

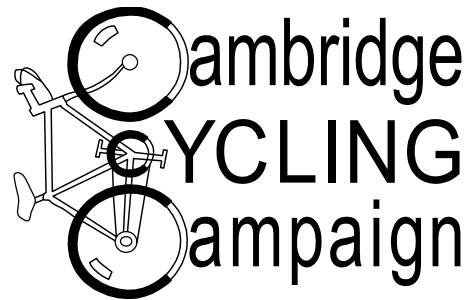
August 3, 2009

Our ref: C 09 019

Your ref:

Peter Carter
Principal Development Control Manager
Planning Department
Cambridge City Council
The Guildhall, Cambridge

Cc: Sarah Dyer, Angela Briggs, John
Summers, Kerry Hewitt, Simon Payne, Jon
Finney



Cambridge Cycling Campaign

P.O. Box 204, Cambridge CB4 3FN

Phone: 01223 690718

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contact@camcycle.org.uk

www.camcycle.org.uk

Dear Peter,

Shopfitting at 163-7 Mill Road: development control/enforcement

Thanks for your reply, dated Wednesday, 29th July 2009 to our e-mail dated Monday 20th July 2009 (both appended),.

For reasons outlined below, we do think the planning department should now be taking a stronger line, to the extent that an injunction stopping the works should be under strong consideration. I am copying this to Simon Payne so that our concerns for the potential of lorry deliveries on Mill Road, twice a day for 41 minutes a time, remain registered at the highest level.

On Friday I attended a meeting with Andre Chabot at the County Council to discuss proposed changes to Mill Road which are about to go out to public consultation, at a cost of £400,000. These plans do not propose any changes to unloading regulations, despite the seemingly universal recognition that on-street deliveries (which clearly have to be undertaken to a reasonable degree in a shopping area) are a key root cause of the safety problems on Mill Road.

However, it would make a mockery of spending £400,000 if the existing lorry delivery problem here were to be worsened considerably by the City Council failing to enforce a clear planning condition that exists on this site.

Delivery from the front disallowed by existing condition

There is clear evidence of the danger from 41 minute twice-daily deliveries (by 34ft lorry, plus 3 other daily deliveries in smaller vehicles) from Mill Road.¹ (This is a considerable intensification of the use of the site compared to the previous owner.)

The question is then on the enforceability of the existing planning condition. As you know, the existing permission for the building at 163-167 Mill Road (C/71/0826) included the condition "3. No loading or unloading of goods, including fuel, shall take place otherwise than within the curtilage of the site.", with the reason given: "To avoid obstruction of the surrounding streets and to safeguard the amenities of adjacent premises."

However, I do not recall any evidence having been submitted over the last 18 months, of deliveries being routinely undertaken by the previous owner Wilco. Certainly none was submitted at the Public Inquiry that I sat through. (It would not be logical either: by all accounts - unchallenged at the public inquiry - they used small vans, which would have fitted within their loading area.) If such evidence exists, it should have been submitted well before now, and I would request to see a dated copy. In the absence of this evidence, what basis would there be for this entirely reasonable condition being unenforceable?

Given:

- (i) the evidence the Mill Road delivery option would be unsafe,
- (ii) that there is an existing planning condition preventing it,
- (iii) that no evidence has been put forward showing that it has been regularly broken, and
- (iv) Tesco have stated their intention to deliver from Mill Road,

we think you have strong grounds to enforce the condition, both to deal with the practical issue as well as maintaining the principle of preventing breaches of conditions.

Servicing from the rear

On the side-matter of the question of servicing from the rear, you stated:

- > They have also, however, in earlier meetings with the City Council,
- > suggested that they consider it is practicable to service the store from
- > the rear, through the side streets. You and others have opposed
- > servicing from the frontage; others question whether it is practicable to
- > service it from the rear.

I have since seen the copy of the e-mail on the NMRT websiteⁱⁱ in which Tesco's own consultant states in an e-mail to Jon Finney:

"Due to the one way nature of Sedgwick Street access to the rear of the site would be via the 'loop' formed by Catharine Street and Sedgwick Street. This arrangement has the potential to cause detriment to the amenity and safety of local residents, due to multiple delivery movements per day with what will still be large vehicles. There is the also potential that poorly parked vehicles on could block access, requiring long and potentially dangerous reversing manoeuvres or police action."

Given this admission, I trust that the Planning Department will ensure that Tesco are reminded of their representative's own statement?

Air conditioning plans

On the matter of air conditioning, have the company supplied any plans, so that you can determine compliance? This is a concern for us because such air conditioning would be a factor enabling servicing of the store.

Certificate of Lawful Use or Development

You also mentioned:

- > We have suggested to the agent acting for Tesco that an application for a
- > Certificate of Lawful Use or Development on this last matter would be an
- > appropriate way forward, but I understand that they have sought advice on
- > this and chosen not to pursue that route. In saying that I do not think
- > that it is necessarily 'the norm' for such an application to be made, but
- > it does help bring clarity to a matter.

The Council's suggestion that such an application be made seems to indicate clearly that the Council has uncertainty as to whether the current development would be permissible. If the Council chooses not to take enforcement action, could you specify what change has come about for the council to change its mind?

We look forward to hearing from you on the above points and urge you to take enforcement action as soon as possible.

Please continue to keep us informed.

Yours sincerely,
on behalf of Cambridge Cycling Campaign,

Martin Lucas-Smith
Co-ordinator

ⁱ You are aware of the government inspector's view "I find that the Mill Road delivery option would pose unacceptable risks to highway safety in general, and for cyclists in particular." and "[the Highway Authority] noted that significant movement of goods from any delivery vehicle to the store has a high potential for pedestrian conflicts, to the detriment of pedestrian safety. In my view, with or without a lay-by, pedestrian conflicts as a result of two 30-40 minute deliveries, using wheeled cages over the pavement, would be significant." These can both be regarded as evidence of the danger of deliveries from Mill Road, even though those statements referred to a planning application rather than existing use. That option has also been rejected by the East Area Committee twice.

ⁱⁱ <http://www.nomillroadtesco.org/planning-applications/tesco-admits-loop-delivery-dangerous/>

On Wed, 29 Jul 2009, Peter Carter wrote:

> Martin
>
> Thank you for your emails. I do apologise for not getting back to you
> earlier. Following your email yesterday and several others recently
> from other parties, I wanted to revisit the site to see the current
> state of play, and have managed to do so today.
>
> In answer to the points raised in your email of last week, I must start
> by saying that my, "understanding on what basis Tesco plan to open" is
> limited. With regard to the specific points:
>
> 1) Tesco have told the Cambridge Evening News, the Evening News
> tells me, that they intend to service the store from the front. They
> have also, however, in earlier meetings with the City Council, suggested
> that they consider it is practicable to service the store from the rear,
> through the side streets. You and others have opposed servicing from
> the frontage; others question whether it is practicable to service it
> from the rear.
> 2) The company has suggested that it will provide whatever air
> conditioning is required internally, within the existing shell of the
> building and without materially affecting the external appearance of the
> building. On that basis, the introduction of air conditioning plant
> does not constitute development and permission is not therefore
> required. From my site visit today, that work would appear to be in
> hand.
>
> We have suggested to the agent acting for Tesco that an application for
> a Certificate of Lawful Use or Development on this last matter would be
> an appropriate way forward, but I understand that they have sought
> advice on this and chosen not to pursue that route. In saying that I do
> not think that it is necessarily 'the norm' for such an application
> to be made, but it does help bring clarity to a matter.
>
> On your final point the applicant is very well aware of the position
> taken by the Council through the applications and the appeal. City
> Councillors have asked us to look into the matter of servicing the store
> and the conditions attached to the original permission and we are doing
> so currently.
>
>
> My direct line telephone number is 457155
>
>
>
> Peter Carter
> 29.07.09
>
>
>>>> Cambridge Cycling Campaign - Martin Lucas-Smith
> <contact@camcycle.org.uk> 28/07/2009 18:22 >>>
>
>
> Dear Peter,
>

> I have not heard back from you on the e-mail last week, and concern
> amongst our Committee is increasing as works on-site continue.
>
> Could you kindly acknowledge this e-mail and confirm an expected reply
> date if you are unable to give an immediate answer.
>
> I am copying this to Simon Payne as well as the generic e-mail address,
> so that the message can be forwarded to some other relevant contact if
> both Peter Carter and Sarah Dyer are unavailable.
>
>
> ----- Forwarded message -----
> Date: Mon, 20 Jul 2009 13:28:46 +0100 (BST)
> From: Cambridge Cycling Campaign - Martin Lucas-Smith
> <contact@camcycle.org.uk>
> To: peter.carter@cambridge.gov.uk, sarah.dyer@cambridge.gov.uk
> Cc: Cambridge Cycling Campaign <contact@camcycle.org.uk>
> Subject: Shopfitting at 163-7 Mill Road: development
> control/enforcement
>
>
>
> Peter,
>
> I note that contractors are present on-site. Could you kindly confirm
> to me your understanding on what basis Tesco plan to open, given (as I
> understand it):
>
> 1) their inability to deliver under the current delivery restriction,
> in particular whether they plan to deliver from on Mill Road (which we
> have opposed); and
>
> 2) their lack of planning consent for air conditioning following the
> withdrawal of their Appeal for the same.
>
> Please could you also confirm whether or not they have a Certificate of
> Lawful Development as I understand would be the norm in these sorts of
> cases.
>
> Could you also confirm what stance is being given to the company, in
> the light of the decisions made by Councillors over the last 18 months
> which presumably therefore form the view of the Planning Authority.
>
> Could you give me a number I can call you on, please?
>
> Many thanks,
>
>
> Martin Lucas-Smith, ** <http://www.camcycle.org.uk/>
> Co-ordinator & Webmaster, ** Map: <http://www.camcycle.org.uk/map/>
> Cambridge Cycling Campaign **
> Join the Campaign (£7.50) at: <http://www.camcycle.org.uk/membership/join/>