

**Planning Obligation by Deed of Agreement
under Section 106 of the Town and Country
Planning Act 1990**
relating to Land being 17 Manley Road,
Wrexham, LL13 8HD

Dated : 25th November 2015

WREXHAM COUNTY BOROUGH COUNCIL (1)

and

SS DEVELOPMENTS WREXHAM LIMITED (2)

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

LL/10009044

DATE 25th November

2015

PARTIES

- (1) **WREXHAM COUNTY BOROUGH COUNCIL** of Guildhall Wrexham LL11 1AY ("Council")
- (2) **SS DEVELOPMENTS WREXHAM LIMITED** of 1 Ffordd Tundo Acton Wrexham LL12 7RH ("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. There are no other legal interests in 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 06 August 2015 submitted to the Council for the Development and allocated reference number P/2014/0585.

"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 of £15,680.00 (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"	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.
"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 a draft of which is annexed to this Agreement at Annex 1/the full 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.



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Head of Community Wellbeing & Development
Planning Services
16 Lord Street, Wrexham LL11 1LG

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

Date: 29/07/2015
Scale: 1:1250
OS Sheet: SJ3450



P/2014/0585
17 Manley Road, Wrexham

wrexham
COUNTY BOROUGH COUNCIL
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wrecsam

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 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 £1,000.00
- 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.
- 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 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.
- 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.
- 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.
- 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 shown edged red on the Plan being 17 Manley Road Wrexham LL13 8HD

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 primary educational capacity at Alexandra School, Wrexham

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 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 from the date of receipt by the Council of the final payment in accordance with the provisions of the Second Schedule hereto 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

EXECUTED as a **DEED** by **SS DEVELOPMENTS WREXHAM LIMITED** acting by a director
In the presence of:

Signature of Director: : 

Signature of witness: : 

Name (in BLOCK CAPITALS): : JENNIFER STOCKER

Address: : 1 Westbourne Drive
Rhosyllen
Wrexham
LL14 4BU

ANNEX 1

Draft Planning Permission

In pursuance of its powers under the Acts and Orders referred to below, the County Borough Council as Local Planning Authority, hereby determines your application in accordance with the particulars and plans comprising the application



Applicant	MR S STOCKER	Code Number	WRC P/2014/0585
Agent	BLUEPRINT ARCHITECTURAL SERVICES LTD REDWITHER BUSINESS CENTRE ABBAY ROAD WREXHAM INDUSTRIAL ESTATE WREXHAM LL13 9XR	Date Received	06/08/2014
		Decision Date	

Town and Country Planning Act, 1990

Location of application

17 MANLEY ROAD, WREXHAM, LL13 8HD

Description of application

DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF 8 NEW APARTMENTS (CONTAINED WITHIN TWO STOREY BUILDING)

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

EC6	Biodiversity Conservation
GDP1	Development objectives
H2	Residential development within settlements
T8	Parking

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

Condition(s)

1. The development hereby permitted shall be commenced before the expiry of five years from the date of this permission.
2. The development shall be carried out in strict accordance with approved drawings nos. S040/15 Revision C - Planning Site & Location Plan, S040/17- Planning: Floor Plans and S040/17- Planning: Elevations.
3. No part of the development shall commence, to include any demolition works, until a Dust Management Scheme has been submitted to and approved in writing by the Local Planning Authority. The Dust Management

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Scheme as approved shall be implemented in full for the entire duration of the demolition and construction phases of the development.

4. 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:

- 1) A specification for tree protection fencing and ground protection measures that comply with British Standard 5837:2012;
- 2) 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;
- 3) 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;
- 4) Details of general arboricultural matters including proposed practices with regards to cement mixing, material storage and fires;
- 5) Details of the frequency of supervisory visits and procedures for notifying the findings of such visits to the Local Planning Authority;
- 6) Method for protecting retained trees during demolition works;
- 7) Details of all proposed tree works, including felling and pruning.

5. Demolition works shall be carried out in strict accordance with section 10.0 Dusk Conclusions & Recommendations of the Tyrer Partnership Inspection and Assessment in Relation to Bats Including Dusk Survey Results dated 05 June 2015.

6. With the exception of the demolition of the existing buildings, development shall not commence until a scheme for the provision of bat boxes has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the location, number and specification of the bat boxes and a timescale for their installation. The development shall thereafter take place in strict accordance with the scheme as approved.

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7. With the exception of the demolition of the existing buildings, 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.

8. No part of the development shall be occupied until a Verification Report which demonstrates that the remedial works approved as part of condition no. 07 above have been satisfactorily carried out, has been submitted to and approved in writing by the Local Planning Authority.

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

10. The landscaping scheme submitted and approved in connection with condition no. 09 shall be fully implemented in all respects within the agreed timescale and in strict accordance with the approved scheme.

11. Prior to first use of the development hereby approved the vehicular access shall provide visibility splays of 2.4 metres x 25 metres in both directions measured to the nearside edge of the adjoining highway. Within these splays there shall be no obstruction in excess of 1 metre in height above the level of the nearside edge of the adjoining highway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.

12. Prior to first use of the development hereby approved a pedestrian visibility splay shall be established measured from the centreline of the vehicular access 2.4 metres back from the back edge of the footway to points 3.3 metres either side measured along the back edge of the footway. Within these splays there shall be no obstruction in excess of 0.6 metres in height above the level of the adjoining highway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.

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13. The vehicular parking and turning areas as shown on approved drawing(s) No(s). S040/15 Revision C shall be fully laid out, surfaced and drained prior to first use of the development. These areas shall thereafter be permanently retained and kept free of any obstruction, and made available solely for the parking and turning of motor vehicles at all times.
14. Prior to first use of the vehicular access hereby approved, the access shall be surfaced with hard bound materials (e.g. bituminous macadam) for a minimum distance of 5 metres behind the adjoining highway.
15. No private surface water run off shall be permitted to flow from the development site onto the adjoining highway. An Aco drain or similar shall be provided across the approved access to intercept any such run off prior to first use of the development.
16. 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.
17. No part of the development shall commence, to include any demolition works, until a Demolition and Construction Traffic Management Plan has been submitted to and approved, in writing, by the Local Planning Authority. Demolition and construction traffic shall thereafter be managed in strict accordance with the plan as approved.
18. The landscaping scheme required by condition 09 shall include details of boundary treatment. This shall show that, with the exception of works required to provide the site access and the visibility splays required by conditions 11 and 12, the existing wall along the boundary of the site with Manley Road is to be retained.
19. No gates shall be erected at the site entrance without the prior written approval from the Local Planning Authority

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Reason(s)

1. To comply with Section 91(3) of the Town and Country Planning Act, 1990.
2. To ensure that the development fully complies with the appropriate policies and standards.
3. To protect the amenities of the occupiers of nearby properties.
4. To ensure the work is carried out to accepted arboricultural practices for the long term well being of the tree(s).
5. In order to protect wildlife interests, which are afforded special protection.
6. In order to protect wildlife interests, which are afforded special protection.
7. In the interests of the amenities of the future occupants of the buildings.
8. In the interests of the amenities of the future occupants of the buildings.
9. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
10. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
11. To ensure that adequate visibility is provided at the proposed point of access to the highway.
12. To ensure that adequate visibility is provided at the proposed point of access to the highway.

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13. To provide for the parking and turning of vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
14. To ensure that no deleterious material is carried onto the highway, in the interests of highway safety.
15. In the interests of highway safety.
16. To protect the amenities of the occupiers of nearby properties.
17. In the interests of highway safety.
18. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
19. To ensure that there is no obstruction to either pedestrian movement or any adverse impact upon highway safety.

Note(s) to applicant

You should ensure that any difference between the plans approved under the Town and Country Planning Acts and under the Building Regulations is resolved prior to commencement of development, by formal submission of amended plans.

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.

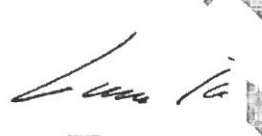
It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the

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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. 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 Community Wellbeing and Development

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

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

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

DRAFT