

YORK POTASH LTD WOODSMITH MINE S73 APPLICATION

July 2017

Deed of Variation
Eversheds Sutherland



Dated: **2017**

- (1) North York Moors National Park Authority**
- (2) North Yorkshire County Council**
- (3) York Potash Limited**

S106 SUPPLEMENTAL DEED

**made pursuant to S106 and S106A of the Town and Country Planning Act
1990 relating to land at Doves Nest Farm, Scarborough North Yorkshire**

DRAFT

BETWEEN

- (1) **NORTH YORK MOORS NATIONAL PARK AUTHORITY** of The Old Vicarage, Bondsgate, Helmsley, York, YO62 5BP (“NYMNPA”);
- (2) **NORTH YORKSHIRE COUNTY COUNCIL** of County Hall, Northallerton, North Yorkshire, DL7 8AD (“the County Council”); and
- (3) **YORK POTASH LIMITED** (Company Registration Number 07251600) whose registered office is situated at 3rd Floor Greener House, 68 Haymarket, London, SW1Y 4RF (“YPL”)

RECITALS

- (A) NYMNPA and the County Council are local planning authorities for the purposes of the Section 106 of the 1990 Act and the County Council is the highway authority for the area within which the DNF Obligation Land and the Lady Cross Obligation Land is situated
- (B) YPL is registered as the freehold owner of all the DNF Obligation Land which includes the Obligation Land and is registered at HM Land Registry under Title Numbers NYK403401, NYK211933, NYK288512, NYK211934, NYK351074, NYK217353, NYK440715 and NYK441131
- (C) YPL is registered as the freehold owner of the Lady Cross Obligation Land which is registered at HM Land Registry under Title Number NYK147939
- (D) On 19 October 2015 YPL and NYMNPA (together with other parties) entered into the 2015 NYMNPA Agreement relating to the 2015 Permission and containing planning obligations which bind the DNF Obligation Land and the Lady Cross Obligation Land (as defined in the 2015 NYMNPA Agreement)
- (E) On 19 October 2015 YPL and the County Council (together with another party) entered into the 2015 NYCC Agreement relating to the 2015 Permission and containing planning obligations which bind the Obligation Land (as defined in the 2015 NYCC Agreement)
- (F) YPL on [] July 2017 made the s.73 Application to NYMNPA
- (G) NYMNPA has resolved to grant the s.73 Permission subject to conditions and subject to YPL entering into the obligations in this Deed which apply the provisions of the 2015 Agreements to the development carried out pursuant to the s.73 Permission
- (H) This Deed is made under section 106 and 106A of the Town and Country Planning Act 1990 and is supplemental to the 2015 Agreements

OPERATIVE PROVISIONS

DEFINITIONS AND INTERPRETATION

1. The definitions in the 2015 Agreements shall apply to this Deed (save as varied by this Deed) in addition to the definitions set out below:

"the 2015 Agreements"	the 2015 NYCC Agreement and the 2015 NYMNPA Agreement
"the 2015 NYCC Agreement"	the agreement made on 19 October 2015 pursuant to S.106 of the Act between North Yorkshire County Council (1) York Potash Limited (2) and Barclays Bank Plc (3)
"the 2015 NYMNPA Agreement"	the agreement made on 19 October 2015 pursuant to S.106 of the Act between North York Moors National Park Authority (1) York Potash Limited (2) Victoria Farm Garden Centre Limited (3) Margaret Ann Parker and Michael Leslie Parker (4) Jane Annabel Adamski and Alistair Paul Jackson and Fiona Gillian Clacherty (5) and Barclays Bank Plc (6)
"the 2015 Permission"	the planning permission issued by NYMNPA following the completion of the 2015 Agreements under reference NYM/2014/0676/MEIA dated 19 October 2015
"s.73 Application"	the application for variation of condition number[s] [] attached to the 2015 Permission allocated reference []
"s.73 Permission"	the planning permission to be issued by NYMNPA pursuant to the determination of the s.73 Application
"DNF Obligation Land"	The land shown edged red on Plan 1 attached to the 2015 NYMNPA Agreement

IT IS HEREBY AGREED AND DECLARED AS FOLLOWS:-

2. This Deed is made pursuant to S106 and S106A of the Act and all other enabling powers

3. This Deed constitutes a planning obligation pursuant to S106 of the Act which applies to the DNF Obligation Land and the Lady Cross Obligation Land and is enforceable as follows:
 - 3.1 in respect of those obligations set out in the 2015 NYMNPA Agreement, by NYMNPA against parties with an interest in the DNF Obligation Land and the Lady Cross Obligation Land in the manner specified in the 2015 NYMNPA Agreement; and
 - 3.2 in respect of those obligations set out in the 2015 NYCC Agreement, by the County Council or in the absence of enforcement by the County Council by NYMNPA against parties with an interest in the Obligation Land.
4. It is hereby agreed between the parties hereto that the obligations set out in the 2015 Agreements shall continue in full force and effect and shall by virtue of this Deed apply to and bind:
 - 4.1 the DNF Obligation Land and the Lady Cross Obligation Land (in respect of the 2015 NYMNPA Agreement in the manner specified in the 2015 NYMNPA Agreement); and
 - 4.2 and the Obligation Land (in respect of the 2015 NYCC Agreement),as the case may be, and will apply to the Development carried out pursuant to the s.73 Permission as if that Development had been carried out pursuant to the 2015 Permission
5. It is further hereby agreed that any performance of the obligations by any of the parties hereto pursuant to either or both of the 2015 Agreements shall be deemed to have been taken for the purposes of the satisfaction of the obligations applied by the provisions of this Deed and mutatis mutandis

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

The COMMON SEAL of **THE NORTH YORK MOORS NATIONAL PARK AUTHORITY** was hereunto affixed in the presence of:)
)
)
)

Authorised Signatory

The COMMON SEAL of **NORTH YORKSHIRE COUNTY COUNCIL** was hereunto affixed in the presence of:)
)
)
)

Authorised Signatory

SIGNED AS A DEED on behalf of **YORK POTASH LIMITED** by two Directors or one Director and its Company Secretary)
)
)
)

Director

Director/Secretary

