

LAND ADJACENT TO HMP GARTH AND WYMOTT

MINISTRY OF JUSTICE

REOPENED INQUIRY

APPELLANT'S OPENING SUBMISSIONS

Introduction

1. The Appellant appeals against the decision of Chorley Borough Council (“the Council”) to refuse a hybrid planning application seeking permission for the following:

“Outline planning permission (with all matters reserved except for means of access, parking and landscaping) for a new prison (up to 74,531.71 sqm GEA) (Class C2A) within a secure perimeter fence following demolition of existing buildings and structures and together with associated engineering works; Outline planning permission for a replacement boiler house (with all matters reserved except for access); and Full planning permission for a replacement bowling green and club house (Class F2(c)) on land adjacent to HMP Garth and HMP Wymott, Leyland.”

2. The appeal was recovered for the Secretary of State’s determination on 29 June 2022, and a planning inquiry was originally held by the Inspector on 12-15, 19-20 and 22 July 2022. The original planning inquiry considered several issues, including the effect on the openness and purposes of the Green Belt, character and appearance, highway safety, living conditions, need for the development, alternative sites and other benefits of the development.
3. The Inspector reached conclusions on the various issues and recommended overall that the appeal be dismissed (CD L1). These conclusions included that, based on the evidence before him, the proposals would have an unacceptable

effect on highway safety contrary to Chorley Local Plan policy BNE1(d) and paragraphs 110(d) and 111 of the NPPF (now paragraphs 114(d) and 115 of the NPPF).

4. Having considered the Inspector's report, the Secretary of State issued a 'minded to grant' decision letter, dated 19 January 2023 (CD L1). The Secretary of State agreed with the Inspector's conclusions in relation to highway safety based on the evidence before him. In particular, the Secretary of State found that:
 - i) There would be an increased risk of vehicle and pedestrian conflicts at the Moss Lane/Ulnes Walton Lane junction that would not be adequately mitigated, and vehicles would be tempted to speed further south on Moss Lane.
 - ii) It had not been demonstrated that the works at the Ulnes Walton Lane/A581 junction would resolve capacity issues or that a financial contribution would be sufficient.
 - iii) It had not been demonstrated that highway effects of the construction phase can be adequately mitigated.
5. However, the Secretary of State took into account that these conclusions were based largely on a lack of evidence about modelling, detailed proposals, timescale and costs, and that it is possible that the highway safety issues could be satisfactorily addressed such that he could be satisfied that the proposal would no longer have an unacceptable impact on highway safety. Accordingly, he decided to give all parties the opportunity to provide further evidence on highway safety, before reaching a final decision on this appeal. The Secretary of State concluded that subject to being satisfied that the highway safety issues identified by the Inspector can be satisfactorily addressed, the Secretary of State is minded to allow the appeal and grant planning permission subject to conditions.
6. The parties submitted further evidence and representations in February and March 2023, and the Secretary of State decided to reopen the planning inquiry

under Rule 17(7) of the Inquiry Rules, in a letter dated 6 April 2023 (CD L2). This letter set out that:

“The remit of the reopened inquiry will be to consider such evidence on highway safety matters identified in his minded to grant letter as the parties shall put forward, and is not an invitation for any party to seek to reopen any of the other issues covered in the decision letter.”

7. The parties signed Statements of Common Grounds (“SoCGs”) (CD P1 and P2) in June 2023, and a case management conference was also held in June 2023, followed by the Inspector’s Summary Note (CD L3). This confirmed that the remit of the reopened inquiry was only to consider the highway safety matters identified in the Secretary of State’s ‘minded to grant’ letter.
8. In preparation for the reopened inquiry the Appellant has carefully and conscientiously considered the Inspector and the Secretary of State’s concerns and has worked to provide further evidence to directly deal with the concerns. As will be explained by Mr Stephen Yeates, this includes updating the transport data and information, proposing enhanced traffic calming measures at Moss Lane and Ulnes Walton Lane, proposing a new footway, and securing land beyond the control of the highway authority to enable a new design for the Ulnes Walton Lane/A581 junction.
9. Overall, it remains the case that the proposed development would not exacerbate any safety issues insofar as personal injury accidents are concerned, and this is corroborated by the latest data. The Appellant’s further evidence as to mitigation now also gives the required detail and confidence needed to demonstrate that any existing hazards and risks in the local network will not be exacerbated. Accordingly, the evidence will demonstrate that the proposed development complies with policy BNE1(d) and paragraphs 114(d) and 115 of the NPPF.

Common ground on highway safety

10. There is a large amount of common ground on highway safety issues for the reopened inquiry. Primarily, Lancashire County Council (“LCC”) as local highway

authority have been consulted throughout the application and they did not object to the proposals. The Appellant has continued to engage with LCC throughout the appeal process, including as to the further evidence produced for the reopened inquiry, and LCC have confirmed that having reviewed the additional evidence they continue to have no objection to the proposed development.

11. The SoCGs with both the Council and the Ulnes Walton Action Group (“UWAG”) also set out a number of areas of common ground. All three parties agree that the scope of the study area for assessing highway safety is limited to the study area adopted in the original Transport Assessment, i.e. Moss Lane, Ulnes Walton Lane, the Ulnes Walton Lane/B5248 Dunkirk Lane junction and the Ulnes Walton Lane/A581 junction.¹

12. All three parties also agree that the link capacity on Ulnes Walton Lane and Moss Lane would not be exceeded during the operational phase of development. It is also entirely common ground that the site access/Moss Lane junction and the Ulnes Walton Lane/B5248 junction would operate safely and suitably during the operational phase.

13. Further matters are also agreed with the Appellant and Council in relation to traffic surveys and committed development, trip generation, traffic analysis, and assessment of personal injury accident data and forecast personal injury accident data.

Matters in dispute at the reopened inquiry

14. The main issues in dispute between the parties at this reopened inquiry are the following:

- i) Ulnes Walton Lane carriageway markings and traffic calming;
- ii) Moss Lane traffic calming;
- iii) Footway between Ulnes Walton Lane and Moss Lane;

¹ As well as UWAG also assessing the construction routes.

iv) A581/Ulnes Walton Lane mitigation, and;

v) Construction phase assessment.

15. UWAG also have remaining concerns as to traffic surveys, trip generation, personal injury accident data and impact on vulnerable road users, though these issues are not in dispute between the Appellant and the Council. The Appellant's evidence will demonstrate that the approach used for traffic surveys and trip generation is reliable and robust, and the personal injury accident data (including the most recent update) shows that the proposals will not exacerbate any safety issues in relation to personal injury accidents.

16. In relation to Moss Lane, the Inspector agreed that the original proposed traffic calming measures would assist with traffic speeds on the approach to the junction but was concerned that vehicles would be tempted to speed further south given the length of Moss Lane. In direct response to this concern, the Appellant now proposes enhanced traffic calming measures along the entire length of Moss Lane, including 'dragons teeth' markings, a raised table and hatchings to narrow the carriageway. These measures will suitably and effectively mitigate the risks of speeding, and the delivery of the works has been agreed with LCC.

17. In relation to the Inspector's concerns as to the lack of detail as to traffic calming on Ulnes Walton Lane, the Appellant has now detailed the specific measures proposed at Ulnes Walton Lane, again to the satisfaction of LCC. Again, these measures represent entirely suitable and effective mitigation, taking into account speed and desired stopping sight distance. In addition, the data shows that non-motorised users here are low and, as was already identified by the Inspector previously, such use is generally dispersed. More than sufficient mitigation is provided to mitigate risks.

18. Moreover, the proposed works now also include a new 2-metre footway between Ulnes Walton Lane and Moss Lane, together with tactile paving and a step free crossing point. This precisely deals with the concern previously expressed by the

Inspector as to the risk that pedestrians will walk in the road or on the verge to access bus services. Not only will the new footway mitigate risks of the new development, but it will also be a material benefit over and above the existing situation for pedestrians.

19. The Appellant has fully taken into account the concerns as to the lack of information for the mitigation at the A581/Ulnes Walton Lane junction, and has now detailed the mitigation design. At the stage of the exchange of proofs of evidence in August 2023, the highways design was proposed to be delivered within land controlled by LCC. However, the Appellant has now successfully secured land beyond the control of LCC, and as a result of this has updated the mini-roundabout design in Mr Yeates' evidence dated February 2024 (CD M10). This new design includes the provision of a raised table, speed cushions, lighting columns, speed limit signs and 'dragons teeth'. These measures clearly mitigate the risks and again LCC have been fully consulted and raise no objections. These works would resolve capacity issues and would operate safely and suitably.

20. Finally, the Appellant has provided further evidence in relation to construction phase impacts. The new routing assessment confirms the construction routes which can be used by HGVs and the junction capacity modelling demonstrates that the relevant junctions (including the A581/Ulnes Walton Lane junction with the proposed mitigation) will all operate within acceptable thresholds of capacity even during the combined construction peak.

Conclusion

21. In conclusion, the Appellant has seriously considered the concerns previously expressed by the Inspector and Secretary of State and has directly responded to these concerns with further evidence and enhanced mitigation solutions. This further evidence gives the required detail and confidence needed to demonstrate that there are no material highway safety concerns with the proposal and that any existing hazards and risks in the local network will not be exacerbated by the proposal. It follows that the proposed development is wholly compliant with local

and national policy on highway safety. On this basis, the Appellant will respectfully request that the appeal be allowed and permission granted.

Jenny Wigley KC

Anjoli Foster

Landmark Chambers

25 March 2024