

## Planning Committee

Tuesday, 21st December 2021, 6.30 pm

Council Chamber, Town Hall, Chorley and <a

href="https://www.youtube.com/user/ChorleyCouncil"> YouTube </a>

### Agenda

#### 3 **Planning applications to be determined**

The Director (Planning and Development) has submitted two items for planning applications to be determined (enclosed).

Plans to be considered will be displayed at the meeting or may be viewed in advance by following the links to the current planning applications on our website.

<https://planning.chorley.gov.uk/online-applications/search.do?action=simple&searchType=Application>

**a 21/01028/OUTMAJ - HM Prison Wymott, Moss Lane, Ulnes Walton, Leyland, PR26 8LW**

(Pages 9 - 66)

To consider the report of the Director of Planning and Development (enclosed)

**b 21/00072/FUL - Heath Paddock, Hut Lane, Heath Charnock, Chorley, PR6 9FP**

(Pages 67 - 84)

To consider the report of the Director of Planning and Development (enclosed)

Gary Hall  
Chief Executive

Electronic agendas sent to Members of the Planning Committee Councillor June Molyneux (Chair), Councillor Alex Hilton (Vice-Chair) and Councillors Aaron Beaver, Martin Boardman, Magda Cullens, Gordon France, Peter Gabbott, Danny Gee, Tom Gray, Harold Heaton, Keith Iddon, Alistair Morwood and Alan Whittaker.

Electronic agendas sent to Planning Committee reserves (Councillors ) for information.

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**APPLICATION REPORT – 21/01028/OUTMAJ**

**Validation Date: 24 August 2021**

**Ward: Croston, Mawdesley And Euxton South**

**Type of Application: Major Outline Planning**

**Proposal: 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**

**Location: HM Prison Wymott Moss Lane Ulnes Walton Leyland PR26 8LW**

**Case Officer: Mr Iain Crossland**

**Applicant: Ministry of Justice**

**Agent: Miss Claire Pegg, Cushman & Wakefield**

**Consultation expiry: 30 December 2021**

**Decision due by: 23 November 2021**

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**RECOMMENDATION**

1. It is recommended that Members be minded to approve the application subject to conditions and a S106 Obligation to secure the provision of enhanced bus service provision, 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.

**SITE DESCRIPTION**

2. The application site is located in the Green Belt at Ulnes Walton and comprises 43.5 ha of land in MoJ ownership. It surrounds HMP Garth and HMP Wymott in the west of the Borough of Chorley, close to the boundary with South Ribble district, which lies to the north. 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.
3. HMP Garth comprises an 850 capacity Category B men's prison, whilst HMP Wymott comprises a Category C men's training prison with a capacity of c. 1,200. These comprise a range of large scale buildings of functional design some of which are contained within a secure boundary wall. The site and adjacent prisons are situated on land, which was

formerly an army ammunition depot, the remnants of which are still visible in the landscape to the north of the site. There is a residential housing estate to the east of the site that was formerly associated with the original prison development, however, this is now functionally separate.

4. There are no listed buildings on the site or in close proximity to it. The site is not in a conservation area nor does it include or form part of a Scheduled Monument. The site is not a designated nature conservation site (i.e. SSSI, local nature reserve).
5. The new prison would be located on land to the north of HMP Wymott and the east of HMP Garth. The site is partly in agricultural use, including associated farm buildings, and partly in use for ancillary prison purposes, containing a boiler house with biomass boiler, which serves both prisons. Wymott Bowling Club is located in the east of the site, and a former ammunitions storage building and man-made mound located in the north east. A pumping station is located just off Pump House Lane.
6. The south east area of the site presently provides sports fields and recreation space within the perimeter fence of HMP Wymott. An 'L' shaped belt of mature trees runs along the northern boundary before turning southwards and running across the centre of the site, separating the agricultural area from the existing boiler house.
7. Pump House Lane dissects the eastern area, running north from Willow Road. It then splits, turning west to connect to Ridley Lane or north to connect to Nixon Lane. 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.
8. The new boiler house would be located on land between HMP Garth and HMP Wymott, to the south west of the new prison site. The site currently comprises hardstanding used informally for car parking, as well as gas meter housing and a single storey portacabin office.
9. The proposed bowling green would be located on grass pasture land to the south of the existing prisons, to the south west of the roundabout on the internal access road to the prisons.
10. The remaining land area 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.

#### **DESCRIPTION OF PROPOSED DEVELOPMENT**

11. The application is described as: 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.
12. The application is, therefore, split into three distinct parts.
13. The main part of the application is in outline, with all matters reserved except for means of access, parking and landscaping, and seeks outline planning permission 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. This would be located on land to the north of HMP Wymott and east of HMP Garth with vehicular access from Moss Lane. An illustrative masterplan has been submitted in support of the proposed development that sets out how the development might be

accommodated on the site (in principle). The indicative plans submitted in support of this element of the application include the following:

- 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.
14. 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.
15. Outline planning permission, with all matters reserved except for access, is sought for the erection of a replacement boiler house. 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.
16. Full planning permission is sought for a replacement bowling green and club house on land to the south of Wymott Prison. This element of the proposal would include the provision of a 1600 square metre bowling green with 4no. floodlighting columns, club house, open fronted shelters, storage buildings, fencing, car park with 37no. spaces, access and landscaping. 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.
17. A request for an Environmental Impact Assessment (EIA) Screening Opinion was submitted to the Council on the 09 August 2021. The letter indicated that whilst the development falls into schedule 2, Part 10(b) of the Town and Country Planning Act (Environmental Impact Assessment) (England) Regulations 2017 as Amended, it 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. The Council formally adopted a Screening Opinion on 08 September 2021 to the effect that the Proposed Development does not require an EIA.

## REPRESENTATIONS

18. Representations have been received from 126 households, Ulnes Walton Action Group, Wymott Action Group, Chorley Liberal Democrats, Longton Riding Club and Chorley Natural History Society citing the following grounds of objection:
- No very special circumstances to mitigate against building on Green Belt.
  - Existing development currently comprises only low level buildings.
  - Loss of openness to the Green Belt
  - Scale and position of third prison. Third prison will be sited near residential properties, comparable to relationship of existing prisons to Wymott Estate, and four storey accommodation blocks and gatehouse will overshadow and be visible to residents, particularly Wray Crescent.
  - Location of existing prisons have no impact on residential properties.
  - Proposed car park needs to either be re-sited next to existing car park or should be contained, secure, and screened.
  - Safeguarding concerns in relation to the bus stop being moved within prison grounds and will be used by both public including school children and day release prisoners.
  - Prison visitors more likely to wander onto Wymott Estate.

- Prison blocks will allow views into homes and children's playground.
- Lack of sustainable transport options will lead to additional car journeys.
- Proposed car park inadequate for number of officer and visitors.
- Traffic survey conducted during lockdown and therefore accuracy is questionable.
- Amenity impacts from traffic movements.
- Highway safety and access concerns / lack of highway infrastructure to support the development.
- Lack of local infrastructure and housing to support additional staffing.
- Prison car parks could be extended with multi storey to prevent traffic from proposed prison spilling out onto estate.
- Increase in traffic will have adverse impact on air quality.
- Noise pollution from proximity of prison facilities and accommodation blocks.
- Entrance to prison – faces residential property (Windy Harbour) – winter headlights will shine directly into property.
- Will be built on a flood plain, which will result in water run off onto Moss Lane.
- Little economic benefit to local community – local supply chains will be overlooked for national suppliers; high turnover of prison staff.
- Ecology – destruction of farm and woodland and adverse impact on local wildlife including barn owls, deer, bats, otters, and birds. Ecology study biased and factually inaccurate; needs to be conducted autumn/winter.
- The bowling Club is used by a small demographic who are not local residents.
- Pump House Lane used to access land adjacent and access will be removed.
- Poor level of consultation with wider community including residents of South Ribble.
- MoJ consultation events took place on weekday daytimes which limited attendance.
- MoJ appear to have never visited local area.
- Devaluation of property.
- Increase in the prison population.
- New Prison Programme is unethical and harmful resulting in disproportionate imprisonment and repeat offending.
- Siting of prison - Prison population likely to be from Liverpool and Manchester and would be better to site prison in proximity to these locations.
- Why has Chorley Council not objected to application particularly since Home Office stated that Wymott and Garth is not an ideal site.
- Kirkham is better location due to access to site.
- Infringement of human rights – will bring undesirables into local area and cause disruption.
- Loss of prison farm will be detrimental to all users.
- Land to rear of residential estate used by locals as open space.
- EIA fails to take account of all species and is inadequate.
- Benefits of the development are difficult to quantify and may not materialise and based on unreliable data.
- Alternative sites are more appropriate, such as Kirkham.
- Redevelopment of the existing prisons would be less harmful.
- Disagreement with conclusions of ecology assessments and the assessment of GMEU with particular regard to the collection of data on nesting and migratory bird species.
- Disagreement with the proposed mitigation measures for nesting owls.

## CONSULTATIONS

19. Ulnes Walton Parish Council Have objected on the following grounds:

The application represents inappropriate development within the Green Belt and the applicant has failed to demonstrate the very special circumstances required. The proposed development will, by its size and scale, represent an adverse impact on the openness of the green belt and on the amenity of neighbouring properties.

The inaccessibility of the site due to inadequate public transport connections.

The impact of the increase in vehicle movements detailed in the application on lanes which are entirely unsuitable for larger vehicles, as evidenced by the existing weight limit on Ulmes Walton Lane.

The application is totally contra to Chorley Council's Green Agenda and the Government's commitments to the COP 26 proposals. Allowing this development would outweigh, in a single project, all Chorley's present and future attempts to ameliorate climate change. It is not disputed that the majority of access will be done by car; up to 253 additional two-way trips will be made per day at peak times. The increase in pollution will be ongoing with no plans to change this in future.

The loss of amenity for local residents for recreational activities (walking, horse riding, cycling, dog walking, photography, running and bird watching. The track is also used by younger residents to cycle to avoid using Ulmes Walton Lane.

A recent history of flooding issues in the immediate area.

College, school and public buses use the existing road network. There are serious concerns regarding potential safeguarding issues of students from the Wymott estate sharing a bus stop with day release prisoners and visitors.

20. Croston Parish Council

Have objected on the grounds of inappropriate development with the Green Belt, with the applicant failing to demonstrate the very special circumstances required. The application is contrary to para 149 of the National Planning Policy Framework as, by its size and scale, it will unquestionably have an adverse impact on the openness of the Green Belt.

21. Euxton Parish Council

Have objected on the grounds that:

It is being built on Green Belt land - consultants on the application agree it is inappropriate development in Green Belt but do try to justify its need but offer no real 'special' circumstances other than it is a prison which is needed.

Traffic is a major concern for Euxton:

- The traffic (workers, visitors, suppliers) will all be from a 40 mile radius with many approaching from the M6 or M61 motorways and so adding traffic to Euxton
- Euxton has a Sand Extraction Quarry application awaiting its start in the village which is to add significant traffic to our village roads
- Many more new houses are being built on our lanes which will add significant traffic to the all the junctions within the village
- Traffic lights at the Bay Horse at peak times have standing/queuing traffic back down each of the converging roads - there is no feed on the lights for turning traffic and the build up will cause backlog

- through the village for much longer periods with the increased traffic loads
- The crossing on the A49 (near to Millennium Green) already has reported problems with traffic not stopping - this needs upgrading possible to have the poles which have lights on them to increase is visibility to traffic in what is quite a dark section of road due to the trees Infrastructure
  - The additional use of local services such as hospital places and other local amenities which are already stretched due to the excessive house building in Euxton.
22. Lancashire County Council Archaeology Service Have commented that it is not considered likely that features associated with the former munitions depot would be of such a significance that they would act as a constraint to development, but rather that, as was the case with the Chorley ROF site, they should be recorded prior to their demolition, and an associated recording condition is recommended.
23. Environment Agency Have reviewed the submitted Flood Risk Assessment and have no objections to the proposed development. The Environment Agency are satisfied that the development would be safe without exacerbating flood risk elsewhere if the proposed flood risk mitigation measures are implemented.
24. Greater Manchester Ecology Unit Recommend conditions. GMEU accept the Biodiversity Net Gain calculation and whilst acknowledging the theoretical problems associated with the Metric, advise that the application of the Metric by the applicant is in line with all the emerging Government guidance and modelling that is required to demonstrate a 10% uplift.
25. Regulatory Services - Environmental Health Have considered the documentation submitted in support of the application and in particular the Noise and Vibration Impact Report dated 5th August 2021, and accept the findings of the report and therefore do not have any comments regarding Environmental Concerns.
26. National Air Traffic Services Have commented that the proposed development has been examined from a technical safeguarding aspect and does not conflict with their safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.
27. Natural England Have commented that based on the plans submitted, Natural England considers that the proposed development would not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.
28. Police Have commented that in respect of the replacement club house they recommend that the applicant seeks to achieve Secured by Design commercial certification to ensure the building is target hardened to prevent determined and opportunist intruder attack.
29. Growth Lancashire Have advised that the proposal would not cause harm to the appreciation and significance of the setting for any of the



designated heritage assets.

30. Waste & Contaminated Land Have confirmed that they have no comments to make.
31. Lancashire County Council Highway Services Have commented that they are satisfied with the proposal and its impacts subject to all obligations being satisfied and being in line with the NPPF. The applicant has not offered to deliver all measures requested, in particular a footway or an additional bus stop to overcome a risk of post Public Transport (PT) financial contributions and routeing being changed, making PT usage less attractive than it could be. However, the exclusion of this request still satisfies the requirements of NPPF, as contributions have been offered for 5 years.
32. Lead Local Flood Authority Have no objection subject to conditions.
33. Sport England Sport England maintains its objection to the application because there is insufficient information to demonstrate that the replacement bowling facility meets the requirements of paragraph 99(b) of the NPPF; and the development on the playing field fails to mitigate for its loss and, therefore, it is not considered to accord with any of the Exceptions to Sport England's Playing Fields Policy or with Paragraph 99 of the NPPF.
34. South Ribble Borough Council Have made the following comments:
- Highways/ Access - We seek assurance that the impact of the proposal in terms of the adjacent highway network and junctions within South Ribble are fully considered having regard to existing and committed development. That more sustainable pedestrian and cycle routes to the prisons are explored and in association with us we would seek financial contributions for the creation/enhancement of these routes as part of the Boroughs green link network.
- Economic considerations – while welcoming economic investment in the area as a whole we would wish to see full adherence to principles of social and community value, employing local people at the prison and the creation of apprenticeships along with use of local businesses in the supply chain of goods and services.
- Green Belt - that the 'very special circumstances' that need to be demonstrated to allow such development in the Green Belt are fully explored and found to be robust given the pressure on the Central Lancashire Green Belt
- We would welcome further discussion and engagement as the detail is worked up and would be happy to meet HM Justice representatives to discuss our concerns and suggestions above.
- Additionally, the points set out below were raised during the discussion: -
- We would wish to see any infrastructure that is required in

association with the development to be constructed in advance of the development.

Would wish to see the evidence in terms of bio-diversity net gain robustly tested.

Highway Works along Ulmes Walton Lane – in terms of any necessary upgrade/creation of footways.

A gateway feature on Ulmes Walton Lane where it meets the built-up area including surface treatment, carriageway narrowing to slow traffic.

Any necessary improvement works to the junction of School Lane with Slater Lane, Dunkirk Lane.

Contribution to the dualling of the B5253 Schleswig/Flensburg Way.

Funding to assist with the re-opening of Midge Hall Railway Station to allow greater accessibility to the prison via rail.

Funding for a bus service appropriate to meets the needs of the scale of development

35. United Utilities

Have raised concerns because it is unclear how the site is currently drained and where the ultimate point of connection (to watercourse or public sewer) and how the proposals impact on this.

36. HMP Wymott

No response received to date.

37. HMP Garth

No response received to date.

**Applicant’s case and summary of benefits**

38. The Framework states that sustainable development is defined as comprising three dimensions: economic, social, and environmental. These three dimensions are interlinked and should not be taken in isolation. The applicant has set out in detail a series of benefits in relation to the three dimensions of sustainable development, and how the proposed development contributes to these. These suggested benefits are summarised within the table below.

Dimension	Benefits of the proposed development
<b>Economic</b>	<p>122 gross / 69 net FTE jobs during the construction period.</p> <p>Estimated £117.2 million GVA (gross) during the construction period, with an additional £35.1 million indirect and induced GVA (gross).</p> <p>643 FTE jobs created during the operational stage, with approximately 590 employees likely to reside locally.</p> <p>Total income spend of £14.1 million per annum, of which £12.98 million retained locally.</p> <p>The operational spend of the prison will amount to £13.7 million, supporting 230 jobs at a regional level.</p> <p>The operational regional supply chain spend will equate to £17.9 million per annum, supporting 299 jobs at a regional</p>

	<p>level.</p> <p>Expenditure from prison staff and visitors within the local and regional economy will equate to £10.4 million per annum, supporting 30 jobs.</p>
<p><b>Social</b></p>	<p>Delivering new prison places to meet an identified need, in the right geographical location;</p> <p>Provide safe, secure and modern facilities to deliver improved outcomes for prisoners and reduce reoffending rates;</p> <p>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.</p> <p>New club house will be of a greater quality and fully accessible, representing a significant enhancement to the existing club house provision.</p> <p>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.</p> <p>Local apprenticeship, training and supply chain opportunities will be created throughout the construction and operational stages of the development.</p> <p>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.</p>
<p><b>Environmental</b></p>	<p>The majority of the site comprises previously developed land and the proposed development will make efficient use of land.</p> <p>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.</p> <p>Delivery of a high-quality sustainable prison that will achieve BREEAM Excellent, with endeavours to achieve BREEAM 'Outstanding'.</p> <p>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.</p> <p>At least 20% biodiversity net gain will be achieved with no offsetting required.</p> <p>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.</p> <p>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.</p>

	<p>10% (53) of the car parking spaces will be set aside for electric vehicle charging points.</p> <p>A further 5% (27) will be set aside for car sharing users.</p> <p>51 covered cycle parking spaces will be provided.</p> <p>Construction method will make use of modern methods of construction, with associated quicker construction times, lower energy use and stronger green footprint.</p>
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- 39. In consideration of the site being located in the Green Belt the applicant has set out detailed information as to the need for the proposed development on a national and regional basis and rationale as to why this particular site that is located in the Green Belt has been selected ahead of other possible alternatives. The case is set out as follows:
- 40. The prison population is currently forecast to increase over the next 10 years, reaching unprecedented levels by the end of the decade. The MoJ and its executive agency, HMPPS are embarking on the most ambitious programme of prison expansion in over a century, delivering over 18,000 additional prison places through a portfolio of programmes and projects, including the 10,000 Additional Prison Places Programme, first announced by the Prime Minister in August 2019.
- 41. That commitment was part of the Conservative Manifesto (2019), which confirmed the Government would ‘add 10,000 more prison places, with £2.75 billion already committed to refurbishing and creating modern prisons’. The Government announced in June 2020 that four new prisons would be built across England over the next six years as part of the 10,000 Additional Prison Places Programme
- 42. The Four New Prisons will help to address the forecast increased demand for prison places by delivering an additional 6,366 places. Construction of the Four New Prisons is currently planned to be completed between 2025-2026. Following analysis of current and future national demand for additional prison places, two of these New Prisons are proposed to be built in the North of England and two in the South, targeting areas of greatest forecast demand and supporting the construction industry and local economies.
- 43. The proposed new prison would be a Category C Resettlement prison, accommodating 1,715 Adult Male prisoners within a secure perimeter. Category C prisons are for training and resettlement cohorts (as previously mentioned, the proposed new prison will be resettlement only), providing prisoners with the opportunity to develop skills so they can find work and resettle back into the community on release.
- 44. When considering surplus demand for prison places in a particular location, it needs to be considered together with the surrounding region. It is for this reason that the proposed site adjacent to HMP Garth and HMP Wymott has been identified as a strategically valuable location for a Category C Resettlement prison in the North West. The application site is relatively centrally located in the North West region and so is well-placed to meet the regional demand for Category C resettlement places.
- 45. The most recently available data from November 2020 shows that at that time 1,121 Category C men with less than 24 months sentence remaining and who had a home address in the North West were being held in prisons outside of the region.

*Alternative sites and site selection*

- 46. The site selection strategy for the 10,000 Additional Prisoner Places Programme balances a number of important considerations. Sites within MoJ ownership and suitable for development were identified, alongside other government owned land.

47. In addition, an extensive market search was undertaken by C&W. This search was informed by a requirement circulated to over 600 agents, a desktop search over multiple online databases, and contact with commercial property agents to identify potential options.

48. Both Government land and the market site search were informed by the following criteria:

**Mandatory Requirements:**

- Minimum 12ha developable area; and
- In the preferred area of search, and requirement for at least one location in each region.

**Secondary Requirements:**

- Sufficiently flat;
- Have good strategic access to public transport and the motorway/trunk road network;
- Accessible for construction without major enhancement of transport infrastructure;
- Not significantly overlooked so as not to compromise security;
- Capable of connection to utilities without unreasonable cost; and
- Outside floodplains.

**Tertiary Requirements:**

- Previously developed / brownfield;
- A suitable shape for prison development;
- Ease of recruitment for prison operatives;
- Manageable in terms of ground conditions / contamination;
- Not prejudiced by major ecological or historic designations; and
- Not affected by significant public rights of way or other similar issues.

49. Land in MoJ ownership was considered as priority sites given the potential for quicker delivery to meet challenging delivery programme and avoid additional costs and time delays associated with the purchase of land.

*Shortlisted Sites*

50. From C&W's site search of non-Government owned land, 10 market opportunities and four off market opportunities were identified that met the mandatory requirements. When considered against the secondary requirements, the shortlist reduced to five sites and when reviewed against the tertiary requirements, all sites were ultimately dismissed as one or more of the tertiary requirements were not met. For example, sites would require significant remediation works (with cost and timescales implications), were of a shape that would not work for the proposed development or due to decommissioning activities, would not become available within the necessary timescales.

51. Land adjacent to existing prisons in the north west was also explored. Only one site met the mandatory requirements and was considered suitable to be shortlisted, however it was ultimately dismissed as it did not meet the secondary or tertiary requirements.

52. On a national scale, four sites were ultimately selected for further consideration and feasibility work. Of these four potential sites – and with reference to the aforementioned mandatory requirement for a geographical distribution of the sites – one is in the South East, one is in Yorkshire and the North East, and one is located centrally and potentially being developed as a Category B training prison. Category B training prisons are national resources with different geographical requirements.

53. The remaining site is the land adjacent to HMP Garth and HMP Wymott (the application site), which is strategically located to meet the substantial forecast demand in the north west region.

54. The proposed site satisfies many of the site search criteria and is situated in a region where substantial demand for additional prison places is expected. The site is already owned by the MoJ which reduces the aforementioned costs and time delays.

*Alternative options*

55. The preceding text has clearly set out the national need for new prison places, the requirement for new Category C resettlement places in the north west region and the lack of alternative sites capable of meeting this demand.
56. In recognition of the application site being Green Belt, there is also a need to demonstrate that not only is the application site the preferred location, but that the scale of development proposed is the only way in which this demand can be met i.e. the development could not be split up across multiple sites.
57. As discussed at paragraph 7.6, new prison buildings represent the best value for money and long-term solution to meet demand for additional prison places, when compared to other options, such as the expansion of existing prisons. Due to the age, configuration and site restrictions of many existing prisons, it is not the right long term and value for money solution to deliver all of the required 10,000 additional places through expansion of existing prisons alone.
58. Notwithstanding this, 3,500 places required by the 10,000 Additional Prison Places Programme will be met through expansion, reconfiguration and refurbishment of the existing estate. Detailed feasibility studies have been undertaken across the existing estate and this has concluded that 3,500 is the maximum feasible to be met through refurbishment, reconfigurations or expansion (i.e. development of new houseblocks) at this time.
59. As previously described, there is a specific regional need for Category C male resettlement prison places and hence this is the type proposed at the application site. This combination of the North West region, Category C (male) and the resettlement format further limited the options to achieve the additional required prison places at existing prisons.
60. There are two existing Category C resettlement prisons in the North West, however, neither prison is capable of being expanded to accommodate any element of the proposed development. As such, there are no alternative options that are equal to the scale of the proposed development and it is necessary that this is delivered at the application site.

*Conclusion on need and alternatives*

61. The applicant's case sets out in summary that:
- a) There is a significant national need for new prison places, specifically Category C resettlement;
  - b) There is a requirement for the new Category C resettlement prison places to be distributed around the country;
  - c) 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) There are no alternative existing Category C resettlement prisons in the North West region that could accommodate part of the required demand and reduce the scale of the proposed development.

**PLANNING CONSIDERATIONS**

62. Planning applications must still be determined in accordance with the development plan unless material considerations indicate otherwise as provided by section 38(6) of the Planning and Compulsory Purchase Act 2004. The adopted development plan for the purposes of Section 38(6) are the Central Lancashire Core Strategy, Lancashire Minerals and Waste Development Framework Site Allocation and Development Management Policies DPD (Sept 2013) and the Chorley Local Plan 2012 – 2026.

**Planning policy and national policy position**

63. The National Planning Policy Framework (The Framework) sets out the Government's planning policies and how these are expected to be applied.

64. Paragraph 2 sets out that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
65. The Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions.
66. Paragraph 7 sets out that the purpose of the planning system is to contribute to the achievement of sustainable development.
67. Paragraph 8 sets out that 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):
- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
  - b) a social objective - to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
  - c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
68. Para 11 states that for decision-taking this means:
- approving development proposals that accord with an up-to-date development plan without delay; or
  - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or 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.
69. Paragraph 38 sets out that 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.
70. The Framework sets out the approach to Green Belts at Chapter 13. 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.
71. The majority of the application site is identified as previously developed land in the Green Belt and is covered by Local Plan Policy BNE5: Redevelopment of Previously Developed Land in the Green Belt. However, 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.
72. Policy BNE5, Redevelopment of Previously Developed sites in the Green Belt, 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. Additionally, policy BNE5 specifies that in the case of redevelopment, the appearance of the site as a whole should be maintained or enhanced.

73. Relevant policies of the Central Lancashire Core Strategy include:

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.

Policy 17: Design of new buildings

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

74. Relevant policies of the Chorley Local Plan 2012 – 2026 include:

ST1 – ST1.7 Cycle link from Croston, Ulnes Walton to Leyland. This is set out in the June 2021 Infrastructure Funding Statement although no further detail is provided.

BNE1: Design Criteria for New Development a) – h)

BNE5: Redevelopment of Previously Developed Sites in the Green Belt

BNE6: Light Pollution

BNE9: Biodiversity and Nature Conservation

BNE10: Trees

BNE11: Species Protection

HW1: New Open Space, Sport and Recreational Facilities

HW2: Protection of Existing Open Space, Sport and Recreation Facilities

HW6: Community Facilities

#### **Principle of the development**

75. The site is located within the Green Belt and the majority of it is designated as a Major Developed Site within the Green Belt under policy BNE5 of the Chorley Local Plan 2012-2026. However the eastern portion of the land to the east of the site does not fall within the previously developed area and is undeveloped agricultural land.

76. This part of the Borough is not identified for growth. Policy 1 of the Core Strategy does allow for small scale development, limited to appropriate infilling, conversion of buildings and proposals to meet local need states. In other places, such as Major Developed Sites, a large scale scheme (as proposed) will only be considered acceptable where there are “exceptional reasons” for a larger scale redevelopment scheme.

77. The applicant has set out a detailed case in relation to the need for the development, the need for the development in this area, the need for the proposed scale of development in this area and the lack of any suitable alternatives. The benefits of the development under the Framework’s social, economic and environmental dimensions are also set out in the applicant’s case above.

#### *Locating growth*

78. The applicant has set out in detail that the prison population is currently forecast to increase over the next 10 years, reaching unprecedented levels by the end of the decade. In response the Government announced in June 2020 that four new prisons would be built across England over the next six years as part of the 10,000 Additional Prison Places Programme. The applicant has set out details of the requirement for prison places in the North West region, and carried out an exercise to identify potential sites that could accommodate this demand. The application site was identified through a site selection process that was based on a number of particular criteria as set out in the applicant’s case. Foremost of which are the availability of the site, land within the ownership of the applicant, co-location next to existing prisons and prison infrastructure, scale, topography and general lack of major constraints. No alternative options to the scale of the proposed development



were found and it was considered necessary that the development be delivered at the application site in order to achieve the value for money.

79. The applicant's list of benefits is noted and will be assessed as part of the overall balancing exercise, particularly taking into account the economic benefits of job creation, linked expenditure, with a commitment to provide a proportion of local expenditure, the need to deliver more and better prison places within the region and a biodiversity net gain.
80. The applicant has set out a clear and compelling case that the application site represents the only viable and deliverable opportunity for a prison facility of the scale required to meet the identified and forecast regional demand in the North West of England. It is also clear that the facility is of a proportionate scale required to meet that demand. They have also set out a number of benefits of the development that weight in favour of the proposal. The necessity for the development in the region and suitability of the site as the only deliverable and viable option are considered to amount to the exceptional reasons required to justify this particular large scale development in an area that is not identified for growth by Policy 1 of the Core Strategy.

*Is the development inappropriate in the Green Belt?*

81. The application site is located wholly within the Green Belt. National guidance on Green Belt is contained in Chapter 13 of the Framework which states:

*137. 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.*

*138. Green Belt serves five purposes:*

- a) to check the unrestricted sprawl of large built-up areas;*
- b) to prevent neighbouring towns merging into one another;*
- c) to assist in safeguarding the countryside from encroachment;*
- d) to preserve the setting and special character of historic towns; and*
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

*147. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.*

*148. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.*

*149. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:*

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

- not have a greater impact on the openness of the Green Belt than the existing development; or
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

82. A large portion of the application site is identified as previously developed land in the Green Belt by the Chorley Local Plan. Policy BNE5 of Chorley Local Plan 2012 – 2016 relates to previously developed land within the Green Belt and reflects guidance contained within the Framework as follows:

*The reuse, infilling or redevelopment of previously developed sites in the Green Belt, will be permitted providing the following criteria are met:*

*In the case of re-use*

- a) *The proposal does not have a materially greater impact than the existing use on the openness of the Green Belt and the purposes of including land in it;*
- b) *The development respects the character of the landscape and has regard to the need to integrate the development with its surroundings, and will not be of significant detriment to features of historical or ecological importance.*

*In the case of infill:*

*c) The proposal does not lead to a major increase in the developed portion of the site, resulting in a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.*

*In the case of redevelopment:*

*d) The appearance of the site as a whole is maintained or enhanced and that all proposals, including those for partial redevelopment, are put forward in the context of a comprehensive plan for the site as a whole.*

83. Whilst the test for sites such as this relates to the impact on openness it is important to note that the Framework contains no specific definition of 'openness'.
84. It is considered that in respect of the Framework that the existing site currently has some impact on the openness of the Green Belt through the presence of buildings that are scattered across the site including storage buildings, the former officers club, bowling club buildings, boiler house building and plant and a number of buildings used for agricultural purposes. However, it is important to note that merely the presence of existing buildings on the application site currently does not justify any new buildings. The new buildings must also not "have a greater impact on the openness of the Green Belt".
85. Whether the proposed development would have a greater impact on openness is a subjective judgment, which is considered further below. Objective criteria could include the volume of the existing buildings although it is important to note that the Framework does not include such an allowance or capacity test. To engage with the exceptions of paragraph 149.g) of the Framework, which is reflected in policy BNE5 of the Local Plan, the test relates to the existing development. The openness of an area is clearly affected by the erection or positioning of any object within it no matter whether the object is clearly visible or not. The openness test relates to the whole of the application site.
86. It is considered that in order to arrive at a legitimate conclusion of the impact of a development upon openness, it is important to consider the site as a whole rather than attempt to break it down into smaller areas. To do so otherwise would be counterproductive in achieving the comprehensive redevelopment of this major developed site in the Green Belt, contrary to the aims of Paragraph 149.g) and the requirements of policy BNE5 of the Chorley Local Plan.

87. The geographical scope of this assessment is set out within Council's Proposals Map. The Proposals Map defines the previously developed extent of the prison site with boundaries purposefully defined by the Council to reflect topographical features and boundaries. The extent of this boundary together with policy BNE5 has been thoroughly examined by way of public examination and found to be consistent with the Framework.
88. The part of the application site that falls within the previously development land boundaries set out in the Local Plan comprises some buildings and hard surfacing although the majority of the land is grassland.
89. From a height perspective, the boiler house building is relatively tall, similar to a three storey building, whilst the remaining buildings are lower level structures. The footprint/volume of the existing structures on the site have not been provided in support of the proposals, however, from visual inspections and the existing site plan provided 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.
90. It is noted that the buildings on the Wymott and Garth Prison sites are extensive and of a scale similar to that proposed as part of this application. These are well developed and of a distinctly urbanised form. The development would be seen in this context with a backdrop of significant built form, and would not, therefore, be completely alien in the landscape. 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.
91. On this basis it is considered that the redevelopment of the previously developed land element of the site would have a greater impact on openness and, therefore, constitutes inappropriate development in the Green Belt, which is harmful by definition in addition to the harm to openness. Substantial weight should be attached to the harm by reason of inappropriateness as set out at paragraph 148 of the Framework.
92. Notwithstanding the above, part of the proposed development would be located outside the previously developed part of the site. This would potentially include part of a workshop building, support building and a new pumping station building. It is noted that a warehouses building would be replaced in the position of the pumping station, however, the scale and volume of the proposed development would be greater than that of the existing building and together with the development of the agricultural land this would not meet with any of the exceptions to inappropriate development set out at paragraph 149 of the Framework. Substantial weight should be attached to the harm by reason of inappropriateness as set out at paragraph 148 of the Framework.
93. It is proposed that a new bowling club would be developed to the south of the site, in an agricultural field that is beyond the previously developed part of the site. This would include the provision of a 1600 square metre bowling green with 4no. floodlighting columns, club house building, open fronted shelters, storage buildings, fencing, car park with 37no. spaces, access and landscaping.
94. 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 outlined above, and is 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.
95. A recent High Court case *R. (on the application of Boot) v Elmbridge Borough Council* [2017] concludes that paragraph 89 (*now 149*) of the Framework does not permit any harm at all to the openness of the Green Belt. 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.

96. Any harm to the openness of the Green Belt, therefore, means that the test in paragraph 149.b) cannot be met. New buildings in this location would inevitably have an impact on openness as the site is currently free from development and buildings, therefore, the proposed development that includes the bowling club buildings could only be considered inappropriate in relation to paragraph 149.b).
97. As it has been established, that the redevelopment of part of the site with buildings to serve a bowling club is inappropriate development in the Green Belt, which results in definitional harm to the Green Belt, any other harm caused by the development must also be considered and added to the definitional harm.
98. 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. 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. The proposal must be considered in its entirety in order to properly consider the harm, benefits and other considerations in the Green Belt balance.
99. The harm to the Green Belt comprises:
  - Harm to the Green Belt by reason of inappropriateness to which substantial weight is attached;
  - Harm to openness to which substantial weight is attached.
  - The harm to the purposes of the Green Belt are set out at paragraph 138 of the Framework, which identifies the five purposes of the Green Belt. An assessment of the application site in relation to the five purposes is set out below:
100. Purpose 1: Check the unrestricted sprawl of large built up areas. The majority of the application site is located within an allocation as a Previously Developed Site and is relatively well-contained by the existing development of HMP Garth to the west, HMP Wymott to the south and the Wymott residential estate to the east. The existing prisons in particular are significant in terms of their scale and massing.
101. The site is not adjoined to any large built-up area and as such does not fulfil this purpose, but is rather associated with an existing major developed site in a relatively isolated location. Whilst the proposed development would comprise a significant built form, it is not considered that it would lead to the unrestricted sprawl of a large built-up area due to the existing separation from large built up areas and the relative containment. As such there would be no conflict with this purpose.
102. Purpose 2: Prevent neighbouring towns merging into one another. Development of the site would not lead to the coalescence of neighbouring villages. The Site is located between the village of Ulnes Walton, which lies to the south and the town of Leyland, which lies to the north, whilst the larger village of Croston lies to the west. A significant area of open undeveloped land would remain between these settlements. It is, therefore, considered that the proposed development would not have a significant impact on the merging of neighbouring towns.
103. Purpose 3: Assist in safeguarding the countryside from encroachment. The majority of the site comprises previously developed land associated with the prison and historic WWII ammunition storage use of the site. Existing built form at the site includes a number of farm buildings and grazing land (managed by the existing adjoining prisons), a bowling green and disused social club. There are, however, significant areas of undeveloped grassland, and in particular to the north east part of the site and the south. These areas would be encroached upon and as a result there would be a degree of conflict with this purpose of the Green Belt, resulting in some harm.

104. Purpose 4: Preserve the setting and special character of historic towns. This does not apply as the site is not located near a historical town.
105. Purpose 5: Assist in urban regeneration, by encouraging the recycling of derelict and other urban land. The applicant's case sets out that there are no alternative sites in the north west capable of accommodating the proposed development. It would clearly be difficult to accommodate a development of the scale and type proposed on a brownfield or non-Green Belt site in an urban area and it is, therefore, considered that the proposed development would not undermine this policy purpose.
106. On the basis of the above it is considered that there would be other harm to the Green Belt caused by the harm to purpose 3 of including land in the Green Belt, as the proposed development would result in a degree of encroachment into the countryside.
107. As the proposed development would result in definitional harm to the Green Belt, harm to openness and other harm through encroachment there would have to be very special circumstances to justify the grant of planning permission that would outweigh this harm.

*Landscape and Visual Impact Assessment, including Management Plan*

108. The application is supported by a Landscape and Visual Impact Assessment (LVIA) (which 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).
109. The study is comprehensive and it is considered that the LVIA study area, viewpoints selected and methodology are appropriate and representative to the location and the scale of the proposal.
110. 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.
111. The 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.
112. It is noted that the report makes reference to both the spatial and visual implications of the development on the purposes of the Green Belt at para's 8.12 – 8.24. The report states that the introduction of the additional built forms in existing areas of countryside would result in a limited impact on the purpose of safeguarding the countryside from encroachment. As set out above it is considered that the proposed development would encroach into existing areas of countryside therefore does conflict with this purpose of the Green Belt.
113. The report goes on to state that the introduction of the additional built forms and the removal and replanting of landscape infrastructure would have an impact on the visual openness of the Green Belt as there would be an increase in built form visible in these locations. The landscaping strategy would seek to provide a replacement buffer although it is acknowledged that this would take time to establish and provide an effective level of screening.
114. The report states at para 8.23 that overall, the impact on the visual dimension of openness of this part of the Green Belt is also considered to be limited. Although the development could be considered to have a 'limited' impact it remains clear that there would be a reduction in the openness of the Green Belt from a visual perspective.

*Impact on facilities for sport and recreation*

115. Policy HW2 of the Chorley Local Plan 2012 – 2026 seeks to protect existing sports facilities and states that land and buildings currently or last used as, or ancillary to, open space or sports and recreational facilities will be protected unless certain criteria can be met. This approach is reflected and supported in the National Planning Policy Framework (The Framework).
116. Policy HW2 sets out that land and buildings currently or last used as, or ancillary to, open space or sports and recreational facilities will be protected unless:
- a) *Alternative facilities of an equivalent or enhanced standard are provided nearby before the existing facilities cease to be available; or*
  - b) *It can be demonstrated that the loss of the site would not lead to a deficit of provision in the local area in terms of quantity and accessibility; and*
  - c) *The site is not identified as being of high quality and/or high value in the Open Space Study; and*
  - d) *It can be demonstrated that retention of the site is not required to satisfy a recreational need in the local area; and*
  - e) *The site does not make a significant contribution to the character of an area in terms of visual amenity.*
117. The application site comprises a bowling green and club house, whilst there is a football pitch and exercise area within the secure area of Wymott prison. These existing facilities would be lost in order to accommodate the proposed development, however, it is noted that proposals for replacement facilities are proposed as part of the development. The issue of the bowling green and prison football pitch and exercise area are assessed in turn below.
118. In relation to the loss of the prison football pitch and exercise area it is noted that Sport England have objected to the proposal on this basis, as these would not be replaced by any equivalent facilities. Although it is noted that there are other opportunities for exercise and recreation within the prison it is acknowledged that the existing facilities would be lost in order to enable to the proposed development. Although this would not lead to a technical deficit of provision in the area, given that the site does not perform a public function and has not been assessed or accounted for as such within the Council's Open Space SPD it would lead to a deficit in provision for the prison inmates at HMP Wymott. The site is within the secure prison boundary and does not contribute to the visual amenity of the wider area. However, the loss of facility without replacement is contrary to policy HW2 of the Chorley Local Plan 2012-2026.
119. The harm caused by the loss of the sport and recreational pitches contrary to policy HW2 must be considered in the overall balancing exercise. The applicant has set out that the pitch has not been used for a number of years and suffers from poor drainage. They also site its positioning as providing a security risk from 'throw overs'. These factors themselves do not justify the loss of the facilities, although can be considered in the overall balancing exercise.
120. The existing bowling green and associated facility to the east of the site would be redeveloped to support the delivery of the new prison. However, the proposed development seeks to upgrade the bowling club facilities on a comprehensive basis through the development of a new site to the south. It is therefore considered that the proposal is more akin to the provision of new facilities and is most appropriately assessed under policy HW1 of the Chorley Local Plan 2012 – 2026, which covers the provision of new open space, sport and recreational facilities.
121. Policy HW1 states that proposals for the provision of new open space, sport and recreational facilities or extensions to existing facilities will be permitted if all criteria of the policy are met. These are set out and addressed as follows:
122. *The development will not have an adverse impact on the local environment or visual character of the landscape;*

The site is located to the south of the prison access road. There is a mature landscaping buffer to the north of the site between it and the access road and prison and landscaping to the west. The site would otherwise be open to the south and east. It would be visible from a footpath to the northern boundary but would otherwise be secluded from sensitive visual receptors. The buildings would be low level structures of an unobtrusive design. The most notable visual element of the proposal from outside the site would be the floodlighting. These would be mounted on 15m high monopoles. Given their slender nature these would be unobtrusive during daylight hours, but would have some impact when in use during darker times. Although the floodlights would have a visual impact when in use, they would be viewed against the backdrop of tall street lighting along the prison access road, and their hours of use would be controlled by condition preventing prolonged use throughout the night. It is, therefore, considered that there would be no adverse impact on the local environment or visual character of the landscape.

123. *The development will not result in the loss of the best and most versatile agricultural land (Grades 1, 2 and 3);*  
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.
124. *The development will not cause harm to a site of nature conservation value;*  
A number of surveys have been provided by the applicant, which have been assessed by Greater Manchester Ecology Unit, who confirm that no significant ecological issues were identified by the ecological consultants, and they have no reason to doubt these assessments. A more detailed assessment of the ecological impacts of the development as a whole is carried out below.
125. *The development will not harm the amenities of local residents;*  
The site would be located over 300m from the nearest dwellings and would not, therefore, result in any adverse impacts on residential amenity.
126. *The site is accessible by a choice of means of transport other than the private car and the traffic generated would not have a severe impact on the highway network.*  
The site is no less accessible than the existing facilities that it would replace and, therefore, this impact would be neutral.
127. Overall, it is considered that this element of the proposal would improve access to high quality open space and opportunities for sport and physical activity through the comprehensive upgrade of an existing facility in line with the Framework, policy 24 of the Central Lancashire Core Strategy and policy HW1 of the Chorley Local Plan 2012 – 2026 and acceptable in principle.
128. The former prison officer club to the east of the site could be considered a community facility under policy HW6 of the Chorley Local Plan 2012-2026. This sets out that 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) The facility no longer serves the local needs of the community in which it is located; and
  - b) Adequate alternative provision has been made, or is already available, in the settlement or local area; and
  - c) The use is no longer financially viable; and
  - d) The facility is in an isolated location remote from public transport routes; or
  - e) There is an amenity or environmental reason why the facility is no longer acceptable.
129. The applicant has set out that the facility has been redundant for some time, whilst the information available to the Council is that the building is known to be disused. As such it

does not fulfil a functional need to the local community. The existing building is also of poor quality and detracts from the appearance of the area, therefore, its removal would be of benefit in terms of public amenity. As such it is considered that the loss of the former officer's club is acceptable in relation to Policy HW6 of the Chorley Local Plan 2012-2026.

**The case for Very Special Circumstances**

130. The case for very special circumstances presented by the applicant is set out below with the associated weight attached to them;

<b>Economic Dimension</b> (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;)	
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 spend 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
<b>Social Dimension</b> (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being.)	
Delivering new prison places to meet an identified need, in the right geographical location.	Significant weight
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,	Moderate weight



community and social enterprises; and at least 1 community project per year.	
<b>Environmental Dimension</b> (to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.)	
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

131. The development would create construction jobs, which have acknowledged economic benefits along the supply chain. At a national level the Framework confirms that the Government is committed to securing economic growth in order to create jobs and prosperity. Indeed paragraph 81 goes on to confirm that *Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.* The Central Lancashire Employment Skills Supplementary Planning Document (the SPD) would help to secure local employment benefits through the development of the scheme. Alongside the expenditure from the construction phase it is considered that this benefit carries moderate weight.

132. The development would provide a large number of direct employment opportunities within the locality and wider region. This is encouraged by both national and local policy and is considered to carry moderate weight.

133. There are a number of other benefits such as additional demand that would support existing local businesses, services, and facilities through additional economic activity and use, along with greater business for the local supply chain. These benefits are difficult to quantify but are considered to carry some limited weight.

134. In terms of the social benefits there is a clearly defined need to provide prison places within the region, and the proposed development would meet that need. This carries significant weight in favour of the development, as it fulfils a greater public need and performs a regional function in rehabilitating offenders.
135. The existing bowling club facility is dated and in a poor state of repair. As such it is not an attractive facility in relation to attracting new members and providing a mean by which people may keep active. The proposed development would provide an improved facility that is visually more appealing and would provide a more sustainable future for the bowling club. This is considered to carry moderate weight and is a clear benefit of the proposal.
136. It is noted that the appointed contractor would be contractually obliged to meet key performance targets including a 25% local spend within 25 miles of the site, £50,000 spend with voluntary, community and social enterprises, and at least 1 community project per year. This carries moderate weight, whilst other social benefits including better prison facilities and upgraded footpaths and routes carry some limited weight.
137. The site is previously developed land and its redevelopment is encouraged at a National level within the Framework. The development of 'brownfield' land is set out as a priority in making affective use of land at chapter 11 of the Framework, whilst it is set out that substantial weight should be attached to the value of using suitable brownfield land within settlements for homes and other identified needs. The site is partially previously developed land and, therefore, the proposal is considered to carry moderate weight in this respect, as the entire site does not fall to be considered previously developed.
138. It has been confirmed by the applicant that it is intended to deliver a minimum 20% biodiversity net gain. This is encouraged at paragraph 174 of the Framework and is a benefit that should be accorded moderate weight. The development itself would achieve at least BREEAM 'Excellent' certification, with endeavours to achieving BREEAM 'Outstanding', which would be a moderately weighted benefit as it would go above and beyond expected standards.
139. Aside from the benefits that have been advanced by the applicant there is also a specific case as to why the proposal is being pursued in terms of the demand for prison places and in relation to the selection of this specific site, which falls within the Green Belt.
140. The applicant has set out in detail that the prison population is currently forecast to increase over the next 10 years, reaching unprecedented levels by the end of the decade. In response the Government announced in June 2020 that four new prisons would be built across England over the next six years as part of the 10,000 Additional Prison Places Programme. The applicant has set out details of the requirement for prison places in the North West region, and carried out an exercise to identify potential sites that could accommodate this demand. The application site was identified through a site selection process that was based on a number of particular criteria as set out in the applicant's case. Foremost of which are the availability of the site, land within the ownership of the applicant, co-location next to existing prisons and prison infrastructure, scale of available land, flat topography and general lack of major constraints. No alternative options to the scale of the proposed development were found and it was considered necessary that the development be delivered at the application site in order to achieve the value for money.
141. The delivery of additional prison places would be achieved through a range of measures including the expansion of existing prisons, however, it is acknowledged that expansion alone cannot solely address the shortage. It is also acknowledged that the places must be spread across the regions and it is clear that opportunities for new large scale developments, are limited due to the availability of such sites in urban areas and the amount of Green Belt land in the region and particularly around the major conurbations and population centres. A prison is also a publicly funded resource and, therefore, must be delivered at the best value. The application site is clearly capable of fulfilling the criteria, which the Ministry of Justice require, when considering the implementation of a new prison

development and is a logical option considering the co-location with existing prisons and the economies of scale and operational benefits associated with such co-location.

142. The applicant has set out in detail the reasons as to why the application site and proposed development represents the best value solution in relation to the need for prison places identified within the region. Given that the proposed development would deliver a public funded facility of regional importance achieving best value is of utmost importance and the fact this site can deliver the best value must be considered a significant benefit in this regard.
143. The applicant has set out a clear and compelling case that the application site represents the only viable and deliverable opportunity for a prison facility of the scale required to meet the identified and forecast regional demand in the North West of England. It is also clear that the facility is of a proportionate scale required to meet that demand. It is, therefore, considered that the identification of the application site the only realistic opportunity to deliver a new prison carries substantial weight in favour of the development.

#### **Green Belt balancing exercise**

144. It has been established that there is definitional harm to the Green Belt as the proposal is inappropriate development in the Green Belt and also that there is further harm due to the impact on openness, which essentially means free from development, which the site will not be (though it isn't at present).
145. Other harm would be presented in the form of encroachment and some minor adverse visual impacts. It is considered that there would also be further harm in relation to the loss of the playing field and exercise area that serves HMP Wymott.
146. In terms of the benefits, these are detailed above as covering a range of social, economic and environment benefits already set out in this report. There is also the substantial weight that is attached to the need for a new prison facility in the North West of England and that the application site represents the only viable and deliverable opportunity for a prison facility of the scale required to meet the identified and forecast regional demand.
147. When assessing if there are very special circumstances a number of factors, while ordinary in themselves, can combine to create something very special. These benefits have to be considered and an assessment made as to whether these clearly outweigh the harm so as to amount to very special circumstances.
148. The need for the development in this specific location in combination with the benefits of the development, when taken together are considered to provide very special circumstances that, on balance, outweigh the substantial harm to the Green Belt and any other harm as identified above. The very special circumstances also demonstrate exceptional reasons to support such a large scale development scheme in an 'other place' as defined by policy 1 of the Core Strategy. The proposal therefore complies with paragraphs 147 and 148 of the Framework and policy 1 of the Central Lancashire Core Strategy;

#### **Technical matters**

##### **Density and design**

###### *New Prison*

149. The application seeks outline planning permission for a new prison, with all matters reserved except for means of access, parking and landscaping, therefore, no details of the building designs are available at this time.
150. The new prison would be located on land to the north of HMP Wymott and east of HMP Garth and so any development of the site would be viewed in the context of the existing prison buildings and structures. It is anticipated that it would consist of a number of buildings as follows:
- An Entrance Resource Hub (ERH), comprising visitor facilities and administrative space;
  - A support building, providing space for administrative and FM functions;

- A central service hub, providing educational, health, multi-faith and staff facilities;
- A kitchen block;
- A workshop building;
- A care and segregation unit (CASU); and
- 7 x 'T60' houseblocks, each with a capacity of up to 245 prisoners.

151. The indicative building parameters are shown in the below table:

Building	Number of buildings proposed	Indicative Building Parameters	
		GEA (sqm)	Storeys
Entrance Resource Hub (ERH)	1	4,729	3
Support Building	1	805	2
Central Services Hub	1	5,102	2
Kitchen	1	1,955	2 (+ mezzanine)
Workshops	1	7,367	2
Care and Separation Unit (CASU)	1	1,102	1
Houseblocks	7	7,639	4
<b>Total</b>	<b>13</b>	<b>74,532 (rounded)</b>	<b>-</b>

152. The application proposes a maximum floorspace amount of 74,532 sqm (GEA). This is expected to be provided across 13 buildings. The site is 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 outside the ERC.

153. 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 will be mounted on columns inside the secure perimeter.

154. The ERH forms part of the external secure line and includes the gatehouse that monitors vehicles entering the secure compound including prisoner transfers and deliveries to the facilities on site such as the kitchen or workshop. There would be various internal fences and gates separating buildings and creating zones within the secure compound. The illustrative site layout plan suggests how this may be laid out, however, this would be confirmed as part of a reserved matters application.

155. The site access point would be located off Moss Lane. The entrance has been designed to ensure suitable visibility splays are achieved for all vehicles likely to visit site. The position along Moss Lane has taken into account the proximity to existing junctions along Moss Lane (i.e. the junction with Willow Road and the existing two prisons), and existing breaks in the tree line to maximise retention of existing trees and vegetation.

156. The car park for both staff and visitors would be located in front of the Entrance Resource Hub. It would provide 525 parking spaces, which has been calculated on the basis of assumptions over staff and visitor numbers based on evidence from other facilities as well as consideration of shift patterns, the availability of public transport and anticipated modal split amongst staff.

157. The car park would include 24 accessible car parking spaces located close to the entrance building, 53 electric vehicle charging spaces and 27 spaces set aside for car sharing users.

158. A 51 space covered cycle parking area would be positioned on the plaza outside the entrance building.

159. The landscaping strategy has been submitted in full detail for consideration with this application. The strategy has been developed in response to the site's existing characteristics and seeks to protect and reinforce habitats and vegetation where possible, maximising biodiversity net gain and providing appropriate mitigation for any ecology, landscape and visual impacts.
160. The entrance area has been designed to blend into the surrounding area, which is rural in character, with a series of woodlands, a pond and wildflower meadows. The design approach has been to provide an environment that protects and enhances existing ecology and biodiversity, integrating the drainage strategy within the landscaping.
161. There would be new and enhanced screening along the north and north east of the new prison. This has sought to maximise retention of the existing tree screening, whilst ensuring a clear zone of 15m is maintained outside of the external perimeter fence in accordance with MoJ security requirements. This has allowed for a continuous tree screen of varying depth to be proposed along the entire northern boundary with a larger area of new woodland planting in the north east area.
162. Across the wider site, landscaping proposals have been developed in line with the biodiversity net gain strategy. This includes new ponds, wildflower meadows, grassland areas, tree planting and hedgerows.
163. The wider red line boundary includes 24.27 hectares of land owned by the MoJ to the south and west of HMP Garth. This is so that it includes all of the land required for compensatory landscape planting and ecological enhancement, through which it is sought to deliver a minimum 20% biodiversity net gain on site.
164. The form of development proposed is functional and is planned in response to a particular need, which is to accommodate prison inmates in a secure suitable environment that provides the necessary accommodation to support their rehabilitation. This would reflect the character of the area, which already comprises two prisons of significant scale. The proposed landscaping scheme would, once established, provide a softening of the site and would filter views from the local footpath network and other visual receptors to the extent that the development would not be out of keeping with the current prison development, which dominates the built form in the locality.

#### *Bowling Club*

165. As previously set out, the area of the site where the new prison would be developed currently contains a bowling green (leased to Wymott Bowling Club) and a small club house. These would be demolished in order to facilitate the proposed new prison development, and are proposed to be replaced with new facilities as part of this application.
166. 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. 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.
167. The proposed bowling green has been designed in accordance with national standards and would measure 40m x 40m with a 0.25m ditch running around the green. A 2m wide hard surface would be sited around the perimeter of the green. It is recommended that a condition is attached to any grant of planning permission seeking the final detailed design of the bowling green to ensure the national standard is met and that the facility is of at least equal quality to the existing bowling green.
168. There would be 4 no. lighting columns would be located around the green (1 in each corner) to enable evening play during the winter months. A club house or pavilion building would be sited to the west of the green. It would have a footprint of 72 sqm and extend to 3.1m in height, and would be timber clad with a flat roof to minimise the visual impact.

169. A number of smaller ancillary storage buildings and spectator shelters would be located around the green as shown on the proposed site layout plan. These would also be timber clad to match the club house.
170. A car park would be located in front of the club house, providing 37no. car parking spaces, including 2no. disabled spaces. New landscaping including hedgerows and trees are proposed to screen and soften the visual impact of the building and parking areas.
171. The design of the buildings would result in a modern and functional facility that provides the minimum necessary space to enable the bowling club to function effectively. The use of timber cladding would provide a natural finish that would blend in well with the woodland backdrop, whilst the limited height of the buildings would help to achieve an unobtrusive form of development.

#### *Boiler House*

172. The area of the site proposed for the new prison contains an existing energy centre, which is required to be relocated to facilitate the new prison development. The energy centre structure serves HMP Garth and HMP Wymott, and was originally constructed to house coal burning boilers. Works have been undertaken in recent years to replace the coal burning boilers with three dual fuel gas/oil boilers and one wood pellet biomass boiler.
173. As a consequence of these refurbishment works, the existing building is now vastly oversized and so the proposed development provides an opportunity to reduce its scale and positioning within the site in response to the change in plant. The proposed site for the replacement boiler house is further within the site to the south on an area of hardstanding between HMP Wymott and HMP Garth. Access would be taken from the existing internal site road.
174. The boiler house component of the application is submitted in outline with all matters reserved except for access. An illustrative site layout and site sections are submitted to demonstrate the anticipated footprint and height of the boiler house and how this relates to the existing built form close by. It is anticipated that the boiler house structure would have a footprint of 41m x 14m, and extend to a maximum height of 9m. It would have a single external flue extending to no higher than 22m. The flue height has been calculated on a worst-case basis, and the detailed design process may enable this to be reduced – this would, however, be confirmed in any subsequent reserved matters application.
175. Externally, two biomass pellet silos would extend to 5.2m high and 2 oil tanks would extend to 2m high.
176. An existing portacabin, measuring 10m by 15m, and car parking currently occupying this area of hardstanding would be relocated approximately 260m to the south within the existing site. A small area of new car parking would be provided to the immediate south of an existing area of car parking in front of HMP Wymott providing an exact replacement for the number of spaces currently accommodated on the hardstanding.
177. 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. This would have the effect of effectively screening the proposed new boiler house and therefore its impact on the character of the area would be limited.
178. The proposal is considered to be acceptable from a design perspective and complies with policy BNE1 the Chorley Local Plan 2012 – 2026 and relevant parts of the Framework.

#### **Impact on designated heritage assets**

179. A Heritage Statement written by The Heritage Advisory (ref: THA 2020/5444) dated July 2021 has been submitted in support of the application. This has been reviewed by the Council's heritage advisors Growth Lancashire, who have confirmed that the method used in the assessment is appropriate and the impact assessment (section 4) provides a fair review of the potential impact on the heritage assets associated with the site.

180. The primary statutory duty under the Planning (Listed Building and Conservation Areas) Act 1990 is to preserve the special character of heritage assets, including their setting. LPA's should, in coming to decisions, consider the principle Act. Which states the following;

*Listed Buildings - Section 66(1)*

*In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*

The Framework states that in determining planning applications local planning authorities should take account of;

- *The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- *The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- *The desirability of new development making a positive contribution to local character and distinctiveness.*

181. P.199 states that when considering the impact of proposals on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be applied. This is irrespective of whether any harm is identified as being substantial, total loss or less than substantial harm to its significance.
182. P.202 states that where development causes less than substantial harm to a designated asset the harm should be weighed against the public benefits of the proposal.
183. This approach is reflected in Chorley Local Plan 2012-26 policy BNE 8 Protection and Enhancement of Heritage Assets, which is linked to Central Lancashire Core Strategy policy 16 Heritage Assets.

*Impact on the Setting to heritage assets*

184. Setting is often expressed in how the heritage assets are viewed and how the land around the assets has perhaps influenced the significance of the historic buildings. The issue is, therefore, whether the site contributes to the significance of the three listed buildings in the locality and whether the new prison would cause any harm.
185. The submitted Heritage Statement identifies no harm to the three identified designated listed buildings. And the heritage advisor agrees with that assessment. The degree of distance separation is such that there is no meaningful visual connection between the sites.
186. It is acknowledged that the wider rural context would be eroded by the development. However, the character and wider setting for the listed farmhouses has massively changed with the development of both Wymott and Garth Prisons.
187. The Ministry of Supply Depot, which covers a large part of the landscape around the Prisons are identified as being of some heritage value/significance. The Heritage Statement provides the context for this attributed local value. The loss of significance is considered to be minor(low).
188. P.203 of the Framework allows local planning authorities to consider the impact of development on non designated heritage assets and states that the direct and indirect harm or loss of significance should be part of the planning judgement, having due regard to scale of the harm and the significance of the asset. The slight loss of significance caused by the loss of the integrity of the identified non designated heritage assets is considered to be outweighed by the benefits and necessity for the proposal in this instance as set out earlier in the report.

189. Overall the proposal would cause no harm to the appreciation and significance of the setting for any of the designated heritage assets in consideration of s.66(1) of the P(LBCA) Act 1990. As such no balancing exercise is required to be undertaken as per P.202 of the Framework. The proposal does, therefore, comply with the aims and objectives of Chapter 16 of the Framework and the policy BNE8 of the Chorley Local Plan 2012 - 2026.

#### **Impact on residential amenity**

190. The proposed prison would be located to the west of the existing housing estate at the north end of Moss Lane, whilst the car park would be located to the west of a dwelling at Windy Harbour, on the opposite site of Moss Lane. The nearest dwellings to the proposed prison buildings would be at nos. 1 to 19 Wray Crescent. These would have rear and side elevations, and rear gardens, facing toward the new prison boundary. The dwellings themselves would be located approximately 50m from the 5.2m high prison security fence at their nearest point and approximately 70m from the nearest buildings. This would be a significant degree of separation such that there would be no adverse impact on light or outlook, particularly given the filtering of views provided by existing intervening landscaping that would be retained in these areas.
191. The dwelling at Windy Harbour has a side elevation facing towards the proposed entrance to the car park off Moss Lane, whilst the principal elevation faces south across the driveway and open land and the rear elevation faces north across the garden. There is an intervening area of open grassland between the curtilage of the dwelling and Moss Lane. There are no boundary fences to the west elevation of the dwelling so that it has open views across the land to the west between it and the highway. It is noted that there are windows to habitable rooms within the ground floor west side elevation facing towards the open field and Moss Lane, however, these do not provide the sole source of light and outlook to the rooms that they serve. The dwelling and side windows to Windy Harbour are located approximately 23m from the carriageway at Moss Lane and approximately 30m from the proposed entrance to the car park.
192. It is noted that vehicles entering and exiting the proposed access would generate some noise and a potential level of disturbance, whilst the use of headlights on leaving the car park would direct light towards the windows in the side elevation at Windy Harbour, given that there is no boundary fencing in situ on this side of the dwelling at the present time. This does have the potential to cause some level of nuisance and disturbance to the occupiers of Windy Harbour when they are using the rooms with west facing windows at times when headlights are in use and vehicles are leaving the site. It must, however, be considered that there are windows in the principal elevation facing south and rear elevation facing north that would be relatively unaffected by such light, whilst the rear garden area appears to be relatively well screened by outbuildings. As such it is possible for the occupiers of the dwelling to occupy part of the houses without being subject to such disturbance.
193. The impacts of intermittent light flashing towards the windows in the side elevation of Windy Harbour would be restricted to particular times of the day, when it is darker. As such these impacts would be limited to the extent that it would not be harmful to the amenity of the occupiers of this property given the alternative accommodation within the dwelling and possibility of introducing mitigation measures.
194. The impacts on privacy of the occupiers using these ground floor rooms with windows in the side elevation of the dwelling would be similar to the impacts that already take place from pedestrians and others passing along Moss Lane. Views from vehicles leaving the prison site would be fleeting and at a distance of approximately 30m, which is considered to provide an adequate degree of separation.
195. It is noted that residents from a wider area within the vehicular catchment of the prison, and along possible transit routes towards the prison, have raised concerns in relation to highway amenity from the increase in the number of vehicles in the area. It is noted that LCC Highway Services have raised no objection on this basis and in relation to highway matters more generally. It is also considered that the uplift in vehicles on the local highway



network would not be so great as to generate public or private amenity issues from disturbances caused by passing vehicles over and above existing traffic levels.

196. The Noise and Vibration Impact Assessment has been submitted in support of the proposal and has examined the impact of both the construction and operational phases of development on existing sensitive receptors, including through the generation of road traffic, siting of the car park and plant equipment, as well as looking at the impact of existing noise sources on the proposed development.
197. The assessment concludes that no mitigation is required during the operational phase, with mitigation during construction comprising best practice methods to be secured via a Construction Environmental Management Plan, which is recommended be secured by condition. The Council's Environmental Health Officer has reviewed the Assessment and raised no concerns.
198. The proposed development is considered to comply with Policy BNE1 of the Chorley Local Plan 2012 -2026 in relation to the impact of the development on residential amenity.

### **Highway safety and access**

#### *Highways summary*

199. Lancashire County Council (LCC) as the local highway authority has been in continuous discussions with Atkins as representative of the applicant, the Ministry of Justice (MOJ) since the pre application stage. They conclude that with the further Technical Note provided, the local highway authority is satisfied with the proposal and its impacts subject to all obligations being satisfied and being in line with the Framework. The applicant has not offered to deliver all measures requested, in particular a footway or an additional bus stop to overcome a risk of post Public Transport (PT) financial contributions and routeing being changed, making PT usage less attractive than it could be. However, the exclusion of this request still satisfies the requirements of the Framework, as contributions have been offered for 5 years.

#### *Introduction*

200. The local highway authority embraces a one team approach working closely with developers and the planning authority to deliver high quality sustainable development. This development proposal has been subject to highway pre-planning application consultation leading to several meetings pre and post application submission.
201. At the meetings, the submitted Transport Assessment (TA) was scrutinised and discussed in detail to ensure adequate measures are taken to deal with adverse implications of the proposed development on the highway network and to ensure access is improved to best support travel to and from the site by walking, cycling and use of public transport.
202. The meetings have led to the applicant submitting a Technical Note, revision 5, dated 7 December 2021 addressing the issues of highway concern with indicative designs confirming the principles of measures to be implemented (all subject to detail design with minor additions where necessary). LCC considers the information provided at this stage to be adequate to allow the application to be determined, while the outstanding measures are included later.
203. The application submission includes an Outline Travel Plan (OTP) and a Framework Construction Traffic Management Plan (CTMP), but which would require amendments to take account of the final agreed measures as well as detailed discussions with the nominated contractor when appointed on the approach to construction of the proposal.

#### *Existing site information*

204. The application site is in the village of Wymott within the boundary of two existing prisons, HMP Wymott with 1000 inmates and HMP Garth with 800 inmates. The proposed prison referred to in the TA as Garth Wymott 2 is to be developed with capacity for 1,715

inmates on land to the north of HMP Wymott. with the existing HMP Garth to the west. The prisons site as a whole is bounded to the east by Moss Lane which provides access to the site and serves an existing residential area to the north. Public Right of Way (FP3) lies to the west with open fields to the north and south. The submitted location plan is referenced, 608623-0000-PEV-GHX0011-ZZ-DR-A-9000 rev. P05 (15.08.2021).

#### *Existing transport information*

#### *Local Highway Network*

205. The local highway network comprises of Moss Lane, Ulnes Walton Lane, School Lane, Dunkirk Lane and the A581 Southport Road.

#### U10674 Moss Lane

206. The site is accessed from Moss Lane, which is a single lane, 2-way unclassified local access road with junctions to Ulnes Walton Lane in the south and Willow Road in the north. It has a speed limit of 30mph with street lighting. The footway on the north side of the existing prisons access road is continued along the west side of Moss Lane towards north to Willow Road, but there is no footway on the west side to Ulnes Walton Lane. There is also no footway on the entire east side of Moss Lane.

#### C195 Ulnes Walton Lane

207. Ulnes Walton Lane is part of the classified, C195 single lane, 2-way secondary distributor that extends from Dunkirk Lane in the north to the A581 Southport Road in the south. The northern part of the C195 is School Lane, which extends from Dunkirk Lane to Hedgerows Road. School Lane is in an urban area of Moss Side with speed limit of 20mph and has footways and street lighting. Ulnes Walton Lane starts from the end of School Lane towards south to the A581 Southport Road. It is of rural characteristics with speed limit of 30mph for its first 400m of School Lane, where there is footway and street lighting, but continues as 40mph speed limit road to the A581 Southport Road with no footways and street lighting.

#### B5248 Dunkirk Lane

208. Dunkirk Lane is at the end of School Lane. It is a secondary distributor road that extends from Mill Street in the east to Cocker Bar Road in the west. It has 20mph speed limit from Mill Street to Schleswig Way, but subject to 30mph speed limit for the rest of its length with footway and street lighting provision.

#### A581 Southport Road

209. The A581 is a major through-route at the end of Ulnes Walton Lane in the south and extends from Dawbers Lane in the east to Moor Road in the west. Its speed limit is generally 40mph, but the section between Lydiate Lane and Highfield Road is largely restricted to 30mph. The A581 Southport Road has footway and street lighting provision.

#### *Traffic Surveys*

210. To establish the existing traffic flows and speeds on the local highway network, the applicant conducted automatic traffic counts (ATC) on Moss Lane and Dunkirk Lane in March 2021. Due to the impact of covid-19, it was agreed from pre-planning application stage that the results of the applicant's surveys be validated against 2019 pre-covid LCC Survey data provided the applicant. In the case of the A581, the assessment was based on results of 2013 ATC commissioned by LCC.

211. The result of the survey at Ulnes Walton/Moss Lane shows an average number of 412 vehicles turned daily from Moss Lane towards the A581 while 414 turned in the direction of Dunkirk Lane. The survey established the 85th percentile speeds of traffic on Moss Lane to be 39mph (northbound) and 41.4mph (southbound).

212. The survey also established the 85th percentile speeds of traffic on Dunkirk Lane to be 32mph towards east and 31mph towards west. The LCC 2013 ATC established the 85th

percentile speeds of traffic on the A581 as 36.5mph in the easterly direction and 36.1mph towards west. The applicant calculated the current average daily traffic flows on the A581 as 9,915 vehicles heading west and 12,028 vehicles heading east.

213. LCC is satisfied with the above results and the approach adopted to deal with the impact of covid-19 as explained on page 5 of the Technical Note including the application of the traffic factors shown on Table 3 and the assumption made in relation to traffic flows on Moss Lane.

*Traffic accidents*

214. The TA provides analysis of the most recent 5-year personal injury accidents from 2016-2020 on Moss Lane, Willow Road, Ulnes Walton Lane and School Lane which shows a total of 4 (3 slight and 1 serious) recorded accidents within the studied area during the period under review. However, LCC assessment shows more recorded personal injury accidents than analysed in the TA. The breakdown of the accidents are as follows.

Dunkirk Lane / School Lane – (2018) 1 serious accident involving a pedal cyclist and 1 slight accident.

School Lane / Wheatfield – (2016) – 1 slight involving a pedal cyclist

Ulnes Walton Lane (outside Norris Farm) – (2020) 1 serious.

Ulnes Walton Lane (outside Roe Cottage) – (2017) 1 slight.

Ulnes Walton Lane (north of Walton Lodge) – (2020) 1 slight.

Ulnes Walton Lane (south of Walton Lodge) – (2020) 1 serious.

A581 Southport Road / Ulnes Walton Lane (2020) 1 serious involving a pedal cyclist and (2017) 1 slight.

215. The above shows there was a total of 9 personal injury accidents, 4 of which were recorded as serious and 5 as slight. 2 of the serious and 1 of the slight recorded accidents involved pedal cyclists.

216. While it is clear the applicant's accident analysis is deficient, it is considered that the proposed mitigation measures shown on indicative drawing referenced, GARTH ULNES-ATK-HGN-DR-D-001 REV. P1 (20.10.21) included in the Technical Note are adequate to improve conditions for users (as a consequence of the additional impacts that the development will have). As such, no additional measures other than those agreed (in principle) will be required on this corridor.

*ACCESSIBILITY BY NON-CAR MODES*

*Walking*

217. The site is not within walking distance of local services, facilities, or amenities and although there are two bus stops near the site on Willow Road and Ulnes Walton Lane, walking distances from the existing prisons and the proposed Bowling Green and Club House to the bus stop on Willow Road far exceeds the preferred maximum walking distance of 1200m and while the bus stop on Ulnes Walton Lane, north east of its junction with Moss Lane is within 1200m of the sites, access to the bus stop is currently hindered due to unavailability of footway from the existing prisons site access road to Ulnes Walton Lane.

218. *Note: There are 2 existing bus stops within the curtilage of the site (to the west of Wymott) which could serve the bowling green. These stops have previously been used however due to insufficient time within the current timetable to serve bus stops within the existing prisons site and also the bus stop on Willow Road.*

219. LCC has requested the applicant to consider upgrading the bus stop on Ulnes Walton Lane and providing a footway from the existing prisons access road to the bus stop for improved sustainability of the sites. In response, the applicant has suggested instead that part of the contribution agreed for improvement of bus services in the area should be used to improve routeing within the existing prisons site to enable services to be routed through the site.

220. The authority could use the agreed public transport contribution to alter wider PT services to enable routeing to serve the 2 existing stops, whilst the funding allows (which will be for a minimum of 5 years). However, there is a risk post use of funding that the extended service is not viable and as previous the existing stops be removed from use again, impacting on the long-term access to PT, without a longer walk using footway/grass verge to access a bus stop (whether using the footway to Willow Road or verge to Ulnes Walton Lane)
221. Without the delivery of a footway to provision on Ulnes Walton Lane which negates the use of a verge being provided from the existing prisons access, the applicant does not do all they can to promote a sustainable development, leaving that risk post 5-year funding to others. An alternative approach suggested would be for the applicant to provide a bus stop (kerbs and shelter) on Moss Lane to the north of the access (replacing the existing on the internal road to the west of Moss Lane), the applicant remains silent on this LCC suggestion.
222. Whilst in simple terms the applicant does in the short/medium term satisfies the NPPF however does not facilitate access to high quality public transport in the long term, in the event that routeing needs to change again (post 5 years of subsidies). This matter is outstanding however, is not sufficient to oppose the proposal as presented.

#### *Cycling*

223. The section of Ulnes Walton Lane from Holker Lane to the A581 is part of an on-road cycle route extending from Leyland to Croston and beyond. The proposed development is within the suggested 5km acceptable cycling distance of the Croston Railway Station and can be used by cyclists from the prison sites.
224. To support access to the site for cyclists, the applicant has agreed to a s106 contribution of £50,000 for improvement of the surface condition of Nixon Lane and provision of signage to facilitate cyclists access from School Lane to the site. This is in line with the county council's long term cycle strategy for the area. It should however be noted that as Pump House Lane would be stopped up by the proposed development, there would be need for a developer delivered route to negate against this closure to enable the improved cycle route to be integrated within the site environment.

#### *Public Transport*

##### Bus

225. As stated above, there are two existing bus stops near the prison sites that needs to be upgraded to high quality disability compliant standard. It is confirmed on page 7 of the Technical Note that the bus stop on Willow Road will be improved (not moved). But the upgrade of the bus stop on Ulnes Walton Lane (or a new stop/shelter on Moss Lane) has not been confirmed as the applicant prefers the existing bus stop facilities within the prisons site to be improved for services to be extended into the site. As stated before there is funding for 5 years of diversions, however consideration needs to be given to post funding, that enables services to be reasonably accessed, if required in the long term. As stated above that offer is in line with the NPPF, however is a disappointing position.
226. All improvements and other highway changes to be carried through the s278 agreement of the highway act 1980 with the applicant responsible for all costs. The existing bus stop on Willow Road is currently on an unadopted section road shown as part of the applicant's wider boundary. Should the improvements be carried out in-situ, then any future maintenance of the bus stop facility is the landowner's responsibility.
227. The applicant has agreed to s106 contribution of £100,000 per annum for a period of 5 years to fund the enhancement of existing bus service provision (not infrastructure), with any revenue received from additional patronage to be utilised to sustainably maintain the service levels beyond the contribution period. The secured funding to deliver:

- Monday to Saturday daytime – support the improvement to service frequency from current hourly between Leyland and Croston, to ideally every 30mins.
- Monday to Saturday evening – support the extension the current period of operation to provide later journeys up to approximately 20:30hrs between Leyland and Croston.

*Note: LCC intent to work with the Prisons authorities with regard to suitable timetable to allow staff and visitors the option of using public transport to access the site.*

#### Train:

228. Croston Railway Station is within commuting distance of the proposed development. Based on the applicant's assessment, only 1.3% (7, 2-way person) trips a day will be undertaken to and from the site by train combined with either taxis or buses. No improvement measures are, therefore, proposed at the Railway Station.

#### *PROPOSED DEVELOPMENT*

229. The development proposals covered by the submitted hybrid planning application are as follows:

230. 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).

The new prison referred to in the TA as Garth Wymott 2 will be developed within a secure perimeter fence following the demolition of existing buildings and structures on site to hold 1,715 prisoners with up to 858 staff on site. The development will include 7no. four-storey houseblocks each of which will accommodate 245 prisoners and facilities such as kitchen, workshops, kennels, entrance resource and central services hubs, support buildings and associated infrastructure to include 525 space capacity car park. The layout of the proposed Garth Wymott 2 Prison and the associated car park is shown on drawing no. 608623-0000-PEV-GHX0011-ZZ-DR-A-9100 rev. P07 (19.11.2021).

231. Outline planning permission for a replacement boiler house (with all matters reserved except for access).

The existing boiler house is one of the structures to be demolished on site to make way for the proposed development, therefore, a replacement boiler house is proposed at the location of the existing Portacabin office at the north west corner of the existing HMP Wymott. The existing Portacabin office with its associated car park will be relocated further south near the south west corner of the existing HMP Wymott. The layout of the proposed replacement boiler house and its associated car park is shown on drawing no. 608623-0000-PEV-GHX0021-ZZ-DR-C-0700 rev. P02 (2021.07.08).

232. Full planning permission for a replacement bowling green and club house (Class F2(c))

The demolition of buildings and structures on site will include the existing Bowling Green and Club House which are currently accessed from Willow Road and Pump House Lane. Following the demolition, a new Bowling Green and Club House will be built on land south of the existing mini-roundabout and accessed using the existing internal access road from Moss Lane. The layout of the proposed bowling green, the club house and the associated car park is shown on drawing no. 608623-0000-PEV-GHX0031-ZZ-DR-C-0700 rev. P02 (2021.07.08).

#### *Access:*

233. The existing prisons are accessed from Moss Lane via an unadopted access road at a simple priority junction approximately 80m north of Ulnes Walton Lane/Moss Lane. The proposed Garth Wymott 2 Prison is to be accessed from a new access to be formed to Moss Lane north of the existing. The new access will be a simple priority junction located approximately 300m north of the existing and provided initially as a temporary construction

access with footways on both sides including dropped kerbs and tactile paving and a traffic island.

234. The temporary access will then be improved after the construction period into a permanent access by removing the traffic island and providing a pedestrian refuge with road markings. The arrangement as shown on drawing referenced GARTH MOSS-ATK-HGN-DR-D-0001 rev P2 (30.03.21) and the associated tracking referenced, GARTH MOSS-ATK-SPA-DR-D-0001 rev P1 (30.03.21) is acceptable.
235. Formation of the temporary construction access to the public highway and its subsequent alteration to a permanent access will be undertaken through the s278 agreement with the associated costs borne by the applicant.

#### *Internal Layout / Parking*

236. The indicative layout of the overall proposed development is shown on 'Comprehensive Landscape Masterplan' referenced 608623-0000-PEV-GHX0011-XX-DR-L-0301 rev P06 (12/07/ 2021). As shown, the 7no. houseblocks are on the western part of the application site adjoined to the east by the Entrance Resource and the Central Services Hubs. The Workshop, Kitchen and the Support Buildings are to the north of the site. The new access to be formed to Moss Lane directly leads to the proposed Prison car park with capacity for 525 spaces including 24 for the disabled located near the Entrance Resource Hub. Storage provision is made for 51 cycles north of the disabled parking spaces but appears not to be covered and secure as required.
237. It is indicated that the new access to Moss Lane will be used for servicing the proposed prison, however, no access appears to have been provided from the car park to the area of the Workshop, Kitchen and the other buildings for the purpose of servicing in terms of loading and unloading deliveries.
238. The single disabled parking space proposed for the relocated Portacabin office is not proportionate to the 30no regular parking spaces proposed and should be increased to 2no. The 37no. car parking spaces proposed for the Bowling Green should include disabled components based on the local authority car parking standard.
239. During discussions on the proposed development, LCC requested information on car parking provision at the existing Garth and Wymott Prisons, but the applicant was unable to provide this information as was considered sensitive.
240. Car park accumulation has been undertaken; the scale of car park that has been proposed is sufficient to satisfy demand from the proposal.

#### *TRIP GENERATION AND DISTRIBUTION*

241. In the TA, trip generation of the proposed development was based on assumptions used in three other HMP Prisons elsewhere in the country. As estimated, the proposed development will generate up to 223, two-way trips in the AM peak of 07:00-08:00 and 253, two-way trips in the PM peak of 17:00-18:00. The trips were distributed in proportions of 31% and 13% towards east and west respectively of the B5248 Dunkirk Lane and 37% and 18% towards east and west respectively of the A581 Southport Road.
242. LCC raised queries about the proposed trip distribution presented in the TA and requested use of the turning proportions at Ulnes Walton Lane/Moss Lane to validate the trip distribution and assignment presented within the Transport Assessment.
243. The comparison of the figures is shown in Table-1 (page 2) and Table-2 (page 3) of the Technical Note and shows net differences of 13 and 16 trips from the figures in the TA during the AM and PM peaks respectively which is not considered significant as to warrant further assessment.

244. As requested by LCC, the applicant was unable to validate the trip distribution in the TA by origin destination data from the existing two Prisons due to the reasons given on page 3 of the Technical Note.

245. The applicant's clarification of the forecast trip generation figures and assumptions made in respect of visitor trips in response to LCC queries is on page 4 of the Note. This is not unreasonable.

#### *TRAFFIC IMPACT ASSESSMENT*

246. The applicant undertook turning counts at three junctions and automatic traffic counts at two locations and validated the results against the results of automatic traffic counts commissioned by LCC in October 2019. This was agreed during pre-planning consultation to take account of low flows due to covid-19. The applicant's surveys were conducted in March 2021 at the locations shown on Table 7-2 (page 36) of the submitted TA.

#### *Committed developments*

247. As the TA took no account of committed developments in the area, the applicant was queried by LCC as to why the impact of the Leyland Test Track development was not considered in the TA. The applicant explained the study area for the Leyland Test Track does not relate to the current proposed site and that the development peak hours for Leyland Test Track were not the same as that of the Garth Wymott 2 development. The detailed explanation is on page 5 of the Technical Note. Whilst this slightly underestimates the background conditions it would not influence the mitigation package secured.

#### *Junction capacity assessment*

248. The assessment identified impacts on the junction of the A581 Southport Road and Ulnes Walton Lane which will exceed capacity in the opening year of 2025, thus requiring measures to improve network operation. As indicated above LCC is developing changes for this section of Southport Road to improve conditions for users. An outline concept has been produced at this location by the applicant, its purpose is to determine a level of contribution towards the LCC works, rather than the works that will be delivered at this location. Assuming support is given, delivery of the LCC scheme incorporating the financial contribution from this proposal will be delivered prior to the opening of the new prisons.

#### *MITIGATION MEASURES*

249. The following measures, some of which are detailed in the Technical Note were agreed with the applicant for delivery to deal with the anticipated residual impacts of the proposed development.

#### *Measures to be delivered through S278 agreement*

250. Provide traffic calming measures as shown on indicative drawing no. GARTH ULNES-ATK-HGN-DR-D-001 REV. P1 (20.10.21) from Dunkirk Lane/School Lane to Ulnes Walton Lane/Moss Lane.

251. Provide traffic calming measures similar to the above on the 130m section of Ulnes Walton Lane on its approach to Moss Lane from south as agreed and confirmed in an email of 3 December 2021 and indicated on the scheme plan.

252. Provide improved carriageway markings at Ulnes Walton Lane/Moss Lane for improved forward visibility and to facilitate safe right turns into Moss Lane.

253. Provide traffic calming measures on Moss Lane as shown on drawing no. Garth Moss-DR-D-0002 rev P2) (30.03.21). It is agreed that in the detailed design, the traffic calming features should be provided at 60m centres instead of the 90m shown on the above quoted plan.

254. Carry out improvements to the existing bus stop on Willow Road to high quality disability compliant standard to include provision of a raised kerb, boarding platform, new shelter, and the required carriageway markings.
255. Carry out improvements to the existing bus stop at on Ulnes Walton Lane north east of its junction with Moss Lane to high quality disability compliant standard to include provision of a raised kerb, boarding platform, new shelter, and the required carriageway markings.
256. Provision of the proposed temporary construction access and its subsequent alterations for permanent use.
257. Note: the following is not agreed/developer is silent.
258. Provide 2.0m wide footway on the west side of Moss Lane from its junction with the existing Prisons site access road to the bus stop on Ulnes Walton Lane to include the provision of dropped kerbs and tactile pavings at Moss Lane/Existing Prisons site access road and Ulnes Walton Lane/Moss Lane to facilitate safe crossing of the roads.
259. Or alternatively provide a bus shelter and raised kerbs north of the existing access into the prison
260. As indicated earlier in these statutory comments the above item (either or) would ensure improved access can be provided to access bus provision in the event that post 5 years of contributions service provision is changed. Without them the site would still be in line with the NPPF.

*Measures to be delivered through S106 agreement*

261. Provide s106 contribution of £100,000 per annum for a period of 5 years to fund the enhancement of existing bus service provision as described above.
262. Provide s106 contribution of £50,000 for improvement of the surface condition of Nixon Lane and provision of signage to facilitate cyclists access from School Lane to the proposed site. Further changes are required, not forming part of this contribution, as indicated earlier to ensure that a developer delivered route is delivered to enable the improved cycle route to be integrated within the site environment. This has not yet been agreed and need to be conditioned.
263. Provide s106 Planning Contribution of £18,000 to enable LCC to provide the following services in relation to travel plan.
264. Appraise the Workplace Travel Plan submitted to the Council pursuant to the planning permission and provide constructive feedback.
265. Oversee the progression from Interim to Full Workplace Travel Plan in line with agreed timescales.
266. Monitor the development, implementation and review of the Workplace Travel Plan for a period of up to 5 years.
267. Provide S106 contribution to mitigate the impact of the proposed development at A581 southport Road/Ulnes Walton Lane. LCC would request the S106 contribution to help support the development of a wider corridor scheme along the A581 to be delivered by LCC. The value of the S106 contribution is to be determined by the level of funding required to deliver the signalised mitigation option proposed by Atkins. This cost is currently being reviewed by LCC. The current estimated cost at 2021 levels is £485,834.



268. As highlighted earlier, highway works are indicative and are subject to change during detail design and also to satisfy safety audits at various stages, which may result in further changes.

269. Trigger points for all s278 works and the provision of s106 contributions are prior to commencement of development.

#### *OUTLINE TRAVEL PLAN*

270. The Outline Travel Plan was submitted prior to some of the agreed measures. As such, there is need for it to be amended to reflect the current positions relating to the agreed sustainable transport measures, namely, cycling, bus etc. This can be linked to the relevant planning condition.

#### *PUBLIC RIGHTS OF WAY*

271. The applicant has confirmed that any proposed stopping-up or diversion of Public Rights of Way will be subject to an Order under the appropriate Act and that the grant of planning permission will not entitle the applicant to obstruct a right of way. This matter links to the cycle provision, as referenced above.

#### *FRAMEWORK CONSTRUCTION TRAFFIC MANAGEMENT PLAN (FCTMP)*

272. The proposed site access to Moss Lane will be used initially as a construction access following which it would be altered for use as permanent access for the proposed development. As currently proposed construction traffic will be routed from Moss Lane to either north or south of Ulnes Walton Lane. As LCC's preference will be for construction traffic to be routed through the B5248 Cocker Bar Road, it is indicated that the applicant will soon update LCC as to the feasibility of this route.

#### *HIGHWAY CONCLUSION*

273. The proposal is acceptable in principle subject to the delivery of all the agreed s278 works and honouring of all the agreed s106 planning obligations. As stated above, due to time factor, the highway works have only been agreed in principle with some shown on the plans attached to the Technical Note. It was agreed that the full details will be finalised at reserved matters application stage.

#### **Ecology**

274. The Council's ecology advisors Greater Manchester Ecology Unit (GMEU) have considered all the submitted ecological information associated with the submission in addition to:

- Comprehensive Landscape Masterplan (Pick Everard, 608623-0000-PEV-GHX0011-XX-DR-L-0301, rev P06)
- External Lighting Report (Pick Everard 608623-0000-PEV-GHX0011-XX-RP-E-0011, issue no P03)
- Bowling Green External Lighting Layout – Sheet 01 (Pick Everard, 608623-0000-PEV-GHX-ZZ-DR-E-6310, rev P02)
- Proposed SuDS Strategy Report (Pick Everard, 608623-0000-PEV-GHX0011-ZZ-RP-C-3502, issue no P06)

#### *Baseline Surveys and Evaluation*

275. In addition to the Preliminary Ecological Assessment (Ramboll, October 2020, issue 1), a number of species specific groups were investigated. GMEU have confirmed that they are satisfied with the methodologies used and it would appear that reasonable effort has been used throughout. GMEU concur with the evaluation placed on the habitats and species/species assemblages.

276. A number of biodiversity receptors are identified, which represent material considerations in the determination of the application and require avoidance, mitigation and/or compensation. These are set out as follows: -
- Bat roosts (Conservation of Habitats and Species Regulations (Amendment) (EU Exit) 2019: Survey Report CGO Ecology Ltd Buildings 14.9.2021, P06 and Trees 27.8.2021, P01 ): -
  - A maternity colony of common pipistrelle bats is found in the Probation Service Office (B15), this has been present for over 10 years. Retained but impacted by proposals
  - A day time roost used on a casual basis by pipistrelle bats at an off-site barn (B10 max count 4 bats). Retained
  - Primary commuting corridors from the maternity roost to west and south of Probation Service Office (B15). Retained but impacted by proposals
  - Potential tree roosts assessed from ground, aerial inspection and endoscope where necessary. All found to be negligible potential
  - Barn owls (Schedule 1 – Wildlife & Countryside Act 1981)
  - Breeding pair in barn (B11). Barn lost to proposal
  - Male roosting in off-site barn (B10). Barn retained off-site but may be impacted by proposals
  - Identification of flight lines to foraging areas to north and east. Off-site but flight lines may be impacted by proposals
  - Barn owl casual observations of perching within the prison compound (eg close to Probation Service Office and elsewhere)
  - Great crested newt (Habitats Regulations 2019) and Common toad (Section 41 NERC 2006 [Natural Environment & Rural Communities Act])
  - Great crested newt small population (max count 12) P39 to south of new Bowling Club. Pond retained but terrestrial habitat impacted.
  - Great crested newt via eDNA in Ulnes Walton Biological Heritage Site (BHS 42SE05, also presumed to be called Wymott Ponds), ditch 3; 250m and 350m respectively from the new prison proposals. Both habitats retained and sufficiently distanced from the active development.
  - Common toad in pond P34 to be lost to development along with ditches 1 & 2 and terrestrial habitat impacts.
  - UK Priority Ponds (Section 41, NERC 2006) are classified in part where they support priority or protected species such as amphibians.
  - 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 (eg plantation) and areas will be lost. See discussion below on Biodiversity Net Gain.
  - Incidental records of hedgehog (Section 41 NERC 2006) were observed
  - Nesting birds (Wildlife & Countryside Act 1981) all nesting native birds are protected under this provision unless exempted via licence for pest species.

*Additional bird survey data*

277. It is noted that members of the public and the Ulnes Walton Action Group (UWAG) have subsequently provided additional information in relation to additional bird data.
278. An extensive list of bird data has been supplied via public submissions, which refers to high densities of red/amber bird species (RSPB but also some Section 41 NERC 2006) within 2km of the application site during both breeding and wintering season (autumn passage/winter). The LPA has requested that GMEU consider this additional information and whether it represents a material consideration within the determination of the application.
279. It would appear that the records referred to by UWAG have not been submitted to the recognised Local Records Centre (eg LERN or the County bird recording data centre) so it would appear that these would not come to light during the normal desk based assessments that have been undertaken to support the application. This does not imply criticism of either the ecological consultants or the local bird recorder, but does result in late consideration of this information.

280. However, a criticism is levelled at GMEU who advised the LPA that the additional need for either breeding or wintering bird surveys and that the bird assemblage could be scoped out. Therefore, the contention is that this matter has been overlooked resulting, UWAG state, that the Impact Assessment is not fit for purpose. In order to reassure the LPA that the advice and the Impact Assessment are sound GMEU have made the following comments:
281. The information that has now been provided does detail a good bird assemblage particularly of farmland species, which occur to the west of the application site (west of the railway crossing large field presumably south of Norris's Farm). Although the specific location is not provided, it can be assumed that this location is some 750m west of the application site and also at the BHS ponds to the north and west approximately 250m from the application site.
282. It is of note that the application site itself does not support habitats, which are suitable for this suite of farmland birds or overwintering pink-footed geese and hen harrier. The 'farmland' that is present is made up of small fenced (not hedged) paddocks and outbuildings, which used to be used as a training area for inmates. The 'farmland' area within the application site can be viewed from publicly accessible locations (e.g. Pump House Lane) and some bird data is provided by the local bird recorder for this location. However, the records provided from within the application site are not of the level or significance of the bird resource that has been recorded to the west of the railway. As a result GMEU have not gone into specific details regarding the species recorded.
283. The overarching matter is whether it was correct to scope out additional bird surveys following the Preliminary Ecological Appraisal. GMEU when advising a Council and an applicant on the scope of required assessments use both the Preliminary Ecological Assessment and Government guidance. Government guidance (Defra Circular 06/2005) provides a test for protected species, but this can also be broadly applicable when considering the 'reasonableness' of requiring specific species/species assemblage surveys for priority (NERC 2006 or RSPB red listed), which do represent material considerations within the NPPF (July 2021). This guidance states: -
- "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development."*
284. Nothing in the additional information lends itself to a conclusion that a material and substantive matter has been overlooked in the assessment and in scoping out detailed bird surveys. In providing the advice on scoping to the LPA it was the professional opinion of the consulting ecologist at GMEU that there was not a reasonable likelihood of (materially important) species being present within and affected by the proposal and that such surveys were therefore not warranted.
285. It is of note that GMEU did scope in additional survey works for barn owl and advised that additional bespoke mitigation would be required for this protected species.
286. In light of this additional information, GMEU advise that the Impact Assessment is valid and that no further bird surveys are necessary for the application to proceed to determination.

*Conclusions on Baseline Survey and Evaluation*

287. GMEU conclude that the baseline survey information is sufficient and reasonable to identify species and habitats of importance, which are material to the determination of the proposal. At this stage no further surveys or assessments are required.
288. It is important to note that the site does support features of substantive value, which are mobile and need to be accommodated via appropriate avoidance, mitigation and/or compensation should the proposal receive permission. Additionally, given the lengthy and phased buildout programme some monitoring of species will be required either prior to commencement or as the project progresses.
289. Much of this is detailed within the species specific reports, however, GMEU would recommend a pre-commencement survey of the pond and two ditches (P34 and Ditches 1 & 2) within the footprint of the proposal for great crested newt (via eDNA) and water vole. Evidence of both these species within colonisation distance are recorded within the submitted data. It is recommended that this pre-commencement work is included within a Reasonable Avoidance Method Statement for the clearance of these features such as timing and pumping out strategies. This can be secured via condition.
290. The tree roost survey (CGO Ecology Ltd, 27.8.21, P01) identified a number of trees with potential roost features, which were considered negligible on further assessment. If any of these trees require removal and greater than 1 year has passed an updated assessment should be required. This can be secured via condition but only applies to trees to be removed that have already been identified within the Report as having some value.
291. It is also recommended that the CEMP that is submitted in response to a condition includes how each RAMS integrates with the relevant phases of the implementation.

*Barn Owl Mitigation (CGO Ecology Ltd. 19.10.21 P02)*

292. GMEU are satisfied with the broad outline of the approach to mitigation and that this is in line with biodiversity industry standard. It is, however, advised that;
293. The barn owl breeding season should be taken to be February inclusive, as this Schedule species does breed earlier than smaller passerine birds.
294. More than 30 days are allowed for establishment of the new nesting box in B10 and it is very strongly recommended that an additional box is placed elsewhere to ensure that there are other opportunities for the male to roost and avoid conflicts between the nest and the male roost site.
295. The installation of the new nesting box will need to be cognisant that B10 is also a bat roost. The location of the box should avoid potential roosting features. There will be no need for a BMCL in this instance.
296. It is noted that the > 30m stand-off should also include the storage of materials and lighting. It is noted that no new lighting is to be achieved, however, a baseline should be established within the vicinity of both B11 and B10 to ensure that the mitigation will not breach these conditions.
297. The enhancement by placing an additional nest box to the south in the BNG area is supported and it is suggested that the large barn south of the proposed Bowling Club is utilised if it is in MoJ's control.
298. The Barn Owl Mitigation needs to be an iterative process given the extent of the proposal and the phasing time over several years and will require close monitoring initially with remediation implemented if required.

299. It is recommended that a condition be placed on any permission, if granted, to require an updated Mitigation Strategy once contractors, the phasing plans and any Associated/Ancillary works are identified. This could include a time trigger such that it is submitted and agreed prior to commencement of works within a set distance of the breeding (B11) and roosting site (B10).

*Bat Roost Mitigation Plan (CGO Ecology Ltd, 14.9.21, P06)*

300. There is sufficient information presented to demonstrate that the bat roost can be retained and that implementation of the proposal will not require a Natural England Bat Licence.
301. However, impacts would need to be mitigated. The outline proposed within the Report, includes avoidance of building works on the relocated Boiler House during the bat activity season when the maternity roost is active (May – August) and the potential use of prefabricated build materials (site mtg note 8.10.2021).
302. As with the barn owl mitigation this needs to be an iterative process. Whilst it can be confirmed, in the opinion of GMEU, that avoidance of disturbance is achievable this needs to be considered within the context of the relocation of the Boiler House and any construction routes that might be operational for several years, involving multiple heavy vehicle movements including material deliveries and spoil removal. For example, the location of an alternative haul road may be a viable option for consideration as the scheme detailed programme develops.
303. Therefore, it is recommended that a full Mitigation Strategy for the maternity bat roost (building B15) is secured via condition and is required prior to the commencement of any works within 30m of the roost site. This should include sufficient detail on the vehicle movements, haul road requirements (eg additional lighting design) to be able to develop a suitable avoidance strategy.
304. The proposal for enhancement of an additional 20 bat boxes on trees is noted and supported. It is recommended that integrated/externally mounted bat boxes are also placed on the exterior of some of the buildings as these offer a different type of roost opportunity. As part of the BNG monitoring it is recommended that the bat boxes are checked for condition and usage during the period of the LEMP (Landscape and Ecological Management Plan).

*Great crested newt Mitigation (CGO Ecology Ltd, 9.9.21, P01)*

305. The recommendation above in relation to pre-commencement surveys and RAMS for removal of the common toad pond (P34) and Ditches (1 & 2) is noted.
306. The relocation of the Bowling Club would impact amphibian terrestrial habitat.
307. GMEU concur with the assessment that there is an Amber risk of 'offence likely'. The Natural England guidance is clear in its approach that amber risks can be managed and the need for a licence can be avoided.
308. Having inspected the site in October (8.10.2021) GMEU are content that this approach can be adopted with the use of a strictly controlled and supervised RAMS. This is justified on the basis of the distance of the development from the pond and Ditch 3 (approx 100m), the relative small footprint of the Bowling Club and associated car park, and the current habitat structure. Note Ditch 3 had positive eDNA result but it not confirmed as a breeding site but is highly likely to be a resting/sheltering place under the terms of the legislation.
309. It is important to recognise that this approach does pose some construction timetabling risks should great crested newt be encountered and/or the Ecological Clerk of Works deems that the risk has moved from Amber to Red at any point. However, this does not preclude the use of RAMS in this particular instance.

310. An outline of the proposed RAMS is provided within the Report, however, it is recommended that this is revisited prior to the commencement of vegetation clearance or enabling works on this full element of the scheme.
311. The success of the RAMS approach is based in part on habitat management of the current grassland and it is imperative that this is continued up to and including the when works commence. Should the condition of the habitat become better, for example grassing or cutting relaxed and a longer sward and scrub begin to invade this will increase the suitability for supporting gcn in their resting places and an offence may not be avoidable.
312. It is recommended that a condition is used to secure the updated RAMS strategy and this can be triggered prior to the scheduled commencement to the phase of the Bowling Club relocation.
313. The area to the south and east of the new Bowling Club is included within the Biodiversity Net Gain off-set habitats. This element of the proposal includes the creation of an additional 6 ponds and planting of new hedgerows, along with seeding of conservation/management of wildflower grassland. The creation of the ponds and hedgerows is to be welcomed and would increase the carrying capacity of this part of the landscape for amphibians.
314. It is considered that the BNG off-set should be achieved as early as possible in the overall proposal's build timeline.
315. As the works are not to be undertaken using a Natural England licence, it is recommended that the LEMP includes eDNA monitoring of P39 and the newly created ponds to demonstrate successful enhancement. This could be undertaken in Years 5 and 10 post installation.

*Documents required to be conditioned*

316. As indicated above any grant of planning permission would need to secure via condition the following in order that the biodiversity matters are sufficiently controlled: -
317. Construction Environmental Management Plan: This should be supported by a Construction Surface Water Management Plan. This is important due to maintaining water quality during any dewatering that might be required on the site, particularly as the ditches and drains have suitability to support water vole and amphibians. A construction lighting strategy would be required.
318. Operational Lighting Scheme: Whilst a strategy has been proposed contour plans/detailed layout for the outline schemes need to be confirmed.
319. Landscape Proposals for the scheme: It may be appropriate to have phasing triggers for when different elements of the landscape are bought forward.
320. Landscape and Ecological Management Plan: This would be required to demonstrate the management of the site and the BNG offset for the requisite period of 30 years. This should include not only management requirements but a schedule of monitoring to ensure that the offset habitats attain and maintain the required condition. A mechanism of reporting to the LPA/their identified agent and remediation agreement process should also be included.
321. Biodiversity Enhancement Plan: The submission identifies a number of features that will provide biodiversity enhancement (eg bat boxes, additional barn owl box to the south). These should all be captured within one document/plan. GMEU are satisfied that this could be included within the detailed landscape plan and/or within the LEMP.

*Full Scheme – Bowling Club relocation*

322. GMEU have considered both the Lighting Strategy and Surface Water Drainage Strategy for this element of the proposal and have the following comments to make.
323. The run-off from the Bowling Club should not be into any nearby ponds (section 3.5.3). The existing pond is a Priority Pond (NERC) and supports protected species and it is likely that the newly created ponds will colonise with gcn.
324. It is probable that the car park, paths and footways around the Club will require salt/grit treatment in the winter months. The Green itself will need to be highly managed to prevent weed invasion and the growth of the right kind of sward resulting in herbicide and fertilizer applications. GMEU are satisfied that clean roof water can be directed to one of the new ponds but all other surface water should be discharged elsewhere.
325. The lighting strategy for the Bowling Club does not appear to detail the types or location of luminaires. However, the contour plan shows high lux levels both onto the belt of woodland to the north and also to the west where new planting is proposed. It is recommended that more detail is required by condition in relation to the floodlight specifications. In line with the NPPF (July 2021 para 185 c) it is recommended that applicants follow the Institute of Lighting Professionals guidance (01/21 obtrusive lighting and 08/18 wildlife sensitive lighting). The lighting scheme should include all necessary highways illumination, pedestrian footways, Green lighting and any other external lighting to the building.

*Biodiversity Net Gain (BNG report and excel spreadsheet)*

326. It was agreed at scoping that it was appropriate for the proposal to use the Biodiversity Metric 2 rather than the recently released Metric 3. This is in line with the emerging guidance within the Environment Act (November 2021) during the transition period between the two versions.
327. The contents of the BNG Report and the Metric spreadsheet have been considered and rerun to adjust some of the elements as follows:
- The ponds on site include Priority Ponds (NERC 2006) including the pond (P34) which is to be lost.
  - The assessment has not included the ditches within the broad habitat type 'Lakes' and calculated the losses and gains (new ponds)
  - Despite these minor oversights the BNG uplift would still be substantially greater than 10% uplift.
328. It is noted that UWAG have submitted a detailed critique of the BNG process, which has been reviewed by GMEU.
329. GMEU advise that the BNG Metric is designed to build into its unit cost model the difficulty and time to reach the required condition. It accepts that there will be both an initial loss of habitats and that some habitats take longer to reach maturity than others. It also includes a risk factor regarding the difficulty there is in creating/maintaining certain habitat types. Using an extreme example, although not relevant to the current site; peat or fen habitats are very difficult to recreate and are risky ventures due to the complexities of the substrate and hydrology. The high complexity of management is also reflected within the Metric costs. The Unit cost to create such a feature reflects those risks and the > 32 years it would take to achieve something that might approach this habitat type.
330. Likewise the Metric allows 'trading' between easy to create/lower BNG value habitats, but restricts either loss or trading between hard to create and/or irreplaceable habitats such as Ancient Woodland, veteran trees, limestone pavement and very diverse species rich grassland (high distinctiveness). For example at this proposal; the retained wetland (rush pasture) to the west of the site is categorised under the 'Suggested action to address habitat losses' column indicating that 'bespoke compensation likely to be required'.

331. The BNG Metric excel spreadsheet includes a Trading Summary tab, where all the habitat trades are assessed. In this case the trading has been modelled as acceptable. This does not negate the applicant and the LPA from considering whether the habitat trades are suitable and acceptable in this particular proposal. However, recognising that there will be a loss of woodland the proposed offset BNG to the south of the site will bring benefits to some of the other groups associated with the locality. This would include amphibians in particular great crested newt, grasslands and hedgerows, which have potential to support farmland bird species and add additional carrying capacity for small mammals and therefore hunting territory for barn owl.

#### *Summary and conclusion on BNG*

332. GMEU accept the BNG calculation and whilst acknowledging the theoretical problems associated with the Metric, would advise the LPA that the application of the Metric by the applicant is in line with all the emerging Government guidance and modelling that is required to demonstrate a 10% uplift.

#### *Overall ecological summary and conclusions*

333. The submission is supported by sufficient information and survey effort to enable the LPA to identify the biodiversity material considerations and impacts of the proposal.

334. The outline mitigation measures provided within the associated reports are sufficient at this stage to demonstrate that risks can be managed and mitigation can be provided. Given the scale and phasing of the proposal, updated and detailed strategies would be required to be secured via condition. Some pre-commencement update surveys are recommended prior to the commencement of works on particular phases of the proposal, whilst a number of matters will require further submission to be secured on the Reserved Matters element of the proposals.

335. A number of issues need resolving associated with the full application for the Bowling Club relocation. These do not preclude the relocation proposals but may require some adjustment to make the scheme acceptable in terms of biodiversity.

336. The scheme demonstrates that Biodiversity Net Gain can be achieved on the site and provides an area of BNG offset as part of this proposal. The trading and assessment provided by the applicant is within the modelling parameters that this approach allows.

337. Overall, on the basis of the proposed mitigation, avoidance and enhancement the proposed development is considered to comply with policies BNE9 and BNE11 of the Chorley Local Plan 2012-2026.

#### **Impact on trees**

338. An Arboricultural Impact Assessment has been submitted in support of the proposed development. This confirms that there are no Category A trees at the site. No trees would be impacted by the bowling green or boiler house elements, whilst the new prison development would result in the loss of low and moderate value trees and hedgerows, as well as an area of early mature woodland.

339. The development would deliver substantial new soft landscaping, including new woodland areas. The AIA concludes that the extent of new planting is considered proportionate to compensate for the tree losses and offers benefits in terms of extending and diversifying the current arboricultural resource. The proposal is therefore compliant with policy BNE10 of the Chorley Local Plan 2012-2026.

#### **Flood risk and drainage**

340. An area to the north west is currently identified as within Flood Zones 2 and 3, however, the Environment Agency has confirmed that the current Flood Map for Planning is inaccurate due to an issue with data from the 'Tidal 2014 Study'. The Environment Agency



provided an Updated Flood Map for Planning to the flood risk consultants (Hydrock) and the consequence is that only a small strip along the north west margin of the site will actually fall within flood zone 2 with the remainder of the site comprising flood zone 1.

341. A site-based sequential approach has been taken to locate all operational elements of the proposed development within flood zone 1. The finished floor level of buildings would incorporate flood resistance and resilience measures. It has also been demonstrated that a means of safe access and egress is possible to and from the site.
342. Outline drainage statements have been prepared separately for the site and are included with the planning application. The three statements separately address foul water, surface water and SuDS.
343. The surface water drainage statement proposes various drainage methods across each of the different elements of the scheme. This includes an attenuation basin and pumping station for the new prison; RWPs and permeable paving at the bowling club discharging into a nearby pond (on MoJ's land); and for the boiler house, discharge to an adjacent ditch via a below ground attenuation storage facility. These will each ensure that there is no adverse impact to surface water drainage.
344. The Environment Agency have confirmed that they have reviewed the submitted Flood Risk Assessment and have no objections to the proposed development. It is noted that United Utilities have raised concerns with the detail of the drainage proposals at this stage but have recommended conditions to seek a detailed drainage scheme. The applicant is in discussion with United Utilities and any further comment will be reported on the addendum, however, given that the application is submitted in outline at this stage and further details can be obtained by condition and assessed prior to commencement it is considered that appropriate site drainage can be achieved in line with the Framework.
345. It is noted that the Lead Local Flood Authority (LLFA) provided an initial objection to this application and recommended refusal of planning permission until evidence was submitted to demonstrate why those parts of the site that are drained by pumping cannot be drained by gravity, which is a more sustainable and preferred method of drainage. Discussions have been ongoing between the applicant and LLFA, which have resolved the matter. The LLFA have since confirmed that they wish to withdraw their objection to the proposed development, which it considers to be acceptable subject the inclusion of conditions requiring that the development is carried out in accordance with the submitted Flood Risk Assessment and Sustainable Drainage Strategy, the submission of a Final Sustainable Drainage Strategy, operation and management plan and a construction phase surface water plan.

#### **Sustainable resources**

346. Policy 27 of the Core Strategy seeks to incorporate sustainable resources into new development through a number of measures.
347. The Energy and Sustainability Statement submitted with the application sets out the sustainable design and construction measures included in the new prison and demonstrates that the proposed development would achieve high levels of sustainability, as measured against all relevant local and national planning policy.
348. The MoJ has set out that it is investing heavily in the sustainability of its New Prisons Programme and has developed its own Sustainability Delivery Plan. MoJ's commitment to sustainability covers several key targets for all new prisons with aspirations that include targeting near zero carbon operations, at least 10% Biodiversity Net Gain, and at least BREEAM 'Excellent' certification, with endeavours to achieving BREEAM 'Outstanding'.
349. The new prison has been registered and will be assessed against the latest BREEAM 2018 New Construction scheme, under the 'prison' assessment category. A BREEAM Pre-Assessment report has been prepared and outlines a possible route to achieving a BREEAM 'Outstanding' score of 85% and the minimum credit requirements. The exact route to certification may vary as the detailed design progresses.

350. Based on the details set out in the Energy and Sustainability Statement the proposed development is, therefore, considered to be in conformity with policy 27 of the Central Lancashire Core Strategy.

#### **Air quality**

351. The impacts of the proposed development with regards to air quality have been assessed by Ramboll. The assessment considers the impact of the development on air quality to nearby sensitive receptors during both the construction and operational phases.
352. The assessment concludes that subject to mitigation measures, effects of construction dust on nearby sensitive receptors would be effectively controlled and the impacts would not be significant. Suitable mitigation would be provided through a series of measures set out in a dust management plan to form part of a CEMP to be agreed with the local authority by a suitably worded condition.
353. The intention is that the relocation of the boiler house would involve a 'like for like' replacement of equipment. The flue height has been calculated on the same basis as the existing boiler house flues and will give an equivalent level of dispersion. As the new boiler house will be located to the south of the existing and more towards the centre of the site, off-site impacts are likely to be lower than at current.
354. Concentrations of NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> have been predicted for worst-case locations representing existing properties adjacent to the road network. Predicted concentrations would be well below the relevant objectives at all the existing receptor locations with the proposed development in place. The impact of the proposed development on air quality is therefore considered to be negligible at all receptors.
355. Mitigation measures to reduce the direct impacts of the development on air quality concentrations are not required, and the development therefore complies with Policy 30 of the Central Lancashire Core Strategy.

#### **Mineral resource assessment**

356. The site is included within a safeguarding minerals allocated area as defined by policy M2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies (2013) and as such the application is supported by a Minerals Assessment. The allocation indicates that resources of sandstone, sand and gravel, brick clay, fireclay and coal may be present both on the site and in the surrounding area.
357. 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. Incompatible development is defined as that which would be incompatible by reasons of scale, proximity and permanence with the working of the mineral.
358. Policy M2 provides criteria to be used when considering whether permission should be supported. The submitted information concludes that the mineral is no longer of any value or has been fully extracted, and that prior extraction of minerals is not feasible due to the depth of the deposit. This is informed by a desk-top study and reference to recorded off site borehole logs.
359. The site is within a Mineral Safeguarding Area, however, it is considered that the significant need for the proposed development, as set out earlier within the report, outweighs that of extracting any minerals at the site. It is not possible in terms of the programme, nor feasible given the site's location adjacent to two existing prisons, to extract the minerals in advance of the proposed development. It would also not be environmentally acceptable.
360. In light of the above, it is considered that there is no conflict with policy M2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies (2013) or the National Planning Policy Framework, with regards to minerals safeguarding.

Employment and skills provision

361. The Central Lancashire Employment Skills Supplementary Planning Document (SPD) was adopted in September 2017. The SPD introduces Employment Skills Statements and provides clarity as to how this requirement relates to the relevant policies set out in the Core Strategy and Local Plan as well as the guidance set out in the Framework. The SPD goes on to state that one of Central Lancashire's priorities is to encourage economic growth within Central Lancashire that benefits the people and businesses in the three boroughs. The SPD seeks to;
- increase employment opportunities by helping local businesses to improve, grow and take on more staff
  - help businesses to find suitable staff and suppliers, especially local ones
  - improve the skills of local people to enable them to take advantage of the resulting employment opportunities
  - help businesses already located in Central Lancashire to grow and attract new businesses into the area
362. The SPD requires development over certain thresholds to be accompanied by an Employment and Skills Statement to ensure the right skills and employment opportunities are provided at the right time. The SPD sets out that Employment and Skills Statements will be required to be submitted with planning applications, which exceed 30 dwellings or 1000sqm of commercial floorspace. The SPD goes on to clarify what is a commercial use for the purpose of this SPD, and confirms that this does not include prisons, or residential institutions more generally, and therefore an employment and skills plan is not required to be agreed and implemented in relation to the proposed development.

Community Infrastructure Levy (CIL)

363. The Chorley CIL Infrastructure Charging Schedule provides a specific amount for development. The CIL Charging Schedule was adopted on 16 July 2013 and charging commenced on 1 September 2013. The proposed development would be CIL Liable and subject to Chorley Council's CIL Charging Schedule for 'All Other Uses'.

Other matters

364. *Proposed car park needs to either be re-sited next to existing car park or should be contained, secure, and screened:* The proposed car park would be well contained and screened by a landscaped buffer.
365. *Safeguarding concerns in relation to the bus stop being moved within prison grounds and will be used by both public including school children and day release prisoners:* The applicant has confirmed that the bus stop will no longer be relocated.
366. *Prison visitors more likely to wander onto Wymott Estate:* Visitors to prisoners are ordinary members of the public who are not unduly restricted in their ability to access public land, such as the nearby play area.
367. *Traffic survey conducted during lockdown and therefore accuracy is questionable:* The submitted Transport Assessment sets out the approach to the traffic survey data and justifies how the approach taken is considered suitably robust. This comprised using the traffic survey undertaken in March 2021 and factoring this against an historic count site to account for the reduction in traffic volumes. It is relevant that the majority of prison workers were classed as 'key workers' and thus it was considered that the peak hour flows along Moss Lane would be unaffected by the covid-19 pandemic. Flows along Moss Lane were therefore not factored. The approach to traffic data was agreed with LCC.
368. *Will be built on a flood plain, which will result in water run off onto Moss Lane:* Moss Lane and the proposed car park area are both within flood zone 1 where land is at the lowest risk of flooding. The proposed drainage scheme for the site has been designed to ensure there is no adverse off-site impact as a result of the proposed development. Detailed drainage schemes will be subject to an appropriately worded condition.

369. *The Bowling Club is used by a small demographic who are not local residents:* The replacement bowling club will continue to meet and existing demand and an improved facility has the potential to generate greater use.
370. *Pump House Lane used to access land adjacent and access will be removed:* A short section of Pump House Lane extending north from Willow Road will be diverted further east, extending the route by c. 170m in length. The diverted track will be a significant improvement in quality to the current track and will be available for use by the public, including horse riders, after construction.
371. *MoJ appear to have never visited local area:* The application site has been extensively surveyed by the applicant in preparing the planning application.
372. *Devaluation of property:* This is not a material planning consideration.
373. *Increase in the prison population:* The proposal has been designed in response to a forecast increase in prisoner numbers.
374. *New Prison Programme is unethical and harmful resulting in disproportionate imprisonment and repeat offending;* This is not a material planning consideration.
375. *Siting of prison:* Prison population likely to be from Liverpool and Manchester and would be better to site prison in proximity to these locations: The site has been identified as the only opportunity to serve these population centres, in addition to the whole of the North West region.
376. *Why has Chorley Council not objected to application particularly since Home Office stated that Wymott and Garth is not an ideal site:* It is the role of Chorley Council as local planning authority for the area to assess the application.
377. *Kirkham is better location due to access to site:* The applicant has demonstrated that there are no available alternative sites in the North West region (in either public or private ownership) capable of accommodating the proposed development within the required timescales and that there are no suitable alternative options to reducing the scale of the proposed development.
378. *Infringement of human rights – will bring undesirables into local area and cause disruption:* The MoJ have confirmed that they take the security of prisons extremely seriously and have identified an additional £100m investment in new measures to stop drugs entering prisons, and are designing new prisons with additional security to deter the smuggling of contraband, which further reduces risk of items being passed in or out of cells. MoJ will also be working closely with the local police on the detailed operational planning. It is noted that Lancashire Constabulary have been consulted with and do not object to the proposal.
379. *Loss of prison farm will be detrimental to all users:* This is not a matter for consideration in the planning assessment, but is a consideration for the applicant in relation to suitable services for prison inmates.
380. *Land to rear of residential estate used by locals as open space:* The application site comprises private land in the ownership of the MoJ.
381. *EIA fails to take account of all species and is inadequate:* The requirement for an EIA was scoped out and not required.
382. *Inadequate consultation prior to submission of the application:* This is a matter for the applicant to address and the level and type of consultation prior to submission is at the applicant's discretion.

**OVERALL CONCLUSION**

383. In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan, unless material considerations indicate otherwise.
384. The development plan consists of the Central Lancashire Core Strategy and the Chorley Local Plan 2012 - 2026. As set out above the proposals are considered to be in accordance with policy 1 of the Core Strategy as there are exceptional reasons in support of the development by virtue of the benefits that would be generated and the specific need for the development that can only be fulfilled at this site. The development is considered to be inappropriate development within the Green Belt and as such can only be considered acceptable if there are very special circumstances which clearly outweigh the substantial harm to the Green Belt (by reason of inappropriateness) and any other harm.
385. As set out above it is considered that on balance sufficient very special circumstances exist in the case of the benefits associated with the proposal and the need for the provision of a new prison in the region for which the application site is the only viable and deliverable option. These factors are considered to outweigh the substantial harm to the Green Belt (by reason of inappropriateness) and any other harm (particularised in the sections set out above).
386. Advice contained within the Framework directs Local Planning Authorities to look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. The advice for the Government is that local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.
387. In this regard the three dimensions of sustainable development are a material consideration which are assessed further below:
388. **An economic role** - the proposed development would generate construction jobs in the delivery of a development of significant scale, whilst the prison would provide a large number of direct employment opportunities within the locality and wider region. There are a number of other benefits such as additional demand that would support existing local businesses, services, and facilities through additional economic activity and use, along with greater business for the local supply chain.
389. **A social role** - the development would meet a clearly defined need to provide prison places within the region, which fulfils a greater public need and performs a regional function in rehabilitating offenders. The application site provides the best value solution to providing a deliverable site in the North West of England. The existing bowling club facility would be upgraded, which would attract new members and provide a means by which people may keep active.
390. **An environmental role** - the proposal would involve the redevelopment of an area of previously developed land, which would support the aim of recycling previously developed sites. It is also intended to deliver a minimum 20% biodiversity net gain and that the development itself would achieve at least BREEAM 'Excellent' certification, with endeavours to achieving BREEAM 'Outstanding'.
391. In consideration of the factors advanced in support of the proposed development, the benefits and impacts assessed above and the three dimensions of sustainable development it is considered that on balance, the proposed development is acceptable in line with the provisions of the development plan. It is considered that it constitutes sustainable development, for the purposes of the Framework when taken as a whole. The proposal is therefore recommended for approval subject to conditions and a Section 106 agreement to secure the necessary access improvement schemes.

**Suggested conditions**

To follow

**RELEVANT HISTORY OF THE SITE**

**Ref:** 5/5/05320                   **Decision:** REFLCC                   **Decision Date:** 28 October 1965  
**Description:** Prison & housing units in connection with prison staff

**Ref:** 5/5/06725                   **Decision:** CLO                   **Decision Date:** 16 August 1968  
**Description:** Industrial development

**Ref:** 75/00091/CIRC               **Decision:** PERCRC               **Decision Date:** 19 March 1975  
**Description:** Straightening out of access road (Moss Lane) to prison officers housing accommodation within new prison complex. Circular 80 procedure

**Ref:** 75/00685/CIRC               **Decision:** PERCRC               **Decision Date:** 29 September 1975  
**Description:** Revised proposals for 121 Officers Houses and Club

**Ref:** 80/01230/CIRC               **Decision:** PERCRC               **Decision Date:** 19 January 1981  
**Description:** Circular 7/77 Notification. Proposed new prison

**Ref:** 84/00204/CIRC               **Decision:** PERCRC               **Decision Date:** 1 May 1984  
**Description:** Boiler House Complex

**Ref:** 85/00760/CIRC               **Decision:** PERCRC               **Decision Date:** 6 January 1986  
**Description:** Alterations to two existing building (mess and staff Club)

**Ref:** 93/00880/FUL               **Decision:** PERCRC               **Decision Date:** 8 March 1994  
**Description:** Construction of two three storey living units and all weather pitch and jogging track

**Ref:** 93/00878/FUL               **Decision:** PERCRC               **Decision Date:** 25 February 1994  
**Description:** Re-roofing re-cladding and alterations to boiler house and construction of detached store

**Ref:** 94/00038/CIRC               **Decision:** PERCRC               **Decision Date:** 28 February 1994  
**Description:** Siting of portacabin (Circular 18/84 submission)

**Ref:** 94/00409/CIRC               **Decision:** PERCRC               **Decision Date:** 5 July 1994  
**Description:** Circular 18/84 submission for visitors reception centre

**Ref:** 94/00831/CIRC               **Decision:** PERCRC               **Decision Date:** 2 December 1994  
**Description:** Circular 18/84 Submission for Erection of Portakabin for Use as Training Room

**Ref:** 94/00878/CIRC               **Decision:** PERCRC               **Decision Date:** 13 January 1995  
**Description:** Circular 18/84 Application for the erection of single-storey education building

**Ref:** 95/00348/CIRC               **Decision:** PERCRC               **Decision Date:** 5 July 1995  
**Description:** Extension of roadway to link existing perimeter road with Willow Road

**Ref:** 96/00388/CIRC               **Decision:** PERCRC               **Decision Date:** 10 July 1996  
**Description:** Circular 18/84 Application for erection of two additional accommodation blocks

**Ref:** 96/00474/CIRC               **Decision:** PERCRC               **Decision Date:** 7 August 1996  
**Description:** Circular 18/84 Application for erection of additional accommodation block

**Ref:** 97/00918/FUL               **Decision:** PERFPF               **Decision Date:** 27 January 1998

**Description:** Erection of detached staff locker room/facilities building on existing staff car park area

**Ref:** 02/00067/CIRC **Decision:** PERCRC **Decision Date:** 27 March 2002

**Description:** Circular 18/84 Application for erection of two additional accommodation blocks (renewal of 9/96/388/CIRC)

**Ref:** 02/00069/CIRC **Decision:** PERCRC **Decision Date:** 27 March 2002

**Description:** Circular 18/84 Application for erection of additional accommodation block (renewal of 9/96/474/CIRC)

**Ref:** 02/00601/CIRC **Decision:** PERCRC **Decision Date:** 31 July 2002

**Description:** Circular 18/84 application for additional prisoner living accommodation

**Ref:** 02/01184/CIRC **Decision:** PERCRC **Decision Date:** 22 January 2003

**Description:** Erection of additional accommodation

**Ref:** 03/00346/CIRC **Decision:** PERCRC **Decision Date:** 29 May 2003

**Description:** Circular 18/84 application for the installation of four 8m high masts fitted with cameras

**Ref:** 03/00985/CIRC **Decision:** REFCRC **Decision Date:** 21 October 2003

**Description:** Circular 18/84 to seek full planning clearance for the construction of one cranked three storey, 180 place houseblock, a new kitchen and a first floor security link

**Ref:** 03/01028/CIRC **Decision:** REFCRC **Decision Date:** 27 October 2003

**Description:** Circular 18/84 to seek planning permission for extension to the gymnasium, workshop and education facilities and the additional staff car parking

**Ref:** 04/00456/CIRC **Decision:** PERCRC **Decision Date:** 22 June 2004

**Description:** Circular 18/84 application for a gym extension

**Ref:** 04/01017/CIRC **Decision:** PERCAC **Decision Date:** 25 October 2004

**Description:** Erection of modular building to be used for training

**Ref:** 07/00873/FUL **Decision:** PERFPP **Decision Date:** 25 September 2007

**Description:** Renewal of temporary planning permission 02/00601/CIRC to retain Prison Accommodation Unit

**Ref:** 07/01039/FUL **Decision:** PERFPP **Decision Date:** 1 November 2007

**Description:** Installation of a 1.8m (in diameter) satellite dish affixed on the ground next to the gatehouse building

**Ref:** 07/01197/FULMAJ **Decision:** PERFPP **Decision Date:** 9 January 2008

**Description:** Erection of sixty four place prisoner block with ancillary soft tarmac multi court exercise area, extension to staff car park and provision of additional visitors car parking spaces

**Ref:** 04/00385/CIRC **Decision:** PERCRC **Decision Date:** 30 June 2004

**Description:** Circular 18/84 application for the erection of cranked three storey houseblock and a first floor security link

**Ref:** 04/00409/CIRC **Decision:** PERCRC **Decision Date:** 30 June 2004

**Description:** Circular 18/84 application for the formation of a 96 space car park

**Ref:** 04/00457/CIRC **Decision:** PERCRC **Decision Date:** 22 June 2004

**Description:** Circular 18/84 proposal for the erection of a new kitchen

**Ref:** 05/01113/CIRC **Decision:** PERCRC **Decision Date:** 10 January 2006

**Description:** Erection of new activities building, extension to care and control, additional cameras, sub-station, standby generator and fuel tank plus temporary/permanent external enabling works

**Ref:** 07/00690/FUL **Decision:** PERFPP **Decision Date:** 7 August 2007

**Description:** Installation of a 1.8m (in diameter) satellite dish affixed onto an unused flowerbed next to the administrative building

**Ref:** 08/00154/FUL **Decision:** PERFPP **Decision Date:** 11 April 2008

**Description:** Installation of a 1.8m (in diameter) satellite dish affixed onto the east elevation of the old kitchen block, via a wall mount, HMP Garth

**Ref:** 08/00212/FUL **Decision:** PERFPP **Decision Date:** 23 April 2008

**Description:** Erection of two CCTV camera columns comprising of 1 no. at 6m in height to the north of the northern prison perimeter wall and 1 no. at 12m in height within the confines of the prison walls

**Ref:** 10/00351/FUL **Decision:** PERFPP **Decision Date:** 9 July 2010

**Description:** Proposed construction of pitched roofs on 12 No stair towers and incorporation of overflows to existing pitched roof gutters

**Ref:** 12/00425/FUL **Decision:** PERFPP **Decision Date:** 19 June 2012

**Description:** Application for single storey wooden building to be used as a shop selling HMP produced items

**Ref:** 13/00352/FUL **Decision:** PERFPP **Decision Date:** 11 June 2013

**Description:** Installation of 3 x 2 tonne LPG vessel's (each 1.2m x 4.38m) on a concrete base extending to a maximum of 7.5m from the perimeter screen fence at the front of HMP Wymott, surrounded by a 2m fenced compound accessed by 2 x gates. The proposal also includes for a 2m fire wall between the compound and the perimeter screen fence.

**Ref:** 19/00399/CLEUD **Decision:** REC **Decision Date:**

**Description:** Energy generation building to remain as existing, plant and machinery within building to be replaced with new. Current coal silos within the security fenced compound to the rear (north elevation) of the building to be replaced with biomass silo and oil tanks. Ventilation flues and new flood lighting added to north (rear) elevation.

**Ref:** 19/00481/CLPUD **Decision:** PERPUD **Decision Date:** 12 July 2019

**Description:** Lawful Development Certificate for Proposed Development - Replacement plant and machinery within existing building. New biomass silo and oil tanks to existing compound. Ventilation flues and flood lighting to north (rear) elevation.

**Ref:** 19/00722/NOT **Decision:** PERTEL **Decision Date:** 2 August 2019

**Description:** Notice of intention to install 2no. 9m high wooden poles for the installation of fixed-line broadband apparatus

**Ref:** 20/00986/FUL **Decision:** PERFPP **Decision Date:** 16 November 2020

**Description:** Replacement of existing SON lighting around the prison perimeter, internal service roads, external service roads and 2 car parks with LED lighting including new lighting columns

**Ref:** 20/01267/DIS **Decision:** PEDISZ **Decision Date:** 23 December 2020

**Description:** Application to discharge condition no.5 attached to planning permission 20/00986/FUL (Replacement of existing SON lighting around the prison perimeter, internal service roads, external service roads and 2 car parks with LED lighting including new lighting columns)

**Ref:** 21/00010/DIS **Decision:** PEDISZ **Decision Date:** 5 March 2021

**Description:** Application to discharge condition no.6 (reasonable avoidance measures for amphibians) attached to planning permission 20/00986/FUL (Replacement of existing SON



lighting around the prison perimeter, internal service roads, external service roads and 2 car parks with LED lighting including new lighting columns)

**Ref:** 21/00026/FUL      **Decision:** PERFPP      **Decision Date:** 10 March 2021

**Description:** Erection of single storey modular office building and formation of 4no. car parking spaces with fence alterations

**Ref:** 21/00968/SCE      **Decision:** PESCEZ      **Decision Date:** 8 September 2021

**Description:** Request for Screening Opinion pursuant to Regulation 5 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 for a new Category C Resettlement Prison and associated uses and access located to the north of HMP Garth and HMP Wymott; including 7 houseblocks, each occupying up to 245 prisoners; and support buildings, including kitchen, workshops and a central services hub, totalling c. 21,000 sqm

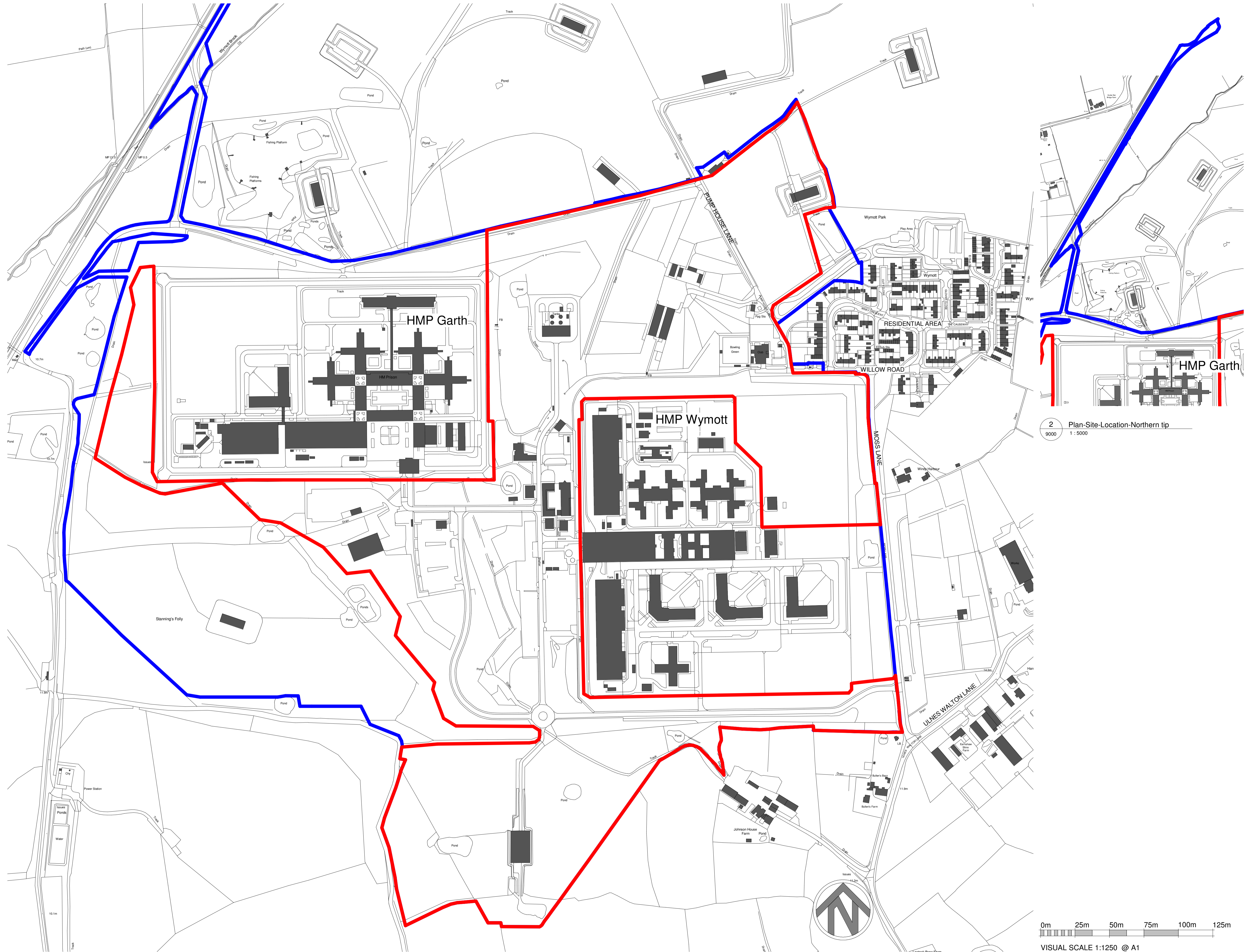
**Ref:** 21/01320/DEMCOM      **Decision:** PERDEM      **Decision Date:** 6 December 2021

**Description:** Application for prior determination for the proposed demolition of a building associated with HM Prison Wymott and described as J Wing

**RELEVANT POLICIES:** In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan (the Central Lancashire Core Strategy, the Adopted Chorley Local Plan 2012-2026 and adopted Supplementary Planning Guidance), unless material considerations indicate otherwise. Consideration of the proposal has had regard to guidance contained within the National Planning Policy Framework (the Framework) and the development plan. The specific policies/guidance considerations are contained within the body of the report

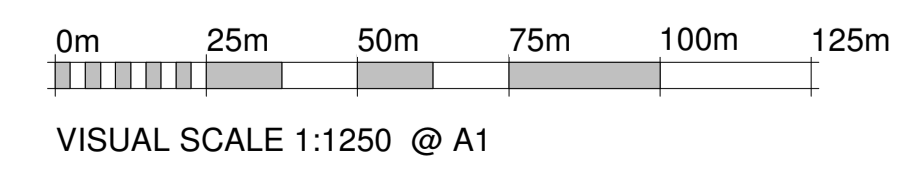
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Red Line Site Boundary  
 MOJ Ownership Boundary



2 Plan-Site-Location-Northern tip  
 9000 1:5000

1 Plan-Site-Location  
 9000 1:2500



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Rev	Date	Description
P05	15.08.2021	Northern tip of site ownership added
P04	09.07.2021	Amendments following review
P03	25.06.2021	Amendments following review
P02	13.05.2021	Minor amendments following review
P01	14.04.2021	First Issue

This document references the following linked files

File Reference	Status	Revision
608623-0000-PEV-GHX0011-ZZ-M3-A-0001-D0200	S1	P 00

Project Status  
 RIBA Stage 2

<p>Ministry of Justice</p>	Client	Project
	<p>New Prisons Programme</p>	
	<p>Ministry of Justice, 102 Petty France, London, SW1H 9AJ</p>	

Project Description / Site  
 New Prisons Programme  
 Garth Wymott 2

Project Address  
 Site Adjacent to HMP Garth & HMP Wymott

Building Type  
 Site Infrastructure

Drawing Title  
 Site-Location Plan-PLANNING

	Originator Logo	Drawn By	MDA	Date	14.04.2021
		Checked By	RPP	Date	14.04.2021
		Approved By	RPP	Date	14.04.2021

Drawing Number  
 608623-0000-PEV-GHX0011-ZZ-DR-A-9000 Delref  
 B0700

Sheet No. 1 of 1 Scale As indicated Orig. Sheet Size @ A1 Rev. P05

Data Security Classification OFFICIAL Suitability S3

Agenda Item 3a

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**APPLICATION REPORT – 21/00072/FUL**

**Validation Date: 18 March 2021**

**Ward: Chorley South East And Heath Charnock**

**Type of Application: Full Planning**

**Proposal: Change of use of the land to a residential Gypsy and Traveller site involving the siting of two mobile homes and five touring caravans and retention of the utility block and access**

**Location: 2 Heath Paddock Hut Lane Heath Charnock Chorley PR6 9FP**

**Case Officer: Mr Iain Crossland**

**Applicant: Mr Michael Linfoot**

**Agent: Mr Michael Hargreaves, Michael Hargreaves Planning**

**Consultation expiry: 21 April 2021**

**Decision due by: 23 December 2021 (Extension of time agreed)**

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**RECOMMENDATION**

1. It is recommended that planning permission is granted subject to conditions for a temporary period until 31 March 2025 (i.e. 3 years and 3 months).

**SITE DESCRIPTION**

2. The application site is located in the Green Belt some 5 kilometres from Chorley town centre, and some 2 kilometres from the centre of the village of Adlington, which merges into the adjoining village of Heath Charnock.
3. The site comprises approximately 1,372 square metres of land located on the eastern side of the M61 between the motorway and Hut Lane and lies to the south of residential properties at Olde Stoneheath Court and Red Row. It is situated between the settlement areas of Adlington and Chorley and forms the south western portion of a larger triangular site of 2,527 square metres known as Heath Paddock, which is screened by fencing and tree planting on all three sides.
4. The character of the area is rural, with clusters of housing. The M61 motorway and associated motorway structures are also a defining feature of this area.

**DESCRIPTION OF PROPOSED DEVELOPMENT**

5. This application seeks planning permission for the permanent change of use of the land to a residential Gypsy and Traveller site involving the siting of two mobile homes and five touring caravans and retention of the utility block and access.

**APPLICANT'S CASE**

6. The applicant's agent has submitted the following comments in support of the application.

7. In granting the sequence of temporary permissions the Council has accepted that the needs of the Linfoot / Bird family, and the lack of alternative options available to them represented very special circumstances for temporary permissions, but not so far for a permanent permission, because of their potential ability to relocate to Cowling Farm.
8. Over five and a half years after the Local Plan was adopted, we are no nearer the proposed new Traveller site being developed. Each time the Linfoots applied for planning permission on Hut Lane, the Council assumed what proved to be an unrealistically optimistic timetable for how quickly the Cowling Farm site could be developed.
9. In March 2017 the Council sold part of Cowling Farm to Homes England, with Homes England responsible for developing the southern part of the site for housing, and the Council responsible for developing the northern part for employment, the Travellers site and potentially housing.
10. The Council and Homes England have commissioned a significant amount of technical work on Cowling Farm. We are not party to all that work, nor to its financial implications. However, our understanding is that the road access has added to the construction costs, and combined with the costs of drainage, utilities and ground levelling it has meant that development of both the employment uses and Traveller site within the Council's section of Cowling Farm are unviable.
11. There was public consultation on a masterplan for Cowling Farm in Autumn 2018. We understood this would be followed by planning applications on the Council's and Homes England's sections, but this has not happened.
12. The Linfoots have had three temporary permissions, four if you count 18/00024/FUL and 18/00905/FUL as separate permissions. A further temporary permission would be a fourth (or a fifth). Government policy states that it will rarely be justifiable to grant a second temporary permission. The rationale for the sequence of temporary permissions, that with the development of the new site at Cowling Farm circumstances will change at the end of the period allowing the Linfoots to relocate is no longer tenable. There is no evidence the Cowling Farm site will ever be developed.
13. This means there is unmet need for Gypsy and Traveller residential accommodation in Chorley, and no means of accommodating that need, apart from on Hut Lane. Without Hut Lane the Council does not have the five-year supply of deliverable sites for Gypsies and Travellers required by para 10a) PPfTS.
14. Apart from that it is in the Green Belt, the site at Hut Lane is highly suitable to provide the required deliverable site. It is available, and already developed as a good quality Traveller site. While it is in the Green Belt, it is not in the open countryside, PPfTS para 25, but with Olde Stoneheath Court and the cottages, farm and related development on Hut Lane, forms a cluster of development adjacent to the M61. It is well screened by trees and fencing so that views into the site are limited, and the impact on the loss of openness limited. The fact it was covered by hardcore from when used for motorway construction means it is previously developed land. There is no other alternative suitable site available. Together, these factors provide the very special circumstances for granting permanent planning permission.

## **REPRESENTATIONS**

15. Representations in support of the application have been received from the occupiers of 62no. addresses. These include the following comments:
  - The impact on the Green Belt is outweighed by the benefits.
  - Harm to the Green Belt is limited.
  - The site is not open or prominent
  - The Council has failed to deliver an alternative site.
  - The alternative site at Cowling is not viable to deliver.
  - There are no alternative sites in Chorley.
  - The site is well maintained and of positive appearance.

- The family are active members of the wider community.
  - The applicants are being unfairly treated.
16. Representations have been received from the occupiers of 20no. addresses citing the following grounds of objection.
- The site is located in the Green Belt and the development remains inappropriate development in the Green Belt.
  - There are no very special circumstances.
  - The site is over capacity and does not meet the needs of the family.
  - The site has a poor impact on the appearance and character of the area.
  - The location is not a sustainable one and not suitable for residential occupation.
  - Impact on the amenity of residential occupiers through business uses.
  - The family have not integrated into the community, as tensions remain.
  - Children are no longer in school and are no longer a consideration in the determination of the application.
17. An objection has been received from Paul Sedgwick (dated 20 April 2021) on behalf of a group of local residents, in relation to the application as originally submitted, and is set out as follows:

*I represent the group of residents living in the vicinity of the planning application site on land off Hut Lane. My clients again object most strongly to the current application proposals to intensify this inappropriate use and make the site permanent. There are very strong town planning considerations in support of their concerns, which I set out below.*

*The Hut Lane site is in the Green Belt and therefore there is a strong presumption against development that is inappropriate in the Green Belt. It is recognised in the government's Planning Policy for Traveller Sites that traveller sites are inappropriate development, whether they are permanent or temporary. The site and adjoining land was initially occupied unlawfully as a traveller's site by 16 caravans in 2009. The subsequent planning history is outlined in the applicant's supporting statement and this shows a clear pattern of pressure at each renewal to increase development on, and the permanence of, the site.*

*The current application again seeks to make the site permanent and to further intensify its use by siting an additional touring caravan and to allow commercial use on the site, which has been resisted by the council from the outset.*

*It is recognised that there is an unmet need for traveller accommodation in Chorley, and in July 2015 the council undertook to meet this need within a 5-year period by allocating a site at Cowling Farm. Regrettably, the Council and the HCA have failed to progress this site and therefore the applicants are again faced with the expiry of the temporary consent without being able to occupy the allocated site.*

*The application site is in the Green Belt and its use is recognised as being for inappropriate development. National policy set out in Planning for Travellers Sites (PPTS) notes at §27 that a lack of 5-year supply of sites is not to be considered a significant material consideration in determining applications for sites in the Green Belt. Outside of the Green Belt the lack of sites would have significant weight in determining applications for temporary permission, but even here, footnote 9 of PPTS makes it clear that there is no presumption that a temporary consent would be made permanent.*

*The applicant is right to draw the council's attention to Planning Practice Guidance which, at 014 Reference ID: 21a-014-20140306 states:*

*It will rarely be justifiable to grant a second temporary permission (except in cases where changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities). Further permissions can normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning permission will then be granted permanently.*

*It is therefore for the council to consider whether despite the serial delays to date, there is still a realistic intention to provide the site at Cowling Farm. My clients have been assured that that intention exists but also note the current reality of missed milestones does little to give confidence that a planning application for that development is imminent. They also note that the applicant, who is more involved in the proposed development, considers it to be unviable. If there is sufficient certainty that the Cowling Farm site will come forward in the next year or so, it may justify the grant of a further one-year limited period consent. If the Council is not confident of that, then it should not grant a further limited period consent and in which case it must consider the application solely for permanent permission.*

*It is relevant that the site only gained consent as this was for a limited period and its impermanence therefore mitigated the harm to the Green Belt. If temporary use is no longer the case, other material considerations are relevant. The starting point is that as this form development is inappropriate in the Green Belt, very special circumstances that overcome 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.*

*Policy E of Planning Policy for Travellers Sites states that: "Subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances."*

*The applicant's supporting statement deals with very special circumstances (VSCs) at Section 6. It does not rely on the best interest of any child but deals primarily with need of the applicant and his family even though unmet need and personal circumstances are unlikely to be the necessary VSCs. Reference to various site-specific considerations such as the proximity of the M61 motorway and nearby dwellings are not material considerations for development proposals in the Green Belt. On the evidence provided in that section, VSCs have not been demonstrated and the application should be refused.*

*Other considerations support the refusal of the application. The site is not adequate to meet the requirements of the applicant and his family. There has been incremental increases in intensification of the use of the site and the applicant seeks yet more intensification, including another touring van and commercial use. Should a permanent consent be granted, the LPA will face continuing pressure for intensification of the use of the site and potentially its expansion, which will be hard to resist as additions to a permanent site.*

*From the above assessment of the planning position, if the LPA is confident that it is advancing the delivery of the site allocated at Cowling Farm and has the resources to implement it, then that could justify a further limited period consent. If the delivery of the alternative site is now improbable, a limited period consent is not justified and the application for a permanent consent should be refused for the reasons that no VSCs capable of outweighing harm to the Green Belt or any other harm have been demonstrated.*

18. A further representation was received from Paul Sedgwick (dated 28 June 2021) on behalf of a group of local residents, in relation to the status of the applicants as Gypsy Travellers:

*You are probably aware of the recent High Court judgement that the definition of travellers does not include those who have given up their nomadic lifestyles. The judgement is Smith v The Secretary of State for Housing, Communities and Local Government & Anr. Case Number: CO/41/2019*

*I do not see any evidence in the documents relating to the above application that those individuals living on the Hut Lane site continue to travel. As the case for their occupancy of the site depends on them being travellers, evidence that they are all still travelling is essential to determining the current planning application. A history of the individuals travelling, covering not just the last 18 months but for 2019, which was before the pandemic, would give a fair period for them to provide evidence of travelling, including where they went and how long they stayed at each location.*



## CONSULTATIONS

19. Heath Charnock Parish Council: On 6 May 2021 Heath Charnock Parish Council considered the additional information it had received from the applicant and reviewed the previous comments made at the 8 April meeting. Chorley Council is required under the approved Local Development Plan to make statutory provision in the District for five permanent and three mobile Gypsy and Traveller pitches at its chosen site at Cowling Brow. As far as the Parish Council is aware Chorley Council continues to progress this initiative. In the interim the Parish Council asks that Chorley Council as the Local Planning Authority considers a further temporary extension of the previous consent 18/00905/FUL, which is due to expire in July 2021 until the Cowling Brow site is ready for occupation. There should be no increase in the intensity of the use of the Hut Lane site from an additional touring caravan and no business activity should take place at or from this site.
20. United Utilities: Have no objection.

## PLANNING CONSIDERATIONS

### Planning history

21. During the 1990s, the land was used to store timber and wood shavings without planning permission and enforcement action was taken. An appeal against the enforcement notice was dismissed and the land was cleared of stored timber and sawdust. The land then regenerated naturally with trees and undergrowth covering the site until 2008 when the trees and undergrowth were removed. In 2008, an application was submitted to erect a stable on the land together with an exercise area for horses. The application accorded with both Green Belt policy and the Council's supplementary planning guidance on development involving horses and planning permission was granted.
22. In June 2009, the Council received reports that caravans had been moved onto the land and were being occupied for residential purposes. On investigation it was found that 12no. caravans were being occupied for residential use on the land and that other vehicles and a catering trailer were parked on the land. The land itself had been covered with hardcore materials to form an area of hardstanding and a utility block had been erected, together with gate pillars, lighting and a new vehicular access formed. As the site lies within the Green Belt it was considered expedient to issue a Temporary Stop Notice to prevent any further development taking place.
23. A planning application was submitted retrospectively to the Council for consideration in respect of the development and sought temporary permission for a period of 3-4 years, and this was considered by Development Control Committee on the 18 August 2009 when members resolved to refuse the application and authorised the issue of enforcement notices in respect of the unauthorised development on the land.
24. Following the issue of enforcement notices, the notices were appealed together with the refusal of planning permission. The appeals were heard at a Public Inquiry in March 2010; the appeals were dismissed on 13 May 2010, and the enforcement notices upheld with variations
25. Following the Inspector's notice of decision, legal challenges seeking leave to appeal the Inspector's decision were lodged with the High Court under Sections 288 and 289 of the Town and Country Planning Act 1990 and a hearing was held on the 23 September 2010 in the High Court at Leeds when leave to appeal the decision under Section 289 was refused. The right of appeal was on a point of law and could not, therefore, reconsider the arguments put before the Planning Inspector. However, the challenge under Section 288 was not heard at the same hearing and was subsequently withdrawn on 1 November 2010. As a result of the withdrawal of the challenge under Section 288 the compliance periods allowed with the Enforcement Notices began to run.
26. The first period for compliance expired on the 24 June 2011 when the caravans and other vehicles should have been removed from the land. The second compliance period expired

on the 21 September 2011 when other restoration works requiring the removal of hardstanding and other operational development were required to be carried out. Following the expiry of the first period of compliance with the enforcement notice on 24 June 2011 the steps required to comply with the notice were not taken and legal proceedings were commenced. The case was heard at Lancaster Crown Court on the 12 November 2012 for mitigation and sentencing following guilty pleas. The court fined Mr Linfoot £400 and gave a 12 months conditional discharge to Mr Boswell the joint owners of the land.

27. On the 3 June 2011 the Council received a further planning application for the land in respect of:- "Change of use of land for the siting of 4 static caravans and 2 touring caravans for residential use, the storage of 2 touring caravans when not in use for working away, retention of double utility block, provision of double stable block, retention of reduced area of hard surface for exercising horses, retention of hard standing for 3 vehicles plus horse box trailer to north of site and provision of new hardstanding for 3 vehicles plus horse box trailer together with retention of existing access at north west corner of site". This represented a decrease in the number of caravans that were on the site when the unauthorised development originally took place.
28. The planning application was due to be determined by the 23 August 2011. Changes made to the planning application during its consideration required further consultation on the planning application, which meant that the planning application was unable to be determined until after 23 August 2011. That application was appealed as the Council had not determined the application within the required period. A report on the planning application was made to the Development Control Committee meeting on the 6 September 2011 with a minded to refuse recommendation which was agreed to by committee. In other words, Council Members confirmed that, had the Council been in a position to determine the planning application, it would have refused it. The appeal was dealt with by Public Inquiry on the 7, 8 and 9 February and 23, 30 March 2012. On the 22 May 2012 the appeal was dismissed.
29. Following the Inspector's notice of decision a legal challenge was lodged by the applicant against the Inspector's decision with the High Court under Section 288 of the TCP Act 1990 and a hearing was held on the 7 November 2012 in the High Court at Manchester. The decision of the Judge was to quash the Inspector's decision and remit the case back to the Planning Inspectorate for rehearing. The challenge was successful on the very narrow ground of temporary permission and adequate reasoning. A date for a new Public Inquiry was set for the 24, 25, 26 and 27 September and 1 October 2013.
30. On 4 February 2013 the Council obtained an injunction against members of the Bird, Boswell and Linfoot families. As part of that process Mr and Mrs Boswell gave an undertaking, conditional on planning consent not being granted for the siting of caravans on the land, not to take up residence on the site. Mr Linfoot agreed, if the redetermination of the appeal was unsuccessful, that he would vacate the site within 3 months of such a decision.
31. On the 26 April 2013 a planning application was submitted for the continued temporary use of the site relating to a reduced site area. Temporary planning permission was granted for a period of 2 years which expired in July 2015.
32. A further planning application seeking a further temporary permission was submitted in June 2015. This was approved subject to a temporary period of 2.5 years, in consideration of an allocated Gypsy and Traveller site and its anticipated delivery timescale.
33. The Gypsy and Traveller site was not progressed within this time period and, therefore, a further application (ref. 18/00024/FUL) was submitted seeking a permanent consent for the use of the land. This was submitted in January 2018, and in July 2018 the application was approved subject to a temporary period of 3 years, in consideration of a master planning exercise and project plan for the delivery of the Cowling Farm Gypsy and Traveller site, which detailed timescales for delivery.
34. In September 2018 an application (ref. 18/00905/FUL) was submitted that sought to add the ability to accommodate a further two touring caravans at the site in response to a change in

circumstances. In the event it was considered that one additional touring caravan could be supported on the basis of very special circumstances owing to the circumstances of the family group to which the application related and their identified need within the Central Lancashire Gypsy & Traveller Accommodation Assessment (GTAA). In January 2019 a temporary permission was granted for a time period reflecting that which had been previously approved under planning permission 18/00024/FUL.

35. The allocated Gypsy and Traveller site has not yet been delivered and the current application has been submitted in the absence of an alternative Gypsy and Traveller site in the area, and on the basis that the temporary permission granted under application reference 18/00905/FUL expired on 18 July 2021.

**Principle of development**

36. The site is located in the Green Belt. The National Planning Policy Framework (the Framework) sets out the importance attached to Green Belts at paragraphs 137 to 151. 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.
37. Paragraph 149 of the Framework states that the construction of new buildings in the Green Belt will be considered inappropriate. There are seven exceptions to inappropriate development listed at paragraph 149, of which none are directly relevant to this case. Paragraph 150 states that six other forms of development are also not inappropriate in the Green Belt provided that they preserve openness and do not conflict with the purposes of including land within Green Belt.
38. The exception set out at paragraph 150.e) allows for:  
*“material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds”.*
39. As such the proposal has the potential to engage with paragraph 150 of the Framework subject to preserving openness. The siting of two mobile homes and five caravans results in a spatial and visual impact on openness in this location, where the land was previously free from development. Given that the land was previously open and free from development the change of use of the land to that of permanently sited caravans does not preserve openness and, therefore, the proposed development does not fall within this or any other exception to inappropriate development in the Green Belt.
40. Paragraph 147 states that *“Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”*
41. Paragraph 148 goes on to state that *“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”*
42. The Government first published ‘Planning Policy for Traveller Sites’ (PPTS) alongside the Framework in 2012. These documents replaced all previous national planning policy in respect of Gypsies and Travellers and Travelling Showpeople. The PPTS was then revised in August 2015.
43. The PPTS is a material consideration in determining planning applications and its overarching aim is to ensure fair and equal treatment for Travellers. It encourages local planning authorities to make their own assessment of need for the purposes of planning, and plan for sites over a reasonable timescale. It aims to promote more private Traveller site provision while recognising that there will always be those Travellers who cannot provide their own sites. It states that plan making and decision taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective.

44. It is within this national policy context that local planning authorities have to plan future provision for Gypsies and Travellers and Travelling Showpeople across their respective areas. The policy emphasises the role of evidence and how it should be used to plan positively and manage development and stresses the need for timely, effective and on-going community engagement (both with Travellers and the settled community). It also requires the use of a robust evidence base to establish accommodation needs to inform the preparation of local plans and make planning decisions.
45. Policy E (Traveller sites in the Green Belt) of the PPTS states that “Traveller sites (temporary or permanent) in the Green Belt are inappropriate development.”
46. PPTS paragraph 27 states that: “If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary permission. The exception to this is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).”
47. The Central Lancashire Core Strategy does not identify any targets for new provision of pitches for Gypsies and Travellers and Travelling Showpeople as no need was identified at that time. Rather, under Policy 8: Gypsy and Traveller and Travelling Showpeople Accommodation, it provides a mechanism through which new provision can be made should a need be identified. This advocates sustainable locations with suitable highway access and space within the site for parking, turning of vehicles and storage of equipment.
48. The Chorley Local Plan 2012-26 was adopted on 21 July 2015. Of particular relevance is Policy HS11 relating to provision for Gypsies and Travellers, allocating a site for a minimum of 5 permanent pitches on 0.4ha of land within the mixed use allocation HS1.5/EP1.6 Cowling Farm.
49. This allocation resulted from an updated Gypsy & Traveller Accommodation Assessment (GTAA). This assessed accommodation needs throughout Lancashire, including Chorley and was commissioned in July 2013. It found a need for 5 permanent pitches in Chorley and a transit need of 15 pitches across Central Lancashire (If provided individually Chorley’s specific need is 3 transit pitches). No need for a Travelling Showpersons site was found.
50. In June 2015 the final Central Lancashire (GTAA) was published which assessed the accommodation need of Gypsies and Travellers and Travelling Showpeople for each Central Lancashire authority and identified the need for new provision.
51. In July 2019 a Gypsy and Traveller and Travelling Showperson Accommodation Assessment assessed the accommodation need of Gypsies and Travellers and Travelling Showpeople as part of the evidence base for the emerging Central Lancashire Local Plan and also identified the need for new provision and is the most recent evidence available. This identifies a need for:
  - 5 Transit Traveller pitches across Central Lancashire, and
  - A number of Permanent Pitches, 10 of which are required in Chorley.
52. Of this number, the 2019 assessment identified a five-year authorised pitch shortfall between 2019/20 – 2023/23 of 9 pitches (comprising 5 current households living on the application site and 4 emerging households currently on the application site and planning to live on the site). A longer term need of 1 additional pitch is identified in the study in the period 2024/25 – 2035/36, bringing the overall total to 10 over this period to 2036.
53. The siting of caravans and mobile homes does not fall within any of the exceptions to inappropriate development as set out in the Framework. Furthermore the PPTS states that “*Traveller sites (temporary or permanent) in the Green Belt are inappropriate development*”. The proposed development, therefore, constitutes inappropriate development in the Green Belt. Substantial weight should be attached to the harm by reason of inappropriateness as

set out at paragraph 148 of the Framework. There would also be an impact on openness through the siting of the caravans, mobile homes and utility block.

54. As the proposal is considered to be inappropriate development 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.
55. The harm to the Green Belt comprises:
- Harm to the Green Belt by reason of inappropriateness to which substantial weight is attached;
  - Harm to openness to which substantial weight is attached.
  - The harm to the purposes of the Green Belt are set out at paragraph 138 of the Framework, which identifies the five purposes of the Green Belt. An assessment of the application site in relation to the five purposes is set out below:
56. Purpose 1: Check the unrestricted sprawl of large built up areas. The site is located between a housing development at Olde Stoneheath Court, Hut Lane and the M61 motorway, which form clear boundaries to the site. The site is not adjoined to any large built-up area and as such does not fulfil this purpose. The site occupies an enclosed pocket of land and is enclosed by robust and defensible boundaries. Accordingly, the proposed development would not have any material adverse impact on this purpose.
57. Purpose 2: Prevent neighbouring towns merging into one another. Development of the site would not lead to the coalescence of neighbouring villages. The site is located between the nearby settlements of Chorley and Adlington, which are currently separated by existing open countryside. The proposed development would not, therefore, advance the urban form any closer to any of these settlements nor lead to their coalescence.
58. Purpose 3: Assist in safeguarding the countryside from encroachment. The previous development has resulted in the laying of hard surfacing to previously open land for the siting of the caravans and a utility block. This has extended the urban form already presented by the residential development at Olde Stoneheath Court, and introduced built form, moveable structures and domestic paraphernalia further into the open countryside. The proposed development would, therefore, result in encroachment of the countryside.
59. Purpose 4: Preserve the setting and special character of historic towns. This does not apply as the site is not located near a historical town.
60. Purpose 5: Assist in urban regeneration, by encouraging the recycling of derelict and other urban land. The proposed development would have no clear impact on urban regeneration objectives, particularly so given that the allocated Gypsy and Traveller site is not located in an urban area.
61. Based on the above it is considered that the proposed development would be harmful to purpose three of the five purposes of the Green Belt, as the development does result in encroachment to which substantial weight should be attached.

#### **Visual impact**

62. Prior to the current development, the site was open in nature and had been covered with trees/undergrowth.
63. The development subject of this application is urban in appearance with views of gated access points, stone pillars and caravans and vehicles on the site when seen from public viewpoints, from Hut Lane to the west and, in particular from the motorway bridge at a higher level. This has a discordant effect on the character and appearance of the area.
64. Existing vegetation outside of the application site serves to screen the development during the summer months from some vantage points and further planting has been added to the site boundaries although the nature of views into the site particularly from the motorway

bridge reduce the effectiveness of any planting. During winter months, when there is no leaf cover, the impact of the development is more obvious within the locality and more damaging visually to the rural landscape. This fact was acknowledged by the Inspector during the consideration of the last appeal in 2012 and is one of the reasons why the development is not acceptable on a permanent basis. It is, therefore, considered that the development results in moderate harm to the appearance of the site and character of the area.

#### **Impact on neighbour amenity**

65. At the Public Inquiry in 2012 the Inspector considered that the effect on the outlook of no. 3 Olde Stoneheath Court (the nearest property to the site) was acceptable as a result of the scale of the original site development having been reduced to its current size, whilst a further additional caravan was considered acceptable during the assessment of the previous planning application. The proposal is now to add another caravan to the current site to give flexibility for the family's changing needs. The additional caravan is shown to be sited between the two mobile homes. This would be positioned some distance from the nearest dwellings at Olde Stoneheath Court and whilst it may be viewed from properties it would be fairly well concealed and would not result in any neighbour amenity impact. Any resultant increase in traffic movements is not considered to be of a scale that would cause any significant loss of amenity to occupiers of nearby neighbouring properties. It is, therefore, considered that no harm would arise through the impact on neighbour amenity.

#### **The case for Very Special Circumstances**

66. The applicant's case for very special circumstances centres around the desire of the applicant and his wider family to live in Chorley, and that since their initial occupation of the site in 2009 the family has become settled within the community. In particular the three children attended local schools and Mr and Mrs Linfoot both work in the area, and are active in the community. Mrs Linfoot is a school governor. The family are established in the area and require stability.

67. Mrs Linfoot's brother John Bird, his wife Mrs Jaqueline Bird and their three children did not have a secure base previously, and eventually the pitch that they were occupying was made unavailable to them resulting in them having to vacate the site. Their previous pitch was in the garden of a dwellinghouse owned by a gypsy family, who required the space for their own family members. The Bird family lived roadside in the interim, before arriving on the Hut Lane site in December 2018 due to a lack of alternative accommodation. The Council's Planning Policy section confirmed that the Bird family had not been identified as being in need in the Lancaster area (where they were living previously) and that no provision was made available for them there. The Council's housing section were also unable to identify any other available accommodation that would be suitable for the Bird family within Chorley or elsewhere locally.

68. Given that the Bird family had been identified as having a need in Chorley, the delay in bringing Cowling Farm forward, the lack of alternative accommodation and loss of access to their previous temporary pitch it was considered that these factors carried significant weight in support of the siting of an additional caravan. The other authorised occupiers of the site are Mr Walter Bird and Mrs Sylvia Bird and grandson Clonus John Boswell.

69. Further to this the July 2019 Gypsy and Traveller and Travelling Showperson Accommodation Assessment identified a need for 5 Transit Traveller pitches and 10 permanent pitches in Chorley. The previous temporary planning permission (ref.18/00905/FUL) allowed 6 caravans to occupy the site, of which no more than 2 could be a mobile home. This provision is effectively equal to three pitches, which would enable three households to occupy the site, as is currently the case. It is the applicant's contention that the provision of an additional touring caravan would provide the flexibility to meet the family's changing needs.

70. Policy HS11 of the Chorley Local Plan 2012 - 2026 relating to provision for Gypsies and Travellers, allocates a site for a minimum of 5 permanent pitches on 0.4ha of land within the mixed use allocation HS1.5/EP1.6 Cowling Farm. This site has not yet been progressed

and, therefore, no alternative provision for the Linfoot family exists in Chorley at present. The applicant contends that the cost of delivering the Cowling Farm traveller site is not viable and, therefore, the site will not be developed. As such they consider that the rationale for the sequence of temporary permissions, that with the development of the new site at Cowling Farm circumstances will change at the end of the period allowing the Linfoots to relocate is no longer tenable. This results in an unmet need for Gypsy and Traveller residential accommodation in Chorley, and no means of accommodating that need, apart from on the application site at Hut Lane. Without Hut Lane the Council does not have the five-year supply of deliverable sites for Gypsies and Travellers required by para 10a) PPfTS.

71. The applicant contends that the application site is highly suitable to provide the required deliverable site. It is available, and already developed as a good quality Traveller site. While it is in the Green Belt, it is not in the open countryside, PPfTS para 25, but with Olde Stoneheath Court and the cottages, farm and related development on Hut Lane, forms a cluster of development adjacent to the M61. It is well screened by trees and fencing so that views into the site are limited, and the impact on the loss of openness limited. The applicant also considers that the site is previously developed land. There is no other alternative suitable site available.

### **Green Belt balancing exercise**

72. It has been established that there is definitional harm to the Green Belt as the proposal is inappropriate development in the Green Belt and also that there is further harm due to the impact on openness, which essentially means free from development, which the site will not be.
73. It is considered that there would be further harm to the purposes of including land within the Green Belt through encroachment resulting in substantial harm. There would also be a visual impact, which would result in moderate harm.
74. At the time of the 2013 temporary permission (13/00385/COU) it was considered that very special circumstances were satisfactorily demonstrated. The 2015 application (15/00562/FUL) sought to increase the scale of development by increasing the number of caravans on the site by two (to accommodate other family members who had been identified as part of the assessment of need in the 2015 GTAA). However, in the event the application was subsequently amended to reduce the proposed number of caravans back to the level approved under reference 13/00385/COU i.e. two mobile homes and three touring caravans. It was considered that on the basis of a temporary period and this level of accommodation very special circumstances had been demonstrated as an exception to inappropriate development in the Green Belt.
75. The first 2018 application (ref. 18/00024/FUL) sought to make permanent the consent granted in 2015. The development of a Gypsy and Traveller site in the Green Belt remained inappropriate development and could not, therefore, be supported without the harm being clearly outweighed by very special circumstances. Ultimately it was considered that the needs of the Linfoot family as a settled Gypsy and Traveller group within the Borough, the identified need for Gypsy and Traveller pitches in Chorley as set out in the revised GTAA, and the lack of an alternative Gypsy and Traveller site in the Borough provided very special circumstances to an extent that would support a temporary permission. A temporary consent was, therefore, granted on the basis of a timescale provided by the Council setting out milestones for the delivery of the Cowling Farm Traveller site.
76. The second 2018 application (ref. 18/00905/FUL) sought to increase the scale of development by increasing the number of caravans on the site by one (to accommodate other family members who had been identified as part of the assessment of need in the 2015 GTAA). Again it was considered that this need could be met for a temporary period on the site, which would be a very special circumstance as an exception to inappropriate development in the Green Belt, given the lack of alternative available accommodation for that specific household at that point in time.

77. In respect of the current application, the supporting documentation seeks consent to make permanent the consent granted in 2018 and to increase the number of caravans by one to allow for greater flexibility for the family's changing needs. No explanation of these changing needs is provided.
78. The 2015 GTAA identified the need for additional pitches in Chorley up to 2026. More than three years have passed since the previous application was assessed and the need in the GTAA identified. This identified need has been further supported by the Gypsy and Traveller and Travelling Showperson Accommodation Assessment 2019, which identifies a need for 5 Transit Traveller pitches across Central Lancashire, and a number of Permanent Pitches, 10 of which are required in Chorley.
79. It is, therefore, accepted that the needs of the wider Linfoot family to have access to pitches in Chorley has become more pressing. Given that most GTAA households generally consist of a mobile home and touring caravan it is considered that the site already provides a suitable level of accommodation in relation to the families that occupy the site.
80. The Linfoot's, and other site occupants, desire to live on the site, their community ties and need to form a stable basis on which to support their family do not constitute the very special circumstances required to overcome the definitional harm to the Green Belt and additional harm caused through encroachment and visual impact, which must be accorded substantial weight in line with the Framework, in consideration of a permanent Gypsy and Traveller site.
81. However, the circumstances under which the temporary permissions granted in 2013, 2015 and 2018 remain. Specifically, the allocated Gypsy and Traveller site at Cowling has not progressed as had been anticipated through the master planning work and timeline of milestones provided by the Council. However, the Linfoot family, and other occupants, have no alternative provision within the borough, yet continue to have a need to support their family and have stability as settled members of the Chorley community. These circumstances have in the past resulted in the issuing of temporary planning permission on the basis of very special circumstances.
82. Regarding any further temporary consent, current National Planning Policy Guidance (NPPG) states that: *"It will rarely be justifiable to grant a second temporary permission (except in cases where changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities). Further permissions can normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning permission will then be granted permanently."* Paragraph: 014 Reference ID: 21a-014-20140306 - Revision date: 06 03 2014. Four temporary permissions have now been granted at this site, two of which had the same expiry date (18/00024/FUL and 18/00905/FUL). The applicant is applying for permanent planning permission for the change of use of the land to a residential Gypsy and Traveller site involving the siting of two mobile homes and five touring caravans and retention of the utility block and access. However, within the Green Belt, the principle of a permanent residential development (of any kind) that does not meet the exception tests is considered inappropriate development.
83. In considering the current provision in relation to the identified need for Gypsy and Traveller accommodation within the Borough there is a commitment to delivering a site at Cowling Farm set out within the most up to date local plan under policy HS11 of the Chorley Local Plan 2012-2026. Since the 2018 temporary consent was issued there has been an intervening global pandemic, which has resulted in unprecedented circumstances for Council's in delivering services, and for the development industry. Council resources have been stretched over this particular period, and there has also been market uncertainty where major development schemes are concerned. It is noted that the allocated Gypsy and Traveller site would form part of a larger development. The unprecedented circumstances of the previous two years have contributed to the lack of progress in delivering the Gypsy and Traveller site at Cowling Farm. However, the Council's Director of Commercial Services, responsible for Development and Business has confirmed the Council's commitment to delivering the Cowling Farm site and has submitted a timeline for the delivery of the site.



84. This demonstrates that although there have been delays to the delivery of the Cowling Farm Gypsy and Traveller site there remains a renewed impetus to progress this. The evidence submitted by the Director of Commercial Services sets out that the site has been designed to deliver the current need identified in relation to the applicants, currently living at Hut Lane, with the development platform providing an opportunity to increase the number of pitches in the future. It is intended that a planning application will be submitted in the New Year (2022) with negotiations with Homes England concluded early in 2022. It is anticipated that work would start on site in mid 2023 with the site completed in the middle of 2024 and operational early in 2025.
85. This sets out a clear plan and renewed impetus of the Council towards the delivery of the Cowling Farm Gypsy and Traveller site following a period of disruption, which falls to be a material consideration in the assessment of the application and provides a rational evidential foundation in the consideration of the changing circumstances under which a further temporary consent may be issued. Based on the evidence provided by the Council's Director of Commercial Services the site would be available in approximately 3 years time, which sets out a basis on which a temporary time limit for planning permission may be devised.
86. In the absence of an alternative site, it must be concluded that there continues to be very special circumstances to support a temporary permission, for the development, until such time that the alternative Gypsy and Traveller site at Cowling Farm is made available
87. As such it is considered that the needs of the Linfoot family, as a settled Gypsy and Traveller group within the Borough, the identified need for Gypsy and Traveller pitches in Chorley as set out in the revised GTAA, and the lack of an alternative Gypsy and Traveller site in the Borough provide very special circumstances to support a temporary permission, until such time that the alternative site at Cowling Farm is made available that, on balance, outweigh the harm to the Green Belt and any other harm. The proposal, therefore, complies with paragraphs 147 and 148 of the Framework, on the basis of a temporary consent, with a time limit linked to the delivery of the Gypsy and Traveller site allocated within the Chorley Local Plan 2012 - 2026.
88. It is concluded that, on balance, there are very special circumstances for the retention of the existing development for a temporary period, which outweigh the substantial harm (by reason of inappropriateness) and the harm to openness, together with the other harm (particularised above).

#### **Relaxation of commercial restriction on site**

89. The previous temporary permission was subject to the following condition:
90. "No commercial activities shall take place on the land including the storage of materials, plant or equipment. Reason: In order to protect the amenities of the area and the residential occupiers of dwellings in the vicinity."
91. The applicant also effectively seeks a relaxation of the condition to allow for the storage of materials on a specified area of the site, as the applicant considers that this condition currently prohibits storage even for activities, which may be considered to be ones that could be carried without planning permission and at certain times of the year.
92. The condition seeks to strike a balance between the reasonable day to day activities of the applicant to park his work vehicle and travel to and from work and to protect the amenities of the Green Belt and occupiers of residential properties in the vicinity. To permit storage use through the allocation of a specified area would be inconsistent, as it would interfere with the openness of the Green Belt and amenity of nearby residents. Allowing commercial uses has the potential for increased commercial activity, which may give rise to further harm. It is also considered realistic that the applicant could rent a commercial storage facility on an appropriate site in the Borough within a commutable distance of the Hut Lane site. The

current condition is reasonable, clear and enforceable and it is, therefore, considered that such a condition should be re-imposed should planning permission be granted.

**Other matters relating to the status of the applicant as falling within the Gypsy and Traveller definition.**

93. The Lisa Smith case challenged the definition of Gypsies and Travellers for planning purposes in Annex 1 to the 2015 edition of Planning Policy for Traveller Sites. It tried to establish that the Planning Policy for Traveller Sites definition was unlawful because it discriminates against the elderly and disabled who cannot come within the definition because they have ceased travelling permanently on grounds of old age or ill health. The case was dismissed. The effect of the Court's decision for the current application is that the position remains unchanged.
94. To be a Gypsy and Traveller for planning purposes someone needs to follow a nomadic habit of life. Nomadic habit of life is not defined in Planning Policy for Traveller Sites, but has evolved over time through a series of case law decisions. Those decisions effectively amount to a need to travel for a proportion of the time for purposes, which must have an economic element. Other purposes like visiting fairs and family can contribute as long as there is an economic element.
95. In the early years of the use of the site for the siting of caravans, notably at the Public Inquiry against the refusal of application 11/00484/FUL (which was dismissed, but then quashed in the High Court) and at the examination into the Chorley Local Plan between 2013 and 2015 the applicant submitted evidence about the Gypsy and Traveller status of the Linfoot / Bird family. For instance, witness statements by Walter Bird and Patty Linfoot. This evidence established that the Linfoot / Bird family follows a nomadic habit of life. The two Central Lancashire Accommodation Needs Assessments of January 2014, and updated in June 2015 also confirmed the Gypsy status of the families.
96. On the basis that they have not ceased travelling, the change in definition introduced in the 2015 edition of Planning Policy for Traveller Sites (which was the basis of Lisa Smith's legal challenge) has not changed the situation, and it remains there is an intention to continue to travel in the future. The Lisa Smith case does not give a reason for it to take a different position.

**OVERALL CONCLUSION**

97. Planning policy for Travellers sites states that new Gypsy and Traveller sites in the Green Belt are inappropriate development. The development is considered to be inappropriate development within the Green Belt and as such can only be considered acceptable if there are very special circumstances which clearly outweigh the substantial harm to the Green Belt (by reason of inappropriateness) and any other harm. This has to be weighed against the requirement for local authorities to identify need and provide a 5 year supply of sites.
98. The previous temporary permissions granted in 2013 and 2015 were issued on the basis that very special circumstances were demonstrated. Although the situation has altered since these very special circumstances were accepted there remains no alternative provision for Gypsy and Travellers in the Borough. As set out above it is considered that very special circumstances exist in relation to a temporary consent, reflecting the planned provision of an alternative site.
99. It is considered that the use of the site for commercial activity even for 50 days would be harmful to the amenity of the neighbouring residents and as such the relaxation of this condition is not considered to be acceptable.
100. In conclusion it is considered that on balance, sufficient very special circumstances exist, namely the requirements of National Planning Policy for Traveller sites and the Chorley Local Plan Policy HS11 to provide a permanent Gypsy and Traveller site, tip the balance in favour of granting a further temporary planning permission to enable the Council to deliver a

permanent site. The period of consent is material to the harm to the Green Belt and 3 years and 3 months is considered reasonable to deliver a site and remove the harm from the Green Belt. It is, therefore, recommended that planning permission be granted on a temporary basis subject to conditions.

#### RELEVANT HISTORY OF THE SITE

**Ref:** 13/00385/COU      **Decision:** PERTCA      **Decision Date:** 19 July 2013

**Description:** Change of use to a residential Gypsy and Traveller site involving the siting of 2 mobile homes, 3 touring caravans (1 of which is for storage only when not away travelling), and retention of a utility block, and access at the north west corner of the site for a temporary period of 4 years

**Ref:** 13/01061/FUL      **Decision:** PERTCA      **Decision Date:** 16 January 2014

**Description:** Variation of Condition 1 of planning permission 13/00385/COU to allow the replacement of wood chippings with limestone chippings to a depth of 6-8 cm.

**Ref:** 15/00562/FUL      **Decision:** PERFPP      **Decision Date:** 18 September 2015

**Description:** Change of use to a residential Gypsy and Traveller site involving the siting of two mobile homes and three touring caravans (one of which is for storage only when not away travelling) and retention of the utility block and access for a temporary period of two and half years.

**Ref:** 18/00024/FUL      **Decision:** PERFPP      **Decision Date:** 20 July 2018

**Description:** Change of use of the land to a residential Gypsy and Traveller site involving the siting of two mobile homes and three touring caravans (one of which is for storage only when not away travelling) and retention of the utility block and access

**Ref:** 18/00905/FUL      **Decision:** PERFPP      **Decision Date:** 6 February 2019

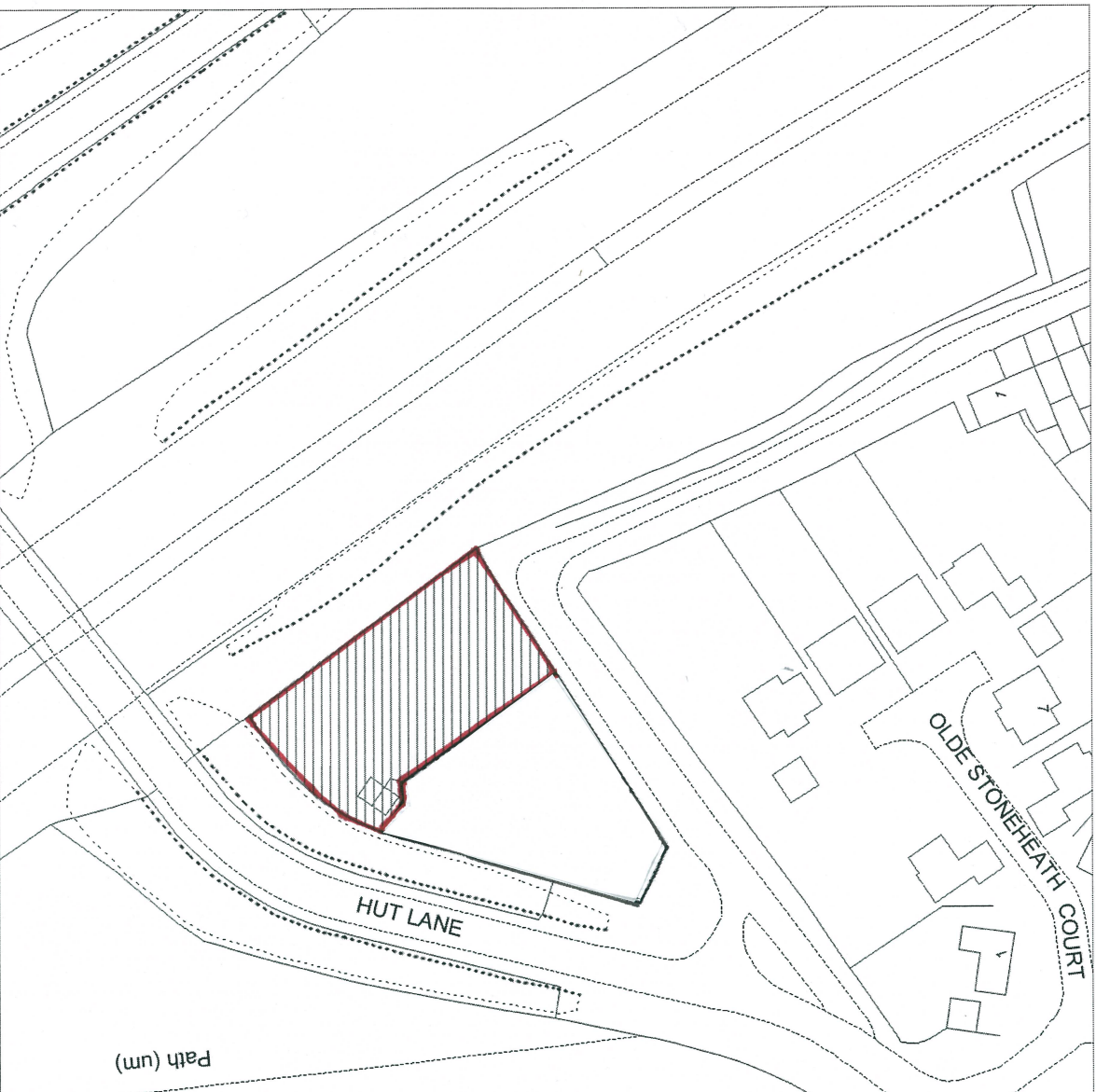
**Description:** Change of use of the land for a temporary period to a residential Gypsy and Traveller site involving the siting of two mobile homes and four touring caravans and retention of the utility block and access

**RELEVANT POLICIES:** In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan (the Central Lancashire Core Strategy, the Adopted Chorley Local Plan 2012-2026 and adopted Supplementary Planning Guidance), unless material considerations indicate otherwise. Consideration of the proposal has had regard to guidance contained within the National Planning Policy Framework (the Framework) and the development plan. The specific policies/guidance considerations are contained within the body of the report.

#### Suggested conditions

To follow

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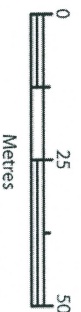
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Hut Lane Temporary  
Location Plan

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