

# Council of the Isles of Scilly Delegated Planning Report

**Application Number:** P/19/002/FULL  
**Received on:** 14 January 2019  
**Application Expiry date:** 15 March 2019  
**Neighbour expiry date:** 8 February 2019  
**Consultation expiry date:** 8 February 2019  
**Site notice posted:** 18 January 2019  
**Site notice expiry:** 8 February 2019

**Applicant:** Mr Ben Kirk  
**Site Address:** Evergreen Cottage  
5 The Parade  
Hugh Town  
St Mary's  
Isles of Scilly

**Proposal:** Removal of poor condition render on south elevation restoring to original exposed granite using traditional lime pointing, removal of structurally unsafe chimney above roof (Listed Building)  
**Application Type:** Full Planning

## Recommendation

---

1. That the Application is APPROVED.
- 

## Contributors:

---

### Public Representations:

NONE

### Consultation Representations:

NONE

## Constraints:

---

**Scheduled Monuments:** NONE

**Listed Buildings:** Evergreen Cottage, 5 The Parade & Pelistry Cottage, 6 The Parade

**Archaeological Constraint Areas:** NONE

## Site Description and Proposed Development

---

Evergreen Cottage is a grade II listed building that lies in a row of terraced dwellings on the Parade in Hugh Town:

*Two houses. C18 or early C19 with later alterations. Granite rubble with rendered fronts; gabled mid C20 plain tile roofs; granite end stacks with drip courses. Each house of 2-room plan with central staircase. 2 storeys. Each house of symmetrical 3-window range. C20 central door and C20 horned 8/8-pane sashes to Evergreen Cottage. Pelistry has late C19 half-glazed central door and late C19 horned 3/3-pane sashes. C19 service outshuts and mid C20 extensions to rear. Interior: mid/late C19 panelled doors and typical joists.*

Both Evergreen Cottage and the adjoining neighbour to the east are grade II listed buildings. These properties, together with those within the terrace to the east, have a symmetrical 3 window range facing toward The Parade. Evergreen Cottage was listed in 1975. At that time, the southern elevation of Evergreen Cottage was rendered. The buildings forming part of the terrace similarly have rendered south elevations.

The application in this case seeks retrospective consent for the removal of the render together with the removal of the chimney, where this remains above the roof of the building.

The papers submitted with the application explain that, because of its poor condition the render was removed and that this revealed large Granite Stones. The applicant considered that the building as original constructed would not have been rendered, but would have had exposed granite stone elevations.

The details submitted also explain that the chimney breast, below the roof line, was removed as part of works to provide en-suite bathrooms to the bedrooms in 1992. The chimney above the roof line was retained and supported by steels within the roof space. The applicant has explained that the remaining part of the chimney had become unsafe and works have therefore been carried out to remove the remaining part of the chimney.

Listed Building application ref P/19/001/LBC accompanies this planning application.

## Background and Relevant History

---

Attached to file

## 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 property is a Listed Building, when making a decision on listed building consent applications, a local planning authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses (sec. 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 applies).

### **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) 2019**

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 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, (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; and locally important biodiversity habitats, species and landscape features.

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 OE7). Policies provide principles for sustainable development and water management.

Specifically Policy OE7 (6) sets out how development affecting a listed building would be considered:

Policy OE7 Development affecting heritage

(6) Listed Buildings

Development affecting Listed Buildings, including alterations or changes of use, will be supported where: a) it protects the significance of the heritage asset and its setting, including impacts on the character, architectural merit or historic interest of the building; and b) materials, layout, architectural features, scale and design respond to and do not detract from the Listed Building; and c) a viable use is proposed that is compatible with the conservation of the fabric of the building and its setting.

## **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 potential impact on impact wildlife habitat is also a consideration.

The application property has a Grade II listing and the accompanying Listed Building application (ref P/19/001/LBC) considers the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses (sec. 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 applies).

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. The exposed stone appears to be of good quality, rather than rubble stone that would typically have been dressed with render. The quality of the exposed granite stone is such that the removal of render to the building, although the remaining buildings in the terrace are render, is considered to have an acceptable impact on the character and appearance of the street scene. The impact on the character and appearance of the works on the Conservation Area is considered to be negligible.

The adjoining building has chimneys to either end of its roof. One of these chimneys immediately adjoins the end of the application site and the site of the chimney that has been removed. This provides a feature within the roof scape and to some extent masks the loss of the chimney from the

applicant site in views from the wider street, and causes a negligible impact to the character and appearance of the street scene.

The proposed development is, therefore, considered to have an acceptable impact on the character and appearance of the building and a negligible impact on the character and appearance of the Conservation Area.

Turning to ecological considerations, the development has already been carried out and no further works are proposed. From the information available it is not possible to prove impacts of disturbance or harm to bats and birds in this case. The applicant has taken a risk in this regard and, because no further development is proposed that is for consideration under this application, the Local Planning Authority has little further to consider in this regard.

### Other Considerations

The removed render and the removed chimney are not considered to have any impact upon the amenity of adjoining or neighbouring residential properties.

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 part 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 Policy 1 of the adopted Local Plan and Policy OE3 of the consultation draft Local Plan, it is, therefore, recommended that consent be granted.

### Conditions

Not applicable – application has been made retrospective and no conditions are required in this case

### Informatives

1. Statement of Positive Engagement
2. Appeal

Signed: <i>J. White</i> Planning Officer	Dated: 11/03/19	Signed:  CIOS Planning Officer	Dated: 11/03/2019	Signed:  Senior Manager	Dated: 11/03/19
--	--------------------	---	----------------------	---	-----------------