

Council of the Isles of Scilly Delegated Planning Report Householder application

Application Number: P/23/007/HH

UPRN: 000192000128

Received on: 25 January 2023

Valid on: 30 January 2023

Application Expiry date: 27 March 2023

Neighbour expiry date: 21 February 2023

Consultation expiry date: N/A

Site notice posted: 2 February 2023

Site notice expiry: 23 February 2023

Applicant: Mr Michael Tappin
Site Address: Pine Trees
The Town
Bryher
Isles Of Scilly
TR23 0PR
Proposal: Removal of chimney.
Application Type: Householder

Recommendation: PER

Summary Conditions:

1. Standard time limit (3 years)
 2. In accordance with the approved plans
 3. Hours of Construction
-

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: Dan Marcus

Date: 03.02.2023

Site Description and Proposed Development

Pine Trees is a two storey semi-detached dwelling located on the south side of the central 'The Town' settlement of Bryher. The property is surrounded by residential dwellings to the east, west and north and is cut into the slope and the land runs downwards in a southerly direction towards Church Quay. Attached to the west elevation of the dwelling is a single storey packing shed and runs in an east-west direction. The old packing shed is used as ancillary accommodation to the existing dwelling.

The building is built from granite which is rendered at the lower level and timber clad at first floor level. There is a single storey extension replacing a former packing shed extending to the west with a zinc flat roof. The roof of the main dwelling has a mix of artificial and natural slate roof. It has two chimneys the one of which is subject to the application is towards the south of the roof and is constructed from approximately 6 courses of red brick.

The proposal is to remove the redundant southerly chimney and recover the roof in that area with slate matching the surroundings. The chimney is stated to be awkwardly positioned internally so removal will not only resolve damp penetration issues but also enable better use of the internal space.

Certificate: B

Other Land Owners: Duchy of Cornwall

Consultations and Publicity

The application has had a site notice on display for 21 days (02/02/2023 –

23/02/2023). The application appeared on the weekly list on 6th February 2023. Due to the nature of the proposal no external consultations are required.

Representations from Residents:

Neighbouring properties written to directly:

- Marzipan, Pera & The Little House – The Town, Bryher

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

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

[0] letters of representation have been received.

The comments received are from the neighbouring property to the west, Pera. He feels that the chimney should only be removed if it is unsafe or in need of repair. If it is removal is for cosmetic or sight improvement, then the comments suggest that they don't agree that would not be achieved. There is concern expressed that permitting chimney removal, if it is not structurally unsafe, would be at odds with the Planning Department document 'Traditional Farm Buildings Isles of Scilly' from 1995-1997.

Relevant Planning History:

No planning history relevant under the adopted Local Plan but:

- June 2013 application P/13/030 was approved for the extension and alterations including creation of annexe for use as holiday accommodation.
- January 2017 application P/16/056 was approved for the removal of condition 11 from planning permission P/13/030 (use of annexe restricted to holiday letting) to allow use of annexe as a separate dwelling. This was approved following the applicants entering into a S106 legal agreement to ensure the smaller of the two dwellings was retained for local need accommodation
- January 2018 application P/17/109/FUL was approved to demolish an existing flower packing shed and erection of a new extension. This was for the purposes of ancillary accommodation to the main dwelling.
- November 2019 – P/19/048/ROV to vary condition 8 of planning permission P/17/109/FUL to replace approved lead roof covering of the extension with zinc.

Constraints:

- Conservation Area
- Area of Outstanding Natural Beauty
- Heritage Coast
- Archaeological Constraint Area – The Town – 30m & Watch Hill - 45m

- Scheduled Monument – Watch House & Coastguard Lookout – 115m

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/a
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
Is the scale proposed in accordance with NDSS	n/a

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, <ul style="list-style-type: none"> 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	n/a
Does the proposal comply with Highways standing advice such that it does not adversely affect highway safety?	

Impact on protected trees Will this be acceptable 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

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	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	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	n
Does the proposal include any site specific sustainable design measures	n
Is a condition required to secure a Sustainable Design Measures	n

Conclusion: the supporting documents state that the chimney is redundant and allows damp to penetrate the interior of the property. No photographic images are provided of internal damp problems. I note that the building is not listed although it is relatively traditional in character and appearance, clearly constructed when a chimney was an essential means to heat a home. I note that the chimney is not a prominent feature on the building.

The application states that the roof will be made good and be covered with slates to match the existing roof and the small amount of material taken down will be re-used in the garden.

I consider that chimney removal does result in some very minor harm to the character of the existing building but I don't consider its removal would give rise to particular visual harm. Overall the chimney in question is small, it does not have 'pots' and its removal would not result in loss of a significant feature of this building. Although a chimney is generally an important architectural detail, particularly in a conservation area, in this instance I don't believe it would result in harm to the wider character of the conservation area. I consider its loss would have neutral visual impact.

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 permission to be granted. This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and with Sections 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	
Policy OE4 Protecting Scilly's Dark Night Skies	
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	N
Sustainable Design Measures	N	Y	N
Biodiversity Enhancement Measures:	N	Y	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 Location Plan**
- **Plan 2 Block Plan**
- **Plan 3 Proposed Elevations SCS/PT/002, dated January 2023**
- **Plan 4 SWMP – Proposed Removal of Chimney January 2023**

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

C3 No construction plant and/or machinery shall be operated on the premises, as part of the implementation of this permission, 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 the islands.

Print Name:	Lisa Walton	21/03/2023
Job Title:	Chief Planning Officer	
Signed:		
	Authorised Officer with Delegated Authority to determine Planning Applications	
