

Mr [REDACTED] C [REDACTED] - v - Bedford Borough Council

Appeal Details

Case number:	BF00014-2304	Appeal Raised:	16/04/2023
Vehicle:	[REDACTED]	Hearing:	There was no hearing
Representative:	N/A	Decision:	10/05/2023
Number of PCNs:	1	Adjudicator:	Annie Hockaday

Decision - PCN BF89558353

Mr [REDACTED] C [REDACTED], you have lost this appeal.

You need to pay the penalty charge to Bedford Borough Council.

Penalty Charge Amount: £70.00

Issued: 31/03/2023

Contravention: 24/03/2023 15:55

Church Lane

47 - Stopped on a restricted bus stop or stand

Please see the next page for the Adjudicator's Reasons

Adjudicator's Reasons

1. The penalty charge notice (PCN) alleges stopping on a restricted bus stop on Friday 24 March 2023 at 15:55. The Council must prove the contravention (they have the burden of proof). Mr C [REDACTED] raises a number of issues and my decision is therefore more detailed than is typical for an appeal against a parking PCN.
2. For the reasons set out below, I conclude that Mr C [REDACTED] has not shown a reason to win his appeal and that the contravention is proved. I say at the outset that I accept his evidence 'I was not aware that any special restrictions applied to stopping at bus stops' (representations at evidence 3) and that it was not a deliberate misuse of the restricted bus stop.

The statutory framework for enforcement under the civil law

3. In the past, parking restrictions were enforced under the criminal law but some years ago this changed to enforcement under the civil law by local authorities. The current statutory framework is The Traffic Management Act 2004 and The Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022 ("the 2022 Regulations"), replacing earlier 2007 regulations.
4. As the adjudicator, I must assess all the evidence that is relevant to the alleged contravention, apply the law, decide if the contravention is proved and decide whether or not Mr C [REDACTED] has shown a reason to win his appeal under The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022 ("the 2022 Appeals Regulations"). The grounds of appeal are set out in regulation 5(4) and my role is set out in regulation 7.
5. My role does not extend to a consideration of policy in relation to the siting of restricted bus stops (Mr C [REDACTED]'s evidence 11 and 22).
6. Because this is a civil law matter, if there is an issue of fact for me to resolve, I must decide what is more likely than not based on the evidence that is available to me.

Camera enforcement

7. The Council rely on video evidence of this area of the public highway, filmed by an approved camera system and fixed camera (evidence 18). An officer reviewed the footage (evidence 13).
8. Gathering evidence by an approved camera system as the basis for issuing a PCN for stopping on a restricted bus stop is permitted by the 2022 General Regulations. I refer to regulation 4 and schedule 1 and to regulation 10(2)(a), regulation 10(3)(b), regulation 11(1)(b) and regulation 11(2).
9. Mr and Mrs C [REDACTED] chose to drive his car on the public highway. Google November 2021 shows a sign to warn of traffic enforcement by camera on the approach to the bus stop. The presence of this sign is described in the email dated 26 April 2023 from Mayor Dave Hodgson provided by Mr C [REDACTED] (evidence 22). My understanding is that Mr C [REDACTED] does not dispute the presence of this sign to warn of camera enforcement. I find that it is more likely than not that it was present on 24 March 2023.

10. Mr C [REDACTED] chose to start this appeal to this Tribunal. In order to carry out my role as an adjudicator under the 2022 Appeals Regulations, I have watched the video.

The circumstances

11. Mr C [REDACTED] accepts that his vehicle stopped in a bus stop at the time alleged. He says that his wife was driving but started to feel unwell and so they decided to swap for safety and to do that in the bus stop. He says that after swapping, he drove off and the event lasted about a minute and they did not obstruct a bus. His account of their actions is consistent with the video and I accept it.
12. The circumstances that he describes are not a defence. The prohibition against stopping in a restricted bus stop means exactly that. The prohibition is stricter than 'no waiting' shown by single or double yellow lines, where some exemptions apply, for example to let a passenger get in or out, to load or to allow the holder of a disabled blue badge to park. In a restricted bus stop, there are no such exemptions, not even for a blue badge holder.
13. The source of the prohibition against stopping is statutory. There is no longer a need for a traffic regulation order to create a restricted bus stop. I refer to The Traffic Signs Regulations and General Directions 2016 at Schedule 7-3-3, S7-4-9, S7-6-1 and S7-6-4 and to DfT Circular 01/2016 at 3.48. I refer to these regulations as "TSRGD 2016". The statutory basis is described at 13.24.1 of the Traffic Signs Manual, Chapter 3 2019 (available at gov.uk) which I refer to as "TSM". I note that the presence of this restricted bus stop is shown in the Tile P20 Plan that is part of a 2009 traffic regulation order (evidence 7).
14. The law does give an exemption if the vehicle has to be stopped in a restricted bus stop in order to avoid injury or damage to persons or property (TSRGD 2016 at S7-6-4(2)(b)). It would be for Mr C [REDACTED] to prove the exemption. The account he gives of their decision to swap and the video evidence of his wife getting out of the driver's seat and walking unaided round to the passenger side is not consistent with a medical emergency sufficient to establish this exemption. I find that such an exemption is not proved.

The yellow markings and sign

15. Mr C [REDACTED] describes the yellow sign '*No stopping 7am-7pm except buses*' on the lamp-post beside the bus stop which he saw on his return visit on 1 April (evidence 3). The sign is visible in his video filmed on 5 May 2023 (evidence 28). He objects that this sign is not sufficiently visible when approaching and is not fit for the purpose of warning drivers not to stop. He says that it should be turned through 90 degrees to face oncoming traffic.
16. He also puts in issue the presence of the sign on 24 March 2023. He says that the sign is not visible in the video of his car on 24 March 2023 and the Council's extra photos at evidence 14, 15 and 17 are not dated.
17. I find that the video establishes that on 24 March 2023 there was only one lamp-post along the length of the bus stop. The presence of one lamp-post is consistent with the photos at 14, 15 and 17. The presence of one lamp-post is consistent with Google which shows the location as at November 2021, with the yellow sign in place on the lamp-post. It would be more helpful if the Council showed the date of their extra photos. On the basis of Google as at November 2021 and Mr C [REDACTED]'s evidence that the sign was present on 1 April, I find that it is more likely than not that it was present on the lamp-post on 24 March 2023. The field of view of the camera is such that the yellow sign was side on to it, facing the road, and this is why it is not prominent.

18. Mr C [REDACTED] is correct to identify the need to communicate a parking restriction to drivers. The law imposes a statutory duty on the Council to provide adequate information about a parking restriction created by a traffic regulation order (regulation 18 of The Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996) and this standard of 'adequate information' is applied by analogy by adjudicators to restrictions that are imposed directly by statutory regulations.
19. The Council does not have a free hand in how they communicate a restriction of the public highway. They must use the surface markings and signs set out in TSRGD 2016.
20. For a restricted bus stop, the yellow markings are prescribed by TSRGD 2016 S7-4-9 (diagram 1025.1) and see S7-6-1 and S7-6-4 (Mr C [REDACTED] refers to this at evidence 25). The yellow sign is prescribed by Schedule 4 at S4-3-2 and see also TSM at 13.24.6, Figure 13-72 and 13.24.9 (Mr C [REDACTED] refers to this at evidence 23).
21. Paragraph 13.24.9 gives guidance about the siting of the sign. It explains that the sign for a restricted bus stop need not face oncoming traffic because of the 'clearway' information that is communicated by the broad yellow line at the edge of the carriageway, which is visible as traffic approaches.
22. I agree with Mr C [REDACTED] that the yellow sign would not be immediately visible to a driver when approaching in a moving vehicle. The key point is that the yellow markings convey the 'clearway' status of the bus stop and warn drivers 'no stopping' even before the supporting yellow sign is seen. The yellow markings are visible to drivers as they approach. The broad yellow line next to the kerb means 'no stopping' and alerts drivers that this is a restricted bus stop, even if they have not yet had an opportunity to check the supporting yellow sign.
23. In terms of how drivers are reasonably expected to know this, The Highway Code at page 116 shows a diagram of the yellow markings with the broad yellow line and refers readers to rule 243 which says 'DO NOT stop or park at or near a bus or tram stop or taxi rank'. There is also a publication 'Know Your Traffic Signs' (2007 hard copy or available on gov.uk) which at page 34 explains that the broad yellow line means that stopping is prohibited.
24. I accept Mr C [REDACTED]'s evidence that he was not aware that stopping is prohibited in this type of bus stop, but the markings and sign were there to be seen. The video shows the car approach the empty bus stop and pull into it and stop before the large surface lettering 'BUS STOP' (evidence 18). I find that the broad yellow line that means that the area is restricted as a 'no stopping' clearway was sufficiently visible as they approached.
25. The law is clear that when assessing the adequacy of information for drivers about a parking restriction, it is necessary to consider the markings and sign as a whole in their context and determine if they substantially comply with the regulations (Court of Appeal in *R v the Parking Adjudicator and Sunderland City Council ex parte Herron and another* [2011] EWCA Civ 905).
26. I find that the markings and sign for this bus stop considered as a whole sufficiently comply with the regulations and are adequate to inform drivers of the prohibition against stopping. Unfortunately, Mr and Mrs C [REDACTED] made a mistake by deciding to stop in the bus stop to swap places. Mr C [REDACTED] has not shown a reason under the law to win his appeal. The contravention is proved.
27. When a contravention is proved, the Council have a discretion to take into account all the circumstances in relation to their decision to enforce. As set out in regulation 7(8) of the

Adjudicator's Decision

2022 Appeals Regulations, I have a discretionary power to refer a case back to the Council with a recommendation that they use their discretion to cancel if I am satisfied that there are compelling reasons to do so. I do not find compelling reasons in this case.

28. The amount for this contravention starts at £70. The law requires the Council to offer a 50% discount in the PCN, but after that any later discount is only at their discretion. They offered another chance to pay 50% in the Notice of Rejection but Mr C [REDACTED] did not take that offer. Mr C [REDACTED] as registered keeper is liable to pay £70.

29. I make no comment on the different vehicle that was filmed by Mr C [REDACTED] on a different date (evidence 28) because it is outside the scope of my determination of this appeal.

Annie Hockaday
Adjudicator
10/05/2023