

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

PROOF OF EVIDENCE

PLANNING

Land adjacent to HMP Garth and Wymott

Ministry of Justice

June 2022

CONTENTS

1.	Experience	3
2.	Introduction	5
3.	Site Description	7
4.	Appeal Proposal	11
5.	Planning Policy	13
6.	Material Considerations	27
7.	Reasons for Refusal	45
8.	UWAG Case	61
9.	Third Party Representations	62
10.	Summary and Conclusions	64

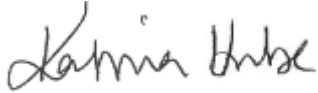
Appendix A: Economic Benefits

Appendix B: Ecology Note

Appendix C: External Lighting Note

1. Experience

- 1.1 My name is Katrina Hulse and I have a BA (Hons), an MA in Town and Regional Planning and a Post Graduate Diploma in Law. I am a Chartered Member of the Town Planning Institute, and I am also an unregistered Member of the Bar of England and Wales.
- 1.2 I am a partner at Cushman & Wakefield and head of the Yorkshire and North East planning team based in the Leeds office. Cushman & Wakefield are a real estate company, which operates both in the UK and globally.
- 1.3 I am the planning lead for the Ministry of Justice contract at Cushman & Wakefield and over the last 2 years have advised the Ministry of Justice on planning matters in relation to prison expansion both in terms of new prisons and existing prison capacity.
- 1.4 I have been instructed by the Ministry of Justice ('the Appellant') to provide expert witness evidence on the planning case for a new prison on land adjacent to HMP Garth and HMP Wymott, Leyland ('the Site) that has been refused planning permission by Chorley Borough Council ('the Council') (**CD/A100**).
- 1.5 I have over twenty years' experience working in planning consultancy and advise both private and public sector clients on a range of town planning related matters. I have worked on projects in a range of sectors and have advised the MOJ on a number of sites in England regarding their suitability to be brought forward for new prisons. In addition, I also advise the MOJ on planning strategies on the delivery of additional accommodation and facilities within existing prisons.
- 1.6 I have advised clients on developments across the United Kingdom, particularly large scale contentious schemes including development in the Green Belt.
- 1.7 I also advise clients on the promotion of strategic sites through the development plan process.
- 1.8 I have visited the Site which is the subject of this appeal and I am acquainted with the local area and understand the range of issues that the development proposal gives rise to.
- 1.9 The evidence I have prepared and provided for this appeal is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

Signed	
Name	Katrina Hulse
Position	Partner
Date	14th June 2022

2. Introduction

2.1 The appeal proposal is against the refusal of the Council to grant planning permission to the Appellant for a hybrid planning application for a new prison and associated ancillary facilities, a replacement boiler house and a replacement bowling green. The appeal proposal was refused by the Council on the 22nd December 2021 for the following three reasons (**CD/A100**):

1. *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.*
 2. *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.*
 3. *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.*
- The appeal was submitted to the Planning Inspectorate (PINS) on the 25th March 2022 and was given a start date of the 4th April 2022. Following the submission of the appeal, the Ulles Walton Action Group (UWAG) wrote to PINS requesting that they become a Rule 6 Party. PINS agreed to this request and confirmed their status on the 21st April 2022. UWAG in their Statement of Case (**CD/C5**) have raised points relating to the following issues:
 - Significant and National Need
 - Lack of Alternative Sites
 - Socio-Economic Benefits
 - Biodiversity Net Gain and Ecological Assessment

- Highways and Transport Assessment
- Noise and Disturbance
- Engagement/Consultation with the community

2.2 Clarification was sought at the Case Management Conference (CMC) on the 18th May 2022 regarding the number of the witnesses UWAG proposed to put forward at the Inquiry and it has been agreed that only a planning witness and two members (non expert) from UWAG will be called with the Council calling three witnesses on planning, highways and noise.

3. Site Description

3.1 In this section I provide a description of the surrounding Site context, the nature of the land uses and of the application Site itself. Further details of the Site and the surrounding area and an analysis of the Site context are contained within the Design and Access Statement that accompanied the planning application (CD/A5).

Surrounding Area

3.2 The Site is situated in the countryside about 3.2km south-west of Leyland. Preston is located about 8.9km to the north, Blackburn is 19km to the north east and Liverpool is 43km to the south-west. The M6 is situated circa 4.8km to the east with the site accessible via junction 28 (Leyland).

3.3 Direct access to the Site is off Moss Lane, via Ulnes Walton Lane which runs to the east of the existing prisons from Leyland in the north to a junction with the A581 at Ulnes Walton in the south. Moss Lane only serves the two prisons and circa 130 houses. The local road system, although comprised of minor roads, is generally good.

3.4 The nearest railway is Croston, about 4.8km by road. This is served by the Ormskirk branch line running between Preston and Ormskirk. There is a second station on the West Coast mainline at Leyland, about 8km away by road. There is a regular hourly bus service from Leyland station to the prisons.

3.5 To the north of the Site is an 'L' shaped belt of mature trees which runs along the northern boundary. Beyond this the land is in agricultural use.

3.6 To the east of the Site lies a small residential development, which it is understood was originally developed to provide prison officer accommodation. The housing is separated from HMP Wymott by Willow Road and an area of grass verge (circa 25 metres) that has been recently planted with tree saplings – presumably to eventually create a screen between the housing and the existing prison.

3.7 Land to the south and west of the prison complex is predominantly in agricultural use. The topography of the surrounding area is relatively flat.

The Site

3.8 The Site comprises of 43.5ha of land in the Appellant's ownership. The Site is adjacent to HMP Garth and HMP Wymott and comprises of three development areas. Figure 1 below shows the redline boundary of the Site.

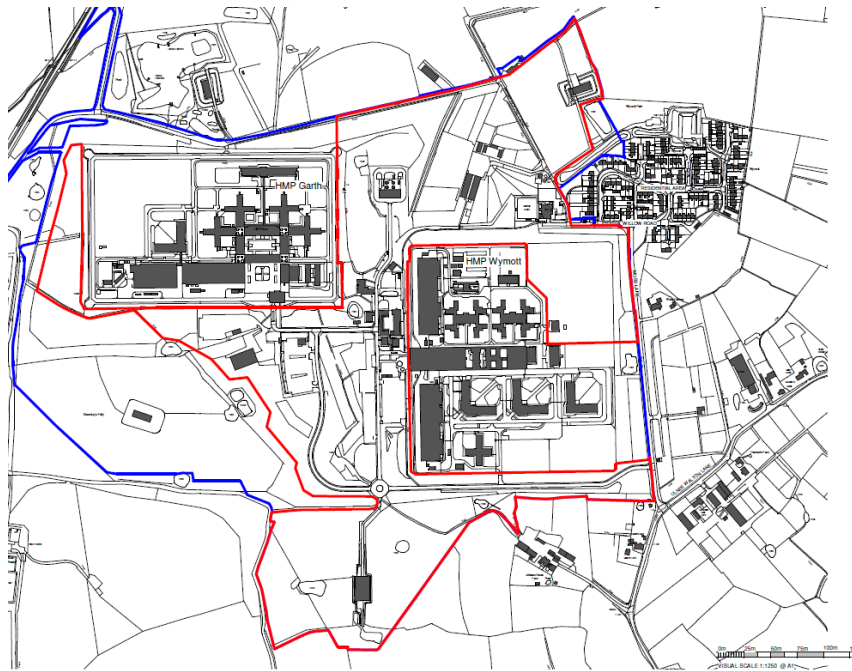


Figure 1: Site Location Plan

- 3.9 HMP Garth comprises an 850 capacity Category B men's prison, whilst HMP Wymott comprises a Category C men's training prison with a capacity of circa 1100 prisoners.
- 3.10 The Site and the adjacent prisons are situated on land that was formerly an army ammunition depot, the remnants of which are still visible in the landscape to the north of the Site.
- 3.11 There are no listed buildings on the Site or in close proximity to it. The site is not located within a conservation area, nor does it include or form part of a Scheduled Monument. The Site is not a designated nature conservation site such as a SSSI or local nature reserve.

Planning History

3.12 HMP Garth was completed in 1988 with an additional cell block being added in the early 21st century. HMP Wymott was completed in May 1979 and following disturbances in 1993, wings C and D had to be replaced. An additional houseblock was constructed in the mid 1990s.

3.13 The applications relevant to this appeal proposal are set out in Table 1 and the full planning history of the Site can be found in the Planning Statement submitted with the application at Appendix 2 (CD/A3).

Application ref.	Address	Description	Date of Decision	Decision
07/01197/FULMAJ	HMP Wymott	Erection of sixty-four place prisoner block with ancillary soft tarmac multi court exercise area, extension to staff car park and provision of additional visitors car parking spaces	09/01/2008	Permission
07/00873/FUL	HMP Wymott	Renewal of temporary planning permission 02/00601/CIRC to retain Prison Accommodation Unit	25/09/2007	Permission
04/00385/CIRC	HMP Garth	Circular 18/84 application for the erection of cranked three storey houseblock and a first-floor security link	30/06/2004	No objection
03/00985/CIRC	HMP Garth	Circular 18/84 to seek full planning clearance for the construction of a one cranked three storey, 180 place houseblock, a new kitchen and a first-floor security link	21/10/2003	Objection
02/01184/CIRC	HMP Wymott	Erection of additional accommodation	22/01/2003	No Objection
02/00601/CIRC	HMP Wymott	Circular 18/84 application for additional prisoner living accommodation	31/07/2002	No Objection
02/00069/CIRC	HMP Wymott	Circular 18/84 Application for erection of additional accommodation block (renewal of 9/96/474/CIRC)	27/03/2002	No Objection
02/00067/CIRC	HMP Garth	Circular 18/84 Application for erection of two additional accommodation blocks (renewal of 9/96/388/CIRC)	27/03/2002	No objection
96/00388/CIRC	HMP Garth	Circular 18/84 Application for erection of two additional	10/07/1996	No objection

93/00880/FUL	HMP Wymott	accommodation blocks Construction of two three storey living units and all-weather pitch jogging track	08/03/1994	Recommended for approval
80/01230/CIRC	HMP Wymott	Circular 7/77 Notification. Proposed new prison	19/01/1981	No objection to principle of development
75/00091/CIRC	HMP Garth	Straightening out of access road (Moss Lane) to prison officers housing accommodation within new prison complex. Circular 80 procedure.	19/03/1975	No objection

Table 1: Planning History

3.14 The planning history of both HMP Garth and HMP Wymott demonstrates that over the lifetime of these two prisons additional accommodation has been approved in order to meet the growing need for prison places. This has resulted in an efficient use of the available land within these two prisons.

4. Appeal Proposal

Description of Development

4.1 The description of the proposed development is:

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

4.2 The indicative site layout proposes a range of buildings and facilities typical of a Category C resettlement prison, including

- 7 new houseblocks each accommodating up to 245 prisoners (1,715 prisoners in total), - circa 53,472 sqm. Gross External Area (GEA)
- Supporting development including kitchen, workshops, kennels, Entrance Resource Hub, Central Services Hub and support buildings – circa 21,060 sqm. GEA
- Ancillary development including car parking (circa 525 spaces), internal road layout and perimeter fencing totalling 1,326 linear metres enclosing a secure perimeter area of 10.5ha

4.3 The house blocks will be four storeys in height, whilst other buildings will range from one to three storeys.

4.4 Other development proposed includes kennels, polytunnels, car parking (circa 525 spaces), internal road layout (shown for illustrative purposes) and perimeter fencing.

4.5 In the north eastern corner of the Site is an existing bowling green and club house. This will be demolished and re-provided on a grass field to the south of the existing prisons, to the south-west of the roundabout on the internal access road of the existing prisons.

4.6 In the north of the Site is an existing boiler house, which will also be demolished and re-provided on land between HMP Garth and HMP Wymott, to the south of the existing location and to the south west of the new prison site.

4.7 The new prison will be designed and built to be highly sustainable and to exceed local and national planning policy requirements in terms of sustainability. The Appellant's aspirations at this site include targeting near zero carbon operations, a minimum of 20% biodiversity net gain

(BNG), and at least BREEAM 'Excellent' certification with an aspiration to achieve BREEAM 'Outstanding'.

- 4.8 The appeal proposal is formed of three distinct components. Outline planning permission with all matters reserved except for means of access, scale, siting of car parking and landscaping, is sought for the new prison and replacement boiler house, whilst detail planning permission is sought for the new bowling green and club house. This is due to the phasing requirements and need to deliver the bowling green at an early stage in the programme. Further details of each of these elements are set out in Section 3 of the Planning Statement **(CD/A3)**.

5. Planning Policy

The Development Plan

- 5.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permission shall be determined in accordance with the development plan unless material considerations indicate otherwise. Conversely, applications that are not in accordance with relevant policies in the plan should not be allowed unless material considerations justify a grant of planning permission.
- 5.2 The development plan for Chorley Borough Council comprises:
- Central Lancashire Core Strategy (CLCS) (2012) **(CD/I2)**
 - Chorley Local Plan 2012 – 2026 (CLP) (2015) **(CD/I1)**
 - Joint Lancashire Minerals and Waste Core Strategy (2009) **(CD/I3)**
 - Joint Lancashire Minerals and Waste Site Allocation and Development Management Policies Parts 1 and 2 (2013). **(CD/I5)**

Development Plan Policies not in Issue

- 5.3 There are a number of policies in the development plan documents that are relevant to the appeal proposal but that are not cited in the reasons for refusal. The relevant policies not in issue with the Council are set out below.

Central Lancashire Core Strategy (2012)

- 5.4 The Central Lancashire Core Strategy (CLCS) **(CD/I2)** was adopted in 2012 and sets out the vision, objectives and spatial strategy for Central Lancashire to 2026.
- Strategic Objective 1
 - Strategic Objective 10
 - Policy MP
 - Policy 1 (Locating Growth)
 - Policy 3 (Travel)
 - Policy 13 Rural Economy
 - Policy 15 (Skills and Economic Inclusion)

- Policy 17 (Design of New Buildings)
- Policy 18 (Green Infrastructure)
- Policy 21 (Landscape Character Areas)
- Policy 22 (Biodiversity and Geodiversity)
- Policy 24 (Sport and Recreation)
- Policy 26 (Crime and Community Safety)
- Policy 27 (Sustainable Resources and New Developments)
- Policy 29 (Water Management)
- Policy 30 (Air Quality)
- Policy 31 (Agricultural Land)

Chorley Local Plan (2015)

5.5 The Site is located in the Green Belt and is designated as a Previously Developed Site within the Green Belt where policy BNE5 is applicable. An area of the new prison site is also allocated as a Minerals Safeguarding Area. Ridley Lane and part of Pump House Lane running east-west along the north boundary of the application site is allocated as a New Cycle Route (Policy ST1). An extract of the policies map is set out at Figure 2 below.

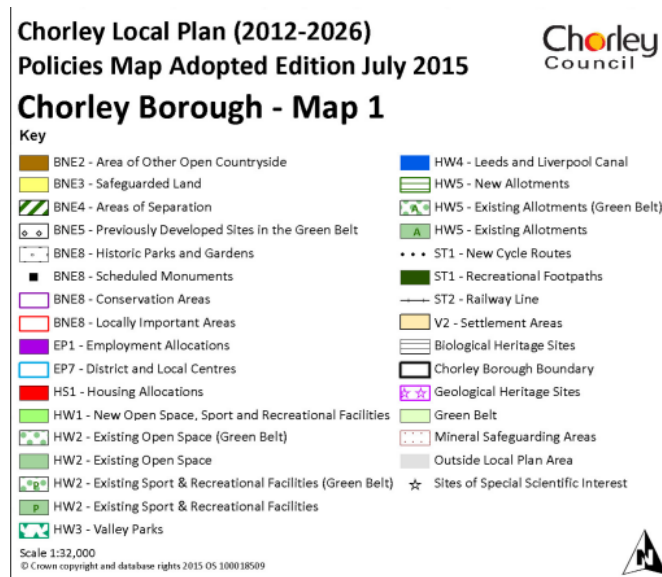


Figure 2: Chorley Local Plan Policies Map Extract and Key

5.6 The Chorley Local Plan (CLP) (**CD/I1**) was adopted in 2015 and covers the period 2012 to 2026. Policies. Relevant policies not in issue with the Council are set out below:

- Policy V1 (Model Policy)

- Policy ST1 (Provision or Improvements of Footpaths, Cycleways, Bridleways and their Associated Facilities in Existing Networks and New Development)
- Policy ST4 (Parking Standards)
- Policy BNE5 (Redevelopment of Previously Developed Sites in the Green Belt). This is a permissive policy that allows for the redevelopment of previously developed sites in the Green Belt, provided that the appearance of the site as a whole is maintained or enhanced and that all proposals, including those for partial redevelopment are put forward in the context of a comprehensive plan for the site as a whole. Although this policy does not provide specific support for the appeal proposal, I do not consider that the appeal proposal conflict with it either. This is also the Council's position and for these reasons is not a policy cited in the reasons for refusal.
- Policy BNE6 (Light Pollution) – this policy states that applications for development requiring, or likely to require, external lighting must include details of the lighting scheme as part of the application. Lighting schemes will be permitted provided the applicant demonstrates that:
 - i. The amount of lighting is the minimum required for security and public safety.
 - ii. Light spillage will be minimised; and
 - iii. There will be no nuisance to neighbours.

The external lighting note at Appendix C of my evidence confirms that the external lighting for the new prison has been designed using LED lamp sources and limit lighting overspill to as '*minimal as practicably possible*' but is compliant with a number of technical specifications including BREEAM Credit Pol 04 Reduction in Night-time Light Pollution. Based on other new prison sites overspill has been confirmed to be as little as 0.5 lux within a few metres of the perimeter fence lines thereby minimising light spillage. In respect to the proposed external lighting on the access road and within the car park, although expected to be operated from dawn to dusk, this could be dimmed, or even switched off to reduce any impacts on amenity to the nearby residential properties. The proposed lighting scheme has been designed to minimise light spillage whilst ensuring that the safe and security of the prison will not be compromised.

- Policy BNE9 (Biodiversity and Nature Conservation) – this policy state that in Chorley, Biodiversity and Ecological Network resources will be protected, conserved, restored and enhanced. The policy requires development to comply with a number of criteria including biodiversity net gain, opportunities for habitats and species to adapt to climate

change, support for habitat restoration, ensuring that all surveys are carried out where protected habitats/species may be impacted.

- The impact on biodiversity and ecology do not form part of the reasons for refusal and although Biodiversity Net Gain and Ecological Assessment were originally raised as an issue, the Statement of Common Ground **(CD/C8)** agreed confirms that this is no longer a matter in issue between UWAG and the Appellant.
- Policy BNE10 (Trees)
- Policy BNE11 (Species Protection) – this policy states that planning permission will not be granted for development which would have an adverse effect on a priority species unless the benefits of the development outweigh the need to maintain the population of the species in situ. Should development be permitted that might have an effect on a priority species, planning conditions or agreements will be used to:
 - a) Facilitate the survival of the individual species affected
 - b) Reduce the disturbances to a minimum; and
 - c) Provide adequate alternative habits to sustain the viability of the local population of that species.

As discussed above, there is no longer any dispute between the parties regarding the assessment methods undertaken and UWAG agree that the ecology surveys undertaken are comprehensive and suitably identify all protected species present on the site and agree the approach to mitigation for the identified impacts on protected species **(CD/C8)**.

- Policy HW2 (Protection of Existing Open Space, Sport and Recreational Facilities – states that land and buildings currently or last used as, or ancillary to, open space or sports and recreational facilities will be protected unless:
 - a) Alternative facilities of an equivalent or enhanced standard are provided nearby before the existing facilities cease to be available; or
 - b) It can be demonstrated that the loss of the site would not lead to a deficit of provision in the local area in terms of quantity and accessibility; and
 - c) The site is not identified as being of high quality and/or high value in the Open Space Study; and
 - d) It can be demonstrated that retention of the site is not required to satisfy a recreational need in the local area; and

- e) The site does not make a significant contribution to the character of an area in terms of visual amenity.

The existing bowling green and club house will be re-provided for on a site that is equally accessible to members of the club compared with the existing facility. The new facility will be of higher quality than the existing facility and will be provided in advance of the loss of the existing.

There is some limited conflict with policy HW2 insofar as there will be a loss of a playing pitch for prisoners at HMP Garth Wymott notwithstanding that appropriate provision will be provided within the new prison. Further explanation in respect to this limited conflict is provided in Section 7 of my evidence below.

- Policy HW6 (Community Facilities)

5.7 In the UWAG Statement of Case no specific policy references are cited (with the exception of paragraphs 148 and 149 of the Framework), although due to specific issues raised within their Statement of Case there is an inference that they consider there to be some conflict with policies not in issue with the Council, namely BNE6, BNE9, BNE11 and HW2. For this reason, I provide further details of these specific policies above.

Joint Lancashire Minerals and Waste Core Strategy (2009)

5.8 The Joint Lancashire Minerals and Waste Core Strategy **(CD/I3)** was adopted in 2009 and provides strategic policies and principles to guide development over the plan period. The plan period ran until 2021. Relevant policies are:

- Policy CS2 (Minimising the need for Mineral Extraction)
- Policy CS7 (Managing our Waste as a Resource)

Joint Lancashire Minerals and Waste Site Allocation and Development Management Policies Parts 1 and 2 (2013)

5.9 The Site Allocations and Development Control Policies Local Plan **(CD/I5, I6)** was adopted in 2013. The document specifies locations for development, including safeguarding areas, sets out specific requirements for individual proposals as well as policies to ensure development is undertaken in line with the Core Strategy. Relevant policies are:

- Policy M2 (Safeguarding Minerals)

- 5.10 Details of the relevant development plan policies listed above and how the appeal proposal complies with said policies are set out in Appendix 3 of the Planning Statement **(CD/A3)** submitted with the planning application.

Development Plan – Policies in Issue

- 5.11 In this section I review the single policy in the CLP **(CD/I1)** that is cited in the Council's reasons for refusal and assess the compliance of the appeal proposal against that policy.

- 5.12 Policy BNE1 Design Criteria for New Development is a criteria based policy that sets out design principles for new development. This policy is cited in Reasons for Refusal 2 and 3 of the Council's decision notice **(CD/A100)**. The decision notice does not reference particular criteria of the policy, however as reason for refusal 2 relates to '*an unacceptable impact on highway safety by virtue of increased traffic movements and inadequate highway infrastructure....*', I conclude that the relevant criterion in the policy is d), which states that:

d) The residual cumulative highways impact of the development is not severe and it would not prejudice highway safety, pedestrian safety, the free flow of traffic, and would not reduce the number of on-site parking spaces to below the standards site Allocations Policy – Parking Standards, unless there are other material considerations that would justify the reduction.

- 5.13 Reason for Refusal 3 relates to '*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....*'. Although related to traffic noise, the relevant criterion in the policy is g), which states that:

g) The proposal would not cause an unacceptable degree of noise disturbance to surrounding land uses.

- 5.14 In relation to matters that pertain to highway safety, this matter is addressed in the Proof of Evidence of Mr Yeates **(CD/E4)**. Mr Yeates concludes that he does not consider that there is any evidence that the appeal proposal would prejudice highway or pedestrian safety, or the free flow of the traffic. Mr Yeates further concludes that there is no evidence to find that there are any severe residual cumulative impacts on the highway network or that there is an unacceptable impact on highway safety as a result of the appeal proposal. On this basis the appeal proposal would comply with the relevant provisions in Policy BNE1d) of the CLP and would meet the test in paragraph 111 of the Framework. In considering the evidence of Mr Yeates I would concur that the appeal proposal is compliant with Policy BNE1 and the policies in the Framework and that the second reason for refusal is unfounded. If there were any unacceptable impacts on highway safety or severe residual cumulative impacts on the highway, in my experience I would have expected Lancashire County Council Highway Authority

(LCCHA) to have either requested further mitigation or maintained an objection to the proposal – this clearly was not the case.

- 5.15 In relation to matters that pertain to noise nuisance and disturbance from vehicular traffic movements, this matter is addressed in the Proof of Evidence of Mr Goldsmith **(CD/E5)**.
- 5.16 In respect to traffic noise associated with the construction phase of development, he concludes that particularly during the peak construction period, traffic road noise can be reduced through the introduction of temporary speed limits along Moss Lane. These restrictions can be secured through the Construction Traffic Management Plan (CTMP), the requirement of which will be conditioned as part of any planning permission.
- 5.17 In terms of operational noise during the night-time period, Mr Goldsmith considers both traffic noise and car parking, particularly its impact on nearby residential receptors. Only one receptor, Windy Harbour will be impacted by operational noise during the night-time period, however Mr Goldsmith concludes that when assessing the proposal against WHO health-based guidance, development generated traffic noise will not exceed the night-time LOAEL of 45dB and therefore the potential noise impacts are not considered to be significant and comply with the aims of national policy and would meet criterion g) in Policy BNE1 of the CLP.
- 5.18 In respect to noise from the car park, Mr Goldsmith concludes that these are significantly lower than external and internal health based guidelines and therefore the impacts are not considered to be significant and as such comply with national policy and criterion g) of the Policy BNE1 of the CLP.
- 5.19 Having considered the appeal proposal against the policies in the development plan, notwithstanding the limited conflict with Policy HW2 in respect of the loss of the existing playing pitch from HMP Wymott, I consider that the appeal proposal is compliant with the development plan when taken as a whole. It should be noted that the CLP does not have any general policies regarding development in the Green Belt and the Council rely on Green Belt policies in Chapter 13 of the Framework.

National Planning Policy Framework

- 5.20 A revised version of the National Planning Policy Framework ('the Framework') was published in July 2021 **(CD/H1)**. The Framework sets out the Government's planning policies for England and how these are expected to be applied. Policies in Chapters 3, 4, 5, 6, 7, 8, 10, 11, 12, 14, 15, 16, 17 either contain reference to policies not relevant to this appeal or contain policies that are relevant but not in issue with the Council. Details of policies that are relevant but not in issue are in Appendix 3 of the Planning Statement submitted in support of the application proposal **(CD/A3)**. Those policies in the Framework that relate to matters in issues with the Council are considered below.

- 5.21 Paragraph 7 of the Framework states that *'the purpose of the planning system is to contribute to the achievement of sustainable development'. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs. At a similarly high level, members of the United Nations – including the UK – have agreed to pursue the 17 global Goals for Sustainable Development in the period to 2030. These address social progress, economic well-being and environmental protection.'*
- 5.22 Paragraph 8 defines the scope of sustainable development and includes economic, social and environmental dimensions. These dimensions are not mutually exclusive and should be considered together so that opportunities can be taken to secure net gains across each of the different objectives.
- 5.23 A key thread which runs throughout the Framework is the presumption in favour of sustainable development. With planning policies and decisions playing an active role in guiding development towards sustainable solutions, taking into account local circumstances (paragraph 9).
- 5.24 Paragraph 11 of the Framework sets out the principles of the 'presumption in favour of sustainable development'. For decision-taking this means:
- Approving development proposals that accord with an up-to-date development plan without delay; or
 - Where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless:
 - i. The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed¹ or
 - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 5.25 I consider that the appeal proposal is in accordance with the development plan taken as a whole, as explained above. In accordance with para 11c) of the Framework, this means that development proposals should be approved without delay.

¹ The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 180) and/or designated as Sites of Special Scientific Interest, land designated as Green Belt, Local Green Space, An Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 67); and areas at risk of flooding or coastal change.

- 5.26 However, policies in Framework in relation to Green Belt are, in my opinion an important material consideration that should be taken into account in the decision making process.
- 5.27 Green Belt policies are set out in Chapter 13 of the Framework and unless development falls within one of the prescribed exceptions in paragraphs 149 and 150, there is a presumption against inappropriate development. As the Site is located in the Green Belt there is a presumption against 'inappropriate development' unless very special circumstances exist that clearly outweigh the harm to the Green Belt, and any other harms. I set out the very special circumstances that justify the grant of planning permission for the appeal proposal in Section 7 of this Proof of Evidence.
- 5.28 Paragraph 96 of the Framework supports public service infrastructure, including criminal justice accommodation and requires '*...local planning authorities to work proactively and positively with promoters, delivery partners and statutory bodies to plan for required facilities and resolve key planning issues before applications are submitted*'.
- 5.29 Paragraph 99 of the Framework protects existing open space, sports and recreational buildings and land including playing fields and these should not be built on unless one of the following criteria are met:
- a) *An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
 - b) *The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
 - c) *The development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the former or current use*
- 5.30 The existing playing field and assault course at HMP Wymott are no longer in use and are surplus to requirements as they do not meet the operational requirements of HMP Wymott. The appeal proposal will provide 4 MUGA pitches that will meet the sports provision of the new prison and are considered to be of better quality than the existing pitch at HMP Wymott.
- 5.31 Although there is some conflict with this policy, it should be noted that the loss of the playing pitch at HMP Wymott will have no impact on the sports provision within the local community as HMP Wymott is a closed prison and these facilities are specifically for prisoners. I consider that the Appellant is best placed to understand the specific operational requirements in terms of sports and leisure for each prison. The health and wellbeing of prisoners is key to their successful rehabilitation and the Appellant is best placed to decide what facilities are required at each of their establishments.

Section 9 Promoting Sustainable Transport

- 5.32 Paragraph 104 advises that transport issues should be considered at the earliest stages of plan making and development proposals including identifying opportunities to promote walking cycling and public transport use.
- 5.33 Paragraph 105 advises that the planning system should actively manage patterns of growth to support the objectives in paragraph 104. In particular, '*Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes*'
- 5.34 Paragraph 110 requires that sites allocated in development plans or applications for development should ensure that opportunities to promote sustainable transport modes have been taken up and that safe and suitable access to the Site can be achieved for all users.
- 5.35 An Outline Travel Plan (**CD/A36**) was submitted with the planning application and sets out a range of measures to encourage the uptake of sustainable travel amongst staff and visitors in compliance with paragraph 110.
- 5.36 Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (paragraph 111).
- 5.37 The evidence of Mr Yeates (**CD/E4**) concludes that the proposed development does not give rise to an unacceptable impact on highway safety, or that the residual impacts on the road network would be severe.
- 5.38 The appeal proposal is considered to comply with paragraphs 104, 105, 110 and 111 of the Framework setting out measures to improve sustainable travel. The development will not result in unacceptable highway safety impacts or severe impacts on the local road network.

Section 13 Protection Green Belt Land

- 5.39 Paragraph 137 of the Framework states that '*The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence*'.
- 5.40 Paragraph 138 sets out the five purposes of Green Belt:
- a) To check unrestricted sprawl of large built-up areas
 - b) To prevent neighbouring towns merging into one another
 - c) To assist in safeguarding the countryside from encroachment
 - d) To preserve the setting and special character of historic towns; and

- e) To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

5.41 The key principle that underpins proposals for development in the Green Belt is that *'Inappropriate development, is by definition, harmful to the Green Belt and should not be approved except in very special circumstances.* (paragraph 147).

5.42 Decision makers should give substantial weight to any harm to the Green Belt. *'Very Special Circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations'*. (paragraph 148).

5.43 Paragraph 149 sets out a number of exceptions where new building in the Green Belt is not considered to be inappropriate, these are as follows:

- a) Buildings for agriculture and forestry
- b) The provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it
- c) The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building
- d) The replacement of a building, provided the new building is the same use and not materially larger than the one it replaces
- e) Limited infilling in villages
- f) Limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- g) Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - Not have a greater impact on the openness of the Green Belt than the existing development; or
 - Not cause substantial harm to the openness of the Green Belt where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

5.44 Other forms of development identified in paragraph 150 of the Framework are also identified as not being inappropriate development in the Green Belt such as material changes in the use of land and for mineral extraction.

5.45 The appeal proposal when considered as a whole does not fall within one of the exceptions set out in paragraphs 149 and 150. I consider that the appeal proposal as a whole, is inappropriate development in the Green Belt. A case of very special circumstances is made and is set out in Section 7 of my evidence.

Planning Practice Guidance (PPG)

5.46 The Planning Practice Guidance (PPG) (**CD/H2**) is an online resource that was introduced in 2014 to support the implementation of policies in the Framework. Relevant to the appeal proposal are the following paragraphs:

- Paragraph: 001 Reference ID:64-001-20190722 – What factors can be taken into account when considering the potential impact of development on the openness of the Green Belt
- Paragraph: 002 Reference ID: 31-002-20191101 – What factors can be considered when assessing a development proposal might have implications for light pollution?
- Paragraph: 003 Reference ID:30-003-20190722 – How can noise impacts be determined?
- Paragraph: 008: Reference ID: 61-008-20190315

Supplementary Planning Documents

5.47 Chorley Borough Council's websites identifies a number of supplementary planning documents (SPD). The purpose of SPDs is to build and provide more advice on existing policies in an adopted local plan. They do not form part of the development plan, cannot formulate new policies or create policy to be subsumed into the development plan. They are however a material consideration in the decision-making process (NPPG 61-008-20190315) **CD/H2**.

5.48 Central Lancashire Rural Development SPD (October 2012) (**CD/I20**) – requires that planning proposals for rural development will be assessed against the policy framework, including Policy 13 of the Core Strategy (Rural Economy). Consideration should be given to the following general aspects of any proposal as appropriate:

- *Layout, massing, scale, materials and landscaping*
- *Highway access, safety and traffic generation*

- *The potential impact on local amenities and the environment*

5.49 Central Lancashire Design Guide SPD (October 2012) (CD/17) – this SPD provides an overview of the design principles that the Central Lancashire authorities will employ when considering proposals. In particular, the aim is to ensure that developments:

- *Function well and add to the overall quality of the area*
- *Establish a strong sense of place*
- *Optimise the potential of the site to accommodate development, sustain an appropriate mix of uses and support local facilities and transport networks*
- *Respond to local character and history*
- *Create safe and accessible environments*
- *Are visually attractive.*

Emerging Local Plan

5.50 The Central Lancashire Authorities are currently reviewing the strategic policies for the area and an Issues and Options consultation was undertaken between November 2019 and February 2020. The strategic plan has not developed any further than this initial stage and as such no weight is given to that consultation document in the determination of this appeal.

6. Material Considerations

The Need for the Prison

- 6.1 The imperative need for a new prison in the North West is set out at some length in the evidence of Mr Robin Seaton **(CD/E3)**. As confirmed in Mr Seaton's evidence **(CD/E3)** there is a significant national need for new prison places, particularly Category C Resettlement. As of May 2022, there were circa 1750 male Category C prisoners being held in the wrong category prison, that is Category A or B prisons. Not only is this poor value for money as the higher categories cost more per prisoner place, but they offer more limited opportunities for prisoners to engage in constructive activity either in terms of work or education that will assist in their rehabilitation.
- 6.2 More specifically, there is an identified need for a Category C Resettlement prison in the North West. As of May 2022, there were circa 1350 male Category C prisoners who had less than 24 months of their sentence remaining, who had a home address in the North West but were being held outside the region. Placing them in a Category C Resettlement prison in the North West would assist in improving their chances of successfully integrating back into their communities thereby reducing the likelihood of reoffending.
- 6.3 The imperative need for a new Category C in this location provides a compelling case for the approval of the appeal scheme and would substantially contribute to a case of very special circumstances.

Site Search

- 6.4 As set out in the evidence of Mr Robin Seaton **(CD/E3)** there is an imperative need for a new prison in the North West of England. It is the Council and UWAG'S case that the Appellant has not demonstrated that the appeal proposal needs to be located in this specific location.
- 6.5 The Appellant undertook an extensive Site Search exercise at the beginning of 2020 that included the following:
- Contacting local authority areas within a 90 minute drive-time of Manchester
 - Contacting Government Departments
 - Site Search of private land interests within the 90 minute drive-time (undertaken by Cushman & Wakefield)
- 6.6 Details of the Appellant's parameters for the Site Search are set out in the evidence of Mr Seaton and I do not propose to repeat those in detail here **(CD/E3)**, however the selection

criteria were categorised into mandatory, secondary and tertiary requirements. Evidently, if a site did not meet the mandatory requirements in terms of minimum site size and location, then the site would be rejected, even if it met some of the secondary and tertiary criteria.

- 6.7 There is no planning policy either at a national level or in the Development Plan that sets out how prison sites should be chosen and taken forward, however by analogy the principle of deliverability with respect to identifying a supply of prison sites, is undertaken using the methodology for identifying land for housing at paragraph 68 of the Framework. Sites that are required for years one to five of the plan period for housing should be deliverable; deliverable is defined in the glossary as being available now, in a suitable location for development and be achievable with a realistic prospect that housing will be delivered in five years. In essence a prison delivers a specialist form of accommodation and using deliverability is, in my view, one way of assessing the realistic prospects of the sites identified in the Site Search coming forward within timescales that would address the shortfall in prison places.
- 6.8 Following the submission of the appeal, the Inspector asked the Appellant to provide *‘specific information on the shortlisted sites referenced in paragraphs 7.31-7.43 of the Planning Statement and the site searches mentioned in paragraph 5.4(2) of the Statement of Case. A note was issued to the Inspector providing details of the original and refreshed site search (CD/E1).*
- 6.9 At the feasibility stage a long list of 14 sites were considered plus the land available at HMP Kirkham. Of these 15 sites, nine did not meet the mandatory requirements or were not available (see Table 3 below), thus reducing the short list to 6 no. sites (identified in Table 4 as being A1, A3, A6, A7, A8 and A9). I have however considered the nine originally discounted sites in Table 3 below in terms of their overall deliverability in planning terms.

Site Reference	Site Address	Available	Suitable	Achievable
C1	Northern Gateway, Flintshire, CH5 2RA	Yes	The site is located in Wales, which is outside the area of search. There are two listed buildings and a registered Park and Garden adjacent to the south west of the site. A PROW runs north-south through the site. There is a SSSI immediately to the south of the site. The site is in Zone C2 and therefore forms part of the flood plain without	No

			<p>significant flood defence infrastructure.</p> <p>The site is not suitable due to location and constraints particularly flood risk.</p>	
C2	<p>Kelsterton Road, Connah Quay, CH5 4BP</p>	Yes	<p>The site is located in Wales, which is outside the area of search. The site is also part in Zone B and part in Zone C2 Flood Risk. A SSSI and Ramsar site is immediately to the north.</p> <p>The site is not suitable due to location and constraints particularly flood risk and proximity of protected habitats.</p>	No
C3	<p>Workington Park, Siddick, Workington, Cumbria, CA14 1LG</p>	Yes	<p>The site is outside the area of search. HSE middle and outer zones in the middle of the site, dividing site into 2 small parcels. Further reduced to east due to Inner Zone and south to Inner Zone. HSE decision matrix identifies prisons as being a development type for use by vulnerable people where emergency action and evacuation may be very difficult and is level 3 sensitivity. Wind turbines along eastern boundary.</p> <p>The site is not suitable due to location and being within an HSE consultation area.</p>	No

C4	Kingmoor Park, Carlisle, Cumbria, CA14 1LG	Yes	<p>The area is outside the area of search. Heritage assets immediately to west. PROW divides site.</p> <p>The site is not suitable due to location.</p>	No
C5	Ellesmere Port, Vauxhall, CH65 1AL	No	<p>The available site area was too small. 3 x Grade II and 3 x Grade II* Listed Buildings adjoining site to the south.</p> <p>The site is not suitable as not of the right size to economically deliver a new prison. Presence of heritage assets could restrict scale of development making it unsuitable for development of a scale required for a new prison.</p>	No
C6	Land off Manchester Road, Carrington, M31 4QN	Yes	<p>The site is too small. Grade II* Listed Building to the east. In an HSE consultation zone with Site within outer or middle zones. HSE decision matrix identifies prisons as being a development type for use by vulnerable people where emergency action and evacuation may be very difficult and is level 3 sensitivity.</p> <p>The site is not suitable as it is not of a size that can economically deliver a new prison and within an HSE consultation zone.</p>	No

C7	MAGNITUDE, Middlewich, CW10 0JB	Yes	<p>The site is too small. In an HSE consultation zone with majority of site within Inner, Middle or Outer Zones. HSE decision matrix identifies prisons as being a development type for use by vulnerable people where emergency action and evacuation may be very difficult and is level 3 sensitivity.</p> <p>The site is not suitable as it is not of a size that can economically deliver a new prison and within an HSE consultation zone.</p>	No
C8	North of Parkey Farm, Wrexham, LL13 0UW	Yes	<p>The site is located in Wales, which is outside the area of search. In HSE consultation zone with most of site within Outer, Middle or Inner Zones. HSE decision matrix identifies prisons as being a development type for use by vulnerable people where emergency action and evacuation may be very difficult and is level 3 sensitivity.</p> <p>The site is not suitable due to location and being within an HSE consultation area.</p>	No
C9	Cuerden, Preston	No	<p>Grade II Listed Building within the site.</p> <p>The site is not suitable as the scale of development could</p>	No

			impact on setting of the Listed Building.	
--	--	--	---	--

Table 3: Longlisted Sites from Private Sector Site Search at Feasibility Stage

- 6.10 It is clear from Table 3 above, that five out of the nine sites were outside the area of search and therefore, even where there are no planning or physical constraints to development, choosing a site in the wrong location would not meet with the objectives of the Appellant; these sites were both unsuitable and unachievable. Three of the remaining sites were too small to accommodate a new prison and were therefore discounted on this basis. The remaining site at Preston was not available and therefore delivery of a prison on this site is not achievable.
- 6.11 Of the six shortlisted sites at the feasibility stage (see Table 4 below) all were dismissed for reasons relating to specific site constraints (see Table 5 below). At the time of the site search refresh following refusal of the planning application only three of the six shortlisted sites remained available, the remainder being under offer (see Table 5 below).

Site Reference	Address
A1	Stopgate Lane, Knowsley, L33 4YB
A3	Hillhouse Technology Enterprise Zone (EZ) Fleetwood
A6	Land adjacent to HMP Kirkham, PR4 2RN
A7	North Road Business Park, Ellesmere Port, CH65 1BL
A8	Fiddlers Ferry, Widnes, WA5 2UT
A9	Ark Royal Business Park, Birkenhead, CH41 9HP

Table 4: Shortlisted sites at the feasibility stage

- 6.12 The Site Search was refreshed in advance of the appeal submission and nine sites were shortlisted (including 3 of the original 15 sites). I have reviewed each of these sites to ascertain their deliverability in planning terms and summarise my findings in Table 5 below.

Site Reference	Site Address	Available	Suitable	Achievable
A1	Stopgate Lane, Knowsley, L33 4YB	Yes	No – split site and cannot accommodate prison on one site	No
A2	Sandwash Park, St Helens, WA11 8LS	Yes	No – too small, large proportion of site in Flood Zone 3	No
A3	Hillhouse Technology Enterprise Zone, Fleetwood	Yes	<p>No - Hillhouse South in HSE Consultation Area. HSE decision matrix identifies prisons as being a development type for use by vulnerable people where emergency action and evacuation may be very difficult and is level 3 sensitivity. The Site is within the inner, middle and outer zones and therefore the HSE decision matrix advises against development – therefore not suitable.</p> <p>Masterplan restricts height of development to 1 – 3 storeys.</p> <p>Significant part of site already built out/under development and remaining parcels too small.</p>	No
A4	Land at Preston East, PR2 5SH	No – site under offer	Yes - No known constraints	No
A5	Land south of Stakehill Industrial Estate	Yes	Yes - No known constraints.	No - Site a draft employment allocation in the emerging local plan.

				<p>Examination 2022 and likely adoption 2023. Submitting a planning application in advance of adoption could be refused on grounds of prematurity. Additional prison capacity needs to be delivered in 2026 so would not meet timescales.</p>
A6	Land adjacent to HMP Kirkham	Yes	Yes - subject to demonstrating very special circumstances (site in the Green Belt), overcoming ecological issues and landscape impacts.	No – pre-application submitted to LPA in July 2020 and Fylde Council were very clear in their response that they would not support a new prison in this location and they would advise not progressing any further.
A7	North Road Business Park, Ellesmere Port, CH65 1BL	No – site under offer	Yes – no known constraints	No

A8	Fiddlers Ferry, Widnes, WA25 2UT	No – site under offer	Significant demolition and remediation of the site required.	No – site remediation estimated to take 40-50 months
A9	Royal Business Park, Birkenhead, CH14 9HP	No – site under offer	No – site within HSE consultation zone – see commentary above.	No

Table 5: Shortlisted Sites

- 6.13 It is evident from the above analysis that four out of the nine sites are no longer available to the market and can be readily discounted. A further two sites are not large enough to accommodate a new prison and can therefore be discounted. The land owned by the Appellant at HMP Kirkham was previously identified as a potential site for a new prison, notwithstanding its Green Belt status, however following a formal pre-application submission to Fylde Council in July 2020, a clear response was received from the LPA that an application for a new prison would not be supported in this location and as such the proposal should not be progressed any further **(CD/J2)**. Hilltop Technology Enterprise Zone has limited land available and a new prison in this location is likely to receive an objection from the HSE as the site is in an HSE consultation zone and prison development is identified as being a development type used by vulnerable people.
- 6.14 Only land south of Stakehill Industrial Estate has been identified as being available and potentially suitable for a new prison, however until such time that the emerging joint development plan for Greater Manchester is adopted, an application for a new prison would likely be refused on the ground of prematurity. On this basis I conclude that the development of the site for a new prison is not achievable within the timescales that the Appellant is working towards – the new prison in the north west needs to start contributing to prison capacity by 2026 - and as such cannot be deliverable in planning terms.
- 6.15 The appellant also considered at the feasibility stage and subsequently at the appeal stage whether there was potential for the existing prisons in the North West to accommodate some of the capacity from the proposed new prison to enable a smaller new prison to be built. The review of existing prisons was restricted to those whose existing primary or secondary function was as a Category C Resettlement prison. There are four prisons in the North West which have a primary function as a Category C Resettlement prison and a further three where it is a secondary function. These prisons are identified in Table 6 below where a summary is provided of the assessment undertaken and the reason why it was not feasible for any of these sites to accommodate some of the capacity from the proposed new prison. It should be noted that HMP Hindley and HMP Lancaster are planning to expand the capacity at each of these establishments as part of the expansion programme that is ongoing across the prison estate in

England. The additional capacity that would be provided at HMP Hindley and HMP Lancaster will maximise the use of available undeveloped land within the Appellant's ownership at these two prisons, but the places created are required in addition to the new prison places.

Site Ref	Prison	Category C Resettlement Function	Assessment	Conclusion
B1	HMP Lancaster Farms	Primary (100%)	<p>The MOJ's ownership of land outside the secure perimeter is limited, such that the existing prison cannot be extended to accommodate any new house blocks.</p> <p>The only undeveloped area of the site within the secure fence line is subject to existing proposals for the construction of Rapid Deployment Cells.</p>	<p>Site dismissed – there is no available land within the existing secure fence line.</p> <p>The MOJ's ownership of adjoining land is limited, such that the prison cannot be extended.</p>
B2	HMP Liverpool	Primary (100%)	<p>There is no available land within the existing secure perimeter for new house blocks.</p> <p>The MOJ's ownership of land outside the secure perimeter is limited and therefore the prison cannot be extended to accommodate</p>	<p>Site dismissed – there is no available land within the existing secure fence line.</p> <p>The MOJ's ownership of adjoining land is limited such that the prison cannot be extended.</p>

			new house blocks	
B3	HMP Hindley	Primary (approximately 75%)	<p>HMP Hindley is within the Green Belt and is not sequentially preferable to the appeal site.</p> <p>The only undeveloped area of the site within the secure fence line is subject to a live planning application for the development of two house blocks and a workshop.</p>	<p>Site dismissed – the site is within the Green Belt and is not sequentially preferable to the appeal site.</p> <p>There is insufficient land adjoining the prison in the MOJs ownership and the prison cannot be extended.</p>
B4	HMP Risley	Primary (approximately 65%)	<p>The site is within the Green Belt and is not sequentially preferable to the appeal site.</p> <p>There is no capacity within the existing secure perimeter fence for new house blocks.</p> <p>The MOJs ownership of adjoining land is limited and the prison could not be extended to accommodate any new house blocks.</p>	<p>Site dismissed – the site is within the Green Belt and is not sequentially preferable to the appeal site.</p> <p>There is insufficient land adjoining the prison in the MOJ's ownership to enable the prison to be extended.</p>
B5	HMP Forest Bank	Secondary (approximately 35%)	<p>There is no available land within the existing secure</p>	<p>Site dismissed – there is no available land within the</p>

			<p>perimeter for new house blocks.</p> <p>Whilst the MOJ owns the freehold of land adjoining the north and east, this land is leased to Salford City Council on a long term basis (999 years from 21st January 2003) and forms the Forest Bank Park.</p> <p>The are of the park to the north of HMP Forest Bank is Green Belt land, whilst land east of HMP Forest Bank is proposed to be designated as Green Belt through the emerging Place for Everyone Plan (submitted for Examination).</p>	<p>existing secure fence line.</p> <p>Whilst there is adjoining land in the ownership of the MOJ this is leased to Salford City Council on a long term basis and forms Forest Bank Park.</p> <p>The land within the ownership of the MOJ is also either Green Belt or proposed to be Green Belt and therefore not sequentially preferable to the appeal site.</p>
B6	HMP Preston	Secondary (approximately 35%)	<p>There is no available land within the existing secure perimeter for new house blocks.</p> <p>The MOJ's ownership of land outside the secure perimeter is limited and cannot be extend to accommodate</p>	<p>Site dismissed – there is no available land within the existing secure fence line.</p> <p>The MOJ's ownership of land adjoining the prison is limited and therefore the prison cannot be extended.</p>

			any new house blocks.	
B7	HMP Altcourse	Secondary (approximately 20%)	<p>There is no available land within the existing secure perimeter for new house blocks.</p> <p>The MOJ's land ownership outside the secure perimeter is limited and the prison cannot be extended to accommodate new houseblocks.</p>	<p>Site dismissed – there is no available land with the secure perimeter fence line.</p> <p>MOJ's ownership of adjoining land is very limited and the prison cannot be extended.</p>

6.16 Despite the Appellant reviewing all existing Category C Resettlement prisons in the North West, there is no land available within these prisons that could accommodate either in part or fully the 1715 prison places that will be created by the proposed new prison.

6.17 To conclude, the Site Search undertaken at both the feasibility and appeal stage I consider to be robust and there are no sites available, with the exception of the Site that would deliver a new prison in the north west within the required timescales.

Benefits of the Appeal Scheme

6.18 As the Site is located in the Green Belt and the development is considered to be inappropriate development in the Green Belt (see Section 7 of my evidence for a more detailed analysis of this point), other considerations have to clearly outweigh the harm to the Green Belt (both the harm by reason of inappropriateness and the (limited) encroachment into the countryside) and any other harms.

6.19 To support the very special circumstances case, there are a number of economic, social and environmental benefits that in addition to the imperative need for prison places (and the lack of alternative sites), clearly outweigh the harm to the Green Belt and other harms.

Economic Benefits

- 6.20 The appeal proposal would bring with it a number of positive economic benefits both in the construction phase and operational phase of the development and over the lifetime of the development. A note has been prepared specifically for the purposes of this appeal by Richard Cook at Pegasus on the economic benefits of a new prison. This is found in Appendix A of my proof.
- 6.21 The following are considered to be the key economic benefits that the Borough would enjoy as a result of a new prison in this location. Further information is set out in the Social and Economic Assessment that was submitted with the planning application **(CD/A26)**.
1. 122 gross/69 net FTE temporary jobs during the construction period, with 7 being drawn from the local area. A further 21 jobs could be supported at a regional level via the multiplier effect, of which 3 could be expected to be at a local level.
 2. An estimated £117.2 million GVA (gross) during the construction period, based on the cost of construction.
 3. The construction of the proposed development could support a further £96.5 million turnover/expenditure through the supply chain of which £32.2 million could be expected to occur at the local level.
 4. Additional turnover/expenditure could generate an additional £35.2 million indirect and induced GVA (gross), of which £11.7 million could be expected to occur at the local level.
 5. 643 FTE jobs created during the operational stage, with approximately 590 employees estimated to live within a 40 mile radius of the scheme.
 6. Total income spend of £14.1 million per annum, of which £12.98 million will be retained locally.
 7. The operational spend of the prison will amount to £13.7 million, supporting 230 jobs at a regional level.
 8. The operational regional supply chain spend will equate to £17.9 million per annum supporting 299 jobs at a regional level.
 9. Expenditure from prison staff and visitors within the local and regional economy will equate to £9.7 million per annum, supporting 28 jobs.
- 6.22 The appeal proposal would generate significant economic benefits at the construction and operational stages, both in the wider economy and at a local level. The prison is located in an

area that is identified as an area of moderate deprivation² and the inward investment arising from the appeal proposal would be of significant benefit and could contribute to improving deprivation.

6.23 The evidence of Mr Cook recognises that Chorley has low levels of unemployment compared to other parts of Lancashire but the area has an ageing population, high levels of out-commuting (a net outflow of more than 12,000 commuters) and low jobs growth compared to the regional picture. Mr Cook concludes that creating new jobs for local people should be a key priority for the area.

6.24 In addition, new job creation will attract younger people to the area and encourage long-term labour market growth and the appeal proposal will assist in achieving this objective.

6.25 Overall, I attach substantial weight to the economic benefits delivered by the appeal scheme.

Social Benefits

6.26 The appeal proposal would contribute to the social objective of sustainability in a number of ways.

6.27 The scheme would:

1. Deliver new prison places to meet an identified need in the right geographical location.
2. Provide safe, secure and modern facilities to deliver improved outcomes for prisoners and reduce reoffending rates.
3. The new prison would create an environment that would assist in turning prisoner lives around by creating a safe, secure and small standalone communities delivering:
 - Workshops to provide opportunities for prisoners to develop skills that they could use once living in the community.
 - Providing the necessary social, recreational and cultural facilities within the prison such as health centre, multifaith provision and sports facilities to support a cohesive prison community.
4. The replacement bowling green would be of at least equivalent standard, in an equally accessible location and delivered prior to the loss of the existing facility.

² English Indices of Deprivation 2019 (see figure2.3 of Garth Wymott 2 Socio-Economic Statement, (Mace, 2021))

5. The new club house would be of a greater quality and fully accessible, representing a significant enhancement to the existing club house provision.
 6. The upgrade to the diverted section of Pump House Lane would encourage and enable greater use of the public footpath network for walking and cycling. The surface upgrade would also enable improved access, including for maintenance into the play area adjoining the Wymott residential estate.
 7. Increase in number and/or capacity of local and regional community organisations would assist in the rehabilitation and support of short-term prisoners as referenced in Socio-Economic Statement **(CD/A26)**³. For example, tenancy support, Jobcentre Plus, Mentoring, Sure Start, community mental health services and GPs, and adult social care services.
 8. Local apprenticeship, training and supply chain opportunities would be created throughout the construction and operational stages of the development.
 9. The appointed contractor would be contractually obliged to meet key performance targets including a 25% local spend within 25 miles of the Site, £50,000 spend with voluntary community and social enterprises, and at least one community project per year.
- 6.28 In respect to the need for a new prison in this location and improved outcomes for prisoners, I would direct the Inspector to the evidence of Mr Robin Seaton who sets out in detail the 'need' case **(CD/E3)**.
- 6.29 The extent of the social benefits that would arise from the appeal proposal are wide-ranging. The opportunities that would arise for improvements and outcomes for prisoners are significant and this I consider to be a substantial public benefit of the new prison. In addition, the new bowling green and club house, and improvements to Pump House Lane would bring benefits to the local community, to which I attach moderate weight. Overall, I attach significant weight to the social benefits that the appeal proposal would deliver.

Environmental Benefits

- 6.30 The Site is not located in an area with an environmental designation. Development on the least environmentally sensitive sites is considered to represent an environmentally sustainable solution, resulting in reduced pressure for development to occur on sites that are more constrained by environmental factors. The following factors contribute toward the Site

³ Anderson and Cairns (2011) The Social Care Needs of Short-Sentence Prisoners: Revolving Doors [CD/J15]

delivering a scheme that significantly contributes toward the environmental objective of sustainable development:

1. The majority of the Site comprises previously developed land and the proposed development will make efficient use of land.
2. The design approach has ensured that the impact of the proposals have minimised landscape visual impact and the remaining landscape and visual effects identified in Ms Machin's evidence **(CD/E6)** are concluded to be acceptable.
3. Delivery of a high-quality sustainable prison that would achieve BREEAM Excellent, with endeavours to achieve BREEAM 'Outstanding'.
4. The Site is not subject to, nor closely located to, any sensitive ecological designations. Impact on protected species has been avoided as far as possible and the Ecological Impact Assessment submitted in support of planning application sets out suitable mitigation at both the construction and operational phases that would be incorporated into the appeal proposal **(CD/A9)**.
5. At least 20% biodiversity net gain would be achieved with no offsetting required.
6. The prison buildings would be of high fabric energy efficiency and the appeal proposal would include air source heat pumps, photovoltaic panels and energy efficient lighting, appliances and equipment to assist the Appellant's target of net zero carbon ready.
7. The Site is not at risk of flooding and would not lead to an increase in the risk of flooding elsewhere. The proposed drainage strategy is in accordance with the drainage hierarchy.
8. Measures to improve sustainable transport would be included as part of the appeal proposal in the form of:
 - 53 no. car parking spaces equating to 10% of the total would be set aside for electric vehicle charging points
 - 27 no. car parking spaces equating to 5% of the total would be set aside for car sharing users
 - 51 no. covered cycle parking spaces would be provided.
 - Improvements to local bus stops on Willow Road and Ulnes Walton Lane

- Enhancement to existing bus service provision through a contribution of £100,000 per annum for a period of 5 years to be secured through a s106 contribution.

9. The construction of the buildings would make use of modern methods of construction with associated shorter construction times, lower energy use and a stronger green footprint.

6.31 I give moderate weight to the environmental improvements delivered by the scheme.

6.32 The appeal proposal represents a sustainable form of development and as evidenced above brings forward substantial benefits. There are significant public benefits that would be delivered by the appeal scheme and the evidence of Mr Seaton (**CD/E3**) demonstrates that there is an imperative need for new prison capacity in the northwest of England.

6.33 I consider that the substantial benefits that would be delivered by the scheme clearly outweigh the harm to the Green Belt and any other harms.

7. Reasons for Refusal

Reason for Refusal 1

- 7.1 This reason for refusal relates to the principle of development and states that the appeal proposal would:
- Have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing prison development
 - Would encroach onto open countryside
 - Is inappropriate development in the Green Belt
 - The benefits associated with the proposal do not clearly outweigh the resulting harm and do not individually or cumulatively constitute ‘very special circumstances’
- 7.2 The Site is for the most part identified as a Previously Developed Site in the Green Belt under Policy BNE5 of the Chorley Borough Local Plan **(CD/11)**. An area of the Site east of Pump House Lane falls outside of this policy area and is a small parcel of agricultural land. The area of land proposed for the replacement bowling club is also outwith the area defined by Policy BNE5. The agricultural land to the east of the Site will accommodate a pumping station with the remaining part planted with shrubs and trees to screen the pumping station. To accommodate this Pump House Lane would be realigned in this location. Policy BNE5 allows the reuse, infilling or redevelopment of previously developed sites in the Green Belt subject to a number of criteria. The criteria largely reflect the provisions in paragraph 149 g) of the Framework where limited infilling or the partial or complete redevelopment of previously developed land in the Green Belt is not inappropriate provided that it would not have a greater impact on the openness of the Green Belt than the existing development. Although there are structures and buildings on the land identified as previously developed which currently do have some impact on the openness of the Green Belt, including storage, agricultural buildings, former Officer’s club, bowling club, and boiler house and plant, these are relatively small scale in comparison to the new prison.
- 7.3 The appeal proposal as a whole comprises of a number of elements – the new prison, replacement boiler house and replacement bowling green and clubhouse.
- 7.4 The new prison is a development proposed to be of substantial scale, covering an area of 10.5ha and including 7 houseblocks, each being 4 storeys in height and comprising of a gross external area (GEA) of 53,472 square metres together with ancillary buildings (circa 21,060 square metres GEA).

- 7.5 The existing boiler house that serves HMP Garth and HMP Wymott would be relocated in order to accommodate the new prison. Currently it is located on an area of hardstanding to the east of HMP Garth and north of HMP Wymott. It is proposed to remove the current boiler house and relocate on an existing car park area between the two existing prisons. The new boiler house would be circa 9 metres in height, with a single flue extending to no more than 22 metres in height.
- 7.6 As a standalone development proposal, the proposals for the relocated boiler house could be considered to be limited infilling, and as such one of the exceptions set out in paragraph 149 of the Framework **(CD/H1)**, however case law⁴ **(CD/J3)** has established that the proposed development should be considered as a whole for the purposes of Green Belt policy.
- 7.7 The third element of the appeal proposal is the provision of a new bowling green and associated single storey club house to replace the existing facility which must be lost in order to facilitate the new prison. The proposal for the new bowling green and club house is for outdoor sport and recreation and would fall within one of the Green Belt exceptions, provided that it would not impact on openness (paragraph 149b of the Framework), however currently the area where it is proposed to site the new bowling green and club house is for the most part devoid of development. Any new development on this site would impact on the openness of the Site spatially, although visually the impacts are likely to be limited due to the existing landscaping features to the north, west and south comprising of mature woodland, thereby assisting in containing this area from the wider landscape. Paragraph 149b) requires that facilities should preserve the openness and even if these facilities did not impact on openness, it should be properly considered with all elements of the appeal proposal and as such is inappropriate development in the Green Belt.
- 7.8 It is clear that the appeal proposal represents a significant increase in built form and would not meet the criteria in Policy BNE5 or the test set out in paragraph 149 g) of the Framework, or any of the other exceptions in paragraph 149 **(CD/H1)**.
- 7.9 The Council at the pre-application stage, during the determination period and in the Officer Report to Committee **(CD/A97)** were of the view that the prison was inappropriate development in the Green Belt. I would concur with this view for the reasons set out in paragraphs 7.2 - 7.8 above and as such do not contest the fact that a case of very special circumstances is necessary for the appeal proposal to be granted planning permission.
- 7.10 In assessing whether a case for 'very special circumstances' can be made the test set out in paragraph 148 of the Framework **(CD/H1)** is that the harm to the Green Belt by reason of

⁴ [2005] Kemnal Manor Memorial Gardens Ltd v First Secretary of State [EWCA Civ 835]

inappropriateness, and any other harm must be clearly outweighed by other considerations. Substantial weight should be given to the Green Belt harm by the decision maker. ‘Any other harm’ is taken to mean – any other harms to the Green Belt such as harm to the openness and harm to the five purposes of Green Belt, and other non Green Belt harms that arise from the development such as environmental harms⁵ (CD/J4). ‘Very Special Circumstances’ is not defined but can be a number of ordinary factors that when combined together amount to a ‘very special circumstances case’⁶(CD/J5). As substantial weight must be given to the Green Belt harm, and any other harms this creates a high policy bar to overcome, and the benefits of a proposal must be significant in order to be successful in demonstrating a ‘very special circumstances’ case and overcoming harm to the Green Belt.

7.11 I note that in the Officer Report to Committee (CD/A97), he concludes at paragraph 148 that:

‘The need for the development in this specific location in combination with the benefits of the development, when taken together are considered to provide very special circumstances, that on balance, outweigh the substantial harm to the Green Belt and other harm.....’

7.12 Members of planning committee took a different view to the Officer in refusing the appeal proposal at Committee on the 21st December 2021. I note that in the Council’s Statement of Case (CD/C4) they state that there would be:

- Definitional harm to the Green Belt
- Harm to the openness
- A degree of conflict with Purpose 3
- Other harms – harm to highway safety and residential amenity as a result of traffic movements, loss of existing playing pitch at HMP Wymott

7.13 At paragraph 7.3 of the Statement of Case they conclude that *‘It is recognised that there are benefits of the development, however, on balance, these are not considered to outweigh the substantial harm to the Green Belt and any other harm...the proposal is therefore contrary to paragraphs 147 and 148 of the Framework’.*

Harm to the Green Belt

⁵ [2014] Secretary of State for Communities and Local Government, Reigate and Banstead Borough Council and Tandridge District Council v. Redhill Aerodrome Limited [EWCA 1386]

⁶ [2013] Wildie R(on the application of) v Wakefield Metropolitan District Council & Anor [EWHC 2769 (admin)]

7.14 The harm to the Green Belt, is the inappropriateness of the development (which is by definition harmful), the harm to the openness and the harm to the five purposes of including land in the Green Belt as set out in paragraph 138 of the Framework.

Harm to Openness

7.15 The Planning Practice Guidance (PPG) (Reference 64-001-20190722) **(CD/H2)** advises that the impact of a proposal on the openness of the Green Belt requires a judgment based on the circumstances of the case. The courts have identified a number of matters that may need to be taken into account in making this assessment, including that *'openness is capable of having both spatial and visual aspects'*.

7.16 The Planning Statement **(CD/A3)** submitted in support of the application assesses in paragraph 8.12 – 8.24 how each of the individual elements of the appeal proposal impact on the openness of the Green Belt both spatially and visually.

7.17 With reference to the new prison, the spatial dimension is influenced by the existing buildings at the Site. In the location of the proposed new bowling green although there is an absence of structures on the land itself, the spatial dimension is influenced by the access track and bridge structure located adjacent to the Site.

7.18 In considering the spatial dimension of openness in the wider area, the settlement edge of Leyland, the existing residential development, road infrastructure that transects the landscape, ribbon development along Unless Walton Lane and the railway line to the west of the Site all impact on the openness of the Green Belt in this location. Ms Machin confirms this in her evidence at Section 4 of her proof **(CD/E6)**.

7.19 In terms of the visual aspect of openness, it is clear that the scale and massing of the proposed new prison is such that there would undoubtedly be some impact. The existing site is relatively well contained with the existing prison development located along the southern and western boundaries, and residential development to the east. Existing vegetation along the perimeter assists in screening the Site from medium distance views. Ms Machin concludes in her evidence that further from the Site due to the topography of the landscape, there are limited opportunities for wide ranging or long distance view across the landscape and these are filtered by mature vegetation.

7.20 She also concludes at paragraph 4.22 of her evidence that the impact on openness can be avoided or minimised through the provision of appropriate mitigation and that the inherent mitigation that is proposed will ensure that openness outside of the Site will be maintained. Where there is a loss of openness this will be restricted to parts of the landscape already heavily influenced by prison development (paragraph 4.25).

- 7.21 Nevertheless, the new prison is of a significant scale and in the LVIA submitted in support of the application **(CD/A25)** and in the evidence of Ms Machin at paragraph 4.20 **(CD/E6)** she concludes that:

Overall, whilst the influence of settlement edges and the presence of transport routes do not strongly detract from the openness of this part of the Green Belt, the existing prison infrastructure does detract from the openness of the area at a local level (paragraph 4.26).

Five purposes of Green Belt

- 7.22 The Council's decision notice **(CD/A100)** only references one of the five purposes that the appeal proposal would conflict with – safeguarding the countryside from encroachment (paragraph 138c of the Framework – **CD/H1**). This reflects the analysis in the Officer report to committee **(CD/A97)**. This also reflects the analysis contained in the Planning Statement submitted in support of the appeal proposal **(CD/A3)**.
- 7.23 I would concur with both the Officer report to committee and the Planning Statement that there is some limited conflict with paragraph 138c) of the Framework. The majority of the Site comprises previously developed land in the Green Belt associated with the historic World War II ammunitions storage use of the Site. The existing built form at the Site includes a number of farm buildings and disused social club. The character of the area, including the immediate context of HMP Garth and HMP Wymott, impacts on the rural character of the area. Although the Site displays some characteristic of open countryside, this has been diluted as a result of the existing development. Nonetheless, the Site is still within the countryside, and it is accepted that there is a degree of conflict with this Green Belt purpose resulting in some harm.

Any Other Harms

Landscape Visual Impact

- 7.24 In addition to the impact of the appeal proposal on the openness of the Green Belt, Ms Machin considers the impact of the proposal on landscape character and the visual effects on residential and recreational receptors, with further assessment on the effects of lighting **(CD/E6)**.
- 7.25 In respect of landscape character, Ms Machin concludes that the appeal proposal is not 'overly detrimental to local landscape character **(CD/E6)**'.
- 7.26 The effects on visual amenity for the residents who have properties on the edge of the Wymott estate are considered to be acceptable and will not be overly intrusive. These properties are nos. 1 to 19 Wray Crescent all of which have rear and side elevations, and rear gardens facing the boundary of the appeal proposal. The tallest elements of the appeal proposal are the houseblocks and these are set in the western part of the Site, well away from the residential

receptors. In the Officer report to committee, he concludes that the separation distances to the 5.2 m security fence at its nearest point and the nearest building are 50 metres and 70 metres respectively with intervening landscaping that would further filter the views.

- 7.27 In terms of recreational receptors, the main receptor identified in Ms Machin's evidence is Pump House Lane **(CD/E6)**. She concludes that users of this section of Pump House Lane will experience change from a generally open aspect to one that is dominated by the built form of the new prison, the adverse effects are limited to a short section of Pump House Lane that passes through the Site itself.
- 7.28 The appeal proposal includes a comprehensive landscape masterplan and landscape planting strategy for the Site. The strategy seeks to protect and reinforce existing habitats and vegetation where possible. A new area of neutral grassland is proposed beyond the main development. New woodland planting is proposed including a woodland copse on the north eastern corner of the site. The new planting will not only contribute to BNG but will also assist in screening and filtering the appeal proposal with the aim of protecting the openness of the Green Belt. The landscaping proposals also seek to reinforce the landscape character of the Lancashire Coastal Plain.
- 7.29 The Officer report to committee concludes that the development is compliant with Policy BNE1 in respect of residential amenity as a whole, including visual amenity.
- 7.30 UWAG have raised the impact of lighting as a concern. In order to address this issue, the Appellant has instructed that this is assessed through night time visualisations – these are appended to Ms Machin's evidence **(CD/E6)**. Overall, she concludes that given the existing context, the technical lighting specifications (as set out in the Lighting Note at Appendix C of my proof) and the existing and proposed green infrastructure, the lighting effects are not considered significant.
- 7.31 To conclude, although it is evident that there are some residual visual impacts that occur as a result of the appeal proposal these are considered to be limited and localised and are not so adverse as to warrant the refusal of planning permission.

Transport and Highways

- 7.32 This issue is dealt with below and in the evidence of Mr Yeates **(CD/E4)**, however Mr Yeates concludes that he does not consider that there is any severe residual cumulative impact on the highway network or any adverse impact on highway safety. On this basis the appeal proposal would comply with the relevant provisions in Policy BNE1d) of the CLP. In considering the evidence of Mr Yeates I would concur that the appeal proposal is compliant with Policy BNE1 and that the second reason for refusal is unfounded. If there were any unacceptable impacts on highway safety or severe residual cumulative impacts on the highway, in my experience I

would have expected Lancashire County Council Highway Authority (LCCHA) to have either requested further mitigation or maintained an objection to the proposal – this clearly was not the case.

Ecology

7.33 At appendix B of my proof is a report submitted in support of the appeal proposal and authored by the Appellant's ecologist Dr. Chris Glead-Owen of (CG) Ecology Ltd. This addresses the issues raised in the UWAG Statement of Case **(CD/C5)**, namely:

- Overwintering birds
- Removal of trees
- Biodiversity Net Gain
- Protected Species
- Insufficient assessment undertaken to assess impact

7.34 In respect to the lack of overwintering bird surveys, and insufficient assessment overall, this particular point was responded to as part of the Greater Manchester Ecology Unit (GMEU) consultation response provided to the case officer on the 26th November 2021 **(CD/B13)**. GMEU concluded that no further bird surveys were required, and the baseline survey information was sufficient to identify species and habitats of importance, and which were material during the determination of the proposal.

7.35 The Ecological Impact Assessment (EclA) submitted in support of the planning application **(CD/A9)** sets out in Table 6 the main impacts on ecology arising from the proposed development. These are assessed as being either major, moderate, minor or none. For each impact mitigation is suggested that will minimise the overall harm arising from the development proposal. In the case of habitat loss due to the construction process, significant enhancement is proposed over and above the baseline position resulting in biodiversity net gain of at least 20% and an increase in linear hedgerow of 10%.

7.36 In respect of protected species, the ecological note (Appendix B, Section 2.3) confirms that bat activity surveys have been undertaken by the Appellant's ecological consultants between April to October 2021 and recorded moderate to high common pipistrelle activity with occasional noctule and unidentified Myotis. The bat activity is along the woodland edges and bats emerging from the maternity and hibernation roosts in building B15 almost all fly south west to the retained woodland of Stanning's Folly and will therefore be unaffected by the new prison. A number of mitigation measures are proposed and include seasonal avoidance, noise minimisation measures such as electric lorries, acoustic barriers and locating the haul road to

be 30m away from B15. Further details are contained in the survey reports submitted as part of the planning application **(CD/A11, A12, A13)**. Provision for all of these mitigation measures can be achieved through the Construction Environmental Management Plan that I would expect to be conditioned as part of any planning permission.

- 7.37 No evidence has been found of Great Crested Newts (GCN) and further information on the survey work undertaken is found in the GCN Survey Report submitted with the planning application **(CD/A14)**.
- 7.38 Although the appeal proposal will result in the loss of trees it is proposed to plant replacement trees and hedgerow that will mitigate the impact of the loss. It should be noted that the appeal proposal seeks approval of detailed landscaping. This was requested by the LPA so that they could properly understand the mitigation and how it would reduce the visual impact of the scheme.
- 7.39 To conclude a raft of surveys and assessments were submitted in support of the planning application with a range of mitigation and enhancement measures proposed. The appeal proposals will protect, safeguard and enhance the habitats for both protected species and other species such as Barn Owl through the mitigation measures proposed. This is in accordance with Policies BNE9 and BNE11 of the CLP. Overall, the scheme will provide circa 20% biodiversity net gain, which is over and above the requirements set out in the Environment Act 2021 (which are not yet in force) and is in accordance with the Policy BNE9 of the CLP. It should be noted that the requirement to achieve a minimum of 10% BNG is not yet law and is reliant on the relevant regulations coming into force. The CLP does not specify a percentage increase, neither does the Framework and therefore at the current time any net increase in BNG, however small would be policy compliant. Although there is a loss of trees as a result of the proposal, replacement tree planting is proposed, and it is considered that the imperative need for the new prison and the benefits associated with this outweigh the loss of some trees. The appeal proposal is in accordance with Policy BNE10 of the CLP in this respect. The appeal proposal is also in accordance with paragraph 180 of the Framework.
- 7.40 In any event, I note that in the UWAG SoCG **(CD/C8)** that there is no longer any dispute between the parties regarding the assessment methods undertaken and UWAG agree that the ecology surveys undertaken are comprehensive and suitably identify all protected species present on the site and agree the approach to mitigation for the identified impacts on protected species.

Noise and disturbance

- 7.41 The main issue in respect to noise is set out in the third reason for refusal and reiterated in UWAG's Statement of Case at section 7 and relates to highway noise at the construction and operational phase of the appeal proposal. This issue is dealt with below and in the evidence of

Mr Eddy Goldsmith (**CD/E5**). Overall, the noise impacts arising from highway noise at both the construction and operational phases are for most sensitive receptors considered to be negligible to minor, and for Windy Harbour to fall within acceptable noise levels set by the World Health Organisation (WHO) for night time noise.

- 7.42 In addition, impacts on the amenity of the residents arising from noise due to construction activity and noise from prisoners has also been raised by local residents. In respect to construction activity this will be managed through Construction Management Plans for both traffic and the environment and will be secured through a suitably worded planning condition.
- 7.43 It is not anticipated that noise from prisoners will be an issue. The houseblocks are located on the western edge of the Site and therefore at some distance from residential development with intervening development and screening.
- 7.44 The owner of Windy Harbour has raised an issue during the determination of the planning application regarding the impact of headlights from cars leaving the Site. The property itself is set back from Moss Lane by circa 23 metres although the boundary treatment adjacent to the adopted highway is open with little vegetation screening providing an intervening screen with the property. A single storey side extension was granted planning permission on the 22nd September 2009 and the western elevation of this extension provides two windows to a sun lounge at ground floor level and a door into a utility room – there are no boundary fences along the west elevation of the dwelling with open views across the land to the west and the highway. At paragraph 191 of the Officer report to Committee it states that the windows in the western elevation of the extension do not provide the sole source of light and outlook to the rooms that they serve, and I note that there is a large window on the southern elevation of the sun lounge which will provide a good light source and outlook. It is acknowledged that there will be some impact from car headlights on the windows in the west elevation however habitable room windows to the south (principal) and north elevation will not be affected by headlights as cars leave the site. The limited impact of car headlights on the ground floor windows in the western elevation could be mitigated through curtains to the windows. The Appellant has offered to put in place mitigation along the boundary in the form of vegetation or slat board fencing, however this has not been taken up by the residents of the property. I do not consider that these limited impacts would result in an unacceptable impact on amenity and in this regard the appeal proposal accords with Policy BNE1 of CLP.

Heritage

- 7.45 A Heritage Statement supported the planning application submission (**CD/A24**). The assessment considered three listed buildings that are in the general locality of the Site and concluded that no harm will arise to the setting of those buildings as a result of the appeal proposal due to their distance from the Site. This view was also supported by the Council's

own heritage advisor and these conclusions are not contested by UWAG in their Statement of Case.

- 7.46 The Heritage Statement also assesses the impact of the appeal proposal on the non-designated heritage asset – the Ministry of Supply Depot. The depot formed part of a Royal Ordnance Factory that was developed during the 20th century as a government strategy to disperse armaments and munitions production away from large cities and the south east. There are still a number of structures associated with the depot including rail and road links apparent across the landscape, although a number were lost during the construction of HMP Garth and HMP Wymott.
- 7.47 The impacts on the non-designated heritage asset have been assessed as being *‘extremely limited, particularly where existing features such as topography, vegetation and built form, intervene to reduce the potential for such perceptions and/or intervisibility still further’ (CD/A24, para 5.3)*. Although it is accepted there is some limited harm to the non-designated heritage asset, this is considered to be outweighed by the numerous public benefits of the scheme. Paragraph 203 of the Framework only requires that the effect of an application on a non-designated asset is taken account of in the determination of the application and forms part of the planning judgment. Based on the assessment within the Heritage Statement I conclude that the proposal would comply with Policy BNE1e) or Policy BNE8 of the CLP and would not adversely affect any heritage asset.

Mineral Safeguarding

- 7.48 The Site is located within a Minerals Safeguarding area as identified on the CLP proposals map (see Figure 2) above. As is noted, the small area of land that are given this designation also include parts of HMP Garth and HMP Wymott.
- 7.49 Policy M2 and paragraph 212 in the Framework confirm that planning permission would not normally be supported for incompatible development within mineral safeguarding areas. Policy M2 sets out a number of criteria that if demonstrated to the satisfaction of the local authority would allow development to be permitted.
- 7.50 In support of the planning application a Phase 1 and II Geo-environmental Site Investigation was carried out and it was confirmed that the mineral is no longer of any value or has been fully extracted, and that prior extraction is not feasible due to the depth of the deposit.
- 7.51 In considering this particular matter, it is also considered that any limited loss of opportunity for mineral extraction is outweighed by the significant need for a new prison in this location. In the Officer report to Committee **(CD/A97)**, the Case Officer also confirms at paragraph 359 of the report that extraction of minerals would be environmentally unacceptable.

Loss of Sports Facilities at HMP Wymott

7.52 In order to accommodate the new prison, it would be necessary to build on an area of the Site that has previously been marked out as a playing pitch within the wire at HMP Wymott. In addition, an area to the south of the playing pitch contains a disused outdoor assault course comprising earth mounds and ditches. There is also a small disused store building and an area in the southwest part of the Site has been recently used to provide temporary covid isolation units. This area previously formed part of the outdoor assault court.

7.53 The loss of this area within HMP Wymott to the new prison development has resulted in an objection from Sport England and a detailed response to the objection was submitted by Cushman & Wakefield to Sport England explaining why it was not possible to provide a replacement playing pitch **(CD/A39)**. The main points set out in the response are as follows:

- The area to the south forming the outdoor assault court is not capable of forming a playing pitch and/or run off area in accordance with the definition of a 'playing field' set out within the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- The area to the south, historically marked out as a playing pitch has not been used by HMP Wymott, in part due to the poor drainage allowing use at only certain times of the year.
- The pitch is adjacent to the outer perimeter of HMP Wymott and is at risk from throw overs.
- A grass pitch is a greater security risk as grass can disguise objects, making it easier for prisoners to collect items.
- Due to poor quality and security risk, it was rarely used and eventually fell out of use.
- The prisoners at HMP Wymott have a range of other sporting facilities, including a sports hall and gym.
- There are a number of accommodation blocks at HMP Wymott that house vulnerable prisoners such as those with dementia, other mental health problems, the elderly and for the most part these prisoners have no requirement for sports facilities although there are sensory gardens to provide informal open space
- The Appellant has no requirement for the playing pitch or the outdoor assault course and none of these facilities are open to the community.

7.54 Policy HW2 of the CLP protects land or buildings currently or last used as, or ancillary to, open space or sports and recreational facilities unless:

- a) *Alternative facilities of an equivalent or enhanced standard are provided nearby before the existing facilities cease to be available* – the appeal proposal will deliver 4 x MUGA pitches with landscaped areas allocated to each houseblock. Access would be controlled by prison staff. A new gym within the Central Services Hub – again access would be controlled by staff. These new facilities are considered to be of a higher standard than the existing playing pitch and outdoor assault course, albeit they will serve the new prison rather than HMP Wymott.
- b) *Or, it can be demonstrated that the loss of the Site would not lead to a deficit of provision in the local area in terms of quantity and accessibility* - the playing pitch at HMP Wymott is not available to the local community and never has been, or will be.
- c) *The Site is not identified as being of high quality and/or high value in the Open Space Study* – the Chorley Open Space, Sports and Recreation Strategy (OSSR) Action Plan 2020 to 2036 (**CD/I21**) does not identify the playing pitch at HMP Wymott
- d) *It can be demonstrated that the retention of the Site is not required to satisfy a recreational need in the local area* – the OSSR confirms currently adult pitches (grass) have spare capacity of 2 match equivalent sessions (MES) per week and although slightly reduced at 2036 there will still be spare capacity of 1 MES per week. As already stated, the existing playing pitch at HMP Wymott is not available to the local community and therefore it is incapable of satisfying a ‘recreational need in the local areas’ beyond the immediate prison.

7.55 The playing pitch has not been assessed by the Council and does not form part of the analysis within the OSSR. It is not a community facility and would only be available to prisoners at HMP Wymott. The evidence does not point to any shortfall in grass football playing pitches for adults in the local area. In addition, the new prison will provide enhanced sports facilities as detailed above.

7.56 Although there may be some conflict with Policy HW2 and paragraph 99 of the Framework, overall, the harm arising from the loss I consider to be limited particularly when considered within the context of the limited benefits that are derived from the facility compared with the substantial benefits that the new prison will deliver.

Conclusions

7.57 The appeal proposal will result in some reduction in openness to the Green Belt both spatially and visually, however the existing prisons already detract from the openness of the Green Belt at a local level. The appeal proposal will be read against this context, meaning that the perceived impact on openness will be limited by what is already there. There is only conflict with one of the five purposes of Green Belt, safeguarding the countryside from encroachment,

however this impact is reduced due to the existing development and screening that surrounds the Site. Further mitigation is offered by the planting proposed as part of the appeal proposal resulting in a site that is visually well contained. I conclude that the conflict is limited, as did the Officer in his report to Committee (**CD/A97**), however any harm to the Green Belt should be given substantial weight in the determination of the appeal proposal.

- 7.58 There are a number of other harms that are identified and where appropriate mitigation has been put forward as part of the appeal proposal.
- 7.59 There will be some residual effects particularly in respect to landscape and visual effects (including impact of lighting during hours of darkness), but these are not considered to be significant.
- 7.60 Other harms are the loss of the playing pitch at HMP Wymott. This is a playing pitch that has not been used for a period of time by HMP Wymott and is surplus to requirements due to the general poor quality of the pitch and drainage issues associated with it and the security risks posed by its location on the edge of HMP Wymott. Further, although the loss of the pitch results in some conflict with national and local planning policy, it should be emphasised that playing pitches located within the closed prison estate are not available for community use and never will be.
- 7.61 There are some residual effects on ecology during the construction period but these can be mitigated through a number of measures controlled by condition.
- 7.62 In the main, the noise impact arising from both construction and operational traffic are considered to be negligible to minor, with the exception of one property, Windy Harbour, located on Moss Lane. However, the conclusion of the evidence of Mr Goldsmith is that although there will be an increase in noise levels, they are within the WHO guidelines and as such are considered to be acceptable.
- 7.63 Although there will be an increase in traffic movements, the impacts are considered to be acceptable with the mitigation proposed and will not result in any unacceptable impact on highway safety, or residual cumulative impacts on the road network that would be severe.
- 7.64 The proposal will result in some minor impacts on residential amenity particularly at the construction phase, however these can be properly mitigated through a Construction Traffic Management Plan and a Construction Environment Management Plan, so that these temporary effects are acceptable.
- 7.65 Impacts on the amenity of the residents of Windy Harbour arising from car headlights from the access road are not considered to be unacceptable due to the orientation of the dwelling, the location of main habitable rooms and the opportunities for internal mitigation at night (such as

curtains / blinds) . It is not considered that these impacts will give rise to unacceptable living conditions.

Very Special Circumstances

- 7.66 As already identified, the appeal proposal is inappropriate development in the Green Belt because as a whole it does not fall within any of the identified exceptions at paragraph 149 of the Framework. Inappropriate development is by definition harmful to the Green Belt and as required by policy a case of 'very special circumstances' would need to exist to allow the decision maker to grant planning permission.
- 7.67 The very special circumstances that exist in respect of the appeal proposal are the imperative need for the new prisons nationally for the reasons set out in Mr Seaton's evidence (**CD/E3**) and, in particular the need for a Category C Resettlement Prison in the northwest. This category of prison is for prisoners in the latter stages of their sentence where opportunities for learning and developing skills that they can use once back in the community is critical to their successful integration back into society.
- 7.68 The Appellant has undertaken a robust site search to identify suitable sites at the application and appeal stages and there are no alternative sites available in the northwest that could accommodate a new prison as proposed.
- 7.69 The evidence of Mr Seaton also confirms that not only do new prisons represent best value for money (compared to providing additional capacity in existing prisons), but also the existing Cat C resettlement prisons in the northwest region have limited options to expand existing capacity.
- 7.70 The appeal proposal will deliver substantial economic and social benefits as set out in Section 6 of my evidence alongside a range of environmental improvements including 20% BNG.
- 7.71 Taking the imperative need for a new Category C Resettlement prison in this location, together with the substantial benefits identified, I consider that these significantly outweigh the limited harm to the Green Belt harm and other harms. Cumulatively, these factors amount to a very special circumstances case that would support planning permission being granted for the appeal proposal.

Reason for Refusal 2

- 7.72 The evidence of Mr Yeates (**CD/E4**) addresses the second reason for refusal in respect to a detrimental impact on highway safety arising from increased traffic movements and inadequate highway infrastructure.
- 7.73 To summarise he concludes that:

- Ulnes Walton Lane has provided a satisfactory primary route to both HMP Wymott and HMP Garth since they were opened
- The increase in traffic flow along Ulnes Walton Lane to the north and south of Moss Lane are not considered to be significant by Mr Yeates. Save for the A581/Ulnes Walton Lane junction (referred to below), all of the junctions within the study area would continue to operate within capacity and therefore additional traffic from the new prison would not result in severe impacts on the highway network
- An assessment undertaken by Mr Yeates using COBALT forecasts a significantly higher number of Personal Injury Accidents (PIA) than has actually occurred along Ulnes Walton Lane and therefore Mr Yeates concludes that the road is safer than expected
- The appeal proposal will make a financial contribution of circa £485,834 to the A581 Rufford to Euxton Safety Improvement Scheme which would sufficiently mitigate the impact of new prison at the A581/Ulnes Walton Lane junction. The final amount is to be agreed and the above cost is estimated at 2021 levels.
- Traffic calming measures are proposed along Ulnes Lane and Moss Lane in accordance with a consultation response received during the determination period from Lancashire County Council Highway Authority (LCCHA). LCCHA confirmed that this would provide adequate mitigation to improve conditions for users of the two roads.

7.74 The evidence of Mr Yeates **(CD/E4)** does not find any detrimental impact on highway safety and as such the appeal proposal is in accordance with **Policy BNE1** of the Chorley Core Strategy and **paragraph 111** of the Framework.

Reason for Refusal 3

7.75 The evidence of Mr Goldsmith **(CD/E5)** addresses the third reason for refusal, which relates to noise nuisance and disturbance associated with the vehicular traffic movements that would be generated throughout the use of the development. As part of his evidence he also considers the impact of construction traffic and noise associated with the parking of cars.

7.76 The evidence of Mr Goldsmith **(CD/E5)** concludes that moderate impacts have the potential to occur at one receptor, Windy Harbour located to the east of the proposed site access. The impacts at the remaining receptors are identified as negligible to minor.

7.77 In terms of noise associated with construction traffic, he concludes that this, particularly during the peak construction period, can be reduced by including mitigation within a Construction Traffic Management Plan, which would result in lower traffic speeds along Moss Lane.

7.78 In respect of the impacts of operational traffic noise on Windy Harbour, Mr Goldsmith's evidence takes a *health based approach* based on WHO recommendations to night time noise, which recommends a LOAEL external level of 45dB. His evidence demonstrates that the noise associated with operational road traffic does not exceed the recommended WHO levels and is therefore considered to comply with national policy in the context of the proposed development. Although there will be some increase in noise from construction and operational traffic the evidence of Mr Goldsmith demonstrates that this is within acceptable limits. It is concluded that in this respect the appeal proposal is in accordance with **Policy** BNE1 of the Chorley Core Strategy.

8. UWAG Case

8.1 The Ulnes Walton Action Group (UWAG) became a formal part of the Inquiry on the 21st of April 2022. The UWAG Statement of Case ((**CD/C5**) raises additional issues other than those dealt with in the reasons for refusal set out in the Council's decision notice ((**CD/A100**). These can be summarised as follows:

- Socio-economic benefits
- Biodiversity net gain and ecological assessments
- Overall impact of the proposed development beyond harms to the Green Belt including adverse impact on the character of the local area and impact on residential amenity
- Engagement/consultation with the Local Community

8.2 Following the Case Management Conference (CMC) on the 18th May 2022, it was agreed that biodiversity and socio-economic benefits could be dealt with as part of the overall planning balance rather than as standalone main issues.

8.3 Each of the additional issues set out above is dealt with in Sections 6 and 7 of my proof of evidence, supplemented by specific topic reports on economic benefits, ecology and lighting impacts set out in Appendix A, B and C.

9. Third Party Representations

9.1 There have been a significant number of representations from third parties received by the Planning Inspectorate in relation to the appeal proposal. These are summarised in Appendix D but fall into the following categories:

- Operational issues both existing and future – these are dealt with by Mr Seaton in his evidence **(CD/E3)**.
- Need and Site Selection – this is dealt with by Mr Seaton in his evidence **(CD/E3)**. Additional evidence on the site search methodology is provided in my evidence at Section 6 above.
- Highways: increase in traffic at construction and operational stages, road, safety, inadequate highway infrastructure, lack of public transport – these concerns are dealt with by Mr Yeates in his evidence **(CD/E4)**
- Planning: development on Green Belt and no very special circumstances, building on public footpaths, insufficient consultation, socio-economic benefits – these concerns are dealt with in my evidence above
- Community: impact on resident's wellbeing/mental health, proximity of prison to residential properties, impact on house prices, impact on social infrastructure, impact on character of Wymott, residential amenity (visual impact), safety. Where these have not already been addressed in my evidence or the evidence of others, I consider each of these in turn below.
- Environment: impact on habitats and wildlife, inadequate ecological assessments, pollution, impact on trees and hedgerows, inaccurate BNG calculation, increase in flood risk, increase in noise and disturbance, light and sound pollution. Matters relating to ecology have been addressed in a note at Appendix B of my evidence, however I have also assessed these in relation to compliance with local and national planning policy and conclude that any impacts from the appeal proposal can be properly mitigated and accord with policy.
- Funding: inappropriate use of public funds – this is not considered to be a planning issue and it is for the Appellant to assess whether the proposals are value for money.

9.2 I have reviewed the representations and they generally reflect the concerns either set out in the Council's Decision Notice or the UWAG Statement of Case.

9.3 Evidence has been provided by others in respect to need for the development, robustness of the Site Search methodology, landscape visual impact, highway impacts and noise impacts.

Technical notes have been produced in respect to the economic benefits, ecology and lighting and are appended to my proof of evidence with reference and discussion of each in the main body of this document.

- 9.4 I have considered at length in my evidence why I consider that a case of 'very special circumstances' exists. The remaining planning issues raised by third parties are addressed below.
- 9.5 Impact on resident's wellbeing/mental health – a range of issues are raised under this head. It is acknowledged that during the construction phase of the development there will be some disruption caused, however as part of any planning permission granted a Construction Environmental Management Plan (CEMP) will be conditioned that will require the Appellant to set out how the impacts of construction will be mitigated. This will include setting out the hours of operation, routes for construction traffic, details of how dust and noise impacts will be mitigated and other measures to control construction impacts.
- 9.6 Concerns around pollution are also raised. It is not clear whether this relates to the operational phase or the construction phase. An Air Quality Assessment was submitted in support of the planning application. Although without mitigation the assessment concludes that at the construction phase there is a high risk of impacts on sensitive receptors, measures set out in a dust mitigation which will form part of the CEMP. In terms of impacts resulting from additional traffic movement, mitigation measures to reduce direct impacts of the development on air quality concentrations are not required, however measures set out in the Travel Plan would seek to reduce emissions from the development.
- 9.7 In respect of concerns over car parking in and around the Wymott residential estate from either prison staff or visitors, this should not be an issue as it is considered that sufficient car parking will be provided as part of the appeal proposal.
- 9.8 The appeal proposal does not result in the loss of any public rights of way (PROW) but does involve the realignment of Pump House Way. It will however continue to provide access for people and will be upgraded to provide a better surface suitable for both pedestrians and cyclists.
- 9.9 There are also concerns that relate to the impact on resident's house prices. However, there is no evidence that house prices would be affected and, in any event, this is not of itself a material planning consideration.
- 9.10 To conclude, I consider that all the issues raised in third party representations have been addressed either in evidence provided by others or within my evidence and I am unaware of any outstanding issue raised that would indicate that planning permission should be refused.

10. Summary and Conclusions

10.1 The appeal proposal is against the refusal of the council to grant planning permission for a new prison at land adjacent to HMP Wymott. The appeal proposal was refused by Planning Committee, against Officer recommendation, on the 21st December 2022. Three reasons for refusal are cited in the Council's decision notice, which can be summarised as follows **(CD/A100)**:

- Greater impact on openness of the Green Belt and the purposes of including land within it, Inappropriate development in the Green Belt and benefits of the scheme do not outweigh harm to Green Belt and other harms
- Unacceptable impact on highway safety and inadequate highway infrastructure
- Noise nuisance and disturbance associated with vehicular traffic that would result in harmful impacts on the amenity of residents.

10.2 UWAG also raise additional issues in their Statement of Case over and above the Council's reasons for refusal and are summarised as:

- Socio-economic benefits
- Biodiversity net gain and ecological assessments
- Overall impact of the proposed development beyond harms to the Green Belt including adverse impact on the character of the local area and impact on residential amenity
- Engagement/consultation with the Local Community

10.3 I note however that following the completion of the SoCG with UWAG the concerns relating to biodiversity net gain and ecological assessments are no longer in issue. In terms of the socio-economic benefits, UWAG confirm that they agree with the extent of these but they dispute the weight to be attached to the various benefits identified.

10.4 The Site is located approximately 3.2km south west of Leyland. Direct access to the Site is from Moss Lane, via Ulnes Walton Lane which runs to the east of the existing prisons. To the east of the Site lies a small estate of residential development originally developed to provide prison officer accommodation. The existing prisons of HMP Garth and HMP Wymott are located adjacent to the Site. Land to the south and west of the prison complex is primarily in agricultural in use. The topography of the surrounding area is relatively flat.

- 10.5 The character of the Site is influenced by the existing prison development, the nearby residential development and transport infrastructure but notwithstanding this is essentially rural in character.
- 10.6 The appeal proposal seeks outline planning permission for a new prison (Class C2A) within a secure perimeter fence including the demolition of existing buildings and structures together with all associated engineering works. All matters are reserved except for means of access, scale, parking and landscaping. Outline planning permission is also sought for a replacement boiler house, with all matters reserved except for access and full planning permission is also sought for a replacement bowling green and club house (Class F2c) on land adjacent to HMP Garth and HMP Wymott.
- 10.7 The Development Plan for Chorley Borough Council comprises of the Central Lancashire Core Strategy (2012), the Chorley Local Plan 2012 – 2026 (2015), the Joint Lancashire Minerals and Waste Core Strategy (2009) and the Joint Lancashire Minerals and Waste Site Allocation and Development Management Policies Parts 1 and 2 (2013). As a matter of law, planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. Paragraph 11c) of the Framework states that where development proposals accord with an up-to-date development they should be approved without delay.
- 10.8 The Site is located in the Green Belt and is designated on the adopted Proposals Map as a Previously Developed Site in the Green Belt where Policy BNE5 of the CLP is applicable. A small area of the Site to the east of Pump House Lane falls outside this designation. An area of the Site is also allocated as a Minerals Safeguarding Area. Ridley Lane and part of Pump House Lane running east-west along the northern boundary of the Site are a designated New Cycle Route (Policy ST1).
- 10.9 I conclude that with some limited conflict with Policy HW2, the appeal proposal is in accordance with the development plan for Chorley, read as a whole. The CLP contains no generic Green Belt policies and therefore the Council rely on policies in the Framework.
- 10.10 There are also a number of material considerations that would support the grant of planning permission for the appeal proposal. It is common ground that the appeal proposal is inappropriate development in the Green Belt where very special circumstances need to be demonstrated in order to grant planning permission for such development. Very special circumstances can only exist if harm to the Green Belt, by reason of inappropriateness, and any other harm is clearly outweighed by other considerations.
- 10.11 The definitional harm to the Green Belt arises by reason of the inappropriateness of the development when taken as a whole. In addition, the development will have an impact on the openness of the Green Belt, both spatially and visually. The spatial dimension of openness in

the wider area is impacted by the settlement edge of Leyland, the existing residential development, road and rail infrastructure in the surrounding area and ribbon development along Ulmes Walton Lane. All of these elements impact on the openness of the Green Belt.

- 10.12 Given the scale and massing of the appeal proposal it is clear there would be an impact on the visual dimension of openness, however the existing site is well contained with the existing prison development located along the southern and western boundaries, and residential development to the east. Existing vegetation along the perimeter assists in screening the Site from medium distance views. The topography of the landscape provides limited opportunities for wide ranging or long distance views across the landscape and in any event these are filtered by mature vegetation. The landscape proposals put forward as part of the appeal scheme will ensure that the Site is visually well contained
- 10.13 The appeal proposal would also conflict with one of the five purposes of Green Belt – safeguarding the countryside from encroachment. I conclude that there is some limited conflict with paragraph 138c) of the Framework, but that this is tempered by the fact that a large part of the site already contains built development, and the rural character of the area has been somewhat diluted as a result of existing development.
- 10.14 Although overall, I consider that the conflict with Green Belt policy is limited, any harm to the Green Belt should be given substantial weight in the appeal proposal.
- 10.15 In respect to other harms, I assess these as follows. There will be some residual effects to the landscape and visual effects, including lighting during the hours of darkness. The appeal proposal puts forward mitigation both to screen the development and ensure that lighting impacts are minimised. The appeal proposal should be seen within the context of existing prisons and associated infrastructure, highway infrastructure and lighting and residential development. I therefore give limited weight to these residual harms.
- 10.16 It is acknowledged that HMP Wymott will lose a playing pitch and outdoor assault course, however the Appellant has advised that these have fallen out of use in recent years and do not serve any useful purpose being of poor quality. HMP Wymott have other facilities and the new prison will be provided with four new MUGA pitches as part of the proposals. The existing playing pitch is not a community facility, and the loss of this pitch will not have a detrimental impact on football pitch provision in the Chorley District. For these reasons I attach limited weight to the loss of this pitch.
- 10.17 There are some impacts on ecology arising from the appeal proposal particularly during the construction phase, however mitigation has been proposed, which will minimise any ecological harms.

- 10.18 In terms of highway safety and impact on the highway network, with the mitigation proposed any residual impacts are mitigated.
- 10.19 Some minor impacts have been identified in relation to noise from construction and operational traffic, but these are within acceptable WHO limits.
- 10.20 The impacts on the non-designated heritage asset have been assessed as being extremely limited and I consider that these are outweighed by the significant public benefits arising from the appeal scheme.
- 10.21 Although there will be some minor impacts on residential amenity, particularly during the construction period, these can be limited through appropriate conditions being attached to any planning permission.
- 10.22 The harms identified over and above Green Belt harms are considered to be relatively limited and of themselves would not indicate that planning permission should be refused. With the mitigation proposed, with the exception of the loss of the playing pitch they are considered to be compliant with local and national planning policy.
- 10.23 There are a number of significant benefits of the appeal proposal that I consider when taken together outweigh the harm to the Green Belt and the other limited harms that I have identified.
- 10.24 The Appellant has also identified an imperative need for new prisons nationally, but more particularly for a Category C Resettlement prison in the north west, which I consider to be a material consideration that should be given significant weight in the planning balance. The Appellant has a statutory duty to ensure that sufficient prison places are available of the right type and in the right location. The Appellant's have undertaken a robust Site Search both prior to submitting the planning application and at the appeal stage to ensure that this location is the best location to meet their requirements. No other suitable sites that are deliverable within the required timescales have been identified. There is a compelling case for a new prison in this location and I give this substantial weight in the planning balance.
- 10.25 The Framework requires new development to be sustainable (paragraph 11). To achieve sustainable development the planning system should give consideration to three overarching objectives – economic, social and environmental.
- 10.26 In the case of the appeal proposal there are a number of positive economic benefits that will be delivered at the construction and operational phase of the development both at the local level and in the wider economy. The inward investment into the area together with the contribution to jobs growth in an area of out-commuting will contribute to the long term growth of the labour market and will assist in improving the deprivation indices of the area. I have set these out in Section 6 of my proof and give these substantial weight in the planning balance.

- 10.27 The social benefits are two fold – to prisoners and the community. The provision of high quality prisons that create an environment aimed at turning round prisoners lives will deliver improved outcome for prisoners, There are also wide ranging community benefits as identified in Section 6 of my evidence (including the provision of new, improved bowling green club facilities). Overall, I give significant weight to the social benefits delivered by the appeal proposal.
- 10.28 The appeal proposal will deliver a number of environmental benefits. The majority of the Site is previously developed land, and the proposed development will make efficient use of land. I give moderate weight to this. The delivery of a high-quality prison building that will achieve a minimum of BREEAM excellent and the minimum of 20% biodiversity net gain are environmental benefits that are given moderate weight in the planning balance. There are a number of other environmental benefits, including measures to improve sustainable transport that I give more limited weight to individually, however when considered cumulatively, over all I give moderate weight to the environmental benefits of the scheme.
- 10.29 To conclude, the appeal proposal overall accords with the up-to-date development plan policies, taken as a whole. In light of the evidence of others and my own professional judgment I consider that the imperative need for a new prison in the north west together with the economic, social and environmental benefits that will be delivered clearly outweigh the harm to the Green Belt and the other identified harms and demonstrate that when taken as a whole they represent a set of very special circumstances such that planning permission should be granted. This represents a material consideration that points to the grant of planning permission and should be given significant weight.
- 10.30 I am of the view that the appeal proposal represents a sustainable form of development that should be granted planning permission.

Cushman & Wakefield
St Paul's House
23 Park Square South
Leeds LS1 2ND

About Cushman & Wakefield

Cushman & Wakefield is a leading global real estate services firm that helps clients transform the way people work, shop and live. The firm's 45,000 employees in more than 60 countries provide deep local and global insights that create significant value for our clients.

Cushman & Wakefield is among the largest commercial real estate services firms, with core services of agency leasing, asset services, capital markets, facility services, global occupier services, investment & asset management (DTZ Investors), project & development services, tenant representation and valuation & advisory.

To learn more, visit www.cushmanwakefield.com
or follow @CushWake on Twitter.

© Cushman & Wakefield 2022

