

HAMPSHIRE COUNTY COUNCIL

ROAD TRAFFIC REGULATION ACT 1984

THE HAMPSHIRE (EAST ANTON FARM ROAD, ANDOVER) (PROHIBITION OF DRIVING) (BUS GATE) ORDER 2022

Hampshire County Council in exercise of its powers and duties under Sections 1, 2, 3, 4, 122(1) and 122(2) of the 1984 Act, the 2000 Act; the 2004 Act; and of all other enabling powers, and after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 to the Act, hereby makes the following order:

1. In this order, and the preamble and schedule hereto:
 - “the 1984 Act” means the Road Traffic Regulation Act 1984;
 - “the 2000 Act” means the Transport Act 2000
 - “the 2004 Act” means the Traffic Management Act 2004
 - “approved device” means a device of a description specified in an Order made by the Relevant National Authority in-line with Section 144 of the 2000 Act and adhering to the Bus Lane (Approved Devices (England) Order 2005 and all other enabling powers;
 - “authorised vehicle” means a vehicle authorised by the Council
 - “bus” means a motor vehicle constructed or adapted to carry more than eight passengers (exclusive of the driver) or a local bus;
 - “bus gate” means the length of road as specified in the schedule to this order;
 - “the Council” means Hampshire County Council;
 - “date of service” means the last day of the period of 3 consecutive days beginning with the first day of posting. If the notice is not posted on a working day, then the first working day after the date of posting will be the first day of posting;
 - “detection date” means the date on which a vehicle was detected as contravening this order, according to the record produced by an approved device;
 - “local bus” means a public service vehicle used in the provision of a local service not being an excursion or tour;
 - “local service” has the same meaning given in Section 2 of the Transport Act 1985;
 - “offence” means a failure to comply with the restrictions set out in this order that may result in the issue of a fine under any enactment that makes any provision of this order a criminal offence;
 - “owner” in relation to the vehicle, means the person by whom the vehicle is kept. In determining who was the owner of the vehicle at any time it shall be presumed that the owner was the person in whose name the vehicle was at that time registered with the Vehicle Excise and Registration Act 1994 or the

“pedal cycle”	person who has the use of such vehicle in the course of his/her employment and is entitled to use such vehicle as if he/she were the registered keeper; means a unicycle, bicycle, tricycle, or cycle having four or more wheels, not being in any case mechanically propelled unless it is an electrically assisted pedal cycle of such class as is to be treated as not being a motor vehicle for the purposes of the 1984 Act;
“penalty charge” and “reduced penalty charge”	means a charge set by the Council under regulation 4 of The Bus Lane Contraventions (Penalty Charge, Adjudication and (Enforcement) (England) Regulations 2005 (“The 2005 Regulations”) and all other enabling powers and with the approval of the Secretary of State for Transport which is to be paid to the Council within 28 days beginning from the date of the notice, or in 14 days in the case of a reduced penalty charge, following the issue of the penalty charge notice
“penalty charge notice” or “PCN”	means a notice issued by a person authorised to do so by the Council pursuant to the provisions of regulation 8 of the 2005 Regulations;
“Relevant National Authority”	means the Secretary of State in respect of England;
“Relevant Particulars”	means particulars relating to the identity of the keeper of the vehicle contained in the register of mechanically propelled vehicles maintained by the Relevant National Authority under the Vehicle Excise and Registration Act 1994 and in accordance with the Traffic Signs Regulations and General Directions 2016 (as amended) (TSRGD);
“road”	means any length of highway or any other length of road to which the public has access, and includes bridges over which a road passes;
“road marking”	means a traffic sign consisting of a line or mark or legend of the surface on a road of any size, colour and type prescribed or authorised under, or having effect as though prescribed or authorised under, Section 64 of the 1984 Act;
“statutory grounds”	means grounds for appeal defined in regulation 9.2 of the 2005 Regulations;
“vehicle”	means a mechanically propelled vehicle, intended or adapted for use on the road; and
“working day”	means any day other than a Saturday, Sunday or public holiday in England and Wales.

2. Save as provided in article 3 of this Order no person shall cause or permit any vehicle except for a local bus to be in the length of road specified as a bus gate in the schedule to this Order.

3. Nothing in article 2 of this Order shall apply so as to prevent any person from causing any vehicle to be in the bus gate for so long as may be necessary where that vehicle is:-
- (a) an authorised vehicle;
 - (b) a pedal cycle;
 - (c) being used in connection with any building operation or demolition in or adjacent to that length of road, the removal of any obstruction to traffic in that length of road, the maintenance, improvement or reconstruction of that length of road, or the laying, erection, alteration or repair in or adjacent to that length of road of any sewer or of any main, pipe or apparatus for the supply of gas, water, electricity or telecommunications;
 - (d) being used for fire and rescue, police or ambulance purposes.
 - (e) avoiding an accident
 - (f) to allow a person to get or give help in consequence of an accident or emergency or otherwise take action for public safety
 - (g) complying with any requirement resulting from works or an emergency in any part of the road adjoining the bus gate
 - (h) complying with any direction or permission given by a police constable in uniform or a traffic warden

CONTRAVENTION AND ENFORCEMENT

4. The Council will carry-out civil enforcement of any contravention of any prohibition, restriction or provision of this Order by permitting the imposition of a Penalty Charge only on the basis of a record produced by the means of an approved device.
5. Where the Council have reason to believe that a Penalty Charge is payable in relation to a vehicle which has contravened this Order, the Council will serve a Penalty Charge Notice (PCN) in accordance with the 2005 Regulations on the person appearing to be the owner or keeper of the vehicle.
6. A PCN shall be served before the end of the period of 28 days beginning with the detection date, and the Council shall continue to be entitled to serve a PCN during a further period of six months, beginning with the detection date, provided that:-
- (a) the Council has made a request within 14 days of the detection date to the Secretary of State for the supply of Relevant Particulars; and
 - (b) those particulars have not been supplied before the date after which the Council would not be entitled to serve a PCN by the virtue of this Order.
7. If the vehicle owner, keeper or driver contravenes any prohibitions or provisions of this Order, a charge set by the Council pursuant to Regulations under Section 144(3) of the 2000 Act and in accordance with the guidance given by the Relevant National Authority is to be paid in the manner described in the notice within 28 days of the date of service of the PCN or within 14 days of the date of service of the PCN in the case of a reduced penalty charge.
8. When the owner, keeper or driver has been identified, the Council will issue a PCN in accordance with this Order and send it by first class post.

9. Where a police officer in uniform is satisfied that a driver of a vehicle has committed an alleged offence under the provisions of this Order such that liability to a fixed penalty notice arises, a police officer may issue such a notice at the time and date of the alleged offence to the driver of the vehicle, which shall include the particulars listed in Section 52 of the Road Traffic Offenders Act 1988.
10. Where the owner, keeper or driver has been issued a PCN by the Council and it is proven by the owner, keeper or driver that he was also issued a fixed penalty notice or a summons for the same day and time for the same contravention by a police officer, then the Council shall no longer proceed with its PCN or where the PCN was paid in accordance with this Order the amount paid will be refunded in full as soon as reasonably practicable.

VALIDITY

11. If a Court, the Department for Transport, the Bus Lane / National Parking Adjudication Service or the Traffic Enforcement Centre declares any part of this Order to be invalid, or unenforceable, such declaration shall not invalidate the remainder of the Order.
12. The prohibitions imposed by this Order are in addition to and not in derogation of any restrictions or requirements imposed by any regulations made, or having effect as if made, under the 1984 Act or by or under any other enactment
13. This Order shall come into effect on *Monday 16th May* 2022 and may be cited as "The Hampshire (East Anton Farm Road, Andover) (Prohibition of Driving) (Bus Gate) Order 2022".

GIVEN this *3rd* day of *May* 2022

THE COMMON SEAL of HAMPSHIRE)
 COUNTY COUNCIL was hereunto affixed)
 in the presence of:)

[Handwritten Signature]

Authorised Signatory



SCHEDULE

**Length of Road at Andover in the Borough of Test Valley
 Prohibition of Driving, (Bus Gate)**

37/9337

East Anton Farm Road between a point 60 metres west of its junction with Cheviot Road and the southern kerb-line of its junction with the car park entrance to Endeavour Primary School, an approximate distance of 75 metres.