

**MEMORANDUM**

To: Andrea Burden

From: Cathryn Pincombe

Subject: S106 Mill Garth, Dent

Our Ref: 106/15

Your Ref:

E-mail:  
Legal.Services@yorkshiredales.org.uk  
2<sup>nd</sup> May 2006

---

Please find enclosed a copy of the complete s106 agreement for Mill Garth, Dent, for your file. The decision notice can now be issued.

Thank you,

Redacted by YDNPA



Cathryn Pincombe  
LEGAL SERVICES OFFICER

This DEED is made the

2<sup>nd</sup> day of May

two thousand and SIX

BETWEEN

- (1) THE YORKSHIRE DALES NATIONAL PARK AUTHORITY ("the Authority")
- (2) ALBERT FOTHERGILL and MARGARET IRENE FOTHERGILL ("the Owner")

## DEFINITIONS

1 IN THIS DEED:-

1.1 "the Authority"

means the said Yorkshire Dales National Park Authority of Yoredale Bainbridge Leyburn North Yorkshire DL8 3EL

1.2 "the Owner"

means the said Albert Fothergill and Margaret Irene Fothergill of Mill Garth The Laning Dent Sedbergh

1.4 "the Act"

means the Town and Country Planning Act 1990 (as amended)

1.5 "the Property"

means the land edged red and the land edged blue on the Plan being land at Millgarth, the Laning ; Dent North Yorkshire

1.7 "the Plan"

means the plan annexed hereto

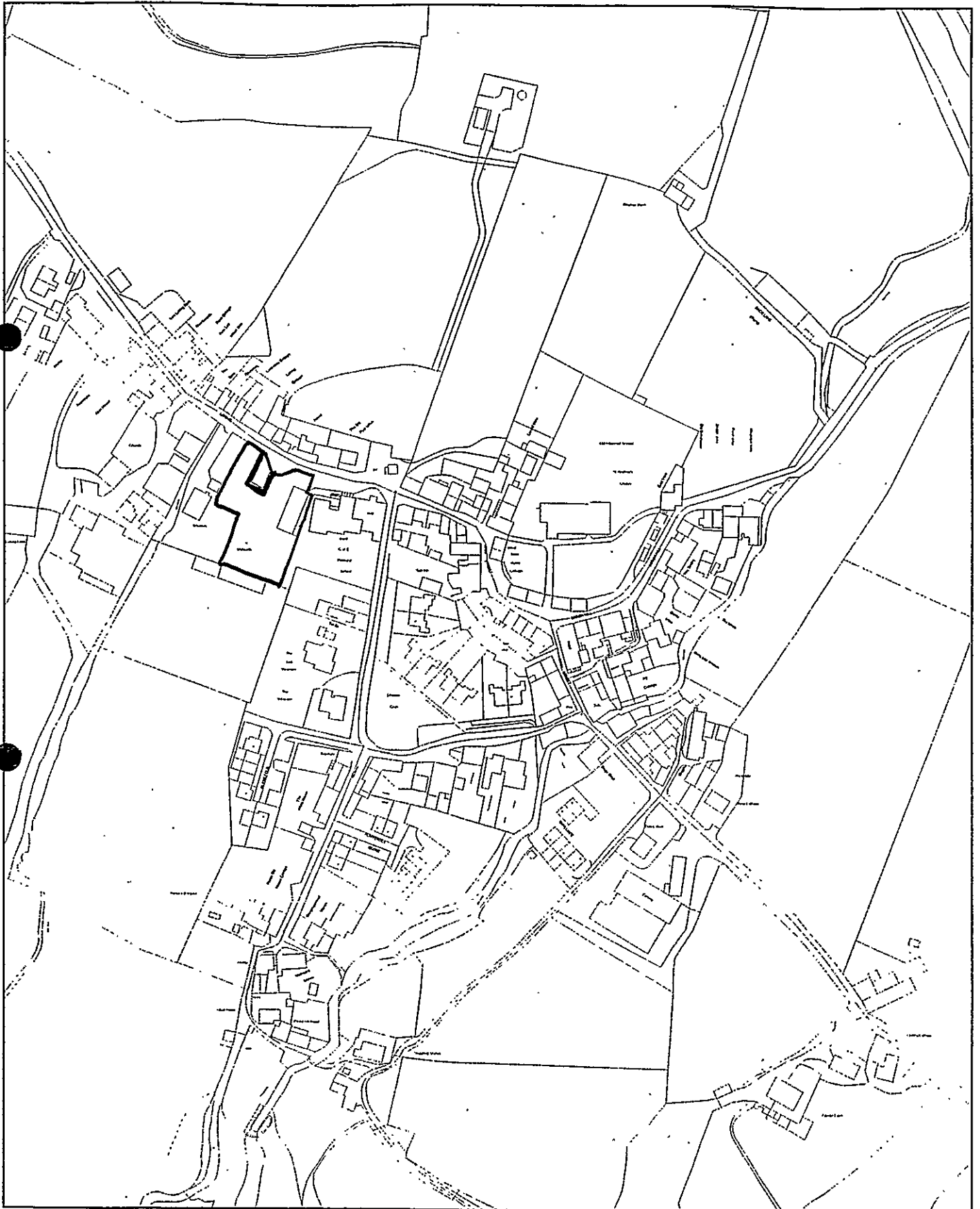
1.7 "the Development"

means the development described in the Planning Application Reference Number S/01/178a for the erection of one local occupancy dwelling and garage and shall include any amended or substantially

**LOCATION PLAN IN RESPECT OF SECTION 106 AGREEMENT**

**FULL PLANNING PERMISSION FOR ERECTION OF DWELLINGHOUSE AND GARAGE**

**MILLGARTH; THE LANING, SEDBERGH  
S/01/178A (GRID REF: SD70368705)**



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

Yorkshire Dales National Park Authority LA 08905L 2005  
Additional information: © Yorkshire Dales National Park Authority

- similar Planning Application relating to the Property
- 1.8 "Local Occupancy Unit" means the dwellinghouse and associated land to be constructed within the Development
- 1.9 "National Park" means land within the administrative boundary of the Authority
- 1.10 "Split Parish" means a parish part of which falls within the National Park
- 1.11 "Planning Permission" means the planning permission granted for the Development
- 1.12 When the context so requires the masculine shall include the feminine and the singular the plural and vice versa

## **2 PRELIMINARY**

- 2.1 The Owner is the freehold owner of the Property
- 2.2 The Authority is the Local Planning Authority for the purposes of the Act for the area in which the Property is situated and by whom this planning obligation is enforceable
- 2.3 The Owner has applied for planning permission for the Development which the Authority is minded to grant subject to conditions and the prior completion of this Deed

### **3 STATUTORY POWERS**

- 3.1 This Deed is made pursuant to Section 106 of the Act and is a planning obligation for the purpose of that Section and also pursuant to Section 111 of the Local Government Act and any other powers so enabling
- 3.2 Nothing in this Deed shall prevent or restrict the exercise by the Authority of any of its statutory powers

### **4 CONDITIONS PRECEDENT**

This Deed is conditional upon and shall not take effect until:-

- 4.1 grant of the Planning Permission; and
- 4.2 implementation of the Planning Permission by the carrying out of a material operation as defined by Section 56 of the Act in respect of the Development

### **5 OWNER'S COVENANTS**

The Owner hereby covenants as follows:-

- 5.1 to observe and fulfil the covenants contained in the First Schedule hereto

### **6 AGREEMENTS AND DECLARATIONS**

It is hereby agreed and declared as follows:-

- 6.1 Covenants made hereunder:-
- 6.1.1 if made by more than one person as joint owners of the Property or a defined part of it are made jointly and severally; and
- 6.1.2 are to the intent that the same shall bind whomsoever shall become a successor or successors in title to the Property or any part or parts thereof and the covenants hereof shall be enforceable by the Authority against the Owner and all persons who shall have derived title through or under the Owner in respect of the

Property (but so that no person shall be liable to the Authority for any breach of the covenants committed after such person has parted with all of its interest in the Property)

6.2 in the event of the Planning Permission being revoked by the Authority or any other authority having power in relation to planning matters the covenants of the Owner under this Deed shall thereupon cease absolutely

6.3 the provisions of the Contracts (Rights of Third Parties) Act 1999 are excluded from the terms of this Deed

#### **FIRST SCHEDULE**

1. The Local Occupancy Unit shall not be occupied without first having obtained the Authority's written approval to the occupation. An application for such approval should refer to the name and current address of the proposed occupiers and confirm that the proposed occupiers are aware of the terms of this Agreement and provide adequate details on how the proposed occupiers satisfy the criteria in clause 2 below.
2. An occupier of the Local Occupancy Unit must satisfy the following criteria:-
  - (a) the Local Occupancy Unit must be the main or principal residence of the occupier and
  - (b) the occupier has established a need to live in the Local Occupancy Unit by being either
    - (i) An existing resident of the National Park establishing a separate household; or
    - (ii) A head of household who is or whose partner is in or is taking up full time permanent employment in an already established business within the National Park or within a Split Parish; or
    - (iii) A householder currently living permanently in a dwelling which is either shared but not self contained, overcrowded, or is otherwise unsatisfactory by environmental health standards and which is within the National Park or a Split Parish; or

- (iv) An elderly or disabled person requiring sheltered or otherwise more suitable accommodation who already live permanently within the National Park or a Split Parish; or
- (v) A person having to leave tied accommodation within the National Park or a Split Parish; or
- (vi) A former resident of the National Park or a Split Parish with close relatives in the National Park or a Split Parish accepted in writing by the Authority as having an exceptional need to return to the National Park

Provided that the categories set out in paragraphs (i) (iii) (iv) and (v) above will apply only to persons who have resided permanently in the National Park for the preceding three years.

3. Where the Local Occupancy Unit is occupied in accordance with clause 2 above, nothing in this Deed shall prevent the occupation of such a Unit by the spouse partner or dependants of that person

IN WITNESS whereof the Owner has signed this as a Deed and the Authority has caused its Common Seal to be hereunto affixed the day and year first before written

SIGNED AND DELIVERED by )  
the said ALBERT FOTHERGILL )  
in the presence of:

Redacted by YDNPA

Redacted by YDNPA

SIGNED AND DELIVERED by )  
the said MARGARET IRENE FOTHERGILL )  
in the presence of:

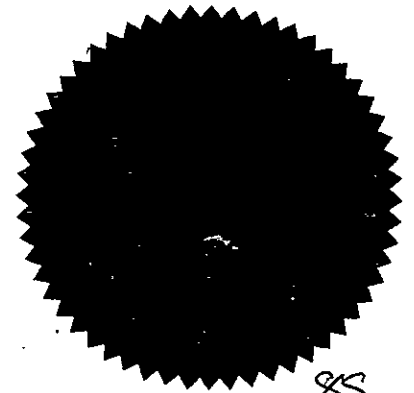
Redacted by YDNPA

Redacted by YDNPA

THE COMMON SEAL OF the YORKSHIRE )  
DALES NATIONAL PARK AUTHORITY )  
was hereunto affixed under the )  
authentication of: )

Redacted by YDNPA

*Solicitor / Monitoring Officer*



85

The Officer appointed for  
this purpose



DATE

*2nd May*

2006

THE YORKSHIRE DALES NATIONAL PARK AUTHORITY (1)

and

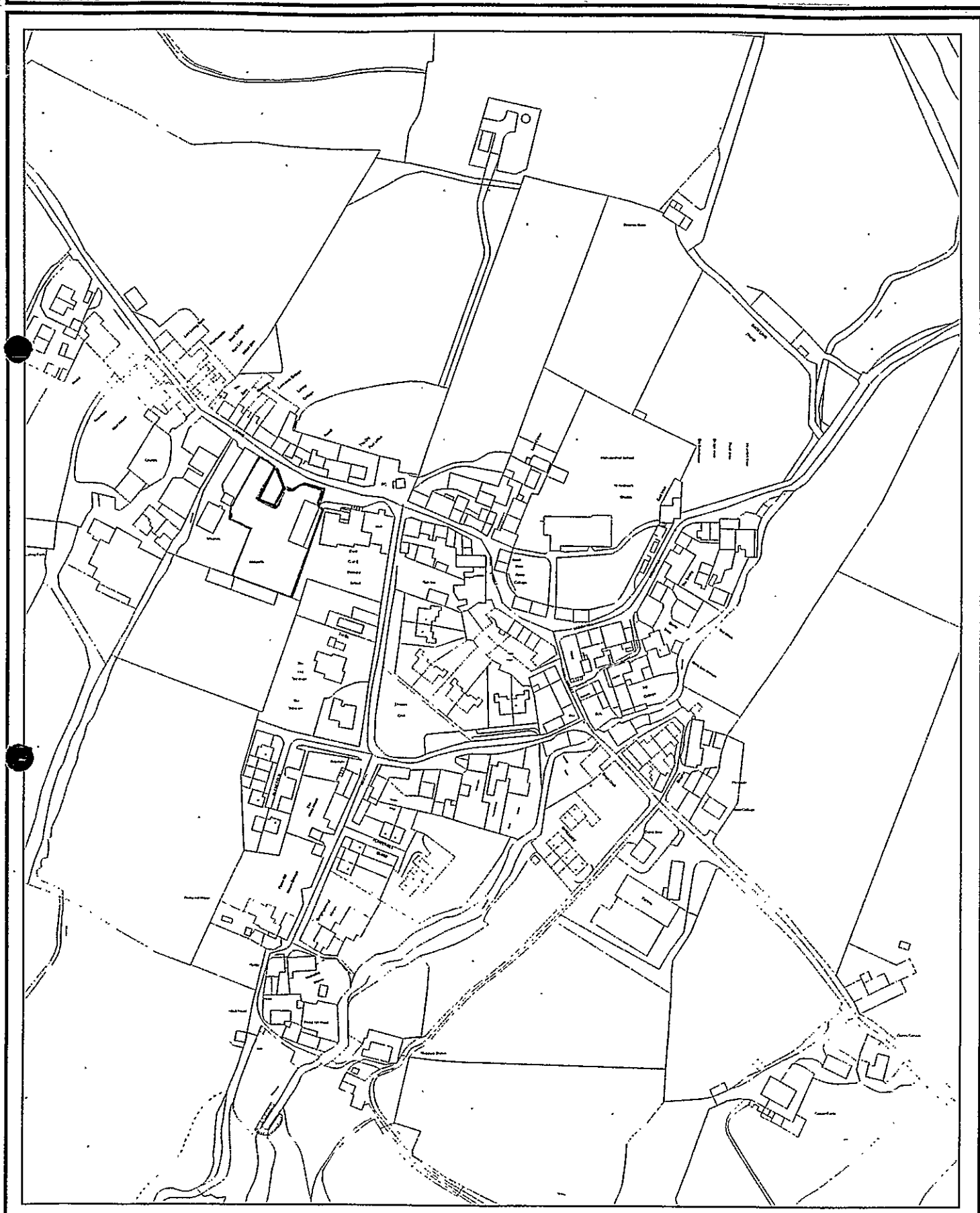
ALBERT FOTHERGILL  
and  
MARGARET IRENE FOTHERGILL (2)

S106 AGREEMENT  
Relating to land at Millgarth the Laning Dent

**LOCATION PLAN IN RESPECT OF SECTION 106 AGREEMENT**

**FULL PLANNING PERMISSION FOR ERECTION OF DWELLINGHOUSE AND GARAGE**

**MILLGARTH; THE LANING, SEDBERGH  
S/01/178A (GRID REF: SD70368705)**



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

Yorkshire Dales National Park Authority LA 08905L 2005  
Additional Information: © Yorkshire Dales National Park Authority