



COUNCIL OF THE ISLES OF SCILLY

Planning & Development Department
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OFFICER REPORT – DELEGATED

Application number: P/17/058	Expiry date: 27/09/17
Received on: 18/07/17	Neighbour expiry date: 23/08/17
UPRN: 000192000600	Consultation expiry date: 23/08/17
Legal agreement:	Site notice posted: 01/08/17
Departure:	Site notice expiry: 22/08/17
Complies with Development Plan? Y/N If not, ensure you cover in the report how material considerations outweigh the plan?	
Is this decision contrary to local council recommendation?	

Applicant:	Mr and Mrs C Thomas
Site Address:	Auriga, 7 Porthcressa Road, Hugh Town, St Mary's, TR21 0HY
Proposal:	Removal of condition 4 (The annexe hereby permitted and edged in green on the approved plans shall be restricted to short let holiday accommodation for visitors only and shall not be severed or sub divided as an independent and separate unit of accommodation from the dwelling known as Auriga) of approved permission P/12/086/COU to allow the use of the two flats as independent units of accommodation.
Application Type:	Removal of condition

<http://www.scilly.gov.uk/planning-application/planning-application-p17058-0>

Description of site and development:

This application seeks to remove condition 4 (The annexe hereby permitted and edged in green on the approved plans shall be restricted to short let holiday accommodation for visitors only and shall not be severed or sub divided as an independent and separate unit of accommodation from the dwelling known as Auriga) of approved application P/12/086/COU (Change of use from bed and breakfast (Use Class C1) to a dwelling house (Use Class C3) including the provision of a self-catering holiday annexe for visitors. Change of upper floor bathroom to kitchen) to allow the use of the two flats as independent units of accommodation.

Site Description

The property is located centrally within Hugh Town with Porthcressa Road running along the southern boundary of the site. 'Auriga' is a rendered mid terraced dwelling with three floors of accommodation. This includes a unit of owners' accommodation at ground floor with one bedroom and a unit of holiday let accommodation on the upper two floors providing three bedrooms. The third floor has two dormers on the southern roof slope. Other houses within the row also feature dormer window additions to roofslopes. To the principal elevation is a vehicular access for the property. Running alongside the eastern elevation of the dwelling is a covered passage which provides access to the rear courtyard of the dwelling and access to the courtyards of the adjoining properties. The rear courtyard is a relatively modest amenity area for the dwelling

measuring approximately 9.5 metres by 5.0 metres and is bound by a stone wall. The rear of the property also has a upvc conservatory attached on the western end. The immediate area is built up and within the town with properties surrounding the site on the eastern, western and northern boundaries.

Background and Relevant History

Planning History for this property starts in 2002 (**P5071**) when an application was approved to raise the roof pitch and install dormers to provide owners accommodation. In March 2002 (**P5126**) an application was approved for the provision of a dormer window. In 2012 (**P/12/086/COU**) was approved for the change of use from Bed and Breakfast (Use Class C1) to a dwelling house (Use Class C3) including the provision of a self-catering holiday annexe for visitors. Change of upper floor bathroom to kitchen.

Public representations:

The following properties were notified of the application Shearwater, Trevesa and no's 4-6 Hamewith (The Parade) and Roanoke (Porthcressa Road). A site notice has been on display outside the site for a period of 21 days. One letter of representation has been received:

Roanoke, 9 Porthcressa Road – As a long term neighbour to the Thomas's, we'd like to support this application. We can fully appreciate the need for local families and couples to expand or create suitable living space to suit their own needs. We are only too aware that one can outgrow their living space or that the configuration may not always be suitable.

Consultee representations:

Due to the nature of the proposal there are no statutory consultees to notify. A site notice has been on display outside the site for a period of 21 days. No letters of representation have been received.

Constraints and designations:

Conservation Area, AONB and Heritage Coast

Relevant policies, SPGs and Government guidance:

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) 2012

At the heart of the NPPF is 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 consideration indicate otherwise. It is highly desirable that local planning authorities should have an up-to-date plan in place. With respect to general development and the Strategic Policies it is considered that the Local Plan remains up to date and conforms to the requirements of the NPPF.

Paragraph 17 relates to core planning principles and states that planning should “proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Paragraph 17 also states that planning should “take account of the different roles and character of different areas”.

Chapter 6 relates to delivering a wide choice of high quality homes and paragraph 49 states that “housing applications should be considered in the context of the presumption in favour of sustainable development”. Paragraph 50 states that local planning authorities should “deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities”.

Chapter 11 relates to conserving and enhancing the natural environment and paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts upon biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.

Paragraph 192 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.

Isles of Scilly Local Plan 2005

Policy 1 relates to Environmental Protection and aims to ensure that the quality of the islands environment, including its natural and historic character, is maintained and enhanced. The overall intent of the Local Plan, as reflected in Policy 1, is to protect its environment and keep development to the minimum required for sustaining viable communities.

Policy 3 relates to housing and requires (1) new housing to meet the housing needs of the islands to promote sustainable communities with no general open market housing permitted (2) that to ensure that suitable housing is available to meet the long term needs of the community, residential development will only be permitted where it is required to meet (a) an identified and recognised local need or to

accommodate a key worker or (b) the provision of staff accommodation. Policy 3 also states that (3) all new residential development will be subject to secure arrangements (4) in the case of any new dwelling, it must be sited adjacent to or integrated within an existing settlement or established group of dwellings (5) development proposals which result in an inappropriate mix of dwelling sizes will not be permitted. Paragraph 27 states that “in seeking to provide for the housing needs of the islands, the presumption will be to keep new housing development to that required to meet specific local need generated from within the islands which cannot be met by existing housing stock. In order to justify any new housing, including the size (or range of sizes) of the dwelling being proposed, it must effectively meet the long term needs of the community. Consequently, all new homes will only be available to accommodate those in local need or key workers”. Paragraph 30 states that “restrictions on occupancy will be applied to new homes and we will seek to maximise the use of the existing dwelling stock to meet the needs of the community”.

Appraisal/key issues and conclusion:

In light of the above mentioned policies and identified designations it is considered that the main planning issues are considered to be whether the impact of the proposed development is acceptable in relation to the principle of development having regard to Policy 3 of the Isles of Scilly Local Plan 2005; the impact on neighbouring amenity and the wider Conservation Area, and the impact on the natural and historic environment.

Principle of Development

The proposal is to remove condition 4 of approved planning permission P/12/086. Policy 3 of the Isles of Scilly Local Plan 2005 does not allow new open market housing to be created and any new housing that is created will be subject to an occupancy restriction. The application property benefits from planning permission (P/12/086) that allows the upper two floors of the property to be used as a self-catering holiday annex. The planning permission was granted in October 2012 and applied a condition (No 4) that restricted its use to “short let holiday accommodation for visitors only” and did not allow the annex to be “severed or sub divided as an independent and separate unit of accommodation from the dwelling known as Auriga”. The reason given for this condition was “For the avoidance of doubt and to ensure that the annexe is only occupied as holiday accommodation and remains as an integral part of the existing dwelling house known as Auriga”. This application seeks to remove that condition to allow the property “Auriga” to be sub divided to create two independent units of accommodation. The applicants propose to market the upper two floors as an unrestricted property. The applicants also propose to continue to live in the ground floor flat (currently owners’ accommodation) and it is this flat that the occupancy restriction is proposed to be applied to.

In line with Policy 3 the application proposals appear to be acceptable in principle, subject to the signing of a Section 106 legal agreement setting out the occupation terms. On that basis the application is recommended for approval, subject to the signing of the occupancy restriction legal agreement. In order to appropriately restrict the occupation of the property, the applicants would be named as first occupants and then any subsequent occupation would be by those with a specific local need or key worker status. This accords with Policy 3 as it would ensure the unit of accommodation is available to meet the needs of the local community in perpetuity. As with all section 106 planning obligations, the requirement that the unit is occupied as the occupants sole private residence would still apply.

Design, Scale, Massing and Materials

In order to conserve the stock of existing buildings on the Isles of Scilly, it may be necessary for them to be adapted for 21st Century uses and requirements. However, in considering how to adapt the building, it is necessary to have regard to maintaining the character of the existing building and its capacity for change.

The proposal seeks to remove condition 4 to allow the use of the two flats as independent units of accommodation. This includes some internal alterations at ground floor to the entrance to include a new

doorway to the upper flat and the separation of the electric and water metres to be placed side by side in a cupboard located adjacent to the upper flat stairway. A bin storage area is also proposed to the rear of the property. There are no proposed external changes. As such it is judged that the design, scale, massing and materials are acceptable.

Impact upon residential amenity

The revised proposed works are internal only. The ground floor flat is currently owner accommodation and the upper flat is currently a holiday let. It is judged that there will be little increase in occupation. One letter of support has been received from a neighbouring property. It is considered that there will be no impact on existing neighbouring properties. The proposals necessitate the two units to be operated independently. The relatively recent planning permission to convert the upper floors to holiday accommodation (2012) would have been subject to building regulations. On that basis the relationship between the two dwellings is acceptable.

Impact upon the Conservation Area and AONB

The proposed development will be located within the residential curtilage of this attached dwelling and are internal changes only. The proposal is within an urbanised area of the island and is not considered to give rise to any harm to the scenic beauty of the landscape including the Conservation Area and the AONB.

Impact upon the Natural and Historic Environment

The proposed development would alter a 20th century dwelling which is not considered to be of any historical importance. The row of dwellings to the north of the site (properties Shearwater, Trevesa and Wingletang), situated along Church Street, are all of historical importance and designated as listed buildings. The proposal is considered to have no significant impact on the setting of these listed buildings as the works are internal only.

The site is outside of any natural environment designations. The nearest Site of Special Scientific Interest (SSSI) 'Lower Moors (St Mary's)' lies over 611 metres (as the crow flies) to the east of the application site. The site is primarily in unfavourable recovering condition. Due to the condition of the designation, it is not considered that the proposal for the internal alterations to an existing residential dwelling will affect the natural environment.

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 1 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

In line with Policy 3, on the basis that the application is acceptable in principle, the application is recommended for approval, subject to the signing of a Section 106 legal agreement setting out the occupation terms.

Recommendation:

Recommendation: The application be Conditionally Approved subject to the following Conditions:



1. The works 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).

2. The development hereby permitted, shall be carried out in accordance with the approved details only including:
 - Auriga Location Plan dated 28th July 2017 (Sheet 7)
 - Auriga Site Plan dated 28th July 2017 (Sheet 6)
 - Auriga Existing and Proposed Elevations, Drawing Number CT-A-2a and dated 28th July 2017 (Sheet 1)
 - Auriga Existing Ground Floor Plan, Drawing Number CT-A-1 and dated 28th July 2017 (Sheet 2)
 - Auriga Proposed Ground Floor Plan, Drawing Number CT-A-1 and dated 28th July 2017 (Sheet 3)
 - Auriga Existing First Floor Plan, dated 28th July 2017 (Sheet 4)
 - Auriga Existing Second Floor Plan, dated 28th July 2017 (Sheet 5)

These are signed and stamped as APPROVED

Reason: For the clarity and avoidance of doubt and in the interests of the character and appearance of the building and the surrounding area, which is designated a Conservation Area, Area of Outstanding Natural Beauty and Heritage Coast in accordance with Policies 1 and 2 of the Isles of Scilly Local Plan 2005.

Signed: 	Dated: 17/10/2017	Signed: 	Dated: 17/10/2017
Planning Officer		Senior Manager	