

# Council of the Isles of Scilly

## Delegated Planning Report

### Other application

**Application Number:** P/25/018/ROV

**UPRN:** 000192002798

**Received on:** 20 February 2025

**Valid on:** 12 March 2025

**Application Expiry date:** 11 June 2025

**Site notice posted:** 13 March 2025

**Site notice expiry:** 3 April 2025

**Extension of Time:** 27/06/2025

**Applicant:** Cornwall Community Land Trust

**Site Address:** Land To North Of Ennor Farm  
Old Town Lane  
Old Town  
St Mary's  
Isles Of Scilly

**Proposal:** Application to vary condition C9 (Principle Residents Condition) of planning permission P/21/002/OUT (Outline planning application for 12 detached and semi-detached self-build homes with appearance as a reserved matter (Major Development) (Amended Plans)) to change the trigger point for entering a S106.

**Application Type:** Removal or Variation of Condition

**Recommendation:** Permit the variation of condition C9

**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 – already approved in Outline at FC
- Not a departure from the Development Plan ✓
- Not Called in ✓

**Lead Member Planning Agreed**

Name: Cllr D Marcus

Date: 07 May 2025

**Site Description and Proposed Development**

This site has outline planning permission (P/21/002/OUT) for 12 self-build homes, where all matters were approved except for *appearance*. A reserved matters application (P/24/027/REM) was submitted on the 26 March 2024 but remains undetermined as the time of writing this report. This is on the basis that the Council of the Isles of Scilly remains the owner of the land and as such condition C9 cannot be complied with, as it requires the self-build homes to be subject to a single or 12 individual Section 106 Legal Agreements (S106). As the Local Planning Authority is part of the Council of the Isles of Scilly, it is not possible to enter into a S106 until the land has been transferred to Cornwall Community Land Trust.

This application is to vary condition C9 in order to progress with approval of the *appearance* of the 12 self-build homes.

**Certificate:** B

**Other Land Owners:** Council of the Isle of Scilly

**Consultations and Publicity**

The application has had a site notice on display for 21 days (13/03/2025 – 03/04/2025). The application appeared on the weekly list on [19 May 2025](#). Due to the nature of the proposal no external consultations are required.

**Representations from Residents:**

None

**Relevant Planning History:**

The only relevant planning history is the granting of outline planning permission P/21/002/OUT which was March 2021. The full council report can be read online: <https://committees.scilly.gov.uk/documents/g1167/Public%20reports%20pack%2>

**Constraints:**

- Conservation Area
- Area of Outstanding Natural Beauty
- Heritage Coast
- Dark Sky Discovery Site: St Mary's The Garrison Milky Way Class with hosted events
- Scheduled Monument: Ennor Castle

**Planning Assessment**

It is important to note that it is not possible to progress with the Reserved Matters application until either the land is transferred to individual self-builders or the Cornwall Community Land Trust, as applicant. The proposal to remove entirely condition C9, which currently requires the entering into a S106, prior to the granting of the Reserved Matters, would allow the development to proceed, but would not secure essential in-perpetuity restrictions to retain the homes for local need. As it remains local policy to require new homes to be secured in perpetuity for local need, I consider that, rather than remove the condition, it would be acceptable to vary the condition to require a S106 to be entered into before development commences on any plot. Variation of the condition C9 is acceptable as it would ensure the homes are controlled for local need.

**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 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	

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.

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**Print Name:** Lisa Walton

27/06/2025

**Job Title:** Chief Planning Officer

**Signed:** 

Authorised Officer with Delegated Authority to determine Planning Applications

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### **Recommended Removed/Varied Condition C9:**

As issued in P/21/002/OUT:

#### **Principal Residence Condition**

**C9** The dwelling houses [at plot numbers: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 Inclusive], hereby approved, shall not be occupied otherwise than by persons as their only or principal homes and the occupants shall supply to the Local Planning Authority (within 14 days of the Local Planning Authority's request to do so) such information as the Local Planning Authority may reasonably require in order to determine compliance with this condition. For the avoidance of doubt the dwelling(s) shall not

**be occupied as second homes or as units of holiday letting accommodation and a Section 106 (S106) legal agreement shall be entered into by those with an interest in any of the plots, before the Reserved Matters application can be granted.**

Reason: To ensure that new housing stock is prevented from being used as a second or holiday home to help maintain the social wellbeing of communities in accordance with Policy 3 the adopted Isles of Scilly Local Plan (2005) and Policy LC2 of the emerging Isles of Scilly Local Plan (2015-2030)

Recommended variation:

#### **Principal Residence Condition**

**C9** The dwelling houses [at plot numbers: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 Inclusive], hereby approved, shall not be occupied otherwise than by persons as their only or principal homes and the occupants shall supply to the Local Planning Authority (within 14 days of the Local Planning Authority's request to do so) such information as the Local Planning Authority may reasonably require in order to determine compliance with this condition. For the avoidance of doubt the dwelling(s) shall not be occupied as second homes or as units of holiday letting accommodation and a Section 106 (S106) legal agreement shall be entered into by those with an interest in any of the plots, ~~before the Reserved Matters application can be granted.~~ **prior to the commencement of any of the dwellings.**

Reason: To ensure that new housing stock is prevented from being used as a second or holiday home to help maintain the social wellbeing of communities in accordance with Policy LC2 of the emerging Isles of Scilly Local Plan (2015-2030)