

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

☒ Yes ☐ No

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

☐ Yes ☐ No

2. Your details

Name:

Address:

Postcode:

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:

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

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:

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

The definition of Eligible Persons to be amended to add a sub-paragraph as follows:

in respect of the occupant of an Intermediate Affordable Housing Unit, subject to the Registered Provider having complied with the marketing provisions in clause 8.42.2 below, any person unable to afford to purchase accommodation on the open market within the administrative area of the Relevant Authority. Clause 8.42.2 to also be amended to add that after three months of marketing Intermediate Affordable Housing Units, the registered provider can widen their marketing to those outside of the local area. These changes are to enable flexibility to allow applicants from other Local Authorities outside Havant and Winchester in the event that offers are not made after a three month period of prioritising local applicants.

Clause 8.20 ('Affordable Housing – Affordability Test for Intermediate Affordable Housing Units') to be removed and replaced with an obligation on the registered provider to assess affordability using the Homes England standard affordability calculations and the Capital Funding Guide

Clause 8.37.4.1 to be removed or amended to add that the covenant in the transfer shall be subject to the exclusions in the S106 agreement, this is to ensure that chargees of the registered provider still have the benefit of the mortgagee exclusion clause.

Clauses 8.48 – 8.53 ('Recycling Receipts' and 'Obligation to Recycle') to be removed. The applicant operates nationwide. It is often the case that the proceeds from staircasing and right to buy disposals are piecemeal. There is no guarantee that affordable housing opportunities come forward on the Site / in the Council's local area at the time that these proceeds are received by the applicant and this will restrict the applicant from investing in affordable housing nationwide.

Clauses 8.54 - 8.55 ('Pre-emption Rights') to be removed, this reflects the change in shared ownership leases which removed the requirement to include the post final staircasing right of pre-emption. Pre-staircasing pre-emption rights are protected in the model shared ownership lease.

Clause 8.38 (Mortgagee exclusion clause) to be amended to the national housing federation (NHF) standard wording. The applicant understands that an application is underway to make this variation however, it is also included in this application in case the preceding draft does not progress. The variation is requested to ensure that the applicant can lend against the affordable units and achieve their full market value. The NHF wording is widely accepted by lenders, councils and registered providers, it enables registered providers to achieve the best possible funding value and to use such funds for the investment in further affordable housing.

Signed - Applicant:

Or signed - Agent:

Date (DD/MM/YYYY)

14 May 2026

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 | ☒ |

NOTICE

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 *(insert name of applicant)*:

Legal & General Affordable Homes (Capital) Limited

Is applying to Havant Borough Council to modify the planning obligation described below.

Planning obligation

Obligation: *(brief description of the planning obligation which the applicant wishes to have modified or discharged)*

The following clauses of the section 106 agreement: 8.20, 8.37.4, 8.38, 8.48-8.53 and 8.54-8.55

Land to which obligation relates: *(address or location of the land)*

**Land west of London Road, Waterlooville, Hampshire
Phase 8A only as shown on the plan accompanying this form.**

Date on which obligation was entered into: *(relevant date)*

30 March 2012

Any person against whom the planning obligation is enforceable who wishes to make representations about this application should write to us at **Planning Services, Public Service Plaza, Civic Centre Road Havant PO9 2AX** by
(enter date giving a period of 21 days beginning with the date of service of publication of the notice as the case may be)

Members of the public will be invited to make representations when the application has been submitted to the council.

Signed..........Date.....

14 May 2026

Legal & General Affordable Homes (Capital) Limited

(if appropriate) on behalf of

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

(delete where inappropriate) on behalf of

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:

(delete where inappropriate) on behalf of Version 1.1 July 2017

I certify that:

- the applicant cannot issue a Certificate A or B in respect of the accompanying application:
- (*delete where inappropriate) the applicant has given notice to the persons below, being persons against whom, one the 21 days before the date of the application, the planning obligation to which the application relates was enforceable.

- the applicant has taken all reasonable steps to find out the name and address of every person against whom, on the 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 has been unable to do so. These steps were as follows:
(describe the steps taken).

- On (enter date of publication)

(delete where inappropriate) on behalf of