

Council of the Isles of Scilly

Delegated Planning Report

Other application

Application Number: P/23/004/FUL

UPRN: 000192001058

Received on: 11 January 2023

Valid on: 11 January 2023

Application Expiry date: 8 March 2023

Neighbour expiry date: 2 February 2023

Site notice posted: 13 January 2023

Site notice expiry: 3 February 2023

Agreement of Pre-commencement Conditions: 08/03/2023

Applicant: Mr Ian Sibley

Site Address: Penold
Church Road
Hugh Town
St Mary's
Isles Of Scilly
TR21 0NA

Proposal: Demolition of existing semi-detached house and replacement with a new dwelling (revised scheme for approved planning application P/21/038/HH for alterations, extension and improvements).

Application Type: Planning Permission

Recommendation: PER

Summary Conditions:

1. Standard time limit
2. Adherence to plans
3. Removal of Permitted Development Rights
4. No External Illumination without agreeing details
5. Hours of Operation for Construction Works
6. Implementation of Biodiversity enhancement Measures
7. Single Dwelling
8. P/C: Water Saving Measures to be submitted for approval

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 D Marcus

Date: 23/02/2023

Site Description and Proposed Development

The application site is a semi-detached dormer style bungalow situated at the top of the hill on Old Town Road on St Mary's. The proposal includes a complete demolition of the property to achieve the previously approved extension and redevelopment of this property, as considered by Members in July 2021. At that time the works were described as internal modernisation of the space, replacement roofing materials, replacement and enlargement of rear dormer windows, alterations and reconfiguration of rear and side facing doors and windows, full height gable extension on the south side and installation of renewable energy panels on the dormer window.

In 2021 the application (P/21/038/HH) only referred to a demolition of a small section, which was a 1970s extension. The building, at that time, was predominantly, to be retained. The applicant has now had the building structurally assessed and on the basis of a structural report, concluded that it is now beneficial, to achieve the required energy improvements on a holistic (rather than piecemeal) approach, and to avoid propping up large areas of the building, to take the building down completely to slab level and re-build in accordance with the previously approved designs.

The applicant will still be required to comply with the Building Regulations, which is a separate regulatory process and compliance is not considered under the planning acts. Additionally the applicant will be required to retain a safe party wall for the neighbouring property at Broomfields. It is not possible to try and address this, which is a separate Civil matter between the two parties, in the consideration of this planning application. The applicant has confirmed that they

have agreed, with their neighbour, to erect a fence to form a temporary barrier between the two properties. The contractor will be advised on the need to minimise noise and disturbance for the neighbouring property and a method statement for the demolition will be drawn up and form part of the Party Wall Agreement



Figure 1 Existing and Proposed West Elevation Facing Church Road (red: solar water heating panel)

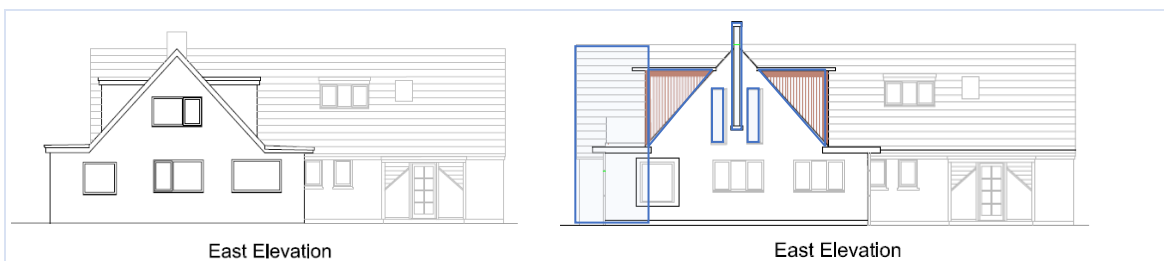


Figure 2 Existing and Proposed East Elevation facing the rear

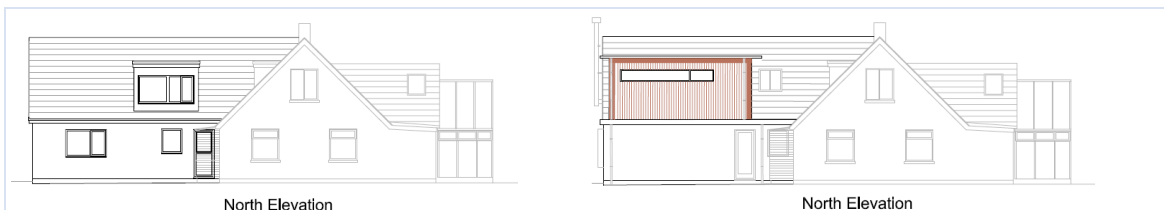


Figure 3 Existing and Proposed North side elevation (facing Broomfields)

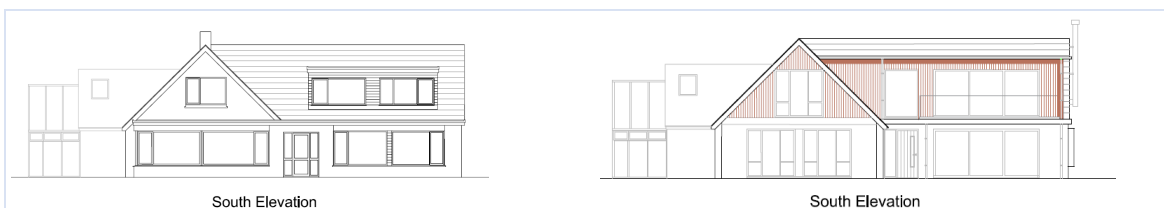


Figure 4 Existing and proposed south elevation

Certificate: A

Other Land Owners: None

Consultations and Publicity

The application has had a site notice on display for 21 days (12/01/2023 – 03/02/2023). The application appeared on the weekly list on 16th January 2023.

This is shared on social media including the Council's Facebook page as well as being circulated to Members and local organisations. Due to the nature of the proposal [one external](#) consultations has been required. This is with Cornwall Fire and Rescue. They have offered no comments on this proposal

Representations from Residents:

Neighbouring properties written to directly:

- **Pelorus, Church Road**
- **Northwethel, 12 Pilots Retreat**
- **Broomfields, Old Town Road**

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

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

[1] letters of representation have been received.

Whilst two initial letters were received, one has subsequently been retracted. The remaining representation is on behalf of the attached neighbouring property at Broomfields. This raises concerns about the impact on the elderly neighbour who is registered blind and the issues around disturbance and their party wall and flying freehold. As noted above the applicant has provided details as to how impact will be minimized. Whilst the LPA would not wish to allow development to go ahead that impacts in an adverse way on amenity, the issues raised in this case are covered under the Building Regulations and under separate civil mechanism through the Party Wall Act. The planning authority can not seek to try and control matters that are already controlled through separate regulatory processes.

The impact upon amenity from construction is generally not an issue that has sufficient weight to reject a planning application. Construction is not a permanent long term issue but a short term impact with limited duration. I do consider it is appropriate to require the application not to operate noisy plant or machinery at unsociable times of the day. This would be controlled by condition and the applicant has set out a commitment to this in his response to this issue "*I have instructed MBA Structural Engineers of Truro to visit site next Friday (1st March) to prepare a method statement for demolition and temporary protection works to minimise disruption during the construction process... it will be included within the Party Wall Agreement. As previously advised, this is being prepared by Owen & Co, Building Surveyors, acting on behalf of both parties*".

Although the proposal will now see the house taken down completely, the applicant has demonstrated, through the structural engineers annotated plans on the levels of rebuilding required to implement the originally approved scheme. Relative to the implementation of the extant permission I consider the current proposal will unlikely give rise to a significantly greater impact.

Relevant Planning History:

This property has extensive planning history which demonstrates that the property was originally constructed as a single dwelling and was later sub-divided into two properties and has had various extensions. There have been a high number of applications of which a good number have been rejected over the years. Planning permission was originally granted in 1943 to erect a 3-bedroom bungalow (P0018). An application was approved for an extension in 1958.

In 1969 an application was refused for an extension and a change of use to a guesthouse. This was followed up with 2 further refusals for extensions in 1969 and 1970. A further application was approved in 1970 for an extension to the rear of the property. In 1975 a further application was refused for an amendment to the approved rear extension but a subsequent amendment was approved later the same year. A change of use from one dwelling to two was refused in 1978. In 1981 permission was refused to change the use of the dwelling to a guesthouse. This was resubmitted later the same year and was again refused. In 1982 a further resubmission was made and this was also refused. The application that granted consent for a change of use from one dwelling to two dwellings was later in 1982 when planning application P2108 was approved.

Finally in 2021 (P/21/038/HH) the property was subject to an application to modernize and extend it to achieve the plans and elevations now proposed in this current application, as a replacement dwelling.

Constraints:

- Conservation Area
- Area of Outstanding Natural Beauty
- Heritage Coast

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 | Y |

| | |
|--|---|
| prevent the proposal appearing as an overdevelopment of the site and to ensure an adequate level of amenity? | |
| 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 |

| 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? | N/A |
| Within an Archaeological Constraint Area | N |
| Other Impacts | Y |
| Does the proposal comply with Highways standing advice such that it does not adversely affect highway safety? | |
| 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? | Y |
| 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 | Y |
| 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 | Y |
| Is a condition required to provide biodiversity enhancement measures | Y |

| 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 | N |
| 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 | Y ¹ |

Analysis: Although there is a representation on this application, from the attached neighbouring property, the issues raised are not material planning considerations. These relate to the proposal complying with the Building Regulations and assurances of matters that would fall as a Civil Matter, matters under the Party Wall Act.

The applicant has set out a case to implement the previous design solution for the property, as secured under P/21/038/HH, which achieves higher energy efficiency measures as well as an improved aesthetic, whilst reducing the health and safety risks. Specifically increasing insulation throughout to high modern standards to raise the energy performance from its current G rating. This includes installing an energy-efficient heating system, with the use of solar thermal and PV panels and carrying out works to

¹ Sustainable design measures are covered by the complete rebuilding of the original dated structure to achieve higher insulation within the building overall and the proposal includes a Solar Water Heating Panel

the highest standards to create an air-tight property, which would not be possible without the building being fully taken down and rebuilt.

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 Section 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 | y | | n |
| Sustainable Design Measures | y | | n |
| Biodiversity Enhancement Measures: | | n | y |

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 Location Plan**
 - **Plan 2 AMENDED Block Plan**
 - **Plan 3 Proposed Plans and Elevations, Drawing Number: 200/001, Dated 16 May 2021**
 - **Plan 4 Sustainable Design Measures, Dated May 2021**
 - **Plan 5 Site Waste Management Plan, Dated May 2021**
 - **Plan 6 Preliminary Ecological Appraisal, Update 2023 Ref: 23-2-2, Dated 9th February 2023 (Avoidance, Mitigation)**
 - **Plan 7 Design and Access Statement**

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 OE1 and Policy OE7 of the Isles of Scilly Local Plan (2015 – 2030).

- C3 Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) Order 2015 (As Amended), (or any Order revoking and re-enacting that Order) no extensions (Part 1 Class A), dormer windows (Part 1 Class B), alterations to the roof (Part 1 Class C), curtilage buildings (Part 1 Class E), flues or chimneys (Part 1, Class G), means of enclosure (Part 2 Class A) shall be erected or constructed without first obtaining planning permission.**

Reason: In the interests of protecting and retaining a domestic scale and character in keeping with the wider Conservation Area and to accord with Policies SS2, OE1 and LC8 of the Isles of Scilly Local Plan (2015 – 2030).

- C4 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).

- C5 No construction plant and/or machinery shall be operated on the premises before 0800 hours on Mondays through to Saturdays nor after 1800 hours. There shall be no works involving construction plant and/or machinery on a Sunday or Public or Bank Holiday.**

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

- C6 Following the completion of the development, hereby approved, the measures to promote biodiversity enhancements shall be installed. This should include the installation of one stand-alone bat box at the apex of the south-east gable of the property, as identified in the Preliminary Ecological Appraisal 2023 Update Report, dated 9th February 2023, Reference: 23-2-2. The enhancement measures approved**

shall be installed, prior to the first breeding/nesting season following completion of the development and shall be retained as such 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 Policies OE2(1), SS1(d) and SS2(g) of the Isles of Scilly Local Plan (2015-2030).

- C7 The improvements, alterations and enlargements, hereby approved, shall not result in the property being occupied otherwise than as a single household and no separate self-containment of the improved property shall be created, unless approved following the submission of a planning application for a change of use.**

Reason: To ensure the larger home justified is retained for those purposes in accordance with Policy LC8 of the Isles of Scilly Local Plan (2015-2030).

- C8 Prior to installation, a detailed scheme indicating the water saving measures to be incorporated into the proposal, to achieve a water consumption standard of 110 litres of water per person per day, shall be submitted to and approved in writing by the Local Planning Authority. This should include water conservation and harvesting measures that will be incorporated as part of the development. The water saving measures shall be implemented in accordance with the details as agreed prior to the first occupation of the dwelling and shall be retained as such thereafter.**

Reason: This is a pre-installation condition that requires details that were not submitted as part of the application but are required in order to comply with part (K) iv) of Policy SS2(1) of the Local Plan to reduce pressure on water resources.

Informatives:

- 1. Statement of Positive Engagement:** 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 of the National Planning Policy Framework 2019.
- 2. Non-Material Amendments:** In accordance with the provisions of Section 96A of the Town and Country Planning Act which came into force on 1st October 2009, any amendments to the approved plans will require either a formal application for a non-material amendment (currently the fee is for this is £234 but any fee increase would need to be applied should the national fees increase) or the submission of a full planning application for a revised scheme. If the proposal relates to a Listed Building you will not be able to apply for a non-material amendment and a new application for a revised scheme will be required. Please discuss any proposed amendments with the Planning Officer.
- 3. Discharge of Conditions:** In accordance with the Town and Country Planning (fees for Application and Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2017 a fee is payable to discharge any condition(s) on this planning permission. The fee is current £116 for each request to discharge condition(s) where the planning permission relates to any other type of development other than a householder application. The fee is payable for each individual request made to the Local Planning Authority. You are advised to check the latest fee schedule at the time of making an application as any adjustments including increases will be applied:
https://ecab.planningportal.co.uk/uploads/english_application_fees.pdf
- 4. Discovery of Bats:** The Applicant is reminded of the provisions of the Wildlife and Countryside Act 1981 and the E.C. Conservation (Natural Habitats) Regulations Act 1994, the Habitat and Species Regulations 2012 and our Natural and Environment and Rural Communities biodiversity duty. This planning permission does not absolve the applicant

from complying with the relevant law protecting species, including obtaining and complying with the terms and conditions of any licences required, as described in part IV B of Circular 06/2005. Care should be taken during the work and if bats are discovered, they should not be handled, work must stop immediately and a bat warden contacted. Extra care should be taken during the work, especially when alterations are carried out to buildings if fascia boards are removed as roosting bats could be found in these areas. If bats are found to be present during work, they must not be handled. Work must stop immediately and advice sought from licensed bat wardens. Call The Bat Conservation Trust's National Bat Helpline on 0845 1300 228 or Natural England (01872 245045) for advice.

5. **Registering for appropriate Business Rates/Council Tax:** To ensure appropriate contributions, are made to fund services provided by or on behalf of the Council on the Isles of Scilly please ensure you contact the Council's Revenues Department: revenues@scilly.gov.uk.
6. **Party Wall Act:** As the proposed works affect the boundary with a neighbouring property, this decision does not convey any other form of consent or agreement that may be necessary in conjunction with these works and does not override or supersede any civil rights, which the neighbour may have. The attention of the applicant is drawn to the information contained in the Party Wall etc. Act 1996.
7. **Building Control:** This decision is not a determination under the Building Regulations. Please ensure that all building works accord with the Building Regulations and that all appropriate approvals are in place for each stage of the build project. You can contact Building Control for further advice or to make a building control application: buildingcontrol@cornwall.gov.uk.

| | | |
|--|---|------------|
| Print Name: | Lisa Walton | 08/03/2023 |
| Job Title: | Chief Planning Officer | |
| Signed: |  | |
| Authorised Officer with Delegated Authority to determine Planning Applications | | |