

**Planning Committee**

30 May 2013

**Reference:**  
**APP/13/00330**

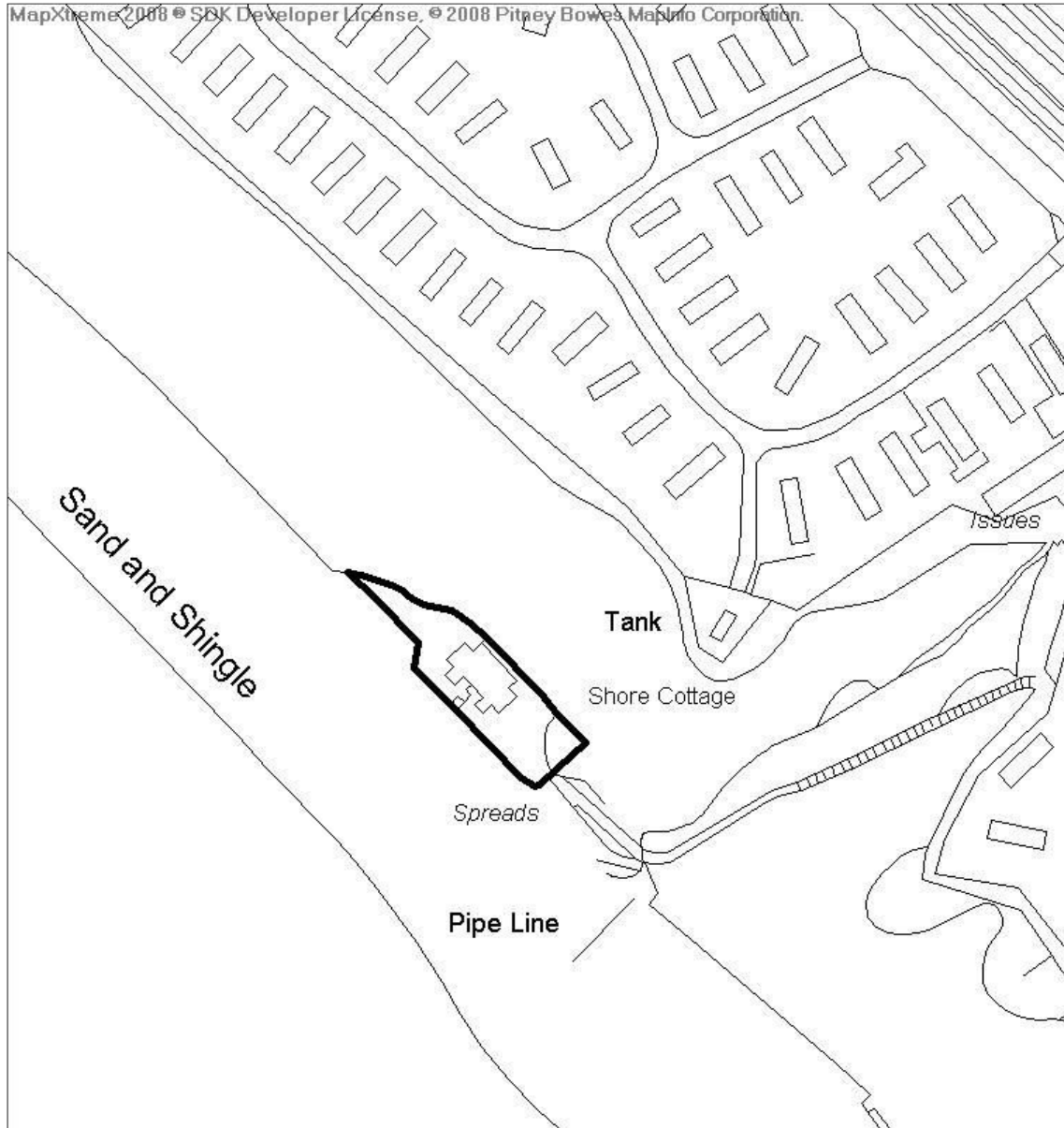
**Area Team:**  
**South Team**

**Case Officer:**  
**Mrs S Lacey**

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

**Location:** Shore Cottage, STATION ROAD, THURSTASTON, CH61 0HN  
**Proposal:** Proposed detached outbuilding to form art studio  
**Applicant:** Mrs S Barnes  
**Agent :** Maydean Design (Architecture) Ltd

**Site Plan:**



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**Development Plan allocation and policies:**

Coastal Zone  
Site of National Importance for Nature Conservation

Area of Special Landscape Value  
Green Belt

**Planning History:**

Location: Shore Cottages, Station Road, Thurstaston, Wirral, L61 0NH  
Application Type: Full Planning Permission  
Proposal: Construction of a hardstanding, access drive, bin store, septic tank, footpath and trench.  
Application No: APP/82/21758  
Decision Date: 13/01/1983  
Decision Type: Conditional Approval

**Summary Of Representations and Consultations Received:**

**REPRESENTATIONS**

Having regard to the Council's Guidance on Publicity for Applications, a Site Notice was displayed on Station Road. Irby, Thurstaston, Pensby Amenity Society objected to the application on the following grounds:

1. The proposal is wholly inappropriate, inadequately described and poorly justified. No very special circumstances have been evidenced.
2. It would detract from an important public visual amenity within Green Belt and a highly important SSSI area. It is located in the most illogical position, where it would impact adversely (and avoidably) on the character of an attractive, locally historic building and be detrimental to the visual amenity of open cliff faces and foreshore vistas.
3. It is also unnecessary as there are much more sustainable and accessible options for such a development close by, such as the 'Visitor Centre' or using one of the redundant buildings there, which would allow better accessibility, extendibility, flexibility and sustainability.
4. The proposal is not considered suitable for its stated purpose. The location is unsuitable and unsafe for use by visiting groups, particularly elderly clients. Access is challenging but for the disabled it is practically impossible. Were there to be an emergency how would the Emergency Services reach the site? At high tide it is completely cut off. The cliffs are known to be unstable. Any reasonable Health & Safety Risk Assessment would surely rule out such a location as being of too high and avoidable risk.
5. The visual appearance is unacceptable. The design does not respond to the local or historic context and would contrast poorly and arbitrarily with the existing form and function, materials and uses;
6. The proposal is for a commercial business and there is no sustainable business case;
7. The proposal lends itself to conversion to a residential use, which should be prevented by a 106 Agreement;
8. The windows facing south-west would be useless for much of the time through glare;
9. There are no mess facilities indicated, it would not be acceptable for groups to use facilities within the dwelling;
10. A rectangle layout would be more suitable and flexible;
11. Any future extensions would have a detrimental impact to the Green Belt;
12. The support of hoteliers should not be considered pertinent;

13. Reference to energy saving from large glazed areas is not valid, the energy loss through glazing is greater than the energy required to illuminate the space, and the need to control glare would involve screening and the use of artificial lighting;
14. The presence of a previous building on the site does not make this application acceptable;
15. There is no car parking associated with this proposed development. Reference to using facilities within the Park are not acceptable.

#### **CONSULTATIONS**

Natural England had no objection to the application, if undertaken in strict accordance with the details submitted. An Appropriate Assessment is not required. As no customer parking is provided, access will be by foot, however the scale of the proposal is not considered to damage or destroy the Dee Cliffs. Natural England advised the LPA should consider biodiversity, geodiversity, local landscape character and biodiversity habitats and species.

Merseyside Environmental Advisory Service (MEAS) had no objection to the application subject to conditions relating to the number of deliveries and that they are above the Mean High Tide Mark, and months of construction between June - end of August, as set out in the applicant's email dated 10 April 2013. MEAS also recommended a SSSI informative.

Wirral Wildlife had no objection to the proposal. They referred to the importance of the erosion of the cliffs is essential to keeping the Dee Cliffs SSSI in good condition, and a condition should be placed to make the applicant aware there should be no artificial stabilising of the cliffs. An informative should be placed noting that wintering birds must not be disturbed by people or dogs.

The Environment Agency had no objection to the proposal subject to details of levels and construction measures based on predicted levels, appropriate measures (including emergency access and flood resilience).

The Head of Environment & Regulation (Coastal Protection Division) - no objection to the proposal.

The Head of Environment & Regulation (Traffic & Transportation Division) - no objection to the proposal.

Corporate Planning Community Engagement and Communication (Destination Marketing) – commented the proposal would benefit Wirral's tourism economy

#### **DIRECTORS COMMENTS:**

#### **REASON FOR REFERRAL TO PLANNING COMMITTEE**

Councillor David Elderton requested the application be taken out of delegation on the grounds detailed in the objection letter from ITPAS, summarised under "Representations" above.

#### **INTRODUCTION**

The application proposes a detached outbuilding to form an art studio, and will benefit from the views across the Dee Estuary. The art studio will be used to provide non-residential art courses for small groups of people (no more than 8 students). Students will be accommodated at guest houses outside the site. The applicant has stated in their Design and Access/Planning Statement courses will be between 10:00 hours and 16:00 hours, 4 days a week.

#### **PRINCIPLE OF DEVELOPMENT**

The proposal is acceptable in principle as paragraph 89 of the NPPF supports the limited infilling or the partial or complete redevelopment of previously developed sites and very special circumstances, subject to the proposal not having a greater impact on the openness of the Green Belt or adversely affecting the Site of National Importance for Nature Conservation.

#### **SITE AND SURROUNDINGS**

Shore Cottage is a residential property, situated on the shore of the Dee Estuary at the base of the Dee cliffs. The site shows active processes and the cliffs are very mobile. The cliffs are covered in

grasses and dense scrub, which softens the appearance of the dwelling along the long vistas along the coastline. The house was originally a pair of cottages, and has a garden to the south-east when the studio is proposed. The house has permitted development rights for extensions, including outbuildings, under the Town and Country Planning (Permitted Development) (Amendment) (No.2) (England) Order 2008.

### **POLICY CONTEXT**

The site is designated as Coastal Zone, a Site of National Importance for Nature Conservation, an Area of Special Landscape Value and Green Belt, under the Wirral Unitary Development Plan. The Dee Cliffs and Dee Estuary are Sites of Special Scientific Interest (SSSI). The Dee Cliffs are a sensitive site made up of clay cliffs with herb rich maritime grassland. Recent records have found several rare mining bees and wasps, and it is likely the cliffs are regionally important for invertebrates. The Dee Estuary is part of the Dee Estuary Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar site. The SPA and Ramsar sites are designated for the bird populations they support during the winter and the passage periods (spring and autumn), and are susceptible to noise disturbance which can affect their ability to feed effectively.

As such the planning application shall be assessed the following policies:

#### National Planning Policy Framework (March 2012)

The NPPF states policies adopted before 2004 should be given due weight according with their degree of consistency with the NPPF, the closer the policies in the local plan to the policies in the framework, the greater the weight that may be given (Annex 1). Both the Wirral UDP and the NPPF refer to harm to the openness of the Green Belt. The NPPF states in paragraph 89 the limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land) which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development would be acceptable. As such the NPPF should be given due weight in the decision making process.

#### Wirral Unitary Development Plan (February 2000)

GB2 - Guidelines for Development in the Green Belt  
TL10 - Criteria for Tourism Development in the Green Belt  
NC1 - The Protection of Sites of International Importance for Nature Conservation  
NC2 - Sites of International Importance for Nature Conservation  
NC3 - The Protection of Sites of National Importance for Nature Conservation  
NC4 - Sites of National Importance for Nature Conservation  
NC7 - Species Protection  
LA1 - Protection for Areas of Special Landscape Value  
LA2 - Areas of Special Landscape Value  
TR9 - Requirements for Off-Street Parking  
TR12 - Requirements for Cycle Parking  
CO2 - Development within the Undeveloped Coastal Zone  
CO6 - Development within Areas at Risk of Coastal Erosion

These policies set out the importance of protecting this sensitive and visually significant site.

#### Wirral Landscape Character Assessment and Appraisal (2009)

The character area of the southwestern coastline of the Wirral Peninsular is strongly associated with the Dee Estuary to the west. Proposals should conserve the natural features and not harm the open views of the Dee coast from the Wirral Way footpaths.

### **APPEARANCE AND AMENITY ISSUES**

The proposal is considered acceptable in scale and design, and is considered to be of a size that does not overdominate the original dwelling house. The nature and scale of the proposal is appropriate, and is not likely to cause disturbance to neighbouring land-uses. The studio has been sited in this location to take advantage of the views across the estuary. Whilst the dwelling is situated in the Green Belt, the proposal is within the curtilage of the garden, and forms part of the previously developed site. The NPPF allows for proposals in previously developed sites, subject to no harm to the openness of the Green Belt. The proposal is not considered to harm the openness of the Green Belt as it is adjacent to the dwelling and is modest in scale. It is considered the very special

circumstances in this instance are the proposal is within the garden curtilage of a house which has permitted development rights, and an outbuilding ancillary to the residential property could be constructed without planning permission. This is a material consideration when determining the application. The proposal will not form a prominent feature when viewed from the cliffs above, and its setting and proposed materials will not form a visually obtrusive feature when viewed from the undeveloped coast. The proposal is not considered to cause disturbance to the quiet enjoyment of the coast. As such the proposal is not considered to result in harm to the openness of the Green Belt or the area of Special Landscape Value, and complies with the NPPF and policy LA1, LA2, CO2, TL10.

### **SEPARATION DISTANCES**

Separation distances do not apply in this instance, as no residential properties will be affected by the proposed development.

### **HIGHWAY/TRAFFIC IMPLICATIONS**

The current owners can park at the property itself through an established right of passage, and the property benefits from 3 no. parking spaces located at the caravan park. A shuttle service would be incorporated, picking up and dropping off clients. The Director of Technical Services (Highway Management) had no objection to the proposal. An objection was received citing it was inappropriate for visitors to use the public car park, although it would not be possible to control or condition this. There are no highway implications relating to this proposal.

### **ENVIRONMENTAL/SUSTAINABILITY ISSUES**

Due to the sensitive nature of the site, which is designated as Coastal Zone, a Site of National Importance for Nature Conservation, an Area of Special Landscape Value and Green Belt, as well as the Dee Estuary being part of the SPA, SAC and a Ramsar site, Natural England, MEAS, the Environment Agency and Coastal Protection were all consulted as part of the application. It was confirmed due to the scale and use of the proposal, an Appropriate Assessment, Habitats Regulations Assessment, and Flood Risk Assessment was not required. Due to the location of the site it is necessary to attach conditions should the application be approved.

Natural England had no objection to the application, if undertaken in strict accordance with the details submitted. As no customer parking is provided, access will be by foot, however the scale of the proposal is not considered to damage or destroy the Dee Cliffs.

The SPA and Ramsar sites are designated for the bird populations they support and noise disturbance can effect their ability to feed and survive. Merseyside Environmental Advisory Service (MEAS) had no objection to the application subject to conditions relating to the number of deliveries and that they are above the Mean High Tide Mark, and months of construction between June - end of August, as set out in the applicant's email dated 10 April 2013. MEAS also recommended a SSSI informative advising consent is required to undertake works within the SSSI.

Wirral Wildlife referred to the importance of the erosion of the cliffs is essential to keeping the Dee Cliffs SSSI in good condition, and a condition should be placed to make the applicant aware there should be no artificial stabilising of the cliffs. An informative should be placed noting that wintering birds must not be disturbed by people or dogs.

The Environment Agency had no objection to the proposal subject to details of levels and construction measures based on predicted levels, appropriate measures (including emergency access and flood resilience).

The proposal is not considered to adversely affect coastal or marine nature conservation. The proposal complies with policy NC1, NC2, NC3, NC4, NC7, CO2 of the Wirral Unitary Development Plan.

### **RESPONSE TO REPRESENTATIONS RECEIVED**

The following objections have been received: *"The proposal is inappropriate, no very special circumstances have not been evidenced"*. The NPPF allows for proposals in brownfield sites. It is considered the very special circumstances in this instance are the proposal is within the garden curtilage of a house which has permitted development rights, and an outbuilding ancillary to the

residential property could be constructed without planning permission. The proposal is not considered to harm the openness of the Green Belt as it is adjacent to the dwelling and is modest in scale. *"It would detract from an important public visual amenity within Green Belt and SSSI, and would impact adversely on the character of an attractive, locally historic building and be detrimental to the visual amenity of open cliff faces and foreshore vistas"*. The scale, design and materials are considered acceptable, and are not considered to harm the appearance of the existing property, the coastline, or the Green Belt. *"The location is unnecessary as there are more sustainable, accessible options"*. The LPA can only assess the application put forward to them, and cannot suggest other buildings in the area outside the applicant's ownership. *"The location is unsafe"*. The applicant has responded the beach is open to the public, and they are aware of the duty of reasonable adjustment under the Disability Discrimination Act 1995. *"The design does not respond to the local or historic context"*. The applicant has chosen a contemporary design of large glazed windows and softwood finishes. Whilst this does not match the historic cottage building, it is considered visually acceptable and ancillary to the original property. *"The proposal is form a commercial business and there is no sustainable business case, and lends itself to conversion to a residential use, which should be prevented by a 106 Agreement"*. A condition can be placed on the permission if granted limiting its use to only an art studio within the D2 use class. There is no need to put a S.106 on the site preventing it to be used as a dwelling as this would require planning permission in its own right. *"The windows facing south-west would be useless for much of the time through glare"*. This is not a reason to refuse planning permission. The windows face this direction to make the most of the views. *"Any future extensions would have a detrimental impact to the Green Belt"* Any future extensions to the art studio would require planning permission.

#### **HEALTH ISSUES**

There are no health implications relating to this application.

#### **CONCLUSION**

The proposal is considered acceptable in scale and design, and the use is appropriate, and is not likely to cause disturbance to neighbouring land-uses. The proposal complies with policies GB2, TL10, NC1, NC2, NC3, NC4, NC7, LA1, LA2, TR9, TR12, CO2, CO6 of the adopted Wirral Unitary Development Plan, 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:-

The proposal is considered acceptable in scale and design, and the use is appropriate, and is not likely to cause disturbance to neighbouring land-uses. The proposal complies with policies GB2, TL10, NC1, NC2, NC3, NC4, NC7, LA1, LA2, TR9, TR12, CO2, CO6 of the adopted Wirral Unitary Development Plan, and the National Planning Policy Framework.

**Recommended            Approve**  
**Decision:**

#### **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 development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 11 March 2013 and listed as follows: drawing numbers 1294/P/002 and 1294/P/003 (dated 02/13)

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

3. NO DEVELOPMENT SHALL TAKE PLACE BEFORE samples and details of the facing materials and treatments to be used in the external construction of this development shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall then be used in the construction of the development.

**Reason:** To ensure a satisfactory appearance to the development in the interests of visual amenity and to comply with Policy LA1 of the Wirral Unitary Development Plan.

4. NO DEVELOPMENT SHALL TAKE PLACE BEFORE details of the proposed finished floor levels of the building hereby approved have been submitted to and approved in writing by the Local Planning Authority. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels. The development shall be carried out as so approved.

**Reason:** To ensure the construction is carried out to a suitable level having regards to drainage and flood risk and the appearance of the development, having regard to Policy LA1 and WA1 of the Wirral Unitary Development Plan.

5. The building hereby approved shall be used for an art studio and for no other purpose (including any other purpose in) Use Class D1 of the schedule to the Town and Country Planning Use Classes (Amendment) Order 2005, or any subsequent Order or statutory provision revoking or re-enacting that Order.

**Reason:** In order to protect the character of the area and to accord with Policy LA1 of the Wirral Unitary Development Plan.

6. No more than 8 students shall be accommodated at the premises at any one time in connection with the use hereby approved.

**Reason:** In order to protect the character of the area and to accord with policy LA1 of the Wirral Unitary Development Plan.

7. The premises shall not be used except between the hours of 10:00 hours and 16:00 hours.

**Reason:** In order to protect the character of the area and to accord with policy LA1 of the Wirral Unitary Development Plan.

8. NO DEVELOPMENT SHALL TAKE PLACE BEFORE a method statement for the construction of the development hereby approved has been submitted to and approved in writing by the Local Planning Authority. The construction works shall be carried out in accordance with the method statement so approved.

Details submitted in respect of the Method Statement shall provide for excavation, site preparation and construction stages of the development. The Method Statement shall also include details of the means of storage and delivery for all plant and materials.

**Reason:** To ensure protection during construction works of the Site of Special Scientific Interest and having regard to Policy NC1 of the Wirral Unitary Development Plan.

9. No construction shall be carried out on site between the months of 1st September and 31st May inclusive in any given year, unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To ensure protection of the Site of Special Scientific Interest and having regard to Policy NC1 of the Wirral Unitary Development Plan

**Further Notes for Committee:**

1. Please note the Dee Estuary is a Site of Special Scientific Interest and consent is required to undertake works within the SSSI. Wintering birds must not be disturbed by people or dogs. Guidance can be found at the following link:  
<http://www.naturalengland.org.uk/ourwork/conservation/designations/ssi/oneroccupierinfo.aspx>

To ensure the protection of the Dee Cliffs SSSI, no artificial stabilising of the cliffs shall take place.

**Last Comments By:** 18/04/2013 16:15:44  
**Expiry Date:** 06/05/2013