

15<sup>th</sup> March 2022

The Planning Department  
Ribble Valley Borough Council  
Council Offices  
Church Walk  
Clitheroe  
BB7 2RA



Our ref: LJG143  
Your ref: -

**By email only**

Dear Sir/Madam,

**PROPOSED MODIFICATION/DISCHARGE OF PLANNING OBLIGATIONS  
THE FOLLIES BUNGALOW, VICARAGE LANE, WILPSHIRE**

I am pleased to enclose an application made under the provisions of Section 106A of the Town & Country Planning Act (1990) on behalf of my client, Ms S Moss, seeking to remove requirements relating to the occupation/sale of The Follies Bungalow.

The application comprises:

- Application forms
- This supporting statement
- Location/site plan
- Copy of the original agreement and associated decisions

The application fee will be paid directly by the applicant to the Council

**Introduction**

The application site comprises a detached bungalow, set within a spacious plot alongside the host property 'The Follies', on Vicarage Road in Wilpshire.

The planning history for the site will be detailed below, however, as a brief summary the bungalow was originally granted consent as an annexe to the host property in 1995, which was known as Sharples Farm at that time.

Condition 3 of the original consent tied the property to an associated Section 106 Agreement, which contained a single obligation in Schedule 2:

*"Not to allow the annexe subject of the development to be sold (or let) as a separate dwelling (or used) other than as annexe accommodation forming part of the property known as Sharples Farm, Vicarage Lane, Wilpshire, Blackburn, Lancashire"*



These requirements were varied as a result of an application in 2000, which allowed the annexe to be let separately to the host dwelling.

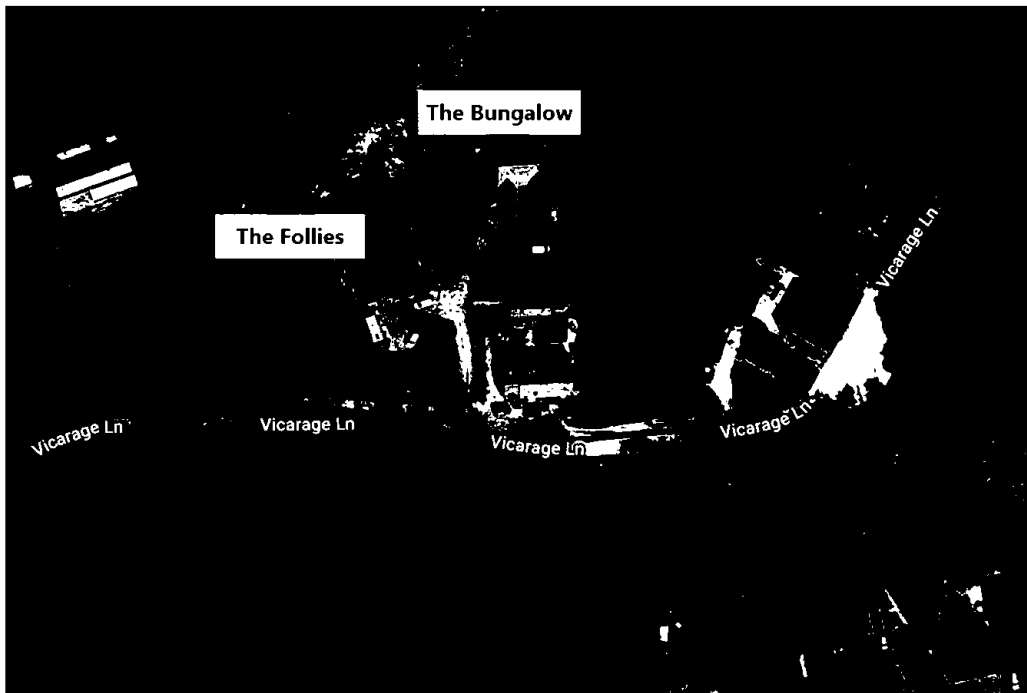


Figure 1 – site location

### Planning history

The site has been subject to several applications. A brief summary is provided below.

Application no.	Description	Decision
3/1995/0325	Erection of retirement annexe	Approved subject to S106 - August 1995
3/2000/0627	Variation of S106 Agreement to allow bungalow to be let separately from The Follies	Approved – November 2000
3/2003/0873	Use bungalow as independent dwelling	Refused – February 2004 and subsequent Appeal dismissed
3/2007/1124	Extensions to The Follies	Approved – January 2008

A decision pertinent to this application has also recently been made at a property circa 400m to the east of The Follies. A submission was made at Tippings Meadow, Lyndale Avenue, Wiltshire (RVBC ref – 3/2021/0820) to use a detached annexe as an independent dwelling. Whilst the Council refused the application, a subsequent appeal was allowed on the 24<sup>th</sup> February 2022.

The relevance of this decision will be covered in the Appraisal section below.



## Planning policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 relates to the development plan as a whole and requires applications to be determined in accordance with the plan, unless material considerations indicate otherwise. In this case, the development plan comprises the Ribble Valley Core Strategy (2014).

With regard to Section 106 Agreements and applications to vary/modify the obligations, it is required to consider whether the requirements continue to serve a 'useful purpose'.

The application site is located immediately to the north of the settlement boundary for Wilpshire and lies within the open countryside, as shown in the policies map excerpt below.

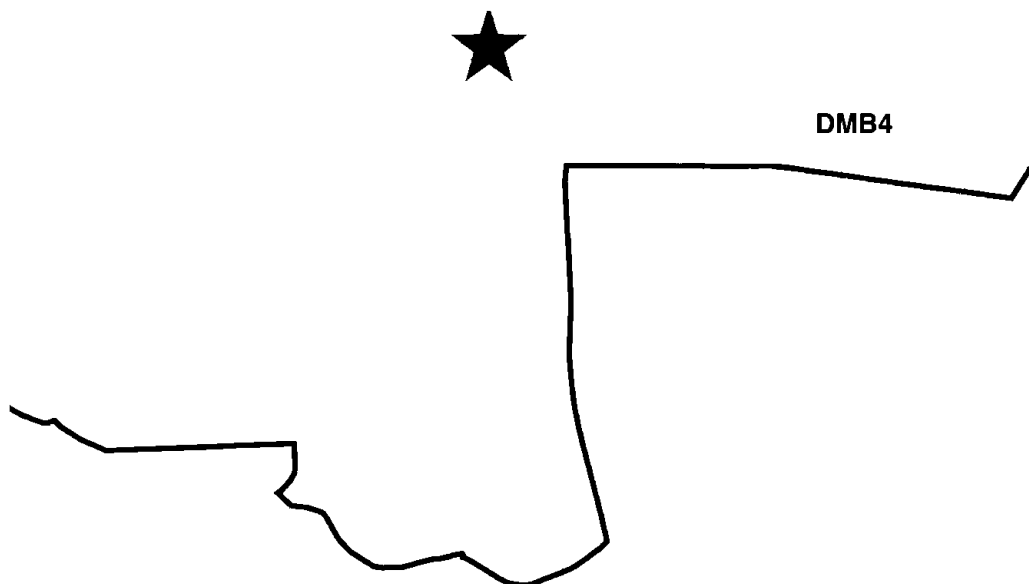


Figure 2 – HED DPD proposal map (site denoted by red star)

Accounting for this designation, the following Core Strategy policies are relevant to this application:

- **Key Statement DS1** – seeks to concentrate the majority of new housing development towards the key settlements of Clitheroe, Whalley and Longridge and more sustainable Tier 1 villages, including Wilpshire.
- **Policy DMG2** – outlines 6 criteria which development outside of settlements should meet. These include development essential to the local economy or social wellbeing of the area; development for the purposes of agriculture; development for local needs housing; development for tourism/recreation; small scale development appropriate to a rural area and development associated with Enterprise Zones. The policy also confirms that development in the open countryside should, where possible, should be accommodated through the re-use of existing buildings, which in most cases will be more appropriate than new build.

## Appraisal

Use of The Follies Bungalow is currently restricted, insofar as it cannot be sold separately to the host property. However, since November 2000 following the outcome of application 3/2000/0627 the

Applicant has been able to let the dwelling to unrelated third parties, following a modification to the S106.

In supporting the modification, the case officer outlined the following key issues in their report:

- The annexe was never occupied as originally intended due to personal circumstances surrounding the applicant and their family;
- The property had been marketed for 12 months as the applicant could not continue to maintain both properties;
- The annexe affords generous accommodation including all the elements required for independent living;
- The development, as built, would not comply with Policy H9 at that time (superseded by Policy DMH5 in the current Core Strategy) in that it did not provide a modest level of accommodation and could not be easily adapted to another ancillary use should circumstances change;
- That occupation by a housekeeper or au pair would retain a functional link to the host dwelling, but the size and type of accommodation on offer has the potential to make such use unlikely; and
- That the use would generate vehicular movements similar to that of a private dwelling regardless of the type of occupancy.

The impact of the current S106 is that the Applicant is not able to sell the property separately to the host dwelling, but it can be occupied by third parties with no functional relationship to the residents of The Follies.

The Applicant has owned the properties since 2005 and now wishes to sell the Bungalow to the current tenants who have rented it for almost 8 years. It is therefore necessary to consider whether the Agreement as drafted retains a 'useful purpose' in light of prevailing circumstances, policies and material considerations.

It is accepted that future occupation would not meet the housing related requirements of Policy DMG2. However, this was not considered to be critical to the case in the aforementioned appeal at Tippings Meadow, which is sits some 400m to the east of The Follies and is also outside of the settlement boundary.

In allowing the occupancy restricted annexe to be used as an independent dwelling, the Inspector determined the following:

*"In this case, I have found that the proposal would fail to comply with Core Strategy Policy DMG2 which outlines the development strategy for the borough.*

*Set against this, is that the development would not form inappropriate development in the Green Belt and would cause no harm to openness. The property is already in a residential use, albeit restricted as an annexe, ancillary to the main dwelling. Furthermore, the site is not isolated and is in a sustainable location on the edge of Wilpshire, a Tier 1 settlement, where local services can be accessed. In terms of the overall objective of the Framework, achieving sustainable development, the proposal would, in my view, accord.*



*I therefore find on the basis of the evidence before me in this case, that the conflict with the development plan, which post-dates the current Framework, is outweighed by other material considerations”*

Key to the Inspector’s findings, and one of the matters on which the appeal appears to turn, is laid out in paragraph 12 of the decision. The Council had presented a number of decisions with regard to the application of Policy DMG2, insofar as it relates to new development in the countryside. Notably, the Inspector afforded weight to the fact that the development related to an existing building which was already in residential use, albeit limited by condition.

These circumstances clearly apply to The Follies Bungalow and even more so when considering that the unit can be let to any third party with no link to the main dwelling. This is already tantamount to use as a private dwelling, with the only restriction that the Applicant cannot dispose of it separately to the main house.

Their circumstances have changed in recent years and there is now a need to sell the property, with a desire from the current tenants to purchase the bungalow and remain in Wilpshire as a family. The S106 prevents this and has a disproportionate impact accounting for the realities of the situation on the ground.

With regard to its location, the site lies outside of the settlement boundary, but raises no conflict with paragraph 80 of the National Planning Policy Framework insofar as it is not isolated (taking the accepted definition in planning terms) and results in the continued use of a building which may become redundant if the Applicant is unable to sell the property.

It is located in a sustainable location only a short distance from facilities in Wilpshire, which is a Tier 1 settlement as defined in the Core Strategy. The nearest bus stop is only 600m away on Ribchester Road which offers regular services to Mellor Brook, Blackburn, Clitheroe and Preston.

Ramsgreave and Wilpshire train station is located just over a mile away from the site, with daily services to Whalley, Clitheroe, Blackburn, Bolton, Manchester and Rochdale. Langho station is also located circa 2.5 miles away to the east and can be reached via Whalley Old Road, offering the same services.

Wilpshire is one of the larger Tier 1 settlements, with direct access to the neighbouring villages of Ramsgreave, Salesbury and Langho. The surrounding area contains a number of accessible services which occupants can reach on foot, bicycle or public transport including shops; public houses; restaurants/takeaways; churches; village halls; schools and leisure opportunities amongst others.

In this regard the site cannot be said to be unsustainable and should be seen in the same manner as the development at Tippings Meadow. In light of these factors it is considered that the remaining obligation contained in the S106 no longer serves a useful purpose and should be removed.

The fear of decisions such as this creating precedents was also addressed by the Inspector in the Tippings Meadow decision:

*“I understand the Council’s concerns that allowing this appeal could lead to a precedent for other similar developments. However, it appears unlikely that the particular circumstances of this case would be replicated. Even if they were, the likely number of cases would be so*



*limited, that there would be no adverse impact on the development strategy for new residential development in the borough”*

These findings and the views of the Inspector are material to the determination of this application and should be afforded due weight in the decision making process.

### **Other material considerations**

Relaxation of the obligation raises no associated concerns with regard to residential amenity, as the bungalow is located a sufficient distance from the closest neighbours (including the host dwelling) to avoid any unacceptable privacy loss for any party. The creation of respective curtilages can also be easily achieved with each property afforded more than sufficient outdoor space.

There are also no highway safety issues, with traffic levels remaining as existing and each dwelling having appropriate parking and turning areas within the site.

### **Conclusion**

This Statement has been prepared in support of an application to remove restrictions relating to the sale of The Follies Bungalow as a private dwelling. The property can currently be let to third parties but cannot be sold, which is unduly prohibitive. The impacts of allowing private sale/occupation are negligible in reality when accounting for the nature of the current permitted use.

It has been demonstrated that the relaxation of this final obligation raises no adverse issues with regard to the adopted policies of the Ribble Valley Core Strategy and would not undermine the Council's overall development strategy. As such, the presumption in favour of sustainable development should be applied and the application supported.

I trust you have all information necessary to validate the application. However, if you have any queries at this stage or wish to discuss the scheme during the determination process, please do not hesitate to contact me.

Yours sincerely

**Lee Greenwood**  
Planning Consultant

