

**PROPOSED DISCHARGE OF SECTION 106 AGREEMENT – BORWICK HOUSE,
BORWICK RAILS, MILLOM**

Lead Officer: Tony Pomfret – Development Services Manager

To determine an application to discharge the above Section 106 Agreement

Recommendation: That the Section 106 Agreement be discharged by deed.

Resource Implications: Nil

1.0 SUPPORTING INFORMATION

- 1.1 Planning permission to construct a four bedroomed detached house at Borwick Rails, Millom was granted in January 1996 (4/95/0674/0F1 refers) subject to conditions and subject to the applicants entering into a Section 106 Agreement with the Council to restrict occupancy of the dwelling in association with the applicant's adjoining builders' business.
- 1.2 The applicant is about to retire and wishes to sell the house and move away. The builders' business is to cease completely and the builders' yard area (approx 400 sq ft) will be incorporated within the domestic curtilage.
- 1.3 ODPM Circular 05/2005 sets out Government guidance on planning obligations, including their discharge. The key test in determining an application to discharge a Section 106 Agreement is whether it no longer serves any useful purpose in land use planning terms.
- 1.4 The Section 106 Agreement in question has been in place for over 10 years and has demonstrably served its useful purpose in restricting occupation of the dwelling associated with the applicant's adjoining builders' business. In the present circumstances, this "useful purpose" will no longer be relevant with the impending cessation of the business use. Discharge of the Section 106 Agreement is, therefore, favourably recommended by way of a deed.

Contact Officer: Tony Pomfret - Development Services Manager

Background Papers: Planning File 4/95/0674/0F1