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SOUTH TINKS, HOLY VALE, ST MARY'S, ISLES OF SCILLY

**APPLICATION FOR PLANNING PERMISSION, SUBMITTED TO THE COUNCIL OF THE ISLES OF
SCILLY, FOR DEMOLITION OF THE EXISTING DWELLING AND ERECTION OF A REPLACEMENT
DWELLING**

POLICY ASSESSMENT AND DESIGN AND ACCESS STATEMENT

FOR MS N BANFIELD

OCTOBER 2015

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RECEIVED BY THE
PLANNING DEPARTMENT
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- 1.5 In respect of the Committee's decision, we have carefully considered the report by the Senior Officer: Planning and Development Management and, also, have viewed the online recording of the meeting of the Planning Committee in respect of this proposal. Having done so, and having emphasised to our client that the appeal process is to be regarded as a last resort, we have recommended submission of this further application.
- 1.6 We consider it neither necessary nor appropriate that the proposal be amended for the purposes of this resubmission. The development proposed is acceptable in all respects, and accepted so by the Council save in relation to the absence of a completed legal agreement in respect of future occupancy. This application is therefore submitted with the hope and intention that a review of the proposal in the light of our assessment below will result in planning permission being granted, thus avoiding the need to lodge an appeal with the Planning Inspectorate.

2. POLICY ASSESSMENT

- 2.1 The single allegation within the reason for refusal relates, in effect, to the Applicant's refusal to enter into an Obligation under S106 of the Town and Country Planning Act 1990 to 'control occupancy' and, in particular, to provide that the proposed dwelling be occupied only by 'qualifying persons'. It is implicit that, had the Applicant agreed to a S106 Obligation, planning permission would have been granted.
- 2.2 In the circumstances, the single issue to be assessed and determined is whether or not completion of an Obligation under S106 of the Town and Country Planning Act meets the requirements set out in paragraph 204 of the National Planning Policy Framework 2012. That being so, it is quite remarkable in our view that, in the officer's report to the Planning Committee in Section 4, relating to 'Primary legislation and Planning Policy', there is no reference whatsoever to the relevant tests set out in paragraph 204, namely that a planning obligation should only be sought where they meet all the following tests:-

- Necessary to make the development acceptable in planning terms;
- Directly related to the development;
- Fairly and reasonably related in scale and kind to the development.

2.3 We agree that the Isles of Scilly Local Plan 2005, as the development plan, is the obvious policy source to determine compliance of the Council's request with guidance contained in the NPPF. Policy 3 of the Local Plan is cited in the decision notice as being relevant, to the extent that the proposal is considered unacceptable solely because of perceived conflict with policy 3.

2.4 Having listened to the online recording of the Committee debate on 21 September, it is evident that widely differing opinions exist in respect of interpretation of policy 3 and of the extent to which, if any, the policy supports refusal of the proposal. We have assessed policy 3 very carefully, including the reasoned justification for it provided in paragraphs 27 – 33, and have concluded that there is no logical basis whatsoever to support the contention that this proposal is in conflict. Indeed, to the contrary, the proposal is positively supported by the policy.

2.5 The first and obvious point of principle deriving from policy 3 is whether this proposal for the erection of a replacement dwelling is to be regarded as relating to 'new residential development' for the purposes of clause 3. It is surprising in this respect, and an obvious shortcoming of the Local Plan, that it makes no specific differentiation in respect of 'new' and 'replacement' dwellings: had there been a specific policy, there would have been no need for interpretation.

2.6 The point emphasised to the Planning Committee by the Planning Officer, and reflected in the decision notice, is that this proposed dwelling is to be regarded as 'new' because it is significantly larger and different. It is a matter of fact that the existing dwelling is not the subject of any occupancy control and the question therefore is whether the proposed replacement dwelling being 'larger and different' justifies the introduction of such a fundamental control. In our view, it does not. It would not for example be

'necessary to make the development acceptable in planning terms' or 'fairly and reasonably related in scale and kind to the development' for an obligation providing for agricultural occupancy to be sought in respect of the replacement of a pre 1947 farmhouse. The result of the development is that one house replaces another, and that cannot in itself reasonably justify the imposition of a fundamental means of planning control. This proposal is precisely the same in terms of principle.

2.7 Notwithstanding the above, the suggestion that a replacement dwelling can in some circumstances be regarded as 'new residential development' is not mentioned anywhere in policy 3 or, indeed, in the explanatory text. The planning officer's suggestion that the proposed dwelling is to be regarded as 'new' is based on the fact that it is perceived to be 'significantly larger and different' than the existing dwelling. There is however no basis whatsoever for such a claim:-

- ❖ It is evident that the overarching objective of policy 3 is to provide housing to meet the needs of the community: there is no statement or suggestion, in the policy or in the accompanying text, to suggest that size is a relevant consideration in this respect. It is stated in paragraph 27 that the size of the new dwelling/s should meet the longer needs of the community but that is not to say that a replacement dwelling of larger size is necessarily unacceptable or warrants the imposition of control in respect of occupancy: indeed, it may equally be the case in those terms that a smaller replacement dwelling would be unacceptable. It all depends on the needs of the community in respect of the particular proposal. In relation to this proposal, the need of the Applicant, who is an established member of the community, is for a larger dwelling and, for that reason, the proposal is positively supported by policy 3;
- ❖ That the proposed replacement dwelling is 'different' to the existing dwelling is indisputable, but utterly irrelevant. Such an arbitrary and imprecise basis of objection to the proposal is demonstrably untenable and unreasonable and requires no further comment.

- 2.8 For the avoidance of doubt, we fully accept and acknowledge the importance of consistency in decision making. We have understood that previous proposals, perceived by the planning officer to be similar and comparable to this proposal, have been granted subject to a S106 Obligation in respect of occupancy. Our view however is and must be that the decision on this application should be based on guidance contained in paragraph 204 of the NPPF and, in turn, on reasonable and logical interpretation of policy 3 of the Local Plan. It cannot be appropriate for an unreasonable decision in respect of this application to be based on previous unreasonable decisions or, therefore, that assessment and determination of this application to have any regard to previous decisions by the Council.

3. DESIGN AND ACCESS STATEMENT

THE PROPOSAL

- 3.1 The original concept of the proposal was to convert and extend the existing single-storey dwelling to provide a three bedroom dwelling; however, upon further investigation, it was found impractical to retain and adapt the existing structure and, consequently, it is now proposed to demolish the existing and to erect a replacement dwelling. The proposed layout is shown on the accompanying block plan, demonstrating that the existing building is sited in the south corner of Holy Vale, St Mary's, adjacent to land owned by the applicant's family. The access point is also shown on this drawing, which confirms that vehicular and pedestrian access would be by way of the present site entrance, off the main road leading into Holy Vale, and then onto a privately owned track to the front of the property. The scale of the proposal is illustrated on the drawings accompanying the planning application. They show that the proposed dwelling would have a footprint of 124 square metres. The maximum height of the building above its current height would be 1.36 metres. The finished floor level of the proposed dwelling has been lowered by 300mm in order to reduce the overall impact on its surroundings. The dwelling would contain 3 bedrooms, a bathroom, an office and an open-plan kitchen/living-room/dining-room with a small attached conservatory. As far as drainage is concerned, foul water would be disposed of to an

existing septic tank located on the applicant's land. Rain water harvesting is currently in place which is part of the adjoining family property, which this proposal will add to and use. These features are subject to details being agreed with the Environment Agency and Building Control Officers.

THE SITE AND ITS SURROUNDINGS

- 3.2 The application is to replace a one bedroom dwelling which is unrestricted in terms of its occupancy. The existing dwelling is currently part a larger site owned by one of the applicant's family. The application site is currently a one bedroom dwelling set along side of a recently converted dwelling. The site is set way from the main road: although access to the nearby nature walk passes close to the dwelling, this is purely through the applicant's family consent. The existing dwelling is raised above the current ground level with an open grassed section of land to the rear. To the front of the property is a farm track that leads away to the south of the property, and beyond this area is a wooded area. The surrounding area is part of a small collection of buildings including dwellings and a farm sheds, nearby is a vineyard and mixture of residential and holiday homes. There have been renovations to several neighbouring properties, greatly improving the look of the area. The site is located within Holy Vale on the eastern side of St Mary's.

EVALUATION

- 3.3 The proposal is to provide a home that meets the requirements of a modern family. In order to reduce the impact on the adjoining property and the overall height of the proposed dwelling, the existing finished floor level has been reduced by 300mm. This allows the proposed dwelling to incorporate rooms within the roof space. The use of the existing materials for cladding the exterior, and to reuse and material within the new build as hardcore and reusable materials, is an important issue with this redevelopment. The current building was built prior to the required use of insulation and thermal protection that current dwellings are required to meet. The ability to completely rebuild the dwelling allows the applicant to create a dwelling that allows her to make full use of modern day insulation and energy efficient heating systems. Consultation with environmental efficient heating and thermal insulation companies

will be used during the construction of the project.

DESIGN

- 3.4 The final design has been arrived at after significant consultation with the local planning officer. The concept has been to arrive at a suitably sized family home whilst remaining sympathetic to the surrounding buildings and neighbours. The increase in footprint has been extended backwards from the rear of the property into private ground away from the view of the public, thus limiting any visual impact of the extension. The height increase has been kept to an absolute minimum, incorporating a reduction in floor level, once again to reduce the visual impact of the extension. The original plan was for a large scale central dormer on the west or front elevation in order to maximise the internal height for rooms in the roof space: however, it was agreed between the applicant and the Local Planning officer that this would significantly affect the appearance of the elevation to the detriment of the surrounding area and not in keeping with the special nature of the islands. This central dormer has therefore been scaled back to an acceptable size which is of a low visual impact whilst remaining practical in terms of making use of the roof space. A small conservatory has been attached to the front of the building where it will add valuable natural light and space to the kitchen area of the building.

USE

- 3.5 The proposal is to create a dwelling that fulfils the requirements of a young couple who wish to settle down within the Island and start their own family. The applicant and her partner are both locally brought up residents who have worked away from the Islands, giving them the resources and ability to create a home for themselves. The site is part of the land which applicant's family has owned for many years and which the applicant was brought up within. The use of granite stone and double Roman tiles continues the character of the existing building, neighbouring building and surrounding buildings within Holy Vale as well as many throughout the islands. The dormer windows are of a traditional style that can be found within Scillonian architecture. Limestone render has been used as it gives a much softer look to the finish and can be coloured to suit the character of the building, without the continual need for painting and subsequent

repainting in the future, reducing maintenance. The doors, windows and conservatory will be constructed from wood and painted white, as recommended within the Local Design Guide.

AMOUNT

- 3.6 The proposal is to increase the current one bedroom dwelling into a 3 bedroom family home with an office area, separate bathroom, utility and an open style kitchen dining and living area. a small conservatory is located from the kitchen making full use of the natural sunlight and radiant heat.

LAYOUT

- 3.7 The ground floor entrance door will lead into the main living area with the kitchen/diner and conservatory to the side: to the rear of the ground floor is a bedroom with small en suite bathroom, an office and a utility room with a door leading to the rear garden. The stairway leads from the rear of the ground floor to the roof space, to a landing area which in turn leads to 2 bedrooms and a central bathroom.

SCALE

- 3.8 The scale of the proposed house is described above and shown on the accompanying drawings.

LANDSCAPING

- 3.9 The landscaping will be identical to the existing and is contained within the curtilage of the main dwelling. Only a minor alteration to the rear of the dwelling is proposed to allow level access to the rear of the property.

APPEARANCE

- 3.10 The proposal is to make use of the existing granite stone and additional granite stone on the site. This is a traditional Scillonian building material, and the use of a Limestone render has been used as this can be coloured and reduces the requirement for continual painting. The proposed roof tiles will be double Roman to match those of the surrounding buildings. The windows and doors are to be painted wood, the same

material and decoration to be used within the small conservatory.

ACCESS - VEHICULAR AND TRANSPORT LINKS

- 3.11 Vehicular access to the proposed dwelling will be via the main road to Holy Vale and via the existing track that passes to the front of the dwelling. There is also a track that leads to the rear of the property that can be utilised to allow parking to the rear of the property. There is ample space for disability or additional parking. There is also a community bus collection stop within 200 metres of the proposal. Access to the building will meet all parts of Building Regulation Requirements.

4. CONCLUSION

- 4.1 For all of the reasons described above, the case for permitting this development is overwhelming. For the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the proposal is in conformity with advice contained in the NPPF, and with policies contained in the Isles of Scilly Local Plan so far as they are relevant to the proposal.
- 4.2 Most particularly, for the reasons described, the seeking of an obligation in respect of occupancy of the proposed replacement dwelling is contrary to guidance contained in paragraph 204 of the NPPF insofar as the erection of a larger and different replacement dwelling cannot legitimately be regarded as 'necessary to make the development acceptable in planning terms' or 'fairly and reasonably related in scale and kind to the development'.
- 4.3 Accordingly, having regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004, subject to suitable conditions, planning permission should reasonably be granted.

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