

Mrs [REDACTED] H [REDACTED] - v - Borough of Broxbourne

Appeal Details

Case number:	BK00009-2404	Appeal Raised:	24/04/2024
Vehicle:	[REDACTED]	Hearing:	There was no hearing
Representative:	N/A	Decision:	01/05/2024
Number of PCNs:	1	Adjudicator:	Adjudicator Barfoot

Decision - PCN BK52214281

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

You need to pay the penalty charge to Borough of Broxbourne.

Penalty Charge Amount: £70.00

Issued: 12/03/2024

Contravention: 12/03/2024 15:27

Rosedale Way, Cheshunt Waltham
Cross

28 - Parked in a special enforcement area on part of the carriageway raised to meet the level of a footway, cycle track or verge

Please see the next page for the Adjudicator's Reasons

Adjudicator's Reasons

1. Mrs H [REDACTED] appeals on the ground that the alleged parking contravention did not occur.
2. She says that there is no clear signage displayed; and the council needs to display clear signage so people are aware not to park at this location.
3. Mrs H [REDACTED] feels the council are bribing her to pay the £25, which she refuses to pay.
4. The contemporaneous photographs show that Mrs H [REDACTED] had parked her car at a location where the carriageway has been raised to meet the level of the adjacent pavement. It is evident that the carriageway has been raised across its full width to meet the level of the pavement on both sides of the road. There is a block paving surface where the carriageway has been raised, distinguishing the raised carriageway from the carriageway elsewhere.
5. The council explains that the location in question is intended as a pedestrian crossing point.
6. Section 86(1)(a)(i) and (b) of the Traffic Management Act 2004 (the Act) creates a prohibition on parking on the carriageway adjacent to a footway where that footway either been lowered or raised to meet the level of footway for the purpose of assisting pedestrians crossing the carriageway. The Act refers to this as a prohibition of parking at a “dropped footway”, although it encompasses a location where the carriageway is raised to the level of the footway as well.
7. I am satisfied from the fact that the kerb and carriageway are at the same level, which helps pedestrians to enter and exit the carriageway, that the purpose of the raised carriageway where Mrs H [REDACTED]’ car was parked on this occasion is to provide a pedestrian crossing point. I find as a fact that the carriageway has been raised at this location for the purpose of assisting pedestrians crossing the carriageway.
8. For this reason, I conclude that the prohibition on parking created by section 86 of the Act applies at the location where Mrs H [REDACTED]’ vehicle was parked. Mrs H [REDACTED] is deemed to be aware of this prohibition because it is contained in statute. In any event, rule 243 of the Highway Code, with which all road users are expected to be familiar, tells road users “Do

not stop or park.... where the kerb has been lowered to help wheelchair users or powered mobility vehicles". It is a matter of common sense that this would also apply where the carriageway is raised to the level of the kerb for the same purpose.

9. There is no requirement for a sign or road marking to indicate the prohibition on parking at a "dropped footway" (which, as explained above encompasses a situation where the carriageway is raised to the level of the kerb). The fact that the kerb and carriageway are at the same level, supplemented in this case by the contrasting block paving across the full width of the raised carriageway, is sufficient to indicate it is a pedestrian crossing point, and so it is a location where parking is prohibited. I am satisfied, therefore, that Mrs H [REDACTED] ought to have been aware this was a location where she could not park.
10. Consequently, the absence of signage is not material, since road markings are not required at this location to indicate the prohibition applies there. The contravention alleged in the PCN did occur.
11. The penalty charge for this contravention is £50 and payment is required with 28 days beginning with the date of service of the PCN, but the law provides that there is a right to pay the penalty charge at a 50% discount, that is a payment of £25, if payment was made within 14 days beginning with service of the PCN. This penalty charge was not paid within 14 days beginning with the date of service of the PCN on 12 March 2024.
12. The council has discretion to extend the 14 day period for payment of the discounted penalty charge and did so in this case. In the Notice of Rejection of Mrs H [REDACTED]' representations against the Notice to Owner, it gave her until 9 May 2024 to pay £25. The council explained that after that date the full penalty charge of £50 would become payable. As [REDACTED] has indicated, the penalty charge remains unpaid. Accordingly, because the extended time which the council gave Mrs H [REDACTED] to pay the discounted penalty charge of £25 has passed, the full £50 penalty charge is now payable.
13. Accordingly, I refuse this appeal because the contravention did occur. Mrs H [REDACTED] is liable to pay the full £50 penalty charge, the time for payment of £25 having passed.

Adjudicator Barfoot

Adjudicator

01/05/2024