

Council of the Isles of Scilly Delegated Planning Report Other application

Application Number: P/21/032/ROV

Received on: 9 April 2021

UPRN: 000192001017

Application Expiry date: 7 June 2021

Neighbour expiry date: 06/05/2021

Consultation expiry date: 06/05/2021

Site notice posted: 15 April 2021

Site notice expiry: 6 May 2021

Applicant: Paul Groves
Site Address: Customs House
Lower Strand
Hugh Town
St Mary's
Isles of Scilly

Proposal: Variation of condition 4 of planning permission P/12/044 (change of use of commercial premises to holiday letting unit) to allow for the permanent residential use of "Topsail" by the transfer of the holiday letting restriction to "Spinnaker".

Application Type: Removal or Variation of Condition

Recommendation: PERMIT

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: 26/05/2021

Site Description and Proposed Development

Customs House is a large former customs house, that is attached to the Scillonian Club, on the Parade in Hugh Town. The property is located on the north side of the road, fronting on to Town Beach and opposite Holgates Cottage. To the east is Holgates Green on Lower Strand.

The proposal is a variation of condition C4 of P/12/044/FUL which was to convert the property into holiday letting flats with one permanently occupiable owners flat. The proposal is to shift the permanently occupiable flat from Spinnacker (which will become a holiday flat) to Topsail (which will become the permanently occupiable unit).

Certificate: A

Consultations and Publicity

The application has had a site notice on display for 21 days (15/04/2021–06/05/2021). The application appeared on the weekly list on 19th April 2021. Due to the nature of the proposal no external consultations have been required.

Representations from Residents:

Neighbouring properties written to directly:

- **Strand House, Lower Strand**

[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/12/044/COU Commercial Unit, Customs House, Lower Strand. Change of use from commercial unit to holiday let flat. Approved March 2012

This permission was previously varied in 2013. P/13/031/FUL sought to vary condition 4 to allow permanent residential use of 'Flat One' and transfer the holiday let restriction to the 'Western Apartment'. This was approved in June 2013.

Constraints:

Listed Buildings: Grade: II. Name: CUSTOM HOUSE AND STRAND HOUSE
HER Findspots: Post Medieval custom house. Period: Post Medieval
Historic Landscape Character: Settlement

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 C4 of P/12/044 stated:

C4 The flat hereby permitted and edged in green on the approved plans shall not be used otherwise than for the purpose of short let holiday accommodation. The flat shall not be occupied by any one person for a period exceeding 28 days in any calendar year. The owner or operator shall maintain a register of occupants for each calendar year. This register shall be made available on request for inspection by any duly authorised officer of the Local Planning Authority.

Reason: To ensure that the flat is retained for holiday purposes in accordance with Policy 4 of the Local Plan, to prevent the creation of an open market dwelling in accordance with Policy 3 of the Local Plan and to minimise any pressure on local infrastructure in accordance with Policy 6 of the Local Plan.

It is noted that in 2012, when the above application was approved, the two existing flats were unrestricted and the creation of a third unit of holiday let accommodation was restricted to be occupied by no more than 28 days in any calendar year. In 2013 condition C4 was modified, to permit the owners to stay for a longer period (up to 3 months at a time) and the flat restricted was shifted to the top floor. In 2013 condition C4 was approved to be modified to read:

C4 of P/13/031 stated:

C4 The first and second floor flat known as the 'Western Apartment' as shown edged in yellow on the approved plan 140/11 titled "Proposed Floor Plans and elevations" shall not be used otherwise than for the purpose of short let holiday accommodation. The Western Apartment shall not be occupied as a permanent dwelling and shall not be occupied by any one person for a period exceeding 3 months in any calendar year. The owner or operator shall maintain a register of occupants for each calendar year. This register shall be made available on request for inspection by any duly authorised officer of the Local Planning Authority.

Reason: To ensure that the Western Apartment is retained for holiday purpose in

accordance with Policy 4 of the Local Plan, to prevent the creation of an open market dwelling in accordance with Policy 3 of the Local Plan and to minimize any pressure on local infrastructure in accordance with Policy 6 of the Local Plan.

In March 2021 Policies 3, 4, and 6 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 one of the holiday let flats to become the restricted use unit. On this basis it would seem that a modification of condition C4 would accord with Policy LC5(2) of the Local Plan.

It is therefore considered acceptable to modify condition C4 to enable it to shift from shift it. It is considered still relevant and necessary to tie the flat in question to be connected to the rest of the units 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.

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 ✓
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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:

C4 as originally imposed:

C4 The flat hereby permitted and edged in green on the approved plans shall not be used otherwise than for the purpose of short let holiday accommodation. The flat shall not be occupied by any one person for a period exceeding 28 days in

any calendar year. The owner or operator shall maintain a register of occupants for each calendar year. This register shall be made available on request for inspection by any duly authorised officer of the Local Planning Authority.

Reason: To ensure that the flat is retained for holiday purposes in accordance with Policy 4 of the Local Plan, to prevent the creation of an open market dwelling in accordance with Policy 3 of the Local Plan and to minimise any pressure on local infrastructure in accordance with Policy 6 of the Local Plan.

C4 as already modified in 2013:

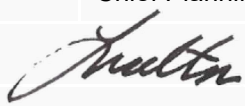
C4 The first and second floor flat known as the 'Western Apartment' as shown edged in yellow on the approved plan 140/11 titled "Proposed Floor Plans and elevations" shall not be used otherwise than for the purpose of short let holiday accommodation. The Western Apartment shall not be occupied as a permanent dwelling and shall not be occupied by any one person for a period exceeding 3 months in any calendar year. The owner or operator shall maintain a register of occupants for each calendar year. This register shall be made available on request for inspection by any duly authorised officer of the Local Planning Authority.

Reason: To ensure that the flat is retained for holiday purposes in accordance with Policy 4 of the Local Plan, to prevent the creation of an open market dwelling in accordance with Policy 3 of the Local Plan and to minimise any pressure on local infrastructure in accordance with Policy 6 of the Local Plan.

New C4 Condition to read:

C4 The first floor flat known as 'Spinnaker' as shown edged in RED on the approved plan 0421/01, Dated 05 April 2021 titled "Existing Floor Plans and Elevations" shall not be used otherwise than for the purpose of short let holiday accommodation. The flat Spinnaker shall not be occupied as a permanent dwelling and shall not be occupied by any one person for a period exceeding three months in any calendar year. The owner or operator shall maintain a register of occupants for each calendar year. This register shall be made available on request for inspection by any duly authorised officer of the Local Planning Authority.

Reason: To ensure that one flat is retained for holiday purposes, as justified in 2012 when losing a commercial unit and where the other two flats are already unrestricted and in accordance with Policy WC5 of the Isles of Scilly Local Plan (2015-2030) and to prevent the creation of an open market dwelling in accordance with Policy LC1 of the Isles of Scilly Local Plan (2015-2030).

Print Name:	Lisa Walton	27/05/2021
Job Title:	Chief Planning Officer	
Signed:		
Authorised Officer with Delegated Authority to determine Planning Applications		