

# Application to Modify or Discharge a Planning Agreement

## Guidance Notes for Applicants

### Introduction

Section 77 of the Planning Act (Northern Ireland) 2011 provides that a planning agreement may be modified or discharged by agreement between the parties at the end of the period of five years, beginning with the date the agreement was entered into.

After the expiry of five years, an application for modification or discharge can be made. The Council, or as the case may be, the Department upon receipt of such an application will either decide that the planning agreement should continue to have effect without modification, discharge the agreement, or modify the agreement.

Where the Council, or as the case may be, the Department has failed to respond to an application within the appropriate time limits or has refused to modify or discharge an agreement, there is a right of appeal to the Planning Appeals Commission.

This form is to be used for the modification or discharge of a Planning Agreement made under Section 77 of the Planning Act (Northern Ireland) 2011. The following guidance notes are in the same order as the questions on the form.

### 1. Applicant/Agent Details

The applicant is the name of the person for whom the application is being made. If you are using an agent to submit this application, all future correspondence will be with him / her.

### 2. Type of application

Please tick the relevant box and give exact details of your interest in the land.

### 3. Council Employee / Elected Member Interest

You must declare whether the applicant or agent is a member of the council's staff, an elected member of the Council or related to a member of staff or elected member of the Council.

Serving elected members or planning officers who submit their own planning applications should play no part in their determination and such applications should be determined by the planning committee rather than by planning officers under delegated powers.

For the purposes of this question, "related to" means related by birth or otherwise closely enough that a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility of bias on the part of the decision-maker in the council.

### 4. Details of Agreement to be modified or discharged

Please complete as fully as possible, giving sufficient information to allow the Council, or as the case may be, the Department to identify the existing Agreement.

### 5. Reasons for applying for modification/discharge of the Agreement

Section (a) should only be completed where the application relates to modification of an agreement. Full details of the modifications that are being applied for should be given. You should note that the Council, or as the case may be the Department, can only consider and approve the modifications as stated in the application form.

Reasons for applying for either modification or discharge of an agreement should be given in full in section (b) - continue on a separate sheet if necessary.

## **6. Requirements**

To avoid any delay in processing your application, please make sure that the form is properly completed and signed. Photocopies are acceptable as long as they are clear. The application must be accompanied by 6 copies of a site location map showing the land to which the agreement relates edged in red.

## **7. Declaration**

Please ensure the application forms are signed and dated.

## **Certificate of Compliance**

The applicant is required to give notice of the application to any other person against whom, on the day 21 days before the date of this application, the agreement 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, publish a notice in the newspaper. The form and content of the notice to be published in the paper or served on the person(s) mentioned above is prescribed in Regulation 3 of the Planning (Modification and Discharge of Planning Agreements) Regulations (Northern Ireland) 2015.

## **Consultation**

On receipt of an application to modify or discharge a planning agreement made to the Department, the Department is required by legislation to consult with the appropriate Council for the area. Details of your application will be forwarded to the relevant Council and they will be given 4 weeks within which to comment. No recommendation can be made by the Department until this 4 week consultation period has expired.

## Application to Modify or Discharge a Planning Agreement

This form is to be used only for modification or discharge of a Planning Agreement made under Section 77 of the Planning Act (Northern Ireland) 2011.

Please read the accompanying notes to help you complete this form.

Please complete in BLOCK LETTERS.

Please note that when you submit a planning application the information, including plans, maps and drawings, will appear on the Planning Register which is publicly available and, along with other associated documentation (with the exception of personal telephone numbers, email addresses or sensitive personal data), will also be published on the internet on the Public Access site ([www.planningni.gov.uk/public-access-info](http://www.planningni.gov.uk/public-access-info)). The Department for Infrastructure and the 11 Councils will process your information in line with the General Data Protection Regulations (GDPR) requirements. A copy of the full Privacy Statement is available at [www.infrastructure-ni.gov.uk/dfi-privacy](http://www.infrastructure-ni.gov.uk/dfi-privacy). To request a hard copy, please contact the relevant Data Protection Officer as listed in the statement.

**1 a. Applicant's name and address**

**1 b. Agent's name and address (if any)**

Name:	Name:
Address:	Address:
Town:	Town:
Postcode:	Postcode:
Tel:	Tel:
	Ref. No.:

**Type of Application**

*please tick*

- 2 a.** Are you applying to:
- Modify** a planning agreement
- Discharge** a planning agreement

**2 b.** Nature of the Applicant's interest in the land

**3. Council Employee / Elected Member Interest**

Are you / the applicant / applicant's spouse or partner, a member of staff within the council or an elected member of the council?

Yes  No

Or are you / the applicant / the applicant's spouse or partner, a relative of a member of staff in the council or an elected member of the council or their spouse or partner?

Yes  No

If you have answered yes, please provide details (name, relationship and role):

**Details of Agreement to be modified or discharged**

**4 a.** Address or location of the land to which the Agreement relates:

**4 b.** Date on which Agreement was entered into:

**4 c.** Planning application reference:

**4 d.** Description of Agreement:

**5 a.** Please state the clauses you wish to be modified (application for modification only)

**5 b.** Reasons for applying for modifications / discharge of the Agreement:

**6. Requirements**

- 4 copies of this form, all duly signed and dated. Photocopies of the original are acceptable.
- 4 copies of a location plan to 1:2500 or 1:1250 scale, clearly identifying the land to which the agreement relates
- 4 copies of such other plans / drawings / submissions necessary to describe or illustrate the reasons for the request to modify or discharge the Agreement.
- 4 copies of the attached Certificate of Compliance fully completed.

**7. Declaration**

I / We apply to modify / discharge a Planning Agreement made under Section 77 of the Planning Act (Northern Ireland) Order 2011.

Signed \_\_\_\_\_ Date \_\_\_\_\_

On behalf of (if applicable) \_\_\_\_\_

Please send your completed application to the appropriate local Planning Office or, as the case may be, the Department for Infrastructure.

## Certificate of Compliance

with the notification requirements set out in Regulation 3 of the Planning (Modification and Discharge of Planning Agreements) Regulations (Northern Ireland) 2015

### Certificate A

I certify that on the day 21 days before the date of the accompanying application, the planning agreement to which the application relates was enforceable against no person other than the applicant.

Signature of applicant or agent \_\_\_\_\_

Date \_\_\_\_\_

### Certificate B

I certify that the applicant has given notice to each person against whom, on the day 21 days before the date of the accompanying application, the planning agreement to which the application relates was enforceable as listed below (continue on a separate page if necessary).

Person on whom notice was served	Address at which notice was served	Date on which notice was served

Signature of applicant or agent \_\_\_\_\_

Date \_\_\_\_\_

### 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 agreement to which the application relates was enforceable (continue on a separate page if necessary);

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 agreement to which the application relates was enforceable and who has not been given notice of the application but has been unable to do so. The steps taken were as follows:

*(insert description of steps taken)*

*(name of newspaper)*

on

*(date of publication)*

**\*\* Delete as appropriate**

Signature of applicant or agent \_\_\_\_\_

Date \_\_\_\_\_