



COUNCIL OF THE ISLES OF SCILLY

Planning & Development Department
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OFFICER REPORT – DELEGATED

Application number: P/18/046/FUL	Expiry date: 1 August 2018
Received on: 6 June 2018	Neighbour expiry date: 5 July 2018
UPRN: 000192001691	Consultation expiry date:
Legal agreement: No	Site notice posted: 15 June 2018
	Site notice expiry: 6 July 2018

Applicant:	Miss Catherine Hale
Site Address:	Sylina McFarland's Down St Mary's Isles Of Scilly TR21 0NS
Proposal:	To install a kitchen into the guest lounge of the current Bed and Breakfast to enable a change of use from bed and breakfast to self-catering. No external, structural or access changes are required.
Application Type:	Planning Permission

Description of site and development:

Sylina is a detached dormer bungalow located at McFarlands Down on the North side of St Mary's. The property is accessed by a private road and the property is located on the west side of the road. A private drive and area of off-street car parking is located to the front of the property with a private front garden. The house is set further forward on the plot, in line with other properties to the north and has a generous private rear garden. The property is enclosed with planting and fencing.

To the north is a property known as Esperance, to the south is Sea view and directly to the rear is a pair of semi-detached dwellings known as Mistral and Hilbre.

The proposal is to regularise a change of use from bed and breakfast/guest house accommodation to self-catering, self-contained holiday let accommodation with no other physical external alterations to the property being proposed. The result will be 2 units of self-contained accommodation within the same property. One to be occupied by the owners and the second as a self-catering holiday let.

Planning History

The planning history for this property starts in 1993 when planning permission was finally granted for a 3-bedroom dwelling (P5080), following 6 refusals for a dwelling on this plot between 1986 through to 1992. In 2005 planning permission was granted for a rear conservatory. In 2008 the property was formally registered as a guesthouse although no planning permission was sought or granted for such a change. The property has, for the last few years, been operating as a

successful guesthouse. Within the last year it has changed from a guesthouse to offering a self-catering holiday let and it is this change that the applicant is seeking to regularise.

App. No.	Description	Date
P2498	Refusal of planning permission for the erection of a three bedroomed bungalow.	29.07.1986
P2605	Refusal of planning permission for the provision of a three bedroomed semi bungalow.	09.06.1987
P2732	Refusal of planning permission for the provision of a three bedroomed semi-bungalow.	12.04.1988
P2939	Refusal of planning permission for the provision of three bedroomed bungalow.	07.08.1989
P3162	Refusal of planning permission for proposed dwelling.	04.04.1991
P3439	Refusal of planning permission for the erection of dwelling.	10.11.1992
P3497	Conditional approval of planning permission for the erection of bungalow.	16.03.1993
P5080	Conditional approval of planning permission to install small velux window for light and ventilation.	19.12.2001
P5763	Conditional approval of planning permission for the erection of conservatory at rear of premises.	07.12.2005

Public representations:

None

Consultee representations:

None

Constraints and designations:

Conservation Area, Heritage Coast, AONB
HLC: Settlement

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) 2012

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.

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.

Chapter 3 relates to the rural economy and paragraph 28 states that support should be given to sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres.

Chapter 11 of the NPPF relates to the conservation and enhancement of the natural environment. Paragraph 115 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.

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.

Policy 4 relates to economic development and seeks to promote employment and economic activity by providing opportunities for businesses to support viable communities. Proposals based on the existing economic base of tourism, agriculture and fishing, as well as the distinctiveness of the islands, will be supported in the following cases: (a) where such development contributes to the further diversification and essential modernisation of the islands' economy; or (b) where it demonstrably improves the quality of existing tourist accommodation, including that of managed camping sites, or potentially extends the length of the tourist season; or (c) where there is a change of use for a larger hotel or guesthouse (in excess of six bed spaces) to another form of tourist accommodation, provided it retains a residential unit for permanent occupation and does not result in an imbalance of the type of accommodation available to visitors to the extent that it would harm the tourism status and character of the islands.

Policy 6 relates to infrastructure and in order to maintain viable residential communities on the islands, the maintenance and future provision of essential physical infrastructure and other resources (water supply, drainage and sewerage, waste collection and disposal, electricity and telecommunications) development proposals must, where appropriate: (a) either improve existing infrastructure or impose no unsustainable burden upon it; (b) ensure that water supplies, in terms of quality and quantity, can be

adequately provided and that local water sources remain unharmed and unpolluted by proposed sewerage arrangements.

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). This emerging document also contains policies for the visitor economy and tourism (Policy WC5) as well as safeguarding serviced accommodation (Policy WC6). New visitor accommodation will be supported where it improves the quality and choice of existing tourism and responds to the changing needs and expectations of visitors. Such accommodation will be supported for both serviced and self-catering at the most luxurious end as well as more basic end of the market, with quality and value for money being key drivers. It will be important to ensure a balance between serviced and self-catering accommodation, recognising that a limited availability of serviced accommodation restricts the opportunity for short-breaks, particularly outside the main tourism season and reduces passengers by air and sea.

Policy WC6 *Safeguarding existing serviced accommodation* is considered an important consideration on the islands. Hotels and other forms of serviced accommodation provide an economic benefit to the local economy and can also provide social and community facilities such as a public bar or function room. In relation to changes from serviced accommodation (other than reverting back to single dwellings where the unit was an original dwelling), it needs to be shown that the hotel cannot be made viable over the longer term and that the property has been marketed at a reasonable value for a minimum of 12 months with no willing buyers, before a change of use of part or the entire hotel will be considered.

Policy WC5 *Visitor Economy and Tourism*: sets out that proposals for new or upgraded tourism development will be permitted where they a) make a positive contribution to the provision of high quality sustainable tourism on the islands that improves the current visitor experience, offer and responds to the changing needs and expectations of visitors to help create a more competitive and sustainable visitor destination; and b) are located in sustainable and accessible locations; and c) are appropriate to the site and its surroundings in terms of activity, scale and design; and d) do not result in an unacceptable impact on the environment or residential amenities in accordance with other relevant policies in the Local Plan.

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; and whether the proposals are in accordance with the existing economic policy of the current 2005 Local Plan. 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 proposal does not result in any physical external changes to the building. The only change being noted as the installation of a kitchen within the building itself which will enable the change from serviced accommodation to self-catering accommodation.

Outside of the blanket conservation area, aonb and heritage coast designations there are no other designated heritage assets within the site itself. There are a number of historic designations around the settlement of McFarlands Down. These include the Pendrathen and Long Rock Down Archaeological Constraint Area, which is around 60-70 metres to the east. Around 200 meters to the north west of the site is the Scheduled Monument of Halangy and Carn Morval Down, which is also an Archaeological Constraint Area (ACA) of Bant's Carn, Halangy Down and Halangy Porth. Within this Scheduled Monument and ACA is a range of pre-historic Historic Environment Record findspots. As no ground works are proposed and there are no specific records within the application site it is not considered that the proposed change of use will have any impact upon the wider historic environment. The proposal will preserve the character of the conservation area and scenic beauty of the AONB in accordance with the existing planning policy framework for the islands.

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 change of use are not intended to connect into the public sewerage network with .

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). Around 800 metres to the south west of the application site is the Porthloo Site of Special Scientific Interest (SSSI). This is a geological site of 0.66 hectares that is assessed as being within a favourable condition.

Economic Development Considerations

In terms of the economic impact then generally policy 4 of the local plan is supportive of development proposals that support the existing economic base of tourism. It is recognised that island businesses need to evolve as the demands for tourism change. Although the proposal results in the loss of serviced guesthouse accommodation the property was never formally approved as a guesthouse and from a planning perspective it is a single dwelling that operates bed and breakfast accommodation. Technically therefore the proposal is seeking to change the use from a single dwelling to 2 dwellings one of which would be a self-catering holiday let. The test is whether the proposal would result in a contribution or further diversification and essential modernisation of the islands' economy (Policy 4a) or whether the proposal demonstrably improves the quality of existing tourist accommodation (Policy 4b).

The proposal states that the quality and design and contemporary open plan space has gained a 4 Star Gold Award by Visit England to demonstrate that the proposal would accord with part b) of Policy 4. In addition the proposal does not give rise to any harm that would suggest it is an unacceptable form of development. Without some form of condition, however, to retain the accommodation as part of the main dwelling it is considered that the proposal would be contrary to policy 3 of the adopted Local Plan 2005, as it would result in the creation of an open market unit of residential accommodation. This could be addressed through the use of a planning condition to ensure the unit created 'Sylna Self-Catering' is not lost and sub-divided off as open market accommodation. Subject to this it is considered that the regularisation of the conversion would be sufficiently controlled. As no physical separation of the unit is being proposed, and it would be used in accordance only in conjunction with the permanently occupied part of the dwelling, there would be no requirement to fulfil the requirements of the building regulations. The two units will appear as a single property and subject to the above condition the retention of the creation of a unit of self-catering accommodation within the property would be acceptable and in accordance with Policy

4 of the adopted Isles of Scilly Local Plan 2005 and Policy WC5 of the emerging Draft Isles of Scilly Local Plan 2015-2030.

Impact upon Amenity

The application site is located in a residential area known as McFarlands Down and Sylina Guesthouse has been in operation at this site for a number of years (although this has not been formally certified through a Certificate of Lawful Use). There have been no formal complaints in relation to the operation of a guesthouse at this site. No representations or objections have been received from neighbouring properties in relation to this application. With no physical changes to the property or garden it is not considered that the change to operate as a self-catering unit would give rise to harm upon neighbouring properties. On this basis it is considered that the proposal is acceptable.

Other considerations

The road that serves properties on McFarlands Down is a narrow, partially un-surfaced track. This is not an adopted highway. The operation of a self-catering unit would not require additional car parking. Should guests hire bikes or a buggy then it is considered that the property would have sufficient off-street car parking to ensure there is no impact upon highway safety as a result of the proposal. Previously the owners of this property ran a 3-vehicle taxi service, which now operates from another property in Hugh Town. It is not considered that the proposal would give rise to any impact upon the local highway network.

The proposal involves no works to the property that could disturb or harm roosting or foraging bats or nesting birds and on this basis there is no reason to conclude any harm to protected species.

Recommendation:

The application be approved 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:

- **The Design and Access Statement**
- **Proposed Ground Floor Plan, Holiday Let Delineation**



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 1 of the Isles of Scilly Local Plan 2005 and policy OE1, OE2 and OE3 of the Publication Draft Isles of Scilly Local Plan 2015-2030

- C3 The self-catering holiday let accommodation, hereby approved, and as identified on the attached plan, shall be operated as short-term holiday letting accommodation only in connection with the property known as Sylina, McFarlands Down and shall not be occupied independently or separated from that unit without the prior approval in writing of the Local Planning Authority through a further planning application.**

Reason: The creation of an independent unit of open market residential accommodation would be unacceptable and contrary Policy 3 of the adopted Isles of Scilly Local Plan 2005. The proposed holiday accommodation, in connection with the existing permanently occupied property is considered to be in accordance with Policy 4 the adopted Isles of Scilly Local Plan 2005 and policy WC5 of the Publication Draft Isles of Scilly Local Plan 2015-2030.

Signed: 	Dated: 31/07/2018	Signed: 	Dated: 31/07/2018
Planning Officer		Senior Manager	