

Supporting Planning Statement  
April 2020

Tregarthen's Hotel

JACKSON PLANNING



## Tregarthen's Hotel

JPL Ref:

LPA Ref:

Office Address:

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Date of Issue:

P/18/031/FUL

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## 1. Introduction

- 1.1 This statement supports the Planning Application for the revision of a planning condition in relation to the partial redevelopment of Tregarthen's Hotel under reference P/18/031/FUL.
- 1.2 This application follows an informal pre-application advice sought over the telephone with the case officer. This statement sets out all the planning considerations for this proposal.
- 1.3 The approved application for works under P/18/031/FUL granted on 28 September 2020 were as follows: *"Revised scheme for redevelopment of Tregarthen's 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."*
- 1.4 The application seeks to revision to **condition 19** which is entitled "Restriction of construction works outside the main tourism season." The condition is worded as follows:
- 1.5 *"The construction period of the development, hereby permitted, shall be scheduled to avoid the main tourist season and be carried out between October and March only on any year. Development shall further be managed and maintained in accordance with considerate constructor scheme practices."*
- 1.6 The applicant is Tregarthen's Hotel Ltd.
- 1.7 The approach to the proposal is to enable the partial redevelopment works to the Hotel to be completed in a single year, rather than extend the period of reconstruction over many seasons.
- 1.8 The application is submitted in anticipation of a revised masterplan for the Hotel that is currently being prepared. This subsequent application secures modifications to the approved masterplan to meet customer requirements and the demands for better quality accommodation available over a longer period than the current product available to guests.

### Rationale

- 1.9 The Hotel has been developed in a piecemeal fashion over many years and the current owner has now started on a more ambitious programme of redevelopment to meet tourist requirements and improve the overall offer to the guests.
- 1.10 The overall ambition remains; this is to modernise the business model of the hotel to become a more sustainable business for future customer requirements. The intention is to create a more luxurious small boutique hotel with a higher proportion of serviced self-catering accommodation as the primary income generator for the business. Up to now this has been implemented in stages to allow a phased transition of the business over time. This work has

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included the conversion of the four on-site cottages Portlight, Starboard Light, Gibson and Hendra to high quality self-catering units. The conversion of the former poor-quality staff block to two highly attractive and popular self-catering cottages 'Gerwick' and 'Gweal'. Alongside this, improvements have been made to the staff accommodation and enabling works at Woolpack battery to accommodate staff in the summer months.

- I.11 From the recent experience the hotel's owners and management are certain that the way forward is the letting of serviced self-catering cottages as a strong income generator, this is based on the highly successful lettings of the new self-catering units at Tregarthen's Hotel ~~in~~ and the properties Portlight/ Starboard Light, Gibson and Hendra. These have proved very popular and have resulted in significant forward bookings for 2020 and to safely accommodate self-catering bookings already made for Summer 2021.
- I.12 The proposed revised condition would allow a more radical approach to the piecemeal redevelopment with significant internal changes to the hotel complementing the already approved external changes to change the current offer with the emphasis on a more boutique hotel and more self-catering units.

## 2. Site Location and Description

- 2.1 The site is located at western end of Hugh Town nestled under the defensive Garrison complex, which sits above the site and forms the Hugh, the defensive promontory on St Mary's. Hugh Town sits on a narrow neck of low-lying land attaching the roughly oval-shaped parcel of land containing Star Castle and its associated fortifications (The Hugh /the Garrison) to the rest of St Mary's.
- 2.2 The site occupies a prominent place overlooking the Quay and Rat Island. The Hotel, occupies a visually prominent position above the lower roofscape of Hugh Town and below the skyline of The Hugh. The location of the proposal within the hotel is within the former now derelict hotel garden.
- 2.3 The site is situated within the settlement of Hugh Town, which is entirely contained within the Isles of Scilly Conservation Area. The Area was designated by the Isles of Scilly Council in 1975 and includes the whole archipelago. Several scheduled monuments and numerous listed buildings, including the Grade I listed Star Castle Hotel, associated Grade I, II\* and II listed buildings within the Garrison Walls on The Hugh, fall within a 250 metre radius of the site.
- 2.4 The site for the new cottages is within the lower level of the Hotel where the former kitchen garden is adjacent to the dwellings 'Hendra and Gibson'
- 2.5 The western site boundary is strongly defined by the mass-masonry Garrison Wall formed in large blocks of well-faced, well-coursed and relatively finely jointed granite with turf capping. This is part of the extensive sixteenth and seventeenth-century fortifications on the headland to the west of Hugh Town, The Hugh. The Garrison Wall is designated as a Scheduled Monument and in this section is also listed at Grade I, which includes the adjacent Garrison Gate.
- 2.6 The hotel was originally a private residential dwelling built in the Regency style. By about 1800 the entrance façade of the building originally faced southeast, looking back towards Hugh Town and addressing Garrison Hill behind a well-stocked sub-tropical garden.
- 2.7 The house was converted to a hotel by its owner Captain Frank Tregarthen in 1849, to house visitors from Penzance. Captain Tregarthen was master of the Scilly Mail Packet between 1842 and 1858.

### 3. Planning Policy

#### **National Planning Policy Framework (NPPF)**

- 3.1 The National Planning Policy Framework ('NPPF') was introduced in March 2012 as a key output resulting from the Government's Plan for Growth agenda. It sets out national planning policies for England and how these are expected to be applied to proactively drive sustainable development and growth and to boost significantly the supply and delivery of new housing.
- 3.2 The 'golden thread' of sustainability was the major change introduced by the NPPF with a presumption in favour of sustainable development. The framework (NPPF) is intended to be read as a whole but the sections of particular relevance are as follows. The framework has been updated twice since its original publication. It remains largely the same with the emphasis on sustainable development remaining.

#### **NPPG**

- 3.3 Planning guidance has been adopted in order to guide the application of the NPPF. This is extensive guidance covering many topics.
- 3.4 Conditions are governed by rules within the NPPF and expressed in the NPPG. The condition must meet what is known as the 'six tests'.
- 3.5 Paragraph 55 of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests
- necessary;
  - relevant to planning;
  - relevant to the development to be permitted;
  - enforceable;
  - precise; and
  - reasonable in all other respects.
- 3.5.1 The NPPG advises on specific examples where a condition would not meet the text of 'reasonableness'. Specific circumstances where conditions should not be used include:

#### **Conditions which unreasonably impact on the deliverability of a development:**

- 3.6 Conditions which place unjustifiable and disproportionate financial burdens on an applicant will fail the test of reasonableness. In considering issues around viability, local planning authorities should consider policies in the National Planning Policy Framework and supporting guidance on [viability](#). Paragraph: 005 Reference ID: 21a-005-20190723 Revision date: 23 07 2019

## Local Development Framework

- 3.7 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 3.8 The Development Framework is a term to include all the plans that make up the development plan. In this case there are both adopted and emerging plans.

### Adopted Plans

- 3.9 The Isles of Scilly Council is the Local Planning Authority for the Isles and is a unitary authority. It adopted its current **Local Plan 2005**. Relevant saved policies relating to this application are as listed below. However, the plan is essentially 'time expired' in relation to compliance with the NPPF. The policies of the adopted plan lack compliance with the NPPF as they do not address the presumption in favour of sustainable development, they do not contain the balancing considerations and therefore only limited weight can be afforded to them and the NPPF prevails.
- Isles of Scilly Local Plan Policy 1 (Environmental Protection)
  - Isles of Scilly Local Plan Policy 2 (Sustainable Development)

### Designations

- 3.10 The whole archipelago is designated as an AONB. The site also falls within the conservation area.

### Emerging Plans

- 3.11 Isles of Scilly Council has commenced the preparation of a replacement Local Plan and the plan has been the subject of consultations and hearings held by a Planning Inspector to consider the comments made on the emerging policy. As the plan is advancing some weight can be attributed to the emerging policy, however, as the relevant policy was subject to objection until these are fully resolved the policy must be only given limited rather than full weight.
- 3.12 The relevant emerging policy is WC5 set out below.

#### **POLICY WC5 Visitor Economy and Tourism Developments**

- (I) 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; 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; and

e) do not result in the loss of homes that would otherwise be available or permanent occupation, unless there are wider public benefits demonstrated to offset the loss of permanently available homes.

(2) Proposals for tourism developments will be particularly encouraged subject to a) – e) above, and where it is demonstrated that they would:

f) extend the tourism season and increase productivity and wages in tourism;

g) support the promotion and interpretation of the islands' heritage;

h) build on links with Cornwall; and

i) provide a viable and appropriate use for under-used buildings where they can be converted and are worthy of retention, and in accordance with Policy SS3.

(3) In all cases, proposals must demonstrate their improved sustainability by incorporating environmental improvements to reduce waste, water and energy consumption, supported by clear sustainable design measures, in accordance with Policies SS1 and SS2. Applications will need to be supported by justification as to how the above is being addressed by the proposal.

There is no specific policy with regard to construction time/ season limits in either the adopted or emerging Local Plans.

3.13 The compliance with this emerging policy is discussed in section 7 of this report.

### **Supplementary Planning Documents**

3.14 The **Isles of Scilly Design Guide** was approved in 2006 to complement the Local Plan and the **AONB Management Plan**.

3.15 The Isles of Scilly Design Guide was approved in 2006 to complement the Local Plan. This is not directly relevant to this current application as no design changes are proposed.

### **AONB Management Plan**

3.16 The Isles of Scilly Area of Outstanding Natural Beauty Management Plan 2004-2005 - Planning a Bright Future. The AONB Management Plan seeks to provide a co-ordinated approach to the sustainable management of the island's nationally important protected landscape, its environment and communities. The Plan has nine management themes including Communities,



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the Marine and Coastal Environment, Archeology, the Historic Environment and Heritage and Nature Conservation and Geology. Each theme has a long-term vision or goal which sits within the overall shared vision of the Plan generated through extensive consultation.

3.17 The Isles of Scilly AONB guidance can be summarised as:

- Retains the qualities of its land and marine aspects that together form the island's unique essence.
- Is recognised, understood and conserved for all to appreciate, enjoy and respect in a sustainable manner
- **Welcomes visitors who contribute sustainably to the economy and spirit of the islands without overwhelming the qualities that they have come to enjoy.**
- Supports a farming community successfully rising to the challenges of the changing economics of agriculture through sustainable diversification.
- Supports a community for whom Scilly is home, to enjoy a good quality of life, providing opportunities for young people whilst achieving an environmentally sustainable economy

3.18 The 'Cornwall and Scilly Urban Survey (CSUS): Historic Characterisation for Regeneration Hugh Town 2002'

3.19 This important character study, which provides an in-depth assessment of the historic character of Hugh Town, in order to help guide development decisions in relation to the historic characterisation for regeneration.

3.20 This characterisation study places the site in two zones. The frontage including Portlight, Stardboardlight and Gibson and Hendra, and the oldest part of the Hotel falls within character area 6 "The historic core-the Bank and Hugh Street". The rear of the site falls in character area 7 "Garrison Lane, Garrison Hill and Jerusalem Terrace, this zone includes the garden. Character Area 9 is immediately behind the site on the Garrison Wall boundary.

3.21 The study identifies major elements of the character of Hugh Town as:

- The town's striking topographic situation on the narrow isthmuth
- A strong presence within the townscape of 'natural' elements: landforms, and gardens, and spectacular views of the sea and off islands
- Undoubted 'urban' quality, despite it's relatively small size and population
- A distinctive architectural style of great charm and visual appeal
- A high degree of completeness in the historic environment

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- Good extremely high quality architectural detail
  - An unusually prominent contribution to the built environment first half of the 20<sup>th</sup> century
  - A significant later 20<sup>th</sup> century component, some elements of which have a negative impact on the town's character
- 3.22 In terms of relevant guidance that flows from the characterisation for this proposal the following points are of note:
- 3.23 In character area 6 – The historic core the study notes the form of Hugh Street as long, narrow, Street, interrupted by several irregularly shaped 'squares'. Buildings are predominantly two storey and small in scale. Buildings are generally set tight to the pavement edge in continuous granite or plain rendered facades create a strong sense of, tightly grained and strongly urban space.
- 3.24 In character area 7 Garrison Lane, Garrison Hill and Jerusalem Terrace it notes that historic houses in the area are generally modest two storey buildings in coursed granite rubble, plain white-washed some have particularly heavy quoins and lintels.
- 3.25 The character study concludes in the regeneration principles that there is an opportunity to promote beneficial change. They suggest there is a strong case for a significant contribution to reinstating character and the permanent removal of buildings. Whilst Tregarthen's hotel is not identified specifically as requiring this approach. This advice would apply to the inappropriate design of much of the 20<sup>th</sup> Century additions to the hotel.
- 3.26 The **'Cornwall and Scilly Urban Survey: Historic Characterisation for Regeneration Hugh Town 2003'** (Kirkham, 2003) has also been published, which provides an in-depth assessment of the historic character of Hugh Town, in order to help guide development decisions in relation to the historic environment.

## The Garrison Conservation Plan

- 3.27 This document is non-statutory publication, which sets out the practical management of the Garrison. Whilst this is a useful document for the original application it has less influence in this application given this proposal does not alter the design.

## Climate Emergency

- 3.28 The Council, along with many other local authorities, have declared a 'climate emergency'. In April 2019 the Council supported a Climate Emergency motion, setting a target that the Council will become carbon neutral by 2030. Since then a working group of councillors and staff has worked to establish what the carbon footprint of our organisation is, identify opportunities to reduce our carbon emissions, and prepare an action plan to reach a zero-carbon target by 2030.

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- 3.29 In October 2019 Councillors unanimously endorsed the commitment to move towards a zero carbon future through the preparation of a plan, including a reworking of the existing climate change strategy, and the identification of funding solutions.

## 4. Planning History

- 4.1 As set out above the current owner of the hotel is seeking to develop a long-term sustainable business, and in this regard, gained planning permission and listed building consent for redevelopment of a large part of the hotel in 2015.
- 4.2 The partial redevelopment of Tregarthen's Hotel, Hugh Town, St Mary's was granted consent on 12<sup>th</sup> August 2015 under reference P/16/055/FUL.
- 4.3 The previous approval gave consent for the following development.
- 4.4 *"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. 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. Installation of ground source heat pump/loop, solar panels on flat roof, break tank for foul sewage. Partial demolition of wall to car park and rebuilding at cill height. Demolition of garage and store and replacement with gas bottle store. (Re-submission) (Amended plans)".*
- 4.5 A further application to vary the planning conditions was granted consent in 2016 under reference P/16/113/ ROV.
- 4.6 This secured the **Variation of Conditions C2, C4, C6, C7, C8, C9 and C10** which included some minor changes to the scheme secured through a change to condition C2.
- 4.7 The consent P/16/113/ROV has been implemented by virtue of the works to the rear block behind the staff block. The consent has been partially implemented and is therefore live and an important fall-back consideration.
- 4.8 The application P/18/031/FUL gained approval for further changes in part to facilitate a change to the business model of the hotel as set out in paragraphs 1.9-1.12 above.



## 5. Economic Considerations

- 5.1 National planning policy encourages a proactive approach to delivering economic growth. The NPPF says that the government is committed to ensuring that the planning system does “everything it can” to support sustainable economic growth.
- 5.2 Local policies support tourism development that: contributes to diversification and modernisation; improves the quality of tourist accommodation; potentially extends the tourist season; involves changes of use between forms of tourist accommodation.
- 5.3 It is recognised in local policy that tourism is important and the Isles of Scilly should achieve “a high quality and distinctive response to changing markets in tourism”. The future of the local economy is recognised as “challenging” and hence an innovative approach to investment is often required. The response to the challenges needs to be positive and proactive to avoid the risk identified in the Strategic Economic Plan of “a spiral of decline”.
- 5.4 The seasonal nature of tourism on the Isles of Scilly makes it all the more important that investment in the islands’ visitor accommodation is encouraged – a) to safeguard current business and b) to help extend the season. Self-catering accommodation is an important part of this equation (about 50% of trade) and this proposal is central to that seeking to make good the deficit in its offer of this type of accommodation to the market, especially on St Mary’s.
- 5.5 Emerging Policy WC5 in the new Local Plan is clear that the Council will support proposals that make a positive contribution to the provision of high-quality sustainable tourism on the islands; and those proposals that: extend the tourism season and increase productivity and wages in tourism.
- 5.6 Digital profile is critical to the future of any tourism business and positive ratings and endorsement are a key feature of customer choice of any tourist product. In the past sub-standard or out-dated accommodation may have been acceptable as comparisons with other tourist products was difficult before travel. Given the ability to digitally review tourist offers in detail it is imperative for businesses to present up to date and excellent quality products. This requires refreshing the infrastructure to meet ever increasing demands of the digitally driven tourist.

### Investment strategy

- 5.7 Tregarthen's Hotel has developed its own strategy based on refurbishment for survival, followed by joint venture funding to raise capital for improvement and growth
- 5.8 The quality of Tregarthen's Hotel must rise to match the expectations of the clientele that can afford the exceptional travel costs to/from the Isles of Scilly. To respond to this market it is proposed to upskill the workforce and to invest in staff accommodation (as well as visitors' accommodation).

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- 5.9 Tregarthen's Hotel is badly in need of investment – both as a defensive measure to stand still and as a proactive measure to move forwards. This proposal does not intend to rely on bank finance alone. The success of the conversion of former staff cottages to holiday lets at Portlight, Starboard light, Gibson and Hendra has proved the necessary success of this model for investors. The forward booking of the cottages has been demonstrated into 2020/21 and the success of this model and the income stream allows the investors to make positive finance decisions to further fund works. A recent refinancing package has provisionally secured the necessary funding to carry out all the works proposed in the current planning application.
- 5.10 The impact as of April 2020 from the global pandemic coronavirus has effectively shut down the tourism industry on the Isles of Scilly, however, it should be noted that the self-catering accommodation is proving to be more resilient with re-booking later in the year.
- 5.11 A joint venture/shared equity model generates more value for those investors that appreciate the ethos of the Isles of Scilly and can derive a benefit from using the cottages with a C3 use class consent under the hotel's freehold ownership and administration. A long lease on each of the hotel cottages, combined with an investment lease agreement, puts the hotel and the investors in alignment by giving them what they require – early stage capital and on-going income for the hotel; plus an opportunity for investors to complement their investment with visits to the Isles of Scilly.

### **Economic benefits**

#### **Market and management feedback**

- 5.12 Historically, loyalty to the hotel (like the islands) has been strong but in a changing market cannot be taken for granted. The business has to appeal to new market segments, including first time visitors to Scilly, a younger audience and families. There is a need to offer an appropriate product and service to match the demands of the new market segments.
- 5.13 The product and service expectations of visitors to the islands is high, especially when the high prices charged signal to visitors a certain promise of quality. Their expectation is created by the sort of hotel stay they would get on the mainland for the same money. This can cause a mis-match between expectation and what is delivered. Hence the need to improve the product significantly. This will then also allow the business to increase published rates for hotel rooms, which have not been increased for 4 years, is not a sustainable position in the long term.
- 5.14 The undoubted success of the new self-catering units at Tregarthen's has shown the way forward for the business, letting over 1,000 cottage nights in the 2019 season and helping to extend these lets through the shoulder months, including over Christmas and New Year. There is proven demand and the conversion of what are difficult hotel rooms, into premium self-catering units, will greatly improve the product. This will be matched by the creation of a premium hotel product, offering fewer, but a better standard of rooms, the majority of them being Suites and Superior rooms, with sea views.

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- 5.15 Similar improvements and upgrades to the public areas (restaurant, lounge, bar, terrace and gardens), plus back of house areas like the replacement kitchen, will create a premium food and beverage offering to hotel and self-catering guests, as well as proving more attractive to non-residents.
- 5.16 The proposed ongoing investment in Tregarthen's will help St. Mary's capture a greater share of trade from day visitors, as well as the growing number of cruise ship arrivals.
- 5.17 The combined refurbishments and developments will improve the overall visitor experience and encourage a positive reputation, leading to increased repeat visits.
- 5.18 With the business established and sustainable for the long term, wherever possible they will continue the strategy of local employment and on-going staff development, encouraging the team's commitment to training and development. Where the Hotel does need to recruit seasonal staff from the mainland, they have invested significantly in staff accommodation to ensure they too get a good experience during their time as a part of the Scilly community, encouraging repeat seasonal recruitment.

## 6. The Proposal

- 6.1 The proposal of this application is to revise condition 19 to allow the upgrading work to the hotel proceed throughout the year rather than be limited to outside the tourist season. The existing condition is worded as follows:

**CI9: Restriction of construction works outside the main tourism season**

The construction period of the development, hereby permitted shall be scheduled to avoid the main tourist season and be carried out between October and March only on any year. The development shall further managed and maintained in accordance with considerate constructor scheme practices.

Reason: To minimise the impact on tourism related businesses in the facility of the proposal

- 6.2 The proposed revised condition is requested as follows:

**CI9: Considerate Construction**

The development hereby permitted shall be managed and maintained in accordance with considerate constructor scheme practices and the construction management plan submitted in support of the application.

Reason: To minimise the impact on tourism related businesses in the facility of the proposal

### Justification

- 6.3 The justification for this proposal is primarily to allow the redevelopment programme to be completed in a shorter time scale and to minimise disruption overall. The difficulty with the current condition is that it is simply not possible to complete the works within the off-season and with mobilisation and clearing up post construction taking a considerable part of the programme significant time is lost every time a seasonal shutdown is required. In addition, concentrating the building works within the off-season increases costs as it extends the program of construction.
- 6.4 In order to expedite the works to the hotel it is proposed that the hotel will close in September 2020 and not reopen until May 2021. This allows construction works to make the radical and significant changes required to the public rooms and the further development of the self-catering units without fear of overrunning and reducing the periods for mobilisation and clean up that would be required with a break between March and September. In addition, this does not mean the building works are restricted to the most inclement winter months when storms and rainfall can seriously impede construction.
- 6.5 The time limited seasonal working condition appears to have only been imposed on Tregarthen's Hotel and not to any other of the redevelopment projects recently consented for commercial hotel developments on the islands. A list of these can be provided if necessary.



- 6.6 The lack of parity over imposition of conditions with other planning permissions for hotel developments on St Marys that could equally cause harm to tourists shows that as currently drafted condition C19 is therefore not justified. If the tourist season was so prone to construction disturbance the restrictive condition would be applied universally. It therefore cannot be the case that the impact of working through the tourist season is so great that the development would be unacceptable without the condition. This is especially the case when the mitigation proposed is taken in to account.
- 6.7 There are separate controls through environmental health legislation that can deal with noise nuisance. The condition is therefore unnecessary.
- 6.8 The following table considers the compliance with the six tests in detail.

TEST	KEY QUESTIONS	ANSWERS in relation to Condition 19
1. Necessary	<p>Will it be appropriate to refuse planning permission without the requirements imposed by the condition?</p> <p>A condition must not be imposed unless there is a definite planning reason for it, ie it is needed to make the development acceptable in planning terms.</p> <p>If a condition is wider in scope than is necessary to achieve the desired objective it will fail the test of necessity.</p>	<p>The development of the hotel is acceptable in planning terms and there is no specific planning reason for it. The development is acceptable without the condition as controls on nuisance can be imposed through environmental health legislation. The condition fails the test of necessity</p>
2. Relevant to planning	<p>Does the condition relate to planning objectives and is it within the scope of the permission to which it is to be attached?</p> <p>A condition must not be used to control matters that are subject to specific control elsewhere in planning legislation (for example, advertisement control, listed building consents, or tree preservation).</p> <p>Specific controls outside planning legislation may provide an alternative means of managing certain matters (for example, works on public highways often require highways' consent).</p>	<p>The condition does relate to planning objectives – as construction disturbance can be controlled by other legislation.</p>
3. Relevant to the development to be permitted	<p>Does the condition fairly and reasonably relate to the development to be permitted?</p> <p>It is not sufficient that a condition is related to planning objectives: it must also be justified by the nature or impact of the development permitted.</p> <p>A condition cannot be imposed in order to remedy a pre-existing problem or issue not created by the proposed development.</p>	<p>Given the redevelopment of the hotel is intended to improve the tourist offer it would appear that the Council need to consider that the site operates well if the other tourist units would continue to operate. However, with a complete site shut down this is no longer an issue on the site. With a considerate contractors' scheme in place the condition cannot be justified.</p>

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4. Enforceable	<p>Would it be practicably possible to enforce the condition?</p> <p>Unenforceable conditions include those for which it would, in practice, be impossible to detect a contravention or remedy any breach of the condition, or those concerned with matters over which the applicant has no control.</p>	It is potentially enforceable
5. Precise	<p>Is the condition written in a way that makes it clear to the applicant and others what must be done to comply with it?</p> <p>Poorly worded conditions are those that do not clearly state what is required and when must not be used.</p>	The condition is precise in this regard.
6. Reasonable in all other respects	<p>Is the condition reasonable?</p> <p>Conditions which place unjustifiable and disproportionate burdens on an applicant will fail the test of reasonableness.</p> <p>Unreasonable conditions cannot be used to make development that is unacceptable in planning terms acceptable.</p>	<p>This is the test that the condition would clearly fail.</p> <p>The condition would place a disproportionate burden on the applicant as the LPA will extend the construction period and may therefore jeopardise commercial returns.</p> <p>This condition has not been imposed on other recent consents for improvements to hotels on St Mary's who would have similar impacts.</p> <p>This places an unreasonable burden on the applicant, especially as there are remedies through environmental health legislation to deal with nuisance.</p>

## **7. Planning Assessment & Conclusion**

### **Introduction**

- 7.1 The assessment of the planning application is a balance of all the considerations associated with the proposal, the site and the local environment. Whilst planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise as set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act (1990) they must also pay regard to the guidance provided by the NPPF as a material consideration.
- 7.2 The National Planning Policy Framework (NPPF) places a presumption in favour of sustainable development as the golden thread running through decision-making. Where policies are out of date planning permission should be granted unless specific policies of the NPPF indicate otherwise. This is the case with the Area of Outstanding Natural Beauty.

### **Local Amenity Impacts**

- 7.3 The chief reason for the previous condition was to protect the existing tourists on the site and in the immediate vicinity. Given the hotel intend to maintain the self-catering units throughout the construction period; impacts on guests will need to be dealt with sensitively throughout the period. The Hotel does not want to harm its own business by inconsiderate construction works.
- 7.4 With mitigation in the form of the Considerate Contractors' scheme there is sufficient protection in place, and further enforcement by Environmental Health if a nuisance was caused by construction.
- 7.5 A similar condition has not been imposed on other hotel improvement schemes on St Mary's, which suggests there is no general concern regarding amenity.

### **Economic benefits**

- 7.6 The proposal for the redevelopment of Tregarthen's Hotel has significant economic benefits as one of the three key strands of sustainability.
- 7.7 The Annual Report of the Islands' Partnership confirms the crucial role of tourism as being "vital to Scilly" (contributing over £32 million and over 1,000 jobs to the local economy); furthermore, tourism is nationally recognised as a "key economic driver". Further investment is required to build on this strength and to connect with current and future visitors and needs to be made rapidly to allow a rapid return on investment. Whilst positive to date the ongoing piecemeal approach to redevelopment in the off-season is not allowing a rapid enough turnaround and does not allow the radical refit required for the hotel interior.



- 7.8 In this context it can be seen that a capital investment plan for Tregarthen's Hotel in the order of £5m (plus ongoing income expenditure) is a significant material consideration aligned with the economic strategy, which should weigh in the balance in favour of the proposal.

### **Development Plan**

- 7.9 Given the existing Local Plan is in effect 'time expired' in relation to the NPPF the current development plan policies have no weight in the consideration of the current application. The proposals sit well with the emerging Local Plan policy WC5 – although this policy can only have very limited weight at this stage of the plan process.

### **Sustainable Development**

- 7.10 The NPPF advises that sustainable development has three strands: firstly an Economic Role to create strong, responsive competitive economy, secondly a Social Role- to create a high quality built environment to support the community and thirdly an Environmental Role to protect/ enhance natural, built and historic environment, improve biodiversity, minimise waste.
- 7.11 The preceding sections of the report have examined all the relevant parts of the sustainability spectrum and show substantial support for all three strands of sustainable development.

### **Conclusion - The Planning Balance and Recommendation**

- 7.12 In coming to a conclusion on the proposal the planning authority must consider whether the proposal constitutes sustainable development and consider the balance of harms and benefits of the proposal given legislation, the lack of appropriate development plan policy framework and very limited weight to be afforded the emerging local plan policy and guidance in the NPPF as a material consideration.
- 7.13 The proposal as described and assessed in this statement has shown no harm to the amenity of adjacent residents or any other harms to any public interest. The condition as imposed fails the six tests of a condition and therefore its revision as requested to support the major upgrade to the hotel should be supported.
- 7.14 In summary the applicants believe that the positive economic benefits of the proposal balance in favour and considerably outweigh any residual minor harm to a continuing construction period.
- 7.15 The scheme has overall compliance with National and Local Policy and with no demonstrable harms that outweigh the considerable benefits, assessed against the policies of the Framework as a whole. The proposal should therefore be considered sustainable and planning consent for the variation should be granted without delay.