

# Application for Modification or Discharge of a Planning Obligation



**PERTH &  
KINROSS  
COUNCIL**

## NOTES FOR GUIDANCE

### Background

New regulations came into force on 1 February 2011 that amended section 75 of the Town and Country Planning (Scotland) Act 1997.

The changes establish a formal process to allow a person against whom a section 75 planning obligation is enforceable to apply to have the obligation either modified or discharged. A formal right of appeal to the Scottish Ministers is also introduced where the Council refuse the application or fail to determine it within the set time period of two months. The regulations apply to both planning obligations entered into after 1 February 2011 and to section 50 or section 75 agreements concluded prior to that date.

A copy of the explanatory circular "1/2010: Planning Agreements. Planning Obligations and Good Neighbour Agreements" produced by the Scottish Government can be viewed at: <http://www.scotland.gov.uk/Publications/2011/02/21110750/0>

### Introduction

Due to the time period of two months given to determine an MPO application, it is important that when the application is submitted, it is done so with all the required information and documents. If an application is submitted and mandatory information is missing, the application will be made invalid, a formal letter will be sent detailing the missing information and a date on which it must be returned before the application is withdrawn. Should any relevant information that is not mandatory but required to allow the officer to make a determination be missing, the application will be validated, meaning the two month timescale starts, but a refusal may be issued due to a lack of evidence or information.

This step by step guidance note will help you complete the application form and also ensure that the required information is submitted.

### Application Form

#### 1. Applicant Details

The applicant is a person or company that the planning obligation(s) is enforceable against. If the original agreement was between a company rather than an individual person, then the companies name should be entered rather than the name of an owner of a company etc. Ensure that all sections are complete.

#### 2. Agents Details

The contact details of the agent acting on your behalf, if applicable. A full address and telephone number should be provided. If you are using the services of an agent, please be aware that correspondence will be sent directly to them should further information be required through the application process.

### **3. Legal Representative Details**

The full contact details of your legal representative, if different from the agent details. Our legal team may wish to contact your legal representative should they have any enquiries through the application process.

### **4. Application Type**

Select the type of application you are making.

### **5. Address/Location of Site**

The full postal address for the site to which the application relates should be provided and if the site does not have a postal address, a full description of the location of the land. A scaled (1:1250 or 1:2500) location plan identifying the land in question outlined in red should also be supplied as part of the application. If we are not able to clearly identify the land to which the application and obligation relates then it will be made invalid and further information requested.

### **6. Details of the Planning Obligation**

The obligation you wish to be modified or discharged from the agreement should be listed, including the paragraph of the relevant agreement and quoted if possible. Along with the date the obligation was registered with the Land Registry, the reference number and details of the applicant's interest in the land and why the obligation is enforceable against them.

A copy of the planning obligation should be provided along with the application. If a copy is not available, then ensure that you have answered the questions fully to allow us to obtain our own copy or identify the obligation in question. If no information is provided, the application can not be made valid.

### **7. Planning Application Details**

The details of the planning application to which the obligation relates to should be listed including the application number, date of decision and description of development i.e. Erection of 20 dwellinghouses

### **8. Name and Address of others that are Party to the Planning Obligation.**

Names and addresses of other parties to the planning obligation (to the extent known to the applicant) should be provided to enable the notification process to be undertaken. This section should not be left blank and if full details of are not known, provide what is.

### **9. Name and Address or any other Interested Parties**

Names and addresses of any other interested parties, such as land owners (other than the applicant) and or any other person against whom the planning obligation is enforceable.

### **10. Applications for Modification of the Planning Obligation**

If the application relates to a modification of a planning obligation, provide full details of the changes the applicant wishes to be made.

### **11. Additional Information**

A statement as to why the modification or discharge is being sought should be provided. You may feel there is additional information that is relevant to the application; this should also be provided in this section.

## 12. Application Requirements Checklist

Please tick the boxes to confirm that you have enclosed the required information with your application.

## 13. Declaration

Ensure that you sign and date the application. If this section is not completed the form will be returned to complete.

**Send to:**

[DevelopmentManagement@pkc.gov.uk](mailto:DevelopmentManagement@pkc.gov.uk)

**Development Management  
Housing and Environment  
Perth & Kinross Council  
Pullar House  
35 Kinnoull Street  
PERTH  
PH1 5GD**