

Our Ref: 21/01028/OUTMAJ
Your Ref: APP-D2320-W-22-3295556
Date: 9 March 2023

Mr Phil Barber Decision officer
Planning Casework Unit
Department for Levelling Up, Housing and
Communities
2 Marsham Street
London
SW1P 4DF

Dear Mr Barber,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY THE MINISTRY OF JUSTICE
LAND ADJACENT TO HMP GARTH AND HMP WYMOTT, LEYLAND, LANCASHIRE
APPLICATION REF: 21/01028/OUTMAJ**

1. We are writing in response to your 16 February 2023 Letter ('the Letter'), and your email of 1 March 2023 ('the Email').
2. Your Letter set out that the SoS was not in a position to consider our request under Rule 17 (5) of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 ('the Rules') because they had not yet received any further evidence from the MoJ.
3. This evidence has now been received by the SoS – and was provided to us on 1 March 2023. The evidence provided is clearly new highway evidence which is an attempt to persuade the SoS to disagree with the Inspector. If the SoS were disposed to do so, then this would clearly meet the criteria of Rule 17 (5), and the Council would have to be notified¹.
4. The Council therefore again formally request that the SoS re-open the Inquiry as they are required to do so under Rule 17 (5) and (7).
5. Furthermore, in relation to your Email, the Council note that only seven days were given for the Council to respond to 374 pages of technical highway evidence which the MoJ had six weeks to prepare. It is therefore unsurprising that the Council have been unable to provide a detailed and extensive reply to the evidence.
6. Instead, the Council has provided a high-level Note from the Council's highway experts, WSP. The Note highlights several flaws, omissions, and issues with the MoJ's further

¹ Although the SoS would be entitled to refuse permission and dismiss the Appeal – thus agreeing with the Inspector – without the need for the Inquiry to be re-opened.

evidence which gives rise to serious concerns. This means that the SoS cannot be satisfied that the highway safety issues identified by the Inspector can be satisfactorily addressed.

7. The Note should not be taken to be a comprehensive statement of the Council's concern, nor a complete rebuttal of the MoJ's stance. It would have been impossible to do so within the seven days provided for a response. The purpose of it is to illustrate the importance of re-opening the inquiry so the highway evidence can be properly examined and considered – through the submission of proofs as part of a re-opened Inquiry.
8. It is important to note that, while the request is justified as shown by WSP's Note, the SoS has no discretion under Rule 17. Once informed the Council have the right to request that the inquiry be re-opened, and if such a request is made by the Council, then the SoS "*shall do so*". It is mandatory.
9. This letter can be taken – like our 9 February 2023 Letter – to be a formal request for the Inquiry to be re-opened.
10. We look forward to hearing from you as to confirmation of the formal re-opening and arrangements for the practicalities of holding the re-opened Inquiry.

Yours sincerely,

Adele Hayes, Chief Planning Officer
on behalf of Chorley Borough Council