

Our Ref: 13489
9 November 2017

David Wyborn
Head of Planning and Sustainable Development
Exmoor National Park Authority
Exmoor House
Dulverton
Somerset
TA22 9HL

Dear Mr Wyborn,

Town and Country Planning Act 1990
Application P/17/083/FUL Demolition of existing outbuilding and erection of new dwelling
Site at Colossus, 2 Pilots Retreat, St Mary's

Following on from our recent correspondence relating to the above application I now write to provide further comments on the recent appeal decisions at The Ropewalk (APP/Z0835/C/17/3172304) and Holy Vale Farmhouse (APP/Z0835/W/17/3168678).

As you have noted the Inspectors on each of these decisions have come to different conclusions on the weight to be attributed to Policy 3. Within the Ropewalk decision the Inspector gave the policy “*considerable*” weight, whilst in the Holy Vale decision the Inspector only attaches “*moderate*” weight. However, by reviewing each decision it can be seen that both Inspectors do consider Policy 3 of the Local Plan to be out of date when considered against the provisions of the Framework. This is demonstrated in paragraph 12 of the Ropewalk decision and paragraph 25 of the Holy Vale decision.

Where the Inspectors then differ is the weight given to the policy and the approach applied to the policies of the Framework. It is our opinion that the Inspector in the Ropewalk decision has misdirected himself on the provisions of the Framework and ultimately came to the wrong conclusions. To a certain extent he has not given proper consideration to the available evidence and whilst no judicial review has been sort I do consider that there is potential for legal challenge.

It is clear from both decisions that there is a need for open market housing and that the evidence base (the Housing Growth Plan and Strategic Housing Market Assessment) produced by the Council clearly demonstrates a shortfall in the provision of open market housing. The Inspector dealing with the Holy Vale appeal makes the correct judgement that paragraph 47 of the Framework does not exempt certain local planning authorities from planning to meet housing needs as fully as possible nor does the Framework specify that the approach in paragraph 47 can be obviated by defining the entirety of a local planning authority's administrative area as one to which rural exception site policy applies.

Not only did the Inspector grant planning permission for the development at Holy Vale he also gave a full award of costs to the appellant. This is an important distinction between the appeal decisions. The cost award was given due to the unreasonable behaviour of the Council who in essence did not have due regard to relevant material considerations, namely their own evidence on housing land supply.

Despite the difference in the attribution of weight it is overtly clear that Policy 3 is out of date and that the Council cannot demonstrate a 5-year land supply of deliverable housing sites. Therefore, the tilted balance provided by paragraph 14 of the Framework is fully engaged for this application. As the Islands are within an Area of Outstanding Natural Beauty (AONB) and a Conservation Area then Footnote 9 policies are relevant. However, given the site has previously had planning permission, and much like the Holy Vale decision, the proposal is acceptable in landscape and heritage terms. Thus, the Footnote 9 policies do not lead to a disengagement of the tilted balance.

I therefore consider that the appeal decisions, whilst coming to different conclusions, do have pertinent elements of commonality particularly with regard to the out of date nature of Policy 3. I then consider that the Holy Vale decision is entirely correct and that the same approach to Policy 3 should be taken with this application.

I hope that this is of assistance, please let me know if you would like to discuss the issue further.

Yours sincerely

For and on behalf of Evans Jones Ltd



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