

DATED

28th July

2014

WREXHAM COUNTY BOROUGH COUNCIL (1)

MESSRS D AND F McCAUL (2)

- and -

ULSTER BANK IRELAND LTD (3)

A G R E E M E N T

Pursuant to Section 106 of the Town and Country Planning Act 1990
arising in connection with planning permission for development at Vauxhall Industrial
Estate, Ruabon in the County Borough of Wrexham

Trevor Coxon
Head of Corporate and Customer Services
Wrexham County Borough Council
Guildhall
Wrexham
LL11 1AY

Ref. LP/CLJ/10006140

THIS DEED is made the 28 day of *July* Two thousand and fourteen
BETWEEN WREXHAM COUNTY BOROUGH COUNCIL of Guildhall Wrexham
LL11 1AY (hereinafter called "the Council") of the first part **DECLAN McCAUL and FRANCIS McCAUL** of Carrickacreeeny, Shercock, County Cavan in the Republic of Ireland (hereinafter called "the Owner" of the second part) and **ULSTER BANK IRELAND LIMITED** (a company incorporated in the Republic of Ireland but registered in the United Kingdom under Co. Regn. No. BRO14002) whose registered office in the United Kingdom is situate at 11-16 Donegall Square East, Belfast, BT1 5UB (hereinafter called "the Mortgagee" of the third part.

WHEREAS

- (1) The Council is the local planning authority within the meaning of the Town and Country Planning Act 1990 (hereinafter called "the Act") for the area in which the land described in the First Schedule hereto (hereinafter called "the Land") is situate and by whom the obligations contained in this Deed are enforceable.
- (2) The Owner is the owner of the Land in fee simple in possession subject to the legal charge next herein recited but otherwise free from incumbrances.
- (3) By a legal charge dated 8th April 2004 made between the Owner of the one part and the Mortgagee of the other part the Land was charged by way of legal mortgage to the Mortgagee.
- (4) The Mortgagee has agreed to join in this deed in the manner hereinafter appearing.
- (5) By an application dated 2 February 2012 which has been allocated code number P/2012/0210 (hereinafter called "the Application") application has been made to the Council for planning permission for the development specified in the Second Schedule hereto (hereinafter called "the Development") on the Land.

- (6) The Council has decided to grant planning permission for the Development subject to conditions (hereinafter called "the Planning Permission") in accordance with the Application subject to the execution of this Deed without which planning permission for the Development would not have been granted.

NOW THIS DEED which is made in pursuance of Section 106 of the Town and Country Planning Act 1990 **WITNESSETH** as follows:-

1 THE persons comprising the Owner hereby jointly and severally covenant with the Council to perform the obligation (hereinafter called "the Obligation") set out in the Third Schedule hereto and the Council hereby covenants with the Owner as set out in the Fourth Schedule hereto

2 IT IS AGREED and declared as follows:-

- (i) the Obligation is a planning obligation for the purposes of Section 106 of the Act.
- (ii) the Obligation relates to the Land.
- (iii) the Obligation is enforceable by the Council as Local Planning Authority.
- (iv) the Council will issue the Planning Permission on completion of this Deed.
- (v) the expressions "the Council" "the Owner" and "the Mortgagee" shall include their respective successors in title and assigns and if any such successor in title or assign shall comprise more than one person or corporation their obligations hereunder shall be the joint and several.
- (vi) no party hereto shall be liable for a breach of the Obligation after they shall have parted with all interest in the Land but this provision shall not

affect any liability of such party in respect of any antecedent breach of the Obligation in existence at the time such party disposes of such interest.

- (vii) the Obligation shall take effect upon a date ("the Trigger Date") which shall be specified by the party intending to implement the Planning Permission in a written notice served upon the Council as being the date upon which the Development is to be commenced (such notice to be served not less than 7 days before such date).
- (viii) if the party intending to implement the Planning Permission fails to serve the notice referred to in (vii) above before commencement of the Development the Obligation shall take effect upon the actual date upon which the Development is begun within the meaning of Section 56 of the Act (as amended) and that date shall be the Trigger Date
- (ix) if the sum payable pursuant to Part 1 of the Obligation does not fall to be paid within two years of the date of this Deed the sum specified in that part of the Obligation shall be increased in proportion to the increase in the index of Retail Prices maintained by the Office of National Statistics between the date of this Deed and the date upon which the said sum falls to be paid.
- (x) the Obligation is a local land charge and shall be registered as such.
- (xi) this Deed will not prevent the Council from exercising its statutory powers under any legislation.
- (xii) the Owner has paid to the Council before completion of this Deed the sum of One Thousand two hundred and fifty pounds (£1250.00) representing the Council's legal costs of and incidental to its preparation.

- 3 THE MORTGAGEE** acknowledges that this Deed has been entered into by the Owner with its consent and that the Land shall be bound by the Obligation and that the security of the Mortgagee over the Land shall take effect subject to this Deed provided that the Mortgagee shall otherwise have no liability under this Deed unless it takes possession of the Land in which case it will be bound by the Obligation as if it were a person deriving title from the Owner.
- 4 THIS DEED** shall be governed by and interpreted in accordance with the law of England and Wales.

IN WITNESS WHEREOF the Council has executed this Deed as a deed by the affixation of its Common Seal the persons comprising the Owner have each executed this Deed as a deed and the Mortgagee acting by its duly authorised attorney has executed this Deed as a deed the day and year first before written.

FIRST SCHEDULE
("the Land")

The freehold land lying to the east of Ruabon Road, Ruabon in the County Borough of Wrexham being the property registered at the date hereof with freehold title absolute at the Land Registry in the name of the Owner under title number WA717201

SECOND SCHEDULE
("the Development")

"Outline application for erection of Use Class A1 foodstore with associated car parking, infrastructure and ancillary facilities".

THIRD SCHEDULE
("the Obligation")

Part I

To pay to the Council within a period of seven days from the Trigger Date the sum of Four thousand pounds (£4,000) being the estimated cost of public consultation exercises associated with:-

- (a) the amendment of the speed limit on the B5605 at the point where the access to and from the Land meets that highway and
- (b) the provision of a scheme of road markings on the unclassified highways leading from the B5605 to the Land in order to ensure that access to the Land by heavy goods vehicles will be maintained.

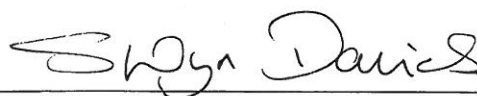
Part II

To pay to the Council within a period of 14 days from the Trigger Date the sum of Five Thousand Pounds (£5,000) payable to the Council by way of mitigation in respect of the effect which the Development will have on the Johnstown Newt Sites Special Area of Conservation ("the Area") such sum to be utilised by the Council or a statutory body having management or conservation functions in respect of the Area or on behalf of either or both of them.

FOURTH SCHEDULE
(Covenants by the Council)

- (a) If for any reason the said sum of Four thousand pounds is not expended by the Council for the purposes mentioned in Part I of the Third Schedule hereto within a period of two years from the date the said sum is paid to the Council or within such extended period as may be agreed in writing by the Owner with the Council the Council will repay the said sum to the Owner.
- (b) If the said sum is expended by the Council for the said purposes to provide the Owner with details in writing of the cost of carrying out the same and in the event that such cost is less than the said sum of Four thousand pounds to be repay to the Owner the different between the said sum of Four thousand pounds and the actual cost incurred in respect of the specified purposes within a period of 56 days of practical completion thereof.

EXECUTED as a **DEED** by the affixation of the **COMMON SEAL** of **WREXHAM COUNTY BOROUGH COUNCIL** in the presence of:-



of Corporate and Customer Services
Legal Services Manager :5-



197/14

EXECUTED as a DEED
by the said DECLAN
McCAUL in the presence
of:

Declan McCaul

Gerard Jones

Notary Public

EXECUTED as a DEED
by the said FRANCIS
McCAUL in the presence
of:

Francis McCaul

Gerard Jones

Notary Public

Signed and Delivered as a deed by
MARILYN MAYNE as attorney for
ULSTER BANK IRELAND LIMITED
In the presence of:

[Signature]
Team Manager

Witness Signature

Patrick Hall

Witness Name: PATRICK HALL
Bank Official

Address: 11-16 Donegall Square East Belfast BT1 5UB

CERTIFICATE

As solicitors for the Owner (as defined in the within written deed) we hereby certify that
Recital (2) thereof is correct

Signed

Gerard Jones
SOLICITOR

[Insert name and address of solicitors]

Carrickmacross

Dated

16 / 6

.....2014

H.M. LAND REGISTRY

TITLE NUMBER

WA717201

ORDNANCE SURVEY
PLAN REFERENCE

SJ3045

Scale
1/2500

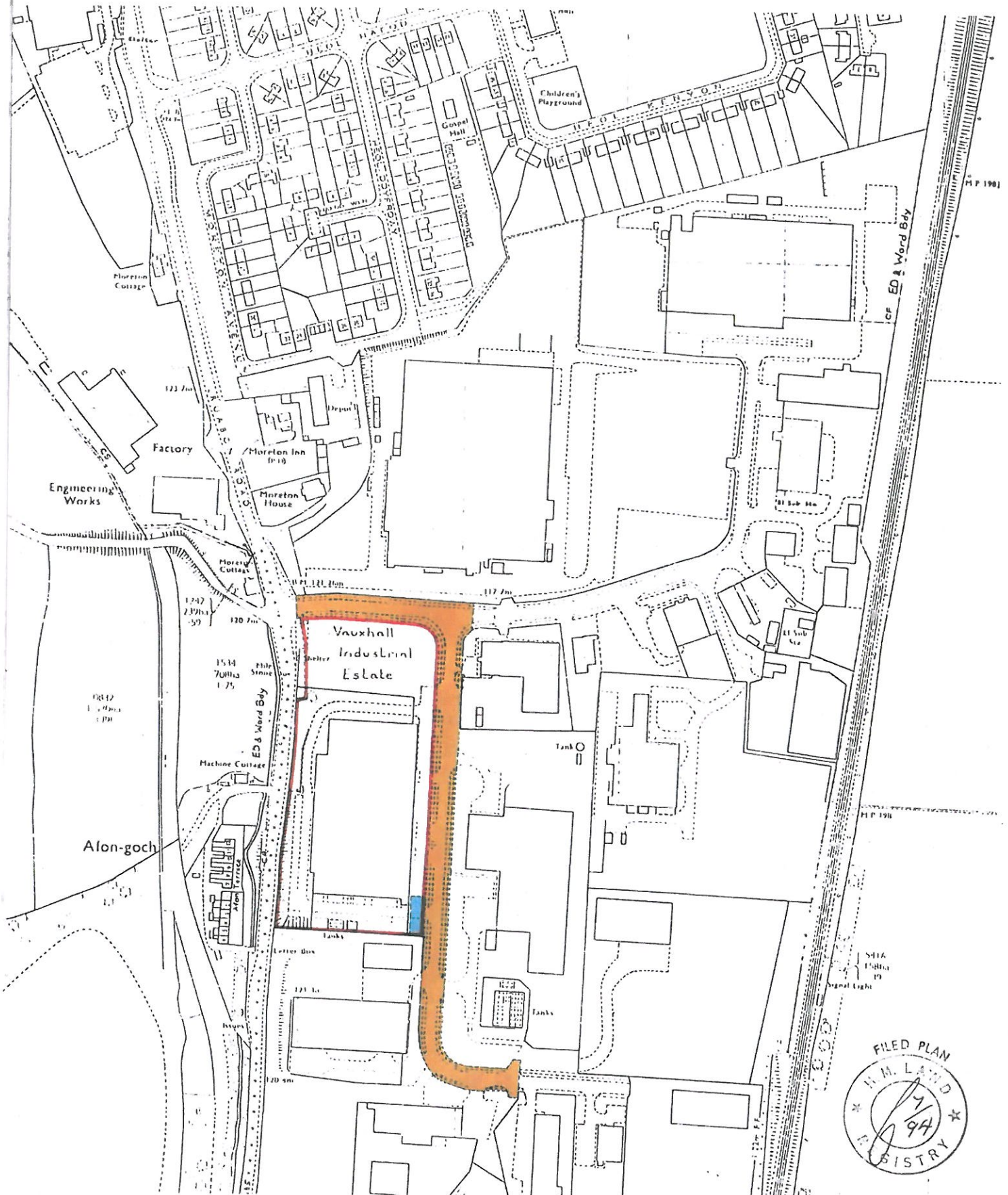
COUNTY CLWYD

ADMINISTRATIVE AREA

DISTRICT WREXHAM MAELOR

WREXHAM
WRECSAM

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This copy of the title plan is incomplete without the preceding notes page.

Mae'r copi hwn o'r cynllun teitl yn anghyflawn heb y dudalen flaenorol o nodiadau.