

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

relating to Land off Pentre Bach, Croesnewydd
Road, Wrexham

Dated :

6th February

2016

WREXHAM COUNTY BOROUGH COUNCIL (1)

and

FIRST CHOICE HOUSING ASSOCIATION LTD (2)

T Coxon

Head of Corporate and Customer Services

Guildhall

Wrexham

LL11 1AY

LL/022137

DATE

2016 7

PARTIES

- (1) **WREXHAM COUNTY BOROUGH COUNCIL** of Guildhall Wrexham LL11 ("Council")
- (2) **FIRST CHOICE HOUSING ASSOCIATION LIMITED** (Company Number IP26118R) of House 19 Stanwell Road Penarth Vale of Glamorgan CF64 2EZ ("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 freehold owner 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 is minded to grant the Planning Permission subject to conditions in accordance with the Application and the Owner has agreed to enter into this Deed by way of compliance with condition number 2 of the Planning Permission.

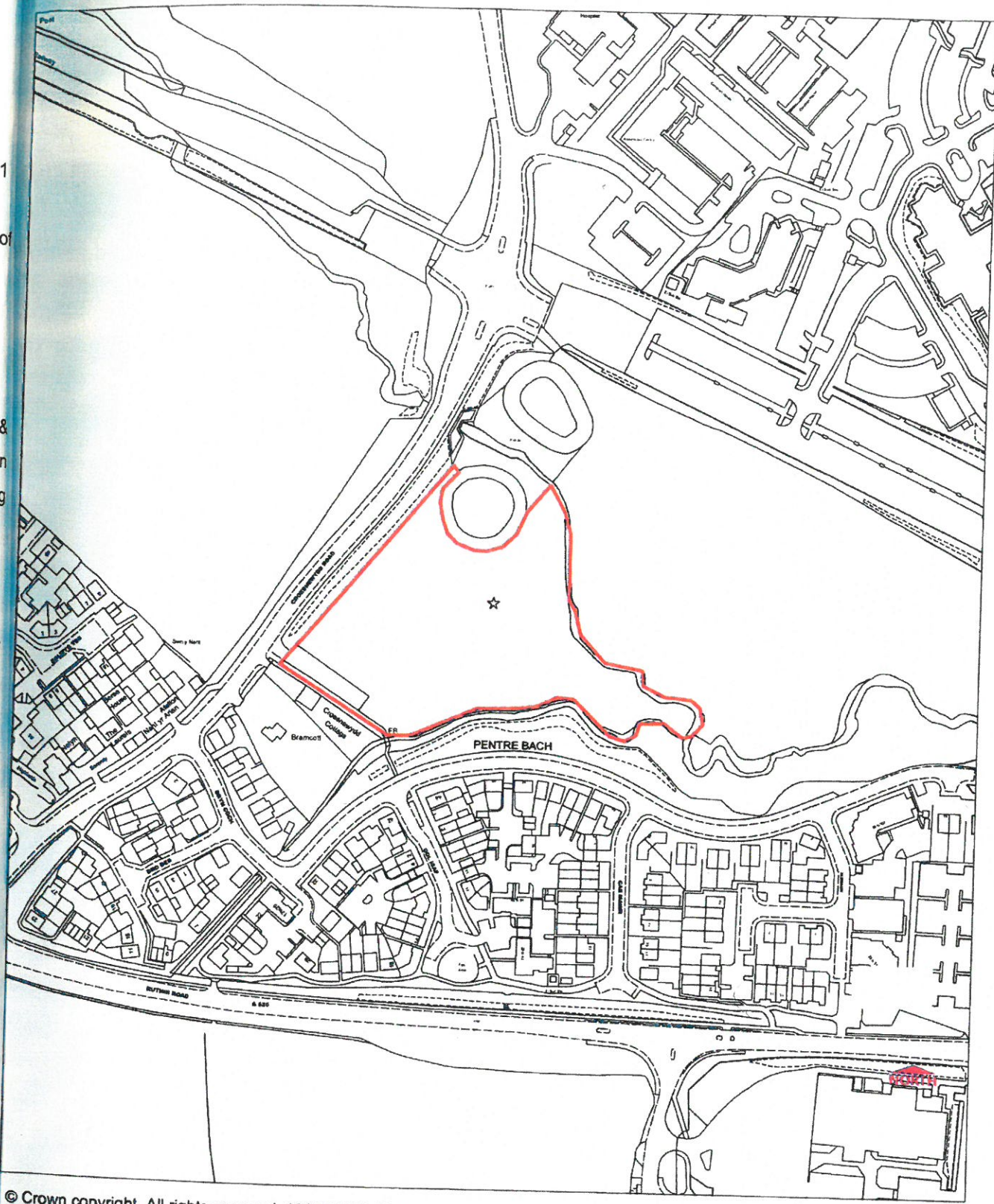
NOW THIS DEED WITNESSES AS FOLLOWS:

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
"Application"	the application for planning permission dated 21 st April 2016 submitted to the Council for the Development and allocated reference number P/2016/0401
"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



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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: 29/09/2016
Scale: 1:2500
OS Sheet: SJ3250

 P/2016/0401
Land North of Pentre Bach, Croesnewydd Road
Wrexham. LL13 3BN



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Handwritten signatures and initials:
- A large blue signature, possibly 'Lecan'.
- Initials 'Hdy' in blue.
- A black signature on the right.

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.

"Communal Areas"

all communal areas including roadways, driveways, footways, boundary treatments, riverine buffer strips, bin storage, hard and soft landscaped areas and planted features located on the Development

"Development"

the development of the Site as set out in the Application

Education Contribution"

means the sum of Five Thousand Pounds (£5,000.00).

"Index"

All Items Index of Retail Prices issued by the Office for National Statistics

"Interest"

interest at 4 per cent above the base lending rate of the Barclays Bank Plc from time to time.

"LPG 27"

The Council's Local Planning Guidance Note No. 27 "Developer Contributions to Schools" a copy of which is annexed to this Agreement at Appendix 1

"Management Plan"

the management plan to be submitted to the Council for approval in respect of the management and maintenance of the Communal Areas on the Development

"Plan"

the Plan attached to this Deed

"Planning Permission"

the planning permission subject to conditions to be granted by the Council pursuant to the Application

"Practical Completion"

issue of a certificate of practical completion by NHBC by way of the usual NHBC cover note

"Site"

the land subject to this Deed as shown edged red on the Plan and 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.
- 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:

- (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) fees and any other relevant provisions 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, Third and Fourth Schedule.
- 5.2 The Owner shall serve on the Council a notice of Commencement of Development not less

THE COUNCIL'S COVENANTS

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

MISCELLANEOUS

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 £1,250

No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999

This Deed shall be registrable as a local land charge by the Council.

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 Community Wellbeing and Development 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.

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.

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.

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.

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.

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.

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 before written.

FIRST SCHEDULE

Description of the Site

Land shown edged red on the Plan being land off Pentre Bach, Croesnewydd Road, Wrexham

SECOND SCHEDULE

Owner's Covenants – Education Contribution

On Commencement of Development the Owner shall pay the Education Contribution to the Council and the monies paid shall be used by the Council to provide additional secondary educational capacity at Ysgol Victoria, Poyser Street, Wrexham

THIRD SCHEDULE

Owner's Covenants – Communal Areas

ution to the
al secondary

1. Not to allow the occupation of any Dwelling until the proposed Management Plan has been submitted to and approved in writing by the Council such approval not to be unreasonably withheld or delayed.
2. To procure that the Communal Areas are managed and maintained in accordance with the approved Management Plan.
3. Not to use the Communal Areas for any purpose whatsoever other than as in accordance with the Planning Permission

FOURTH SCHEDULE

Owner's Covenants – Occupation

1. The Owner shall only use the Development for residential purposes restricted in the first 15 years following the date of this agreement to residents referred by the Council acting as housing authority under the Council's Armed Forces Community Covenant.

FIFTH SCHEDULE

Council's Covenants

Discharge of obligations

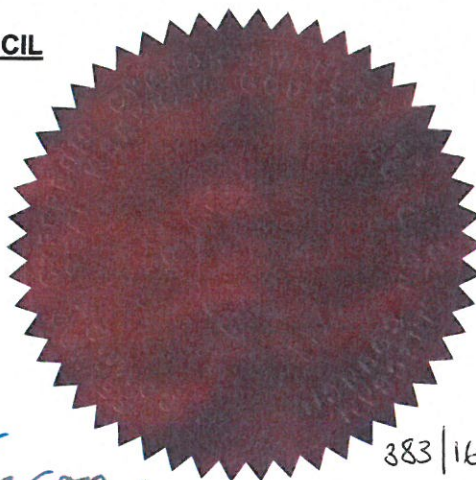
- 1 The Council covenants with the Owner to use the Education Contribution received from the Owner under the terms of this Deed in accordance with LPG 27 for the purpose specified in this Deed for which they are paid
2. The Council covenants with the Owner that it will repay the Owner such amount of the Education Contribution made by the Owner to the Council under this Deed which has not been expended in accordance with the provisions of this Deed within 5 years of the date of receipt by the Council together with Interest from the date of the payment to the date of refund.

THE COMMON SEAL of WREXHAM

COUNTY BOROUGH COUNCIL

was hereunto affixed in the

presence of:-




Head of Corporate and Customer Services

383/16

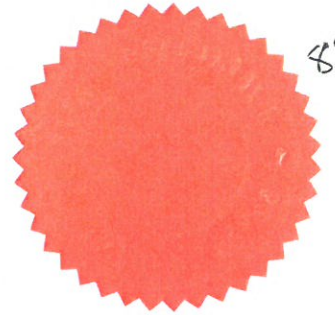
EXECUTED as a Deed by

FIRST CHOICE HOUSING ASSOCIATION

LIMITED acting by a Board Member and its Secretary
or two Board Members

.....
Director

.....
Director/Secretary



881

ANNEX 1

LPG 27



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.

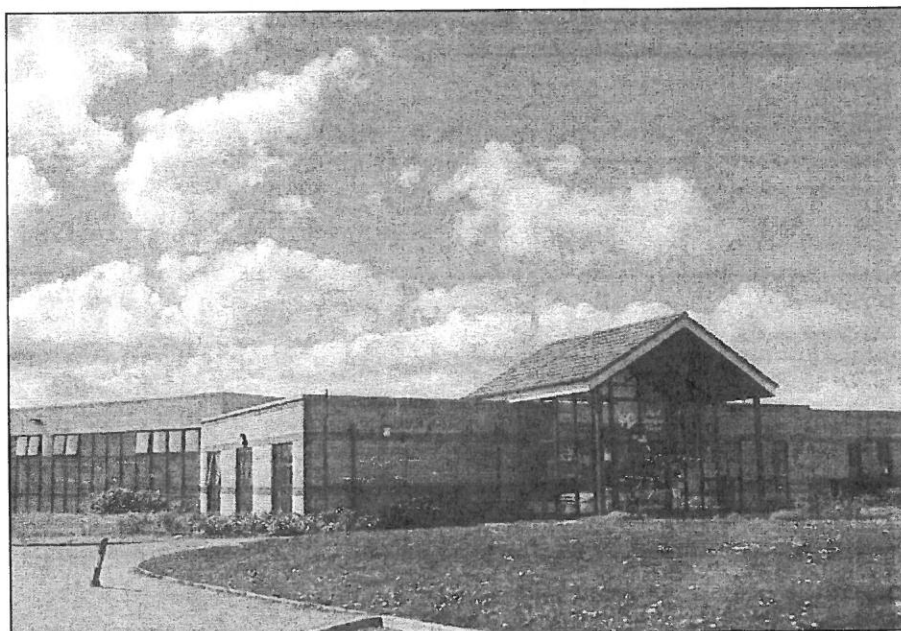
Background to this Guidance Note

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.

27

*Available in
accessible formats*



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.
- School Catchment Areas are secondary schools and their feeder primary schools plus current Council policy on pupil proximity to schools.
- 1 bedroom and accommodation for the elderly no charge. 2/3 bedrooms standard charge (shown above). 4 + bedrooms plus 20%.
- School population assessments be reviewed annually.

Worked example for Johnstown Infants School catchment area

For the development of: -

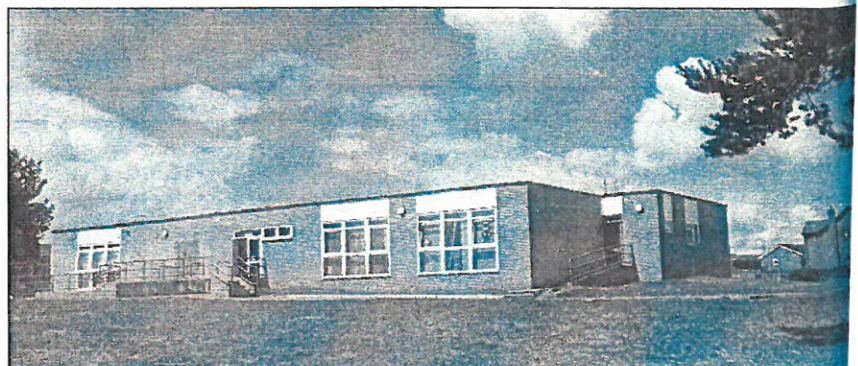
- 10 - 1 bedroom Units
- 10 - 2 bedroom Units
- 10 - 3 bedroom Units
- 10 - 4 bedroom Units

Charges at primary school level

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

Charges at secondary school level

No shortage, no charge.



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

Guidelines for contributions

Any development which will
 be completed to reflect the
 standard occupation of the homes.
 Larger developments phased
 development will be considered to fit
 the standard and occupation pro-
 cesses.

Guidelines

Following guidelines are
 intended to give prospective
 developers an idea of the possible
 contributions of their proposals:

Every 100 houses produces
 around 28 primary age pupils
 and around 20 secondary age
 pupils.

For developments that generate
 10 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

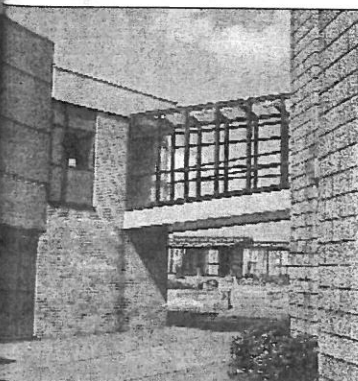
St. Mary's

Wrexham - Rhosnesni School Catchment

Acton Park C.P.
 Alexandra C.P.
 Barkers Lane C.P.
 Borrass 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 Josephs RC High School
- 6 Ysgol Clywedog
- 7 Ysgol y Grango
- 8 Ysgol Rhiwabon
- 9 Ysgol Maelor

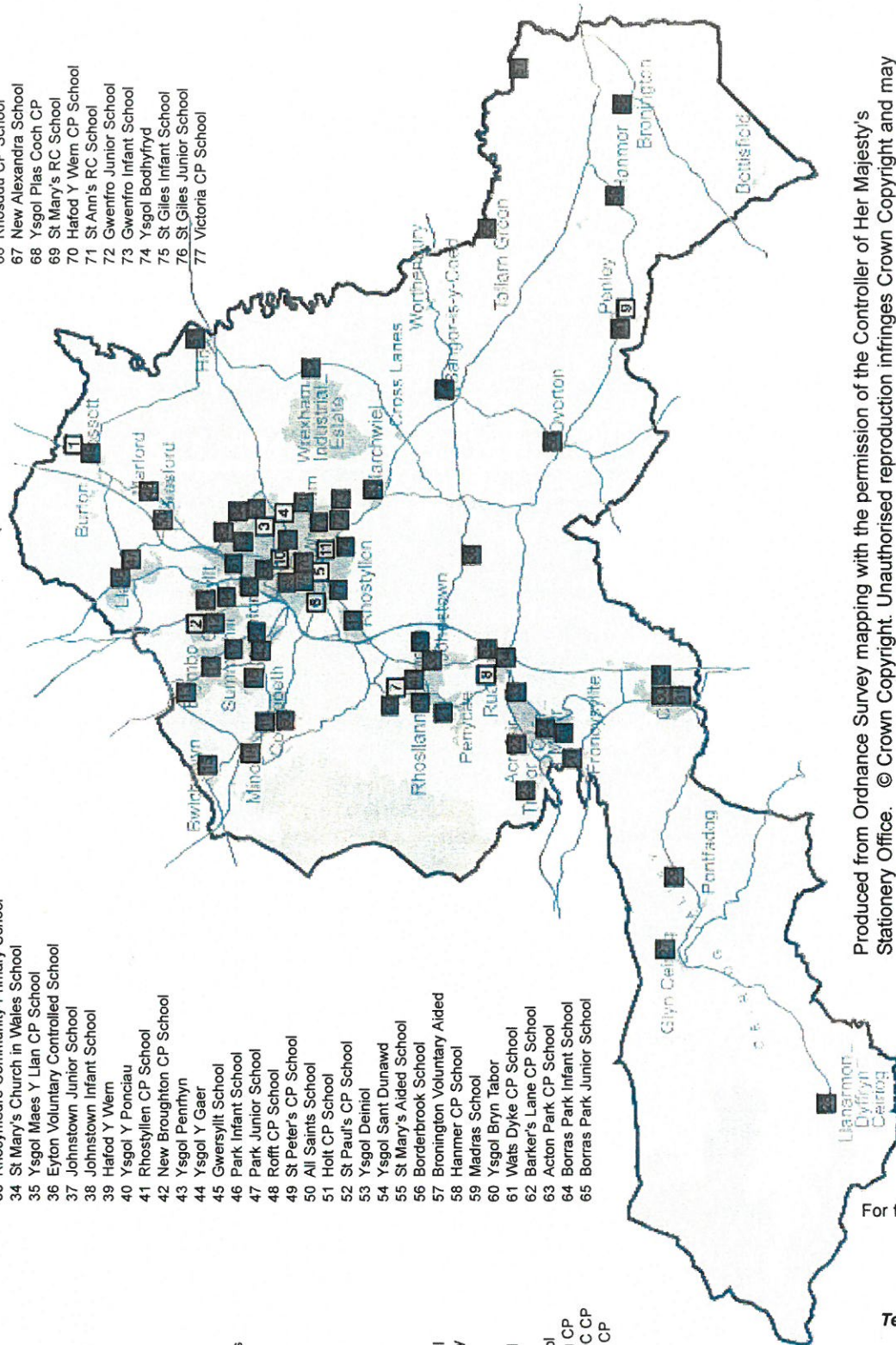
OTHER SCHOOLS

- 10 Groves
- 11 St Christophers/Ysgol Powys

PRIMARY SCHOOLS

- 12 Ysgol Heulan
- 13 Brynbo Aided School
- 14 Black Lane CP School
- 15 Bwlchgwyn CP School
- 16 Brynreg 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 Cynndelw, Glynceirion CP
- 28 Ysgol Gynradd Llanarmon DC CP
- 29 Ysgol Pontfadog, Llangollen CP
- 30 Chirk Infant School
- 31 Ceiriog Junior School
- 32 Pentre Voluntary Controlled

- 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 Gwernfro Junior School
- 73 Gwernfro Infant School
- 74 Ysgol Boddyfryd
- 75 St Giles Infant School
- 76 St Giles Junior School
- 77 Victoria CP School



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For further information contact

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Adopted March 2004
Revised November 2010