

Sager Construction Limited
50 Seymour Street
London
W1H 7JG

Case No. 2130509011

Sager Construction Limited
-v-
London Borough of Hammersmith and Fulham
(The Enforcement Authority)

Sager Construction Limited appealed against liability for the payment of the Penalty Charge in respect of:

Vehicle Registration Number:	YH12JNX	Penalty Charge Notice:	HZ40912118
Contravention Date:	Fri 19 Jul 13		
Contravention Time:	20:11		
Location:	King Street		
Contravention:	Parked in a parking place or area not designated for that class of vehicle		

Adjudicator's Decision

The Adjudicator has refused the appeal.

The reasons for the Adjudicator's decision are attached.

The sum of £130.00 must be paid within 28 days to:

London Borough of Hammersmith and Fulham
PO Box 4666
Worthing
BN11 9FY

If the penalty has not been paid the Enforcement Authority can issue a Charge Certificate increasing the full penalty charge by a further 50%.

3 July 2014
Case No. 2130509011
HZ40912118

Adjudicator's Reasons

Mr Giris Rabinovitch has appeared as the Managing Director of Sager Construction Limited. This case was adjourned on 15 May 2014 for the production of further evidence.

This PCN was issued for the alleged contravention of being parked in a parking place or area not designated for that class of vehicle, the parking place in question being a goods vehicle only loading bay.

I have looked at the images submitted by the Council. These show that the Sager Construction Limited Range Rover was parked in a bay which was clearly marked and signed as being a goods vehicle only loading bay. Mr Rabinovitch says that the vehicle was stopped for loading purposes. I have explained that this does not assist the Company if the vehicle is not a goods vehicle.

Mr Rabinovitch makes a submission that the Range Rover is a goods vehicle.

A goods vehicle is defined in Regulation 4 of the Traffic Signs Regulations and General Directions 2002 as a motor vehicle or trailer constructed or adapted for use for the carriage or haulage of goods or burden of any description. Adapted means altered physically so as to make fit for the purpose.

I refer to the Judgment of the High Court in Mid-Sussex District Council v Syrett [1993] wherein it was held that the pushing down or taking out of seats in a car to enable goods to be transported does not amount to adaptation of the vehicle for use for the carriage of goods. There would have to be a physical and structural alteration of the vehicle.

Referring to the use by Mr Syrett of his Ford Granada for carrying goods between his shop premises and the removal of the rear seats from the car for this purpose, Clarke J found that this was not an alteration such as to make the vehicle a goods vehicle. I set out below in italics a passage from Clarke J's Judgment.

The question is whether it can be said that the structure of the respondent's car, in the ordinary sense of the word, has been altered or whether the structure remains the same. In my judgment, it cannot be said.....that there has been any such alteration here. All that happened was that the respondent removed the rear seats. He no doubt did so in order to carry goods at some stage. The seats would presumably have been put back in when the car was wanted for ordinary passenger use, but in my judgment there was no alteration of the structure as such and, thus, no adaptation. In my view, this was not a motor vehicle adapted for use for the carriage of goods.....

The Range Rover was constructed for the transportation of passengers. The fact that seating can be lowered or removed to enable goods to be carried does not change the purpose for which the vehicle was constructed. I have seen photographs supplied by Mr

Rabinovitch of the rear of the Range Rover with the door open and the back stacked full of tools and equipment. There is, however, no structural alteration of the vehicle.

I adjourned this case on 15 May 2014. The Company had produced evidence regarding the classification of the vehicle for insurance purposes. This referred to Class 3 and Mr Rabinovitch was unable to confirm what this meant. The case was therefore adjourned with a direction for the Company to submit any further documents upon which it relied in relation to the classification of the vehicle.

There is now in evidence a letter from CCV Cadiff Insurance Brokers dated 22 May 2014 which confirms that vehicles insured under the fleet policy are insured for Class 3 business use which includes the Carriage of Own Goods. The insurance classification also includes Social, Domestic and Pleasure.

I have considered this correspondence. Mr Rabinovitch has nothing to add to that correspondence save to say that the vehicle is classified for insurance as a goods vehicle. The fact that a vehicle is insured for the carriage of goods does not make it a goods vehicle in the absence of the physical and structural alteration to which I have referred.

The Range Rover was not a goods vehicle and it follows that the alleged contravention did occur.

Sean Stanton-Dunne
Adjudicator