



**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

## **COUNCIL OF THE ISLES OF SCILLY**

Town Hall, St Mary's TR21 0LW  
Telephone: 01720 424455 – Email: [planning@scilly.gov.uk](mailto:planning@scilly.gov.uk)

Town and Country Planning Act 1990  
Town and Country Planning (Development Management Procedure) Order 2015

### **PERMISSION FOR DEVELOPMENT**

<b>Application No:</b>	<b>P/23/041/FUL</b>	<b>Date Application Registered:</b>	<b>30th June 2023</b>
<b>Applicant:</b>	<b>Mr &amp; Mrs Buffa The Wheelhouse Little Porth Hugh Town St Mary's Isles Of Scilly TR21 0JG</b>	<b>Agent:</b>	<b>Mr Darren Nock 27 Golitha Rise, Liskeard, Cornwall, PL14 3WN</b>

**Site address:** Owners Accommodation The Wheelhouse Little Porth Hugh Town St Mary's  
**Proposal:** Proposed extension to living accommodation (AMENDED PLANS)

In pursuance of their powers under the above Act, the Council hereby **PERMIT** the above development to be carried out in accordance with the following Conditions and be occupied in accordance with the **Section 106 Legal Agreement:**

**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 and Block Plan, Drawing Number: 2211/SD01 dated Nov 22.**
- **Plan 2 Location and Proposed Block Plan, Drawing Number: 2211/PL01 rev A, dated Nov 22**
- **Plan 3 Proposed Site Layout Plan, Drawing Number: 2211/PL02 rev B, Dated Nov 21.**
- **Plan 4 Proposed First Floor Layout Plan, Drawing Number: 2211/PL04 rev B, Dated Nov 22**
- **Plan 5 Proposed Ground Floor Plan, Drawing Number: 2211/PL03 rev A, Dated Nov 22**
- **Plan 6 Proposed Roof Plan, Drawing Number: 2211/PL05 rev B, Dated Nov 22**
- **Plan 7 Proposed Elevations, Drawing Number: 211/PL06 rev B, Dated Nov 22**
- **Preliminary Roost Assessment, Ref: 22-12-1, Report Dated 22nd December 2022 (Appendix 1 Precautionary Method 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 OE7 of the Isles of Scilly Local Plan (2015-2030).

**C3 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 low-level appropriately directed downlighting, 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: Site Waste Management Plan**

**C4** 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, 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 Policies SS2(2) and OE5 of the Isles of Scilly Local Plan (2015 - 2030).

#### **PRE-COMMENCEMENT CONDITION: Sustainable Design Measures**

**C5** Prior to the commencement of the development, hereby approved, a detailed scheme of specific sustainable design measures to minimise water usage and energy consumption shall be submitted to and approved in writing by the Local Planning Authority. The agreed details shall be installed as approved prior to the first occupation of the dwelling 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 Policies SS1, SS2(1)k) and (2) and SS6 of the Isles of Scilly Local Plan (2015-2030) in terms of ensuring a sustainable form of development and to minimise the impact on precious water resources of the islands.

**C6** 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.

**C7** The windows proposed in the first-floor north elevation of the extension, hereby approved, shall be fitted with obscure glazing and shall be of a non-opening or restricted opening design (hinged on its left-hand side from an internal perspective) prior to the extension hereby approved being brought into use. The obscure glazing shall be installed in order to provide of level of obscurity at least equivalent to levels 3, 4 or 5 on the Pilkington Glass scale and the glazing shall be retained as such thereafter. Unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenity of adjacent residential occupiers and in accordance with Policies SS2(1)d) and LC8(1)a) of the Isles of Scilly Local Plan (2015-2030).

#### **Further Information**

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.
2. **SECTION 106 AGREEMENT:** The planning permission hereby approved is subject of a section 106 agreement to control the occupancy of the dwellings to ensure it contributes towards the housing need of the local community.
3. **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 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. There is a fee to apply for a non-material amendment and the most up to date fee will be charged which can be checked here:

[https://ecab.planningportal.co.uk/uploads/english\\_application\\_fees.pdf](https://ecab.planningportal.co.uk/uploads/english_application_fees.pdf)

4. **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 £34 for each request to discharge condition(s) where the planning permission relates to 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](https://ecab.planningportal.co.uk/uploads/english_application_fees.pdf)
5. **Building Regulations:** 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](mailto:buildingcontrol@cornwall.gov.uk).
6. **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.
7. **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](mailto:revenues@scilly.gov.uk).

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:** 2<sup>nd</sup> October 2023



# 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 Mr & Mrs Buffa

## Please sign and complete this certificate.

This is to certify that decision notice: P/23/041/FUL and the accompanying conditions have been read and understood by the applicant: Mr & Mrs Buffa.

1. **I/we intend to commence the development as approved:** Proposed extension to living accommodation (AMENDED PLANS) at: Owners Accommodation The Wheelhouse Little Porth Hugh Town St Mary's **on:**.....
2. I am/we are aware of any conditions that need to be discharged before works commence.
3. I/we will notify the Planning Department in advance of commencement in order that any pre-commencement conditions can be discharged.

You are advised to note that Officers of the Local Planning Authority may inspect the project both during construction, on a spot-check basis, and once completed, to ensure that the proposal has complied with the approved plans and conditions. In the event that the site is found to be inaccessible then you are asked to provide contact details of the applicant/agent/contractor (delete as appropriate):

**Name:** \_\_\_\_\_ **Contact Telephone Number:** \_\_\_\_\_  
**And/Or Email:** \_\_\_\_\_

Print Name:.....

Signed:.....

Date:.....

Please sign and return to the **above address** as soon as possible.

For the avoidance of doubt you are reminded to address the following condition(s) before you commence the implementation of this permission. Although we will aim to deal with any application to discharge conditions as expeditiously as possible, you are reminded to allow up to **8 weeks** for the discharge of conditions process.

### PRE-COMMENCEMENT CONDITION(S)

C4 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, 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.

- C5 Prior to the commencement of the development, hereby approved, a detailed scheme of specific sustainable design measures to minimise water usage and energy consumption shall be submitted to and approved in writing by the Local Planning Authority. The agreed details shall be installed as approved prior to the first occupation of the dwelling and be retained as such thereafter.



# COUNCIL OF THE ISLES OF SCILLY

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Planning Department

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

☎01720 424455

✉[planning@scilly.gov.uk](mailto:planning@scilly.gov.uk)

## **THIS LETTER CONTAINS IMPORTANT INFORMATION REGARDING YOUR PERMISSION – PLEASE READ IF YOU ARE AN AGENT DEALING WITH IS ON BEHALF OF THE APPLICANT IT IS IMPORTANT TO LET THE APPLICANT KNOW OF ANY PRE-COMMENCEMENT CONDITIONS**

Dear Applicant,

This letter is intended to help you advance your project through the development process. Now that you have been granted permission, there may be further tasks you need to complete. Some aspects may not apply to your development; however, your attention is drawn to the following paragraphs, which provide advice on a range of matters including how to carry out your development and how to appeal against the decision made by the Local Planning Authority (LPA).

### **Carrying out the Development in Accordance with the Approved Plans**

You must carry out your development in accordance with the stamped plans enclosed with this letter. Failure to do so may result in enforcement action being taken by the LPA and any un-authorized work carried out may have to be amended or removed from the site.

### **Discharging Conditions**

Some conditions on the attached decision notice will need to be formally discharged by the LPA. In particular, any condition that needs to be carried out prior to development taking place, such as a 'source and disposal of materials' condition, an 'archaeological' condition or 'landscaping' condition must be formally discharged prior to the implementation of the planning permission. In the case of an archaeological condition, please contact the Planning Department for advice on the steps required. Whilst you do not need to formally discharge every condition on the decision notice, it is important you inform the Planning Department when the condition advises you to do so before you commence the implementation of this permission. Although we will aim to deal with any application to discharge conditions as expeditiously as possible, you are reminded to allow up **to 8 weeks** for the discharge of conditions process.

**Please inform the Planning Department when your development or works will be commencing. This will enable the Council to monitor the discharge and compliance with conditions and provide guidance as necessary. We will not be able to provide you with any written confirmation on the discharge of pre-commencement conditions if you do not formally apply to discharge the conditions before you start works.**

As with the rest of the planning application fees, central Government sets a fee within the same set of regulations for the formal discharge of conditions attached to planning permissions. Conditions are necessary to control approved works and development. Requests for confirmation that one or more planning conditions have been complied with are as follows (VAT is not payable on fees set by central government). More information can be found on the Council's website:

- Householder permissions - £34 per application
- Other permissions - £116 per application

### **Amendments**

If you require a change to the development, contact the LPA to see if you can make a 'non material amendment' (NMA). NMA can only be made to planning permissions and not a listed building consent. They were introduced by the Government to reflect the fact that some schemes may need to change during the construction phase. The process involves a short application form and a 14 day consultation period. There is a fee of £34 for householder type applications and £234 in all other cases. The NMA should be determined within 28 days. If the change to your proposal is not considered to be non-material or minor, then you would need to submit a new planning application to reflect those changes. Please contact the Planning Department for more information on what level of amendment would be considered non-material if necessary.

### **Appealing Against the Decision**

If you are aggrieved by any of the planning conditions attached to your decision notice, you can appeal to have specific conditions lifted or modified by 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 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 apply to the Secretary of State to extend this period, although this will only be allowed in exceptional circumstances.

You find more information on appeal types including how to submit an appeal to the Planning Inspectorate by visiting <https://www.gov.uk/topic/planning-development/planning-permission-appeals> or you can obtain hard copy appeal forms by calling 0303 444 5000.

Current appeal handling times can be found at: [Appeals: How long they take page](#).

## **Building Regulations**

With all building work, the owner of the property is responsible for meeting the relevant Planning and Building Regulations. Building Regulations apply to most building work so it is important to find out if you need permission. This consent is to ensure the safety of people in and around buildings in relation to structure, access, fire safety, infrastructure and appropriate insulation.

The Building Control function is carried out on behalf of the Council of the Isles of Scilly by Cornwall Council. All enquiries and Building Control applications should be made direct to Cornwall Council, via the following link [Cornwall Council](#). This link also contains comprehensive information to assist you with all of your Building Control needs.

Building Control can be contacted via telephone by calling 01872 224792 (Option 1), via email [buildingcontrol@cornwall.gov.uk](mailto:buildingcontrol@cornwall.gov.uk) or by post at:

Building Control  
Cornwall Council  
Pydar House  
Pydar Street  
Truro  
Cornwall  
TR1 1XU

Inspection Requests can also be made online: <https://www.cornwall.gov.uk/planning-and-building-control/building-control/book-an-inspection/>

## **Registering/Altering Addresses**

If you are building a new dwelling, sub dividing a dwelling into flats or need to change your address, please contact the Planning Department who will be able to make alterations to local and national databases and ensure postcodes are allocated.

## **Connections to Utilities**

If you require a connection to utilities such as water and sewerage, you will need to contact South West Water on 08000831821. Electricity connections are made by Western Power Distribution who can be contacted on 08456012989.

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



**RECEIVED**  
By Liv Rickman at 2:51 pm, Jun 26, 2023

**APPROVED**  
By Lisa Walton at 10:40 am, Oct 02, 2023

0cm 5cm  
DO NOT SCALE FROM THIS DRAWING FOR CONSTRUCTION PURPOSES. IF IN DOUBT PLEASE ASK!  
USE PRINT CHECK ABOVE IN CENTIMETRE INCREMENTS  
ALL DIMENSIONS TO BE VERIFIED BY THE CONTRACTOR ON SITE  
All figured dimensions are in millimetres unless otherwise stated.

Plans and Notes contained herein are for Planning and Building Regulations Approvals only. Plans and Notes are offered only as a guide to the Contractor, variations and alterations must be approved with Building Control.

The Builder/Developer will be ultimately responsible for ensuring that all construction is in accordance with the Approved Planning Permission and Building Regulations including any Conditions, relevant Trade and Professional Standards, Statutory requirements and product manufacturers' specifications, British Standards and Codes of Practice.

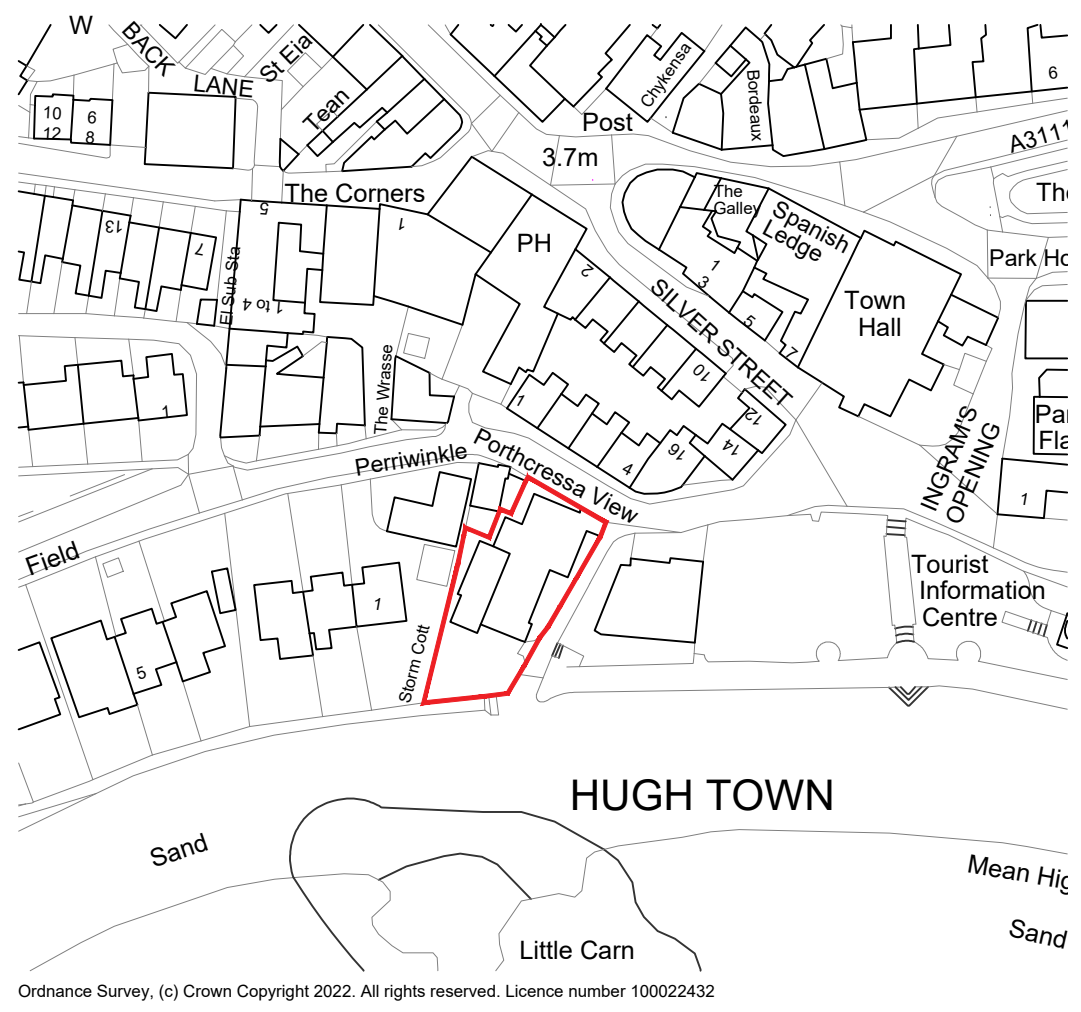
All details shown on this drawing are based upon typical site conditions related to the area. No responsibility can be accepted for abnormal conditions unless reported to Replan, so that design amendments may be considered.

Position of all existing boundaries, walls, utilities, drains etc. (particularly in relation to the building) to be checked on site before start of any construction or ordering of any materials.

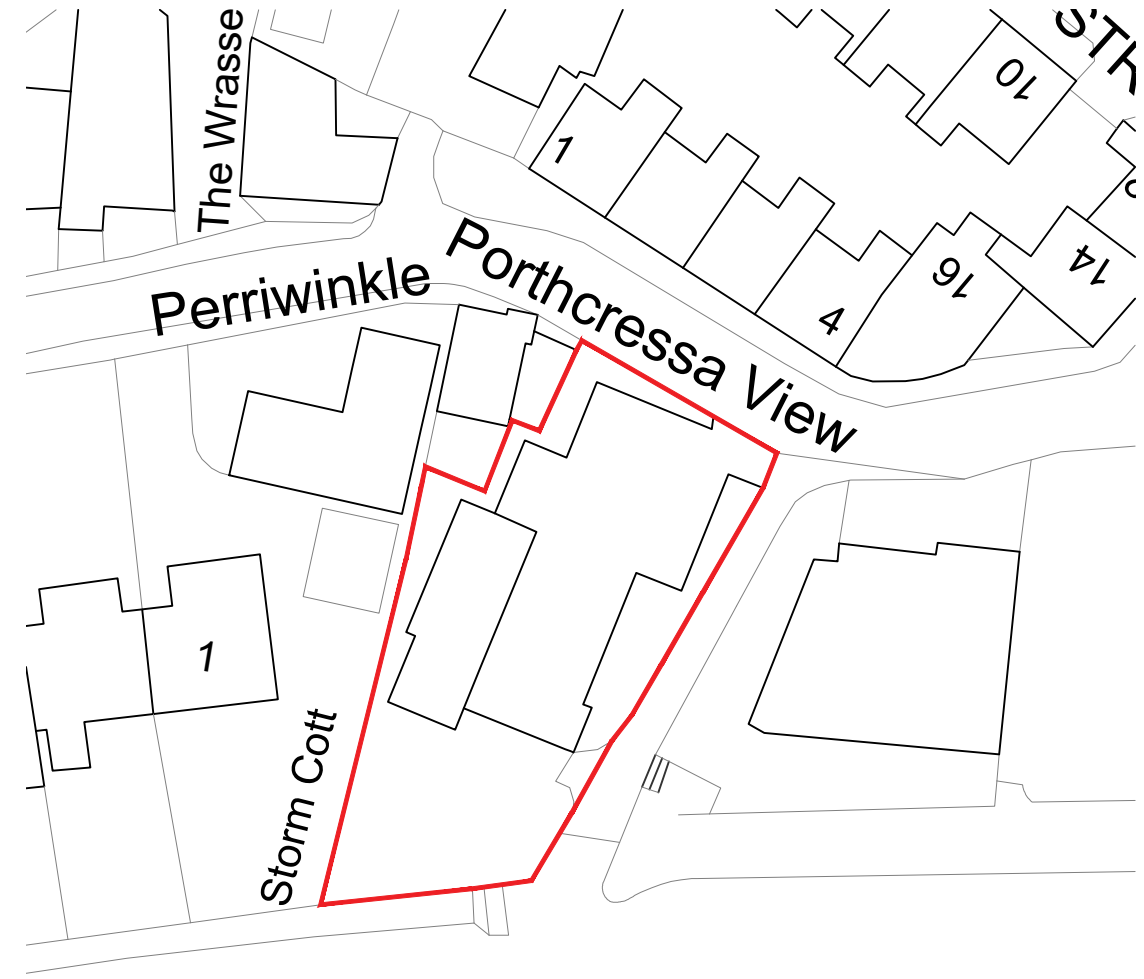
N.B. The "owner" of the building to which this application relates carries the legal responsibility for any Building Regulation Faults.

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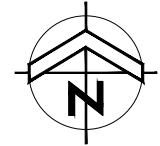
GIVEN THE NATURE OF EXISTING BUILDINGS, ALL DIMENSIONS ARE TO BE DOUBLED CHECKED ON SITE PRIOR TO CONSTRUCTION / INSTALLATION / FABRICATION OF ANY BUILDING WORKS. DIMENSIONAL ACCURACY REMAINS THE RESPONSIBILITY OF THE CONTRACTOR.



01 Location Plan  
1:1250



02 Existing Block Plan  
1:500



LEGEND

— Site Boundary

REV	DESCRIPTION	DATE	INIT	CHKD
STATUS	PLANNING			

Client  
Mr & Mrs Buffa

Project  
Proposed Extension to The Wheelhouse,  
Little Porth, St Mary's, Isles of Scilly, TR21 0JG

Title  
Location Plan and  
Block Plan

Scale Date Drawn Checked  
As Shown @A3 Nov' 2022 DJN DJN

Project No: Drawing No. Revision  
2211 SD01



T: 01579 345110 M: 07967 345941  
E: info@replan.space  
W: www.replan.space  
A: 27 Golitha Rise, Liskeard, Cornwall, PL14 3WN

**APPROVED**  
By Lisa Walton at 10:40 am, Oct 02, 2023

**RECEIVED**  
By A King at 1:34 pm, Aug 25, 2023

0cm 5cm  
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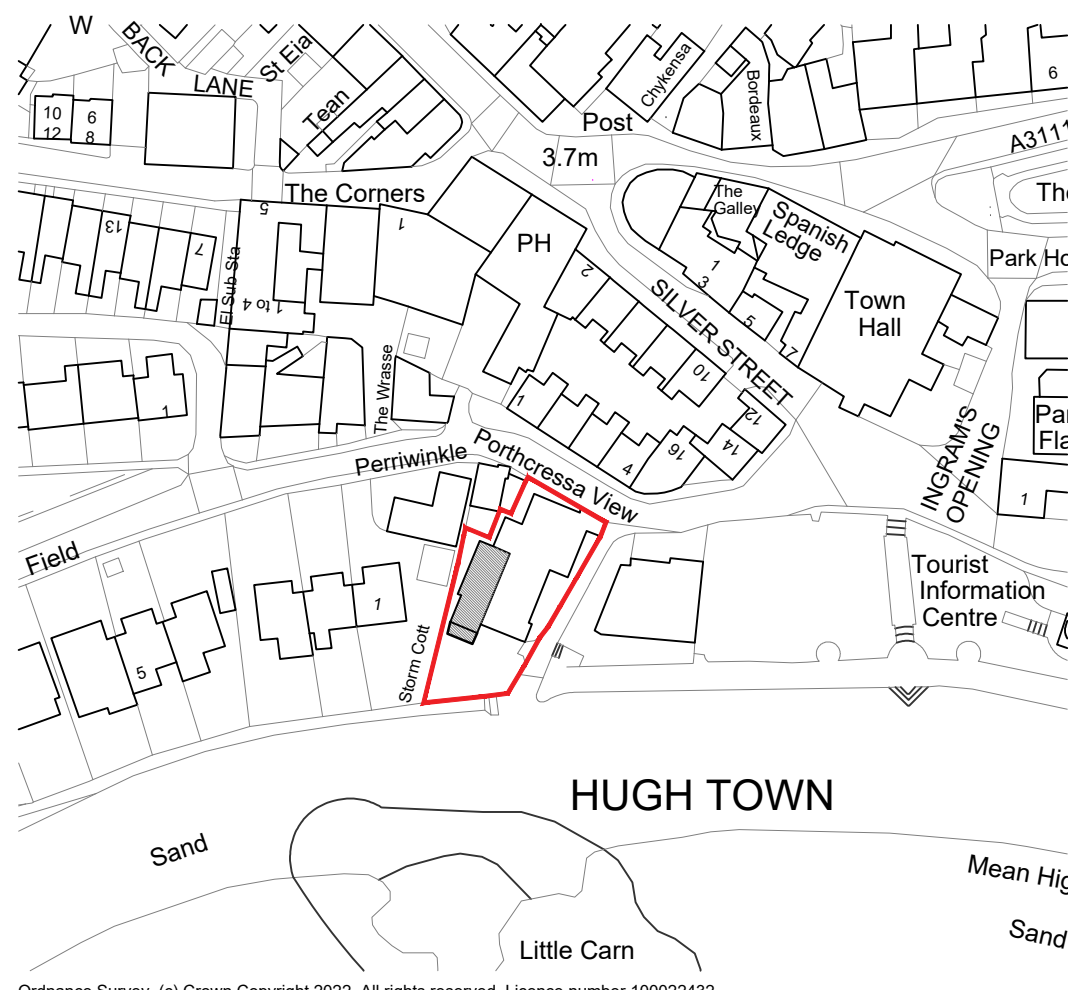
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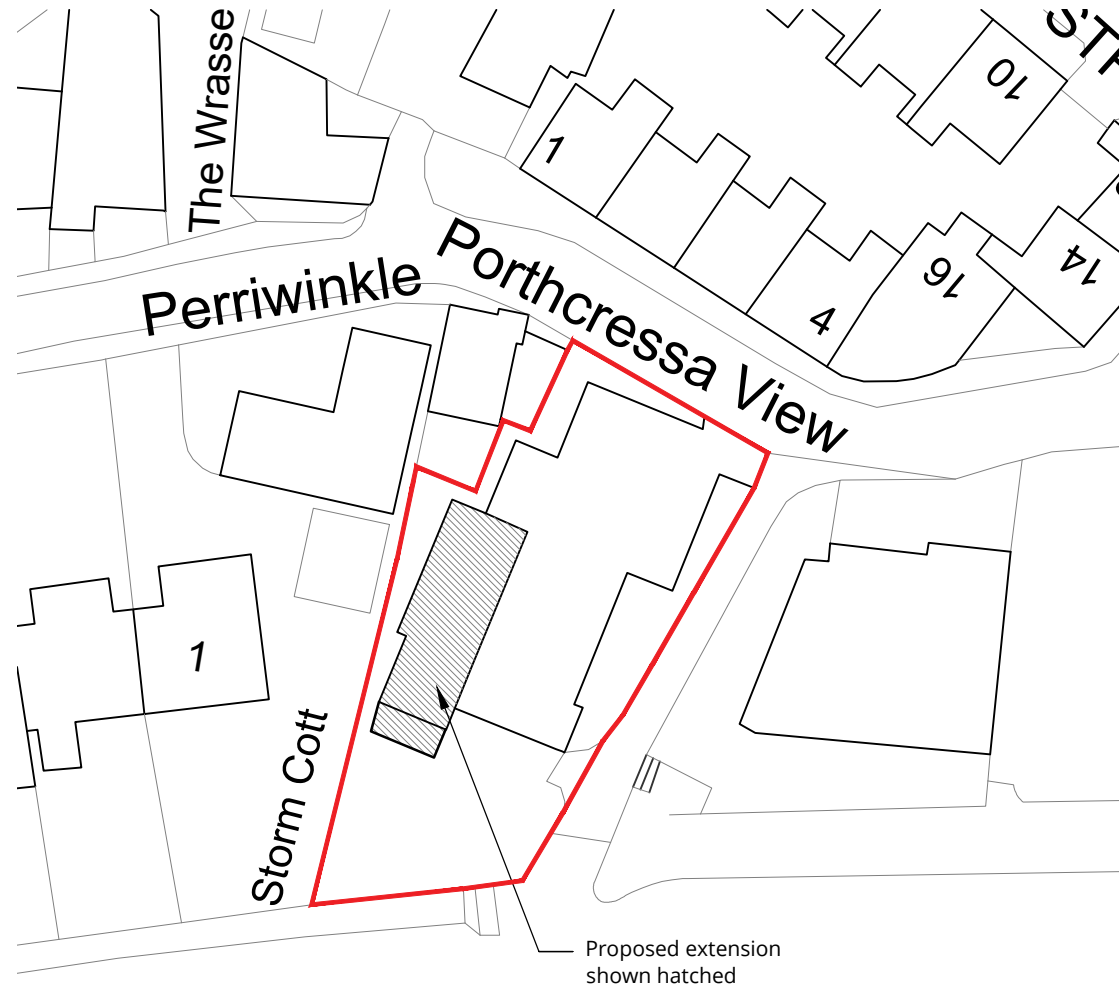
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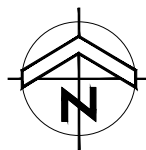
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Proposed extension shown hatched

**01 Location Plan**  
1:1250

**02 Existing Block Plan**  
1:500



LEGEND

— Site Boundary

A	Balcony depth reduced at planning officer request	23.08.23	DJN	DJN
REV	DESCRIPTION	DATE	INIT	CHKD
	STATUS	PLANNING		

Client  
Mr & Mrs Buffa

Project  
Proposed Extension to The Wheelhouse,  
Little Porth, St Mary's, Isles of Scilly, TR21 0JG

Title  
Location Plan and  
Proposed Block Plan

Scale As Shown @A3 Date Nov' 2022 Drawn DJN Checked DJN

Project No: 2211 Drawing No. PL01 Revision A



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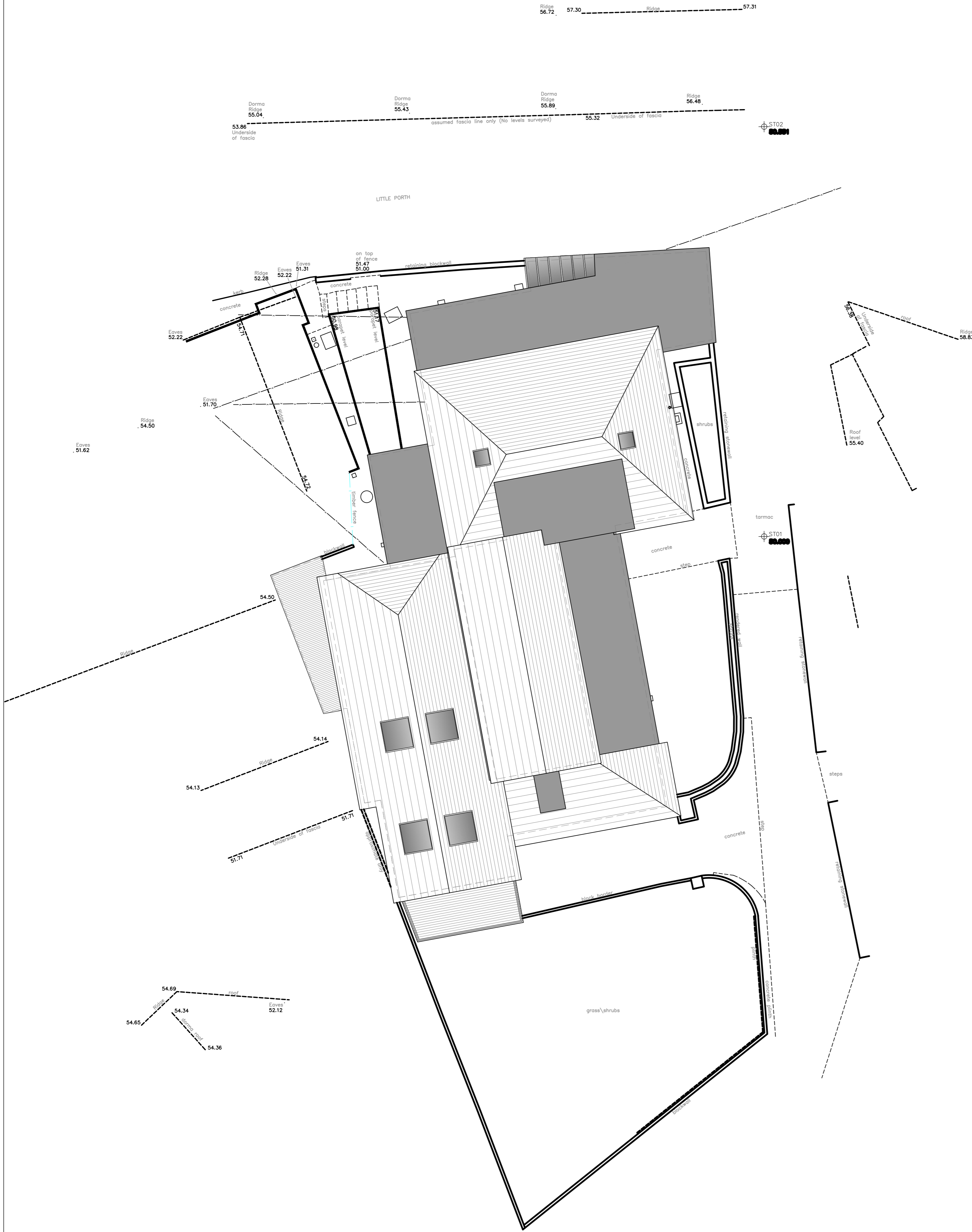
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**RECEIVED**  
 By A King at 1:34 pm, Aug 25, 2023

**APPROVED**  
 By Lisa Walton at 10:41 am, Oct 02, 2023



B	Balcony depth reduced at planning officer request	23.08.23	DJN	DJN
A	Roof to proposal amended after neighbour consultation	15.05.23	DJN	DJN

REV	DESCRIPTION	DATE	INIT	CHKD
STATUS PLANNING				

Client  
**Mr & Mrs Buffa**

Project  
 Proposed Extension to The Wheelhouse,  
 Little Porth, St Mary's, Isles of Scilly, TR21 0JG

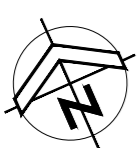
Title  
**Proposed Site Layout**

Scale	Date	Drawn	Checked
As Shown @A1	Nov' 2022	DJN	DJN
Project No:	Drawing No.	Revision	
<b>2211</b>	<b>PL02</b>	<b>B</b>	



T: 01579 345110 M: 07967 345941  
 E: info@replan.space  
 W: www.replan.space  
 A: 27 Golitha Rise, Liskeard, Cornwall, PL14 3WN

01 Proposed Site Plan  
 1:100





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 By A King at 1:31 pm, Aug 25, 2023

**APPROVED**  
 By Lisa Walton at 10:41 am, Oct 02, 2023

B	Balcony depth reduced at planning officer request	23.08.23	DJN	DJN
A	Roof to proposal amended after neighbour consultation	15.05.23	DJN	DJN

REV	DESCRIPTION	DATE	INIT	CHKD
STATUS	PLANNING			

Client  
 Mr & Mrs Buffa

Project  
 Proposed Extension to The Wheelhouse,  
 Little Porth, St Mary's, Isles of Scilly, TR21 OJG

Title  
 Proposed First Floor Layout

Scale As Shown @A1 Date Nov' 2022 Drawn DJN Checked DJN

Project No: 2211 Drawing No. PL04 Revision B



T: 01579 345110 M: 07967 345941  
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0cm 10cm  
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 All figured dimensions are in millimetres unless otherwise stated.

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All details shown on this drawing are based upon typical site conditions related to the area. No responsibility can be accepted for abnormal conditions unless reported to Replan, so that design amendments may be considered.

Position of all existing boundaries, walls, utilities, drains etc. (particularly in relation to the building) to be checked on site before start of any construction or ordering of any materials.

N.B. The "owner" of the building to which this application relates carries the legal responsibility for any Building Regulation Faults

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**RECEIVED**  
 By A King at 1:32 pm, Aug 25, 2023

**APPROVED**  
 By Lisa Walton at 10:42 am, Oct 02, 2023

A	Balcony depth reduced at planning officer request	23.08.23	DJN	DJN
REV	DESCRIPTION	DATE	INIT	CHKD
STATUS		PLANNING		

Client  
**Mr & Mrs Buffa**

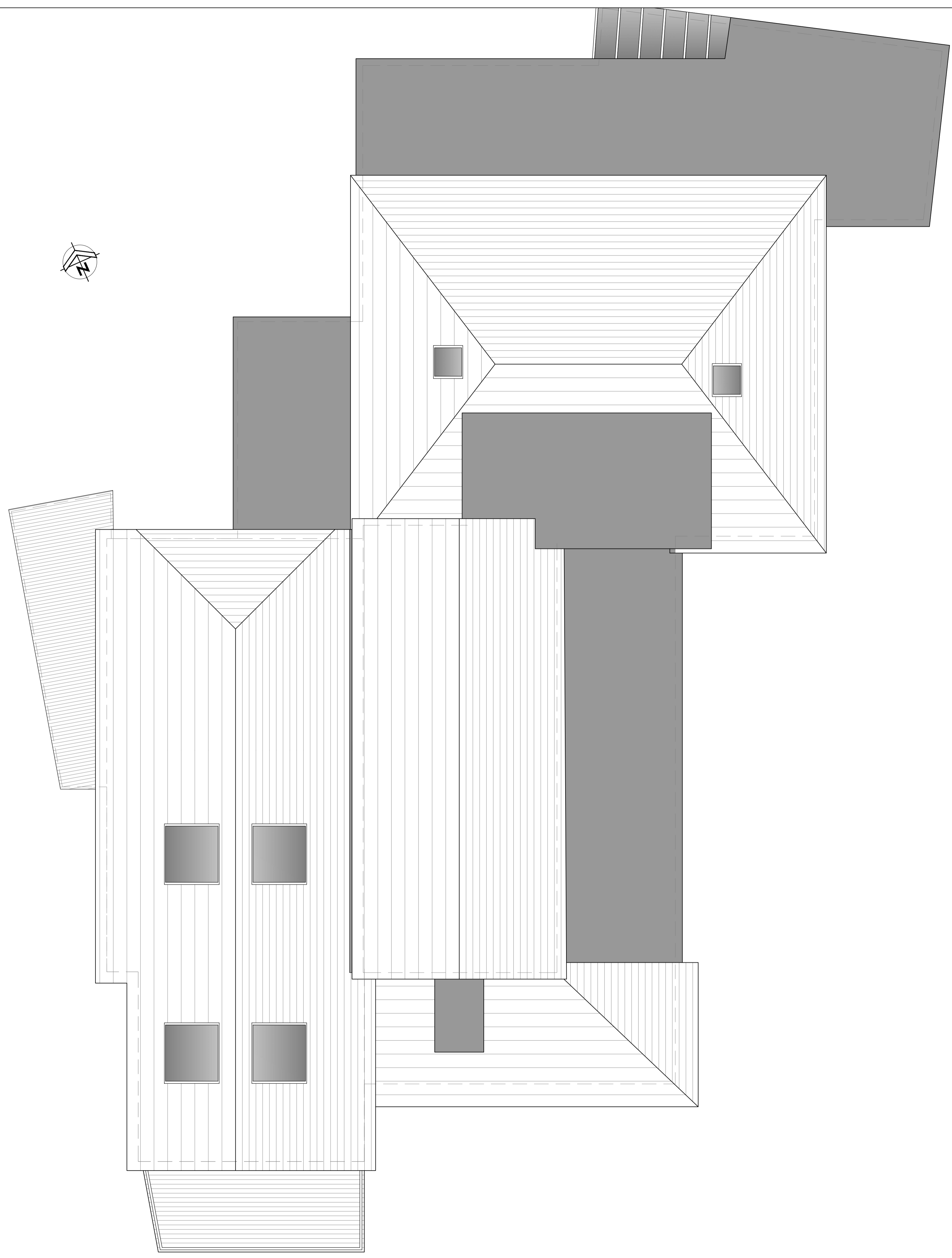
Project  
 Proposed Extension to The Wheelhouse,  
 Little Porth, St Mary's, Isles of Scilly, TR21 0JG

Title  
**Proposed Ground Floor Layout**

Scale	Date	Drawn	Checked
As Shown @A1	Nov' 2022	DJN	DJN
Project No:	Drawing No.	Revision	
2211	PL03	A	



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 W: www.replan.space  
 A: 27 Golitha Rise, Liskeard, Cornwall, PL14 3WN



0cm 10cm  
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**RECEIVED**  
 By A King at 1:30 pm, Aug 25, 2023

**APPROVED**  
 By Lisa Walton at 10:44 am, Oct 02, 2023

B	Balcony depth reduced at planning officer request	23.08.23	DJN	DJN
A	Roof to proposal amended after neighbour consultation	15.05.23	DJN	DJN

REV	DESCRIPTION	DATE	INIT	CHKD
STATUS	PLANNING			

Client  
**Mr & Mrs Buffa**

Project  
**Proposed Extension to The Wheelhouse,  
 Little Porth, St Mary's, Isles of Scilly, TR21 0JG**

Title  
**Proposed Roof Layout**

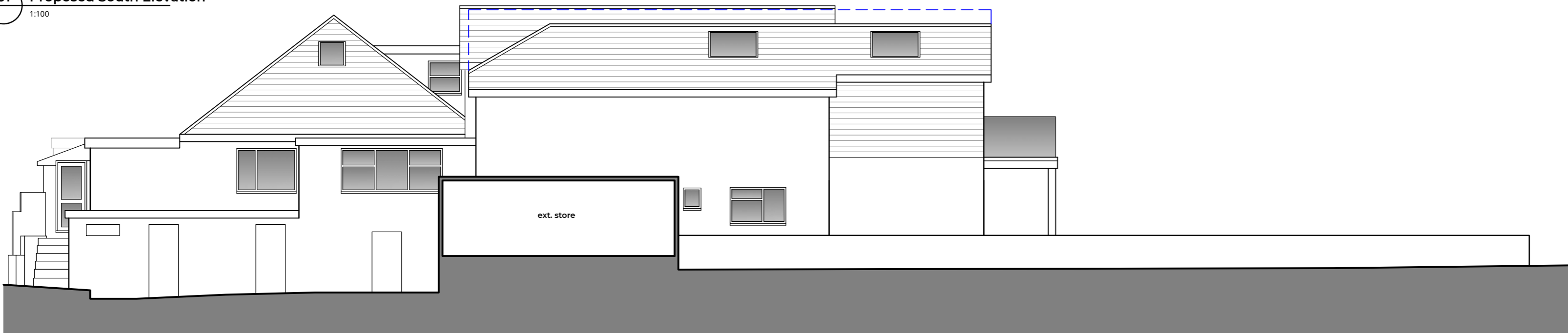
Scale	Date	Drawn	Checked
As Shown @A1	Nov' 2022	DJN	DJN
Project No:	Drawing No.	Revision	
2211	PL05	B	



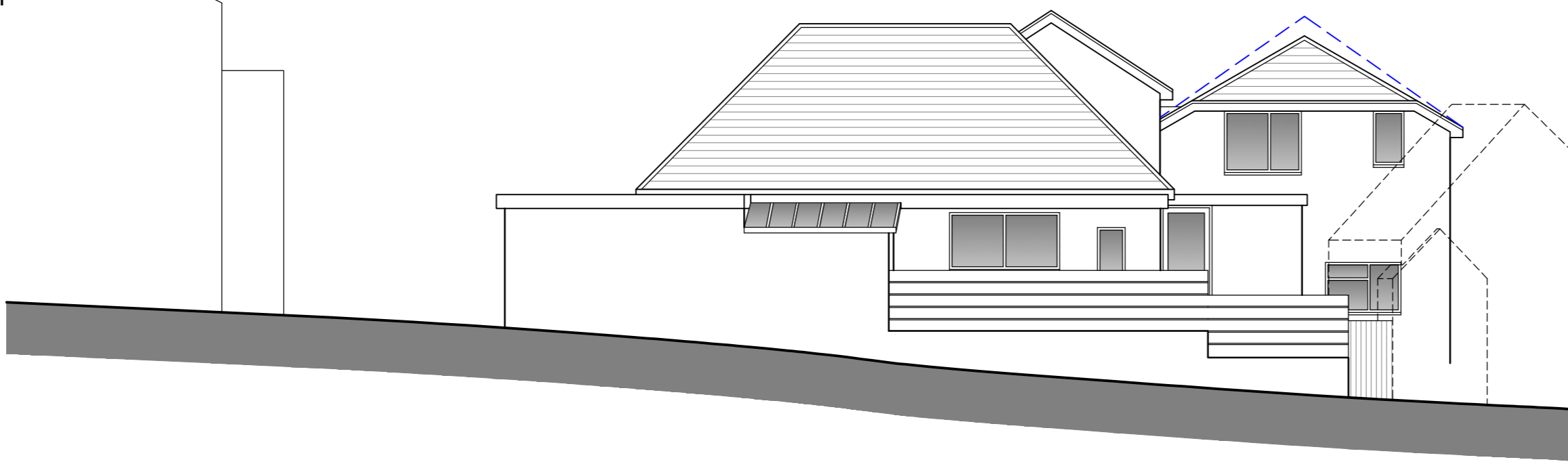
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 W: www.replan.space  
 A: 27 Golitha Rise, Liskeard, Cornwall, PL14 3WN



01 Proposed South Elevation  
1:100



02 Proposed West Elevation  
1:100



03 Proposed North Elevation  
1:100



04 Proposed East Elevation  
1:100

0cm 7cm  
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- Proposed External Materials**
- Walls**  
Smooth render (painted white)  
Cedral Weatherboarding (colour tbc)
  - Windows and Doors**  
UPVC items (white)
  - Fascias and Soffits**  
UPVC & timber items (white)
  - Roof**  
Natural Slate (grey)  
Terracotta Ridge (red)  
Bituminous flat roof
  - Rainwater Goods**  
UPVC Gutters and Downpipes (white)

**Elevations Key**  
- denotes outline of previous scheme prior to neighbour consultation

**RECEIVED**  
By A King at 1:29 pm, Aug 25, 2023

**APPROVED**  
By Lisa Walton at 10:45 am, Oct 02, 2023

B	Balcony depth reduced at planning officer request	23.08.23	DJN	DJN
A	Roof to proposal amended after neighbour consultation	15.05.23	DJN	DJN
REV	DESCRIPTION	DATE	INIT	CHKD
<b>STATUS</b>		<b>PLANNING</b>		

Client  
**Mr & Mrs Buffa**

Project  
**Proposed Extension to The Wheelhouse, Little Porth, St Mary's, Isles of Scilly, TR21 0JG**

Title  
**Proposed Elevations**

Scale	Date	Drawn	Checked
As Shown @A2	Nov' 2022	DJN	DJN
Project No:	Drawing No.	Revision	
<b>2211</b>	<b>PL06</b>	<b>B</b>	



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**APPROVED**

*By Lisa Walton at 4:36 pm, Oct 02, 2023*

**RECEIVED**

*By Liv Rickman at 2:49 pm, Jun 26, 2023*

## PRELIMINARY ROOST ASSESSMENT (PRA)

---

### THE WHEELHOUSE, HUGH TOWN, ST MARY'S, ISLES OF SCILLY



*Client: Replan Architects*

*Our reference: 22-12-1*

*Planning reference: Produced in advance of submission*

*Report date: 22<sup>nd</sup> December 2022*

*Author: James Faulconbridge BSc (Hons), MRes, MCIEEM*

*Contact: ios.ecology@gmail.com*



# Executive Summary

## Bats - Results and Findings

The preliminary roost assessment (PRA) survey of the structures either directly or indirectly impacted by the proposals concluded that there is **negligible potential** for use by bats.

This assessment relates solely to the elements of the structure which would be affected - it does not provide a comprehensive assessment of the building in question.

## Bats - Further Survey Requirements

No further surveys are recommended - the PRA conclusion does not require further survey information with regards to bats in order to inform a planning application.

## Bats - Recommendations

Standard good practice and vigilance should be observed by the contractors undertaking the works in acknowledgement that bats are transient in their use of roosting opportunities and may explore potential locations, especially if the condition of structural features were to change. A specific methodology is provided in Appendix 1.

A Planning Condition requiring compliance with the Precautionary Method of Works (PMW) outlined in Appendix 1 could be attached to a Decision Notice. If so, it is recommended that this should be compliance only - no further information would be required as the methodology outlined in the PMW is comprehensive.

## Nesting Birds - Results and Findings

The survey of structural features to be directly or indirectly impacted by the proposed works identified no nesting locations suitable for use by breeding birds.

There are evergreen shrubs adjacent to the single-storey pitched roof component on the southern aspect which may be capable of supporting nesting birds.

## Nesting Birds - Recommendations

Care should be taken erecting scaffolding etc. in order to ensure adjacent shrubs and other vegetation are not disturbed if works proceed in the nesting season.

There is no requirement to replace nesting habitat for breeding birds as no suitable features would be affected. If the applicant wishes to provide biodiversity enhancement, nest boxes could be erected either on the dwelling or within the residential garden. Guidance on suitable specifications is provided.

## Other Ecological Receptors

No further ecological impacts relevant to planning are identified.

# PRELIMINARY ROOST ASSESSMENT (PRA)

<b>Planning Authority:</b> Isles of Scilly	<b>Location:</b> SV 90259 10469	<b>Planning Application ref:</b> Report produced in support of application
<b>Planning application address:</b> The Wheelhouse, Hugh Town, St Mary's, Isles of Scilly		
<b>Proposed development:</b> The proposed works were identified by the client and should accord with the documentation submitted in support of the application. These involve: <ol style="list-style-type: none"><li>1) The construction of a second storey managers accommodation on the footprint of the existing single-storey pitched roof component of the property;</li><li>2) Removal of the lean-to utility area on the western aspect of the property;</li><li>3) Indirect impacts on adjacent single-pitched roof on the southern aspect and the two-storey pitched roof through construction in close proximity and potential minor incursion.</li></ol> <p>This assessment takes into account both the potential direct impacts to the structure (e.g. demolition or removal of structural elements) and the indirect impacts (e.g. blocking or obstructing roost entrances as a result of extensions).</p>		
<b>Building references:</b> The roof sections discussed in this report are identified in the plans provided in Appendix 2.		
<b>Name and licence number of bat-workers carrying out survey:</b> James Faulconbridge (2015-12724-CLS-CLS)		
<b>Preliminary Roost Assessment date:</b> The visual inspection was undertaken on 15 <sup>th</sup> December 2022 in accordance with relevant Best Practice methodology <sup>1</sup> .		
<b>Local and Landscape Setting:</b> <p>The buildings are located on Porthcressa in Hugh Town, St Mary's. Little Porth runs along the northern boundary of the property with a pedestrian access to Porthcressa Beach running along the eastern aspect. There are further residential properties close on the western boundary and Porthcressa Beach itself lies to the immediate south, just beyond an amenity garden area.</p> <p>The central location within Hugh Town means that the dominant local land use is built environment to the north, with the beach and shoreline of Porthcressa to the south. The development associated with Hugh Town is predominantly residential with small-scale commercial businesses also represented. This densely built environment extends around 300m to the west and around 500m to the east. Some of these adjacent properties have associated areas of garden or green space, but the centre of Hugh Town is relatively densely developed. The location of the property is within the narrowest part of Hugh Town with Porthcressa Beach immediately to the south, and Town Beach lying approximately 100m to the north.</p>		

<sup>1</sup> Collins, J. (ed.) 2016 Bat Surveys for Professional Ecologists: Good Practice Guidelines (3<sup>rd</sup> edn). The Bat Conservation Trust, London.

Aside from the shoreline of Porthcressa which lies just to the south of the property, the next closest areas of semi-natural habitat are associated with the Garrison approximately 200m to the west; and the land around Buzza Tower approximately 300m to the south-east.

The desk study showed that no species of bat had previously been recorded roosting in the property or associated with properties bounding the property. A data search revealed information on five species of bat recorded on St Mary's. The species conclusively identified were common pipistrelle (*Pipistrellus pipistrellus*), soprano pipistrelle (*Pipistrellus pygmaeus*) and brown long-eared bat (*Plecotus auritus*). Leisler's bat (*Nyctalus leisleri*) and Nathusius pipistrelle (*Pipistrellus nathusii*) records were also returned though these species are not known to be resident on the island. Three records of common pipistrelle roosts are identified in relatively close proximity to the north-east of the property – these relate to individual bats utilising features such as hanging slates around dormer windows.

### **Building Description(s):**

The property is a guesthouse including managers accommodation. It comprises several distinct components but for the sake of brevity and relevance, only those structures which might be directly or indirectly affected by the proposals were assessed with regards to their potential to support roosting bats. These components are identified in Map 02.

#### *Single-storey pitched roof*

This is the component of the building which would be directly affected by the proposals. The structure is rendered in excellent condition with no gaps, cracks or damage noted. uPVC windows are well-fitted and in good condition. The roof is tiled with slate tiles and ridge tiles, all of which were well-fitted and in good condition. Wooden soffits and fascias on the gables were tightly fitted with no gaps noted. Superficial gaps beneath the terminal roof tiles on the gable were noted – these did not appear to lead to voids or other roosting opportunities.

Internally, the loft space is converted to regularly accessed storage space – the area is well-used with a roof light window. The void is under-boarded throughout with recent and well-fitted membrane above – visible in places between ply sheets. No internal roosting opportunities were identified. The void connects internally with the void of the single-pitch roof which runs along the southern aspect of the property. No evidence of bats was noted.

#### *Double-storey pitched roof*

This two-storey structure rises from single-storey flat-roof components to the east and west with the single-pitched flat roof to the south and the hipped roof to the north. The walls are well-rendered with tightly fitted uPVC windows and frames. The roof has well-fitted slate tiles and ridge tiles with no gaps noted from inspection from the west. uPVC soffits and guttering on the eaves, and uPVC fascias on the gables are well-fitted with no gaps noted.

Internally, the loft space is under-felted in good condition, with a boarded floor and bare breeze-block walls. There is a ridge board present but no internal roosting opportunities were identified aside from free-hanging from internal timbers. Light showing at the gable identifies potential access for bats into the internal space, but no evidence of access or occupation were noted. As the potential access is on the southern gable, any works indirectly affecting the western aspect would not affect potential access to the void.

#### *Single-pitched roof*

A single-pitched roof runs along the southern aspect of the property, tying in with the single-storey pitched roof component. Slate tiles and flashing at the union with adjacent structures appear to be tight, well-fitted and in good condition.

Internally, the roof has a low void which connects in with the internal void of the single-storey pitched roof component. There is underfelting in good condition, around a relatively recent

timber frame structure. Access for bats would be possible from the eaves on the southern aspect, though no evidence of access or recent occupation were noted. Internal roosting opportunities would be restricted to free-hanging from timbers.

#### *Lean-to utility area*

There is a lean-to utility area attached to the western aspect of the building. This is constructed around a breeze-block wall which is plaster-boarded internally. The roof comprises corrugated translucent PVC sheets which make the interior light. No roosting opportunities were identified associated with this structure.

#### **Survey Limitations**

There were no limitations on access or visibility to components of the structure which would be directly affected by the proposals.

Inspection of the double-storey pitched roof component was from the western aspect only, but as only indirect effects to this aspect are proposed, and as a comprehensive internal inspection was completed, this is not considered to affect the results of the survey.

#### **Assessment of Potential for use by Roosting Bats**

It is considered that the building components to be directly affected by the proposals have **negligible potential** to support roosting bats. The tiles at the gables have minor superficial gaps which have a very low probability of use by exploratory bats – this residual unlikely risk can be controlled through an appropriate Precautionary Method of Works (PMW).

There is potential for bats to access the adjacent single-pitched roof and double-storey pitched roof, though no evidence of occupation nor suitable internal roosting opportunities were noted. The proposals would not affect the potential internal access points and no external roosting opportunities were identified.

No other potential roosting opportunities were identified associated with the elements of the structure which are to be directly or indirectly affected by the proposed works.

#### **Recommendations and Justification (Bats):**

No further surveys are recommended – the conclusion of **negligible potential** does not require any further information with regards to bats in order to inform a planning application.

Standard good practice and vigilance should be observed during the removal of the terminal tiles at the gable of the single-storey pitched roof in acknowledgement that bats are transient in their use of roosting opportunities and may explore potential locations. The terminal 3 rows of tiles at each gable should be removed carefully and by hand in order to ensure that, in the unlikely event of bats utilising this potential feature, they would not be harmed or killed. Recommended measures to achieve this recommendation and ensure legislative compliance are provided in the PMW outlined in Appendix 1.

A Planning Condition requiring compliance with the PMW outlined in Appendix 1 could be attached to a Decision Notice. If so, it is recommended that this should be compliance only – no further information would be required as the methodology outlined in the PMW is comprehensive.

#### **Assessment of Potential for use by Nesting Birds**

No suitable nesting habitat for birds was identified associated with the elements of the building to be directly or indirectly affected by the proposals – however minor gaps at eaves of indirectly affected buildings could potentially be used by species such as wren or robin.

There are evergreen shrubs adjacent to the single-storey pitched roof component on the

southern aspect which may be capable of supporting nesting birds.

**Recommendations and Justification (Birds):**

Vegetation to the south of the property should not be directly impacted by the proposed works; however care should be taken erecting scaffolding etc. in order to ensure these are not disturbed if works proceed in the nesting season.

Caution and vigilance should be exercised if works take place during the breeding season (March – September inclusive) to ensure that if any birds are nesting in features associated with the structures in close proximity to the works – including the single-pitch roof to the south and the double-storey pitched roof to the east – they are identified and works are designed to avoid damage or disturbance.

There is no requirement to mitigate for loss of nesting habitat for breeding birds; however if the applicant wished to provide biodiversity enhancement measures, this could be achieved through the erection of bird boxes on the property or within the garden.

House sparrows nest communally and nest boxes could accommodate this, either through the installation of a single purpose-built nest box comprising several individual chambers with separate entrances, or the installation of 3+ nest boxes in close proximity. Nest boxes suitable for hole-dwelling species such as blue tits, or open-fronted boxes for species such as blackbird and robin also have a high likelihood of occupation.

Boxes should be mounted on a wall or tree if possible, at a height of at least 3m above the ground with an entrance clear of vegetation/other features which may put them at risk of predation from cats.

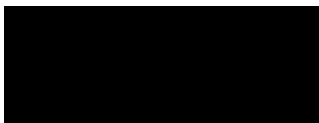
Boxes can be sourced online, or can be constructed on site using methodology and specifications provided by the RSPB:

**Sparrows:** <https://www.rspb.org.uk/get-involved/activities/give-nature-a-home-in-your-garden/garden-activities/createasparrowstreet/>

**Other Species:** <https://www.rspb.org.uk/fun-and-learning/for-families/family-wild-challenge/activities/build-a-birdbox/>

**Signed by bat worker(s):**

**Date:** 22<sup>nd</sup> December 2022



# APPENDIX 1

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## PRECAUTIONARY METHOD STATEMENT WITH REGARDS TO BATS

The purpose of this Method Statement is to ensure that demolition and construction works can proceed where presence of bats has been determined to be unlikely, but a precautionary approach is still advisable. It has been determined that direct harm to roosting bats during the proposed works would be highly unlikely.

Contractors should, however, be aware of **their own legal responsibility with respect to bats**:

### **Relevant Legislation regarding Bats**

The Conservation of Habitats and Species Regulations 2017, or the 'Habitat Regulations 2017', transposes European Directives into English and Welsh legislation. Under these regulations, bats are classed as a European Protected Species and it is, therefore, an offence to:

- *Deliberately kill, injure or capture bats;*
- *Deliberately damage or destroy bat roosts.*

A bat roost is commonly defined as being any structure or place that is used as a breeding site or resting place, and since it may be in use only occasionally or at specific times of year, a roost retains such a designation even if bats are not present.

Bats are also protected from disturbance under Regulation 43. Disturbance of bats includes in particular any disturbance which is likely:

- (a) *To impair their ability -*
- *to survive, to breed or reproduce, or to rear or nurture their young; or*
  - *in the case of animals of a hibernating or migratory species, to hibernate or migrate; or*
- (b) *To affect significantly the local distribution or abundance of the species to which they belong.*

Bats also have limited protection under the Wildlife and Countryside Act 1981 (as amended) and the Countryside Rights of Way Act 2000 (as amended). It is, therefore, an offence to:

- *Intentionally or recklessly destroy, damage or obstruct any structure or place which a bat uses for shelter or protection.*
- *Intentionally or recklessly disturb bats whilst occupying any structure or place used for shelter or protection.*

Contractors should be aware of **where bats are most likely to be found in respect to the structure:**

There is a negligible risk of bats making transient use of minor cavities associated with the terminal roof tiles on the gables of the single-storey pitched roof component of the building. These appear superficial but temporary use by exploratory bats cannot be ruled out.

The terminal three rows of tiles at both gable ends should be removed carefully and by hand in such a way that if any bats are present beneath, they are not crushed or otherwise injured by the action. Once these tiles have been removed and it has been confirmed that no bats are present, works can proceed.

No other suitable features for use by roosting bats are identified within the structures to be directly or indirectly impacted by the proposed works; however contractors should be aware that bats may make transient use of highly unlikely roosting opportunities which can be present within the existing structure, or be created as a result of ongoing renovation/construction works. Contractors should therefore be vigilant to the potential presence of bats in unanticipated locations throughout the works, and be aware of the actions (outlined below) which should be taken if bats are identified or suspected.

Contractors should be aware of **the process to follow in the highly unlikely event of finding bats** or evidence indicating that bats are likely to be present:

If bats are identified, works should cease and the named ecologist contacted immediately for advice.

If the bat is in a safe situation, or a situation which can be made safe, they should remain undisturbed.

Only if the bat is in immediate risk of harm can the bat be moved with care and using a gloved hand. This is a last resort and should only be undertaken for humane reasons if the bat is at immediate risk of harm **and** if the ecologist cannot be contacted for advice.

## APPENDIX 2

-

### LOCATION PLAN AND PHOTOGRAPHS



**Map 01** – Illustrating location of property within the local environs (red circle). Reproduced in accordance with Google’s Fair Use Policy.



**Map 02** – Showing the overall property (blue line/wash) with the single-storey pitched roof shown with the red line/wash. The single-pitched roof on the southern aspect of the property, to which the single-storey pitched roof is internally connected, is shown in the pink line/wash. The lean-to on the western aspect of the property is shown in a green line/wash. The adjacent two-storey pitched roof is shown in a yellow line/wash.





**Photograph 1:** Showing the interior loft space of the single-storey pitched roof component of the building.



**Photograph 2:** Showing the interior loft space of the single-pitch roof which runs along the southern aspect of the building.



**Photograph 3:** Showing well-fitted roof and ridge tiles of the single-storey pitched roof component. The skylight window can be seen along with the flat roof which connects this component of the structure with the two-storey pitched roof to the east.



**Photograph 4:** Showing the northern gable of the single-storey pitched roof component of the building.



**Photograph 5:** Showing the two-storey pitched roof section of the building which lies to the east of the single-storey pitched roof.



**Photograph 6:** Showing the southern gable and western aspect of the single-storey pitched roof section of the building which looks out onto Porthcressa.



**Photograph 7:** Showing the lean-to on the western aspect of the single-storey pitched roof component of the building.



**Photograph 8:** Showing the inside of the lean-to building used as a utility and storage space.

DATED

26<sup>th</sup> September 202<sub>3</sub>

(1) THE COUNCIL OF THE ISLES OF SCILLY

and

(2) WHEELHOUSE PROPERTIES (SCILLY) LIMITED (Co. Reg. No. 07476687)

And

(3) LLOYDS BANK PLC (Co. Reg. No. 2065)

**PLANNING OBLIGATION BY**

**AGREEMENT under**

**Section 106 of the Town and**

**Country Planning Act 1990**

Relating to land at

Wheelhouse, Little Porth, St Mary's, Isles of Scilly

---

**Council of the Isles of Scilly  
Town Hall  
St Mary's  
Isles of Scilly**

---



THIS DEED is made

26<sup>th</sup> September 2023

**BETWEEN**

- (1) **THE COUNCIL OF THE ISLES OF SCILLY** of Town Hall, St Mary's, Isles of Scilly TR21 0LW ("**the Council**")
- (2) **WHEELHOUSE PROPERTIES (SCILLY) LIMITED (Co. Reg. No. 07476687)** of Wheelhouse, Little Porth, St Mary's, Isles of Scilly, TR21 0JG ("**the Owner**") and
- (3) **LLOYDS BANK PLC (Co. Reg. No. 2065)** of Pendford Securities Centre, Pendeford Business Park, Wobaston Road, Wolverhampton, WV9 5HZ ("**the Bank**")

**WHEREAS**

1. The Council is the Local Planning Authority for the purposes of this Deed for the area within which the Land is situated and by whom the obligations contained in this Deed are enforceable
2. The Owner is interested as Freehold Owner in the Land which is registered at the Land Registry with title absolute under title number CL157350
3. The Owner has applied to the Council for planning permission for the Development on the Land and the Council is minded to grant approval of the Development under reference number P/23/041/FUL ("**the Planning Permission**") subject to the Owner first entering into this Deed
4. A Section 106 Agreement dated 2<sup>nd</sup> May 2017 and made between (1) THE COUNCIL OF THE ISLES OF SCILLY OF THE TOWN HALL, ST MARY'S, ISLES OF SCILLY and (2) WHEELHOUSE PROPERTIES (SCILLY) LIMITED (Co. Reg. No. 07476687) and (3) LLOYDS BANK PLC (Co. Reg. No. 2065), ("**the Original Agreement**") was entered into in respect of the Land
5. As a result of being minded to grant approval for the development the Council has agreed to Discharge the Original Agreement and enter into a new agreement in the terms contained in this Deed

**NOW THIS DEED** is made in pursuance of Section 106 of the Act and contains planning obligations and is a planning obligation for the purposes of that Section and **WITNESSES** as follows:

**1 DISCHARGE**

1.1 It is hereby agreed and declared that the provisions of the Section 106 Agreement dated 2nd May 2017 and made between (1) THE COUNCIL OF THE ISLES OF SCILLY OF THE TOWN HALL, ST MARY'S, ISLES OF SCILLY and (2) WHEELHOUSE PROPERTIES (SCILLY) LIMITED (Co. Reg. No. 07476687) and (3) LLOYDS BANK PLC (Co. Reg. No. 2065), ("the Original Agreement") shall from the date of this deed cease and determine absolutely in relation to the Land so that the Original Agreement no longer has any effect in relation to the Land.

**2 DEFINITIONS**

For the purposes of this Deed the following expressions shall have the following meanings:

- "Act" the Town and Country Planning Act 1990.
- "Application" the application for planning permission dated 23<sup>rd</sup> June 2023 submitted to the Council for the Development and allocated reference number P/23/041/FUL
- "Commencement of Development" the date on which any change of use or material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Commence Development" shall be construed accordingly.

"Development"	the development of the Proposed extension to living accommodation. (AMENDED PLANS) as set out in the Application.
"Dwelling"	means <b>Owners Accommodation, The Wheelhouse, Little Porth, St Mary's, Isles of Scilly</b> shown edged red on the Layout Plan annexed hereto
"the Expert"	means a person having appropriate qualifications and local knowledge and experience in the matters in dispute as agreed by the Relevant Parties or failing agreement such person as is nominated by the President for the time being of the Royal Institution of Chartered Surveyors on the application of the Relevant Parties
"Household"	means any person who may reasonably be expected to reside with the Qualifying Person(s)
"Land"	means the Land referred to in the First Schedule and Recital 2 hereof
"Layout Plan"	means the plan titled layout plan containing the site plan and floor plans and annexed hereto
"Letting Notice"	means a written notice setting out the name and address of the nominated occupant/s and the first date on which the Council intends to permit the Occupation of the Dwelling by the nominated occupant/s
"Mortgagee"	means the mortgagee of the Dwelling where the mortgagor has defaulted on the particular mortgage and shall be deemed to include the Mortgagees appointed representative or receiver appointed by the Mortgagee
"Occupation"	means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and the

terms "Occupied" "Occupy" "Occupier" and "Occupiers" shall be interpreted accordingly

"Occupation Notice"	means a written notice containing the name and address of the proposed occupant and details of his Household together with evidence that the proposed occupant has been approved by the Council as being a Qualifying Person
"Owner"	means the Freehold Owner
"Plan"	means the plan attached to this Deed
"Planning Permission"	the planning permission subject to conditions to be granted by the Council pursuant to the Application
"Qualifying Person"	means a person who is confirmed in writing by the Council to be a person who is solely or mainly employed by a business listed in the Third Schedule
"Relevant Parties"	means the parties to this deed or their successors in title or assigns and in the case of the Council includes any statutory successors as local planning authority
"Vacancy Notice"	means written notice of the Vacation Date
"Vacation Date"	means the first date on which the Owner reasonably considers that the Dwelling will be vacant and ready for Occupation.

### **3 CONSTRUCTION OF THIS DEED**

- 3.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 3.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 3.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.



- 3.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.
- 3.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 3.6 References to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council the successors to their respective statutory functions.
- 3.7 The headings are for reference only and shall not affect construction.

#### **4 LEGAL BASIS**

- 4.1 This Deed is made pursuant to Section 106 of the Act and all other enabling powers and enactments which may be relevant for the purpose of giving validity hereto or facilitating the enforcement of the obligations herein contained with the intent to bind the Owner's interest in the Land and to the intent that the obligations on the part of the Owner herein contained falling within the provisions of Section 106 of the Act shall be planning obligations for the purposes of Section 106 of the Act and are enforceable by the Council as local planning authority in accordance therewith but subject as hereinafter provided

#### **5 CONDITIONALITY**

This Deed shall take effect from the date hereof PROVIDED THAT if the Planning Permission is revoked or expires by the effluxion of time then this Deed shall cease to have effect provided always that at the time of the said revocation no development has begun within the meaning of Section 56 of the 1990 Act;

#### **6 THE OWNER'S COVENANTS**

The Owner covenants with the Council to fulfil the obligations and restrictions specified in the Second Schedule of this Deed.

## **7 MISCELLANEOUS**

- 7.1 The Owner shall pay to the Council on completion of this Deed the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed.
- 7.2 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 7.3 This Deed shall be registered:
- (a) as a Local Land Charge by the Council
  - (b) on the Charges Register of Title Number CL157350 at the Land Registry by the Owner on each disposal and Office Copies from Land Registry provided to the Council as evidence of registration
- 7.4 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the Council by the Chief Planning Officer and any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.
- 7.5 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 7.6 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 7.7 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Land but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 7.8 The planning obligations in this Deed shall not be enforceable against any statutory undertaker which has acquired part of the Land for the purposes of constructing or operating utility facilities offered by the statutory undertaker
- 7.9 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.

7.10 Nothing contained or implied in this Deed shall prejudice or affect the rights discretions powers duties and obligations of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.

## **8 MORTGAGEE CONSENT**

8.1 Any Mortgagee taking possession of the Land will be bound by the obligations as if it were a person deriving title from the Owner however the Mortgagee shall only be liable for a breach of the Deed that it has itself caused whilst mortgagee in possession and shall not be liable for any pre-existing breach.

## **9 SETTLEMENT OF DISPUTES**

9.1 Any dispute arising out of the provisions of this Deed shall be referred to the Expert for the determination of that dispute PROVIDED THAT the provisions of this clause shall be without prejudice to the right of any party to seek the resolution of any matter relating to the Deed by the courts and / or in accordance with Section 106(6) of the 1990 Act

9.2 The Expert shall be appointed jointly by the Relevant Parties who are in dispute

9.3 The decision of the Expert shall be final and binding upon the Relevant Parties and subject to the following provisions:-

- (a) the charges and expenses of the Expert shall be borne equally between the Relevant Parties who are in dispute unless the Expert shall otherwise direct;
- (b) the Expert shall give the Relevant Parties who are in dispute an opportunity to make representations and counter representations to him before making his decision;
- (c) the Expert shall make his decision within the range of any representations made by the Relevant Parties who are in dispute themselves;

## **10 WAIVER**

No waiver (whether expressed or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

**11 JURISDICTION**

This Deed is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales.

**12 DELIVERY**

The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

**FIRST SCHEDULE**

**ALL THAT** piece or parcel of land known as **The Wheelhouse, Little Porth, St Mary's, Isles of Scilly ALL OF WHICH** said land is shown for identification purposes only edged with a red line on the Plan annexed hereto.

## SECOND SCHEDULE

### ("the Obligations and Restrictions")

1. The Dwelling shall not be occupied by anyone other than a Qualifying Person or in accordance with paragraphs 5 & 6 of this schedule.
2. The Dwelling shall not be Occupied otherwise than as the sole private residence of the Occupier with or without their Household in accordance with and subject to the provisions of this Second Schedule.
3. Nothing in paragraphs 1 and 2 shall prevent any former joint spouse civil partner or other member of the Qualifying Person's Household from continuing to reside at the Dwelling after the Qualifying Person ceases to reside there.
4. The Owner shall serve a Vacancy Notice on the Council each time the Dwelling becomes available for Occupation but in any event the Vacancy Notice shall not be served more than 28 days before the expected Vacation Date.
5. Prior to the Occupation of the Dwelling by a Qualifying Person the Owner shall serve on the Council an Occupation Notice and shall obtain the Council's written confirmation that the proposed occupant is a Qualifying Person PROVIDED THAT if the Council fails to respond to the Occupation Notice within 14 days of receipt of the Occupation Notice the proposed occupant shall be deemed to be a Qualifying Person for the purposes of this Deed.
6. In the event that the Owner after using reasonable endeavours is unable to identify a Qualifying Person who wishes to Occupy the Dwelling within a period of 6 months from the date of service of the Vacancy Notice the Dwelling may be Occupied by a person who need not be a Qualifying Person PROVIDED THAT the Owner has sent prior written notification to Council confirming what reasonable endeavours have been made and obtained written authorisation from the Council permitting such Occupation ALSO PROVIDED THAT the proposed occupier is only permitted to Occupy the Dwelling on terms that do not confer security of tenure for a period of more than 8 months upon the expiry of which the provisions of this Deed as to the Occupation of the Dwelling will again apply unless the Owner has obtained the Council's written approval to any renewal of such permitted Occupation.
7. The provisions of paragraphs 4 to 6 of this Second Schedule shall not be binding on a Mortgagee.
8. Any purchaser from a Mortgagee shall be deemed to be a Qualifying Person for the purposes of this deed PROVIDED THAT the restrictions in this deed as to the Occupation of the Dwelling will continue to apply.

9. The Dwelling shall not be sold, let or otherwise disposed of separately from the property known as 'The Wheelhouse' without the express consent of the Council.

## **THE THIRD SCHEDULE**

### **Owners Accommodation Eligibility**

Eligible businesses:

- The Wheelhouse, Little Porth, Isles of Scilly



# P/23/041/FUL - S106 'PLAN'



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01 Location Plan  
1:1250



LEGEND

Site Boundary

A00

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**P/23/041/FUL – S106 'LAYOUT PLAN'**

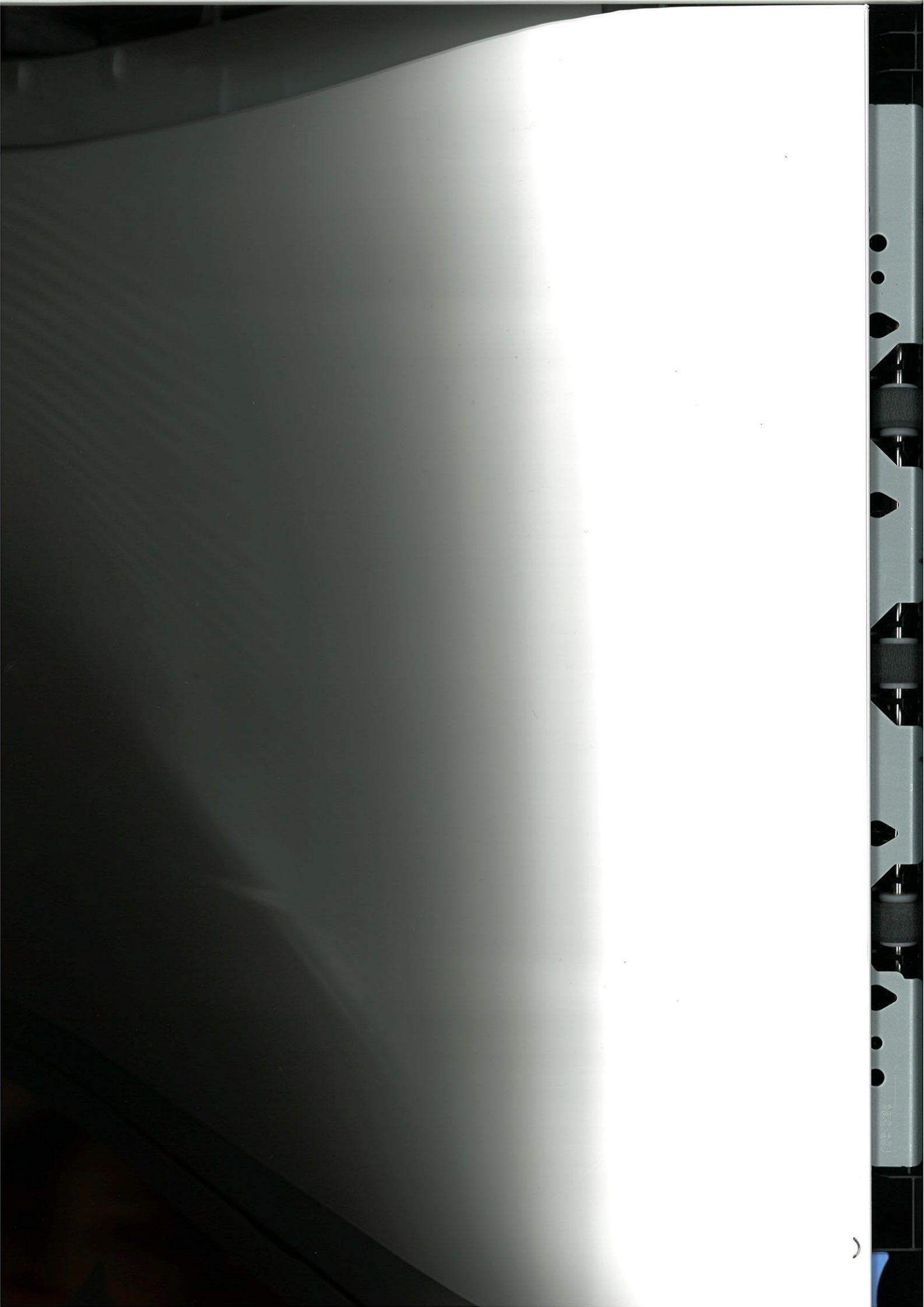


FIRST FLOOR

GROUND FLOOR



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EXECUTED as a DEED by )  
THE COUNCIL OF THE ISLES OF SCILLY )  
whose Common Seal was hereinto )  
affixed in the presence of: )



Authorised Officer [Redacted]  
[Print Name] NICOLA STINSON

EXECUTED as a DEED by ) [Redacted]  
WHEELHOUSE PROPERTIES (SCILLY) LIMITED JENNIFER BUFFA  
In the presence of: )

Witness Signature: [Redacted]  
Witness Name: ZENOBIA MAY  
Address: PENINNIS FARMHOUSE  
ST MARYS  
ISLES OF SCILLY, TRZI OHE  
Occupation: HOLIDAY LET PROPRIETOR

EXECUTED as a DEED by )  
LLOYDS BANK PLC  
In the presence of: )

Witness Signature:  
Witness Name:  
Address:

EXECUTED AS A DEED  
BY SENIOR CASE HANDLER  
as authorised signatory for  
Lloyds Bank plc  
in the presence of (signature of witness)  
Per Pro  
Lloyds Bank plc

PARMJIT KAUR DHALIWAL

Occupation:

Anilar Devi Kumar