



# COUNCIL OF THE ISLES OF SCILLY

Planning & Development Department

Town Hall, The Parade, St Mary's, Isles of Scilly, TR21 0LW

01720 424350

[planning@scilly.gov.uk](mailto:planning@scilly.gov.uk)

## OFFICER REPORT – DELEGATED

Application number: P/17/014	Expiry date: 25/04/17
Received on: 28/02/2017	Neighbour expiry date: 21/03/2017
UPRN:	Consultation expiry date: None
Legal agreement:	Site notice posted: 28/02/2017
Departure:	Site notice expiry: 21/03/2017
Complies with Development Plan? Y/N If not, ensure you cover in the report how material considerations outweigh the plan?	
Is this decision contrary to local council recommendation?	

Applicant:	Mr A Taylor
Site Address:	Luitreth, McFarland's Down, St Mary's
Proposal:	Demolition of existing block work garage measuring 6.1m x 3.1m and replacement with new block work garage measuring 6.7m x 5.1m.
Application Type:	Full

<http://www.scilly.gov.uk/planning-application/planning-application-p17014>

### Description of site and development:

This application proposes the demolition of a block work garage together with a replacement block work garage at Luitreth, McFarland's Down, St Mary's.

### Site Description

The garage is situated to the rear of the property known as Luitreth. Luitreth is a 1960's bungalow. It has a stone and rendered external finish with a slate roof. The garage is a single storey block work building. It is suitable for a single car. It has a slightly sloping corrugated roof from North to South. It has three timber framed window in the south elevation and double timber doors in the east elevation. It is situated adjacent to a building belonging to the adjoining property Montrose. The two buildings are separated by a very narrow gap (approximately 10cm) and the two roofs almost abut. The garage appears to be in a poor condition.

### Background and Relevant History

In 1960 application (**P274**) was submitted and approved for the erection of a bungalow. On 4<sup>th</sup> September 1963 application (**P449**) was submitted and refused for the erection of a garage. On the 30<sup>th</sup> September 1963 application (**P457**) was submitted and approved for the

erection of a garage. In 1975 application (**P1419B**) was submitted and conditionally approved for kitchen and sitting room extension at rear of dwelling. In 1987 application (**P2653**) was submitted and refused for the enlargement of existing dormer on rear elevation and provision of new dormer on front elevation with erection of garage and provision of conservatory. This decision was appealed but the appeal was dismissed on 4<sup>th</sup> July 1988. In January 1988 application (**P2697**) was submitted and conditionally approved for the enlargement of existing rear dormer and provision of conservatory and garage.

#### **Public representations:**

The following neighbours were notified: Montrose and The Wendy House. A site notice has been on display outside the site for a period of 21 days.

No letters of representation have been received.

#### **Consultee representations:**

A site notice has been on display outside the site for a period of 21 days. One letter of representation has been received.

#### **Cornwall Archaeology Unit**

We note that the immediate area of the application site is rich in prehistoric monuments and findspots including two standing stones (MCO30796 and MCO31175), one Scheduled (DCO574), a cup-marked stone (MCO57051), Bant's Cairn entrance grave (MCO30144) and the Halangy Down entrance grave (MCO30622) and settlement (MCO30619). The Halangy Down features form part of a Scheduled Monument (DCO571) covering a large area to the west of the site. We therefore recommend that if consent is given that the excavation of the footprint of the garage is subject to archaeological monitoring in the form of a watching brief during groundworks. This work should be secured by a Condition which includes words recommended by the Association of Local Government Archaeological Officers (ALGAO).

A Bat Survey has been carried out on the garage through which the presence of bats was not detected however it could be possible on commencement of the works. A bat informative will be added to the decision to advise the developer to take care during the works and what to do in the event bats are present.

#### **Constraints and designations:**

Conservation Area, AONB and Heritage Coast. The site is rich in prehistoric monuments and findspots.

#### **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 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 consideration 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.

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

Policy 1 relates to environmental protection and seeks to permit development proposal only where they respect and protect the recognised quality of the island's natural, archaeological, historic and built environment. Proposals should (a) conserve or enhance the natural beauty, wildlife and cultural heritage of the Area of Outstanding Natural Beauty and protect the unspoilt character and good appearance of the heritage coast, (c) Preserve or enhance the character or appearance of the Conservation Area (d) safeguard the integrity and nature conservation objectives of Special Protection Areas (SPAs), RAMSAR sites and Special Areas of Conservation (SAC); (e) protect a statutorily protected plant or animal species and the wildlife, geographical

and geomorphological interest and features of designated Sites of Special Scientific Interest; and locally important biodiversity habitats, species and landscape features.

Policy 2 relates to sustainable development and seeks to permit development where practicable and appropriate, proposals would contribute to the sustainability of the islands environment, economy or local communities through: (a) conserving or enhancing the landscape, coastline, seascape and existing buildings of the islands through appropriate design and landscaping; (b) ensuring or facilitating the re-use of previously developed land and existing buildings for the economic, social and environmental benefit of the islands and local communities taking into account any environmental designations set out in Policy 1; and (c) utilising natural resources efficiently in the design, construction and future use of land and buildings.

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

The principal issue for consideration is the impact the replacement garage will have on the wider character of the conservation area and AONB designations including the historic environment in particular, given the proximity of the prehistoric monuments and findspots. It is also a material planning consideration to consider the impact of the proposed development upon the privacy and amenity of neighbouring properties.

The proposed works include the demolition of an existing garage (18.91m<sup>2</sup>). However, in a Conservation Area permission is not required to demolish a building (that is unlisted) which does not exceed 115 cubic metres. The replacement garage will be constructed using rendered block work, with two windows (one on the south elevation and one on the west elevation). The application form indicates that the windows will either be timber or uPVC. The replacement garage will have timber doors (painted white) on the east elevation and a cement fibre corrugated roof. The proposed floor area is 34.17m<sup>2</sup>. This represents a 53.2% increase in floor area.

The applicant has provided amended plans twice. The first time was to amend an error in the dimensions stated for the garage. The second set of amended plans was as a result of consulting with the adjoining neighbour at Montrose. The neighbour was concerned about the height of the proposed garage (originally proposed at 2.6 metres). The applicant has confirmed that the existing garage height is 2.4m high where it sits adjacent to the building belonging to Montrose and that the building belonging to Montrose is also 2.4m where it is adjacent to the garage at Luitreth. The two roofs are separate but almost touch and prevent most of the rainfall from falling between the two buildings. The neighbour at Montrose had concerns that the raised height of the garage would cause more rain to fall between the two buildings increasing the potential for damp in the walls of both buildings. As a result the proposed garage height has been amended to 2.5m where it is adjacent to the building belonging to Montrose and the applicant will overhang the new roof over the gap that separates the two buildings.

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

Properties within this area are largely rendered white or a pale shade with slate roofs and a mixture of materials on fenestration details. The Design Guide SPD advises that the LPA will seek to resist upvc windows on properties of granite or on older more traditional buildings. Luitreth is not a listed building and is a relatively modern 1960s bungalow that has been extended since its original construction.

Whilst we would argue that timber windows are the preference it is considered that for modern properties, particularly those within this area, upvc windows can be acceptable without giving rise to conflict or harm with the wider character of the area or historic environment. There are many examples of upvc windows installed under permitted development rights, particularly on elevations that don't front the highway (where the Article 4 Direction is not relevant).

The current materials for the replacement garage are non-traditional and it is judged that the use of these replacement materials will not cause material harm to the building or the character and appearance of the Conservation Area. It is considered that the replacement garage will preserve the existing character of the Conservation Area and although it may not enhance the Conservation Area it appears to be an improvement on what currently exists.

### **Impact upon privacy and amenity**

The proposal is not considered to result in material harm to the privacy or amenity of adjacent residential properties or neighbouring land uses. The replacement garage is in a like for like material. Whilst the replacement garage is larger in floor area than the existing garage this encroaches onto the applicants land only. The height is 1cm higher than the existing where it sits adjacent to the neighbouring property and the height has been reduced from 2.6m to 2.5m following consultation with the neighbour Montrose. A window has been added to the west elevation but this looks onto open land not neighbouring properties. It is considered therefore that the proposal is acceptable.

### **Conclusion**

Drawing on all of the above considerations, it is considered that the proposal is acceptable and it is recommended for approval.

#### **Recommendation:**

Recommendation: The application be Conditionally Approved subject to the following Conditions:

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

Reason: In accordance with the requirements of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

- 2. The development hereby permitted, shall be carried out in accordance with the approved details only including:**

- **The Location Plan**
- **Site Plan Proposed Garage – 20<sup>th</sup> March 2017 (REV 1)**
- **Proposed Garage Drawing – 27<sup>th</sup> March 2017 (REV 2)**

**These are signed and stamped as APPROVED**

Reason: For the clarity and avoidance of doubt and in the interests of the character and appearance of the Conservation Area, Area of Outstanding Natural Beauty and Heritage Coast in accordance with Policy 1 of the Isles of Scilly Local Plan 2005.

- 3. No development hereby approved shall take place until the applicant has secured the implementation of an archaeological watching brief in accordance with a Written Scheme of Investigation (WSI) submitted by the applicant and approved in writing by Local Planning Authority.**

Reason: This is a pre-commencement condition that requires details that were not submitted as part of the application, but are required to fully understand the impact upon the Islands archaeological, historic and built environment, to be submitted and agreed by the Local Planning Authority. This is to ensure those characteristics which contribute to the status of the Isles of Scilly as a Conservation Area, Area of Outstanding Natural Beauty and Heritage Coast are preserved or enhanced. In accordance with the requirements of Policy 1 of the Isles of Scilly Local Plan 2005.

- 4. Prior to the commencement of the approved development, a scheme including details of the sources of all building materials and the means/ location of disposal of all demolition material and all waste arising from building works, shall be submitted to and agreed in writing with the Planning Authority. The development shall thereafter proceed in strict accordance with the approved scheme only.**

Reason: This is a pre-commencement condition that requires details that were not submitted as part of the application, but are required to fully understand the impact upon landscape and management of waste, to be submitted and agreed by the Local Planning Authority. This is to ensure those characteristics which contribute to the status of the Isles of Scilly as a Conservation Area, Area of Outstanding Natural Beauty and Heritage Coast are not eroded by uncontrolled tipping of waste. In accordance with the requirements of Policy 1 of the Isles of Scilly Local Plan 2005.


**Further Information:**

1. In dealing with this application, the Council of the Isles of Scilly has actively sought to work with the applicants in a positive and proactive manner, in accordance with paragraphs 186 and 187 of the NPPF.
2. In accordance with the Town and Country Planning (fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 a fee is payable to discharge any condition(s) on this planning permission. **The fee is £28 for each request to discharge condition(s).** The fee is payable for each individual request made to the Local Planning Authority.
3. In accordance with the provisions of Section 96A of the Town and Country Planning Act which came into force on 1st October 2009, any amendments to the approved plans will require either a formal application for a non-material amendment **(for which a fee of £28 would be required)**

or the submission of a full planning application for a revised scheme. If the proposal relates to a Listed Building you will not be able to apply for a non-material amendment and a new application for a revised scheme will be required. Please discuss any proposed amendments with the Planning Officer.

4. The Applicant is reminded of the provisions of the Wildlife and Countryside Act 1981 and the E.C. Conservation (Natural Habitats) Regulations Act 1994, the Habitat and Species Regulations 2012 and our Natural and Environment and Rural Communities biodiversity duty. This planning permission does not absolve the applicant from complying with the relevant law protecting species, including obtaining and complying with the terms and conditions of any licences required, as described in part IV B of Circular 06/2005. Care should be taken during the work and if bats are discovered, they should not be handled, work must stop immediately and a bat warden contacted.

Extra care should be taken during the work, especially when alterations are carried out to buildings especially in removing the roofing and in stripping off the fascia boards in case bats had gained entry by some means that could not be detected during the survey. If bats are found to be present during work, they must not be handled. Work must stop immediately and advice sought from local bat wardens in the first instance (Mike and Anne Gurr 01720 422224) or if none is available, The Bat Conservation Trust's National Bat Helpline on 0845 1300 228. The BCT's adviser for the South West Region is David Jackson.

Signed:	Dated: 19/05/2017	Signed: 	Dated: 19/05/2017
Planning Officer		Senior Manager	