

Sir/Madam - -
Council of the Isles of Scilly
Planning department, Town Hall
The Parade
St Mary's
Isles of Scilly
TR21 0LW

Direct Dial: 0117 9750699

Our ref: P01552299

4 May 2023

Dear Sir/Madam -

**T&CP (Development Management Procedure) (England) Order 2015
& Planning (Listed Buildings & Conservation Areas) Regulations 1990**

**LAND ADJ TO WASTE SITE, THE QUAY, ST AGNES, ISLES OF SCILLY
Application No. P/22/077/FUL**

Thank you for your letter of 14 April 2023 regarding further information on the above application for planning permission. On the basis of this information, we offer the following advice to assist your authority in determining the application.

Historic England Advice

We note the amended plans and supporting EIA addendum. We confirm that discussions are in train with the applicant in respect of proposed works at Green Bay and Great Porth, Bryher (also known as Great Par). At Green Bay the applicant has successfully identified a route that will avoid the constraint area of the Scheduled Monument. At Great Porth negotiations are ongoing to identify the extent to which the scheme can avoid or minimise harmful impacts upon the scheduled gig shed, protected under the Ancient Monuments & Archaeological Areas Act 1979. We await further information from the applicant in respect of Great Porth and are committed to engaging constructively to find the optimal solution to this complex issue.

Historic England's response (attached) to the recent Marine Licence application to Marine Management Organisation for the works at these two locations sets out our detailed advice and the current stage of negotiations for the proposed works at these sites.

Recommendation

Historic England has concerns regarding the application on heritage grounds. We are advising the applicant directly and substantive negotiations are under way to resolve the issues at Great Porth, however it is likely that ultimately the works here will result in some harm to the Scheduled Monument and that Scheduled Monument Consent (SMC) will need to be applied for before the resulting scheme can be initiated. Given the fluid nature of the situation we are not currently in a position to advise your authority on how the application accords with the National Planning Policy Framework from a heritage perspective, except to reiterate that we presently have concerns and the applicant is working to resolve them as far as is possible.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

Yours sincerely

Phil McMahon

Phil McMahon

Inspector of Ancient Monuments

E-mail: phil.mcmahon@HistoricEngland.org.uk

cc: Ann Preston-Jones, Historic England



Mr Stephen Swabey
Council of the Isles of Scilly
Town Hall
St Mary's
Isles of Scilly
TR21 0LW

Direct Dial: 0117 9750699

Our ref: PA01197690

15 March 2023

Dear Mr Swabey

Pre-application Advice

GIG SHED ON THE NORTH COAST OF GREAT PORTH, BRYHER

Thank you for your constructive engagement with Historic England in relation to the work currently being undertaken to seek to avoid or minimise the impact of coastal defence works on Scheduled Monument No. 1016173 *Gig shed on the north coast of Great Porth*. Since the proposals were first tabled a heritage assessment has been drafted by Charles Johns and an options appraisal undertaken by HR Wallingford. Together with our recent virtual meeting to discuss these elements I am now in a position to provide you with interim advice. Some of this will inevitably repeat points of discussion at our meeting but it will be helpful to all to understand Historic England's current position.

The Scheduled Monument - *the Gig shed on the north coast of Great Porth* has been afforded the highest level of protection as a designated heritage asset under the Ancient Monuments & Archaeological Areas Act 1979. The monument includes the ruined remains of a later 19th century boat house purpose built to house a pilot gig. The monument lies in association with an extent, undesignated gig shed to its south and also with a scheduled pilot's look out shelter on Timmys Hill to the east. The significance of the scheduled gig shed is enhanced by its group value together with these other two assets.

Gig sheds and pilot gigs are part of a distinctly Scillonian maritime culture, reflecting the islands' strong relationship with the sea and past dependency on ocean commerce. The surviving gig sheds on Scilly, whether ruined or extant, together form a unique and nationally important cultural heritage resource.

Potential impact of proposed works - the original scheme would have entailed substantial harm to the Scheduled Monument, which would have been destroyed in the construction of sea defences due to the nature of the scheme, in which the rock



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defences are bedded into the beach slope for stability. The scheme almost entirely overlies the monument and would lead to its total loss. The options appraisal assessed a number of alternative approaches, each of which would entail the stepping-out seawards of the section around the monument, by ever greater increments.

The engineering assessment demonstrated that the further seaward the option was located, the greater mass of development would be required, together with a reduced efficiency in defence against overtopping. Each option seaward of the original scheme would also lead to a degree of coastal creep - the further seaward the option, the greater the degree of coastal creep. Coastal creep could in turn result in detrimental impacts upon natural environment designations at this location, specifically the Isles of Scilly Special Protection Area and the Isles of Scilly Special Area of Conservation. These various factors taken together have effectively ruled out options other than the original scheme and Option 1, which moves the sea defence slightly seaward. This would result in the retention of approximately two thirds of the scheduled gig shed but would still result in serious harm to its significance.

Additional measures to be evaluated - during the meeting it was suggested that there may be potential for some of the proposed sea defences to be overlaid on part of the monument, with a geotextile membrane separating the imported rock armour from the fabric of the gig shed ruins. I understand that HR Wallingford are assessing the feasibility of this measure in terms of the durability and stability necessary for the new defences to be effective. Whilst this measure would still result in serious harm to the significance of the monument it would nonetheless preserve more of it in situ.

Relevant policy framework

Government policy on Scheduled Monuments - The Department for Culture, Media and Sport (DCMS) has published a Policy Statement *Scheduled Monuments and Nationally Important but Non-scheduled Monuments* (October 2013) which sets out the circumstances in which Scheduled Monument Consent (SMC) is likely to be granted. The policy sets a high bar for the justification of harm occurring to a monument by works proposed for SMC. This is broadly in alignment with the similarly high test set in the National Planning Policy Framework (NPPF, MCHLG 2021). It states that only in “wholly exceptional” circumstances will SMC be granted for work that would result in substantial harm.

Where the works under SMC would result in less than substantial harm, they will only be granted where the harm can be weighed against the public benefits of the proposal. In practice, DCMS take the preservation for posterity of Scheduled Monuments very seriously and it is only in rare cases that SMC would be granted for substantially harmful works. Less than substantial harm would still require a clear and convincing



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justification that the proposed works could not be achieved in a different form or location that did not result in harm occurring to the monument. Such justification would need to be supported by a significant package of public benefits, of which a large proportion should be heritage-focused.

National Planning Policy - The NPPF contains clear guidance on the treatment of heritage assets within the planning process. Its focus is on seeking the conservation and enhancement of heritage assets affected by development proposals, recognising that heritage assets are an irreplaceable resource that should be conserved for the enjoyment of this and future generations (NPPF, paragraph 189).

Paragraph 194 of the National Planning Policy Framework (NPPF) is plain in requiring that planning applications describe the significance of any heritage assets affected by a proposal. NPPF paragraph 195 states that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise, including the advice of Historic England.

NPPF paragraph 199 requires that “great weight” be given to the conservation of heritage assets affected by development proposals, and the more important the asset the greater that weight should be. The emphasis on “great weight” should be maintained regardless of whether the degree of harm a proposal would cause is considered to be substantial or less than substantial.

Scheduled Monuments are recognised as heritage assets of the highest significance (NPPF 200b) and accordingly the conservation of the gig shed, including any contribution made by its setting, should be accorded very great weight indeed. Any harm to, or loss of, the significance of a designated heritage asset should require a clear and convincing justification (NPPF paragraph 200). Where a proposal would cause substantial harm to the Scheduled Monument it should only be granted consent in wholly exceptional circumstances.

NPPF Paragraph 201 states that “Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss...”

Paragraph 202 of the NPPF states that “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal...”



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Historic England position

Both DCMS policy and the NPPF stress that development entailing substantial harm to a Scheduled Monument should only be granted in wholly exceptional circumstances. The original scheme, which involved the removal of the gig shed, would clearly constitute substantial harm. “Substantial harm” is considered to apply where a proposal would lead to the complete loss of significance of the heritage asset concerned.

Option 1, which moved the defences slightly seaward, would still entail the removal of approximately one-third of the Scheduled Monument and would clearly constitute serious harm at the upper end of the less than substantial range. The proposal to overlay part of the defences on top of the monument would reduce the impact level somewhat (if demonstrated to be feasible) but the harm would still be serious and at the higher level of less than substantial.

Historic England accepts the need for sea defences at Great Porth. The Isles of Scilly are at the frontline within the south west region in terms of rising sea levels, increased storminess and tidal surges. Communities located on the Atlantic west coast of Bryher are clearly exposed to the worst impacts of climate change in this respect. The way forward with the Great Porth coastal defences project should therefore have three components:

Avoid or minimise - considering the great weight to be afforded to the conservation of Scheduled Monuments, the project should continue to evaluate measures that would avoid or minimise the harm that the works would cause to the gig shed. DCMS will expect to see strong and compelling evidence that all efforts have made to this end. You should set out the other options considered, both in terms of rock armour defence and other forms of sea wall, including the reasons why less harmful solutions are not feasible.

Clear and convincing justification - having made every effort to avoid or minimise harm, the project should then set out a clear and convincing justification for the remaining, unavoidable harm. This should encompass the engineering constraints and necessary performance minima of the sea defences together with the urgency of the need to protect the coastal community at Great Porth. How many properties will be protected by the defences? For how long? How will this compare to a Do Nothing scenario? How does this fit into the wider picture for Scilly, remembering that the local authority is a Tier One Levelling Up priority area?

Substantial public benefits including heritage benefits - what public benefits can the



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project demonstrate? These will comprise both heritage and non-heritage benefits. Remember that benefits must be both substantial and genuinely public. In non-heritage terms describe the benefits that the sea defences would provide for local communities. In heritage terms, what can the project offer as an offsetting measure for the harm caused to the gig shed? Remember that the archaeological excavation of the monument will not be seen by DCMS as a benefit but rather as the minimum necessary mitigation. Heritage benefits in this instance could focus on the unique suite of pilot gig sheds and pilot lookouts on Scilly - it could include an assessment of all the surviving remains on the islands - those extant sheds such as the Golden Eagle shed south of the scheduled gig shed, and those ruined examples both designated and undesignated. What is the condition of the surviving sheds, their histories? What degree of survival do they have? What threat are they under? Could such a project offer a survey of all known gig shed and lookout sites? Could it bring forth recommendations for the conservation of viable gig shed sites and the monitoring and recording of other sites at risk? What are the risks to other sheds? Can they be mitigated or are other shed sites also threatened by climate change coastal impacts? Are any of the vacant, abandoned or ruined sheds potential candidates for adaptive reuse? These are just some aspects that the scope of such a project could have.

It is possible that such a suite of public benefits, both heritage and non-heritage focused, could provide sufficiently compelling reasons to support an SMC application when you have completed the Avoid or Minimise and Clear and Convincing Justification exercises.

Next Steps

We recommend that you continue to explore the feasibility of options that would avoid or minimise harm to the gig shed and consider our advice in terms of justification and potential public benefits. We would be pleased to continue to offer advice on this project when more information is available to focus in on the best solution and from there the pathway to consent.

I have to note that Historic England provides one free round of pre-application advice on each scheme proposal and this letter completes the present free cycle. Evidently, the complexities of this case require us to continue our dialogue in the interests of striking the optimal balance of competing priorities and requirements. Further pre-application advice will be provided on a non-profit, cost recovery basis, under the terms of our Enhanced Advisory Services <https://historicengland.org.uk/services-skills/our-planning-services/enhanced-advisory-services/extended-pre-application-advice/> . We cannot engage further until formally commissioned by you on the basis of a cost estimate from Historic England. Given the need to ensure that any resulting SMC application has the best prospect of being approved by DCMS I would highly



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recommend that you enter into an EAS agreement with us. When you are ready to commence the next stage of negotiations on this site please send us the information that will form the basis of discussion and we will use this to build an accurate cost estimate.

Please don't hesitate to contact me in the meantime if you would like to clarify any aspect of this advice.

Yours sincerely

Phil McMahon

Phil McMahon
Inspector of Ancient Monuments
E-mail: phil.mcmahon@HistoricEngland.org.uk

cc: Lisa Walton, IoS Council
Ann Preston-Jones, Historic England

GIG SHED ON THE NORTH COAST OF GREAT PORTH, BRYHER Pre-application Advice

Information Provided

Heritage Assessment (draft), Charles Johns
Options Appraisal, HR Wallingford
Original project proposal, Climate Adaptation Scilly



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Sir/Madam Marine Planning Team
Marine Management Organisation

Direct Dial: 0117 9750699

Our ref: PL00792423
17 March 2023

Dear Sir/Madam Marine Planning Team

Statutory role of Historic England

Historic England is the Government's advisor on all aspects of the historic environment in England. Historic England is an Executive Non-departmental Public Body sponsored by the Department for Culture, Media and Sport (DCMS) and we report to Parliament through the Secretary of State for Culture, Media and Sport. The National Heritage Act (2002) gave Historic England responsibility for maritime archaeology in the English area of the UK Territorial Sea.

Prior engagement with applicant

Historic England is aware of these proposed works through direct pre-application consultation with us by the applicant. We have primarily focused our advice in relation to Scheduled Monuments but are aware that much of the work does not impact within heritage designated sites. Nonetheless, Scilly has a rich and unparalleled historic environment and where the works have the potential to impact upon undesignated archaeological remains we also offer comment and recommendations on that in this advice.

Scheduled Monuments - the proposed works will be located in close proximity to a number of scheduled sites. Through pre-application engagement we are satisfied that the applicant has worked to avoid direct impacts in most cases, although the works lie in close proximity to some scheduled sites and we have advised the applicant on how to consider works at these points of proximity.

The exception to this is the proposed work at Great Par North (also known as Great Porth), which will impact upon Scheduled Monument No. 1016173 *Gig shed on the north coast of Great Porth, Bryher*. It is likely that works at this location will result in either serious harm or substantial harm to the Scheduled Monument and negotiations are presently ongoing with the applicant to seek to avoid or minimise impacts at this site. The works would need Scheduled Monument Consent (SMC) under the Ancient Monuments & Archaeological Areas Act 1979 and this is only normally granted for such harmful works in wholly exceptional circumstances.



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The applicant is presently considering Historic England's interim pre-application advice on this site. There remains significant work to undertake before the applicant will be in a position to submit an SMC application and it is unlikely that the matter will be resolved within MMO's timescale for determination of this application. I attach a copy of our pre-application advice letter of 15th March 2023 to give you an indication of the current state of progress in negotiations.

Recommendations - We suggest two options in relation to how this is handled within the context of the current marine licence application. One option is that this element of the marine licence application be deferred pending the outcome of negotiations on the agreed solution for this site and the Scheduled Monument, and for SMC to be obtained for that solution. Works would not be able to commence without SMC having been granted and it is likely that the Secretary of State for Culture, Media and Sport, who approves SMC applications, will require time to consider the application, given the degree of harm it will cause to the Scheduled Monument.

The second option is that MMO may alternatively wish to separate the Great Par North works into a different marine licence application, to allow the process of terrestrial planning permission and marine licencing to continue for the bulk of the proposals without undue delay. We would be pleased to discuss these options with MMO and the applicant.

Undesignated archaeological remains - Scilly has a unique historic environment through its progressive inundation by the sea over past millennia combined with the gradual sinking of the islands due to post-glacial isostatic rebound. This means that much of the marine and intertidal zones separating the five currently inhabited islands of Scilly were once land. As a result of this Scilly holds significant, submerged, relict prehistoric landscapes including settlements, field systems and ceremonial monuments in addition to an unusually rich maritime archaeological heritage. The beach/intertidal zones where the works will take place therefore have a high archaeological potential and it is incumbent upon the applicant to assess the potential impacts on this resource and propose an appropriate programme of archaeological works to offset any identified impacts.

Recommendations - should the MMO be minded to consent this marine licence application (with the exception of the Great Par North site described above) then Historic England recommends that the following conditions be attached to that licence in order to secure a programme of archaeological mitigation work in accord with SW Marine Plan policy SW-HER-1:

a) committing the applicant to commissioning a programme of archaeological impact assessment in advance of the commencement of works that would identify appropriate





archaeological responses to the various works packages. Historic England, in our role as archaeological curator for the marine archaeological resource under the National Heritage Act 2002 is willing to review and approve this archaeological impact assessment on behalf of MMO.

b) The archaeological impact assessment which will in turn inform Written Schemes of Investigation (WSI) for the archaeological mitigation works required at each site (if any are identified as being necessary by the impact assessment). We recommend that a further condition be applied requiring the applicant to prepare and submit these WSIs in advance of the commencement of works to Historic England for approval on behalf of MMO.

c) A third archaeological condition should be applied to the licence securing the publication and public dissemination of the results of the archaeological work within a timely manner. We suggest that an interim assessment report be prepared for approval within 12 months of the completion of the archaeological work, with full publication in an appropriate format within 24 months of completion of the archaeological work.

Relevant Policy Framework

South West Inshore and South West Offshore Marine Plan, July 2021

Policy SW-HER-1 - historic environment

This policy states that proposals that demonstrate they will conserve and enhance the significance of heritage assets will be supported. Where proposals may cause harm to the significance of heritage assets, proponents must demonstrate that they will, in order of preference:

- a) avoid
- b) minimise
- c) mitigate

- any harm to the significance of heritage assets. If it is not possible to mitigate, then public benefits for proceeding with the proposal must outweigh the harm to the significance of heritage assets.

Application of policy - with regard to the Scheduled Monument, clearly the process of understanding whether harm can be avoided or minimised is still underway and is unlikely to be established within the determination period of this licence consultation. Our recommendations above apply in considering how this significant issue is separated from the greater majority of proposed works that the applicant is seeking a licence for.





Historic England

With regard to undesignated archaeological remains, our recommended licence conditions are in accord with policy. The archaeological impact assessment is in accord with a) avoid and b) minimise, whilst the requirement for WSIs for archaeological work and appropriate and timely publication are in accord with c) mitigate.

We recognise that MMO may wish to discuss the advice and recommendations set out in this advice letter and we are ready and willing to engage with you towards their resolution.

Yours sincerely,

Phil McMahon

Phil McMahon
Inspector of Ancient Monuments
phil.mcmahon@HistoricEngland.org.uk

cc: Lisa Walton, Senior Planning Officer, Council of the Isles of Scilly
Ann Preston-Jones, Historic England



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