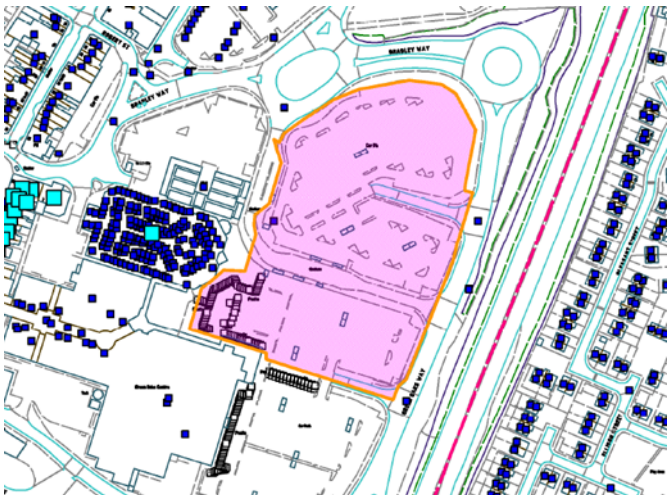


APPLICATION NO:	22/00284/FUL and 22/00285/ADV
LOCATION:	Green Oaks Centre, Green Oaks Way, Widnes
PROPOSAL:	<p>22/00284/FUL - Retrospective application for planning consent for the installation of a car park management system on existing car park comprising 4 no. pole mounted automatic number plate recognition (ANPR) cameras and 6 no. park and display machines</p> <p>22/00285/ADV - Application for advertising consent for the installation of 74 no. pole mounted non illuminated signs for car park management system on existing car park.</p>
WARD:	Appleton
PARISH:	None
AGENT(S)/APPLICANT(S):	Savills (UK) Limited
DEVELOPMENT PLAN:	<p>National Planning Policy Framework (2021)</p> <p>Delivery and Allocations Local Plan ('DALP') (March 2022).</p> <p>Unallocated – Within Widnes Town Centre Inset</p>
DEPARTURE:	No
REPRESENTATIONS:	35 letters of objection
KEY ISSUES:	Visual amenity, privacy, Highway safety, impact on local economy, equality
RECOMMENDATION:	Approve subject to conditions
SITE MAP:	

1. APPLICATION SITE

1.1 The Site

Part of car park attached to Green Oaks Shopping Centre, Green Oaks Way/ Bradley Way, Widnes.

1.2 Planning History and Background

- None Relevant.

2. THE APPLICATION

2.1 The Proposal

Both applications relate to the same site. Application 22/00284/FUL relates to the installation of a car park management system comprising 4 no. pole mounted automatic number plate recognition (ANPR) cameras and 6 no. park and display machines. Application 22/00285/ADV relates to the installation of 74 no. pole mounted non illuminated signs for the car park management system on an existing car park

The 'FUL' application is retrospective, meaning that development has already taken place. With respect to the application for advertisement consent these are also in place and the application as originally submitted was described as being "retrospective". However, an advertisement consent cannot retrospectively authorise an advertisement and therefore , 22/00285/ADV is being treated as a standard application and the reference to "retrospective" has been deleted from the description.

Members are reminded that national planning guidance advises that "*a local planning authority can invite a retrospective application. In circumstances where the local planning authority consider that an application is the appropriate way forward to regularise the situation, the owner or occupier of the land should be invited to submit their application (section 73A of the Town and Country Planning Act 1990) without delay. It is important to note that:*

- *although a local planning authority may invite an application, it cannot be assumed that permission will be granted, and the local planning authority should take care not to fetter its discretion prior to the determination of any application for planning permission – such an application must be considered in the normal way;*"

2.2 Documentation

The applications are supported by the completed application forms, certificates, related plans and drawings and cover letter.

3. POLICY CONTEXT

Members are reminded that planning law requires for development proposals to be determined in accordance with the development plan, unless material considerations indicate otherwise.

3.1 Halton Delivery and Allocations Local Plan (DALP) (2022)

The following policies contained within the Halton Delivery and Allocations Local Plan are of relevance:

- CS(R)18 High Quality Design;
- CS23 Managing Pollution and Risk;
- CS(N)26 Unallocated Land in Urban Areas;
- HC4 Shop Fronts, Signage and Advertising;
- HE7 Pollution and Nuisance;
- HE8 Land Contamination
- GR1 Design of Development;
- GR2 Amenity;
- GR3 Boundary Fences and Walls.

3.2 Supplementary Planning Documents

- Shop Fronts, Signage & Advertising (2005)

MATERIAL CONSIDERATIONS

A material planning consideration is one which is relevant to making the planning decision in question (eg whether to grant or refuse an application for planning permission).

There is no statutory definition of a 'material consideration' and whether a particular consideration is material is ultimately a decision of the courts. The courts have, however, adopted a broad interpretation and established the principle that "any consideration which relates to the use and development of land is capable of being a planning consideration. That said, the Supreme Court has ruled that the considerations must serve a planning purpose and not an ulterior motive, they must fairly and reasonably relate to the development permitted and they must not be so unreasonable that no reasonable planning authority could have imposed them. A planning purpose is one that relates to the character and use of land. In general, they have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations. The weight to be attributed to a consideration is a matter for the local planning authority / the committee.

3.3 National Planning Policy Framework

The National Planning Policy Framework (NPPF) was published in July 2021 to set out the Government's planning policies for England and how these should be applied.

3.4 Equality Duty

Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

There are no known equality implications arising directly from this development that justify the refusal of planning permission.

3.5 Other Considerations – Human rights

The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a person's rights to the peaceful enjoyment of property and Article 8 of the Convention of the same Act which sets out his/her rights in respect for private and family life and for the home. Officers consider that the proposed development would not be contrary to the provisions of the above Articles in respect of the human rights of surrounding residents/occupiers.

4. CONSULTATIONS

4.1 The application has been advertised by site notices posted near to the site and adjoining businesses have also been notified by letter.

4.2 The following organisations have been consulted and, where relevant, any comments received have been summarised below in the assessment section of the report:

- **Environment Agency**
No Comments Received

Council Services:

- **HBC Highways and Transport**
No objection
- **HBC Contaminated Land**
No objection
- **HBC Major Projects**
No comments to make on this application
- **HBC Property**
No comments received at time of report

5. REPRESENTATIONS

At the time of writing the report, 27 letters of objection have been registered in relation to application 22/00284/FUL and 7 letters of objection registered in relation to application 22/00285/ADV raising the following concerns:

- Loss of free parking
- Potential increases to charges
- Discourage visitors/ customers and impact on businesses/ economy
- Boundaries incorrectly marked, include Morrison's land
- Carpark is not anti-social and cameras not required
- Restricted/ reduced access to disabled parking bays
- Pay stations incorrect height, key pads small and too far for disabled users
- Signs are confusing
- Private enterprise using personal data
- That the equipment was installed and fines taken prior to application
- Whether fines issued to date are lawful

A letter of objection has also been received from Cllr Eddie Jones and Cllr Angela Teeling stating that this would be of detriment to the wellbeing and health of the local business community and residents. A more detailed letter of objection has been submitted on behalf of both Cllr Eddie Jones and Cllr Angela Teeling raising the following issues:

- That free parking "is a big draw for shoppers"
- Indirect discrimination by charging people who qualify to park in disabled parking bays
- Detrimental impact on Widnes market and town centre
- This and subsequent time limits on other car parks results in decreased footfall and is causing shops to close in an already struggling town

centre. This is to the detriment of businesses, employees, customers, neighbours, local residents and the community generally and people who work in the area are now required to pay to park all day.

- Traffic generation and displacement to residential streets and impacts on pedestrian safety
- That a retail unit has also been set up posing risk to market and retail units
- That consent for advertisements cannot be applied retrospectively
- That profits are being made from unlawful conduct
- That the signs should be removed/ covered up and the parking system cease

A full copy of that letter is attached to this report.

6. ASSESSMENT

6.1 Background

The principle planning consideration for these proposals are the scale and design of the proposed infrastructure and signage. Whilst concerns have been raised regarding displacement of parking related to the introduction of a maximum stay period on the Car Park it is important to note that planning permission is not required for the owners of the land to introduce a maximum stay period or car parking charges. As the land is owned privately it is at their discretion as to how the parking is managed on their Car Park and the Council cannot intervene regarding this.

6.2 Principle of Development

The site is identified as Unallocated Land in an Urban Area but within the boundaries of the Widnes Town Centre on the Delivery and Allocations Local Plan Policies Map

Policy CS(N)26 provides that:

“On land not coloured on the policies map which is currently in urban use, it is assumed that present uses will continue as this land is not subject to any site specific policies which propose a change of use. Any proposals for changes of use will be judged in accordance with the relevant policies of the Plan.”

The starting point in the consideration of Policy CS(N)26 is to establish the pre-existing use of the land. In this case, at the time Policy CS(N)26 was drafted, the land was in use as a car park linked to the adjoining retail centre. It is then necessary to establish whether or not the proposed development constitutes a change of this use. In this case the proposal

relates to development in direct association with the operation of the same use and does not constitute a change of use of the site. In which case the second part of the policy which relates to changes of use is not applicable.

As such the proposal complies with the overarching development plan designation and its related Policy CS(N)26 of the Halton DALP. Further assessment below is based on the related detailed policies of the development plan related to scale and design, advertising and other matters.

6.3 Scale and Design

The proposed 4 no. pole mounted automatic number plate recognition (ANPR) cameras are pole mounted at a height of circa 4.23m. The scheme also includes 6 no. park and display machines.

There have been no objections based on the appearance of the cameras and poles or park and display machines, which are not dissimilar to the existing lampposts and other street furniture within the town centre. It is considered that in terms of design and appearance the proposed ANPR cameras, associated structures and pay machines do not result in harmful impact on the visual amenity of the area. No conflict with current local or national policy has been identified and it is not considered that refusal of planning permission could be sustained on these grounds.

6.4 Advertising

The advertisements are all located within the boundary of the existing car park. The advertisements requiring deemed consent are assessed under the terms of Regulation 3 of The Town and Country Planning (Control of Advertisements)(England) Regulations 2007 as amended. The Local Planning Authority can only assess applications for advertisements on the basis of their impact on amenity and public safety. DALP Policy HC4 and Shop Fronts, Signage and Advertising SPD are also for consideration.

Unless the nature of the advertisement is in itself harmful to amenity or public safety, consent cannot be refused because the local planning authority considers the advertisement to be misleading (in so far as it makes misleading claims for products), unnecessary, or offensive to public morals.

When considering amenity, the local planning authority needs to consider the local characteristics of the neighbourhood: for example, if the locality where the advertisement is to be displayed has important scenic, historic, architectural or cultural features, the local planning authority needs to consider whether it is in scale and in keeping with these features.

This might mean that a large poster-boarding would be refused where it would dominate a group of listed buildings, but would be permitted in an industrial or commercial area of a major city (where there are large buildings and main highways) where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site.

Public safety is not confined to road safety and includes all of the considerations which are relevant to the safe use and operation of any form of traffic or transport on land (including the safety of pedestrians), over water or in the air.

The Council's highway engineer has confirmed that they raise no objection and therefore that there is no threat to highway safety resulting from the location and form of the signs and given there are no other resulting transportation assessment requirements, it is considered that the advertisements are acceptable. Whilst there are numerous signs and other infrastructure it is not considered that any argument could be sustained that the proposals result in visual clutter to justify refusal.

In this situation it is considered that the advertisements are appropriate in scale and location to the area in which they are situated and are acceptable.

6.5 Contaminated Land

The application site does have a historical connection to contaminative industries and was subject to remediation during the redevelopment and construction of the current retail site. The main thrust of the remediation was to encapsulate the most significantly contaminated material within the site and under cover of the development platform and hardcover of the car parking areas.

The current application does not make clear how deep any excavations are, for supporting the camera post for example, and there is no mention of the management of potentially contaminated arisings from such excavations.

Some information would normally be required regarding the interaction of the development and the remedial scheme as well as details of management of the potentially contaminated material. However, given that any excavations/breaking of the surface cover have been made good, the Council's Contaminated Land Officer has advised that it is unlikely that there is any ongoing risk to site users or the wider environment. Furthermore, there is other legislation that will have been in place to control risk during the works, e.g. that covering health and safety and waste management. On that basis no objection is raised.

6.6 Other Matters

One representation has been received referring to the use of the ANPR cameras in terms of their impact on privacy and how the information collected is used.

The Council understand that the purpose of the ANPR cameras is to capture vehicle registration numbers for the purpose of civil parking enforcement. Whilst such information may amount to personal data, its processing is permitted provided that the legal requirements set out in the UK General Data Protection Regulation and the Data Protection Act 2018 are complied with. These requirements include retaining the information only for as long as necessary. It is for the applicant to ensure compliance with this legislation and any breaches would be dealt with by the Information Commissioner or, in certain circumstances, the Crown Prosecution Service (“the CPS”).

Objections have been received regarding the charging for car parking and the impact on the town centre. Members are reminded that the amount of charge is not a material consideration nor is it within the control of the Planning Authority. The physical infrastructure is not and not likely to lead to an adverse impact on the town centre that would justify refusal of the applications.

Objections have been raised that the scheme is discriminatory in terms of the need for disabled users to pay and the design and location of the ticket machines. Government guidance in the form of Inclusive mobility: a guide to best practice on access to pedestrian and transport infrastructure provides guidance in this respect. This does not preclude blue badge holders from requirement to pay, the ticket machines are considered to be reasonably located adjoining disabled parking pays and the payment machines, based on officer assessment, appear to meet the relevant guidance.

6.7 SUMMARY AND CONCLUSIONS

In conclusion, the proposal for the ANPR cameras and poles are considered appropriate in terms of their design and appearance, which is appropriate to their surroundings. As such the application for retrospective permission for their retention is acceptable in accordance with the development plan. The proposal for advertisement has been appropriately assessed under Regulation 3 of The Town and Country Planning (Control of Advertisements)(England) Regulations 2007 as amended and no harmful public safety or amenity issues arise as a result. The advertisements are considered acceptable with respect to DALP Policy HC4 and adopted SPD for Shop Fronts, Signage and Advertising.

Issues that may subsequently arise due to the way in which data is gathered and/or used is not a matter for consideration under the Town and Country Planning Act as this is dealt with under separate legislation and under the jurisdiction of the Information Commissioner and/ or the CPS.

7. RECOMMENDATION

Both applications are recommended for approval.

In relation to 22/00284/FUL, as the proposal is retrospective, a condition confirming the approved plans.

In relation to 22/00285/ADV, standard advertisements conditions are recommended as follows:-

- 1) 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.
- 2) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.
- 3) 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 the highway, railway, waterway (including any coastal waters) or aerodrome (civil or military).
- 4) Where an advertisement is allowed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.
- 5) 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.

8. BACKGROUND PAPERS

The submitted planning applications are background papers to the report. Other background papers specifically mentioned and listed within the report are open to inspection at the Council's premises at Municipal Building, Kingsway, Widnes, WA8 7QF in accordance with Section 100D of the Local Government Act 1972

9. SUSTAINABILITY STATEMENT

As required by:

- The National Planning Policy Framework (2021);
- The Town and Country Planning (Development Management Procedure) (England) Order 2015; and
- The Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2015.

This statement confirms that the local planning authority has worked proactively with the applicant to secure developments that improve the economic, social and environmental conditions of Halton.