



## Appeal Decision

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by Zoe Baxter BSc, MSc, MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 04/03/2025

Appeal reference: CAS-03519-P7C2Z6

Site address: Bay Tree House, Capel Dewi, Maesycrugiau, Llandysul, Ceredigion, SA39 9NA

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- 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 Mr and Mrs Haydon against the decision of Ceredigion County Council.
  - The development to which the obligation relates is erection of affordable dwelling.
  - The planning obligation, dated 27 March 2009, was made between Ceredigion County Council and Paul John Haydon and Nationwide Building Society.
  - The application Ref A230477, dated 3 July 2023, was refused by notice dated 15 December 2023.
  - The application sought discharge of S106 agreement to planning permission A080567 and A090378 so that the dwelling is not restricted to an affordable dwelling.
  - A site visit was made on 21 January 2025.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether the obligation meets the tests specified in Welsh Office Circular 13/97 Planning Obligations and in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the CIL Regulations), and, if it meets the tests, whether the obligation continues to serve a useful planning purpose.

### Reasons

3. The property subject to the planning obligation is a two-storey detached dwelling accessed via a linear private track from an unclassified road to the east. The property includes a driveway to the front, stable block and enclosed garden to the rear with an outdoor swimming pool. Outline planning permission (ref. A080567) for the dwelling was granted in April 2009, subject to conditions and a planning obligation requiring it to be retained as an affordable dwelling. The reserved matters consent (ref. A090378) determined by Planning Committee against Officer recommendation was issued in November 2009. The application which is the subject of this appeal is for that planning obligation to be discharged.
4. Amongst other controls, the planning obligation restricts the sale of the property. The appeal dwelling must not be sold for a price exceeding 70% of its open market value. The appellants' case is based on the current value of the dwelling being significantly higher than that which they consider to be affordable. The submission includes a market

valuation carried out by Morgan & Davies Estate Agents which advises the value of the property to be £650,000 (June 2023). With the 30% discount applied, as per the terms of the planning obligation, this falls to circa £455,000.

5. The policy position at local and national level seeks to control new development in the countryside. Planning Policy Wales Edition 12 (PPW) specifically refers to affordable housing which is provided on exception sites should meet the needs of local people in perpetuity and that affordable housing exception sites are not appropriate for market housing. The site is situated within an 'Other Location' in the Ceredigion Local Development Plan 2007-2022 (LDP), defined as being locations not identified as Service Centres or Linked Settlements. Policy S04 of the LDP sets out that 'Other Locations' are inappropriate for housing development unless justified on the basis that it meets a demonstrated unmet affordable housing need in the locality under Policy S05 or there is a need for a rural enterprise dwelling. Policy S05 requires the occupancy of all affordable housing to be controlled in perpetuity.
6. The original outline planning application was determined on the basis of the site being situated in the countryside away from a defined settlement. As such, the obligation was entered into in 2009 in order to allow the appellant to build a family home at the site given their local connection and specific circumstances at the time. The dwelling remains situated outside of a defined settlement in the current LDP as per the determination of the original application. It is now necessary to consider whether the purpose remains useful or if retention of the obligation fulfils a different planning purpose.
7. The appellants contend that the dwelling is not affordable given its size is significantly greater than that referred to in the Council's Affordable Homes Supplementary Planning Guidance (SPG). It also has additional facilities including stables, pasture paddocks, a garden room and an outdoor swimming pool. As such, they state that the discounted price would be beyond the reach of those seeking affordable housing at £455,000 compared to the average salary in Ceredigion being £34,315 (2022).
8. Although there is no plan accompanying the valuation, the letter from Morgan and Davies refers to additional land which whilst visually appears to form part of the curtilage of the dwelling was not part of the original planning permission. In view of this, I am not convinced that the valuation is reflective of the original application site, which is subject to the planning obligation, and that the additional land has not substantially inflated the market value.
9. Notwithstanding this, I do not dispute that the dwelling is a sizeable property with additional features not typically included in affordable housing units. However, Technical Advice Note (TAN) 2: Planning and Affordable Housing defines affordable housing to include intermediate housing, where prices or rents are above those of social rented housing but below market housing prices or rents. Furthermore, Technical Advice Note (TAN) 6: Planning for Sustainable Rural Communities refers to the initial and resale value of unsubsidised affordable housing being capped at an affordable level linked either to a fixed multiple of local incomes, or discount from market value. It requires prices to be well below market value and properties to be constructed which are affordable to the local community as a whole. The appellant highlights that there are cheaper properties than the appeal dwelling available on the open market in the vicinity of the appeal site. However, no details are provided on the size of these properties in order to compare values with the appeal property. Furthermore, no information is provided on the market value of other 4-bedroom dwellings in the area. As such, the submitted evidence is insufficient to definitively demonstrate that the appeal property would not be substantially below the average market value for 4-bedroom properties in the locality.

10. The obligation requires the purchase of the property to be subject to an initial financial test (means condition) with no further financial monitoring beyond this. The means condition requires that the purchaser/joint purchaser must be unable to purchase the affordable dwelling without obtaining a mortgage for which the maximum amount the provider would be willing to lend would not exceed 10% above the purchase price of the affordable dwelling.
11. As well as complying with the means condition, the purchaser must comply with either the key worker condition (a list of such roles are identified in the obligation and at Appendix 4 of the LDP), care condition (a need to live in Ceredigion in order to provide or receive care subject to criteria) or residence condition (the County of Ceredigion to have been the principal residence for a specified period). Whilst the above criteria limits future purchasers, the obligation contains cascading requirements, in line with TAN 2, to gradually widen the criteria if contracts of sale have not been exchanged after certain periods of time since the dwelling was on the market. As such, providing that the reduced value of the dwelling is affordable relative to the local community, its scale, size and features do not automatically render it unsuitable to provide affordable housing.
12. The appellants raise concern over the obligation providing an advantage to those who can already afford to buy on the open market. However, I am satisfied that the criteria for a qualifying person in the obligation are in line with that set out in the SPG.
13. The appellants refer to two appeal cases in Gwynedd where obligations relating to affordable housing were discharged. One of which is cited as having the local occupancy removed which is not directly relevant as the obligation in this appeal contains a number of criteria. The second decision refers to discharge of the obligation due to the reduced market value being too high for local people in need of affordable housing. Whilst I note the similar proportionate values in relation to a mortgage and local average incomes, in this case the evidence presented is insufficient to draw any firm conclusions about the relative affordability of the dwelling to meet local needs. In addition, the appellants refer to a planning application for a new dwelling previously approved as an affordable dwelling in Capel Dewi. However, the full details are not before me and in any event, it is unlikely that the circumstances will be exactly the same. I have therefore determined this appeal on its own merits.
14. Whilst the dwelling which was granted reserved matters consent and subsequently built is larger than anticipated at the grant of outline planning permission and completion of the planning obligation, this does not circumvent the fact that the obligation remains. The Council has confirmed that there is a need for affordable housing across the county. Based on the foregoing, I am unable to conclude with certainty that the appeal dwelling is out of reach of those qualifying persons in need of an affordable dwelling. As such, removal of the obligation would be contrary to LDP Policies S04 and S05 as well as PPW and TAN 2 and would undermine the aim of providing an adequate supply of affordable housing. Therefore, I am satisfied that the planning obligation continues to serve a useful purpose in accordance with Circular 13/97 and the CIL regulations.

### **Other Matter**

15. Given the size and scale of the dwelling and its resultant market value, the Council advise that a commuted sum payment of 30% of the open market valuation of the dwelling (the discounted amount), to be paid upon first transfer of the property, could be accepted. This option would allow the dwelling to be sold/occupied on the open market, and the Council would utilise the commuted sum payment to provide replacement affordable housing. In any event, the appeal before me is to discharge the obligation

rather than consider modifications. It is not therefore necessary for me to address this matter further.

**Conclusion**

16. For the reasons given above, and having regard to all other matters, I conclude that the appeal should be dismissed.

17. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives.

*Zoe Baxter*

INSPECTOR

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