

Mr [REDACTED] H [REDACTED] - v - Nottingham City Council

Appeal Details

Case number:	NG00056-2402	Appeal Raised:	13/02/2024
Vehicle:	[REDACTED]	Hearing:	The Authority did not attend
Representative:	N/A	Decision:	13/03/2024
Number of PCNs:	1	Adjudicator:	Annie Hockaday

Decision - PCN NG43189784

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

You need to pay the penalty charge to Nottingham City Council.

Penalty Charge Amount: £70.00

Issued: 19/07/2023

Contravention: 19/07/2023 17:45

Gregory Boulevard

2 - Parked or loading / unloading in a restricted street where waiting and loading / unloading restrictions are in force

Please see the next page for the Adjudicator's Reasons

Adjudicator's Reasons

1. Mr H [REDACTED] took part in a hearing on 12 March 2024. The Council rely on their filed evidence and did not join the hearing. I raised a preliminary point arising out of an earlier mention of wanting a face to face hearing. Mr H [REDACTED] confirmed that he wished to proceed using Teams Video as that met his understanding of a face to face hearing.
2. The penalty charge notice is for parking where the road is restricted 'no waiting' at any time and also 'no loading' Monday-Friday 7.30-9.30am and 4-6pm. The Council rely on the notes and photos taken by the officer. The photos show the PCN stuck onto the windscreen. The Council did not receive a response to the PCN. After a Notice to Owner was served, representations were received.
3. Mr H [REDACTED] objects that the markings were faded and the sign was not clear, so they were not adequate to inform him of the 'no loading' restriction. He also raises other points. During the hearing, I shared my screen and we looked at the location on Google together. I have considered all the evidence and made my findings of fact on the balance of probabilities, which means deciding what is more likely than not.

The law about signage

4. The Council must prove that they have in place markings and signs to provide adequate information about the restriction (regulation 18 of Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 and Traffic Signs Regulations and General Directions 2016 (TSRGD 2016)).
5. The paintwork of the double yellow lines and of the single yellow kerb marks does not need to be in perfect condition but must substantially comply with the specification. The key question is whether the extent of any deterioration in the marking is such that the position becomes misleading or fails to inform the motorist (Court of Appeal in R v the Parking Adjudicator and Sunderland City Council ex parte Herron and another [2011] EWCA Civ 905).
6. On the basis of the filed and oral evidence, I make the following findings of fact:
 - a. The officer logged the car and issued the PCN at 17:45;
 - b. A disabled blue badge was clearly displayed;
 - c. Double yellow lines meaning 'no waiting at any time' ran under car;
 - d. The kerb adjacent to the car has yellow kerb markings meaning 'no loading' at regular intervals;
 - e. A short distance behind the car there was a white sign 'No loading Mon-Fri 7.30-9.30am, 4-6pm';
 - f. A short distance in front of the car, the double yellow lines finish and white bay markings begin. At that boundary, there is a sign about limited parking for 1 hour with an arrow pointing to the right, in the direction of the bay.
7. Mr H [REDACTED] objects that the 'No loading' sign behind his car does not have an arrow. This point has no merit. The sign does not need an arrow. It is not at a boundary point

between two different restrictions. The sign is mid-way along the restricted stretch and therefore to add an arrow to this sign would not be correct.

8. Mr H [REDACTED] objects to an absence of a marking on the road 'LOADING/UNLOADING'. This point has no merit. To mark such words would not be correct to inform drivers of 'no loading' under TSRGD 2016.
9. Mr H [REDACTED] objects that the yellow kerb marks were faded and not sufficiently visible. On the basis of the officer's photos, I find that the yellow kerb marks at regular intervals adjacent to his car were slightly faded but were still sufficiently visible and adequate to inform him of 'no loading' and of the need to check the hours of operation on the nearby sign.
10. I find that the kerb marks at regular intervals along the kerb when considered as a whole with the 'No loading' sign a short distance behind his car were adequate to inform him of the restriction 'no loading' at this location. I find that the markings and sign were adequate to inform him that he could not make use of his disabled blue badge to gain a concession to the double yellow lines.
11. A disabled blue badge does not give Mr H [REDACTED] a right to park where there is a restriction 'no loading'. The badge gives 3 hours if the only restriction is single or double yellow lines which mean 'no waiting'; but here there is an added restriction of 'no loading'. These rules are explained in the guidance given to badge holders.
12. Mr H [REDACTED] objects that the officer did not spend a proper period of time observing the car before issuing the PCN. This point has no merit where there is a restriction 'no loading'. There is no right to a certain number of minutes before a PCN may be issued.
13. Mr H [REDACTED] objects that the PCN states 'Make: 'MINI'' but fails to state the model and he objects that the officer failed to make an accurate note. The PCN states the vehicle registration as required by regulation 9(7) and schedule 2 paragraphs 1 and 2 of The Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022. There is no need to state the model in order for the PCN to be valid. This point has no merit.
14. Mr H [REDACTED] objects that the Notice to Owner was served more than 28 days from issue of the PCN. This point has no merit. The Notice was posted on 13 December 2023 and was served on 15 December 2023, inside the 6 month time period set by regulation 20(2) of The Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022.
15. At the hearing, Mr H [REDACTED] referred to page 10 of the guidance given to badge holders, to the heading 'Power to inspect and retain the badge'. He objected that the officer has not produced an identity card with their photograph on it to prove who they are. This part of the guidance is not relevant to the facts of this case, in which the only thing the officer did was to observe the car. This part of the guidance relates to something different, when an authorised person is investigating the validity of the badge and asks the person who appears to be in charge of the vehicle to show them the badge. This point has no merit.
16. I find that the contravention is proved. Mr H [REDACTED] has not shown a reason to win his appeal. The amount 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 have not made another offer. Mr H [REDACTED] is liable to pay £70.

Annie Hockaday
Adjudicator
13/03/2024