

Council of the Isles of Scilly Delegated Planning Report

Application Number: P/19/040/FUL

Received on: 17 July 2019

UPRN: 000192002238

Application Expiry date: 12 September 2019

Neighbour expiry date: 8 August 2019

Consultation expiry date:

Site notice posted: 18 July 2019

Site notice expiry: 8 August 2019

Applicant: Mr Alistair Martin Duchy of Cornwall

Site Address: Street Record
Launceston Close
Old Town
St Mary's
Isles of Scilly

Proposal: Retrospective application for planning permission for external decorations and alterations to porches on all properties in Launceston Close.

Application Type: Planning Permission

Recommendation

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1. That the Application is APPROVED subject to the condition set out below.
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Public Representations: None
Consultation Representations: NONE

Constraints: None

Site Description and Proposed Development

The application is a residential housing development of eight two-bedroom bungalows and 18 three bedroom terraced dwelling. Launceston Close was constructed in the 1960's. The site includes private roads, parking and communal areas of open space and private gardens. The residential estate is in part visible from the coast and Old Town.

The application site is surrounded by further residential development, converted barns, farmland, workshops and Old Town beach.

The proposal includes the redecoration of the external walls to all the 26 dwellings within Launceston Close. This includes the change in colour to the properties and the removal of small porches with simple lean-to roofs with gallows brackets covering the front entrances to the dwellings.

Background and Relevant History

None

Consultations and Representations

Neighbouring properties set out below have been written to directly and x2 site notices were placed around the site for a period of 21 days.

- Old Town Barn
- Dolphins
- Upper Farmhouse
- Lower Farmhouse
- Little Tolman

No presentations have been received

No consultations were identified as necessary.

Primary Legislation and Planning Policy

Primary Legislation

The Town and Country Planning Act 1990

Section 70(2) of the Planning Act requires the Local Planning Authority to have regard to the development plan, so far as material to the application, and any other material considerations when determination planning applications.

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) 2019

At the heart of the NPPF is a presumption in favour of sustainable development. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. It is highly desirable that local planning authorities should have an up-to-date plan in place. With respect to general development and the Strategic Policies it is considered that the Local Plan remains up to date and conforms to the requirements of the NPPF.

Paragraph 48. Sets out that Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

Paragraphs 39-41 identifies the need to front-load the planning system through pre-application engagement. This states that the right information is crucial to good decision-taking, particularly where formal assessments are required (such as Environmental Impact Assessment, Habitat Regulations Assessment and Flood Risk Assessment). To avoid delays the NPPF advocates early discussions with the local planning authority as well as expert bodies as early as possible.

Chapter 15 of the NPPF relates to the conservation and enhancement of the natural environment. Paragraph 172 advises that great weight should be given to conserving the landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection. The conservation of wildlife and cultural heritage are important considerations.

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, (b) Preserve nationally important archaeological remains and their settings; (c) Preserve or enhance the character or appearance of the Conservation Area and preserve the architectural or historic interest of all listed buildings, including their features and settings; (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 (SSSI); and locally important biodiversity habitats, species and landscape features.

Policy 2 relates to Sustainable Development and seeks to permit development in situations where the development contributes to the sustainability of the islands' environment, economy or local community. Policy 2 (a) requires development to ensure conserve or enhance the landscape, coastline, seascape and existing buildings of the islands through appropriate design including siting, layout, density, scale, external appearance (i.e. details and materials) and landscaping.

Isles of Scilly Design Guide 2007

The Isles of Scilly Design Guide is a Supplementary Planning Document (SPD) that forms an important part of the local Development Plan. This states that "It is important that the nature of the surrounding area is understood and reflected in any development proposal. Without this awareness it is likely that a development will be unsympathetic".

Consultation Draft Isles of Scilly Local Plan 2015-2030

The emerging policies within the consultation draft of the Local Plan set out a clear range of policies designed to protect the landscape character (Policy OE1) as well as the natural (Policy OE2), historic environment (Policy OE7) and Housing Developments (Policy LC7).

Policy SS1 Principle of sustainable development

Policy SS2 Sustainable Quality Design and Place-Making.

Policy OE1 Protecting and Enhancing the Landscape and Seascape

A link to this consultation Draft Local Plan has been set out below. Clearly the consultation draft Local Plan has not been formally adopted by this Council, at the time of writing this report, and as such the policies it contains can only be given limited weight.

Relevant Legislation and Regulations

Wildlife and Countryside Act 1981

Town and Country Planning Act 1990 (as amended)

Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

Human Rights Act 1998

Section 17 of the Crime and Disorder Act 1998

Planning and Compulsory Purchase Act 2004

Natural Environment and Rural Communities (NERC) Act 2006
Planning Act 2008
The Conservation of Habitats and Species Regulations 2017
Community Infrastructure Levy Regulations 2010 (as amended)
Equality Act 2010
Flood and Water Management Act 2010
Localism Act 2011
Growth and Infrastructure Act 2013

Planning Assessment

The main considerations relating to this application are the principle of development, impact on the surrounding landscape & design.

Principle of the development

S.38 of the Planning and Compulsory Purchase Act 2004 sets out the clear legal requirement that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) constitutes guidance as a material consideration in determining planning applications. The NPPF however does not change the statutory status of the development plan and states “proposed development that conflicts (with the relevant development plan) should be refused unless material considerations indicate otherwise”.

The NPPF is not a development plan and therefore does not carry the weight of a development plan document in the determination of planning applications.

Within the adopted local plan 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.

Policy 2 sets out that development will be permitted, where proposals would contribute to the sustainability of the islands, environment, economy or local communities through conserving or enhancing the landscape through appropriate design including siting, layout, density, scale and external appearance. The policy also seeks to achieve sustainability by ensuring or facilitating the re-use of previously developed land and existing buildings for the economic, social and environmental benefits of the islands.

Within the emerging local plan Policy SS1 encourages development should also seek conserve and enhance the natural and built environments, improve the access to alternative forms of travel and minimise the risk that development has on flood risk.

Officers consider the application to modernise and alter the properties to improve the overall appearance and thermal efficiency are to be encouraged in principle. Policy 1 of the Local Plan and policies SS1 & SS2 of the Submission Draft Isles of Scilly Local Plan 2015-2030 seek to ensure that schemes protect the character and appearance of the surrounding

landscape through high quality design. Therefore the principle of development is considered acceptable.

Observations

The proposed development seeks to refresh the colour scheme throughout the residential development. The external colour has been considered to reflect the colours of the surrounding landscape including the sea, local fauna and flora and the existing buildings. The light grey colour assists in setting the development within its landscape, offers resilience to the changing seasons and would improve the overall finish of the development. No objections have been received to the use of the colour and therefore officers raise no objection to its use.

The application also include the removal of porches from the front of the dwellings with the scheme leaving a lean-to roof covering the door area. The existing doors would be replaced for new external conservation green composite doors. Overall, these changes are considered to have a neutral impact upon the character and appearance of the wider area and improve the appearance and design of the respective dwellings. The design of the doors and porches reflects the overall guidance given within the Design guide.

Overall officers consider that the proposed development has an acceptable impact, protects the character and appearance of the area and is considered to comply with policy 1 of the Local Plan & policies SS1 & SS2 of the Submission Draft Isles of Scilly Local Plan 2015-2030.

Other implications

Due to the application being located in a sensitive environment, as denoted by the AONB, the application has been screened for environmental impacts through an Environmental Impact Assessment, Screening Opinion. This screening concluded that the development proposed does not constitute EIA development requiring an Environmental Statement.

The planning application engages certain human rights under the Human Rights Act 2008 (HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant. The rights potentially engaged by this application, including the right to a fair trial and the right to respect for private and family life, are not considered to be unlawfully interfered with by this proposal.

Conditions

- C1** **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 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

- C2** **The development hereby permitted shall be carried out in accordance with the approved details only including:**
 - Existing and Proposed Elevations, Drawing No: 10/LAUNC-02, Dated 12/07/2019
 - Block Plan, Drawing No: 10/LAUNC-01, Dated 16/07/20019

- **Isles of Scilly colour document (Masonry Accent), Insulux Timber composite doorsteps leaflet & Colour chart titled Glazing and Finishing (Conservation Green).**

These are 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.

- C3 All works involving machinery required in connection with the implementation of this permission shall be restricted to between 0800 and 1800 hours Monday to Saturdays. There shall be no works involving machinery on a Sunday or Public or Bank Holiday.**

Reason: In the interests of protecting the residential amenities of neighbouring properties.

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 paragraph 38 the National Planning Policy Framework 2018.
2. 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 if fascia boards are removed as roosting bats could be found in these areas. If bats are found to be present during work, they must not be handled. Work must stop immediately and advice sought from licensed bat wardens. Call The Bat Conservation Trust's National Bat Helpline on 0845 1300 228 or Natural England (01872 245045) for advice.

Signed:  Planning Officer	Dated: 11/09/2019	Signed:  Senior Manager	Dated: 11/9/2019
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