

DATED

5th July

2020

Planning obligation by way of unilateral undertaking under section 106 of the
Town & Country Planning Act 1990 relating to
land at Lingley Mere Business Park Lingley Green Avenue Great Sankey
Warrington WA5 3LP

(1) UNITED UTILITIES WATER LIMITED

TO

(2) WARRINGTON BOROUGH COUNCIL

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THIS DEED is dated

5th July

2020

- (1) **United Utilities Water Limited of** (Co Reg No. 2366678) whose Registered Office is situate at Haweswater House Lingley Mere Business Park Lingley Green Avenue Great Sankey Warrington WA5 3LP (the "Owner")

TO

- (2) **Warrington Borough Council** of Town Hall, Warrington, Cheshire. WA1 1UH ("Council")

BACKGROUND

- (A) The Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 (TCPA 1990) for the area in which the Property is situated.
- (B) The Owner is the registered proprietor of the Property with title absolute under title number CH359776
- (C) The Council granted the Original Planning Permission
- (D) The Planning Application has been submitted to the Council and the Owner gives this undertaking by way of this Deed in order to secure the obligations set out in this Deed without which the Revised Planning Permission would not be granted.

AGREED TERMS

1. INTERPRETATION

The following definitions and rules of interpretation apply in this Deed.

- (i) Definitions:

Original Development: Proposed erection of buildings for occupational health, 75 place day nursery and maintenance office, together with storage area for site grounds maintenance as approved in the Original Planning Permission

Revised Development: the development of part of the Property for a new build, two storey Day Nursery with associated parking and external play areas as set out in the Planning Application.

Occupation Date: the date upon which the Revised Development is completed and ready for use and occupation as a Day Nursery

Plan means the plan annexed hereto

Property: the land against which this Deed may be enforced known as United Utilities, Lingley Green Avenue, Great Sankey, Warrington (WA5 3LP) and registered at the Land Registry under title number CH359776 as shown edged red on the Plan

Planning Application: the application for full planning permission dated 20th December 2019 submitted to the Council for the Development and allocated reference number 2020/36310

Revised Planning Permission: the planning permission subject to conditions to be granted by the Council pursuant to the Planning Application as set out in Schedule Two.

Original Planning Permission: that part of the planning permission subject to conditions granted by the Council under Planning reference: 95/34186 for the Original Development

TCPA 1990: Town and Country Planning Act 1990.

Working Day: any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England

- (ii) Clause headings shall not affect the interpretation of this Deed.
- (iii) A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (iv) Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- (v) Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- (vi) References in this Deed to any party shall include any successors in title and assigns and person deriving title through or under such party

- (vii) A reference to the Council shall include the successors to its respective statutory functions.
- (viii) Unless the context otherwise requires, a reference to a statute, statutory instrument or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- (ix) Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- (x) References to clauses, paragraphs and plans are to the clauses, paragraphs and plans of this Deed.
- (xii) Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (xiii) Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.

1.13 The headings and contents list are for reference only and shall not affect construction.

2. STATUTORY PROVISIONS

- (i) This Deed is made pursuant to section 106 of the TCPA 1990.
- (ii) The covenants restrictions and requirements contained in this Deed create planning obligations for the purposes of section 106 of the TCPA 1990 and are enforceable by the Council as local planning authority against the Owner

- (iii) Insofar as any of the covenants contained in this Deed are not planning obligations within the meaning of s106 of the TCPA 1990, they are entered into pursuant to all enabling powers that may be relevant to the enforcement of the obligations contained in this Deed.

3. CONDITIONALITY

This Deed shall come into effect immediately upon completion of this Deed

4. COVENANTS WITH THE COUNCIL

The Owner covenants with the Council as set out in Schedule One

5. MISCELLANEOUS

- (i) No person shall be liable for any breach of an obligation, restriction or covenant contained in this Deed after parting with all of its interest in the Property, except in respect of any breach subsisting prior to parting with such interest.
- (ii) Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- (iii) This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Revised Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure Nothing in this Deed shall prohibit or limit the right to develop any part of the Property in accordance with a planning permission granted (other than the Revised Planning Permission) whether or not on appeal after the date of this Deed.
- (iv) Nothing contained or implied in this Deed shall prejudice or affect the rights discretions powers duties and obligations of the Council under all

statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.

6. DETERMINATION OF DEED

This Deed shall be determined and have no further effect if the Revised Planning Permission:

- (a) is varied or revoked other than at the request of the Owner; or
- (b) is quashed following a successful legal challenge.

7. LOCAL LAND CHARGE

This Deed is a local land charge and registrable as such by the Council.

8. WAIVER

No waiver (whether expressed or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

9. COUNCIL'S COSTS

The Owner shall pay to the Council the Council's reasonable and proper legal costs amounting to £750.00 together with all disbursements incurred in connection with the preparation, completion and registration of this Deed.

10. OWNERSHIP

- (i) The Owner warrants that no person other than the Owner has any legal or equitable interest in the Property which could prevent the Owner from complying with the covenants in this Deed.

11. NOTICES

(i) A notice or other communication to be given under or in connection with this Deed shall be in writing and be:

- (a) delivered by hand; or
- (b) sent by pre-paid first class post or other next working day delivery service.

to the Council at: New Town House, Buttermarket Street, Warrington, WA1 2NH marked for the attention of the Head of Legal and Democratic Services or as otherwise may be specified by the Council.

12. GOVERNING LAW

This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

IN WITNESS whereof the Owner has executed this Deed on the day and year first before written.

Schedule One

The Owner covenants:

1. To give at least 10 Working Days prior written notice to the Council of the Occupation Date for the Revised Development.
2. That within three calendar months from the Occupation Date for the Revised Development the use of the part of the Original Development being used as a nursery permitted by the Original Planning Permission shall cease completely and no action will be taken by the Owner or by their servants or agents or any other person to use the buildings permitted by the Original Planning Permission for that nursery use or for any use other than a use within the Class B1 of the Town and Country Planning (Use Classes) Order 1987.
3. Not to object to or seek or claim or take any action to obtain any compensation as a result of this Agreement, any deemed revocation or any future revocation order in respect of the Original Planning Permission or the Revised Planning Permission



Title number CH539776
 Ordnance Survey map reference SJ5598NE
 Scale 1:2500
 Administrative area Warrington

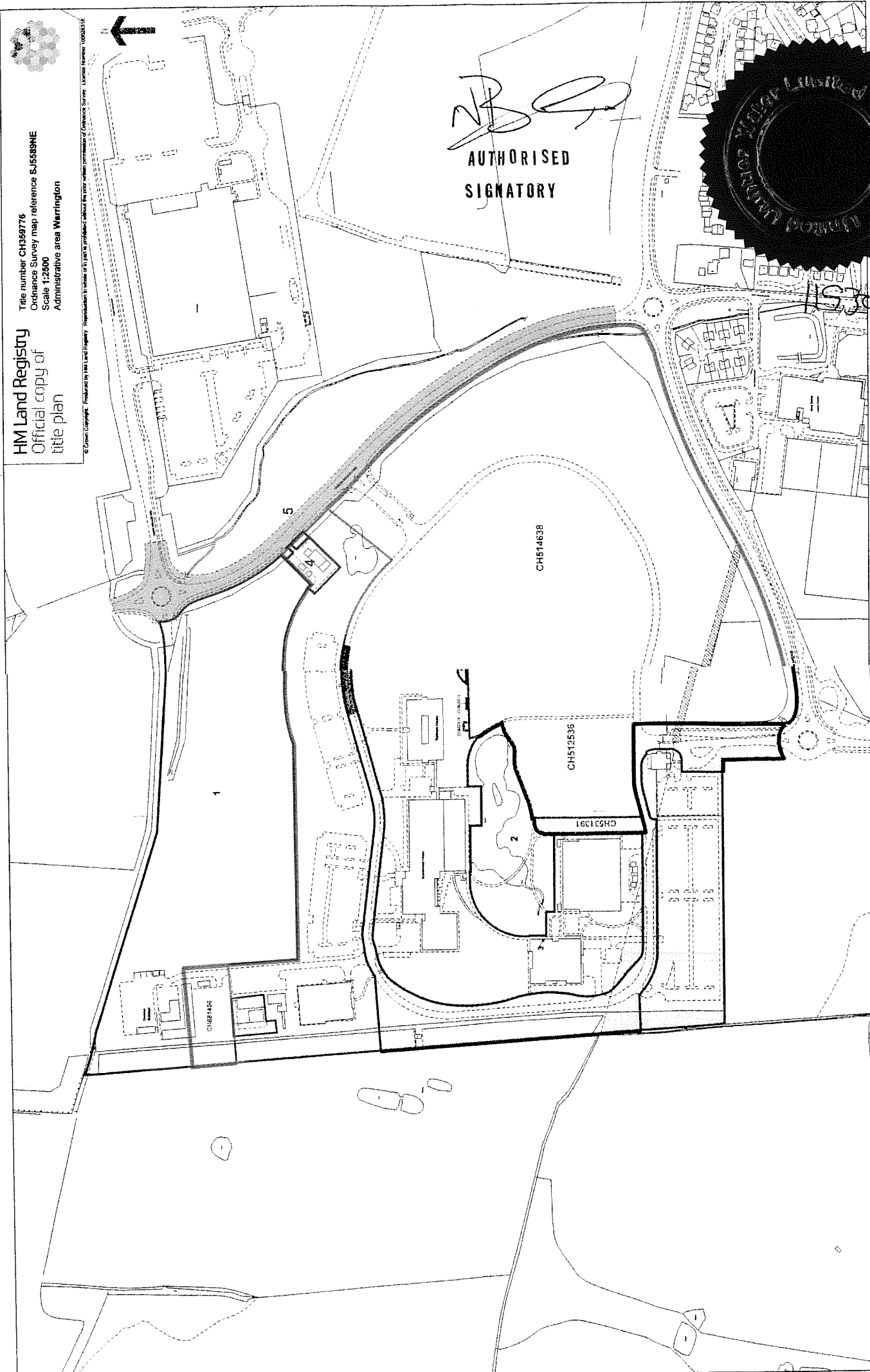
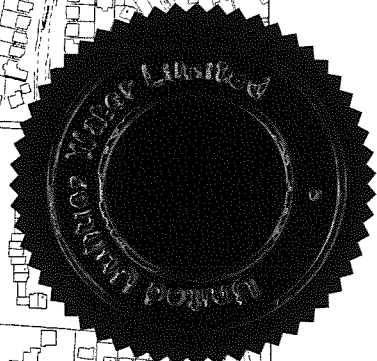
HM Land Registry
 Official copy of
 title plan

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[Handwritten Signature]

AUTHORISED
 SIGNATORY



This official copy issued on 29 April 2020 shows the state of this title plan on 26 September 2019 at 10:47:02.
 It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002).
 This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements taken on the ground.
 This title is dealt with by HM Land Registry, Durham Office.

Schedule Two – Draft Planning Permission



Pablo Iglesias,
Grated Apple

Professor Steven Broomhead
Chief Executive

Grated Apple
The Piggery
2, Wigsey Lane
Warburton
WA13 9JL

Steve Park
Director of Growth

3rd Floor New Town House
Buttermarket Street
Warrington
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01925 442819

**SUBJECT TO SECTION 106 LEGAL AGREEMENT Town
and Country Planning Act 1990**

Application for Full Planning Permission

NOTICE OF DECISION ON PLANNING APPLICATION

APPLICATION NO: 2020/36310
PROPOSAL: Full Planning - Proposed Two storey Day Nursery, with associated parking and external play areas
LOCATION: Plot 2010 Lingley Mere Business Park, Lingley Green Avenue, Great Sankey, WA5 3LP
DECISION: THE BOROUGH COUNCIL HAS DECIDED TO **GRANT PERMISSION** SUBJECT TO THE FOLLOWING CONDITION(S);

CONDITION(S) & REASON(S)

- 1) The development hereby approved shall be commenced before the expiration of three years from the date of this permission.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions and to comply with Section 91 (as amended) of the Town & Country Planning Act 1990.

- 2) The development shall be carried out in accordance with the following documents:

- (a) The planning application forms, design and access statement and additional information received by Warrington Borough Council on 17th January and 10th February 2020.
- (b) Submitted drawing No's 18007 AP(04)01 P0; 18007 AP(04)00 P1; 18007 AP(05)01 P0 received on 17th January 2020 and Amended Design and Access Statement received 10th February 2020..

Reason: for the avoidance of doubt and to enable Warrington Borough Council to adequately control the development and to minimise its impact on the amenities of the local area and to conform with Policy QE7 of the Warrington Core Strategy.

- 3) None of the buildings hereby approved shall be used/occupied until a bin storage scheme has been submitted to and approved by the Local Planning Authority. The approved bin storage scheme shall be implemented prior to first use/occupation of the development hereby approved and thereafter retained.

Reason: In the interests of visual amenity and to accord with Policy QE7 of the Warrington Core Strategy.

- 4) The details submitted in pursuance of condition [No. of relevant condition] of this consent shall include plans showing existing and proposed levels across the site and including finished slab levels of all proposed buildings. Proposed plans shall include a level (eg. highway or footpath) adjacent to the site that will remain fixed/ unchanged.

Reason: No details of these matters have been submitted with the application and bearing in mind the topography of the site and to accord with Policy QE6 of the Warrington Core Strategy and the Warrington Design and Construction SPD (2010).

- 5) None of the building(s) hereby approved shall be constructed until written and photographic details of external roofing materials (including manufacturer's details) shall be submitted to the local planning authority for approval. Materials samples shall be made available to view on site and shall NOT be deposited with the Local Planning Authority. The development shall be constructed in accordance with the approved details/samples.

Reason: In order to comply with Policy QE7 of the Warrington Core Strategy and the Warrington SPD: Design and Construction

- 6) None of the building(s) hereby approved shall be constructed until written and photographic details (including manufacturer's details) of external facing materials shall be submitted to the local planning authority for approval. Materials samples shall be

made available to view on site and shall NOT be deposited with the Local Planning Authority. The development shall be constructed in accordance with the approved details/samples.

Reason: In order to comply with Policy QE7 of the Warrington Core Strategy and the Warrington SPD: Design and Construction

7) Contaminated Land Condition: Characterisation & Remediation Strategy

No development (other than demolition and site clearance works) shall take place until the steps in Sections A and B below are undertaken:

A: CHARACTERISATION: With specific consideration to human health, controlled waters and wider environmental

factors, the following documents must be provided (as necessary) to characterise the site in terms of potential risk to sensitive receptors:

- Preliminary Risk Assessment (PRA or Desk Study)
- Generic Quantitative Risk Assessment (GQRA) informed by a Intrusive Site Investigation
- Detailed Quantitative Risk Assessment (DQRA)
- Remedial Options Appraisal Completing a PRA is the minimum requirement. DQRA should only to be submitted if

GQRA findings require it.

B: SUBMISSION OF A REMEDIATION & VERIFICATION STRATEGY: As determined by the findings of Section A

above, a remediation strategy (if required) and verification (validation) strategy shall submitted in writing to and

agreed with the LPA. This strategy shall ensure the site is suitable for the intended use and mitigate risks to

identified receptors. This strategy should be derived from a Remedial Options

Appraisal and must detail the proposed remediation measures/objectives and how proposed remedial measures will be verified.

The actions required in Sections A and B shall adhere to the following guidance: CLR11 (Environment

Agency/DEFRA, 2004); BS10175 (British Standards Institution, 2011); C665 (CIRIA, 2007).

Reason: To mitigate risks posed by land contamination to human health, controlled water and wider

environmental receptors on the site (and in the vicinity) during development works and after completion.

In accordance with: Policy QE6 of the Adopted Local Plan Core Strategy (July 2014);

Paragraphs 170(f) & 178 of

the National Planning Policy Framework (February 2019), and Section 4 of the Environmental Protection

Supplementary Planning Document (May 2013).

Disclaimer: Irrespective of any involvement by this LPA, the responsibility to address contaminated land issues,

including safe (re)development and secure occupancy, resides entirely with the Landowner/Developer of the site

(NPPF Para179).

8) Contaminated Land Condition: Completion The development shall not be taken into use until the following requirements have been met and required information submitted to and approved by the Local Planning Authority (LPA): A: REMEDIATION & VERIFICATION: Remediation (if required) and verification shall be carried out in accordance with an approved strategy. Following completion of all remediation and verification measures, a Verification

Report must be submitted to the LPA for approval.

B: REPORTING OF UNEXPECTED CONTAMINATION: All unexpected or previously unidentified contamination encountered during development works must be reported immediately to the LPA and works halted within the

affected area(s). Prior to site works recommencing in the affected area(s), the contamination must be characterised by intrusive investigation, risk assessed (with remediation/verification measures proposed as

necessary) and a revised remediation and verification strategy submitted in writing and agreed by the LPA.

C: LONG-TERM MONITORING & MAINTENANCE: If required in the agreed remediation or verification strategy, all monitoring and/or maintenance of remedial measures shall be carried out in accordance with the approved details.

The site shall not be taken into use until remediation and verification are completed.

The actions required to be carried out in Sections A to C above shall adhere to the following guidance: CLR11 (Environment Agency/DEFRA,

2004); BS10175 (British Standards Institution, 2011); C665 (CIRIA, 2007). Reason: To mitigate risks posed by land contamination to human health, controlled water and wider environmental receptors on the site (and in the vicinity) during development works and after completion.

In accordance with: Policy QE6 of the Adopted Local Plan Core Strategy (July 2014);

Paragraphs 170(f) & 178 of the National Planning Policy Framework (February 2019), and Section 4 of the Environmental Protection

Supplementary Planning Document (May 2013).

Disclaimer: Irrespective of any involvement by this LPA, the responsibility to address contaminated land issues, including safe (re)development and secure occupancy, resides entirely with the Landowner/Developer of the site

(NPPF Para179).

9) Noise Management Scheme for Nursery

Prior to the commencement of use, a noise management scheme for the operation of the nursery shall be submitted to the Local Planning Authority for written approval. The noise management scheme shall review all

noise making activities and shall identify appropriate control methodologies for reducing and/or limiting noise in the outdoor areas which is likely to be audible at nearby residential properties. This may consider activities

permitted within the outdoor areas, times and durations of activities across the permitted operational hours,

restrictions on number of children outside at any given time or other considerations not discussed here. The

scheme shall be reviewed periodically to monitor its ongoing effectiveness but shall be reviewed again within a week of receipt of any justified noise complaint. Once approved, the scheme and all identified control measures (in the latest update) shall be implemented as agreed and shall be maintained for the duration of use.

Reason: To provide an ongoing monitoring and control review to prevent an increase in noise levels and protect the amenity of any residents due to the external activities of the childrens nursery. In accordance with: Policy QE6 of the Adopted Local Plan Core Strategy (July 2014); and

Paragraphs 170(e) & 180(a) of the National Planning Policy Framework (February 2019); and Section 6 of the Environmental Protection Supplementary Planning Document (May 2013)

- 10) Except for site clearance and remediation no development shall commence until a scheme for the design and construction of a 2m wide footway between the nursery pedestrian access and main Lingley Mere Business Park access, including timetable for implementation, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall subsequently be implemented prior to first occupation of the development hereby approved. Reason: To ensure that adequate provision is made for pedestrian access to the site; and to establish measures to encourage non-car modes of transport.
- 11) The development shall not be brought into use until the areas indicated on the submitted plans to be set aside for parking and servicing have been surfaced, drained and permanently marked out or demarcated in accordance with the details and specifications shown. The parking and servicing areas shall be retained as such thereafter.
Reason: To ensure that adequate provision is made on the site for the traffic generated by the development, including allowance for safe circulation, manoeuvring, loading and unloading of vehicles as well as parking, and that hard-surfaced areas have a satisfactory appearance.
- 12) Except for site clearance and remediation no development shall take place until a scheme for the provision of cycle parking in accordance with the Council's current standards has been submitted to and approved in writing by the Council as Local Planning Authority. The scheme shall be implemented as approved before any part of the development is brought into use and shall be retained as such thereafter. Notwithstanding the provisions of the Town and Country Planning Act (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order) no building works, which reduce this provision, shall take place except following the express grant of planning permission by the Council. Reason: To ensure that adequate provision is made for parking cycles on the site; and to establish measures to encourage non-car modes of transport.
- 13) The number of children attending the development hereby approved shall not exceed 104 at any one time.

Reason: To ensure that the highway network is adequate to cater for the development proposed and in order that the traffic generated by the development does not exacerbate unsatisfactory highway/transportation conditions.

- 14) Prior to first occupation of any building(s) hereby approved a satisfactory programmed landscaping scheme which shall include hard surfacing, means of enclosure, planting of the development - incorporating a replacement tree planting provision, indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of the development, shall be submitted to the Local Planning Authority for approval. The approved scheme shall be implemented during the first planting season following the completion of development and any tree or shrub planted which dies or is felled, uprooted, willfully damaged or destroyed in the first five year period commencing with the date of planting shall be replaced by the applicants or their successors in title.

Reason: To ensure a satisfactory form of development and to enhance the visual amenities of the locality and to comply with Policy QE7 of the Warrington Core Strategy and the Warrington SPD: Design and Construction.

- 15) Prior to the commencement of the development of each phase, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions and designed to prevent the discharge of water onto the public highway shall be submitted to and approved in writing by the Local Planning Authority. The development of each phase shall be carried out in accordance with the approved details.

Reason: In order to secure satisfactory drainage for the development and to manage the risk of flooding and pollution. The drainage details will need to be installed and understood at an early stage in the development process and therefore it is appropriate to require this detail prior to commencement of development.

- 16) Foul and surface water shall be drained on separate systems.

Reason: In order to secure satisfactory drainage for the development and to manage the risk of flooding and pollution.

INFORMATIVES

1)

----- **IMPORTANT**

This decision relates solely to planning legislation, and does not grant authority under the Building Regulations, nor any other legislation that might be required. The guidance notes enclosed with this decision notice will help you to understand this decision, your rights and other things you may have to do.

DATED 30-Jun-2020 SIGNED:

N. Gallagher.

Niki Gallagher
Development Manager
Development Management

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NOTES

- This decision is not an approval under the Building Regulations, nor is it a Listed Building or Conservation Area Consent for demolition or other works, consent to display advertisements, consent to lop or fell protected Trees (unless immediately required in connection with the carrying out of the development and the Council has confirmed in writing that all conditions relating to details which affect trees have been satisfied), or authority to close/divert a public right of way. It relates to the development described. Carrying out of a different form of development could result in enforcement action. You should therefore seek advice in writing on any proposed amendment or alteration.
- The formation or alteration of footway crossings and other highway works must be to the specification of the Council as Highway Authority. Please refer to the Highways Department at New Town House, Buttermarket Street, Warrington prior to commencement.
- The granting of planning permission should not be taken as indicating that the requirements of legislation concerned with public health, public safety, and pollution control or food hygiene have been satisfied. Please refer to the Environmental Health Section at New Town House, Buttermarket Street, Warrington prior to commencement.
- The opening of a place of work, premises into which the public will go or an educational facility gives rise to a legal duty to make provision for the needs of the disabled.
- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If this is a decision to refuse planning permission for a householder application or for a minor commercial application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice. These types of process **do not** apply to any in circumstances where an appeal against the refusal to grant listed building consent or conservation area consent is submitted at the same time as an appeal against the refusal to grant planning permission.
- If this decision relates to the same or substantially the same land and development as is or subsequently becomes the subject of an enforcement notice, if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice, or within 12 weeks in the case of a householder or minor commercial application of the date of this notice whichever period expires sooner.

- You can appeal to the Planning Inspectorate against the decision, including any conditions imposed by the Council (your formal rights are set out below). If you wish to appeal, you should do so by writing to The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or online at www.planningportal.co.uk/info/200207/appeals within 6 months of the decision date.
- If this decision relates to the same or substantially the same land and development as is or subsequently becomes the subject of an enforcement notice, if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice, or within 6 months of the date of this notice whichever period expires sooner.
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- If you feel your application was not dealt with properly, you can write to The Executive Director for Economic Regeneration, Growth & Environment who will investigate in accordance with the Council's complaints procedure.

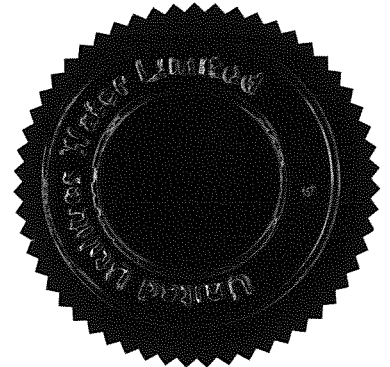
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EXECUTED AS A DEED AND DELIVERED by the Owner and delivered the day and year first above
written

EXECUTED AS A DEED by affixing)
THE COMMON SEAL of UNITED)
UTILITIES WATER LIMITED)
in the presence of:)



Authorised Signatory



1/930