

# Council of the Isles of Scilly

## Delegated Planning Report

### Other application

**Application Number:** P/21/104/ROV

**UPRN:** 000192001504

**Received on:** 2 December 2021

**Valid on:** 3 December 2021

**Application Expiry date:** 28 January 2022

**Neighbour expiry date:** 29 December 2021

**Consultation expiry date:** 29 December 2021

**Site notice posted:** 8 December 2021

**Site notice expiry:** 29 December 2021

**Applicant:** Mr Mark Wright

**Site Address:** The Store  
21 Porthmellon Industrial Estate  
Porth Mellon  
St Mary's  
Isles Of Scilly  
TR21 0JY

**Proposal:** Variation of condition 2 (approved plans) of planning permission P/19/064/FUL (Change of use of ground floor storage area (use class B8) to extend retail area (use class A1), conversion of part of first floor apartment into staff flat including small extension, construction of entrance canopy, construction of new storage shed (use class B8), minor alterations and regularisation of creation of balcony, roof terrace, lobby and office) to enable an extended entrance canopy to be constructed to provide shelter and weather protection.

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

---

**Recommendation:** PER

---

#### Summary Conditions of P/19/064/FUL

- ~~1. Standard time limit~~
- 2. Adherence to plans (Amended)**
3. Layout of Car Parking
4. Restrictions on Pedestrian Gate
5. Restriction on use of Telegraph Road Car Park
6. Removal of PD Rights – External Lighting
7. Submission of Biodiversity Enhancement measures (Already Discharged P/20/020)

8. Submission of Site Waste Management Plan (Already Discharged P/20/020)
9. Submission of Sustainable Design Measures (Already Discharged P/20/020)
10. Accommodation Occupancy Restrictions
11. Restrictions on Use
12. Removal of PD Rights on Change of Use
13. Colour Finish of the storage shed (Already Discharged P/20/020)
14. Submission of Sewage minimisation measures (Already Discharged P/20/020)

---

## 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:

Date:

## Site Description and Proposed Development

See main committee report: P/19/064/FUL: December 2019:

<http://committees.scilly.gov.uk/documents/g1130/Public%20reports%20pack%2017th-Dec-2019%2009.30%20FULL%20COUNCIL.pdf?T=10> Agenda Item 10

This proposal seeks to amend the plans to install a rear canopy connecting the main store building with the rear storage building.

The proposal seeks to vary condition C2:

**C2 The development hereby permitted shall be carried out in accordance with the approved details only including:**

- Amended Proposed First Floor Plan, Drawing No: 1977-P07, Rev B, dated Sept 2019, date stamped 28/11/2019;
- Location and Block Plan, Drawing No: 1977-P01, Rev A, Dated July 2019, date stamped 10/10/2019.
- New Storage Shed, Drawing No: 1977-P10, dated October 2019, date stamped 10/10/2019
- ~~Proposed Elevations, Drawing No: 1977-P09, Dated July 219, date stamped 02/10/2019~~
- **Proposed Elevations, Drawing No: P1977B-P05, Dated Nov 2021**
- New Storage Shed Plans, Drawing No: 1977-P11, Dated October 2019, date stamped 10/10/2019
- Regularisation Plan (FF), Drawing No: 1977-P13, dated September 2019, date stamped 09/10/2019
- Regularisation Plan (GF), Drawing No: 1977-P12, dated July 2019, date stamped 09/10/2019
- ~~Proposed Ground Floor Plan, Drawing No: 1977-P06 Rev B, dated July 2019 and Date Stamped 03/03/2020~~

- **Proposed Ground Floor Plan, Drawing No: 1977B-P04, Dated Nov 2021**
- ~~Proposed Site Plan, Drawing No: 1977-P08 Rev E, dated September 2019 and Date Stamped 03/03/2020~~
- **Proposed Site Plan, Drawing No: 1977B-P03, Dated Nov 2021**
- **Proposed Circulate Plan, Drawing No: 1977-P15, dated March 2020 and Date Stamped 03/03/2020**
- **Parking Management Statement, Date Stamped 06/03/2020**
- **Proposed Telegraph Road Pedestrian Entrance Detail, Drawing No: 1977-P16, Date Stamped 06/03/2020**

**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.

Certificate: A

Other Land Owners: None

### Consultations and Publicity

The application has had a site notice on display for 21 days (08/12/2021 – 29/12/2021). The application appeared on the weekly list on 6<sup>th</sup> December 2021. Due to the nature of the proposal a consultation was made with the Council's Environmental Health department.

Consultee	Date Responded	Summary
Environmental Health	-	-

### Representations from Residents:

Neighbouring properties written to directly:

- **24 Porthmellon Industrial Estate**
- **Units 1-4 Phoenix Craft Studio, Porthmellon Industrial Estate**
- **Phoenix Glass Studio, Porthmellon Industrial Estate**
- **26 Porthmellon Industrial Estate**
- **12, Porthmellon Industrial Estate**
- **13, Porthmellon Industrial Estate**
- **22, Porthmellon Industrial Estate**
- **23, Porthmellon Industrial Estate**
- **25, Porthmellon Industrial Estate**

0 letters of objection have been received

0 letters of support have been received

0 letters of representation have been received.

### Relevant Planning History:

Recorded planning history for this site starts in 1982 when a planning application (P2123) was submitted for the erection of a store shed with temporary access to Telegraph Road, including a change of use of an existing building to warehouse with cash and carry facilities at Sandy Banks Farm. This was approved.

In 2006 an application for a Certificate of Lawful Use (P5806) was submitted for an existing use of the building as an A1 retail shop. This certificate application was granted. In 2014 an application (P/14/032/FUL) was submitted to install a new timber gate and entrance onto Telegraph Road. This was approved. In 2015 an application was submitted to raise the roof of the shop area, timber clad the south west elevation, construct a covered area at the shop entrance and an extension on the north west elevation for the storage of materials. This was approved in 2015.

In 2019 permission was granted for the change of use of the unit including subdivision of the first floor flat. P/19/064/FUL was approved at Full Council in December 2019.

### Constraints:

- Conservation Area
- Area of Outstanding Natural Beauty
- Heritage Coast
- Historic Landscape Character      Landscape Type: Industrial: existing.

### Planning Assessment

Design	YES OR NO
Would the proposal maintain the character and qualities of the area in which it is proposed?	y
Would the proposal appear in-keeping with the appearance of the existing dwelling, street and area?	y
Would the materials, details and features match the existing dwelling and be consistent with the general use of materials in the area?	y
Would the proposal leave adequate open/ green space to prevent the proposal appearing as an overdevelopment of the site and to ensure an adequate level of amenity?	y
Is the parking and turning provision on site acceptable?	y
Would the proposal generally appear to be secondary or subservient to the main building?	y
Amenity	YES OR NO
Is the proposal acceptable with regard to any significant overlooking/loss of privacy issues?	y

Has the proposal been designed to respect the amenities of neighbouring properties avoiding unreasonable loss of light or an overbearing impact?	y
Is the proposal acceptable with regard to any significant change or intensification of use?	y

<b>Heritage</b>	<b>YES OR NO</b>
Would the proposal sustain or enhance the character and appearance of the Conservation Area?	y
If within the setting of, or a listed building, a) Will the development preserve the character and special architectural or historic interest of the building? b) Will the development preserve the setting of the building?	n/a
Within an Archaeological Constraint Area	n
<b>Other Impacts</b> Does the proposal comply with Highways standing advice such that it does not adversely affect highway safety?	y
Impact on protected trees a) Will this be acceptable b) Can impact be properly mitigated?	n/a
Has the proposal been designed to prevent the loss of any significant wildlife habitats or proposes appropriate mitigation where this has been demonstrated to be unavoidable?	n/a
Does the proposal conserve and enhance the landscape and scenic beauty of the AONB	y
Are the Water connection/foul or surface water drainage details acceptable?	n/a
If sited within a Critical Flood Risk Area (low lying land below the 5m datum) is the application accompanied by an acceptable Flood Risk Assessment?	n/a
Are there external lights	n/a

<b>Protected Species</b>	<b>YES OR NO</b>
Does the proposal include any re-roofing works or other alteration to the roof	n/a
Does the proposal include any demolition	n/a
Does the proposal include tree or hedge removal	n/a
Is an assessment of impact on protected species required	n/a
Has an assessment been provided that adequately assesses the site and includes mitigation, enhancement and timing requirements	n/a
Are biodiversity enhancement measures required	n/a
Is a condition required to provide biodiversity enhancement measures	n/a

<b>Waste Management</b>	<b>YES OR NO</b>
-------------------------	------------------

Does the proposal generate construction waste	n/a
Does the proposal materially increase the use of the site to require additional long-term waste management facilities	n/a
Does the proposal include a Site Waste Management Plan	n/a
Is a condition required to secure a Site Waste Management Plan	n/a

<b>Sustainable Design</b>	<b>YES OR NO</b>
Does the proposal materially increase the use of the site to require additional sustainable design measures	n/a
Does the proposal include a any site specific sustainable design measures	n/a
Is a condition required to secure a Sustainable Design Measures	

**Analysis:** Complete if any objections to material planning issues or any conflict with policy requirements identified.

**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 to vary condition 2 of P/19/064/FUL.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

**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**

<b>Policy</b>	<b>Tick if Used ✓</b>
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. In discharging their functions, must have “due regard” to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard in particular to the need to:

- a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of other persons who do not share it
- c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has had due regard to the matters set out in section 149 of the Equality Act 2010.

#### **Recommended Varied 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:

- Amended Proposed First Floor Plan, Drawing No: 1977-P07, Rev B, dated Sept 2019, date stamped 28/11/2019;
- Location and Block Plan, Drawing No: 1977-P01, Rev A, Dated July 2019, date stamped 10/10/2019.
- New Storage Shed, Drawing No: 1977-P10, dated October 2019, date stamped 10/10/2019
- ~~Proposed Elevations, Drawing No: 1977-P09, Dated July 219, date stamped 02/10/2019~~
- **Proposed Elevations, Drawing No: P1977B-P05, Dated Nov 2021**
- New Storage Shed Plans, Drawing No: 1977-P11, Dated October 2019, date stamped 10/10/2019
- Regularisation Plan (FF), Drawing No: 1977-P13, dated September 2019, date stamped 09/10/2019
- Regularisation Plan (GF), Drawing No: 1977-P12, dated July 2019, date stamped 09/10/2019
- ~~Proposed Ground Floor Plan, Drawing No: 1977-P06 Rev B, dated July 2019 and Date Stamped 03/03/2020~~
- **Proposed Ground Floor Plan, Drawing No: 1977B-P04, Dated Nov 2021**
- ~~Proposed Site Plan, Drawing No: 1977-P08 Rev E, dated September 2019 and Date Stamped 03/03/2020~~
- **Proposed Site Plan, Drawing No: 1977B-P03, Dated Nov 2021**
- Proposed Circulate Plan, Drawing No: 1977-P15, dated March 2020 and Date Stamped 03/03/2020

- **Parking Management Statement, Date Stamped 06/03/2020**
- **Proposed Telegraph Road Pedestrian Entrance Detail, Drawing No: 1977-P16, Date Stamped 06/03/2020**

**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.

#### **PRE-FIRST USE CONDITION – LAYING OUT OF CAR PARKING**

- C3** Prior to the first use of the extended A1 retail unit, hereby approved, the new customer car parking, the surfacing and laying out of car parking spaces, cycle parking and access for pedestrians and the boundary wall to Telegraph Road shall be fully constructed and laid out as approved. The approved access and car parking layout shall be retained for customer car parking and customer and staff bicycle parking which shall be retained as approved thereafter.

Reason: The proposal results in an intensification in use of this site and improvements to car parking arrangements are required to ensure that vehicles can turn and leave the site in forward gear and that there is sufficient off-road car parking and manoeuvring space, in the interests of highway safety. In accordance with emerging Policy SS10 of the submission Draft Isles of Scilly Local Plan (2015-2030) and Paragraph 108 of the National Planning Policy Framework (2019).

#### **RESTRICTIONS ON NEW PEDESTRIAN GATE ON TO TELEGRAPH ROAD**

- C4** The gate on the pedestrian access on to Telegraph Road, shown on drawing number Drawing No: 1977-P16 (Proposed Telegraph Road Pedestrian Entrance Detail) shall be kept locked at all times when The Store is closed.

Reason: To prevent the over-intensive use of the pedestrian route as a short-cut to the industrial estate, and in the interests of highway safety.

#### **RESTRICTION OF TELEGRAPH ROAD EXISTING CAR PARK**

- C5** The existing access on to Telegraph Road shall be restricted in use to that permitted under P/14/032, Condition 6, which restricts this for the purposes of loading and unloading only. The parking of vehicles in connection with the loading and unloading of goods and deliveries shall be restricted to those connected with the retail use of 'The Store'.

Reason: The proposal results in an intensification in use of this site and restrictions on this entrance are required due to the substandard nature of the visibility splays and to ensure that the proposal does not result in obstructions to the highway through increases in use. In accordance with emerging Policy SS10 of the submission Draft Isles of Scilly Local Plan (2015-2030) and Paragraph 108 of the National Planning Policy Framework (2019).

#### **REMOVAL OF PERMITTED DEVELOPMENT RIGHTS – External Illumination**

- C6** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (As Amended), (or any order revoking

or re-enacting that Order) prior to installation, details of floodlights or other forms of external lighting shall be submitted to and approved, in writing, by the Local Planning Authority. The lighting shall thereafter be installed in accordance with the agreed details.

Reason: To protect the amenities of the locality, including the amenities of neighbouring residential properties and to protect the amenities of this rural area and preserve the dark night skies of the Isles of Scilly and the Garrison Dark Sky Discovery Site (Milky Way Class) in accordance with Policy OE4 of the Submission Draft Isles of Scilly Local Plan 2015-2030.

#### **PRE-COMMENCEMENT CONDITION — Submission of Biodiversity Enhancement Measures**

~~C7 — Prior to the first use of the retail unit, hereby approved, details of measures to promote biodiversity enhancements shall be submitted to and approved in writing by the Local Planning Authority, this shall include details of any new landscaping, where required, to comprise native species from sustainable sources, the installation of bat boxes and bird nesting opportunities appropriate to species found on the Isles of Scilly. The approved details shall be installed for the first full season, following the completion of the development and be retained as approved thereafter.~~

~~Reason: To promote measures to improve and awareness of the value of biodiversity on the Isles of Scilly and in accordance with the requirements of Policy 1 of the Isles of Scilly Local Plan 2005 and Policies SS1(d) and SS2(g) of the Submission Draft Isles of Scilly Local Plan 2015-2030.~~

#### **PRE-COMMENCEMENT CONDITION — Submission of Site Waste Management Plan**

~~C8 — Prior to the commencement of the development, hereby approved, a scheme including details of the sources of all building materials and the means/location of disposal of all demolition material and all waste arising from building works, including excess material from excavations, shall be submitted to and agreed in writing with the Planning Authority. The development shall thereafter proceed in strict accordance with the approved scheme only.~~

~~Reason: This is a pre-commencement condition that requires details that were not submitted as part of the application but are required to fully understand the impact upon landscape and management of waste, to be submitted and agreed by the Local Planning Authority. This is to ensure those characteristics which contribute to the status of the Isles of Scilly as a Conservation Area, Area of Outstanding Natural Beauty and Heritage Coast are not eroded by uncontrolled mineral extraction or the tipping of waste. In accordance with the requirements of Policy 1 of the Isles of Scilly Local Plan 2005 and Policy SS2(2) and Policy OE6 of the submission draft Isles of Scilly Local Plan (20015-2030).~~

#### **PRE-COMMENCEMENT CONDITION — Submission of Sustainable Design Measures**

~~C9 — Prior to the commencement of the development hereby permitted a detailed scheme indicating the sustainable design measures to be incorporated into the proposal shall be agreed in writing with the Local Planning Authority and should include water conservation and harvesting measures and~~

~~renewable energy generation. The sustainable design scheme shall be implemented in strict accordance with the details as agreed prior to the occupation of the development hereby permitted.~~

~~Reason: This is a pre-commencement condition that requires details that were not submitted as part of the application but are required to in order to comply with Policy 2 of the Local Plan (2005) and Policies SS1(b) and SS2(k) of the Submission Draft Isles of Scilly Local Plan 2015-2030 and to minimise the impact of the development on the islands carbon footprint and reduce energy and water demands.~~

#### **Accommodation Occupancy Restrictions**

- C10 Both the units of accommodation, including the alteration of the existing accommodation and creation of a second unit of accommodation, including the regularisation of external balcony on the south east elevation and roof terrace, hereby approved, shall be restricted in occupation to persons employed as staff in connection with the use of unit 21 Porthmellon Industrial Estate.**

~~Reason: To ensure that the accommodation hereby permitted is occupied only by a person or persons employed as staff on the site in accordance with Policy 3 the adopted Isles of Scilly Local Plan 2005 and Policy LC4 of the Submission Draft Isles of Scilly Local Plan 2015-2030.~~

#### **RESTRICTIONS ON USE**

- C11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, the A1 premises hereby permitted shall not be extended or altered in any way, including the provision of a mezzanine floor, without the prior approval in writing of Local Planning Authority.**

~~Reason: To control a more intensive use of the premises which may adversely affect the character and amenities of this location within the Islands, including highway safety.~~

#### **REMOVAL OF PERMITTED CHANGES OF USE**

- C12 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, the mixed use premises hereby permitted, comprising A1 retail at ground floor of the main building (marked by a red line on the attached plan), C3 staff accommodation (marked by a blue line of the attached plan R1 and R2), an ancillary office to the A1 retail (marked by a green line on the attached plan) at first floor and a B8 storage building (marked by a yellow line on the attached plan) shall not be extended or altered in any way, including any other permitted changes within the Town and Country Planning (Use Classes) Order 1987 (As Amended) without the prior approval in writing of Local Planning Authority.**

~~Reason: To control a more intensive use of the premises which may adversely affect the character and amenities of this location, including the viability of the industrial estate and highway safety.~~

#### **~~PRE-COMMENCEMENT CONDITION – Submission of Colour finish of the storage shed.~~**


**~~C13 Notwithstanding the details submitted, prior to its construction, the colour finish of the New Storage Shed, Drawing No: 1977-P10, shall be submitted to and approved in writing by the Local Planning Authority. The colour finish shall be applied to the building, prior to its first use, and shall be retained as such thereafter.~~**

~~Reason: To ensure the amenities of adjoining land and premises are not adversely affected by the storage building and the building is in keeping with the character and appearance of the area.~~

**~~PRE COMMENCEMENT CONDITION – Submission of Sewage Minimisation Measures~~**

**~~C14 Prior to the commencement of the development hereby permitted a detailed scheme of measures to minimise pressure on the public sewage network, shall be submitted to and approved in writing by the Local Planning Authority. The agreed details shall be installed as approved prior to the A1 retail store coming into first use and staff accommodation being first occupied and be retained as such thereafter.~~**

~~Reason: This is a pre-commencement condition that requires details that were not submitted as part of the application but are required to in order to comply with Policy 2 of the Local Plan (2005) and Policies SS6 of the Submission Draft Isles of Scilly Local Plan 2015-2030 and to minimise the impact of the development on the sewage network.~~

<b>Print Name:</b>	Lisa Walton	28/01/2022
<b>Job Title:</b>	Chief Planning Officer	
<b>Signed:</b> 		
Authorised Officer with Delegated Authority to determine Planning Applications		