



Council of the
ISLES OF SCILLY

APPEAL STATEMENT

FOR

APPEAL AGAINST REFUSAL

AT

APPLETREE, 2 MATTHEWS FIELD CHURCH ROAD
ST MARYS ISLES OF SCILLY

REFUSED ON 15TH MARCH 2022

APPEAL REFERENCE APP/Z0835/W/22/3301914

21 FEBRUARY 2023

This appeal statement is submitted on behalf of the Council of the Isles of Scilly in relation to appeal reference APP/Z0835/W/22/3301914 and planning application reference P/22/009/COU.

Application Site

1. This appeal has been submitted following the refusal of planning application reference P/22/009/COU by the Council of the Isles of Scilly. The proposed development that is the subject of this appeal is for the change of use of the single dwelling to a dwelling with two self-contained holiday let suites at first floor level and owners accommodation at ground floor level. The title of the application was amended with the agreement of the applicant on the grounds that the installation of kitchenettes as proposed did not in itself require planning permission but the creation of an external means of access to the upper floor and the separate occupation of the two units amounted, in the view of the LPA, to a change of use of the single dwelling to 3 C3 dwellings, one for permanent occupation and two self-contained flats for holiday let use.
2. Appletree is a semi-detached dwelling that is situated on Church Road in Hugh Town, which is on the island of St Marys. The property comprises two floors of accommodation with three bedrooms, set within a private domestic garden.

Proposal Description

3. The proposed development is for a change the use of the two first floor bedrooms to enable self-contained short-let holiday accommodation through the installation of two kitchenettes within each room. The proposal also includes the construction of a rear porch around the door at the rear that provides separate access to the ground floor accommodation. The first floor accommodation would be accessed using stairs via the front entrance to the building.

Relevant National Policy

4. Section 70(2) of the Town and Country 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.
5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
6. At the heart of the National Planning Policy Framework 2021 (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. The Isles of Scilly has an up to date and compliant Local Plan that conforms to the requirements of the NPPF.

Local Planning Policy Framework

7. Isles of Scilly Local Plan 2015-2030: The key policy within the Isles of Scilly Local Plan (2015-2030), herein after referred to as the 'Local Plan', would be Policy WC5, and the relevant sections are set out below.
8. Policy WC5 (Visitor Economy and Tourism Developments) states at Part (1) proposals for new or upgraded tourism development will be permitted where they a) make a positive contribution to creating a sustainable, diverse and modern tourism economy; 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) in the case of conversions, do not result in the loss of homes that would otherwise be available for permanent occupation, unless there are wider public benefits demonstrated to offset the loss of permanently available homes.

9. Part (5) of Policy WC5 specifically states that proposals for a change of use of a dwelling where an informal bed and breakfast has been operating (and has not been subject to formal planning approval) or for any additional holiday letting accommodation within the curtilage, will not be permitted under Part (1) above, unless a certificate of lawful use has been obtained to demonstrate that the use of the property, as a C1 guesthouse, is lawful.

Reasons for Refusal

10. The refused application went before the Isles of Scilly Full Council meeting on 15th March 2022. Members of the Council considered the proposal and voted to refuse the application for the recommended reason. This reason was provided on the decision notice dated 15th March 2022, but is set out below for ease of reference and in the interests of clarity.

R1 The proposal would result in the creation of 2 units of self-contained holiday let accommodation which, without a certificate of lawful use to demonstrate the property is a lawfully operating C1 guesthouse, would see the loss of a single family C3 dwellinghouse contrary to the requirements of Policy WC5(5) of the Isles of Scilly Local Plan (2015-2030). Whilst the change of use of a lawfully operating C1 guesthouse to self-catering is supported, any change of use of a C3 dwelling, that would result in the net gain of housing on the Isles of Scilly is supported only where this is to meet a local housing need.

11. At Full Council on 20th January 2022¹ Members of the Council of the Isles of Scilly declared a Housing Crisis, on the basis of an acute lack of homes available

¹ <http://committees.scilly.gov.uk/documents/b50003327/SUPPLEMENT%20PACK%20B%20-%20Urgent%20item%2020th-Jan-2022%2009.30%20FULL%20COUNCIL.pdf?T=9> and <https://www.bbc.co.uk/news/uk-england-cornwall-60069854>

for local and permanent occupation and the difficulties of many island-based businesses to recruit and retain staff on both a seasonal and permanent year round basis. This reflected the long standing difficulties identified in the local plan and some of the policies that have sought to address issues of availability and affordability across the islands. Most notably policies of the 2015-2030 Local Plan (adopted in March 2021) now seek to restrict the enlargement of homes, where this is specifically to create self-contained holiday letting space (Policy LC8) and to stem the gradual loss of homes from informal B&B, where no original planning permission was sought, to self-catering holiday lets (Policy WC5).

12. The Inspector will be aware from the appellants submission that a previous permission was approved for a dormer extension to this property. This was approved in 2018 (P/18/052/HH) prior to the current local plan being adopted. So whilst there was an awareness that the applicant was enhancing the size of the property, it was assessed under the 2005 local plan. Limited weight was afforded to the emerging local plan in 2018 when the application was approved to extend this dwelling.
13. In 2021 it was brought to the Council's attention, through an enforcement complaint, that the upper floor of this property was being let out as self-catering holiday let suites². This was investigated and the property owner declared that the use was seasonal B&B only.
14. In February 2022, when considering the application, the subject of this appeal, the applicant was advised of the recently adopted Local Plan Policy WC5 which specifically states, at part (5), that *proposals for a change of use of a dwelling, where an informal bed and breakfast has been operating... will not be permitted under part (1), unless a certificate of lawful use has been obtained to demonstrate that the use of the property as a C1 guesthouse is lawful*. This conflict with Policy WC5(5) was highlighted to the applicant because the informal B&B use was not a lawfully operating guesthouse.

² <https://www.visitislesofscilly.com/accommodation/appletree-p2909283>

15. On the basis of the housing crisis the applicant was asked to consider whether they would be prepared to amend their application to use the upper floor as alternatively a single self-contained unit of accommodation that would be available for local need. The applicant declined to amend their application and the proposal was determined at the March Full Council meeting in 2022, where it was refused for the policy conflict identified.

Conclusion

16. Overall, the proposed development was considered by Full Council and was refused planning permission. The reason for refusal is considered to be well founded and as such, it is respectfully requested that this appeal be dismissed.

Lisa Walton *MRTPI*

Chief Planning Officer