



DECISION (RECONSIDERATION)

OF

Sheriff Pino Di Emidio

in an Application for permission to appeal against a
Decision of the First-Tier Tribunal for Scotland
(General Regulatory Chamber (Parking and Bus Lanes))

John Hazard

Appellant

and

City of Glasgow Council

Respondent

FTS case reference: GP00202-2210

5 February 2025

Decision

The Upper Tribunal for Scotland Refuses permission to appeal against the decision of the First-tier Tribunal for Scotland dated 16 February 2024.

Note of reasons for decision

[1] On 17 October 2024, my colleague Sheriff Dunipace refused permission to appeal on the papers (*Hazard v Glasgow City Council* [2025] UT 07). As he was entitled to do under the procedural rules of this Tribunal, the appellant asked for that decision to be reconsidered at a hearing. I have had access to all the papers listed by my colleague in his decision. In contrast



to my colleague, I asked the clerk to obtain the photographs produced to the FTS and perused them before the hearing that took place before me.

[2] I do not propose to rehearse the full procedural history. The ground of appeal founded on was as stated in paragraph 4 of Sheriff Dunipace's decision of 17 October 2024. That decision also rehearsed the reasoning of the Chamber President who refused permission to appeal on 22 March 2024. The matter has a very long procedural history. The PCN was issued on 18 March 2022. On 18 August 2023, the appellant succeeded before this Tribunal in an earlier appeal against an adverse decision of the FTS dated 2 February 2023 (*Hazard v Glasgow City Council* [2023] UT 27). On that occasion, the UT remitted to the FTS.

[3] Sheriff Dunipace extended the time limit for lodging the application to the Upper Tribunal. I have proceeded on the basis that this was no longer a live issue.

Hearing

[4] On 14 December 2024, the appellant participated by phone in a remote hearing. The respondent was not represented. The appellant argued persuasively that permission to appeal should be granted. He submitted that the FTS had erred in law because on the facts it had found it should have concluded that the respondent had failed in its statutory duty to maintain the lines at the location where the PCN was issued. It ought to have concluded that the respondent had failed to comply with the terms of Regulation 17(1)(f)(ii) of the Local Authorities Traffic Order (Procedure) (Scotland) Regulation 1999. This provision requires the maintenance of signs which are placed for the purpose of securing that adequate information as to the effect of orders relating to a road.

Reasons for Decision

[5] The ground of appeal is based on the third category in *Advocate General for Scotland v Murray Group Holdings Limited* 2016 SC 201 as described in the Opinion of the Court at paragraph

Upper Tribunal for Scotland



[43]. My colleague has summarised that ground at paragraph 21(iii) of his decision: *making findings for which there is no evidence, or which is inconsistent with the evidence or contradictory of it*. Sheriff Dunipace also set out the statutory test for the grant of permission to appeal at paragraph 15 of his decision of 17 October 2024. I will not repeat it here.

[6] The photographs show that the state of repair of the lines painted in the road was exceedingly poor. The FTS was aware of that but also took into account the nearby signage indicating the relevant restriction. It is significant for the purposes of this application that the appellant did not dispute that the signage was in place at the material time.

[7] Since the reconsideration hearing, the decision of the Court of Session in the case of *City of Glasgow Council* [2025] CSIH 2 has been published. Having taken account the guidance contained in it, I concluded I did not require to seek any further submissions from the appellant as it did not materially affect the approach I required to take when determining this application.

[8] The FTS was entitled to reach the legal conclusion that it did. It was reasonable to conclude on the undisputed factual scenario before the FTS, having regard both to the state of the lines in the road and the signage erected nearby, that there was substantial compliance by the respondent with the obligation imposed on it under Regulation 17(1)(f). This Tribunal must respect that conclusion which is grounded in the facts found. Had the nearby signage not been in place, there might have been a basis to argue as a matter of law that there had not been substantial compliance. However, that was not the factual scenario that was before the FTS. There is no proper basis for concluding that it is arguable that the FTS erred in law. Therefore, permission to appeal is refused.

Sheriff Pino Di Emidio
Member of the Upper Tribunal for Scotland