

Ward Ottery St Mary

Reference 25/0717/VAR

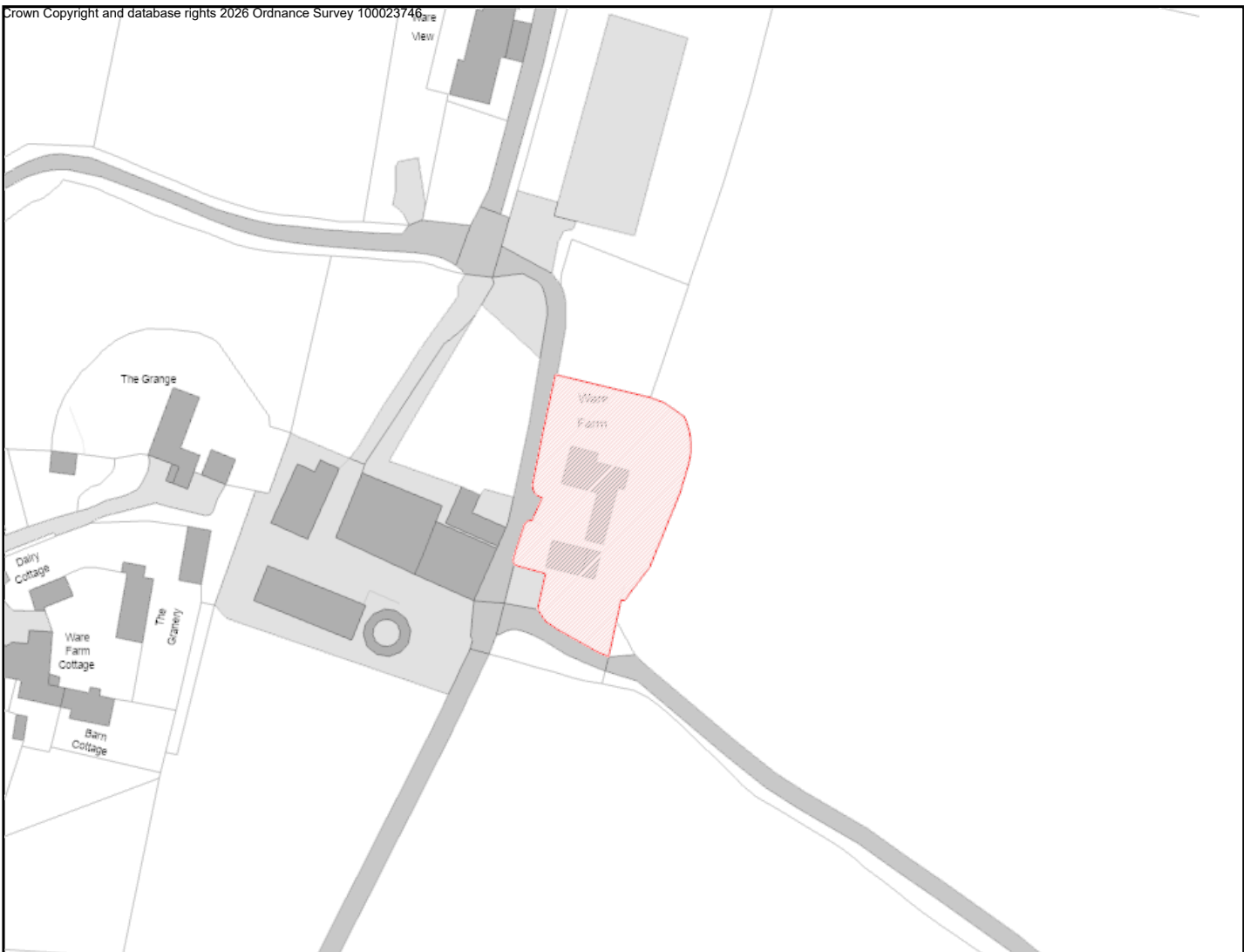
Applicant Mr Andrew Whitehouse

Location Longview House Ottery St Mary Devon EX11 1PJ

Proposal Removal of condition 2 (agricultural occupancy) from planning permission 7/45/00/P0940/01309



RECOMMENDATION: Approval with conditions



		Committee Date: 07.07.2026	
Ottery St Mary (Ottery St Mary)	25/0717/VAR	Target 21.05.2025	Date:
Applicant:	Mr Andrew Whitehouse		
Location:	Longview House Ottery St Mary		
Proposal:	Removal of condition 2 (agricultural occupancy) from planning permission 7/45/00/P0940/01309		

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is being referred to the Planning Committee owing to a difference of opinion between officers and the commenting ward member.

Longview House, formerly known as Ware Farm, is a four bedroom residential property located within open countryside approximately 1.8 km. to the east of the edge of the built-up area of Ottery St. Mary. It occupies a land holding of around 9 hectares (22 acres) mainly comprising the main farmhouse and a detached double garage with one bedroom annexe above, a machinery/equipment store, fodder store and wash bays, a lean-to and two stable blocks and a manege/horse arena.

The property is the subject of an agricultural occupancy restriction condition (agricultural tie) attached to the planning permission granted for its construction in 2000. The condition restricts the occupation of the dwelling to 'a person solely or mainly working, or last working, in the locality in agriculture.....or in forestry or a dependant of such a person residing with him or her or a widow or widower of such a person'.

The current application seeks the removal of the condition/tie to enable unrestricted occupation of the dwelling.

It is supported by an agricultural and financial viability appraisal and valuation report that, in combination, seek to demonstrate a) that there is no long-term functional need for the tied dwelling to accommodate an agricultural worker and b) that the holding has been offered for sale at a realistic valuation for a reasonable time period with no interest having been shown in its purchase.

Despite the appraisal and report not having been independently reviewed on behalf of the Council, it is nevertheless accepted that a sufficiently robust case

for the relaxation of the agricultural tie has been presented such that officers consider that the proposal meets with the provisions of relevant adopted Local Plan Policy H5 (Occupancy Conditions on Rural Workers Dwellings).

CONSULTATIONS

Local Consultations

Parish/Town Council

Town Council comments:

The Town Council do not support this application based on the following;

The original planning consent for building this property was granted on the basis that the property was for workers accommodation

The building is in open countryside and permission would not have been granted without an agricultural tie

No proof that the property is not viable as an agricultural business. Other properties in the area, of a similar size are seen to be viable

A site of 21 acres is of sufficient size to provide a living

Ottery St Mary - Cllr Peter Faithfull

I am writing in relation to application 25/0717/VAR for the removal of condition for an agricultural tie. This application is in my ward. As I am on the planning committee, I do not wish to make a decision either way but would like to comment on the reports for this application.

I question the credibility of the attached reports for this application as I do not feel that the property has been advertised properly on the open market. The property is 21 acres of agricultural land with an attached farm workers property. To suggest that this property should be advertised at £1.2m I feel is excessive. This price would place the land at over £57,000 per acre. While I do recognise that the property would be worth more due to the agricultural workers dwelling being included, I do not feel that the increase would be as much as has been suggested. I would also like to point out that the property was advertised as an equestrian property and not agricultural. The suggestion that the property is too small can be shown to not be true as there is a similar property immediately next door of approximately the same size which has shown itself to be viable. There is also a similar property further south along the slopes of East Hill. I therefore feel that I cannot accept the Agricultural Appraisal and Planning Statement as being accurate and reliable. I would like to suggest that the property is more likely to be worth in the region of £600,000 rather than £1.2m. One way to be able to find the true value of the property could be to sell it at auction starting at £1.

These are my views based on the information presently available to me. I reserve my right to change my views in the event that further information becomes available to me.

Technical Consultations

None.

Other Representations

No representations relating to the application proposal have been received from any interested third parties.

PLANNING HISTORY

Reference	Description	Decision	Date
14/2032/CPE	Certificate of Lawfulness for the occupation of an existing dwelling in breach of a restrictive condition for a period in excess of 10 years.	CPL Refuse	25.11.2014
00/P0940	Farm House	Approval with conditions	25.08.2000

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

H5 (Occupancy Conditions on Rural Workers Dwellings) Adopted

Draft East Devon Local Plan 2020-2042 Policies

HN11 (Housing for rural workers)

Made Ottery St Mary and West Hill Neighbourhood Plan 2017-2031 Policies

NP1 (Development in the Countryside)

Government Planning Documents

National Planning Policy Framework 2024 (as amended)

ANALYSIS

Site Location and Description

Longview House, formerly known as Ware Farm, is a four bedroom residential property located within open countryside approximately 1.8 km. to the east of the edge of the built-up area of Ottery St. Mary.

Occupying a position on the lower west-facing slope of Chineway Hill to the north of Chineway Road, the property, along with ancillary and incidental attached and detached outbuildings, forms part of a land holding that extends to approximately 9 hectares (22 acres). This principally comprises two fields to the east and north of the property along with a smaller third field that houses a manege/horse arena to its north.

The built complex comprises the main dwelling, which is partially two storey and partially single storey, together with a detached double garage incorporating an annexe (one bedroom flat) above. A collection of buildings, including a machinery/equipment store, fodder store and wash bays, a lean-to and two stable blocks, is positioned to the west of these.

The property and associated land are within the designated East Devon National Landscape.

Background

Planning permission was granted for the construction of the dwelling in August 2000 (under application ref. 00/P0940).

Among others, one of the conditions attached to the permission was an agricultural occupancy restriction condition (agricultural tie) stating as follows:

'The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture as defined in section 336 of the Town and Country Planning Act 1990, or in forestry or a dependant of such a person residing with him or her or a widow or widower of such a person.

(Reason - This permission has been given because the agricultural need for the dwelling is such as to outweigh the basic planning objection to the development. The Local Planning Authority are concerned to ensure that the dwelling remains available for agricultural use.)'

Formerly part of the 'new' Ware Farm (the buildings linked to the original Ware Farm to the west having been converted to residential use), the holding at the time of the application is described within the applicant's agents' Planning Statement as including around 23 hectares (65 acres). It accommodated 45 cows and 370 breeding ewes.

By 2008, when the manage was granted planning permission, the holding had reduced to around 160 acres in total with 70 acres at Ware Farm. This housed 60 beef cows and their followers, providing a stocking rate of 120-150 animals together with around 200 wintering lambs.

A 2014 certificate of lawfulness (CPE) application (14/2032/CPE), submitted by the previous owner of Longview House, for the occupation of the dwelling in breach of the agricultural occupancy condition, stated that at the time of the grant of permission for the property 255 acres were being farmed with 55 acres at Ware Farm.

However it is advised that, prior to the submission of the CPE application the then applicant's farming activities had reduced with, around 2-3 years prior, around 35 acres of land around the property sold off, leaving the holding at its present size/area.

The appraisal accompanying the application estimated that only 10 head of cattle and 20 ewes could be held on site year round and would result in a financial loss.

The CPE application was refused as it was not considered that the then applicant had occupied the dwelling in breach of the agricultural occupancy condition for more than the relevant ten year period required to demonstrate lawfulness.

Subsequently, and further to an apparent change of ownership, prior approval under the provisions of the Town and Country Planning (General Permitted Development) Order (GPDO) for the construction of an agricultural storage building was granted in 2017 (under application ref. 17/1342/AGR).

Two further prior approval applications for the change of use/conversion of barns to dwellings on the holding under GPDO provisions were refused in 2019 (under application refs. 18/2874/PDR and 19/0834/PDR); both on the grounds that it was not considered that the barns were solely in agricultural use at the relevant July 2012 date (this being one of the key limitations attached to the permitted development right).

The applicant, and current owner, purchased the holding in August 2021.

Proposal

The current application seeks the removal of the agricultural tie from planning permission 00/P0940 to enable unrestricted occupation of the dwelling.

Considerations/Assessment

The proposal in this case needs to be principally considered against the provisions of Local Plan Policy H5 (Occupancy Conditions on Rural Workers Dwellings).

This states that proposals to relax occupancy conditions or a planning obligation will only be permitted where it is demonstrable that economic circumstances have changed such that:

1. There is no long term functional need for the dwelling for rural worker, and
2. Satisfactory evidence has been provided that the dwelling has been offered for sale or rent with its occupancy restriction, at a realistic price for a reasonable period of time (at least 18 months and up to 2 years depending on market conditions), and no interest has been shown in its purchase or rent.

It states that records of all viewings and offers will be required and the property should be regularly advertised in specialist agricultural publications as well as local media and the internet.

Where these conditions have been met the condition shall be modified to limit the occupancy of the dwelling to meet local affordable housing needs of the local community.

The case for the removal of the agricultural tie in this case centres upon two main issues that are set out and discussed in turn as follows.

Lack of Essential Functional Need

It is contended that there is no longer an essential functional requirement for the dwelling to house a rural worker.

This is argued as essentially stemming from the inadequate land area of the holding and the limited up to date livestock facilities that are available that, when taken in combination, mean that the unit could not sustainably support an agricultural income for a full-time worker (and prospective occupier of the dwelling).

It is supported by an agricultural and financial viability appraisal, the principal findings of which are summarised as follows:

1. Based on the land area, the holding could only sustain either 20 beef cattle, 15 suckler cattle or 120 sheep.
2. In the absence of any silage clamps or slurry storage facilities, dairy or pig farming would not be possible.
3. Provision of winter forage for housed livestock would require more land to make hay/haylage given that the land available could not be grazed to ensure enough provision of forage for the winter period. The alternative would be to half the numbers of livestock referred to in point 1. above.
4. To ensure the maintenance of acceptable husbandry standards, there would be a need for substantial investment to bring livestock equipment and buildings up to date, the latter having not been in use for a significant period of time.
5. The size of the holding would need to be increased in order to make it viable. However, there is a limited stock of land in the vicinity available to rent or take on annual grazing agreements.
6. In order to intensify the commercial agricultural activities on the land to make the holding viable both financially and to support a full-time worker, the farm would need to diversify and intensify drastically to, for example, horticulture or poultry rearing. However, both would require significant investment requiring planning permission, thereby creating further expense and potentially tying up further land for BNG requirements. As such, these activities would likely be financially unviable.
7. The greater likelihood is that, if used for agricultural purposes, and given the current facilities in place, this would comprise the letting out of the land on a grazing/mowing licence to a local farmer, which would generate only around £2,000 per year, and/or a horse livery enterprise requiring planning permission for change of use.

Furthermore, based upon the above livestock numbers and assessed under the standard man day calculation, there would be no functional need for a worker to be present all times of the day and night to properly manage any such enterprise or combination of enterprises.

These would amount to 38 days per year (dpy) (beef herd), 20.25 dpy (suckler herd) and 60 dpy (sheep).

It is also contended that the gross margin for sheep, based on a lowland spring lambing flock, would amount to around £5,600 per annum, which would not sustain an agricultural worker. In addition, the standard variable and fixed costs of maintaining such an enterprise and a holding of the size available would make the farming enterprise unviable.

The holding size and other infrastructure costs are also considered to preclude other diverse and less traditional farming activities, such as rare breeds and alternative species such as llamas, from being viable whilst also failing to demonstrate the

necessary essential functional need for a full-time worker to be on site at all times and provision of an income sufficient to sustain a rural worker.

Other supporting information has been provided, sourced from data obtained from the Office of National Statistics Annual Survey of Hours and Earnings, that shows the average median and mean earnings for agricultural workers in 2024, across all working age ranges, as £27,713 and £26,970, respectively.

Applying a typical lending criteria of four times an annual salary would result in an affordability of around £108,000 as a broad average of these two figures. This demonstrates that the holding would likely be out of reach for the majority of agricultural workers.

Should the tie remain in place, therefore, the dwelling is likely to remain unoccupied as there is insufficient land to provide a stable income from agriculture and support the occupier. Equally the prospect of a person employed in agriculture elsewhere, but not on the land associated with the dwelling, is thought to be remote.

In the light of this range of circumstances, there is no longer considered to exist a functional requirement for the dwelling.

Lack of Market Interest

The holding, including the dwelling, has been marketed for a period in excess of two years and a letter to this effect from the marketing agents (Francis Louis).

It is reported that four viewings, but no offers, were made, each of the parties stating that there was insufficient land for their agricultural intentions.

The holding was advertised as inviting 'offers in excess of' £1.2 million.

This valuation has been questioned by the commenting ward member as being excessive, with the implication being that this could have dissuaded a potentially greater level of market interest for the holding.

In response, a valuation report has been commissioned by the applicant to provide a market valuation for the dwelling and holding.

The report, prepared by Greenslade Taylor Hunt, principally draws upon values at which comparable holdings elsewhere across the South West have sold within the last 3/4 years. In this case, the nearest comparison relates to Three Oaks Farm at Ilchester in Somerset. Comprising a five bedroom dwelling subject of an agricultural tie with a range of farm buildings and land extending to around 9 hectares in total, this holding was sold for £1.2 million in December 2022.

The other comparable cases cited in the report relate to:

- Burcombe Moor Farm, Rise Ash, Devon - Tied three bedroom dwelling (constructed in 2011), farmhouse and farm buildings, three free range poultry rearing units and four mobile poultry houses with capacity for 38,000 birds on a holding extending to around 77 acres. Sold for £1.395 million in May 2022

- Primrose Farm, Upottery - Tied detached dwelling, four holiday cottages, range of buildings (including stabling), pasture and ponds on a holding of approximately 34 acres. Sold for £1.675 million in February 2022
- Fursdon Hill Farm, Kingsbridge - Holding of around 27 acres accommodating a four bedroom tied bungalow, modern agricultural building and land. Sold for £930,500 in July 2022
- Woodmans Cottage, Wrington, Bristol - Two tied two bedroom detached barn conversions, range of modern agricultural buildings, pasture land extending to around 2.5 acres and block of woodland of approximately 23.5 acres, amounting to c. 27 acres in total. Sold for £1.4 million in January 2024.

The report also sets out a comparable analysis that demonstrates the adjustments for these properties from which the valuation placed upon Longview House and the associated land holding have been derived, which is confirmed as being £1.2 million with the tie and as at the date of purchase.

This valuation is essentially consistent with the offers invited through the marketing exercise undertaken by Francis Louis.

Consideration has been given to the outsourcing of the valuation report for independent assessment on the Council's behalf. Where there is a need for such a report to be independently verified this should be done at the expense of the applicant. However, there is an unwillingness on the part of the applicant to pay the costs that this would incur. They have argued that the publishers of the report are both a reputable company with the appropriate qualifications from RICS as a registered valuer and are wholly independent. In the opinion of the applicant there is therefore no need for it to undergo independent scrutiny.

Assessment

Notwithstanding the absence of an expert 'independent' review of the submitted agricultural and financial viability appraisal and valuation report officers consider that the above factors, when taken in combination, satisfactorily demonstrate that there is no long-term essential functional need for the tied dwelling to accommodate an agricultural worker.

It is also accepted that the marketing exercise undertaken has been sufficient to prove that the holding has been offered for sale at a realistic valuation for a reasonable period of time and, moreover, that there has been no interest that has led to firm offers having been received. The ward member's concerns in relation to the 'overvaluation' of the holding are not shared.

Whilst the further point made with regard to the reference to an 'equestrian' property within the marketing particulars is acknowledged, they do also refer clearly to the existence of an 'agricultural tie' on the property. As such, it is not thought that this can be given material weight as representing a sustainable criticism of the marketing effort.

More generally, and aside from the issues set out above, it is maintained that the cost of the dwelling and holding would likely be beyond the ability of a great majority

of farm workers to afford any purchase of the same, even if the valuation at which they had been marketed was considerably lower.

Other Conditions

In addition to the then standard 5 year time limit condition setting out the term of the planning permission and the agricultural occupancy restriction condition, the permission granted under ref. 00/P0940 for the construction of the dwelling also carries conditions relating to:

- the 'pre-commencement' submission for approval of details of the facing and roofing materials to be used in the construction of the dwelling
- the separation of foul drainage from clean surface and roof water
- the 'pre-commencement' carrying out of percolation tests on the irrigation area (for soakaways) to confirm porosity

There are no records in place to provide evidence as to the discharging of the pre-commencement conditions relating to materials and percolation testing. However, with the dwelling construction having been completed many years ago, there would now be immunity from any potential breach of condition action.

In the circumstances therefore, it is only considered necessary to seek to re-impose the condition relating to the separation of foul and surface water drainage.

Conclusion

It is considered that the submitted agricultural and financial viability appraisal and valuation report, in combination, adequately demonstrate both that there is no long-term functional need for the tied dwelling to accommodate an agricultural worker and that the holding has been offered for sale at a realistic valuation for a reasonable time period with no interest having been shown in its purchase.

Despite the appraisal and report not having been independently reviewed on behalf of the Council, it is nevertheless felt that a sufficiently robust case for the relaxation of the agricultural tie has been presented such that officers consider that the proposal meets with the provisions of relevant adopted Local Plan Policy H5 (Occupancy Conditions on Rural Workers Dwellings).

RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
2. Foul drainage shall be kept separate from clean surface and roof water and soakaways shall be sited at a safe distance from any watercourse, foul soakaway or source of water supply.
(Reason - In the interests of pollution control and to comply with Policies EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment Systems) and

EN22 (Surface Run-Off Implications of New Development) of the adopted East Devon Local Plan 2013-2031.)

NOTE FOR APPLICANT

Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council works proactively with applicants to resolve all relevant planning concerns; however, in this case the application was deemed acceptable as submitted.

Biodiversity Net Gain

Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 means that this planning permission is deemed to have been granted subject to "the biodiversity gain condition" (BG condition).

The Local Planning Authority cannot add this condition directly to this notice as the condition has already been applied by law. This informative is to explain how the biodiversity condition applies to your development.

The BG conditions states that development may not begin unless:

- (a) a Biodiversity Gain Plan (BG plan) has been submitted to the planning authority, and
- (b) the planning authority has approved the BG plan.

In this case the planning authority you must submit the BG Plan to is East Devon District Council.

There are some exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply.

In this case exemption 3(i) from the list below is considered to apply.

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.

3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and

(i) the original planning permission to which the section 73 planning permission relates was granted before 12 February 2024; or

(ii) the application for the original planning permission to which the section 73 planning permission relates was made before 12 February 2024.

4. The permission which has been granted is for development which is exempt being:

4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

(i) the application for planning permission was made before 2 April 2024;

(ii) planning permission is granted which has effect before 2 April 2024; or

(iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

4.2 Development below the de minimis threshold, meaning development which:

(i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and

(ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:

(i) consists of no more than 9 dwellings;

(ii) is carried out on a site which has an area no larger than 0.5 hectares; and

(iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

Plans relating to this application:

Location Plan	26.03.25
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List of Background Papers

Application file, consultations and policy documents referred to in the report.

Statement on Human Rights and Equality Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act 1998, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equality Act:

In arriving at this recommendation, due regard has been given to the provisions of the Equality Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.