

## Cray Avenue Bus Lane Fine Appeal Proves Council is Acting Unlawfully



In April 2006 we reported on the problems caused by the over-zealous council enforcement of the bus lane in Cray Avenue, Orpington. Cameras (as shown in the picture above) are being used to issue fines to people who only accidentally cross the bus lane while turning left, even though they are clearly not impeding buses. As a result Bromley Council is collecting very large sums in fines (more than £250,000 in six months), and the Council rejected representations from motorists.

A committee of councillors, and former Environment Portfolio holder George Taylor, considered the matter but they supported this rigid enforcement of the bus lane, although they did approve minor changes to the road markings and signage. In their view, and that of council staff, you were guilty of an infringement if you crossed the solid white line that demarks the bus lane, at any point. And pleas that it was safer to cross earlier and helped the flow of traffic if you turned slightly earlier were not listened to.

But Roy Swift, a resident of Orpington, took his case to appeal (to PATAS – the Parking and Traffic Appeals Service). He argued that it was reasonable to act as he did, and that vehicles were allowed to cross a bus lane when turning left as suggested in the Highway Code. Photos showing what happened are given below, and clearly it was a natural manoeuvre with no obstruction of buses.





The Adjudicator (Mr Anthony Engel) agreed and upheld his appeal. Mr Engel said in his written adjudication: *“The images show that the vehicle entered the bus lane but no advantage was gained over other traffic. There is a dispute over whether the road markings are correct but whatever the answer to that question, a vehicle is allowed to cross a bus lane in order to turn left – which is what happened. Clearly one cannot safely turn left without moving to the nearside in advance and I have concluded (after some hesitation) that, despite crossing the unbroken white line, this case comes within that exemption.”*

Obviously this judgement suggests that the council has been acting unlawfully and they should have been using more discretion when considering such minor technical infringements. BBKAG is now asking the council to revise its future enforcement procedures, and to consider returning all the penalty fines paid in relation to similar cases since the cameras were installed.

If anyone paid a fine in similar circumstances then we suggest you write to the council asking for a refund on the basis that this adjudication clearly indicates that the former council policy was neither reasonable nor legal.

Yet again the council have been shown to lack a sense of fairness in their enforcement of traffic regulations. And despite the volume of complaints on this subject, they found it impossible to shift from their usual defensive position of “we know we are right and we never make a mistake”. This is why so many motorists feel of late that they are being unfairly persecuted by an unthinking bureaucracy when it comes to road traffic offences.

#### Postscript

After the above was written, the reasons why the Adjudicator allowed the appeal by Roy Swift is now clearer. Bus lanes are established by a “Traffic Management Order”. The one issued by Bromley Council (the *“The Bromley (Bus Lanes)(No.1) Order 1998”*) gives a number of exemptions for infringement. For example, you will be pleased to hear that it is legal to enter a bus lane *“so as to avoid an accident”*.

But it also says *“a vehicle crossing a bus lane in order to get to or from any road adjacent to the bus lane or any vehicular access to premises adjacent to the bus lane”* is an exemption.

Therefore the manoeuvre by Roy Swift, and by hundreds of other people, where they moved into the bus lane a short distance before turning left is clearly legal.

Roger Lawson, BBKAG, 4/9/2006