Planning Inspectorate

Appeal Decision

Site visit made on 15 October 2025

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 November 2025

Appeal Ref: APP/L3245/Q/25/3369464
The Laurels, Beamish Lane, Albrighton, Wolverhampton WV7 3JJ

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 (as amended) against a refusal to discharge a planning obligation.
- The appeal is made by Mr Karl Ian Skitt against the decision of Shropshire Council.
- The development to which the planning obligation relates is Erection of an affordable dwelling and detached garage; formation of vehicular access.
- The planning obligation, dated 2 October 2013, was made between Karl Ian Nicholas Skitt and Shropshire Council.
- The application Ref 25/00864/DSA106, dated 22 February 2025, was refused by notice dated 8 May 2025.
- The application sought to have the planning obligation discharged.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Section 106A(3) of the Town and Country Planning Act 1990 (as amended) sets out that a person against whom a planning obligation is enforceable may, at any time after the expiry of the relevant period, apply to the local planning authority by whom the obligation is enforceable for the obligation— (a) to have effect subject to such modifications as may be specified in the application; or (b) to be discharged.

3. Section 106A(6) of the Act sets out that 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.

Main Issue

4. The appeal relates to an application to discharge the section 106 planning obligation associated with planning permission Ref 11/04074/FUL. No proposed modifications to it have been submitted. Accordingly, the main issue is whether the planning obligation continues to serve a useful purpose.

Reasons

5. Permission Ref 11/04074/FUL describes the dwelling the subject of the planning obligation (s106 agreement) as an affordable dwelling. Permission for it was granted under the exceptions approach outlined in Policies CS5 and CS11 of the Adopted Core Strategy. Amongst other aspects, these essentially allow single plot

houses in locations such as those defined as Green Belt and open countryside that may not normally obtain planning permission on an exception basis that affordable housing for local people is provided.

6. The s106 agreement requires the Owner (the appellant) to occupy the dwelling as their sole and/or principal residence unless otherwise agreed in writing by the Council in accordance with the terms specified in the Schedule. This relates to and stems from the above policy requirement; and the s106 agreement sets out that planning permission for the dwelling would not have been granted without the s106 agreement having been executed.

7. The relevant sub-clauses in the Schedule include the Owner not letting the dwelling other than to a Qualifying Person and at no more than the Affordable Rent; and not selling it other than in accordance with the agreed Sale Marketing Plan at the Formula Price and to a Qualifying Person (or other such bodies as further specified). The s106 agreement defines these various terms.

8. As such, if the owner wishes to move, the s106 agreement allows the property to be let or sold at a defined rate below the open market to people who are, broadly speaking, in housing need and have a connection with the local area. However, if it has not sold after a defined period, the terms in the Schedule allow the Owner to sell the dwelling to any person without restriction as to their eligibility. After a further period without a sale, the Owner can then apply to the Council for the Formula Price and all other provisions of the s106 to be removed. The dwelling can therefore be sold on the open market if it has not been sold to an eligible purchaser within the specified period. Following any subsequent sale, the Owner would pay a defined amount to the Council for its use to facilitate the provision of affordable housing elsewhere in the district.

9. The appellant considers the obligation is now outdated and unjustified due to changes in economic conditions, relevant policies and local housing provision. However, the available evidence indicates that the purpose of the obligation is to ensure that the dwelling is made available, once the Owner no longer wishes to reside in it, at a reduced rent/sale price to certain eligible people who are in housing need. In accordance with local policy, this secures the dwelling as an ‘affordable home’, which the National Planning Policy Framework (Framework) sets out is housing for sale or rent for those whose needs are not met by the market and which is essentially available at a defined rate below the local market rent/value.

10. The evidence submitted shows that there is a significant need for affordable housing in the district, with several thousand households on the waiting list in Shropshire and 189 of those residing in the parish. Although there are hundreds of new houses planned/recently approved/being built in Albrighton, including the nearby development for some 30 houses, these would not meet the identified need for affordable housing. The submitted evidence also indicates that many of the 28 affordable homes with planning permission in the parish will be for affordable rent rather than ownership and do not have a local connection restriction.

11. Accordingly, even if the Council’s waiting list were to include some people from the adjacent authority area, the planning obligation continues to serve a useful purpose by ensuring the property remains available to those in local housing need, of which there is a demonstrable demand. In coming to this view, I have taken

account of the submitted valuation reports; that some people may wish to move to the locality for work; that the maximum chargeable rent under the s106 agreement would, it is said, be an impossible amount for a mortgaged property; there being a substantial number of unrestricted dwellings available in the locality at the same or lower price than the Formula Price; the contention that the property, even with the 40% discount, would not be affordable to those on the Council's housing waiting list and that people needing a mortgage would be penalised with higher interest rates and bigger deposit requirements from fewer available lenders. Be that as it may, whilst the term 'affordable housing' is used, affordability/income is also not the only relevant factor when determining if someone is in local housing need.

12. The local councillor's position on the appeal proposal, the withdrawal of the Shropshire Local Plan from examination and whether the appeal site (situated in a row of properties and adjacent to the development boundary) may now be considered under the Framework as being within grey belt land do not lead me to a different conclusion. In addition, given the dwelling is already constructed, discharging the obligation would not only result in the loss of an affordable home but would also not contribute to the (insufficient) supply of housing in the district.

Other matters

13. It has been put to me that lenders would not allow the property to be rented at the local housing allowance rate and the owners could not afford to do so; and that self-builders (of single plot exception sites with such planning obligations) become mortgage prisoners unable to move, and effectively (unfairly and unreasonably) subsidise national builders. I recognise that the s106 agreement is also relatively complicated, that the appellant may have signed it without taking legal advice, and that they consider the property should have been granted an unfettered planning permission like others on the lane. Furthermore, the Council has modified/discharged other s106 agreements in the past. Nevertheless, these matters do not change my findings above.

14. My attention has been drawn to the restrictions on permitted development rights for the property. However, whilst the s106 agreement requires the development to comply with the approved plans and the conditions of the planning permission, a condition of permission Ref 11/04074/FUL restricts permitted development rights rather than the s106 agreement. Whether such a restriction is fair and reasonable is therefore not a matter for consideration as part of this appeal.

15. The s106 agreement is said to fail to meet the relevant tests in the Framework for planning obligations. However, those tests relate to the determination of planning applications whereas the relevant question in this case is whether the planning obligation continues to serve a useful purpose.

16. The appellant refers to potentially varying the planning obligation (if it is found that it continues to serve a useful purpose) to allow for a contribution for off-site affordable housing provision if such a variation would be considered fair, reasonable and in line with national policy. However, no suggested modifications have been put to me and the appeal seeks to discharge the planning obligation rather than modify it. As such, whether the purpose of the planning obligation would be served equally well subject to modifications is not a matter before me. In addition, if the property were to be marketed for sale in accordance with the Schedule to the s106 agreement and no eligible purchasers came forward within

the specific period, then there is a route for the appellant to sell it on the open market; and were this to occur, the s106 secures a subsequent contribution towards affordable housing provision elsewhere in the council area.

Conclusion

17. For the above reasons, the appeal is dismissed. The planning obligation detailed in the header above is therefore not discharged and shall continue to have effect.

T Gethin

INSPECTOR