

# Council of the Isles of Scilly Delegated Planning Report

**Application Number:** P/19/066/HH

**Received on:** 8 October 2019

**UPRN:** 000192000560

**Application Expiry date:** 5<sup>th</sup> December 2019

**Neighbour expiry date:** 1<sup>st</sup> November 2019

**Consultation expiry date:** 1<sup>st</sup> November 2019

**Site notice posted:** 11<sup>th</sup> October 2019

**Site notice expiry:** 1<sup>st</sup> November 2019

**Applicant:** Mr Brian Clifford  
**Site Address:** 6 Moonrakers Flats  
Garrison Lane  
Hugh Town  
St Mary's  
Isles of Scilly  
TR21 0JF

**Proposal:** Replacement of three aluminium double glazed windows with white UPVC double glazed windows, removal of toilet window and relocation to adjacent wall with a smaller white UPVC double glazed window.

**Application Type:** Householder

## Recommendation

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

Moonrakers is a residential property split into a number self-contained flats used as either holiday let flats or some being occupied as permanent units of residential accommodation, as in the case with the use of flat 6.

The property backs on to the Garrison Wall (LB/SM) at the top of Garrison Lane. It is a mid-century dormer bungalow that has accommodation in the roofspace. It is a white render property with a shingle roof and upvc window and doors. The property, formerly a guesthouse contains six flats, two of which are permanently occupied and 4 are let as holiday accommodation.

## Background and Relevant History

Planning history starts in 1956 when an application for the erection of a bungalow with attic rooms to be completed in the future and a temporary hut for use until completion of the bungalow (P0024) was approved. In 1961 an application for an extension to the guesthouse (P0328) was approved. In 1965 an application for garage (P0588) was approved. In 1969 an application for a further extension (P0857) was REFUSED. This was followed up by a further application for an extension (P0869) which was approved. In 1975 an application to convert the guesthouse to 6 self-contained flats (P1416) was REFUSED. Later in the same year a further application to split it into 6 flats (P1433) was approved. In 1985 an application to remove conditions (P2364) was approved. Later in 1986 an application for a kitchen extension (P2440) was approved. In 2016 an application to install two dormer windows (P/16/049/FUL) was approved.

## Consultations and Representations

**Public Representations:** None

**Consultation Representations:** NONE

A site notice was displayed for a period of 21 days and no representations have been received.

Neighbouring properties have been written to directly including:

1, 2, 3 and 5 Moonrakers

No consultation responses were received.

As a result of the nature of the works no consultations were required with external or internal stakeholders.

### Constraints:

Historic Landscape Character: Settlement

Listed Building: Grade I Garrison Wall abutting the west boundary of the site

Scheduled Monument: Garrison Wall abutting the west boundary of the site

Archaeological Constraint Area: The Garrison, abutting the west boundary of the site

## 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 property lies within in very close proximity to a Grade I listed building and Scheduled Monument of the Garrison Walls and Section 16(2) requires Local Planning Authorities to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.

### **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. 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".

### **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.

Where heritage assets are likely to be affected by development proposals, these should be identified at the pre-application stage. Applications for development should describe the significance of any heritage asset affected, including any contribution made by their setting. Policy OE7 (1) states that great weight will be given to the conservation of the islands irreplaceable heritage assets. Where development is proposed that would lead to substantial harm to assets of the highest significance, including undesignated archaeology of national importance, this will only be justified in wholly exceptional circumstances, and substantial harm to all other nationally designated assets will only be justified in exceptional circumstances. Any harm to the significance of a designated or non-designated heritage asset must be justified.

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**

The principal issues for consideration are the impact of the development upon the wider character of the conservation area and AONB designations, whether the proposal will result in any harm to the adjacent scheduled monument and grade I listed building. Finally it is a material consideration to ensure that the proposal does not give rise to any harm to the privacy and amenity of adjacent residential properties.

### **Impact upon the wider character of the area**

The proposed replacement windows, the new small bathroom window and the removed larger bathroom window are all set at first floor and as such are not prominent in the wider street scene. They are not located on the front of the property. The only new window will be a small bathroom window located adjacent to an existing window and a much larger bathroom window will be blocked up and rendered to match the existing wall finish. It is not considered the replacement of the existing windows, will result in any wider visual impact. Materials are still upvc but these will reflect both the materials and profile of the window detail. It is considered that the scale and position of the works will ensure they are seen very much within the context of the existing dwelling. They are set within the existing ground floor walls of the property and as such will not be seen as discordant features within the street scene.

### **Impact upon the historic environment**

Moonrakers is not a listed building or otherwise important historic building within the conservation area. It is a relatively modern 1950s bungalow that has been extended since its original construction. To the rear of this property and forming the rear boundary is the Grade I listed building and scheduled monument of the Garrison Walls. The proposed development does not result in any building being closer to this feature or result in any greater obscuring. Whilst it is noted that Moonrakers does in itself obscure the Garrison Wall the proposed window alterations do not add to the physical mass of buildings when viewed from either the vicinity or from wider views of this site. It is considered that the proposal does not result in any particular harm to the setting of this important and highly designated heritage asset.

### **Impact upon Amenity**

The proposed window alterations provide for a more convenient bathroom window and the replacement of existing windows only. The position of flat 6, and the window to be introduced in particular, are located to the rear of this property and as such the views out of the windows will look into this private amenity space only. It is not considered that the proposal would give rise to significant amenity issues to warrant refusing this application.

Overall the proposal is considered acceptable and subject to the conditions below is recommended for approval.

### **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:**

- **Location Plan, date stamped 08/10/2019**
- **Annotated Floor Plan of Flat 6, drawing number M-D-1A, date stamped 08/10/2019**
- **Proposed Elevation, New Toilet Window, Plan Ref 5, date stamped 08/10/2019**
- **Proposed and Existing Elevation of the existing Bathroom Window to be blocked up, date stamped 08/10/2019**
- **Proposed window specifications, kitchen window, toilet window, living room window and bathroom windows to be replaced, Plan Ref 6, date**



stamped 08/10/2019

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.

Signed: 	Dated: 13/11/2019	Signed: 	Dated: 13/11/2019
Planning Officer		Senior Manager	

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)										
Contrary to (tick)										
In accordance with (tick)										

Our Outstanding Environment							
	OE1	OE2	OE3	OE4	OE5	OE6	OE7
Clause/Part (State)							1,
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)						
Contrary to (tick)						
In accordance with (tick)						