

**Planning Obligation by Deed of Agreement
under Section 106 of the Town and Country
Planning Act 1990**

relating to Land at Bryn Farm, Gredington
Estate, Hanmer, Whitchurch in the County
Borough of Wrexham

Dated : 26 January ⁷ 201~~6~~

WREXHAM COUNTY BOROUGH COUNCIL (1)

and

**THE RIGHT HONOURABLE LLOYD SIXTH LORD KENYON BARON OF
GREDINGTON**

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

DATE 26 January 201~~6~~⁷

PARTIES

- (1) **WREXHAM COUNTY BOROUGH COUNCIL** of Guildhall Wrexham LL11 1AY
("Council")
- (2) **THE RIGHT HONOURABLE LLOYD SIXTH LORD KENYON BARON OF GREDINGTON** of
Gredington Hall, Hanmer Whitchurch, Shropshire SY13 3DQ acting as Trustee of the 90/10 Estate
("the Owner")

INTRODUCTION

- (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 described in the First Schedule hereto is situate and is the local planning authority by whom a planning obligation is enforceable
- (2) The Owner is the registered proprietor of the Site
- (3) The Owner has submitted the Application to the Council and the parties have agreed to enter into this deed in order to secure the planning obligations contained in this Deed.
- (4) The Council resolved on the 25th July 2016 to grant the Planning Permission subject to the prior completion of this Deed.

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1 DEFINITIONS

For the purposes of this Deed the following expressions shall have the following meanings:

"Act"	the Town and Country Planning Act 1990 (as amended)
"Application"	the application for planning permission dated 3 ^{1st} March 2016 submitted to the Council for the Development and allocated reference number P/2016/0431
"Commencement of Development"	the date on which any material operation (as defined in Section 56(4) of the Act) forming

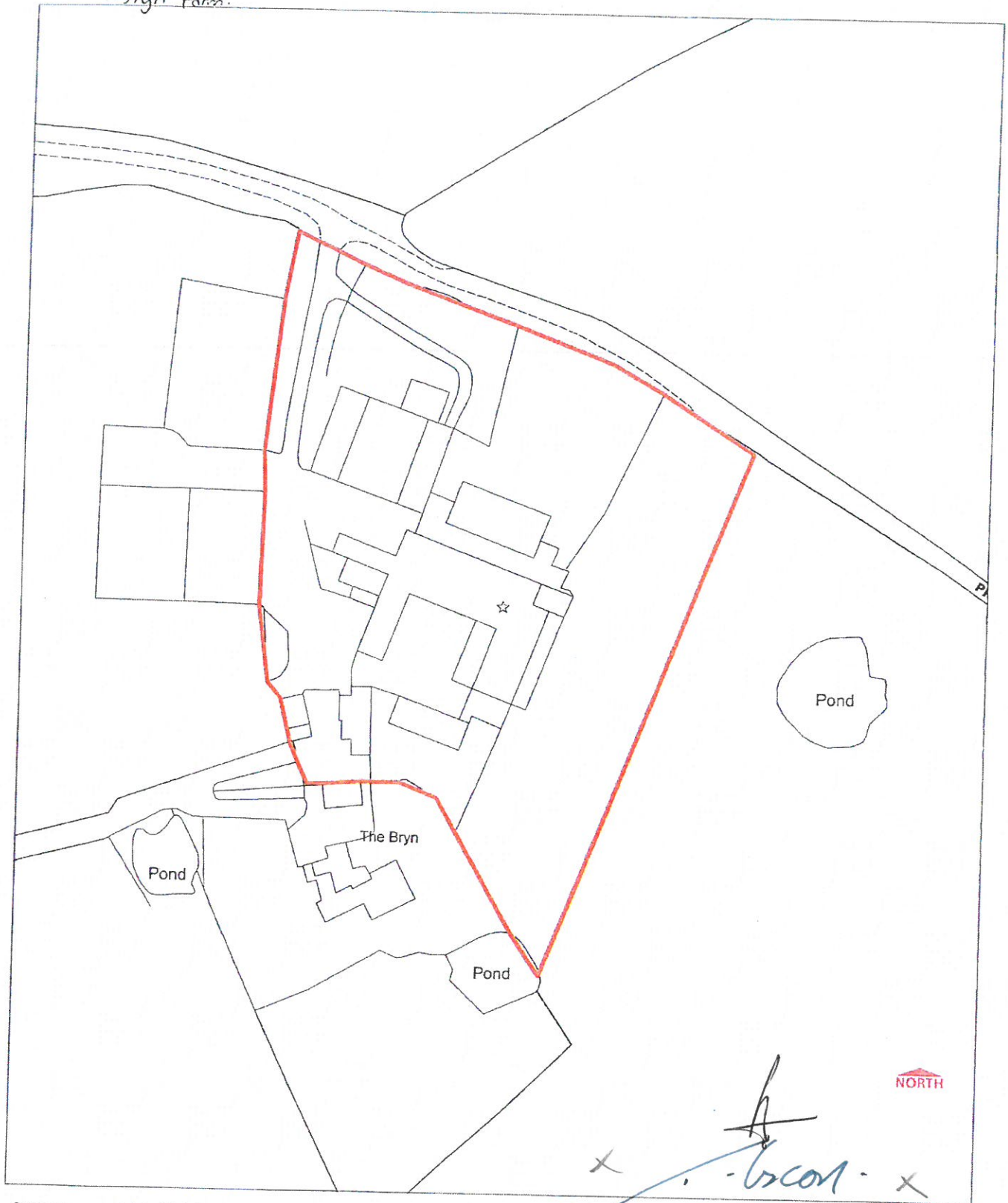
part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Commence Development" shall be construed accordingly.

"Development"	the development of the Site as set out in the Application
"Education Contribution"	means the sum (indexed in accordance with the provisions of this Deed) to be paid by the Owner to the Council in accordance with the provisions of the Second Schedule
"Index"	The All Items Index of Retail Prices issued by the Office for National Statistics
"Interest"	interest at 3 per cent above the base lending rate of the Barclays Bank Plc from time to time.
"Plan"	the plan attached to this Deed
"Planning Permission"	the outline planning permission subject to conditions to be granted by the Council pursuant to the Application
"Practical Completion"	issue of a Building Regulation Approval Certificate of Completion
"Site"	the land more particularly described in the First Schedule.

2 CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed 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 Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

Bryn Farm.



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Head of Environment and Planning
Planning Services
16 Lord Street, Wrexham LL11 1LG

**Town & Country Planning Act 1990
Section 106 Obligation**

Date: 27/07/2016
Scale: 1:1250
OS Sheet: SJ4241

 P/2016/0431
Bryn Farm, Gredington Estate
Bryn Lane, Hanmer, Wrexham


wrexham
COUNTY BOROUGH COUNCIL
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wreccsam

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2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.

2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.

2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.

2.6 References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Council and County Council the successors to their respective statutory functions.

3 LEGAL BASIS

3.1 This Deed is made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972 and Section 2 of the Local Government Act 2000 and all other enabling powers.

3.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Owner

4 CONDITIONALITY

This Deed is conditional upon and will not come into effect until:

- (i) the grant of the Planning Permission; and
- (ii) the Commencement of Development;

save for the provisions of Clauses 5.2, 7.1, 13 and 14 (commencement of development, legal costs, jurisdiction and delivery) which shall come into effect immediately upon completion of this Deed.

5 THE OWNER'S COVENANTS

5.1 The Owner covenants with the Council as set out in the Second Schedule.

5.2 The Owner shall serve on the Council a notice of Commencement of Development not less than two days before Commencement of Development.

6 THE COUNCIL'S COVENANTS

6.1 The Council covenants with the Owner as set out in the Third Schedule.

7 MISCELLANEOUS

7.1 The Owner shall pay the Council on completion of this deed the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed in the sum of £500.00.

- 7.2 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 7.3 This Deed shall be registrable as a local land charge by the Council in respect of the Site only.
- 7.4 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the Council by the Head of Environment and Planning (or any other person with a similar function within the Council from time to time) and any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.
- 7.5 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed and the Council shall upon written request from the Owner confirm compliance with the obligations contained in this Deed.
- 7.6 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 7.7 This Deed shall cease to have effect (insofar only as it has not already been complied with) if:-
- 7.7.1 the Planning Permission shall be quashed revoked or otherwise withdrawn or (without the consent of the Owner) is modified by any statutory procedure
- 7.7.2 the Planning Permission shall expire prior to the Commencement of Development; or
- 7.7.3 the Site is developed under a new planning permission (other than one issued under Section 73 of the Act for variation or discharge of a condition of the Planning Permission) granted after the Planning Permission by the Council or any other competent authority and there has been no Commencement of Development as permitted by the Planning Permission.
- 7.8 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 7.9 This Deed shall not be enforceable against owner-occupiers or tenants of dwellings constructed pursuant to the Planning Permission nor against those deriving title from them.
- 7.10 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.

8 WAIVER

No waiver (whether expressed or implied) by the Council or Owner 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 or Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

9 CHANGE IN OWNERSHIP

The Owner agrees with the Council to give the Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan

10 INDEXATION

Any sum referred to in the Second Schedule shall be increased by an amount equivalent to the increase in the Index from the date hereof until the date on which such sum is payable.

11 INTEREST

If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.

12 VAT

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

13 JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and Wales.

14 DELIVERY

The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

FIRST SCHEDULE

DESCRIPTION OF THE SITE

Land at Bryn Farm, Gredington Estate, Hanmer, Whitchurch, Wrexham shown edged in red on the Plan, Title to which is registered at H M Land Registry (together with other land) with title absolute under title number CYM509093 and of which the Owner is the Registered Proprietor

SECOND SCHEDULE

Owner's Covenants – Education Contribution

Prior to occupation of more than 50% of the dwellings developed on the Site in accordance with the Planning Permission the Owner shall pay the Education Contribution to the Council and the monies paid shall be used by the Council to provide additional Education secondary school facilities within the Maelor School, Penley in accordance with the Council's LPG27 guidance current at the time hereof (a copy of which is annexed hereto)

Secondary Education Contributions: -

A = (2-3 bedroom dwellings) - No of Units x £2000

B =(4+ bedroom dwellings) - No of Units x £2400

Total Education Contribution = A + B

Example of calculation of the Education Contribution for illustrative purposes only:

four 5 bedroom dwellings and one 3 bedroom dwelling. The total Education Contribution payable =£11,600 ((£2,400 x 4) + £2000)

THIRD SCHEDULE

Council's Covenants - Discharge of obligations

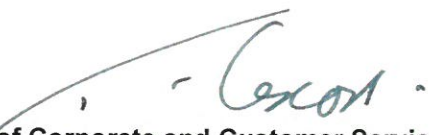
- 1 The Council covenants with the Owner to use the Education Contribution received from the Owner under the terms of this Deed for the purpose specified in this Deed for which it is paid
2. The Council covenants with the Owner that it will repay to the Owner such amount of the Education Contribution made by the Owner to the Council under this Deed which have not been expended in accordance with the provisions of this Deed within 10 years of the date of receipt by the Council together with Interest from the date of the payment to the date of refund

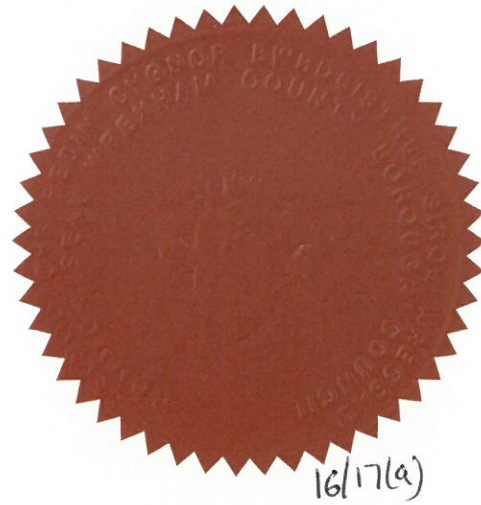
EXECUTED AS A DEED BY AFFIXING

THE COMMON SEAL of

WREXHAM COUNTY BOROUGH COUNCIL

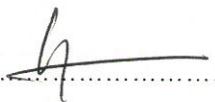
in the presence of:-


Head of Corporate and Customer Services

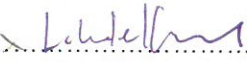


EXECUTED as a Deed by

THE RIGHT HONOURABLE LLOYD SIXTH LORD KENYON BARON OF GREDINGTON

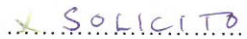


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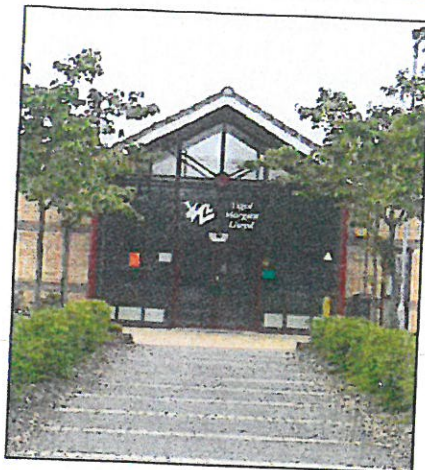
Signature 

Name 

Address 

Occupation 

Witness



Developer Contributions to Schools

This is one of a series of local planning guidance notes designed to amplify policy GDP2 in the Wrexham Unitary Development Plan (UDP) and identifies the circumstances and locations in which developer contributions to the provision of education facilities, such as additional classrooms, will be necessary. The (UDP) was adopted by the Council in February 2005 and this note is a material consideration in the determination of all relevant planning policies.

Education Planning in Wrexham

For education planning purposes links between certain infant and junior schools and between junior/primary schools and secondary schools in groups throughout the County Borough are maintained. The Council's School Admissions Policy grants parental preference, unless to do so would prejudice the efficient and effective use of its resources. Over 96% of pupils are allocated places in accordance with their parents' first preference.

Available in accessible formats

Background to this Guidance Note

Local authorities find themselves under increasing financial pressure to meet the educational needs arising from residential development. Cumulatively, even relatively small developments can have a significant financial impact on the provision of school places. Welsh Office Circular 13/97 'Planning Obligations' makes provision for developer contributions to offset the negative consequences of development provided there is guidance on this in the local development plan. The Wrexham UDP provides this guidance through Policy GDP2 on Capacity of Infrastructure & Community Facilities.

The rest of this note sets out further information on how this Policy will be applied.



LOCAL PLANNING GUIDANCE NOTE NO.27

Criteria

Any developer contribution will be based on the following considerations:

- It will only apply to proposed developments of four or more residential units, whether by new build, conversion or changes of use. Developments should not be deliberately sub-divided or phased in an attempt to avoid this threshold. Where the development has been split or phased, the resulting cumulative number of dwellings will be used to calculate the financial contribution.
- It will only apply to schools deemed to have a shortage of places taking into account other residential developments within the area and after addition of the extra pupils likely to be generated by the proposed development.
- The number and type of proposed residential units (large or small houses, bungalows or apartments). More detail is given in Table 1.
- The likely ratio of pupils per housing unit applicable to the appropriate school or schools at both primary and secondary level.
- The location of the development and likely impact on existing schools. This will be assessed using the same criteria as the Council's Schools Admissions Policy in relation to proximity and feeder schools. A map of school catchment areas is available from the Planning Department.

If the potential pupils generated by the proposed development cannot be accommodated within existing schools then a commuted payment will be calculated by multiplying the additional places required by the pupil cost figure (see Table 1) to produce the commuted sum to be included in the planning obligation. Contributions by way of a release of land for a new school or direct construction may be considered as

Table 1: Cost guidelines

School Type	No. of pupils generated by each 2-3 bed house	Building Cost Multiplier £	Contribution £
Primary 4 - 11 years	0.28	7000	1960
Secondary 11 - 16 years	0.20	10000	2000
Post 16	0.04	12000	480
Totals			
School with 6th Form	0.52		4440
School without 6th Form	0.48		3960

Notes

- Building cost multipliers are based on Department for Education guidelines, pupil allocations and average building cost assessment.
- 1 bedroom and accommodation for the elderly no charge. 2/3 bedrooms standard charge (shown above). 4 + bedrooms plus 20%.
- School Catchment Areas are secondary schools and their feeder primary schools plus current Council policy on pupil proximity to schools.
- School population assessments to be reviewed annually.

Worked example for Johnstown Infants School catchment area

For the development of: -

- 10 - 1 bedroom Units
- 10 - 2 bedroom Units
- 10 - 3 bedroom Units
- 10 - 4 bedroom Units

Charges at primary school level

10 - 1 bedroom	no charge
10 - 2 bedroom	standard charge = £19600
10 * £1960	
10 - 3 bedroom	standard charge = £19600
10 * £1960	
10 - 4 bedroom	standard charge +20% = £23520
10 * £2352	

Charges at secondary school level

No shortage, no charge.



LOCAL PLANNING GUIDANCE NOTE NO. 27

an alternative to payment of a commuted sum at the Council's discretion.

Timing of contributions

Any built educational provision will need to be completed to reflect the planned occupation of the homes. For larger developments phased payment will be considered to fit construction and occupation programmes.

Cost guidelines

The following guidelines are designed to give prospective developers an idea of the possible implications of their proposals:

- Every 100 houses produces around 28 primary age pupils and around 20 secondary age pupils.
- For developments that generate 100 pupils and above consideration will be given to a new school on a new site dependent on location and future growth potential of the area and the applicant will be expected to contribute in proportion to the number of school places the development generates.
- The Council will specify the nature of the works or the area which the contribution will finance, which may include a completely new school.
- Where a contribution is required, a draft Section 106 Agreement should accompany the planning application. Wrexham County Borough Council's Section 106 templates are available on request from the Planning department.



Schools where contributions are likely to be required

The list below shows schools where contributions are likely to be required. At all other schools there is likely to be some spare capacity to accommodate some development. This is not a definitive list, but a guide to developers.

Secondary schools

Bryn Alyn, Gwersyllt	(11 to 16 years)
Maelor, Penley	(11 to 18 years)
Darland, Rossett	(11 to 18 years)

Primary schools

Gwersyllt - Bryn Alyn School Catchment

Brymbo Aided, St Mary's
Brynteg C.P.
Gwersyllt C.P.
New Broughton C.P., Ysgol Penrhyn
Pentre Broughton C.P.
Tanyfron C.P.

Llangollen - Dinas Bran (Denbighshire) School Catchment

No schools

Penley - Maelor School Catchment

Hanmer
Penley Madras
Marchwiel C.P.

Rhosllanerchrugog - Y Grango School Catchment

Johnstown Infants
Johnstown Junior
Penycae C.P.

Rossett - Darland School Catchment

Gresford
Marford C.P.

Ruabon - Rhiwabon (11 to 18 years) School Catchment

Acrefair C.P.
Ruabon Maes y Llan C.P.
Ruabon St. Mary's

Wrexham - Clywedog School Catchment

Bwlchgwyn C.P.
Marchwiel C.P.
Rhostyllen C.P.
Victoria C.P.
St Giles

Wrexham - St. Joseph's School Catchment

St. Mary's

Wrexham - Rhosnesni School Catchment

Acton Park C.P.
Alexandra C.P.
Barkers Lane C.P.
Borras Park
Rhosddu C.P.

Wrexham - Morgan Llwyd (11 to 18 years) School Catchment

Wrexham Plas Coch C.P.

Wrexham County Borough - School Location

SECONDARY SCHOOLS

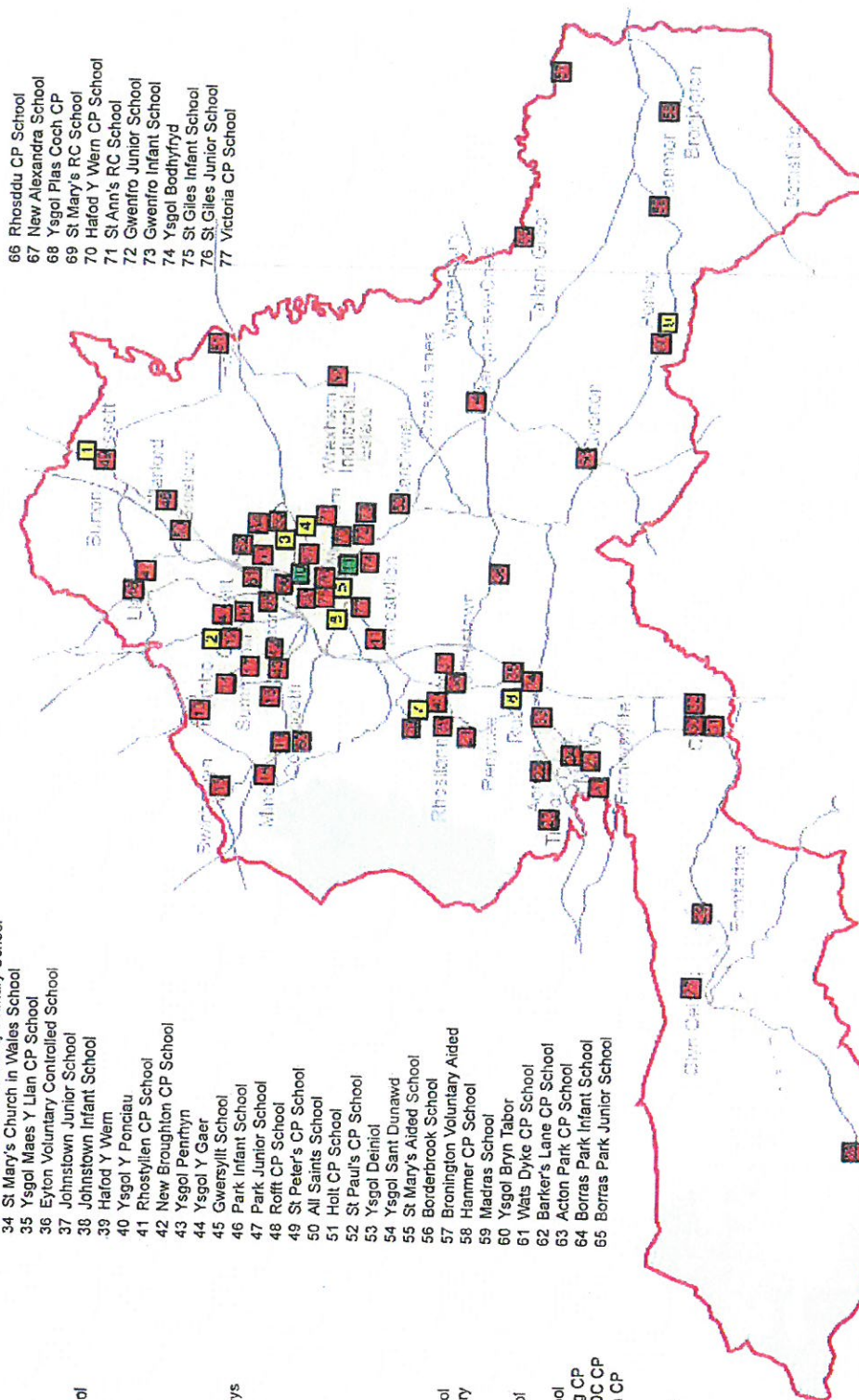
- 1 Darland High School
- 2 Bryn Alyn High School
- 3 Rhosnesni High School
- 4 Ysgol Morgan Llwyd
- 5 St Joseph's RC High School
- 6 Ysgol Ciywedog
- 7 Ysgol y Grango
- 8 Ysgol Rhiwabon
- 9 Ysgol Maelor
- 10 Groves
- 11 St Christophers/Ysgol Powys
- 12 Ysgol Heulan
- 13 Brymbo Aided School
- 14 Black Lane CP School
- 15 Bwchwyn CP School
- 16 Brynleg CP School
- 17 Tanyfron CP School
- 18 Minera Voluntary Aided
- 19 Penygelli CP School
- 20 Ysgol I D Hooson CP School
- 21 Penycae Community Primary
- 22 Acrefair CP School
- 23 Garth CP School
- 24 Ysgol Min Y Ddol CP School
- 25 Cefn Mawr CP School
- 26 Ysgol Froncysyllte CP School
- 27 Ysgol Cynddelw, Glynceiriog CP
- 28 Ysgol Gynradd Llanarmon DC CP
- 29 Ysgol Pontfadog, Llangollen CP
- 30 Chirk Infant School
- 31 Ceiriog Junior School
- 32 Pentre Voluntary Controlled
- 33 Rhosymedre Community Primary School
- 34 St Mary's Church in Wales School
- 35 Ysgol Maes Y Llan CP School
- 36 Eryon Voluntary Controlled School
- 37 Johnstown Junior School
- 38 Johnstown Infant School
- 39 Hafod Y Wern
- 40 Ysgol Y Pontiau
- 41 Rhosyllen CP School
- 42 New Broughton CP School
- 43 Ysgol Penrhyn
- 44 Ysgol Y Gaer
- 45 Gwersyllt School
- 46 Park Infant School
- 47 Park Junior School
- 48 Rofft CP School
- 49 St Peter's CP School
- 50 All Saints School
- 51 Holt CP School
- 52 St Paul's CP School
- 53 Ysgol Deiniol
- 54 Ysgol Sant Dunawd
- 55 St Mary's Aided School
- 56 Borderbrook School
- 57 Bronington Voluntary Aided
- 58 Hamner CP School
- 59 Madras School
- 60 Ysgol Bryn Tabor
- 61 Wats Dyke CP School
- 62 Barker's Lane CP School
- 63 Acton Park CP School
- 64 Borras Park Infant School
- 65 Borras Park Junior School
- 66 Rhosddu CP School
- 67 New Alexandra School
- 68 Ysgol Plas Coch CP
- 69 St Mary's RC School
- 70 Hafod Y Wern CP School
- 71 St Ann's RC School
- 72 Gwentro Junior School
- 73 Gwentro Infant School
- 74 Ysgol Boddyfryd
- 75 St Giles Infant School
- 76 St Giles Junior School
- 77 Victoria CP School

OTHER SCHOOLS

- 10 Groves
- 11 St Christophers/Ysgol Powys

PRIMARY SCHOOLS

- 12 Ysgol Heulan
- 13 Brymbo Aided School
- 14 Black Lane CP School
- 15 Bwchwyn CP School
- 16 Brynleg CP School
- 17 Tanyfron CP School
- 18 Minera Voluntary Aided
- 19 Penygelli CP School
- 20 Ysgol I D Hooson CP School
- 21 Penycae Community Primary
- 22 Acrefair CP School
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- 31 Ceiriog Junior School
- 32 Pentre Voluntary Controlled



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