

## Mr [REDACTED] C [REDACTED] - v - Cheshire West and Chester Council

### Appeal Details

Case number:	AW00041-2306	Appeal Raised:	17/06/2023
Vehicle:	[REDACTED]	Hearing:	There was no hearing
Representative:	N/A	Decision:	30/07/2023
Number of PCNs:	1	Adjudicator:	Annie Hockaday

### Decision - PCN AW44325986

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

You need to pay the penalty charge to Cheshire West and Chester Council.

Penalty Charge Amount: £70.00

Issued: 22/01/2023

Contravention: 22/01/2023 16:50 Frodsham Street Car Park, Chester

87 - Parked in a designated disabled person's parking place without displaying a valid disabled person's badge in the prescribed manner

Please see the next page for the Adjudicator's Reasons

## Adjudicator's Reasons

1. The penalty charge notice (PCN) is for being parked in a disabled parking space without displaying a disabled blue badge at 16:50 on 22 January 2023. As the adjudicator I must consider all the evidence, apply the law and decide the outcome.
2. It is common ground that no disabled blue badge was displayed. Mr C [REDACTED] does not claim to have a badge. Mr C [REDACTED] explains his appeal to this Tribunal as follows, *'I stopped in the car park, the signs weren't clear and tried to pay. I went upstairs to my flat to pay the fine however when I came down, I had been ticketed. I got charged £70 for being there 2 minutes. When they have one sign which is as clear as mud'*. His earlier correspondence with the Council was to the effect that he went into his nearby flat for 2 minutes to get change to pay for parking and when he came back his car had received the PCN; that the card machine never works and to object to being punished for the poor machine or by an officer who hides so that they can catch someone out for 5 minutes. He also said that he was struggling to afford other PCNs. I have also considered the evidence added by Mr C [REDACTED] in recent days at evidence 19 -21, being three photos to show the absence of a sign at the locations seen in those photos.
3. The Council provide evidence that the car park is created so that the whole car park is restricted 8am-6pm to use by disabled blue badge holders/permit holders and is only available for pay and display 6pm - 8am at a charge of £1.50. The key question is whether the Council have put in place adequate signs to communicate to drivers the restricted use 8am-6pm. They provide images of the sign in place at both vehicle entrances and the signs inside the car park.
4. On the basis of the officer's notes and photos, I find that the officer logged the car at 16:48, issued the PCN at 16:50, took photos timed 16:52, 16:53 and 16:54 and at 16:56 wrote a note that includes 'constant observation' and 'driver not seen'. A photo at 16:54 shows the car was parked in the space next to the machine and the main large blue sign; it was also close to an additional smaller sign on a lamp-post. I find that both sizes of sign set out the different time periods and the restricted use 8am-6pm.
5. The Council provide records to show that the machine only sells a ticket during the 6pm to 8am hours when pay and display is available. An image shows that the machine states 'No public parking before 6pm, blue badge and permit holders only' and lower down sets out information about the £1.50 tariff for vehicles arriving from 6pm to 7.59am. An image shows that outside the pay and display hours, the digital display says 'No sale in advance'. I accept this evidence.
6. When a driver leaves the public highway to enter an off-street car park, the driver has a responsibility to take reasonable steps to find out what conditions apply in that car park and whether they are eligible to use the car park. I find that the signs provide adequate information to drivers about the restricted use 8am-6pm. I find that Mr C [REDACTED] parked very close to the main sign and machine and had a reasonable opportunity to look at the information provided on the main sign and machine.
7. I accept that Mr C [REDACTED] did not realise that the car park was subject to restricted use 8am-6pm. Unfortunately, he made a mistake by not taking reasonable steps to look at the information set out on the machine and the signs. The contravention is proved. Mr C [REDACTED] has not shown a reason under the law to win his appeal.

8. When a contravention is proved, the Council have a discretion to take into account mitigation. They can use that discretion to cancel completely or offer another chance to pay at a reduced rate. In this case, they used their discretion to offer another chance to pay 50% by letters 23 February and 20 March 2023. Mr C [REDACTED] did not take either of those offers. I do not find compelling reasons to refer the case back to the Council for them to review their use of discretion. Mr C [REDACTED] is liable to pay £70.

Annie Hockaday

Adjudicator

30/07/2023