

Council of the Isles of Scilly Delegated Planning Report

Application Number: P/19/051/FUL

Received on: 2 September 2019

UPRN: 000192001922

Application Expiry date: 30 October 2019

Neighbour expiry date: **25 September 2019**

Consultation expiry date: 25 September 2019

Site notice posted: 4 September 2019

Site notice expiry: 25 September 2019

Applicant: Mr Alastair Martin Duchy of Cornwall

Site Address: Porthloo Boat Park
Porthloo Lane
St Mary's
Isles Of Scilly

Proposal: Extension of slipway hard standing to join the sleepers marking the boundary of the existing road within the Boat Park.

Recommendation

1. That the Application is APPROVED for the following reasons and subject to the condition set out below.
-

Site Description and Proposed Development

The application site is located on the Island of St Mary's, to the north of Hugh Town and within the small settlement of Little Porth. The slipway is situated on the western coast of the Island. The land to the north of the slipway is used for boat storage with buildings surrounding the site to the south and east.

The application seeks the extension to the existing slipway which, is a triangular area of land to the north of the existing slip way and will measure 10m by 11m. The proposed extension will fill in an area of land which has dipped due to scouring of trailers and tractors. The slipway will be constructed in concrete.

Background and Relevant History

P/13/056 – Conditional Approval of planning permission for the formation of concrete base at rear of P Martin's boat shed and install 3 no. 10,000 litre water collection tanks.

P/12/043 – Conditional Approval of planning permission for the improvement scheme to include replacement and extended slipway, enlarged opening through beach dunes, sea defence works at top slipway, improved vehicular access through boat park, new power and water bollards in boat park, re-levelling of boat park surface and formalising use of small boat parking area.

P/08/084 – Conditional Approval of planning permission for the removal, reinstatement and extension to slipway.

Consultations and Representations

The initial site notice was displayed in the vicinity of the application site for a period of 21 days.

Public Representations:	NONE
Consultation Representations:	
Natural England	NONE
Sustainable Places Planning Advisor	NONE
Mr Sean Taylor	No Comments

Constraints:

Historic Landscape Characterisation:

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.

Other Relevant Legislation and Regulations

Wildlife and Countryside Act 1981
Town and Country Planning Act 1990
(as amended)
Planning (Listed Buildings and
Conservation Areas) Act 1990 (as
amended)
Human Rights Act 1998
Section 17 of the Crime and Disorder
Act 1998
Planning and Compulsory Purchase Act
2004

Natural Environment and Rural
Communities (NERC) Act 2006
Planning Act 2008
The Conservation of Habitats and
Species Regulations 2017
Community Infrastructure Levy
Regulations 2010 (as amended)
Equality Act 2010
Flood and Water Management Act 2010
Localism Act 2011
Growth and Infrastructure Act 2013

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.

Paragraph 48. Sets out that Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

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".

Submission 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 emerging document also contains policies for flood avoidance and coastal erosion (Policy SS7).

This requires development in low-lying areas (that is at or below the 5 m datum) should be avoided or be supported by a flood risk assessment to demonstrate the impact over the life-time of the development is safe.

The Submission draft Local Plan has (as of 30th September 2019) been submitted to the Secretary of State for public examination, at the time of writing this report, and as such the policies it contains can be given greater weight, following 3 rounds of public consultation, where there are no outstanding objections to the policies mentioned above.

Planning Assessment

The main considerations relating to this application are the principle of development, impact on the surrounding landscape and flood risk implications.

Principle of the development

Section 38 of the Planning and Compulsory Purchase Act 2004 sets out the clear legal requirement that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) constitutes guidance as a material consideration in determining planning applications. The NPPF however does not change the statutory status of the development plan and states “proposed development that conflicts (with the relevant development plan) should be refused unless material considerations indicate otherwise”.

The NPPF is not a development plan and therefore does not carry the weight of a development plan document in the determination of planning applications.

Within the adopted local plan 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.

Policy 2 sets out that development will be permitted, where proposals would contribute to the sustainability of the islands, environment, economy or local communities through conserving or enhancing the landscape through appropriate design including siting, layout, density, scale and external appearance.

Within the emerging local plan Policy SS1 encourages development should also seek conserve and enhance the natural and built environments, improve the access to alternative forms of travel and minimise the risk that development has on flood risk. Policy SS7 requires development proposals that are below the 5m datum, or in areas at risk of flooding or coastal erosion, to be supported by a flood risk assessment (FRA) to demonstrate the flood risk will be managed. The application is not supported by a FRA but is at rather than below the 5m datum. The proposed development is not considered a vulnerable use, and the Environment Agency have not made any comments on the hard surfacing

Overall Officers consider the application, to modernise and improve the convenience and usage of the slipway, is to be encouraged in principle. Policy 1 of the Local Plan and policies SS1, SS2 and SS7 of the Submission Draft Isles of Scilly Local Plan 2015-2030 seek to ensure that schemes protect the character and appearance of the surrounding landscape through high quality design and minimise flood risk. Therefore the principle of development is considered acceptable.

Observations

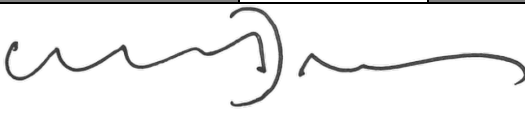
In 2013 significant improvements were made to the boat park with a new slipway and hard standing constructed to improve the access for launching and recovery. Since the improvements the Park has seen an increase in boat storage due to improvements in access storage and local engineering facilities.

The proposed development seeks to extend the existing slipway. The applicant considers the application is necessary as the area of land adjacent to the hard standing is subject to scouring from boat trailers and tractors when launching or recovering from the Park. The proposed concrete would allow for rain water to drain back towards the top of the slip as the current hard standing does.

From the wider landscape and seascape it is considered that the proposed development will be read as part of the coastline and in the context of the existing slipway. The increased area of concrete will have a negligible impact and overall the impact is considered acceptable.

No adverse impacts have been highlighted regarding the local ecological habitat or protected species. Any nearby residential or holiday properties are considered to be sufficient distance from the application site as to not be affected. There will be no impact upon the local road network and the Environment Agency has not raised any concerns in relation to the proposal.

It is considered that the proposed development will improve access to the water and allow for trailers and tractors to turn without scouring the area. There is nothing to suggest the development will have a negative impact upon the surrounding landscape and seascape or wider natural environment in terms of ecosystems or habitats. Therefore, the proposed development is considered acceptable and complies with the adopted and emerging Local Plan policies.

Signed: D Kinsella	Dated: 08/10/2019	Signed: 	Dated: 08/10/2019
Planning Officer (ENPA)		Senior Officer Planning and Development Management (CIOS)	
Signed: 			
Senior Manager, Infrastructure and Planning (CIOS)	Dated: 8th October 2019		

