

# Council of the Isles of Scilly Delegated Planning Report

**Application Number:** P/19/065/FUL  
**Received on:** 4 October 2019  
**UPRN:** 000192000722  
**Application Expiry date:** 11<sup>th</sup> December 2019  
**Neighbour expiry date:** 6<sup>th</sup> November 2019  
**Consultation expiry date:** 6<sup>th</sup> November 2019  
**Site notice posted:** 16<sup>th</sup> October 2019  
**Site notice expiry:** 6<sup>th</sup> November 2019

**Applicant:** Mr Steve Sherris  
**Site Address:** Silver Street Gallery  
5 Silver Street  
Hugh Town  
St Mary's  
Isles Of Scilly  
TR21 0PZ

**Proposal:** Replace existing Georgian style timber windows and doors with new timber double glazed units including alterations to style and design.

**Application Type:** Planning Permission

## Recommendation

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1. That the Application is APPROVED for the following reason/subject to the condition set out below.
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## **Site Description and Proposed Development**

This application is to replace all of the front facing windows is number 5 Silver Street, currently operating as a single shop 'Silver Street Gallery'. This is a prominent retail frontage close to the centre of Hugh Town and the Town Hall and the Porthcressa Area.

The applicant has stated that that the existing windows are in a severely deteriorated state and need to be replaced. The existing windows are timber single glazed of various designs. The new windows although of a different design will also be timber. At first floor these are a mixture of the wider tripartite 'sash' windows and for the smaller openings a more simple and traditional sash window. The plans state that all windows will be hardwood painted timber. At ground floor these are largely glazed panels split by two glazing bars giving a 3-panel window for the purposes of stock display.

## **Background and Relevant History**

In 2007 planning permission was granted for this current scheme and that of P/19/070/FUL (considered under that delegated report). P/07/062/FUL was approved by Planning Committee in July 2007. This scheme was not implemented at that time and that permission has now lapsed. The scheme is however, identical to that approved 12 years ago.

Prior to this during the 1970s and 1980s the buildings that are currently the Foredeck and Silver Street Gallery were joined for form a single retail outlet.

## **Consultations and Representations**

**Public Representations:** None

**Consultation Representations:** None

A site notice has been on display to the front of the site for a period of 21 days and no written representations have been received. Neighbours adjoining the property have been written to directly including:

- 1-3 Silver Street (The Foredeck)
- 7 Silver Street

Due to the nature of the proposal no external consultations were required.

### **Constraints:**

Historic Landscape Character: Settlement

Listed Building: No but Close to Town Hall, Spanish Ledge, The Gallery all Grade II Listed Buildings

Scheduled Monuments: None

Archaeological Constraint Area: None

## **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 determination 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) 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.

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".

### **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 sustainable quality design and place-making (Policy SS2). This policies requires development proposals to 1) (a) respect and reinforce local character and local distinctiveness, responding positively to existing townscape.

As of 30<sup>th</sup> 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.

## **Planning Assessment**

It is considered that the principle of replacing windows in existing buildings is acceptable subject to the proposal being of a design that is in keeping with the wider character of the area and does not give rise to harm. Policy 2 of the Local Plan requires that proposals must positively relate to the character of the landscape, seascape and built form of the islands, through relationship to, inter alia, siting, design and use of materials in addition to incorporating sustainability measures. This is also reflected in emerging Policy SS2 of the Submission Draft Local Plan. The Isles of Scilly Design Guide remains a material planning consideration which guides new proposals to be sympathetic to the character of the islands. Page 68 states "The simple task of replacing the windows of older buildings can very easily go wrong if the glazing pattern and proportions of the original windows are changed. Hugh Town in particular has suffered from poor window replacement to an extent that this single practice has done much to undermine the character of the place".

It is considered that the design of the timber windows proposed will be acceptable if recessed appropriately and not set flush to the outer face of the building. Currently window positions are set variously at points that are just under an inch back from the outer face of stone and up to 3 inches back. It is considered that at a minimum all new windows should be set at a position no further forward than the current window positions to avoid the appearance of 'flush' positioned windows which can have a harmful impact upon the character of the conservation area. Additionally recessing windows assists in thermal insulation. Possibly this recessing of windows, which has become a characteristic of traditional or historic buildings, was introduced for reasons of fire safety but generally it is recognised that the recess depth reflects the width of the window frame.

The application states that the change in window style will result in a more practical shop front, both for display of goods and for ongoing window maintenance.

Subject to a condition to require appropriate recessed positions for the new windows, it is considered that the proposed window changes in this application will enhance Silver Street, both in terms of design and materials, and will provide more appropriate fenestration for shop windows within the Conservation Area than those currently in place, which are of a style that is not recognised as a key window design on the islands.

**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:**

- **Proposed front elevation, dated 2007 Revision 2C, date stamped 14/10/2019**
- **Location Plan, date stamped 14/10/2019**
- **Proposed Section Drawings 1, 2, 3, date stamped 14/10/2019**

**These are stamped as APPROVED**



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

**C3 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.

**C4 All external window and door frames shall be recessed to the position of each existing window or door or have a minimum 30mm reveal, whichever is the greater. No window shall be set flush with the outer wall of the property.**

Reason: To safeguard the visual amenity and townscape character of Hugh Town and the wider character of the Conservation Area in accordance with Policy 2 of the adopted Isles of Scilly Local Plan (2005), Policy SS2 of the submission Draft Isles of Scilly Local Plan (2015-2030) and the Isles of Scilly Design Guidance SPD (2007).

Signed: 	Dated: 13/11/2019	Signed: 	Dated: 13/11/2019
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Monitoring – Case Officer – Don't forget to complete and enter into the Monitoring Table:

Y:\Infrastructure & Planning\Planning\Monitoring\2015-2030 Local Plan Monitoring

Promoting a Sustainable Scilly										
	SS1	SS2	SS3	SS4	SS5	SS6	SS7	SS8	SS9	SS10
Clause/Part (State)		1(a)								
Contrary to (tick)										
In accordance with (tick)		✓								

Our Outstanding Environment							
	OE1	OE2	OE3	OE4	OE5	OE6	OE7
Clause/Part (State)							5 (a), (b) i)
Contrary to (tick)							
In accordance with (tick)							✓

A Strong Living Community									
	LC1	LC2	LC3	LC5	LC5	LC6	LC7	LC8	LC9
Clause/Part (State)									
Contrary to (tick)									
In accordance with (tick)									

A Strong Working Community						
	WC1	WC2	WC3	WC4	WC5	WC6
Clause/Part (State)	all					
Contrary to (tick)						
In accordance with (tick)	✓					