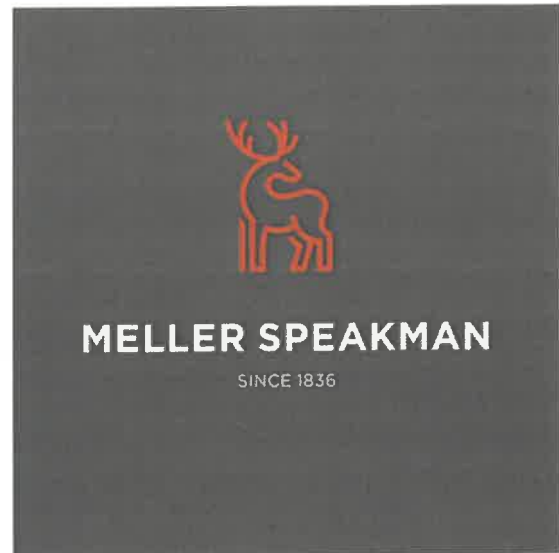




PLANNING STATEMENT

Application to modify a planning obligation under s 106A

Gander Green Cottage, Clitheroe Road, Great Mitton, BB7 9PH

DATE:

12 February 2026

BY:

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1. Introduction

This Planning Statement is submitted in support of an application made under Section 106A of the Town and Country Planning Act 1990 to modify a planning obligation originally entered into under Section 52 of the Town and Country Planning Act 1971. The obligation was entered into in connection with planning permission reference 3/1987/0427 and applies to the property known as Gander Green Cottage, Great Mitton.

The Section 52 Agreement includes a covenant by the owner with Ribble Valley Borough Council that the property shall be permanently subject to an occupancy restriction regulating the development. The operative wording of the restriction provides that:

“the dwellings which are the subject of the development shall not be occupied as permanent residential dwellings or be occupied other than as holiday accommodation.”

The effect of this covenant is to prohibit permanent residential occupation and to restrict use of the property to holiday accommodation only.

This application seeks a targeted modification of that restriction insofar as it applies to Gander Green Cottage, to allow permanent residential occupation. The remainder of the Section 52 Agreement would remain unchanged.

2. Site Description and Planning History

Gander Green Cottage forms part of a group of former agricultural buildings at Higher House Farm, Great Mitton. The buildings were converted in the 1980s following the grant of planning permission for self-catering holiday accommodation.

Planning permission 3/1987/0427 authorised the creation of several holiday units, and the associated Section 52 Agreement was imposed to ensure that the units were used for holiday purposes rather than permanent residential occupation. This reflected the prevailing planning policy context of the late 1980s, which sought to restrain permanent housing in the open countryside and promote tourism related uses as a form of rural diversification.

Since that time, planning policy, housing needs, and the approach to rural conversions have evolved significantly, and the continued relevance of the original restriction must now be assessed against current circumstances and policy.



3. Long-Established Residential Use

Notwithstanding the holiday-only restriction, Gander Green Cottage has, in practice, been occupied as a permanent residential dwelling for a substantial period, understood to exceed ten years. During this time, the property has functioned continuously as a settled home and primary residence.

The occupation has been typical of a Use Class C3 dwellinghouse. There is no evidence of short-term holiday letting, frequent changeovers, or tourism related activity. The pattern of use has been stable and continuous, and in planning terms the property has been indistinguishable from other permanent dwellings in the locality.

A recent application for a Certificate of Lawfulness was refused on legal and evidential grounds, including the existence of the Section 52 Agreement. That refusal does not undermine the factual position that the property has been occupied residentially for a prolonged period. Rather, it confirms that the appropriate mechanism to regularise the position is through modification of the planning obligation.

4. Absence of Planning Harm

The long-established residential occupation of Gander Green Cottage has not resulted in any identifiable planning harm.

In highway terms; permanent residential occupation has not resulted in traffic generation beyond what could reasonably arise from lawful holiday use. Holiday accommodation typically results in more intensive vehicle movements associated with arrivals, departures, servicing, and visitor activity. Permanent occupation represents a more settled and predictable pattern of travel.

There has been no harm to the character or appearance of the building or its wider rural setting. The physical form of Gander Green Cottage has not changed as a result of residential occupation, and its relationship with the surrounding countryside and the Forest of Bowland National Landscape remains unchanged.

No adverse impact has arisen in terms of residential amenity. A settled household generally gives rise to less noise and disturbance than short term holiday occupation with regular changeovers and varying groups of occupants.

There is no evidence that residential occupation has placed pressure on local infrastructure or services beyond what could arise from holiday use.



The absence of enforcement action by the Council over the extended period of residential occupation further supports the conclusion that no material planning harm has arisen.

5. National Planning Policy Framework

The National Planning Policy Framework (NPPF) requires the planning system to be genuinely plan-led, proportionate, and evidence based, with a focus on achieving sustainable development.

The NPPF supports the effective use of existing buildings and discourages unnecessary or unjustified restrictions where impacts are acceptable. Controls imposed through planning obligations should only be retained where they remain necessary to make development acceptable in planning terms.

In this case, the impacts of permanent residential occupation have been tested in practice over a prolonged period and have not resulted in harm. Retaining an occupancy restriction solely because it was imposed historically, rather than because it remains necessary, would be inconsistent with the NPPF's emphasis on proportionality, flexibility, and sound decision making.

6. Ribble Valley Core Strategy – Detailed Policy Analysis

The Ribble Valley Core Strategy provides the relevant local policy framework for assessing this application.

Policy DMH3: Dwellings in the Open Countryside and AONB

Policy DMH3 seeks to strictly control new residential development in the open countryside and includes wording indicating that the creation of permanent dwellings through the removal of holiday occupancy conditions will normally be refused on sustainability grounds.

This application is materially different from the scenarios envisaged by Policy DMH3. It does not involve the creation of a new dwelling through development, nor does it introduce residential use in principle. Gander Green Cottage already exists and has functioned as a permanent dwelling for many years.

The sustainability impacts associated with permanent occupation, including access, travel patterns, and service usage have already occurred in practice and have not resulted in harm. The proposal therefore seeks to regularise a long-established situation rather than create a new one. Refusal on abstract sustainability grounds would



be difficult to justify where those impacts have already been demonstrated to be acceptable.

Policy DMH4: The Conversion of Barns and Other Buildings to Dwellings

Policy DMH4 supports the residential use of existing buildings where they form part of a group, where conversion respects local character, and where there is no unacceptable impact on the countryside.

Gander Green Cottage forms part of an established group of converted buildings, and no further physical works are proposed. The continued residential occupation aligns with the objectives of this policy, particularly the emphasis on reuse of existing buildings rather than new sporadic development.

Key Statement EC3 and Policy DMB3: Visitor Economy and Tourism Development

Key Statement EC3 and Policy DMB3 support tourism development where appropriate, but do not require the retention of holiday accommodation where such use is no longer taking place in practice.

Gander Green Cottage has not functioned as an active holiday unit. Modification of the obligation would not result in the loss of a viable or operating tourism facility, nor would it undermine the visitor economy of the area.

Landscape and AONB Policies

Policies relating to the Forest of Bowland National Landscape seek to conserve natural beauty and landscape character. The residential occupation of Gander Green Cottage has not altered the building, its appearance, or its setting. As such, the proposal is consistent with these policies.

7. Regulation 122 – Modern Tests for Planning Obligations

Although the obligation predates the Community Infrastructure Levy Regulations 2010, it is appropriate to assess it against the Regulation 122 tests.

The holiday only occupancy restriction, as applied to Gander Green Cottage, is no longer necessary to make the development acceptable, is no longer directly related to any identified planning impact, and is no longer fair or reasonable in scale and kind given the absence of harm and the passage of time.



8. Statutory Tests under Section 106A(3)

Section 106A(3) provides that a planning obligation may be modified if it no longer serves a useful planning purpose, or if it would serve such a purpose if modified.

In this case, the restriction no longer serves a useful planning purpose. The objective of preventing permanent residential occupation has been overtaken by events, and the restriction does not mitigate any current planning harm.

Alternatively, if the Council considers that some useful purpose remains, that purpose would be served if the obligation were modified in a limited and targeted manner to allow permanent residential occupation of Gander Green Cottage while leaving the remainder of the agreement intact.

9. Proposed Modified Clause

It is proposed that the Section 52 Agreement be modified so that the restriction preventing permanent residential occupation shall not apply to Gander Green Cottage. All other provisions of the agreement shall remain in full force and effect.

10. Conclusion

Gander Green Cottage has been occupied as a permanent dwelling for a substantial period without giving rise to planning harm. The holiday occupancy restriction no longer serves a useful planning purpose and fails modern policy and statutory tests.

The requirements of Section 106A(3) are satisfied, and the Council is respectfully requested to approve the modification of the planning obligation to allow permanent residential occupation of Gander Green Cottage.