



# COUNCIL OF THE ISLES OF SCILLY

Planning Department

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## APPEAL STATEMENT

FOR

APPEAL AGAINST REFUSAL OF PLANNING PERMISSION

AT

LAND AT LAWRENCES BROW, ST MARTIN'S ISLES OF SCILLY TR25 0QL

REFUSED ON 24<sup>TH</sup> SEPTEMBER 2021

APPEAL REFERENCE: APP/Z0835/W/21/3287898

22<sup>nd</sup> March 2022

TOWN AND COUNTRY PLANNING ACT 1990 SECTION 78 APPEAL

TOWN AND COUNTRY PLANNING (HEARINGS AND INQUIRIES PROCEDURE) (ENGLAND)  
(AMENDMENT) RULES 2013.

### Viewing Documents:

All appeal documents are available online: <https://www.scilly.gov.uk/planning-application/planning-application-p21045cou>

Anyone who wants to inspect the appeal documents. Due to the current limited access to the Town hall, hard copies of the plans are currently unavailable to view in person however please call the Planning Department on 01720 424455 if you are unable to view plans electronically or wish to ask any questions about the application and we will get back to you to discuss.

This appeal statement is submitted on behalf of the Council of the Isles of Scilly in relation to appeal reference APP/Z0835/W/21/3287898 and planning application reference P/21/045/COU: Retrospective application for the change of use of barn to seasonal agricultural workers accommodation including the erection of a WC/solar shower block and connected decking for use by occupants.

### **Application Site**

1. This appeal has been submitted following the refusal of planning application P/21/045/COU by the Council of the Isles of Scilly. The refused development is to retain the conversion of a small existing agricultural building, described as a concrete barn. The building has been converted to form a small unit of seasonal workers accommodation in connection with the applicant's management of land on St Martins. The land identified on the location plan with the blue line represents the extent of the agricultural tenanted land from the Duchy of Cornwall.
2. The site is located on the island of St Martin's which is one of the five inhabited islands that make up the Isles of Scilly. St Martin's has an estimated population of 136 (2011 census) and covers an area of 0.92 square miles. The appeal site is located along the south-west facing coastline in an area known as Lawrence's Brow. The building is purported to date from the 1930s and the applicant states it was historically used for agricultural workers. The land slopes down from the north and the converted building is located to the rear of the dunes.

### **Proposal Description**

3. The proposal sought to retain the use of an agricultural building which is a single storey structure with a shallow mono-pitched roof (width: 5.9m x depth: 2.7m and height of 2.4m at the highest part and 2m at the lowest part), which the applicant has converted to provide habitable accommodation. The internal usable floorspace equates to around 16 square metres (corrected from the committee report which didn't detect the inconsistency in the applicants drawings showing a length of 2.9m on the floor plan and front elevation). In addition the proposal sought to retain a section of decking and walkway as well

as a small timber shed used as a WC and shower room. The structures, identified on the location plan with a red line, are located on land currently used to grow organic vegetables which the applicant supplies to local businesses and visitors as well as holiday accommodation.

4. The development is 'off grid' with a power supply from a solar panel installed on the roof and using rainwater for the shower. The WC is a compost toilet and the development has been designed to be wheelchair accessible. There are no connections to bore hole water supplies and the applicant intends to provide the unit with a supply of bottled water.

### **Relevant National Legislation**

5. The application 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.
6. The Isles of Scilly is also a designated Area of Outstanding Natural Beauty (AONB). As with the Conservation Area boundary this covers all of the islands that make up the archipelago. 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.

### **National Planning Policy**

7. At the heart of the National Planning Policy Framework (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 adopted its local plan in March 2021 and it is considered to be up to date.

8. Chapter 15 of the NPPF relates to the conservation and enhancement of the natural environment. Paragraph 176 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.

### **Local Planning Policy Framework**

9. Section 70(2) of the Town and Country 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.
10. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

### **Isles of Scilly Local Plan 2015-2030**

11. The Isles of Scilly Local Plan was adopted in March 2021 following extensive public consultation from 2015 and an Examination in Public in January 2020. The pertinent policies with respect to the appeal are SS3 (Re-use of Existing Buildings) and LC4 (Staff Accommodation).
12. Policy SS3 allows for the re-use of existing buildings and specifically (3) for the re-use of non-traditional buildings, for residential use, which will only be supported where the accommodation is for a local housing need or staff accommodation and is subject to appropriate occupancy restrictions in accordance with Policies LC2 and LC4; and the development accords with the requirements of (1) a-e:
  - a. the building is structurally sound and capable of conversion without substantial rebuilding, extension or alteration;

- b. the proposal would not result in the requirement for another building to fulfil the function of the building being converted;
  - c. the proposed use is restricted primarily to the building;
  - d. the development would not harm its immediate setting or the amenity of adjoining/neighbouring properties or land uses; and
  - e. suitable nesting and roosting sites for birds and bats are incorporated into the design.
13. Finally Policy SS3(4) requires any demolition or re-roofing of a building to not result in harm to any protected species. A Preliminary Environmental Assessment should be submitted to demonstrate the impact of the proposal on any protected species present within or using the site. In this case the application was retrospective, so was not supported by any initial Preliminary Ecological Appraisal. The application did include a statement of measures put in place to retain important bird habitats within the building and site.
14. Policy LC4(1) allows for new staff accommodation for businesses and organisations to be supported where a) an appraisal is submitted demonstrating that there is a functional and operational need for the proposed accommodation that cannot be met by existing suitable accommodation available in the area; and b) the size and type of the proposed accommodation is appropriate to the functional and operational needs of the business or organisation; and d) on an off-Island the proposed accommodation is located within an existing building or adjacent or well related to the existing business consistent with Policy LC7. This requires the housing need to be meeting the island-specific needs, as opposed to general Isles of Scilly housing needs.

### **Reasons for Refusal**

15. The application went before the Isles of Scilly Full Council on 21<sup>st</sup> September 2021. Members of the Council considered the application and, follow debate, voted to refuse it for two reasons. These reasons were provided on the decision notice dated 24<sup>th</sup> September 2021, but are set out below. The full assessment of this application has already been provided to the Inspector. In summary, however, the Council would like to highlight the point that the applicant was invited to regularise the development on the basis that he had advised the

authority that the accommodation was to support continued viability of his business and management of the land. Officers sought to proactively work with the applicant to elicit the details of the business needs, which were ultimately not adequately provided.

16. The first reason for refusal is that the retention of the converted agricultural building as a small unit of seasonal agricultural workers accommodation and ancillary shed and decking has resulted in an isolated form of development that has not been adequately demonstrated as necessary for the viability of the applicant's business. The proposal therefore fails to comply with Policy LC4 and SS3 of the Isles of Scilly Local Plan (2015-2030).
17. The second reason for refusal is that the retention of the converted agricultural building as a small unit of seasonal agricultural workers accommodation and ancillary shed and decking, although small in scale, is located within open countryside and is considered harmful to the character of the area, detracting from the scenic beauty of the Area of Outstanding Natural Beauty and does not preserve or enhance the character or appearance of the Conservation Area thereby failing Policies OE1 and OE7(5) Isles of Scilly Local Plan (2015-2030). Furthermore, the development would not meet the requirements of protecting important landscapes as set out in the National Planning Policy Framework where great weight is required to be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty required by paragraph 176 of the Framework (2019).

### **Amplification of Reasons for Refusal**

18. The Local Planning Authority does not consider there are any other material planning considerations to take into account that would override the policy conflict identified. Whilst the re-use of existing buildings is supported, the existing structure is of such a small scale that the applicant has had to erect an additional building to accommodate elements to meet basic needs. This fails Policy SS3(1) a) and c) in that the use is not restricted primarily to the building and as a consequence requires peripheral installations to meet basic requirements for habitable use. The proposal also fails specifically on LC4(1)

(a) in that the applicant has been unable to provide clear justification in the form of an appraisal demonstrating that there is a functional and operational need for the proposed accommodation that cannot be met by existing suitable accommodation available in the area. Growing vegetables on land does not require planning permission and is not considered to be adequate justification for agricultural workers accommodation when unsupported by evidence of a business plan. The proposal results in a relatively isolated form of development that fails to preserve or enhance the character of the conservation area and detracts from the scenic beauty of the AONB.

19. The Inspector may note from the Committee Report the consultation response from the Environment Agency. The LPA can confirm that the site is at a sufficiently low level risk of coastal flooding that the applicants own Flood Risk Assessment was considered acceptable by the Environment Agency.

**Lisa Walton** *MRTPI*  
**Chief Planning Officer**  
Council of the Isles of Scilly