



# COUNCIL OF THE ISLES OF SCILLY

Planning & Development Department

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## OFFICER REPORT – DELEGATED

Application number: P/18/045/FUL	Expiry date: 10 August 2018
Received on: 31 May 2018	Neighbour expiry date: 10 July 2018
UPRN: 000192000999	Consultation expiry date: 10 July 2018
	Site notice posted: 19 June 2018
	Site notice expiry: 10 July 2018

Applicant:	Mr Arthur Miller Scilly Spirit
Site Address:	The Distillery Old Town Lane Old Town St Mary's Isles Of Scilly TR21 0NN
Proposal:	Alteration of current side elevation window to provide new double doors for suitable access to ground floor distillery area and installation of P.V Soar panels to South west and north east facing roof elevations in accordance with recommendations by BRE National solar centre (referred by hitachi, St Mary's) as part of our participation in "smart energy islands" initiative (Amended plans/Amended title)
Application Type:	Planning Permission
<b>Description of site and development:</b>	

This is an application to make alterations to the front elevation of the existing building, install solar panels and remove two Elm Trees from the frontage of this site.

The application site, The Distillery, was formally the Craft House and operated as Craftkids Day Nursery before changing its use to an indoor soft play centre (Kings of the Castle). Planning permission to change the use to a craft gin distillery was approved in 2017. The planning history is set out below.

The site is located in Old Town on the west side of Old Town Lane opposite the entrance to Ennor Close and to the south side of the Old Town Inn public house. It is a modern granite structure with Pantiled roof. Within the roof is an existing unit of ancillary residential accommodation, served by roof lights. To the front south facing gable are two windows either side of a centrally positioned door on the ground floor with a centrally positioned gable window above.

To the east facing side elevation, which fronts on to the main road there is an off-set door and window to the north end of the building. It is this window that permission is sought here to convert to a set of double doors. The doors will match the existing door in terms of a panel at the bottom with glazing bars to create 6 pane pattern above. The sides will be made good with a matching stone finish.

There are existing buildings attached to the north gable and to the west side. No changes are proposed to the north, south or west sides of this building.

The proposal includes the installation of black, low-reflective, solar panels on both sides of the roof slope. This will face east and west with the road side elevation being most noticeable, particularly above the red pantiles of the building.

### **Background History**

**P4277** Conversion to shop with store in 1997. – **Refused**. Allowed on Appeal: but with conditions to ensure trees were retained as part of the development.

**P/06/065** Change of Use from a retail outlet (A1) to a children's craft centre (D1) - childminding and art and craft classes open to public. – **Approved**

**P/17/095/FUL** Change of use from existing use as soft play facility (use class D2) to use as a small craft distillery (use class B1). - **Approved**

#### **Public representations:**

A site notice has been on display in the vicinity of the site for a period of 21 days and no representations have been received.

#### **Consultee representations:**

Due to the proximity of Ennor Castle, which is a scheduled monument the consultation has been sent to Historic England. No response has been received. Cornwall Archaeological Unit has also been consulted due to the location of the site being within the Old Town Archaeological Constraint Area. As there are no groundworks proposed they have no comments to make on the proposal.

Cornwall Fire and Rescue have been consulted who have commented on that there should be access for fire appliances within the site, which would appear to be satisfactory. Compliance with the Building Regulations would be required.

#### **Constraints and designations:**

Archaeological Constraint Areas: Name: Old Town. Island: St Mary's  
Historic Landscape Character: Landscape Type: Settlements.

#### **Relevant policies, SPGs and Government guidance:**

### **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. 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.

Chapter 6 relates to the rural economy and paragraph 80 states decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development

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 and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation of wildlife and cultural heritage therefore are important considerations.

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

Policy 1 relates to environmental protection and seeks to permit development proposal 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, (b) Preserve nationally important archaeological remains and their settings; (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; (d) safeguard the integrity and nature conservation objectives of Special Protection Areas (SPAs), RAMSAR sites and Special Areas of Conservation (SAC); (e) protect a statutorily protected plant or animal species and the wildlife, geographical and geomorphological interest and features of designated Sites of Special Scientific Interest (SSSI); and locally important biodiversity habitats, species and landscape features.

Policy 2 relates to Sustainable Development and seeks to permit development in situations where the development contributes to the sustainability of the islands' environment, economy or local community. Policy 2 (a) requires development to ensure conserve or enhance 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.

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

The Isles of Scilly Design Guide is a Supplementary Planning Document (SPD) that forms an important part of the local Development Plan. This states that "It is important that the nature of the surrounding area is understood and reflected in any development proposal. Without this awareness it is likely that a development will be unsympathetic".

#### **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).

Clearly the consultation draft Local Plan has only just concluded public consultation, at the time of writing this report, and as such the policies it contains can only be given limited weight. However, it is important to ensure Members are fully aware of relevant policy requirements being proposed, moving forward.

#### **Appraisal/key issues and conclusion:**

The principal planning issues for consideration are whether the development is in accordance with the current policy framework for the Isles of Scilly. This includes full consideration in relation to whether the proposals are of an appropriate form and design in keeping with the character of the area and can demonstrate that they either preserve or enhance the wider conservation area and AONB. Consideration is required to be given to the impact upon the natural environment, including any protected species and designations. Finally it is a material planning consideration to consider the impact upon the privacy and amenity of existing neighbouring residential properties and highway safety.

#### **Impact upon the wider landscape**

The building whilst an important building within the character of Old Town is not a listed building and retains no historic important detailing. The site is located within the Isles of Scilly Conservation Area which is also a designated Area of Outstanding Beauty. The building is a relatively modern but traditional-looking stone agricultural-style building. Windows and doors are currently timber and it is proposed to replace the wide timber window timber double doors. The design is considered to be appropriate. On this basis it is considered that the proposed alteration of a window to a door, in the manner proposed, would be in keeping with the character of this building and would not detract from the wider character of Old Town, as a large settlement area in the Conservation Area on St Mary's.

The proposed solar panels will very much contrast with the red pantiled roof, however the solar will look very much as an addition to this, which would be removable features should they no longer be required to generate energy. There are significant benefits to the generation of energy particularly in connection with a newly established business, as this will support. The trees to the south and the existing property at Castle Farm Kitchen do provide a good degree of separation between the application site and this important heritage asset. The solar will be visible but it is not considered that it would be significantly detrimental to the setting of Ennor Castle, as a Scheduled Monument, to the south west of this site.

The proposal does include the removal of 2 Elm Trees which are located to the south side of this building and are prominent in the street scene. The trees are well-maintained disease-free Elm Trees. The applicant is seeking removal to prevent damage to the building including drainage, and interference with overhead cables. On the basis of concerns raised with the applicant, in the impact of the loss of these trees, they have agree to take 'tree removal' out of the application

Tree removal is not considered necessary for the operation of the business, and they are not in the way of proposed buildings works. Some off-street car parking space does already exist to the east side, which could be used for deliveries to and from the site. The applicants have clearly stated that specialist advice has been sought in relation to the trees and their potential impact upon this site. This has advised that Elm Trees present a considerable risk to the property and the drainage system, which they suggest this particular type of tree is notorious for.



View from the south 2018



View from the north 2018

The trees in question are considered to hold a significant amount of amenity value and are protected by the Conservation Area designation. An appeal in 1997, referenced above in the background planning history, concluded that the proposal to convert the building to a shop, in 1997, was acceptable but required the retention of trees at this site, and this was conditioned.

In place of the trees the applicant intends to construct a stone boundary wall which they note would provide a very much more attractive space relative to the untidy area at present. To the west of the site there is a backdrop of Ennor Castle, which is visible between the application site and the adjacent house to the south. This is a designated heritage asset which is largely covered in vegetation and trees, although works have in the past been secured to remove the plant growth from causing damage to the monument. This provides a green back drop to the settlement and together with views of this structure further south provide a relatively green enclosure to this part of the Old Town that does add to the attractiveness of the village.

The justification for tree removal appears more to do with removing future risks that currently posing problems for this site and its approved use as a distillery. Clearly past maintenance has enable the trees and the building to co-exist for the last 20 years and as such it is not considered appropriate to permit tree removal. On this basis, as noted above, the applicant has agreed to take out the removal of the trees and will look to address this through a Section 211 Notification in the future. On this basis it is considered that the application, as amended, is acceptable and would not harm the wider character of this part of the conservation area.



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...working for a strong, sustainable and dynamic island community



3 Images taken 2016 showing the Elms as pollarded and the trees that grow around the remains of Ennor Castle

### **Impact upon Amenity**

The proposal is not for a new business use, as this has already been approved under P/17/095/FUL. The modifications now proposed will relate to this approved use as a gin distillery. The change of a window to a set of double doors could enable a greater degree of noise and odour, within the building, to impact upon the wider external environment, which could give rise to a nuisance. It is recommended that whilst distilling operations are taking place the doors should only be opened for access to the building but otherwise remain closed during production. This would minimise the impact of any noise or odour emanating from open double doors. The space to the front of this existing opening is an open space used for off-street car parking in connection with uses around this area, including short-stay in connection with the adjacent Old Town Stores shop and deliveries. There is a residential flat above the gin distillery building but this is within the applicant's control. It is considered that the impact upon neighbours on the opposite side of Old Town Lane, at Ennor Close and Castle Cottages, will not be significantly affected as a result of the proposed change from a window to double doors. Subject to the above recommended condition it is considered that the proposal overall would be acceptable.

### **Impact upon the Natural Environment**

The Isles of Scilly have a number of important environmental designations, including Special Areas of Conservation (SAC), Special Protection Areas (SPA) and Sites of Special Scientific Interest (SSSI). The SAC is a strictly protected marine designation under the EC Habitats Directive. The Isles of Scilly Complex forms part of the European network of important high quality conservation sites that make a significant contribution to conserving the 189 habitat types and 788 species of plants and animals. The sites selected around the coastal waters of Scilly encompass extensive sandy sediments between the islands that are contiguous with the intertidal sandflats. As none of the works are proposed to be below the mean high water there will be no direct impacts upon the SAC around St Mary's. The proposed two new self-catering dwellings are not intended to connect into the public sewerage network and propose to have their own package treatment plant for the disposal of foul waste from these properties.

The SPA are sites strictly protected under Article 4 of the EC Birds Directive. The birds it seeks to protect are classified for rare and vulnerable birds or those of regularly occurring migratory species. Whilst there are a number of SPA sites on the islands there are no SPA designations on St Mary's. It is proposed to protect all of the waters around the Isles of Scilly and there is a proposed extension to the SPA under consideration by DEFRA. The pSPA is a material planning consideration it is however considered that the proposal will not have any particular impact upon the qualifying features of the pSPA.

The SSSIs are conservation designations denoting a protected area for their biological interest (Biological SSSI) and/or geological interest (Geological SSSI). There are no SSSI designations on the Garrison. The three closest SSSI is 140 metres to the north east of the application site. Further to the east is the Lower Moors SSSI. The Lower Moors covers an area of 10.2 hectares. It is designated for range of wetland habitats (lowland fen, marsh and swamp) and flora and fauna species that rely on its unique characteristics. The last assessment of this SSSI in 2012 noted that it was in an unfavourable but recovering condition. None of the operations requiring consent from Natural England are proposed as part of this application and it is considered that there will not be any direct impacts upon the SSSI designation as a result of the proposed works at this site.

Outside of the above impacts it is considered that an additional impact upon the natural environment would be the removal of 2 Elm Trees which, as set out above, is not essential and has now been removed from this current proposal. These trees are disease-free Elm trees which have the potential to provide wildlife habitat in an otherwise semi-urban environment which can include foraging and feeding for bats and birds. Having said that it is not considered to be sufficient grounds on which to refuse this application on the basis of impact upon the natural environment. The site is located in close proximity to extensive farm land to the west and North West and the loss of 2 trees, whilst could be damaging to the amenity of this site, would not be significantly detrimental in terms of the wider natural environment.

There is also the consideration that external illumination could be installed which could be harmful to the dark skies of Scilly. This is a perceptible quality of the AONB and the tranquillity of the islands. The proliferation of light pollution should be considered with new developments and on this basis it is recommended that a condition is imposed to ensure these details, should external illumination be required, are agreed to ensure harm is avoided or minimised.

The proposed works to this building, including the installation of solar will not have a significant detrimental impact upon the wider natural environment and would be in accordance with Policy 1 of the adopted Isles of Scilly Local Plan 2005 and the emerging Policy OE1 and OE3 of the Draft Isles of Scilly Local Plan 2015-2030

### **Other Considerations**

The proposed solar, change from a window to a door would not have any other implications, including highway safety. It is not considered that there are other material planning considerations to take into account.

### **Conclusion**

On the basis of the above assessment and conditions set out below, the proposal is considered to be in accordance with Policies 1 and 2 of the adopted Isles of Scilly Local Plan 2005, emerging Policies OE1, OE2 and OE3 of the Draft Isles of Scilly Local Plan 2015-2030 and Paragraphs 83 a, 172 and 200 of the National Planning Policy Framework 2018.

### **Recommendation:**

Approve the application subject to the following 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:**

- **Location Plan 1:1,250**
- **Q.Peak BLK-G4.1 Quantum Solar Module Specification Sheet**
- **Roof Mounted Solar PV System Proposed Elevations and Sections, Drawing No: CNE/BRE10/1**
- **Roof Mounted Solar PV System Proposed Roof Plan and Fixing System, Drawing No: CNE/BRE10/2**
- **Proposed Side Elevation Plan, Drawing Ref: AMSS09**

**These are stamped as APPROVED**

Reason: For the clarity and avoidance of doubt and in the interests of the character and appearance of the adjacent Scheduled Monument, Conservation Area, Area of Outstanding Natural Beauty and Heritage Coast in accordance with Policy 1 of the Isles of Scilly Local Plan 2005.

**C3 The double doors, hereby permitted, shall be kept closed during times of operation and gin distilling and shall be used for access to the building and deliveries only. Should an alternative means of ventilation or mechanical air extraction/conditioning be required then details shall be submitted to and approved in writing by the Local Planning Authority, prior to installation.**

Reason: In the interests of the amenity of the area and to prevent unnecessary noise and smells causing a disturbance locally.

**C4 All works involving machinery required in connection with the implementation of this permission shall be restricted to between 0800 and 1800 hours Monday to Saturdays. There shall be no works involving machinery on a Sunday or Public or Bank Holiday.**

Reason: In the interests of protecting the residential amenities of neighbouring properties.

**C5 No artificial lighting shall be installed within the red line boundary without the prior agreement in writing of the Local Planning Authority. The lighting shall accord with the approved details thereafter.**

Reason: To preserve the scenic beauty of the Isles of Scilly as a designated Area of Outstanding Natural Beauty which includes its Dark Night Skies in accordance paragraph 172 of the National Planning Policy Framework 2018, Policy 1 of the adopted Isles of Scilly Local Plan 2005 and emerging Policy OE4 of the Draft Isles of Scilly Local Plan 2015-2030.

Signed: 	Dated: 03/08/2018	Signed: 	Dated: 03/08/2018
Planning Officer		Senior Manager	