

# Council of the Isles of Scilly

## Delegated Planning Report

### Other application

**Application Number:** P/22/026/FUL

**UPRN:** 000192000689

**Received on:** 10 March 2022

**Valid on:** 21 March 2022

**Application Expiry date:** 16 May 2022

**Neighbour Expiry date:** 11 April 2022

**Consultation expiry date:** N/A

**Site notice posted:** 22 March 2022

**Site notice expiry:** 12 April 2022

**Applicant:** Luke Firmin

**Site Address:** Pengarris  
2 Bay View  
6 Little Porth  
Hugh Town  
St Mary's  
Isles Of Scilly  
TR21 0JG

**Proposal:** Alterations to elevations, new windows and doors, internal re-planning and new raised garden deck (Amended Plans).

**Application Type:** Planning Permission

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**Recommendation:** PER

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#### **Summary Conditions:**

1. Standard time limit
2. Adherence to plans
3. No further external lights without agreeing details
4. Submission of Site Waste Management Plan
5. No unsocial construction activities

## Reason for Delegated Decision

No Councillor has requested that the application come to the Full Council. The decision defaults to the level of Delegated:

- Not a Councillor ✓
- Not a Senior Officer (or Officer with influence over planning Decisions) ✓
- No relation to a Councillor/Officer ✓
- Not Major ✓
- Not Council's own application ✓
- Not a departure from the Development Plan ✓
- Not Called in ✓

## Lead Member Planning Agreed

Name: Dan Marcus

Date: 11/05/2022

## Site Description and Proposed Development

Pengarris is part of Number 6 Little Porth, which is a semi-detached dormer bungalow split into three flats. The application site is Flat 2 Bay View, 6 Little Porth and occupies part of the ground floor. In separate ownership there is a further ground floor apartment and an upper floor apartment. The property is a one bedroom open market property.

Located on the south side of Parsons Field, the application property has a frontage facing south on to the bay at Little Porth and a pedestrian access from Parsons Field to the north side.

The proposal is to construct an area of decking directly to the south side of the property, where a new patio door will open out. As part of this the proposal includes a slight increase in the east boundary wall up to 1.97 metres and construction of a louvred fence on the west side.

To the north side of the property the proposal includes the construction of a door, in place of a window, and to the construction of a 2m high fence along the east boundary with Number 5 Little Porth. Internally all rooms will be reconfigured with a corridor from the new door on the north through to the lounge and access out on to the deck, opening out as part of the kitchen. The existing door on the north side will be changed to a window and two small east facing windows will be replaced with a wider sliding door.

The plans have been amended to lower the decking on the south side, and to raise the boundary wall on the east boundary. The decking will be boundary to boundary (3.3m width) and extend out from the rear of the property by 2.8m and will replace the existing steps.

Certificate: B

Other Land Owners: Notified

- Mrs Judith Mellor
- Mr J Clapham

### Consultations and Publicity

The application has had a site notice on display for 21 days (22/03/2022 – 12/04/2022). The application appeared on the weekly list on 28<sup>th</sup> March 2022. Due to the nature of the proposal no external consultations were statutory, but please see below South West Water's independent comments.

Consultee	Date Responded	Summary
South West Water (Not directly consulted)	05/04/2022	<b>Asset Protection</b> Please find attached a plan showing the approximate location of a public sewers in the vicinity. South West Water will need to know about any building work over or within 3.5 metres of a public sewers or lateral drain. We will discuss with you whether your proposals will be affected by the presence of our apparatus and the best way of dealing with any issues as you will need permission from South West Water to proceed.

### Representations from Residents:

Neighbouring properties written to directly:

- 1 & 3 Bay View, 6 Little Porth, Hugh Town
- 5 Little Porth, Hugh Town
- Beaches, 7 Little Porth, Hugh Town

[1] letter of objection has been received and include the following points:

- Increase in noise as a result of the introduction of the raised deck on the south side.
- Damage to the existing boundary hedge between the application side and number 5 Little Porth (the east boundary)
- Loss of light by the new fence on the north side.
- Increase in noise disturbance as a result of the repositioned door on the north side, the external door to the bedroom.

[0] letters of support have been received.

[0] letters of representation have been received.

### Relevant Planning History:

No Planning history under 2005 Local Plan or the adopted 2015-2030 Local Plan.

Planning history relevant under previous local plans:

- P2637 Change of use and conversion of existing Guest House into three residential flats (Approved 1987)
- P2662 The provision of an additional front door on the North Elevation of Bay View, Little Porth, St Mary's. (Approved 1988)
- P3844 Installation of replacement window and new balcony at: Flat 1 Bay View, Little Porth, St Mary's. (Refused 1995)
- P4491 Flat 1, Bay View, Little Porth, St Mary's: Alterations to front entrance, front windows and replacement of rear dormer windows with PVC-U. (Approved 1998)

### Constraints:

- Conservation Area
- Area of Outstanding Natural Beauty
- Heritage Coast
- Historic Landscape Character      Landscape Type: Settlement
- ST Mary's Flood Prone Land St Mary's FPL: Mary1

### Planning Assessment

Design	YES OR NO
Would the proposal maintain the character and qualities of the area in which it is proposed?	y
Would the proposal appear in-keeping with the appearance of the existing dwelling, street and area?	y
Would the materials, details and features match the existing dwelling and be consistent with the general use of materials in the area?	y
Would the proposal leave adequate garden area and green space to prevent the proposal appearing as an overdevelopment of the site and to ensure an adequate level of amenity?	y
Is the parking and turning provision on site acceptable?	y
Would the proposal generally appear to be secondary or subservient to the main building?	y

Amenity	YES OR NO
Is the proposal acceptable with regard to any significant overlooking/loss of privacy issues?	y
Has the proposal been designed to respect the amenities of neighbouring properties avoiding unreasonable loss of light or an overbearing impact?	y
Is the proposal acceptable with regard to any significant change or intensification of use?	y

<b>Heritage</b>	<b>YES OR NO</b>
Would the proposal sustain or enhance the character and appearance of the Conservation Area?	y
If within the setting of, or a listed building, a) Will the development preserve the character and special architectural or historic interest of the building? b) Will the development preserve the setting of the building?	n/a
Within an Archaeological Constraint Area	n
<b>Other Impacts</b> Does the proposal comply with Highways standing advice such that it does not adversely affect highway safety?	n/a
Impact on protected trees a) Will this be acceptable b) Can impact be properly mitigated?	n/a
Has the proposal been designed to prevent the loss of any significant wildlife habitats or proposes appropriate mitigation where this has been demonstrated to be unavoidable?	y
Does the proposal conserve and enhance the landscape and scenic beauty of the AONB	y
Are the Water connection/foul or surface water drainage details acceptable?	y
If sited within a Critical Flood Risk Area (low lying land below the 5m datum) is the application accompanied by an acceptable Flood Risk Assessment?	n/a
Are there external lights	n

<b>Protected Species</b>	<b>YES OR NO</b>
Does the proposal include any re-roofing works or other alteration to the roof	n
Does the proposal include any demolition	n
Does the proposal include tree or hedge removal	n
Is an assessment of impact on protected species required	n
Has an assessment been provided that adequately assesses the site and includes mitigation, enhancement and timing requirements	n
Are biodiversity enhancement measures required	n
Is a condition required to provide biodiversity enhancement measures	n

<b>Waste Management</b>	<b>YES OR NO</b>
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Does the proposal generate construction waste	y
Does the proposal materially increase the use of the site to require additional long-term waste management facilities	n
Does the proposal include a Site Waste Management Plan	n
Is a condition required to secure a Site Waste Management Plan	y

<b>Sustainable Design</b>	<b>YES OR NO</b>
Does the proposal materially increase the use of the site to require additional sustainable design measures	n
Does the proposal include a any site specific sustainable design measures	y
Is a condition required to secure a Sustainable Design Measures	n

**Analysis:** Complete if any objections to material planning issues or any conflict with policy requirements identified.

The principal of the alterations now proposed, which do not include any extensions, are acceptable. The change in design and reconfiguration of fenestration are considered acceptable. In terms of the issues raised by the neighbour:

#### **Noise as a result of the decking.**

Whilst the introduction of a formalized sitting area would likely encourage people to sit out in the garden, the proposal does not materially increase the use of this property and the garden could, without the decking, be used for sitting out. The main issue arising from the decking is considered to be the increase in overlooking. The proposed decking will be higher than the existing ground level, originally proposed to be up to the threshold height of the patio door. The plans have been amended to ensure the height of the decking is no higher than 300mm above the existing ground level. Correspondingly the proposal includes an increase in the height of the fence, along the boundary with the decking, by 300mm. It is considered therefore that the increase in height of the ground at this point will not give rise to any greater degree of overlooking.

In terms of issues of light then it is noted the proposed higher fence will be situated to the south west of the neighbouring property at number 5. The impact will be a greater degree of overshadowing at the very end of the day when the sun in the west is lower in the sky. The height of the fence is however is less than 2 metres and whilst this is higher than the current fence, it is not considered to be significantly harmful in terms of the limited length, at less than 3 metres.

#### **Issues of damage to the roots of the hedge along the boundary with 5 Little Porth.**

The hedge in question is a wide but height-maintained hedge, that appears to comprise the plant coprosma. Coprosma is not a native UK plant but is popular in coastal locations due to its ability to withstand salt spray. It is an evergreen species that makes for a colourful natural hedge along this boundary due to its waxy bright green foliage. Whilst ground works can cause hedge and tree damage, this can be avoided if ground works

are carefully dug to minimize root damage. As a non-native species its biodiversity level is limited, although it is recognized that hedges in general provide habitat for birds.

Potential damage to the hedge is not considered sufficient to withhold planning permission in this case. Any damage caused to party wall structures or neighbouring trees and hedges would be civil matters that the applicant would need to address with the neighbour. It is recommended that an informative is placed on the decision notice to draw to the attention of the applicant, the need to pay due care and attention to the roots of plants of neighbouring properties (both sides).

In terms of issues of accuracy of the plans with respect to the boundary feature, having visited the site, they state an existing and proposed height relative to the finished floor level of the existing dwelling. I note that there are permitted development rights to erect a boundary fence (between two properties) up to a height of 2 metres. The proposed height is 1970mm. The increase in boundary height now proposed, which is proposed to ensure the height of the decking does not give rise to any additional overlooking. It is less than the height that could be constructed without planning permission.



#### **Loss of Light caused by new fence (north side)**

The proposal includes a higher section of fence to provide privacy and screening for both sides, as a result of the proposed sliding bedroom door and new door to the application site. As with the boundary to the south side the proposed height does not exceed 2 metres, which is the height a boundary fence can be erected to without planning permission. The impact in terms of morning sunlight would not impact upon the neighbour to the east and as the sun moves around into the afternoon, the area immediately to the north side of the property would already be in shade. The impact of light, therefore, is not considered to be sufficient grounds on which to withhold planning permission in this case, as the height of the proposed fence is 2m.

#### **Impact of noise and disturbance as a result of reconfigured doors and windows (north side)**

As with the concerns relating to the proposed decking on the south side, the curtilage

around the existing dwelling has the potential to be used at any time by the occupants of the property. There is no material increase in size or number of dwellings and as such, although occupants will enter and exit the property closer to number 5, as opposed to number 7 Little Porth, it is not considered that the use of the curtilage would significantly change. There is an existing door, to access the application property, within 4 metres of the boundary with number 5, and an existing pathway from Parsons Field, running directly adjacent to the boundary. The proposal will see the main entrance shift closer to the boundary, but as there is no material increase in use of the property, it is not considered that this will give rise to a significant impact upon this neighbouring property as there is already an existing doorway within close proximity as well as areas of hardstanding.

**EIA:** Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

**Proactive working:** In accordance with guidance within the National Planning Policy Framework the Council has worked in a positive and creative way and has concluded that the application is acceptable for planning approval.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

**Planning Policy:** Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of March 2021, the development plan for the Isles of Scilly comprises the Isles of Scilly Local Plan 2015-2030.

The relevant development plan policies that have been taken into consideration are set out below:

### Isles of Scilly Local Plan, 2015-2030

Policy	Tick if Used ✓
Policy SS1 Principles of Sustainable Development	
Policy SS2 Sustainable quality design and place-making	
Policy SS3 Re-use of Buildings	
Policy SS4 Protection of retailing, recreation and community facilities	
Policy SS5 Physical Infrastructure	
Policy SS6 Water and Wastewater Management	
Policy SS7 Flood Avoidance and Coastal Erosion	
Policy SS8 Renewable Energy Developments	
Policy SS9 Travel and Transport	
Policy SS10 Managing Movement	
Policy OE1 Protecting and Enhancing the landscape and seascape	
Policy OE2 Biodiversity and Geodiversity	
Policy OE3 Managing Pollution	
Policy OE4 Protecting Scilly's Dark Night Skies	



Policy OE5 Managing Waste	
Policy OE6 Minerals	
Policy OE7 Development affecting heritage	
Policy LC1 Isles of Scilly Housing Strategy to 2030	
Policy LC2 Qualifying for Affordable Housing	
Policy LC3 Balanced Housing Stock	
Policy LC4 Staff Accommodation	
Policy LC5 Removal of Occupancy Conditions	
Policy LC6 Housing Allocations	
Policy LC7 Windfall Housing:	
Policy LC8 Replacement Dwellings and Residential Extensions	✓
Policy LC9 Homes in Multiple Occupation	
Policy WC1 General Employment Policy	
Policy WC2 Home based businesses	
Policy WC3 New Employment Development	
Policy WC4 Alternative Uses for Business/Industrial land and buildings	
Policy WC5 Visitor Economy and Tourism Developments	

Info Requirements	Submitted (LVC)	Not Submitted	Condition Required
Site Waste Management Plan	N		✓
Sustainable Design Measures	Y		
Biodiversity Enhancement Measures:	n		

Other material considerations include the policies of the National Planning Policy Framework (NPPF) and guidance in Planning Practice Guidance (PPG).

**Considerations under Human Rights Act 1998 and Equalities Act 2010:** The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report. In discharging their functions, must have “due regard” to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard in particular to the need to:

- a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of other persons who do not share it

- c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has had due regard to the matters set out in section 149 of the Equality Act 2010.

**Recommended 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, Drawing Number: PGPL01, Dated February 2022
- Block Plan, Drawing Number: PGPL01A Dated February 2022
- Proposed Sections and Elevations AMENDED, Drawing Number: PGPL03A Dated April 2022
- Design and Access Statement, Drawing Number: PGPL04A dated February 2022

**These are stamped as APPROVED**

Reason: For the clarity and avoidance of doubt and in the interests of the character and appearance of the Conservation Area, Area of Outstanding Natural Beauty and Heritage Coast in accordance with Policy OE1 and OE7 of the Isles of Scilly Local Plan (2015-2030).

- C3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (As Amended), (or any order revoking or re-enacting that Order) prior to installation, details of any external lighting shall be submitted to and approved, in writing, by the Local Planning Authority. The lighting shall thereafter be installed in accordance with the agreed details.**

Reason: To protect the amenities of the locality, including the amenities of neighbouring residential properties and to protect the amenities of this rural area and preserve the dark night skies of the Isles of Scilly and the Garrison Dark Sky Discovery Site (Milky Way Class) in accordance with Policy OE4 of the Submission Draft Isles of Scilly Local Plan (2015-2030).

**PRE-COMMENCEMENT CONDITION: Site Waste Management Plan**

- C4 Prior to the commencement of the development, hereby approved, a scheme including details of the sources of all building materials and the means/location of disposal of all demolition material and all waste arising from building works, including excess material from excavations, shall be submitted to and agreed in writing with the Planning Authority. The**

**development shall thereafter proceed in strict accordance with the approved scheme only.**

Reason: This is a pre-commencement condition that requires details that were not submitted as part of the application but are required to fully understand the impact upon landscape and management of waste, to be submitted and agreed by the Local Planning Authority. This is to ensure those characteristics which contribute to the status of the Isles of Scilly as a Conservation Area, Area of Outstanding Natural Beauty and Heritage Coast are not eroded by uncontrolled mineral extraction or the tipping of waste. In accordance with the requirements of Policies SS2(2) and OE5 of the Isles of Scilly Local Plan (2015 - 2030).


**C5 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 the islands.

**Informatives:**

1. In dealing with this application, the Council of the Isles of Scilly has actively sought to work with the applicants in a positive and proactive manner, in accordance with paragraph 38 the National Planning Policy Framework 2021.
2. This decision is not a determination under the Building Regulations. Please ensure that all building works accord with the Building Regulations and that all appropriate approvals are in place for each stage of the build project. You can contact Building Control for further advice or to make a building control application: [buildingcontrol@cornwall.gov.uk](mailto:buildingcontrol@cornwall.gov.uk).
3. In accordance with the provisions of Section 96A of the Town and Country Planning Act which came into force on 1st October 2009, any amendments to the approved plans will require either a formal application for a non-material amendment (for which a fee of £34/£234 would be required) or the submission of a full planning application for a revised scheme. If the proposal relates to a Listed Building you will not be able to apply for a non-material amendment and a new application for a revised scheme will be required. Please discuss any proposed amendments with the Planning Officer.
4. In accordance with the Town and Country Planning (fees for Application and Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2017 a fee is payable to discharge any condition(s) on this planning permission. The fee is current £34 for each request to discharge condition(s) where the planning permission relates to a householder application. The fee is payable for each individual request made to the Local Planning Authority. You are advised to check the latest fee schedule at the time of making an application as any adjustments including increases will be applied: [https://ecab.planningportal.co.uk/uploads/english\\_application\\_fees.pdf](https://ecab.planningportal.co.uk/uploads/english_application_fees.pdf)
5. As the proposed works affect the boundary with a neighbouring property, this decision does not convey any other form of consent or agreement that may be necessary in conjunction with these works and does not override or supersede any civil rights, which the neighbour may have. The attention of the applicant is drawn to the information contained in the Party Wall etc. Act 1996. The applicant is advised to take care when digging fence foundations and decking foundation, particularly with respect to the roots of existing trees and hedges that could be affected.

<b>Print Name:</b>	Lisa Walton	16/05/2022
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<b>Job Title:</b>	Chief Planning Officer
<b>Signed:</b>	
	Authorised Officer with Delegated Authority to determine Planning Applications