

Council of the Isles of Scilly Delegated Planning Report Other application

Application Number: P/23/101/COU

UPRN: 000192002878

Received on: 6 December 2023

Valid on: 21 December 2023

Application Expiry date: 15 February 2024

Neighbour expiry date: 11 January 2024

Consultation expiry date: 24 January 2024

Site notice posted: 29 December 2023

Site notice expiry: 19 January 2024

Applicant: Mr T Smith
Site Address: Land At Downs Farm
Downs
St Agnes
Isles Of Scilly

Proposal: Change of use of land for the siting of 2 free standing
shepherds huts with free standing balconies

Application Type: Change of Use

Recommendation: Permit

Summary Conditions

1. Standard time limit
2. Adherence to plans
3. Materials as per application particulars.
4. Short term holiday let use only
5. Native hedging
6. Sensor controlled Lighting
7. Hours of Operation for Construction Works

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: 11 Jan 2024

Site Description and Proposed Development

The application site is a parcel of agricultural land to the north east of Downs Farm on the island of St Agnes. The plot is south of New Lane between an agricultural barn and the residential dwelling. 'Tommys Barn'. The site is well enclosed by existing mature hedging and is currently used as 'rough grazing' for cattle in relation to Downs Farm.

Permission is sought for the change of use of the site for the siting of 2 Shepherds Huts with associated landscaping. The huts would provide accommodation for up to two people, with a double bed, shower room and kitchenette. Access would be through the farm via New Lane.

Each hut would be clad with oak feather edge planks, have painted hardwood doors and windows, black corrugated tin roofs and be insulated with sheep wool. The Huts would have a footprint of approximately 5.3m x 2m. The huts would also have timber decking balconies to provide space for outdoor seating. This would add an additional footprint of 3m x 2.5m.

In addition, the proposal includes hedging across the north of the site which encloses the huts within the plot.

Certificate: B

Other Land Owners: P Smith/Duchy of Cornwall

Consultations and Publicity

The application has had a site notice on display for 21 days (21/12/2023 – 19/01/2024). The application appeared on the weekly list on 4th January 2024.

| Consultee | Date Responded | Summary |
|-----------|----------------|---------|
|-----------|----------------|---------|

| | | |
|--------------------------------|------------|--|
| Cornwall Archaeological Unit | 29/12/2023 | Thank you for consulting us on this application. We have consulted the Cornwall & Isles of Scilly Historic Environment Record and, in this instance, we consider it unlikely that significant archaeological remains will be disturbed by the limited groundworks for the proposed scheme. No archaeological mitigation is required, and therefore no archaeological condition is sought. |
| Cornwall Fire & Rescue Service | 12/01/2024 | <p>Access for fire appliances within the site will be considered satisfactory providing it complies with Part B5 of Approved Document B,</p> <p>Vehicle Access. Adequate water supplies for firefighting purposes will be achieved by complying with the requirements of Part B5 of Approved Document B.</p> <p>Should planning permission be granted, the fire authority would remind the applicant as the proposal is to provide paying guest accommodation the Regulatory Reform (Fire Safety) Order 2005 applies and the responsible person will be required to carry out a fire risk assessment to identify the risks and take reasonable measures to ensure people are safe from fire.</p> |
| Environmental Health | N/A | N/A |
| South West Water | N/A | N/A |

Representations from Residents:

Neighbouring properties written to directly:

Tommy's Barn, Middle Town, St Agnes

letters of objection have been received

letters of support have been received

letters of representation have been received.

Relevant Planning History:

P/17/113 - Erection of farm building. Approved 02.03.2018

Constraints:

- Conservation Area
- Area of Outstanding Natural Beauty
- Heritage Coast
- Archaeological Constraint Areas Name: Middle Town, St Agnes. Island: St Agnes
- HER Findspots Name: MIDDLE TOWN - Early Medieval settlement, Medieval settlement. Period: Early Medieval
- Historic Landscape Character Multiple (Spatial)

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? | N/A |
| 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? | Y |
| 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? | 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, a) Will the development preserve the character and special architectural or historic interest of the building? | Y |

| | |
|--|-----|
| b) Will the development preserve the setting of the building? | |
| Within an Archaeological Constraint Area | |
| Other Impacts | Y |
| Does the proposal comply with Highways standing advice such that it does not adversely affect highway safety? | |
| Impact on protected trees | N/A |
| a) Will this be acceptable | |
| b) Can impact be properly mitigated? | |
| Has the proposal been designed to prevent the loss of any significant wildlife habitats or proposes appropriate mitigation where this has been demonstrated to be unavoidable? | 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 | Y |

| Protected Species | YES OR NO |
|--|------------------|
| Does the proposal include any re-roofing works or other alteration to the roof | N |
| Does the proposal include any demolition | N |
| Does the proposal include tree or hedge removal | N |
| Is an assessment of impact on protected species required | N |
| 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 | N |
| Does the proposal materially increase the use of the site to require additional long-term waste management facilities | Y |
| Does the proposal include a Site Waste Management Plan | Y |
| Is a condition required to secure a Site Waste Management Plan | N |

| Sustainable Design | YES OR NO |
|---------------------------|------------------|
|---------------------------|------------------|

| | |
|---|---|
| Does the proposal materially increase the use of the site to require additional sustainable design measures | Y |
| Does the proposal include a any site specific sustainable design measures | Y |
| Is a condition required to secure a Sustainable Design Measures | N |

Principle of development

Policy WC5 outlines that proposals which contribute to a sustainable, diverse and modern tourism economy will be supported where they are sited in sustainable and accessible locations. Proposals should also be appropriate to the site and its surroundings in terms of activity, scale and design.

The application site is an area of agricultural land within the settlement cluster of Middle Town. The site is easily accessible through the farm via New Lane. The submitted design and access statement outlines that the site is currently unsuitable for wider agricultural purposes beyond grazing due to the proximity of the existing borehole, and lack of accessibility for machinery.

The proposed change of use and the siting of 2 shepherd huts would support the diversification of Downs Farm to provide tourist accommodation alongside the existing agricultural business. This would increase the availability of tourism accommodation on the Island of St Agnes and contribute to a diverse tourism economy.

The principle of diversification to tourism accommodation on the site is therefore considered to accord with WC5, and the acceptability of the proposal as a whole depends on the suitability of the proposal to the site including the scale, design and accordance with other relevant policies in the Local Plan.

Design and Landscape Impacts

Isle of Scilly Policies SS2 and WC5 outline that proposals should demonstrate high quality design that respects the character of the site and existing townscape, landscape and seascape. Proposals should demonstrate an appropriate scale, density, layout, height, mass and use of materials. In addition, policy OE1 outlines that the proposal should conserve and enhance the islands' landscape, seascape and scenic beauty.

The proposed huts and balconies would be primarily of timber construction including oak feather boarding. This choice of materials is considered to respond positively to the highly rural character of the site and would allow the huts to weather over time. The roofing is proposed to be black, this reflects local character and would reduce the prominence of the huts over longer views.

In regard to the proposed layout. The huts are proposed to be slightly offset from each other with a row of hedging to the rear. The siting and orientation of the huts would have a minor suburbanising impact to the site, however, this layout and extent of hedging has been amended during the application process to minimise this as far as possible, whilst still providing a degree of shelter from the elements. The application site is well enclosed, and the siting of the huts would not be particularly visible from the public realm. In addition, evidence has been provided by the applicant to demonstrate that the huts would not be visible from the sea or coastline. The proposal is therefore considered to conserve the character of the site and the islands' landscape and seascape.

In summary, the proposal is considered to accord with SS2, WC5 and OE1.

Historic Environment Impacts

Policy OE7 requires that great weight is given to the conservation of the islands' irreplaceable heritage assets. The application site is in the vicinity of a number of listed buildings including a scheduled and listed lighthouse. The application site is enclosed by existing hedging and the proposal is not considered to have an impact on these heritage assets or their setting. The proposal is therefore considered to accord with OE7.

Residential Amenity: Policy WC5 requires proposals for tourism development to ensure they do not result in an unacceptable impact on residential amenities. The proposed huts and the change of use of the land would result in the increased intensity of usage of the site and the potential for a loss of neighbouring amenity.

The nearest residential dwelling Tommys Barn is sited approximately 15 metres to the north east. The huts would be sited with a south facing balcony facing towards the coast and away from neighbouring dwellings. This orientation focuses the primary amenity space for each hut, including outdoor seating and external lighting away from Tommys Barn. The proposal also includes additional hedging to the north of the huts which would create a buffer between Tommys Barn and the proposed huts. The increased usage of the site would therefore not be considered to create an unacceptable impact on Tommys Barn.

Regarding overlooking and overshadowing. The shepherd's huts would have a relatively low massing, as single storey structures set relatively low to the ground, and present no concerns of overshadowing. The huts would feature a small window on the rear elevation, however, these windows would be sited at an approximate height of 3 metres and would not have a clear views of Tommys Barn due to the existing and proposed hedging to the north of the huts.

The proposal is therefore not considered to result in the loss of residential amenity for Tommys Barn and is considered to accord with WC5.

Sustainable Design, Water and Wastewater Management: Policy WC5 outlines that proposals for tourism developments must demonstrate a reduction in waste, water and energy consumption and incorporate sustainable design measures in accordance with policy SS1. In addition, SS6 requires proposals to demonstrate they will not result in the deterioration of public or private water supply or quality.

A scheme of sustainable design has been submitted within the application. This outlines that the toilets within the Shepherd huts will use water from the water harvesting system installed to the rear of the existing barn. Fresh water will be provided via the private borehole and UV/filter treatment setup and waste water will be dealt with via a vortex sewage treatment plant to be located to the south of the huts.

These measures in addition to the limited scale and energy consumption of the proposal are considered proportionate to the proposal in accordance with WC5, SS1 and SS6.

Dark Skies: Policy OE4 seeks to protect Scilly's Dark skies by limiting external light pollution to lighting which is essential for safety, security or community reasons. One external light is proposed on the south elevation of each hut adjacent to the main door. Details of this lighting has been submitted within the Design and Access statement and is downwards pointing with a degree of shielding for upward light pollution. This degree of lighting is considered appropriate for the safety and security of the huts, however, a suitable worded planning condition is considered appropriate to ensure this lighting is operated via a timed proximity sensor. With this mitigation in place the proposed lighting and acceptable under OE4.

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 subject to imposed conditions.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Planning Policy: Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and

Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of March 2021, the development plan for the Isles of Scilly comprises the Isles of Scilly Local Plan 2015-2030.

The relevant development plan policies that have been taken into consideration are set out below:

Isles of Scilly Local Plan, 2015-2030

| Policy | Tick if Used ✓ |
|---|----------------|
| Policy SS1 Principles of Sustainable Development | ✓ |
| Policy SS2 Sustainable quality design and place-making | ✓ |
| Policy SS3 Re-use of Buildings | |
| Policy SS4 Protection of retailing, recreation and community facilities | |
| Policy SS5 Physical Infrastructure | |
| Policy SS6 Water and Wastewater Management | ✓ |
| Policy SS7 Flood Avoidance and Coastal Erosion | |
| Policy SS8 Renewable Energy Developments | |
| Policy SS9 Travel and Transport | |
| Policy SS10 Managing Movement | |
| Policy OE1 Protecting and Enhancing the landscape and seascape | ✓ |
| Policy OE2 Biodiversity and Geodiversity | |
| Policy OE3 Managing Pollution | |
| 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 | ✓ | | No |
| Sustainable Design Measures | ✓ | | No |
| Biodiversity Enhancement Measures: | ✓ | | No |

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: Block plan Amended, Received 30/01/2024

- **Plan 2: Proposed Shepherd Hut Plans, Drawing Number, TS FB 04 A, Dated 06/11/2023**
- **Plan 3: Balcony Plan, Received 04/01/2024**
- **Plan 4: Design, Access and Planning Statement, Received 21/12/2023**

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 The materials used in the construction of the development hereby approved shall be as detailed within the permitted application particulars and shall be retained permanently as such, unless prior written consent is obtained from the Local Planning Authority to any variation.**

Reason: To safeguard the appearance of the building and the character of the area.

- C4 The development hereby permitted shall not be used otherwise than for the provision of short-let holiday accommodation. The two self-contained glamping pods shall not be occupied as permanent dwellings, as part of Downs Farm only and shall not be occupied by any persons for a period exceeding 28 days in any calendar year. The owner or operator shall maintain a register of occupants for each calendar year, in accordance with Data Protection requirements. This shall be made available on request for inspection by any duly authorised officer of the Local Planning Authority.**

Reason: To ensure that the development is occupied as holiday accommodation in accordance with Policy WC5 of the Isles of Scilly Local Plan (2015-2030).

- C5 The hedging hereby approved shall be of a locally native species and shall be retained permanently, at height to reflect the hedging style on St Agnes, as such for the lifetime of the development.**

Reason: To ensure a satisfactory development and in the interests of amenity and landscape character.

- C6 The external lighting hereby approved shall be sensor-controlled and shall be retained permanently as such for the lifetime of the development.**

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 St Agnes Cricket Pitch Dark Sky Discovery Site (Milky Way Class) in accordance with Policy OE4 of the Isles of Scilly Local Plan (2015-2030).

- C7 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
Job Title: Chief Planning Officer
Signed:

21/02/2024


Authorised Officer with Delegated Authority to determine Planning Applications
