

Report to be read in conjunction with the Decision Notice.

Signed:	Officer:	MC	Date:	02/04/2026	Manager:	LH	Date:	9/4/26
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Application Ref:	3/2026/0126	 Ribble Valley Borough Council www.ribblevalley.gov.uk	
Date Inspected:	n/a		
Officer:	MC		
DELEGATED ITEM FILE REPORT:		Decision	REFUSAL

Development Description:	Proposed modification of S.106 Agreement dated 21st June 1988 relating to planning permission 3/1987/0427 to remove the holiday occupancy restriction.
Site Address/Location:	Fox Run Cottage, Clitheroe Road, Great Mitton, BB7 9PH

CONSULTATIONS:	Parish/Town Council
N/A	

CONSULTATIONS:	Highways/Water Authority/Other Bodies
N/A	

CONSULTATIONS:	Additional Representations.
There was no public consultation given the nature of the application.	

RELEVANT POLICIES AND SITE PLANNING HISTORY:

Ribble Valley Core Strategy:

Key Statement DS1 – Development Strategy
Key Statement DS2 – Sustainable Development
Key Statement H1 – Housing Provision
Key Statement DMI2 – Transport Considerations

Policy DMH3 – Dwellings in the Open Countryside
Policy DMG3 – Transport and Mobility

National Planning Policy Framework (NPPF)

Town and Country planning Act (1990)

Relevant Planning History:

3/2025/0762

Certificate of Lawfulness for the existing use of the property as a (C3) Dwellinghouse.
Refused

3/1988/0226

Change of use to holiday cottages

Approved with Conditions

3/1987/0724

Change of use of barn to holiday cottages (reserved matters)

Approved with Conditions

3/1987/0427

Creation of four self-catering holiday flats and one self-catering holiday cottage (outline)

Approved with Conditions

3/1983/0457

Conversion of barn to dwellinghouse

Refused

ASSESSMENT OF PROPOSED DEVELOPMENT:

Site Description and Surrounding Area:

The application relates to an existing two and a half storey stone-built building located within rural area of Mitton, within the Forest of Bowland National Landscape.

Proposed Development for which consent is sought:

The application seeks to vary the Section 106 (52) agreement relating to planning ref: 3/1987/0427 which stated that the dwelling cannot be occupied as a permanent residential dwelling or be occupied other than as holiday accommodation.

The submitted details propose to vary the wording of the Section 106 Agreement to be modified so that the restriction preventing permanent residential occupation shall not apply to Fox Run Cottage and all other provisions of the agreement shall remain in full force and effect.

It should be noted that the applicant has not submitted with this application, a draft document which outlines an updated Section 106 Agreement to remove this occupancy restriction.

In this respect section 106A (Modification and discharge of planning obligations) of the Town and Country planning Act (1990) states the following:

106A (6) Where an application is made to an authority under subsection (3), the authority may determine

- a) that the planning obligation shall continue to have effect without modification;*
- b) if the obligation no longer serves a useful purpose, that it shall be discharged; or*
- c) if the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modifications*

A Certificate of Lawfulness has been recently refused which sought to establish use of a building approved as holiday lets as a single dwellinghouse for a continuous period. The certificate was refused (planning ref: 3/2025/0762) for the following reasons:

- 1. The property known as 'Fox Run Cottage' is subject to a Section 52 Agreement which restricts the use of the property to holiday let accommodation only. As such, the use of the property as a (unrestricted) C3 residential dwellinghouse will breach the legal agreement and is not considered lawful.*

2. *Even in the absence of a legal agreement, the applicant has failed to demonstrate that, on the balance of probability, the property has been occupied continuously for a minimum period of four years as a (unrestricted) C3 residential dwellinghouse. As such, the development is not considered lawful by virtue of the provisions of S171B(2) of the Town and Country Planning Act.*

The applicant considers that the legal agreement should be amended for a number of reasons which are set out below:

- The retention of the occupancy restriction for historical reasons would be in conflict with the NPPF
- Fox Run Cottage already functions as a permanent dwelling and therefore the use as residential would not involve the creation of a new dwelling and would not conflict with Policy DMH3 of the Ribble Valley Core Strategy
- Permanent residential occupation has not resulted in traffic beyond what could reasonably arise from lawful holiday use
- Holiday use is more intense
- The sustainable impacts associated with permanent occupation have not resulted in harm

As such, it is pursuant to assess whether the proposed amendment to the Section 106 agreement to allow the building to be used as an independent dwelling rather than as a holiday let would be acceptable having regard to the relevant planning matters.

Compliance with Development Plan (Ribble Valley Core Strategy)

When considering the principle of a new residential dwelling, Key Statement DS1 states that:

The majority of new housing development will be concentrated within an identified strategic site located to the south of Clitheroe towards the A59 and the principal settlements of:

- Clitheroe
- Longridge
- Whalley

In addition to the strategic site at Standen and the Borough's principal settlements, development will be focused towards the Tier 1 Villages, which are the more sustainable of the 32 defined settlements:

- Barrow
- Billington
- Chatburn
- Gisburn
- Langho
- Mellor
- Mellor Brook
- Read & Simonstone
- Wilpshire

The site is located outside of a settlement boundary and as such, a dwelling in this location fails to accord with the spatial strategy for the Borough.

The first part of Policy DMG2 states that:

'Development should be in accordance with the core strategy development strategy and should support the spatial vision.

1. *development proposals in the principal settlements of Clitheroe, Longridge and Whalley and the tier 1*

villages should consolidate, expand or round-off development so that it is closely related to the main built up areas, ensuring this is appropriate to the scale of, and in keeping with, the existing settlement’.

The second part of this policy requires development within the tier 2 villages and outside the defined settlement areas to meet at least one of six considerations which are listed as follows:

- 1. The development should be essential to the local economy or social well-being of the area.*
- 2. The development is needed for the purposes of forestry or agriculture.*
- 3. The development is for local needs housing which meets an identified need and is secured as such.*
- 4. The development is for small scale tourism or recreational developments appropriate to a rural area.*
- 5. The development is for small-scale uses appropriate to a rural area where a local need or benefit can be demonstrated.*
- 6. The development is compatible with the enterprise zone designation’.*

The site is located outside of a settlement boundary and the proposed development fails to meet any of the exceptions listed above to allowing development.

Policy DMH3 seeks to limit residential development in the open countryside and AONB to development essential for the purposes of agriculture or residential development which meets an identified local need. An unrestricted market dwelling in this location fails to meet any of the exceptions listed in DMH3.

In addition, Policy DMH3 states that the creation of a permanent dwelling by the removal of any condition that restricts the occupation of dwellings to tourism/visitor use or for holiday use will be refused on the basis of unsustainability. Whilst this application relates to a S106 modification rather than removal of condition, it would result in the same outcome / policy conflict. Therefore the proposed modification to allow the dwelling to be occupied as a permanent residential dwelling would fail to accord with Policy DMH3 and would result in the creation of a dwellinghouse in C3 use in an inappropriate location.

Policies DMI2 and DMG3 of the Ribble Valley Core Strategy require new development to be located to minimise the need to travel, with good access by foot and cycle and convenient links to public transport. Considerable weight is to be attached to the availability and adequacy of public transport to serve those moving to and from the development. This aligns with the sustainability objectives of the NPPF.

Fox Run Cottage is located at Great Mitton which is a small cluster of dwellings and agricultural buildings. As such, the property is not within walking distance to any key services or facilities such as a school, pub, village hall, post office or shop. The main settlement of Clitheroe is approximately 4.8km away and is accessed along narrow, unlit, country roads. The bus stop is not within easy reach of the site. As such occupiers of the dwelling would be reliant on private motor vehicle to access key services and facilities to meet their day-to-day needs.

It should also be noted that an appeal at ‘Garth Cottage’ (appeal ref: APP/T2350/W/22/3300027) for the regularisation of an unauthorised change of use from one dwelling into two was dismissed at appeal, whereby the inspector noted the following:

“It has not been demonstrated that the appeal site is in reasonable proximity to food shops or other facilities such as schools, churches, or medical services, necessary to meet day to day needs of the future occupiers. Nor has it been shown whether the development would support local services where there are groups of smaller settlements, as noted within paragraph 79 of the Framework. The appeal site does not, therefore, have good or suitable access to local services and facilities.”

This appeal is relevant to this application as 'Garth Cottage' is located approximately 47m to the north of Fox Run Cottage and sought to regularise the subdivision of one dwelling into two, so creating an additional residential dwelling without any additional built form.

Policy DMH4 which allows for the conversion of barns and other buildings to dwellings is not considered to be relevant in this case, as the conversion has already been undertaken.

Therefore the proposed modification to allow for one unrestricted residential dwelling is in conflict with policies DS1, DMG2, DMH3, DMG3 and DMI2 of the Core Strategy

Other Material Considerations

The most recently published five-year housing land supply figure for the Ribble Valley (base date of 31st March 2025) indicated that Ribble Valley Borough Council has a housing land supply of 6.2 years. However, a recent appeal decision (appeal ref: APP/T2350/W/25/3372635) has found that the Council no longer have a Five-Year Housing Land Supply and the housing supply is calculated to be 3.45 years.

The consequence of not having a 5YHLS is that paragraph 11(d) of the NPPF is engaged in the decision making process. On this basis the restrictive approach toward new housing development outside of settlements must be considered to be out-of-date.

Specifically for decision taking this means if the most relevant Local Plan policies for determining a planning application are out of date (such as when a 5YHLS cannot be demonstrated), granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination*

In terms of areas or assets of particular importance referred to at subsection i) above, these are identified as habitats sites and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, or a National Landscape, irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest...); and areas at risk of flooding or coastal change. The application site is located within the Forest of Bowland National Landscape. However, it is not considered that the development would result in direct harm to the Forest of Bowland National Landscape given that it is an existing building that has been converted and the development relates to the change of use only.

In which case the tilted balance should be applied and sub section ii) of Para 11d) requires the LPA to consider whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits.

The benefits of the development have been considered, namely the delivery of housing especially in the context of a lack of 5YHLS, albeit the development would only contribute one dwelling to the Council's housing supply as such this is considered to carry moderate weight.

However, Paragraph 11d) section ii) also requires the LPA to have particular regard to key policies for directing development to sustainable locations, and for the reasons outlined within this report, it is considered that the granting of this permission in principle, would result in the creation of residential development in an unsustainable location.

The harm resulting from the modification of the Section 106 agreement to allow residential development in this location is considered to significantly and demonstrably outweigh the benefits as there would be a reliance on private motor vehicle for occupiers to access key services and facilities which is considered to be

significant and even on the application of the tilted balance, there would not be justification to grant planning permission.

Observations/Consideration of Matters Raised/Conclusion:

Taking account of the above and taking account of the provisions of section 106A (6) (C) of the Town and Country Planning Act (1990), it is considered that the variation to the existing agreement is not acceptable and should be refused.

RECOMMENDATION:

That the variation to the S106 Agreement be refused for the following reason:

01:

The proposal is considered to be in direct conflict with Key Statement DM12 and Policy DMG3 of the Ribble Valley Core Strategy and the overarching objectives of the National Planning Policy Framework (NPPF) insofar that the variation to the S106 Agreement would lead to the creation of a new residential dwelling in an unsustainable location whereby there would be a reliance on private motor vehicle by occupiers of the dwelling to access key services and facilities.

When applying Paragraph 11d)ii of the NPPF, the resultant harm from allowing residential development in this unsustainable location is considered to significantly and demonstrably outweigh the benefits.