

Council of the Isles of Scilly Delegated Planning Report Other application

Application Number: P/23/021/COU

UPRN: 000192002868

Received on: 23 March 2023

Valid on: 27 March 2023

Application Expiry date: 22 May 2023

Neighbour expiry date: 17 April 2023

Consultation expiry date: 19 April 2023

Site notice posted: 30 March 2023

Site notice expiry: 20 April 2023

Applicant: Gavin Heald Gav's Fish and Chips
Site Address: Land at Troy Town Farm
Troy Town
St Agnes
Isles Of Scilly

Proposal: Change of use of agricultural land for the storage and operation of a mobile hot food catering trailer.

Application Type: Change of Use

Recommendation: Permit

Summary Conditions:

1. Standard time limit
2. Adherence to plans
3. Personal permission

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 Marcus

Date: 15/05/2023

Site Description and Proposed Development

This application is for the change of use of existing agricultural land to use for the storage and operation of a 3.4m long, 2m wide and 2.4m high catering trailer selling locally sourced fish and chips, meat, fresh fish and other local produce. The site is part of the Troy Town Farm agricultural holding on part of a triangle of land between the campsite, the access track to the campsite entrance and a hedge bounding the east behind which is a track leading to Periglis. The site is on the same land as the campsite picnic area near to the toilet block and is also close to Sea View House, Troy Town Farmhouse and the farm shop which all form part of the farm use. The current use is for the storage of camping and farming equipment, kayaks and boats.

The wheeled trailer unit is constructed of a galvanized steel chassis and frame covered with arch shaped glass reinforced plastic panels which would be a light blue in colour. The unit would be powered by electric from the campsite toilets for the fridge, freezer, extraction and lighting, gas bottles to power the fryers and cooking equipment and waste water and solid waste contained and disposed of using local facilities or existing farm/campsite drainage.

The unit would be located up against and screened from the east by a 2.5m high hedge with the plot of land then falling away to the west with picnic tables and then the campsite. This is where it would be stored and operated between the months of April and October. Planned opening hours would be for up to 3 lunchtimes (11:30 – 14:30) and 3 evenings (17:45 – 20:30) a week spread over 4 days and one potential breakfast opening (08:30-10:00) on a Saturday. Two days of the week there would be no operations. Preparation and clearing down would take up to 1.5hrs either side of these operational hours.

Certificate: B

Other Land Owners:

- Tim Hicks, Troy Town Farm – Agricultural Tenant
- Sam Hicks, Troy Town Farm – Agricultural Tenant
- Duchy of Cornwall – Freehold Owner

Consultations and Publicity

The application has had a site notice on display for 21 days (30/03/2023–20/04/2023). The application appeared on the weekly list on 3rd April 2023.

External consultations:

Consultee	Date Responded	Summary
Environmental Health	19/04/2023	No objections from Environmental Health. Applicant confirmed that no generator will be used to power the mobile catering unit. General operational noise to be monitored by the applicant to ensure that any potential disturbances to the residential area are minimised.

Representations from Residents:

Neighbouring properties written to directly:

- Sea View House, Troy Town
- The Flat, Troy Town Farm
- Troy Town Farm

[0] letters of objection have been received.

[0] letters of support have been received.

[0] letters of representation have been received.

Relevant Planning History:

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

Constraints:

- Conservation Area
- Area of Outstanding Natural Beauty
- Heritage Coast
- Archaeological Constraint Area – Castella Downs – 40m
- Scheduled Monument – Prehistoric field system and post -medieval breastwork and maze on Castella Down – 75m

- St Agnes Flood Prone Land – 60m

Planning Assessment

Design	YES OR NO
Would the proposal maintain the character and qualities of the area in which it is proposed?	YES
Would the proposal appear in-keeping with the appearance of the existing street and area?	YES
Would the materials, details and features be consistent with the general use of materials in the area?	YES
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?	YES
Is the parking and turning provision on site acceptable?	YES
Would the proposal generally appear to be secondary or subservient to the main building?	YES

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

Heritage	YES OR NO
Would the proposal sustain or enhance the character and appearance of the Conservation Area?	YES
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	NO
Other Impacts Does the proposal comply with Highways standing advice such that it does not adversely affect highway safety?	YES
Impact on protected trees a) Will this be acceptable	N/A

b) Can impact be properly mitigated?	
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?	N/A
Does the proposal conserve and enhance the landscape and scenic beauty of the AONB	YES
Are the Water connection/foul or surface water drainage details acceptable?	YES
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	NO

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

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

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

* Although the site is close to the land within Flood Zone 3, it is sufficiently elevated and

falls within Flood Zone 1. The proposal is a change of use only and the vehicle being proposed for the site, during the summer season, can be wheeled out of the way should a flooding event occur. Flood prone land is further to the north, north west coast line and does not impact upon 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/imposed conditions to enable the grant of planning permission.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and with Sections 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	

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 Location Plan**
- **Plan 2 Block Plan**
- **Plan 3 Proposed Structure**
- **Plan 4 Proposed Structure Elevations**
- **Plan 5 Opening Times**
- **Plan 6 Planning Statement and Proposal**

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 The use hereby permitted shall be carried out only by Gavin Heald for the purposes of the catering unit as Gav’s Fish and Chips, as set out in the application and shall be discontinued on the date when Gavin Heald ceases to operate the catering unit on this land.

Reason: The operation of the use in a different way could lead to unacceptable impacts on the locality, and would need further assessment in accordance with Policies OE1 and OE7 of the Isles of Scilly Local Plan (2015-2030).

Print Name:	Lisa Walton	22/05/2023
Job Title:	Chief Planning Officer	
Signed:		
	Authorised Officer with Delegated Authority to determine Planning Applications	