

## SIGNS; TRIVIAL AND INSIGNIFICANT NON-COMPLIANCE; RESTRICTIONS ENFORCEABLE

### 3663 v London Borough of Haringey

**Case No. :** 207051967A  
**PCN Number:** HY43632518  
**Contravention:** Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force  
**Adjudicator:** Austin Wilkinson  
**Decision:** Refused  
**Decision date:** 5 February 2008

#### Statutory Register entry:

I have heard Mr Vigus today for the Appellants and the local authority was represented by Miss Brunton.

I am satisfied that the local authority's evidence does prove the contravention. The vehicle was parked in breach of a Traffic Management Order on a restricted street signed by the appropriate orange and white sign plates close by showing part time waiting and loading restrictions. There was also a single yellow line.

Mr Vigus submitted that I should regard the signing as not legally compliant with the *Traffic Signs Regulations & General Directions 2002* since a part time loading prohibition should be evidenced by single kerb marks. The photographs here appear to show kerb marks in pairs. Mr Vigus referred me to some titles of cases - although he was not able to provide any summary of the decisions beyond one or two sentences. He referred me to Wawrzynczyk -v- Staffordshire Chief Constable( 2000) and also to Davies -v- Heatley [1971] RTR 145. Mr Vigus urged me to the view that if signs were not precisely compliant then they did not legally exist and the driver could not be accused of contravening them.

I am not persuaded that these cases are entirely pertinent to the point or that they support the contention. In Wawrzynczyk the defendant was in fact convicted of the speeding offence even though the Court accepted that the speed limit sign was incorrectly positioned on a stretch of road not included in the restriction. This appears to have been explained more fully in Coombes -v- DPP [2006]EWHC 3263 where the Court emphasised that the test of signage was one of "adequate guidance" rather than exactitude.

Davies -v- Heatley (1971) related to a question of whether there could be a conviction of a criminal offence if the sign did not conform strictly to the appropriate signing regulations. In that case the Court said not. However a different view was expressed in the case of Canadine -v- DPP [2007] EWHC 383. There the Court stated that a deviation in the signing which was so slight or trivial as to be effectively immaterial could be disregarded.

I have also had regard for the decision of Adjudicator Mr Cooper in the case of Minier -v- Camden (PATAS 203022636A) (in relation to "T-bars")

*"The Regulations.. permit no variation to the form of the yellow line(s) as shown in the Diagrams, and a T-bar must appear wherever the yellow line stops and starts, for whatever reason.*

*However there is an established principle of law enshrined in the Latin expression de minimis non curat lex - "The law does not concern itself with trifles".*

*This yellow line indicated that waiting was restricted on a clearly defined length of this street.*

*The line ends adjacent to the white lines indicating the limits of a parking place. In that context, it cannot possibly be said that Mr Minier or any other motorist would be misled or confused by the absence of T-bars. Whilst that was a defect in the form of the line, it is one which is immaterial and so minor that Mr Minier may not rely on it to avoid liability for a penalty charge."*

I concur with Mr Cooper's view which does appear to follow the more recent jurisprudence of the Courts rather than those cases which are a little more historical and also follows the perhaps more realistic position which ought to apply to de-criminalised traffic enforcement. That these kerb marks appear to be in pairs rather than in singles I regard as entirely trivial and insignificant. They are part of the overall "regime" of signing showing the effect of the local Traffic Management Order. The Order is evidenced by the yellow line, the sign plates and the kerb marks. As I stated in my decision of 3663-v-Haringey (2070471198) (relating to the same point and indeed the same location) that the yellow paint on the kerb appears to be in pairs of marks rather than in singles could have done nothing but improve the likelihood of the driver being made aware of the loading prohibition. It certainly did not detract from it. I regard this as a deviation from the Regulations which is of such a trivial nature that it does not alter the undoubted adequacy of the signage.

The appeal is refused.