

Ulnes Walton Action Group

Statement of Case

Planning Inspectorate Reference: App/D2320/W/22/3295556

1. **Introduction**

- 1.1. This Statement of Case has been prepared by the Ulmes Walton Action Group ('UWAG') in relation to an appeal by the Ministry of Justice ('MoJ'). UWAG are acting as an 'interested party' under Rule 6(6) of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000, as amended.
- 1.2. UWAG is a volunteer group raising awareness of the proposal to build a third prison on the current site of HMPs Wymott and Garth.
- 1.3. UWAG is acting on behalf of the immediate local residents and the wider community. It has support from local Parish Councils.
- 1.4. UWAG seeks to represent local and community views regarding the proposed development. Local opposition is not based on a 'Not In My Backyard' (Nimby) attitude. This community has lived with two prisons in this area for over 40 years. There is no better understanding of the real-world operation and impact of a new prison than that of residents and communities that live alongside existing prisons.
- 1.5. The appeal to the Planning Inspectorate by the MoJ has been made against Chorley Council ('the LPA') Planning Committee's determination of 21 December 2021 (contained in a decision letter dated 22 December 2021) to refuse outline planning permission for the development. The Planning Committee voted 12-1 to refuse and their determination was made after considerable debate, including a discussion in closed session, to ensure that the legal argument for refusal was sound.
- 1.6. UWAG's position is in line with the Planning Committee's determination. It supports each of the three Reasons for Refusal and, where the LPA's evidence covers a point sufficiently, UWAG will not seek to adduce repetitive evidence at the Inquiry.
- 1.7. This Statement of Case is structured under the following sections:

Section 1 :	Introduction
Section 2 :	Significant and National Need
Section 3 :	Lack of Alternative Sites
Section 4 :	Socio-Economic Benefits
Section 5 :	Bio-diversity Net Gain and Ecological Assessment
Section 6 :	Highways and Transport Assessment
Section 7 :	Noise and Disturbance
Section 8 :	Impact of the Proposed Development
Section 9:	Engagement/Consultation with the Community
Section 10 :	Overall Balance and Conclusion
Section 11 :	List of Documents to which UWAG may refer
Section 12 :	List of Conditions/Limitations.
- 1.8. This Statement of Case will summarise the reasons for opposition to the development, and the evidence UWAG will produce in support of this stance. Since the initial preparation of this document, UWAG has received confirmation that it will receive legal support through Advocate. UWAG therefore reserves the right to present further

evidence, data or documentation to support or amend this stance in light of emerging information, or to produce a further document in due course following receipt of legal advice.

- 1.9. The Statement of Case for UWAG will utilise existing data from surveys and assessments commissioned by the MoJ, in conjunction with data from other public domain sources.
- 1.10. UWAG will demonstrate through its submissions and evidence that whilst there is an existing prison estate in this locale, the imposition of a third prison is not a sustainable option on this site, and national policy suggests that the decision to refuse planning permission was the correct one. This is inappropriate development in the Green Belt, and the harm to the Green Belt, and other harm, is not outweighed by the various matters relied upon by the MoJ.

2. **Significant and National Need**

- 2.1. UWAG does not disagree that the national prison estate has to be modernised and expanded in order to accommodate more offenders, improve conditions, and hopefully, outcomes for those in custody. However, prison capacity demand is driven by policy, and custody numbers can go down as well as up, eg in 2012 custody numbers fell by nearly 3,000. UWAG understands that it is the MoJ's case that numbers in custody are projected to increase significantly in the 2020s; it will seek to show that the projections are not robust and are an overestimate of likely need.
- 2.2. In particular, this expanded estate will only be populated if the Crown Court system is able to clear backlogs built up over previous years and during the Covid pandemic. The Public Accounts Committee in their report '*Reducing the Backlog in the Criminal Courts*', March 2022, state that they "remain unconvinced of the Department's intentions to reduce waiting times in the Crown Court". Funding has been secured from the Treasury to reduce the backlog by only 6,000 to 53,000 cases by March 2025. The MoJ's assumptions on the need for additional prison places may not, therefore, be realised in the timescale they predict.
- 2.3. The MoJ's own assumptions for new prison builds in their modelling (*Peter Brett Associates, Economic Benefits of a New Prison, 2013*) are for non-rural locations, as urban/semi-urban locations are said to help staff retention and make visitor access easier, because of good sustainable transport links. Both are important factors when trying to run an efficient and effective prisons policy.
- 2.4. UWAG contend that if the regional need is accepted, then the prison could be built anywhere in the North West: nothing specific requires it to be developed here. As such the weight that can be afforded to the national and regional need is highly dependent on the weight attached to the claimed lack of available sites.

3. **Lack of Alternative Sites**

- 3.1. UWAG will demonstrate, from the MoJ's own list of considered sites, that alternative sites do exist and have been dismissed without transparent comparison to the site

under consideration. The necessary information was withheld from UWAG until requested by the Planning Inspector following the lodging of the appeal by the MoJ.

- 3.2. UWAG will provide its own evaluation of alternative sites. It will argue that there are better sites based on the evaluation criteria set out for selection by the MoJ, and other relevant considerations.
- 3.3. The MoJ's agent identified potential sites and shortlisted them against high level Mandatory, Secondary and Tertiary requirements in order to produce a shortlist (*Cushman & Wakefield, 'Shortlisted Sites', April 2022, seen by UWAG only recently following the Inspectorate's request*). The list of sites that met the Mandatory criteria indicate clearly that alternatives do exist and are as equally available and more applicable to this development.
- 3.4. UWAG's own work will show that using the Secondary and Tertiary criteria, and publicly available data, there are alternative sites which better match the criteria.. Some also feature better road transport connectivity and sustainable transport options than the appeal site.
- 3.5. UWAG recognises that, because of the stage of the planning process the appeal site has now reached, it is unlikely that any *alternative* site could deliver the development *faster* than the appeal site, measured from now – but that is self-evidently no more than the inevitable consequence of the stage this application has reached: it is not, properly understood, a feature worthy of any significant weight in favour of granting permission here. It would be surprising if simply pressing on with an application for inappropriate development in the Green Belt could, of itself, justify granting permission for it.
- 3.6. Further (and in any event), UWAG will demonstrate that the proposed site only meets the size criterion stipulated by the MoJ because of the proposal to utilise the current playing field within HMP Wymott (15% of the HMP Wymott site) for development. The removal of the playing field – without replacement - is an issue which remains the source of an objection submitted by Sport England to the LPA in October 2021, and is itself contrary to the NPPF.

4. **Socio-Economic Benefits**

- 4.1. The calculation of economic impacts from the construction and operation of the prison are only as realistic as the data upon which they are based. UWAG will provide argument and evidence that the modelling used defines benefits which, while UWAG recognise they exist, are more national and regional in nature, than specific to the site.
- 4.2. UWAG will demonstrate the proposed site is not based in a low employment area (Claimant data by constituency: people claiming unemployment benefits, March 2022 - briefing paper, House of Commons Library).
- 4.3. UWAG will evidence increasing employment opportunities provided by local commercial developments (approved and proposed) will place demand on an already limited pool of potential employees.

- 4.4. The building of the new prison is a highly specialised process, using modular construction, and will require specialised skill sets and proprietary components which will chiefly be imported into the region. The MoJ's own modelling and socio-economic statement recognises this and indicates that of a construction workforce of 122, only 12 will be 'local' employees. It also indicates that the operational employees (PO's, OSG's) will be recruited from a 40-mile radius in direct competition with 13 other HMP locations. There are also significant staff vacancies at HMPs Wymott and Garth at present, and staff retention appears problematic.
- 4.5. UWAG will contend that the socio-economic benefits at the construction stage will be mainly national. Evidence gained from the website of Kier Group plc with regard to the construction model for HMP Five Wells clearly shows that the newly-developed modular system of pre-cast components with built-in services, along with the bulk aggregates needed for such a major development, are manufactured across the UK. This reduces the need for onsite trades to fit services as the building is completed, leading to greater speed of construction and minimising the required workforce.
- 4.6. UWAG will maintain that, operationally with recruitment of prison employees spread over such a wide area (40 mile radius), the socio-economic benefits should be regarded as more regional than local to Chorley and South Ribble. This reduces the weight that can be attached to those benefits.
- 4.7. UWAG will argue that the provision of a new (replacement) bowling club cannot be regarded as a community benefit worthy of any significant weight: the overwhelming majority of current bowling club members are not residents of Ulnes Walton. UWAG consider that improved bowling club facilities will result in more vehicle journeys to the area.

5. **Bio-diversity Net Gain and Ecological Assessments**

- 5.1. There already exists a diverse and balanced range of fauna and flora at this location, with a good mix of native and non-native species living in harmony.
- 5.2. Ecological impact assessments commissioned by the MoJ have not evaluated red-listed overwintering and autumnal migrants, a good number of which utilise the site or land adjacent to the site. UWAG will provide evidence of these oversights from Chorley and District Natural History Society records (some members of which have participated and run surveys for the British Trust for Ornithology) and from reputable international bird sighting applications (eg eBIRD, operated by Cornell University).
- 5.3. A stand of mature priority 1 broad leaf lowland trees will be removed resulting in a 30% unit loss, which UWAG submit will change the make-up of the already bio-diverse locale. As noted by the LPA's Tree Officer, the proposals include the removal of a significant number of trees including a field boundary Oak, a good specimen Ash and a section of plantation woodland to the north of the site. He recommended a condition requiring replacement planting to at least match the canopy cover proposed to be removed. UWAG would wish to see that imposed, at least, but note that the proposal is to remove (albeit later replace) worthwhile and healthy trees.

- 5.4. Bio-diversity net gain is a calculation based on Biodiversity Metric 2.0 which is self-evidently an estimation, and which will take a generation or more to come to fruition.
- 5.5. UWAG contend that legally protected species will have to be re-located from well-established roosting sites with little certainty of success. These protected species will also limit construction work at certain periods throughout the year to mitigate unnecessary disturbance. This will have to be conditioned on approval, and could impose some delay on delivery.
- 5.6. UWAG will contend that the ecological assessments are insufficient to assess the existing bio-diversity.
- 5.7. UWAG will submit that the approval of this development will represent an unnecessary disruption to an already diverse environment, and would be based on incomplete evidence with little certainty of achieving the aspirational 20% bio-diversity gain.

6. **Highways and Transport Assessment**

- 6.1. UWAG notes the Reason for Refusal concerning highway impact and intends to seek to support the LPA's case in defence of it. Where it can usefully add to the evidential picture it will do so but it does not wish to duplicate technical evidence.
- 6.2. UWAG considers that the site is unsuitable for the requisite access by contractors, service providers, staff and visitors due to the inadequacy of the highway infrastructure.
- 6.3. UWAG will argue that the proposed development has not considered the cumulative impact of local development sites.
- 6.4. UWAG will demonstrate that the proposed travel plan will not result in the real uptake of sustainable modes of transport either by staff, visitors or services, because of the location of the proposed site. UWAG will argue that the aspirational transport assessment and travel plan are unrealistic as use of sustainable modes of transport can only be encouraged, not enforced. (HMP Wymott Travel Plan Position Statement, 2007, Lambert Smith Hampton.)
- 6.5. UWAG will argue that the proposed financial contributions in relation to the enhanced public transport system and creation of an improved cycle access via Nixon Lane, will not achieve any meaningful outcomes.
- 6.6. UWAG will argue that the very limited mitigation measures proposed by the MoJ will not alleviate the ever-present road safety dangers already encountered by residents on a daily basis. Indeed, those dangers will be exacerbated if this development proceeds.
- 6.7. UWAG will evidence that the MoJ's projected 50% increase in prison-generated traffic has serious potential to impact safety and noise disturbance.

7. **Noise and Disturbance**

- 7.1. UWAG notes the Reason for Refusal concerning noise nuisance and disturbance and intends to seek to support the LPA's case in defence of it. Where it can usefully add to the evidential picture it will do so but it does not wish to duplicate technical evidence.
- 7.2. UWAG will demonstrate that the noise assessments undertaken by the MoJ were limited in their scope and failed to assess the noise disturbance the increase in traffic volumes will have on the whole length of Ulnes Walton Lane. The noise receptors placed at ML1 and ML4 (Hydrock drawing - figure 1 - Noise Monitoring Locations) are essentially irrelevant to the impact of this proposed development.
- 7.3. UWAG will argue that noise and disturbance is not only caused by the volume of traffic but also its speed, weather conditions, and associated noise of car doors slamming, music systems blaring, engines starting etc.
- 7.4. UWAG will provide photographic evidence that on-site car parking facilities are not always used by prison officers, visitors and contractors, and current parking restrictions around HMPs Wymott and Garth are ignored on a daily basis with no enforcement action taken, causing nuisance and annoyance.

8. **Overall Impact of the Proposed Development**

- 8.1. The proposals are acknowledged to be inappropriate development in the Green Belt, which will cause harm (to which substantial weight must be afforded). They will obviously reduce openness and do so to a significant degree.
- 8.2. Further, the scale and mass of the proposed development will have an adverse impact on the character of the local area, above and beyond the reduction in openness.
- 8.3. UWAG will submit that the impact on the openness of the Green Belt has been significantly under-estimated by the MoJ, and insufficient regard has been paid to the mass and scale of the proposed buildings and the impact they will have on the surrounding landscape.
- 8.4. UWAG will argue that the impact of doubling of the prison population, resulting in the local residents being outnumbered by over 40%, is an intolerable burden to place on a small rural community.

9. **Engagement/Consultation with the Local Community**

- 9.1. UWAG will argue that the MoJ's attempts at engagement with the local community have been limited and did not take place within the locality of the proposed development, thereby rendering their engagement as of little value.
- 9.2. UWAG's requests for increased engagement have not yet been acknowledged.

10. **Overall Balance and Conclusion**

- 10.1. The NPPF, para149, is clear that any construction of a new building is regarded as 'inappropriate in the Green Belt'; there are seven specific exceptions. The MoJ concedes that the proposed development does not meet any of these exceptions, and is therefore defined as 'inappropriate in the Green Belt'.
- 10.2. As such the proposals would cause harm in principle to the Green Belt, to which substantial weight must be attached; there is also additional harm, as set out above. Only if this harm, taken together, is clearly outweighed by the matters relied upon by the MoJ does national policy permit its priority of protecting the Green Belt from inappropriate development to be overridden.
- 10.3. As such the MoJ's case rests on proving that 'very special circumstances' exist (NPPF, Para 148) in order to outweigh permitted harm to the Green Belt. These are summarised as:
- Significant national and regional need for new Category C resettlement prison places
 - Lack of an alternative location to accommodate all or part of the proposed development
 - Significant socio-economic benefits
 - Bio-diversity net gain.
- 10.4. As set out in this Statement of Case, and to be amplified and expanded upon by evidence, UWAG maintain that the MoJ has not demonstrated 'very special circumstances' exist.
- 10.5. In particular, alternative sites are available in the North West Region, located in areas with better travel connections with major conurbations and much better placed to meet the regional demand for a Category C resettlement prison. No weight should, therefore, be afforded to the lack of an alternative site.
- 10.6. The socio-economic benefits are overstated. Any benefits will be distributed across the wider region of South Ribble, and Chorley itself has very low unemployment rates compared to alternative areas in the North West. Recently approved commercial planning applications and proposed developments are estimated to provide over 3,000 jobs within a five-mile radius of the proposed site, depleting an already low pool of potential local employees. Other available sites within the North West of England are in greater need of employment opportunities.
- 10.7. The rural location of the site is difficult for construction traffic, prison staff, visitors, and service providers to access and is unsustainable in terms of the highway infrastructure and carbon emissions.
- 10.8. The MoJ is proposing to disrupt legally protected species (Barn Owls, Bats and Great Crested Newts) and significantly disrupt the local environment for a projected 20% bio-diversity net gain, which will take time to deliver if indeed it ever does; and if indeed anyone is still monitoring at that time.

10.9. The overbearing size, scale and design of the proposed buildings will cause severe harm and disturbance to the character of the area and to the Green Belt in this location. There are no mitigation measures which can be put in place to outweigh this harm.

10.10. **UWAG agrees with and supports the determination Chorley Council Planning Committee made in December 2021 that no 'very special circumstances exist' which could warrant granting planning permission for this site.**

11. **List of Documents to which UWAG may refer**

At the inquiry, UWAG will rely on the following documentation and also reserves the right to add to this list should other documentation become relevant up to the appeal inquiry:

1. All documentation submitted with the planning application, including additional information submitted in response to consultation responses.
2. All relevant correspondence between UWAG and other relevant parties prior to the submission and subsequent to the determination.
3. The decision notice, Officer Report and other documentation relevant to the appeal site.
4. Additional documentation prepared in the light of matters raised in the MoJ's and the Council's Statement of Case, discussions with, or evidence submitted by others.
5. Central Government guidance in the form of primary legislation, secondary legislation, Circulars, Ministerial Statements, Briefing Papers, Select Committee reports and any other relevant publications including but not limited to consultation papers, letters, advice, or as may become relevant.
6. Adopted and emerging development plan policies including any supporting evidence including technical papers and supporting background documents, or as may become relevant.
7. Photographic and video evidence relating to proposed site and alternative sites.
8. Acoustic measurement report from Noise Survey Limited and anecdotal acoustic measurements at points along Ulmes Walton Lane and on Moss Lane (not available until after 31/5/22).
9. Transport Assessment data, collated into spreadsheet format.
10. Road width measurements of Ulmes Walton Lane at defined points.
11. Sample Journey Times (with bus and train options and times to get to HMPs Wymott and Garth).
12. Public Accounts Select Committee report, 'Reducing the backlog in criminal courts', March 2022.
13. Residents' statements regarding parking and offensive behaviour/language from offenders in custody.
14. Bird data from Chorley and District Natural History Society for Ulmes Walton area.
15. Letter from Fylde Bird Club, regarding owls and pink-footed geese sightings.
16. Kirkham Flood Zone map
17. Biodiversity calculation.
18. Comparative map of prison sites.
19. Government briefing paper, March 2022, 'Claimant data by constituency: people claiming unemployment benefits'.
20. HMP Wymott site plan

21. Parking calculations.

12. **List of Conditions or Limitations UWAG would agree to if the appeal is granted**

1. Reduction in the scale and mass of the buildings to reduce the impact on neighbouring residential properties, the openness of the Green Belt, and to be in keeping with the current prison estate, ie two-storeys high.
2. Installation of average speed cameras along the entire length of Ulnes Walton Lane and Moss Lane.
3. Reduction of the speed limit to 30mph along the entire length of Ulnes Walton Lane and Moss Lane.
4. Strict limitation and enforcement of the construction operating hours which should not, under any circumstances, extend beyond 0830-1700hrs Monday to Friday and 0830-1300 hrs Saturday. No Sunday or Bank Holiday working.
5. Increase in the frequency of the 112 bus service to every 15 minutes; service to operate daily and to coincide with shift times; guarantee that the service will remain in place for the lifetime of the prison estate in Ulnes Walton.
6. Additional natural screening to be provided for the properties in Moss Lane and Wymott Village.