

DM/hb

Matthew Phillips
Wrexham County Borough Council
Planning Department
Lampit Street
Wrexham
LL11 1AR

25th February 2010

Dear Matthew,

Re: Former Gatewen Colliery, Gatewen Road, Wrexham - Reserved Matters application reference P/2009/0735

Further to my letter of the 11th December and your letter of the 18th January 2010, I write to set out the revised developer contributions to be brought forward in conjunction with the development of the site as set out in the above application.

The offer set out below will form the Heads of Terms which will be incorporated into a new Section 106 agreement for the above application. This will in turn replace the existing draft S106 agreement in circulation and thus provide one overarching document. This S106 agreement will therefore discharge conditions 6, 7, 9 and 12 of the Outline Planning Consent ref. P/2007/0700.

Education Contributions – Condition 6

Based on the revised layout of 236 dwellings, the applicants agree to a contribution for Primary School requirements of £487,000 for Ysgol Penrhyn, New Broughton.

Further to the retrospective demand for Education Contributions and my email of the 12th February to Denise, I set out again why I do not believe the applicants should pay for Secondary Education provision:

- Wrexham Council do not operate a catchment area policy and pupils are sent to secondary school based on parental preference. I have been informed by the admissions officer that Ysgol Bryn Alun, the school for which contributions are being sought, currently has capacity for pupils at all ages;
- Having reviewed the Parents and Carers Guide for 2010, it is clear that parental preference cannot be guaranteed when a school is full. Therefore it is logical that pupils from this development should be sent to Ysgol Clywedog which has capacity and is closer to the site than Ysgol Bryn Alun and no contributions should be paid (as previously advised by the Education Department in their initial response to the application on the 14th September 2009);

- Denise Garland has stated that Ysgol Bryn Alun will be full due to the amount of development/consented schemes in the area. If this is the case, I would be grateful if you could confirm how many of these developments have been completed in light of the current financial conditions. It could be the case that many flatted developments with 2 bed + flats will be in the system; however it is highly unlikely given the state of the property market that these will ever be built and therefore these consents will be allowed to lapse;
- If the policy in Wrexham for admission is based on parental preference, how can the Council be sure that all of the children from those consented applications will actually be sent to Ysgol Bryn Alun?;
- I have been supplied data today by the Assistant Admissions Officer which confirmed that whilst Ysgol Penrhyn was a feeder school to Ysgol Bryn Alun, not all pupils were sent there due to parental preference. During the year 2009/10, Ysgol Penrhyn sent 20 pupils to Ysgol Bryn Alun (and 4 to Ysgol Clywedog), which equates to 80% of pupils. Based on current data (as at 25/2/10) 26 pupils will be sent to Ysgol Bryn Alun in September 2010 from Ysgol Penrhyn out of a total of 30 pupils, which is 88%. Despite this, there exists currently, capacity for an additional 23 spaces for children in Ysgol Bryn Alun over and above the 26 that will be sent from Ysgol Penrhyn;
- In this regard I would be grateful for confirmation as to how the council applies the full figure for secondary provision when it is apparent from their own figures that not all children go to the allotted feeder school;
- As outlined further in this letter, the applicants are proposing to fund a new bus service along Gatewen Road which, subject to discussions with the bus operator as to the specific route, children could use to go to Ysgol Clywedog;
- In addition to the S106 contributions we are already providing, we are providing a new path along the existing playing fields from the site to the New Broughton Primary School at a cost of £35,000. This is in addition to the £487,000 we are already contributing to the school;
- The adopted LPG (27) on Developer Contributions to schools states that such contributions will be based on 5 considerations, with the 5th being *"The location of the development and likely impact on existing schools. This will be assessed using the same criteria as the Wrexham Council Schools Admissions Policy in relation to proximity and feeder schools."*;
- The Council's stated fundamentals for this admission Policy are: *'The LA will not refuse applicants for a particular school unless that school has reached its admission number, that being the number that can be admitted to a school in any one year group.'* The applicants fail to see why children would not be allocated to a secondary school which is closer and easier to get to, especially as the policy further states that parental preference cannot always be met, particularly when a school is over subscribed. In addition the Parents & Carers Guide to Education Services in Wrexham 2010 highlights that the LA will only be required to provide transport to a secondary school if a pupil lives more than 3 miles away from a secondary school. Both Clywedog and Bryn Alun are within this threshold, therefore no pressure is put onto the Councils resources in this area;

I have been supplied an Appeal decision for the Former Dusseks Site, March 2009, by the Council at a meeting with officers on the 25th February 2010. This is in response to a request from the applicants for confirmation as to whether the education obligations had been indecently tested at Inquiry. Having reviewed this decision (Ref: APP/H6955/A/08/2093202) which found in

favour of the Council, I have the following comments to make as to why it is not relevant in this case:

1. I understand that the education contributions requested for that site were for Primary School requirements and therefore issues of feeder schools and capacity elsewhere in schools located closer to the scheme were not debated at the hearing; the applicant is willing to pay Primary School contributions of £487,000 for this application;
2. The dispute in that case related to pupil generation figures from the development and in particular whether some of the units would actually have families/children in them. We are not disputing the amount of pupils being generated from this scheme;
3. The Inspector notes that the requirement for contributions was based on a **current** shortfall in education at the time of the decision; Ysgol Bryn Alun currently has spaces for 23 pupils and therefore the same argument cannot be applied in this case.

I would be grateful if the Council could provide examples of where an Inspector has found in its favour when applying LPG 27 for secondary school provision monies where capacity exists at schools closer than the designated feeder schools.

The applicants in this case would consider that in light of the above, that in this circumstance it is unfair and unreasonable for this scheme to provide £497,200 towards secondary school places for secondary school provision. As a result the children from this development should be sent to Ysgol Clywedog, where capacity exists for the children of this scheme, as outlined in the previous consultation response of the 14th September 2009.

We will be paying the Primary School contribution in full, being £487,000. In light of the additional S106 requirements this site will deliver we consider this to be a reasonable and fair package.

Off-Site Open Space contributions – Condition 7

Following our meeting on the 10th December, the applicant has carefully considered the off-site open space requirements, and in particular the feedback obtained from local elected members and community councillors. As a result the applicant seeks to upgrade the adjacent playing fields to the West with the following equipment:

- The developer will contribute the sum of £35,000 for the construction of a 1.5 metre wide footpath linking the development and Gatewen Road through the adjacent playing field. The developer retains the right to build the path themselves under licence from the council;
- The developer will contribute the sum of £50,000 for the construction of a multi use games area to be located on the adjacent playing field to the west of the site. The specification of this games area is to be decided by the council within the above budget;
- The developer will contribute the sum of £10,000 towards the upgrading of the existing children's playing area on the adjacent playing field;
- The developer will contribute the sum of £1,000 for the erection of three seats within the adjacent playing field;
- The developer will contribute the sum of £10,000 towards the landscaping of the adjacent playing field;

The above works total £106,000. The contribution will be paid upon occupation of 100th, 200th, and 239th unit in three equal instalments. As the playing fields are under the councils ownership it is for the Council to decide the phasing of the above in accordance with the schedule of payments. In addition the council will need to seek the requisite consents to construct the equipment, if applicable.

The above contribution is less than the £1,000 per plot as agreed in the outline application. However, it should be noted that the outline application developer obligations were negotiated during a period when the property market was buoyant and sales revenue for the site was approximately 50% higher. The development at that time was suitable for a scheme in the region of 300 – 400 houses and flats; the crash in the market has now resulted in a much lower density scheme of 236 units, with a proportionate fall in revenue. In addition the £1,000 per plot was not targeted towards specific improvements, whereas crucially the current offer is based upon identified local need. The current offer will improve and enhance a local play area and assist in its upkeep through the provision of new, modern equipment replacing in part the existing provision.

The proposal does include any provision for maintenance costs, as this does not provide any additional open space for the council to manage. I have been informed by Jonathan Price that the site is already being maintained by the Council and that the proposed improvements will not increase those maintenance costs. It would be unreasonable to expect the applicant to contribute towards the councils existing maintenance cost of a playing field, when in fact the improvements which are being proposed will create a more modern, safe environment for local children to play in.

From discussions with officers at the council the increased offer for the footpath from my previous letter will result in lighting being provided.

Affordable Housing – Condition 9

The requirements of the Outline Planning Permission stipulate that the development should provide 20% of its total number of dwellings for affordable housing purposes. The applicant will comply with the requirements of the Outline Consent and thus will provide 20% of the site as affordable housing, delivering 47 affordable units. The applicant will, within the S106 Agreement, commit to begin construction of the affordable housing units by occupation of the 100th unit on the site and will commit to transfer all of the affordable units to the appointed Registered Social Landlord (or other appropriate delivery vehicle) by occupation of the 200th unit.

In response to your previous emails regarding this, I can confirm that the applicant will be happy to include a mechanism in the S106 that links completions within this band. Based on the current layout, 47 affordable housing units will be provided. Therefore the applicants propose that prior to occupation of the 133rd unit that 15 affordable units will be transferred; prior to occupation of the 166th unit a further 15 affordable units will be transferred and prior to occupation of the 200th units the remaining 17 units will be transferred.

Off-Site Highways contributions – Condition 12

Following our meeting on the 3rd December, the developer proposes to contribute the following towards off-site highways improvements as outlined in the approved Travel Plan (September 2007):

- £5,000 towards the construction of cycle traffic signage.
- £4,500 towards the construction of a new bus shelter along Gatewen Road;
- £50,000 towards the extension to the cycle path to the north of the site to connect with the adjacent Moss Valley;
- To construct the southern extension of the cycle way/footpath to the south of the site as shown in the Travel Plan (estimated cost £6,000);
- £45,000 to purchase (already spent) and £35,000 to upgrade the former railway line which is now within the ownership of Morston Assets Ltd to provide a further cycle path in addition to the path to be provided along the existing playing field;
- Each unit will be provided with a welcome pack as per the requirements in the travel plan;
- £22,500 to fund a new bus service for 18 months from completion of the development (occupation of the 236th unit).

The applicant will also be responsible for the delivery of the cycle path within the site which is estimated to be costing the applicant in the region of £75,000 (based upon the cost per square metre as outlined in the approved travel plan). In addition the developer will place gates on either end of the cycle path, adjacent to the northern and southern perimeters which are designed to specifically exclude motorbikes from entering the path.

Community Facilities

The applicant has been in discussions with representatives of the local community, including the ward councillor and the parish council and have been informed of a pressing need to upgrade the existing community facilities within New Broughton.

Following careful consideration of this need and having considered the guidance available, the applicant agrees to contribute £5,000 towards the upgrade of the New Broughton Community Centre. This contribution to be paid upon occupation of the 130th unit.

Summary

The applicant feels that the above offer represents a considerable sum and gain to both the local council and more importantly to the local community.

The total financial contribution outlined above is £766,000 plus 47 affordable housing units.

In addition the new roundabout, works to replace the existing unsafe bridge on Gatewen Road has been costed at nearly £2,000,000 and brings substantial benefits to the local community in traffic calming alone.

The scheme will also bring benefits to the local community over and above the financial aspect outlined above, in particular the regeneration of a former colliery site, which in its current state lies derelict and underutilised. In addition the development will create a new roundabout on Gatewen Road which will assist in managing traffic flow along Gatewen Road and in particular assist in cutting the speed of traffic along that particular stretch of road.

Most importantly the above offer has been formulated having regard to local circumstances and local needs. The offer has been carefully negotiated with prominent members of the local community and addresses the needs of local people.

Should committee resolve to defer the application subject to a viability exercise being carried out, then the applicant will wish to investigate all of the above contributions. The viability exercise will not simply address the education issue alone. The above offer has been formulated during 5 months of negotiation whereby the applicants were told by the education department that no secondary contribution was required. As such the off-site open space and highways improvements offered will need to be re-considered in light of the retrospective request for secondary education contributions. It should be remembered that this site has an up front cost of nearly £2m in road improvements, plus the usual abnormal costs associated with developing a former colliery site. As such it is very likely that a viability exercise, independently verified by the District Valuer, will result in a lower overall requirement than that is currently offered.

The applicants consider that this offer accords with Welsh Office Circular 13/97 and Planning Policy Wales (2002) in that the obligation offered is *'fair and reasonably related in scale and kind to the proposed development.'*

The applicants have instructed solicitors to proceed with the drafting of the S106 agreement on the basis of the above heads of terms and a draft agreement will be submitted to the Councils legal team the next day following approval at committee; should you have any immediate queries or comments please do not hesitate to contact me as soon as possible.

Regards

Yours sincerely,

David Morris BSc (Hons) Dip TP MRTPI

**Head of Town Planning,
Morston Assets**

cc: Cllr Alan Edwads – Wrexham County Borough Councillor