

BENJAMIN FERRY

-v-

London Borough of Islington
(the Enforcement Authority)

At this scheduled personal hearing the Appellant appeared in person via MS Teams.

The Enforcement Authority were represented by Mr Shelmerdine and Mr Thorne who both also appeared in person via MS Teams.

A contravention can occur if a vehicle is parked in an on-street permit holder parking bay during controlled hours, without a valid permit.

There appears to be no dispute that the Appellant's vehicle was parked in this business permit holder only bay in Gaskin Street at 11:01 on 21 November 2024, a Thursday. It is also not in issue that the Penalty Charge Notice was issued to the vehicle, as shown in the photographs/digital images produced by the Enforcement Authority.

The Enforcement Authority's case is that a 'IS-E' permit is required to park in this bay on Monday to Friday between 08:30 and 18:30.

The Appellant has raised a number of issues at the hearing and explained these in detailed written submissions.

However, some of these raise issues such as applications under the *Freedom of Information Act 2000* and Data Subject Access Requests that are beyond the function of the Adjudicator or this Tribunal, but that does not mean they may not be valid arguments elsewhere.

As to this present Penalty Charge Notice, the Appellant says that when he parked his vehicle he was confused by the adjoining bay being for resident parking permit holders and in which he could have parked the vehicle with his disabled person's parking permit (Blue Badge). His Blue Badge was displayed in the vehicle, at the time.

However, the adjoining bay is separated by a double yellow line from the one in which the Appellant's vehicle was at rest. The Appellant states that he could have parked on the double yellow line with his Blue Badge, but the fact is that he did not do so on this occasion.

The permit bay is about two or three car lengths long as only requires one timeplate. The Appellant submits that there should be a marking on the carriageway. However, whilst Diagram 1028.4 at Item 6 in Part 4 of Schedule 7 to the *Traffic Signs Regulations and General Directions 2016* does permit markings for certain bays such as 'Doctor', is no requirement to have then for business permit bays.

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The timeplate, of which the Enforcement Authority has produced further evidence is at one end and does not have to be in a special part of the bay, such as the middle.

The Appellant also submits that there has been a procedural impropriety on the part of the Enforcement Authority.

Regulation 2(2) of the *Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022* ('the 2022 Appeal Regulations') provides that "procedural impropriety" means a failure by the enforcement authority to observe any requirement imposed on it by the *Traffic Management Act 2004*, by the *Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022* ('the 2022 General Regulations') or by these 2022 Appeal Regulations in relation to the imposition or recovery of a penalty charge or other sum. Subparagraph (3) further provides that for the purposes of paragraph (2) such a failure includes, in particular, the taking of any step, whether or not involving the service of any document, otherwise than (a) in accordance with the conditions subject to which, or (b) at the time or during the period when, it is authorised or required by the 2022 General Regulations or these Regulations to be taken.

I accept that the Appellant believes that the Enforcement Authority should have considered his disability but what I have to determine is simply whether the Enforcement Authority have shown that the contravention occurred and, if so, whether any exemption have been shown, each to the civil standard.

I can find no evidence in this present matter of a procedural impropriety within the meaning of Regulation 2(2) of the 2022 Appeal Regulations.

The Appellant has explained that he had had interactions with the Enforcement Authority previously and although he refers to the Enforcement Authority engaging in procedural cruelty by forcing repeated reverification of established disabilities and to withholding relevant medical evidence, constituting maladministration, these are not matters that I have to, or even can, determine.

The Appellant has referred to a number of cases without citation but those that have do not appear to take this present parking appeal much further. For example, *Blake & Ors v London Borough of Waltham Forest [2014] EWHC 1027 (Admin)* concerned termination of a licence to operate a soup kitchen in a car park. Further, *London Borough of Camden v Minier 2026 PATAS 207034396A* was not a parking case but a moving traffic contravention enforced by camera where there was no evidence of the sign allegedly contravened. In this present case there is the evidence of the bay and the timeplate from the civil enforcement officer, as well as a contemporaneous and site images.

I have had the opportunity of hearing the Appellant personally and certainly accept that that had no intention of parking improperly but, unfortunately, that does not of itself amount to a valid ground of appeal as it does remain the responsibility of the motorist to check on each occasion before leaving their vehicle, so as to ensure that they do so only as permitted and that this will remain the position for as long as the vehicle will be there. This includes making sure that they comply with all restrictions and prohibitions indicated by the signs and lines.

The penalty charge is £130. The amount of the penalty charge is set by the joint Transport, Environment and Planning Committee of London Councils and Transport for London, and approved by the Mayor of London with the authority of the Secretary of State. The Enforcement Authority must accept the reduced penalty of £65 if paid within 14 days beginning with the date on which the Penalty Charge Notice is served. Once this period has expired and, for whatever reason, including appealing to the Adjudicator and/or making original representations to the Enforcement Authority,

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the charge remains unpaid then the full penalty becomes due. A penalty charge is to be taken to be paid when it is received by the authority concerned.

It appears that the Enforcement Authority, in exercise of their discretion, may have cancelled other Penalty Charge Notice and did, in respect of this present one, reoffer the reduced penalty period in their Notice of Rejection.

Whilst I note all that the Appellant says regarding his personal circumstances, the Adjudicator is only able to decide an appeal by making findings of fact on the basis of the evidence actually produced by the parties and applying relevant law. The Court of Appeal has affirmed that the Adjudicator has no power to consider mitigating circumstances of any description, including reducing the amount of the full penalty charge.

Applications for time to pay the Penalty Charge Notice must be addressed to the Enforcement Authority direct.

Considering carefully all the evidence before me I must find as a fact that, on this particular occasion, a contravention did occur and the Penalty Charge Notice was properly issued.

Accordingly, this appeal must be refused.

Henry Michael Greenslade
Adjudicator
12th May 2025

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