

Deed of Variation – Guidance Notes (updated July 2025)

Section 106A of the Town & Country Planning Act 1990 provides that a planning obligation may be modified or discharged by agreement between the parties, or in default of such agreement, by application to the Local Planning Authority at the end of the period of five years beginning with the date when the obligation was entered into.

After the expiry of the five years (see above), an application can be made. 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.

The following notes are a guide to some of the information that would be useful to include in your letter:

- **Applicant or 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.
- **Address of 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.
- **Applicants Interest in the Land** - Please give exact details of your interest in the site.
- **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. (see attached notices)
- **Details of Planning Obligation to Be Modified/ Discharged** - Please give as much information as possible including the date of the obligation.
- **Reason(s) For Applying** - Please give as much detail as possible.
- **Site Plans** - The application **must be** accompanied by two copies of a site plan showing the land to which the obligation relates. 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 (rural areas) and 1:1250 (urban areas).

Please note that there is no fee payable for these applications.

Please email your completed letter to: planningfirst@lewes-eastbourne.gov.uk

Or send to: Planning First, Lewes District Council, 6 High Street, Lewes BN7 2AD

Certificate A

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

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

or on behalf of

Certificate B

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

Person(s) on whom notice was served.....

.....

Date on which notice was served

Address at which notice was served

.....

.....

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

or on behalf of

Certificate C

the applicant cannot issue a Certificate A or B in respect of this application;

the applicant has given notice to the persons listed below, being persons against whom, on the day 21 days before the date of this accompanying application, the planning obligation to which the application relates was enforceable.

Person(s) on whom notice was served.....

.....

Date on which notice was served

Address at which notice was served

.....

And (complete if applicable)

- 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.....

Date.....

or on behalf of

*(a) Describe the steps taken

*(b) The name of the newspaper publication

*(c) The date of the publication

Next Steps

The planning department will instruct the council's legal department to draft the s.106 Deed of variation and the applicant will be required to pay the council's reasonable legal costs and disbursements in the preparation and completion of the deed.

It is the council's normal practice to require a solicitor's undertaking to ensure that the legal costs are met by the applicant prior to the documents being drafted. The legal department will advise the applicant or their appointed solicitors upon the likely costs of drafting the s.106 Deed of variation and the wording of the solicitor's costs undertaking required.

Privacy notice

The lawful basis for collecting the information in this form is that it is necessary for performing the task, carried out in accordance with the Town & Country Planning Act 1990, The Planning (Listed Buildings & Conservation Areas) Act 1990 and associated regulations. Lewes District Council is the Data Controller; we will not give personal information about you or any personal information you may provide on other people to anyone else or another organisation unless we have to by law. For more about how we use personal data, please see the Council's Privacy Notice for Planning Applications at [Privacy notice - Lewes and Eastbourne Councils](#)