

**Planning Committee**

23 January 2014

**Reference:**  
**AGN/13/01344**

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

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

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

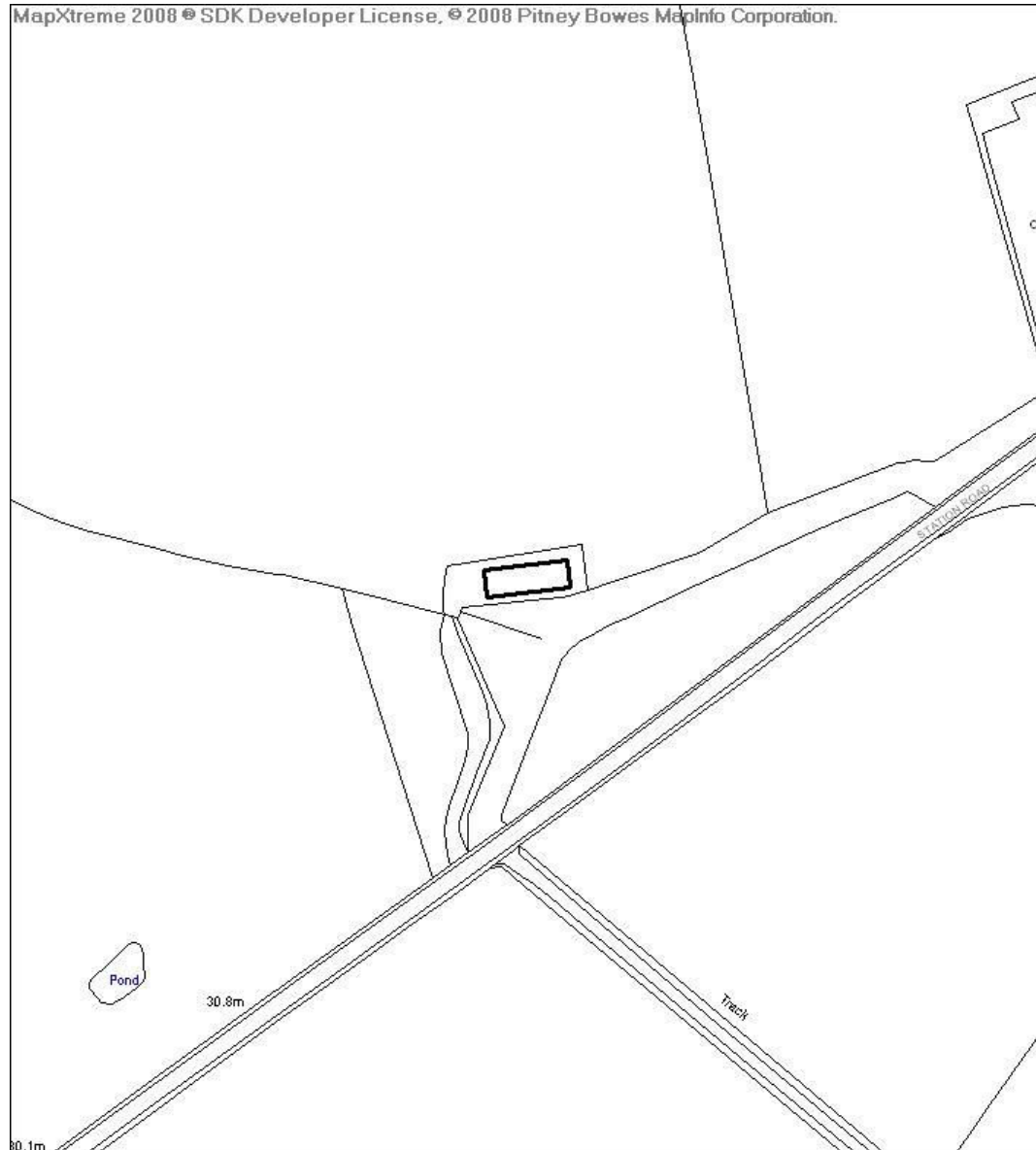
**Location:**  
**Proposal:**

Whites Farm Shop, STATION ROAD, THURSTASTON, CH61 0HN  
Use of ancillary farm shop for a use within Class A1 (shops).

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

Mr G White  
Matthews and Goodman

**Site Plan:**



## **Development Plan Designations:**

Area of Special Landscape Value  
Green Belt

## **Planning History:**

Location: Whites Farm Shop, STATION ROAD, THURSTASTON, CH61 0HN  
Application Type: Full Planning Permission  
Proposal: Change of use of part of existing & farm shop for sale of light refreshments.

Application No: APP/10/01234  
Decision Date: 02/02/2011  
Decision Type: Refuse

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

Application No: APP/12/00253  
Decision Date: 27/07/2012  
Decision Type: Approve

Location: Whites Farm Shop, STATION ROAD, THURSTASTON, CH61 0HN  
Application Type: Full Planning Permission  
Proposal: Retention of existing wood post and wire agricultural means of enclosure  
Application No: APP/11/00903  
Decision Date: 12/10/2011  
Decision Type: Approve

Location: Dawpool Farm, Station Road, Thurstaston, Wirral, CH61 0HL  
Application Type: Full Planning Permission  
Proposal: Retention of agricultural building and yard  
Application No: APP/07/07359  
Decision Date: 01/08/2008  
Decision Type: Refuse

Location: Land south west of Copperfields, Station Road, Thurstaston, Wirral, CH61 0HN  
Application Type: Full Planning Permission  
Proposal: Erection of an agricultural building.  
Application No: APP/02/05752  
Decision Date: 28/06/2002  
Decision Type: Approve

Location: Land south west of Copperfields, Station Road, Thurstaston, Wirral, CH61 0HN  
Application Type: Full Planning Permission  
Proposal: Erection of an agricultural building.  
Application No: APP/01/07351  
Decision Date: 26/01/2002  
Decision Type: Refuse

Location: Whites Farm Shop, STATION ROAD, THURSTASTON, CH61 0HN  
Application Type: Full Planning Permission  
Proposal: Change of use of part of existing farmshop for the sale of light refreshments  
Application No: APP/10/00693  
Decision Date: 01/09/2010  
Decision Type: Withdrawn

## **Summary Of Representations and Consultations Received:**

### **REPRESENTATIONS**

Having regard to the Council's adopted Guidance on the Publicity of Planning Applications, a total of 3 letters were sent to neighbouring properties. A site notice was also displayed on a lamppost on Station Road. At the time of writing, four representations of opposition have been received, two letters from the occupiers of no. 44 Mill Hill Road, one from the Irby, Thursaston and Pensby Amenity Society on behalf of members, and one from the Campaign to Protect Rural England Cheshire (which incorporates the Wirral Society). The grounds of opposition can be summarised as follows:

- There is little activity associated with the current farm shop use – an open A1 use would raise concern given the rural Green Belt location;
- Concerns at traffic volumes likely to arise, and their impact to access along Station Road [to the Countryside Recreation site, visitors centre and caravan parks];
- Potential harm to visual amenity;
- Concern at the inappropriate location (outside a town centre);
- The application is not in the spirit or any encouragement for diversification of agriculture in the rural economy;
- Approval without defined limits would be inappropriate to the setting, counter to the history or care and protection given by the Council over many years;
- The National Planning Policy Statement places an emphasis on sustainable development, places great importance on the protection of Green Belt land; and requires that the planning system contributes to the enhancement and protection of the local environment and valued landscapes. This proposal cannot be considered sustainable development because of the building has failed to operate under various guises – as such there it could not be considered to grow the rural economy. Considering the local environment, this is Green Belt and an Area of Special Landscape Value – the impact of the building to the landscape is widespread (consideration should be given, for example to it from the viewing point on Thursaston Common), and the very open classification of A1 would lead to uses/developments detrimental to this area and vistas.
- The type of business that might operate under Use Class A1 is unknown, and might range from shops, retail warehousing, showrooms, domestic hire shops to hairdressers and undertakers. Signage, highways issues, light pollution and noise pollution from such uses would all have a negative impact to visual amenity.

### **CONSULTATIONS**

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 unrestricted A1 sales would include: 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

### **Director's Comments**

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

Councillor Geoffrey Watt requested this application be removed from delegation and considered by the Planning Committee following representations he has received from local residents that the application represents inappropriate development in the Green Belt, that would have a materially greater impact on the Green Belt within an Area of Special Landscape Value, contrary to policies GB3 and LA1 of Wirral's UDP and guidelines within the National Planning Policy Framework.

### **INTRODUCTION**

The application site is an agricultural building erected off Station Road, Thursaston. Construction of the building was completed more than 8 years ago, following an initial grant of planning permission in

2002.

The applicant outlines that the building remains an ancillary farm shop, and has clarified that permission APP/2012/00253 (granted by Members 26<sup>th</sup> July 2012), which sought a mixed use of the building, has not been implemented to date. Whilst representations have questioned the use of the building, Members will recall that the use of the building was the subject of an enforcement appeal, ref: APP/W3425/C/07/2042075 in December 2007, the Inspectorate concluding then that the building was being used for the sale of produce from Lee Farm and Dawpool Farm. It was concluded that the sale of imported goods was at that time 3-4% of total sales, and could therefore be considered *de minimis*.

The current application seeks a change of use of the building from this ancillary agricultural use, to an A1 Use Class retail use - i.e. an open retail use, without the requirement that the goods sold are locally sourced or farm produced.

### **PRINCIPLE OF DEVELOPMENT**

On 30<sup>th</sup> May 2013, the Government introduced an amendment to the Town and Country Planning (General Permitted Development) Order 1995, one aspect of which was to widen the extent of changes of use that were considered "permitted development" – that is, development not requiring planning permission.

In particular, a measure was introduced aimed at getting redundant agricultural buildings back into use. The Government had announced the measure in January 2013, setting out that the purpose was to help promote rural prosperity and job creation.

Class M of the 2013 amendment introduced as permitted development the "change of use of a building and any land within its curtilage from use as an agricultural building to a flexible use falling within either Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes), Class B1 (business), Class B8 (storage or distribution), Class C1 (hotels) or Class D2 (assembly and leisure) of the Schedule to the Use Classes Order."

As with some other the permitted development rights for development on agricultural land, the rights cannot be exercised, however, unless the farmer has applied to the local planning authority for a determination as to whether their prior approval will be required for certain details. In this case the details for which prior approval can be required are of the:

- (i) transport and highways impacts of the development;
- (ii) noise impacts of the development;
- (iii) contamination risks on the site; and
- (iv) flooding risks on the site.

The prior approval process is in place to guard against unacceptable detrimental impacts in any of these four areas. The legislation also goes on to note that the local planning authority shall, when determining a notification application:

- (a) take into account any representations made to them as a result of consultations that must be undertaken;
- (b) have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012 as if the application were a planning application.

It should be noted that the notification arrangements do not, however, impose full planning controls over the developments to which they apply - those developments remain "permitted development" under the General Permitted Development Order. The principle of development is therefore established – and will not be a relevant consideration, providing the Order conditions are satisfied, nor will other planning issues.

Given this, consideration of policy areas such as Green Belt, landscape character, and retail need or impact, cannot be material in a decision on the application submitted.

If the Local Planning Authority does request details, and they are submitted for approval under the terms of the Order, the objective should be to consider the effect of the development in the four areas of impact listed (i)-(iv). Details provided at that stage would be regarded in much the same light as applications for approval of reserved matters following the grant of outline planning permission.

### **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 principle of development is established, and the key consideration is whether prior approval is needed as to the following:

- (i) transport and highways impacts of the development;
- (ii) noise impacts of the development;
- (iii) contamination risks on the site; and
- (iv) flooding risks on the site.

In reaching a conclusion whether to require further details, the legislation clarifies that the Local Planning Authority must have regard to the National Planning Policy Framework ('the Framework'), rather than the statutory Development Plan.

#### Noise

In relation to noise, the Framework outlines (a paragraph 123), that in order to protect the local environment, planning decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and
- identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

In this instance, it must be noted that the proposal would be for a change of use within an existing building, which is limited in size to 300 sq m gross floorspace. The change of use is also unlikely to have a material effect to noise, being from an existing retail and meat process use (albeit principally of locally sourced farm produce). It must also be noted that the Local Planning Authority considered that a mixed use of the site (as farm shop and café) would, subject to conditions, not have a detrimental impact to the local environment in granting planning permission in 2012. The nearest residential properties to the north east are set a considerable distance from the application site. The Head of Environment and Regulation (Environmental Protection Division) has raised no objection to the application. Given this, further detail in relation to noise is not considered to be necessary in this instance for prior approval to be given.

It is, however, considered necessary to seek details, and to impose conditions regarding opening hours and regarding servicing and deliveries at the site - as was the case in granting planning permission for a mixed use at the site in July 2012. In the determination of that application, it was considered that without such conditions there would be noise impacts to residential amenity and to protected wildlife species that are known to inhabit and forage in the local area.

#### Contamination Risks

Paragraph 120 of the Framework notes that the effects of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account in planning decisions. In this instance, however, a change of use only is proposed, with no operational development that might lead to contamination risks. The application site is not known to be historically contaminated – issues of contamination have not been material considerations to the grant of previous planning permissions. The operation of a

retail store at the site could not be considered to be potentially polluting development either. The Head of Environment and Regulation (Environmental Protection) has raised no objection to the proposed development.

Given this, further detail in relation to contamination is not considered to be necessary before the grant of prior approval.

#### Flooding Risks

The application site is not located within Flood Zones 2 or 3 (identified by the Environment Agency as at an increased risk of flooding), nor has the Local Planning Authority been notified by the Environment Agency of any critical drainage problems in the vicinity. No operational development is proposed, and the change of use would not materially alter the drainage characteristics of the site. As such, it is not considered necessary to approve details in relation to flooding risks.

#### **APPEARANCE AND AMENITY ISSUES**

The notification procedure required by the 2013 legislation does not require a judgement on residential amenity, though a determination can be made that prior approval is required of the impacts of noise, contamination, transport and highways impacts, and flooding risks – and those impacts might include impacts to residential amenities.

As noted above, however, it is considered that the proposed change of use would have little impact in these areas of consideration – contamination risks are considered low, noise unlikely to be significant, and flooding risks are low. Traffic and transportation issues are given further consideration below.

Any judgment on residential amenity must have regard to the separation of the agricultural building from the nearest residential properties – in this case, the party boundary with Copperfields is at 180m from the application site.

#### **SEPARATION DISTANCES**

Separation distances are not relevant to this type of application.

#### **HIGHWAY/TRAFFIC IMPLICATIONS**

The Head of Environment and Regulation (Traffic and Transportation Divisions), whilst raising no objection to the proposed development, has advised that the existing access onto Station Road is inadequate and has very short sight lines. Given that the development will 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. Such works are considered to fall within permitted development rights established by the General Permitted Development Order, so a subsequent application would not be required.

Given this, it is recommended that further detail of the proposed access is sought for approval, and that conditions be imposed to secure the upgrade to the access required.

#### **ENVIRONMENTAL/SUSTAINABILITY ISSUES**

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

#### **CONCLUSION**

Significant impacts in terms of contamination, noise, flooding, and traffic are unlikely to result from the change of use proposed. As such, it is recommended that prior approval is granted in this instance, subject to the imposition of conditions restrict opening hours, hours of servicing and delivery to the site, and securing alterations to the site access from Station Road, so as to ensure that noise and transport impacts are not significantly detrimental bearing in mind the sensitivity of the surrounding area.

#### **Summary of Decision:**

Having regards to the individual merits of this application the decision to <>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:-  
Given that significant impact in terms of contamination, noise, flooding, and traffic is not envisaged, prior approval is given.

**Recommended**            **Prior Approval Given**  
**Decision:**

**Recommended Conditions and Reasons:**

1. The use 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 the potential impact of noise to residential amenity and the local environment, having regard to the importance of the surrounding areas as breeding and foraging habitat for barn owls.

2. Deliveries and servicing of the site shall only take place 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. There shall be no deliveries to or servicing of the site at any other time.

**Reason:** Having regard to the potential impact of noise to residential amenity and the local environment, and having regard to the importance of the surrounding areas as breeding and foraging habitat for barn owls.

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. No development shall commence until details of works to improve the access onto Station Road have been submitted to and approved in writing by the Local Planning Authority, 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.

The works shall be implemented in accordance with the approved details prior to the first use of the development hereby permitted.

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

**Last Comments By:** 17/01/2014 16:04:16  
**Expiry Date:** 14/02/2014