

APPLICATION TO MODIFY OR DISCHARGE A SECTION 106/PLANNING OBLIGATION



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GUIDANCE NOTES FOR APPLICANTS

INTRODUCTION

Sections 106A and 106BA of the Town & Country Planning Act 1990 set out the formal procedures by which a planning obligation may be modified or discharged.

The Council upon receipt of such an application, will either decide that the planning obligation should continue in effect without modification, discharge the obligation, or modify the obligation.

Where the Council has failed to respond to an application or has refused to modify or discharge an obligation there is a right of Appeal.

Before making an application it is recommended that you contact Planning Services to make sure the correct procedure is being followed.

To avoid any delay in processing your application, please make sure that the correct forms and site plans are sent.

HELP WITH COMPLETING THE FORM

- 1. TYPE OF APPLICATION** – tick the appropriate box for modifying an obligation or to discharge it. In addition, tick the appropriate box for a Section 106A or a Section 106BA application. A Section 106 application is normally only applicable to planning obligations completed more than 5 years previously. A Section 106BA only applies to a planning obligation relating to affordable housing and there is no restriction on when it was completed. In certain circumstances, (as set out in Section 106A(1)) it will not be necessary to complete the forms and a written request should suffice. (Please refer to the legislation/government guidance or contact Planning Services for a more detailed explanation).
- 2. APPLICANT/AGENT** – The applicant is the name of the person for who this application is being made. If you are using an agent to submit this application all future correspondence will be with him/her.
- 3. ADDRESS OR LAND OR BUILDINGS** – Give the full postal address of the property/land (including the postcode) or as complete a description of the site as you can.
- 4. APPLICANTS INTEREST IN THE LAND** – Please supply exact details of your interest in the site.
- 5. DETAILS OF PLANNING OBLIGATION TO BE MODIFIED/DISCHARGED** – Please supply as much information as possible including the date of the obligation and the reference number of the original planning application.
- 6. REASON(S) FOR APPLYING TO MODIFY/DISCHARGE THE OBLIGATION** – Please complete as fully as possible. This may have to be supplemented by a separate statement or viability assessment.
- 7. NOTIFICATION TO INTERESTED PARTIES** – The applicant must give notice of the application to any person against whom, on the day 21 days before the date of this application, the planning obligation is enforceable. You must take reasonable steps to find out the name and address of such person(s). Where the names and addresses of all such persons are not known the applicant must, during the 21 day period immediately preceding this application, publish their notice in a local newspaper.
- 8. APPLYING FOR PERMISSION** – Please sign and date this section.

9. SITE PLANS – The application **must** be accompanied by a site plan showing the land to which the obligation relates if such a plan did not form part of the original obligation document. The plan must be based on Ordnance Survey data and show enough detail to show the site in relation to any adjoining properties and the nearest public highway(s). The site of the application must be edged in red. The plans must be to a scale of 1:2500 or 1:1250.

10. FEES – There is no fee payable for these applications.

In the event that the Council agrees that under Section 106A of the Town & Country Planning Act the obligation shall be modified or discharged, this is likely to require the completion of a Deed of Variation/Supplementary Agreement or a Deed of Release. This document may be prepared in draft by the applicant's solicitor and submitted in draft form with the application. Alternatively if requested, it can be prepared by the Council's Legal Services, subject to a charge to cover costs. In either case, evidence of ownership of the land (in the form of an up to date copy of the Land Registry Register of Title and Title Plan) should be provided to confirm that you are still the owner. This documentation is not required to validate a Section 106A application, but if it is provided it may help speed up the completion of the process.

Contact details

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YO11 2HG

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