

PARKING TERMS

April 2024

1. Background

1.1. The following terms relate to all parking at Rutland House.

1.2. For many years we have had a relatively laid-back approach to parking, particularly out of hours when we are not otherwise using the site, and as it aids our neighbouring community. However, recently that goodwill has been repeatedly and regularly abused by some individuals. Particularly, we are now struggling to access our own facilities, to go about our own legitimate business, at weekends or first thing in the morning. In one recent example, a neighbour with no connection to the business obstructed our car park for four working days despite repeated requests to remove their vehicle.

1.3. Consequently, we must now seek to protect our own interests. These terms are therefore intended to formalise the position, clarify our approach to authorised (and unauthorised) parking, and ensure a fair set of principles with which we will undertake preventative measures.

1.4. At its core remains one underlying principle: Public parking is not invited at Rutland House. It is provided only for the occupants and their authorised users.

1.5. Motorists are reminded there are ample parking facilities in Southend with many public car parks available and on-road parking provision (subject to some parking restrictions, in some areas). The nearest can be found at the top of Baxter Avenue or near the Civic Centre.

2. Interpretation

2.1. The following specific definitions are used in these terms of parking:

“the Act” means Protection of Freedoms Act 2012 and specifically Schedule 4, as in force at the time of the parking event (whether amended or varied by any other legislation);

“appellant” means a motorist or other interested party lodging an appeal and / or complaint in accordance with section 4;

“authorised users” means the fee paying occupants of the premises, their duly authorised staff and visitors, in accordance with their leases, directions from us or other agreements as arising from time to time;

“motorist” means the registered keeper or driver of a vehicle on the premises, or any other interested party as applicable, depending on the circumstances;

“occupiers” means Goldwyns together with the tenants;

“parking” or “parking event” means a single period of a vehicle being stationary, on the premises, otherwise than in the normal course of driving – and particularly for any period exceeding 10 minutes (whether the driver remains in the vehicle or not);

“parking charge” means the amounts levied for unauthorised parking events, as determined by these terms and particularly paragraph 3.9;

“Rutland House”, “the site” or “the premises” means Rutland House, 90/92 Baxter Avenue, Southend on Sea, Essex SS2 6HZ and particularly the parking areas designated to the front and rear of the property;

“tenants” means the other occupiers of Rutland House (besides Goldwyns), whether under lease, agreement or other variation;

“vehicle” takes its ordinary meaning, drawn as widely as possible, and for the avoidance of any doubt includes any car, motorcycle, bicycle, van, truck, lorry, trailer, caravan, motorhome, tractor or mobility scooter; and

“we”, “us”, “the business” or “Goldwyns” means Goldwyns Limited, a company registered in England and Wales with number 05361691 at Rutland House, and with primary responsibility for the proper management of the site and its use.

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2.2. We are registered members of the International Parking Community (“IPC”) and these terms are drawn up, and to be applied, consistent with the IPC’s code of practice and supplementary directions.

2.3. We have the right to vary these terms from time to time as necessary to ensuring continuing compliance with the IPC’s requirements or otherwise as we see fit.

2.4. Nothing in these terms requires us to have a pre-existing contract with the motorist. We seek to protect the use of our land, and discourage unauthorised trespass, under the Act. Furthermore, where we are unable to identify the driver of an unauthorised vehicle (for example due to inaction of the registered keeper) we will seek to make the registered keeper liable for all associated costs in accordance with the Act.

2.5. Nothing in these terms (and particularly the levying nor settlement of a parking charge) prevents us from also seeking the separate action against a motorist for example the recovery of costs following damage to the site, building or its enjoyment or of removing abandoned property (including vehicles).

2.6. These terms and the occupation of the site are governed by, and should be construed in accordance with English law. The courts of England will have exclusive jurisdiction in relation to any claim, dispute or difference concerning these terms and any matter arising from them on any basis.

3. Parking terms and charges

3.1. Parking facilities are provided only for the occupiers and their authorised users, in their designated bays.

3.2. These terms apply at all times – 24 hours per day. Particularly, there is no exclusion for out of ordinary business hours, weekends, nor public or bank holidays.

3.3. It is the responsibility of each occupier (separately and individually) to keep a note of users authorised to occupy their allocated bays. Where a suspected misuse is detected by us in one of our tenant’s designated bays we will first confirm the authorisation (or otherwise) with that tenant. Authorised users (particularly visitors) are required to comply with the tenant’s own processes for identifying and recording their legitimate occupation of the property.

3.4. Tenants are reminded there is no overflow provision – if their allotted spaces are full, they must seek alternative provision elsewhere. There is no right to occupy other occupiers’ spaces.

3.5. Where necessary temporary concessions may be sought from us from time-to-time – but they must be agreed with us beforehand and will be allowed entirely at our discretion. They may also be subject to additional charges.

3.6. Vehicles must be parked wholly in an appropriately marked bay. Vehicles parked at the front of the property should double park, filling the spaces closest to the building first. Otherwise, no vehicle is permitted to obstruct the side driveway, other bays nor the building’s fire exits. Failure to comply may incur a parking charge.

3.7. From time-to-time we may ask that a vehicle is moved to another bay or otherwise removed from the premises, depending on the circumstances (and whether it is authorised). Motorists are expected to comply immediately and certainly within 10 minutes thereof. Failure to comply may incur a parking charge.

3.8. Evidence of unauthorised activities will typically be captured by CCTV or observation. Nothing in these terms requires us to warn a motorist or request they vacate the site before a parking charge may be issued. Typically we will request registered keeper details from DVLA and issue a parking charge in the post after the event.

3.9. Each parking event that breaches these terms is subject to a parking charge of £100.

3.10. We will offer a reduction to £60 where the parking charge is settled in full within 14 days of issue.

3.11. Where a parking charge is not settled within 28 days of issue, and hence becomes overdue, we will add an additional £70 charge to cover the costs of collection. Where charges remain overdue and we must

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initiate Court proceedings to collect the debt, the reasonable costs of doing so will also be further added to the amounts claimed.

3.12. A parking event ends at the earlier of:

- (a) the vehicle being moved; or
- (b) 11.59pm.

3.13. Nothing in paragraph 3.12 requires a vehicle to leave the site.

3.14. A (new) parking event commences when;

- (a) a vehicle becomes stationary on the site; or
- (b) automatically following a parking event ending (as per 3.12) if the vehicle remains on the site at that time.

3.15. Where a vehicle triggers two consecutive parking charges by virtue of 3.12(b) but leaves the site by 11.59am on the second day, it will not normally incur a parking charge for that second day. However, where it remains on the site after 11.59am of the second day, moves (but does not leave the site) or leaves the site and returns, parking charges will continue to accrue as normal.

4. Appeals and complaints

4.1. An appeal is where a motorist challenges the validity of a specific parking charge (or parking charges). A complaint is where a motorist challenges our general conformity with these terms or the IPC's code of practice.

4.2. Typically we will deal with appeals separately to complaints. An appeal may develop into a complaint or a complaint into an appeal, in which case we shall generally distinguish the two aspects and proceed separately from there. Regardless, the decision to deal with both matters separately or concurrently is ours and ours alone.

4.3. Appeals or complaints may be registered by writing to us at the site address or via email to parking@goldwyns.co.uk. Appellants should clearly mark the communication as an appeal and / or complaint at that time and enclose copies of any relevant supporting evidence or documentation. We will not accept verbal appeals or complaints.

4.4. Appeals must be lodged within 28 days of notification of a parking charge. In extenuating circumstances we may allow late appeals to be considered at our sole discretion – this would include, for example, where the motorist was uncontactable for a substantial period of time (e.g. overseas or hospitalised) but not where the registered keeper has omitted to keep the DVLA apprised of their current address or otherwise simply ignored the notice. Otherwise, an appeal entered out of time will not be considered and the parking charge will stand.

4.5. Likewise, we will not generally consider a retrospective appeal once a parking charge has been paid, except in exceptional circumstances.

4.6. If the registered keeper has appealed a parking charge (and the appeal has been heard and rejected) but they were not the driver themselves, the driver may then also exercise their own right of appeal. However, a new appeal by the driver will not be successful if it is simply made on the same grounds as the original appeal by the registered keeper.

4.7. A complaint may be made at any time (but if it develops into, or contains, an appeal then the appeal may only be dealt with in accordance with the time limitations of paragraphs 4.4 to 4.6).

4.8. The ordinary process for an appeal or complaint is:

- (a) the appellant lodges their appeal or complaint in writing in accordance with 4.3 above setting out the full details;
- (b) we will log the receipt of an appeal and / or complaint on our internal control, and check whether it is in time;
- (c) if an appeal is out of time, we will then review whether the circumstances warrant a late appeal being progressed anyway (and if not, we will proceed directly to step (f));
- (d) we will investigate the details and any corroborating or contradictory evidence;

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- (e) we will reach our decision on the outcome of the appeal or complaint;
- (f) we will confirm to the appellant, in writing, the outcome and basis for our conclusion; and
- (g) if the appeal (whether upheld or rejected) or complaint has identified any shortcomings in our processes:
 - (i) we will consider what corrective action may be required by us to prevent future recurrence; and
 - (ii) we will consider whether the investigation has identified any breaches of the code of practice and, if so, we will notify IPC in accordance with their requirements.

4.9. An appellant subject to multiple related parking charges may lodge a single appeal under 4.8(a) covering all related charges under one single heading, if they so wish, provided they explicitly state all parking charges their appeal relates to. We may, at our discretion, then proceed with the appeals as a single or several separable matters depending on the circumstances.

4.10. The exact processes of investigating an appeal under 4.8(d) will vary by circumstances but typically will include:

- (a) corroborating statements made by the appellant against CCTV footage and / or our recollection of events;
- (b) confirming against our own visitor logs and / or the logs and records of the tenants, particularly where "authority" has been cited by the appellant;
- (c) reviewing documentation or other evidence put forward by the appellant;
- (d) requesting further information, clarification or documentation from the appellant or other parties, if necessary to properly investigate (although see 4.14);
- (e) reviewing these terms and the IPC's code of practice for further guidance, particularly where there is scope for interpretative ambiguity; and / or
- (f) seeking a second opinion from another director of the business or the IPC.

4.11. We will acknowledge receipt of an appeal or complaint within 14 days. In reviewing an appeal or complaint we typically aim to have reached a decision (per 4.8(e) above) within 28 days. If, however, we are unable to do so we will acknowledge the appeal or complaint and advise the further timescale, and any further steps, needed to reach a decision.

4.12. Although we seek to be consistent in our approach, the outcome of any one specific appeal (or absence of a previous parking charge) shall not be binding on the outcome of a subsequent specific appeal (or issue of a parking charge). Each appeal, and set of circumstances, will be reviewed on its own merits.

4.13. Motorists should be aware that in order to maintain GDPR compliance our CCTV is subject to continual overwriting and, hence, is time limited. We will generally record material evidence (typically pictures) at the inception and end of a parking event but will not be obliged to keep hours and hours of intervening continual video evidence indefinitely just in case a late appeal is lodged weeks after the event. Where there is no longer video evidence available we will seek to corroborate any statements against such other evidence as may exist, but it may be incomplete. Likewise, whilst we maintain good CCTV coverage of our premises it does not cover every millimetre of ground nor extend materially beyond our boundaries. Where there are material omissions, we are only able to draw decisions based on the evidence we do have. For that reason, we would strongly encourage appellants to lodge their concerns as soon as possible upon receipt.

4.14. Nothing in 4.10(d) requires us to request further information or clarification where this is omitted from the appellant's initial appeal. We may do so as we so consider relevant or necessary, but if the appellant omits material information, facts or documentation from their initial appeal then there is no automatic right to later append material submissions to their case.

4.15. Although every appeal is judged on its own merits, and subject to appropriate evidence and / or corroboration from other parties, appeals will generally be looked at more favourably where:

- (a) the motorist has a legitimate reason for being on the site but perhaps misunderstood or was misguided in where they might park;
- (b) the motorist acted on instruction from an identified representative of an occupier but that representative perhaps did not have the authority to give such instruction;
- (c) for their first offence;
- (d) for briefer periods of indiscretion; and / or
- (e) for circumstances beyond their control.

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4.16. Although every appeal is judged on its own merits, appeals will generally be looked at less favourably where:

- (a) the motorist has no good reason to be on the site at all;
- (b) the motorist claims to have acted on instruction from an unidentified individual, or someone with obviously no authority, relation or connection to the site or its occupiers;
- (c) the motorist has made no real effort to understand, comply with or even identify the terms of parking, or bothered to make reasonable enquiries thereto;
- (d) for subsequent or repeat offences where their attention has already been drawn to the implications (regardless of whether a parking charge was issued or cancelled); and / or
- (e) for longer periods of indiscretion.

4.17. If an appeal is accepted, the parking charge will be cancelled and no further payments will be required.

4.18. If an appeal is rejected, the motorist has a further 14 days from the issue of our decision (per 4.8(f) above) to settle the outstanding parking charge at the reduced rate (per paragraph 3.10). We will also log our decision with the IPC, so that the appellant is able to progress an appeal with the Independent Appeal Service below, if they so wish.

4.19. If an appellant is not happy with the outcome of their appeal, within 28 days of our decision (per 4.8(f) above) they have the right to take up their appeal with the Independent Appeals Service (details of which can be found at www.theias.org). The Independent Appeals Service provides an Alternative Dispute Resolution scheme for disputes of this type and its decision shall be binding on us.

4.20. If an appellant is not happy with the outcome of their complaint, within 28 days of our decision (per 4.8(f) above) they have the right to take up their complaint with the IPC (details of which can be found at www.theipc.info).

5. Privacy notice

5.1. The below privacy notice is an integral part of these terms and specifically covers the processing of personal data as regards parking on the site and the application of these terms. It does not affect or overrule the principles under which we conduct our ordinary data processing for our ordinary business.

5.2. We are processing data to manage use of the site and specifically vehicles on it. We therefore have a legitimate interest under GDPR.

5.3. We capture specific details of the vehicles on the site, the periods of their occupation and, in some instances, images of any person in or exiting the vehicle.

5.4. Where there is a suspected unauthorised parking event, we also process data about the registered keeper and / or driver, their address, images of the vehicle, the vehicle's details and particularly its registration number.

5.5. If an appeal or complaint is received, or there is correspondence in any other way, we also process data about the appellant, the circumstances of their appeal / complaint and any other information they provide in their correspondence.

5.6. As well as information we capture onsite, we also collect data from third parties. These may include:

- (a) the details of a vehicle's registered keeper from the DVLA;
- (b) the details of a vehicle's driver from its registered keeper;
- (c) the identity and vehicle details of authorised users of the site from other tenants of the building; and / or
- (d) any individual's current address information from credit reference agencies or other interested parties.

5.7. We may share information with:

- (a) the DVLA;
- (b) the IPC;
- (c) the Appeals Service;

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- (d) agents who act on our behalf such as legal advisors and debt recovery agents; and
- (e) insurance companies, the police or other security organisations.

5.8. Depending on the circumstances, motorists may have rights under GDPR to access, rectify, erase or object to data processed by us. Further details can be obtained from the ICO (<https://ico.org.uk/>). Motorists should contact us by writing to the site address or emailing parking@goldwyns.co.uk if they wish to make such a request.

5.9. A motorist may also complain to the ICO if they are unhappy with how we have used their data.