

## Mr [REDACTED] M [REDACTED] - v - Slough Borough Council

### Appeal Details

Case number:	SB00012-2402	Appeal Raised:	03/02/2024
Vehicle:	[REDACTED]	Hearing:	All parties attended the
Representative:	N/A	hearing	
Number of PCNs:	1	Decision:	16/03/2024
		Adjudicator:	Philippa Alderson

### Decision - PCN SB55303305

**Mr [REDACTED] M [REDACTED], you have lost this appeal.**

You need to pay the penalty charge to Slough Borough Council.

Penalty Charge Amount: £70.00

Issued: 29/11/2023

Contravention: 29/11/2023 08:57

Buckingham Gardens

1 - Parked in a restricted street during prescribed hours

Please see the next page for the Adjudicator's Reasons

## Adjudicator's Reasons

1. The Appellant is appealing a Penalty Charge Notice issued in respect of parking on a restricted street during prescribed hours at the location.
2. The Appellant has attended today via Teams as has the Council's representative Ms A [REDACTED].
3. The Enforcement Authority relies upon the contemporaneous evidence of the Civil Enforcement Officer, a copy of the PCN and a copy of the relevant legislation.
4. The Appellant contends that he was not parked at the location and that the PCN does not properly reflect the contravention alleged. He contends that in order to be parked, a vehicle must be unattended.
5. I have carefully considered all the evidence in this matter.
6. The photographic evidence of the CEO shows the vehicle to be stationary on double yellow lines at the location. The CEO notes an observation time of some ten minutes. The yellow lines are clearly visible.
7. The prohibition on parking/waiting on double yellow lines extends from the centre of the carriageway to the boundary line. A vehicle may not park on either side of the lines. This is set out within the Order creating this restriction (Enclosure 22) at Article 2 (1) which sets out that the restriction applies to not only the "length of road" but also to the "side of road".
8. The Appellant contends that he needed to stop at the location in order to deal with a phone call. He has hearing difficulties and understandably could not deal with this whilst driving. He has been frank in telling me that his vehicle was stationary at the location for the best part of an hour. He saw a building site nearby and assumed that the land upon which he parked was private property.
9. Ms A [REDACTED] has confirmed that the land in question falls within the Council's remit for parking enforcement. There is no evidence before me to rebut this and I find that the Council was permitted to enforce restrictions at the location.
10. The Appellant contends that he was not "parked" at the location, despite the length of time that he was there, as in order to be parked, the driver must have left the vehicle. He contends that this principle was established in the case of *Ashby v Tolhurst*. He contends that, if a vehicle is attended, it can be moved upon the request of a CEO.

11. However I reject this argument. In *Ashby v Tolhurst*, a case decided in the Court of Appeal in 1937, Lord Greene stated simply that “parking your car means, I should have thought, leaving your car in a particular place”. There is no specific analysis of whether it is attended or unattended. I find that it cannot be the case that a vehicle which is stationary at a location for a lengthy period of time is not parked, if the driver remains inside it. I am satisfied that the Appellant’s vehicle was parked at the location - on the Appellant’s own admission, it remained stationary for around an hour, with him inside it, and I find that this amounts to more than “waiting” at the location.
12. The Appellant further contends that the PCN does not set out the nature of the allegation sufficiently accurately, as it contends that the vehicle was parked, as opposed to “waiting”.
13. I reject this argument. A PCN must indicate to a driver the nature of the allegation made. A contravention code 1 is used for vehicles which wait/park on yellow lines. The Highway Code makes it clear that double yellow lines indicate “no waiting” at any time. I find that a driver who receives such a PCN would be in no doubt as to the allegation being made. I find that the PCN sufficiently set out the nature of the alleged contravention.
14. The Appellant contends that the CEO himself would not have issued the PCN had he know that the Appellant was in the vehicle. This is evidenced (Enclosure 24) in the CEO’s own statement, where the CEO states that they said, “If you saw me, why you not stop me before issuing?” This comment somewhat understandably has bolstered the Appellant’s belief that the PCN should not have been issued as he was inside the vehicle. However, it does not alter the fact that the CEO was entitled to issue this PCN, having observed the vehicle for some ten minutes prior to issuing.
15. Whilst I accept, having heard the Appellant’s oral evidence, and having read his written representations, that he is frustrated with the approach he contends was taken by the CEO, this has no direct bearing on the issuing of the PCN, which I find was legitimate. The allegations made by the Appellant appear to be a matter which he may choose to pursue with the Council but it is not a matter upon which this tribunal may adjudicate.
16. I am satisfied to the requisite standard that a contravention has taken place and that no statutory ground of appeal or exemption has been established.
17. Accordingly I must refuse this appeal.

Philippa Alderson

Adjudicator

16/03/2024