

Planning Committee

9th June 2022

Reference:
APP/21/02188

Area Team:
Development
Management Team

Case Officer:
Mr B Bechka

Ward:
Liscard

Location: Car park SW of CHERRY TREE SHOPPING CENTRE, 6-8 CHERRY SQUARE, LISCARD, CH44 5XU

Proposal: Retrospective permission sought for erection of 2 no. pole mounted ANPR and 1 no. wall/pole mounted ANPR cameras to the Car Parks. Replacement of existing 4 no. Pay and Display Machines.

Applicant: Mr P Coakley
Agent : JMW

Qualifying Yes
Petition:

Petition Number:	Number of signatures:
1	908
2	30

Site Plan:



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Development Plan designation:

Primarily Residential Area
Key Town Centre

Planning History:

Location: Car park SW of CHERRY TREE SHOPPING CENTRE, 6-8 CHERRY SQUARE, LISCARD, CH44 5XU
Application Type: Advertisement Consent
Proposal: Retrospective advert consent sought for 6 no. non-illuminated pole mounted and 2 no. non-illuminated wall mounted fascia signs.

Application No: ADV/21/02183
Decision Date:
Decision Type: Awaiting determination

Location: Car Park, St Albans Road, Liscard, Wirral, CH44 5XY
Application Type: Full Planning Permission
Proposal: Retention of lighting column in car park Mill Lane/St Albans Road.
Application No: APP/07/05649
Decision Date: 29/06/2007
Decision Type: Approve

Location: Car Park Mill Lane and 15 & 17 Greenfield Way, Liscard, Wirral, CH44 5XN
Application Type: Full Planning Permission
Proposal: Refurbishment and extension of existing shopping centre and erection of a 2 storey car park (amended proposal)
Application No: APP/05/07098
Decision Date: 28/10/2005
Decision Type: Approve

Location: Liscard Town Shopping Centre, bounded by Wallasey Road Liscard Crescent, Mill La
Application Type: Work for Council by Council
Proposal: New pavings and street furniture to Liscard Way, including archways, new pavings and walls to Mill Lane and St. Albans Road, and new tree planting.
Application No: APP/95/05558
Decision Date: 26/05/1995
Decision Type: Approve

Location: Liscard Way bounded by Wallasey Road, Liscard Crescent, Mill Lane and St. Albans
Application Type: Work for Council by Council
Proposal: Erection of entrance archways at either end of Liscard Way, (amendment to previous application).
Application No: APP/95/06203

Decision Date: 15/11/1995
Decision Type: Approve

Location: Cherry Tree Shopping Centre, Liscard, Wirral, CH44 5XU
Application Type: Advertisement Consent
Proposal: Erection of a nine non illuminated vertical banner signs
Application No: ADV/02/05360
Decision Date: 15/04/2002
Decision Type: Approve

Location: Car Park Mill Lane and 15 & 17 Greenfield Way Liscard, Wirral, CH44 5XN
Application Type: Outline Planning Permission
Proposal: Demolition of existing market unit, extension of existing shopping centre and new 2 storey car park ,outline. (Amended Plans)
Application No: OUT/03/05358
Decision Date: 23/04/2004
Decision Type: Approve

Location: Cherry Tree Shopping Centre, Liscard, Wirral, CH44 5XU
Application Type: Full Planning Permission
Proposal: Erection of 6 no. kiosk shop units.
Application No: APP/05/06211
Decision Date: 17/08/2005
Decision Type: Approve

Location: Cherry Tree Shopping Centre, Liscard, Wirral, CH44 5XU
Application Type: Advertisement Consent
Proposal: Erection of illuminated and non-illuminated signs.
Application No: ADV/05/06508
Decision Date: 16/09/2005
Decision Type: Approve

Location: Car Park Mill Lane and 15 & 17 Greenfield Way Liscard, Wirral, CH44 5XN
Application Type: Full Planning Permission
Proposal: Refurbishment and extension of existing shopping centre and erection of a 2 storey car park.
Application No: APP/04/07863
Decision Date: 10/03/2005
Decision Type: Approve

Location: Car Park, Mill Lane,(Principal Road A551),Liscard,CH44 5UG
Application Type: Deemed
Proposal: Construction of access to Wirral Borough Council car park.
Application No: DPP/78/10941
Decision Date: 11/12/1978
Decision Type: Approve

Location: Liscard Shopping Centre, Greenfield Way, Townfield Way, Cherry Square, Liscard.
Application Type: Full Planning Permission
Proposal: Create covered, glazed, shopping malls and atrium, and erection of first floor manager's office and sales kiosks.
Application No: APP/89/07624
Decision Date: 16/01/1990
Decision Type: Approve

Location: Part of car park south of Market Hall west of Liscard House, Mill Lane, Liscard.
Application Type: Full Planning Permission
Proposal: Erection of a portakabin for temporary office accommodation.
Application No: APP/90/05295
Decision Date: 12/03/1990
Decision Type: Approve

Location: Liscard Shopping Centre, Greenfield Way/Townfield Way, Cherry Square, Liscard.
Application Type: Full Planning Permission
Proposal: Erection of covered, glazed shopping malls and atrium including manager's office and caretaker's flat.
Application No: APP/90/06196
Decision Date: 09/07/1990
Decision Type: Approve

Location: Outside Liscard House Car Park, Mill Lane, Liscard, Wirral, CH44 5XN
Application Type: Prior Approval of Telecommunications PD
Proposal: Erection of replacement BT payphone kiosk
Application No: ANT/08/06589
Decision Date: 29/10/2008
Decision Type: Refuse

Location: Cherry Tree Shopping Centre, Liscard, Wirral, CH44 5XU
Application Type: Advertisement Consent
Proposal: Erection of illuminated signs B, D and E
Application No: ADV/05/05015
Decision Date: 08/04/2005
Decision Type: Refuse (mixed)

Location: Liscard Shopping Precinct, Wallasey
Application Type: Advertisement Consent
Proposal: 5 Single tier trilateral display units.
Application No: ADV/76/05788
Decision Date: 12/04/1977
Decision Type: Withdrawn

Summary Of Representations and Consultations Received:

1.0 WARD MEMBER COMMENTS

1.1 Councillor Kenny requested that this application be rejected on the grounds that it:

- results in a negative impact on local businesses;
- undermines the Liscard Action plan and Regeneration of Liscard; and
- fails to comply Wirral Council Blue Badge Policy, therefore breaching the Equality Act 2010

2.0 SUMMARY OF REPRESENTATIONS

A total of 24 consultation letters were sent out to neighbouring properties.

REPRESENTATIONS

13 no. representations were received from neighbouring properties. A summary of these representations are listed as follows:

- negatively impacting on small businesses/viability of town centre/ community
- stressful and costly
- parking machinery, system, and appeals process difficult to use (accessibility)
- concern as to cameras impact on privacy/GDPR
- cameras overlook neighbouring school
- cameras installed and operated without prior permission
- unjust issuing of fines and penalties
- impact on the ability of parishioners to park locally whilst attending mass at St Alban's Church

An online petition from residents has been received, which at the time of writing this report had 900 signatures against it. The online petition asked that this application be refused on the grounds that:

- Smart Parking's cameras and signs are damaging the reputation of Liscard Town Centre;
- Smart Parking are causing a negative impact on the local economy;
- Smart Parking has an inadequate process for disabled badge holders, leading to the harassment of people with disabilities;
- The mismanagement of this car park by Smart Parking has led to an increase in people parking in nearby residential areas;
- There is a very poor customer experience including unclear signage, difficult to use machines and penalty charge letters being sent in a very small font; and
- Smart Parking's operations go against Wirral Council's plans for the regeneration of Liscard Town Centre.

A paper petition from local businesses, comprising of 30 signatures, was also received which asked that this application be refused on the grounds that :

- Smart Parking's automated camera system, signage and inadequate processes are not fit for purpose;
- the damage the operation of the car park is doing to their businesses, as well as Liscard Town Centre; and
- would result in them having to either cease trading or relocate out of Liscard.

CONSULTATIONS

Highways (Traffic & Transportation): No objection

The development proposals are all located within the private boundary to the car park and do not impact on the adopted highway.

The positioning of the 3no. pole mounted ANPR units and 3 no. wall mounted ANPR cameras within the car park, and the replacement of the existing 4 no. Pay and Display Machines do not impact on the circulation routes through the car park nor do they obstruct pedestrians or impact on driver visibility. On that basis there would be no Traffic and Transportation objection to the proposals.

Highways (Asset): No objection

Forward Planning: No objection

Regeneration: None received

3.1 Reason for referral to Planning Committee

- 3.1.1 The application has been called in by Councillor Kenny on the grounds that it results in a negative impact to local businesses; undermines the Liscard Action plan and Regeneration of Liscard; and it fails to comply Wirral Council Blue Badge Policy, therefore breaching the Equality Act 2010. Furthermore, two qualifying petitions of over 25 signatures, one online and one paper, have been received from local residents and businesses.

3.2 Site and Surroundings

- 3.2.1 The application site relates to a large car park sited to the front of and serving the Cherry Tree Shopping Centre within Liscard Key Town Centre. The car park is divided into two by a large vehicular ramp. It can be accessed via Mill Lane to its south eastern boundary and from St Alban's Road to south western boundary.
- 3.2.2 Sited to the south-west and to the opposite side is St Alban's church, St Alban's Primary School. The backs of the properties to Ashburton Road also face onto the car park. To south-east and to the opposite side of Mill Lane are residential properties, which front directly on to the car park. To its north east and north west the car park is bound by office buildings.

3.3 Proposed Development

- 3.3.1 Planning permission is sought for the retention of:

- 2 no. ANPR cameras (ANPR 4 & ANPR 5) are fixed to an existing pole approximately 7.8m high lighting column, at heights of 3.88m and 4.05m, respectively, above the ground;
- 1 no. ANPR camera (ANPR 3) is mounted to an existing pole. Sited to south-east facing elevation of shopping centre, the ANPR camera is sited 4.25m above the ground;
- 4 no. 1.7m high Pay and Display machines.

3.3.2 2 no. wall mounted ANPR cameras are sited to the south-west elevation of the shopping centre, however, given their siting to the building, their distance apart (i.e. greater than 10m), and limited number (i.e. less than 16), are considered to meet the relevant criteria of Class F of Schedule 2 Part 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), thus fall under permitted development rights. It should be noted that the car park forming a separate planning unit to that of the Cherry Tree Shopping Centre, any cameras sitting outside the red edge of the development cannot be included for the purposes of criterion F.1(h). Cameras ANPR 4 & ANPR 5 not being sited to building they cannot benefit from permitted development rights under Class F and as such require planning permission. Camera ANPR 3 although technically attached to a building, is attached to a pole with an existing CCTV camera to its top and would as a result sit within 10m of another camera, thus failing to meet criterion F.1(f) of the Class.

3.3.3 There is an associated signage application (ADV/21/0183) relating to this application which is also currently under consideration.

3.4 Development Plan

3.4.1 The Development Plan for the area comprises saved policies of the Wirral Unitary Development Plan (2000) and policies of the Merseyside and Halton Joint Waste Local Plan (2013). The full text of relevant policies and their supporting justification can be found on the Council's website. With regard to this application, with the following applicable to this application:

Wirral Unitary Development Plan Policy

Policy SH1: Criteria for Development in Key Town Centres

3.5 Other Material Planning Considerations

3.5.1 The National Planning Policy Framework (NPPF) was revised in July 2021. The NPPF will be referred to as appropriate within this report.

3.5.2 Wirral Borough Council is in the process of submitting a new local plan for examination. On the 21 March 2022 full council approved publication of the Draft Local Plan Under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 before submission to the Secretary of State. The plan has been published and representations can be submitted until 24th June 2022

In attaching weight to emerging plans such as Wirral's para 48 of the NPPF is relevant as it states:

"Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)."

As the Wirral Local Plan is at an early stage it is a Material Consideration and can be afforded limited weight in the decision-making process.

3.6 Assessment

3.6.1 The main issues pertinent in the assessment of the proposal are;

- Principle of development
- Design;
- Highways; and
- Amenity

3.7 Principle of Development:

3.7.1 The principle proposed development is deemed acceptable subject to its impact on visual and residential amenity and to the local highway network.

3.8 Design:

3.8.1 The assortment of street furniture which this application seeks to retain is considered of an appropriate scale within the context of a town centre location and an established, commercial car park of this type and size. The largest of the street furniture, the approximately 7.8 lighting column was in-situ prior to the ANPR cameras being installed. The mounted cameras sit around half way up this column, 3.88m and 4.05m, respectively, above the ground. They do not appear out of place against the column. The works to be retained, given the significant size of the application site, do not lead to any visual clutter or appear visually obtrusive within the street scene and therefore their retention would not result in a detrimental change in the character of the area. The other features are all small scale and will have little visual impact within the car park.

3.9 Highways:

3.9.1 The locations of the ANPR cameras and Pay and Display machines are all contained within a private boundary and do not impact on the circulation

routes through the car park nor do they obstruct pedestrians or impact on driver visibility. On that basis there would be no Traffic and Transportation objection to the proposals. The online petition voices concern as to the mismanagement of the car park having led to an increase in the number of people parking in nearby residential area, however, no evidence has been provided to substantiate this claim or as to what impact it is having on the nearby residential areas. Furthermore, in their comments Highways have not raised any concerns about the displacement of parking on the local highway network as a result of the development.

3.10 Ecology:

3.10.1 There are no Environmental/Sustainability issues relating to these proposals.

3.11 Amenity:

3.11.1 The ANPR cameras sited well within the application site, with 2 no. cameras being mounted to an existing lighting column, and 1 no. camera to an existing pole which is fixed to the south-east elevation of the shopping centre. The closest of the cameras would retain a minimum separation distance of approximately 63m to the residential properties sited to the opposite side of Mill Lane. Given their siting and scale, it is considered that the retention of these cameras would not result in any visually intrusive impact or result in any adverse overlooking or loss of privacy to nearby residential properties. Furthermore, given the siting and modest scale of the Pay and Display machines and that they have replaced similar Pay and Display machines, their retention is unlikely to have any harmful visual impact upon nearby residential properties.

3.12 Other:

3.12.1 None of the adopted UDP Policies directly relate to the operation of parking equipment.

3.12.2 Policy SH1 refers to use classes aimed at retail, not parking. Cherry Tree car park is classed as a sui-generis use. Furthermore, Policy SH1 does not specifically apply to parking or its operation, but to buildings and the change of use of those buildings within the context of a Key Town Centre.

3.12.3 With regard to Policy SH6, this is not considered to be a relevant policy for the purposes of assessing this application against, given that it refers to Primarily Commercial Areas. The application site is instead located within a designated Key Town Centre location (as per the Proposals Map).

3.12.4 There is no policy basis for refusing the parking equipment. The site is an established commercial car park and the operational matters of the car park and its equipment sit outside the remit of planning.

3.12.5 Cherry Tree car park is privately owned and maintained, and the Council therefore does not have the powers to intervene in terms of the parking facilities or the regulation of them. Blue badge rights/exemptions do not

apply to private roads and/or car parks in the same way as they do to public roads/car parks.

- 3.12.6 Smart Parking is a service provider for the purposes of the Equality Act 2010, and that they have a duty to make reasonable adjustments to avoid disabled people being placed at a 'substantial disadvantage' compared to non-disabled people when accessing the car park service. However, by providing disabled parking bays it would appear that Smart Parking have made the requisite reasonable adjustments to the car park and may even be considered to have gone beyond 'reasonable adjustment' by allowing blue badge holders to park for free for up to three hours.
- 3.12.7 Disabled users of the car park have the right to contest tickets wrongly issued and to take action if the incorrect enforcement of the car parking regulation is carried out in a way that breaches the Equality Act 2010. However, this is separate to the statutory provisions relating to determination of planning applications, which require decisions to be made on the basis of the development plan unless material considerations indicate otherwise.
- 3.12.8 There is a government 'Private Parking Code of Practice', published by DLUCH, which operators such as Smart Parking will need to adhere to. The concerns raised by residents and local business as to the operation of this car park, need to be addressed through this code of practice rather than through this application
- 3.12.9 Furthermore, planning should not duplicate controls through other legislation. It would not be appropriate in recommending this application for approval to attach any conditions relating to the operation of the car park, which would in effect be requiring compliance with other regulatory requirements.
- 3.12.1 Concern is raised as to the impact of the development and its operation upon
0 Liscard Action Plan and the planned regeneration of Liscard. Liscard Action Plan is a non-statutory document, which has been superseded by the 'Liscard Neighbourhood Framework for Liscard: An Integrated Masterplan', published in November 2021. The masterplan is intended to inform the emerging Local Plan and is not intended as a blueprint. Whilst mention is made to car parking in this document and in particular parking within the Cherry Tree Centre, it puts forward options for the site, which may see the release of some of the land currently being used for parking for new development, which may or may not result in the arrangement and size of the parking provision to better serve the town centre and the visions for the town centre moving forward. It does not refer to the operation of parking at the Cherry Tree Centre or for the need for free parking.

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 policy advice. In reaching this decision the Local Planning Authority has considered the following:-

The proposed retention of the various street furniture relating to the car park management and also including the 3 no. pole mounted and 2 no. wall mounted ANPR cameras would result in no adverse effect on visual or residential amenity, and highway or public safety. The application is therefore considered to be in accordance with Policy SH1 of Wirral's Unitary Development Plan.

Recommended Approve
Decision:

Recommended Conditions and Reasons:

1. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 15th November 2021 and listed as follows:

2460//22/01/A, received 31st March 2022;
2460//22/06, received 30th March 2022;
Pay and Display Machine elevation, received 23rd March 2022;
'R50 lamppost mount', received 23rd March 2022;
'R50IQ pole mount Dims', received 23rd March 2022;
2460//22/04, received 23rd March 2022;
2460//22/05, received 23rd March 2022; and
Master ANPR Cameras -Cherry Tree excel spreadsheet received 9th May 2022.

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

Further Notes for Committee:

Last Comments By: 25/04/2022 16:07:15
Expiry Date: 18/05/2022