

Council of the Isles of Scilly Delegated Planning Report Other application

Application Number: P/23/106/FUL

UPRN: 000192001525

Received on: 20 December 2023

Valid on: 21 December 2023

Application Expiry date: 15 February 2024

Neighbour expiry date: 11 January 2024

Consultation expiry date: 17 January 2024

Site notice posted: 22 December 2023

Site notice expiry: 12 January 2024

Extension of time: 29/02/2024

Applicant: Scilly Self Catering
Site Address: 18 Porthmellon Industrial Estate
Porth Mellon
St Mary's
Isles Of Scilly
TR21 0JY
Proposal: Removal of trees, creation of new parking area and
mitigating landscape works
Application Type: Planning Permission

Recommendation: PER

Summary Conditions:

1. Standard time limit
2. Adherence to plans
3. Hours of Operation for Construction Works
4. Adherence to ecological mitigation
5. Submission of Site Waste Management Plan
6. Implementation of tree planting

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: 10/01/2024

Site Description and Proposed Development

Unit 18 is located just down from the entrance to Porthmellon Industrial Estate from Telegraph Road between the Fire Station and a large storage unit. It is directly opposite the Porthmellon Enterprise Centre outside which there are often parked cars. The land slopes down from the main road past the site and it is all within St Mary's Flood Prone land.

The site consists of a 62m² unit used for storage, a smaller unit for furniture storage and the land around is used for the storage of waste all in conjunction with the Scilly Self Catering and St Mary's Hall businesses. The main building has a rendered finish with timber windows and a corrugated sheet roof all in a poor state of maintenance. The building aligns with the road and is screened by a row of ivy covered pollarded elm trees along a stone hedge.

The proposal is to remove most of the stone wall and trees to create a parking area in front of the building which would be laid with a 'Grasscell' permeable surface.

The application is accompanied by a Ground Level Tree Assessment report assessing the impact of the loss of the trees. It recommends additional planting to the rear of the site and also bat and bird boxes.

Certificate: A

Other Land Owners: None

Consultations and Publicity

The application has had a site notice on display for 21 days (22/12/2023–12/01/2024). The application appeared on the weekly list on 4th January 2024.

Consultee	Date Responded	
Highways Authority	15/01/2024	
Lead Local Flood Authority	15/01/2024	
	Summary	
Combined Response from Head of Environment	Biodiversity	Welcome that this application includes a Ground Level Tree Assessment to retain Elms where they can be retained, to replant with appropriate native shrubs and to install bird and batboxes as part of the development proposals.
	Highways	welcome that this application seeks to address the parking issues on the industrial estate.
	Flood	Application is in Flood Zone 3 and should include a flood risk assessment. Although not included within this application, the applicant could consider flood proofing electricity and communication systems and defending against flood risk with demountable doorway protection. The area is also prone to surface water flooding during periods of intense rainfall. It is welcome that the application includes the use of permeable surfacing to control runoff into the surface water drains. Rainwater harvesting systems could also be installed to the buildings to hold water for slow release into the main drainage system during drier periods.

Representations from Residents:

Neighbouring properties written to directly:

- Ambulance & Fire Station 17 PMIE
- 15, 16 7 19-20 PMIE

[0] letters of objection have been received

[0] letters of support have been received

[0] letters of representation have been received.

Relevant Planning History:

No planning history relevant under the 2005 Local Plan or the adopted 2015-2030 Local Plan

P1766 – Erection of workshop. Granted in 1979

Constraints:

- Conservation Area
- Area of Outstanding Natural Beauty
- Heritage Coast
- Flood Prone Land – St Mary’s - Within
- Archaeological Constraint Area – Porthmellon – 71m
- SSSI – Lower Moors – 195m

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 building, street and area?	Y
Would the materials, details and features match the existing building and be consistent with the general use of materials in the area?	Y
Would the proposal leave adequate garden area and green space to prevent the proposal appearing as an overdevelopment of the site and to ensure an adequate level of amenity?	Y
Is the parking and turning provision on site acceptable?	Y
Would the proposal generally appear to be secondary or subservient to the main building?	Y
Amenity	YES OR NO
Is the proposal acceptable with regard to any significant overlooking/loss of privacy issues?	Y
Has the proposal been designed to respect the amenities of neighbouring properties avoiding unreasonable loss of light or an overbearing impact?	Y
Is the proposal acceptable with regard to any significant change or intensification of use?	Y
Heritage	YES OR NO
Would the proposal sustain or enhance the character and appearance of the Conservation Area?	Y
If within the setting of, or a listed building, a) Will the development preserve the character and special architectural or historic interest of the building?	N/A

b) Will the development preserve the setting of the building?	
Within an Archaeological Constraint Area	N
Other Impacts	Y
Does the proposal comply with Highways standing advice such that it does not adversely affect highway safety?	
Impact on protected trees	
a) Will this be acceptable	Y
b) Can impact be properly mitigated?	Y
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
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	Y
Is an assessment of impact on protected species required	Y
Has an assessment been provided that adequately assesses the site and includes mitigation, enhancement and timing requirements	Y
Are biodiversity enhancement measures required	Y
Is a condition required to provide biodiversity enhancement measures	N

Waste Management	YES OR NO
Does the proposal generate construction waste	Y
Does the proposal materially increase the use of the site to require additional long-term waste management facilities	N
Does the proposal include a Site Waste Management Plan	N
Is a condition required to secure a Site Waste Management Plan	Y

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

Analysis: The proposal installs permeable surface in place of existing trees, hedges and hard surfacing so it is not considered to increase the risk of flooding from surface water. The proposed development is in Flood Zone 3 however it does not extend or change the use of the building which currently falls within the less vulnerable use category. There is some impact upon habitats and biodiversity, but these impacts could be addressed by the replacement trees and replacement habitats, as set out in the submitted plans and reports. Conditions to require replacement trees and bird and bat boxes is therefore recommended.

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/imposed conditions to enable the grant of planning permission.

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	
<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		N	Y
Sustainable Design Measures		N	N
Biodiversity Enhancement Measures:	Y		N

Other material considerations include the policies of the National Planning Policy Framework (NPPF) and guidance in Planning Practice Guidance (PPG).

Considerations under Human Rights Act 1998 and Equalities Act 2010: The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report. In discharging their functions, must have “due regard” to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves

having due regard in particular to the need to:

- a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of other persons who do not share it
- c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has had due regard to the matters set out in section 149 of the Equality Act 2010.

Recommended Conditions:

C1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

C2 The development hereby permitted shall be carried out in accordance with the approved details only including:

- **Plan 1 Location Plan, drawing number 2038B-P01, dated Sept 2023**
- **Plan 2 Site Plan, drawing number 2038B-P02, dated Oct 2023**
- **Plan 3 Proposed Plan, drawing number 2038B-P04, dated Oct 2023**
- **Plan 4 Ground Level Tree Assessment, document reference 23-10-2, dated 19th November 2023 (avoidance and mitigation measures with respect to protected species)**

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).


PRE-COMMENCEMENT CONDITION: Site Waste Management Plan

C3 Prior to the commencement of the development, hereby approved, a scheme including details of the waste material arising from clearance, including excess material from excavations, 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).

- C4 Before the car parking spaces are first bought into use, a minimum of one bat box and one bird box, shall be installed in accordance with the recommendations (4.1.2 for bats and 4.2.3 for birds) of the Ground Level Tree Assessment, document reference 23-10-2, dated 19th November 2023. Once installed the features shall be maintained as approved thereafter.**
Reason: To promote measures to improve an awareness of the value of biodiversity on the Isles of Scilly and in accordance with the requirements of Policies SS1(d) and SS2(g) of the Isles of Scilly Local Plan (2015-2030).
- C5 The scheme for replacement tree planting, hereby approved, as shown on Plan 3 Proposed Plans, drawing number 2038B-P04 dated Oct 2023, shall be implemented within the curtilage of the property in the first planting season following the felling of the trees hereby permitted to be removed. The replacement trees shall be a minimum of 8-10cm in girth (a Standard Tree) and shall be maintained for a period of five years, such maintenance to include the replacement of the tree should it die.**
Reason: To safeguard the character and appearance of this part of the Islands and to enhance features of biodiversity interest in accordance with policies OE2 the Isles of Scilly Local Plan 2015-2030.

Print Name:	Lisa Walton	29/02/2024
Job Title:	Chief Planning Officer	
Signed:		
Authorised Officer with Delegated Authority to determine Planning Applications		