

Mr [REDACTED] [REDACTED] - v - Kent County Council (with Canterbury C C)

Appeal Details

Case number:	KB00005-1902	Appeal Raised:	04/03/2019
Vehicle:	[REDACTED]	Hearing:	All parties attended the
Representative:	[REDACTED] [REDACTED]	hearing	
Number of PCNs:	1	Decision:	27/03/2019
		Adjudicator:	Toby Halliwell

Decision - PCN KB71212715

Mr [REDACTED] [REDACTED] you have lost this appeal.

You need to pay the penalty charge to Kent County Council (with Canterbury C C).

Penalty Charge Amount: £70.00

Issued: 21/11/2018

Contravention: 21/11/2018 12:09

Reeves Way

27 - Parked in a special enforcement area adjacent to a footway, cycle track or verge lowered to meet the level of the carriageway

Please see the next page for the Adjudicator's Reasons

Adjudicator's Reasons

Mr [REDACTED] attended a telephone hearing before me today. The Council were represented by Ms [REDACTED]

In his appeal representations, Mr [REDACTED] states:

"I was the driver and I do not dispute the fact that the car was parked adjacent to a dropped kerb. There is no notice or road marking to indicate that there are any parking restrictions. This is unfair and gives a false impression that it is permissible to park there. In fact it is a positive invitation to park there. When I parked the car I checked to see if there were any signs indicating any restriction. There are none. Neither are there yellow lines.. There is a dropped footway opposite where I parked and 2 other further along the road in close proximity. All are clearly demarcated with yellow lines. This is confusing and deliberately designed to catch drivers unaware and I argue that the council are acting improperly by failing to similarly put yellow lines beside this dropped foot way. In addition in rejecting my submission at the NTO stage the council have completely ignored my representations."

Mr [REDACTED] has provided a number of photographs of this and adjacent dropped kerbs (including that directly opposite that where his vehicle was parked). He observes that three or the adjacent dropped kerbs (including that opposite) were clearly marked with double yellow extending past them; whereas the double yellow line restriction ceased within a 5 feet or so of the dropped kerb where his vehicle was parked.

Upon questioning today, Ms [REDACTED] for the Council was unable to assist as the history of the dropped kerbs and yellow line markings and/or or to explain this apparent discrepancy.

Mr [REDACTED] says that the presence of double yellow lines at the other nearby locations, and the *absence* of them at that where his vehicle parked – served the render the position at least ambiguous and (he argues) even such as to imply an *invitation* to park at this point.

I have carefully considered Mr [REDACTED] well-illustrated points. I have also considered my fellow adjudicator (James Richardson's) decision relating to similar arguments/same location in appeal KB00017-1712 in which he concluded that the requirement not to park adjacent to a dropped kerb remained clear and was not displaced by the position of the other yellow lines.

I accept that Mr [REDACTED] is an honest witness and that he genuinely believed that he was permitted to park at this location. However, I am bound to return to two essential elements: (a) there is no statutory requirement (Section 86 of the TMA 2004) for a dropped kerb restriction to be signed, whether by signs or road surface markings; and (b) the Highway Code (with which all drivers are expected to be familiar) expressly indicates that vehicles should not park adjacent to any area where the kerb has been lowered for pedestrians.

If these two rules are born in mind (as they must be by all drivers) – then the presence or absence of double yellow lines at other nearby locations should not introduce any ambiguity.

I must accordingly dismiss this appeal.

