

DATED 7th SEPTEMBER 2015

**STEPHEN CHRISTOPHER MILNER, NICOLA GEORGINA LAITHWAITE, JONATHAN
JAMES MILNER and HEIDI PAULETTE MILNER (1)**

AND

CASTLEMEAD GROUP LIMITED (2)

TO

WREXHAM COUNTY BOROUGH COUNCIL (3)

UNILATERAL UNDERTAKING

Pursuant to Section 106 of the Town & Country Planning Act 1990

**in respect of Land at Pont Adam Crescent, Ruabon
Wrexham, LL14 6EG**

THIS DEED is given on the 7th day of September 2015

BY:-

- (1) **STEPHEN CHRISTOPHER MILNER, NICOLA GEORGINA LAITHWAITE, JONATHAN JAMES MILNER and HEIDI PAULETTE MILNER** of Hoseley House, Hoseley Lane, Marford, Wrexham, LL12 8YD ("the Owner"); and
- (2) **CASTLEMEAD GROUP LIMITED** (Co. Regn. No. 2985505) of Abenbury House, 17 Wilkinson Business Park, Clywedog Road South, Wrexham LL13 9AE ("the Developer");

TO:-

- (3) **WREXHAM COUNTY BOROUGH COUNCIL** of Guildhall Wrexham LL11 1AY ("the Council").

RECITAL

- (A) The Council is the Local Planning Authority for the purposes of Section 106 of the 1990 Act for the area within which the Land is situated.
- (B) The Owner is the owner of the freehold interest in the Land registered at the Land Registry under title number CYM113081 subject to a promotion agreement dated 25th February 2015 in favour of the Developer but otherwise free from encumbrances.
- (C) The Council's Planning Committee is due to consider the Planning Application at its meeting on 7th September 2015.
- (D) The Owner and the Developer have agreed to enter into this Deed in order to secure the provision and management of public open space in the event that Planning Permission is granted by the Council's Planning Committee pursuant to the Planning Application.

NOW THIS DEED WITNESSES AS FOLLOWS:

1. DEFINITIONS

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

"1990 Act"	means the Town and Country Planning Act 1990 as amended.
"Commencement of Development"	means the carrying out on the Land of any Material Operation
"Development"	means the development of the Land in accordance with the Planning Permission.

"Dwelling"	means any residential unit (including a house flat or masionette) constructed on the Land pursuant to the Planning Permission.
"Implementation Notice"	means the notice to be served in writing by the Owner upon the Council when Commencement of Development has occurred.
"Land"	means the land situate at Pont Adam Crescent, Ruabon, Wrexham and shown edged red on Plan 1 for the purposes of identification only
"Management Company"	means a company incorporated to acquire the Public Open Space and to undertake obligations in respect thereof
"Material Operation"	means a material operation as defined in Section 56 subsection 4 (a) to (e) of the 1990 Act to implement the Planning Permission
"Plan 1"	means the plan numbered 1 annexed to this Deed
"Planning Application"	means the application for Planning Permission for the Development of the Land submitted to the Council and given the reference P/2015/0178
"Planning Permission"	Means a form of planning permission issued by the Council pursuant to the Planning Application and any associated reserved matters approval(s)
"POS Commuted Sum"	Means a sum to be paid by the Owner to the Management Company or such other body as shall take a transfer of the freehold title of the Public Open Space for the maintenance and upkeep of the Public Open Space or in the event that the Council takes a transfer of the freehold title of the Public Open Space the sum of £1,000 per Dwelling constructed on the Land pursuant to the Planning Permission to be utilised by the Council for the maintenance and upkeep of the Public Open Space
"POS Scheme"	means a scheme relating to the implementation and management of the Public Open Space that may be required to be submitted to and approved in writing by the Council in accordance with the Planning Permission

"POS Transfer"	means a transfer of the Public Open Space to the Management Company or the Council
"Public Open Space"	Means the areas of the Land to be provided as public open space in accordance with the First Schedule
"Working Days"	means any day falling between Monday and Friday (both days inclusive) upon which the clearing banks in the City of London are open for normal business which is not Good Friday or a statutory bank holiday

2 INTERPRETATION

- 2.1 A reference in this Deed to an Act of Parliament or section of such Act or to any order regulation statutory instrument or the like shall include a reference to any replacement modification amendment or re-enactment of the same
- 2.2 Wording importing the masculine gender includes the feminine and neuter genders and vice versa
- 2.3 Words in the singular include the plural and vice versa
- 2.4 Words importing individuals shall be treated as importing firms companies corporations authorities and other bodies and vice versa
- 2.5 Any heading or side notes are for ease of reference only and shall not effect the construction of this Deed
- 2.6 Covenants made hereunder
 - 2.6.1 if made by more than one person are made jointly and severally; and
 - 2.6.2 are to the intent that the same bind whomsoever shall become successor or successors in title to the Land
- 2.7 Where in this 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

3 FORMAL REQUIREMENTS

- 3.1 The obligations imposed by this Deed relate to the Land and are binding on the Owner and its successors in title pursuant to Section 106 of the 1990 Act
- 3.2 The obligations imposed by 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 without limit of time
- 3.3 This Deed is a Local Land Charge for the purposes of the Local Land Charges Act 1975 is capable of being registered as such by the Council

4 OPERATIVE PROVISIONS

- 4.1 In the event that the Planning Permission is granted by the Council pursuant to the Planning Application the Owner hereby covenants with the Council on behalf of itself and its successors in title to each and every part of the Land to;
 - 4.1.1 comply with the obligations relating to Public Open Space set out in Parts 1 and 2 of the First Schedule to this Deed

- 4.1.2 Serve upon the Council (addressed to the Council's Head of Community Wellbeing and Development) the Implementation Notice within 10 Working Days from but not including the date of Commencement of Development
- 4.1.3 Give to the Council notice in writing of a disposal of its interest in any part of the Land (excluding Dwellings) occurring before all the obligations in this Deed have been discharged such notice to be given within 10 Working Days of such transfer and giving details of the transferee's full name and usual address (registered office if a company) together with a plan showing the area of the Land transferred
- 4.1.4 The Developer hereby covenants with the Council to comply with the obligations in this Deed in the event that it becomes the owner of the Land

5 DECLARATIONS

- 5.1 Nothing in this deed shall create any rights in favour of any person pursuant to the Contracts (Rights of Third Parties) Act 1999 save for the avoidance of doubt it is declared that the planning obligations contained in this deed are enforceable by any successor local planning authority to the Council exercising planning powers under the 1990 Act.
- 5.2 No person shall be liable for any breach of the planning obligations or other provisions of this deed after parting with his entire interest in the Land but without prejudice to liability for any subsisting breach arising before parting with that interest or in parting with that interest
- 5.3 In the event that any difference or dispute arises between the parties in connection with their respective rights duties liabilities or obligations under or by virtue of this Deed (including sums of money and the construction of this Deed) then such difference or dispute shall be referred for determination by an appropriately qualified independent expert (of not less than ten years standing) experienced in the relevant matter ("the Expert") to be agreed between the parties or in default nominated on the application of any party by the President (or other available officer to make such appointment) of the Royal Institution of Chartered Surveyors ("RICS") Provided That the provisions of this clause shall not prejudice prevent or delay the right of any party to seek the resolution of any matter relating to this Deed by the Courts and/or in accordance with Section 106(6) of the 1990 Act
- 5.4 The expressions "the Owner", "the Council" and "the Developer" shall include their respective successors in title
- 5.5 If any of the terms obligations and/or covenants in this Deed or the application thereof to any party or circumstances shall to any extent be invalid or unenforceable the same shall be severable from the remainder of this Deed and the remainder of this Deed or the application of such terms obligations and/or covenants to parties or circumstances other than as to which such terms obligations and/or covenants is held invalid or unenforceable shall not be affected thereby and each of the other terms obligations and/or covenants of this Deed and the Planning Permission shall be valid and be enforceable to the full extent permitted by law
- 5.6 Any notice or other written communication shall be validly served if delivered to the relevant party by hand or if sent by ordinary first class post or recorded delivery post:
 - 5.6.1 in the case of the Council at the Guildhall Wrexham LL11 1AY or such other address as shall be notified in writing to the Owner from time to time
 - 5.6.2 in the case of the Owner to the address given in this Deed or such other addresses of such parties as may be notified in writing to the Council from time to time
 - 5.6.3 any notice or other written communication to be given by the Council shall be deemed valid and effectual if on its face it is signed on behalf of the Council by an officer or duly authorised signatory

THE FIRST SCHEDULE
Public Open Space
Part 1

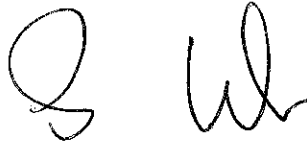
1. On the first disposal of each Dwelling to require the purchasers thereof and their successors in title to become members of the Management Company with a view and to the intent that they can influence and contribute to the compliance with the obligations of this Schedule and to procure that a restriction is entered on the Proprietorship Register of all individual Dwellings in the following form:
"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate is to be registered without a certificate signed by a conveyancer that the provisions of paragraph 3 of Part 1 of the First Schedule of a Unilateral Undertaking dated 7th September 2015 given to Wrexham County Borough Council (1) by STEPHEN CHRISTOPHER MILNER, NICOLA GEORGINA LAITHWAITE, JONATHAN JAMES MILNER and HEIDI PAULETTE MILNER (2) and Castlemead Group Limited (3) have been complied with"
2. To pay the Management Company a fair and reasonable proportion (with the intention that the sum of all contributions from the Dwellings on the Land shall equal 100%) of the outgoings of the Management Company incurred in complying with the relevant obligations of this Schedule
3. Not to allow more than 75% Dwellings to be Occupied until the POS Transfer has been completed and a certified copy of the POS Transfer has been submitted to the Council in evidence thereof
4. Not to allow more than 75% Dwellings to be Occupied until the POS Commuted Sum has been paid to the Council in the event that the Public Open Space is transferred to the Council

Part 2

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

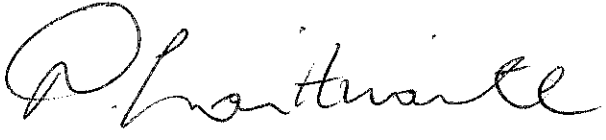
EXECUTED as a DEED on the date specified at the commencement of this Deed

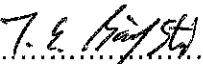
SIGNED as a DEED by
STEPHEN CHRISTOPHER MILNER
in the presence of:-

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Witness Signature: 
Witness Name: JONATHAN EDWARD DUGSTOCK
Witness Address: 7 MELCA DAWN, CHURK
WILKHAM, LLY4 5EQ
Witness Occupation: MANAGER

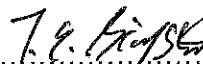
SIGNED as a DEED by
NICOLA GEORGINA LAITHWAITE
in the presence of:-

)
)
) 

Witness Signature: 
Witness Name: JONATHAN EDWARD DUGSTOCK
Witness Address: 7 MELCA DAWN, CHURK
WILKHAM, LLY4 5EQ
Witness Occupation: MANAGER

SIGNED as a DEED by
JONATHAN JAMES MILNER
in the presence of:-

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)
) 

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Witness Name: JONATHAN EDWARD DUGSTOCK
Witness Address: 7 MELCA DAWN, CHURK
WILKHAM, LLY4 5EQ
Witness Occupation: MANAGER

SIGNED as a DEED by
HEIDI PAULETTE MILNER
in the presence of:-

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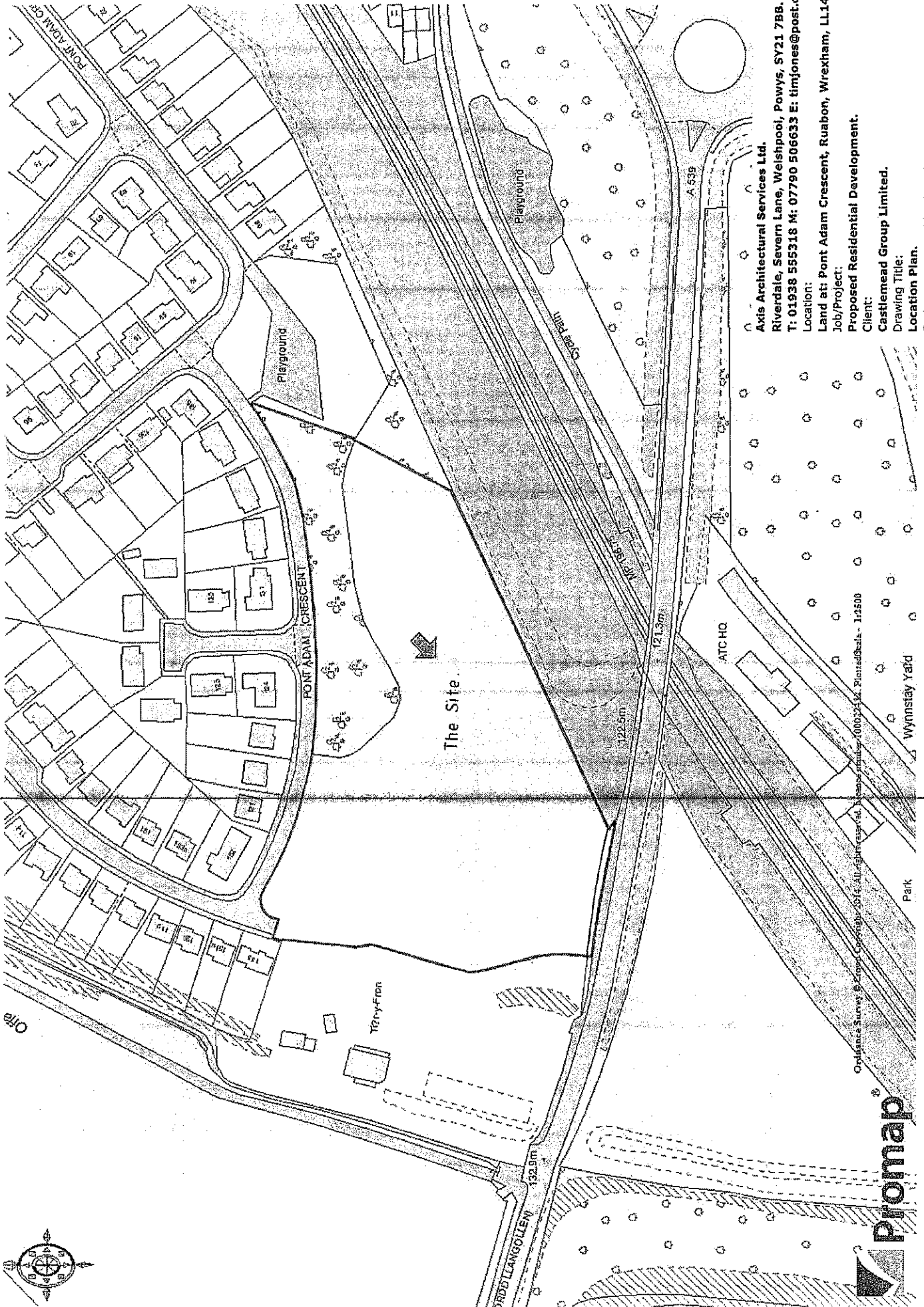
Witness Signature: 
Witness Name: JONATHAN EDWARD DUGSTOCK
Witness Address: 7 MELCA DAWN, CHURK
WILKHAM, LLY4 5EQ
Witness Occupation: MANAGER

EXECUTED as a DEED by
the above-named
CASTLEMEAD GROUP LIMITED
acting by its director

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in the presence of:-

Signature of witness: 
Name: L MUTTON
Address: 58 DRURY LANE
BUCKLEY
CH7 3DU



Axis Architectural Services Ltd.
 Riverdale, Severn Lane, Welshpool, Powys, SY21 7BB.
 T: 01938 555318 M: 07790 506633 E: timjones@post.com

Location:
 Land at: Pont Adam Crescent, Ruabon, Wrexham, LL14 6EG.

Job/Project:
 Proposed Residential Development.

Client:
 Castlemead Group Limited.

Drawing Title:
 Location Plan.

Scale:
 1:1250 (A3.)

Drawing No:
 CGL3/TMJ-01

Revision:
 April 2014

Date:

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