

PARKING ENFORCEMENT

Report of the Director of Development and Regeneration

1.0 Purpose of Report

- 1.1 At the request of the Chairman this report has been submitted to inform members of the background to a local press article which appeared in the Sunderland Echo on 29 July 2009 relating to a small number of routine appeal cases allowed by the Adjudicator at a recent appeal hearing.

2.0 Background

- 2.1 On 29 July 2009 a front page article appeared in the Sunderland Echo which referred to a small number of parking appeals allowed by the Adjudicator without mention of other appeals that the Adjudicator dismissed either at the appeal hearing referred to or at previous appeal hearings.
- 2.2 With regard to loading, unloading and observation times, in the current On Street Parking Places Order that applies to such provisions in the city centre there is a clause that states that a vehicle may wait in a parking place “for the purpose of delivering or collecting goods or loading or unloading the vehicle at premises adjacent to the parking place in which the vehicle is waiting and the vehicle does not wait for such purposes for more than twenty minutes or for such longer period as a police constable or a parking attendant may authorise”. This clause has been in the Parking Places Order for many years and is included primarily to facilitate local businesses which may wish to load and unload and vacate the site without the need to “pay and display”. It is provided to assist the efficient and effective operation into businesses adjacent to the parking place.
- 2.3 At a recent Traffic Penalty Tribunal an appellant’s representative drew the Adjudicator’s attention to the above clause within the Parking Places Order and submitted that his client had been loading and unloading. The Adjudicator on this occasion accepted the submission that loading and unloading had been taking place, despite the fact that no evidence was provided as to what, if anything, was being loaded or unloaded or the quantities involved.

- 2.4 The normal practice of enforcing pay and display bays has been that if there is active loading and unloading ongoing to adjacent premises then the patrolling staff would likely enter into a conversation with the driver to determine how long they would take to complete their activity and the observation period commences. In accordance with the Parking Charter, it is only when the vehicle is locked and there is no sign of loading/unloading activities and either no pay and display ticket is on display, or a pay and display ticket that has expired by more than 10 minutes is on display, that a penalty charge notice may be issued. To issue a penalty charge notice does take a few minutes to complete and if anyone is engaged in loading/unloading activities adjacent to their premises then they are highly likely to return during this period. Motorists who have been issued with a penalty charge notice but were genuinely loading or unloading may challenge the issue of a notice through the normal appeals process and the mitigating circumstances, including any documentary evidence such as delivery notes would be taken into consideration.
- 2.5 The case in point highlights that an adjudicator does not always require any evidence to support an appeal, and the Order is therefore vulnerable to exploitation.
- 2.6 To assist local businesses to load and unload adjacent to their premises is considered reasonable and appropriate. However, if the operation of the exemption in the Parking Places Order gives rise to difficulties in the enforcement then it may be that consideration will need to be given to revoking this clause, which regrettably may be to the detriment of local businesses. The Adjudicator acknowledged at the hearing that the exemption made enforcement difficult and commented that a consequence of the appeals being successful may well be that the Council withdraws this provision.
- 2.7 Whether someone is loading or unloading can be debatable and a different adjudicator may well have decided this matter differently. The system of enforcement of pay and display places has worked well over many years.
- 2.8 For a more balanced view it would be appropriate to refer to the comments of the Adjudicator at the same tribunal in connection with one of the appeals which was dismissed and to which no reference was made in the Sunderland Echo. The Adjudicator states:

“After many years of dealing with cases involving deviations from the neat diagrammatical representations of signs and lines in regulations, the tribunal has recognised that in the real world – where resources are limited, minor human error is inevitable and unremarkable, paint deteriorates, and roadworks and other events have their own impact on signs and lines – a pragmatic and purposive approach has to be taken”

2.9 The Adjudicator went on to state " The destruction of parking enforcement regimes through an overly nit-picking approach leads to mayhem on the streets, with those "in the know", or cavalier as to their civic responsibilities to utilise parking places considerately and fairly, gaining a huge and unconscionable advantage over the vast majority of right-thinking law-abiding motorists".

3.0 Recommendations

3.1 The Committee is requested to note this report.

4.0 Background Papers

Office file.