

## Adjudicator's Decision

Tim Thorne  
and  
North Yorkshire County Council (with Scarborough)

<b>Penalty Charge Notices</b>	<b>YNXXXXXXXX</b>	<b>£50.00</b>
	<b>YNXXXXXXXX</b>	<b>£50.00</b>

**YNXXXXXXXX Appeal allowed on the ground that the alleged contravention did not occur.**

**I direct the Council to cancel the Penalty Charge Notice and Notice to Owner.**

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### Reasons

PCN YNXXXXXXXX was issued on 22 April 2015 at 10:01 to vehicle XXXXXXXX in Candler Street for being parked in a disc parking place without clearly displaying a valid disc.

PCN YNXXXXXXXX was issued on 24 April 2015 at 09:48 to vehicle XXXXXXXX in Candler Street for being parked in a disc parking place without clearly displaying a valid disc.

These matters are determined without a hearing.

Mr Thorne appeals the issuing of two PCNs on a number of grounds. These can be summarised as follows:

- 1) Procedural impropriety – correspondence from the Council indicated that notices of rejection would be issued before the representations against notice to owner were considered
- 2) There are no Controlled Parking Zone entry signs on the entry into Candler Street
- 3) The signage for an unrelated parking bay on Candler Street is incorrect and therefore the other restrictions on Candler Street are unenforceable

4) The signage on Candler Street do not accurately reflect the terms of the relevant traffic Regulation Order, in that no mention is made on the signage of permit parking

5) The Council are unlawfully using the proceeds from parking enforcement for other transport requirements as indicated by a recent High Court case.

I will deal with each in turn.

I find that there has been no procedural impropriety in relation in this matter. Whilst I accept that the wording of the email of 31<sup>st</sup> July 2015 certainly was poor and gave the impression that Mr Thorne's representations had been rejected before being considered, I accept the explanation provided by the Council that this was not the case. The Council have explained that the representative who was dealing with Mr Thorne's complaint regarding other PCNs had also considered the representations that he had made against these notices to owner. There is no evidence to contradict this and no reason to disbelieve the course of action that was taken.

The Civil Enforcement of Parking Contraventions (Representations and Appeals) (England) Regulations 2007 merely require that a Council consider the representations made and then serve a notice upon the appellant motorist within 56 days of the receiving the representations indicating whether they have been accepted or not. The indication that the representations were to be rejected should have been first communicated in the notice of rejection, not a complaint letter. However, it is clear that the representations themselves were considered properly and independently by the Council. No breach of the Regulations has occurred.

Turning to the second point, Mr Thorne has challenged the fact that controlled parking zone entry signs have been erected on the entry into Candler Street. He states that no such signs have been erected and therefore the CPZ is unenforceable.

Controlled parking zones were first made available from the coming into force of the Traffic Signs Regulations and General Directions 2002 on 31 January 2003. Regulation 4 contains the following definition:

"controlled parking zone" means either—

(a) an area—

(i) in which, except where parking places have been provided, every road has been marked with one or more of the road markings shown in diagrams 1017, 1018.1, 1019 and 1020.1; and

(ii) into which each entrance for vehicular traffic has been indicated by the sign shown in diagram 663 or 663.1.

Diagram 1017 is a single yellow line. Diagram 1018.1 is for double yellow lines and the two diagrams 1019 and 1020.1 are the kerb markings for loading restrictions. There is an additional provision relating to restrictions on goods vehicles which is not relevant in this appeal. The Traffic Signs Regulations do not contain a requirement that there should be repeater signs within the zone in respect of the standard restriction.

A controlled parking zone must have the sign in the following format, or a permitted variant such as Disc Zone, erected at each entry point:



663  
Entrance to a controlled parking zone

The Council assert in their opening statement within the bundle:

There are

zone entry signs using drawing number 663 to all vehicle entrances to the CPZ.

However, the above statement is not evidence in the case. The Council has not included any evidence in the evidence bundle of the actual controlled parking zone signs erected in this area. No library photographs or other photographic evidence is produced to substantiate the opening statement. It may be that Candler Street is not the location of the zone's commencement and therefore no sign would be erected upon it. However, without a map or plan indicating the location of the signs and the roads within the zone I cannot be satisfied of the correctness of the signing of the zone.

It must be borne in mind that the definition of a CPZ in the Traffic Signs Regulations requires that where there is a restriction that is different from the standard restriction set out on the relevant sign, there must be individual signs of that restriction in the particular location. There is no evidence of the form of the zone entry sign and whether it makes reference to the use of a permit or not. I am not aware whether the restriction pertaining to the bay differs to that stated on the zone entry.

The Council have included a letter from the Department for Transport discussing the signage in the area. At paragraph (g) there is a discussion of the use of a disc zone parking identifier to a sign in accordance with diagram 662 of the TSRGD. The Council assert that the DfT have therefore authorised the use of the sign that accompanies the parking bay and that the inclusion of "3G" on a yellow backing on the sign is enough to indicate that permits may also be used.

The DfT letter is correct in its assertion that the inclusion of the disc zone parking identifier is permitted by the Schedule to the TSRGD and therefore does not require specific authorisation from them to be used. However, this does not necessarily mean that the sign and restriction can be enforced. Regulation 18 of the Local Authorities Traffic Orders (Procedure) (England and Wales) Regulations 1996 (LATOR) provides that a Council must erect "*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*".

It does not automatically follow that compliance with the requirements of the TSGRD means that a sign provides adequate information. Each case must be decided on its own merits and the test of adequate information applied.

There are photographs of the sign 662 erected alongside the bay contained within the bundle. The "3G" identifier on the sign has no further explanation. There is no wording on the sign in relation to the use of permits. As explained above there is no evidence provided of the entry signs into the zone. I am unaware therefore whether any mention is made on those of either "3G" or permits.

Mr Thorne has clearly raised the issue of the sufficiency of the zone entry signage and also the sign that accompanies the bay. Without the evidence of the zone entry signs I am unable to be satisfied of whether the zone entry zones in isolation or the combination of zone entry signs and bay signs provide adequate information of the restriction contained within the relevant Traffic Regulation Order. For these reasons I allow the appeals in relation to both PCNs.

As the appeals are allowed I make no comment in relation to the other grounds raised by Mr Thorne.

I direct the Council to cancel the penalty charge notices and notices to owner in both matters.

**Rhys Williams**  
**Adjudicator**

**17 November 2015**