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STATUTORY INSTRUMENTS

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**1992 No. 2832**

**TOWN AND COUNTRY PLANNING,  
ENGLAND AND WALES**

**The Town and Country Planning (Modification and  
Discharge of Planning Obligations) Regulations 1992**

*Made* - - - - - *9th November 1992*  
*Laid before Parliament* *19th November 1992*  
*Coming into force* - - - *10th December 1992*

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred upon them by sections 106A(7), (9), 106B(3), (4), (7), 299A(4) and 333(1) of, and paragraph 1(1) of Schedule 6 to, the Town and Country Planning Act 1990(1) and of all other powers enabling them in that behalf, hereby make the following regulations—

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992 and shall come into force on 10th December 1992.

(2) In these Regulations, “the 1990 Act” means the Town and Country Planning Act 1990.

**Application**

2. These Regulations apply to applications under section 106A of the 1990 Act and appeals under section 106B of the 1990 Act made in respect of the modification or discharge of planning obligations entered into under section 106 or section 299A of the 1990 Act.

**Applications for the modification or discharge of planning obligations**

3.—(1) An application for the modification or discharge of a planning obligation shall be made on a form provided by the local planning authority, which shall require the following information—

(a) the name and address of the applicant;

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(1) 1990 c. 8; sections 106A, 106B and 299A were inserted by section 12 of the Planning and Compensation Act 1991 (c. 34); paragraph 1 (1) of Schedule 6 was amended by paragraph 54(2) of Schedule 7 to that Act. See section 336(1) of the 1990 Act for the definition of “prescribed”.

- (b) the address or location of the land to which the application relates and the nature of the applicant's interest in that land;
  - (c) sufficient information to enable the authority to identify the planning obligation which the applicant wishes to have modified or discharged;
  - (d) the applicant's reasons for applying for the modification or discharge of that obligation; and
  - (e) such other information as the authority consider necessary to enable them to determine the application.
- (2) An application for the modification or discharge of a planning obligation shall include—
- (a) the information required by the application form;
  - (b) a map identifying the land to which the obligation relates; and
  - (c) such other information as the applicant considers relevant to the determination of the application.

#### **Notification of applications by applicant**

4.—(1) An applicant for the modification or discharge of a planning obligation shall give notice of the application to any person (other than the applicant) 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.

(2) In order to comply with paragraph (1), the applicant shall take reasonable steps to ascertain the name and address of every such person.

(3) Where the names and addresses of all such persons are not known to the applicant after he has taken reasonable steps to ascertain that information, he shall, during the 21 day period immediately preceding the application, publish notice of the application in a local newspaper circulating in the locality of the land to which the application relates.

(4) The notice required to be served or published by this regulation shall be in the form set out in Part 1 of the Schedule and shall invite representations on the application to be made to the local planning authority within 21 days of the date on which the notice is served or published, as the case may be.

(5) An application for the modification or discharge of a planning obligation shall be accompanied by a certificate, in the appropriate form set out in Part 2 of the Schedule, certifying that the requirements in the preceding provisions of this regulation have been satisfied.

#### **Publicity for applications by local planning authority**

5.—(1) When a local planning authority receive an application for the modification or discharge of a planning obligation they shall publicise the application by—

- (a) posting notice of the application on or near the land to which the planning obligation relates for not less than 21 days; or
- (b) serving notice of the application on the owners and occupiers of land adjoining that land; or
- (c) publishing notice of the application in a local newspaper circulating in the locality in which that land is situated.

(2) The notice posted, served, or published in accordance with paragraph (1) shall be in the form set out in Part 3 of the Schedule and shall invite representations on the application to be made to the local planning authority within 21 days of the date on which the notice is posted or served, or within 14 days of the date on which the notice is published, as the case may be.

(3) The local planning authority shall make a copy of the application and the relevant part of the instrument by which the planning obligation was entered into available for inspection during the period allowed for making representations pursuant to paragraph (2).

(4) In paragraph (1)(b) “owner” in relation to any land means any person who—

- (a) is the estate owner in respect of the fee simple; or
- (b) is entitled to a tenancy granted or extended for a term of years certain of which not less than seven years remain unexpired.

### **Determination of applications by local planning authority**

6.—(1) A local planning authority shall not determine an application for the modification or discharge of a planning obligation before the expiry of the period or periods provided for making representations in accordance with regulations 4(4) and 5(2).

(2) Subject to paragraph (1), a local planning authority shall give the applicant written notice of their decision within—

- (a) 8 weeks from the date on which the application is received; or
- (b) except where the applicant has already given notice of appeal to the Secretary of State, such extended period as may be agreed upon in writing by the applicant and the authority.

(3) When a local planning authority determine that a planning obligation shall continue to have effect without modification, the notice of that decision shall—

- (a) state, clearly and precisely, the authority’s full reasons for their decision; and
- (b) include a statement to the effect that the applicant may appeal to the Secretary of State against the decision within 6 months of the date of the notice or within such longer period as the Secretary of State may, at any time, allow.

### **Appeals to the Secretary of State**

7.—(1) An appeal under section 106B of the 1990 Act shall be made with 6 months of—

- (a) the date of the notice of the decision giving rise to the appeal; or
- (b) in the case of an appeal under section 106B(1)(a) (non-determination), the expiry of the period specified in regulation 6(2),

or within such longer period as the Secretary of State may, at any time, allow.

(2) An appeal under section 106B shall—

- (a) be made on a form obtained from the Secretary of State;
- (b) include the information specified in the form; and
- (c) be accompanied by a copy of—
  - (i) the application made to the local planning authority which has occasioned the appeal;
  - (ii) the certificate which accompanied the application in accordance with regulation 4(5);
  - (iii) the instrument by which the planning obligation which is the subject of the application was entered into;
  - (iv) any correspondence with the authority relating to the application; and
  - (v) the notice of decision, if any.

(3) An appellant shall send a copy of the completed notice of appeal form to the local planning authority at the same time as the appeal is made to the Secretary of State.

**Determination of appeals by appointed persons**

8. Appeals under section 106B of the Town and Country Planning Act 1990 are prescribed for the purposes of paragraph 1(1) of Schedule 6 to that Act as a class of appeals which are to be determined by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State.

9th November 1992

*Michael Howard*  
Secretary of State for the Environment

9th November 1992

*David Hunt*  
Secretary of State for Wales

SCHEDULE

Regulation 4(5)

PRESCRIBED NOTICES AND CERTIFICATES

PART 1

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

**(Notice to be given by applicant)**

I give notice that (a)  
is applying to the (b)  
to modify/discharge\* the planning obligation described below

**Planning Obligation**

Obligation: (c)  
Land to which obligation relates: (d)  
Date on which obligation was entered into: (e)

+Any person against whom the planning obligation is enforceable who wishes to make representations about this application should write to the Council at (f) by (g). (Members of the public will be invited to make representations when the application has been submitted to the Council).

Signed.....

\*On behalf of.....

Date.....

\*delete as appropriate

**NOTES**

Insert-

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

Regulation 4(5)

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Statutory Instruments are not carried in their revised form on this site.*

## PART 2

### CERTIFICATE OF COMPLIANCE WITH THE NOTIFICATION REQUIREMENTS IN REGULATION 4

#### 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.....

\*delete where inappropriate

#### 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*

Signed.....

\*On behalf of.....

Date.....

\*delete where inappropriate

#### Certificate C

I certify that:

- the applicant cannot issue a 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 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 (b) on (c).

Signed.....

\*On behalf of.....

Date.....

\*delete where inappropriate

#### NOTES

Insert-

- (a) description of steps taken
- (b) name of local newspaper in which the notice was published
- (c) date of publication.

Regulation 5(2)

### PART 3

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

**(Publicity by the local planning authority)**

Take notice that (a) has applied to (b) to  
modify/discharge\* the planning obligation described below.

**Planning Obligation**

Obligation (c)  
Land to which obligation relates: (d)  
Date on which the obligation was entered into: (e)

Members of the public may inspect copies of the application and the relevant part of the instrument creating the obligation at (f) during all reasonable hours until (g).

Anyone who wishes to make representations about the application should write to the Council at (h) by (g)

Signed.....

\*On behalf of.....

Date.....

\*delete as appropriate

**NOTES**

Insert-

- (a) name of applicant
- (b) name of local planning authority
- (c) brief description of the planning obligation which the applicant wishes to have modified or discharged
- (d) address or location of the land
- (e) relevant date
- (f) address at which the documents may be inspected
- (g) date giving a period of 21 days beginning with the date on which the notice is posted, published or served, as the case may be
- (h) address of local planning authority.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 106A of the Town and Country Planning Act 1990 enables a person against whom a planning obligation is enforceable to apply to the local planning authority to have the obligation modified or discharged. Section 106B of that Act provides for an appeal to the Secretary of State if such an application is refused or not determined. Sections 106A and 106B also apply to Crown planning obligations.

These Regulations make provision with respect to—

- (a) the form and content of such applications and appeals (regulations 3 and 7);
- (b) the notification of and publicity for such applications (regulations 4 and 5);
- (c) the determination of such applications (regulation 6);
- (d) the determination of such appeals by persons appointed by the Secretary of State (regulation 8).