

Ref: MS/Hassocks
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Planning Services
Mid Sussex District Council
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6th March 2026

Dear Sir or Madam,

Description: Section 106a - Application to Modify S106 to DM/23/3114
68-70 Keymer Road, Hassocks, West Sussex, BN6 8QP

Introduction

Planning permission was granted for the redevelopment of 68-70 Keymer Road, Hassocks in November 2024 to form 41 Retirement Living apartments for older persons. The permission was granted subject to a legal agreement for the provision of affordable housing and other infrastructure obligations. This application is a S106a application to vary clauses 4.1 & 4.2 of the legal agreement to defer payment of the affordable housing contribution to on or before occupation of 25% of the dwellings.

Context

The Minister of State for Housing and Planning wrote to the Chief Executive of the Planning Inspectorate on the 18th December 2025 (letter attached) regarding the modification of planning obligations. The Minister noted the significant challenges facing the housebuilding industry over recent years including increased construction costs, regulatory changes and the current wider economic conditions. These challenges have been acutely felt by the retirement housebuilding sector with rising build costs and slowing sales rates. The Applicant is currently selling at 0.6 apartments per month nationwide and 0.24 apartments per month for the past 6 months for its selling schemes in the South and South East of England which is significantly down from the 1.4 rate assumed at the time of the application. In the period from the consent to the completion phase build cost increased by 5% whilst sales values have stagnated shown in the sales rates.

In this context the Government, as set out in the Minister's letter, has recognised that it may be necessary to modify existing planning obligations through S106a of the Town & Country Planning Act 1990. The Ministerial letter clearly advises that;

The Government expects local planning authorities to adopt a pragmatic approach when responding to requests to renegotiate Section 106 planning obligations, in order to facilitate timely decisions.

This application to vary the S106 seeks a pragmatic solution to the deferment of the payment of the affordable housing contribution controlled by the S106 to DM/23/3114.

S106a Application

A S106 may be modified and/or discharged by agreement between the appropriate authority and the person or persons against whom the obligation is enforceable, or in accordance with S106b of the Town and Country Planning Act 1990. S106a allows for the modification of a S106 after the relevant period of 5 years or can be modified at the discretion of the local planning authority within a 5 year period from the date of the consent¹.

S106a(6) on determining applications to modify S106 agreement advises that a local authority may determine that; the planning obligation shall continue to have effect without modification; discharge the obligation if it no longer serves a useful purpose; or *if the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modifications.*

Proposed Modification

The application proposes to modify clauses 4.1 & 4.2 of Schedule of the S106 agreement to DM/23/3114 to change the trigger for payment of the affordable housing obligation from on commencement of the development to on or before the occupation of 25% of the dwellings. The revised proposed wording of the clauses is considered as follows;

- 4.1 *To pay the Affordable Housing Contribution to the District Council on or before Occupation of 25% of the Dwellings.*
- 4.2 *The Owner undertakes not to Occupy more than 25% of the Dwellings prior to paying the Affordable Housing Contribution to the District Council.*

Having regard to S106a(6)(c) the obligation would still continue to serve the useful purpose of delivery of affordable housing provision and would serve that purpose equally well with the proposed modification.

I would respectfully ask if the Council would be minded to agree to the proposed modification of the S106. If the Council were minded to agree I would be grateful to be notified at the earliest opportunity so that a deed of variation to the S106 can be produced.

If you require any further information then please do not hesitate to contact me.

Yours sincerely,



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¹ R (Batchelor Enterprises Ltd.) v. North Dorset DC [2004] J.P.L 1222