

Adjudicator's Decision

P Nichols
and
Medway Council

Penalty Charge Notice MW99988989

Appeal allowed on the ground that the alleged contravention did not occur.

I direct the Council to cancel the Penalty Charge Notice.

Reasons

The PCN is dated 20 August 2013 and was issued by post in respect of a contravention on 15 August 2013 at 14:17 relating to vehicle GD51LBJ in Globe Lane Chatham north western arm for being in a bus lane.

Miss Nichols is the owner of the car and would therefore be responsible for the payment of any penalty charge which was due. However she has been represented at a telephone hearing of this appeal by Mr Johnson who was a passenger in the vehicle at the time it was seen on the roadside camera. The Council was represented by Mrs Wright.

Unfortunately Mr Johnson did not have the appeal bundle with him and so did not have access to the photographs. His explanation of the route taken was therefore not as clear as it might have been but I understand that Miss Nichols may have passed the two blue and white bus lane signs which can be seen in the photograph on page 37 of the appeal bundle by making a left turn from the road on the side of the photograph.

The other photographs in the bundle and the video drive-through which I have seen show that vehicles are directed away from the bus station area by a series of "All Routes" signs and carriageway markings. This alternate route is designed to direct vehicles back along the route on which they had come and it is intended that vehicles make a right hand turn from the road on the left of the page 37 photograph.

There is no view from that junction on any of the photographs but the video drive-through does show a yellow sign with a black direction arrow suggesting a "U" turn, but in the context of the layout of the roads I can understand why many drivers might not understand what it meant.

Then when the driver reaches the junction, with the bus lane on the left, the blue and white sign on the nearside pavement is next to the car and difficult to see

from the driver's seat. There is a sign on the opposite side of the carriageway but it is angled and so does not obviously relate to the road on the left.

The situation is made more difficult because the words "Bus, Taxi Only" are put on the carriageway some distance beyond the point of the signing. Immediately after the signs there is a zebra crossing which in itself is a distraction for any drivers approaching and the carriageway markings, as shown in the video, are not visible until the driver has passed the zebra crossing by which time there is no practical way of avoiding the restriction.

In my view it would be much clearer if the carriageway markings were put on the road where the signs are and in front of the pedestrian crossing.

The Traffic Signs Manual, which is guidance issued by the Department for Transport, does recommend that carriageway markings, which it is pointed out are often the most visible signing, should be used in conjunction with the signs and at a point where the restriction begins.

For all these reasons I conclude that I am not satisfied that the signing of the restriction was clear to Miss Nicholls.

I therefore find that the contravention did not occur and the appeal is allowed.

Miss Nicholls is not liable to pay a penalty charge. Mr Johnson says that he has already made a part-payment of £30 and if this is so the sum should be refunded by the Council as soon as possible.

Although it is not a reason why I have allowed this appeal I note that the position of the camera does not show the point where vehicles enter the restriction. Mrs Wright confirms that the camera is only triggered automatically once a vehicle has passed some distance into the bus station area.

Part of the certification for the camera system is to require a view of the contravention in context. If the camera system cannot show the point of entry it would be difficult to, for example, contradict an account that unusual traffic conditions had resulted in the contravention. It would in my view be much better if the camera showed the start of the restriction, which I am assuming is the point of the signs although if in fact it begins some distance beyond the roadside plates at, for example, the point of the carriageway markings, then this should be made clear.

Stephen Knapp
Adjudicator

27 November 2013