTWAY/CYCLEWAY
- VERGE/SOFT LANDSCAPING
- EARTHWORK SLOPES

NOTES:

PROPOSED HIGHWAY WORKS WILL NEED TO BE AGREED AND APPROVED BY WREXHAM BOROUGH COUNCIL PRIOR TO CONSTRUCTION WORK.

WREXHAM COUNTY BOROUGH COUNCIL
16 JUN 2010
PLANNING DEPARTMENT

Revision Details	By / Check	Date	Suffix
REFERENCE TO 'H' REMOVED. SECTION 'B' ADDED. DRAWING AMENDED TO A2 SIZE.	SJC/GAL	08.09.09	02
FIRST ISSUE	SJC/GAL	21.08.09	01

Drawing Status: P - PRELIMINARY

Job Title: BRYMBO DEVELOPMENT
BRYMBO
WREXHAM

Drawing Title: HIGHWAY PROPOSALS

WREXHAM COUNTY BOROUGH COUNCIL
- 2 AUG 2010
APPROVED
PLANNING DEPARTMENT

Scale at A2		Design Office	
1:2500		TELFORD	
Drawn: SJC	Date: 21.08.09	Stage 2 check	Date
Stage 1 check: GAL	Date: 21.08.09	Approved	Date

Scott Wilson
3 Pemberton House
Stafford Court, Stafford Park,
Telford, Shropshire, TF3 3AP
Telephone (01952) 235600
Fax (01952) 235650
www.scottwilson.com

Status: P | Drawing Number: D110252/050 | Rev: 02

Plot Date : 08/09/2009 10:01:57
AutoCAD File Name : J:\D110-1\D110252 - Brymbo Development\A\050.dwg

DB2V

PLAN 4



BRYMBO DEVELOPMENTS LTD

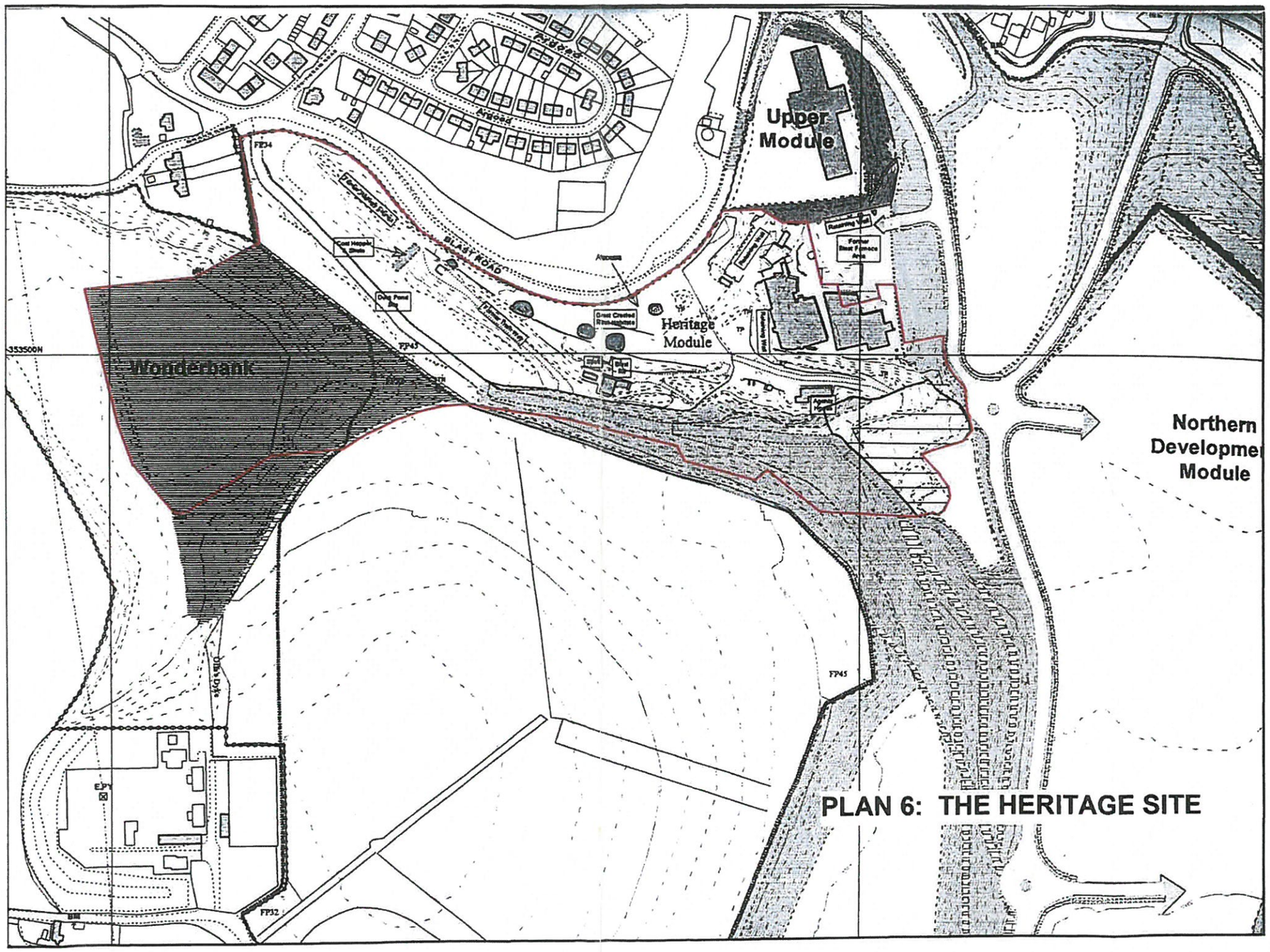
MASTERPLAN

PARKHILL

PLANS

THE SPINE ROAD

SITE



PLAN 6: THE HERITAGE SITE

APPENDIX 1

IMPLEMENTATION NOTICE

TO: General Manager of Planning Services of [the Council at ...]

FROM:

DEVELOPMENT: []

RELEVANT PLANNING PERMISSION: [LPA ref]

RELEVANT SECTION 106 UNDERTAKING: [date] between [parties] ("The Section 106 Undertaking")

We [ ] hereby put the Council on notice that we intend to commence development on [ ] 20[ ] This notice is the Implementation Notice served pursuant to clause 4.1 of the section 106 Undertaking.

DATED this day of 20

.....

Signed by the Owner *

or an authorised signatory of the

Owner*

Appendix 2

Construction Costs Schedule

		COST £	% BOND	£ BOND
WCBC	ROAD CONSTRUCTION COST TENDER PRICE	1521071	100	**1521071**
WW	DRAINAGE	425700	33	140481
			TOTAL	1661552

PROFESSIONAL FEES	%	
Consultancy		25000
L A	7	106475
WW	2.5	10643

MAXIMUM BOND	
	1843995
road	1521071
drainage	140481
CONTINGENCIES	182443

THE COMMON SEAL of

WREXHAM COUNTY BOROUGH COUNCIL

was hereunto affixed in the presence of:



186

Head of Corporate and Customer Services/
Legal Services Manager

SIGNED as a deed on behalf of)

BRYMBO DEVELOPMENTS LIMITED)

acting by a director and its secretary)

or two directors)

Director

Director/ Secretary

SIGNED as a deed on behalf of)

PARKHILL ESTATES LIMITED)

acting by a director and its secretary)

or two directors)

Director

Director/Secretary

APPENDIX 2

Draft decision notice

In pursuance of its powers under the Acts an 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

wrexham
COUNTY BOROUGH COUNCIL
CYNGOR BWRDEISTREF SIROL
wrecsam

Applicant	PARKHILL ESTATES LTD	**Code No**	BRY P/2016/0626
Agent	PARKHILL ESTATES LTD MR MATTHEW FERGUSON FERNHILL ESTATES OFFICE FERNHILL ROAD SUTTON NEWPORT TF10 8DJ	**Date Received** **Decision Date**	30/06/2016

Town and Country Planning Act, 1990
Section 73

Location of application

VACANT PLOT OPPOSITE, BRYN GWENFRO, TANYFRON, WREXHAM, LL11 5SW

Description of application

VARIATION OF CONDITIONS IMPOSED UNDER PLANNING PERMISSION CODE NO P/2012/0817
CONDITION 2 - THE PERIOD WITHIN WHICH TO SUBMIT PLANS AND PARTICULARS OF THE RESERVED MATTERS TO BE EXTENDED FOR A FURTHER PERIOD OF 3 YEARS
CONDITION 3 - THE PERIOD WITHIN WHICH TO COMMENCE DEVELOPMENT BE EXTENDED FOR A FURTHER PERIOD OF 3 YEARS OR BEFORE THE EXPIRY OF 1 YEAR FROM THE DATE OF THE APPROVAL OF THE LAST RESERVED MATTER, WHICHEVER IS THE LATER (OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT)

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
EC1	developments
EC16	Green Barriers
EC4	Derelict land
GDP1	Hedgerows, Trees and Woodland
GDP2	Development objectives
H5	Capacity of infrastructure and community facilities
H7	Housing in the countryside
PS1	Affordable housing within new developments
	Settlement limits

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Applicant	PARKHILL ESTATES LTD	**Code No**	BRY P /2016 /0626
Agent	PARKHILL ESTATES LTD MR MATTHEW FERGUSON FERNHILL ESTATES OFFICE FERNHILL ROAD SUTTON NEWPORT TF10 8DJ	**Date Received** **Decision Date**	30/06/2016

Revision	Date	Description of Decision
0		Planning permission issued

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

Condition(s)

1. Approval of the following details shall be obtained from the Local Planning Authority before any part of the development is commenced:
a. the layout of the building(s)
b. the scale of the building(s)
c. the appearance of the building(s)
d. the means of access to the site and building(s)
e. the landscaping of the site.

2. Plans and particulars of the reserved matters referred to in condition 1 (above) shall be submitted in writing to the Local Planning Authority before the expiry of three years from the date of this permission. The development shall only be carried out in strict conformity with such details as are approved.

3. The development as permitted shall be commenced before the expiry of three years from the date of this permission or the expiry of one year from the date of approval the last of the reserved matters required to be approved, whichever is the later.

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

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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.

5. No part of the development shall commence until a scheme to deal with potential contamination at the site has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include a phased investigation approach to identify the extent of contamination and any measures required to remediate the site, including post-development monitoring.

6. No part of the development shall be occupied until a Verification Report which demonstrates that the remedial works approved as part of condition no. 5 above have been satisfactorily carried out, has been submitted to and approved in writing by the Local Planning Authority.

7. No part of the development shall commence until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in strict accordance with the Method Statement as is approved. The Method Statement shall include the following:

a) A specification for tree protection fencing and ground protection measures that comply with British Standard 5837:2012;
b) A Tree Protection Plan showing the location of the trees to be removed and retained with their crown spreads, Root Protection Areas, Construction Exclusion Zones, and location of protective fencing and ground protection measures accurately plotted;
c) A full specification for any access, driveway, path, underground services or wall foundations within retained tree Root Protection Areas or Construction Exclusion Zone, including any related sections and method for avoiding damage to retained trees;
d) Details of general arboricultural matters including proposed practices with regards to cement mixing, material storage and fires;
e) Details of the frequency of supervisory visits and procedures for notifying the findings of such visits to the Local Planning Authority;
f) Method for protecting retained trees during demolition works;
g) Details of all proposed tree works, including felling and pruning.

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8. The site layout and landscaping details required by condition 01 shall include an area or areas of public open space together with a scheme that includes the following details:
i) hard and soft landscaping of the open space area(s);
ii) the timing of the construction and landscaping of the open space area(s);
iii) the arrangements for the long term management and maintenance of the public open space area(s)
Public open space shall be provided on site and thereafter permenantly retained and managed and maintained in accordance with the scheme as approved.
9. No land drainage run-off or surface water shall be permitted to discharge or connect to the public sewerage system, either directly or indirectly, and foul and surface water shall be drained separately from the site.
10. 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 unless the prior written approval of the Local Planning Authority has been obtained.
11. Development shall be carried out in strict accordance with Section 7: Mitigation of the Arbor Vitae Environmental Limited Phase One Habitat Survey dated May 2013.

Reason(s)

1. To comply with the provisions of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012
2. To comply with Section 92 of the Town and Country Planning Act, 1990.
3. To comply with Section 92 of the Town and Country Planning Act, 1990.
4. To ensure satisfactory drainage of the site and to avoid flooding.
5. In the interests of the amenities of the future occupants of the buildings
6. In the interests of the amenities of the future occupants of the buildings
7. To ensure the work is carried out to accepted arboricultural practices for the long term wellbeing of the tree(s).

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8. In the interests of the visual amenities of the area and the amenities of future occupiers of the development.
9. To protect the integrity of the public sewerage system and prevent hydraulic overloading of the public sewerage system. To protect the health and safety of existing residents and to ensure no detriment to the environment.
10. To protect the amenities of the occupiers of nearby properties.
11. In order to ensure the development does not adversely impact upon wildlife interests which are afforded special protection.

Note(s) to applicant

The applicant is advised that compliance with condition no. 13 does not provide an exemption from the statutory noise nuisance provisions of the Environmental Protection Act 1990. Any complaints received relating to noise from the development during the permitted hours may still be investigated using the Council's Standardised Procedure for Dealing with Noise Nuisance Complaints and legal action may be taken where appropriate.

The applicant is advised that the Council has the option to control construction noise by serving a Control of Pollution Act 1974, Section 60, Notice where deemed necessary, and failure to comply with such a Notice can result in prosecution. For further information and advice regarding construction noise please contact the Council's Housing and Public Protection Department on 01978 315300.

Burning of waste generated from construction activities is not considered to be an appropriate method of disposal and action may be taken as follows:

- Under the Environmental Protection Act 1990 anyone found disposing of construction site waste by burning is likely to be in breach of their duty of care with regard to waste disposal;
- Under the same Act an abatement notice may be served where smoke is judged to be causing a nuisance to neighbouring properties. Failure to comply with the requirements of the notice can result in prosecution;
- Under the Clean Air Act 1993 it is an offence for a commercial activity to burn anything that gives rise to dark smoke.

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To prevent offences under the above named Acts there should be no bonfires on the site, to include the prohibition of the burning of cleared vegetation. The applicant should contact the Council's Environment and Planning Department on 01978 315300 for further advice and information.

The Applicant is advised that under the Environmental Protection Act 1990, dust from construction and/or demolition activities can be judged to be causing a statutory nuisance to neighbouring properties. A legal notice can be served requiring that any dust nuisance is abated and failure to comply with the requirements of the notice can result in prosecution. The applicant should contact the Council's Housing and Public Protection Department on 01978 315300 for further advice and information.

The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at: https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

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Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. Further information is available on The Coal Authority website at:www.gov.uk/government/organisations/the-coal-authority.

Officer Appointed for this purpose
Head of Environment and Planning

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.htm

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