

TRANSPORT AND WORKS (INQUIRIES PROCEDURE)

**IN THE MATTER OF THE CAMBOURNE TO CAMBRIDGE TRANSPORT AND WORKS ACT ORDER
APPLICATION MADE BY CAMBRIDGESHIRE COUNTY COUNCIL (AND GREATER CAMBRIDGESHIRE
PARTNERSHIP)
(TWA/24/APP/03)**

REBUTTAL PROOF OF EVIDENCE ON MATTERS OF TOWN PLANNING

**ON BEHALF OF
CLARE HALL, UNIVERSITY OF CAMBRIDGE
(OBJ213)**

**JESSICA WILSON MSc MRTPI
PLANNING DIRECTOR
NEWSTEER REAL ESTATE ADVISERS**

Table of Contents

1	INTRODUCTION	3
2	CD26-01-APP-W9-1 – MR RALPH LEWIS	3
3	DECLARATION	10

1 Introduction

- 1.1 This Rebuttal Evidence is prepared on behalf of Clare Hall in response to the Proof of Evidence provided by Mr Ralph Lewis (CD26-01-APP-W10-1) on behalf of the Applicant. I also refer to the Proof of Evidence provided by Mr Baker (CD26-01-APP-W1-1) and Mr Wilson (CD26-01-APP-W2-1) given that Mr Lewis refers to this in his evidence.
- 1.2 In this Rebuttal evidence I have not sought to address every aspect of the Applicant's evidence with which I disagree. I have instead focused on those points where I think the Inspector may find it helpful to have a written response at this stage.

2 CD26-01-APP-W9-1 – Mr Ralph Lewis

Flood Risk

- 2.1 It is striking in Section 5.13 of Mr Lewis' Proof that there is no explicit grappling with the wording of the relevant policy relating to flood risk - specifically the sequential test and the exception test. There is a notable avoidance of the explicit requirement that; *Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding* (para. 174 of the NPPF).
- 2.2 Within the limited commentary on the sequential test, Mr Lewis refers to the FRA (CD1-11-13-02) submitted as part of the Application, specifically para. 6.3.1 of the FRA which states:

However, based upon the requirements of the transport route to connect certain areas the scheme cannot completely avoid areas of potential flooding. As a result, the C2C Scheme is partly located within Flood Zone 3 and an Exception Test is required.
- 2.3 The only area of the scheme proposed to go through Flood Zones 2 and 3 is that around Bin Brook.
- 2.4 My Proof (CD26-08-W6-1) (in referring to that of Mr Haider) demonstrates that there is a reasonably available and appropriate alternative at Adams Road meaning that this statement is incorrect as it *would* be possible for the scheme to avoid areas of flooding, specifically Flood Zone 3.
- 2.5 Mr Lewis states in his Proof that he adopts the FRA statement above as his conclusion on the sequential test and at para. 5.13.13 states:

In relation to the sequential test, we have undertaken a comprehensive assessment of reasonably available alternative sites within the relevant area of search, applying a flexible and pragmatic approach. We conclude that there are no suitable, lower-risk sites capable of accommodating the proposed development in a manner that delivers the Scheme's aims and objectives. The essential point in this regard – as captured in the quote from the FRA above – is that the Scheme is an end to end route which must, inevitably, travel through areas at risk of flooding.

- 2.6 The traversing of the scheme through Flood Zones 2 and 3 is not 'inevitable' as has been shown by the existence of the alternative route at Adams Road, which as set out in my Proof, does not pass through Flood Zones 2 and 3. Therefore this statement is also incorrect.
- 2.7 Mr Lewis does not provide detail on the review of alternatives which has been undertaken which would constitute the sequential approach and furthermore, does not take account of the evidence provided by Mr Baker, specifically Appendix 2 which explicitly acknowledges that the Adams Road option was reviewed in detail by the Applicant previously and was in fact the preferred option at earlier stages of the scheme development. Mr Lewis does not appear to suggest that the Adams Road alternative would be unacceptable in planning terms, which is consistent with the Applicant's earlier analysis of it as the preferred option. As the PPG on flood risk explains at paragraph 031, it would only be appropriate to move onto the Exception Test "where, accounting for wider sustainable development objectives, application of relevant local and national policies would provide a clear reason for refusing development in any alternative locations identified." I would therefore expect Mr Lewis to undertake a review of the acceptability of the Adams Road alternative by reference to relevant policies in his analysis of the sequential test before expressing any conclusion as to whether that test is passed, and before moving on to consider the Exception Test. I consider therefore that this is a gap in Mr Lewis' evidence in reference to the planning policy requirement to appropriately undertake the sequential test.
- 2.8 Following Mr Lewis' concluding remarks, which have been provided without analysis, at para. 5.13.14, he then refers to the appeal decision at Yatton, Somerset (APP/D0121/W/24/3343144) stating:
- However, even if the sequential test is not passed, the failure of the sequential test is not automatically fatal where wider material considerations outweigh the flood risk. See, for example, the appeal decision at Rectory Farm (North), Yatton (APP/D0121/W/24/3343144). Such considerations exist here, as I explain in the planning balance section below and noting, in particular the fact that the Scheme would be safe for its lifetime and would not increase flood risk elsewhere, alongside substantial sustainability benefits as I set out in my planning balance evidence.*
- 2.9 I note Mr Lewis' acknowledgment that the decision-maker may conclude the Applicant has failed to satisfy the sequential test.
- 2.10 I also note Mr Lewis' statement that the Scheme would not increase flood risk elsewhere is incorrect. The Position Statement provided by Mr Sinclair refers to correspondence with Mr Southon and agreement between the parties that the proposals would increase flood risk elsewhere (by 8mm).
- 2.11 The fact that failure to satisfy the sequential test does not automatically mean that planning permission should be refused is uncontroversial, and I understand that this was acknowledged in the High Court decision known as 'Mead' (Mead Realisations Ltd v SoS LUHC [2024] EWHC 279 (Admin)) (CD25-18).
- 2.12 A failure to satisfy the sequential test would, however, be an important material consideration and in my view it should attract significant weight.

- 2.13 Upon my own review of the appeal decision that Mr Lewis refers to, I note that the Inspector, having acknowledged that the sequential test had been failed – as there were sequentially preferable sites available - attaches significant weight to the failure of the sequential test (at para. 184).
- 2.14 It is relevant to also review other notable recent appeal decisions on this matter when considering the issue of weight.
- 2.15 In an appeal decision in Faversham (APP/V2255/W/24/3350524) (C25-20), the Inspector also attached significant weight to the failure to undertake the sequential test. In that case it was acknowledged by the Inspector that there was no 'real world harm', but the Inspector (at para. 99) nevertheless concluded that the failure to perform a sequential test amounted to a 'fundamental breach of policy'. In that case the weight attached to that failure was reduced due to the housing land supply position which meant that some departures from the Council's adopted spatial strategy were inevitable. The tilted balance was also engaged in that appeal, and therefore the Inspector was considering the flood risk issue in that context. Even in those circumstances the Inspector concluded that "... consistent with previous appeal decisions, I nevertheless place significant weight on this factor, which remains in conflict with the Framework and local policy and represents a departure from the over-arching spatial planning requirement to direct inappropriate development away from areas at risk of flooding" (paragraph 90). In this case an appropriate and available sequentially preferable alternative exists which could meet the identified need without an equivalent departure from policy.
- 2.16 In a planning appeal decision in Lancaster (APP/A2335/W/24/3345416), the Inspector states at para. 56:
- The PPG is clear that even where an FRA shows that development can be made safe throughout its lifetime without increased risk of flooding elsewhere, as is the case here, the Sequential Test still needs to be satisfied.*
- 2.17 This helpfully emphasises why it is inappropriate to seek to address the exception test and matters of increased flood risk elsewhere, before satisfying the sequential test.
- 2.18 In the Lancaster appeal decision, the Inspector (at para. 62) also states that failure to complete a sequential test is a failure to comply with policy and in dismissing the appeal concludes by stating that the overriding consideration is the failure to undertake a sequential test.
- 2.19 Having reviewed the above and Mr Lewis' evidence, my position remains as per my Proof that the sequential test has not been undertaken and therefore has not been passed in accordance with national flood risk policy. As set out in my Proof (and which is omitted from Mr Lewis' Proof), the PPG (para. 032) is clear that:

The Exception Test should only be applied as set out in Table 2 and only if the Sequential Test has shown that there are no reasonably available, lower-risk sites, suitable for the proposed development, to which the development could be steered.

- 2.20 In not having undertaken the sequential test, the Application is in conflict with a key spatial policy at national and development plan level. There are reasonably available lower risk sites which are sequentially preferable and would be suitable for the proposed development. As set out in my Proof and that of Mr Haider (CD26-08-W2-1), the Adams Road option is such an alternative.
- 2.21 Having considered the Applicant's evidence, my position remains that the sequential test has not been passed which is a clear breach of an important planning policy which appeal decisions have consistently ascribed significant weight to, even where there has been demonstrated to be no 'real world harm' in terms of flood risk.
- 2.22 In this case, the Position Statement provided by Mr Sinclair shows that there would be harm. The harm is acknowledged to be relatively limited when considered in isolation but as the Position Statement explains, it too gives rise to a breach of policy and could set an unwelcome precedent.
- 2.23 Overall, the failure to satisfy the sequential test should therefore attract significant weight in the planning balance.

Alternatives

- 2.24 The breach of policy in not having passed the sequential test relates to the Applicant having not considered suitable alternatives which are located in areas at lower risk of flooding. The Adams Road is such an alternative, the details of which are set out in my Proof and that of Mr Haider.
- 2.25 In my Proof I have considered the degree of harm which would be incurred from using the Adams Road alternative, part of which is the degree of heritage harm. Mr Wilson states at para. 6.1.43 of his Proof that *'Overall, the harm to heritage would be broadly similar whether the CtoC Scheme or a proposed Adams Road route were adopted.'* Ms Lamb has provided a Rebuttal which reviews the potential heritage impacts through use of the Adams Road alternative and it is clear she does not agree with this statement.
- 2.26 Ms Lamb highlights that there are two statutory listed and two locally listed buildings on Adams Road which would be affected. Notably, Robinsons College is also a Grade II* listed building which under the Application proposals would see the busway run along its main frontage on Grange Road. Use of the Adams Road alternative would mean the busway runs along its much shorter northern frontage and thereby subsequently lead to less impact.
- 2.27 The busway would traverse the frontage of the two locally listed buildings on Adams Road, however it is noted that these properties are set back a notable distance and therefore any impacts on noise, setting or privacy are likely to be much less than that currently proposed for Clare Hall along RRR.
- 2.28 The Rebuttal evidence from Ms Lamb therefore confirms the conclusion reached in my Proof when considering the Adams Road alternative, that this would lead to less heritage harm than the current proposed scheme along RRR.

Mitigation

- 2.29 As detailed in the Proof (CD26-08-W4-1) and Rebuttal provided by Mr Blacklock, the Application does not detail sufficient mitigation for the operational noise impact identified for Clare Hall. In Rebuttal evidence provided by Mr Blacklock (with input from Ms Lamb), the potential mitigation solutions have been reviewed.
- 2.30 The potential mitigation options include; the use of secondary glazing and fixing the windows shut and installing mechanical ventilation. Both of these options would have material impact on Clare Hall, require significant feasibility study and design to assess their potential efficacy and acceptability, and require listed building consent. Planning permission may also be required.
- 2.31 Introducing secondary glazing to Clare Hall would raise aesthetic, heritage (including assessment of the implications for the character and appearance of the listed building) and operational issues. These issues include sealing to original windows and louvres, how both sets of windows are opened and maintained, condensation risk, whether a depth of window reveal exists which would fit the internal secondary glazing and how would this affect ventilation requirements to each room. There is also clearly an associated cost for detailed design, supply and installation which has not been assessed for viability or feasibility at this stage.
- 2.32 The option of fixing the windows shut to limit noise disturbance would also be problematic, because this would require retrofitting of mechanical ventilation into the listed building. A study would be required to assess feasibility and acceptability on a room-by-room basis given that most rooms are naturally ventilated via opening windows at present. The study would need to investigate where the required air handling plant and distribution ductwork could be retro fitted. It is unlikely that mechanically ventilated air conditioning plant could be added to the sloping roofs of the spaces along the southern boundary, as the visual impact would be too harmful to the listed building. The introduction of floor ventilation via a floor duct is also likely to be difficult. There would also be an increase in operational running costs as well as the cost of detailed design, supply and installation.
- 2.33 In summary the potential noise mitigation measures to address what would be significant operational impacts to Clare Hall have not been suitably considered in the Application and each of the options available involve practical and financial issues which themselves have also not been considered. The additional permissions required have not been sought as part of the Application.
- 2.34 It is also noted that Mr Wilson states at para. 6.1.17; *'If the paths were found to be objects or structures lying within the curtilage of the listed building, the alteration of which would affect Clare Hall's character as a building of special architectural or historic interest, Listed Building Consent would be required for such work. A condition could be imposed on the deemed planning permission to either obtain Listed Building Consent or, if that is not possible, to ensure the paths are retained in the detailed design, for example by incorporating their southern ends into the access track.'*

- 2.35 Para. 005 of the PPG relating to planning conditions sets out circumstances where planning conditions should not be used. One such circumstance is noted as 'conditions requiring compliance with other regulatory requirements'. It states: *Conditions requiring compliance with other regulatory regimes will not meet the test of necessity and may not be relevant to planning. Use of informatives to remind the applicant to obtain further planning approvals and other consents may be more appropriate.*
- 2.36 The requirement for listed building consent falls under separate legislation and therefore a condition of the type proposed would not meet the tests for necessity as set out in para. 55 of the NPPF. Should listed building consent not be obtained, this would be a breach of the law. The Applicant's failure to appreciate the significance of these paths and the implications of the proposed scheme for them is consistent with a more general failure properly to consider impacts on Clare Hall when choosing this route. This is also reflected in the fact that suitable mitigation for noise impacts at Clare Hall is likely to need listed building consent, which is not included in the Application.
- 2.37 *Mr Lewis states at para. 5.7.9:*
- Mitigation planting reflects local typologies, while drainage features and attenuation ponds are designed as part of the landscape narrative rather than as infrastructural afterthoughts.*
- 2.38 As has been set out in the Proofs provided by Mr Blacklock and Mr Sinclair, the proposal lacks detail on the proposed mitigation in relation to noise and flood risk. Several of the features of the proposed scheme (including the Bin Brook bridge and landscaping adjacent to Clare Hall) are noted in the Applicant's evidence as being subject to detailed design. If this is the case, then I question how Mr Lewis' statement above can be accurate. As set out in my Proof, any adverse impacts should be the subject of appropriate mitigation measures and the Application lacks the detail to provide comfort that suitable mitigation can adequately be provided, and without itself giving rise to harmful and unacceptable impacts, thereby not complying with policy.
- Green Belt**
- 2.39 Mr Lewis confirms that the proposed scheme is considered 'inappropriate development' as defined in the NPPF and therefore that a very special circumstances ('VSC') case is required to justify the Application. Mr Lewis acknowledges in the table at 5.5.15 that there would be conflict with the purposes of the Green Belt as defined by the NPPF, including through the use of land around Bin Brook.
- 2.40 As set out in my Proof, one part of the VSC case presented includes 'lack of alternative options that would not harm the Green Belt'. As has been demonstrated in my Proof and that of Mr Haider, there is an alternative which would lead to reduced harm on the Green Belt by reducing the extent of Green Belt required to deliver the scheme (Adams Road is not located in the Green Belt).

Planning Balance

- 2.41 In Section 5.15, Mr Lewis sets out his consideration of the planning balance. My undertaking of the same exercise is set out in my Proof, but in addition I would highlight the following concerns with Mr Lewis' attribution of weight to certain factors:
- i) Air quality (para. 5.15.8) – Mr Lewis attributes a 'high significance' of weight to air quality benefits, although I note that this partly relates to a 'commitment' to transition to fully electric buses which I do not understand to have been secured in a legally enforceable mechanism. The Applicant states that there is an intention to use electric buses in the future but there is no guarantee that this will occur, therefore such weight is not justified and the 'potential' benefit can only be afforded medium weight.
 - ii) Noise and vibration (5.15.15) – Mr Lewis affords a 'low significance' of weight to noise and vibration impacts however his assessment fails to consider operational impacts and only considers construction impacts. Given the particular sensitivity of Clare Hall in this respect, it is surprising there is no mention of Clare Hall in this assessment either. In considering these matters appropriately, and having regard both to the sensitivity and importance of the receptor, and to the evidence of impact during the operational stage (including that of mitigation options), I consider the significance of this weight would be increased to medium/ high.
 - iii) Heritage (paras. 5.15.19-28) – in reference to Clare Hall, Mr Lewis states that *'The scheme supports sustainable transport objectives and long-term carbon reduction goals without severing the key spatial qualities that underpin Clare Hall's heritage value. I afford these impacts a low significance of weight.'* This does not properly represent the degree of harm to the nationally significant heritage value of Clare Hall which has been provided in the Proofs of evidence submitted by myself, Ms Lamb (CD26-08-W5-1) and Professor Short (CD26-08-W1-1). Furthermore Mr Lewis states at para. 5.15.26 that harm is not 'physical or architectural'. The Proof and Rebuttal evidence provided by Ms Lamb confirms that the removal of the adjoining paths to Clare Hall on RRR would constitute physical alterations and the associated works that would be required to Clare Hall to mitigate for operational noise impacts would include both physical and architectural harm to the building (noting that suitable mitigation for the operational noise impacts) has not yet been proven to be feasible or acceptable in heritage terms. Furthermore, Ms Lamb's evidence shows that the adverse impact on significance through change in the setting of Clare Hall and impact on its designed use through the existence and use of the proposed scheme is significant. Considerable weight should be given to any finding of harm to the setting of a listed building, giving rise to a strong presumption against planning permission being granted (*R (Forge Field Society) v. Sevenoaks DC* [2015] JPL 22). Mr Lewis' evidence that the impact should be given "a low significance of weight" is not consistent with that principle. I consider the significance of this weight should be high.
- 2.42 It is also noted that Mr Lewis identifies additional harm to biodiversity, trees, landscape and loss of high quality agricultural land. Although these (aside from landscape) are not specific

to Clare Hall, they represent additional harm which would need to be added to that which I have set out in Section 7 of my Proof.

- 2.43 I have set out my planning balance exercise and consideration of whether VSC exist in Section 7 of my Proof. For the avoidance of doubt this should also be read as incorporating my application of the heritage balancing exercise required by the NPPF.
- 2.44 Having considered the evidence submitted on behalf of the Applicant and the rebuttal evidence provided on behalf of Clare Hall it remains my view that in light of the level and significance of harm, and the ability to meet the identified need and deliver the associated benefits via a clearly preferable and appropriate alternative, the balance is in favour of refusal and VSC have not been demonstrated to exist to justify the proposed inappropriate development in the Green Belt.

3 Declaration

- 3.1 The evidence that has been prepared and set out in this Rebuttal Proof of Evidence has been prepared in accordance with the guidance of my professional institution, the Royal Town Planning Institute. The opinions expressed are true and my professional opinion.



Jessica Wilson
08 September 2025