

Council of the Isles of Scilly

Delegated Planning Report

Other application

Application Number: P/21/028/ROV
Received on: 29 March 2021
UPRN: 000192000944
Application Expiry date: 27 May 2021
Neighbour expiry date: 27/04/2021
Consultation expiry date: 27/04/2021
Site notice posted: 6 April 2021
Site notice expiry: 27 April 2021

Applicant: Clive Humphrey
Site Address: Trelawney
Church Street
Hugh Town
St Mary'S
Isles Of Scilly
TR21 0JT

Proposal: Variation of condition 5 of planning permission P/09/043 (Change of Use of guesthouse (Use Class C1) to 3 self catering holiday flats plus owners accommodation (Use Class C3)) to allow occupation of owners accommodation by someone with a specific local need.

Application Type: Removal or Variation of Condition

Recommendation: PERMIT

Amended condition C5:

The occupation of the property edged blue on the approved plans shall be limited to permanent occupation as their principal residence by those with a qualifying local need and shall not be used as short-term holiday letting accommodation. Occupation of the local need accommodation flat, hereby approved, is conditional on occupants having first qualified as having a specific local need and have written approval from the Local Planning Authority. The owner of the accommodation shall maintain a register of tenants, which shall be made available on request for inspection by any duly authorised officer of the Local Planning Authority. The local need accommodation and the three flats, edged in green on the approved plans, shall not be sold sublet or otherwise disposed of separately as individual units of accommodation.

Reason: To ensure the whole property is retained in the same ownership and retains a permanently occupied residential unit in connection with the management of the holiday accommodation in accordance with Policy LC5(2) and Policy WC5(3) a) of the Isles of Scilly Local Plan (2015-2030).

Reason for Delegated Decision

No Councillor has requested that the application come to the Full Council. The decision defaults to the level of Delegated:

- Not a Councillor ✓
- Not a Senior Officer (or Officer with influence over planning Decisions) ✓
- No relation to a Councillor/Officer ✓
- Not Major ✓
- Not Council's own application ✓
- Not a departure from the Development Plan ✓
- Not Called in ✓

Lead Member Planning Agreed

Name: Dan Marcus

Date: 21/05/2021

Site Description and Proposed Development

Trelawney is a mid-terrace property on Church Street. To the south there is a private rear garden that backs on to properties on Rams Valley. It is a number of approved extensions and alterations to the rear that has enlarged the property.

The current proposal is to vary condition C5, which was imposed when planning permission was granted to convert Trelawney Guesthouse to Self-Catering Flats. Condition C5 essentially requires a nominated flat to be retained as owner's accommodation, for the management of the self-catering units.

The applicant is now seeking to vary this condition to enable it to be occupied by other people (staff or those with a Specific Local Need) on a permanent basis, as they no longer need to occupy the property as the owners of this property.

Certificate: A

Consultations and Publicity

The application has had a site notice on display for 21 days (06/04/2021 – 27/04/2021). The application appeared on the weekly list on 6th April 2021. Due to the nature of the proposal a consultation has been made with Cornwall Fire and Rescue. This response is set out below.

Consultee	Date Responded	Summary
Cornwall Fire and Rescue	09/04/2021	No material alterations, no comments

Representations from Residents:

Neighbouring properties written to directly:

- **Flats 1 – 4 Kenwyn, Church Street**
- **Marine House, Church Street**
- **Burgundy, Rams Valley**
- **The Holt, Rams Valley**
- **Captains Cabin, Rams Valley**

[0] letters of objection have been received and include the following points:

[0] letters of support have been received and include the following points:

[0] letters of representation have been received.

Relevant Planning History:

P/09/043/FUL: Change of Use of guesthouse (Use Class C1) to 3 self-catering holiday flats plus owner's accommodation (Use Class C3). Approved

Constraints:

Historic Landscape Character Landscape Type: Settlements.

Listed Building: No

Scheduled Monument: No

Archaeological Constraint Area: No

Planning Assessment

The main planning consideration is whether the variation of condition C5 to enable occupation by persons unconnected with the property would result in harm with particular reference to the reason for the condition and in light of the changes to the local planning policy framework.

Condition C5 of P/09/043 stated:

C5 The occupation of the property edged blue on the approved plans shall be limited to owners of the property and shall be permanently occupied as an integral part of the three holiday flats edged green on the approved plans and that the owners' accommodation and the three flats shall not be sold sublet or otherwise disposed of separately as individual units of accommodation.

Reason: To ensure the whole property is retained in the same ownership and retains a permanently occupied residential unit in connection with the management of the holiday accommodation in accordance with Policy 4 of the Local Plan.

In March 2021 Policy 4, along with all of the policies of the Local Plan (2005) were replaced with a new Local Plan (2015-2030) which contains a set of policies that allow for a more detailed assessment of specific planning applications. Policy LC5 (Removal of Occupancy Conditions) would now be used to consider the requests to change or modify existing restrictive occupancy conditions. For the complete removal of an occupancy condition, then this requires the applicant to evidentially demonstrate that there is no longer a continued need for the accommodation for any business or organization on the islands; and the property has been marketed for a minimum period of 12 months. It does allow for an alternative to this, which is to amend the restriction to

one which allows for occupation of the unit as Local Need accommodation.

The applicant is not requesting a complete removal of this condition but is requesting that the condition be amended to allow for occupation of the unit by persons with a qualifying local need. On this basis it would seem that a modification of condition C5 would accord with Policy LC5(2) of the Local Plan. Additionally Policy WC5 (3) a) still requires conversions of serviced accommodation to self-catering on the basis that a unit of permanently occupiable accommodation is retained.

It is therefore considered acceptable to modify condition C5 to allow for a flexible, but continuous permanent occupation of the unit. It is considered still relevant and necessary to tie the flat in question to be connected to the rest of the unit on the basis of the inter-related nature of the accommodation within the building. It is also considered necessary, for the purposes of enforcement that the condition specifies that the owners maintain a register of tenants and that all occupants must have a specific local need to qualify to occupy the flat.

EIA: Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

Proactive working: In accordance with guidance within the National Planning Policy Framework the Council has worked in a positive and creative way and has concluded that the application is acceptable and condition C5 can be modified. This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004.

Planning Policy: Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of March 2021, the development plan for the Isles of Scilly comprises the Isles of Scilly Local Plan 2015-2030.

The relevant development plan policies that have been taken into consideration are set out below:

Isles of Scilly Local Plan, 2015-2030

Policy	Tick if Used ✓
Policy SS1 Principles of Sustainable Development	
Policy SS2 Sustainable quality design and place-making	
Policy SS3 Re-use of Buildings	
Policy SS4 Protection of retailing, recreation and community facilities	
Policy SS5 Physical Infrastructure	
Policy SS6 Water and Wastewater Management	
Policy SS7 Flood Avoidance and Coastal Erosion	
Policy SS8 Renewable Energy Developments	

Policy SS9 Travel and Transport	
Policy SS10 Managing Movement	
Policy OE1 Protecting and Enhancing the landscape and seascape	
Policy OE2 Biodiversity and Geodiversity	
Policy OE3 Managing Pollution	
<i>Policy OE4 Protecting Scilly's Dark Night Skies</i>	
Policy OE5 Managing Waste	
Policy OE6 Minerals	
Policy OE7 Development affecting heritage	
Policy LC1 Isles of Scilly Housing Strategy to 2030	
Policy LC2 Qualifying for Affordable Housing	
Policy LC3 Balanced Housing Stock	
Policy LC4 Staff Accommodation	
Policy LC5 Removal of Occupancy Conditions	✓
Policy LC6 Housing Allocations	
Policy LC7 Windfall Housing:	
Policy LC8 Replacement Dwellings and Residential Extensions	
Policy LC9 Homes in Multiple Occupation	
Policy WC1 General Employment Policy	
Policy WC2 Home based businesses	
Policy WC3 New Employment Development	
Policy WC4 Alternative Uses for Business/Industrial land and buildings	
Policy WC5 Visitor Economy and Tourism Developments	✓

Other material considerations include the policies of the National Planning Policy Framework (NPPF) and guidance in Planning Practice Guidance (PPG).

Considerations under Human Rights Act 1998 and Equalities Act 2010

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

Recommended Conditions:

C5 to be modified from:


C5 The occupation of the property edged blue on the approved plans shall be limited to owners of the property and shall be permanently occupied as an integral part of the three holiday flats edged green on the approved plans and that the owners' accommodation and the three flats shall not be sold sublet or otherwise disposed of separately as individual units of accommodation.

Reason: To ensure the whole property is retained in the same ownership and retains a permanently occupied residential unit in connection with the management of the holiday accommodation in accordance with Policy 4 of the Local Plan.

New C5 condition modified to:

C5 The occupation of the property edged blue on the approved plans shall be limited to permanent occupation as their principal residence by those with a qualifying local need and shall not be used as short-term holiday letting accommodation. Occupation of the local need accommodation flat, hereby approved, is conditional on occupants having first qualified as having a specific local need and have written approval from the Local Planning Authority. The owner of the accommodation shall maintain a register of tenants, which shall be made available on request for inspection by any duly authorised officer of the Local Planning Authority. The local need accommodation and the three flats, edged in green on the approved plans, shall not be sold sublet or otherwise disposed of separately as individual units of accommodation.

Reason: To ensure the whole property is retained in the same ownership and retains a permanently occupied residential unit in connection with the management of the holiday accommodation in accordance with Policy LC5(2) and Policy WC5(3) a) of the Isles of Scilly Local Plan (2015-2030).

Print Name:	Lisa Walton	24/05/2021
Job Title:	Chief Planning Officer	
Signed:		
Authorised Officer with Delegated Authority to determine Planning Applications		