



North

Yorkshire County Council

Chief Executive's Group

Our ref: 17616

Your ref: NYM/2007/0352/FL

Contact: Simon Evans

Carole Dunn, Solicitor

Head of Legal Services & Monitoring Officer

County Hall, Northallerton, North Yorkshire, DL7 8AD

14 December 2007

Dear Liz

**BOTHAMS BAKERY - WHITBY**

Further to my email today I enclose a copy of the completed agreement for your records.

Yours sincerely

For Head of Legal Services and Monitoring Officer

NYMNP  
dlw 17 DEC 2007

Liz Walker  
North York Moors National Park Authority  
The Old Vicarage  
Bondgate  
Helmsley  
YO62 5BP



INVESTOR IN PEOPLE

**keep north yorkshire thriving**

27982618

DATE 12 December 2007

W

**PARTIES**

**THE NATIONAL PARK**      The North York Moors National Park Authority of the Old Vicarage Bondgate Helmsley North Yorkshire YO62 5BP

**THE OWNER**              E Botham & Sons Limited whose registered office is at 35/39 Skinner Street Whitby North Yorkshire YO21 3AH

**THE MORTGAGEE**        Clydesdale Bank PLC of Yorkshire Bank whose registered office is at 20 Merrion Way Leeds LS2 8NZ

**DEFINITIONS**

**1972 Act**                      the Local Government Act 1972

**1990 Act**                      the Town and Country Planning Act 1990

**S56**                              Section 56 of the 1990 Act

**S106**                             Section 106 of the 1990 Act

**S111**                             Section 111 of the 1972 Act

**Application**                 an application for planning permission made to the National Park on 26 April 2007 under reference NYM/2007/0352/FL for the Development on the Land

**Development**                construction of a bakery on the Land

**Plan**                             the Plan attached

**Land**                             the land at Whitby North Yorkshire identified as edged red on the Plan

**Schedule**                      the Schedule to this Agreement

**RECITALS**

1. The National Park is the local planning authority for the purposes of the 1990 Act
2. The Owner is the freehold owner of the Land subject to a charge in favour of the Mortgagee
3. The National Park has resolved to approve the Application subject to the prior execution of this Agreement without which planning permission for the Development would not be granted

NYM/2007/0352/FL  
17 DEC 2007

**THE AGREEMENT:-**

1. This Agreement:-
  - (a) constitutes a planning obligation for the purposes of S106 and is made pursuant to the powers in S106 and S111
  - (b) does not operate to grant any consent or approval under the 1990 Act or any other legislation
  - (c) shall be registered as a local land charge

- (d) may only be varied by a Deed executed by the parties and expressed to be supplementary to this Agreement
- 2.1 The expressions "the National Park" "the Owner" and "the Mortgagee" shall include their respective successors in title and persons respectively claiming through or under them
  - 2.2 All references to statutory provisions in this Agreement shall be construed as including references to any statutory modification consolidation or re-enactment of such provisions
  3. The Owner covenants with the National Park that all the interest which the Owner has in the Land shall be permanently subject to the restrictions and provisions regulating the Development which are contained in the Schedule
  4. The planning obligation shall take effect only when the Development has begun by the carrying out of a material operation within the meaning of S56
  5. If the permission granted pursuant to the Application expires before the Development is begun or shall at any time be revoked this Agreement shall immediately cease to have effect
  6. The parties agree that this Agreement shall not operate to bind the Owner personally in respect of any period during which the Owner no longer has an interest in the Land provided that if the Owner parts with the Land the Owner shall transfer the Owner's obligations in this Agreement to any successor in title
  7. The Mortgagee consents to the covenant made by the Owners in Clause 3
  8. A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement
  9. The parties shall each bear their own costs in the preparation and completion of this Agreement

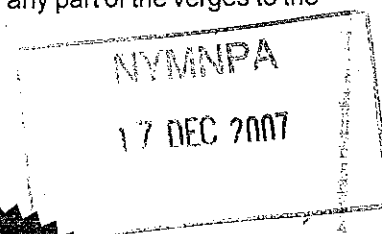
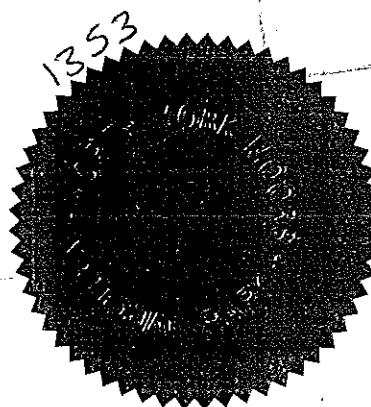
EXECUTED as a Deed on the date which first appears

#### THE SCHEDULE

- i. siting and specification of all outdoor signage relating to the retail element of the Development is subject to the prior written approval of the Authority
- ii. there shall be no outdoor advertisement of the Development sited on any part of the verges to the A171 road

THE COMMON SEAL OF THE NORTH YORK  
MOORS NATIONAL PARK AUTHORITY was  
affixed in the presence of:-

AUTHORISED  
SIGNATORY



TH  
BA  
wa:  
affi:

SIGNED AND DELIVERED as a Deed  
by E BOTHAM & SONS LIMITED  
in the  
presence of:-

THE COMMON SEAL OF CLYDESDALE  
BANK PLC OF YORKSHIRE BANK  
was  
affixed in the presence of:-

SIGNED AND DELIVERED  
on behalf of Clydesdale Bank PLC  
trading as Yorkshire Bank  
in the presence of  
Witness Signature MICHELE MEYER  
Full Name MICHELE MEYER  
Ref: 27982618  
of 20 Western Way  
Leeds LS2 6NY

NYNANPA  
17 DEC 2007

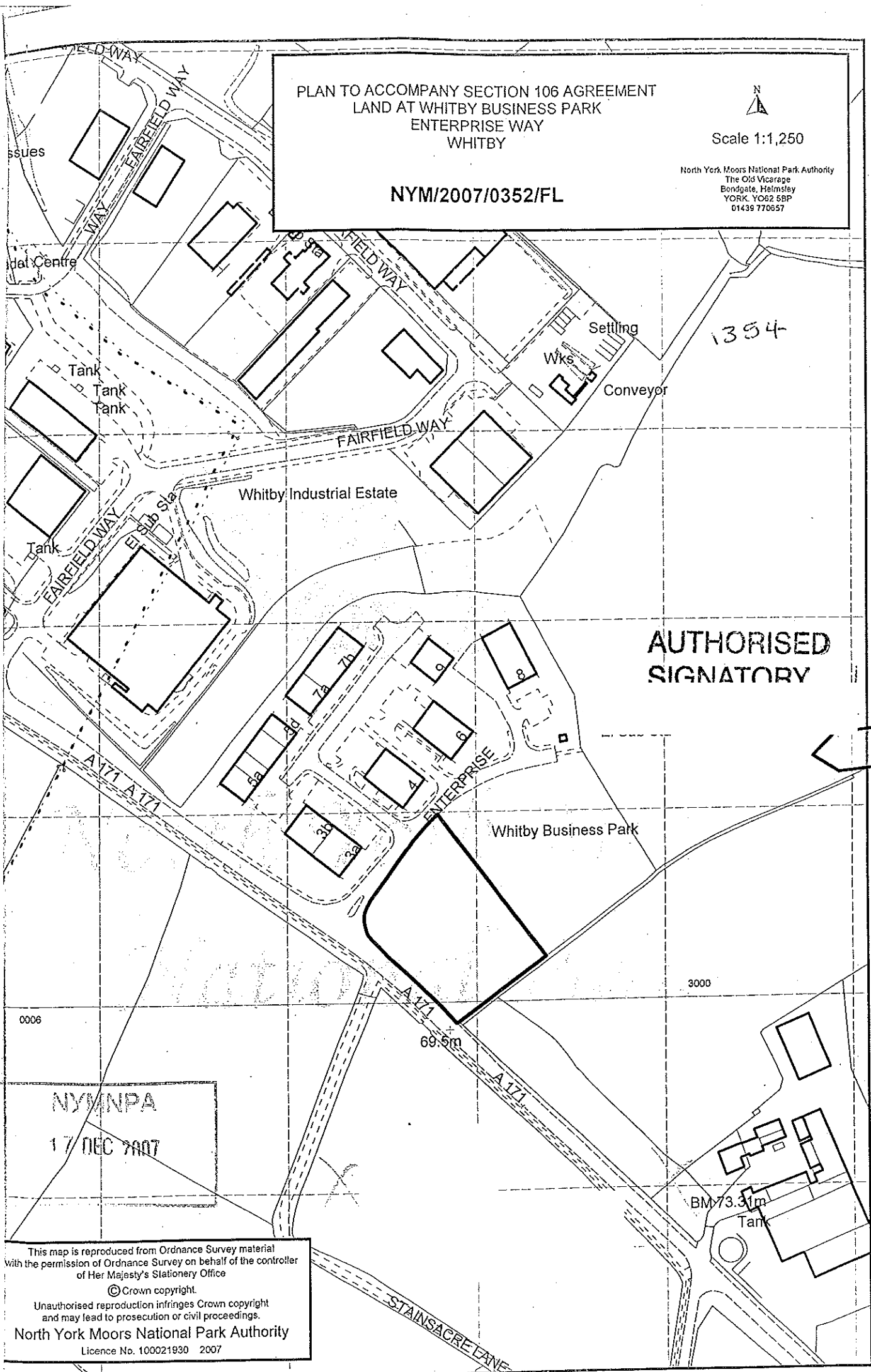
PLAN TO ACCOMPANY SECTION 106 AGREEMENT  
LAND AT WHITBY BUSINESS PARK  
ENTERPRISE WAY  
WHITBY



Scale 1:1,250

North York Moors National Park Authority  
The Old Vicarage  
Bondgate, Helmsley  
YORK YO62 5BP  
01439 770557

**NYM/2007/0352/FL**



**AUTHORISED  
SIGNATORY**

NYM/NPA

17 DEC 2007

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North York Moors National Park Authority

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DATED 12 December 2007

NORTH YORK MOORS NATIONAL PARK AUTHORITY

-and-

E BOTHAM & SONS LIMITED

-and-

CLYDESDALE BANK PLC OF YORKSHIRE BANK

SECTION 106 AGREEMENT

relating to land at Whitby Business Park, Whitby, North Yorkshire

NYMMPA  
17 DEC 2007