



The Planning Inspectorate

3B Eagle Wing
Temple Quay House
2 The Square
Bristol, BS1 6PN

Direct Line: 0303 444 5469
Customer Services: 0303 444 5000

e-mail: bob.palmer@pins.gsi.gov.uk

Craig Dryden
Senior Manager
Infrastructure and Planning
Council of the Isles of Scilly

Your Ref:

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

Date: 22 November 2017

Sent by e-mail.

Dear Mr Dryden

HOLY VALE FARMHOUSE, HOLY VALE LANE, HOLY VALE, ST MARY'S TR21 0NT

Thank you for your letter dated 11 September 2017, in relation to the grant of planning permission, on appeal, for the reconfiguration of 5 existing dwellings and the conversion of outbuilding to create 3 new dwellings at the above site (the Holy Vale decision). Please accept my apologies for the time it has taken to investigate the matter you have raised which was necessitated by a careful review of the facts.

The Council is clearly very concerned about possible implications arising from the Holy Vale decision for its approach to promoting sustainable development and meeting the needs of the local community. To summarise, the Inspector accorded moderate weight to Policy 3 of the Local Plan, but concluded that the material considerations pertaining to the emerging housing evidence, in particular the HGP and SHMA, supported a decision to allow the market housing proposed.

I appreciate that the Council disagrees most strongly about this, and regards the outcome as a failure to properly take account of the unique circumstances on the Isles of Scilly. You cite appeal decision Ref. 3172304 as demonstrating a more reasonable approach in terms of the weight accorded to Policy 3 and interpretation of the HGP and SHMA.

It must be acknowledged that the two appeal decisions do 'pull in different directions'. Nevertheless, you will appreciate that each development proposal needs to be considered on its individual merits; although similar, the evidence before the two Inspectors was not identical, and the developments are different in both location and scale. I understand the Council's frustration, and I am not dismissive of its concerns. However, an Inspector is appointed by the Secretary of State to act as an independent tribunal and exercise his/her own planning judgement. In this instance, Inspector Bristow reached a conclusion according to the site circumstances and considerations he was presented with, which excluded case reference 3172304. On this basis he has not erred in exercising his judgement albeit this is clearly of disappointment to the Council. Only the Courts can give a definitive ruling on whether an Inspector's judgement is so unreasonable as to make the decision unsound in law (and the Courts will only interfere with that judgement in exceptional cases). Future

cases will always fall to be considered with regard to their individual merits and relevant considerations and Inspector Bristow's decision is not considered to represent an irresistible precedent as regards the application of Policy 3 and the housing considerations within the Isles of Scilly.

Turning to the costs decision, the Inspector made a substantive and full award on the basis that the Council's decision prevented development which should clearly be permitted, having regard to the development plan, national policy and material considerations. He considers that the Council has not suitably taken account of the HGP, and the changing policy context of the Local Plan, and places an emphasis on the enabling benefits of market housing to support the viability of local services. In awarding costs the Inspector has provided an interpretation to the evidence and the way it applies to the circumstances of the proposal.

Whilst an award of costs is to a considerable extent a matter of judgement, in this case it is indeed difficult to reconcile the decision to award full costs. The evidence does not in our considered view support a decision which finds that the development proposed should have *clearly* been permitted, having regard to the development plan, national policy and all the material considerations. Alternatively the Council did have regard to its own evidence (the SHMA and the HGP) in reaching its decision.

With this in mind, the evidence is insufficient to support the conclusion within the costs decision that the Council did not have regard for market housing needs to the point that it represents unreasonable behaviour incurring unnecessary or wasted expense for the appellant. The full award of costs cannot therefore readily be justified, in the light of the advice in the Planning Practice Guidance.

I must offer my apologies for this outcome and the position that the Council now finds itself in. I would like to offer my assurance that we will be taking action to ensure that lessons are learned for future casework.

Yours sincerely

Bob Palmer

Customer Quality Team