

Council of the Isles of Scilly Delegated Planning Report

Application Number: P/19/016/ROV
Received on: 16 April 2019
UPRN: 000192000598
Application Expiry date: 12 June 2019
Neighbour expiry date: 14 May 2019
Consultation expiry date: 14 May 2019
Site notice posted: 23 April 2019
Site notice expiry: 14 May 2019
Extension of Time: 18 October 2019

Applicant: Mr Nigel Wolstenholme Tregarthen's Hotel Ltd
Site Address: Tregarthen's Hotel
Garrison Hill
Hugh Town
St Mary's
Isles of Scilly
TR21 0PP

Proposal: Retrospective application for minor material amendment to planning permission P/16/113/ROV (as amended by P/18/089/NMA) to retain window on West elevation of unit 7 (shown in floor plan of application P/18/089/NMA but not the elevations). (Amended Title).

Application Type: Removal or Variation of Condition

Site Description and Proposed Development

The Tregarthen's Hotel complex is situated on the west side of Hugh Town between the Garrison and St Mary's Quay. The site includes two pairs of semi-detached cottages of Starboard Light and Port Light, which are grade II listed buildings and the cottages of Gibson and Hendra. Surrounding the core of original 19th Century buildings is a multitude of later extensions of various designs. There are two entrances to the site with the principal entrance to the hotel being from Garrison Hill.

This is an application for a variation of condition 2, to permit the substitution of drawing as a partial revision to the approved 2018 scheme P/18/031/NMA. This is specifically described as: Retrospective application for minor material amendment to planning permission P/16/113/ROV (as amended by P/18/089/NMA) to retain window on West elevation of unit 7 (shown in floor plan of application P/18/089/NMA but not the elevations). (Amended Title). All relevant planning history to this specific development has been set out below.

Background and Relevant History

Ref	Description	Decision	Date	Decision Level
P/15/060/FUL	Refurbishment and modification of the hotel including demolition of dilapidated and unsightly components to the northwest side of the hotel site and those abutting the wall. Formation of improved entrance enhancement of elevation appearance. Formation of 10 no. units of C3 holiday cottages within three blocks within the grounds to the northwest of the hotel and southeast of the hotel (Major Development) (Affecting the Setting of a Listed Building/Scheduled Monument).	Withdrawn	March 2016	-
P/16/055/FUL	Demolition of 3 number lower ground floor hotel bedrooms, and replacement with 6 number C3 use class dwelling units for restricted holiday letting. Change of use of staff accommodation block to 2 number C3 use class dwelling units for restricted holiday letting and formation of pitched roof with stone clad chimney, to replace flat roof. Alterations to external facade of staff block including new windows, doors and cladding, demolition of chimney to former boiler. New pitched roof above dining room over existing flat roof. Partial demolition of flat roofed hotel lobby area and replacement with new entrance to hotel.	Approved	12/08/2016	Planning Committee July 2016

	<p>Installation of green roof over flat roof to hotel lounge. Landscaping works to form outdoor dining terraces on former hotel garden and re-profiling of garden.</p> <p>Installation of ground source heat pump/loop, solar panels on flat roof, break tank for foul sewage.</p> <p>Partial demolition of wall to car park and rebuilding at cill height.</p> <p>Demolition of garage and store and replacement with gas bottle store. (Re-submission) (Amended Plans)</p>			
P/16/113/ROV	<p>In order to phase the approved redevelopment of Tregarthens Hotel an application is made to vary conditions 2 (Compliance with Approved Plans), 6 (Samples of External Finishes), 7 (Detail of Sewerage & Water Break Tanks), 8 (Detail of Surface Water Management), 9 (Detail of Sustainable Design Measures) & 10 (Landscaping Scheme) of planning permission P/16/055/FUL (re-development of hotel) to allow submission of pre-commencement condition discharge information before the relevant phase of works as detailed in the 5 year phasing scheme, rather than before any development commences (Amended Title to remove the request to work Sundays)</p>	Approved	21/12/2016	Delegated
P/18/031/FUL	<p>Revised scheme for redevelopment of Tregarthens Hotel including (1) Erection of a pair of semi-detached dwellings for restricted holiday letting (use class C3) including associated landscaping. (2) Alterations to external facade of hotel lounge and hotel bedrooms including replacement windows/doors, formation of new windows and removal of existing chimney. (3) Formation of a new pedestrian opening in the existing wall adjacent to Garrison Hill. (4) Formation of external seating areas and new balustrades to hotel rooms and hotel lounge. (5)</p>	Approved	28/09/2018	Full Council (August 2018)

	Installation of a package treatment plant for foul drainage. (Amended Plans/Amended Title)			
P/18/078/NMA	Application for non-material amendment to planning permission P/18/031/FUL (Revised scheme for redevelopment of Tregarthens Hotel including (1) Erection of a pair of semi-detached dwellings for restricted holiday letting (use class C3) including associated landscaping. (2) Alterations to external facade of hotel lounge and hotel bedrooms including replacement windows/doors, formation of new windows and removal of existing chimney. (3) Formation of a new pedestrian opening in the existing wall adjacent to Garrison Hill. (4) Formation of external seating areas and new balustrades to hotel rooms and hotel lounge. (5) Installation of a package treatment plant for foul drainage. (Amended Plans/Amended Title)) for the repositioning, by 1 metre west, of the pair of semi-detached dwellings only.	Approved	21/11/2018	Delegated
P/18/089/NMA	Application for non-material amendment to planning permission P/16/113/ROV to retain existing windows on East elevation, blocking up of window in bedroom 2 of unit 8 and widening of window in same room.	Approved	11/01/2019	Delegated

Consultations and Representations

A neighbouring property at Gunners Well has been written to directly and a site notice has been on display for a period of 21 days. One letter of objection has been received. This representation states that the retention of the window will result in overlooking, loss of privacy, light pollution as well as potential noise disturbance when the window is open.

Primary Legislation and Planning Policy

Primary Legislation

The Town and Country Planning Act 1990

Section 70(2) of the Planning Act requires the Local Planning Authority to have regard to the development plan, so far as material to the application, and any other material considerations when determining planning applications.

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.

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.

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 OE7). This draft document also contains policies for the visitor economy and tourism (Policy WC5) as well as safeguarding serviced accommodation (Policy WC6).

A link to this consultation Draft Local Plan has been set out below. As of 30th September 2019 the Submission draft Local Plan has been submitted to the Secretary of State, at the time of writing this report, and as such the policies it contains can be given greater weight.

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.

Planning Assessment

This application seeks a variation of condition, specifically to amend the approved plans to application ref. P/18/031/FUL which was approved on 28th September, following a Full Council decision on the 7th August. This was for a revised scheme for redevelopment of Tregarthens Hotel including (1) Erection of a pair of semi-detached dwellings for restricted holiday letting (use class C3) including associated

landscaping. (2) Alterations to external facade of hotel lounge and hotel bedrooms including replacement windows/doors, formation of new windows and removal of existing chimney. (3) Formation of a new pedestrian opening in the existing wall adjacent to Garrison Hill. (4) Formation of external seating areas and new balustrades to hotel rooms and hotel lounge. (5) Installation of a package treatment plant for foul drainage.

The applicant has entered into a Unilateral Undertaking, legal agreement, to not implement parts of an earlier approved scheme (P/16/055/FUL and P/16/113/ROV). The amendments now sought seek to retain (retrospectively) an existing window opening on the north west gable elevation of unit 7 including the use of obscure glazing. Previously plans of this elevation at first floor showed this a blank wall with no window. It is noted however that this is an existing window which under the approved scheme would require blocking up in order to implement the approved change of use and alterations to this block.

The retained window has come to the attention of the LPA as the neighbouring property raised concerns when instead of being blocked up during the course of implementing the approved scheme, it was replaced. Plans of the proposed scheme, where these relate to this particular block, have always shown this as a blank wall at first floor, whereas floor plans, which show the room configuration show a window. The applicant has stated that this is a drawing error which was not picked up through the previous consideration of the application.

The window in the original building, when used as staff accommodation block, was a staff bedroom window. The proposed use is a sitting room associated with a self-catering unit of holiday-let accommodation. The applicant has replaced the window on a like-for-like basis, which is a 2-over-2 sliding sash window, which has been obscurely glazed on both top and bottom sections.

The main issues for consideration, as to whether to permit the retention of the window, are the impact upon the adjacent residential property and the impact upon the listed building/scheduled monument of the garrison wall, which lies immediately behind the existing block.

Impact upon neighbouring amenity

The only property that would be affected by the retained window lies on the other side of the Garrison Wall, on the Garrison. This is a property called Gunners Well, which is situated 10m to the north west of this part of Tregarthens Hotel building. It is separated by the Garrison Wall and the upper floor gable wall, where the window is to be retained, is relatively level with the ground floor of this adjacent property. Gunners Well is a modern dormer bungalow which was approved in 1960 (P0273). The principal elevation faces almost directly north (with a slight eastern angle) it is a large detached property, set within a generous garden. The private rear garden faces south which slopes back up to the group of building situated to the main garrison arch entrance. The side gable of Gunners Well, that will face the retained window, contains x2 small ground floor windows which would appear to be fixed and obscurely glazed. There is also a small section of side garden which could be affected by overlooking from the retained window. To the rear the angle would be too oblique and the Gunners Well rear garden is well screened. The front garden is more open but it is not considered that the retained window would give rise to a significant degree of overlooking. The majority of the garden both to the front and rear, would not be particularly affected by the retained window.

At a distance of 10 metres from the retained window there could be a degree of overlooking, however there are no main habitable room windows visible that could be affected by overlooking. The two small side windows [of Gunners Well] would appear to be non-habitable rooms and on this basis it is concluded that the retention of the window, which is obscurely glazed, would not give rise to overlooking issues to main habitable room windows of this existing neighbouring property. The garden of Gunners Well is large and extends primarily down from the road of the garrison, in stepped terraces which are mostly screened by the wall and existing hedging.

Additionally the change from staff block accommodation, where staff shift changes could take place through the night, is removed from consideration and the use is considered to be less intensive/ intrusive in terms of noise and disturbance. The representation make reference to light pollution but it is concluded that the differences between the scheme with the gable window being blocked and it being retained as a window would be extremely difficult to measure in terms of light pollution. The change is use of this building from a high density, low quality block of staff accommodation bedrooms, to a low density self-catering holiday let will have an impact on both the type of occupation and the movement of people within the building. The window, to be retained, will serve a sitting room, where there is a bay window. Whilst it is acknowledged that the direction of light could result in some light spillage towards this neighbouring property, it is not considered that it would significantly affect the privacy and amenity of the adjoining neighbouring property, either from overlooking or noise or as a source of glare of light pollution. It is considered that on balance, the retention of the window, obscured, would not be significantly harmful, given the orientation of the adjacent neighbouring property.



Impact upon the Garrison Wall

As this is an existing window being sought to be retained, the main consideration is whether the cumulative change of the new bay window features and other fenestration changes, give rise to harm to the setting of the adjacent designated heritage asset. It is considered that the retention of the end gable window on this block, when viewed from a position directly to the north and north east (depending on the precise position of vantage), which is the area from which there are existing views of the Garrison Wall (SM/LB), then the change now sought, will not significantly impact the setting of the adjacent Garrison Wall. It is considered that the amended plans would not cumulatively give rise to any further obscuring of this important designated heritage asset. The retained window in addition to the approved changes to this block would have only a minor cumulative impact that would suggest it would not further obscure the Garrison Wall. There are wider benefits to the approved works that are considered to improve the setting immediately in front of the Garrison Wall and the retention of the window would not detract from this or obscure it to any greater degree than the implementation of the scheme with a blank wall.

On this basis it is judged that the proposed retained window would not detract from the character or appearance of the wider area, including the scheduled monument and listed building of the Garrison Wall.

The amendments would not result in causing any adverse harm to neighbouring amenity. The amendments do not give rise to any greater impact upon the wider character of the adjacent Listed Buildings, Scheduled Monument, or the wider Conservation Area, AONB or Heritage Coast in accordance with Policies 1 and 2 of the adopted Local Plan.

The proposed amendments are considered to be acceptable.

Signed: 	Dated: 21/10/2019	Signed: 	Dated: 21/10/2019
Planning Officer		Senior Manager	