

## Miss [REDACTED] - v - Essex County Council

### Appeal Details

Case number: ES00005-1901

Appeal Raised: 19/01/2019

Vehicle: [REDACTED]

Hearing: There was no hearing

Representative: N/A

Decision: 14/02/2019

Number of PCNs: 1

Adjudicator: Andrew Barfoot

### Decision - PCN ES51898151

**Miss [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: 27/12/2018

Contravention: 19/12/2018 10:04

Duke Street, Chelmsford

34 - Being in a bus lane

Please see the next page for the Adjudicator's Reasons

## Adjudicator's Reasons

1. I have decided this appeal without a hearing. The parties did not ask for a hearing.
2. The Council have produced footage from an approved camera device which shows Miss [REDACTED] vehicle, a car, drove eastbound in this bus lane.
3. The bus lane, which comprises the whole of Duke Street in both directions under a railway bridge, operates at all times, and is reserved for buses, taxis, motorcycles and cycles only. Miss [REDACTED] car was not permitted in the bus lane. A bus lane such as this, comprising a short section of road is commonly referred to as a bus gate.
4. Miss [REDACTED] explains she does not live locally, was unfamiliar with the restriction and had become lost on this occasion. She made a genuine and honest mistake. She appeals because she says the signage is simply not clear enough. She says there are at least 6 signs immediately on the approach to the mouth of the bridge and the ones she noted were the "give priority" sign to the left hand side and the warning triangle above the bridge. She acknowledges she saw the "Bus Gate" marking on the road, but there was little she could do to avoid going through the bus lane.
5. Miss [REDACTED] refers to other appeals in which the main concern was that the signage is not clear.
6. Miss [REDACTED] is right that in other recent appeals concerning this bus lane, appellants have also disputed that the signage for the bus lane is adequate to inform the motorist of the restriction (and it must be adequate for the Council to enforce the bus lane). In case number ES00180-1811 – concerning a vehicle travelling eastbound through the bus lane on 16 November 2018 – the adjudicator decided the signage for the bus lane in that direction was not adequate. This incident was relatively close in time to the alleged contravention in this case, which occurred on 19 December 2018.
7. In both cases, the Council have produced photographs of signage taken on 18 October 2018. The signage at the time of each incident was, therefore, the same.
8. The adjudicator in case number ES00180-1811 decided that the signage in place at the date of the contravention in that case was inadequate, and explained her reasons for concluding the signage was inadequate. In particular, she referred to the bus gate signs being obscured by the traffic priority sign, which is likely to mislead the motorist that progress under the bridge is permitted; and the fact that the railway bridge and its environs remain cluttered with other signage. She also referred to the fact it is unclear where the motorist might turn to avoid the bus lane if she belatedly sees the signage and realises it is there. These points all echo concerns raised by Miss [REDACTED] with the signage.
9. The adjudicator's decision in that case is not binding on me but I find the reasons given for that decision to be persuasive, particularly as they echo Miss [REDACTED] experience of the signage. I agree with those reasons and reach the same conclusion in this case, adopting the reasons in that case for doing so.
10. Because I find the signage was not adequate, the restriction is not enforceable on this occasion. Accordingly, I allow Miss [REDACTED] s appeal on the ground the alleged contravention did not occur. She is not liable to pay the penalty charge.

# Adjudicator's Decision

Andrew Barfoot  
Adjudicator  
14/02/2019