

**Timeline for Enforcements** (Version 2, 22nd November 2017).

Local Planning Authority requirement for private parking companies / landowners to obtain advertisement consent (for ANPR signage) and / or planning permission (for ANPR cameras).

Enforcement notifications, in chronological order (earliest first):

**November, 2011.** Morrisons, Braintree. (Braintree District Council). On 8<sup>th</sup> November 2011 the Council's officer, Mr Chris Tivey, wrote: ".....none of the signs are covered by the application documents for 11/01450/ADV. With the exception of the Blue Badge signs.....which fall under 0.3m, all of the others require a further application for advert consent." An application was made for advert consent for the ParkingEye signs within 7 days and granted on 23<sup>rd</sup> January 2012. It is stated that this signage was erected on 2<sup>nd</sup> September 2011, therefore parking charges may have been levied for three or four months before mandatory planning consent was obtained, subject to confirmation.

**July 2012.** Central Retail Park, Wrexham. (Wrexham County Borough Council). In about July 2012 a member of the public complained to the Council regarding three ANPR cameras. The Council decided that this was an enforcement issue and their officer, Mrs Fran Evans, directed that a planning application should be made for these cameras which Total Parking Solutions Ltd states were installed in January 2012. Planning permission was granted on 11<sup>th</sup> October 2013. No application appears to have been made for advert consent for the ANPR signs which appear to exceed the 0.3sqm threshold. It is estimated that motorists may have been pursued for parking charges for over 68 months without mandatory advertisement consent having been obtained, subject to confirmation.

Meanwhile, the Council's policy on advertisement consent is that: ".....consent is considered to be given from the date of the decision notice and would not be back dated to the time of initial display,"

**November 2012.** Breitmet Street Car Park, Bolton. (Bolton Borough Council). ParkingEye, in a Design and Access Statement, acknowledges that the Council had alerted them that "planning permission" would be required to retain the ANPR equipment that had been installed the previous March. Advertisement consent was granted in January 2013, some nine months after installation.

Meanwhile, the Council's position of advertisement consent is that: ".....consent is from the date of the decision."

**May 2013.** Lawson Street, Preston. (Preston City Council). On 9<sup>th</sup> May 2013 the Council's officer, Mr Alan Lowe (Ref: E/2012/00249), directed that Parking Eye should cease using the land as a car park or apply for planning permission within 28 days. There had been a material and unauthorised change of use. An application was made for planning permission (granted 23<sup>rd</sup> December 2013 for a fixed period **not exceeding two years**) and advertisement consent (granted

7<sup>th</sup> January 2014). The use of the land as a pay and display car park was declared to have commenced on 6<sup>th</sup> February 2013, therefore the facility was operating for some 11 months without mandatory advertisement consent. It is not public knowledge whether parking charges levied during that 11 months were refunded.

This planning permission expired on 23<sup>rd</sup> December 2015 but the Council did not receive a fresh application for planning permission and advertisement consent until 11<sup>th</sup> February – seven weeks late. The new approvals were not granted until 29<sup>th</sup> March 2016, three months after the expiry of the original permission.

Separately, the Council's policy on advertisement consent is that: "The sign would be unlawful before consent was granted. The sign would be lawful once consent was granted, this is from the date determined and is not back dated."

**October 2013.** Grosvenor Casino, Bolton. (Bolton Borough Council). On or about 2<sup>nd</sup> October 2013 the Council's officer, Mr Graeme Mitchell (Ref: PC.10. GRLE/13/0567/09), wrote: "Following recent complaints with regard to the above address, it is alleged that an unauthorised change of use has taken place for which we consider planning permission is required." Also: "Unless I hear from you in the next 7 days...I shall have to consider taking further action."

ParkingEye applied for planning permission and advertisement consent, which were duly granted on 6<sup>th</sup> January 2014. The operator states that their equipment was installed by 19<sup>th</sup> March 2012, therefore the facility had been operating for a period of some 21 months without the mandatory advertisement consent.

Meanwhile, as mentioned above, the Council's policy on advertisement consent is that: ".....consent is from the date of the decision."

**November, 2013.** Two Saints Retail Park, Ormskirk. (West Lancashire Borough Council). This car park was managed by ParkingEye, then CP Plus, and then by ParkingEye again:

1) ParkingEye erected signage and commenced operations on 13<sup>th</sup> August 2013. Following a complaint from a member of the public in November 2013, Parking Eye applied to retain the ANPR cameras and signage they had already erected. The Council granted planning permission and advertisement consent in July 2014, therefore the car park had been operated without mandatory advert consent for a period of 11 months. The ownership of the car park changed in January 2015 and ParkingEye moved out.

2) CP Plus then erected signage on 21<sup>st</sup> April 2015. On 27<sup>th</sup> May 2015, following a complaint from a solicitor, the Council's Planning Enforcement Officer, Mr Ray Beirne (Ref: E/2015/0158/COA), wrote: "I have investigated this matter and established that there are a number of signs currently displayed .....which breach advertisement regulations. The signage relates to car parking fees and terms and conditions." "As a consequence, in accordance with the Council's enforcement plan, I wrote to the owners of the relevant signage and asked that they submit a retrospective application for consent to display advertisements within 28 days." On 3<sup>rd</sup> June CP Plus retrospectively applied for advertisement consent, which was granted on 6<sup>th</sup> August 2015. This time, therefore, the car park had been operating for three and a half months without mandatory advertisement consent.

3) ParkingEye returned to the site on 31<sup>st</sup> July 2016 and applied for planning permission and advertisement consent on 1<sup>st</sup> August but these were not granted until 3<sup>rd</sup>/7<sup>th</sup> October, meaning that for a third time this car park lacked mandatory advertisement consent, this time for a further two and a half months.

Meanwhile, the Council's policy on advertisement consent is: ".....a consent that was applied for retrospectively could only be valid from the date on which the consent was granted. Whilst the application would be retrospective the consent would only be prospective."

**December 2013.** Morrisons, Cwmbran. (Torfaen County Borough Council). The Council wrote: ".....it should be noted that the erection of the ANPR cameras requires planning permission which Morrisons have not yet sought from Torfaen County Borough Council. The Council will contact Morrisons and their agents to request the submission of a retrospective planning application for approval." Meanwhile, it appears that there was no application for advertisement consent for retention of the signage.

Separately, the Council's policy is that: "It is an offence which may be prosecuted to display an advertisement without consent." ".....where an illegal sign is being displayed, it becomes legal once advertisement consent has been granted for it to be displayed."

**January 2014,** Aldi, Mold. (Flintshire County Council). On 9<sup>th</sup> January 2014 Aldi applied retrospectively for planning permission after prompting by the Council's Enforcement Officer, Mr McVey. Permission appears to have been granted following a meeting of Mold Town Council on 14<sup>th</sup> May 2014, along with advert consent for the ANPR signage. The application form states that the car park management system was installed by 29<sup>th</sup> January 2013, therefore it would appear that motorists were being pursued for parking charges for a period of 15 months before the mandatory advertisement consent was obtained. According to local newspapers, Aldi has consistently refused to repay unauthorised parking charges levied at this car park whilst it was operating without planning approval.

The Council's policy, separately, is that: ".....if an application is submitted to regularise an unauthorised advertisement subsequently approved the consent is from the date of the decision. Furthermore, if an application is required for an ANPR camera mounted on a pole any consent granted would be from the date of the decision."

**March, 2014** (approx). Blackwood Retail Park, Caerphilly. (Caerphilly County Borough Council. The Council's officer, Mr M. Jones (Ref: ENF/14/0075), directed ParkingEye to apply for approval of the ANPR system. An application was duly submitted on 1<sup>st</sup> May 2014 and planning permission was granted on 26<sup>th</sup> June 2014. On the same date advertisement consent was granted: "**.....for a period of FIVE years from the date of this consent**". (Emphasis added).

ParkingEye state that their ANPR system was installed on 22<sup>nd</sup> February 2010, Therefore it seems reasonable to assume that parking charges were issued for a period of 52 months before mandatory advert consent was in place.

Upon enquiry, the Council stated: "In general terms express consent granted for an advertisement already in situ runs from the date of approval of the consent

and does not grant authority for the display prior to the appropriate approval date."

**March, 2014.** Hindpool Retail Park, Barrow-in-Furness. (Barrow-in-Furness Borough Council ). On 5<sup>th</sup> March 2014 the Council's Planning Manager, Jason Hipkiss (Ref: CP/46/ 1994/0248), wrote: "Erection of signs and CCTV cameras by Parking Eye. I have received a complaint from a local Councillor relating to the introduction of various signage and CCTV cameras on the forecourts.....". "The signage does not benefit from any deemed consent as defined in the current advertisement regulations nor do the cameras have permitted development rights as they are not attached to a building. Consequently advertisement consent and planning permission are both required."

Having given notice of a breach in planning regulations, most LPAs require a response within seven to twenty-eight days. **In this case it took ParkingEye nearly two months to comply by applying for planning permission and advertisement consent** on 1<sup>st</sup> May 2014. Planning permission for the cameras was granted on 24<sup>th</sup> September 2014. It is not clear when advertisement consent was granted, but it is thought to be around 24<sup>th</sup> September 2014, a gap of 21 months after the erection of the ANPR signage.

Meanwhile, the Council state that: "Barrow Council may only grant consent from the date of the decision."

**March, 2014.** Corner House Retail Park, Barrow-in-Furness. (Barrow-in-Furness Borough Council). On 5<sup>th</sup> March 2014 the Council's Planning Manager, Jason Hipkiss (Ref. CP/46/1994/0248), wrote: "Erection of signs and CCTV cameras by Parking Eye. I have received a complaint from a local Councillor relating to the introduction of various signage and CCTV cameras on the forecourts.....". "The signage does not benefit from any deemed consent as defined in the current advertisement regulations nor do the cameras have permitted development rights as they are not attached to a building. Consequently advertisement consent and planning permission are both required."

**Again, it took ParkingEye nearly two months to comply by submitting the required applications,** which were approved by 24<sup>th</sup> September 2014. Thus there was a gap of 21 months between erection of the signage and consent being granted.

Meanwhile, as stated above, the Council state that: "Barrow Council may only grant consent from the date of the decision."

**August 2014.** The Range, Barrow. (Barrow-in-Furness Borough Council). A complaint was made to the Council regarding both cameras and signs. The Council wrote to ParkingEye the same day to require applications, but **it took ParkingEye three months to apply.** The Council's policy reflects national policy, that cameras do not have permitted development rights if they are not attached to a building.

On 12<sup>th</sup> February 2016 ParkingEye's claims handler, in a County Court Witness Statement (Case No. 3JD10196), stated: "ParkingEye can confirm that we have received notification from Barrow-in-Furness Borough Council that we have been

granted planning permission retrospectively for the erection of ANPR cameras and signage at The Range, Barrow-in-Furness.(Exhibit 1 ).” This statement is **false** in two respects: 1) planning permission cannot be given for signage – signage is governed by a completely separate but parallel procedure called advertisement consent; and 2) advertisement consent, unlike planning permission, cannot be back-dated, and starts only on the date of the decision. (Is this perjury?). For the avoidance of doubt, the Decision Notice issued by the Council in respect of advertisement consent states (page 4, para 2): “The Regulations provide that every grant of express consent shall be for a fixed period which shall not be longer than **five years from the date of grant of consent** without the approval of the Secretary of State.....” (emphasis added).

Meanwhile Barrow Council, in a separate non-specific enquiry, states that it may only grant advert consent from the date of a decision, i.e. prospectively.

So for nearly three years parking charges were issued at this site without mandatory advertisement consent being in place, and therefore in breach of the Approved Operator System (AOS) Code of Practice, and therefore also contrary to the Supreme Court ruling that keeper data cannot be given to a private parking company (PPC) that is in breach of the AOS Code. DVLA KADOE rules are also breached.

**2015** (? Month). Warrington Hospital (Warrington Borough Council). The Planning Enforcement team said: “There was a case.....(ref. ENF/15/04990) which has since been closed. There appears to have been two advertisement applications (2015/26332 and 2016/27367) pursuant to the investigation.” In July 2015 a Citizens Advice Bureau report stated that the signs were not compliant with British Parking Association rules. During the latter half of 2015 it was apparent that the cameras were capturing car registrations **outside** hospital grounds, and a FOI request revealed that virtually none of the ensuing unlawful parking charges were refunded. It was not until mid-April 2016 that the cameras and signage were finally approved in their correct locations, within hospital premises.

Separately, the Council stated in general terms that: “.....consent would effectively commence from the day the consent is granted for a period of five years.” In other words, there is no back-dating of consent.

**January, 2015.** Rivington Services (Chorley Council). On 23<sup>rd</sup> January 2015, following a complaint from a member of the public regarding both cameras and signs the Senior Enforcement Officer, Mr Peter Willacy (Ref: ENF/14/00138/NBLD), wrote that the cameras had permission but that “.....the signage displayed.....would require advertisement consent and the company responsible have been requested to submit an application to the Council.” The landowner applied for advertisement consent, which was duly granted on 8<sup>th</sup> April 2015.

The landowner, Euro Garages, has stated in writing that the ANPR system was installed in May 2011, therefore it seems likely that parking charges were being levied at this site for some 47 months before mandatory advertisement consent was in place.

In evidence submitted to Bolton County Court (Case No. AOJD 6874) Parking Eye’s claims handler stated that: “ParkingEye can confirm that planning permission was granted for the signage at Euro Garages, Rivington on 8<sup>th</sup> April

2015 retrospectively.” As stated in relation to The Range, Barrow-in-Furness (above), this claim is **false** in two respects: 1) planning permission cannot be given for signage – signage is governed by a completely separate but parallel procedure called advertisement consent; and 2) advertisement consent, unlike planning permission, cannot be back-dated, and starts only on the date of the decision. (Again, is this evidence perjurious ?).

The Chief Executive of Chorley Council contradicts ParkingEye by confirming in writing that advertisement consent was **not** in place at this site until April 2015, and that it **cannot** be back-dated. For nearly four years parking charges were issued at this site unlawfully, and therefore in breach of the AOS Code and therefore in breach of the Supreme Court ruling that keeper data cannot be given to an operator that is in breach of the AOS Code). Again, the DVLA KADOE contract is breached.

**January, 2015.** Morrisons, Neath. (Neath Port Talbot Borough Council). On 19<sup>th</sup> January 2015 Geraint Jones, the Council’s officer (Ref: E2015/0013), wrote: “It has been brought to my attention and confirmed by a site visit that ANPR cameras have been installed at the above premises. Records show that there is no planning consent for the works and you are therefore advised that they are unauthorised.” “Should you wish to retain the cameras then you should complete the enclosed forms and return them to the Department within 28 days of the date of this letter.....”

ParkingEye applied retrospectively for planning permission and advertisement consent, granted on 23<sup>rd</sup> April 2015. The operator states that the ANPR system was installed on / by 18<sup>th</sup> December 2014, therefore it seems likely that parking charges were being issued for a four month period before mandatory advert consent was in place.

Meanwhile, in a separate non-specific enquiry, the Council states that a sign would be unlawful up to that point in time when consent was given. “.....such consent does not retrospectively permit the display prior to such approval.”

**February 2015.** Queens Hospital, Burton-on-Trent. (East Staffordshire Borough Council). On 25<sup>th</sup> February 2014 the Council’s Enforcement Officer, John Thompson (Ref: CAS-30361-Q5M7V7), wrote to the Hospital: “.....a large number of parking signs present on the car park require express consent in order to be displayed lawfully. At present no such consent is in existence.” “I must advise you that it is a criminal offence to display an advertisement without the appropriate advertisement consent.” “You are therefore required to either apply for express consent under the Advertisement Regulations or remove the signs within 14 days of the date of this letter.” “ In the event of this not being done within this time scale the matter may be referred to the Solicitor for the Council with a recommendation for Court action under Section 224 of the Town & Country Planning Act 1990.”

When advertisement consent was finally granted (23<sup>rd</sup> July 2015) it was accompanied by a rider: “Please be aware that the ANPR cameras on the site do not have planning permission and an application should be submitted for their retention. If an application is not submitted Enforcement action may be taken.” It was not until November 2015 that all permissions were in place, so for over two years parking charges were being issued without authority.

Following a separate non-specific enquiry, the Council states: "When consent is granted it is not retrospective."

**Summer, 2015.** Lidl, Streatham. (London Borough of Redbridge). Following a complaint the Council's Enforcement Team investigated the ANPR camera fitted at this site. The Enforcement Officer noted that a set of ANPR cameras were installed in the summer of 2015 but that they were later removed. A replacement camera was installed and in October 2015 a (retrospective) application was made for planning permission for the camera's retention. Planning permission was granted on 17<sup>th</sup> December 2015.

No application was made for the retention of the ANPR signage visible on lamp-posts in Google Street View images dated June 2016. A motorist reports receipt of a PCN from Athena ANPR Ltd at this site as early as September 2011, when there was no deemed or express consent for any ANPR cameras or signage. Based upon this information, it is quite possible that parking charges have been levied over a period of six years to date, without mandatory advert consent having been obtained.

Meanwhile, following a separate non-specific enquiry, the Council states that advertisement consents last for five years. "The five year period begins from the date that the decision is issued, at which time the advertisements are considered to have 'express consent'."

**July, 2015** Morrisons, Penrith. (Eden District Council). On 21<sup>st</sup> July 2015 the Council's Senior Planning Technician, Mrs Louisa Burton, informed Morrisons' agent that the ANPR signage being displayed in the car park needed advertisement consent: ".....the current display of them is unlawful and subject to formal planning enforcement consideration, as it is a criminal offence to unlawfully display an advertisement." It was also noted that two signs were also in breach of a 1986 Section 52 Agreement which required the car park to be available not just to customers only. Finally, it was noted that there had been a breach of a planning condition requiring submission of a car park management scheme.

A retrospective application was made for advertisement consent, which was granted on 17<sup>th</sup> December 2015 with a condition: "The consent hereby granted shall expire after a period of five years from the date of this consent."

On 28<sup>th</sup> October 2015 another Council officer, Mr Jeff Tweddle, requested a retrospective application for planning permission for the ANPR cameras, which was also granted on 17<sup>th</sup> December 2015.

It is declared that the car park management system was installed on 14<sup>th</sup> January 2014, so it seems likely that parking charges were being levied for a period of some fifteen months without mandatory advert consent being in place.

Following a separate, non-specific enquiry, the Council states that ".....retrospective consent cannot be back dated."

**July, 2015.** Holiday Inn, Stoke-on-Trent. (Stoke-on-Trent City Council). A member of the public complained about the ANPR installation at this site. On 20<sup>th</sup> July 2015, following an investigation, the Council's Planning Enforcement

Officer, Kerry Mee (Ref: ENF/15/221), declared: ".....the development is unauthorised and should have been the subject of a planning application to the Council." The operator applied retrospectively for planning permission and advertisement consent, both being duly granted in October 2015. Thus, for 20 months there was no legal authority to manage this site.

Separately. The Council states: "With advertisement consent, this can not be backdated. The consent only applies once issued."

**July, 2015.** Asda, Colne. (Pendle Borough Council). Following a complaint, Kathryn Hughes, Principal Planning Officer (Ref: 13/15/0062P), contacted Asda regarding additional unauthorised signs displayed at this site. She wrote: "We are of the opinion that these signs require advertisement consent....."

Meanwhile, the Council's position is: "Consent for all applications is commenced from the date of final determination."

**July, 2015.** Aldi, Cleveleys. (Wyre Borough Council). The Council's Enforcement Officer, Mr Graham Avis, expressed concern that the existing ANPR cameras at this site may breach planning control. In June 2016 the Head of Planning Services, Mr David Thow, decided that the signage was subject to Class 2A of Schedule 3 of the 2007 advertisement regulations since they each exceeded 0.3 sqm in area. He found 7 signs exceeding the said size threshold and reported: "All the signs therefore require advertisement consent and their display without that consent therefore constitutes an offence."

A retrospective application was made in March 2016 to retain the cameras and granted on 11<sup>th</sup> May 2016. A further application was made in May 2016 for some ANPR-related banners, and a third application made on 4<sup>th</sup> July 2016 to retain eleven signs (granted 13<sup>th</sup> September 2016).

It is understood that this ANPR system was installed in January 2011, therefore it seems likely that parking charges have been levied at this site for a period of 68 months without mandatory advertisement consent having been obtained.

Meanwhile, following a separate non-specific enquiry, the Council states that: "Retrospective advertisement consents.....cannot themselves be backdated, the consent would be in place from the date of determination."

**September, 2015.** Aldi, Fairlands Way, Stevenage. (Stevenage Borough Council). On 30<sup>th</sup> September 2015 and again on 30<sup>th</sup> November 2015 the Council's officer, Mr Clive Inwards (Ref: 15/00647/AD), advised that they had received a complaint(s) from the public regarding this site. The first of these related to the ANPR signage and would require an application for advert consent since the signs exceeded the size threshold (0.3sqm). The second set of pre-application advice, most unusually, had been completely redacted from the public record so there is a serious lack of public transparency here.

ParkingEye applied retrospectively for advertisement consent for the signage (granted 11<sup>th</sup> December 2015) and for planning permission for the cameras (granted 4<sup>th</sup> February 2016).

The application forms state that the ANPR system was installed by 21<sup>st</sup> October



2014, some 15 months before planning permission was in place and some 13 months before advertisement consent was obtained. Advertisement consent of this type cannot be back-dated, so this car park was clearly operating outside the rules (and of course outside the Code of Practice) during this time.

Following a separate and non-specific enquiry, the Council's position is: ".....if an application was made and it were to be granted consent, then the retrospective consent would run from the date of the decision."

**September, 2015.** Samuel Johnson Community Hospital. (Lichfield District Council). On or around 30<sup>th</sup> September 2015, the Council's officer, Ms Christine Hibbs (Ref: 15/00211/ENFAD), advised that the signs around the hospital exceeded 0.3sqm in area. Clearly, an advertisement consent application was required.

ParkingEye applied for advertisement consent, which was duly granted on 26<sup>th</sup> January 2016. However, the site also has ANPR cameras apparently mounted on a dedicated pole (clearly seen on Google Street View of June 2015). A search of the planning register has failed to find any planning permission for cameras, and the Council has stated that it too was unable to find evidence of such permission. Pole-mounted ANPR cameras, unless mounted on a pre-existing pole such as a lamp-post, do not have deemed consent and therefore the installation at this site appears to be unauthorised.

According to the planning documents, the ANPR system at this site was completed on 23<sup>rd</sup> October 2013. Therefore it would appear that parking charges were being levied for a period of some 27 months before the (mandatory) advert consent was in place.

Meanwhile, the Council's policy is: "If retrospective advertisement consent is granted it is not backdated and will only run from the date permission is granted."

**October, 2015.** Morrisons, Caernarfon. (Gwynedd Council). On 14<sup>th</sup> October 2015 The Council's officer, Ms Paula Evans (Ref: STO267P), notified that they had received a complaint regarding the installation of signs and cameras and required an application to be submitted. ParkingEye applied for planning permission and advertisement consent, both of which were granted on 5<sup>th</sup> January 2016.

ParkingEye state that the ANPR system was installed by 21<sup>st</sup> September 2015. Therefore it would appear that parking charges were being levied for a period of some 4 months before (mandatory) advertisement consent was in place.

Gwynedd Council's position, in general terms, is: ".....any consent for a retrospective application will run from the date upon which a decision is made, and not from the date when an advertisement is displayed on land."

**November, 2015.** Morrisons, Whitehaven. (Copeland Borough Council). On or about 25<sup>th</sup> November 2015 the Council's officer, Christie Burns (Ref: ENF/15/0117), notified that the signage at this site breached advertisement regulations and that an application for consent was required. The Council's policy

document states that: "The unauthorised display of a sign is an offence which can lead directly to prosecution." Councillor John Kane accused the parking company of "acting illegally", whilst Councillor Jane Laine estimated that hundreds of thousands of pounds a year was being taken from users of this car park, most of it illegally.

ParkingEye applied for planning permission and advertisement consent, both of which were granted on 16<sup>th</sup> March 2016. The company states that the ANPR system was installed on 19<sup>th</sup> August 2014, and it appears likely that parking charges were being levied throughout the eighteen month period before advert consent was in place.

Meanwhile, the Council states its position: "The unauthorised display of a sign is an offence which can lead directly to prosecution." "Whilst not removing the historic offence, it is possible for those displaying the advertisement to seek consent for the continued display."

**November, 2015.** Beehive Shopping Centre, Cambridge. (Cambridge City Council). On or about 12<sup>th</sup> August 2015 the Council's officer, Ms Alison Twyford, called for a retrospective application to be made for cameras and poles. Permission for these was subsequently granted in October 2015. Then on or about 12<sup>th</sup> November 2015 another Council officer, Ms Debs Jeakins, called for a retrospective application for advertisement consent for the signage. Consent for these was finally granted in February 2016.

Council policy is: ".....advertisement consent does not apply retrospectively and cannot be back dated to the time when the signs were first displayed." ParkingEye state that the parking management system was installed on 1<sup>st</sup> April 2008, and advertisement consent was not granted until February 2016, so it is proven that visiting motorists / keepers had been pursued for parking charges for the intervening 94 months without authority.

Meanwhile, the contract between the landowner and ParkingEye reads as follows: "2.6 .....The Customer shall appoint the Supplier to install the Products and provide the Services at the car parks in the relevant Site **insofar as the same has received all necessary planning permissions and other consents for that site.**" (emphasis added). In this case, the Supplier did **not** have all the necessary planning permissions / consents, so their appointment to manage the car park is null and void.

**December, 2015.** Moorgate Retail Park, Bury. (Bury Metropolitan District Council). On 16/12/2015 (Ref: 15/0524) the Council's Senior Planning Enforcement Officer, Mr Lee Stoney, advised that an application was required in respect of advertisement consent for signage. He said: "I confirm that the advertisements have not been granted express consent from the Council and that they do not benefit from deemed consent from any Class within the Regulations. As such their display constitutes an offence under the terms of Section 224(3) of the Town and Country Planning Act 1990 (as amended)."

Then, on 14/2/2016 there followed a second message: ".....you are also required to apply for planning permission for the installation of the parking cameras and new mounting poles at the Moorgate Retail Park site, and I request that you also submit a planning application, for consideration, or

remove them within 14 days or be liable to enforcement action. For further clarification, regarding both the Woodfields Retail Park and DW Sports fitness sites, if the necessary applications for advertisement consent and planning permission are not submitted within 14 days all unauthorised signs and cameras should be removed within that time to abate any prosecution and enforcement proceedings."

Finally, on 16/2/2016: "Further to my letter of 16<sup>th</sup> December 2016 informing ParkingEye Ltd of the illegal signs being displayed at Moorgate Retail Park, Bury, further complaints have now been received concerning more of your signs and ANPR camera's (with associated mounting poles affixed to the ground) having been installed in the car parks at Woodfields Retail Park and DW Sports Fitness, Bury." and **"Having been aware that the signs at Moorgate Retail Park were unauthorised I am surprised your company has not addressed other unauthorised signage at other locations within this borough, especially when criminal liability is attached to your flagrant breach of the Advertisement Regulations.** Under the circumstances, you company is required to either submit the relevant applications for advertisement consent and planning permission for the cameras / poles within 14 days from the date of this email otherwise you will be liable to prosecution for all offences of displaying unauthorised advertisements without further notice." (Emphasis added).

ParkingEye applied for advertisement consent (granted on 16<sup>th</sup> March 2016) and planning permission (granted on 3<sup>rd</sup> June 2016). They state that the ANPR system was installed at this site by 3<sup>rd</sup> October 2014, therefore it seems likely that parking charges were being levied for some 16 months before the (mandatory) advertisement consent was in place.

Separately, the Council's position on advertisement consents, in general terms, is: ".....the consent is from the date of the decision and it doesn't give consent retrospectively for any period the advertisement was being displayed prior to consent being granted."

**December, 2015.** Roaring Meg Retail Park, Stevenage. (Stevenage Borough Council). On or about 30<sup>th</sup> September 2015 he Council's officer, Mr Clive Inwards, said that he had received a complaint from a member of the public regarding the ANPR signage. He advised that an application for advertisement consent needed to be submitted as the signs exceeded the size threshold (i.e. they were larger than 0.3sqm). Consent was granted on 11<sup>th</sup> December 2015.

Then on or about 14<sup>th</sup> December 2015 Mr Inwards notified that he had received a complaint from a motorist, this time regarding the car park management system. He advised that a retrospective planning application was required, and this was eventually granted on 16<sup>th</sup> February 2016. The upshot is that this car park management system was operated for nearly three years before its (mandatory) planning was in order.

Meanwhile, the Council's general policy is: ".....if an application was made and if it were to be granted consent, then the retrospective consent would run from the date of the decision."

**December, 2015.** Morrisons, Upper Bangor (Gwynedd Council). On or about 18<sup>th</sup> December 201 the Council's officer, Paula Evans advised that they had

received a complaint regarding the installation of signs and cameras at this site and advised that an application for planning was needed. Planning permission and advertisement consent, applied for retrospectively, were duly granted in February 2016, nearly two years after the commencement of car park charge levying apparently began.

Meanwhile, the Council's general position is that: ".....any consent for a retrospective application will run from the date upon which a decision is made, and not from the date when an advert is displayed on land."

**January 2016.** Priory Centre, Worksop. (Bassetlaw District Council). On or about 14<sup>th</sup> January 2016 the Council's officer, Mr Terry Wells (Ref: 15/00243/ENF), advised that he had received a complaint regarding the installation of signs and cameras and that an application for planning approval was required. Planning permission and advertisement consent, applied for retrospectively, were duly granted on 20<sup>th</sup> April 2016, some 26 months after the parking management system was installed.

Separately, the Council's policy on advertisement consent is that: ".....consent is from the date the decision is made and is not backdated."

**January, 2016.** St Peter's Retail Park, Mansfield. (Mansfield District Council). A Council resolution in 2012 condemned ParkingEye for its aggressive use of ANPR at this car park. Following a complaint (Ref: E/10277, on 27<sup>th</sup> January 2016) the Council's Planning Enforcement Officer, Christine James, advised ParkingEye that an application should be submitted for advertisement consent to retain the signs relating to parking charges within 28 days to avoid the Council considering enforcement action. The letter also stated that the ANPR cameras required planning permission whilst none was in place.

On 17<sup>th</sup> February 2016 ParkingEye applied retrospectively for planning permission and advert consent, which were granted on 21<sup>st</sup> March 2016. The following condition was applied: "The consent to display advertisements is for a period of 5 years commencing on the date of the decision.")

ParkingEye state that the ANPR system at this site was installed by 15<sup>th</sup> March 2012. Therefore, it would appear that parking charges were levied for a period of some 48 months before (mandatory) advertisement consent was in place.

Meanwhile, the Council's policy is that: "The display of an unauthorised advertisement is a criminal offence and, therefore, unlike a breach of planning control, an advertisement cannot become lawful." ".....the consent granted would only take effect from the date on which it was granted and so would have been unlawful before that!" To summarise, ParkingEye's car park management at this site ran from March 2012 (confirmed by the operator) to March 2016, a period of four years, without lawful authority.

**January, 2016.** Cockhedge Shopping Centre, Warrington. (Warrington Borough Council). On or about 27<sup>th</sup> January the Council's Planning Enforcement Officer, Richard Watson, advised that an application should be made for the retention of the ANPR cameras. ParkingEye applied retrospectively for planning permission, which was granted on 17<sup>th</sup> March 2016. Then on or around 31<sup>st</sup> March 2016 the same officer requested an application to retain the ANPR

advertises / signs which he said: “.....do not benefit from deemed or express consent.” An application for advert consent was made in April 2016 and granted in May.

ParkingEye state that the ANPR system at this site was installed by 18<sup>th</sup> November 2015, therefore it seems likely that parking charges were being levied for some 5 months before (mandatory) advertisement consent was in place.

Separately, the Council states that: “.....consent would effectively commence from the day the consent is granted for a period of five years.” In this case, the car park management operated for five months without advertisement consent.

**January, 2016.** McDonalds, Pencoed (Bridgend County Borough Council). On or around 13<sup>th</sup> January 2016 (Ref: ENF/304/15/C ) the Council’s officer, Mrs Julie Jenkins, advised that it had been brought to the attention of the Planning Authority that some of the advertisements and cameras at this site may require advertisement consent and planning permission. ParkingEye applied for advert consent and planning permission, both being granted on 11<sup>th</sup> March 2016.

Planning documents show that the ANPR system at this site was installed on / by 17<sup>th</sup> December 2009, therefore it seems likely that parking charges were being levied over a period of some 75 months during which (mandatory) advertisement consent was absent.

In general terms, the Council states that: “The general rule for development and signage is that a retrospective consent would run from the date of the permission.” The operator states in writing that it has managed this car park since 17<sup>th</sup> December 2009, which implies that for 75 months it did not have the approval of the local authority.

**January, 2016.** Aldi, Portishead (North Somerset Council). On or around 13<sup>th</sup> January 2016 the Council’s officer, Raheel Mahmood (Ref: 2015/0522), advised that a full application for planning permission should be made within 28 days to retain the ANPR camera at the entrance to the store. This permission was granted on 23<sup>rd</sup> March 2016.

The signage was considered to be too small to require advertisement consent.

**February, 2016.** Starbucks, Uttoxeter. (East Staffordshire Borough Council). On 17<sup>th</sup> February 2016 the Council’s officer, David Ward, wrote: “Unauthorised ANPR and associated signage at ST14 5AA. The above require the benefit of planning permission and advertisement consent as discussed.” Time limit 21 days.

ParkingEye applied retrospectively for planning permission and advertisement consent, both of which were granted on 13<sup>th</sup> May 2016. The application forms state that the ANPR system was installed on / by 21<sup>st</sup> May 2012. Therefore it seems likely that parking charges were being levied over a period of some 48 months during which (mandatory) advertisement consent was not in place.

Meanwhile, the Council's position regarding advertisement consent is that: "When consent is given it is not retrospective."

**February, 2016.** Morrisons, Wetherby. (Leeds City Council). On or about 2<sup>nd</sup> February 2016, the Council's Mr Carlton McKenzie (Ref: 15/01251/US3), informed that advertisement consent was to be gained within 21 days. Planning permission was granted retrospectively on 13<sup>th</sup> April 2016. Advert consent was granted on the same date, with the stipulation that it "shall be restricted to a period of five years from the date of the Consent."

The operator states, in writing, that the ANPR system was initiated on / by 18<sup>th</sup> September 2015, so it would appear to have been operating for some 14 months without (mandatory) advertisement consent being in place.

**February, 2016.** Woodfields Retail Park, Bury (Bury Metropolitan Borough Council). On 16<sup>th</sup> February 2016 the Council's Senior Planning Enforcement Officer, Mr Lee Stoney, wrote to ParkingEye: "At Woodfields Retail Park, there are numerous ParkingEye signs which all measure 60cm x 60cm (0.36 sq metres) or 89.5cm x 69.5cm (0.62 sq metres), these all clearly exceed 0.3 sq metres so they do not benefit from "deemed consent" under the Advertisement Regulations. As such, they all require advertisement consent from the Council and their display constitutes a criminal offence and your company is liable to prosecution. The installation of the cameras, which includes at least one new metal mounting pole affixed into the ground, require planning permission for the mounting pole structures.

Planning permission and advertisement consent were applied for retrospectively and granted in the week of 20<sup>th</sup> April 2016. ParkingEye have stated in writing that their car park management scheme at this car park commenced in / by mid-February 2013. Therefore, pursuit of motorists for parking charges probably continued for a period of some 38 months prior to advertisement consent compliance (which cannot be back-dated).

Separately, the Council's position regarding advertisement consent is as follows: ".....the consent is from the date of the decision and it doesn't give consent retrospectively for any period the advertisement was being displayed prior to consent being granted."

**February, 2016.** DW Sports and Fitness, Bury. (Bury Metropolitan Borough Council). On or around 16<sup>th</sup> February 2016 the Council's Enforcement Officer, Mr Lee Stoney, advised that planning procedures were required for the car park management system at this site. He wrote to the operator: "I have not visited the DW Fitness site yet but assuming you have used your "standard signs" in that location, like at Moorgate and Woodfields Retail Park, and installed more cameras than those signs too require advertisement consent and equally planning permission for the camera's / mounting poles. **Having been aware that the signs at Moorgate Retail Park were unauthorised I am surprised your company has not addressed other unauthorised signage at other locations within this borough, especially when criminal liability is attached to your flagrant breach of the Advertisement Regulations.** Under the circumstances, your company is required to either submit the relevant applications for advertisement consent and planning permission for the cameras/poles within 14 days from the date of

this email otherwise you will be liable to prosecution for all offences of displaying unauthorised advertisements without further notice. (Emphasis added).

Advertisement consent was granted on 20<sup>th</sup> April 2016 followed by planning permission on 3<sup>rd</sup> June 2016. ParkingEye state that their management system was installed on / by 19<sup>th</sup> January 2011. Therefore motorists were pursued for parking charges for some 64 months before planning compliance was gained.

Separately, the Council's position regarding advertisement consent is as follows: ".....the consent is from the date of the decision and it doesn't give consent retrospectively for any period the advertisement was being displayed prior to consent being granted."

**February, 2016.** Telford Bridge Retail Park. (Telford & Wrekin Council). On or around 10<sup>th</sup> February 2016 the Council's officer, Mr Luke Norton (Ref: TA/2016/0196), advised that signage consent must be sought separately from the application for planning consent for the cameras. On or about 24<sup>th</sup> February 2016, ParkingEye applied for advertisement consent (granted on 15<sup>th</sup> April 2016) and planning permission (granted on 21<sup>st</sup> April 2016).

We do not know the exact date the parking management system was installed at this site, but we have record of a Parking Charge Notice dating from early November 2012. It seems likely, therefore, that parking charges were issued for a period of at least 41 months prior to the site achieving its mandatory planning approvals.

Meanwhile, the Council's general position on advertisement consent is that: ".....consent runs from the date the decision is made and authorised."

**February, 2016.** North Tees Hospital. (Stockton-on-Tees Borough Council). On 18<sup>th</sup> February 2016 the Council's Planning Enforcement Officer, Grahame Jardine (Enforcement Ref: 16/0062/EWKS ), wrote: "As advised the ANPR cameras and the larger signage is not permitted development and planning permission is required in respect of these items. I can confirm no planning application has been submitted or approved. I must therefore request that a retrospective planning application is submitted.....within 28 days of the date of this letter." The date of this letter was 18<sup>th</sup> February 2016, and 28 days after this would be 17<sup>th</sup> March 2016. However, the planning application was dated and received on 14 April 2016, **breaching the enforcement deadline** by nearly 4 weeks.

Planning permission and advertisement consent were granted on 7<sup>th</sup> and 13<sup>th</sup> July, respectively. ParkingEye state that the system was installed on / by 21<sup>st</sup> July 2014, therefore pursuit of motorists went on for some 29 months before the (mandatory) planning approvals were in place.

Separately, the Council's position regarding advertisement consent is that: ".....consent would be granted from the day permission was given."

**March, 2016.** Wigmore Park District Centre, Luton. (Luton Borough Council). On 29<sup>th</sup> March 2016 the Council's Planning Enforcement Officer, Mr P. Westwood (Enforcement Ref: PJW - 12/00493/UBO), wrote: "Following a

complaint about erection of ANPR cameras and associated signage erected near to the car park entrance, the site has been visited and the equipment and signage noted. With regard to the recently erected parking and conditions signs, the signs do not benefit from "deemed consent" and therefore a planning application should be made for "express consent" should you wish to retain the signs....."

"I should point out that the display of adverts (signs) is a criminal offence and in the event that this matter is not resolved, Magistrates Court proceedings may be initiated." ParkingEye applied for planning permission and advertisement consent (two car parks) on 14<sup>th</sup> April 2016, and all applications were granted on 27<sup>th</sup> June 2016.

According to public records, the parking management system was installed by 20<sup>th</sup> August 2013, and it would appear that motorists were being pursued for illicit parking charges for some 34 months prior to advertisement consent being granted.

**April, 2016.** Angouleme Retail Park, Bury (Bury Council). On or around 20<sup>th</sup> April 2016 The Council's Planning Enforcement Officer, Mr Stephen Kenyon, wrote: "This department has received complaints concerning the display of advertisements.....I have inspected the site and noted at least 26 advertisements mounted on metal poles and affixed to buildings....."

" All the advertisements exceed 0.3 sq metres in size and therefore do not benefit from deemed consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. I must advise that the display of an advertisement without the benefit of express or deemed consent is a criminal offence under the Terms of Section 224(3) of the Town and Country Planning Act 1990 (as amended) and you are liable to prosecution."

".....I request that you either submit an application for Advertisement Consent, for consideration, or remove all the unauthorised advertisements within 21 days from the date of this letter or you may be (liable) to further action outlined above. Also, any pole mounted ANPR cameras require a separate application for planning permission."

A retrospective application was made for advertisement consent on 25<sup>th</sup> May 2015 and granted on 22<sup>nd</sup> August 2015. However, **no application was made for planning permission for the cameras.**

It is not known exactly when the ANPR system was installed, but there is a record of a parking charge being levied in January 2009, some 91 months prior to the grant of advertisement consent at this site.

Meanwhile, the Council's general position on advertisement consent is: ".....the consent is from the date of the decision and it doesn't give consent retrospectively for any period the advertisement was being displayed prior to consent being granted.

**May, 2016.** Dovecot Street, Stockton-on-Tees. (Stockton-on-Tees Borough Council). The Council's officer, Grahame Jardine (Enforcement Ref: 16/0217/EWKS), wrote: "We have received a complaint regarding the above car park and on checking the planning history no application has been



received in respect of the ANPR camera. I can also advise that some of the signage is attached to a listed building and will also need consent."

Conclusion: To liaise with the owner and arrange for a planning application to be submitted, within 28 days.

ParkingEye applied for advertisement consent and planning permission, both granted on 18<sup>th</sup> August 2016. ParkingEye state that their management system was in place on / by 2<sup>nd</sup> June 2014, therefore it would appear that motorists / keepers were being pursued unfairly for parking charges for a period of some 26 months whilst there was no advertisement consent in place at this site.

Separately, the Council's policy as regards advertisement consent is that: ".....consent would be granted from the day permission was given."

**June, 2016.** South Tyneside District Hospital. (South Tyneside Council). The Council's Enforcement Officer, Lynne Brennan (Enforcement Ref: ST/2016/ENQ/00184 ), wrote: "The Council has received a complaint regarding the installation of CCTV cameras (Parking Eye) and associated signage....." "I should advise you that a grant of planning permission is required from the Council for the cameras and signage. On checking my records I can find no record of planning permission being sought or gained for this development." "Please submit an application for planning permission."

ParkingEye applied for advertisement consent and planning permission, both of which were granted on 23<sup>rd</sup> August 2016. The applicant states that the management system was installed on / by 5<sup>th</sup> December 2013, implying that parking charges were being issued for a period of 31 months without planning approvals being in place.

Meanwhile, the Council's position regarding advertisement consent is that: "Retrospective consent is given from the date of the decision."

**June, 2016.** Sunderland Hospital. (Sunderland City Council). On 28<sup>th</sup> June 2016, Mr Andrew Wright, Compliance Officer for the Council, wrote: "I.....noted that several of these cameras are mounted on their own dedicated supporting structures which amount to development requiring planning permission which appears not to have been sought or granted." He went on to request that an application should be submitted for planning permission.

This application was accompanied by an application for advertisement consent for some 235 signs, the largest of which were 1200 x 800 mm i.e. just under 1 sq metre in area. According to the Planning Portal, and consistent with the policies of most other LPAs (e.g. Wyre Borough Council, Stevenage Borough Council, Lichfield District Council and Bury Metropolitan Borough Council, above), signs exceeding 0.3 sq metre in area require advertisement consent. Historically, signage at this site had been displayed from December 2012 until eventually gaining consent in December 2016 – therefore, for a period of (up to) four years parkers / keepers were apparently being pursued for parking charges whilst (mandatory) advertisement consent was not in place.

Mr Wright wrote also: ".....unless an advertisement is displayed in accordance with The Town and Country Planning (Control of Advertisements) (England)

Regulations 2007, then its display is technically illegal, amounting to a criminal offence.”

The advertisement consent was dated 29th November 2016, for a period of five years from that date (no retrospection). For the avoidance of doubt, Mr Wright wrote: “.....consent applies from the date on the decision notice.”

**June, 2016.** Sunderland Eye Infirmary. (Sunderland City Council). (See last item, Sunderland Hospital, immediately above, for background). An earlier application, in 2012, was withdrawn by the applicant. In September 2016 planning permission was granted (valid retrospectively). Advertisement consent was granted at the same time, but there can be no retrospection – it runs only from the date of the decision.

So for a period of some 56 months motorists / keepers were apparently being pursued for parking charges whilst (mandatory) advertisement consent was not in place.

Meanwhile, the Council’s position regarding advertisement consent is that: “.....consent applies from the date on the Decision Notice.”

June, 2016. Childrens Centre, Sunderland Hospital (Sunderland City Council). (See previous two items, immediately above, for background). In June 2016 the Council’s Compliance Officer, having received an enquiry, visited the site. He wrote: “.....I noted that several of (the) cameras are mounted on their own dedicated supporting structures which amount to development requiring planning permission which appears not to have been sought or granted.” He requested that a retrospective application be made for planning permission.

At the same site, a retrospective application was made for advertisement consent for ANPR signage erected without consent in January 2012. In October 2016 consent was refused as the signs were considered harmful to the appearance of this Listed building. Following site meetings and discussions advertisement consent was finally granted in July 2017, by which time the unauthorised signage had been in place for 65 months.

Meanwhile, the Council’s position regarding advertisement consent is that: “.....consent applies from the date on the Decision Notice.”

**July, 2016.** Aire Street Car Park, Leeds (Leeds City Council). On 25<sup>th</sup> July 2016 the Council’s Planning Compliance Officer, Geoff Belcher (Case No: 16/00292/US3 ), wrote: “The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (Class 2(A) ) permits notices or signs to be displayed as a means of identification, direction or warning, provided that the advertisement display does not exceed 0.3 of a square metre in area. The parking Tariff signs significantly exceed this measurement. Any advertisement sign that does not comply with the regulations requires the express consent of the Council, before it can be displayed.”

(Application to be submitted / or removal of advertisements and supporting structures within 28 days).

ParkingEye applied retrospectively for planning permission and advert

consent, both of which were granted on 23<sup>rd</sup> September 2016. The applicant stated that the ANPR system was installed on / by 10<sup>th</sup> April 2012, therefore it would appear that parking charges were being issued throughout the period of some 40 months during which (mandatory) advertisement consent was not in place.

Meanwhile, the standard terms attached to the advertisement consent of 23<sup>rd</sup> September 2016 include: "Every grant of express consent will operate for a period of five years from the date of granting of consent unless a condition specifies otherwise." (On this occasion, no condition specified otherwise).

**July, 2016.** Ilford Retail Park. (London Borough of Redbridge). On 21/07/2017 the Council's Enforcement Officer, Mr Eiman Rostami, wrote to the PPC about the enforcement case at Ilford Retail Park: "I am writing to request that a retrospective planning application is submitted for the ANPR cameras and the signage around the car park as I have been unable to find any prior notification or planning for these developments. Please get back to me with a timeframe in which I can expect an application to be submitted. If and when this application is granted permission I will then be able to close the enforcement case....."

ParkingEye applied retrospectively for advertisement consent and planning permission, both of which were granted on 3<sup>rd</sup> October 2016. The applicant states that the system was installed on / by 9<sup>th</sup> September 2009, therefore motorists / keepers had apparently been pursued for parking charges during a period of some 85 months during which (mandatory) advertisement consent was not in place.

Separately, the Council's stated policy on advertisement consent is: "The five year period begins from the date that the decision is issued, at which time the advertisements are considered to have 'deemed consent'."

**July, 2016.** Maybrook Retail Park, Canterbury. (Canterbury City Council). On or about 18<sup>th</sup> July 2016 the Council's officer, Mr David Bloom (Enforcement Ref:ENF/15/00226 ), wrote: "The Council has received a complaint about the unauthorised display of advertisements at the above address by ParkingEye Ltd." " The advertisements are yellow and black and are displaying warnings about 'Customer Parking Only , 3 Hour Max Stay'. There are approximately 8 advertisements being displayed on the land and these are attached to pole mounted lighting and other metal poles used for CCTV, or ANPR cameras. On investigation it has been found that each advertisement exceeds the limit as set out in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, in particular, Class 2A of the above Regulations that relates to miscellaneous advertisements."

ParkingEye applied for advertisement consent and planning permission, and both were granted on 6<sup>th</sup> October 2016. The applicant states that the system installation was completed on / by 17<sup>th</sup> September 2010, therefore motorists / keepers were apparently being pursued for parking charges for a period of some 73 months when (mandatory) advertisement consent was absent.

Meanwhile, a Freedom of Information request has revealed the full text of the PPC's contract with the landowner. Part of Clause 3.6 clearly states that: ".....the Customer shall appoint ParkingEye to install, or procure the installation of, the Products and to provide the Services at the relevant Site(s) **insofar as the same has received all necessary permissions and other consents** for that site." (Emphasis added). It has been established (previous paragraph) that advertisement consent had **not** been granted at this site (at least not until October 2016) and the contract shows that the ANPR system was set up in November 2012 (or even earlier in September 2010, but perhaps under a different contract). The highlighted phrase (above) is acting as a condition precedent: if the necessary permissions and other consents are not in place then the PPC has no authority to manage the site.

Finally, several other landowner contracts for this operator have similar, but not necessarily identical, conditions precedent, but the company is always very secretive about such documents. In the interests of transparency, all such documents should be divulged.

Separately, the Council states: "If advertisement consent is granted for an advertisement already in place, the consent is from the date of decision. It is not back-dated."

**October, 2016.** Morrisons, Greenalls Avenue, Warrington. (Warrington Borough Council). On or about 31<sup>st</sup> October 2016 the Council's Senior Enforcement Officer, Sandra Beckett (Enforcement Ref: ENF/16/05822 and ENF/16/05821), wrote: "Warrington Borough Councils Planning Enforcement Section are in receipt of an enforcement complaint regarding illegal advertising relating to car parking restrictions which are located at DW Sports, Bank Street Warrington or Morrisons, Greenalls Avenue, Warrington." ".....there appears to have been no advertisement consent granted for the display of the signs in question."

"Under section 224, Town and Country Planning Act 1990, it is an offence to display an advertisement other than in accordance with the regulations. Each single advertisement is a separate offence and would be subject to a fine of up to £2,500, per offence, upon summary conviction in the Magistrates' court." ".....I would request that an advertisement application is submitted no later than the 14<sup>th</sup> November 2016 to attempt to regularise the unauthorised advertising signs."

An application for advertisement consent was submitted before the specified deadline and the operator declared that the ANPR installation was completed on / by 2<sup>nd</sup> January 2015. Planning permission and advertisement consent were granted on 10<sup>th</sup> January 2017, therefore it seems likely that parking charges were being levied unfairly during a period of some 24 months whilst advertisement consent was not in place.

Meanwhile, the Council's general policy on advertisement consent is that: ".....consent would effectively commence from the day the consent is granted for a period of 5 years."

**October, 2016.** DW Sports, Bank Street, Warrington. (Warrington Metropolitan Borough Council). On or about 31<sup>st</sup> October 2016 the Council's

Senior Enforcement Officer, Sandra Beckett (Enforcement Ref: ENF/16/05822 & ENF/16/05821), wrote: "Warrington Borough Councils Planning Enforcement Section are in receipt of an enforcement complaint regarding illegal advertising relating to car parking restrictions which are located at DW Sports, Bank Street, Warrington or Morrisons, Greenalls Avenue, Warrington." ".....there appears to have been no advertisement consent granted for the display of the signs in question."

"Under section 224, Town & Country Planning Act 1990 it is an offence to display an advertisement other than in accordance with the regulations. Each single advertisement is a separate offence which would be subject to a fine of up to £2,550, per offence, upon summary conviction in the Magistrates' court." ".....I would request that an advertisement application is submitted no later than the 14<sup>th</sup> November 2016 to attempt to regularise the unauthorised advertising signs."

An application for advertisement consent was made before the specified deadline and the operator declares that the ANPR installation was completed on / by 14<sup>th</sup> April 2011. Advertisement consent for the signage was granted on 3<sup>rd</sup> January 2017, therefore it would appear that parking charges were being unfairly issued during a period of some 68 months whilst advertisement consent was not in place.

Separately, the Council's overall policy on advertisement consent is that: ".....consent would effectively commence from the day the consent is granted for a period of 5 years."

**October, 2016.** Morrisons, Sage Cross Street, Melton Mowbray. (Melton Borough Council. Following a complaint on 21<sup>st</sup> October 2016 (Ref: 16/00121/Advert) the Council's officer, Mr Glen Baker-Adams, required an application for advertisement consent at this site. In their application of 1<sup>st</sup> November 2016 ParkingEye state that the ANPR system was installed on / by 24<sup>th</sup> August 2010. Advertisement consent was granted retrospectively on 6<sup>th</sup> January 2017, so it would appear that parking charges were being unfairly issued for a period of some 64 months during which (mandatory) advertisement consent was not in place.

No application has been found for Planning Permission for the ANPR cameras (2 No., minimum) seen at this site on Google Street View in October 2015. These cameras were mounted on a dedicated free-standing pole (not existing lamp-post) and this development therefore requires Planning Permission under the Town & Country Planning Act 1990.

In a separate general enquiry last July Mr Baker-Adams writes: "There is no provision to back date an application for advertisement consent and therefore the date runs from when the decision is issued." In this case, that date is 6<sup>th</sup> January 2017.

**November 2016.** Asda, Dock Street, Fleetwood (Wyre Council). On 11<sup>th</sup> November 2016 the Council's Planning Enforcement Officer, Mrs Charlotte Parkinson, wrote: ".....it has been alleged that a breach of planning control consisting of unauthorised display of advertisements relating to the operation of the parking scheme (Parking Eye) has taken

place at the above site.”

“I recently visited the site.....and noted approximately 9 pole mounted signs at various locations in the car park, including 1 sign on the building. By reason of their size (exceeding 0.3sq m in area) none of these signs may be displayed under the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and having regard to Section 224 of the Town and Country Planning Act 1990 (as amended) and display of these signs constitutes an offence.”

“It is open to the Council to prosecute for such an offence but in the first instance you should, within 28 days of the date of this letter, either remove / obliterate the signs or submit an application for the Advertisement consent for the signs in order to seek consent for them.”

Planning permission and advertisement consent were applied for on 3<sup>rd</sup> January 2017 and granted on 23/24 March 2017. ParkingEye have stated that the ANPR installation was completed on / by 22<sup>nd</sup> December 2016, therefore it seems likely that parking charges were being unfairly issued during a period of some three months before advertisement consent was in place.

Meanwhile, following a general non-specific enquiry about their policy, the Council state: “Retrospective advertisement consents, like retrospective permissions, cannot themselves be backdated. The consent would be in place from the date of determination.”

**February, 2017.** Aldi, Brackley Court, Blaby. (Blaby District Council). On or around 23<sup>rd</sup> February 2017 the Council’s Planning Enforcement Compliance Officer, Jonathan Hodge (Enforcement Ref: E17/0018/ADV), required Parking Eye to undertake the following to regularise the planning: “Current situation:

ANPR Cameras. At present there are two ANPR cameras located on the glass canopy, whilst these are unauthorised development they have been in situ for over 4 years and are therefore immune from enforcement action. Parking Eye Adverts. There are numerous signs in the car park, examples attached), either displayed on the Aldi store building or on poles. These signs require advertisement as they are illegal.

Situation when the store extension is complete:

ANPR Cameras. When the ANPR cameras are relocated they will be unauthorised development and will require planning permission.

Parking Eye Adverts. Once the store is complete, some signs will have moved / been erected and as such will require advertisement consent as they will be illegal.

What you are required to do:

ANPR Cameras. Submit a planning application for the erection / installation of ANPR cameras in what will be their new setting, detailing the relevant information such as location etc. This application will cost £195.

Parking Eye Adverts: Option 1: submit an application for advertisement consent by the 17<sup>th</sup> March 2017 for all the current adverts that are displayed. Then once the store is complete, put in a further application for the changes that have occurred (e.g. additional / movement of adverts). This would be two separate applications at a cost of £385 each.

Option 2: Remove from the site immediately any sign not to be retained once the store extension has been completed, and submit

an application for advertisement consent by 17<sup>th</sup> March 2017 based on what will be displayed once the store building work is complete. This would mean a single application at a cost of £385."

Unfortunately **the 17<sup>th</sup> March 2017 application deadline was missed and it was not until nearly 4 weeks later (13<sup>th</sup> April) that an application was submitted** for advertisement consent for 8 signs and approved on 12<sup>th</sup> May. No application appears to have been made for a 9<sup>th</sup> sign: a huge fence-mounted PE banner ("Free Parking for Aldi Customers Only") seen in one of the photographs submitted in support of the application and also visible on Google Street View (September 2015). On 29<sup>th</sup> September 2017 planning permission and advertisement consent were finally granted, although the large fence-mounted banner never did have consent.

**February, 2017.** Morrisons, Barrow-in-Furness. (Borough of Barrow-in-Furness). On 21<sup>st</sup> February 2017 the Council's Planning Enforcement Officer, Gordon Robson, wrote: "The Planning Authority have received a complaint from a member of the Community regarding the installation of the parking control system at the above store. It appears that no application has been submitted and as such the store is in breach of planning control. In an effort to regularise the system I would respectfully invite a retrospective application for express consent to be submitted in respect of the ANPR camera structure. There is no approved consent for the associated Parking Eye signage under the Advertising Regulations and as such an offence is committed."

Parking Eye submitted retrospective applications for planning permission and advertisement consent the next day, and approvals were granted at the end of May / early June 2017. ParkingEye state that the ANPR system at this site was installed by 13<sup>th</sup> January 2017, therefore parking charges may have been levied for up to five or so months when there was no advertisement consent in place.

Meanwhile, general non-specific enquiry to the Council regarding advert consent produced this reply: "Barrow Council may only grant consent from the date of the decision."

**February, 2017.** Marks Tey Hotel, Colchester (Colchester Borough Council). On 16<sup>th</sup> February 2017 the Council's Planning Enforcement Officer, Daniel Cooper, wrote: "Further to my visit this morning I am writing to confirm that the Permit Holders Only signs are unauthorised adverts under the Town and Country Planning (Control of Advertisements) Regulations 2007. Therefore they must be removed within 7 days from today's date to prevent formal action being taken through the Courts. If found guilty you may be liable to a maximum fine of £2500 per advert."

"Further to the above the recently erected ANPR camera is development that does not benefit from Planning Consent and must be removed within 21 days from today's date to prevent formal action being taken by the Council."

The parking company was Creative Parking Solutions Plc, a BPA Member.

On 7<sup>th</sup> March 2017 Mr Cooper also wrote: "After my initial contact with the parking company they removed the illegal signs. They asked if new signs no more than 0.3 square metres in area could be erected as deemed consent under Class 2 of the Town and Country Planning (Control of Advertisements) Regulations 2007. After consulting our Legal Department we agreed that their proposed replacement signs would be legal under that Class providing they remove the company's address etc. as this would detract from the Class 2 description.

The operator agreed to remove the camera post and to apply for planning permission to re-locate it.

Meanwhile, a separate non-specific enquiry to the Council produced this reply: "Advertisement consent would not be backdated and would have to be dated after the application was validated."

**February, 2017.** Hill Street, Leigh (Wigan Council). On or around 3<sup>rd</sup> February 2017 Mr E. Dawson, officer for the Council (Ref: 17/00026/DEVC), contacted the applicant or his agent in connection with an ANPR system installed without planning permission or advertisement consent in September 2016. The operator applied soon afterwards and both applications were approved by the Council on 14<sup>th</sup> February 2017. Therefore parking charges may have been levied unfairly for a period of some 7 months during which time the site had no (mandatory) advertisement consent in place.

Meanwhile, the Council's position is: "The retrospective consent is not back dated. The consent notice is dated the day we make the decision."

**March, 2017.** Lidl, Western Avenue, Andover. (Test Valley Borough Council). On 6<sup>th</sup> March 2017 the Council wrote to Lidl to inform them that the existing signs in the car park did not benefit from express or deemed consent and therefore required express advertisement consent to avoid enforcement action. The operator is thought to have been LDK Security Group Ltd, a BPA (British Parking Association) member.

Advertisement consent was finally granted on 3<sup>rd</sup> October 2017, for 5 years from the date of the notice. No application for planning permission for any ANPR cameras was found or granted. This site may have been levying parking charges for as long as 16 months without advertisement consent, subject to confirmation.

Meanwhile, the Council has separately stated that: "When advertisement consent is granted, the consent runs from the date that the decision is issued."

**May, 2017.** Angel Hotel, Chippenham. (Wiltshire Council). On 8<sup>th</sup> May 2017 the Council's officer, Allan Brown, said: "I note that Parking Eye has taken responsibility for parking arrangements at The Angel Hotel in Chippenham. I further note (that) a new pole with ANPR camera has been installed in the car park as have several signs. You will be aware that The Angel Hotel is a listed building. The pole / camera and signs require planning permission for which I am unable to trace any being applied for.



Please, either, remove the signs and unauthorised development within 28 days or apply for planning permission for the same.”

“Failure to obtain planning permission may result in formal enforcement action being initiated without further reference to you.”

Planning permission and advertisement consent were applied for on 23<sup>rd</sup> May 2017 and granted on 1<sup>st</sup> August 2017. ParkingEye state that the ANPR system was installed on / by 13<sup>th</sup> February 2017, therefore parking charges may have been levied for as long as five months without (mandatory) planning consent, subject to confirmation.

\* \* \* \* \*

Number of sites in this study: 60

### Conclusions:

1) ParkingEye claim to have a faultless record in conforming to enforcement requirements, but in five examples here they failed to comply with the enforcement deadline:

Hindpool Retail Park (2 months late);  
Corner House Retail Park (2 months late);  
The Range, Barrow (3 months late);  
North Tees Hospital (1 month late);  
Aldi, Blaby (1 month late).

(There is a certain irony when a large private parking company can penalise a member of the public for parking under civil contract for just a few minutes too long, but at the same time expects to breach planning law by weeks or even months and expect to get away with it!).

2) Almost invariably Local Planning Authorities (LPAs) grant deemed Planning Permission for ANPR cameras attached to buildings, e.g. under Part 33 of the Town & Country Planning (General Permitted Development Order) 1995. Cameras attached de novo to free-standing supporting structures (e.g. poles) in the open require Planning Permission (which **can** be back-dated).

3) Almost invariably LPAs consider that ANPR signage exceeding 0.3sqm in area do not benefit from deemed consent under Class 2, Schedule 3 of the 2007 Advertisement Regulations. The display of unauthorised adverts exceeding this threshold is normally a criminal offence under s. 224 of the Town and Country Planning Act 1990, and consent **cannot** be back-dated.

4) The most important conclusion is that many parking operators are flouting the law as regards advertisement consent. The evidence shows, not an occasional unintentional failure to comply with planning rules, but a pre-meditated, wilful and systematic campaign to breach planning laws on an industrial scale. This is surely the largest ever incidence of planning law

disobedience in English and Welsh history, and involves virtually every county therein. Hundreds of thousands of unauthorised parking management signs have been erected on private land over the past decade or so, resulting in the loss of hundreds of thousands of pounds worth of planning application fees by local authorities across England and Wales.

5) There are two Approved Operator Schemes supposedly regulating the private parking industry: the British Parking Association (BPA) and the Independent Parking Community (IPC). Both bodies have a Code of Practice (CoP), and both CoP's require their members to abide by the Law. The evidence gathered here shows that, at least for the sample of 400 private parking sites investigated so far, virtually every single site is (or has been) breaching planning law (Town & Country Planning Act 1990), and is therefore also breaching the respective Code of Practice. The DVLA KADOE contracts with the parking companies require companies to operate within the Law, which vast numbers of them (although not all) clearly do not.

6) The Supreme Court in the ParkingEye / Beavis case held (at 111) that only operators that adhered to the CoP could have access to DVLA keeper records. The fact that CoPs are routinely being breached means that vast numbers (possibly millions) of motorists / keepers have had their data compromised and the Data Protection Act may be being breached on an industrial scale.

7) It is a matter of great public concern that operators are routinely and falsely claiming to operate according to the CoP, using it as a kind of shield or veneer of respectability. It is also a matter of great concern that the bodies that should be protecting the public appear to be looking the other way whilst this vast gravy train of parking penalties continues to gather speed. This fiasco could well become the greatest public rip-off since the PPI scandal.

8) The earliest notification here that advertisement consent was required but not yet in place was in November 2011. It is baffling that ParkingEye did not act on this and ensure that it was a one-off, yet more than five years later the same pattern of non-compliance with statutory planning legislation was still being doggedly repeated. Note the comments of the officer from Bury MBC who could not understand why Parking Eye, having been told that their signage was unlawful at one site, did not immediately take action to ensure compliance at their other sites within the borough. And why did they not take action to ensure that every one of their hundreds of sites across the nation complied ?

9) Here is yet another example of self-regulation failing spectacularly. It was naive of the Government to imagine that regulators paid for by a levy on the operators could possibly be objective, and even the DVLA coffers appear to be swelling on the back of this gravy train. There is an urgent need for Government action to sweep away all operators who have been breaking the rules (including criminal ex-clampers), and to replace the present useless regulators with an independent statutory regulation mechanism.

10) All those motorists and keepers who have been ripped off by the unlawful activities of unregulated operators should have their parking

charges refunded in full, with interest, as in the PPI scandal. Consideration should be given to prosecuting some companies under the Proceeds of Crime Act.

11) The planning laws need to be strengthened, because many local planning authorities say that they cannot afford to enforce planning laws, especially against companies with deep pockets. Similarly, large commercial concerns have been systematically overturning Section 106 agreements set up originally to allow **all** shoppers to use urban car parks; now big business is taking over public car parks selfishly for its own customers.

(Version 2, 22nd November 2017)

(E & O E)