
Appeal Decision

Site visit made on 26 September 2022

by M Shrigley BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2022

Appeal Ref: APP/L3245/3294982

The Bradleys, Prescott Road, Baschurch, Shrewsbury SY4 2DR

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 against a refusal to discharge a planning obligation.
 - The appeal is made by Rebecca Lane against the decision of Shropshire Council.
 - The development to which the planning obligation relates is for the conversion of a redundant workshop to a dwelling under application reference number 14/02465/FUL.
 - The planning obligation, dated 7 October 2014, was made between Shropshire Council and Rebecca Lane.
 - The application reference 19/05356/DSA106, dated 6 December 2019, was refused by notice dated 31 August 2021.
 - The application sought to have the planning obligation discharged.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The main parties to the appeal acknowledge that the development approved under application 14/02465/FUL has begun and is substantially complete. The planning obligation in dispute was refused for discharge by the Council under the terms of Section 106A of the Town and Country Planning Act 1990 (the Act). The obligation is in excess of 5 years old, as the relevant period, and no modifications are proposed. Taking into account the content of section's 106A and 106B of the Act and the specific points contended, I shall only deal with whether the obligation continues to serve a useful purpose in my reasoning.

Main Issue

3. The main issue is whether the planning obligation continues to serve a useful purpose.

Reasons

4. The Second Schedule of the completed obligation states that the owner shall within 2 years of the commencement of a material operation of the development in accordance with section 56(4) of the Act or within 90 days of completion, whichever is sooner, pay to the Council the sum of £10,800. The sum specified is to be used for the delivery of additional affordable and/or supported housing along with a £540 component for monitoring purposes.
5. In terms of the adopted local policy which is most relevant, Shropshire Core Strategy 2011 (CS) Policy CS11 requires appropriate contributions towards the provision of local affordable housing. It sets a local threshold of one dwelling,

meaning that all new open market development is required to contribute toward affordable housing either on-site or via a commuted sum for off-site provision.

6. In that context, the appellant refers me to her personal circumstances as well as national policy and other changes since the obligation was procured. Having regard to all of those elements, I have much sympathy for the appellant's health issues she has encountered, detailed as part of her overall case. The wider technical arguments made relate to the policy thresholds for requesting affordable housing contributions. To that end, I accept there have been implications arising from Written Ministerial Statement's in 2014 and 2015, as well as associated rulings.
7. I also acknowledge that current Planning Practice Guidance indicates that in designated rural areas local planning authorities may choose to set their own lower threshold in plans and seek affordable housing contributions above nationally advised thresholds. Baschurch being within a designated rural area.
8. However, chiefly the appellant does not dispute the ongoing need for local affordable housing provision. Such provision was the original basis for the legal agreement being required. Whether or not there remains an existing unmet affordable housing delivery need is crucial to the main issue of the appeal.
9. The Council refers me to their waiting list for affordable housing featuring some 6483 households with 36 of those specifically within Baschurch. They note that an increase of 230 households was recorded in the summer 2021 as the most up to date information evidenced. Thus, based on that information it is clear a pressing local affordable or supported housing need currently persists.
10. The terms of the completed obligation the appellant entered into are binding. They support the unaltered development plan policy aim of alleviating unmet local housing needs. Moreover, it remains reasonable for a monitoring fee component to be included. There is no evidence to suggest that housing need aims would be served as equally well if the terms entered into were discharged.
11. Furthermore, I am also cognisant that it would subsequently fall to the Council to determine if they want to enforce the terms of the obligation, or not, or to renegotiate terms should the appeal fail. Those subsequent aspects are not matters before me in gauging whether or not the purpose of the obligation in dispute remains useful.
12. Accordingly, I conclude that the planning obligation still has a useful purpose. It should not be discharged and continue to have effect as it would be contrary to policies CS9 and CS11 of the CS which both require development which provides additional dwellings to help deliver more sustainable communities by making contributions to local infrastructure, as well as the Council's Type and Affordability of Housing Supplementary Planning Document 2012 which seeks to meet the housing needs and aspirations of all sections of the community.

Conclusion

13. For the reasons given above the appeal does not succeed.

M Shrigley

INSPECTOR

