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Local Planning Authority Ref. P/18/090

### **Planning Appeal Statement**

Men-A-Vaur, Church Road, Hugh Town, St Mary's,  
Isles of Scilly, TR21 0NA

Ref: 14382

Date: 19 March 2019

<b>1.</b>	<b>INTRODUCTION</b> .....	<b>1</b>
<b>2.</b>	<b>SITE AND SURROUNDINGS</b> .....	<b>3</b>
<b>3.</b>	<b>APPEAL PROPOSAL</b> .....	<b>4</b>
<b>4.</b>	<b>PLANNING HISTORY</b> .....	<b>5</b>
<b>5.</b>	<b>PLANNING POLICY CONTEXT</b> .....	<b>6</b>
	The Development Plan .....	6
	National Planning Policy Framework .....	6
	Other Material Policy Considerations .....	8
	Appropriate Weight .....	8
<b>6.</b>	<b>PLANNING CONSIDERATIONS</b> .....	<b>10</b>
	Privacy and Amenity .....	10
	Green space and biodiversity .....	12
	Access .....	15
	Other matters .....	18
<b>7.</b>	<b>SUMMARY AND CONCLUSIONS</b> .....	<b>20</b>
	<b>Figure 1 - Site Location (taken from Google Maps)</b> .....	<b>3</b>
	<b>Figure 2 - Site Location Plan</b> .....	<b>4</b>

## 1. INTRODUCTION

- 1.1 Evans Jones Ltd, are instructed by Selleck Nicholls to present the case demonstrating that planning permission should be granted for the construction of two semi-detached residential properties for holiday letting purposes, specifically designed to enable occupation of groups including mobility impaired guests, incorporating ground floor wet room en-suite bedroom accommodation and level access to all ground floor and garden areas, at Men-a-Vaur, Church Road, Hugh Town, St Mary's, Isles of Scilly.
- 1.2 The submitted application, subject to this appeal, comprised of the following drawings/documents;
- Location Plan
  - 2050-002 – Site Plan
  - 2050.101 – Proposed Plans
  - 2050.102 – Proposed GF Ensuite
  - 2050.201 – Proposed Elevations
  - 2050.202 – Proposed Street Elevation
  - Design and Access Statement (Selleck Nicholls Ltd)
- 1.3 The application was refused Planning Permission by the Council of the Isles of Scilly on 5 March 2018, citing the following refusal reasons:
- R1 The proposed development by reason of the close proximity to existing neighbouring properties on Branksea Close is considered to give rise to significant overlooking contrary to the guidance set out in the Isles of Scilly Design Guide. This Supplementary Planning Document requires development to be designed to minimise overlooking of existing neighbouring properties.*
- R2 The proposed development would result in the loss of greenspace and biodiversity habitat, which is not compensated for in the application, contrary to the requirements of emerging Policy OE2 of the Draft Isles of Scilly Local Plan 2015-2030 and paragraph 170 (d) of the National Planning Policy Framework, 2018.*
- R3 The proposed development would provide up to 12 bedspaces of holiday letting accommodation that would be served by an access road that is inadequate for service vehicles, number of pedestrians and the proximity of that access to other properties.*

- 1.4 A copy of the Local Planning Authority's Decision Notice, is contained within the appeal submission. A copy of the Officer Report to Full Council recommending that permission is granted is contained as Appendix 1.
- 1.5 Article 35 of the Town & Country Planning (Development Management Procedure) (England) Order 2015 states, inter alia, that where a Local Planning Authority gives notice of a decision to refuse planning permission, the Notice shall state clearly and precisely their full reasons for refusal. Having regard to the above, the main issues to be addressed in the determination of this appeal relate to:
- The impact of the development on the privacy and amenity of adjoining occupiers;
  - The impact of the development on local green space and biodiversity; and
  - The adequacy of access to serve the development.
- 1.6 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions should be made in accordance with the adopted Development Plan unless material considerations indicate otherwise.
- 1.7 This Statement reviews the relevant Development Plan policy framework as it applies in this case, together with the other material considerations. On the evidence presented it will be demonstrated that the development will protect the amenity of neighbouring occupiers, not result in the detrimental loss of green space or biodiversity and maintain safe and suitable standard of access.

## 2. SITE AND SURROUNDINGS

- 2.1 The application site is located within the central urban area of Hugh Town, occupying a backland plot to the rear of the property known as Men a Vaur and adjacent to Branksea Close.
- 2.2 The site comprises some 0.05ha of garden land. This can be seen in Figure 1.



Figure 1 - Site Location (taken from Google Maps)

- 2.3 Access to the site is currently obtained via Church Road and, as a secondary point and by pedestrians, Branksea Close to the southeast.
- 2.4 The character of the area is predominantly dictated by C20<sup>th</sup> residential dwellings, being a mixture of detached and semi-detached and generally set over a modest two-storey scale. Some, including dwellings at Branksea Close, occupy 'backland' locations with no direct vehicular access.
- 2.5 In policy terms, the site is located within the urban area of Hugh Town, and also within the overarching designation of the Isles of Scilly Conservation Area and AONB.

### 3. APPEAL PROPOSAL

3.1 The appeal proposal seeks planning permission for the construction of two semi-detached residential properties for holiday letting purposes, specifically designed to enable occupation of groups including mobility impaired guests, incorporating ground floor wet room en-suite bedroom accommodation and level access to all ground floor and garden areas. The proposed site layout is shown below in Figure 2.



Figure 2 - Site Layout Plan

- 3.2 As shown, the proposed building is to comprise of a two-storey block connected by a modest link (shown orange) to a single-storey element, together forming a pair of dwellings intended for use as inclusive-access holiday lets. The site layout also includes additional access and amenity surfacing and associated landscaping following the removal of a greenhouse and small number of trees.
- 3.3 The building itself is to be constructed in the local style, finished principally in painted render interspersed with cement boarding and featuring pitched and hipped roofs finished in natural slate and pantiles through the link section.
- 3.4 Externally, level-access decked areas are to be incorporated into the northwest and southern reaches of the site, both of which link to a continuous inclusive-access surface incorporating suitable gradients for wheelchair users and connecting back to Branksea Close.

## 4. PLANNING HISTORY

- 4.1 A review of the Council's online planning register shows the following application(s) which are of relevance to this appeal:
- 4.2 *P/15/066/FUL - Change of use from HMO (Use Class C4) to Hostel (sui generis) with associated internal alterations – Withdrawn*
- 4.3 *P15/067/FUL - Construction of new block to provide hostel accommodation (sui generis) use for staff accommodation – Withdrawn*
- 4.4 The two applications above comprised, in effect, a single scheme relating to both Men-a-Vaur itself and an associated proposed new building to be situated to the rear, together providing hostel accommodation including staff beds/facilities. The scheme presented minor alterations to the original building together with its change of use from HMO (Class C4) with the additional two-storey block situated at the widest point of the garden to the rear.
- 4.5 *P/15/068/FUL – Construction of new block to provide hostel accommodation (sui generis) use for staff accommodation – Withdrawn*
- 4.6 Submitted in parallel with the two applications above, this application presented an additional proposed block to provide hostel/staff accommodation within the garden of Men-a-Vaur, positioning this further southwest toward the rear. The building proposed was slightly smaller in plan than that subject of P/15/067/FUL (9 beds and 12 beds respectively) but otherwise of similar scale and design.
- 4.7 All three applications were subsequently withdrawn, undetermined, in October 2016, presumably having failed to gain officer support.

## 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.

### The Development Plan

- 5.2 The Development Plan policy context for the site and the surrounding area is provided by the adopted Isles of Scilly Local Plan, of which the following policies are relevant:

Policy 1 – Environmental protection

Policy 2 – Sustainable development

Policy 4 – Economic development

### National Planning Policy Framework

- 5.3 The National Planning Policy Framework (The Framework) was revised on 24th July 2018. 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 The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development, which can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs. So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development. This means *“approving development proposals that accord with an up-to-date Development Plan without delay”* or *“where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out of date, granting permission unless: i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework as a whole.”*

- 5.5 The Framework defines the three overarching objectives of sustainable development as:

**An Economic Objective – to help build a strong, responsive and competitive**

*economy, by ensuring that sufficient land of the right types is available in the right places at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*

**A Social Objective** – *to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being;*

**An Environmental Objective** – *to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*

- 5.6 These objectives should be delivered through the preparation and implementation of plans and the application of policies in the Framework; they are not criteria against which every decision can or should be judged. Planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.
- 5.7 Paragraph 212 of the Framework advises that the policies within the Framework are material considerations which should be taken into account in dealing with applications from the day of its publication.
- 5.8 Paragraph 213 of the Framework advises that existing policies should not be considered out-of-date simply because they were adopted or made prior to publication. Due weight should be given to them, according to their degree of consistency with the Framework and that the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.
- 5.9 Section 12 of The Framework provides context to design with planning. Paragraph 124 states “The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to

communities.”

- 5.10 Paragraph 109 of the Framework directs that *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*
- 5.11 Paragraph 128 of the Framework states, *inter alia*, that *“Applicants should work closely with those affected by their proposals to evolve designs that take account of the views of the community. Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably than those that cannot.”* Although set in the context of ‘design’, taken on a literal reading, this direction is broader in reality.
- 5.12 Finally, Paragraph 170(d) of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by *“minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.”*

### **Other Material Policy Considerations**

- 5.13 Outside of the Development Plan and the Framework, there are other material considerations that need to be taken into account in relation to this development. In this case, the other material policy considerations are:
- Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990
  - Planning Practice Guidance
  - Islands Partnership Destination Management Plan 2018
  - Consultation Draft Isles of Scilly Local Plan 2015-2020

### **Appropriate Weight**

- 5.14 Regarding the weight that is given, Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that, determination of applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise. In this instance, full weight is given to the adopted Isles of Scilly Local Plan as it forms the Development Plan.

- 5.15 As it forms the basis of Government policy for planning applications, a high degree of weight should be given to the policies of the Framework. This should not be at the expense of the Development Plan since it is up to date.
- 5.16 Since they do not form part of the Development Plan, limited weight can be given to the aforementioned SPDs/SPGs. Owing to its very early stage in preparation, the emerging Consultation Draft Local Plan can also be afforded only very limited weight in decision-making. However, they are nonetheless material considerations and should not be overlooked.

## 6. PLANNING CONSIDERATIONS

6.1 With regard to Development Plan Policies and the refusal reason given by the Local Planning Authority the main planning issue for consideration are as follows:

- The impact of the development on the privacy and amenity of adjoining occupiers;
- The impact of the development on local green space and biodiversity; and
- The adequacy of access to serve the development.

6.2 These will be examined in turn in the following sections.

### Privacy and Amenity

6.3 The first Reason for Refusal references a perceived loss of amenity arising explicitly in relation to overlooking. It is understood that the principal area of concern is between the outlook from the first-floor Bedroom 1 window and the equivalent first-floor window(s) of no.8 Branksea Close. As the ground floor windows would be enclosed by the indicated boundary treatments and the SE window to Bedroom 2 would site backward of the nearby no.4 Branksea Close, no conflict is anticipated in relation to these parts of the scheme.

6.4 Examining this arrangement in detail it is readily apparent from the site layout plan that the relationship between units would be far from unique in the context of the local area, which is characterised by a range of plot and building orientations and forms, with no prevailing built grain. This contributes in its own way to the distinctive qualities of the area and a general expectation that one will be able to see other windows from one's own.

6.5 When considering the potential for conflict in window-to-window overlooking, the adopted Design Guidance SPD suggests a 45° principle, measured from the centre of the affected windows, as an indicator of where conflict may arise and, conversely, where views would be too oblique to be significant. The angle of windows in this instance fall at the very limits of this 'direct view' range, being at approximately 63° to the nearest first-floor window of no.8, around 8m away. Return visibility from no.8 is however at an acute angle of 30°, and thus any inter-visibility between the actual accommodation of the two rooms would be extremely limited.

- 6.6 The case officer considers this relationship at Paragraph 46 of the report to Full Council, stating that: *“The majority of the windows in the proposed development would be within the eastern elevation of the proposed building. These would face towards the properties of Branksea Close. However, the first floor windows would only face onto the end elevations of these properties that have no windows in them...”* The section of the report concludes at Paragraph 52: *“Taking the above into account, it is considered that the proposed development would not cause material harm to neighbouring amenity.”*
- 6.7 While the ‘45° rule’ provides a useful general principle, it should also be noted that Page 51 of the Design Guidance SPD emphasises that *“Due to the “tight” character of many of the settlements, proposed layouts based on a strict adherence to the distance principle are unlikely to be appropriate as the principle tends to produce a suburban layout, which is rarely achievable or desirable. Thus privacy should be achieved through the careful siting, design (interior and exterior) and placement of windows.”*
- 6.8 The appeal scheme presents exactly such an example, in which it is proposed to make increased use of an enclosed plot within an already densely-developed area. In this instance, dogmatically following the guidance to the letter would be likely to result in a development of poor external appearance and internal configuration; an undesirable outcome. Instead, the proposed layout follows the orientation of the site to site close to perpendicular to the dwellings at Branksea Close so that, as the officer observes, the primary view is of blank gable ends.
- 6.9 The Inspector is also invited to note the existing relationship of the affected property, no.8, to the units both front and back, which follow a near-identical orientation and a direct window-to-window distance of around 11m. This shows clearly the reduced expectation of privacy in this densely-developed area, achieving around half the separation distance advocated in the Design Guidance (21m). Adding to that that guests of the new accommodation would be residing there only temporarily it is reasonable to assume that they would have a similarly flexible attitude to amenity.
- 6.10 Taking these considerations together, it is plain that the relationship between the proposed development and existing occupied buildings will not result in the loss of residential amenity by way of increased overlooking, and moreover will

simply replicate an already-established pattern of built development.

- 6.11 So slight is the potential for oblique overlooking between Bedroom 1 and no.8 Branksea Close that it is quite apparent that – should some issue still be perceived – a simple modest louvre/screen or similar measure installed on the northern side of the window would overcome any perceived issue. This could be secured through an appropriately-worded planning condition requiring agreement of details and installation prior to occupation, although it is emphasised categorically that this is not considered necessary.
- 6.12 It is appreciated that residential amenity is a subjective matter however when having regard to the present circumstances of the site, the physical configuration of the proposed development and the measures that may potentially be secured by condition it is clear that Reason for Refusal 1 is unfounded in this instance.

#### **Green space and biodiversity**

- 6.13 There is no Development Plan policy that expressly guards against the redevelopment of enclosed private green space for its own sake (and in fact no reference to green space within the Local Plan whatsoever), nor would such an approach align with the objectives of delivering a limited amount of development across the islands over the plan period. Indeed, the Design Guidance (Page 80, 'Gap and infill projects in Hugh Town') explicitly identifies that *"Most development plots will be infilling between existing buildings."*
- 6.14 The Inspector's attention is drawn to application P/18/044 (Ocean View, Old Grimsby, Tresco), which was approved by the same Full Council on 10 July 2018. Associated details are included in Appendices 2-5 to this Statement. In that instance, the development concerned the development of a similar verdant, infill plot, including the removal of vegetation, to provide a single self-contained unit of holiday accommodation. The loss of green space was not recorded in that case, and Councillors agreed with the Officer's assessment in respect of ecology, ultimately imposing a 'landscaping' condition similar to that recommended in respect of the appeal scheme at C7. Although each case is considered on its merits, this further reinforces the appropriateness of the approach advocated by Officers and the Appellant in this instance.

- 6.15 The site location in respect of application P/18/044 at Ocean View is shown below for reference.



Figure 3 – Ocean View Location Plan

- 6.16 In the course of the Full Council debate leading to the decision to refuse the application subject of this appeal, not one specific specie of animal or plant is mentioned by name, save for a general reference to ‘bats’. Furthermore, the expectations of adopted Policy 1(d) and (e) are clear; development proposals should *“Safeguard the integrity and nature conservation objectives of Special Protection Areas (SPAs), Ramsar Sites and Special Areas of Conservation (SACs);”* and *“Protect a statutorily-protected plant or animal species and the wildlife, geological and geomorphological interest and features of designated Sites of Special Scientific Interest; and locally important biodiversity habitats, species and landscape features”*. The proposals satisfy these requirements.
- 6.17 As a matter of record, Natural England has been consulted on the original application and confirmed that no objection is raised on the basis that the proposed development will not have any significant adverse impact on statutorily protected species. There are no known protected species on the site, which having been long established as a residential garden has very limited ecological potential, nor are any of the limited number of trees scheduled for removal subject of TPOs, albeit they are afforded some protection by the overarching Conservation Area designation.

- 6.18 In this case, therefore, there is no statutory or Development Plan policy basis to object to the proposals on the grounds of loss of wildlife. That being established, consideration then turns to Paragraph 170(d) of the Framework, as cited in the decision notice, which explains *inter alia* that planning decisions “*should contribute to and enhance the natural and local environment by... minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.*”
- 6.19 In the first respect, it is clear that so far as is reasonably practical the impacts on biodiversity have been minimised in this case. Tree removal will only be undertaken where physically necessary to accommodate the proposed building and the majority of the site will remain as open lawn, thus the development will not interrupt any existing ecological network by acting as a firm barrier to transient species. Thus, the proposals satisfy the first part of Paragraph 170(d).
- 6.20 Notwithstanding, the trees may make a modest contribution to local character and may support nesting birds, as indicated by Paragraphs 65-66 of the officer’s report. In the light of this, the Appellant would have no objection to the imposition of conditions as recommended by the officer (nos. C7 and C8 of the report) to secure suitable measures to ensure net gains to biodiversity as appropriate, meeting the second objective of Paragraph 170(d). That such measures are not compensated for in the application submission is not fatal to the application or appeal, however.
- 6.21 The reason for refusal also cites emerging Policy OE2 of the draft Local Plan 2015-2030. At the time of writing the draft document remains at the pre-submission consultation (Regulation 19) stage, with no guarantee that it will emerge without outstanding objections and/or be received positively by an Examiner. Owing to its relatively early stage in production, in accordance with Paragraph 48 of the Framework, the emerging Plan thereby commands only very limited weight in decision-making. It is nonetheless a material consideration.
- 6.22 The relevant policy replicates much of the sentiment of Paragraph 170(d) as previously discussed, seeking at Pt (8) that “*Development should avoid adverse impacts on existing biodiversity and geodiversity interests as a first principle,*

*and enable measurable net gains by designing-in biodiversity features and enhancements and opportunities for geological conservation alongside new development.”* In the light of the above, there is no clear way in which a conflict with this emerging policy arises in this case, as the proposals are capable of addressing any nominal impact on biodiversity.

- 6.23 In the light of the above, and in the absence of any evidence to the contrary, it can be demonstrated that the impacts of the development on biodiversity have been minimised and that net gains can be secured by way of planning conditions as appropriate. The site is appropriate for infill development and no policy protection is afforded to green space locally but, notwithstanding, the proposals will conserve the verdant nature of the site as part of the ad-hoc network of such areas within Hugh Town.
- 6.24 Thus, subject to planning conditions as reasonably necessary, Reason for Refusal 2 is demonstrably overcome.

### **Access**

- 6.25 Access to the development is to be obtained via the existing lane leading from Church Road to Branksea Close, which provides a level surface that will connect ultimately to the integral graduated pathways shown on the submitted plans. These will provide unencumbered access to both units for a range of users, including those mobility-impaired and/or reliant on wheelchairs. As observed by officers, being that the proposals relate to short-term visitor accommodation and that guests are unable to bring their vehicles to the island, this would not lead directly to any increased vehicular traffic.
- 6.26 The third and final Reason for Refusal cites concerns that the development *“would be served by an access road that is inadequate for service vehicles, number of pedestrians and the proximity of that access to other properties.”* No Development Plan policy is indicated in support of this judgement, nor any conflict with the Design Guidance identified as the basis for that conclusion.
- 6.27 The Design and Access Statement contains an image demonstrating the regular usage of the lane at Branksea Close, directly adjacent to the appeal site, by refuse collection vehicles. There is nothing to suggest that the development would predicate an increase in the size of vehicle or frequency of trips for this purpose, while service vehicles already use this route to access the

properties at Branksea Close. The proposed development could also generate a modest number of additional visits required for changeover periods, however in all likelihood these would generate only trips on foot given the very small size and high accessibility of the surrounding settlement.

- 6.28 Turning then to whether the volume of pedestrian traffic associated with the 12 bed spaces of accommodation sought – together with any service visits – would result in a harmful increase in footfall along the existing lane it is firstly notable that the access is, of course, already publicly accessible and not subject to any limitations on its use by pedestrians. Relative to this starting point, whereby the lane already provides the sole access to at least 10 residential properties, excluding Men-a-Vaur, an increase of two further units, however occupied, will have little discernible effect.
- 6.29 As regards the proximity of the access to neighbouring properties, the occupants of no.8 in particular would have no more control over the behaviour of individuals using the proposed accommodation than they do currently over the occupants of nos.1-7 using the same route. Neither, however, is there anything to suggest that visitors would use the access in a dissimilar way to existing residents and therefore the effect of change is simply a modest increase in pedestrian traffic that it is difficult to foresee introducing an undue maintenance liability.
- 6.30 It should be noted that the CIOS Infrastructure statutory consultee raised no objection in respect of highways matters. Although it was anticipated in the officer's report to Full Council that the development – owing in particular to its being targeted toward mobility-impaired users – would likely generate some additional vehicle movements, the report goes on to conclude that there is adequate capacity for any modest increase in parking requirement on the nearby Church Road. The site's highly sustainable location is also identified as a reason why dedicate on-site provision is not required.
- 6.31 Furthermore, one must be mindful that Paragraph 109 of the Framework directs that *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”* As there is no indication whatsoever that the development would be detrimental to safety, the

'severe' test is engaged as the benchmark in this instance. In the light of the above, it is inconceivable that the development proposed would, through its impact on the surrounding road network alone, breach this 'severe' threshold.

6.32 Turning to the specific access provision on site, at Paragraph 10.4.1 of the document, the Destination Management Plan explicitly states the Islands Partnership's aim "...to have a balanced, diverse mix of quality accommodation that serves changing visitor markets, encouraging year-round visits." While several public representations challenge the proposals on the grounds that the islands are not reputationally accessible for the mobility-impaired, it is suggested that this cannot be treated as justification for resisting meaningful accessibility improvements where achievable.

6.33 Both internally and externally, the proposed development seeks to deliver convenient access to a range of mobility-impaired users, including through features such as widened, shallow-gradient pathways, level thresholds, widened doorways and enlarged bathrooms at ground floor level. This will contribute to meeting what was acknowledged explicitly at the pre-application stage to be an identifiable local shortfall of suitable accommodation, per the Islands Partnership's Executive Director's comments below:

*"I can confirm that there are indeed very few holidays lets, or guest accommodation on the Isles of Scilly that offer dedicated, specially converted accessible rooms. The accessible room at the Atlantic Inn on St. Mary's is one of the only rooms we are aware of that offers additional, dedicated facilities for mobility impaired, wheelchair bound guests.*

*We are aware that this is something that mobility impaired visitors do enquire about, so any new facilities of this nature would likely fulfil this latent demand."*

6.34 The provision of this more adaptable accommodation is therefore a significant material benefit of the development and will contribute to diversifying the islands' tourism offer and guest profile pursuant to the aims of the Destination Management Plan.

6.35 In the light of the above, it can be demonstrated that the proposals will not impact adversely on local highways or in terms of access and will in fact offer a much-improved resource for those with greater accessibility challenges. As such Reason for Refusal 3 is unfounded.

### Other matters

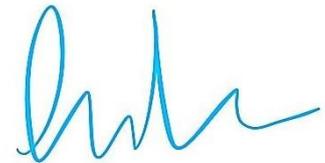
- 6.36 For the purposes of completeness, it should be noted that there is no disagreement between the appeal parties in respect of:
- The appropriateness of the development in principle;
  - The siting, scale, form or external appearance of the proposed building;
  - The appearance of the proposed landscaping;
  - Impact on the local highway network;
  - Amenity impacts arising from increased activity (i.e. save for window-to-window overlooking);
- 6.37 It is also relevant to note that if significant weight is to be ascribed to emerging Local Plan Policy OE2 despite its early stage in production, equal weight should be given to emerging Local Plan Policy WC5, which states:
- Proposals for new or upgraded tourism development will be permitted where they (a) make a positive contribution to the provision of high quality sustainable tourism on the islands that improves the current visitor experience, offer and responds to the changing needs and expectations of visitors to help create a more competitive and sustainable visitor destination; and (b) are located in sustainable and accessible locations; and (c) are appropriate to the site and its surroundings in terms of activity, scale and design; and (d) do not result in an unacceptable impact on the environment or residential amenities in accordance with other relevant policies in the Local Plan.*
- 6.38 Acknowledging that the matter of the principle of development is not at issue in this appeal, this is something of a side-matter. Notwithstanding, it should be noted for completeness that the emerging policy bolsters, rather than conflicts with, the desirability in planning terms of the accommodation as proposed.
- 6.39 Turning to the matter of the conditions as recommended in the officer report to Full Council, the Appellant has no objection to most of these however one is a cause of some concern. This is namely condition C6, requiring the submission and agreement of a scheme for the minimising of sewerage discharge at peak times prior to commencement of development. In practice, this is likely to necessitate a tanked, time-controlled system to be installed, the cost of which will be borne by the developer.
- 6.40 At the Full Council meeting it was accepted that there remained capacity in the

system despite recent temporary issues, however, and thus the notional resolution of a questionable problem's falling to a single developer is considered unreasonable. The developer will of course need to satisfy the Building Regulations and complete an agreement with the relevant statutory undertaker in any case, so that as with recommended condition C5 (relating to water minimisation) the condition as worded is considered *ultra vires*.

- 6.41 It is noted that several representations refer to a stated preference that the site is used for local housing, potentially with a restrictive condition preventing other ownership. That may well be the case however that is not the substance of the proposal before the decision-maker. Each application (or appeal) must be considered on its individual merits and the existence of some other speculative prospect for the site is not material to the consideration of the scheme.
- 6.42 The Framework advocates early and proactive engagement with stakeholders as a means of achieving better outcomes (Paragraph 128). In this instance, the Appellant has engaged with the Local Planning Authority, securing pre-application advice on two separate occasions (May 2018 and November 2018 respectively), directly by exchange with the Islands Partnership, and with the local community through targeted neighbour consultation undertaken in July 2018. The feedback received duly shaped the submission scheme in a meaningful way and it should be noted that the Framework directs that the proposals therefore "*should be looked on more favourably*" than had no such engagement taken place.

**7. SUMMARY AND CONCLUSIONS**

- 7.1 The appeal proposal seeks planning permission for the construction of two semi-detached residential properties for holiday letting purposes, specifically designed to enable occupation of groups including mobility impaired guests, incorporating ground floor wet room en-suite bedroom accommodation and level access to all ground floor and garden areas, at Men-a-Vaur, Church Road, Hugh Town, St Mary's, Isles of Scilly.
  
- 7.2 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.
  
- 7.3 For the reasons given above, the Inspector is respectfully requested to allow the appeal as made.



Signed .....

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Project Management



Planning Consultants



Building Surveyors



Disabled Access  
Consultants

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