**OFFICER REPORT – DELEGATED**

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| **Application number: P/16/102/ROV** | **Expiry date: 30 November 2016** |
| **Received on: 3 October 2016** | **Neighbour expiry date: NONE CONSULTED** |
| **UPRN: 000192001094** | **Consultation expiry date:**  |
| **Legal agreement:**  | **Site notice posted: 5 October 2016** |
| **Departure:**  | **Site notice expiry: 26 October 2016** |
| **Complies with Development Plan? Y/NIf not, ensure you cover in the report how material considerations outweigh the plan?** |  |
| **Is this decision contrary to local council recommendation?**  |

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| **Applicant:** | **Mr John Creasey**  |
| **Site Address:** | **Aldersyde****2 Wellcross****Hugh Town****St Mary's****Isles Of Scilly****TR21 0PU** |
| **Proposal:** | **Removal of condition 2 from planning permission P3276 restricting use of property to permanent residential accommodation only.** |
| **Application Type:** | **Removal or Variation of Condition** |

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| **Description of site and development:** |

**Description of Proposal**

The application seeks the removal of condition 2 from planning permission P3276. This permission was granted on 8 October 1991. The condition states "that the property shall be used for permanent residential accommodation only". The reason for the condition explains "to accord with Policy 7 of the Structure Plan First Alteration".

**Site Description**

Aldersyde is a two storey dwelling located in Well Cross. Well Cross links The Strand and Church Street. The site lies amongst other dwellings within the settlement area of Hugh Town.

**Background and Relevant History**

The plans associated with the 1991 planning application showed that the building incorporated 8 bedrooms with lounge and kitchen in a rear single storey lean-to. The proposed plans the subject of approval showed the retention of 4 bedrooms on the first floor and the incorporation of kitchen and lounge within the existing ground floor with new conservatory at the rear. The annotation to this proposed plan states "proposed alterations to convert staff house into family house". It is understood that the works were completed in 1992.

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| **Public representations:** |

Due to the nature of this proposal no external statutory consultations have been necessary. Neighbouring properties have been notified of this application and a site notice has been displayed in a public place in the vicinity of the site for a period of 21 days. No representations have been received.

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| **Consultee representations:** |

 None

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| **Constraints and designations:** |

Conservation Area, AONB, Heritage Coast

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| **Relevant policies, SPGs and Government guidance:** |

**Primary Legislation**

The Planning (Listed Buildings and Conservation Area) Act 1990

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**

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 )**

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**

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.

Paragraph 203 states "Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions"

Paragraph 206 states "Planning conditions should only be imposed where they are:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects."

**Isles of Scilly Local Plan 2005**

Policy 3 and the related supporting text set out the strategy for housing on the Isles of Scilly. The strategy seeks to deliver housing for local need and key workers. It is explained that there is a very limited housing supply and environmental constraints limit future housing, with second homes exacerbating the supply issue.

Policy 4 seeks to promote employment and economic activity by providing opportunities for businesses to support viable communities. There is support for tourist accommodation where it contributes to the further diversification and essential modernisation of the islands' economy, improves the quality of the existing tourist accommodation or potentially extends the length of the tourist season.

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| **Appraisal/key issues and conclusion:** |

**Planning Assessment**

The application property is a single dwelling and no physical development is proposed by this application. In these circumstances there is not considered to be a material impact on the AONB, Conservation Area or any wildlife interests.

The principal planning issues for consideration is whether the condition restricting the property to permanent occupation should be removed or altered, having regard to the policies of the Local Plan and the advice in the NPPF, especially with the need to apply the principles of sustainable development in the context of the Isles of Scilly.

In support of the application the applicant has explained; "You may be aware that as a result of a Planning Application in 1991 to fit a conservatory to the rear of our house and carry out some minor restructuring works, a condition was applied restricting occupation of the dwelling to "permanent residential accommodation only". We understand that this was justified under Policy 7 of the Structure Plan First Alteration - a document that is now over 25 years old and very much out of date. At the time the authority sought to control the population of St Mary's at 1981 levels.

Clearly, a large amount of water has passed under the bridge since 1991, and should; an application for a conservatory fall on your desk today, from an applicant with an unencumbered property, your committee would not dream of adding a restrictive condition to the occupation of the dwelling as a whole. I understand that the current plan actively encourages the improvement of the availability of high quality accommodation for the tourist sector and makes no mention to controlling the tourist/permanent mix. It also focuses on the essential diversification and modernisation of the islands' economy. In this context, could we please ask you to remove Condition 2 of the P3276 planning permission."

Firstly, it is important to note that the context for the condition in 1991. The Structure Plan First Alteration sought to promote affordable housing, make the best use of the stock that was available and specified that the change of use of residential use to other uses would not normally be permitted. The plans with the 1991 application indicate that the building was in use as 8 bedroom worker accommodation and it was proposed, after the extension and changes, to use the property as a family dwelling. It appears in 1991 that there was a concern that the house could be lost from the local housing stock and, in accordance with the intentions of Policy 7 of the Structure Plan, a condition was attached restricting the occupation of the property to permanent residents.

It is considered that the condition has fulfilled a planning function since that time and with the permanent occupation of the house there has been a contribution to the sustainability of the area. The condition is in place and no argument is made that it was not lawfully imposed in 1991.

The Isles of Scilly Local Plan seeks to ensure the sustainability of the Islands and highlights the issues of high house prices, low wage economy and limited opportunities for new house building. This is exacerbated by the level of second homes. While some second home owners make important local contributions, often such properties are left empty and this has a cumulative effect on, for instance, the viability of local convenience shops, the school roll, and the provision of local services including health care. It is important that every planning decision contributes to the increased sustainability of the Islands.

In this case, because of the planning history the application building is not an unfettered dwelling, which in otherwise would have allowed the dwelling to be used as a principal residence, holiday or second home. This existing condition allows the Planning Authority to make a judgement on the present application and whether to seek to retain, remove or alter the planning condition. Planning circumstances have changed since 1991 and there is greater encouragement to promoting the tourist economy and holiday lets often help the economy with the continual turnover of visitors who spend money locally. The concerns with second homes have exacerbated over the past decades and it is generally accepted that this has affected the sustainability of the islands.

The applicants in their submission highlight the change in planning approach since 1991 and draw attention to the benefits of the tourist economy in their arguments to remove the condition.

In this case, given the planning background, it is considered that widening the occupancy condition to allow the use of the house as a holiday let in addition to retaining the option for the house to be permanently occupied, whilst preventing the use of the property as a second home, is the most sustainable option and complies with the intentions of the Local Plan.

**Conclusion**

This application raises issues of sustainability and good planning specific issues to the Isles of Scilly communities. The condition has helped deliver a planning purpose over the last 25 years in conformity with the intentions of the Structure Plan First Alteration. The Local Plan highlights the issues around housing and also promotes the tourist economy whilst raising concerns with the level of second homes. In the interests of sustainable planning it is recommended that the existing permanent occupancy provision is retained, that the applicant also has the option of using the property as a holiday let, but that second home occupation is prevented in this case. The recommendation is made on that basis.

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| **Recommendation:** |

In the interests of sustainable planning it is recommended that the existing permanent occupancy provision is retained, that the applicant also has the option of using the property as a holiday let, but that second home occupation is prevented in this case. The recommendation is made on that basis

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| Signed: | Dated: | Signed: | Dated: |
| Planning Officer | Senior Manager |