

**THE BOROUGH OF WARRINGTON (UNNAMED LINK ROAD BETWEEN  
ORDNANCE AVENUE AND BIRCHWOOD WAY) (BUS ONLY LANE)  
(AMENDMENT) ORDER 2016**

The Council of the Borough of Warrington (hereinafter referred to as "the Council") in exercise of its powers under Sections 1, 2, 4 and 5 and Part IV of Schedule 9 of the Road Traffic Regulation Act 1984 (hereinafter referred to as "the Act") and by virtue of The Road Traffic (Permitted Parking and Special Parking Area)(Borough of Warrington) Order 2006 (Statutory Instrument 2006/3421) made by Order under Section 43 and Schedule 3 of The Road Traffic Act 1991 ("the Act of 1991") and The Bus Lane Contraventions (Approved Local Authorities)(England)(Amendment)(No. 8) Order 2006 (Statutory Instrument 2006/3419) made by The Secretary of State for Transport pursuant to Section 144 of the Transport Act 2000 ("the Act of 2000") and 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: -

"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 Act of 2000 and adhering to The Bus Lane (Approved Devices)(England) Order 2005 (Statutory Instrument 2576)

"Authorised Officer" means a person authorised by or on behalf of the Council to supervise the restrictions and prohibitions imposed by this Order

"bus" means a vehicle which is adapted to carry more than eight passengers as per the Traffic Signs and General Directions 2002;

"driver", in relation to a motor vehicle means the person driving or has use of the motor vehicle;

"enactment" means any enactment, whether public, general or local and includes any Order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of any enactment;

"owner" in relation to a motor vehicle means the person by whom such motor vehicle is kept and used. It is presumed (unless the contrary is proved) that the owner is the person in whose name the motor vehicle is registered or the person who has the use of such a motor vehicle in the course of his/her employment and who is entitled to use such a motor vehicle as though he/she were the registered keeper thereof;

"penalty charge" means a charge imposed by legislation in respect of road traffic contraventions that are subject to civil enforcement;

"Penalty Charge Notice" and "PCN" means a Notice issued or served by a person authorised by the Council pursuant to the provisions of Section 66 of the Road Traffic Act 1991;

"vehicle" means

- (a) a mechanically propelled vehicle intended or adapted for use on roads;
- (b) a pedal cycle in actual use for the purpose of cycling

2. Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended, applied, consolidated, re-enacted by or as having effect by virtue of any subsequent enactment.
3. In this order where the context requires, the masculine includes the feminine and the neuter and vice versa, the singular includes the plural and vice versa
4. The Interpretation Act 1978 shall apply to the interpretation of this Order as it applies for the interpretation of an Act of Parliament and as if for the purposes of Section 21 of that Act this Order were an Act of Parliament and the Orders revoked by this Order were Acts of Parliament thereby repealed.
5. The making of this Order by the Council is done so under the duty imposed by Section 122(1) of The Road Traffic Regulation Act 1984 to secure the expeditious, convenient and safe movement of vehicular and other traffic and the provision of suitable and adequate parking facilities on and off the Highway, insofar as practicable having regard to the matters in Section 122(2) of the said Act.
6. The Order specified in the Schedule to this Order is hereby varied or amended as detailed in the said Schedule.
7. The restrictions imposed by this Order shall be in addition to and not derogation from any restriction or requirements imposed by any regulations made or having effect as if made under the Act or by or under another enactment.
8. This Order shall come into force on the 15th day of July 2016 and may be cited as "The Borough of Warrington (Unnamed link road between Ordnance Avenue and Birchwood Way) (Bus Only Lane) (Amendment) Order 2016".

### **SCHEDULE**

The Borough of Warrington (Unnamed Link Road Between Ordnance Avenue and Birchwood Way) (Bus Only Lane) Order 2016 is hereby further varied or amended as follows:-

- 1) Article 1 of this Order is amended by the addition of the definitions in Article 1 of The Borough of Warrington (Unnamed Link Road Between Ordnance Avenue and Birchwood Way) (Bus Only Lane) (Amendment) Order 2016.

### **AMENDED/ADDITIONAL ARTICLES**

- 2) (a) Article 5 of the order is amended in so far it relates to the words "no person shall cause or permit any vehicle, except for Buses, to proceed on the said length of road" is deleted and replaced with "no person shall cause or allow any vehicle, except for Buses, to be in the said length of road".
- (b) The addition of the following Articles: -
  7. The Council will carry out civil enforcement of any contravention of any prohibitions, restrictions or provisions of this Order by permitting the imposition of a Penalty Charge only on the basis of a record produced by the means of "Approved Device".

8. 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 Bus Lane Contraventions (Penalty Charge, Adjudication and Enforcement)(England) Regulations 2005 (Statutory Instrument 2757):-
  - (a) On the person appearing to be the owner or keeper of the vehicle or;
  - (b) On the person appearing to be the person liable to pay the charge.
9. A PCN shall be served before the end of the period of 28 days beginning with the detection date, the Council shall continue to be entitled to serve a PCN during a further period of six months, beginning with the detection, provided that:-
  - (a) The Council has made a request within 14 days of the Detection Date to the relevant National Authority for the supply of the 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.
10. If a vehicle owner, keeper or driver contravenes any prohibitions or restrictions of this Order, a charge set by the Borough of Warrington pursuant to Regulations under Section 144(3) of the Act of 2000 and in accordance with the provisions of Section 74 of the Act of 1991 and in accordance with guidance given by the Relevant National Authority (the Penalty Charge) 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.
11. When the owner, keeper or driver has been identified the Council will issue a PCN in accordance with this Order and send the PCN by first class post.
12. A PCN must state:-
  - (a) the registration mark of the vehicle or where the vehicle is being used under a trade licence, the number of the trade plate carried by the vehicle involved in the alleged contravention;
  - (b) the date and time of the which the Authorised Officer first noticed that a contravention of this Order had occurred in respect of the date known as the Contravention Date;
  - (c) the grounds on which the Authorised Officer believes that a Penalty Charge is payable with respect to that vehicle;
  - (d) the amount of the Penalty Charge which is payable;
  - (e) that the Penalty Charge must be paid before the end of the period of 28 days beginning with the date of service of the PCN;

- (f) that if the penalty charge is paid before the end of the period of 14 days beginning with the Date of Service of the PCN, there shall be reduction of amount of the Penalty Charge payable by 50%;
  - (g) that representations may be made on any of the Statutory Grounds of appeal, to the Council against the imposition of the Penalty Charge but that representations made outside the 28 day period may be disregarded;
  - (h) the Statutory Grounds of appeal;
  - (i) the postal address to which representations are to be sent;
  - (j) any electronic mail address to which representations may be sent as an alternative to the postal address;
  - (k) that if the Penalty Charge is not paid and no representations have been made before the end of the 28 day period from the Date of Service, the Council may increase the Penalty Charge by 50% and take steps to enforce payment of the charge as so increased;
  - (l) the manner in which the penalty charge may be paid;
  - (m) that if the representations are rejected by the Council, an appeal may be made on any of the Statutory Grounds to an adjudicator in respect of a Penalty Charge;
  - (n) the recipient of the PCN, may by notice in writing to the Council, request that an office be made available during normal office hours of 9:00am to 5:00pm Monday to Friday, for the purpose of viewing by him/her free of charge and by his representative (if any), the recording of the alleged contravention produced by the Approved Device pursuant to which the PCN was imposed and/or to provide him with still images from that recording as, in the Council's opinion, establish contravention
  - (o) the date of issue, being the date on which the PCN was produced by the Council;
  - (p) the address to which payment of the Penalty Charge may be made or may be sent.
13. 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.
14. 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 that was paid will be refunded in full as soon as reasonably practicable.

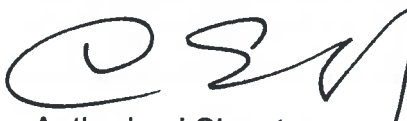
15. The penalty charge shall be paid to the Council within 28 days of the issue of the Penalty Charge Notice either;
- (a) by cheque, bankers' draft, money order or postal order delivered or sent by post as indicated on the Penalty Charge Notice, or;
  - (b) by cheque, postal order, in cash, by credit card or debit card in person at any Borough of Warrington Council office which accepts such payments, or;
  - (c) by credit card or debit card over the phone using the number specified on the Penalty Charge Notice, or;
  - (d) by electronic payment by credit card or debit card via the Council's website address.

Provided that, if the said twenty eight day falls upon a day on which the said Department or office is closed, the period within which payment of the said charge shall be made to the Council shall be extended until 4.30 on the next full day on which the said Department is open.

16. If the penalty charge is paid before the end of the period of 14 days beginning with the date of the Notice, the amount of the penalty charge will be reduced by the specified proportion.
17. Continuing failure to pay the penalty charge may result in a judgement in the County Court against the owner to enable the Council to recover the payments due.
18. The particulars given in the Penalty Charge Notice treated as evidence in any proceedings relating to failure to pay such penalty charge.

Given under the Common Seal of the Council of the Borough of Warrington this 13th day of July 2016.

The Common Seal of **WARRINGTON BOROUGH** )  
**COUNCIL** was hereunto affixed in the presence of: - )

  
Authorised Signatory *CAROLINE E. OWEN*



