

Ulnes Walton Action Group Planning Proof of Evidence

**Planning Inspectorate Reference: APP/D2320/W/
22/3295556**

Contents

EXECUTIVE SUMMARY

- 1. INTRODUCTION**
- 2. APPLICATION SITE**
- 3. DEVELOPMENT PROPOSAL**
- 4. PLANNING POLICY**
- 5. CONSIDERATION OF NEED**
- 6. EXTENT OF HARM TO GREEN BELT**
- 7. LANDSCAPE AND VISUAL IMPACTS**
- 8. OTHER ADVERSE IMPACTS**
- 9. BENEFITS**
- 10.PLANNING BALANCE**
- 11.DOCUMENT REFERENCES**

Executive Summary

- I. I, Jackie Copley, MRTPI MA BA (Hons), PgCERT (urban design) am a chartered town and country planner with over thirty years professional experience. I represent Ulnes Walton Action Group, the Rule 6 Party. My opinion is my own and independent and prepared in accordance with the standards of the Royal Town Planning Institute.
- II. I have read the various representations and committee report and minutes leading to the decision to refuse the new prison proposal at land adjacent to HMP Garth and HMP Wymott, Leyland, Lancashire.
- III. I have considered the application documentation and visited the site to better understand the key issues.
- IV. When considering the relevant policies of the adopted development plan, it is my view that the application should be refused as it is contrary to Green Belt policy.
- V. In terms of national planning policy and planning practice guidance and in disagreement with the applicant and planning officer of Chorley Council (but in line with the decision of the Council's committee), I find that there are no very special circumstances in this case to provide a justification to outweigh the level of harm to Green Belt purposes, and the other adverse impacts, detailed in this proof of evidence.
- VI. I have considered the need case. I rely on Ms Curtis' evidence to the effect that the case of urgent need for these prison places is overstated. I rely on the evidence of Mr Parker to the effect that the alternative sites have not been assessed in a transparent way, indeed in the absence of information an illogical assessment has taken place; and on his analysis there are (at least) two alternative sites in the region which perform better than the appeal site against the MoJ's own criteria. The rural part of Chorley does not need another prison. The report by Peter Brett Associates in 2013, relied on by the MoJ here, points to urban places being preferable due to better accessibility for staff retention, servicing, and visitors. I agree with that assessment. Very Special circumstances fall away as need has not been robustly justified.

VII. In particular, the cumulative impacts arising from the cluster of prisons are of concern. The scaling, roofline height and density of the building masses of the new prison would have a heavily built, overbearing and domineering effect on the character and appearance of the location with harm to Green Belt purpose of stopping countryside encroachment.

VIII. There are a number of other harms arising that attract negative weight including :

- Residential Amenity
- Noise and Vibration
- Loss of Farmland
- Loss of mineral safeguarding area
- Trees
- Ecology
- Highways
- Heritage
- Loss of the playing field
- Local opposition

IX. There are benefits associated with developing a prison for the MoJ capacity, but due to the 40 mile distance the benefits cannot be said to be local to Chorley, they are more likely to be distributed at the regional scale, as explained by Mr Parker. The current value of the site, which includes Wymott Crown Green Bowling Club and the prison farm and horse riding stables should be considered. Those using these current facilities would experience a loss and this reduces the weight that can be attributed to associated benefits.

X. Overall, I find a negative planning balance.

XI. On this basis it my opinion that the Inspector should dismiss the appeal.

1. Introduction

- 1.1. My name is Jackie Copley MRTPI MA BA (Hons), PgCERT (urban design) and I have prepared this Planning Proof of Evidence, on behalf of Ulnes Walton Action Group ('UWAG') in relation to an appeal by the Ministry of Justice ('MoJ'). UWAG are acting as an 'interested party' under Rule 6(6) of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000, as amended.
- 1.2. I have been a chartered member of the Royal Town Planning Institute since November 2001, and I hold the following qualifications:
 - Masters in Town & Regional Planning, Leeds Metropolitan University (1999);
 - Bachelor of Arts Degree with Honours in Town & County Planning, University of Manchester (1992); and,
 - A Postgraduate Certificate in Urban Design, University of Salford, (2012).
- 1.3. I have worked as a planner for over than 30 years in the public, private and voluntary sectors.
- 1.4. I started my career in regeneration partnerships in Hulme in Manchester, and The Quays in Salford (1992-2001) where I was involved in a wide range of physical, environmental, economic, and social projects, such as The Lowry, Metrolink and the Watersports Centre at Salford Quays. I coordinated the production of the Manchester Design Guide.
- 1.5. In consultancy, with Atkins, and Roger Tym & Partners (2002 - 2012), I managed a variety of multi-disciplinary projects and prepared local plan evidence bases, including Green Belt Reviews, Employment Land Reviews, Strategic Housing Land Availability Assessments, Brownfield Registers and Strategies, Retail Heath-checks, and Multi-Modal Transport studies. I developed site briefs for new development and was part of the Atkins team that worked on commissions for the MoJ identifying new prison locations.
- 1.6. For the past decade I have worked for the CPRE, the Countryside Charity, in Lancashire, Liverpool City Region, and Greater Manchester, now as Planning Director. I have gained experience in the conservation and enhancement of

rural places. I have undertaken critical assessments of rural landscape and visual impact appraisals including within the context of open Green Belt settings.

- 1.7. The information provided in this proof of evidence is true, and it has been prepared in accordance with the standards of the Royal Town Planning Institute. The opinions are my own, and they are independent from my role at CPRE.

2. Application Site

- 2.1. The application site is shown with the red boundary (on the image below). It is located at land adjacent to HM Prison Wymott and HMP Garth in the civil parish of Ulnes Walton. It is within the local planning authority area of Chorley Council near to the boundary with South Ribble.

Extract from Lancashire County Council Aerial Map with indicative red boundary



- 2.2. The land comprises 43.5 hectares and is understood to be owned by the MoJ. The site forms an irregular shape including land to the west, north, east, and south of the two existing prisons of HMP Garth and HMP Wymott.
- 2.3. The site history is that it was formerly used for an army ammunition depot, the remnants of which are still visible in parts of the landscape to the north of the site. Most of the site is undeveloped, remains green and some is in use for agriculture or is woodland, as characterised by the application report, which states, at paragraph 2: “The character of the area is that of agricultural land set within a flat topography with clusters of dwellings and agricultural buildings, whilst the immediate area of the application site is dominated by the presence of the prison buildings and associated development.”

- 2.4. I visited the site in on the 8th of June 2022 to better understand its physical and spatial context. In my opinion, despite its previous land use, the site should be recognised as being in a predominately rural location and undeveloped. It is open and green and currently used for Wymott Farm and Stables of the prison, the pump house, and as the bowling green that is home to Wymott Crown Green Bowling club (see photos below). I recommend the Inspector visits the site to fully appreciate the openness and unbuilt nature of the site, which is not apparent from the application documents.
- 2.5. To the north-west of the site is HMP Garth, an 850 capacity Category B men's prison, where the buildings range from one and three storeys within a secure boundary wall. To the north-west beyond HMP Garth there are areas of woodland along Ridley Lane and to the north and west of Ridley Lane is agricultural land in productive use bounded by Wymott Brook.

Photo taken from the north of the bowling green car park, on the Pump House Lane access to the Prison Property Wymott Farm and Stables, facing north.



- 2.6. The bowling green has a club house with facilities and lighting for winter months. The green is well maintained with a boundary hedge to three sides lined with benches for seating spectators and a variety of other club facilities such as to house mowers and other equipment.

Photo taken at the bowling green south-west corner facing north



- 2.7. The area to the north is predominately open green fields. At 1.1km from the site to the north is Cocker Bar a small hamlet.

Photo taken at the farm track to the North of the Prison Farm facing toward Ridley Lane in the west. The woodland is to the north-west of HMP Garth and there is a ditch and hedgerow boundary to the fields to the north



- 2.8. To the north-east is a compact residential housing estate off Moss Lane and Willow Road, which is referred to in the application report as “formerly associated with the original prison development, however, this is now functionally separate.” The development is no more than two storeys in height.

- 2.9. To the east is HMP Wymott comprising a Category C men's training prison with buildings up to 3 storeys with a capacity of circa 1,200. There is a strip of trees on Moss Lane and an open green area currently in use for Longton Showground.
- 2.10. The south-east area of the site presently provides sports fields and recreation space. To the south-east of the site are a few scattered dwellings and Earnshaw Livery Yard on Ulnes Walton Lane. Ulnes Walton centre is located at a distance of approximately 1.5km, but some dwellings are at a 0.5km distance.
- 2.11. To the south is a field in use for agriculture bounded by the River Lostock, which meanders from east to west. To the south of the river are further farm fields leading to the Royal Umpire Caravan Park at the A581 Southport Road.
- 2.12. To the southwest are further farm fields and Croston, a small rural settlement that is situated at 1.2 km away.

Photo taken from Ridley Lane south of Littlewood Hall farm facing north-east towards the site



- 2.13. To the west is an area of woodland named Stanning's Folly bounded by Ridley Lane and then an area of scrubland bounded by the railway, and further to the west Wymott Brook that flows from north-east to south-west. The village of Bretherton lies 1.5km to the north-west.

Photo taken from Ridley Lane at the track north of the pond facing east towards the pasture land, and showing the slope upwards from south to north.

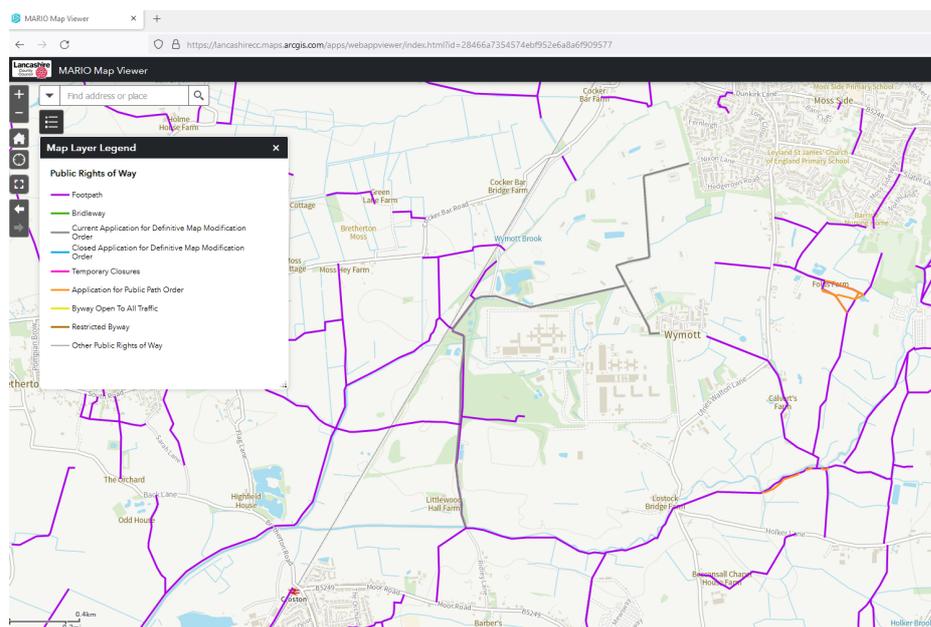


- 2.14. The site is mostly level although there is a mound formed at the farm field to the south of Stanning's Folly woodland.

Site Access

- 2.15. The principal site access is from Moss Lane, in Ulnes Walton, Leyland, postcode PR26 8LW. There is one bus route, operating an hourly service to Leyland.
- 2.16. The site is accessible from a number of Public Rights of Way. Pump House Lane is considered to be an unadopted bridleway route and has been treated as a prescriptive right of way. Similarly, a footpath running east-west along the south boundary of the new prison site has been treated as an unadopted right of way in this application. See below.

Extract from Lancashire County Council Mario map below.



Ecology

- 2.17. The site is not a designated nature conservation site (i.e., SSSI, local nature reserve). However, immediately adjacent the site to the west and north of HMP Garth are Biological Heritage Sites (see Chorley Local Plan 2012-2026) and as much of the site is acknowledged as grass pastureland to the south; the value of the site to local wildlife should be fully considered.
- 2.18. During my visit I noticed a variety of insects, birds, and evidence of mammals such as tracks and holes. The sheep and horse fields had a variety of farm birds present that are known to be generally in decline, some of which are priority species and protected. The impact of the development on the natural environment irrespective of whether it is a designated nature conservation site is important.
- 2.19. The various stages of the proposed development will lead to different impacts such as construction, with noise from servicing of the site and construction noise, and then also the operation of the prison with increased activity, including traffic and other impacts that can harm wildlife, such as security night lighting and light pollution.

- 2.20. I acknowledge that there is no free-standing ecology reason for refusal and the Rule 6 Party is not making a technical ecology point, however these species that are present at the site will be disturbed by the proposals, and while the mitigation strategy might mean, in the long term, no net harm (indeed perhaps a net gain) the short-term impacts should not be discounted.

Heritage

- 2.21. In terms of heritage assets there are two listed properties, listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended for their special architectural or historic interest.
- Grade II listed Barn of Norris Farmhouse and attached Barns (List Entry Number: 1165144) at Norris Farmhouse and attached Barn, Ulnes Walton Lane. ATTACHED BARN, ULNES WALTON LANE.
 - Grade II listed Barn Circa 75metres east of Littlewood Hall Farmhouse (List Entry Number: 1072514) at Littlewood Hall Farmhouse on Ridley Lane.
 - Nixon Court, Leyland
 - There is also the Ministry of Supply Depot a non-designated heritage asset which will be harmed of local historic interest.

Summary

- 2.22. In summary, the site is located in an area characterised by a flat topography of open land, most of it still in use for agriculture, and woodland, with clusters of buildings no more than three storeys in height relating to agriculture, woodland, the existing prisons and residential uses. The appeal site's character broadly reflects this wider character.

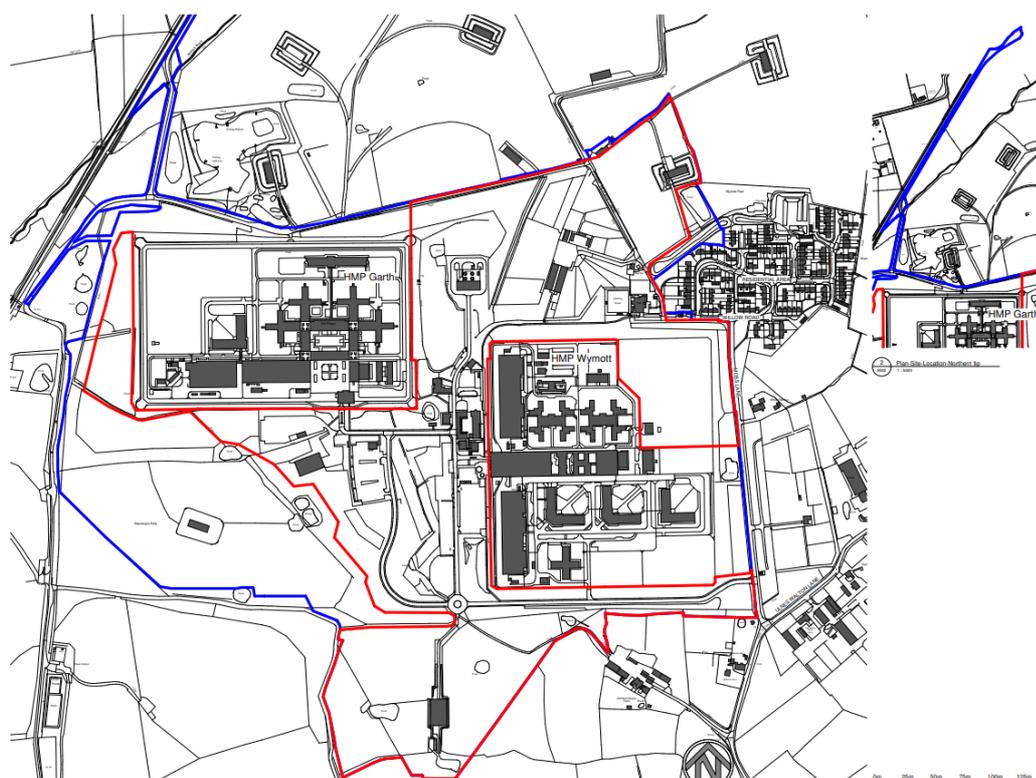
3. Development Proposal 21/01028/OUTMAJ

Hybrid planning application

- 3.1. The Development Proposal comprises a Hybrid planning application seeking:
- I. 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;
 - 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)) on land adjacent to HMP Garth and HMP Wymott, Leyland.

Location Plan

- 3.2. See an extract from the planning application location plan identifying the red boundary of the application and blue the extent of ownership of the applicant, below.



New Prison

3.3. The proposed new prison includes:

- Seven new houseblocks up to four storeys in height each accommodating up to 245 prisoners (1,715 prisoners in total), totalling c.53,472 sqm GEA.
- Supporting development including buildings of one to three storeys providing kitchens, 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 meters enclosing a secure perimeter area of 10.5 ha.

3.4. The site would be broadly split into the public zone and the secure area. The public zone comprises the car parking area and pedestrian access points up to the entrance plaza. The secure compound area of the site would be enclosed by a perimeter fence extending to 5.2m high. The fence would comprise a steel post and weldmesh panel fence with 2.4m high steel sheet in an inner concrete apron. The fence would not be externally lit, instead lit internally, whilst CCTV cameras would be mounted on columns inside the secure perimeter, (see extract below).

Extract Proposed prison CGI from the Agenda Page 72 Agenda Item 3a (facing south towards the existing prison development)



A replacement boiler house

- 3.5. Outline planning permission, with all matters reserved except for access, is sought for the erection of a replacement boiler house. The new boiler house would be located on land between HMP Garth and HMP Wymott, to the south-west of the new prison site.
- 3.6. The site currently comprises hardstanding used informally for car parking, as well as gas meter housing and a single storey portacabin office.
- 3.7. The proposed boiler house would be of a lesser scale than the existing one and relocated further into the existing site between the two prison campuses. The indicative plans submitted in support of this element of the application include the provision of a 41m by 14m boiler house building of approximately 9m in height with supporting plant and boundary fencing, and located to the east of Wymott Prison, within the existing developed area of the prison site.
- 3.8. It would have a single external flue extending to no higher than 22m. Externally, two biomass pellet silos would extend to 5.2m high and 2 oil tanks would extend to 2m high.
- 3.9. Access would be taken from the existing internal site road.

Replacement bowling green and club house

- 3.10. Full planning permission is sought for a replacement bowling green and club house on land to the south of Wymott Prison. The construction programme requires the bowling green to be relocated at an early stage, and so this element of the proposal is submitted in full detail.
- 3.11. The replacement facilities would be located to the south of the roundabout on the internal access road to the existing two prisons. Access would be taken from the existing road that in turn joins to the internal site roundabout. This element of the proposal would include the provision of a

1,600 square metre bowling green with 4no. floodlighting columns, club house, open fronted shelters, storage buildings, fencing, car park with 37no. spaces, access and landscaping.

- 3.12. The club house would be a flat roofed structure of approximately 3.2m in height, whilst the shelters and stores would also be approximately 3.2m in height. These would be faced in timber cladding with grey rubber roofing. The fencing would be close boarded timber fencing up to approximately 2m in height.

Environmental Impact Assessment

- 3.13. The applicant requested an Environmental Impact Assessment (EIA) Screening Opinion, the Council formally adopted a Screening Opinion in September 2021 to the effect that the Proposed Development does not require EIA. Although the development proposal does fall into schedule 2, Part 10(b) of the Town and Country Planning Act (Environmental Impact Assessment) (England) Regulations 2017 (as amended), it was considered that the development proposal would not have a significant negative environmental impact to the surrounding area and that any potential impacts can be controlled and mitigated effectively through the planning process.
- 3.14. The application documents identify remaining areas within the red line boundary would be used to deliver the required biodiversity net gain. This land currently comprises grassland and a small number of ponds.

Landscaping Plan

- 3.15. A landscaping strategy has been submitted with the application, see extract plan below.
- 3.16. Where relevant planning conditions are set out to secure appropriate mitigation.

Extract of the Landscape Strategy from the application documents.



Summary

3.17. In overview, the application is for a major prison development. The 13 buildings will be developed at a higher density relative to the existing prison developments in order to double the prison population. It is recognised the existing boiler house is larger in scale than the proposed replacement. The replacement bowling green is said to be a modern and functional facility. The social, economic, and environmental impacts - both positive and negative - will need to be fully considered.

4. **Planning Policy Context**

- 4.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise.

Development Plan

- 4.2. In this case, the Development plan comprises the Central Lancashire Core Strategy, July 2012; and, the Chorley Local Plan 2012 - 2026. Also of relevance is the Joint Lancashire Minerals and Waste Local Plan- Site Allocation and Development Management Policies (2013).

Central Lancashire Core Strategy, July 2012

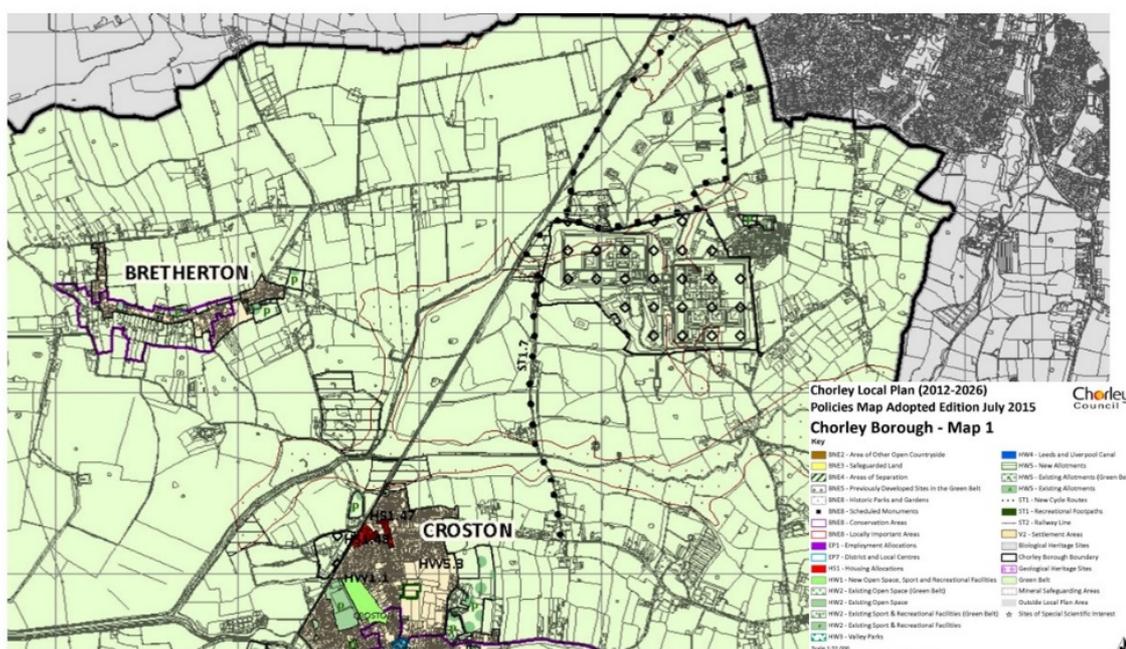
- 4.3. Relevant policies of the Central Lancashire Core Strategy include:
- 4.4. Policy 1: Locating Growth, criteria f) states that development ‘in other places’ - will typically be small scale and limited to appropriate infilling, conversion of buildings and proposals to meet local need, unless there are exceptional reasons for larger scale redevelopment schemes. It is my view that the local plan is clear that this part of the Borough is not identified for development, the proposal is not small in scale. The applicant makes the case that the need argument and the absence of alternatives means the proposal is acceptable, however the Rule 6 Party questions the need and the assessment of alternative sites and therefore rebuts that very special circumstances exist later in this proof.
- 4.5. Policy 17: Design of new buildings - it will be important to consider whether the design of the new buildings is in line with the local plan policy, but I acknowledge that the application is in outline only in this regard.
- 4.6. Policy 18: Green Infrastructure - This policy sets out a Green Infrastructure approach which includes protecting and enhancing the existing natural environment where it provides benefits as well as improving where possible and providing mitigation where the Green Infrastructure is damaged/lost as part of a new development

- 4.7. Policy 21: Landscape Character Area - This policy states that: “New development will be required to be well integrated into existing settlement patterns, appropriate to the landscape character type and designation within which it is situated and contribute positively to its conservation, enhancement or restoration or the creation of appropriate new features”.
- 4.8. Policy 24: Sport and recreation - b) protecting existing sport and recreation facilities, unless they are proven to be surplus to requirements or unless improved alternative provision is to be made. The applicant makes the case the proposal will provide improved alternative provision, but the Rule 6 party is concerned that the existing Wymott Bowling Club is well established and there is opposition from members to relocate to a new location at a distance to where people live. Further, it is common ground that the proposals will mean the loss of a sports pitch, with no proposals to replace it, contrary to this policy.

Chorley Local Plan 2012 - 2026

- 4.9. Relevant policies of the Chorley Local Plan 2012 - 2026 are set out on the extract of the Local Plan Map and in the list below and show.

Extract of the Local Plan Map, showing site and surrounding



- 4.10. Policy ST1: New Provision or Improvements of Footpaths, Cycleways, Bridleways and their associated facilities in existing networks and new development - ST1.7 Cycle link from Croston, Ulnes Walton to Leyland is a new route located to the northern boundary of the site.
- 4.11. Policy BNE1: Design Criteria for New Development a) - h). This policy sets out design criteria for new developments. Later I consider the proposed development against BNE1 and the impacts on residential amenity, such as an increase in noise.
- 4.12. BNE5: Redevelopment of Previously Developed Sites in the Green Belt - this is an important policy of the local plan as part of the site is previously developed. It reflects the guidance set out at Paragraph 149 of the Framework that the partial or complete redevelopment of previously developed sites in the Green Belt is not inappropriate, provided it would not have a greater impact on the openness of the Green Belt than the existing development. In this case it is common ground that the proposals are inappropriate development in the Green Belt, notwithstanding that some of the site is previously developed. Later I consider the impact of the proposal on openness.
- 4.13. BNE6: Light Pollution - This policy highlights the importance of a lighting scheme and states that: "There will be no nuisance to neighbours or adverse effect on the character of an area". Under landscape and visual impacts, the harm from the new development will cause light spill and light glow in dark hours and this should be weighted in the planning balance.
- 4.14. BNE9: Biodiversity and Nature Conservation - In Chorley, Biodiversity and Ecological Network resources will be protected, conserved, restored and enhanced. There are priorities and provisions set out under the policy, also definitions of what constitutes damage to natural environmental assets.
- 4.15. BNE10: Trees states that: "Proposals that would result in the loss of trees, woodland areas or hedgerows which make a valuable contribution to the character of the landscape, a building, a settlement or the setting thereof will not be permitted". The policy also advocates replacement planting where the benefits of the loss of tree or hedgerow vegetation is considered

to outweigh the loss. It also notes that tree planting is required as part of new developments.

- 4.16. BNE11: Species Protection - 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 disturbance to a minimum; and
 - c) Provide adequate alternative habitats to sustain the viability of the local population of that species.
- 4.17. HW1: New Open Space, Sport and Recreational Facilities - Proposals for the provision of new open space, sport and recreational facilities or extensions to existing facilities will be permitted if all of the following criteria are met: a to e).
- 4.18. HW2: Protection of Existing Open Space, Sport, and Recreation Facilities - Land and buildings currently or last used as, or ancillary to, open space or sports and recreational facilities will be protected unless :a) to e).
- 4.19. HW6: Community Facilities - Development proposing the change of use or loss of any premises or land currently or last used as a community facility (including community centres, village and church halls, places of worship, public houses, children's centres, libraries, cultural facilities and health facilities) will be permitted where it can be demonstrated that: a) to e).
- Joint Lancashire Minerals and Waste Local Plan - - Site Allocation and Development Management Policies (2013)**
- 4.20. Policy M2 - The site is included within a safeguarding mineral allocated area as defined by policy M2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies (2013).

- 4.21. The Framework and policy M2 of the Local Plan confirm that planning permission will not normally be supported for incompatible development within mineral safeguarding areas. However, the developer submitted information on the sandstone, sand, and clay no longer being of value and the officer accepted the need for the proposed development outweighs the mineral extraction value. Nonetheless I consider this to be an additional, albeit minor, harm caused by the development proposals.

National Planning Policy Framework

- 4.22. The National Planning Policy Framework (The Framework) sets out the Government's planning policies and how these are expected to be applied. As the application report highlights, Paragraph 2 states: "Planning law requires that applications for planning permission be determined in accordance with the development plan², unless material considerations indicate otherwise³. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements."
- 4.23. The Framework's Section 2. Achieving sustainable development, Paragraph 7 tells us "The purpose of the planning system is to contribute to the achievement of sustainable development" and Paragraph 8 explains "Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives)". It is important in this case that the development proposal is considered in terms of how sustainable it is and in terms of bringing the three dimensions of social, economic, and environmental impacts into balance.
- 4.24. Framework Paragraph 11 states decisions should apply a presumption in favour of sustainable development" and for decision taking this means:
- c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, 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 proposed⁷; 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.

- 4.25. Because this site is in the Green Belt, and the proposals are for inappropriate development, this ‘tilted balance’ does not arise. There is no need here to ask whether the adverse impacts significantly and demonstrably outweigh the benefits; in fact the Framework requires the inverse, that very special circumstances must arise before permission may be granted for the proposals.
- 4.26. The Framework’s Section 4. Decision-making sets out how “Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible”.
- 4.27. Paragraph 47 states “Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.”
- 4.28. Section 8. Promoting healthy and safe communities says in paragraph 92 that “Planning policies and decisions should aim to achieve healthy, inclusive and safe places which c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs - for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.

- 4.29. Section 9 Promoting sustainable transport sets out in paragraph 104 that “Transport issues should be considered from the earliest stages of plan-making and development proposals, so that: a) the potential impacts of development on transport networks can be addressed. Paragraph 110 states “In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.”
- 4.30. Section 12. Achieving well-designed places states in paragraph 130 that “Planning policies and decisions should ensure that developments: c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
- 4.31. Section 13. Protecting Green Belt land, Paragraph 137 states, “The Government attaches great importance to Green Belts. 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”. Paragraph 145 states “Once Green Belts have been defined, local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land”.
- 4.32. Framework Section 15. Conserving and enhancing the natural environment sets out relevant policies in relation to landscape and visual matters. Paragraph 174 states “decisions should contribute to and enhance the natural and local environment by: b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.
- 4.33. Paragraph 185 states “Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity

of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impact resulting from noise from new development - and avoid noise giving rise to significant adverse impacts on health and the quality of life.
- b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and
- c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

National Planning Practice Guide

4.34. The Planning Practice Guidance of relevance to the proposed development include:

- Flood risk and coastal change
- Green Belt
- Healthy and safe communities
- Light pollution
- Natural environment - The PPG for the 'Natural Environment' (updated July 2019) addresses agricultural land, green infrastructure, biodiversity and landscape.
- Noise
- Open space, sports and recreation facilities, public rights of way and local green space
- Transport evidence bases in plan making and decision taking
- Use of planning conditions

4.35. There are also other planning policies of relevance including Sustainable drainage systems policy, Parking policy and so on.

Application Report

4.36. Mr Iain Crossland, case officer recommended that Members should approve the application subject to conditions and a S106 Obligation.

- 4.37. While I disagree with its conclusion, the application report is comprehensive in detail covering information about the site, proposal, representations, consultations, applicant's case, planning considerations, the case for very special circumstances, Green Belt balancing exercise, and other technical matters, including impacts, other matters, leading to conclusions. It included a relevant planning history of the site.
- 4.38. The S106 obligation was to secure the provision of enhanced bus service, surfacing works to Nixon Lane, a travel plan appraisal and monitoring, and a corridor improvement scheme along the A581, and that the application be referred to the National Planning Casework Unit to determine whether the Secretary of State wishes to call the application in for a decision in accordance with the provisions of Part 4 of the Town and Country Planning (Consultation) (England) Direction 2021 because the proposal involves Green Belt development comprising the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; and the English Sports Council ("Sport England") has been consulted pursuant to article 10(1) of the Order, and has made representations objecting to part of the development.

Decision

- 4.39. On 22nd December 2021 Chorley Borough Council gave notice of its decision to Refuse Outline Planning Permission and Full Planning Permission for the development, against the officer recommendation, based on 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.

Summary

4.40. In summary, in light of the policies of the development plan and those set out in the NPPF and other material considerations, the evidence in this planning proof of evidence focuses on the following:

- The MoJ need case, including the claimed absence of alternative locations;
- The extent of harm to openness, accepting that all parties are agreed that the proposal causes harm to the Green Belt, and is inappropriate development in Green Belt;
- Landscape character and visual impacts;
- The level of social/economic benefits; and,
- Conclusions on the planning balance.

5. Consideration of Need

- 5.1. In this Section, the MoJ need case is considered, including the suggestion that there are no preferable alternative sites for this proposal.

Need Case

- 5.2. The Rule 6 case is set out in the Statement of Case and the applicant's need case is succinctly captured in application report Paragraphs 39 to 45. As acknowledged in the Statement of Common Ground, there is no dispute that there is a need for more prison places, or that there is a need for new category C prison in the North-West.
- 5.3. I rely on the evidence prepared by Emma Curtis which shows that the projected levels of need for prison places are unlikely to come true.
- 5.4. Ms Curtis points out that the doubling of the prison capacity can only be populated if the Crown Court system is able to clear backlogs built up over previous years and during the Covid pandemic. The MoJ's assumptions on the need for additional prison places may not, therefore, be realised in the timescale they predict.
- 5.5. On the basis of her evidence, while I accept there is a general need for new prison places (and probably new prisons) I do not accept the need is as urgent as claimed.

More sustainable alternative sites and site selection

- 5.6. The key proposition lying behind the applicant's case on need is that there is nowhere else in the North-West that could accommodate the proposed new prison. However, I rely on the evidence of Paul Parker who shows that there is insufficient evaluation of site information in the public domain, and that the MoJ have actively refused to provide the requisite information. UWAG has sought information to explain how the site was selected and this has not been forthcoming. I rely on Mr Parker's evidence that the approach to alternative sites is either flawed, or opaque, or both; and that in any event there are in fact at least two other alternative sites existing in Kirkham and Oldham, which appear to do better against the MoJ's own criteria than does the appeal site.

- 5.7. In my view it would be a much more logical approach to sustainable development if an urban setting was identified, considering the many underused or vacant brownfield sites, identified on the local authority brownfield registers in the North-West.
- 5.8. The MoJ's own assumptions for new prison builds in their modelling (Peter Brett Associates, Economic Benefits of a New Prison, 2013) are for non-rural locations, as they are assessed as unhelpful for staff retention and visitor access, due to poor public transport services at the location. These are important factors when trying to run an efficient and effective prisons policy. Therefore, the validity of the MoJ's assertions based on this modelling in respect of the socio-economic benefits for this community are highly questionable.
- 5.9. In summary Mr Parker demonstrates that while the approach apparently taken by the applicant in this regard is difficult to understand, and in parts seems illogical, even accepting the criteria and approach set out, the Oldham and the Fylde sites are no worse, and on his analysis (using C&W's criteria) considerably better, than the appeal site.
- 5.10. The fact the Stakehill Industrial Site in Oldham is rejected due to being the subject of a draft allocation in the 'Places for Everyone' emerging spatial plan for Greater Manchester is an obviously unjust reason. It is also much more accessible off the strategic highway network than the appeal site. The Kirkham site is no more restricted due to Pink-footed Geese than the Wymott site, which has recorded many more sightings from 2020 to 2022.
- 5.11. There is no compelling planning reason for the new prison to be developed here. As such the weight that can be afforded to the national and regional need is more limited; and I do not attach any weight to the proposition that there is no alternative site for this proposed development, because I do not consider it to be coherently made out.

Summary

- 5.12. Relying on my colleagues Mr Parker and Ms Curtis, it is UWAG's case that:
- a) there is not the level of urgent need for new prison places, specifically Category C resettlement at the national level, as suggested by the appellant;
 - b) while there is a requirement for new Category C resettlement prison places, there is no need to provide them in such a cluster that will lead to Ulnes Walton and Wymott becoming the centre of a 'super prison';
 - c) There is not enough evidence in the application documents to support the claim 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 within the required timescales; and
 - d) Thus, the proposition that this is the only site that can feasibly accommodate the required new prison is not made out.
 - e) This aspect of the very special circumstances case put forward by the appellant is much reduced in weight.

6. Extent of Harm to Green Belt

- 6.1. In this Section the extent of harm to the Green Belt is considered.
- 6.2. It is accepted by all the parties that the site is located within the Green Belt and that the development proposal is inappropriate. The application report in Paragraph 98 says “Overall the entirety of the proposal is considered to be inappropriate development on the basis of the constituent parts. As such the tests of paragraph 148 of the Framework are engaged.” I agree with this, as does the applicant.
- 6.3. In my opinion there is:
- ‘Definitional’ harm to the Green Belt by reason of inappropriateness to which substantial weight is attached;
 - Perceptible harm to openness to which substantial weight is attached¹.
 - A series of other harms, which are assessed as to their weight below.
- 6.4. I consider the case officer’s findings on the impact of the development proposals on Green Belt Purposes below.
- 6.5. Purpose 1: Check the unrestricted sprawl of large built up areas -This purpose is not applicable to this case because there is no large built-up area nearby.
- 6.6. Purpose 2: Prevent neighbouring towns merging into one another - as the site is washed over by Green Belt and the existing settlements are over 1 km in distance, I do not consider there would be harm to this purpose arising leading to a coalescence of separate places of Ulnes Walton, Cocker Bar, Croston and Bretherton.
- 6.7. Purpose 3: Assist in safeguarding the countryside from encroachment - I agree with the case officer, that it is this Green Belt purpose on which the proposed development has the most detrimental impact. If developed the countryside will no longer be maintained permanently open due to the

¹ To be clear, I attach substantial weight to the harm to the Green Belt here, which comprises the ‘definitional’ harm and the perceptible harm taken together.

introduction of this major development of seven blocks up to four storeys in height large enough to accommodate 245 prisoners and ancillary development. Although the boiler house massing is to be reduced when replaced with a height up to 9m, there is the visual impacts from the two silos at 5.2m high and the flue that would extend no higher than 22m. The bowling green if relocated to a more southerly location would lead to new built forms being introduced to an area of countryside otherwise undeveloped and this is encroachment.

- 6.8. In my opinion, there are significant areas of the site that are presently undeveloped, including grassland, especially in the north-east part of the site and the south. These areas would be encroached upon and as a result there would be a significant degree of conflict with this purpose of the Green Belt, resulting in a high level of harm.
- 6.9. Purpose 4: Preserve the setting and special character of historic towns. This purpose is not applicable as the site is not located in or near to a historical town.
- 6.10. Purpose 5: Assist in urban regeneration, by encouraging the recycling of derelict and other urban land. This purpose is not applicable.
- 6.11. Although redevelopment of previously developed sites in the Green Belt can be considered not inappropriate, in this case it is agreed that because only part of the site is previously developed, and a significant part of it undeveloped, the proposals are inappropriate development. It is clear that the development of the new prison with its seven blocks, each of four storeys (to house 1,715 people) would have a greater impact on the openness than presently.
- 6.12. Further, it is my opinion that the development would not maintain or enhance the appearance of the site, contrary to Local Plan policy BNE5. In any case, as accepted by the case officer in paragraph 71 of the Application Report, “the eastern part of the site is within the Green Belt but is not considered previously developed land or covered by BNE5 and the proposal would introduce new buildings to part of the Green Belt which is not previously developed/covered by BNE5.2”.

- 6.13. I am of the opinion that the positioning of the new prison and replacement boiler house to the north of HMP Wymott will reduce the openness of the land, and the introduction of the new bowling facility to the south will significantly reduce the openness of the land not covered by BNE5.
- 6.14. When considering the site as a whole the case officer in Paragraph 89 of the application report states, “it can only be concluded that the proposed development would have a greater impact on the openness of the Green Belt both visually and spatially given the extent of open land across the site and the scale of development proposed as indicated on the proposed site plans”. I agree.
- 6.15. I also agree with the analysis in Paragraph 90 that the cumulative impacts mean “The development would, however, expand that built form. Whilst the development would be viewed in this context from an openness perspective the perception would be that the impact on openness would be greater”.
- 6.16. On this basis, I also agree that the redevelopment of the previously developed land element of the site would have a greater impact on openness both conceptually and perceptibly and, therefore, constitutes inappropriate development in the Green Belt, which is harmful by definition in addition to the perceptible harm to openness. It is agreed that substantial weight should be attached to this harm to the Green Belt, as set out at paragraph 148 of the Framework.
- 6.17. The provision of a new bowling club falls to be considered as a facility for outdoor sport, in accordance with the definition in the Framework, and is, by itself, identified as an exception to inappropriate development in the Green Belt paragraph 149.b). However, paragraph 149.b) states that such facilities are not inappropriate only where they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. I am of the opinion that placing a 1,600 square metre bowling green with 4no. floodlighting columns, club house, open fronted shelters, storage buildings, fencing, car park with 37no. spaces, access and landscaping would not preserve openness.
- 6.18. In Paragraph 95 of the recent High Court case R (on the application of Boot) v Elmbridge Borough Council [2017] EWHC 12 (Admin) the Court confirmed that the Framework does not permit any harm at all to the openness of the Green Belt, save where very special circumstances can be shown. A

development that would have any adverse impact on openness would not comply with a policy that required openness to be maintained or preserved. The decision-maker, therefore, has no latitude to find otherwise. There would have to be very special circumstances to justify a grant of planning permission in such an instance.

- 6.19. It is correct therefore that the bowling green is identified as inappropriate in relation to Framework paragraph 149 b) and would be even if considered on its own.
- 6.20. I agree that overall, the entirety of the proposal should be considered to be inappropriate development on the basis of the constituent parts, and consequently the tests of paragraph 148 of the Framework are engaged. This sets out that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Summary

- 6.21. The proposal must be considered in its entirety in order to properly consider the harm, benefits and other considerations in the Green Belt balance. Assessed on that basis it is agreed to be inappropriate development in the Green Belt and causes demonstrable harm. Only where that harm to the Green Belt - to which substantial weight must be attached - and any other harm is clearly outweighed by very special circumstances, can planning permission be justified.

7. Landscape character and visual impact issues

- 7.1. Landscape character and visual impact issues are important in this case and therefore the application documents are supported by a Landscape and Visual Impact Assessment (LVIA).
- 7.2. The LVIA is a comprehensive assessment, which I note has been prepared in accordance with the latest guidance (Landscape Institute and Institute of Environmental Management and Assessment's Guidelines for Landscape and Visual Assessment (GLVIA) 3rd Edition (2013)) and an Arboricultural Impact Assessment (AIA).
- 7.3. I have considered the LVIA and whilst I acknowledge the assessment is overall good, I am concerned that the effects of the proposed development at various stages from construction to operation in the longer term will lead to a greater magnitude of adverse change to local receptors and viewpoints of significance than is suggested. In short, while I accept the methodological soundness of the LVIA, I do disagree with some of the judgments reached. I set out my analysis below.

Landscape Character

- 7.4. I acknowledge that in terms of the Framework, the site is not subject to any specific landscape designations.
- 7.5. The LVIA correctly identifies the sites as located within the landscape character type of 15. Coastal Plains.
- 7.6. The LVIA refers to the European Landscape Convention (ELC) that promotes the protection, management and planning of European landscapes, which was adopted on 20th October 2000 and came into force on 1st March 2004.
- 7.7. Despite this not being a 'valued landscape' in those terms, the Rule 6 Party values the local landscape contribution that is afforded by the site as it exists now. Harm to its intrinsic character and beauty is harm to be weighed in the balance against the proposals.

7.8. The LVIA identifies the two most relevant policies of the Central Lancashire Core Strategy of relevance to the landscape and visual impacts and these are:

- Policy 18: Green Infrastructure, which sets out a Green Infrastructure approach of protecting and enhancing the existing natural environment where it provides benefits as well as improving where possible and providing mitigation where the Green Infrastructure is damaged/lost as part of a new development; and,
- Policy 21: Landscape Character Areas. This policy states that: “New development will be required to be well integrated into existing settlement patterns, appropriate to the landscape character type and designation within which it is situated and contribute positively to its conservation, enhancement or restoration or the creation of appropriate new features”.

7.9. The LVIA observes that the Chorley Local Plan Policy BNE1: Design Criteria for New Development sets out relevant design criteria for new developments. I address this policy below:

“Policy BNE1: Design Criteria for New Development Planning permission will be granted for new development, including extensions, conversions and free standing structures, provided that, where relevant to the development:”

“Policy BNE1 a) The proposal does not have a significantly detrimental impact on the surrounding area by virtue of its density, siting, layout, building to plot ratio, height, scale and massing, design, orientation and use of materials.”

7.10. It is my analysis from considering the application documents, specifically the LVIA document, that the proposal does have a more a significantly detrimental impact on the surrounding area by virtue of its density, siting, layout, height, scale and massing, likely design, orientation and probable use of materials. This is because the roofline of the new prison and flue of the boiler house will be intrusions into the area.

“Policy BNE1 b) The development would not cause harm to any neighbouring property by virtue of overlooking, overshadowing, or overbearing.”

- 7.11. For the residential properties on Willow Road, the development proposal would lead to an adverse impact of loss of green space and development with higher buildings (than at the existing prisons), security wall and fencing that would combine to exist as a dominant built feature. The buildings of four storeys would be visible over the prison wall and in that sense would overlook the neighbouring properties and gardens. People would lose privacy in their own homes. The prison is located to the west of the homes and therefore there would be times when the angle of the sun in the south moving east to west would lead to overshadowing particularly in winter months when the sun is low in the sky. Due to the proximity of the prison to the existing dwellings the effect would be for the prison to be overbearing in relation to the smaller two-storey residential properties.
- 7.12. The sense of place would alter from a residential estate with a green buffer and road between it and the existing prison, to a residential estate with a road and prison immediately adjacent. The new prison in essence doubles the prison population on a site that is only roughly half the size of the two existing prison facilities. The new prison would be more crammed. It is the removal of the buffer and the additional height of the new structures that combines to overwhelm the residential properties on Willow Road.

“Policy BNE1 c) The layout, design and landscaping of all elements of the proposal, including any internal roads, car parking, footpaths and open spaces, are of a high quality and respect the character of the site and local area;”

- 7.13. Although the layout of the proposals is a reserved matter, the Statement of Common Ground (SoCG) records that the illustrative layout shown is likely to reflect the operational requirements of the new prison. As said above, there is a cramming of thirteen buildings into a compact space and therefore, I am concerned that the principle of development at this outline stage is unacceptable as, when considered as a whole, the layout, design and landscaping of the proposal, including the internal access roads, and extensive car parking space and mitigation areas is too dense and therefore not in keeping with the local character.

“Policy BNE1 f) The proposal would not have a detrimental impact on important natural habitats and landscape features such as historic landscapes, mature trees, hedgerows, ponds and watercourses. In some circumstances where on balance it is considered acceptable to remove one or more of these features then mitigation measures to replace the feature/s will be required either on or off-site;”

- 7.14. The proposal would have a detrimental impact on the natural habitats and landscape features within the site identified for development. There would be loss and/or replacement of some as mature trees, hedgerows, ponds and watercourses. Whilst the appellant is keen to show in the long term there would be a biodiversity net benefit, and over many years the harm would be mitigated, which I acknowledge, nonetheless there would be short-term harm to these features.
- 7.15. The site currently exists as a predominately open green area acting as a buffer to the residential development to the properties on Willow Road and to the wider countryside of Chorley and South Ribble. It provides Green Belt purpose 3 and is spatially and visually green. The introduction of the new prison, boiler house and relocation of the bowling green will lead to an expansion and intensification of the prison cluster leading to a dominant built environment in Chorley's Green Belt. Countryside is encroached upon in a real sense with a magnitude of change to the landscape and visual amenity that is high. Whilst I do accept some mitigation measures are offered by the proposal to replace some of the features that are to be lost, when considering the development as a whole I consider the landscape character to be adversely impacted.
- 7.16. Policy BNE5: Redevelopment of Previously Developed Sites in the Green Belt sets out criteria for re-use, infill or redevelopment for previously developed sites in the Green Belt. In relation to landscape matters, the policy encourages that developments should respect the character of the landscape and have regard to the need to integrate the development with its surroundings. For the reasons already set out, this policy does not apply.
- 7.17. Policy BNE6: Light Pollution This policy highlights the importance of a lighting scheme and states that: "There will be no nuisance to neighbours or adverse effect on the character of an area". Below I discuss light pollution likely to arise from the proposed development.
- 7.18. Policy BNE10: Trees - This policy states that: "Proposals that would result in the loss of trees, woodland areas or hedgerows which make a valuable contribution to the character of the landscape, a building, a settlement or the setting thereof will not be permitted". The policy also advocates replacement planting where the benefits of the loss of tree or hedgerow vegetation is considered to outweigh the loss. It also notes that tree planting is required as part of new developments.

7.19. The report identifies the residual effects on the existing local landscape character and wider landscape character area in the long term. These are that the effect upon the landscape character area at completion could be moderate adverse reducing to minor adverse at year 15. In respect of the local landscape character, the effect would be moderate adverse at completion reducing to minor-moderate adverse at year 15. The point I draw from this is that even the appellant's LVIA identifies harm to landscape character, which will be at the level of moderate at completion, reducing to minor-moderate by year 15 after completion. The roofline of the new prison and boiler house flue would be visible from some viewpoints in the future even when the landscape management plan was implemented and had fully matured. Those 15 years are, in themselves, a long period over which harm will be felt, and the harm would persist even thereafter. This harm to landscape character should be included in the 'any other harm' element of the assessment.

Visual Impacts

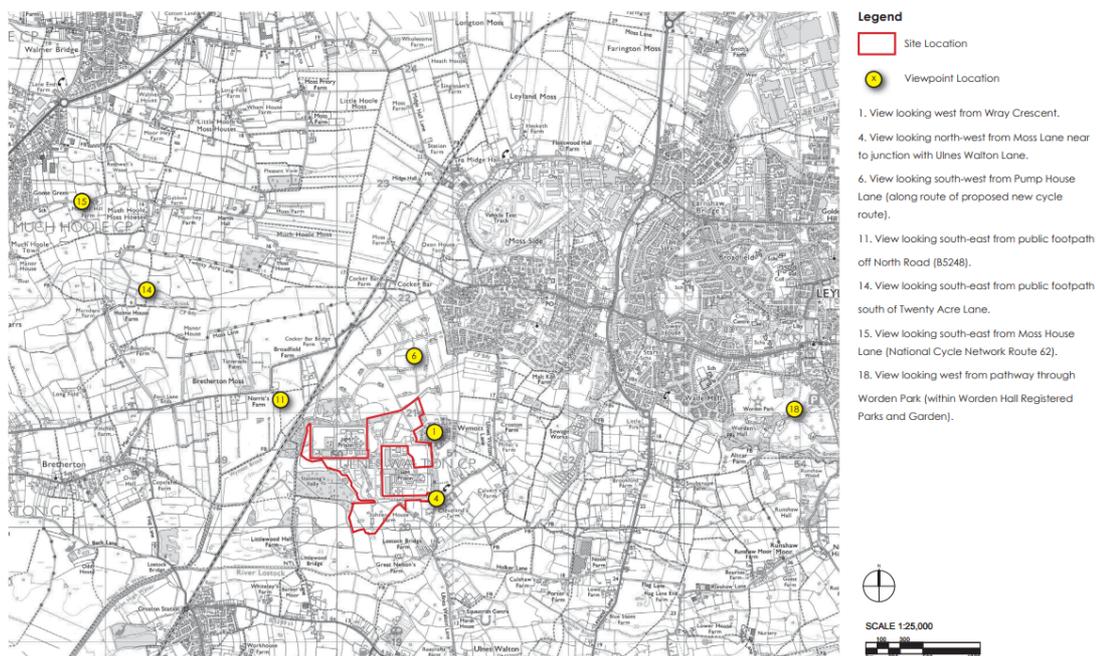
7.20. The LVIA report concludes that there would be short and long term adverse effects on views from properties in the residential area of Wymott and local rights of way to the west and east of the site. These include long term residual major to moderate adverse effects for sensitive receptors close to the site including residents and users of local public rights of way.

Extract from Applicants LVIA 3.0 Location Plan identifying site and 7 key viewpoint locations

HMP Garth Wymott 2

Pegasus Group

3.0 Location Plan



7.21. In my opinion the site would be visible from more locations that just the footpath to the northern boundary. The building roof lines and boiler house flue would almost certainly be visible from Ridley Lane where it runs parallel to the railway and possibly as far as Bretherton Swimming Pool. Curiously, there is no mention of this as this as Fig 1 of the LVIA Zone of Theoretical Visibility appears to have screened this out.

7.22. I am concerned that the LVIA did not provide views from additional viewpoints. In this sense the assessment is incomplete.

Extract from Applicants LVIA 7,2 Viewpoint 6 - Proposed View at Year 1



- 7.23. Also the 5.2 high perimeter fence would be a severe physical boundary in close proximity to the existing dwelling houses on Willow Road and Wray Crescent.
- 7.24. In my view due to the additional traffic generated by staff and visitors to the proposed prison, physical forms, lighting, signage and other paraphernalia that the site will change significantly from a green open space to a domineering secure unit with harm to viewpoints and visual receptors both near to and at a distance from the proposed development.
- 7.25. A notable change to the visual element will be the night light glow with the floodlighting for the secure site mounted at 15m high on monopoles. There would be a significant impact to the night skyline at near and distant viewpoints.
- 7.26. I am further concerned that there is no indication of the 22m high flue at the boiler house visible in any of the proposed views from viewpoint locations 1, 4, 6, 11, 14, 15, 18. In my view this will be highly visible.
- 7.27. Overall, I agree with the findings of the LVIA that there will be significant visual impact on identified receptors as rather than seeing farm fields with grazing sheep and horses, thirteen buildings, many of four storeys tall, and a new boiler house with a chimney and silos will dominate the view, and it would constitute a significant adverse effect on the views.

Light Pollution

- 7.28. The Rule 6 Party is concerned about light pollution arising from the development proposal, particularly the new prison. Due to the proximity of the proposed new prison site there is concern there will be light spill arising with harm to the local residents in dwellings of Willow Road and Wray Crescent and also to nature. It is understood certain species of animals, insects and plants can not properly reproduce if light pollution is present.
- 7.29. Chorley Local Plan Policy BNE6: Light Pollution This policy highlights the importance of a lighting scheme and states that: “There will be no nuisance to neighbours or adverse effect on the character of an area”.

Extract: Indicative lighting from a new prison new Wellingborough prison, HMP Five Wells



Source: <https://www.pbctoday.co.uk/news/planning-construction-news/hmp-five-wells-wellingborough-prison/106946/>

- 7.30. In my view the new development would not be without light spill and light glow in dark hours and this should be weighted as a moderate harm in the planning balance.
- 7.31. It is of concern to me that some of the elements of the proposal are at outline stage and many design features and impacts are not fully understood. Although an application of reserved matters, namely appearance, layout, etc. is required, it seems to me that due to the rural location these matters should be more fully understood at this outline stage to understand whether the principle of development is acceptable.

7.32. I acknowledge that there is a planning condition for a landscape and ecological management plan (LEMP) to be submitted and approved in writing by the Local Planning Authority prior to the commencement of phases 2, 3 or 4 of the development. The LEMP shall also include details of the legal and funding mechanism{s} by which the long-term implementation of the plan will be secured. Monitoring of the condition over the long term will be important. By requiring such a condition, both the Council and applicant acknowledge the harm and risks to biological heritage from the development proposed.

Summary

7.33. The harm arising from the Landscape and Visual Impacts are greater in my view than that identified in the LVIA provided by the applicant, including in dark hours.

7.34. The Rule 6 Party wishes the harm to the landscape and visual impacts to be accurately measured and attributed full weight in the planning balance. I have done so in my planning balance, carried out below.

8. **Other adverse impacts**

8.1. In this section I consider all of the other adverse impacts that could arise from the proposed development.

Residential Amenity

8.2. In the application report residential amenity is discussed in Paragraphs 190 to 198.

8.3. HMP Wymott was completed in in 1979, some 43 years ago and HMP Garth was completed nine years afterwards in 1988. The local residents of Willow Road have experienced considerable change. Residents moving into the area may have found the Green Belt designation a source of comfort knowing the remaining green space would be kept open.

8.4. The proposed development will reduce the current level of residential amenity due to generated vehicle activity from people travelling in and out of the area in connection with the new prison.

8.5. The problem of light pollution has also been referred to in the earlier section highlighting landscape harm.

8.6. It is likely that noise levels will be higher than at present, particularly during construction. Additional vehicles will remain when the prison is operational and the existing transport infrastructure is at capacity and needs investment to ensure it is fit for purpose, in advance of further land uses coming forward.

8.7. The harm to residential amenity should be attributed significant weight in the planning balance.

Noise and Vibration

- 8.8. The proposed development will lead to adverse impacts concerning noise and vibration pollution at the different phases of the development through site preparation, construction, and operation.
- 8.9. Ms Curtis demonstrates in her proof that noise will be increased at the development site due to an increase in traffic accessing the site and parking with associated engine noise, slamming doors and voices with impact on local residents at the nearest properties on Willow Road.
- 8.10. Furthermore, the proposals include kennels and this use is particularly noisy due to barking dogs. There are issues relating to Environmental Protection to ensure any nuisance arising is effectively controlled.
- 8.11. The noise and vibration could lead to problems of stress and anxiety to a population that is already vulnerable in terms of health impacts, due to age and socio-economic factors. This should be given significant weight against approval.

Loss of Farmland

- 8.12. In Paragraph 123 of the officer report, it states that “The soil type in the area is Grade 3 agricultural land but more detailed information as to whether it is ‘best and most versatile’ (i.e. whether it is Grade 3a or 3b) is not available. However, the site is limited in area and would not compromise the availability of land for the purposes of food production.”
- 8.13. In paragraph 5.55 of the SoCG between the Appellant and UWAG it is agreed that 6% of the site is Best and Most Versatile Agricultural land, and will be lost.
- 8.14. The NPPF paragraph 174 a) states planning decisions should contribute to and enhance the natural and local environment by “protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified

quality in the development plan)”. The loss of soils graded BMV1, 2 or 3a, should be negatively weighted in the planning balance.

- 8.15. The issue of food security is particularly critical at the current time as the illegal invasion of Ukraine is anticipated to lead to global food shortages. This loss of BMV agricultural land, while relatively small, should be given moderate negative weight in the planning balance.
- 8.16. I am of the opinion that while the scale of loss may not constitute a reason for refusal the fact a limited amount of Grade 3a farmland would be lost still constitutes a negative impact that will not be overcome in the future. Therefore, negative weight ought to be applied in the planning balance.

Mineral safeguarding

- 8.17. At paragraph 5.56 to 5.59 the SoCG between UWAG and the Appellant notes that the loss of land safeguarded for mineral extraction is a harm to be weighed in the planning balance. I give this limited weight.

Trees

- 8.18. Policy BNE10: Trees states that: “Proposals that would result in the loss of trees, woodland areas or hedgerows which make a valuable contribution to the character of the landscape, a building, a settlement or the setting thereof will not be permitted”.
- 8.19. UK Priority Broad Habitat Broadleaved woodland (Section 41, NERC 2006) is present to the west, but this is to be retained. Other woodland types are present (e.g. plantation) and areas will be lost. I address this below in the section on Biodiversity Net Gain.
- 8.20. The extent of loss of trees must be understood and negatively weighted in the planning balance. Although mitigation may mean replacement, the benefits will not be experienced for decades.

- 8.21. The planning condition must ensure tree replacement commensurate with the losses identified.

Ecology

- 8.22. A number of biodiversity receptors are identified, which represent material considerations in the determination of the application and require avoidance, mitigation and/or compensation.
- 8.23. Some species are protected under the Wildlife & Countryside Act 1981. These include for protected species such as Bats (roosts, commuting corridors), Barn Owls (roosts and flight lines), Great Crested Newt (Habitats Regulations 2019) and Common Toad (Section 41 NERC 2006 [Natural Environment & Rural Communities Act]). Water Vole and Pink Footed Geese are also observed at the site.
- 8.24. Any habitat that is considered a UK Priority Ponds (Section 41, NERC 2006) to support priority or protected species such as amphibians will need to be relocated. Hedgehogs have been observed on site along with a range of nesting birds (Wildlife & Countryside Act 1981); all nesting native birds are protected under this provision unless exempted via license for pest species.
- 8.25. There is considerable knowledge about the present biodiversity at the site and in my view there will be some harm that will arise to ecology if the development is permitted. Although I accept that eventually the residual effect will be 20% BNG, there would be harm arising to ecology in the short term and the BNG only happens in the long term, assuming the enforcement of conditions takes place. Due to resource constraints in most local planning authorities as a result of Government Austerity measures, enforcement capacity is severely limited.
- 8.26. I note the condition for the construction environmental management plan (CEMP) for biodiversity to assess site species and identify protection zones, practical measures to avoid and reduce impacts and to involve specialist ecologists as relevant.
- 8.27. Condition 29. Deals with the phasing plan requiring approval prior to commencement of phases 2, 3, 4 for the delivery of Biodiversity Net Gain off-set habitats to ensure the delivery of benefits at the earliest

opportunity. However there would be immediate and short term harm to biodiversity.

- 8.28. This harm to ecology in the short term should be attributed moderate weight.

Highways

- 8.29. The increase in traffic from the proposed development needs to be fully considered and the ability of the existing highway to accommodate the additional movements given its existing design, width and other factors.
- 8.30. The Rule 6 Party stands behind the local planning authority in this regard, and although I do not give any highways evidence myself, if the Inspector accepts the Council's case on highways, that will obviously amount to a significant additional harm implied by the proposals.
- 8.31. Ms Lynette Morrissey has provided a proof of evidence concerning accessibility and travel. She considers the MoJ case and finds in opposition to its case that there are harms arising. Government's stated policy is to locate new prisons in urban areas, the application site is in a rural area. As such the site will not support the Government in attaining international commitments on climate change by reducing greenhouse gas emissions. This is not a sustainable development, and the vast majority of journeys to and from the proposed prison would be by the private car. There is concern about the health and well-being of local residents being harmed by the additional traffic that would arise and from associated stress and anxiety. The local community has already experienced problems with an ineffective travel plan that caused problems.

Loss of the playing field

- 8.32. The planning balance needs to give weight to the harm arising from the loss (and non-replacement) of the playing field as per the response of Sport England. In my view this attracts significant weight against the proposals.

Heritage

8.33. The SoCG between UWAG and the Appellant records at paragraph 5.50 that the former Ministry of Supply Depot will undergo a loss of significance in respect of one element of that non-designated heritage asset, which is a further harm to be weighed in the balance. In the circumstances I give this limited weight.

Local opposition

8.34. There is disappointment that the applicant did not engage the local community more fully when progressing the prison expansion plans.

8.35. The prison expansion is locally opposed. The Localism Act 2008 is supposed to give more weight to local voices. That is what the decision takers did in this case.

8.36. In addition to the sound planning policy reasons for refusal, planning committee members listened to the opinion of people in the local community who objected due to a failure of the proposals against a range of national level and local plan policy failures and also to the concerns of local people who live in the area.

8.37. The fact the local community does not want the new prison, replacement boiler house or replacement bowling green should be given moderate negative weight in the planning balance.

Summary

8.38. For the reasons identified above there are wide-ranging harms, beyond the harm to the Green Belt, which must be added to that Green Belt harm when the development proposals are weighed in the planning balancing exercise.

8.39. The Green Belt harm alone attracts substantial weight; the other harms are additional to that.

9. **Benefits**

- 9.1. In this section I consider the claimed social, economic, and environmental benefits arising from the proposed development.
- 9.2. A summary of benefits claimed by the applicant is set out in the officer's report at paragraph 38.
- 9.3. Mr Parker has considered the MoJ's Socio-Economic Statement. Relying on his evidence, I accept that there are economic benefits from the opening of a new prison, both during construction and operational phases. However, as the calculation of economic impacts from the construction and operation of the prison are only as realistic as the data upon which they are based, the validity of the MoJ's assertions based on this modelling in respect of the socio-economic benefits for this community are therefore highly questionable.
- 9.4. Below I consider each of the benefits shown in the case for very special circumstances is set out in paragraph 130 of the officer report and provide my assessment of the weight to be ascribed to the benefits that are likely to arise.

Social Benefits

- 9.5. There are seven social benefits claimed by the applicant.
- 9.6. *Delivering new prison places to meet an identified need, in the right geographical location.* I give this factor moderate weight; while I accept there is a need for new prison places, and in this region, the need is not as urgent as the appellant's case suggests and the prison would be much better suited to an urban location.
- 9.7. *Providing safe, secure and modern facilities to deliver improved outcomes for prisoners and reduce reoffending rates.* I give this limited weight as it is true, but would be true of any prison proposal of this nature.

- 9.8. *Replacement bowling green will be of an at least equivalent standard, in an equally accessible location and provided before the existing facility is required to be lost.* Although in the SoCG UWAG accept the bowling green is of an improved standard, there is evidence in front of the Inspector that the replacement bowling green is opposed. To add, on the day of my visit, a bowls match had just finished, and I had an opportunity to talk to users, many of whom were of retirement age. The car park was almost at capacity. The people I spoke to voiced concern about the development proposal and the problems associated with the relocation of the bowling green. I note the existence of a condition to ensure that the bowling green is first established to an adequate standard and is fit for purpose.
- 9.9. However, the people were strongly opposed to the loss of this existing bowling green. A lot of effort from people had made the club what it is today, with a pleasant environment and well maintained green. It is understood that the Wymott Bowling Club has received public investment according to a funding application in 2015 to Chorley Council.
- 9.10. The people I spoke to value the benefits of playing sport in their retirement, and they think highly of it. The club is used most days for social bowling, competitive bowling, ladies bowling and there are evening matches too, even in darker months due to the existence of the lighting. It was commented that the club was well used and frequented by a large number of elderly people. There is a positive social side, overcoming isolation, as well as the health and well-being benefits. This is particularly the case after lockdowns associated with Covid. Some said they would not play if their current bowling green is replaced.
- 9.11. Therefore, whilst in SoCG paragraph 5.18 UWAG has agreed it represents an improvement, there are some people who would find the replacement of the bowling green a disbenefit. I suggest the replacement bowling green is of negligible weight in the planning balance.
- 9.12. *New club house will be of a greater quality and fully accessible, representing a significant enhancement to the existing club house provision.* As above this is locally disputed and it is likely the club members would not attend, therefore it is of at best limited weight for the purpose of the planning balance.

- 9.13. *Upgrades to the diverted section of Pump House Lane, encouraging and enabling greater use of the public footpath network for walking and cycling.* The surface upgrades will also enable improved access, including for maintenance, into the play area adjoining the Wymott residential estate to the north. I give this limited weight.
- 9.14. *Local apprenticeship, training and supply chain opportunities will be created throughout the construction and operational stages of the development.* This has to be balanced by the loss of the Wymott Prison Farm and Stables that is of social, value for the prison population that is being reformed in the prison system. Therefore, overall only limited weight may be attributed.
- 9.15. *The appointed contractor will 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. The loss of the farm and stables needs to be assessed within this aspect too. Therefore, I believe that overall this attracts more limited than moderate weight.

Economic Benefits

- 9.16. Under the economic dimension seven benefits are identified in the application report and I consider each in turn.
- 9.17. 122 gross / 69 net FTE jobs during the construction period. I note that only 10% of those jobs are to be reserved for local workers, which limits the value of this benefit considerably. I agree it would attract moderate positive weight.
- 9.18. Estimated £117.2 million GVA (gross) during the construction period, with an additional £35.1 million indirect and induced GVA (gross). I agree this would attract moderate positive weight.
- 9.19. 643 FTE jobs created during the operational stage, with approximately 590 employees likely to reside locally (although I note that this could mean people living up to 40 miles away, which is not especially 'local'). Mr Parker in his proof of evidence shows that unemployment in Chorley is low

compared to Blackpool, Preston, and Oldham. I agree therefore this would attract less than moderate weight.

- 9.20. Total income spend of £14.1 million per annum, of which £12.98 million retained locally. I agree this would attract limited weight.
- 9.21. The operational spend of the prison will amount to £13.7 million, supporting 230 jobs at a regional level. I agree this would attract limited weight.
- 9.22. The operational regional supply chain spend will equate to £17.9 million per annum, supporting 299 jobs at a regional level. This benefit would occur wherever the prison was located in the region so I believe this only attracts negligible weight.
- 9.23. Expenditure from prison staff and visitors within the local and regional economy will equate to £10.4 million per annum, supporting 30 jobs. There are not many retail or hospitality businesses to stop and spend locally in rural Chorley. In any case, this benefit would be the same wherever the prison is located in the region, with possibly additional benefit if amenities are accessible to staff and visitors, therefore I ascribe only limited weight.
- 9.24. The Wymott Prison Farm and Stables is of social, economic, and environmental value for the staff and the inmates who are being reformed in the prison system. The farm provides the opportunity for prisoners to benefit from being able to gain experience away from confinement in cells, more so during the pandemic than would usually the case. Working on the farm and with horses supports people's social development, helps to gain hands-on work skills that are transferable to the workplace when they leave the prison; and there are a variety of health and well-being benefits from spending time in nature.
- 9.25. When considering the benefits of the development proposal it is important to recognise the value placed by the public in the contribution the land currently serves.
- 9.26. Relocating the bowling green and losing the Wymott Prison Farm and Stables, constitute to those who benefit from them as not a benefit but indeed a harm. This issue needs proper consideration. I accept that the

replacement bowling green is of a better standard than the existing one. However, the players at Wymott club have fond memories and attachment to the existing one and some people (in the older age group) may not cope well with the relocation and some indicated to me that it may stop them playing bowls altogether.

- 9.27. As for the prisoners losing access to a farm and stables, I can only imagine this to be a loss to those who currently use it. As far as I understand it there is no plan to replace the farm and horse-riding facility at the prison. Therefore, there is loss and in my view it would be better assessed as a harm in the planning balance.

Environmental Benefits

- 9.28. Under the environmental dimension there are some eleven benefits identified in the application report, four which are mitigations rather than real gains, and I consider each in turn.
- 9.29. *The majority of the site comprises previously developed land* and the proposed development will make efficient use of at least that part of the land. Although previously used the site isn't a brownfield site. I believe the reuse of brownfield land to be important, but the proposal would be more sustainable on a previously developed site in or nearer to an existing settlement, so I give this limited weight.
- 9.30. *The design approach has ensured that the impact of the proposals has minimised landscape visual impact; the remaining landscape and visual effects are not considered to be significant.* Given the landscape and visual harms arising and the screening being achieved by mitigation measures that will take a long time to mature, I do not consider this a benefit at all: the LVIA identifies landscape and visual harm, even after 15 years.
- 9.31. *Delivery of a high-quality sustainable prison that will achieve BREEAM Excellent, with endeavors to achieve BREEAM 'Outstanding'.* This would be achieved at any location, so only limited weight is appropriate.
- 9.32. *The site is not subject to, nor closely located to, any sensitive ecological designations.* Impact to protected species has been avoided so far as

possible, with suitable mitigation proposed where required, but this is not a benefit of the proposals, it is an expression of how one way in which the proposals will be harmful has been minimised or reduced.

- 9.33. *At least 20% biodiversity net gain will be achieved with no offsetting required.* While I do not dispute the calculations carried out, this is a development proposal that will change a site which is largely green and open, in use for agriculture and bowling to a dense prison development. Due to the very long timescale and the need for planning conditions to be enforced to achieve the level of mitigation I consider this should attract only limited weight.
- 9.34. *High fabric energy efficiency, air source heat pumps, photovoltaic panels and energy efficient lighting, appliances, and equipment will be specified to assist in achieving the MoJ's target to be net zero carbon ready.* This is not really a planning benefit of the scheme although I approve of the approach. I attribute no weight as a consequence.
- 9.35. *The site is not at risk of flooding and will not lead to an increase in the risk of flooding elsewhere.* The proposed drainage strategy is in accordance with the drainage hierarchy. This is not a benefit but is an expression of an absence of harm.
- 9.36. *10% (53) of the car parking spaces will be set aside for electric vehicle charging points.* This is not a benefit but is an expression of an absence of harm.
- 9.37. *A further 5% (27) will be set aside for car sharing users. 51 covered cycle parking spaces will be provided.* This is not a benefit but is an expression of an absence of harm.
- 9.38. The above-mentioned matters (9.34 to 9.37) are to be applauded but are not really 'benefits' of a scheme. They mitigate what would otherwise be a harm - the over-reliance on the private car, and in particular on individual trips in the private car. Overall, and taken together, I am prepared to afford them limited weight.

- 9.39. *Construction methods will make use of modern methods of construction, with associated quicker construction times, lower energy use and stronger green footprint.* Although modern techniques speed up the construction timescale the number of FTE jobs is limited as a result, reducing the level of local benefit so I consider this to be negligible weight.

Summary

- 9.40. In summary, the benefits of the proposed development are in my view overstated by the applicant (and this over-statement apparently accepted by the case officer). This is largely due to the social, economic and environment benefits of the existing site not being properly valued, together with a series of 'benefits' being considered which are in fact not benefits at all.

10. Planning Balance

- 10.1. In this section I weigh the positive and negative impacts that are likely to arise from the proposed development.
- 10.2. The development constitutes inappropriate development in the Green Belt. The Framework states that inappropriate development is by definition harmful to the Green Belt and should only be approved in very special circumstances.
- 10.3. As well as this definitional harm, I have also found that the development would result in perceptible harm to the openness of the Green Belt. This harm to the Green Belt must be given substantial weight.
- 10.4. Very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. This is a high hurdle for a development proposal to overcome.
- 10.5. In addition to the definitional harm to the Green Belt, and to the perceptible harm to openness, I have identified a series of other harms, and attached such weight to them as I consider appropriate, including:
- Residential Amenity
 - Noise and Vibration
 - Loss of Farmland
 - Loss of mineral safeguarding area
 - Trees
 - Ecology
 - Highways
 - Heritage
 - Loss of the playing field
 - Local opposition

- 10.6. When considering the need case, I rely on Ms Curtis' evidence, which shows the MoJ case of urgent need for these prison places is overstated. I consider the evidence of Mr Parker to the effect that the alternative sites have not been assessed in a transparent or coherent way. His analysis shows (at least) two alternative sites in the region which perform better than the appeal site against the MoJ's own criteria. The report by Peter Brett Associates in 2013, relied on by the MoJ here, points to urban locations being preferable due to better accessibility for staff retention, servicing, and visitors. I agree with that assessment. The rural part of Chorley does not need another prison. Very special circumstances have not been robustly justified.
- 10.7. In conclusion and on balance, the substantial weight to be given to Green Belt harm, in addition to the weight ascribed to other harms identified as arising from the proposals, when taken together is not clearly outweighed by other considerations.
- 10.8. Therefore, the very special circumstances do not exist and there is no justification to allow the proposal.
- 10.9. On that basis it is my recommendation that the appeal should be dismissed.

11. Documents

The Planning Application 06/2021/0431 and PINS ref: APP/N2345/V/22/3296374

Central Lancashire Core Strategy

Chorley Local Plan Site Allocations Development Management Policies 2012-2026

Central Lancashire Supplementary Planning Documents (SPD) Design Guide

National Planning Policy Framework, revised edition, 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Chorley Brownfield Register

Report to Planning Committee for Application Number:

Planning Committee Minutes

Lancashire Archives

Guidance for Landscape and Visual Impact Assessment Third Edition
Landscape Institute and Institute of Environmental Management and Assessment, GLVIA 3