

**APPEAL BY MINISTRY OF JUSTICE**

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

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**OPENING SUBMISSIONS ON BEHALF OF COUNCIL**

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**COUNSEL:**

Piers Riley-Smith

**INSTRUCTED BY:**

Alex Jackson, Chorley Council

**WITNESS:**

Mr Kevin Riley, Director, WSP (Transport)

Ms Tamsin Cottle, Associate Director, P&DG (Planning)

1. This is an appeal against Chorley Borough Council's ('the Council) refusal of planning permission for the hybrid planning application for a prison, boiler house and bowling green/club house at on land adjacent to HMP Garth and HMP Wymott, Leyland ('the Site').
2. The Site is 4.5ha piece of land around HMP Garth and HMP Wymott which is predominantly rural and entirely within the Green Belt. While a proportion of it carries a policy designation of being previously developed land in the Green Belt (BNE5) this does not reflect the green and open nature of the Site on the ground.
3. The Council refused permission on 22 December 2021 for three Reasons ('RfRs') which are set out in full in the Council's Statement of Case (at paragraph 2.10). In summary the first related to the lack of very special circumstances to justify the inappropriate development in the Green Belt. The second concerned the unacceptable impact that the proposal would have on highway safety due to the increased volume of traffic, and the third related to the impact that said increased traffic would have on the amenity of residents.
4. Based on the above RfR – as well as the concerns of the Ulnes Walton Action Group – the Inspector identified five main issues (which the Council agree with):
  - 1) *the effect of the proposal on the openness and purposes of the Green Belt;*
  - 2) *the effect of the proposal on highway safety;*
  - 3) *the effect of the proposal on the living conditions of occupiers of nearby properties with regard to noise and disturbance;*
  - 4) *the effect of the proposal on the character and appearance of the area; and*
  - 5) *whether harm to the Green Belt, and any other harm, would be clearly outweighed by other considerations (including the need for the development, the availability of alternative sites, the socio-economic benefits, and biodiversity net gain) so as to amount to the very special circumstances required to justify the proposal.*

5. Before turning to consider those main issues, it is important to set out a few general points.
6. The first is that all parties accept that the appeal proposal would be inappropriate development in the Green Belt. This is an undeniably large-scale development in an area of Green Belt which the Council will argue is open and perceived as being predominantly undeveloped – albeit one which is adjacent to two existing prisons.
7. However, the existence of the two prisons should not be viewed as somehow justifying the provision of a third. The proposal would stretch significant development into the Green Belt and into undeveloped countryside both through the construction of the new prison itself and the new bowling club. It would be fundamentally inconsistent with the great importance the Government attaches to Green Belt and the fundamental aims of national Green Belt policy (as enshrined in Section 13 of the NPPF).
8. The Appellant has to satisfy the Inspector (and the Secretary of State) that very special circumstances exist that would justify such an incursion – and the Appellant’s evidence falls short of this high bar.
9. The second is that it is right to recognise the fact that this was a decision made by Councillors against the advice of Officers. However, this is not something that the Council should be or is reticent about. It is the role of democratically elected Councillors to make planning decisions such as this – and they are perfectly entitled to come to a different view as to their Officers. This is especially true when that view reflects the strongly held and valid concerns of many local residents about this development. Views that at this Appeal are reflected, supported and enhanced by the professional expert evidence of the Council’s Transport and Planning witnesses.
10. Turning to the Council’s case at this appeal.
11. The second main issue (and 2<sup>nd</sup> RfR) concerns the impact that the significant number of additional daily vehicle movements (at least 1,332) generated by the development will have on the rural road network surrounding the Site. As will be addressed by Mr Riley the nature of the surrounding roads, their use by pedestrians, cyclists and equestrians, and the level of vehicle movements being focused onto quieter roads will

lead to an unacceptable safety impact. While the Appellant has attempted to mitigate some of these impacts, Mr Riley will set out why said mitigation is either unclear, untested or will fail to properly address his safety concerns. On that basis a refusal of the appeal scheme would be justified under paragraph 111 of the NPPF alone.

12. The remainder of the four main issues (and 1<sup>st</sup> and 3<sup>rd</sup> RfR) all tie into the overarching question at this appeal – whether there are very special circumstances which justify the inappropriate development in the Green Belt.
13. Through the evidence of Ms Cottle, the Council will set out how - as well as the definitional harm - the proposal will have a very significant impact on both the openness of the Green Belt and frustrate its purpose of safeguarding the countryside from encroachment. The Council will show how the Appellant has failed to properly analyse the impact the proposal would have – especially at closer distances – and how the ‘screening’ proposed is not an appropriate mitigation against Green Belt harm.
14. Ms Cottle will go onto address how there is also significant non-Green Belt harm arising from the safety impact of the traffic, the noise impact of the traffic and the loss of the countryside character of the Site and wider area. The weight of these collective harms set a very high threshold which the Appellant must show is clearly outweighed by the benefit of the proposal to establish very special circumstances.
15. In relation to those benefits the Appellant’s case seems – at the outset – to primarily be one of need. The suggestion being that as there is such a national urgent need for prison spaces that the Ministry of Justice has a blank cheque to build prisons of any size in any location.
16. However, the Council will show that there are two issues with this approach. The first is that the Appellant has failed to justify that there is such a level of need in this area to legitimate this specific size of prison (designed to be at the maximum end of the efficiency range). The second is that even if the need were established, the Appellant has also failed to show that this Green Belt site is the only appropriate location for meeting said need. Overall, the Council’s case is that the Appellant has failed to produce sufficient evidence to satisfy the Inspector and Secretary of State that a prison

of this size, and in this Green Belt location, is justified. Without this the Appellant's main 'benefit' falls away.

17. However even if need and location were established it is still the case that this alone does not justify developing in the Green Belt. The Council will go on to examine how the other purported benefits set out by the Appellant are either generic, overstated, or are meeting a requirement of policy rather than providing an express benefit.
18. Overall, by doing this the Council will show that the proposal would cause very substantial harm to the Green Belt, cause an unacceptable impact on highway safety and cause a harmful impact to both the character and appearance of the area and to the amenity of residents. These harms are not clearly outweighed by the benefits of the proposal as the evidence even at the outset of this inquiry does not show that this size of prison, in this sensitive location, is justified.
19. A national need for prison spaces would not give the Ministry of Justice carte blanche to build a prison of any size in any location. The Green Belt is a diminishing resource which should only be developed upon in very special circumstances. In this case Member's – and residents – view is that this is not the right place for a further prison. Their view is supported by the expert evidence of Mr Riley and Ms Cottle who will set out their reasoned justification for such a stance.
20. After the inquiry process – and the testing of the Appellant's evidence - the Council will submit that the Appellant falls far short of the high bar of very special circumstances. Accordingly, the Council will respectfully request that the Secretary of State (and the Inspector in his recommendation) dismiss this appeal.

*Piers Riley-Smith*

*12<sup>th</sup> July 2022*

KINGS CHAMBERS

MANCHESTER – BIRMINGHAM - LEEDS