

Rose (On Behalf of Friends of Mill Road Bridge 2) v Cambridgeshire County Council [2025] EWHC 1715 (Admin)

Introduction

This case was an unsuccessful challenge of the validity of the City of Cambridge (Mill Road) (Bus Gate) Order 2024, which is a traffic regulation order ("**TRO**") prohibiting private vehicle access across Mill Road Bridge, Cambridge.

Facts

Mill Road is a significant route into the city of Cambridge from the east. It connects two major A roads: East Road (A603) and the Inner Ring Road (A1134). There are a number of shops and businesses on Mill Road as well as residential dwellings. Mill Road Bridge, a railway bridge, is located in the central section of the road. The area surrounding Mill Road is mainly residential.

From 1 July 2019, Mill Road Bridge was closed to vehicular traffic for 8 weeks during railway works. The Council installed traffic count sensors in and around the area to monitor road usage before and after the works. The 'Sensor Trials Final Report' found that during the closure traffic in the surrounding areas increased proportionately, and after the re-opening traffic returned to its pre-closure levels.

A bus gate was first installed on Mill Road Bridge in June 2020 to restrict vehicular traffic over the bridge, except buses and emergency vehicles. On 27 July 2021, the Council's Highways and Transport Committee ("**the Committee**") resolved to remove the bus gate restriction but to undertake a full review and public consultation on the options and use of Mill Road.

In Spring 2022, a non-statutory consultation on proposals for Mill Road was undertaken and a report was subsequently presented to the Committee. The Committee approved the recommendations to consult on a TRO to reinstate a modal filter on Mill Road, and to consult on exemptions to the TRO, including disabled people and taxis.

In March 2023, the Committee voted to approve a TRO but that was subject to a legal challenge and that TRO was quashed.

On 9 August 2024, the Defendant publicised a new proposed TRO on Mill Road Bridge. The TRO proposed to close Mill Road Bridge to all vehicles except local buses, bicycles, taxis and "authorised vehicles" as defined in the TRO. The Council published a Statement of Reasons ("**SoR**") outlining the statutory purposes for which the Council proposed to make the TRO and the reasons for making the TRO.

There were various petitions but the Committee voted to approve the TRO on Mill Road Bridge and the TRO, which is the subject of this Order, was made on 11 October 2024.

Grounds

The Claimant challenged the TRO on the following grounds:

- Ground 1: If the Council made the TRO for the reasons set out in the SoR, its decision to make the TRO was unreasonable, being based upon a view of the facts which could not reasonably be entertained.

- Ground 2: If the Council made the TRO knowing that the purported reasons in the SoR were merely aspirational or possible outcomes, the consultation on the proposed TRO was unfair.
- Ground 3: In failing to take into account the petition started by the Mill Road Traders Association, when deciding to make the TRO, the Council failed to take into account a mandatory material consideration.
- Ground 4: The Council failed to provide legally adequate reasons for its decision to make the TRO.

The Claimant submitted that, as a result of these legal errors, the TRO should be quashed.

Judgment

The first ground of irrationality/unreasonableness was concerned with the process by which the decision to make the TPO was reached. The Council assessed the proposed TRO against relevant policy and guidance, which explains the reasons in favour of a reduction in vehicle use and an increase in walking and cycling. Officers and Committee members can be assumed to have had regard to these, and were not required to set them out in any greater detail than they did. The objections to the proposal were fairly summarised in the officer's report to Committee and the Committee drew on the information gathered from the non-statutory consultation. As such, the court held that it was: *"...unarguable that the Committee could not reasonably reach the conclusions in the SoR on the basis of the material before it. There were competing considerations and conflicting information, and predictive judgments were required. But overall there was sufficient evidence upon which the Committee could reasonably exercise its planning judgment in favour of the TRO. This was a thinly-disguised challenge to the merits of the decision which was impermissible."* Ground 1 was dismissed.

In relation to ground 2, the requirements for a fair consultation have been considered in various earlier cases. Where a duty to consult is imposed by statute, what is required will depend on the statutory context, the nature of the proposal and its potential impact. The bar is high to find a consultation exercise unlawful by reason of unfairness and requires something to have gone *"clearly and radically wrong"* (per *R (JL and AT Baird) v Environment Agency* [2011] EWHC 939 (Admin)). The *"Gunning"* or *"Sedley Criteria"*, approved in *R (Moseley) v Haringey LBC* [2014] UKSC 46, set out the basic requirements for a consultation process:

1. Consultation must be at a time when proposals are still at a formative stage;
2. The proposer must give sufficient reasons for any proposal to permit of intelligent consideration and response;
3. Adequate time must be given for consideration and response; and
4. The product of the consultation must be conscientiously taken into account in finalising any statutory proposals.

The court concluded that the SoR set out adequately and fairly a summary of the Council's reasons for the proposal, thereby providing sufficient information to enable members of the public and consultee organisations to make an intelligent response, as indeed they did. The Council also responded to requests for more information. As such, the court held that the Claimant's criticisms of the SoR were hypercritical and unjustified, and ground 2 was dismissed.

Ground 3 considered whether the Council had failed to take into account material considerations, namely the petition started by the Mill Road Traders' Association. As per *R (Friends of the Earth) Ltd v Heathrow Airport* [2020]UKSC 52, a decision-maker does not act unlawfully if it does not refer to a particular consideration, unless it can be established that it was *Wednesbury* irrational not to do so. In this case, the Council was bound to follow a statutory consultation procedure and it was required to act in accordance with its Constitution. The court concluded that it was reasonable for the Council to exercise its discretion in accordance with its established practice. It was on this basis that the court held that the petition was not a mandatory material consideration as a matter of law and dismissed this ground.

The claimant submitted (under ground 4) that the Council was under a duty to provide reasons under regulation 17(3) of the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 and that the Council had given inadequate reasons for its decision to make the TRO. The court upheld the adequacy of the SoR and officer's report to Committee and, applying *Clarke Homes Ltd v Secretary of State for the Environment* [2017] PTSR 1081, found that there was no genuine as opposed to forensic doubt as to what the Council decided and why.

Conclusion

For the reasons stated above, the claim was dismissed on all grounds.

Case summary prepared by Nikita Sellers & Esha Ahmed