

APP/D2320/W/22/3295556

**LAND ADJACENT TO HMP GARTH AND HMP WYMOTT, LEYLAND,
LANCASHIRE**

APPLICATION REF: 21/01028/OUTMAJ

HEARING NOTE – for CMC Thursday 22 June 2023

Introduction

1. This short note is intended to assist the efficient administration of the case management conference of the above appeal, scheduled for 22 June 2023, by summarising Ulnes Walton Action Group’s (“UWAG”, the Rule 6 Party) position on the scope of the re-opening of the inquiry ahead of the case management conference.

Scope

2. In the letter of 6 April 2023 the Case Officer wrote to the parties confirming the intention to re-open the inquiry.
3. As to scope, the letter said:
 - a. The highways evidence produced by the Appellant was ‘new evidence’ under Rule 17 – para. 4;
 - b. Reopening the inquiry would ‘*allow highway evidence to be submitted and properly tested*’ – para. 5;
 - c. The remit of the reopened inquiry would be ‘*to consider such evidence on highway safety identified in his minded to grant letter as the parties shall put forward...*’; and
 - d. The reopened inquiry was not an opportunity for any party to ‘*seek to reopen any of the other issues covered in the decision letter.*’
4. No party is seeking to reopen any issue other than highway safety.

5. The minded to grant letter of 19 January 2023 found the proposals to ‘*exacerbate existing hazards and risks within the local road network*’, giving rise to ‘*an unacceptable effect on highway safety*’ (see para. 17).
6. At paragraph 18, that letter gave the Appellant (at that stage) an opportunity to ‘*provide further evidence on highways issues, including in relation to an amended s.106 planning agreement, and allow parties to respond to any such evidence...*’. That evidence should ‘*address the gaps in the evidence which are noted in paragraphs 15 and 16 above **and any further evidence which parties consider is relevant to this matter.***’
7. At that stage, it was anticipated that the focus of the Appellant’s new evidence would be the ‘gaps’ identified. The second part of that sentence permitted any **further evidence** which is relevant to this matter (i.e. to highway safety). It was self-evidently not for UWAG and/or the Council to address its further evidence to the ‘gaps’ in the Appellant’s evidence.
8. Paragraph 40 of the letter confirmed this approach:

‘...the Appellant and other parties should be given the opportunity to provide any further evidence on highway safety, and that parties should be able to make representations on this further evidence...’

9. As per the letter of 6 April 2023, at paragraph 41 the minded to grant letter said:

“...this request for further evidence is solely for the purpose stated above (i.e., at para 40), and is not an invitation for any party to seek to reopen any of the other issues covered in the decision letter.”

10. As such the ‘scope’ of the re-opened inquiry is to consider highway safety, and any new evidence must be directed towards the highway safety implications of the scheme. There

is no warrant to reopen any other issues, but neither is there any warrant to limit the breadth of ‘highway safety’ issues addressed in evidence.

11. All four ‘issues’ identified by the Appellant as being out of scope are self-evidently relating directly and only to highway safety and are thus *in* scope:

- a. Traffic surveys: the Appellant’s data dates from 2019. UWAG wish to ensure that any underlying data on traffic conditions is reliable, and is investigating the same.
- b. Trip generation – it is common ground that ‘ancillary traffic’ has not been counted or assessed by the Appellant. UWAG has always said that it is material. The Inspector said that it was ‘*likely to be much lower than for staff and visitors*¹’ which may well be true but does not take the matter out of scope.
- c. Road Safety – this is the crux of the reopened inquiry – will the proposals give rise to road safety concerns? Accordingly, it is self-evidently in scope.
- d. Impact on vulnerable road users – although the Inspector considered the proposals to be such that they would not ‘*materially worsen the risk to these users*²’, UWAG’s case is that the proposed increase in traffic would have a material effect on the safety of such users (regardless of whether or not formal crossing points are required). That concern is self-evidently within scope.

Josef Cannon

Matthew Wyard

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For UWAG

21st June 2023

¹ IR/13.19

² IR/13.25