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# Memorandum

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From: Carole Watson, Legal Services

To: Gary Housden – Development Control  
Jo Dodgson/Kerry Clements - Land Charges

RE: Section 106 Agreement – West Lilling Farm Goose Track Lane West Lilling York  
Ryedale District Council (1) (2) Brian and Lorraine Liddle

Date: 31 October 2005

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The above Section 106 Agreement was signed on behalf of the Council on the 19 October 2005 and I have now received a cheque from Gray's solicitors in respect of the Council's legal fees.

I attach a copy of the Section 106 Agreement for your records.

Please could the Planning Department issue the decision notice as soon as possible.

Regards.

*carole*  
.....

**THIS DEED** is made the 19th day of October, 2005

**BETWEEN**

- 1 **THE RYEDALE DISTRICT COUNCIL** whose principal office is at Ryedale House Malton in the County of North Yorkshire YO17 7HH ("the Council")
- 2 **BRIAN LIDDLE AND LORRAINE LIDDLE** both of West Lilling Farm, Goose Track Lane, West Lilling, York. YO60 6RP ("the Owner")

**RECITALS**

- (1) The Council is the Local Planning Authority for the purposes of this Agreement for the area within which the property described in the First Schedule ("the Property") is situated
- (2) The Owner is the owner in fee simple in possession of the Property free from encumbrances
- (3) The Owner has applied to the Council for permission to develop that part of the Property and is edged red on the plan ("the Red land") in the manner and for the uses set out in Second Schedule hereto ("the Proposed Development")
- (4) The Council is satisfied that the performance by the Owner of the covenants herein will remove certain arguments against or objections to the Proposed Development which would without the execution of this Agreement have led to the refusal of consent for the Planning Application and will on completion of this Agreement grant the Planning Permission for the Proposed Development (the Planning Permission) in the form of the draft annexed to this Agreement
- (5) The Owner has agreed to enter into this Agreement with the Council and be bound by and observe and perform the covenants agreements conditions and stipulations hereinafter contained and on his part to be observed and performed

**NOW THIS DEED WITNESSES** as follows:-

- 1 **THIS** Agreement is made pursuant to Section 106 of the Town & Country Planning Act 1990 as amended ("the 1990 Act") Section 111 of the Local Government Act 1972 and all other powers the parties hereunto enabling and the covenants in this Agreement are planning obligations for the purpose of the 1990 Act which are enforceable by the Council

included in the expression "the Owner" covenants expressed to be made by or with the Owner shall be deemed joint and several

3.11 A person who is not a party to this Deed shall have no right under the Contracts (Rights of Third Parties) Act 1999 ("the Act") to enforce any of its terms but for the avoidance of doubt it is agreed that the exclusion of the application of the Act shall not prevent all or any future (but subject to clause 3.6) successors in title to any of the parties to this Deed from being able to benefit from or to enforce any of the obligations in this Deed

3.12 For the purpose of avoidance of doubt and subject to clause 3.7 and 3.8 hereof the requirements of this Agreement shall bind the Property and remain in full force and effect until formally varied by agreement of the parties or their successors or by the Secretary of State notwithstanding that the Planning Application and or any plans submitted with the same shall have lapsed or shall have been amended superseded renewed or resubmitted

3.13 This Agreement is a local land charge and shall be registered as such and shall come into full force and effect when the Proposed Development is commenced and not otherwise

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

#### **THE FIRST SCHEDULE**

[the Property]

ALL THAT piece of land TOGETHER WITH buildings thereon at West Lilling Farm, Goose Track Lane, West Lilling, York shown edged in red and in blue on the attached plan.

#### **THE SECOND SCHEDULE**

[Particulars of the Proposed Development]

Erection of 1.no. five bed dwelling, 1.no four bed dwelling, 1.no three bed dwelling and 1.no. two bed dwelling with detached garages to rear on the Red Land

#### **THE THIRD SCHEDULE**

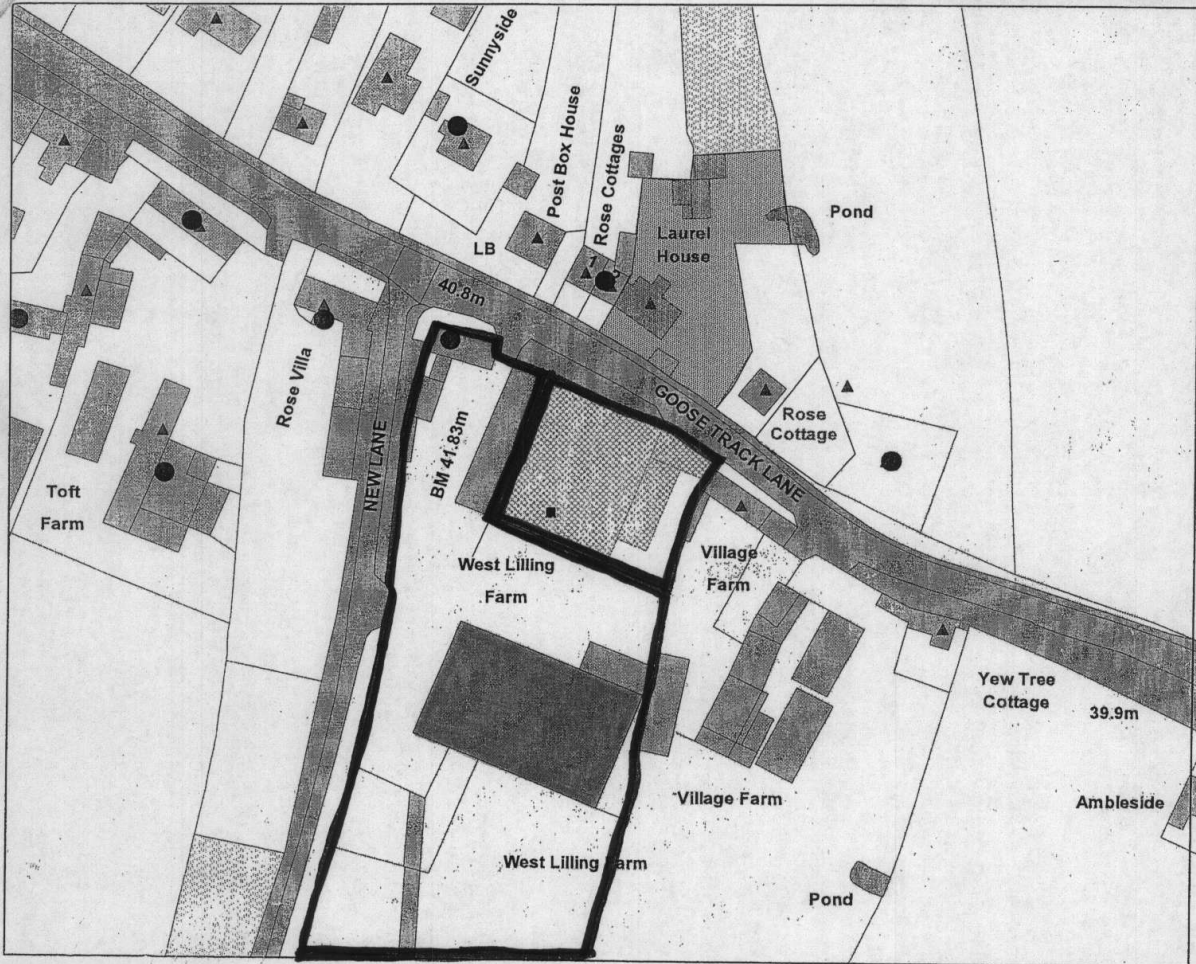
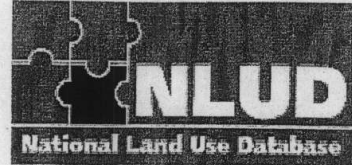
[Negative Obligations]

The Owner covenants that following occupation of the first dwelling on the Red Land;

1. Not to use a grain dryer on the Property;
  - 1.1 Unless it is situated to the south of the building shown shaded in green on the plan, and;
  - 1.2 Except between the hours of 0600 hours and 2359 hours unless the Development Control Manager of the Council has been notified that a grain dryer is to be used outside of these hours on specified dates because of exceptional circumstances such as extreme weather conditions during harvest.
2. Not to use the building on the Property shown shaded in green on the plan, for the purpose of housing livestock or animals of any kind whatsoever.

Set

Set



**Legend**

Chairman *[Signature]*

Council Solicitor *[Signature]*

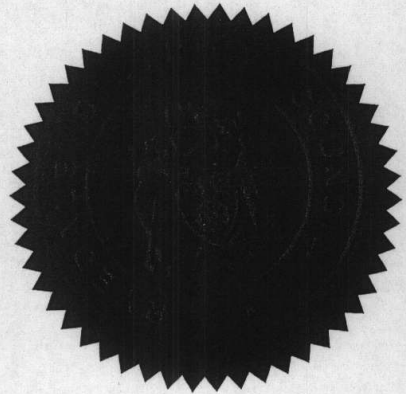


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Organisation	Ryedale District Council
Department	Planning Services
Comments	Not Set
Date	24 January 2005
SLA Number	100019406

THE COMMON SEAL of THE )  
RYEDALE DISTRICT COUNCIL )  
was hereunto affixed and )  
is authenticated by: )



Minute P.82 (2/2004)  
Reg No. 6003  
Initials CLW

Chairman

Council Solicitor

SIGNED AS A DEED BY )  
BRIAN LIDDLE )  
in the presence of: )

Witness

Name

STEPHEN LOYNES

Address

CHALL HOUSE  
WEST LILLING  
TORK.

SIGNED AS A DEED BY )  
LORRAINE LIDDLE )  
in the presence of: )

Witness

Name

STEPHEN LOYNES

Address

CHALL HOUSE  
WEST LILLING  
TORK.

**DRAFT**

**RYEDALE DISTRICT COUNCIL**

**TOWN & COUNTRY PLANNING ACT 1990**

**FULL APPLICATION FOR PERMISSION TO CARRY OUT DEVELOPMENT**

**RYEDALE DISTRICT COUNCIL, THE LOCAL PLANNING AUTHORITY, HAS CONSIDERED THIS APPLICATION AND HAS DECIDED IT SHOULD BE APPROVED SUBJECT TO THE CONDITIONS STATED BELOW:**

**Application No:** 04/00863/FUL  
**Proposal:** Erection of 1no. five bed dwelling, 1no. four bed dwelling, 1no. three bed dwelling and 1no. two bed dwelling with detached garages to rear  
**at:** West Lilling Farm Goose Track Lane West Lilling York North Yorkshire YO60 6RP  
**for:** Mr & Mrs B Liddle  
**Decision Date:** 1 July 2005

**CONDITIONS AND ASSOCIATED REASONS**

The proposed development is in accord with the following development plan policies and there are no other material considerations that outweigh those listed development plan policies:

North Yorkshire County Structure Plan - Policy H4 - Development in settlements  
North Yorkshire County Structure Plan - Policy T9 - Car Parking  
Ryedale Local Plan - Policy H7 - Residential development within settlements  
Ryedale Local Plan - Policy T3 - Access to the local highway network  
Ryedale Local Plan - Policy T7 - Parking  
Ryedale Local Plan - Policy H15 - Boundary walls and fences  
Ryedale Local Plan - Policy U2 - Availability of water supplies  
Ryedale Local Plan - Policy U3 - Surface water run-off  
Ryedale Local Plan - Policy U4 - Sewage disposal  
Ryedale District Council - Policy U6 - Foul sewerage problem areas  
Ryedale Local Plan - Policy ENV22 - Water quality  
Ryedale Local Plan - Policy ENV7 - Landscaping  
Ryedale Local Plan - Policy ENV21 - Pollution control  
Ryedale Local Plan - Policy T10 - Public rights of way and pedestrian facilities

01 The development hereby permitted shall be begun on or before 30 June 2010.

Reason:- To ensure compliance with Sections 91 to 95 and Section 56 of the Town & Country Planning Act 1990.

Mr & Mrs B Liddle  
C/o Robert Burns Design Associates  
The Bothy  
Brandsby  
YORK  
YO61 4RN

- 02 Before the development hereby permitted is commenced, or such longer period as may be agreed in writing with the Local Planning Authority, details and samples of the materials to be used on the exterior of the building the subject of this permission shall be submitted to and approved in writing by the Local Planning Authority.

(NB Pursuant to this condition the applicant is asked to complete and return the attached proforma before the development commences so that appropriate materials can be agreed and the requirements of the condition discharged)

Reason:- To ensure a satisfactory external appearance and to satisfy the requirements of Policy H7A (ii) of the Ryedale Local Plan.

- 03 Before the development hereby permitted is commenced the developer shall construct on site for the written approval of the Local Planning Authority a one metre square free standing panel of brickwork of the type of brick to be used in the construction of the building. The brickwork panel so constructed shall be retained only until the development has been completed.

Reason:- To ensure a satisfactory external appearance and to satisfy the requirements of Policy H7A (ii) of the Ryedale Local Plan.

- 04 Before the development hereby permitted is commenced, details of the boundary treatment of the site shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary scheme shall be carried out in its entirety within 6 months of the commencement of the development or such longer period as may be agreed in writing with the Local Planning Authority.

Reason:- To ensure that the development does not prejudice the enjoyment by the neighbouring occupiers of their properties or the appearance of the locality as required by Policy H15 of the Ryedale Local Plan.

- 05 Before any part of the development hereby approved commences, plans showing details of a landscaping and planting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the planting of trees and shrubs and show areas to be grass seeded or turfed. The submitted plans and/or accompanying schedules shall indicate numbers, species, heights on planting, and positions of all trees and shrubs including existing items to be retained. All planting seeding and/or turfing comprised in the above scheme shall be carried out during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of five years from being planted, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar sizes and species, unless the Local Planning Authority gives written consent to any variation.

Reason:- To enhance the appearance of the development hereby approved and to comply with the requirements of Policy ENV7 of the Ryedale Local Plan.

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- 06 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hard-standings shall be passed through an oil interceptor installed in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority. Roof water shall not pass through the interceptor.

Reason:- To prevent pollution of the water environment and to comply with Policies ENV21 and ENV22 of the Ryedale Local Plan.

- 07 There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaways.

Reason:- To prevent pollution of the water environment and to comply with Policies ENV21 and ENV22 of the Ryedale Local Plan.

- 08 No development approved by this permission shall be commenced until a scheme for the conveyance of foul drainage to a package treatment plant has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use until such treatment has been constructed and shall thereafter be retained throughout the life of the development.

Reason:- To prevent pollution of the water environment and to comply with Policies ENV21 and ENV22 of the Ryedale Local Plan.

- 09 No development shall be commenced until satisfactory percolation test results have been submitted to and approved in writing by the Local Planning Authority in accordance with DETR Circular 3/99. (The Environment Agency request that they are re-consulted on this matter).

Reason:- To establish the effectiveness of the proposed soakaway and to comply with Policy U4 of the Ryedale Local Plan.

- 10 No development shall take place within the application area until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.

Reason:- The site is of archaeological interest and investigation/protection and observation of the site is required by the provisions of Policy C13 of the Ryedale Local Plan and to satisfy Policy E5 of the North Yorkshire County Structure Plan.

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- 11 Prior to the commencement of any other part of the development hereby permitted, the access(es) to the site shall be laid out and constructed in accordance with the following requirements:-

(ib) the existing eastern access shall be re-surfaced in accordance with Standard Detail number E6 and the Specification of the Local Highway Authority;

(ic) the new western access shall be constructed in accordance with Standard Detail number E6B and the Specification of the Local Highway Authority;

(ii) any gates, barriers or other means of enclosure shall be erected a minimum distance of 6 metres back from the carriageway of the existing highway and shall open into the site;

(iv) that part of the accesses extending 6 metres into the site from the carriageway of the existing highway shall be made up and surfaced in accordance with the Standard Detail number E6 (eastern access) and E6B (western access) and the Specification of the Local Highway Authority.

Reason:- To ensure a satisfactory means of access to the site from the public highway, in the interests of vehicle and pedestrian safety and convenience and to comply with Policy T3 of the Ryedale Local Plan.

- 12 A 1.2 metres wide footway shall be provided across the frontage of the site in accordance with Standard Detail number A1 and the Specification of the Local Highway Authority.

Reason:- In the interests of pedestrian safety and convenience and to satisfy Policy T10 of the Ryedale Local Plan.

- 13 Prior to commencement of the development hereby permitted visibility splays providing clear visibility of 2 metres x 70 metres for the new access shall be provided which shall be measured down the centre line of the access road and the nearside channel line of the major road shall be provided at the junction of the access road with the county highway at Goose Track Lane. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:- In the interests of road safety to provide for drivers of vehicles using the access road to the site and the public highway with a standard of inter-visibility commensurate with the vehicular traffic flows and road conditions, and to satisfy Policy T3 of the Ryedale Local Plan.

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- 14 Prior to the first use of the development the vehicular access, parking and turning facilities shall be formed in accordance with the revised site layout plan date stamped at Ryedale District Council's offices on 9 November 2004. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:- To provide for appropriate on-site vehicle parking facilities with associated access and manoeuvring areas, in the interests of highway safety and the general amenity of the development, and to satisfy Policies T3 and T7 of the Ryedale Local Plan and Policy T9 of the North Yorkshire County Structure Plan.

- 15 No dwelling shall be occupied until parking spaces of a size not less than 4.8 metres x 2.4 metres, including one garage or a car parking space capable of accommodating a garage, have been provided within the curtilage of that dwelling, in accordance with standards set out in the North Yorkshire County Council Parking Design Guide. Any garages shall then be positioned a minimum of 6 metres back from the highway boundary. Once created the parking and garaging areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:- To provide for adequate and satisfactory provision of off-street accommodation for vehicles generated by occupiers of the dwellings and visitors to them, in the interest of safety and the general amenity of the development and to satisfy Policy T7 of the Ryedale Local Plan and Policy T9 of the North Yorkshire County Structure Plan.

- 16 The development hereby approved shall be undertaken in accordance with the revised parking layout received by the District Council on 10 January 2005.

Reason:- In the interests of certainty and to satisfy Policy T7 of the Ryedale Local Plan and Policy T9 of the North Yorkshire County Structure Plan (Alteration No.3) 1995.

**INFORMATIVES:**

- 01 You should satisfy yourself, prior to commencement of any work related to this project, that no part of the works hereby approved (including foundations and/or guttering) extended onto or over adjoining land unless you have first secured the agreement of the appropriate landowner(s).
- 02 The applicants attention is drawn to the legal agreement that accompanies this decision dated ...

Mr & Mrs B Liddle  
C/o Robert Burns Design Associates  
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Brandsby  
YORK  
YO61 4RN

NO CONSENT OR APPROVAL HEREBY GIVEN REMOVES ANY REQUIREMENT TO SERVE NOTICES OR SEEK APPROVAL FROM THE DISTRICT COUNCIL WHERE SUCH ACTION IS REQUIRED BY THE BUILDING ACT 1984 OR OF ANY OTHER STATUTORY PROVISION. NO PART OF THE PROPOSED DEVELOPMENT SHOULD BE STARTED WITHOUT COMPLYING WITH SUCH REQUIREMENT.

DEVELOPMENT CONTROL MANAGER

Reason: To provide for adequate and satisfactory provision of off-street parking for vehicles generated by the development and to satisfy Policy 17 of the North Yorkshire County Council Local Plan and Policy 17 of the North Yorkshire County Council Local Plan.

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DATED 1<sup>st</sup> October 2005

**THE RYEDALE DISTRICT COUNCIL**

and

**BRIAN AND LORRAINE LIDDLE**

**A G R E E M E N T**

pursuant to Section 106 of the  
Town and Country Planning Act 1990 as amended  
and Section 111 of the Local Government Act 1972  
in respect of land at West Lilling Farm, Goose Track Lane, West Lilling, York in  
the County of North Yorkshire

K A Winship  
Council Solicitor  
M A L T O N