

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

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

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

Date of Inquiry: 12th July 2022

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## 1.0 Introduction

- 1.1 I am Tamsin Cottle. I hold an honours degree in Town and Country Planning and a Masters in Planning.
- 1.2 I have over 25 years' work experience in town and country planning, involving a variety of development projects, in both in the public and private sectors. I have worked as a planning consultant on numerous planning matters throughout the Country. I have been an Associate Director at Planning and Design Group (UK) Limited (P&DG) since July 2021, prior to this I was a Director at JLL.
- 1.3 I appear at this Inquiry on behalf of Chorley Borough Council ('the Council') in respect of the appeal, the subject of this Inquiry.
- 1.4 The appeal relates to planning application 21/01028/OUTMAJ on Land adjacent to HMP Garth and HMP Wymott, Leyland (the "Site") for:

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

- 1.5 The application was refused on 06 July 2021 for the following reasons:

1. *The proposed development would have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development on that part of the site that is previously developed and would encroach onto open countryside and is inappropriate development in the Green Belt. Substantial weight attaches to the harm to the Green Belt by reason of inappropriateness and further harm arising here by reason of the impact of the proposed development on the openness of the Green Belt and encroachment. The benefits associated with the proposed development would not clearly outweigh the resulting harm and, therefore, do not constitute, individually or cumulatively, very special circumstances required if inappropriate development is to be approved in the Green Belt in accordance with paragraph 148 of the National Planning Policy Framework.*

2. *The proposed development would have an unacceptable impact on highway safety by virtue of the increased traffic movements and inadequate highway infrastructure, contrary to paragraph 109 of the National Planning Policy Framework and policy BNE1 of the Chorley Local Plan 2012 - 2026.*
3. *The potential noise nuisance and disturbance associated with the vehicular traffic movements that would be generated throughout the use of the development would result in a harmful impact on the amenity of residents in the locality contrary to policy BNE1 of the Chorley Local Plan 2012 - 2026.*

1.6 Key matters raised by the development are shown in the Case Management Conference (held on 18<sup>th</sup> May 2022) meeting note from the Planning Inspector.

The main issues in the note are:

- 1) the effect of the proposal on the openness and purposes of the Green Belt;
- 2) the effect of the proposal on highway safety;
- 3) the effect of the proposal on the living conditions of occupiers of nearby properties with regard to noise and disturbance;
- 4) the effect of the proposal on the character and appearance of the area; and
- 5) whether harm to the Green Belt, and any other harm, would be clearly outweighed by other considerations (including the need for the development, the availability of alternative sites, the socio-economic benefits, and biodiversity net gain) so as to amount to the very special circumstances required to justify the proposal.

1.7 In addition to these issues, the Inspector will, of course, need to consider whether the Development will be in accordance with the Development Plan and, if it is not in accordance with the Development Plan then he must consider if there are any material considerations which indicate otherwise (section 38(6) Planning and Compulsory Purchase Act 2004).



## **2.0 Declaration**

- 2.1 The evidence which I have prepared and which I present at this Inquiry is true and has been prepared and is given in accordance with the guidance of my professional institution, the Royal Town Planning Institute, I confirm that the opinions expressed are my true and professional opinions.

## **3.0 Scope of Evidence**

- 3.1 My evidence focuses on the impacts of the proposed development upon planning matters, with reference to the relevant planning policies and whether the development complies with them. It addresses the following main issues in respect of planning matters:
1. The harm caused to the Green Belt in respect of impact on Openness and Purposes of the Green Belt
  2. Further harm caused by increased Traffic Movements and resultant impact on amenity
  3. The impact of the proposal on the character and appearance of the area.
  4. Whether the identified harm is clearly outweighed by other considerations – namely need, location, socio economic benefits and biodiversity net gain and therefore Very Special Circumstances exist.
- 3.2 My evidence does not cover technical matters relating specifically to transport (to be dealt with in separate proof of evidence by Kevin Riley of WSP). However, I have relied on their conclusions of in terms of their assessment of transport matters and compliance with relevant planning policies in considering the overall planning balance.

## **4.0 The Appeal Site and Surrounding Area**

- 4.1 The appeal site description is set out within the Statement of Common Ground.
- 4.2 However, of benefit to my proof and for ease of reference I have provided a series of photographs of the site at Appendix 1 which I refer to within my main evidence.

## 5.0 Evidence

### Policy Context

- 5.1 Under Sections 70(2) and 79(4) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004, this appeal must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 5.2 The 'Development Plan' in relation to this appeal is the 'Central Lancashire Adopted Core Strategy July 2012' (the CLACS) and the 'Chorley Local Plan 2012 – 2026 Site Allocations and Development Management Policies Development Plan Document Adopted 21 July 2015' (CLP). (Core Document reference I1 and I2)

### National Planning Policy Framework (2021)

- 5.3 The National Planning Policy Framework (the 'NPPF' / 'Framework') (and its associated guidance), is a significant material planning consideration and itself recognises the primacy of the Development Plan for decision making (notably paragraphs 2, 12 and 47). National policy comprises relevant paragraphs of the National Planning Policy Framework<sup>1</sup> (NPPF) and is supplemented by the Planning Practice Guidance (PPG).
- 5.4 The NPPF sets out the Government's planning policies for England and how these are expected to be applied, seeking to deliver sustainable development. The document is a material consideration in planning decisions.
- 5.5 Reason for Refusal 1 relates solely to the Green Belt matters, so I firstly set out the planning policy context within which this decision was made;
- 5.6 Chapter 13 of the NPPF sets out the requirement to protect Green Belt land, with the fundamental aim of Green Belt policy being established to prevent urban sprawl by keeping land permanently open. Paragraph 137 stresses that the key characteristics of land within the Green Belt are its openness and its permanence.
- 5.7 Paragraph 138 goes on to set out the five purposes of the Green Belt as follows:
- To check the unrestricted sprawl of large built-up areas
  - To prevent neighbouring towns merging into on another

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<sup>1</sup> National Planning Policy Framework published July 2021

- To assist in safeguarding the countryside from encroachment
- To preserve the setting and special character of historic towns
- To assist in urban regeneration, by encouraging the recycling of derelict and other urban land

- 5.8 Paragraph 147 confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved in except in very special circumstances. Paragraph 148 goes on to state 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.
- 5.9 It is agreed within the Statement of Common Ground (Core document C3) that the proposal represents inappropriate development in the Green Belt.
- 5.10 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**

### **Definitional Harm**

- 5.11 The proposal is agreed to be inappropriate development in the Green Belt. This is – per NPPF 147 – by definitional harmful. Under paragraph 148 of the NPPF decisionmakers are directed to give – at least – substantial weight to any Green Belt harm. The purposes of assessing the level of harm below to openness and purposes is to establish the level of weight (beyond substantial) to give to the overall basket of Green Belt harm caused by this proposal.

### **Openness**

- 5.12 The site is within the Green Belt. Paragraph 137 of the NPPF explains that ‘openness’ is an essential characteristic of the Green Belt, and the fundamental aim of Green Belt policy is to keep land permanently open.
- 5.13 Whilst no clear definition of openness is provided within the Framework it is generally acknowledged to mean the absence of built form or other features which cannot be reasonably be associated with the open countryside and the views they provide.

- 5.14 Planning Practice Guidance On Green Belts (PPG -Core document H2) provides some advice on assessing the impact of a proposal on the openness of the Green Belt. The guidance states that this requires a judgment based on the circumstances of the case and recognises that openness is capable of having both spatial and visual aspects and includes a consideration of the duration of the development and the degree of activity likely to be generated.
- 5.15 Although not referenced in the reason for refusal Policy BNE5 of the CLP is also relevant to the matter of openness. Part of the application site falls within an area allocated as a 'Previously Developed Site within the Green Belt' and the policy allows development in these areas subject to certain criteria being met. These criteria reflect the guidance in the NPPF paragraph 149 (g). This policy was considered in detail by the Council in their report to committee (Core document A97). The key elements of this policy are the proposal should not have a materially greater impact than the existing use on the openness of the green belt and the purposes of including land within in. It was concluded in the committee report that the proposal was in not in accordance with the criteria set out within this and therefore the application could not be permitted under this policy.
- 5.16 In considering impact I acknowledge that this will result from the proposed new prison building and bowling club. The impact of the boiler house is limited to the proposed 22m high flue rather than the building itself.
- 5.17 A Landscape and Visual Impact Assessment (LVIA) was submitted by the appellant as part of the application package (Core Document A25) and this addresses spatial and visual impact and is relied upon in the appellants planning statement to justify this element of harm.
- 5.18 With regard firstly to the spatial dimension of openness I do not agree with the findings contained with the LVIA (paragraphs 8.15-8.18) that the spatial impact on the Green Belt is limited.
- 5.19 The application seeks to introduce the following new floorspace;
- 74,532 sq.m GEA of new prison accommodations and workshops in 13 new buildings, seven of which will be four storeys in height – up to 16.7m tall, taller than any other existing buildings on site
  - A new boiler house of 644 sq.m GEA with a 22m high flue

- A new bowling club house consisting of 126 sq.m of new buildings (GEA taken from the submitted ground floor layout plan (core document A64) and includes storage buildings as well as club house)
  - A new 525 space car park to support the prison and a new 37 space car park to support the bowls club
  - The application also includes kennels, polytunnels and new perimeter fencing
- 5.20 The appellant provides no figures for the existing GEA of the buildings on site to be replaced by this proposed new floorspace. However, at Appendix 2 we enclose a plan which measures the existing built-up area as compared to the proposed built-up area. The proposed prison buildings require an area of circa 16.5ha to be built over.
- 5.21 In addition, the series of photographs contained at Appendix 1, illustrate the current view of the application site, specifically the location of the proposed new buildings, and the existing buildings proposed to be replaced.
- 5.22 As can be seen from the photographs, the area is currently characterised by predominantly grassed areas of open space and hedgerow, and small-scale agricultural buildings. It is rural in character. We acknowledge the existing energy centre is on site, but this sits behind the woodland (proposed to be removed) and is also surrounded by green open space.
- 5.23 The area of the proposed new prison buildings currently has open views across it and the structures within it are small scale and those which you would expect to find in a rural countryside setting.
- 5.24 The perception from the public rights of way offers little distinction between the previously developed site within the Green Belt, as defined by the CLP and the land outside this.
- 5.25 In respect of the location for the new bowling club, this sits in an undeveloped area of grassland which, as can be seen from photographs 9 and 10 in Appendix 1, sits separately to the built-up area of the prison. Again, the impact on spatial openness in this location is significant rather than limited.
- 5.26 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.

- 5.27 In respect of visual impact, the LVIA provides an assessment of impact for 21 viewpoints. Given the distance and location of many of these, the impacts they identify are low/minor. This is reflected in the report summary and conclusion by the appellant that impact on visual openness will be limited.
- 5.28 I do not provide alternative LVIA evidence in this regard, and I can agree with the majority of the findings in Table 10 and 11 of the submitted assessment. 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.
- 5.29 Firstly, the impact on the local footpath and cycle network should not be underestimated. 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 re-routed.
- 5.30 The current view from the footpath along Pump House Lane running from the bowling club northwards is not considered in the LVIA. The views along this footpath are illustrated in photographs 3-6 of Appendix 1. to this proof.
- 5.31 The footpath would be built over and re-routed around the extended site. Given the operational requirements of the prison, this part of the prison boundary cannot be screened with trees and therefore the perimeter fencing, and new buildings will be the predominant view. The current experience of walking out into the countryside with a view of open grassland and agricultural buildings will be lost.
- 5.32 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.
- 5.33 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. The closest viewpoint selected in the LVIA is point 6 which is over 200m from the site boundary and over 400m from the closest proposed new building.
- 5.34 It is clear from Appendix C of the LVIA that the view of the site from viewpoint 6 will be significantly and adversely impacted. The presence of landscaping, even after 15 years of maturing, does not diminish the fact that there would be views of four storey buildings in what was previously perceived as an open landscape.



- 5.35 In addition, it is unclear to me why in this location the LVIA ranks the sensitivity as high and the magnitude of impact as high yet the conclusion on significance, is moderate to major. In my opinion given both the sensitivity and magnitude is high, this should lead to a major significant effect. In addition, on a point of consistency, both viewpoints 1 and 2 have the same sensitivity (high) and same magnitudes (high) yet their significance is ranked as major to moderate.
- 5.36 Given the impact on the views from this direction, I believe these should have been considered in more detail within the LVIA. No viewpoints are selected from the footpath immediately to the north of the site which runs along the northern site boundary which also forms part of Policy ST1 'Proposed new cycle routes' and no viewpoints closer to the site than viewpoint 6 was considered.
- 5.37 To this effect at Appendix 3 I have included views from my photographs 7 and 8 and have plotted the extent of development into these viewpoints. Whilst acknowledging that there will be new landscaping, it is clear that the impacts on the visual openness of this area will be significant and experienced by all the local users of the footpath and cycle network.
- 5.38 As set out above, I disagree with the assessment in the LVIA that the significance of the impact on the views from viewpoint 6 will only be moderate to major adverse. I consider all views in close proximity of the site from the Northwest including from my viewpoints in Photographs 7 and 8, will have a high magnitude of impact leading to a major adverse significant effect
- 5.39 The proposed development of the bowling club and associated lighting and car parking will have a greater significance on Viewpoint 20 than the minor to moderate identified in the LVIA. The bowling club introduces a built form into a landscape that is otherwise open and free from any development. Although not as significant as the proposed prison buildings there will be a moderate to major adverse impact on openness of the Green Belt experienced in this location.
- 5.40 The LVIA identifies impact on the nearby residential properties as Very High in magnitude and Majorly Adverse in significance (viewpoints 1 and 2 of the LVIA). The LVIA also recognises that views from the residential area cannot be improved or softened by landscaping. We agree with this assessment.
- 5.41 The Appellants place great weight on the proposed landscaping scheme to alleviate the adverse impacts of the development. The LVIA response to the identified impact of the proposed buildings is, where possible, to screen them with landscaping. Whilst

this will provide some mitigation it will still have an impact on both the spatial and visual openness of this site, creating an enclosure around the site and restricting views.

- 5.42 Although the visual effects would reduce over time as the proposed landscaping matures, views of the proposal would, nevertheless, remain, especially in Winter months. In addition, the LVIA acknowledges at paragraph 6.53, that when mature, the landscaping will reach heights of 8-10m whereas the development on site at circa 16.7m will clearly be seen above this.
- 5.43 In summary, the proposal would have a harmful effect on the visual component of Green Belt openness. Moreover, given the scale of the development, the significant loss of spatial openness cannot be fully mitigated through siting, landscaping, and design. Overall, I consider that there would be a significant loss of Green Belt openness.

### **Harm to Purposes**

- 5.44 Green Belt purpose 3 – to assist in safeguarding the countryside from encroachment, is the purpose most impacted by the proposal. It is agreed by all parties that there will be some harm to this purpose of the Green Belt.
- 5.45 I acknowledge the proposals will be seen in the context of the existing prison complex, however, 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 the seven houseblocks will be taller than any existing building on site.
- 5.46 The photographs contained at Appendix 1 demonstrate the countryside feel of this site. Although there are some buildings on site these are low level and agricultural in nature and appropriate to what you would expect in a countryside setting. We acknowledge the existing energy centre is also on site, but this does not define or alter the overall impression of openness across the majority of the site.
- 5.47 Furthermore, while I do not believe that the policy distinction in BNE5 between land which is categorised as a previously development site and land which is not is that apparent on the ground – it is also the case that the development would stretch beyond the previously development site boundaries into undeveloped Green Belt.
- 5.48 The proposal extends the development north, northeast and south into what is currently open countryside. The perimeter fencing further adds to the encroachment to the north and northeast, creating a 'hard' boundary where currently the boundary

is hedgerow. I consider that the proposal would result in significant encroachment into the countryside and therefore conflicts with purpose 3.

### **Conclusion on Green Belt Harm**

- 5.49 In conclusion, 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. As such it would be contrary to one of the Green Belt's main purposes. Taken together with the definitional harm by reason of inappropriateness I attach very substantial weight to the totality of Green Belt harm.

### **Other Harm**

#### **Transport**

- 5.50 Transport is dealt with in full in Kevin Riley's proof of evidence. Mr Riley's evidence concludes that the reason for refusal on highways ground is reasonable and justified.
- 5.51 The transport evidence identifies flaws in the appellant's calculations which demonstrate the traffic flows in their assessment were underestimated. Notwithstanding, the traffic flows presented by the appellant are not insignificant with 1,332 additional two-way trips per day.
- 5.52 It is Mr Riley's opinion that the proposals will lead to an increased risk and ultimately an increase in reported PIAs, non-reported accidents and near misses as a result of increased traffic on the impacted roads.
- 5.53 It is also noted that there is a general lack of pedestrian and cyclist facilities along the roads most impacted. There are no crossing points, drop curbs nor tactile paving despite there being residential properties and businesses along these roads.
- 5.54 Speed is already an issue on Moss Lane, and if the road surface was improved, as it would be to introduce the proposed mitigation, then speeds would be higher.
- 5.55 The mitigation proposed is not considered proportionate to the impact of the development nor the existing safety issue.

- 5.56 Whilst it is understood that the mitigation scheme may not be the final scheme implemented by LCC, the transport evidence finds that the proposed mitigation has not been appropriately assessed and no modelling assessment has been undertaken to justify it is an appropriate solution.
- 5.57 The transport evidence also concludes that the mitigation scheme, as proposed has numerous issues that would affect its deliverability.
- 5.58 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.
- 5.59 I therefore give the transport impacts significant weight in the planning balance.

### Amenity

- 5.60 The Town and Country Planning (Development Management Procedure) (England) Order 2015 states:
- 33.—(1) A local planning authority must, in determining an application for planning permission, take into account any representations made where any notice of, or information about, the application has been—*
- (a) given by site display under article 13 or 15, within 21 days beginning with the date when the notice was first displayed by site display;*
- (b) served on—*
- (i) an owner of the land or a tenant of an agricultural holding under article 13;*
- (ii) an adjoining owner or occupier under article 15; or*
- (iii) an infrastructure manager under article 16, within 21 days beginning with the date when the notice was served on that person, provided that the representations are made by any person who they are satisfied is such an owner, tenant, occupier or infrastructure manager; or*
- (c) published in a newspaper under article 13 or 15 or on a website under article 15, within the period of 14 days beginning with the date on which the notice or information was published, and the representations and periods in this article are representations and periods prescribed for the purposes of section 71(2)(a) of the 1990 Act (consultations in connection with determinations under section 70)(1).*
- 5.61 This makes it clear that the Council is legally required to consider local representations when determining a planning application. 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. This includes basic overlooking as well as highway safety and noise.

- 5.62 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. The Inspector will of course have access to these representations, but as a snapshot, comments included:

*"This development will have a negative impact on the infrastructure, environment and quality of life of residents."*

*"The increase in traffic along Ulnes Walton Lane / Dunkirk Lane / Slater Lane will have a detrimental effect on all the residents."*

*"I feel this proposal is very ill thought out, perhaps one of you guys could actually come and walk these routes with the wildlife and peace, see the kids playing and laughing, listen to the concerns of the locals then envisage all this being taken away, by someone who doesn't live in the immediate vicinity and doesn't actually care about the people who this affects."*

*"This proposed development is taking up Green Belt areas and that land is currently used for walking, running, cycling and horse riding. The health and wellbeing of residents is of great importance much more important than a 3<sup>rd</sup> prison in the area!"*

*"We have already narrowly escaped being knocked down by speeding vehicles many times. Increasing the volume of traffic exponentially will exasperate the situation. There are also equestrian centres along this road (Earnshaw Livery Yard, Eccleston Equestrian Centre, Longton Riding Club etc...) with riders and horses in transit regularly. Additional heavy traffic is a major safety risk. Likewise, cyclists using this stretch of road have no safe harbour space to avoid large volumes of traffic. This area is not suitable for an expansion of prison property. A site with better road infrastructure would be more appropriate."*

*"Granting permission would negatively impact upon the distinct rural nature of local villages such as Ulnes Walton, Croston and Bretherton, contravening Policy EP3, Policy BNE1 and Policy BNE6. Despite promises of mitigation measures, the construction and operation of this prison will still negatively impact upon the privacy and the health or safety of residents closest to the development. Creating additional levels of noise*

*pollution, light pollution, increased traffic pollution, traffic congestion and compromised highway safety, not just those living closest to the development but for the rest of the local community too.”*

*“In short, the negative impact of the development will undoubtedly be felt solely by residents immediately local to the area.”*

*“Removal of playing fields will negatively impact on the health of children, as will the removal of local walking routes for residents.”*

- 5.63 In fact, local concern is so great that a Rule 6 Party will be appearing at the Inquiry to discuss mainly issues of this nature. Importantly, evidence in the submitted Transport Proof shows that these concerns cannot be dismissed as simple ‘NIMBY’ism.
- 5.64 The Transport proof in Section 6 and shows the increase in traffic on several roads in the local area. The percentage increases range from 3% up to 322% (on Moss Lane north of the existing access) and in the worst case scenario there will be 1,332 additional two-way trips per day. It is unmistakable that there will be significant increases in traffic on a number of roads.
- 5.65 I find it difficult to see how increases in traffic of this level could not impact on local amenity (as per local concerns) in terms of safety, noise and general welfare. Ultimately it will be a matter for the Inspector to decide what weight to give to this issue, but it is undeniable that residents will be affected by this proposal, and this is a material consideration which the Planning Committee took seriously. I give the impact on amenity moderate weight in the balance of harm.

### **The Effect on the Character and Appearance of the Area**

- 5.66 The effect on the character and appearance of the area is raised by the Inspector as a main issue and does have a direct bearing on the impact of the harm to the Green Belt. The appellants LVIA deals with the effect on the character and appearance of the area.
- 5.67 I agree that the land is not subject to any specific landscape designations.
- 5.68 The site falls within area 15c Croston- Mawdesley of the Landscape Strategy for Lancashire (the Strategy) (core document I14). The characteristics of the area are identified in part as an *agricultural landscape with historic brick-built farms and*

*meandering rural lanes.* The Strategy states that *all built development is likely to be prominent in the relatively open landscape.*

- 5.69 The LVIA identifies the strategies relevant to this site and we agree with this assessment. In particular the recommendations to *conserve distinctive field patterns and also to retain existing field boundaries* and to *take care to avoid mass tree planting in characteristic open landscapes* are relevant to this proposal.
- 5.70 The proposal will replace what is currently an agricultural landscape with a significant built-up form and perimeter fencing. Although seen against the backdrop of the existing prison buildings, it will have an impact on the character of the area as defined by the Landscape Strategy.
- 5.71 The LVIA goes on to look in more detail at the local context of the site. At paragraph 4.32, regarding the appeal site location it states *This highlights the transition from the settlement edge of Leyland to the north-east into the urban fringe landscape in which the site is located which is characterised by interspersed pockets of development and more substantial areas including the existing prison complex and residential estate adjacent to the site.*
- 5.72 I cannot agree that the site is within an urban fringe location.
- 5.73 The appeal site does not sit in an urban fringe landscape, rather it is within the open countryside. The existing prison has been located away from settlements and the small residential area that it sits next to would have historically served the prison. This settlement is not identified in the hierarchy of centres within the Local Plan.
- 5.74 The appeal proposal will extend the form and scale of an existing built development in the open countryside. Whilst in terms of impact on character, the effect is lessened by the existing buildings, it nevertheless is significantly extending an existing built form in the open countryside, characterised as an agricultural landscape. It is not extending the built envelope of an urban fringe location.
- 5.75 The landscaping proposed although helping to mitigate the visual appearance of the buildings, would also significantly change the current open agricultural character. The guidance in the Landscape Strategy specifically states in relation to major infrastructure development to



*consider tree planting in areas where it can integrate new development but to take case over mass tree planting.*

- 5.76 In this case the operational constraints of the development means that the tree planting proposed will form a linear screen along a set boundary and a mass of woodland planting in one area order to screen the development. The planting does not integrate the development into the wider landscape, its purpose is to screen and therefore in itself it will have an impact on the character and appearance of the area.
- 5.77 Not only does the appeal proposal remove the open field and hedgerows but over 21,000 sq.m of existing mature tree planting will be removed from the site. Although this is, in part, being replaced in alternative locations this will take time to mature and this to will also have an adverse impact on the character of the area.
- 5.78 In summary, 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.
- 5.79 I consider that the Appellants have underplayed the localised effects of the scheme on landscape character and overstated the efficacy of the mitigation to be achieved by the proposed landscaping. Even when considering the proximity of the prison buildings, the proposal would have a notable adverse effect on landscape character. I believe there would be significant localised landscape and visual effect, 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**

- 5.80 Paragraph 147 of the NPPF explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in 'Very Special Circumstances' (VSC).
- 5.81 Paragraph 148 then states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. VSC will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.



- 5.82 It is agreed between the appellant and the Council that the proposal is considered inappropriate development in the Green Belt. It therefore follows that the proposal will be harmful to the Green Belt and the Inspector should give substantial weight to this in its consideration.
- 5.83 I have set out above the significant harm that will result from this development to the openness and purposes of the Green Belt which increases the overall weight to Green Belt harm to very substantial. I have also set out the other harm linked to the proposal (this relates mainly to transport, amenity and local character impacts).
- 5.84 In-line with the NPPF, the appellant has identified a number of 'other considerations' which it believes when judged against the harm to the Green Belt (by way of inappropriateness) and any other harm, amount to VSC.
- 5.85 Within the officer report to committee (core document A97) there is a table at paragraph 130 which lists the 'other considerations' put forward by the appellant. This also provides the weight that the officer considered should be attributed to these considerations. These 'other considerations' are split into 'Economic', 'Social' and 'Environmental' Dimensions.
- 5.86 It is pertinent to note that in the report to committee all of the 'other considerations' attracted either moderate or limited weight apart from 'Delivering new prison places to meet an identified need, in the right geographical location' (under Social Dimension) which attracts significant weight. This was the basis on which the recommendation was made.
- 5.87 In addition to the other considerations put forward in the officer report, the appellants Statement of Case makes reference to a lack of an alternative locations to accommodate all or part of the proposed development. I consider all these 'other considerations' below.'

### **The Need for the Facility**

- 5.88 The first consideration relates to need. In this respect the appellant's case is unclear and raises several questions. Paragraph 7.24 of the submitted planning statement explains that:

*“The most recently available data from November 2020 shows that at the time 1,121 Category C men with less than 24 months sentence remaining and who had a home address in the Northwest were being held in prisons outside of the region”*

- 5.89 The proposal, however, is for a 1,715 inmate prison in the Green Belt. This means the proposed prison is for 594 (or 53%) more prisoners than the current identified need. The Planning Statement justifies this increase by stating that extensive HMPSS research indicates that maximum efficiency for construction cost and operations would be derived from 1,468 – 1,715 place prisons.
- 5.90 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. It is not clear whether these places will be filled or will be required. There are no projections to show that a further 594 places will be required in the Northwest or by when. There may be construction efficiencies in building a prison of this size, but I would suggest there is a danger of longer-term inefficiency if a new build ‘mega – prison’ is only two thirds full. It is unclear why – even if the construction efficiencies point is accepted – the Appellant proposes a prison at the very top of that range. As it stands, and with the evidence provided at that time, I believe it would have been remiss of the Council to approve such a large prison in the Green Belt without sufficient evidence of need for a prison of this size.
- 5.91 To place the impact of the potential overprovision of prison spaces in a practical context. While I appreciate it is an outline application, we are told that each housing block accommodates up to 245 prisoners. A reduction of 594 prisoners (to the Nov 2020 need) would allow for the removal of two housing blocks, while a reduction to the 1,468 would allow for the removal of one housing block. This could potentially reduce the level of harm to the Green Belt in respect of encroachment and impact on openness.
- 5.92 As explained above, the Council is required to apply at least substantial weight to harm to the Green Belt by way of inappropriate development when determining a Green Belt planning application and as such, ‘other considerations’ which are identified as outweighing this harm, need to be properly evidenced and robust for the Council to conclude that VSC exist. In this instance it is not. Currently the appellant has stated there is a need for a prison to house 1,121 inmates and we would attach significant weight to this need.

- 5.93 Given there is no evidence before us to demonstrate a need for a prison to house up to 1,715 inmates, we can only attach limited weight to the need for a prison of the size proposed.
- 5.94 Finally, '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. If this were the case, huge swathes of the Green Belt nationwide would have been developed to address housing need. The Inspector needs to consider whether this size of prison has to be built in this exact Green Belt location to meet the unmet need for the whole of the Northwest. Currently the Appellant has not shown that this is the case.

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

- 5.95 The second 'other consideration' relates to alternative site availability and is closely linked to the need 'other consideration' above. Again, the appellant has provided very little information. Search criteria information has been provided. 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.
- 5.96 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.
- 5.97 As explained above, considering this is Green Belt development, it is surprising that a full and proper case has not been made as to why such a large prison is needed. The only reason given for the size of the proposed prison relates to construction efficiencies.
- 5.98 This then begs the question, if a smaller prison was considered to just meet current outstanding need, would a smaller site be required thereby opening up other alternative sites using the appellants methodology? This does not appear to have been explored by the appellant.
- 5.99 It is not clear whether local authority land availability assessments (SHLAAs / SHELAAs) have been studied as part of the alternative site search. Appendix 4 of this proof contains the findings of a cursory high-level inspection of land availability assessments available for some Lancashire Local Planning Authorities (note this is just Lancashire

and not the whole of the Northwest) and it identifies some 17 sites which are 12ha or over in size and in the Green Belt (not all). I have not carried out detailed surveys of these sites and it has not been my intention to find an alternative site, but it shows the level of available sites (it is assumed they are/were available as they would have been submitted to the Council by the landowners during a 'Call for Sites' process). This initial search throws into question how thorough the appellant's site search has been. It's possible that development on any one of these sites could have less of an impact on the Green Belt.

- 5.100 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 for example, it is not possible to be sure that the prison is being built on the 'best' Green Belt site (in terms of harm to the Green Belt and other harm).
- 5.101 When looking for alternatives the appellant also considered whether existing Category C prisons could be extended to accommodate some of the need meaning the proposed prison could be smaller. No capacity was found. As stated above, only addressing existing need could result in a smaller prison and expand the site search.
- 5.102 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.
- 5.103 If, however, the Inspector were to be satisfied that this was the case and this was the only suitable site in the NW to accommodate any evidenced need this would carry substantial weight.

### **Economic Benefits**

- 5.104 The benefits of the scheme are set out in the table at paragraph 130 of the Officer Report, (core document A97) and are taken from the appellant's planning statement (core document A3). A weighting has been provided by the officer for consideration at committee:
- 122 gross / 69 net FTE jobs during the construction period- **Moderate weight**
  - Estimated £117.2 million GVA (gross) during the construction period, with an additional £35.1 million indirect and induced GVA (gross) - **Moderate weight**
  - 643 FTE jobs created during the operational stage, with approximately 590 employees likely to reside locally - **Moderate weight**

- Total income spends of £14.1 million per annum, of which £12.98 million retained locally - **Limited weight**
- The operational spend of the prison will amount to £13.7 million, supporting 230 jobs at a regional level - **Limited weight**
- The operational regional supply chain spend will equate to £17.9 million per annum, supporting 299 jobs at a regional level - **Limited weight**
- Expenditure from prison staff and visitors within the local and regional economy will equate to £10.4 million per annum, supporting 30 jobs – **Limited weight**

5.105 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 (3 of the 7 economic benefits identified above were assessed as having moderate weight). However, in this case we are considering development in the Green Belt. It is unclear why the identified economic benefits mean that the prison must be built specifically in this location. It is assumed that there would be job creation regardless of where the prison is built (be it on another Green Belt site with less of an impact or on a site outside of the Green Belt). 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 (I note that 4 of the 7 economic benefits identified above were awarded limited weight).

### **Other Social Benefits**

5.106 The table at paragraph 130 of the Officer Report also sets out several social benefits with a weighting. The first relates to delivering a prison which meets the identified need (this is covered above). The other social benefits identified are:

- Provide safe, secure and modern facilities to deliver improved outcomes for prisoners and reduce reoffending rates - **Limited weight**
- 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 - **Moderate weight**
- New club house will be of a greater quality and fully accessible, representing a significant enhancement to the existing club house provision - **Moderate weight**

- 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 - **Limited weight**
- Local apprenticeship, training and supply chain opportunities will be created throughout the construction and operational stages of the development - **Limited weight**
- 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 1 community project per year – **Moderate Weight**

5.107 I agree with the weights attached to these benefits as set out in the officer report and the rationale behind these. Overall, I give the social benefits of the scheme a collective moderate weight.

#### **Environmental Benefits**

5.108 The environmental benefits (and the weighting the officer attributed to them) are listed in the table on page 30 of the Officers report and are as follows:

- The majority of the site comprises previously developed land and the proposed development will make efficient use of land - **Moderate weight**
- The design approach has ensured that the impact of the proposals have minimised landscape visual impact the remaining landscape and visual effects are not considered to be significant - **Limited weight**
- Delivery of a high-quality sustainable prison that will achieve BREEAM Excellent, with endeavours to achieve BREEAM 'Outstanding' - **Moderate weight**
- 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 - **Limited weight**
- At least 20% biodiversity net gain will be achieved with no offsetting required - **Moderate weight**
- 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 - **Limited weight**

- 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 - **Limited weight**
- 10% (53) of the car parking spaces will be set aside for electric vehicle charging points - **Limited weight**
- A further 5% (27) will be set aside for car sharing users - **Limited weight**
- 51 covered cycle parking spaces will be provided - **Limited weight**
- Construction method will make use of modern methods of construction, with associated quicker construction times, lower energy use and stronger green footprint – **Limited Weight**

5.109 I do not agree with the officer on the weighting given to some of these points and I detail those I am in disagreement with below.

5.110 I do not agree that the majority of the site comprises previously developed land. It is a previously developed site in the Green Belt in policy terms (BNE5), but this only allows development that has no greater impact on the openness than what is there already. It is agreed that the proposal cannot be permitted under this policy. I therefore give this limited weight.

5.111 I give limited weight to the BREEAM standard as this is generic and a policy requirement.

5.112 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**

5.113 With reference to the biodiversity net gain, whilst I can see there is a benefit, this is a policy requirement for any development. Policy BNE9 of the CLP requires a net gain in biodiversity and paragraph 180 d) of the NPPF, states that improvements to biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity.

5.114 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

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

5.116 I have applied the following diminishing weighting hierarchy:

- Substantial
- Significant
- Moderate
- Limited
- Neutral
- Negligible/no weight

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



5.117 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.

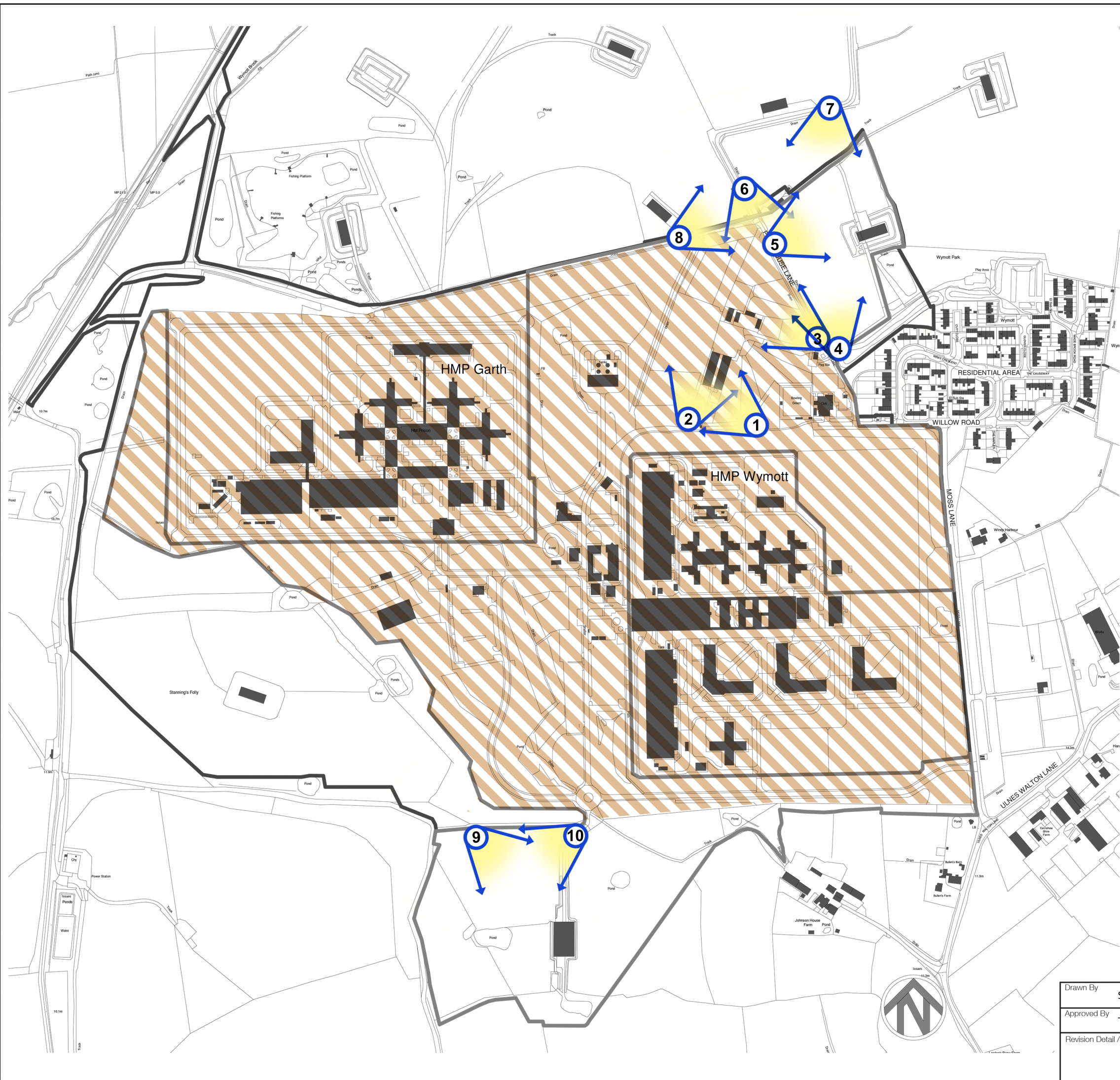
5.118 In consideration of the above I believe the Council has acted reasonably in concluding that the benefits associated with the proposed development would not clearly outweigh the resulting harm and, therefore, do not constitute, individually or cumulatively, the very special circumstances required if inappropriate development is to be approved in the Green Belt in accordance with paragraph 148 of the National Planning Policy Framework.

## 6.0 Conclusion

- 6.1 National policy has for some time attached “great importance” to the Green Belt; its primary purpose being to prevent urban sprawl by keeping land permanently open; the NPPF states that the essential characteristics of Green Belts are their openness and their permanence.
- 6.2 Inappropriate development, which it is agreed this proposal is, is by definition harmful and should only be approved in very special circumstances.
- 6.3 Very special circumstances only exist where the harm to the Green Belt is clearly outweighed.
- 6.4 This proposal would cause additional harm to the Green Belt, over and above the harm by reason of inappropriateness. The substantial weight accorded to the harm by reason of inappropriateness is further supplemented by the spatial and visual impact on openness and the encroachment into the countryside. Taken together with the definitional harm by reason of inappropriateness I attach very substantial weight to the totality of Green Belt harm.
- 6.5 The highway impacts are likely to be higher than agreed through the application process and the appellant has not demonstrated how these identified impacts can be mitigated against.
- 6.6 There is harm to amenity by virtue of the increased activity and traffic movements.
- 6.7 There will be a harm to the overall character and appearance of the area.
- 6.8 Overall given the scale of the proposal in this countryside location the harms will be substantial.
- 6.9 Although need is a benefit, on its own it does not constitute the Very Special Circumstances required to allow inappropriate development in the Green Belt.
- 6.10 The requirement to locate the proposed development in this location and the complete absence of any ‘less harmful’ alternatives, has not been fully evidenced and therefore cannot be given significant weight in this decision making.

- 6.11 The economic and social and environmental benefits set out by the appellant can only in my opinion be given limited to moderate weight.
- 6.12 In consideration of the above I believe the Council has acted reasonably in concluding that the benefits associated with the proposed development would not clearly outweigh the harm and, therefore, do not constitute, individually or cumulatively, the very special circumstances required if inappropriate development is to be approved in the Green Belt. That decision is in accordance with paragraph 148 of the National Planning Policy Framework.

## Appendix 1 – Photographs of Appeal Site




**KEY**



Previously developed sites in the Green Belt



Photo viewpoints

Drawn By S.C.M.	Title Site adjacent to HMP Garth & HMP Wymott PHOTO VIEWPOINTS	Drawing No 22.074/01	 <p>P and DG accept no responsibility for any unauthorised amendments to drawings and does not permit unauthorised copying of drawings in order that subsequent reproduction of drawings are internally controlled. Copyright P and DG</p> <p>This drawing should not be scaled for construction purposes</p>
Approved By T.C.	Scale 1:2,500 @ A3	Date 06/2022	
Revision Detail / Date			



Photograph 1



Photograph 2





Photograph 3



Photograph 4





Photograph 5



Photograph 6





photograph 7



Photograph 8





Ste of Proposed New Bowling Club

Photograph 9

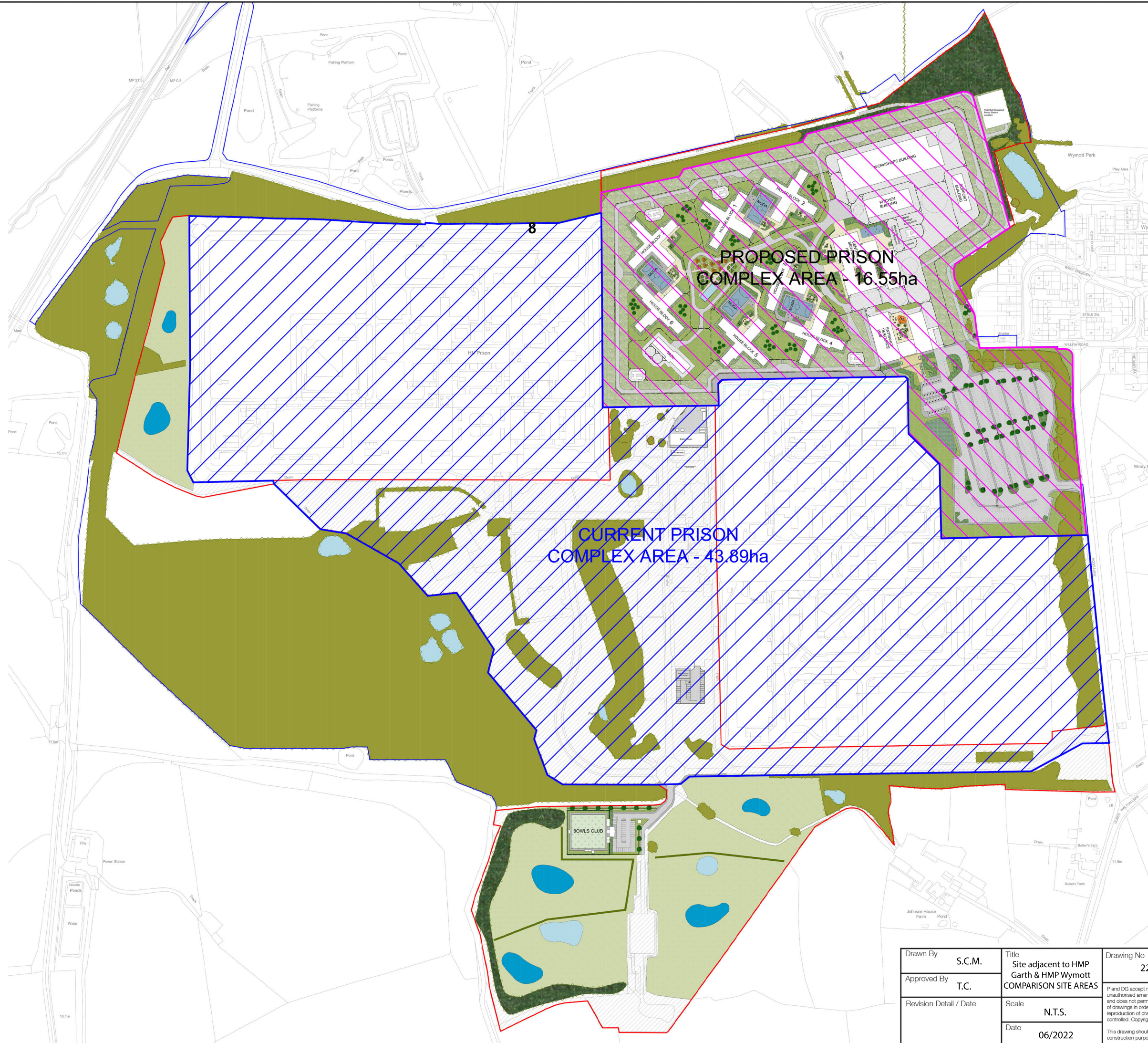


Photograph 10



## **Appendix 2 – Built Up Site Area**





Drawn By	S.C.M.	Title	Site adjacent to HMP Garth & HMP Wymott	Drawing No	22.074/02
Approved By	T.C.	COMPARISON SITE AREAS		P and DG accept no responsibility for any unauthorised amendments to drawings and does not permit unauthorised copying or reproduction of drawings in order that subsequent production of drawings are internally controlled. Copyright P and DG	
Revision Detail / Date		Scale	N.T.S.	This drawing should not be scaled for construction purposes	
		Date	06/2022		





## **Appendix 3 – Extent of Built-Up Environment Viewpoints 7 and 8**

Photograph 7



Photograph 8



## **Appendix 4 – Land Availability Assessments (Lancashire)**







Ref: SHLAA16262 - Land west of Market Street, Edenfield - 12.5ha in size - SHLAA says Developable in the medium to long term (within 6 to 10 years, or after 10 years) but within Green Belt.



**West Lancashire SHELAA 2020/21 (Housing Sites)**

Ref: BU.104 Moss Nook Farm, Crabtree Lane – 13ha in size – discounted due to Green Belt designation (access needs consideration too).



Ref: LA.014 Land off Whiteleys Lane / Wigan Road – 24ha in size – discounted due to Green Belt and best / most versatile agricultural land status.



Ref: OA.057 Land at Holborn Hill Farm, Holborn Hill – 16.1ha in size - discounted due to Green Belt designation



Ref: OA.073 Land at Little Hall Farm, Cottage Lane – 12.4ha in size - discounted due to Green Belt designation





Ref: OA.154 Land at Dumbills, Crosshall Brow - 15.9ha in size – discounted due to Green Belt designation



Ref: OA.173 Land at Gaw Hill Lane – 12.42ha in size - discounted due to Green Belt designation



Ref: OA.175 Land btw Vicarage Lane and Crosshall Brow (Ruff Farm) – 12.1ha in size - discounted due to Green Belt designation



Ref: OA.179 Land S of A577 Crosshall Brow – 14.08ha in size - discounted due to Green Belt designation



Ref: OA.180 Land at Bowkers Green / Prescott Road – 15.3ha in size - discounted due to Green Belt designation



Ref: SK.194 Former Glenburn School & playing fields – 13.76ha in size





**Planning and Design Group**

Midlands Office: Pure Offices Lake View Drive Sherwood Park Nottingham NG15 0DT tel 01623 726256

London Office: 5 St John's Lane London EC1M 4BH tel 020 7549 2858

Oxford Office: Pure Offices Parkway Court John Smith Drive Oxford OX4 2JY tel 01865 985354

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