



# COUNCIL OF THE ISLES OF SCILLY

Planning & Development Department

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## Delegated Report

<b>Application Number:</b>	P/15/025/FUL
<b>Recommendation:</b>	REF/DEL
<b>Report Date:</b>	29th April 2015
<b>8 Week Target:</b>	08/05/2015
<b>Neighbours Notified on:</b>	27/03/2015 <b>Expiry Date:</b> 17/04/2015
<b>Site Address:</b>	Buccabu, 9 Lower Strand,
<b>Island:</b>	St Mary's
<b>Development Proposed:</b>	Conversion of retail bike hire shop to residential flat (resubmission of refused application P/14/063/FUL)
<b>No of Representations:</b>	0
<b>Chair/Vice Chair of P&amp;D:</b>	Discussed with both on 17 <sup>th</sup> March 2015 both happy with a delegated decision

### Development Plan Policies:

#### 2005 Isles of Scilly Local Plan (Saved by the Secretary of State November 2008)

##### Policy 1 – Environmental Protection

Preserve or enhance the character or appearance of the Conservation Area and preserve the architectural or historic interest of all listed buildings, including their features and settings

##### Policy 3 - Policy 3 Housing

This policy does not permit any new general open market housing on the Isles of Scilly. Specifically, Criterion (2) of Policy 3 states that residential development will only be permitted where it is required to meet an identified and recognised local need or key worker whose needs cannot be met by the existing housing stock. Of critical consideration is that all new dwellings that come forward through the planning system are restricted to meeting the housing needs of the community who are unable to rent or buy a home appropriate to their circumstances in the local market. Criterion (3) of Policy 3 specifies that all new residential development will be subject to secure arrangements to ensure that it remains permanently available to meet the specific identified need that justified its original permission.

##### Policy 4 – Economic Development

This policy essentially seeks to promote employment and economic activity, supporting opportunities that lead to modernisation and diversification of the islands economy.

#### 2012 National Planning Policy Framework (NPPF)

At the heart of the NPPF is a presumption in favour of sustainable development. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. It is highly desirable that local planning authorities should have an up-to-date plan in place. With respect to general development and the Strategic Policies it is considered that the Local Plan remains up to date and conforms to the requirements of the NPPF.

### Planning History

Planning history for this property starts in 1975 when an application (**P1407**) was refused for change of use to leisure centre. In 1981 an application (**P2045**) was approved for part change of use of first floor to shop. In

1982 an application was submitted (P2122) and approved to revert the use of the building to a store. In 1985 an application was refused (P2368) for a conversion of the first floor to flat. This refusal was upheld at appeal. In 1986 an application was conditionally approved (P2485) for the conversion of the first floor to one flat with revised dormer. In 1989 an application was refused (P2878) for the provision of a doorway in the centre of existing display window at Buccabu Hire. Later in 1989 an application was again refused (P2899) for the provision of an additional shop doorway. Again in 1989 an application was refused (P2915/A) for the provision of 2 flats in lieu of one and an application was approved (P2915/B) for the provision shop doorway. In 1992 an application for advertisement consent was refused (P3353) for consent for a display blind. In 1992 an application was approved (P3331) for extension of a shop and installation of display window at Buccabu. In 2000 an application was submitted and refused (P1407) for the replacement of timber windows on first floor flat with brown upvc. In 2001 an application (P5016) for a Certificate of Lawful use for two flats on the first floor was refused. In 2002 a further Certificate of Lawful Use was submitted (P5119) and approved for the use of 2 flats on the first floor, with an existing use as a bedsitting flat. Later in 2002 (P5221), an application was conditionally approved for the replacement of windows with doors. Finally in 2014 an application was submitted (P/14/063/FUL) and refused for the conversion of the retail shop to a two bedroom flat.

**Representations:** None

**Consultations:** None.

### **Planning Assessment**

The main considerations in relation to this application are firstly whether a new dwelling meets the needs of the community in perpetuity and the impact of the loss of a retail unit upon the vitality and viability of Hugh Town, as the main retail hub of the islands. In addition it is essential to assess the impact of the change of use and external alterations on the wider character and appearance of the Conservation Area and Area of Outstanding Natural Beauty. Finally it is also a material planning consideration to assess the impact upon the privacy and amenity of existing neighbouring properties and land uses.

### **Housing**

In addressing the previous reasons for refusal the agent has stated that the applicant would be prepared to enter into a Section 106 Legal Agreement to restrict the occupancy of the property to those who meet the Specific Local Need and Key Worker criteria. Reason 1 for the refusal of P/14/063/FUL stated:

- 1. The proposal will result in the creation of an open market dwelling which, without a formal legal mechanism to control occupancy, would be contrary to the requirements of Policy 3 of the 2005 Isles of Scilly Local Plan.*

The agent notes that the 2014 Island Futures report identified the need for around 90-120 new houses. This document does not form part of the Local Development Plan and as such can only be give limited weight as an expression of need for housing. This document also states clearly that this is an estimation and that the Council will need to fully research an Objectively Assessed Need housing figure. Under the 2005 Local Plan the Council has a well established policy of not allowing open market housing anywhere on the islands. Policy 3 of the Local Plan seeks to ensure that housing is available to meet the needs of the community in perpetuity. To promote sustainable communities no general open market housing will be permitted. The only housing permitted has to meet either an identified local need or be accommodation for a key worker (where those needs cannot be met by the existing housing stock); or it is for the provision of staff

accommodation for businesses on or near the premises. It should be demonstrated that no other accommodation is available and it is not possible to recruit staff already housed on the islands.

The application form states that the proposal includes the creation of a single one-bedroom social rented flat. The plans submitted however are for a single self-contained two-bedroom flat. It is acknowledged that the location is highly sustainable and in close proximity to shops and services, and with mechanisms in place to secure this property to meet local housing needs, as suggested, would ensure this application satisfies the requirements of Policy 3 of the Local Plan. I consider that the principle of a residential conversion on this property is acceptable subject to the applicant entering in to a Section 106 Legal Agreement.

### **Retail Impact**

In addressing the second reason for refusal the applicant states that the shop is currently empty with the last tenant relocating due to the lease being 'too expensive'. Reason 2 of P/14/063/FUL:

- 2. The proposal will result in the loss of a retail establishment which, without justification of its unviability, would be harmful to the vitality and viability of the established main retail area of the Isles of Scilly contrary to the requirements of Policy 4 of the 2005 Isles of Scilly Local Plan.*

It is stated the income generated from the lease of the property as a retail unit is insufficient for the applicant as it is below minimum wage. The agent notes that many of the nearby properties that were formally retail have been changed, through the planning process; to residential use and that this has set a precedent. The agent has stressed that Lower Strand does not form part of the main retail area of Hugh Town. Even in areas that could be considered as 'main retail areas' shops are still closing because profit margins are too low. They cite the recent closure of the Wine Shop on Garrison Lane. No marketing information however has been submitted to demonstrate that number 9 Lower Strand is unviable as a retail unit. This would fundamentally provide the evidence that it is not required for retail or ancillary retail purposes.

Policy 4 of the current Local Plan relates to Economic Development and is aimed at promoting employment and economic activity by providing opportunities for business to support viable communities. The current proposal, to convert a retail unit to residential, does not relate to any of the identified existing economic bases of tourism, agriculture or fishing or the distinctiveness of the islands. As the proposal will result in the loss of retail premises it is not in accordance with Policy 4 of the Local Plan.

The NPPF requires local planning policies to be positive, promote competitive town centre environments. Whilst the Isles of Scilly Local Plan does not specifically define a town centre per se it does have a distinctive and established retail core at the heart of Hugh Town. Lower Strand contains a number of retail and ancillary retail uses that complement the main shopping area around Hugh Street up to the Bank, The Parade, Silver Street and Garrison Lane. Located conveniently opposite the public open space area of Holgates Green, bus stop, Town Beach and public conveniences, the application site is considered to form part of the secondary retail frontage of Hugh Town. Without evidence of its un-viability as a retail unit it is considered that the loss of a retail unit would be detrimental to viability and vitality of Hugh Town. I consider the information submitted to address the previous reason for refusal number 2, is insufficient and the proposal remains contrary to Policy 4 of the Local Plan.

### **Impact upon the Character and Appearance of Area**

Lower Strand is located in Hugh Town on St Mary's and is therefore covered by both the Conservation Area and Area of Outstanding Natural Beauty (AONB) designations. Development proposal must seek to either preserve or enhance the character and appearance of the area. Proposals which do not demonstrate this should be refused. Policy 1 of the Isles of Scilly Local Plan 2005 states that development proposals will only be permitted where they (c) preserve or enhance the character or appearance of the conservation area and preserve the architectural or historic interest of all listed buildings, including their features and settings. No 9 Lower Strand is in close proximity to a number of Listed Buildings including Grade II Lemon Hall to the South, Nos 1-10 Higher Strand to the north east and the Grade II St Mary's Methodist Church to the south east. The external alterations to the application site include the change from a set of double doors on the front elevation, to a small bay window and the alteration in design of an existing rear facing window. The front and rear elevations have been extensively altered over time from the original window and door openings and it is considered that the change to a window on the front, of a similar design to existing windows on the front of this building, will have a relatively neutral impact overall. The existing door to window pattern along the row will not be compromised by the changes proposed.

The alteration to the rear facing window would face into Wellcross Yard to the rear. Although the window would be upvc, by reason of its design and siting it would not harm the wider character of the Conservation Area. Overall it is considered that the wider character and appearance of the Conservation Area will be preserved as a result of the proposal in terms of external alterations.

### **Impact upon Amenity**

In relation to the third reason for refusal the applicant has stated that the proposal does not include any new windows only the re-use of existing windows. Reasons 3 states:

3. By reason of the unacceptably close proximity between the proposed rear facing bedroom windows and an approved development to the rear, the proposal will result in a poor relationship between residential properties to the detriment of the privacy and amenity of an approved residential development.

The application site at 9 Lower Strand is located in a row of granite fronted terraced cottages that look out on to Town Beach on the north side of Hugh Town. This area contains a mixture of residential flats above retail establishments intermixed with dwellings and tourist accommodation. Opposite is the public open space of Holgates Green. To the rear of the application site is an approved development for two affordable dwelling units (Wellcross Yard). This extant planning permission (P/14/009/FUL) for two affordable units identifies the land immediately to the rear of the application site, as small private garden space. The proposal will introduce habitable residential accommodation which will utilise existing rear facing windows. Currently these windows do not serve habitable accommodation and are windows serving the retail unit. The relationship between the retail unit and the residential use at Wellcross Yard was considered acceptable. I consider however the change of use would introduce a new residential use approximately 3 metres away from, and directly facing, a main habitable room window (glazed double doors) of the approved dwellings at Wellcross Yard.

In 2007 the Council adopted a Supplementary Planning Document (SPD) on Design. This design guide seeks to ensure any new development maintains the privacy of existing dwellings. The approved dwellings to the rear of the application site are a material consideration in the determination of this current application, as there is a valid and extant planning permission for them to be constructed. The SPD advises that privacy has a visual dimension (i.e. freedom from overlooking of private rooms and sitting-out space) as well as an

audible dimension (freedom from the nuisance of excessive neighbour noise). The guidance advises that distances between existing and proposed dwellings should be 21 metres (standard spacing between opposite habitable room windows). Whilst the tight character of many of the buildings on Scilly means that such distances are not always achievable, privacy should be achieved through careful siting and design such as the position of windows for example. In this situation, however there are no realistic mitigation measures that could be introduced to overcome this poor relationship as the garden of Wellcross Yard extends up to the rear boundary of 9 Lower Strand.

In 2014 when planning permission was granted for the conversion of the Wellcross Yard site to affordable units, the use of 9 Lower Strand was a retail unit not residential. The relationship therefore was not considered harmful to privacy or amenity of the ground floor of 9 Lower Strand. It is considered that the proposed change of use of 9 Lower Strand will result in an unacceptably close and poor relationship between 2 residential properties. No additional information has been put forward to address the relationship between the two windows and as such I consider reason 2 remain a valid reason for refusal.

In relation to the impact upon immediate neighbouring properties, either side of the application site, then this is considered to be acceptable. Both sides are currently retail in nature and it is not considered the proposal will result in any harm to privacy and amenity of existing neighbouring properties at 8 and 10 Lower Strand.

Paragraph 66 of the NPPF advises that applicants should work closely with those directly affected by their proposals to evolve designs that take account of the views of the community. There has been no evidence submitted as to how the applicant has sought to come up with solutions to overcome the close proximity between the proposed residential unit and the approved residential units to the rear. Overall it is considered that the proposal will result in an unacceptably poor relationship between the application site and the approved dwellings to the rear.

### **Conclusion**

Drawing on all of the above considerations it is considered that the proposal does not fully accord with the requirements of the development plan. Whilst a legal mechanism has been suggested as a means to secure the occupancy of the accommodation in accordance with Policy 3 of the Local Plan I consider the proposal remains unacceptable. By reason of harm to the vitality and viability of Hugh Town as the main retail core of the islands which would be contrary to the requirements of Policy 4 and with the poor relationship with an approved residential development to the rear of the site, which is contrary to the guidance of the adopted Design Guide SPD. Overall therefore it is considered that the proposal is unacceptable.

Additional information submitted has not addressed 2 of the previous 3 reasons for refusal. The application as submitted has not overcome the other issues of harm identified, and as such the proposal is recommended for refusal.

**The proposal will not have any detrimental impacts upon the wider landscape or Area of Outstanding Natural Beauty.**

**Signed**

**Date:**