

# Council of the Isles of Scilly Delegated Planning Report Other application

**Application Number:** P/22/073/COU

**UPRN:** 000192002790

**Received on:** 12 October 2022

**Valid on:** 27 October 2022

**Application Expiry date:** 22 December 2022

**Neighbour expiry date:** NONE CONSULTED

**Consultation expiry date:** 23<sup>rd</sup> November 2022

**Site notice posted:** 2 November 2022

**Site notice expiry:** 23 November 2022

**Pre-Commencement Conditions Agreed:** 22/12/2022

**Applicant:** Mr Adam Morton  
**Site Address:** Land South Of Track Behind Par Beach  
Higher Town  
St Martin's  
Isles Of Scilly

**Proposal:** Change of use from agricultural land to glamping pod/shepherds hut for holiday rental and emergency staff quarters for "Adams Fish & Chips" restaurant.

**Application Type:** Change of Use

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**Recommendation: Permit**

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## **Summary Conditions:**

1. Standard time limit
2. Adherence to plans
3. Seasonal staff use or short-let holiday use.
4. No external illumination
5. Hours of Operation for Construction Works
6. Site restoration Plan
7. Sustainable Design Measures
8. Site Waste Management Plan
9. Landscaping and Biodiversity Enhancements

## 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: Cllr D Marcus

Date: 22/11/2022

## Site Description and Proposed Development

The site of the proposal lies to the north of the Dunes at Par Beach, Higher Town on the island of St Martins. The site is an agricultural field used for both agricultural and fishing storage in connection with the applicant's business. The accommodation proposed is a residential pod type structure which is proposed as a unit of tourism accommodation as a means to diversify and supplements the applicant's income. Currently the applicant runs a fish and chip restaurant business on the island of St Martins, catching local fish and growing local potatoes.

The proposal is a bespoke design and is of a size suited to small family groups rather than couples, which the applicant points out is the main alternative self-catering pod accommodation on the island. The footprint is around 46 square metres and comprises three small bedrooms and basic accommodation. The structure is single storey and located behind the dunes but on land elevated in the field above an existing agricultural storage building. The structure is a simple timbe clad building with a green roof.

The existing business is already established on St Martins and as such this is not a new venture but a diversification of an existing business. The proposal will connect into an existing septic tank as a means of foul drainage, which is an existing system. Surface water is identified as being disposed of to a soakaway

**Certificate: B**

**Other Land Owners: Yes Duchy of Cornwall**

### Consultations and Publicity

The application has had a site notice on display for 21 days (02/11/2022 – 22/11/2022). The application appeared on the weekly list on 31<sup>st</sup> October 2022.

Due to the nature of the proposal a number of consultations have been required.

Consultee	Date Responded	Summary
SWW	03/11/2022	No comments on connections to private water supplies and private septic tank
CAU	07/11/2022	No archaeological monitoring required
CCF&R	-	-
EA	09/11/2022	No objections
LLFA	-	-
EH	-	-

### Representations from Residents:

No Neighbouring properties written to directly:

[0] letters of objection have been received and include the following points:

[0] letters of support have been received and include the following points:

[0] letters of representation have been received.

### Relevant Planning History:

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

### Constraints:

- Conservation Area
- Area of Outstanding Natural Beauty
- Heritage Coast
- Historic Landscape Character Type: Farmland: bulb strips, late C19/C20.
- St Martins Flood Prone Land

### 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?	n/a
Would the proposal generally appear to be secondary or subservient to the main building?	y

<b>Amenity</b>	<b>YES OR NO</b>
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>	n/a
Does the proposal comply with Highways standing advice such that it does not adversely affect highway safety?	
Impact on protected trees a) Will this be acceptable b) Can impact be properly mitigated?	n
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
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	y

<b>Waste Management</b>	<b>YES OR NO</b>
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	y
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	y
Does the proposal include a any site specific sustainable design measures	n
Is a condition required to secure a Sustainable Design Measures	y

**Analysis:** The proposal is a bespoke unit of residential tourism accommodation which will form part of the applicant's existing business on St Martins. The proposal is therefore in accordance with Policy WC5 in principle.

**Does the proposal make a positive contribution to creating a sustainable, diverse and modern tourism economy?**

The proposal is not a diversification in that the primary economic base of the islands is tourism and tourism accommodation. The proposal does support an existing well-established business on this island and in this respect, it is a diversification of the applicant's existing business.

**Is the proposal located in a sustainable and accessible location?**

The proposal is located close the quay at Higher Town on St Martins with a vehicular access road to the site. It is located closed the existing business and as such I consider it is acceptable in this respect.

**Is the proposal appropriate to its site and surroundings?**

The proposal is a rustic timber clad and bespoke design that reflects the theme of buildings already established by the applicant including the Fish and Chip restaurant and associated staff accommodation, as well as nearby agricultural storage buildings. The use is not a traditional residential design but a rural looking structure, which I consider is appropriate for this location. The area is surrounded by small fields and a number of agricultural style buildings associated with St Martins Vineyard and Winery and buildings associated with the applicants business including Adams Fish and Chips, storage

buildings and staff accommodation.

**Does the proposal result in an unacceptable impact upon the environment or any residential amenities?**

The proposal does not impact upon any nearby residential properties or land uses. The proposal, although identified as being within flood prone land, is confirmed to be at a height AOD of 7m. The EA have therefore not objected to the proposal. The site lies around 90 metres to the north of the Isles of Scilly Special Area of Conservation (SAC) Complex. This designation forms part of the UK national site network or European Sites. The proposal does not conflict with the primary reasons this site is protected, namely the sandbanks which are slightly covered by the sea at all times, mudflats not covered by the sea at a low tide and the reefs around the islands.

The proposal would connect into an existing septic tank and bore hole water supply. A soakaway drains away from the dunes. No loss of habitats or species has been identified. On this basis there is no reason to conclude the proposal would have an adverse impact upon the natural environment.

The site does lie close to a number of heritage assets including a large scheduled monument on Par Beach known as PREHISTORIC TO ROMANO-BRITISH RITUAL, FUNERARY AND SETTLEMENT REMAINS ON PAR BEACH, ST MARTIN'S. This beach is also designated as an archaeological constraint area (ACA): Higher Town Bay ACA. The proposal lies approximately 30m to the north of these heritage assets. There are no other records or heritage assets within the site boundary and I do not consider the structure proposed would impact upon or affect the setting of the historic environment. The archaeological advisor has confirmed that no archaeological monitoring of the ground would be required in this case.

In terms of the issue of flood risk, the site appears to fall within Flood Zone 3, which is confirmed when the national flood maps are checked. The site is therefore liable to coastal inundation. The applicant has produced a very simple Flood Risk Statement to support the proposal. This states that OS data clearly shows the site at 07m AOD, which is at least 3 metres above any of the surround area known to flood in winter and indeed disputes the areas mapped. It is stated that some areas known to flood have been excluded whereas this site, which has not flooded in the last 43 years, is shown to be susceptible to flooding. The EA have confirmed that on the basis of the 7m AOD position they do not object to the proposal. They have confirmed that they would support the condition to time-limit the proposal and on this basis a condition, to limit the siting of the building for a 25 year period, in light of climate change and rising sea levels, is recommended.

Although close to the coastline the use of materials, green roof and simple design would ensure the structure does not harm the wider scenic beauty of the island of St Martins and I consider it would preserve the character of this part of the conservation area.

No detailed measures of site waste management or sustainable design have been provided to be satisfied that the proposal would seek to reduce waste, water or energy consumption in accordance with Part (6) of Policy WC5. I consider that these could acceptably be provided by condition without adversely affecting the site, wider landscape or overall scope of the design.

No clear measures for biodiversity net gain have been provided to accord with Policy SS2 (1) g) or Policy SS1 (1) d) or Policy OE2 (1) b). A condition is therefore required to submit details of appropriate biodiversity improvements at this site.

**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	
<i>Policy OE4 Protecting Scilly's Dark Night Skies</i>	✓
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		✓	y
Sustainable Design Measures		✓	y
Biodiversity Enhancement Measures:		✓	y

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:**

- **Plan 1 Local Plan (Amended)**
- **Plan 2 Block Plan**
- **Plan 3 East and West Elevations**
- **Plan 4 North and South Elevations**
- **Plan 5 Ground and Roof Heights**
- **Plan 6 Floor Plan**
- **Plan 7 Roof Plan**
- **Plan 8 Proposed Green Roof Materials**
- **Plan 9 Proposed Materials**
- **Planning Statement (Amended)**
- **Flood Risk Assessment**
- **Design and Access Statement**

**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 Policies OE1 and OE7 of the Isles of Scilly Local Plan (2015 - 2030).

**C3 The Eco-Glamping Pod hereby permitted shall not be occupied other than by short let holiday accommodation or seasonal staff in conjunction with the applicant's business Adams Fish and Chips and/or other businesses on the island of St Martins only, on a seasonal basis from March through to October. For the avoidance of doubt the accommodation shall not be occupied as a second or holiday home. The owner of the accommodation shall maintain a record of the occupants of the accommodation, together with their work location and activity, and shall make the records available to the Local Planning Authority on request to demonstrate compliance with this condition.**

Reason: To ensure that the development is occupied as short let holiday accommodation or seasonal staff accommodation only, in accordance with Policy WC5 and LC4(2) of the Isles of Scilly Local Plan 2015-2030.

**C4 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 external illumination 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 this rural area and preserve the dark night skies of the Isles of Scilly and the St Martin's Dark Sky Discovery Site (Milky Way Class) in accordance with Policy OE4 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 neighbouring properties.

**C6 Before the first use of the Eco-Glamping Pod, hereby approved, a scheme of work**

**to restore the site to its former condition, shall be submitted to and approved in writing by the Local Planning Authority. The site shall be restored in accordance with these details to its former condition on or before 22/12/2048 or in the case of its redundancy, whichever is the sooner.**

Reason: The proposal is for a change of use of land for the siting of a non-permanent structure. The most recent coastal modelling data, suggests there are increasingly greater risks to this site, from coastal flooding. This suggests parts of St Martins being more affected and the site being potentially unsuitable for the development, as approved in the future. Continuation of the approved use will need to be re-considered in light of changing climate and flood risk conditions within the next 25 years.

#### **PRE-COMMENCEMENT CONDITION: Sustainable Design Measures**

**C7 Prior to the commencement of the development, hereby approved, a detailed scheme of specific sustainable design measures to minimise water usage and energy consumption shall be submitted to and approved in writing by the Local Planning Authority. This should include measures to ensure a water consumption standard of no more than 110 litres per person, per day. The agreed details shall be installed as approved prior to the first occupation of the dwelling and be retained as such thereafter.**

Reason: This is a pre-commencement condition that requires details that were not submitted as part of the application but are required to in order to comply with Policies SS6 of the Isles of Scilly Local Plan (2015-2030) and to minimise the impact of the development on precious water resources of the islands.

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

**C8 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).

#### **Pre-First Use Condition: Biodiversity Landscaping Enhancements**

**C9 Before the Eco-Glamping Pod, hereby approved, is first bought into use a plan shall be submitted to and approved in writing by the Local Planning Authority which shall include the planting of sustainably sourced native plants as well as appropriately sited bat boxes and bird nesting boxes, within the site boundary. Any tree or hedge within the approved landscaping scheme, found to be dying, damaged or diseased within 10 years from the date on which the scheme has been completed shall be replaced with the same species. The planting approved and habitat features shall be carried out/installed within the first 6 months following completion of the development and all construction materials and outdoor storage of non-domestic materials shall be removed from the site and the planting maintained thereafter.**


Reason: To ensure appropriate landscaping is provided to preserve the wider character of the Conservation Area and to ensure appropriate biodiversity net-gain measures in

accordance with the requirements of Policies SS1(d) and SS2(g) of the Isles of Scilly Local Plan 2015-2030.

### Further Information

1. The applicant is reminded that the Eco-Glamping Pod will be visible within the wider landscape so all landscaping necessary to provide screening should be maintained and the Council welcomes the applicant to consider native planting solutions that benefit both the wider landscape and the islands wildlife.
2. Statement of Positive Engagement: 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 of the National Planning Policy Framework 2021.
3. Fire Safety: Access and Facilities for the Fire Service as detailed in B5 AD B Volume 2 will be required. You will be required to provide reasonable facilities for the Fire Service. In most circumstances this will mean providing vehicular access for fire appliances. It is important to remember that failure to do so may prevent the applicant from obtaining a completion certificate under the Building Regulations but more importantly, the lives of the occupiers will be put at risk.
4. Non-Material Amendments: 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 £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.
5. Discharge of Conditions: 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 £116 for each request to discharge condition(s) and is payable for each individual request made to the Local Planning Authority.
6. Private Water Supply (PWS): As a new private water supply the applicant is required to complete the PWS questionnaire, available on the Council's website page: Private Water Supplies | Council of the ISLES OF SCILLY (right hand column) and send the completed questionnaire to [environmentalhealth@scilly.gov.uk](mailto:environmentalhealth@scilly.gov.uk).
7. Registering for appropriate Business Rates/Council Tax: To ensure appropriate contributions are made to fund services provided by or on behalf of the Council on the Isles of Scilly please ensure you contact the Council's Revenues Department: [revenues@scilly.gov.uk](mailto:revenues@scilly.gov.uk).

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<b>Print Name:</b>	Lisa Walton	22/12/2022
<b>Job Title:</b>	Chief Planning Officer	
<b>Signed:</b>		
Authorised Officer with Delegated Authority to determine Planning Applications		

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