

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

**Application Number:** P/24/088/HH

**UPRN:** 000192000713

**Received on:** 5 November 2024

**Valid on:** 19 November 2024

**Application Expiry date:** 14 January 2025

**Neighbour expiry date:** NONE CONSULTED

**Consultation expiry date:**

**Site notice posted:** 22 November 2024

**Site notice expiry:** 13 December 2024

**Case Officer:** LISAW

**Applicant:** Mr Richard Tudor

**Site Address:** 2 Silver Street

Hugh Town

St Mary's

Isles Of Scilly

TR21 0PZ

**Proposal:** Replacement of rear extension window with new door

**Application Type:** Householder

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**Recommendation:** PER

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## **Summary Conditions:**

1. Standard time limit (3 years)
2. In accordance with the approved plans
3. Submission of details of instructions for flood boards
4. Hours of Construction

## 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: 12/12/2024

## Site Description and Proposed Development

Certificate: A

Other Land Owners: None

### Consultations and Publicity

The application has had a site notice on display for 21 days (22/11/2024 – 25/11/2024). The application appeared on the weekly list on 5<sup>th</sup> October 2020. Due to the nature of the proposal **two** consultations have been required on the basis that the site lies within Flood Zone 3:

Consultee	Date Responded	Comments
Lead Local Flood Authority	16/01/2025	<p>The proposal is to remove the existing window on the east elevation of the property and replace this with a fire door; remove the kitchenette and replace with a sitting room.</p> <p>The Flood Risk Assessment (FRA) contained within the planning application states that the site is located within Flood Zone 3 – High Flood Risk and all three access doors will have removable flood gates.</p> <p>It is agreed that 2 Silver Street is located within Flood Zone 3 – High Flood Risk Zone.</p> <p>Since the application refers to a replacing a window with a door, this would be described as Minor development – “alterations to an existing building which do not increase the size of the building” but in an area with a high risk of flooding a FRA is required</p> <p>Full Comments available online</p>

	14/02/2025 Following submission of applicant Response to initial comments	<p>I have reviewed the supplied information provided by the applicant and that the consultant has deemed that a detailed FRA would be disproportionate to the development. This is disagreed. The proposal is to remove an external window and replace this with a 3 point lock UPVC door, which would provide another fire access into the rear courtyard. The new access from the rear extension will be into the rear courtyard to which the property has a right of access over. Even though this door is to the rear courtyard and not directly onto Silver Street, Flood water on Silver Street would still flow into the rear courtyard until it finds its own level.</p> <p>New mapping has been provided by the Environment Agency and it provides the yearly chance of flooding for surface water and rivers and sea for the present day and between year 2040 and 2060. They also now provide the likely flood depths in the area for the same sources and return periods. It would not be too onerous for the consultant to review these maps and update the Council on what the yearly chance of flooding for present day and between 2030 and 2060 as well as the corresponding flood depths for both surface water and rivers and sea.</p> <p>The points raised in the response are valid. The application states that there will be flood gates provided on all 3 doors, which has been accepted will improve the overall flood resilience for the property. However, there is no detail on the likely flood depths, the specification of these gates, where they will be stored, how and by whom these gates will be erected – this is particularly important if the property is a holiday let and all ongoing future maintenance. If it is found that flood gates are problematic, perhaps other forms of flood resilience could be proposed?</p> <p>There would need to be a condition so that all approved flood resilience measures remain with the property, with full operation and maintenance instructions if the property is brought to the market to be sold.</p>
<b>Cornwall Fire and Rescue</b>	10/12/2024	The Fire Authority have no adverse comments to make regarding the application.

#### Representations from Residents:

Non

#### Relevant Planning History:

No planning history relevant under the adopted Local Plan but planning history of relevant approvals prior to this, includes:

P/07/072: Extension and refurbishment to the annex (rear of) 2 Silver Street

P/11/072/FUL: Replacement of redundant window and tile hanging to existing bin store adjacent to 1 Porthcressa View with rendered blockwork and minor amendment to gable wall of extension to 2 Silver Street.

#### Constraints:

- Conservation Area
- Area of Outstanding Natural Beauty
- Heritage Coast
- Flood Zone 3
- Listed Buildings Adjacent: Bishop and Wolf GII

#### 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
Is the scale proposed in accordance with NDSS	n/a
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
Heritage	YES OR NO
Would the proposal sustain or enhance the character and appearance of the Conservation Area?	y

<b>If within the setting of, or a listed building,</b>	y
a) <b>Will the development preserve the character and special architectural or historic interest of the building?</b>	
b) <b>Will the development preserve the setting of the building?</b>	
<b>Within an Archaeological Constraint Area</b>	n
<b>Other Impacts</b>	n/a
<b>Does the proposal comply with Highways standing advice such that it does not adversely affect highway safety?</b>	
<b>Impact on protected trees</b>	n/a
<b>Will this be acceptable</b>	
<b>Can impact be properly mitigated?</b>	
<b>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?</b>	n/a
<b>Does the proposal conserve and enhance the landscape and scenic beauty of the AONB</b>	y
<b>Are the Water connection/foul or surface water drainage details acceptable?</b>	n/a
<b>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?</b>	y
<b>Are there external lights</b>	n
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<b>Protected Species</b>	<b>YES OR NO</b>
<b>Does the proposal include any re-roofing works or other alteration to the roof</b>	n
<b>Does the proposal include any demolition</b>	n
<b>Does the proposal include tree or hedge removal</b>	n
<b>Is an assessment of impact on protected species required</b>	n
<b>Has an assessment been provided that adequately assesses the site and includes mitigation, enhancement and timing requirements</b>	n
<b>Are biodiversity enhancement measures required</b>	n
<b>Is a condition required to provide biodiversity enhancement measures</b>	n
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<b>Waste Management</b>	<b>YES OR NO</b>
<b>Does the proposal generate construction waste</b>	n/a
<b>Does the proposal materially increase the use of the site to require additional long-term waste management facilities</b>	n/a

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

### **Analysis:**

**Principle of Development:** As a single residential property the principle of alteration or extension is acceptable under Part 1 of Policy LC8 of the Local Plan. This seeks to ensure that a) The size, siting and design, as well as the use of materials, of the proposal would not be more visually intrusive in the landscape or have a harmful impact upon the amenity of neighbouring properties.

Given the nature of the change of a window to a door, located within an enclosed courtyard, I consider the proposal would not give rise to any neighbour impact or harm to the wider character of the conservation area. The proposed door would appear to be in keeping with this modern extension. No further assessment on the wider street scene, neighbouring amenity is required.

No impact upon wildlife, trees or hedges and no likely impact upon protected species will arise. No further assessment on biodiversity or geodiversity is required.

The property joins a Grade II Listed Building and as such has the potential to impact the setting. However, the proposal to change a window to a door on an elevation that is not visible from the listed building, on a modern extension is not considered to impact the setting or special character of this adjoining building. No further assessment is required.

The property does sit within Flood Zone 3 as defined by the Flood Maps of the Environment Agency and within an area with a high probability of flooding from tidal ingress (as opposed to fluvial flooding from a river). The Isles of Scilly are generally at a higher risk of flooding due to their low-lying nature and proximity to the sea and Hugh Town, being largely at sea level. Overall, the proposal should align with Policy SS7 by incorporating appropriate flood risk management and sustainable drainage measures to ensure it does not adversely affect the surrounding area. A Flood Risk Assessment, proportionate to the level of development proposed, is required by Part 1) and 1)a also requires appropriate

mitigation and recovery measures to be undertaken to ensure no significant adverse impact on human health or the natural and built environment as well as cultural heritage.

The applicant has been asked, on the basis that the property is let out as a holiday let, as opposed to having one household, to consider a flood proof door. The creation of a larger opening does increase the chances of the property being flooded and whilst the installation of flood boards is a key method to prevent the ingress of water, there is the potential for holiday-makers to be unaware of this procedure.

The applicant has responded with a suggestion that instructions for action in the event of flooding can be added to the property visitor manual. Although these specific instructions have not been submitted, I consider a suitably worded condition to require these to be submitted would ensure future occupants of the property have clear instructions available on installing flood protection measures. Subject to this I consider the proposal would not give rise to significant risks for occupants during times of flooding.

Overall the works are relatively minor, they will not impact upon the privacy or amenity of neighbouring property or the setting of the adjacent listed building. I consider there will be a neutral impact upon the wider character of the conservation area. Subject to the above condition to submit details of flood board installation being provided and subsequently displayed within the property, I consider the proposal to be acceptable.

**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 permission to be granted. This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004. This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and with Section 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	

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.

**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:**

- **Plan 1 Location Plan**
- **Plan 2 Block Plan**
- **Plan 3 Existing and Proposed Plans**
- **Plan 4 Proposed Door Details**
- **Plan 5 Design and Access Statement**
- **Plan 6 Site Waste Management Plan**

**These are stamped as APPROVED**

Reason: For the clarity and avoidance of doubt and in the interests of the character and appearance of the [Listed Building and] Conservation Area, Area of Outstanding Natural Beauty and Heritage Coast in accordance with Policy 1 of the Isles of Scilly Local Plan 2005.

**POST-COMPLETION CONDITION: Submission of Visitor Instructions for**

## **Flood Boards**

- C3 Within 3 months of the development hereby permitted, being completed, a copy of the property visitor manual and signage with respect to instructions of flood board installation, shall be submitted to and approved in writing by the Local Planning Authority. These shall thereafter be kept up to date and remain on display within the property during times of occupation.**

Reason: To minimise risks to users of the development during times of flooding.

- C4 No construction plant and/or machinery shall be operated on the premises, as part of the implementation of this permission, before 0800 hours on Mondays through to Saturdays nor after 1800 hours. There shall be no works involving construction plant and/or machinery on a Sunday or Public or Bank Holiday.**

Reason: In the interests of protecting the residential amenities of the islands.

## **Further Information**

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 creative way, in accordance with paragraph 39 of the National Planning Policy Framework 2024.
2. 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 or the submission of a full planning application for a revised scheme. Please discuss any proposed amendments with the Planning Officer. There is a fee to apply for a non-material amendment and the most up to date fee will be charged which can be checked here: [https://ecab.planningportal.co.uk/uploads/english\\_application\\_fees.pdf](https://ecab.planningportal.co.uk/uploads/english_application_fees.pdf)
3. 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 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)
4. 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).
5. Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements are considered to apply. These can be found in the legislation. The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that, unless an exception or a transitional arrangement applies, the planning permission granted for the development of land in England is deemed to have been granted subject to the condition ("the biodiversity gain condition") that development may not begin unless:  
(a) a Biodiversity Gain Plan has been submitted to the planning authority, and  
(b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan in respect of this permission would be the Planning Department at the Council of the Isles of Scilly.

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<b>Print Name:</b>	Lisa Walton	02/04/2025
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<b>Job Title:</b>	Chief Planning Officer
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<b>Signed:</b>
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Authorised Officer with Delegated Authority to determine Planning Applications
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