



Project Management



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Planning Statement

Colossus
Pilot's Retreat
St Mary's
Isles of Scilly

Prepared on Behalf of: Todd Stevens

Ref: 13489

Date: 26 September 2017

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1. INTRODUCTION

- 1.1 This Planning, Design & Access Statement is submitted in support of the full planning application seeking permission for the erection of a new dwelling and associated works at Colossus, Pilot's Retreat, St Mary's, Isles of Scilly, TR21 0PB.
- 1.2 This Statement sets out the main planning considerations and justifications for the scheme and incorporates commentary upon the design and access issues in line with the guidance contained in the Planning Practice Guidance.
- 1.3 In support of the application, this Statement demonstrates that the proposed scheme is acceptable in principle and expands upon issues relating to the amount of development upon the site, the proposed layout, scale, landscaping, appearance and access.

2. SITE AND SURROUNDINGS

- 2.1 The application site comprises part of the existing curtilage area of the dwelling known as Colossus which is set along the residential close of Pilot's Retreat on the island of St Mary's.
- 2.2 The existing dwelling is bungalow style with accommodation in the roof space. It is effectively "T" shaped with projecting single storey gable ends. The dwelling, as with most of the properties in Pilot's Retreat, was built in the late 1990's (and onwards). The dwelling sits in the largest plot within Pilot's Retreat and is at the lowest ground level. The existing dwelling has rendered elevations and a concrete tiled roof, together with timber fenestration. In terms of boundary treatments this comprises hedging and fencing.
- 2.3 The surrounding dwellings are a mix of sizes and styles and sit at various levels due to the topography of the area. For example, those on the opposite side of the road are considerably higher than the application site.
- 2.4 The Isles of Scilly are designated as an Area of Outstanding Natural Beauty (AONB), a Conservation Area and form part of the Heritage Coast.

3. DEVELOPMENT PROPOSAL

- 3.1 The application seeks planning permission for the erection of a single two-bedroom dwelling and associated works. The dwelling sought would be an open market property and it is not the intention of the applicant to restrict the dwellings use to an essential worker only via a legal agreement.
- 3.2 The proposed dwelling would be in a bungalow style with accommodation provided under the roof space. It would be a rectangular formed dwelling with gable projections at either end. The elevations would be cement render painted white with some cedar timber cladding on the upper parts of the gable ends. The roof would use reclaimed and recycled concrete tiles that match the existing property. All windows and doors would be painted timber. The proposed dwelling will be accommodated through the demolition of an existing outbuilding.
- 3.3 Internally the dwelling will provide living space on the ground floor together with a small bedroom and bathroom; with a further bedroom and en-suite bathroom under the roof space. The dwelling will measure 7 metres by 11 metres with a ridge height of 5.7 metres.
- 3.4 Parking will be provided for both properties within the site together with a small area of shared access. The boundary treatments will be unchanged with the addition of a fence between the existing and proposed dwellings.
- 3.5 It is the intention of the applicant to build this property for his and his wives old age. The existing property (Colossus) is restricted by a legal agreement and would become available to that market whilst the new property would aid the applicant for future needs.

4. PLANNING HISTORY

- 4.1 Planning permission was granted for a 2-bedroom local need dwelling in 2010 (reference P/10/057/FUL). Due to a misunderstanding with what constitutes the commencement of development this permission has now lapsed. However, it clearly demonstrates that the provision of a dwelling on site is acceptable in planning terms. It should be noted that the application was considered under the provisions of the Isles of Scilly Local Plan which was adopted in 2005 and remains the Council's current local plan.
- 4.2 Although not directly related to the application site a recent appeal decision at Holy Vale Farmhouse (appeal ref: APP/Z0835/W/17/3168678) provides relevance to the application as made.
- 4.3 The appeal at Holy Vale Farmhouse relates to the reconfiguration of 5 existing dwellings and the conversion of outbuildings to create 3 new dwellings. The appeal was allowed on 20 June 2017. Within this appeal the Inspector confirmed that paragraph 47 of the National Planning Policy Framework is relevant to the islands and that the council are unable to demonstrate a five-year housing land supply. This therefore renders policies for the supply of housing out of date. The Inspector only gave moderate weight to policy 3 of the Local Plan and identified that the benefits of the scheme outweighed the moderate harm caused by the conflict with policy 3 (lack of restrictive legal agreement).
- 4.4 The Holy Vale Farmhouse appeal therefore allowed the creation of open market housing. A copy of this appeal decision is contained at Appendix A of this statement.
- 4.5 We are also aware of a number of applications that have been approved without the provision of a legal agreement. One such application is permission P/14/045 at Jedi, McFarland's Down, St Mary's.

5. PLANNING POLICY CONTEXT

5.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions should be made in accordance with the Development Plan, unless material considerations indicate otherwise.

5.2 Paragraph 214 of the National Planning Policy Framework (NPPF) advises that for 12 months from the day of its publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with the Framework. Following this 12-month period and in other cases, paragraph 215 advises that due weight should be given to relevant policies in existing Plans given their consistency with the Framework.

National Planning Policy Framework

5.3 The National Planning Policy Framework (NPPF) was published on 27th March 2012. The Framework sets out the Government's economic, environmental and social planning policies for England and details how these are expected to be applied. It is, in itself, a material consideration in planning decisions.

5.4 At the heart of the NPPF is a presumption in favour of sustainable development. For decision taking, this means "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 this Framework taken; or specific policies in this Framework indicate development should be restricted".

5.5 The NPPF defines the three dimensions of sustainable development as:

An Economic Role: Contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation;

A Social Role: Supporting strong, vibrant and healthy communities;

An Environmental Role: Contributing to protecting and enhancing our natural, built and historic environment.

- 5.6 Furthermore, the presumption in favour of sustainable development should be seen as a golden thread running through both plan-making and decision-taking. Local Planning Authorities should approach decision taking in a positive way to foster the delivery of sustainable development. Furthermore, they should look for solutions rather than problems.
- 5.7 Paragraph 14 states that there is a presumption in favour of sustainable development. For decision taking, this means “*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 this Framework taken; or specific policies in this Framework indicate development should be restricted”.
- 5.8 In cases where authorities are unable to demonstrate a supply of housing land to meet the 5-year supply requirement the NPPF confirms at paragraph 49 confirm 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.”*
- 5.9 Furthermore paragraph 187 confirms Local Planning Authorities should approach decision taking in a positive way to foster the delivery of sustainable development. Local Authorities should look for solutions rather than problems.
- 5.10 With regard to policy relating to the historic environment, Section 12 of the NPPF provides this. Within this section the NPPF confirms that decisions need to give great weight to the conservation of heritage assets.

The Development Plan

- 5.11 The Development Plan policy context for the site and surrounding area is provided by the Isles of Scilly Local Plan. This provides the strategic planning framework for the island’s future development needs up to 2020.
- 5.12 The introduction to the Plan at paragraph 1 confirms that
- “the role of the planning process is to bring about the most efficient and*

effective use of land in the public interest. This role is achieved through the framework of policies and proposals contained in this Local Plan (the Plan)”.

5.13 The Plans vision is set out on page 2 confirming: -

“Ensure the viability of resident communities on the island by providing sufficient housing, local employment, means of transport and general social infrastructure in order to meet their needs and aspirations whilst preserving and enhancing the island’s outstanding environment and natural beauty”.

5.14 Paragraph 19 confirms that

“Information is important. Making policy and decisions based on the latest and most relevant information is also appropriate for other policy areas. We will therefore monitor the Plan’s policies and proposals and keep them under review”.

5.15 A range of policies set out how these needs can be met whilst at the same time achieving social and environmental objectives. Of these polices contained therein the most relevant to the determination of this application are Policy 1; Policy 2; and Policy 3.

5.16 Policy 1 relates to environmental protection. It seeks the protection of the islands natural; archaeological; historic; and built environment. This included conserving or enhancing the AONB; and the character and appearance of the Conservation Area.

5.17 Policy 2 relates to sustainable development. It states that development will be permitted in situations where a proposal would, where practicable and appropriate, contribute to the sustainability of the islands environment, economy or local communities.

5.18 Policy 3 of the Local Plan states:

“To endeavour to ensure that housing is available to meet the needs of the community in perpetuity and to promote sustainable communities on the inhabited islands, that no general open market housing will be permitted.

To ensure that suitable housing is available to meet the long-term needs of the community, residential development will only be permitted where is it required to meet an identified and recognised local need or to accommodate a key worker;

or

the provision of a staff accommodation for businesses where no other accommodation is available and it is not possible to recruit staff already housed on the islands.

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 permission.”

Other Material Consideration

- 5.19 It is understood that the Council have begun work on a New Isles of Scilly Local Plan with a Local Plan review. Whilst the Council are moving forward with the Local Plan review, this is yet to reach a stage whereby it can be attributed any weight in the decision making process.

Appropriate Weight

- 5.20 It is our position that the policies contained within the Development Plan that relate to the supply of housing are out of date due to the current lack of a 5-year supply of deliverable housing sites. Furthermore, it is considered that Policy 3 is not consistent with the NPPF and that the Council have failed to assess the policy against the more recent provisions of the NPPF. With this being the case Policy 3 of the Local Plan should only be given limited weight. Significant weight should be given to the NPPF and due to the lack of a 5-year housing land supply paragraph 49 triggers the tilted balance set out within paragraph 14 (the presumption in favour of sustainable development).
- 5.21 Within the planning considerations section of this statement the reasoning and justification for this weighting will be fully explained.

6. PLANNING CONSIDERATIONS

- 6.1 Having regard to the planning policy context; planning history; and development proposal, the main planning considerations for the determination of this application relate to the principle of the development; design and appearance; highway and transportation; impact on the AONB; and the impact on amenity.

Principle of Development

- 6.2 Policy relating to the principle of the development is provided by Policy 3 of the Local Plan. However, in this instance it is our position that Policy 3 is out of date, as confirmed by the appeal at Holy Vale Farmhouse, and as such the provisions of paragraph 14 of the NPPF are fully engaged. It should be noted that the appeal decision confirms that the SHMA has identified an existing demand for market housing and that there is a forecast shortfall in delivery of market housing of seven dwellings to 2019, and that needs for market housing are predominantly for one or two-bedroom properties.
- 6.3 Paragraph 14 of the NPPF provides for a “tilted balance” when Development Plans are either absent; silent or relevant policies are out of date. In such circumstances planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken; or specific policies in the NPPF indicate development should be restricted.
- 6.4 In this instance it has been demonstrated, at the Holy Vale Farmhouse appeal, that the Development Plan, and in particular Policy 3 of the Local Plan, is out of date due to a lack of conformity with the NPPF (which post-dates the plan) and the inability of the Council to demonstrate a 5-year land supply of deliverable housing sites. With this being the case, the “tilted balance” provided by paragraph 14 is fully engaged.
- 6.5 The previous grant of planning permission (although subject to a legal agreement) confirms that no other elements such as impact on the AONB or Heritage Assets were deemed harmful enough to warrant refusal of permission. It is acknowledged that the permission pre-dates the NPPF nevertheless there is not a significant enough change in those regard to come to a different decision.

- 6.6 The NPPF recognises that in order to achieve sustainable development gains should be sought in environmental; economic and social aspects.
- 6.7 In environmental terms, the development will have a limited affect, and certainly will not be materially more harmful than the previous approval. There will be no loss of trees or existing vegetation and there is an opportunity to enhance this through additional planting (if deemed necessary). Its location is still well related to the closest settlement and existing built form, with reasonable pedestrian access to wider public services.
- 6.8 The economic benefits of providing a new dwelling are clear. A new dwelling will provide for additional tax to the council as well as help to support local services which are likely to be utilised by the occupants.
- 6.9 With regard to the social gains, the development will help to boost the supply of housing in an area where new housing is very limited and properties are often virtually impossible to come by. An additional dwelling in this locality will add to the community and help support local services and business. Furthermore, the Council cannot demonstrate a 5-year land supply of deliverable housing sites and as such any new housing will help to boost the shortfall in supply.
- 6.10 The proposed development is considered to provide environmental; economic and social gains and thus, along with its compliance with the development plan and other material considerations, represents sustainable development.
- 6.11 There are no specific policies within the NPPF that indicate development should be restricted. Given this fact, and the lack of any adverse impacts let alone ones that would significantly and demonstrable outweigh the benefits of the scheme, planning permission should be granted.
- 6.12 Although there is moderate conflict with Policy 3 of the Local Plan, as the dwelling would not be restricted to essential need use, the benefits of the scheme in helping to meet the unmet need for open market housing (identified in the SHMA) and the environmental; economic and social benefits listed above outweigh the moderate harm.

Design and Appearance

- 6.13 The NPPF states at paragraph 56 that “The Government attaches great importance to the design of the built environment. Good design is a key aspect

of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.” The NPPF also confirms at paragraph 60 that “Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.” Furthermore, the NPPF states, at paragraph 61 “Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”

- 6.14 The proposed dwelling follows the design and appearance of that previously approved. Furthermore, the design and appearance follows the existing built form in terms of use of materials and architectural style. As there is a mix of dwelling types in the locality the proposed design and appearance is reflective of this and thus wholly appropriate.
- 6.15 With this being the case, the proposal is considered to be acceptable in design and appearance terms and thus in compliance with the Local Plan and NPPF in this regard.

Highways and Transportation

- 6.16 The provision of a single dwelling will not result in a significant increase in traffic generation. Furthermore, suitable access can be achieved from the public highway together with an appropriate level of on-site parking. Again, the previous consent clearly established the acceptability of the proposal in highway terms and thus, as there is no material difference in this regard the current proposal must also be considered acceptable.

Impact on the AONB

- 6.17 Policy relating to the AONB is provided in Policy 1 of the Local Plan and paragraph 115 of the NPPF. Policy 1 criterion (a) states “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.”

- 6.18 It is considered that the provisions of paragraph 115 of the NPPF are most relevant to the determination of this application given it is more up to date than Policy 1. Paragraph 115 essentially requires that great weight be given to the conserving the landscape and scenic beauty of the AONB which has the highest status of protection in terms of landscape and scenic beauty.
- 6.19 The site clearly forms part of the existing built up residential area. The new dwelling will be clearly read as part of the built form, and the retention of existing boundary hedgerows and the lack of intrusion past the established boundaries of the site ensures that the landscape and scenic beauty of the AONB is conserved. Furthermore, the proposal will not lead to greater visual prominence within the landscape of the AONB.
- 6.20 With the above being the case, it is our considered position that the development will conserve the landscape and scenic beauty of the AONB and as such it is compliant with Policy 1 of the Local Plan and paragraph 115 of the NPPF.

Impact on Amenity

- 6.21 Due to the positioning of the proposed dwellings there are no obvious amenity conflicts with neighbouring properties or land uses. The closest property is Colossus itself. There will be some windows facing Colossus but due to the fact that only a single obscurely glazed window is present on the facing elevation of Colossus there will be no loss of privacy. Due to positioning and scale there is no loss of light or overbearing impact. The proposed new dwelling will have no amenity impacts on any other property in the vicinity of the application site, for example there are no windows facing the dwelling known as Schiller which is set to the north of the site.
- 6.22 The proposed dwellings will also benefit from a suitable private outdoor amenity space with sufficient space for a washing line and refuse/recycling storage. The dwelling will have a suitable outlook with adequate light to habitable rooms. Amenity issues were not raised with the previous application and again issues in this regard are unaltered.

7. DESIGN AND ACCESS CONCEPTS

Use

- 7.1 The use of the site will remain as residential but will comprise a net gain of 1 dwelling. Being part of the settlement, the site is well related to other residential properties and therefore compatible with the prevailing land use in the area.

Amount

- 7.2 As described the development will consist of the erection of a single dwelling. This will result in a net gain of 1 dwelling. The amount of development is commensurate with the sites position and surrounding built form.

Layout

- 7.3 The layout of the dwelling is dictated by the sites physical constraints. It forms an infill plot continuing the linear pattern of development in the area. The new dwelling will replace an existing large outbuilding that will be demolished as part of this proposal.

Scale

- 7.4 With regard to scale the proposed dwelling is a bungalow style with a ridge height of 5.7 metres. It has a ground floor area of 77 square metres and is commensurate with the scale of the existing built form in the locality.

Landscaping

- 7.5 All existing landscaping features will be essentially maintained and additional planting can take place if deemed necessary. Landscaping details can be secured through the imposition of a planning condition.

Appearance

- 7.6 In terms of appearance the dwelling will reflect the existing built form in both architectural style and use of facing materials. The elevations will be rendered with some timber boarding on the upper parts of the gable ends. The windows and door will be painted timber with the roof comprising reclaimed and recycled concrete tiles.

Access

- 7.7 A suitable access to Pilot's Retreat can be achieved along with an appropriate level of on-site parking from both properties.

Conditions

- 7.8 The previously approved application (P/10/057) was subject to a number of conditions. It is hoped that if permission is granted any pre-commencement conditions can be limited. Thus, we offer the following information to cover off the previously imposed pre-conditions.
- 7.9 All building materials will be sourced from appropriate suppliers either on the island or those with existing links to the island. Any waste material will be disposed of by an appropriate and responsible contractor with any fill material again being provided from a reputable source.
- 7.10 The dwelling will be constructed to meet current building regulations. Additional renewable features will be explored including micro generation. The dwelling will be highly insulated with best possible performing windows to ensure a low energy consumption. A sustainable drainage system will be employed to maximise water conservation and harvesting.
- 7.11 If required sample facing materials can be provided for inspection onsite prior to the determination of the application. However, it is the intention to construct the dwelling with materials that match those locally used.
- 7.12 The site is already occupied by a large outbuilding and during the construction of Colossus this area was dug over. Furthermore, all earth on site was bought in during the previous construction and thus there is no possibility of finding or affecting archaeological remains.
- 7.13 In terms of boundary treatments these will remain unchanged around the perimeter of the site with a close board fencing being erected between the two (new and existing) properties.
- 7.14 It is anticipated that the finished floor level will be 0.5 metres below the floor level of Colossus with the parking area being level with the access to Pilot's Retreat.

8. SUMMARY AND CONCLUSIONS

- 8.1 The application seeks planning permission for the erection of a new dwelling and associated works at Colossus, Pilot’s Retreat, St Mary’s, Isles of Scilly, TR21 0PB.

- 8.2 The proposed development of the site to provide for a net gain of 1 open market dwelling is acceptable in principle as the council cannot currently demonstrate a 5-year land supply of housing and there is an unmet need for one and two-bedroom open market properties.

- 8.3 The scheme provides for a well laid out development which respects the local character and wider landscape and scenic beauty of the AONB. There is sufficient garden space provided with the properties and no clear amenity impacts. The access arrangements will be satisfactory with an appropriate level of on-site parking provided. With this being the case, the application is considered to result in sustainable development.

- 8.4 This Statement has reviewed the relevant Development Plan policy framework as it applies in this case, together with the other material considerations. On the evidence presented it has been demonstrated that the proposal accords with all relevant Development Plan policies and national guidance, and there are no other material considerations present to override them.



Signed.....

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Appendix A



Appeal Decision

Site visit made on 20 June 2017

by Thomas Bristow BA MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3rd August 2017

Appeal Ref: APP/Z0835/W/17/3168678

Holy Vale Farmhouse, Holy Vale Lane, Holy Vale, St Mary's TR21 0NT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr Ian Sibley against the decision of the Council of the Isles of Scilly.
 - The application Ref P/16/060/FUL, dated 1 June 2016, was refused by notice dated 22 September 2016.
 - The development proposed is the reconfiguration of 5 existing dwellings and the conversion of outbuildings to create 3 new dwellings.
-

Decision

1. The appeal is allowed and planning permission is granted for the reconfiguration of 5 existing dwellings and the conversion of outbuildings to create 3 new dwellings at Holy Vale Farmhouse, Holy Vale Lane, Holy Vale, St Mary's TR21 0NT in accordance with the terms of the application Ref P/16/060/FUL, dated 1 June 2016, subject to the schedule of conditions in this decision.

Application for costs

2. An application for costs was made by Mr Ian Sibley against the Council of the Isles of Scilly, which is the subject of a separate decision.

Preliminary matters

3. The description of development given in the banner heading is that used in the Council's decision notice. This accurately describes the current scheme, as opposed to that originally submitted which was instead for the creation of 4 new dwellings.
4. The Council explain that the internal physical alterations proposed do not require planning permission, and do not object to the effects of the development proposed in relation to the character or appearance of the area.¹

Planning background

5. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The

¹ As set out in paragraphs 6.2 and 7.1 of the Council's statement of case, including with regard to applicable designations (Conservation Area, Area of Outstanding Natural Beauty and Heritage Coast).

Isles of Scilly Local Plan was adopted in November 2005, and all policies were subsequently saved by Government direction.

6. Policy 3 'Housing' of the Local Plan sets out that in order to promote sustainable communities no 'general open market housing' will be permitted. Residential development is only supported by policy 3 where it relates to a 'specific local need' for affordable housing, is to accommodate a 'key worker', or is for the provision for staff accommodation.
7. The appeal site comprises a close-knit cluster of buildings associated with Holy Vale Farmhouse. It is within the hamlet of Holy Vale nestled within the landscape on account of the topography and surrounding tree cover. I understand that occupancy of the 5 existing residential units within the appeal site is unrestricted.
8. The proposal is to reconfigure existing buildings to create an additional 3 dwellings. As specified in the application form, these would be market housing. There are no obligations pursuant to section 106 of the Town and Country Planning Act 1990 as amended (the 'TCPA') before me which would restrict their occupancy in accordance with policy 3 of the Local Plan. Accordingly I cannot impose a restrictive occupancy condition as this would render the development substantially different from that proposed.²
9. It is therefore not disputed that the proposal conflicts with the requirements of policy 3 of the Local Plan. The main issue in this appeal is therefore whether or not the harm resulting from the conflict with policy 3 of the Local Plan would be outweighed by the benefits of the development proposed.

Reasons

10. Supporting text to policy 3 explains that it seeks to ensure that all housing development relates to needs generated 'within the islands'. Policy 3 is informed by the limited housing stock on the islands comprising the Isles of Scilly, a finite supply of land, financial constraints on affordable housing provision, and the effect of high levels of second home ownership and tourist accommodation on the local housing market. Policy 3 therefore takes local circumstances into account and aims to create sustainable communities, objectives common with the National Planning Policy Framework (the 'Framework').³
11. In practice policy 3 operates through the use of a model agreement pursuant to section 106 of the TCPA (the 'model agreement').⁴ This contains clauses which would restrict the occupation of accommodation to a qualifying person, defined as a person with a 'specific local need' or a 'key worker'. The appellant contends that the use of the Council's model agreement is impractical.
12. 'Specific local need' is defined by conditions A and B of the third schedule to the model agreement. Condition A is fulfilled where accommodation is 'inadequate', which may include consideration of whether accommodation meets the

² Planning Practice Guidance Reference ID: 21a-012-20140306.

³ Paragraphs 10 and 50 in particular.

⁴ Reproduced at appendix 3 of the appellant's statement of case.

particular circumstances of individuals.⁵ I cannot therefore support the appellant's contention that the Council's model agreement would inevitably meant that a 'child living with their parents within an adequate house are unable to purchase a house on the island for themselves (at any age)'.⁶

13. The fourth schedule to the model agreement refers to the Council's Key Worker Policy and Procedure Supplementary Planning Document dated November 2012 (the 'SPD'). Employees of private companies, such as those engaged in agriculture, fishing and tourism are not defined as key workers in the SPD.
14. I acknowledge that private enterprise is beneficial to the Isles of Scilly, tourism in particular being the mainstay the local economy. However the SPD has been informed by the demographic, economic and housing market context to which policy 3 seeks to respond. In this context the Council's SPD seeks to ensure that there is sufficient accommodation for those engaged in public service functions, health care professions, and associated supporting roles.
15. Whilst the appellant avers that it would be challenging to secure development finance were development permitted subject to the model agreement, there is no robust evidence before me in support of this position in this case (such as evidence from potential lenders). I accept that construction costs on the island are, for logistical reasons, higher than on the mainland. Nevertheless the appellant's viability evidence relates principally to detached new build properties as opposed to the proposal here which is for the conversion of structurally sound buildings. Whilst the appellant has supplemented this evidence at appeal, the proposal is not supported by a robust viability appraisal.
16. On the basis of the evidence before me I am therefore not satisfied that the use of the model agreement would necessarily be impractical. However my locus is to determine whether or not the development proposed is acceptable, and I have considered the operation of policy 3 only as it has a bearing on the planning context relevant to the development proposed.
17. Whilst the age of a development plan policy is not determinative of its currency, the Local Plan was adopted before the publication of the Framework in March 2012. I understand that the Council are therefore undertaking a review of the Local Plan. Two documents related to this review are before me: the Council's Housing Growth Plan dated May 2014 (the 'HGP') and Strategic Housing Market Assessment dated 2016 (the 'SHMA').
18. The HGP explains that the islands have an ageing population, second home ownership stands at approximately 30% of housing stock, and that housing needs exist for both affordable and market housing. It recommends that 'existing planning and housing policies should be relaxed' in order to support the viability of local services and communities.⁷
19. The HGP also references the change of emphasis in the Framework from the policy context in which the Local Plan was established, i.e. seeking to meet

⁵ The Council's published Criteria for the Assessment of Qualifying Persons asks individuals to 'describe the type and size of accommodation you are currently living in, including its physical condition'.

⁶ Paragraph 5.22 of the appellant's statement of case.

⁷ At page 2.

- objectively assessed needs for market and affordable housing. It furthermore recommends focusing housing supply on previously developed land to minimise adverse effects to the character of the islands.⁸ Criterion (b) of policy 2 'Sustainable Development' of the Local Plan likewise supports the re-use of previously developed land.
20. Similarly the SHMA identifies that there is existing demand for market housing, a component part of a figure of 120 homes established therein as representing objectively assessed housing needs to 2030.⁹ The SHMA further establishes that there is a forecast shortfall in delivery of market housing of seven dwellings to 2019, and that needs for market housing are predominantly for one or two bedroom properties.¹⁰
21. The Council has made the case at appeal, however, that it is either unnecessary to demonstrate a five year land supply of deliverable housing sites for the Isles of Scilly as set out in paragraph 47 of the Framework, or alternatively that 'an emerging' supply can be demonstrated against objectively assessed needs of 120 homes as set out above.¹¹
22. I accept that the islands are accorded particular protection on account of their natural and historic character. However paragraph 47 of the Framework does not exempt certain local planning authorities from planning to meet housing needs as fully as possible, including through the maintenance of a five year land supply of deliverable sites. The Framework furthermore does not specify that the approach in paragraph 47 can be obviated by defining the entirety of a local planning authority's administrative area as one to which rural exception site policy applies.¹²
23. Moreover the Council do not object to the proposal with regard to its effect on the character or appearance of the area, being in essence a proposal for the conversion of existing buildings. On the evidence before me, and with regard to the nature of the development proposed and its surroundings, there is nothing to lead me to a different position in this regard.¹³
24. The Council refer in their statement of case to having commenced work on a Strategic Housing Land Availability Assessment (the 'SHLAA'). However neither the SHLAA, SHMA nor Council's position in respect five year land supply has been considered at examination.¹⁴ There is therefore no robust evidence before me to support the Council's position that they are able to demonstrate a five year land supply, or to indicate what has become of the shortfall in market housing provision identified in the SHMA as set out above.
25. Relevant policies for the supply of housing must therefore be considered out-of-date.¹⁵ Nonetheless on account of the demographic and economic factors

⁸ Page 15.

⁹ In particular at table 133-11.

¹⁰ At paragraphs 13.6.5 and 2.7.6 respectively.

¹¹ Council statement of case paragraphs 5.12 and 6.18.

¹² Although such an approach may be proposed in the preparation of a Local Plan, this approach will be tested at examination with reference to appropriate evidence and in terms of its consistency with the Framework (a process which has not been undertaken here).

¹³ With regard to the relevant provisions of the Framework and applicable statutory requirements.

¹⁴ With reference to the requirements of paragraph 182 of the Framework.

¹⁵ With reference to paragraphs 49 and 14 of the Framework.

which policy 3 of the Local Plan seeks to address as explained above, I am of the view that policy 3 carries moderate weight in the present.¹⁶ Accordingly the harm arising from the development proposed conflicting with policy 3 also attracts moderate weight.

26. However the proposal would have various benefits. It would provide for 3 new open market homes, for which there is an existing level of need as set out in the HGP and SHMA, and in line with the approach in the Framework of seeking to meet objectively assessed development needs. The proposal would entail further social and economic benefits in supporting employment during construction and as future occupants would make use of nearby services and facilities.
27. Furthermore the dwellings proposed would be either one or two bedroom in size, in respect of which there is particular need acknowledged in the SHMA. The proposal would re-use previously developed land which is supported by criterion (b) of policy 2 of the Local Plan, and would entail no unacceptable effects to the character or appearance of the area. Taken together the benefits of the development proposed carry significant weight in its favour.
28. For the above reasons I therefore conclude that the adverse impacts of the development proposed resulting from the conflict with policy 3 of the Local Plan would not significantly and demonstrably outweigh the benefits that would result.

Other matters

29. I have considered the concerns raised by nearby residents regarding the adequacy of the parking provision proposed, access arrangements, and sewerage capacity. Based on the information before me and my site visit observations, I am of the view that parking provision would be comparable with that associated with many other properties nearby and would not serve to unduly constrain the functional space available along the carriageway adjacent to the appeal site. All drainage provision will need to comply with the relevant provisions of Building Regulations,¹⁷ which is a separate regime to planning. I would also note that the Council raises no objection to the development proposed in these regards. Accordingly neither these matters, nor any others, are of such significance so as to alter my reasoning in respect of the main issue in this appeal.

Conclusion

30. For the above reasons, and having taken all other relevant matters into account, the harm arising from the conflict with policy 3 of the Local Plan would not outweigh the benefits of the proposal. Therefore with regard to the Local Plan taken as a whole and the approach in the Framework, I conclude that the proposal represents sustainable development and should be allowed subject to conditions set out below.

¹⁶ With reference to paragraph 215 of the Framework.

¹⁷ Approved Document H- Drainage and Waste Disposal in particular.

Conditions

31. I have imposed a condition requiring compliance with the relevant plans in the interests of certainty. There is no specific provision in policy 3 enabling the imposition of a condition requiring that dwellings proposed are occupied as principal residences, and the use of the development proposed is specified as dwellings rather than holiday accommodation.¹⁸ Condition 3 as proposed by the Council in their statement of case is thereof unreasonably and unnecessary.¹⁹
32. As established above the buildings proposed for conversion are a close-knit cluster and the character and appearance of the area is sensitive to change. Given the potential for even relatively minor alterations to the dwellings proposed to either adversely affect the living conditions of the occupants of neighbouring properties or the character of the area, I am satisfied that it is appropriate to withdraw certain permitted development rights via condition.²⁰ However this condition need not apply to Schedule 2, Part 1 classes F, G, and H of the Town and Country Planning (General Permitted Development) (England) Order 2015, as the limitations or conditions in these classes provide adequate safeguards to avoid undue effects.
33. In order to safeguard the living conditions of those nearby during construction it is necessary to specify via condition the hours during which building operations may occur. To ensure that the proposal integrates appropriately with its surroundings it is further necessary to impose conditions requiring that agreed external materials are used, and that an agreed landscaping scheme and boundary treatment scheme are implemented. Appropriate external materials must necessarily be agreed before any external development takes place.
34. I have imposed a condition requiring that an agreed sustainable design scheme is implemented. This accords with the approach in criterion (2) of policy 2 'Sustainable development' of the Local Plan, which sets out that the design of development should seek to use natural resources efficiently, and applies before any development is commenced as such a scheme may influence the approach taken to construction.
35. It is unnecessary to impose a condition addressing the potential effects of the development proposed on birds and bats as protections apply under separate legislation,²¹ and as the appellant's Bat Survey Report dated 22 May 2016 concludes that 'no evidence was found that bats were roosting in these buildings or had done so in the past'.
36. A condition related to waste management, as proposed by the Council, is unnecessary. The condition proposed by the Council seeks to control hypothetical adverse effects resulting from the disposal of waste material, and there is no specific provision in policy 1 'Environmental protection' for such an

¹⁸ With regard to section 75(3) of the TCPA.

¹⁹ With reference to paragraph 206 of the Framework.

²⁰ With reference to the Planning Practice Guidance Reference ID: 21a-017-20140306.

²¹ Including variously the Countryside and Rights of Way Act 2000, The Wildlife and Countryside Act 1981, and the Natural Environment and Rural Communities Act 2006.

approach. In any event the Council have other powers to remedy adverse effects that may arise in this regard.²²

37. In imposing conditions I have had regard to relevant requirements,²³ and have accordingly amended the wording of certain conditions proposed by the Council without altering their aim.

Thomas Bristow

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 100/03 Rev 2, 100/04 Rev 2, 1008 Rev 1, 100/09.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order), no development permitted by Schedule 2, Part 1, Classes A, B, C, D, or E of that Order shall be undertaken in relation to the dwellings hereby permitted.
- 4) No construction works related to the development hereby permitted shall take place outside of the following hours: 0800 – 1800 Mondays to Saturdays. No construction works related to the development hereby permitted shall take place on Sundays, on public holidays, or on bank holidays.
- 5) Other than internal works no development hereby permitted shall be undertaken until details or samples of the external materials to be used have been agreed in writing with the local planning authority (which shall include details of the manufacturer, range, and colour details where applicable). Development shall be carried out in accordance with the details and samples thus agreed.
- 6) In the first planting season following the first occupation of any of the dwellings hereby permitted, or the completion of the operational development hereby permitted, whichever is the sooner, a landscaping scheme shall be implemented in accordance with details previously agreed in writing with the local planning authority (which shall include details of all existing trees and hedgerows on site, details of any trees and hedgerows to be retained together with measures for their protection during construction,

²² Including notices under section 215 of the TCPA.

²³ Including paragraph 206 of the Framework, Guidance Reference ID: 21a-004-20140306 and Article 35(1)(a) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

a schedule of proposed plant species, size, density and planting locations alongside an implementation programme). Any trees or plants which within a period of 5 years from the implementation of the landscaping scheme die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 7) Before any of the dwellings hereby permitted is first occupied a boundary treatment scheme shall be implemented in accordance with details previously agreed in writing with the local planning authority (which shall include details of the position, design, materials, height and type of any boundary treatments proposed). The boundary treatment scheme shall thereafter be retained in accordance with the details thus agreed.
- 8) No development hereby permitted shall be undertaken until a sustainable design scheme has been agreed in writing with the local planning authority (which shall include details of any water conservation and harvesting measures and renewable energy generation). Development shall be carried out in accordance with the sustainable design scheme thus agreed.