



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: 21 November 2025

Appeal Ref: APP/L3245/Q/25/3366462

Adina, Land adjacent to the Bungalow, Linford, Weston-under-Redcastle, Shropshire SY4 5LR

- 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 Peter Bate against the decision of Shropshire Council.
- The development to which the planning obligation relates is Erection of a dwelling.
- The planning obligation, dated 28 February 1997, was made between North Shropshire District Council and Ilse Bate.
- The application Ref 25/00941/DSA106, dated 11 March 2025, was refused by notice dated 14 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 (obligation) associated with planning permission Ref N/96/350/WS/37. No modifications to it have been proposed. Accordingly, the main issue is whether the obligation continues to serve a useful purpose.

Reasons

5. The submitted evidence indicates that planning permission for the dwelling in the open countryside was granted as a departure from the development plan based principally on the security needs of the appellant's haulage business. It was

granted under a different development plan to now and subject to the obligation to tie the dwelling to that business.

6. It has been put to me that the obligation should be assessed against the policy framework existing at the time it was made. However, the case law put forward to justify this is not persuasive given its limited relevance to the type of appeal in this case. The starting point with regards to policy considerations as part of this appeal is thus the current development plan.
7. The obligation requires the dwelling to be occupied only by the manager (and his immediate family) of the haulage business carried out on “the blue Land” and shall remain in the same ownership as that land. It contains no further clauses. Tied to the business, the dwelling is therefore secured as providing accommodation for the manager (and immediate family) only and is required to remain in the same ownership as the haulage business land. The available evidence indicates that the purpose of the obligation was to avoid unrestricted residential development in the countryside.
8. The appellant, now retired, has indicated that the site is now used solely for residential purposes as the business ceased trading some years ago. There is therefore no associated business to manage nor provide security for. Nevertheless, the submitted evidence is clear in that the dwelling would not have been granted permission had it not been tied (via the obligation) to a business use; and current development plan policy, including Policy CS5 of the Adopted Core Strategy, would require a similar such tie. The available evidence also identifies that there continues to be a lawful use for a haulage business (on the ‘blue Land’).
9. The submitted evidence indicates that there is nothing in planning terms to prevent such a use re-starting. If it were to, then the dwelling would provide accommodation for the manager and security for the business. No marketing has been presented to demonstrate there is no need or demand for such a use of the land with the tied dwelling. Accordingly, the available evidence does not demonstrate that the obligation no longer serves a useful purpose.
10. The Council’s lack of housing supply, the age of the obligation, the Council’s lack of enforcement of it and the site now being used solely for residential purposes do not lead me to a different conclusion. In coming to this view, I have also taken into account that the appellant wishes to discharge the obligation so that the property can be inherited by family when the time arises; the obligation burdens the landowner by restricting the property’s use and marketability and is said to provide no public benefit; and that the Council has no means of delivering affordable housing through the obligation.

Conclusion

11. For the above reasons, the obligation, by preventing unjustified open-market residential development in the countryside, continues to serve a useful purpose. The appeal is therefore dismissed and the planning obligation detailed in the header above is not discharged and shall continue to have effect.

T Gethin

INSPECTOR