

# Council of the Isles of Scilly Delegated Planning Report

**Application Number:** P/19/056/ROV  
**Received on:** 20 September 2019  
**UPRN:** 000192001042  
**Application Expiry date:** 25 November 2019  
**Neighbour expiry date:** **21 October 2019**  
**Consultation expiry date:**  
**Site notice posted:** 2 October 2019  
**Site notice expiry:** 23 October 2019

**Applicant:** Mr Mark Humphries  
**Site Address:** 7 Lower Strand  
Hugh Town  
St Mary's  
Isles Of Scilly  
TR21 0PS

**Proposal:** Variation of Condition 2 (approved plans) of planning permission P/18/033/FUL to install rainwater harvesting tank and re-orientate the rear annexe.

**Application Type:** Removal or Variation of Condition

## Recommendation

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1. That the Application is APPROVED for a variation of condition 2.
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## Site Description and Proposed Development

The application seeks to vary the approved plans relating to planning permission reference P/18/033/FUL, which was granted 23 May 2018. That planning permission is for the installation of front and rear facing dormer windows as well as the construction of a replacement outbuilding (annex) and a replacement rear extension. This variation of conditions seeks to permit the installation of a rainwater harvesting tank and the re-orientation of the rear annex outbuilding that was approved.

The property is a mid-terrace granite cottage that fronts on to Lower Strand in Hugh Town. The property is on the south side of the road. With no front garden, the property directly adjoins the pavement. To the rear the property has a generous private rear garden with an existing attached rear extension and existing detached outbuilding along the rear boundary, which back on to Museum Flats.

## Background and Relevant History

App. No.	Description	Date
P/06/118	Conditional approval of planning permission for the replacement of existing front door with same material	19/01/2007
P/18/033	Conditional approval of planning permission for the extensions and alterations including 2 no. dormer windows to front, 1 no. dormer window to rear, replacement of UPVC windows with timber, demolition of flat roof extension and replacement with pitched roof extension and removal of existing outbuildings and replacement with single outbuilding for use as additional living space in conjunction with main dwelling.	23/05/2018

## Consultations and Representations

**Public Representations:** None

**Consultation Representations:** NONE

**Constraints:**

**Scheduled Monuments:** NONE

**Listed Buildings:** None

**Archaeological Constraint Areas:** NONE

**Historic Landscape Character:** Settlement

## 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 determining 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. The Council of the Isles of Scilly are currently working to a 2005 Local Plan, where policies have been saved until a new plan has been adopted. This 2005 Local Plan is not considered to be compliant with the 2004 Planning and Compulsory Purchase Act or the 2012/2018 NPPF and subsequent guidance (NPPG). The Council commenced a review of the 2005 Local Plan in 2015, with a public consultation on the scope of the new local plan. This work is now at a draft stage, which has gone through one further Regulation 18 Public Consultation and is supported by a raft of evidence on these issues. The Draft Local Plan 2015-2030 whilst it has only limited weight until it is formally adopted, is considered below.

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.

Chapter 16 of the NPPF relates to the conservation and enhancement of the historic environment.

### **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".

### **Submission 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) and historic environment (Policy OE7). This emerging document also contains policies for residential extensions (LC9). Additional space created by an extension to a dwelling, or the erection or alteration to outbuildings and other structures to provide ancillary accommodation, can be an acceptable means of meeting changes in household space requirements. However, they can also have a significant effect on the neighbours' enjoyment of their property, as well as impacting on the character and appearance of the building and surrounding area. Consequently proposals should be properly integrated with the existing dwelling, respect the character of the surrounding area and safeguard the privacy and amenity of neighbouring properties.

As of 30<sup>th</sup> September 2019 the Submission draft Local Plan has been submitted to the Secretary of State, at the time of writing this report, and as such the policies it contains can be given greater weight.

## **Planning Assessment**

The main planning issues in respect of the proposal are considered to relate to the extent the proposed changes from the already approved, i.e. the proposed water harvesting tank and the changes to the annex outbuildings, impact upon the wider character and appearance of the area, including the impact upon the Conservation Area and Area of Outstanding Natural Beauty (AONB). The impact on privacy and amenity of neighbouring properties is also a consideration.

No. 7 Lower Strand is a traditional small mid-terraced granite property. It is situated to the rear of the Museum and in between The Fudge/Bakery Shop and No. 6 Lower Strand in Hugh Town on St Mary's. There is a gated pedestrian access from the rear garden out to the rear of the Museum where there appears to be access or a right of way on to Church Road.

There are a high number of listed buildings within the vicinity of this site. To the west on the opposite side of the road there is the Grade II Customs House, on the same side as the application site, but a further to the west are two Grade II listed buildings of Simpsons Shop and Lyonesse. The south is Lemon Hall, which is Grade II. To the east is the Methodist chapel, which is Grade II and further to the east are the cottages of Upper Strand, which are all Grade II listed. The closest is Lemon Hall to the south. The garden associated with number 7 Lower Strand, and properties to the west, appear to be historically separate from the curtilage of Lemon Hall. The development proposed is not considered to affect the setting of the nearby Grade II listed building.

The rainwater harvesting tank would be installed in the ground between the dwelling and the annex outbuilding. The rainwater tank, being predominantly below ground level, would have little discernible impact on the appearance of the property and would not harm the character and appearance of the AONB or Conservation Area. The development would not affect the level of amenity already enjoyed at the neighbouring properties.

The mono-pitch roof for the approved annex would be rotated through 180 degrees and finished with a 'living' planted roof. The footprint of the outbuilding would also be slightly altered. These alterations represent minor material change to the development already approved and would not cause harm to the character and appearance of the area, the historic environment and would harm local amenity.

### **Other Considerations**

The Ministerial Statement 'Planning for Growth' and the National Planning Policy Framework have been taken into account in assessing this scheme.

The development has been assessed against the provisions of the Human Rights Act, and in particular Article I of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third part interests/ the Development Plan and Central Government Guidance.

### **Conclusion**

On balance, the proposed amendments to the approved scheme are judged to have an acceptable impact on the character and appearance of the building, the Conservation Area and AONB. The proposal is considered to comply with policies of the adopted Local Plan and the consultation draft Local Plan, it is, therefore, recommended that permission be granted. As the proposal is a revision of an existing planning permission, those conditions of the existing planning permission should be repeated where relevant.

### **Conditions**

Conditions as per P/18/033/FUL with retention of existing 'time' condition – condition 1, but with Condition 2 revised as below and additional condition to secure details for 'living roof' as set out below:

New condition 2:

The development hereby approved shall be carried out in accordance with the approved drawings only, including



- Existing and proposed site plan – drawing number PPA 01
- Approved and proposed floor plan – drawing number PPA 02
- Approved & proposed site sections & elevations – drawing number PPA 03.

Reason: For clarity and the 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.

Condition 10\*

Prior to installation on the roof, details of the plant type and mix to be used on the roof together with details of any other finish or edging detail for the roof of the Annex, hereby approved, shall be submitted to and agreed in writing by the Local Planning Authority. The roof shall thereafter be provided and finished in accordance with the agreed details.

Reason: To confirm details 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.

Checked by CIOS Senior Officer, Planning and Development Management		Signed: 	Dated: 15/11/2019
Signed: <i>J. White</i>	Dated: 14/11/19	Signed: 	Dated: 18/11/2019
Planning Officer		Senior Manager	

Monitoring – Case Officer – Don’t forget to complete and enter into the Monitoring Table:  
Y:\Infrastructure & Planning\Planning\Monitoring\2015-2030 Local Plan Monitoring

Promoting a Sustainable Scilly										
	SS1	SS2	SS3	SS4	SS5	SS6	SS7	SS8	SS9	SS10
Clause/Part (State)										
Contrary to (tick)										
In accordance with (tick)										
Our Outstanding Environment										
	OE1	OE2	OE3	OE4	OE5	OE6	OE7			
Clause/Part (State)										
Contrary to (tick)										
In accordance with (tick)										
A Strong Living Community										
	LC1	LC2	LC3	LC5	LC5	LC6	LC7	LC8	LC9	
Clause/Part (State)									1	
Contrary to (tick)									✓	
In accordance with (tick)										
A Strong Working Community										
	WC1	WC2	WC3	WC4	WC5	WC6				
Clause/Part (State)										
Contrary to (tick)										
In accordance with (tick)										