



Ministry of Housing,
Communities &
Local Government

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To: Chief Executive of the Planning Inspectorate

18 December 2025

Dear Paul,

MODIFYING PLANNING OBLIGATIONS

As you know, the government is absolutely committed to delivering the biggest increase in social and affordable housebuilding in a generation as well as strengthening the existing developer contributions system. With those commitments in mind, I am writing to you to draw the Planning Inspectorate's particular attention to the clarification we have provided to local planning authorities and developers regarding the use of Section 73 applications.

You will be acutely aware, as am I, that housebuilding has faced significant challenges over recent years – including the impact of the coronavirus pandemic, increased construction costs, high interest rates, regulatory changes and wider economic conditions. These challenges have been especially acute in London, necessitating the emergency package that the Secretary of State and the Mayor of London announced on 23 October 2025.

These challenges have also contributed to reduced demand for Section 106 social and affordable homes, which is why the government continues to progress work on a holistic policy package to address both the legacy problem of existing uncontracted Section 106 units and prevent the problem recurring.

In this context, the government recognises that it may be necessary in specific circumstances to modify existing planning obligations to improve the viability of housing developments in the near term, boosting the number of new homes, including social and affordable homes, delivered over the course of the next few years.

As you know, the proper process for modifying or discharging planning obligations is set out in section 106A of the Town & Country Planning Act 1990. 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.

We also recognise the practical constraints associated with the existing, statutory route to modify or discharge planning obligations via section 106A (effected by a 'deed of variation'), and the limits that any policy or guidance reforms can achieve. The consultation on the draft National Planning Policy

Framework we published on Tuesday therefore seeks views on the efficacy and use of existing statutory routes, to inform ongoing work to ensure there is an appropriate mechanism to modify or discharge existing planning obligations that provides confidence to both authorities and developers.

The Planning Inspectorate will want to note that, as a general rule, attempts to revisit fundamental issues of viability or planning obligations through Section 73 applications should be scrutinised carefully, and the applicant should provide a robust justification for any changes proposed for planning obligations associated with the original permission beyond those linked to the specific variation of condition being sought.

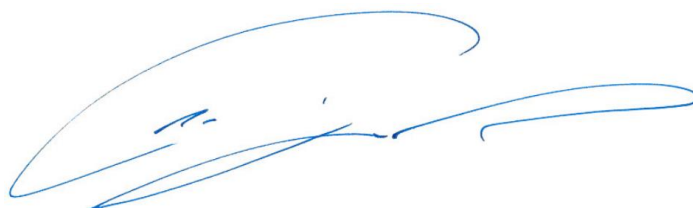
Where developers submit a Section 73 application that seeks to reduce affordable housing provision based on a new viability assessment, the decision maker should have regard to the harm that such a reduction may cause and give this appropriate weight in the overall planning balance, alongside the wider merits of the scheme.

As you know we are also committed to implementing Section 73B through secondary legislation – a new route to vary planning permissions – which was legislated for by the Levelling-up and Regeneration Act 2023. This new route to vary permissions was designed as a replacement for Section 73 when dealing with general post-permission changes to development, where caselaw has highlighted the limitations of Section 73. As part of this implementation, we will provide guidance on the appropriate use of the three routes to vary permissions – s73B, s73 and s96A (which enables non-material changes to be made to planning permissions).

Section 73B should become the key mechanism for dealing with legitimate variations in a pragmatic way in response to changing circumstances over time, but it is not intended to allow developers more easily to reduce planning obligations already entered into, including for affordable housing, and Section 73B(5) will affect the extent to which that can be done.

Finally, I want to take the opportunity to thank PINS for the expert input they provided into the process of developing the draft NPPF for consultation and for the wider contribution the Inspectorate has made towards achieving our collective objectives this year. I also want to thank you personally for your leadership of the Planning Inspectorate over the last three years – and wish you all the best in continuing to deliver excellent services for citizens when you take up your new role in the Home Office in the new year.

Best wishes,



MATTHEW PENNYCOOK MP
Minister of State for Housing and Planning