

Date: 18 October 2016  
Our ref: 196992 (Previously: 160492 & 163773)  
Your ref: P/16/097/FUL



Council of the Isles of Scilly  
Town Hall  
St Mary's  
Isles of Scilly  
TR21 0LW

County Hall  
Spetchley Road  
Worcester  
WR52NP

**BY EMAIL ONLY**

Dear Lisa Walton

**Planning Consultation:** P/16/097/FUL Application for a new boat shed and slipway (resubmission of previously approved scheme: P/15/052/FUL)

**Location:** New Grimsby, Tresco, Isles of Scilly

Thank you for your consultation on the above, dated 22 September 2016. The following constitutes Natural England's formal statutory response.

We have previously provided advice for these works and I have attached our previous response below (Annex 1). We understand that the proposal has changed slightly in that the slipway will now extend for 6m below MHWS. Aerial imagery of the works area does not indicate the presence of any Section 41 habitats such as under-boulder communities (NERC Act 2006), and we can confirm that the proposed extension of the slipway into the intertidal area will not result in a net loss of any designated feature. Our advice remains the same, in that the works should not cause any disturbance to nearby breeding birds or result in any pollutants entering the Special Area of Conservation. These potential impacts have previously been addressed by the applicant. As before, we would recommend that the following conditions are applied to any consent issued for these works:

- Relevant Environment Agency Pollution Prevention Guidelines (PPG5 and 6) adhered to at all times, particularly for works in or near watercourses, and the use of cement and concrete.
- No activity relating to the works to take place within the Castle Down SSSI.

As we advised previously, as well as the above advised conditions we would also propose that the following best practice measures are considered:

To minimise disturbance to the intertidal areas below MHWS:

- access the works area via the existing slipways, and private roads
- clearly mark out the works area on the foreshore
- do not store materials on the foreshore during the construction phase

To minimise disturbance to breeding birds:

- works should take place, if possible, between November and March
- noise levels should be minimised, especially if works take place between April and October

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Elizabeth Bailey', is placed on a light blue rectangular background.

Elizabeth Bailey

Marine Advisor

Area 12 Marine Team (Devon, Cornwall and Isles of Scilly)

## **ANNEX 1**

Natural England's previous consultation response (2015)

Date: 16 September 2015  
Our ref: 163773 (Previously: 160492)  
Your ref: P/15/052/FUL



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Customer Services  
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**BY EMAIL ONLY**

Dear Lisa Walton

**Planning Consultation:** P/15/052/FUL Proposed Boat Shed and Slip, New Grimsby Tresco  
**Location:** Isles of Scilly

Thank you for your consultation on the above dated 25 August 2015. The following constitutes Natural England's formal statutory response.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

**The Isles of Scilly Complex Special Area of Conservation (SAC)**

The proposed works lay approximately 70m distance from the Isles of Scilly Complex SAC. This site is host to a wide variety of marine habitats including diverse reef communities, grey seals, and rich sandbanks, which are afforded protection under the Conservation of Habitats and Species Regulations 2010 (as amended). Further details of this site can be found at the following link: <http://publications.naturalengland.org.uk/publication/3084503>.

Whilst recognising the slipway does not extend into the SAC, there is the potential for harmful construction materials associated with the works such as concrete to enter the marine environment. We thank the applicant for providing the additional information with regards to construction plans as per email dated 7<sup>th</sup> September 2015.

We would recommend that if your authority decide to grant planning permission for the proposals, the following listed point is secured to ensure protection of the Isles of Scilly SAC.

- Relevant Environment Agency Pollution Prevention Guidelines (PPG5 and 6) adhered to at all times, particularly for works in or near watercourses, and the use of cement and concrete.

As well as the above advised condition we would also propose that the following best practice measures are considered:

- Precautions are taken to minimise disturbance to the intertidal areas below MHWS;

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Whilst recognising the slipway does not extend into the SAC, there is the potential for harmful construction materials associated with the works such as concrete to enter the marine environment. We thank the applicant for providing the additional information with regards to construction plans as per email dated 7<sup>th</sup> September 2015.

We would recommend that if your authority decide to grant planning permission for the proposals, the following listed point is secured to ensure protection of the Isles of Scilly SAC.

- Relevant Environment Agency Pollution Prevention Guidelines (PPG5 and 6) adhered to at all times, particularly for works in or near watercourses, and the use of cement and concrete.

As well as the above advised condition we would also propose that the following best practice measures are considered:

- Precautions are taken to minimise disturbance to the intertidal areas below MHWS;
- Access to and along the foreshore (if required) is arranged so as to minimise disturbance to the intertidal areas by access being via the existing slipways, and private roads;
- The work area on the foreshore being clearly marked out and adhered to;
- No storage of materials on the foreshore during the construction phase;

The above recommendations may be achieved through a Construction Environmental Management Plan (CEMP) which demonstrates adherence to the aforementioned points. We would agree with your authorities conclusions that the CEMP should be proportionate to the development in question, which from many similar examples may comprise only 1 or 2 pages. If this is made a planning condition, we would request the CEMP is agreed with ourselves prior to works commencing.

Alternatively, if this route is not preferred, we would advise that adherence to relevant Environment Agency Pollution Prevention Guidelines is secured as a planning condition in its own right to ensure protection of the Isles of Scilly SAC.

We would be very happy to engage further in the development of a CEMP through our discretionary advice service, which we are grateful that you have already provided details of.

### **Castle Down Site of Special Scientific Interest (SSSI) and the Isles of Scilly Ramsar Site**

The application is in close proximity to the Castle Down Site of Special Scientific Interest (SSSI) which is afforded protection under the Wildlife and Countryside Act 1981 (as amended). This is host to both bryophytes (non-vascular plants) and Common tern, which are generally found April to September time breeding in the Isles of Scilly. It is also in close proximity to the Isles of Scilly Ramsar site which hosts breeding populations of European storm petrel, Lesser black-backed gull, European shag, as well as seabird assemblages.

### **Bryophytes**

We thank the applicant for confirming that activities associated with the proposed works will not take

place within the Castle Down SSSI. Due to the nature and distance of the proposal from known bryophyte records for the Castle Down SSSI, we are satisfied that the proposal will not impact upon the bryophytes through any changes to air quality or construction related activities.

### **Breeding Birds**

We also thank the applicant for providing the requested information regarding timings of works (November – March in any year, for 4-6 weeks) and proposed construction methods i.e. using “small tools, excavator and dumper”. Based on this information we advise that there is a low risk of noise and visual disturbance to breeding Common tern or other seabirds afforded protection through the Isles of Scilly Ramsar site. We would also note that if the work schedule alters to occur outside of the proposed period and during the breeding season (April to October), we would conclude that due to the construction method proposed, we would not need to be re-consulted.

### **Protected landscapes**

We would note the proposed development is within the Isles of Scilly Area of Natural Beauty (AONB) and Isles of Scilly Heritage Coast. Both of these areas are considered sensitive to development and consequently consideration to landscape and seascape issues should be given in terms of the proposed development. We recommend the Isles of Scilly AONB Partnership are consulted in this respect and we understand that you are currently in the process of consulting with them.

### **Protected Species**

We have not assessed this application and associated documents for impacts on protected species. Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to others on deciding if there is a ‘reasonable likelihood’ of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.

You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence may be granted.

If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us at with details at [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

### **Advisory Comments**

Due to the proximity of the proposed works to the intertidal area and information provided by the applicant with regards removal of the existing seawall to create a 5m gap, we would recommend the applicant consults the Marine Management Organisation (MMO) to determine whether a marine license is required to carry out the works. This is an advisory comment, and should not influence your authorities decision in determining this application.

Yours faithfully

A handwritten signature in black ink, appearing to read 'R. Cook', written on a light-colored background.

Richard Cook  
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