

ULNES WALTON ACTION GROUP

APP/D2320/W/3295556

APPEAL BY THE MINISTRY OF JUSTICE

LAND ADJACENT TO HMP GARTH AND HMP WYMOTT

PROOF OF EVIDENCE OF EMMA CURTIS

Addressing: Prison Estate - Urgent Need and Noise and Disturbance

A INTRODUCTION

1. I, Emma Curtis, of the Ulnes Walton Action Group (“**UWAG**”) provide this proof of evidence in relation to the ongoing appeal brought by the Ministry of Justice (“**the MoJ**”) concerning its proposal to develop a new prison on the site to which this appeal relates. UWAG comprises local residents who came together in October 2021 following a public meeting attended by many local residents who were unanimous in their objections to the proposal to build a third prison in the locality.
2. My evidence will relate to the issue of ‘prison estate - urgent need’ and ‘noise and disturbance for residents’.
3. I append to this proof of evidence the following documents:
 - I. MoJ and Office for National Statistics publication ‘Prison Population Projections 2020 to 2026, England and Wales’
 - II. MoJ and Office for National Statistics publication ‘Prison Population Projections 2021 to 2026, England and Wales’
 - III. Police officer uplift, England and Wales, quarterly update to 31 March 2022 - GOV.UK
 - IV. House of Commons Committee of Public Accounts: Reducing the backlog in criminal courts - Forty-Third Report of Session 2021-22.
 - V. Population Bulletin: Monthly February 2020
 - VI. Population Bulletin: Weekly 10 June 2022
 - VII. Noise and Vibration Impact Assessment produced by Hydrock – 5th August 2021 (NVIA)
 - VIII. UWAG commission Noise Survey - UlnesWalston101 – 1st June 2022 (NS)
 - IX. Personal Statements from local residents
 - X. UWAG Prison Projections Spreadsheet
 - XI. UWAG Parking Allocations at WG2
 - XII. UWAG Parking Allocations at WG2 Summary Sheet

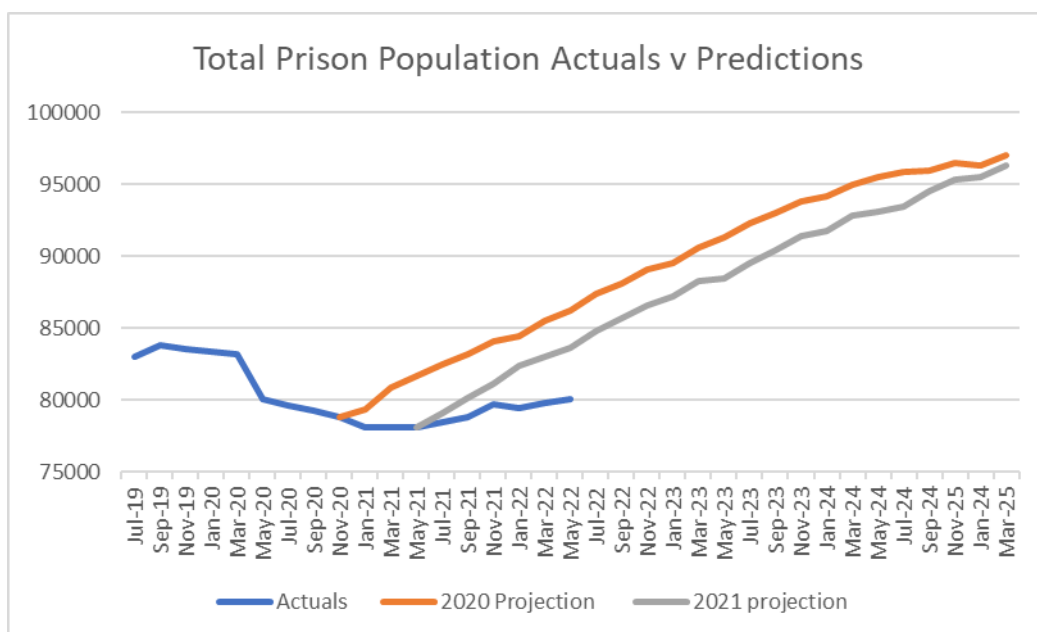
B THE MoJ'S CASE – Urgent Need

4. The MoJ's case on need is, effectively, threefold:
 - (i) Firstly, that there is a need for new Category C resettlement prison places based on the forecasted demand for numbers. Based on the latest 'Prison Population Projections' publication, the prison population is projected to rise from 81,377 (as at November 2020) to 98,700 by 2026. It is said that this increase in numbers will arise from the proposed increase to police numbers of 20,000 (13,576 – 67.9% recruited as at 31 March 2022. Official Statistics Police officer uplift, England and Wales, quarterly update to 31 March 2022 Published 27 April 2022 appendix III) which will allegedly lead to more arrests and sentences, together with changes to sentencing, the current criminal cases backlog being resolved and an increase in the numbers of prisoners serving longer sentences.
 - (ii) Secondly, that previous Governments have run out of prison spaces, resulting (in 2007) prisoners being released early. This, it is said, reduces the Government's ability to protect the public and reduces public confidence in the criminal justice system.
 - (iii) Thirdly, assuming that the prison numbers forecast is accurate, without additional prison spaces, prisoners will be held in higher category prisons than they should be. It is said that this inhibits rehabilitation and is poor value for money. The proposed prison will be designed to hold prisoners in a suitable environment to meet their rehabilitative needs.

C UWAG'S RESPONSE

5. UWAG's general position is that the MoJ's projections are not robust and overstate the urgency for new prison places. The expansion of existing prisons will increase supply in the short term, affording the MoJ time to find a more suitable, alternative site to the appeal site and avoid the harm to the Green Belt (and other harm) that arises here. We do not take issue, in principle, with the second and third issue set out above, but each rely on the first proposition, that numbers are forecast to rise significantly in the 2020s, such that need might outstrip supply of places. It is that proposition which UWAG does not accept.
6. It is entirely unclear why an increase in the number of recruited police officers will lead to an increase in *custodial sentences*. Whilst it would be rational to conclude that more police officers might lead to more *arrests* it does not follow that more arrests will lead to more custodial sentences. It seems at least as plausible that more police officers will lead to fewer crimes, because of the deterrent effect of more officers on duty.
7. The forecasted demand relies upon the criminal justice system clearing the current backlog in the criminal courts as a result of the Covid 19 pandemic. This backlog is unlikely to be cleared within a timescale that realistically impacts on the number of convictions. The House of Commons Committee of Public Accounts ("the **PAC**") report: 'Reducing the backlog in criminal courts' dated 09 March 2022 – my appendix IV - concluded (in summary):

- (i) That the PAC was “unconvinced of the [MoJ’s] intentions to reduce waiting times in the Crown Court, given the slow pace of recovery”.
 - (ii) That the MoJ is unlikely to be able to “recruit enough judges to deliver on its ambitions to reduce the Crown Court backlog”.
 - (iii) That a lack of cross governmental strategy contributed to the alleged need for prison places.
8. The prison population projection document issued in May 2020 (my appendix I) stated that 98,700 custodial spaces would be required by September 2026 - ‘Prison Population Projections 2020 to 2026, England and Wales’.
 9. The figures were revised in May 2021 following the pandemic and the projection was altered to show 98,500 custodial spaces required by March 2026 ‘Prison Population Projections 2021 to 2026, England and Wales’ (my appendix II).
 10. The May 2021 document (page 3) states ‘The prison population in England and Wales was 79,580 as of Friday 19th November 2021. It is projected to increase in the short term, rising to pre-Covid (February 2020) population by July 2022, then keep increasing steadily to reach 97,500 prisoners by July 2025’.
 11. The pre-Covid 28 February 2020 figure was 83,654 inmates: ‘Population Bulletin: Monthly February 2020’ – my appendix V. At 10 June 2022 the figure had fallen to 80,115: ‘Population Bulletin: Weekly 10 June 2022’ – my appendix VI. Therefore, it seems highly likely that the pre-pandemic projection **will not** be achieved. Below is a revised line graph showing the 2020 projections, 2021 projections and the 2022 actuals to May 2022, taken from the above official statistics.



12. The data above (using data from appendix X) shows the projection set in 2020 for May 2022 (86,200), the revised 2021 projection for May 2022 (83,600) and the actual as at May 2022 (80,185). The May 2022 actual is significantly lower than predicted. As at 27 May 2022 the shortfall against the 2020 projection is 6,015 and compared to the revised 2021 figure is 3,415. Due to the further drop in inmate population as at 10 June 2022 (80,115), the deficit is greater still.
13. Despite the additional 13.5k additional police officers already recruited and due to the continued backlog of cases in our court system and real doubt over the realism of the commitment to reduce the number, the projections of need for new prison spaces are unlikely to be proven correct. While UWAG accepts there is a need for new prison spaces, and that need is probably on an overall upward trend, the urgency claimed by the MoJ is not made out. That should significantly reduce the weight to be afforded to the claimed urgent need for these spaces. It is given 'very substantial weight' in the Appellant's Statement of Case but that must be reduced considerably when the figures are analysed properly. I rely on Ms. Copley's evidence as to the appropriate weight.

C THE MoJ'S CASE – Noise and Disturbance

14. The MoJ's case on noise and disturbance is that the proposed development will not give rise to an unacceptable impact by way of noise or other disturbance, such as vibration or impact from headlights. It is contended that the application is wholly compliant in this regard with the NPPF and Policy BNE1 of the Chorley Local Plan.
15. The MoJ say they will demonstrate that the proposed site access location is the most suitable siting when compared to alternatives, and notwithstanding, it will not give rise to any adverse amenity impacts that cannot be suitably mitigated.

D UWAG'S RESPONSE – Noise and Disturbance

16. UWAG's general position is that the MoJ's projections are not robust, the noise survey produced by Hydrock states the impact will be minimal. UWAG will provide evidence to prove the impact will be significant.
17. The NVIA (point 4.2.7: Noise from the Proposed Car Park – appendix VII) states the approximate distance between the car park and the garden of the nearest residential properties on Willow Road is 50m. The predicted average day time noise level from the North-East of the Car Park will be 40dB. It also states the maximum level associated with car engines starting and car doors slamming is 65dB when measured at 10m.
18. The garden to the west of the property on Moss Lane, Windy Harbour, is only 15m from the car park entrance.
19. The residents of Wymott Village, having lived beside the 2 existing prisons, are extremely familiar with offsite parking as shown in the images below. Staff and visitors presently show complete

disregard for the double yellow lines on a daily basis. The first 2 images were taken on Tuesday 29th June 2021 at 9.45am and the last 2 images were taken on Monday 7th February 2022 at 10.45am.



20. It seems inevitable that staff and visitors will also park outside of the car park for the proposed new prison; they will park on the surrounding roads, outside residential properties, causing a significant uplift in the noise and disturbance already experienced by those of us (including me) who live here.
21. Willow Road is 1.8m from the gardens of residential properties. We can therefore assume the maximum level associated with car engines starting and car doors slamming is 65dB when measured at less than 10m will be greater at this smaller distance. UWAG have also produced a parking allocations summary – appendix XII (supported by a detailed parking allocations spreadsheet – appendix XI) explaining why a car park of 525 spaces is likely to be inadequate for a prison of this size and will result in additional parking in the residential area.
22. Using the MoJ's own calculations from a recently submitted application for prison expansion at HMP Hindley (Cat C), the proposed car park will be 78 spaces short.
23. It was noted in the NVIA that there was no comparable site data used and all projections are from desk-based software.
24. UWAG, therefore, commissioned their own noise survey and the results are detailed in the report produced by Noise Survey Ltd on 6th June 2022 which I append as my appendix VIII .

25. Owing to the proposed 3rd prison being similar in size to the 2 current prisons combined, it is realistic to assume a similar level of traffic and type of vehicle would be used, but would access the new prison via Moss Lane for access. It was decided that a receptor placed at the junction of the access road would deliver a comparable data set.
26. The figures produced in the NVIA are from a 23 hour period, this will reduce the daily average due to the rural location and limited noise during night time hours.
27. No data was provided for the uplift in the volume of traffic during shift change, this has the potential to cause the most disruption. For that reason the UWAG survey was undertaken for a period of 3 hours from 6.30am until 9.30am.
28. The NVIA states L10 (the sound level exceeded for 10% of the time of the measurement period) will increase to 56dB from 55dB and therefore no impact.

Table 6 Predicted Change In Road Traffic Noise Levels

Existing Sensitive Receptors	Predicted Road Traffic Noise Level at ESRs, L _{10 24hour} dB(A)		Change in Noise Level associated with the Proposed Development
	Without Development	With Development	
ESR1 – 5 The Maples, to the east	53	53	0
ESR2 – 7 Willow Road, at the junction with Moss Lane to the north east	54	54	0
ESR3 – Windy Harbour, Moss Lane to the east	55	56	+1
ESR4 – 2 Ulmes Walton Lane, to the south	61	62	+1

29. The UWAG Noise Survey shows, during shift change, the LA10 is 66dB, an increase in 10dB. Also, the LAFmax recording reached 89.6dB at 8:01:51 (Dangerous levels over a period of time). The survey also shows a 9dB increase in recorded background noise from 33dB to 42dB.
30. Using the below table provided for the construction phase, it can be seen that 65dB would be a Significant Noise Impact. The UWAG survey shows that during shift change over (twice a day - 6.30am to 9.30am and 4.00pm to 7.00pm) average noise levels will almost reach the 65dB figure. We can therefore, state for at least 6 hours out of 11 the noise impact will be greater than the predicted figure stated by the MoJ.

Table 4 below identifies the appropriate category value in order to determine whether a significant noise impact has occurred, at ESRs, during earthworks and construction.

Table 4 Appropriate Category Value for Existing Sensitive Receptors

Description of Receptor	Representative Monitoring Location	Average Measured Daytime Level, dB L _{Avg,T}	Rounded Daytime Level to the Nearest 5 dB(A)	Appropriate Category Value, according to BS5228-1	Significant Noise Impact Threshold, dB L _{Avg,T}
Residential dwellings to the east of the site, Moss Lane	ML3	59	60	A	65
Residential Dwellings to the north east of the site, off Willow Road	ML2	44	45	A	65

31. Owing to an error in the OR, the garden to the west of Windy Harbour, Moss Lane was not considered as a garden.
32. The garden to the west of the property is parallel to Moss Lane. Cars travel North to South and vice versa at an average speed of approx. 30 mph. This gives very limited opportunity for overlooking.
33. The proposed entrance to the car park is directly opposite the garden of Windy Harbour. Headlights from vehicles exiting the car park during the winter months will not be the only impact to this property. The below images shows that the boundary hedge to Moss Lane is deciduous, therefore, all vehicles will have full visibility and will overlook Windy Harbour as they exit the car park. These will be directly facing the property of Windy Harbour and will not be fleeting. The pictures were taken on 27th November 2021, when as a result of storm Arwen, the fence between Windy Harbour and Longton Riding Club was damaged allowing sheep into the property - this is why there are sheep shown in the garden in the photographs



34. Moss Lane currently has around 250 car movements daily, if the appeal is successful this will increase to approx. 2000.
35. The travel assessment states 51% of additional traffic will come from the South of Ulnes Walton Lane and 49% will come from the North. 100% of the traffic will come up Moss Lane to the new proposed entrance, an increase of 900%. This will undoubtedly have a significant noise and disturbance impact on the entire length of Ulnes Walton Lane, and on those that presently live along the Lane.
36. The noise and disturbance throughout the construction and operational phase has the possibility of exacerbating mental health issues for local residents. To this end I have included statements from local residents, and one from myself, sharing the potential impact this development, if the appeal is allowed, may cause – appendix IX. Please note, two statements were provided by residents wishing to remain anonymous, one due to the sensitive nature of it involving a child and the other due to the resident being a well known author. UWAG were approached by residents wishing to share their anxiety regarding the proposal, UWAG have picked five to reduce duplication.

E **CONCLUSION**

37. In this proof, I suggest that the urgent need for prisons is overstated by the MoJ. UWAG accept there is a growing need for new prison spaces but it is not as urgent as suggested. The pandemic has had a significant impact on the growth in demand and there is no real prospect of the Crown Court backlog being eased any time soon.
38. I have also given evidence the noise and disturbance will be significantly greater than predicted by the MoJ. The proposed car park is not big enough to cater for the traffic generated by the proposed new prison, which will lead to even greater parking on the roadside.
39. Accordingly, on the basis of UWAG's evidence to this inquiry, and in particular on the expertise of Ms. Copley, I would invite the Inspector to dismiss the appeal.