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J. K. RUDKIN (BUILDERS) LIMITED

BRICKET WOOD SPORTS & COUNTRY CLUB, PAINTBALL SITE, & BRICKET LODGE, LYE LANE, BRICKET WOOD, HERTFORDSHIRE, AL2 3TF

REBUTTAL STATEMENT BY NICHOLAS PETER FERGUSON BA (HONS) MCIHT HIGHWAYS & TRANSPORT (CD 2.16)

May 2024

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Ref: File path P:\ P2584 Bricket Lodge Lye Lane - Rebuttal Statement May 2024

I.0 INTRODUCTION

- 1.1 Following the submission of my Proof of Evidence on transport matters in support of the appeal by J. K. Rudkin (Builders) Limited ('the appellant') in relation to the proposed development at the Bricket Wood Sports and Country Club, Paintball Site, and Bricket Lodge, Lye Lane, Bricket Wood, Hertfordshire, AL2 3TF ('the appeal site'), I have since received the Proof of Evidence of Mr. Chris Carr on behalf of Hertfordshire County Council (HCC) pertaining to transport.
- 1.2 This Rebuttal Statement contains my evidence in response to the transport matters covered in Mr. Chris Carr's Proof of Evidence. I have concentrated on the key points that have been raised by HCC within my professional remit, and therefore if I have not made comments on a specific point then I am of the view that it has already been sufficiently covered in my own Proof of Evidence or in evidence by others where stated.

2.0 REBUTTAL OF PROOF OF EVIDENCE OF CHRIS CARR (HCC)

2.1 In the following chapter I have used the subheadings provided in Mr. Carr's Proof of Evidence as a reference.

Scope of Evidence

- 2.2 Paragraph 23 of Mr. Carr's Proof of Evidence under the sub-heading 'Scope of Evidence' sets out a review of transport policy considerations at the national and regional levels. A review of transport policy considerations at the local level is absent from Mr. Carr's Proof of Evidence which is surprising since the policy grounds in reasons for refusal four and five are solely in connection with local (SADC) and national (NPPF) policy documents.
- 2.3 Mr. Carr highlights NPPF paragraph 110 section b, paragraph 111, and paragraph 112 Sections a, b, and c in his Proof of Evidence. It is noted that the most recent version of the NPPF dated December 2023 provides these policies at paragraphs 114, 115, and 116 respectively. Crucially, Mr. Carr's Proof of Evidence fails to include paragraph 109 of the NPPF. This is an important paragraph which I have extracted below for ease of reference (emphasis added):

"109. The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. <u>However, opportunities to maximise sustainable transport solutions will vary</u> <u>between urban and rural areas, and this should be taken into account in both</u> <u>plan-making and decision-making.</u>"

Pedestrian/Cycle Provision Along Lye Lane to South & Feasibility of Construction

2.4 Paragraphs 25-36 of Mr. Carr's Proof of Evidence under the sub-heading 'Pedestrian and Cycle Provision Along Lye Lane to the South and Feasibility of Construction' sets out an assessment of the proposed development in relation to reason for refusal number four, which states:

"4. The applicant has failed to demonstrate that off-site highway improvements and public transport upgrades can be delivered or secured in order to render the site's location sustainable in terms of transport. The proposal is therefore contrary to Policies 34 and 35 of the St Albans District Local Plan Review 1994 and the National Planning Policy Framework 2023."

2.5 In paragraph 27 of Mr. Carr's Proof of Evidence Lye Lane is given a uniform characterisation along its length from the A405 in the north to West Riding in the south. Reference is made to the poor condition of the carriageway with potholes and high levels of vegetation debris. However, at paragraph 2.7 of Mr. Brian Parker's Proof of Evidence (CD 2.4) two characters are identified for Lye Lane as follows:

"The western boundary of the Appeal Site is formed by Lye Lane, which has two distinct characters:

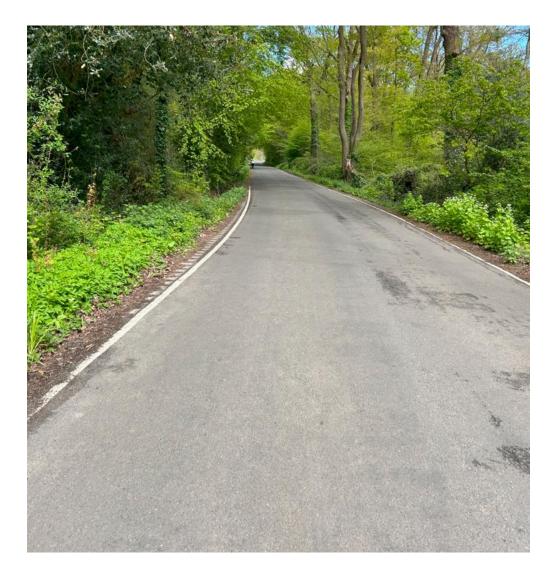
North/north-west of the Appeal Site, towards A405 North Orbital Road (and, from there, to J21a of the M25) Lye Lane is single-lane with few passing places, mostly poorly-maintained with numerous potholes, and serves large residential dwellings on its eastern side; and

From the Appeal Site southwards to Bricket Wood, Lye Lane is wellconstructed and better maintained, wide enough for two vehicles to pass (providing there are no pedestrians in the road) and serves both the Appeal Site and smaller residential dwellings on both sides."

2.6 Therefore, HCC are asking the Inspector to consider that Lye Lane has a single character from the A405 to West Riding. I consider that when the Inspector travels the length of Lye Lane on his Site Visit HCC's view will be at odds with current conditions. I observed that Lye Lane from the appeal site south to West Riding is well-maintained and in good condition. This is less so to the north;

however, the situation could be improved through better maintenance of the highway verge on Lye Lane north from the appeal site to the A405.

2.7 A photograph of a typical section of Lye Lane to the south of the appeal site is presented as follows, taken on Friday 26th April 2024:



2.8 Paragraph 30 of Mr. Carr's Proof of Evidence notes that "as there are pedestrian and cycling deficiencies the LHA would seek a shared walking and wheeled scheme which given this location is lightly trafficked, under LTN 1/20 design guidance the minimum requirements shall be:" inter-alia, "a. 3.0m wide (Table 6-3, LTN 1/20)".

- 2.9 The proposed footpath and associated off-site works, developed in detail by Conisbee Civil and Structural Engineers and presented at Appendix B (CD 2.11.2) of my evidence, do not make provisions for a shared footpath and cycle path owing to site-specific constraints.
- 2.10 It is not possible to deliver a 3.0-metre wide shared footpath and cycle path on Lye Lane between the appeal site and West Riding within the public highway and without any loss of existing trees in the highway verge. Cycling on the carriageway along Lye Lane, as per the existing established arrangement, is not considered to be unsafe. Personal injury accident (PIA) data set out in the Transport Assessments (July 2022 (CD 1.14) and January 2023 (CD 1.40.1)) submitted with the outline application illustrates that there had been no road traffic accidents resulting in injury on Lye Lane in the 5-year period studied. Moreover, there is no prevailing on or off-road cycling infrastructure on West Riding or the residential roads in Bricket Wood for connectivity.
- 2.11 Paragraph 31 of Mr. Carr's Proof of Evidence sets out an "in principle" review of the proposed footpath and associated off-site works by Conisbee Civil and Structural Engineers as presented at Appendix B (CD 2.11.2) of my evidence. As part of this review the following five points have been noted as extracted from Mr. Carr's Proof of Evidence:
 - "Concerns were raised about the implementability of the proposals."
 - It was considered that the tree protection requirements would further reduce the footway width provision from that proposed in the designs.
 - The ditch culverting drainage proposals were likely to be unacceptable from an asset management / maintenance audit perspective.
 - Sections of the footpath fall below the minimum preferred 2m width and would therefore, likely require a Departure from Standards which will mean the entire scheme will be a challenge to implement
 - Segregated cycle provision has not been considered and therefore the design does not include suitable safe segregated provision for wheelers and cyclists of all abilities."

- 2.12 Regarding the first bullet point, this is addressed in the Rebuttal Evidence of Mr.Paul Hartfree of Conisbee Civil and Structural Engineers.
- 2.13 Regarding the second bullet point, this is addressed in the Proof of Evidence and Rebuttal Evidence of Mr. David Clarke Chartered Landscape Architect and Consultant Arboriculturist.
- 2.14 Regarding the third bullet point, there is currently no flood risk/drainage assessment for the footpath. My understanding is that culverting requires a separate application to HCC as the LLFA (Lead Local Flood Authority) under the Land Drainage Act. As a result, the Inspector would have to apply a Pre-Commencement Condition even if an acceptable Flood Risk Assessment (FRA) and Sustainable Drainage System (SuDS) had been done. It is therefore proposed to provide a Grampian Condition and we ask the Inspector to Allow the Appeal subject to the granting of permission for the culverting, at which stage the necessary flood risk/drainage/hydraulic reports will be commissioned.
- 2.15 Regarding the fourth bullet point, there are seven small pinch-points along the full extent of the proposed footpath scheme on Lye Lane where the footpath narrows to provide protection around existing tree trunks. None of the pinch-points around existing trees reduce the footpath width to less than 1.5m, and 1.5m allows for a person to walk alongside a wheelchair user as stated in the Department for Transport's (DfT) 'Inclusive Mobility' Guidance (December 2021).
- 2.16 Regarding the fifth bullet point, a response is provided at paragraph 2.9 of this Rebuttal Statement.
- 2.17 Paragraph 32 of Mr. Carr's Proof of Evidence states that no lighting strategy has been presented to the LHA for review. However, a feasibility scheme of lowlevel lighting is set out in the proposed footpath and associated off-site works by Conisbee Civil and Structural Engineers as presented at Appendix B (CD 2.11.2) of my evidence. It is the appellant's submission that the proposed off-site highways

works inclusive of an acceptable lighting strategy can be delivered and secured by way of a S278 Agreement.

- 2.18 In summary, it remains the appellant's submission that the proposed off-site highways works can be delivered and secured. As noted in paragraph 109 of the NPPF (December 2023), "opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making."
- 2.19 Therefore, should the Inspector be minded to agree, it is my position that the provision of a footpath on Lye Lane connecting the appeal site to West Riding and, inter-alia, the nearest bus stops on West Riding, the local facilities in Bricket Wood, and Bricket Wood station, renders the site sustainable in transport terms.

Modest Levels of Public Transport Accessibility

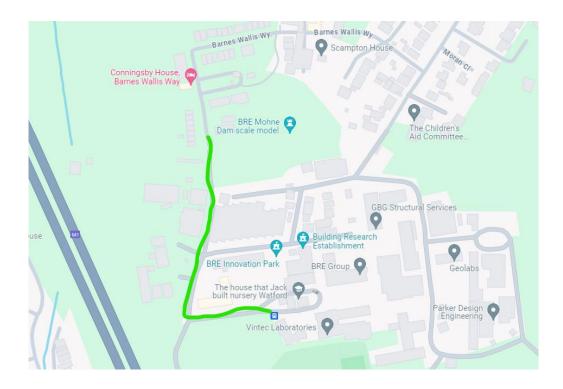
- 2.20 Paragraphs 37-48 of Mr. Carr's Proof of Evidence under the sub-heading 'Modest Levels of Public Transport Accessibility' sets out an assessment of the availability of public transport in proximity to the appeal site. The principal concerns expressed in Mr. Carr's Proof of Evidence relate to the frequency of the bus services at the nearest bus stops to the appeal site on West Riding, and the walking distance from the appeal site to those bus stops.
- 2.21 The overall contributions sought by HCC of up to £1,110,900 for up to 115 dwellings at March 2023 prices are planned to fund Kassel kerbing and shelters at the nearby bus stops and could also go towards funding of additional services. In my professional experience it is usual for HCC to carry out internal consultation with its Passenger Transport Unit if upgrades to bus services are considered necessary because of proposed development, with funding then sought through developer contributions.
- 2.22 At paragraph 43 of Mr. Carr's Proof of Evidence reference is made to HCCs Place and Movement Planning and Design Guidance, specifically Part I Chapter 8 'Transport Assessment' (note that the chapter reference appears to be incorrect,

I believe it is Chapter 5 of the document), which states that "A minimum service provision level of 4 buses per hour peak / 2 buses per hour off peak (06:30 to 22:00) is considered as appropriate for most development with the walking distance to bus stops being no longer than 400m."

- 2.23 According to HCCs website, the above reference has been extracted from a consultation document which is currently in draft form and has not therefore been adopted by HCC. The consultation start date is stated as 17th March 2023, and the closing date is 11th June 2023. The consultation on HCCs draft Place and Movement Planning and Design Guidance therefore pre-dates the submission of the outline application in October 2022 and it remains unadopted at the time of preparing this report. The current equivalent document, 'Roads in Hertfordshire: A Design Guide (3rd Edition)' which is referenced in the Transport Assessments (July 2022 (CD 1.14) and January 2023 Update (CD 1.40.1)), makes no such reference to minimum bus service frequencies or maximum walking distances to bus stops.
- 2.24 Moreover, I have reviewed HCCs formal consultations responses to the outline planning application as set out in Appendix I of the local planning authorities (LPA) Statement of Case and can see no reference to requirements relating to minimum bus service frequencies and maximum walking distances to bus stops which now appear to be given material weight in Mr. Carr's Proof of Evidence. The weight applied to the provisions in HCCs draft Place and Movement Planning and Design Guidance appear to be premature in the consideration of this appeal since the document has not yet been formally adopted.
- 2.25 In my Proof of Evidence, I refer to other Green Belt developments locally (Hanstead Park and The Kestrels) which I consider highlight inconsistencies in HCCs decision making. Hanstead Park has resulted in a re-routing of service 361 into the site which was secured by HCC as part of that application. The Kestrels relied upon an existing routing of service 635 through the adjacent BRE site which provides a connection within 400m of that development, in its response (SADC planning application reference 5/17/1550) HCC stated that "The Highway Authority would request that by way of planning obligation details of pedestrian

permeability between the application site and the bus stop within BRE be provided, and that such permeability maintained in perpetuity, in the interest of enabling access for residents to bus services''.

2.26 On a site visit on 26th April 2024 I saw no evidence of the bus service in the BRE site, no infrastructure was present such as a bus stop or timetable information, and there was no clear pedestrian permeability to where the bus stop is noted as being on Google Maps as extracted below (I had to walk across a grass verge and along the access road to the east to get to the location):



- 2.27 The bus stop serving access to bus service 361 at Hanstead Park provides one bus per hour in peak periods (08:04 in the AM peak and 17:09 in the PM peak) and does not provide two buses per hour off-peak (06:20 to 22:00). There are no other bus stops providing access to further bus services within a reasonable walking distance of Hanstead Park.
- 2.28 The bus stop serving access to bus service 635 at the BRE site provides one bus per hour in the AM peak period (08:04) and none in the PM peak. It does not provide two buses per hour off-peak (06:20 to 22:00). The next closest bus stop from The Kestrels site is on Mount Pleasant Lane around 630m to the north.

- 2.29 The frequency of local bus services was not raised as an issue by HCC in these other applications.
- 2.30 Until now, the walking distance to the closest bus stops from the appeal site on West Riding has not been raised as an issue by HCC, specifically with reference to the 400m distance referenced in the CIHT guidance document 'Planning for Walking' (April 2015). The CIHTs 'Planning for Walking' provides guidance as opposed to policy requirements, the full extract from the document as referred to in Mr. Carr's Proof of Evidence is set out as follows:

"The power of a destination determines how far people will walk to get to it. For bus stops in residential areas, 400 metres has traditionally been regarded as a cut-off point and in town centres, 200 metres (DOENI, 2000). People will walk up to 800 metres to get to a railway station, which reflects the greater perceived quality or importance of rail services."

- 2.31 The 'cut-off point' of 400m for people to walk to bus stops in residential areas appears to date back to an earlier document from 2000, however if applied rigidly such a 'cut-off point' would not allow for flexibility in assessments between urban and rural areas, which should be considered in both plan-making and decision-making as provided by paragraph 109 of the NPPF.
- 2.32 Other authorities differ from the guidance set out in the CIHTs 'Planning for Walking'. For example, Transport for London's (TfL) public transport accessibility level (PTAL) is the standard method for calculation of public transport access in London including Inner and Outer London Boroughs. As per the PTAL methodology, to calculate the walking distance from the site (known as the point of interest (POI)) to the nearest bus stops and rail stations, known as service access points (SAPs), only SAPs within a certain distance of the POI are included (640m for bus stops and 960m for rail stations, which correspond to a walking time of 8-minutes and 12-minutes respectively at the standard assumed walking speed of 80m/min). On this basis the nearest bus stops to the appeal site on West Riding are within a reasonable walking distance, and Bricket Wood train

station is just beyond the PTAL prescribed walking distance (refer to Table 4 of my Proof of Evidence (CD 2.11)).

2.33 As a point of note, at paragraph 39 of Mr. Carr's Proof of Evidence the nearest bus stops on West Riding are referenced as being approximately 650m to the south of the appeal site. The Transport Assessments (July 2022 (CD 1.14) and January 2023 Update (CD 1.40.1)) refer to this distance as being 560m. I consider that 560m is the correct distance. In good weather when the ground is dry it is also possible to walk across Black Green between Lye Lane and West Riding which reduces the walk distance from the appeal site to the nearest bus stops to around 475m.

Availability of Space at Site Access Junction & Lye Lane/West Riding Junction

2.34 Paragraphs 49-52 of Mr. Carr's Proof of Evidence under the sub-heading 'Availability of Space at Site Access Junction & Lye Lane/West Riding Junction' sets out an assessment of the proposed development in relation to reason for refusal number five, which states:

> "5. Inadequate space is available at the site access junction, the Lye Lane / West Riding junction and on the southern stretch of Lye Lane past the M25 overbridge to allow large vehicles to safely pass each other, to the detriment of highway safety, and insufficient information has been provided in respect of vehicle swept path analysis and a revised Stage I Road Safety Audit and associated Designer's Response, to demonstrate that there would not be further harm to highway safety, contrary to Policy 34 of the St Albans District Local Plan Review 1994 and the National Planning Policy Framework 2023."

2.35 Paragraph 51 of Mr. Carr's Proof of Evidence sets out an "in principle" review of the proposed footpath and associated off-site works by Conisbee Civil and Structural Engineers as presented at Appendix B (CD 2.11.2) of my evidence. As part of this review the following points have been noted as extracted from Mr. Carr's Proof of Evidence: • "The following information still needs to be provided: details of approaching visibility to the passing bay, swept path analysis and details of expected retained height.

• The following technical commentary was included: The distance of headwalls to the passing place extents should be lengthened to avoid accidental overrun.

• The creation of a drop at the rear of the kerb line may cause issue with vehicles who accidentally overrun – a flat area between the rear of the kerb line would be required, or some form of containment kerb / fencing to negate the issue.

It is assumed that the items denoted 'L' are signs and/or lighting columns
construction within the footway and on top / in close proximity of a drainage pipe would not be recommended.

• The following was noted as not acceptable in Section D: The proposed pavement construction is not suitable for HGVs.

• The proximity of the perforated pipe within the pavement construction is not acceptable.

• permeable paving within the carriageway construction is not accepted or supported by the highway authority.

• Additionally, the proposed culverting and works in proximity to the ancient woodland is not expected to be acceptable."

- 2.36 Regarding the first bullet point, the Milestone Transport Planning Technical Note (June 2023) (CD 1.41) provides details of approaching visibility to the passing bay (drawing number 23051/TK02/04) and included an assessment of refuse and servicing vehicles including swept path diagrams of larger vehicles traversing the West Riding junction with Lye Lane, Lye Lane up to the appeal site, and the proposed site access junction with Lye Lane (drawings at Appendix 6 of the document).
- 2.37 As set out in my Proof of Evidence, I see no reason to dispute the findings in the Milestone Transport Planning Technical Note (June 2023) (CD 1.41) and consider that the existing geometry of the West Riding junction with Lye Lane, the proposed highway works on Lye Lane including the planned passing bay, and the

proposed design/geometry of the site access junction with Lye Lane can safely accommodate larger vehicles.

2.38 The Milestone Transport Planning Technical Note (June 2023) (CD 1.41) states as follows regarding the planned passing-bay on Lye Lane and approaching visibility:

> "Approximately 75-metres north-east of the give-way priority junction with West Riding a 2.0 x 12.0-metre passing bay is provided on the south-eastern side of Lye Lane. This enables sufficient room for a refuse vehicle to pass any oncoming vehicles.

> The 75-metre section between the proposed passing bay and the give-way priority junction with West Riding is only wide enough to accommodate the refuse vehicle but is provided with sufficient forward visibility for any oncoming vehicles to move to a suitable passing place. Due to the constraints outlined within this TN there is limited opportunity to widen the carriageway within this section."

- 2.39 In respect to accommodating larger vehicles, Conisbee's proposals carry forward key principles from the Milestone Transport Planning designs including formation of a passing-bay on the east side of Lye Lane around 75-metres north of the junction with West Riding. Therefore, details of approaching visibility to the passing bay as shown on drawing number 23051/TK02/04 Milestone Transport Planning Technical Note (June 2023) (CD 1.41) remain the same in the current proposals provided by Conisbee.
- 2.40 Appendix D (CD 2.11.4) of my Proof of Evidence provides an updated set of swept path diagrams based on the latest off-site highways works plans by Conisbee, which are provided at Appendix B (CD 2.11.2) of my Evidence. A summary table describing the swept path diagrams and comments at each section of the assessment is also provided at Appendix D (CD 2.11.4).

- 2.41 The conclusion of the updated swept path assessment is that there is sufficient carriageway width throughout the section of Lye Lane between the proposed site access junction and the Lye Lane junction with West Riding to safely accommodate large vehicles, either through sections of carriageway which allow two large vehicles to pass each other or through sections where a one-way giveway operation is adequately accommodated. It should be highlighted that the proposals represent a betterment over the existing situation on Lye Lane for the passage of large vehicles.
- 2.42 The remaining items are addressed in Evidence of Mr. Paul Hartfree of Conisbee Civil and Structural Engineers and Mr. David Clarke Chartered Landscape Architect and Consultant Arboriculturist.

No Vehicle Access Restrictions for the Site's North Entry

- 2.43 Paragraph 53 of Mr. Carr's Proof of Evidence under the sub-heading 'No Vehicle Access Restrictions for the Site's North Entry' states that *"In its formal response* on 7 July 2023 the LHA stated the following: "No vehicle access restrictions are proposed for the site's North entry via the Lye Lane / A405 junction, which offers the direct and shortest route to the SRN at M25 J21a. The applicant must demonstrate the feasibility of safe vehicle access from the North by providing vehicle swept path analysis or provide a rationale for access restrictions for the development."
- 2.44 The Transport Assessments (July 2022 (CD 1.14) and January 2023 Update (CD 1.40.1)) submitted with the outline application illustrates that it is proposed to widen the carriageway on Lye Lane in the vicinity of the proposed site access junction to 6.0m by extending the carriageway on the site side. In addition, it is proposed to provide 10.0m kerb radii at the site access junction to Lye Lane for ease of access for larger vehicles.
- 2.45 Appendix A (CD 2.16.1) of my Rebuttal Statement provides a further set of swept path diagrams based on the latest off-site highways works plans by Conisbee, which are provided at Appendix B (CD 2.11.2) of my Evidence. The swept path

diagrams demonstrate the ingress manoeuvre of a SADC refuse vehicle entering the site from the north will be able to comfortably pass a stationary 7.5t panel van at the stop line of the site access junction to Lye Lane. These are the largest vehicles likely to pass each other at the site access junction and therefore presents very much a worst case scenario. It must the emphasised that there is very little likelihood that these two vehicles would need to pass each other at the proposed site access junction. Also presented at Appendix A (CD 2.16.1) is a swept path diagram illustrating a 7.5t panel van entering the site from the north and an estate car exiting the site to the north on Lye Lane simultaneously and with a high degree of tolerance.

- 2.46 Beyond the appeal site's frontage to the north, it is noted that the width of the carriageway on Lye Lane narrows with multiple sections of passing opportunities.
- 2.47 Therefore, vehicle access restrictions for the site's north entry via the Lye Lane junction with the A405 North Orbital Road are not proposed.

Revised Stage | RSA & Associated Designers Response Will be Required

- 2.48 Paragraph 56 of Mr. Carr's Proof of Evidence under the sub-heading 'Revised Stage I RSA and the Associated Designers Response Will be Required' states that *"It is worth noting that at the very least a Stage I RSA is requested at the preplanning decision stage in order to confidently know the scheme would be approved from a road safety perspective. With out this initial stage completed the scheme may not be able to be brought forward and therefore any subsequent approval for the site will leave the access by walking inadequate, creating a risk to pedestrians and generally detracting from making trips on foot."*
- 2.49 As referenced in my Proof of Evidence (paragraph 6.54), a Stage I Road Safety Audit (RSA) is currently being undertaken. The aim is that the Stage I RSA and associated Designer's Response will be completed in time to inform the Statement of Common Ground (SoCG) needed in advance of the Inquiry.

- 2.50 Paul Mew Associates produced a Transport Assessment (CD 1.14) and a Travel Plan dated July 2022 which were submitted with the outline application. Following receipt of formal consultation comments from HCC, Paul Mew Associates prepared a Highways Response and subsequently commissioned a Stage 1 RSA and RSA1 Designer's Response which were submitted with the outline application. An updated Transport Assessment dated January 2023 (CD 1.40.1) was prepared and formally submitted with the outline application, the Stage 1 RSA and designer's response to each of the problems raised is included at Appendix L.
- 2.51 Based on the initial Stage I RSA and designer's response, it is anticipated that if any problems are raised in the forthcoming Stage I RSA these will also be adequately addressed in a new designer's response to provide confidence that the scheme can be considered satisfactory from a road safety perspective.

APPENDIX A Further Swept Path Assessment (CD 2.16.1)

