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| COUNCIL OF THE ISLES OF SCILLY            | Planning Committee  | 22 <sup>nd</sup> September 2016 | PART 1 DECISION |
| Title                                     | <b>P/16/060/FUL Holy Vale Farmhouse, Holy Vale St Mary's</b><br>Reconfiguration of 5 no. existing dwellings and conversion of outbuildings to create 4 no. new dwellings. |                                 |                 |
| Presented by                              | Lisa Walton   |                                 |                 |
| Role                                      | Senior Officer: Planning and Development Management   |                                 |                 |
|   | Tel: 01720 424 351  | E-mail: lwalton@scilly.gov.uk   |                 |
|   | Key Decision: No  | Urgent Decision: No             |                 |
| Notification of an Executive Decision: No |   |                                 |                 |

**Recommendation:** The application be REFUSED for the following reason:

1. Without the use of a restrictive legal agreement to control occupancy to meet recognised local needs or to accommodate key workers, the creation of 4 new open market dwellings is contrary to Policy 3 of the Isles of Scilly Local Plan 2005. Consequently, the proposed dwellings are not considered to be a socially sustainable form of development in the context of the Isles of Scilly as required by Paragraphs 7 and 8 of the National Planning Policy Framework 2012.

## 1 Description of Proposal

- 1.1 This is an application for full planning permission to convert existing redundant agricultural buildings at Holy Vale into 4 unrestricted units of residential accommodation with off-street car parking and external amenity areas. The proposal will deliver x2 1-bedroom units and x2 2-bedroom units with an intention to provide some locally available units in addition to possible holiday let use.
- 1.2 All plans and documentation submitted as part of this application can be viewed online here: <http://www.scilly.gov.uk/planning-application/planning-application-p16060>

## 2 Site Description

- 2.1 Holy Vale is a small residential area located relatively centrally on the island of St Mary's. It comprises a former Farmhouse and a number of residential cottages and properties. Within the vicinity is Holy Vale Vineyard and Winery. The land is owned by the applicant on a freehold basis rather than leasehold from the Duchy of Cornwall. The proposed development is located within now redundant buildings associated with the original Holy Vale Farm with the two main and traditional buildings fronting the road on the north side of Holy Vale Farmhouse. These buildings run parallel to the existing residential cottages

known as Magnolia and Honeysuckle. The building terminates adjacent to the Old Dairy Flat.

### **3 Background and Relevant History**

- 3.1 The planning history for this property starts in 1959 when an application was submitted (**P0237**) and approved for the construction of a sun lounge. In 1985 a planning application was submitted (**P2367**) and conditionally approved to convert 2 cottages into 4 holiday flats. In 1985 an application was submitted (**P2414**) and approved to convert a barn to 2 disabled persons holiday properties. In 1987 an application (**P2545**) was submitted and conditionally approved for the demolition and conversion of farm buildings to cottage. In 1988 an application (**P2689**) was approved to construct a balcony to the front including a new window.
- 3.2 In 2011 an application (**P/11/061/FUL**) was submitted and conditionally approved for demolition of an existing sunroom and replacement with a two storey side extension, including changes to and introduction of doors and window.

### **4 Consultations and Representations**

- 4.1 Whilst we did not directly consult Natural England because this site is not within a natural environment designation, they have provided some comments on the application through the AONB Partnership. They note that the issue is the risk of the development adversely impacting on the water quality of the nearby SSSI (Higher Moors and Porth Hellick Pool SSSI). The proposed development's foul water drainage is to be to a septic tank/soakaway. It is noted that as long as the outfall from the septic tank/soakaway is more than 30 metres from the SSSI boundary the evidence suggests that it would be low risk in terms of adverse impacts.
- 4.2 The AONB Partnership have stated that as a non-statutory consultee, the Partnership is not resourced to respond to all planning applications affected the Isles of Scilly AONB, and has not studied the details of this application, in making this response. The AONB Partnership may choose to make further comments on this application, but if not the absence of detailed consideration and comments by the partnership should not be interpreted as suggesting that this application raises no issues regarding the AONB designation. This remains a matter for the Council to take fully into consideration, in fulfilling its statutory duty in respect of the AONB, in reaching a decision on this application.
- 4.3 In addition to the consultation responses submitted, representations have also been received from nearby residential properties. These have been summarised below:
- 4.4 A letter of representation has been received from the occupants of Middle Tinks and states that whilst there are no real concerns over the proposed works to the buildings, they are concerned about the limited provision for car parking. Whilst the proposed provision for 'off road' car parking is provided this would be through the removal of various established trees and shrubs which would have a negative visual impact and would detract from the aesthetically pleasing view now enjoyed. Additionally it would appear that the spaces

provided are insufficient in length for even the smallest vehicles. The development would contain 9 units of residential accommodation which would generate the need for at least 9 car parking spaces. It is stated that if the problems of parking is not addressed with this planning application and opportunity will be lost forever and Holy Vale will become an eyesore with car parking all over the place.

- 4.5 A letter of representation has been received from the occupants of No. 3 Holy Vale which raises concerns as a result of the restrictions it would impose upon the use of the track through the site, which provides access to the rear of number 3.
- 4.6 A third letter of representation has been received from the occupants of Chy Mengleth who are also concerned with the level of car parking provision. A total of 9 residential units could generate the need for up to 15 car parking spaces. As suggested by all the representations the proposal appears to show a restricted access along the track to the north of the buildings, which is an existing right of way. There are concerns that the sizes of car parking spaces are drawn tight as to be impractical. It is stressed that the road needs to be kept clear for emergency vehicles.
- 4.7 Copies of all representations and consultations submitted as part of this application can be viewed online here: <http://www.scilly.gov.uk/planning-application/planning-application-p16060>

## **5 Primary Legislation and Planning Policy**

### **Primary Legislation**

#### **The Planning (Listed Buildings and Conservation Area) Act 1990**

- 5.1 The site is within a Conservation Area where there is a requirement to ensure that any development preserves or enhances the character or appearance of the area, as embodied in Section 72 of the Planning (Listed Buildings and Conservation Area) Act 1990.

#### **The Countryside and Rights of Way Act 2000**

- 5.2 The Isles of Scilly is also a designated Area of Outstanding Natural Beauty (AONB). The legal framework for such areas is provided by the Countryside and Rights of Way Act 2000. The Act places a statutory duty on the Local Authority to have regard to the purpose of conserving and enhancing the natural beauty of the AONB when exercising or performing any functions affecting land within it.

#### **The Conservation of Habitats and Species Regulations 2010**

#### **(Consolidation of Conservation (Natural Habitats, &c.) Regulations 1994 )**

- 5.3 It is a legal duty of a Local Planning Authority, when determining a planning application for a development, to assess the impact on European Protected Species ("EPS"), such as bats, great crested newts, dormice or otters. A LPA failing to do so would be in breach of Regulation 3(4) of the 1994 Regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.

## **Planning Policy**

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

- 5.4 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. It is considered that paragraph 10 is critically important in relation to areas such as the Isles as Scilly as *“plans and decisions need to take local circumstances into account, so that they respond to the different opportunities for achieving sustainable development in different areas”*.
- 5.5 Paragraph 14 of the NPPF states that in making planning decisions, a Local Planning Authority should be approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies [in the NPPF] taken as a whole; or specific policies [in the NPPF] indicate development should be restricted.
- 5.6 Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 5.7 Whilst paragraph 51 advocates that the re-use of redundant buildings particularly for changes to residential use and any associated development from commercial buildings (currently in the B use classes) where there is an identified need for additional housing in that area, it is also important to consider the advice for development in rural areas, as set out in paragraph 55. This seeks to ensure that in rural areas sustainable development is promoted and that houses are located where it will enhance or maintain the vitality of rural communities.
- 5.8 Overall and as the NPPF makes clear the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 6 of the NPPF makes it clear that this is a multi-dimensional issue that includes a consideration of the economic, social and environmental aspects of a proposal. Here social sustainability is defined as *“supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being”*.
- 5.9 Paragraph 115 states that *great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty”*.

### **Isles of Scilly Local Plan 2005**

- 5.10 Although the current Local Plan was adopted in late 2005 and therefore pre-dates the NPPF, it is worth recognising that the circumstances on the islands have not changed significantly given its scale and nature and the intrinsic value of its environment. The Local Plan therefore provides a planning policy framework that values the natural and historic environment and recognises the limited development opportunities by encouraging sustainable development and the delivery of homes for the community in response to the acute housing difficulties.
- 5.11 Policy 1 relates to Environmental Protection and aims to ensure that the quality of the islands environment, including its natural and historic character, is maintained and enhanced. The overall intent of the Local Plan, as reflected in Policy 1, is to protect its environment and keep development to the minimum required for sustaining viable communities.
- 5.12 Policy 2 relates to Sustainable Development and requires proposals to positively relate to the character of the landscape, seascape and built form of the islands through relationship to, inter alia, siting, design and use of materials.
- 5.13 Policy 3 relates to housing and requires any new residential development to be retained for the purposes of meeting the housing needs of the community. As a result no general open market housing is permitted. In order to achieve this, criteria 2 set out the types of housing permitted and includes (a) that which meets an identified recognised local need or new housing to accommodate a key worker whose needs cannot be met by the existing housing stock; and (b) housing for the provision of staff accommodation on or near the premises and where there is no alternative existing accommodation available to meet that need. Criteria (3) requires any new residential development, that meets the above, to be subject to secure arrangements to ensure that it remains permanently available to meet the specific identified need that justified its original permission.

### **Isles of Scilly Local Plan Review 2015 – 2030**

- 5.14 As part of the progress to update the 2005 Local Plan the Local Planning Authority (LPA) have commenced a review of the evidence base. This process has included a consultation on the intention to review the local plan (Regulation 18) setting out key issues such as housing. This consultation took place during June and July 2015. In November 2015 the LPA commissioned consultants David Couttie Associates (DCA) to carry out a Strategic Housing Market Assessment (SHMA), which included a Housing Survey of all residents as well as a detailed analysis of national statistics and trends for the islands. This assessment was published in July 2015. Additionally since 2014 the LPA have been working on housing land supply and commenced a Strategic Housing Land Availability Assessment (SHLAA). These two critical pieces of evidence will inform the Local Plan review and support the calculation of a 5 year housing land supply.

- 5.15 The SHMA set out a clear housing 'need' over the plan period for 120 new homes that should be delivered through the planning process. The 2016 SHLAA has identified potential housing sites across St Mary's that could accommodate between 165 (lower density) and 215 (higher density) new homes (excluding discounted sites). The sites that make up the SHLAA have primarily been submitted by the Duchy of Cornwall, as principle landowner on the islands, and include a few sites identified by the Council. The SHMA provides the evidence that the new Local Plan will need to create a positive policy framework for the delivery of a minimum of 8 new homes per year just to meet the most basic housing needs of the community. In reality, however in order to achieve viable sites this is likely to be higher. In very simple terms the sites within the SHLAA demonstrate sufficient potential housing land at the minimum density to deliver 11 new residential units per year or, at the higher density calculation, 14.3 new units per year. The LPA are satisfied that there is a demonstrable 5 year housing land supply.

## **6 Planning Assessment**

- 6.1 In light of the identified policies above the principal planning issue for consideration is whether the conversion of redundant agricultural buildings to open market residential accommodation would be in accordance with the development plan and the current planning policy framework for the Isles of Scilly. The starting point for such consideration is the current Local Plan, including whether the development conforms to the requirements of Policy 3. Additionally new residential development should be in keeping with the wider character of the area, it should preserve or enhance the character of the conservation area as well as conserve or enhance the natural beauty of the AONB designation. The proposal should not result in harm to the amenity of adjacent residential properties, neighbouring land uses or detrimentally impact upon, highway safety or the natural environment, including protected species.

### **Principle of Open Market Residential Development**

- 6.2 To maximise the opportunities to meet the housing needs of the community in response to a lack of decent affordable homes and given the development constraints facing the Isles of Scilly, Policy 3 of the current Local Plan does not permit any new open market houses on the islands. All new dwellings that are provided through the planning system must be in response to the local housing needs of the islands communities, including homes for key workers. This approach is justified on the basis that a proportion of the existing housing stock, that has no occupancy restrictions, is lost to the second home or holiday let market and commands a valuation in excess of what is affordable to most local people. The granting of planning permission for general open market residential accommodation therefore compounds the housing issues of the islands.
- 6.3 As set out in the NPPF there are three dimensions to sustainable development: economic, social and environmental. The 'social role' is about supporting a strong, vibrant and healthy community by providing a supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the communities needs and support its health, social and cultural well-being. Having regard to this aspect of sustainable development, it is considered that

permitting 4 'open market' houses without any occupancy restrictions as proposed would result in the creation of new dwellings beyond the means of most local people and could fuel both second home ownership and retired in-migration. Permitting such a proposal without any element of affordable housing would therefore conflict with the main aim of Policy 3, which is to ensure that suitable homes are available to meet the long term needs of the community. Ensuring development complies with the requirements of Policy 3 ensures that new residential development is socially sustainable, in accordance with the NPPF. For these reasons it is considered that the principle of 100% open market residential development is unacceptable and should be resisted.

### **Assessment of Sustainable Development**

- 6.5 Notwithstanding the concerns with the social aspect of sustainable development as highlighted above, it is necessary to consider whether the development proposed is otherwise sustainable. The proposal is seeking to re-use existing buildings, without significant alteration or rebuilding. The frontage buildings are of a traditional horticultural appearance, in terms of the local flower growing and bulb industry. The retention of these buildings will halt the current decline and bring them back into use. Whilst some alterations are proposed it is considered that the use of existing redundant buildings is more sustainable than constructing new buildings for housing, as there is embodied energy within the materials of existing buildings.
- 6.6 In terms of location then it is considered that the site is well located to a number of existing residential properties and within a reasonable commutable distance to local shops and services on St Mary's. Whilst the proposal does not include any measures for reducing energy or water usage or generating energy such measures could be conditioned to ensure that the proposal does not put any undue pressure upon the existing infrastructure of the island.
- 6.7 In conclusion, it is considered that the principle of converting the buildings to create new dwellings would be acceptable but only in the event that the applicant is agreeable to the new homes, being subject to occupancy restrictions to ensure that they are available to meet a local housing need only and prevent their sale on the 'open market' in accordance with Policy 3 of the Local Plan. However and as an exception in justifiable circumstances, consideration could be given to permitting an agreed proportion of open market housing to enable and facilitate the development of affordable housing as part of this scheme (or indeed any other proposal) where such justification is supported by a financial viability statement. The applicant has set out the justification for not requiring any occupancy restrictions for all 4 new dwellings on the basis of the viability of the project. What has not been forthcoming is the financial viability statements to support this position.

### **Impact upon the wider landscape**

- 6.8 Holy Vale is located within a valley within the centre of St Mary's. The area is characterised by tall and mature trees which together with the topography ensure there are limited views of the buildings within the area from the wider landscape. It is considered that the reuse of existing buildings, will have minimal impact upon the wider landscape. The proposal will require the installation of a large number of roof lights, which will have some impact upon the landscape particularly in the form of light pollution. The part glazed roof

will be removed from the building, which will result in the loss of part of the building's traditional character. It will retain the external timber sliding gates and the gable-end glazing which will ensure some legibility of former uses of this site. On balance however, given the position of the site it is considered that the benefits of re-using these buildings outweighs the limited impact of roof-lights and loss of some of its traditional features. The use of roof lights reduces the need for artificial lighting and will ensure the living conditions of the units are well lit for occupants.

- 6.9 The creation of external hard standing for the purposes of off-street car parking will have some impact upon the visual amenities of the vicinity, particularly if it requires the removal of trees. Whilst the provision of off-street car parking is not a requirement, given the small distances between the site and shops and other services on St Mary's, the development is likely to generate the need for car parking, particularly if the proposed units are for permanent local occupation (rather than used for holiday letting purposes). There are limited areas to park within Holy Vale outside the site and any car parking on the roads would create some restrictions to the flow of traffic. There would appear to be sufficient space within the application site boundary to accommodate some well-screened off-street car parking. In order to ensure adequate provision is provided for the needs of future occupants, without introducing hazards to highway safety or harming the important characteristics of the Holy Vale area, specific details of car parking and landscaping should be conditioned.

### **Impact upon the Natural Environment**

- 6.10 The application site boundary includes an area of land across the road and to the south of the existing buildings. This is a field in which it is proposed to install a package treatment plant as a means of foul drainage for the 4 residential units. Within 70 metres further south of this field is the Higher Moors and Porth Hellick Pool Site of Special Scientific Interest (SSSI). As identified above in paragraph 4.2, this designation is sensitive in terms of water pollution, as it is the largest area of open water on the island, supporting a wide variety of habitats with several rare and notable plant species. The pond and fringing habitats are also of particular importance for breeding and migrant birds. As noted by Natural England, development poses a risk to this site if it is within 30 metres. Whilst no specific details have been provided as to the precise position, type of size of package treatment plan, it is considered that this will be more than 70 metres from the SSSI designation and as such unlikely to have a detrimental impact upon this designation.
- 6.11 The site has been assessed by the Isles of Scilly Bat Group and two bat surveys has been carried out. A daytime survey noted that whilst there are ample opportunities for bats to enter the buildings, there was no evidence that they had done so. A further dawn survey was carried out which found no bats entering or leaving the buildings. The survey concludes that whilst there is no evidence of bats roosting in these buildings, it is well-established that pipistrelles (which make up 99% of the islands bat population) move around frequently and roost in buildings for short periods. It is therefore possible that bats could be found when work commences on these buildings. On this basis it is considered appropriate to remind the application, if the permission is approved, that care should be

taken during the works and ceasing works should bats be discovered, until such time as advice has been sought from the Bat Group or the Bat Conservation Trust.

- 6.12 Overall it is considered that the proposed conversion works will not have a long-term significant impact upon the natural environment to warrant refusing permission in this case.

### **Impact upon the Historic Environment**

- 6.13 The buildings at Holy Vale, within the application site, are not listed buildings. In reviewing old Ordnance Survey maps of the island it is noted that the buildings proposed to be converted were erected at some point during the 20<sup>th</sup> Century, whilst the farmhouse and attached cottages would appear to be much older and predate the 1890s. Within the site boundary, however, there are no other designated heritage assets. Around the site there are a number of Archaeological Constraint Areas (ACA) and Historic Environment Records (HER). These include the remains of a large bowl quern stone and part of another, this HER is situated within the 'triangle' to the south of the site and will not be affected by the proposal. To the north is the ACA at Holy Vale Chapel, which will not be affected by the proposal.
- 6.14 The site is within the Isles of Scilly Conservation Area, which is a designated heritage asset. There is a requirement for local planning authorities to assess the impact of proposed developments to ensure that they either preserve or enhance the wider character of the area. As concluded above it is considered that the conversion of the existing buildings will not result in harm to the wider character of the area and it is considered that overall the preservation of this buildings will have a positive impact upon the existing character of Holy Vale. Whilst the nature of the use will change significantly, particularly in terms of their current utilitarian appearance with vines growing within the buildings, it is considered that retention of these buildings is in the wider interest of the character of Holy Vale. The retention of the large timber rolling doors will be important in retaining character, which will reflect original uses. This will be slightly lost, however, with the enclosure of the land to the front, as proposed. It is considered that the benefits to this will result in a general tidying up of this frontage and provide an enclosed private garden space. Overall it is concluded that the proposal will not result in significant harm to the character of the conservation area to warrant a refusal of this application.

### **Impact upon residential amenity**

- 6.15 There are a total of 5 existing residential units within the site, with a further 3 units on the west side of the site, outside of the site boundary. There is the potential therefore for 4 additional residential units to have some impact upon the amenity of this area. It is noted that the unit on the west side of the site will share a party wall with the 'Old Dairy Flat' unit of accommodation, outside the site boundary. There will therefore be the potential for sounds within the building to travel to the adjacent property. This is however a building control issue that will need to comply with the Building Regulations to ensure suitable acoustic barriers to an appropriate level are installed along this boundary. This unit will additionally have a two lounge windows and two bedroom windows which will directly

face an adjacent unit to the south. Whilst the proposed two-bedroom flat is shown as being within the same ownership as this adjacent unit, they would be two separate units, occupied by different people. These windows will be within 4 and 4.5 metres of this existing flat. It is noted that the south facing windows are high level with views into this courtyard area and to the adjacent flat would be limited. Whilst this would result in a relatively 'viewless' accommodation it would appear to retain the privacy and amenity of existing residential properties.

6.16 The two proposed 1-bedroom units of accommodation will both have windows and doors which face the existing residential accommodation, particularly so for the frontage property, which has 3 south facing windows that will have an outlook over the adjacent garden of Holy Vale Farmhouse which is a holiday let. Overall and on balance, whilst some of the fenestration relationships are not optimally positioned or spaced they are existing doors and windows that are to be re-used as part of the conversion. The introduction of 4 new units of residential accommodation will have some additional impact upon the amenity of existing residential properties but given they are all within the same ownership it is considered that this is acceptable.

## 7 Conclusion

7.1 There are a number of aspects to this scheme that do not accord with the current Isles of Scilly Local Plan:

- The proposed units would be 'open market' not specifically restricted to local need, although some local occupancy is envisaged;
- The Plan submitted do not provide specific details of external works including, flues, rainwater goods, metre cupboards, bin storage, garden storage all of which have the potential to affect the appearance of this development;
- The plans submitted do not include any sustainable design features that seek to create a sustainable form of development;
- The proposed units introduce some poor relationships with existing properties.

7.2 Subject to conditions it is considered that the majority of the above planning issues could be addressed. However, the creation of 4 open market houses are considered to conflict with Policy 3 of the Local Plan and not positively address the acute and fundamental housing needs on the islands. Furthermore and for these reasons, it is also considered that the proposal would fail to meet the National Planning Policy Framework in terms of a socially sustainable form of development in accordance with paragraphs 7 and 8 of the NPPF 2012.

### Sign off

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|-----------|-----|------|
| Financial | N/A | Date |
| Legal     | N/A | Date |

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| Head of<br>Department/Chief Exec | Craig Dryden | 12/09/16 |
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