

# HMP Garth Wymott 2

## Statement of Common Ground

### Mace (On behalf of the Ministry of Justice)

June 2023

Appeal Ref. APP/D2320/W/22/3295556

Between Chorley Council and the Ministry of Justice

# Notice

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## Document history

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# 1. Introduction

## 1.1. Background

1.1.1. This Statement of Common Ground (SoCG) comprises the agreed matters between the Ministry of Justice (“the Appellant”) and Chorley Council (“the Council”). It has been prepared and submitted in relation to the appeal brought forward by the Ministry of Justice (APP/D2320/W/22/3295556) for the following development:

*“Hybrid planning application seeking: Outline planning permission (with all matters reserved except for means of access, parking and landscaping) for a new prison (up to 74,531.71 sqm GEA) (Class C2A) within a secure perimeter fence following demolition of existing buildings and structures and together with associated engineering works; Outline planning permission for a replacement boiler house (with all matters reserved except for access); and Full planning permission for a replacement bowling green and club house (Class F2(c)) on land adjacent to HMP Garth and HMP Wymott, Leyland”*

1.1.2. This SoCG relates to an appeal against the decision of the Council’s Planning Committee to refuse planning permission at their meeting on 21 December 2021, contrary to their officer’s recommendation. The decision notice was issued on 22 December 2021.

1.1.3. The application was refused for the following reasons:

- i. The proposed development would have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development on that part of the site that is previously developed and would encroach onto open countryside and is inappropriate development in the Green Belt. Substantial weight attaches to the harm to the Green Belt by reason of inappropriateness and further harm arising here by reason of the impact of the proposed development on the openness of the Green Belt and encroachment. The benefits associated with the proposed development would not clearly outweigh the resulting harm and, therefore, do not constitute, individually or cumulatively, very special circumstances required if inappropriate development is to be approved in the Green Belt in accordance with paragraph 148 of the National Planning Policy Framework.
- ii. The proposed development would have an unacceptable impact on highway safety by virtue of the increased traffic movements and inadequate highway infrastructure, contrary to paragraph 109 of the National Planning Policy Framework and policy BNE1 of the Chorley Local Plan 2012 - 2026.
- iii. The potential noise nuisance and disturbance associated with the vehicular traffic movements that would be generated throughout the use of the development would result in a harmful impact on the amenity of residents in the locality contrary to policy BNE1 of the Chorley Local Plan 2012 - 2026.

1.1.4. Following the appeal against the decision, a public inquiry was held in July 2022.

- 1.1.5. The Inspector’s Report (IR) to the Secretary of State (SoS), dated 20 October 2022, recommended that the appeal be dismissed.
- 1.1.6. Following consideration of the IR, a ‘minded to grant’ decision was made by Lee Rowley MP, the Parliamentary Under Secretary of State for Local Government and Building Safety, on behalf of the SoS. The decision was set out in a letter dated 19 January 2023. At Paragraph 4 of the letter, the SoS decided to give the Appellant and other parties the opportunity to provide further evidence on highways issues.
- 1.1.7. The following table provides a summary of the additional highways evidence which has been submitted since the publication of the SoS letter.

**Table 1-1 - Additional Highways Evidence Submitted (Since 19 January 2023)**

Document	Originator	On Behalf Of	Core Document Ref
Additional Highways Evidence, March 2023	Atkins	Ministry of Justice	M3
Technical Note: Review of Atkins Additional Evidence on behalf of Chorley Council, March 2023	WSP	Chorley Council	N2
230302 R6 PoE Highway Safety (10)	Emma Curtis	Ulnes Walton Action Group (UWAG)	O2
Letter dated 17 March 2023 providing initial observations	Atkins	Ministry of Justice	M4

- 1.1.8. Following submission of the additional highways evidence, it was confirmed that the Inquiry would be reopened on 19 September 2023.
- 1.1.9. This SoCG sets out the matters agreed, and the matters in issue between the Appellant and the Council. A separate SoCG has been produced for matters between the Appellant and UWAG.
- 1.1.10. Please note, Core Document C7 is a signed SoCG between the Ministry of Justice and the Council. Core Documents C8 is a signed SoCG between the Ministry of Justice and UWAG. These documents were submitted as part of the Hybrid Planning Application and outline the matters agreed at the time of the public inquiry held in July 2022.

## 2. Matters Agreed

### 2.1. Study Area

2.1.1. In relation to road safety, the Transport Assessment (TA) (Core Document A35) was based on the following Study Area:

- i. Moss Lane;
- ii. Ulnes Walton Lane (between the B5248 Dunkirk Lane and the A581);
- iii. The Ulnes Walton Lane/B5248 Dunkirk Lane junction; and
- iv. The Ulnes Walton Lane/A581 junction.

2.1.2. The evidence submitted during the first Inquiry, including both Mr Riley's and Mr Yeates' Proofs (Core documents F3 and E4) both refer to this Study Area. To this extent the conclusions on highway safety from the Inspector and SoS are defined to this Study Area.

### 2.2. Traffic Surveys and Committed Development

2.2.1. The traffic surveys undertaken by the Appellant in March 2021 were validated against pre-COVID survey data provided by the Lancashire County Council (LCC), the Local Highway Authority (LHA). Section 7.2.1 within the Transport Assessment (TA) (Core Document A35) outlines the approach undertaken.

2.2.2. It is agreed that the approach undertaken in response to COVID-19 is satisfactory and the survey data submitted provided a suitable baseline against which to assess the impacts of the proposed development at the time of the first inquiry.

2.2.3. IR Paragraph 13.18 states that "It is common ground between the Appellant and the Council that the approach to the traffic surveys is appropriate and has been validated by the LHA. It provides a suitable baseline, and the TA takes into account committed development."

2.2.4. The Appellant and Council agree that the approach to the traffic surveys and committed development was satisfactory at the time of the first inquiry. The Council do not intend to carry out further traffic surveys.

### 2.3. Trip Generation

2.3.1. Section 5.2.1 in the TA (Core Document A35) provided trip generation forecasts for the proposed development during the operational phase.

2.3.2. IR Paragraph 13.19 states that "In the operational phase, there is no dispute that the prison would generate around 1,330 trips per day from staff and visitors. This excludes ancillary traffic, such as deliveries and contractors, which could take place at any time of the day albeit trip numbers are likely to be much lower than for staff and visitors."

2.3.3. The Appellant and Council agree that the approach to the operational trip generation is satisfactory.

## 2.4. Traffic Analysis

2.4.1. It is agreed that the trip distribution (Section 5.3.4) and assignment (Section 5.3.5) outlined within the TA (Core Document A35) is appropriate.

2.4.2. It is agreed that the traffic growth factors (Section 7.2.2), and the future year traffic scenarios (Section 7.2.6) outlined within the TA (Core Document A35) are appropriate.

## 2.5. Road Safety

### Personal Injury Accident Data

2.5.1. It is agreed that the data provided in Section 5.4 of the Proof of Evidence (PoE) for Steve Yeates (Core Document E4) provides a suitable assessment of the existing Personal Injury Accident (PIA) data.

### Analysis

2.5.2. A COBALT assessment was included in Section 5.5 of the PoE for Steve Yeates (Core Document E4). A further assessment was submitted during the Inquiry (Core Document K13).

2.5.3. It is agreed that the results of the COBALT assessments presented at the first inquiry did not forecast an increase in PIAs as a result of operational traffic.

## 2.6. Mitigation

2.6.1. It is agreed that the highway improvement scheme shown on Drawing GARTH-ATK-HGN-ULNES-DR-D-001-P1 (Appendix B in Core Document A37) is agreed except for the proposed improvements along Ulnes Walton Lane within the vicinity of the junction with Moss Lane.

## 2.7. Link Capacity

2.7.1. Highway link capacity was assessed in the following documents:

- i. Transport Rebuttal by Mr Steve Yeates (Core Document E12); and
- ii. Atkins Note on Congestion Reference Flow (Core Document K14).

2.7.2. IR Paragraph 13.21 concluded that “the appellant has demonstrated that Moss Lane and Ulnes Walton Lane would not exceed their link flow capacity in terms of the projected number of vehicles per hour in the AM and PM peak”

2.7.3. It is therefore agreed that the link capacity on unconstrained sections of Ulnes Walton Lane and Moss Lane (i.e., not on junction approaches) would not be exceeded as a result of operational traffic. Junction Capacity and Operation

- 2.7.4. It is agreed that the following junctions require assessment:
- i. Site Access/Moss Lane;
  - ii. Moss Lane/Ulnes Walton Lane;
  - iii. Ulnes Walton Lane/B5248 Dunkirk Lane; and
  - iv. Ulnes Walton Lane/A581 junction.
- 2.7.5. It is agreed that the following junctions will operate safely and suitably once the proposed development is operational:
- v. Site Access/Moss Lane; and
  - vi. Ulnes Walton Lane/B5248 Dunkirk Lane.

## 2.8. Public Rights of Way

- 2.8.1. IR Paragraph 13.25 concluded that “Ulnes Walton Lane” is used by equestrians and recreational cyclists and has crossing points for walkers using Public Rights of Way. Whilst an increase in traffic would have implications for these non-motorised users, these users are typically restricted to certain times of the day and week and generally dispersed. Therefore, it is unlikely that the proposal would materially worsen the risks to these users.”
- 2.8.2. It is therefore agreed that there would be no need for formalised crossing points along Ulnes Walton Lane where it meets a Public Right of Way.

## 2.9. Sustainable Transport

- 2.9.1. It is agreed that the following mitigation measures will be delivered via a s106 contribution to facilitate improved access by Public Transport:
- i. £100,000 per annum for a period of 5 years to fund the enhancement of the existing 112 bus service.
- 2.9.2. It is agreed that no improvement measures or contributions are required at Croston Railway Station because the number of development trips forecast to be undertaken via Rail would be minimal.
- 2.9.3. It is agreed that a Cycleway Contribution will be paid, as defined in the S106 (Core Document C9).

## 2.10. Travel Plan

- 2.10.1. The submitted Travel Plan is agreed, including the:
- i. Objectives and Targets;
  - ii. Monitoring, Marketing and Coordination;
  - iii. Travel Plan Measures; and
  - iv. Action Plan.
- 2.10.2. It is agreed that a one-off £18,000 S106 contribution will be provided to enable the Highway Authority to monitor and appraise the Travel Plan for a period of 5 years.

## 2.11. Development Access

- 2.11.1. It is agreed that the formation of a temporary construction access to the public highway along Moss Lane and its subsequent alteration to a permanent access would not give rise to any highways concerns in terms of the access itself. It is agreed that the formation of the temporary construction access and the subsequent alteration to a permanent access would be undertaken through a s278 agreement with the associated costs borne by the Appellant.

## 2.12. Internal Site Layout and Car Parking

- 2.12.1. It is agreed that the quantum of proposed car parking is sufficient to satisfy demand from the proposed development.

## 2.13. Consultation with Lancashire County Council

- 2.13.1. It is agreed that LCC as the LHA, have been fully consulted throughout the application process, and offered no objection to the Hybrid Planning Application.
- 2.13.2. Furthermore, following the submission of the additional highways evidence (see Table 1-1), LCC continues to have no objection to the proposed development.

## 3. Matters in Issue

### 3.1.1. General Issues

- 3.1.2. Whether the appeal proposal would have an unacceptable impact on highway safety and be contrary to paragraph 111 of the NPPF.

### 3.2. Ulnes Walton Lane Carriageway Markings and Traffic Calming

- 3.2.1. Within the decision letter, the Inspector notes that the Appellant has made reference to reviewing/amending the existing carriageway markings at the Moss Lane/Ulnes Walton Lane junction, and additional measures are proposed. However, the specific details were not included on Drawing GARTH-ATK-HGN-ULNES-DR-D-001-P1 (Appendix B in Core Document A37).

- 3.2.2. In response, the Appellant has produced a preliminary highway design for the Moss Lane/Ulnes Walton Lane junction which demonstrates the specific measures proposed, including

- New chevron warning signs on yellow backing boards;
- Additional 40mph repeater signs along Ulnes Walton Lane;
- New high friction surfacing through the junction; and
- New advanced warning signage on yellow backing boards.

- 3.2.3. The updated design is shown on DWG: GARTH\_ATK\_HGN\_MOSS\_DR\_D\_0003 in Appendix B of the Highways Evidence (Core Document M3). LCC has reviewed the proposals and confirmed that they are acceptable, and that they would be delivered via a Section 278 (s278) Agreement with LCC.

- 3.2.4. There remains disagreement regarding the extent, design and effectiveness of the additional measures.

### 3.3. Moss Lane Traffic Calming

- 3.3.1. A traffic calming scheme along Moss Lane was proposed as part of the Hybrid Planning Application (see Core Document A37). However, within the decision letter, the SoS agrees with the Inspector who notes that vehicles would still be tempted to speed along the southern section of Moss Lane despite the traffic calming measures proposed.

- 3.3.2. In response to this, the Appellant has proposed new measures along Moss Lane (see Appendix G within Core Document M3) which include:

- 'Dragons Teeth' markings to indicate vehicles are entering a traffic calmed area;
- A raised table at the existing access to HMP Garth and HMP Wymott; and
- Traffic calming features with hatching to narrow carriageway (four in total).

- 3.3.3. The Appellant considers that these proposals would be sufficient to reduce traffic speeds along Moss Lane and address the concerns raised by the SoS and the Inspector. LCC, as the LHA has reviewed the revised proposals and confirmed that they are acceptable.
- 3.3.4. The Council assert that the updated scheme has not changed much from the initial proposal and does not fully mitigate the proposals at this location (see Paragraph 4.1.12 in Core Document N2).
- 3.3.5. There remains disagreement on the design and effectiveness of the traffic calming scheme.

### 3.4. Footway between Ulnes Walton Lane and Moss Lane

- 3.4.1. Within the decision letter that the SoS agrees with the Inspector, who concludes that without a new footway (between Ulnes Walton Lane and Moss Lane) people would continue to walk in the road or along the verge to access the northbound bus stop. According to the Inspector, this would result in an increased risk of vehicle or pedestrian conflict.
- 3.4.2. In response to this, the Appellant produced additional highways designs for the Moss Lane/Ulnes Lane junction which outlines the specific measures proposed at this junction, including a 2m wide footway along Ulnes Walton Lane and the southern section of Moss Lane (see Section 3.4 and Appendix G within Core Document M3).
- 3.4.3. There is disagreement regarding the mitigation for pedestrian movements in the vicinity of the Ulnes Walton Lane/Moss Lane junction.
- 3.4.4. The disagreement is concerned with the impact of the development for other local users, specifically, pedestrians walking in the road when travelling to the nearby bus stops.

### 3.5. A581/Ulnes Walton Lane Mitigation

- 3.5.1. IR Paragraph 13.31 concluded that “it has not been demonstrated that the (proposed mini roundabout) would resolve capacity issues or that the financial contribution would be sufficient. The inability to satisfactorily mitigate the effects on this junction means that the proposal would have an unacceptable impact on highway safety.”
- 3.5.2. In response to this, the Appellant has produced a preliminary highways design for the A518/Ulnes Walton Lane junction (see Appendix J in Core Document M3) which includes:
- The provision of a raised table;
  - The provision of speed cushions along the A581;
  - Three new lighting columns on the Ulnes Walton Lane approach;
  - Relocated speed limit signs along Ulnes Walton Lane to extend the existing 30mph zone;
  - A reduced Inscribed Central Diameter (ICD); and
  - Dragons Teeth on all approach arms.
- 3.5.3. There remains disagreement whether the submitted scheme will provide safe and suitable mitigation at this location.

- 3.5.4. There remains disagreement between the parties that the financial contribution previously to be secured in the S106 towards the A581 Highway Improvements, is now no longer needed as the improvements will be secured through an agreement pursuant to S278 of the Highways Act 1980.

### 3.6. Construction Phase Assessment

- 3.6.1. IR Paragraph 13.33 states that the “Appellant has not modelled or assessed the forecast construction traffic, neither have they demonstrated that the highway effects of the construction phase can be adequately mitigated.”
- 3.6.2. In response, the Appellant has provided a summary of the construction routing assessment undertaken, the updated construction forecasts, standalone junction capacity modelling, and a summary of the measures contained within the Working Draft CTMP (Core Document K11). This additional information is provided in Section 6 of Atkins Highways Evidence (Core Document M3).
- 3.6.3. There remains disagreement whether the construction traffic can be adequately mitigated.

## 4. Declaration

4.1.1. This is an agreed Statement of Common Ground between the Ministry of Justice and Chorley Council.

Signed by:



.....

On behalf of the Ministry of Justice

And:



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On behalf of Chorley Council