

**TOWN AND COUNTRY PLANNING ACT 1990, sect. 106A**

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

For the Council's use only

Application No.....

Date received .....

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**APPLICATION FOR THE MODIFICATION OR DISCHARGE OF PLANNING OBLIGATIONS**

**1 Applicant** (*in block capitals*)

Name: EMERALD HOMES GROUP LTD

Address: .....Enterprise Way Spalding.....

Post Code .... PE11 3YR.....

Tel. No: .....(through Agent)....

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**2 Agent** (*if any*)

Name:

Address: .....AMK Planning & Design Ltd, Plumtree Barn, Bradmore Lane, Plumtree, Nottingham .

Post Code .NG12 5EW.....

Tel. No: ....07710 522059.....

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**3 Address or exact location of the land to which this application relates:**

Home Farm, Littleworth Drove, Deeping St Nicholas, Spalding

Describe here and enclose a map identifying the land to which the obligation relates.

Planning Ref H03-0161-17 Dated 20 December 2021

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**4 Nature of applicant's interest in the land** (*eg owner, Lessee, occupier*):

Owner

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**5 Please give sufficient information to enable the authority to identify the planning obligation which you wish to have modified or discharged :**

Supplemental Deed of Agreement dated 25 February 2026 (to S106 Agreement Planning Ref H03-0161-17 Dated 22 December 2021)

Section 3.4 - 17 Viability Review

Section 9.2 – Enforceability of Obligations on Mortgagee

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**6 Please state your reasons for applying for the modification or discharge of the planning obligation identified in paragraph 5 above :**

An error has been made in the drafting of the viability review mechanism contained within the Deed of Variation at Para 3.4 that has the effect of triggering the viability review 4 years from the date of the original S106 Agreement rather than the intended date of 4 years from the date of Deed of Variation.

The Viability Review Clause states at 17.1

*In the event that that 80% of the Dwellings comprising the Development are not practically complete within 4 years of the date of this Deed, the Council may appoint a suitably qualified Viability Assessor to undertake the Viability Assessment.*

The Viability Review Clause at 17.1 needs to be altered as follows :

*In the event that that 80% of the Dwellings comprising the Development are not practically complete within 4 years of 25 February 2026, the Council may appoint a suitably qualified Viability Assessor to undertake the Viability Assessment.*

Clarification of the enforceability of the obligations against mortgagees and chargees is required as follows:

The obligations contained in this Deed shall not be enforceable against any mortgagee or chargee of the whole or any part of the Land from time to time or any person deriving title from such mortgagee or chargee unless and until any such party takes possession of the Land (or any part thereof to which such obligation relates) in which case it will be bound by the obligations as a person deriving title from the Owner PROVIDED THAT neither any mortgagee or chargee or person deriving title through such mortgagee or charge will be liable for any breach of the obligations contained in this Deed unless committed at a time when that person is in possession of the Land (or any part of it to which such obligation relates).

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**7 Please give the following information, which the authority considers necessary to enable it to determine the application, namely:**

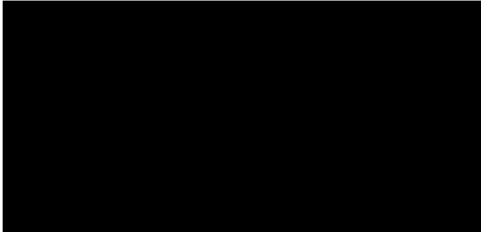
No additional information is considered necessary to rectify the drafting of the Deed of Variation

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**8 Please give any other information you consider relevant to the determination of this application  
(continue on a separate sheet if necessary)**

**/We hereby apply** for the modification or discharge of a planning obligation under section 160A of the Town and Country Planning Act 1990 in respect of an existing planning obligation described in this application and the documents and map which accompany it. I/We have completed the Certificate A, B or C, attached to this application, as appropriate.

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Signed:  .....

[on behalf of] .....Emerald Homes Group Ltd.....  
*(insert name of applicant if signed by agent)*

Date 9 June 2026

**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] Emerald Homes Group Ltd

Date 9 June 2026

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