

Application to modify or discharge a section 106 Planning Obligation Town and Country Planning Act 1990

Please use this form when applying for the modification or discharge of a planning obligation to Havant Borough Council. Forms should be returned to Public Service Plaza, Civic Centre Road, Havant PO9 2AX.

For further information refer to the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992.

1. Type of application

Are you applying to **modify** a planning obligation

☐ No

Are you applying to **discharge** a planning obligation

☐ Yes☐ No

2. Your details

Name:

Ross Allen

Address:

Trowers & Hamblins LLP

55 Princess Street

Manchester

Postcode:

M2 4EW

Email address:

Daytime tel no:

3. Agent details if applicable

Name:

Address:

Postcode:

Email address:

Contact name:

Daytime tel no:

4. Full postal address of the site to which the obligation relates:

Former Purbrook Park Playing Fields, Stakes Road, Waterlooville, Hampshire PO7

5. Nature of the applicant's interest in the land:

Our client owns properties on this land that are subject to the s106 agreement

6. Please provide sufficient information to enable us to identify the planning obligation (planning reference numbers, etc) and the particular obligation(s) to be modified/changed:

The agreement relates to planning application APP/12/00205. The obligation we require to be amended is clause 6.15 in schedule 2 (the mortgagee exclusion clause).

7. What reason(s) do you have for applying for the modification or discharge of the obligation?

The current mortgagee exclusion clause (MEC) is not in line with current lending requirements. This has meant that the properties our client is charging to a funder will only be achieved a reduced Existing Use valuation (subject to tenancies) (EUV-SH) upon charge.

We believe it was the Council's intention to provide an effective MEC originally, (as the existing wording indicates) but the market and acceptable wording, has changed over time. What we are asking is really just an update to current market requirements.

Our client is under a duty to try and procure best value for their assets. This would mean obtaining a Market Valuation (subject to tenancies) (MV-STT) upon charge, which can be 40% higher than an EUV-SH valuation and sometimes considerably in excess of this figure. Consequently, the shortfall in valuation has a significant impact in terms of borrowing capacity and impacts our client's development programme. Ultimately, a higher valuation secured against the development will enable our client to increase the supply of funding for affordable housing in the area. There is a high risk of borrowing capacity being significantly reduced as a result of a MEC not being in line with current funding requirements and this should be considered in the context that there is a very low risk of a funder invoking the MEC.

In order to maximise the possibility of securing MV-STT, we request a variation to the MEC in line with the agreed wording which is approved and published by the NHF and a Property Finance Working Group comprising the key valuers, funders and lawyers in the sector. We attach for your reference an article published by Inside Housing promoting the approved wording (see our original email). Many Local Authorities have also approved this wording and have adopted it in relation to newly drafted Section 106 Agreements and variations thereto.

Signed - Applicant:

Or signed - Agent:

Date (DD/MM/YYYY)



20/03/2024

Checklist:

Please tick

A 1 copy of this form, signed and dated



B 1 copy of a map identifying the land to which the obligation relates



C 1 copy of such other information as you consider relevant to the determination of the application

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