

APPEALS PANEL 1

MONDAY 17 JULY 2017 AT 10.00AM

PRESENT: Councillors Burns, Earp and Paton.

OFFICERS: Deputy Chief Executive
City Centre Manager

ALSO

PRESENT: Appellants (Mr & Mrs X)

AP1.1/17 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor Earp be appointed as Chairman of the Appeals Panel 1 for the Municipal Year 2017/18.

Councillor Earp thereupon took the Chair.

AP1.2/17 APOLOGIES FOR ABSENCE

No apologies for absence were submitted.

AP1.3/17 DECLARATIONS OF INTEREST

There were no declarations of interest in respect of the complaint.

AP1.4/17 PUBLIC AND PRESS

RESOLVED - That in accordance with Section 100A(4) of the Local Government Act 1972, the Public and Press were excluded from the meeting during consideration of the following item of business on the grounds that it involved the likely disclosure of exempt information, as defined in Paragraph Number 1 of Part 1 of Schedule 12A of the 1972 Local Government Act.

AP1.5/17 APPEAL - CAR PARKING

Consideration was given to an appeal against car parking services.

The Chairman introduced the Panel and outlined the procedure to be followed. He gave an assurance that the hearing would be conducted fairly and that all parties would be afforded the time necessary to put their case, following which the Panel would reach a decision.

It was noted that all those present had seen the relevant documentation, copies of which had been circulated.

The Chairman asked the Appellants to summarise the reason for their appeal.

Mr X explained that due to being on holiday he and Mrs X had not received the draft correspondence pack in time to make a submission to the final agenda document pack. Mr X asserted that information contained within the document pack had not previously been provided to himself and Mrs X, and that items of correspondence from Council

Officers had not been included within the document pack, for example, an email from the Customer Services Supervisor which had contained an apology that a response had not been dispatched within the prescribed timescale. Mrs X read out the aforementioned emails and circulated copies to Members.

The Chairman stated that this matter would be taken up with Officers when they attended the Panel.

The Appellants considered that the pictures of vehicles included in the document pack as examples of those within the same class as their own (Class G), was misleading as their vehicle was smaller than those illustrated.

The Appellants stated that in correspondence with themselves the Council had continually referred to the fixed bed sleeping arrangements of their motor caravan being the reason for its not being permitted to park in Caldew Riverside car park. Therefore, the Appellants had considered the Council restricted the use of Caldew Riverside car park in order to prevent overnight sleeping at the facility, which the Appellants had considered was likely to be undertaken by tourists or gypsy/travellers. On that basis, in their correspondence with the Council they had sought to make clear that they were residents of the district and had suggested that a permit be given to allow use of Caldew Riverside car park.

Upon receipt of the report to the Panel and its explanation of the vehicle class system, the Appellants had been made aware that the Council operated such a system. The Appellants considered that this information ought to have been explained in the Officer's correspondence. The Appellants were of the view that the regulations were not applied nationally as other districts that they had visited with their motor caravan did not apply the same restrictions. The Appellants noted that the regulations applied to the Council's car parks were initially implemented in 2001, therefore they considered them not relevant to modern motoring and in need of updating.

The Appellants advised that for motor vehicle tax purposes, their motor caravan was classed as a Private Light Goods Vehicle. In the Council's vehicle class system, Light Goods vehicles were contained in class B and thereby permitted to use Caldew Riverside car park. They further noted that during their seven year usage of the Caldew Riverside car park no Fixed Penalty Notice had been issued to their vehicle.

Following the installation of new signage within the Caldew Riverside car park which stated that their vehicle was not permitted to use the facility, the Appellants had begun using the Castle car park (formerly Devonshire Walk). They considered this facility to be less desirable due to its additional distance from the city centre which made the carrying of shopping to their vehicle more onerous.

The Appellants noted that the bays designated for use by Class G vehicles were the same as those allocated to coaches. In correspondence, the City Centre Manager had indicated another reason for preventing Class G vehicles from using the Caldew Riverside Car Park was the safety risk those vehicles posed to other car park users. This was due to the vehicles' larger size which it was considered had the potential to obscure views thus creating potential hazards for other car park users. The Appellants felt that by requiring Class G vehicle users to park alongside coaches, which were significantly larger vehicles, the Council was effectively creating the same situation in

the Castle Car Park for Class G vehicles as it had sought to avoid in Caldew Riverside Car Park with motor cars.

Furthermore, certain models of motor car were longer than others and longer than a motor caravan which also created the same safety danger as detailed by the City Centre Manager, however, such vehicles were permitted, by virtue of their class to use Caldew Riverside Car Park.

The Castle Car Park made provision of fourteen spaces for use by coaches and class G vehicles, the Appellants questioned whether that was sufficient provision for the city. They further asked, in the event that all the bays had been taken up by coaches, where a Class G vehicle would park.

In response to questions from Members, the Appellants confirmed that:

- Their motor caravan was 5.5 metres long. However, they intended to replace it in the near future;
- They felt that vehicle size should be a factor in the Council restricting where vehicles were permitted to park;
- They considered the Council's car parking regulations to be detrimental to the economic growth of the city;
- They had previously visited Carlisle and parked in Council car parks on a weekly to fortnightly basis, however, following the installation of new signage within the Council's car parks advising of the restrictions, they had stopped using the services in Carlisle and had begun shopping and banking etc, elsewhere;
- The Caldew Riverside Car Park had sufficient space to allow for the parking of motor caravans as well as motorhomes;
- They were aware of one other person who had brought a similar complaint to the Council;
- All correspondence with the Council regarding their complaint had been via email with the exception of the final letter which had been hand delivered.

The Appellants described a number of different approaches to car parking that they had experienced in different areas and suggested that the Council may wish to consider incorporating measures such as:

- where a vehicle required two spaces to park the driver be required to pay for the use of both spaces, rather than being required to use a different car park;
- allowing motor caravans to use Council car parks during the day, but not the evening.

The Appellants asserted that they were bringing the complaint on behalf of all motor caravan users, and noted that they were members of the Camping and Caravan Club which had approximately one million members, as they considered the Council's policy discriminated against motor caravan owners.

The Chairman thanked the Appellants for their input and advised that they would be informed by letter within 20 working days of the Panel's decision. If the Appellants were not happy with the decision their next course of action would be to take the complaint to the Local Government Ombudsman, details of which would be included in the letter.

The Appellants left the meeting at 10:40am

The City Centre Manager was invited to attend the meeting

The Chairman summarised the Appellants' complaint and invited the Officers to respond to the issues raised.

Regarding the matter of incorrectly dated correspondence sent to the Appellants, the City Centre Manager acknowledged the error, and apologised to the Panel. She confirmed that all correspondence with the Appellants had been transacted over email with letters contained as attachments.

In response to the Chairman noting that the Appellants had not received certain items of correspondence, the City Centre Manager responded that due to not having been provided with a postal address for the Appellants she had sent all correspondence via email. She confirmed that she had not received any notification advising that emails had not been delivered.

In relation to the emails from Customer Services which had not been included in the document pack, the City Centre Manager advised that they had not been included as they had not been forwarded to her, and she was not aware that they had been sent.

Referring to the photographs of examples of Class G vehicles parking in Council Car Parks, the Chairman sought clarification on the location that the photographs were taken.

The City Centre Manager confirmed that all the photographs had been taken in Castle Car Park.

The Chairman further sought clarification as to whether it was permissible for Class G vehicles to park in privately operated car parks, as the City Centre Manager had advised that Class G vehicles were not permitted to park in privately operated car parks as the same vehicle restriction classes used by the Council were applied in those facilities.

The restriction of the particular classes of vehicles varied across the individual car parks operated by the Council due to a number of factors such as location and capacity. The City Centre Manager noted that restrictions had operated in the Council's car parks for a number of years.

In response to a question from a Member as to how the classes of vehicles were made, the City Centre Manager informed the Panel that the classifications were proscribed by government legislation.

The Appellant's suggestion of the provision of an exemption for their vehicle, based on its size was not feasible as it contravened the restrictions applied in the car park, and would create a precedent whereby any other requests for an exemption to the restriction would have to be complied with.

A Member noted that the Appellants had stated that for vehicle tax purposes, their motor caravan was classed as a Private Light Goods Vehicle, which was in a class that was permitted to use the Caldew Riverside Car Park.

The City Centre Manager stated that she had not seen the Appellant's vehicle, however, size was not the determining factor for vehicles being included in Class G, which comprised vehicles with fixed bed sleeping arrangements. The City Centre Manager appreciated that the Appellant's vehicle may be a small model of motor caravan and that larger vehicles, of classes which were permitted, used the Caldew Riverside Car Park. However, it was incumbent upon the Council to apply the restrictions as set out by government.

Responding to a question from a Member about the number of previous complaints to the Council on the issue of vehicle class based parking restrictions, the City Centre Manager indicated that she was aware of one previous Corporate Complaint on the subject, which had successfully been addressed prior to it reaching Stage 3 – Appeals Panel.

The Chairman noted that the Caldew Riverside Car Park, when it had operated as the Lower Viaduct Car Park, had signage at the entrance to the facility which did not provide users with advice on restricted vehicles.

The City Centre Manager explained that previously the focus of the Council's Car Parking Enforcement had been On-Street Parking as the authority had acted on Cumbria County Council's behalf. This had meant that the majority of the Council's Car Parking Services resources and enforcement action had taken place in relation to On-Street parking issues. Given that the Council had relinquished its Claimed Rights responsibilities and On-Street Parking Enforcement responsibility had returned to Cumbria County Council, Carlisle City Council had become able to put further resources into the enforcement of regulations within its own car parking facilities.

Turning to the issue of the provision of spaces for Class G vehicles in Castle Car Park, the Chairman questioned whether fourteen spaces, which were shared with coaches, were sufficient.

The City Centre Manager informed Members that the Council planned to re-surface a number of its car park facilities within the city centre, in preparation for the work being undertaken, consideration would be given to the parking provision for different vehicle classes across the sites.

The Panel thanked the City Centre Manager for her input and she left the hearing at 11:23am

The Deputy Chief Executive was invited to the meeting.

The Chairman summarised the Appellants' complaint and invited the Officer to respond to the issues raised.

The Deputy Chief Executive explained that the Council's car parking arrangements were reviewed on an annual basis, and noted that the Council intended to resurface a number of its car parks and that doing so afforded the authority the opportunity to consider the provision for various classes of vehicle within those locations, and to apply any amendments it considered necessary to the facilities.

In terms of the Appellants' use of the Caldew Riverside Car Park for a number of years without receipt of a Fixed Penalty Notice, the Deputy Chief Executive attributed this to

the conflicting information contained on the signs at the entrance to the car park, which rendered the Council's regulations unenforceable. He considered this to be the central reason why Fixed Penalty Notices were not issued, rather than the prioritising of Car Parking Services resources to the enforcement of On-Street car parking regulations.

The Deputy Chief Executive noted in relation to the Appellants' contention that the restrictions governing the Council's car parks ought to take into account vehicle size, that it was not permissible to generate further sub-classes of vehicles.

The Chairman drew the Deputy Chief Executive's attention to a number of communication issues which had been covered with the City Centre Manager (detailed above). The Deputy Chief Executive undertook to examine the issues and to take relevant action to address any matters arising.

The Panel thanked the Deputy Chief Executive for his input and he left the hearing at 11:48am

The Panel then considered all of the evidence presented to them prior to and during the hearing and:

RESOLVED – That the Panel gave full consideration to the papers circulated prior to the meeting and the responses made by the Appellants and Officers of the Council and did not uphold the appeal.

The Panel were unanimously of the opinion that the Council and its Officers had acted in accordance with the relevant regulations governing vehicle parking restrictions.

(The meeting ended at 11:58am)