
Appeal Decision

Site visit made on 24 July 2025

by S Edwards BA MATCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2025

Appeal Ref: APP/Z0835/Q/25/3366170

Prospect Lodge, Well Lane, St. Mary's, Isles of Scilly TR21 0HZ

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 (as amended) against a refusal to a planning obligation.
 - The appeal is made by Simon Nicholls and Samantha Nicholls against the decision of The Council of the Isles of Scilly.
 - The development to which the planning obligation relates is referenced as P3450, and relates to the conditional approval of outline planning permission for the conversion to dwelling of barn adjacent to Prospect House (Prospect Lodge).
 - The planning obligation, dated 29 January 2015, was made between The Council of the Isles of Scilly and Nicola Marilyn Thompson.
 - The application Ref P/25/027/S106MO, dated 2 March 2025, was refused by notice dated 28 April 2025.
 - The application sought to have the planning obligation modified, by amending the qualifying period for specific local need criteria reduced to three years.
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Decision

1. The appeal is dismissed. The planning obligation, dated 29 January 2015, made between The Council of the Isles of Scilly and Nicola Marilyn Thompson shall continue to have effect without modification.

Preliminary Matter

2. A previous appeal (APP/Z0835/Q/24/3354987) seeking to have the planning obligation was dismissed on 28 February 2025. I have had regard to this decision insofar as it is relevant to my consideration of the present appeal, but I have reached my decision based on the evidence before me and my observations as part of the site visit.

Main Issue

3. The main issue is whether the planning obligation serves a useful purpose that would be equally well served if it was modified as proposed.

Reasons

4. Planning permission was originally granted in 1993 for the conversion of a barn to a dwellinghouse known as Prospect Lodge, with an accompanying planning obligation made under section 106 (s106) of the Town and Country Planning Act. This restricted the occupancy of the property to persons who in the opinion of the Council satisfy the criteria for specific local need.
5. Following a formal application under s106 of the Town and Country Planning Act 1990 to modify the original planning obligation, the Council agreed to discharge the original agreement and enter into a new agreement containing a mortgagee in

possession clause. The appellants wish to modify this planning obligation, dated 29 January 2015, by reducing the qualifying residency period for specific local need from ten to three years.

6. The application which led to the modification of the s106 in 2015 was assessed within a different planning context, having notably regard to the previous development plan, but also the Specific Local Need Criteria for Affordable Housing and the Key Worker Policy and Procedure Document. The Council's submissions confirm that these documents were revoked in 2018.
7. However, it is clear from the development plan and the Council's submissions that there is a continued need for housing on the Isles of Scilly. The shortage of affordable housing remains significant, which has led many key workers and families to leave the islands. This is illustrated by the housing crisis that the Council declared in January 2022, and the number of individuals on the Council's housing waiting list, which continues to rise. The housing shortage is exacerbated by additional pressures resulting from the sale of properties that are not subject to occupancy restrictions or properties that are being converted to holiday lets. In turn, these are also having a negative impact on the provision of essential services on the islands, as well as on the local economy and demography.
8. The current housing policies contained within the Isles of Scilly Local Plan (LP) – adopted 2021 seek to ensure that the housing needs of the communities on the islands are addressed, notably by setting out occupancy restrictions, so that residential properties are occupied in perpetuity by person(s) with a local housing need, as their principal residence throughout the year. In particular, LP Policy LC2 sets out the conditions which have to be fulfilled to demonstrate a local housing need, including a requirement for qualifying persons to have been continuously residents on the islands for at least five years.
9. Within this context, there is no doubt that as a mechanism restricting the occupancy of the property to people with a specific local need and with a continuous residence on the Isles of Scilly, the planning obligation still serves a useful purpose to deliver the aims of the development plan.
10. As detailed in the supporting text to LP Policy LC5, any application to vary or remove a restrictive occupancy condition is expected to include evidence that the accommodation has been appropriately marketed for a reasonable period (at least 12 months) at a realistic market price for the type of dwelling. This is to establish whether the property in question could meet the existing functional needs of a qualifying person or business.
11. The appeal property was up for sale from May 2024 for approximately six months, though limited information has been provided in that regard. Although the appellants received an offer, the prospective buyers have not been considered to have met the criteria set out in the Third or Fourth Schedule of the s106 agreement. In the circumstances, and in the absence of substantive evidence to the contrary, I cannot be satisfied that the appeal property has been appropriately marketed for a reasonable period and at a realistic market price. Furthermore, there is insufficient evidence to reduce the length of the qualifying period further than what is set out in the development plan, especially with such a clear, long-standing and well-established reasoning behind it.

12. It is also argued that modifying the planning obligation by reducing the qualifying period to three years would release a more affordable property, which could be purchased by local residents. However, I have not been presented with details of a mechanism to demonstrate that reducing the qualifying period would necessarily free up another residential property for people with a local housing need. Accordingly, this is a consideration to which I can only ascribe very limited weight.
13. Given the above, the planning obligation continues to serve a useful purpose in the absence of which the Council's efforts to address the acute shortfall of residential accommodation for people with a local housing need within the Isles of Scilly would be undermined. For the same reason, that useful purpose would not be equally served if the planning obligation was modified as proposed, and by virtue of the lack of evidence to support a reduction of the qualifying period to three years, which would be at odds with the aims and requirements of the LP.

Conclusion

14. For the reasons given above the appeal should be dismissed, and the obligation shall continue to have effect without modification.

S Edwards

INSPECTOR