

Appeal by Ministry of Justice
Land adjacent to HMP Garth and
HMP Wymott, Leyland

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

Summary Proof of Evidence of Tamsin Cottle on
behalf of Chorley Borough Council

Date of Inquiry: 12th July 2022

Summary

- 1.1 It is agreed that the proposal represents inappropriate development in the Green Belt.
- 1.2 This evidence therefore provides an assessment as to whether the definitional and any other harm to the Green Belt is outweighed by Very Special Circumstances (VSC) that would justify development.

Harm to the Green Belt

Openness

- 1.3 With regard firstly to the spatial dimension of openness I do not agree with the findings contained with the LVIA that the spatial impact on the Green Belt is limited.
- 1.4 The area is currently characterised by predominantly grassed areas of open space and hedgerow, and small-scale agricultural buildings. It is rural in character. The area of the proposed new prison buildings currently has open views across it.
- 1.5 The perception from the public rights of way offers little distinction between the previously developed site within the Green Belt and the land outside this.
- 1.6 In respect of the location for the new bowling club, this sits in an undeveloped area of grassland which sits separately to the built-up area of the prison.
- 1.7 Given the substantial quantum of the proposed new development, and hard landscaped areas there would be a significant loss of Green Belt openness in spatial terms.
- 1.8 In respect of visual impact, my point of disagreement lies with the lack of assessment of some of the more localised views, and the level of magnitude and resultant conclusion on significance, of some of the 'closer' viewpoints that have been assessed.
- 1.9 One of the main visual impacts will occur on views currently enjoyed from the section of Pump House Lane, which is within the application site and proposed to be built over and re-routed.

- 1.10 I consider that the sensitivity of this viewpoint would be high, and the magnitude of impact of building over the footpath and re-routing it would be very high, and this would lead to major adverse effects which could not be mitigated against.
- 1.11 Aside from the footpath through the site, I accept that it is the views from the immediate north and northeast of the site that are then likely to be most impacted by the development.
- 1.12 Given the impact on the views from this direction, I believe these should have been considered in more detail within the LVIA.
- 1.13 I consider all views in close proximity of the site from the Northwest will have a high magnitude of impact leading to a major adverse significant effect
- 1.14 The proposed development of the bowling club will have a moderate to major adverse impact.
- 1.15 The impact on the nearby residential properties are majorly adverse in significance and cannot be improved or softened by landscaping.
- 1.16 The Appellants place great weight on the proposed landscaping scheme to alleviate the adverse impacts. Whilst this will provide some mitigation it will still have an impact on both the spatial and visual openness of this site.
- 1.17 Overall, I consider that there would be a significant loss of Green Belt openness.

Harm to Purposes

- 1.18 It is agreed by all parties that there will be some harm to the purpose of safeguarding the countryside from encroachment of the Green Belt.
- 1.19 The proposal would involve substantial built development of an urban nature within a currently open rural area of land. The proposed buildings are of a significant scale and many would be taller than any existing building on site.
- 1.20 I consider that the proposal would result in significant encroachment into the countryside.

Conclusion on Green Belt Harm

- 1.21 The proposal would cause a permanent and irreversible loss of Green Belt openness, which would not be fully mitigated through landscape, siting and design. This would cause additional harm to the Green Belt, over and above the harm by reason of inappropriateness. Furthermore, the proposed development would represent an encroachment of urban development into the open countryside. I attach very substantial weight to the totality of Green Belt harm.

Other Harm

Transport

- 1.22 The conclusion on highways matters are that the Appellant has yet to demonstrate that the proposals will avoid problems of safety across the study network and is therefore contrary to paragraph 110 and 111 of the National Planning Policy Framework, policy BNE1 and policy ST1 of the Chorley Local Plan 2012 - 2026.
- 1.23 I therefore give the transport impacts significant weight in the planning balance.

Amenity

- 1.24 The Council is legally required to consider local representations when determining a planning application.
- 1.25 Furthermore, Development Plan policy 'BNE1: Design Criteria for New Development' identifies a number of imperatives for developers to ensure that local amenity is not affected by a development.
- 1.26 Representations made by local people during the appeal application's consultation identified very real concerns in relation to negative impacts on local amenity. Concerns have been raised at a local and Parish Council level.
- 1.27 Evidence in the submitted Transport Proof shows that these concerns cannot be dismissed as simple 'NIMBY'ism.

- 1.28 It is unmistakeable that there will be significant increases in traffic on a number of roads.
- 1.29 It is undeniable that residents will be affected by this proposal and this is a material consideration which we give moderate weight.

The Effect on the Character and Appearance of the Area

- 1.30 The appeal proposal will permanently remove the existing agricultural and open character of the area of the proposed new buildings. The application site is in the open countryside not in an urban fringe location. The proposed landscaping serves to screen rather than integrate the development into the wider area.
- 1.31 I believe there would be significant localised landscape impact, the scale and spread of the development, would have an adverse effect on the character and appearance of the area, to which I attach significant weight.

The Case for Very Special Circumstances

The Need

- 1.32 I do not dispute there is a need for this type of facility. I believe however there is a lack of evidence supporting the appellant's case in relation to its size. The submitted planning statement explains that the current need is for 1,121 inmates.
- 1.33 The proposal, however, is for a 1,715 inmate prison. This means the proposed prison is for 594 (or 53%) more prisoners than the current identified need. The Planning Statement justifies this increase as maximum efficiency for construction cost and operations.
- 1.34 'Other considerations' which are identified as outweighing harm, need to be properly evidenced and robust for the Council to conclude that VSC exist. In this instance it is not.
- 1.35 Need is not always a reason for development in the Green Belt and on its own does not constitute the Very Special Circumstances required to outweigh the definitional harm of inappropriate development.

Lack of an alternative location

- 1.36 Again, the appellant has provided little information. The first key criterion is that the site needs to have a minimum developable area of 12ha. It is assumed that this size requirement is to accommodate a 1,468 – 1,715 place prison.
- 1.37 The criteria also suggests that land owned by the MoJ was prioritised given the potential for quicker delivery. It would appear the site search has been driven by efficiencies rather than the reduction of impacts of the development.
- 1.38 It is not clear whether local authority land availability assessments (SHLAAs / SHELAAs) have been studied. A preliminary search shows a high number of potentially suitable and available sites. This initial search throws into question how thorough the appellant's site search has been.
- 1.39 Even if it's concluded that the prison can only be accommodated on a Green Belt site, without the benefit of a full Green Belt Review it is not possible to be sure that the prison is being built on the 'best' Green Belt site.
- 1.40 In addition, only addressing existing need could result in a smaller prison and expand the site search.
- 1.41 On the current evidence, given the Inspector cannot be satisfied that there are no other alternative sites I would give this limited to no weight.
- 1.42 If, however, the Inspector were to be satisfied that this was the only suitable site in the NW to accommodate any evidenced need this would carry substantial weight.

Economic Benefits

- 1.43 I acknowledge that there would be an economic benefit to any development during and after construction and this could potentially carry moderate weight in part. It is important to be cautious about over-ascribing weight to 'generic' benefits that would arise in any development proposal, especially when they are being used to justify inappropriate development in the Green Belt. In this respect therefore, I would give all the identified economic benefits only a collective limited to moderate weight.

Other Social Benefits

- 1.44 I agree with the weights attached to these benefits within the officer report to committee and the rationale behind these. Overall, I give the social benefits of the scheme a collective moderate weight.

Environmental Benefits

- 1.45 Overall, I give limited weight to all the benefits listed by the appellant under the environmental heading apart from BNG which I deal with separately below;

Biodiversity Net Gain

- 1.46 Whilst I can see there is a benefit, this is a policy requirement for any development.
- 1.47 There is currently no set percentage for BNG, however I acknowledge that through the Environment Act 2021 it is likely that 10% BNG will be required in the future. Given that the scheme is providing 20%, I give this benefit moderate rather than limited weight.

The Overall Planning Balance

1.48 In the table below I have summarised my weights for the various harms and 'other considerations'.

Very Special Circumstance Balance	
<i>Negative Impacts</i>	<i>Weighting</i>
Harm to the Green Belt	Very substantial
Harm in relation to Highways	Significant
Harm to amenity	Moderate
Harm to character and appearance	Significant
<i>Beneficial 'other considerations'</i>	<i>Weighting</i>
Need for 1,121	Significant
Need for 1,175	Limited
No alternative site (not evidenced)	Limited to Moderate
No alternative site (if evidenced)	Substantial
Economic benefits	Limited
Social	Moderate
Environmental	Limited
BNG Delivery of 20%	Moderate

1.49 In my professional opinion the harm is not clearly outweighed by the 'other considerations' put forward by the appellant. I conclude therefore that VSC do not exist to allow this development.

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