

Planning Committee

9th June 2022

Reference:
ADV/21/02183

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 advert consent sought for 6 no. non-illuminated pole mounted and 2 no. non-illuminated wall mounted fascia signs.

Applicant: Smart Parking Ltd
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: Full Planning Permission

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

Application No: APP/21/02188

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-iluminated 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 to 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

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

- signage too confusing
- signage erected without consent
- negatively impacting on small businesses/viability of town centre/ community
- signage is inadequate and unclear in it explaining parking regulations
- due to some signs being sited high up and with small type face, are hard to read

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 move location out of

Liscard.

CONSULTATIONS

Highways (Traffic & Transportation): No objection. The signs are all located within a private boundary and as such, a highway license is not required. The signs are not illuminated and do not impact on vehicle visibility or obstruct pedestrians, on that basis there would be no objection to the proposals.

Environmental Protection: No objection

Highways (Asset): No comment

Forward Planning: No objection

Regeneration: None received

3.1 Reason for referral to Planning Committee

3.1.1 Whilst the scheme of delegation does not cover advert consent applications, it is considered prudent to accompany it alongside the accompanying planning application for the ANPR cameras, APP/21/02188, which 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 This application for advertisement consent seeks approval for the retention of signage associated with the operations of the Smart Parking car park.

3.3.2 Consent is sought for the retention of the following signage:

- 6 no. pole mounted non-illuminated signs (numbered S1, S2, S29, S30, S31 & S33). Their dimensions vary between 0.6m wide by 0.8m high and 1m wide by 1m high. They are located between 0.95m and 2.15m above ground level. The signage is constructed using diabond and has black

lettering on a white background. They are all mounted to existing poles.

- 2 no. wall mounted non-illuminated signs (numbered S8 & S17). Their dimensions vary between 0.6m wide by 0.8m high and 1m wide by 1m high. They are located between 1.4m and 1.65m above ground level. The signage is constructed using diabond and has black lettering on a white background.

3.3.3 The remaining non-illuminated 25 signs which Smart Parking have erected within the car park are considered deemed consent. The car park as defined by the red edge showing on the submitted Location Plan is deemed to form a separate planning unit to that of the Cherry Tree Shopping Centre and as such would fall under Schedule 3 Part 1 Class 2 A of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. When measured, the advertisements individual areas do not exceed the maximum allowed 0.3 sqm; they are not illuminated, and no part of the signage is positioned 4.6m above ground level, thus meeting all relevant conditions of this Class. In contrast the dimensions of the signage (detailed above) result in the individual signs exceeding the allowed 0.3 sqm area and as such require consent.

3.3.4 All signage relating to Smart Parking has been measured on site and verified against measurements provided the applicant as part of their submission.

3.3.5 There is an associated application (APP/21/0188) 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, there is no local development plan policy relating explicitly to the control of advertisements, although the site is situated within Liscard Key Town Centre and therefore subject to Wirral Unitary Development Plan Policy SH1: Criteria for Development in Key Town Centres.

3.5 Other Material Planning Considerations

3.5.1 Paragraph 136 of the NPPF (July 2021) advises that the quality and character of places can suffer when advertisements are poorly sited and designed. The advertisement consent process should be operated in a way which is simple, efficient, and effective and advertisements should be subject to control only in the interests of amenity and public safety, taking into account cumulative impacts.

3.5.2 Emerging Wirral Local Plan and its status:

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.

3.5.3 Legal Principles

The display of advertisements is subject to a separate consent process within the planning system as set out under The Town and Country Planning (Control of Advertisements) England Regulations 2007. As such they are only controlled and assessed against consideration of amenity and public safety. All advertisements are subject to five standard conditions plus any additional conditions considered necessary.

- 3.5.4 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, then that determination must be made in accordance with the plan unless material considerations indicate otherwise.

3.6 **Assessment**

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

- Principle of development;
- Amenity (both visual and residential); and
- Public and Highway safety

3.7 Principle of Development:

- 3.7.1 The display of advertisements is acceptable subject to no adverse effect being caused to amenity or public safety.

Powers under Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) to control advertisements may be exercised only in the interest of amenity and public safety. The National Planning Policy Framework (the Framework) and the Planning Practice Guidance (PPG) reiterates this approach. The Council's local plan policies have not therefore been considered determinative in this matter. Moreover, the information displayed on the proposed advertisements, including whether that information is compliant with other regulatory regimes or statutory undertakings is, of itself, not an issue to be determined by the Council as part of the decision-making process.

Accordingly, the main issues are the effect of the proposed advertisements on the visual interest of the area, and 2 on public safety as it relates to road users.

3.8 Appearance and Amenity:

- 3.8.1 The existing signage for which this application seeks to retain should be seen within the context of its town centre location. There are a number of post mounted signs sited to the perimeter of St Albans Road and Mill Lane, whilst the remainder are either fixed to the elevations of the shopping centre or to existing posts sited comfortably within the curtilage of the car park site. Given its modest scale, siting and design to a large commercial car park within a town centre, it is considered that the signage is appropriate in its appearance and scale and does not appear visually cluttered or unduly obtrusive within the street scene.

- 3.8.2 With regard to the residential properties sited to Mill Lane, the closest sign (S29) to be retained is mounted to an existing post sited to the Mill Lane entrance of the car park. By virtue of its modest scale (0.6m x 0.8m) and it being sited approximately 18.5m away from those properties, it is unlikely that this sign or the remaining signage to be retained would appear unduly prominent when viewed from the neighbouring residential properties. Furthermore, all signage to be retained is non-illuminated.

3.9 Public and Highway Safety:

The PPG states that all advertisements are intended to attract attention, with those proposed at points where drivers need to take more care are more likely to affect public safety. Furthermore, it advises that the main types of advertisement which may cause danger to road users are those which are illuminated, which could be mistaken for, or confused with, traffic lights and those subject to frequent changes of the display. Moreover, those which, because of their size or siting, would obstruct or confuse a road-user's view, or reduce the clarity or effectiveness of a traffic sign or signal can also pose a risk to highway safety.

The types of adverts as the ones proposed are common in the UK and features one would reasonably expect to see in a car park. Given their, size, type and method of display, the inclusion of the advertisements presents little potential to distract motorists or create visual confusion against the existing backdrop, posing little risk to pedestrians and road users alike.

The visual interaction and lack of prominence of the advertisements such that their presence does not serve to draw the eye of drivers in a situation where due highway observation and care is necessary.

For the above reasons, the proposal would not be harmful to public safety as it relates to highway safety and pedestrians.

In accordance with the Regulations, account has been taken of the provisions of the development plan in so far as they are relevant. As there are no adopted Local Plan policies directly related to the display of advertisements nor their potential effect on highway safety matters, the proposal does not conflict with policies contained therein.

- 3.9.1 The existing signage is not of a size or in a location where it would affect public safety; or obstruct visibility or create a distraction for highway users. 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 areas, 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. Matters about the management regime for the car park are not relevant consideration for the purpose of determining this application.
- 3.10 Other:
- 3.10.1 None of the adopted UDP Policies directly relate to the operation of parking equipment.
- 3.10.3 However, 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.
- 3.10.4 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).
- 3.10.5 As such 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.
- 3.10.6 Concerns have been raised as to the operation of the car park and the existing processes that Smart Parking have in place, stating that this has resulted in users, and in particular disabled users being unfairly penalised.

- 3.10.7 In responding to the above concerns, it is, however, noted that 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.
- 3.10.8 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.
- 3.10.9 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 applications for advertisement consent, which require decisions to be made on the basis of the development plan unless material considerations indicate otherwise
- 3.10.1 There is a government 'Private Parking Code of Practice', published by 0
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.
- 3.10.1 Furthermore, planning should not duplicate controls through other legislation. 1
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.
- 3.10.1 Concern is raised as to the impact of the proposal and its operation upon 3
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 make mention to the operation of the parking to 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 Advertisement Consent 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 retained advertisements have no adverse effect on visual or residential amenity, and highway or public safety. As a result the application is considered to be in accordance with Policy SH1 of Wirral's Unitary Development Plan and to meet the objectives of the National Planning Policy Framework (2021) and the Town and Country Planning (Control of Advertisements)(England) Regulations 2007.

Recommended Decision: Approve

Recommended Conditions and Reasons:

1. The development hereby permitted shall be retained 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 30th March 2022;
2460//22/06, received 30th March 2022;
2460//22/07/A, received 30th March 2022;
2460//22/08/A, received 30th March 2022;
2460//22/09/A, received 30th March 2022;
Smart CherryTCP ENT 01, received 30th March 2022;
Smart CherryTCP DIS 01, received 30th March 2022;
Smart CherryTCP REG 01, received 30th March 2022;
Smart MASTER APP 02, received 30th March 2022;
Smart CherryTCP RIN 01, received 30th March 2022;
Smart CherryTCP TAR 01, received 30th March 2022;
Smart CherryTCP TAR 02, received 30th March 2022;
Smart CherryTCP GDPR 02, received 30th March 2022; and

Master Signage Sign Off excel spreadsheet received 31st March 2022

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

2. Any advertisements displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.

Reason: To comply with Regulation 2 (1) of Schedule 1 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

3. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.

Reason: To comply with Regulation 2 (1) of Schedule 1 of the Town and

Country Planning (Control of Advertisements) (England) Regulations 2007.

4. Where an advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.

Reason: To comply with Regulation 2 (1) of Schedule 1 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

5. No advertisement shall be sited or displayed so as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air, or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

Reason: To comply with Regulation 2 (1) of Schedule 1 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

6. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

Reason: To comply with Regulation 2 (1) of Schedule 1 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

7. This consent shall expire after a period of 5 years from the date of this permission.

Reason: To comply with Regulation 2 (1) of Schedule 1 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

Further Notes for Committee:

Last Comments By: 26/04/2022 12:26:11

Expiry Date: 25/05/2022