

STATEMENT OF CASE

**Hybrid planning application for a new
prison and associated ancillary
facilities, a replacement boiler house
and a replacement bowling green**

Land adjacent to HMP Garth and HMP
Wymott, Leyland

March 2022

LPA Ref: 21/01028/OUTMAJ

Appeal on behalf of Ministry of Justice

CONTENTS

1. Introduction	3
2. The Appeal Site	4
3. The Proposed Development	5
4. Planning Policy and Guidance	8
5. The Appellant's Case.....	12
6. List of Documents to which the Appellant may refer.....	18
Appendix 1 – Application Drawing and Document Schedule.....	19

1. Introduction

- 1.1 This Statement of Case has been prepared by Cushman & Wakefield in relation to an appeal by the Ministry of Justice ('the Appellant'). It outlines the main points of the Appellant's case in accordance with the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 as amended.
- 1.2 The appeal is made following the refusal of planning permission (ref. 21/01028/OUTMAJ) by Chorley Council ('the Council') for the following description of development:

Hybrid planning application seeking: Outline planning permission (with all matters reserved except for means of access, parking and landscaping) for a new prison (up to 74,531.71 sqm GEA) (Class C2A) within a secure perimeter fence following demolition of existing buildings and structures and together with associated engineering works; Outline planning permission for a replacement boiler house (with all matters reserved except for access); and Full planning permission for a replacement bowling green and club house (Class F2(c)) on land adjacent to HMP Garth and HMP Wymott, Leyland
- 1.3 The site comprises land surrounding HMP Garth and HMP Wymott. 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 c. 1,200.
- 1.4 The site and adjacent prisons are situated on land which was formerly an army ammunition depot, the remnants of which are still visible in the landscape to the north of the site.
- 1.5 The site is located within the Green Belt.
- 1.6 As detailed within section 5 of this report, the appellant's case is that whilst the proposed development comprises inappropriate development in the Green Belt, there are very special circumstances exist to outweigh the harm to the Green Belt as well as any other harm. The proposed development is therefore acceptable in principle and will not lead to any other significant adverse impacts that would outweigh the benefits of the scheme. The appeal should therefore be allowed.
- 1.7 This statement is structured under the following sections:
 - Section 1 – Introduction;
 - Section 2 – The Appeal Site;
 - Section 3 – The Proposed Development;
 - Section 4 – Planning Policy and Guidance;
 - Section 5 – The Appellant's Case; and
 - Section 6 – List of Documents to which the Appellant may refer.
- 1.8 The case for the Appellant will address all matters left outstanding at the point the application was determined. The Statement of Case addresses the Council's reasons for refusal and summarise the evidence that will be produced in support of the Appellant's case. The Appellant reserves the right to adduce further plans and documentation where relevant.
- 1.9 The Appellant reserves the right to refer to any further evidence in support of the appeal including matters that arise from the process of agreeing common ground or other issues raised during the course of the appeal that are not covered directly by this Statement.

2. The Appeal Site

Site Description

- 2.1 The Site and surrounding area are described in the submitted Planning Statement and it is anticipated that this will be a matter agreed within the Statement of Common Ground (SoCG).
- 2.2 The SoCG will set out a full description of the appeal site including its relationship with the surrounding area, adjacent existing prisons, nearby residential estate and transport network.

Planning History

- 2.3 The SoCG will set out the planning history relevant to the site, including the adjacent two prisons.
- 2.4 The Appellant will also provide details of the pre-application discussions held with Council Officers and the feedback received.
- 2.5 Details of the Appellant's engagement with the local community will be provided.

3. The Proposed Development

Proposed Development

- 3.1 The Application seeks planning permission for a hybrid application comprising three components:
- i. Outline planning permission (with all matters reserved except for means of access, parking and landscaping) for a new prison (up to 74,532 sqm GEA) (Class C2A) within a secure perimeter fence following demolition of existing buildings and structures and together with associated engineering works;
 - ii. Outline planning permission for a replacement boiler house (with all matters reserved except for access); and
 - iii. Full planning permission for a replacement bowling green and club house (Class F2(c)).
- 3.2 The indicative site layout proposes a range of buildings and facilities typical of a Category C resettlement prison, including:
- Seven new houseblocks each accommodating up to 245 prisoners (1,715 prisoners in total), totalling c.53,472 sqm GEA.
 - Supporting development including kitchen, workshops, kennels, Entrance Resource Hub, Central Services Hub and support buildings, totalling c. 21,060 sqm GEA.
 - Ancillary development including car parking (c. 525 spaces), internal road layout and perimeter fencing totalling 1,326 linear metres enclosing a secure perimeter area of 10.5 ha.
- 3.3 The house blocks will be four storeys in height, whilst the other buildings will range from one to three storeys.
- 3.4 Other development proposed includes kennels, polytunnels, car parking (c. 525 spaces), internal road layout (shown for illustrative purposes) and perimeter fencing.
- 3.5 In the north eastern corner of the site is an existing bowling green and club house, which will be demolished and reprovided elsewhere on the site as part of this proposal.
- 3.6 In the north of the site is an existing boiler house, which will similarly be demolished and reprovided elsewhere on the site as part of this proposal.
- 3.7 A detailed description of the proposed development and each of the proposed elements is contained within the submitted Planning Statement. It is anticipated that this will be a matter of agreement with the Council in the SoCG.

Application Submission and Determination

- 3.8 The application was submitted and registered as valid on the 24th August 2021. It was provided with reference number 21/01028/OUTMAJ.
- 3.9 An informal EIA screening exercise was undertaken with the LPA prior to the submission of the application who advised that the development proposal does not require an EIA to be undertaken to support the application. This was subsequently been followed by a formal EIA screening request, submitted on 9th August 2021 (ref. 21/00968/SCE). The Council issued its decision on 8th September 2021 confirming that the application did not comprise EIA

development.

- 3.10 The application was supported by a suite of documents and plans, with additional material submitted to the Council during the determination period. **Appendix 1** lists the submitted documents and drawings, noting their date of submission and identifying where earlier versions have been updated or superseded.
- 3.11 The application was heard at the Council's Planning Committee on 21st December 2021, with the officer's report (OR) providing a recommendation for approval subject to completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990 ('the 1990 Act').
- 3.12 The committee determined to refuse the application contrary to the officer recommendation. The decision notice was issued on 22nd December 2021.
- 3.13 The application was refused for the following reasons:
 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.*

Planning Obligations and Conditions

- 3.14 A S106 Agreement under the 1990 Act is required to secure the necessary planning obligations. The contributions set out below are considered to meet the tests contained at paragraph 57 of the National Planning Policy Framework ('the Framework') and as set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.
- 3.15 It is anticipated that the S106 Agreement will cover the following items:
 - Contribution towards provision of an enhanced bus service;
 - Cycleway improvements to Nixon Lane;
 - Appraisal and monitoring of the travel plan;
 - Contribution towards a corridor improvement scheme along the A581;
 - Monitoring of the biodiversity net gain; and

- Reprovision of the bowling green and club house for use by Wymott Bowling Club.
- 3.16 Draft Heads of Terms are submitted with the appeal (superseding the draft Heads of Terms submitted with the planning application). A S106 Agreement will be prepared in conjunction with the Council and submitted during the course of the appeal.
- 3.17 It is also considered that a S278 agreement is necessary to secure the delivery of works within the adopted highway, including improvements to existing bus stops and traffic calming measures along Moss Lane and Ulnes Walton Lane. This is proposed to be secured via an appropriately worded condition.
- 3.18 A draft schedule of conditions was included in the OR Addendum and had been subject to discussion with the Council prior to the Planning Committee. It is anticipated that the SoCG will contain the agreed schedule of planning conditions for the Inspector's consideration.

4. Planning Policy and Guidance

4.1 Section 38 of the Planning and Compensation Act 2004 sets out that planning applications must be determined in accordance with relevant policies set out in the appropriate development plan, unless material considerations indicate otherwise.

The Adopted Development Plan

4.2 Reference will be made to the development plan for Chorley Borough Council which comprises the following documents:

- Central Lancashire Core Strategy (CLCS) (2012);
- Chorley Local Plan 2012 – 2026 (CLP) (2015);
- Joint Lancashire Minerals and Waste Core Strategy (2009); and
- Joint Lancashire Minerals and Waste Site Allocation and Development Management Policies Parts 1 and 2 (2013).

4.3 The site is located within the Green Belt, outside of any settlement development boundary, albeit the adjacent existing two prisons and most of the new prison site (extending to the existing route of Pump House Lane) is allocated as a Previously Developed Site within the Green Belt (Policy BNE5). 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).

4.4 The key policies are as follows, with further policy detail added for the most relevant policies:

Central Lancashire Core Strategy

- Policy V1 (Model Policy) states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the Framework. The Council will work to secure development that improves the economic, social and environmental conditions in the area;
- Policy ST1 (Provision or Improvement of Footpaths, Cycleways, Bridleways and their Associated Facilities in Existing Networks and New Development);
- Policy ST4 (Parking Standards);
- Policy BNE1 (Design Criteria for New Development) sets out criteria that new development must be designed in accordance with, including consideration of neighbouring amenity, highways impact, heritage, ecology, landscape, noise and crime;
- Policy BNE5 (Redevelopment of Previously Developed Sites in the Green Belt) states that the redevelopment of previously developed sites in the Green Belt, will be permitted providing 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;
- Policy BNE6 (Light Pollution);
- Policy BNE9 (Biodiversity and Nature Conservation) requires new development to

- achieve a net gain in biodiversity, provide opportunities for habitats and species to adapt to climate change and make provision for appropriate mitigation where any impact to protected species is identified;
- Policy BNE10 (Trees) requires replacement tree planting where it is considered that the benefit of a development outweighs the loss of trees or hedgerows;
- Policy BNE11 (Species Protection) requires development impacting priority species to minimise the impact, reduce the disturbance to a minimum and provide adequate mitigation to sustain the viability of the local population of the species;
- Policy HW2 (Protection of Existing Open Space, Sport and Recreational Facilities); and
- Policy HW6 (Community Facilities).

Chorley Local Plan

- Strategic Objective 1 seeks to foster growth and investment in Central Lancashire;
- Strategic Objective 10 seeks to ensure there is a sufficient range of locations for employment purposes;
- Policy MP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the Framework. The Council will work to secure development that improves the economic, social and environmental conditions in the area;
- Policy 1 (Locating Growth) seeks to focus development in accordance with the hierarchy contained in the policy, supporting development in other places unless there are exceptional reasons for larger scale redevelopment schemes;
- Policy 3 (Travel) states that planning for travel should involve a series of measures including improvements to cycle opportunities, public transport and the road network, as well as encouraging and enabling travellers to change their mode of travel;
- Policy 15 (Skills and Economic Inclusion);
- Policy 17 (Design of New Buildings);
- Policy 18 (Green Infrastructure) requires the natural environment to be protected and enhanced, and mitigated where development would lead to the loss of part of the green infrastructure network;
- Policy 21 (Landscape Character Areas) requires development to be integrated into existing settlement patterns and appropriate to the landscape character area;
- Policy 22 (Biodiversity and Geodiversity) seeks to conserve, protect and seek opportunities to enhance biological assets;
- Policy 24 (Sport and Recreation) protects existing sport and recreation facilities, unless improved alternative provision is made;
- Policy 26 (Crime and Community Safety) plans for reduced levels of crime and improved community safety;
- Policy 27 (Sustainable Resources and New Developments);
- Policy 29 (Water Management);

- Policy 30 (Air Quality); and
- Policy 31 (Agricultural Land).

Joint Lancashire Minerals and Waste Core Strategy (2009); and

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

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

- Policy M2 (Safeguarding Minerals).

Other Material Considerations

National Planning Policy Framework and Guidance

- 4.5 The Framework (2021) is a material consideration the decision making process. Reference will be made to this document, the associated Planning Practice Guidance (PPG) and any succession documents.
- 4.6 Paragraph 8 sets out three overarching objectives to achieving sustainable development:
- An economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
 - A social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
 - An environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
- 4.7 Paragraph 11 of the Framework sets out the presumption in favour of sustainable development and establishes that for decision-taking, this means approving development proposals that accord with an up-to-date development plan, or where there are no relevant development plan policies, granting permission unless the application of policies in the Framework provide a clear reason for refusal.
- 4.8 Paragraph 81 places significant weight on the need to support economic growth and productivity, with paragraph 82 setting out objectives to support economic development.
- 4.9 Paragraph 96 states that local planning authorities should work proactively and positively to plan for public service infrastructure, such as criminal justice accommodation, and resolve key planning issues before submission. This is to ensure the faster delivery of public service infrastructure.
- 4.10 Paragraph 110 of the Framework sets out the highway matters that should be considered in assessing development proposals, with paragraph 111 going on to state that development

should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 4.11 Paragraph 138 of the Framework sets out that Green Belt serves five purposes with paragraph 147 stating that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 4.12 Paragraph 148 sets out that when considering any planning application, decision makers should ensure that substantial weight is given 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.
- 4.13 It will be demonstrated how the Development complies with the Framework.

Supplementary Planning Documents

- 4.14 Chorley Council and Central Lancashire have adopted various Supplementary Planning Documents (SPDs). The following SPDs are considered most relevant to the proposed development:
 - Design Guide SPD (Central Lancashire) provides an overview of the design principles the Council will employ when considering planning proposals;
 - Biodiversity and Nature Conservation (Central Lancashire) provides guidance on biodiversity and nature conservation;
 - Employment Skills (Central Lancashire) sets out the Councils' requirement to see additional benefits (or social value) incorporated into housing and commercial development opportunities; and
 - Renewable and Low Carbon Energy (Chorley) provides further guidance on Core Strategy Policies 27 (Sustainable Resources and New Developments) and 28 (Renewable and Low Carbon Energy Schemes).

5. The Appellant's Case

- 5.1 This section sets out the Appellant's position in relation to the reasons for refusal.

Green Belt

- 5.2 The proposed development falls within the designated Green Belt. It is recognised that the scale of the proposed new prison development is such that it comprises inappropriate development within the Green Belt. Therefore, the Framework is clear that very special circumstances need to be demonstrated in order to justify the development.
- 5.3 Section 8 of the Planning Statement considers the extent to which the proposed development may cause harm to the openness and five purposes of the Green Belt as set out within the Framework. The Appellant accepts that the development will result in some harm to openness and a degree of conflict with the purpose of safeguarding the countryside from encroachment.
- 5.4 Very special circumstances are considered to exist that outweigh the harm to the Green Belt and any other harm resulting from the proposed development. These are set out at Sections 7 and 9 of the Planning Statement, and are summarised below:

1. Significant national and regional need for new Category C resettlement prison places.

The Prison Act 1952 grants power to the Secretary of State for Justice to provide and maintain prison accommodation and to lawfully hold within it prisoners sentenced to imprisonment or committed to prison on remand or pending trial.

The prison population is forecast to rise significantly during the 2020s, putting sustained pressure on the custodial estate. The rate of police recruitment and their subsequent focus, along with reforms to the Criminal Justice System is forecast to lead to significantly more arrests, charges and sentences and a similarly significant increase in demand for prison places – well beyond existing capacity.

The projected demand will soon outstrip supply and the Government needs to ensure there is sufficient capacity to hold the additional prisoners that will come from this. Previous governments have run out of prison places. In 2007 there was an instance of this leading to prisoners being released before the end of their sentences. This reduced HMPPS's ability to protect the public from offenders and harmed public confidence in the criminal justice system.

This challenging demand profile will be exacerbated by the rate of court recovery dealing with the increase in backlog of cases from the Covid-19 pandemic; an increase in Crown Court capacity over the next few years to drive down the backlog of cases will drive a further increase in demand for prison places as there is more capacity to hear more cases, and more prisoners enter the system.

It is therefore of critical importance that additional prison places are provided at speed to meet demand.

In the recent past, there has been an imbalance between the needs of prisoners and the types and locations of prisons they are held in. Such imbalances have meant that many prisoners are held in a higher security category prison than they have been assessed for (i.e. Category C or D prisoners being held in Category A or B prisons). Holding prisoners in the wrong types of prison inhibits rehabilitation and is poor value for money.

The proposed development will therefore assist in meeting a significant national need for new prison places, specifically Category C resettlement, and this benefit should be afforded very substantial weight in favour of the proposed development.

2. Lack of an alternative location to accommodate all or part of the proposed development

The new Category C resettlement prison places need to be evenly distributed around the country to ensure that the demand for prisoners to be located within their home region is met. Locating prisoners close to their home address helps individuals to prepare for release and resettlement into their community, through maintaining or improving their family and community ties.

The need for prison places in a particular location needs to be considered together with the surrounding geographic region. It is for this reason that one of the primary site requirements is that the site is centrally located within the relevant region, within a reasonable travel-time of major conurbations. The application site is well-placed to meet the regional demand for Category C resettlement places.

The site selection strategy for the location of the new prisons balances a number of important considerations, including a sufficiently flat developable area of at least 12 hectares; no significant abnormal costs; good access; no security risks from overlooking; no major ecological or historical designations; and a suitable shape for prison development.

Recent site searches demonstrate that there are no available alternative sites in the North West region, either in private or public ownership, capable of accommodating the proposed new prison and delivering it within the necessary timescales. The Appellant's evidence will demonstrate, with reference to the outputs from the latest site searches undertaken in early 2022, that there are no suitable alternative and available sites.

The Planning Statement sets out that the Appellant considered whether the scale of the proposed new prison could be reduced through extending an existing Category C resettlement prison. The Appellant will demonstrate that there are no alternative existing Category C resettlement prisons in the North West region that could accommodate part of the required demand and reduce the scale of the proposed development.

The absence of a suitable alternative location for the proposed development should be afforded substantial weight in favour of the grant of permission.

3. The significant socio-economic benefits

Both the construction and operational phases of the proposed development will generate significant socio-economic benefits.

The construction phase of the prison could directly support 122 (gross) FTE jobs including 69 (net) jobs and generate £65.9 million (net) direct Gross Value Added (GVA). In addition to these direct impacts, the construction of the proposed development could support a total of 21 (net) indirect and induced jobs at local and regional level and an additional £19.8 million (net) indirect and induced GVA at local and regional level.

The proposed new prison will provide 643 new jobs, with 590 likely to reside locally. The expenditure of the prison itself once operational could lead to a series of additional

indirect impacts, including £14.1 million (net with inflation) indirect annual spend with £2.7 million (net with inflation) retained locally, and 230 indirect jobs, of which 46 could be expected to be undertaken by local labour. There is also forecasted that regional supply-chain spend could equal £17.5 million (net with inflation) per annum spend, supporting 299 jobs at a regional level.

Furthermore, the new prison will provide safe, secure and modern facilities to deliver improved outcomes for prisoners and reduce reoffending rates. The combined economic and social cost of reoffending has been estimated at £18.1 billion^{1,2} and so the opportunity presented by the proposed development to reduce reoffending rates is of significant value.

The replacement bowling green and clubhouse will provide additional socio-economic benefits, with the replacement clubhouse in particular being a substantial qualitative improvement to the current facilities which are not fit for purpose and do not provide level access.

These socio-economic benefits are considered to weigh heavily in favour of the proposed development.

4. Biodiversity net gain

The proposed development incorporates 20% biodiversity net gain, twice that requested by the Council's ecology officer. Existing habitats and vegetation will be protected and reinforced where possible. No Category A trees will be impacted.

Woodland planting, wildflower and wetland meadows, amenity grass, ornamental shrubs and orchard trees are proposed. The 'campus' approach of grass lawns and open paved places within the new prison allows space for movement and sport, and natural habitats are proposed along the inside of the perimeter fence to increase biodiversity within areas that will not be disturbed by regular human movements.

So far as possible, impacts to protected species have been avoided, with a range of mitigation measures proposed including relocation of nest boxes, bird and bee-bricks on upper elevations and new ponds.

All of the net gain will be delivered on-site with no offsetting required and the net gain will be secured for a minimum period of 30 years and monitored regularly throughout that time.

The significant biodiversity net gain in excess of that requested by the Council is considered to weigh moderately in favour of the scheme.

- 5.5 The OR sets out the balancing exercise taken to considering if there are very special circumstances. The OR recognises there will be some harm to the Green Belt by way of definitional harm, impact on openness, encroachment and some minor adverse visual impacts, as well as harm due to the loss of the HMP Wymott playing field. In favour of the scheme, the OR recognises the range of social, economic and environmental benefits, and attaches substantial weight to the national and regional need for a new prison and the lack of alternatives.

¹ Economic and social costs of reoffending: Analytical report (Ministry of Justice, 2019).

² £18.1 billion represents the total cost of reoffending based on a cohort of offenders identified in 2016 who subsequently went on to reoffend over a 12-month follow-up period.

The OR concludes that very special circumstances do exist.

- 5.6 The first reason for refusal sets out that very special circumstances are not considered to have been demonstrated. It is not evident from the decision notice wording which, if any, aspect of the case put forward by the Appellant is disputed.
- 5.7 The Appellant's position is that the benefits the scheme will deliver clearly amount to the very special circumstances necessary to justify the grant of permission for the appeal scheme. Contrary to the first reason for refusal set out on the decision notice, the appeal scheme is considered to comply with paragraph 148 of the Framework.

Highways

- 5.8 Evidence will be presented to demonstrate that the proposed development will not give rise to an unacceptable impact on highway safety and is in fact compliant with paragraph 111 of the Framework³ and Policy BN1 of the Chorley Local Plan.
- 5.9 It is recognised that the proposed development will give rise to increased traffic movements, however junction capacity modelling has demonstrated that all assessed junctions will operate within acceptable capacity thresholds, with the exception of Ulles Walton Lane/ A581 where a slight exceedance was identified.
- 5.10 The submitted Transport Assessment accounted for the cumulative impact of any committed development sites and allocations within the vicinity of the site.
- 5.11 The Appellant will adduce that the proposed mitigation is suitably beneficial that the resulting highways impact is not unacceptable.
- 5.12 It is particularly pertinent to note that Lancashire County Council as highway authority were in agreement with this position and confirmed in their consultee response to the application that they did not object. The allegation contained within the reason for refusal is therefore not considered to be substantiated. It fails to identify where the alleged unacceptable impact on highway safety will occur.
- 5.13 Furthermore, the submitted outline travel plan sets out a range of measures to encourage the uptake of sustainable travel amongst staff and visitors including a car sharing strategy and providing car sharing spaces, a Public Transport Strategy to provide public transport information and shower and changing facilities to encourage cycling trips. Significant s106 contributions are proposed to support an enhanced local bus service and improve local cycling infrastructure to encourage greater access by sustainable travel methods.
- 5.14 With reference to paragraph 111 of the Framework, it is therefore considered that there are not any grounds for refusal on highways grounds.

Noise Nuisance and Disturbance from Traffic

- 5.15 The Appellant will demonstrate that the additional traffic movements generated by the development will not give rise to an unacceptable impact by way of noise or other disturbance, such as vibration or impact from headlights. It is contended that the application is wholly compliant in this regard with the NPPF and Policy BNE1 of the Chorley Local Plan.
- 5.16 It is highlighted that the Council's environmental health officer confirmed in their consultee

³ The decision notice references paragraph 109 of the Framework. This is presumed to be an erroneous reference to the 2019 version of the Framework.

response to the application that they did not object to the proposed development, and thus, similar to the second reason for refusal, the third reason for refusal is not considered to be substantiated.

- 5.17 It will be demonstrated that the proposed site access location is the most suitable siting when compared to alternatives, and notwithstanding, it will not give rise to any adverse amenity impacts that cannot be suitably mitigated.

Responses to the Planning Application

- 5.18 The OR identifies the statutory and non-statutory consultees consulted about the application. The majority of these did not object to the proposed development, notably including Lancashire County Council Highway Services, the environmental health officer, landscape officer, Natural England and Greater Manchester Ecology Unit.
- 5.19 Unresolved objections were received from Sport England, the Council's tree officer, Ulnes Walton Parish Council, Croston Parish Council, Euxton Parish Council, Charnock Richard Parish Council and Heskin Parish Council.
- 5.20 The comments from each of these consultees is summarised within the OR and OR Addendum.
- 5.21 The appeal proposal attracted a number of objections from local residents on a range of issues including but not limited to the principle of development; design; highways; noise; crime and safety; overlooking; ecology; loss of playing fields; and impact of construction. These comments are again suitably summarised within the OR and OR Addendum.
- 5.22 Where relevant and necessary, the Appellant will provide evidence to address the concerns raised by third parties.

Overall Planning Balance

- 5.23 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications shall be determined in accordance with the development plan unless material considerations indicate otherwise.
- 5.24 The Appellant will demonstrate that the appeal scheme is in accordance with the development plan when read as a whole. Relevant policies for the determination of the appeal are complied with, including but not limited to Policies 1, 3, 17 and 21 of the Central Lancashire Core Strategy and Policies BNE1, BNE5, ST1 and ST4 of the Chorley Local Plan.
- 5.25 The Framework is acknowledged as a relevant material consideration, specifically with regards to policy regarding development in the Green Belt and the very special circumstances test. The Appellant will demonstrate that the appeal scheme is compliant with national planning policy and guidance in relation to the Green Belt, specifically paragraph 148 of the Framework.
- 5.26 It is considered that very special circumstances exist to outweigh the harm to the Green Belt as well as any other harm, the proposed development is acceptable in principle and it will not lead to any significant adverse impacts that would outweigh the benefits of the scheme.
- 5.27 The appeal proposal constitutes sustainable development and contributes positively towards the three dimensions of sustainable development – economic, social and environmental – as summarised in section 10 of the Planning Statement.
- 5.28 The Appellant will show that there are no adverse impacts that cannot be appropriately mitigated.

- 5.29 In accordance with paragraph 11 of the Framework it is considered that there are no adverse impacts arising from the appeal proposal that would significantly and demonstrably outweigh the benefits of the appeal proposal. As very special circumstances are considered to be demonstrated, there are thus no specific policies in the Framework that would indicate that development should be restricted and in such circumstances the Framework directs that planning approval should be granted.
- 5.30 The case for the Appellant and the evidence submitted will show that the planning balance is in favour of planning permission being granted for the appeal proposal as it represents a sustainable form of development.
- 5.31 The Appellant will adduce evidence from experts in at least the following areas of expertise:-
- Planning including policy and planning balance;
 - Need;
 - Socio-economic benefits;
 - Highways; and
 - Noise and Vibration.
- 5.32 The Appellant reserves the right to make changes to the Appellant's case to respond to the publication of relevant material following the submission of this Statement of Case.

6. List of Documents to which the Appellant may refer

6.1 At the inquiry the Appellant will rely on the following documentation. The Appellant also reserves the right to add to this list should other documentation become relevant up to the appeal inquiry.

- All documentation submitted with the application, including the additional information submitted in response to consultation responses;
- All relevant correspondence between the Council and other relevant parties prior to the submission of the application and during the determination period including meeting notes, emails and any other relevant documentation;
- The decision notice, Officer Report and other documentation relevant to the appeal site;
- All documentation to be submitted on behalf of the Appellant's expert witnesses;
- Additional documentation prepared in the light of matters raised in the Council's Statement of Case, discussions with, or evidence submitted by others;
- Central Government guidance in the form of primary legislation, secondary legislation, Circulars, Ministerial Statements, National Planning Policy and Guidance and any other relevant publications including but not limited to consultation papers, letters, advice, or as may become relevant; and
- Adopted and emerging development plan policies including any supporting evidence including technical papers and supporting background documents, or as may become relevant.

Appendix 1 – Application Drawing and Document Schedule

Document/ Drawing Title	Drawing No.	Date Submitted
Document		
Planning Statement	n/a	August 2021
Draft Heads of Terms	n/a	August 2021
Air Quality Assessment	n/a	August 2021
Arboricultural Impact Assessment and Method Statement	n/a	August 2021
Archaeological Desk-Based Assessment	n/a	August 2021
Design and Access Statement	n/a	August 2021
Ecological Impact Assessment	n/a	August 2021
Biodiversity Net Gain Calculation	n/a	August 2021
Energy and Sustainability Statement	n/a	August 2021
Appendix A BREEAM Pre-Assessment Report	n/a	August 2021
External Lighting Report	n/a	August 2021
Flood Risk Assessment	n/a	August 2021
Drainage Strategy Report: Proposed Foul Water	n/a	August 2021
Drainage Strategy Report: Proposed SUDS	n/a	August 2021
Drainage Strategy Report: Proposed Surface Water	n/a	August 2021
Bowling Green Building Services Report (Lighting and Utilities)	n/a	August 2021
Heritage Statement	n/a	August 2021
Landscape and Visual Impact Assessment	n/a	August 2021
Noise and Vibration Impact Assessment	n/a	August 2021
Phase I & II Geo-environmental Site Assessment	n/a	August 2021
Socio-Economic Statement	n/a	August 2021
Statement of Community Involvement	n/a	August 2021
Transport Assessment	n/a	August 2021
Outline Travel Plan	n/a	August 2021
Utility Report	n/a	August 2021
Waste Management Strategy	n/a	August 2021
Agricultural Land Classification Assessment	n/a	September 2021
Bat roost survey of potential roosts	n/a	September 2021

Bat roost assessment of woodland areas and trees	n/a	September 2021
Great Crested Newt Survey	n/a	September 2021
Water vole survey	n/a	October 2021
Barn owl survey	n/a	October 2021
Biodiversity net gain report	n/a	November 2021
Bat activity surveys	n/a	November 2021
Transport Assessment – Technical Addendum	n/a	December 2021
Site-wide		
Topographical Survey	608623-0000-CEN-GHX0000-XX-SU-X-1000	August 2021
Site Location Plan	608623-0000-PEV-GHX0011-ZZ-DR-A-9000	August 2021
Site Demolition Plan	608623-0000-PEV-GHX0011-ZZ-DR-A-9002	August 2021
Site Phasing Plan	608623-0000-PEV-GHX0011-ZZ-DR-A-9400	August 2021
New Prison		
Site Block Plan Existing	608623-0000-PEV-GHX0011-ZZ-DR-A-9001	August 2021
Site Block Plan Proposed	608623-0000-PEV-GHX0011-ZZ-DR-A-9100	November 2021
Site Sections Existing	608623-0000-PEV-GHX0011-ZZ-DR-A-9201	August 2021
Site Sections Proposed	608623-0000-PEV-GHX0011-ZZ-DR-A-9200	August 2021
Aerial View Indicative CGI	608623-0000-PEV-GHX0011-XX-SK-A-9015	August 2021
Pedestrian Approach Indicative CGI	608623-0000-PEV-GHX0011-XX-SK-A-9016	August 2021
External Lighting Layout - Sheet 01	608623-0000-PEV-GHX0011-ZZ-DR-E-6310	August 2021
External Lighting Layout - Sheet 02	608623-0000-PEV-GHX0011-ZZ-DR-E-6311	August 2021
External Lighting Layout - Sheet 03	608623-0000-PEV-GHX0011-ZZ-DR-E-6312	August 2021
Comprehensive Landscape Masterplan	608623-0000-PEV-GHX0011-XX-DR-L-0301	August 2021
Proposed New Access	Please see Transport Assessment - Appendix D	August 2021
Proposed New Access Swept Path Analysis	Please see Transport Assessment - Appendix D	August 2021
Bowling Green		
Site Block Plan Existing (BC)	608623-0000-PEV-GHX0031-ZZ-DR-A-9001	August 2021
Site Block Plan Proposed (BC)	608623-0000-PEV-GHX0031-ZZ-DR-A-9100	August 2021
Site Sections Existing (BC)	608623-0000-PEV-GHX0031-ZZ-DR-A-9200	August 2021
Site Sections Proposed (BC)	608623-0000-PEV-GHX0031-ZZ-DR-A-9201	August 2021
Elevations Proposed (BC)	608623-0000-PEV-GHX0031-ZZ-DR-A-9400	August 2021
Ground Floor Plan Proposed (BC)	608623-0000-PEV-GHX0031-00-DR-A-9300	August 2021
Roof Plan Proposed (BC)	608623-0000-PEV-GHX0031-R0-DR-A-9301	August 2021
Bowling Green Landscape Proposals (BC)	608623-0000-PEV-GHX0031-XX-DR-L-0405	August 2021
Bowling Green External Lighting Layout- Sheet 01	608623-0000-PEV-GHX0031-ZZ-DR-E-6310	August 2021
Bowling Green External Lighting Layout- Sheet 02	608623-0000-PEV-GHX0031-ZZ-DR-E-6311	August 2021

Proposed 3D Visuals (BC)	608623-0000-PEV-GHX0031-ZZ-DR-A-9500	August 2021
Proposed Highways General Arrangement Plan (BC)	608623-0000-PEV-GHX0031-ZZ-DR-C-0700	August 2021
Visibility Splay Plan (BC)	608623-0000-PEV-GHX0031-ZZ-DR-C-2600	August 2021
Proposed Highways-Long Sections (BC)	608623-0000-PEV-GHX0031-ZZ-DR-C-0701	August 2021
Proposed Highways-Cross Sections (BC)	608623-0000-PEV-GHX0031-ZZ-DR-C-0702	August 2021
Swept Path Analysis-Light Goods Vehicle (BC)	608623-0000-PEV-GHX0031-ZZ-DR-C-2601	August 2021
Swept Path Analysis-Refuse Vehicle (BC)	608623-0000-PEV-GHX0031-ZZ-DR-C-2602	August 2021
Swept Path Analysis-Standard Design Vehicle (BC)	608623-0000-PEV-GHX0031-ZZ-DR-C-2603	August 2021
Swept Path Analysis-Fire Tender (BC)	608623-0000-PEV-GHX0031-ZZ-DR-C-2604	August 2021
Drainage Details (BC)	608623-0000-PEV-GHX0031-ZZ-DR-C-6501	August 2021
Proposed Highways-Proposed Surface Water Drainage (BC)	608623-0000-PEV-GHX0031-ZZ-DR-C-0502	August 2021
Proposed Site Utilities Plan (BC)	608623-0000-PEV-GHX0031-ZZ-DR-E-0600	August 2021
Boiler House		
Site Block Plan Boiler House Existing (BH)	608623-0000-PEV-GHX0021-ZZ-DR-A-9001	August 2021
Site Block Plan Boiler House Proposed (BH)	608623-0000-PEV-GHX0021-ZZ-DR-A-9100	August 2021
Site Block Plan Car Park Existing (BH)	608623-0000-PEV-GHX0021-ZZ-DR-A-9002	August 2021
Site Block Plan Car Park Proposed (BH)	608623-0000-PEV-GHX0021-ZZ-DR-A-9101	August 2021
Site Sections Proposed (BH)	608623-0000-PEV-GHX0021-ZZ-DR-A-9200	August 2021
Site Sections Existing (BH)	608623-0000-PEV-GHX0021-ZZ-DR-A-9201	August 2021
Swept Path Analysis-Light Goods Vehicle (BH)	608623-0000-PEV-GHX0021-ZZ-DR-C-2601	August 2021
Swept Path Analysis-Refuse Vehicle (BH)	608623-0000-PEV-GHX0021-ZZ-DR-C-2602	August 2021
Swept Path Analysis-Standard Design Vehicle (BH)	608623-0000-PEV-GHX0021-ZZ-DR-C-2603	August 2021
Swept Path Analysis-Articulated Heavy Goods Vehicle (BH)	608623-0000-PEV-GHX0021-ZZ-DR-C-2604	August 2021
Swept Path Analysis-Fire Tender (BH)	608623-0000-PEV-GHX0021-ZZ-DR-C-2605	August 2021
Proposed Highways General Arrangement Plan (BH)	608623-0000-PEV-GHX0021-ZZ-DR-C-0700	August 2021
Visibility Splay Plan (BH)	608623-0000-PEV-GHX0021-ZZ-DR-C-2600	August 2021
Drainage Details (BH)	608623-0000-PEV-GHX0021-ZZ-DR-C-6501	August 2021
Boiler House & Relocated Car Park External Lighting Layout (BH)	608623-0000-PEV-GHX0021-ZZ-DR-E-6300	August 2021
Portacabin Details and Photo Sheet (BH)	608623-0000-CUS-GHX0000-XX-RP-T-0004	August 2021

Cushman & Wakefield
No 1 Marsden Street
Manchester
M2 1HW

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