

**THIS DEED** is dated the

day of

201

**BETWEEN**

A PEAK DISTRICT NATIONAL PARK AUTHORITY (“the Authority”)  
of Aldern House Baslow Road Bakewell Derbyshire DE45 1AE

B (“the Owner”) of

*NB Amend Owner to or add Applicant if different from Owner  
(If applicable)*

C (“the Applicant”)

D (“the Mortgagee”) of

**NOW THIS DEED WITNESSES AS FOLLOWS:**

**1. INTRODUCTION**

- 1.1 The Authority is the Local Planning Authority for the purposes of the Act for the area within which the Land is situated and by whom the Obligations created by this Deed are enforceable.
- 1.2 The Owner is registered as the owner of the freehold of the Land with title absolute under title number [add title number][Subject to a registered charge dated INSERT DATE in favour of the Mortgagee].
- 1.3 The Owner confirms that [other than the parties to this Deed – DELETE AS APPLICABLE] there are no other persons with any interest (legal or equitable) in the Land or any part thereof.
- 1.4 The Owner [or Applicant] has by the Planning Application applied to the Authority for permission to carry out the Development.
- 1.5 The Authority has decided to grant planning permission for the Development in accordance with the Planning Application subject to conditions and subject to the making of this Deed without which planning permission for the Development would not be granted.

**2. DEFINITIONS AND INTERPRETATION**

In this deed:

- 2.1 “Act” means the Town and Country Planning Act 1990

- 2.2 "the Authority" and "the Owner" and "the Mortgagee" shall include their respective successors in title and assigns
- 2.3 "Commencement of Development" means the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Commence Development" shall be construed accordingly.
- 2.4 "the Development" means the development for which permission is requested and described in the Planning Application
- 2.5 "the Land" means the land or any part thereof (together with any buildings thereon) against which this Deed may be enforced and described in the First Schedule
- 2.6 "the Obligations" means the covenants set out in the Third Schedule of this Agreement
- 2.7 "Plan " refers to the plan annexed to this Deed
- 2.8 "the Planning Application" means the application (brief details of which are set out in the Second Schedule of this Agreement) made by or on behalf of the Owner dated 201 (received by the Authority on 201 ) and the plans and particulars deposited with the Authority and forming part of the Planning Application
- 2.9 "Planning Permission" means the planning permission subject to conditions to be granted by the Authority for the Development pursuant to the Planning Application a draft of which is contained in the Fourth Schedule of this Deed and the expression Planning Permission shall include all approvals and variations to conditions granted under it

### **3. CONSTRUCTION OF THIS DEED**

- 3.1 Where in this Deed reference is made to clause, paragraph, or schedule or recital such reference (unless the context requires otherwise) is a reference to a clause paragraph or schedule or recital in this Deed
- 3.2 References to any party to this Deed shall include the successors in title to that party and any deriving title through or under that party and in the case of the Authority the successors to its statutory functions
- 3.3 Where 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 against each individually unless there is an express provision otherwise

- 3.4 Words of the masculine gender include the feminine and neuter genders
- 3.5 Words importing the singular shall be construed as importing the plural and vice versa unless stated otherwise.
- 3.6 The clause and paragraph headings in the body of this Deed and in the Schedule do not form part of this Deed and shall not be taken into account in its construction or interpretation.
- 3.7 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.

#### **4. LEGAL BASIS**

- 4.1 This Deed is made pursuant to section 106 of the Act as amended and all other powers and enabling enactments which may be relevant for the purpose of giving validity thereto or facilitating the enforcement of the obligations herein contained with the intent to bind the Owner's interest in the Land. Covenants in this Agreement falling within the provisions of s106 of the Act shall be deemed to be expressed to be planning obligations to which the said section shall apply.

#### **5. THE OWNER'S OBLIGATIONS**

- 5.1 The Owner covenants with the Authority as set out in the Third Schedule

#### **6. THE AUTHORITY'S OBLIGATIONS**

- 6.1 The Authority covenants with the Owner as set out in the Fourth Schedule

#### **7. MISCELLANEOUS**

- 7.1 The Owner shall pay to the Authority on completion of this Deed the reasonable legal costs of the Authority incurred in negotiation, preparation and execution of this Deed.
- 7.2 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 7.3 This Deed shall be registrable as a local land charge by the Authority
- 7.4 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Authority under the terms of this Deed such agreement, approval or

consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the Authority by the Head of Planning Service (or other officer duly authorised by the Authority to give such a certificate)

- 7.5 Any notices shall be deemed to have been properly served if sent by first class post to the principal address or registered office (as appropriate) of the relevant party.
- 7.6 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid or unenforceable then such invalidity or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 7.7 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 7.8 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Land or that part of the Land in relation to which such breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

## **8. WAIVER**

- 8.1 No waiver (whether expressed or implied) by the Authority or Owner 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 Authority or Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

## **9. MORTGAGEE'S CONSENT**

- 9.1 The Mortgagee acknowledges and declares that this Deed has been entered into by the Owner with its consent and that the Land shall be bound by the obligations contained in this Deed and that the security of the mortgage 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 too will be bound by the obligations as if it were a person deriving title from the Owner].

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

### **FIRST SCHEDULE**

THE LAND

All that land known as \_\_\_\_\_ and registered under title number [ \_\_\_\_\_ ]  
And shown for identification purposes only edged red on the Plan

**SECOND SCHEDULE**

THE PLANNING APPLICATION

Reference Number -- NP/

Proposal –

**THIRD SCHEDULE**

THE OBLIGATIONS

1.

**FOURTH SCHEDULE**

AUTHORITY'S OBLIGATIONS

The Authority covenants as follows:-

- 1 The Authority shall grant the Planning Permission as soon as practicable following the completion of this Deed.
- 2 Save as otherwise provided in this Deed any approval in writing or consent to be given by the Authority in connection with this Deed shall be given within 30 days of receipt by the Authority of such a request.
- 3 Nothing in this Deed shall be construed as preventing or restricting the exercise by the Authority of the powers vested them or in either of them by the Act or any other statutory power.

**FIFTH SCHEDULE**

DRAFT FORM OF NOTICE OF PLANNING PERMISSION ATTACHED

EXECUTED AS A DEED by the parties on the date which first appears in this Agreement

The COMMON SEAL of )  
PEAK DISTRICT NATIONAL PARK AUTHORITY )  
was affixed to this deed in the presence of )

Authorised Signatory

Signed as a Deed by the said [ ] .....  
in the presence of:-

Witness Signature .....

Name .....

Address .....

.....

.....

Signed as a Deed by the said [ ] .....  
in the presence of:-

Witness Signature .....

Name .....

Address .....

.....

.....

SAMPLE S106 agreement not to be used for draft purposes



PEAK DISTRICT NATIONAL PARK AUTHORITY

and

[NAME OF OWNER/APPLICANT]

**PLANNING OBLIGATION BY DEED**

**under s106 of the Town and Country Planning Act 1990 relating to the [development]**

Andrea McCaskie  
Head of Law  
Peak District National Park Authority  
Aldern House  
Baslow Road  
Bakewell  
Derbyshire  
DE45 1AE

SAMPLE S106 agreement not to be used for draft purposes