



Neutral Citation Number: [2025] EWHC 1715 (Admin)

Case No: AC-2024-LON-003835

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
PLANNING COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 8 July 2025

Before :

MRS JUSTICE LANG DBE

Between :

EMMA ROSE
(ON BEHALF OF
FRIENDS OF MILL ROAD BRIDGE 2)
- and -
CAMBRIDGESHIRE COUNTY COUNCIL

Claimant

Defendant

Stephanie Bruce-Smith (instructed by **Fortune Green Legal Practice**) for the **Claimant**
Charles Streeten (instructed by **Pathfinder Legal Services Limited**) for the **Defendant**

Hearing date: 10 June 2025

Approved Judgment

This judgment was handed down remotely at 10.30am on 8 July 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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MRS JUSTICE LANG DBE

Mrs Justice Lang :

1. The Claimant challenges 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. The TRO was made by the Defendant (“the Council”), on 11 October 2024, under sections 1(1) to 3 and Schedule 9 of the Road Traffic Regulation Act 1984 (“RTRA 1984”). The challenge is made pursuant to paragraph 35 of Schedule 9 to the RTRA 1984.
2. The Claimant brings this claim as an individual and in her capacity as Chair of the Friends of Mill Road Bridge 2, an unincorporated association of local residents.
3. The Claimant challenges the TRO on the following grounds:
 - i) **Ground 1:** If the Council made the TRO for the reasons set out in the Statement of Reasons (“SoR”), its decision to make the TRO was unreasonable, being based upon a view of the facts which could not reasonably be entertained;
 - ii) **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;
 - iii) **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;
 - iv) **Ground 4:** The Council failed to provide legally adequate reasons for its decision to make the TRO.
4. The Claimant submits that as a result of these legal errors, the TRO should be quashed.

Facts

5. Mill Road is a major route from the east into the city of Cambridge. 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.
6. The Claimant is a resident of Coleridge Road where she lives with her 13 year old daughter who has been diagnosed with asthma. Coleridge Road is an entirely residential street that intersects with Mill Road to the east of Mill Road Bridge.
7. 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.
8. A bus gate was first installed on Mill Road Bridge in June 2020. It was implemented under an Experimental Traffic Regulation Order (“ETRO”) and restricted 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.

9. In Spring 2022, the Greater Cambridge Partnership (“GCP”) undertook a non-statutory consultation on how proposals for Mill Road would work with the City Access strategy. The consultation included focus group meetings with stake holders and a public survey between 7 February 2022 and 21 March 2022 (“the GCP consultation”). A report on the GCP consultation was presented to the Committee at its meeting on 12 July 2022. 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.
10. In March 2023, the Committee voted to approve the Cambridge (Mill Road) (Bus Gate) Order 2023 (“the 2023 TRO”). The 2023 TRO was the subject of a legal challenge that commenced in July 2023. On 7 May 2024, James Strachan KC (sitting as a Deputy Judge of the High Court) allowed in part the Council’s application to strike out the claim for summary judgment but allowed the claim to proceed on other grounds. Following this decision, the Council consented to judgment and the High Court quashed the 2023 TRO by a consent order dated 6 August 2024.
11. 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 notice period ran from 9 August 2024 to 13 September 2024.
12. The Council published a SoR in accordance with its obligation under Schedule 2(2)(d) of the Local Authorities’ Traffic Orders (Procedure) (England and Wales) Regulations 1996 (“the 1996 Regulations”), outlining the statutory purposes for which the Council proposed to make the TRO and the reasons for making the TRO.
13. On 15 August 2024, the Mill Road Traders’ Association started a petition against the new TRO. The petition by the Mill Road Traders’ Association explained the basis on which they objected to the implementation of the TRO. The petition received 1,652 signatures and closed on 13 September 2024.
14. Part 4.1 of the Council’s constitution (as at 22 October 2024) contained a section on the Council’s “Petition Scheme”. Petitions relating to TROs are excluded from the Petition Scheme. Instead, Part 4.1 states that such petitions “are considered by the Assistant Director: Highways in consultation with the local members”. This constitutional requirement was effective at the time of the Committee Meeting on 4 October 2024.
15. The Claimant signed the Mill Road Traders’ Association petition and objected to the TRO.
16. During the consultation period, the Claimant wrote to the Policy and Regulation Team, expressing her concerns about the impacts on Coleridge Road and requesting information that the closure would have on air quality in surrounding streets. The Claimant also wrote to her ward councillor, Cllr Shailer, the vice-chair of the Committee, requesting data on the likely impacts on Coleridge Road.

17. The Executive Director of Place and Sustainability drafted a report to the Committee (“the OR”), recommending the approval of the proposed TRO on Mill Road Bridge.
18. Vinery Road (referred to in the OR) is a residential road perpendicular to Mill Road to the east. It formerly provided a through route for vehicles between Mill Road and Coldhams Lane. Following the introduction of a modal filter towards the north-eastern end of Vinery Road – at the point at which Vinery Road meets Vinery Way and turns to the north-west – access to Coldhams Lane via Vinery Road is now restricted to pedestrians and cycles only.
19. The OR also refers to the Local Cycling and Walking Investment Plan (“LCWIP”) (adopted in October 2022), which sits within the Council’s Active Travel Strategy (March 2023).
20. The OR referred to two petitions received in respect of the proposed TRO, at OR/3.15.
21. On 4 October 2024, the Committee voted to approve a TRO on Mill Road Bridge and the TRO was made on 11 October 2024.
22. On 24 October 2024, the Council emailed the objectors to the TRO, informing them that the reasons for having made the TRO were set out in the SoR at Appendix 2 of the Committee Report and in the Committee Report.
23. The SoR was made in identical terms to the draft SoR published during the consultation period.
24. On 1 December 2024, the TRO came into operation on Mill Road Bridge. It restricts vehicular traffic over the railway bridge, with exemptions for local buses, cyclists, pedestrians, taxis and authorised vehicles. Authorised vehicles include emergency services and vehicles used by disabled persons and/or their carers.
25. On 12 March 2025, the Council’s officers published a brief response to the Mill Road Traders’ Association petition on its website and petitioners were advised of this by email.

Legal framework

Statutory scheme

26. Section 1(1) RTRA 1984 provides the purposes for which a traffic authority for a road outside Greater London may make a TRO. Schedule 9, Part VI, paragraph 35 permits any person who desires to question the validity of, or of any provision contained in, an order to which Part VI of Schedule 9 applies, to make an application to the High Court on the grounds that it is not within the relevant powers or that any of the relevant requirements has not been complied with in relation to the order.
27. Paragraph 36(1)(b) of the 1984 Act provides that on any application under Part VI of Schedule 9, the court, if satisfied that the order, or any provision of the order, is not within the relevant powers, or that the interests of the applicant have been substantially

prejudiced by failure to comply with any of the relevant requirements, may quash the order or any provision of the order.

28. The 1996 Regulations set out the procedure for the making of TROs. Regulation 6(1) requires an order making authority to consult with specific persons, including such other organisations (if any) representing persons likely to be affected by any provision in the order as the order making authority thinks it appropriate to consult. Regulation 7 outlines the obligations with respect to publication of proposals. Regulation 7(3) requires the order making authority to comply with the requirements of Schedule 2 of the 1996 Regulations as to the making of deposited documents available for public inspection. Paragraph 2 of Schedule 2 requires the authority to make available a statement setting out the reasons why the authority propose to make the TRO.
29. Regulation 8 makes provision for objections to a TRO. Regulation 13 requires the order making authority to consider all objections duly made under regulation 8 and which have not been withdrawn. Regulation 17(3) requires the order making authority to notify the making of the order in writing to any person who has objected to the order under regulation 8 and has not withdrawn the objection and, where the objection has not been wholly acceded to, shall include in that notification the reasons for the decision.

Legal principles

30. The general principles of judicial review are applicable to statutory challenges under paragraph 35 of Schedule 9 to the RTRA 1984. Thus, the Claimant must establish that the decision-maker misdirected itself in law or acted irrationally or failed to have regard to relevant considerations or that there was some procedural impropriety.
31. The exercise of planning judgment and the weighing of the various issues are matters for the decision-maker and not for the Court: *Seddon Properties Ltd v Secretary of State for the Environment* (1981) 42 P & CR 26. As Sullivan J. explained in *Newsmith v Secretary of State for the Environment, Transport and the Regions* [2001] EWHC Admin 74, at [5] – [7], this is not a merits review and a claimant who alleges *Wednesbury* unreasonableness faces an especially steep uphill challenge.
32. A local authority is at liberty to give material considerations whatever weight it thinks fit, or no weight at all, provided that it does not lapse into *Wednesbury* irrationality (*Tesco Stores v Secretary of State for the Environment* [1995] 1 WLR 759, per Lord Hoffmann at [56]). All matters of judgment are within the exclusive jurisdiction of the decision-maker. They are not for the court. A legal challenge does not afford an opportunity to review the planning merits of the first instance decision-maker (*Bloor Homes Ltd v Secretary of State* [2017] PTSR 1283 per Lindblom J. [19(3)]). Such matters of judgment admit of a broad range of possible views, none of which can be categorised as unreasonable.
33. Part of an officer's expert function in reporting to a committee is to make an assessment of how much information needs to be included in the report in order to avoid burdening a busy committee with excessive and necessary detail (*R (Fabre) v Mendip DC* [2017] PTSR 1112 per Sullivan J. at 1120D). Otherwise there is a real danger that officers will draft reports with excessive defensiveness, lengthening them and over-burdening them

with quotation of materials which may undermine the willingness to read and digest them effectively (*R (Maxwell) v Wiltshire Council* [2011] EWHC 1840 (Admin) per Sales J. at [43]).

34. The absence of reference to an issue in an officer's report does not mean it was not taken into account. An adverse inference that members failed to have regard to a relevant material consideration will only be drawn where all other known facts and circumstances point overwhelmingly to that conclusion (per Lord Brown of Eaton-under-Heywood in *South Buckinghamshire District Council v Porter (No 2)* [2004] 1 WLR 1953 at [34]-[35]).
35. In *R (Mansell) v Tonbridge & Malling BC* [2019] PTSR 1452, Lindblom LJ gave the following guidance on criticisms of officer reports to committees:

“42 The principles on which the court will act when criticism is made of planning officer's report to committee are well settled. To summarise the law as it stands:

(1) The essential principles are as stated by the Court of Appeal in *v Selby District Council, Ex p Oxtun Farms* [2017] PTSR 1103: see, in particular, the judgment of Judge LJ. They have since been confirmed several times by this court, notably by Sullivan LJ in *R (Siraj) v Kirklees Metropolitan Borough Council* [2011] JPL 571, para 19, and applied in many cases at first instance: see, for example, the judgment of Hickinbottom J in *R (Zurich Assurance Ltd (trading as Threadneedle Property Investments)) v North Lincolnshire Council* [2012] EWHC 3708 (Admin) at [15].

(2) The principles are not complicated. Planning officers' reports to committee are not to be read with undue rigour, but with reasonable benevolence, and bearing in mind that they are written for councillors with local knowledge: see the judgment of Baroness Hale of Richmond JSC in *R (Morge) v Hampshire County Council* [2011] PTSR 337, para 36 and the judgment of Sullivan J in *R v Mendip District Council, Ex p Fabre* [2017] PTSR 1112, 1120. Unless there is evidence to suggest otherwise may reasonably be assumed that, if the members followed the officer's recommendation, they did so on the basis of the advice that he or she gave see the judgment of Lewison LJ in *R (Palmer) v Herefordshire Council* [2017] WLR 411, para 7. The question for the court will always be whether, on a fair reading of the report as a whole, the officer has materially misled the members on a matter bearing upon their decision, and the error has gone uncorrected before the decision was made. Minor or inconsequential errors may be excused. It is only if the advice in the officer's report is such as to misdirect the members in a material way—so that, but for the flawed advice was given, the committee's decision would or might have been different—that the court will be able to conclude that the decision itself was rendered unlawful by that advice.

(3) Where the line is drawn between an officer's advice that is significantly or seriously misleading—misleading in a material way—and advice that misleading but not significantly so will always depend on the context and circumstances in which the advice was given, and on the possible consequences of it. There will be cases in which a planning officer has inadvertently led a committee astray by making some significant error of fact (see, for example *R (Loader) v Rother District Council* [2017] JPL 25 or has plainly misdirected the members as to the meaning of a relevant policy: see, for example, *R (Watermead Parish Council) v Aylesbury Vale District Council* [2018] PTSR 43. There will be others where the officer has simply failed to deal with a matter on which the committee ought to receive explicit advice if the local planning authority is to be seen to have performed its decision-making duties in accordance with the law: see, for example, *R (Williams) v Powys County Council* [2018] 1 WLR 439. But unless there is some distinct and material defect in the officer's advice, the court will not interfere."

36. The Chancellor, Sir Geoffrey Vos, added further guidance:

"62 I too agree with Lindblom LJ's judgment, but would add a few words from a more general perspective. In the course of the argument, one could have been forgiven for thinking that the contention that the presumption in favour of sustainable development in the National Planning Policy Framework had been misapplied in the planning officer's report turned on a minute legalistic dissection of that report. It cannot be over-emphasised that such an approach is wrong and inappropriate. As has so often been said, planning decisions are to be made by the members of the planning committee advised by planning officers. In making their decisions, they must exercise their own planning judgment and the courts must give them space to undertake that process.

63 Appeals should not, in future, be mounted on the basis of a legalistic analysis of the different formulations adopted in a planning officer's report. An appeal will only succeed, as Lindblom LJ has said, if there is some distinct and material defect in the report. Such reports are not, and should not be, written for lawyers, but for councillors who are well-versed in local affairs and local factors. Planning committees approach such reports utilising that local knowledge and much common sense. They should be allowed to make their judgments freely and fairly without undue interference by courts or judges who have picked apart the planning officer's advice on which they relied."

37. In *R (Bishop's Stortford Civic Federation) v East Herts DC* [2014] PTSR 1035, Cranston J. said, at [40] – [41]:

“40 it seems to me that there are more fundamental issues as to the appropriateness of courts delving too deeply into the debates of democratically elected politicians. In the planning context one possible aspect is expertise. The court have cautioned against undue judicial intervention in policy judgments by expert tribunals within their areas of special competence (see *AH (Sudan) v Secretary of State for the Home Department (United Nations High Comr for Refugees intervening)* [2008] AC 678, para 30, per Baroness Hale of Richmond), and this reticence has been applied to considering the decisions of planning inspectors on issues of planning judgment: see *Wychavon District Council v Secretary of State for Communities and Local Government* [2009] PTSR 19, para 43, per Carnwarth LJ. Arguably, the same applies to experienced planning committees with their training and codes of conduct.

41 More importantly, planning committees comprise democratically elected politicians, seeking to respond to their local communities and are ultimately answerable to them. The job is not easy, especially when passions on an issue are high and rational argument is squeezed. Large numbers of the public may attend committee meetings to voice their concerns. It is not just that the non-elected judge, sitting in the relative tranquillity of the Strand or Parliament Square, is unlikely to have experienced these pressures and how debate in these circumstances is shaped. It is also that excessive forensic analysis of political debate has an appearance of fettering the democratic process....”

Grounds of challenge

Ground 1: Irrationality

Parties’ submissions

38. The Claimant submitted that the Council’s conclusion in the SoR that the TRO would “reduce congestion and associated air and noise pollution, improve road safety and encourage active travel” was not a conclusion that was reasonably open to it on the evidence. On a number of occasions, the Council’s officers accepted that these outcomes were merely potential outcomes, with other outcomes being equally likely. It did not follow from the evidence that the modal filter on Vinery Road had a beneficial effect on air quality that the same would occur in Mill Road, and there was no assessment made as to the effect on the air quality in neighbouring streets. There was no modelling or other evidence to support the conclusion that the modal filter would improve road safety or encourage active travel, such as cycling and walking. It was equally likely that closure of the bridge may lead to a decrease in safety, should the TRO require heavy vehicles to turn or reroute along quieter streets currently used by vulnerable road users. Mill Road Bridge was not identified as one of the best routes to increase levels of cycling and walking in the LCWIP referred to at OR/3.18.

39. The Council submitted that Ground 1 was a head-on challenge to the merits of the decision which was impermissible. The OR provided members with a proper evidential basis for their decision, in particular, at OR/3.16 – 3.25 and 3.35 – 3.36. The Claimant may disagree with the judgments Members reached but there was no proper basis for questioning their legality.

Law

40. In the leading authority of *R (Law Society) v Lord Chancellor* [2019] 1 WLR 1649 (Admin), Leggatt LJ and Carr J. (as they then were) summarised the principles to be applied at [98]:

“98. The second ground on which the Lord Chancellor’s Decision is challenged encompasses a number of arguments falling under the general head of “irrationality” or, as it is more accurately described, unreasonableness. This legal basis for judicial review has two aspects. The first is concerned with whether the decision under review is capable of being justified or whether in the classic *Wednesbury* formulation it is “so unreasonable that no reasonable authority could ever have come to it”: see *Associated Picture Houses Ltd v Wednesbury Corp* [1948] 1 KB 223, 233-4. Another, simpler formulation of the test which avoids tautology is whether the decision is outside the range of reasonable decisions open to the decision-maker: see e.g. *Boddington v British Transport Police* [1998] UKHL 13; [1999] 2 AC 143, 175 (Lord Steyn). The second aspect of irrationality/unreasonableness is concerned with the process by which the decision was reached. A decision may be challenged on the basis that there is a demonstrable flaw in the reasoning which led to it - for example, that significant reliance was placed on an irrelevant consideration, or that there was no evidence to support an important step in the reasoning, or that the reasoning involved a serious logical or methodological error. Factual error, although it has been recognised as a separate principle, can also be regarded as an example of flawed reasoning - the test being whether a mistake as to a fact which was uncontroversial and objectively verifiable played a material part in the decision-maker’s reasoning: see *E v Secretary of State for the Home Department* [2004] EWCA Civ 49; [2004] QB 1044.”

41. The Claimant referred to the following cases in support of the principle that a decision will be unlawful where the decision-maker has acted without any evidence or upon a view of the facts which could not reasonably be entertained: *Edwards v Bairstow* [1956] AC 14, at 29 and *R (MA) v Secretary of State for Foreign, Commonwealth and Development Affairs* [2024] EWHC 332 (Admin), at [19]. A decision-maker also acts unlawfully if it focuses on aspects of the evidence which point to a particular conclusion while ignoring the evidence against it: *R (Bukartyk) v Welwyn Hatfield BC* [2019] EWHC 3480 (Admin) at [48].

Conclusions

42. In its SoR, the Council properly identified the statutory purposes in section 1(1) RTRA 1984 for which it proposed to make the TRO, namely:
 - i) for avoiding danger to persons or other traffic using the road or any road or for preventing the likelihood of any such danger arising;
 - ii) for facilitating the passage on the road or other road for any class of traffic (including pedestrians);
 - iii) for preserving or improving the amenities of the area through which the road runs.
43. 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.
44. At national level, in July 2020, the Department for Transport launched ‘Gear Change: A bold vision for cycling and walking’ and ‘Cycle Infrastructure Design Local Transport Note 1/20’, which set out its commitment to the provision of walking and cycling infrastructure, because of its value in terms of physical health and mental wellbeing (OR/3.17 and the SoR).
45. At local level, active and sustainable travel are amongst the objectives detailed in the Cambridgeshire and Peterborough Combined Authority’s Local Transport and Connectivity Plan (adopted in November 2023). The Council, the local highway authority, has developed an Active Travel Strategy (adopted in March 2023), which sets out a range of policies to enable and encourage the increased use of active travel modes and reduce the number of journeys made by car. A LCWIP (adopted in October 2022) has also been developed and sits within the Strategy following government guidance and utilising tools it identifies the best routes to create in order to increase levels of walking and cycling (SoR and the OR/3.18).
46. In the SoR, the Council identified that Mill Road has a range of issues that impact on health and safety for the people who live and work in the area: these include pavements that the Council considered were too narrow to accommodate the amount of footfall to shops, restaurants and businesses and a high volume of motor and cycle traffic sharing a carriageway of restricted width. Mill Road suffers from high levels of through traffic, which combined with local traffic and the high number of pedestrians and cyclists, causes significant congestion, particularly at peak times, and an unpleasant environment. Air pollution and a poor road safety record are directly related to these issues.
47. The SoR summarised the Council’s reasons for the proposed TRO as follows, namely, that a bus gate on Mill Road Bridge would reduce congestion and associated air and noise pollution, improve road safety and encourage active travel.
48. These issues were considered in more detail by officers and the Committee: see OR/3.20 – 3.25.

49. OR/3.20 dealt with congestion. It stated “[t]he proposals *would* reduce motor traffic on Mill Road through the removal of a significant number of through trips” (emphasis added). It noted the concerns raised about the displacement of this traffic onto other routes, but made clear that “if the TRO is approved, the Council would closely monitor the impact on traffic in the surrounding area”. This should be read in the context of OR/3.35 which dealt specifically with air quality monitoring and which concluded “officers are of the opinion that the proposals are *likely* to result in some shift away from car use towards active travel uses and public transport” (emphasis added) (see also OR/6.5). Read fairly and as a whole, there can be no real (as opposed to forensic) doubt that the conclusion reached by Members was, consistent with the advice of officers, that the proposals would reduce motor traffic and result in a shift away from car use towards active travel.
50. OR/3.21 dealt with highways safety. It clearly stated that the “removal of through traffic *would* help to avoid danger to persons or other traffic using the road” (emphasis added). There can be no real (as opposed to forensic) doubt that Members considered that the measures to be implemented by the TRO would improve highways safety.
51. OR/3.22 addressed sustainable travel. It stated that “the modal filter *would* make it easier and more attractive to use sustainable modes, such as public transport and active travel. The removal of a large number of through trips *would* help to alleviate congestion, which provides an opportunity for improved bus punctuality” (emphasis added). This reinforced the position in relation to congestion, and left no room for real doubt that Members believed making the TRO would promote active travel.
52. OR/1.1 – 1.4, gave an overview of the proposal, as follows:

“1. Creating a greener, fairer and more caring Cambridgeshire

1.1 This report details proposals that would impact on the following ambitions of the Council.

Ambition 2: Travel across the county is safer and more environmentally sustainable

1.2 Mill Road’s use as an alternative route to the ring road for through traffic, combined with local use and the volume of cyclists and pedestrians, causes significant congestion at times, resulting in concerns over road safety. This high volume of traffic often causes conflict between motorised vehicles and pedestrians and cyclists, resulting in an unpleasant environment for all. Buses are delayed on Mill Road at peak and other busy times. Reducing traffic levels on Mill Road and particularly removing through movements would encourage more environmentally sustainable travel choices.

Ambition 1: Net zero carbon emissions for Cambridgeshire by 2045, and our communities and natural environment are supported to adapt and thrive as the climate changes

1.3 In light of the experience following the introduction of a modal filter on Vinery Road, officers are of the opinion that the proposals are likely to result in some shift away from car use towards active travel uses and public transport, which is capable of having a positive impact on greenhouse gas emissions from transport.

Ambition 3: Health inequalities are reduced

1.4 Greater levels of active travel usage, as explained above, which are likely to be delivered by the proposals, have been shown to contribute to better physical and mental health outcomes.”

53. The objections to the proposal were fairly summarised in the OR, and responded to by officers in Appendix 3. The Claimant’s criticisms of Appendix 3 were, in my view, hypercritical and unreasonable. The officers were acknowledging and considering the points made by the objectors, not expressing the final conclusions of the Committee.
54. The Chair of the Committee, Cllr Shailer, responded to the Claimant’s queries in a series of emails, explaining the reasons for the proposal. In a letter dated 12 September 2024, Ms Kelly, Project Manager, provided information about the evidence base for the proposal to a local planning solicitor. Similar information was provided on 15 October 2024 in a response to a request for information.
55. The OR and the Committee drew on the information gathered from the non-statutory consultation conducted by the GCP in Spring 2022: see OR/2.3 - 2.7, OR/3.35 and Appendix 1.
56. The Council conducted an Equality Impact Assessment (“EIA”) (OR/Appendix 4) which carefully considered potential negative impacts on local people, including some with protected characteristics. It considered that these could be mitigated to some extent by the permitted exceptions for vehicular travel across the bridge; parking facilities; and alternative routes.
57. The proposal was then discussed and considered at length by Members at the Committee meeting on 4 October 2024, at which members of the public addressed the Committee.
58. In my judgment, it is 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.
59. For these reasons, Ground 1 does not succeed.

Ground 2: unfair consultation

Parties' submissions

60. The Claimant submitted that 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 because the SoR indicated that the Council thought it was reasonably certain that the TRO would result in reduced congestion and associated air pollution, improved road safety and would encourage active travel.
61. The Council submitted that there was no unfairness in the consultation exercise. The Council complied in full with its statutory obligations in the 1996 Regulations. The SoR more than satisfied the requirement to provide sufficient reasons for the proposal to permit of intelligent consideration and response; it was not materially misleading.

Law

62. The requirements of a fair consultation have been considered by the Supreme Court in *R (Moseley) v Haringey LBC* [2014] UKSC 46, [2014] 1 WLR 3947, per Lord Wilson JSC at [24] – [26], per Lord Reed at [33] - [34]; *R (Sumpter) v Secretary of State for Work and Pensions* [2015] EWCA Civ 1033, at [50]; *R (Better Streets) v Royal Borough of Kensington and Chelsea* [2023] EWHC 536 (Admin), [2023] RTR 24, per Lane J. at [39] – [42], [54] - [55]; and *Clifford v Secretary of State for Work and Pensions* [2025] EWHC 58 (Admin) at [19] – [27].
63. Where a duty to consult is imposed by statute, what is required of the decision-maker will depend on the statutory context, the nature of the proposal and its potential impact.
64. A finding that a consultation exercise was unlawful by reason of unfairness will be based upon a finding by the court not merely that something went wrong, but that something went clearly and radically wrong (per Sullivan LJ in *R (JL and AT Baird) v Environment Agency* [2011] EWHC 939 (Admin), at [51].
65. The “*Gunning*” or “*Sedley Criteria*”, approved in *Moseley*, set out the basic requirements for a consultation process to have a sensible content. First, that consultation must be at a time when proposals are still at a formative stage. Second, the proposer must give sufficient reasons for any proposal to permit of intelligent consideration and response. Third, adequate time must be given for consideration and response. Finally, the product of the consultation must be conscientiously taken into account in finalising any statutory proposals.
66. The consulting authority must let those who have a potential interest in the subject matter know in clear terms what the proposal is to enable them to make an intelligent response: *R v North and East Devon Health Authority, ex p Coughlan* [2001] QB 213, per Lord Woolf MR at [112].
67. Proper consultation axiomatically requires the candid disclosure of the reasons for what is proposed: *R (L) v Barking and Dagenham LBC* [2001] EWCA Civ 533, at [13]. Where material provided to consultees as part of the consultation is misleading the

consultation will be unfair: *R v Secretary of State for Transport ex p Richmond Upon Thames LBC* [1995] Env LR 390 at 405.

Conclusions

68. I refer to my summary of the SoR at paragraphs 42 – 47 of my judgment. I consider that it 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. As I explained at paragraph 54, the Council responded to requests for more information. I consider that the Claimant's criticism of the SoR as lacking in candour, because it stated the outcomes as reasonably certain when they were merely aspirational or possible, is hypercritical and unjustified. In my view, the Council meant what it said in the SoR. I consider that the Claimant's criticism arises from her strong disagreement with the Council's views, as expressed in the SoR.
69. For these reasons, Ground 2 does not succeed.

Ground 3: failing to take into account the Petition

Parties' submissions

70. The Claimant submitted that, 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.
71. It was an obviously material consideration because it provided evidence in relation to the level of objection to the TRO. This was considered material in the context of the GCP consultation (OR/2.3 - 2.7) and the officers' analysis of the number of persons objecting to or supporting the TRO, at OR/3.9 and Appendix 3 to the OR. Signatories to the Petition appeared to exceed the number of people who allegedly supported the TRO as part of the GCP consultation. Also, it raised concerns about key controversial issues in relation to statements in the SoR that the TRO would improve road safety, air quality, congestion, and encourage active travel.
72. Neither the Petition nor its results were put before the Committee or included in the OR, as can be seen from OR/3.15, and at the meeting the Democratic Services Officer, Mr Mills, advised the Committee that it was not part of the statutory process.
73. The Council's Constitution, correctly interpreted, requires that petitions on TRO's are considered by the person to whom power is delegated to determine the decision in respect of TROs, which in this instance was the Committee, not the relevant officer exercising delegated powers. Furthermore, the delegated officer did not consider the Petition prior to the decision to make the TRO and did not advise the Committee on it.
74. The Council submitted that, as a matter of law, the Petition was not a mandatory material consideration. On the facts, the Council had regard to the Petition but it was given little or no weight by Members.

Law

75. The leading authority on material considerations is *R (Friends of the Earth Ltd) v Heathrow Airport* [2020] UKSC 52 in which Lord Hodge and Lord Sales set out the relevant principles at [116] – [121]:

“116. A useful summation of the law was given by Simon Brown LJ in *R v Somerset County Council, Ex p Fewings* [1995] 1 WLR 1037, 1049, in which he identified three categories of consideration, as follows:

“... [T]he judge speaks of a ‘decision-maker who fails to take account of all and only those considerations material to his task’. It is important to bear in mind, however, ... that there are in fact three categories of consideration. First, those clearly (whether expressly or impliedly) identified by the statute as considerations to which regard must be had. Second, those clearly identified by the statute as considerations to which regard must not be had. Third, those to which the decision-maker may have regard if in his judgment and discretion he thinks it right to do so. There is, in short, a margin of appreciation within which the decision-maker may decide just what considerations should play a part in his reasoning process.”

117. The three categories of consideration were identified by Cooke J in the *New Zealand Court of Appeal in CREEDNZ Inc v Governor General* [1981] NZLR 172, 183:

“What has to be emphasised is that it is only when the statute expressly or impliedly identifies considerations required to be taken into account by the [relevant public authority] as a matter of legal obligation that the court holds a decision invalid on the ground now invoked. It is not enough that a consideration is one that may properly be taken into account, nor even that it is one which many people, including the court itself, would have taken into account if they had to make the decision.”

Cooke J further explained at p 183 in relation to the third category of consideration that, notwithstanding the silence of the statute, “there will be some matters so obviously material to a decision on a particular project that anything short of direct consideration of them by [the public authority] ... would not be in accordance with the intention of the Act.”

118. These passages were approved as a correct statement of principle by the House of Lords in *In re Findlay* [1985] AC 318, 333-334. See also *R (Hurst) v London Northern District Coroner* [2007] UKHL 13; [2007] 2 AC 189, paras 55-59 (Lord Brown of Eaton-under Heywood, with whom a majority of the

Appellate Committee agreed); *R (Corner House Research) v Director of the Serious Fraud Office* [2008] UKHL 60; [2009] 1 AC 756, para 40 (Lord Bingham of Cornhill, with whom a majority of the Appellate Committee agreed); and *R (Samuel Smith Old Brewery (Tadcaster)) v North Yorkshire County Council* [2020] UKSC 3; [2020] PTSR 221, paras 29-32 (Lord Carnwath, with whom the other members of the court agreed). In the *Hurst* case, Lord Brown pointed out that it is usually lawful for a decision-maker to have regard to unincorporated treaty obligations in the exercise of a discretion (para 55), but that it is not unlawful to omit to do so (para 56).

119. As the Court of Appeal correctly held in *Baroness Cumberlege of Newick v Secretary of State for Communities and Local Government* [2018] EWCA Civ 1305; [2018] PTSR 2063, paras 20-26, in line with these other authorities, the test whether a consideration falling within the third category is “so obviously material” that it must be taken into account is the familiar *Wednesbury* irrationality test (*Associated Provincial Picture Houses Ltd v Wednesbury Corp*n [1948] 1 KB 223; *Council of Civil Service Unions v Minister for the Civil Service* [1985] AC 374, 410-411 per Lord Diplock).

120. It is possible to subdivide the third category of consideration into two types of case. First, a decision-maker may not advert at all to a particular consideration falling within that category. In such a case, unless the consideration is obviously material according to the *Wednesbury* irrationality test, the decision is not affected by any unlawfulness. Lord Bingham deals with such a case in *Corner House Research* at para 40. There is no obligation on a decision-maker to work through every consideration which might conceivably be regarded as potentially relevant to the decision they have to take and positively decide to discount it in the exercise of their discretion.

121. Secondly, a decision-maker may in fact turn their mind to a particular consideration falling within the third category, but decide to give the consideration no weight. As we explain below, this is what happened in the present case. The question again is whether the decision-maker acts rationally in doing so. Lord Brown deals with a case of this sort in *Hurst* (see para 59). This shades into a cognate principle of public law, that in normal circumstances the weight to be given to a particular consideration is a matter for the decision-maker, and this includes that a decision-maker might (subject to the test of rationality) lawfully decide to give a consideration no weight: see, in the planning context, *Tesco Stores Ltd v Secretary of State for the Environment* [1995] 1 WLR 759 (HL), 780 (Lord Hoffmann).”

Conclusions

76. The Petition is not a matter which the RTRA 1984 or the 1996 Regulations expressly or impliedly require local traffic authorities to take into account when deciding whether or not to make traffic orders.
77. I accept the Council's submission that the Petition was not so obviously material that Parliament must be taken to have required the Council to take it into account. The Petition did not form part of the statutory consultation process by which persons who object to the making of an order may make representations to the Council. Such objections must be made in accordance with regulation 8(3) of the 1996 Regulations, not by means of filing a Petition with the Council.
78. Under the Council's Constitution, at B2, there is a Petition Scheme under which petitions submitted by local persons may be received and referred to a Committee or the Full Council, if appropriate. However, clause 7.1 expressly excludes certain petitions and makes different provision for them. Sub-paragraph (a) provides that petitions relating to planning applications will be considered by the Planning Committee. Sub-paragraph (b) provides that petitions relating to TROs are considered by the Assistant Director: Highways in consultation with local Members. The post of Assistant Director: Highways no longer exists; this function is now the responsibility of the Executive Director Place and Sustainability, but nothing turns on this. I accept the evidence of Mr Allatt, Service Director for Infrastructure and Project Delivery, that without this approach, there would be a risk that the petition process could be used to override the statutory consultation process, and if petition organisers were allowed to present their petitions to Committee, this would give them additional rights over other objectors or supporters, where an officer was making the decision under delegated powers (paragraph 10 of his witness statement).
79. In her witness statement, Ms Rowe (Democratic Services Manager of the Council) described the process by which this exclusion from the Petition Scheme was introduced. Ms Rowe also stated that Council officers explained to the Petition organiser in two emails that, although the Petition would appear on the Council's ePetition website, it would not be taken to the Highways and Transport Committee or Full Council because of the exclusion.
80. I do not accept the Claimant's interpretation of clause 7.1(b) of the Constitution. On any reading, clause 7.1(b) requires petitions on TROs to be considered by an officer in consultation with local Members. It expressly excludes consideration by Committee. This provision cannot be re-written so as to mean that petitions on TROs will be considered by the Highways and Transport Committee when that Committee is the decision-maker, not the officer under delegated powers. Where the Constitution intends consideration of petitions by Committee, it says so expressly, as in sub-paragraph (a), which makes provision for the Planning Committee to consider petitions.
81. As explained in the *Friends of the Earth* case, at [120], 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. Here, the Council was bound to follow a statutory consultation procedure and it was required to act in accordance with its Constitution. It was reasonable for the Council to exercise its discretion in accordance

with its established practice. In my judgment, it cannot be said that the Council's approach was irrational in a *Wednesbury* sense. Thus, the Petition was not a mandatory material consideration as a matter of law.

82. In any event, the Council did take the Petition into account, but gave it little or no weight. Weight is a matter for the decision-maker to determine, absent *Wednesbury* irrationality (see paragraph 121 of *Friends of the Earth*).
83. The Petition was published on the Council's website. The OR notified Members of it at OR/3.15 which stated:

“3.15 It should also be noted that in addition to the formal objections two petitions were received on this matter. Petitions relating to TROs are considered by the Executive Director of Place and Sustainability, in consultation with the local members.”
84. Mr Allatt, who presented the Mill Road proposal to the Committee, considered the Petition himself. He identified that many of those who signed the Petition had also made representations as part of the statutory consultation. The figures were checked at my request. There were 1,652 signatories (though it was apparent from the list of names that some may not have been genuine or may have been duplicated). 290 signatories also made formal objections.
85. Mr Allatt explained, at paragraph 12 of his witness statement, that Mr Will Bannell, petition organiser for Friends of Mill Road Bridge 2, spoke at the Committee meeting on 4 October 2024, querying the TRO process on the ground that the Committee had not been presented with the petition. The organiser of the Mill Road Traders' Association Petition, Mr Shapour Meftah, was also present at the meeting and addressed the Committee.
86. A Councillor asked for details of the petitions, and she was referred to the website by Mr Mills, who offered her a link, with the agreement of the Chair. It appears from a later contribution from the same Councillor that she had accessed the petitions during the meeting. There was a break during the meeting when another Councillor said he was going to check the petitions.
87. Mr Mills confirmed to the Committee that this was a statutory process and that the petitions were outside that statutory process. He also explained that TRO petitions do not come though the Committee “essentially to ensure that they are treated the same as any other objection raised in the TRO process and that's set out in the Constitution”.
88. The Committee was properly advised that the Petition would be separately considered by Mr Jordan, the Executive Director of Place and Sustainability, who addressed the Committee himself, explaining that he had “yet to consider” it, but that he would in due course review it, and provide a response to those who had submitted the Petition, as he would with any other. He sent a response to the Petition organiser some 5 months later, referring to the Committee's decision. The two local members with constitutional responsibility for the Petition were also present at the meeting and spoke.

89. In conclusion, officers informed the Committee of the Petition, and they had access to it, but they were advised that it fell outside the statutory process and would be dealt with the Executive Director of Place and Sustainability and two local members, in accordance with the Constitution. In my judgment, it was lawful to give the Petition little or no weight and the high threshold for irrationality was not met.
90. For these reasons, Ground 3 does not succeed.

Ground 4: inadequate reasons

Parties' submissions

91. The Claimant submitted that the Council was under a duty to provide reasons under regulation 17(3) of the 1996 Regulations and the standard of reasons was as set out in *South Bucks DC*, per Lord Brown at [36].
92. Whether the proposed TRO would result in improvements in air quality and congestion were principal important controversial issues in the decision to make the TRO. It is impossible to understand what conclusion was reached on these issues from reading the SoR and the OR. In particular, objectors were not informed whether or why the Council agreed with the view of objectors that there would be an increase in congestion on alternative routes. Appendix 3 to the OR indicated considerable uncertainty as to the likely outcomes, inconsistently with the SoR.
93. The Council was required to explain whether it was confident that the TRO would reduce congestion and air pollution; or whether it considered that the TRO was more likely than not to reduce congestion and air pollution; or whether there was a mere possibility that the TRO could reduce congestion and air pollution. The Council also had to provide reasons for these conclusions, addressing the evidence before it.
94. The Claimant was substantially prejudiced by the failure to provide reasons because the lack of clarity as to the Council's position meant that she and members of Mill Road Bridge 2 did not understand why their objections were not accepted, and were prejudiced in terms of how they could hold the Council to account.
95. The Council submitted that the reasons for the decision were set out in the SoR and they were adequate and intelligible. They were consistent with the advice in the OR, which Members are taken to have followed, and they met the required legal standard. The Claimant has subjected the SoR and the OR to a hypercritical and legalistic dissection which is inappropriate in the context of a public law challenge to a decision by democratically elected members: see *Mansell*, cited at paragraphs 35-36 above.
96. In any event, there was no substantial prejudice to the Claimant. Breach of a relevant requirement (in this case, regulation 17(3) of the 1996 Regulations) can only result in the quashing of the TRO if the breach resulted in substantial prejudice, by virtue of paragraph 36(1)(b) of Schedule 9 to the RTRA 1984.

Conclusions

97. Regulation 17(3) of the 1996 Regulations provides that the order making authority shall notify the making of the order in writing to any person who has objected to the order, and where the objection has not been wholly acceded to, shall include in that notification the reasons for the decision.
98. The standard of reasons required in a planning appeal was set out by Lord Brown in *South Bucks DC*, at [36]. The reasons given must enable the reader to understand why the matter was decided as it was and what conclusions were reached on the principal important controversial issues. Reasons need refer only to the main issues in the dispute and not to every material consideration, and the reasons can be briefly stated, with the “degree of particularity required depending entirely on the nature of the issues falling for decision”. As the Council rightly emphasised, the nature of the reasons required for a determination of a contested planning appeal between named parties will be different to the reasons provided by a local authority to multiple objectors as part of the statutory process of making a TRO.
99. In the course of his judgment, Lord Brown referred with approval to the observation of Sir Thomas Bingham MR in *Clarke Homes Ltd v Secretary of State for the Environment* [2017] PTSR 1081, at 1089, identifying the central issues in the case as:

“whether the decision of the Secretary of State leaves room for genuine as opposed to forensic doubt as to what he has decided and why. This is an issue to be resolved as the parties agree on a straightforward down-to-earth reading of his decision letter without excessive legalism or exegetical sophistication”.
100. Lord Brown’s formulation of the standard of reasons required, and in particular the citation from *Clarke Homes*, were approved by the Supreme Court in *R (CPRE Kent) v Dover DC* [2018] 1 WLR 108, per Lord Carnwath at [35] – [36].
101. It is well established that there is no duty to give “reasons for reasons” (see e.g. *R (Tesco Stores Ltd) v Reigate and Banstead BC* at [63] and *R (Ticehurst PC) v Rother DC* [2024] EWHC 3069 (Admin) at [24] and [94]. A duty to give reasons will be satisfied by identifying the “broad grounds” upon which the decision was taken, without setting out “all the thinking which lies behind it” (see *R (Alconbury Developments Limited) v Secretary of State for Environment* [2003] 2 AC 295 per Lord Clyde at [170] and *R (BM) v Lancashire CC* [1995] WLR 136 at 139E-G).
102. Where the decision-maker cross-refers to an officer’s report, it is consistent with the statutory purpose to look at the report as “fleshing out” the summary of reasons given for the grant of permission (see *R (Macrae) v Herefordshire Council* [2012] EWCA Civ 457 at [28]). In neither the report nor the reasons given for the decision should the court expect the accuracy in the use of language which a lawyer might be expected to adopt (see *R (Choudhury) v Governors of the Bishop Challoner RC Comprehensive Girls’ School* [1992] 2 AC 197E per Lord Browne-Wilkinson).
103. On 24 October 2024, the Council sent an email to objectors in the following terms:

“Dear Recipient,

I am writing to you because you objected to the proposed Mill Road Bridge Bus Gate Traffic Regulation Order (TRO).

On October 4th, Cambridgeshire County Council held a special meeting of the Highways & Transport Committee to resolve the TRO. Councillors debated the issue and decided to implement the TRO after having considered the objections presented.

The committee papers, including decision summary can be found [here](#).

- o Mill Road Report
- o Appendix 1 Prior Consideration of Proposals
- o Appendix 2 Statement of Reasons
- o Appendix 3 Summary of Representations Received
- o Appendix 4 Equality Impact Assessment

The Order was sealed on the 11th of October and has now been made.

The reasons for having made the order are set out in the Statement of Reasons (Appendix 2 Statement of Reasons) and the report (Mill Road Report), summarised below:

1. For avoiding danger to persons or other traffic using the road or any road or for preventing the likelihood of any such danger arising. The scheme improves road safety.
2. For facilitating the passage on the road or other road for any class of traffic (including pedestrians). The scheme reduces congestion and encourages active travel.
3. For preserving or improving the amenities of the area through which the road runs. The scheme provides a more pleasant environment which benefits the local community.

The scheme meets with the Authority's corporate ambitions:

Ambition 1 Net zero carbon emissions for Cambridgeshire by 2045. It is anticipated that there will be resulting shift away from car use towards active travel modalities and public transport.

Ambition 2 Travel across the county is safer and more environmentally sustainable. Mill road features high level of traffic including pedestrians and cyclists resulting in congestion, concerns over road safety and conflicts between each other. Removing through movements

encourages more environmentally friendly travel choices and safety benefits.

Ambition 3 Health inequalities are reduced. This scheme is likely to deliver an increase in active travel usage which has been shown to contribute to better health outcomes.”

104. I repeat paragraphs 42 – 58 of my judgment, under Ground 1. In my judgment, the SoR was a proper and sufficient formal statement of the reasons for making the TRO. The objectors also had the benefit of an excellent OR which provided further detailed information. As I have already said, at paragraph 53, I consider that the Claimant’s criticisms of Appendix 3 were hypercritical and unreasonable. The officers were there acknowledging and considering the points made by the objectors, not expressing the final conclusions of the Committee. Their wording (which should be read benevolently, not as if it were a legal pleading), reflects the fact that the Council ultimately had to make a predictive judgment, and such predictions necessarily involve uncertainty. There were competing benefits and disadvantages to be weighed in the balance. Appendix 3 did not contradict the draft SoR; it affirmed it when it stated that “the Council is satisfied that the statement of reasons is correct” (page 104 of the hearing bundle).
105. In my judgment, the Claimant’s hypercritical and forensic critique of the SoR and the OR runs contrary to the guidance given in the authorities referenced above. In particular, the Claimant repeatedly demands reasons for reasons, and impermissibly requires the Council to re-write the SoR and OR in her own preferred way (see paragraph 93 above). Applying *Clarke Homes*, there was no genuine as opposed to forensic doubt as to what the Council decided and why.
106. Even if (contrary to my view) the reasons were in some respect inadequate, I do not consider that the Claimant and other objectors have been substantially prejudiced. They had sufficient information and understanding of the issues to enable them to bring this legal challenge, and to continue to pursue their campaign against the bridge closure in future.
107. For these reasons, Ground 4 does not succeed.

Final conclusion

108. The claim is dismissed on all grounds.