

DATED 2nd February

2015

WREXHAM COUNTY BOROUGH COUNCIL (1)

- and -

S G ESTATES LTD (2)

AGREEMENT

Pursuant to Section 106 of the Town and Country Planning Act 1990
in respect of land at Summerhill Road, Summerhill, Wrexham

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

DP/10007935

THIS AGREEMENT is made on the 2nd day of February 2015

BETWEEN:-

- (1) **WREXHAM COUNTY BOROUGH COUNCIL** of Guildhall Wrexham LL1 1AY
("the Council"); and
- (2) **S G ESTATES LTD** (Company registration number 05145645) whose
registered office is at 10 Maxwell Close, Gresford, Wrexham ("the Owner"); a

RECITAL

- (A) The Council is the the local housing authority and the Local Planning Authority for the purposes of Section 106 of the 1990 Act for the area in 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 CYM619447.
- (C) The Owner has submitted the Planning Application to the Council for the Development of the Land.
- (D) The Council has resolved to grant the Planning Permission subject to this Agreement being entered into prior to the granting of the Planning Permission to secure a contribution to educational facilities and the provision of public open space and Affordable Housing without which the Planning Permission would not be granted
- (E) The parties have agreed to enter into this Agreement in order to secure the objectives referred to in (D) above

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
"Affordable Housing"	means subsidised housing which will be available to Eligible Persons including (without limitation)

"Affordable Housing Disposal"

Intermediate Rented Housing, Shared Equity Housing, Shared Ownership Housing and Social Rented Housing means a transfer or lease of one or more of the Affordable Housing Units by the Owner to an RSL

"Affordable Housing Scheme"

means a scheme to be submitted to the Council for approval detailing the location, type and tenure and proposed delivery mechanism of the Affordable Housing Units and such other details as are required by the Council

"Affordable Housing Unit(s)"

means the Dwellings provided as Affordable Housing as part of the Development

"CDM Regulations"

means the Construction (Design and Management) Regulations 2007 including any modification extension or re-enactment of them or any other regulations of a similar nature in force at any time during the course of the Development

"Close Family Connection"

means members of family as described in Section 113 of the Housing Act 1985

"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

"Development Requirements"

means:
(i) in accordance with the Planning Permission; and
(ii) in accordance with current building regulations; and

	(iii) in accordance with the CDM Regulations
"Dwelling"	means any residential unit (including a house flat or maisonette) constructed on the Land pursuant to the Planning Permission which shall include for the avoidance of doubt Market Housing Units and Affordable Housing Units
"Education Contribution"	means the sum determined in accordance with LPG27 in relation to the Development
"Eligible Person"	means a person as defined in Part 7 of the Second Schedule hereto
"Equity Price"	means 70% of the Market Value of a Shared Equity Unit
"First Charge"	means a legal charge entered into between a Shared Equity Owner and a Mortgagee and which shall secure against a Shared Equity Unit any Mortgagees lending (of up to the Equity Price) together with any interest on the debt owed to any Mortgagee by the Shared Equity Owner at the time that any Mortgagee shall enter into possession together with the costs of enforcing the First Charge and the reasonable costs of marketing and disposal of the Shared Equity Unit by any Mortgagee
"Freeholder RSL"	means the RSL that owns the freehold of a Shared Ownership Unit
"Implementation Notice"	means the notice to be served in writing by the Owner upon the Council when Commencement of Development has occurred
"Intermediate Rented Housing"	means housing units let by an RSL at a rent equal to or less than 80% of the

"Land"

open market rental (being the rent which that unit would secure in the open market as between a willing lessor and a willing lessee acting at arms length) or the maximum amount of Local Housing Allowance which would be payable for such a unit

means the land situate off Summerhill Road, Summerhill, Wrexham and shown edged red on Plan 1 for the purposes of identification only

"Low Cost Home Ownership Register"

the register maintained by the Council or its nominated agent for the purpose of providing access to properties at less than market value for persons who cannot afford to buy housing generally on the open market

"LPG27"

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

"Market Housing Units"

those Dwellings which are general market housing for sale on the open market and which are not Affordable Housing

"Market Value"

means (in respect of any Affordable Housing Units other than the Social Rented Housing and Intermediate Rented Housing) the price at which the Affordable Housing Unit might reasonably be expected to be sold at arm's length by a willing seller to a willing buyer with vacant possession

"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
"Mortgagee"	means any mortgagee for the time being of the First Charge
"Nominated RSL"	means an RSL that holds a Second Charge
"Occupation"	means use of a Dwelling for residential use 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 and "Occupied" shall be construed accordingly
"Person in Housing Need"	means a person who cannot afford to rent or buy a home suitable for their needs on the open market
"Plan 1"	means the plan numbered 1 annexed to this Agreement
"Planning Application"	means the application for Planning Permission for the Development of the Land submitted to the Council and given reference number P/2014/0262
"Planning Permission"	means the grant of planning permission by the Council pursuant to the Planning Application and any associated reserved matters approval(s)
"POS Scheme"	means the scheme relating to the implementation and management of the Public Open Space 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 a Residents Management Company

"Public Open Space"	means the areas of the Land to be laid out as public open space on the Development the location of which being determined via details submitted to and approved by the Council pursuant to the Planning Permission
"Redemption Money"	means the sum required to discharge the Second Charge
"Reserved Matters Approval"	means the grant of any application for reserved matters approval required pursuant to the Planning Permission
"Residents Management Company"	means a registered company limited by guarantee that has been formed for the purposes of maintaining the Public Open Space and for complying with and carrying out the requirements of the POS Scheme
"RSL"	means a registered social landlord as defined in Part 1 of the Housing Act 1996
"Second Charge"	means a legal charge to be entered into by the Shared Equity Owner for the time being in favour of the Council or a Nominated RSL in respect of 30% of the Market Value of a Shared Equity Unit, subject always to the Second Charge ranking second in priority to any First Charge
"Shared Equity Disposal"	means a disposal to an Eligible Person by a freehold transfer or by a lease for a term of not less than 125 years (or an assignment thereof) of a Shared Equity Unit
"Shared Equity Housing"	means a form of affordable housing whereby the purchaser acquires a 100% equity share in an Affordable Housing Unit subject to a Second

	Charge and with a restriction in perpetuity upon the future sale price of it
"Shared Equity Owner"	means a freeholder or a leaseholder (as appropriate) of a Shared Equity Unit
"Shared Equity Unit"	means an Affordable Housing Unit sold or available for sale as Shared Equity Housing on the Development
"Shared Ownership Disposal"	means a disposal by the RSL by way of:- (i) lease for a term of not less than 125 years; or (ii) transfer or assignment of a Shared Ownership Unit
"Shared Ownership Housing"	means a form of Affordable Housing which is provided by an RSL on the basis of part rent and part sale
"Shared Owner"	means a leaseholder of a Shared Ownership Unit
"Shared Ownership Interest"	means the specific equity share in the Shared Ownership Unit held by the Shared Owner
"Shared Ownership Unit"	means an Affordable Housing Unit sold or available for sale as Shared Ownership Housing
"Social Rented Housing"	means Affordable Housing Units let by an RSL to and to be occupied by Eligible Persons at a rental level which complies with the rent bench marking guidance (from time to time) published by the Welsh Government
"Staircase"	means in respect of Shared Ownership Housing to acquire pursuant to the provisions of the Shared Ownership Disposal a share of the equity in the relevant Shared Ownership Unit in

"Working Days"

addition to the Shared Owner's Shared Ownership Interest and "Staircasing" shall be construed accordingly 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 Agreement 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 affect the construction of this Agreement
- 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 Agreement 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 Agreement

3 FORMAL REQUIREMENTS

- 3.1 The Council enters into this Agreement in pursuance of its powers under Section 106 of the 1990 Act Section 2 of the Local Government Act 2000 and Section 111 of the Local Government Act 1972 and all other enabling powers in that regard
- 3.2 The obligations imposed by this Agreement relate to the Land and are binding on the Owner and its successors in title pursuant to Section 106 of the 1990 Act

3.3 The obligations imposed by this Agreement 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

3.4 This Agreement is a Local Land Charge for the purposes of the Local Land Charges Act 1975 and will be registered as such by the Council

4 OPERATIVE PROVISIONS

4.1 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 the First Schedule to this Agreement

4.1.2 comply with the obligations set out in the Second Schedule to this Agreement relating to the provision of Affordable Housing

4.1.3 comply with the obligations set out in the Third Schedule to this Agreement relating to the Education Contribution

4.1.3 pay to the Council on the signing hereof the sum of One thousand two hundred and fifty pounds (£1250) in respect of the Council's legal costs for the preparation and execution of this Agreement

4.1.4 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

4.1.5 give to the Council notice in writing of a disposal of its interest in any Affordable Housing Unit and its interest in any part of the Land (excluding Market Housing Units) occurring before all the obligations in this Agreement 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

5 AGREEMENTS AND DECLARATIONS

5.1 Nothing contained or implied in this Agreement shall prejudice or affect the discretions rights powers duties and/or obligations of the Council in the exercise of its functions as a local authority housing authority and local planning authority and the discretions rights powers duties and/or obligations of the Council under all public and private statutes 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 this Agreement had not been executed

by the Council and in particular nothing in this Agreement shall restrict the Council and/or any other local authority from exercising powers of compulsory purchase in respect of any part of the Land;

5.2 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 Act.

5.3 Other than in relation to the continuing obligations of an RSL in paragraph 5 of Part 4, and paragraphs 8 and 10 of Part 6 of the Second Schedule, and of a mortgagee in paragraph 5 of Part 5 and paragraph 5 of Part 6 of the Second Schedule, no person shall be liable for any breach of any 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.

5.4 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 Agreement (including sums of money and the construction of this Agreement) then such difference or dispute shall be referred to 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 able 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 Agreement by the Courts and/or in accordance with Section 106(6) of the 1990 Act

5.5 The expressions "the Owner" and "the Council" shall include their respective successors in title

5.6 If any of the terms obligations and/or covenants in this Agreement 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 Agreement and the remainder of this Agreement 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 Agreement and the Planning Permission shall be valid and be enforceable to the full extent permitted by law

5.7 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:

5.7.1 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

5.7.2 in the case of the Owner to the addresses given in this Agreement or such other addresses of such parties as may be notified in writing to the Council from time to time

5.7.3 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

5.8 The provisions of the Second Schedule (except for paragraph 5 of Part 5 and Part 6 thereof) shall not be binding on a mortgagee in possession of an Affordable Housing Unit or a bona fide purchaser for value thereof from such a mortgagee in possession or any receiver appointed by such mortgagee (except a purchaser which is an RSL)

PROVIDED THAT:-

5.8.1 such mortgagee or receiver shall first have used reasonable endeavours over a period of three months in consultation with the Council's Head of Housing, Public Protection and Environment Officer to dispose of the Affordable Housing to an RSL or otherwise in accordance with the Second Schedule; and

5.8.2 the Council's Head of Housing, Public Protection and Environment Officer shall have certified in writing (such certification not to be unreasonably withheld or delayed) that they are satisfied that the mortgagee has without success used reasonable endeavours to dispose of the Affordable Housing to an RSL or otherwise in accordance with the Second Schedule, over a three month period

THE FIRST SCHEDULE

Public Open Space

1. Not to carry out any Material Operation until:-

1.1 the Residents Management Company has been incorporated and

1.2 a copy of the proposed Articles of Association of the Residents Management Company has been submitted to and approved in writing by the Council

2 To submit to the Council the Articles of Association and Certificate of Incorporation of the Residents Management Company within 4 weeks of its incorporation

3. On the first disposal of each Dwelling to require the purchasers thereof and their successors in title to become members of the Residents 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 the First Schedule of an Agreement dated [2nd February 2015] made between Wrexham County Borough Council (1) S G Estates Limited (2) have been complied with"

4. To pay to the Residents 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 Residents Management Company incurred in complying with the relevant obligations of this Schedule

5. 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

6. To provide in the POS Transfer a covenant in the following terms:

" The Transferee hereby covenants in fee simple in perpetuity to observe and perform the covenants agreements obligations and stipulations contained or referred to in the First Schedule of an Agreement dated [2nd February 2015] made between Wrexham County Borough Council (1) S G Estates Limited (2) AND to observe and perform the requirements of the POS Scheme referred to therein".

7. Not to allow more than 60% of the Dwellings to be Occupied until the POS Transfer has been completed and a certified copy of the POS Transfer and the enabling Residents Management Company's Board Minute and Resolution has been submitted to the Council in evidence thereof

8. To plant lay out and construct, and provide play equipment (if any) on, the Public Open Space in accordance with the POS Scheme the Planning Permission and this Agreement

9. 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 Agreement
10. 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
11. Not to affix to any trees on the Land any items or structures likely to occasion damage to any such tree

THE SECOND SCHEDULE

Affordable Housing

Part 1 – General Obligations

1. To submit the Affordable Housing Scheme to the Council prior to submission of an application for a Reserved Matters Approval.
2. To procure that the Affordable Housing Scheme provides that 2 of the Dwellings shall be Affordable Housing Units
3. Not to allow Commencement of Development to occur until the Affordable Housing Scheme has been approved in writing by the Council
4. To design and construct the Affordable Housing Units in accordance with the Planning Permission and the Development Requirements
5. Not to dispose of the Affordable Housing Units other than to an RSL by way of the Affordable Housing Disposal or to an Eligible Person by way of a Shared Ownership Disposal or a Shared Equity Disposal (as set out in paragraph 1 of Parts 2 3 4 5 and 6 hereof) Provided That the Council and the owners of the Affordable Housing Units may by agreement prescribe terms for the disposal of different types of Affordable Housing not detailed in this Agreement (both parties acting reasonably and without delay in agreeing such terms) provided that such agreement is legally secured by way of a supplemental agreement made under Section 106 of the 1990 Act

6. Prior to the Commencement of Development to provide the Council's Head of Housing, Public Protection and Environment the following details in so far as they are known for each Affordable Housing Unit:
 - a) postal address
 - b) gross and net floor area
 - c) anticipated practical completion date
 - d) plans indicating location, elevations and internal layout
7. Following receipt of the decision notice confirming the grant of the Planning Permission to approach an RSL as soon as reasonably practicable and to pursue negotiations with all due diligence in order to comply with the obligations contained in this Agreement and to offer the Affordable Housing Units (other than those designated as Shared Equity Units) for sale to an RSL on terms that have due regard to the restrictions affecting such Affordable Housing Units contained in this Agreement
8. Following a written request from the Council, to provide to the Council such information concerning the progress of negotiations for Affordable Housing Disposals with an RSL or Shared Equity Disposals to Eligible Persons (as appropriate) as shall reasonably be required by the Council
9. Not to use the land on which the Affordable Housing Units are to be constructed for any purpose other than the provision of Affordable Housing in accordance with this Agreement
10. Not to use the Affordable Housing Units for any purpose other than for the provision of Social Rented Housing Shared Ownership Housing Shared Equity Housing and Intermediate Rented Housing (subject to the proviso set out in paragraph 5 of this Part) and to respond to any request from the Council for information as to the tenure of each Affordable Housing Unit within 10 Working Days such request to be made on no more frequent a basis that once every sixth months
11. To keep such full and proper records as are reasonably required to demonstrate to the Council strict compliance with the affordable housing

obligations contained in this Agreement and any supplementary agreement thereto.

12. Not to allow the Occupation of more than 60% of the Market Housing Units on the Land until all the Affordable Housing Units have been constructed, are ready for Occupation and have been disposed of by way of an Affordable Housing Disposal to an RSL and/or Shared Equity Disposals to Eligible Persons
13. To enter a restriction on the title register of each of the Affordable Housing Units at HM Land Registry in the following terms:-

“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 the Second Schedule of the Agreement dated 2 February 2015 between Wrexham County Borough Council (1) S G Estate Limited (2) have been complied with”
14. On each Shared Equity Disposal and Shared Ownership Disposal the owner thereof shall pay to the Council or the RSL nominated by the Council a sum equivalent to 0.50% of the market value of the percentage share purchased by an Eligible Person on completion of that sale, to cover the costs of the Council or the RSL nominated by the Council in administering the Low Cost Home Ownership Register

Part 2

Social Rented Housing

1. Not to dispose of the Affordable Housing Units which are Social Rented Housing Units other than by way of an Affordable Housing Disposal in accordance with the provisions of this Part of this Schedule
2. No Social Rented Housing Unit shall be:
 - 2.1 let to or Occupied by persons other than Eligible Persons; and

- 2.2 let other than by way of an assured or assured short hold tenancy (or such statutory form of tenancy as may replace such forms of tenancies from time to time), as Social Rented Housing

Part 3

Intermediate Rented Housing

1. Not to dispose of any Affordable Housing Units which are provided as Intermediate Rented Housing other than by way of an Affordable Housing Disposal in accordance with the provisions of this Part of this Schedule.
2. No Intermediate Rented Housing shall be:
 - 2.1 let to or occupied by persons other than Eligible Persons; and
 - 2.2 let other than as Intermediate Rented Housing; and
 - 2.3 let other than by way of an assured or assured short hold tenancy (or such statutory form of tenancy as may replace such forms of tenancies from time to time).

Part 4

Shared Ownership Housing

1. Not to dispose of any Affordable Housing Unit which is provided as Shared Ownership Housing other than by way of Shared Ownership Disposal to an Eligible Person
2. To procure that each Shared Ownership Disposal shall incorporate the following terms:
 - 2.1 A right of pre-emption in favour of the Freeholder RSL
 - 2.2 A covenant whereby a Shared Owner who wishes to dispose of their interest in the Shared Ownership Unit (and where the Freeholder RSL does not wish to exercise the right of pre-emption referred to in paragraph 2.1 of this Part) shall be prevented from disposing of their interest in the Shared Ownership Unit other than to an Eligible Person at no more than Market Value of their Shared Ownership Interest

3. Not to sub-let or let (other than in accordance with this Part of this Schedule) any Shared Ownership Unit.
4. Shared Owners wishing to dispose of their interest in a Shared Ownership Unit shall comply with any reasonable procedure adopted by the Council (or its nominated agent) from time to time for arranging and administering the disposal to Eligible Persons of interests in affordable housing units such as the Shared Ownership Units.
5. In the event that a Shared Owner wishes to dispose of their interest in a Shared Ownership Unit and such unit has been actively marketed for sale for a period of 20 weeks and no Eligible Person has exchanged unconditional contracts for the purchase of the said unit within that period, PROVIDED THAT
 - such unit has been offered for sale pursuant to paragraph 2.1 above and to an RSL or RSLs nominated by the Council and such RSLs have not exchanged unconditional contracts to buy such unit within such period and
 - the price at which the Shared Ownership Unit has been offered for sale to Eligible Persons is no greater than the Market Value of the Shared Ownership Interest ascertained by agreement between the Shared Owner, any mortgagee of the Shared Owner, and the Freeholder RSL ('the Parties') or failing agreement at the expense of the Shared Owner by an independent qualified valuer appointed by agreement between the Parties or failing agreement by or on behalf of the president for the time being of the Royal Institution of Chartered Surveyors on the application of any party and the decision of such valuer shall be final and
 - the Shared Owner has reasonably demonstrated to the Council and the Freeholder RSL that it has acted in good faith in considering any offers from Eligible Persons

Then the Shared Ownership Unit may be sold in the open market at Market Value (provided the Freeholder RSL consents to such sale) free from the affordable housing restrictions contained in this Agreement PROVIDED FURTHER THAT where an Eligible Person or RSL has been identified as a potential purchaser of the Shared Ownership Unit within the said 20 week period the Shared Owner shall use reasonable endeavours to progress such

sale and shall not dispose of the Shared Ownership Unit in the open market unless such potential sale becomes abortive

6. Following the sale of a Shared Ownership Unit on the open market pursuant to paragraph 5 above, the Council consents to the Shared Owner removing the restriction set out at paragraph 13 of Part 1 above from the title of the Shared Ownership Unit at the Land Registry

Part 5

Shared Equity Initial Sales

- 1 Not to dispose of the Affordable Housing Units provided as Shared Equity Housing other than by way of a Shared Equity Disposal to an Eligible Person at a price no greater than the Equity Price.
- 2 No Shared Equity Disposal shall be completed without the new Shared Equity Owner simultaneously entering into a Second Charge
- 3 That upon first acquiring an interest in a Shared Equity Housing Unit the Shared Equity Owner shall not borrow from any Mortgagee nor charge a Shared Equity Housing Unit under a First Charge for a sum in excess of 70% of the Market Value of the Shared Equity Housing Unit without the consent of the Council or the Nominated RSL (as appropriate) providing that nothing in this paragraph shall prevent or prohibit a Shared Equity Owner from later increasing its borrowings from any Mortgagee in order to discharge and secure release from the Second Charge
- 4 Each Shared Equity Disposal shall contain a restriction whereby the Shared Equity Owner who wishes to dispose of their interest in the Shared Equity Housing Unit shall be prevented from making that disposition other than in accordance with Part 6 of this schedule
- 5 In the event that the Shared Equity Housing Unit is sold by a mortgagee in possession without the provisions of this Agreement being binding upon it

(pursuant to clause 5.3 hereof), the Mortgagee shall, in so far as it is able to from the proceeds of sale of the Shared Equity Housing Unit and in any event only after deduction of any monies owing to the Mortgagee pursuant to the First Charge, pay to the Council or Nominated RSL as the Council may determine, the Redemption Money within one week of completion of the sale of the Shared Equity Housing Unit and provide the Council's Head of Housing and Public Protection (or such other officer undertaking the duties of a chief housing officer) with an account of the amount due pursuant to this paragraph.

- 6 Not to let (other than by way of a Shared Equity Disposal) or sub-let the Shared Equity Housing Unit.
- 7 The provisions of this Part of the Second Schedule shall only apply to the initial sale of Shared Equity Housing which means the first disposal of the Shared Equity Housing Unit
- 8 In the event that a Shared Equity Unit has been actively marketed for sale for a period of six months from the date such unit becomes available for Occupation and no Eligible Person has exchanged unconditional contracts for the Shared Equity Unit within that period AND no RSL has unconditionally contracted to buy such units within such period then the Shared Equity Unit may be sold in the open market at Market Value free from the affordable housing restrictions contained in the Second Schedule of this Agreement PROVIDED THAT within two working days of legal completion of such sale, a payment of 20% of the sale proceeds ("Commuted Sum") is paid to the Council by the Owners to be used for the provision of Affordable Housing within the Wrexham County Borough Council administrative area within five years of receipt PROVIDED FURTHER THAT where an Eligible Person or RSL has been identified as a potential purchaser of the Shared Equity Unit within the said six month period the Owners shall use reasonable endeavours to progress such sale and shall not dispose of the Shared Equity Unit in the open market unless such potential sale becomes abortive

9 If at any time after the fifth anniversary of the receipt by the Council of the Commuted Sum the Owners request then the Council will provide (subject to the Owners paying the Council's reasonable and proper expenses in connection with providing the same) written confirmation as to whether the whole or any part of the Commuted Sum has been expended or committed for expenditure in accordance with paragraph 8 above and in the event that the Council fails within 3 calendar months of such request to provide written confirmation that the whole of the Commuted Sum paid by the Owners to the Council pursuant to paragraph 8 above has been expended by the Council or committed towards the designated purposes within 5 years from the receipt by the Council of the Commuted Sum then the Council shall repay all or part of the Commuted Sum for which that written confirmation has not been given to the person or persons who actually paid the Commuted Sum together with all interest accrued thereon

Part 6

Shared Equity Housing Subsequent Sale

- 1 Not to dispose of the Affordable Housing Units provided as Shared Equity Housing other than by way of a Shared Equity Disposal to an Eligible Person at a price no greater than the Equity Price
- 2 That no Shared Equity Disposal shall be completed without the new Shared Equity Owner simultaneously entering into a Second Charge
- 3 That upon first acquiring an interest in a Shared Equity Housing Unit the Shared Equity Owner shall not borrow from any Mortgagee nor charge a Shared Equity Housing Unit under a First Charge for a sum in excess of 70% of the Market Value of the Shared Equity Housing Unit without the consent of the Council or the Nominated RSL (as appropriate) providing that nothing in this paragraph shall prevent or prohibit a Shared Equity Owner from later increasing its borrowings from any Mortgagee in order to discharge and secure release from the Second Charge

- 4 No Shared Equity Owner shall transfer the Shared Equity Housing Unit without first having notified the Council or its Nominated RSL (as appropriate) in writing of their intention to dispose of the Shared Equity Housing Unit.
- 5 In the event that the Shared Equity Housing Unit is sold by a mortgagee in possession without the provisions of this Agreement being binding upon it (pursuant to clause 5.3 hereof), the Mortgagee shall, in so far as it is able to from the proceeds of sale of the Shared Equity Housing Unit and in any event only after deduction of any monies owing to the Mortgagee pursuant to the First Charge, pay to the Council or Nominated RSL (as appropriate), the Redemption Money within one week of completion of the sale of the Shared Equity Housing Unit and provide the Council's Head of Housing and Public Protection (or such other officer undertaking the duties of a chief housing officer) with an account of the amount due pursuant to this paragraph.
- 6 Not to let (other than by way of a Shared Equity Disposal) or sub-let the Shared Equity Housing Unit.
- 7 In the event that a Shared Equity Housing Unit has been actively marketed for sale for a period of 20 weeks and no Eligible Person has exchanged unconditional contracts for the purchase of the Shared Equity Housing Unit within that period, PROVIDED THAT
 - the price at which the Shared Equity Housing Unit has been offered for sale to Eligible Persons is no greater than its its Market Value ascertained by agreement between the Shared Owner, any mortgagee of the Shared Owner, and the Nominated RSL ('the Parties') or failing agreement at the expense of the Shared Owner by an independent qualified valuer appointed by agreement between the Parties or failing agreement by or on behalf of the president for the time being of the Royal Institution of Chartered Surveyors on the application of any party and the decision of such valuer shall be final and
 - the Shared Equity Owner has reasonably demonstrated to the Council that it has acted in good faith in considering any offers from Eligible Persons and
 - such unit has also been offered for sale to the Nominated RSL and any other RSL or RSLs put forward by the Council and that such RSL(s) have not exchanged unconditional contracts to buy such unit within such period

then the Shared Equity Housing Unit may be sold in the open market at Market Value free from the affordable housing restrictions contained in this Agreement PROVIDED FURTHER THAT where an Eligible Person or RSL has been identified as a potential purchaser of the Shared Equity Housing Unit within the said 20 week period the Shared Equity Owner shall use reasonable endeavours to progress such sale and shall not dispose of the Shared Equity Housing Unit in the open market unless such potential sale becomes abortive

- 8 In the event that the Shared Equity Housing Unit is sold on the open market pursuant to paragraph 7 the Shared Equity Owner shall pay the Redemption Money to the Council or the Nominated RSL (as appropriate) to redeem the Second Charge within two days of legal completion PROVIDED THAT such funds received by the Council or the Nominated RSL (as appropriate) shall be used for the provision of Affordable Housing within the Wrexham County Borough Council administrative area as agreed between the Council and the nominated RSL within five years of receipt
- 9 Following receipt by the Council or Nominated RSL of the Redemption Money in the circumstances set out in paragraphs 5, 7 or 10 hereof the Council consents to the owner of the Shared Equity Housing Unit removing the restriction set out at paragraph 13 of Part 1 above from the title of the Shared Equity Housing Unit at the Land Registry
- 10 Nothing in this Part shall prevent or prohibit a Shared Equity Owner from paying the Redemption Money to the Council or the Nominated RSL (as appropriate) in order to discharge the Second Charge PROVIDED THAT the Redemption Money received by the Council or the Nominated RSL (as appropriate) shall be applied for the provision of Affordable Housing within the administrative area of Wrexham County Borough Council as agreed between the Council and the nominated RSL within five years of receipt
- 11 It is acknowledged that where a Shared Equity Owner disposes of a Shared Equity Housing Unit to an RSL pursuant to paragraph 7 above the RSL shall not be required to enter into a Second Charge and may use or dispose of such unit (as appropriate) to provide Affordable Housing in accordance with any of the methods of doing so permitted by this Agreement

- 12 The provisions of this Part of the Second Schedule shall only apply to the sale of Shared Equity Housing after the initial sale

Part 7

Definition of an “Eligible Person”

1. An Eligible Person means a Person in Housing Need identified from the Low Cost Home Ownership Register or the Council's housing waiting list (as appropriate) who:-
 - 1.1 has resided personally or who has had a Close Family Association in the Gwersyllt Community Council Area for a continuous period of one year immediately preceding the proposed Occupation of an Affordable Housing Unit; or
 - 1.2 is in permanent full time employment at a location within the Gwersyllt Community Council Area and has been in such employment for a period of six months immediately preceding the proposed occupation of an Affordable Housing Unit; or

or

 - 1.3 has previously resided in the Gwersyllt Community Council Area for a continuous period of five years; or
 - 1.4 has previously had a Close Family Association in the Gwersyllt Community Council Area for a continuous period of five years; or
 - 1.5 has previously been in employment in the Gwersyllt Community Council Area for a continuous period of five years
2. Provided That if:
 - 2.1 no person meeting the requirements in paragraph 1 above can be identified from the Low Cost Home Ownership Register or the Council's housing waiting list (as appropriate); and
 - 2.2 a period of not less than four weeks has elapsed after an advertisement seeking a person who meets the requirements of paragraph 1 has been placed in a newspaper circulating in the Wrexham locality

then the references in paragraph 1 of this Part to the Gwersyllt Community Council Area shall be treated as if they included references to the Rhosddu, Llay, Broughton, Brymbo, Acton and Gresford Community Council Areas and any person who satisfies one of the said criteria by virtue of such treatment shall be regarded as an Eligible Person for the purposes of this Agreement

3. Provided Further That where no person who qualifies or who can be regarded as qualifying as an Eligible Person pursuant to paragraph 2 of this Part can be identified from the sources mentioned therein after at least one advertisement has been placed in a newspaper circulating in the locality then after a period of not less than eight weeks the references in paragraph 1 of this Part to the Gwersyllt Community Council area shall be treated as if they included reference to the Wrexham County Borough Council area and any person who satisfies the said criteria by virtue of such treatment shall be regarded as an Eligible Person for the purposes of this Agreement
4. Provided Further That if no applicant qualifies under paragraph 3 above within 12 weeks, then any other person who in the opinion of the RSL or Council (as appropriate) is a Person In Housing Need shall be treated as an Eligible Person

THE THIRD SCHEDULE

Education Contribution

1. Prior to the Occupation of 60% of the Dwellings comprising the Development to pay to the Council the Education Contribution towards the provision, improvement or extension of primary and secondary education facilities in accordance with LPG27
2. For the avoidance of doubt it is acknowledged that the obligation to pay the Education Contribution is not conditional upon receiving any demand, request, invoice, or other communication from the Council
3. In the event that the Education Contribution is paid later than 12 months from the Commencement of Development it shall be increased by the same percentage as the percentage increase in the all items figure of the Index of Retail Prices published two months before the date of payment by the Office for National Statistics or any successor government department or office when compared with the all items figure at the said Index in existence at the date of this Agreement until the date of actual payment

4. If the Education Contribution is not paid on the date due in accordance with this Schedule, the Owner will pay interest thereon to the Council at a rate of 5% per annum on a day to day basis from the date the payment is due to the date when such payment is made together with such sum as is equivalent to the costs reasonably and properly incurred by the Council in recovering such sums

CERTIFICATE

*ALINGTON BASINS
CORPORATION*
2 (AN URS 1 of 1) as solicitor for the Owner (as defined in the
within written Deed) hereby certify that Recital B thereof is correct.

Signed

LR

Dated

22/1/

2015

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

Executed as a deed by affixing
the Common Seal of
WREXHAM COUNTY BOROUGH COUNCIL
in the presence of:


Head of Corporate and Customer Services



29/15

EXECUTED AS A DEED by
the above-named
S G ESTATES LIMITED
and signed by a director and
the secretary or two directors:

Director



~~Director/Secretary~~









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.

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*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.
- 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: -

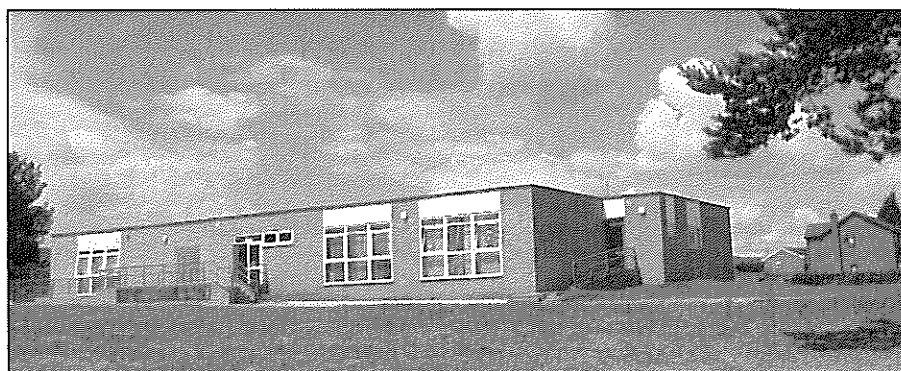
- 10 - 1 bedroom Units
- 10 - 2 bedroom Units
- 10 - 3 bedroom Units
- 10 - 4 bedroom Units

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.



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

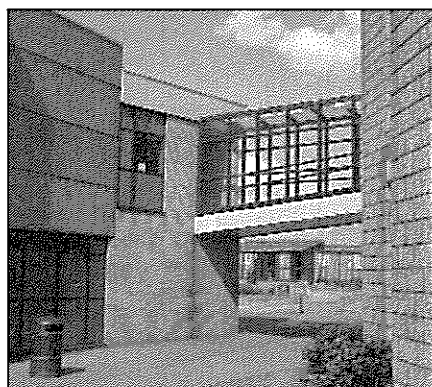
Timing of contributions

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
Marchwiell 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.
Marchwiell 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 Clywedog
- 7 Ysgol y Grango
- 8 Ysgol Rhiwabon
- 9 Ysgol Maelor

OTHER SCHOOLS

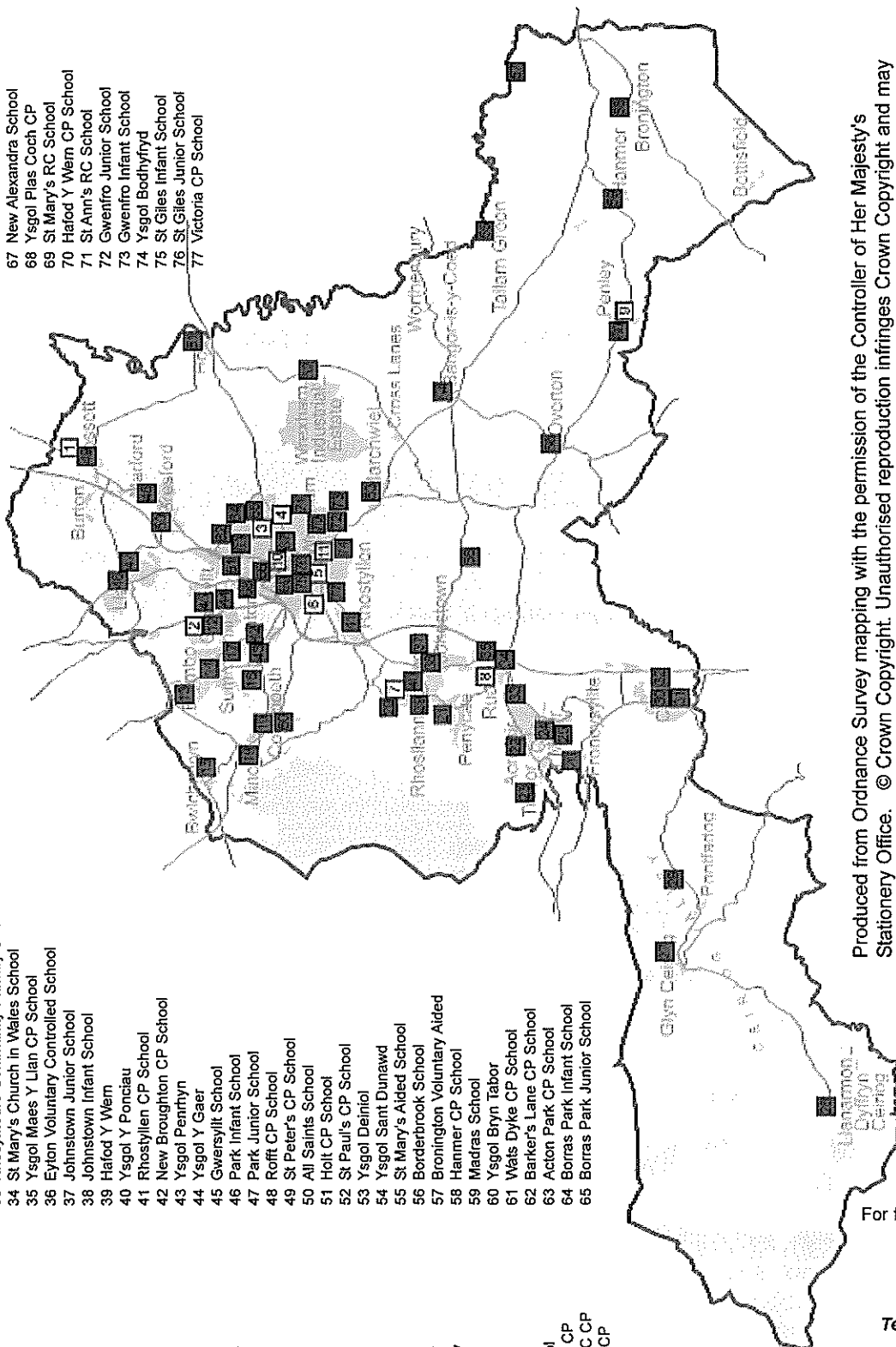
- 10 Groves
- 11 St Christophers/Ysgol Powys

PRIMARY SCHOOLS

- 12 Ysgol Heulan
- 13 Brymbo Aided School
- 14 Black Lane CP School
- 15 Bwlchgwyn CP School
- 16 Brynteg 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 Cern Mawr CP School
- 26 Ysgol Froncysyllte CP School
- 27 Ysgol Cynddelw, Glynceirig 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 Eryl Voluntary Controlled School
- 37 Johnstown Junior School
- 38 Johnstown Infant School
- 39 Hafod Y Wern
- 40 Ysgol Y Ponciau
- 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 Wals 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 Gwentfro Junior School
- 73 Gwentfro Infant School
- 74 Ysgol Boddyfryd
- 75 St Giles Infant School
- 76 St Giles Junior School
- 77 Victoria CP School



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