

Our Ref: 13123

PINS Ref: APP/Z0835/W/17/3168678

03 February 2017

The Planning Inspectorate
3/08b Kite Wing, Temple Quay House
2 The Square, Temple Quay
Bristol
Avon
BS1 6PN

Dear Sir or Madam,

Town and Country Planning Act 1990 (as amended)
Appeal by Mr Ian Sibley, Holy Vale Partnership
Site Address: Holy Vale Farmhouse, Holy Vale, St Mary's, Isles of Scilly

Please accept this letter as an application for a full award of costs against the Isles of Scilly Council relating to the above appeal and the unreasonable behaviour that has led the appellant to unnecessary and wasted expense.

The Planning Practice Guidance (PPG) confirms that costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

The word "unreasonable" is used in its ordinary meaning, as established by the courts in *Manchester City Council v SSE & Mercury Communications Limited* [1988] JPL 774. Unreasonable behaviour in the context of an application for an award of costs may be either:

- procedural – relating to the process; or
- substantive – relating to the issues arising from the merits of the appeal

The unreasonable behaviour that we contend has occurred in this instance relates a substantive matter. The appeal made is following the decision of the Isles of Scilly Council planning

committee to refuse planning permission. The PPG is clear at Paragraph: 049 Reference ID: 16-049-20140306 that the local planning authority (LPA) may be at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals.

The PPG cites a number of examples (acknowledging that it is not an exhaustive list) that may lead to a substantive award of costs, with the following most relevant to this appeal:

- preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
- vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.

The local authorities own evidence base, namely the Housing Growth Plan of 2014 and the SHMA of 2016 both confirm that additional open market housing is required on the islands. I have set out in the appeal statement why I consider that the policy (Policy 3) relied upon by the local authority as the sole reason for withholding consent is out of date and not compliant with the NPPF and planning practice guidance.

The local authority cannot demonstrate a 5 year supply of housing land and have thus failed to properly apply the presumption in favour of sustainable development triggered under paragraphs 14, 49 and 50 of the Framework

Given the above, it is our position that the LPA have acted unreasonably by refusing permission where the most up to date policy guidance and evidence of housing need supports the grant of consent. As such, the LPA has unduly delayed acceptable development which accords with the development plan, national policy and other material considerations. Therefore, the Inspector is requested to award full costs in relation to this unnecessary appeal and the wasted expense associated with it.

It is hoped that this cost claim will be fully considered by the appointed Inspector. We reserve the right to alter or withdraw this cost application subject to reviewing the LPA appeal case and

any other information that might come to light during the course of the appeal but within the timetable set out within the start letter.

David Jones
For and on behalf of Evans Jones Ltd

A handwritten signature in black ink, appearing to read 'Jones', with a horizontal line underneath.

David Jones MRTPI. MRICS
Managing Director
Tel. 01242 531411
E-mail: david.jones@evansjones.co.uk