

**Planning Committee**

28 June 2012

**Reference:**  
**APP/12/00253**

**Area Team:**  
**North Team**

**Case Officer:**  
**Mr. M Rushton**

**Ward:**  
**West Kirby and  
Thurstaston**

**Location:**  
**Proposal:**

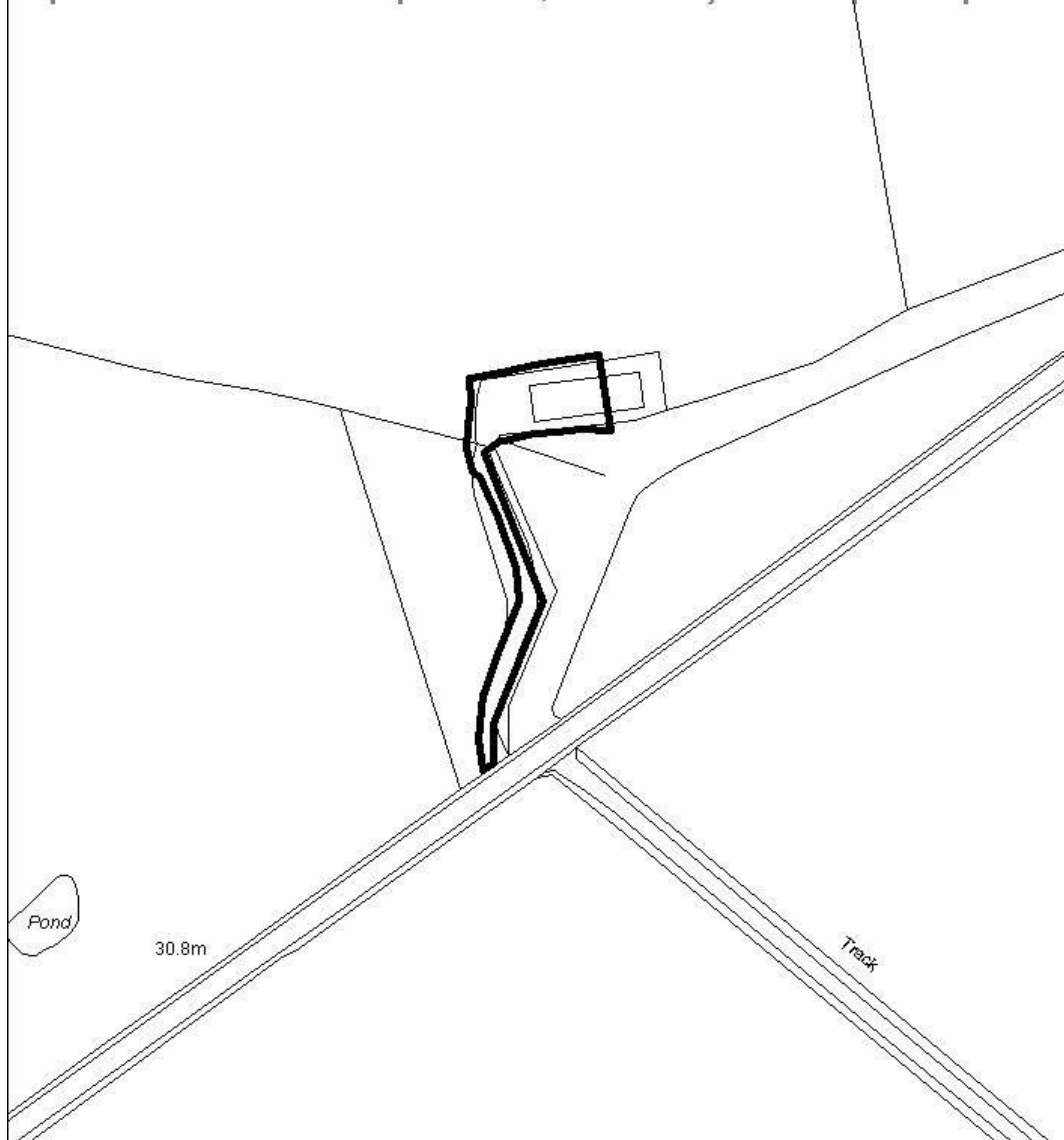
Whites Farm Shop, STATION ROAD, THURSTASTON, CH61 0HN  
Change of use to mixed use comprising farm shop and associated  
cafe (resubmission of ref: App 10/01234)

**Applicant:**  
**Agent :**

Whites Farm Ltd  
N/A

**Site Plan:**

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**Development Plan Designation:**  
Area of Special Landscape Value

Green Belt

**Planning History:**

APP/2001/07351 – Erection of an agricultural building – Refused 26/01/02

APP/2002/5752/D – Erection of an agricultural building – Approved conditionally 28/06/02

APP/2007/07359 – Retention of agricultural building and yard – Refused 01/08/08

APP/2010/00693 - Change of use of part of existing farmshop for the sale of light refreshments-  
Withdrawn

APP/2010/01234 - Change of use of part of existing & farm shop for sale of light refreshments –  
Refused 01/02/2011

**Summary Of Representations and Consultations Received:**

**REPRESENTATIONS**

Having regard to the Council's adopted Guidance on the Publicity of Planning Applications, a total of 11 letters were sent to neighbouring properties. 12 letters of opposition have been received from 11 properties, the grounds of opposition can be summarised as follows:

1. The proposal constitutes inappropriate development in the Green Belt for which very special circumstances are not demonstrated;
2. The development would have a detrimental impact to an Area of Special Landscape Value;
3. There is insufficient information provided regarding income from the farm shop – that provided is estimated and does not constitute fact;
4. There is no additional need in the local area for the sale of refreshments. There are already several outlets, and as a consequence the benefits of the change of use to the farm would be limited;
5. The owner has chosen to ignore planning procedure in the past, and has had to remove tables and chairs from the area surrounding the site, as well as a disused fire engine. There is concern that such structures would appear again, particularly given the indications of 'container planting' and fencing, to the detriment of an area of special landscape value;
6. Previous applications in relation to the site have been based on a Pick Your Own enterprise, which do not appear to have come to fruition, and are ignored in the figures provided with this application;
7. The planning application form has not been fully or correctly filled in and this invalidates the application;
8. Condition 5 of the grant of permission APP/2002/5752/D precludes the sale of refreshments at the site;
9. Concern at the potential impact to Barn Owls, which roost and nest in close proximity to the application site and are afforded the highest protection under wildlife law;
10. Planning Policy Statement 7 would not support the proposal, given the existing facilities meeting needs;
11. A right turn into the site from Station Road is hazardous;
12. The site has not been maintained or repaired since the festival held in 2010;
13. Concern that the café would, in time, operate independently to the farm shop, and the farm itself;
14. Potential for noise pollution from the installation of cooking equipment and extractor fans;

**CONSULTATIONS**

Wirral Society – The application is the same as that submitted previously, and whilst financial figures are now submitted, they are projections, and clearly show that the bulk of the business is trade sales rather than retail. It is not clear if toilet facilities form part of the proposal or currently exist. The proposal was originally in support of a Pick Your Own enterprise, and conditions were imposed to restrict the sale of refreshments – there is no clear logic for a removal of that condition. Generally, concern is expressed at any extension to the current use that will further impact to the Green Belt.

Irby, Thurstaston and Pensby Amenity Society – formally object on the following grounds (summarised): inappropriate development in the Green Belt; conflict with the character of the Area of Special Landscape Value; threat to wildlife; conflict with previous planning department ruling. Should the Planning Committee be minded to grant planning permission, ITPAS would wish that opening hours be restricted to daytime hours, customer tables restricted to the inside of buildings and 'light refreshments' defined and restricted to farm produced food only.

Director of Technical Services (Traffic Management) – the existing access onto Station Road is inadequate and has short sightlines. Concerns are expressed at any intensification of use of the access, which would be detrimental to highway safety, particularly at times when traffic volumes on Station Road are higher than normal. Therefore a condition is requested to ensure that access is acceptable to cater for the potential intensification of use arising from the improved offer that the sale of light refreshments would represent, including: widening to allow two vehicles to enter and exit at the same time; sight lines of 2.4m x 45m onto Station Road; location and details of the access gate, and; space to be kept available within the site to allow vehicles to turn so as to enter and exit in a forward gear.

Director of Law, HR and Asset Management (Environmental Protection) – no objection

Wirral Wildlife – it is unlikely that daytime use will impact directly to barn owls, but a condition should be applied to restrict closing to 6.30pm or dusk, whichever is earlier.

**Director's Comments:**

**REASON FOR REFERRAL TO PLANNING COMMITTEE**

Councillor Elderton requested this application be removed from delegation and considered by the Planning Committee following representations he has received from local residents that there is insufficient evidence to warrant consideration of very special circumstances for this development in the Green Belt, and given conflict with the conditions imposed to the grant of planning permission APP/02/05752 at the site.

**INTRODUCTION**

The application site is an agricultural building erected off Station Road, Thurstaston. Whilst permission was granted for an agricultural building in 2002, the building was not built in accordance with the application drawings. That said, the building was completed more than 7 years ago, and as such is immune from enforcement action.

The use of the building was the subject of an enforcement appeal, ref: APP/W3425/C/07/2042075 in December 2007. At that point, the Inspectorate considered that a material change of use of the building had not taken place, because the building, whilst not being used for a Pick-Your-Own function previous outlined by the applicant, was being used for the sale of produce from Lee Farm and Dawpool Farm. It was concluded that the sale of imported goods was likely to be 3-4% of total sales, and could therefore be considered *de minimis*. As such, the use of the site remains agricultural – the process and sale of produce from the farms is ancillary to that use.

The current application would seek to vary that use, to allow mixed use of the building as a (continued) farm shop and an associated cafe (Use Class A3). The submitted plans and application form would restrict the cafe area of some 46 square metres, approximately 15% of the overall floorspace. It is outlined that refreshments would include hot and cold beverages, sandwiches and batches filled with farm-produced meats, together with a variety of cakes and biscuits.

**PRINCIPLE OF DEVELOPMENT**

The site and surroundings lie within the Green Belt. The NPPF establishes the purposes of Green Belt land, and defines inappropriate development. The proposal is for a change of use which constitutes development - the statutory definition of development includes the making of any material change in the use of land. The making of material changes in the use of land are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt. There is a general presumption against inappropriate development in the Green Belt, which is, by definition, considered harmful in such locations. Very special circumstances must be demonstrated if such development is to be approved.

In considering whether very special circumstances might be demonstrated, it should be noted that the National Planning Policy Framework (NPPF) sets a supportive context for farm diversification, requiring (at Part 6) planning policies to support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong

rural economy, local and neighbourhood plans should: support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings, and; promote the development and diversification of agricultural and other land-based rural businesses.

The NPPF also makes it clear that the extension, alteration or replacement of a building is not inappropriate development - provided that the buildings are of permanent and substantial construction. Similarly, UDP Policy GB3 outlines that permission will be granted for the re-use of existing buildings in the Green Belt, subject to criteria including: (iii) the buildings are of permanent and substantial construction, and are capable of conversion without major or complete reconstruction; (iv) the form, bulk and general design of the buildings are in keeping with their surroundings.

In this instance, the building is not considered to be of permanent and substantial construction. As such, the principle of development is not acceptable under UDP Policy GB3, and very special circumstances must be demonstrated. Part 9 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

### **SITE AND SURROUNDINGS**

The application site is part of Dawpool Farm, and is within a building adjacent to Station Road. There is a small copse and rough land adjoining the site. To the north east there is a residential property, Copperfields, whilst the land remains open to the south, west and east.

### **POLICY CONTEXT**

As noted above, the NPPF, and UDP Policy GB2 require demonstration of very special circumstances if inappropriate development is to be permitted. In this instance, the use of the majority of the building would be retained as a farm shop, retaining its agricultural use (with no change of use proposed). Conditions might be imposed to ensure this. It is important to note that the premises does not benefit from an A1 retail use, as was initially indicated in the planning application submitted by the applicant. The proposal is that a portion of the building would change in use from agricultural use to use as a café, selling refreshments in order to diversify the offer at the farms and draw new custom into the farm shop.

The planning statement submitted outlines that there is 'excess' sales area within the farm shop, and that the proposal would both encourage retention of customers, and ensure a longer more leisurely visit. A financial appraisal has also been submitted, which outlines the applicant's very special circumstances – namely that it is necessary to increase the profitability of the shop to ensure the survival of White's Farm and that staff retention depends upon the proposal in the current economic climate. Whilst accounting records initially submitted were not particularly clear in their conclusions, latterly accounts have been submitted for the farm itself, to support the contention that there is a requirement for diversification at the farm – i.e. that the agricultural business is dependent on the proposal put forward. The accounts, drafted by Duncan Boxwell and Company Chartered Accountants, must be treated confidentially and have not been part of the public consultation on the planning application, but the accounts and synopsis make it clear that the farm has operated at a loss for a number of years. This information had not previously been demonstrated in support of the development put forward, but it is considered that it provides the evidence which can be considered the very special circumstances required to support inappropriate development in the Green Belt.

It is also a material consideration that the proposal would be for a change of use within an existing building, and to a small area of that building. As such the harm to the Green Belt (beyond that by reason of inappropriateness), would be limited.

The application site also falls within land designated by the Unitary Development Plan under Policy PA2 as an Area of Special Landscape Value (ASLV). UDP Policy LA1: Protection for Areas of Special Landscape Value applies, and states that the Local Planning Authority will protect the character and appearance of areas designated as ASLV from the adverse effects of development and will not permit proposals which would: (i) introduce new intrusive development within an otherwise open setting, especially along a prominent skyline or along the undeveloped coast; or (ii) result in the loss or erosion of distinctive landscape features; and (iii) other proposals which, in terms of their siting, scale,

form and external appearance, would detract from the appearance of the Area or intrude within important views into or out of the Area. Similarly, the Council's adopted Landscape Character Assessment notes for the Dee Coastal Farmland areas, that any development which rose above the tree line or was visible on the skyline would not be consistent with the landscape character as built form is rarely visible on the skyline.

The proposed development is not considered to conflict with UDP Policy LA2 or the Character Assessment – no new built development would be introduced, and as such the open setting of the Dee Estuary in this location would not be affected, nor would distinctive landscape features be impacted to the detriment of the ASLV.

Lastly, consideration has been given to UDP Policy NC7: Species Protection, given the information provided that the area is important for Barn Owls. The policy makes it clear that development that would have an adverse effect on wildlife species protected by law will not be permitted unless the Local Planning Authority is satisfied that the protection of the species can be secured through the use of planning conditions and/ or planning obligations. In this case, the application site itself is not important for a protected species, rather the surrounding land. It is considered that a suitably worded planning condition restricting opening hours can ensure that the mixed use proposed does not negatively impact to Barn Owls nesting in the vicinity.

### **APPEARANCE AND AMENITY ISSUES**

As noted above, the proposed change of use would have little impact to the openness of the Green Belt, being restricted to an existing agricultural building which is immune from enforcement action. It is considered that there is evidence in support of the contention that the proposed use would promote the diversification of an agricultural enterprise, and thereby assist in sustaining an appropriate use of land in the Green Belt. This evidence of the benefit of the proposal in support of a wider Green Belt purpose is considered to constitute very special circumstances, consistent with the provisions of the National Planning Policy Framework and UDP Policy GB2.

### **SEPARATION DISTANCES**

Separation distances are not relevant to this type of application.

### **HIGHWAY/TRAFFIC IMPLICATIONS**

The Director of Technical Services (Traffic Management), whilst raising no objection to the proposed development, has advised that the existing access onto Station Road is inadequate and has very short sightlines. Given that the development may increase use of that access, it is considered that a condition is required to secure details of works to widen the access, including: widening to allow two vehicles to enter and exit at the same time, sight lines of 2.4m by 45m onto Station Road, details of the access gate to Station Road, and the retention of open space to allow vehicles to turn within the site.

It is important that any such scheme of works is carefully conceived – so as to ensure that the upgrade for highway safety does not affect rural character and conserves or replaces the extent of existing hedgerow.

### **ENVIRONMENTAL/SUSTAINABILITY ISSUES**

There are no environmental/sustainability issues relating to these proposals.

### **HEALTH ISSUES**

There are no health implications relating to this application.

### **CONCLUSION**

Information has been provided to demonstrate that the proposed change of use is necessary to support the diversification of an agricultural use of land. Consequently, it is considered that there has been demonstration of the very special circumstances required to support inappropriate development in the Green Belt. The development is thereby consistent with to UDP Policies GB2, GB3, and the National Planning Policy Framework.

### **Summary of Decision:**

Having regards to the individual merits of this application the decision to grant Planning Permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national and regional policy advice. In reaching this decision the Local Planning Authority has considered the following:-

Information has been provided which is considered to demonstrate that the proposed change of use is necessary to support the diversification of an agricultural use of land. Consequently, it is considered that there has been adequate demonstration of the very special circumstances required to support inappropriate development in the Green Belt. The development is thereby consistent with UDP Policies GB2, GB3, and the National Planning Policy Framework.

**Recommended Decision:            Approve**

**Recommended Conditions and Reasons:**

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

**Reason:** To comply with Section 91 (as amended) of the Town and Country Planning Act 1990.

2. The café hereby permitted shall be closed between 18.30 hours or dusk (whichever time is earlier), and 07.00 hours. For the avoidance of doubt dusk shall be defined as 30 minutes before sunset.

**Reason:** Having regard to residential amenity and the importance of the surrounding areas as breeding and foraging habitat for barn owls, having regard to UDP Policies NCO1 and NC7.

3. No materials or equipment shall be stored on the site other than inside the building.

**Reason:** In the interests of the amenity and the character of the area, having regard to UDP Policy LA2.

4. This permission shall enure for the benefit of the occupier(s) of the agricultural holding known as Whites Farm only, and the farm shop and cafe shall not be operated separately from Whites Farm.

**Reason:** Having regard to the location and the purpose of the development and its direct links to the farm it would not be appropriate to be operated separately pursuant to Policies AG1, GB2, GB3, SPD3 and the National Planning Policy Framework.

5. The farm shop hereby permitted shall not be used for the sale of any other items other than produce from the agricultural holding referred to in the application. The cafe use (Use Class A3) hereby permitted shall not exceed 46 square metres (gross) of floorspace as indicated in plan reference PWH-10-WF1-Rev A received by the Local Authority on the 27th February 2012.

**Reason:** To define the permission, and having regard to the provisions of UDP Policies AG1, GB2 and GB3.

6. Prior to the commencement of development details of works to improve the access onto Station Road, including:

- widening to allow vehicles to enter and exit at the same time;
- sight lines of 2.4m by 45m onto Station Road;
- location and details of the access gate;
- space to be kept availability to allow vehicles to turn within the site so as to enter and

exit in a forward gear,  
shall be submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details prior to the first use of the mixed use hereby permitted.

**Reason:** In the interests of pedestrian and highway safety.

7. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 27th February 2012 and listed as follows: PWH-10-WF1-Rev A dated 18th May 2010.

**Reason:** For the avoidance of doubt and to define the permission.

**Further Notes for Committee:**

1. Consent under the Highways Act is required for the construction of a new or the amendment/removal of an existing vehicular access. Such works are undertaken at the developer's expense, including the relocation and/or replacement of street furniture as necessary. Please contact the Council's Highway Maintenance team on 0151 606 2004 prior to the commencement of development for further information.

**Last Comments By:** 19/04/2012 16:07:26

**Expiry Date:** 23/04/2012