The Appellant's vehicle is seen in the CCTV evidence to be stationary between the white lines marking the centre of the carriageway and the Keep Clear markings close to, but not touching them. While the vehicle is stationary a passenger leaves it.

She appeals on effectively two grounds. The first is that the vehicle although stationary was so only in the ordinary course of driving in that it was stopped in stationary traffic. The legal basis for exemption in these circumstances would be that the vehicle is stationary in order to avoid an accident (in that if it continued to move it would run into the vehicle ahead of it). However it seems to me the CCTV evidence does not support exemption on this basis. There is seen to be no vehicle immediately ahead of the Appellant's preventing its progress at the time when the passenger leaves the vehicle.

The second ground of appeal is more fundamental. The Appellant submits that as her vehicle was not on the markings i.e. touching them, no contravention occurs. One cannot criticise her for taking this point in view of way the legislation is drafted; and in addition I note that she succeeded on this point in a decision of my learned colleague Mr Harman (case 2170011082), a decision which is not binding on me and with which I regret I am unable to agree for reasons set out below. If this submission is correct it seems to me it drives a coach and horses through the underlying road safety purposes of these markings and is not a position to be arrived at unless no other construction of the legislation is possible. I adjourned the hearing to obtain a considered response from the Council, which has replied as follows:-

Response re Adjudicator's adjournment request-In the opinion of the London Borough of Bromley a literal interpretation of the regulations meaning of "on" in this instance serves to defeat the purpose of the regulations in the first place, and the intention of Parliament when drafting them.

The London Borough of Bromley contends that there can be little doubt in this instance that the regulations were drafted so as to improve road safety outside of schools, which the Government deemed so serious in 2015 the Deregulation bill permitted this and only 3 other contraventions that could continue enforcement with the use of CCTV. In our opinion, to then interpret them literally can only serve to contradict the intention of Parliament when drafting them, as effectively the conclusion, which is being suggested, is that a civil parking contravention only occurs if a motorist wheels are on, overlaps or encroaches on the actual "paint" in the carriageway.

Should a motorist "stop" adjacent to said markings without a wheel on the markings a contravention has not occurred, however, by doing so the motorist has obstructed the highway and increased the potential for dangerous driver behaviour outside of schools, which seems to negate Parliament's purpose for drafting the regulations in the first place. The principle of establishing the intent/purpose of Parliament when drafting regulations was covered in significant detail in the "Supreme Court of Justice: WOLMAN – case reference: C6/2006/0862", whilst the London Borough of Bromley acknowledges that this case referred to the footway parking regulations, the London Borough of Bromley considers that the points covered and conclusions drawn remain relevant and comparable.

The London Borough of Bromley would also bring to the attention of the adjudicator, the decision

made in "London Borough of Bromley vs HARVEY – ETA case reference: 2160254780". In that case similar arguments were presented by the appellant, however, the adjudicator found that in respect of the wording on a no stopping sign, an interpretation which concluded that a motorist would be aware that they could not stop outside of a school on any part of the carriageway where there are no stopping restrictions but no upright signs, whereas when such a sign was present they would conclude that this applied only to the "paint" on the carriageway was dubious at best, if not flawed.

The London Borough of Bromley sought the opinion of several other London Boroughs who have influenced the above submission and has asked London Councils to approach the Department for Transport direct for clarification on this matter.

The London Borough of Bromley respectfully requests that the appeal be refused for the reasons as outlined in the original evidence submission and as above.

Schedule 7 part 6 Traffic Signs Regulations and General Directions 2016 provides as follows:-

School etc entrances (diagram 1027.1)

2. *The road marking provided for at item 10 of the sign table in Part 4, when not placed in conjunction with an upright sign which includes the symbol at item 12 of the sign table in Part 3 of Schedule 4 (prohibiting stopping on entrance markings), indicates a* part of the carriageway *outside an entrance where vehicles should not stop.*

3. *Subject to paragraph 4, the road marking at item 10, when placed in conjunction with an upright sign which includes the symbol at item 12, conveys the prohibition that, subject to the exceptions in paragraph 5, a person driving a vehicle must not cause it to stop* on that marking*—*

(a)if the sign placed in conjunction with the marking does not show a time period, at any time; or

(b)if the sign shows a time period, during that period.

In many cases of school entrance markings their existence will pre-date the TSRGD 2016 and there will therefore be a Traffic Management Order in place; and these normally specify in a Schedule, as they do in the case of Day's Lane, that the stopping prohibition applies to the "side" of the various roads there listed. This was the situation in *Harvey*, and in such cases it is clearly a little easier to come to the conclusion that the prohibition applied to that extent. That prohibition has in all such cases for many years been signed with the type of signage in the present case (- the only prescribed signage available -) which has (pace Mr Harman's decision) been generally accepted by Adjudicators as adequate to indicate the effect of such a TMO i.e. a prohibition applying to the whole of one side of the carriageway. It seems to me improbable that The TSRGD 2016, in dispensing with requirement for a TMO, intended to create a new type of restriction which only applied to vehicles whose wheels were touching the paintwork of the marking. It would seem to be an extraordinarily unsatisfactory situation if there were in effect two sorts of markings, one operational to the centre of the carriageway if there were a supporting TMO, but another restricted to the paintwork if there were not, with no means of distinguishing the two.

In ordinary language one routinely describes a vehicle as parked "on" a yellow line or "on" a red route without implying that the wheels are necessarily touching the paintwork. In the case of all waiting and stopping prohibitions (red routes, yellow lines, clearways, zebra crossings), it is not the case that an enforcement authority Council has to prove a vehicle touches the marking. In my view one should take a purposive approach to what is a road safety provision. In *Wolman,* cited by the Council, the issue arose as to whether a motorcycle parked on a stand with its wheels suspended a few inches above the footway could be said to be parked with wheels "on" the footway. The Court in the Course of its decision (that it could) said this

Mr. Wolman submitted that as a matter of the ordinary use of language the word "on" in this context connotes some degree of physical contact, direct or indirect, between the wheels and the pavement. He referred us to the definition of the word "on" in various well-known dictionaries which support the view that its basic meaning describes the relative positions of two or more things, one of which is above and in contact with the other by which it is supported. However, as Lord Hoffmann observed in Investors Compensation Scheme Ltd v West Bromwich Building Society [1998] 1 W.L.R. 896, 913, the meaning of words is a matter of dictionaries and grammars; the meaning of a document is what the parties using those words against the relevant background would reasonably have been understood to mean. In my view much the same applies to statutory provisions which, like commercial documents, have to be read in their own context. Language is a subtle medium and although a dictionary can provide us with examples of the way in which individual words have been used, it cannot provide us with the meaning of an expression read as a whole in the context in which it was intended to be understood. A word such as "on" is in such common use in such a variety of expressions that for my own part I do not find dictionary definitions of its meaning or examples of its use very illuminating.

And later

Mr. Manning drew our attention to a number of statements of high authority in support of the proposition that in interpreting a statute the court should examine the context of the legislation and have regard to the mischief at which it was directed, but in truth these principles are too well-established to call for the citation of any authority.

If the Appellant is right it would lead to a number of anomalies. A vehicle parked hard up against the lines but just not touching them could be entirely blocking the entrance affected which is not "kept clear" at all, and yet not be in contravention. As a result of the design of the road marking a vehicle parked very close to the kerb adjacent to part of the marking is not in contravention but a vehicle parked further out in the carriageway but just touching the point of a zig-zag is. Many keep clear markings are accompanied by single yellow lines indicating a waiting restriction in force outside keep clear hours. These certainly apply to the whole of one side of the carriageway and it would in my view be a little odd to have the more important, for road safety reasons, of the two restriction covering a much more restricted area.

The Traffic Signs Manual, the official DfT guidance for the placing of road signs states at *Chapter 5 Para 22.23*

The markings should be not normally be placed on both sides of the road but only on the side on which the entrance is situated. However conditions may sometimes require otherwise e.g. where there are school entrances on both sides of the road or the road is so narrow that not to prevent parking on the opposite side is considered hazardous or a patrol operates at that point

It seems to me that the implication of this is that the Department assumed that markings apply to the side of the road

In my view this is a situation where purposive approach should be taken and I agree with my learned colleague Mr Chan in *Harvey,* cited by the Council, where he said

Mr Harvey's submission may have some force if the Regulations were interpreted literally, but I think that a purposeful meaning of the signage should be preferred.

The purpose of preventing vehicles from stopping outside a school entrance is a safety issue. It prevents vehicles and children coming close to one another and it preserves sight lines between children and driver. The consideration applies whether the vehicle is on the yellow paint or two or three feet away. The fact that one may or may not have an upright sign does not affect this safety concern.

The logic behind Mr Harvey's submissions is also, with respect, dubious if not flawed. If Mr Harvey is correct, a driver who has less chance of appreciating that there is a prohibition because of the lack of an upright sign, would find himself in contravention by stopping within a length of the carriageway marked by yellow paint but the driver is permitted to stop in the same position because of the presence is an upright sign. It does not make sense. I think that the difference between Paragraph 2 and paragraph 3 is solely to set out that if there is a sign, the prohibition applies at the times indicated by that sign. The difference has nothing to do with whether the contravention only covers (or not) a vehicle physically on the yellow paint.

For these reasons. I am satisfied the sign stating that stopping “on” the markings is prohibited is adequate to inform the motorist of the prohibition applicable to that side of the road set out in the Traffic Management Order. By the same reasoning I would similarly hold that the vehicle was “on” the markings for the purposes of Schedule 7 part 6 para 2 TSRGD (although it is not strictly necessary to do so in this case where there is a Traffic Management Order in force).

As the vehicle was stationary in breach of a correctly signed prohibition in the Traffic Management Order it was in contravention and the PCN was lawfully issued.

That said, I am pleased to note that the Council has asked London Councils to take the matter up with the Department for Transport. It might be preferable if the point were put beyond argument by redrafting of the Regulation.