ISPA | INDEPENDENT SCRUTINY FOR PARKING APPEALS ON PRIVATE LAND

Nicola Mullany

Chair

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Patrick Troy,

Chief Executive

British Parking Association

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Dear Patrick

Cases adjourned until the Supreme Court decision in Parking Eye v Beavis

Thank you for your letter of 14 December emailed to me on 15 December.

I do appreciate this decision is very challenging for the BPA and there are no easy solutions.

You've commented on my three points and followed my numbering and so I'll do the same here:

1 I appreciate what you say about the BPA's understanding about the level of assessment which occurred of the adjourned cases. The quote you have provided, however, refers to the cases adjourned pending the Court of Appeal decision. The Lead Adjudicator didn't say explicitly this was the approach taken with the cases adjourned pending the Supreme Court decision. He did say "Assessors will also follow the course they adopted whilst the matter was at the Court of Appeal and thus, where they find that there is no other issue on which the appeal could be determined, they will adjourn the matter of their own motion." It might be deduced from the previous approach and from that statement that all the cases were reviewed and if the appeal could be allowed on another ground then the appeal would be allowed. I am, however, not clear this is what happened. I say this because when I spoke to the Lead Adjudicator at the time this wasn't the understanding I had. My understanding was cases were gone through quickly and cases that were identified as 'clear wins' were allowed but other cases were adjourned for a more thorough consideration when the issues in Beavis could also be considered. You will recall that at the time the cases were being adjourned a number of staff had left the service provider and so a more cursory approach may be consistent with targeting limited resources. The only way we can know for certain whether any cases would result in the appeal being upheld on another ground would be for the cases to be fully reviewed. If the BPA

isn't prepared to do this then ISPA would be prepared to pay for a sample of cases to be fully reviewed. ISPA, of course, doesn't have the resources to ensure all the cases were reviewed.

2 I can see the logic of your proposal to instruct the service provider to explain to appellants that all issues other than GPEOL were considered by the previous assessor. I'm not, however, certain this is true for the reasons given above.Whatever is said to the appellants it cannot be denied that the appellants will not see their arguments have been fully considered and have a fully reasoned decision. Even if everything I've said in point 1 turns out to be incorrect the BPA's decision is flawed because its proposal means justice will not be seen to have been done.

3 I understand your view of the Beavis case. I don't, however, think it is reasonable for the appellants to have been promised one thing and then for this to be taken away on the grounds that the trading body of one side of an appeal doesn't think it would make a difference.

I have found that the BPA has previously always tried to 'do the right thing' in its dealing with PoPLA. I understand the tremendous pressure that the risk of 'forum shopping' has created. I am bitterly disappointed that much of the good work done by the BPA and ISPA may be undone by the BPA's decision on these adjourned cases. I do not believe any organisation other than one controlled by the operators could have come to this decision. This is precisely why operators shouldn't be able to choose a scheme to provide the appeal service.

As with my previous letter I'll arrange for this letter to be put on our website and copy it to relevant stakeholders.

Yours sincerely

Nicola Mullany

Chair of ISPA