

THIS DEED is made 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”)
- C (“the Applicant”)
- D (“the Chargee”)

NOW THIS DEED made in pursuance of section 106 of the Town and Country Planning Act 1990 as amended which is a planning obligation for the purposes of that section

WITNESSES as follows:

1. INTRODUCTION

- 1.1 The Authority is the [Mineral] 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 Restricted Land with title absolute under title number [] subject to a charge in favour of the Chargee.
- 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 Applicant has by the Further Planning Application applied to the Authority for permission to carry out the Revised Development
- 1.5 The Authority has decided to grant planning permission for the Revised Development in accordance with the Further Planning Application subject to conditions and subject to the making of this Agreement 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”, “the Owner”, “the Applicant” and “the Chargee” shall include their successors in title and assigns
- 2.3 “the Revised Development” means the development for which permission is requested and described in the Further Planning Application
- 2.4 “the Obligations” means the covenants referred to and/or set out in the Third Schedule hereto
- 2.5 “the Further 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 Applicant dated [] (received by the Authority on [] and the plans and particulars deposited with the Authority and forming part of the Further Planning Application

2.6 "the Existing Planning Consent" refers to the planning permission granted on [] under reference []

2.7 "the Plan" means the plan annexed hereto

2.8 "the Planning Permission" means the planning permission subject to conditions to be granted by the Authority for the Revised Development pursuant to the Further 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

2.9 "the Restricted 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 hereto

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 Any obligation on a party not to do any act or thing includes an obligation not to allow that act or thing to be done by any person under its his or their control

3.5 Nothing in this Deed shall be construed as preventing or restricting the exercise by the Authority of the powers vested them by the Act or any other statutory power.

3.6 Words of the masculine gender include the feminine and neuter genders

3.7 Words importing the singular shall be construed as importing the plural and vice versa unless stated otherwise.

3.8 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.

- 3.9 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.
- 3.10 Insofar as any clause or paragraph 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.

4. LEGAL BASIS

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 Owners' respective interests in the Restricted Land. Covenants in this Deed 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 PARTIES' OBLIGATIONS

- 5.1 The Owners and the Applicant (with the consent of the Chargee) hereby jointly and severally covenant with the Authority that they will observe and perform the Obligations so far as the Obligations affect their respective estates and interests in the Restricted Land.
- 5.2 The Owners and the Applicant hereby surrender and relinquish without claiming any compensation all their rights conferred by the Existing Planning Consent which said planning consent shall be deemed to be revoked by this Deed

6. THE AUTHORITY'S OBLIGATIONS

The Authority covenants with the Parties that it shall observe and perform the obligations set out in the Fourth Schedule of this Deed.

7. MISCELLANEOUS

- 7.1 The Applicant shall pay to the Authority 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 Owners or Applicant 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 in writing 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 If the Planning Permission shall be quashed, revoked or otherwise withdrawn or expires or (without the consent of the Parties) it is modified by any statutory procedure this Deed shall cease to have effect from the date of such expiration revocation or withdrawal (as the case may be) but without prejudice to any rights liabilities or obligations which may have been incurred by or shall have accrued to any party prior to such date.
- 7.7 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 Restricted Land or that part of the Restricted Land in relation to which such breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 7.8 The Owners and the Applicant hereby separately warrant to the Authority that the titles to their respective estates and interests in the Restricted Land are as stated in clauses [] of this Deed.
- 7.9 Save for the provisions of clause 7.1 which shall come into effect immediately upon completion of this Deed the Obligations shall take effect from the date of issue of the Planning Permission.

8. WAIVER

No waiver (whether expressed or implied) by the Authority or the Owners or Applicant 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 the Parties 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 Owners with its consent and that the Restricted Land shall be bound by the Obligations contained in this Deed and that the security of the mortgage over the Restricted 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 Restricted Land in which case it too will be bound by the Obligations as if it were a person deriving title from the Owner].

[DELETE IF NO MORTGAGES]

IN WITNESS whereof this agreement has been executed as a deed by the parties to it but not delivered until the date of this Deed

FIRST SCHEDULE

the Restricted Land

The land and buildings known as [] edged red on
the plan registered at the Land Registry under title number []

SECOND SCHEDULE

the Further Planning Application

Reference Number - [] - Proposal -

THIRD SCHEDULE

the Owners Obligations

- 1 Not to take any action to implement or to further implement the Existing Planning Consent
- 2 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 Existing Planning Consent

FOURTH SCHEDULE

The Authority's Obligations

To issue the Planning Permission as soon as practicable following the completion of this Deed.

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 [])
in the presence of)
(Signature of [])

.....
Signature of Witness

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.....
.....

Address of Witness

SIGNED AS A DEED by [])
in the presence of)
(Signature of [])

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Signature of Witness

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.....

Address of Witness

SIGNED AS A DEED by [])
in the presence of)
(Signature of [])

.....
Signature of Witness

.....

SAMPLE S106 agreement not to be used for draft purposes

.....

.....

Address of Witness

THE COMMON SEAL of)
[])
was affixed to this deed in the presence of)

Authorised Signatory

SAMPLE S106 agreement not to be used for draft purposes

SAMPLE S106 agreement not to be used for draft purposes

PEAK DISTRICT NATIONAL PARK AUTHORITY

and

and

and

under Section 106 of the Town and Country Planning Act 1990 (as amended)
in respect of []

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

SAMPLE S106 amendment not to be used for draft purposes