

DATED

11TH MARCH

2013

WREXHAM COUNTY BOROUGH COUNCIL (1)

CHEVIN HOMES LTD (2)

- and -

MS C.H. MALBON (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 former Erddig
Nursery School, Erddig Road, Wrexham

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

Ref. LP/CLJ/10005945

THIS DEED is made the 11th day of MARCH Two thousand and thirteen **BETWEEN WREXHAM COUNTY BOROUGH COUNCIL** of Guildhall Wrexham LL11 1AY (hereinafter called "the Council") of the first part **CHEVIN HOMES LIMITED** (Co. Regn. No. 04433029) whose registered office is situate at 74 Friar Gate, Derby DE1 1FN (hereinafter called "the Owner") of the second part and **CAROLE HELENA MALBON** of Flat 6, Palace Mansions, 6, Marlborough Road, Buxton, Derbyshire SK17 6RD (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 21 August 2012 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 15 August 2012 which has been allocated code number P/2012/0638 (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** Owner hereby covenants with the Council to perform the obligation (hereinafter called "the Obligation") set out in the Third 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 (except for the owner or owners of any completed dwelling created upon the Land pursuant to the Planning Permission) and if any successor in title to the Owner shall comprise more than one person or corporation all obligations contained herein on the part of the Owner shall be the joint and several liability of such persons or corporations.
- (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.



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Department of Community Wellbeing and Development
Planning Services
Ford Street, Wrexham
CH1 1LG
Telephone 01978 292017
Planning@wrexham.gov.uk

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Town & Country Planning Act 1990 Section 106 Obligation



P/2012/0638
Erddig Nursery School,
Erddig Road, Wrexham.


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COUNTY BOROUGH COUNCIL
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- (vii) the Obligation shall take effect upon a 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).
- (ix) the Obligation is a local land charge and shall be registered as such.
- (x) this Deed will not prevent the Council from exercising its statutory powers under any legislation.
- (xi) the Owner will pay to the Council on completion of this Deed the sum of One thousand pounds (£1,000.00) representing the Council's legal costs of and incidental to its preparation.

3 **IF THE SUM** paid pursuant to the Obligation remains unspent or uncommitted for expenditure in whole or in part at any time after the tenth anniversary of the date of the payment thereof to the Council it shall repay to the Owner the whole or such part of the said sum which has not been so expended or committed for expenditure together with any interest actually earned thereon by the Council (the Council being under no obligation to obtain the best interest rate available).

THE MORTGAGEE acknowledges that this Deed has been entered into by the Owner with her 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 she takes possession of the Land in which case will be bound by the Obligation as if she were a person deriving title from the Owner.

IN WITNESS WHEREOF the Council has executed this Deed as a deed by the affixation of its Common Seal the Owner acting by a director and its secretary or two directors has executed this Deed as a deed and the Mortgagee has executed this Deed as a deed the day and year first before written.

FIRST SCHEDULE
("the Land")

The freehold land being former Erddig Nursery School, Erddig Road, Wrexham in the County Borough of Wrexham being the property registered at the date hereof with title absolute at H.M. Land Registry in the name of the Owner under title number CYM567421 as the same is delineated and edged red on the plan attached hereto.

SECOND SCHEDULE
("the Development")

"Demolition of former nursery school and erection of 6 No. two-storey dwellings (4 No. two bedroom and 2 No. three bedroom)"

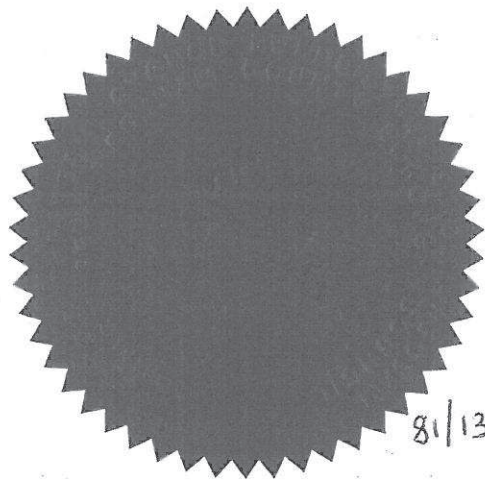
THIRD SCHEDULE
("the Obligation")

To pay to the Council within a period of 14 days from the first date upon which four of the dwellings created by the Development are occupied the sum of Eleven Thousand

Seven Hundred and Sixty Pounds (£11,760.00) the said sum being payable to the Council as a contribution towards the provision of primary education facilities in the Wrexham Clywedog catchment area such sum to be expended by the Council for that purpose and in the manner set out in the Council's published Local Planning Guidance Note No. 27 entitled "Developer Contributions to Schools."

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


Head of Corporate and Customer Services



8/13

EXECUTED as a DEED by the said **CHEVIN HOMES LIMITED** acting by and one of its directors and its secretary or two of its directors in the presence of:-




JOAN FEARNTHORPE

JAMES LOKAYNE

EXECUTED as a DEED by the said **CAROLE HELENA MALBON** in the presence of:-

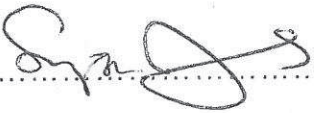


WITNESSES 

Gail Parker
Roughcroft
Grove Parade
Buxton

CERTIFICATE

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

Signed  Dated 11th March 2013

Simpson Jones LLP
41 St Mary's Gate
Derby
DE1 3JX