

Council of the Isles of Scilly Delegated Planning Report Other application

Application Number: P/23/102/ROV

UPRN: 000192000944

Received on: 6 December 2023

Valid on: 11 December 2023

Application Expiry date: 5 February 2024

Neighbour expiry date: 1 January 2024

Consultation expiry date: 8 January 2024

Site notice posted: 12 December 2023

Site notice expiry: 5 January 2024

Applicant: Miss Julie Havlin
Site Address: Trelawney
Church Street
Hugh Town
St Mary's
Isles Of Scilly

TR21 0JT

Proposal: Application to vary condition C4 of planning permission P/09/043 (Change of Use of Guest House (Use Class C1) to 3 self catering holiday flats plus owners accommodation. (Use Class C3)) to be able to let the units as permanent full time accommodation and short term holiday lets.

Application Type: Removal or Variation of Condition

Recommendation: REFUSE

Reasons for refusal

- R1** The proposed variation of condition 4 of planning permission P/09/043 would result in the conversion of flat 3 into a unit of full time accommodation which would fail to meet the minimum Nationally Described Space Standards or provide a good standard of accommodation or amenity space. The proposal is therefore contrary to the Isles of Scilly Local Plan policy LC3(2) and paragraph 135 (f) of the National Planning Policy Framework 2023.

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 Dan Marcus

Date: 02/02/2023

Site Description and Proposed Development

The application site is Trelawney Guest House on the Island of St Mary's. The guest house is a 3 storey building formed of 3 self-catering holiday units accessed via Church Street and 1 full-time unit of accommodation set over the rear ground and first floor.

The guest house was approved for conversion from a guest house to 3 self catering holiday flats plus owners accommodation in 2009 under application P/09/043. Condition 5 of this approval was varied in 2021 to allow the owner's accommodation to be occupied by someone of a specific local need.

Permission is now sought to vary condition 4 of planning permission P/09/043 which restricts the 3 self-catering holiday flats to short-let holiday accommodation. The variation of this condition would permit the flats to be used as either as the approved 3 short-let holiday flats or 3 full time units of accommodation.

Certificate: A

Other Land Owners: None

Consultations and Publicity

The application has had a site notice on display for 21 days between 12 December and 5 January. The application appeared on the weekly list on [18th December 2023](#). Due to the nature of the proposal external consultations are required.

Consultee	Date Responded	Summary
Cornwall Fire and Rescue	18.12.23	Access for fire appliances within the site

		<p>will be considered satisfactory providing it complies with Part B5 of Approved Document B, Vehicle Access.</p> <p>Adequate water supplies for firefighting purposes will be achieved by complying with the requirements of Part B5 of Approved Document B.</p>
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Representations from Residents:

Neighbouring properties written to directly:

- **Flat 1, 2, 3 and 4 Kenwyn Church Street**
- **Marine House, Church Street**
- **Burgundy, Rams Valley**
- **The Holt, Rams Valley**
- **Captains Cabin, Rams Valley**

[0] letters of objection have been received

[0] letters of support have been received

[0] letters of representation have been received.

Relevant Planning History:

P.0691 - Approval of planning permission for the conversion of house to guest house. Approved 14.08.1967

P/09/043 - Conditional approval of planning permission for Change of Use of guesthouse (Use Class C1) to 3 self catering holiday flats plus owners accommodation (Use Class C3). Approved 08.07.2009

P/21/028/ROV - Conditional approval of planning permission for the variation of condition 5 of planning permission P/09/043 (Change of Use of guesthouse (Use Class C1) to 3 self catering holiday flats plus owners accommodation (Use Class C3)) to allow occupation of owners accommodation by someone with a specific local need. Approved 24.05.2021

Constraints:

- Conservation Area
- Area of Outstanding Natural Beauty
- Heritage Coast
- Historic Landscape Character Landscape Type: Settlements.

Planning Assessment

Design	YES OR NO
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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?	N/A
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?	N/A
Is the parking and turning provision on site acceptable?	N/A
Would the proposal generally appear to be secondary or subservient to the main building?	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?	N/A
Is the proposal acceptable with regard to any significant change or intensification of use?	N

Heritage	YES OR NO
Would the proposal sustain or enhance the character and appearance of the Conservation Area?	Y
If within the setting of, or a listed building, a) Will the development preserve the character and special architectural or historic interest of the building? b) Will the development preserve the setting of the building?	N/A
Within an Archaeological Constraint Area	N/A
Other Impacts Does the proposal comply with Highways standing advice such that it does not adversely affect highway safety?	N/A
Impact on protected trees a) Will this be acceptable b) Can impact be properly mitigated?	N/A
Has the proposal been designed to prevent the loss of any significant wildlife habitats or proposes appropriate mitigation where this has been demonstrated to be unavoidable?	N/A
Does the proposal conserve and enhance the landscape and scenic beauty of the AONB	Y

Are the Water connection/foul or surface water drainage details acceptable?	N/A
If sited within a Critical Flood Risk Area (low lying land below the 5m datum) is the application accompanied by an acceptable Flood Risk Assessment?	N/A
Are there external lights	N

Protected Species	YES OR NO
Does the proposal include any re-roofing works or other alteration to the roof	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	N
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	N
Does the proposal include a Site Waste Management Plan	N
Is a condition required to secure a Site Waste Management Plan	N

Sustainable Design	YES OR NO
Does the proposal materially increase the use of the site to require additional sustainable design measures	N
Does the proposal include a any site specific sustainable design measures	N
Is a condition required to secure a Sustainable Design Measures	N

Principal of development

Policy LC5 sets out the criteria that will apply to any application to remove any restrictive occupancy condition. This policy primarily seeks to protect the supply of housing to meet local needs, and the provision of staff accommodation in connection with a business. The Isles of Scilly Local Plan notes that there are many other 'occupancy restrictive' conditions known to apply to various types of residential accommodation, and these should be dealt with on their individual merits.

The proposal seeks to vary condition 4 of planning permission P/09/043 which restricts the 3 self-catering holiday flats to short-let holiday accommodation. The removal of this condition would permit the flats to be used as either 3 self-catering holiday units or 3 full-time units of accommodation.

The proposal would result in a reduction in holiday accommodation but it would, however, provide 3 additional residential units to meet local housing needs. The occupancy of the units by those with a local need could be secured by a suitably worded local occupancy condition as per LC2. Therefore, the proposal is considered to accord with LC5.

The principle of conversion from self-catering holiday units to full-time units of accommodation is therefore acceptable, and the overall acceptability of the proposal depends on to the suitability of the units for full-time occupation. These matters are considered in more detail below.

Suitability for full time accommodation

Policy LC3, Balanced Housing Stock, aims to achieve a balanced housing stock that remains available to meet Local Housing Needs into the future whilst ensuring that dwellings have appropriate internal space standards. In order to achieve this Policy LC3(2) sets out that all new homes must offer a good standard of accommodation by being constructed in accordance with the minimum Nationally Described Space Standards which are set by Government.

The Technical Space Standards sets out that a 1 bed, 1 person unit of accommodation requires a minimum Gross Internal Area (GIA) of 39sqm (37sqm with a shower room) with 1 sqm of built-in storage, and a bedroom with a floor area of at least 7.5sqm which is at least 2.15m wide. For a 1 bed, 2 person unit of accommodation a minimum GIA of 50sqm is required with 1.5sqm of built-in storage, and a bedroom with a floor area of at least 11.5sqm² which is at least 2.55m wide.

In calculating GIA, the Technical Space Standards state that any area with a headroom of less than 1.5m is not counted within the GIA unless used solely for storage, of which a maximum of 1sqm can be included. This accords with the RICS Code of Measuring Practice.

Flat 1 is a ground floor 1 bed flat providing accommodation for 2 people. The flat has an approximate GIA of 55 sqm, the bedroom has an approximate floor space of 17.72 sqm and a width of approximately 4.4m. This meets the Technical Space Standards requirements, therefore, **Flat 1 is considered to accord with Policy LC3.**

Flat 2 is a 1 bed flat providing accommodation for 1 person, the flat has an approximate GIA of 41 sqm, the bedroom has an approximate floor space of 9 sqm and a width of approximately 3.75m. This meets the Technical Space Standards requirements for a 1 bed 1 person unit of accommodation, therefore, **Flat 2 is considered to accord with Policy LC3.**

Flat 3 is a 1 bed loft conversion studio with an approximate GIA of 34.5sqm. This GIA has been calculated as per guidance within the Technical Space Standard, and the

storage cupboards within the eaves have been excluded with the exception of 1sqm for storage provision. However, the submitted plans do not indicate where the ceiling height meets the 1.5m limit for habitable floor space. The actual GIA is therefore likely to be significantly lower than that stated.

Based on the submitted GIA, Flat 3 already fails to meet the GIA of 37 sqm set within the Technical Space Standards for a 1 bed, 1 person unit of accommodation and is likely to fall much further short of it were accurate GIA measurements to be provided. **Flat 3 is therefore not considered to be of a suitable standard of accommodation for full-time accommodation contrary to Policy LC3.**

Conclusion

The principle of conversion from self-catering holiday units to full-time units of accommodation is considered acceptable under LC5 and the acceptability of the proposal has been assessed against LC3 and the suitability of the units for full-time occupation. Flat 1 and Flat 2 both meet the minimum gross GIA set within the Technical Space Standards and are considered to accord with Policy LC3(2). However, Flat 3 fails to meet the minimum GIA required by LC3(2) for a good standard of accommodation and is therefore not considered suitable for full-time occupation.

National policy, as set out in the NPPF at paragraph 135 advises planning decisions to (f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. The footnote supporting (f) reflects the Isles of Scilly Local Plan policies to use the Government's optional technical standards for accessible and adaptable housing, where this would address an identified need for such properties. Policies may also make use of the nationally described space standard, where the need for an internal space standard can be justified.

Given the above it is considered that the proposal is not in accordance with the Development Plan and there are no overriding material considerations to otherwise indicate that permission should be granted. It is therefore recommended that planning permission be refused.

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 with the applicant in a positive and creative way.

Planning Policy: Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of March 2021, the development plan for the Isles of Scilly comprises the Isles of Scilly Local Plan 2015-2030.

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

Isles of Scilly Local Plan, 2015-2030

Policy	Tick if Used ✓
Policy SS1 Principles of Sustainable Development	
Policy SS2 Sustainable quality design and place-making	
Policy SS3 Re-use of Buildings	
Policy SS4 Protection of retailing, recreation and community facilities	
Policy SS5 Physical Infrastructure	
Policy SS6 Water and Wastewater Management	
Policy SS7 Flood Avoidance and Coastal Erosion	
Policy SS8 Renewable Energy Developments	
Policy SS9 Travel and Transport	
Policy SS10 Managing Movement	
Policy OE1 Protecting and Enhancing the landscape and seascape	
Policy OE2 Biodiversity and Geodiversity	
Policy OE3 Managing Pollution	
<i>Policy OE4 Protecting Scilly's Dark Night Skies</i>	
Policy OE5 Managing Waste	
Policy OE6 Minerals	
Policy OE7 Development affecting heritage	
Policy LC1 Isles of Scilly Housing Strategy to 2030	
Policy LC2 Qualifying for Affordable Housing	✓
Policy LC3 Balanced Housing Stock	✓
Policy LC4 Staff Accommodation	
Policy LC5 Removal of Occupancy Conditions	✓
Policy LC6 Housing Allocations	
Policy LC7 Windfall Housing:	
Policy LC8 Replacement Dwellings and Residential Extensions	
Policy LC9 Homes in Multiple Occupation	
Policy WC1 General Employment Policy	
Policy WC2 Home based businesses	
Policy WC3 New Employment Development	
Policy WC4 Alternative Uses for Business/Industrial land and buildings	
Policy WC5 Visitor Economy and Tourism Developments	

Info Requirements	Submitted (LVC)	Not Submitted	Condition Required
Site Waste Management Plan		✓	
Sustainable Design Measures		✓	
Biodiversity Enhancement Measures:		✓	

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.

Reason for Refusal:

R1 The proposed variation of condition 4 of planning permission P/09/043 would result in the conversion of Flat 3 into a unit of full time accommodation which would fail to meet the minimum Nationally Described Space Standards or provide a good standard of accommodation. The proposal is therefore contrary to the Isles of Scilly Local Plan policy LC3.

Print Name: Lisa Walton

02/02/2024

Job Title: Chief Planning Officer

Signed:



Authorised Officer with Delegated Authority to determine Planning Applications
