

# Council of the Isles of Scilly Delegated Planning Report

**Application Number:** P/19/035/HH

**Received on:** 15 May 2019

**Application Expiry date:** 27 August 2019

**Neighbour expiry date:** 26 July 2019

**Consultation expiry date:** 26 July 2019

**Site notice posted:** 03 July 2019

**Site notice expiry:** 24 July 2019

**Applicant:** Mr M Green  
**Site Address:** Tregea,  
4 Bay View Terrace,  
Telegraph Road,  
Porth Mellon,  
St Mary's  
Isles of Scilly

**Proposal:** Erection of a garden shed.  
**Application Type:** Householder

## Recommendation

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1. That the Application is APPROVED subject to the conditions set out below.
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## Constraints

**Scheduled Monuments:** 90m to the NE of the site is Harry's Walls, Scheduled Monument

**Listed Buildings:** NONE

**Archaeological Constraint Areas:** 85m to the W is the Porthmellon ACA; 66m to the SW is the Downderry ACA; 55m to the N is the Mount Flaggon/Harry's Walls ACA; 166m to the SE is the Lower Moors ACA

**SSSI:** 166 to the SE is the Lower Moors SSSI

## Site Description and Proposed Development

Tregea forms one of six terraced properties known as Bay View Terrace. Tregea is a two storey property with a painted render exterior, upvc windows and doors and a slate roof. It has a lawful use to show the property was split into 2 flats.

This application seeks planning permission to erect a shed in the garden to the south west of the dwelling.

## Background and Relevant History

**P/16/069** – Certificate of existing use for the use of dwelling as 2 C3 dwellings. Approved 26.08.2016.

**P/16/110** – Planning permission for works to two flats, replacement 2 storey rear extension, new windows and roof lights. Approved 05.12.2016.

**P/17/002** – Discharge of conditions C4 and C5 on planning application P/16/110. C4 approved 29.08.2017. C5 refused 29.08.2017.

## Consultations and Representations

No comments received

## Primary Legislation and Planning Policy

### Primary Legislation

#### **The Planning (Listed Buildings and Conservation Area) Act 1990**

The site is within a Conservation Area where there is a requirement to ensure that any development preserves or enhances the character or appearance of the area, as embodied in Section 72 of the Planning (Listed Buildings and Conservation Area) Act 1990.

#### **The Countryside and Rights of Way Act 2000**

The Isles of Scilly is also a designated Area of Outstanding Natural Beauty (AONB). The legal framework for such areas is provided by the Countryside and Rights of Way Act 2000. The Act places a statutory duty on the Local Authority to have regard to the purpose of conserving and enhancing the natural beauty of the AONB when exercising or performing any functions affecting land within it.

#### **The Conservation of Habitats and Species Regulations 2010**

##### **(Consolidation of Conservation (Natural Habitats, &c.) Regulations 1994)**

It is a legal duty of a Local Planning Authority, when determining a planning application for a development, to assess the impact on European Protected Species ("EPS"), such as bats, great crested newts, dormice or otters. A LPA failing to do so would be in breach of Regulation 3(4) of the 1994 Regulations, which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.

### Planning Policy

#### **National Planning Policy Framework (NPPF) 2018**

At the heart of the NPPF is a presumption in favour of sustainable development. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. It is highly desirable that Local Planning Authorities should have an up-to-date plan in place. The Council of the Isles of Scilly are currently working to a 2005 Local Plan, where policies have been saved until a new plan has been adopted. This 2005 Local Plan is not considered to be compliant with the 2004 Planning and Compulsory Purchase Act or the 2012/2018 NPPF and subsequent guidance (NPPG). The Council commenced a review of the 2005 Local Plan in 2015, with a public consultation on the scope of the new local plan. This work is now at a draft stage, which has gone through one further Regulation 18 Public Consultation and is supported by a raft of evidence on these issues. The Draft Local Plan 2015-2030 whilst it has only limited weight until it is formally adopted, is considered below.

Paragraphs 39-41 identifies the need to front-load the planning system through pre-application engagement. This states that the right information is crucial to good decision-taking, particularly where formal assessments are required (such as Environmental Impact Assessment, Habitat Regulations Assessment and Flood Risk Assessment). To avoid delays the NPPF advocates early discussions with the local planning authority as well as expert bodies as early as possible.

Chapter 15 of the NPPF relates to the conservation and enhancement of the natural environment. Paragraph 172 advises that great weight should be given to conserving the landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection. The conservation of wildlife and cultural heritage are important considerations.

Chapter 16 of the NPPF relates to the conservation and enhancement of the historic environment.

### **Isles of Scilly Local Plan 2005**

Policy 1 relates to environmental protection and seeks to permit development proposals only where they respect and protect the recognised quality of the island's natural, archaeological, historic and built environment. Proposals should (a) conserve or enhance the natural beauty, wildlife and cultural heritage of the Area of Outstanding Natural Beauty and protect the unspoilt character and good appearance of the heritage coast and (c) preserve or enhance the character or appearance of the Conservation Area and preserve the architectural or historic interest of all listed buildings, including their features and settings. Policy 2 (Sustainable Development) states that development will be permitted in situations where a proposal would, where practicable and appropriate, contribute to the sustainability of the islands' environment, economy or local communities through: (a) conserving or enhancing the landscape, coastline, seascape and existing buildings of the islands through appropriate design including siting, layout, density, scale, external appearance (i.e. details and materials) and landscaping; and (b) Ensuring or facilitating the re-use of previously developed land and existing buildings for the economic, social and environmental benefit of the islands and local communities taking into account any environmental designations set out in Policy 1.

### **Isles of Scilly Design Guide (2007)**

The Isles of Scilly Design Guide was adopted as a Supplementary Planning Document in 2007. This document provides important guidance to the design of development of the islands where planning permission is required.

### **Consultation Draft Isles of Scilly Local Plan 2015-2030**

The emerging policies within the consultation draft of the Local Plan set out a clear range of policies designed to protect the landscape character (Policy OE1) as well as the natural (Policy OE2) and historic environment (Policy OE3). Policy OE4 seeks to protect Scilly's Dark Skies from light pollution. Policy SS2 relates to sustainable quality design and place-making including minimising the

consumption of resources by requiring sustainable construction and design. Policy OE5 relates to managing waste and clause 2 states that construction and demolition waste should be minimised and must be managed and re-used on-island where there will be no harmful impacts.

## **Planning Assessment**

The main planning issues are considered to relate to the impact on the character and appearance of the building and the impact on the character and appearance of the Conservation Area. The application property forms part of a row of six terraced properties. The proposed development consists of the erection of a garden shed. The proposed shed will measure approximately 4.0m x 4.0m with a proposed floor area of approximately 16m<sup>2</sup>. The shed will have a ridge height of approximately 2.5m sloping down to 2.4m at eaves height.

The shed will have aluminium cladding on the south west and north west elevations, timber effect cladding on the north east and south east elevations, a fibre glass mono-pitched roof and upvc windows and doors on the north east and south east elevations.

Policy 1 of the adopted Local Plan relates to Environmental Protection. This policy seeks to ensure that all development proposals respect and protect the recognised quality of the islands' natural, archaeological, historic and built environment. The proposed development is small scale and is minor in nature. The proposal seeks to erect a garden shed that is constructed of a mixture of materials that are recycled from other projects on the island and are being re-used in alignment with the waste hierarchy. It is considered that the proposed development preserves the character and appearance of the Conservation Area and therefore accords with Policy 1 of the Local Plan and there is no conflict with other policies of the Local Plan including Policy 2.

Policy SS2 of the draft consultation Local Plan 2015-2030 relates to sustainable quality design and place-making and clause 1, K) (III) of Policy SS2 states that development should minimise the consumption of resources by requiring sustainable construction and design by using natural resources more prudently, including the use of locally sourced, recycled or low-carbon materials in construction where they are available and represent a viable option.

Policy OE5 of the draft consultation Local Plan 2015-2030 relates to managing waste and clause 2 states that construction and demolition waste should be minimised and must be managed and re-used on-island where there will be no harmful impacts.

The applicant has stated that the choice of materials for the proposed shed are to use products that would otherwise be going to landfill. The windows and door were removed from houses on the island and the aluminium cladding are off-cuts from a recent development opposite the application site. The applicant has further stated that the materials are all in keeping with nearby buildings.

The proposed shed will be located in the corner of the garden and will lie adjacent to an existing hedge that separates the garden from the adjoining neighbour's garden and an existing timber fence that runs along the north eastern boundary of the garden. The visual impact of the proposed shed will be limited by the existing screening. It is considered that whilst these materials would not usually be supported, policy does allow for the re-use and recycling of waste construction or demolition materials, where appropriate. The proposed siting of the shed has limited visual impact, would be in keeping with some surrounding buildings including through the use of upvc windows and doors that would match the existing building and does therefore accord with policies SS2 and OE5 of the draft consultation Local Plan 2015-2030.

The applicant has confirmed that the proposed shed will be used to store items that are used ancillary to the enjoyment of the property such as garden furniture, garden tools, leisure items such as kayaks and rabbit hutches among other things. The applicant has confirmed that the proposed shed will be

used to store items that are currently stored in various places around the island including garages, sheds, attics and a shipping container. The applicant further states that there is no garage space at the property and the proposed size shed is required. It is considered, in this instance, that the scale of the shed would be acceptable subject to a condition requiring the use of the shed to remain as ancillary to the dwelling.

The works, in terms of the consideration of the planning application, are considered to have an acceptable impact on the character and appearance of the building and the impact of the works on the character and appearance of the Conservation Area is considered to be negligible.

### **Other Considerations**

The Ministerial Statement 'Planning for Growth' and the National Planning Policy Framework have been taken into account in assessing this scheme.

The development has been assessed against the provisions of the Human Rights Act, and in particular Article I of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests/ the Development Plan and Central Government Guidance.

### **Conclusion**

On balance, the proposed development is judged to have an acceptable impact on the character and appearance of the building and the Conservation Area. The proposal is considered to comply with Policies 1 and 2 of the adopted Local Plan and Policy OE5 of the consultation draft Local Plan, it is, therefore, recommended that permission be granted.

### **Links**

<http://www.scilly.gov.uk/planning-application/planning-application-p19035>

### **Conditions**

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**  
Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990, (as amended by the Planning & Compulsory Purchase Act 2004).
  
- 2. The works hereby approved shall be carried out strictly in accordance with drawings:**
  - **Location Plan;**
  - **Site Plan; and**
  - **Proposed Elevations;****These are stamped as approved.**  
Reason: To ensure a satisfactory standard of development in the interests of amenity.
  
- 3. The building, hereby approved, shall only be used for purposes of a non-habitable, non-commercial ancillary use to the residential dwelling known as 'Tregea' at 4 Bay View Terrace, and within the red line application site area, and shall not be used for any other purpose. It shall specifically not be used as a separate dwellinghouse or for any commercial purposes and shall not be let,**

**sold or otherwise disposed of separately from the existing residential unit of 'Tregea' at 4 Bay View Terrace.**

Reason: To safeguard the amenity and character of the surrounding area and to control the character and volume of traffic attracted to the site.

### Informatives

1. Statement of Positive Engagement
2. Appeal

Signed: <i>Y. Dale</i>	Dated: 21/08/19	Signed: 	Dated: 22/08/2019
Planning Officer		Authorised Sign-Off by Senior Officer, Planning and Development Management	