



IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

COUNCIL OF THE ISLES OF SCILLY

Town Hall, The Parade, St Mary's TR21 0LW
Telephone: 01720 424455 – Email: planning@scilly.gov.uk

Town and Country Planning Act 1990
Town and Country Planning (Development Management Procedure) Order 2010

REFUSAL OF PERMISSION FOR DEVELOPMENT

Application No: P/22/056/COU **Date Application Registered:** 15th August 2022

Applicant: Mr Martyn Smalley
Browarth,
Rams Valley,
Hugh Town,
St Mary's,
Isles Of Scilly,
TR21 0JX

Proposal: Application for a change of use of land for the siting of a mobile hot food takeaway unit, known as Lily's and serving Thai cuisine with associated Land Rover (with generator).

Site Address: Holgates Green Lower Strand Hugh Town St Marys Isles Of Scilly

In pursuance of their powers under the above act, the Council hereby **REFUSE** the above proposal for the following reasons:

- R1** The proposed change of use of land for the specific street trading activities, by virtue of the nature of the use, set-up and operational requirements as well as the hours of operation would give rise to harm to the historic environment as a result of visual harm to the public open space within the Conservation Area. Holgates Green is a prominent area of public open recreation space and makes a positive contribution to a sustainable community and supports the wider economic vitality of the islands on this basis. The harm is not off-set by any demonstrable wider public benefit. The proposal is therefore contrary to the requirements of Policy OE7(5) and WC5(1) c) and d) of the Isles of Scilly Local Plan 2015 - 2030 and Paragraph 197 of the National Planning Policy Framework 2021.
- R2** The proposed change of use by virtue of the lack of formal vehicular access to the site would lead to daily hazardous arrangements that would have an unacceptable impact on the use of Holgates Green. The vehicular movements would introduce a conflict between pedestrians, cyclists and vehicles resulting in an adverse impact on the function, safety and character of the local highway network contrary to the requirements of Policy SS10 (1) b) of the Isles of Scilly Local Plan 2015-2030 and Paragraph 111 and 112 c) of the National Planning Policy Framework 2021.

The Decision relates to the following documents and drawings:

Ref No:	Plan Type:	Date Received:
TQRQM22217133536877	Location Plan (1:1250)	11/08/2022
TQRQM22217134209242	Block Plan (1:500)	11/08/2022
-	Layout Plan and Dimensions	15/08/2022
-	Photo of Catering Unit	15/08/2022

The following Policies of the adopted Local Plan (2015-2030) are considered relevant to this decision:

- Policy SS4 Protection of Retailing, Recreation and Community Facilities
- Policy SS10 Managing Movement
- Policy OE1 Protecting and enhancing the landscape and seascape
- Policy OE7 Development affecting heritage (5) Conservation Area
- Policy WC5 Visitor Economy and Tourism Development

Informative:

1. **In dealing with this application, the Council of the Isles of Scilly has actively sought to work with the applicants in a positive and proactive manner, in accordance with paragraph 38 the National Planning Policy Framework 2021.**

Signed:



Chief Planning Officer

Duly Authorised Officer of the Council to make and issue Planning Decisions on behalf of the Council of the Isles of Scilly.

DATE OF ISSUE: 14th October 2022



COUNCIL OF THE ISLES OF SCILLY

Planning Department

Town Hall, The Parade, St Mary's, Isles of Scilly, TR21 0LW

☎ 0300 1234 105

✉ planning@scilly.gov.uk

Dear Applicant,

As your application has been refused, this letter is to inform you of the process in which you can appeal against the decision made by the Local Planning Authority.

Appealing Against the Decision

If you are aggrieved by the decision to refuse your application as detailed on your decision notice, you can appeal against this decision to the Secretary of State. All appeal decisions are considered by the Planning Inspectorate – a government department aimed at providing an unbiased judgement on a planning application. From the date of the refused decision notice attached you must lodge an appeal within the following time periods:

- Householder Application - 12 weeks
- Planning Application – 6 months
- Listed Building Consent – 6 months
- Advertisement Consent - 8 weeks
- Minor Commercial Application - 12 weeks
- Lawful Development Certificate – None (unless for LBC – 6 months)
- Other Types - 6 months

Note that these periods can change so you should check with the Planning Inspectorate for the most up to date list. You can obtain the appeal forms by calling 0303 444 5000 or submit an appeal through the Planning Portal <https://www.gov.uk/appeal-planning-inspectorate>

You can apply to the Secretary of State to extend this period, although this will only be allowed in exceptional circumstances.

Purchase Notices

Planning control is intended to regulate the development of land in the public interest. For this reason, planning decisions may conflict with the private interests of land owners. There is no entitlement to compensation for adverse planning decisions (except in limited circumstances). This is because owners usually have some continuing benefit from current uses. However, occasionally there may be no reasonably beneficial use for the land. In order to remedy this situation; an owner has the right, in certain circumstances, to serve a "purchase notice" requiring a local authority to purchase their interest in the land. Purchase notices will be considered by the Planning Inspectorate, although you are advised to contact the Planning Department if you wish to consider this option.

Listed Buildings

Please note that any unauthorised works to a listed building are considered to be a criminal offence. If you need further clarification of what type of works may require consent, please contact the department.

Re-submissions for Planning Permission

Under planning regulations, you are allowed to re-submit your application after a refusal without a fee, provided certain criteria are met. The re-submission must be within 12 months of the date of the original decision, the proposal must be on the same site and be similar to the previous application. Similarly, the application must be made by the same applicant. If you consider resubmitting your application, contact the Planning Department so we can explain where your application can be improved to be in accordance with local planning policy. In order for the Council reach a different decision, however you will need to address all of the previous reasons for refusal.

Should you require any further advice regarding any part of your application, please contact the Planning Department and we will be happy to help you.