

# Council fined for undertaking work without a marine licence

Wirral Metropolitan Borough Council appeared in court charged with carrying out a licensable marine activity other than in accordance with a marine licence granted by the Marine Management Organisation.

The court heard how the offence took place at Hilbre Island, located in the mouth of the Dee Estuary, off the coast of the Wirral peninsula. It is an environmentally sensitive area and part of a local nature reserve.

Following a partial cliff collapse in 2016, Wirral MBC commissioned a report to investigate the stability of the area. The report set out several options to prevent further collapsing and the council chose the option of infilling a cave in the cliffside. The report noted at this time that a marine licence would be required for these works.

On 24 July 2019 contractors, under the instruction of Wirral MBC, began a construction project to shore-up the cave. The project involved the infilling of the cave with a combination of polyurethane slabs and polyurethane expanding foam.

On 17 August 2019 a storm hit the island. The resultant action of the sea washed parts of the foam away over several days and a quantity of this entered the marine environment. On 23 August 2019 the contractors reapplied expanding foam. The foam then caught fire and burned for three days until the entire contents of the cave filling (polyurethane slabs and foam) were burnt out. A quantity of this entered the marine environment. Clean-up efforts were made by the Council, the contractors, and local volunteers.

The works associated with the cave infilling were not carried out under a marine licence, in that neither the Council nor the contractors applied to the MMO for a marine licence. This is contrary to Section 65 of the Marine and Coastal Access Act 2009. The foam used was not designated safe to use in the marine environment.

In sentencing, District Judge (Magistrates' Court) Clark found the actions of the Council to have been negligent.

A representative from the council pleaded guilty to the charge. They were fined £8,000, ordered to pay £3,894.22 in costs and a £150 victim surcharge. The District Judge gave the council credit for an early guilty plea, noted the council had been cooperative with the MMO's investigation, had taken steps to rectify the damage that had been caused and said he recognised imposing a larger fine would negatively impact the service the Council provides for the public.

An MMO spokesperson said:

This case shows the importance of applying for a marine licence before works are undertaken. Had marine experts been able to look at the proposals before works were undertaken these substances would not have been approved for use and would not have entered the marine environment.

In cases like these, MMO will always take proportionate and appropriate action, including prosecution, to ensure the marine environment is protected.