



COUNCIL OF THE ISLES OF SCILLY

Planning Department
Town Hall, St Mary's, Isles of Scilly, TR21 0LW
01720 424350
planning@scilly.gov.uk

SECTION 106A TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

THE TOWN AND COUNTRY PLANNING (MODIFICATION AND DISCHARGE OF PLANNING OBLIGATIONS)
REGULATIONS 1992

Application for the modification or discharge of planning obligations

- Please include with your application a copy of a map identifying the land to which the obligation relates.

Applicant Name and Address;

Name(s):

Address:
.....
.....
.....

Agent Name and Address (should you wish someone to act on your behalf);

Name:

Address:
.....
.....
.....

Address or location of the land in question;

.....
.....
.....
.....
.....

What is the nature of your interest in the land in question?;

.....

Does anyone else have an ownership interest in the land? If so please list below;

Name(s).....Interest.....

Name(s).....Interest.....

Name(s).....Interest.....

Name(s).....Interest.....

What is the planning obligation that you wish to have modified or discharged?;

Planning Application Number (where relevant):.....

Date of Obligation:.....

Restrictions made by Obligation.....

What are your reasons for applying for a modification or discharge of the planning obligation?

(Please continue on a separate sheet(s) if necessary)

.....
.....
.....
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.....
.....
.....
.....

Signed:.....

***On Behalf of:**.....

Date:.....

NOTES

* = Delete as appropriate

1. This form of application may not be made until the expiry of 5 years from the date of the planning obligation. If your obligation is less than 5 years old please contact the Planning Department.
2. An applicant for the modification or discharge of a planning obligation shall give notice of the application to any person against whom on the day 21 days before the date of the application, the planning obligation is enforceable and whose name and address is known to the applicant. (Via the form prescribed by Part 1)
3. If, after reasonable steps have been taken, the persons required to be notified by note 2 (above) cannot be ascertained, the applicant must publish for a period of 21 days immediately preceding the application, notice of the application in *The Cornishman* or other local newspaper. Such notice shall be in the form prescribed by Part 1 of the Schedule to Regulations 1992 No.2832.

Part 2 of the Schedule to Regulations 1992 No.2832.

**CERTIFICATE OF COMPLIANCE WITH THE NOTIFICATION REQUIREMENTS IN REGULATION 4
(Sign one certificate only)**

• **Certificate A**

I certify that on the day 21 days before the date of the accompanying application the planning obligation to which the application relates was enforceable against nobody other than the applicant.

Signed.....
*On behalf of.....
Date.....

• **Certificate B**

I certify that the applicant has given notice to everyone else against whom, on the day 21 days before the date of the accompanying application, the planning obligation to which the application relates was enforceable, as listed below.

Person on whom notice was served	Address at which notice was served	Date on which notice was served

• **Certificate C**

I certify that:

- the applicant cannot issue Certificate A or B in respect of the accompanying application;
- * the applicant has given notice to the persons listed below, being persons against whom, on the day 21 days before the date of the application, the planning obligation to which the application relates was enforceable

Person on whom notice was served	Address at which notice was served	Date on which notice was served

- * The applicant has taken reasonable steps to ascertain the name and address of every person against whom, on the day 21 days before the date of the application, the planning obligation to which the application relates was enforceable and who has not been given notice of the application but who has been unable to do so. These steps were as follows;

(a).....
.....
.....
.....

Notice of the application , as attached to this certificate, has been published in *The Cornishman* on:
(b).....

NOTES

* = delete as appropriate

Insert:-

- (a) description of steps taken
- (b) date of publication of notice in newspaper

Form prescribed by Part 1 of the Schedule to Regulations 1992 No.2832.

NOTICE OF AN APPLICATION TO MODIFY OR DISCHARGE A PLANNING OBLIGATION UNDER SECTION 106A OF THE TOWN AND COUNTRY PLANNING ACT 1990.

I give notice that (a).....is applying to the *Council of the Isles of Scilly* to modify/discharge* the planning obligation below.

Planning Obligation

Planning Application Number (where relevant):.....

Restrictions made by Obligation: (b).....

Land to which obligation relates: (c).....

Date on which obligation was entered into: (d).....

Any person against whom the planning obligation is enforceable who wishes to make representations about this application should write to the Council at The Planning & Development Department, Council of the Isles of Scilly, Old Wesleyan Chapel, Garrison Lane, St Mary's, Isles of Scilly, TR21 0JD by (e)..... (Members of the public will be invited to make representations when the application has been submitted to the Council).

Signed.....

*On behalf of.....

Date.....

NOTES

* = delete as appropriate

Insert:-

- (a) name of applicant
- (b) brief description of the planning obligation which the applicant wishes to have modified or discharged
- (c) address or location of the land
- (d) relevant date
- (e) date giving a period of 21 days beginning with the date of service or publication of the notice, as the case may be.

Explanatory Notes: Modification and Discharge of Planning Obligations

The legislation governing the modification and discharge of planning obligations (also referred to as “section 106 agreements”) comprises the Town & Country Planning Act 1990 (“the Act”) as amended by the Planning & Compensation Act 1991, and regulations in the form of the Town & Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992 (SI 1992/2832).

The Act provides that planning obligations may be discharged or modified at any time by agreement between the applicant, the local planning authority, and all persons against whom an obligation is enforceable. Such an agreement must be entered into by deed (either a deed of release, in the case of discharge, or a deed of variation where the obligation is to be modified).

Alternatively, following the expiry of the “relevant period” defined in section 106A of the Act (5 years after the obligation was entered into) an applicant may apply to the local planning authority to discharge or modify the obligation using the procedure set out in the 1992 Regulations. Such applications are determined in a similar way to planning applications and require the authority to publicise and consult upon the proposed discharge or modification. Additionally, the applicant is required to give prior notice of the application to all persons against whom the obligation is enforceable. A refusal by the local planning authority to discharge or modify the obligation to the applicant’s satisfaction gives rise to a right of appeal to the Secretary of State.

An application form for the latter procedure is enclosed herewith, together with the prescribed notices and certificates that must be provided by the applicant on making an application. The Regulations may be viewed at www.hmsso.gov.uk or alternatively at the Planning Department, Town Hall, The Parade, St Mary’s, Isles of Scilly, TR21 0LW.