DELEGATED OFFICER REPORT

PROPOSAL	**Application to discharge the legal agreement dated 30th January 2003 attached to planning permission 02/56431/003 for outline planning permission of the "3 bedroom agricultural workers dwelling".**
LOCATION:	Meadow Farm Nursery, Woodgaston Lane, Hayling Island, PO11 0RL
REFERENCE NO:	APP/25/00967
APPLICANT:	Georgina Newell
APPLICATION TYPE:	Discharge of S106 Agreement
CONSULTATION EXPIRY DATE:	04/03/2026
APPLICATION EXPIRY DATE:	04/03/2026
WARD:	Hayling West

SUMMARY RECOMMENDATION: Approve Discharge of S106 Agreement

1. Site Description

1.1 This application relates to a chalet bungalow located in the south east corner of the wider blue lined Meadow Farm Nursery site, located on the eastern side of Woodgaston Lane. The nursery site extends to some 2.25 acres and until Covid was used for the growing of plants with sales to the public. As a horticultural business the use comprised an agricultural use.

1.2 The dwelling the subject of this application was granted outline planning permission on 3rd February 2003 under reference 02/56431/003 and condition 4 restricted it to an agriculture workers dwelling:

4 The occupation of the dwelling shall be limited to a person solely or mainly employed or last employed, in the locality in agriculture as defined in Section 336(1) 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: *The site is in an area where new dwellings are not normally permitted except where there is an overriding need in the interests of agriculture or forestry.*

1.3 There was also a Section 106 Agreement dated 30th January 2003 which further restricted the occupation:

Not at any time to occupy or cause permit or suffer the occupation of the said agricultural dwelling other than by any person or persons (including their immediate dependants) who is/are currently working or currently employed at the adjoining business premises currently known as Meadow Farm Nursery and shown edged with a heavy black line on the plan.

1.4 However the horticultural use of the site ceased when Meadow Farm Nursery closed in March 2020 due to lockdown. The site remains vacant and un-used for any agricultural purpose.

1.5 A Certificate of Lawfulness was claimed for the occupation of the dwelling by persons not employed in agriculture under APP/23/00532. This was granted on 26 October 2023 and as part of the conclusion within the delegated report it was stated that:

"It must also be noted that in light of this recommendation, the Section 106 Agreement on the site will no longer be relevant and an application to discharge the 106 Planning Obligation should be made."

2. Relevant Planning History

02/56431/002 - Outline application for 3 bedroom 'Agricultural' workers dwelling. Refused 9 July 2002., REF,09/07/2002

02/56431/003 - Outline Application for 3 bedroom agricultural workers dwelling (resubmission), S106,03/02/2003

03/56431/004 - Reserved Matters application for three bedroomed agricultural workers dwelling., PERM,25/09/2003

APP/23/00532 – Certificate of lawfulness/Continuous occupation of dwelling by persons not employed in agriculture. PERM 26/10/2023

3. Proposal

Application to discharge the legal agreement dated 30th January 2003 attached to planning permission 02/56431/003 for outline planning permission of the "3 bedroom agricultural workers dwelling".

This application is made under section 106A of the Town and Country Planning Act 1990, and the matter must be determined in accordance with that statutory procedure.

4. Policy Considerations

In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the Planning Considerations section of the report.

Town and Country Planning Act 1990

Havant Borough Local Plan (Core Strategy) March 2011
CS17 - Concentration and Distribution of Development in the Urban Areas

Havant Borough Local Plan (Allocations) July 2014
AL2 – Urban Boundaries and Undeveloped Gaps between Settlements

Listed Building Grade: n/a
Conservation Area: n/a

5. Statutory and Non Statutory Consultations

Development Infrastructure Team (CIL & S106)
No Comment to make

6. Publicity and Community Involvement

This application was publicised in accordance with the Council's Local Code of Corporate Governance and the Statement of Community Involvement.

Publicity Type	Publicity Details	Start Date	End Date	Reasons
Site Notice	Site Notice display	11/02/2026	04/03/2026	Relates to a legal agreement

Neighbouring properties consulted (as defined by the Statement of Community Involvement)

Number consulted: 0

7 Planning Considerations

7.1 Having regard to the Town and Country Planning Act 1990 it is considered that the main issue arising from this application is:

(i) Principle of Discharging the S106 Agreement

7.2 The S106 dated 30th January 2003 required the occupation of Meadows Cottage to be by persons, including their dependents, who are currently employed at the adjoining business known as Meadow Farm Nursery.

7.3 Since this business no longer operates from the site, then it is not possible for the occupiers of Meadows Cottage to comply with the terms of the S106 Agreement.

7.4 Section 106A of the Town and Country Planning Act 1990 deals with modification or discharge or planning obligations and at (6) (b) states *"if the obligation no longer serves a useful purpose, that it shall be discharged".* Since it is not possible to comply with the terms of the S106 due to the named business no longer trading, then it is considered that the S106 no longer serves a useful purpose.

7.5 Since the S106 no longer serves a useful purpose, then it is considered that this application to discharge the S106 meets the tests and can be agreed.

7.6 It is noteworthy that Section 106 A (6) of the Town and Country Planning Act 1990 also indicates that applications to discharge or modify an obligation should not be approved if so doing would prevent the biodiversity gain objective from being met. In this case there is no biodiversity gain objective on the site.

8 Conclusions

Due to the named business within the relevant S106 no longer trading then the S106 no longer serves a useful purpose. Accordingly, it is agreed that the legal agreement dated 30th January 2003 attached to planning permission 02/56431/003 for outline planning permission of the "3 bedroom agricultural workers dwelling" can be discharged.

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9. RECOMMENDATION:

That the Interim Head of Planning be authorised to Approve application APP/25/00967 for the discharge of the legal agreement dated 30th January 2003 attached to planning permission 02/56431/003 for outline planning permission of the "3 bedroom agricultural workers dwelling".

Reason:

In accordance with Section 106A (6)(b) and (6A) of the Town and Country Planning Act 1990, the S106 dated 30th January 2003 no longer serves a useful purpose because the business known as Meadow Farm Nursery no longer operates from the site; and there is no relevant biodiversity gain objective on the site.