Planning Inspectorate

Appeal Decision

Hearing held on 10 February 2026

Site visit made on 10 February 2026

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 April 2026

Appeal Ref: APP/N4720/Q/25/3372479
Flats 1 to 6 Inclusive, 15 to 21 Inclusive and 29 to 35 Inclusive, Waterloo Apartments, Waterloo Street, Leeds LS10 1JA

- 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 L1 UK Property Nominee 2A1 Pty Limited and L1 UK Property Nominee 2A2 Pty Limited against the decision of Leeds City Council.
- The development to which the planning obligation relates is: Outline application to erect residential, office, retail, hotel bar and fitness centre development with car parking.
- The planning obligation, dated 20 July 2001, was made between Leeds City Council and Brewery Wharf (Leeds) Limited and Carlsberg Tetley Brewing Limited and Allied Domecq Spirits & Wine Limited.
- The application Ref 24/03959/S106, dated 9 July 2024, was refused by notice dated 3 June 2025.
- The application sought to have the planning obligation discharged as follows: Removal of Clauses 4.13-4.20.

Decision

1. The appeal is allowed. The planning obligation, dated 20 July 2001, made between Leeds City Council and Brewery Wharf (Leeds) Limited and Carlsberg Tetley Brewing Limited and Allied Domecq Spirits & Wine Limited, no longer serves a useful purpose and is discharged pursuant to Clauses 4.13-4.20.

Preliminary Matters

2. The Waterloo Apartments block forms part of a wider development that was granted planning permission subject to a S106 agreement with various planning obligations. This included provision for 20 dwellings to be constructed as affordable housing units and to remain as affordable housing units for the lifetime of the development.

3. The proposal seeks to remove the affordable housing obligation which requires the units to be let to qualifying tenants at a rate indexed to the Retail Price Index (RPI).

Main Issue

4. The main issue is whether or not clauses 4.13-4.20 of the obligation continue to serve a useful purpose in relation to affordable housing provision and should it be discharged.

Reasons

5. The rental levels of the affordable housing units are now at a similar or slightly higher level than market rents (per sqm). This is accepted by the Council, although

reference is made to these affordable units having influenced the rental value of market units at the appeal site. No substantive evidence was however provided to show that the affordable housing has suppressed rents for market units. It was also explained at the hearing that prospective tenants would not typically be able to distinguish between affordable and market units based on layout or other visible features.

6. It was accepted by the appellant that the rate of future change, such as in the RPI or market rents could be a consideration in assessing whether an obligation serves a useful purpose. The appellant references Zoopla's UK Rental Market Report[1] that identifies a projected market rent increase of 2.5% in 2026, and a report from Savill's which projects an increase in market rents of between 2-2.5% over a five-year period. The Office for National Statistics[2] for the full year period December 2024-December 2025 shows an annual increase in private rents in Leeds of 1.9%. These forecasted and actual recent increases are considerably less than the 5-8% referenced by the Council, which is based on a single source and provides no supporting data or explanation for such a high growth rate.

7. As such, and given the Office of Budget Responsibility's[3] RPI inflation forecast of 3.7% in 2026 and an average of 3% a year between 2027 and 2029, the RPI linked rents are not likely to drop below market rents in the future, and the evidence indicates to the contrary, that the gap between affordable housing RPI rents and market rents could widen.

8. I accept the uncertainty involved in identifying future market shifts, which can be influenced by a variety of factors, including global events. However, the evidence before me does not indicate that rental levels will shift so that affordable units will be markedly lower than those for market units.

9. The obligation has a qualifying tenant restriction relating to earnings and to have a place of employment within two miles of the city centre of Leeds. The Council considers this restriction serves a useful purpose by helping lower paid households, but such households, given the aforementioned evidence, would be able to access market units at a similar or lower rent level. It would not be markedly lower than market rents, with the National Planning Policy Framework Glossary defining affordable housing for rent as where the rent level is set at least 20% below that of local market rents. By failing to provide this reduced rent level, the restriction does not serve to benefit the bottom half of earners in Leeds. Furthermore, the obligation defines how 'the rental level' which is indexed linked is calculated, and it is not clear how the earnings restriction would apply downward pressure on rents.

10. The restriction to those prospective tenants who work within two miles of City Square within the city centre is said to provide a benefit by attracting those who are more likely to use sustainable transport to reach their place of employment. The 20 affordable housing units subject of this appeal do not have any parking spaces, and the distance to on-street parking provision is unlikely to make such parking a regular occurrence. The appeal site, being within the city centre is also where most prospective occupants are likely to work. These factors are therefore likely to result in tenants using sustainable modes of transport such as walking,

[1] June 2025
[2] 21 January 2025
[3] Economic and fiscal outlook, November 2025

cycling or public transport, irrespective of the tenant restriction, and as such this clause does not serve a useful purpose.

11. I therefore conclude that the obligation does not serve a useful purpose in relation to the affordable housing provisions.

Other Matter

12. There is a large waiting list on the Leeds Housing Register, and there is evidently a need for affordable housing in the City District. The affordable housing units in this case, based on the evidence before me, are however at a similar price or more expensive than market units, and as such, the removal of the affordable housing obligation would not be harmful in this regard.

Conclusion

13. For the reasons given above the appeal should be allowed.

F Rafiq

INSPECTOR