

Mr [REDACTED] [REDACTED] - v - Essex County Council

Appeal Details

Case number: ES00022-1901

Appeal Raised: 29/01/2019

Vehicle: [REDACTED]

Hearing: The Authority did not attend

Representative: N/A

Decision: 11/03/2019

Number of PCNs: 1

Adjudicator: Sarah Tozzi

Decision - PCN ES51932034

Mr [REDACTED] [REDACTED] you have won this appeal.

There is nothing to pay and the authority will cancel the penalty charge

This is because the alleged bus lane contravention did not occur.

Issued: 18/01/2019

Contravention: 10/01/2019 12:07

Duke Street, Chelmsford

34 - Being in a bus lane

Please see the next page for the Adjudicator's Reasons

Adjudicator's Reasons

1. Mr [REDACTED] appealed via telephone. The Council did not attend. I confirm that I have read the documents relied upon by the parties and I have watched the digital footage.
2. Mr [REDACTED] submitted that there was inadequate information about the bus gate. He took me through his photographs and highlighted the large number of pedestrians in the area, the cluttered signage, the warning triangle information and pointed to 22 PCNs having been issued within the 4 minutes that he turned and drove in the opposite direction.
3. The Council maintain that the bus gate was adequately signed.
4. I have considered the footage of the approach along Victoria Road South (Northbound), this direction of travel is shown in the video footage at tab 10 of the evidence tab on the Tribunal Portal.
5. Travelling Northbound, vehicles first pass sign ES001 which shows the bus gate and low bridge 110 yards away to the left turn, with through traffic being directed ahead across the mini roundabouts. Proceeding ahead there are no further signs at the traffic lights but opposite the mouth of the mini roundabout there is a sign (ES004) showing the bus gate and low bridge to the left and again directing through traffic to the right at the mini-roundabout. This sign is situated back against railings on a pole and could be obscured if high vehicles passed through the mini-roundabout and can be missed if motorists are focusing on traffic from the right. If vehicles then turn left at the mini roundabout, they are then on Duke Street and same route is followed to the bridge.
6. Article 2 of the TRO says that the bus gate runs from the junction with Park Road and the junction with Viaduct Road/the Bus Station, however the entry signs are positioned either side of the bridge and so cover a shorter distance than that described in the TRO.
7. The blue roundel signs used by the Council are compliant with the Traffic Signs Regulations and General Directions 2016, sign 953B, Schedule 3, part 2, item 35. Likewise the right road markings have been applied to the road surface, which state "BUS GATE", pursuant to diagram 1048.5, Schedule 9, part 6, item 10. Given that the route under the bridge is filled by the bus gate, it is important that the advance signage warns drivers about the restriction ahead so that they have time to take an alternative route. The issue for me to decide is whether the scheme, when viewed as a whole, can be said to give adequate information to motorists about the presence of the bus gate. I am not required to apply any higher test.
8. Travelling Northbound, I agree that sign ES001 is large and visible, whilst it may be difficult to understand the double roundabout sign when travelling in a moving vehicle, it is clear that a bus gate is to the left. However, the warning triangle is positioned in front of the bus gate sign, which makes it appear that bus gate comes after a height restricted area. This is misleading. The signs do refer to Duke Street Bus Gate but that has little meaning for a non-local driver, such as Mr [REDACTED]. Sign ES001 is some distance from the junction and there are no further signs until vehicles are at the mouth of the roundabout. Once at the mouth of the mini-roundabout, sign ES004 is ahead. It points to the bus gate and height restriction but as it is placed opposite the roundabout, it is possible that other vehicles can pass in front and obscure it, if high-sided. I am also mindful that drivers would be focusing to the right for oncoming traffic. If that sign is missed there are no other signs or road markings directing non-permitted vehicles away from the bus gate. Motorists are then committed to Duke Street.
9. Once established on Duke Street there are no further bus gate signs until the bridge. Once the turn has been made, there is a traffic enforcement camera sign but no information about which restriction it relates to. Motorists then immediately face a pedestrian crossing, followed by bus stops on either side of the road. There are also many pedestrians around due to the station entrance in the daytime and the footage shows many pedestrians walking around the bus gate. Further, the bridge itself is a distraction

with yellow and black markings around the edge and a height restriction triangle in the middle. The road towards the bridge also narrows.

10. The first visible signs to the left of the bridge, set against the wall of the Railway Tavern, are height restriction triangles along with a traffic priority sign, giving traffic approaching the bridge priority over traffic coming from the other direction. The priority sign suggests that vehicles can drive ahead. These signs attracted Mr [REDACTED] attention. The bus gate signs are then situated after the priority signs at the very edge of the bridge. These signs are more visible now that a yellow background has been added. However, the left hand sign becomes obscured by a restricted zone sign on getting closer to the bridge. At this point the road markings become clearly visible but vehicles have to proceed ahead. In my view the area to the left hand side is cluttered with signs. Only when there are no vehicles ahead can the bus gate signage be seen clearly. When buses are in the area, pulling from the bus stops or travelling ahead, the visibility of the signs becomes difficult and likewise drivers are distracted when there is a heavy footfall of pedestrians milling around. There are two additional problems.
11. First, once the turn onto Duke Street is made, there is no safe way of avoiding the bus gate. There is a left turn just before the blue roundel signs, into Park Road. However, that is a very narrow lane full of bicycles at the end. It is not practicable to turn there. So Mr [REDACTED] could not avoid it. Moreover, according to the TRO, the bus gate actually starts at this junction. Second, the priority sign is positioned before the bus gate. It therefore suggests that traffic can proceed ahead and I accept that drivers could be confused by this. The Council say the sign is only relevant for permitted vehicles, but that is not clear from the order of the signs. It seems to me that it would be logical to sign the bus gate at the junction (in accordance with the TRO), then place the priority signs.
12. Taking everything into account, including Mr [REDACTED] evidence today, I find that inadequate information was provided about the bus gate.
13. In the absence of clear information about the restriction, I find that no contravention occurred. This appeal succeeds. I direct that the PCN is cancelled.

Sarah Tozzi
Adjudicator
11/03/2019