

PARKING APPEALS SERVICE

MR J BLADON

-v-

CITY OF WESTMINSTER

PARKING APPEAL 1970289930

PENALTY CHARGE NOTICE WE71540428

AND

MR AMERJIT JOHAL

-v-

LONDON BOROUGH OF CAMDEN

PARKING APPEAL 1980047552

PENALTY CHARGE NOTICE CD75573239

DECISION

ADJUDICATOR'S REASON FOR DECISIONS

Introduction

Mr Bladon and Mr Johal appealed to the Parking Adjudicator regarding Penalty Charge Notices issued in Lincoln's Inn Field. Their appeals were based on the adequacy of the signage of the parking restrictions. I therefore determined that their cases were consolidated.

Summary of Mr Bladon's Case

On the 29th July 1997 at about 3.30pm Mr Bladon parked his motor car registration DNK948Y in a Pay & Display bay situated at the south eastern edge of Lincoln's Inn Field. As a matter of fact the bay in question was situated within the City of Westminster and subject to the Traffic Management Orders pertaining to that Authority. Before leaving his car Mr Bladon went to a nearby Pay & Display machine and purchased a Pay & Display ticket for £1.60. On its face this ticket stated that the time paid for expired at 4.18pm. He properly displayed this ticket in his car. The Pay & Display machine in question was one of a number in the Square but was the nearest to his car. The machine in question was in fact in the London Borough of Camden. The machine and the tickets issued by it are subject to the Traffic Management Orders of that Authority. At 3.38 pm Penalty Charge Notice No WE71540428 was issued to Mr Bladon's car by a Parking Attendant employed by Westminster Council because it was not displaying a valid (Westminster) Pay & Display ticket. Mr Bladon made representations against liability for the payment of the penalty, but these were turned down by the Council. Mr Bladon's appeal was refused by Susan Turquet (Parking Adjudicator). The matter is now being reviewed by myself under regulation 11 of the *Road Traffic (Parking Adjudicators) (London) Regulations 1993* in the interests of justice.

Summary of Mr Johal's Case

On the 6th January 1997 Mr Johal parked his motor car registration J7AJH in a residents bay situated at the western side of Lincoln's Inn Field. Mr Johal believed that he was parked in a Pay & Display bay and in fact purchased and displayed a Pay & Display ticket. At 2.59pm Penalty Charge Notice No CD75573239 was issued to Mr Johal's car by a Parking Attendant because it was parked in a residents bay without a residents permit. Mr Johal made representations against liability for the payment of the penalty on the basis that the signs at the location were inadequate, but these were turned down by the Council. This is the appeal from the Council's decision.

I have heard evidence from Mr Bladon and Mr Johal as well as representatives of Westminster City Council (Mr Clarke and Ms Howe) and of Camden Council (Mr Hill). In addition I accompanied the parties on a site visit to Lincoln's Inn Field to examine the signs and conditions in all parts of the square.

The real question in these cases is whether by virtue of the unusual nature of the location or because of exceptional features within the location it is necessary for the Council to provide extra signs or to establish some other special arrangement in order for the restrictions to be fair.

The procedure to be followed by local authorities in signing restrictions is set out in *The Local Authorities' Traffic Orders (Procedure) (England & Wales) Regulations 1996 (SI 1996 No.2489)* ("the 1996 Regulations"). Regulation 18(1) provides:

"Where an order relating to a road has been made, the order making authority shall take such steps as are necessary to secure:

(a) before the order comes into force, the placing on or near the road of such traffic signs in such positions as the order making authority may consider requisite for securing that adequate information as to the effect of the order is made available to persons using the road;

(b) the maintenance of such signs for as long as the order remains in force."

The obligation under Regulation 18(1) of the 1996 Regulations goes further than merely placing the minimum signs required by the Regulations of 1994. Adequate information must be made available to the motorist in the particular circumstances of each location.

Furthermore in exercising any of its functions under the statutory scheme, an authority must not only comply with the letter of the regulations : it also has a duty to act fairly. **Following R -v- The Secretary of State for the Home Department ex parte Doody [1994] 1 AC 531 at 560**, per Lord Mustill : "Where an Act of Parliament confers an administrative power there is a presumption that it will be exercised in a manner which is fair in all the circumstances."

The Council's duty in respect of traffic signs was considered by the Adjudicator in the case of **Burnett -v- Buckinghamshire County Council (Parking Appeals Service Case No.HIW0003)**. He confirmed that any regulation of parking by a local authority must be brought to the attention of the motoring public by means of traffic signs. The regulations must be signed in such a way that the motoring public knows of the regulation.

In addition not only must signs be present they must also comply with the Traffic Signs Regulations and General Directions 1994 (SI 1994 No.1519) ("the 1994 Regulations").

In my view the statutory scheme obliges the Council to erect and maintain signs and road markings which accord with the concept of fairness to the motorist and the need

in unusual locations to ensure that the motorist is fully informed of the relevant traffic restrictions. The signs must operate in such a way as to provide reasonable information for the motorist concerning what is required in order to park lawfully. It seems to me that, although the Council have provided the normal signs and bay markings associated with a residents bay, the unusual nature of the location necessitates additional signs or arrangements to be put into place so that the Council can discharge its duty to provide adequate information to the motorist under Regulation 18(1) of the 1996 Regulations.

Mr Bladon's Case

In the case of Mr Bladon the following are the facts which I have found to be established:

1. Mr Bladon parked in a Pay & Display bay in the Borough of Westminster. He displayed a Pay & Display ticket which had been purchased from a machine in the London Borough of Camden.
2. There are no signs or markings in Lincoln's Inn Field which are capable of indicating to members of the general public that the Square lies straddling the two local authorities.
3. There is nothing in the vicinity of Lincoln's Inn Field to indicate the location of the boundary between the Borough of Camden and the City of Westminster.
4. There are no warning signs anywhere at the site or on any Pay & Display machine maintained by either Council which warn motorists that Pay & Display tickets purchased in one Borough are not valid for parking in the other Borough within Lincoln's Inn Field.
5. The Pay & Display ticket purchased by Mr Bladon had the following information on it: "London Borough of Camden C17 Lincoln's Inn Field. Departure time Tuesday 29 July 97 at 16:18. Fee paid £1.60". There was no indication on the ticket that it was only valid within that part of Lincoln's Inn Field which falls within the London Borough of Camden. The ticket states on its face that the purchaser is entitled to park in Lincoln's Inn Field. There is no express or implied restriction to that entitlement printed on the ticket or on any machine or sign in the area. There is no indication on the ticket that the purchaser can only park in one part of Lincoln's Inn Field.
6. The Camden machine from which Mr Bladon purchased the ticket was closer to the parking place in question than the nearest Westminster machine.

In this case the bays were marked on the road surface in accordance with the diagrams contained in the 1994 Regulations. The machine exhibited the bare information required by the Regulations. The relevant parking place (which contained the bay in questions) had signs at either end which stated "Pay & Display - Tickets and Regulations" with an arrow pointing to the Westminster machine which was situated in the centre of the row of bays. For Mr Johal the relevant parking place (which

contained the bay in question) had a sign in the centre of the row. The design of these signs conform to those within the 1994 Regulations.

With regard to Mr Bladon's case (WE71540428) the relevant Traffic Management Order is the City of Westminster (Parking Places) (No 25) Order 1997 ("the Order").

Article 9 of the Order deals with the installation of parking meters, the placing of traffic signs etc. It provides:

The Council shall :

- (a) install a parking meter in such position that they think fit in or in the vicinity of each parking bay in the parking place referred to in Schedule 1 to this Order;
- (b) install and maintain in proper working order at least one ticket parking meter in such position as they think fit in or in the vicinity of each parking place referred to in Schedule 2 to this Order;
- (c) place and maintain traffic signs indicating the limits of each parking place and each parking bay referred to in Schedule 1 or 2 to this Order;
- (d) carry out such work as is reasonably required by the Order of 1976, the Order of 1989 or by this Order for the purpose of the satisfactory operation of each parking place designated by this Order.

The bay in Lincoln's Inn Field where Mr Bladon parked his vehicle appears as a designated parking place in Schedule 2 to the Order.

This Traffic Management Order places upon the Council an obligation to carry out certain work in relation to the relevant parking places. Section 9(b), (c) and (d) of the Order are relevant to this case. Section 9(b) refers to the obligation of the Council to install and maintain a ticket parking meter in relation to each parking place. Section 9(c) refers to the obligation to place and maintain traffic signs indicating the limits of each parking place and bay.

I am satisfied that both of these obligations have been discharged.

Section 9(d) states that the Council shall "carry out such other work as is reasonably required by the [the Order] for the purposes of the satisfactory operation of each parking place designated by this Order."

In the light of **R -v- The Secretary of State for the Home Department ex parte Doody [1994] AC 531** (above) I interpret the phrase "for the purposes of the satisfactory operation of each parking place" necessarily to include the concept of fairness to the motorist and the need in unusual locations to ensure that the motorist is fully informed of the relevant traffic restrictions. The satisfactory operation of the parking place must be satisfactory for the Council and the motorist. It must operate satisfactorily for the purposes of traffic management and also operate in such a way as to provide reasonable information for the motorist concerning what is required in

order to lawfully park. It seems to me that, although the Council have provided the normal signs and machines associated with a Pay & Display bay, the unusual nature of the location necessitates additional signs or arrangements to be put into place so that the Council can discharge its duties under section 9(d) of the Traffic Management Order and its duty to provide adequate information to the motorist under Regulation 18(1) of the 1996 Regulations.

In my judgment some form of warning on a sign (if necessary with the approval of the Secretary of State), or on the machine or ticket itself dealing with the need for a motorist to exercise caution in purchasing a ticket from the correct Council's machine is "other work" reasonable required for the satisfactory operation of the Pay & Display parking places in Lincoln's Inn Field. Alternatively it would be reasonable for the parking attendants employed by both Westminster and Camden Councils to be instructed to acknowledge and accept (otherwise valid) Pay & Display tickets issued by each Council when displayed in Lincoln's Inn Field.

In the circumstances, having reviewed the case of Mr Bladon, and having had the benefit of seeing the relevant Traffic Management Order which was not provided on the earlier occasion, I have come to the conclusion that the Council have failed to fulfil its obligation under Article 9(d) or the Order to ensure the satisfactory operation of the relevant parking place by means of appropriate signs or other arrangements. In addition I conclude that the Council has failed to provide and place signs so as to secure that adequate information concerning the restriction is brought to the attention of the motoring public (Regulation 18(1)(a) of the 1996 Regulations).

In the case of Mr Bladon I must, therefore, with respect, overturn the decision of the previous Parking Adjudicator, and allow the appeal. I consequently direct Westminster Council to cancel the Penalty Charge Notice and subsequent Notice to Owner.

Mr Johal's Case

In Mr Johal's case the following are the facts which I have found to be established:

1. Mr Johal parked in a bay which had been designated by the Council as a residents bay;
2. He displayed a Pay & Display ticket which had been purchased from a machine nearby to the bay in question
3. The row of resident bays are directly next to a row of Pay & Display bays.
4. The square is subject to a one way system. As a motorist approaches, the row of Pay & Display bays is situated before the residents bays.
5. On approaching a motorist is confronted by a Pay & Display machine and the associated sign. Some distance ahead there is a residents only sign in the middle of the row of residents bays.

6. The only indicator of a demarcation line between the row of Pay & Display and the row of resident bays is a double line on the carriageway between two contiguous bays. .
7. On the site visit the double line was worn away in places and difficult to see.
8. The bays are set at right angles to the pavement and in a long line of parked cars it is not possible to clearly see the double lines between the bays.
9. Each row of bays has a sign situated in the middle of the row. There are no posts or signs which indicate the demarcation line between the two different types of rows of bays.

With regards to Mr Johal's case (CD75573239) the unusual nature of the location is the fact that the bays are at right angles to the pavement and can only be approached from one direction in the one way system. In my judgment some form of lettering on the carriageway next to the bays, or a sign (if necessary with the approval of the Secretary of State) alerting the motorist of the demarcation line between the two sets of bays, would be necessary to provide the level of information required.

In the particular circumstances of Mr Johal's case, having seen the location of the alleged contravention, I have come to the conclusion that Camden Council has failed to provide and place signs and road markings so as to secure that adequate information concerning the restriction is brought to the attention of the motoring public (Regulation 18(1)(a) of the 1996 Regulations). I consequently direct the Council to cancel the Penalty Charge Notice and subsequent Notice to Owner.

Timothy Thorne
Parking Adjudicator

July 1998

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