

DATED

16TH APRIL

2012

WREXHAM COUNTY BOROUGH COUNCIL (1)

- and -

HAWK HOMES LTD (2)

A G R E E M E N T

Pursuant to Section 106 of the Town and Country Planning Act 1990
in respect of a payment in lieu of on-site open space provision arising from
development at former Hightown Barracks, Kingsmills Road,
Wrexham in the County Borough of Wrexham

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

Ref. LP/CLJ/10004781

THIS DEED is made the 16TH day of **APRIL** Two thousand and twelve **B E T W E E N WREXHAM COUNTY BOROUGH COUNCIL** of Guildhall Wrexham LL11 1AY (hereinafter called "the Council") of the first part and **HAWK HOMES LIMITED** (Co. Regn. No. 05308955) whose registered office is situate at Charleston House, Cruckmoor Lane, Prees Green, Whitchurch, Shropshire, SY13 2BS (hereinafter called "the Owner") of the other 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 free from incumbrances.
- (3) By an application dated 15 September 2011 which has been allocated code number P/2011/0700 (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 to the Owner on completion of this Deed
- (v) the expressions "the Council" and "the Owner" 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 the Owner or any successor in title to the Owner shall comprise more than one person all obligations contained herein on the part of the Owner shall be the joint and several liability of such persons.
- (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 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) if the Obligation does not fall to be performed within two years of the date of this Deed, the sum specified in 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 that the Obligation falls to be performed.
- (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 will pay to the Council on completion of this Deed the sum of One Thousand Pounds (£1,000) representing the Council's legal costs of and incidental to its preparation.

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

FIRST SCHEDULE
("the Land")

Land on the west side of Kingsmills Road, Wrexham being the property registered on the date hereof with title absolute at H M Land Registry in the name of the Owner under title number WA886502

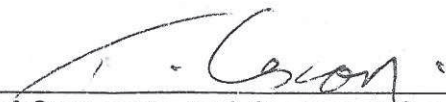
SECOND SCHEDULE
("the Development")

"Erection of three-storey apartment block to house 9 single bedroom apartments and associated parking"

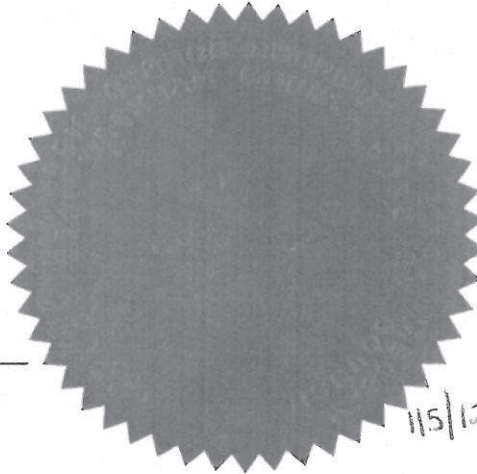
THIRD SCHEDULE
("the Obligation")

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 Nine Thousand Pounds (£9,000.00) being the cost of improvements to open space in the vicinity of the Land, being a sum payable to the Council in lieu of the provision of public open space as part of the Development pursuant to the provisions of the Council Local Planning Guidance Note No 10 "Public Open Space in New Housing Development".

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



115/12

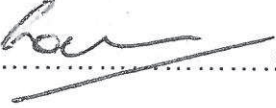
EXECUTED as a **DEED** by the said **HAWK HOMES LIMITED** acting by ANN NIXON and KEVIN DAWSON ~~one of its directors and its secretary or two of its directors in the presence of:~~




CERTIFICATE

As solicitors to the Owner (as defined in the within written deed) **WE HEREBY CERTIFY** that Recital (2) is correct

Signed



Dated

16/4/

2012

Walker Smith Way
Solicitors
The Old Registry
23 Chester Street
Wrexham
LL13 8BG