

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	260951
Site Address:	Ostland, Dunt Avenue, Hurst, Wokingham, RG10 0SY
Expiry Date:	19 June 2026
Site Visit Date:	21 April 2026
Proposal: Application to remove condition 2 of planning consent 50/62 for the proposed erection of a dwellinghouse. Condition 2 restricts occupation of the dwelling to persons employed or last employed locally in agriculture or forestry, or their dependants.	

PLANNING CONSTRAINTS/STATUS

Bat Roost Habitat Suitability
Scale and Location of Development Proposals – Countryside

PLANNING POLICY

National Policy	National Planning Policy Framework (NPPF) National Planning Policy Guidance (NPPG)
Core Strategy (CS)	CP1 – Sustainable Development CP3 – General Principles for Development CP5 – Housing Mix, Density and Affordability CP7 – Biodiversity CP11 – Proposals Outside Development Limits
MDD Local Plan (MDD)	CC01 – Presumption in Favour of Sustainable Development CC02 – Development Limits CC07 – Parking
Wokingham Borough Local Plan Update (LPU)	SS1 – Sustainable development principles SS2 – Spatial strategy and settlement hierarchy SS5 – Development in the countryside SS10 – Meeting our housing needs ER1 – Core Employment Areas ER4 – Employment and skills plans H5 – Rural workers' dwellings
Other	Borough Design Guide Supplementary Planning Document CIL Guidance + 123 List Affordable Housing Supplementary Planning Document

PLANNING HISTORY

Application No.	Description	Decision & Date
50/62	Dwelling house at Dunt Lane, Hurst	*Approve 14 th June 1962

180815	Application to vary condition 2 following grant of planning consent (52/62) for the proposed erection of dwelling house. Condition 2 relates to remove the agricultural tie.	Refuse 12 th June 2018
260175	Certificate of existing lawful development for the occupation of the dwelling without compliance with Condition 2 of planning permission 50/62 granted on 14 th June 1962.	Approve 10 th April 2026

**Permission 50/62 Condition 2: "The occupation of the building shall be limited to persons employed or last employed locally in agriculture as identified in Section 119 (1) of the Town and Country Planning Act 1947 or in forestry or the dependents of such persons."*

CONSULTATION RESPONSES

Internal

N/A

External

N/A

REPRESENTATIONS

Parish/Town Council	No objection raised.
Ward Member(s)	No comments received.
Neighbours	No comments received.

APPRAISAL

Site Description: The application site is a detached chalet style two storey house and garage in designated Countryside. It occupies a parcel of land approximately 0.25 hectares and the footprint of the building is approximately 185m². The vehicular entrance to the site is on Dunt Avenue. There are no listed buildings at the site, and the property is not within a Conservation Area or other 'Article 2(3) land' (Town and Country Planning (General Permitted Development) Order 2015). The building is currently used as a dwelling house. The north, south and west elevations face onto open countryside, and the rear boundary (east facing) abuts the curtilage of Kevins Farm in Dunt Avenue.

On 12th June 2018, application 180815 to vary Condition 2 of planning consent 52/62- was refused. Condition 2 relates to removal of the agricultural tie. The application was refused because it failed to demonstrate that the restricted occupancy of the dwelling was not needed to meet the needs of agricultural business in the area; and there was no evidence to support the proposal on sustainability grounds.

On 26th April 2026, a Certificate of Existing Lawful Development for the occupation of the dwelling without compliance with Condition 2 was issued.

Relevant Planning Policy

The *National Planning Policy Framework (NPPF)* has an underlying presumption in favour of sustainable development which is carried through to the local Development Plan. *Paragraph 55 of the NPPF* states that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

Paragraph 84 of the NPPF states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- d) the development would involve the subdivision of an existing residential building; or
- e) the design is of exceptional quality, in that it:
 - i. is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
 - ii. would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.

The national *Planning Practice Guidance (PPG) Housing needs of different groups* states that plan-making authorities should assess the need for housing of different groups and reflect this in planning policies. When producing policies to address the need of specific groups, plan-making authorities will need to consider how the needs of individual groups can be addressed having regard to deliverability.

The national *Planning Practice Guidance (PPG) Use of planning conditions* states that rigorous application of the 6 tests can reduce the need for conditions and it is good practice to keep the number of conditions to a minimum wherever possible.

Paragraph 4.58 of Wokingham Borough Council Core Strategy states that proposals for agricultural workers dwellings will need to demonstrate that they comply with this policy and the national *Planning Policy Statement PPS7* for development in rural locations.

The site is in Countryside where *Core Strategy Policy CP11* applies and states that proposals outside of development limits will only be permitted that do not lead to excessive encroachment or expansion of development away from the original

buildings. Furthermore, proposals outside development limits will not normally be permitted except where it contributes to and/or promotes recreation in, and enjoyment of, the countryside.

The Managing Development Delivery Local Plan Policy CC01 states that planning applications that accord with the policies in the Development Plan for Wokingham Borough will be approved without delay, unless material considerations indicate otherwise.

The Wokingham Borough Local Plan Update remains an emerging plan currently at examination stage, and only such weight as is justified in the decision-maker's planning judgement is attributed to its relevant policies.

Applicants Submitted Evidence

The Planning Statement claims that, in line with paragraph 57 of the NPPF, Condition 2 is no longer necessary, reasonable, or enforceable. The applicant's case is built on the basis that a Certificate of Lawfulness (ref. 260175) establishes that the dwelling has been occupied in breach of Condition 2 for over 10 years, rendering it immune from enforcement action. Furthermore, the applicant claims that the Certificate of Lawfulness demonstrates that Condition 2 no longer serves its intended purpose, and immunity from enforcement is a material consideration that carries significant weight. It is argued that the certificate enables the dwelling to be sold at full market value, and consequently it should not be marketed exclusively to agricultural workers. Also, if there was any demand for farm worker dwellings in the locality, the full market value price would be expected for the property. The applicant concludes that Condition 2 serves no useful planning purpose and should be removed.

Appendix 1: Copy of Certificate of Lawful Existing Use or Development ref 260175 dated 10 April 2026 for the occupation of the dwelling without compliance with Condition 2 of planning permission 50/62 granted on 14th June 1962.

Appendix 2: Copy of Decision Notice ref 50/62 dated 14th June 1962 for Dwelling House at Dunt Lane, Hurst.

Appendix 3: Appeal Ref: APP/T6850/A/20/3252618 Bron Heulwen, Bettws Cedewain, Newtown, SY16 3LF

The appeal was allowed and the previously granted planning permission (M24790, 10 October 1994) was varied by removing the occupation restriction to serve agricultural workers in the locality. The inspector concluded that the occupancy restriction no longer met the six tests for planning conditions and was not necessary or reasonable to continue. Furthermore, he concluded that the CLEUD's transferability and lack of enforceability against future occupiers further undermined the ongoing need for the occupancy restriction.

Appendix 4: Appeal Ref: APP/D0840/W/22/3304612
Kerris Vale, Kerriers Road, Inches, Bodmin, Cornwall PL30 5LR

The appeal was allowed to remove an agricultural occupancy condition (condition 5) from a previous planning permission (ref 6/87/0720/OOP, dated 6

July 1987), finding the condition no longer necessary, enforceable, or reasonable given current circumstances, the existence of an approved Certificate of Lawfulness, and the lack of demonstrable need for rural worker housing in the area. The Inspector noted inconsistent approaches in different appeal decisions regarding the impact of an approved Certificate of Lawfulness on occupancy conditions and the weight given depends on factors including the likelihood of the condition biting back, evidence of rural worker dwelling need, and property value.

Appendix 5: APP/E2001/A/021104141 Flatfield Lodge, Hull Road, Howden

The appeal was allowed to remove an agricultural occupancy condition (condition 4) from a previous planning permission (ref 2/452/82 dated 11 May 1983). The Inspector concluded that although the proposal conflicted with policy in relation to agricultural workers, the Certificate of Lawfulness for Existing Use was an overriding material consideration and fallback position.

Appendix 6: APP/Y9507/W/16/3147251 Copper Beeches, Torberry Farm, B2146 Ditcham Lane to Hurst Mill Lane, Hurst, South Harting GU31 5RG

The appeal was allowed and planning permission is granted for the conversion of the barn to two semi-detached agricultural cottages. The Inspector concluded that the existence of the CLEUD was an overriding consideration, even though the proposal conflicted with local policy in relation to agricultural workers.

Appendix 7: APP/E2001/W/17/3170529 Conifer Lodge, Hull Road, Skirlaugh, Hull HU11 5AE

The appeal was allowed and planning permission was granted without compliance with the original occupancy condition. The Inspector concluded that the occupancy restriction was no longer necessary or reasonable given the Certificate of Lawfulness indicating occupancy by a non-agricultural worker.

Appendix 8: APP/U2750/W/23/3336176 O.S. Field No. 6125, Park Farm, Brockfield, Warthill, York YO19 5XJ

The appeal was allowed and planning permission was granted without compliance with the original occupancy condition. The Inspector concluded that the occupancy condition related to agricultural/forestry workers or their dependants was no longer necessary or enforceable in light of a Certificate of Lawful Existing Use or Development (CLEUD) and changed market dynamics.

Appendix 9: APP/U2750/W/23/3335422

Stonehaven, Heyshaw Road, Heyshaw, North Yorkshire HG3 4HD

The appeal was allowed and planning permission was granted without compliance with the original occupancy condition. The Inspector noted that appeal decisions differ on the weight to be given to a Lawful Development Certificate: some have found that it renders an occupancy condition unenforceable and allowed the appeal on that basis, while others have given it limited weight and dismissed the appeal.

These appeal decisions are material as persuasive examples only. The decision in this case turns on the particular facts before the Council, including the terms and effect of the CLEUD and the evidence (or absence of evidence) of continuing need for this dwelling.

Assessment against the Six Tests for Planning Conditions (NPPF)

Paragraph 55 of the National Planning Policy Framework (NPPF) requires that planning conditions should only be retained where they meet six tests: necessary; relevant to planning; relevant to the development permitted; enforceable; precise; and reasonable in all other respects. The key issue in this case is whether Condition 2, which restricts occupancy of the dwelling to persons employed, or last employed, in agriculture or forestry, continues to satisfy these tests.

1. Necessary

The condition was originally imposed to justify the erection of a dwelling in the countryside as an exception to normal policy, based on an essential need for an agricultural worker to reside on site.

A Certificate of Lawful Existing Use or Development (ref. 260175) was issued on 10 April 2026, confirming that the dwelling has been occupied in breach of the condition for a continuous period exceeding 10 years. This establishes that the condition has not operated as intended over a prolonged period. In these circumstances and given the lawfully established non-compliance confirmed by the CLEUD, I do not consider it proportionate to require a further rural-worker marketing or needs exercise before deciding whether this historic condition remains necessary. However, the existence of a CLEUD does not demonstrate that there is no ongoing need for the dwelling to serve an agricultural function. Notwithstanding this, no evidence has been submitted to demonstrate that the dwelling is required to meet an existing or foreseeable need for rural worker accommodation within the locality.

Given the prolonged non-compliance and the absence of any evidence of a current functional or local need, it is considered that the condition no longer serves its original planning purpose. Therefore, the condition fails the test of necessity.

2. Relevant to Planning

The condition controls the occupation of the dwelling and therefore relates directly to the use and development of land. Therefore, it remains relevant to planning.

3. Relevant to the Development Permitted

The condition was directly related to the justification for the original development, ensuring the dwelling served an agricultural need. Although its ongoing relevance is reduced due to the established lawful breach, the condition remains capable of being regarded as relevant to the development permitted.

4. Enforceable

The CLEUD confirms that the occupation of the dwelling without complying with the

agricultural occupancy condition is lawful within the defined red line. However, the red line associated with the certificate tightly defines the planning unit and does not include a wider residential curtilage. As such, the lawful use applies only to that defined area, and the condition has not been formally removed from the planning permission. This means the condition has not been wholly extinguished and could, in principle, apply to land outside the certified planning unit or in the event of a material change in circumstances.

Nevertheless, the ability of the Local Planning Authority to enforce the condition in respect of the dwelling itself has been significantly undermined. Also, the primary purpose of the condition, to control the occupation of the dwelling, has already been compromised. Therefore, whilst the condition is not entirely unenforceable, its practical effectiveness is substantially diminished. Accordingly, although the condition may retain some residual theoretical effect, it can no longer effectively regulate occupation of the dwelling itself and therefore fails the enforceability test in any practical planning sense.

5. Precise

The condition clearly defines the class of persons permitted to occupy the dwelling and is standard in its form. It is therefore precise.

6. Reasonable in all Other Respects

The reasonableness of the condition must be assessed in the context of current circumstances. The condition continues to impose a restriction on occupation, notwithstanding that the dwelling can lawfully be occupied without compliance within the defined planning unit. Given the limited extent of the CLEUD red line, the condition remains in force but operates inconsistently in practice. Therefore, in the absence of evidence demonstrating an ongoing agricultural need and given that the condition no longer performs its intended function in a consistent or meaningful way, it is not considered reasonable to retain it.

Planning Balance and Conclusion

Planning conditions must meet all six tests. Whilst the condition remains relevant to planning, relevant to the development permitted, and precise, it fails the key tests of necessity, enforceability (in practical terms) and reasonableness. Therefore, it is concluded that Condition 2 no longer complies with the requirements of national policy.

The site lies within the countryside where development is typically restricted under Core Strategy Policy CP11 and Paragraph 84 of the NPPF. However, the proposal would not result in new built development and only seeks to remove an occupancy restriction from an existing lawful dwelling.

I attach moderate weight to the policy objective of retaining rural workers' dwellings in the countryside. However, in this case that conflict is materially reduced because no new dwelling or physical development is proposed, the dwelling has been lawfully

occupied contrary to the condition as confirmed by the CLEUD, and there is no evidence before the Council of a current identified need for this dwelling. The removal of the condition would not result in any physical change to the site, nor would it harm the character of the countryside or neighbouring amenity.

In the absence of any substantive evidence demonstrating a continuing need for rural worker accommodation, it is not justified to retain a condition that fails the tests set out in the NPPF. The existence of the CLEUD, albeit limited in extent, is a significant material consideration which further undermines the ongoing effectiveness of the condition.

Recommendation

Approve the removal of Condition 2 of planning permission 50/62.

Community Infrastructure Levy (CIL): When planning permission is granted for a development that is CIL liable, the Council will issue a liability notice as soon as practicable after the day on which the planning permission first permits development. Completing the assumption of liability notice is a statutory requirement to be completed for all CIL liable applications.

The Public Sector Equality Duty (Equality Act 2010): In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. There is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts as a result of the development.

RECOMMENDATION

Conditions agreed:	Not required
Recommendation:	Approve
Date:	18 June 2026
Earliest date for decision:	13 May 2026

Recommendation agreed by: (Authorised Officer)	
Date:	18/06/26