Dear Sir,

8 May 2012

Please accept this letter as formal representation against Enforcement Notice as detailed above.

My appeal is based on two specific grounds:

1) I was in the bus lane less than 4 seconds, the council’s photo’s time stamps show I entered at 18:19:05 and show the car fully out at 18:19:08. (The bus lane at this point is only 25m long from start to end (approx)).

I therefore request the PCN be cancelled as this was an extremely minor transgression, I gained no advantage though the maneuver and was simply following the natural flow of traffic on a quiet road. (The photos show traffic was extremely light.)

As the photo’s show I was simply following the car in front, but as they were familiar with the area and I was not, they made the unnatural and unsafe sudden “swerve” to make left turn after the bus lane finished, whereas I took the safer, more natural smoother line. (see photo 2 of PCN where the car in front can be seen making this unsafe and unpredictable dangerous swerve)

I therefore ask for the PCN to be cancelled on the grounds of de minimis

2) If on considering the above you wish to pursue the matter my seconds grounds for appeal are that “There was no breach of bus lane controls” details to follow in this letter.
I will also be introducing the following point should the matter get as far as arbitration

I have a legal right to appeal, yet you have confirmed in your email of 5th April that:

_The Council regrets that representations cannot be accepted or discussed by telephone, nor will the decision be overturned._

The above demonstrates you have pre-judged the outcome of this legal process, confirming you will reject my appeal, regardless of grounds.

This fettering is a serious matter – please consider this point carefully before proceeding

The buslane/PCN is not valid or enforceable because:

a) **It is a legal requirement to specify where the alleged offense occurred. The PCN photo shows a car in on a non-descript street.**

I raised this point in my informal appeal, but you failed to respond, the PCN is seriously flawed on the grounds of “vague locus”. The PCN gives location as three roads, Hartfield Road, Sir Cyril Black and Hartfield Cres. Merton’s failure to answer this question obstructs my right to mount an effect appeal.

b) **The PCN/photos are incorrectly worded**

I understand from the “The Bus Lane Enforcement Camera Handbook” published by the Home Office states:

“Every image of the offence shall show, in addition to the offending vehicle, in the order given: the date in days, month, and year, the time in hours, minutes, and seconds, the day of the week, location and frame count from the beginning of the recording. The data shall be imprinted on the image or included in the violation record at the time the offence is recorded.”

The PCN as sent to me did NOT adhere to this stipulation.

c) **Inadequate signage (many counts)**

As the location of the offense is ambiguous (ref a) above). I have looked at all the signage related to bus lanes for that section of road, and have found many areas where it does not adhere to the regulations. As such the bus lane is unenforceable.

The reason for the guidance is to provide a consistency of street signage over the county to help motorist who are not familiar with the area. I am not familiar with Merton, as such am dependent on signage which is woefully inadequate and fails the meet the published guidance
C1) The Bus Lane sign (outside Copperfield Shop) is installed at an angle such that it is not visible from Hartfield Road.

When I returned to the location just after receiving the PCN I saw the sign was tilted away at 45 degrees away from the road. Since raising this point in my informal appeal the sign was re-aligned perpendicular to the road. On 30/4/12 the sign had been re-positioned as in the third photo, totally non visible from direction of traffic.

In the space of 10 weeks this mandatory sign has been positioned in 3 different configurations, most of the time being non viewable to motorists.

It was not visible when I was issued with PCN. (as per first photo below)

Merton have a legal obligation to maintain their signs, if they are unable or unprepared to do this – it is unreasonable to prosecute motorist on the basis they can not see the signs

45 degrees to road March 2012

90 degrees to road April 2012

180 degrees to road May 2012
C2) The advanced warning sign before the BL has been removed, this advance warning is a requirement, and although the council is permitted some flexibility to take into account local geographic factors, the fact that it was installed, then removed demonstrates the local geography is suitable for this advance warning sign.

15.9 Advance indication of a with-flow bus lane is provided by the sign to diagram 958. Where the speed limit is 20 mph or 30 mph, the sign should be sited 30 m in advance of the lead-in taper formed by the road marking to diagram 1010, with a minimum clear visibility distance of 45 m.

(Traffic Signs Manual Chapter 3 2008 p130)

I acknowledge the rules concerning advance warning signs are described as “should” and not “must”, but I wish to draw your attention to the paragraph below. The fact that the advance warning is not mandatory does not grant the council the right to simply ignore the recommendations – which seems to have been the case here:

1.54 In siting signs the advice given in subsequent chapters should be closely followed although it will not always be possible to adhere precisely to these standards due to site limitations. Variations in distance of up to 10% are generally permissible, but if an appreciably greater variation seems required other alternatives should first be investigated....

(Traffic Signs Manual Chapter 1 2008 p130)

Advance warning sign                                         No advance warning on PCN date 23/2/12

Photo on left shows the (correct) advance warning sign. The photo on right shows same section of road on 23/2/12 when the transgression took place.
The existing advance warning sign (red square) is perpendicular to the road, so facing in direction of red arrow. The approach to this section of road is from a 45 degree corner, if this sign is to be effective to on-coming traffic it would need to face as per blue arrow to give motorist chance of seeing it. As the council have removed the “proper” advance sign – this is the only advance warning motorist have – and it is ineffective.

(The green box is where the “proper” advance warning sign was before it was removed)
C3) The actual BL starts in the wrong location. The TCO states bus lane should commence “opposite the south eastern flank wall of 63b”. The Bus Lane actually starts some 30m from this point by Herbert Road.

15.10 The sign to diagram 959 is a regulatory sign and should be placed at the start of the lane, i.e. where the continuous line to diagram 1049 begins.

(chapter 5 Traffic signs manual)

The sign below is clearly not “where the solid white line … begins”

![Sign Image]

C4) The taper starts in such a position to extend fully across the junction of Herbert Road, this not permitted. (See drawing above)

7.5 The bus lane is separated from the rest of the carriageway by a continuous line to diagram 1049. The width of the line will be 250 or 300 mm depending upon site conditions, particularly the width of road available. The start of the lane is marked with a broken line to diagram 1010, the same width as the 1049 marking, and laid at a taper no sharper than 1:10. The lane should not start in such a position that the taper would extend across a side road junction.

(Traffic Signs Manual Chapter 3 2008)
C5) General Maintenance of Signs. The signs are not maintained to a satisfactory level.

The photo below shows a sign on this section of BL on 29/4/12.

As can be seen it is now facing almost 180 degrees in the wrong direction. As we know Merton have camera operators scanning this stretch of road for “misdemeanors” there can be no excuse of being unaware the sign is wrong and not maintaining it.

This could be simply due to lack of resources, or a deliberate “policy of neglect”, but either way it is essentially creating a “trap” for passing motorists who are unfamiliar with the area.
Merton’s failure to provide full information/documentation on this bus lane

I am unfamiliar with this area, and until issued with this PCN had no interest in BL in Merton or anywhere else. Since being “forced” to learn up on the subject I find Merton have created a formidable and complex bureaucratic maze around getting information on this buslane.

I understand the following, but have not been able to obtain full documentation from Merton

The BL was implemented…
Then wholly removed…
Then re-implemented…
Then significantly modified (hours of operation)

Below is last email sent to Merton – as of yet I have had no reply

Sent: 18 April 2012 11:17  
To: Simon Edwards 
Subject: Re: Hartfield Road Bus Lane Traffic Order 

Hi Simon,

Thank you for your help.

Could you please email me the drawing for the original bus lane on Hartfield Road, if there was a BL, it was removed, then re-instated but with different signage.

For my appeal I need a copy of the drawing for the original BL.

Do you also have the document/minutes that described the reasons why the original BL was removed

Thanks

Matthew

In conclusion to the signage deviations described above, it seems that Merton have not only disregarded many of the guidelines designed to provide consistent, safe and sensible signing for road users, they have pro-actively removed all effective advance warning of the bus lane, and due to poor maintenance – do not provide adequate and required signage within the bus lane itself.

For the reasons above I require you to cancel the PCN forthwith and with immediate effect.
Should you wish to escalate this matter to arbitration please send the following documents to help me support my case.

1) The works number, contractor and date of repair to the mis-aligned sign outside Copperfields Shop and the reason. (90 deg fix)
2) as above but for more recent work (180 degree fix)
3) The works number, contractor and date of maintenance for the removal of the advance warning sign as shown in photograph C2 above and the reason.
4) Number of PCNs issued for this section of bus lane and the number of PCNs successfully appealed both informally and at PATAS.
5) Copies of the approval for deviation of the BL sign by Copperfield Shop, which has been altered between 23 Feb 2012 and 18 April 2012
6) A copy of the Camera Enforcement logbook recording the alleged contravention.
7) A copy of the video tape
8) Complete documentation of the provenance of this BL, ie maps/minutes/TCO for the original introduction, removal, re-introduction, and subsequent modifications.

I sincerely hope you do not decide to reject this appeal, I have already spent a lot of time on this matter, luckily I am in a job situation where I have unlimited time on my hands to pursue this matter to its natural conclusion.

I look forward to your reply and confirmation the PCN is cancelled

Regards