

Council of the Isles of Scilly Delegated Planning Report Other application

Application Number: P/22/052/COU

UPRN: 000192000866

Received on: 29 July 2022

Valid on: 12 August 2022

Application Expiry date: 7 October 2022

Neighbour expiry date: 2 September 2022

Consultation expiry date:

Site notice posted: 12 August 2022

Site notice expiry: 5 September 2022

Applicant: Mr And Mrs Stokes

Site Address: Treboeth
5 Buzza Street
Hugh Town
St Marys
Isles Of Scilly
TR21 0HX

Proposal: Change of use and refurbishment and renewal of existing guest house/bed sit apartments to form 4 no. apartments and 1 no. owners' accommodation.

Application Type: Change of Use

Recommendation: PERMIT

Summary Conditions:

1. Standard time limit
2. Adherence to plans
3. Adherence to method statement for protected species
4. Short let holiday use only (flats shown edged in yellow)
5. Permanent owners accommodation (flat shown edged in green)
6. Samples of external finishes
7. No additional doors/windows in north or east elevations
8. Removal of PD for alterations and extensions
9. Removal of PD external illumination
10. Hours of Operation for Construction Works
11. Removal of PV panels once no longer required, within 6 months.

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: Cllr Dan Marcus

Date: 29/11/2022

Site Description and Proposed Development

Treboeth is an established guesthouse on Buzza Road, St Mary's and a certificate of lawful use was granted in May 2016 (P/16/026/CLE).

The property is an end terrace with a large later rear extension, comprising three floors of accommodation. The property has a white render finish and a very small 'yard' associated with the property.



The proposal comprises a change of use from guesthouse to self-catering comprising 4 self-contained apartments for short let holiday use and one permanently occupied flat, with two bedrooms for the owners use. Additionally the flat roof two storey rear extension is to be used to site a solar array. An additional ground floor rear facing window is proposed as well as a ground floor side facing window. Externally the proposal includes the use of timber cladding on the second floor on both the front and side facing elevations and removal of the render on the first and ground floor elevations to reveal the granite facing

stone of the building.



A single storey side extension is proposed with a flat roof and roof lantern which includes a side facing kitchen window. Within the original dwelling a further bedroom window on the ground floor is proposed. These ground floor windows will face a public footpath and do not direct face existing windows on neighbouring properties.

Certificate: A

Other Land Owners: None

Consultations and Publicity

The application has had a site notice on display for 21 days (12/08/2022 – 05/09/2022). The application appeared on the weekly list on 15th August 2022. Due to the nature of the proposal a number of consultations have been sent out.

| Consultee | Date Responded | Summary |
|------------------------------|----------------|---|
| Cornwall Archaeological Unit | 17/08/2022 | In the vicinity of historically important building so application should not be determined until the Design and Access Statement has considered the Heritage impact has been addressed. |
| Environmental health | - | - |

| | | |
|----------------------------|------------|--|
| Cornwall Fire and Rescue | - | - |
| South West Water | - | - |
| CIOS Waste and Recycling | 14/10/2022 | Bin storage should be provided within the site and left out on the highway only on waste collection days |
| Environment Agency | - | - |
| Lead Local Flood Authority | 15/08/2022 | The attached shows flood zones 2 and 3 in the vicinity of the proposed development site in this week's list. I suggest the EA should be asked whether they recommend the applicants complete an assessment of the vulnerability of the site to flooding from the sea, whether it is suitable for the proposed use, and what appropriate mitigations might be suggested if it is. |

Representations from Residents:

Neighbouring properties written to directly:

4 Buzza Street

Craggyellis, Buzza Street

Clemy's Cottage, Buzza Road

Penventon, Buzza Road

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

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

[1] letters of representation have been received.

Representation letter state:

Whilst we certainly have no objection regarding the much needed redevelopment of Treboeth we are concerned that with 4 holiday apartments and 1 flat there appears to be no space within the owners boundary for refuse storage?

Relevant Planning History:

[P/16/026/CLE](#) - Certificate of Lawful Use for use of dwelling as a guesthouse – Approved

Constraints:

- Conservation Area
- Area of Outstanding Natural Beauty
- Heritage Coast
- Listed Building: <>[10m of Grade II Wahroonga, Buzza Road](#)

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 garden area and green space to prevent the proposal appearing as an overdevelopment of the site and to ensure an adequate level of amenity? | n |
| Is the parking and turning provision on site acceptable? | n/a |
| 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 |

| Heritage | YES OR NO |
|--|------------------|
| 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? | y |
| Within an Archaeological Constraint Area | n |
| Other Impacts Does the proposal comply with Highways standing advice such that it does not adversely affect highway safety? | n/a |
| Impact on protected trees | n/a |

| | |
|--|-----|
| a) Will this be acceptable b) Can impact be properly mitigated? | |
| 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? | y |
| 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 |

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

| Waste Management | YES OR NO |
|---|------------------|
| Does the proposal generate construction waste | y |
| Does the proposal materially increase the use of the site to require additional long-term waste management facilities | y |
| Does the proposal include a Site Waste Management Plan | y |
| Is a condition required to secure a Site Waste Management Plan | n |

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

Analysis: The proposal does introduce additional side and rear facing windows. To the rear a window has been included as this is one of the main bedrooms for the unit of owners accommodation which will be permanently occupied. As this is the only wall in which a window could be installed there are no alternative options and there has to be a means of escape for fire safety purposes. The introduction of a ground floor window will be an additional unit and window that faces the rear and towards Clemy's cottage (Wahroonga, GII LB). Clemy's cottage is a holiday let and the proposed ground floor window would be within 8 metres of the front of this adjacent property. It is noted, however, that the angle of Treboeth, and thus the proposed window, would be both off-set from the ground floor front windows and at an oblique angle. So whilst the distances achieved are below 12 metres the windows are not face to face and there is an intervening public footpath between the property and Clemys cottage.

The proposal is changing the use of a guesthouse and seeking to secure a unit of permanently occupied accommodation, making significant improvements to the appearance of the property whilst maintaining tourism accommodation as well as a permanently occupiable two-bedroom flat that meets the minimum space standards. No letters of objection have been received in relation to the issue of overlooking. Whilst the absence of objection letters is not justification to allow development that significantly affects the privacy of an existing property, the oblique angle of the window and intervening footpath and the fact that the window proposed is on the ground floor leads me to conclude that it is acceptable and would not give rise to significant adverse impacts upon the privacy or amenity of this adjacent property.

In terms of heritage impacts, the proposal does not introduce any development outside the existing defined curtilage of this property and provides a small in-fill extension on the side elevation. The street patterns of the surrounding area will remain unchanged, and I do not consider the siting of solar panels would result in loss of significance or adversely impact upon the setting of the adjacent Listed Building. The proposal will deliver improvements to the appearance of the property which would enhance the character of this part of the Conservation Area.

In terms of flood risks, it is noted that comments from the LLFA were received indicating potential flood risks. The EA were consulted as suggested but did not raise any objections. The site lies outside Flood Zones 2 or 3 and outside land identified in the local plan as susceptible to flood risks. Whilst a small section of land is to be built on, comprising the small in-fill extension within the curtilage, I do not consider this would result in the proposal giving rise to an increase in flood risks elsewhere.



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 for planning approval.

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

| 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 | ✓ |

| Info Requirements | Submitted (LVC) | Not Submitted | Condition Required |
|------------------------------------|-----------------|---------------|--------------------|
| Site Waste Management Plan | ✓ | | n |
| Sustainable Design Measures | ✓ | | n |
| Biodiversity Enhancement Measures: | ✓ | | n |

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 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:

- **Plan 1 Existing Plans, Elevations, Block Plan and Location Plan, Drawing Number: MJ-174-01 Rev A**
- **Plan 2 Proposed Plans and Elevations, Drawing Number: MJ-174-02 Rev B**
- **Revised Design, Access, Planning and Heritage Statement, Dated July 2022**
- **Preliminary Roost Assessment (PRA), Ref: 22-5-1, IOS Ecology, Dated 4th June 2022**
- **Site Waste Management Plan (AMENDED) Revised 18th October 2022**

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 Policies OE1 and OE7 of the Isles of Scilly Local Plan (2015-2030).

C3 The method statement as set out in Appendix 2 of the Preliminary Roost Assessment (Ref: 22-5-1, IOS Ecology, Dated 4th June 2022) shall be fully adhered to during the course of the development, hereby approved.

Reason: In the interests of safeguarding protected species during the course of the development in accordance with Policy OE2, SS1(d) and SS2(g) of the Isles of Scilly Local Plan (2015-2030).

- C4** The four self-contained flats, hereby permitted, as show in yellow on the attached plan, shall not be used otherwise than for the provision of short-let holiday accommodation, in connection with the permanent owners accommodation. Short-term holiday let use shall not exceed continuous occupation for more than 28 days in any calendar year. The owner or operator shall maintain a register of occupants for each calendar year, in accordance with the General Data Protection Regulations. This shall be made available on request for inspection by any duly authorised officer of the Local Planning Authority.
Reason: The property is changing from lawful guesthouse use to a mixed use of owners' accommodation and self-catering accommodation. The occupation of holiday let flats as a permanent units of residential accommodation would require further assessment and based on their size may not be suitable for permanent occupation in accordance with Policy LC3 of the isles of Scilly Local Plan (2015-2030).
- C5** The self-contained two-bedroom ground floor flat, hereby permitted, as show in green on the attached plan, shall not be used otherwise than for the provision of owners' accommodation only in connection with the self-contained holiday let flats at Treboeth, 5 Buzza Street. The owner's accommodation shall not be occupied or used as short-term holiday letting accommodation and shall be retained as permanent accommodation.
Reason: To ensure that the development is occupied as owners' accommodation in accordance with Policy WC5 of the Isles of Scilly Local Plan 2015-2030.
- C6** Prior to their installation on the building, details of, including samples or specifications of all external finishes shall be submitted to and be approved in writing by the Local Planning Authority. Once approved the development shall be finished in the agreed materials and retained as such thereafter. All nails and fittings shall be corrosion resistant.
Reason: To ensure that the character and appearance of this building is sympathetic to this location within the Conservation Area, in accordance with Policy OE7 (5) of the Isles of Scilly Local Plan (2015 – 2030).
- C7** Other than the door and window openings shown on the approved plans and notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order), no new window or door openings shall be installed in the building in the north or east elevations.
Reason: To protect the amenity of adjacent residential occupiers and in accordance with Policies SS2(1) d) and WC5(1) d) of the Isles of Scilly Local Plan 2015-2030.
- C8** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no extensions to the dwellings hereby permitted shall be erected and no alterations to the roof or

other openings shall be installed within the building without the prior permission, in writing, of the Local Planning Authority.

Reason: In the interests of protecting the privacy and amenity of neighbouring properties and ensuring the size of the dwelling is such that it remains available to meet a local need in accordance with Policies LC1 and LC3 of the Isles of Scilly Local Plan (2015 – 2030).

- C9 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 any 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 those of neighbouring residential properties and to protect 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 Isles of Scilly Local Plan 2015-2030.

- C10 All works involving machinery required in connection with the implementation of this permission shall be restricted to between 0800 and 1800 hours Monday to Saturdays. There shall be no works involving machinery on a Sunday or Public or Bank Holiday.**

Reason: In the interests of protecting the residential amenities of neighbouring properties.

- C11 The Solar panels hereby approved shall be permanently removed upon redundancy for its dedicated purpose and the building reinstated to its former condition within a period of six months unless otherwise agreed in writing by the Local Planning Authority.**

Reason: The Solar panels and equipment has been permitted for a dedicated purpose and, if no longer needed, should be removed from this part of the Islands in the interests of the visual amenities of the area.

| | | |
|--------------------|---|------------|
| Print Name: | Lisa Walton | 16/12/2022 |
| Job Title: | Chief Planning Officer | |
| Signed: |  | |
| | Authorised Officer with Delegated Authority to determine Planning Applications | |