



COUNCIL OF THE ISLES OF SCILLY

Planning Department
 Town Hall, St Mary's, Isles of Scilly, TR21 0LW
 ☎01720 424455
 ✉planning@scilly.gov.uk

SECTION 106A TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

THE TOWN AND COUNTRY PLANNING (MODIFICATION AND DISCHARGE OF PLANNING OBLIGATIONS)
 REGULATIONS 1992

Application to modify or discharge a planning obligation under Section 106A of the Town & Country Planning Act 1990

Please note that information provided on this form and supporting documents may be published on the authority's planning register and website. Personal information such as personal telephone number and email addresses will not be published electronically.

🔒 Privacy Notice

Under the General Data Protection Regulations (GDPR), the Council of the Isles of Scilly has a mandatory obligation to explain its Privacy Policy under a Privacy Notice of 'what', 'how', 'where', 'why' and 'when' we process your personal data.

Who will control my data?

The Data Controller for all the information you provide on this form is the Council of the Isles of Scilly, Town Hall, St Mary's Isles of Scilly TR21 0LW. Data Protection Registration Number: Z5715100

There's something I don't understand?

If you need help in understanding or completing this form, please contact the Planning Department on 01720 424455 or by emailing Planning@scilly.gov.uk.

How we will use the information about you?

All planning applications received by the Council of the Isles of Scilly are processed in accordance with the [Town & Country Planning Act 1990](#).

Your information will be used by the Council of the Isles of Scilly for the purpose of registering, validating and determining the planning application submitted. The information will be made available on the public register, and this will include the name and address of the applicant as well as the details of the agent if applicable. Your personal email address, signatures, contact numbers and any financial information will be redacted from public viewing but we will hold this information on our planning system and it will be available to all planning officers. Any medical information submitted which is not from an official medical professional will be rejected and deleted. It is unlawful for us to process medical information without a legitimate reason to do so.

Your information could also be used to contact you regarding the application for the following reasons:

- If the application is withdrawn
- If the application needs to be revised
- When a decision is made
- If the application is being heard at a committee
- If an appeal is lodged

Who else will we share your information with?

We will only use this information in conjunction with your Planning Application. Your information (excluding personal contact numbers, email address and signatures) will be shared with statutory and other external consultees such as the Highways Agency, South West Water, Natural England, Building Control, Environmental Health etc. This may include checks with both internal and external consultees. This is a statutory requirement under the Town and County Planning Act 1990.

How will my data be held?

Your data will be held within the Council of the Isles of Scilly secure network and premises and will not be processed outside of the EEA. Access to your information will only be made to authorised members of staff who are required to process it for the purposes outlined in this privacy notice. Please note that anyone who has access to the internet can view the planning applications online

How long will you keep this information for?

All planning applications are held on a public register and will not be deleted as they will be used for historical searching on properties; this is for decisions, permitted development rights, and for conditions and monitoring purposes. Any documents accompanying planning applications which are not part of the statutory register will be destroyed in line with our Document Retention Policy.

What are my data rights?

Your personal information belongs to you and you have the right to:

- be informed of how we will process it;
- request a copy of what we hold about you and in commonly used electronic format if you wish (if you provided this to us electronically for automated processing, we will return it in the same way);
- have it amended if it's incorrect or incomplete;
- have it deleted (where we do not have a legal requirement to retain it);
- withdraw your consent if you no longer wish us to process;
- restrict how we process it;
- object to us using it for marketing or research purposes;
- object to us using it in relation to a legal task or in the exercise of an official authority;
- request that a person reviews an automated decision where it has had an adverse effect on you.

How do I exercise these rights?

If you would like to access any of the information we hold about you or have concerns regarding the way we have processed your information, please contact (quoting this form):

Simon Mansell
Data Protection Officer Council of the Isles of Scilly
C/O Information Governance
4th Floor, North Wing
County Hall
Truro
TR1 3AY
Tel: 01872 326424 Email: dpo@cornwall.gov.uk

I don't agree with something

We would prefer any complaints to be made to us initially at the Planning Department, Town Hall, The Parade, St Mary's, Isles of Scilly TR21 0NL so that we have the opportunity to see if we can put things right. However, if you are unhappy with the way we have processed your information or how we have responded to your request to exercise any of your rights in relation to your data, you can raise your concerns direct with the Information Commissioner's Office Tel No. 0303 123 1113

<https://ico.org.uk/concerns/>

Why do you need my information?

You have asked us to provide you with a planning service so we need your name, address and payment details. Without them we will not be able to provide you with the service. All planning applications received by the Council of the Isles of Scilly are processed in accordance with the Town and County Planning Act 1990.

1. Applicant Name and Address;

Name(s): Kevin and Catherine Sherris
Address: Penhallow, Pilots Retreat
St Mary's
Isles of Scilly
TR21 0PB

2. Agent Name and Address (should you wish someone to act on your behalf);

Name: Christopher Tofts
Address: Stephens Scown LLP
Osprey House
Malpas Road
Truro, Cornwall, TR1 1UT

3. Address or location of the land in question;

Penhallow, Pilots Retreat, St Mary's, Isles of Scilly, TR21 0PB

4. What is the nature of your interest in the land in question?

- Freeholder
- Leaseholder
- Tennant
- Other (please state).....

5. Does anyone else have an ownership interest (Leaseholder, Freeholder etc) in the land? If so please list below;

Name(s) N/A Interest.....
Name(s)..... Interest.....
Name(s)..... Interest.....
Name(s)..... Interest.....

6. Please provide details of the planning obligation that you wish to have modified or discharged?;

Planning Application Number (where relevant): P4557.....

Date of Obligation: 20/10/2000.....

Restrictions made by Obligation: Occupation Restrictions - in accordance with 5th Schedule.....

Please include with your application a copy of a plan at a 1:1250 scale or similar outlining the land in red to which the obligation relates. If the plan contains Ordnance Survey based data, please ensure it contains the relevant copyright and license details. Suitable plans can be purchased using the services on this site: https://www.planningportal.co.uk/homepage/4/buy_a_plan

7. What are you applying for in relation to the planning obligation (please tick) and please give reasons (Continue on a separate sheet(s) if necessary)

MODIFICATION DISCHARGE

REASONS:

To align the s106 agreement with current planing policy and also to reflect the fact that the lawful use of the property is as a guesthouse and that the occupation of the owner's accommodation within the guesthouse by the proprietors would be acceptable.....

Signed: C TOFTS.....

*On Behalf of: For Stephens Scown LLP on behalf of K & C Sherris

Date: 19 November 2021.....

NOTES

* = Delete as appropriate

1. This form of application may not be made until the expiry of 5 years from the date of the planning obligation. If your obligation is less than 5 years old please contact the Planning Department.

2. An applicant for the modification or discharge of a planning obligation shall give notice of the application to any person against whom on the day 21 days before the date of the application, the planning obligation is enforceable and whose name and address is known to the applicant. (Via the form prescribed by Part 1)

3. If, after reasonable steps have been taken, the persons required to be notified by note 2 (above) cannot be ascertained, the applicant must publish for a period of 21 days immediately preceding the application, notice of the application in *The Cornishman* or other local newspaper. Such notice shall be in the form prescribed by Part 1 of the Schedule to Regulations 1992 No.2832.

Part 2 of the Schedule to Regulations 1992 No.2832.

**CERTIFICATE OF COMPLIANCE WITH THE NOTIFICATION REQUIREMENTS IN REGULATION 4
(Sign one certificate only)**

• **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..... C TOFTS.....

*On behalf of..... For Stephens Scown LLP on behalf of K & C Sherris

Date..... 19/11/2021.....

• **Certificate B**

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

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

• **Certificate C**

I certify that:

- the applicant cannot issue 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 obligation to which the application relates was enforceable

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 obligation to which the application relates was enforceable and who has not been given notice of the application but who 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 Cornishman* on:
 (b).....

NOTES

* = delete as appropriate

Insert:-

- (a) description of steps taken
- (b) date of publication of notice in newspaper

Form prescribed by Part 1 of the Schedule to Regulations 1992 No.2832 – Fill this notice in if Certificate B has been completed to serve notice on relevant parties OR Certificate C has been completed for publication in a newspaper.

NOTICE OF AN APPLICATION TO MODIFY OR DISCHARGE A PLANNING OBLIGATION UNDER SECTION 106A OF THE TOWN AND COUNTRY PLANNING ACT 1990.

I give notice that (a).....is applying to the *Council of the Isles of Scilly* to modify/discharge* the planning obligation below.

Planning Obligation

Planning Application Number (where relevant):.....

Restrictions made by Obligation: (b).....

Land to which obligation relates: (c).....

Date on which obligation was entered into: (d).....

Any person against whom the planning obligation is enforceable who wishes to make representations about this application should write to the Council at the Planning Department, Council of the Isles of Scilly, Town Hall, The Parade, St Mary's, Isles of Scilly, TR21 0LW by (e)..... (Members of the public will be invited to make representations when the application has been submitted to the Council).

Signed.....

*On behalf of.....

Date.....

NOTES

* = delete as appropriate

Insert:-

- (a) name of applicant
- (b) brief description of the planning obligation which the applicant wishes to have modified or discharged
- (c) address or location of the land
- (d) relevant date
- (e) date giving a period of 21 days beginning with the date of service or publication of the notice, as the case may be.

Explanatory Notes: Modification and Discharge of Planning Obligations

The legislation governing the modification and discharge of planning obligations (also referred to as “section 106 agreements”) comprises the Town & Country Planning Act 1990 (“the Act”) as amended by the Planning & Compensation Act 1991, and regulations in the form of the Town & Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992 (SI 1992/2832).

The Act provides that planning obligations may be discharged or modified at any time by agreement between the applicant, the local planning authority, and all persons against whom an obligation is enforceable. Such an agreement must be entered into by deed (either a deed of release, in the case of discharge, or a deed of variation where the obligation is to be modified).

Alternatively, following the expiry of the “relevant period” defined in section 106A of the Act (5 years after the obligation was entered into) an applicant may apply to the local planning authority to discharge or modify the obligation using the procedure set out in the 1992 Regulations. Such applications are determined in a similar way to planning applications and require the authority to publicise and consult upon the proposed discharge or modification. Additionally, the applicant is required to give prior notice of the application to all persons against whom the obligation is enforceable. A refusal by the local planning authority to discharge or modify the obligation to the applicant’s satisfaction gives rise to a right of appeal to the Secretary of State.

An application form for the latter procedure is enclosed herewith, together with the prescribed notices and certificates that must be provided by the applicant on making an application. The Regulations may be viewed at www.hmsso.gov.uk or alternatively at the Planning Department, Town Hall, The Parade, St Mary’s, Isles of Scilly, TR21 0LW.